CITY OF KIRKLAND

CITY COUNCIL

James Lauinger, Mayor • Joan McBride, Deputy Mayor • Dave Asher • Mary-Alyce Burleigh
Jessica Greenway • Tom Hodgson • Bob Sternoff • David Ramsay, City Manager

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 Chamber
Tuesday, June 6, 2006
6:15 p.m. – Study Session – Peter Kirk Room
7:30 p.m. – Regular Meeting

Regular City Council Meeting will be preceded by a Kirkland City Council Special Meeting at 5:00 p.m. in the Chamber for the purpose of receiving a briefing from the Washington Cities Insurance Authority.

COUNCIL AGENDA material is available for public review at the Public Resource Area at City Hall or at the Kirkland Library 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.

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

1. *CALL TO ORDER*

2. *ROLL CALL*

3. *STUDY SESSION,* Peter Kirk Room, 6:15 p.m.

   a. Joint Meeting with Human Services Advisory Committee

4. *EXECUTIVE SESSION*

5. *SPECIAL PRESENTATIONS*

   a. Kirkland Youth Council Class of 2006

   b. Twenty-five Year Service Award - Lieutenant Rex Caldwell

   c. Twenty-five Year Service Awards - Battalion Chief Joe Sanford
      Battalion Chief Mike Dettmer
      Battalion Chief Mike Haschak
      Fire Captain Keith Adams
      Firefighter Greg Crum

   d. Arson Alarm Foundation Recognition

   e. Step Up to Health Update

6. *REPORTS*

   a. *City Council*

      (1) Regional Issues

b. City Manager

(1) Calendar Update

7. COMMUNICATIONS

a. Items from the Audience

b. Petitions

8. CONSENT CALENDAR

a. Approval of Minutes: (1) May 16, 2006

(2) May 18, 2006

b. Audit of Accounts:

Payroll $

Bills $

c. General Correspondence

d. Claims

(1) Marion Winnier, Representing Estate of Melinda Atkins

(2) Geico General Insurance Company for Insured Susan Hayes

e. Authorization to Call for Bids

(1) Kirkland Avenue Sewer Main and 3rd Street Manhole Replacements

f. Award of Bids

(1) 2006 Street Preservation Program, Watson Asphalt Paving

g. Acceptance of Public Improvements and Establishing Lien Period

(1) 2005 Water System Improvements

h. Approval of Agreements

(1) 2006-2008 Collective Bargaining Agreement with Teamsters Local Union #763

i. Other Items of Business

(1) Resolution R-4580, Ratifying Amendments to the King County Countywide Planning Policies

(2) Approving Cabaret Dance License for Waldo's Bar and Grill

CONSENT CALENDAR consists of those items which are considered routine, for which a staff recommendation has been prepared, and for items which Council has previously discussed and no further discussion is required. The entire Consent Calendar is normally approved with one vote. Any Council Member may ask questions about items on the Consent Calendar before a vote is taken, or request that an item be removed from the Consent Calendar and placed on the regular agenda for more detailed discussion.

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.

P - denotes a presentation from staff or consultant

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.

9. PUBLIC HEARINGS

a. Totem Lake Zoning Code Amendments:

(1) Ordinance No. 4051 and its Summary, Relating to Zoning, Planning and Land Use, Amending Certain Sections of the Kirkland Zoning Code and the Kirkland Zoning Map

(2) Ordinance No. 4052, Relating to Design Review Guidelines for the Totem Lake Neighborhood and Amending the Kirkland Municipal Code

10. UNFINISHED BUSINESS

a. Discussing Potential Annexation

b. Regulations Implementing the North Rose Hill Neighborhood Plan

c. Authorizing Correspondence Regarding Sound Transit Phase Two Project Scope

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

11. NEW BUSINESS

a. Proposing Amendments to Existing Reasonable Use Process

12. ANNOUNCEMENTS

13. ADJOURNMENT

P - denotes a presentation from staff or consultant

CITY OF KIRKLAND
123 FIFTH AVENUE • KIRKLAND, WASHINGTON 98033-6189 • (425) 587-3300

DEPARTMENT OF PARKS AND COMMUNITY SERVICES MEMORANDUM

To: City Council

From: Human Services Advisory Committee

Date: June 6, 2007

Subject: Joint Meeting with City Council

The Human Services Advisory Committee would like to thank the City Council for the opportunity to meet together and discuss a number of issues of importance to the Advisory Committee. The opportunity to meet in a study session allows for a better exchange of ideas and a better discussion of the issues.

1. Human Services Advisory Committee Members

Committee members will be present to discuss human service issues and respond to Council questions.

Tom Sherrard, Committee Chair
Katherine Robichaux
Sethrina Dunlap
Chris Houden
Robin Holcomb
Sharon Anderson, Human Services Coordinator

Committee's Role

The role of the Committee is to advise the City Council on all matters concerning human services. The Committee reviews all requests for funding of human services; develops recommendations on priorities, planning, funding and the delivery of human services. The Committee meets regularly; they conduct site visits with local human service providers and participate in other regional planning efforts to be a voice for Kirkland.

2. Community Development Block Grant (CDBG) Reorganization Issue

Federal funding for the CDBG program continues to decline. President Bush's FY2007 budget proposes a $1 billion cut or 25% in CDBG funding. This is on top of cuts totaling 15% since FY2004.

Over the years, Consortium Cities have sought a reduction in administrative costs. It was increasingly clear to those on the Consortium's inter-jurisdictional Joint Recommendations Committee (JRC) that the decline in funding, coupled with inflation and the ever-increasing federal requirements, there needed to be a more efficient way to manage the CDBG fund. With this in mind, the JRC adopted two priority areas for the use of Public Dollars to maximize the effectiveness of these funds: Emergency Shelter and Emergency Services.

Emergency Shelter

Facility-based emergency shelter programs that provide temporary, short term stays for up to 90 days.

- Slightly longer stays are not prohibited, depending on the specific circumstances of a particular household.
- Rental assistance, motel voucher and transitional housing programs are not included under this priority.

Emergency Assistance

Programs that provide vouchers or other payments for one-time emergency assistance to help clients with utilities, food, clothing, rent, transportation and medical prescriptions.

- Funds can be used for the direct assistance and/or for the operational costs of the program.

. **Programs that obtain and distribute food directly to individual households for preparation and/or consumption at home or off-site.**

- Funds can be used for food purchase, distribution and/or other operational costs of the program

- This priority excludes meal programs where food is prepared or consumed on site and/or catered.

These priorities are the result of three months of collaborative work by staff of the 9 consortium cities and King County to determine how to best utilize these dwindling federal resources to serve the residents. The County will run an RFP process, and selected providers will contract directly with King County, there will be fewer priorities for funding, this means there are current providers whose projects or services will no longer be eligible to apply for funding.

Rating Process All members of the sub regional advisory group who wish to participate in the rating process must commit to the entire process this will require at least 20-25 hours or work. Sharon Anderson will participate in the application reviews.

The Impact on Kirkland Currently CDBG funds support Jewish Family Service's Employment and Training Program ($9,533) and the YWCA Family Village's Transitional Housing Program ($19,200). Under the new definitions these two programs would not qualify for CDBG funding. **They now will apply directly to the City for funding.**

Capital Funds

Capital Set-Asides Once the total entitlement amount has been determined the following will be top priorities: King County's Administration Costs, the King County Housing Repair Program, and the Housing Stability Program (provides one-time loans and/or grants to homeowners and tenants in danger of eviction or foreclosure and move in assistance to permanent housing).

Capital Projects Non-profit organizations and public agencies compete in each sub-region through an RFP process for the remaining capital dollars. A Regional Coalition for Housing (ARCH) Housing Trust Fund does not compete for CDBG capital dollars; each year a predetermined percent of the capital funding is allocated to ARCH. It is unknown at this time, what amount of CDBG funds will be available for ARCH in 2007.

Historically, the City has provided additional funding to support ARCH. Planning Department staff will submit a 2007-2008 Services Package Request to provide additional monetary support. The amount of the service package will be dependent on the 2007 CDBG allocation once that is I determined.

3. City General Fund (Per-Capita Dollars) Applications for 2007-2008 funding cycle are due June 7. We anticipate a number of new agencies applying and agencies the City currently funds requesting more money to support their on-going programs.

The Human Services Advisory Committee will conduct public hearings for ***all*** of the applicants sometime in August and September. The Committee will then review the requests and submit their recommendations to Council.

Kirkland has been able to retain, and add to the per capita for human services over the past years. This has been appreciated by our local nonprofit agencies serving Kirkland residents.

Kirkland's Per-Capita Contribution to Human Services

	City Total General Fund			
Year	**Per Capita**	**Ongoing**	**One time**	**Total Allocated**
2000	**$6.50**	**$302,805**	**NA**	**$302,805**
2001	**$6.89**	**$326,903**	**NA**	**$326,903**
2002	**$7.50**	**$327,516**	**$27,873**	**$355,389**
2003	**$8.11**	**$371,357**	**$11,448**	**$382,805**
2004	**$8.11**	**$371,321**	**$45,791**	**$417,112**
2005	**$8.11**	**$371,438**	**$68,269**	**$439,707**
2006	**$8.11**	**$371,438**	**$68,269**	**$439,707**

It should be noted that the City's total funding plan for 2007 is dependent on $68,269 of the one-time funding. Additionally, we anticipate new funding requests (i.e. Jewish Family Services and the YWCA Family Village Transitional Housing Program).

4. Eastside Human Services Forum - 2006 Work Plan

Eastside Needs Assessment The Eastside Human Services Forum (EHSF) developed a user-friendly document that highlights the different facets of need on the Eastside. Its purpose is to inform policymakers, funders, business leaders and community members about the need for continued and increased investment in human services in Eastside communities. The document also serves as a tool to ensure Eastside needs, trends, and issues are adequately and accurately represented in the multiple regional planning efforts currently underway.

Strategy Summit On June 14, the Eastside Human Services Forum is hosting a Strategy Summit to share information about key changes taking place in human services funding and priority-setting. This will be an opportunity for Council to weigh in on several regional projects that impact the Eastside.

Doreen Marchione, Executive Director of Hopelink, will speak about the **Committee to End Homelessness and the 10-year Plan**. Doug Stevenson, King County Council Legislative Committee Director, will talk about the ordinance adopted by the County that will guide the investment of funds from the **Veterans' and Human Services Levy**, and Phil Noble, Bellevue City Council Member, will give an update on the **Healthy Families and Communities Task Force** and its recommendations for a Regional Human Services Board. After the speakers present and answer questions, everyone will break out into groups for our strategy session to determine next steps for advocacy and planning to help position the Eastside. City staff, Human Services Advisory Board members will attend the Summit.

Eastside Refugee and Immigrant Coalition Planning Project One of the priorities of the EHSF is to assist agencies and the community to respond to the growing need of an emerging Immigrant and Refugee population. Based on the community needs assessment last year, this year's project is focused on developing a Cultural navigator program. The focus is to maximize already existing resources and infrastructure, and create a model that would share these resources community wide. The Eastside Refugee and Immigrant Coalition is partnering with several agencies to develop a pilot project for the Eastside. They could be a potential applicant for general city funds this next granting cycle.

5. In-Kind Support for Non-Profit Organizations

One issue raised at the 2004 joint study session with Council, was whether or not the City could provide any in-kind support to our local nonprofits. Staff researched in-kind opportunities the City could do to contribute to our local nonprofits and successfully implemented a computer donation program.

- Staff worked with IT and the Finance Department to develop a computer donation program to support non-profit organizations. In January and April 2006, the City distributed 130 computers and related items to Seattle Mental Health, KITH, YES, Kirkland Boy's and Girls Club, Kindering Center, YWCA, Senior Services, Friends of Youth (Teen Center), Human Services Forum, Wilderness Technology Alliance, Therapeutic Health Services and NAMI (National Alliance for the Mentally Ill).

6. "Kirkland Cares Program" - Volunteer Utility Bill Donation Program

Beginning in 2001, a new revenue source was created; the City of Kirkland and Hopelink partnered to help low income families, children, seniors and people with disabilities. Donations to the Kirkland Cares helps people pay their heating and electric bills, water/sewer utilities, prescriptions, and other emergent needs; so families can move out of crisis and get back on their feet. Since 2001, over $20,000 has been donated to the program.

7. 2-1-1 Becomes Official

On February 22, 2006, Crisis Clinic officially began using the 2-1-1 number, along with several other Washington counties, as Washington State became the 33rd State to offer the 2-1-1 services.

2-1-1 is the three-digit telephone number assigned by the Federal Communications Commission for the purpose of providing quick and easy access to information about health and human services. 2-1-1 has emerged from the nation's Information and Referral (I&R) industry, which operates as a critical part of the health and human service delivery system.

Professional I&R specialists work with callers to assess their needs, determine their options and a best course of action, then direct them to appropriate programs/service.

In addition, several agencies operate crisis lines. This is different than the 2-1-1 information line. These crisis lines are staffed by trained volunteers to help assess, triage and stabilize crisis situations.

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: Mayor and Members of City Council

From: Regi Schubiger, Youth Services Coordinator

Date: May 30, 2006

Subject: Honoring the Youth Council Class of 2006

This year has been another busy and successful year for the 2005-06 Youth Council. As the school year comes to a rapid close, we would like to have the Kirkland City Council recognize our graduating Seniors for all their hard work and dedication to the Youth Council and the City of Kirkland. As in previous years, the names of our graduating Seniors have been engraved on a plaque that hangs at the Parks and Community Services Offices at 505 Market. We would like to ask that the Mayor and the City Council present this plaque to our graduating Seniors at the June 2nd Council meeting.

The following 11 KYC members are a part of the Class of 2006:

Nicole Adsit
Mitchell Amsler
Lucas Bischofberger
Perry Brooks
Guy Keltner
Drew McCornack
Andrew Powe
Ben Rich
Neil Rotta
Josh Skurnik
Rachel Warnick

CITY OF KIRKLAND
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POLICE DEPARTMENT MEMORANDUM

To: David Ramsay, City Manager

From: Stan Aston, Chief of Police

Date: May 19, 2006

Subject: Presentation of 25 Year Service Award

RECOMMENDATION**:**

Approve that Council present 25 Year Service Award to Lieutenant Rex Caldwell at the June 6, 2006 regular City Council meeting.

POLICY IMPLICATIONS:

None

BACKGROUND DISCUSSION:

None

CITY OF KIRKLAND

Service Award

CITY OF KIRKLAND WASHINGTON

The City of Kirkland Proudly Recognizes and Honors

Rex D. Caldwell

for your contributions over the last
25 years as of May 4, 2006.

Thank you for your service.

James L. Lauinger, Mayor

David H. Ramsay, City Manager

CITY OF KIRKLAND
Fire & Building Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Jack Henderson, Deputy Fire Chief of Operations

Date: May 24, 2006

Subject: Special Presentation of service awards

RECOMMENDATION:
The City Council recognize the 25 years of service of each of the five employees, from the Fire & Building Department, who have reached this milestone in their careers.

BACKGROUND DISCUSSION:
We are presenting twenty-five year service awards to five, City of Kirkland - Fire & Building Department Employees. The recipients are: Battalion Chief Joe Sanford, Battalion Chief Mike Dettmer, Battalion Chief Mike Haschak, Fire Captain Keith Adams, and Firefighter Greg Crum. These employees have served the citizens of Kirkland and Fire District 41 with dedication, skill, and professionalism since March 2, 1981. We want to congratulate and thank each employee for their 25 years of service and their continuing dedication to our community's safety.

A brief overview of their accomplishments and roles in the organization will be shared during the special presentation to recognize these firefighters.

CITY OF KIRKLAND
Fire & Building Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Grace Steuart, Fire Marshal

Date: May 23, 2006

Subject: Special Presentation to Arson Alarm Foundation

RECOMMENDATION:
The City Council give official recognition to the Arson Alarm Foundation for its assistance in finding and arresting the persons responsible for a major fire at the Gospel Hall on 132nd Avenue NE in March of 2005.

BACKGROUND DISCUSSION:
The Arson Alarm Foundation is funded by the Northwest Insurance Council, and offers reward money each year for private citizens who provide information that helps Police and Fire personnel arrest and/or convict arsonists.

The fire at the Gospel Hall caused approximately $300,000 in damage to the structure and its contents. With the financial incentive provided by Arson Alarm Foundation, tips from private citizens were provided to fire and police authorities. As a result of these tips, fire investigators were able to interview two juveniles who subsequently confessed to lighting the fire at the church with fireworks.

Attached is additional information regarding Arson Alarm Foundation and the Northwest Insurance Council and their mission.

Put the Heat on Arson

Arson: A Crime You Can't Afford to Ignore
Arson is the number-one cause of property damage due to fire in the U.S. Arsonists destroyed $1.1 billion in insured property in 2002 – including factories, residential buildings, churches and motor vehicles. Arson isn't just a property crime, either. Arson kill nearly 350 people every year.

Arson, the act of deliberately setting fire to a building, car or other property for fraudulent or malicious purposes, is a crime in all states. Insurers have a vested interest in preventing and detecting arson because such fires cause needless loss of life and property and push up the cost of insurance for homeowners, vehicle owners and owners of commercial buildings.

Arson Facts
- Studies point to vandalism as the leading cause of arson.
- In 2002, intentionally-set structure fires cost $919 million in property damage.
- In 2002, 41,000 intentionally-set vehicle fires destroyed an estimated $222 million in property damage compared with $219 million in 2001.
- **More than half of all arsons are committed by children under 15-years of age.**
- An Insurance Research Council study suggests about 14 percent of arson suspects are motivated by a desire to defraud an insurance company.
- Arson is a difficult crime to solve – only 16 percent of cases ended in arrests in 2002, according to the FBI.

Fighting Arson
The Arson Alarm Foundation, funded by the NW Insurance Council, offers a $10,000 reward fund each year for private citizens who provide information that helps authorities arrest or convict arsonists. If someone has information that can help solve an arson crime, he or she should call the **Arson Hotline at 800-55-ARSON**. That person may be eligible for an award. Nominations can be made by any fire, police, or insurance investigator and prosecuting attorney. If you'd like to nominate a person, call the NW Insurance Council at (206) 624-3330 or (800) 664-4942 to obtain a nomination form.

The Arson Alarm Foundation has presented more than $100,000 in awards over the past 10 years.

Arson Alarm Foundation
The foundation seeks to reduce loss of life and property by increasing arson awareness and teaching the public how to fight arson. The foundation has developed several arson-prevention programs including:
- $10,000 per year Arson Awards Program.
- Grants to help local agencies obtain arson-detection and investigation equipment and training.
- Media campaigns to educate the public on how to reduce arson
- Toll-free statewide Arson Hotline (800-55-ARSON) that allows citizens to provide anonymous tips that lead to arrests or convictions of arsonists.

Through networking and information sharing, the Arson Alarm Foundation promotes public awareness by partnering with agencies such as:
- Washington State Fire Marshall's Office
- Insurance companies
- Statewide fire departments
- Federal Bureau of Investigation
- Bureau of Alcohol, Tobacco, Firearms & Explosives
- King County Juvenile Firestoppers

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: Dave Ramsay, City Manager

From: Jennifer Schroder, Director of Parks & Community Services
Carrie Hite, Deputy Director of Parks & Community Services
Linda Murphy, Recreation Manager
Jeff Price, Recreation Supervisor

Date: May 9, 2006

Subject: Step Up to Health Update

RECOMMENDATION:
City Council review the information and update concerning the Step Up to Health Summit held in February 2006.

BACKGROUND:
Step Up to Health is a national initiative developed by the National Recreation & Park Association to help local park and recreation departments partner with new and existing agencies and individuals on areas of health and wellness. There also have been some regional and local efforts under way by Public Health to spearhead some health impacts to battle the current health trends. Currently, the state of Washington has one of the highest obesity rates in the country (per the Center For Disease Control), with 21% of our youth in high school either overweight or at risk of being overweight (CDC). Deputy Mayor Joan McBride had also expressed some interest and volunteered to co-chair a community health summit in Kirkland.

On Saturday, February 4, 2006, the City of Kirkland co-sponsored a community-wide health summit called Step Up to Health, which was held at Evergreen Health Care. The goals of the summit were to educate the public on health trends and issues, both nationally and locally, and to develop a community plan for making a cultural change to inspire our community to be more physically active. The summit sponsors included Bastyr University, Evergreen Health Care, Public Health - Seattle & King County, Montlake Bicycle Shop, Washington State Traffic Safety Coalition, and the Seattle Seahawks. The summit planning committee was chaired by Deputy Mayor Joan McBride, and consisted of youth, seniors and local business interests. We would like to thank Deputy Mayor Joan McBride who was very instrumental in this project and was chair of the summit planning committee. The committee was very diverse consisting of youth, seniors and local business interests.

The summit reached a maximum capacity of 80 participants, including 20 seniors, 10 youth, and representatives from both private and public companies and agencies. The educational speakers in the morning sessions included Dr. Basia Belza from the University of Washington Nursing Program, and Elizabeth Marazita from Bastyr University, a nationally recognized expert in Asian health and medicine. Other speakers included a Seahawk Alumni and a representative from the Fred Hutchinson Cancer Research Center. The afternoon breakout sessions, which were facilitated by Meeting Works, were

designed for participants to 'roll up their sleeves' and provide input and ideas on how to get our community more physically active. At the end of the summit, these ideas were collected and a vote was taken by the participants on which short and long-term ideas should be pursued. Below are the top projects which came out of the breakout sessions, and an update on each:

- Way Finding signs: The first Way Finding route has been established in the City. It is called the Lakeview Walk, and stretches from the downtown along Lake Washington Blvd to Yarrow Point, and makes a loop along Lakeview on the way back.
- New community center: There is a CIP funded project this year to complete a feasibility and design for a community center. This will include identifying possible partnerships and sites.
- Alternative youth activities: Parks staff is working on developing some alternative programs and classes for youth who don't fit the highly competitive, select-level skill set activities, currently available in our community. A few of these new activities are targeted to begin the fall of 2006.
- Walking School Bus: City staff has had preliminary conversations, and will include the Lake Washington School District in the first planning stages. At this point, we don't have staff capacity to put a comprehensive program together, but we will work with the district to assist in the process.

Other ideas and suggestions from the summit include: a reflexology path in a local park, competition between schools to get students more physically active, a health fair, and community fundraising for future projects.

Next Steps

Staff will continue to work on the top projects as outlined above. Our department will also continue our partnership efforts with Public Health – Seattle & King County's Obesity Forum, PACEN (Physically Active Communities of Eastside and North end), and the efforts of the National Recreation & Parks Association's Step Up to Health – It Starts in Parks campaign. A longer term step includes the possibility of having biannual health summits, which will enable the City to gage community interests and concerns, provide education on our on-going efforts, and to exchange ideas on how to get our community more healthy.

KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
May 16, 2006

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.
Members Absent: None.

3. STUDY SESSION

a. Home Occupations

Council was joined for the discussion by Planning and Community Development Director Eric Shields, Planning and Community Development Review Manager Nancy Cox and City Manager Dave Ramsay.

4. EXECUTIVE SESSION

5. SPECIAL PRESENTATIONS

a. Puget Sound Regional Council

Puget Sound Regional Council representative Ivan Miller presented an update on the Vision 2020 plan which serves as the multi-county planning policies under the Growth Management Act.

b. Transit Now Initiative

Supervisor of Service Planning for King County Metro David Hull presented information on a proposed Transit Now initiative for the November 2006 ballot. The initiative proposes to increase bus servce in King County by twenty percent over the next ten years and would be funded by a sales tax increase.

c. Salvation Army Week Proclamation

Salvation Army Eastside Advisory Board member of Bellevue Sharon Mast accepted the proclamation on behalf of the Salvation Army.

d. Public Works Week Proclamation

Public Works Director Daryl Grigsby, Capital Projects Manager Ray Steiger,

Transportation Engineering Manager Dave Godfrey, Storm and Sewer Division Manager Bobbi Wallace, and Administrative Assistant Lisa Nelson accepted the proclamation on behalf of the Public Works Department.

e. Introducing Bobbi Wallace, Public Works Department Storm/Sewer Division Manager

6. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding the Suburban Cities Public Issues Committee Meeting; the next Suburban Cities Networking Dinner to be held June 28; Eastside Transportation Partnership Meeting; Town Meeting hosted by King County Councilmember Jane Hague held May 13 in the City of Kirkland Chamber and included annexation discussion; Burlington Northern Santa Fe Corridor Advisory Committee Meeting; Lodging Tax Advisory Committee Meeting; Metropolitan Solid Waste Management Advisory Committee Meeting; Artwalk is held every second Thursday of the month; Enterprise Seattle Quarterly Economic Update Breakfast; Green Kirkland Ivy Pull held the first Saturday every month; Cascade Land Conservancy Breakfast; and the Downtown Transit Center Workshop to be held May 25 at Kirkland's Maintenance Center.

b. City Manager

Public Works Capital Project Manager Ray Steiger provided an update on the Central Way project improvements.

(1) Calendar Update

7. COMMUNICATIONS

a. Items from the Audience

Cindy Zech, 1695 16th West, Kirkland, WA 98033

b. Petitions

8. CONSENT CALENDAR

a. Approval of Minutes: (1) May 2, 2006

(2) May 9, 2006

b. Audit of Accounts:

Payroll $ 1,668,140.10
Bills $ 1,089,164.36
Run #597 Check #’s 478040-478236
Run #598 Check #’s 478262-478447

c. General Correspondence

d. Claims

(1) Marc Lagen

(2) David and Jody Orbits

e. Authorization to Call for Bids

f. Award of Bids

g. Acceptance of Public Improvements and Establishing Lien Period

h. Approval of Agreements

(1) "Journeys of Imagination" Sculpture Agreement

i. Other Items of Business

(1) Approving Cabaret Dance License for Wilde Rover LLC, dba: Wilde Rover Irish Pub and Restaurant

(2) Confirming Appointment to Civil Service Commission

(3) Resolution R-4576 entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED ALLEY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNERS BENJAMIN AND CONSTANCE CASADY."

Motion to Approve the Consent Calendar.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Councilmember Jessica Greenway
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

Council adjourned for a short break.

9. PUBLIC HEARINGS

a. Ordinance No. 4050, Relating to the Second Renewal of Interim Parking Regulations in Central Business District Zones 1, 2, and 8

The Mayor opened the hearing. Planning and Community Development Planning Director Eric Shields provided an overview of the issues and presented additional information. The Mayor closed the hearing.

Motion to Approve Ordinance No. 4050, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE SECOND RENEWAL OF INTERIM PARKING REGULATIONS IN CENTRAL BUSINESS DISTRICT ZONES 1, 2, AND 8."
Moved by Councilmember Dave Asher, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. Resolution R-4577, Expressing Intent to Vacate a Portion of 118th Avenue NE Right-of-Way

The Mayor reopened the hearing, which had been continued from March 7, 2006. Department of Planning and Community Development Director Eric Shields presented a new appraisal which had been requested by the City Council.
Also providing testimony was Tod Johnson, 65 Kirkland Avenue #310, Kirkland, WA
No further testimony was offered and the Mayor closed the hearing.

Motion to Approve Resolution R-4577, entitled "A RESOLUTION OF THE CITY OF KIRKLAND EXPRESSING AN INTENT TO VACATE A PORTION OF A RIGHT-OF-WAY FILED BY LMJ ENTERPRISES LIMITED PARTNERSHIP, FILE NUMBER VAC05-00003."
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Bob Sternoff
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

10. UNFINISHED BUSINESS

a. Awarding Bid for 2006 Pavement Marking Project to Stripe Rite, Inc. and Approving Additional Funding

Motion to Approve awarding Bid for 2006 Pavement Marking Project to Stripe Rite, Inc. and approving additional funding.

Moved by Deputy Mayor Joan McBride, seconded by Councilmember Dave Asher
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. Resolution R-4570, Adopting a Master Plan for Juanita Beach Park

Motion to Amend language in the Juanita Beach Park Master Plan relating to the boating mitigation plan to read "~~must be balanced with the protection of~~ can only occur if wildlife habitat areas in and around nearby Juanita Bay Park are protected."
Moved by Councilmember Jessica Greenway, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

Motion to Approve Resolution R-4570, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ADOPTING A MASTER PLAN FOR JUANITA BEACH PARK" with amended language.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Councilmember Bob Sternoff
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

c. Approving Correspondence to King County Metro Transit Regarding Proposed Service Changes to the Eastside

Following a brief presentation by Public works Transporation Engineering Manager David Godfrey, Council requested revisions to the correspondence.

d. Reviewing Kirkland Economic Partnership

Economic Development Manager Ellen Miller-Wolfe provided a review of the current Kirkland Economic Partnership (KEP), outlined potential revisions to the existing organization and responded to Council questions.

11. NEW BUSINESS

a. Juanita Beach Park:

(1) Resolution R-4578, Authorizing Application to the Interagency

Committee for Outdoor Recreation (IAC) for Funding Assistance for a Washington Wildlife and Recreation Program

Motion to Approve Resolution R-4578, entitled "A RESOLUTION AUTHORIZING APPLICATION(S) FOR FUNDING ASSISTANCE FOR A WASHINGTON WILDLIFE AND RECREATION PROGRAM (WWRP) PROJECT TO THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATIONS (IAC) AS PROVIDED IN CHAPTER 79A.15 RCW, FOR ACQUISITION, DEVELOPMENT, OR RESTORATION OF HABITAT CONSERVATION AND OUTDOOR RECREATION LANDS AND FACILITIES."
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

(2) Resolution R-4579, Authorizing Application(s) for Funding Assistance for a Aquatic Lands Enhancement Account (ALEA) Program Project to the Interagency Committee for Outdoor Recreation (IAC) as Provided In RCW 79.90.245 and Subsequent Legislative Action."

Motion to Approve Resolution R-4579, entitled "A RESOLUTION AUTHORIZING APPLICATION(S) FOR FUNDING ASSISTANCE FOR A AQUATIC LANDS ENHANCEMENT ACCOUNT (ALEA) PROGRAM PROJECT TO THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION (IAC) AS PROVIDED IN RCW 79.90.245 AND SUBSEQUENT LEGISLATIVE ACTION."
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. Providing Information on Kirkland Clean Up Day

Council received the report and proposed revenue neutral alternative options.

c. Discussing Potential Annexation

City Manager David Ramsay introduced the ongoing discussion regarding potential annexation and noted that tonight’s focus will be on communication strategy. Annexation Subcommittee Chair Councilmember Sternoff provided information from the Subcommitte’s May 12 meeting with King County Executive Ron

Sims and King County Councilmember Jane Hague. Assistant City Manager Marilynne Beard summarized meetings held since April 18, shared information regarding communication strategy relative to community outreach, as well as draft timelines for annexation. Council authorized staff to work with the annexation subcommittee to prepare a Request for Proposal for a communications consultant.

12. ANNOUNCEMENTS

13. ADJOURNMENT

The Kirkland City Council regular meeting of May 16, 2006 adjourned at 11:28 p.m.

City Clerk

Mayor

KIRKLAND CITY COUNCIL SPECIAL STUDY SESSION MINUTES
May 18, 2006

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Mayor James Lauinger, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, and Councilmember Tom Hodgson.
Members Absent: Deputy Mayor Joan McBride, and Councilmember Bob Sternoff.

3. STUDY SESSION

a. Northwest Earth Institute Special Presentation

Joining Council for discussion were Margaret Schwender, Chris Conrad Johnston, David Frazer and Bruce Welti. They presented information regarding the Northwest Earth Institute's mission and the discussion courses offered by the Institute on topics relative to individual responsibility for ecological principles and sustainability.

b. Environmental Stewardship

Council was joined for the discussion by Planning and Community Development Deputy Director Paul Stewart, Director of Planning and Community Development Eric Shields, Public Works Director Daryl Grigsby, Facilities and Operations Manager Erin Leonhart, Senior Storm Water Engineer Jenny Gaus, Public Works Public Grounds Supervisor Wendy Kremer, and Parks Planning and Development Manager Michael Cogle as well as City Manager David Ramsay.

4. ADJOURNMENT

The May 18, 2006 Special Study Session of the Kirkland City Council adjourned at 8:32 p.m.

City Clerk

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: David Ramsay, City Manager

From: Kathi Anderson, City Clerk

Date: May 30, 2006

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) Marion Winnier, Representing Estate of Melinda Atkins
1281 SW Othello
Seattle, WA 98106

Amount: Unspecified

Nature of Claim: Claimant states damages sustained in the corrections facility.

(2) Geico General Insurance Co. for Insured Susan Hayes
P O Box 509119
San Diego, CA 92150

Amount: $ 4,555.80

Nature of Claim: Claimant states damages occurred due to unsafe lane change made by City vehicle.

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

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E. Capital Projects Manager

Date: June 6, 2006

Subject: KIRKLAND AVE SEWER MAIN REPLACEMENT
3RD STREET MANHOLE REPLACEMENTS
AUTHORIZATION TO BID

RECOMMENDATION:

It is recommended that the City Council authorize staff to advertise for bids for the Kirkland Ave Sewer Main Replacement and 3rd Street Manhole Replacements.

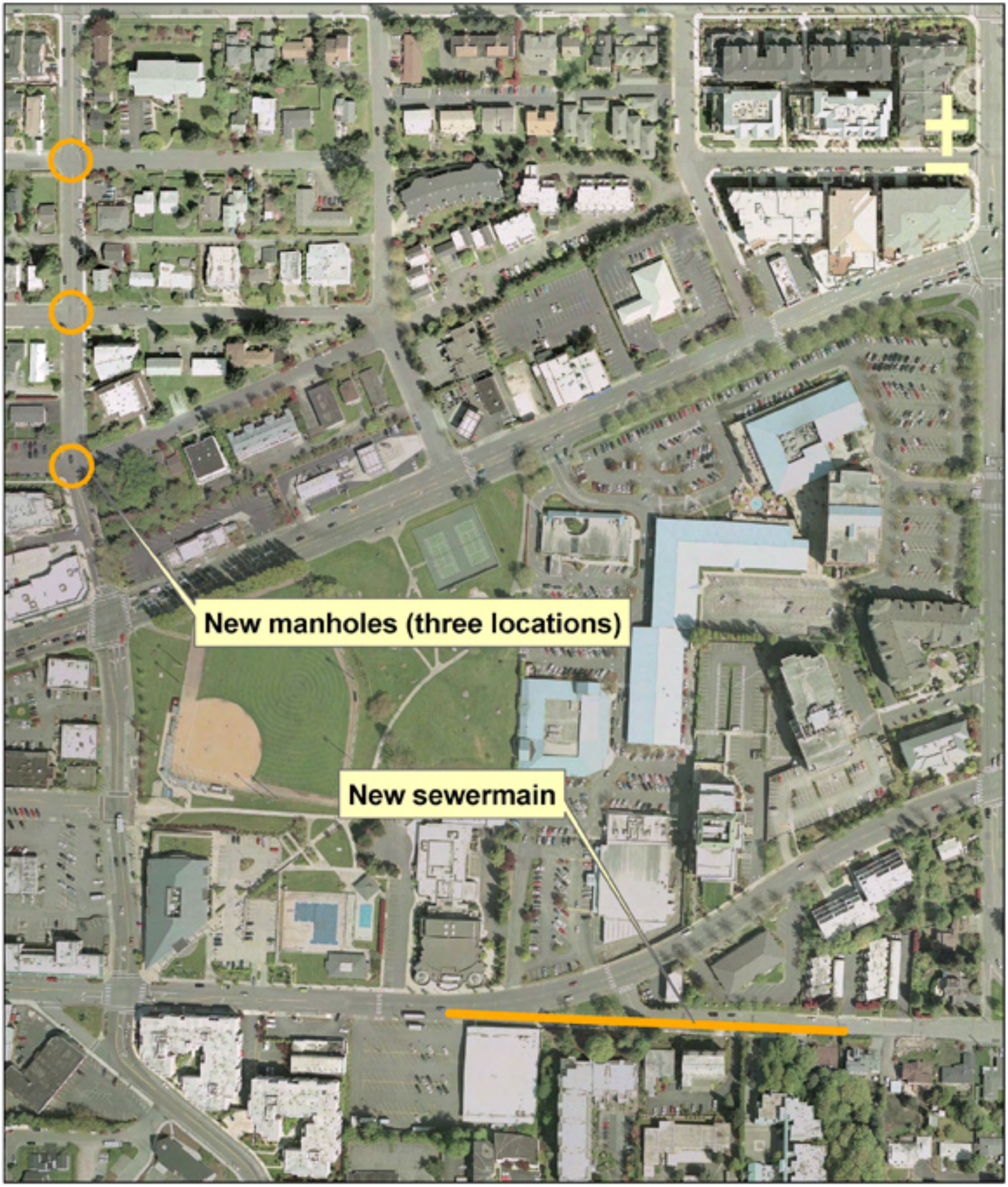
BACKGROUND DISCUSSION:

The proposed scope of the project consists of replacing aging sanitary sewer main and/or manholes. The project consists of sewer construction in two separate areas in close proximity of each other within the downtown area (see attachment A).

The first portion of the project is sewer main replacement on Kirkland Ave beginning at approximately the 400 block of Kirkland Way heading east terminating at approximately the 500 block of Kirkland Avenue

A second portion of the project is to replace three manholes on 3rd Street between 3rd Avenue and 5th Avenue that are funded from the annual Manhole Rehab Program. This project has been combined with the Kirkland Ave Sewer Replacement Project since bid trends show smaller projects are more costly due to overhead and mobilization costs which are always included in the bid price. Therefore by combining the two projects staff anticipates receiving a cost saving bid price. The engineer's estimate for the project is $180,000.

With authorization to bid at this time, it is anticipated that construction can begin in July 2006 and be complete by the end of the summer.



Kirkland Ave Sewermain

City of Kirkland

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: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: May 25, 2006

Subject: 2006 STREET PRESERVATION PROJECT – AWARD CONTRACT

RECOMMENDATION:

It is recommended that the City Council award the contract for the 2006 Street Preservation Project to Watson Asphalt Paving Co. of Redmond, Washington in the contract amount of $1,257,925.90.

BACKGROUND DISCUSSION:

This project will resurface approximately 6.5 lane miles of roadway in five neighborhoods throughout the City (Attachment A). The annual street preservation project maintains and rehabilitates the City's street network through subgrade repair, grinding, and application of a new surface layer of asphalt to selected streets. Work also includes installation of new curb ramps, as required by the Americans with Disabilities Act, and replacing adjacent broken curb and sidewalk panels. In 2006, City Council established the annual sidewalk maintenance program, in part to address the sidewalk repairs associated with the Street Preservation Program. Some of that funding will be used on the project.

One of the notable streets being rehabilitated this year is State Street in the Moss Bay neighborhood. Subsurface investigations conducted on State Street during the design of the project concluded that the pavement structure was inadequate to support the heavy truck and bus traffic that uses this street. This weak structure is the primary cause of the pavement distresses observed along the length of State Street (Figures 1 & 2 below).

Figure 1. State Street Pavement and Subgrade

Figure 2. State Street Pavement Failure

To correct this deficiency and ensure a long lasting pavement life, it is necessary to remove and reconstruct all of the asphalt and a portion of the underlying material within the travel lanes of State Street prior to resurfacing the entire width of the roadway. Due to several large development projects north of 5th Avenue South, only that portion of State Street south of 5th Avenue South will be reconstructed and resurfaced this year; the north half is scheduled for 2007.

The 2006 Street Preservation Program has a budget of $1.8 million; $30,000 will be used from the annual sidewalk maintenance program, and one other CIP project will contribute $13,000 for paving associated with that project. The total funds available for the overlay project are $1,843,000. The engineer's estimate for this project is $1,310,000. $88,000 of this year's budget has been allocated for the NE 52nd Street Railroad Crossing Project, as approved at the April 18, 2006 Council meeting. An additional $85,000 has been set aside for the lease and operation costs for a street paving machine. This lease, with an option to purchase, was approved at the February 7, 2006 Council meeting. The project budget report is included as Attachment B.

At their regular meeting of May 2, 2006, Council authorized the Public Works staff to advertise for contractor bids on the 2006 Street Preservation Program. The first advertisement for this project was published on May 5, 2006 and bids were opened and read publicly on May 19, 2006. Five (5) sealed bids were received and tabulated as follows:

Contractor	*Total Bid*
⇨ **Watson Asphalt Paving**	**1,257,925.90**
Engineer's Estimate	1,310,000.00
Western Asphalt	1,342,285.02
Rinker Materials	1,377,257.90
Lakeridge Paving	1,475,544.30
Lakeside Industries	1,704,576.40

Construction of the project is anticipated to start in June with substantial completion expected by the end of October.

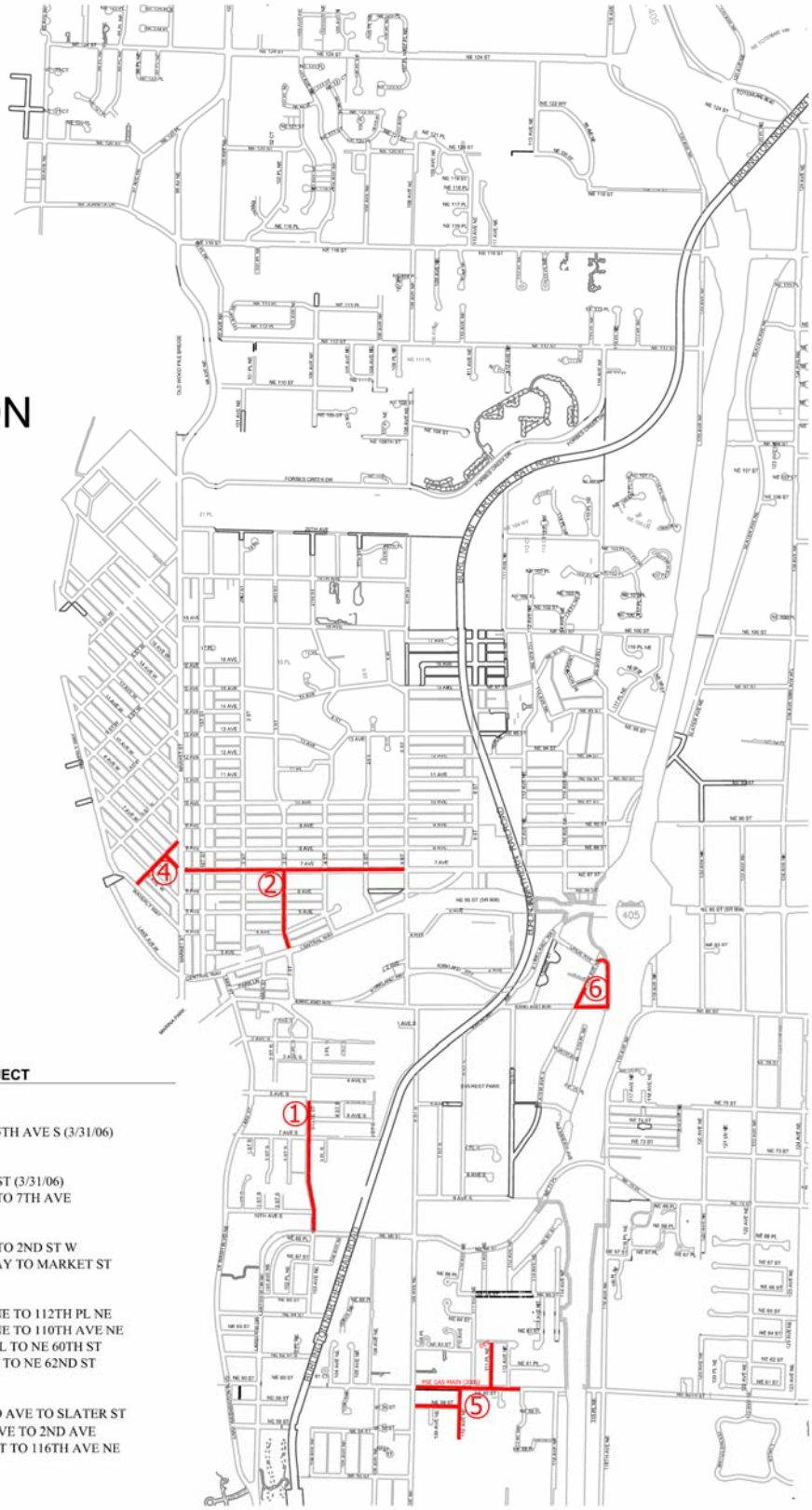
In advance of the work, Public Works will notify adjacent properties with an informational mailing describing the City's Street Preservation Program. This information, along with a regularly updated construction schedule, will also be posted on the City's web site. Construction notice signs will be installed in advance of the overlay on higher volume streets and portable construction notice signs will be placed on residential streets a few days prior to construction. Supplemental notices will also be distributed to all adjacent homes and businesses at least 24 hours prior to construction. As this project also includes a significant amount of sidewalk and ramp reconstruction, Staff will ensure safe travel for pedestrians throughout the work areas at all times.

Attachments: (2)

CITY OF KIRKLAND WASHINGTON

Public Works Department

CST-0606
STREET PRESERVATION PROGRAM



2006 Asphalt Overlay

2006 STREET OVERLAY PROJECT

*** MOSS BAY ***

1 STATE ST - NE 68TH ST TO 5TH AVE S (3/31/06)

*** NORKIRK ***

2A 7TH AVE - 1ST ST TO 6TH ST (3/31/06)
2B 3RD ST - CENTRAL WAY TO 7TH AVE

*** MARKET ***

4A 7TH AVE W - MARKET ST TO 2ND ST W
4B 2ND ST W - WAVERLY WAY TO MARKET ST

*** HOUGHTON ***

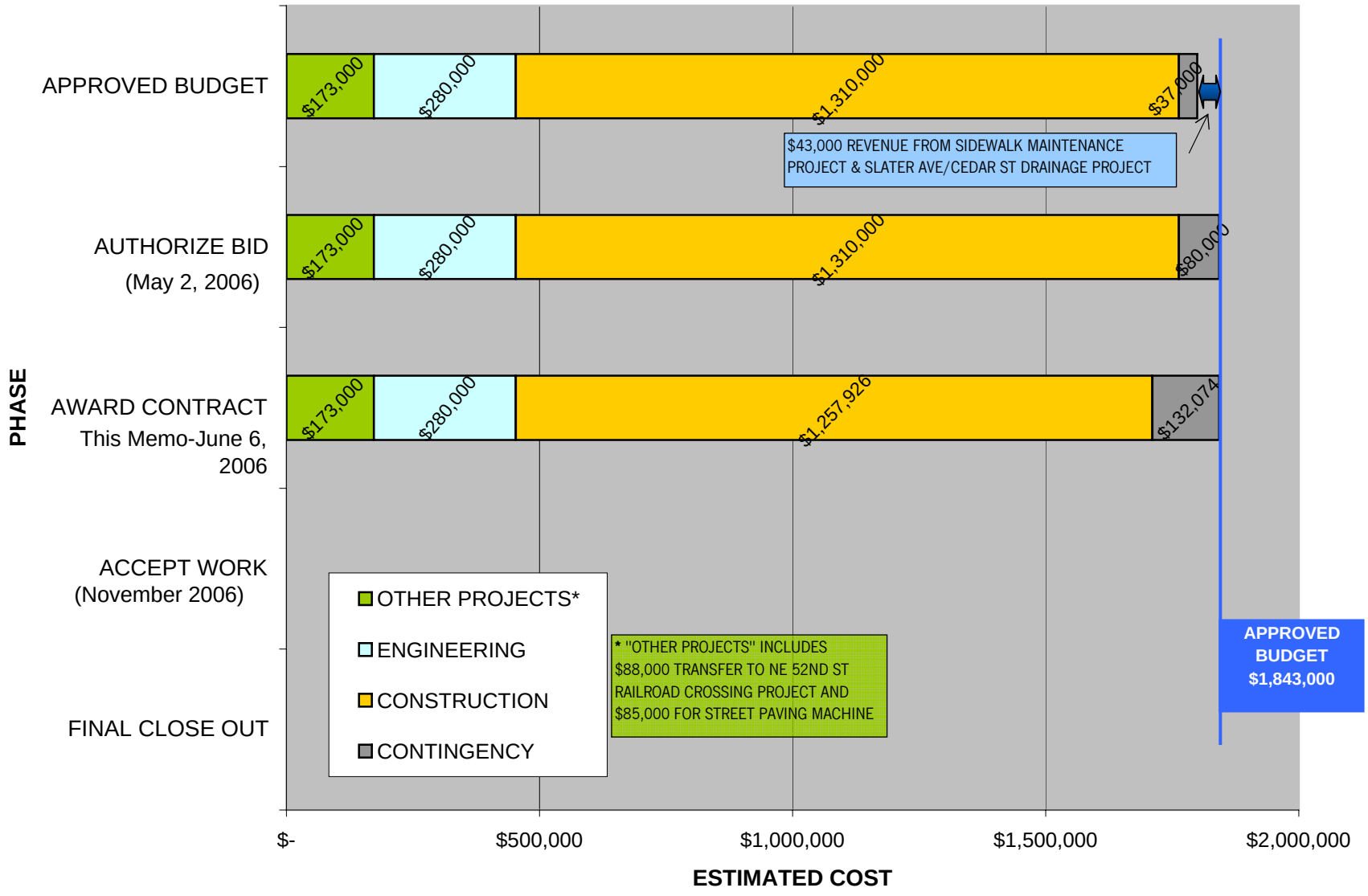
5A NE 60TH ST - 108TH AVE NE TO 112TH PL NE
5B NE 59TH ST - 108TH AVE NE TO 110TH AVE NE
5C 110TH AVE NE - NE 58TH PL TO NE 60TH ST
5D 111TH PL NE - NE 60TH ST TO NE 62ND ST

*** EVEREST ***

6A 116TH AVE NE - KIRKLAND AVE TO SLATER ST
6B SLATER ST - KIRKLAND AVE TO 2ND AVE
6C KIRKLAND AVE - SLATER ST TO 116TH AVE NE

PROJECT BUDGET REPORT

2006 Street Preservation Project (CST-0606)



Attachment B

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: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: May 25, 2006

Subject: 2005 WATER SYSTEM IMPROVEMENTS PROJECT
ACCEPT WORK AND ESTABLISH LIEN PERIOD

RECOMMENDATION:

It is recommended that the City Council accept the 2005 Water System Improvements Project as constructed by D&G Backhoe of Lake Stevens, WA and establish the required 45-day lien period.

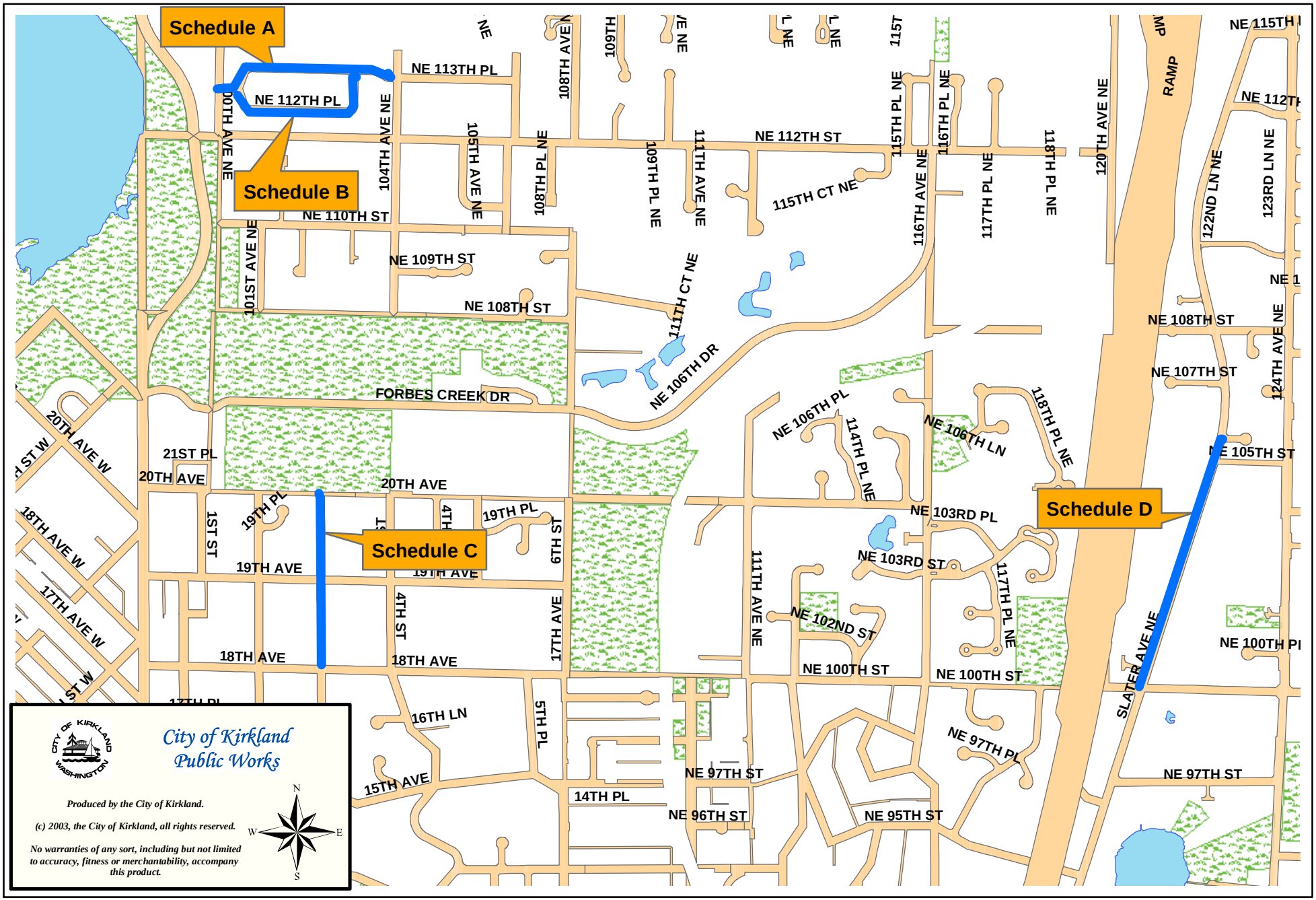
BACKGROUND DISCUSSION:

The 2005 Water System Improvements Project provided for the replacement of approximately 6,000 lineal feet of asbestos-cement (AC) watermain with new ductile iron pipe along portions of four individual residential streets (Attachment A). All locations received a high ranking in the City's Water Comprehensive Plan. Individual water service lines to meters and fire hydrants along each identified project alignment were also replaced during construction.

At their regular meeting on July 5, 2005, Council authorized award of the contract to D&G Backhoe in the amount of $798,496.62. Construction began October 3, 2005 and was complete on April 21, 2006; total payments to the contractor were $823,711.12 including two change orders.

Attachments (2)

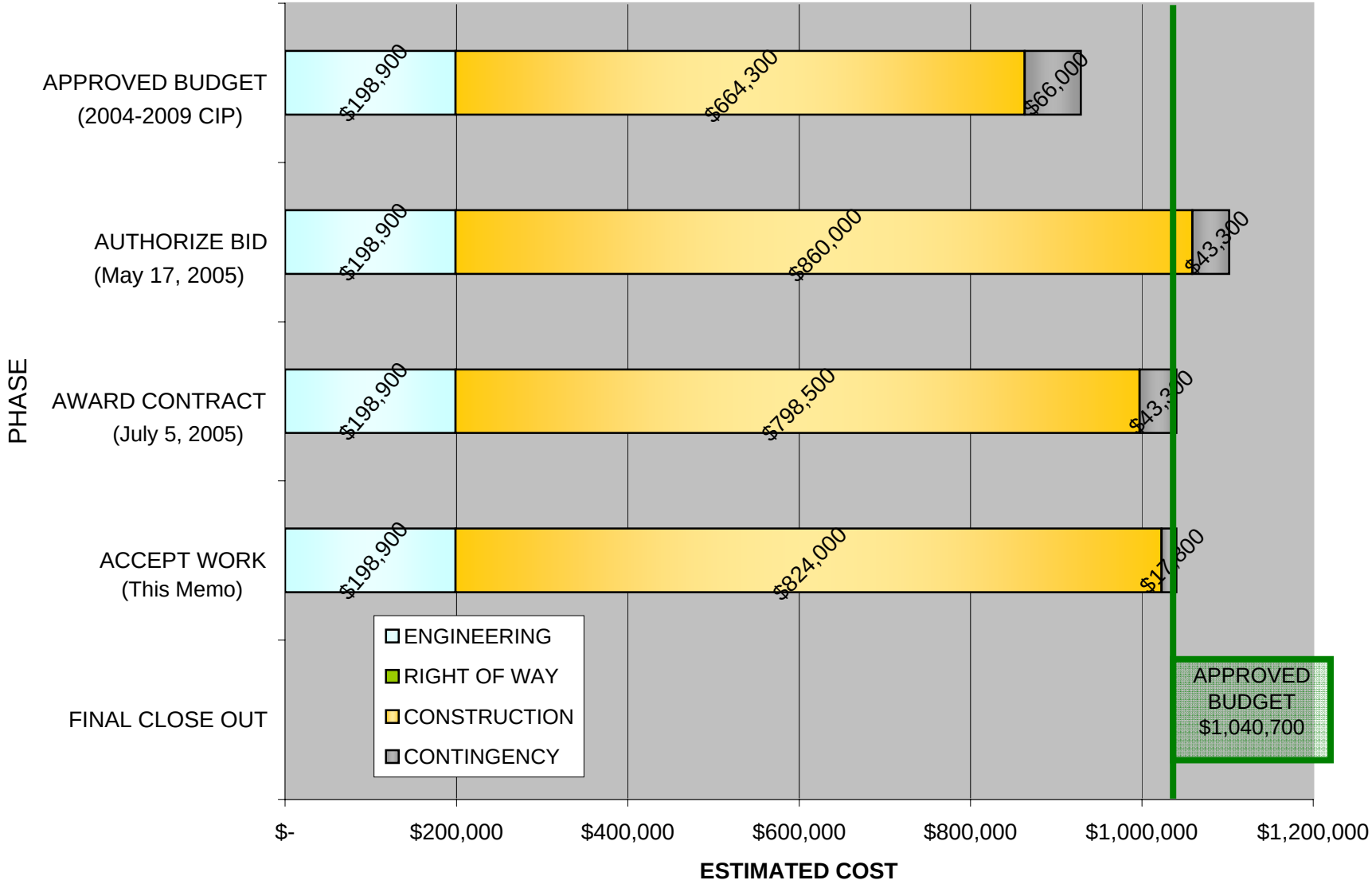
2005 Water System Improvements
CWA 0054, CWA 0055, CWA 0083, CWA 0088 / Job No. 18-05-PW
Vicinity Map



ATTACHMENT A

PROJECT BUDGET REPORT

(2005 Water System Improvements WA 0054, WA 0055, WA 0083, WA 0088)



ATTACHMENT B

CITY OF KIRKLAND
Human Resources Department
505 Market Street, Suite B, Kirkland, WA 98033 425.587-3210
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Bill Kenny, Human Resources Director

Date: May 26, 2006

Subject: Contract Approval between the City of Kirkland and Teamsters Local Union # 763

RECOMMENDATION: Requesting an approval of the Collective Bargaining Agreement between the City of Kirkland and the Teamsters Local Union # 763 for the period of January 01, 2006 through December 31, 2008.

BACKGROUND DISCUSSION: Recent Collective Bargaining Agreement negotiations between the City of Kirkland and employees of the Local Teamsters Union have yielded a new collective bargaining agreement covering the period of January 1, 2006 to December 31, 2008. The new agreement has been voted and approved by the Teamsters membership and is waiting final approval from City Council.

Attachment 1
Final CBA version can be viewed at:
H:\LR\Teamsters\2006-2008 Contract\Teamsters CBA 2006-2008

A G R E E M E N T

by and between

CITY OF KIRKLAND, WASHINGTON

and

LOCAL UNION NO. 763
PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES
AND DRIVERS
(Representing the Public Works and Parks Maintenance Employees)

January 01, 2006 through December 31, 2008

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A G R E E M E N T

by and between

CITY OF KIRKLAND, WASHINGTON
and
PUBLIC, PROFESSIONAL & OFFICE-CLERICAL
EMPLOYEES AND DRIVERS
LOCAL UNION NO. 763
(Representing the Public Works and
Parks Maintenance Employees)

January 01, 2006 through December 31, 2008

PREAMBLE

THIS AGREEMENT is by and between the CITY OF KIRKLAND, WASHINGTON, hereinafter referred to as the Employer, and PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS LOCAL UNION NO. 763, affiliated with the International Brotherhood of Teamsters, hereinafter referred to as the Union. The purpose of the Employer and the Union entering into this Agreement is to set forth their entire agreement with regard to wages, hours and working conditions so as to promote uninterrupted and efficient operations; the proficiency, morale and security of employees covered by this Agreement; and harmonious relations, giving full recognition to the rights and responsibilities for the Employer, the Union and the employees.

ARTICLE 1 DEFINITIONS

1.1 As used herein, the following terms shall be defined as follows:

1.1.1 "Employer" shall mean the City of Kirkland, Washington.

1.1.2 "Union" shall mean Public, Professional & Office-Clerical Employees and Drivers Local Union No. 763, affiliated with the International Brotherhood of Teamsters.

1.1.3 "Bargaining Unit" shall mean all maintenance and operations employees (outside and shop) as listed in Article 9, excluding supervisors, in the following departments or divisions:

Street
Equipment Rental
Utilities
Parks and Community Services
Facilities Services and Public Grounds

1.1.4 "Employee" shall mean a regular full-time, regular part-time, and temporary employees in the bargaining unit (as defined in Section 1.1.3 hereof) covered by this Agreement.

1.1.5 "Non Bargaining Unit Employees" shall mean all non-maintenance employees and those employees in the following classifications in the departments or divisions as indicated:

Directors
Superintendents
Non-working Forepersons
Clerical Employees
Summer Help
Seasonal Help
All other City Employees
On-Call/Extra Help

1.1.6 "Monthly Salary" shall mean the monthly rate of pay so identified and set forth in Article 9 to this Agreement.

1.1.7 "Overtime" shall mean compensation at one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay for all work performed in excess of the employee's regularly scheduled shift in any one (1) day or forty (40) hours at straight-time in any one (1) week and as defined in Article 6.4.

1.1.8 "Vacation" shall mean a scheduled workday or accumulation of scheduled workdays on which a full-time employee may, by prearrangement, continue to receive the regular rate of compensation although he does not work.

1.1.9 "Members of employee's household" shall mean persons who reside in the same residence, who have reciprocal and natural and/or moral duties to and do provide support for one another. The term shall not include persons sharing the same general residence when the living style is primarily that of a dormitory or commune.

1.10 “Immediate family" shall be defined as persons related by blood, marriage, or legal adoption in the degree of consanguinity (relationship) of grandparent, parent, wife, husband, brother, sister, child, grandchild, domestic partner (as defined by City Policy), who reside in the employee’s home and other persons when approved by the City Manager or his designee.

ARTICLE 2 – RECOGNITION

2.1 RECOGNITION

The Employer recognizes the Union as the exclusive bargaining representative for all those employees within the bargaining unit (as defined in Article I, Section 1.1.3). Supervisory employees shall only instruct or train employees, assure proper standards of work and job performance, temporarily cover when qualified bargaining unit employees are not readily available, and handle emergency situations. The Employer shall not utilize part-time, temporary,

or seasonal employees in a way that results in layoff or termination of regular employees from their jobs.

2.2 NEW CLASSIFICATIONS

When new positions are created (or existing classifications substantially modified) within the departments represented or the classifications listed in Article 9.1, the Union will be notified of the pending action within two weeks of the date that the position is first posted or advertised. It is mutually agreed that it is the intent of the parties to meet, upon request, in order to include or exclude new or modified positions in the bargaining unit consistent with the duties, responsibilities, and organizational level of the classification.

The parties agree that classification designated and approved by the Employer to be within the non-represented pay plans shall be excluded from the bargaining unit.

If the Union disagrees with the non-represented pay plans designation for a new or reclassified position, the parties recognize the determination of whether the position is included within the bargaining unit may be reviewed by Public Employment Relations Commission (PERC) upon petition by the Union. Should PERC determine the position is to be included in the bargaining unit, the position shall be placed within the Union Salary Schedule at the appropriate rate of pay and at a step that results in no decrease and be removed from the non-represented pay plan.

ARTICLE 3 - UNION SECURITY

3.1 MEMBERSHIP

Union Membership - Consistent with the provisions of Section 3.1.1, it shall be a condition of employment that all employees of the Employer covered by this Agreement who are members of the Union in good standing on the effective date of this Agreement shall remain members in good standing and all employees covered by this Agreement who are hired on or after its effective date shall, on or before the thirtieth (30th) day following the beginning of such employment, become and remain members in good standing in the Union.

3.1.1 Nothing contained in this Article shall require an employee who can substantiate that there exists bona fide religious tenants or teachings of a church or religious body of which the employee is a member to join the Union, in which case an amount of money equivalent to regular Union dues and initiation fee shall be paid to a non-religious charity mutually agreed upon by the employee and the Union.

3.2 DUES DEDUCTION

Upon written authorization from an employee within the bargaining unit**,** the Employer shall deduct from the wages of that employee the sum certified as assessments and monthly dues of the Union and shall forward such sum to the Union. Should any employee not have any monies due them or the amount of such monies is not sufficient to satisfy the assessments, no deduction shall be made for that employee for that month. The Union shall indemnify, defend and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of any check-off of dues for the Union. The Union shall refund to the Employer any amounts paid to it in error on account of the check-off provision upon presentation of proper evidence thereof.

3.3 BARGAINING UNIT ROSTER

The Employer shall provide the Union with a roster of employees covered by this Agreement on an annual basis or as needed pursuant to Article 8. The roster shall include name, address, social security number, salary, classification, department, hire date and termination date.

The Union agrees to supply Human Resources with current lists of officers and stewards. The Employer will recognize the officers and stewards, as soon as the list is received, in writing by Human Resources.

3.4 NONDISCRIMINATION – UNION ACTIVITY

No employee shall be discharged or discriminated against for upholding Union principles, fulfilling duties as an officer in the Union or serving on a Union committee.

ARTICLE 4 - UNION/EMPLOYER RELATIONS

4.1 UNION ACCESS

The Union's authorized staff representatives shall have access to the Employer's premises where employees covered by this Agreement are working for the purpose of investigating grievances and contract compliance. Access for other purposes shall not be unreasonably denied by the Employer. Such visits shall not interfere with or disturb employees in the performance of their work during working hours.

4.2 FACILITY USE

The Union shall be permitted to use designated premises of the Employer for Union meetings with or without Union staff present, provided such is not disruptive to operations and space is available.

4.3 STEWARDS

The Union shall provide the Human Resources Department with a current list of all stewards and officers. With notice to the City, stewards and/or the officers shall be allowed reasonable time during working hours to investigate and process grievances, as defined in Article 4.8, 4.9 and 19.4. Employees shall attend Union meetings on their own time.

4.4 ORIENTATION

During the new employee orientation process, the Employer will notify the employee of the requirements of Article 3.1, as appropriate to the respective classification and Union contact information.

4.5 BULLETIN BOARDS

Bulletin Boards - The Employer shall provide suitable space for a bulletin board to be used by the Union for official Union notices.

4.6 CONTRACT DISTRIBUTION

The Union will provide access to this Agreement to each new and current employee in the unit.

4.7 NEGOTIATIONS RELEASE TIME

The Employer will make a good faith effort to assist in providing release time for Union negotiating team members participating in contract negotiations if negotiations take place on work time, provided that coverage can be arranged.

The Employer shall compensate each employee who is a member of the Negotiation Committee and take time off from their scheduled shift to meet and negotiate successor agreements up to one hundred twenty (120) cumulative hours in any calendar year.

4.8 GRIEVANCE RELEASE TIME

Prior to any proposed investigation of a grievance, stewards or officers shall provide notice to their and the grievant's supervisor, which will be granted unless the steward, officer or the grievant is working on something that requires immediate attention. If permission cannot be immediately granted, the Employer will arrange to allow investigation of the grievance at the earliest possible time. When it is necessary for stewards or officers to conduct Union business authorized by this Agreement in an area or on a shift other than their own, they shall notify the supervisor of that area or shift of their presence and of the nature of their business. No compensation shall be provided by the Employer for such steward activities outside the employee's work shift, without express pre-authorization by the Department Director or Human Resources.

4.9 UNION BUSINESS

Consistent with Articles 4.3, 4.8 and 19.4, stewards shall be afforded reasonable time for the investigation of grievance and compliance issues dealing with this Agreement. Other Union business will not be conducted on Employer time.

Any concerns by the Employer which indicate that a Union steward is spending an unreasonable amount of time performing Union duties shall be referred Human Resources for discussion and resolution with the Staff Representative of the Union or their designee.

ARTICLE 5 – EMPLOYMENT

5.1 PROBATIONARY PERIODS

Probation - A new employee shall work under the terms of this Agreement, but shall be subject to the normal six (6) month probation period, during which time the employee may be discharged without recourse from the employee or the Union.

The Department Director may extend the six month probationary period for new employees up to an additional three months with reasonable justification. The Department Director shall provide a written notice to the Union no less than fourteen (14) calendar days prior to the probationary period's expiration of his or her intent to extend a probationary period. The Union may request reconsideration of the decision within 14 calendars of the date of the notice. The employee will remain on probation until such time as a resolution has been determined.

Trial Service Period - Employees who are transferred or promoted into a posted position and/or classification in the bargaining unit shall serve a trial service period for three (3) months of work, consistent with Article 7.3.

5.2 TYPES OF EMPLOYMENT

It is the intent of the employer to maximize the number of full-time benefited employees with the mutual understanding of the potential need for other types of employment as identified in this Article.

5.2.1 Regular Full-Time Employees:

A regular full time employee is scheduled to work forty (40) hours per week in a regularly budgeted, on-going position. Regular Full-Time employees are eligible to receive the standard benefit package.

5.2.2 Regular Part-Time Employees:

A regular part-time employee typically is scheduled to work a minimum of twenty (20) hours per week but no more than forty (40) hours per week in a regularly budgeted, on-going position. Regular Part-Time employees are eligible to receive the standard benefit package, prorated to match the FTE percentage and adjusted by actual hours worked.

5.2.3 Temporary Employees:

A temporary employee is hired for a specific assignment that has a duration of employment and schedule that is anticipated to work one thousand and forty (1,040) hours or more in a twelve (12) month period.

A temporary employee is eligible for the standard benefits package, prorated to match the anticipated FTE percentage and adjusted by actual hours worked.

If a regular employee accepts an assignment of a temporary position, that employee will be eligible for return rights to their former position upon completion of the specific assignment or term of the temporary employment. Any new-hire employee who is hired to fill the vacancy, which was created by the regular employee accepting a temporary position, will also be hired as a temporary employee and that employee will cease to have employment rights upon the return of the regular employee to the former position.
Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement. Regular employees moving to a temporary position, as above, will become or remain Union members, per the Agreement representing the temporary position.

Employees in temporary positions serve an anticipated but not guaranteed term. While a term of employment is anticipated, the assignment/project may be terminated at any time for any reason, with or without notice.

5.2.4 Seasonal Employees:

A seasonal employee works for a specific amount of time and is not anticipated to meet or exceed one thousand and forty (1,040) accumulated hours in a rolling twelve (12) month period. A seasonal employee is not eligible to receive the benefits package.

If the one thousand and forty (1,040) hour limitation is met or exceeded in any one (1) type of employment within a twelve (12) month period, the employee will become eligible for the standard benefits package, consistent with current personnel rules. Benefits shall be prorated to match the FTE percentage, as determined by service to that point, and adjusted by actual hours

worked. Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement.

5.2.5 On-Call/Extra Help Employees:
An on-call/extra help employee works in a limited, but on-going capacity. They do not have a specific end date. Their schedule may consist of an intermittent or varying schedule per week on an as needed basis, and are anticipated to work fewer than one thousand and forty (1,040) hours within a rolling twelve (12) month period. They are not eligible for the benefits package.

If the one thousand and forty (1,040) hour limitation is met or exceeded in any one (1) type of employment within a twelve (12) month period, the employee will become eligible for the standard benefits package, consistent with current personnel rules. Benefits shall be prorated to match the FTE percentage, as determined by service to that point, and adjusted by actual hours worked. Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement.

5.3 CONTRACTORS
The Employer will make good faith efforts to limit bargaining unit work to employees covered by this Agreement. "Contractors" who are not employees of the Employer will be permitted to do bargaining unit work where both the need is occasional and temporary and when there are not regular staff either qualified or available to do such work. Contractors will not be utilized in a manner that will cause an employee to be laid-off or terminated.

5.4 STUDENTS / INTERNS
Student and Internship programs may be created by the employer provided such does not take work away from budgeted classifications represented by the Union, the Union is provided notice and, upon request by the Union, the Employer meets with the Union to discuss the impacts and benefits of the program.

ARTICLE 6 - HOURS OF WORK AND OVERTIME

6.1 WORKDAY/WORKWEEK
A regular full-time workweek shall consist of forty (40) hours of time actually worked or compensated within a seven (7) day period (typically Sunday 12:00 a.m. through Saturday 11:59 p.m.). Such workweek shall be consecutive days. Changes in work schedule, which may include changes in the schedule or total hours, shall be consistent with Article 6.2.

6.2 WORK SCHEDULES
Each employee shall be assigned a regular work schedule and starting time. If a shift change or a starting time change is to occur, other than temporary, the employee shall be given a week's notice prior to the change going into effect. If emergency re-scheduling occurs, the employee shall be paid twenty percent (20%) over their regular straight-time hourly rate of pay for all hours worked outside of the regular schedule.

End of Work Day Cleanup Time - Employees shall be allowed ten (10) minutes on the Employer's time for cleanup purposes at the end of the work day, the cleanup time period shall

commence upon the cessation of the employee's duties. Time keeping required for specific work assignments shall be handled during the course of the work day.

Flex Time - Employees may have flexible starting times and working hours (including alternate work schedules such as a 4/10 work week) with mutual consent between the employee and the Department Head, provided such schedule complies with the Fair Labor Standards Act.

Outside Employment - Employees shall be permitted to maintain other employment to the extent that it does not impair the employee's ability to perform his or her normal work duties and/or responsibilities with the City of Kirkland, nor create a conflict of interest as defined by the City's Personnel policies.

6.3 REST/MEAL BREAKS

Rest Breaks - Employees shall receive a rest period of fifteen (15) minutes, on the Employer's time, for each work period of four (4) hours or more. Rest periods shall be scheduled as near as possible to the midpoint of each four (4) hour work period and shall be taken at the work site or closest location where lavatory and washing facilities are available. No employee shall be required to work more than three (3) hours without a rest period. Missed rest breaks are not compensable as overtime. Breaks may not be collected or not taken in order to shorten the work day or work week.

Meal Periods - During regular or overtime work shifts, employees shall be allowed a meal period of thirty (30) minutes which shall be on the employee's own time. The meal period shall commence no less than three (3) or more than five (5) hours from the beginning of the work shift. No employee shall be required to work more than five (5) consecutive hours without a meal period. One-half (1/2) hour overtime shall be paid to an employee who is directed to work in excess of five (5) consecutive hours without a meal period.

6.3.1 Prior to the taking of a meal period, the employee shall be allowed a five (5) minute period for cleanup and travel to the Kirkland Maintenance Center lunch room located at 915 8th Street, Kirkland, Washington, or a nearby sanitary facility. If an employee takes the meal period at the work site, said employee shall be prepared to resume work immediately after the meal period. In the event that the employee takes the meal period at the above-referenced lunch room, or a nearby sanitary facility, the employee shall be allowed five (5) minutes travel time to return to the work site.

6.3.2 For employees on an overtime or emergency rescheduled shift, if the meal period falls between the hours of 9:00 P.M. and 5:00 A.M., a meal shall be reimbursed consistent with the lunch rate in the Employer's reimbursement policy.

6.4 OVERTIME

All work which has been specifically authorized by a supervisor, performed in excess of the employee's daily scheduled work day (if scheduled for eight (8) hours or more) in one (1) day or in excess of forty (40) hours per shall constitute overtime and shall be paid for at one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay. For employees on a 4/10, 9/80, or other flex schedule, overtime shall be paid consistent with FLSA or the provisions of this section. Overtime shall be paid for in fifteen (15) minute increments for time worked either immediately prior to or immediately after the employee's regular shift.

6.4.1 For purposes of computing overtime, all contractual holidays, comp time, sick leave and vacation time shall be considered as time worked.

6.4.2 Non-pyramiding - Premium or overtime pay shall not be duplicated or pyramided. Except in emergent / emergency situations, all overtime must be approved in advance by the employee's immediate supervisor.

6.5 COMPENSATORY TIME

Overtime shall either be paid or compensatory time awarded. Overtime shall be compensated at the rate of one and one-half (1½) times the employee's regular rate of pay.

In lieu of paid overtime, compensatory time-off may be utilized upon the request of the employee and shall be taken at the rate of one and one-half (1-1/2) times the actual time worked. Scheduling of compensatory time shall be approved by the employee's immediate supervisor. Compensatory time-off shall be taken in increments of not less than one (1) hour. Use of compensatory time in increments of forty (40) hours or more shall require two (2) weeks prior notice and immediate supervisor's approval.

6.5.1 The employee shall indicate on their daily time card the desire to have compensatory time-off in lieu of paid overtime. The employee's choice for the pay period in question shall not be changed once the employee's time card has been turned into payroll. An employee may only accrue compensatory time up to a maximum balance of one hundred twenty (120) hours. The Employer reserves the right to pay for overtime, rather than award compensatory time, by providing individual notice to the employee prior to or at the time of authorizing the overtime.

6.5.2 All accumulated compensatory time shall be cashed-out and paid to the employee on an annual basis on the first paycheck following November 1st, for all hours earned through October 31st, provided however, with written notice submitted to the payroll preparer prior to October 31st the employee may elect to carryover up to forty (40) hours of compensatory time into the next cycle year. The cycle year shall be November 1 through October 31.

ARTICLE 7 – EMPLOYMENT PRACTICES

7.1 NONDISCRIMINATION

The Employer and Union shall ensure that all terms and conditions of employment included in this Agreement shall be administered in accordance with Federal or State law governing employment discrimination. Administration and application that is not in contravention of Federal or State law shall not be construed to be discrimination under this Article.

The Union and the Employer agree to provide equal opportunity to all their members and employees. Neither the Employer nor the Union shall discriminate against any person on the basis of such person's race, sex, marital status, color, creed or religion, national origin, age, veteran status, sexual orientation or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification.

Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

7.2 JOB POSTING

When a Regular job opening in the bargaining unit or vacancy in the bargaining unit occurs, notice of such position shall be posted by the Human Resources department for a period of no less than five (5) working days before the position is filled. Job openings shall be posted within the City only and may also be posted externally. The Employer may consider applicants from within the City or may advertise and solicit applicants simultaneously from outside the City. The posting shall indicate the salary range for the position, the required or preferred minimum qualifications and/or experience, the department to whom the position will report and the application process. Union positions will be identified as such.

When a regular full-time job vacancy occurs, present employees shall be given first consideration for filling the vacancy, based on their length of service with the Employer and ability to perform the duties of the job as measured by a competitive examination.

7.3 PROMOTIONS

Promotions to a higher job classification shall be according to ability and seniority; ability determined to be equal, seniority shall prevail. There shall be a three (3) month trial service period, or less at the Employer's option, for such promotions, in order for the employees to acquire skills and demonstrate their qualifications, during which time the employee shall be compensated at the higher rate of pay. During the trial service period, an employee promoted to a regular position may return to the former position if they have discussed the reasons for the decision with the supervisor, and if it is within the first three (3) months of the trial service period.

Upon returning to the former position, the employee shall retain their seniority and be placed in the salary schedule and step in which they would have been had they not been promoted. It shall be the policy of the Employer to promote to supervisory positions insofar as possible from the ranks of the employees.

7.4 PERSONNEL FILE/POLICIES

Unless otherwise provided by the terms of this Agreement, the City of Kirkland Administrative and Personnel Policies shall apply to members of this bargaining unit. Employees shall also refer to City policies to resolve matters not covered by this Agreement or for clarification of matters covered by this Agreement. However, where there is a conflict between City Policies and Procedures and any provisions of this Agreement, the provision(s) of this Agreement shall govern.

The agreement of the parties with regards to drug and alcohol testing will become part of this Agreement and adopted by this reference.

Employees shall have access to their personnel file with reasonable frequency. Upon request to the Human Resources department, access shall be provided within a maximum of four (4) working days. Conditions of hiring, termination, change in status, shift, evaluations, commendations and disciplinary actions shall be in writing with a copy to the Employee prior to

placement in their personnel file. The Employer's failure to abide by this section pertaining to personnel file access shall not affect the Employer's ability to proceed with the merits of discipline or discharge but may be a separate Union grievable matter and any grievance time-lines will be correspondingly extended.

Employees shall have the right to provide a written response to any written evaluations or disciplinary actions to be included in the personnel file.

7.5 EVALUATIONS

The purpose of evaluation is to help an employee be successful in performance and to understand the standards and goals of their position and their department. The evaluation will assess and focus on the employee's accomplishment of their job functions and the goals and standards of the position. Where the employee does not meet the above, a plan for correction, training or support should be developed with the employee.

Evaluation may occur in two forms:

7.5.1 All regular employees should be formally evaluated in writing by their immediate supervisor and/or appointing authority during the probationary or trial service period and at least annually (at date of hire or a common date) thereafter.

7.5.2 Additionally, evaluation of job performance may occur at any time and on an ongoing basis. Evaluation may occur in various ways and may include coaching, counseling or written assessment.

Evaluation shall not, by itself, constitute disciplinary action – disciplinary action must be specifically identified as such, in writing, consistent with Article 7.6.

Employees will be given a copy of the evaluation. Employees will be required to sign the evaluation, acknowledging its receipt. Evaluations are not grievable, however, employees may elect to provide a written response to the evaluation, which will be retained with the evaluation in the employee's personnel file.

7.6 DISCIPLINE/CORRECTIVE ACTION

The Employer agrees to act in good faith in the discipline, dismissal or demotion of any regular employee and any such discipline, dismissal or demotion shall be made only for just cause.

No employee shall be discharged except for just cause. The parties recognize that, just cause requires progressive discipline. Progressive discipline may include:

- oral warnings, which will be documented;
- written warnings – which may also include work performance improvement or corrective action plan for poor work performance or misconduct,
- suspension or administrative leave with or without pay;
- demotion; or
- discharge.

The intent of progressive discipline is to assist the employee with performance improvement or to correct misconduct. Progressive discipline shall not apply where the offense requires more

serious discipline in the first instance. Both the sequencing and the steps of progressive discipline are determined on a case-by-case basis, given the nature of the problem.

All disciplinary actions shall be clearly identified as such in writing. The employee will be requested to sign the disciplinary action. The employee's signature thereon shall not be construed as admission of guilt or concurrence with the discipline, but rather shall be requested as an indication that they have seen and comprehend the gravity of the disciplinary action. Employees shall have the right to review and comment on disciplinary actions in their personnel file.

A copy of all disciplinary notices shall be provided to the employee before such material is placed in their personnel file. Employees disciplined or discharged shall be entitled to utilize the grievance procedure. If, as a result of the grievance procedure utilization, just cause is not shown, personnel records shall be cleared of reference to the incident, which gave rise to the grievance.

The Employer will notify the Union in writing within three (3) working days after any notice of discharge. The failure to provide such notice shall not affect such discharge but will extend the period within which the affected employee may file a grievance.

The Employer recognizes the right of an employee who reasonably believes that an investigatory interview with a supervisor may result in discipline to request the presence of a Union representative at such an interview. Upon request, they shall be afforded a Union representative. The Employer will delay the interview for a reasonable period of time in order to allow a Union representative an opportunity to attend. If a Union representative is not available or delay is not reasonable, the employee may request the presence of a bargaining unit witness. (Weingarten rights)

Employees shall also have a right to a notice and a determination meeting prior to any disciplinary action (except oral warning). The Employer must provide a notice and statement in writing to the employee identifying the performance violations or misconduct alleged, a finding of fact and the reasons for the proposed action. The employee shall be given an opportunity to respond to the charges in a meeting with the Employer, and shall have the right to Union representation during that meeting, upon request. (Loudermill rights)

The Employer shall endeavor to correct employee errors or misjudgments in private, with appropriate Union representation, if requested by the employee.

The Employer may discipline an employee for just cause; provided that the employee is entitled to a Loudermill type hearing before they are disciplined. The hearing does not need to be a full evidentiary hearing and need not include the opportunity for the employee to cross examine his or her accusers. All that is required is:

7.6.1 Written notice to the employee and the Union representative (if requested by the employee) of the charges and the time set for the hearing, which notice must be given within 15 calendar days of the Employer obtaining knowledge of the conduct giving rise to the need for discipline, unless mutually agreed;

7.6.2 Provide a copy of the Employer's evidence, if any, to the employee and the Union, which obligation continues after the hearing for any subsequent review pursuant to Article 18; and

7.6.3 An opportunity for the employee to present his or her case and/or any mitigating circumstances.

If after the hearing the employee is disciplined and the employee disagrees with such action, such disagreement shall constitute a dispute regarding the application of the Agreement to the employee and the employee shall use the grievance process set forth in Article 18 of this Agreement to obtain review of that disciplinary action.

ARTICLE 8 – SENIORITY

8.1 DEFINITIONS

Seniority shall be defined as total length of service in the bargaining unit position computed from the date of hire, excluding that portion of extended unpaid leaves of absences in excess of thirty (30) calendar days.

The seniority date shall be adjusted for leaves of absence without pay in excess of thirty (30) consecutive calendar days, except when such leaves are the result of FMLA, on-the-job injury, periods of disability associated with pregnancy, or military leave.

No seniority shall be established while an employee is employed in a temporary position or any other non-regular position.

8.2 APPLICATION OF SENIORITY

Seniority shall be applied in the following manner:

8.2.1 Postings/promotions: - among current employees, where ability and qualifications equal, seniority will be observed in job postings, promotion and reassignment (i.e. transfers and shift changes). Qualifications will include the minimum qualifications of education, training and experience as set forth in the job description, as well as the job performance, ability, and employment record.

Appointments of employees to positions shall be made by the Employer, upon selection of the applicants determined by the Employer to be best qualified for the positions. First consideration shall be given to the advancement of current employees before appointment of new employees, consistent with Article 7.2.

8.2.2 Layoffs: - Total bargaining unit seniority shall determine who is to be laid off within the selected classification (affected group). The least senior regular employee(s) within the classification shall be the affected employee(s) unless there are overriding reasons related to unique and specific qualifications or job specification. In the event of two employees having the same bargaining unit seniority, time in job classification shall be determinative.

8.2.3 Bumping - As to bumping, the employee's qualification and the ability to adequately perform the unique functions of the job assignment will be the primary consideration, applied in accordance with seniority. Ability to adequately perform will be defined as the immediate, clear and full performance on the job, with a minimal period of orientation and no material reduction in the efficiency of the operation or services, as determined by the Employer.

8.2.4 Recall – Seniority shall be determinative in the identification of which employee is to be recalled from the recall list consistent with Article 8.9.

8.3 PROBATIONARY PERIOD

An employee's seniority shall be established as the initial date of hire in the bargaining unit, upon completion of the probationary period.

8.4 LOSS OF SENIORITY

An employee will lose seniority rights by and/or upon:

8.4.1. Resignation.

8.4.2. Discharge for cause.

8.4.3. Retirement.

8.4.4. Layoff / Recall list of more than fourteen (14) consecutive months

8.4.5. Failure to respond to offer of recall to former position.

8.4.6. Failure to respond to two offers of recall to comparable employment.

Employees who are re-employed following the loss of their seniority shall be deemed a newly-hired employee for all purposes under this Agreement.

8.5 LAYOFFS

A layoff is identified as the anticipated and on-going or prolonged reduction in the number of full-time equivalent (FTE) positions or in the number of partial FTEs within the City or within a job classification covered by this Agreement. A reduction in force in classification may occur for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the affected department.

8.6 NOTICE

Employees affected will be given at least thirty (30) calendar days written notice of the layoff. The employee shall inform the Employer within five (5) working days of the receipt of the notice of layoff of their intention to exercise bumping rights. When all bumping rights have been acted upon, or when someone has chosen not to act on their bumping right, the employee least senior or the employee choosing not to bump shall be the person laid off. Only one thirty (30) day notice of layoff is required, irrespective of the number of bumps.

8.7 MEETING WITH UNION

The Union shall also be notified in writing of any reduction in hours proposed by the Employer, including the purpose, scope, and duration of the proposed reduction.

Upon the Union's request, the Employer and the Union shall meet promptly during the first two (2) weeks of the notice period identified in Article 8.6 to discuss the reasons and the time-lines for the layoff and to review possible alternatives to layoff.

8.8 AFFECTED GROUP

The following procedure shall apply to any layoff:

8.8.1 Affected employees: The Employer shall first determine by job classification the number of employees or FTEs to be affected by the layoff.

The least senior employee within the affected job classification shall be selected for layoff. The exception would be only when the Employer determines that the position requires unique qualifications and abilities necessary to perform the specialized and required functions of that position.

8.8.2 Volunteers: Simultaneous with implementing the provisions of the layoff procedure, the Employer may first seek, by a five (5) working day posting process, volunteers fo1r layoff or voluntary resignation from among those employees who work within the same job classification as the affected employees. If there are more volunteers than affected employees, volunteers will be chosen by seniority.

8.8.3 Probationary Employees: If the number of volunteers is not sufficient to meet the announced number of necessary layoffs, and if the affected employee is an initial probationary employee, then that employee shall be laid off and are ineligible to select among layoff options.

8.9 VACANT POSITIONS

Positions will be filled in accordance with Article 8.2 and other sections of this Article.

Within the bargaining unit and the department, affected employees and employees on the recall list shall be given first opportunity for vacant bargaining unit positions for which they are qualified prior to outside hiring by the Employer, consistent with Article 8.13a.

8.10 SENIORITY LIST

The Employer shall update the seniority list and provide it to the Union annually, or upon request. If a layoff is announced, a current ranked seniority list including job classifications, names, job locations, and FTE or hours per week shall be provided to the Union and posted in the affected department.

8.11 ORDER OF LAYOFF

The least senior employee (by bargaining unit seniority) within the affected job classification and affected department shall be selected for layoff. No regular employee shall be laid off while another employee in the same classification within the department is employed on a probationary, extra help or temporary basis.

8.12 COMPARABLE EMPLOYMENT

For purposes of this Article, "comparable employment," "comparable position" or vacancy shall be defined to include a position which has the same salary pay range and, additionally, the educational and experience qualifications, FTE and work-week are substantially similar.

8.13 LAYOFF OPTIONS

Affected employees who have completed their probationary period shall have the following options:

8.13.1 Assume a vacant Position: On a bargaining unit seniority basis, to assume a vacant position in the same department, for which they are qualified.

8.13.2 Bump: Laid off employees, including bumped employees, shall be allowed to bump less senior employees (by bargaining unit seniority) in lower classifications. Qualified shall mean having demonstrated skills and required experience to perform the job.

If there is no employee in the next lower classification who is less senior than the person scheduled for layoff, that person may look progressively to the next lower classification for such bumping rights.

The employee who is bumped by the affected employee shall have the same rights under this Article.

8.13.3 Recall: If the affected employee elects not to take a vacant position, elects not to bump or cannot immediately and adequately perform the functions of the job assignment in assuming a vacant or bumped position, then that employee will be placed on the recall list and will be eligible for recall under Article 8.15.

Nothing contained in this layoff section shall be construed to require the Employer to modify its position and classification structure in order to accommodate bumping or other re-employment rights.

Salary placement rules shall apply to recall to regular positions and to employees who have bumped. Employees bumping to another position shall retain their old anniversary date for purposes of step increases. Persons recalled to the same salary range shall be placed in their former step and time in step.

8.14 REDUCTION HOURS/FTE

An employee subject to an involuntary reduction in their FTE may elect to accept the reduction, or may elect to be placed on recall in accordance with Article 8.13.

8.15 RECALL

An employee who has been laid off shall be entitled to recall rights for a period of fourteen (14) months from the effective date of their layoff. If a vacancy occurs in a position, employees on the recall list shall be notified of such vacancies at the employee's address on file with the Human Resource Department. The vacancy will be filled, in accordance with seniority, among current employees and those on the recall list. If employees on the recall list elect not to accept or fail to

respond within seven (7) consecutive days of the receipt of the offer of recall, they shall be considered to have terminated or abandoned their right to re-employment and relinquished all recall rights.

As long as any employee remains on the recall list the Employer shall not newly employ by hiring persons into the bargaining unit until all qualified employees holding recall rights have been offered recall.

It shall be the responsibility of the affected employee to provide the Employer with their current mailing address and telephone number.

There shall be no probationary requirement for persons returning to their former position if the initial probationary period has been completed.

8.16 VACATION & LEAVE CASH OUTS/PAY

Any regular employee who is laid off or terminated shall be cashed out for any unused vacation benefits or comp time with their final paycheck, to the extent of established maximums (per other Articles of this Agreement).

Sick leave balances at the date of layoff shall be restored upon recall with the Employer if the person is recalled into a regular position from the recall list. No sick leave shall accrue during the period of layoff.

8.17 UNEMPLOYMENT CLAIMS

If laid off employees apply for unemployment compensation benefits, the Employer will not contest the claim and will confirm that the employee was laid off.

ARTICLE 9 – WAGES

The monthly salaries for employees covered by this Agreement are contained herein to this Agreement. Should it become necessary to establish a new job classification within the bargaining unit during the life of this Agreement, the Employer may designate a job classification title and salary for the classification. The salary for any new classification within the bargaining unit shall be subject to negotiations, consistent with Article 2.2.

9.1 WAGE SCHEDULE

TEAMSTERS

Salary Schedule: January 1, 2006 (COLA 2.31%)

Pay Group	Classifications	Step A 00-12m	Step B 13-24m	Step C 25-36m	Step D 37-48m	Step E 49-60m	Step F 61-72m	Step G 73-84m	Step H 85m +	Step A 00-12m	Step B 13-24m	Step C 25-36m	Step D 37-48m	Step E 49-60m	Step F 61-72m	Step G 73-84m	Step H 85m +
1	Urban Forester	4,763	4,883	5,003	5,127	5,258	5,467	5,690	5,690	27.48	28.18	28.86	29.58	30.33	31.54	32.83	32.83
2	Electronic Tech I	4,643	4,757	4,876	4,997	5,125	5,328	5,541	5,541	26.78	27.45	28.14	28.83	29.57	30.74	31.97	31.97
3	Leadperson	***	***	4,335	4,493	4,648	4,835	5,029	5,230	***	***	25.00	25.93	26.82	27.90	29.02	30.17
4	Mechanic I	***	***	4,288	4,510	4,736	4,958	5,157	5,157	***	***	24.74	26.02	27.33	28.61	29.75	29.75
5	Electronic Tech II	3,764	3,983	4,204	4,423	4,643	4,863	5,056	5,056	21.72	22.98	24.26	25.52	26.78	28.05	29.17	29.17
	Emergency Vehicle Tech	3,764	3,983	4,204	4,423	4,643	4,863	5,056	5,056	21.72	22.98	24.26	25.52	26.78	28.05	29.17	29.17
6	Facilities Services Tech I	3,728	3,842	3,953	4,075	4,283	4,454	4,630	4,816	21.51	22.16	22.80	23.51	24.71	25.69	26.71	27.79
	Field Arborist	3,728	3,842	3,953	4,075	4,283	4,454	4,630	4,816	21.51	22.16	22.80	23.51	24.71	25.69	26.71	27.79
7	Sr. Maintenance Person	3,637	3,748	3,857	3,975	4,176	4,343	4,517	4,698	20.98	21.62	22.25	22.93	24.09	25.06	26.06	27.10
	Sr. Groundsperson	3,637	3,748	3,857	3,975	4,176	4,343	4,517	4,698	20.98	21.62	22.25	22.93	24.09	25.06	26.06	27.10
	Mechanic II	3,637	3,748	3,857	3,975	4,176	4,343	4,517	4,698	20.98	21.62	22.25	22.93	24.09	25.06	26.06	27.10
	Senior Craftsperson	3,637	3,748	3,857	3,975	4,176	4,343	4,517	4,698	20.98	21.62	22.25	22.93	24.09	25.06	26.06	27.10
	Yard Maint & Inv Control	3,637	3,748	3,857	3,975	4,176	4,343	4,517	4,698	20.98	21.62	22.25	22.93	24.09	25.06	26.06	27.10
	Facilities Services Tech II	3,637	3,748	3,857	3,975	4,176	4,343	4,517	4,698	20.98	21.62	22.25	22.93	24.09	25.06	26.06	27.10
8	Utility Craftsperson	3,389	3,553	3,683	3,814	3,943	4,073	4,203	4,333	19.55	20.50	21.25	22.01	22.74	23.50	24.25	24.99
	Utility Craftsmen-Meter Reader	3,389	3,553	3,683	3,814	3,943	4,073	4,203	4,333	19.55	20.50	21.25	22.01	22.74	23.50	24.25	24.99
9	Utilityperson	2,863	2,999	3,142	3,292	3,449	3,615	3,786	3,938	16.51	17.30	18.13	19.00	19.90	20.85	21.84	22.72
	Groundsperson	2,863	2,999	3,142	3,292	3,449	3,615	3,786	3,938	16.51	17.30	18.13	19.00	19.90	20.85	21.84	22.72
	Grounds Technician	2,863	2,999	3,142	3,292	3,449	3,615	3,786	3,938	16.51	17.30	18.13	19.00	19.90	20.85	21.84	22.72
	Mechanic III	2,863	2,999	3,142	3,292	3,449	3,615	3,786	3,938	16.51	17.30	18.13	19.00	19.90	20.85	21.84	22.72
	Custodian	2,863	2,999	3,142	3,292	3,449	3,615	3,786	3,938	16.51	17.30	18.13	19.00	19.90	20.85	21.84	22.72
	Electronic Tech III	2,863	2,999	3,142	3,292	3,449	3,615	3,786	3,938	16.51	17.30	18.13	19.00	19.90	20.85	21.84	22.72
	Facilities Servcs Tech III	2,863	2,999	3,142	3,292	3,449	3,615	3,786	3,938	16.51	17.30	18.13	19.00	19.90	20.85	21.84	22.72
		Step A 0-6m	Step B 6-12m							Step A 0-6m	Step B 6-12m						
10	Laborer	2,541	2,621							14.66	15.12						

9.1.1 COLA Adjustments

9.1.1.a Effective January 01, 2006, the monthly rates of pay, shall be increased by one hundred percent (100%) of the percentage increase in the Seattle-Tacoma-Bremerton Area Consumer Price Index from June 2004 to June 2005 (no minimum and no maximum). The Index used shall be the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

9.1.1.b Effective January 01, 2007, the monthly rates of pay, shall be increased by one hundred percent (100%) of the percentage increase in the Seattle-Tacoma-Bremerton Area Consumer Price Index from June 2005 to June 2006 (no minimum and no maximum). The Index used shall be CPI-W.

9.1.1.c Effective January 01, 2008, the monthly rates of pay, shall be increased by one hundred percent (100%) of the percentage increase in the Seattle-Tacoma-

Bremerton Area Consumer Price Index from June 2006 to June 2007(no minimum and no maximum). The Index used shall be CPI-W.

9.1.2 Pay Groups and Steps: positions have been identified in pay groups that compare positions with similar competencies, skills and abilities:

Pay Group 1: Urban Forester
Pay Group 2: Electronic Tech I
Pay Group 3: Leadperson
Pay Group 4: Mechanic I
Pay Group 5: Electronic Tech II, Emergency Vehicle Tech
Pay Group 6: Facilities Services Tech I, Field Arborist
Pay Group 7: Sr. Maintenance Person, Sr. Groundsperson, Mechanic II, Senior Craftsperson, Yard Maint & Inv Control, Facilities Services Tech II
Pay Group 8: Utility Craftsperson, Utility Craftsperson-Meter Reader
Pay Group 9: Utility Person, Grounds person, Grounds Tech, Mechanic III, Custodian, Electronic Tech III, Facilities Services Tech III'
Pay Group 10: Laborer

9.1.3 Effective January 01, 2006 any employee hired to the position of Mechanic II, as a condition of employment, shall obtain an EVT within 12 months from date of hire.

9.1.4 Employees performing the work of Scuba Diving for the Parks Department shall be compensated at one and one-half (1-1/2) times their straight time hourly rate of pay, corresponding with the employee's pay Step, for all hours worked as a Scuba Diver.

9.1.5 For PAY GROUPS 1-7, STEP A to B and STEP B to C are automatic progressions PAY STEPS, each being twelve (12) months in duration.

STEP C to D and STEP D to E are performance STEP increases based upon the successful completion of twelve (12) months of service in each respective performance STEP; provided no written notification of unsatisfactory performance has been issued. The Employer shall strive to issue a written notification to the employee at the earliest possible date in order to provide adequate opportunity for said employee to correct his performance prior to his anniversary date.

9.1.6 For PAY GROUPS 8-9, STEP A to B, STEP B to C, STEP C to D, and STEP D to E are automatic progression PAY STEPS, each being twelve (12) months in duration.

9.1.7 For PAY GROUPS 1-9, STEP E to F and STEP F to G are performance STEP increases based upon the successful completion of twelve (12) months of service in each respective performance STEP; provided no written notification of unsatisfactory performance has been issued. The Employer shall strive to issue a written notification to the employee at the earliest possible date in order to provide adequate opportunity for said employee to correct his performance prior to his anniversary date.

9.1.8 For PAY GROUP 10, STEP A to B and STEP B of PAY GROUP 10 to STEP A of PAY GROUP 9 are automatic progression PAY STEPS, each being six (6) months in duration.

An employee who is promoted from one classification to another shall be placed into the next higher PAY STEP of the new classification that provides for an increase of at least two percent (2%) above the wage currently being received by the employee prior to the promotion.

The following constitutes those pieces of machinery and tools which are to be operated by a PAY GROUP 7 employee or higher classification and only after being certified by a Supervisor as to operational competency:

Backhoe
Combination Jet/CB Cleaner
Crawler Tractor (D4 or above)
Dual Axle Dump Truck
Grader
Loader
Sweeper
Tractor Roadside Mower
16 Foot Mower
Pipeline Video Truck
Track Hoe/Excavator
Motorized Paving Machine

The following constitutes those pieces of machinery and tools which are to be operated by a PAY GROUP 9 employee or higher classification and only after being certified by a Supervisor as to operational competency:

CB Cleaner (Single Unit)
Crawler Tractor (Less than D4)
Loader (Less than 2.5 cy)
Multi-purpose Agricultural Tractor
Rider Mowers*
Roller
Sewer Jet (Single Unit)
Sewer Rodder
Brush Chipper
Aerial Lift/Bucket Truck

The following constitutes those pieces of machinery and tools which are to be operated by a PAY GROUP 10 employee or higher classification and only after being certified by a Supervisor as to operational competency.

Compressor*
Hand and Power Tools*
Pick-up Trucks and Service Vehicles (including ATV & Flatbeds)*
Single Axle Dump Truck
Truck Mounted Weed Sprayer

* May be operated by Seasonal/On call Employees who are properly trained and when no regular employee is present or available to do the work – all other equipment must be operated by or assisted by a regular employee pursuant to classification.

9.2 HIRE-IN RATES

New regular employees shall normally be placed at Step A of the appropriate salary range.

9.3 SHIFT DIFFERENTIAL

Shift differential is not applicable to this bargaining unit.

ARTICLE 10 – OTHER COMPENSATION

10.1 STANDBY PAY

Bargaining unit employees who volunteer for Standby Duty shall be added to the weekly assignment rotation list for Standby Duty. If such volunteers are unable to fill the need for Standby Duty, the Employer may assign employees on a regular rotating basis to Standby Duty. Prior to inclusion on the weekly assignment rotation list for Standby Duty an employee shall be approved as to qualifications in their discipline by the departmental Director or his /her designee following, reasonable training provided by the Employer.

10.1.1 The purpose of Standby Duty is to be available during off-duty hours to receive service requests concerning problems; to investigate the nature and seriousness of the problem either by telephone, City issued cell phone, City issued laptop, or by on-site inspection; to correct minor problems causing a hazard, damage or potential damage, or significant inconveniences to the public; to call out appropriate crews when necessary; to direct the crew to the site; to perform work as a crew member if callback should occur; and to keep appropriate records. The City may issue laptop, or cell phone for the expressed use of the standby assignment, no personal use of this equipment will be allowed. An employee on Standby Duty shall be provided a City vehicle while on duty.

10.1.2 In the event personnel are needed, qualified bargaining unit members shall be given first opportunity to respond to callout.

10.1.3 In emergency situations, when providing cross-training for a limited and specific time or when a Department has instituted a Standby Duty practice and has less than eight (8) qualified employees who have volunteered for Standby Duty, the Employer may continue to assign non-bargaining unit employees to Standby Duty.

10.1.4 An employee who wishes to be removed from volunteer Standby Duty shall give two (2) weeks notice. Employees may be moved up on the rotational list as required by the Employer.

10.1.5 The Employer shall make every effort to design the rotation of the Standby Duty among the employees so that no one (1) employee or group of employees is consistently assigned standby on holiday weekends.

Standby Duty shall commence as of quitting time on Tuesday and continue through to starting time on the following Tuesday morning. Other seven (7) day weekly periods of time may be established, in lieu of the Tuesday to Tuesday schedule, by mutual agreement between the Employer and the employee group. An employee who serves on Standby Duty shall receive a flat rate of six hundred and six dollars and eighty- two cents ($606.82) a week.

10.1.6 Telemetry Standby - Notwithstanding Section 10.1, the Telemetry Standby shall be compensated at a rate that shall average three hundred and eighteen dollars and ninety-two cents ($318.92) a week, adjusted annually by CPI-W. The Employer shall continue to assign non-bargaining unit employees to Telemetry Standby Duty when there are less than six (6) employees who have volunteered for the Standby Duty. The Employer is involved in the training of employee(s) for Telemetry duties.

Partial Week Standby Duty - In the event that a Department institutes a Standby Duty practice that provides for weekend and/or holiday coverage (as distinguished from full week Standby Duty, as specified in Sections 10.1and 10.2 or Telemetry Standby, as specified in Section 10.2.1), the following conditions shall apply:

10.1.7 Weekend Standby Duty - Weekend Standby Duty shall commence as of quitting time on Friday and continue through to starting time on the following Monday morning. An employee who serves Weekend Standby Duty shall receive a flat rate of two hundred sixty dollars and ninety-three cents ($260.93) per weekend, (note: 3 ÷ 7 days = 43% x $606.82 =260.93) per weekend. This rate is not adjusted by CPI-W since the weekly rate includes this factor.

10.1.8 Holiday Standby Duty - Holiday Standby Duty shall commence as of quitting time the day before the holiday. (For example, if the holiday falls on Monday, the Holiday Standby Duty shall commence at the normal starting time on the Monday, and shall continue through to the following day's normal start time.) An employee who serves Holiday Standby Duty shall receive a flat rate of ninety two dollars and thirty-two cents ($92.32) per holiday. This Section shall not apply to those employees on Standby Duty pursuant to Sections 10.1 10.1.6.1or 10.1.6.

10.1.9 Daily Standby Duty – Shall commence at the end of the regular work shift for the Parks and Facilities staff members. The purpose of daily stand-by is for circumstances such as special events, emergencies, and leave coverage. An employee who serves a single day of Stand by duty shall receive a flat rate of eighty-four dollars and ninety-six cents ($84.96) (note: 1÷7days =14% x 606.82 weekly rate= $84.96). This rate is not adjusted by CPI-W since the weekly rate includes this factor.

10.1.10 The Standby Duty rates shall be adjusted annually by the Consumer Price Index (CPI-W) Seattle as specified in Article 9.

10.2 CALL-BACK PAY

An employee who is called to return to work after having left the work location upon completion of their shift, shall receive a minimum of three (3) hours pay at the overtime rate; provided however, should they be called to return to work within three (3) hours from the starting time of their work shift, they shall receive compensation at the overtime rate only for that period from

the callout to the start of their work shift. Upon request of the employee, the Employer shall endeavor to provide no less than a four (4) hour break between the completion of an employee's work on callback and the starting time of their work shift when the employee on callback has worked four (4) hours or more.

10.3 WORK IN A HIGHER CLASSIFICATION

In the event an employee operates equipment or works in a higher classification than that to which the employee is regularly assigned, the employee shall be paid at the next higher pay step of the higher classification that provides for an increase of at least two percent (2%) for the period worked, provided such work exceeds four (4) hours or more during a workday. This Article shall not apply to on the job training under the direction of an instructor. An employee may request to be tested and taken off training status.

Employees on a twelve (12) month Leave from their Job Classifications – Employees, who upon Employer approval, go on leave for the purpose of training within the Temporary Training Construction Inspector position shall return within twelve (12) months to their original job classification. Employees shall continue to accrue vacations, seniority, including time towards their progressions and all other benefits covered by Local Union No. 763 Labor Agreement.

The Employee shall be responsible for the payment of his/her dues to such Labor Organization which holds jurisdiction over the Temporary Construction Inspector position. Representation during this temporary assignment will be the responsibility of the jurisdictional Union over the position.

10.4 MILEAGE REIMBURSEMENT

All bargaining unit employees who are required to use their own vehicles for City business shall be reimbursed at the mileage rate set by then current policy for all miles driven on such business.

10.5 FOOTWEAR ALLOWANCE

Footwear - On the first payday in September of each year, the Employer shall distribute to each regular full-time employee an allowance, for WISHA approved work footwear in the amount of two hundred dollars ($200.00). New employees shall not be eligible for receipt of this benefit until completion of their probation period nor shall they receive more than one (1) allowance per calendar year.

Street clothing purchased by the City for an employee as part of a uniform will be considered taxable income.

10.6 LONGEVITY PAY

Effective the first of the month following the ratification date of the agreement by the parties, an employee will be entitled to longevity pay of Fifty dollars ($50.00) per month, which is not affected by COLA, by meeting either or both of the following conditions:

a) completed thirteen (13) continuous years of service to the Employer, or

b) completed five (5) or more years at the top step of their current respective classification step rate, upon and from the time of petition by the employee.

ARTICLE 11 – HOLIDAYS

11.1 HOLIDAYS

Employees shall be granted the following holidays and such other days as the City Council may recognize without a reduction in pay:

New Year's Day	January 1st
Martin Luther King, Jr. Birthday	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
The Day after Thanksgiving Day	
Day Before Christmas Day	Last regular work day before Christmas Day
Christmas Day	December 25th
Day Before New Year's Day	Last regular work day before New Year's Day
Floating Holiday	

11.2 RELIGIOUS HOLIDAYS

Employees may also take other religious holidays off with their supervisor's approval, with or without pay, through utilization of vacation or comp time or by making alternative work schedule arrangements. Such requests shall not be unreasonably denied.

11.3 HOLIDAY OBSERVANCE

When one (1) of the above listed holidays falls on the sixth (6th) day of an employee's workweek, the fifth (5th) day shall be observed as the holiday. When one (1) of the above listed holidays falls on the seventh (7th) day of the workweek, the following day shall be observed as the holiday. For those employees on a 4/10 work schedule or other alternate schedule, when one (1) of the listed holidays falls on one (1) of the employee's regularly scheduled days off, the holiday shall be observed on a day mutually agreeable to the employee and the Employer.

The holidays listed above represent specific events as indicated. Should the dates for any such holiday be changed by the Legislature or the Governor or the State of Washington, said holiday shall be observed on the date established by the change and not the date set forth above.

When an employee requests a Floating Holiday, the request must give at least one (1) week advance notice. The employee must have completed probation to be eligible for his/her floating holiday. Granting of the Floating Holiday shall be based on departmental needs and requirements. Seniority shall prevail in granting time off in those instances where more than one (1) employee requests the same day. A Floating Holiday shall equal an eight (8) hour period.

11.4 HOLIDAY ON DAY OFF

Regular employees shall receive eight (8) hours' holiday benefit pay for each holiday listed in Article 11.1– Holidays, pro-rated to their FTE.

11.5 HOLIDAY COMPENSATION

Should any work be performed by an employee on a holiday at the direction of their supervisor, they shall be paid at the overtime rate for such work. No employee shall be called on a holiday for less than four (4) hours, except those personnel serving Standby Duty.

ARTICLE 12 – VACATION

12.1 VACATION ACCRUAL

An employee shall receive vacation leave each year based upon the following schedule:

YEARS OF EMPLOYMENT	ANNUAL VACATION (DUTY HOURS)
1st -4th years	104 hours
5th -7th years	128 hours
8th -10th years	136 hours
11th -13th years	144 hours
14th - 16th years	160 hours
17th - 19th years	176 hours
20th year and thereafter	192 hours

The vacation schedule set forth herein shall be used in determination of vacation leave accrual for each employee commencing with his anniversary date of employment.

Vacation leave shall accrue during any leave without pay on a pro rata basis. Such leave shall not be considered an interruption of consecutive years of employment for the purpose of determining entitlement to additional vacation hours under the schedule at Section 11.1.

An additional eight (8) hours of vacation shall be granted in the event a holiday falls within the employee's vacation period.

Vacation leave shall not be accumulated in excess of two hundred eighty (280) hours within a calendar year without the express prior written authorization of the City Manager or his or her designee. No more than two hundred and forty (240) hours may be carried over from one calendar year to the next except as provided in Section 14.4.1.

Requests to the City Manager or designee for exceptions shall be for a specific number of hours to be used for a specific purpose and to be taken by a specific date. Generally, the basis for requesting an exception would be that the employee requested to utilize the leave and service and work requirements precluded granting the leave. Accrued unused vacation leave shall not, under any circumstance, exceed three hundred twenty (320) hours.

Taking any leave without pay in any month shall result in a pro-rationing of vacation accrual for that month, which shall be calculated to match the ratio of the number of hours worked in the month divided by one hundred seventy-four (174) hours.

12.2 VACATION SCHEDULING

Employees shall provide two (2) weeks notice to the Employer for vacation leave of more than one (1) week. With approval of the Department Head, vacation may be taken in one (1) hour increments. Vacations shall be scheduled at such times as the Employer finds most suitable after considering the wishes of the employee and the requirements of the department.

Employees shall have the option of using compensatory time (consistent with Article 6.5) or vacation leave for approved paid time off.

12.3 VACATION PAY

Vacation pay shall be the amount that the employee would have earned if the employee had worked their regular position during the vacation period.

If an authorized holiday occurs within an employee's vacation period, that day will be paid as a holiday and not deducted from the employee's vacation accruals. Employees cannot receive vacation, sick leave or holiday pay simultaneously for the same days.

Earned vacation leave may be taken at any time during a period of sickness after the exhaustion of sick leave. At the employee's election, accrued comp time may also be used.

12.4 VACATION UPON TERMINATION

Upon separation from City employment, employees who have been employed by the Employer for six (6) or more consecutive months shall receive pay in lieu of unused earned vacation leave up to a maximum of two hundred forty (240) hours. Any vacation leave accrued beyond the afore-referenced maximum shall be forfeited and shall not form the basis for any severance pay or additional compensation. In no case shall an employee receive pay in lieu of unused vacation leave prior to separation from City employment, unless approved by City Manager or his or her designee.

ARTICLE 13 - SICK LEAVE

13.1 SICK LEAVE ACCRUAL

Sick Leave - Employees are expected to be on the job, and on time, unless excused by their supervisor or Department Head. Periodic review of employee's attendance records shall be made by each department. Excessive absenteeism or tardiness, or use of sick leave for purposes other than those provided for in this Agreement shall result in disciplinary action against the employee.

13.1.1 Regular employees sick leave with pay shall accrue at the rate of eight (8) hours of leave for each calendar month of the employee's service and any such leave accrued in any year shall be accumulative for succeeding years to a maximum of nine hundred sixty (960) working hours. Taking any leave without pay in any month shall result in a pro-rationing of sick leave accrual for that month, which shall be calculated to match the ratio of the number of hours worked by the employee in the month divided one hundred seventy-four (174) hours.

13.2 SICK LEAVE USAGE

Sick leave shall be available to regular employees after they have worked for a minimum of thirty (30) consecutive calendar days after their most recent date of hire.

Personal illness, mental, or physical incapacity resulting from causes beyond the employee's control as well as forced quarantine of the employee in accordance with state or community health regulations, medical and dental appointments which have been approved by the supervisor twenty-four (24) hours in advance, and serious illness in the immediate family or members of the employee's household, not to exceed three (3) days unless additional time is approved by the Department Head (or unless a qualifying event under state or federal law), are approved grounds for sick leave.

After three (3) days and/or at the discretion of the Department Head, certification of illness by a health care provider may be required for approval of sick leave with pay. Certification shall be on a form provided by the Employer and signed by a health care provider stating that the employee has been ill and is now able to return to work and perform the required duties.

Continuance of sick leave pay during absence from duty is contingent upon the employee or someone on their behalf notifying their immediate supervisor of the reason for absence and probable duration of absence within one (1) hour of the regular starting time on the first (1st) day off duty and each day thereafter, provided the illness is not long term.

Absence for a fraction or part of a day that is chargeable to sick leave shall be charged proportionally in an amount not smaller than one-half hour (1/2) a day. Holidays and other normal days off during the week shall not be charged against sick leave.

13.3 SHARED LEAVE

The City may permit an employee to receive vacation consistent with the then current Shared Leave policy.

13.4 COORDINATION - WORKER'S COMPENSATION

In the event an employee shall be entitled to benefits or payments under any program of disability insurance furnished by the Employer, Workers' Compensation Act or similar legislation by the State of Washington or other governmental unit, the Employer shall pay only the difference between the benefits and payments received under such insurance or act, by such employee and his regular rate of compensation that he would have received from the Employer if able to work. The foregoing payment or contribution by the Employer shall be limited to the period of time that such employee has accumulated sick leave credits as hereinbefore specified.

13.5 FAMILY MEMBER

Sick leave may be utilized as above for illness in the immediate family requiring the employee's attendance.

ARTICLE 14 – LEAVES OF ABSENCE

14.1 IN GENERAL

Leaves of absence requests shall not be unreasonably denied. All leaves are to be requested in writing as far in advance as possible.

As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave.

Leave does not accrue nor may it be used until the first day of the following pay period in which it is earned (no "negative" leave use during the period in which it is earned).

14.2 JURY DUTY/COURT

An employee required to serve on a jury or as a result of official City duties is required to appear before a Court, Legislative Committee or Quasi-judicial body as a witness in response to a subpoena or other directive, shall be allowed authorized leave with pay less any amount received for such service.

14.3 MILITARY LEAVE

All regular employees shall be allowed military leave as required by RCW 38.40.060 and as interpreted by the Court. This provides for fifteen (15) working days of military leave per year (October 1 through September 30).

14.4 BEREAVEMENT

Should an employee or a member of the employee's household suffer a death in their immediate family, such employee shall be allowed up to twenty-four (24) hours pay to attend the funeral. When requested, proof of relationship and attendance shall be provided.

14.4.1 Upon request, and approval from the Department Director additional time up to twenty-four (24) hours of an employee's accumulated sick leave may be utilized where circumstances warrant it.

14.5 MAINTENANCE OF SENIORITY

During unpaid leave, an eligible regular employee shall maintain accrued leave, but shall not accrue any additional leave. The Employer shall adjust the employee's anniversary date to reflect any period of unpaid leave of thirty (30) continuous days or more. Seniority shall continue to accrue and the employee's anniversary date shall not be adjusted for periods of legally protected leave, such as FMLA or military leave.

14.6 LEAVE WITHOUT PAY

If authorized by the Employer or required by law, regular employees may take up to six (6) months leave of absence without pay. Leaves of fifteen (15) work days or less can be authorized by the Department Director. Leaves in excess of fifteen (15) days require authorization by the City Manager. Such leaves shall not constitute a break in service but no benefits shall accrue during the leave. Upon expiration of the leave, the employee shall be reinstated in the position held at the time the leave was granted.

14.7 FAMILY LEAVE – FMLA

Under the terms of the Family and Medical Leave Act of 1993 (FMLA) and the state law, upon the completion of one (1) year of employment, any employee who has worked at least 1250 hours during the prior twelve (12) months shall be entitled to up to twelve (12) weeks of leave per calendar year for the birth, adoption or placement of a foster child; to care for a spouse or immediate family member with a serious health condition; or when the employee is unable to work due to a serious health condition. For purposes of this Article, the definition of "immediate family" will be found in Article 1.

The Employer shall maintain the employee's health benefits during this leave. If the employee fails to return from leave for any other reason, the Employer may recover from the employee the insurance premiums paid during any period of unpaid leave.

If a leave qualifies under both federal and state law, the leave shall run concurrently. Ordinarily, the employee must provide thirty (30) days written advance notice to the Employer when the leave is foreseeable. The employee should report qualifying events as soon as known and practicable.

The combination of FMLA and other types of leave(s) is not precluded and, in fact, leave utilizations are to be concurrent, with the intent that appropriate paid accruals are to be utilized first, consistent with other Articles of this Agreement. Upon the employee's election, any accrued comp time may be utilized prior to any period of unpaid leave.

The Employer will grant leave consistent with state and federal law. Family leave shall be consistent with the FMLA and the adopted conditions and provisions of the state and federal law and are not intended to expand upon the rights thus set forth.

14.8 MATERNITY LEAVE

Consistent with WAC 162-30-020(4), the Employer will grant a leave of absence for a period of temporary disability because of pregnancy or childbirth. This may be in addition to the leave entitlements of FMLA.

This leave provides female employees with the right to a leave of absence equivalent to the disability phase of pregnancy and childbirth. There is no eligibility requirement, however the Employer has no obligation to pay for health insurance benefits while on this leave (unless utilized concurrent with FMLA).

Leave for temporary disability due to pregnancy or childbirth will be medically verifiable. There is no limit to the length of the disability phase, except for the right for medical verification and the right of second opinion at the employer's expense. At the end of the disability leave, the employee is entitled to return to the same job or a similar job of at least the same pay. Employees must use their accrued vacation and sick leave, if any, during the leave period and, at their election, any accrued comp time. Once this paid leave is exhausted, the employee's leave may be switched over to unpaid leave.

14.9 INCLEMENT WEATHER

Employee rights and responsibilities during severe weather and emergency or disaster conditions are covered by the then current Inclement Weather Policy of the City. The goal shall be to

continue to provide essential City services, consistent with public and employee safety and emergency operations priorities.

ARTICLE 15 – HEALTH & WELFARE

15.1 MAINTENANCE OF BENEFITS

Medical and Dental Insurance - The Employer may self-insure medical and/or dental insurance coverage or select a new medical and/or dental insurance plan and shall make every possible effort to maintain substantially equivalent benefits. The Employer and the Union shall meet to explore alternative insurance coverage prior to selecting any new medical and/or dental insurance plan in order to maintain substantially equivalent benefits at a reasonable cost.

The Union shall take part in and have an appointed representative on the Health and Welfare Benefits Committee. The purpose of the Committee is to monitor and evaluate the benefits costs and the plan designs. Among the items to be considered would be and identification of options for retiree medical participation. The Benefit Committee representative shall have no authority to negotiate on behalf of the Union any changes to be scheduled or content of benefit plans, any such changes shall be governed in accordance with Article 15.1 of this Agreement.

Participation in benefits shall be consistent with Article 5.2 of this Agreement and the Trusts and Plans described below.

15.2 HEALTH AND LIFE INSURANCE

Medical Insurance –

Effective January 1, 2006, the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and ninety percent (90%) of the premium necessary for the purchase of dependent coverage under the Association of Washington Cities Regence Plan A for each employee of the bargaining unit.

15.2.1 In the event the employee elects Group Health Cooperative coverage, the employee shall pay the additional amount in premiums that exceed those rates set forth within Section 13.1.

15.2.2 The total amounts due for each calendar month shall be remitted in a lump sum not later than ten (10) days after the last business day of such month. The Employer agrees to abide by such rules as may be established by the Trustees of said Trust Funds to facilitate the determination of contributions due, the prompt and orderly collection of such amounts, and the accurate reporting and recording of such amounts paid on account of each member of the bargaining unit.

Effective January 1, 2007, the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage under the Association of Washington Cities Regence Medical Plan B or Group Health Plan 2 for each employee of the bargaining unit.

Dental and Vision - The Employer shall pay each month into the following Benefit Trust Funds those amounts required on behalf of each eligible employee who was compensated eighty (80) hour or more in the month preceding the month in which the contribution is due:

Northwest Teamsters Dental Trust Fund (Plan A)
Western Vision Services Plan (Association of Washington Cities Plan)

Life Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee term life insurance coverage that has a policy value of two (2) times the annual base rate of pay of the employee. The employee is responsible for any taxes associated with this benefit.

15.3 FLEXIBLE SPENDING ACOUNT – FSA

The Employer participates in a special program under the provisions of IRS Section 125. Employees may voluntarily elect to participate in the reimbursement program to pay medical or dependent care expenses with pre-tax dollars. Except as provided below, the Employer makes no contribution, makes no assurance of ongoing participation and assumes no liability for claims or benefits.

On January 1, 2007 for the 2007 plan year, the employer shall make a contribution in the amount of three hundred dollars ($300) for health care expenses for any qualifying employee electing to participate. Additional contributions to the flexible spending account can be made by the employee as a payroll deduction subject to the rules and limitations contained within the Internal Revenue Code.

15.4 RETIREMENT

Teamster Pension – Effective January 1st 2006, the City shall pay into the Western Conference of Teamsters Pension Trust Fund on account of each member of the bargaining unit, for each straight time hour for which compensation is paid up to a maximum of one hundred and eighty-four (184) hours per calendar month. The City shall pay up to the contribution rate of thirty five cents ($0.35) per hour. Any rate above the thirty-five cents ($0.35) shall be diverted from the hourly rate of pay for each employee up to the maximum of one hundred and eighty-four (184) hours per calendar month.

15.4.1 The total amounts due for each calendar month shall be remitted in a lump sum not later than ten (10) days after the last business day of such month. The Employer agrees to abide by such rules as may be established by the Trustees of said Trust Fund to facilitate the determination of contributions due, the prompt and orderly collection of such amounts, and the accurate reporting and recording of such amounts paid on account of each member of the bargaining unit.

15.4.2 Notwithstanding any provision to the contrary that may be contained elsewhere within this Agreement, the Employer shall pay the Teamsters Pension contribution set forth within Section 13.4 on behalf of all individuals performing bargaining unit work, including part-time employees, temporary employees, summer help and seasonal help.

Teamsters Retiree's Welfare Trust - If directed by the Union and effective no sooner than 60 days after notification, the Employer shall divert from the hourly rate of pay of each employee

each month one hundred percent (100%) of the premium necessary to provide coverage under the Teamsters Retiree's Welfare Trust on behalf of each employee who is compensated eighty (80) hours or more in the month preceding the month in which the contribution is due. The Union shall inform the Employer after a vote of the membership has affirmed the desire to divert such wages.

ARTICLE 16 – TRAINING

16.1 TRAINING

Approval for attendance at training, the hours intended to be compensated and the reimbursement for travel and expenses shall be established by the supervisor prior to the training, consistent with then current policy.

16.2 TRAINING REIMBURSEMENT

Compensation associated with training or representation of the Employer on official business shall consistent with then current policy and the Fair Labor Standards Act (FLSA).

Certifications – Upon written request, the Employer shall pay for one (1) job related license, professional certification or professional affiliation per employee. Additional requests may be made, on an exceptional basis, and consideration weighed by the work-related value. Excluded from this reimbursement are license fees and/or designations specified as a minimum qualification for the employee's current job classification, such as drivers' license and Commercial Drivers Licenses.

ARTICLE 17 - LABOR/MANAGEMENT COMMITTEES

17.1 PURPOSE OF COMMITTEE

The Employer and the Union agree that a need exists for closer cooperation between labor and management, and that from time to time suggestions and issues of a general nature affecting the Union and the Employer need consideration.

The Labor/Management Committee shall have no collective bargaining authority and understandings reached by the parties will be supported by the parties, but shall not alter or modify any provisions of the collective bargaining agreement.

17.2 COMPOSITION OF COMMITTEE

To accomplish this end, a labor/management committee shall be composed of representatives of the Employer and of the Union. Said employees shall be allowed to attend the labor/management meetings. Said committee shall attempt to meet for the purpose of discussing and facilitating the resolution of issues which may arise between the parties other than those for which another procedure is provided by law or other provisions of this Agreement.

17.3 COMPENSATION

All meeting time spent by members of the joint Labor-Management Committee will be considered time worked if during duty hours and will be paid at the appropriate regular rate of pay.

ARTICLE 18 – HEALTH & SAFETY

18.1 SAFE WORKPLACE

Safety - The Employer and employees shall comply with all safety requirements as set forth within the Washington Industrial Safety and Health Act and other applicable laws, rules and regulations.

Commercial Drivers Licenses - For all employees employed as of the signature date of this Agreement, the Employer shall pay up to fifty-five ($55.00) or the actual cost at an Employer designated facility, whichever is the greater, for the cost of any physical exam necessary for the attainment or renewal of a Commercial Drivers License**.**

Commercial Drivers License's Substance Abuse Testing Policy is incorporated by Appendix A.

Employees shall not be required to perform work if they have a reasonable basis for believing the assignment would constitute a danger to their health and safety. The employee shall immediately contact a supervisor who shall make a determination with regard to safety. Upon the supervisor's instruction and liability, the employee will perform the work but may refer the matter to the safety committee or risk management.

All on-the-job injuries, no matter how slight, must be reported. Employees must immediately notify their supervisor if they are unable to work because of a work-related injury or illness.

18.2 HEALTH & SAFETY PLAN

The Employer shall develop and follow written policies and procedures to deal with on-the-job safety and shall conduct an ongoing site specific safety and security plans in conformance with state and federal laws.

18.3 DRUG FREE WORKPLACE

The Drug Free Workplace Act of 1988 for federal contractors and grant recipients requires that employers will provide a drug free workplace. This policy strictly prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace.

Fitness For Duty – If a supervisor or manager reasonably suspects, through observation, that an employee may be under any influence of, or impaired by, a substance, the employee shall be removed from duty immediately and undergo substance testing for the suspected substance. Except in emergency situations, the supervisor or manager shall consult with another supervisor, manager or representative of Human Resources to ensure that adequate grounds for reasonable suspicion exist. The consulted supervisor, manager or representative of Human Resources shall also personally observe the employee before the employee is required to test for the presence of that substance.

Employees removed from duty under such circumstances who test positive shall be required to meet with the City's Substance Abuse Professional (SAP) and shall only be allowed to return to work, if at all, in accordance with the return to work provisions of the City's substance abuse policy.

18.4 WORK PLACE VIOLENCE

The Employer is committed to employee health and safety. Workplace violence, including threats of violence by or against a City employee, will not be tolerated and should be immediately reported whether or not physical injury occurs.

ARTICLE 19 - GRIEVANCE PROCEDURE

19.1 GRIEVANCE DEFINED

A "Grievance" means a claim or dispute by an employee with respect to the interpretation or application of the provisions of this Agreement. All grievance time frames shall be held in abeyance when the parties have mutually agreed. Mediation may be considered at any step in the grievance procedure.

19.2 GRIEVANCE PROCEDURE

STEP 1 - An employee must present a grievance within twenty (20) working days of its alleged occurrence to the employee's supervisor. The supervisor will provide a copy to Human Resources. The supervisor shall attempt to resolve it within five (5) working days after it is presented.

STEP 2 - If the employee is not satisfied with the solution by the immediate supervisor, the grievance, in writing, may be presented within ten (10) working days of the supervisor's response to the Department Director by a Union representative. The Union may initially file a grievance at this STEP. The written grievance shall include a statement of the issue, a chronological listing of the pertinent events that took place, the Section of the Agreement violated and the remedy sought. The Department Director shall attempt to resolve the grievance within five (5) working days after it has been presented to them.

STEP 3 - If the employee and/or the Union is not satisfied with the solution by the Department Director, the grievance may be presented within ten (10) working days to the City Manager or designee. The City Manager or designee shall attempt to resolve the grievance within fifteen (15) working days after it is presented.

STEP 4 - If the grievance is not resolved by the City Manager or designee, the grievance may, within fifteen (15) working days, be referred to arbitration. The appointment of the Arbitrator shall be by mutual agreement. Should the parties not reach mutual agreement, either party may request the Public Employment Relations Commission to provide a list of five (5) arbitrators from which the parties may select one (1). The representatives of the Employer and the Union shall alternately eliminate the name of one (1) person from the list until only one (1) remains. The party striking the first name shall be selected by lot. The last remaining name on the list shall be the Arbitrator selected to hear the dispute.

By mutual agreement between the Union and the Employer, the afore-referenced time limits may be waived.

It shall be the function of the Arbitrator to hold a hearing at which the parties may present their cases concerning the grievance. The Arbitrator shall render his/her decision based on the interpretation and application of the provisions of the Agreement within thirty (30) calendar days

after such hearing. The decision shall be final and binding upon the parties to the grievance provided the decision does not involve action by the Employer which is beyond its jurisdiction. Each party hereto shall pay the expenses of their own representatives and the expenses of the Arbitrator shall be borne equally by the parties hereto.

The term "employee" for purposes of this Article may mean the employee accompanied by his Union representative, if they so desire.

Neither the Arbitrator nor any other person or persons involved in the grievance procedure shall have the power to negotiate new agreements or change any of the present provisions of this Agreement.

19.3 UNION/EMPLOYER GRIEVANCE

Either the Union or the Employer may initiate a grievance at Step 2 if the grievance is submitted in writing within ten (10) business days from the date the Employer/employees became aware or reasonably should have known that the grievance existed. The Employer may not grieve the acts of individual employees, but rather, only orchestrated acts or actions of authorized representatives believed to be in conflict with this Agreement. An Employer grievance will not be subject to Arbitration and may only go to mediation upon mutual agreement.

The Union may initiate at Step 2 anytime that a grievance involves a group of employees (five or more or three or more from different teams or departments). Such grievances may be referred to mediation services by mutual agreement prior to Arbitration.

19.4 SCHEDULE OF MEETINGS

Upon request, and without unnecessary delay, a steward's immediate supervisor or designee shall allow the steward during normal work hours without loss of pay, reasonable time to:

19.4.a Investigate any grievance or dispute so that same can be properly presented in accordance with the grievance procedure.

19.4.b Attend meetings with the Director or other Employer representatives when such meetings are necessary to adjust grievances or disputes. Meetings with designated personnel will be by appointment and held without delay when possible.

19.4.c Confer with a staff representative of the Union and/or employees on Employer premises, at such time and places as may be authorized by the Director or designee in advance of the intended meetings.

For the purposes of this Article and Article 4.3, obtaining coverage to insure minimum staffing levels shall not be considered an unnecessary delay. The Employer shall not be obligated to provide coverage immediately if the use of overtime is the only means of providing that coverage.

ARTICLE 20 - NO STRIKE / NO LOCKOUT

20.1 NO STRIKE / NO LOCKOUT

No employee shall strike, slowdown, interfere with the operation of the department, or refuse to perform the employee's assigned duties to the best of the employee's ability, nor shall the Union cause or condone any strikes, slow downs or other interference with the normal operations of the Employer during the life of this Agreement. The Employer shall not lockout any employee during the life of this Agreement.

ARTICLE 21 – MANAGEMENT RIGHTS AND RESPONSIBILITIES

21.1 MANAGEMENT RIGHTS AND RESPONSIBILITIES

The Union recognizes the prerogative of the Employer to operate and manage its affairs in all respects in accordance with its responsibilities, and the powers and authority which the Employer possesses.

21.1.1 The Employer has the authority to adopt rules for the operation of the Department and conduct of its employees, provided such rules are not in conflict with the provisions of this Agreement or with applicable law.

21.1.2 The Employer has the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirements of municipal employment and the public interest.

21.1.3 Every incidental duty connected with operations enumerated in job descriptions is not always specifically described, nevertheless, it is intended that all such duties shall be performed by the employee.

21.1.4 The Employer reserves the right to discipline or discharge for cause. The Employer reserves the right to lay off for lack of work or funds, or the occurrence of conditions beyond the control of the Employer, or where such continuation of work would be wasteful and unproductive.

21.1.5 The Employer has the right to assign work and determine the duties of employees, to schedule hours of work, to determine the number of personnel to be assigned at any time, and to perform all other functions not expressly limited by this Agreement.

ARTICLE 22 - GENERAL PROVISIONS

22.1 SAVINGS CLAUSE

If any provision of this Agreement shall be held invalid by operation of law or any tribunal of competent jurisdiction, or if compliance or enforcement of any provision should be restrained by such tribunal pending final determination as to its validity, the remainder of this Agreement shall not be held invalid and shall remain in full force and effect. Upon the request of one (1) party to the other, the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement of such invalid provision.

ARTICLE 23 – ENTIRE AGREEMENT

23.1 DURATION CLAUSE

This Agreement shall be effective January 01, 2006 and shall remain in full force and effect through December 31, 2008.

Notwithstanding the provisions of Section 20.1, this Agreement and all of its terms and provisions shall continue to remain in full force and effect during the course of negotiations on a new Labor Agreement until such time as the terms of a new Agreement have been consummated or an impasse has been reached and declared by the Employer and/or the Union, whichever is the sooner; provided however, in no event may this Agreement be terminated earlier than one (1) year following the expiration date.

23.2 ENTIRE AGREEMENT

The agreement expressed herein in writing constitutes the entire agreement between the parties, and there shall be no amendments except in writing and with agreement of both parties.

SIGNATURES

LOCAL UNION NO. 763
PUBLIC, PROFESSIONAL & OFFICE-CLERICAL
EMPLOYEES AND DRIVERS,
affiliated with the
International Brotherhood of Teamsters

CITY OF KIRKLAND
WASHINGTON

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Eric Shields, Planning Director

Date: May 24, 2006

Subject: Ratification of Countywide Planning Policies

RECOMMENDATION

Adopt the proposed resolution ratifying amendments to the King County Countywide Planning Policies.

BACKGROUND DISCUSSION

On April 24, 2006, the King County Council adopted Ordinance 15426 approving amendments to the King County Countywide Planning Policies (CPPs). The amendments were recommended for approval by the Growth Management Planning Council (GMPC) during the prior year.

Pursuant to the amendment procedures established in the CCPs, the amendment will become effective when ratified by ordinance or resolution, within 90 days of adoption, by 30 percent of city and county governments representing 70 percent of the county population.

The amendments:

- Amend the boundary of the potential annexation area lying between Kent and Tukwila (see GMPC motion 05-1 attached).
- Add South Lake Union in Seattle to the list of King County Urban Centers (see GMPC Motion 05-2 attached).

Attachments:

- Supporting materials from King County

King County

RECEIVED
MAY 17 2006
_____AM_____PM
PLANNING DEPARTMENT
BY_____

May 15, 2006

The Honorable James Lauinger
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

Dear Mayor Lauinger:

We are pleased to forward for your consideration and ratification the enclosed amendments to the King County Countywide Planning Policies (CPP).

On April 24, 2006, the Metropolitan King County Council approved and ratified amendments on behalf of unincorporated King County. Copies of the King County Council staff report, ordinance and Growth Management Planning Council motions are enclosed to assist you in your review of these amendments.

- Ordinance No. 15426, GMPC Motion Nos. 05-1 and 05-02, amending the Countywide Planning Policies by amending the interim potential annexation areas map and ratifying the amended Countywide Planning Policies for unincorporated King County.

In accordance with the Countywide Planning Policies, FW-1, Step 9, amendments become effective when ratified by ordinance or resolution by at least 30 percent of the city and county governments representing 70 percent of the population of King County according to the interlocal agreement. A city will be deemed to have ratified the amendments to the Countywide Planning Policies unless, within 90 days of adoption by King County, the city takes legislative action to disapprove the amendments. **Please note that the 90-day deadline for this amendment is July 24, 2006.**

RECYCLED PAPER

If you adopt any legislation relative to this action, please send a copy of the legislation by the close of business, July 24, 2006, to Anne Noris, Clerk of the Council, W1039 King County Courthouse, 516 Third Avenue, Seattle, WA 98104.

If you have any questions about the amendments or ratification process, please contact Paul Reitenbach, Senior Policy Analyst, King County Department of Development and Environmental Services, at 206-296-6705, or Rick Bautista, Council Staff, King County Council, at 206-296-0329.
Thank you for your prompt attention to this matter.

Sincerely,

Larry Phillips, Chair
Metropolitan King County Council

Ron Sims
King County Executive

Enclosures

cc: King County City Planning Directors
Suburban Cities Association
Stephanie Warden, Director, Department of Development and Environmental Services (DDES)
Paul Reitenbach, Senior Policy Analyst, DDES
Rick Bautista, Council Staff, Growth Management & Natural Resources Committee (GM&NR)

KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

April 24, 2006

Ordinance 15426

Proposed No. 2006-0074.1 **Sponsors** Constantine

AN ORDINANCE adopting amendments to the Countywide Planning Policies; amending the interim potential annexation areas map and ratifying the amended Countywide Planning Policies for unincorporated King County; and amending Ordinance 10450, Section 3, as amended, and K.C.C. 20.10.030 and Ordinance 10450, Section 4, as amended, and K.C.C. 20.10.040.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. **Findings.** The council makes the following findings:

A. The metropolitan King County council adopted and ratified the Growth Management Planning Council recommended King County 2012 - Countywide Planning Policies (Phase I) in July 1992, under Ordinance 10450.

B. The metropolitan King County council adopted and ratified the Phase II amendments to the Countywide Planning Policies on August 15, 1994, under Ordinance 11446.

18 C. The Growth Management Planning Council met on September 21, 2005 and
19 voted to recommend amendments to the King County Countywide Planning Policies,
20 amending the interim potential annexation areas map as shown in Attachment A to this
21 ordinance and designating South Lake Union an Urban Center as shown on Attachment B
22 to this ordinance.

23 SECTION 2. Ordinance 10450, Section 3, as amended, and K.C.C. 20.10.030 are
24 each hereby amended to read as follows:

25 **Phase II.**

26 A. The Phase II Amendments to the King County 2012 Countywide Planning
27 Policies attached to Ordinance 11446 are hereby approved and adopted.

28 B. The Phase II Amendments to the King County 2012 - Countywide Planning
29 Policies are amended, as shown by Attachment 1 to Ordinance 12027.

30 C. The Phase II Amendments to the King County 2012 - Countywide Planning
31 Policies are amended, as shown by Attachment 1 to Ordinance 12421.

32 D. The Phase II Amendments to the King County 2012 - Countywide Planning
33 Policies are amended, as shown by Attachments 1 and 2 to Ordinance 13260.

34 E. The Phase II Amendments to the King County 2012 - Countywide Planning
35 Policies are amended, as shown by Attachments 1 through 4 to Ordinance 13415.

36 F. The Phase II Amendments to the King County 2012 - Countywide Planning
37 Policies are amended, as shown by Attachments 1 through 3 to Ordinance 13858.

38 G. The Phase II Amendments to the King County 2012 – Countywide Planning
39 Policies are amended, as shown by Attachment 1 to Ordinance 14390.

H. The Phase II Amendments to the King County 2012 – Countywide Planning Policies are amended, as shown by Attachment 1 to Ordinance 14391.

I. The Phase II Amendments to the King County 2012 – Countywide Planning Policies are amended, as shown by Attachment 1 to Ordinance 14392.

J. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended, as shown by Attachment 1 to Ordinance 14652.

K. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended, as shown by Attachments 1 through 3 to Ordinance 14653.

L. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended, as shown by Attachment 1 to Ordinance 14654.

M. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended, as shown by Attachment 1 to Ordinance 14655.

N. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended, as shown by Attachments 1 and 2 to Ordinance 14656.

O. The Phase II amendments to the King County 2012 – Countywide Planning Policies are amended, as shown by Attachment A to Ordinance 14844.

P. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended as shown by Attachments A, B and C to Ordinance 15121.

Q. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended, as shown by Attachment A to Ordinance 15122.

R. The Phase II Amendments to the King County 2012 - Countywide Planning Policies are amended, as shown by Attachment A to Ordinance 15123.

62 S. Phase II Amendments to the King County 2012 - Countywide Planning
63 Policies are amended, as shown by Attachments A and B to Ordinance xxx.
64 SECTION 3. Ordinance 10450, Section 4, as amended, and K.C.C. 20.10.040 are
65 each hereby amended to read as follows:
66 **Ratification for unincorporated King County.**
67 A. Countywide Planning Policies adopted by Ordinance 10450 for the purposes
68 specified are hereby ratified on behalf of the population of unincorporated King County.
69 B. The amendments to the Countywide Planning Policies adopted by Ordinance
70 10840 are hereby ratified on behalf of the population of unincorporated King County.
71 C. The amendments to the Countywide Planning Policies adopted by Ordinance
72 11061 are hereby ratified on behalf of the population of unincorporated King County.
73 D. The Phase II amendments to the King County 2012 Countywide Planning
74 Policies adopted by Ordinance 11446 are hereby ratified on behalf of the population of
75 unincorporated King County.
76 E. The amendments to the King County 2012 - Countywide Planning Policies, as
77 shown by Attachment 1 to Ordinance 12027 are hereby ratified on behalf of the
78 population of unincorporated King County.
79 F. The amendments to the King County 2012 - Countywide Planning Policies, as
80 shown by Attachment 1 to Ordinance 12421, are hereby ratified on behalf of the
81 population of unincorporated King County.
82 G. The amendments to the King County 2012 - Countywide Planning Policies, as
83 shown by Attachments 1 and 2 to Ordinance 13260, are hereby ratified on behalf of the
84 population of unincorporated King County.

H. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment 1 through 4 to Ordinance 13415, are hereby ratified on behalf of the population of unincorporated King County.

I. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachments 1 through 3 to Ordinance 13858, are hereby ratified on behalf of the population of unincorporated King County.

J. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment 1 to Ordinance 14390, are hereby ratified on behalf of the population of unincorporated King County.

K. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment 1 to Ordinance 14391, are hereby ratified on behalf of the population of unincorporated King County.

L. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment 1 to Ordinance 14392, are hereby ratified on behalf of the population of unincorporated King County.

M. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment 1 to Ordinance 14652, are hereby ratified on behalf of the population of unincorporated King County.

N. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachments 1 through 3 to Ordinance 14653, are hereby ratified on behalf of the population of unincorporated King County.

O. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment 1 to Ordinance 14654, are hereby ratified on behalf of the population of unincorporated King County.

P. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment 1 to Ordinance 14655, are hereby ratified on behalf of the population of unincorporated King County.

Q. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachments 1 and 2 to Ordinance 14656, are hereby ratified on behalf of the population of unincorporated King County.

R. The amendments to the King County 2012 – Countywide Planning Policies, as shown by Attachment A to Ordinance 14844, are hereby ratified on behalf of the population of unincorporated King County.

S. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachments A, B and C to Ordinance 15121, are hereby ratified on behalf of the population of unincorporated King County.

T. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment A to Ordinance 15122, are hereby ratified on behalf of the population of unincorporated King County.

U. The amendments to the King County 2012 - Countywide Planning Policies, as shown by Attachment A to Ordinance 15123, are hereby ratified on behalf of the population of unincorporated King County.

127 V. The amendments to the King County 2012 - Countywide Planning Policies, as
128 shown by Attachments A and B to Ordinance xxx, are hereby ratified on behalf of the
129 population of unincorporated King County.
130

Ordinance 15426 was introduced on 3/6/2006 and passed by the Metropolitan King County Council on 4/24/2006, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Ms. Lambert, Mr. Dunn, Mr. Gossett, Ms. Hague, Ms. Patterson and Mr. Constantine
No: 0
Excused: 1 - Mr. Ferguson

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Phillips, Chair

ATTEST:

Anne Noris, Clerk of the Council

RECEIVED
2006 MAY -3 PM 4:12
CLERK
KING COUNTY COUNCIL

APPROVED this 3 day of May, 2006.

Ron Sims, County Executive

Attachments A. Motion No. 05-1 and Map, B. Motion No. 05-2 and Map

15426
2006-074

9/21/05

Attachment A

Sponsored By: Executive Committee

/pr

MOTION NO. 05-1

A MOTION to amend the interim Potential Annexation Area map in the Countywide Planning Policies.

WHEREAS, Countywide Planning Policies LU-31 and LU-32 anticipate the collaborative designation of Potential Annexation Areas (PAA) and the eventual annexation of these areas by cities.

WHEREAS, the attached PAA map amendment corrects an error on the interim PAA map by deleting a 30.3 acre area from the City of Tukwila's PAA and adding this area to the City of Kent PAA.

WHEREAS, the attached PAA map amendment is supported by the City of Tukwila and the City of Kent.

BE IT RESOLVED THAT THE GROWTH MANAGEMENT PLANNING COUNCIL OF KING COUNTY HEREBY MOVES AS FOLLOWS:

1. Amend the Interim Potential Annexation Area Map by including the 30.3 -acre area in the Potential Annexation Area of the City of Kent.

2. This amendment is recommended to the Metropolitan King County Council and the Cities of King County for adoption and ratification.

ADOPTED by the Growth Management Planning Council of King County on September 21, 2005 in open session and signed by the chair of the GMPC.

Ron Sims, Chair, Growth Management Planning Council

15426

2006-074

Attachment A

Proposed Amendment

Interim PAA Map Amendment

King County

The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

1,000 500 0 1,000 2,000 Feet

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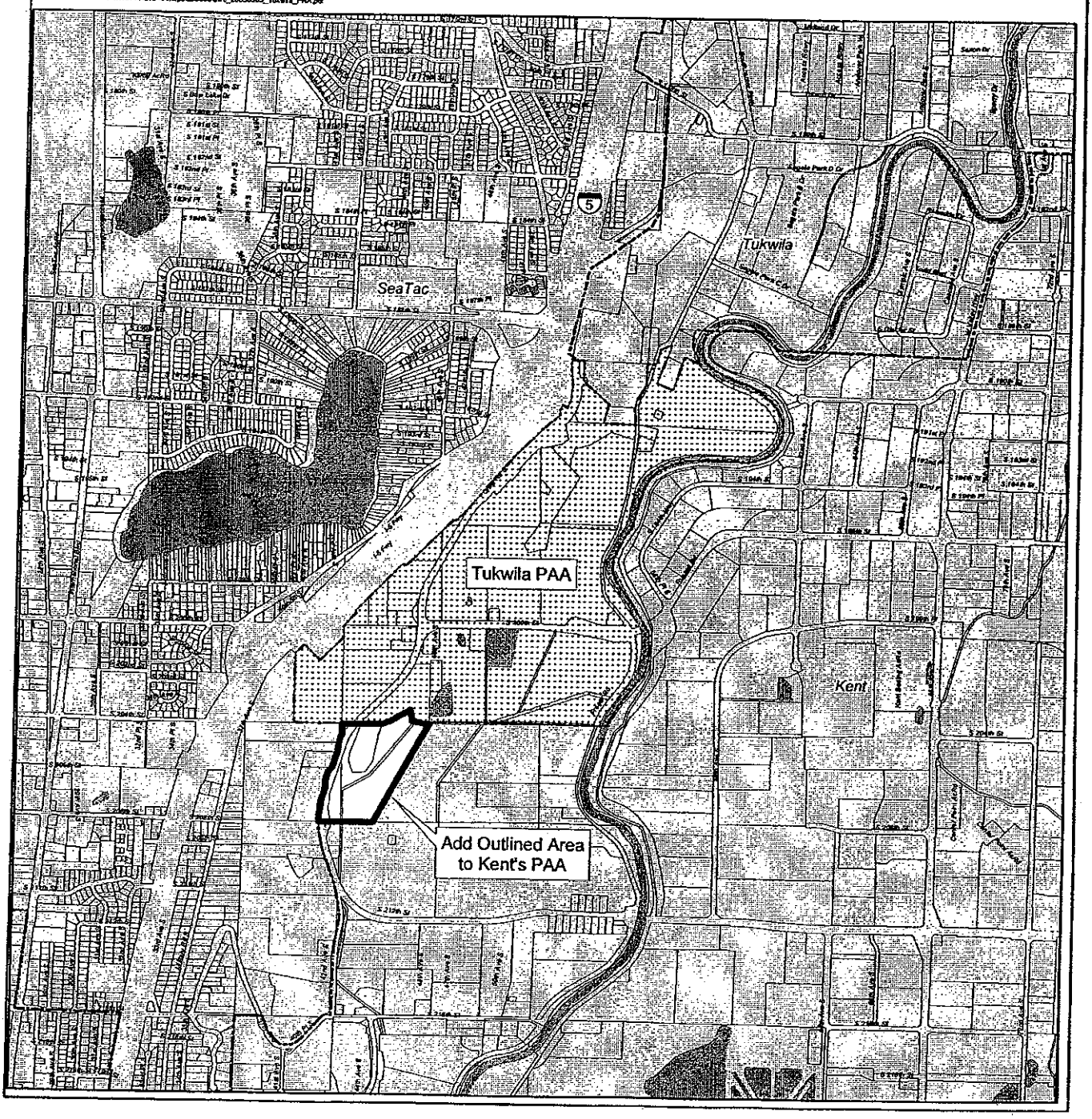
AVHC\Mike\7 HNGIS-M\maps\20050503\arc_20050503_Tukwila_PAA.pdf

Proposed Area

Incorporated Areas



15426 2006-074

9/21/05 Attachment B

Sponsored By: Executive Committee

/th

MOTION NO. 05-02

A MOTION to amend the Countywide Planning Policies by designating the South Lake Union area of Seattle as an Urban Center. South Lake Union is added to the list of Urban Centers following Countywide Planning Policy LU-39.

WHEREAS, a goal of the Growth Management Act is to encourage development in Urban Areas where adequate public facilities exist or can be provided in an efficient manner;

WHEREAS, Policy LU-39 of the Countywide Planning Policies of King County describes the criteria for Urban Center designation;

WHEREAS, Policy LU-40 of the Countywide Planning Policies of King County describes standards for planned land uses within Urban Centers;

WHEREAS, the City of Seattle has demonstrated that South Lake Union meets the criteria for designation as an Urban Center; and

WHEREAS, King County Comprehensive Plan Policy U-108 supports the development of Urban Centers to meet the region's needs for housing, jobs, services, culture and recreation and to promote health.

BE IT RESOLVED THAT THE GROWTH MANAGEMENT PLANNING COUNCIL OF KING COUNTY HEREBY MOVES AS FOLLOWS:

1. The South Lake Union area of Seattle is designated as an Urban Center. The list of Urban Centers following Countywide Planning Policy LU-39 is modified to include South Lake Union.

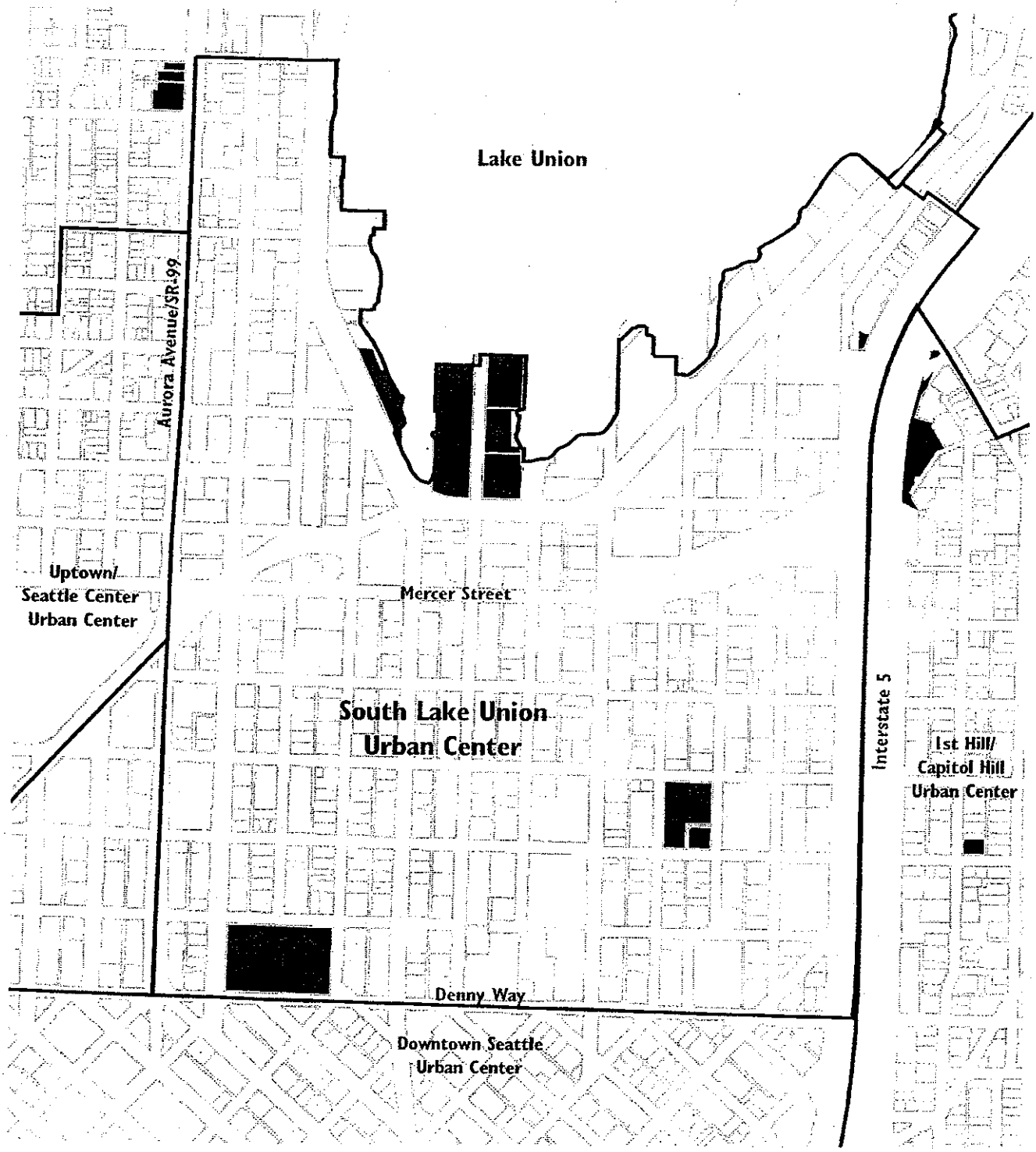
2. This amendment is recommended to the Metropolitan King County Council and the Cities of King County for adoption and ratification.

ADOPTED by the Growth Management Planning Council of King County on September 21, 2005 in open session and signed by the chair of the GMPC.

Ron Sims, Chair, Growth Management Planning Council

15426 2006-074

South Lake Union Boundaries



Parcels

Urban Center Boundary

Park

City of Seattle - DPD
May 19, 2005

Metropolitan King County Council
Growth Management and Unincorporated Areas Committee
Revised Staff Report

Agenda Item:	5	**Name:**	Rick Bautista
Proposed Ord:	2006-0074 (Adoption of GMPC Motions 05-1 and 05-2)	**Date:**	March 21, 2006
Attending:	Paul Reitenbach, DDES		

SUBJECT:
Adopting amendments to the Countywide Planning Policies to correct a mapping error that affects 30 acres of the potential annexation area (PAA) for the City of Kent and to designate South Lake Union as an Urban Center.

BACKGROUND:
The Growth Management Planning Council and Countywide Planning Policies
The Growth Management Planning Council (GMPC) is a formal body comprised of elected officials from King County, Seattle, Bellevue, the Suburban Cities, and Special Districts. The GMPC was created in 1992 by interlocal agreement, in response to a provision in the Washington State Growth Management Act (GMA) requiring cities and counties to work together to adopt Countywide Planning Policies (CPPs).

Under GMA, countywide planning policies serve as the framework for each individual jurisdiction's comprehensive plan, and ensure countywide consistency with respect to land use planning efforts. As provided for in the interlocal agreement, the GMPC developed and recommended the CPPs, which were adopted by the King County Council and ratified by the cities. Subsequent amendments to the CPPs follow the same process: recommendation by the GMPC, adoption by the King County Council, and ratification by the cities.

Amendments to the CPPs become effective when ratified by ordinance or resolution by at least 30% of the city and county governments representing at least 70% of the population of King County. A city shall be deemed to have ratified an amendment to the CPPs unless, within 90 days of adoption by King County, the city by legislative action disapproves it.

SUMMARY:
Proposed Ordinance 2006-0074 would adopt the following two motions (05-1 and 05-2) approved by the GMPC in September 2005:

- GMPC Motion 05-1 would correct a mapping error that affects 30 acres of the PAA for the City of Kent.
- GMPC Motion 05-2 would amend the CPP Policy LU-39by adding South Lake Union to the list of Urban Centers.

The ordinance would also ratify the change on behalf of the population of unincorporated King County, as required by Countywide Planning Policy FW-1, Step 9.

GMPC MOTION 05-1 (CORRECTION TO CITY OF KENT PAA MAP):
In 2004, the Interim PAA Map in the Countywide Planning Policies document was amended to reflect the resolution of a disputed portion of the PAA between the cities of SeaTac and Tukwila, wherein the PAAs of each city overlapped. With the adoption of GMPC Motion 04-1, the entire previously disputed area was included within the PAA of the city of Tukwila.

However, after the PAA map was amended and in the process of being ratified, the city of Kent pointed out a mapping error at the south margin of the previously disputed area. A 30.3-acre area that is actually within the PAA of the city of Kent was inadvertently shown as part of the city of SeaTac PAA..

The Tukwila Planning Director and Kent Planning Manager agree that this 30.3-acre area should be included in Kent's PAA. Motion 05-1 adds the 30.3 acre area to the city of Kent PAA. and the remainder of the previously disputed area remains within Tukwila's PAA.

GMPC MOTION 05-2 (SOUTH LAKE UNION URBAN CENTER DESIGNATION):
The City of Seattle requests that the King County Council amend the Countywide Planning Policies to add its South Lake Union area to the list of Urban Centers in Policy LU-39. The city has followed the correct process for obtaining such a designation, starting with amending its own plans, policies and capital improvement programs, and also by securing the recommendation of the Growth Management Planning Council, which indicated its approval through the unanimous adoption of GMPC Motion 05-2 on September 21, 2005.

The final steps in the center designation process are approval by the King County Council and ratification by the cities (see background section for an explanation of the ratification process).

Requirements for Urban Center Designation
The Countywide Planning Policies describe Urban Centers as areas of concentrated employment and housing, with direct service by high-capacity transit and a wide range of other land uses. Collectively, they are expected to account for up to one half of King County's employment growth and one quarter of household growth over the next 20 years. The list of Urban Centers in Countywide Planning Policy LU-39 currently includes:

- Bellevue CBD
- Downtown Auburn
- Downtown Burien
- Federal Way CBD
- Kent CBD
- Redmond CBD
- Renton CBD
- Seattle CDD
- Seattle Center
- First Hill/Capitol Hill
- University District
- Northgate
- SeaTac CBD
- Tukwila CBD
- Totem Lake

In order to be designated as an Urban Center, jurisdictions must meet specific criteria in the Countywide Planning Policies, including having planned land uses to accommodate:

- A minimum of 15,000 jobs within one-half mile of a transit center;
- At a minimum, an average of 50 employees per gross acre; and
- At a minimum, an average of 15 households per acre.

In addition to these requirements, Policy LU-40 states that fully realized Urban Centers shall be characterized by the following:

- Clearly defined geographic boundaries;
- An intensity/density of land uses sufficient to support effective and rapid transit;
- Pedestrian emphasis within the Center;
- Emphasis on superior urban design which reflects the local community;
- Limitations on single-occupancy vehicle usage during peak commute hours;
- A broad array of land uses and choices within those land uses for employees and residents;
- Sufficient public open spaces and recreational opportunities; and
- Uses which provide both daytime and nighttime activities in the Center.

GMPC Recommendation

The GMPC, through the adoption of Motion 05-1, has declared that the City of Seattle has demonstrated its commitment to developing a fully realized Urban Center at South Lake Union as envisioned in the Countywide Planning Policies. A complete analysis of the city's proposal as presented to the GMPC is included as Attachment 4 to this staff report.

Specific factors leading to the GMPC action are that South Lake Union:

- Is adjacent to three of Seattle's existing urban centers, and together with those other centers, forms the geographic basis of the City's Center City strategy. This strategy aims to attract and accommodate high-quality urban development serving both the region's and the City's goals.

- Is in a key location within the regional transportation system, between I-5 and SR99.

- Contains a wide mix of uses, including major employers like the Fred Hutchinson Cancer Research Center, the Seattle Times, and PEMCO Insurance, along with a growing amount of residential uses.

- Already exceeds the CPPs' employment criteria, for both the number and density of jobs. The area currently has over 19,000 jobs, which is about 57 jobs per acre, compared to the criteria of 50 jobs per acre. The City has established a growth target for South Lake Union of 16,000 additional jobs over the next 20 years, which would increase the density to over 100 jobs per acre.

- Is being planned to accommodate an additional 8,000 housing units over the next 20 years, producing a density of 27 housing units per acre within the Center, compared to the criteria that calls for 15 units per acre.

- Exceeds PSRC's criteria for a regional growth center. There are currently 60 activity units (population + employment per gross acre) in South Lake Union, while the PSRC criteria call for

an ability to achieve 45 activity units. With the City's plans, South Lake Union would reach 127 activity units by the year 2024.

- Is being supported as an Urban Center through a coordinated set of City plans, policies, and investments. Seattle's Comprehensive Plan designated the Urban Center, and the City is currently updating the neighborhood plan for South Lake Union to meet the CPP criteria. The neighborhood plan includes transportation, parks and other capital improvement plans, as well as a historic building inventory and guidance for the provision of human services and public safety.

- Has zoning and neighborhood-specific design guidelines that encourage pedestrian-oriented, mixed-use development.

- Will have a new streetcar connection to Downtown Seattle, funded largely by property owners in the neighborhood.

Council staff concurs that the city proposal meets the requirements in the Countywide Planning Policies for designation as an Urban Center.

ATTACHMENTS:

1. Proposed Ordinance 2006-0074
2. GMPC Motion 05-1
3. GMPC Motion 05-2
4. GMPC Staff report for Motion 05-2

RESOLUTION R-4580

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RATIFYING AMENDMENTS TO THE KING COUNTY COUNTYWIDE PLANNING POLICIES.

WHEREAS, the King County Council adopted the original King County Countywide Planning Policies in July 1992; and;

WHEREAS, the Growth Management Planning Council (GMPC) was established by interlocal agreement in 1991 to provide collaborative policy development of King County Countywide Planning Policies; and

WHEREAS, the 1991 interlocal agreement requires ratification of the King County Countywide Planning Policies and amendments to the Countywide Planning Policies by 30% of the jurisdictions representing at least 70% of the population of King County, within 90 days of adoption by the King County Council; and

WHEREAS, in 2005, the GMPC approved Motions 05-1 and 05-2 recommending amendments to the King County Countywide Planning Policies; and

WHEREAS, on April 24, 2006, the Metropolitan King County Council adopted Ordinance 15426 approving amendments to the King County Countywide Planning Policies recommended by the GMPC.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The Kirkland City Council hereby ratifies King County Ordinance 15426 amending the King County Countywide Planning Policies.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 20_____.

_____
Mayor

ATTEST:

_____
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: Dave Ramsay

From: Gwen Chapman, Acting Director of Finance and Administration

Date: May 24, 2006

Subject: Cabaret Dance License

RECOMMENDATION:

City Council authorize the issuance of a Cabaret Dance License to Waldo's Bar and Grill

POLICY IMPLICATIONS:

The request and recommended action being presented to the City Council is consistent with the Municipal Code and City Council practice.

BACKGROUND DISCUSSION:

Atlas Investment Inc, Dba: Waldo's Bar and Grill, located at 12657 NE 85th Street, has made application for a Cabaret Dance License.
Staff has completed its review/investigation and the above referenced establishment has met the requirements of the Municipal Code. Staff recommends the issuance of a Cabaret Dance License be granted.

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 425.587.3140

LICENSE APPLICATION FOR CABARET, CELEBRATION, PUBLIC DANCE

This application may be used for the procurement of any of the following: **a Public Dance License** whereby a public dance shall include any dance to which the general public is admitted for which an attendance charge or donation is imposed as a condition of attendance; **a Celebration License** for a one-time event, **a Cabaret License** permitting music only, or permitting both music and dancing, in a place of business in which food or liquor is sold and consumed on the premises.

This license may be issued to the manager of the place of business or in the name of a corporation or partnership. Full information must be supplied with references to all of the partners, officers and directors of the corporation, as required by City ordinances. Upon report by the Chief of Police, this application will be referred to the City Council for final determination.

PLEASE PRINT OR TYPE

1. **CHECK ONE**

____	* Application for Public Dance License	$ 100.00	yearly
____	* Application for Public Dance Permit	$ 25.00	per dance
____	** Application for Cabaret Music License	$ 100.00	yearly
✓	** Application for Cabaret Dance License	$ 250.00	yearly
____	Application for Celebration License	$ 25.00	one day - one-time

Date of Event Only _____

(* Application must be submitted 48 hours prior to dance.)

(** $ 15.00 deposit for investigative costs required with application.)

2. Name of Applicant: Atlas Investment Inc. Applicant's Telephone: 425) 827-9292
   Applicants Address: 12657 N.E. 85th St. Kirkland, WA 98033
3. Name of Business: Waldo's Bar & Grill Business Telephone: 425) 827-9292
4. Will any admission fee be charged for the listed activity? If so, how much? Various fee $3.00 to $5.00
5. Name and address where event is to be held (if different from business address): Same as Bus. location
6. Name of Manager: Richard Ford Manager's Telephone: 206-391-3877
   Manager's Address: 12657 N.E. 85th St. Kirkland, WA 98033
7. Name of person(s) or corporation to whom or which license is to be issued: Atlas Investment Inc.
8. Qualifications of person signing this application:
   a. How long have you resided in King County? Snohomish County 8 yrs
   b. How long have you resided in the State of Washington? 13 yrs
   c. Previous address: Klahanie Apt. Dates at that address: 6-94 / 7-98
9. Have you ever been convicted of committing a felony? no

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

10. Signature and official capacity of applicant: President
11. Signature of person accepting fee: Patti A Ball Date: 5/15/06

RETURN COMPLETED FORM AND PAYMENT TO:

City of Kirkland/Licensing
123 Fifth Avenue
Kirkland WA 98033
(425) 587-3140 or Fax (425)587-3110

FOR OFFICIAL USE ONLY

Record of Report of Chief of Police/or his designee

I hereby recommend approval of license for which application has been made.

Remarks: Background check of Mr LEE SHOWS NO KNOWN CRIMINAL RECORD -

Signature of the Chief of Police Designee — Rex Caldell Date: 5/23/06

Action of the Kirkland City Council (where applicable)

Application Approved by _____ Date: _____

Application Approved by _____ Date: _____

Reason for Disapproval _____

License No. _____ Date: _____

Receipt No. _____ Date: _____

Fee Amount: _____

CITY OF KIRKLAND
123 FIFTH AVENUE, KIRKLAND, WASHINGTON 98033-6189 (425) 587-3249

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM

To: David Ramsay, City Manager

From: Dorian Collins, AICP, Senior Planner
Paul Stewart, AICP, Deputy Director
Eric Shields, AICP, Planning Director

Date: May 24, 2006

Subject: **ADOPTION OF ORDINANCE 4051, AMENDING THE KIRKLAND ZONING CODE AND ZONING MAP FOR NEW DEVELOPMENT REGULATIONS TO IMPLEMENT THE TOTEM LAKE NEIGHBORHOOD PLAN (FILE ZON04-00020), AND ADOPTION OF ORDINANCE 4052, AMENDING THE KIRKLAND MUNICIPAL CODE, DESIGN GUIDELINES**

RECOMMENDATION

1. Conduct a public hearing to receive public testimony on the proposed amendments to the Zoning Code, Zoning Map, and Municipal Code.

2. Revise the proposed draft amendments if desired, and approve the enclosed ordinances amending the Zoning Code, Zoning Map and Municipal Code, related to new development standards for the TL 10B, C, D and E zones, and revisions to regulations in the TL 6 zone.

<u>Revised Ordinance 4051 amending the Zoning Code and Zoning Map</u>

- Amends to Chapter 55 of the Zoning Code, to add additional Use Zone Charts for the Totem Lake Neighborhood (TL 10B-TL 10E). Revision to regulations for the existing TL 6 Use Zone chart (adopted on March 21, 2006, Ordinance 4037).
- Amends to miscellaneous sections in the Zoning Code to add references to the new zoning districts.
- Amends the Zoning Map to rezone land from PLA 11 to TL 10B, and land in LIT to TL 10C, TL 10D and TL 10E.

<u>Revised Ordinance 4052 amending the Kirkland Municipal Code</u>

- Adopts by reference new "Design Guidelines for the Totem Lake Neighborhood". The Design Review Board will use the guidelines to evaluate development proposals during the design review process.

BACKGROUND DISCUSSION

The proposed amendments would establish new development regulations and design guidelines for land in the Totem Lake neighborhood, west of I-405. The Planning Commission's recommendation for Zoning Code, Zoning Map and Design Guidelines for these areas was presented to the City Council on January 3, 2006, and later considered for approval on February 21, 2006. The City Council adopted regulations and guidelines for many of the remaining zones in the neighborhood at its regular meeting on March 21, 2006. The Council did not take action on the Planning Commission's recommendation for the TL 10B-TL 10E zones at that time, since the Council concluded that it might be interested in a number of changes to the regulations as proposed by the Commission.

Zoning Code Amendments (Ordinance 4051)

The chief concern expressed by the Council at the meeting on March 21st was the degree to which the draft amendments supported residential use within districts TL 10B-TL 10D. Members of the Council discussed their interest in preserving land for commercial (primarily office) development within the area, and the fear that residential development may displace commercial in light of current development trends. The Council concluded that a group visit to the area would be helpful in understanding both where residential use might be appropriate, as well as the topography of the area, and how height limits and use type might relate to this topography.

On April 15, 2006, the City Council, along with staff and members of the Planning Commission, took a tour of the districts under consideration. At that time, the Council provided direction to staff for possible revisions to the draft amendments. The amendments that appear as Exhibits to Ordinance 4051 have been revised to incorporate the direction of the City Council. The changes, and any research performed to develop the changes, are discussed in the following section.

Zoning Map Amendments (Ordinance 4051)

The proposed Zoning Map changes include the same boundaries for the TL 10B-TL 10E zones that were included in the information presented to Council at previous meetings. While the Council expressed some interest in changing the boundaries in some of the districts, particularly between TL 10D and TL 10E, staff advises that changes to the district boundaries would not be consistent with the adopted Totem Lake Neighborhood Plan.

Design Guidelines (Ordinance 4052)

The draft Design Guidelines, included as an exhibit to Ordinance 4052, have been revised to include the Vision Statements for the TL 10B-TL 10E districts. These sections were included in the original Planning Commission recommendation, but were removed from the version adopted as part of Ordinance 4038, since these subareas were not under consideration at the time that ordinance was presented to the Council.

FOLLOW UP REVISIONS FROM COUNCIL DISCUSSION, MARCH 21ST AND TOUR, APRIL 15TH

Many of the changes to the districts in the study area are related to the issue of the appropriate locations for residential use. Exhibit J to Ordinance 4051 contains a new plate that staff recommends be added to the amendments that would be titled "Stand-Alone Housing Areas". The plate would be contained within Chapter 180 of the Zoning Code, and would indicate the locations within the Housing Incentive Areas identified within the Totem Lake Plan where this form of residential development would be allowed.

TL 10B (Exhibit C to Ordinance 4051)

The City Council concluded that residential use within this zone should be limited to property located west of the 118th Avenue NE right-of way alignment. In addition, the Council concluded that some additional building height for office/high tech use would be appropriate. Changes to the proposed regulations to address this direction include:

- Stand-alone housing development to be limited to land west of 118th Avenue NE r-o-w alignment (see Exhibit J to Ordinance 4051, Plate Z). New special regulation added to restrict the location for this use (#1).
- Building height for office and high tech uses increased from 35' to 40', to allow for a 3 story building (assuming 13' per story).
- Building height for office and high tech uses increased to 55', where land dedication is provided for the 118th Avenue NE right-of-way. This revision is intended to preserve the development incentive provided in this zone for land dedication for the road. The previous draft regulations for this zone provided a bonus to 45' in height with dedication. In order to continue to provide for an additional story, the bonus must be increased by at least 13' beyond the 40' height now allowed outright for office/high tech development.
- Building height for residential use increased from 55' to 60', to remain consistent with language in the Totem Lake Plan, which states that properties in this area "should be allowed additional height only if residential uses are provided" (text for Policy TL-26.3). The greatest height in the zone would be granted to residential use.

TL 10C (Exhibit D to Ordinance 4051)

The Council concluded that restricting the location for stand-alone housing development within this zone would be appropriate, with a similar approach to that discussed in TL 10B, above. In this area, however, the Council indicated support for residential development in mixed-use projects throughout the zone, if commercial use remained the primary component of the development. Revisions to the proposed regulations include:

- Stand-alone housing development to be limited to western portion of zone (see Exhibit J to Ordinance 4051, Plate Z). The new special regulation (#1) added to restrict the location for this use includes the following language as well: "If developed in a mixed-use project with three stories of office or high technology use, it may be located throughout the TL 10C zone."
- Building height for office and high tech use increased from 35' to 40' (allows 3 stories, as in TL 10B).

- Eliminated special regulation from earlier draft that called for an additional step back in building height from residential zone to the west. :
  - ~~*Maximum building height may be increased as follows:*~~
    - ~~*Maximum building height is 45' feet above average building elevation where not adjoining a low density zone, but not more than 200 feet from the boundary of a low density zone.*~~
    - ~~*Maximum building height is 55' above average building elevation where beyond 200 feet of a low density zone.*~~

  Staff suggests that this restriction be eliminated due to the narrow area remaining for housing development that may not be adequate to allow for this type of step back. In addition, the park parcel that lies between this zone and the single family zone to the west provides a substantial buffer.
- Added provision for additional building height for office and high tech use, when combined with residential use (consistent with first bullet, above).

TL 10D (Exhibit E to Ordinance 4051)

As in TL 10B and TL 10C, the Council directed staff to revise the regulations for this zone to limit stand-alone residential use to several parcels adjoining the single family zone to the west. Outside of these areas, multifamily use would be permitted within a mixed-use development, as in TL 10C, above.

During the bus tour of the area, the Council noted the significance of the steep slope in approximately the center of the TL 10D zone, within about 150 feet of the single family zone to the west (see topography map, Attachment 1). Due to the slope, and other topographic changes in the area that result in elevations lower than the single family areas in many locations, the Council suggested that height limits within the zone be increased somewhat, from 65' to 80', for office/high tech uses.

Conceptual Modeling

In order to get a sense of the relationship between the area's topography and appropriate building heights, Planning staff (our graduate intern) created a conceptual model of the area using SketchUp software (see Attachment 2). The model is a tool which allows for sculpting a geographic area and possible building masses in three dimensions. The masses can be mapped on the terrain fairly accurately.

Early conclusions from the modeling indicate that building heights on the ridge, adjacent to the single family area should be handled differently from those in the "valley" below the slope. The regulation contained in both existing LIT zoning, and proposed for the TL 10D zone that restricts building height to 30 feet within 100 feet of a low density zone will be important to maintain compatibility within this transitional area. The visual impact of the potential increase in building height to 65' beyond the 100 foot transition line could be fairly significant, although given that the remaining area is narrow in width, contains a private road running north-south and portions of the slope, future building mass may be more likely to be shifted to the western portion of this site.

East of the ridge, the change in building height from the Planning Commission's recommendation of 65' to the 80' contemplated by the City Council will not create a significant visual impact, when viewed from the west.

Revisions to Proposed Regulations

Revisions to the proposed regulations as directed by the City Council include:

- Stand-alone housing development to be limited to western portion of zone (see Exhibit J to Ordinance 4051, Plate Z). Same special regulation used in TL 10C would be included in this zone to restrict the location for this use. In addition, the following language would be included: "If developed in a mixed-use project with three stories of office or high technology use, it may be located throughout the TL 10D zone."
- Building height for office and high tech use increased from 65 to 80' (allows one additional story).

TL 10E (Exhibit F to Ordinance 4051)

Since residential use has not been included in the recommendation from the Planning Commission for this area, there are no changes related to this use in the TL 10E zone. Changes the Council indicated would be appropriate for this zone include the removal of auto sales as a permitted use, since this use may not be compatible with the vision of the area as an office/high tech business center, and possible requirements and/or incentives for daylighting or otherwise restoring the section of Forbes Creek that exists at the southern end of the zone.

Forbes Creek - Daylighting

During the Council tour, members of the Council noted the presence of a culverted section of Forbes Creek under the parking lot of the southern-most parcel in the ParMac area. It was discussed that the daylighting of the stream might be an important consideration in future development. Council members suggested that bonuses or incentives, such as allowing greater building height could be considered to offset a requirement for daylighting the stream.

In researching this issue, staff confirmed that an opportunity exists to improve fish passage in Forbes Creek through removal of this barrier to migrating fish. As part of the I-405 Kirkland "Nickel" project, WSDOT intends to install a fish-passable replacement culvert under the highway. The City is also currently working on resolving other smaller barriers that exist within Forbes Creek. If the culvert under this parcel in ParMac were to be removed and the stream section daylighted, it is conceivable that the entire length could support fish passage.

One significant challenge to daylighting the stream in this area is the presence of a 72" diameter METRO sanitary sewer trunk line which also crosses the parcel, and intersects the alignment of the watercourse across the site. The sewer line cannot be relocated.

Attachment 3 includes a detailed study of this segment of Forbes Creek, prepared by the Watershed Company. The study discusses the history of the culvert and barriers created along the stream, and evaluates three alternative approaches for gaining fish passage through the area. The conclusions of the Watershed Company are that the second alternative, the provision of a direct open channel, would be the

most successful and least costly of the three. The cost estimate for this approach is approximately $1.2 million dollars. A representative from the Public Works Department will be present at the meeting to respond to questions from the Council on this topic.

Staff has revised the General Regulations for the TL 10E zone to require development to occur in a manner that would not restrict the future restoration of the stream (see revision points discussed below). The regulation would not place the costs of daylighting on a future developer, but would state that the placement of buildings, driveways and parking areas be located to enable stream restoration to occur in the future. An additional 15 feet of building height would be provided to parcels required to preserve land for stream restoration.

The Council may wish to discuss the merits of this project at a subsequent meeting, and perhaps consider a combination of making this a priority in the Surface Water Utility CIP, and seeking grant funding to support the project. A preliminary step in this work might be the development of preliminary engineering for the project, that would help to define the cost and scope of the work. The Watershed Company estimates that this engineering work would cost between $50,000-60,000.

Revisions to Proposed Regulations

- Removed provision for vehicle or boat sales and service. The use is revised to allow only: "Vehicle or boat repair, services, washing or rental".
- Added provision to preserve options for future stream restoration, including daylighting. Provisions include a bonus of additional building height for parcels required to preserve land for stream restoration:
    - Where a stream has been diverted into a pipe or culvert, development must not preclude future restoration of the stream to its historic corridor, removal of fish barriers, or the daylighting of the stream. The City may require the applicant to preserve 100 feet in width for the stream corridor. An increase in the allowable building height of 15 feet (beyond 100 feet of a low density zone), shall be extended to those parcels required to preserve land for stream restoration. The placement of buildings, driveways and parking areas shall be located to enable stream restoration to occur.
- Revised text to allow for additional building height within 100 feet of a low density zone (*Note – only the southernmost parcel in the TL 10E zone adjoins a low density zone. This parcel lies at an elevation of approximately 170, while the low density zone to the south is at approximately 220).* The revised text would apply to office and high technology uses only:
    - Building height: Where adjoining a low density zone, 50' above average building elevation. Otherwise, 80' above average building elevation.

TL 6B (Exhibit G to Ordinance 4051)

Although the Council did not direct staff to revise the regulations in this zone, staff has become aware of a regulation that has unintended consequences for development that could be corrected by a minor revision. Staff was contacted by a developer regarding property located within the TL 6B zone, east of 116th Avenue NE and north of NE 124th Street. Although the General Regulations adopted for this zone exempt property more than 500 feet north of NE 124th Street and east of 116th Avenue NE from the requirement for retail use on 50% of the ground floor, the same properties are not exempted from the requirement that space within the ground floor be 15' in height. Since the ground floor ceiling height is intended to support retail development, this requirement should not be imposed where retail use is not required nor anticipated. Therefore, staff recommends that the General Regulations for the TL 6 zones be revised as follows:

1. The ground floor of all structures with frontage on a pedestrian or vehicular circulation route, or adjacent to a pedestrian-oriented space shall be a minimum of 15' in height. This requirement does not apply to:
    a. The following uses: vehicle service stations, private lodges or clubs, stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day care centers, assisted living facilities, convalescent center or nursing homes, public utilities, government facilities or community facilities.
    b. Parking garages.
    c. Additions to existing non-conforming development where the Planning Official determines it is not feasible or
    d. Parcels located more than 500 feet north of NE 124th Street, east of 116th Avenue NE.

Additional Information

Traffic

The revisions to the Planning Commission's recommendation under consideration by the City Council support an increase in building heights for office use within the TL 10D zone, and reduce the area for stand-alone housing development within the TL 10B, TL 10C and TL 10D zones. Staff asked the Public Works Department to evaluate a potential growth scenario based on these changes to the Planning Commission recommendation.

The scenario evaluated included redevelopment of 25% of the parcels in the TL 10B-E TAZs (Traffic Analysis Zones), with office development at an FAR of 1.0. Although there was not sufficient time for traffic modeling to be performed, trip distribution to understand impacts to intersections was done. Results from this analysis indicate that several intersections would have a decreased LOS under the revised approach, while others would see a minor improvement in LOS.

Green Roofs

There was some discussion from the Council at a previous meeting that incentives for green roofs should be considered for the TL 10 zones. Staff recommends that this concept be looked at as part of the City's Low Impact Development (LID) evaluation from an overall citywide approach, rather than on a piecemeal basis. Since the City will be studying LID this year, staff suggests that the Council refer this idea to the upcoming LID work.

Attachments

1. Topography (TL 10B-TL 10E)
2. SketchUp 3-D Views
3. Watershed Company Report - May 18, 2006

Exhibits

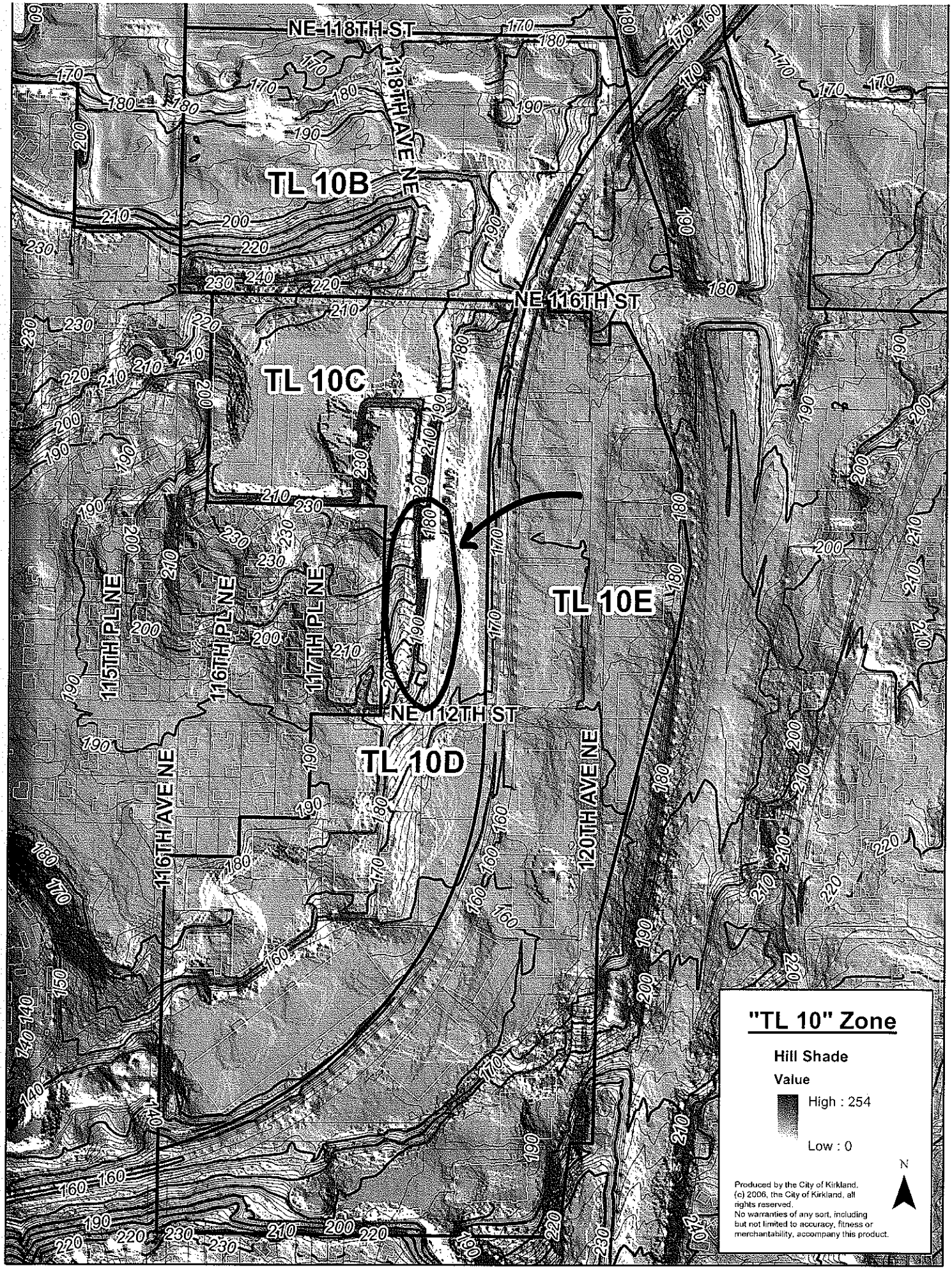
Ordinance 4051 – Zoning Code and Zoning Map Amendments:

A. Chapter 1 - User Guide
B. Chapter 5 – Definitions
C. Chapter 55 – TL 10B Use Zone Chart
D. Chapter 55 – TL 10C Use Zone Chart
E. Chapter 55 – TL 10D Use Zone Chart
F. Chapter 55 – TL 10E Use Zone Chart
G. Chapter 55 – TL 6 Use Zone Chart
H. Chapter 60 – Deletion of PLA 11 Use Zone Chart
I. Chapter 180 – Plate Y 118th Avenue NE R-O-W
J. Chapter 180 – Plate Z, Stand-Alone Housing Areas
K. Kirkland Zoning Map

Ordinance 4052– Municipal Code Amendment:

L. Kirkland Municipal Code (KMC) Design Guidelines for Totem Lake Neighborhood
M. Kirkland Municipal Code (KMC) Chapter 3.30 Design Review Board

cc: File ZON04-00020
Planning Commission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118TH AVE NE
TL 10B
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TL 10C
TL 10E
115TH PL NE
116TH PL NE
117TH PL NE
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TL 10D
116TH AVE NE
120TH AVE NE
"TL 10" Zone
Hill Shade
Value
High : 254
Low : 0
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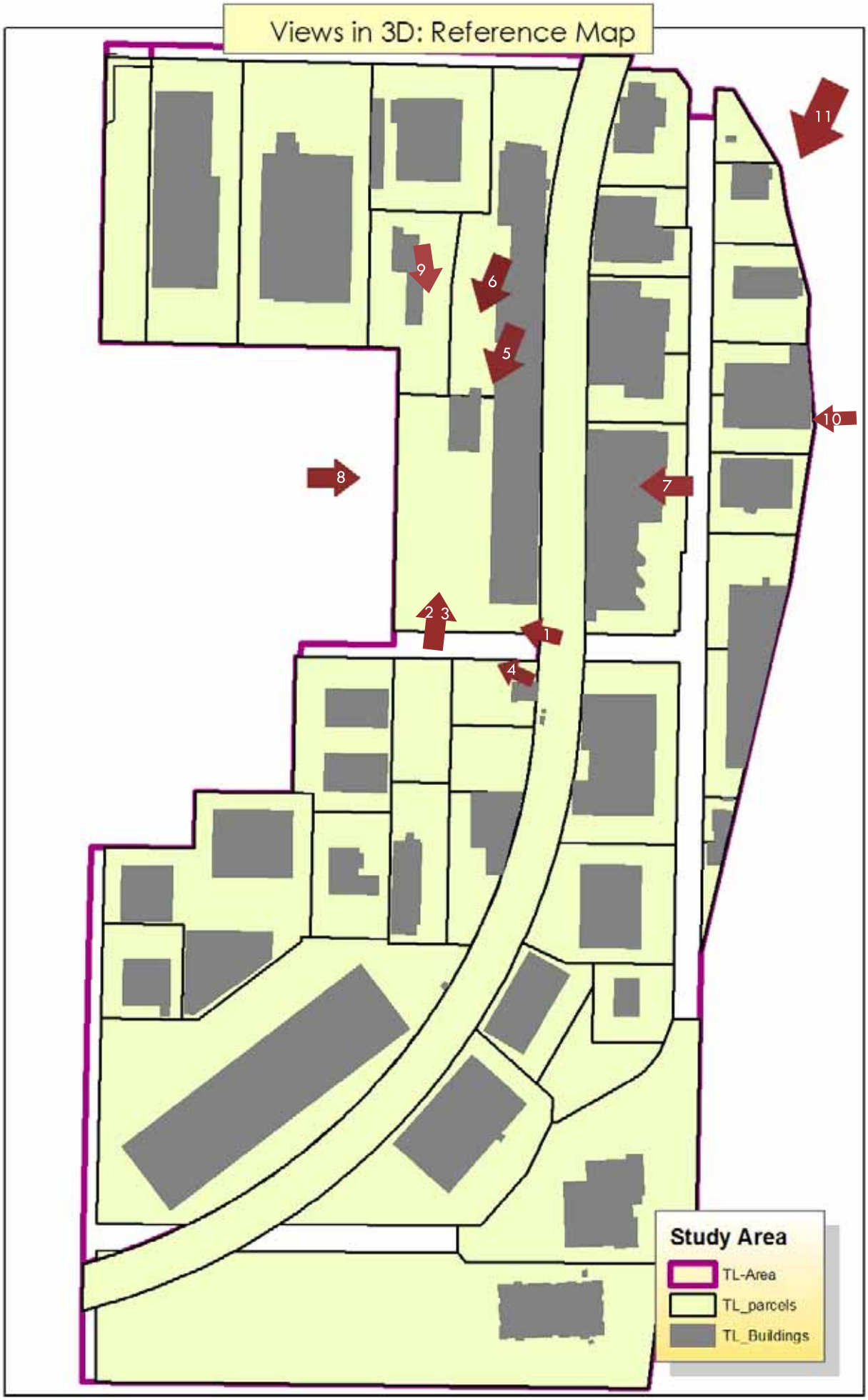
Views in 3D: Reference Map
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Study Area
TL-Area
TL_parcels
TL_Buildings

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64' 7 7/8"
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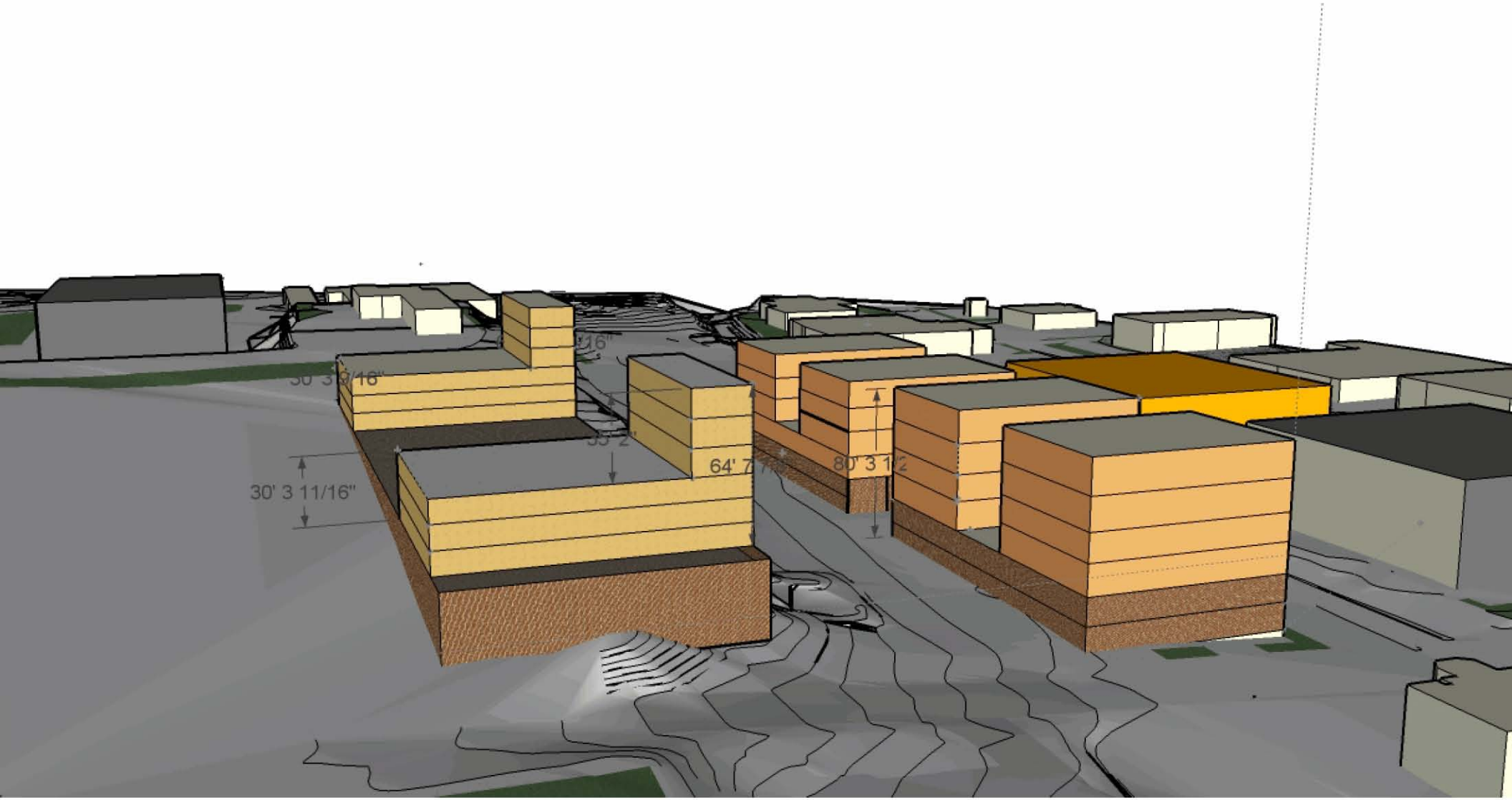
30' 3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80' 3 1/2

35' 2"
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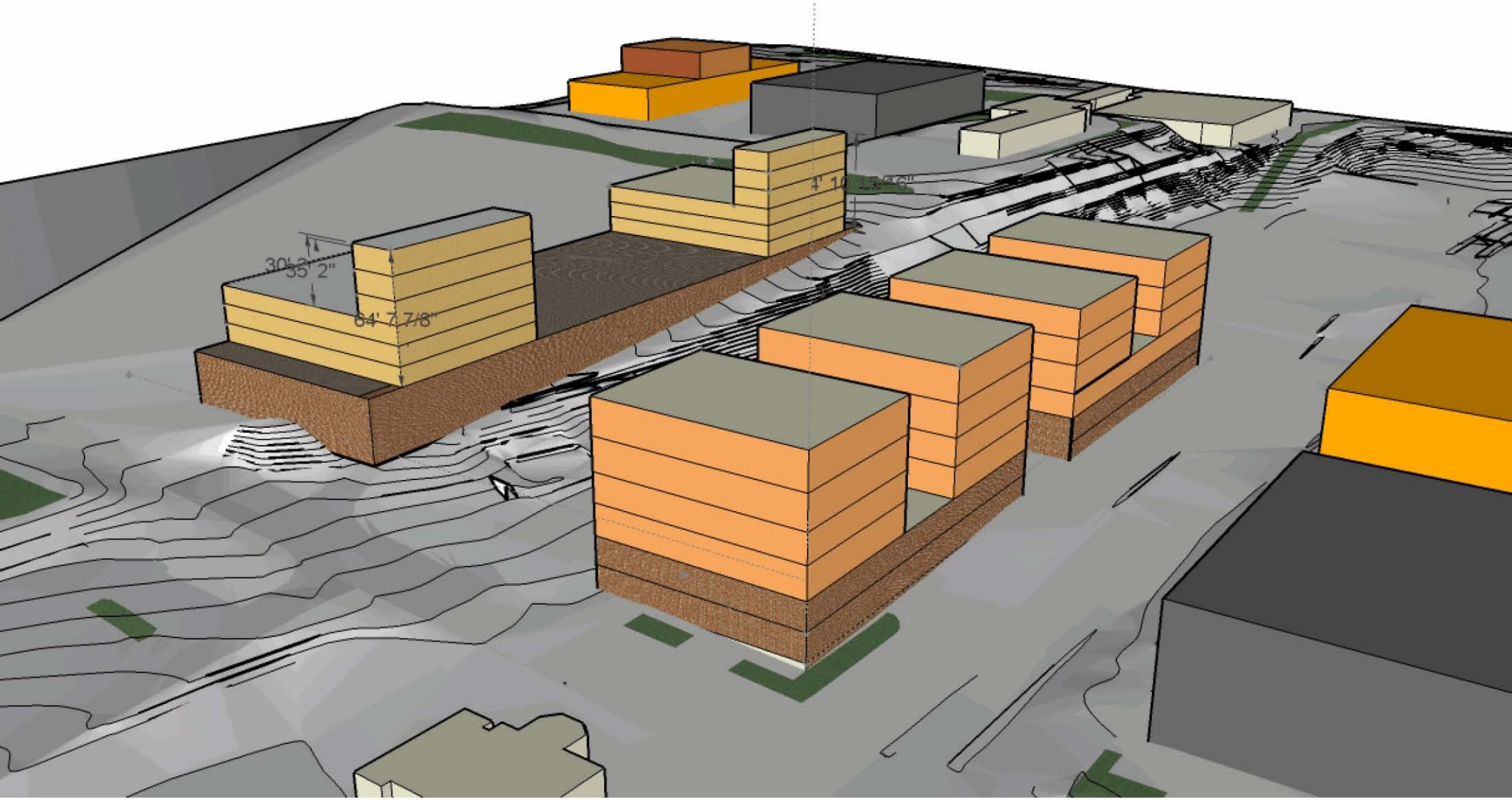
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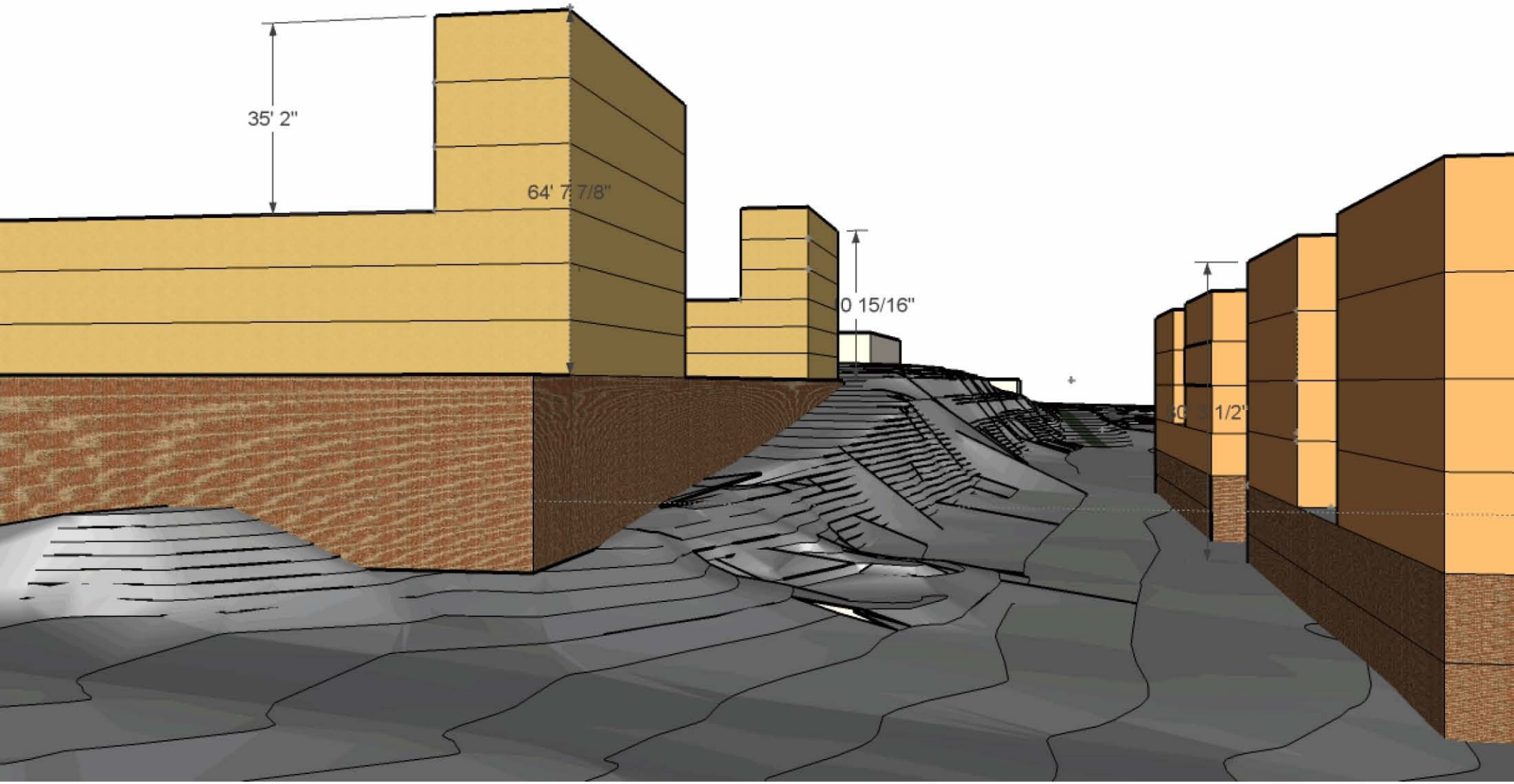
11/16"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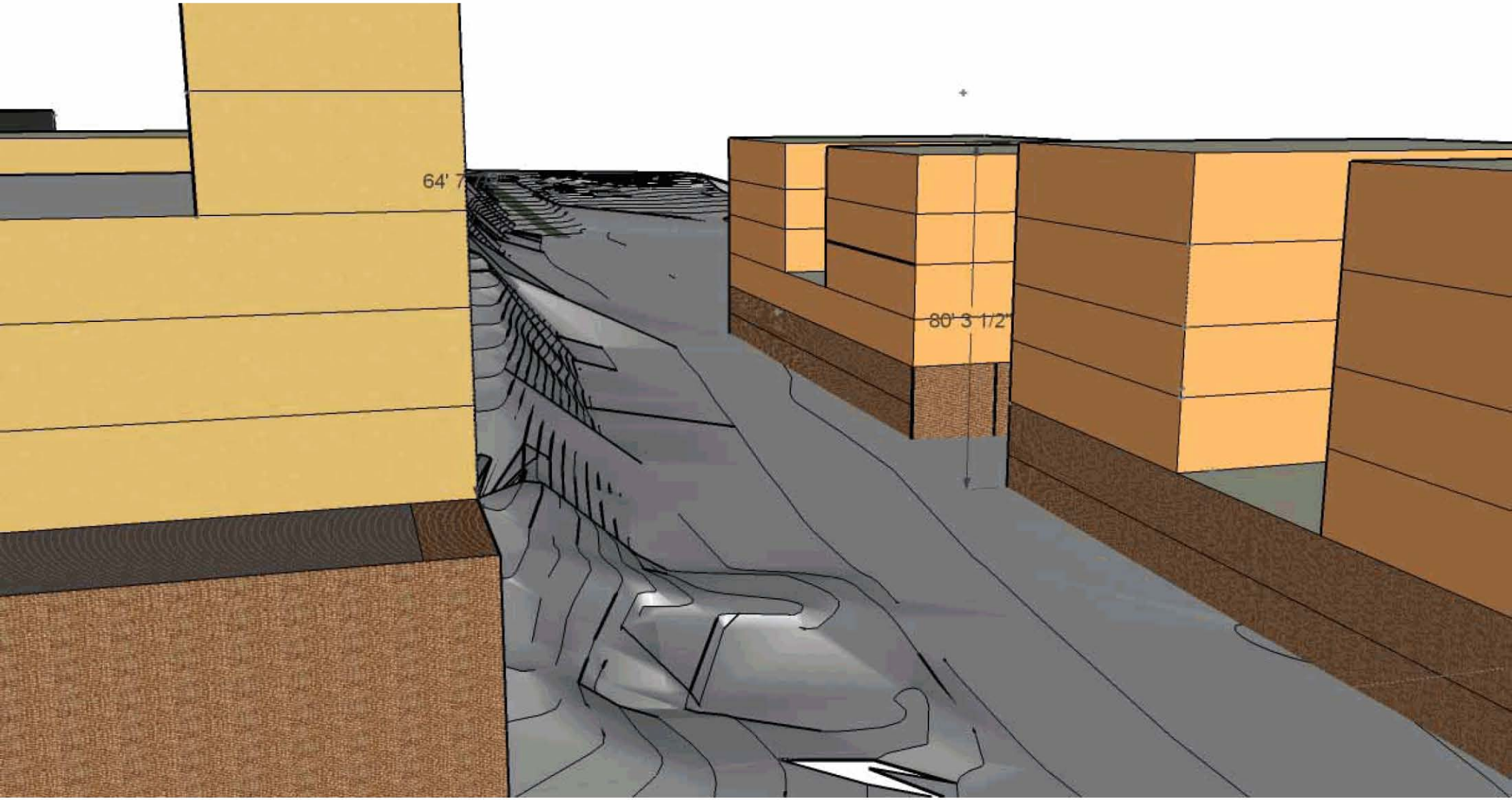
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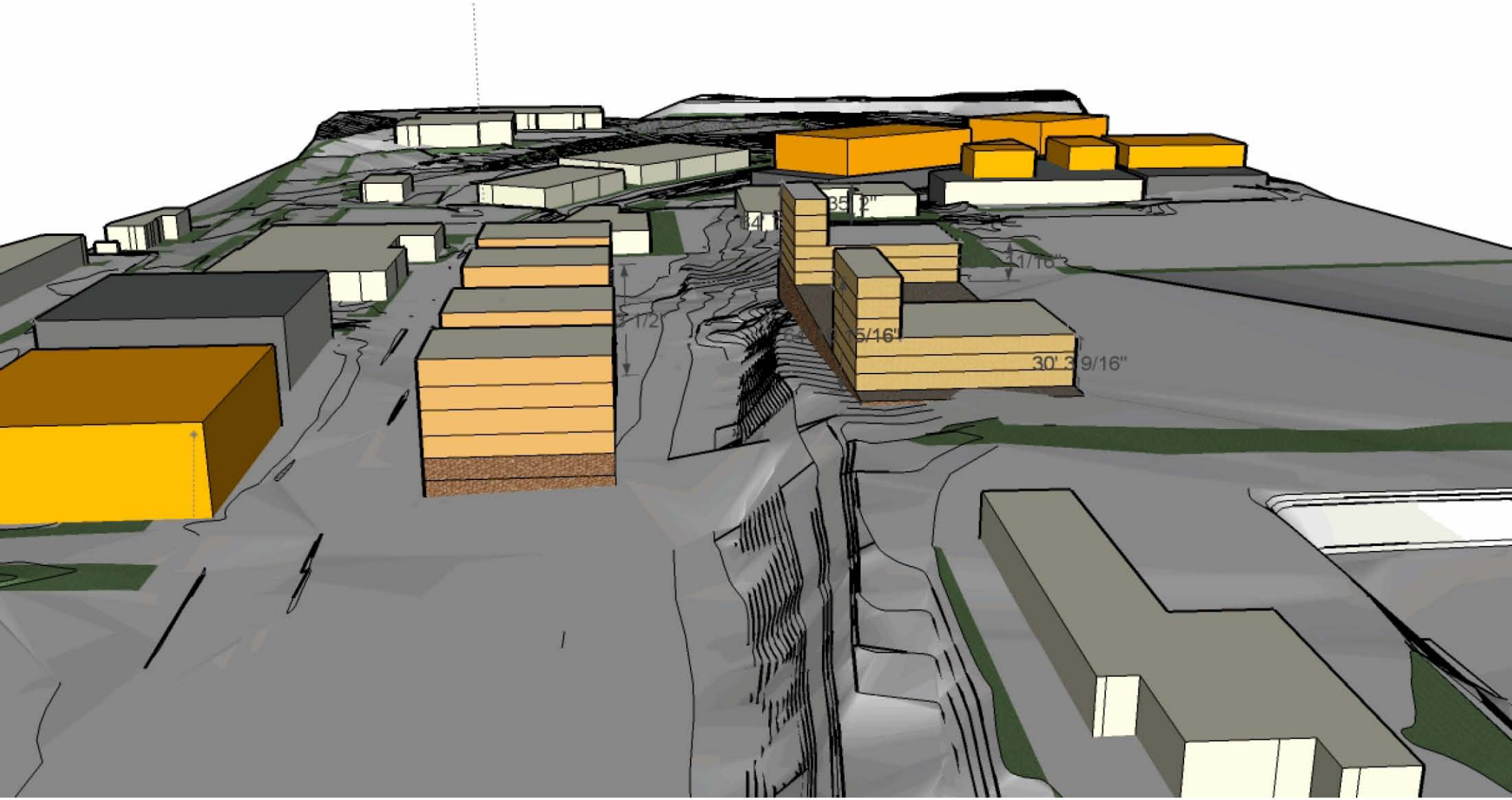
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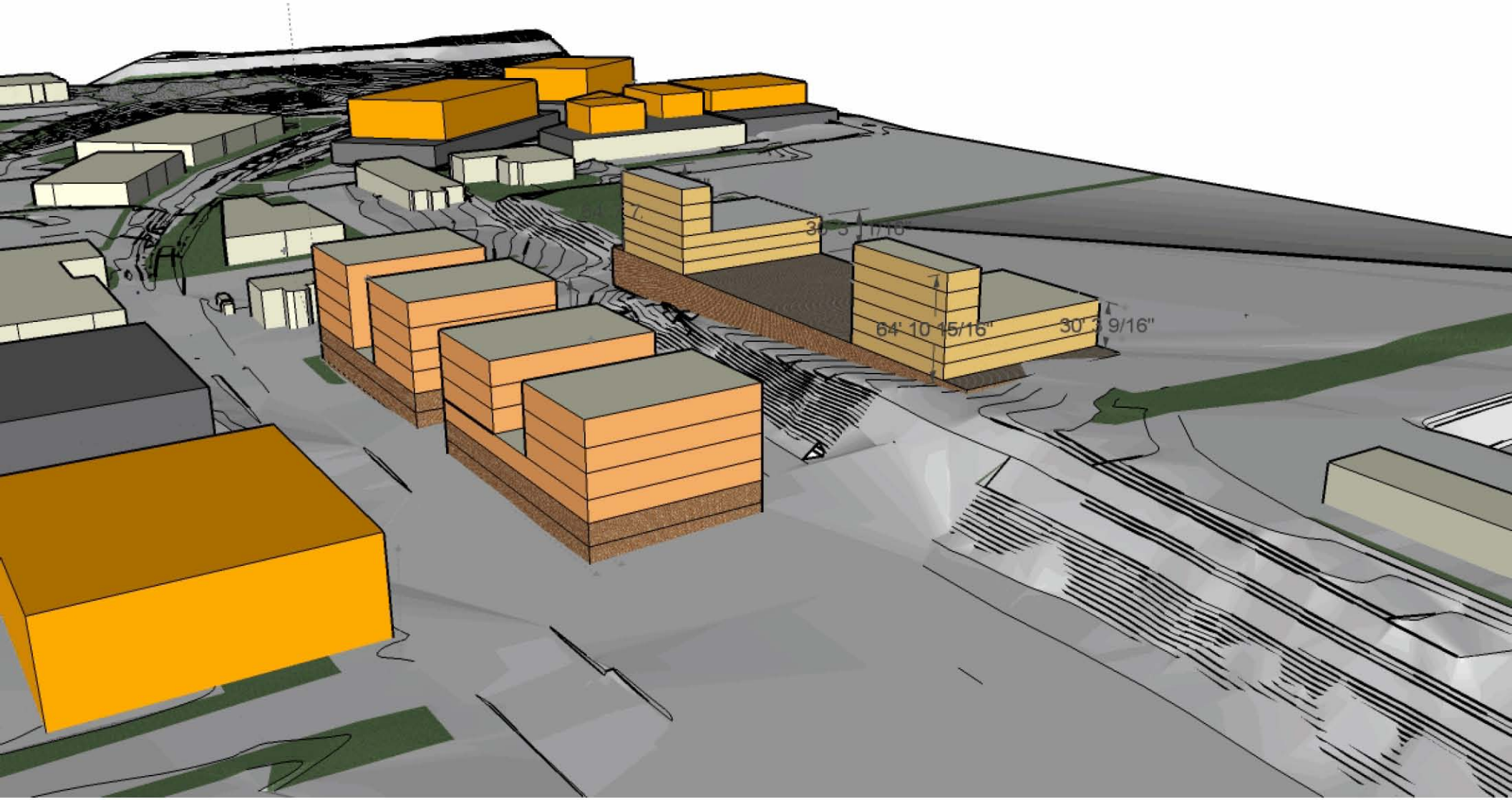
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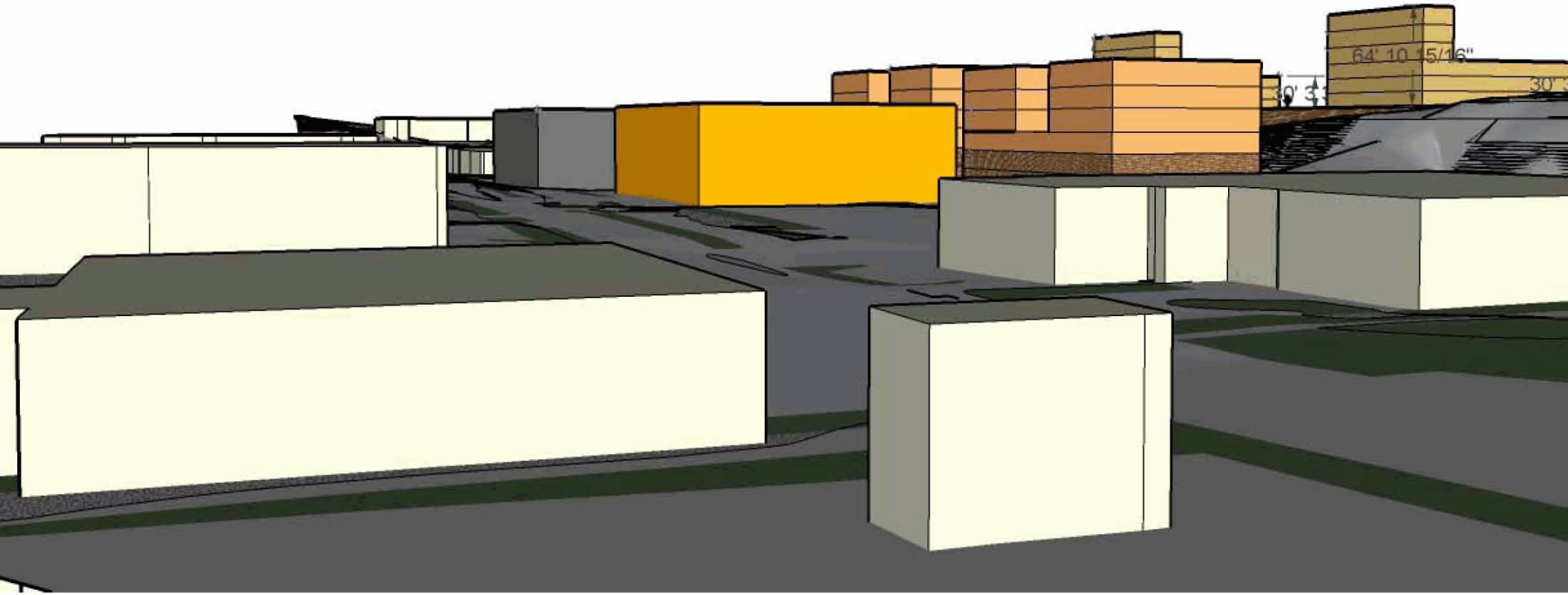

64' 10 15/16"

© 2006 Europa Technologies
©2005 Google
Pointer 47°42'04.35" N 122°10'50.09" W elev 177 ft
Streaming |||||||||| 100%
Eye alt 784 ft

THE WATERSHED COMPANY

SCIENCE & DESIGN

RECEIVED
MAY 18 2006
AM PM
PLANNING DEPARTMENT
BY

18 May 2006

Dorian Collins
City of Kirkland Planning
123 – 5th Avenue
Kirkland, WA. 98033

Dorian:

This letter report assesses potential for improving fish passage in Forbes Creek, with special attention paid to the culverted section under the Airshow parking lot in ParMac Industrial Park. Three alternatives for gaining passage through this segment are evaluated and recommendations are provided. Please note that, due in part to timing constraints, the three alternatives presented are conceptual in nature and the feasibility of any that are selected for further consideration and/or development will need to be verified.

About 1.5 miles from the mouth of Forbes Creek, there is an approximately 300-foot-long culverted stream section that is a barrier to upstream migrating fish and no doubt results in a high likelihood of mortality for any downstream migrants. This culvert goes under the parking lot of the Airshow Properties Building at 10801 120th Avenue NE. While barriers to upstream fish migration located farther downstream have developed over the last twenty years due to high peak flows and resulting channel incision, no barrier has been so intractable.

This segment of Forbes Creek was previously carried within a 36" diameter CMP culvert that dropped 1.5 feet at its outfall into a scour hole (Forbes Creek Restoration Project, survey notes, dated 12/12/77). This 36" diameter culvert is shown on construction plans for METRO's Redmond Interceptor Trunk Sewer construction plans dated July 1969 (see attached). The stream culvert is shown as passing under a 72" diameter trunk sewer with a few feet of clearance. The length, position, and inlet and outlet inverts of the 36" diameter culvert are also shown on these sewer plans.

During a flood event about 10 years ago, the 36" diameter culvert became plugged with debris, resulting in water flooding over the parking lot and eroding large quantities of sediment into the creek. An emergency action resulted in the installation of the present 48" diameter corrugated PVC pipe in the same general location, but with a profile at a somewhat higher elevation than the entombed 36-inch-diameter pipe, perhaps so it could be installed easily in the emergency situation and cross over the top of the sewer line. The inlet on the present culvert has a debris trap that is considerably higher than the previous inlet. A quiescent wedge of fine sediment has since been deposited at the inlet. The downstream end of the present culvert releases flow onto riprap perhaps 12 feet higher than the stream itself. Any restoration design considerations should reference the original culvert, rather than the existing one, since it more closely reflects the original channel profile and associated hydraulic continuity.

750 Sixth Street South | Kirkland, WA 98033
p 425.822.5242 | f 425.827.8136 | watershedco.com

Approximately 750' upstream of the culverted section under the Airshow Properties parking lot, along which the creek flows through a forested ravine, is the I-405 culvert crossing. As part of the I-405 Kirkland "Nickel" Project, WSDOT intends to install a fish-passable replacement culvert under the highway. Kirkland's Public Works Department is also working on resolving other smaller-scale fish passage issues along Forbes Creek. Other barriers that have developed include the remains of a small dam near Forbes Creek Drive and a failing culvert at the METRO access road. Remedy of all of these barriers would allow upstream and downstream passage of several salmonid fish species from Lake Washington to Forbes Lake and possibly including several other tributaries upstream of I-405.

Various alternatives exist for providing fish passage through the Airshow parking lot. All daylighting options raise the questions of acceptable benefits vs. costs, the type and quality of the habitat that would be created and available, what the appropriate regulatory buffer should be and other the issues associated with physically encumbering private property. The standard buffer width from the ordinary high water mark (OHWM) on Forbes Creek is 75 feet, with an additional 10-foot building setback (KZC Section 90.90(1) and (2)). Assuming a channel toe width of 15', a corridor width of some 185' would result if the standard regulatory buffer is applied. Given the current condition of the stream and the burden placed on private property by the application of a full regulatory buffer to the restored stream, consideration should be given to buffer reduction allowances to reduce the current disincentive associated with daylighting culverted streams.

Three alternatives have been identified for gaining fish passage:

I. Wrap-Around Open Channel. Construction of a new open channel through the southern portion of the existing parking lot that hugs the toe of the existing hillside to the south and then wraps around the western end of the parking lot, where it connects with an existing stormwater conveyance channel that will need to be improved and which enters the downstream channel just upstream of the railroad crossing.

II. Direct Open Channel. Opening the channel up in part or fully in the general alignment of the existing culvert.

III. Fish-Passable Structure. Installing a larger and enclosed fish-passable structure in the general alignment of the existing culvert.

There are a number of pluses and minuses to each alternative including cost, aesthetics, maintenance requirements, and tradeoffs between public benefit and private encumbrance.

Alternative #1: This wrap-around daylight option was initially pursued by WSDOT for I-405 Kirkland "Nickel" mitigation instead of standard on-site mitigation (Forbes Creek Watershed Opportunities, WSDOT, 7/9/04). The notion was to daylight this segment instead of under I-405, in combination with off-site surface detention. WSDOT decided not to pursue this option due to cost, realization that there was inadequate area for preferred surface detention needed to justify the project, concerns about geologic risks and costs associated with disturbing the hillside to the south,

concerns that project costs did not justify what was perceived to be the limited benefits of the available habitat, and concerns that a 72" diameter METRO sanitary sewer trunk line precluded its path. What follows are pluses and minuses of this alternative:

+ Does not appear to disrupt the existing physical connection between the building and the parking lot but area consumed in sideslopes and channel is considerable.

+ This option provides fish passage and the largest increase in the amount of new open channel and the resulting fish and wildlife habitat.

- In reviewing the construction drawings for the sewer line, it appears that the sewer line is at critical elevation and routing the restored stream over or under the line may not be feasible. The WSDOT study concluded the same.

- Steep and unstable slopes already occur to the south and an additional cut would need to be made and reinforced some 25' below these slopes. Additional shoring would be required along the north edge of the open channel adjacent to the parking lot. The cost associated with shoring for these cuts would be substantial and the potential risks to slope stability from cutting into the toe of the slope to the south should not be underestimated.

- Costs associated with construction of the large length of open channel, relocation of the existing stormwater pond and improvement of the existing conveyance ditch to accommodate the increased flows would also be substantial and would likely be the highest of the three options analyzed.

Alternative #2: Daylight the stream in part or fully in the general alignment of the culvert.

+ This alternative utilizes the shortest distance between two points, while providing fish passage, and therefore encumbers the least area with the resulting physical limitation on use and restrictions associated with any regulatory buffer.

+ Profile matches historic channel of 3% slope, which is useable by coho salmon and cutthroat trout, without hydraulic disruption.

+ This option would include a fish-passable culvert to provide access under the 72" sewer line, which would also provide access from the existing or future building and site driveway to the parking area. While this design feature would need to be studied further, it appears feasible and a concept plan is provided as an attachment.

+ This option would avoid disruption and relocation of the existing stormwater pond and conveyance west of the parking lot.

+ Redevelopment options could include buildings and underground parking on each side of the proposed channel, with an access drive on the fish-passable culvert to service the second

building. The attached concept plan includes a 25-foot flat surface that could serve as a two-way driveway.

- The proposed channel alignment would cut through the central portion of the developed site between the existing commercial building and the western two-thirds of the parking lot, imposing a significant physical and regulatory site development constraint on the property owner.

- This option may require a code text amendment or other regulatory consideration to limit impact on current and future owners. In lieu of encumbering the property with the full regulatory buffer from OHWM once the stream is daylighted, we suggest simply encumbering the channel and a 3:1 or 2:1 sideslope and perhaps a vertical wall on each end of road entry culvert in a protective conservation easement.

Alternative #3: Fish passage structure that is open cut and covered over to allow access and parking over the top, but not building construction.

+ Achieves fish passage.

+ Does not present a significant disruption to current use of the site and future use as a parking lot, except during short-term construction.

+ The WSDOT design on I-405 crossing could potentially be used as a design template.

+ There would be no issue of buffer encumbrance because the stream would not be daylighted and the current zoning code does not appear to require a buffer from piped segments (i.e. "surface waters", Stream definition, KZC Section 19.30).

- The fish passage structure would need to be tall enough for maintenance workers to walk through, however it does not appear that such a structure would have clearance under the existing 72-inch-diameter sanitary sewer line.

- This option provides virtually no aesthetic benefits over the current condition, unlike the other two options, and habitat benefits would be limited to fish passage.

- Long-term monitoring and maintenance obligations to clear obstructions, ensure safe conveyance and provide adequate fish passage would be significant for this option and would be the highest of the three options considered.

- Provides only passage, no spawning and virtually no rearing habitat would be provided in the 300-foot, fish-passable structure.

The Fish-Passable Structure Alternative appears to have a major design problem because there does not appear to be adequate clearance to place the needed structure under the 72" diameter trunk sewer. Shorter culverted stream sections, like those included in Alternative #2, do not need to be as tall, and thus can be accommodated under the trunk sewer. The sewer line also appears to raise serious doubts about the viability of the Wrap-Around Open Channel Alternative. Additional, significant challenges with this alternative include the risks and costs associated with excavation adjacent to the south hillside and relocation of the existing stormwater pond.

While the Wrap-Around Open Channel Alternative, which does not bisect the developed site, appears on first blush to result in less of a physical barrier and regulatory burden on private property, the Direct Open Channel Alternative appears to actually consume less of the existing developed site area. In addition to resolving the issue of getting the day lighted stream under the 72-inch sewer line, the fish passable culvert included in Alternative #2 would also allow vehicular access to the western portion of the existing parking lot, thereby preserving the contiguous nature of the site. Looking to the future, potentially a second building with parking beneath could be developed on the western portion of the site if or when the building site to the east is redeveloped in a manner that does not require as much surface parking. Existing information indicates that this parking area is currently underutilized (Kirkland Stream Inventory and Habitat Evaluation Report, Forbes Creek Project Summary Sheet, page 1). The length of culverts, size of open channel sections, and regulatory requirements applied in Alternative #2 could be further refined to strike an appropriate balance between habitat benefits and the imposition of site development and regulatory constraints on the private property owner. The concept design we have provided as an attachment to this report would consume roughly 25,000 sq. ft. of the current developed site area. The total lot area of the parcel is 333,669 sq. ft. In summary, based on our preliminary analysis, we believe that the Direct Open Channel is the preferred alternative.

Given that this is private, commercially-zoned property, there may be a limited window of opportunity when the private property owner may wish to re-develop, and that opportunity may be in the near term. Alternatives should be pursued and flexibility afforded the owner in order to attempt a win-win partnership. Significant costs and burdens associated with restoration can be made more acceptable when an increase in site development potential or intensity is concurrently allowed. The City could potentially explore including a required restoration plan for Forbes Creek in a concomitant agreement proposed in conjunction with a future rezone of the property (contract rezone).

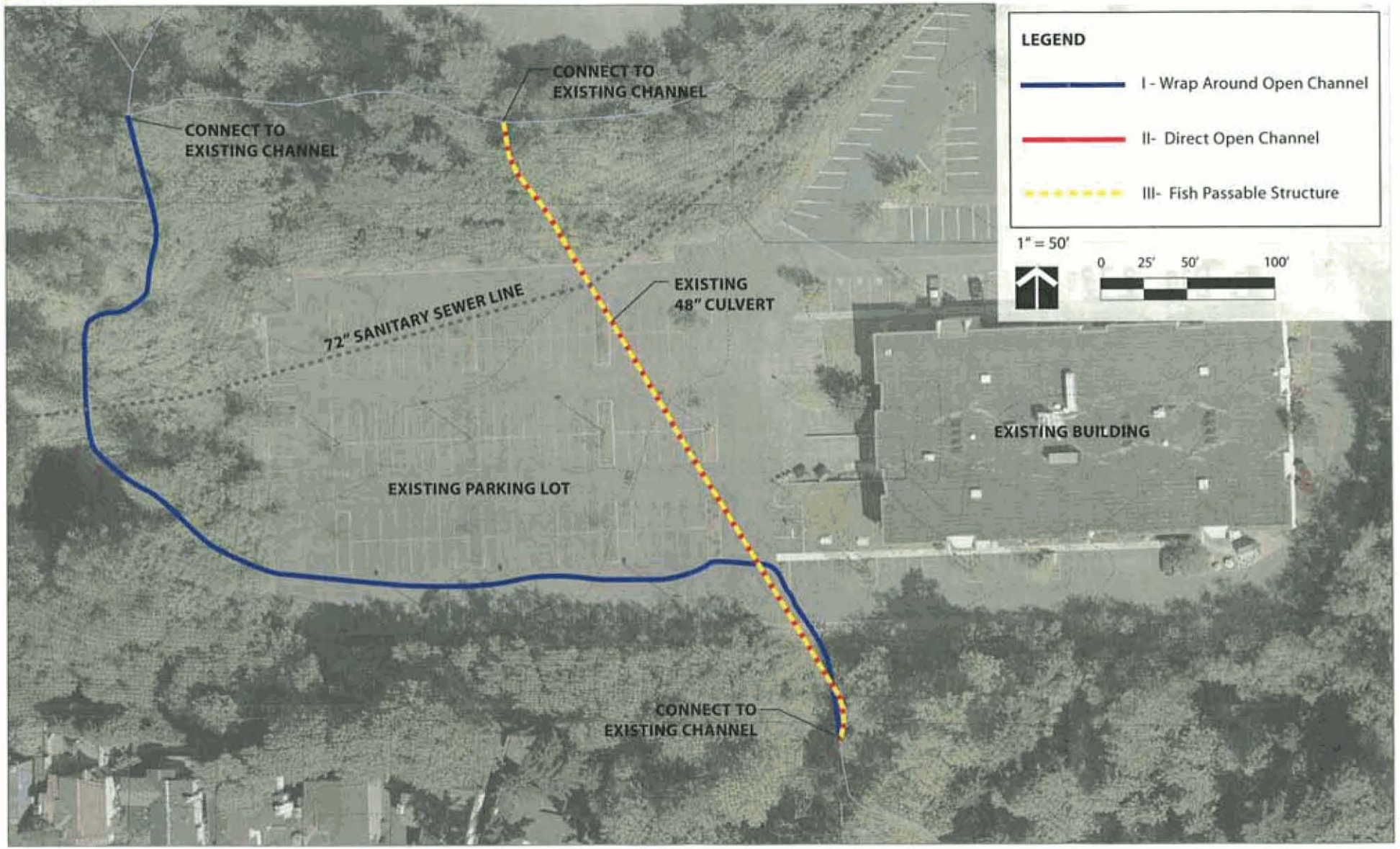
Sincerely,

A. William Way
President

Enclosures

THE WATERSHED COMPANY

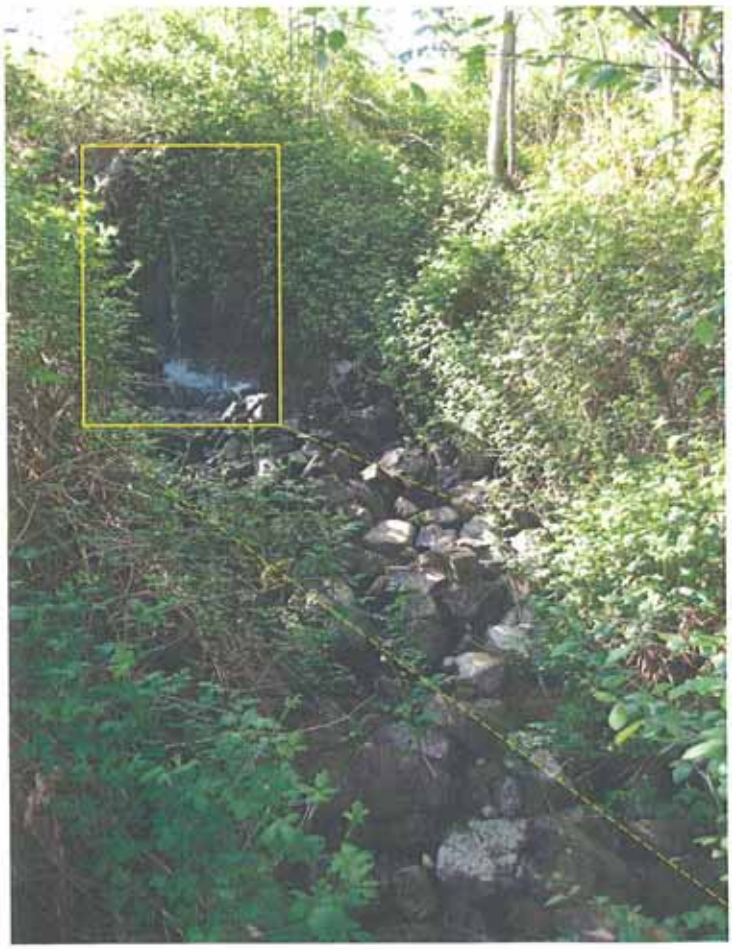
FORBES CREEK DAYLIGNTING ALTERNATIVES MAP



THE WATERSHED COMPANY

FORBES CREEK DAYLIGHTING: **SITE PHOTOS**

POOL ABOVE DEBRIS CLOGGED INLET - LOOKING DOWNSTREAM / WEST (4/21/04)

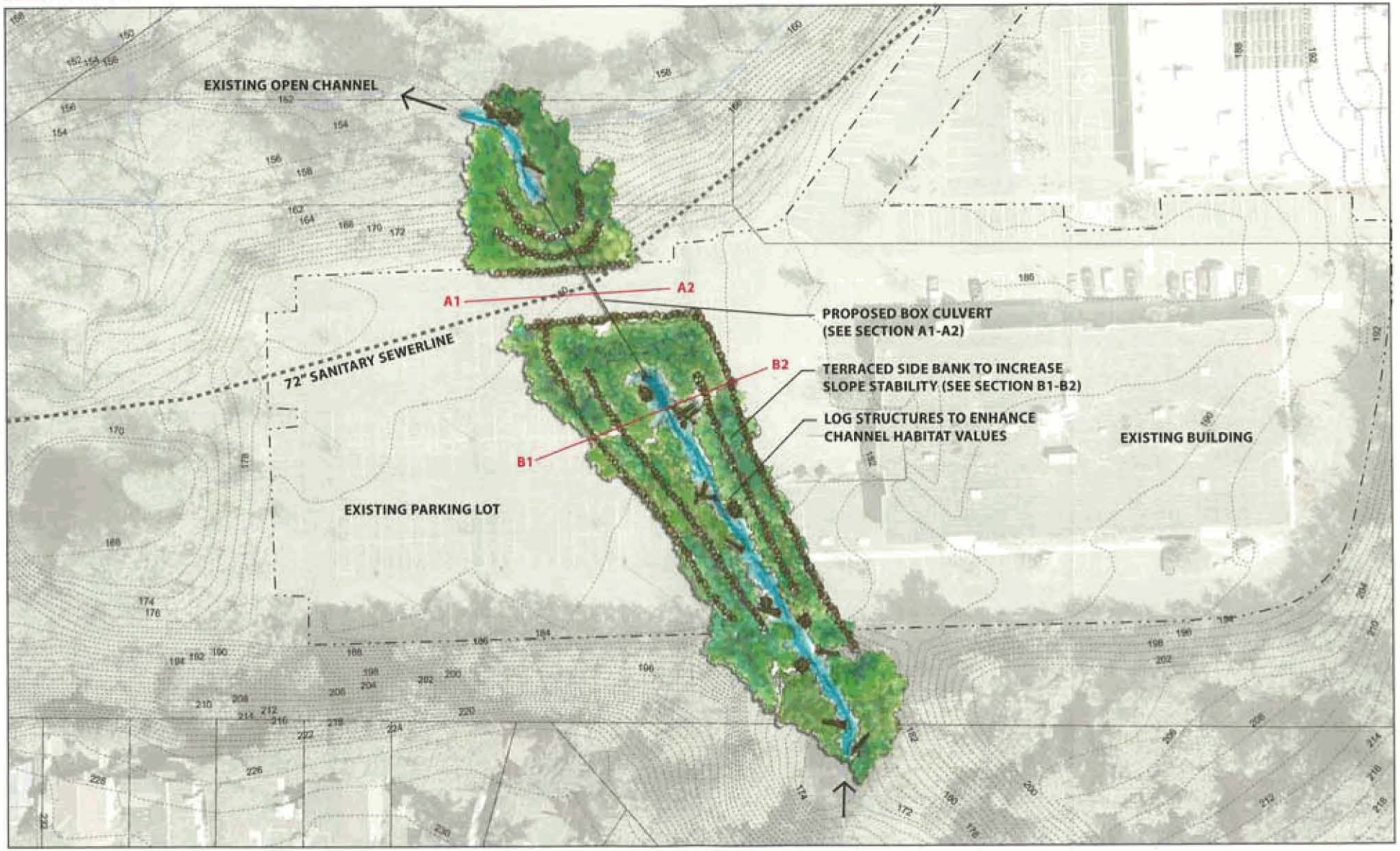


PLUNGE BELOW 350' CULVERT - LOOKING UPSTREAM / EAST (4/21/04)

PLUNGE CLOSE-UP

THE WATERSHED COMPANY

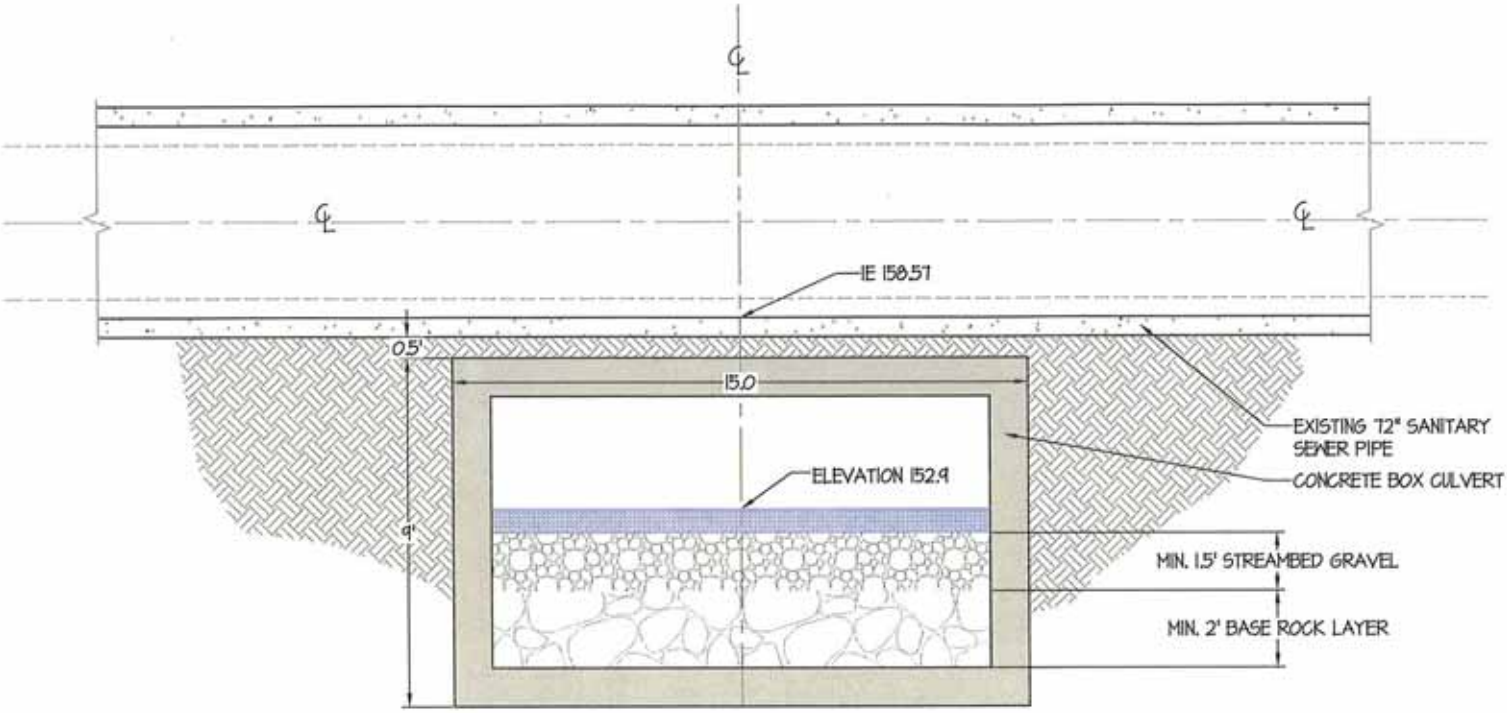
FORBES CREEK DAYLIGNTING ALTERNATIVE II - **DIRECT OPEN CHANNEL** 1" = 50'



THE WATERSHED COMPANY

FORBES CREEK DAYLIGHTING II

DIRECT OPEN CHANNEL: SECTION A & B



SECTION A1-A2

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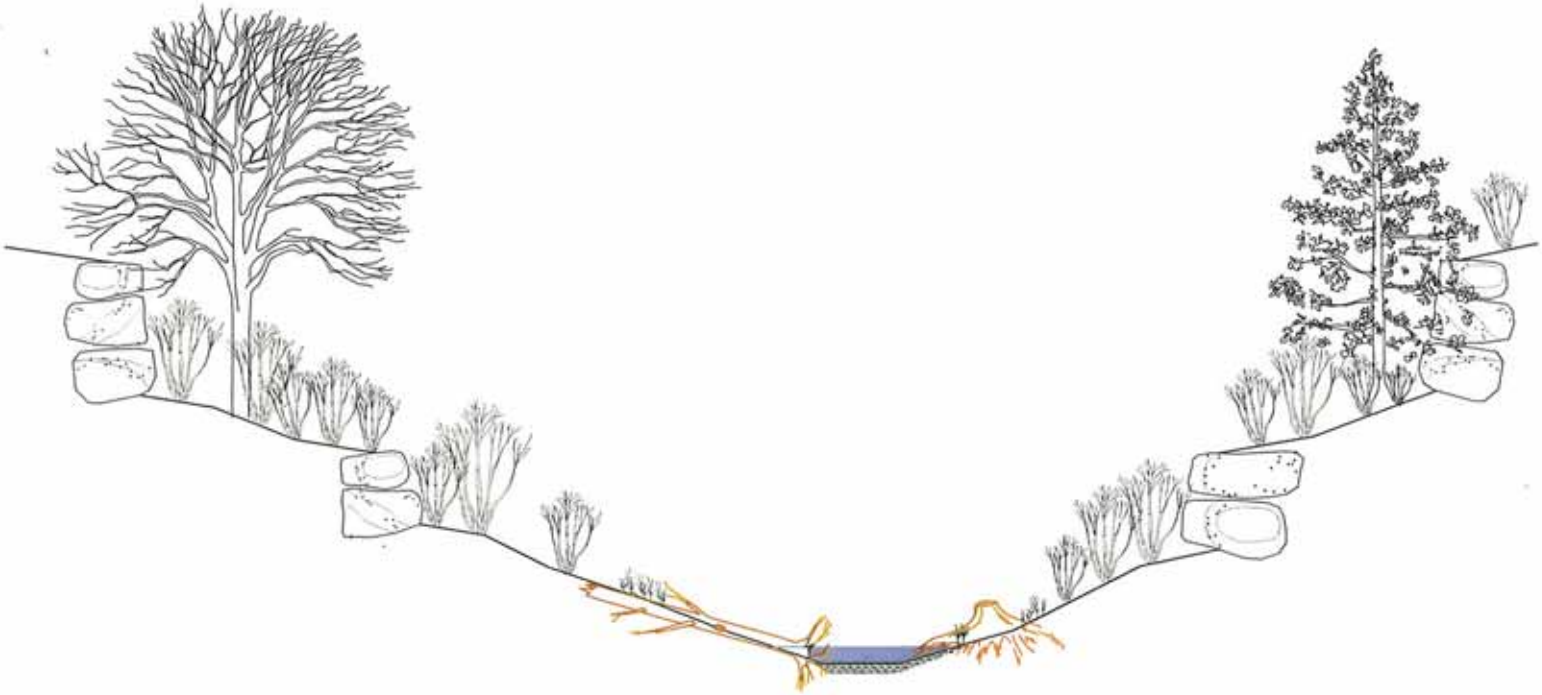

SECTION B1-B2

SCALE 1"=1'

ORDINANCE NO.4051

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE, AMENDING CHAPTERS 1, 5, 55, 60 and 180 OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE), AND AMENDING ORDINANCE 3710 AS AMENDED, THE KIRKLAND ZONING MAP (FILE NO. ZON04-00020).

WHEREAS, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated December 15, 2005, and bearing Kirkland Department of Planning and Community Development File No. ZON04-00020; and

WHEREAS, prior to making the recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on October 27, 2005, 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 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

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

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Code (Title 23 of the Kirkland Municipal Code) are amended to read as follows:

A. Chapter 1. User Guide:
Text amendments to Section 1.05 to add references to new TL 10B, TL 10C, TL 10D and TL 10E zones, and to delete the reference to PLA, 11, as shown in Exhibit A attached to this ordinance and incorporated by reference.

B. Chapter 5 Definitions:
Text amendments to Sections 5.10.595 and 5.10.960 as shown in Exhibit B attached to this ordinance and incorporated by reference.

C. Chapter 55 Totem Lake (TL) Zones:
Text amendments to add new Use Zone Charts for TL 10B, TL 10C, TL 10D and TL 10E, as shown in Exhibits C-F attached to this ordinance and incorporated by reference.
Text amendment to revise text in General Regulations for TL 6B, as shown in Exhibit G.

D. Chapter 60 Planned Area 12: Delete the PLA 11 Use Zone Chart, as shown in Exhibit H.

E. Chapter 180 Plates
Text amendments to add Plates Y and Z, as shown in Exhibit I and J attached to this ordinance and incorporated by reference.

Section 2. Zoning Map amended: The following specified zones of the Ordinance 3710 as amended, the Kirkland Zoning Map, are amended as follows:

To add new TL 10B, TL 10C, TL 10D and TL 10E zoning categories and delete the PLA 11 zoning designation on the zoning map, as set forth in Exhibit K which by this reference is incorporated herein.

Section 3. 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 4. This ordinance shall be in force and effect five days from and after its passage by the 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.

Section 5 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 _____, 2006.

SIGNED IN AUTHENTICATION THEREOF this _____ day of _____, 2006.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____,
City Attorney

Chapter 1 – USER GUIDE

Sections:
1.05 How To Use This Code
1.10 Additional Regulations

1.05 How To Use This Code

This code has been designed and drafted to make it as easy as possible for the user to determine all land use regulations that apply to a particular piece of property and to uses, structures, and activities on that piece of property. Follow the step-by-step procedure laid out below to find applicable regulations.

1. Find the subject property on the Zoning Map. The subject property will be within one of the following use zones sequentially listed:

RS	BC	JBD 1	NRH6	ILC
RSX	BCX	JBD 2	TL 1A	PLA 9
RM	LIT	JBD 3	TL 1B	TL 4B
PR	P	JBD 4	TL 2	TL 4C
PO	CBD 1	JBD 5	TL 3	PLA 14
WD I	CBD 2	JBD 6	TL4A	PLA 15
WD II	CBD 3	NRH1A	PLA 1	PLA 16
WD III	CBD 4	NRH1B	PLA 2	PLA 17
	CBD 5	NRH2	PLA 3	PLA 17A
	CBD 6	NRH3	PLA 5	RH 1A
FC 1		PLA 8	PLA 10	~~PLA 11~~
FC III	CBD 7	NRH4	PLA 6	RH 1B
BN	CBD 8	NRH5	PLA 7	RH 2A
RH 2B	RH 2C	RH 3	RH 4	RH 5A
RH 5B	RH 5C	RH 7	RH 8	TL 5
TL 6A	TL 6B	TL 7	TL 8	TL 10A
TL 10B	TL 10C	TL 10D	TL 10E	TL 11

2. Refer to the text of this code and find the chapter that corresponds to the use zone in which the subject property is located.

3. Each of these use zone chapters contains a series of charts. Read down the first vertical column of each chart to find the use in which you are interested. In some zones, certain uses are listed specifically (e.g., “Retail variety or department store” in Neighborhood Business Zones). In other zones, uses are listed generally (e.g., “Any retail establishment ... selling goods or providing services...” in Community Business Zones). In many cases, the general listing encompasses what could otherwise be numerous separate uses.

   Uses and activities that fall under the definition of “adult entertainment use or activity” are not permitted except as allowed in Chapter 72 KZC.

Chapter 5 – DEFINITIONS – Revised 05-06

Sections:
5.05 User Guide
5.10 Definitions

.145 Commercial Zones – The following zones: BN; BC; BCX; CBD; JBD 1; JBD 2; JBD 4; JBD 5; JBD 6; NRH 1A; NRH 1B; NRH 4; RH 1A, RH 1B, RH 2A, RH 2B, RH 2C, RH 3, RH 5A, RH 5B, RH 5C, RH 7, TL 2, TL 4A, TL 4B, TL 5, TL 6A, TL 6B and TL 8.

.475 Linear Frontage of Subject Property – The frontage of the subject property adjacent or parallel to all open improved public rights-of-way. Frontage adjacent to I-405 is not applicable except for properties within TL 4A and TL 6B (east of 116th Avenue NE) ~~and~~. If the subject property does not have frontage on an open improved right-of-way, the frontage of any public access easements which serve the subject property and unopened rights-of-way which front on the subject property is the linear frontage of the subject property.

.400 Industrial Zones - .The following zones: LIT; PLA 6G; and TL 7.

.595 Office Zones – The following zones: PO; PR 8.5; PR 5.0; PR 3.6; PR 2.4; PR 1.8; JBD 3; PLA 3A; PLA 5B, C; PLA 6B; ~~PLA 11~~; PLA 15A; PLA 17A, FC III; NRH 2; NRH 3; NRH 5; NRH 6; RH 4, RH 8, TL 1A, TL 10A, TL 10B, TL 10C, TL 10D, and TL 10E.

.785 Residential Zone – The following zones: RS 35; RSX 35; RS 12.5; RSX 12.5; RS 8.5; RSX 8.5; RS 7.2; RSX 7.2; RS 5.0; RSX 5.0; RM 5.0; RM 3.6; RM 2.4; RM 1.8; WD I; WD II; WD III; PLA 2; PLA 3B; PLA 5A, D, E; PLA 6A, C, D, E, F, H, I, J, K; PLA 7A, B, C; PLA 9; PLA 15B; PLA 16; and PLA 17 and TL 11.

.960 Use Zone – The zoning designations on the Zoning Map as follows:

RS 35		NRH 1A	PLA 6C
RSX 35		NRH 1B	PLA 6D
RS 12.5	FC III	NRH 2	PLA 6E
RSX 12.5		NRH 3	PLA 6F
RS 8.5	BN	NRH 4	PLA 6G
RSX 8.5	BC	NRH 5	PLA 6H
RS 7.2	BCX	NRH 6	PLA 6I
RS 5.0			PLA 6J
RSX 5.0	LIT	TL 1A	PLA 6K
	P	TL 1B	PLA 7A
RM 5.0		TL 2	PLA 7B

RM 3.6	CBD 1	TL 3	PLA 7C
RM 2.4	CBD 2	TL 4A	PLA 9
RM 1.8	CBD 3	TL 4B	TL 7
	CBD 4	TL 4C	TL 8
WD I	CBD 5	PLA 1	TL 10A
WD II	CBD 6	PLA 2	TL 10B
WD III	CBD 7	PLA 3A	TL 10C
	CBD 8	PLA 3B	TL 10D
PR 8.5		PLA 5A	TL 10E
PR 5.0	JBD 1	PLA 5B	PLA 15A
PR 3.6	JBD 2	PLA 5C	PLA 15B
PR 2.4	JBD 3	PLA 5D	PLA 16
PR 1.8	JBD 4	PLA 5E	PLA 17
	JBD 5	PLA 6A	PLA 17A
PO	JBD 6	PLA 6B	TL 11
RH 1A	RH 3	RH 7	PLA 8
RH 1B	RH 4	RH 8	PLA 10A
RH 2A	RH 5A	TL 5	PLA 10B
RH 2B	RH 5B	TL 6A	PLA 10C
RH 2C	RH 5C	TL 6B	~~PLA 11~~

EXHIBIT B

TL 10B USE ZONE CHART

55 User Guide.

The charts in KZC 55.152 contain the basic zoning regulations that apply in TL 10B. 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 55.150 TL 10B

Section 55.150 – GENERAL REGULATIONS

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

1. Refer to Chapter 1 KZC to determine what other provision of this code may apply to the subject property.

2. If any portion of a structure is adjoining a low density zone, then either:
   a. The height of that portion of the structure shall not exceed 20 feet above average building elevation, or
   b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width.

   See KZC 115.30, Distance Between Structures Regarding Maximum Horizontal Facade Regulation, for further details.

3. The ability to accommodate new development in the TL 10B zone is dependent upon the extension of 118th Avenue NE to NE 116th Street as shown on Plate Y, Chapter 180, KZC. Consistent with and to the extent authorized by applicable statutes and court decisions, new development on properties across which this street in whole or in part extends, shall contribute to the creation of the street as follows:
   a) With all new development, the portions of this street crossing the subject property shall be dedicated as public right of way consistent with Plate Y, and
   b) With all new development exceeding 35 feet in height, the street shall be improved as determined by the Public Works Director.

   Minor deviations in the location and width of the street may be approved by the Public Works Director if the deviations will not negatively affect the functioning of the street.
4. Maximum allowable building height may be increased to 45' above average building elevation on parcels where dedication for the road is provided. Additional height increases beyond 45' above A.B.E. may be allowed for certain uses, as authorized in the Use Zone Chart.

5. Vehicular access to NE 116th is permitted only via 118th Avenue NE, or if the subject property does not have access to 118th Avenue NE (does not apply to Public Park use).
6. Any development activities requiring Design Review approval pursuant to KZC Section 142.15 shall be reviewed administratively (ADR), pursuant to KZC 142.25. Where gross floor area of an existing building is expanded by less than 10 percent, no design review is required.

7. Development must be designed to retain the existing hill along NE 116th St. and retain at a minimum, 25 percent of the viable significant trees. The City may require a greater than 25 percent depending on the location and clustering of trees (does not apply to Public Park use).
8. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142, KZC for requirements.

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
.010	Attached or Stacked Dwelling Units (see Special Regulation 1).	D.R., Chapter 142, KZC (See General Regulation 6).	None	20'	5', but 2 side yards must equal at least 15''	10'	70%	35 to 60' above average building elevation (see General Regulation 4 and Special regulation 2).	D	A	1.7 per unit.	1. This use is permitted only on parcels located west of the 118th Avenue NE right of way alignment (see Plates Y and Z, Chapter 180). 2. Maximum building height may be increased from 35' to 60' if at least 10 percent of the units provided in new residential developments of 10 units or greater are affordable housing units, as defined in Chapter 5 of the KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 of the KZC). 3. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.
.020	Manufacturing See Special Regulation 1	D.R., Chapter 142, KZC (See		20′	0′	0′	70%	35′ above average building elevation. (See General	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. The following manufacturing uses are permitted: a. Food, drugs, stone, clay, glass, china, ceramic products, electrical equipment, scientific or photographic equipment, fabricated metal products;

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
.030	Warehouse Storage Services	General Regulation 6).						Regulation 4).				b. Fabricated metal products, but not fabrication of major structural steel forms, heavy metal processes, boiler making, or similar activities; c. Cold mix process only of soap, detergents, cleaning preparations, perfumes, cosmetics, or other toilet preparations; d. Packaging of prepared materials; e. Textile, leather, wood, paper and plastic products from pre-prepared material; and f. Other compatible uses which may involve manufacturing, processing, assembling, fabrication and handling of products, and research and technological processes. 2. Outdoor fabrication is not permitted. Outdoor storage must be located as far as possible from the adjoining residential zones and the freeway. 3. May include as part of this use accessory retail sales, office or service occupying not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 4 The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing gross floor area of the building 5. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 6. Refer to KZC 115.105 for provisions regarding Outdoor Use, Activity and Storage.

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
.040	Wholesale Trade	D.R., Chapter 142, KZC (See	None	20′	0′	0′	70%	35′ above average building elevation. (See General	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. Outdoor fabrication is not permitted. Outdoor storage must be located as far as possible from the adjoining residential zones and the freeway. 2. May include as part of this use, accessory retail sales, office or service occupying not more than 20 percent of the gross floor area. The
.050	Industrial Laundry Facility											

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
.060	Wholesale Printing or Publishing	General Regulation 6).						Regulation 4).				landscaping and parking requirements for these accessory uses will be the same as for the primary use. 3 The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing gross floor area of the building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 5. Refer to KZC 115.105 for provisions regarding Outdoor Use, Activity and Storage.
.070	Wholesale Establishment or Contracting Services in Building Construction, Plumbing, Electrical, Landscaping, or Pest Control								B			

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
.080	Office Use							40' to 55' above average building elevation. (See Special Regulation 1 and General Regulations 3 and 4).	C	D	If a Medical, Dental, or Veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. Maximum building height may be increased from 40' to 55' above average building elevation on parcels where dedication for the road is provided, pursuant to General Regulations 3 and 4. 2. The following regulations apply only to veterinary offices: a. Outdoor runs or other outdoor facilities for the animals must comply with Landscape Category A. b. Outside runs and other outside facilities for the animals must be setback at least 10 feet from each property line and must be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.090	High Technology	D.R., Chapter 142, KZC (See General Regulation 6).	None	20′			70%		C (see Special Regulation 4).	D	If manufacturing then 1 per each 1,000 sq. ft. of gross floor area. If office then 1 per 300 sq. ft. of gross floor area. Otherwise, See KZC 105.25.	1. Maximum building height may be increased from 40’ to 55’ above average building elevation on parcels where dedication for the road is provided, pursuant to General Regulations 3 and 4. 2. This use may include research and development, testing, assembly, repair or manufacturing or offices that support businesses involved in the pharmaceutical and biotechnology, communications and information technology, electronics and instrumentation, computers and software sectors. 3. Refer to KZC 115.105 for provisions regarding Outside Use, Activity and Storage. 4. Any outdoor storage area shall be buffered according to Landscape Category A.
.100	Mini-Day-Care See Special Regulation 8.		None	20′	0′	0′	70%	35′ above average building elevation. (See General Regulation 4).	D	B	See KZC 105.25.	1. A six-foot-high fence is required along the property lines adjacent to the outside play area. 2. Hours of operation may be limited to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines by 5 feet. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 8. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; and

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
												b. The use is integrated into the design of the building.
.110	Church			20′					C		1 for every 4 people based on maximum occupancy load of any area of worship. See Special Regulation 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to the use.
.120	A retail establishment providing storage services (see special regulation								A	E	See KZC 105.25.	1. May include accessory living facilities for staff persons. 2. Outdoor storage must be located as far as possible from the adjoining residential zones and the freeway. 3. This use is only allowed east of the 118th Avenue NE right-of-way alignment and its future extension to NE 116th Street (see Plate Y).

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
	3).											
.130	Public Utility									B		1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.140	Government Facility or Community Facility						70%		C See Spec. Reg. 1.			
.150	Public Park	Development standards will be determined on a case by case basis. See KZC Chapter 49 for required review process.										
.160	School or Day-Care Center	D.R., Chapter 142, KZC (See General Regulation 6).	None	If this use can accommodate 50 or more students or children, then: 50′	50′ on each side	50′	70%	35′ above average building elevation (See General Regulation 4).	C	B	See KZC 105.25.	1. A six-foot-high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 2Hours of operation and maximum number of attendees at one time may be limited to reduce impacts on nearby residential uses. 3.Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. c. Otherwise, five feet. 4. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered

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TL 10B USE ZONE CHART
Section 55

Section 60.152	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
				If this use can accommodate 13 to 49 students or children, then: 20′ 20′ on each side 20′ Otherwise: 20′ 5′, but 2 side yards must equal at least 15′ 10′								loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on any nearby residential uses. 6. Electrical signs shall not be permitted. 7. May include accessory living facilities for staff persons. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388)..

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TL 10C Use Zone Chart

Chapter 55 – Totem Lake (TL) Zones[1]

55.xx User Guide.

The charts in KZC 55.xx contain the basic zoning regulations that apply in the TL 10C zone 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.

TL 10C	Section 55.xx – GENERAL REGULATIONS The following regulations apply to all uses in this zone unless otherwise noted: 1. Refer to Chapter 1 KZC to determine what other provision of this code may apply to the subject property. 2. Access for drive through facilities must be approved by the Public Works Official. See Chapter 105, KZC for requirements. 3. When a permitted use is included as an accessory use within the structure of a primary use with a taller height limit, the height limit for the primary use applies. 4. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 20 feet above average building elevation, or b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures Regarding Maximum Horizontal Facade Regulation, for further details. 5. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 152, KZC for requirements.

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.10	Attached or Stacked Dwelling Units (See Special Regulation 1).	D.R., Chapter 142, KZC	None	20'	5', but 2 side yards must equal at least 15''	10'	80%	Where adjoining a low density zone, 30' above average building elevation. Otherwise, up to 55' above average building elevation. (See special regulation 4).	D	A	1.7 per unit.	1. This use is permitted as a free-standing development only in locations identified on Plate Z as "Stand-Alone Housing Areas" (see Plate Z, Chapter 180). If developed in a mixed-use project with three stories of office or high technology use, it may be located throughout the TL 10C zone. 2. At least 10 percent of the units provided in new residential developments of 10 units or greater must be affordable housing units, as defined in Chapter 5 of the KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. 3. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 of the KZC). 4. No portion of a structure may exceed the following heights above the elevation of NE 116th Street, as measured at the midpoint of the frontage of the subject property on NE 116th Street: a. Within 20 feet of NE 116th Street, 35' b. Within 30 feet of NE 116th Street, 45' c. Within 40 feet of NE 116th Street, 55' 5. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.020	Warehouse Storage Service									C	1 per each 1,000 sq. ft. of gross floor area.	1. May include as part of this use, accessory retail sales, office or service occupying no more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 2.The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, .expansion of the floor area of this use may not exceed 20% of the existing gross floor area of the building 3. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 4. Refer to KZC 115.105 for provisions regarding Outdoor Use, Activity and Storage.
.030	Wholesale Trade											
.040	Industrial Laundry Facility											
.050	Wholesale Printing or Publishing											
.060	Wholesale Establishment or Contracting Services in Building Construction, Plumbing, Electrical,	D.R., Chapter 142 KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30 above average building elevation, Otherwise, 35′ above average building elevation.	B	E	1 per each 1,000 sq. ft. of gross floor area.	1. May include as part of this use, accessory retail sales, office or service occupying no more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 2. Outdoor storage for this use must be buffered as established in Chapter 95 KZC for Landscaping Category A. 3. The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
	Landscaping, or Pest Control											otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing floor area of the building 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 5. Refer to KZC 115.105 for provisions regarding Outdoor Use, Activity and Storage.
.08	A Retail Establishment Providing Banking and Related Financial Services										1 per each 300 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. It will not be located in a separate structure from the primary use c. It will not exceed 50% of the ground floor area of the building; d. The use is integrated into the design of the building; and e. There is no vehicle drive-in or drive-through .

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.90	Office Use	D.R., Chapter 142, KZC	None	20'	0'	0'	80%	. Where adjoining a low density zone, then 30' above average building elevation. Otherwise, 40' above average building elevation (see also Special Regulations 2 and 3).	C See also spec. Reg. 1a.		If Medical, Dental or Veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply only to veterinary offices: a. If there are outdoor runs or other outdoor facilities for the animals, then use must comply with Landscape Category A. b. Outside runs and other outside facilities for the animals must be setback at least 10 feet from each property line and must be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. 2. When three stories of this use are developed in a mixed-use project with attached or stacked dwelling units, building height may be increased by 10 feet per floor of residential use, not to exceed 55' above average building elevation. 3. No portion of a structure may exceed the following heights above the elevation of NE 116th Street, as measured at the midpoint of the frontage of the subject property on NE 116th Street: a. Within 20 feet of NE 116th Street, 35' b. Within 30 feet of NE 116th Street, 45' c. Within 40 feet of NE 116th Street, 55'
.100	High Technology						80%	Where adjoining a low density zone, then 30' above average building elevation. Otherwise, 40' above average building elevation (see also Special Regulations 2 and 3).	A	D	If manufacturing then 1 per each 1,000 sq. ft. of gross floor area. If office then 1 per 300 sq. ft. of gross floor area.	1. This use may include research and development, testing, assembly, repair or manufacturing or offices that support businesses involved in the pharmaceutical and biotechnology, communications and information technology, electronics and instrumentation, computers and software sectors. 2. When three stories of this use are developed in a mixed-use project with attached or stacked dwelling units, building height

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
											Otherwise, see KZC 105.25.	may be increased by 10 feet per floor of residential use, not to exceed 55' above average building elevation. 3. No portion of a structure may exceed the following heights above the elevation of NE 116th Street, as measured at the midpoint of the frontage of the subject property on NE 116th Street: d. Within 20 feet of NE 116th Street, 35' e. Within 30 feet of NE 116th Street, 45' f. Within 40 feet of NE 116th Street, 55' 4. May include as part of this use, accessory retail sales or service occupying not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 5. Refer to KZC 115.105 for provisions regarding Outside Use, Activity and Storage.

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.110	School, Day Care Center, Mini-School or Mini-Day-Care Center See Special Regulation 1.	D.R., Chapter 142, KZC	None	20’	0’	0’	80%	Where adjoining a low density zone, then 30’’ above average building elevation. Otherwise 35’ above average building elevation.	D	B	See KZC 105.25	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building. 2. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 3. Hours of operation may be limited to reduce impacts on nearby residential uses. 4. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. c. 5 feet for a Mini-School or Day-Care Center 5. An on-site passenger loading area may be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on any nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.120	Public Utility	D.R.,	None	20’	0’	0’	80%	Where adjoining a low	C	B	See KZC 105.25	1. Landscape Category A or B may be required depending on the

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.130	Government Facility Community Facility	Chapter 142, KZC						density zone, 30 above average building elevation Otherwise, 35' above average building elevation	See Spec. Reg. 1.			type of use on the subject property and the impacts associated with the use on the nearby uses.
.140	Vehicle or boat sales, repair, services, washing or rental See Spec. Reg. 1.								A	E		1. Vehicle or boat sales or rental uses are only permitted if the property abuts NE 116th Street. 2. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in Chapter 105 KZC. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
.150	Restaurant, Tavern or Fast Food Restaurant See Spec. Reg. 1.								B		1 per each 100 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. It is not located in a separate structure from the primary use, b. The use is integrated into the design of the building; and c. There is no vehicle drive-in or drive-through. d. One waste receptacle is provided for every 8 parking stalls for fast food restaurants.
.160	Public Park	Development standards will be determined on a case by case basis. See KZC Chapter 49 for required review process.										

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TL 10C Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.170	Commercial Recreation Area and Use	D.R., chapter 142, KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30 above average building elevation Otherwise, 35′ above average building elevation.	A	E	See KZC 105.25.	1. The use is permitted only if the property is located between NE 107th Street (extended) and NE 116th Street; and between I-405 and 116th Avenue NE. 2. The use shall be conducted within a wholly-enclosed building. 3. The structure containing the use shall have been in existence on June 1, 2004, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space.

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10_Exhibit E TL 10D Use Zone Chart - 0506

Chapter 55 TOTEM LAKE (TL) ZONES[1]

55.xx User Guide.

The charts in KZC 55.15 contain the basic zoning regulations that apply in the TL 10D 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 5510TL 10D

Zone

Section 55.xx – GENERAL REGULATIONS

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

1. Refer to Chapter 1 KZC to determine what other provision of this code may apply to the subject property.

2. If any portion of a structure is adjoining a low density zone, then either:
   a. The height of that portion of the structure shall not exceed 20 feet above average building elevation, or
   b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width.

   See KZC 115.30, Distance Between Structures Regarding Maximum Horizontal Facade Regulation, for further details.
3. When a permitted use is included as an accessory use within the structure of a primary use with a taller height limit, the height limit for the primary use applies.

.010	Packaging of Prepared Materials Manufacturing See Spec. Regs. 1 and 2.	D.R., Chapter 142, KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30' above average building elevation. Otherwise, 35′ above average building elevation.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. The following manufacturing uses are permitted: a. Food, drugs, stone, clay, glass, china, ceramics products, electrical equipment, scientific or photographic equipment, fabricated metal products; b. Fabricated metal products, but not fabrication of major structural steel forms, heavy metal processes, boiler making, or similar activities; c. Cold mix process only of soap, detergents, cleaning preparations, perfumes, cosmetics, or other toilet preparations; d. Packaging of prepared materials;

[1]Code reviser's note: The LIT zone was renumbered from Chapter 55 to Chapter 48 to accommodate the additions of the Totem Lake zones, presently in Chapter 55.

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
												e. Textile, leather, wood, paper and plastic products from pre-prepared material; and f. Other compatible uses which may involve manufacturing, processing, assembling, fabrication and handling of products, and research and technological processes. 2. May include as part of this use, accessory retail sales,or service using not more than 20 percent of the gross floor area. The floor area of accessory office use is not limited. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 3 The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing gross floor area of the building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 5. Refer to KZC 115.105 for provisions regarding Outdoor Use, Activity and Storage.
.020	Warehouse Storage Service									C	1 per each 1,000 sq. ft. of gross floor area.	1. May include as part of this use, accessory retail sales, or service occupying no more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses
.030	Wholesale Trade											

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.040	Industrial Laundry Facility											will be the same as for the primary use. 2. The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing gross floor area of the building. 3. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 4. Refer to KZC 115.105 for provisions regarding Outdoor Use, Activity and Storage.
.050	Wholesale Printing or Publishing											
.060	Wholesale Establishment or Contracting Services in Building Construction, Plumbing, Electrical, Landscaping, or Pest Control	D.R., Chapter 142, KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30 ‘ above average building elevation Otherwise, 35′ above average building elevation.	B	E	1 per each 1,000 sq. ft. of gross floor area.	1. May include as part of this use, accessory retail sales, office or service occupying no more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 2. Outdoor storage for this use must be buffered as established in Chapter 95 KZC for Landscaping Category A. 3. The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing gross

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
												floor area of the building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space. 5. Refer to KZC 115.105 for provisions regarding Outdoor Use, Activity and Storage.
.070	A Retail Establishment Providing Banking and Related Financial Services			10'							1 per each 300 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building; c. It will not be located in a separate structure from the primary use, c. It will not exceed 50% of the ground floor area of the building, and d. There is no vehicle drive-in or drive-through.

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.080	High Technology	D.R., Chapter 142, KZC	None	10'	0'	0'	80%	Where adjoining a low density zone, 30' above average building elevation. Otherwise, 80' above average building elevation (see Special Regulation 1).	C (See Spec. Reg. 5	D	If manufacturing then 1 per each 1,000 sq. ft. of gross floor area. If office then 1 per 300 sq. ft. of gross floor area. Otherwise, see KZC 105.25.	1. If this use is located within the "Stand-Alone Housing Areas" (see Plate Z, Chapter 180), maximum building height is 65' above average building elevation. 2. This use may include research and development, testing, assembly, repair or manufacturing or offices that support businesses involved in the pharmaceutical and biotechnology, communications and information technology, electronics and instrumentation, computers and software sectors. 3. May include as part of this use, accessory retail sales or service occupying not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 4. Refer to KZC 115.105 for provisions regarding Outside Use, Activity and Storage. 5. Any outdoor storage area must be buffered according to Landscape Category A.
.090	Office Use								C See also Spec. Reg. 2a.		If a Medical, Dental, or Veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. If this use is located within the "Stand-Alone Housing Areas" (see Plate Z, Chapter 180), maximum building height is 65' above average building elevation. 2. The following regulations apply only to veterinary offices: a. If there are outdoor runs or other outdoor facilities for the animals, then use must comply with Landscape Category A. b. Outside runs and other outside facilities for the animals must be setback at least 10 feet from each property line and must be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.100	Attached or Stacked Dwelling Units (see Special Regulation 1).	D.R., Chapter 142, KZC	None	10'	5', but 2 side yards must equal at least 15''	10'	80%	Where adjoining a low density zone, 30' above average building elevation. Otherwise, up to 65' above average building elevation. (See special regulation 1).	D	A	1.7 per unit.	1. This use is permitted as a free-standing development only in locations identified on Plate Z as "Stand-Alone Housing Areas" (see Plate Z, Chapter 180). If developed in a mixed-use project with three stories of office or high technology use, it may be located throughout the TL 10D zone. 2. Maximum building height may be increased as follows: a. Maximum building height is 45' feet above average building elevation where not adjoining a low density zone, and where affordable housing units as described in 1.b below are not provided, and b. Maximum building height is 65' above average building elevation where not adjoining a low density zone, and where at least 10 percent of the units provided in new residential developments of 10 units or greater are affordable housing units, as defined in Chapter 5 of the KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 of the KZC). 3. Chapter 115 KZC contains regulations regarding home

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
												occupations and other accessory uses, facilities and activities associated with this use.

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.110	Day-Care Center and Mini-Day-Care Center See Special Regulation 1.	D.R., Chapter 142, KZC		20'	0'	0'	80%	Where adjoining a low density, then 30'' above average building elevation. Otherwise, 35' above average building elevation.	D	B	See KZC 105.25.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building. 2. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 3. Hours of operation may be limited to reduce impacts on nearby residential uses. 4. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. c. 5 feet for a Mini-Day-Care Center. 5. An on-site passenger loading area may be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on any nearby residential uses. 6. May include accessory living facilities for staff persons. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on any nearby residential uses. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.120	Public Utility								C	B		1. Landscape Category A or B may be required depending on the

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.130	Government Facility Community Facility								See Spec. Reg. 1.			type of use on the subject property and the impacts associated with the use on the nearby uses.
.140	Restaurant, Tavern or Fast Food Restaurant See Spec. Reg. 1.	D.R., Chapter 142, KZC		20%			80%	Where adjoining a low density zone, 30 ' above average building elevation. Otherwise, 35' above average building elevation.	B	E	1 per each 100 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. It will not be located in a separate structure from the primary use, c. It will not exceed 50% of the ground floor area of the building, d. The use is integrated into the design of the building; e. There is no vehicle drive-in or drive-through, and f. One waste receptacle is provided for every 8 parking stalls for fast food restaurants.
.150	Commercial Recreation Area and Use	D.R., Chapter 142, KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30 ' above average building elevation Otherwise, 35′ above average building elevation.	A	E	See KZC 105.25.	1. The use is permitted only if the property is located between NE 107th Street (extended) and NE 116th Street; and between I-405 and 116th Avenue NE. 2. The use shall be conducted within a wholly-enclosed building. 3. The structure containing the use shall have been in existence on June 1, 2004, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration,

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TL 10D Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
												change or other work exceeds 30 percent of the replacement cost of that space.
.160	Public Park	Development standards will be determined on a case by case basis. See KZC Chapter 49 for required review process.										

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TL 10E Use Zone Chart

Chapter 55 – Totem Lake (TL) Zones[1]

55.xx User Guide.

The charts in KZC 55.xx contain the basic zoning regulations that apply in the TL 10E zone 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.

TL 10E	Section 55.xx – GENERAL REGULATIONS The following regulations apply to all uses in this zone unless otherwise noted: 1. Refer to Chapter 1 KZC to determine what other provision of this code may apply to the subject property. 2. Access for drive through facilities must be approved by the Public Works Official. See Chapter 105, KZC for requirements. 3. When a permitted use is included as an accessory use within the structure of a primary use with a taller height limit, the height limit for the primary use applies. 4. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 20 feet above average building elevation, or b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures Regarding Maximum Horizontal Facade Regulation, for further details. 5. Where a stream has been diverted into a pipe or culvert, development must not preclude future restoration of the stream to its historic corridor, removal of fish barriers, or the daylighting of the stream. The City may require the applicant to preserve 100 feet in width for the stream corridor. An increase in the allowable building height of 15 feet (beyond 100 feet of a low density zone), shall be extended to those parcels required to preserve land for stream restoration. The placement of buildings, driveways and parking areas shall be located to enable stream restoration to occur

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TL 10E Use Zone Chart

Section 48.15	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Packaging of Prepared Materials Manufacturing See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30’ above average building elevation, Otherwise, 35’ above average building elevation.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. The following manufacturing uses are permitted: a. Food, drugs, stone, clay, glass, china, ceramics products, electrical equipment, scientific or photographic equipment, fabricated metal products; b. Fabricated metal products, but not fabrication of major structural steel forms, heavy metal processes, boiler making, or similar activities; c. Cold mix process only of soap, detergents, cleaning preparations, perfumes, cosmetics, or other toilet preparations; d. Packaging of prepared materials; e. Textile, leather, wood, paper and plastic products from pre-prepared material; and f. Other compatible uses which may involve manufacturing, processing, assembling, fabrication and handling of products, and research and technological processes. 2. May include as part of this use, accessory retail sales, or service occupying not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 3 The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing gross floor area of the building 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration,

Draft

TL 10E Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
												change or other work exceeds 30 percent of the replacement cost of that space.
.020	Warehouse Storage Service									C	1 per each 1,000 sq. ft. of gross floor area.	1. May include as part of this use, accessory retail sales, or service occupying no more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 2 The structure containing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or
.030	Wholesale Trade											
.040	Industrial Laundry Facility											

Draft

TL 10E Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.050	Wholesale Printing or Publishing											otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. However, expansion of the floor area of this use may not exceed 20% of the existing gross floor area of the building. 3. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space.
.060	A Retail Establishment Providing Banking and Related Financial Services										1 per each 300 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. It will not be located in a separate structure from the primary use c. It will not exceed 50% of the ground floor area of the building; d. The use is integrated into the design of the building; and e. There is no vehicle drive-in or drive-through. .
.070	Office Use	D.R., Chapter 142, KZC	None	10'	0'	0'	80%	Where adjoining a low density zone, then 50' above average building elevation. Otherwise, 80' above average building	C See also spec. Reg.		If Medical, Dental or Veterinary office, then 1 per each 200 sq. ft. of gross floor	1. The following regulations apply only to veterinary offices: a. If there are outdoor runs or other outdoor facilities for the animals, then use must comply with Landscape Category A. b. Outside runs and other outside facilities for the animals must be setback at least 10 feet from each property line and must

Draft

TL 10E Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
								elevation	1a.		area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	be surrounded by a fence or wall sufficient to enclose the animals. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
.080	High Technology						80%	Where adjoining a low density zone, then 50' above average building elevation. Otherwise, 80' above average building elevation.	C See Spec. Reg. 3.	D	If manufacturing then 1 per each 1,000 sq. ft. of gross floor area. If office then 1 per 300 sq. ft. of gross floor area. Otherwise, see KZC 105.25.	1. This use may include research and development, testing, assembly, repair or manufacturing or offices that support businesses involved in the pharmaceutical and biotechnology, communications and information technology, electronics and instrumentation, computers and software sectors. 2. May include as part of this use, accessory retail sales or service occupying not more than 20 percent of the gross floor area. The landscaping and parking requirements for these accessory uses will be the same as for the primary use. 3. Refer to KZC 115.105 for provisions regarding Outside Use, Activity and Storage. 4. Any outdoor storage area must be buffered according to Landscape Category A.
.90	Public Utility	D.R., Chapter 142, KZC	None	20'	0'	0'	80%	If adjoining a low density zone, then 30' above average building elevation. Otherwise, 35' above average building elevation	C	B	See KZC 105.25	1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.100	Government Facility Community Facility								See Spec. Reg. 1			

Draft

TL 10E Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.110	Vehicle or boat repair, services, washing or rental See Spec. Reg. 1.			20′				Where adjoining a low density zone, 30 above average building elevation.		E		1. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in Chapter 105 KZC. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
.120	Restaurant, Tavern or Fast Food Restaurant See Spec. Reg. 1.			10’					B		1 per each 100 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. It is not located in a separate structure from the primary use, c. The use is integrated into the design of the building; and d. There is no vehicle drive-in or drive-through. e. One waste receptacle is provided for every 8 parking stalls for fast food restaurants. 2
.130	Commercial Recreation Area and Use	D.R., Chapter 142, KZC.	None	20′	0′	0′	80%	Where adjoining a low density zone, 30’ above average building elevation. Otherwise, 35′ above average building elevation.	A	E	See KZC 105.25.	1. The use is permitted only if the property is located between NE 107th Street (extended) and NE 116th Street; and between I-405 and 116th Avenue NE. 2. The use shall be conducted within a wholly-enclosed building. 3. The structure containing the use shall have been in existence on June 1, 2004, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building.

Draft

TL 10E Use Zone Chart

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
												4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space.
.140	Public Park	Development standards will be determined on a case by case basis. See KZC Chapter 49 for required review process.										

Draft

TL 6A and TL 6B USE ZONE CHART

CHAPTER 55 – TOTEM LAKE (TL) ZONES TL 6A, TL 6B

55.4545.05 User Guide.

The charts in KZC 55.45.10 contain the basic zoning regulations that apply in the TL 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 55.45

Section 55.45 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. Where feasible, primary access for non-residential uses within TL 6 shall be from 124th Avenue NE, NE 124th Street, or NE 120th Street.
3. The ground floor of all structures with frontage on a pedestrian or vehicular circulation route, or adjacent to a pedestrian-oriented space shall be a minimum of 15' in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, private lodges or clubs, stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day care centers, assisted living facilities, convalescent center or nursing homes, public utilities, government facilities or community facilities.
   b. Parking garages. ~~or~~
   c. Additions to existing non-conforming development where the Planning Official determines it is not feasible or~~.~~
   d. Parcels located more than 500 feet north of NE 124th Street, east of 116th Avenue NE.
4. Within TL 6B, at least 50% of the gross floor area located on the ground floor of all structures with frontage on a pedestrian or vehicular route, or adjacent to a pedestrian-oriented space must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to a major pedestrian sidewalk, a through block pedestrian pathway or an internal pathway (see also KZC Chapter 92). This regulation does not apply to parcels located more than 500 feet north of NE 124th Street, east of 116th Avenue NE.
5. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in TL zones are established:
   a. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.
   b. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal to or greater than four feet vertical to 12 feet horizontal.
6. The review process for development in this zone is as follows:
   a. In TL 6A, any development activities requiring Design Review approval pursuant to KZC Section 142.15 shall be reviewed administratively (ADR), pursuant to KZC 142.25. Where gross floor area of an existing building is expanded by less than 10 percent, no design review is required.
   b. In TL 6B, as set forth in Chapter 142.
7. Access for drive through facilities must be approved by the Public Works Official. See Chapter 105, KZC for requirements.
8. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 or 142, KZC for requirements.

DRAFT

This Section (All of PLA 11) to be deleted

60.149 User Guide.

The charts in KZC 60.152 contain the basic zoning regulations that apply in Planned Area 11, including sub-zones. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 60.150

Zone PLA11

Section 60.150 GENERAL REGULATIONS

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

1. Refer to Chapter 1 KZC to determine what other provision of this code may apply to the subject property.
2. If any portion of a structure is adjoining a low density zone, then either:
   a. The height of that portion of the structure shall not exceed 20 feet above average building elevation, or
   b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width.

See KZC 115.30, Distance Between Structures Regarding Maximum Horizontal Facade Regulation, for further details.
(Does not apply to Hazardous Waste Facility uses).

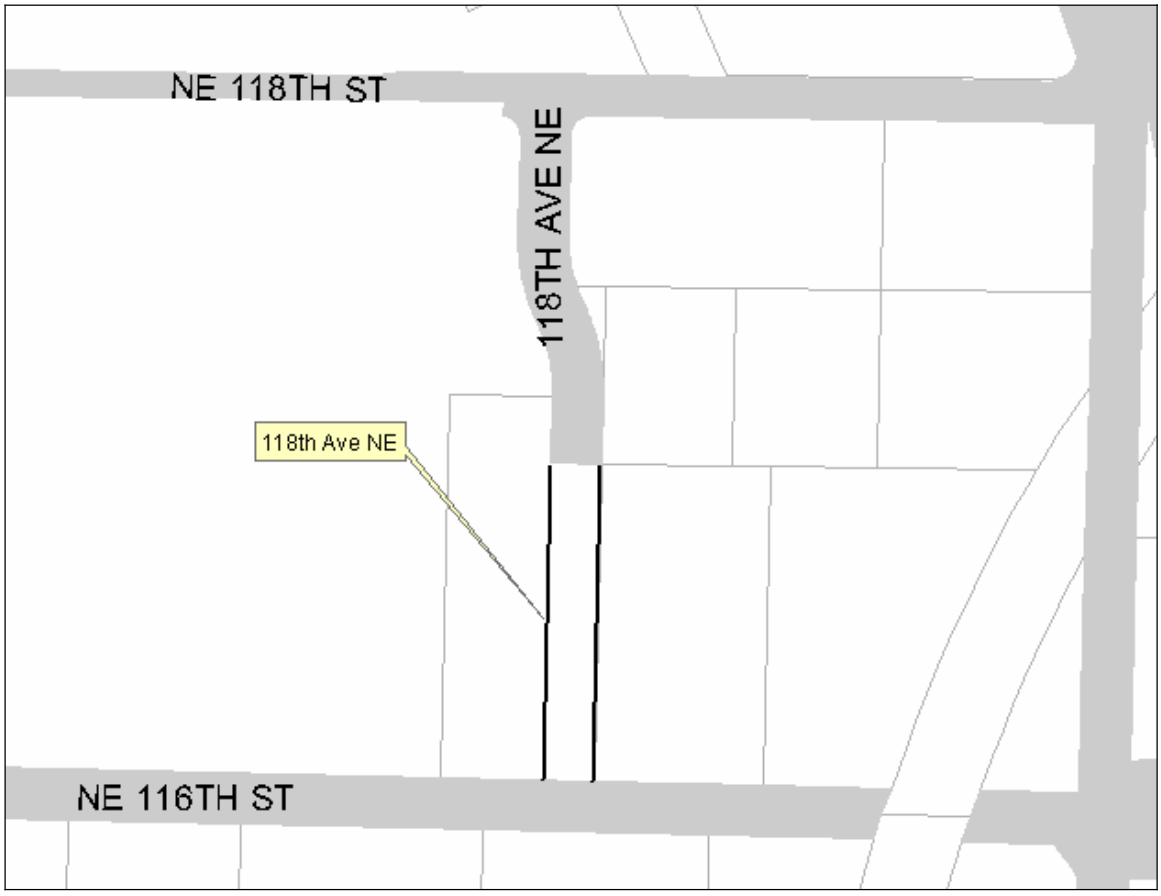
3. Site design must minimize visual impacts of development as viewed from the freeway (does not apply to Public Park and Hazardous Waste Treatment and Storage Facility uses).
4. Access onto NE 116th is permitted only if no other access is possible (does not apply to Public Park and Hazardous Waste Treatment and Storage Facility uses).
5. Except if adjoining a low density zone, structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if:
   a. It will not block local or territorial views designated in the Comprehensive Plan;
   b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
   c. The required yard of any portion of the structure may be increased up to a maximum of one foot for each foot that any portion of the struc ture exceeds 35 feet above average building elevation. The need for additional setback yards will be determined as part of the review of any request to increase structure height.

   (Does not apply to Public Park and Hazardous Waste Treatment and Storage Facility uses).
6. If the subject property adjoins a residential zone, noise exceeding that normally associated with a residential neighborhood must be mini mized using the best available technology (does not apply to Public Utility, Government or Community Facility, Public Park and Hazardous Waste Facility uses).
7. Development must be designed to retain the existing hill along NE 116th St. and retain at a minimum, 25 percent of the significant trees. The City may require a greater than 25 percent depending on the location and clustering of trees (does not apply to Hazardous Waste Treatment and Storage Facilities and Public Park uses).

Deleted

Chapter 180
Plate Y

118th Avenue NE Improvements

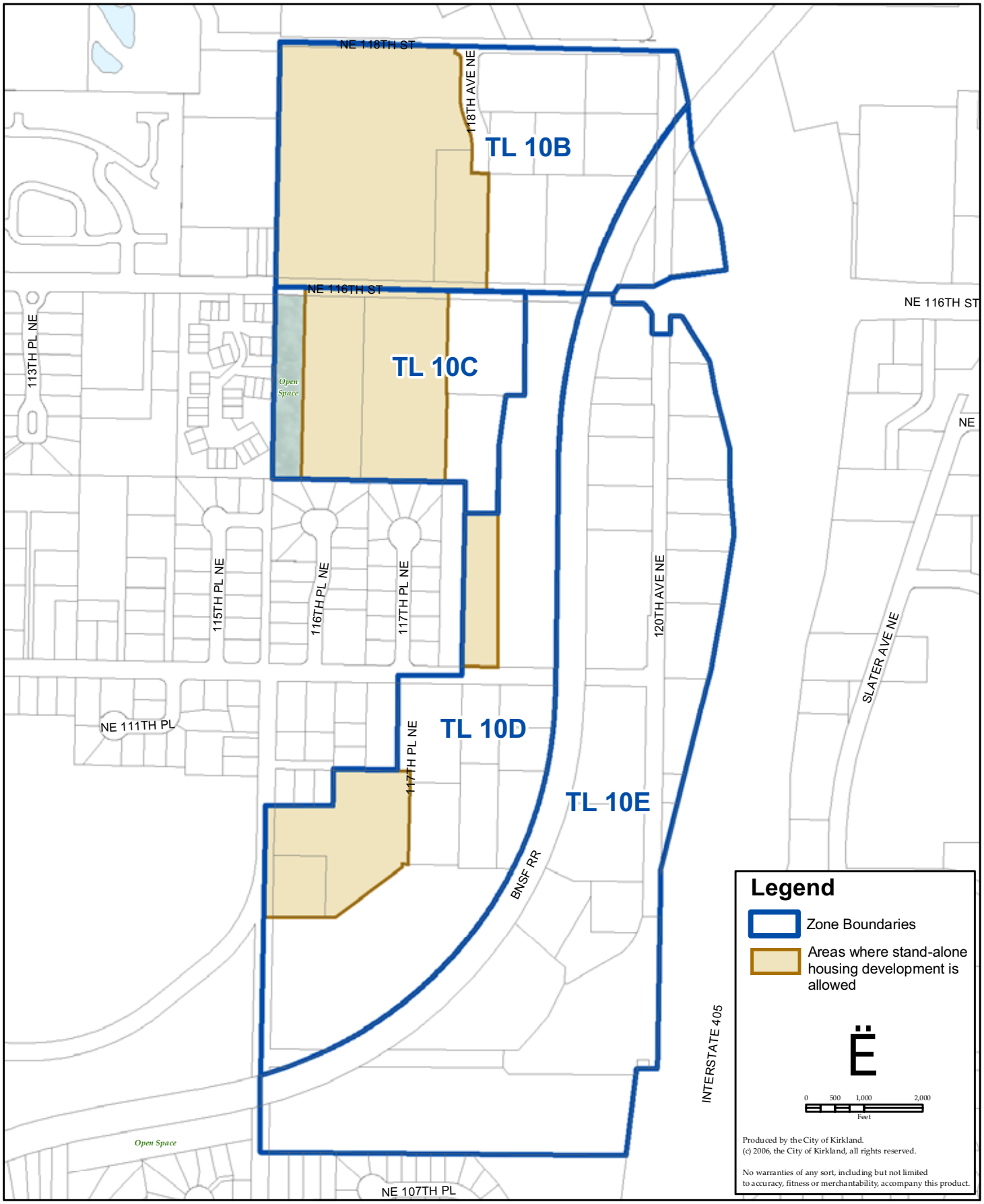


Required street improvements for 118th Avenue NE:

- 60 feet of public right-of-way
- A slope easement may be required, west of the 118th Avenue NE right-of-way, as determined by the Public Works Director.
- Specific improvements to be determined by the Public Works Director.

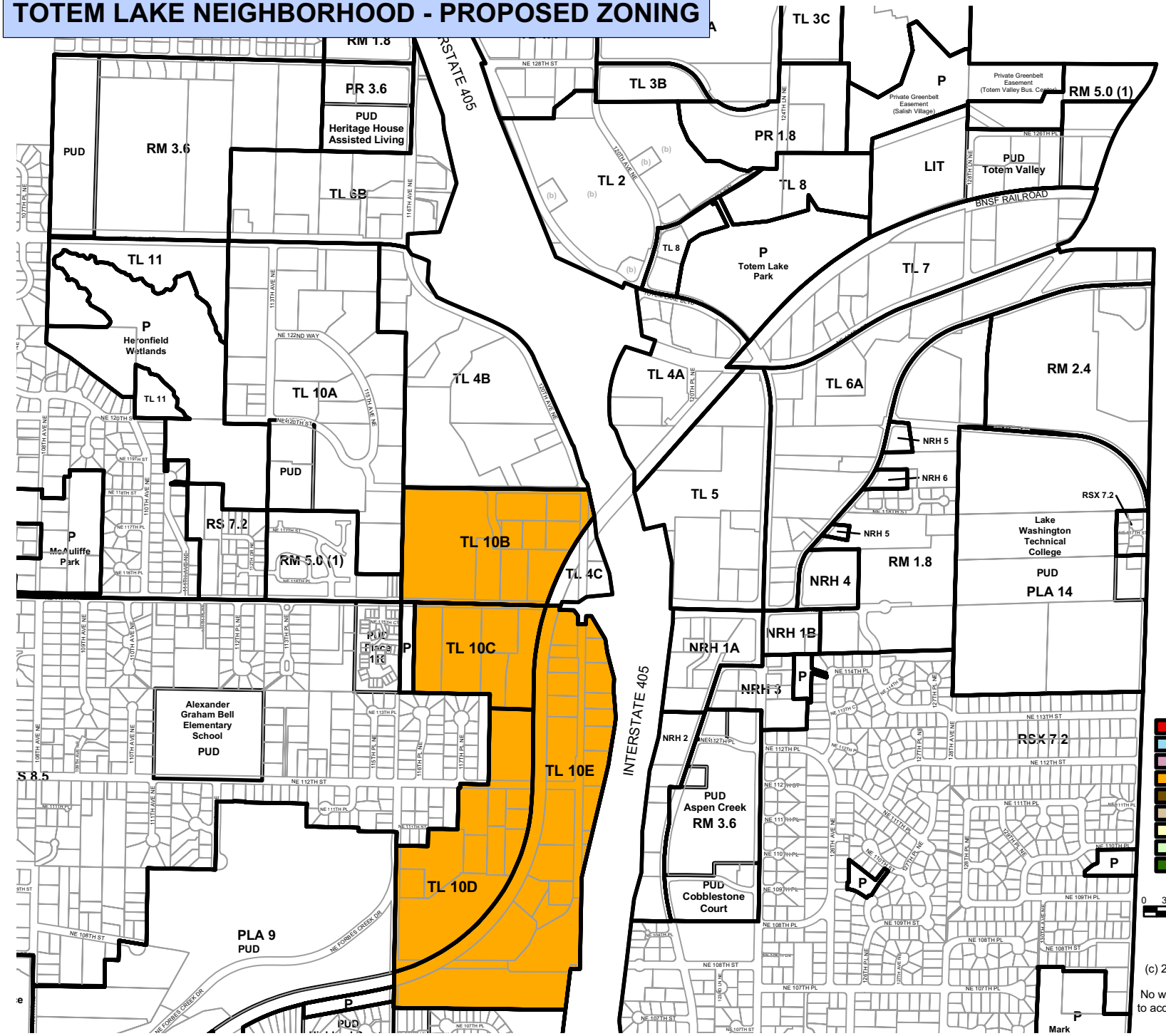
Chapter 180
Plate Z

Stand-Alone Housing Areas



O-4051

TOTEM LAKE NEIGHBORHOOD - PROPOSED ZONING



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PUBLICATION SUMMARY
ORDINANCE NO.4051

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE, AMENDING CHAPTERS 1, 5, 55, 60 and 180 OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE), AND AMENDING ORDINANCE 3710 AS AMENDED, THE KIRKLAND ZONING MAP (FILE NO. ZON04-00020).

Section 1. Amends the following specific portions of the Kirkland Zoning Code related to permitted uses, development activities and design regulations in the Totem Lake Neighborhood.

A. Amends text in Chapter 1. User Guide
B. Amends text in Chapter 5 Definitions
C. Amends Chapter 55 Totem Lake (TL) Zones, adding new TL 10B, TL 10C, TL 10D and TL 10E zones, and amending text for TL 6B.
D. Amends Chapter 60 Planned Area 12, deleting the Use Zone Chart for PLA 11.
E. Amends text in Chapter 180 Plates, adding new Plate for TL 10B and new Stand-Alone Housing Location Map.

Section 2. Amends the Kirkland Zoning Map.

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 Kirkland Municipal Code 1.08.017 and establishes the effective date as five days after publication of summary.

Section 5 Establishes certification by City Clerk and notification of 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 _____, 2006.

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

_____
City Clerk

ORDINANCE NO. 4052

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO DESIGN REVIEW GUIDELINES FOR THE TOTEM LAKE NEIGHBORHOOD AND AMENDING SECTION 3.30.040 OF THE KIRKLAND MUNICIPAL CODE, (FILE NO. ZON04-00020).

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to create new Design Guidelines for the Totem Lake Neighborhood, as set forth in the report and recommendation of the Planning Commission dated December 15, 2005 and bearing Kirkland Department of Planning and Community Development File No. ZON04-00020; and

WHEREAS, prior to making the recommendation the Planning Commission, following notice as required by RCW 35A.63.070, on October 27, 2005 held a public hearing on the design guidelines proposals and considered the comments received at the 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 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Section 3.30.040 of the Kirkland Municipal Code, entitled "Design Guidelines Adopted by Reference", is amended to read as follows:

3.30.040 Design guidelines adopted by reference.

The Design Review Board in combination with the authority set forth in Chapter 142 of the Zoning Code shall use the following design guidelines documents to review development permits:

(1) The document entitled "Design Guidelines for Pedestrian Oriented Business Districts" bearing the signature of the mayor and the director of the department of planning and community development dated August 3, 2004, is adopted by reference as though fully set forth herein. The City Council shall consult with the Planning Commission prior to amending this document.

(2) The document entitled "Design Guidelines for the Rose Hill Business District bearing the signature of the mayor and the director of the department of planning and community development dated January 3, 2006, is adopted by reference as though fully set forth herein. The City Council shall consult with the Planning Commission prior to amending this document.

(3) The document entitled "Design Guidelines for the Totem Lake Neighborhood" bearing the signature of the mayor and the director of the department of planning and community development dated June 6, 2006, is

adopted by reference as though fully set forth herein. The City Council shall consult with the Planning Commission prior to amending this document.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Section 4. A complete copy of this ordinance, including Findings, Conclusions, and Recommendations adopted by reference, 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 _____, 2006.

SIGNED IN AUTHENTICATION THEREOF this _____ day of _____, 2006.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____, City Attorney

O-4052

The City of Kirkland

Design Guidelines

For Totem Lake Neighborhood

Adopted by the City Council
pursuant to Kirkland Municipal Code
Section 3.30.040, Ordinance_____.

Jim Lauinger,
Mayor

Eric Shields,
Director,
Planning & Community
Development

Design Guidelines for Totem Lake Neighborhood

(Revised Draft 6-06-06)

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Introduction

This document sets forth a series of Design Guidelines, adopted by Section 3.30.04X of the Kirkland Municipal Code that will be used by the City in the design review process for development in the Totem Lake Neighborhood. The Totem Lake Neighborhood encompasses Totem Center and the adjacent land within the neighborhood boundaries. At this time, Design Guidelines governing development in Totem Center are contained in the document titled, Design Guidelines for Pedestrian-Oriented Business Districts, Section 3.30.040 of the Municipal Code.

Other documents that should be referred to during design review are the Totem Lake Neighborhood Plan goals and policies contained in the Comprehensive Plan and the TL Use Zone Charts found in the Kirkland Zoning Code.

Purpose of the Design Guidelines

For projects required to be reviewed by the Design Review Board, the Board will use these guidelines in association with the Design Regulations of the Kirkland Zoning Code. To the extent that the standards of the Design Guidelines or Design Regulations address the same issue but are not generally consistent or contain different levels of specificity, the Design Review Board will determine which standard results in superior design. For Administrative Design Review (ADR), the Planning Official will use these guidelines when necessary to interpret the Design Regulations. They are also intended to assist project applicants and their architects by providing graphic examples of the intent of the City's guidelines and regulations.

The Design Guidelines do not set a particular style of architecture or design theme. They are intended to establish a greater sense of quality, unity, and conformance with Kirkland's physical assets and civic identity. These guidelines are not intended to slow or restrict development, but rather to add consistency and predictability to the permit review process.

Urban Design Goals

Urban design goals and objectives for the desired future development of the area were adopted in 2002 as part of the Totem Lake Neighborhood Plan:

> ***Urban Design Framework Goal: Provide a sense of neighborhood identity.*** *The Totem Lake Neighborhood is comprised of distinct areas separated by built features, such as I-405. Urban design policies seek to establish visual connections between these areas, create effective transitions within and around the neighborhood, and provide a collective identity for the neighborhood.*
>
> ***Design Goals TL-21-TL-24***
>
> - ***Ensure that public and private development contribute to a coherent and attractive neighborhood identity.***
> - ***Develop gateway features that strengthen the character and identity of the neighborhood.***
> - ***Develop a new landscaped boulevard that provides a green visual connection between the four quadrants of the neighborhood through enhanced landscape public amenities.***
> - ***Provide interconnected streetscape improvements throughout the neighborhood that contribute to a sense of neighborhood identity and enhance visual quality.***

Design Vision for Totem Lake Neighborhood

The Totem Lake Neighborhood will continue to evolve into an attractive urban center, with Totem Center at its core - a dense, compact community, with a mix of business, commercial and residential uses and a high level of transit and pedestrian activity. Outside of its core, the Totem Lake Neighborhood Plan envisions new connections between areas separated by built features such as I-405, and building design that promotes a sense of community identity and continuity throughout the neighborhood.

The Plan emphasizes the wide array of residential, retail, light industrial and office uses that surround the core, in the remainder of the Urban Center. This rich mix is accompanied by enhanced mobility within the neighborhood, through maximized vehicular capacity that occurs through improvements and expanded network connections that provide additional opportunities for pedestrian-oriented development. Local transit connections, an extensive non-motorized network and a local boulevard system will all combine to complement and support the regional system.

The Plan envisions an attractive and economically strong neighborhood in Totem Lake. It acknowledges the challenges to the creation of a single community identity posed by the area's natural and built elements that split the neighborhood into four fairly distinct quadrants. Totem Lake is the City's only neighborhood bisected by Interstate-405. Nevertheless, the use of design measures that address important elements of design, will move the neighborhood forward into a more cohesive and coherent community. Key design issues to be addressed include human and architectural scale, breaking up of building mass, attention to building detail, establishment of pedestrian connections, and consideration of building orientation, as well as improvements in the public realm, such as consistent street lights, sidewalk design, landscaping elements and street furniture.

Several districts within the neighborhood present unique opportunities for development. The Planning Concept Map (Figure 1) illustrates where these focal points and opportunities exist. Further discussion in this section presents the desired vision for each of these areas, as well as for the landscaped boulevard, that should tie the area's otherwise separate elements together.

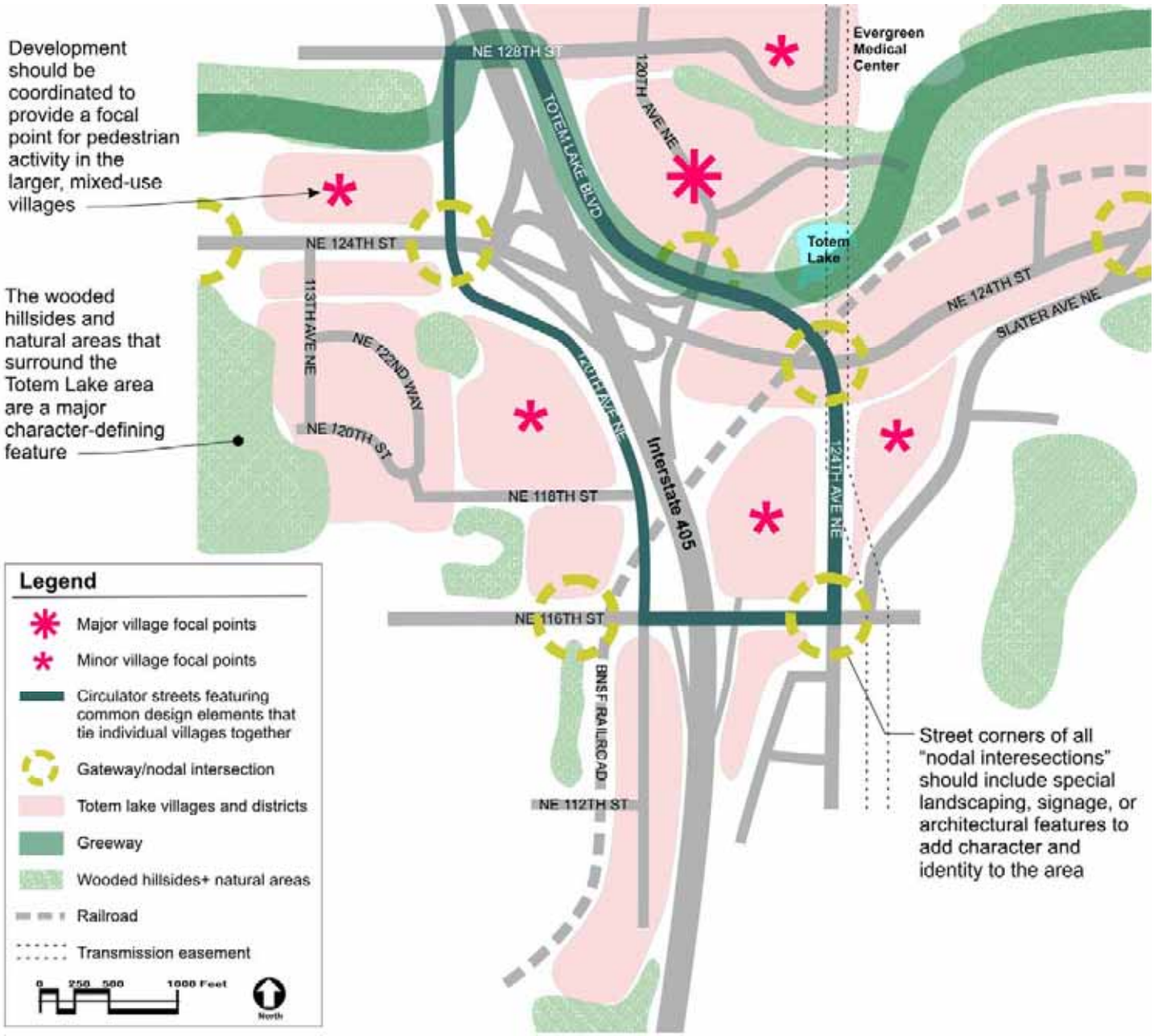


Figure 1. Planning concept for the Totem Lake Neighborhood.

Vision for District TL 5

Bordered by Interstate 405, the BNSF Railroad, 124th Avenue NE, and NE 116th Street, the Totem Lake Plan envisions the TL5 area as a planned, mixed-use district. The potential for land assembly in the district, as well as its location adjacent to the freeway create an opportunity for substantial redevelopment. The western portion of the site is situated at an elevation somewhat lower than the freeway, enabling greater building heights with minimal impacts on surrounding development.

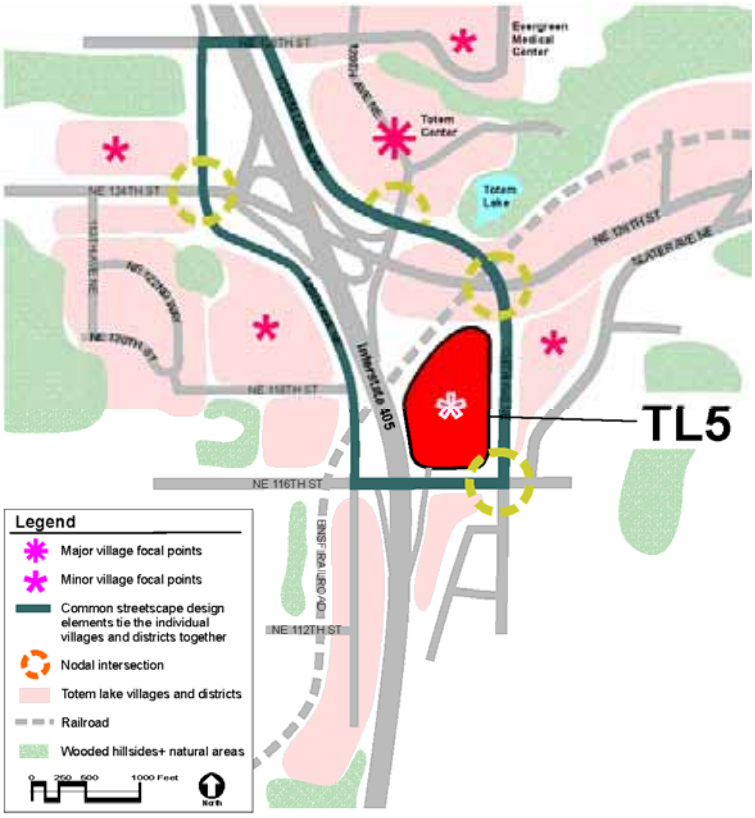


Figure 2. TL5 location within Totem Lake..

The Plan envisions the expansion of the network of local access roads within the district, and designates roads connecting streets both north/south and from the east. Vehicular, pedestrian and bicycle access to properties within and beyond the district would be improved, and reliance on major arterial routes would be reduced. This network would be the foundation for an attractive grid of streets, wide sidewalks, and a supporting combination of commercial, office, and residential uses. The focal point of the village will be the spine of 120th Place NE – extending from NE 116th Street over the BNSF Railroad to NE 124th Street. Much of the road would resemble a "main street" with its storefronts, street trees, wide sidewalks, and on-street parking. Other notable features would be the taller office or residential buildings on visible sites bordering I-405 and a cluster of residential uses surrounding a small park site.

124th Avenue NE would be upgraded with a wider sidewalks and street trees. Since the focus of retail activity will be on interior streets within the district building orientation may be largely to these interior streets. Building frontages along 124th Avenue will be important, but the street will also be defined by landscaping, lighting and wider sidewalks. Driveways would be consolidated and coordinated with the internal street grid and properties on the east side of 124th Avenue NE. Storefronts would be clustered around major entry points to the development providing a welcoming entry. Also, building design and landscaping at the southeast corner of the village are important, as they will function as a major gateway to the village.

Parking would be provided in strategically located surface parking lots and within structures above, below, or behind retail uses. Parking areas located adjacent to surrounding arterials would feature landscaping and other design features to maintain visual continuity along the street. Parking structures would either contain retail uses at ground level or a combination of landscaping and architectural elements enhance the pedestrian environment.

Taller residential or office buildings in the area bordering I-405 would create a striking skyline for the village. While the buildings may stand out from other village structures, they would be configured in a way that complements the village. Easy pedestrian connections, landscaping, and common streetscape features link the structures to the village's diversity of retail uses and amenities.

Other village buildings would generally be between one story and six-stories tall. The buildings would use a variety of materials and colors and modulated walls and rooflines to reduce their architectural scale. Storefronts would contain attractive details that provide interest at a pedestrian scale. Residential uses would feature prominent building entries and individual balconies and typically be clustered around a courtyard or small park area.

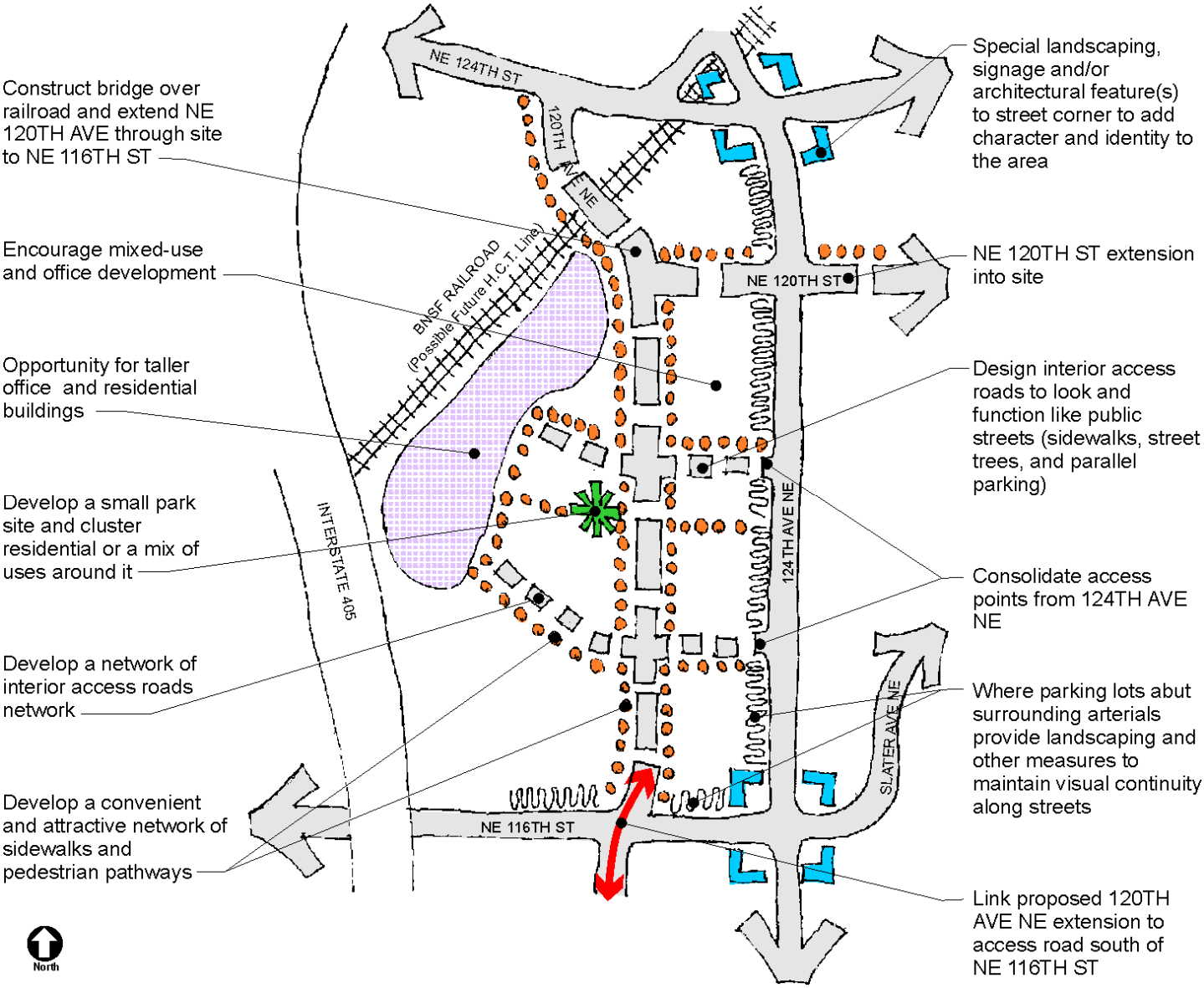


Figure 3. Redevelopment concept for TL5.

Vision for District TL 6A

The TL6A district, located at the eastern edge of the Totem Lake Neighborhood, would feature an attractive mix of commercial uses along 124th Avenue NE and NE 124th Street and terraced multi-family uses on uphill sites towards Slater Avenue NE. The extension of NE 120th Street would provide a convenient east-west connection for both pedestrians and motorists between 124th Avenue NE and Slater Avenue NE.

Both 124th Avenue NE and NE 124th Street would be significantly upgraded, featuring landscaped medians in areas that don't conflict with site access, better street lights, sidewalks, and planting strips. While both corridors are likely to remain automobile oriented in their use mix, they would be designed to be more accessible for the pedestrian.

Auto dealers will remain clustered along both 124th Avenue NE and NE 124th Street. Adjacent to the dealerships, attractive landscaping strips along the sidewalks with seasonal plantings and low level signage will be provided. While some surface parking areas will remain on the lots, many of the dealers will incorporate some structured parking to accommodate their vehicular stock. Other sites along 124th Avenue NE and NE 124th Street will retain a mix of commercial uses.

Multi-family residential uses will be concentrated on the uphill portion of the district, adjacent to Slater Avenue NE. In areas where significant elevation change exists from the east to west, Individual buildings will be able to stairstep down the hillside, following the natural earth form and creating a dramatic visual setting. The topography also allows parking areas to be hidden under buildings. Buildings can be designed to cluster around small courtyard spaces. A system of pathways will connect buildings within the district to the surrounding streets and to adjacent properties in some areas.

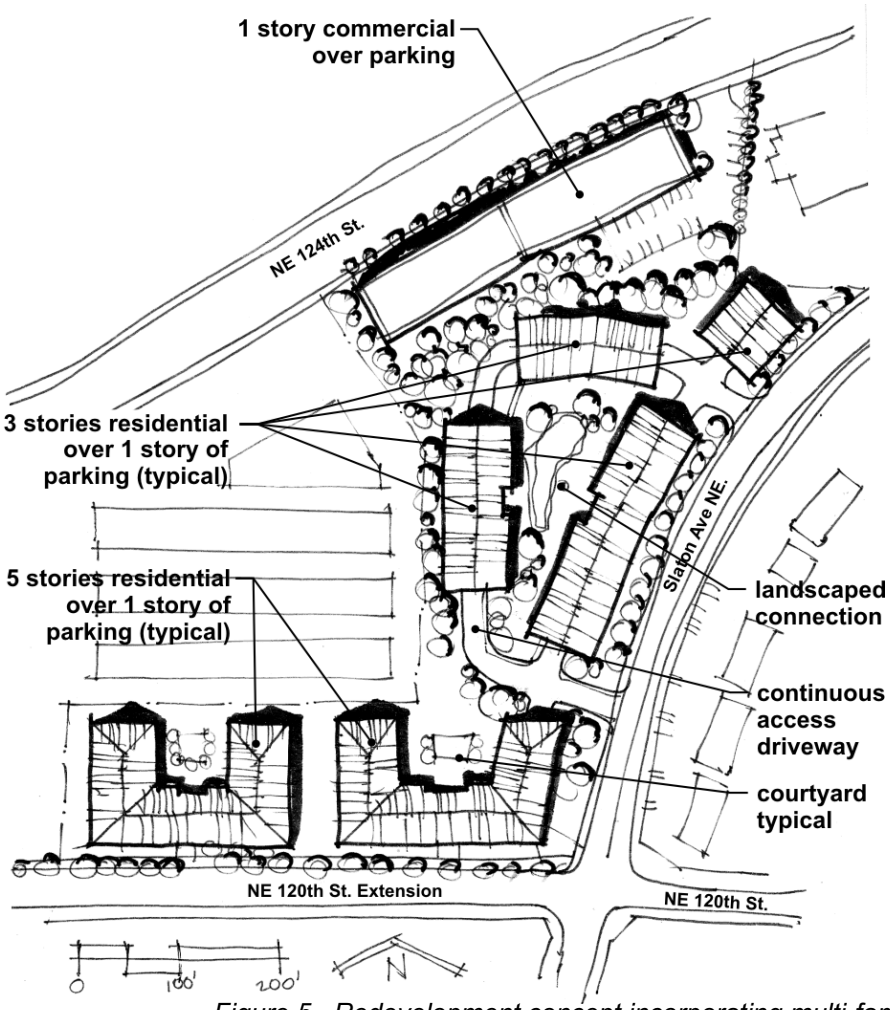
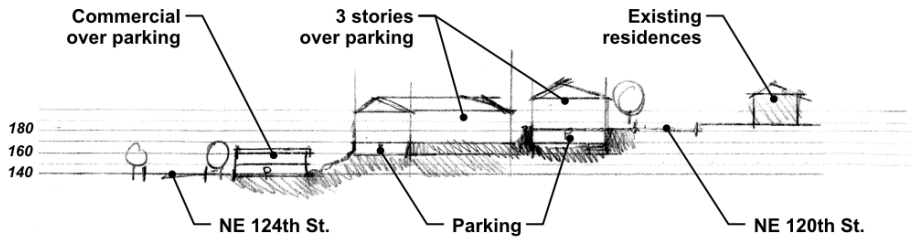
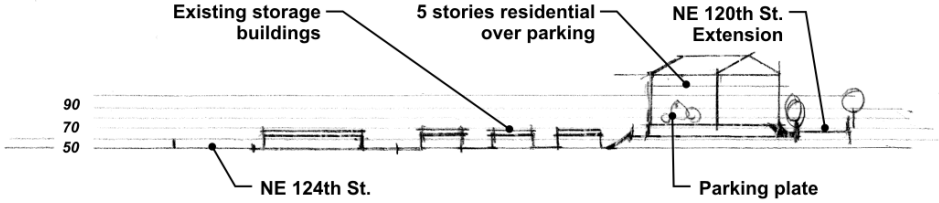


Figure 5. Redevelopment concept incorporating multi-family uses along Slater Avenue NE and planned NE 120th Avenue extension. Note how residential buildings are configured towards the street and around common open spaces. The section drawings above illustrate how development can take advantage of slopes.





Vision for District TL 6B

Located immediately west of Interstate 405 and north of NE 124th Street, TL 6B can become one of the major retail focused mixed-use villages in the Totem Lake Neighborhood. The district will contain an attractive grid of pathways with wide sidewalks and storefronts. The focal point of the village will be a centralized plaza space surrounded by storefronts with residential and/or office uses on upper floors. Residential uses will be clustered at the north end of the site to take advantage of the greenbelt setting. A loop trail will be developed around this greenbelt, providing a tremendous amenity for the area.

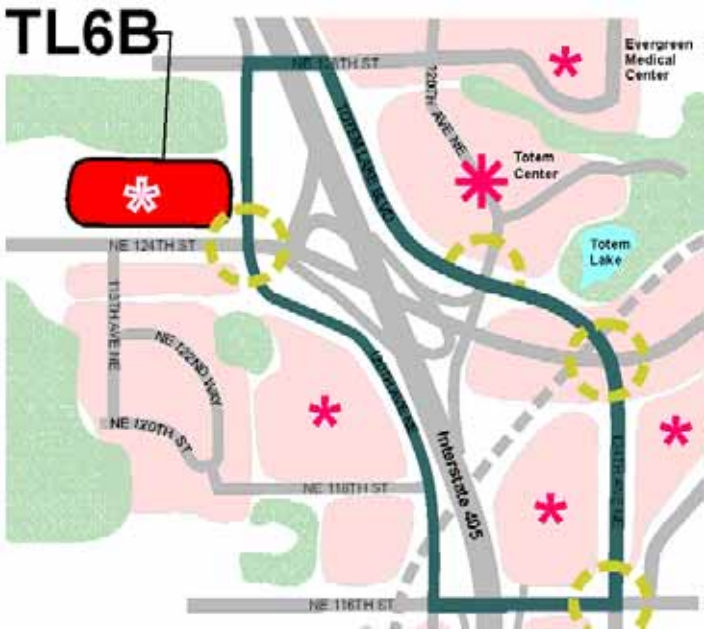


Figure 6. TL6B location within Totem Lake.

The surrounding arterials (NE 124th St and 116th Ave NE) could be upgraded with wider sidewalks, new landscaping and lighting, and landscaped medians. Existing landscaping along NE 124th Street should be retained and enhanced. The connected system of internal streets will allow the development to focus most vehicular traffic to one major entry point off of each arterial. The pedestrian environment will be substantially upgraded through the consolidation of vehicle access points, and the orientation of buildings to sidewalks and pathways. While many of the large, older street trees will have been retained along NE 124th Street, a colorful mix of low maintenance plantings will be added to upgrade the visual character and identity of the corridor. Gateway signage and special landscaping at the NE 124th St and 116th Ave NE intersection will announce the entry into the village.

Parking will be provided in strategically located parking lots and within structures above, below, or behind retail uses. Parking areas located along the perimeter of the district will provide landscaping and other design features to maintain visual continuity along the street. Parking structures will contain either retail uses at ground level or a combination of landscaping and architectural elements to enhance the pedestrian environment.

Village buildings will generally be between one story and five-stories tall, with the taller structures containing residential uses. The buildings will use a variety of materials and colors and modulated walls and rooflines to reduce their architectural scale. Storefronts will contain attractive details that provide interest at a pedestrian scale. Residential uses will provide prominent building entries, be served by pedestrian connections to shops within the development and to nearby streets, and be designed to take advantage of the natural area to the north as an amenity for residents.

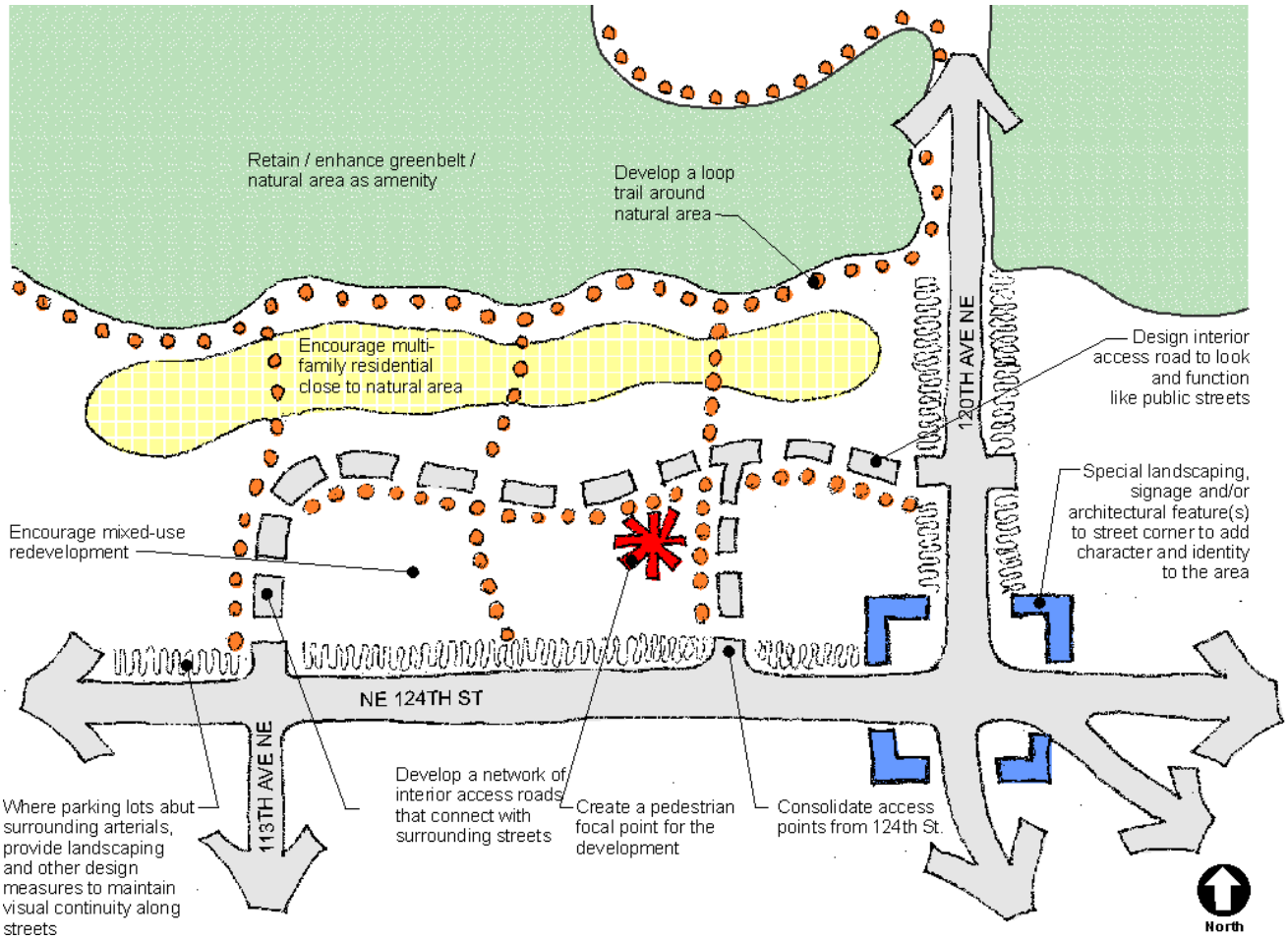
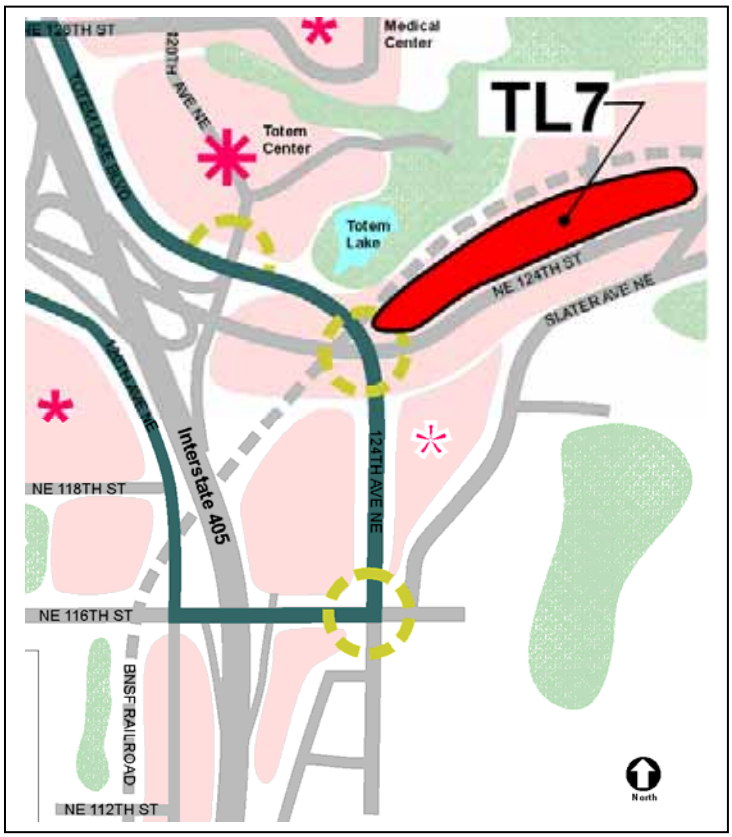


Figure 7. TL 6B Village Design Concept.

Vision for TL 7

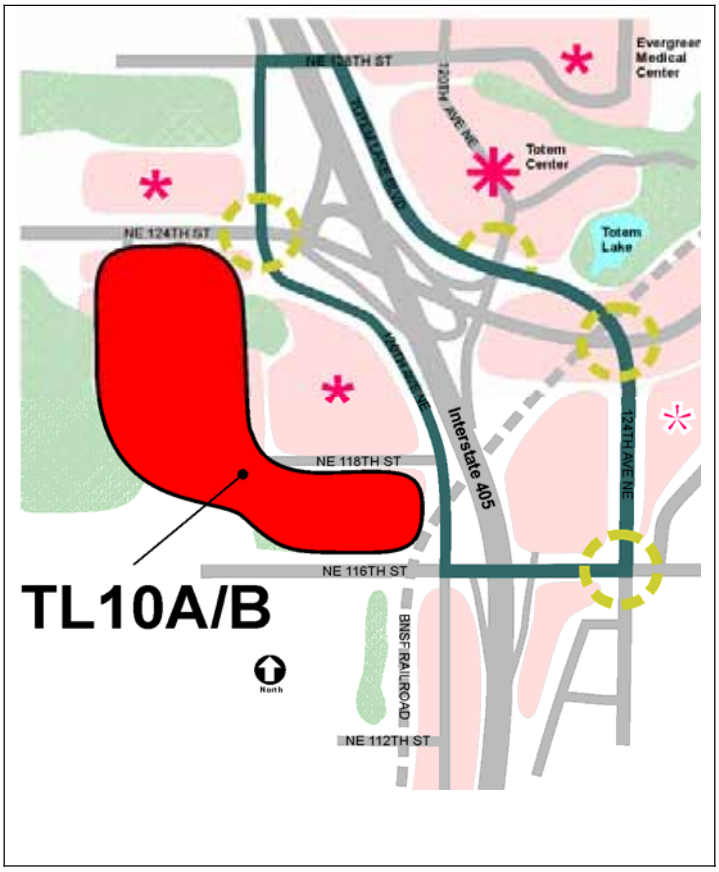
Located at a key gateway to the City from the east, the TL 7 district lies on the north side of the NE 124th Street arterial, just on the southeastern edge of Totem Center. A gateway feature at the district's eastern boundary, as well as attractive landscaping, street lighting and signage throughout the area will provide an inviting image at the entrance to the neighborhood and City.

The district is ideally located to feature a combination of uses and business oriented to the City and greater region. Large parcels in the district are particularly well-suited to display for automobile sales.



Vision for TL 10A and TL 10B

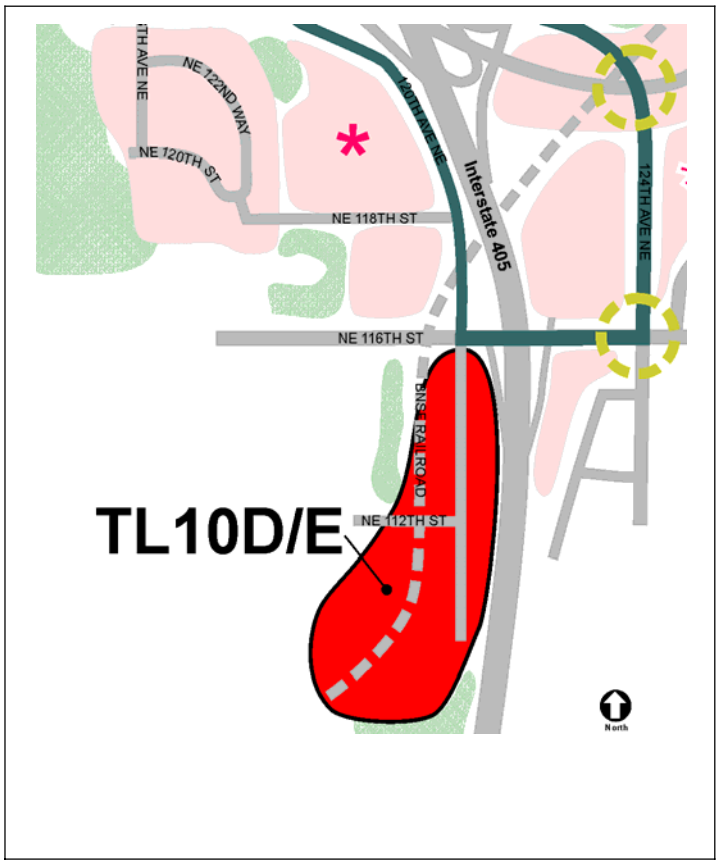
The I-405 Corporate Center in TL 10A is a business park that serves as a model of coordinated efforts in signage and building design for the areas in transition to the south. New development in the area will continue to complement existing structures. District TL 10B to the south provides the link between the established Corporate Center and the evolving office park area in TL 10D and TL 10E to the south. Development in this partially wooded area provides a mix of housing and office uses. The topography and vegetation in the area enable taller residential buildings to be well situated to avoid impacts to the residential areas to the west, while providing a significant housing resource for the neighborhood and the city.



Vision for TL 10D and TL 10E

Visibility and proximity to I-405, as well as the land's elevation below the freeway to the east and the residential areas to the west, provide for substantial redevelopment opportunities throughout these districts. As uses in the area convert from manufacturing and light industrial to office, high-tech and residential (within TL 10D), development in the area can begin to create a more cohesive and distinct visual image. Supportive service and retail uses will add to the area's appeal for workers and residents, and reduce the need for travel outside the district.

Taller buildings can be accommodated here with minimal visual impacts to territorial views from the freeway. Consideration of elements that produce distinctive roof forms and minimize mass at upper levels will contribute to a skyline that is visually interesting.

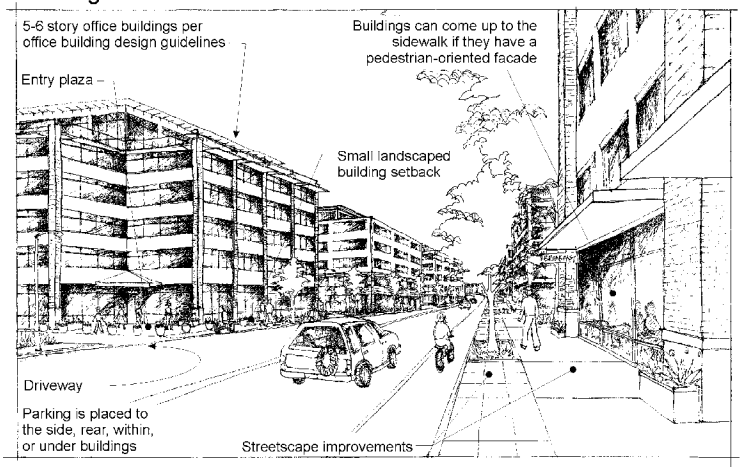


Common streetscape elements aimed at the creation of a pleasant pedestrian-oriented environment will be very important in this area.

A successful residential community within the western portion of the area (TL 10D) will provide a close-in housing location for Totem Lake employees and add evening activity to the district. Attractive walkways to connect residents within TL 10D to points east and north will be important to ensure the success of the mix of uses throughout the area.

Support for shared and coordinated signage throughout the district will help to minimize visual clutter and contribute to the visual identity of the area.

Looking north on NE 120th Avenue in TL10E



Illustrating how TL10E could be redeveloped per proposed zoning changes and design guidelines

Vision for Large-Site Development

Larger sites within the Totem Lake neighborhood present opportunities for master planning to provide coordinated development. Within TL 4 for example, a vibrant mixed-use center could be created, combining retail, office and residential uses. While parcels in this area and others in the neighborhood can provide an attractive face along the major traffic corridors, many are large enough to provide their own interior vehicular and pedestrian pathways, as well as focal points for pedestrians. These may include a plaza area surrounded by shops, or wide sidewalk areas along an interior access street.

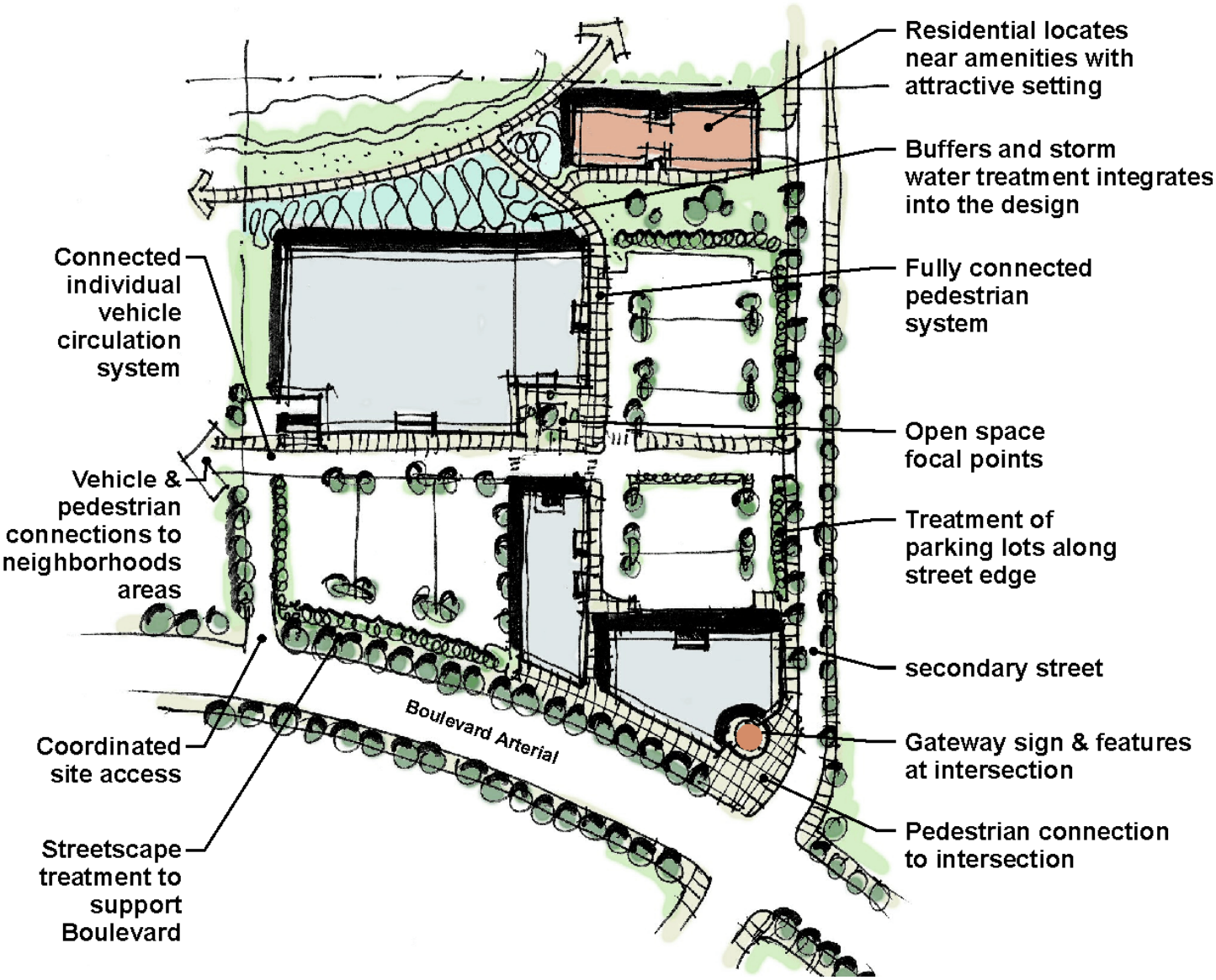


Figure 8. Conceptual design guidelines for large site development in Totem Lake.

Vision for Landscaped Boulevard

The Totem Lake Plan envisions the creation of a landscaped boulevard that links the four quadrants of the neighborhood through enhanced landscape and public amenities. The boulevard will provide a hospitable environment for pedestrians and drivers through reducing scale, providing shade and seasonal interest and reducing noise levels. Improvements may include widened and meandering planting areas, continuous and clustered tree plantings and shrubbery, and plantings varying in seasonal color, texture and shape. Other elements, such as lighting, directional signs, benches, varying pavement textures and public art will further enhance the route and experience.

The boulevard will not only visually connect the neighborhood's separate areas, but will also help local circulation. In most areas, existing rights-of-way can be used to create the boulevard. In others, dedication may be necessary to provide the necessary improvements and amenities.

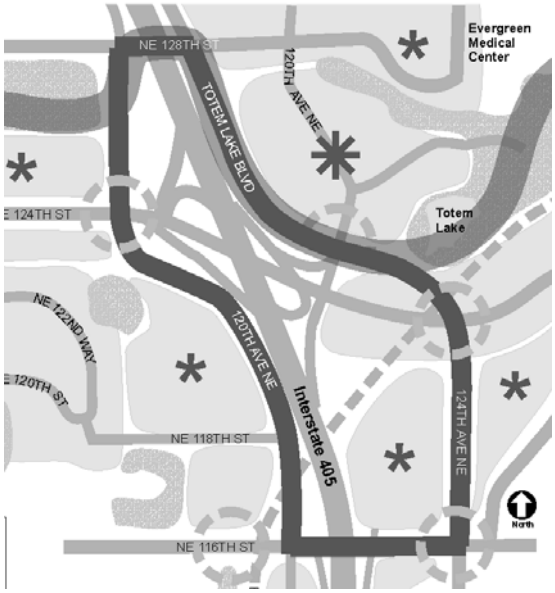


Figure 9. A series of landscaped boulevards (a.k.a. the Totem Lake Ciculator) links the various quadrants of the Totem Lake area.

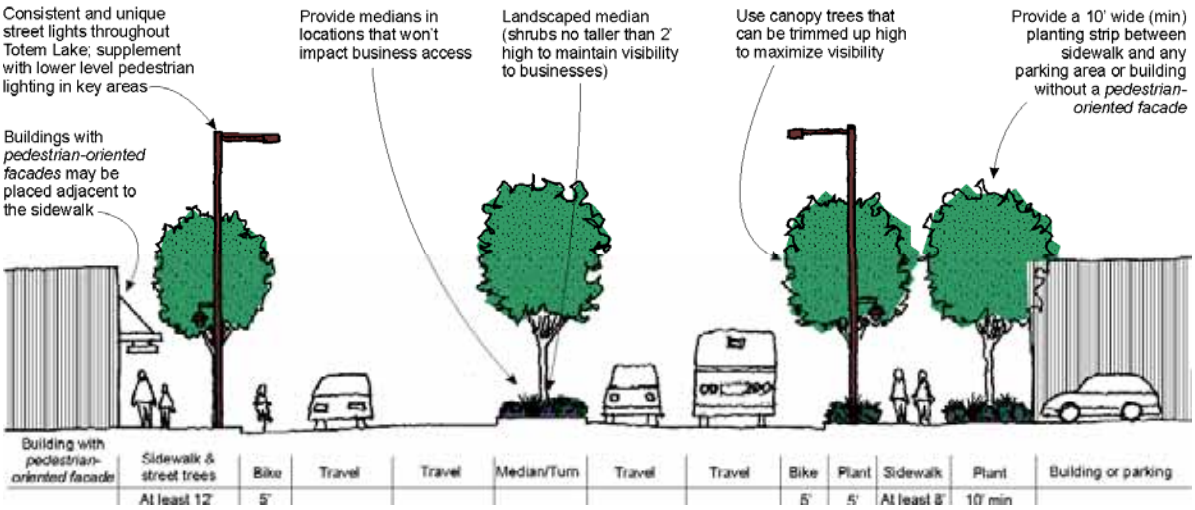


Figure 10. Conceptual design guidelines for large site development in Totem Lake

Figure 11. Colorful streetscape plantings can strengthen the character and identity of the Totem Lake area.

Design Guidelines

The following design guidelines for Totem Lake Neighborhood (TLN) are intended to help guide the future development of the neighborhood toward the future vision described in the Totem Lake Neighborhood Plan and elsewhere in this document. These guidelines include both neighborhood-wide measures and unique measures specific to individual districts or sites within Totem Lake.

Improvements to streets, parks and the development of new public facilities will create a dynamic setting for civic activities and private development.

1. Entry Gateway Features

The Comprehensive Plan calls for gateway features at the key entry points into neighborhoods and business districts.

Objectives

- To enhance the character and identity of the Totem Lake Neighborhood.

Guideline

Incorporate entry gateway features in new development in the vicinity of gateways/nodal intersections identified in the Concept Map (Figure 1). Gateway features should incorporate design elements associated with or desired in the neighborhood, depending on available space. Gateway features should include some or all of the following:

Figure 12. A desirable entry gateway feature

- Distinctive landscaping, including suggested common landscaping elements from the City's Urban Forester.
- Artwork (e.g. vertical sculpture incorporating historical information about Totem Lake).
- A gateway sign with the City logo.
- Multicolored masonry forming a base for an entry sign.
- Decorative lighting elements.

2. Street Trees

Objectives

- To upgrade the character and identity of the Totem Lake Neighborhood.
- To enhance the pedestrian environment on the Totem Lake Neighborhood.
- To use trees that provide seasonal interest.
- To use trees appropriate to the urban environment of the Totem Lake Neighborhood.

Discussion

The repetition of trees bordering streets, internal roadways, and pathways can unify a community's landscape. Trees can add color, texture, and form to the urban environment. A strong street tree planting scheme can establish community identity and provide a respite from the weather and the built environment.

Figure 13. Provide street trees along all streets and internal access roads

Guidelines

a. Incorporate street trees along all streets, internal access roads, and pathways.

b. Encourage developments to use street trees as a unifying feature of the development.

c. Select and maintain tree species that will accommodate pedestrian and vehicular traffic, and maintain visibility into and through sites for safety purposes.

3. Street Corners

Objectives

- To enhance the appearance of highly visible locations.
- To upgrade the character and identity of the Totem Lake Neighborhood and its individual districts.
- To enhance pedestrian access and safety.

Discussion

Street corners, especially along arterial corridors, provide special opportunities for visual punctuation and an enhanced pedestrian environment. Buildings on corner sites that incorporate architectural design elements create visual interest for the pedestrian and provide a sense of human proportion and scale.

Figure 14. This building uses a cropped corner with entry and decorative roofline, building materials, and details to provide visual interest

Guidelines

a. Encourage design treatments that emphasize street corners through the use of building location and design, plaza spaces, landscaping, distinctive architectural features, and/or signage. Street corners can be an excellent location for plazas, particularly where adjacent storefronts and building entries are provided. In auto-oriented areas, landscaping elements on street corners can enhance the character of the area and visual relief from pavement areas. Such landscaping elements should incorporate a variety of plant types and textures that add seasonal interest.

b. Encourage all buildings located at or near street corner to incorporate special architectural elements that add visual interest and provide a sense of human proportion and scale. This could include a raised roofline, turret, corner balconies, bay windows, special awning or canopy design, and/or distinctive use of building materials (see the following examples).

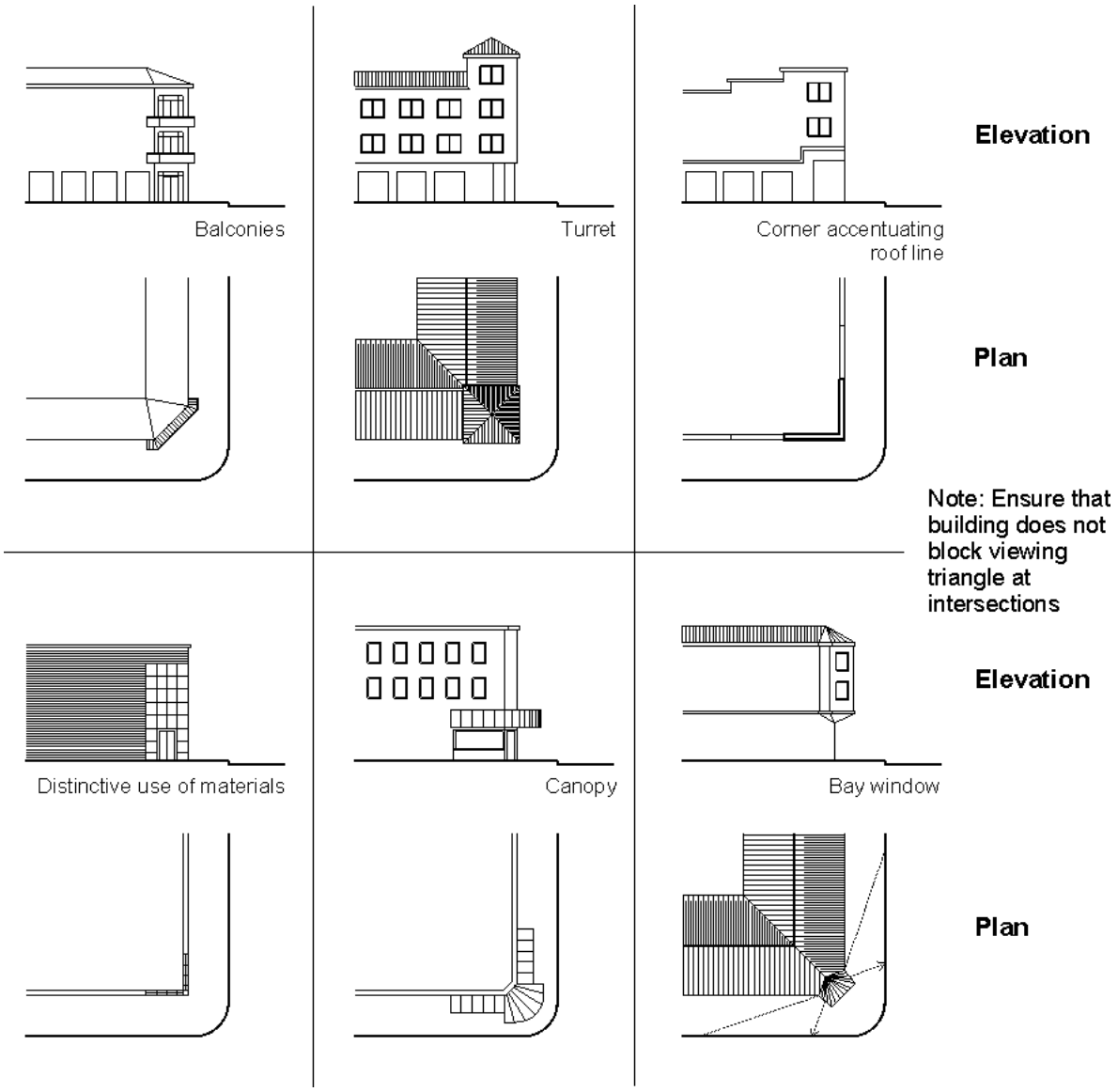


Figure 15. Desirable building elements for street corners.

4. Pedestrian-Friendly Building Fronts

Objectives

- To enhance the pedestrian environment within the Totem Lake Neighborhood.
- To create safe and active sidewalks and pathways.

Guidelines

Incorporate transparent windows and doors and weather protection features along all non-residential facades adjacent to a sidewalk or internal pathway. Weather protection features could include awnings, canopies, marquees, or other permitted treatments.

Figure 16. An example of a pedestrian-friendly building façade

Alternative treatments may be considered if they meet the objectives. For example, reduced transparency and weather protection levels may be considered if an alternative configuration provides other amenities above and beyond what is required by KZC Chapter 92 and the Design Guidelines, and if the building details and architectural treatments provide interest at close range and won't "deaden" the pedestrian environment or create a potential safety problem.

5. Building Location and Orientation

Objectives

- To enhance the character and identity of the Totem Lake Neighborhood.
- To upgrade the appearance of streets within the Totem Lake Neighborhood.
- To increase pedestrian circulation.
- Create focal points, particularly on large sites.
- To encourage development configurations that minimize negative impacts to adjacent single family residential areas.

Figure 17. Encourage developments to place parking lots to the side or rear, as accomplished here

Guidelines

a. Locate and orient buildings toward streets, plazas or common open spaces, and major internal pathways, with parking to the side and/or rear.

b. Configure buildings to create focal points of pedestrian activity. This is particularly important on large sites.

c. Configure development to provide opportunities for coordinated pedestrian and vehicular access. Where there are no current opportunities for coordinated access, developments should provide the opportunity for future coordination, where desirable, should the adjacent site be redeveloped in the future.

d. Site and orient multi-story buildings to minimize impacts to adjacent single family residents. For example, if a multi-story building is located near a single family property, provide landscaping elements and/or minimize windows and openings to protect the privacy of adjacent homes. Another consideration is to increase upper level building setbacks.

e. Encourage vehicle sales uses to locate their showrooms towards the street (with parking to the side or rear):

- Allow designated vehicle display areas between a portion of the property street frontage if the display is integrated creatively with the landscaping. This could include cars on a rock outcropping or on a discreet structure that allows a display vehicle to "float" over the landscaping.
- Allow increased signage through coordinated master sign plans.
- Allow modifications in perimeter landscaping adjacent to a street.

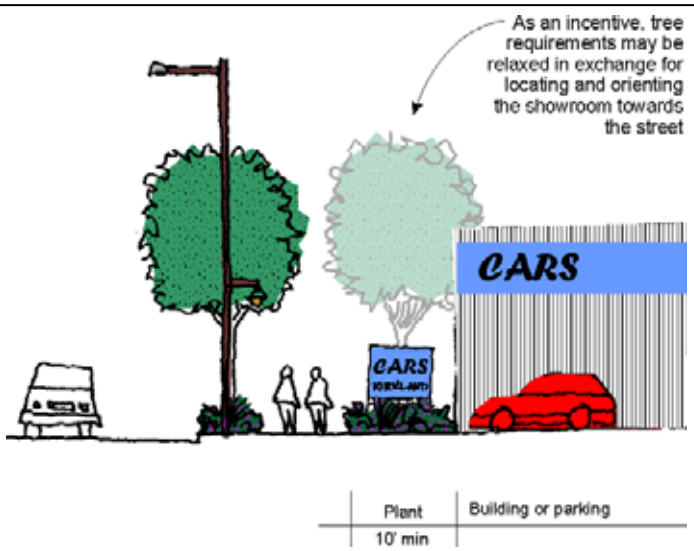


Figure 18. Encourage vehicle sales uses to locate their showrooms towards the street (with parking to the side or rear)

f. Encourage buildings located adjacent to any street to orient to the street. This includes pedestrian entries from the sidewalk and windows facing the street. Avoid fences or hedges that block visibility between buildings and the street. Exceptions may be considered consistent with the objectives and guidelines herein.

Special considerations in Districts TL 5, TL 6B and other Large Site Developments

1. TL 5: In this district where buildings may front on more than one street, first priority for building orientation should be to any designated pedestrian oriented street.
2. TL 6A: Residential buildings located adjacent to NE 120th Street should be oriented toward this street and to Slater Avenue NE. Common and/or individual entries and windows should face the street. Parking areas should not be located between the building and the street.
3. TL 6B: Single purpose residential buildings should be configured and oriented to take advantage of the greenbelt area to the north. For example, buildings could be arranged in a courtyard layout with the courtyard opening towards the greenbelt area.
4. TL 5, TL 6B and other Large Site Development: Where buildings front on both streets and interior pathways, building orientation may be to internal focal points and streets. Parking areas should not occupy the majority of a site's frontage.
5. TL 5, TL 6B and other Large Site Development: Where buildings are oriented to an interior open space or courtyard, primary building entries may orient to the open space provided there is direct visibility in to the open space from the sidewalk. Windows should be provided on the street façade.

6. Sidewalk and Pathway Widths

Objectives

- To provide wide sidewalks and pathways that promote an increase in pedestrian activity within the Totem Lake Neighborhood.

Discussion

Sidewalks have three overlapping parts with different functions: the curb zone, the movement zone, and the storefront or activity zone. A well-sized and uncluttered movement zone allows pedestrians to move at a comfortable pace.

Guidelines

a. Integrate a "curb zone" into the sidewalk or pathway width. This space can include street trees, newspaper stands, street signs, garbage cans, phone booths, mail boxes, etc. Subtle changes in paving patterns between the curb zone and the movement zone can be effective and should be considered.

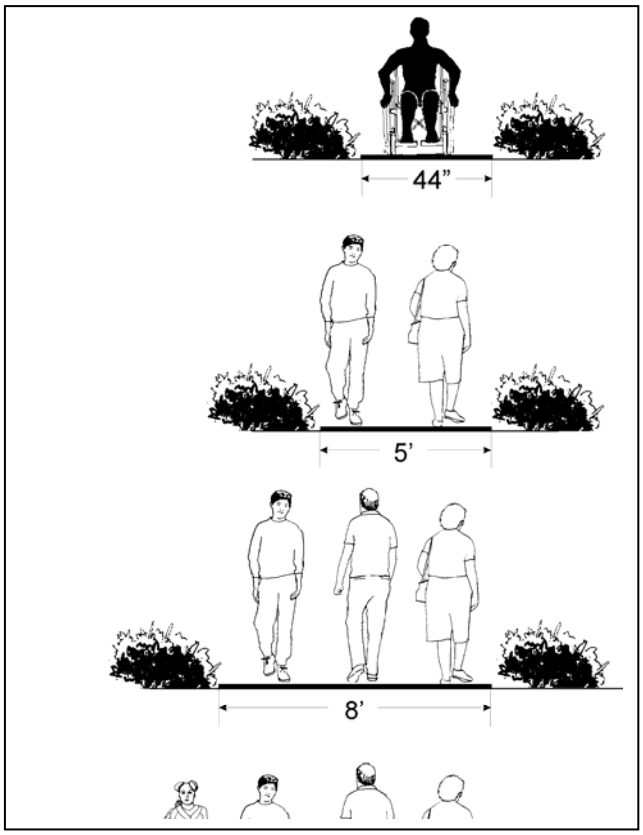


Figure 18

Pathway widths depend on level of activity and location

b. Sidewalks or pathways adjacent to moving vehicular traffic need generous buffers to make them safer and more inviting. Landscaping elements are particularly important physical and visual buffers between walkways and streets or other vehicle access areas. As a general rule, the higher the travel speed, the greater the buffer should be between moving cars and pedestrians.

c. Design sidewalks and pathways to support a variety and concentration of activities and provide a separation for the pedestrian from the busy street. Specifically:

Considerations for the "movement zone" widths:

- Curb zones with parallel parking typically need 4'-6'; without parallel parking: 3'-4'.
- 12' accommodates 4 persons walking abreast.
- 8' accommodates 3 persons walking abreast.
- 5' accommodates 2 persons walking abreast.

Considerations for the "store front zone" widths:

- Outdoor dining uses: 6' allows for one table.
- Outdoor displays typically need at least 4' (6' preferable).

Figure 20. High-traffic streets without on-street parking warrant wider planting strip buffers

7. Pedestrian Coverings

Objectives

- To provide shelter for pedestrians.
- To provide spatial enclosure and add design interest to a retail or office streetscapes.

Discussion

The design and width of pedestrian coverings should be determined by their function, the building's use and the type of street.

Figure 21. Wider pedestrian coverings allow for outdoor dining

As a general rule, the more traffic an entry is expected to accommodate, the larger the covered area should be at the entry. Larger porches and covered entries also invite pedestrian activity. For example, a 5' x 5' covered area allows two adults to converse comfortably out of the rain. A 3' to 4' wide canopy will provide rain cover for window-shopping, a 5' wide or greater canopy will provide cover for a street sale, and a 7' to 8' wide canopy will provide room for a window shopper and a passing couple.

The width of the sidewalk should also be considered when sizing the pedestrian covering (wider sidewalks can accommodate wider pedestrian coverings). Canopies and awnings should be appropriately dimensioned to allow for tree growth, where applicable. The architecture of the building and the spacing of individual storefronts should help determine the appropriate placement and style of the canopy or awning. Continuous, uniform awnings or canopies, particularly for multi-tenant retail buildings, can create a monotonous visual environment and are discouraged.

Guidelines

a. Provide weather protection along the primary exterior entrance of all businesses, residential units, and other buildings.
b. Design weather protection features to provide adequate width and depth at building entries.
c. Pedestrian covering treatments may include: covered porches, overhangs, awnings, canopies, marquees, recessed entries or other similar features. A variety of styles and colors should be considered, where compatible with the architectural style of the building and the ground floor use.
d. Back lit, plastic awnings are not appropriate.

Figure 22. Note how these awnings have been integrated into the building's storefront spaces

8. Blank Walls

Objectives

- To minimize visible blank walls.
- To enhance public safety along sidewalks and pathways.
- To encourage design elements that enhance the character of buildings at all perceived distances.

Figure 23. For large walls, landscaping beds with trees and shrubs are encouraged

Discussion

Blank walls on commercial street frontages deaden the pedestrian environment and can break the continuity of uses along a street or pathway. Blank walls can also create a safety problem, particularly where adjacent to pedestrian areas, as they don't allow for natural surveillance of those areas. However, in some cases fire walls, for example, require the intrusion of a flat, unadorned surface. The adverse impact of a blank wall on the pedestrian streetscape can be mitigated through the methods listed in the Guidelines below.

Guidelines

Avoid blank walls near sidewalks, major internal walkways, parks, and pedestrian areas. The following treatments mitigate the negative effects of blank walls (in order of preference):

- Configure buildings and uses to minimize blank walls exposed to public view.
- Provide a planting bed with plant material to screen most of the wall.
- Install trellises with climbing vines or plant materials to cover the surface of the wall. For long walls, a trellis or trellises should be combined with other design treatments to avoid monotony.
- Provide artwork on the wall surface.
- Provide architectural techniques that add visual interest at a pedestrian scale. This could include a combination of horizontal building modulation, change in building materials and/or color, and use of decorative building materials.
- Other treatments may be proposed that meet the intent of the guidelines.

Figure 24. This building was a combination of alternating building materials, details, and landscaping elements to add visual interest at a close range

9. Lighting

Objectives

- To enhance safety.
- To create inviting pedestrian areas.
- To provide adequate lighting without creating excessive glare or light levels.

Discussion

Overpowering and uniform illumination from commercial uses creates glare and destroys the quality of night light, especially for adjacent residential areas. Well placed light fixtures will form individual pools of light and maintain sufficient lighting levels for security and safety purposes.

Figure 25. Building-mounted lighting is encouraged to enhance the pedestrian environment

Guidelines

a. Provide adequate lighting levels in all areas used by pedestrians and automobiles, including building entries, walkways, parking areas, circulation areas, and open spaces. Recommended minimum light levels:
   - Building entries: 4 foot candles
   - Primary pedestrian walkway: 2 foot candles
   - Secondary pedestrian walkway: 1-2 foot candles
   - Parking lot: .60 -1 foot candle
   - Enclosed parking garages for common use: 3 foot candles

b. Lighting should be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas.

c. Building facades in pedestrian areas should provide lighting to walkways and sidewalks through building mounted lights, canopy- or awning-mounted lights, and display window lights. Encourage variety in the use of building-mounted light fixtures to give visual variety from one facade to the next.

d. Minimizing impacts of lighting on adjoining activities and uses should be considered in the design of lighting. This is particularly important adjacent to residential uses.

Parking lot light fixtures should be non-glare and mounted no more than 15' above the ground. Lower level lighting fixtures are preferred to maintain a human scale. Lights up to 20' may be used for safety, when needed. Ideally, all exterior fixtures should be fitted with a full cut-off shield to minimize light spill over onto adjoining properties.

10. Pedestrian Amenities

Objectives

- To provide amenities that enrich the pedestrian environment.
- To increase pedestrian activity in the Totem Lake Neighborhood.

Discussion

Site features and pedestrian amenities, such as lighting, benches, paving, waste receptacles, and other site elements, are an important aspect of a business district's character. These elements reduce apparent walking lengths and unify the district's visual character.

Guidelines

Provide pedestrian amenities along all sidewalks, interior pathways and within plazas and other open spaces. Desired amenities include:

- Pedestrian-scaled lighting (placed between 12'-15' above the ground).
- Seating space. This can include benches, steps, railings and planting ledges. Heights between 12" to 20" above the ground are acceptable, with 16" to 18" preferred. An appropriate seat width ranges from 6" to 24".
- Pedestrian furniture such as trash receptacles, consolidated newspaper racks, bicycle racks, and drinking fountains.
- Planting beds and/or potted plants.
- Unit paving such as stones, bricks, or tiles.
- Decorative pavement patterns and tree grates.
- Water features.
- Informational kiosks.
- Transit shelters.
- Decorative clocks.
- Artwork.

Figure 29. Consolidated newspaper racks

Figure 26. Bicycle racks

Figure 27. Potted plants

Figure 17. Decorative pavement patterns (top), benches and pedestrian-scale lighting (middle), and informational kiosk (bottom)

Figure 29. This example combines a sculptural water feature with landscaping

11. Interior Pedestrian Connections

Objectives

- To enhance pedestrian access to the street, adjacent uses, and adjacent sites, where desirable.
- To make it easier to walk between uses.
- To reduce vehicle trips within the neighborhood.
- To promote pedestrian activity.
- To enhance pedestrian access through parking lots and between the street and uses.

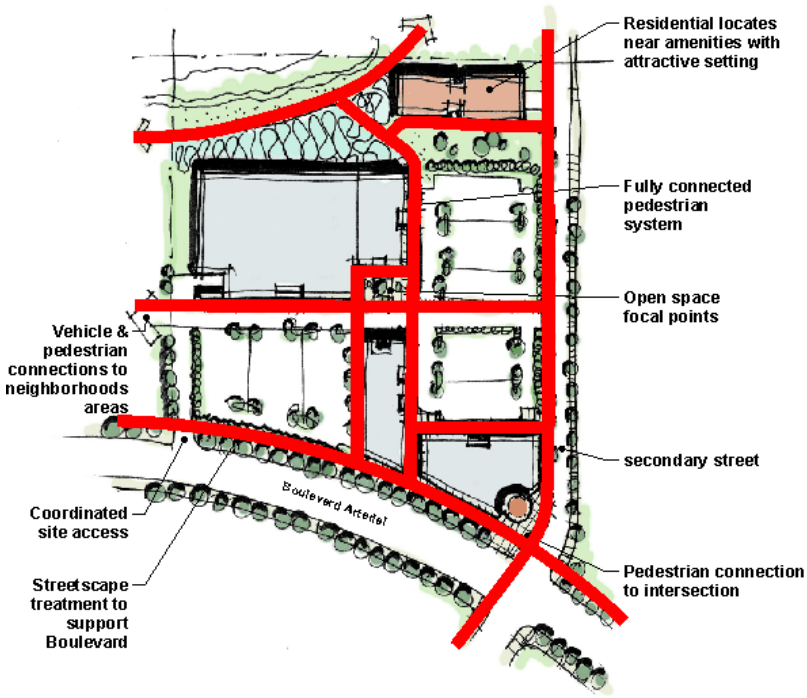


Figure 30. This development example illustrates good interior pedestrian connections. (Note all red lines)

Guidelines

a. Provide convenient pedestrian access between the street, bus stops, buildings, parking areas, and open spaces. Internal pedestrian connections are particularly important on large sites where some uses may be placed away from a street.

b. Design all buildings abutting a public sidewalk or major internal pathways to provide direct pedestrian access to the sidewalk or pathway.

c. Provide interior pedestrian connections to adjacent properties containing similar uses or complementary uses. This is most applicable to large lots and where storefronts or other uses are set back away from the street. Where an existing connection is not desirable or possible due to the nature of development on the adjacent site, the applicant should provide an opportunity for a future pedestrian connection where such a connection is desirable and future redevelopment of the adjacent site is possible.

d. Provide paved walkways through large parking lots. One walkway should be provided for every three parking aisles. Such access routes through parking areas should be separated from vehicular parking and travel lanes by use of contrasting paving material which may be raised above the vehicular pavement and by landscaping.

Figure 31. Provide landscaped pathways through large parking lots

Special Considerations in TL 6B and TL 4

e. TL 6B.: Develop a trail along the northern edge of the property to take advantage of the site's greenbelt setting. Provide a landscaped buffer area between the trail and any adjacent residential buildings to enhance the character of the trail and provide privacy to adjacent residents.

f. TL 6B Enhance connections to TL 10A to the south, to ensure safe and convenient access for employees in TL 10A and the shopping district in TL 6B.

g. TL 4 Provide for safe and convenient access between development in TL 4 (west of I-405) and the business park directly to the west in TL 10A.

12. Pedestrian Plazas

Objectives

- To provide a variety of pedestrian-oriented areas to attract shoppers to commercial areas and enrich the pedestrian environment.
- To create gathering spaces for the community.
- To configure buildings and uses to encourage pedestrian activity and pedestrian focal points.

Guidelines

a. Provide pedestrian plazas in conjunction with non-residential uses.

b. Position plazas in visible locations on major streets, major internal circulation routes, close to bus stops, or where there are strong pedestrian flows on neighboring sidewalks. For large sites, development should be configured to create a focal plaza or plazas. Plazas should be no more than 3' above or below the adjacent sidewalk or internal pathway to enhance visibility and accessibility.

c. Incorporate plenty of benches, steps, and ledges for seating. A combination of permanent and moveable seating is encouraged. Seating areas should be provided with views of amenities, landscaping elements, or people watching.

d. Provide storefronts, street vendors, or other pedestrian-oriented uses, to the extent possible, around the perimeter of the plaza

e. Provide landscaping elements that add color and seasonal interest. This can include trees, planting beds, potted plants, trellises, and hanging plants.

f. Incorporate pedestrian amenities, as described in Section 10.

g. Consider the solar orientation and the wind patterns in the design of the open space and choice of landscaping.

h. Provide transitional zones along building edges to allow for outdoor eating areas and a planted buffer.

Figure 32. Good examples of pedestrian plazas. Notice the

Figure 33. An example of an attractive small plaza space between a sidewalk and a storefront

13. Residential Open Space

Objectives

- To create useable space that is suitable for leisure or recreational activities for residents.
- To create open space that contributes to the residential setting.

Guidelines

a. Incorporate common open space into multi-family residential uses. In the Totem Lake Neighborhood, where very high density residential uses are allowed, the quality of the space in providing respite from the buildings on the site is more critical than the amount of space provided. In some developments, multiple smaller spaces may be more useful than one, larger space. Special recommendations for common open space:

- Consider open space as a focal point of the residential development.
- Where possible, open space should be large enough to provide functional leisure or recreational activity. For example, long narrow spaces rarely, if ever, can function as usable common space.
- Open space should provide for a range of activities and age groups. Children's play areas in particular should be visible from dwelling units and positioned near pedestrian activity.
- Residential units adjacent to the open space should have individual entrances to the space. Preferably, these units should include a small area of semi-private open space enclosed by low level landscaping or hedges (no taller than 42").
- Open space should feature paths, seating, lighting, and other pedestrian amenities to make the area more functional and enjoyable. It should be oriented to receive sunlight, (preferably south).
- Separate common space from ground floor windows, streets, service areas, and parking lots with landscaping and/or low-level fencing. However, care should be used to maintain visibility from dwelling units towards open space for safety.

b. Provide private open space for multi-family residential units. For townhouses and other ground-based housing units, provide patios, decks, and/or landscaped front or rear yards adjacent to the units. For all other units, provide balconies large enough to allow for human activity.

Figure 34. Good examples of common open space, including street-level courtyards (left), a children's play area (top right), and a pedestrian corridor (lower right)

14. Parking Lots and Vehicular Circulation

Objectives

- To minimize the impact of parking facilities on the fronting street, pedestrian environment, and neighboring properties.
- To enhance pedestrian and vehicular safety.
- To maintain desired traffic flow on Totem Lake arterials.
- To promote shared parking
- To provide attractive and connected vehicular circulation routes.

Discussion

Parking lots can detract from the pedestrian and visual character of a commercial area. The adverse impacts of parking lots can be mitigated through sensitive design, location, and configuration. Large parking lots can be confusing unless vehicle and pedestrian circulation patterns are well organized and marked. The Totem Lake Neighborhood Plan encourages shared parking between properties to reduce curb cuts, reduce congestion of cars turning in and out of parking lots and consolidating consumer trips between businesses.

Where not specifically prohibited, drive-through facilities for some uses such as fast food restaurants, pharmacies, or auto oriented uses may be appropriate if designed to minimize vehicle queuing along rights of way, blocking driveways or parking aisles, or impeding pedestrian movement. Aesthetically, drive-throughs should be located away from street frontages or screened as viewed from the right of way.

Guidelines

Driveways

a. Minimize the number of curb cuts into a development, particularly off of arterials. To the extent possible, adjacent developments should share driveways.

▪Parking Lot Location and Design

b. Locate vehicular parking areas to the side or rear of buildings, to the extent possible.

c. Avoid parking layouts that visually dominate a development. Break up large parking lots into smaller ones.

d. Take advantage of topography to hide parking underneath buildings.

e. Provide a clear and well organized parking lot design. Space should be provided for pedestrians to walk safely in all parking lots.

Parking Lot Landscaping

f. Integrate landscaping into parking lots to reduce their visual impact. Provide planting beds with a variety of trees, shrubs, and ground cover to provide visual relief, summer shade, and seasonal interest.

Parking Lot Screening

g. Provide low level screening and perimeter landscaping where parking is adjacent to sidewalks in order to improve visual qualities and reduce clutter. While vertical elements such as trees, are encouraged to define the street edge, all screening methods should maintain visibility at eye level between the street and parking area. For instance, hedges or walls should not be taller than 3 feet and trees should be trimmed to allow visibility between 3 and 8 feet above the ground.

h. Provide extensive screening and landscaping between parking lots and residential uses and open spaces. A combination of a screen wall with a landscape buffer is preferred.

Vehicular Circulation

j. Develop an efficient internal vehicular access system that minimizes conflicts with pedestrians and vehicular traffic. For TL 5, TL 6A, and TL 6B, see the "Redevelopment Concept" illustrations in the Introduction.

k. Configure development to provide interior vehicular connections to adjacent uses, where desirable. Where current connections to adjacent uses are not feasible, but desirable in the future, configure development to provide the opportunity for a future connection, should the adjacent site be redeveloped.

l. Avoid parking lot configurations with dead-end lanes.

m. Configure internal access roads to look and function like public streets. This is most applicable to larger sites, such as those in TL 5 and TL 6B, where an internal vehicular circulation system is critical to access interior portions of the sites. The most desirable configuration would include on-street parking, street trees and sidewalks on both sides of the roadway.

Figure X.

Drive-Through Facilities

n. Design drive- through windows to be oriented away from the street frontage and preferably not located between a building and the street. Where drive- through lanes face a street, avoid large featureless walls and provide sufficient landscaping to soften the visual impact of vehicle stacking areas for drive through windows. Locate driving lanes so as not to interfere with pedestrian or vehicular circulation.

15. Parking Garages

Objectives

- To mitigate the visual impacts of parking garages in the urban environment.

Guidelines

a. Mitigate the intrusive qualities of parking garages. Along streets, pedestrian pathways and in pedestrian areas, ground-level commercial uses should be incorporated into parking structures. Extensive landscaping should be used to screen the parking garage near residential areas and in high visibility locations.

Figure 39. This parking garage includes streetfront retail space and landscaped trellises to mitigate visual impacts on the streetscape

b. Design and site parking garage entries to complement, not subordinate the pedestrian entry. If possible, locate the parking entry away from the primary street, to either the side or rear of the building.

c. Use similar architectural forms, materials, and/or details to integrate the garage with the development.

d. Locate parking structure service and storage functions away from the street edge and generally not visible from the street or sidewalks.

16. Architectural Style

Objectives

- To improve the architectural design of commercial buildings in the business district.
- To provide architecture that fits into the context of the adjacent uses surrounding the business district.

Discussion

As there is no single predominate architectural style in the Totem Lake Neighborhood, the guidelines contained in this document provide flexibility on the chosen styles (provided the architectural style, human scale, building details, and building materials and color standards in KZC Chapter 92 and these guidelines are met).

17. Architectural Scale

Objectives

- To encourage an architectural scale of development that is compatible with the vision for the districts within the Totem Lake Neighborhood.
- To implement the planning concepts for the distinct design districts within the Totem Lake Neighborhood.
- To add visual interest to buildings.

Discussion

The guidelines in this section describe a variety of techniques to give a comfortable human scale by providing building elements that help individuals relate to the building. “Architectural scale” means the size of a building relative to the buildings or elements around it. When the buildings in a neighborhood are about the same size and proportion, we say they are “in scale.” As both the vision and development regulations for the Totem Lake Neighborhood provide for much larger buildings than currently exist, special care must be taken to design buildings so they do not overpower the others. The exception to this rule is an important civic or cultural building that has a prominent role in the community.

Figure 35. Fenestration and vertical modulation techniques help to reduce the architectural scale of this office building

Guidelines

A combination of techniques is desirable to reduce the architectural scale of buildings. Specifically, these techniques are encouraged at intervals of no more than 70 feet for non-residential uses and 30 feet for residential uses. Office buildings are provided with greater flexibility. Alternatives will be considered provided they meet the objectives of the guidelines.

a. Incorporate fenestration techniques that indicate the scale of the building. For example, the size, location, and number of windows in an urban setting create a sense of interest that relies on a subtle mixture of correct ratios, proportions, and patterns. This is particularly important on upper floors, where windows should be divided into units no larger than 35 square feet, with each window unit separated by a visible mullion or other element at least 6 inches wide. "Ribbon windows" (continuous horizontal bands of glass) or "window walls" (glass over the entire surface) do little to indicate the scale of the building and are thus discouraged, except in special circumstances where they serve as an accent element.

   Patterns of fenestration should also vary depending on whether the street is pedestrian- or automobile-oriented. A window pattern that is interesting from a car may be monotonous to a slow-moving pedestrian; likewise, a window pattern that is interesting to a pedestrian may seem chaotic from a fast-moving car. Thus, pedestrian oriented fenestration should allow for more complex arrangements and irregularity while automobile-oriented fenestration should have more gradual changes in pattern and larger and simpler window types. An optimum design goal would allow for varied treatment of window detailing with unifying features such as 18" to 24" sills, vertical modulation in structure, varied setbacks in elevation, and more highly ornamented upper-story windows.

b. Encourage vertical modulation on multi-story buildings to add variety and to make large buildings appear to be an aggregation of smaller buildings. Vertical modulation may be particularly effective for tall buildings adjacent to a street, plaza, or residential area to provide compatible architectural scale and to minimize shade and shadow impacts. Vertical modulation is well-suited for residential development and sites with steep topography.

Figure 36. A variety of techniques should be used for multi-tenant retail buildings to emphasize individual storefronts

c. Encourage a variety of horizontal building modulation techniques to reduce the architectural scale of the building and add visual interest. Horizontal building modulation is the horizontal articulation or division of an imposing building façade through setbacks, awnings, balconies, roof decks, eaves, and banding of contrasting materials. Elevations that are modulated with horizontal elements appear less massive than those with sheer, flat surfaces. Specifically:

   - For single purpose retail buildings, use horizontal building modulation with roofline modulation and a change in building materials, as necessary to meet objectives of the guidelines from all perceived distances. This is particularly important for large scale retail buildings (over 40,000 square feet) or multi-tenant retail buildings placed adjacent to a parking lot where they can be viewed from relatively great distances.
   - Provide horizontal building modulation for residential uses based on individual unit size. Horizontal modulation is most effective when combined with roofline modulation and changes in color and/or building materials. The depth and width of the modulation should be sufficient to meet the objectives of the guidelines. Avoid repetitive modulation techniques, since they may not be effective when viewed from a distance. Larger residential buildings will require greater horizontal modulation techniques to provide appropriate architectural scale.

d. Office buildings: Use design techniques to break up long continuous walls. A combination of horizontal building modulation, change in fenestration, and/or change in building materials should be used to accomplish this.

e. Encourage a variety of roofline modulation techniques. This can include hipped or gabled rooflines and modulated flat rooflines. As a general rule, the larger the building or unbroken roofline, the bigger the modulation should be. In determining the appropriate roof type and amount of modulation, consider at what distance the building can be viewed. For example, a large commercial building adjacent to a parking lot is capable of being viewed from a relatively large distance. Consequently the roofline modulation techniques must be sufficient to provide an appropriate architectural scale that provides visual interest.

18. Human Scale

Objectives

- To encourage the use of building components that relate to the size of the human body
- To add visual interest to buildings.

Discussion

The term "human scale" is generally used to indicate a building's size relative to a person, but the actual size of a building or room is often not as important as its perceived size. A variety of design techniques may be used to give a space or structure the desired effect; for example, to make a room either more intimate or spacious, or a building either more or less imposing.

Figure 37. Bay windows and balconies help lend this building a human scale

Special elements in a building facade create a distinct character in an urban context. A bay window suggests housing, while an arcade suggests a public walkway with retail frontage. Each element must be designed for an appropriate urban setting and for public or private use. A building should incorporate special features that enhance its character and surroundings. Such features give a building a better defined "human scale."

Guidelines

a. Encourage a combination of architectural building elements that lend the building a human scale. Examples include arcades, balconies, bay windows, roof decks, trellises, landscaping, awnings, cornices, friezes, art concepts, and courtyards. Window fenestration techniques described in Section 17 can also be effective in giving humans clues as the size of the building. Consider the distances from which buildings can be viewed (from the sidewalk, street, parking lot, open space, etc.).

19. Building Details and Materials

Objectives

- To use building and site design details that add visual interest to buildings/sites at a pedestrian scale.
- To use a variety of quality building materials such as brick, stone, glass, timber, and metal, which are appropriate to the Pacific Northwest climate, and complementary to the desired visual character of the district.

Figure 38. Consider changes in building materials with modulation techniques

Guidelines

a. Encourage the integration of ornament and applied art with the structures and the site environment. For example, significant architectural features should not be hidden, nor should the urban context be overshadowed. Emphasis should be placed on highlighting building features such as doors, windows, eaves, and on materials such as wood siding and ornamental masonry. Ornament may take the form of traditional or contemporary elements. Original artwork or hand-crafted details should be considered in special areas. Ornament and applied art can be used to emphasize the edges and transition between public and private space, and between walls to ground, roof to sky, and architectural features to adjacent elements. Ornament may consist of raised surfaces, painted surfaces, ornamental or textured banding, changing of materials, or lighting.

b. Use a variety of quality building materials such as brick, stone, timber, and metal, to add visual interest to the buildings and reduce their perceived scale. Masonry or other durable materials should be used near the ground level (first 2 feet above sidewalk or ground level).

Figure 39. A combination of materials is preferred

20. Signs

Objectives

- To encourage the use of creative, well-crafted signs that contribute to the character of the district.

Discussion

Kirkland's Zoning Code regulates signs throughout the city in order to create a high-quality urban environment. Automobile-oriented signs typically found on commercial strips can be overpowering and obtrusive. Pedestrian signs are smaller and closer to viewers; thus, creative, well-crafted signs are more cost effective than large signs mounted high on poles. A balance between the needs of a high traffic corridor and pedestrians should be considered in the design of signs. Signs should be an integral part of a building's façade or act as a center identification for the passing motorist to a commercial center. The location, architectural style, and mounting of signs should conform to a building's architecture and not cover up or conflict with its prominent architectural features. A sign's design and mounting should be appropriate for the setting.

Guidelines

a. Provide pedestrian oriented signs on all commercial facades where adjacent to a sidewalk or walkway. This includes signs located within 15' of the ground plane, such as "blade" signs which hang below canopies. Small signs located on canopies or awnings are also effective along building facades at the street. Signs with quality graphics and a high level of craftsmanship are important in attracting customers. Sculpted signs and signs that incorporate artwork add interest.

b. External lighting is preferred. If internal lit cabinet signs are used, darker background with lighter lettering is more aesthetically pleasing. Neon signs are appropriate when integrated with the building's architecture.

c. Ground-mounted signs should feature a substantial base and be integrated with the landscaping and other site features.

d. Mounting supports should reflect the materials and design character of the building or site elements or both. Too much variety, too much uniformity though unified by common design elements, signs can still express the individual character of businesses.

e. Master-planned, larger commercial centers are encouraged to combine signage for the whole complex that complements the architectural design of the center and oriented to automobile traffic.

21. Service Areas

Objectives

- To provide essential service areas without adversely impacting the quality of development.
- To locate and design site service and storage areas to promote ease of use, safety, and visual cohesion.

Guidelines

a. Locate and design service and storage areas to minimize impacts on the pedestrian environment and adjacent uses. Service elements should generally be concentrated and located where they are accessible to service vehicles and convenient for tenant use.

b. The design of service enclosures should be compatible with the design of adjacent buildings. This may be accomplished by the use of similar building materials, details, and architectural styles. Such enclosures should be made of masonry, ornamental metal, heavy wood timber, or other durable materials.

c. Roof-mounted mechanical equipment should be located so as not to be visible from the street, public open space, parking areas, or from the ground level of adjacent properties. Screening features should blend with the architectural character of the building. Equipment screening and preferred location should be included in the early design of a building.

22. Visual Quality of Landscapes

Objectives

- To enhance the visual quality of the urban environment.

Discussion

The relationship between landscaping and architecture is symbiotic; plant materials add to a building's richness, while the building points to the architectural qualities of the landscaping. Foliage can soften the hard edges and improve the visual quality of the urban environment. Landscaping treatment in the urban environment can be categorized as a pedestrian/auto, pedestrian, or building landscape.

The pedestrian/auto oriented landscape applies to where the pedestrian and auto are in close proximity. Raised planting strips can be used to protect the pedestrian from high-speed and high-volume traffic. Street trees help create a hospitable environment for both the pedestrian and the driver by reducing scale, providing shade and seasonal variety, and mitigating noise impacts.

The pedestrian landscape offers variety at the ground level through the use of shrubs, ground cover, and trees. Pedestrian circulation, complete with entry and resting points, should be emphasized. If used effectively, plant materials can give the pedestrian visual cues for moving through the urban environment. Plant materials that provide variety in texture, color, fragrance, and shape are especially desirable.

<u>The Building Landscape</u>. Landscaping around urban buildings, particularly buildings with blank walls, can reduce scale and add diversity through pattern, color, and form.

Examples of how landscaping is used to soften and enhance the visual quality of the urban environment include:

- Dense screening of parking lots;
- Tall cylindrical trees to mark an entry;
- Continuous street tree plantings to protect pedestrians;
- Several clusters of dense trees along long building facades;
- Cluster plantings at focal points;
- Parking with trees and shrubs planted internally as well as on the perimeter.

Guidelines

a. Consider the purpose and context of the proposed landscaping. The pedestrian/auto oriented landscape requires strong plantings of a structural nature to act as buffers or screens. The pedestrian landscape should emphasize the subtle characteristics of the plant materials. The building landscape should use landscaping that complements the building's favorable qualities and screens its faults while not blocking views of the business or signage.

   Other considerations:

   - Encourage a colorful mix of drought tolerant and low maintenance trees, shrubs and perennials. Except in special circumstances, ivy and grass lawn should be avoided.
   - Take advantage of on-site topography to hide parking and enhance views.
   - Use wooded slopes as a natural site amenity and to screen unwanted views, where applicable.

23. Territorial Views

Objectives

- To encourage development to take advantage of views, while minimizing impacts to public views.
- To configure buildings and site features to enhance views from surrounding properties.

Guideline

a. Encourage rooflines to roughly follow the slope of the existing terrain. Parking garages should be terraced into slopes to minimize building bulk, wherever possible. Buildings are encouraged to step down hillsides.

Chapter 3.30
DESIGN REVIEW BOARD

Sections:

3.30.010 Membership—Appointment—Compensation—Removal.
3.30.020 Qualifications.
3.30.030 Powers and duties.
3.30.040 Design guidelines adopted by reference.
3.30.050 Conflict of interest.

3.30.010 Membership—Appointment—Compensation—Removal.

The design review board shall be composed of seven appointed members. In addition, the director of planning and community development shall sit on the design review board ("DRB") as a nonvoting member for purposes of advising the board on regulatory and urban design issues. Members shall be appointed by a majority vote of the city council, without regard to political affiliation. The members of the DRB shall serve without compensation. Each member shall be appointed to a four-year term; provided, that as to the two positions added in 2003, one new member's initial term shall expire March 31, 2005, and the other new member's initial term shall expire March 31, 2007. Any vacancy shall be filled for the remainder of the unexpired term of the vacant position. When a member misses three or more consecutive meetings not excused by a majority vote of the DRB, the DRB will consider recommending removal of that member. The board shall recommend removal if the absences have negatively affected the board's abilities to perform its duties. The recommendation will be forwarded to city council. Members finding themselves unable to attend regular meetings are expected to tender their resignations. A member may be removed by a majority vote of the city council. (Ord. 3901 § 1, 2003: Ord. 3683A § 1 (part), 1999)

3.30.020 Qualifications.

Members of the design review board shall include design professionals and building/construction experts, and residents of Kirkland capable of reading and understanding architectural plans and knowledgeable in matters of building and design. The board shall at all times have a majority composition of professionals from architecture, landscape architecture, urban design/planning, or similar disciplines. In selecting members, professionals who are residents and/or whose place of business is within Kirkland will be preferred. (Ord. 3683A § 1 (part), 1999)

3.30.030 Powers and duties.

The design review board shall have the responsibilities designated in the zoning code. In addition, the design review board shall perform such advisory functions related to design issues as designated by the city council. (Ord. 3683A § 1 (part), 1999)

3.30.040 Design guidelines adopted by reference.

The Design Review Board in combination with the authority set forth in Chapter 142 of the Zoning Code shall use the following design guidelines documents to review development permits:

a. The document entitled "Design Guidelines for Pedestrian Oriented Business Districts" bearing the signature of the mayor and the director of the department of planning and community development dated August 3, 2004, is adopted by reference as though fully set forth herein. The City Council shall consult with the Planning Commission

prior to amending this document (Ord. 3957 § 1, 2004: Ord. 3932 § 1, 2004: Ord. 3890 § 1, 2003: Ord. 3683A § 1 (part), 1999)

b. The document entitled “Design Guidelines for the Rose Hill Business District bearing the signature of the mayor and the director of the department of planning and community development dated January 3, 2006, is adopted by reference as though fully set forth herein. The City Council shall consult with the Planning Commission prior to amending this document.

c. The document entitled “Design Guidelines for the Totem Lake Neighborhood” bearing the signature of the mayor and the director of the department of planning and community development dated June 6, 2006, is adopted by reference as though fully set forth herein. The City Council shall consult with the Planning Commission prior to amending this document.

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
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MEMORANDUM

To: David Ramsay, City Manager

From: Gwen Chapman, Interim Finance and Administration Director

Date: May 30, 2006

Subject: Annexation Financial Update

Recommendation

Council receive an update on annexation fiscal issues and review proposed Long-Term Fiscal Analysis Request for Qualifications.

Background

In 2000, the city contracted with Henderson, Young & Company to prepare an analysis of the fiscal impacts of annexing the Finn Hill, North Juanita and Kingsgate neighborhoods. The consultant's analysis concluded that the city would experience a significant negative operating impact as a result of extending services to the potential annexation area (PAA).

In 2005, city staff issued a report that provided updated figures to account for changes to revenues and service levels since the 2000 study. The 2005 staff report estimated that providing services to the PAA would result in an annual operating deficit of $4.78 million. As discussed in previous annexation updates, the passage of Senate Bill 6686 significantly narrowed this deficit to an estimated $635,000.

Fiscal Issues

Finance staff has begun the work of updating the 2005 annexation report for current revenues, rates and contract provisions. This update will include working with each department to identify options for adjustments to the PAA expenditure estimates in an effort to eliminate the remaining estimated gap.

On May 11th, staff met with representatives from the Department of Revenue (DOR) and other cities looking at possible annexations utilizing the transitional funding provided by SB 6686. DOR staff provided a draft Q&A related to the implementation of SB 6686 and was available for clarifying questions. Key points discussed include:

- The transitional state funding is limited to the lesser of .2% of the PAA sales tax (assuming >20,000 population in the annexation area) or the amount of the deficit incurred from providing services to the PAA. DOR directed the cities to the State Auditor's Office for questions regarding what reporting will be required to support deficit calculations.

- The deficit is calculated on our fiscal year but collected on the State's fiscal year. We report our deficit in March and it is collected from July to July of the next fiscal year.

- Enacting the tax does not create an impact on citizens; instead it redirects a portion of sales tax revenue from the State to the City to ease transition.

- The tax can be imposed at the time annexation commences. This can be as early as the Council resolution of intent. The ten year clock starts ticking when the tax is imposed.

- The funding will cease ten years from the date it is first enacted. The structure of the tax change provides a fiscal disincentive for phasing annexation by neighborhood.

Due to the ten year limit on transitional funding and the size of the deficit absent this funding, advance planning is required to ensure the City's long-term fiscal health. Long-term strategies for tapering off the transitional state funding need to be developed and analyzed in the near future in order to provide time to implement a fiscal action plan. There are many different options that can be utilized to assist in closing the long-term financial gap including redevelopment, additional revenues, and changes in service provision methods. Staff will be contracting with a consultant to develop additional options to consider.

During the mid-year budget process staff will be requesting funding for a consultant to develop a long-term fiscal model and strategy for financing the service provision in the PAA. The scope of work (attached) includes the development of a forecast model spanning 15 years. The model will provide the ability to assess the impact of different long-term scenarios and enable staff to continue to reassess the fiscal progress toward self sufficiency over the ten years of state provided support.

Next Steps

- Staff is preparing a mid-year budget request for a fiscal consultant to conduct a long-term (15 year) fiscal forecast with strategies the Council can employ to offset the loss of transitional state funding.

- Staff will continue to work with the State to determine how the funding legislation will be implemented. This will include a meeting with the State Auditor's Office to determine reporting requirements.

- Representatives of different departments will be meeting with the Annexation Team from the City of Vancouver on July 6th to learn from their experience.

- Staff will continue to work with other local cities studying annexation to share information and coordinate discussions with the state.

CITY OF KIRKLAND

REQUEST FOR QUALIFICATIONS
LONG-TERM FISCAL ANALYSIS OF ANNEXATION

Background

The City of Kirkland is studying the long-term financial implications of annexing all or a portion of its potential annexation area (PAA) as identified in the City's Comprehensive Plan. For the purposes of this study, the PAA is divided into three sub-areas as shown on the attached map. Previous studies have developed costs associated with providing services to the PAA. Recent legislation provided the potential for transitional funding from the State. The City is interested in assessing the long-term economic viability of annexation. The City is seeking a firm qualified to conduct detailed fiscal analysis and develop forecast models for use by the City.

The goal of this project is to provide a fiscal forecast and to develop strategies for offsetting the loss of temporary state revenue. Based on this analysis, the City Council will have the financial data necessary to further evaluate the feasibility and/or appropriate timing for annexing all or a portion of the PAA.

Kirkland's potential annexation area extends north from the City limits at NE 132nd Street to approximately NE 145th Street, and from Lake Washington east to the Burlington Northern railroad right-of-way located near the base of the plateau. The area contains three sub-areas which include the Kingsgate neighborhood east of I-405; the Juanita neighborhood in the middle; and the Finn Hill neighborhood on the west (see attached map).

The estimated population of this area for year 2006 is 32,600. For comparison, Kirkland's population in 2006 is estimated at 45,800. In 1997, there were approximately 13,000 housing units in the PAA. About 70% of the housing units are single-family dwellings.

Residential use is the predominant land use in the area. The Kingsgate and Juanita neighborhoods have community commercial retail shopping districts. The Finn Hill area has a few neighborhood commercial centers.

The Kirkland Fire Department serves the area within the boundaries of the King County Fire District #41. It is in the Lake Washington School District. There are over 300 acres of publicly owned parks and open space with Big Finn Hill Regional Park alone accounting for over 200 acres of the total. Water and sewer utilities are primarily the responsibility of the Northshore utility with a small area provided by the Woodinville Water District. Transportation, law enforcement, parks and surface water are the responsibility of King County.

Project Description

The project consists of an assessment of the long-term economic viability of annexation. The study is to be conducted individually for the three identified sub-areas within the PAA and includes an analysis of a variety of combinations of these geographic areas. There are three major tasks associated with this study:

1. Development of a long range (15 year) financial forecast of the potential annexation area.

2. Development of forecast model City staff can use to assess impact of changes in variables. Model should provide ability to forecast monthly cash flow for the first three years to be used for assessing service implementation options.

3. Analysis of strategies that could be employed to enhance the long term economic viability of the potential annexation area (e.g. use of new or enhanced revenue sources, strategic agreements with other agencies, redevelopment options, etc.).

Project Time Frames and Products

A draft report is to be completed by August 31, 2006. A final report and meetings with the City Council will take place following staff review. The final product will include a computer model and a detailed report depicting the long range fiscal forecast for the potential annexation area by sub-area and in aggregate. The report will include an executive summary. The City has a significant amount of data regarding annexation that will be provided to the consultant to aide in conducting the requested analysis.

Submittal Requirements

Each submittal must include:

1. A brief letter of introductions.

2. A statement of qualifications and relevant experience of each of the firms to be involved. The project manager and individuals who will be involved in the project.

3. A general description of the firm's proposed approach to the project including roles and responsibilities of the firm(s) and individuals that will be undertaking the project and the percentage of time for each firm (please limit this section of the proposal to three pages).

4. A summary of hourly billing rates.

5. Names and phone numbers of five references for each firm including a minimum of two references for the principle firm from cities where similar work was performed.

The firm or team should be able to identify a project manager who will coordinate the project to a timely completion of all work products within budget. The project manager must be available for a possible interview. The firm or team should be available to begin immediately upon selection.

The deadlines for submittals of qualifications is June 30, 2006. Six copies of the packet should be submitted to:

Gwen Chapman, Interim Finance Director
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

For more information, contact Gwen Chapman at (425) 587-3116.

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

MEMORANDUM

To: David Ramsay, City Manager

From: Eric Shields, Planning Director

Date: May 19, 2006

Subject: Regulations Implementing the North Rose Hill Plan

Earlier this year I prepared a memorandum discussing Zoning Code Consistency with the Comprehensive Plan (attached). The City Council reviewed the memorandum at a meeting in February at which time staff was directed to prepare an analysis of the consistency of development regulations with the North Rose Hill Neighborhood Plan. The completed analysis is attached.

The analysis is in the form of a multi-page table that lists the goals and policies of the Plan in the left column and indicates the corresponding regulations or other measures that are in place to implement the policies. Where there are inconsistencies or no known implementation measures, this is noted in bold text. The items so noted are shown below along with a recommendation for how to respond to each:

Policy NRH 11.1:
Allow multifamily development with a density of 12 units per acre in the area north of the Kirkland Boys and Girls Club to NE 113th Place, subject to the following standards:

1) To reduce the potential for a piecemeal development pattern, aggregation of at least two acres should be encouraged for multifamily development.
2) Improvement of an east/west right-of-way, such as NE 112th Place or an appropriate alternate may be required. This connection would provide improved general and emergency access to Slater Avenue NE.
3) Retention of significant vegetation to provide protection from I-405 should be required.
4) If adjacent to wetland areas or 124th Avenue NE, natural environment and transportation goals should be observed.

Implementation:
This area is shown on the neighborhood plan land use map (Figure NRH-4) as "*MEDIUM DENSITY RESIDENTIAL 12 UNITS/ ACRE.*" The zoning map is consistent with the plan map, showing the same area as RM 3.6 (1 unit/ 3600 sq. ft. of lot area = 12.1 units/ acre).

The Zoning Code does not contain any special regulations for the RM 3.6 zone that would specifically implement these development standards. The City could implement most of the standards through the SEPA review process (but not the 2 acre minimum lot size). However, all of the parcels in this area are already developed to their full potential.

Recommendation: The area addressed by this policy is now fully developed at its maximum zoning potential, so Policy NRH 11.1 is essentially a moot point. Consequently revisions to zoning regulations to implement the policy are not recommended.

Policy NRH 14.3:
Encourage Lake Washington Technical College to continue to provide community meeting facilities for the neighborhood and the City.

Implementation:
The word "*encourage"* implies that implementation is intended to occur through incentives or non-regulatory actions. **Zoning regulations do not have regulatory incentives for public meeting facilities.**

Recommendation: Revisions to regulations are not recommended. Implementation of this policy will depend upon the good will of the Technical College.

Policy NRH 19.1:
Designate the following subareas to address site-specific development standards.

NRH 1A
•The types of commercial uses allowed in this area should be compatible with the community and the region. Car and boat dealerships and big box retail uses are prohibited.

Implementation:
The NRH 1A zone allows any retail use except:

- *"Vehicle or boat sales or rental facilities"* **(the neighborhood plan refers to *"car and boat dealerships."*)**
- *"Retail establishments providing storage services…"*
- *"Storage and operation of heavy equipment…"*
- *"Outdoor storage of bulk commodities, except…:"*

NRH 1B
The types of commercial uses allowed in this area should be limited to both office uses and those retail uses that serve the people working and living in Kirkland. Traditional neighborhood business uses are retail sales of goods and services with limited gross floor area. Car and boat dealerships, hotels/motels, entertainment, and big box retail uses are prohibited.

The NRH 1B zone allows any retail use except:

- *"Entertainment and recreational facilities."*
- *"Vehicle or boat sales or rental facilities."* **(the neighborhood plan refers to *"car and boat dealerships."*)**
- *"Retail establishments providing storage services…"*
- *"Storage and operation of heavy*

equipment…"

- *"Outdoor storage of bulk commodities, except…:"*

Recommendation: In 2005, the City Council reviewed this issue and determined that the intended meaning of the plan and zoning is to allow indoor vehicle sales and prohibit outdoor vehicle storage and display. A zoning code interpretation was prepared to implement this intention. However, neither the North Rose Hill Plan nor the Zoning Code clearly reflect this intention and should be amended.

NRH 3	**Implementation:**
•A 15-foot-wide heavily landscaped buffer should be provided, and building mass should be oriented away from low density areas…	Office uses are required to meet *"landscape category B,"* which establishes a 15 foot wide buffer adjacent to residential uses. **Multi-family residential uses are required to meet "*landscape category D,"* which establishes a 5 ft. wide buffer adjacent to residential uses.**

Recommendation: Staff has concluded that the inconsistency between the plan and zoning was due to an error in the plan. A smaller buffer for multi-family uses should have been referenced in the plan, consistent with buffering requirements throughout the City. However, a project has been approved and is now under construction on the property addressed by this policy. Plans for the project include a 15 foot wide buffer consistent with the above policy. Consequently, a plan amendment is not recommended. If the Council concludes that greater buffers should be required between, single family and multi-family uses, they could direct consideration of a City-wide code amendment.

Policy NRH 23.2:	**Implementation:**
Design buildings and landscape adjoining development to minimize potential noise and visual impacts generated by traffic on 124th and 132nd Avenues NE.	**The City does not have regulations for this purpose.**

Recommendation: A code amendment is not recommended. Property owners may take the impacts into account when designing projects.

Policy NRH 31.2:	**Implementation:**
Maintain individual property owners' existing septic systems in high working order.	**There is no regulation or action of the City to implement this policy. Maintenance of septic systems is the responsibility of property owners.**

Recommendation: A code amendment is not recommended. This is the responsibility of property owners.

<u>Policy NRH 36.1:</u> Establish a street tree plan for the neighborhood. Trees bordering streets can unify the neighborhood's landscape.	**Implementation:** City staff maintains a list of trees that are acceptable for planting as street trees City-wide. **There is not a plan for street trees that is specific to North Rose Hill.**

<u>Recommendation:</u> This item could be referred to the Natural Resources Management Team for prioritization in their work plan.

Attachments:

1. Regulations Implementing the North Rose Hill Neighborhood Plan
1. Memorandum from Eric Shields to David Ramsay RE: Zoning Code Consistency with the Comprehensive Plan

Regulations Implementing the North Rose Hill Neighborhood Plan

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
Goal NRH 1 – Preserve features and locations that reflect the neighborhood's historic heritage	
Policy NRH 1.1: Provide markers and interpretive information at historic sites.	Implementation of this policy will require the direct action of the City, Heritage Society or others, rather than through regulation.
Goal NRH 2 – Protect and improve the water quality in Forbes Lake and in the Forbes Creek and Juanita Creek basins.	
Policy NRH 2.1: Undertake public management strategies and adopt development regulations to enhance stream buffers, promote fish passage, and improve the function of streams, lakes, wetlands and wildlife corridors.	There is no indication that this policy is intended to be implemented through regulations unique to North Rose Hill. Therefore, implementation will occur through City-wide drainage basin regulations and/ or City capital improvements.
Goal NRH 3 – Locate and design new development to preserve and enhance the health, safety, drainage, habitat, and aesthetic functions provided by sensitive areas.	
Policy NRH 3.1: Site structures away from wetland, lake, or stream areas, consistent with the natural environment policies and regulations.	Implementation will occur through City-wide drainage basin regulations in the Zoning Code.
Policy NRH 3.2: Utilize flexible and innovative housing designs and styles adjoining sensitive areas where they would better protect these features.	Currently, implementation of this policy is through Planned Unit Developments initiated at the discretion of developers.
Policy NRH 3.3: Reduced maximum residential density may occur around Forbes Lake due to the presence of natural features.	The area around Forbes Lake is zoned PLA 17. Zoning regulations for PLA 17 require a minimum land aggregation of 2 acres to achieve the maximum density of 12 units/ acre. City-wide drainage basin regulations further reduce density in proportion to the percentage of wetland on the property.
Policy NRH 3.4: Enhance stream buffers connecting identified natural wildlife areas around wetlands and Forbes Lake in order to provide corridors for wildlife movement between them.	Implementation will occur through City-wide drainage basin regulations in the Zoning Code.
Policy NRH 3.5: Develop viewpoints and interpretive information around streams and wetlands if protection of the natural features can be reasonably ensured.	Implementation of this policy will occur primarily through the direct action of the City or others, rather than through regulation. If appropriate, viewpoints could be approved as public benefits in PUDs.

Regulations Implementing the North Rose Hill Neighborhood Plan

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
Goal NRH 4 – Protect and properly manage the urban forest throughout the North Rose Hill neighborhood. **Policy NRH 4.1:** Encourage retention of native vegetation and significant stands of native trees on hillsides, along stream banks, and in sensitive area buffers. Narrative text following the policy recommends recording of green belt easements. **Policy NRH 4.2:** Preserve as many trees as possible during the development process. **Policy NRH 4.3:** Protect notable trees and groves of trees. Narrative text associated with this policy states: "*Until the City develops regulations to protect notable trees and groves of trees Citywide, continue to promote retention of significant trees on private property."* The plan does not define notable trees or map specific groves to be saved.	The word *"encourage"* implies that implementation is intended to occur through incentives or non-regulatory actions. Even so, implementation will occur through City-wide Zoning Code regulations regarding trees, drainage basins and geologically hazardous areas. Implementation will occur through City-wide tree regulations in the Zoning Code. New City-wide tree regulations recently have been adopted. The regulations do not define or regulate "notable trees," but they do define *"specimen" and "landmark"* trees and *"tree groves."* These types of trees are given priority to be saved if feasible.
Goal NRH 5 – Protect potentially hazardous areas, such as landslide, erosion, and seismic areas, through limitations on development and maintenance of existing vegetation. **Policy NRH 5.1:** Regulate development on slopes with high or moderate landslide or erosion hazards and on seismic hazard areas to avoid damage to life and property.	There is no indication that this policy is intended to be implemented through regulations unique to North Rose Hill. Implementation will occur through City-wide geologically hazardous areas regulations in the Zoning Code.
Goal NRH 6 – Protect wildlife throughout the neighborhood **Policy NRH 6.1:** Encourage creation of backyard sanctuaries for wildlife habitat in upland areas. The narrative text discusses implementation by property owners with	Implementation of this policy will require the direct action of the City or others, rather than through regulation. This is listed as a desirable project in the Natural Resources Management Plan. The Natural Resources Management Team will include information about backyard sanctuaries in public educational

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
assistance from the City, State or other agencies.	efforts.
Goal NRH 7 – Identify priorities and funding sources for sensitive areas acquisition, restoration, or education. **Policy NRH 7.1:** Identify priority locations in the Forbes Creek drainage basin.	Implementation of this policy will require construction of storm water projects by the City using funds collected through the City's Storm Water Utility and prioritized through the Capital Improvement Program. There are several storm water projects slated for North Rose Hill in the current CIP.
Goal NRH 8 – Promote and retain the residential character of the neighborhood. **Policy NRH 8.1:** Encourage a variety of housing styles and types to serve a diverse population. Narrative text associated with this policy notes that the predominant housing style in the neighborhood is detached single-family. Further: "Cottage, compact single family, a*ttached and clustered dwellings are appropriate to serve a diverse population and changing household demographics as allowed by Citywide policies."* **Policy NRH 8.2:** Locate new commercial development in the business districts at the north and south boundaries of the North Rose Hill neighborhood in order to prevent commercial encroachment.	The City is now in the process of evaluating whether to allow such alternative types of housing City-wide, and if so under what conditions. The Zoning Map was amended to create new zoning districts for the North Rose Hill Business District. The zone boundaries precisely match the boundaries shown on the neighborhood plan land use map (Figure NRH-4).
Goal NRH 9 – Allow innovative residential development styles when specific public benefits are demonstrated as allowed by Citywide policies. **Policy NRH 9.1:** Allow innovative development styles or techniques if increased protection of sensitive or hazardous areas, affordable or lower cost housing, or housing choice are demonstrated.	As noted above, consideration of City-wide regulations is now in process.
Goal NRH 10 – Maintain predominately detached single-family residential development at a density of six units per acre in low density areas and allow some density increase if specific public benefits are demonstrated as	

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
allowed by Citywide policies. **Policy NRH 10.1:** Preserve low density areas south of NE 117th Street to approximately NE 86th Street, and between the freeway and 132nd Avenue NE. Narrative text associated with this policy reiterates the potential for *"innovative housing styles."*	This area is shown on the neighborhood plan land use map (Figure NRH-4) as "*LOW DENSITY RESIDENTIAL."* The zoning map is consistent with the plan map. A small portion of the low density area is zoned RS-7.2. The remainder is zoned RSX 7.2.
Goal NRH 11 – Allow multifamily development at a density of 12 units per acre as a transition between low density areas and more intensive development. **Policy NRH 11.1:** Allow multifamily development with a density of 12 units per acre in the area north of the Kirkland Boys and Girls Club to NE 113th Place, subject to the following standards: 1) To reduce the potential for a piecemeal development pattern, aggregation of at least two acres should be encouraged for multifamily development. 2) Improvement of an east/west right-of-way, such as NE 112th Place or an appropriate alternate may be required. This connection would provide improved general and emergency access to Slater Avenue NE. 3) Retention of significant vegetation to provide protection from I-405 should be required. 4) If adjacent to wetland areas or 124th Avenue NE, natural environment and transportation goals should be observed.	This area is shown on the neighborhood plan land use map (Figure NRH-4) as "*MEDIUM DENSITY RESIDENTIAL 12 UNITS/ ACRE."* The zoning map is consistent with the plan map, showing the same area as RM 3.6 (1 unit/ 3600 sq. ft. of lot area = 12.1 units/ acre). **The Zoning Code does not contain any special regulations for the RM 3.6 zone that would specifically implement these development standards.** The City could implement most of the standards through the SEPA review process (but not the 2 acre minimum lot size). However, all of the parcels in this area are already developed to their full potential.
Policy NRH 11.2: Allow multifamily development with a density of 12 units per acre west of Slater Avenue NE, at approximately NE 97th Street. Narrative text associated with this policy discusses protection of adjacent single family areas. Such protections will be implemented through basic zoning requirements such as height limitations, setbacks and landscape buffers.	This area is shown on the neighborhood plan land use map (Figure NRH-4) as "*MEDIUM DENSITY RESIDENTIAL 12 UNITS/ ACRE."* The zoning map is consistent with the plan map, showing the same area as RM 3.6 (1 unit/ 3600 sq. ft. of lot area = 12.1 units/ acre).

Regulations Implementing the North Rose Hill Neighborhood Plan

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
Goal NRH 12 – Locate high density development with densities between 18 and 24 units per acre at the north end of the neighborhood, close to the Totem Lake neighborhood and the Lake Washington Technical College	
Policy NRH 12.1: Allow multifamily development at a density of 18 units per acre in the northeast corner of the neighborhood, subject to the following standards to ensure protection of landslide and erosion hazard slope areas and preservation of significant vegetation: 1) Preparation of a slope stability analysis and compliance with recommendations to ensure stability. 2) Retention of maximum vegetative cover. 3) Clustering of structures to preserve significant groupings of trees. 4) Dedication of natural greenbelt easements in the sensitive slope areas. 5) Substantial setbacks and landscape buffers adjacent to single-family areas.	This area is shown on the neighborhood plan land use map (Figure NRH-4) as "*HIGH DENSITY RESIDENTIAL 18 UNITS/ ACRE."* The zoning map is consistent with the plan map, showing the same area as RM 2.4. (1 unit/ 2400 sq. ft. of lot area = 18.15 units/ acre.) Standards 1), 2), 4) and 5) would be implemented through City-wide Zoning Code regulations regarding geologically hazardous areas, tree management, required yards and buffering. All of the parcels in this area are already developed to their full development.
Policy NRH 12.2: Allow 24 units per acre in the area east of Slater Avenue NE and north of NE 116th Street, close to the activities and services of Totem Lake.	This area is shown on the neighborhood plan land use map (Figure NRH-4) as "*HIGH DENSITY RESIDENTIAL 24 UNITS/ ACRE."* The zoning map is consistent with the plan map, showing the same area as RM 1.8. (1 unit/ 1800 sq. ft. of lot area = 24.2 units/ acre.)
Goal NRH 13 – Protect the natural features of Forbes Lake, Forbes Creek, and associated sensitive area wetlands and buffers.	
Policy NRH 13.1: Consider medium density residential development with a maximum density of 12 units per acre, subject to the following development standards: 1) Development should be subject to a public review process. 2) A minimum of two acres should be aggregated for multifamily development to reduce the potential for a piecemeal development pattern. 3) West of Forbes Lake, development should provide for the continuation of a bicycle and pedestrian path that generally follows the alignment of Slater Avenue NE and connects to NE 90th Street. 4) New development adjacent to Forbes Lake should provide for	This area is shown on the neighborhood plan land use map (Figure NRH-4) as "*MEDIUM DENSITY RESIDENTIAL PLA 17 6-12 UNITS/ ACRE."* The zoning map is consistent with the plan map, showing the same area as PLA 17. The Zoning Code regulations for PLA 17 implement the standards in the plan as follows: • Development on a lot containing less than two acres is limited to one detached unit, with a minimum lot size of 7200 sq. ft. No special review process is required. • For attached or stacked dwelling units: o Minimum lot size is two acres.

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
public access to the lake in appropriate locations. Public access should be limited to passive uses, such as walking trails or viewpoints. 5) Vehicular connection through this subarea to NE 90th Street is not permitted. 6) Future development density potential may be reduced from what otherwise could be achieved around Forbes Lake based on the presence of environmental constraints in PLA 17 and the application of management techniques to protect these resources. 7) If adjacent to wetland areas or 124th Avenue NE, Goals NRH 3 and 23 should be observed.	o Maximum permitted density is 1 unit/ 3600 sq. ft. of lot area (= 12.1 units/ acre). o Development must be approved through Process IIA. o Public access to the lake is required. o A street connection to NE 90th St. is prohibited. City-wide drainage basin regulations further reduce density based on the percentage of the site occupied by wetlands and/or buffers. Goal 3 will be implemented through City-wide drainage basin regulations, as noted above. Goal 23 will be implemented through during City approval of proposed development permits.
Goal NRH 14 – Recognize and enhance the role the college plays in the North Rose Hill neighborhood, the wider Kirkland community and in the region. **Policy NRH 14.1:** Encourage Lake Washington Technical College to provide nonmotorized connections between the surrounding residential areas and the campus. These links will provide access to the college at multiple locations. **Policy NRH 14.2:** Seek partnership opportunities between Lake Washington Technical College and the City on educational, technical, recreational, and social services. **Policy NRH 14.3:** Encourage Lake Washington Technical College to continue to provide community meeting facilities for the neighborhood and the City.	The word "*encourage"* implies that implementation is intended to occur through incentives or non-regulatory actions. However, the potential for nonmotorized connections was considered during the recent review of the College Master Plan (see discussion below). Implementation of this policy will require City actions other than regulation. The word "*encourage"* implies that implementation is intended to occur through incentives or non-regulatory actions. **Zoning regulations do not have regulatory incentives for public meeting facilities. It is unclear how implementation will occur.**
Goal NRH 15 – Ensure that any college expansion is compatible with the surrounding residential neighborhood. **Policy NRH 15.1:**	The College is shown on the neighborhood plan land use map as *"LAKE WASHINGTON TECHNICAL COLLEGE PLA 14"* The Zoning Map was revised consistent with the plan map, showing the same area as PLA (Planned Area) 14.

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
Provide public review of major expansion of the college. Mitigation may be required for impacts of the proposed expansion and, where feasible, the existing use.	Zoning regulations for PLA 14 do not establish specific development standards. However, the college is required to have a Master Plan approved through Process IIB. A Master Plan application was recently submitted and a public hearing was held before a Hearing Examiner. The Examiner has recommended approval with conditions. The applicant has asked that further processing of the application (City Council decision) be suspended to allow for their consideration of one of the Hearing Examiner's conditions of approval.
Policy NRH 15.2: Consider an extension of NE 116th Street to 132nd Avenue NE, in order to improve access to the college.	Consideration of a street connection did occur during the review of the Master Plan.
Policy NRH 15.3: Consider relocating the NE 120th Street driveway farther to the west, away from the bend in the road to the east. Allow no additional driveways to 132nd Avenue NE.	Implementation of this policy could be considered during review of the College Master Plan.
Policy NRH 15.4: Encourage creation of affordable housing near the college.	Incentives are provided by City-wide regulations within multi-family zones (MF zones abut the college to the north and west) and by regulations for the nearby Totem Lake business district.
Goal NRH 16 – Ensure that any future church expansion or redevelopment of the site is compatible with the surrounding residential community.	This is referring to City Church.
Policy NRH 16.1: Provide public review of redevelopment or expansion of the church. Consider mitigation of impacts from the proposed expansion and, where feasible, the existing use.	City Church is located in the RSX 7.2 zone. The Zoning Code establishes that a church must be approved through Process IIA if less than 5 acres in size or Process IIB if five or more acres. Mitigation measures can be implemented through the approval process.
Policy NRH 16.2: Encourage housing at this site.	Detached single family units are allowed in the RSX zone and could be incorporated into the church master plan. A Planned Unit Development for a housing project at the south end of the church property was approved several years ago.
Goal NRH 17 – Develop the North Rose Hill Business District to complement the Totem Lake neighborhood.	
Policy NRH 17.1: Improve NE 116th Street with coordinated streetscape improvements and	Implementation of this policy will require construction of improvements by the City, with funding prioritized though the

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
gateway features. **Policy NRH 17.2:** Establish urban design standards for commercial and mixed-use residential development in the North Rose Hill Business District. Encourage building designs that provide architectural and human scale buildings, discourage parking in front of buildings, ensure pedestrian orientation, provide convenient bike and pedestrian connections to the neighborhood, and are complementary to the design standards for the Totem Lake neighborhood.	Capital Improvement Program. In addition, the Zoning Code requires that developers improve adjacent City rights of way consistent with adopted street standards. Gateway improvements could also be required if they do not add significant expense. Design guidelines and regulations have been adopted.
Goal NRH 18 – Encourage increased residential capacity in the North Rose Hill Business District to help meet housing needs. **Policy NRH 18.1:** Allow increased height when upper story residential use is provided. The narrative text associated with this policy discusses the desire to provide incentives to make upper story residential use more profitable than commercial use. **Policy NRH 18.2:** Implement regulatory and other incentives to encourage affordable housing in conjunction with Citywide efforts.	New zoning regulations for the NRH 1A and 1B zones allow residential uses up to 5 stories (the first story must be commercial use). Office and retail uses are limited to two stories. In 2004, amendments to the Zoning Code were adopted which provide incentives for affordable housing in many zones of the City, including the North Rose Hill Business District. Incentives include increased structure height and increased lot coverage.
Goal NRH 19 – Limit the types of commercial uses to those that are compatible with the residential focus of the North Rose Hill Business District. **Policy NRH 19.1:** Designate the following subareas to address site-specific development standards. **NRH 1A**	The specific location of the following subareas is shown on the neighborhood plan land use map (Figure HRH-4). The Zoning Map was revised to be consistent with the plan map. This area is shown on both the neighborhood plan land use

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
•West of 124th Avenue NE is a mixed-use retail commercial/residential designation. •This area should have a regional commercial character that supports and promotes the residential development that is being encouraged to locate there. Uses should be compatible with residential development. •The types of commercial uses allowed in this area should be compatible with the community and the region. Car and boat dealerships and big box retail uses are prohibited. •Increased building heights should be allowed in order to provide sufficient incentive to develop a range of housing choices in conjunction with commercial development. •Buildings exceeding two stories must be developed with residential uses above the ground floor. A maximum of five stories is permitted. •Hotel uses are appropriate to a maximum of four stories. These facilities should be designed to be compatible with the residential character of the area. •With any development at the corner of NE 116th Street and 124th Avenue NE, neighborhood gateway features, such as open space, plaza, or signage should be integrated with a pedestrian connection linking Slater Avenue NE and NE 116th Street. In the alternative, a corner feature should be provided.	map (Figure NRH-4) and the Zoning Map as "*NRH 1A.*" NRH 1A Zoning Code regulations that implement plan policies are: • Commercial and residential uses are allowed. • Any retail use uses are allowed except: o *"Vehicle or boat sales or rental facilities"* **(Note: neighborhood plan refers to *"car and boat dealerships."*)** o *"Retail establishments providing storage services…"* o *"Storage and operation of heavy equipment…"* o *"Outdoor storage of bulk commodities, except…:"* • The maximum floor area of retail uses is 60,000 sq. ft. • Maximum permitted heights are: o Commercial uses: 2 stories. o Residential uses: 5 stories (with ground floor commercial). o Hotels: 4 stories. • Development is subject to design review for compliance with the Design Guidelines for Pedestrian Oriented Business Districts. (Design guidelines for the North Rose Hill Business District call for the construction of a gateway feature.)
NRH 1B •East of 124th Avenue NE is a mixed-use retail commercial/residential designation. •This area should have a neighborhood commercial character to support and promote the residential development that is being encouraged to locate there. Uses should be compatible with residential development. •The types of commercial uses allowed in this area should be limited to both office uses and those retail uses that serve the people working and living in Kirkland. Traditional neighborhood business uses are retail sales of goods and services with limited gross floor area. Car and boat dealerships, hotels/motels, entertainment, and big box retail uses are prohibited. •Increased building heights should be allowed in order to encourage new residential development or redevelopment in conjunction with commercial development. Buildings exceeding two stories must be developed with residential uses above the ground floor. A maximum of five stories is permitted.	This area shown on both the neighborhood plan land use map (Figure NRH-4) and the Zoning Map as "*NRH 1B.*" NRH 1B Zoning Code regulations that implement plan policies are: • Commercial and residential uses are allowed • Any retail use uses are allowed except: o *"Entertainment and recreational facilities."* o *"Vehicle or boat sales or rental facilities."* **(Note: neighborhood plan refers to *"car and boat dealerships."*)** o *"Retail establishments providing storage services…"* o *"Storage and operation of heavy equipment…"* o *"Outdoor storage of bulk commodities, except…:"* • Hotels are not listed as a permitted use. • The maximum floor area of retail uses is 10,000 sq. ft. • Maximum permitted heights are: o Commercial uses: 2 stories.

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
•Establish 15-foot landscape buffers between commercial development and adjacent residential uses.	o Residential uses: 5 stories (with ground floor commercial). • Commercial uses are required to meet "landscape category B," which requires a 15 foot wide buffer adjacent to residential uses. • Development is subject to design review for compliance with the Design Guidelines for Pedestrian Oriented Business Districts.
NRH 2 •This area borders I-405 and provides a transition between the freeway and established residential areas to the east, and between the mixed-use retail/residential uses to the north along 116th Street and established residential areas to the south. •Stand-alone or mixed-use office/residential uses should be developed. •Provide flexibility in density to encourage residential development and affordable housing. •The types of commercial uses allowed should be limited to those compatible with the residential focus of the area. Retail uses, restaurants, and taverns should be prohibited. •Establish building and site design standards that require pedestrian orientation, horizontal and vertical modulation, peaked roofs, parking lot placement in side and rear yards, and other elements to increase compatibility with surrounding residential uses. Building mass should be oriented away from low density areas. •Building heights should not exceed the maximum elevations of adjacent multifamily residential development to the east. •To encourage residential redevelopment some height increase is justified. Buildings exceeding two stories must be developed with residential uses above the ground floor.	This area is shown on both the neighborhood plan land use map (Figure NRH-4) and the Zoning Map as "*NRH 2.*" NRH 2 Zoning Code regulations that implement plan policies are: • Office and residential uses are allowed. • There is no density limit for residential (controlled by building height, etc.). • Retail uses (including restaurants and taverns) are not permitted. • Development is subject to design review for compliance with the Design Guidelines for Pedestrian Oriented Business Districts. • The maximum height of residential uses is 30 ft above Slater Ave. The maximum height of other uses is 30 ft. above average building elevation (which is lower than Slater Ave.).
NRH 3 •This area functions as a transition between the mixed-use retail/residential uses to the north along NE 116th Street and established residential areas to the south. •Stand-alone offices or residential uses or mixed-use office/multifamily uses are appropriate. •The types of commercial uses allowed should be compatible with the residential focus of the area. Retail uses, restaurants, and taverns are prohibited.	This area is shown on both the neighborhood plan land use map (Figure NRH-4) and the Zoning Map as "*NRH 3.*" NRH 3 Zoning Code regulations that implement plan policies are: • There is no density limit for residential (controlled by building height, etc.) • Retail uses (including restaurants and taverns) are not permitted • The maximum height of all uses is 30 ft. above average

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
•Provide flexibility in density to encourage residential development and affordable housing. •Building height should not exceed three stories to provide a transition to the established multifamily and single-family homes to the east and south. •Impacts from development should be mitigated adjoining established single-family areas located to the east and south. •A 15-foot-wide heavily landscaped buffer should be provided, and building mass should be oriented away from low density areas. Design standards should require pedestrian orientation, horizontal modulation, and blank wall treatments, to increase compatibility with surrounding residential uses. Peaked roofs are encouraged. Property abutting the publicly owned open space to the east should provide pedestrian connection to 124th Avenue NE.	building elevation. The height is restricted to 25 ft. within 100 ft. of a low density zone • Office uses are required to meet *"landscape category B,"* which establishes a 15 foot wide buffer adjacent to residential uses. **Multi-family residential uses are required to meet "*landscape category D,*" which establishes a 5 ft. wide buffer adjacent to residential uses** • Development is subject to design review for compliance with the Design Guidelines for Pedestrian Oriented Business Districts. • The desired connection to the public open space may be required through the design review process. The design review procedures in the Zoning Code establish the authority of the Design Review Board to review projects for consistency with: "*The applicable neighborhood plans contained in the Comprehensive Plan for areas where Design Review is required.*"
NRH 4 •Allow general commercial uses north of NE 116th and east of Slater Avenue NE. •The existing North Park Business Center includes some wholesale/manufacturing uses as a carryover from when the area was designated for industrial development. Continue to allow new wholesale/manufacturing uses in the existing structures if they maintain or enhance compatibility with nearby residential development. Relocate nonconforming businesses to sites that do not adjoin residential development and are specifically designated for industrial uses and development, if and when redevelopment occurs. •Limit building height to a maximum of three stories to reflect the scale of multifamily residential development surrounding much of NRH 4. •Some height increase is justified to encourage residential redevelopment and affordable housing. Buildings exceeding two stories must be developed with residential uses on one floor. •Bring parking lot landscaping and design into conformance as redevelopment occurs. •Establish building and site design standards for redevelopment to require pedestrian orientation, horizontal modulation, blank wall treatments, parking lot landscaping, lighting and noise limits, and 15-foot landscape buffers between commercial development and adjacent residential uses.	This is area shown on both the neighborhood plan land use map (Figure NRH-4) and the Zoning Map as "*NRH 4.*" NRH 4 Zoning Code regulations that implement plan policies are: • Retail, office, residential and limited light industrial uses are allowed • Industrial uses are only allowed within the existing structure on the property (built originally under light industrial zoning) • For all uses other than residential, the maximum building height is 30 ft. For residential use, the maximum is 35 ft. • Commercial uses are required to meet "*L*andscape *Category A"* or *"L*andscape *Category B,"* which establish a 15 foot wide buffer adjacent to residential uses. • Development is subject to design review for compliance with the Design Guidelines for Pedestrian Oriented Business Districts Nonconforming parking lot landscaping is governed by City-wide regulations. Landscaping must be brought into conformance when: • Floor area is increased, or

Regulations Implementing the North Rose Hill Neighborhood Plan

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
NRH 5 •Allow office and residential uses with a density of 24 units per acre at the following two locations where existing office uses are currently located: –At the southeast corner of 120th Street and Slater Avenue NE. –At the property surrounded by the Ridgewood Village multifamily development abutting Slater Avenue NE. •The types of commercial uses allowed should be compatible with the residential focus of the area. Retail uses, restaurants, and taverns are prohibited. **NRH 6** •Allow either stand-alone residential use with a density of 24 units per acre or office use on the ground floor and residential uses above on the lot abutting Slater Avenue NE between the Totem Firs and Slater Park multifamily developments. •The types of commercial uses allowed should be compatible with the residential focus of the area. Retail uses, restaurants, and taverns are prohibited.	• The use is changed and the new use requires more parking, or • An alteration is made to the structure and the cost of work exceeds 50% of the replacement cost of the structure. This area is shown on both the neighborhood plan land use map (Figure NRH-4) and the Zoning Map as "*NRH 5.*" NRH 5 Zoning Code regulations that implement plan policies are: • Office use is allowed. • Residential use is allowed with a maximum permitted density is 1 unit/ 1800 sq. ft. of lot area (= 24.2 units/ acre). • No retail uses (including restaurant and taverns) are allowed. This area is shown on both the neighborhood plan land use map (Figure NRH-4) and the Zoning Map as "*NRH 6.*" NRH 6 Zoning Code regulations that implement plan policies are: • Residential use is allowed with a maximum permitted density is 1 unit/ 1800 sq. ft. of lot area (= 24.2 units/ acre). • Office use is allowed only on the ground floor. • No retail uses (including restaurant & taverns) are allowed.
Goal NRH 20 – Support the goals and policies found in the NE 85th Street Subarea chapter of the Comprehensive Plan for land development.	This goal acknowledges that a portion of the NE 85th St. Corridor is within the North Rose Hill Neighborhood.
Goal NRH 21 – Maintain and enhance the arterial street network. **Policy NRH 21.1:** Enhance the arterial street network with the following improvements: The Plan lists specific standards for the following streets: • 124th Avenue NE • 132nd Avenue NE • NE 116th Street • Slater Avenue NE	Implementation of this policy will require construction of improvements by the City, with funding prioritized through the Capital Improvement Program. In addition, the Zoning Code requires that developers improve adjacent City rights of way consistent with adopted street standards.
Goal NRH 22 – Manage traffic impacts within the neighborhood to enhance neighborhood mobility and provide for more equitable distribution of traffic on neighborhood streets.	

Regulations Implementing the North Rose Hill Neighborhood Plan

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
Policy NRH 22.1: Prepare a traffic calming analysis and program for the existing and proposed street network.	The Public Works Department initiated a neighborhood-wide analysis. Data was collected and presented to the neighborhood. The neighborhood decided not to pursue additional traffic calming measures. Further implementation of this policy will occur through the normal procedures of the City's Neighborhood Traffic Program.
Policy NRH 22.2: Consider alternative design to conventional "grid patterned" streets to address topographic and sensitive area constraints, aesthetics, and safety of children and pedestrians/bicyclists, while at the same time considering emergency vehicular access.	Implementation of this policy will occur during City approval of proposed subdivisions and Planned Unit Developments.
Policy NRH 22.3: Map where anticipated street connection locations could be considered with future infill development in order to provide predictability in the development process and for the neighborhood. Narrative associated with this policy refers to Figure NRH6 and Table NRH-1 which map and list potential street connections. The narrative states that the feasibility of the connections and their exact locations are to be determined at the time of development.	Implementation of the connections will occur during the review of proposed subdivisions and Planned Unit Developments.
Goal NRH 23 – Control development adjoining 124th and 132nd Avenues NE to enhance safety and efficiency of circulation.	
Policy NRH 23.1: Discourage direct access. The narrative text associated with this policy states: *"If driveways to 124th and 132nd Avenues NE must be provided, separation of at least 300 feet should be required."*	Implementation of this policy will occur during City approval of proposed development permits.
Policy NRH 23.2: Design buildings and landscape adjoining development to minimize potential noise and visual impacts generated by traffic on 124th and 132nd Avenues NE.	**It is unclear how implementation of this policy will occur. The City does not have regulations for this purpose.**
Goal NRH 24 – Avoid development of unimproved rights-of-way impacted	

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
by sensitive areas. **Policy NRH 24.1:** Do not improve the following specific right-of-way segments: • 126th Avenue NE, south of NE 100th Street. • 120th Avenue NE, from NE 92nd Street to NE 90th Street. • NE 92nd Street, west of 122nd Avenue NE.	The segment of 126th Avenue NE mentioned is within Woodlands Park and will remain unopened as part of the park. Maintenance of the other unopened rights of way will occur through the development review process. Drainage basin regulations in the Zoning Code restrict the building of new roads within a wetland, stream or buffer.
Narrative text prior to goal 25 states: *"…bicycle lanes should be located on 132nd Avenue NE, 124th Avenue NE and Slater Avenue NE."* **Goal NRH 25** – Maintain and enhance the street network for all modes of transportation. **Policy NRH 25.1:** Encourage mobility and the use of nonmotorized transportation by providing appropriate facilities for pedestrians and bicyclists throughout the North Rose Hill neighborhood and between neighborhoods. **Policy NRH 25.2:** Develop the following new nonmotorized connections to provide convenient and safe pedestrian mobility between the business districts and residential areas in the neighborhood: (Connections are listed.)	Implementation of this goal and these policies will require construction of improvements by the City, with funding prioritized through the Capital Improvement Program. In addition, the Zoning Code requires that developers improve adjacent City rights of way consistent with adopted street standards.
Goal NRH 26 – Prioritize acquisition of a new neighborhood park where park level of service is deficient. **Policy NRH 26.1:** Acquire suitable land in the northwest portion of the neighborhood for neighborhood park development. **Policy NRH 26.2:** Consider other locations for park and open space acquisition as opportunities arise.	Implementation of this goal and these policies will require land acquisition and improvement by the City, with funding prioritized through the Capital Improvement Program.
Goal NRH 27 – Seek opportunities to develop community meeting places.	

Regulations Implementing the North Rose Hill Neighborhood Plan

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
Policy NRH 27.1: Provide a community gathering place at Woodlands Park in conjunction with the development of the Williamson property. Narrative text associated with this policy mentions a picnic shelter as an example.	Implementation of this policy will require construction of improvements by the City, with funding prioritized through the Capital Improvement Program. In addition, the neighborhood has been fund raising and organizing to build a new playground.
Goal NRH 28 – Seek opportunities to develop off-street trails for recreational use that connect activity nodes and neighborhoods. **Policy NRH 28.1:** Explore the potential for a trail connecting the North Rose Hill neighborhood to the South Rose Hill and Totem Lake neighborhoods within the Seattle City Light Power Line Easement.	Implementation of this policy will require construction of improvements by the City, with funding prioritized through the Capital Improvement Program. In addition, through the development review process, City staff has required and will continue to require developers to improve streets and sidewalks and trails within the City Light easement.
Goal NRH 29 – Create a stormwater collection and transmission system that decreases peak flows, reduces flooding, and that protects and improves water quality. **Policy NRH 29.1:** Protect and improve water quality through the use of the best available source control and treatment practices. **Policy NRH 29.2:** Mitigate stormwater impacts of past and future development through reduction of the height and duration of peak flows.	Implementation of these policies occurs through the development review process as well as through City constructed improvements. The City has adopted the King County Surface Water Manual and requires new development to make the improvements required by the manual. The City also constructs major storm water improvements using funds collected through the City's Storm Water Utility and prioritized through the Capital Improvement Program.
Goal NRH 30 – Enhance and protect the Forbes Creek and Juanita Creek Basins in the North Rose Hill neighborhood. **Policy NRH 30.1:** Investigate water quality and Forbes Lake flooding/levels and develop projects and programs to address identified problems. **Policy NRH 30.2:** Give funding priority to projects and programs that address identified water quality and lake flooding/level problems.	Implementation of these policies occurs through storm water improvements constructed by the City using funds collected by the City's Surface Water Utility and prioritized through the Capital Improvement Program.
Goal NRH 31 – Provide sanitary sewers to those areas currently on septic	

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
systems pursuant to the Sanitary Sewer Comprehensive Plan. **Policy NRH 31.1:** Install new sanitary sewer systems concurrent with new development. **Policy NRH 31.2:** Maintain individual property owners' existing septic systems in high working order. **Policy NRH 31.3:** Eliminate failing septic systems.	Implementation of this policy occurs during City approval of proposed development permits. New structures are required to connect to a public sewer if a sewer line is located within 330 feet of the property. Otherwise, a septic system may be used if approved by the King County Health Dept. **There is no regulation or action of the City to implement this policy. Maintenance of septic systems is the responsibility of property owners.** The City encourages property owners to eliminate septic systems and connect to the public sewer through the Emergency Sewer Program. Through this program, the City will pay for a sewer extension if property owners agree to pay the City back over a period of time.
Goal NRH 32 – Provide water service to new development in accordance with the Water Comprehensive Plan. **Policy NRH 32.1:** Provide potable water to meet water quality and fire flow standards. **Policy NRH 32.2:** Encourage the efficient use of and conservation of potable water by the adoption of appropriate development standards.	Implementation of this policy occurs during City approval of proposed development permits. New construction is required to meet the International Building Code, which includes requirements for low flow toilets.
Goal NRH 33 – Ensure that public improvements and private development contribute to neighborhood quality and identity in the North Rose Hill Business District. **Policy NRH 33.1:** Establish building and site design standards that apply to all new, expanded, or remodeled commercial, multifamily, or mixed-use buildings. **Policy NRH 33.2:** Utilize the design review process to administer building and site design standards applicable to commercial, multifamily, and mixed-use development. Design review will ensure compliance with these standards.	Policies 33.1 and 33.2 are implemented through new zoning regulations that were adopted for the North Rose Hill Business District. The new regulations require that most new development be approved through a design review process. Through this process, development is reviewed for compliance with design regulations and Design Guidelines for Pedestrian Oriented Business Districts.

Regulations Implementing the North Rose Hill Neighborhood Plan

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
Policy NRH 33.3: Minimize the appearance of parking areas through location and shared facilities. Parking in front of buildings is discouraged. Combined lots that serve more than one business or use are encouraged. **Policy NRH 33.4:** Include high quality materials, the use of public art, bicycle and pedestrian amenities, directional signs on all arterials, and other measures for public buildings, and public infrastructure, such as streets, and parks.	This policy will be implemented through City-wide parking regulations in the Zoning Code that encourage shared parking and by design regulations and guidelines that limit parking in front of buildings. Implementation of this policy will occur as follows: • Building materials are addressed by design regulations in the Zoning Code and the Design Guidelines for Pedestrian Oriented Business Districts. • Bicycle and pedestrian amenities are addressed in Chapter 105 of the Zoning Code. • Street improvement requirements are established by Chapter 110 of the Zoning Code. • Park improvements will require construction of by the City, with funding prioritized through the Capital Improvement Program.
Goal NRH 34 – Provide transitions between the commercial and residential uses in the neighborhood. **Policy NRH 34.1:** Establish site and building development requirements such as landscape buffers and height regulations that address transition areas and protect nearby residential neighborhoods.	Implementation of this policy is through City-wide Zoning Code regulations. For all non-residential zones, zoning regulations assign each permitted use a "Landscape Category." Chapter 105 of the Zoning Code establishes a buffering requirement based on the Landscape Category and the abutting use.
Goal NRH 35 – Promote high quality design by establishing building and site design standards that apply to all new innovative residential designs and styles like attached, clustered, compact single-family, or cottage housing in low density zones. **Policy NRH 35.1:** Establish design standards that address: building placement on the site, clustering, open space preservation, building scale in proportion with the lot and with the surrounding neighborhood, preservation of existing vegetation, and integration with detached single-family homes.	The City is now in the process of evaluating whether to allow such alternative types of housing City-wide, and if so under what conditions and design standards.
Goal NRH 36 – Provide streetscape improvements throughout the neighborhood that contribute to a sense of neighborhood identity and	

GOALS AND POLICIES	IMPLEMENTING REGULATIONS
enhanced visual quality. **Policy NRH 36.1:** Establish a street tree plan for the neighborhood. Trees bordering streets can unify the neighborhood's landscape. **Policy NRH 36.2:** Develop center landscape medians and/or other enhancements along 132nd and 124th Avenues NE with extensive greenery to visually soften and enhance these arterials. **Policy NRH 36.3:** Incorporate design features into pedestrian routes.	City staff maintains a list of trees that are acceptable for planting as street trees City-wide. **There is not a plan for street trees that is specific to North Rose Hill.** Implementation of these policies will require construction of street improvements by the City with funding prioritized through the Capital Improvement Program. In addition, the Zoning Code requires that developers improve adjacent City rights of way consistent with adopted street standards. The street standards include street trees planted adjacent to sidewalks.
Goal NRH 37– Develop gateway features that strengthen the character and identity of the neighborhood. **Policy NRH 37.1:** Use public and private efforts to establish gateway features at the locations identified in Figure NRH-10.	Implementation of this policy will require construction of street improvements by the City, with funding prioritized through the City Capital Improvement Program. Implementation also may occur through the development review process if the required gateway improvements are within the general scope of normal right of way improvements.
Goal NRH 38 – Preserve territorial views. **Policy NRH 38.1:** Preserve the territorial view of the Totem Lake commercial area from NE 120th Street.	This policy will be implemented by City actions to keep the right of way unobstructed.

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MEMORANDUM

Date: **January 23, 2006**

To: **David Ramsay**

From: **Eric Shields**

Subject: **Zoning Code Consistency with the Comprehensive Plan**

On two recent occasions, issues arose in which there were inconsistencies between zoning regulations and the Comprehensive Plan. These incidents prompted Council members to question the overall extent and implications of inconsistencies. This memorandum discusses:

- The legal authority of the Comprehensive Plan and Zoning Code;
- Recent cases where inconsistencies were discovered; and
- How to avoid further inconsistencies and correct existing inconsistencies.

In preparing this memorandum I have consulted with Robin Jenkinson, City Attorney.

Legal Authority of the Comprehensive Plan and Zoning Code

The Comprehensive Plan is a document that sets forth the City's long range (20 year) plan for managing growth. It is a policy document that serves as a guide to other City actions, such as adopting development regulations and capital improvement decisions. Growth hearings board and court decisions have ruled that a Comprehensive Plan may not be used to directly regulate development unless a provision of a plan is specifically incorporated by reference into a zoning regulation. In such cases, where there is a conflict between the Zoning Code and Comprehensive Plan, the Zoning Code will prevail.

The Zoning Code establishes regulations that apply to the use and development of private property. Under the Growth Management Act, zoning regulations must be consistent with the Comprehensive Plan.

When Is the Comprehensive Plan Used in Kirkland's Development Review Process

For developments that merely require administrative approval, such as building permits, the Planning Department evaluates applications only for compliance with the Zoning Code and other applicable development regulations, not the Comprehensive Plan. However, for three types of development applications, Kirkland zoning regulations specifically require some level of review for consistency with the Comprehensive Plan. The three types of applications are discussed below:

Properties Governed by Zoning Map Suffixes The Kirkland Zoning Map shows a notation (called a suffix) on approximately twelve properties. Most of the properties containing a suffix have already been developed, so there are few remaining that will be affected by this method of regulation in the future.

There are four different suffixes, each of which is explained in the legend of the map. The explanation for each suffix includes the following statement:

> *Development proposal must be consistent with the appropriate neighborhood plan policies, specifically applicable to this property, contained in the Comprehensive Plan.*

The explanation for one of the suffixes goes on to state that the development must be processed through Process IIA. Another suffix requires approval through Process IIB. Yet another suffix, which applies to only one property, provides a restriction on the location of a certain type of land use. An example of a property governed by a suffix is the property rezoned to allow expansion of the Honda automobile dealership on NE 85th St. for which the NE 85th St. Subarea Plan establishes an extensive list of development standards.

In light of the court and hearing board cases referenced above, enforcement of the applicable neighborhood policies through the Zoning Map suffixes could be challenged. The policies are typically more restrictive than the zoning regulations that would otherwise apply. Such a conflict could be interpreted in favor of the zoning regulations. On the other hand, the City might argue that using the policies as regulations is acceptable since the policies are applied to specifically identified properties on the Zoning Map. We would certainly be on firmer ground, however, if the policies were more explicitly incorporated into the Zoning Code.

Quasi-judicial Land Use Decisions The Zoning Code requires some uses or development proposals to be approved using one of several types of quasi judicial processes (e.g. processes I, IIA and IIB). For each of these processes, the Code includes a criterion that allows for some consideration of the Comprehensive Plan. Specifically, the decision maker may approve such an application only upon finding that the application:

> *...is consistent with all applicable development regulations and, to the extent that there is no applicable development regulation, the Comprehensive Plan.*

Design Review Similarly, for applications that require approval by the Design Review Board, the Zoning Code directs the DRB to review applications for consistency with design guidelines, design regulations and:

> *The downtown plan, Juanita Business District Plan, the Totem Lake Neighborhood Plan and goals and policies in the North Rose Hill Neighborhood Plan for the North Rose Hill Business District contained in the Comprehensive Plan.*

In light of the Growth Hearings Board and court decisions mentioned above, using the Comprehensive Plan in the review of the above types of applications is somewhat problematic. While decisions indicate that zoning regulations may incorporate the Comprehensive Plan by reference, there is still the potential for conflict between the Zoning Code and the Comprehensive Plan. This is particularly problematic when the reference to the Comprehensive Plan is very general and implies that the project will be reviewed against City-wide policies rather than just area-specific or property-specific policies. In addition, by referencing the Comprehensive Plan, the zoning regulations mislead the public into thinking of the Comprehensive Plan as a regulatory document,

Recent Cases Where There Were Inconsistencies

1. **Motorcycle Sales** In response to an inquiry about locating a motorcycle sales business in the NRH 1 zone, a difference in wording between language in the Zoning Code and Comprehensive Plan was discovered. The North Rose Hill chapter of the Comprehensive Plan states: "Car and boat dealerships...are prohibited" in the NRH 1A subarea. In contrast, within the Zoning Code, a special regulation for the NRH 1A zone prohibits: "vehicle or boat sales or rental facilities." Clearly, there is a difference in wording that could have and, in retrospect, should have been resolved during the drafting of the plan and zoning. At the time, there was little or no thought to the consequences of the difference.

   (As an aside, I should add that there was also no thought given to the possibility of an indoor vehicle or car sales business, so neither the plan nor zoning addressed such a circumstance. This points to the fact that plans and zoning regulations rarely anticipate all situations and so there is constantly the need for interpretation and subsequent amendments.)

2. **Almond Condos** Inconsistencies were also an issue during the Design Review Board (DRB) review of the Almond Condominiums also located in North Rose Hill. Two inconsistencies were discussed.

   Buffers The first was a difference in the width of a buffer along the boundary of the proposed condominiums with adjacent single family uses. The North Rose Hill Neighborhood Plan states that the buffer should be 10 ft. in width. The Zoning Code establishes different buffer requirements for offices (10 ft. in width) and multi-family uses (5 ft. in width). The zoning regulations are consistent with the way buffering is required in similar situations elsewhere in the City. Staff has concluded that the language in the Comprehensive Plan was carried over from the previous neighborhood plan. In that plan, only offices were allowed on the Almond property. When multi-family was allowed as a permitted use with the new plan, a change to the Comprehensive Plan buffering language should have been made (or else the zoning regulations should have been changed). As it turned out, the applicant designed the site to provide a 10 ft. wide buffer.

   Tree Grove Protection The other issue that was characterized as an inconsistency during the Almond project review had to do with protection of a grove of trees. The North Rose Hill Neighborhood Plan includes a general policy that states: "*Protect notable trees and groves of trees*." However, the plan does not define or identify specific notable trees or groves of trees. The Almond property contained a number of trees in the SW portion of the site which the DRB concluded constituted a grove worthy of saving. During the review of the project, the Board, asked the applicant to explore site plan alternatives that saved as many of the trees as possible, but the applicants indicated that other development constraints on the property (most notably the Seattle City Light transmission line easement on the east side of the property) prevented them from doing so. The applicants noted that the Zoning Code includes the following language:

   > *The City may require minor alterations in the arrangement of buildings and other elements of the proposed development in order to achieve the maximum retention of significant trees. The City may not require an alteration which will result in a significant added expenditure to the applicant or in a decrease in the number of units or bulk of structures permitted.*

   As a result, the DRB reluctantly approved the application without saving the number of trees they desired. As an aside, the DRB was also generally unimpressed with the overall design of the development and concluded that existing design regulations and guidelines do not provide sufficient tools to address this kind of situation.

   I believe that this is not primarily a case of an inconsistency between the Comprehensive Plan and zoning regulations. It does, however, raise other issues:

- **How should a general policy within a neighborhood plan be interpreted and applied to site specific development applications?** Was it the intent of the North Rose Hill Neighborhood Plan that tree protection policies be implemented through neighborhood specific regulations? I don't believe so. During the North Rose Hill planning process, the staff and Planning Commission were aware that city-wide tree regulations would soon be updated and concluded that it would be appropriate for those regulations to govern tree preservation in North Rose Hill. Unfortunately, the Almond application preceded completion of the new regulations.

- **How extensively should the DRB review projects for consistency with the Comprehensive Plan?** As noted above, the Zoning Code gives the DRB authority to review an application for consistency with "*...goals and policies in the North Rose Hill Neighborhood Plan <u>for the North Rose Hill Business District</u> contained in the Comprehensive Plan."* (emphasis added) In addressing tree preservation, the DRB referred to a general neighborhood-wide policy about protecting groves of trees.

- **To what degree should the DRB have authority to require major changes in site plans for the purpose of saving trees?** Are additional design guidelines needed?

How to Avoid and Correct Inconsistencies

Following are ideas for what we can do to avoid inconsistencies in the future as well as to identify and correct possible inconsistencies that may already exist:

- The City would be on firmer legal ground in enforcing neighborhood plan policies through a Zoning Map suffix if we either incorporated the policies as regulations in the appropriate Zoning Code Use Zone Charts, or at least revised the Use Zone Charts to specifically reference the policies.

- In preparing neighborhood plans and code amendments, we need to do a better job of proofreading. Part of the process should be to carefully compare the text of the plan and zoning and make sure they agree. In recent years, this aspect of the process may have suffered somewhat due to the overall large number of projects within the Planning Department. This may have been compounded by the fact that many projects are targeted for adoption at the end of the year, creating a workload crunch. In the future it may be better to do somewhat fewer projects at the same time and/or stagger completion dates.

  Also, to help sort out potential problems with regulatory language, it would be desirable for planners who are involved in the day to day review of development activities to review and suggest changes to draft code amendments. Involving the City Attorney's Office early in the code development process, such as was done in drafting the new tree regulations, is also helpful.

  In preparing zoning regulations and design guidelines for the Rose Hill and Totem Lake Business Districts, we have made a concerted effort to ensure that regulations are consistent with the adopted neighborhood plans.

- Preparing zoning regulations simultaneously with a neighborhood plan is helpful. Wording nuances may arise during the drafting of zoning regulations that may not have been easily foreseen during the drafting of policies. To ensure consistency, it is helpful to have the option of changing the wording of a policy rather than the regulation.

- In drafting neighborhood policies, it may be advisable to avoid using language that sounds regulatory. Because the plan is fundamentally a guide, policies should typically be broader and less specific than

regulations.

- Despite our best efforts, some inconsistencies or ambiguities are likely to occur on occasion. The Planning Department keeps a long list of potential code amendments. However, our ability to process code amendments is limited due to other higher work program priorities. In the future, I would suggest giving higher priority to such code amendments to allow us to catch up. Similarly, it is important to consider corrections to the Comprehensive Plan, including neighborhood plans, as part of our annual amendment process.

  If there is a high level of concern about inconsistencies, the City Council could direct that the Planning Department and Planning Commission focus on identifying and correcting inconsistencies as a major work program project. This would involve reviewing neighborhood plans and zoning regulations to ensure there is agreement. Where there is not, changes to the plans or neighborhood specific zoning revisions would be proposed. With such a project, there would be no need to review the neighborhoods that are now under consideration as separate projects: Totem Lake, NE 85th St. Corridor, Highlands, Norkirk or Market. We may also be able to exclude the Houghton and Lakeview Neighborhoods, since those are next up for review. Another approach would be to focus only on the North Rose Hill neighborhood plan since that is a recently updated plan where inconsistencies may be of particular concern.

Cc: City Council
Planning Commission
Design Review Board
Planning Staff
Robin Jenkinson
Kari Page

Es: Zoning Code Consistency with the Comprehensive Plan

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To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
David Godfrey P.E., Transportation Engineering Manager

Date: May 25, 2006

Subject: Sound Transit project scopes

RECOMMENDATION:
It is recommended that the Council authorize the Mayor to sign the attached letter to Sound Transit transmitting Kirkland's comments on proposed scopes of ST2 projects in Kirkland.

BACKGROUND:
Sound Transit is developing a second phase of transit investments called ST2. In order select a group of projects for the second phase, the Sound Transit board first developed a revised long range plan, then selected a potential set of ST2 projects based on cost and performance. The Board plans to further narrow this set of projects to a group that it plans to put before voters (along with a joint RTID measure) in November of 2007.

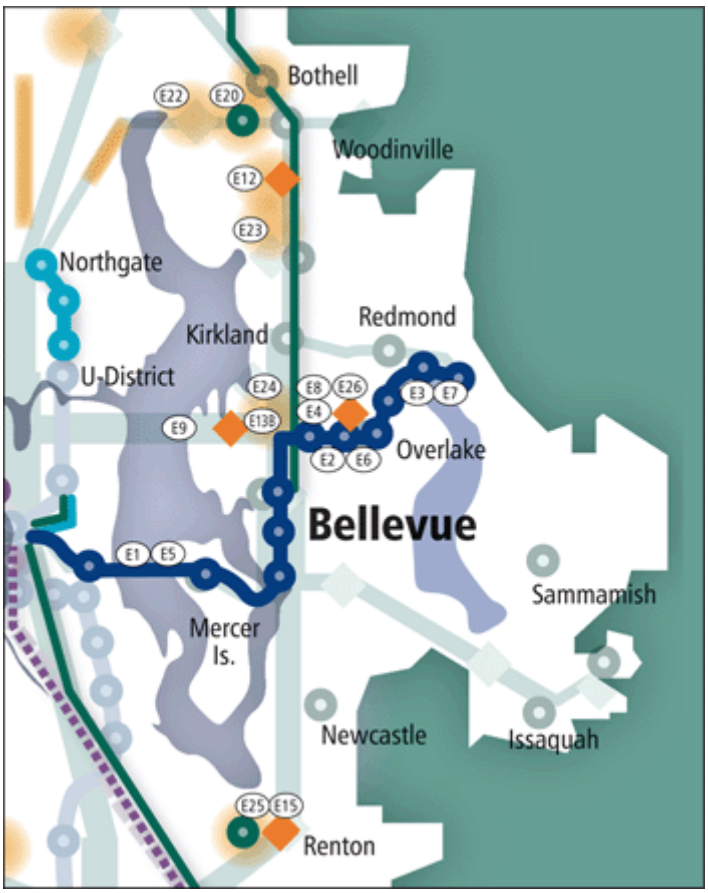
As the board puts together the ST2 package, it's important that the component project scopes are clear. This allows realistic cost estimates and helps reduce problems as projects come to construction. In the Sound Transit's first package, some projects did not have clear scopes and this led to difficulties as jurisdictions and Sound Transit debated what the project was intended to accomplish.

In order to make sure that jurisdictions agree with the scopes early on, the Sound Transit Board has asked each jurisdiction to review the scopes of projects still under consideration for ST2 and raise issues or offer concurrence.

The Kirkland projects still under Board consideration for ST2 are noted in text on the right side of Figure 1 which shows all the Sound Transit projects on the eastside. Project scopes are included as attachments to this memo.

The draft letter for Council consideration generally sites issues that have long been of concern to Kirkland including planning for high capacity transit with the SR520 project, direct access to the South Kirkland Park & Ride, Transit oriented development at both the South Kirkland and Kingsgate Park & Rides, aesthetic treatments and non-motorized facilities. Issues were prepared by Public Works Transportation and Capital Projects staff. The Transportation Commission reviewed and edited the proposed letter at its May 24 meeting.

Figure 1. Projects under consideration for ST2



The map at left shows all projects in the east subarea including those that are already constructed and those in the long range plan.

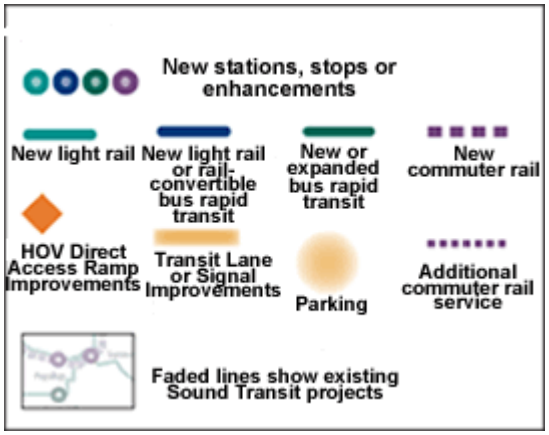
Kirkland projects under consideration:

E-9 HCT: Planning Study on SR-520.

E-13 Express Bus: Direct Access Ramps on SR-520 at 108th Avenue NE.

E-23 Express Bus: Expansion of Kingsgate Park & Ride.

E-24 Express Bus: Parking Garage at South Kirkland Park & Ride.



HCT Planning Study on SR 520 (E. King County)

Project Number	E9
Subarea	East King
Primary Mode Impacted	TBD
Facility Type	TBD
Version Number	2.0
Date Last Modified	3/27/2006

Project Locator Map

Short Project Description

Conduct a planning study to evaluate HCT modes and routes in the SR 520 corridor for the purpose of updating the Long-Range Plan.

Project Purpose: Evaluate HCT modes and routes along SR 520 to facilitate an update to the Long-Range Plan.

Cost and Schedule

Cost (in Millions of 2005$)

	Low	High
Agency Admin		
Environmental Clearance and PE		
Final Design, Specs, Permitting		
ROW Acquisition		
Construction		
Vehicles		
Contingency		
Total	**$5.0**	**$5.0**

Design Basis	Conceptual

Schedule

Proposed Schedule Not Yet Developed

Environmental Documentation Required

- ☐ Environmental Impact Statement Required
- ☐ Environmental Assessment Required
- ☐ Environmental Checklist Required

Relationships to Other Projects

Relationship	***Project***

Project Partners

WSDOT
Cities of Seattle, Bellevue, Kirkland and Redmond
King County Metro
University of Washington

HCT Planning Study on SR 520 (E. King County)

Long Description

Description: This project would conduct a planning study to evaluate HCT modes and routes for the purpose of updating the Long-Range Plan. HCT modes such as light rail and rail convertible bus rapid transit, as well as others, would be evaluated. The route will include the area between the University District/Montlake and Redmond

Project Elements Included:
- Conduct public and agency outreach
- Conduct alignment assessment
- Develop preliminary ridership forecasts
- Identify environmental issues
- Develop prototypical alignment with potential station locations, park and rides and maintenance facilities
- Develop conceptual operating plan(s)
- Develop conceptual capital and operating costs

Utilities:
N/A

Right-of-Way and Property Acquisition:
N/A

Mitigation:
N/A

Exclusions:
- Preliminary engineering
- NEPA/SEPA environmental documentation
- Identification of a preferred alternative

Permits Required:
N/A

Agreements Required:
N/A

ST has developed scope definitions for ST2 project proposals for the purposes of developing cost estimates, implementation schedules, a financial plan, and the estimation of project benefits. This scope definition should not be construed as a commitment that all defined features will be included in the final developed project.

Evaluation Measures

Measure	***Measurement/ Rating***	***Notes***
Average Weekday Ridership	N/A	
Capital Cost	$5.0 - $5.0	in Millions of 2005$
Annual Operating Cost	$0.0	in Millions of 2005$
Travel Time & Reliability	N/A	
Connectivity & Integration	Medium	
Land Use & Development	High	
Customer Experience	N/A	
Risk Avoidance	High	

HCT Planning Study on SR 520 (E. King County)

Key Issues and Benefits

Issues:

- Although this study could be conducted at any time, most elements would be subsequently re-done during a formal engineering/environmental process, preceeding the selection of a preferred alternative.

Benefits:

- Evaluation of potential HCT improvements for a congested Highway of Statewide Significance.

Express Bus: Direct Access Ramps on SR 520 at 108th Avenue NE (E. King County)

Project Number	E13
Subarea	East King
Primary Mode Impacted	ST Express
Facility Type	Direct Access
Version Number	1.0
Date Last Modified	12/8/2005

Project Locator Map

Short Project Description

Construct HOV access ramps to 108th Avenue NE from SR 520 to/from the west.

Project Purpose: Improve transit speed and reliability to/from the west on SR 520 to/from the South Kirkland park-and-ride.

Cost and Schedule

Cost (in Millions of 2005$)

	Low	High
Agency Admin		
Enviro Clearance & PE		
Final Design, Specs, Permitting		
ROW Acquisition		
Construction		
Vehicles		
Contingency		
Total	**$46.0**	**$57.0**

Current WSDOT Cost Opinion

Design Basis	Conceptual

Schedule

Proposed Schedule Not Yet Developed

Environmental Documentation Required

- [x] Environmental Impact Statement Required
- [ ] Environmental Assessment Required
- [ ] Environmental Checklist Required

Relationships to Other Projects

Relationship	***Project***
Dependent on	Funding and implementation of the SR 520 Bridge Replacement and HOV Project (moving the HOV lanes from the outside to the inside of SR 520)
Impacted by	Outcome of the SR 520 Bridge Replacement and HOV Project EIS findings

Project Partners

WSDOT
KC Metro
Cities of Bellevue, Kirkland and Redmond

Express Bus: Direct Access Ramps on SR 520 at 108th Avenue NE (E. King County)

Long Description

Description
Construct HOV access ramps (from future center HOV lanes that are assumed to be in-place) from SR 520 to/from the west connecting to 108th Avenue NE. Project would include roadway and channelization modification on 108th Avenue NE.

Project Elements Included:
HOV access ramps from SR 520 center HOV lanes to/from 108th Avenue NE as determined by the SR 520 Bridge Replacement and HOV Project EIS.

Utilities:
To be determined as part of the SR 520 Bridge Replacement and HOV Project EIS

Right-of-Way and Property Acquisition:
To be determined as part of the SR 520 Bridge Replacement and HOV Project EIS

Mitigation:
To be determined as part of the SR 520 Bridge Replacement and HOV Project EIS

Exclusions:
To be determined as part of the SR 520 Bridge Replacement and HOV Project EIS

Permits Required:
To be determined as part of the SR 520 Bridge Replacement and HOV Project EIS

Agreements Required:
Partnership agreement with WSDOT/FHWA and and cities of Kirkland and Bellevue
Access Decision Report - FHWA

ST has developed scope definitions for ST2 project proposals for the purposes of developing cost estimates, implementation schedules, a financial plan, and the estimation of project benefits. This scope definition should not be construed as a commitment that all defined features will be included in the final developed project.

Evaluation Measures

Measure	***Measurement/ Rating***	***Notes***
Average Weekday Ridership	N/A	
Capital Cost	$46.0 - $57.0	in Millions of 2005$
Annual Operating Cost	N/A	
Travel Time & Reliability		
Connectivity & Integration	High	
Land Use & Development		
Customer Experience		
Consistency with Plans		
Public Support		
Risk Avoidance	Low	

Express Bus: Direct Access Ramps on SR 520 at 108th Avenue NE (E. King County)

Key Issues and Benefits

Issues:

This project is included in the SR 520 Bridge Replacement and HOV Project EIS. The cost of the HOV direct access ramp project has been estimated by WSDOT for the SR 520 Bridge Replacement and HOV Project. However, if this project were selected by Sound Transit to move forward, Sound Transit cannot rely or assume funding from the WSDOT is available or in-place within the ST2 timeframe. Additionally, implementation of the direct access ramp at 108th Avenue NE is only feasible with an inside HOV lane facility and without further funding for the SR 520 project, it is unlikely that the inside HOV lanes to 108th Avenue NE could be completed as part of a first phase implementation project.

Other technical issues include:

- Traffic impacts on 108th Avenue NE and vicinity
- Wetlands and streem in vicinity

Benefits:

- Provides improved ST Express and King County Metro transit operations via the HOV access ramps
- Provides improved travel times and reliability to STand Metro riders via the HOV access ramps

Express Bus: Expansion of Kingsgate Park-&-Ride (Kirkland)

Project Number	E23
Subarea	East King
Primary Mode Impacted	ST Express
Facility Type	Park & Ride
Version Number	2.0
Date Last Modified	3/27/2006

Project Locator Map

Short Project Description

Reconstruct and reconfigure the entire Kingsgate park-and-ride lot (502 existing stalls) to add up to 140 parking stalls for transit riders, for a total of 640 parking stalls.

Project Purpose: Provide additional park-and-ride capacity in the I-405 corridor and improve rider access to transit service on I-405.

Cost and Schedule

Cost (in Millions of 2005$)

	Low	High
Agency Admin	$1.5	$1.7
Environmental Clearance and PE	$2.0	$2.2
Final Design, Specs, Permitting	$2.0	$2.2
ROW Acquisition	$2.2	$2.4
Construction	$17.0	$18.4
Vehicles	$0.0	$0.0
Contingency	$2.3	$2.5
Total	**$27.1**	**$29.3**

Design Basis Conceptual

Schedule

Proposed Schedule Not Yet Developed

Environmental Documentation Required

- ☐ Environmental Impact Statement Required
- ☐ Environmental Assessment Required
- ☑ Environmental Checklist Required

Relationships to Other Projects

Relationship	***Project***
Dependent on	Approval by WSDOT and King County Metro to expand the lot

Project Partners

WSDOT
City of Kirkland
King County Metro

Express Bus: Expansion of Kingsgate Park-&-Ride (Kirkland)

Long Description

This capital project scope, and the companion capital cost estimate, are intended to include the entire project development cycle (agency and project administration, environmental clearance, design, all aspects of property acquisition permits, agreements, construction, testing, commissioning and contingencies) from project initiation through the start-up of operations.

Description:
This project will reconstruct and reconfigure the existing Kingsgate park-and-ride lot, adding up to 140 new parking stalls to the existing 502 stalls. This reconfiguration will require the complete resurfacing of the park-and-ride and full drainage system modifications.

Project Elements Included:
- Resurfacing of the entire park-and-ride lot
- Illumination
- 8.5' parking stalls
- 1 percent for art per ST policy
- Parking mitigation program during construction as necessary
- Maintain access from 116th Way NE

Utilities:
- Drainage system modifications

Right-of-Way and Property Acquisition:
- Miscellaneous easements (ROW owned by WSDOT)

Mitigation:
- The final project scope will include all mitigation(s) committed to by ST in pertinent, future project-level environmental documents.

Exclusions
- Non-structural architectural and aesthetic elements in excess of the ST art program
- New pedestrian shelters
- New pedestrian amenities
- Public restrooms
- Bus layover amenities
- Additional signage
- Mitigation for traffic associated with additional stalls

Permits Required:
Building, electrical, mechanical, utility, and construction-related

Agreements Required:
King County Metro, WSDOT, City of Kirkland

ST has developed scope definitions for ST2 project proposals for the purposes of developing cost estimates, implementation schedules, a financial plan, and the estimation of project benefits. This scope definition should not be construed as a commitment that all defined features will be included in the final developed project.

Express Bus: Expansion of Kingsgate Park-&-Ride (Kirkland)

Evaluation Measures

Measure	*Measurement/ Rating*	*Notes*
Average Weekday Ridership	N/A	
Capital Cost	$27.1 - $29.3	in Millions of 2005$
Annual Operating Cost	$0.1	in Millions of 2005$
Travel Time & Reliability	N/A	
Connectivity & Integration	Medium	# transit routes: 3 ST, 9 KCM
Land Use & Development	High	
Customer Experience	Medium	
Risk Avoidance	High	

Key Issues and Benefits

Issues:

- Project had originally been envisioned as a low-cost reconfiguration but will require the complete resurfacing of the park-and-ride and full drainage system modifications due to the age of the existing surface and drainage system
- New parking stalls will be narrower than current, but will meet Kirkland and Metro guidelines
- Temporary parking during construction or staging construction so that additional spaces are provided along the I-405 corridor for interim use
- Additional traffic generated by new park-and-ride capacity in vicinity of the park-and-ride lot (traffic study has not been undertaken to determine if traffic mitigation will be required)

Benefits:

- Helps meet forecasted long-term park-and-ride demand along the I-405 corridor
- Provides improved rider access to transit service on I-405

Express Bus: Parking Garage at South Kirkland Park-&-Ride (Kirkland)

Project Number	E24
Subarea	East King
Primary Mode Impacted	ST Express
Facility Type	Park & Ride
Version Number	2.0
Date Last Modified	3/27/2006

Project Locator Map

Short Project Description

Construct up to 500 structured parking stalls, displacing 250 existing surface stalls, for a net additional 250 parking stalls (850 total stalls).

Project Purpose: Improve transit rider access to transit service along the SR 520 corridor.

Cost and Schedule

Cost (in Millions of 2005$)

	Low	High
Agency Admin	$2.8	$3.0
Environmental Clearance and PE	$3.8	$4.1
Final Design, Specs, Permitting	$3.8	$4.1
ROW Acquisition	$4.0	$4.3
Construction	$31.3	$33.8
Vehicles	$0.0	$0.0
Contingency	$4.3	$4.6
Total	**$49.8**	**$53.8**

Design Basis Conceptual

Schedule

Proposed Schedule Not Yet Developed

Environmental Documentation Required

- [ ] Environmental Impact Statement Required
- [x] Environmental Assessment Required
- [ ] Environmental Checklist Required

Relationships to Other Projects

Relationship	***Project***
Impacted by	E13 - Express Bus: Direct Access Ramps on SR 520 at 108th Avenue NE (E. King County)

Project Partners

WSDOT
KC Metro
City of Kirkland
City of Bellevue

Express Bus: Parking Garage at South Kirkland Park-&-Ride (Kirkland)

Long Description

This capital project scope, and the companion capital cost estimate, are intended to include the entire project development cycle (agency and project administration, environmental clearance, design, all aspects of property acquisition permits, agreements, construction, testing, commissioning and contingencies) from project initiation through the start-up of operations.

Description:
Construct 500 structured parking stalls, displacing 250 of the existing 600 surface stalls, for a net additional 250 parking stalls (total of 850 stalls).

Project Elements to be Included:
- Construction of a new 500 stall parking garage with transit loop/boarding area in the northeast corner of the existing park-and-ride lot
- Signage, lighting, CCTV, customer emergency stations, elevators, stairs, and fire suppression within the garage structure
- Sidewalk, curb and gutter along frontage of the structure
- Access modifications to the park-and-ride facility from NE 38th Place are included
- A new traffic signal, including any needed illumination and intelligent transportation system integration/connection
- Signal modifications at 4 intersections between SR 520 and the park-and-ride site
- 1 percent for art per ST policy
- Parking mitigation program during construction as necessary

Utilities:
- Detention and water quality system for the new garage and park-and-ride facility

Right-of-Way and Property Acquisitions:
- Temporary and/or off-site parking during construction

Mitigation:
The final project scope will include all mitigation(s) committed to by ST in pertinent, future project-level environmental documents

Exclusions:
- Public restrooms
- Additional bike storage, lockers, racks
- Non-structural architectural and aesthetic elements in excess of the ST art program
- Traffic mitigation (beyond what is shown above in Project Elements to Be Included) associated with the increase in parking capacity

Permits Required:
Building, electrical, mechanical, utility, and construction related

Agreements Required:
WSDOT, King County Metro, City of Bellevue, City of Kirkland

ST has developed scope definitions for ST2 project proposals for the purposes of developing cost estimates, implementation schedules, a financial plan, and the estimation of project benefits. This scope definition should not be construed as a commitment that all defined features will be included in the final developed project.

Express Bus: Parking Garage at South Kirkland Park-&-Ride (Kirkland)

Evaluation Measures

Measure	*Measurement/ Rating*	*Notes*
Average Weekday Ridership	N/A	
Capital Cost	$49.8 - $53.8	in Millions of 2005$
Annual Operating Cost	$0.4	in Millions of 2005$
Travel Time & Reliability	N/A	
Connectivity & Integration	Medium	# transit routes: 1 ST, 6 KCM
Land Use & Development	Low	
Customer Experience	Medium	
Risk Avoidance	High	

Key Issues and Benefits

Issues:

- Siting a temporary park-and-ride in the immediate vicinity during construction of the new parking structure will be difficult. Houghton park-and-ride may be a feasible alternative site during construction.
- A traffic study has not been undertaken at this time, the mitigation for the traffic associated with the increase in parking stalls has not yet been assessed.
- The existing park-and-ride site is bisected by the Kirkland/Bellevue city line, meaning that two permit processes will need to be followed to expand parking capacity. Previous alternatives to expand the site were not workable either due to excessive cost, inability to obtain signal modification permits or the need for an additional lane on 108th Avenue NE.

Benefits:

- Improves transit rider access to transit service along the SR 520 corridor
- Provides additional parking capacity at the South Kirkland park-and-ride

D R A F T

June 7, 2006

Mr. John W. Ladenburg
Chair, Sound Transit Board
Central Puget Sound Regional Transit Authority
Union Station
401 S. Jackson Street
Seattle, WA 98104-2826

RE: SOUND TRANSIT 2 PROJECTS

Dear Mr. Ladenburg:

This letter is in response to your request for a written acknowledgement of the scope of potential Sound Transit 2 projects that directly affect the City of Kirkland. The proposed projects are those identified in Sound Transit's, December 15, 2005, Board Briefing publication as modified by Board action. Specifically, Kirkland is affected by East Corridor projects: E9, E13, E23, E24 that are outlined in the publication. We note that project E-17 the direct access and park & ride project at I-405/NE 85th Street was set aside from further ST2 consideration by the Board. The following summarizes our input on the proposed scope elements for each of the identified projects.

<u>E9. HCT Planning Study on SR-520 (E. King County)</u>

Kirkland continues to support coordination between Sound Transit and WSDOT planning.

Issue:

- Early completion of the study will help inform decisions that are underway on the SR 520 Bridge Replacement and HOV project. Also, the decision to proceed or not to proceed with the acquisition of the BNSF RR should not be overlooked as it has a bearing on possible station locations.
- The scope of the study should include a choice of HCT technology.

<u>E13. Direct Access on SR 520 2 108th Ave NE</u>

Kirkland continues to support bringing HOV capacity to the east side and SR 520 is an opportunity to significantly enhance that service. Our key interest is rapid movement of busses between SR 520 and the South Kirkland Park & Ride.

Issues:

- Context sensitive design should be used for wall treatments

- Include the enhancements to the Transit/HOV system that would be necessary with the inclusion of surface street enhancements and or queue by-pass at signals between the South Kirkland park and ride lot and the 520 DA, as described in the SR 520
- Must include appropriate non-motorized access from South Kirkland park and ride to 520 DA especially for benefit of ST Express using SR 520.
- Besides looking at "traffic impacts on 108th Ave NE and vicinity" design must look at impacts to ped/bike facilities in the vicinity.
- Recent action of the State Legislature has expanded the scope of the SR 520 project to include improvements east to I-405. If the expanded scope results in changes at the SR 520./I-405 interchange, this project should include an examination of a flyer stop for eastbound and westbound transit along with a direct access and pedestrian connections between the Park & Ride and the flyer stop.
- This project is predicated upon inside HOV lanes on SR 520 which means reconstruction of the floating bridge. If the bridge is not rebuilt, than a smaller project which reduces travel time for transit between SR 520 and the South Kirkland Park & Ride by making improvements to the ramp between SR 52O and Lake Washington Boulevard should be considered. Such a project was scoped by the SR 520 Bridge Replacement and HOV project.

<u>E23. Express Bus: Expansion of Kingsgate Park and Ride (Kirkland)</u>

Issue:
- Project elements need to consider zoning code requirements for landscape buffers.
- Scope should include evaluation of transit oriented development.
- Scope should include an evaluation of demand before a determination of the number of stalls that are necessary.

<u>E24. Express Bus: Parking Garage at S. Kirkland Park and Ride</u>

Issues:
- Landscaping needs to be incorporated into structure design.
- Consider location adjacencies with the BNSF RR corridor.
- Location of "new traffic signal" .
- Scope should include evaluation of transit oriented development.
- Scope should include an evaluation of demand before a determination of the number of stalls that are necessary.
- Scope should include a study of how to phase construction in order for future expansion beyond ST2 to take place logically.

Thank you for the opportunity to comment on the proposed projects that directly impact our community and Sound Transit's continued support for the Eastside. We look forward to further scope refinements and to eventual construction of the next phase of Sound Transit's program.

Sincerely,
Kirkland City Council

James L. Lauinger
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: David Ramsay, City Manager

From: Eric Shields, Planning Director
Robin S. Jenkinson, City Attorney

Date: May 22, 2006

Subject: Proposed Amendments to Reasonable Use Process

RECOMMENDATION

Staff recommends that the City Council be briefed on proposed amendments to the existing reasonable use process in the Kirkland Zoning Code. Staff would also ask Council for direction on the key issues noted in the discussion below.

BACKGROUND DISCUSSION

On May 2, 2006, the City Council considered two reasonable use applications recommended by the Hearing Examiner. The Council asked staff to examine the existing reasonable use process for possible amendments to be included for consideration by the Planning Commission as part of the annual Zoning Code amendments.

Washington's Growth Management Act (GMA) was passed by the State Legislature in 1990. Under the GMA, all cities and counties in Washington are required to adopt regulations to protect critical or environmentally sensitive areas. The City of Kirkland adopted regulations in 2002 to protect sensitive areas including wetlands, streams, lakes, and frequently flooded areas.

The GMA critical areas requirement frequently restricts the amount of land upon which a property owner can construct buildings or other structures and in many cases eliminates a substantial amount of the economically viable use of the property. The critical areas regulations of almost all cities, including Kirkland's, contain a reasonable use provision to allow exceptions to critical area regulations when strict application of the regulations would deny reasonable use of the property. There is no legal requirement under state statute for cities to enact reasonable use exemptions. Cities have done so to avoid being held liable to property owners for compensation.

With the goal of ensuring that the important sensitive area regulations are enforced to the fullest extent possible, staff has attempted to craft amendments to the reasonable use process which would: 1) retain flexibility in order to adapt to the specific conditions of each site; 2) provide better guidelines for the exercise of this authority.

The first step in the process of drafting the proposed amendments was to collect examples of the reasonable use provisions from other cities and, in some instances, counties. (see **Attachment 1** - examples). In addition, staff closely reviewed the existing reasonable use provision and attempted to more fully describe the required submittals and better organize the approval criteria. (see **Attachment 2** – existing provisions). Finally, staff is recommending an alternative administrative process for improvements which do not exceed 3,000 square feet of site impact, including structures, paved areas, landscaping, decks, utility installation, and grading, as incentive for property owners to limit the size of their proposals. (see **Attachment 3** – draft provisions, subsection 5, page 3).

The issues on which staff seeks Council direction are as follows:

1. Is there additional information which Council would like with applicants' submittals?
2. Are the criteria identified for the decision-making process understandable and acceptable?
3. Does the Council think an alternative administrative process is appropriate?
4. Does the Council think 3,000 square feet of site impact is the correct threshold?

Once Council provides direction to staff, any proposed amendments will be forwarded to the Planning Commission for its consideration. It is anticipated that these and other proposed Zoning Code amendments will be included in a packet to be transmitted to the Planning Commission in July.

ATTACHMENTS

1. Examples of reasonable use provisions from other cities and counties.
2. Existing reasonable use process in Kirkland Zoning Code 90.140.
3. Proposed amendments to reasonable use process.

City of Bellevue WASHINGTON

ATTACHMENT 1

TOC < >

Part 20.30P Protected Area Development Exception

20.30P.110 Scope.

This Part 20.30P establishes the procedures and criteria that the City will use in making a decision upon an application for a Protected Area Development Exception or Small Lot Protected Area Development Exception. (Ord. 4978, 3-17-97, § 4; Ord. 3775, 5-26-87, § 22)

20.30P.115 Applicability.

This part applies to each application to approve a use or development on a site which contains more than 90 percent protected area defined by LUC 20.25H.070 or protected area setback defined by LUC 20.25H.090. (Ord. 3775, 5-26-87, § 22)

20.30P.120 Purpose.

A Protected Area Development Exception is a mechanism by which the City may approve limited use and disturbance of a protected area defined by LUC 20.25H.070 when no other use of the property constitutes a reasonable alternative. This approval also serves to modify the dimensional standards of LUC 20.20.010 and the dimensional and density/intensity standards of Part 20.25H LUC as necessary to accommodate the appropriate level of use or development. (Ord. 3775, 5-26-87, § 22)

20.30P.125 Who may apply.

The property owner may apply for a Protected Area Development Exception. (Ord. 3775, 5-26-87, § 22)

20.30P.130 Applicable procedure.

A. Protected Area Development Exception.

The City will process a Protected Area Development Exception through Process I, LUC 20.35.100 et seq.

B. Small Lot Protected Area Development Exception.

A Small Lot Protected Area Development Exception applies to a lot of less than 30,000 gross square feet or a lot for single-family development and will be processed through Process II, LUC 20.35.200 et seq. (Ord. 4978, 3-17-97, § 5; Ord. 4302, 11-18-91, § 16; Ord. 3775, 5-26-87, § 22)

20.30P.140 Decision criteria.

The City may approve or approve with modifications an application for a Protected Area Development Exception if:

A. Limiting use of the property to those uses provided in LUC 20.25H.080.B is not reasonable given the physical characteristics of the property, its location and surrounding development potential; and

B. The Protected Area Exception is the minimum necessary to fulfill the purpose of this part; and

C. [redacted]

D. The proposal is compatible in design, scale and use with other development or potential development in the immediate vicinity of the subject property in the same zone and with similar site constraints; and

E. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the protected area; and

F. The proposal incorporates the performance standards of LUC 20.25H.110 to the maximum extent possible; and

G. The proposal complies with other applicable requirements of this Code. (Ord. 5481, 10-20-03, § 13; Ord. 3775, 5-26-87, § 22)

20.30P.145 Limitation on authority.

The City may not grant a Protected Area Development Exception to:

A. The provisions of LUC 20.10.440 establishing the allowable uses in each land use district; or

B. The provisions of Chapter 20.30 and 20.35 LUC or any other procedural or administrative provision of the Land Use Code; or

C. Any provision of the Land Use Code within the primary approval jurisdiction of another decisionmaker as established by the Bellevue City Code; or

D. Any provision of the Land Use Code which, by the terms of that Code, is not subject to a variance. (Ord. 3775, 5-26-87, § 22)

20.30P.150 Time limitation.

A Protected Area Development Exception automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit within one year of the effective date of the Exception unless:

A. The applicant has received an extension for the Exception pursuant to LUC 20.30P.155; or

B. The Exception approval provides for a greater time period. (Ord. 3775, 5-26-87, § 22)

20.30P.155 Extension.

A. The Director of Planning and Community Development may extend a Protected Area Development Exception, not to exceed one year, if:

1. Unforeseen circumstances or conditions necessitate the extension of the Exception; and

2. Termination of the Exception would result in unreasonable hardship to the applicant; and the applicant is not responsible for the delay; and

3. The extension of the Exception will not cause substantial detriment to existing uses or sensitive areas in the immediate vicinity of the subject property.

B. The Director of Planning and Community Development may grant no more than one extension. (Ord. 4978, 3-17-97, § 7; Ord. 3775, 5-26-87, § 22)

20.30P.160 Assurance device.

In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with LUC 20.40.490 to assure compliance with the provisions of the Land Use Code and the Exception as approved. (Ord. 3775, 5-26-87, § 22)

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RCW). The application shall be processed using the Type 1 review process pursuant to BMC 19.65.

C. Public agency and utility exception review criteria. The *Director's* decision shall be based on the following criteria:

i. There is no other practical or feasible alternative to the proposed development with less impact on the *critical area*; and

ii. The proposal minimizes the impact on *critical areas*; and

iii. The application of this chapter would unreasonably restrict the ability to provide utility services to the public, and

iv. The proposal meets the decision criteria in BMC 19.40.100.

4. Reasonable use exception.

A. If the application of this chapter would deny all *reasonable use* of the property, the *applicant* may apply for a Reasonable Use Exception. All requirements of this chapter apply, except as specifically waived as part of the decision on the exception.

B. Limitations. Reasonable use exceptions are not authorized for changes in density limitations, permitted *uses* or activities in *critical areas* or their required *buffers*, expanding a use otherwise prohibited, and shall not be used to achieve the maximum density allowed without the existence of *critical areas*.

C. Exception request and review process. An application for a reasonable use exception shall be made to the city and shall include a *critical area* study, including mitigation plan, if necessary; and any other related project documents, such as special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The application shall be processed using the Type 1 review process pursuant to BMC 19.65.

D. Reasonable use exception review criteria. The *Director's* decision shall be based on the following criteria:

i. The application of this chapter would deny all *reasonable use* of the property;

ii. There is no other *reasonable use* with less impact on the *critical area*;

iii. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal *site* and is consistent with the general purposes of this chapter and the public interest; and

iv. Any *alterations* permitted to the *critical area* shall be the minimum necessary to allow for *reasonable use* of the property.

v. The proposal meets the decision criteria in BMC 19.40.100. [Ord. 376 § 1, 2003]

19.40.100 Review criteria.

1. Any *alteration* to a *critical area* or its required *buffer*, unless otherwise provided for in this Chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

A. The proposal limits the impact on *critical areas*;

B. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the *site*;

C. The proposal is consistent with the general purposes of this Chapter and the public interest;

D. Any *alterations* permitted to the *critical area* or its required *buffer* are mitigated in accordance with the critical area study; and

E. The proposal protects the *critical area* functions and value consistent with the *best available science.*

2. The city may condition the proposed activity as necessary to mitigate impacts to *critical areas* and to conform to the standards required by this Chapter. [Ord. 376 § 1, 2003]

<u>CRITICAL AREA STUDY</u>

19.40.110 Critical area study – waiver.

The *Director* shall waive the requirement for a critical area study <u>if</u> ~~as follows~~:

~~1. No critical areas present. If the *Director* determines that the project area is not within or adjacent to a *critical area* or buffer, and that the proposed activity is unlikely to degrade the functions or value of a *critical area.*~~

~~2. Critical areas present, but no impact. If the *Director* determines that there are *critical areas* within or adjacent to the project area, and:~~

1. There will be no *alteration* of the *critical area* or *buffer*; and

2. The development proposal will not impact the *critical area* in a manner contrary to the purpose, intent, and requirements of this Chapter; and

3. The proposal is consistent with other City of Burien applicable regulations and standards. [Ord. 376 § 1, 2003], or

19.40.120 Critical area study requirements.

1. General. The critical area study shall be funded by the *applicant* and shall be prepared in accordance with procedures established by the *Director.* If appropriate professional expertise does not exist on City staff, the *Director* may retain experts at the *applicant's* expense to review critical area studies submitted by the *applicant.* <u>Expense to the *applicant* shall be determined at the pre-application meeting.</u>

CARNATION

Chapter 15.88 ENVIRONMENTALLY SENSITIVE AREAS

Section 15.88.050 Reasonable use exception.

A. If the application of this Chapter would deny all reasonable use of the property, development may be allowed which is consistent with the general purposes of this ordinance and the public interest.

B. An application for a sensitive areas reasonable use exception shall be filed with the City of Carnation and shall be heard by the Planning Board which shall seek legal advice from and consult with the City Attorney and shall issue a final decision.

C. The Planning Board, in recommending approval of the reasonable use exception must determine that:

1. Application of this Chapter would deny all reasonable use of the property; and,
2. There is no other reasonable use with less impact on the sensitive area; and,
3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and,
4. Any alterations permitted to these sensitive areas shall be the minimum necessary to allow for reasonable use of the property.

D. Any authorized alteration of a sensitive area under this Chapter shall be subject to conditions established by the City and shall require mitigation under an approved mitigation plan.

critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated or replaced at the responsible party's expense.

A. Normal maintenance or repair of existing legal buildings, structures, roads or development, including damage by accident, fire or natural elements. Normal repair of buildings and structures involves restoring to a state comparable to the original condition, including the replacement of walls, fixtures and plumbing; provided that the value of work and materials in any twelve-month period does not exceed twenty-five percent of the value of the structure prior to such work as determined by using the most recent ICBO construction tables, the repair does not expand the number of dwelling units in a residential building, the building or structure is not physically expanded, and, in the case of damaged buildings and structures, a complete application for repair is accepted by the City within six months of the event and repair is completed within the terms of the permit;

B. Emergency construction necessary to protect life or property from immediate damage by the elements. An emergency is an unanticipated event or occurrence which poses an imminent threat to public health, safety, or the environment, and which requires immediate action within a time too short to allow full compliance. Once the threat to the public health, safety, or the environment has dissipated, the construction undertaken as a result of the previous emergency shall then be subject to and brought into full compliance with this title;

C. Existing agricultural activities normal or necessary to general farming conducted according to industry-recognized best management practices including the raising of crops or the grazing of livestock;

D. The normal maintenance and repair of artificial drainage systems which does not involve the use of heavy equipment, and which does not require permit issuance from other local, state or federal agencies.

E. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, critical area impacts should be minimized and disturbed areas shall be immediately restored; and

F. Passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling provided the activity does not alter the critical area or its buffer by changing existing topography, water conditions or water sources.

18.10 A.040 Reasonable Use

A. The city may modify the requirements of this title in specific cases when necessary to allow reasonable use of an applicant's property. To qualify for such relief the applicant must demonstrate all of the following:

1. That no other reasonable use can be made of the property that will have a lesser adverse impact on the critical area and adjoining and neighboring lands;
2. That the proposed use does not pose a threat to the public health, safety or welfare; and
3. That the amount of relief requested is the minimum necessary to allow reasonable use of the property.

B. A request for a reasonable use exception shall be submitted to the city with the application materials for the particular development proposal. The application shall be supplemented with an explanation as to how the reasonable use exception criteria are satisfied. The city may require additional information or studies to supplement the reasonable use exception request.

C. A reasonable use exception shall be processed according to the provisions of the Title 14 CMC governing limited administrative reviews.

18.10 A.050 Reference Maps and Inventories

The distribution of critical areas within the City are described and displayed in reference materials and on maps maintained by the City. These reference materials, in the most current form, are intended for general information only and do not depict site-specific designations. They are intended to advise the City, applicants and other participants in the development permit review process that a critical area may exist and that further study, review and consideration may be necessary. These reference materials shall include but are not limited to the following:

A. Maps.

"Reasonable use" or "reasonable economic use" means a legal concept that has been articulated by federal and state courts in regulatory takings cases.

37.050 Exemptions, exceptions, modifications.

Certain activities are exempt from the requirements of this chapter, while other activities which are regulated by this chapter may be granted specific exceptions or an administrative modification as provided in this chapter. This section lists the activities which are exempt from the regulations of this chapter, the exceptions which may be granted to the requirements of this chapter, and the administrative modifications which can be granted to other requirements of this title of the city code.

A. Exemptions. All activities which are exempted, excepted, or granted modifications shall prevent, minimize and/or compensate for impacts to environmentally sensitive areas to the maximum extent possible. Such activities which are exempted, excepted, or granted modifications shall not be exempt from other laws or permit requirements which may be applicable. The following are exemptions to the provisions of this chapter; however, the exemptions listed in this section may not be exempted from other state or federal regulations or permit requirements:

1. Emergencies that threaten the public health, safety and welfare, as verified by the city;

2. Legally constructed structures in existence on the date the ordinance codified in this chapter becomes effective that do not meet the buffer requirements of this chapter may be remodeled, reconstructed or replaced provided that the new construction or related activity does not further encroach into an environmentally sensitive area. Remodeling or reconstruction shall be subject to all other requirements of the zoning code;

3. Existing and ongoing agriculture in agricultural zones in existence as of the date this chapter becomes effective; provided, however, at such time as the property ceases to be used for agricultural activities, the property shall be brought into compliance with the provisions of this chapter;

4. Normal and routine maintenance of legally constructed irrigation and drainage ditches, provided that this exemption shall not apply to any ditches used by salmonids;

5. Normal and routine maintenance of agricultural ponds, livestock watering ponds and fish ponds, provided that such activities shall not involve the conversion of any wetland or stream not used for such purposes on the date this chapter becomes effective;

6. Entirely artificial structures intentionally constructed by humans from upland areas for purposes of storm water drainage or water quality control, or ornamental landscape ponds, which are not part of a mitigation plan required by this chapter;

7. Category III wetlands less than five hundred square feet in area having only one wetland class, which is not forested, and which is hydrologically isolated;

8. Category IV wetlands less than eight thousand square feet in area;

9. The following water, sewer, storm drainage, electric, natural gas, cable communications, and telephone utility related activities, public street and public park maintenance activities when undertaken pursuant to best management practices to avoid impacts to environmentally sensitive areas:

a. Normal and routine maintenance or repair of existing utility structures or right-of-way,

b. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand volts or less, when required and/or approved by the planning director, using the review process described in EMC Title 15, Local Project Review Procedures,

c. Relocation of natural gas, cable communications, telephone facilities, lines, pipes, mains, equipment or appurtenances when required and/or approved by the planning director, using the review process described in EMC Title 15, Local Project Review Procedures,

d. Installation or construction in improved street rights-of-way and replacement, operation or alteration of all facilities listed in subsections A.9.b and A.9.c of this section,

e. Normal and routine maintenance of public streets, state highways, and public park facilities. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area nor does it include construction of a maintenance road or the dumping of maintenance debris;

10. Buffer management when approved by the planning director and all agencies with jurisdiction;

11. Forest practices on city-owned watershed property located in remote areas not contiguous to the Everett corporate boundaries, undertaken in accordance with the requirements of the State Department of Natural Resources.

B. Reasonable Use Exception. Nothing in this chapter is intended to preclude reasonable economic use of property as set forth in this title. If the requirements of this chapter as applied to a specific lot would deny all reasonable economic use of the lot, development will be permitted if the applicant demonstrates all of the following to the satisfaction of the planning director:

1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the environmentally sensitive area; and

2. The proposed development does not pose a threat to the public health, safety and welfare on or off of the subject lot; and

3. Any alterations permitted to the requirements of this chapter shall be the minimum necessary to allow for reasonable use of the property; and

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition after the effective date of this chapter; and

5. The proposal mitigates the impacts on the environmentally sensitive areas to the maximum extent possible.

C. Reasonable Use Decision Process. Whenever an applicant for a development proposal submits a reasonable use proposal to the planning director, the proposal shall include the following information which will be used to evaluate the criteria for reasonable use exception:

1. A description of the areas of the lot which are either environmentally sensitive or within setbacks required by this chapter;

2. A description of the amount of the lot which is within setbacks required by other standards of the zoning code;

3. An analysis of the minimum amount of development that would be considered "reasonable economic use" of the lot, including a narrative which includes a factual basis for this determination;

4. An analysis of the impact that the amount of development described in subsection C.3 of this section would have on the environmentally sensitive areas;

5. An analysis of whether any other reasonable use with less impact on the environmentally sensitive areas and buffers is possible. This must also include an analysis of whether there is any practicable on-site alternative to the proposed development with less impact, including reduction in density, phasing of project implementation, change in timing of activities, revision of lot layout, and/or related site planning considerations that would allow a reasonable economic use with less adverse impacts to the environmentally sensitive areas and buffers;

6. A design of the proposal so that the amount of development proposed as "reasonable economic use" will have the least impact practicable on the environmentally sensitive areas;

7. An analysis of the modifications needed to the standards of this chapter to accommodate the proposed development;

8. A description of any modifications needed to the required front, side and rear setbacks; building height; and landscape widths to provide for a reasonable use while providing protection to the environmentally sensitive areas;

9. Such other information as the planning director determines is reasonably necessary to evaluate the issue of reasonable economic use as it relates to the proposed development.

D. Reasonable Use Administrative Modification. If, in order to provide reasonable economic use, the standards of this title need to be modified, the planning director is authorized to grant an administrative modification to the standards of this title in accordance with the following:

1. If a reasonable economic use of a lot cannot exist without modification of the required front, side and/or rear setbacks, building height, and/or landscape widths, the planning director is authorized to administratively modify such standards only to the extent necessary to provide for a reasonable economic use of the lot while still providing protection to the environmentally sensitive areas;

2. If a reasonable economic use of a lot cannot exist without a reduction of the buffers of the environmentally sensitive areas, the planning director is authorized to administratively permit a reduction in the buffers only to the extent necessary to provide for a reasonable use of the lot, provided there is adequate mitigation provided for any reduction in the buffer. This approach shall be preferred in circumstances where the environmentally sensitive areas have already been degraded or imputed by activities occurring prior to the effective date of this chapter, and enhancement/restoration of the degraded environmentally sensitive area can reasonably be expected to be accomplished; or

3. If a reasonable economic use of a lot cannot exist by means of either subsection D.1 or D.2 of this section, then the planning director is authorized, using the review process described in EMC Title 15, Local Project Review Procedures, to administratively grant a transfer of development rights in addition to subsection D.1 or D.2 of this section, or in lieu of them. For purposes of this section, "transfer of development rights (TDR)" means that the city severs the development rights from the fee interest and permits the owner of the restricted property to either transfer an authorized portion of the development rights in that property to another lot owned by the restricted party in accordance with the following provisions, or permits the owner of the restricted property to sell an authorized portion of the rights to owners of land who can use the authorized development rights in accordance with the following:

a. R-S, R-1 and R-2 Zones. The number of dwelling units allowed under a reasonable use determination for any residential development may be transferred to an R-S, R-1 or R-2 zone; provided, that the number of dwelling units allowed to be transferred to the receiving site shall not exceed the lesser of:

i. The number of dwelling units which the planning director determines to be the minimum necessary to

allow for reasonable economic use of the restricted property, or

ii. Twenty percent more dwelling units than would be permitted on the receiving site without the transfer of development rights.

In approving a transfer of development rights to the receiving site in the R-S, R-1, or R-2 zone, the planning director shall have the authority to allow for a reduction of the minimum lot area allowed by the zone in which the receiving site is located by not more than twenty percent. All such lots shall have a minimum lot width of fifty feet. All dwelling units on such lots shall be single-family dwellings.

b. R-1(A) and R-2(A) Zones. The amount of development transferred to the receiving lot shall not result in a development density which exceeds the maximum permitted in the use zone of the receiving lot without the transferred development by more than twenty-five percent. All other requirements of the use zone in which the receiving lot is located shall apply to the transferred development.

c. Multiple-Family Zones. The amount of development transferred to the receiving lot shall be limited only by all other requirements of this title applicable to the use zone in which the receiving lot is located (building height, off-street parking, setbacks, multiple-family development standards, etc.), excluding maximum permitted density.

d. Commercial and Industrial Zones. The amount of development transferred to the receiving lot shall not exceed that which can be accommodated by allowing an increase of permitted height on the receiving lot of not more than fifteen feet. All other requirements of the use zone in which the receiving lot is located shall be applicable to the transferred development.

E. Public Utility and Infrastructure Exception. If the application of this section would prohibit a development proposal by a public agency or public utility to construct utility lines for the conveyance of water, sewage, storm drainage, natural gas, or telecommunications; or the construction of collector or arterial streets and highways, the agency or utility may request an exception pursuant to this subsection. Such a request shall be reviewed by the hearing examiner using the review process described in EMC Title 15, Local Project Review Procedures. The hearing examiner may approve, or approve with modifications such a request only when the following findings are made:

1. There is no other practicable alternative to the proposed development with less impact on the environmentally sensitive area; and

2. The proposal mitigates the impacts on the environmentally sensitive areas to the maximum extent possible; and

3. The proposal does not impact a significant fish or wildlife habitat area.

F. Prohibition on Variances—Other Exceptions Permitted by this Chapter. The variance procedures described in Section 41.130 of this title shall not apply to the standards of this chapter. The following subsections permit alteration or modification of the requirements of this chapter for protection of environmentally sensitive areas:

1. Subsection 8 for modification of standards for geologically hazardous areas;

2. Subsections 10 and 11 for modification of standards for wetlands and their required buffers;

3. Subsection 14 for modification of standards for streams and their required buffers. (Ord. 2538-01 §§ 44, 45, 46, 2001; Ord. 1838-91 § 5, 1991.)

GIG HARBOR

b. Geologic data pertinent to well logs or borings used to identify information;

c. Ambient ground water quality;

d. Ground water elevation;

e. Depth to perched water table, including mapped location;

f. Recharge potential of facility site, respective to permeability and transmissivity;

g. Ground water flow vector and gradient;

h. Currently available data on wells and any springs located within 1,000 feet of the facility site;

i. Surface water location and recharge potential;

j. Water supply source for the facility;

k. Analysis and discussion of the effects of the proposed project on the ground water resource;

l. Proposed sampling schedules;

m. Any additional information that may be required or requested by the Pierce County environmental health department.

3. Review of Geohydrologic Assessment. A geohydrologic assessment prepared under this section shall be submitted to the Pierce County department of environmental health for review and comment. Comments received by the department of health within 60 days of submittal of the assessment shall be considered by the city in the approval, conditional approval or denial of a project.

4. Findings for Consideration of Approval. A hydrogeologic assessment must clearly demonstrate that the proposed use does not present a threat of contamination to the aquifer system, or provides a conclusive demonstration that application of new or improved technology will result in no greater threat to the ground water resource than the current undeveloped condition of the site. Successful demonstration of these findings warrants approval under this section. (Ord. 619 § 1, 1992).

18.12.110 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter.

A. Information Required. An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

1. A description of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;

2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impervious coverage of the zoning code (GHMC Title 17);

3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;

4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;

5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;

6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;

7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.

B. Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The department director shall make written findings as follows:

1. There is no feasible alternative to the proposed development which has less impact on the critical area;

2. The proposed development does not present a threat to the public health, safety or welfare;

3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;

4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation of the undevelopable condition after the effective date of this title;

5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;

6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property.

The director may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

C. Notification of Decision. A decision by the director under this section shall be provided, in writing, to the applicant and all property owners

adjacent to or abutting the site. The applicant shall be responsible for providing a current listing of all adjacent property owners along with application for a reasonable use exception.

D. Appeal of Director's Decision. The decision of the director may be appealed in accordance with the procedures established under GHMC Title 19.

E. Limits of Applying Reasonable Use Exception. A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

F. Time Limitation. A reasonable use exception shall be valid for a period of two years, unless an extension is granted by the department at least 30 days prior to the expiration date. Any extension granted shall be on a one-time basis and shall be valid for a period not to exceed one year. The time limit is void if the applicant fails to procure the necessary development permit within the time allotted. The department may grant a time extension if:

1. Unforeseen circumstances or conditions necessitate the extension of the development exception; and

2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and

3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas. (Ord. 727 § 4, 1996; Ord. 619 § 1, 1992).

18.12.120 Maintenance of existing structures and developments.

Structures and developments lawfully existing prior to the adoption of this section shall be allowed to be maintained and repaired without any additional review procedures under this title; provided, that the maintenance or repair activity itself remains consistent with the provisions of this chapter and does not increase its nonconformity of such structures or development. Additionally, such construction activity shall not prove harmful to adjacent properties. Maintenance consists of usual actions necessary to prevent a decline, lapse or cessation from a lawfully established condition. Repair consists of the restoration of a development comparable to its original condition within two years of sustaining damage or partial destruction. Maintenance and repair shall include damage incurred as a result of accident, fire or the elements. Total replacement of a structure or development which is not common practice does not constitute repair. In addition to the requirements of this section, the requirements of Chapter 17.68 GHMC (Nonconformities) shall apply. (Ord. 619 § 1, 1992).

18.12.130 Exemptions from development standards.

Certain activities and uses may be of such impact and character or of such dependency to the maintenance and welfare of a lawfully permitted use that the requirements of this title shall not apply and may be waived at the discretion of the department. Notwithstanding the requirements of Title 17 GHMC, the following uses and activities are exempt from the requirements of this chapter:

A. Minimum actions necessary to protect life or property in an emergency situation. Qualification as an emergency shall be based upon the factual occurrence of imminent threat or danger;

B. Public and private pedestrian trails which consist of a pervious surface not exceeding four feet in width;

C. Science research and educational facilities, including archaeological sites and attendant excavation, which do not require the construction of permanent structures or roads for vehicle access;

D. Subsurface drilling for geologic exploration associated with a proposed development which is not exempt from the requirements of this title;

E. The placement of signs consistent with Chapter 17.80 GHMC. (Ord. 619 § 1, 1992).

18.12.140 Variances from the minimum requirements.

A. Variance applications shall be considered by the city according to variance procedures described in Chapter 17.66 GHMC and shall be processed as a Type III application under the permit processing procedures of GHMC Title 19. The required showings for a variance shall be according to this section.

B. The examiner shall have the authority to grant a variance from the provisions of this chapter, including variance for buffer widths, when, in the opinion of the examiner, the conditions as set forth in this section have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.

1. Required Showings for a Variance. Before any variance may be granted, it shall be shown:

(2) An application for a public agency and utility exception shall be made to the City and shall include a critical area identification form; critical area report and mitigation plan, if necessary; and any other pertinent project documents/studies. The Director shall prepare a determination approving, approving with conditions, or denying the request. This determination shall be based on review of the submitted information, a site inspection, and the proposal's ability to comply with all of the following criteria:

(a) There is no other practical alternative to the proposed development with less impact on critical areas and all reasonable measures have been taken to minimize impacts to critical areas;

(b) The application of this chapter would unreasonably restrict the ability to provide street or utility services to the public;

(c) The proposal does not pose a significant threat to the public health, safety, or welfare on or off the site; and

(d) The proposal includes measures to compensate for impacts to critical area function and values consistent with the requirements of this chapter.

18.06.430 Reasonable use permitted

(1) A variance to the provisions of this chapter may be considered by the Planning Commission if application of this chapter would deny all reasonable use of the subject property and upon a showing by the applicant of all the following elements:

(a) The proposed activity will result in minimal alteration of existing contours, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions and will have a minimal effect on critical area functions;

(b) The proposed activity will not jeopardize the continued existence of endangered, threatened, sensitive, or monitored species as listed by the federal or state government;

(c) The proposed activity will not cause material degradation of habitat, ground water or surface water quality;

(d) The proposed activity will comply with all local, state, and general laws, including those related to environmental protection, sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

(e) There will be no damage to public or private property and no threat to the health or safety of people on or off the site; and

(f) The inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and/or creating or adding to the undevelopable condition.

18.06.440 Exception for minor new developments in buffers

(1) Remodels and additions to an existing, legally established structure or impervious area that currently encroaches on a critical area buffer shall be exempt from compliance with regulations in this chapter provided that all of the following criteria are met to the Director's satisfaction:

(a) The proposed development is a minor development and is consistent with the existing use of the site;

(b) The impacts on critical area functions and values are avoided and minimized to the maximum extent possible consistent with this chapter;

(c) The affected area is located at least twenty (20) feet from the critical area boundary;

(d) The minor development does not intensify the use or cause the existing structure/impervious surface to encroach any closer to the critical area;

(e) There are no changes in slope stability or drainage; and

(f) The minor development does not increase the affected site structural/impervious surface footprint by more than twenty five percent (25%).

(2) This exception shall not be allowed more than once for any individual site unless a variance for reasonable use is granted pursuant to MCMC Section 18.06.430.

Article V Critical Area Reporting Requirements and Permit Process

18.06.510 Pre-application conference

All applicants are encouraged to meet with the department prior to submitting an application subject to this chapter. The purpose of this meeting shall be to discuss the City's critical area standards and procedures; to review any conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methods; and to identify potential impacts and mitigation measures. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the City.

18.06.520 Critical area identification form; initial determination

(1) Prior to the City's consideration of any proposed activity not found to be exempt under MCMC 18.06.410, the applicant shall submit to the department a completed critical area

Joint Model Code for Critical Areas
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Model Code for Critical Areas

For the cities of

Duvall, Carnation, Snoqualmie, North Bend

Produced by the

Snoqualmie Watershed Forum

with assistance from

Adolfson Associates, Inc.

July 20, 2004

Duvall Carnation Snoqualmie North Bend King County

a. The applicant has considered all reasonably possible construction techniques based on available technology that are feasible for the proposed project and eliminated any that would result in unreasonable risk of impact to the critical area; and

b. The applicant has considered all available sites and alignments within the range of potential sites and alignments that meet the project purpose and for which operating rights are available.

2. The proposal minimizes and mitigates unavoidable impacts to critical areas and/or critical areas buffers.

C. ◀**Reasonable Use**▶. If the application of this Chapter would deny all ◀**reasonable use**▶ of the property, the applicant may apply for an exception pursuant to this section. After holding a public hearing pursuant to XMC XX.XX.XXX (Hearing Examiner review and approval), the hearing examiner may approve the exception if the hearing examiner finds that:

1. This Chapter would otherwise deny all ◀**reasonable use**▶ of the property;

2. There is no other ◀**reasonable use**▶ consistent with the underlying zoning of the property that has less adverse impact on the critical area and/or associated buffer;

3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;

4. Any alteration is the minimum necessary to allow for ◀**reasonable use**▶ of the property;

5. The inability of the applicant to derive ◀**reasonable use**▶ of the property is not the result of actions by the applicant after the effective date of this chapter or its predecessor; and

6. The applicant may only apply for a ◀**reasonable use**▶ exception under this subsection if the requested exception provides relief not otherwise available from a variance approval.

D. Variance. Where avoidance of the impact in wetlands, streams, fish and wildlife habitat and critical aquifer recharge areas is not possible, a variance shall be obtained to permit the impact. Variances will be granted on the basis of a finding of consistency with all the criteria listed below. The hearing examiner shall not consider the fact the property may be utilized more profitably.

1. The variance shall not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly affected by the code provision for which a variance is requested;

2. That such variance is necessary, because of special circumstances and/or conditions relating to the size, shape, topography, sensitive areas, location, or surroundings of the subject property, to provide it with those relative rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. The phrase "relative rights and privileges" is to ensure that the property rights and privileges for the subject property are considered primarily in relation to current City land-use regulations;

3. That the special conditions and/or circumstances identified in subsection 2 of this section giving rise to the variance application do not result from the actions of the applicant, property owner, or recent prior owner(s) of the subject property;

4. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which subject property is situated;

17.52.025 Reasonable use provisions.

A. The standards and requirements of these critical areas regulations are not intended, and shall not be construed or applied in a manner to deny all ⏩reasonable ⏪⏩use ⏪ of private property. If the applicant demonstrates to the satisfaction of the planning director or his or her designee that strict application of these standards would deny all ⏩reasonable ⏪⏩use ⏪ of a property, development may be permitted subject to appropriate conditions. A ⏩reasonable ⏪ ⏩use ⏪ ⏩exception ⏪ is intended as a "last resort" when no plan and/or mitigation can meet the requirements of this chapter and allow the applicant a ⏩reasonable ⏪ viable ⏩use ⏪ of his or her property.

B. The applicant must demonstrate to the planning director or his or her designee all of the following:

1. That no ⏩reasonable ⏪ ⏩use ⏪ with less impact on the critical area and/or the buffer is feasible and ⏩reasonable ⏪;

2. There is no feasible and ⏩reasonable ⏪ on-site alternative to the proposed activity or ⏩use ⏪ that would allow ⏩reasonable ⏪ ⏩use ⏪ with less adverse impacts to the critical area and/or buffer. Feasible on-site alternatives shall include, but are not limited to: reduction in density or building size, phasing of project implementation, change in timing of activities, and revision of road or parcel layout or related site planning considerations;

3. There are no practical alternatives available to the applicant for development of the property. An alternative is practical if the property or site is available and the project is capable of being done after taking into consideration existing technology, infrastructure, and logistics in light of the overall project purpose;

4. The proposed activity or ⏩use ⏪ will be mitigated to the maximum practical extent and result in the minimum feasible alteration or impairment of functional characteristics of the site, including contours, vegetation and habitat, groundwater, surface water, and hydrologic conditions and consideration has been given to best available science;

5. There will be no material damage to nearby public or private property and no material threat to the health or safety of people on or off the property;

6. The proposed activity or ⏩use ⏪ complies with all local, state, and federal laws; and

7. The inability to derive ⏩reasonable ⏪⏩use ⏪ is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after March 23, 1992.

C. Allowed Reductions for Single-Family Residential ⏩Reasonable ⏪⏩Use ⏪ Lots. As provided under state law and the guidelines of the Department of Trade and Economic Development, ⏩reasonable ⏪ ⏩use ⏪ permits shall allow the development of a modest single-family residential home on a critical area lot.

1. Building setbacks may be reduced by up to fifty percent where the applicant demonstrates to the city that the development cannot meet the city's code requirements without encroaching onto a critical area or its buffer.

2. Development on ⏩reasonable ⏪ ⏩use ⏪ lots shall leave at least seventy percent of the lot undisturbed to protect the critical areas. On small lots seven thousand five hundred square feet or less, a maximum building footprint of two thousand five hundred square feet would be allowed. Additional impervious area for the driveway will be permitted which provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area or buffer. When determining if the access has minimum encroachment or impact on a critical area the ⏩use ⏪ of bridges and open bottom culverts shall be considered minimal impact. Yard areas will be permitted only if they do not encroach into the critical area or buffer.

3. Critical area regulations, buffers and/or setbacks may be reduced up to fifty percent by the planning director and public works director to allow development on ⏩reasonable ⏪ ⏩use ⏪ lots so long as the reduction results in the least impact to the critical area. Where the buffer reduction has the potential to result in significant adverse impacts to the critical area due to inadequate buffering, off-site buffer mitigation shall be required. Mitigation can be in the form of off-site buffer restoration or enhancement in an approved wetland mitigation bank, Big Gulch, Japanese Gulch, Picnic Point Gulch or some other available site per an approved mitigation plan as required by the city's critical areas regulations. Payment of an in-lieu fee may also be allowed if and when the city establishes a program that compensates for critical area impacts. Money generated by such a program would be set aside in a reserved account by the city and used for critical area and buffer restoration or enhancement projects within the city's ravines, streams, or wetlands which are protected by the city's parks and open space zoning designation.

D. Allowed Reductions for Multifamily, Commercial, and Industrial Lots.

1. Building setbacks may be reduced by up to fifty percent where the applicant demonstrates to the city that the development cannot meet the city's code requirements without encroaching onto a critical area or its buffer.

2. The number of required parking stalls may be reduced by up to forty percent if the applicant can demonstrate that the reduction would not negatively affect the business or create spillover parking onto city streets.

3. Critical area regulations, buffers, and/or setbacks may be reduced up to fifty percent by the planning director and public works director to allow development on ⏩reasonable ⏪ ⏩use ⏪ lots so long as the reduction results in the least impact to the critical area. Where the buffer reduction has the potential to result in significant adverse

impacts to the critical area due to inadequate buffering, off-site buffer mitigation shall be required. Mitigation can be in the form of off-site buffer restoration or enhancement in an approved wetland mitigation bank, Big Gulch, Japanese Gulch, Picnic Point Gulch or some other available site per an approved mitigation plan as required by the city's critical areas regulations. Payment of an in-lieu fee may also be allowed if and when the city establishes a program that compensates for critical area impacts. Money generated by such a program would be set aside in a reserved account by the city and used for critical area and buffer restoration or enhancement projects within the city's ravines, streams, or wetlands which are protected by the city's parks and open space zoning designation.

E. If upon application of the wetland mitigation and buffer reduction options contained in Chapters 17.52A through 17.52D, and ▶▶reasonable ◀◀ provisions contained herein, a development cannot be built without further intrusion into the critical area or buffer, then the applicant can pursue a variance under Chapter 17.64, Conditional Uses and Variances.

F. Subdivisions of ▶▶reasonable ◀◀ ▶▶use ◀◀ lots will not be allowed unless there is sufficient area to construct all buildings, driveways, drainage facilities, landscaping, and yards areas without intruding on the critical area, buffer, or setback. (Ord. 1112 § 3, 2005)

9. The proposal complies with use, area, lot dimension, landscaping and parking requirements of the RD12.5(S) zoning district:

Regulation	Requirement	Submitted
Front setback (MMC 17.20)	25'	74'
Rear setback (MMC 17.20)	5'	113'
Side setbacks (MMC 17.20)	5'	15' – north 6' – south
Lot Coverage (MMC 17.20)	30%	10.4 %

10. This site contains critical areas, including steep slopes greater than forty (40) percent and a Type II wetland is found along a portion of the northern third of the lot (*Ord. 987*). Steep slopes require a twenty-five (25) foot setback and Type II wetlands require a fifty (50) foot buffer. If all associated setbacks and buffers are applied there will be no viable building envelope; therefore, site development is subject to reasonable use provisions.
11. Following the Wetland Saving Provisions (Reasonable Use) 17.52b.180, this project meets reasonable use criteria as shown below: MUKILTEO

That no reasonable use with less impact on the wetland and the buffer is feasible and reasonable.	A single-family residence is a reasonable use of this lot. There are no feasible alternate options for site development due to the lot's steep topography and wetland.
That there is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors.	The applicants provided alternate designs and house plan layouts. Additionally, the applicants proposed different driveway layouts, however feasible alternatives were limited by the steep grade of on-site slopes.
That the proposed activities, as conditioned, will result in the minimum possible impacts to wetlands and buffers.	There is no way to minimize impacts to the wetland and wetland buffer at this site. The applicants are providing limited on-site mitigation measures. Following, MMC 17.52B.130, the applicants will provide off-site compensatory mitigation to offset the impacts to wetland function.
All reasonable mitigation measures have been implemented or assured.	This project will implement mitigation measures to minimize impacts based on the Critical Areas Report and Enhancement Plan, prepared by Talasaea Consultants, Inc. on April 4, 2005.
That the inability to derive reasonable economic uses is not the result of the applicant's actions.	The project location is on an existing undeveloped vacant lot.

12. Following MMC 17.52B.110, the applicant submitted alternate house and site designs for review. Due to the location of the wetland, impacts to the wetland were unavoidable.
13. Following MMC 17.52B.130, the applicants provided an off-site mitigation plan to compensate for wetland impacts. The City approved off-site mitigation for the Type IV wetland at 92nd Street Park on April 4, 2005. The applicant's proposal includes buffer enhancements at a ratio of 3:1 to improve habitat functions at the approved site.

implement this chapter and to prepare and require the use of such forms as are necessary to its administration.

18.24.050 Complete exemptions.

The following are exempt from the provisions of this chapter and any administrative rules promulgated thereunder:

A. Alterations in response to emergencies which threaten the public health, safety and welfare or which pose an imminent risk of damage to private property as long as any alteration undertaken pursuant to this subsection is reported to the city immediately. The director shall confirm that an emergency exists and determine what, if any, mitigation shall be required to protect the health, safety, welfare and environment and to repair any resource damage;

B. Agricultural activities in existence before the date of incorporation, as follows:

1. Mowing of hay, grass or grain crops;

2. Tilling, dicing, planting, seeding, harvesting and related activities for pasture, food crops, grass seed or sod if such activities do not take place on steep slopes;

3. Normal and routine maintenance of existing irrigation and drainage ditches not used by salmonids; and

4. Normal and routine maintenance of farm ponds, fish ponds, manure lagoons and livestock watering ponds;

C. Public water, electric and natural gas distribution, public sewer collection, cable communications, telephone utility and related activities undertaken pursuant to city-approved best management practices, as follows:

1. Normal and routine maintenance or repair of existing utility structures or rights-of-way;

2. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less, only when required by a local governmental agency which approves the new location of the facilities;

3. Replacement, operation, repair, modification or installation or construction in an improved public road right-of-way of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less when such facilities are located within an improved public road right-of-way or the city authorized private roadway;

4. Relocation of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by a local governmental agency which approves the new location of the facilities; and

5. Replacement, operation, repair, modification, installation or construction of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or the city authorized private roadway;

B. The grazing of livestock is exempt from the provisions of this chapter and any administrative rules promulgated thereunder, except for the livestock restriction provisions and any animal density limitations established by law, if the grazing activity was in existence before the date of incorporation;

C. A permit or approval sought as part of a development proposal for which multiple permits are required is exempt from the provisions of this chapter and any administrative rules promulgated thereunder, except for the notice on title provisions, NMC 18.24.170 through 18.24.180, if:

1. The city previously reviewed all critical areas on the site;

2. There is no material change in the development proposal since the prior review;

3. There is no new information available which is important to any critical area review of the site or particular critical area;

4. The permit or approval under which the prior review was conducted has not expired or, if no expiration date, no more than five years have lapsed since the issuance of that permit or approval; and

5. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.

18.24.070 Exceptions.

A. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this subsection upon payment of the fee established by resolution:

1. The agency or utility shall apply to the department and shall make available to the department other related project documents such as permit applications to other agencies, special studies and SEPA documents. The department shall prepare a recommendation to the hearing examiner.

2. The hearing examiner shall review the application and conduct a public hearing pursuant to the provisions of applicable city ordinances. The hearing examiner shall make a recommendation to the city council based on the following criteria:

a. There is no other practical alternative to the proposed development with less impact on the critical area; and

b. The proposal minimizes the impact on critical areas.

3. This exception shall not allow the use of the following critical areas for regional retention/detention facilities except where there is a clear showing that the facility will protect public health and safety or repair damaged natural resources:

a. Class 1 streams or buffers;

b. Category I wetlands or buffers with plant associations of infrequent occurrence; or

c. Category I or II wetlands or buffers which provide critical or outstanding habitat for herons, raptors or state or federal designated endangered or threatened species unless clearly demonstrated by the applicant that there will be no impact on such habitat.

D. Maintenance, operation, repair or replacement of publicly improved roadways as long as any such alteration does not involve the expansion of roadways or related improvements into previously unimproved rights-of-way or portions of rights-of-way when such facilities are located within an improved public right-of-way or city authorized private roadway;

E. Maintenance, operation or repair of publicly improved recreation areas as long as any such alteration does not involve the expansion of improvements into previously unimproved recreation areas; and

F. Public agency development proposals only to the extent of any construction contract awarded before the date of incorporation; provided, that any law or regulation in effect at the time of such award shall apply to the proposal.

G. Measures to control a fire or halt the spread of disease or damaging insects, provided that the removed vegetation shall be replaced in-kind or with similar native species within one (1) year pursuant to a restoration plan meeting the requirements of NMC 18.24.370. Replacement trees may be planted at a different nearby location within the critical area buffer if it can be determined that planting in the same location would create a new fire hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one (1) inch in diameter-at-breast height (dbh) for deciduous treees and minimum of six (6) feet in height for evergreen trees as measured from the top of the root ball.

18.24.060 Partial exemptions.

A. The following are exempt from the provisions of this chapter and any administrative rules promulgated thereunder, except for the notice on title provisions, NMC 18.24.170 through 18.24.180, and the flood hazard area provisions, NMC 18.24.220 through 18.24.260:

1. Structural modification of, addition to or replacement of structures, except single detached residences, in existence before the date of incorporation which do not meet the building setback or buffer requirements for wetlands, streams or steep slope hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the structure lying within the above-described building setback area, critical area or buffer;

2. Structural modification of, addition to or replacement of single detached residences in existence before the date of incorporation which do not meet the building setback or buffer requirements for wetlands, streams or steep slope hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the residence lying within the above-described buffer or building setback area by more than 1,000 square feet over that existing before the date of incorporation and no portion of the modification, addition or replacement is located closer to the critical area or, if the existing residence is in the critical area, extends farther into the critical area; and

3. Maintenance or repair of structures which do not meet the development standards of this chapter for landslide or seismic hazard areas if the maintenance or repair does not increase the footprint of the structure and there is no increased risk to life or property as a result of the proposed maintenance or repair;

B. If the application of this chapter would deny all reasonable use of the property, the applicant may apply for an exception pursuant to this subsection upon payment of the fee established by resolution:

1. The applicant shall apply to the department, and the department shall prepare a recommendation to the hearing examiner. The applicant may apply for a reasonable use exception without first having applied for a variance if the requested exception includes relief from standards for which a variance cannot be granted pursuant to the provisions of Chapter 18.44 NMC.

2. The hearing examiner shall review the application in consultation with the city attorney and shall conduct a public hearing pursuant to the provisions of the applicable city ordinances. The hearing examiner shall make a recommendation to the city council based on the following criteria:

a. The application of this chapter would deny all reasonable use of the property; and

b. There is no other reasonable use with less impact on the critical area; and

c. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and

d. Any alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property.

3. Any authorized alteration of a critical area under this subsection shall be subject to conditions established by the city council including, but not limited to, mitigation under an approved mitigation plan.

18.24.080 Critical area maps and inventories.

The distribution of many environmentally critical areas in the city is displayed on maps in the city's critical areas map folio. Many of the wetlands are inventoried and rated and that information is published in the King County or city wetlands inventory notebooks. Many flood hazard areas are mapped by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County." If there is a conflict among the maps, inventory and site-specific features, the actual presence or absence of the features defined in this title as critical areas shall govern.

18.24.085 Salmonid use – Rebuttal of presumption.

The presumption in NMC 18.06.686 that a stream is used by salmonids may be rebutted by:

A. Documenting a lawful blockage which prevents salmonids from entering a stream or portion thereof, and the stream has no known resident salmonids present; or

B. Subject to the conditions of any Washington Department of Fish and Wildlife scientific sampling permit, sampling carried out by trapping or electrofishing the stream or other applicable water body during the high flow period from January 31st through March 31st which shows that salmonids are not present. The

21.06.1410 Reasonable use.

If an applicant demonstrates to the satisfaction of the director that application of these standards would deny all reasonable economic use of the property, development as conditioned shall be allowed if the applicant also demonstrates all of the following to the satisfaction of the director:

(1) That no reasonable use with less impact on the environmentally critical area and its buffer is possible;

(2) That there is no feasible on-site alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to environmentally critical areas and associated buffers;

(3) That the proposed activities will result in minimum feasible alteration or impairment to the environmentally critical area's functional characteristics and its existing contours, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions;

(4) That the disturbance of the environmentally critical area has been minimized by locating any necessary alteration in the environmentally critical area buffers to the extent possible;

(5) That the proposed activities will not jeopardize the continued existence of endangered, threatened, sensitive, or monitored species as listed by the federal government or the state of Washington;

(6) That the proposed activities will not cause significant degradation of ground water or surface water quality;

(7) That the proposed activities comply with all state, local and general laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

(8) That there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and

(9) That the inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this chapter. (Ord. 2324 § 2(14), 1992).

(5) The granting of the variance constitutes an equitable application of the requirements of the land use regulations where strict adherence in a given situation would create unnecessary hardship for the property owner; and

(6) The variance is the minimum necessary to grant relief to the applicant; and

(7) The variance does not relieve an applicant from conditions established during prior permit review; and

(8) All approved variances otherwise comply with the requirements of the Redmond Community Development Guide, including the Comprehensive Plan.

6. Staff has analyzed the criteria and the application here at pages 15-17 of the Technical Committee Report. Applicant seeks a variance from the 18 foot setback for garages. Clearly, it should be granted. The site slopes so steeply that a garage located 18 feet down the slope would require extensive long piling, or a dangerous driveway to the garage. Locating the garage one foot from the right-of-way will provide a safe parking area off this narrow street.

7. [redacted]

(1) No reasonable use with less impact on the sensitive area and the buffer is feasible and reasonable; and

(2) There is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in the site layout, reductions in density and similar factors; and

(3) The proposed activities, as conditioned, will result in the minimum possible impacts to affected sensitive areas; and

(4) All reasonable mitigation measure have been implemented or assured; and

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(5) The inability to derive reasonable economic use is not the result of the applicant's actions. The purchase price of the property shall not be construed to be an applicant's action.

8. Staff has analyzed the reasonable use exception at pages 12-15 of the Technical Committee Report. Here too, Applicant has made out a case for the reasonable use exception. There is simply not enough buildable space on this property to locate the garage/accessory dwelling unit outside the sensitive area. Other properties in the vicinity, with the same or similar conditions, have been given the relief Applicant seeks here. Without the reasonable use exception, the lot could not be developed for residential use.

9. Any finding of fact deemed to be a conclusion of law is adopted as such.

DECISION

The application of Kien Truong for a variance for the 18 foot setback for a garage and a reasonable use exception from the landslide hazard standards of a sensitive area is **GRANTED**, subject to the conditions in Attachment B.

Done this 7th day of November, 2005

Gordon F. Crandall

Gordon F. Crandall
Hearing Examiner

City of Redmond
Office of the Hearing Examiner
P.O. Box 97010
Redmond, WA 98073-9710

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9. 5 letters of comment, concerning the proposed reasonable use exception were received within the comment period. The letters of comment indicate concerns with access to the site, drainage, height of retaining walls, and slope stability.

10. Current zoning of the subject property and the vicinity is R-4 du/ac.

11. Per the Sammamish Municipal Code (SMC) 20.05.020, reasonable use exception applications are processed as a Type 2 permit.

12. The Comprehensive Plan designation for this site is R4 Urban Residential;

13. Per SMC 21A.25, the maximum amount of impervious surface allowed for a property zoned R-4 is 55%. The Director has determined that 35% is the minimum necessary for reasonable use.

14. WAC 197-11-800 governs the application of SEPA regulations in conjunction with land use development. The proposed single family residence, which meets the definition of minor new construction, is specifically exempted from SEPA per WAC 197-11-800(1)(b);

15. 21A.50280 steep slope regulations require that a minimum buffer of fifty feet shall be established from the top, toe, and along the sides of any slope 40% in inclination or steeper. All of the parcels lie in an area of over 40% slopes or their buffers.

16. ~~Per 21A.50.070(2), if the application of if the application of this chapter would deny all reasonable use of the property, the applicant may apply for an exception pursuant to this subsection.~~

    a. The applicant may first apply for a reasonable use exception without first having applied for a variance if the requested exception includes relief from standards for which a variance cannot be granted pursuant to the provisions of ISDC chapter 21A.44. The applicant shall apply to the Department, and the Department shall make a final decision based on the following criteria:

        i. the application of this chapter would deny all reasonable use of the property;

        The properties are completely constrained by sensitive areas, their buffers and the required building setbacks. Without relief no structures could be constructed on the lots.

        ii. there is no other reasonable use with less impact on the sensitive area;

        Construction of a single family residence will have the least impact on the sites of any of the allowed uses in the zone.

        iii. the proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and

The construction of single family residences will not pose an unreasonable threat to the public health, safety, and welfare if the conditions of this permit are met.

iv. any alterations permitted to the sensitive areas shall be the minimum necessary to allow for reasonable use of the property.

The permit as conditioned will limit development while permitting the construction of a single family residence on each of the parcels.

Conclusions:

1. Single family residential development is permitted in the R-4 zone and is consistent with established residential development within the vicinity of the subject site and is consistent with the Interim Sammamish Comprehensive Plan;

2. Construction of the proposed single family home is consistent with surrounding development and single family development is generally considered a reasonable use of property zoned R-4;

3. The proposed reasonable use exception is exempt from the State Environmental Protection Act (SEPA) requirements per WAC 197-11-800(1) (b.)(i);

4. Issuance of a reasonable use exception will alleviate strict enforcement of the provisions of Title 21A.50 of the Sammamish Development Code that create an unnecessary hardship to the property owner, which results in it being unfeasible and prohibitive to construct a single-family residence on the property;

5. Based upon the geotechnical studies (Exhibit C) generated by the applicant's consulting engineer and reviewed by city engineering staff, the Reasonable Use Exception, as conditioned, does not create health and safety hazards, is not materially detrimental to the public welfare, nor is it unduly injurious to property or improvements in the vicinity.

6. Based upon Eastside Fire and Rescue's review, the Reasonable Use Exception does not create health and safety hazards, is not materially detrimental to the public welfare, or is not unduly injurious to property or improvements in the vicinity. However, due to access issues all of the residences are required to have fire sprinklers installed.(Exhibit D)

7. As conditioned, the development proposal will only be permitted to generate new impervious surface totals of only 35% on each lot and will disturb only 47 to 48 percent of the lots, the applicant has demonstrated the proposal is the minimum necessary to allow for reasonable use of the property; based on access and engineering recommendations (Exhibit B).

8. As conditioned, the proposed development will decrease the potential for erosion and / or steep slope failure.

CARNATION

Chapter 15.88 ENVIRONMENTALLY SENSITIVE AREAS

Section 15.88.050 Reasonable use exception.

A. If the application of this Chapter would deny all reasonable use of the property, development may be allowed which is consistent with the general purposes of this ordinance and the public interest.

B. An application for a sensitive areas reasonable use exception shall be filed with the City of Carnation and shall be heard by the Planning Board which shall seek legal advice from and consult with the City Attorney and shall issue a final decision.

C. The Planning Board, in recommending approval of the reasonable use exception must determine that:

1. Application of this Chapter would deny all reasonable use of the property; and,
2. There is no other reasonable use with less impact on the sensitive area; and,
3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and,
4. Any alterations permitted to these sensitive areas shall be the minimum necessary to allow for reasonable use of the property.

D. Any authorized alteration of a sensitive area under this Chapter shall be subject to conditions established by the City and shall require mitigation under an approved mitigation plan.

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b. Geologic data pertinent to well logs or borings used to identify information;

c. Ambient ground water quality;

d. Ground water elevation;

e. Depth to perched water table, including mapped location;

f. Recharge potential of facility site, respective to permeability and transmissivity;

g. Ground water flow vector and gradient;

h. Currently available data on wells and any springs located within 1,000 feet of the facility site;

i. Surface water location and recharge potential;

j. Water supply source for the facility;

k. Analysis and discussion of the effects of the proposed project on the ground water resource;

l. Proposed sampling schedules;

m. Any additional information that may be required or requested by the Pierce County environmental health department.

3. Review of Geohydrologic Assessment. A geohydrologic assessment prepared under this section shall be submitted to the Pierce County department of environmental health for review and comment. Comments received by the department of health within 60 days of submittal of the assessment shall be considered by the city in the approval, conditional approval or denial of a project.

4. Findings for Consideration of Approval. A hydrogeologic assessment must clearly demonstrate that the proposed use does not present a threat of contamination to the aquifer system, or provides a conclusive demonstration that application of new or improved technology will result in no greater threat to the ground water resource than the current undeveloped condition of the site. Successful demonstration of these findings warrants approval under this section. (Ord. 619 § 1, 1992).

18.12.110 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter.

A. Information Required. An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

1. A description of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;

2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impervious coverage of the zoning code (GHMC Title 17);

3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;

4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;

5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;

6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;

7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.

B. Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The department director shall make written findings as follows:

1. There is no feasible alternative to the proposed development which has less impact on the critical area;

2. The proposed development does not present a threat to the public health, safety or welfare;

3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;

4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation of the undevelopable condition after the effective date of this title;

5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;

6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property.

The director may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

C. Notification of Decision. A decision by the director under this section shall be provided, in writing, to the applicant and all property owners

adjacent to or abutting the site. The applicant shall be responsible for providing a current listing of all adjacent property owners along with application for a reasonable use exception.

D. Appeal of Director's Decision. The decision of the director may be appealed in accordance with the procedures established under GHMC Title 19.

E. Limits of Applying Reasonable Use Exception. A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

F. Time Limitation. A reasonable use exception shall be valid for a period of two years, unless an extension is granted by the department at least 30 days prior to the expiration date. Any extension granted shall be on a one-time basis and shall be valid for a period not to exceed one year. The time limit is void if the applicant fails to procure the necessary development permit within the time allotted. The department may grant a time extension if:

1. Unforeseen circumstances or conditions necessitate the extension of the development exception; and

2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and

3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas. (Ord. 727 § 4, 1996; Ord. 619 § 1, 1992).

18.12.120 Maintenance of existing structures and developments.

Structures and developments lawfully existing prior to the adoption of this section shall be allowed to be maintained and repaired without any additional review procedures under this title; provided, that the maintenance or repair activity itself remains consistent with the provisions of this chapter and does not increase its nonconformity of such structures or development. Additionally, such construction activity shall not prove harmful to adjacent properties. Maintenance consists of usual actions necessary to prevent a decline, lapse or cessation from a lawfully established condition. Repair consists of the restoration of a development comparable to its original condition within two years of sustaining damage or partial destruction. Maintenance and repair shall include damage incurred as a result of accident, fire or the elements. Total replacement of a structure or development which is not common practice does not constitute repair. In addition to the requirements of this section, the requirements of Chapter 17.68 GHMC (Nonconformities) shall apply. (Ord. 619 § 1, 1992).

18.12.130 Exemptions from development standards.

Certain activities and uses may be of such impact and character or of such dependency to the maintenance and welfare of a lawfully permitted use that the requirements of this title shall not apply and may be waived at the discretion of the department. Notwithstanding the requirements of Title 17 GHMC, the following uses and activities are exempt from the requirements of this chapter:

A. Minimum actions necessary to protect life or property in an emergency situation. Qualification as an emergency shall be based upon the factual occurrence of imminent threat or danger;

B. Public and private pedestrian trails which consist of a pervious surface not exceeding four feet in width;

C. Science research and educational facilities, including archaeological sites and attendant excavation, which do not require the construction of permanent structures or roads for vehicle access;

D. Subsurface drilling for geologic exploration associated with a proposed development which is not exempt from the requirements of this title;

E. The placement of signs consistent with Chapter 17.80 GHMC. (Ord. 619 § 1, 1992).

18.12.140 Variances from the minimum requirements.

A. Variance applications shall be considered by the city according to variance procedures described in Chapter 17.66 GHMC and shall be processed as a Type III application under the permit processing procedures of GHMC Title 19. The required showings for a variance shall be according to this section.

B. The examiner shall have the authority to grant a variance from the provisions of this chapter, including variance for buffer widths, when, in the opinion of the examiner, the conditions as set forth in this section have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.

1. Required Showings for a Variance. Before any variance may be granted, it shall be shown:

17.52.025 Reasonable use provisions.

A. The standards and requirements of these critical areas regulations are not intended, and shall not be construed or applied in a manner to deny all ⏩reasonable ⏪ ⏩use ⏪ of private property. If the applicant demonstrates to the satisfaction of the planning director or his or her designee that strict application of these standards would deny all ⏩reasonable ⏪ ⏩use ⏪ of a property, development may be permitted subject to appropriate conditions. A ⏩reasonable ⏪ ⏩use ⏪ ⏩exception ⏪ is intended as a "last resort" when no plan and/or mitigation can meet the requirements of this chapter and allow the applicant a ⏩reasonable ⏪ viable ⏩use ⏪ of his or her property.

B. The applicant must demonstrate to the planning director or his or her designee all of the following:

1. That no ⏩reasonable ⏪ ⏩use ⏪ with less impact on the critical area and/or the buffer is feasible and ⏩reasonable ⏪;

2. There is no feasible and ⏩reasonable ⏪ on-site alternative to the proposed activity or ⏩use ⏪ that would allow ⏩reasonable ⏪ ⏩use ⏪ with less adverse impacts to the critical area and/or buffer. Feasible on-site alternatives shall include, but are not limited to: reduction in density or building size, phasing of project implementation, change in timing of activities, and revision of road or parcel layout or related site planning considerations;

3. There are no practical alternatives available to the applicant for development of the property. An alternative is practical if the property or site is available and the project is capable of being done after taking into consideration existing technology, infrastructure, and logistics in light of the overall project purpose;

4. The proposed activity or ⏩use ⏪ will be mitigated to the maximum practical extent and result in the minimum feasible alteration or impairment of functional characteristics of the site, including contours, vegetation and habitat, groundwater, surface water, and hydrologic conditions and consideration has been given to best available science;

5. There will be no material damage to nearby public or private property and no material threat to the health or safety of people on or off the property;

6. The proposed activity or ⏩use ⏪ complies with all local, state, and federal laws; and

7. The inability to derive ⏩reasonable ⏪ ⏩use ⏪ is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after March 23, 1992.

C. Allowed Reductions for Single-Family Residential ⏩Reasonable ⏪ ⏩Use ⏪ Lots. As provided under state law and the guidelines of the Department of Trade and Economic Development, ⏩reasonable ⏪ ⏩use ⏪ permits shall allow the development of a modest single-family residential home on a critical area lot.

1. Building setbacks may be reduced by up to fifty percent where the applicant demonstrates to the city that the development cannot meet the city's code requirements without encroaching onto a critical area or its buffer.

2. Development on ⏩reasonable ⏪ ⏩use ⏪ lots shall leave at least seventy percent of the lot undisturbed to protect the critical areas. On small lots seven thousand five hundred square feet or less, a maximum building footprint of two thousand five hundred square feet would be allowed. Additional impervious area for the driveway will be permitted which provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area or buffer. When determining if the access has minimum encroachment or impact on a critical area the ⏩use ⏪ of bridges and open bottom culverts shall be considered minimal impact. Yard areas will be permitted only if they do not encroach into the critical area or buffer.

3. Critical area regulations, buffers and/or setbacks may be reduced up to fifty percent by the planning director and public works director to allow development on ⏩reasonable ⏪ ⏩use ⏪ lots so long as the reduction results in the least impact to the critical area. Where the buffer reduction has the potential to result in significant adverse impacts to the critical area due to inadequate buffering, off-site buffer mitigation shall be required. Mitigation can be in the form of off-site buffer restoration or enhancement in an approved wetland mitigation bank, Big Gulch, Japanese Gulch, Picnic Point Gulch or some other available site per an approved mitigation plan as required by the city's critical areas regulations. Payment of an in-lieu fee may also be allowed if and when the city establishes a program that compensates for critical area impacts. Money generated by such a program would be set aside in a reserved account by the city and used for critical area and buffer restoration or enhancement projects within the city's ravines, streams, or wetlands which are protected by the city's parks and open space zoning designation.

D. Allowed Reductions for Multifamily, Commercial, and Industrial Lots.

1. Building setbacks may be reduced by up to fifty percent where the applicant demonstrates to the city that the development cannot meet the city's code requirements without encroaching onto a critical area or its buffer.

2. The number of required parking stalls may be reduced by up to forty percent if the applicant can demonstrate that the reduction would not negatively affect the business or create spillover parking onto city streets.

3. Critical area regulations, buffers, and/or setbacks may be reduced up to fifty percent by the planning director and public works director to allow development on ⏩reasonable ⏪ ⏩use ⏪ lots so long as the reduction results in the least impact to the critical area. Where the buffer reduction has the potential to result in significant adverse

impacts to the critical area due to inadequate buffering, off-site buffer mitigation shall be required. Mitigation can be in the form of off-site buffer restoration or enhancement in an approved wetland mitigation bank, Big Gulch, Japanese Gulch, Picnic Point Gulch or some other available site per an approved mitigation plan as required by the city's critical areas regulations. Payment of an in-lieu fee may also be allowed if and when the city establishes a program that compensates for critical area impacts. Money generated by such a program would be set aside in a reserved account by the city and used for critical area and buffer restoration or enhancement projects within the city's ravines, streams, or wetlands which are protected by the city's parks and open space zoning designation.

E. If upon application of the wetland mitigation and buffer reduction options contained in Chapters 17.52A through 17.52D, and ▶▶reasonable ◀◀ provisions contained herein, a development cannot be built without further intrusion into the critical area or buffer, then the applicant can pursue a variance under Chapter 17.64, Conditional Uses and Variances.

F. Subdivisions of ▶▶reasonable ◀◀ ▶▶use ◀◀ lots will not be allowed unless there is sufficient area to construct all buildings, driveways, drainage facilities, landscaping, and yards areas without intruding on the critical area, buffer, or setback. (Ord. 1112 § 3, 2005)

21.06.1410 Reasonable use.

If an applicant demonstrates to the satisfaction of the director that application of these standards would deny all reasonable economic use of the property, development as conditioned shall be allowed if the applicant also demonstrates all of the following to the satisfaction of the director:

(1) That no reasonable use with less impact on the environmentally critical area and its buffer is possible;

(2) That there is no feasible on-site alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to environmentally critical areas and associated buffers;

(3) That the proposed activities will result in minimum feasible alteration or impairment to the environmentally critical area's functional characteristics and its existing contours, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions;

(4) That the disturbance of the environmentally critical area has been minimized by locating any necessary alteration in the environmentally critical area buffers to the extent possible;

(5) That the proposed activities will not jeopardize the continued existence of endangered, threatened, sensitive, or monitored species as listed by the federal government or the state of Washington;

(6) That the proposed activities will not cause significant degradation of ground water or surface water quality;

(7) That the proposed activities comply with all state, local and general laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

(8) That there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and

(9) That the inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this chapter. (Ord. 2324 § 2(14), 1992).

37.050 Exemptions, exceptions, modifications.

Certain activities are exempt from the requirements of this chapter, while other activities which are regulated by this chapter may be granted specific exceptions or an administrative modification as provided in this chapter. This section lists the activities which are exempt from the regulations of this chapter, the exceptions which may be granted to the requirements of this chapter, and the administrative modifications which can be granted to other requirements of this title of the city code.

A. Exemptions. All activities which are exempted, excepted, or granted modifications shall prevent, minimize and/or compensate for impacts to environmentally sensitive areas to the maximum extent possible. Such activities which are exempted, excepted, or granted modifications shall not be exempt from other laws or permit requirements which may be applicable. The following are exemptions to the provisions of this chapter; however, the exemptions listed in this section may not be exempted from other state or federal regulations or permit requirements:

1. Emergencies that threaten the public health, safety and welfare, as verified by the city;

2. Legally constructed structures in existence on the date the ordinance codified in this chapter becomes effective that do not meet the buffer requirements of this chapter may be remodeled, reconstructed or replaced provided that the new construction or related activity does not further encroach into an environmentally sensitive area. Remodeling or reconstruction shall be subject to all other requirements of the zoning code;

3. Existing and ongoing agriculture in agricultural zones in existence as of the date this chapter becomes effective; provided, however, at such time as the property ceases to be used for agricultural activities, the property shall be brought into compliance with the provisions of this chapter;

4. Normal and routine maintenance of legally constructed irrigation and drainage ditches, provided that this exemption shall not apply to any ditches used by salmonids;

5. Normal and routine maintenance of agricultural ponds, livestock watering ponds and fish ponds, provided that such activities shall not involve the conversion of any wetland or stream not used for such purposes on the date this chapter becomes effective;

6. Entirely artificial structures intentionally constructed by humans from upland areas for purposes of storm water drainage or water quality control, or ornamental landscape ponds, which are not part of a mitigation plan required by this chapter;

7. Category III wetlands less than five hundred square feet in area having only one wetland class, which is not forested, and which is hydrologically isolated;

8. Category IV wetlands less than eight thousand square feet in area;

9. The following water, sewer, storm drainage, electric, natural gas, cable communications, and telephone utility related activities, public street and public park maintenance activities when undertaken pursuant to best management practices to avoid impacts to environmentally sensitive areas:

a. Normal and routine maintenance or repair of existing utility structures or right-of-way,

b. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand volts or less, when required and/or approved by the planning director, using the review process described in EMC Title 15, Local Project Review Procedures,

c. Relocation of natural gas, cable communications, telephone facilities, lines, pipes, mains, equipment or appurtenances when required and/or approved by the planning director, using the review process described in EMC Title 15, Local Project Review Procedures,

d. Installation or construction in improved street rights-of-way and replacement, operation or alteration of all facilities listed in subsections A.9.b and A.9.c of this section,

e. Normal and routine maintenance of public streets, state highways, and public park facilities. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area nor does it include construction of a maintenance road or the dumping of maintenance debris;

10. Buffer management when approved by the planning director and all agencies with jurisdiction;

11. Forest practices on city-owned watershed property located in remote areas not contiguous to the Everett corporate boundaries, undertaken in accordance with the requirements of the State Department of Natural Resources.

B. Reasonable Use Exception. Nothing in this chapter is intended to preclude reasonable economic use of property as set forth in this title. If the requirements of this chapter as applied to a specific lot would deny all reasonable economic use of the lot, development will be permitted if the applicant demonstrates all of the following to the satisfaction of the planning director:

1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the environmentally sensitive area; and

2. The proposed development does not pose a threat to the public health, safety and welfare on or off of the subject lot; and

3. Any alterations permitted to the requirements of this chapter shall be the minimum necessary to allow for reasonable use of the property; and

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition after the effective date of this chapter; and

5. The proposal mitigates the impacts on the environmentally sensitive areas to the maximum extent possible.

C. Reasonable Use Decision Process. Whenever an applicant for a development proposal submits a reasonable use proposal to the planning director, the proposal shall include the following information which will be used to evaluate the criteria for reasonable use exception:

1. A description of the areas of the lot which are either environmentally sensitive or within setbacks required by this chapter;

2. A description of the amount of the lot which is within setbacks required by other standards of the zoning code;

3. An analysis of the minimum amount of development that would be considered "reasonable economic use" of the lot, including a narrative which includes a factual basis for this determination;

4. An analysis of the impact that the amount of development described in subsection C.3 of this section would have on the environmentally sensitive areas;

5. An analysis of whether any other reasonable use with less impact on the environmentally sensitive areas and buffers is possible. This must also include an analysis of whether there is any practicable on-site alternative to the proposed development with less impact, including reduction in density, phasing of project implementation, change in timing of activities, revision of lot layout, and/or related site planning considerations that would allow a reasonable economic use with less adverse impacts to the environmentally sensitive areas and buffers;

6. A design of the proposal so that the amount of development proposed as "reasonable economic use" will have the least impact practicable on the environmentally sensitive areas;

7. An analysis of the modifications needed to the standards of this chapter to accommodate the proposed development;

8. A description of any modifications needed to the required front, side and rear setbacks; building height; and landscape widths to provide for a reasonable use while providing protection to the environmentally sensitive areas;

9. Such other information as the planning director determines is reasonably necessary to evaluate the issue of reasonable economic use as it relates to the proposed development.

D. Reasonable Use Administrative Modification. If, in order to provide reasonable economic use, the standards of this title need to be modified, the planning director is authorized to grant an administrative modification to the standards of this title in accordance with the following:

1. If a reasonable economic use of a lot cannot exist without modification of the required front, side and/or rear setbacks, building height, and/or landscape widths, the planning director is authorized to administratively modify such standards only to the extent necessary to provide for a reasonable economic use of the lot while still providing protection to the environmentally sensitive areas;

2. If a reasonable economic use of a lot cannot exist without a reduction of the buffers of the environmentally sensitive areas, the planning director is authorized to administratively permit a reduction in the buffers only to the extent necessary to provide for a reasonable use of the lot, provided there is adequate mitigation provided for any reduction in the buffer. This approach shall be preferred in circumstances where the environmentally sensitive areas have already been degraded or imputed by activities occurring prior to the effective date of this chapter, and enhancement/restoration of the degraded environmentally sensitive area can reasonably be expected to be accomplished; or

3. If a reasonable economic use of a lot cannot exist by means of either subsection D.1 or D.2 of this section, then the planning director is authorized, using the review process described in EMC Title 15, Local Project Review Procedures, to administratively grant a transfer of development rights in addition to subsection D.1 or D.2 of this section, or in lieu of them. For purposes of this section, "transfer of development rights (TDR)" means that the city severs the development rights from the fee interest and permits the owner of the restricted property to either transfer an authorized portion of the development rights in that property to another lot owned by the restricted party in accordance with the following provisions, or permits the owner of the restricted property to sell an authorized portion of the rights to owners of land who can use the authorized development rights in accordance with the following:

a. R-S, R-1 and R-2 Zones. The number of dwelling units allowed under a reasonable use determination for any residential development may be transferred to an R-S, R-1 or R-2 zone; provided, that the number of dwelling units allowed to be transferred to the receiving site shall not exceed the lesser of:

i. The number of dwelling units which the planning director determines to be the minimum necessary to

allow for reasonable economic use of the restricted property, or

ii. Twenty percent more dwelling units than would be permitted on the receiving site without the transfer of development rights.

In approving a transfer of development rights to the receiving site in the R-S, R-1, or R-2 zone, the planning director shall have the authority to allow for a reduction of the minimum lot area allowed by the zone in which the receiving site is located by not more than twenty percent. All such lots shall have a minimum lot width of fifty feet. All dwelling units on such lots shall be single-family dwellings.

b. R-1(A) and R-2(A) Zones. The amount of development transferred to the receiving lot shall not result in a development density which exceeds the maximum permitted in the use zone of the receiving lot without the transferred development by more than twenty-five percent. All other requirements of the use zone in which the receiving lot is located shall apply to the transferred development.

c. Multiple-Family Zones. The amount of development transferred to the receiving lot shall be limited only by all other requirements of this title applicable to the use zone in which the receiving lot is located (building height, off-street parking, setbacks, multiple-family development standards, etc.), excluding maximum permitted density.

d. Commercial and Industrial Zones. The amount of development transferred to the receiving lot shall not exceed that which can be accommodated by allowing an increase of permitted height on the receiving lot of not more than fifteen feet. All other requirements of the use zone in which the receiving lot is located shall be applicable to the transferred development.

E. Public Utility and Infrastructure Exception. If the application of this section would prohibit a development proposal by a public agency or public utility to construct utility lines for the conveyance of water, sewage, storm drainage, natural gas, or telecommunications; or the construction of collector or arterial streets and highways, the agency or utility may request an exception pursuant to this subsection. Such a request shall be reviewed by the hearing examiner using the review process described in EMC Title 15, Local Project Review Procedures. The hearing examiner may approve, or approve with modifications such a request only when the following findings are made:

1. There is no other practicable alternative to the proposed development with less impact on the environmentally sensitive area; and

2. The proposal mitigates the impacts on the environmentally sensitive areas to the maximum extent possible; and

3. The proposal does not impact a significant fish or wildlife habitat area.

F. Prohibition on Variances—Other Exceptions Permitted by this Chapter. The variance procedures described in Section 41.130 of this title shall not apply to the standards of this chapter. The following subsections permit alteration or modification of the requirements of this chapter for protection of environmentally sensitive areas:

1. Subsection 8 for modification of standards for geologically hazardous areas;

2. Subsections 10 and 11 for modification of standards for wetlands and their required buffers;

3. Subsection 14 for modification of standards for streams and their required buffers. (Ord. 2538-01 §§ 44, 45, 46, 2001; Ord. 1838-91 § 5, 1991.)

Ordinance, shall be considered as a valid scientific process and the "best available science (BAS)" for assessment of that particular site.

WHEREAS, the City of Spokane is committed to seeking funding to conduct a city-wide site-specific inventory and associated analysis, simultaneous with the studies required by the SMA, to determine the site-specific riparian habitat and buffer zones, and at the time such studies are compiled to make such revisions to this Ordinance as may be appropriate. To that extent the city is willing to enter into a memorandum of understanding (MOU) with interested groups to make sure the studies are completed.

WHEREAS, the City of Spokane intends to comply with the State GMA provisions.

NOW, THEREFORE, THE CITY OF SPOKANE DOES ORDAIN:

Section 1. That there be added to SMC Chapter 11.19 a new section designated 11.19.2560 to read as follows:

11.19.2560 TITLE, PURPOSE, INTENT, AND SEVERABILITY

A. Title
This ordinance shall be known and may be cited as the "Spokane Interim Fish and Wildlife Habitat Conservation Area Ordinance."

B. Purpose
The purpose of this Ordinance is to protect environmentally sensitive areas, the public health, safety and welfare by preserving and protecting fish and wildlife habitat conservation areas through the regulation of development and other activities.

C. Intent
The provisions of this Ordinance shall be construed liberally to carry out its purpose effectively and if any provisions of this Ordinance conflict with other regulations, ordinances, or other authorities, that which provides more protection to fish and wildlife habitat conservation areas should apply.

D. 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 other persons or circumstance is not affected.

Section 2. That there be added to SMC Chapter 11.19 a new section designated 11.19.2562 to read as follows:

11.19.2562 GENERAL PROVISIONS

A. Applicability
The requirements of this Ordinance apply to all activities and development occurring in a Fish and Wildlife Habitat Conservation Area as defined in Section 11.19.2566A. Property located in a Fish and Wildlife Habitat Conservation Area, as defined in this ordinance, is subject to both zoning classification regulations and the additional requirements imposed under this Ordinance. In any case where there are differences between the provisions of the underlying zone and this ordinance, the provisions of this Ordinance shall apply.

B. Compliance by Owners
It is the specific intent of this Ordinance to place the obligation of complying with requirements upon the owner of the property or land within its scope and provisions.

C. Reasonable Use Exception
Requirements: If an applicant for a development proposal demonstrates to the satisfaction of the Director that application of the standards of this Ordinance would deny all reasonable use of the property according to current takings case law. The applicant shall pay a fee as determined by the Director, which may cover mailing and processing, and shall submit documentation on forms provided by the department demonstrating all of the following to the satisfaction of the Director:

1. Applications of this Ordinance would deny all reasonable use of the property.
2. There is no reasonable use with less impact on the fish and wildlife habitat.
3. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the property.
4. Any alteration to the fish and wildlife habitat is the minimum necessary to allow for reasonable use of the property.
5. The inability of the applicant to derive reasonable use is not the result of actions by the applicant in subdividing the property or adjusting boundary lines, thereby creating the undevelopable conditions after the effective date of this Ordinance.

Decision: The Director shall include findings on each of the evaluation criteria listed above in a written decision. The written decision shall be mailed to the applicant and adjacent property owners, including property owners across public rights-of-way or private easements. The written decision shall include conditions necessary to serve the purposes of the Ordinance and shall provide an appeal procedure as contained in Section 11.02.0710. The Director should also advise the applicant as to the applicability of transfer of development rights, planned unit developments, and any other innovative land use techniques.

D. Exemptions
The following activities are exempt from the provisions of this Chapter, provided that the work is conducted using best management practices and any unavoidable impact affecting the environment will be minimized. However, nothing herein shall be construed to relieve the property owner of requirements imposed by the State Environmental Policy Act.

1. Existing and ongoing agricultural activities, including construction of structures that support agricultural activities: The activities cease to be existing when either of the following conditions occurs:
   a. The area on which they were conducted has been converted to a nonagricultural use.
   b. The area has lain idle more than five years, unless the idle land is registered in a federal or state soils conservation program.
2. Maintenance or repair of public rights-of-way, legally existing roads, structures, or facilities used in the service of the public to provide transportation, electricity, gas, water, telephone, telegraph, telecommunication, sanitary sewer, stormwater treatment, and other public utility services.

Expansions of sanitary sewer treatment plants are exempt from the requirements of this Ordinance subject to an approved habitat management plan.

city shall require recording of a covenant on the title of the property, stating as follows:

"Persons with interest in this property are advised that this property is potentially subject to flooding, geologic (seismic), and volcanic lahars (mudflow) hazards."

17.114.120 Exception – Public agency and utility.

(1) If the application of this chapter or chapters 17.115 - .135 would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

(2) Exception request and review process. An application for a public agency and utility exception shall be made to the city planning department and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The planning director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in subsection (4).

(3) Hearing examiner review. The hearing examiner shall review the application and planning director's recommendation, and conduct a public hearing pursuant to the provisions of the SMC 17.85. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in subsection (4).

(4) Public agency and utility review criteria. The criteria for review and approval of public agency and utility exceptions are as follows:

(a)There is no other practical alternative to the proposed development with less impact on the critical areas;

(b) The application of this chapter or chapters 17.115-.135 would unreasonably restrict the ability to provide utility services to the public;

(c) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

(d) The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and

(e) The proposal is consistent with other applicable regulations and standards.

(5) Burden of proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

17.114.130 Exception – Reasonable use.

(1) If the application of this chapter or chapters 17.115 - .135 would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.

(2) Exception request and review process. An application for a reasonable use exception shall be made to the city and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents). The planning director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection (4).
(3) Hearing examiner review. The hearing examiner shall review the application and conduct a public hearing pursuant to the provisions of the SMC 17.85. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria in subsection (4).
(4) Reasonable use review criteria. One or more of the following criteria for review and approval of reasonable use exceptions follow may apply:

(a)The application of this chapter or chapters 17.115-.135 would deny all reasonable economic use of the property;
(b) No other reasonable economic use of the property has less impact on the critical area;
(c) The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
(d) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
(e) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
(f) The proposal will result in no net loss of critical area functions and values consistent with the best available science; or
(g) The proposal is consistent with other applicable regulations and standards.

(5) Burden of proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

17.114.140 Allowed permitted activities.
(1) Allowed permitted activities—defined. Allowed activities are similar to exemptions in that they do not require critical area review. However, unlike exemptions, allowed activities must follow the critical areas standards. Conditions may be applied to the underlying permit, such as the building permit, to ensure critical area protection.
(2) Critical area report. Activities allowed under this section and corresponding sections in 17.115-.135 shall be reviewed and permitted or approved by the city or other agency with jurisdiction, but do not require submittal of a separate critical area identification form or critical area report, unless such submittal was required previously for the underlying permit. The planning director may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this chapter and chapters 17.115 - .135 to protect critical areas.

Note: this version shows changes only. Sections that require no changes will remain as currently in the Stanwood code. If you need a copy of a section of the current code, please call Stanwood Community Development at (360)629-4577 to request a copy.

B. **Exception request and review process.** An application for a public agency or utility exception shall include a critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW).
C. **Review and Decision.** The Town Administrator shall review the application and shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in Subsection (D) pursuant to SMC 14.20.010.
D. **Public agency and utility review criteria.** Public agency and utility exceptions shall be granted when all of the following criteria are demonstrated:
1. There is no other practical alternative to the proposed development with less impact on the critical areas.
2. The application of this Chapter would unreasonably restrict the ability to provide utility services to the public.

3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site.
4. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science.
5. The proposal is consistent with other applicable regulations and standards.

E. **Burden of proof.** The burden of proof shall be on the applicant to provide evidence in support of the application and to provide information sufficient for any required decision.

16.16.140 Exception – Reasonable use
A. If the application of this Chapter would deny all reasonable economic use of the subject property, the property owner may apply for an exception pursuant to this Section and SMC 14.08.050.
B. **Exception request and review process.** An application for a reasonable use exception shall include a critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents). The Town Administrator shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in Subsection (D).
C. **Hearing examiner review.** The hearing examiner shall review the application and conduct a public hearing pursuant to the provisions of SMC 14.08.050. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria in Subsection (D).
D. **Reasonable use review criteria.** A reasonable use exception shall be granted if all of the following criteria are met:

1. The application of this Chapter would deny all reasonable economic use of the property.

2. No other reasonable economic use of the property has less impact on the critical area.
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property.
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this Chapter, or its predecessor.
5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site.

6. The proposal will result in no net loss of critical area functions and values consistent with the best available science.
7. The proposal is consistent with other applicable regulations and standards.

E. **Burden of proof.** The burden of proof shall be on the applicant to provide evidence in support of the application and to provide information sufficient for any required decision.

16.16.150 Allowed activities

A. **Permits.** Allowed activities do not require critical area permits, however, they may require other permits or approvals. The Town Administrator may apply conditions to the other permit or approval to ensure that the allowed activity is consistent with the provisions of this Chapter to protect critical areas.

B. **Best management practices.** Allowed activities shall use best management practices that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. Best management practices shall ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. **Allowed activities.** The following activities are allowed:

1. **Permit requests subsequent to previous critical area review.** Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) are allowed if all of the following conditions have been met:

a. The provisions of this Chapter have been previously addressed as part of another approval.

b. There have been no material changes in the potential impact to the critical area or buffer since the prior review.

c. There is no new information available that is applicable to any critical area review of the site or particular critical area.

d. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval.

15.20.420 Aquifer Recharge Area Designation.

Aquifer recharge areas shall be designated based on meeting any one of the following criteria:

A. Wellhead Protection Areas designated per WAC 246-290;
B. Sole Source Aquifers designated by the U.S. EPA per the Federal Safe Drinking Water Act;
C. Areas designated for special protection as part of a groundwater management program per RCW 90.44, 90.48, or 90.58 or WAC 173-100 or 173-200.

15.20.430 Aquifer Recharge Area Detailed Study Requirements.

All proposals that require SEPA review and are located within a designated aquifer recharge area shall be reviewed by the Zoning Administrator to determine the potential for adverse impacts to groundwater resources. If the potential for significant adverse impacts is present, then the Zoning Administrator shall require preparation of an aquifer recharge area Detailed Study. The Detailed Study shall be prepared by a qualified consultant with experience in preparing hydrogeologic site assessments. Evidence of these qualifications shall be included within the study. The Detailed Study shall include the following, in addition to the minimum requirements established in section 15.20.200(B):

A. A description of the existing hydrogeologic conditions of the project site and the proposed activity's potential to result in contamination of groundwater resources.

15.20.440 Aquifer Recharge Area Performance Requirements.

Activities requiring preparation of an aquifer recharge area Detailed Study shall only be permitted if the Detailed Study indicates that the activity does not pose a significant threat to the underlying aquifer system. The Zoning Administrator shall establish mitigating conditions necessary to insure protection of groundwater resources.

15.20.450 Reasonable Use Exceptions.

A. An exception from the provisions of this Chapter may be granted by the City Council. An application for a exception shall be processed as a Class III action pursuant to the provisions of Chapter 20.08 SMC. A filing fee as established in Chapter 20.108 SMC shall be paid to the city clerk-treasurer at the time of application.
B. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision on the application will be made. The City Council shall grant such an exception only when the applicant demonstrates that the requested exception is consistent with all of the following criteria:
    1. Special circumstances and conditions exist which are peculiar to the land or lot, and which are not applicable to other lands or lots;
    2. The special conditions or circumstances are not the result of actions taken by the applicant;
    3. Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties under the terms of this Chapter;
    4. The granting of the exception requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, buildings, or structures under similar circumstances;
    5. The granting of the exception is consistent with the general purpose and intent of this Chapter and will not create significant adverse impacts to the identified critical areas or otherwise be detrimental to public health, safety, or welfare.
C. In granting any exception, the City Council may prescribe such conditions and safeguards as are deemed necessary to secure adequate protection of critical areas, public health, safety and welfare, and to ensure conformity with this Chapter.
D. If the City Council decides to grant the exception, the City Council shall make a finding that the reasons set forth by the applicant justify the granting of the exception, and that the exception granted is the minimum necessary to allow reasonable use of land, building or structure.

E. In granting any exception, the City Council may prescribe time limits within which the action for which the exception is requested shall commence or be completed or both. Failure to conform to any such time limits shall void the exception.

15.20.460 Enforcement.

The Zoning Administrator is authorized to make site inspections and take such actions as necessary to administer and enforce this Chapter. City representatives shall make a reasonable effort to contact the property owner before entering onto private property. Activities found to be not in compliance with this Chapter or any applicable performance requirements or any conditions established through the Critical Areas Review and approval process, such as required mitigation, shall be subject to enforcement actions necessary to bring the activity into compliance. The City shall have the authority to require restoration, rehabilitation or replacement measures to compensate for violations of this chapter which result in destruction, degradation, or reduction in function of critical areas or required buffer areas.

15.20.470 Violations and Penalty.

A. Violation – Penalty. Each day that a violation of this section continues shall constitute a separate offense and be punishable as such. Any violation of this section shall be punished as follows:
   1. First Offense: The first offense shall be punished by a penalty of not more than $250.00, including all costs and assessments, and not less that $150.00, which minimum amount shall not be suspended or deferred.
   2. Second Offense: The second offense within a 5-year period shall be punished by a penalty of not more than $500.00, including all costs and assessments, and not less that $200.00, which minimum amount shall not be suspended or deferred.
   3. Third or Subsequent Offense: A person committing a third or subsequent offense within a 5-year period shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed $1,000.00 or imprisonment in jail not to exceed 90-days or by both such fine and imprisonment. The minimum sentence shall be $250.00, which amount shall not be suspended or deferred.

   Law enforcement officers commissioned by the City are authorized to issue a Notice of Infraction upon certification that the officer has probable cause to believe, and does believe, that a person has committed an infraction contrary to the provisions of this Chapter. The infraction need not have been committed in the issuing officer's presence except as otherwise provided by law.

B. Additional Remedies. In addition to the penalties provided in this Chapter and any other remedy allowed by law, the City may bring an action to enjoin a violation of any provision of this chapter. In any action or suit brought under this Section, the City, if it prevails, shall recover reasonable attorney's fees to be set by the Court, in addition to its costs and disbursements.

15.20.480 Definitions.

"Adjacent" or "adjacent to" generally means within a distance of 50 feet from a critical area or, in some circumstances involving upland wildlife habitat conservation areas, within a greater distance within which the project is likely to impact the critical area.

"Agriculture" or "Agricultural activities" means those activities directly pertaining to the production of crops or livestock including but not limited to cultivation, harvest, grazing, animal waste storage and disposal, fertilization, the operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and canals, and normal maintenance, operation and repair of existing serviceable structures, facilities, or improved areas.

20.740.070 Minor Exceptions

A. Minor Exceptions Authorized. Minor exceptions of no greater than 10% from the standards of this Chapter may be authorized by the City in accordance with the procedures set forth in VMC 20.210.060, Type II Applications. Minor exceptions from the elevation standards of VMC 20.740.120 may exceed the 10% limit. Minor exceptions shall not be combined with buffer averaging (20.740.140(C)(1)(b)(2))or buffer reduction(20.740.140(C)(1)(b)(3)).

B. Minor Exception Criteria. A minor exception from the standards of this Chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria. Additional approval criteria applying to minor exceptions in frequently flooded areas are set forth in VMC 20.740.120(D)(3).

1. Unusual conditions or circumstances exist that are peculiar to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the same vicinity or district;

2. The unusual conditions or circumstances do not result from the actions of the applicant;

3. Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings under similar circumstances;

4. The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the same vicinity or district;

5. The minor exception requested is the least necessary and no greater than 10% of the subject standard (except in the case of the elevation standards of VMC 20.740.120 where the least necessary may exceed the 10% limit) to relieve the unusual circumstances or conditions identified in Subsection VMC 20.740.070(B)(1) above;

6. The granting of the minor exception or the cumulative effect of granting more than one minor exception is consistent with the general purpose and intent of the City of Vancouver Comprehensive Plan, this Title, this Chapter, and the underlying zoning district;

7. Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to the extent feasible in accordance with the provision of this Chapter;

8. Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;

9. The proposed development complies with all other applicable standards.

C. Conditions May Be Required. In granting any minor exception, the City may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this Chapter.

D. Time Limit. The City shall prescribe a time limit within which the action for which the minor exception is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the minor exception.

E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

20.740.080 Reasonable Use Exceptions

A. Exception Request and Review Process.

If the application of this Chapter would deny all reasonable economic use of the subject property, the City shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this Section. Exceptions from the standards of this Chapter may be authorized by the City in accordance with the procedures set forth in VMC 20.210.060, Type III Applications.

An application for a reasonable use exception shall be made to the City and shall include a Critical Areas Report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW 43.21C). The Planning Official shall prepare a recommendation to the Hearings Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in VMC 20.740.080(B).

B. Reasonable Use Review Criteria. The City shall approve applications for reasonable use exceptions when all of the following criteria are met:

1. The application of this Chapter would deny all reasonable economic use of the property;

2. No other reasonable economic use of the property has less impact on the critical area;

3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this Chapter, or its predecessor;

5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;

6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible and contributes to the Critical Areas Restoration Fund for any impacts that cannot be mitigated.

7. The proposal is consistent with other applicable regulations and standards.

C. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

20.740.090 Unauthorized Critical Areas Alterations and Enforcement

A. Enforcement.

1. It shall be unlawful to violate the provisions of VMC Chapter 20.740. Any violation of this Chapter shall constitute a public nuisance.

2. VMC Title 22 shall provide the enforcement provisions for VMC Chapter 20.740. VMC Title 22 may impose any of the remedies, requirements or corrective actions contained in this Chapter. In lieu of or in addition to the enforcement provisions contained in VMC Title 22, the City may also seek injunctive or other relief from any court of competent jurisdiction.

3. The City shall deposit all monetary penalties collected pursuant to VMC Title 22 into the Critical Areas Restoration Fund. Accrued monies in the Critical Areas Restoration Fund shall be used to protect and restore critical areas within the City of Vancouver.

B. Requirement for Restoration Plan. In the event the City initiates enforcement action under VMC Title 22 or files a complaint in court, the City may require a restoration plan consistent with the requirements of this Chapter. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in VMC 20.740.090(C). The Planning Official shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. Minimum Performance Standards for Restoration

1. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

   a. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;

   b. The soil types and configuration prior to violation shall be replicated;

   c. The critical area and buffers shall be replanted with native vegetation; and

   d. Information demonstrating compliance with the requirements in VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Planning Official.

Kitsap County Code

19.100.140 Reasonable use exception.

If the application of this title would deny all reasonable use of the property, the applicant may apply for a reasonable use exception pursuant to this section:

A. The applicant shall apply to the department, and the department shall prepare a recommendation to the hearing examiner. The applicant may apply for a reasonable use exception without first having applied for a variance if the requested exception includes relief from standards for which a variance cannot be granted pursuant to the provisions of the section. The property owner and/or applicant for a reasonable use exception has the burden of proving that the property is deprived of all reasonable uses. The examiner shall review the application and shall conduct a public hearing pursuant to the provisions of Title 21 of the Kitsap County Code (Land Use and Development Procedures). The examiner shall make a final decision based on the following criteria:

1. The application of this title would deny all reasonable use of the property;
2. There is no other reasonable use which would result in less impact on the critical area;
3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this title and the public interest, and does not conflict with the Endangered Species Act or other relevant state or federal laws; and
4. Any alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property.

B. Any authorized alterations of a critical area under this section shall be subject to conditions established by the examiner including, but not limited to, mitigation under an approved mitigation plan. (Ord. 351 (2005) § 11, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.100.145 Appeals.

A. Appealable Actions. The following decisions or actions required by this title may be appealed:

1. Any decision to approve, condition or deny a development proposal, or any disagreement on conclusions, methodology, rating systems, etc. between the department and such person or firm which prepares special reports pursuant to Chapter 19.700 may be appealed by the applicant or affected party to the Kitsap County hearing examiner.
2. Any decision to approve, condition or deny a variance application by the department may be appealed by the applicant or affected party to the Kitsap County hearing examiner.
3. Any decision to require, or not require a special report pursuant to this title may be appealed by the applicant or affected party to the Kitsap County hearing examiner.

B. Appeal Process. The following process shall be followed in submitting an appeal and taking action:

1. Any appeal regarding a decision to require, or not require a special report shall be made within fourteen calendar days of the decision. The appeal shall be in writing stating the basis that such reports should or should not be required for the proposed development. The hearing examiner may (a) remand the decision back to the department requesting that specific issues be reconsidered; (b) modify the decision of the department; or (c) uphold the decision of the department.
2. Any appeal regarding a decision to approve, condition or deny a development proposal based on this title, or any decision to approve, condition or deny a variance, shall be made within fourteen calendar days of the decision. A fee in an amount as established under the Kitsap County Code shall be paid to the department at the time an appeal is filed. The appeal shall be in writing and shall state

specifically the issues that are the subject of the appeal, focusing on the specific inadequacies of the particular decision under dispute. The hearing examiner may (a) remand the decision back to the department requesting that specific issues be reconsidered; (b) modify the decision of the department; or (c) uphold the decision of the department.

3. Kitsap County shall not issue any permit, license or other development approval on the development proposal site pending the outcome of the appealed decision.

(Ord. 351 (2005) § 12, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.100.150 Critical area and buffer notice to title.

Project applicants shall sign a "Critical Area and Buffer Notice to Title" (*See* Chapter 19.800, Appendix "E") to be filed with the Kitsap County auditor on all development proposals subject to this title and containing any critical area or its buffer. After review of the development proposal, the department will condition critical area development in accordance with this title. These standards will be identified on the approved notice to title, which shall run with the land in accordance with this title. This notice shall serve as an official notice to subsequent landowners that the landowner shall accept sole responsibility for any risk associated with the land's identified critical area.

Notice to title may not be required in cases where the clearing or building footprint for minor new development will not adversely impact a critical area or its buffer (i.e., normal repair and maintenance, not adjacent to a critical area). Lack of such notice on a specific parcel does not indicate that Kitsap County has determined critical areas or buffers do not exist on that parcel.

(Ord. 351 (2005) § 13, 2005: Ord. 217 (1998) § 3 (part), 1998)

19.100.155 General application requirements.

A. All applicants for major new development are required to meet with the department prior to submitting an application subject to Title 17 of Kitsap County Code; all applicants for construction of a single-family dwelling are encouraged to do so. The purpose of this meeting is to discuss Kitsap County's zoning and applicable critical area requirements, to review any conceptual site plans prepared by the applicant and to identify potential impacts and mitigation measures. Such conference shall be for the convenience of the applicant, and any recommendations shall not be binding on the applicant or the county.

B. The applicant must comply with the standards and requirements of this title as well as standards relating to Title 12 of the Kitsap County Code (Stormwater Management) set forth by the department, as now or hereafter amended. To expedite the permit review process, the department shall be the lead agency on all work related to critical areas. Development may be prohibited in a proposed development site based on criteria set forth in this title; the applicant should first determine whether this is the case before applying for permits from the department.

C. Application for development proposals, reasonable use exception or variances regulated by this title or for review of special reports shall be made with the department by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent as listed in Chapter 19.700 (Special Reports).

D. A filing fee in an amount established under the Kitsap County Zoning Ordinance shall be paid to the department at the time an application for a permit relating to a critical area or a special report review is filed.

E. Applications for any development proposal subject to this title shall be reviewed by the department for completeness and consistency or inconsistency with this title.

F. At every stage of the application process, the burden of demonstrating that any proposed development is consistent with this title is upon the applicant.

G. All site plan applications for development proposals subject to this title shall include a site plan drawn to scale identifying locations of critical areas, location of proposed structures and activities, including clearing and grading and general topographic information as required by the department. If the

KITTITAS COUNTY 17A.03.065

17A.03.065 Property rights.

1. All regulatory or administrative actions taken pursuant to this chapter shall not result in an unconstitutional taking of private property, and shall not expand or reduce the scope of private property protections provided in the state and federal constitutions. This chapter shall not prohibit uses permitted prior to its adoption and shall remain in effect until the county adopts development regulations pursuant to RCW 36.70A.120. Classifying or designating critical areas does not imply a change in the landowner's right to use his or her land under current law.
2. In applying this chapter, the planning department shall refer to relevant legal authorities at all levels of government, including federal and state constitutions, federal and state statutes, federal and state administrative regulations, and judicial interpretations thereof. The application and administration of this chapter shall assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights; and are not arbitrary or discriminatory.
3. Periodic reports shall be made at least annually to the board of county commissioners by the planning director and prosecuting attorney concerning county compliance with constitutional and judicial requirements. The planning director shall immediately advise the board should any provisions of this chapter in his opinion be in violation of state or federal constitutional requirements, or recent court decisions, and whether the provision is required by the state of Washington or discretionary with the county. If the provision which generates concern is a requirement of the state, the board of county commissioners shall immediately advise the appropriate state department or agency. If the provision is discretionary with the county, the board of commissioners shall promptly schedule a public hearing to consider the ordinance provision or policy. (Ord. 94-22 (part), 1994).

Robin Jenkinson

From: Byron Katsuyama [bkatsuyama@mrsc.org]
Sent: Friday, May 12, 2006 2:31 PM
To: Robin Jenkinson
Subject: MRSC Research Request - Reasonable Use Exception Provisions

Hi Robin,

This is in response to your request for sample "reasonable use exception" provisions. Here are a few more for you to ponder (I've pasted in the full text of provisions from Issaquah, Enumclaw, Gig Harbor, Richland, Auburn, Bothell, Des Moines, Edmonds, Federal Way, and Vancouver):

Issaquah Municipal Code:

18.10.390 Definitions.
Reasonable use: A legal concept that has been articulated by federal and state courts in regulatory takings cases. In a takings case, the decision-maker must balance the public's interests against the owner's interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, and the economic loss borne by the owner. Public interest factors include the seriousness of the public problem, the extent to which the land involved contributes to the problem, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions.

A reasonable use variance must balance the public interests against the regulation being unduly oppressive to the landowner. The following criteria are guidelines when making a decision regarding a reasonable use variance:

A. The extent to which the proposal would contribute to increasing the level of the harm the regulation is designed to prevent;

B. The feasibility of alternative solutions;

C. The amount and percentage of lost (economic) value to the land owner;

D. The extent of remaining uses available to the land owner, if the regulation were strictly enforced;

E. The past, present and future uses of the property; however, the use does not need to be the owner's planned use, or prior use or the highest and best use;

F. The temporary or permanent nature of the regulation.
...

18.10.430 Variances.

A. Purpose: The variance provision is provided to property owners who, due to the strict implementation of this chapter and/or to unusual circumstances regarding the subject property,

are deprived of privileges commonly enjoyed by other properties in the same vicinity, zone and under the same land use regulations or have been denied all reasonable use of the property; provided, however, that the fact that surrounding properties have been developed under regulations in force prior to the adoption of this Code shall not be the sole basis for the granting of a variance.

B. Variance Granted: Before any variance may be granted, the applicant must file an application with the Permit Center and must demonstrate to the satisfaction of the Hearing Examiner the ability to meet all of the criteria in IMC 18.10.430(C). In the event that the applicant is not able to fulfill all of the criteria in IMC 18.10.430(C), a demonstration must be made to the satisfaction of the Hearing Examiner, regarding the ability to successfully meet all of the criteria established in IMC 18.10.430(D).

A variance application shall be submitted to the Permit Center along with a critical areas special study, where applicable.

C. Variance Criteria Established:

1. The variance is in harmony with the purpose and intent of the relevant City ordinances and the Comprehensive Plan;

2. The variance shall not constitute a grant of special privilege which would be inconsistent with the permitted uses, or other properties in the vicinity and zone in which the subject property is located;

3. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity, located in the same zone as the subject property and developed under the same land use regulations as the subject property requesting the variance;

4. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;

5. That alternative development concepts that comply with the Code provisions to which the variance is requested have been evaluated, and that undue hardship would result if the strict adherence to the Code provisions is required;

6. The variance granted is the minimum amount that will comply with the criteria listed above and the minimum necessary to accommodate the permitted uses proposed by the application, and the scale of the use shall be reduced as necessary to meet this requirement; and

7. The need for the variance is not the result of actions of the applicant or property owner.

D. Reasonable Use Variance Criteria Established: Only after the determination, by the Hearing Examiner, that the proposal does not meet all of the variance criteria listed above, may the application be reviewed, by the Hearing Examiner at the same public hearing, under the following criteria:

1. There is no reasonable use of the property left; and

2. That the granting of this variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and

3. The variance granted is the minimum amount that will comply with the criteria listed above and the minimum necessary to accommodate the permitted uses proposed by the application, and the scale of the use shall be reduced as necessary to meet this requirement; and

4. The need for the variance is not the result of actions of the applicant or property owner.

E. Cumulative Impact of Area Wide Requests: In the granting of variances from this Code, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies and intent set forth in this chapter.

F. Public Hearing: The Hearing Examiner shall hold a public hearing and notice shall be provided under the provisions of the Land Use Code and Issaquah Municipal Code. The applicant or representative(s) shall appear in person at the hearing.

G. Notice of Hearing Examiner's Decision: Copies of the Hearing Examiner's decision shall be mailed to the applicant and to other parties of record not later than three (3) working days following the filing of the decision. "Parties of record" shall include the applicant and all other persons who specifically request notice of the decision by signing a register provided for such purpose at the public hearing.

H. Appeals: Decisions by the Hearing Examiner may be appealed to the City Council in accordance with IMC 18.04.250, Administrative appeals. (Ord. 2301 § 3, 2001; Ord. 2108 § 10.2.10, 1996).

Enumclaw Municipal Code:

19.02.210 Avoiding wetland impacts.

If the application of this chapter would deny all reasonable use of the property, development may be allowed which is consistent with the general purposes of this chapter and the public interest; provided, that the city council finds that:

A. This chapter would otherwise deny all reasonable use of the property;

B. There is no other reasonable use with less impact on the wetland;

C. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;

D. Any proposed alteration of the wetland is the minimum necessary to allow for reasonable use of the property;

E. There is no feasible on-site alternative, including reduction in density and site-planning considerations;

F. The inability to derive reasonable economic use from the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of the ordinance codified in this chapter. (Ord. 1960 § 3, 1998).
19.02.220 Minimizing wetlands impacts.

A. After it has been determined by the city council pursuant to EMC 19.02.210 that losses of wetland are necessary and unavoidable or that all reasonable economic use has been denied, the applicant shall take deliberate measures to minimize wetland impacts.

B. Minimizing impacts to wetlands shall include but is not limited to:

1. Limiting the degree or magnitude of the regulated activity;

2. Limiting the implementation of the regulated activity;

3. Using appropriate and best available technology;

4. Taking affirmative steps to avoid or reduce impacts;

5. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

6. Involving resource agencies early in site planning; and

7. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities. (Ord. 1960 § 3, 1998).

Gig Harbor Municipal Code:

18.12.110 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter.

A. Information Required. An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

1. A description of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;

2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impervious coverage of the zoning code (GHMC Title 17);

3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;

4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;

5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;

6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;

7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.

B. Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The department director shall make written findings as follows:

1. There is no feasible alternative to the proposed development which has less impact on the critical area;

2. The proposed development does not present a threat to the public health, safety or welfare;

3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;

4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation of the undevelopable condition after the effective date of this title;

5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;

6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property. The director may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

C. Notification of Decision. A decision by the director under this section shall be provided, in writing, to the applicant and all property owners be responsible for providing a current listing of all adjacent property owners along with application
for a reasonable use exception.

D. Appeal of Director's Decision. The decision of the director may be appealed in accordance with the procedures established under GHMC Title 19.

E. Limits of Applying Reasonable Use Exception. A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

F. Time Limitation. A reasonable use exception shall be valid for a period of two years, unless an extension is granted by the department at least 30 days prior to the expiration date. Any extension granted shall be on a one-time basis and shall be
valid for a period not to exceed one year. The time limit is void if the applicant fails to procure

the necessary development permit within the time allotted. The department may grant a time extension if:

1. Unforeseen circumstances or conditions necessitate the extension of the development exception; and

2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and

3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas. (Ord. 727 § 4, 1996; Ord. 619 § 1, 1992).

Richland Municipal Code:

22.10.360 General Savings Provision - Reasonable Use
A. The standards and regulations of this section are not intended, and shall not be construed or applied in a manner, to deny all reasonable economic use of private property. If an applicant demonstrates to the satisfaction of the City of Richland that strict application of these standards and the utilization of cluster techniques, planned unit development, and transfer of development rights would deny all reasonable economic use of its property, development may be permitted subject to appropriate conditions, derived from this ordinance as determined by the Deputy City Manager, Community and Development Services, and after all requests from the Board of Adjustment have been denied.
22-32 9/03
B. An applicant for relief from strict application of these standards shall demonstrate the following:
1. That no reasonable use with less impact on the critical habitat and/or hazard area and buffer is feasible and reasonable;
2. That there is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors;
3. That the proposed activities, as conditioned, will result in the minimum possible impacts to wetlands and buffers;
4. That all reasonable mitigation measures have been implemented or assured;
5. That all provisions of the City's regulations allowing density transfer on-site and off-site have been considered; and (Ord. 48-93: Ord. 31-03).

Auburn Municipal Code:

16.10.150Reasonable use provision.

A.The standards and requirements of these regulations are not intended, and shall not be construed or applied in a manner, to deny all reasonable use of private property. If an applicant demonstrates to the satisfaction of the hearing examiner that strict application of these standards would deny all reasonable use of a property, development may be permitted subject to appropriate conditions.
B.Applications for a reasonable use exception shall be processed as a Type III decision, pursuant to ACC 14.03.030 and Chapter 18.66 ACC.

C.An applicant for relief from strict application of these standards shall demonstrate that all of the following criteria are met:

1.No reasonable use with less impact on the critical area and its buffer is possible.

There is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors, that would allow a reasonable and economically viable use with fewer adverse impacts;
2.The proposed activities, as conditioned, will result in the minimum possible impacts to affected critical areas;
3.All reasonable mitigation measures have been implemented or assured;
4.The inability to derive reasonable use is not the result of the applicant's actions or that of a previous property owner, such as by segregating or dividing the property and creating an undevelopable condition; and

5.The applicant shall demonstrate that the use would not cause a hazard to life, health or property.
D.The burden of proof shall be on the applicant to provide evidence in support of the application and to provide sufficient information on which any decision has to be made.

E.Approval of a reasonable use exception shall not eliminate the need for any other permit or approval otherwise required for a proposal by applicable city codes.

F.Except when application of this title would deny all reasonable use of a site, an applicant who seeks an exception from the regulations of the title shall pursue a variance as provided in ACC 16.10.160. (Ord. 5894 § 1, 2005.)

Bothell Municipal Code:

16.10.150Reasonable use provision.
A.The standards and requirements of these regulations are not intended, and shall not be construed or applied in a manner, to deny all reasonable use of private property. If an applicant demonstrates to the satisfaction of the hearing examiner that strict application of these standards would deny all reasonable use of a property, development may be permitted subject to appropriate conditions.
B.Applications for a reasonable use exception shall be processed as a Type III decision, pursuant to ACC 14.03.030 and Chapter 18.66 ACC.

C.An applicant for relief from strict application of these standards shall demonstrate that all of the following criteria are met:

1.No reasonable use with less impact on the critical area and its buffer is possible.
There is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors, that would allow a reasonable and economically viable use with fewer adverse impacts;
2.The proposed activities, as conditioned, will result in the minimum possible impacts to affected critical areas;
3.All reasonable mitigation measures have been implemented or assured;
4.The inability to derive reasonable use is not the result of the applicant's actions or that of a previous property owner, such as by segregating or dividing the property and creating an undevelopable condition; and
5.The applicant shall demonstrate that the use would not cause a hazard to life, health or property.

D.The burden of proof shall be on the applicant to provide evidence in support of the application and to provide sufficient information on which any decision has to be made.
E.Approval of a reasonable use exception shall not eliminate the need for any other permit or approval otherwise required for a proposal by applicable city codes.
F.Except when application of this title would deny all reasonable use of a site, an applicant who seeks an exception from the regulations of the title shall pursue a variance as provided in ACC 16.10.160. (Ord. 5894 § 1, 2005.)

Des Moines Municipal Code:

18.86.094 Reasonable use exceptions in wetlands, streams, ravine sidewalls, and bluffs.

(1) Adjustments to Dimensional Requirements.

(a) Yard Reductions for Building One Single-Family Dwelling. When an environmentally sensitive area that is undevelopable
pursuant to DMMC 18.86.060 together with any required yard on the opposite side of the undevelopable area equals more than 50 percent of the property dimension of the development site, such yard shall be reduced as follows:

(i) A required side yard is reduced to five feet.

(ii) A required front or rear yard is reduced to 10 feet.

(b) Other Adjustments. All other adjustments to any dimensional requirements of this title or other land use regulatory provisions of this code shall be processed as either a PUD or variance pursuant to chapter 18.52 DMMC and the hearing examiner code, respectively.

(2) Single-Family Dwelling. Development of one single-family dwelling within the buffer of a wetland or stream on a development site shall be approved by the community development director if the applicant demonstrates that:

(a) The extent of development within the buffer is limited to that which is necessary to create a developable area which is no larger than 5,000 square feet;

(b) The proposal utilizes to the maximum extent possible and best available construction, design, and development techniques
which result in the least adverse impact on the environmentally sensitive area;

(c) The proposal incorporates the development standards of DMMC 18.86.070 through 18.86.087 and the surface water design manual to the maximum extent possible; and

(d) The proposal is consistent with the purpose and intent of this chapter.

(3) Other Development Proposals. An applicant may propose to develop other than one single-family dwelling on a development
site in accordance with subsection (2) of this section pursuant to the following:

(a) Procedure. The city shall process a reasonable use development exception through the office of the hearing examiner, or

if the exception is proposed in conjunction with a development proposal requiring approval of the city council, the exception
shall be processed together with that development proposal. The community development director shall serve as the applicable department director and the hearing examiner or city council shall serve as the hearing body.

(b) Decision Criteria. The city shall approve or approve with modifications an application for a reasonable use development
exception if:

(i) The proposal is limited to the minimum necessary to fulfill reasonable use of the property; and

(ii) The proposal is compatible in design, scale, and use with other development or potential development in the immediate
vicinity of the subject property in the same zone and with similar site constraints;

(iii) The proposal utilizes to the maximum extent possible the best available construction, design, and development techniques which result in the least adverse impact on the environmentally sensitive area or areas;

(iv) The proposal incorporates the development standards of DMMC 18.86.070 through 18.86.087 and the surface water
design manual to the maximum extent possible; and

(v) The proposal is consistent with the purpose and intent of this chapter.

(4) Limited Waiver of Hillside Disturbance Limitations. Any one or all of the disturbance limitation requirements of DMMC
18.86.077 may be waived if the community development director determines that the application of such requirements is not feasible for developing one single-family dwelling on a development site and the proposal is consistent with the purpose and intent of this chapter.

(5) Modification of Existing Structures. Existing structures or improvements that do not meet the requirements of this chapter may be remodeled, reconstructed, or replaced; provided, that the new construction does not further intrude into an environmentally sensitive area.

(6) Previously Altered Environmentally Sensitive Areas. If any portion of an environmentally sensitive area has been altered from its natural state, the applicant may propose to develop within the altered area pursuant to the following:

(a) Procedure. The city shall process the proposed development exception through the office of the hearing examiner, or if the exception is proposed in conjunction with a development proposal requiring approval of the city council, the exception shall be processed together with that development proposal. The community development director shall serve as the applicable department director and the hearing examiner or city council shall serve as the hearing body.

(b) Decision Criteria. The city shall approve or approve with modifications an application for a development exception
within a previously altered environmentally sensitive area only if the applicant demonstrates that:

(i) The environmentally sensitive area was lawfully altered in accordance with the provisions of this code and any state and
federal laws at the time the alteration occurred;

(ii) The alteration has significantly disrupted the natural functions of the environmentally sensitive area;

(iii) The proposal utilizes to the maximum extent possible the best available construction, design, and development techniques which result in the least adverse impact on the environmentally sensitive area;

(iv) The proposal incorporates the development standards of DMMC 18.86.070 through 18.86.087 and the surface water
design manual to the maximum extent possible; and

(v) The proposal is consistent with the purpose and intent of this chapter. [Ord. 1237 § 3, 1999; Ord. 853 § 9(a), 1990.]

Edmonds Municipal Code:

23.40.210 Variances.

A. Variances from the standards of this title may be authorized through the process of hearing examiner review in accordance with the procedures set forth in Chapter 20.85 ECDC only if an applicant demonstrates that one or more of the following two conditions exist:

1. The application of this title would prohibit a development proposal by a public agency or public utility. A public agency and utility exception may be granted as a variance if:

a. There is no other practical alternative to the proposed development with less impact on the critical areas;

b. The application of this title would unreasonably restrict the ability to provide utility services to the public;

c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

d. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and

e. The proposal is consistent with other applicable regulations and standards.

2. The application of this title would deny all reasonable economic use (see the definition of "reasonable economic use(s)" in ECDC 23.40.320) ["Reasonable economic use(s)" means the minimum use to which a property owner is entitled under applicable state and federal constitutional provisions in order to avoid a taking and/or violation of substantive due process. "Reasonable economic use" shall be liberally construed to protect the constitutional property rights of the applicant. For example, the minimum reasonable use of a residential lot which

meets or exceeds minimum bulk requirements is use for one single-family residential structure. Determination of "reasonable economic use" shall not include consideration of factors personal to the owner such as a desire to make a more profitable use of the site.] of the subject property. A reasonable use exception may be authorized as a variance only if an applicant demonstrates that:

a. The application of this title would deny all reasonable economic use of a property or subject parcel;

b. No other reasonable economic use of the property consistent with the underlying zoning and the city comprehensive plan has less impact on the critical area;

c. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

d. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this title or its predecessor;

e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

f. The proposal minimizes net loss of critical area functions and values consistent with the best available science; and

g. The proposal is consistent with other applicable regulations and standards.

B. Specific Variance Criteria. A variance may be granted if the applicant demonstrates that the requested action conforms to all of the following specific criteria:

1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;

2. The special conditions and circumstances do not result from the actions of the applicant;

3. A literal interpretation of the provisions of this title would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this title, and the variance requested is the minimum necessary to provide the applicant with such rights;

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings under similar circumstances;

5. The granting of the variance is consistent with the general purpose and intent of this title, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property; and

6. The decision to grant the variance is based upon the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.

C. Hearing Examiner Review. The city hearing examiner shall review variance applications and conduct a public hearing pursuant to the provisions of Chapter 20.100 ECDC. The hearing examiner shall approve, approve with conditions, or deny variance applications based on a proposal's ability to comply with general and specific variance criteria provided in subsections (A) and (B) of this section.

D. Conditions May Be Required. The director retains the right to prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this title for variances granted through hearing examiner review.

E. Time Limit. The director shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance, unless the applicant files an application for an extension of time before the expiration. An application for an extension of time shall be reviewed by the director as provided in ECDC 20.95.050.

F. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of a variance application and upon which any decision has to be made on the application. [Ord. 3527 § 2, 2004].

Federal Way Municipal Code:

22-1244 Reasonable use of the subject property.

(a) The provisions of this section establish a mechanism whereby the provisions of this article may be modified or waived on a case-by-case basis if their implementation would deprive an applicant of all reasonable use of the subject property.

(b) An applicant may apply for a modification or waiver of the provisions of this article using process IV; except, that applications for projects on single-family residential lots platted prior to the incorporation of the city may use process III.

(c) The city may approve a modification or waiver of the requirements of this article on a case-by-case basis based on the following criteria:

(1) The application of the provisions of this article eliminates all reasonable use of the subject property.

(2) It is solely the implementation of this article, and not other factors, which precludes all reasonable use of the subject property.

(3) The applicant has in no way created or exacerbated the condition which forms the limitation on the use of the subject property, nor in any way contributed to such limitation.

(4) The knowledge of the applicant of limitations on the subject property when he or she acquired the subject property.

(5) The waiver or modification will not lead to, create nor significantly increase the risk of injury or death to any person or damage to improvements on or off the subject property.

(d) If the city grants a request under this section, it shall grant the minimum necessary to provide the applicant with some reasonable use of the subject property, considering the factors described in subsections (c)(1) through (c)(5) of this section. The city may impose any limitations, conditions and restrictions it considers appropriate to reduce or eliminate any undesirable effects or adverse impacts of granting a request under this section. (Ord. No. 90-43, § 2(80.35), 2-27-90; Ord. No. 91-105, § 4(80.35), 8-20-91; Ord. No. 91-123, § 3(80.35), 12-17-91; Ord. No. 99-353, § 3, 11-16-99; Ord. No. 04-468, § 3, 11-16-04)

Vancouver Municipal Code:

Section 20.740.080 Reasonable Use Exceptions

A. Exception Request and Review Process.

If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section. Exceptions from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in VMC 20.210.060, Type III Applications.

An application for a reasonable use exception shall be made to the city and shall include a Critical Areas Report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW 43.21C). The planning official shall prepare a recommendation to the Hearings Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in VMC 20.740.080(B).

B. Reasonable Use Review Criteria. The city shall approve applications for reasonable use exceptions when all of the following criteria are met:

1. The application of this chapter would deny all reasonable economic use of the property;

2. No other reasonable economic use of the property has less impact on the critical area;

3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;

5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;

6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible and contributes to the Critical Areas Restoration Fund for any impacts that cannot be mitigated.

7. The proposal is consistent with other applicable regulations and standards.

C. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

You might also find some samples on our "Critical Areas" Web page.

I hope this helps. Let me know if I can be of any more assistance.

Byron Katsuyama
Public Policy Consultant

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-----Original Message-----
From: rjenkinson@ci.kirkland.wa.us [mailto:rjenkinson@ci.kirkland.wa.us]
Sent: Wednesday, May 10, 2006 4:06 PM
To: Receptionist
Subject: Research Request

Name: Robin Jenkinson
City or County Employed by: City of Kirkland
Department: City Attorney's Office
Position: City Attorney
Phone: (425) 587.3031
Fax: (425) 587.3025
Address:
123 Fifth Avenue
Kirkland, WA 98033-6189
E-mail: rjenkinson@ci.kirkland.wa.us
Research Request:
Good afternoon, The City of Kirkland is looking to rewrite its reasonable use exception for its critical areas ordinances and I am looking for a few good examples. Using your site search, I located provisions from Bellevue, Burien, Cashmere, Spokane, Stanwood, Steilacoom, and Kitsap County. Have you assembled or are you aware of others? Do you have any from other states? Thanks. Robin

2. Development Factor – The f a "percent credit," to be used in computing the maximum pot r a site which contains a sensitive area buffer is derived from t

ATTACHMENT 2

Percentage of Site in			ounted at
< 1	to		100%
> 10	to		90%
> 20	to	30%	80%
> 30	to	40%	70%
> 40	to	50%	60%
> 50	to	60%	50%
> 60	to	70%	40%
> 70	to	80%	30%
> 80	to	90%	20%
> 90	to	100%	10%

90.140 Reasonable Use

This chapter is not intended, and shall not be construed or applied in a manner, to deny reasonable use of a lot, tract, or parcel. An owner of real property may apply for a reasonable use exception to this chapter, which shall be considered under Process IIB of Chapter 152 KZC. The application shall include the proposed use and activities for the property, and shall address the criteria described in this section. The decision maker shall determine whether application of this chapter will deny reasonable use of the property, and whether the proposed use and activities are a reasonable use of the property. In making these determinations, the decision maker shall consider the following three criteria:

1. There is no permitted type of land use for the property with less impact on the sensitive area and the buffer is feasible and reasonable; and

2. No on-site alternative to the proposal is feasible and reasonable, considering possible changes in site layout, reductions in density and similar factors; and

3. The proposal, as conditioned, will result in minimum feasible alteration of or impairment to the functional characteristics of the sensitive areas, and their existing contours, vegetation, fish and wildlife resources, and hydrological conditions; and will not cause significant degradation of groundwater or surface-water quality.

The applicant shall submit a report prepared by a qualified professional selected by the applicant, with the qualified professional's report reviewed by the City's wetland consultant at the applicant's cost and expense. The report shall describe how the proposal will or will not comply with the above three decisional criteria.

In determining whether application of this chapter will deny reasonable use of the property, the decision maker shall consider the following:

1. The inability to derive reasonable use is the result of the applicant's actions, such as segregating or dividing property and creating the undevelopable condition, or taking actions in violation of any local, state, or federal law or regulation; and

2. The land use and environmental regulations which prevent reasonable use of the property were in effect at the time of purchase of the property by the applicant.