



**CITY OF KIRKLAND**  
Planning and Community Development Department  
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225  
[www.ci.kirkland.wa.us](http://www.ci.kirkland.wa.us)

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## MEMORANDUM

**To:** David Ramsay, City Manager

**From:** Eric R. Shields, AICP, Planning Director  
Janice Soloff, AICP, Senior Planner

**Date:** August 25, 2006

**Subject:** MERRILL GARDENS AT KIRKLAND STREET VACATIONS, FILE VAC06-00001

### RECOMMENDATION

The Department of Planning and Community Development recommends that the City Council hold a public hearing and adopt a Resolution of Intent to Vacate granting a vacation of the south portion of 1<sup>st</sup> Street So. and an east/west oriented alley between Kirkland Avenue and 1<sup>st</sup> Avenue So. adjacent to the proposed Merrill Gardens mixed use project at 201 Kirkland Avenue.

### RULES FOR CITY COUNCIL CONSIDERATION

The Kirkland Municipal Code states that the City Council shall consider the vacation at a public hearing. Any interested person may participate in the public hearing by either or both submitting written comments to the City Council or by appearing in person, or through a representative, at the hearing and make oral comments directly to the City Council.

After the public hearing, the City Council shall, by motion approved by a majority in a roll call vote, do one of the following:

- a. Adopt an ordinance granting the vacation; or
- b. Adopt a motion denying the vacation; or
- c. Adopt a resolution of intent to vacate stating the City Council will by Ordinance, grant the vacation if the applicant meet specified conditions within 90 days, unless otherwise specified in the resolution.

Staff recommends option C above and the conditions listed in the Recommendations Section I.B. of the Staff Advisory Report (enclosed). Staff recommends that private property be exchanged for the vacated portion of rights of way in lieu of monetary compensation. The amount of land to be dedicated is 306 sq. ft. larger and is valued at \$76,500 more than the area to be vacated. In addition, the applicant plans on installing new public improvements to comply with the Downtown Plan policies regarding street vacations and replacing 20 public parking stalls located in the areas to be vacated. Further information is provided in the Staff Advisory Report.

Staff recommends that City Council extend the time for final adoption and the applicant to comply with the conditions of approval in the resolution of intent to vacate from 90 days to one year from the date of the adoption of the resolution. This would allow the development proposal to be further along in the permit process, allow the applicant and City to enter into a "voluntary agreement" to ensure the improvements described in the applicant's proposal will be provided, and allow time to submit a complete building permit (See staff report recommendation Section II.B.2 and Attachment 5).

#### BACKGROUND INFORMATION

The petitioner, Merrill Gardens at Kirkland LLC, proposes a 5 story, mixed use assisted living project at 201 Kirkland Avenue. Entrance to the project will be along the 1<sup>st</sup> Street So., a dead-end street. The Public Works Department recommends that the applicant widen and move the driveway entrance to the east to align with Main Street in order to improve vehicular turns at the intersection. As a result, Merrill Gardens is required to dedicate private property (reducing floor area) to accommodate the new right of way configuration.

To make up for the loss in floor area, Merrill Gardens submitted a petition to vacate the south 1,041 sq. ft. portion of 1<sup>st</sup> Street So. at the foot of the stairs leading to the Portsmouth Condominiums. A second east/west alley is proposed for vacation in its entirety because it divides their property in two and is no longer needed for vehicular access. Merrill Gardens plans on constructing a portion of their garage (with residential units above) into the vacated portion of 1<sup>st</sup> Street So. along with new street improvements along both sides of the street and new pedestrian stairs leading to the public paths extending along the west and north sides of Portsmouth Condominiums.

On August 1, 2006, City Council adopted Resolution No. 4586 setting a public hearing date of September 5, 2006 for the proposed vacation.

#### ENCLOSURES

1. Staff Advisory Report
2. Resolution of intent to approve vacation

cc: File VAC06-00001



## CITY OF KIRKLAND

Planning and Community Development Department  
123 Fifth Avenue, Kirkland, WA 98033 425.828.1257  
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### ADVISORY REPORT

### FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

**To:** Kirkland City Council

**From:** \_\_\_\_\_ Eric R. Shields, AICP, Planning Director

\_\_\_\_\_ Janice Soloff, AICP, Senior Planner

**Date:** August 28, 2006

**File:** MERRILL GARDENS AT KIRKLAND RIGHT-OF-WAY VACATION AND LAND DEDICATION-  
PUBLIC HEARING, (FILE NO. VAC06-00001)

**Hearing Date and Place:** September 5, 2006  
City Hall Council Chamber  
123 Fifth Avenue, Kirkland

#### I. INTRODUCTION

##### A. APPLICATION

1. Applicant: SRM Development, LLC for Merrill Gardens at Kirkland, LLC.
2. Site Location: Portion of 1<sup>st</sup> Street South and an east/west oriented alley located between Kirkland Avenue and 1<sup>st</sup> Avenue So. adjacent to proposed Merrill Gardens at Kirkland mixed use project at 201 Kirkland Avenue (see Attachments 1 and 2).
3. Street Vacation Request: The applicant's proposal includes the following requests: (See Attachments 2, 3 and 4)
  - a) Vacate an east/west oriented alley or Alley A, (2,326 SF).
  - b) Vacate 1,041 SF of the southern portion of 1<sup>st</sup> Street So. or Alley B.
  - c) Dedicate a 3,673 SF area of private property to the City for public right of way purposes. In lieu of monetary compensation for vacated public right of ways the applicant proposes a land exchange.
  - d) Extinguish existing recorded public ingress and egress easements on the subject property.
4. Related Development Proposal: The Design Review Board is currently reviewing the Merrill Gardens at Kirkland development application contained in File DRC06-00002. The project includes a 5 story, mixed use, 116 unit assisted living residential project with ground floor retail along Kirkland Avenue (See Attachment 5). Parking will be provided in a two level parking garage. The applicant is requesting a parking modification to reduce the number of parking spaces required by the Zoning Code for the assisted living portion of the project based on parking demand studies of their other projects. As a result, the applicant proposes to construct an excess number of parking stalls exceeding their needs. The applicant has

indicated that these excess parking stalls will be accessible to the public as paid parking for surrounding Downtown businesses (See Attachment 6). As a public benefit associated with the street vacation, the applicant also plans to install new street improvements in the remaining portion of 1<sup>st</sup> Street So., (typically only the property frontage improvements are required) including replacing public parking stalls in the vacated areas. The Parking Advisory Board has reviewed the parking modification, replacement of the public stalls and plan to construct the excess parking stalls and supports the idea. The proposed east/west alley vacation is needed in order for the project to move forward because it divides the subject property in two.

5. Review Process: City Council conducts public hearing on street vacations. Following the public hearing, the Council shall make the final decision by motion approved by a majority of the entire membership in a roll call vote.
6. Summary of Key Issues For Council Consideration: Key issues with this street vacation proposal are:
  - a) Compliance with right-of-way vacation criteria (See Section II.B.2)
  - b) Land exchange of private property for public right of way for widening 1<sup>st</sup> Street So in lieu of monetary compensation for the proposed street vacations. (See Section II.B.2.d)
  - c) Public benefits of new public improvements and pedestrian amenities in remaining 1<sup>st</sup> Street So. (See Section II.A.4 and II.d.2.)
  - d) Replacement of 20 existing public parking stalls located in 1<sup>st</sup> Street So. by constructing 20 new public parking stalls (a combination in street and within the Merrill Gardens parking garage) and recommendation that a use agreement be recorded to ensure public access to the parking stalls within the garage. (See Section I.A.4. and II.B.2.d.2).
  - e) Extending the time for compliance with specified conditions of approval from 90 days to one year from the date of the resolution of intent to vacate resolution (See Section II.B.2.d).

## **B. RECOMMENDATIONS**

1. Rules for city council consideration of a street vacation- The City Council shall consider the vacation(s) at a public hearing. Any interested person may participate in the public hearing by with or both submitting written comments to the City Council or by appearing in person or thorough a representative, at the hearing and make oral comments directly to the City council.

After the public hearing, the City Council shall, by motion approved by a majority, in a roll call vote, do one of the following:

- a) Adopt an ordinance granting the vacation; or
- b) Adopt a motion denying the vacation; or
- c) Adopt a resolution of intent to vacate stating that the City Council will, by ordinance, grant the vacation if the applicant meets specified conditions within 90 days, unless otherwise specified in the ordinance.

2. Recommendation - Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, staff recommends adoption of a resolution of intent subject to the following conditions:
  - a) The applicant shall file a complete application for a building permit based on the development proposal contained in File DRC06-00002, and described in Attachment 5, within one year of the date of the passage of this Resolution. The complete building permit shall comply with the Development Standards contained in Attachment 7 of this report and shall include the following items:
    1. Installation of required street improvements along 1<sup>st</sup> Street South;
    2. Location and design of new public parking stalls;
    3. Location and description of pedestrian amenities and any necessary pedestrian easements;
    4. Location and general description of public art installations; and
    5. Location and design of a new north/south public stairway connecting the subject property with public access paths on the adjoining Portsmouth Condominium property;
  - b) Convey to the City, by statutory warranty deed, title to the area of the subject property to be dedicated as public right of way, described in Attachment 5, Exhibit D (see Conclusion II.B.2.c. and d).
  - c) Execute a voluntary agreement with the City in which the applicant agrees to install the improvements described in Attachment 5, and which includes the following provisions: (See Conclusion II.B.2.c. and d):
    1. A provision that the applicant shall install 20 replacement public parking stalls to compensate for the 20 parking spaces displaced as a result of the street vacations and development proposal located in 1<sup>st</sup> Street So. The location of the new stalls shall be distributed within 1<sup>st</sup> Street So. and within the Merrill Gardens parking garage (See Conclusion I.A.4 and II.B.2c).
    2. A provision that the applicant shall, prior to issuance of a building permit, execute a public parking easement over the replacement public parking stalls located within the Merrill Gardens parking garage, and granting public access to the stalls. The parking easement shall be recorded with King County Records Department. The easement shall include the following terms which shall be identified in the voluntary agreement: the public shall have permanent access to the public stalls; the City shall have sole discretion as to how these stalls in the garage are managed including whether or not they are priced (including whether a gate, attendant/or pay meter should be installed); the parking stalls shall be located closest to the parking garage door entrance; the public may access the stalls during hours to be mutually agreed upon but not less than 7 am – 10 pm; the stalls shall be designed to meet city standards; directional signage or stall marker signs shall be installed by the applicant in a mutual agreeable location and meet city standards for design and material; and the agreement shall address who maintains the stalls (See Conclusion II.B.2.b).

3. A provision that, within 10 days of entering into the voluntary agreement, the City will release its interest in the following recorded documents: King County recording numbers: 19990709001997, 19990709001998, and 19990809000569.
- d). Submit to the City a copy of the recorded easement as requested by Puget Sound Energy (See Conclusion II.B.2.b).

## **II. FINDINGS OF FACT AND CONCLUSIONS:**

### **A. SITE DESCRIPTION AND STREET VACATION PROPOSAL**

1. East/West Facing Alley (Alley A)
  - a) Existing conditions: The east/west oriented alley or Alley A, is located in the middle of the proposed Merrill Gardens at Kirkland (See Attachment 3 and 4). Alley A contains 2,326 sq. ft., and is currently used for parking for the existing one story building located on the subject property. A recorded use permit allows the existing businesses to use the public alley for parking. Adjacent to the alley on private property is a recorded access easement granting the public access to public parking stalls located at the base of the hill (See Attachment 3).
  - b) Proposal: The proposal is to vacate Alley A in its entirety and extinguish the public ingress and egress easements used for parking in and adjacent to Alley A (See Attachment 3 and 5).
2. South portion of 1<sup>st</sup> Street So (Alley B)
  - a) Existing Conditions: The south portion of 1<sup>st</sup> Street So, also referred to as Alley B, runs north/south from Kirkland Avenue and dead-ends at the stairs leading to the Portsmouth Condominiums. The existing public stairs are located on the west half of the right of way (not proposed for vacation). Alley B contains approximately 15 public parking stalls, and access to several "community" garbage dumpsters and a grease container used by surrounding businesses in the block (See Attachment 3).
  - b) Proposal: To make up for lost floor area due to dedication of private property (see below), the applicant requests to vacate a 22.92' x 45.42' area (1,041 sq. ft.) portion of the 1<sup>st</sup> Street So. street end (Alley B). Once vacated the applicant plans to build into the vacated area the entrance to the Merrill Gardens parking garage and upper story assisted living units (See Attachment 4 and 5).
3. Dedication of Private Property to the City For 1<sup>st</sup> Street So. Right of Way
  - a) Vehicular access to the Merrill Gardens mixed use project is planned from Kirkland Avenue down 1<sup>st</sup> Street So to a parking garage entrance at the base of the hillside. A circular drop off area will be provided at the main entrance (See Attachment 4).
  - b) Proposal: As a condition of the development proposal (DRC06-00002), the Public Works Department recommends that the 1<sup>st</sup> Street So. driveway entrance at Kirkland Avenue be widened and moved to the east to align with Main Street to improve turning at the intersection (See Attachment 7). As a result, the applicant will need to dedicate private property (3,673 sq. ft.) to the City for public right of way and pedestrian improvements in the new design for 1<sup>st</sup> Street So (see discussion below). The applicant proposes to do a "land exchange" for the area to be vacated in lieu of monetary compensation (See Attachment 2 and 5).

4. New Public Improvements in 1<sup>st</sup> Street So.

In keeping with the Downtown Plan policies regarding street vacations, the applicant proposes the following public improvements as public benefits related to the street vacations (See Comprehensive Plan discussion below) (See Attachments 4 and 5):

- a) Construct new street improvements on both sides of 1<sup>st</sup> Street So. including: new decorative sidewalks, decorative pavement, decorative pedestrian lighting, street furniture, street trees, public art, and new public stairway replacing existing stairs leading up to Portsmouth. The applicant provided a cost estimate of \$136,660 for construction of the improvements in Attachment5. These new street improvements will create an enhanced pedestrian north/south walkway from downtown to the residential neighborhood to the south and contribute to the retail tenants along Kirkland Avenue.
- b) The applicant has agreed to replace 20 public parking stalls currently located in the areas to be vacated. Of the 20 stalls, a portion will be constructed in the new street and in the street level of the Merrill Gardens parking garage (plans need more refinement to determine exact distribution). In addition, the applicant plans on providing an excess number of parking stalls in the garage available to the public to serve local surrounding businesses (these will be privately managed (See Attachment 6).

5. Easements –Relinquishment of Recorded Easements

The following recorded easements located on the areas to be vacated will need to be relinquished by the City (See Attachment 2 and 5):

- a) Public ingress and egress easement running north/south on subject property (King County Recording No. 19990709001997).
- b) Public pedestrian right of way easement (2' wide) along Kirkland Avenue sidewalk (King County Recording No. 19990709001998).
- c) Public right of way easement (King County Recording No. 19990809000569).

Conclusions: In order for the development proposal to move forward, the east/west alley must be vacated. There are no existing conditions that would preclude approving the street vacation proposal. As part of the final approval of the street vacation the above easements should be relinquished. Staff supports the applicant's proposal to install the new street improvements in the remaining portion of 1<sup>st</sup> Street So., new pedestrian stairs, and replacement of the existing public parking stalls in the street and in the Merrill Gardens parking garage. A public access easement will need to be recorded granting public access to the public stalls in the garage.

**B. KIRKLAND MUNICIPAL CODE- COMPLIANCE WITH STREET VACATION CRITERIA:**

The following section outlines provision of the Kirkland Municipal Code (KMC) as it relates to the street and alley vacation.

1. Initiation of Vacation Procedure

- a) Section 19.16.030 of the KMC allows a vacation to be initiated by the City Council or by owners of more than two thirds of the property abutting the part of the street or alley to be vacated.
- b) Section 19.16.040 of the KMC states that the owners of an interest in any real estate abutting street or alley, or underlying any public easement may petition the City Council for vacation of the subject property by submitting the necessary application materials to

the City. A petition signed by all the abutting property owners of the proposed street vacation has been submitted (See Attachment 8).

- c) Section 19.16.060 of the KMC states that the City Council shall by resolution establish a date not more than sixty days nor less than twenty days after the date of the resolution scheduling the public hearing. On August 1, 2006, City Council adopted Resolution R-4586 setting a public hearing date of September 5, 2006 for the street vacations (See Attachment 9).

Conclusion: A petition signed by all the abutting property owners of the proposed street vacation has been submitted. Attachment 9 is Resolution 4586. The requirements of Section 19.16.030, 040 and 060 have been met.

## 2. Street Vacation Approval Criteria

*Staff comments are italicized.*

### a) Public Interest

Section 19.16.130 of the KMC states that the City Council may, in its discretion vacate a street, alley or public easement if it determines that the vacation is in the public interest and that:

1. The street, alley, or public easement is not currently necessary for travel or other street purposes, nor likely to be in the future; and

*The portion of 1<sup>st</sup> Street So. to be vacated currently contains several public parking stalls and garbage dumpsters for the surrounding businesses in the block. The applicant has agreed to replace the existing public stairs, community dumpsters and public parking stalls (See Attachment 5).*

*The east/west alley runs down the middle of the subject property and is currently used for parking. It is likely that any redevelopment of 201 Kirkland Avenue would need to vacate the east/west alley because it splits the property in two. With the newly constructed Kirkland Central Project to the east, the alley is not needed for vehicular travel in the future.*

2. No property will be denied all access as a result of the vacation.

*No property will be denied access as a result of the vacations and relinquishment of easements. Properties to the west currently have access to Kirkland Avenue and Lake Street So. and will continue to have access to the new 1<sup>st</sup> Street So.*

3. The City Council may consider any other fact or issue it deems relevant when deciding whether to vacate a street, alley or public easement.

*Attachment 5 states that the applicant proposes as part of the street vacation request to:*

- a) *Dedicate private property for right of way and alignment purposes for new 1<sup>st</sup> Street So.*
- b) *Construct new public stairway leading from 1<sup>st</sup> Street So. to Portsmouth public pedestrian walkways.*

- c) *Construct replacement public parking stalls (20) within the new 1<sup>st</sup> Street So. and upper level of the parking garage and garbage dumpsters for other businesses in the area.*

Conclusion: The above requirements have been met. No property will be denied access as a result of the vacations. Pedestrian access and vehicular circulation within the block will be enhanced compared to what exists now. Vacating the portion of 1<sup>st</sup> Street So., and the east/west alley is in the public's interest provided provisions for replacing the public stairs, the 20 public parking stalls and dumpsters are made.

Staff recommends that prior to final adoption of the street vacation ordinance, the applicant and the City enter into a voluntary agreement to ensure that the above improvements (and planned improvements described in Attachment 4) will be installed and dedication will occur (See Section B.2.c. below). As part of the building permit application the applicant shall indicate on the plans that the above improvements will be installed. The voluntary agreement should also include a mutual agreement on how the public parking stalls in the garage will be managed, that they will be accessible to the public in perpetuity and other items that may relate to the proposed public improvements.

b) Street Vacation – Right to Reserve Easements

1. KMC Section 19.16.140 allows the City Council to reserve for the city any easement or the right to exercise and grant any easements for public utilities and services, pedestrian trail purposes; and any other type of easement relating to the City's right to control, use and manage rights-of-way.

*The applicant obtained written comments from Puget Sound Energy regarding the need to retain a utility easement over the area to be vacated (see Attachment 10).*

Conclusion: A public utility or services easement from Puget Sound Energy is required with the proposed vacation. Prior to occupancy of the Merrill Gardens parking garage, a public access agreement for the public parking stalls in the garage shall be agreed upon by both the applicant and City and recorded with King County Records and Elections Division.

c) Voluntary Agreement Between City And Applicant

1. Section 19.16.150 of the KMC establishes that at any time prior to the City Council's final decision on the vacation, the applicant and city staff may enter into a voluntary agreement containing special terms that would apply to the vacation if the application is approved. City staff will advise the City Council of the terms contained in the voluntary agreement. The City Council may vacate a street, alley or easement pursuant to such an agreement as a condition of approval of the vacation.

*The proposal for a voluntary agreement is in Attachment 4. The proposal includes construction of the following improvements as part of the Merrill Gardens development proposal (File DRC06-0002): installing new street improvements within 1<sup>st</sup> Street So. (sidewalks on both sides, street trees, decorative pedestrian lighting, street furniture, and public art), replacement of 20 public parking stalls.*

Conclusion: Staff recommends the City Council approve the applicant's proposal as the voluntary agreement (See also Recommendations Section I).

d) Street Vacation – Final Decision and Compensation

1. Section 19.16.160 of the Kirkland Municipal Code indicates that following the public hearing, the City Council shall, by motion approved by a majority of the entire membership in a roll call vote, either (a) adopt an ordinance granting the vacation; or (b) adopt a motion denying the vacation, or (c) adopt a resolution of intent to vacate stating that the City Council will, by ordinance, grant the vacation if the applicant meets specified conditions within 90 days, unless otherwise specified in the resolution.

*Staff recommends that the City Council extend the time to comply with the conditions of approval from 90 days to one year from the date of the resolution of intent to vacate. This extension would allow the development proposal to be further along in the permit process and provides additional time for the City and the applicant to enter into the voluntary agreement.*

2. The City may require the following as conditions:
  - a) Monetary compensation to be paid to the City in an amount of up to one-half the appraised value for the subject property; provided, that compensation may be required in an amount of up to full appraised value of the subject property if either of the following applies to the street vacation:
    1. It has been part of a dedicated public right-of-way for twenty five years or more; or
    2. The subject property or portions thereof were acquired at public expense.
  - b) The grant of a substitute public right-of-way which has value as right-of-way at least equal to the subject property; or
  - c) Any combination of (1) and (2) above, provided that the total value of the combined conditions shall not total more than the maximum amount of monetary compensation allowed under subsection (2) (a) of this section.

*The applicant proposes (c), dedicating private property to the City for public right of way and installing other public improvements in exchange for the vacated rights of ways (See Attachment 4 and 5).*

3. *The City has acquired an independent appraisal of the subject site from Appraisal Group of the Northwest LLP of Bellevue Washington concluding a fair market land value of \$250.00 per square foot (see Attachment 11).*
4. *The value of the area to be vacated is \$841,750 (3,367 square feet times \$250.00 per square foot).*
5. *The value of private property to be dedicated is \$918,250 (3,673 square feet times \$250.00 per square foot).*
6. *The applicant provided an estimate of the costs of installing the new public improvements in the 1st Street So. right of way as \$136,660 (See Attachment 4).*

7. *The east/west alley right-of-way was dedicated with the recording of the plat of Burke and Farrar's Kirkland Business Center Addition, Division No 25 in November 21, 1941 and recorded on July 28, 1942.*
8. *Since the right-of-way was dedicated more than 25 years ago, typically, payment to the City would be of the full-appraised value of the subject site.*

Conclusion: In lieu of financial compensation to the City, the City Council may consider a land exchange of an equal or greater value. The amount of land the applicant is dedicating is 306 sq. ft. greater than the amount of right of way being vacated and valued \$76,500 more. Staff recommends the Council accept the land exchange as compensation for the street vacations. If Council concurs, then a statutory warranty deed shall be submitted transferring the property.

**C. ZONING PROVISIONS:**

The property is located within the Central Business district 1 (CBD 1) zone. CBD 1 allows a number of uses including retail, restaurant, office and housing. Office and housing uses are only allowed on the ground floor if there is intervening retail or restaurant use fronting the sidewalk. No setbacks are required and 100% lot coverage is allowed. The base height range is 2-4 stories. The Design Review Board has discretion to approve an additional 5 story if the upper 3 stories are housing, stories above the second story are set back significantly from the street, building form is stepped back at the 3-5 floors, and superior retail space is provided at the street level.

Conclusion: The zoning for the proposed vacated area relates to the valuation of the land. The applicant's planned development for the proposed street vacations is consistent with the CBD 1 zoning.

**D. COMPREHENSIVE PLAN:**

1. Land Use- The subject property is located in the core area of the Downtown Plan. Kirkland Avenue is designated as a major pedestrian route and north south pedestrian routes are encouraged to link the downtown with the neighborhoods south of Kirkland Avenue. This block is targeted for public parking opportunities. Developers are encouraged to include surplus public parking in their projects to increase the amount of parking available in the downtown. Residential is encouraged on the upper 3 stories. Superior retail is encouraged on the ground floor by allowing a fifth story for residential use (See Attachment 12).
2. Street Vacations- Street vacations and alleys in the core area are only recommended if they will not result in increased building mass and there is a substantial public benefit such as providing superior pedestrian or vehicular linkage or superior public open space. The proposal includes dedicating a greater amount of substitute right of way in exchange for the vacated public right of way (See Attachment 12).
3. Urban Design-Design considerations of importance in this area are those related to pedestrian scale and orientation particularly along the street. Buildings over two stories in height must reduce the building mass above the second story.

Conclusions: It is likely that any development proposal for the subject property would require at least the east/west alley to be vacated. The vacation of right of way exchange results in a development site that is 306 sq. ft. smaller than the existing parcel. Therefore, no increase in building mass is proposed as a result of the street vacation. The proposed street vacation is consistent with the Comprehensive Plan polices.

**E. STATE ENVIRONMENTAL POLICY ACT (SEPA):**

Street Vacations are categorically exempt from SEPA pursuant to WAC 197-77-800 (2) (h).

**F. PUBLIC COMMENT:**

To this date, no public letters have been received commenting on the street vacation.

**III. APPENDICES**

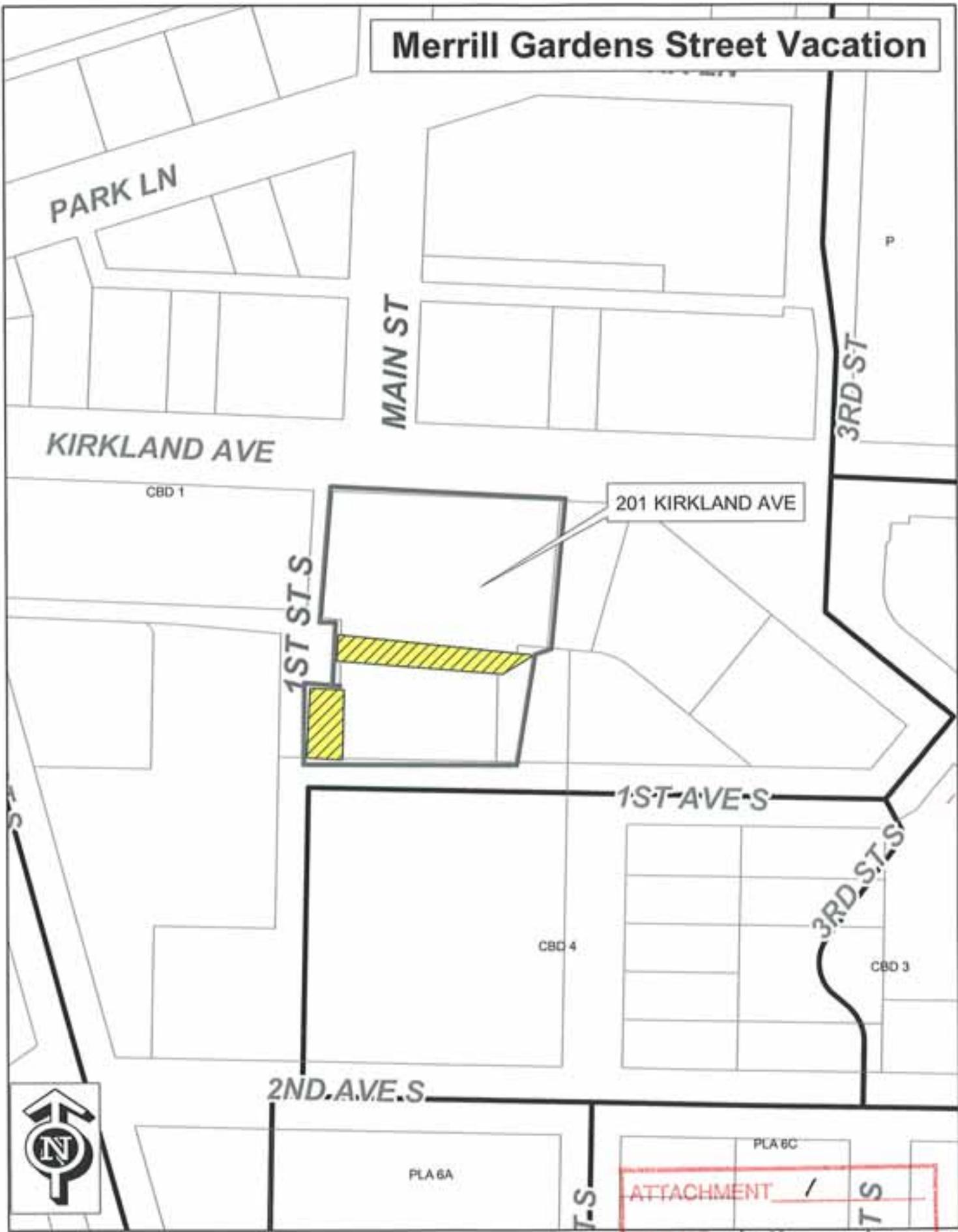
Attachments 1 through 12 are attached.

1. Vicinity map/zoning
2. Proposed street vacation and dedication areas
3. Existing conditions site plan
4. Merrill Gardens development proposal site plan
5. Merrill Gardens street vacation proposal
6. Letter from SRM Development LLC, August 16, 2006 regarding intent for excess parking stalls
7. Development Standards
8. Petition to Vacate Right-of-Way
9. R- 4586 setting hearing date
10. Email from Puget Sound Energy
11. Land Appraisal Report from Appraisal Group of the NW LLP
12. Comprehensive Plan Downtown Plan policies

**IV. PARTIES OF RECORD**

Andy Loos, SRM Development, LLC, 808 5<sup>th</sup> Avenue North, Seattle, WA 98109  
Chad Lorentz, Runberg Architects, One Yesler Way, Suite 200, Seattle, WA 98104  
Ken Dayton, 2339 11<sup>th</sup> Avenue E. Seattle, WA 98102  
Brian Leibsohn, Linc Properties, 11715 Southeast 5<sup>th</sup> Street, Suite #111, Bellevue WA 98005  
Department of Planning and Community Development  
Department of Public Works, Rob Jammerman  
Department of Building and Fire Services

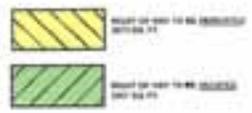
# Merrill Gardens Street Vacation



ATTACHMENT	/	TS
FILE NO.	VAC06-00001	

RECEIVED  
JUN - 8 2006

PLANNING DEPARTMENT  
BY \_\_\_\_\_



ATTACHMENT 2  
FILE NO. Vacole - 00001

PORTION OF BLOCK 95, BURKE-FARRARS KIRKLAND BUSINESS CENTER ADDITION DIVISION 25  
IN SECTION 25, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M.  
CITY OF KIRKLAND  
KING COUNTY, WASHINGTON

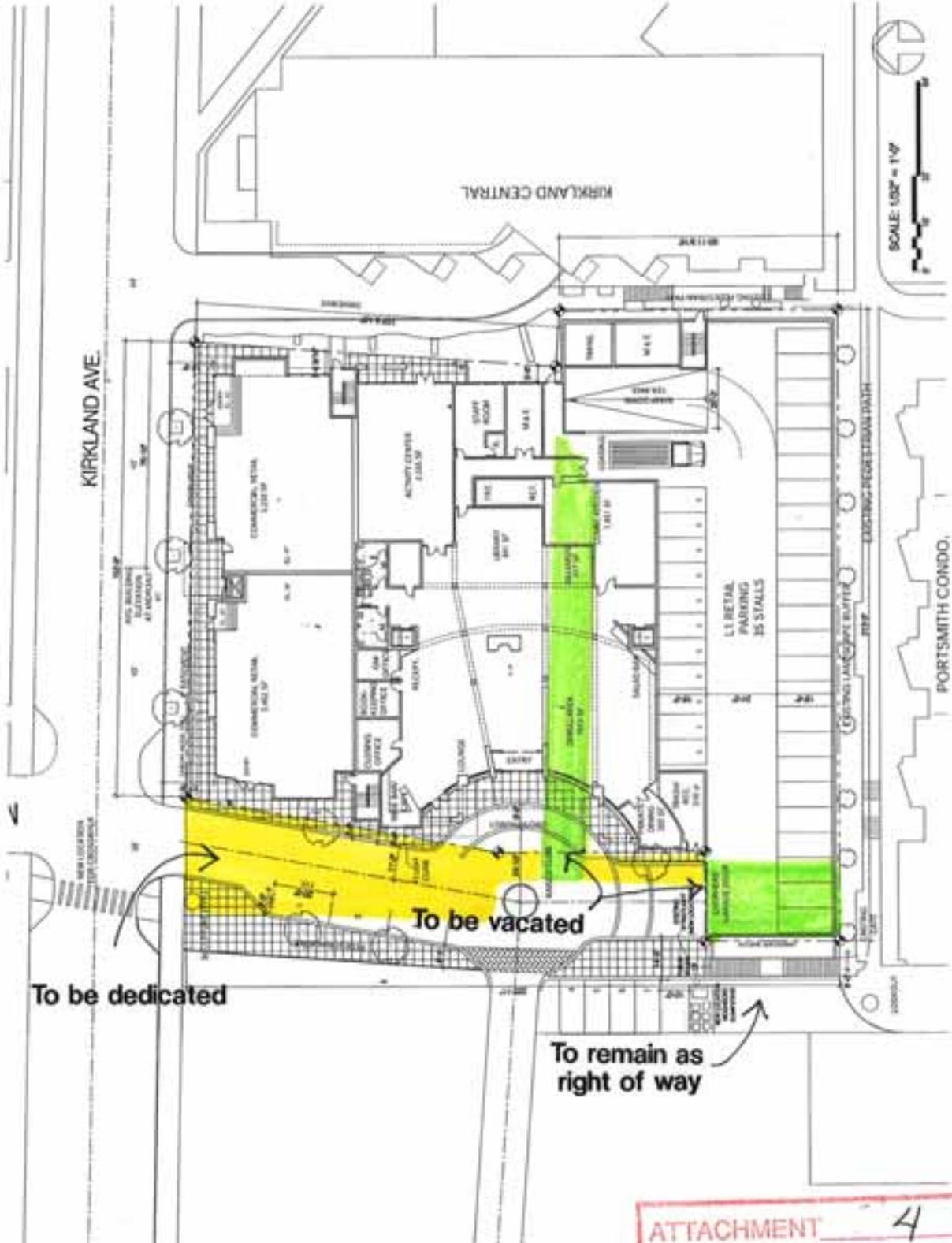




One Yester Way  
 Suite 200  
 Seattle, WA 98104  
 P 206-456-1970  
 F 206-456-1971

# SITE PLAN

Merrill Gardens  
 at  
 Kirkland  
 Assisted Living  
 08/22/06



ATTACHMENT 4  
 FILE NO. VAC06-00001

***Street Vacation Narrative***  
***August 18, 2006***

**Description:**

The subject property is located at 201 Kirkland Avenue. It is located on the South side of Kirkland Avenue and is bounded by the Bank of America and retail stores with surface parking lots on the West; the Portsmouth Condominiums on the South and Kirkland Central Condominiums and retail on the East. Access to the property is along Kirkland Avenue (East/West) and a platted alley (North/South) that terminates at the Southern boundary.

**Current Use of Alleys**

- Alley "A", located in the center of the property running East/West, together with a Public Ingress & Egress Easement is being used to provide private parking for the tenants on the subject property and five public parking spaces.
- 1<sup>st</sup> Street South, which runs North/South from Kirkland Avenue to a dead-end at the stairs leading to the Portsmouth Condominiums, is being used as access for the South portion of Alley "A" which contains 15 public parking stalls. However, the parking area does not meet City of Kirkland minimum code requirements for parking areas. This street also provides access to several dumpsters and a grease container used by the subject property and adjacent properties to the West.

It is our intent to do the following:

1. Vacate the portion of Alley "A" in the middle of the property (Deeded Alley AFN 3254642 and AFN 3254643)
2. Vacate a portion of the North/South 1<sup>st</sup> Street South See Exhibit "A"
3. Extinguish the Public Ingress and Egress Easement that is adjacent to Alley "A" (AFN 3254642 and AFN 3254643)
4. Extinguish the Public Ingress and Egress Easement (AFN 19990709001997) running North/South between Kirkland Avenue and the Alley "A". Create a new Public Ingress and Egress Easement along the new right-of-way.
5. Extinguish the Public Pedestrian Right-of-Way Easement along Kirkland Avenue.
6. Dedicate private property to the City of Kirkland to the East side of 1<sup>st</sup> Street South to allow for street alignment with Main Street and vehicle and pedestrian improvements to 1<sup>st</sup> Street South. See Exhibit "A"
7. Replace the public parking that will be removed as a result of the vacation of Alley "A" property and extinguishing of easements. See Exhibit "A" (approximately 6 stalls will be replaced at grade in the existing alley with 14 stalls being replaced in the upper level of the proposed parking garage. It is estimated there will be a surplus of 50+ additional stalls in the parking garage(if the parking modification is approved).
8. Provide for public parking in the future development
9. Provide roadway, pedestrian, lighting and public art improvements in 1<sup>st</sup> Street South.

ATTACHMENT <u>5</u>
FILE NO. <u>VAC06-00001</u>

## **Petitioner's Proposal**

The petitioner wishes the City of Kirkland to vacate Alley "A". Alley "A" is not of a dimension that could be used as a street, bisects the petitioner's property and will have no affect on adjacent properties. It serves only to access surface parking on the site which will be replaced in the proposed development.

The petitioner wishes the City of Kirkland to vacate a portion of 1<sup>st</sup> Street South. This will enable the petitioner to recoup some of the area that the petitioner is dedicating to the City along Kirkland Avenue. The area to be vacated is at the termination of the street and is currently used as a dumpster location for the subject and two adjacent properties.

This land area will contain the entrance to the parking garage and will have residential structure above.

The pedestrian access will be enhanced, the vehicular access will be improved by providing a turn-around and the public parking spaces will be replaced by the petitioner.

The petitioner wishes to dedicate approximately the same amount of land to the City that the City is vacating to the petitioner. The petitioner is however dedicating 306 square feet more of land than is being vacated by the City. The value of the land has been appraised by the Appraisal Group of the Northwest engaged by the City of Kirkland to perform the appraisal. The appraisal indicates that the City of Kirkland is gaining \$76,500 in value in the land swap.

The petitioner will provide street improvements along the entire length of 1<sup>st</sup> Street South and on both sides of the street with accent paving, landscaping and public art. The cost of these improvements are estimated at \$136,660 (Estimate Attached).

The petition will eliminate 20 surface public parking spaces and will be replaced with six surface parking spaces and 14 spaces in the parking garage for a total of 20 spaces. In addition the petitioner has agreed to allow public parking in the development for approximately 50 more spaces. The petitioner has agreed to commit a minimum of 25 spaces for public use for a 10-year period. All spaces will be privately managed.

We believe that there is a significant public benefit from the vacation of Alley "A" and that portion of 1<sup>st</sup> Street South and the extinguishing of those easements adjacent to these areas.

There will be no negative impact on adjacent properties.

With a monetary benefit of approximately \$213,160 and the practical and aesthetic benefits of pedestrian and vehicle movements along with replacement of public parking and the addition of supplemental public parking it seems clear that the public benefits outweigh any negative impacts. The City is actually receiving more land than it is vacating.

### **Street Vacation Approval Criteria**

Street or Alley Vacation is in the Public Interest

- Alley "A" is a dead end and is used only to access private parking on the petitioner's property.
- Alley "A" does not provide a pedestrian or vehicular benefit to the public.
- The vacation of Alley "A" will not adversely affect any neighboring property.
- The vacation of Alley "A" will not affect utility services as these services can be accessed from Kirkland Avenue.
  
- The portion of 1<sup>st</sup> Street South to be dedicated is at the termination of the alley
- The portion of 1<sup>st</sup> Street South to be dedicated will not have any adverse affect on pedestrian or vehicular movements.
- The portion of 1<sup>st</sup> Street South to be dedicated does allow for increased public parking. Those parking spaces will be replaced by the petitioner.
- The vacation of that portion of 1<sup>st</sup> Street South to be vacated will not affect utility services.

### **Public Benefit**

Street or Alley Vacation is of Public Benefit

- The vacation of the portion of 1<sup>st</sup> Street South and of Alley "A" will result in the development of the property which will provide for superior pedestrian connections, improved road alignments, a turn-around in 1<sup>st</sup> Street South, expanded open space, vitalizing both Kirkland Avenue and the current 1<sup>st</sup> Street South and provide for the potential for increased public parking in the downtown core.

### **Downtown Plan**

The Downtown Plan states that in general the City should avoid vacating streets and alleys in the core area so as to limit the consolidation of properties. The reason to avoid the consolidation of properties is because they generally have less pedestrian scale to them. The Downtown Plan states that vacations will be considered when they will not result in increased building mass and there is substantial public benefit.

Examples of benefit might include superior pedestrian or vehicular linkages or superior public open space.

This petition addresses the Downtown Plan criteria for alley vacation as follows:

#### Alley "A"

- Alley "A" bisects the site from East to West. Two buildings could be built on either side of the alley within the zoning code with substantially the same massing albeit in a different configuration. With the land swap that the petitioner is proposing the massing would actually be less on Kirkland Avenue if the street vacation is approved. In effect the massing is being moved from Kirkland Avenue to the center of the site.
- The proposal creates a superior pedestrian connection between Kirkland Avenue and the Portsmouth Condominiums. Currently there is no sidewalk or pedestrian walkway and pedestrians are walking in a vehicle drive lane and asphalt parking lot. The development will allow for a pedestrian walkway with landscaping and public art to provide a safe and attractive pedestrian connection.
- The proposal of the street vacation and land swap enables the current alley to be re-aligned along Kirkland Avenue so that it can align with Main Street to the North and thereby vastly improve safety and vehicular circulation per the City traffic engineer.
- The street vacation and land swap will provide for an open space pedestrian muse running from Kirkland Avenue to the Portsmouth Condominium stairs.

#### 1<sup>st</sup> Street South

- The proposal is to vacate a portion of 1<sup>st</sup> Street South to make the "land swap" more equitable and to reimburse the property owner for property dedicated along Kirkland Avenue.
- The vacation of a portion of 1<sup>st</sup> Street South will enhance the pedestrian connection by allowing for the land swap to occur- and thereby providing the needed right-of-way- by trading the land along Kirkland Avenue for the street area on the South end of 1<sup>st</sup> Street South.
- The land swap will not result in an increase in building mass. The proposal would move the massing from Kirkland Avenue to the Southwest portion of the property.
- The vacation of the portion of 1<sup>st</sup> Street South will result in a parking entrance that will be more conducive to retail parking and the addition of public parking now and in the future. It will make signage easier to see from Kirkland Avenue. It will make for improved vehicular circulation and parking.

## Summary of Downtown Plan Objectives Met by Proposed Development

- Enhance North-South pedestrian linkages from Kirkland Avenue with brick pavers crosswalks, pedestrian islands, lighting, street furniture, art and landscaping.
- Pedestrian safety would be increased as the conflict with cars in the alley will be reduced with the proposed plan.
- Reducing the number of curb cuts on Kirkland Avenue. There are currently three adjacent to each other.
- Structured parking is encouraged as a better use of available space and is more pleasing aesthetically than surface lots.
- The proposal provides the potential for either public parking or off-site parking for other developments or employers.
- The proposal will reduce parking and vehicular traffic in the core as the use is assisted living which has a minimal impact on traffic and parking.
- The proposal preserves the retail frontage along Kirkland Avenue by utilizing the existing 1<sup>st</sup> Street South to the West and dedicating private property to avoid a curb cut on Kirkland Avenue.
- The proposal for a Merrill Gardens Assisted Living Community is a use that has a low impact on the City's streets and services.
- Merrill Gardens Communities are well maintained, staffed and show pride of ownership. Merrill Gardens continues to own and operate its facilities for the long term.
- The development will feature superior retail spaces and has received favorable responses from the Design Review Board in design, massing, materials and colors.

### Attachemnts include:

- Exhibit "A" Title Map
- Proposed Site Plan
- Cost Estimate of Improvements to 1<sup>st</sup> Street South



Group	Phase	Description	Takeoff Quantity	Labor \$/Unit	Total Labor \$	Material \$/Unit	Total Material \$	Subcontract \$/Unit	Total Sub \$	Total \$	Notes
02000.000		<b>SITWORK-DEMO</b>									
	02310.000	Grading									
		Reachway Excavation	309 cy	-	-	-	-	15.00	4,600	4,600	
	02310.000	Finish Grading									
		Final Grading	8,100 sf	-	-	-	-	0.75	6,825	6,825	
	02614.000	Underground Utilities									
		Adjust Valve Boxes & Man Holes	1 lb	-	-	-	-	4,500.00	4,500	4,500	
	02864.000	Alley Improvements									
		Alley Improvements - Asphalt Paving	7,227 sf	-	-	-	-	2.50	18,068	18,068	
	02770.000	Curbs & Gutters									
		Paving: Curbs & Gutters - Sub F	450 lf	-	-	-	-	20.00	9,000	9,000	
	02775.000	Sidewalks & Flatwork									
		Sidewalks & Flatwork - Sub F	1,875 sf	-	-	-	-	22.50	42,188	42,188	
	02870.000	Site/Street Furn.									
		Site/Street Furn. - Sub LB	1 lb	-	-	-	-	7,500.00	7,500	7,500	
	02902.000	Landscaping & Irrigation									
		Landscaping & Irrigation - Sub LB	1 lb	-	-	-	-	6,500.00	6,500	6,500	
03000.000		<b>CONCRETE</b>									
	03420.000	Stair Finishes									
		Stair Finishes - Sub F	212 sf	-	-	-	-	45.00	9,540	9,540	
	03468.000	Sawcut Sub									
		Sawcut Sub - Sub F	240 lf	-	-	-	-	2.00	480	480	
05000.000		<b>METALS</b>									
	05520.000	Metal Handrails									
		Metal Handrails - Sub F	224 lf	-	-	-	-	66.00	14,860	14,860	
12000.000		<b>FURNISHINGS</b>									
	12100.000	Artwork									
		Public Art	1 ea	-	-	-	-	10,000.00	10,000	10,000	

**Estimate Totals**

Description	Amount	Totals	Rate
Labor			
Material			
Subcontract	136,660		
	136,660	136,660	
Total		136,660	

RECEIVED

JUN - 8 2006

EXHIBIT A

AWI  
PLANNING DEPARTMENT PM

BY \_\_\_\_\_ (PORTION TO BE VACATED)

Beginning at the Southwest corner of Lot 28, Block 99, Burke & Farrar's Kirkland Business Center Addition, Division No. 25, according to the Plat thereof recorded in Volume 25 of Plats at Page 14, Records of King County, Washington;

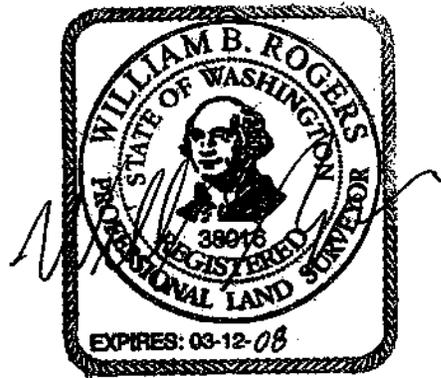
Thence North  $01^{\circ}39'30''$  West along the West line of said Lot 28, a distance of 45.42 feet;

Thence South  $88^{\circ}20'30''$  West, a distance of 22.92 feet;

Thence South  $01^{\circ}39'30''$  East, a distance of 45.42 feet;

Thence North  $88^{\circ}20'30''$  East, a distance of 22.92 feet, to the Point of Beginning.

Containing 1,041 square feet, more or less.



06/05/2006

## EXHIBIT B

(PORTION TO BE VACATED)

That portion dedicated to the City of Kirkland November 21, 1941 and recorded July 28, 1942 under Auditor File No. 3254642, Records of King County, Washington.

Beginning at the intersection of the Northwest corner of Lot 28, Block 99, Burke & Farrar's Kirkland Business Center Addition, Division No. 25, according to the Plat thereof recorded in Volume 25 of Plats at Page 14, Records of said county;  
Thence Southeasterly along the North lines of Lots 28, 27, 26, 25, and 24, to the Northeast corner of Lot 24;  
Thence South, along the Easterly line, 16 feet;  
Thence Northwesterly to a point on the West line of Lot 28, 16 feet South of the Northwest corner;  
Thence North 16 feet, to the Point of Beginning.

Dedicated to the City of Kirkland for street and alley purposes only.

Containing 2,085 square feet, more or less.

## EXHIBIT C

(PORTION TO BE VACATED)

That portion dedicated to the City of Kirkland December 4, 1941 and recorded July 28, 1942 under Auditor File No. 3254643, Records of King County, Washington.

Starting at the Northwest corner of Lot 23, Block 99, Burke & Farrar's Kirkland Business Center Addition, No. 25, in the City of Kirkland, Washington;  
Thence Easterly along said North line of Lot 23, to the Northeast corner of same;  
Thence Southwesterly 34 feet, more or less, to a point on the West line of said Lot 23, which point is 16 feet South of the Northwest corner of said Lot;  
Thence 16 feet North to the Point of Beginning.

Dedicated to the City of Kirkland for street and alley purposes only.

Containing 241 square feet, more or less.

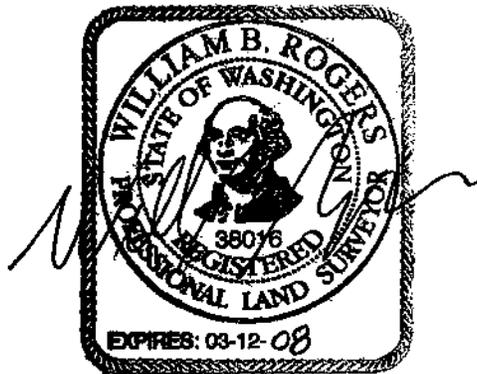
## EXHIBIT D

(PORTION TO BE DEDICATED)

Beginning at the Southwest corner of Lot 1, Block 99, Burke & Farrar's Kirkland Business Center Addition, Division No. 25, according to the Plat thereof recorded in Volume 25 of Plats at Page 14, Records of King County, Washington;

Thence North  $02^{\circ}21'00''$  East along the West line of said Lot 1, a distance of 105.53 feet;  
Thence North  $89^{\circ}39'00''$  East, a distance of 35.79 feet;  
Thence South  $08^{\circ}34'58''$  West, a distance of 107.26 feet;  
Thence South  $01^{\circ}47'52''$  East, a distance of 69.96 feet;  
Thence South  $88^{\circ}20'30''$  West, a distance of 7.24 feet;  
Thence North  $01^{\circ}39'30''$  West, a distance of 69.88 feet;  
Thence North  $87^{\circ}39'00''$  West, a distance of 17.06 feet, to the Point of Beginning.

Containing 3,673 square feet, more or less.



06/05/2006

August 16, 2006

Janice Soloff  
Senior Planner  
Kirkland Planning & Community Development  
City Hall  
123 5<sup>th</sup> Avenue  
Kirkland, Washington 98033-6189

RE: 201 Kirkland Avenue – Merrill Gardens Excess Parking Spaces

Dear Janice:

It is our intention to build excess parking in our private parking garage which will be used by the public. It is estimated that we will be providing 50 parking spaces that will be available for public parking. The exact number may fluctuate depending upon the requirements for retail parking within the project. However it is our intention to commit 25 spaces for public parking for a period of 10 years.

These spaces will be privately managed to serve short term public parking and daily employee parking. The spaces will not be used for vehicle storage.

The public shall have access to the parking spaces seven days per week between the hours of 6am and 10pm.

The project is including a separate elevator to access the public parking spaces leading to Kirkland Avenue.

Andy Loos  
Development Manager

ATTACHMENT 6  
FILE NO. VAC06-00001

Date: 8/16/2006

DEVELOPMENT STANDARDS

CASE NO.: DRC06-00002

PCD FILE NO.:DRC06-00002

PRELIMINARY CONDITIONS

You can review your permit status and conditions at [www.kirklandpermits.net](http://www.kirklandpermits.net)

PUBLIC WORKS CONDITIONS

Permit Information

Permit #: DRC06-00002

Project Name: Merrill Gardens at Kirkland

Project Address: 201 Kirkland Ave.

Date: July 20, 2006

Public Works Staff Contacts

Land Use and Pre-Submittal Process:

Rob Jammerman, Development Engineering Manager

Phone: 425-587-3845 Fax: 425-587-3807

E-mail: [rjammer@ci.kirkland.wa.us](mailto:rjammer@ci.kirkland.wa.us)

Building and Land Surface Modification (Grading) Permit Process:

John Burkhalter, Senior Development Engineer

Phone: 425-587-3846 Fax: 425-587-3807

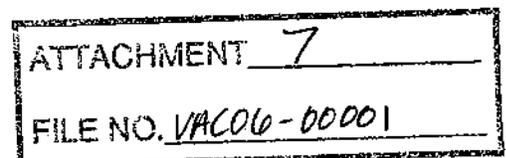
E-mail: [jburkhal@ci.kirkland.wa.us](mailto:jburkhal@ci.kirkland.wa.us)

General Conditions:

1. All public improvements associated with this project including street and utility improvements, must meet the City of Kirkland Public Works Pre-Approved Plans and Policies Manual. A Public Works Pre-Approved Plans and Policies manual can be purchased from the Public Works Department, or it may be retrieved from the Public Works Department's page at the City of Kirkland's web site at [www.ci.kirkland.wa.us](http://www.ci.kirkland.wa.us).

2. This project will be subject to Public Works Permit and Connection Fees. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The fees can also be review the City of Kirkland web site at [www.ci.kirkland.wa.us](http://www.ci.kirkland.wa.us). The applicant should anticipate the following fees:

- o Water and Sewer connection Fees (paid with the issuance of a Building Permit)
- o Side Sewer Inspection Fee (paid with the issuance of a Building Permit)
- o Water Meter Fee (paid with the issuance of a Building Permit)
- o Right-of-way Fee
- o Review and Inspection Fee (for utilities and street improvements).
- o Traffic Impact Fee (paid with the issuance of Building Permit). For additional information, see notes below.



3. Prior to submittal of a Building or Zoning Permit, the applicant must apply for a Concurrency Test Notice. Contact Thang Nguyen, Transportation Engineer, at 425-576-2901 for more information.
4. Building Permits associated with this proposed project will be subject to the traffic impact fees per Chapter 27.04 of the Kirkland Municipal Code. The impact fees shall be paid prior to issuance of the Building Permit(s).
5. All civil engineering plans which are submitted in conjunction with a building, grading, or right-of-way permit must conform to the Public Works Policy titled ENGINEERING PLAN REQUIREMENTS. This policy is contained in the Public Works Pre-Approved Plans and Policies manual.
6. All street improvements and underground utility improvements (storm, sewer, and water) must be designed by a Washington State Licensed Engineer; all drawings shall bear the engineers stamp.
7. All plans submitted in conjunction with a building, grading or right-of-way permit must have elevations which are based on the King County datum only (NAVD 88).
8. A completeness check meeting is required prior to submittal of any Building Permit applications.
9. Prior to issuance of any commercial or multifamily Building Permit, the applicant shall provide a plan for garbage storage and pickup. The plan shall be approved by Waste Management and the City. The plans depict that the existing dumpsters located on the property will be located to the neighboring property to the west. This proposed relocation needs to be coordinated with Waste Management and the property owners using these dumpsters.

Sanitary Sewer Conditions:

1. The existing sanitary sewer main within the alley right-of-way along the west side of the property is adequate to serve the proposed project.
2. Provide a new 6-inch minimum side sewer stub to the building, or the existing line may be utilized provided that it is video inspected and in good condition.

Water System Conditions:

1. The existing 12-inch water main in the Kirkland Ave. public right-of-way along the front of the subject property is adequate to serve this proposed development.
2. Provide water service to the building sized per the uniform building code. A separate irrigation service and meter is suggested. Any existing services that are not used shall be abandoned at the water main.
3. Provide fire hydrants per the Fire Departments requirements.

Surface Water Conditions:

1. Provide temporary and permanent storm water control per the 1998 King County Surface Water Design Manual.
2. Provide an erosion control plan with Building or Land Surface Modification Permit application.
3. Construction drainage control shall be maintained by the developer and will be subject to periodic inspections. During the period from April 1 to October 31, all denuded soils must be covered within 15 days; between November 1 and March 31, all denuded soils must be covered within 12 hours. If an erosion problem already exists on the site, other cover protection and erosion control will be required.
4. All roof and driveway drainage must be tight-lined to the storm drainage system.

#### Street and Pedestrian Improvement Conditions:

1. The subject property abuts Kirkland Avenue (a Collector type street) and two public alleys along the west and south side of the property. Zoning Code sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:

##### Kirkland Ave.

- A. Remove and replace any cracked curb and gutter.
- B. Since the crosswalk is being relocated, the existing bump-out shall be relocated to the southeast corner of the new intersection. The existing crosswalk ramp and curb opening on the north side of the street shall also be removed (new landscaping will be required)
- C. Replace the existing sidewalk with a new 10 ft. wide (min.) sidewalk with street trees in tree grates 30 ft. on-center.
- D. Install downtown CBD standard pedestrian lighting 60 ft. on-center. There is one existing pedestrian light that can be re-used. This light powered from the existing building electrical panel. The new lights should be connected to an existing City power source.

##### East/West Alley

E. The alley that bisects the site in the east/west direction does not serve any utility or transportation needs and Public Works supports the vacation or relocation of the alley to help facilitate the redevelopment of this project.

##### North/South Alley

F. The alley that runs along the west side of the property has approximately 20 public parking stalls located within it and has a public sewer main within it. Public Works supports the proposal to enlarge this alley into a standard street section that will provide primary vehicular access to the parking garage for this project as well as access for the properties to the west.

G. The public parking that is displaced by the rebuilding of the alley shall be replaced in the new parking garage or other approved locations.

H. The new street into the project (former alley) shall be improved with the following:

- " Provide a minimum 22 ft in width of paving.
- " Align the intersection with Main Street to the north (site plan reflects this).
- " Provide standard vertical curb and gutter along both sides of the street.
- " Provide storm drainage collection and conveyance.
- " Behind the curb on both sides of the new street, install an 8 ft wide sidewalk with street trees in tree grates 30 ft on-center and standard downtown pedestrian lighting at 60 ft. on center. The sidewalk along the east side of the street may be reduced to 5 ft. in width at the points identified on the site plan. Note: There is one existing street light at the landing of the existing stairs that can be reused. It will need to be connected to a City owned power source.
- " Any portion of sidewalk that can be used by the public, but is outside the public right-of-way, shall be encompassed in a public pedestrian easement.
- " The parking stalls at the south end of the street will be marked after the improvements are installed. The final number of stalls will be determined after reviewing the improvements and evaluating the area for safety and function.
- " If the existing stairway is relocated, replace it with a concrete stairway at least 5 ft wide (similar to the stairway that was recently installed with the Kirkland Central project).
- " The size of the cul-de-sac at the south of the street is not large enough to allow for a center water feature. In-lieu of a water feature, the center of the turn-around could be raised with a 4-inch high rolled curb with a stamped asphalt or concrete feature in the center that can be driven over if needed.
- " If art work is to be located in the public right-of-way, the final location shall be reviewed and approved by Public Works.

2. A 2-inch asphalt street overlay will be required where more than three utility trench crossings occur with 150 lineal ft. of street length or where utility trenches parallel the street centerline. Grinding of the existing asphalt to blend in the overlay will be required along all match lines.

3. It shall be the responsibility of the applicant to relocate any above-ground or below-ground utilities which conflict with the project associated street or utility improvements.
4. Underground all new and existing on-site utility lines and overhead transmission lines.

*Red Notes from J. Sobel*

**PETITION TO VACATE A STREET, ALLEY OR PUBLIC EASEMENT**

Name of Person Filing Petition (Agent): Andy Loss, ORIM Development LLC

Address: 808 5th Avenue N., Seattle WA 98109

Phone: (206) 352-7873

Name of additional recipient of staff report, meeting agendas and final decision:

KEN DAYTON

Address: 2339 11th Ave E Seattle 98102

Daytime Phone: 206-790-5525

Legal Description of Street, Alley, or Public Easement to be Vacated:

Tax parcel number: 124400 - 0120, 0005, 0110

Does the Street, Alley, Public Easement or Part Thereof abut any body of water? No If so, please describe:

Will the vacation result in any parcel of land being denied direct access? No

How is the vacation in the public interest? SEE ATTACHED

Size of Street, Alley, Public Easement, or Part Thereof to be vacated (in square feet):

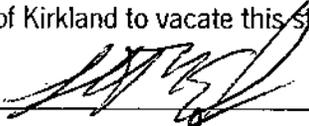
Ⓐ 3,367 TOTAL (1,041 sqft 1st St so + 2,326 sqft of alley) *east west*

Ⓑ 3,673 sq.ft. private property dedicated for 1st St so right of way to align with main street

ATTACHMENT 8  
FILE NO. VA <sup>1/27/05</sup> 00001

**PETITION TO VACATE A STREET, ALLEY OR PUBLIC EASEMENT**

We, the owners of two-thirds of the real property abutting the street, alley, or part thereof, or underlying the public ease-ment, or part thereof, legally described on page 1 of this Petition, petition the City Council of the City of Kirkland to vacate this street, alley, public easement, or part thereof:

NAME	ADDRESS	LEGAL DESCRIPTION
	Stuart McLeod 213 Lake St. South Kirkland, WA.	
	Ken Dayton Contract Seller 205 Kirkland Ave Kirkland, WA.	

*(Attach additional sheets if necessary)*

NOTE: If any petitioner is purchasing the property under a real estate contract, the signature of the contract seller is also required.

*Ken Dayton - Signature Above is contract seller.*

RESOLUTION R-4586

A RESOLUTION OF THE CITY OF KIRKLAND FOR THE VACATION OF A PORTION OF 1<sup>ST</sup> STREET SOUTH AND ALLEY RUNNING WEST TO EAST LOCATED BETWEEN KIRKLAND AVENUE AND 1<sup>ST</sup> AVENUE SOUTH AND PROVIDING NOTICE OF HEARING TO CONSIDER THE VACATION OF SAID RIGHT OF WAYS, (FILE NO. VAC06-00001).

WHEREAS, a petition has been filed with the City of Kirkland signed by the owners of real property representing more than two-thirds of the property abutting upon the hereinafter described portions of 1<sup>st</sup> Street South and the alley located between Kirkland Avenue and 1<sup>st</sup> Avenue So.

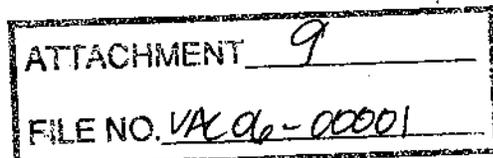
WHEREAS, it appears that the public interest of the City of Kirkland, Washington, would be served by holding a public hearing to consider the vacation of said portion of said right of ways.

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

1) That a public hearing be held to consider whether the public interest and general welfare of the City of Kirkland will be served by the vacation of said right of ways, situate in Kirkland, King County, Washington, and described as follows:

Portion of 1<sup>st</sup> Street So. described as follows: Beginning at the southwest corner of Lot 28, Block 99, Burke and Farrar's Kirkland Business Center Addition, Division No. 25, according to the Plat thereof recorded in Volume 25 of Plats at Page 14, Records of King County, Washington; Thence North  $01^{\circ} 39'30''$  West along the West line of said Lot 28, a distance of 45.42 feet; Thence South  $88^{\circ} 20'30''$  West, a distance of 22.92 feet; Thence South  $01^{\circ} 39'30''$  East, a distance of 45.42 feet; Thence North  $88^{\circ}20'30''$  East, a distance of 22.92 feet, to the Point of Beginning. Containing 1,041 square feet, more or less.

Alley described as follows: That portion dedicated to the City of Kirkland November 21, 1941 and recorded July 28, 1942 under Auditor file No. 3254642, Records of King County, Washington. Beginning at the intersection of the Northwest corner of Lot 28, Block 99, Burke and Farrar's Kirkland Business Center Addition, Division No. 25, according to the Plat thereof recorded in Volume 25 of Plats at Page 14, Records of said county; Thence Southeasterly along the North lines of Lots 28, 27, 26, 25, and 24, to the Northeast corner of Lot 24; Thence south, along the Easterly line, 16 feet; Thence Northwesterly to a point on the West line of Lot 28, 16 feet South of the Northwest corner; Thence North 16 feet, to the Point of Beginning. Dedicated to the City of Kirkland for street and alley purposes only. Containing 2,085 square feet, more or less.



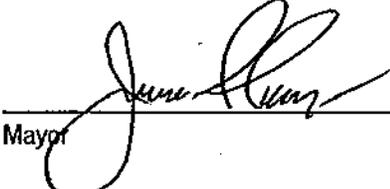
Alley described as follows: That portion dedicated to the City of Kirkland December 4, 1941 and recorded July 28, 1942 under Auditor file No. 3254643, Records of King County, Washington. Starting at the Northwest corner of Lot 23, Block 99, Burke and Farrar's Kirkland Business Center Addition, No. 25, in the city of Kirkland, Washington; Thence Easterly along said North line of Lot 23, to the Northeast corner of same; Thence southwesterly 34 feet, more or less, to a point on the West line of said Lot 23, which point is 16 feet South of the Northwest corner of said Lot; Thence 16 feet north to the Point of Beginning; Dedicated to the City of Kirkland for street and alley purposes only. Containing 241 square feet, more or less.

BE IT FURTHER RESOLVED AND NOTICE OF HEARING:

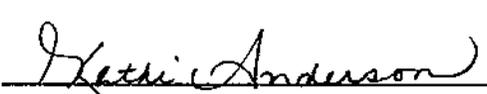
2) That said public hearing will be held before the Kirkland City Council in the Kirkland City Hall, 123 Fifth Avenue, on September 5, 2006, at 7:00 p.m.

PASSED by majority vote of the Kirkland City Council in open meeting this 1st day of August, 2006.

SIGNED IN AUTHENTICATION thereof this 1st day of August, 2006.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk

**Janice Soloff**

---

**From:** McGill, Kelly C [kelly.mcgill@pse.com]  
**Sent:** Wednesday, August 09, 2006 8:28 AM  
**To:** janenzia@aol.com  
**Subject:** Merrill Gardens ROW vacation

Hi Jan-

Thanks for faxing everything to me. PSE will need to retain an easement right in the area to be vacated. We are analyzing exactly what size, dimension, etc. now.

We will likely send an easement directly to the owner (to-be).

Thanks

\*\*\*I've Moved! Please note new mailstop below\*\*\*

Kelly C. McGill  
Puget Sound Energy  
Right of Way Representative  
81-2667 or 425-456-2667  
EST-06W

*Easement will be needed in both areas.*

ATTACHMENT <u>10</u>
FILE NO. <u>VAC06-00001</u>

**APPRAISAL GROUP  
OF THE NORTHWEST LLP**

*Summary Appraisal  
of the  
Kirkland Central Project  
Located at  
200 Block of Kirkland Avenue  
Kirkland, Washington 98033*

for

**Janice Soloff, AICP  
Senior Planner  
City of Kirkland  
Planning & Community Development  
123 5<sup>th</sup> Avenue, Suite 206  
Kirkland, WA 98033-6189**

by

**James G. Poliyanskiy  
James B. Price, MAI, SR/WA  
Appraisal Group of the Northwest LLP  
1980 112<sup>th</sup> Avenue NE, Suite 270  
Bellevue, WA 98004**

C-3164

ATTACHMENT 11  
FILE NO VAC02-0001



## APPRAISAL GROUP OF THE NORTHWEST LLP

Central Park Building  
1980 112<sup>th</sup> Ave. N.E., Suite 270  
Bellevue, WA 98004-2940

(425) 453-9292  
(800) 453-4408  
FAX: (425) 455-9740  
E-Mail:  
agnw@appraisalgroupnw.com

July 26, 2006

Janice Soloff, AICP  
Senior Planner  
City of Kirkland  
Planning & Community Development  
123 5th Avenue, Suite 206  
Kirkland, WA 98033-6189

Re: Summary Appraisal of land located on the corner of Main Street and Kirkland Avenue in Kirkland, Washington.

Dear Ms. Soloff:

In accordance with your request, we have completed a summary appraisal of the subject property referenced above to provide its market value. This appraisal is intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Foundation. The market value estimate represents the value of the fee simple estate, as of the date of inspection.

The purpose of this appraisal is to assist the exchange of private property for public right of way. There are two alleys affected by this vacation request. One is in the center of the property that, along with an easement, provides access for surface parking for the property and five spaces for the public. The other runs north/south from Kirkland Avenue and is 16 feet on the northern portion and 50 feet at the southern portion. The private property being dedicated is on the southeast corner of Kirkland Avenue and Main Street. The benefits of the land swap are: the realignment of Main Street; improvement of vehicular access for ingress and egress; and enhanced pedestrian access with paving, curb and gutter, sidewalk, drainage, lighting, and public art.

The evidence best supports a market value of the fee simple estate, in the subject property (land value only), as of July 7, 2006, of:

Market Value Estimated	Size (SF)	Value Estimate
Dedicated	3,673	\$ 918,250
Vacated	3,367	\$ 841,750

The value is subject to a hypothetical condition that the dedicated portion is not a separate lot.

Ms. Janice Soloff/ City of Kirkland

July 26, 2006

Page ii

The appraisal report is subject to the General Certification, Assumptions, and Limiting Conditions found within the body of the report. Thank you for the opportunity to be of service. If you have any questions regarding this appraisal, please feel free to contact me.

Sincerely,



James G. Poliyanskiy  
Real Estate Appraiser, WA  
Certification No. 1101745

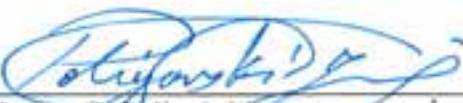


James B. Price, MAI, SR/WA  
Real Estate Appraiser, WA  
Certification No. 1100229

### CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics, the Uniform Standards of Professional Appraisal Practice (USPAP) and the Standards of Professional Appraisal Practice of the Appraisal Institute.
8. I, James G. Poliyanskiy, and I, James B. Price, MAI, SR/WA, have made a personal inspection of the property that is the subject of this report.
9. Rick Westman has provided significant real property appraisal consultation to the persons signing this certification.
10. The use of this report is subject to the requirements of the Appraisal Institute regarding review by its duly authorized representatives.

  
\_\_\_\_\_  
James G. Poliyanskiy

\_\_\_\_\_  
Date July 26, 2006

  
\_\_\_\_\_  
James B. Price, MAI, SR/WA

\_\_\_\_\_  
Date July 26, 2006

## SUMMARY OF FACTS AND CONCLUSIONS

### Subject Property

The subject properties consist of four pieces of land. The subject parcels are located on the south side of Kirkland Avenue near the intersection of Kirkland Avenue and Main Street in Kirkland, Washington.

### Lot Size

The subject land being dedicated is 3,673 SF (Parcel – D).

The subject right-of-way being vacated are three separate pieces of land: 1,041 SF (Parcel – A), 2,085 SF (Parcel – B), and 241 SF (Parcel – C) with the total of 3,367 SF.

### Zoning

The subject sites are zoned CBD-1, a Mixed-Use zoning designation by the City of Kirkland. This zoning district encourages a variety of professional office and mixed-use commercial development along populated arterials, residential, including offices and business support services, and retail development.

### Date of Report

July 26, 2006

### Date of Valuation

July 7, 2006

### Date of Inspection

June 22 and July 7, 2006

### Highest and Best Use

As if Vacant: To be assembled with an adjacent property and developed with a mixed-use building.

### Appraisal Type

This is a summary appraisal report.

### Valuation Summary

The following chart summarizes the value conclusions of the appraisal:

Market Value Estimated	Valuation Date	Size (SF)	Value Estimate
Dedicated	7-Jul-06	3,673	\$ 918,250
Vacated	7-Jul-06	3,367	\$ 841,750

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Ms. Janice Soloff/ City of Kirkland

July 26, 2006

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**ADDENDA**

**35**

PURCHASE AND SALE AGREEMENT

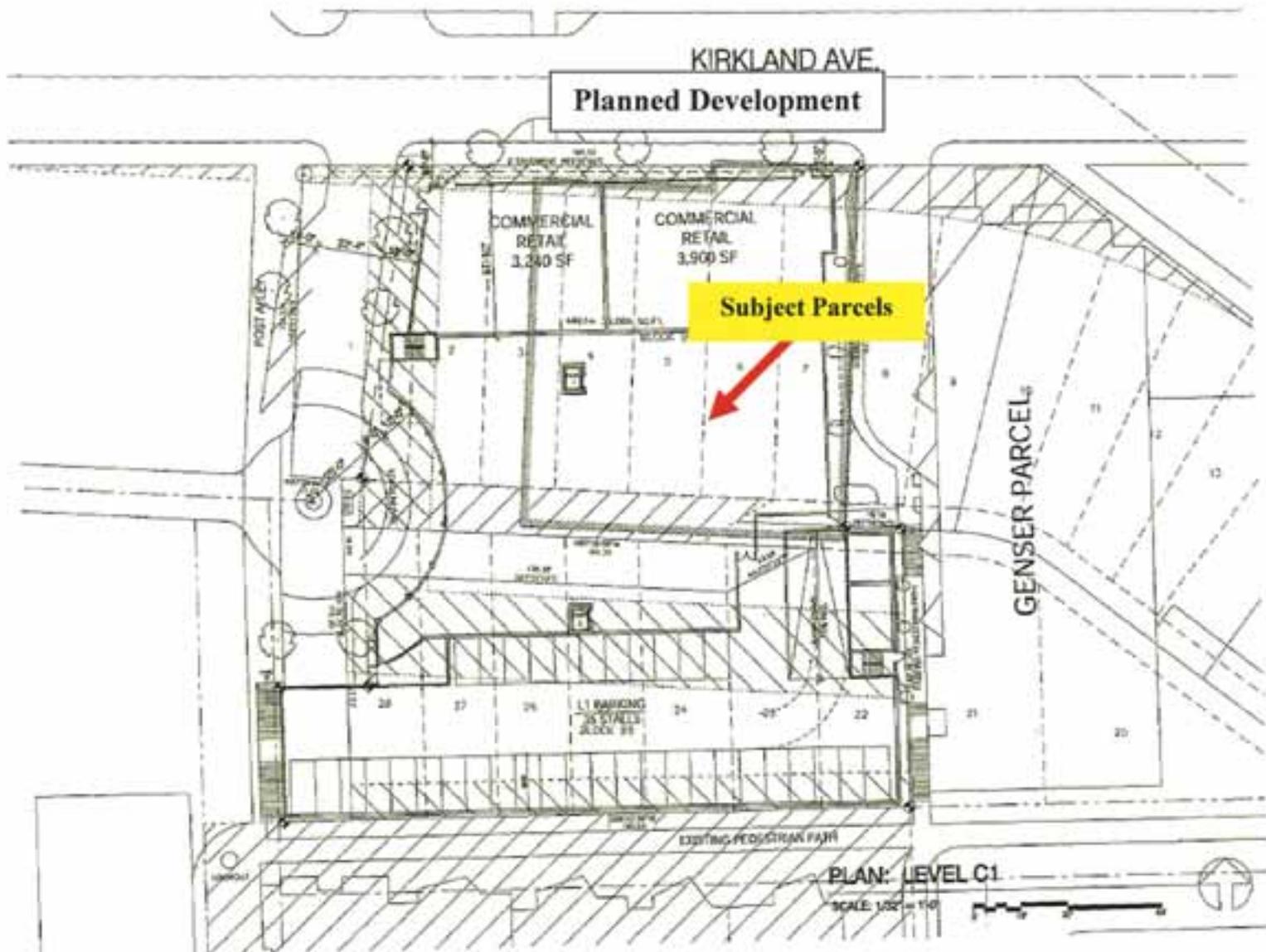
TITLE REPORT

QUALIFICATIONS OF APPRAISERS





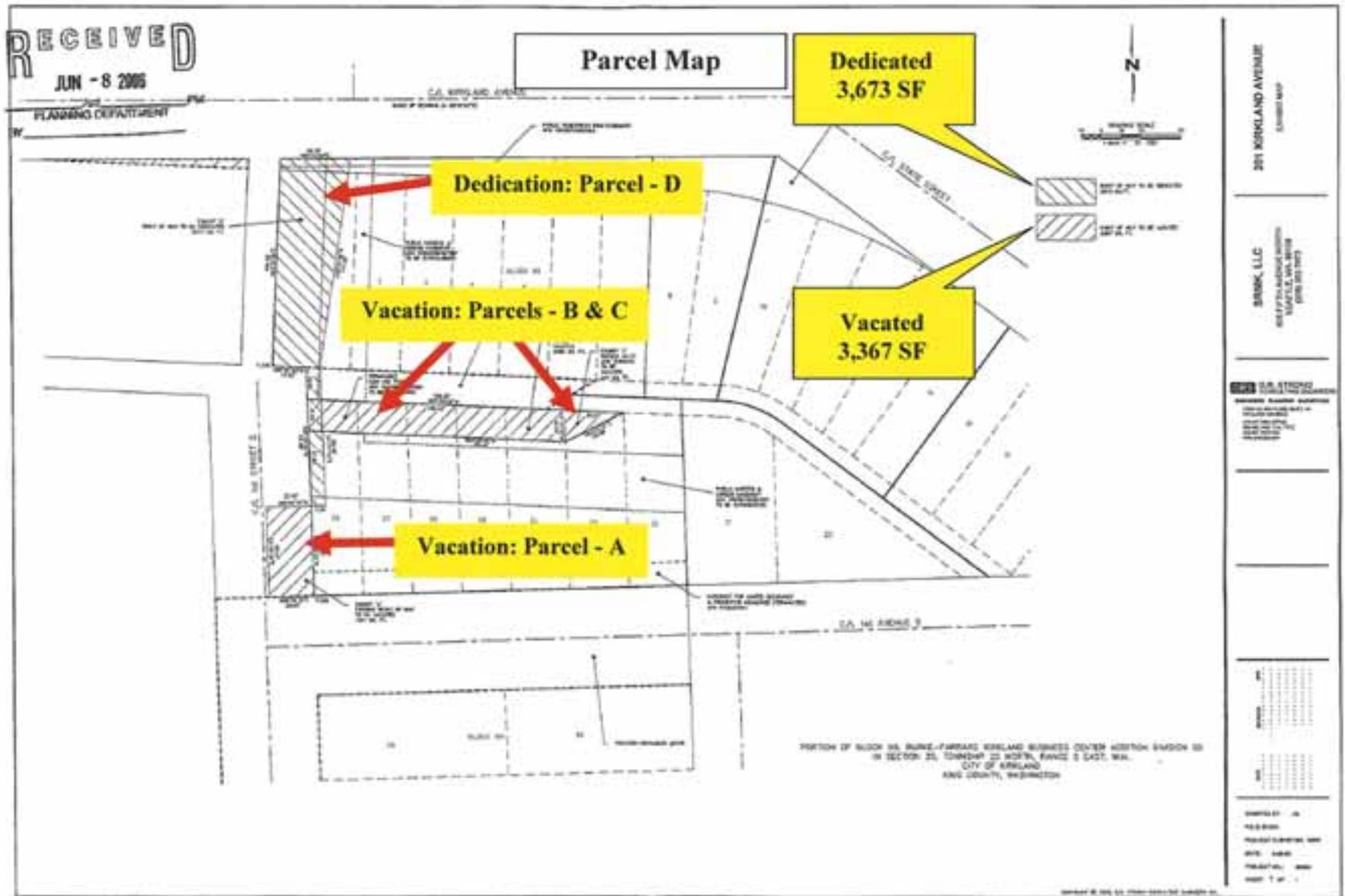
PLANS



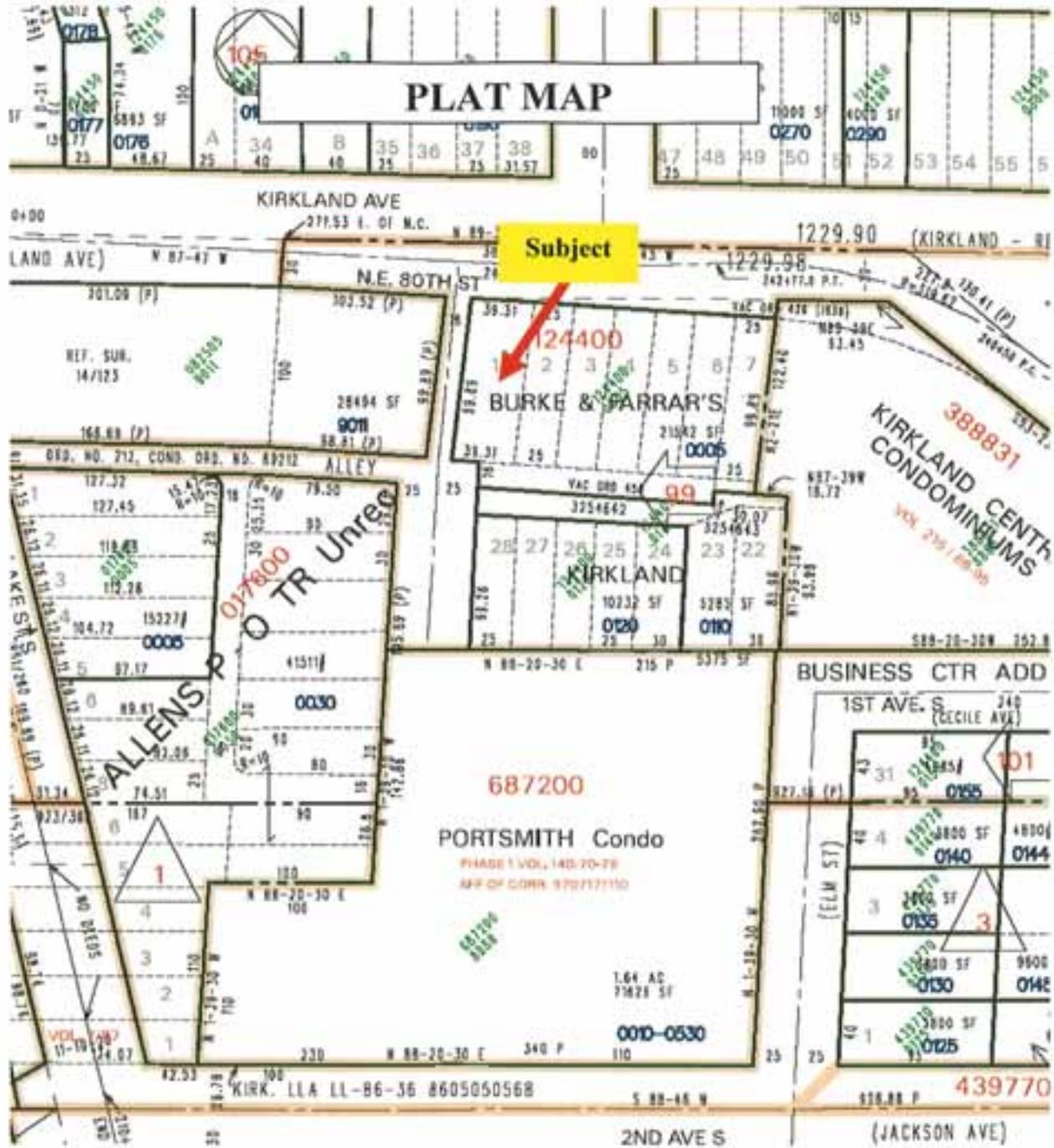
1 Yeale Way  
Suite 200  
Seattle, WA 98104  
p 206-596-1970  
f 206-556-1071

Merrill Gardens  
at  
Kirkland  
Assisted Living  
5/26/06

PLANS



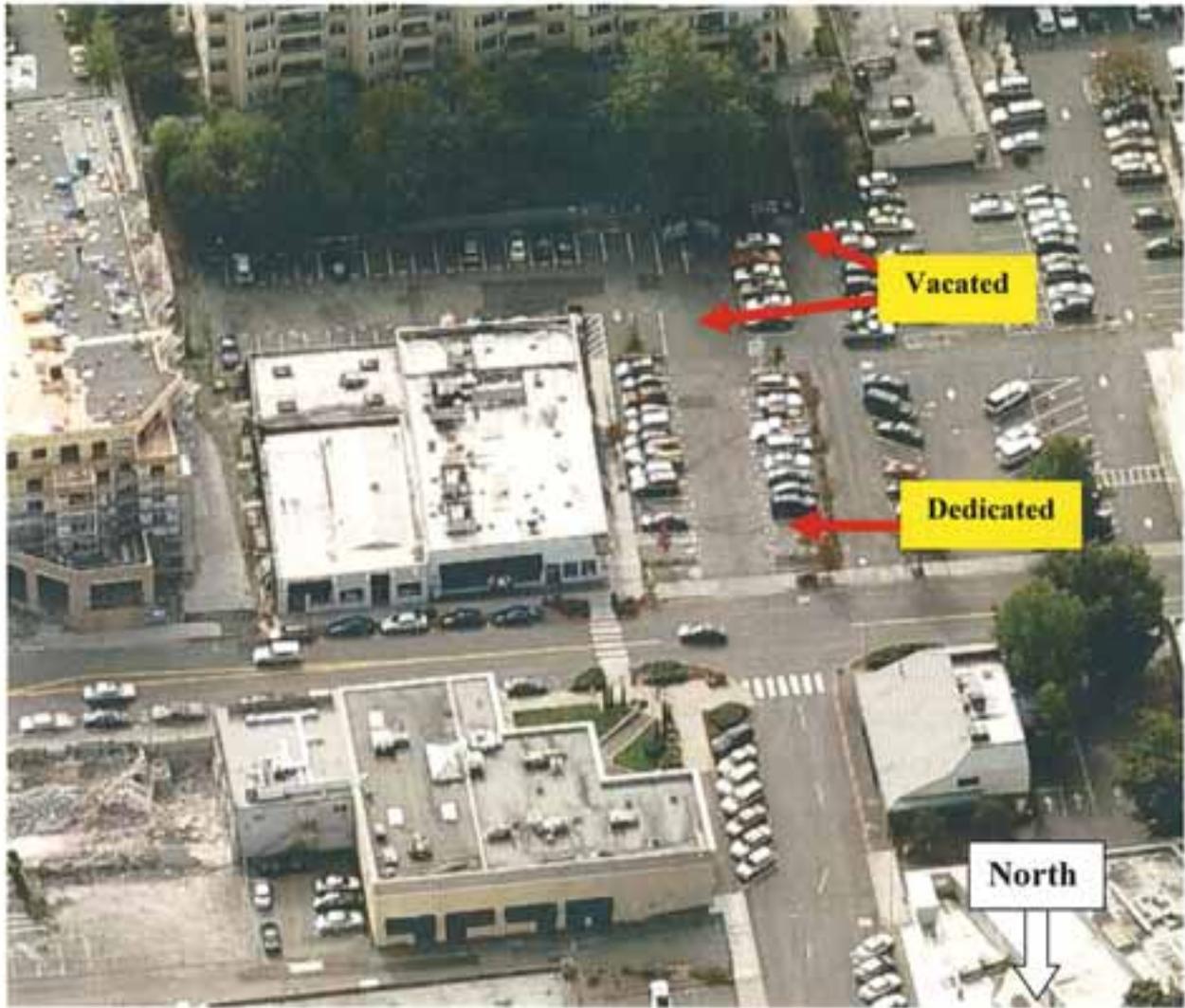
MAPS

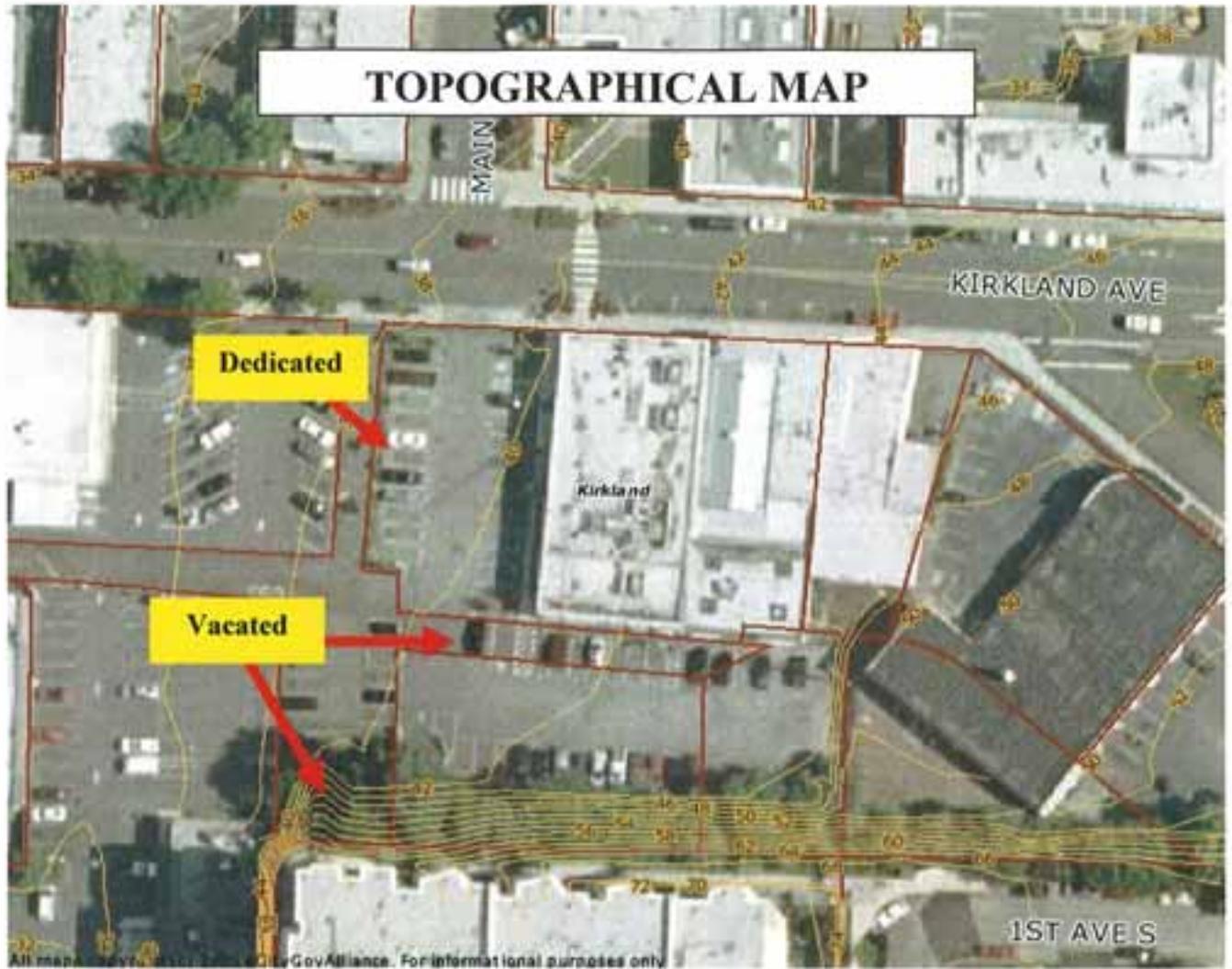


**AERIAL MAP**

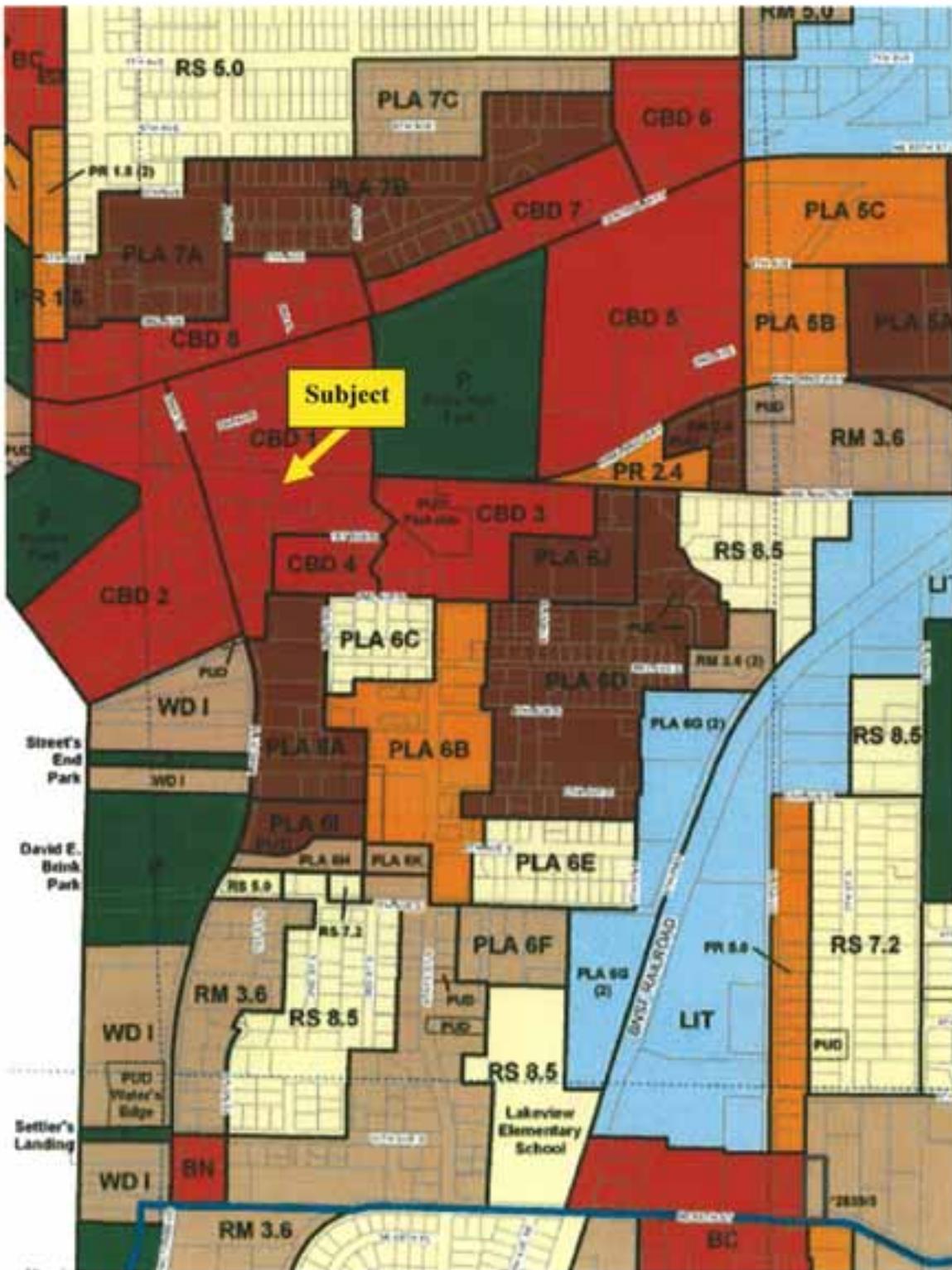


**AERIAL MAP**



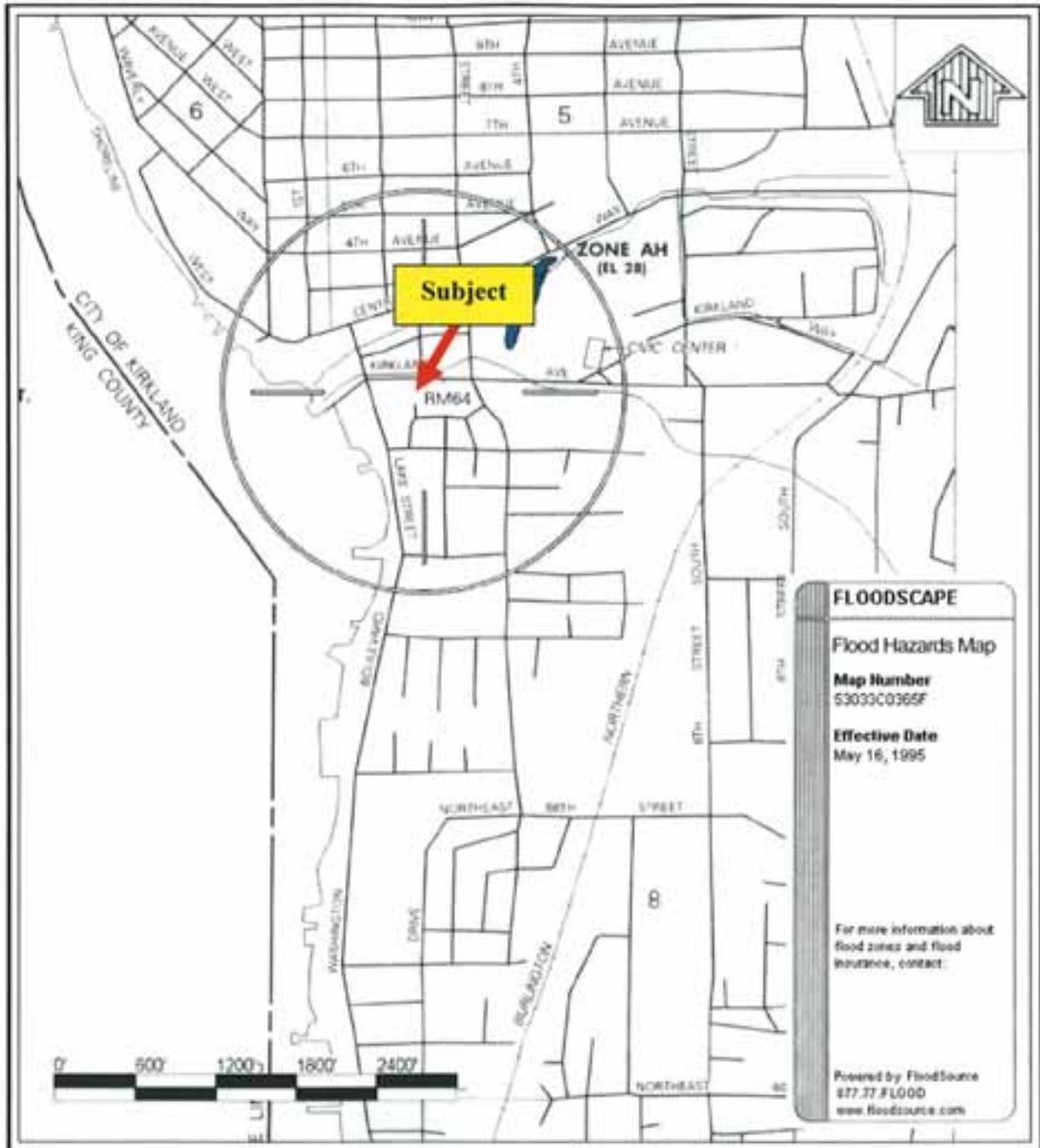


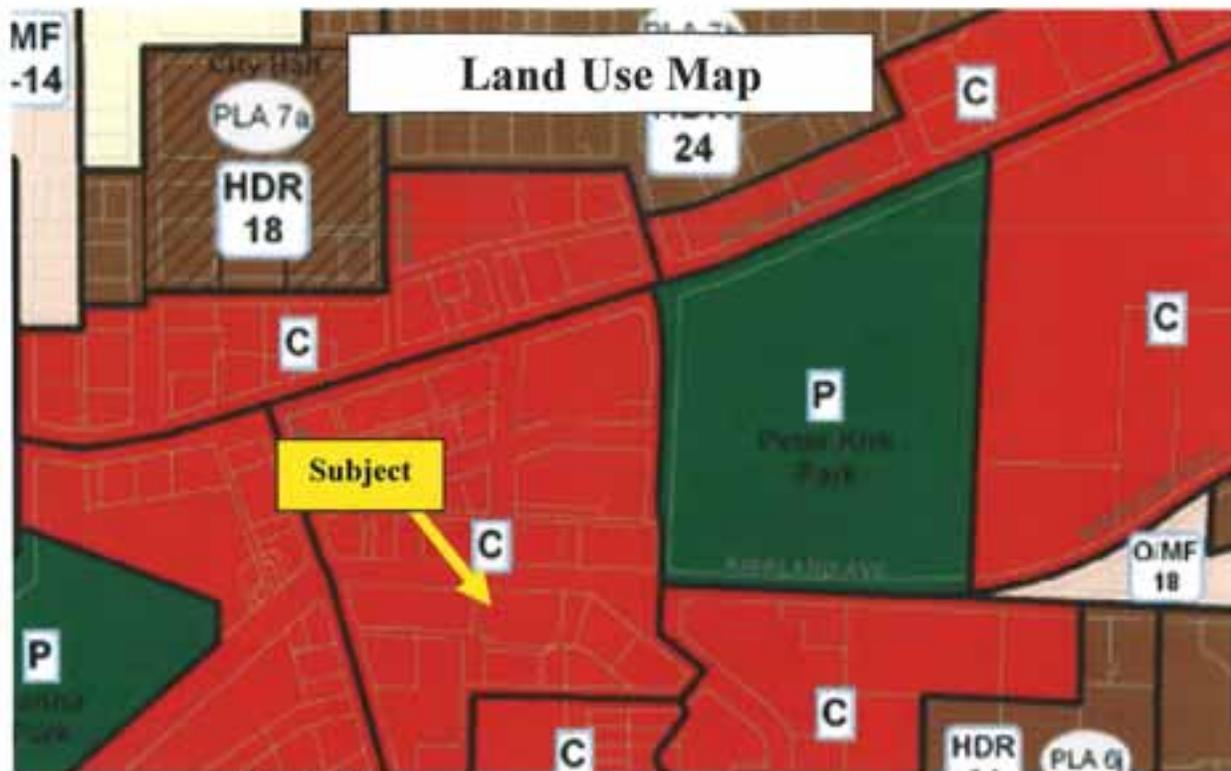
Zoning Map



MAPS

FLOOD MAP





**Bridle Trails  
State Park**

ORDINANCE NO. 4028  
ADOPTED by the Kirkland City Council  
December 13, 2005

**LAND USE CODES**

- C- COMMERCIAL
- IND- INDUSTRIAL
- LMP- LIGHT MANUFACTURING PARK
- O- OFFICE
- O/MF- OFFICE/MULTI-FAMILY
- HDR- HIGH DENSITY RESIDENTIAL
- MDR- MEDIUM DENSITY RESIDENTIAL
- LDR- LOW DENSITY RESIDENTIAL
- I- INSTITUTIONS
- P- PARK/OPEN SPACE
- BP- BUSINESS PARK
- RH- ROSE HILL BUSINESS DISTRICT
- NRH- N. ROSE HILL BUSINESS DISTRICT
- JBD- JUANITA BUSINESS DISTRICT

- COMMERCIAL
- INDUSTRIAL
- LIGHT MANUFACTURING PARK
- OFFICE
- OFFICE/MULTI-FAMILY
- HIGH DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- LOW DENSITY RESIDENTIAL
- INSTITUTIONS
- PARK/OPEN SPACE
- LAND USE BOUNDARIES
- SUBAREA BOUNDARY
- TOTEM CENTER
- PUBLIC FACILITIES
- PARCEL BOUNDARIES

(PLA) PLANNED AREA NUMBER

LDR ——— LAND USE CODE  
5' ——— DENSITY (UNITS/ ACRE)

NOTE: WHERE NOT SHOWN, NO DENSITY SPECIFIED  
\* INDICATES CLUSTERED LOW DENSITY

**SUBJECT PHOTOGRAPHS**

---



Facing East, Along Kirkland Avenue  
Subject property is on the right.



Facing South, Along Kirkland Avenue  
Subject property is to the left.

SUBJECT PHOTOGRAPHS

---



Facing South, From the Intersection of Main Street and Kirkland Avenue



Facing North, Towards the Intersection of Main Street and Kirkland Avenue

SUBJECT PHOTOGRAPHS

---



Facing West



Facing East

**SUBJECT PHOTOGRAPHS**

---



**Facing North, Stairs From Portsmouth Condominiums**



**Facing Southeast, Stairs Leading to Portsmouth Condominiums**

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## PROPERTY IDENTIFICATION - DESCRIPTIVE DATA

*This is a summary appraisal report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a summary appraisal report. As such, it presents summary discussions of the data, reasoning and analyses that were used in the appraisal process to develop the appraisers' opinion of value. Supporting documentation concerning the data, reasoning and analyses may be retained in the appraisers' file. The depth of discussion contained in this report is specific to the needs of the client and to the intended use stated below. The appraisers are not responsible for unauthorized use of this report.*

**CLIENT:** Ms. Janice Soloff, AICP  
Senior Planner  
City of Kirkland  
Planning & Community Development  
123 5th Avenue, Suite 206  
Kirkland, WA 98033-6189

**APPRAISERS:** James G. Poliyanskiy, Appraiser  
James B. Price, MAI, SR/WA  
Appraisal Group of the Northwest LLP  
1980 112<sup>th</sup> Avenue NE, Suite 270  
Bellevue, WA 98004

**SUBJECT:** Four pieces of land  
200 Block of Kirkland Avenue  
Kirkland, Washington

### IDENTIFICATION

#### Property Identification

The subject property consists of four parcels of land. The subject properties are located on the south side of Kirkland Avenue near the intersection of Kirkland Avenue and Main Street, in Kirkland, Washington.(See Parcel Map)

#### Ostensible Owner

According to the King County Assessor's records, the portion of the private property that is being dedicated is owned by SRM Development Company, the current owner of the larger parcel, according to a purchase and sale agreement.

---

### **Legal Description**

Legal descriptions of the parcels were not provided; however, the City of Kirkland has retained the legal descriptions in their files.

### **Identification/Parcel Number**

The dedicated land can be identified as 'Parcel – D'; however, it currently is a portion of the bigger lot that is identified by the tax parcel number 124400-0005.

The vacated land can be identified as 'Parcel – A', 'Parcel – B', and 'Parcel – C' which are a portion of the site plan map in the introduction section of this report.

## **MARKET OVERVIEW**

### **Marketing Time**

The term "marketing period" is defined by the Office of the Comptroller of the Currency as "the term in which an owner of a property is actively attempting to sell that property in a competitive and open market."

For purposes of this report, the term "market period" is defined as: a normal market period is the amount of time necessary to expose a property to the open market in order to achieve a sale. Implicit in this definition are the following conditions:

- The property will be actively exposed and aggressively marketed to potential purchasers through marketing channels commonly used by sellers of similar types of properties.
- The property will be offered at a price reflecting the most probable mark-up over market value used by sellers of similar property.
- A sale will be consummated under the terms and conditions of the definition of market value stated in this report.

Alternatively, marketing time is the anticipated time required to expose a property to a pool of prospective purchasers and to allow appropriate time for negotiation, the exercise of due diligence, and the consummation of a sale at a price supportable by market conditions.

Marketing times for properties with characteristics similar to the subject's may vary due to location and a realistic listing price. On the basis of the location, and interviews with local realtors, buyers and sellers, it is concluded that a reasonable marketing period for the subject, the marketing time would be one to six months.

### **Exposure Time**

The term "exposure time" is defined by the *Uniform Standards of Professional Appraisal Practice*, 2005 Edition, as the "estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective opinion based upon an analysis of past events assuming a competitive and open market." Exposure time differs from marketing time, in that exposure time is always presumed to precede the effective date of the appraisal.

Based on the supply and demand conditions as of the effective date of this appraisal, the exposure time for a property with characteristics similar to the subject, if placed on the open market at a reasonable list price, is estimated at one to three months.

### **Prior Sales**

According to the property owners and King County Assessor's records, the property (Including Parcel - A) was purchased on 01/31/2006 by the current owner SRM Development Company from Kenneth A. Dayton and Lynn E. Gitlin for \$10,000,000.

The public right-of-way (Parcels A, B, and C) has no known recorded transactions over the past 5 years.

## **REPORT CRITERIA**

### **Dates of the Inspection**

June 22 and July 7, 2006

### **Effective Date of Valuation**

July 7, 2006

### **Date of Appraisal Report**

July 26, 2006

### **Function of the Appraisal Report**

It is our understanding that the report will be used by the client as supporting documentation for a land exchange between private property and public right-of-way.

### **Purpose of the Appraisal**

The subject property consists of one piece of land being dedicated in exchange for 3 pieces of land being vacated by the city.

### **Property Rights Appraised**

The purpose of this appraisal is to estimate the market value of the fee simple interest in the subject property.

The appropriate ownership interest subject to the appraisal is the fee simple estate.

**Fee simple estate** is absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat. (The Appraisal of Real Estate, 12th Ed. (Chicago: Appraisal Institute, 2001; p. 68.)

### **Definition of Market Value**

Market value is defined as follows:

Market value is the most probable price a property should bring in a competitive and open market under all conditions requisite to a fair sale; the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. The buyer and seller are typically motivated;
2. Both parties are well-informed or well-advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

### **Scope of the Appraisal**

The scope of the investigation included the following:

A physical inspection of the subject property was performed. The appraiser also made an exterior inspection of the sales.

Economic issues influencing value were considered in the report, including market-related issues of supply, demand, and absorption.

Real estate brokers, leasing agents, city and county officials, principals, investors, and others knowledgeable in the market were interviewed by the appraiser to obtain data considered relevant to the analysis.

Social, economic, governmental, and environmental issues influencing value were considered in the analysis.

A complete highest and best use analysis was provided in the report.

The sales comparison approach was used to estimate the land value.

This report is intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP). It is intended to be a summary report. As such, a description and analysis of the region and city is included, together with a description of the immediate neighborhood. The description of the site and proposed project is thorough, but not in elaborate detail. The highest and best use analysis is complete. The report summarizes the development of one major approach to valuation: the sales comparison approach.

In the sales comparison approach, similar sale properties are described and analyzed in order to estimate the subject property's value by various physical units of comparison and to obtain an appropriate value estimate for the subject property. While the descriptions of the sale properties are summarized, the investigation and analysis are considered to be thorough. While much of the data, reasoning, and analyses used in the appraisal process are presented within the report, some supporting documentation is retained in the appraisers' file. The depth of discussion contained in this report is specific to the needs of the client and for the function, as stated previously. Reported sale information was confirmed through interviews with parties involved in the transactions.

#### **Unavailability of Information**

We were not provided with a soils report, structural engineering report, or an environmental report. This appraisal is based on the belief that none of this unavailable information would indicate the presence of any detrimental factors that would impact the value of the property, and if they do, we reserve the right to alter our value conclusion if necessary.

#### **Disclosure of Competency**

The appraisers have performed appraisals for a variety of properties throughout the Puget Sound region, and have had recent experience in the valuation of proposed projects similar to the subject. Please see the appraisers' qualifications in the Addenda.

## Assumptions

This appraisal is contingent upon the following assumptions:

1. The legal description is correct, and title to the property is good and marketable.
2. The title to the property is free and clear of liens or encumbrances.
3. The property has responsible owner(s) and competent property manager(s).
4. The information furnished by others is reliable, but no warranty is given for its accuracy.
5. All engineering is correct. (The illustrative material in this report is included only to assist the reader in visualizing the property.)
6. There are no hidden, unapparent conditions of the property, subsoil, or structures that render it more or less valuable. This includes any toxic waste or asbestos insulation that may be present. We take no responsibility for such conditions or for arranging for engineering studies that may be required to discover them.
7. There is full compliance with all applicable federal, state, and local environmental regulations and laws.
8. The property conforms to all applicable zoning and use regulations and restrictions.
9. All required licenses, certificates of occupancy, consents, and other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
10. The use of the land and improvements is within the boundaries or property lines of the property described and there is no encroachment or trespass.
11. We did not observe any hazardous materials, which may or may not be present, on the property. We have no knowledge of the existence of such materials on or in the property, but we are not qualified to detect such substances. The presence of such substances as asbestos, urea-formaldehyde foam insulation, and other potentially hazardous materials may affect the value of the property. The value is estimated under the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

---

### **Limiting Conditions**

This appraisal report is subject to the following conditions:

1. Any allocation of the total value estimated in this report between the land and the improvements applies only under the stated program of utilization. The separate values allocated to the land and buildings must not be used in conjunction with any other appraisal and are invalid if so used. Any value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless the proration or division of interests has been set forth in the report.
2. Possession of this report, or a copy thereof, does not carry with it the right of publication.
3. No appraiser, by reason of this appraisal, is required to give further consultation or testimony or to be in attendance in court with reference to the property in question unless prior arrangements have been made.
4. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of any appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraisers.
5. Appraisal Group of the Northwest and its associate appraisers and employees assume liability only to the client.
6. Appraisal Group of the Northwest and its associate appraisers and employees are not responsible for any costs incurred to discover or correct any deficiency in the property. If a lawsuit is instigated by a lender, partner, part owner in any form of ownership, tenant, or any other party wherein this report is used in evidence; in the disposition of any and all awards, settlements, or cost, regardless of outcome, Appraisal Group of the Northwest and its associate appraisers and employees will be held completely harmless.
7. No survey was furnished, so the county tax records were used to ascertain the physical dimensions and area of the property. Should a survey prove this information to be inaccurate, it may be necessary for this appraisal to be adjusted.
8. The forecasts, projections, or operating estimates contained herein are based on current market conditions, anticipated short-term supply-and-demand factors, and a continued stable economy. These forecasts are, therefore, subject to changes with future conditions.

9. This is a summary appraisal report that is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a summary appraisal report. As such, it presents only summary discussions of the data, reasoning and analyses that were used in the appraisal process to develop the appraisers' opinion of value. Supporting documentation concerning the data, reasoning and analyses is retained in the appraisers' file. The depth of discussion contained in this report is specific to the needs of the client and to the intended function stated previously. The appraisers are not responsible for unauthorized use of this report.

## **REGIONAL DATA**

The Central Puget Sound Region consists of four counties, with 82 cities and towns, located in Western Washington from west of Puget Sound to the western slope of the Cascade Range. This strip varies in width from 30 to 50 miles, with the length approximately 100 miles. The four counties in this region - Snohomish, King, Pierce and Kitsap - contain approximately 9% of Washington State's land area and over 55% of its population with 3,460,400 people.

### **Population**

King County has the greatest concentration of population in Washington State with an estimated 2006 population of 1,835,300. This county's largest city, Seattle, has approximately 578,700 residents. Snohomish County, to the immediate north of King County, has a population of 671,800 with its largest city, Everett, at 101,100 residents. Pierce County, adjoining King County on the south, has a population of 773,500. The largest city in this county, Tacoma, has 199,600 residents. Kitsap County, which is located across Puget Sound from Seattle, has a population of 243,400. While its largest city, Bremerton, has gained slightly in population this last year to 35,910, it is still lower than the 2004 population estimate due to the deployment of military personnel. The other cities in the county, Port Orchard, Poulsbo and Bainbridge Island, have continued to grow as more people move to the Kitsap peninsula. The Washington State Ferries, as part of the state highway system, provide commuters from Kitsap County access to the employment markets of the greater Seattle Metropolitan Area.

The trend in population growth from urban centers to suburban and outer areas has been reversing in recent years. Legislative attempts to deal with problems associated with growth and sprawl resulted in the Growth Management Act passed in 1990. Urban areas are starting to encourage residential projects as a way of stemming urban decay and providing attractive urban multi-family living and, as traffic worsens and fuel costs continue to rise, more people want to take advantage of shorter commute times. A greater emphasis on exercise for general health has also sent many residents back to cities with more pedestrian-friendly neighborhoods. The residential market continues to be strong, putting pressure on property values as well as providing more revenue in taxes. The City of Seattle has recently passed new zoning laws to encourage higher density in the downtown area. Reducing growth in non-urban areas has been addressed recently in King County by the Critical Areas Ordinance recently passed, which has been hotly debated among rural residents.

### **Topography and Climate**

The Cascade Mountains divide the western part of Washington State from the colder winters and hotter summers of Eastern Washington. The Olympic Mountains to the west protect the Puget Sound basin from the heavy rainfall and high winds along the coast. Consequently, the area has a relatively mild climate year-round with average

daytime temperatures between 46° and 75° Fahrenheit, and an average annual rainfall of 41 inches.

### **Economy and Employment**

From March 2005 to March 2006, 71% of the job growth originated in the Puget Sound region. The following table illustrates the top 20 employers in the region:

Top Employers (full-time only)			
Company	# of Employees	Company	# of Employees
The Boeing Company	63,804	Multicare Health Systems	5,546
Microsoft Corporation	30,255	Bank of America	5,463
University of Washington	21,358	Nordstrom's, Inc.	5,349
Kroger Co. (Fred Meyer & QFC)	17,300	Seattle School District	5,125
Starbucks Corporation	8,806	Macy's Northwest	4,905
Providence Health	8,499	Safeway, Inc.	4,881
Group Health Co-op	8,422	Sears, Roebuck & Co.	4,173
Washington Mutual Inc.	7,968	Safeco Corporation	3,700
Weyerhaeuser Co.	10,000	Swedish Health Services	3,583
Costco Wholesale Corp.	6,526	Paccar Inc.	3,000

\*Puget Sound Business Journal Book of Lists 2006; [www.entrprisescattle.org](http://www.entrprisescattle.org); [www.boeing.com](http://www.boeing.com)

The aerospace industry continues to provide the greatest number of the area's jobs, with the Boeing Company, the world's largest aircraft manufacturer, employing over 63,000 in the Puget Sound region. Although Boeing did move their headquarters out of Washington State, the commercial manufacturing division is still located in the Puget Sound area. Everett was chosen as the final assembly point of the new 7E7, generating an estimated 800 to 1,200 new jobs. Plus, with new orders for the 737 which is manufactured in Renton, Washington, more hiring was required at that site. Although Boeing's dominance in the economy has declined as growth has increased in such sectors as international trade, computer and medical technology, tourism, and natural resources, its size and influence on the Puget Sound Region is still significant.

Since companies here sell into national markets, the state of the national economy has a bearing on the local economy. But the economy is expanding, especially due to tourism, technology and construction. By March 2006, the Puget Sound area had an average unemployment rate of 4.85%, slightly below the national rate of 5.0%. Washington State's overall rate is 5.3%.

### **Import/Export Trade**

In 2004, Washington State ranked 5th in the nation in terms of overall exports value (behind only Texas, California, New York and Michigan in that order) with 209 foreign destinations. The total value of merchandise exports from Washington State exceeded \$34 billion in 2004. Nearly three-quarters of Washington's exports are from the central Puget Sound region. Washington State is the most trade-dependent state in the nation - one out of three jobs is related to international trade.

The Port of Seattle is a municipal corporation originally created in 1911, by the voters of King County. It is a public enterprise with unique authority operating in an international, market-driven environment. The Port of Seattle's vision "is to be the most effective and respected provider of transportation facilities and services to promote international trade and commerce, and to be the best publicly-owned catalyst for sustained regional prosperity in the nation. Our services and facilities accommodate transportation of cargo and passengers by air, water and land; provide a home for the fishing industry; and foster regional economic vitality and a quality life for King County citizens."

### Maritime Industry

The Ports of Seattle and Tacoma have developed modern containerized cargo facilities and have become world-class facilities that, combined, move the 2nd largest container load center in the Western Hemisphere and the eleventh largest in the world. This area is ideally positioned to connect the northern half of the United States with Alaska and the Pacific Rim countries. Puget Sound is a full day closer in sailing time to most Asian ports than Los Angeles and Long Beach.

Japan	6.3
Canada	4.0
China	3.0
Korea	2.0
Ireland	1.5
Singapore	1.4
France	1.2
United Kingdom	1.0
Australia	1.0
Netherlands	0.9

Source: World Institute for Strategic Economic Research

The Port of Seattle is a leading gateway for Washington State and the nation. The Port was North America's fastest growing container port in 2005, the second year in a row it has grown faster on a percentage basis than any other U.S. port. The Seaport's 2,088,000 TEUs that crossed the Port's docks in 2005 marked a 17.6% increase over the previous year. The Port has invested nearly \$1 billion in its maritime facilities and infrastructure over the past 12 years. Facilities at Terminal 46 in Seattle recently underwent a \$12.5 million upgrade, and now have state-of-the-art electronic cargo-handling equipment to move freight from Hanjin's worldwide shipping operations. Hanjin Shipping, recently signed a lease keeping them at their present location through 2015, with options for an additional 10 years. The 32-acre Terminal 25 is scheduled to reopen for container handling in July 2005. The Port has been requested to improve the northern terminal apron of Terminal 18 to accommodate larger cranes.

To the south in Pierce County, the Port of Tacoma has approved a five-year capital improvement plan implemented between 2003 and 2007. The Port of Tacoma is spending up to \$341 million on new projects and investments to meet the needs of its

existing customers and to attract additional new customers. More than 28,400 jobs in Pierce County are related to Port of Tacoma activities. The Port invested \$95 million in capital projects in 2005, highlighted by the grand opening of three new and renovated container terminals – Pierce County Terminal (Evergreen Marine, Hatsu Marine and Lloyd Triestino), Husky Terminal ("K" Line) and Olympic Container Terminal (Yang Ming Line). A recent study indicated that over 43,000 family-wage jobs are related to Port of Tacoma activities.

### Air Freight

Sea-Tac International Airport is the country's 28th busiest cargo airport and offers almost 900,000 square feet (85,000 square meters) of cargo warehouse, airmail, and office space for the dynamic mix of domestic and international air cargo activity, totaling 338,591 metric tons in 2005. The airport also has more than 1.5 million square feet of aircraft parking apron.



[www.portseattle.org/business/airport/aircargo.shtml](http://www.portseattle.org/business/airport/aircargo.shtml)

### Transportation

Transportation in the area is facilitated by several local and interstate highways. Interstate Highway 5 connects the Seattle Metropolitan Area with most of the other regional economic centers along the West Coast. Interstate Highway 90, which connects with Interstates 5 and 405, provides access to markets in the East. Interstate Highway 405 and State Highways 167, 509, and 99 provide alternate routes.

The Seattle-Tacoma International Airport is located west of Interstate Highway 5, midway between Seattle and Tacoma. For business or pleasure, Sea-Tac Airport serves over 29 million passengers annually, one in 10 of them on an international flight to such destinations as Europe, Central America, and Asia. Seattle is equidistant between Tokyo and London at approximately 9 hours each way. The Port is completing a \$4.1 billion airport expansion program, including the new airport subway system, completion of the third runway, scheduled to be fully completed in 2008, and the Central Terminal, which opened May 2, 2005, and features the Pacific Marketplace, a dining and shopping mall with 20 restaurants and cafés, bookstores, museum shops and other retail stores.

### **Railroads/Heavy Commuter Rail/Light Rail**

There are three major rail lines running through the region: Amtrak, Burlington Northern, and Union Pacific. Rail lines extend north to Canada, south to Oregon and California, and east over the Cascade Mountains to the East Coast.

Commuter transportation in the area is predominantly highway travel. However, with the recent emphasis on such problems as traffic congestion and cost of fuel, a regional rapid transit system (Sound Transit) connecting various population centers was proposed and funded by popular vote. This system is designed to be a combination of buses, light rail and commuter rail linking the region together. The construction is currently underway for the 14-mile segment of the light-rail system between downtown Seattle and Sea-Tac Airport, and by the end of 2009, it is projected that the passengers will be able to ride the new Sound Transit light rail from downtown Seattle to the airport in 33 minutes. The Sounder heavy-rail commuter train operates a train service from Tacoma to Seattle, stopping at stations in Puyallup, Sumner, Auburn, Kent and Tukwila. A service from Everett, in Snohomish County, to Seattle is also underway, stopping at a station in Edmonds and then continuing on to Seattle. Tacoma's light rail system, the Link, opened in August 2003 at a cost of \$80.4 million. It provides free shuttle service across the downtown area, serving Freighthouse Square and the Tacoma Dome, the University of Washington – Tacoma, the new convention center, and the Theater District, over a 1.6-mile route. The Link has connections with Sound Transit weekday rail service to Seattle at Tacoma Dome Station.

### **Education**

In the Puget Sound region, there is the University of Washington in Seattle and its branch campuses in Bothell and Tacoma, eight private colleges and universities, and 17 community and technical colleges. Of residents 25 years and older, nearly 90% have completed high school, and the percentage of those who have received bachelor's degrees or higher is 35%, although in King County, it is 40%. In November 2005, Seattle received the No. 1 ranking of "America's Most Literate Cities" from Central Connecticut State University's annual survey based on six factors: a city's number of bookstores per population, educational attainment, newspaper circulation, the number of journals and magazines published there, library holdings and usage and an Internet category, which measures the number of Internet book orders per capita and the percentage of adults who've read a newspaper online, plus the number of library Internet connections and public wireless access.

### **Tourism**

With the Puget Sound's picturesque setting, easy access to both the water and the mountains, and diversity of recreational amenities, the tourist and convention industries have grown rapidly. Tourism is the fourth largest industry in the state. There are 80 hotels in the Puget Sound region with conference or convention meeting space and 28,000 hotel rooms. Leisure and hospitality services provided 104,300 jobs to the region during 2005.

The Port of Seattle is focusing on three overseas tourism markets with the most potential for the region: Japan, the United Kingdom and France. In 2004, 8.73 million visitors to King County spent nearly \$4 billion. Also, in 2006, the new cruise ship industry in Seattle will welcome nearly 200 cruise-ship visits with nearly 735,000 in total passenger volume for an 18% increase in cruise-ship traffic. Five cruise ship companies are served at the Seattle waterfront.

### **High Technology**

The high technology industry has been a fast-growing employment base in the regional economy. There are many companies dealing in computers, software, biotechnology, and medical technology, including Microsoft, Nintendo, Advanced Digital Information Corporation, Amgen, Icos, Cell Therapeutics, Inc., and the Fred Hutchinson Cancer Research Center. The area provides: a favorable environment for these companies because of its well-educated work force; a quality of life that is attractive to out-of-state workers; a major research university, the University of Washington, which ranks fourth in the nation in corporate grants for scientific research; and the technical training grounds that such companies as Microsoft and Boeing provide. One in 4.5 jobs in the State is dependent on technology-based industries. There has been a major emphasis on attracting biotechnology companies to the region, especially at facilities on Lake Union owned by Paul Allen, as well as at the University of Washington.

### **Summary**

The Puget Sound region has an unemployment rate similar to the national average, and the job market is continuing to expand. Due to location and a highly educated workforce, this area remains competitive in creating and sustaining white collar industries and global trading relationships which make long-run contributions to growth.

### **KIRKLAND AND NEIGHBORHOOD DATA**

The immediate neighborhood is known as Moss Bay, or Downtown Kirkland, a community oriented towards Lake Washington. The neighborhood composition includes good-to-luxury quality condominiums or homes, often taking advantage of the good view amenity. Peter Kirk Park is a few blocks northeast of the subject property, providing good recreation opportunities.

The Moss Bay neighborhood is the central neighborhood for Kirkland and encompasses the downtown business district. Moss Bay is bounded by the properties along Central Way (from the waterfront to Kirkland Way), the Burlington Northern Railroad/Kirkland Way on the east, NE 68th Street on the south, and the waterfront on the west. While the neighborhood is dominated by the commercial activities associated with Kirkland's Downtown, there is considerable residential development. The area contains a wide variety of land uses, including offices, well-established single-family areas, large-scale multifamily development, a baseball facility, a post office and a railroad, and downtown retail businesses. A major policy emphasis for the Moss Bay neighborhood is to encourage commercial activities in the

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Central Business District, and to expand "close-in" housing opportunities by encouraging medium- to high-density residential uses in the perimeter of the CBD.<sup>1</sup>

The subject is located in the downtown core, a waterfront community in the city of Kirkland west of Interstate 405. There is neighborhood shopping located in close proximity to the subject and the other commercial districts are stretched along the length of Central Way NE, Market Street, and Lake Street. Grocery and related retail outlets immediately surround the subject property.

A neighborhood can be defined as an area of complementary land uses. A neighborhood's boundaries identify the area that influences the value of the subject property. This area is mixed use in nature, with retail services, some commercial office space, condominiums, apartments and single-family residences. Interstate 405, Market Street, and Lake Street provide the major north/south routes. East/west arterials include Central Way, NE 85<sup>th</sup> Street and Kirkland Avenue.

The subject property is located in the established commercial district of Downtown Kirkland, in central Kirkland, Washington. Kirkland is situated along the Interstate 405 corridor in north King County. The surrounding communities of Bothell, Kenmore, Redmond and Woodinville are located in the north portion of King County, east of Lake Washington. There are connections to Interstate 405 at NE 116<sup>th</sup> Street and NE 124<sup>th</sup> Street, with Interstate 405 leading south to Bellevue and north to Lynnwood. Interstate 405 intersects with Highway 520, about 5 miles south, which runs west to downtown Seattle.

Kirkland is located along the east shore of Lake Washington with seven waterfront parks. These parks provide popular recreation sites, along with a marina in downtown Kirkland. Downtown Kirkland is a very popular pedestrian area with many shops, restaurants and art galleries. Kirkland and Juanita are also the location of many newer condominium projects, both on the waterfront and with Lake Washington views.

In summary, the City of Kirkland has emerged over the last 20 years to become a region extremely popular for residential development. Commercial growth has matched the residential growth, providing goods and services as well as entertainment and recreation opportunities. The collective physical and social environment of the subject neighborhood, within the context of Kirkland's future development trends, is conducive to continued economic vitality for the foreseeable future.

In conclusion, the subject is in an established residential neighborhood with a mix of single-family residences, rental apartments and condominium units. Overall, this area has traditionally been in strong demand for both owner-occupied and rental housing due to its proximity and good vehicular access to Interstate 405, with access about one mile away from the subject. This close proximity to the interstate, combined with the very popular Kirkland amenities, creates a strong market appeal.

The subject's neighborhood is almost 100% built out with very little vacant land available for development, and new construction is typically preceded by demolition of existing structures. The subject neighborhood is considered to be mature and stable with no major changes in land use in the foreseeable future.

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<sup>1</sup> City of Kirkland Website – Kirkland Permits Section

The typical buyer of properties similar to the subject will continue to be a developer, due to the lack of vacant land available.

## CONDOMINIUM/TOWNHOUSE MARKET OVERVIEW

Being fueled by low interest rates the regional housing market has remained relatively strong. Overall, housing sales activity has maintained consistent levels for both resale properties and new construction. Current market conditions suggest a continuation of price appreciation, especially for affordable housing, priced below \$500,000.

Statistics demonstrate strong evidence of a growing condominium and townhouse market throughout most of King County. Projects developed over recent years have, in general, performed well. As single-family housing prices continue to trend upward, more buyers will likely turn towards condominium ownership. Condominium housing has gained market acceptance over the past decade, and in most market areas, new construction sales of condominium units have been outpacing that for detached single-family housing. The trend in most markets is primarily fueled by affordability as many buyers have been priced out of the detached single-family housing market. According to statistics compiled by the Northwest Multiple Listing Service, over the past several years, the Kirkland Area market has been one of the strongest condominium and townhouse markets in King County.

The typical buyer profile for condominiums and townhouses is usually weighted toward single professionals, and move-down buyers. Single-family housing in the greater Kirkland area is becoming increasingly difficult to afford, and many buyers are now looking toward condominiums or townhomes as a reasonable alternative, particularly in new construction. Many condominium units in the Kirkland neighborhood have sold on a presale basis, before construction was completed.

## SITE DESCRIPTION

### Location and Access

The subject site is located on the southern side of the 200 Block of Kirkland Avenue at the intersection of Main Street and Kirkland Avenue, approximately one mile west of Interstate 405, a major access route. The address for the property is 201 Kirkland Avenue. Access to the site is via Kirkland Avenue.

### Shape, Size, Topography and Physical Characteristics

Dedicated Land	Size (SF)
Parcel- D	3,673

The private property being dedicated is located on the southeast corner of Kirkland Avenue and Main Street. The site, Parcel – D, located along Kirkland Way, is level and at street-grade; however, it is generally sloping down to the west.

Vacated Land	Size (SF)
Parcel - A	1,041
Parcel - B	2,085
Parcel - C	241
<b>Total</b>	<b>3,367</b>

There are two alleys affected by this vacation request. One is in the center of the property that, along with an easement, provides access for surface parking for the property and five spaces for the public. The sites designated as Parcel - B and Parcel - C are level and at street-grade; however, they are generally sloping down toward the lake.

The other runs north/south from Kirkland Avenue and is 22 feet on the northern and southern boundaries and 45 feet on the east and west boundaries. The site designated as Parcel - A is generally level on the northern half of the site. On the southern section of the vacated portion the site's topography elevates from approximately 40 feet above sea level to nearly 52 feet above sea level. (Please refer to Topographical Map for visual illustration)

#### **Improvements**

The land to be dedicated and vacated is improved with asphalt and marked parking stalls. All of these improvements are to be razed for the planned development.

#### **Easements and Encroachments**

After a review of the title report and from visual observation, it is apparent that the land is owned free and clear and does not have any adverse easements or encroachments that would affect the value of the subject site. The Title Report is included in the Addenda section of this report.

#### **Soils, Drainage and Toxic Hazards**

A soil report was not provided for review. The existing improvements were originally constructed in 1939 and 1940 on Parcel 124400-0005 to the immediate east of 'Parcel D', and show no sign of soil subsidence or weakness.

No indications of toxic hazards were observed; however, detailed analysis of such potential is beyond the scope of this appraisal. Due to the ages of the buildings, it is likely that asbestos abatement will be required prior to demolition of the existing structures; however, that determination is beyond the scope of this report.

The property was historically used as an auto service facility and may require a Level 2 soils assessment. It is assumed that the soil conditions are stable, adequately drained, able to support the improvements under the highest and best use, and are free of toxic materials.

### Identification of Possible Flood Hazard

The subject property is not located in a Federal Emergency Management Agency (FEMA) designated hundred-year flood hazard zone. (See Flood Map)

### Utilities

The subject has adequate public utility services for general commercial and residential purposes. Electricity, gas, telephone, water, sanitary sewer, and refuse collection are all available.

### Assessed Valuation and Taxes

For 2006, the King County Assessor's records show the larger property's assessed values as follows:

Parcel ID	Land	Improvements	Total	Taxes
124400-0005	\$ 1,335,600	\$ 1,364,900	\$ 2,700,500	\$ 27,013.58
124400-0120	\$ 562,700	\$ -	\$ 562,700	\$ 6,225.60
124400-0110	\$ 264,500	\$ -	\$ 264,500	\$ 2,506.58
		Total	\$ 3,527,700	\$ 35,745.76

Taxes may include Surface Water Management, Noxious Weed Control, Conservation, and/or State Forest Fire patrol fees. LID charges, if any, are not included.

The dedicated land is the west 3,673 square feet of Parcel 124400-0005.

The vacated land is public right-of-way and is not taxed.

### Zoning

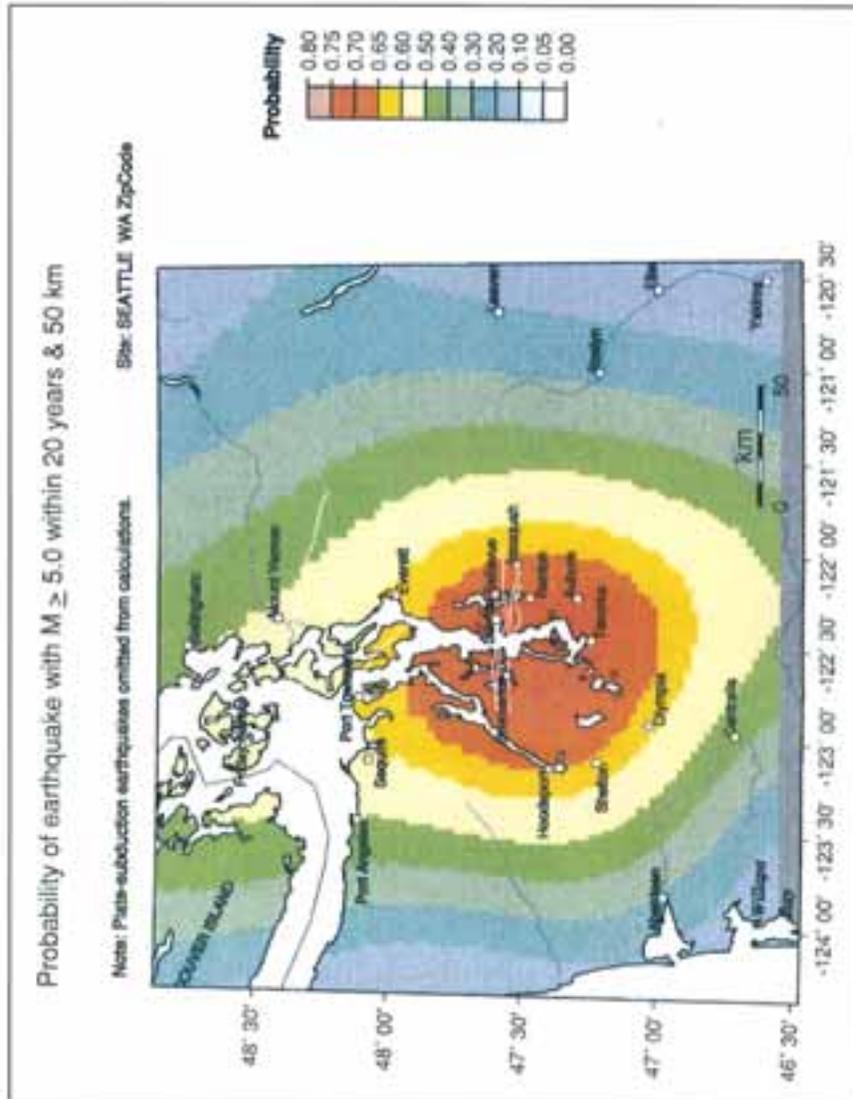
The subject lots are zoned CBD-1, a Mixed-Use zoning designation by the City of Kirkland. This zoning district encourages a variety of professional office and mixed-use commercial development along populated arterials, including office use and business support services, banking and related financial services, hotel or motel, entertainment, cultural and/or recreational facility, fast food restaurant, private club or lodge, stacked or attached dwelling units, school, day-care center, assisted-living facility, retail development, public utility, government facility, community facility, or a public park. The lot coverage allowed is 100%. Maximum structure height restriction is from 2 to 5 stories above each abutting right of way. Buildings exceeding two stories must demonstrate compliance with the design regulations of Chapter 92 KZC and all provisions contained in the Downtown Plan. The City will determine compliance with these requirements through Design Review (D.R.).

### Earthquake Probability

An earthquake zone for the subject property area has not been assigned, based upon interviews with the City of Seattle Planning Department and the University Of Washington Seismology Department.

There is a 70 to 75 percent probability of a 5.0 earthquake within a 20-year period, per USGS Earthquake Hazards Program.

### Earthquake Probability Mapping



## HIGHEST AND BEST USE ANALYSIS

The highest and best use of a property is defined in The Appraisal of Real Estate (Twelfth Edition; Chicago: Appraisal Institute, 2001; p. 305), as “the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.”

Highest and best use analysis is a method of inquiry in which the optimum use of a property, in light of market conditions, is determined. Because the price that potential purchasers consider feasible to pay for a property tends to be based on the use they plan for it, the highest and best use of the property is a major factor affecting its market value. This concept aids in determining what improvements should be constructed on a site if it were vacant, and how any present improvements can best be utilized.

Land may be analyzed “as though vacant” and “as improved” to determine its highest and best use. The highest and best use of a site as though vacant may be different from the highest and best use of the same property as presently improved. For example, although a site may have a particular highest and best use if it were vacant and available for new development, the current use may be retained so long as the existing improvements continue to contribute to the overall value of the property.

To determine the highest and best use of a property, four significant factors are analyzed. These are the possible uses that are: (1) legally permitted, (2) physically possible, (3) economically feasible, and (4) maximally productive.

### HIGHEST AND BEST USE – AS VACANT LAND:

***Physically Possible:*** The use to which a site can be developed can be affected by its size, shape, topography, access, and soil type.

**Dedicated Land:** The dedicated land of the larger lot is an irregular-shaped site (Parcel - D) with the northern portion resembling a rectangle and extending south with a 69.88-foot-long by 7.24-foot-wide narrow rectangular strip of land on the southeast portion with a total of 3,673 square feet. The land is at street grade with ingress and egress from the fronting Kirkland Avenue. All utilities are available to site.

**Vacated Land:** The site to be vacated is a long narrow lot (Parcel - B and Parcel - C) containing a total of 2,326 square feet and a nearly rectangular-shaped lot (Parcel - A) containing an area of 1,041 square feet. Both sites are level at the street grade with ingress and egress from the fronting streets. All utilities are available. Both of the vacated sites are limited by their size for a stand alone development.

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**Legally Permissible:** The legal factors which can influence the highest and best use of the subject can include governmental regulations such as zoning and other land ordinances, environmental regulations and building codes. Other factors to consider would be easements and encumbrances, which impact or restrict the use of the subject site.

Dedicated Land Any existing easements, encumbrances and permits, when considered in relationship to the other characteristics of the property, such as commercial zoning, size or soils, do not appear to hinder the development of the site.

Vacated Land: Any existing easements, encumbrances and permits, when considered in relationship to the other characteristics of the property, such as commercial zoning, size or soils, do not appear to hinder the development of the site.

***Financially Feasible:***

Dedicated Land: The most financially feasible use of the subject site, if vacant, is to include it with a mixed-use development. The density of this project should be the maximum allowable under the current zoning. The subject has plans under review with a proposed FAR of 3.02. Other projects reviewed within the course of this appraisal assignment have had FARs ranging from approximately 1.8 to 4.1. Consequently the subject FAR is at the upper end of the range. Therefore, the proposed subject development represents the most financially feasible use of the subject site.

Vacated Land: As stated above, the most financially feasible use of the subject site, if vacant, is to develop with a mixed-use development.

***Highest Value:***

Dedicated Land: The subject site, as a small site, is not suited for development possibilities that would maximize productivity. The lot location, and supporting infrastructure indicate a mixed-use development, with first floor retail services and residential dwelling units on the upper floors.

Vacated Land: The subject sites, as small parcels, are not suited for development possibilities that would maximize productivity. The lot's location and supporting infrastructure indicate a mixed-use development, with first floor retail services and residential dwelling units on the upper floors.

***Conclusion of Highest and Best Use:***

Dedicated Land: Considering the location of this property, its zoning, surrounding land uses, and current land-use trends in the area, the likely highest and best use of the site, assuming it were vacant and available for development, is to include it as part of a larger project.

Vacated Land: Given the location of this property, its zoning, surrounding land uses, and current land-use trends in the area, the likely highest and best use of the sites, assuming they were available for development, is to assemble the three lots together with the larger adjacent site and to improve them with a mixed-use development with retail at street level and residential units above that maximizes the density allowed under the current CBD-1 zoning designation.

**HIGHEST AND BEST USE – AS IMPROVED:**

The subject properties are only improved for parking, which will be removed for the proposed development.

## **APPRAISAL TECHNIQUES**

There are three distinct approaches to valuing property: the cost approach, the sales comparison approach, and the income capitalization approach. Depending on the type of property and the data available, one or more of these approaches are used in any valuation assignment. The highest and best use would be to remove the existing improvements; therefore, this is a valuation of land only. As a result, the cost and income approaches are not applicable and are not included in this report. Consequently, only the sales comparison approach will be used in valuing the site.

## **SALES COMPARISON APPROACH**

In the sales comparison approach, the value of a property is estimated by comparing it with similar properties in its market area. This approach is based on the premise that the value of a property is set by the prices of equally desirable substitute properties in the same area.

### **PROCEDURE**

Recent sales of similar and competing properties are selected for comparison with the subject property. An appropriate unit of comparison is determined (e.g., entire property, price per unit, price per square foot, price per room, etc.), and adjustments are made to each comparable sale in order to account for value differences between these properties and the subject. The adjustments are made for such property and transaction characteristics as financing terms, conditions of sale, date of sale, location, and physical attributes. The result of appropriate adjustments applied to sales of comparable properties should be a relatively narrow indicated value range. From within this range, a specific estimate of the subject property's value is often selected.

A thorough research for recent sales in the subject and competing neighborhoods was completed. These sales are summarized in the table on the following page and discussed in more detail on the following pages. In comparing the subject with the comparable sale properties, the most widely recognized and market-oriented unit of comparison for properties such as the subject is the price per square foot. After being inspected, confirmed, and analyzed for their applicability and comparability with the subject, three sales were selected as the best indicators of value for the subject. Finally, a conclusion regarding the subject's market value by the sales comparison approach is formulated.

Based on conversations with developers, real estate agents familiar with the subject area, and with the City of Kirkland's Planning and Development Services, we have concluded that a retail and residential mixed-use building would be economically feasible. This conclusion is based on local supply and demand conditions, zoning restrictions and recent past history of development of similar commercial sites in the downtown Kirkland area.

The following elements of comparison were considered and adjusted, as appropriate, to the subject: property rights conveyed, financing, conditions of sale, market conditions, location, and physical characteristics. A map and a summary table of the comparable sales market data are presented on the following pages. Photographs are also enclosed with a description of sales.

## LAND VALUATION

The most common method for valuing land, and the preferred method when adequate sales data are available, is the sales comparison approach. In this approach, the value of the site is estimated by comparing it with sales of similar parcels of land. For market value purposes, the site is always valued as if vacant and available for development to its highest and best use.

The subject property consists of parcels zoned for mixed-use development which is located in the Commercial Business District (Downtown) area of Kirkland. Due to their physical, legal, and economic characteristics, public road right of way and small parcels of land, such as that which is being dedicated, are rarely sold on the open market. The size and shape of the parcels does not lend itself to alternative industrial, commercial, or residential use except when combined, or assembled, with an adjacent parcel through vacation. Therefore, the utility, and hence market value, of the subject right of way is most properly measured in terms of its contributory value to the adjacent property to which it would be assembled once vacation is completed.

Instead of valuing the subject parcels as a separate and independent physical, legal, and economic entity, market value is estimated using the "across the fence" valuation methodology. Using this valuation technique, the market value of the parcels to be vacated and dedicated is based upon the market value of those adjacent and contiguous parcels that will receive the vacated and dedicated segments. The "across the fence" methodology is based on the valuation premise that the land within the right-of-way segment, once vacated, will assume a similar unit value as that of the adjacent property. This methodology assumes that the adjacent property, under combined ownership with the vacated right of way, has a common unit value if vacant and available for development.

The "across the fence" valuation process employs the Sales Comparison Approach. Comparable land sales and listings are identified that represent similar physical, legal, and economic characteristics as those of the adjacent parcel receiving the vacated right of way. Based upon the analysis of these various transactions, the market value of the subject parcels is estimated. The market value conclusion is expressed as a unit value (price per square foot of land area) that is finally applied to the subject parcels as an indication of their market value.

A search for similar sales was conducted throughout this area. Three such closed sales, including the major portion of one of the subject properties were found. These properties are summarized in the table below, and a land value conclusion is subsequently derived.

## COMPARABLE LAND SALES

*Subject*  
*Kirkland Way & Main Street*  
*Kirkland, Washington*

Parameter	Subject	Sale #1	Sale #2	Sale #3
Sale Price	N/A	\$ 6,500,000	\$ 6,975,000	\$ 8,890,000
Address	200 Block of Kirkland Ave	355 Kirkland Ave	320 2nd Ave S	255 Central Way
Location	Kirkland	Kirkland	Kirkland	Kirkland
Date of Sale	N/A	1/24/2005	1/27/2006	2/17/2005
Zoning	CBD-1	CBD-3	CBD-3	CBD-1
Lot Size (SF)	Private Property/Public R/W	72,000	67,279	62,415
Proposed FAR	3.02	1.87	1.97	N/A
Price of Land	N/A	\$ 7,670,000	\$ 7,393,500	\$ 10,401,300
Price Per/SF	N/A	\$90.28	\$103.67	\$142.43



**Comparable Land Sale No. 1**



**355 Kirkland Avenue, Kirkland, WA**



**Comparable Land Sale No. 2**



**320 2<sup>nd</sup> Avenue South, Kirkland, WA**



**Comparable Land Sale No. 3**



**255 Central Way, Kirkland, WA**



## ANALYSIS OF COMPARABLE LAND SALES

Each sale property is compared to the subject by making adjustments for variations in such physical and economic features as site size, zoning, date of sale, location, and various other characteristics. These adjustments are applied to a unit of comparison, which in this case, is the sale price per square foot. Adjustments should not be interpreted as being absolute, but rather are included for illustrative purposes, and reflect an attempt to systematize the comparison of the subject and sale properties.

### Discussion of Comparable Sales

The preceding chart presents the comparable sales indicating sale price per lot. Based upon this, the sales indicate property values ranging from \$90.28 to \$242.04 per square foot, before adjustments for factors such as utilities, shape and other characteristics.

**Comparable Sale No. 1** is located at 355 Kirkland Avenue, Kirkland, a block west of the subject property and is now named Kirkland Boardwalk. This property is under construction with a mixed-use building. At the time of sale, the improvements were at the end of their economic life, and did not constitute highest and best use of the land. The property was purchased for land value only. The mixed-use building will have retail space on the ground floor and condominium units on the upper 3 floors. It will house 119 units totaling 125,809 square feet plus there will be 8,836 square feet of retail space. The project will provide 175 parking stalls. The property has frontage on Kirkland Avenue. All public utilities are available to the site.

The comparable sale's location, access, zoning, shape, view, and topography are considered similar to those of the subject; therefore, no adjustments for these factors were made. An upward adjustment was made for time. No adjustment was required for demolition cost of existing improvements because they were considered negligible because in the context of the overall price the cost is miniscule. All utilities are available to the site and no adjustment is warranted. Development densities are typically compared using floor-area-ratios or FARs. FAR is an indicator of the density of development on a given parcel or area. A FAR is determined by calculating the gross building square footage as a percentage of total land area. This comparable sale's FAR is 1.87 while the subject Floor Area Ratio is 3.02. An upward density adjustment was made based on FAR calculation. After making all the necessary adjustments, this sale indicates a value for the property of \$278 per square foot.

**Comparable Sale No. 2** is located at 320 2<sup>nd</sup> Avenue South, Kirkland, a block southeast of the subject property and is now named State Street. This property is under construction with a residential building. At the time of sale, the improvements were at the end of their economic life, and did not constitute highest and best use of the land. The property was purchased for land value only. The residential building will have 128 units covering 132,713 square feet. The project will also provide 168 parking stalls. The property has frontage on State Street and 2<sup>nd</sup> Avenue South. All public utilities are available to site.

The comparable sale's access, zoning, shape, view, and topography are considered similar to those of the subject; therefore, no adjustments were made. An upward adjustment was made for time. A downward adjustment was made for inferior location. All utilities are available to the site and no adjustment is warranted. Demolition cost of current improvements was considered negligible and in the context of the overall price it is miniscule. This comparable sale's FAR is 1.97. An upward density adjustment was made based on the FAR calculation. After making all the necessary adjustments, this sale indicates a value for the property of \$261 per square foot.

**Comparable Sale No. 3** is located at 255 Central Way, Kirkland, a block northwest of the subject property. At the time of sale, the improvements were in average condition for their age; however, their use did not constitute the highest and best use of the land. The property was purchased for land value only. The property has four one-story retail buildings located on a 62,415-square-foot lot. The property has frontage on Central Way, Main Street, Park Lane, and 3<sup>rd</sup> Street. All public utilities are available to site.

The comparable sale's location, access, zoning, shape, view, and topography are considered similar to those of the subject; therefore, no adjustments were made. No FAR adjustment was made due to lack of data availability. There are no pending redevelopment plans for this sale; however, we feel that this sale supports the lower end of the range for the subject property. An upward adjustment was made for time. No adjustment was required for demolition cost of current improvements because the cost is offset by the interim cash flows. All utilities are available to the site and no adjustment is warranted. After making all the necessary adjustments, this sale indicates a value for the property of \$167 per square foot.

The **Subject Sale** is located at 200 block of Kirkland Avenue. This property is under design review for a mixed-use building. At the time of sale, the improvements were in average-to-fair condition, at the end of their economic life, and did not constitute highest and best use of the land. The property was purchased for land value only. A 5-story, 116-unit, 80,986-square-foot senior assisted living care facility is planned with 6,613 square feet of ground floor retail project and associated 141 parking stalls. The subject FAR is 3.02. The project includes a parking modification request to reduce the number of parking stalls for the assisted living units. The property has frontage on Kirkland Avenue. All public utilities are available to site. The property was conveyed by warranty deed with a purchase price of \$10,000,000 or \$242.04 per square foot.

### **Property Rights**

The property rights conveyed for all of the comparable sales is the fee simple estate, the same rights being appraised for the subject. Therefore, no adjustments for property rights conveyed are necessary.

### Financing

All of the sales involved are based on all-cash equivalent sales terms. Based on the market evidence and market standards, no adjustment for financing is applied to any of the transactions.

### Conditions of Sale

All of the transactions appear to represent arm's-length transactions and are free from any non-market influences. Therefore, no adjustment for conditions of sale is warranted.

### Market Conditions

Three of the sales closed between January 2005 and January 2006 and are considered to be the most current sales recorded of comparable properties in the subject's market area. Conversations with realtors and brokers, and analysis of other properties in the subject's market area, including properties contained in our database, indicate that there has been upward pressure on the market. An adjustment of 12% per annum is warranted to account for market conditions.

### Improvements

All comparable sales had improvements like the subject property that needed to be demolished to make way for a new construction project, hence no adjustment is necessary.

### Land Value Conclusion

The land sales have per-unit values before adjustments from \$90.28 to \$142.43 per square foot; and after adjustments range from \$167 to \$278 per square foot. The top of the range on a price-per-square-foot basis is established by Comparable Sale No. 1, and the bottom of the range is supported by Comparable Sale No. 3. Comparable Sales Nos. 1 and 2 are most similar to the subject property and hence, are more heavily weighted and provide a reasonable value conclusion.

We also give very significant weight to the subject sale for reflecting current market conditions and being purchased with the intent of redeveloping with mixed-use projects.

Considering each land sale in the light of the above factors, it appears that the data best support values for the subject properties of \$250.00 per square foot.

When these estimates are applied to the subject's overall land area, the value of the subject site is as follows:

Market Value Estimated	Size (SF)	Calculation	Value Estimate
Dedicated	3,673	3,673 x \$250/SF	\$ 918,250
Vacated	3,367	3,367 x \$250/SF	\$ 841,750

## RECONCILIATION AND FINAL VALUE ESTIMATE

### RECONCILIATION

Reconciliation is the process of assigning or placing various levels of emphasis on each of the different approaches used in the appraisal report. Typically, this process considers the quality and quantity of information available in the various approaches to determine which approach or combination of approaches is the most relevant to the final value of the subject. Considerations include the reliability of data and the acceptability of the various valuation approaches within the particular industry, market area, or property type. The sales comparison approach is the only approach developed.

Market Value Estimated	Valuation Date	Size (SF)	Value Estimate
Dedicated	7-Jul-06	3,673	\$ 918,250
Vacated	7-Jul-06	3,367	\$ 841,750

### FINAL VALUE ESTIMATE

For the purpose of valuing the subject property, the primary method appropriate for valuing undeveloped land is the sales comparison approach. As a result of our investigation and analysis, it is concluded that the market value of the fee simple interest in the subject real property, as of July 7, 2006 is:

Market Value Estimated	Size (SF)	Value Estimate
Dedicated	3,673	\$ 918,250
Vacated	3,367	\$ 841,750

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# **PURCHASE AND SALE AGREEMENT**

Turning Point Realty Advisors, LLC  
4033 Lake Washington Blvd NE #107  
Kirkland, WA 98033  
Phone: (425) 455-1122  
Fax: (425) 455-1333

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CSA Form PG-1A  
Purchase & Sale Agreement  
Rev. 04/02  
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COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT

This has been prepared for submission to your attorney for review and approval prior to signing. An agreement is made by Signature of all parties to this agreement.  
CSA Text Disclaimer: Text deleted by licensee indicated by asterisk. Harriet's notation by licensee indicated by small capital letters.

Date: January 24, 2008

The undersigned Buyer, SRM Development Company and/or Acquirers, agree to buy and Seller agrees to sell, on the following terms, the commercial real estate and all improvements thereon (collectively, the "Property") commonly known as 201 - 208 Kirkland Avenue including the buildings and land owned by Ken Doyton and Lynn Gill as Tenants in Common in the City of Kirkland, Washington County, Washington, legally described as attached Exhibit A. (Buyer and Seller authorize the Listing Agent or Selling Licensee to insert and/or correct, over their signatures, the legal description of the Property.)

1. PURCHASE PRICE. The total purchase price is Ten Million Dollars (\$10,000,000), including the earnest money, payable as follows (check only one):

- All cash at closing, including the earnest money, with no financing contingency.
- All cash at closing, including the earnest money, contingent on new financing under Section 4a below.
- 3 % of the purchase price in cash at closing, including the earnest money, with the balance of the purchase price paid as follows (check one or both, as applicable):  Buyer's assumption of any underlying note and deed of trust, or real estate contract, under Section 4b below;  Buyer's delivery at closing of a promissory note for the balance of the purchase price, secured by a deed of trust encumbering the Property, as described in Section 4c below.
- Other: \_\_\_\_\_

2. EARNEST MONEY. Buyer agrees to deliver the earnest money \$500,000 in the form of  Cash  Personal check  Promissory note  Other: \_\_\_\_\_

If the earnest money is in the form of a promissory note, it shall be due AND CONVERTED TO CASH AND DEPOSITED IN A NON-RESPONSIBLE ACCOUNT WITH ESCROW INSTRUCTIONS TO RELEASE TO SELLER UPON CLOSING OR IN THE EVENT OF A BUYER DEFAULT no later than:

- \_\_\_\_\_ days after mutual acceptance.
- Upon removal of the inspection contingencies in Section 5 below.
- Other: \_\_\_\_\_

The earnest money shall be held by  Selling Licensee  Closing Agent.

Buyer shall deliver the earnest money no later than:

- 3 days after mutual acceptance.
- Upon removal of the inspection contingencies in Section 5 below.
- Other: \_\_\_\_\_

Selling Licensee may, however, transfer the earnest money to Closing Agent.

If the earnest money is to be held by Selling Licensee and is over \$10,000, it shall be deposited to  Selling Licensee's pooled trust account (with interest paid to the State Treasurer)  A separate interest bearing trust account in Selling Licensee's name. The interest, if any, shall be credited at closing to Buyer whose Social Security or taxpayer ID Number is: \_\_\_\_\_ if this sale fails to close, whoever is entitled to the earnest money is entitled to interest.

INITIALS: Buyer AG Date 1/25/08 Seller TTG Date 1/31/08  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller TTG Date 1/24/08

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COMMERCIAL & INVESTMENT REAL ESTATE  
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Selling Licensee shall deposit any check to be held by Selling Licensee within 3 days after receipt or mutual acceptance, whichever occurs later. Buyer agrees to pay financing and purchase costs incurred by Buyer, if all or part of the earnest money is to be returned to Buyer and any such costs remain unpaid, Selling Licensee or Closing Agent may deduct and pay them therefrom. Unless otherwise provided in this Agreement, the earnest money shall be applicable to the purchase price and shall be non-refundable except where a condition to Buyer's obligation under this Agreement is not satisfied through no fault of Buyer.

3. EXHIBITS AND ADDENDA. The following Exhibits and Addenda are made a part of this Agreement

- Exhibit A - Legal Description
- Earnest Money Promissory Note, CBA Form EMN
  - Promissory Note, LPB Form No. 25A/CBA Form N1-A
  - Short Form Deed of Trust, LPB Form No. 20
  - Deed of Trust Rider, CBA Form DTR
  - Utility Charges Addendum, CBA Form UA
  - FIRPTA Certification, CBA Form 22G
  - Assignment and Assumption, CBA Form FS-AS
  - Addendum/Amendment, CBA Form PSA
  - Back-Up Addendum, CBA Form BU-A
  - Vacant Land Addendum, CBA Form VLA
  - Other
  - Other

4. FINANCING. By Acceptance

~~Application for New Financing. If payment of the purchase price is contingent on Buyer obtaining new financing, Buyer's obligation to close is conditioned upon Buyer accepting a written commitment for financing. Buyer must accept those terms of a commitment which provide for a loan amount of at least \_\_\_% of the purchase price, interest not to exceed \_\_\_ percent (\_\_\_) per annum, a payment schedule calling for monthly payments amortized over not less than \_\_\_ (\_\_\_) years, and total placement fees and points not more than \_\_\_ percent (\_\_\_) of the loan amount. Buyer shall make immediate application for said commitment, pay required fees and make a good faith effort to procure such financing. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives Seller written notice that this condition is satisfied or waived on or before \_\_\_ (\_\_\_) days (30 days, if not completed) following mutual acceptance of this Agreement.~~

~~Assumption of Existing Financing. If payment of the purchase price includes Buyer's assumption of a note and mortgage or deed of trust on a real estate contract, Seller shall promptly deliver to Buyer a copy of the underlying debt instrument(s) to be assumed, and Buyer shall be deemed to have approved all of the terms of the debt instrument(s) unless Buyer gives notice of disapproval within five (5) days after receiving such instrument(s). If any of the debt instrument(s) requires the consent of a third party to the assumption by Buyer, then Buyer shall apply for such consent within seven (7) days after receiving the debt instrument(s). Upon Buyer's request, Seller shall assist Buyer by requesting the third party's consent to the assumption on Buyer's behalf. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives Seller written notice within \_\_\_ (\_\_\_) days (30 days, if not completed) of receiving the debt instrument(s) stating that such consent is available. Buyer shall pay any assumption fees or other out-of-pocket expenses attributable to the assumption of the underlying indebtedness.~~

~~Seller Financing. If Seller is financing a portion of the purchase price by promissory note and deed of trust, unless different terms are attached to this Agreement, Buyer shall execute and submit to the Closing Agent (i) LPB Form No. 25A Promissory Note and the DUE ON SALE and COMMERCIAL PROPERTY options attached to that form which apply to UCC's Financing Statement covering the personal property described in Section 14 below; (ii) LPB Form No. 20 Short Form Deed of Trust; and (iii) CBA Form No. DTR Deed of Trust Rider. The promissory note shall bear interest at the rate of \_\_\_% per annum, and shall be payable as follows (choose one):~~

INITIALS: Buyer AV Date 1/25/06 Seller (16) Date 1/31/06  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller SRD Date 2/21/06

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 PURCHASE & SALE AGREEMENT**

monthly installments of interest only,  monthly installments of \$ \_\_\_\_\_,  equal monthly installments of principal and interest in an amount sufficient to fully amortize the outstanding principal balance at the stated interest rate over \_\_\_\_\_ years,  other \_\_\_\_\_ Payments shall commence on the first day of the first month after closing and continuing on the same day of each succeeding month until (choose one)  \_\_\_\_\_ months from the date of closing,  other \_\_\_\_\_ on which date all outstanding principal and interest shall be due. The principal shall, at Seller's option, bear interest at the rate of \_\_\_\_\_ % per annum (18% or the maximum rate allowed by law, whichever is less, if not filed in) during any period of Buyer's default. If Seller receives any monthly payment more than \_\_\_\_\_ days (15 days if not filed in) after its due date, then a late payment charge of \$ \_\_\_\_\_ and \_\_\_\_\_ % of the delinquent amount (5% or the colloquial amount if not filed in) shall be added to the scheduled payment. Buyer shall have \_\_\_\_\_ days (5 days if not filed in) after written notice to cure a default before Seller may declare all outstanding sums to be immediately due and payable.

~~(Note to Buyer and Seller: If the Property is currently used primarily for agricultural purposes, the usual nonjudicial foreclosure remedy is available to Seller only by using a real estate contract and is not available with a deed of trust.)~~

d. **Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to closing.

6. **INSPECTION CONTINGENCY.** This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives written notice to Seller within thirty (30) days (20 days if not filed in) of mutual acceptance of this Agreement stating that Buyer is satisfied. In Buyer's reasonable discretion, concerning all aspects of the Property, including without limitation, its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. If such notice is timely given, the inspection contingencies stated in this Section 6 shall be deemed to be satisfied.

a. **Books, Records, Leases, Agreements.** Seller shall make available for inspection by Buyer and its agents as soon as possible but no later than ten (10) days after mutual acceptance of this Agreement all documents available to Seller relating to the ownership, operation, renovation or development of the Property, including without limitation; statements for real estate taxes, assessments, and utilities; property management agreements, service contracts, and agreements with professionals or consultants entered into by the Seller or any predecessor in title to the Seller, leases of personal property or fixtures; leases or other agreements relating to occupancy of all or a portion of the Property and a schedule of tenants, rents, and deposits; plans, specifications, permits, applications, drawings, surveys, studies and maintenance records; and accounting records and audit reports. Buyer shall determine within the contingency period stated in the preceding introductory paragraph whether it wishes and is able to assume, as of closing, all of the foregoing leases, contracts, and agreements which have terms extending beyond closing. Buyer shall be solely responsible for obtaining any required consents by such assumption. Seller shall transfer the leases, contracts and agreements as provided in Section 17 of this Agreement.

b. **Access.** Seller shall permit Buyer and its agents, at Buyer's sole expense and risk to enter the Property at reasonable times after legal notice to tenants, to conduct inspections concerning the Property and improvements, including without limitation, the structural condition of improvements, hazardous materials (limited to a Phase I audit only), pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance. Buyer shall not perform any invasive testing or contact the tenants without obtaining the Seller's prior written consent, which shall not be unreasonably withheld. Buyer shall restore the Property and improvements to the

INITIALS: Buyer AV Date 1/25/06 Seller NO Date 1/31/06  
 Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller VAP Date 2/27/06

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PURCHASE & SALE AGREEMENT

same condition they were in prior to inspection. Buyer agrees to indemnify and defend Seller from all fees, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents. This agreement to indemnify and defend Seller shall survive closing. Buyer may continue to enter the Property and interview tenants in accordance with the foregoing terms and conditions after removal or satisfaction of the inspection contingency only for the purpose of re-sale, leasing or to satisfy conditions of financing. BUYER AGREES NOT TO CONTACT ANY OF THE TENANTS ON THE PROPERTY WITHOUT THE APPROVED WRITTEN CONSENT OF SELLER WHICH MAY BE UNREASONABLY WITHHELD. BUYER AGREES THAT SELLER'S AGENT, BRUCE LINDSAY OF TURNING POINT REALTY ADVISORS LLC SHALL BE ADVISED OF ALL COMMERCIAL MEETINGS AND SHALL BE PERMITTED TO ATTEND ALL MEETINGS. BUYER MAY, AT BUYER'S OWN RISK, CONTACT TENANTS AND EMPLOYEES OF THE PROPERTY.

*AS per [unclear]*

K. TITLE INSURANCE.

a. Title Report. Seller authorizes Lender and Listing Agent, Selling Licensee or Closing Agent, at Seller's expense, to apply for and deliver to Buyer a  standard  extended (standard, if not completed) coverage owner's policy of title insurance. If an extended coverage owner's policy is specified, Buyer shall pay the increased costs associated with that policy including the excess premium over that charged for a standard coverage policy, and the cost of any survey required by the title insurer. The title report shall be issued by First American Title Company.

b. Permitted Exceptions. Buyer shall notify Seller of any objectionable matters in the title commitment or any supplemental report within ten (10) days after receipt of such commitment or supplement. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless (a) within ten (10) days of Buyer's notice of such objections, Seller agrees to remove all objectionable provisions, or (b) within fifteen (15) days after Buyer's notice of such objections, Buyer notifies Seller in writing that it waives any objections which Seller does not agree to remove. The closing date shall be extended to the extent necessary to permit time for these notices. Those provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the "Permitted Exceptions." The title policy shall contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the Permitted Exceptions.

7. CLOSING OF SALE. This sale shall be closed ~~owner-bidder-only~~ 30 days following the date of written notice from Seller to Buyer which may be at any time following the inspection period but under no circumstances shall closing be later than March 1, 2007. ("closing") by First American Title, Judy Fredrickson ("Closing Agent"). Buyer and Seller will, immediately on demand, deposit with Closing Agent all instruments and monies required to complete the purchase in accordance with this Agreement. "Closing" shall be deemed to have occurred when all documents are recorded and the sale proceeds are available to Seller. Time is of the essence in the performance of this Agreement.

8. CLOSING COSTS. Seller shall pay the excise tax and premium for the owner's standard coverage title policy. Seller and Buyer shall each pay one-half of the escrow fees. Real and personal property taxes and assessments payable in the year of closing; rents on any existing tenancies; interest; mortgage reserves; utilities; and other operating expenses shall be pro-rated as of closing. Buyer shall pay all costs of financing including the premium for the lender's title policy. Security, cleaning, and any other unearned deposits on tenancies, and remaining mortgage or other reserves shall be assigned to Buyer at closing. The real estate commission is due on closing or upon Seller's default under this Agreement, whichever occurs first, and neither the amount nor due date thereof can be changed without Listing Agent's written consent.

a. Unpaid Utility Charges. Buyer and Seller  WAIVE  DO NOT WAIVE the right to have the Closing Agent disburse closing funds necessary to satisfy unpaid utility charges affecting the Property pursuant to RCW 65.05. If "do not waive" is checked, then attach CBA Form UA ("Utility Charges" Addendum). If neither box is checked, then the "do not waive" option applies.

9. POST-CLOSING ADJUSTMENTS, COLLECTIONS, AND PAYMENTS. After closing, Buyer and Seller shall reconcile the actual amount of revenues or liabilities upon receipt of payment thereof to the extent those items

INITIALS: Buyer AL / Date 1/25/06 Seller FLG / Date 1/25/06  
Buyer \_\_\_\_\_ / Date \_\_\_\_\_ Seller KAY / Date 2/27/06

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were prorated or credited at closing based upon estimates. Any bills or invoices received by Buyer after closing which relate to services rendered or goods delivered to the Seller or the Property prior to closing shall be paid by Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date of Buyer's written demand to Seller for reimbursement until such reimbursement is made. Rents collected from each tenant after closing shall be applied first to rentals due most recently from such tenant for the period prior to closing, and the balance shall be applied for the benefit of Seller for delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned over by Buyer to Seller promptly after receipt. ANY AMOUNTS PAID BY ANY OF THE EXISTING TENANTS FOR REIMBURSEMENT DUE TO LANDLORD'S TERMINATION OF LEASES SHALL BE THE SOLE COST OF BUYER.

10. **OPERATIONS PRIOR TO CLOSING.** Prior to closing, Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the date of mutual acceptance of this Agreement, but shall not be required to repair material damage from casualty except as otherwise provide in this Agreement. Seller shall not enter into or modify existing rental agreements or leases (except that Seller may modify or terminate residential rental agreements or leases in the ordinary course of its business), service contracts, or other agreements affecting the Property which have terms extending beyond closing without first obtaining Buyer's consent, which shall not be unreasonably withheld. SELLER AGREES TO REASONABLY COOPERATE WITH BUYER IN THE PROCESS OF DELIVERING ANY LEASE TERMINATION NOTICES IN A TIMELY MANNER AS STIPULATED IN THE LEASE AGREEMENTS WITH THE SOLE PURPOSE OF NOTIFYING TENANTS OF BUYER'S INTENTION OF REDEVELOPMENT OF THE PROPERTY COMMENCING UPON THE CLOSING DATE. HOWEVER, UNDER NO CIRCUMSTANCES SHALL ANY OF THE TENANTS BE REQUIRED TO VACATE THE PROPERTY PRIOR TO THE CLOSING DATE.

11. **POSSESSION.** Buyer shall be entitled to possession, subject to existing tenancies (if any),  on closing  (on closing, if not completed).

12. **SELLER'S REPRESENTATIONS AND WARRANTIES.** Seller represents and warrants to Buyer that, to the best of Seller's knowledge, each of the following is true as of the date hereof and shall be true as of closing: (a) Seller is authorized to enter into the Agreement to sell the Property, and to perform its obligations under the Agreement; (b) All books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement are accurate and complete; (c) The Property and the business conducted thereon comply with all applicable laws, regulations, codes and ordinances; (d) Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use; (e) There is no pending or threatened litigation which would adversely affect the Property or Buyer's ownership thereof after closing; (f) There are no covenants, conditions, restrictions, or contractual obligations of Seller which will adversely affect Buyer's ownership of the Property after closing or prevent Seller from performing its obligations under the Agreement, except as disclosed in the preliminary commitment for title insurance or as otherwise disclosed to Buyer in writing prior to the end of the inspection contingency stated in Section 5 above; (g) There is no pending or threatened condemnation or similar proceedings affecting the Property, and except as otherwise disclosed in the preliminary commitment for title insurance or as otherwise disclosed to Buyer in writing prior to closing, the Property is not within the boundaries of any planned or authorized local improvement district; (h) Seller has paid (except to the extent prorated at closing, all local, state and federal taxes, other than real and personal property taxes and assessments described in Section 3 above) attributable to the period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or for which Buyer may be held liable after closing; and (i) Seller warrants that there are no pending or threatened notices of violation of building, zoning, or land use codes applicable to the Property, and (j) Seller is not aware of any concealed material defects in the Property except — Seller makes no representations or warranties regarding the Property other than those specified in this Agreement, Buyer otherwise takes the Property "AS IS," and Buyer shall otherwise rely on its own pre-closing inspections and investigations.

13. **HAZARDOUS SUBSTANCES.** Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the inspection contingency stated in Section 5 above, Seller represents and warrants to Buyer that to the best of its

INITIALS: Buyer RP Date 1/25/06 Seller RP Date 1/31/06  
 Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller KSD Date 2/27/06

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knowledge: (i) there are no Hazardous Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that presently violates any Environmental Law (as defined below); (ii) there are no underground storage tanks located on the Property; and (iii) there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

14. PERSONAL PROPERTY.

a. This sale includes all right, title and interest of Seller to the following tangible personal property: [X] None
[ ] That portion of the personal property located on and used in connection with the Property, which Seller will itemize in an Addendum to be attached to this Agreement within ten (10) days of mutual acceptance (None, if not completed). The value assigned to the personal property shall be the amount agreed upon by the parties and, if they cannot agree, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Agent and Selling Licensee. Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale. Buyer shall pay any sales or use tax arising from the transfer of the personal property.

b. In addition to the leases, contracts and agreements assumed by Buyer pursuant to Section 5a above, this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guarantees, warranties or other assurances of performance received.

15. CONDEMNATION AND CASUALTY. Buyer may terminate this Agreement and obtain a refund of the earnest money, less any costs advanced or committed for Buyer, if improvements on the Property are destroyed or materially damaged by casualty before closing, or if condemnation proceedings are commenced against all or a portion of the Property before closing.

16. FIRPTA - TAX WITHHOLDING AT CLOSING. Closing Agent is instructed to prepare a certification (CBA or NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act. Seller agrees to sign this certification. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

17. CONVEYANCE. Title shall be conveyed by a Statutory Warranty Deed subject only to the Permitted Exceptions. If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a contract vendee's assignment sufficient to convey other acquired title. At closing, Seller and Buyer shall execute and deliver to Closing Agent CBA Form No. PS-AS Assignment and Assumption Agreement transferring all leases, contracts and agreements assumed by Buyer pursuant to Section 5a and all intangible property transferred pursuant to Section 14b.

18. NOTICES AND COMPUTATION OF TIME. Unless otherwise specified, any notice required or permitted in, or related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and must be delivered to Seller and Listing Agent. A notice to Seller shall be deemed delivered only when received by Seller, Listing Agent, or the licensed office of Listing Agent. Notices to

INITIALS: Buyer AG Date 1/25/06 Seller JH Date 1/31/06
Buyer Date Seller VAD Date 2/27/06

GITLIN DENTAL OFFICE

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P. 9

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SRM DEVELOPMENT

(FAX)2063527132

P. 008/012

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Buyer must be signed by at least one Seller and must be delivered to Buyer and Selling Licensee. A notice to Buyer shall be deemed delivered only when received by Buyer, Selling Licensee, or the licensed office of Selling Licensee. Selling Licensee and Listing Agent have no responsibility to advise of receipt of a notice beyond either phoning the party or causing a copy of the notice to be delivered to the party's address on this Agreement. Buyer and Seller must keep Selling Licensee and Listing Agent advised of their whereabouts to receive prompt notification of receipt of a notice.

Unless otherwise specified in this Agreement, any period of time in this Agreement shall begin the day after the event starting the period and shall expire at 5:00 p.m. Pacific time of the last calendar day of the specified period of time, unless the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays.

12. AGENCY DISCLOSURE. At the signing of this Agreement,

Selling Licensee Name \_\_\_\_\_

(Insert names of Licensee and the Company name as licensed)

represented Buyer \_\_\_\_\_

(Insert Seller, Buyer, both Seller and Buyer or Neither Seller nor Buyer)

and the Listing Agent Turning Point Realty Advisors LLC Brian Leibsch

(Insert names of Licensee and the Company name as licensed)

represented Seller \_\_\_\_\_

(Insert Seller, Buyer, both Seller and Buyer or Neither Seller nor Buyer)

If Selling Licensee and Listing Agent are different salespersons affiliated with the same Broker, then Seller and Buyer confirm their consent to Broker acting as a dual agent. If Selling Licensee and Listing Agent are the same person representing both parties, then Seller and Buyer confirm their consent to that person and his/her Broker acting as dual agents. If Selling Licensee, Listing Agent, or their Broker are dual agents, then Seller and Buyer consent to Selling Licensee, Listing Agent and their Broker being compensated based on a percentage of the purchase price or as otherwise disclosed on an attached addendum. Buyer and Seller confirm receipt of the pamphlet entitled "The Law of Real Estate Agency."

*As per [unclear]*

19. ASSIGNMENT. Buyer  may  may not (may not, if not completed) assign this Agreement or Buyer's rights hereunder, without Seller's prior written consent WHICH MAY BE UNREASONABLY WITHHELD, unless provided otherwise herein. HOWEVER, BUYER MAY ASSIGN THIS AGREEMENT TO AN ENTITY THAT IS CONTROLLED BY BUYER WITH A 50% OR GREATER OWNERSHIP SHARE.

21. DEFAULT AND ATTORNEY'S FEE. In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then (check one):

that portion of the earnest money which does not exceed five percent (5%) of the purchase price shall be kept by Seller as liquidated damages (subject to Seller's obligation to pay certain costs or a commission, if any) as the sole and exclusive remedy available to Seller for such failure; or

Seller may, at its option, AND BUYER HEREBY AGREES THAT SELLER MAY (a) keep as liquidated damages all of the earnest money (subject to Seller's obligation to pay certain costs or a commission, if any) as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.

INITIALS: Buyer AB Date 1/25/06 Seller AB Date 1/31/06  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller AB Date 2/27/06

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If Buyer or Seller institutes suit concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and expenses. In the event of trial, the amount of the attorney's fee shall be fixed by the court. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the state where the Property is located.

22. MISCELLANEOUS PROVISIONS.

- a. **Complete Agreement.** The Agreement and any addenda and exhibits to it state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or written agreements which modify or affect the Agreement.
- b. **No Merger.** The terms of the Agreement shall not merge in the deed or other conveyance instrument transferring the Property to Buyer at closing. The terms of this Agreement shall survive closing.
- c. **Counterpart Signatures.** The Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement.
- d. **Facsimile Transmission.** Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will confirm facsimile transmitted signatures by signing an original document.

23. **ACCEPTANCE; COUNTEROFFERS.** Seller has until midnight of \_\_\_\_\_ (if not filled in, the third business day following the last Buyer signature date below) to accept this offer, unless sooner withdrawn. If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the \_\_\_\_\_ business day (if not filled in, the second business day) following its receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or counteroffered, this Agreement shall lapse and the earnest money shall be refunded to the Buyer. No acceptance, offer or counteroffer from the Buyer is effective until a signed copy is received by the Seller, the Listing Agent or the licensed office of the Listing Agent. No acceptance, offer or counteroffer from the Seller is effective until a signed copy is received by the Buyer, the Selling Licensee or the licensed office of the Selling Licensee.

24. **INFORMATION TRANSFER.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any plans, studies, reports, inspections, appraisals, surveys, drawings, permits, application or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.

25. **CONFIDENTIALITY.** Until and unless closing has been consummated, Buyer will treat all information obtained in connection with the negotiation and performance of this Agreement as confidential (except for any information that Buyer is required by law to disclose and then only after giving Seller written notice at least three (3) days prior to the disclosure) and will not use or knowingly permit the use of any confidential information in any manner detrimental to Seller.

26. **SELLER'S ACCEPTANCE AND BROKERAGE AGREEMENT.** Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing agreement. ~~If there is no written listing agreement, Seller agrees to pay a commission of \_\_\_\_\_% of the sales price of \$\_\_\_\_\_. The commission shall be apportioned between Listing Agent and Selling Licensee as specified in the listing agreement or any co-brokerage agreement. Seller agrees to Listing Agent and Selling Licensee a portion of the sales proceeds equal to the commission. If the earnest money is retained or liquidated, damages, any costs advanced or committed by Listing Agent or Selling Licensee for Buyer or Seller shall be reimbursed or paid therefrom, and the balance shall be paid one-half to Seller and one-half to Listing Agent and Selling Licensee according to the listing agreement and any co-brokerage agreement in any action by Listing Agent or Selling Licensee to enforce this Section, the prevailing party is entitled to reasonable attorneys' fees and expenses. Neither Listing Agent nor Selling Licensee are receiving compensation from more than one party to this~~

INITIALS: Buyer AG Date 1/25/06 Seller KS Date 1/31/06  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller KAD Date 2/27/06

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transaction unless disclosed on an attached addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached Exhibit A, is commercial real estate. Notwithstanding Section 26 above, the pages containing this section, the parties' signatures and an attachment describing the Property may be recorded.

27. LISTING AGENT AND SELLING LICENSEE DISCLOSURE. EXCEPT AS OTHERWISE DISCLOSED IN WRITING TO BUYER OR SELLER, THE SELLING LICENSEE, LISTING AGENT, AND BROKERS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYERS OR SELLERS FINANCIAL STRENGTH, OR THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE PROPERTY'S ZONING, COMPLIANCE WITH APPLICABLE LAWS (INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS MATERIALS. SELLER AND BUYER ARE EACH ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE ON THESE AND OTHER MATTERS RELATED TO THIS AGREEMENT.

INITIALS: Buyer AG Date 1/25/06 Seller Super Pro Date 1/31/06  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller AG Date 2/29/06

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(FAX)2063527132

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(CONTINUED)

Buyer Andrew D. Lins Date Jan 25, 2006  
 Buyer \_\_\_\_\_ Date \_\_\_\_\_  
 Office Phone 206 452-7373 Fax No. 206 252-7132 Home Phone \_\_\_\_\_  
 Print Buyer's Name SRM Development Co. Andrew D. Lins  
 Buyer's Address 102 S. Division Spokane, WA 99202  
 Selling Office \_\_\_\_\_  
 Office Phone \_\_\_\_\_ Other Phone \_\_\_\_\_ Fax No. \_\_\_\_\_  
 Address \_\_\_\_\_ MLS Office No. \_\_\_\_\_  
 By \_\_\_\_\_ Print Name \_\_\_\_\_  
 Seller Lynn Gitlin Date 1/31/06  
 Seller Ken Dayton Date 2/27/06  
 Home Phone \_\_\_\_\_ Office Phone \_\_\_\_\_ Fax No. \_\_\_\_\_  
 Print Seller's Name Ken Dayton and Lynn Gitlin as Tenants in Common  
 Seller's Address \_\_\_\_\_  
 Listing Agent Brian Lebsch  
 Listing Office Turning Point Realty Advisors LLC  
 Office Phone No. 425-455-1122 Other Phone \_\_\_\_\_ Fax No. 1-888-303-1336  
 Address \_\_\_\_\_ MLS Office No. \_\_\_\_\_

28. BUYER'S RECEIPT. Buyer acknowledges receipt of a Seller signed copy of this Agreement, on

BUYER \_\_\_\_\_ BUYER \_\_\_\_\_  
 Signature Signature

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(FRX)2063527132

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EXHIBIT A

[Legal Description]

A complete legal description shall be attached upon receipt of the preliminary title commitment issued by First American Title Company.

INITIALS:	Buyer	<u>AG</u>	Date	<u>1/25/06</u>	Seller	<u>LD</u>	Date	<u>1/31/06</u>
	Buyer		Date		Seller	<u>LD</u>	Date	<u>2/27/06</u>

---

# TITLE REPORT

RECEIVED  
JUN - 8 2006



BY \_\_\_\_\_ PM  
PLANNING DEPARTMENT

**COMMITMENT FOR TITLE INSURANCE**

Issued by

**FIRST AMERICAN TITLE INSURANCE COMPANY**

First American Title Insurance Company, herein called the Company, for valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagor of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of the Commitment or by subsequent endorsement.

This Commitment if preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six (6) months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company. This Commitment shall not be valid or binding until countersigned by an authorized officer or agent.

IN WITNESS WHEREOF, the Company has caused this commitment to be signed and sealed, to become valid when countersigned by an authorized officer or agent of the Company, all in accordance with its By-Laws. This Commitment is effective as of the date shown in Schedule A as "Effective Date."



*First American Title Insurance Company*

By: *Gary L. Kerst* President

Attest: *Mark R. Anderson* Secretary

By: *Joseph T. Pen* Countersigned

*First American Title Insurance Company*



**First American Title Insurance Company  
National Commercial Services**

2101 Fourth Avenue, Suite 800, Seattle, WA 98121  
(206)728-0400 - FAX (206)448-6348

Mike Cooper  
(206)615-3107  
mcooper@firstam.com

Judy Fredrickson  
(206)615-3276  
jfredrickson@firstam.com

To: **Linc Properties**  
**11715 Southeast 5th Street, Suite #111**  
**Bellevue, WA 98005**

File No.: **NCS-175606-WA1**  
Your Ref No.: **Olympiad Investment**

Attn: **Brian Leibsohn**

**FIFTH REPORT  
SCHEDULE A**

1. Commitment Date: April 25, 2006 at 7:30 A.M.
2. Policy or Policies to be Issued:

	AMOUNT	PREMIUM	TAX
Short Term Rate	\$ 10,000,000.00	\$ 8,890.00	\$ 782.32

Proposed Insured:  
SRM Development and/or Assigns

3. The estate or interest in the land described on Page 2 herein is **Fee Simple**, and title thereto is at the effective date hereof vested in:

Kenneth A. Dayton, a married man, subject to the interest of his spouse on December 30, 2005, date of acquiring title, as to an *undivided* 50% interest, Lynn E. Gitlin, a married woman, subject to the interest of her spouse on December 30, 2005, date of acquiring title, as to an *undivided* 33.34%, and Lynn E. Gitlin, as Trustee for the Harry Lawson Trust as to an *undivided* 16.66% interest, as tenants in common

4. The land referred to in this Commitment is described as follows:

The land referred to in this report is described in Exhibit A attached hereto.

*First American Title Insurance Company*

**EXHIBIT 'A'**

**LEGAL DESCRIPTION:**

Lots 1 through 7, inclusive, and Lots 22 through 28, inclusive, Block 99, Burke-Farrars Kirkland Business Center Addition Division 25, according to the plat thereof recorded in Volume 25 of Plats, Page 14, in King County, Washington;

Together with those portions of adjacent property adjoining or abutting thereon, as vacated by City of Kirkland Ordinances 429, 459 and 641, which upon vacation, attached to said premises by operation of law;

Excepting from all of the above property those portions conveyed to the City of Kirkland by deeds recorded under recording numbers 3254642 and 3254643.

*First American Title Insurance Company*

**SCHEDULE B - SECTION 1**  
**REQUIREMENTS**

The following are the Requirements to be complied with:

- Item (A) Payment to or for the account of the Grantors or Mortgagors of the full consideration for the estate or interest to be insured.
- Item (B) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record.
- Item (C) Pay us the premiums, fees and charges for the policy.
- Item (D) You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions

**SCHEDULE B - SECTION 2**  
**GENERAL EXCEPTIONS**

The Policy or Policies to be issued will contain Exceptions to the following unless the same are disposed of to the satisfaction of the Company.

- A. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- B. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of person in possession thereof.
- C. Easements, claims of easement or encumbrances which are not shown by the public records.
- D. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
- E. (1) Unpatented mining claims; (2) reservations or exceptions in patents or in acts authorizing the issuance thereof; (3) Water rights, claims or title to water; whether or not the matters excepted under (1), (2) or (3) are shown by the public records; (4) Indian Tribal Codes or Regulations, Indian Treaty or Aboriginal Rights, including easements or equitable servitudes.
- F. Any lien, or right to a lien, for services, labor, materials or medical assistance theretofore or hereafter furnished, imposed by law and not shown by the public records.
- G. Any service, installation, connection, maintenance, construction, tap or reimbursement charges/costs for sewer, water, garbage or electricity.
- H. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgages thereon covered by this Commitment.

*First American Title Insurance Company*

**SCHEDULE B - SECTION 2**  
**(continued)**  
**SPECIAL EXCEPTIONS**

1. Lien of the Real Estate Excise Sales Tax and Surcharge upon any sale of said premises, if unpaid. As of the date herein, the excise tax rate for the **City of Kirkland** is at **1.78%**.  
Levy/Area Code: 1700

2. General Taxes for the year 2006.  
Tax Account No.: 124400-0005-09  
Amount Billed: \$ 25,503.28  
Amount Paid: \$ 0.00  
Amount Due: \$ 25,503.28  
Assessed Land Value: \$ 1,335,600.00  
Assessed Improvement Value: \$ 1,364,900.00

(Affects Lot Nos. 1 to 7)

3. General Taxes for the year 2006.  
Tax Account No.: 124400-0110-01  
Amount Billed: \$ 2,506.58  
Amount Paid: \$ 0.00  
Amount Due: \$ 2,506.58  
Assessed Land Value: \$ 264,200.00  
Assessed Improvement Value: \$ 0.00

(Affects Lot Nos. 22 and 23)

4. Delinquent General Taxes for the year 2005, plus penalty and interest.  
Tax Account No.: 124400-0110-01  
Amount Billed: \$ 2,109.45  
Amount Paid: \$ 0.00  
Amount Due: \$ 2,109.45  
Assessed Land Value: \$ 211,400.00  
Assessed Improvement Value: \$

(Affects Lot Nos. 22 and 23)

5. Delinquent General Taxes for the year 2004, plus penalty and interest.  
Tax Account No.: 124400-0110-01  
Amount Billed: \$ 2,127.05  
Amount Paid: \$ 0.00  
Amount Due: \$ 2,127.05  
Assessed Land Value: \$ 211,400.00  
Assessed Improvement Value: \$ 0.00

(Affects Lot Nos. 22 and 23)

*First American Title Insurance Company*

6. General Taxes for the year 2006.

Tax Account No.:	124400-0120-09
Amount Billed:	\$ 6,225.60
Amount Paid:	\$ 0.00
Amount Due:	\$ 6,225.60
Assessed Land Value:	\$ 562,700.00
Assessed Improvement Value:	\$ 0.00

(Affects Lot Nos. 24 to 28)

7. Delinquent General Taxes for the year 2005 plus penalty and interest.

Tax Account No.:	124400-0005-09
Amount Billed:	\$ 5,270.06
Amount Paid:	\$ 0.00
Amount Due:	\$ 5,270.06
Assessed Land Value:	\$ 460,400.00
Assessed Improvement Value:	\$

(Affects Lot No. 24 to 28)

8. Delinquent General Taxes for the year 2004, plus penalty and interest.

Tax Account No.:	124400-0120-09
Amount Billed:	\$ 5,095.15
Amount Paid:	\$ 0.00
Amount Due:	\$ 5,095.15
Assessed Land Value:	\$ 460,400.00
Assessed Improvement Value:	\$ 0.00

(Affects Lot Nos. 24 to 28)

9. This item has been intentionally deleted.

10. Easement, including terms and provisions contained therein:

Recording Information:	August 20, 1997, Recording No. 9708201611
In Favor of:	Intracorp Real Estate, LLC, a Wyoming limited liability company
For:	Limited clearing and protective measures
Affects:	Southerly 12 feet of Lots 22 through 28 in said Block 99

11. Restrictions, conditions, dedications, notes, easements and provisions, if any, as contained and/or delineated on the face of the Record of Survey recorded April 28, 1998 under Recording No. 9804289014, in King County, Washington.

First American Title Insurance Company

12. Easement, including terms and provisions contained therein:  
Recording Information: May 14, 1999, Recording No. 9905142183  
In Favor of: Puget Sound Energy, Inc., a Washington corporation  
For: Purposes of transmission, distribution and sale of gas and electricity, together with the right of access over and across said property

13. A document entitled "Maintenance Agreement - Landscape Strip and Sidewalk", executed by and between Olympiad Investment and City of Kirkland recorded June 11, 1999, as Instrument No. 9906111178 of Official Records.

(Affects Lot Nos. 1 to 5)

14. Easement, including terms and provisions contained therein:  
Recording Information: July 9, 1999, Recording No. 19990709001997  
In Favor of: City of Kirkland  
For: Public ingress and egress easement  
Affects: That portion of Lots 1 and 2, Block 99, Burke & Farrar's Kirkland Business Center Addition Div. No. 25, according to the plat thereof recorded in Volume 25 of Plats, Page 14, records of King County, Washington, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; Thence North 89°39'00" East along the North line of said Block 99 for a distance of 23.53 feet to the point of beginning; Thence continuing North 89°39'00" East 24.03 feet; Thence South 02°21'00" West parallel with the West line of said Lot 1 for a distance of 123.71 feet; Thence North 87°39'00" West 24.00 feet; Thence North 02°21'00" East 122.58 feet to the point of beginning.

Together with that portion of Lots 22, 23, 24, 25, 26, 27 and 28 of said Block 99, being more particularly described as follows:

Commencing at the Southwest corner of said Lot 28; Thence North 01°39'30" West along the West line of said Lot 28 for a distance of 50.15 feet to the point of beginning; Thence continuing North 01°39'30" West 33.08 feet; Thence South 87°39'00" East 28.25 feet; Thence South 02°21'00" West 4.50 feet; Thence South 87°39'00" East 162.53 feet to the Eastline of said Lot 22; Thence South 01°39'30" East along said East line 28.57 feet; Thence North 87°39'00" West 190.47 feet to the point of beginning.

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15. Easement, including terms and provisions contained therein:  
Recording Information: July 9, 1999, Recording No. 19990709001998  
In Favor of: City of Kirkland  
For: Public pedestrian right-of-way easement  
Affects: The North 4.00 feet of Lots 1, 2, 3, 4 and 5
16. Easement, including terms and provisions contained therein:  
Recording Information: July 9, 1999, Recording No. 19990709001999  
In Favor of: City of Kirkland  
For: Street light installation & maintenance agreement  
Affects: Lots 1, 2, 3, 4, 5, 6 and 7
17. A document entitled "City of Kirkland Terminable Right-of-Way Use Permit", executed by and between City of Kirkland and Olympiad Investment recorded August 9, 1999, as Instrument No. 19990809000569 of Official Records.
18. A document entitled "Landlord's Consent", executed by and between Olympiad Investments; Virtual Information Systems Corporation and Banner Bank recorded March 21, 2001, as Instrument No. 20010321000408 of Official Records.
19. Deed of Trust and the terms and conditions thereof.  
Grantor/Trustor: Olympiad Investment Company, a Washington general partnership  
Grantee/Beneficiary: Wells Fargo Bank, national association  
Trustee: Wells Fargo Financial National Bank  
Amount: \$250,000.00  
Recorded: March 18, 2004  
Recording Information: 20040318000678
20. Terms and conditions of the Harry Lawson Trust, under which a portion of the title is vested.  
  
A copy of the Trust Agreement and all amendments should be submitted prior to closing.
21. Title is also to vest in persons shown as "and/or assigns" on the application for title insurance, whose identity has not been revealed and when so vested will then be subject to matters which may be disclosed by a search of the records against their names.
22. Unrecorded leaseholds, if any, rights of vendors and security agreement on personal property and rights of tenants, and secured parties to remove trade fixtures at the expiration of the term.
23. Title is claimed by deed to vestees herein "as his/her separate property (estate)". Such recital is insufficient to overcome the legal presumption that the property may be community property. In addition, title is subject to matters which the record may disclose against the name of the spouse.  
Said spouses should appear as grantors and join in the forthcoming conveyance.

*First American Title Insurance Company*

24. A certificate of formation for **SRM Development**, is not currently on file with the Secretary of State, as required by statute.
25. Evidence of the authority of the individual(s) to execute the forthcoming document for **SRM Development**, copies of the current operating agreement should be submitted prior to closing.
26. A record of survey recorded March 22, 2006 under recording no. 20060322900008 said survey discloses the following matters:  
  
Monuments and boundaries
27. A document entitled "Encroachment Easement Agreement and Termination", executed by and between Kirkland Central LP and Kenneth Dayton and Lynn Gluin recorded March 24, 2006, as Instrument No. 20060324000124 of Official Records.

*First American Title Insurance Company*

**INFORMATIONAL NOTES**

- A. Effective January 1, 1997, and pursuant to amendment of Washington State Statutes relating to standardization of recorded documents, the following format and content requirements must be met. Failure to comply may result in rejection of the document by the recorder.
- B. Any sketch attached hereto is done so as a courtesy only and is not part of any title commitment or policy. It is furnished solely for the purpose of assisting in locating the premises and First American expressly disclaims any liability which may result from reliance made upon it.
- C. The description can be abbreviated as suggested below if necessary to meet standardization requirements. The full text of the description must appear in the document(s) to be insured.
- Lots 1-7, 22-28 Block 99, Burke-Farrars Kirkland Business Center V25 PG14
- APN: 124400-0005-09  
APN: 124400-0110-01  
APN: 124400-0120-09
- D. A fee will be charged upon the cancellation of this Commitment pursuant to the Washington State Insurance Code and the filed Rate Schedule of the Company.

**END OF SCHEDULE B**

*First American Title Insurance Company*

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**QUALIFICATIONS  
OF  
APPRAISERS**

**QUALIFICATIONS OF APPRAISER**  
**JAMES G. POLIYANSKIY**

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**EDUCATION**

Bachelor of Science, Business Administration, **Finance and Real Estate**  
California State University, Northridge 2002 (*with honors*)

**CERTIFICATION / LICENSE:**

Certified Real State Appraiser, General, State of Washington, No. 1101745

**CONTINUING EDUCATION**

Chartered Financial Analyst (CFA) Level I candidate

Real Estate Law

Real Estate Finance

Principles of Real Estate

Valuation of Real Estate

Appraisal Principles

Appraisal Procedures

**EXPERIENCE**

**Currently:** Appraisal Group of the Northwest LLP, Appraiser

**Formerly:** University Corporation Investment Fund, Financial Analyst

**Formerly:** Small Business Consulting Institute, Consultant

**Formerly:** Tenant Legal Clinic, in Van Nuys Federal Building, Legal Assistant

**Formerly:** VITA in conjunction with IRS, Supervisor

**Formerly:** Finance Association (*SFA at CSUN*), President

**HONORS AND AWARDS**

- Golden Key National Honor Society
- Who's Who Among American Colleges and Universities Award
- The National Dean's List Award

**CLIENTS SERVED**

- |                                     |                                  |
|-------------------------------------|----------------------------------|
| • City of Black Diamond             | • John Buchan Construction, Inc. |
| • City of Covington                 | • Primacy Relocation, LLC        |
| • Real Property Funding             | • Quicken Loans                  |
| • Abaco Pacific, LLC                | • Weichert Relocation            |
| • City of Issaquah                  | • Chase Manhattan Mortgage Corp. |
| • Catherine E. Janike, Attorney     | • Finance America, LLC           |
| • Pacific Union Bank                | • Northwest Pipeline Corporation |
| • Consolidated Federal Credit Union | • Allstate Insurance Company     |
| • West Sound Bank                   | • Bullivant Houser Bailey        |

## QUALIFICATIONS OF APPRAISER

**JAMES B. PRICE, MAI, SR/WA**

### EDUCATION

Bachelor of Science in Finance, Real Estate Emphasis: Northern Illinois University, University of Illinois; 1966.

Appraisal Institute courses include Capitalization Theory, Residential Valuation, Easement Valuation, and Standards of Professional Practice.

Seminars and Classes include Real Estate Feasibility, Business Valuation, Valuation of Easements and Litigation Skills, Appraising for Pension Funds, and Appraisal of Partial Acquisitions.

### PROFESSIONAL MEMBERSHIPS

#### **Appraisal Institute**

Membership: MAI Designated Member of the Appraisal Institute since 1979

Formerly: President, Director, and Vice President, Seattle Chapter and Alaska Chapter

#### **International Right of Way Association**

Designation: SR/WA (Senior Right of Way Agent)

Position: Regional Vice-Chair and International Right of Way Association Valuation Committee

Formerly: International Right of Way Association Director, President, and Vice President; Seattle, Washington and Fairbanks, Alaska Chapters

### EXPERIENCE: Over 35 years

Currently: General Partner, APPRAISAL GROUP OF THE NORTHWEST LLP  
Developer of subdivisions, office building, and residences  
Owner of office buildings and apartments

Formerly: Proprietor, APPRAISAL GROUP OF THE NORTHWEST  
Appraiser, Schueler, McKown & Keenan  
Partner, Price & Associates, Alaska  
Senior Appraiser, First State Bank of Oregon  
Appraiser, Pacific First Federal Savings Bank  
Appraiser, U.S. Small Business Administration  
Appraiser, Washington State Dept. of Transportation

Qualified as an expert witness in Superior Court, Federal Court Master's Hearings, and Federal Bankruptcy Court. Served as an arbitrator in property valuation and lease renewals.

Fee reviewer; Washington Dept. of Transportation, major banks, and governmental clients.

Qualified as a Master; held Master's Hearings in Alaska.

Currently certified under the continuing education program of the Appraisal Institute.

Currently certified in Washington State as a General Appraiser (Certificate No. 1100229)

**CLIENTS SERVED**

Abeyta & Associates, R/W Company  
Benson & McLaughlin, Accountants  
Bullivant, Houser, Bailey, Pendergrass  
& Hoffman; Robert Riede, Attorneys  
Bureau of Indian Affairs  
Bureau of Land Management  
Center Bank  
Certified Land Services  
Charter Bank  
Chevron Products Company  
Church of God, Western Washington  
City of Auburn  
City of Des Moines  
City of Issaquah  
City of Newcastle  
City of Port Angeles  
City of Redmond  
City of SeaTac  
City of Seattle  
City of Tacoma  
Coldwell Banker Relocation  
Columbia Bank  
Corr Cronin LLP, Joshua Preece, Atty.  
Costco  
Eastman, Scott, Attorney, Bellevue  
El Centro De La Raza; Felicia Gonzales  
Enumclaw Public Schools  
First Sound Bank  
Huling Brothers; Steve Huling  
Johns Monroe Mitsunaga, Attorneys;  
Michael Monroe, Darrell Mitsunaga  
Kent Schools  
KeyBank of Washington  
Keating Bucklin & McCormack,  
Attorneys  
King County Library System  
Korea Exchange Bank  
Lane & Associates, Inc., R/W Company  
John Lynch, CPA, Bellevue  
Ogden Murphy Wallace, Attorneys  
O. R. Colan Associates, Inc.  
(Acquisition Specialists)  
Pacific Union Bank  
Pharos Corporation (R/W Company)  
Port of Friday Harbor  
Port of Orcas  
Port of Seattle  
Puget Sound Energy  
Reid Middleton, Engineers  
Sachan Bank  
Seattle City Light  
Seattle Monorail Project  
Seattle School District  
Tacoma Utilities  
Union Bank of California  
U.S. Bank  
U.S. Fidelity & Guarantee  
U.S. Postal Service  
Universal Field Services, Mitch Legal  
Washington Dept. of Transportation-  
Approved Appraiser & Reviewer  
Washington State Dept. of Natural  
Resources  
Washington State Parks & Recreation  
Commission  
Waste Management  
Williams Northwest Pipeline  
Wilshire State Bank

## XV.D. MOSS BAY NEIGHBORHOOD

### 3. DOWNTOWN PLAN

#### *Drive-through facilities and ground-floor offices are prohibited.*

The desired pedestrian character and vitality of the core area requires the relatively intensive use of land and continuous compact retail frontage. Therefore, automobile drive-through facilities should be prohibited. Similarly, office uses should not be allowed to locate on the ground level. These uses generally lack visual interest, generate little foot traffic, and diminish prime ground floor opportunities for the retail uses that are crucial to the ambiance and economic success of the core area.

The attractiveness of the core area for pedestrian activity should be maintained and enhanced. Public and private efforts toward beautification of the area should be promoted. Mitigation measures should be undertaken where land uses may threaten the quality of the pedestrian environment. For example, in areas where take-out eating facilities are permitted, a litter surcharge on business licenses should be considered as a means to pay for additional trash receptacles or cleaning crews.

#### *The creation and enhancement of public open spaces is discussed.*

Public open spaces are an important component of the pedestrian environment. They provide focal points for outdoor activity, provide refuge from automobiles, and stimulate foot traffic which in turn helps the retail trade. The establishment and use of public spaces should be promoted. Surface parking lots should be eliminated in favor of structured parking. In the interim, their role as one form of open area in the Downtown should be improved with landscaped buffers adjacent to rights-of-way and between properties. Landscaping should also be installed where rear sides of buildings and service areas are exposed to pedestrians.

A high-priority policy objective should be for developers to include only enough parking stalls in their projects within the core area to meet the immediate need and to locate the majority of their

parking in the core frame. This approach would reserve the majority of core land area for pedestrian movement and uses and yet recognize that the adjacent core frame is within a very short walk.

#### *Street Vacations*

The City should generally avoid vacating alleys and streets in the core area. The existing network of street and alleys provides a fine-grained texture to the blocks which allows service access and pedestrian shortcuts. The small blocks also preclude consolidation of properties which might allow larger developments with less pedestrian scale. Vacations may be considered when they will not result in increased building mass and there is a substantial public benefit. Examples of public benefit might include superior pedestrian or vehicular linkages, or superior public open space.

#### **NORTHWEST CORE FRAME**

#### *Office and office/multifamily mixed-use projects are appropriate in the Northwest Core Frame.*

The Northwest Core Frame includes the area south of City Hall and north of the core area. This area should develop with office, or office/multifamily mixed-use projects, whose occupants will help to support the commercial establishments contained in the core. Retail and restaurant uses are desirable provided that they have primary access from Central Way.

This area presents an excellent opportunity for the development of perimeter parking for the core area and is so shown in the Downtown Master Plan (Figure C-4). Developers should be encouraged to include surplus public parking in their projects, or to incorporate private parking "transferred" from projects in the core or funded by the fee-in-lieu or other municipal source. While pedestrian pathways are not as critical in this area as they are in the core, drive-through facilities should nevertheless be encouraged to locate elsewhere, to the east of 3rd Street.

ATTACHMENT 12

City of Kirkland Comprehensive Plan

(January 2002 Revision)

## XV.D. MOSS BAY NEIGHBORHOOD

### 3. DOWNTOWN PLAN

#### LAND USE

The maximum building height in this area should be between two and five stories with no minimum setback from property lines. Stories above the second story should be set back from the street. To preserve the existing human scale of this area, development over two stories requires review and approval by the Design Review Board based on the priorities set forth in this plan.

Buildings should be limited to two stories along all of Lake Street South to reflect the scale of development in Design District 2. Along Park Lane west of Main Street, Third Street, and along Kirkland Avenue, a maximum height of two stories along street frontages will protect the existing human scale and pedestrian orientation. Buildings up to three stories in height may be appropriate along Central Way to reflect the scale of development in Design District 8 and as an intermediate height where adequately set back from the street. A continuous three-story street wall should be avoided by incorporating vertical and horizontal modulations into the design of buildings.

The portions of Design District 1 designated as 1A in Figure C-5 should be limited to a maximum height of three stories. As an incentive to encourage residential use of upper floors and to strengthen the retail fabric of the Core Area, a fourth story of height may be allowed. This additional story may be considered by the Design Review Board for projects where at least two of the upper stories are residential, the total height is not more than four feet taller than the height that would result from an office project with two stories of office over ground floor retail, stories above the second story are set back significantly from the street and the building form is stepped back at the third and fourth stories to mitigate the additional building mass, and the project provides superior retail space at the street level. Rooftop appurtenances and related screening should not exceed the total allowed height, and should be integrated into the height and design of any peaked roofs or parapets.

The portions of Design District 1 designated as 1B in Figure C-5 provide the best opportunities for new development that could contribute to the pedestrian fabric of the Downtown. Much of the existing development in these areas consists of older auto-

oriented uses defined by surface parking lots and poor pedestrian orientation. To provide incentive for redevelopment and because these larger sites have more flexibility to accommodate additional height, a mix of two to four stories in height is appropriate. East of Main Street, development should combine modulations in building heights with modulations of facade widths to break large buildings into the appearance of multiple smaller buildings. South of Kirkland Avenue, building forms should step up from the north and west with the tallest portions at the base of the hillside to help moderate the mass of large buildings on top of the bluff. Buildings over two stories in height should generally reduce the building mass above the second story.

As with Design District 1A, an additional story of height may be appropriate in 1B to encourage residential use of the upper floors and to strengthen the retail fabric in the Core Area. This additional story may be considered by the Design Review Board for projects where at least three of the upper stories are residential, the total height is not more than one foot taller than the height that would result from an office project with three stories of office over ground floor retail, stories above the second story are set back significantly from the street and the building form is stepped back at the at the third, fourth, and fifth stories to mitigate the additional building mass, and the project provides superior retail space at the street level. Rooftop appurtenances and related screening should not exceed the total allowed height, and should be integrated into the height and design of any peaked roofs or parapets.

Design considerations of particular importance in this area are those related to pedestrian scale and orientation. Building design at the street wall should contribute to a lively, attractive, and safe pedestrian streetscape. This should be achieved by the judicious placement of windows, multiple entrances, canopies, awnings, courtyards, arcades, and other pedestrian amenities. Service areas, surface parking, and blank facades should be located away from the street frontage.

RESOLUTION R - 4593

A RESOLUTION OF THE CITY OF KIRKLAND EXPRESSING INTENT TO VACATE PORTIONS OF 1<sup>ST</sup> STREET SO. AND AN EAST/WEST ORIENTED ALLEY LOCATED BETWEEN KIRKLAND AVENUE AND 1<sup>ST</sup> AVENUE SO. FILED BY MERRILL GARDENS AT KIRKLAND, LLC, FILE NUMBER VAC06-00001.

WHEREAS, the City has received an application filed by Merrill Gardens at Kirkland, LLC to vacate portions of two right-of-ways and easements; and

WHEREAS, by Resolution Number 4586, the City Council of the City of Kirkland established a date for a public hearing on the proposed vacation; and

WHEREAS, proper notice for the public hearing on the proposed vacation was given and the hearing was held in accordance with the law; and

WHEREAS, it is appropriate for the City to receive compensation for vacating the right-of-way in the form of a land exchange and install other public improvements associated with the applicant's proposal and allowed under state law; and

WHEREAS, no property owner will be denied direct access as a result of this vacation.

WHEREAS, it appears desirable and in the best interest of the City, its residents and property owners abutting thereon that said street to be vacated;

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

Section 1. The Findings and Conclusions as set forth in the Recommendations Section I.B of the Department of Planning and Community Development Advisory Report contained in File Number VAC06-00001 ("Staff Report") are hereby adopted as though fully set forth herein.

Section 2. Except as stated in Section 3 of this resolution, the City will, by appropriate ordinance, vacate the portion of the right-of-

way described in Section 4 of this resolution if, within one year of the date of passage of this resolution the applicant meets the following conditions:

(a) The applicant shall file a complete application for a building permit based on the development proposal contained in File DRC06-00002, (and described in Attachment 5 to the Staff Report), within one year of the date of the passage of this Resolution. The building permit application shall contain the items identified in Section I.B.2.a of the Staff Report.

(b) As compensation for vacating the public right of ways, the applicant shall convey to the City fee simple title to the property to be dedicated for public right of way and record with King County Records and Elections, a statutory warranty deed for the area described in Attachment 5, Exhibit D of the Staff Report.

(c) The applicant shall enter into a voluntary agreement with the City, that conforms to the recommendations contained in the Staff Report, Section I.B.2.

(d) Submit to the City a copy of the recorded easement as requested by Puget Sound Energy (See Staff Report, Conclusion II.B.2.b).

(e) Within seven (7) calendar days after the final public hearing, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development.

Section 3. If the portion of the right-of-way described in Section 4 of this resolution is vacated, the City may retain and reserve an easement, together with the right to exercise and grant easements along, over, under and across the vacated right-of-way for the installation, construction, repair and maintenance of public utilities and services.

Section 4. The right-of-way to be vacated is situated in Kirkland, King County, Washington and is described as follows:

The south portion of 1<sup>st</sup> Street So. Right of Way located adjacent to 201 Kirkland Avenue as described in Exhibit A.

An east/west facing alley located between Kirkland Avenue and 1<sup>st</sup> Avenue So. Deeded under King County Recording No. 3254642, as described in Exhibit B.

A triangular portion of the east/west facing alley located between Kirkland Avenue and 1<sup>st</sup> Avenue So. Deeded as under King County Recording No. 3254643, as described in Exhibit C.

Passed by majority vote of the Kirkland City Council in open meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

SIGNED IN AUTHENTICATION THEREOF this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EXHIBIT A

(PORTION TO BE VACATED)

Beginning at the Southwest corner of Lot 28, Block 99, Burke & Farrar's Kirkland Business Center Addition, Division No. 25, according to the Plat thereof recorded in Volume 25 of Plats at Page 14, Records of King County, Washington;

Thence North  $01^{\circ}39'30''$  West along the West line of said Lot 28, a distance of 45.42 feet;

Thence South  $88^{\circ}20'30''$  West, a distance of 22.92 feet;

Thence South  $01^{\circ}39'30''$  East, a distance of 45.42 feet;

Thence North  $88^{\circ}20'30''$  East, a distance of 22.92 feet, to the Point of Beginning.

Containing 1,041 square feet, more or less.



06/05/2006

## EXHIBIT B

(PORTION TO BE VACATED)

That portion dedicated to the City of Kirkland November 21, 1941 and recorded July 28, 1942 under Auditor File No. 3254642, Records of King County, Washington.

Beginning at the intersection of the Northwest corner of Lot 28, Block 99, Burke & Farrar's Kirkland Business Center Addition, Division No. 25, according to the Plat thereof recorded in Volume 25 of Plats at Page 14, Records of said county;  
Thence Southeasterly along the North lines of Lots 28, 27, 26, 25, and 24, to the Northeast corner of Lot 24;  
Thence South, along the Easterly line, 16 feet;  
Thence Northwesterly to a point on the West line of Lot 28, 16 feet South of the Northwest corner;  
Thence North 16 feet, to the Point of Beginning.

Dedicated to the City of Kirkland for street and alley purposes only.

Containing 2,085 square feet, more or less.

## EXHIBIT C

(PORTION TO BE VACATED)

That portion dedicated to the City of Kirkland December 4, 1941 and recorded July 28, 1942 under Auditor File No. 3254643, Records of King County, Washington.

Starting at the Northwest corner of Lot 23, Block 99, Burke & Farrar's Kirkland Business Center Addition, No. 25, in the City of Kirkland, Washington;

Thence Easterly along said North line of Lot 23, to the Northeast corner of same;

Thence Southwesterly 34 feet, more or less, to a point on the West line of said Lot 23, which point is 16 feet South of the Northwest corner of said Lot;

Thence 16 feet North to the Point of Beginning.

Dedicated to the City of Kirkland for street and alley purposes only.

Containing 241 square feet, more or less.