



CITY OF KIRKLAND

CITY COUNCIL

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

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • TTY 425.587.3111 • www.ci.kirkland.wa.us

AGENDA

KIRKLAND CITY COUNCIL MEETING

City Council Chambers

Tuesday, October 17, 2006

6:00 p.m. – Study Session – Peter Kirk Room

7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.ci.kirkland.wa.us, at the Public Resource Area at City Hall or at the Kirkland Library on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (587-3190) or the City Manager's Office (587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 587-3190, or for TTY service call 587-3111 (by noon on Monday) if we can be of assistance. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*, Peter Kirk Room
 - a. Kirkland Alliance of Neighborhoods
4. *EXECUTIVE SESSION*
 - a. To Discuss Labor Relations
5. *SPECIAL PRESENTATIONS*
 - a. Designating October 24, 2006 as Kirkland Arbor Day
 - b. Designating October, 2006 as National Code Compliance Month
 - c. Intelligent Transportation System Briefing
 - d. Emergency Preparedness Update
6. *REPORTS*
 - a. *City Council*
 - (1) Regional Issues
 - b. *City Manager*
 - (1) Calendar Update

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

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

7. COMMUNICATIONS

- a. Items from the Audience
- b. Petitions

8. CONSENT CALENDAR

- a. Approval of Minutes: October 3, 2006
- b. Audit of Accounts:
 - Payroll \$
 - Bills \$

c. General Correspondence

d. Claims

- (1) Lyn Brown
- (2) Jack L. Duranceau

e. Authorization to Call for Bids

f. Award of Bids

g. Acceptance of Public Improvements and Establishing Lien Period

h. Approval of Agreements

i. Other Items of Business

- (1) Ordinance No. 4060 and its Summary, Granting Puget Sound Energy, Inc., a Washington Corporation, the Right, Privilege, Authority and Franchise to Set, Erect, Construct, Support, Attach, Connect and Stretch Facilities Between, Maintain, Repair, Replace, Enlarge and Operate Facilities In, Upon, Under, Along and Across the Franchise Area for the Purposes of Transmission, Distribution and Sale of Natural Gas
- (2) Approving Sale of Surplus Equipment Rental Vehicles/Equipment
- (3) Accepting Transportation Commission Youth Member Resignation

9. PUBLIC HEARINGS

- a. Initiative Measure No. 937 concerns energy resource use by certain electric utilities.
This measure would require certain electric utilities with 25,000 or customers to meet certain targets for energy conservation and use of renewable energy resources, as defined, including energy credits, or pay penalties. Should this measure be enacted into law? Yes [] No []

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

GENERAL CORRESPONDENCE

Letters of a general nature (complaints, requests for service, etc.) are submitted to the Council with a staff recommendation. Letters relating to quasi-judicial matters (including land use public hearings) are also listed on the agenda. Copies of the letters are placed in the hearing file and then presented to the Council at the time the matter is officially brought to the Council for a decision.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

- (1) Resolution R-4609, Stating the City Council's Support for Initiative 937, Relating to Energy Resource Use by Certain Electrical Utilities
- b. Resolution R-4610, Expressing an Intent to Vacate a Portion of Right-of-Way Filed by Michael R. Mastro of Mastro Properties, File Number VAC06-00002
- c. Ordinance No. 4062, Authorizing the City Manager to Permit the Use of the City-Owned Property at 13013 NE 65th Street as a Community Facility by Kirkland Hopelink for up to 140 Days, While a Process I Application is Pending; Requiring Kirkland Hopelink to Secure a Process I Approval Within 140 Days of this Ordinance and Maintain Process I Approval Through any Administrative or Judicial Appeals or to Vacate the Premises at 13013 NE 65th Street; and Declaring an Emergency

10. UNFINISHED BUSINESS

- a. Sidewalk Bond Exploratory Committee Recommendation
- b. Ordinance No. 4063, Relating to Solid Waste Collection Rates and Amending Section 16.12.030 of the Kirkland Municipal Code

11. NEW BUSINESS

12. ANNOUNCEMENTS

13. ADJOURNMENT

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



To: City Council

From: Kirkland Alliance of Neighborhoods, Jim McElwee, Coordinator

Date: October 9, 2006

Subject: Joint Study Session with the City Council

I have prepared the attached memorandum outlining potential discussion topics for the October 17th Joint Study Session with the Kirkland Alliance of Neighborhoods (KAN).

KAN held their first retreat in many years this past month. It was well attended and generated a lively discussion of KAN's mission and our goals for the next year. The attached memo summarizes our important issues.

We are looking forward to talking further with the City Council about how KAN can become an even more valuable resource/organization for the City as a whole.

CITY OF KIRKLAND

123 FIFTH AVENUE ● KIRKLAND, WASHINGTON 98033-6189 ● (425) 587-3000

**CITY MANAGER'S OFFICE
MEMORANDUM**

To: City Council

From: Kirkland Alliance of Neighborhoods, Jim McElwee, Coordinator

Date: October 17, 2006

Subject: Joint Study Session with City Council

The Kirkland Alliance of Neighborhoods (KAN) would like to thank the City Council for the opportunity to discuss issues and ideas that we are currently addressing as well as our vision for the immediate future of our organization. In particular we would like to address the following items:

- KAN is a Success
- Our Mission Statement
- Our Goals and Objectives for the coming year

Each of these items is discussed more fully below.

KAN is a Success

KAN is an informal body made up of neighborhood representatives. The purpose of the group is to establish a citywide focus for neighborhood associations to coordinate and share issues between neighborhoods, and educate neighborhood leaders. (This is used as our existing mission statement.)

Eleven Neighborhood Associations (NA's) represent the neighborhoods of Kirkland at KAN. Each association reflects the diverse and unique characteristics of its neighborhood. The NA's have been a great success in educating the residents about neighborhood issues, being a focal point and resource for residents to improve their neighborhoods, and providing feedback to the City Council and City Staff on neighborhood issues.

As an informal alliance of all the NA's, KAN has been a venue where representatives of the associations can come together to learn news of the larger community, exchange ideas on current issues and seek counsel on methods to improve individual association practices. We have been a valuable forum for the exchange of ideas and concerns and for the dissemination of information about city issues and events. We also provide direction for Neighborhood U where the entire community is invited to learn about city structure, systems and processes and to develop community leadership skills.

The KAN meetings are well-attended with the representation rarely being less than 75% of the NA's. Our agendas are full, and we consistently have to defer or turn away worthy issues and groups. The single most important part of each meeting, and the essence of KAN, is Neighborhood Reports, the sharing of neighborhood activities, issues and ideas around the table.

Measured by our existing mission statement, we consider KAN to be successful. Based on discussions at our recent (October 2, 2006) retreat, we think we can be even better. During our retreat we concluded that our performance corresponded well to our existing mission statement and we agreed that some modifications to that statement would reflect more clearly that we wanted KAN to take a more active role. Items of “doing well” and “opportunities to do better” as we discussed at the retreat are shown in Tables I and II.

Mission Statement

Our discussions of revisions to our mission statement were lively and spirited, especially as we addressed where we would position ourselves along the continuum between “support” and “advocacy”. Our draft proposals include increased support of neighborhoods on common issues and the application of a unified or representative neighborhood voice to educate residents and to influence other organizations. A sub-committee is drafting a final proposal that we expect to adopt at our November 8 meeting. Table III is our word association chart regarding the word “advocacy” in our mission statement.

Goals and Objectives for the Coming Year

At the retreat, the group identified several goals for the coming year:

- Develop Future Leaders
 - Identify and communicate training opportunities
 - Mine new leaders
 - Provide leadership training
- Assist in communicating city issues to our residents and communicating neighborhood issues back to city
- Develop a Voice for Neighborhoods
 - Finish mission statement
 - Define structure and scope
- Enhance Visibility of KAN
 - Market NA’s and KAN (possible KAN website)
 - Secure/Identify funding for activities
 - Enhance outreach efforts to neighborhoods
- Do More Collective/Group Problem Solving
 - Put as regular part of agenda

We look forward to our meeting with the City Council to further discuss our goals and relationship with the City.

Table I

About KAN – What Things Work Well

	Consistent with current mission?	
Get to hear about other neighborhoods and hear other ideas and issues	Yes	
Introduction to City and Regional issues	Yes	
Educational Speakers (such as emergency preparedness)	Yes	
Ideas that I can use for my neighborhood	Yes	
Neighborhood U	Yes	
Opportunity to meet people from other parts of the city	Yes	
Share projects, goals and solutions	Yes	
Efficient way to get out info	Yes	
Networking	Yes	
It exists – the alliance works together instead of getting played off one another (not Seattle)		Not Addressed
Learn things I should pass on to my neighborhood	Yes	
Becoming aware of issues that may be coming to my neighborhood	Yes	
Opportunity to serve on other committees		Not Addressed
Candid and informal	Yes	
KAN participants have a similar lens for viewing City of Kirkland	Yes	

Table II

About KAN – Opportunities to Improve

	Consistent with current mission?	
Have more interest in participation	Yes	
Recognized as a group that people want to go to		Not Addressed
More of a presence		Not Addressed
More visibility		Not Addressed
Better understanding of what KAN can do for neighborhoods	Yes	
Get more visibility to Neighborhood Associations		Not Addressed
Give us more tools to grow Neighborhood Association membership	Yes	
Support each other on issues that may impact us all	Yes?	
A place to gather support for Neighborhood issues		Not Addressed
Build coalitions among neighborhoods		Not Addressed
Represent neighborhoods to council (e.g. issue papers)		Not Addressed
Make a difference on City decisions		Not Addressed
Communicate community views on issues (e.g. web page; be a “3 rd branch” of government and another perspective)	Yes	
Use KAN as a place to identify and train community leaders	Yes	
Develop future leaders	Yes	
Do more problem solving and sharing solutions	Yes	

Table III

Should KAN Include Advocacy in the Mission Statement?

Pro	Con
Voice	Political
Opinion	Abused
Power	Polarizing
Influence	May not represent everyone
Counterbalance	Risky
Seat at the table	Not always consensus
Leadership	Majority versus Consensus
	Could ruin a good thing
	Divisive

October 2nd KAN Retreat attendees:

Everest–Anna Rising
Highlands–Sue Keller, John Braun, Susan Braun
Juanita–Norm Storme, Greg Butler
Lakeview–Pam Miller, Robert Miller
Market–Jane Maule, Loren Spurgeon
Moss Bay–Glenn Peterson, Mark Eliason
North Rose Hill–Margaret Carnegie, Karen Tennyson
South Rose Hill/Bridle Trails–Ern Anderson, Colleen Cullen
Totem Lake–Lynda Haneman
KAN–Jim McElwee

City–Kari Page, Marilynne Beard



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
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MEMORANDUM

To: David Ramsay, City Manager

From: Paul Stewart, Deputy Planning Director

Date: October 2, 2006

Subject: Kirkland's 2006 Autumn Arbor Day Proclamation and Invitation

Recommendation

Approve attached proclamation.

Background

Attached is the Arbor Day proclamation for a ceremony and dedication of an elm tree in Heritage Park on **Tuesday, October 24, 2006 at 4:30 p.m.** in Heritage Park. The Mayor, City Council and the public are invited to attend.

As part of the event, the Campfire Girls will be participating in the ceremony. The event will feature the dedication of an existing elm tree in honor of Amelia Newberry. Ms. Newberry was the founder of the Campfire Girls in Kirkland in the early 1900's. In October, 1936 an elm was planted in (now named) Heritage Park in honor of Ms. Newberry. This event will celebrate and rededicate an elm tree with the assistance and participation of the Campfire Girls. A plaque will be installed at the base of the tree.

The proclamation, along with the event itself, will fulfill one of the four standards in which Kirkland may become a Tree City USA for the Year 2006. The Tree City USA designation from the National Arbor Day Foundation requires annual renewal in order to show that the City has met all four standards: 1. urban forest budget of at least \$2 per capita, 2. an urban forestry board or related body, 3. tree regulation, and 4. proclamation and celebration of Arbor Day.



A PROCLAMATION OF THE CITY OF KIRKLAND

Designating October 24, 2006 as "Kirkland Arbor Day"

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this celebration, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Washington, the "Evergreen State," has celebrated Arbor Day since 1917; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, beautify our community which improves the quality of life; and

WHEREAS, trees wherever planted in Kirkland can be enjoyed by citizens and visitors, making "Kirkland the place to be";

WHEREAS, Kirkland received its third Tree City USA award from the National Arbor Day Foundation; and

WHEREAS, Kirkland's Arbor Day is a ceremony with the Campfire Girls to rededicate an elm tree in Heritage Park on Tuesday, October 24th, 2006 at 4:30 p.m. in honor of Amelia Newberry, founder of the Campfire Girls in Kirkland in 1912; and

WHEREAS, the first elm tree was planted in Heritage Park on October 21, 1936 in appreciation of Amelia Newberry;

NOW THEREFORE, I, James Lauinger, Mayor of the City of Kirkland, Washington, do hereby proclaim October 24, 2006 as Kirkland Arbor Day.

FURTHER, I urge all citizens to celebrate Arbor Day by planting a tree today, so others may live tomorrow.

Signed this 17th day of October, 2006

James L. Lauinger, Mayor



CITY OF KIRKLAND
Planning and Community Development Department
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MEMORANDUM

To: David Ramsay, City Manager

From: Nancy Cox, Development Review Manager

Date: October 5, 2006

Subject: PROCLAMATION FOR NATIONAL CODE COMPLIANCE MONTH

RECOMMENDATION

Recognize Kirkland's Code Enforcement Officers and staff as part of National Code Compliance month.

BACKGROUND DISCUSSION

October is National Code Compliance month. The American Association of Code Enforcement is encouraging jurisdictions to promote the effort by issuing proclamations. The purpose of the proclamation is to advance public and professional interest in the contributions that code compliance officers have made to the quality of life in communities across the nation.

In the Planning Department, there are two Code Enforcement Officers, Judd Tuberg (18 years) and Craig Salzman (7 years). Judd and Craig handle the hundreds of code enforcement cases that come through the Planning Department. In addition, many other City employees contribute to the code compliance efforts of the City. The following employees are on the Code Enforcement Service Team:

Clell Mason; Craig Salzman; Ellen Miller-Wolfe; Eric Shields; Erin Leonhart; Jeff Rotter; Jim Crowe; John Hopfauf; Jon Morrow; Judd Tuberg; Kathi Anderson; Nancy Cox; Oskar Rey; Rob Jammerman; Stacey Rush; Tom Phillips; Tracy Burrows; Vandana Ingram-Lock; and Wendy Kremer

The proclamation is a way to say thank you and recognize the on-going efforts of the staff in their work that greatly benefits the Kirkland community.

cc: Code Enforcement Service Team members



A PROCLAMATION OF THE CITY OF KIRKLAND

Designating October 2006 as “National Code Compliance Month” of the City of Kirkland

WHEREAS, Code Enforcement officers provide for the safety, health and welfare of citizens living in communities throughout the United States through the enforcement of building, zoning, housing, animal control, fire safety, environmental and other codes and ordinances; and

WHEREAS, Code Enforcement Officers who are members of the American Association of Code Enforcement are dedicated, well-trained and highly responsible individuals who take their jobs seriously, are proud of their departments and local government within which they serve and are committed to saving lives and improving neighborhoods in the course of their daily jobs; and

WHEREAS, the American Association of Code Enforcement, acting on behalf of its more than 1,200 members, requests that October be set aside to honor and recognize our Code Enforcement Officers as an opportunity to highlight the contributions these individuals have made to the quality of our communities, to celebrate American accomplishments in making collective decisions concerning our cities and regions that bring quality and meaning to our lives, and to recognize the participation and dedication of code compliance officers who have contributed their time and expertise to the improvement of communities throughout the United States; and

WHEREAS, we recognize the many valuable contributions made by the code compliance officers throughout this great nation and extend our heartfelt thanks for their continued commitment to public service;

NOW, THEREFORE, I James L. Lauinger, Mayor of Kirkland, do hereby proclaim October as “**Code Compliance Month**”.

Signed this 17th day of October, 2006

James L. Lauinger, Mayor



CITY OF KIRKLAND

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MEMORANDUM

To: Kirkland City Council

From: Kirkland Transportation Commission, Dan Fisher, Chair

Date: October 3, 2006

Subject: Intelligent Transportation Systems (ITS) in the City of Kirkland

RECOMMENDATION

Hire a consultant to prepare an ITS plan that will be our blueprint for the coordinated implementation of ITS in Kirkland. The plan would include project descriptions, phasing, priorities, and cost estimates based upon the objectives listed in this report. Funding from the Capital Improvement Program budget would be used to hire the consultant.

BACKGROUND

During the past twenty years, various Intelligent Transportation Systems (ITS) applications have been implemented in Washington State, at a regional level by the Department of Transportation, and, at a local level, by several jurisdictions. Cities such as Seattle and Bellevue developed their systems in the late 80's. Most recently, King County, Issaquah and Redmond have initiated efforts to develop theirs. Kirkland, on the other hand, has not aggressively pursued implementation of ITS.

There is, however, growing interest in the development of ITS in Kirkland as a cost-effective means to alleviate congestion, inform drivers and citizens about traffic conditions, provide faster response to traffic incidents, and to support traffic enforcement. The Transportation Commission and City Council agreed that ITS is a topic worthy of consideration, in particular there is a need to identify ITS opportunities in Kirkland. This will be especially important if the pending annexation proceeds. Therefore, as part of its 2006-2007 work plan, the Commission has prepared this report. There are four sections in it:

- *Objectives*: key points to be considered as an ITS strategy is pursued in Kirkland.
- *ITS in Kirkland*: a look at we have done to date in Kirkland with regard to ITS.
- *Potential Applications*: a review of broad ITS categories and their benefits.
- *Next Steps*: thoughts and recommendations on implementation.

OBJECTIVES

In general, the main objective of ITS is to use advanced technology to optimize traffic conditions. Advanced technology includes, for example, communication networks (fiber optic/wireless), specialized software tools, and many different types of equipment.

Given Kirkland's size, specific needs, budget constraints and particular approach to transportation problem solving, not all available ITS tools/applications maybe appropriate. Therefore, in developing an ITS strategy, the following objectives and principles should be considered:

Learn from others: The fact that Kirkland has not been as aggressive as other cities in pursuing ITS applications allows us to take advantage of others' experience of what works most effectively. It also allows us to save the cost of intermediate technology developments that have been eventually replaced as the technology has further advanced.

Be regional: Any ITS application that is put in place by Kirkland should be compatible on a regional basis. ITS in Kirkland should take advantage of regional opportunities and systems to minimize the need to develop specialized applications.

Communications are key: Look for opportunities to install communication networks in connection with other projects. Communication links between traffic signal controllers and an office location (traffic control center) to provide real time conditions should be a high priority. This would also allow Kirkland to link to adjacent jurisdictions to solve cross-jurisdictional traffic issues.

ITS is operations based: The overall purpose for installing ITS applications is to improve traffic conditions for users by better managing the existing transportation infrastructure. In addition, ITS should improve the operations of the transportation system. The observable improvements include reduced arterial travel time and improved responses to incidents.

Driver information: A major function of ITS is informing drivers about traffic conditions within and outside Kirkland using a variety of delivery techniques. This provides information to travelers so that they can make more informed choices about whether to make a trip and when they do make the trip, how long they should allow for it. This can apply to multiple modes.

ITS optimizes capacity: ITS should be used to optimize existing capacity by using it as efficiently as possible. This is particularly important in an environment where capacity is expensive and difficult to expand.

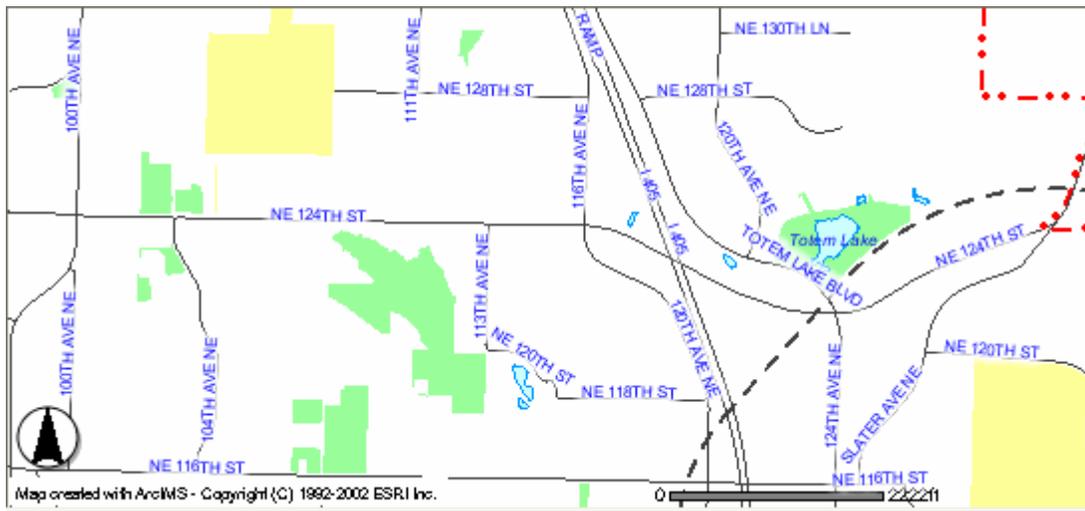
Take a multimodal approach: Consider users of transit, cyclists and pedestrians when planning and implementing ITS.

ITS requires a champion: To ensure implementation, it is important to identify a strong advocate within the City for ITS. An Elected Official or a Member of the Transportation Commission could fill this role. There have been a couple of individuals on the Transportation Commission that have shown a strong interest in filling this role.

Consider economic benefits of projects: Traditionally ITS projects have a very high benefit cost ratio, but any element that is proposed should be carefully considered for economic value.

ITS IN KIRKLAND

The NE 124th Street Corridor is the first ITS application on a local arterial street in Kirkland. It has traffic control, monitoring, surveillance capabilities as well as Transit Signal Priority (TSP). The corridor is jointly operated and maintained by King County, WSDOT and Kirkland per Interlocal Agreements signed in 2005.



The corridor is approximately 3.5 miles in length and carries Average Annual Daily Traffic varying from 41,000 (in the vicinity of I-405 Interchange) to 25,000 near/at its west and east termini. The original roadway configuration prior to 1991 was three lanes, but capacity improvements implemented since, the last one occurring in 2003, culminated with its existent five-lane cross section. As capacity increased in the corridor, though, so did traffic. The yearly growth rate in the corridor during the past 15 years has held steady at 3% (the annual traffic growth rate city-wide is about 1%) , but there are no more capacity improvements planned for the corridor within the next 20 years (with the exception of some improvements planned for the intersection at 124th Ave at NE). ITS is the best available option/tool to manage increasing congestion in the corridor.

What ITS elements do we have at NE 124th Street?

- 1) New signal controllers and fiber optic interconnection at ten traffic signals, five of which are Kirkland's, two are owned by King County, and the remaining three (including two ramps) are owned by WSDOT. The new controllers and fiber interconnection allows the signals to be synchronized.
- 2) Closed Circuit Television (CCTV) cameras at four locations allow King County to control and monitor traffic flow at those locations.
- 3) Transit Signal Priority (TSP) capability (not yet in operation). This provides the capability to extend green time at traffic signals for buses that are running behind schedule.
- 4) Changeable Lane Assignment (CLAS) at the Intersection of 100th Ave NE and NE 124th Street. This allows one of the exclusive through traffic lanes in the southbound approach of the intersection to be shared by left turners during the morning peak
- 5) System loops at various locations (not in operation yet). Will allow for real-time traffic data to be collected.
- 6) Communication Linkage to King County's Transportation Management Center (TMC) This allows the County to monitor and do the surveillance needed to adjust traffic controls to operate the system at optimum efficiency.

All the elements of the project are already in place, but some of them are not yet functional (TSP and System Loops) as the communication and Software systems are being finalized. The next step will be to connect the Kirkland City Hall/Maintenance with the Project hub located at the intersection of 116th Ave NE and NE 124th Street. A plan is in place to bring information back to Kirkland City Hall over city-owned fiber using a link which is being constructed as part of the Sound Transit direct access project as it rebuilds 116th Avenue NE. When this is complete, in fall of 2006, real-time information will be available at Kirkland as well as King County. Overall, the project has been well received and has improved traffic flow during the AM peak period.

Ongoing ITS Plan/Design on NE 85th Street

The NE 85th Corridor Improvement Project is in design and it is expected to go out for Bids in December 2006. The project includes TSP and traffic signal equipment upgrades. Recommended elements are signal interconnection from 114th Ave NE to 120th Ave NE, a wireless interconnection between 114th Ave NE and City Maintenance/Engineering Facilities, traffic management software, CCTV and system loops at two locations. Optional Elements for future consideration are wireless interconnection between NE 85th Street and the NE 124th Street ITS corridor, Dynamic Message Signs and expansion of traffic management software to add local and regional traffic coordination capability.

Portable/Fixed Variable Message Signs

Kirkland has one portable variable message sign that is always in high demand for informing motorists about planned construction projects and or events occurring within City limits that may impact traffic flows. In addition, the City has 6 fixed, programmable radar signs that show motorist's actual speed as they traverse the street.

POTENTIAL APPLICATIONS: A List of ITS Tools for Potential / Increased use in Kirkland

Category	Elements	Purpose/Benefit
Advanced Traffic Signal Control Systems	Signal Controllers Signal Interconnection Traffic Management Software	Allows for coordination/synchronization of any number of signals in an area. Main benefit is reduced travel time. 10-20% reduction can be obtained.
Traffic Surveillance	Video Image Detection using CCTV Road-based Induction Loop Detectors	Used for Incident Detection and Verification. Also used extensively for measuring high-volume traffic conditions.
Automated Traffic Enforcement	Red-light Monitoring Using 35 mm Wet/Digital Cameras	Reduces the number of red light violators/right angle collisions. Cost may be an issue.
Motorist Information	Portable/Fixed Variable Message Signs – use Fiber Optics and LEDs	Inform motorists while they are on route about traffic conditions; direct them toward other info sources. Benefits are difficult to measure.
Traffic Management	Communication Links to all ITS Field Devices Traffic Management Software Advanced Computer Equipment	Monitor, control the entire ITS System, implement traffic management strategies, communication info to media and the public. Benefits include faster response to incidents, reduction in accident rates, increases in average speeds.
Transit Signal Priority (TSP)	Traffic Signal Interconnection Upgraded Signal Equipment TSP Field Devices Traffic Management Software	Transit travel time reduction, increased transit travel time reliability.
Transit Information Systems: Bus Arrival Time		Inform transit users about next bus arrival time. Usually located at Transit Centers. Increased customer satisfaction.

NEXT STEPS

If approved, the next step in further development of ITS in Kirkland is the preparation of an ITS Implementation Plan. A consultant would be hired to prepare a plan that provides the specific ITS elements that are appropriate for Kirkland. The plan would include project descriptions, phasing, priorities, and cost estimates based upon the objectives presented in the first section of this report. This plan would act as the blueprint for the overall completion of an ITS plan. The plan would help to focus development of an ITS system that can meet the city's objectives. It would also provide valuable documentation and information when applying for potential grant money to help implement these projects. Without such a plan, ITS will continue to be implemented, but implementation will be reactive to opportunities as they arise and the ITS system will not develop according to established city-wide priorities. There would also be increased risk of system incompatibilities. .

We will use \$60,000 from the Capital Improvements Program budget to fund this effort in 2007. We will report back to the City Council on the progress, scope, and schedule of the ITS efforts.



CITY OF KIRKLAND

Fire & Building Department

123 Fifth Avenue, Kirkland, WA 98033 425.587.3000

www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Helen Ahrens-Byington, Deputy Chief

Date: September 19, 2006

Subject: Status of Emergency Preparedness

On the September 5th, 2006 City Council meeting there was a request for a status update on Emergency Preparedness for the City of Kirkland. Listed below are some past accomplishments and concerns with, updates included.

Accomplishments:

- The city's Comprehensive Emergency Management Plan (CEMP) was approved by the State EMD
- A Terrorism Annex was developed and added to the CEMP
- Grant monies in the amount of \$2,029,291 was applied for and \$671,119 were awarded to Kirkland (some are regional grants).
- Emergency Operations Center (EOC) drills were held to familiarize staff with the set up of the center
- CEMP overview training was provided for the city council
- New phones for ECC have been purchased
- Updated ECC Procedures Manual as of February 2006
- Developed and delivered a business preparedness educational program; in a by request manner only
- Developed and delivering a home preparedness educational program; in a by request manner only
- Started the Citizen Emergency Response Team (CERT) program (Dec 05). We have trained approximately 42 citizens in 2 classes, to date.
- Updated the City's Hazard Vulnerability Assessment
- Completed the City's portion and are a part of the King County All Hazard Mitigation Plan that has been approved by the Department of Homeland Security
- Trained all Fire and Police Department personnel and 62 city staff members assigned to work in the ECC on the National Incident Management System (NIMS) IS 700 class (NIMS Awareness Course)
- Established backup radio communications systems with the AERS Group
- Appointed Helen Ahrens-Byington to Deputy Chief Administration to oversee Emergency Preparedness.

Update

- Reactivated the City EMAT (Emergency Management Action Team) which consists of one person from each department within the City.
- Each Section within the EOC plan will have completed a training session by the middle of October.
- The City's EOC will be participating in a regional activation drill in November.
- Made contact with Evergreen Hospital Emergency Coordinator and joined their Emergency Planning Team.
- Increased the City of Kirkland employee NIMS required training, 90% of all City employees have completed the required NIMS training (IS 100, and NIMS 700)
- The City Council has had a study session on emergency preparedness and has begun to complete NIMS training
- The City Council adopted the Federal NIMS standards
- The City of Kirkland has been reporting biannually to the State on our NIMS compliance
- Two City Council members graduated from the third CERT class
- We are in the process of teaching the 4th CERT class with a City council member attending; there is also a waiting list large enough to fill another class.
- Purchased and filled employee disaster storage supply containers (caches) and installed them at the fire stations and other City facilities.

Concerns:

- Emergency Preparedness and Homeland Security is changing faster than we are able to keep up
- The Emergency Preparedness Coordinator's position is unfunded
- Part time activities are only producing an absolute minimum of preparedness
- Unable to start our business recovery plan to minimize the impacts of loss of our business tax base
- Need staff to coordinate the CERT program; a lot of citizen interest, no one to focus on volunteer & program management
- Unable to take full advantage of the many grant opportunities

Update

- There has not been enough time to start making necessary contacts and relationships with organizations and businesses within the City of Kirkland
- There has not been the time to order and purchase equipment for the EOC
- The City of Kirkland website and the City intra-web site needs to be updated
- City of Kirkland employees need to have personal emergency preparedness training so they (and their families) are prepared at home; this will ensure they are ready to work for the City during a disaster
- Need to complete the rest of the NIMS required training for City employees, ICS 200, 300 and 400
- Need to review CEMP and EOC manual every 2 years, required by FEMA, CEMP due by Jan. 2007, EOC due by Feb. 2008
- Coordination and development of a city wide Citizen Corp to include the needed coordination of the CERT volunteers
- Develop a disaster plan to help special population in the City of Kirkland
- Need to develop a recovery plan
- Need to develop a plan to prepare for and operate through a Flu Pandemic
- Develop and practice the EAS (Emergency Alert System)

- Purchase and train staff on a notification system for EOC activation and disaster response.

As you can see the accomplishments are mainly tasks completed and the concerns are broader in nature and identify our inability to address numerous tasks needing to be completed. We have been able to take part in some regional coordination but have been unable to do much City of Kirkland coordination

We have made some progress towards being better prepared for a disaster in Kirkland. While the progress is slow and sometimes sporadic; I want to recognize the work of Deputy Chief Henderson and others; they split time with an already full workload in their primary areas of responsibilities and put forth a great effort towards making Kirkland more prepared. Given the past minimal level of commitment that has been placed on emergency preparedness in the city, we are getting a good return for our efforts. In my professional opinion the commitment level must be immediately reevaluated; especially in light of many significant disasters which have left cities and counties unable to respond to the needs of their citizens. Many of our neighboring Cities have at least 1 full time emergency manager with several having 3 or more employees in their Emergency Management division.

It is clear that citizens will place a high demands on our emergency response system; which would immediately overwhelm our resources to deal with emergencies. Having a plan to deal with our lack of resources will become the most important thing we can do. Preparing our city is critical for elected official; if you look at how the media has played out the events of Hurricane Katrina; you can see the tremendous scrutiny and finger pointing at elected officials for the outcomes of this disaster. We can't prepare for everything, but we must get better prepared. It would be my recommendation to immediately address three top priority items in emergency preparedness. They are;

- Hiring of a full time Emergency Preparedness Coordinator
- Bringing the ECC up to standards in all aspects of preparedness
- Fund a Public Education campaign on citizen preparedness

The events of 9-11, Nisqually earthquake, numerous hurricanes, especially Katrina, Rita and Wilma, and tsunami disasters have heightened awareness and the need for adequate planning locally. If we have a desire to be prepared and respond to the needs of the community; we must increase our commitment to emergency preparedness now.



KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
October 03, 2006

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:

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

Members Absent: None.

3. STUDY SESSION

None

4. EXECUTIVE SESSION

None

5. SPECIAL PRESENTATIONS

a. Kirkland Downtown Association

Neal Christensen, Kirkland Downtown Association Vice President, reviewed 2006 activities.

b. Proclamation Designating October 2 - 6, 2006 as "Walk to School Week"

6. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding the San Diego Regional Economic Development Council visit in conjunction with Enterprise Seattle; Burlington Northern Santa Fe Corridor Advisory Committee meeting; Discovery Institute presentation by former Mayor of Bogota, Colombia; Legislative forum on environmental policy and affordable housing; Cascade Water Alliance; King Conservation

District; Kirkland Alliance of Neighborhoods Retreat; Hopelink relocation; City Council NorKirk Neighborhood Meeting and an acknowledgement of the passing of Julie Davidson.

b. City Manager

(1) Calendar Update

7. COMMUNICATIONS

a. Items from the Audience

David Hiller, Cascade Bicycle Club, 801 1st Avenue North, #A, Seattle, WA
Terry Rennaker, 100 20th Avenue, Kirkland, WA
Rob Johnson, Transportation Choices Coalition, 1617 Boylston Avenue,
#202, Seattle, WA

b. Petitions

8. CONSENT CALENDAR

a. Approval of Minutes:

(1) September 19, 2006

(2) September 26, 2006

b. Audit of Accounts:

Payroll \$ 1,655,923.86

Bills \$ 1,838,038.89

run # 625 check #'s 482044 - 482190

run # 626 check # 482191

run # 627 check #'s 482192 - 482433

c. General Correspondence

d. Claims

(1) Michael and Wyomia Bonewits

(2) Helena Hass on behalf of Clair Whitman

(3) John K. Parker

e. Authorization to Call for Bids

(1) 105th Avenue NE/106th Avenue NE Watermain Replacement Project

(2) 116th Avenue NE Watermain Replacement Project

(3) 7th Avenue/114th Avenue Watermain Replacement Project

f. Award of Bids

g. Acceptance of Public Improvements and Establishing Lien Period

h. Approval of Agreements

i. Other Items of Business

(1) Approving Transportation Commission Policy Application Recommendations for Permanent Radar Sign Policies

(2) Approving Transportation Commission and Public Works Department Proposed Changes to Traffic Concurrency System

(3) Establishing November 8, 2006 as the Public Hearing Date on the Proposed 2007 - 2012 Transportation Improvement Program

(4) Resolution R-4604, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AMENDING THE 2006-2011 SIX-YEAR CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF KIRKLAND."

(5) Resolution R-4605, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SOLE SOURCE PURCHASE OF A COMPUTER AIDED DISPATCH ANALYST MODULE MANUFACTURED AND SOLD BY DECCAN INTERNATIONAL AUTHORIZING THE PURCHASING AGENT TO MAKE SAID PURCHASE."

(6) Resolution R-4606, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED ALLEY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNER DEREK C. DRENNAN."

(7) Resolution R-4607, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED ALLEY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY

OWNERS JOHN M. GRAHAM AND KIM R. GRAHAM."

(8) Resolution R-4608, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED ALLEY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNER J BAY PROPERTIES, LLC."

(9) Managing Construction Cost Escalation on Projects

Motion to Approve the Consent Calendar.

Moved by Councilmember Mary-Alyce Burleigh, seconded by Councilmember Jessica Greenway

Vote: Motion carried 7-0

Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

9. PUBLIC HEARINGS

- a. First Reading of Ordinance No. 4060 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, GRANTING PUGET SOUND ENERGY, INC., A WASHINGTON CORPORATION , THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO SET, ERECT, CONSTRUCT, SUPPORT, ATTACH, CONNECT AND STRETCH FACILITIES BETWEEN, MAINTAIN, REPAIR, RELACE, ENLARGE AND OPERATE FACILITIES IN, UPON, UNDER ALONG AND ACROSS THE FRANCHISE AREA FOR THE PURPOSES OF TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS."

Mayor Lauinger opened the public hearing. Chief Information Officer Brenda Cooper reviewed the proposed franchise and noted an addition to the language in the draft ordinance which will be included at the end of section 7, paragraph B: "In the event applicable laws are enacted that exempt from public disclosure information concerning the location of PSE's Facilities, at the City's request this paragraph may be amended pursuant to Section 16 of this Franchise." No other testimony was offered and the Mayor closed the hearing.

10. UNFINISHED BUSINESS

- a. Ordinance No. 4061, Relating to Bicycle and Pedestrian Ways Along Transportation Facilities - Complete Streets

Councilmembers Hodgson, Deputy Mayor McBride and the Transportation Commission were recognized for their work on this issue.

Motion to Approve Ordinance No. 4061, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BICYCLE AND PEDESTRIAN WAYS ALONG TRANSPORTATION FACILITIES."

Moved by Councilmember Tom Hodgson, seconded by Councilmember Dave Asher

Vote: Motion carried 7-0

Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. Discussing Potential Annexation

Senior Management Analyst Tracy Burrows reviewed information on voting patterns in the potential annexation area.

c. Regarding the King Conservation District Preliminary 2007 Proposed Special Assessment Proposal

Public Works Director Daryl Grigsby reviewed the issues and recommended position points in the updated staff memorandum.

Motion to Approve the staff recommendation to direct the City's representative to the Public Issues Committee of the Suburban Cities Association to present, at their October 11, 2006 meeting, the points outlined in the staff memorandum dated October 3, 2006 regarding the King Conservation District Assessment/Allocation.

Moved by Councilmember Mary-Alyce Burleigh, seconded by Councilmember Dave Asher

Vote: Motion carried 7-0

Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

Council recessed for a short break at 9:15 p.m.

Motion to amend the agenda to immediately consider item 11.a.

Moved by Councilmember Dave Asher, seconded by Councilmember Mary-Alyce Burleigh

Vote: Motion carried 7-0

Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

- d. Authorizing Correspondence to Washington State Department of Transportation regarding State Route 520 Bridge Replacement Draft Environmental Impact Statement

Motion to Approve the Joint Interest Statement with Redmond and Bellevue and authorizing correspondence to Washington State Department of Transportation regarding State Route 520 Bridge Replacement Draft Environmental Impact Statement

Moved by Councilmember Mary-Alyce Burleigh, seconded by Councilmember Dave Asher

Vote: Motion carried 7-0

Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

- e. Downtown Kirkland Transit Center Project Update

Public Works Director Daryl Grigsby reviewed the transit center goals and process and introduced Capital Projects Manager Ray Steiger and Dan Eder, Sound Transit Project Engineer/INCA Engineers, who then presented information on the current proposal, responded to Council questions and received Council feedback and direction.

Councilmember Asher had to leave the meeting at 10:15 p.m. in order to catch a scheduled flight out of town.

- f. Information Technology Strategic Plan

Chief Information Officer Brenda Cooper responded to Council questions and received Council feedback on the final draft of the plan.

11. NEW BUSINESS

- a. Appointing Kirkland Special Voting Member to the King County Landmarks and Heritage Commission

Motion to appoint Barbara Loomis as a special voting member to the King County Landmarks and Heritage Commission.

Moved by Councilmember Mary-Alyce Burleigh, seconded by

Councilmember Dave Asher

Vote: Motion carried 7-0

Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

12. ANNOUNCEMENTS

None

13. ADJOURNMENT

The Kirkland City Council special meeting of October 3, 2006 adjourned at 10:48 p.m.

City Clerk

Mayor



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

MEMORANDUM

To: David Ramsay, City Manager
From: Kathi Anderson, City Clerk
Date: October 11, 2006
Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION

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

POLICY IMPLICATIONS

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

BACKGROUND DISCUSSION

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

- (1) Lyn Brown
5007 West Lake Sammamish Parkway NE
Redmond, WA 98052

Amount: \$2,296.74

Nature of Claim: Claimant states damage to vehicle occurred when it was struck by a City vehicle.

- (2) Jack L. Duranceau
8106 242nd Street SW Unit D
Edmonds, WA 98026

Amount: \$873.50

Nature of Claim: Claimant states damage to vehicle occurred when it was struck by a City vehicle.



CITY OF KIRKLAND
Information Technology Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3050
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Janice Perry, MultiMedia Communications Manager
Brenda Cooper, Chief Information Officer

Date: October 17, 2006

Subject: Puget Sound Energy Gas Franchise

Recommendation

1. Second reading of Ordinance No. 4060 to grant a franchise to Puget Sound Energy for the distribution and sell of gas.
2. Adopt Ordinance No. 4060

Discussion

Ordinance No. 4060 would grant a franchise to Puget Sound Energy (PSE) for the gas services with the City of Kirkland. This ordinance updates the previous franchise that is more than 20 years old.

This proposed franchise addresses terms, noninterference of facilities, relocation of facilities, records of installation and planning, coordination and shared excavations, dispute resolution, arbitration, indemnification, emergency management, amendments and insurance. There are two memorandum of understanding (MOU). One MOU sets out procedures and timelines for relocation of facilities and the second speaks to natural gas system integrity and safety. The MOUs do not require City Council action and will be signed by the City Manager once the franchise ordinance has been adopted.

The first reading of the proposed franchise was held on October 3, 2006. A public hearing regarding the proposed franchise was held at the same time. No testimony was presented at the hearing. Staff recommends adoption of the Ordinance No. 4060 granting a ten year franchise to Puget Sound Energy for gas services

Pc: Daryl Grigsby
Rob Jammerman

Memorandum of Understanding Natural Gas Facilities Relocation Procedure

This Memorandum of Understanding is entered into between the City of Kirkland (the "City") and Puget Sound Energy ("PSE"), also referred to herein together as the "Parties".

WHEREAS the City and PSE have entered into a Franchise Agreement, Ordinance No. 4060 ("the Franchise"), and

WHEREAS the City and PSE recognize the value of defining and developing their working relationship through cooperation, planning, communication and coordination, and

WHEREAS the City and PSE desire to establish a mutually agreed procedure for expeditious and cost effective relocation of PSE's Natural Gas Facilities that are subject to the Franchise,

NOW, THEREFORE, it is hereby understood and agreed between the Parties as follows:

This Memorandum of Understanding is intended by the Parties to be supplemental to the Franchise to the extent it contains procedures for the expeditious and cost effective relocation of PSE's Natural Gas Facilities, which are subject to the Franchise. The Facilities Relocations Procedures provided herein have been agreed to by the Parties for the purpose of implementing the respective obligations of the Parties contained in Section 6 of the Franchise with respect to projects specifically identified in the City CIP and identified for project funding in the City's biennial budget.

The Memorandum of Understanding does not apply to emergency relocations under Section 6C of the Franchise.

Unless specifically defined otherwise in this Memorandum of Understanding, all defined terms herein will have the same meaning as when used in the Franchise.

This Memorandum of Understanding may be amended by mutual agreement of the Parties. Any amendment must be set forth in writing, signed by the Parties, and specifically state that it is an amendment to this Memorandum of Understanding.

The Parties intend that, notwithstanding circumstances beyond the control of the Parties, required relocations of PSE's Facilities subject to the Franchise will be performed by the Parties in accordance with the Facilities Relocation Procedures provided herein. The Parties acknowledge that the Facilities Relocation Procedures, including specifically the time requirements provided therein, may, from time to time, require amendment, or as mutually agreed by the Parties deviation therefrom, to reasonably accommodate circumstances beyond the control of either Party. In such event, the Parties will make their respective best efforts to reasonably amend this Memorandum of Understanding, or to reasonably deviate from the procedures contained herein, as the Parties may mutually agree upon.

This Memorandum of Understanding, as from time to time amended, will remain in full force and effect for the term of the Franchise, unless sooner terminated by mutual agreement of the Parties.

Facilities Relocation Procedures

1. Reasonably well in advance of, but in no case less than 130 days before (unless otherwise mutually agreed by the Parties or otherwise necessitated by circumstances beyond the control of the Parties) the City desires PSE to commence construction of a required relocation of PSE's Facilities which are subject to the Franchise, the City will provide PSE with a written scope of work for the City's related Public Works Project which includes, among other things, (a) a reasonably detailed description of the scope of the work required for the Public Works Project, (b) a list of the key milestone dates for the Public Works Project including the projected dates by which construction of the required relocation should be commenced and completed by PSE, and (c) two (2) copies of reasonably detailed drawings showing the planned improvements for the Public Works Project (collectively the "Scope of Work"). The City will also provide PSE with a copy of the relevant electronic file(s) for the Scope of Work in a mutually agreed electronic format.

After receipt by PSE of the City's Scope of Work, in the event PSE believes it will be unable to comply with the time frames provided for in this Facilities Relocation Procedures, PSE will, within fifteen (15) days so notify the City. In such event and as soon thereafter as practicable, the Parties shall meet to discuss the circumstances precluding performance consistent with the Facilities Relocation Procedures and to mutually agree to alternative time frames for performance that are otherwise consistent with the Facilities Relocation Procedures. The Parties anticipate and intend that relocation of certain PSE Facilities, including but not limited to, high pressure gas mains (operating above sixty (60) psi) and associated equipment, district regulating stations, gas mains attached to bridges, overpasses or crossing under water features and gas main replacements in excess of 2000 lineal feet, will require alternative (longer) time frames to produce and agree to the Relocation Plan described in paragraph 4 below and/or to acquire materials and/or permits necessary to construct the required relocation.

2. Within a reasonable time, but in no case later than seventy (70) days (unless otherwise mutually agreed by the Parties) after receipt by PSE of the City's Scope of Work, PSE will prepare and provide to the City: (a) a proposed design for the relocated Facilities that accommodates the planned improvements for the Public Works Project, and (b) a proposed schedule for completion of the relocation which, to the extent reasonably practicable, reflects the applicable key milestone dates specified in the Scope of Work and provides for completion of the required relocation by the projected relocation completion date provided by the City in the Scope of Work. The proposed relocation design and proposed relocation schedule will be based upon the then current Scope of Work provided to PSE by the City.

3. Within fifteen (15) days after the City's receipt of the proposed relocation design and the proposed relocation schedule from the PSE, the City and PSE will begin meeting, as necessary, in order to (a) review the Scope of Work, (b) review the proposed relocation design, (c) review the proposed relocation schedule, and (d) make any changes thereto necessary to create a final Scope of Work, final relocation design, and final relocation schedule (collectively the "Relocation Plan") reasonably acceptable to both Parties.
4. The Relocation Plan will be accepted in writing by authorized representatives of both Parties not less than thirty (30) days prior to the date PSE is to commence relocation construction contained therein. Once accepted by the Parties, the Relocation Plan may thereafter be changed or amended only in accordance with the change procedures set forth below.
5. The City will promptly notify PSE of any revision(s) and/or addition(s) to the planned improvements for the City's Public Works Project which may impact the design of or location for PSE's Facilities contained in the Relocation Plan.
6. The City will, not less than ten (10) days prior to the date contained in the Relocation Plan that PSE is to commence relocation construction, provide a written notice to PSE to proceed with construction of the required relocation as provided in the Relocation Plan.
7. After receipt of the City's notice to proceed, PSE will relocate such Facilities within the Franchise Area at no cost to the City as provided in the Relocation Plan.
8. The City will be responsible for coordinating the PSE relocation work with all other work to be performed in connection with the Public Works Project and any associated planned improvements. The Parties will work together in an effort to mitigate the costs of the relocation, including, without limitation, identifying ways to accommodate PSE's Facilities within the Franchise Area.
9. Upon request of the City, and in any event as specified in the Relocation Plan, PSE will provide periodic progress reports to the City.
10. Any actual reasonable costs incurred by the City or by any contractor working for the City, caused by construction delays reasonably attributable to a failure by PSE to adhere to the Relocation Plan, including the date contained therein by which PSE is to complete the required relocation, will be the sole responsibility of PSE unless such failure is excused, as provided for in Section 20, Force Majeure, of the Franchise.
11. In the event the City terminates or abandons the Public Works Project, such that relocation of PSE Facilities will not be or would not have been necessary, the City will pay PSE for all actual reasonable costs incurred by PSE in performance of the relocation including any necessary design and/or construction work. The City shall reimburse PSE for costs incurred by PSE for materials and other items ordered or procured by PSE (with the prior authorization of the City) in order to meet the final relocation schedule in the Relocation Plan; provided that to the extent such

materials and other items are commonly used by PSE in its operations, the City will pay PSE a 25% restocking or handling fee in lieu of providing full reimbursement to PSE.

12. Either Party may, at any time, by written request to the other Party, request changes to the Relocation Plan. No request for change will be unreasonably denied by either Party. A Request for Change will be effective and binding upon the Parties only when signed by an authorized representative of each Party. The Parties will meet and work in good faith with the objective of reaching written agreement on mutually acceptable adjustments to the Relocation Plan. Notwithstanding resolution of any dispute and/or mutual agreement concerning requested changes to the Relocation Plan, each Party will, if requested by the other Party and to the extent reasonably practicable, proceed with their respective work in accordance with the Relocation Plan, subject to any mutually agreed change(s), to accommodate the Public Works Project and avoid delays related thereto. In the event the Parties so proceed, the Parties will thereafter make their respective best efforts to resolve any dispute and/or to reach mutual agreement on any requested change(s) and/or the results of such proceeding notwithstanding such prior agreement.

13. Any dispute, disagreement or claim arising out a required relocation of PSE's Facilities must first be presented to and considered by the Parties. A Party who wishes to present such dispute, disagreement or claim will notify the other Party and pursue resolution of the dispute, disagreement or claim consistent with Sections 9 and 10 of the Franchise and as limited by Section 21 of the Franchise. All negotiations pursuant to these procedures for the resolution of disputes will be confidential and will be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.

Agreed and Accepted this _____ day of _____, 2006

PUGET SOUND ENERGY, INC.

CITY OF KIRKLAND

(Title)

City Manager

Approved as to form:

Deputy City Attorney

Memorandum of Understanding Natural Gas System Integrity and Safety

This Memorandum of Understanding is entered into between the City of Kirkland (the "City") and Puget Sound Energy ("PSE"), also referred to herein as the "Parties".

WHEREAS, the City and PSE have entered into a Franchise Agreement, Ordinance No. _____ ("the Franchise") addressing PSE's natural gas Facilities as described therein, and

WHEREAS, the City and PSE, recognize the value of defining and developing their working relationship through cooperation, planning, communication and coordination, and

WHEREAS, the City and PSE desire to establish mutually agreed provisions for reporting to the City information concerning the integrity and safety of PSE's natural gas Facilities,

NOW, THEREFORE, it is hereby understood and agreed between the Parties as follows:

This Memorandum of Understanding may be amended by mutual agreement of the Parties. Any amendments must be set forth in writing, signed by both Parties, and specifically state that it is an amendment to this Memorandum of Understanding.

This Memorandum of Understanding, as from time to time amended, will remain in full force and effect for a period of ten (10) years from the date this Memorandum of Understanding was signed by the Parties, unless sooner terminated or further extended by mutual agreement of the Parties.

The performance of the Parties under this Memorandum of Understanding may become subject to regulation by the Washington Utilities and Transportation Commission ("WUTC"). In such event the Parties agree to amend this Memorandum of Understanding so that it shall be consistent with any such regulation.

1. Upon City's reasonable request, PSE will make available for review and inspection by the City or City's representative, PSE's annual maintenance, safety and inspection plans and records concerning or related to PSE's natural gas Facilities located in the City of Kirkland.

2. Upon City's reasonable request, PSE will make available for review and inspection by the City or City's representatives, copies of reports or notices filed with WUTC or Federal Offices of Pipeline Safety concerning or related to the integrity or safety of PSE's natural gas Facilities located in the City of Kirkland.

3. PSE will provide concurrent notice to the City of any application by PSE for waiver of any state or federal gas safety rule applicable to the integrity or safety of PSE's natural gas Facilities located in the City of Kirkland.

4. Any dispute, disagreement or claim arising out of this Memorandum of Understand must first be presented to and considered by the Parties. A Party who wishes to present such dispute, disagreement or claim will notify the other Party and pursue resolution of the dispute, disagreement or claim consistent with Section 9 and 10 of the Franchise and as limited by Section 21 of the Franchise. All negotiations pursuant to these procedures for the resolution of disputes will be confidential and will be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.

Agreed and accepted the ____ day of _____, 2006

PUGET SOUND ENERGY, INC.

CITY OF KIRKLAND

(Title)

City Manager

Approve as to form:

Assistant City Attorney

ORDINANCE NO. 4060

AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, GRANTING PUGET SOUND ENERGY, INC., A WASHINGTON CORPORATION, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO SET, ERECT, CONSTRUCT, SUPPORT, ATTACH, CONNECT AND STRETCH FACILITIES BETWEEN, MAINTAIN, REPAIR, REPLACE, ENLARGE AND OPERATE FACILITIES IN, UPON, UNDER ALONG AND ACROSS THE FRANCHISE AREA FOR THE PURPOSES OF TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS.

THE CITY COUNCIL OF THE CITY OF KIRKLAND DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Definitions: where used in this franchise ordinance ("The Franchise") terms shall have the following meaning.

A. "City" shall mean the City of Kirkland a municipal corporation of the State of Washington and its respective successors and assigns.

B. "Facilities" means, collectively, any and all natural gas systems, including but not limited to gas pipes, fixtures, communication systems and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient or relating to the transmission, distribution and sale of natural gas, whether the same be located over of under ground.

C. "Franchise" means the grant of rights, privileges and authority embodied in this Ordinance.

D. "Franchise Area" means all rights-of-way for public roads, streets, avenues, alleys, and highways of the City as now laid out, platted, dedicated, acquired or improved; all rights-of-way for public roads, streets, avenues, alleys, and highways that may hereafter be laid out, platted, dedicated, acquired or improved with the present limits of the City and as such limits may be hereafter extended; and all City owned utility easements dedicated for the placement and location of various utilities provided such easement permits PSE to fully exercise the rights granted under this Franchise within the area covered by the easement.

E. "Ordinance" means this Ordinance No. 4060, which sets forth the terms and conditions of this Franchise.

F. "Party" or "Parties" means collectively the City and PSE, and individually either the City or PSE.

G. "PSE" means Puget Sound Energy, Inc., a Washington Corporation, and its respective successors and assigns.

H. "Public Works Project" means any City capital improvement or the construction, relocation, expansion, repair, maintenance, or removal of any part of the Franchise Area or City

owned Facilities located on or in the Franchise Area for: roads, and/or streets; sidewalks; curbs; pedestrian and/or vehicle traffic sewers, storm water drains, water Facilities, and; City owned fiber optic cable, conduit or network Facilities.

I. "Tariff" means tariff as that term is defined in WAC 480-80-030(3), or such similar definition describing rate schedules, rules and regulations relating to charged and service as may hereinafter be adopted by the regulatory authority with jurisdiction, under the laws of the State of Washington, over public service companies.

J. "Third Party" means any person, party or entity other than the City and PSE.

K. "WUTC" means the Washington Utilities and Transportation Commission or such successor regulatory agency having jurisdiction over public service companies.

Section 2. Grant of Franchise

A. Pursuant to the laws of the State of Washington including, but not limited to, RCW 35A.47.040 and RCW 80.32.010, the City hereby grants to PSE, subject to the terms and conditions as set forth herein, a Franchise for a period of ten (10) years commencing upon the effective date of this Ordinance and subsequent acceptance of such ordinance and Franchise by PSE. This Franchise is granted upon the express condition that PSE, within thirty (30) days after the adoption of this ordinance, shall file with the City Clerk of the City a written acceptance of the same. If PSE fails to do so within the time frame above, this Ordinance and Franchise shall be null and void. This Franchise may be renewed, at the sole discretion of the City of Kirkland Council, for one additional five (5) year period upon the written request of PSE, such request to be submitted not more than two (2) years nor less than one-hundred-eight (180) days prior to the expiration of the initial ten (10) year term.

B. PSE specifically agrees to comply with the provisions of any applicable City codes, ordinances, regulations, standards, procedures, permits or approvals, as from time to time amended; provided, however, that in the event of a conflict or inconsistency between any such provisions and this Franchise, the express terms and conditions of this Franchise shall govern. The express terms and condition of the Franchise constitutes a valid and enforceable contract between the Parties.

C. Upon the effective date of this Ordinance and acceptance of such Ordinance and Franchise by PSE, all prior franchises between the City and PSE, to its predecessors in interest, which it has acquired for the transmission, distribution and sale of natural gas shall be deemed repealed.

Section 3. Non-Franchise Area City Property

A. This Franchise shall not convey any right to PSE to install Facilities on or to otherwise use City-owned or leased properties or easements outside the Franchise Area.

B. Existing Facilities installed or maintained by PSE in accordance with prior franchise agreements on public grounds and places within the City (but which are not a part the Franchise Area as defined by this Franchise) may be maintained, repaired and operated by PSE at the location where such Facilities exist as of the effective date of this Franchise for the term of this Franchise; provided, however, that no such Facilities may be enlarged, improved or expanded without the prior review and approval of the City pursuant to the provision of any applicable City codes, ordinances, regulations, standards, procedures and/or permits, as now exist or as may be hereafter amended or superseded, provided that such provisions are not in conflict or inconsistent with the express terms and conditions of this Franchise.

Section 4. Nonexclusive Franchise

A. This Franchise is not and shall not be deemed to be an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises upon, under and across the Franchise Area. This Franchise shall not prohibit or prevent the City from using the franchise Area for any lawful purpose or affect the jurisdiction of the City over the same or any part thereof.

B. The City reserves the right to acquire, construct, own, operate and maintain a municipal natural gas utility to serve all or any portion of the City, at any time during he term of the Franchise and to fully exercise such rights in accordance with applicable law.

Section 5. Noninterference of Facilities

A. PSE's Facilities shall be located and maintained within the Franchise Area so as not to interfere with the free passage of pedestrian and/or vehicle traffic therein, or with the reasonable ingress or egress to the properties abutting the Franchise Area as they exist at the time of installation of the Facilities. Any relocation of PSE Facilities that may be necessary to accommodate a Third Party shall be subject to Section 6 below.

B. PSE shall, after installation, construction, relocation, maintenance, removal or repair of any of PSE's Facilities with the Franchise Area, restore the surface of the Franchise Area and any other City property within the Franchise Area which may be disturbed or damaged by such work, to at least the same condition as it was immediately prior to any such work. The City shall have final approval of the condition of the Franchise Area after restoration pursuant to the provisions of applicable City codes, ordinances, regulations, standards and procedures, as now exist or as may be hereafter amended or superseded, provided that such provisions are not in conflict or inconsistent with the express terms and conditions of this Franchise.

C. The City may require PSE to post an appropriate bond, as determined by the City, to ensure satisfactory restoration of the Franchise Area following the completion of PSE's work therein. In lieu of separate bonds for routine individual projects involving work in the Franchise Area, PSE may satisfy the City's bond requirement of this Section C by posting an approved indemnity bond with the City pursuant to KMC 19.12.095.

D. All survey monuments which are disturbed or displaced by PSE in its performance of any work under this Franchise shall be referenced and restored by PSE, as per WAC 332-120, as from time to time amended, and all pertinent federal, state and local standards and specifications.

E. Except as otherwise provided in this Section 5.E, in the event PSE permanently ceases use of any of its Facilities with the Franchise Area, PSE shall, within one hundred and eighty days (180) after such permanent cessation of use, or such additional time as is agreed to between the parties, remove such Facilities at its sole cost and expense; provided that with the express written consent of the City, PSE may leave such Facilities in place subject to the conditions set forth in this Section 5.E. Any such Facilities to be left in place shall be made inert by purging all natural gas from such Facilities (including displacement of natural gas with an appropriate inert gas) and disconnecting and sealing such Facilities, all in compliance with applicable regulations and industry standards. The City's consent shall not relieve PSE of the obligation and/or costs to subsequently remove or alter such Facilities in the event the City reasonably determines that such removal or alteration is necessary or advisable for the health and safety of the public, in which case PSE shall perform such work at no cost to the City. The obligations contained in this Section 5.E shall survive the expiration, revocation or termination of this Franchise.

F. All work by PSE pursuant to the Section shall be performed in accordance with the permit(s) issued by the City, together with the laws of the State of Washington, the provisions of any applicable City codes, ordinances, regulations, standards and procedures as now exist or as may be hereafter amended or superseded, provided that such provisions are not in conflict or inconsistent with the express terms and conditions of this Franchise.

Section 6. Relocation of Facilities

A. Whenever the City causes the construction of any Public Works Project within the Franchise Area, or on public grounds and places described in Section 3.B, and such construction necessitates the relocation of PSE's Facilities from their existing location within the Franchise Area or on such public grounds and places, such relocation will be at not cost to the City.

B. The City and PSE shall work cooperatively to accomplish any such relocation of PSE's Facilities consistent with procedures contained in the Memorandum of Understanding (if any), mutually agreed to and as from time to time amended by mutual agreement of the Parties.

C. In the event an emergency posing a threat to public safety or welfare requires the relocation of PSE's Facilities within the Franchise Area, the City shall give PSE notice of the

emergency as soon as reasonably practicable. Upon receipt of such notice from the City, PSE shall endeavor to respond as soon as reasonably practicable to relocate the affected Facilities.

D. Subject to Section 6.E, whenever any Third Party requires the relocation of PSE's Facilities to accommodate work of such Third Party within the Franchise Area or on such public grounds and places described in Section 3.B, then PSE shall have the right as a condition of any such relocation to require payment to PSE, at a time and upon terms acceptable to PSE, for any and all costs and expenses incurred by PSE in the relocation of PSE's Facilities.

E. Any condition or requirement imposed by the City upon any Third Party (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits obtained pursuant to any zoning, land use, construction or other development regulation) which requires the relocation of PSE's Facilities within the Franchise Area shall be a condition or requirements causing relocation of PSE's Facilities to occur subject to the provisions of Section 6.D; provided, however in the event the City reasonably determines and notifies PSE that the primary purpose of imposing such condition or requirement upon such Third Party is to cause or facilitate the construction of a Public Works Project to be undertaken within a segment of the Franchise Area on the City's behalf and consistent with the City's Capital Improvement Plan; Transportation Improvement Program; or the Transportation Facilities Program, then only those costs and expenses incurred by PSE in reconnecting such relocated Facilities with PSE'S other Facilities shall be paid to PSE by such Third Party, and PSE shall otherwise relocate its Facilities within such segment of the Franchise Area in accordance with Section 6.A.

F. As to any relocation of PSE's Facilities whereby the cost and expense thereof is to be borne by PSE in accordance with this Section 6, PSE may after receipt of written notice requesting such relocation, submit in writing to the City alternatives to relocation of its Facilities. Upon the City's receipt from PSE of such written alternatives, the City shall evaluate such alternatives and shall advise PSE in writing if one or more of such alternatives are suitable to accommodate the work which would otherwise necessitate relocation of PSE's Facilities. In evaluating such alternatives, the City shall give each alternative proposed by PSE full and fair consideration with due regard to all facts and circumstances which bear upon the practicality of relocation and alternative to relocation. In the event the City reasonably determines that such alternatives are not appropriate, PSE shall relocate its Facilities as otherwise provided in Section 6.A and 6.B.

G. If the City requires the subsequent relocation of Facilities with five (5) years from the date of relocation of such Facilities pursuant to Section 6.A and Section 6.E (when such Section 6.E relocation would be considered a Section 6.A relocation), the City shall bear the entire cost of such subsequent relocation.

H. Nothing in this Section 6 shall require PSE to bear any cost or expense in connection with the relocation of any Facilities existing under benefit of easement (other than City owned utility easements described in Section 1.D or other rights not arising under this Franchise, nor shall anything in the Section 6 require the City to bear any such cost or expense. Nothing in this Section

6 shall be construed to be a waiver of any right of either PSE or the City to contest any claim or assertion by the other of responsibility to pay such cost or expense.

Section 7. Records of Installation and Planning

A. Upon the City's reasonable request, PSE shall provide to the City copies of any plans prepared by PSE for potential improvements, relocations and conversions to its Facilities within the Franchise Area; provided, however, any such plans so submitted shall be for information purposes only and shall not obligate PSE to undertake any specific improvements within the Franchise Area, not shall such plan be construed as a proposal to undertake any specific improvement with the Franchise Area.

B. Upon the City's reasonable request, PSE shall provide to the City copies of available drawings in use by PSE showing the location of its Facilities at specific locations with the Franchise Area. As to any such drawings so provided, PSE does not warrant the accuracy thereof and, to the extent the locations of Facilities are shown, such Facilities are shown in their approximate location. In the event applicable laws are enacted that exempt from public disclosure information concerning the location of PSE's Facilities, at the City's request this paragraph may be amended pursuant to Section 16 of this Franchise.

C. Upon the City's reasonable request, in connection with the design of any Public Works Project, PSE shall verify the location of its underground Facilities within the Franchise Area by excavating (e.g. pot holing) at no expense to the City. In the event PSE performs such excavation, the City shall not require any restoration of the disturbed area in excess of restoration to the same condition as existed immediately prior to the excavation.

D. Any drawings and/or information concerning the location of PSE's Facilities provided by PSE shall be used by the City solely for management of the Franchise Area. The City shall take all prudent steps reasonably necessary to prevent disclosure or dissemination of such drawings and /or information to any Third Party, without the prior express consent of PSE, to the extent permitted by law.

E. Notwithstanding the foregoing, nothing in this Section 7 is intended (nor shall be construed) to relieve either party of their respective obligations arising under applicable law with respect to determining the location of utility facilities.

Section 8. Coordination, Shared Excavations

A. PSE and the City shall each exercise all best reasonable efforts to coordinate any construction work that either may undertake within the Franchise Areas so as to promote the orderly and expeditious performance and completion of such work as a whole. Such efforts shall include, at a minimum, reasonable and diligent efforts to keep the other party and other utilities within the Franchise Areas informed of its intent to undertake such construction work. PSE and the City shall

further exercise best reasonable efforts to minimize any delay or hindrance to any construction work undertaken by themselves or utilities with the Franchise Area.

B. If, at any time or from time to time, either PSE or the City shall cause excavations to be made with the Franchise Area, the party causing such excavation to be made shall afford the other, upon receipt of a written request to do so, an opportunity to use such excavation, provided that; (1) such joint use shall not unreasonably delay the work of the party causing the excavation to be made; and (2) such joint use shall be arranged and accomplished on terms and conditions satisfactory to both Parties.

Section 9. Dispute Resolution

A. If there is any dispute or alleged default with respect to performance under this Franchise, the City shall notify PSE in writing, stating with reasonable specificity the nature of the dispute or alleged default. Within seven (7) days of its receipt of such notice, PSE shall provide written response to the City that shall acknowledge receipt of such notice and state PSE's intentions with respect to how PSE shall respond to such notice. PSE shall further have thirty (30) days (the "cure period") from its receipt of such notice to:

1. Respond to the City, contesting the City's assertion(s) as to the dispute or any alleged default and requesting a meeting in accordance with Section 9.B or;
2. Resolve the dispute or cure the default, or;
3. Notify the City the PSE cannot resolve the dispute or cure the default with thirty (30) days, due to the nature of the dispute or alleged default. Notwithstanding such notice, PSE shall promptly take all reasonable steps to begin to resolve the dispute or cure the default and notify the City in writing and in detail as to the actions that will be taken by PSE and the projected completion date. In such case, the City may set a meeting in accordance with Section 9.B.

B. If any dispute is not resolved or any alleged default is not cured or a meeting is requested or set in accordance with this Section 9.B, then the City shall promptly schedule a meeting between the City and PSE to discuss the dispute or any alleged default. The City shall notify PSE of the meeting in writing and such meeting shall take place not less than ten (10) days after PSE's receipt of notice of the meeting. Each Party shall appoint a representative who shall attend the meeting and be responsible for representing the Party's interests. The representatives shall exercise good faith efforts to resolve the dispute or reach agreement on any alleged default and/or any corrective action to be taken. Any dispute (including any dispute concerning the existence of or any corrective action to be taken to cure any alleged default) that is not resolved with ten (10) days following the conclusion of the meeting shall be referred by the Parties' representatives in writing to the senior management of the Parties for resolution. In the event senior management is unable to resolve the dispute with twenty (20) days of such referral (or such other

period as the Parties may agree upon), each Party may pursue resolution of the dispute or any alleged default through other legal means consistent with Section 10 of the Franchise. All negotiations pursuant to these procedures for the resolution of disputes shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence to the extent permitted by law.

C. If, at the conclusion of the steps provided for in Section 9.A and 9.B, the City and PSE are unable to settle the dispute or agree upon the existence of a default or the correction action to be taken to cure any alleged default, the City or PSE (as PSE may have authority to do so) may:

1. Take any enforcement or corrective action provided for in City Code, as from time to time amended; provided such action is not otherwise in conflict with the provisions of this Franchise, and/or;
2. Demand arbitration, pursuant to Section 10 below, for disputes arising out of or related to Section 2.B (or such other sections with respect to the existence of conflicts or inconsistencies with the express terms and conditions of this Franchise and any applicable City codes, ordinances, regulations, standards, and procedures as now exist or as may be hereafter amended or superseded); 3, 5, 6 (excluding project delay claims exceeding \$30,000), 7,13, and 19 of this Franchise (the "Arbitrable Claims"), and/or;
3. By ordinance, declare an immediate forfeiture of this Franchise for a breach of any material, non-arbitrable, obligations under this Franchise and/or;
4. Take such other action to which it is entitled under this Franchise or any appropriate law.

D. Unless otherwise agreed by the City and PSE in writing, the City and PSE shall, as may reasonable be practicable, continue to perform their respective obligations under this Franchise during the pendency of any dispute.

Section 10. Arbitration

A. The Parties agree that any dispute, controversy, or claim arising out of or relating to the Arbitrable Claims, shall be referred for resolution to the American Arbitration Association in accordance with the rules and procedures in force at the time of the submission of a request for arbitration.

B. The arbitrators shall allow such discovery as is appropriate to the purposes of arbitration in accomplishing a fair, speedy and cost-effective resolution of the dispute(s). The arbitrators shall reference the Washington State Rules of Civil Procedure then in effect in setting the scope and timing of discovery. The Washington State Rules of Evidence shall apply in total. The arbitrators may enter a default decision against any Party who fails to participate in the arbitration proceedings.

C. The Arbitrators shall have the authority to award compensatory damages, including consequential damages. Such damages may include but not be limited to: all cost and expenses of materials, equipment, supplies, utilities, consumable goods and other items; all costs and expenses of any staff; all costs and expenses of any labor (including, but not limited to, labor of any contractors and or subcontractors); all pre-arbitration costs and expenses of consultants, attorneys, accountants, professional and other services; and all taxes, insurance, interest expenses, overhead and general administrative costs and expenses, and other costs and expenses of any kind incurred in connection to the dispute. The arbitrator may award equitable relief in those circumstances where monetary damages would be inadequate.

D. Any award by the arbitrators shall be accompanied by a written opinion setting forth the findings of fact and conclusion of law relied upon in reaching the decision. The award rendered by the arbitrators shall be final, binding and non-appealable, and judgment upon such award may be entered by any court of competent jurisdiction.

E. Except as provided in Section 10.G, each Party shall pay the fees of its own attorneys, expenses of witnesses and all other expenses and costs in connection with the presentation of such Party's case including, without limitation, the cost of any records, transcripts or other things used by the Parties for the arbitration, copies of any documents used in evidence, certified copied of any court, property or City documents or records that are placed into evidence by a Party.

F. Except as provided in Section 10. G, the remaining costs of the arbitration, including without limitation, fees of the arbitrators, costs of records or transcripts prepared for the arbitrator's use in the arbitration, costs of producing the arbitrator's decision and administrative fees shall be borne equally by the Parties.

G. Notwithstanding the foregoing Sections 10.E and 10.F, in the event either Party is found during the term of this Franchise to be the prevailing party in any two (2) arbitration proceedings brought by such Party pursuant to this Section 10, or under any Memorandum of Understanding provided for in Section 6 and 7 of this Franchise or any other Memorandum of Understanding between the Parties that provides therefore, then such Party shall thereafter be entitled to recover all reasonably incurred costs, fees and expenses, including attorney fees, of any subsequent arbitration brought by them in which they are found to be the prevailing party.

H. In the event a Party desires to make a copy of the transcript of an arbitration proceeding for its use in writing a post-hearing brief, or a copy of an arbitration decision to append to a lawsuit to reduce the award to judgment etc., then that Party shall bear the cost thereof, except to the extent such cost might be allowed by a court as court costs.

Section 11. Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the City of PSE to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated there under for non-Arbitrable Claims. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City or PSE to recover monetary damages for such violations by the other Party, or to seek and obtain judicial enforcement of the other Party's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

Section 12. Indemnification

A. PSE shall indemnify, defend and hold the City, its agents, officers or employees harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorney's fees, made against the City, its agents, officers or employees on account of injury, harm, death or damage to persons or property which is caused by, in whole or in part, and to the extent of, the negligent acts or omissions of PSE or its agents, servants, employees, contractors, or subcontractors in the exercise of the rights granted to PSE by this Franchise. Provided, however, such indemnification shall not extend to that portion of any claims, demands, liability, loss cost, damage or expense of any nature whatsoever including all costs and attorney's fees caused by the negligence of the City, its agents, employees, officers, contractors or subcontractors.

B. PSE's indemnification obligations pursuant to the Section 12 shall include assuming potential liability for actions brought by PSE's own employees and the employees of PSE's agents, representatives, contractors, and subcontractors even though PSE might be immune under Title 51 RCW from direct suit brought by such employees. It is expressly agreed and understood that this assumption of potential liability for actions brought by the aforementioned employees is limited solely to claims against the City arising by virtue of PSE's exercise of the rights set forth in this Agreement. The obligations of PSE under this section have been mutually negotiated by the Parties hereto, and PSE acknowledges that the City would not enter into this Agreement without PSE'S waiver thereof. To the extent required to provide this indemnification only, PSE waives its immunity under Title 51 RCW as provided in RCW 4.24.115.

C. In the event any matter (for which the City intends to assert its rights under this Section 12) is presented to or filed with the City, the City shall promptly notify PSE thereof and PSE shall have the right, at its election and at its sole costs and expense, to settle and compromise such matter as it pertains to PSE's responsibility to indemnify, defend and hold harmless the City, its agents, officers or employees. In the event any suit or action is started against the City based upon any such matter, the City shall likewise promptly notify PSE thereof, and PSE shall have the right, at its election and at its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election, as it pertains to PSE's responsibility to indemnify, defend and hold harmless the City, its agents, officers or employees.

Section 13. Emergency Management

Annually, upon the request of the City, PSE will meet with the City Fire/Emergency Preparedness Department to coordinate emergency management operations and, at least once a year, at the request of the City, PSE personnel will actively participate with either the Fire Department or the City Emergency Operations Center in emergency preparedness drills or planning sessions.

Section 14. Assignment of Franchise

All of the provisions, conditions and requirements herein contained shall be finding upon PSE and the City. PSE may not assign or otherwise transfer its rights, privileges, authority and Franchise herein conferred without the prior written authorization and approval of the City, which shall not e unreasonably withheld. The City hereby authorizes and approves the mortgage by PSE of its rights, privileges, authority and Franchise in and under this Franchise to the trustee for its bondholders.

Section 15. Severability and Survival

A. If any term, provision, condition or portion of this Franchise shall be held to be invalid such invalidity shall not affect the validity of the remaining portions of this Franchise which shall continue in full force and effect. The headings of the sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

B. All provisions, conditions and requirements of this Franchise that may be reasonably construed to survive the termination or expiration of this Franchise shall survive the termination or expiration of the Franchise. Subject to Section 14, the Parties' respective rights and interests under this Franchise shall inure to the benefit of their respective successors and assigns.

Section 16. Amendments to Franchise

A. This Franchise may be amended only by mutual agreement thereto, set forth in writing in the form of a City ordinance, signed by both Parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation the Sections addressing indemnification and insurance) shall govern and supersede and shall not be changed, modified, deleted, added to supplemented or otherwise amended by any permit, approval license, agreement or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by PSE of any and all of its rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

1. Reference this Franchise; and

2. States that it contains terms and conditions which change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise.

B. If, during the term of this Franchise, there becomes effective any change in federal or state law including changes approved by the WUTC which:

1. affords either party the opportunity to negotiate in good faith a term or condition of this Franchise which term or condition would not have, prior to such change, been consistent with federal or state law; or
2. pre-empts or otherwise renders null and void any term or condition of this Franchise which has theretofore been negotiated in good faith;

then, in such event, either party may, within one hundred and eighty (180) days of the effective date of such change, notify the other party in writing that such party desires to commence negotiations to amend this Franchise. Such negotiations shall encompass only the specific term or condition affected by such change in federal or state law and neither party shall be obligated to re-open negotiations on any other term or condition of this Franchise. Within thirty (30) days from and after the other party's receipt of such written notice, the parties shall, at a mutually agreeable time and place, commence such negotiations. Pending completion of such negotiations resulting in mutually agreeable amendment of this Franchise, adoption of such amendment by Ordinance by the City and acceptance of such Ordinance by PSE, and except as to any portion thereof which has been pre-empted or otherwise rendered null and void by such change in federal or state law, the Franchise shall remain in full force and effect.

Section 17. No Third Party Beneficiary

Nothing in this Franchise shall be construed to create or confer any right or remedy upon any person(s) other than the City and PSE. No action may be commenced or prosecuted against any Party by any Third Party claiming as a Third Party beneficiary of this Franchise. This Franchise shall not release or discharge any obligation or liability of any Third Party to either Party.

Section 18. Insurance

A. PSE shall procure and maintain for the duration of the Franchise, insurance, or provide self-insurance, against all claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to PSE, its agents, representatives or employees. PSE shall provide evidence of self-insurance and/or an insurance certificate, together with an endorsement naming the City, its officers, elected officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insured, to the city for its inspection prior to the commencement of any work or installation of any Facilities pursuant to this Franchise, and such self-insurance and/or insurance certificate shall evidence the following minimum coverage:

1. Comprehensive general liability insurance including coverage for premises – operations, explosions and collapse hazard, underground hazard and products completed hazard, with limits not less than:

- (a) \$5,000,000 for bodily injury or death to each person;
- (b) \$5,000,000 for property damage resulting from any one accident; and
- (c) \$5,000,000 for general liability.

2. Automobile liability for owned, non-owned and hired vehicles with a limit of \$2,000,000 for each person and \$2,000,000 for each accident;

3. Worker’s compensation within statutory limits and employer’s liability insurance with limits of not less than \$2,000,000;

4. Environmental pollution liability with a limit not less than \$5,000,000 for each occurrence, at a minimum covering liability from sudden and/or accidental occurrences.

If coverage is purchased on a “claims made” basis, then PSE shall warrant continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the termination date of this Franchise, and/or conversion from a claims made form to an “occurrence” coverage form.

B. Any deductibles or self-insured retentions must be declared to the City. Payment of deductibles and self-insured retentions shall be the sole responsibility of PSE. The insurance certificate required by the Section shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

C. PSE’s insurance shall be primary insurance with respect to the City, its officers, official, employees, agents, consultants and volunteers. Any insurance maintained by the City, its officers, officials, employees, consultants, agents and volunteers shall be in excess of PSE’s insurance and shall not contribute with it.

D. In addition to the coverage requirements set forth in this Section, the certificate of insurance shall provide that:

“The above described policy will not be canceled before the expiration date thereof without the issuing company giving thirty (30) days written notice to the certificate holder.”

In the event of said cancellation or intent not to renew, PSE shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section by the cancellation date.

Section 19. Notice of Tariff Changes

PSE shall, when making application for any changes in tariffs affecting the provisions of the Franchise, notify the City in writing of the application and provide City with a copy of the submitted application within five (5) days of filing with the WUTC. PSE shall further provide the City with a copy of any actual approved tariff(s) affecting the provision of this Franchise.

Section 20. Force Majeure

In the event that either Party is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond its reasonable control (a "Force Majeure Event"), then that Party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; storm, earthquake or other condition which necessitates the mobilization of the personnel of a Party or its contractors to restore utility service to customers; laws, regulations, rules or orders of any government agency; sabotage; strikes or similar labor disputes involving personnel of a Party, its contractors or a Third Party; or any failure or delay in the performance by the other Party, or a third Party who is not an employee, agent or contractor of the Party claiming a Force Majeure Event, in connection with this Franchise. Upon removal or termination of the Force Majeure Event, the Party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation. The Parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.

Section 21. Memorandum of Understanding

A. The Parties agree to develop and maintain in effect for the term of this Franchise a certain Memorandum of Understanding as provided for in Section 6 of this franchise. This Memorandum of Understanding shall, among other things, detail the expectation of the Parties regarding their respective responsibilities and performance relating to the subject matter thereof.

B. In the event of performance by either Party which is, or which may be asserted or construed to be, inconsistent with the expectations contained in the Memorandum of Understanding provided for by this Section 21, such performance shall not be, nor shall such performance be construed to be a failure to perform any materials obligation under this Franchise for the purposes of Section 9 and Section 10 of this Franchise.

Section 22. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2006.

Signed in authentication thereof this _____ day of _____, 2006.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4060

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING PUGET SOUND ENERGY, INC., A WASHINGTON CORPORATION, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO SET, ERECT, CONSTRUCT, SUPPORT, ATTACH, CONNECT AND STRETCH FACILITIES BETWEEN, MAINTAIN, REPAIR, REPLACE, ENLARGE AND OPERATE FACILITIES IN, UPON, UNDER ALONG AND ACROSS THE FRANCHISE AREA FOR THE PURPOSES OF TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS.

SECTIONS 1-21. Provide for the grant of a franchise to Puget Sound Energy, Inc. of a franchise for natural gas facilities and distribution for ten years on specified terms and conditions.

SECTION 22. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2006.

I certify that the foregoing is a summary of Ordinance 4060 approved by the Kirkland City Council for summary publication.

City Clerk



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

MEMORANDUM

To: David Ramsay, City Manager

From: Tim Llewellyn, Fleet Supervisor
Daryl Grigsby, Public Works Director

Date: October 4, 2006

Subject: SURPLUS EQUIPMENT RENTAL VEHICLES/EQUIPMENT FOR SALE

RECOMMENDATION:

It is recommended that the City Council approve the surplus of the Equipment Rental vehicles/equipment listed below:

POLICY IMPLICATIONS:

The surplusing of vehicles or equipment which have been replaced with new vehicles or equipment, or no longer meet the needs of the City, is consistent with the City's Equipment Rental Replacement Schedule Policy.

BACKGROUND DISCUSSION:

The following equipment has been replaced by new equipment, and if approved for surplusing, will be sold in accordance with purchasing guidelines at public auction or to public agencies.

Fleet #	Year	Make	VIN/Serial Number	License #	Mileage/Hrs.
Gator-1	2003	John Deere 6x4 Turf Gator	W006X4X068082	N/A	N/A
V-01	1993	Ford L9000 Guzzler	1FDZY90L4PVA29394	15219D	10,743 Hrs.

For clarification purposes, Gator-1 was utilized by Parks Maintenance, and achieved its anticipated useful life of 3 years.

V-01 , was a Public Works eductor truck, principally operated by the Storm/Sewer Division. It was retained 5 years beyond its anticipated useful life of 8 years. The use of V-01 is measured in "engine hours."

The City's Equipment Rental Replacement Schedule is used as a guideline for vehicle replacement and amortization of equipment. Fleet Management staff evaluates each vehicle and determines the actual replacement date according to vehicle condition.

Depending upon operational needs, some of the above vehicles may be retained through the end of 2006, for seasonal use prior to being sold at auction at the beginning of December.

Cc: John Hopfauf, Street Manager

CITY OF KIRKLAND

123 FIFTH AVENUE • KIRKLAND, WASHINGTON 98033-6189 • (425) 587-3000

**DEPARTMENT OF FINANCE AND ADMINISTRATION
MEMORANDUM**

To: David Ramsay, City Manager

From: Kathi Anderson, City Clerk
Tracey Dunlap, Director, Finance and Administration

Date: October 10, 2006

Subject: Transportation Commission Youth Member Resignation

RECOMMENDATION:

That Council acknowledge the receipt of a resignation letter from Transportation Commission youth member Mitch Amsler and authorize the attached correspondence thanking him for his service.

BACKGROUND DISCUSSION:

Mr. Amsler is resigning as he is attending college in California. Recruitment to fill this vacancy is underway.

Mitchell Amsler
Pomona College
Smith Campus Center – Suite 133
170 East 6th Street, #428
Claremont, CA 91711

RECEIVED

SEP 22 2006

CITY OF KIRKLAND
CITY MANAGER'S OFFICE

September 15, 2006

City of Kirkland, City Council
123 5th Avenue
Kirkland, WA 98033

To Whom It May Concern:

I am writing to resign my position on the City of Kirkland Transportation Commission, effective immediately.

Thank you for providing me with this wonderful opportunity over the past year. I regret that I was unable to see my term through, but I wish you all the best of luck in filling the position as well as with the transportation commission as a whole. Thank you once again.

Most Sincerely,



Mitchell Amsler

October 17, 2006

DRAFT

Mitch Amsler
Pomona College
Smith Campus Center – Suite 133
170 East 6th Street, #428
Claremont, California 91711

Dear Mr. Amsler:

We have regretfully received your letter of resignation from the Kirkland Transportation Commission. The City Council appreciates your work with the Commission on important items to the city such as the new Speed Limit and Arterial Traffic Calming Policies. We would also like to thank you for participation in the Transportation Commission study session with Council last March and the helpful insights into how youth membership on the commission benefits both the city and the youth members. The City Council appreciates your contributions to the Commission, and we thank you for volunteering your time and talent to serve our community.

Best wishes in your current and future endeavors.

Sincerely,
KIRKLAND CITY COUNCIL

James L. Lauinger
Mayor



CITY OF KIRKLAND

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager
From: Tracy Burrows, Sr. Management Analyst
Date: October 4, 2006
Subject: Initiative 937

Recommendation:

It is recommended that the City Council consider a resolution endorsing Initiative 937.

Background:

Initiative 937, the Washington Energy Security Initiative, is a state-wide measure that will be on the November 2006 ballot. This initiative, backed by a coalition of environmental organizations, labor, businesses and concerned citizens, would require medium and large-size utilities to obtain 15 percent of their power from renewable sources, such as wind and solar, by 2020. As a comparison, currently Puget Sound Energy derives approximately 5 percent of its power from renewable sources.

To protect ratepayers, a provision of the initiative allows utilities meet a lower standard if buying renewable energy drives up rates by more than 4 percent. Utilities would also be required to pursue all low-cost energy conservation opportunities for their customers. According to the Northwest Energy Coalition, twenty states and the District of Columbia already have similar clean energy standards in place.

Proponents of the initiative see it as an important opportunity to develop new renewable energy sources as an alternative to coal and other fossil fuel sources. While hydropower accounts for two-thirds of Washington's power needs, it is not considered a renewable energy source under this Initiative. The 15 percent renewables requirement is intended to add wind, solar and other new renewables to Washington's substantial hydropower system. The Washington Public Utility Districts Association has taken a position in support of the Initiative in large part because many of its member utilities are already moving in the direction advocated by the Initiative. For example, Puget Sound Energy has a corporate goal of producing 10 percent of its electricity from environmentally friendly sources by 2013. Puget Sound Energy is neutral on I-937.

Opponents of I-937 are concerned that its definition of "renewable resources" is overly restrictive in that it excludes hydropower and conservation. They are concerned that the Initiative could require expansion to renewable resources before the local demand requires additional energy sources. This could potentially mean that an electric utility provider would be reducing its take of more affordable hydropower to increase its share of wind or other power. Opponents argue this could raise costs above the 4 percent cap to as much as 8 percent.

The measure is supported by Rep. Jay Inslee, State Senator Luke Esser, State Senator Bill Finkbeiner, State Representative Toby Nixon, the Sierra Club Cascade Chapter, Climate Solutions, the Washington Public Utilities Districts Association, the American Cancer Society, Washington State Labor Council, League of Women Voters, Washington Association of Churches, WashPIRG and the Northwest Energy Coalition among others.

The measure is opposed by the Association of Washington Business, Master Builders Association of King and Snohomish Counties, Inland Power and Light, National Association of Manufacturers, U.S. Chamber of Commerce, Washington Farm Bureau, Washington Retail Association, Washington Rural Electric Cooperative Association, and Weyerhaeuser among others.

According to the Public Disclosure Commission, City Councils may collectively vote to support or oppose a ballot measure at a properly noticed public meeting, where supporters and opponents of the measure are given an equal opportunity to express views.

The full text of I-937 and the ballot summary are attached to provide additional background information.

Assigned Number: 937

Filed: 01/25/2006

Sponsor

Mr. Robert Jay Pregulman

150 Nickerson #109

Seattle, WA 98109

(206) 283-3335

Fax (206) 283-3336

info@energysecuritynow.org

Ballot Title

Initiative Measure No. 937 concerns energy resource use by certain electric utilities.

This measure would require certain electric utilities with 25,000 or more customers to meet certain targets for energy conservation and use of renewable energy resources, as defined, including energy credits, or pay penalties. Should this measure be enacted into law? Yes [] No []

Ballot Measure Summary

This measure would require investor-owned and consumer-owned utilities with 25,000 or more customers to meet designated targets for energy conservation, including cogeneration as defined, and use of eligible renewable energy resources. Renewable energy resource targets may be met by designated investment levels, including energy resource credits. Utilities not meeting conservation and renewable energy resource targets would pay penalties to the state, to be used for purchase of renewable energy credits or certain energy conservation purposes.

INITIATIVE 937

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 937 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to requirements for new energy resources; adding a
2 new chapter to Title 19 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** INTENT. This chapter concerns requirements
5 for new energy resources. This chapter requires large utilities to
6 obtain fifteen percent of their electricity from new renewable
7 resources such as solar and wind by 2020 and undertake cost-effective
8 energy conservation.

9 NEW SECTION. **Sec. 2.** DECLARATION OF POLICY. Increasing energy
10 conservation and the use of appropriately sited renewable energy
11 facilities builds on the strong foundation of low-cost renewable
12 hydroelectric generation in Washington state and will promote energy
13 independence in the state and the Pacific Northwest region. Making the
14 most of our plentiful local resources will stabilize electricity prices
15 for Washington residents, provide economic benefits for Washington
16 counties and farmers, create high-quality jobs in Washington, provide
17 opportunities for training apprentice workers in the renewable energy

1 field, protect clean air and water, and position Washington state as a
2 national leader in clean energy technologies.

3 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Attorney general" means the Washington state office of the
7 attorney general.

8 (2) "Auditor" means: (a) The Washington state auditor's office or
9 its designee for qualifying utilities under its jurisdiction that are
10 not investor-owned utilities; or (b) an independent auditor selected by
11 a qualifying utility that is not under the jurisdiction of the state
12 auditor and is not an investor-owned utility.

13 (3) "Commission" means the Washington state utilities and
14 transportation commission.

15 (4) "Conservation" means any reduction in electric power
16 consumption resulting from increases in the efficiency of energy use,
17 production, or distribution.

18 (5) "Cost-effective" has the same meaning as defined in RCW
19 80.52.030.

20 (6) "Council" means the Washington state apprenticeship and
21 training council within the department of labor and industries.

22 (7) "Customer" means a person or entity that purchases electricity
23 for ultimate consumption and not for resale.

24 (8) "Department" means the department of community, trade, and
25 economic development or its successor.

26 (9) "Distributed generation" means an eligible renewable resource
27 where the generation facility or any integrated cluster of such
28 facilities has a generating capacity of not more than five megawatts.

29 (10) "Eligible renewable resource" means:

30 (a) Electricity from a generation facility powered by a renewable
31 resource other than fresh water that commences operation after March
32 31, 1999, where: (i) The facility is located in the Pacific Northwest;
33 or (ii) the electricity from the facility is delivered into Washington
34 state on a real-time basis without shaping, storage, or integration
35 services; or

36 (b) Incremental electricity produced as a result of efficiency
37 improvements completed after March 31, 1999, to hydroelectric
38 generation projects owned by a qualifying utility and located in the

1 Pacific Northwest or to hydroelectric generation in irrigation pipes
2 and canals located in the Pacific Northwest, where the additional
3 generation in either case does not result in new water diversions or
4 impoundments.

5 (11) "Investor owned utility" has the same meaning as defined in
6 RCW 19.29A.010.

7 (12) "Load" means the amount of kilowatt-hours of electricity
8 delivered in the most recently completed year by a qualifying utility
9 to its Washington retail customers.

10 (13) "Nonpower attributes" means all environmentally related
11 characteristics, exclusive of energy, capacity reliability, and other
12 electrical power service attributes, that are associated with the
13 generation of electricity from a renewable resource, including but not
14 limited to the facility's fuel type, geographic location, vintage,
15 qualification as an eligible renewable resource, and avoided emissions
16 of pollutants to the air, soil, or water, and avoided emissions of
17 carbon dioxide and other greenhouse gases.

18 (14) "Pacific Northwest" has the same meaning as defined for the
19 Bonneville power administration in section 3 of the Pacific Northwest
20 electric power planning and conservation act (94 Stat. 2698; 16 U.S.C.
21 Sec. 839a).

22 (15) "Public facility" has the same meaning as defined in RCW
23 39.35C.010.

24 (16) "Qualifying utility" means an electric utility, as the term
25 "electric utility" is defined in RCW 19.29A.010, that serves more than
26 twenty-five thousand customers in the state of Washington. The number
27 of customers served may be based on data reported by a utility in form
28 861, "annual electric utility report," filed with the energy
29 information administration, United States department of energy.

30 (17) "Renewable energy credit" means a tradable certificate of
31 proof of at least one megawatt-hour of an eligible renewable resource
32 where the generation facility is not powered by fresh water, the
33 certificate includes all of the nonpower attributes associated with
34 that one megawatt-hour of electricity, and the certificate is verified
35 by a renewable energy credit tracking system selected by the
36 department.

37 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
38 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
39 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel

1 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
2 on land cleared from old growth or first-growth forests where the
3 clearing occurred after the effective date of this section; and (i)
4 biomass energy based on animal waste or solid organic fuels from wood,
5 forest, or field residues, or dedicated energy crops that do not
6 include (i) wood pieces that have been treated with chemical
7 preservatives such as creosote, pentachlorophenol, or copper-chrome-
8 arsenic; (ii) black liquor byproduct from paper production; (iii) wood
9 from old growth forests; or (iv) municipal solid waste.

10 (19) "Rule" means rules adopted by an agency or other entity of
11 Washington state government to carry out the intent and purposes of
12 this chapter.

13 (20) "Year" means the twelve-month period commencing January 1st
14 and ending December 31st.

15 NEW SECTION. **Sec. 4.** ENERGY CONSERVATION AND RENEWABLE ENERGY
16 TARGETS. (1) Each qualifying utility shall pursue all available
17 conservation that is cost-effective, reliable, and feasible.

18 (a) By January 1, 2010, using methodologies consistent with those
19 used by the Pacific Northwest electric power and conservation planning
20 council in its most recently published regional power plan, each
21 qualifying utility shall identify its achievable cost-effective
22 conservation potential through 2019. At least every two years
23 thereafter, the qualifying utility shall review and update this
24 assessment for the subsequent ten-year period.

25 (b) Beginning January 2010, each qualifying utility shall establish
26 and make publicly available a biennial acquisition target for cost-
27 effective conservation consistent with its identification of achievable
28 opportunities in (a) of this subsection, and meet that target during
29 the subsequent two-year period. At a minimum, each biennial target
30 must be no lower than the qualifying utility's pro rata share for that
31 two-year period of its cost-effective conservation potential for the
32 subsequent ten-year period.

33 (c) In meeting its conservation targets, a qualifying utility may
34 count high-efficiency cogeneration owned and used by a retail electric
35 customer to meet its own needs. High-efficiency cogeneration is the
36 sequential production of electricity and useful thermal energy from a
37 common fuel source, where, under normal operating conditions, the
38 facility has a useful thermal energy output of no less than thirty-

1 three percent of the total energy output. The reduction in load due to
2 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
3 the fuel chargeable to power heat rate of the cogeneration facility
4 compared to the heat rate on a new and clean basis of a
5 best-commercially available technology combined-cycle natural gas-fired
6 combustion turbine; and (ii) counted towards meeting the biennial
7 conservation target in the same manner as other conservation savings.

8 (d) The commission may determine if a conservation program
9 implemented by an investor-owned utility is cost-effective based on the
10 commission's policies and practice.

11 (e) The commission may rely on its standard practice for review and
12 approval of investor-owned utility conservation targets.

13 (2)(a) Each qualifying utility shall use eligible renewable
14 resources or acquire equivalent renewable energy credits, or a
15 combination of both, to meet the following annual targets:

16 (i) At least three percent of its load by January 1, 2012, and each
17 year thereafter through December 31, 2015;

18 (ii) At least nine percent of its load by January 1, 2016, and each
19 year thereafter through December 31, 2019; and

20 (iii) At least fifteen percent of its load by January 1, 2020, and
21 each year thereafter.

22 (b) A qualifying utility may count distributed generation at double
23 the facility's electrical output if the utility: (i) Owns or has
24 contracted for the distributed generation and the associated renewable
25 energy credits; or (ii) has contracted to purchase the associated
26 renewable energy credits.

27 (c) In meeting the annual targets in (a) of this subsection, a
28 qualifying utility shall calculate its annual load based on the average
29 of the utility's load for the previous two years.

30 (d) A qualifying utility shall be considered in compliance with an
31 annual target in (a) of this subsection if: (i) The utility's weather-
32 adjusted load for the previous three years on average did not increase
33 over that time period; (ii) after the effective date of this section,
34 the utility did not commence or renew ownership or incremental
35 purchases of electricity from resources other than renewable resources
36 other than on a daily spot price basis and the electricity is not
37 offset by equivalent renewable energy credits; and (iii) the utility
38 invested at least one percent of its total annual retail revenue

1 requirement that year on eligible renewable resources, renewable energy
2 credits, or a combination of both.

3 (e) The requirements of this section may be met for any given year
4 with renewable energy credits produced during that year, the preceding
5 year, or the subsequent year. Each renewable energy credit may be used
6 only once to meet the requirements of this section.

7 (f) In complying with the targets established in (a) of this
8 subsection, a qualifying utility may not count:

9 (i) Eligible renewable resources or distributed generation where
10 the associated renewable energy credits are owned by a separate entity;
11 or

12 (ii) Eligible renewable resources or renewable energy credits
13 obtained for and used in an optional pricing program such as the
14 program established in RCW 19.29A.090.

15 (g) Where fossil and combustible renewable resources are cofired in
16 one generating unit located in the Pacific Northwest where the cofiring
17 commenced after March 31, 1999, the unit shall be considered to produce
18 eligible renewable resources in direct proportion to the percentage of
19 the total heat value represented by the heat value of the renewable
20 resources.

21 (h)(i) A qualifying utility that acquires an eligible renewable
22 resource or renewable energy credit may count that acquisition at one
23 and two-tenths times its base value:

24 (A) Where the eligible renewable resource comes from a facility
25 that commenced operation after December 31, 2005; and

26 (B) Where the developer of the facility used apprenticeship
27 programs approved by the council during facility construction.

28 (ii) The council shall establish minimum levels of labor hours to
29 be met through apprenticeship programs to qualify for this extra
30 credit.

31 (i) A qualifying utility shall be considered in compliance with an
32 annual target in (a) of this subsection if events beyond the reasonable
33 control of the utility that could not have been reasonably anticipated
34 or ameliorated prevented it from meeting the renewable energy target.
35 Such events include weather-related damage, mechanical failure,
36 strikes, lockouts, and actions of a governmental authority that
37 adversely affect the generation, transmission, or distribution of an
38 eligible renewable resource under contract to a qualifying utility.

1 (3) Utilities that become qualifying utilities after December 31,
2 2006, shall meet the requirements in this section on a time frame
3 comparable in length to that provided for qualifying utilities as of
4 the effective date of this section.

5 NEW SECTION. Sec. 5. RESOURCE COSTS. (1)(a) A qualifying utility
6 shall be considered in compliance with an annual target created in
7 section 4(2) of this act for a given year if the utility invested four
8 percent of its total annual retail revenue requirement on the
9 incremental costs of eligible renewable resources, the cost of
10 renewable energy credits, or a combination of both, but a utility may
11 elect to invest more than this amount.

12 (b) The incremental cost of an eligible renewable resource is
13 calculated as the difference between the levelized delivered cost of
14 the eligible renewable resource, regardless of ownership, compared to
15 the levelized delivered cost of an equivalent amount of reasonably
16 available substitute resources that do not qualify as eligible
17 renewable resources, where the resources being compared have the same
18 contract length or facility life.

19 (2) An investor-owned utility is entitled to recover all prudently
20 incurred costs associated with compliance with this chapter. The
21 commission shall address cost recovery issues of qualifying utilities
22 that are investor-owned utilities that serve both in Washington and in
23 other states in complying with this chapter.

24 NEW SECTION. Sec. 6. ACCOUNTABILITY AND ENFORCEMENT. (1) Except
25 as provided in subsection (2) of this section, a qualifying utility
26 that fails to comply with the energy conservation or renewable energy
27 targets established in section 4 of this act shall pay an
28 administrative penalty to the state of Washington in the amount of
29 fifty dollars for each megawatt-hour of shortfall. Beginning in 2007,
30 this penalty shall be adjusted annually according to the rate of change
31 of the inflation indicator, gross domestic product-implicit price
32 deflator, as published by the bureau of economic analysis of the United
33 States department of commerce or its successor.

34 (2) A qualifying utility that does not meet an annual renewable
35 energy target established in section 4(2) of this act is exempt from
36 the administrative penalty in subsection (1) of this section for that
37 year if the commission for investor-owned utilities or the auditor for

1 all other qualifying utilities determines that the utility complied
2 with section 4(2) (d) or (i) or 5(1) of this act.

3 (3) A qualifying utility must notify its retail electric customers
4 in published form within three months of incurring a penalty regarding
5 the size of the penalty and the reason it was incurred.

6 (4) The commission shall determine if an investor-owned utility may
7 recover the cost of this administrative penalty in electric rates, and
8 may consider providing positive incentives for an investor-owned
9 utility to exceed the targets established in section 4 of this act.

10 (5) Administrative penalties collected under this chapter shall be
11 deposited into the energy independence act special account which is
12 hereby created. All receipts from administrative penalties collected
13 under this chapter must be deposited into the account. Expenditures
14 from the account may be used only for the purchase of renewable energy
15 credits or for energy conservation projects at public facilities, local
16 government facilities, community colleges, or state universities. The
17 state shall own and retire any renewable energy credits purchased using
18 moneys from the account. Only the director of general administration
19 or the director's designee may authorize expenditures from the account.
20 The account is subject to allotment procedures under chapter 43.88 RCW,
21 but an appropriation is not required for expenditures.

22 (6) For a qualifying utility that is an investor-owned utility, the
23 commission shall determine compliance with the provisions of this
24 chapter and assess penalties for noncompliance as provided in
25 subsection (1) of this section.

26 (7) For qualifying utilities that are not investor-owned utilities,
27 the auditor is responsible for auditing compliance with this chapter
28 and rules adopted under this chapter that apply to those utilities and
29 the attorney general is responsible for enforcing that compliance.

30 NEW SECTION. **Sec. 7.** REPORTING AND PUBLIC DISCLOSURE. (1) On or
31 before June 1, 2012, and annually thereafter, each qualifying utility
32 shall report to the department on its progress in the preceding year in
33 meeting the targets established in section 4 of this act, including
34 expected electricity savings from the biennial conservation target,
35 expenditures on conservation, actual electricity savings results, the
36 utility's annual load for the prior two years, the amount of
37 megawatt-hours needed to meet the annual renewable energy target, the
38 amount of megawatt-hours of each type of eligible renewable resource

1 acquired, the type and amount of renewable energy credits acquired, and
2 the percent of its total annual retail revenue requirement invested in
3 the incremental cost of eligible renewable resources and the cost of
4 renewable energy credits. For each year that a qualifying utility
5 elects to demonstrate alternative compliance under section 4(2) (d) or
6 (i) or 5(1) of this act, it must include in its annual report relevant
7 data to demonstrate that it met the criteria in that section. A
8 qualifying utility may submit its report to the department in
9 conjunction with its annual obligations in chapter 19.29A RCW.

10 (2) A qualifying utility that is an investor-owned utility shall
11 also report all information required in subsection (1) of this section
12 to the commission, and all other qualifying utilities shall also make
13 all information required in subsection (1) of this section available to
14 the auditor.

15 (3) A qualifying utility shall also make reports required in this
16 section available to its customers.

17 NEW SECTION. **Sec. 8.** RULE MAKING. (1) The commission may adopt
18 rules to ensure the proper implementation and enforcement of this
19 chapter as it applies to investor-owned utilities.

20 (2) The department shall adopt rules concerning only process,
21 timelines, and documentation to ensure the proper implementation of
22 this chapter as it applies to qualifying utilities that are not
23 investor-owned utilities. Those rules include, but are not limited to,
24 rules associated with a qualifying utility's development of
25 conservation targets under section 4(1) of this act; a qualifying
26 utility's decision to pursue alternative compliance in section 4(2) (d)
27 or (i) or 5(1) of this act; and the format and content of reports
28 required in section 7 of this act. Nothing in this subsection may be
29 construed to restrict the rate-making authority of the commission or a
30 qualifying utility as otherwise provided by law.

31 (3) The commission and department may coordinate in developing
32 rules related to process, timelines, and documentation that are
33 necessary for implementation of this chapter.

34 (4) Pursuant to the administrative procedure act, chapter 34.05
35 RCW, rules needed for the implementation of this chapter must be
36 adopted by December 31, 2007. These rules may be revised as needed to
37 carry out the intent and purposes of this chapter.

1 NEW SECTION. **Sec. 9.** CONSTRUCTION. The provisions of this
2 chapter are to be liberally construed to effectuate the intent,
3 policies, and purposes of this chapter.

4 NEW SECTION. **Sec. 10.** SEVERABILITY. If any provision of this act
5 or its application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 11.** SHORT TITLE. This chapter may be known and
9 cited as the energy independence act.

10 NEW SECTION. **Sec. 12.** CAPTIONS NOT LAW. Captions used in this
11 chapter are not any part of the law.

12 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act
13 constitute a new chapter in Title 19 RCW.

--- END ---

RESOLUTION R-4609

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S SUPPORT FOR INITIATIVE 937, RELATING TO ENERGY RESOURCE USE BY CERTAIN ELECTRICAL UTILITIES.

WHEREAS, on November 7, 2006, voters in Washington State will decide whether to approve Initiative 937 relating to energy resource use by certain electrical utilities; and

WHEREAS, Initiative 937 would require all electrical utilities that serve more than 25,000 customers to meet certain targets for conservation and the use of eligible renewable resources for the production of electricity; and

WHEREAS, Initiative 937 would require such utilities to have 15 percent of their power supply generated from renewable resources by the year 2020; and

WHEREAS, renewable resources under Initiative 937 include wind, solar energy, geothermal energy and tidal power and other clean forms of renewable resources; and

WHEREAS, conservation of electricity and increased use of clean renewal resources for electricity production will reduce overdependence on hydroelectric power and reduce the need for electricity generated from coal or fossil fuel; and

WHEREAS, the Kirkland City Council supports the increased use of renewable resources for electricity production and the resulting environmental benefits; and

WHEREAS, pursuant to RCW 42.17.130, the City Council of the City of Kirkland desires to show its support for Initiative 937;

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

Section 1. The City Council, after considering testimony at a duly noticed public hearing, hereby supports Initiative 937, relating to energy resource use by certain electrical utilities.

Section 2. The City Council hereby urges citizens to vote yes on Initiative 937, on November 7, 2006.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2006.

Signed in authentication thereof this ____ day of _____, 2006.

MAYOR

Attest:

City Clerk



CITY OF KIRKLAND

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

MEMORANDUM

To: David Ramsay, City Manager

From: Eric R. Shields, AICP, Planning Director
Stacy Clauson, Associate Planner

Date: October 3, 2006

Subject: SLATER AVENUE NE RIGHT-OF-WAY VACATION, FILE NO. VAC06-00002

RECOMMENDATION:

The Department of Planning and Community Development recommends that City Council hold a Public Hearing and adopt a Resolution of Intent to Vacate a portion of the Slater Ave NE right-of-way, subject to the conditions established in the Staff Advisory Report.

RULES FOR CITY COUNCIL CONSIDERATION:

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 of the entire membership in a roll call vote, do one of the following:

1. Adopt an ordinance granting the vacation; or
2. Adopt a motion denying the vacation; or
3. 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.

BACKGROUND DISCUSSION:

Michael R. Mastro of Mastro Properties has filed a petition to vacate a 3,455 square foot portion of Slater Avenue NE. The owners of two-thirds of the property abutting the right-of-way to be vacated must agree to the vacation. In this case, Mastro Properties represents more than two-thirds of the property abutting the proposed vacation.

In 2002, the City Council adopted Resolution R-4340 expressing an intent to vacate this same portion of right-of-way, processed under File No. VC-01-30. The conditions of approval established in the resolution (e.g. monetary compensation) were not fulfilled within the specified time frame and, as a result, a final ordinance vacating the portion of right-of-way was never adopted by the City Council.

On September 19, 2006, the City Council adopted Resolution No. R-4601 setting a public hearing date the proposed vacation on October 17, 2006.

ATTACHMENTS:

1. Staff Report
2. Resolution of Intent to Vacate



CITY OF KIRKLAND

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

ADVISORY REPORT

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Kirkland City Council

From: _____ Eric R. Shields, AICP, Planning Director

_____ Stacy Clauson, Project Planner

Date: October 3, 2006

File: SLATER AVENUE NE RIGHT-OF-WAY VACATION, FILE NO. VAC06-00002

Hearing Date and Place: October 17, 2006
City Hall Council Chamber
123 Fifth Avenue, Kirkland

I. **INTRODUCTION**

A. **APPLICATION**

1. Applicant: Michael R. Mastro, Mastro Properties
2. Site Location: A portion of Slater Avenue NE, adjacent to 12340 NE 115th Place (see Attachment 1).
3. Request: The proposal is to vacate a 3,455 square foot portion of the right-of-way known as Slater Avenue NE (see Attachment 2.a). The vacated right-of-way would be combined with the property located at 12340 NE 115th Place for development. A Design Review application for development of a 5-story mixed-use office and residential project on the property has been submitted for review (see Attachment 2.b). The application is still pending in the design review process before the Design Review Board.
4. Review Process: City Council conducts public hearing. Following the public hearing, the Council makes the final decision by motion approved by a majority of the entire membership in a roll call vote.
5. Summary of Key Issues: Compliance with right-of-way vacation criteria.

B. **RECOMMENDATIONS**

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend approval of this application subject to the following conditions:

1. Within ninety (90) days of the passage of the Resolution of Intent to grant the vacation, the applicants shall:

- a. Pay to the City as compensation for vacating the requested portion of right-of-way, the full appraised value of the subject site totaling \$89,075 (see Conclusion II.D.3.b).
- b. Submit to the City a copy of the following recorded easements (see Conclusion II.D.4.b):
 - a. A public utility easement being a minimum of 8 feet in width and directly behind and following the radius of the street vacation.
 - b. A utility easement encompassing the entire vacated right-of-way unless the applicant prepares individual legal descriptions for each specific easement based on the location and minimum size determined by each utility company.

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:
 - a. Facts:
 - (1) Size: The portion of the Slater Avenue NE right-of-way requested to be vacated is 3,455 square feet.
 - (2) Land Use: The right-of-way to be vacated is undeveloped, with the exception of existing utilities (see Section D.4 below) and a gravel driveway serving a single-family residence adjoining the right-of-way to be vacated. The residence is on property also owned by the applicant.
 - (3) Zoning: The right-of-way to be vacated is located in the NRH 1A zone (see Attachment 4).
 - (4) Development Potential: The portion of the right-of-way to be vacated is proposed to be aggregated with the applicant's adjoining property, which is proposed to be redeveloped with a 5-story mixed-use project containing office and residential uses. The zoning for the property (NRH 1A) establishes a minimum setback of 10 feet that would apply to the portion of Slater Avenue that extends into the property, unless it is otherwise vacated. The maximum permissible lot coverage is 80 percent of the lot area. There is no maximum residential density established for the zone (see Attachment 5).
 - (5) Terrain: The portion of right-of-way to be vacated is relatively flat.
 - (6) Vegetation: The portion of right-of-way to be vacated contains a 39" Douglas Fir tree.
 - b. Conclusions: Size, Land Use, Zoning, Terrain, Vegetation and Development Potential are not constraining factors in the proposed street vacation application.
2. Neighboring Development and Zoning:
 - a. Facts: The following are the uses, allowed heights, and zoning of properties adjacent to the subject property:
 - North, West and East: The right-of-way to be vacated adjoins property owned by the applicant on the north, west, and east. This property is currently undeveloped,

with the exception of a single family residence. The property is owned by the applicant and is currently in a Design Review process for development of a new 5-story mixed-use building. In December, 1988, the Kirkland City Council adopted Ordinance No. 3138 vacating a portion of the Slater Avenue NE right-of-way between NE 116th Street and NE 115th Place.

- South: NRH 3 and NRH 1A Zone. On the south side of NE 115th Place, properties to the south contain the Totem Square Office Park, located in the NRH 3 zone. On the west side of Slater Avenue NE, properties to the south contain a vacant property, located in the NRH 1A zone.

- b. Conclusion: The neighboring development and zoning are not constraining factors in the proposed street vacation application.

B. RELEVANT HISTORY

In 2002, the City Council adopted Resolution R-4340 expressing an intent to vacate this same portion of right-of-way, processed under File No. VC-01-30 (see Attachment 6). The conditions of approval established in the resolution (e.g. monetary compensation) were not fulfilled within the specified time frame and, as a result, a final ordinance vacating the portion of right-of-way was never adopted by the City Council.

C. PUBLIC COMMENT

As of issuance of the staff report, the Department of Planning and Community Development has received one written comment. The comment letter and staff response are enclosed as Attachment 13.

D. KIRKLAND MUNICIPAL CODE – COMPLIANCE WITH STREET VACATION CRITERIA

1. Street Vacation Criteria

a. Facts:

- (1) Section 19.16.130 of the Kirkland Municipal Code states: "Criteria for granting Street Vacation - The City Council may, in its discretion vacate a street, alley or public easement if it determines the vacation is in the public interest and that:
 - (a) The street, alley, or public easement is not currently necessary for travel or other street purposes, nor likely to be in the future; and
 - (b) No property will be denied all access as a result of the vacation.
- (2) The City Council may consider any other fact or issue it deems relevant when deciding whether to vacate a street, alley or public easement.
- (3) Slater Avenue NE dead-ends into the site north of NE 115th Place. In December, 1988, the Kirkland City Council adopted Ordinance No. 3138 vacating Slater Avenue NE right-of-way between NE 116th Street and NE 115th Place (see Attachment 7), with the exception of the piece now under consideration for vacation.
- (4) Vacation of an 8 foot wide strip of Slater Avenue NE directly to the south of this proposed vacation was approved by Ordinance 3648A (see Attachment 7). This proposed street vacation will align with the previous street vacation.

- (5) The required public improvements (e.g. public sidewalk and landscape strip) can be accommodated in the remaining right-of-way (see Attachment 2.a).
 - (6) Only the adjoining property owned by the petitioner would access across the vacated area. That property will continue to have direct access onto Slater Avenue NE.
 - (7) There is no anticipated public use of the area for street improvements. The Public Works Department has recommended approval of the proposed street vacation (see Attachment 3, Development Standards).
- b. Conclusion: The proposed street vacation will not deny all access to any lots. There is no anticipated public use of the area for street improvements. The vacated area can be combined with the adjoining parcel for use in future redevelopment.
2. Initiation of Vacation Procedure
- a. Facts:
- (1) Section 19.16.030 of the Kirkland Municipal Code (Initiation of Proceedings) 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. The applicants represent more than two-thirds of the property abutting the proposed vacation.
 - (2) A petition signed by Michael R Mastro has been submitted (see Attachment 8).
- b. Conclusion: The requirements of Section 19.16.030 have been met.
3. Street Vacation - Final Decision and Compensation
- a. Facts:
- (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.
 - (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:
 - (i) It has been part of a dedicated public right-of-way for twenty five years or more; or
 - (ii) 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 (a) and (b) 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.
 - (3) The City has acquired an independent appraisal of the subject site from Appraisal Group of the Northwest LLP (see Attachment 9) concluding a fair market land value of \$89,075.
 - (4) The King County Assessor Records indicate that Slater Avenue NE, otherwise known as J.W. Edwards (County Road No. 970), was established on February 11, 1914 (see Attachment 10).
 - (5) Since the right-of-way was dedicated more than 25 years ago, the City may require compensation in any amount up to the full-appraised value of the subject site.
- b. Conclusion: The applicant should compensate the City \$89,075 (the full appraised value) for vacating this portion of the Slater Avenue NE right-of-way.

4. Street Vacation – Easements

a. Facts:

- (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.
 - (2) The Public Works Department has requested that a public utility easement being a minimum of 8 feet in width and directly behind and following the radius of the street vacation be retained within the vacated area (see Attachment 3).
 - (3) The City has obtained written comments from applicable franchise utilities regarding their need to retain a utility easement over the area to be vacated (see Attachment 11.a-e). To date, Verizon, Puget Sound Energy, and Comcast have expressed an interest in a utility easement.
- b. Conclusion: If the vacation is approved, an 8 foot wide utility easement located directly behind and following the radius of the street vacation shall be retained within the vacated area.

In addition, utility easements will be retained for any franchise utility companies that express an interest in retaining a utility easement for their existing or future utilities, including Verizon, Puget Sound Energy, and Comcast. The utility easement should encompass the entire vacated right-of-way unless the applicant prepares individual legal descriptions for each specific easement based on the location and minimum size determined by each utility company.

A copy of the completed easements should be submitted to the City within ninety (90) days of the passage of the Resolution of Intent to grant the vacation.

E. COMPREHENSIVE PLAN

1. Fact: The subject property is located within the North Rose Hill Neighborhood. The North Rose Hill Neighborhood Land Use Map identifies the subject property as being in the North Rose Hill Business District 1A, a commercial zone (see Attachment 12).
2. Conclusion: The vacation of the right-of-way would not change the Comprehensive Plan Land Use Designation.

F. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

III. APPENDICES

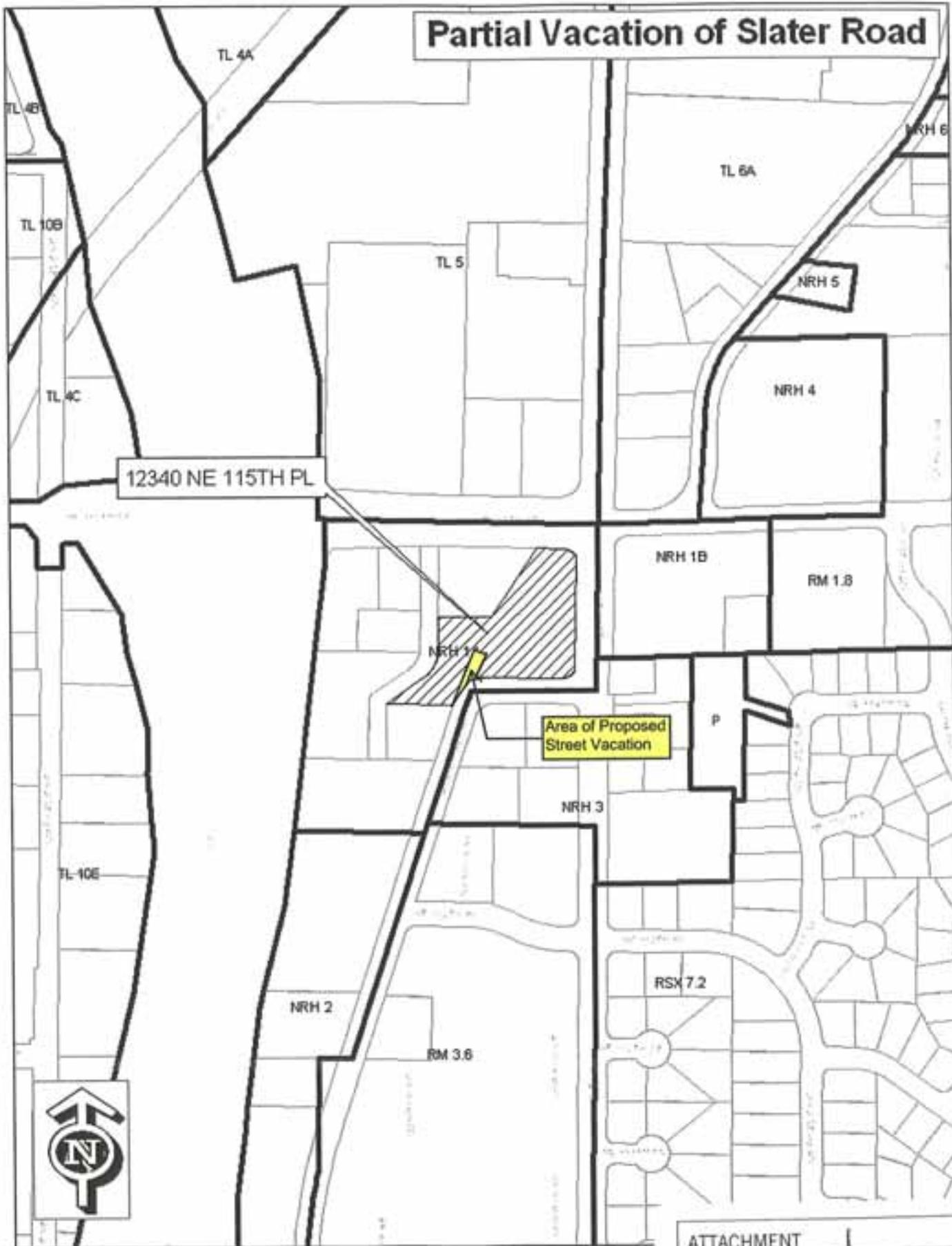
Attachments 1 through 12 are attached.

1. Vicinity Map
- 2.a Site Map
- 2.b Development Proposal
3. Development Standards
4. Zoning Map
5. NRH 1A Use Zone Chart
6. Resolution No. 4340
7. Map depicting neighboring street vacations
8. Petition to Vacate Right-of-Way
9. Land Appraisal Report
10. Assessor Map
11. Letters from Utility Companies
 - a. E-mail from King County Wastewater Treatment Division
 - b. E-mail from Verizon
 - c. E-mail from Puget Sound Energy
 - d. Letter from Northshore Utility District
 - e. E-mail from Seattle City Light
12. North Rose Hill Land Use Map
13. E-mail correspondence with Maureen Harris

IV. PARTIES OF RECORD

Applicant, Michael R. Mastro, Mastro Properties, 510 Rainier Ave S, Seattle, WA 98144
Mary Hanna Murphy, 7350 Alonzo Avenue Northwest, Seattle, WA 98117
Maureen Harris, 12307 NE 97th St #A, Kirkland 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Partial Vacation of Slater Road



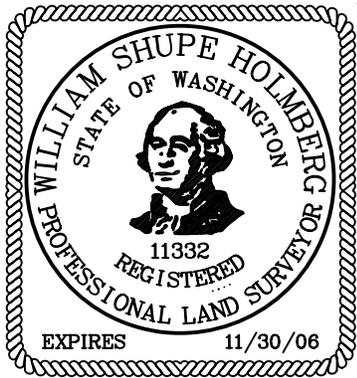
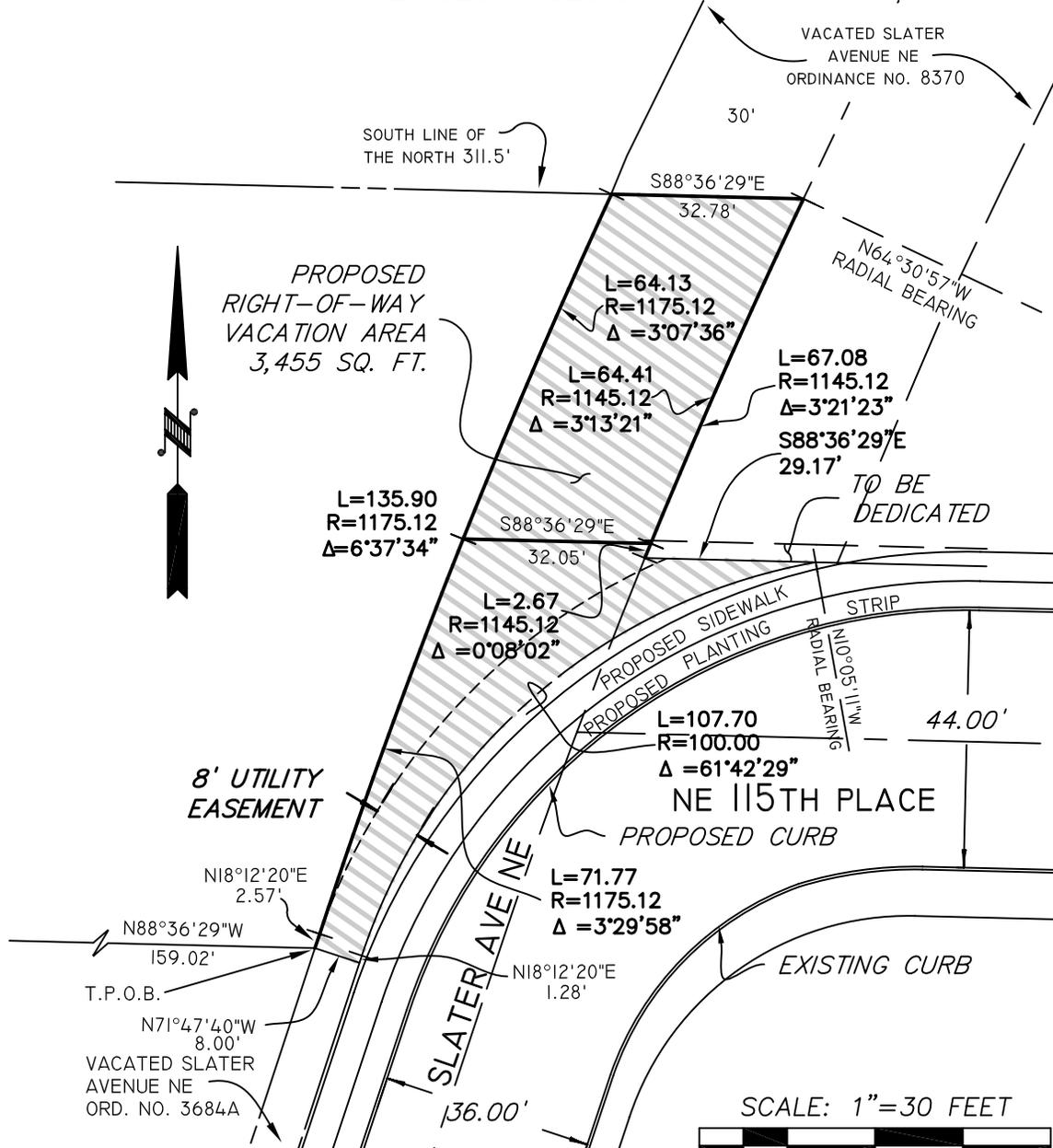
12340 NE 115TH PL

Area of Proposed Street Vacation



ATTACHMENT 1
VA106-0002

RIGHT-OF-WAY VACATION SLATER AVENUE NE



Baima & Holmberg Inc.

ENGINEERS & SURVEYORS
100 FRONT STREET SOUTH
ISSAQUAH, WASHINGTON 98027
(425) 392 - 0250

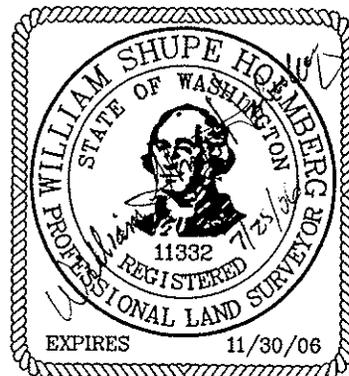
STREET VACATION LEGAL DESCRIPTION

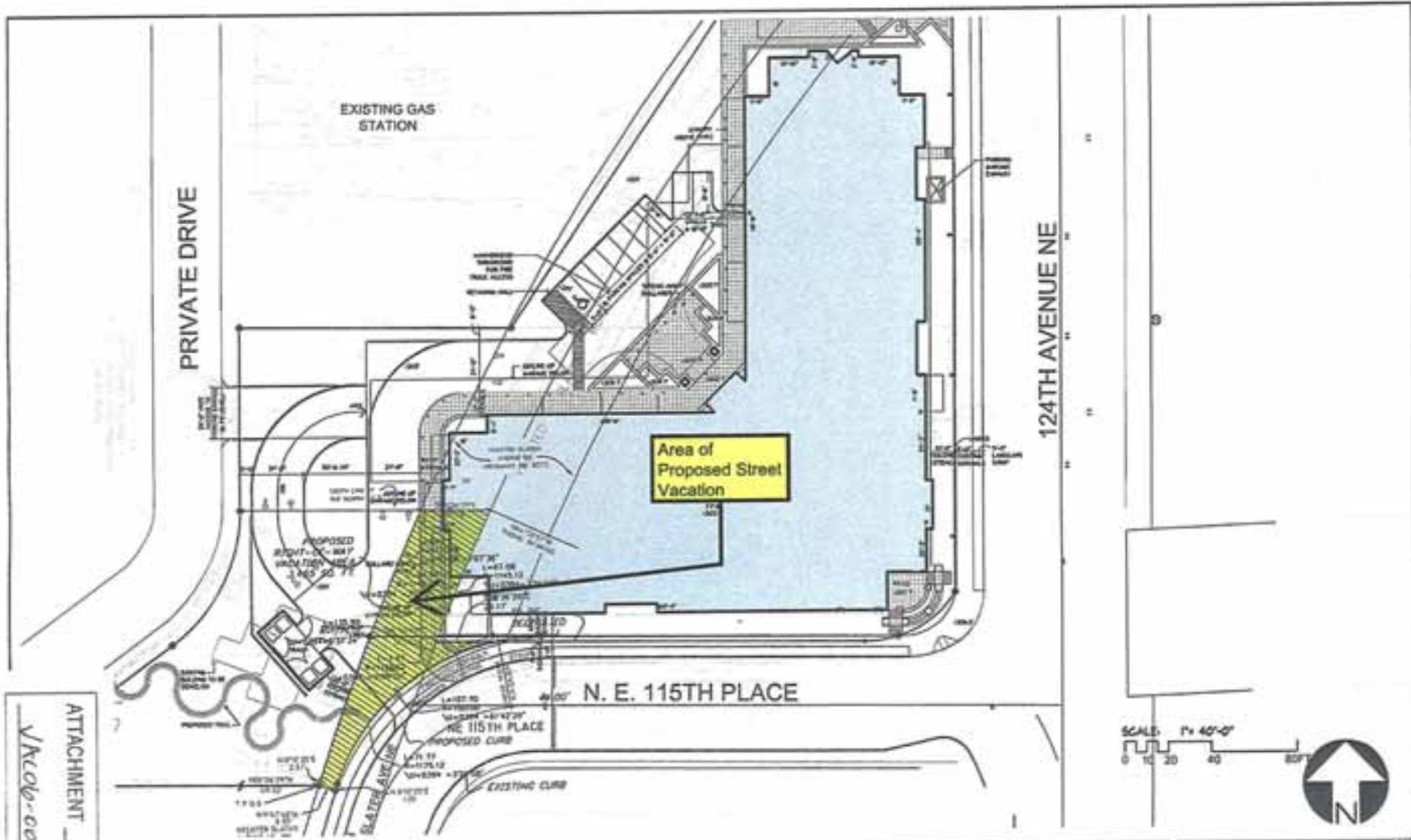
That portion of unopened Right-Of Way known as Slater Avenue N.E. within a portion of the Northeast Quarter of the Northwest Quarter of Section 33, Township 26 North, Range 5 East, W.M., described as follows:

Beginning at the North Quarter Corner of said Section 33;
Thence North 88° 36' 29" West along the North line thereof, 384.65 feet;
Thence South 00° 51' 09" west parallel with the North-South centerline of said Section 33, 311.51 feet, more or less, to the South line of the North 311.5 feet of said subdivision and the beginning of a curve to the right having a radius of 78.00 feet;
Thence Southwesterly along said curve 73.67 feet through a central angle of 54° 06' 55";
Thence South 54° 58' 04" West 112.00 feet, more or less to the North line of Lot 1 in Short Plat No. 778140, according to the Short Plat survey recorded under King County Recording No. 7912100778;
Thence South 88° 36' 29" East, along said North line, 159.02 feet to the Westerly margin of Slater Avenue N.E. and the True Point Of Beginning;
Thence North 18° 12' 20" East along said Westerly margin, 2.57 feet, to the beginning of a curve to the right, having a radius of 1175.12 feet;
Thence along said curve and said Westerly margin 135.90 feet through a central angle of 06° 37' 34" to the South line of the North 311.5 feet of said subdivision;
Thence South 88° 36' 29" East along said South line and the South Margin of Vacated Slater Avenue N.E., recorded under King County Ordinance No. 8370, 32.78 feet to the Westerly margin of said Vacated Slater Avenue N.E. and the beginning of non-tangent curve to the left, having a radius of 1145.12 feet and a radial line through said point bearing North 64° 30' 57" West;
Thence along said curve and said Westerly margin 67.08 feet through a central angle of 03° 21' 23" to the North margin of N.E. 115th Place;
Thence South 88° 36' 29" East along said North margin 29.17 feet, to the beginning of a non-tangent curve to the left, having a radius of 100.00 feet and a radial line through said point bearing North 10° 05' 11" West;
Thence along said curve 107.70 feet through a central angle of 61° 42' 29";
Thence South 18° 12' 20" West 1.28 feet to the Northerly margin of Vacated Slater Avenue N.E., recorded under City of Kirkland Ordinance No. 3684A;
Thence North 71° 47' 40" West along said Vacated Slater Avenue N.E. 8.00 feet to the True Point Of Beginning.

Said Vacated Right-Of-Way contains
3,455 square feet, more or less.

Situate in City of Kirkland, King County, Washington





ATTACHMENT 2.b
 V100-0002

VACATION W/ SITE OVERLAY
 TH MIXED USE SITE PLAN

FREIHEIT & HO
 ARCHITECTS, INC., P.S.

DATE	01/11/2011
BY	JKL
CHECKED	JKL
APPROVED	JKL
SCALE	1" = 40'-0"
PROJECT NO.	V100-0002
SHEET NO.	A0.1

A0.1

CITY OF KIRKLAND
123 FIFTH AVENUE, KIRKLAND, WASHINGTON 98033-6189 (425) 587-3225

Date: 10/3/2006

DEVELOPMENT STANDARDS

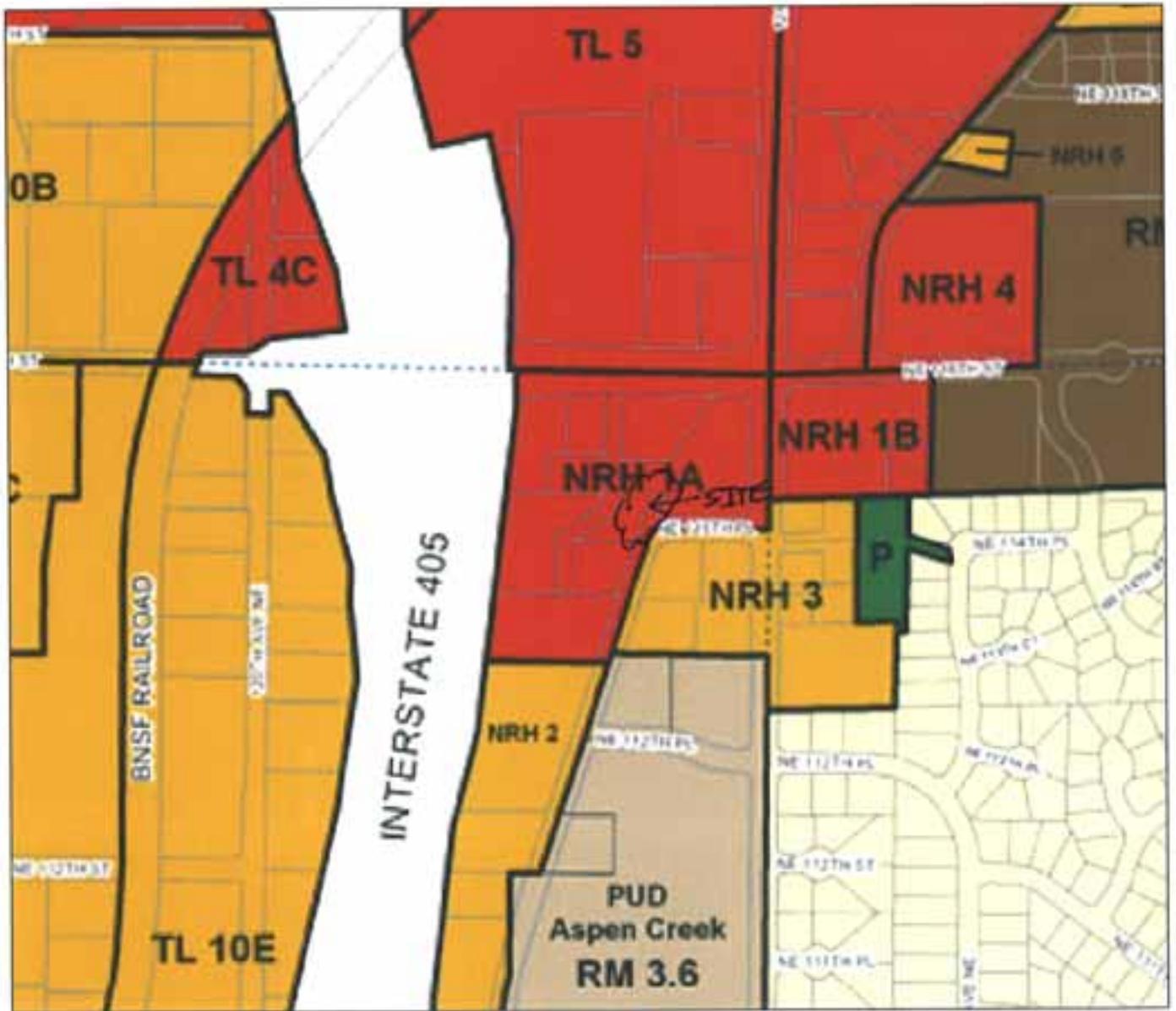
CASE NO.: VAC06-00002

PCD FILE NO.: VAC06-00002

PUBLIC WORKS CONDITIONS:

- 1) Public Works supports the proposed street vacation because the portion of Slater Ave. that extends into the subject property is not needed and should have been vacated previously when the other portions of Slater Ave. were vacated.
- 2) An 8 ft. wide strip along Slater Avenue, directly south of the proposed vacation, was approved by Ordinance 3648A; this proposed vacation will align with the previous vacation.
- 3) The required street improvement will fit into the remaining right-of-way.
- 4) A public utility easement, being 8 ft wide and directly behind and following the radius of the street vacation, shall be retained within the vacated area.

ATTACHMENT <u> 3 </u>
<u> VAC06-00002 </u>



ATTACHMENT 4
VAc06-00002

54.02 User Guide.

The charts in KZC 54.06 contain the basic zoning regulations that apply in the NRHBD 1A zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

	<p>54.04 – GENERAL REGULATIONS</p>
	<p>The following regulations apply to all uses in this zone unless otherwise noted:</p>
	<p>1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.</p>
	<p>2. In cases where the height of a structure is specified in number of stories, the following applies:</p>
	<p>a. Height measured at the midpoint of the frontage of the subject property on the abutting right-of-way. If the site abuts more than one right-of-way, the applicant may select the right-of-way from which to measure.</p>
	<p>b. The following heights per story are allowed:</p>
	<p>i. Ground floor retail; ground floor restaurant and tavern; ground floor entertainment/cultural and/or recreational facility shall be a minimum of 13 feet in height and a maximum of 15 feet.</p>
	<p>ii. Office; private club or lodge; church; school; day-care center; public utility, government facility, or community facility; public park, ground floor hotel or motel; retail above the ground floor shall be a maximum of 13 feet.</p>
	<p>iii. Residential; hotel or motel above the ground floor shall be a maximum of 10 feet.</p>
	<p>c. To determine the allowed height of a structure, determine the number of stories allowed in the use zone charts and apply the allowed height per story specified in subsection (2)(b) of this section. For example, if three stories are allowed and the proposed use is ground floor retail with two stories of residential above, the allowed height would be 35 feet.</p>
	<p>d. Height shall be measured above the point of measurement (e.g., above average building elevation, or above right-of-way) as specified in the particular use zone charts. For purposes of measuring building height above the abutting right(s)-of-way, alleys shall be excluded.</p>
	<p>e. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in NRHBD zones are established:</p>
	<p>i. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.</p>
	<p>ii. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal or greater than four feet vertical to 12 feet horizontal.</p>
	<p>3. The minimum required front yard is 10 feet, unless otherwise prescribed in the use zone chart. Ground floor canopies and similar entry features may encroach into the front yard; provided, the total horizontal dimension of such elements may not exceed 25 percent of the length of the structure. No parking may encroach into the required 10-foot front yard.</p>
	<p>4. A pedestrian connection should be developed to link Slater Avenue NE with NE 116th Street.</p>

ATTACHMENT 5
VA 06-0002



DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 54.06	USE ↓ REGULATIONS ↑	Required Review Process	Lot Size	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Office Use See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	None	10'	0'	0'	80%	2 stories above abutting right-of-way.	B	D	If a medical, dental, or veterinary office, then 1 per each 200 square feet of gross floor area. Otherwise, 1 per 300 square feet of gross floor area.	<ol style="list-style-type: none"> Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> The assembled or manufactured goods are subordinate to and are dependent upon this use. The outward appearance and impacts of this use with ancillary assembly or manufacturing must be no different from other office uses. The following regulations apply to veterinary offices only: <ol style="list-style-type: none"> May only treat small animals on the subject property. Outside runs and other outside facilities for the animals are not permitted. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application. A veterinary office is not permitted if the subject property contains dwelling units.
.020	Vehicle Service Station See Spec. Regs. 1 and 2.		22,500 sq. ft.	40'	15' on each side	15'			A	E	See KZC 105.25.	<ol style="list-style-type: none"> This use is permitted only if the subject property abuts NE 116th Street. May not be more than two vehicle service stations at an intersection. Gas pump islands must be setback at least 20 feet from all property lines. Canopies and covers over gas pump islands may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
.030	Restaurant or Tavern		None	10'	0'	0'			B	D	1 for each 100 sq. ft. of gross floor area.	
.040	Fast Food Restaurant See Spec. Regs. 1, 2 and 3.								A		1 per each 80 sq. ft. of gross floor area.	<ol style="list-style-type: none"> This use is permitted only if the subject property abuts NE 116th Street. This use may not be oriented towards nor take access from NE 115th Place or Slater Avenue NE. Drive-in and drive-through facilities are not permitted. Must provide one outdoor waste receptacle for every eight parking stalls.
.050	Hotel or Motel							4 stories above abutting right-of-way.	B		1 per each room. See Spec. Reg. 2.	<ol style="list-style-type: none"> May include ancillary meeting and convention facilities. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.

Section 54.06



USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 54.06	USE REGULATIONS ↓ ↑	Required Review Process	Lot Size	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.060	Any retail establishment, other than those specifically listed in this zone and prohibited by Spec. Reg. 1, selling goods and providing services including banking and other financial services. See Spec. Reg. 2.	D.R., Chapter 142 KZC.	None	10'	0'	0'	80%	2 stories above abutting right-of-way.	B	D	1 per each 300 square feet of gross floor area.	1. The following uses and activities are prohibited: <ol style="list-style-type: none"> Vehicle or boat sales or rental facilities; Retail establishments providing storage services unless accessory to another permitted use; Storage and operation of heavy equipment except normal delivery vehicles associated with retail uses. Outdoor storage of bulk commodities, except in the following circumstances: <ol style="list-style-type: none"> If the square footage of the storage area is less than 20 percent of the retail structure; or If the commodities represent growing stock in connection with horticultural nurseries, whether the stock is in open ground, pots, or containers. 2. This use may not exceed 60,000 sq. ft. of gross floor area.
.070	Automotive Service Center See Spec. Regs. 1, 2, 3, 5 and 6.								A		1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 4.	1. This use specifically excludes new or used vehicle or boat sales or rentals, and any vehicle or boat body work. 2. This use may not exceed 60,000 sq. ft. of gross floor area. 3. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of the building adjoining a residential use. Windows are permitted if they are triple-paned and unable to be opened. 4. Ten percent of the required parking spaces on-site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 5. Storage of used parts and tires must be conducted entirely within an enclosed structure. See also KZC 115.105 for additional regulations. 6. Site must be designed so noise from this use adjoining to any residential use complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property. A certification to this effect, stamped by an Acoustical Engineer, must be submitted with the development permit application.
.080	Private Lodge or Club								C		1 per each 300 square feet of gross floor area.	

(Revised 9/03)



DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 54.06	USE ↓ REGULATIONS ↑	Required Review Process	Lot Size	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.090	Stacked Dwelling Unit See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	None	Same as regulations for the ground floor use.			5 stories above abutting right-of-way.	Same as regulations for the ground floor use.	A	See KZC 105.25.	<ol style="list-style-type: none"> This use may not be located on the ground floor of a structure. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 	
.100	Church See Spec. Reg. 1			10'	0'	0'	80%	30' above average building elevation.	C	B	1 for every four people based on maximum occupancy load of any area of worship. See Spec. Reg. 2.	<ol style="list-style-type: none"> May include accessory living facilities for staff persons. No parking is required for day-care or school ancillary to this use.
.110	School or Day-Care Center See Spec. Regs. 2, 5, and 7.			10' See Spec. Reg. 3.	0' See Spec. Reg. 3.	0' See Spec. Reg. 3.		2 stories above abutting right-of-way. See Spec. Reg. 1.	D		See KZC 105.25. See Spec. Regs. 4 and 6.	<ol style="list-style-type: none"> A six-foot-high fence is required only along the property lines adjacent to the outside play areas. Hours of operation may be limited to reduce impacts on nearby residential uses. Structured play areas must be setback from all property lines as follows: <ol style="list-style-type: none"> 20 feet if this use can accommodate 50 or more students or children; 10 feet if this use can accommodate 13 to 49 students or children; Otherwise, five feet. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. May include accessory living facilities for staff persons. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

Section 54.06



USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 54.06	USE ↓ REGULATIONS →	Required Review Process	Lot Size	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.120	Mini-School or Mini-Day-Care See Spec. Regs. 2, 6, and 7.	D.R., Chapter 142 KZC.	None	10' See Spec. Reg. 3.	0' See Spec. Reg. 3.	0' See Spec. Reg. 3.	80%	2 stories above abutting right-of-way. See Spec. Reg. 1.	D	B	See KZC 105.25. See Spec. Regs. 4 and 5.	<ol style="list-style-type: none"> 1. A six-foot-high fence is required only along the property lines adjacent to the outside play area. 2. Hours of operation may be limited to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines by at least five feet. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.130	Assisted Living Facility See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	None	Same as regulations for the ground floor use.			80%	5 stories above abutting right-of-way.	B	A	1 per assisted living unit.	<ol style="list-style-type: none"> 1. This use may be located on the street level floor of a building only if there is a commercial space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the commercial space if the applicant demonstrates that the proposed configuration of the commercial use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.
.140	Convalescent Center or Nursing Home			10'	0'	0'			2 stories above abutting right-of-way.	C	B	1 for each bed.
.150	Public Utility			A	B	See KZC 105.25.						
.160	Government Facility or Community Facility											



USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 54.06	USE ↓ REGULATIONS ↓	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.170	Public Park	D.R., Chapter 142 KZC. See Special Regs. 1 and 2.	None	Will be determined on a case-by-case basis.			-	B	See KZC 105.25.	1. Except as provided for in Special Regulation 2 below, any development or use of a park must occur consistent with a Master Plan. A Master Plan shall be reviewed through a community review process, established by the Parks and Community Services Director, which shall include at a minimum: <ol style="list-style-type: none"> a. One formal public hearing, conducted by the Parks Board, preceded by appropriate public notice. b. The submittal of a written report on the proposed Master Plan from the Parks Board to the City Council, containing at least the following: <ol style="list-style-type: none"> 1) A description of the proposal; 2) An analysis of the consistency of the proposal with adopted Comprehensive Plan policies, including the pertinent Park and Recreation Comprehensive Plan policies; 3) An analysis of the consistency of the proposal with applicable developmental regulations, if any; 4) A copy of the environmental record, if the proposal is subject to the State Environmental Policy Act; 5) A summary and evaluation of issues raised and comments received on the proposed Master Plan; and 6) A recommended action by the City Council. c. City Council review and approval. The City Council shall approve the Master Plan by resolution only if it finds: <ol style="list-style-type: none"> 1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and 2) It is consistent with the public health, safety, and welfare. In addition to the features identified in KZC 5.10.505, the Master Plan shall identify the following: <ol style="list-style-type: none"> a. Location, dimensions, and uses of all active and passive recreation areas; b. Potential users and hours of use; c. Lighting, including location, hours of illumination, lighting intensity, and height of light standards; d. Landscaping; e. Other features as appropriate due to the character of the neighborhood or characteristics of the subject property. 		

REGULATIONS CONTINUED ON NEXT PAGE

Section 54.06



USE ZONE CHART

Section 54.06		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
Front	Side	Rear										
.170	Public Park (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE
												2. Development and use of a park does not require a Master Plan under this code if it will not involve any of the following: <ul style="list-style-type: none"> a. Lighting for outdoor nighttime activities; b. The construction of any building of more than 4,000 square feet; c. The construction of more than 20 parking stalls; d. The development of any structured sports or activity areas, other than minor recreational equipment including swing sets, climber toys, slides, single basketball hoops, and similar equipment.

A RESOLUTION OF THE CITY OF KIRKLAND EXPRESSING AN INTENT TO VACATE A PORTION OF A RIGHT-OF-WAY FILED BY MICHAEL R. MASTRO, FILE NUMBER VC-01-30.

WHEREAS, the City has received an application filed by Michael R. Mastro to vacate a portion of a right-of-way; and

WHEREAS, by Resolution Number 4332, 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 as 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 Recommendation of the Department of Planning and Community Development contained in File Number VC-01-30 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 90 days of the date of passage of this resolution the applicant or other person meets the following conditions:

(a) Pays to the City \$64,573.95 as compensation for vacating this portion of the right-of-way.

ATTACHMENT 6

VAC06-00002

(b) 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.

(c) Obtain written comments from applicable franchise utilities regarding their need to retain a utility easement over the area to be vacated. If an easement is required, the City will retain a utility easement as part of the ordinance approving the street vacation.

(d) Submit to the City a recorded copy of a 10-foot pedestrian easement along the entire length of the west side of the vacated right-of-way.

Section 3. If the portion of the right-of-way described in Section 4 of this resolution is vacated, the City will 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:

That portion of unopened Right-of-Way known as Slater Avenue NE, within a portion of the Northeast Quarter of Section 33, Township 26 North, Range 5 East, W.M., described as follows:

Beginning at the North Quarter corner of said Section 33:

Thence North $88^{\circ}36'29''$ west along the north line thereof; 384.66 feet;

Then South $00^{\circ}51'09''$ west parallel with the north-south centerline of said Section 33, 311.51 feet, more or less, to the south line of the north 311.5 feet of said subdivision and the beginning of a curve to the right having a radius of 78.00 feet;

Thence southwesterly along said curve 73.67 feet through a central angle of $54^{\circ}06'55''$; Thence south $54^{\circ}53'04''$ west 112.00 feet, more or less, to the north line of Lot 1 in Short Plat No. 778140, according to the Short Plat survey recorded under King County Recording No. 791210-0778;

Thence south $88^{\circ}36'29''$ east, along said north line, 159.02 feet to the westerly margin of Slater Avenue NE and the true point of beginning;

Thence north $18^{\circ}12'20''$ east along said westerly margin 135.90 feet through a central angle of $06^{\circ}37'34''$ to the south line of the north 311.5 feet of said subdivision;

Thence south $88^{\circ}36'29''$ east along said south line and the south margin of vacated Slater Avenue NE, recorded under King County Ordinance No. 8370, 32.78 feet to the westerly margin of said vacated Slater Avenue NE and the beginning of a non-tangent curve to the left, having a radius of 1145.12 feet and a radial line through said point bearing north $64^{\circ}30'57''$ west;

Thence along said curve and said westerly margin 67.08 feet through a central angle of $03^{\circ}21'23''$ to the north margin of NE 115th Place;

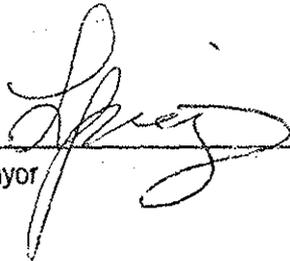
Thence south 88°36'29" east along said north margin 29.17 feet, to the beginning of a non-tangent curve to the left, having a radius of 100.00 feet and a radial line through said point bearing north 10°05'11" west;
Thence along said curve 107.70 feet through a central angle of 61°42'29";
Thence south 18°12'20" west 1.28 feet to the northerly margin of vacated Slater Avenue NE, recorded under City of Kirkland Ordinance No. 3684A;
Thence north 71°47'40" west along said vacated Slater Avenue NE 8.00 feet to the true point of beginning.

Section 5. Certified or conformed copies of this Resolution shall be delivered to the following within seven (7) days of the passage to this resolution:

- (a) Applicant
- (b) Department of Planning and Community Development of the City of Kirkland
- (c) Fire and Building Departments of the City of Kirkland
- (d) Public Works Department of the City of Kirkland
- (e) The City Clerk for the City of Kirkland.

Passed by majority vote of the Kirkland City Council on the 16th day of April, 2002.

SIGNED IN AUTHENTICATION THEREOF on the 16th day of April, 2002.

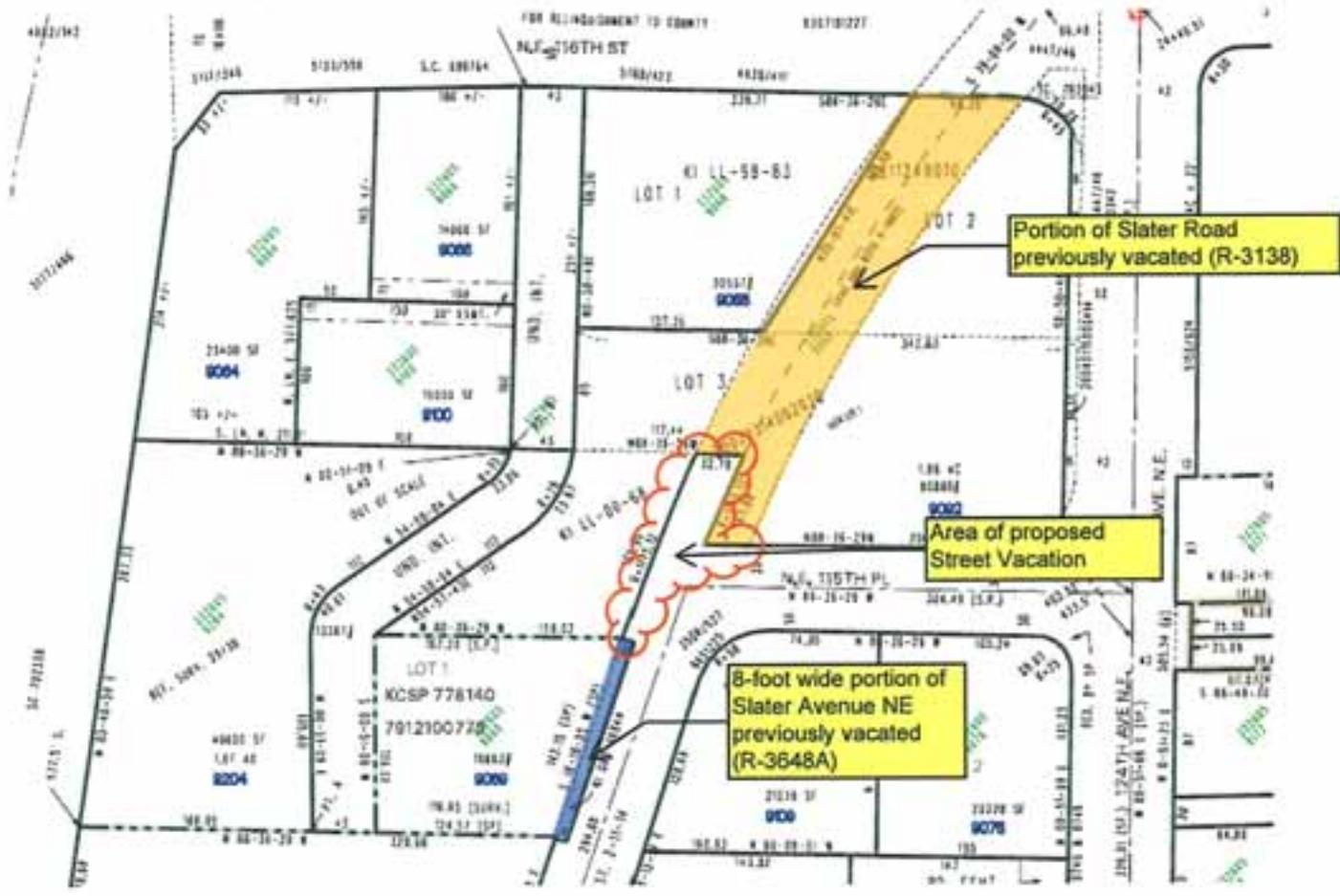


Mayor

ATTEST:



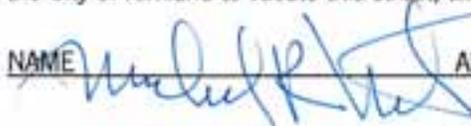
City Clerk



ATTACHMENT 7
Vacat-00002

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
		

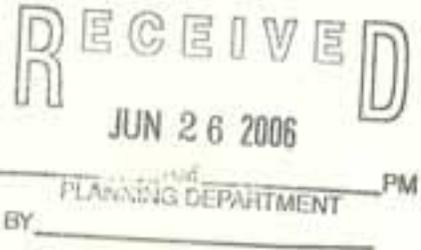
ATTACHED TO
JUNE 13, 2006
LETTER

(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.

ATTACHMENT <u>6</u>
<u>JACOB 00002</u>

Mary Hanna Murphy
7350 Alonzo Avenue Northwest
Seattle, Washington 98117
Phone: (206) 784-1133



City of Kirkland
Stacey Clausen, Associate Planner
City Hall, 123 5th Avenue
Kirkland, Washington 98033-6189

RE: Petition to vacate a portion of Slater Avenue NE

Dear Stacey:

On behalf of Mastro Properties, I am resubmitting a request to vacate a portion of Slater Avenue NE. As you know under Vacation Application No. VC-01-30, the City of Kirkland passed Resolution No. R-4340 and R-4332 indicating intent to vacate the exact same ROW as put forth to you today. Due to market demand, the old application was never completed by the proponent. Market conditions have changed again and Mastro Properties would like to proceed with the ROW vacation process. As before, the portion of the street within this request is adjacent to and surrounded by a parcel owned by Michael R. Mastro (Tax Parcel No. 332605-9092).

The area that we are requesting to have vacated is bounded on the north and south by a previously vacated Right of Way (King County Ordinance No. 8370 and City of Kirkland Ordinance No. 3684A respectively).

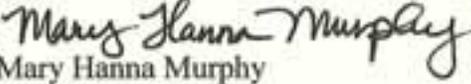
Transportation demand and development conditions in the area have not changed since the previous Vacation Application/Approval. For example, no parcel will be denied legal access, there is no anticipated public use of the road and is not necessary for travel or other street purposes. Further, the applicant owns 100% of the adjacent property and the road vacation area serves only the Mastro parcel and no other. Finally, future development on the Mastro property will continue to have direct access to Slater Avenue/115th Place which we are told is preferred by the City.

Any and all existing utilities within the proposed vacation area shall be provided with easements allowing their continue existence on the site. Mastro Properties is prepared to pay the cost of an updated appraisal of the vacation area.

City of Kirkland
June 21, 2006
Page 2

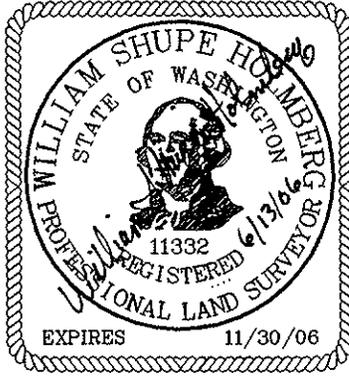
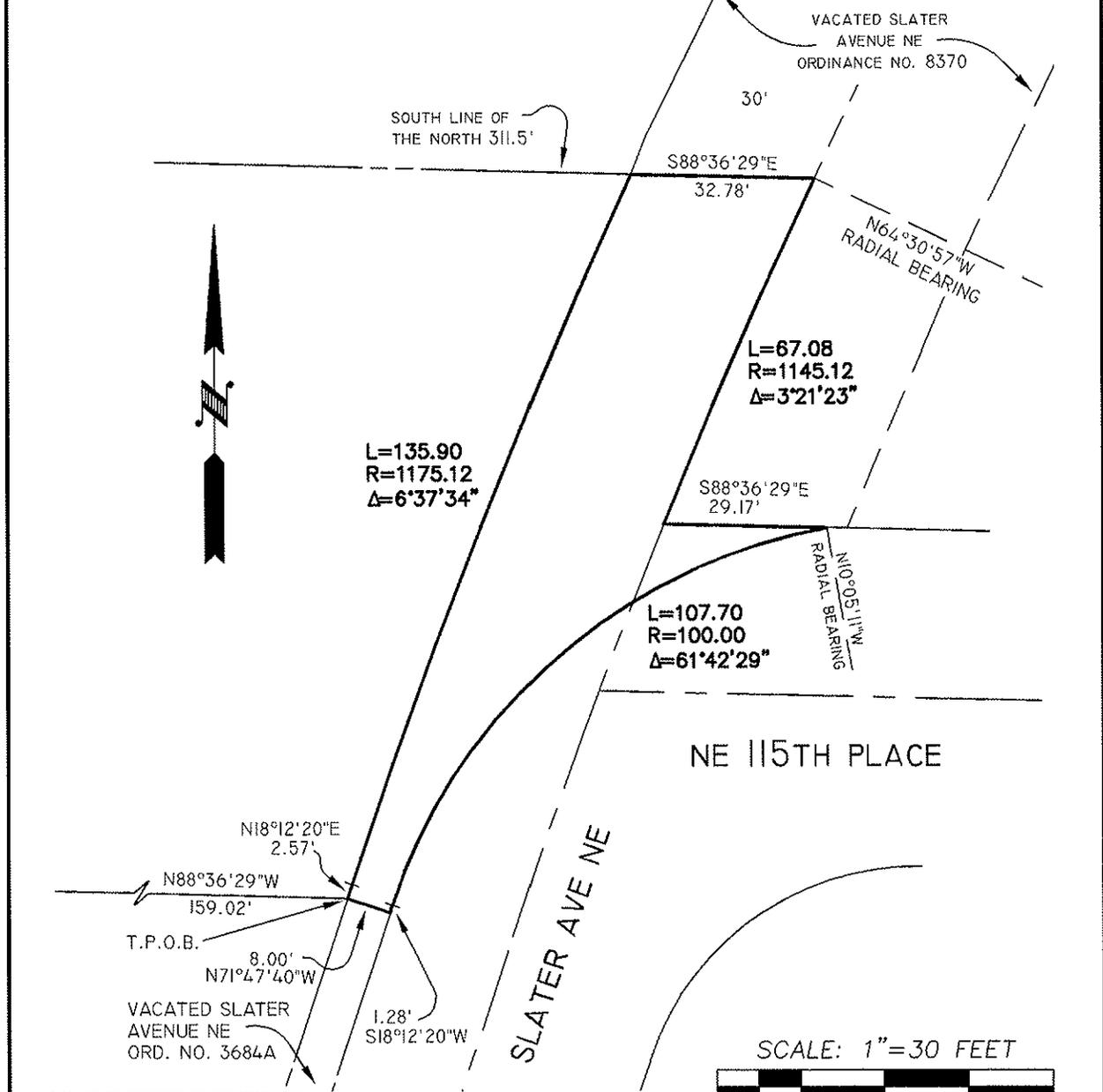
I will be your contact during this process and I can be reached at (206) 784-1133. Thanks
you for your attention on this matter.

Sincerely,


Mary Hanna Murphy
Land Use Consultant

Cc: Rick Grimes, Architect
Michael Mastro, Jr., Owner

RIGHT-OF-WAY VACATION SLATER AVENUE NE



Baima & Holmberg Inc.

ENGINEERS & SURVEYORS
100 FRONT STREET SOUTH
ISSAQUAH, WASHINGTON 98027
(425) 392 - 0250

RECEIVED

JUN 26 2006

PLANNING DEPARTMENT

PM

STREET VACATION LEGAL DESCRIPTION

That portion of unopened Right-Of Way known as Slater Avenue N.E. within a portion of the Northeast Quarter of the Northwest Quarter of Section 33, Township 26 North, Range 5 East, W.M., described as follows:

Beginning at the North Quarter Corner of said Section 33;
Thence North $88^{\circ} 36' 29''$ West along the North line thereof, 384.65 feet;
Thence South $00^{\circ} 51' 09''$ west parallel with the North-South centerline of said Section 33, 311.51 feet, more or less, to the South line of the North 311.5 feet of said subdivision and the beginning of a curve to the right having a radius of 78.00 feet;
Thence Southwesterly along said curve 73.67 feet through a central angle of $54^{\circ} 06' 55''$;
Thence South $54^{\circ} 58' 04''$ West 112.00 feet, more or less to the North line of Lot 1 in Short Plat No. 778140, according to the Short Plat survey recorded under King County Recording No. 7912100778;
Thence South $88^{\circ} 36' 29''$ East, along said North line, 159.02 feet to the Westerly margin of Slater Avenue N.E. and the True Point Of Beginning;
Thence North $18^{\circ} 12' 20''$ East along said Westerly margin, 2.57 feet, to the beginning of a curve to the right, having a radius of 1175.12 feet;
Thence along said curve and said Westerly margin 135.90 feet through a central angle of $06^{\circ} 37' 34''$ to the South line of the North 311.5 feet of said subdivision;
Thence South $88^{\circ} 36' 29''$ East along said South line and the South Margin of Vacated Slater Avenue N.E., recorded under King County Ordinance No. 8370, 32.78 feet to the Westerly margin of said Vacated Slater Avenue N.E. and the beginning of non-tangent curve to the left, having a radius of 1145.12 feet and a radial line through said point bearing North $64^{\circ} 30' 57''$ West;
Thence along said curve and said Westerly margin 67.08 feet through a central angle of $03^{\circ} 21' 23''$ to the North margin of N.E. 115th Place;
Thence South $88^{\circ} 36' 29''$ East along said North margin 29.17 feet, to the beginning of a non-tangent curve to the left, having a radius of 100.00 feet and a radial line through said point bearing North $10^{\circ} 05' 11''$ West;
Thence along said curve 107.70 feet through a central angle of $61^{\circ} 42' 29''$;
Thence South $18^{\circ} 12' 20''$ West 1.28 feet to the Northerly margin of Vacated Slater Avenue N.E., recorded under City of Kirkland Ordinance No. 3684A;
Thence North $71^{\circ} 47' 40''$ West along said Vacated Slater Avenue N.E. 8.00 feet to the True Point Of Beginning.

Said Vacated Right-Of-Way contains
3,455 square feet, more or less.

Situate in City of Kirkland, King County, Washington

**PETITIONER'S PARCEL
TAX ACCOUNT NO. 332605-9092**

Lots 2 and 3, City of Kirkland Alteration of Lot Line No. LL-98-83, recorded under Recording Number 9811249010; being a portion of the northeast quarter of the northwest quarter of Section 33, Township 26 North, Range 5 East, W.M., in King County, Washington; EXCEPT the east 8 feet conveyed to the City of Kirkland by deed recorded under Recording Number 20040115000414;

TOGETHER WITH that portion of the northeast quarter of the northwest quarter of Section 33, Township 26 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the north quarter corner of said Section 33;
thence north $88^{\circ}36'29''$ west along the north line thereof, 384.64 feet;
thence south $00^{\circ}51'09''$ west parallel with the north-south centerline of said Section 33, 311.51 feet, more or less, to the south line of the north 311.5 feet of said subdivision and the beginning of a tangent curve to the right having a radius of 78.00 feet and the TRUE POINT OF BEGINNING;
thence southwesterly along said curve an arc distance of 73.67 feet through a central angle of $54^{\circ}06'55''$ to a point of tangency;
thence south $54^{\circ}58'04''$ west 112.00 feet, more or less, to the north line of Lot 1 in Short Plat Number 778140, according to Short Plat recorded under King County Recording Number 7912100778;
thence south $88^{\circ}36'29''$ east along said north line, 159.02 feet to the westerly line of Slater Avenue Northeast;
thence northeasterly along said westerly margin, 138.48 feet, more or less, to the south line of the north 311.5 feet of said subdivision;
thence north $88^{\circ}36'29''$ west along said south line, 84.70 feet to the TRUE POINT OF BEGINNING;

(ALSO KNOWN AS Lot 2 of unrecorded King County Lot Line Adjustment Number 982059);

TOGETHER WITH an undivided interest in that portion of the northeast quarter of the northwest quarter of Section 33, Township 26 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the north quarter corner of said Section 33;
thence north $88^{\circ}36'29''$ west along the north line thereof, 384.64 feet;

(continued)

LEGAL DESCRIPTION, continued:

thence south 0°51'09" west parallel with the north-south centerline of said Section 33, 60.00 feet to the TRUE POINT OF BEGINNING;
thence continue south 0°51'09" west 251.51 feet to the beginning of a tangent curve to the right having a radius of 78.00 feet;
thence along said curve an arc distance of 73.67 feet through a central angle of 54°06'55" to a point of tangency;
thence south 54°58'04" west 112.00 feet;
thence south 0°51'09" west 136.00 feet;
thence north 88°36'29" west 43.00 feet;
thence north 0°51'09" east 135.60 feet to the beginning of a tangent curve to the right having a radius of 43.00 feet;
thence along said curve an arc distance of 40.61 feet through a central angle of 54°06'55" to a point of tangency;
thence north 54°58'04" east 112.00 feet to the beginning of a tangent curve to the left having a radius of 35.00 feet;
thence along said curve an arc distance of 33.06 feet through a central angle of 54°06'55" to a point of tangency;
thence north 0°51'09" east 251.91 feet to the southerly margin of that additional right-of-way conveyed to the State of Washington for State Road 405;
thence south 88°36'29" east 43.00 feet to the TRUE POINT OF BEGINNING;

(ALSO KNOWN AS "New Lot 1", City of Kirkland Alteration of Lot Line No. LL-00-68, as recorded under Recording Number 20020314002030);

AND TOGETHER WITH easements as provided for in document recorded January 19, 1984 under Recording Number 8401190381.



APPRAISAL GROUP OF THE NORTHWEST LLP

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

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

September 20, 2006

Stacy Clauson
Associate Planner
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

Re: Appraisal of a proposed vacation of a portion of Slater Ave. NE at NE 115th Place, also know as File VAC06-00002, in Kirkland, Washington.

Dear Ms. Clauson:

In accordance with your request, we have completed an appraisal of fee simple interest in the subject property referenced above. The most pertinent data gathered and the techniques of valuation are described in this appraisal report. This appraisal is intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Foundation.

In our opinion, the value as of September 8, 2006 of the portion of Slater Ave. NE at NE 115th (File VAC06-00002) to be vacated is:

EIGHTY NINE THOUSAND SEVENTY FIVE DOLLARS

\$89,075

Thank you for the opportunity to be of service. If you have any questions regarding this appraisal, please feel free to contact us.

Sincerely,

John Arney, MAI
Certified General R.E. Appraiser, WA
Certification No. 1100473

Jerry C. Sidwell
Certified General R.E. Appraiser, WA
Certification No. 1100494

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. I certify that, to the best of my knowledge and belief, 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 Standards of Professional Appraisal Practice of the Appraisal Institute and the Uniform Standards of Professional Appraisal Practice (USPAP).
8. I, John Arney, MAI, and I, Jerry C. Sidwell, have made a personal inspection of the property that is the subject of this report.
9. No one has provided significant real property appraisal assistance 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.
11. As of the date of this report, John Arney, MAI, has completed the requirements under the continuing education program of the Appraisal Institute.



John W. Arney, MAI

September 20, 2006
Date



Jerry C. Sidwell, Appraiser

September 20, 2006
Date

SUMMARY OF FACTS AND CONCLUSIONS

Subject Property

The subject property is a 3,455-square-foot street allocation of Slater Ave. NE, being the north portion of the intersection of Slater Ave. NE and NE 115th Place, Kirkland, Washington.

Improvements

The subject property is an undeveloped portion of Slater Ave. NE.

Lot Size

The subject contains 3,455 square feet.

Zoning

The subject property has the NRH1A zoning of the City of Kirkland, a North Rose Hill Business District Commercial zoning.

Date of Appraisal

September 8, 2006

Highest and Best Use

As if Vacant: assemblage to adjacent parcel.

Value Estimates by Each Approach

Cost Approach	N/A
Sales Comparison Approach	\$89,075
Income Capitalization Approach	N/A

Appraised Value

\$89,075

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 CERTIFICATION..... ii
 SUMMARY OF FACTS AND CONCLUSIONS iii
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INTRODUCTION

GENERAL AREA MAP
 LOCATION MAP
 PLAT MAP
 ZONING MAP
 SUBJECT PHOTOGRAPHS

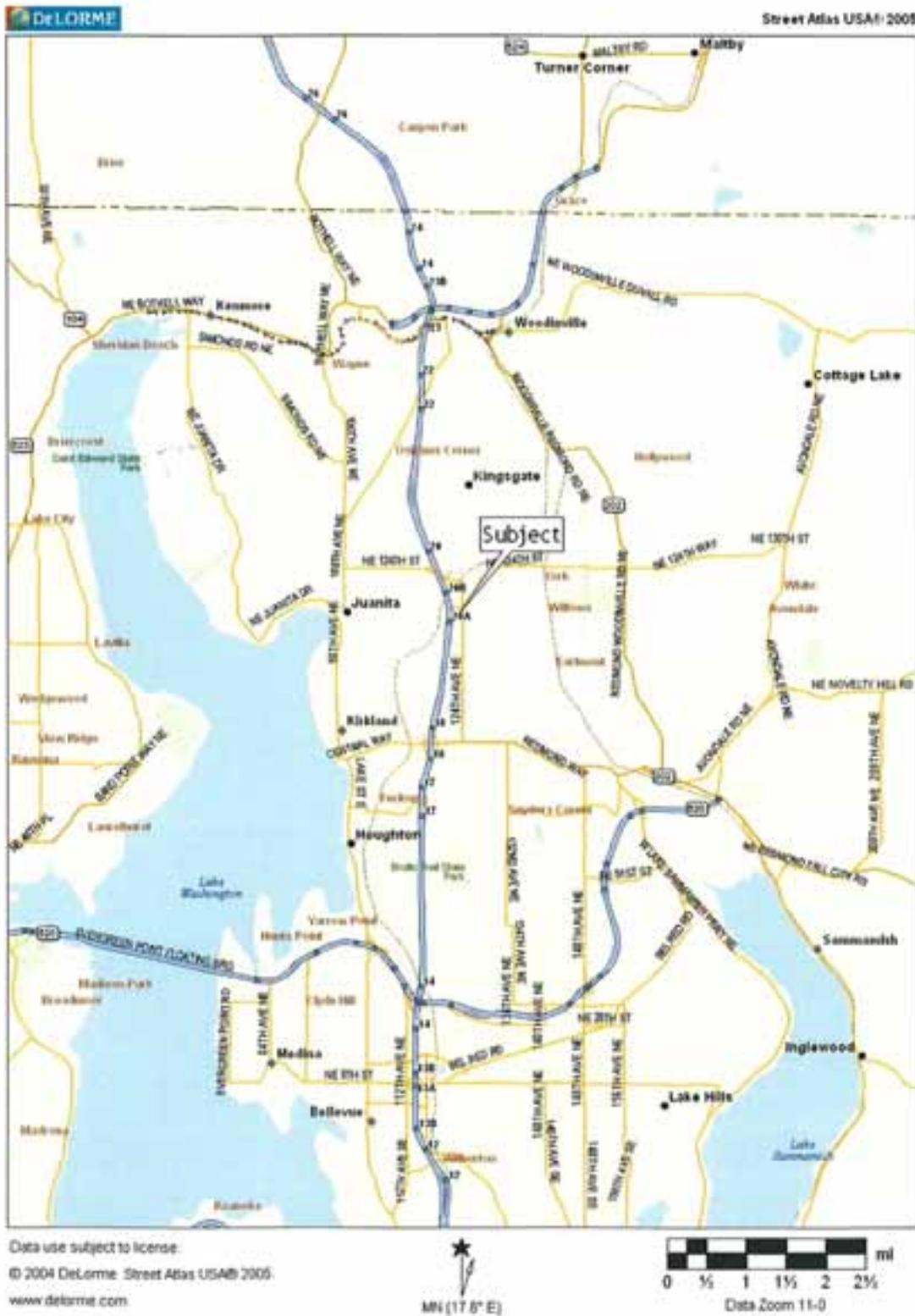
PROPERTY IDENTIFICATION - DESCRIPTIVE DATA

1

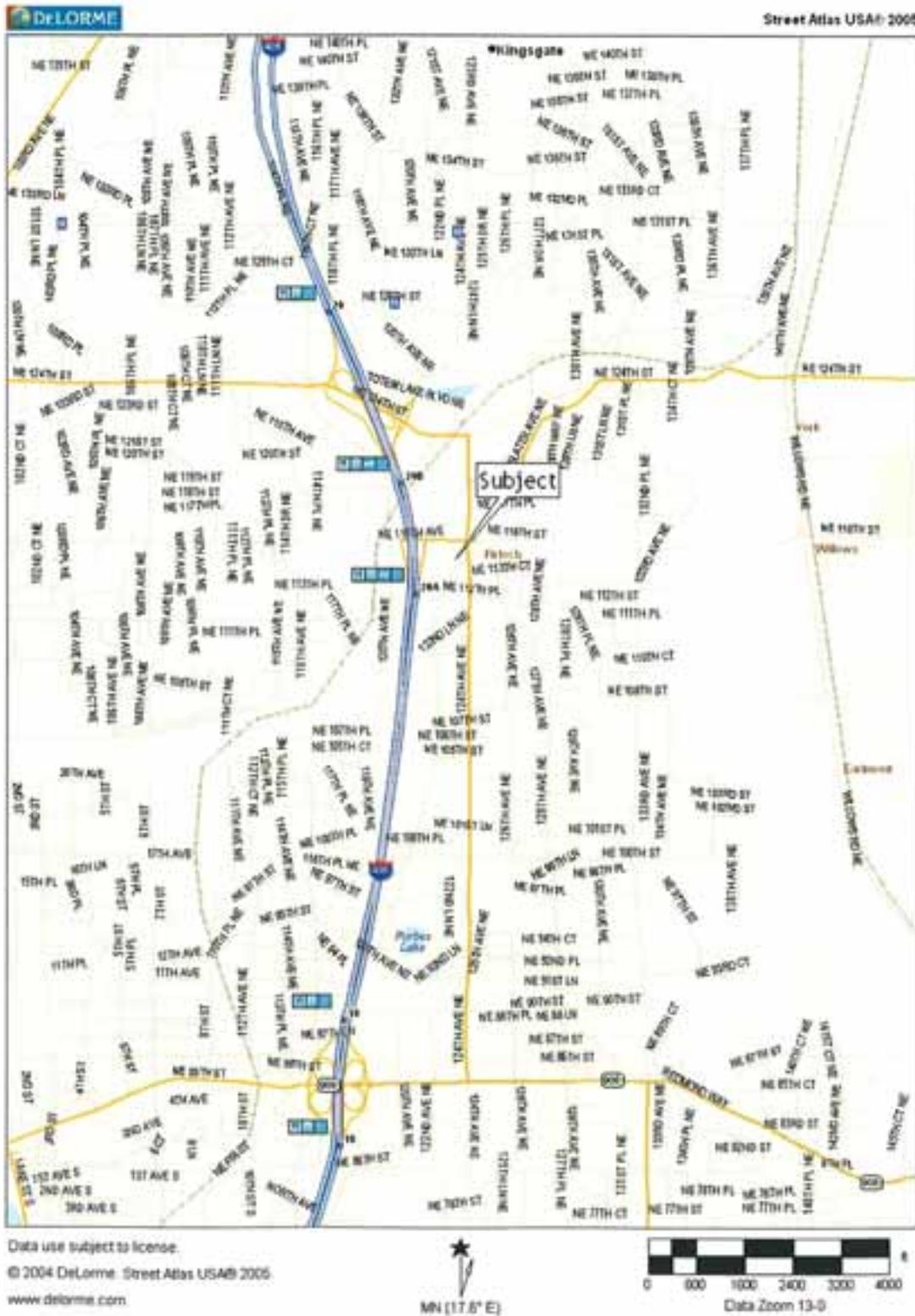
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General Area Map



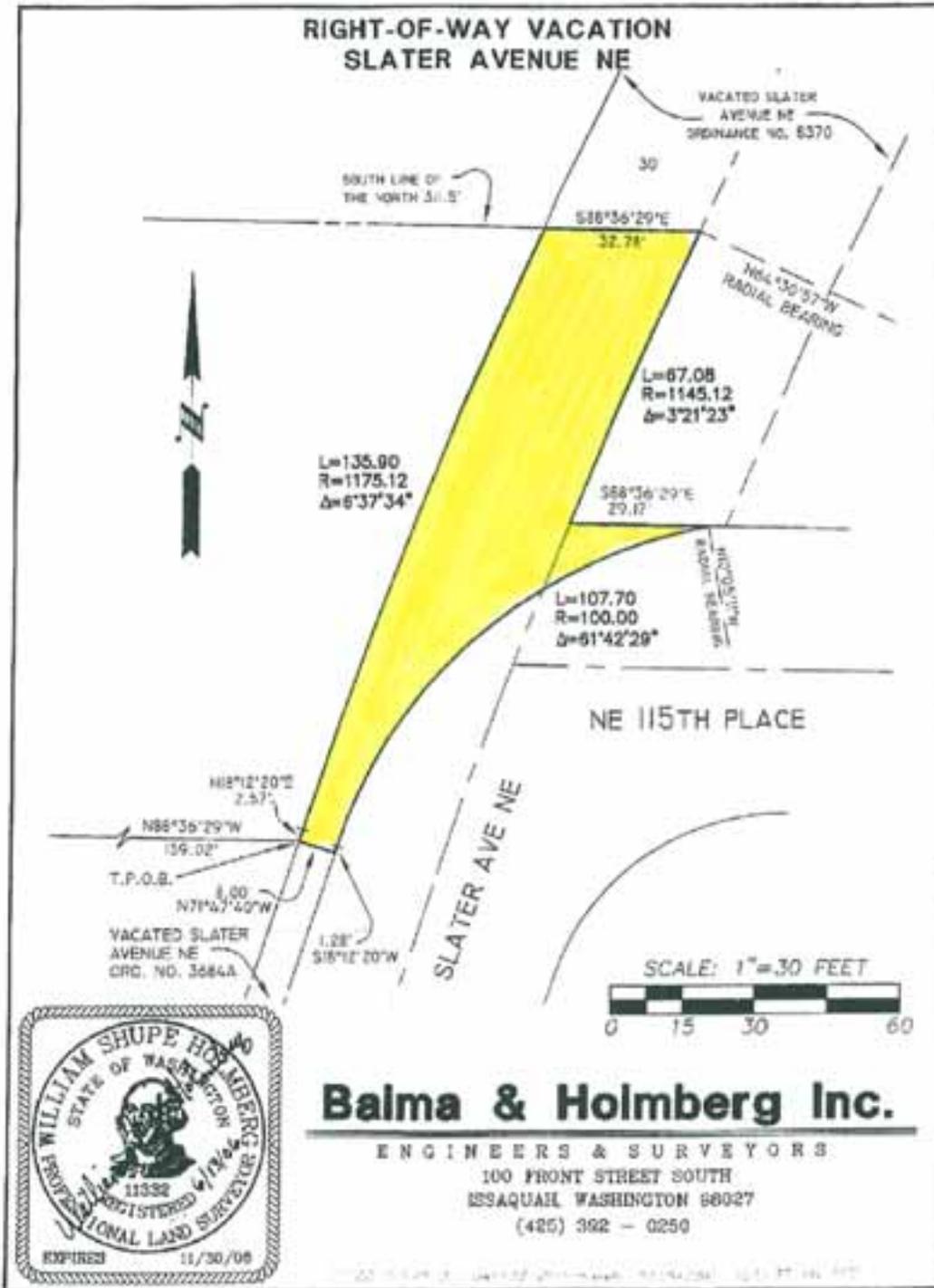
Location Map



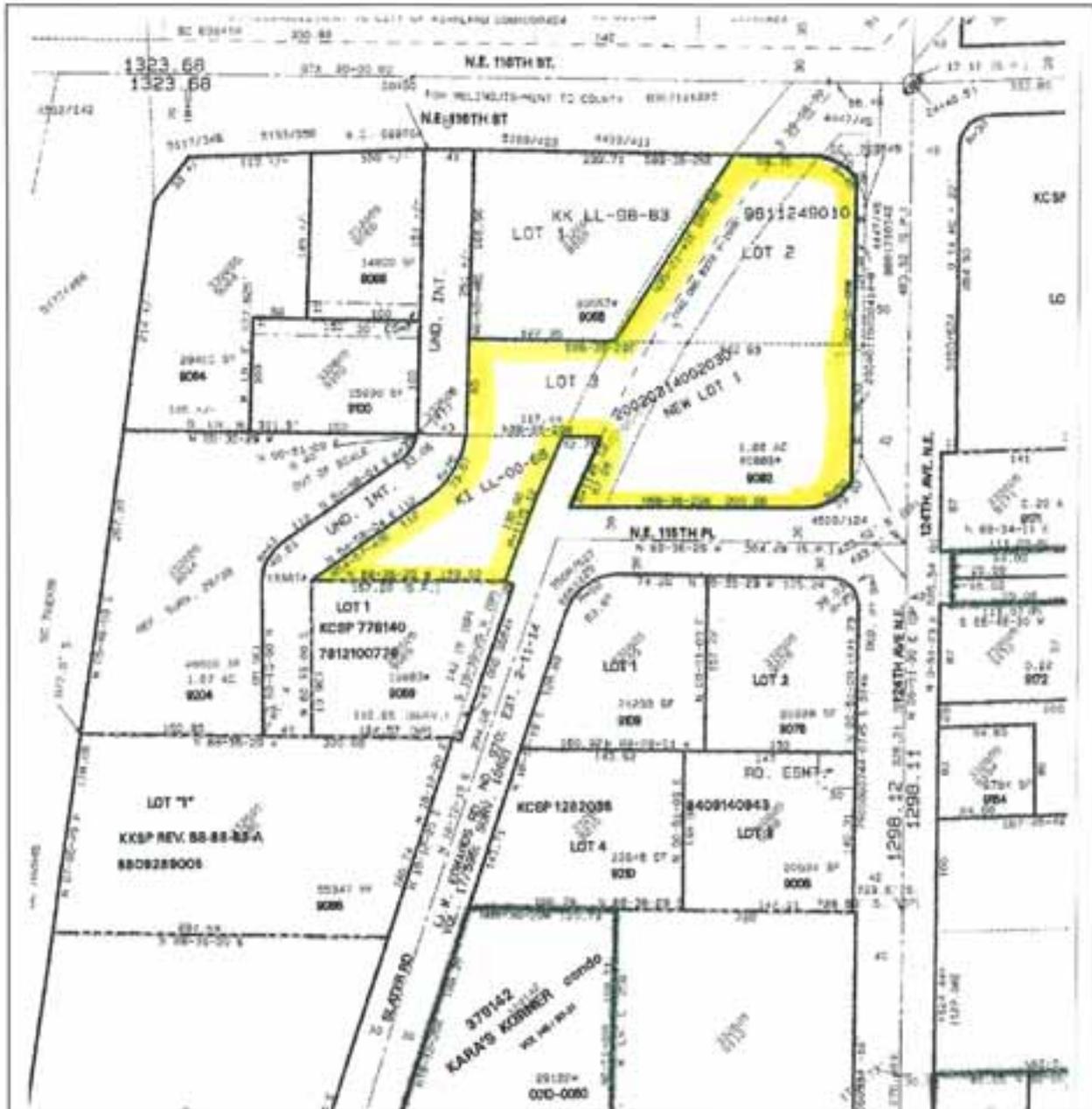
Aerial Map



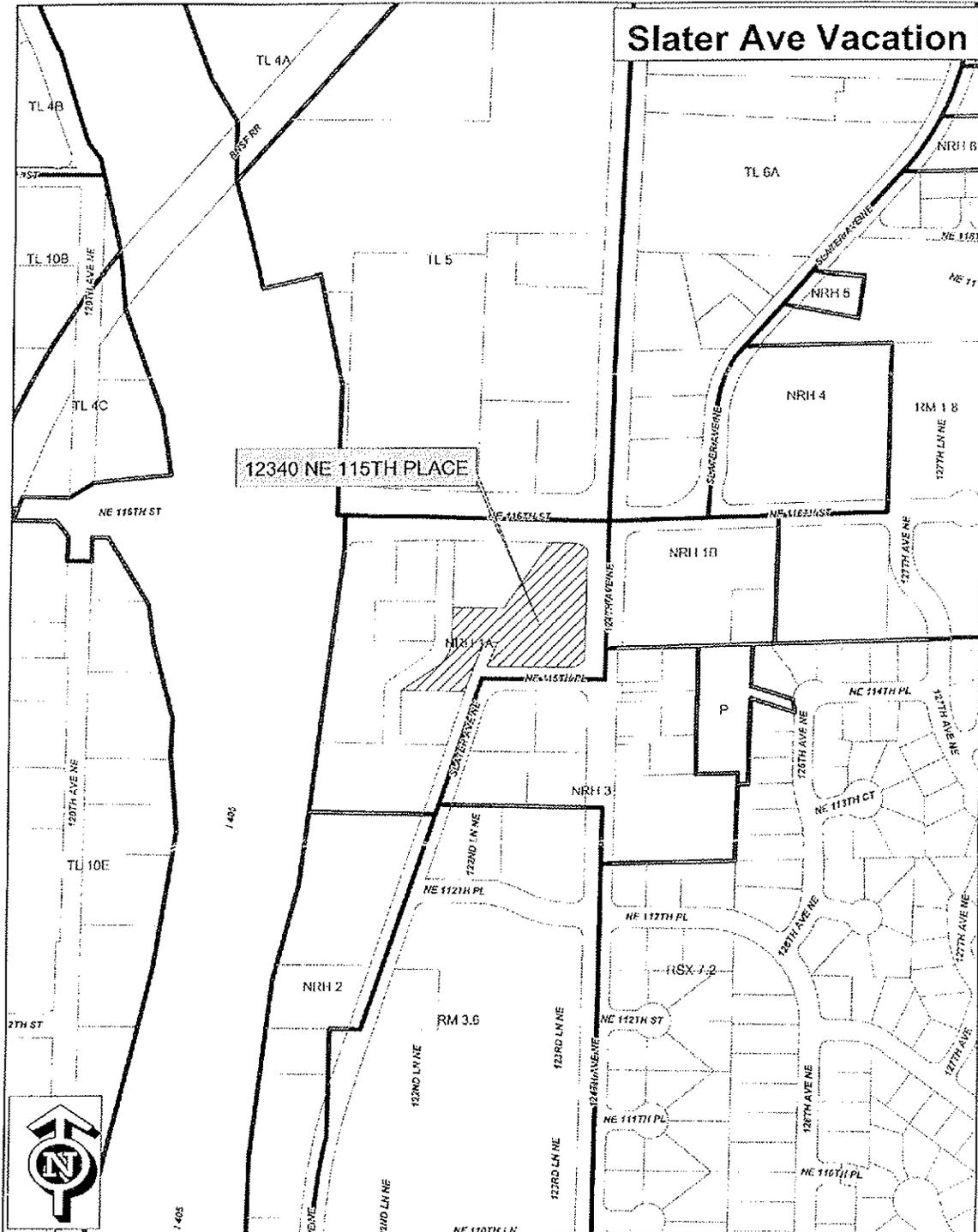
Plat Map Street Vacation



Plat Map Adjacent Parcel



Zoning Map



SUBJECT PHOTOS

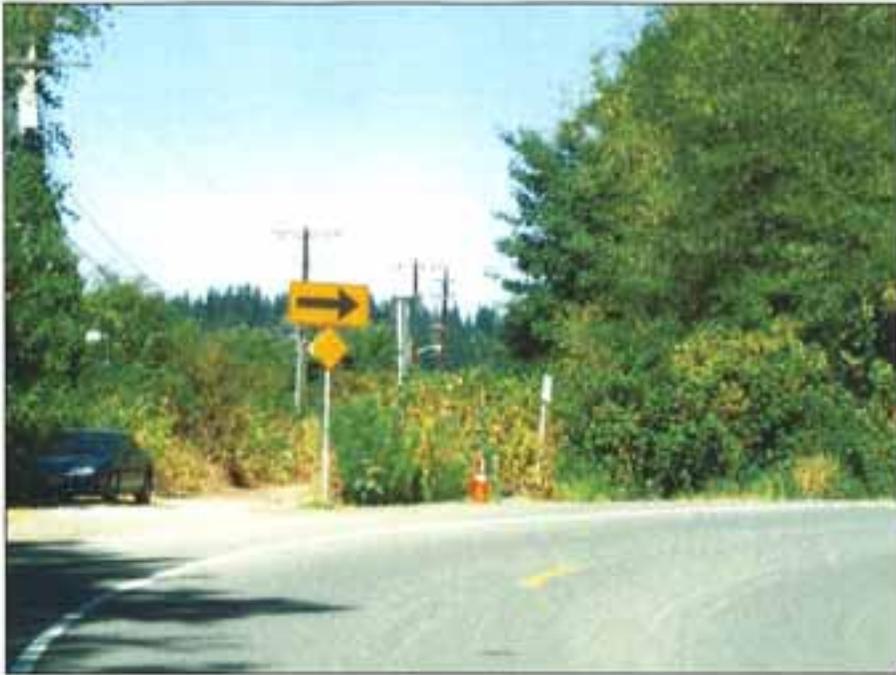


1. Looking North along Slater Ave. NE at Street Vacation



2. Looking North along Slater Ave. NE at Curve of Street Vacation

SUBJECT PHOTOS



3. Looking North where Slater Ave. NE turns and becomes NE 115th Place



4. Looking Northeast along NE 115th Place – Street Vacation on Left

SUBJECT PHOTOS



5. Looking South along Slater Ave. NE from North Portion of Street Vacation



6. Looking North from proposed Street Vacation along previously Vacated Portion of Slater Ave. NE.

PROPERTY IDENTIFICATION - DESCRIPTIVE DATA

IDENTIFICATION

Property Identification

The subject property is a 3,455-square-foot street allocation, situated where Slater Ave. NE would continue north of NE 115th Place in Kirkland, Washington.

Ostensible Owner

According to the King County Assessor's maps, the subject property is currently indicated to be an undeveloped portion of Slater Ave. NE, which is owned by the City of Kirkland.

Legal Description

The subject property has a lengthy legal description and as such is included in the Addenda.

MARKET OVERVIEW

Marketing Time

Reasonable marketing time may be defined as an estimate of the amount of time it might take to sell an interest in real property at its estimated market value during the period immediately after the effective date of an appraisal. 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. It is anticipated that the subject, offered at a reasonable listing price, and considering current market conditions, would have a marketing period of less than one year.

Exposure Time

Exposure time may be defined as the 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. 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 the 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 to be less than one year.

Prior Sales

No recorded sales or listings involving the subject property have occurred in the past five years. The surrounding property that is currently owned by Mr. Michael Mastro was purchased on April 16, 2001 for \$250,000 from Mr. Donald Wahlquist, in what appears to be an arms-length transaction. This purchase was for 13,486 square feet of land and was considered to be a land only sale for an indicated \$18.54 per square foot. (It was noted that the single-family residence remains on the site at the present time and that it was indicated to have nominal value. Any income from renting of the structure would be used to offset any demolition costs.)

REPORT CRITERIA

Date of the Inspection

September 8, 2006

Client

City of Kirkland

Function of the Appraisal Report

It is our understanding that the report will be used by the client for documentation in negotiations to vacate the property and sell it to the adjacent owners.

Purpose of the Appraisal

The purpose of this appraisal is to estimate the market value of fee simple interest in the subject property. Market value is defined as follows:

Market value is the most probable price which 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.¹

Scope of the Appraisal

This report is intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP). As it is intended to be a summary report, a complete description of the appraisal process, such as a depiction of the region and city, a highest and best use analysis, and all three major approaches to valuation, are considered. Due to the nature of the subject property (i.e. vacant land), only the sales comparison approach is an appropriate method for valuing the subject.

The sales comparison approach involves description and analysis of sale properties similar to the subject and estimation of the subject property's value by various physical units of comparison. Sale information is generally confirmed through interviews with parties involved in the transactions, as well as data sources including NWMLS, CBA, CoStar Comps, MetroScan and County records.

The subject right-of-way does not constitute a stand-alone developable property. Rather, it gains its value from the abutting properties it serves. While the subject roadway currently serves only the surrounding undeveloped property owned by Mr. Michael Mastro, it was to have benefited the other properties along Slater Ave. NE. Therefore, an "across-the-fence" valuation type approach is considered appropriate. In this approach, the subject right-of-way is valued on the basis of the adjacent parcels and especially the surrounding Mastro site, to which it is most similar.

Disclosure of Competency

We have performed appraisals of a variety of properties in and around Kirkland, Washington, and have had recent experience in street vacation and the valuation of both commercially and mixed-use zoned land similar to the subject. Please see the appraisers' qualifications in the Addenda.

¹ 12 CFR 323, Federal Register, Volume 55, No. 161, August 20, 1990

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.
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 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 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 appraiser.
5. Appraisal Group of the Northwest and its associate appraisers and employees assume liability only to the client and only up to the amount of the fee actually received for this assignment.
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. 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.

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.enterprisescattle.org; 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

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.

NEIGHBORHOOD DESCRIPTION

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. The subject is located in the North Rose Hill area of North Kirkland, about 12 miles northeast of the Seattle CBD and 3 miles northeast of the Kirkland CBD. The City of Kirkland, with an estimated population of more than 47,000, is a suburban community located on the eastern shores of Lake Washington and immediately north of the City of Bellevue, the largest commercial center on the east side of Lake Washington.

Kirkland was founded in 1888 and incorporated in 1905. Historically significant for its ship-building industry, since World War II, Kirkland has grown into a community that is in high demand for its residential real estate. Between 1968 and 1988, several adjacent neighborhoods were annexed, including Houghton, Totem Lake, Juanita and Rose Hill. Today, Kirkland encompasses some 11 square miles, including 5.75 miles of Lake Washington shoreline.

The Rose Hill area is bordered by I-405 to the west, 132nd Avenue NE to the east, NE 116th Street to the north (which continues as Slater Ave. NE for a short distance north and east of the intersection of NE 116th Street and 126th Ave. NE) and NE 85th Street to the south. The district is mixed-use in nature, with retail services and commercial office space at both the northern and southern portions, and then a mix of single-family and attached residential housing and condominiums towards the center.

West of the southern portion is the main downtown Kirkland business district. Further north of this area and to the west of the neighborhood is the newly developing mixed-use commercial Juanita Village development. The first phase of the development includes a Walgreen's drug store, a Bank of America branch bank, a freestanding Starbucks store and a mixed-use retail and residential structure. Existing development in the area includes a diverse mixture of older retail and office buildings and several new retail strip centers and condominium projects.

To the north of this neighborhood, east of Interstate 405 and north of NE 124th Street, is the Totem Lake commercial district which includes the Totem Lake Mall, currently undergoing a major renovation. Upon completion, the Totem Lake Mall will include

438,000 square feet of retail space, 145,000 square feet of office space, a 144-room hotel and 208 residential units. Evergreen Hospital and associated medical buildings are located just north of the mall area. The southwest portion of the neighborhood is dominated by Lake Washington Technical College.

Located immediately west of Interstate 405, in the vicinity of NE 124th Street and NE 116th Street, is additional commercial activity, including several shopping centers, the new Costco Home Store, and several business parks. The entire Totem Lake area has undergone a revision of the neighborhood plan by the City of Kirkland Planning Commission, identifying 12 districts, and revising zoning and design regulations to allow more dense development, containing affordable housing in a pedestrian-friendly environment.

In summary, the subject property is located in a mature, but changing, historic district of Kirkland. Overall, Kirkland has traditionally been in strong demand for retail, housing and office uses due to its proximity to the lakefront with its view amenities. In addition, the subject has excellent vehicular access to Interstate 405 to both the northern and southern business areas, which then support the residential area bracketed by these commercial areas. The desirability of the area and its excellent access results in greater market appeal to those living in and around this North Rose Hill area.

SITE DESCRIPTION

Location and Access

The subject property is located at NE 115th Place where Slater Ave. NE extends north. This area is an unimproved graveled area that would be Slater Ave. NE if it were to continue north onto a portion of the Mastro property, but now turns to the east as NE 115th Place and connects with 112th Ave. NE. Both Slater Ave. NE and NE 115th Place are two-lane (one in either direction) paved roads with a combination of sidewalks and unimproved shoulders, depending on current development of properties adjacent to the roads.

Immediate Surroundings

The subject extends a short distance into the Michael Mastro property, which is currently an under-developed property. There is currently an older residence on the site, but permits are in the process for the construction of a 66,124-square-foot office building with 78 dwelling units. It is to be 5-story building, which includes 282 parking stalls. Other surrounding properties include an older service station, hotel, restaurant, office buildings and multi-family housing. To the north of the subject is commercial development, to the south and west is office and hotel, to the northeast is commercial and to the east and south is residential.

Shape and Size

The subject site is an irregularly-shaped area, which extends north of NE 115th Place approximately 60 feet and is approximately 30 feet wide. South of NE 115th Place it is more triangular in shape and follows the curve of Slater Ave. NE as it turns east and becomes NE 115th Place. The site consists of 3,455 square feet.

Topography

The subject site is a graveled area that is generally level, at street grade of Slater Ave. NE and NE 155th Place.

Soils, Drainage and Toxic Hazards

From direct observation of the site, the soils appear adequately drained and stable. No indications of toxic hazards were observed; however, detailed analysis of such potential is beyond the scope of this appraisal. It is assumed that the soil conditions are stable, adequately drained, supportive of the improvements, and free of toxic materials.

Identification of Possible Flood Hazard

The appropriate Federal Emergency Management Agency (FEMA) map shows that the subject property is in area zone X, areas determined to be outside of the 500-year flood plain. The corresponding flood map number for the subject is 53033-C0360G, dated November 8, 1999.

Easements and Restrictions

No title report has been provided for review. From direct observation, there is an existing electric transmission line that lies on the subject's area. No other easements, encroachments or other adverse conditions were noted or observed, but from conditions of the street vacation, a reserve utility easement will be required on the street side.

Utilities

Electricity, gas, telephone, water, sanitary sewer, and refuse collection are all available.

Site Improvements

The subject property is comprised of a graveled area that extends from the point where Slater Ave. NE turns east and becomes NE 115th Place.

Assessment and Taxes

The subject property is owned by the City of Kirkland, and is not taxed.

Zoning

The subject property is zoned North Rose Hill Business District 1A (NRH1A) by the City of Kirkland. The following points are presented as an overview of this zoning: west of 124th Ave. NE. is a mixed-use retail commercial/residential designation; this area should have a regional commercial character that supports and promotes the residential development that is being encouraged to locate there. Uses should be compatible with residential development; the types of commercial uses allowed in this area should be compatible with the community and the region. Car and boat dealerships and big box retail uses are prohibited; increased building heights should be allowed in order to provide sufficient incentive to develop a range of housing choices in conjunction with commercial development; buildings exceeding two stories must be developed with residential uses above the ground floor. A maximum of five stories is permitted; hotel uses are appropriate to a maximum of four stories. These facilities should be designed to be compatible with the residential character of the area; with any

development at the corner of NE 116th Street and 124th Ave. NE, neighborhood gateway features, such as open space, plaza, or signage should be integrated with a pedestrian connection linking Slater Avenue NE and NE 116th Street. In the alternative, a corner feature should be provided.

Uses permitted under the zoning include office, vehicle service, restaurant or tavern, fast food restaurant, hotel or motel, retail, automotive service center, stacked dwelling unit, church, school or daycare center, mini-school or mini-day-care, assisted living facility, convalescent center or nursing home, public utility government facility or community facility and public park. Front yard setbacks range from 10 to 40 feet. In general, there is no side or rear setbacks, with the exception of vehicle service stations, stacked dwelling units, and schools and assisted living usages. Lot coverage is set at a maximum of 80%. The height of the structures that can be built ranges from 2 (for more intense uses such as office) to 5 stories (for less intense such as stacked dwelling units) depending on both use and or uses (such as combined office and residential uses) and is to be determined on submittal of plans. Parking is of a similar nature ranging from 1 for each 80 square foot of gross floor area for fast food restaurants to 1 for each 300 square feet of retail space, with more specialized of 1 space per hotel room or 1 for every 4 people based on the load capacity of a church. More specific regulations are on a case by case basis and specific to actual location within the Business District and location on specific streets.

DESCRIPTION OF THE IMPROVEMENTS

The subject property has no improvements.

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.

1. The subject property is zoned NRH1A, which is similar to the adjacent parcels which, in this case, is the single Mastro parcel.
2. The soils appear suitable for most types of development. The site does not have adequate area to be developed, but when assembled with the adjacent surrounding properties of similar zoning, will provide a wide variety of development potential.
3. A realistic assessment of market demand for the proposed use of the property is important. For a site to be economically feasible for a given use, the proposed use must be compatible with the surrounding neighborhood and have sufficient demand. Currently, there is a strong demand for development of the surrounding vacant lot. Additionally, the subject site does not provide any needed public access.
4. In our opinion, of the uses that satisfy the above three criteria, the highest and best use of the subject property, as if vacant, would be a street vacation of the subject to allow assemblage to the adjacent parcel, and development within the zoning requirements. The proposed mixed-use office/residential of the surrounding property falls within this criteria.

Therefore, the highest and best use of the subject is assemblage to the adjacent (Mastro) parcel.

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. For the subject property, only the sales comparison approach is considered to be an appropriate method for valuation. The sales comparison approach involves description and analysis of sale properties similar to the subject and estimation of the subject property's value by various physical units of comparison.

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. Furthermore, since the subject property is a street, the valuation is performed using an across the fence (ATF) value, the preferred method. This method is a means of estimating the value of land adjacent to or "across the fence" from the street as distinguished from valuing the street right-of-way as a separate entity.

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 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.

The most widely recognized and market-oriented unit of comparison for a commercial or mixed-use facility is the price per square foot. The market search for comparable sales was undertaken in the local subject area that resulted in closed sales and listings, proximate in time to the date of appraisal, of comparables in the subject neighborhood. After being inspected, confirmed, and analyzed for their applicability and comparability with the subject, the sales summarized on the following pages were considered to be the best indicators of fee simple market value for the subject by the sales comparison approach.

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

Summary of Comparable Land Sales

Sale No.	Location	Sale Date	Zoning	Sale Price	Area (SF)	Price / SF
1	12431 Totem Lk. Blvd.	10/21/2005	TL 4/A	\$3,600,000	40,900	\$88.02
2	12801 NE 85 th St.	4/25/2005	BCX	\$945,000	18,900	\$50.00
3	127XX 124 th Ave. St.	9/22/2005	LI/TL6 A	\$1,443,940	62,780	\$23.00
4	8529 124 th Ave. NE	3/11/2005	PR3.6/O	\$550,000	19,988	\$27.52

SALE NUMBER 1

(1) ADDRESS or LOCATION:

12431 Totem Lake Boulevard, Kirkland, WA 98034

(2) SALE SKETCH and PHOTO are on following page;

- (3) a. Access: NE 124th Street & Totem Lake Boulevard
- b. Use at Sale: Car Wash
- c. H & B Use: Retail
- d. Zoning: TL 7
- e. Dimensions: Irregular
- f. Area: 40,900 sq. ft.
- g. Sale Date: 10/21/2005
- h. Sale Price: \$3,600,000
- i. Instrument Type: Warranty Deed
- j. Terms: Cash
- k. Ex. Tax # or AF #: 3349
- l. Seller: Car Wash Enterprises, Inc.
- m. Buyer: Gunna Development LLC
- n. Confirmed with: Vic Odermat
 Phone #: 206-789-3026
 Date: 7/17/06
- o. Confirmed by: JWA
- p. Date Inspected: 7/16/06

(4) LEGAL DESCRIPTION or TAX PARCEL NUMBER:

Tax Parcel No. 282605 9138; Lengthy legal description is retained in appraisers file;

(5) PHYSICAL CHARACTERISTICS (description at sale, confirmation information, changes since sale, etc.):

- A.) Property Description: The sale property is located at the prime intersection of NE 124th Street and Totem Lake Boulevard in the Totem Lake area of Kirkland, near the Totem Lake Mall and just down the hill from Evergreen Hospital. The site is level at street grade with the fronting streets. It is located at the northeast corner of NE 124th Street and Totem Lake Boulevard. The site was improved with a car wash at the time of sale. Since the sale, the car wash has been removed to make way for the construction of a new Rite Aid drug store. All utilities are available.
- B.) Confirmation Data and Comments: Since the time of sale, the buyer is currently constructing a Rite Aid drug store on the site.

(6) ANALYSIS:

ITEM	CONTRIBUTION VALUE	MARKET UNIT
Land: 40,900 SF	\$ 3,600,000	\$ 88.02
Buildings:	\$	\$
Other (Site, Yard, etc.):	\$	\$
TOTAL SALE PRICE	\$ 3,600,000	\$ 88.02

SALE SKETCH AND PHOTOGRAPHS
SALE NO. 1



Taken By: John W. Arney

Date: July 16, 2006

SALE NUMBER 2

(1) ADDRESS or LOCATION:

12801 NE 85th Street, Kirkland, WA 98034

(2) SALE SKETCH and PHOTO are on following page;

- (3) a. Access: NE 85th Street & 128th Avenue NE
- b. Use at Sale: Former Automotive Service Building
- c. H & B Use: Commercial
- d. Zoning: BCX, Kirkland
- e. Dimensions: 150' x 133'
- f. Area: 18,900 sq.ft.
- g. Sale Date: 4/25/2005
- h. Sale Price: \$945,000
- i. Instrument Type: Warranty Deed
- j. Terms: Cash
- k. Ex. Tax # or AF #: 2293
- l. Seller: Walter E. & Sharon L. Austin, husband & wife
- m. Buyer: Seawest Investment Associates LLC
- n. Confirmed with: Walter E. Austin, Seller
 Phone #: (253) 531-1934
 Date: 7/17/06
- o. Confirmed by: JWA
- p. Date Inspected: 7/16/06

(4) LEGAL DESCRIPTION or TAX PARCEL NUMBER:

Tax Parcel No. 124190-0040; Lengthy legal description contained in appraisers file.

(5) PHYSICAL CHARACTERISTICS (description at sale, confirmation information, changes since sale, etc.):

- A.) Property Description: This is the April 2005 sale of a commercial site located at 12801 NE 85th Street in the Rose Hill area of Kirkland. The 18,900-square-foot site has ±150 feet of frontage on the south side of NE 85th Street and ±133 feet of frontage on the east side of 128th Avenue NE. At the time of sale, the property was improved with an old service station that had been converted to a Walt's Auto Care Center.
- B.) Confirmation Data and Comments: The seller reported that the buyer is developing a commercial office building. The buyer has subsequently applied for a building permit. The project calls for the construction of a two-story 6,772-square-foot building with a single drive-through. Twenty-nine parking spaces are proposed to serve the uses.

(6) ANALYSIS:

ITEM	CONTRIBUTION VALUE	MARKET UNIT
Land: 18,900 SF	\$ 945,000	\$ 50.00
_____	\$ _____	\$ _____
Buildings:	\$ _____	\$ _____
_____	\$ _____	\$ _____
Other (Site, Yard, etc.):	\$ _____	\$ _____
_____	\$ _____	\$ _____
TOTAL SALE PRICE	\$ 945,000	\$ 50.00

SALE SKETCH AND PHOTOGRAPHS
SALE NO. 2



Taken By: John W. Arney

Date: July 16, 2006

SALE NUMBER 3

(1) ADDRESS or LOCATION:

127XX NE 124th Street, Kirkland, WA 98034

(2) SALE SKETCH and PHOTO are on following page;

- (3) a. Access: NE 124th Street
- b. Use at Sale: Parking Lot
- c. H & B Use: Commercial
- d. Zoning: LI, Kirkland
- e. Dimensions: Irregular
- f. Area: 62,780 sq ft.
- g. Sale Date: 3/24/2005
- h. Sale Price: \$1,443,940
- i. Instrument Type: BARGAIN & SALE
- j. Terms: Cash
- k. Ex. Tax # or AF #: 522
- l. Seller: Verizon Northwest Inc.
- m. Buyer: Medina Park Place, LLC
- n. Confirmed with: David Miller, Broker
 Phone #: 425-462-6917
 Date: 9/22/2005
- o. Confirmed by: JCS
- p. Date Inspected: 9/13/2008, reinspected on 9/8/08

(4) LEGAL DESCRIPTION or TAX PARCEL NUMBER:

Tax Parcel No. 282605 9044; STR 282605 TAXLOT 44 LOT BKIRKLAND LLA #LLA-04-00011 REC; Located in the SE Quarter of Section 28, Township 26N, Range 05E, W.M, in King County, Washington

(5) PHYSICAL CHARACTERISTICS (description at sale, confirmation information, changes since sale, etc.):

- A.) Property Description: This is the March 2005 sale of a commercial site located in the 12700 block of NE 124th street, in Kirkland. It has 471 feet of frontage on the south side of NE 124th Street. The east boundary is 181 feet, and the south boundary meanders in a generally southwest direction 429 feet to the west boundary that is 152 feet and returns back to NE 124th Street. The sale is generally level at eight feet above street grade and is improved as a parking lot. There are retaining walls on the west and south boundaries, with a pedestrian staircase that goes up near the middle of the south boundary. There is an underlying storm drain that crosses on the east and an underlying sewer line that crosses on the west, dividing the site into thirds.
- B.) Confirmation Data and Comments: The site is currently zoned light industrial, but is part of the area that the City of Kirkland is planning on rezoning to commercial. It was indicated that the purchaser was planning on building a tavern on the site, with a second story that would be leased. The rezoning was pending, and the owner did not proceed with his plans, but instead has put the site back on the market at \$1,883,400 or \$30.00 per square foot. The zoning has now changed to "TL6 A" (commercial). From a direct observation the site now is occupied as a parking lot for new vehicles.

(6) ANALYSIS:

ITEM	CONTRIBUTION VALUE		MARKET UNIT
Land: 62,780 SF	\$	1,443,940	\$ 23.00
	\$		\$
Buildings:	\$		\$
Other (Site, Yard, etc.):	\$		\$
TOTAL SALE PRICE	\$	1,443,940	\$ 23.00

SALE SKETCH AND PHOTOGRAPHS SALE NO. 3

Include: Site dimensions, access frontages, improvement locations and identification labels, "north arrow", camera locations and directions corresponding to the photos shown on this page.



Taken By: Jerry C. Sidwell

Date: 9/13/2005

SALE NUMBER 4

(1) ADDRESS or LOCATION:

5829 124th Ave. NE, Kirkland, WA 98033

(2) SALE SKETCH and PHOTO are on following page;

- (3) a. Access: 124th Ave. NE
- b. Use at Sale: Office Building
- c. H & B Use: Mixed use
- d. Zoning: RH 4 (Office), Kirkland
- e. Dimensions: rectangular
- f. Area: 19,988 sq ft.
- g. Sale Date: 3/10/2005
- h. Sale Price: \$550,000
- i. Instrument Type: Warranty Deed
- j. Terms: Cash
- k. Ex. Tax # or AF #: E2106925 / 20050310000953
- l. Seller: T & H International LLC
- m. Buyer: Mi S. Song
- n. Confirmed with: Michael Moore, Broker
 Phone #: 425-519-4205
 Date: 9/13/2006
- o. Confirmed by: JCS
- p. Date Inspected: 9/8/2006

(4) LEGAL DESCRIPTION or TAX PARCEL NUMBER:

Tax Parcel No. 123850 0245; Located in the Sw Quarter of Section 04, Township 25N, Range 05E, W.M, in King County, Washington

(5) PHYSICAL CHARACTERISTICS (description at sale, confirmation information, changes since sale, etc.):

- A.) Property Description: This is the March 2005 sale of a commercial site located behind the McDonald's Restaurant (on the corner of 124th Ave. NE and 85th Street), thus being the second lot north of 124th Ave. NE and 85th Street in the Rose Hill portion of Kirkland. It has 160 feet of frontage on the west side of 124th Ave. NE. The site is generally a gentle slope down to the west. There was a 1,760-square-foot residential/office structure on the site at the time of sale.
- B.) Confirmation Data and Comments: The listing agent indicated that city zoning would allow redevelopment of the site to office with multifamily on the second floor. The buyer was going to use the site for his Japanese import business, but did not due to a downturn in that market. Since the time of sale, the building has been improved (including work on the roof) and was permitted for use as a "Tai Chi Healing Arts". The building was indicated to have nominal value and the sale price was indicated to be land value. It is assumed that the cost to remove the building will be offset by the interim use and income of the building while holding for future development. Although there is contamination on the site to the west, the subject was indicated to be contamination free.

(6) ANALYSIS:

ITEM	CONTRIBUTION VALUE	MARKET UNIT
Land: 19,988 SF	\$ 550,000	\$ 27.52
	\$	\$
Buildings:	\$	\$
Other (Site, Yard, etc.):	\$	\$
TOTAL SALE PRICE	\$ 550,000	\$ 27.52

SALE SKETCH AND PHOTOGRAPHS SALE NO. 4

Include: Site dimensions, access frontages, improvement locations and identification labels, "north arrow", camera locations and directions corresponding to the photos shown on this page.



Taken By: Jerry C. Sidwell

Date: 9/8/2006

Analysis of Comparable Land Sales

Each sale is compared with those parcels adjacent to the subject by making adjustments for variations in such property and transaction features as site size, zoning, date of sale, location, and various physical characteristics. These adjustments are applied to a unit of comparison, which in this case is the price per square foot. This unit of comparison is the preferred pricing method for such land in this area. The limited number of sales in the subject's immediate area and lack of uniformity within this market prevent direct extraction of reliable paired-sale adjustments from the marketplace. Any attempt to apply paired-sales adjustments is somewhat subjective and unreliable. Therefore, a general bracketing analysis reflecting market behavior is utilized to determine which comparables are generally superior or inferior to the subject site. This analysis establishes value parameters for the subject allowing for a final conclusion of value. It should be recognized that the comparable sales vary from the subject in several factors, but allow a bracketing process to be used to establish a reasonable value range for the subject. The following comparable sale summary chart is provided for illustrative purposes.

Comparable Land Sale Summary Grid

Parameter	Subject	No. 1	No. 2	No. 3	No.4
Sale Price/SF	N/A	\$88.02	\$50.00	\$23.00	\$27.52
Location	Slater Ave. NE	Superior	Superior	Similar	Similar
Access	Slater Ave. NE	Superior	Superior	Similar	Similar
Exposure	Slater Ave. NE	Superior	Superior	Similar	Similar
Zoning	RH 1A	Superior	Superior	Similar	Similar
Size	80,889 SF (Mastro) (3,455 SF – Subject)	Smaller	Smaller	Similar	Smaller
Shape	Irregular	Similar	Similar	Similar	Similar
Topography	Level at Street Grade	Similar	Similar	Similar	Similar
Utilities	All available	Similar	Similar	Similar	Similar
Adjusted Value	N/A	\$41.58	\$35.92	\$27.32	\$30.06

Time of Sale – The four transactions occurred between March 2005 and October 2005, and are considered the most recent comparable land sales available. Based on conversations with a number of realtors, buyers and sellers familiar with Kirkland and Eastside market areas, there has been increasing demand for mixed-use land. On the basis of our interviews with realtors, buyers, sellers and developers, a market conditions adjustment of 20 percent per year is applied.

Location – All sales are located in the Eastside King County market area of Kirkland. Comparable Sale 1 is located in the Totem Lake area of Kirkland, and Comparable Sale 2 is located in the Rose Hill area of Kirkland, are in areas that are considered superior in location, requiring downward adjustments for location. Comparable Sale 3 is also in the Totem Lake area and Comparable Sale 4 is also in the Rose Hill area of Kirkland, in areas which are considered similar to that of the subject and thus no adjustment is made for these sales.

Access– Comparable Sales Nos. 1 and 2 have major access from two streets and are considered superior to the subject, thus requiring downward adjustments. Comparable Sales Nos. 3 and 4 are considered similar to the subject in access and thus require no adjustments.

Exposure – Comparable Sales Nos. 1 and 2 have superior exposure, requiring downward adjustments, while Comparable Sales 3 and 4 have similar exposure, requiring no adjustments.

Zoning – Comparable Sales 1 and 2 have superior zoning, requiring downward adjustments. Comparable Sales 3 and 4 have similar zoning compared to the subject, requiring no adjustments.

Size – The subject site size is only 3,455 square feet, but the surrounding parcel which provides some sense for the ACF value, is 80,889 square feet. All of the comparable sales, except Comparable Sale 3 which is similar and requires no adjustment, are smaller in size, requiring a downward adjustment, as smaller-sized parcels generally sell for more per unit value than larger parcels.

Topography/Shape – The topography of the subject, which is level at the grade with the fronting street, is considered similar to all the sales. The subject's irregular-shaped lot is considered to be similar in shape to all the comparable sales.

Utilities -- All normal utilities are available to the subject as well as to all the comparable sales, so no adjustments would be needed.

Land Value Conclusion

Prior to adjustment, the above comparable land sales indicate a range of sale prices per square foot from \$23.00 to \$88.02. The range after adjustments changed to \$27.32 to \$41.58 per square foot. Consideration was given to all the sales. The mixed-use land value surrounding the subject is concluded to be near the middle portion of the range at \$35.00 per square foot. Thus the fee simple value of the subject is indicated to have the following value:

$$3,455 \text{ square feet @ } \$35.00 \text{ per square foot} = \$120,925$$

The subject parcel will need to retain an easement for the existing power lines, a potential pedestrian walkway and the 8 feet behind the curvature of Slater Ave. NE as it becomes NE 115th Place for possible future utilities.

The power lines currently are overhead, but as part of the permit and development process will need to be put underground. Puget Sound Energy will retain an easement for these power lines. This easement is currently undefined, but assuming that the lines remain in close proximity to their current location it could affect up to 1,000 square feet. A typical easement of this type would remove 75% of fee value. Thus, using the fee value of \$35.00 per square foot and applying the easement to accommodate the power line would remove \$26,250 ($\$35.00/\text{SF} \times 1,000 \text{ SF} \times 75\% = \$26,250$) from the \$120,925 fee value, resulting in an interim value of \$94,675 ($\$120,925 - \$26,250 = \$94,675$).

The pedestrian walkway is part of the zoning development requirements of the site and may not necessarily be located on the street vacation portion that will become part of the site. Furthermore, the potential pedestrian walkway could be placed where it would have no effect on the remainder bundle of rights, such as within the power line easement. Therefore, no deduction has been made for the potential pedestrian walkway.

Furthermore, as stated in the conditions of the street vacation: "A public utility easement being a minimum of 8 ft. in width and directly behind and following the radius of the street vacation shall be retained within the vacated area." There appears to be no plan on using this reserved easement at the present time, but the potential exists and must be reserved as a condition of the vacation. This reserve easement would affect an estimated 800 square feet. This easement would be in the setback area and would have minimal impact on the bundle of rights. A typical easement of this type would remove 20% of fee value. Thus, using the fee value of \$35.00 per square foot and applying the easement to the area of the reserved utilities easement would remove \$5,600 ($\$35.00/\text{SF} \times 800 \text{ SF} \times 20\% = \$5,600$) from the previously indicated interim value of \$94,675, resulting in an adjusted value of \$89,075 ($\$94,675 - \$5,600 = \$89,075$).

Summary

The concluded underlying fee value of the \$120,925 for the 3,455 square feet of proposed street vacation is adjusted down by \$26,250 for the retention of a power line easement and \$5,600 for the retention of a public utility easement, resulting in a concluded value for the proposed street vacation of **\$89,075**.

RECONCILIATION AND FINAL VALUE ESTIMATE

The three appraisal approaches indicate the following value estimates:

Cost Approach	N/A
Sales Comparison Approach	\$89,075
Income Capitalization Approach	N/A

FINAL VALUE ESTIMATE

The evidence best supports a market value estimate for the subject property, as of September 8, 2006 of:

\$89,075

EIGHTY NINE THOUSAND SEVENTY FIVE DOLLARS

ADDENDA

- ◆ **Qualifications of Appraisers**
- ◆ **Exhibits**

**QUALIFICATIONS
OF
APPRAISERS**

QUALIFICATIONS OF APPRAISER

JOHN W. ARNEY, MAI

EXPERIENCE: Over 25 years

- 2001 - Current: Appraisal Group of the Northwest, Bellevue, Washington
Real Estate Appraiser and Consultant
- 1992 - 2001: KeyBank Real Estate Technical Services, Bellevue, Washington
Senior Review Appraiser
- 1984 – 1992: Arney Appraisal Associates, Redmond, WA
Real Estate Appraiser and Consultant
- 1983 – 1984 Metropolitan Mortgage & Securities Co., Spokane, Washington
Real Estate Appraiser
- 1981 – 1983 Kootenai County Assessor's Office, Coeur d'Alene, Idaho
Chief Commercial Appraiser
- 1979 – 1981 Haines Borough, Haines, Alaska
Borough Assessor
- 1978 - 1979: Assessor's Office of City and Borough of Juneau, Alaska
Real Estate Appraiser
- 1977 - 1978: Western Appraisal & Surveys Company, Inc., Lewiston, Idaho
Real Estate Appraiser

EDUCATION:

Bachelor of Business Administration, Real Estate, Boise State University, Boise, Idaho

Appraisal Institute Classes:

- Real Estate Appraisal Principles
- Basic Valuation Procedures
- Rural Valuation
- Hotel/Motel Valuation
- Capitalization Theory & Techniques, Parts A & B
- Reviewing Appraisals Seminar
- Case Studies in Real Estate Valuation
- Valuation Analysis Report Writing
- Standards of Professional Practice, Parts A & B
- Understanding Limited Appraisals
- Business Valuation
- Condemnation Appraising: Basic Principles & Applications
- Condemnation Appraising: Advanced Topics & Applications

Other Classes:

- Property Taxation & Income Valuation, IAAO
- Personal Property Valuation, IAAO
- Leasehold Valuation, IAAO
- Real Estate Appraisal Reform Seminar, OTS
- Inspection of Real Estate, NW Insp. Engineers

PROFESSIONAL AFFILIATIONS:

Member of Appraisal Institute
Washington General Certified Real Estate Appraiser
(Certificate No. 1100473)

CLIENTS SERVED

American Pacific Fisheries
Attorneys and Private Clients
Bancshares Mortgage
Bank of America
Bank of California
Center Mortgage
City of Auburn
City of Bellevue
City of Issaquah
City of Kirkland
City of Snohomish
CityFed Mortgage
Coast Mortgage Exchange
CWA Construction
Diversified Apt. Realty Co.
First Mutual Bank
First National Bank of Anchorage

Fisher Properties
GNA (Division of Weyerhaeuser)
Harmon & Associates, R.E.
Heritage Federal S & L
Indonesian Development Co.
KeyBank
Lilak Construction
Malapor Development Co.
McDonnell Douglas Mtg. Co.
Michael R. Mastro Properties
Money Store
Northwest Bank
Pen-Mar Investment Services
Seattle Mortgage
US Bank
Washington Mortgage
Wells Fargo Bank

**QUALIFICATIONS OF APPRAISER
JERRY C. SIDWELL**

EDUCATION

Bachelor of Science in Mechanical Engineering:
University of Washington, Seattle, Washington (1980)

CONTINUING EDUCATION

Eminent Domain Law Basics for Right of Way Professionals. IRWA (February 2005)
Advanced Income Capitalization. Appraisal Institute (March, 2004)
Appraisal Review Overview. WSDOT (November, 2003)
400 USPAP Update 2003, Standards & Ethics for Professionals. Appr. Inst. (October 2003)
Partial Interest Valuation. Appraisal Institute (October 2001)
Standards of Professional Practice, Part C. Appraisal Institute (November, 2000)
Appraisal of Partial Acquisitions. IRWA (October, 1998)
Highest and Best Use and Market Analysis. Appraisal Institute (April, 1998)
Advanced Income Capitalization. Appraisal Institute (May, 1997)
General Applications. Appraisal Institute (April, 1996)
Basic Income Capitalization. Appraisal Institute (February, 1996)
Standards of Professional Practice, Part B. Appraisal Institute (September, 1994)
Standards of Professional Practice, Part A. Appraisal Institute (September, 1994)
Appraisal Practices. Appraisal Institute (April, 1994)
Principles of Real Estate. Bellevue Community College (Winter Quarter, 1994)

EXPERIENCE: Over 10 years

Currently: Partner, Appraisal Group of the Northwest LLP

Formerly: Staff Appraiser, Appraisal Group of the Northwest (1993-1996)

Appraised properties include commercial, industrial, and residential; and reports include self-contained, summary, right of way, and computerized mass property types—both narrative and form.

AFFILIATIONS

Appraisal Institute – Associate Member

International Right of Way Association – Member

International Right of Way Association –President, Chapter 4 (Seattle) (2005 – 2006);
President-Elect (2004-2005); Vice President (2003-2004); Treasurer (2000-2003)

ACCREDITATION

Currently certified in Washington State as a General Appraiser (#1100494)

Washington State Dept. of Transportation approved appraiser

CLIENTS SERVED

Abeyta & Associates
Alderwood Water and Sewer District
Bank of California
Bellevue School District
Bricklin & Gendler
Central Washington Bank
Century Telephone
Certified Land Services Corporation
CH2M Hill Corporation
Chevron USA, Inc.
City of Auburn
City of Des Moines
City of Federal Way
City of Mercer Island
City of Mt. Vernon
City of Newcastle
City of Redmond
City of Renton
City of SeaTac
City of Shoreline
City of Snohomish
City of Tacoma
City of Tukwila
Coca-Cola Enterprises, Inc.
Coldwell Banker Relocation Services
Columbia Bank
David Evans & Associates
ECS, Inc.
Enumclaw School District
Foundation Bank
Graham & Dunn
Hallmark Mortgage
Kent School District
King County Library System
King County Metro Transit Division
Korea Exchange Bank
Lane & Associates
Langabeer, Tull and Lee
Leonard, Boudinot & Skodje, Inc.
National Mortgage Company
Nationwide Consulting Company, Inc.
Nevada First Bank
O.R. Colan Associates, Inc.
O'Rourke, John, Attorney
Pacific Northwest Bank
Pharos Corporation
Port Blakely Communities
Port of Seattle
Preston, Gates and Ellis LLP
Prudential Relocation Management
Puget Sound Energy
Reid Middleton, Inc.
Saehan Bank
Shiers Chrey Cox Caulkins DiGiovanni & Zak
Snohomish County
Sound Transit
State Farm Bank
Union Bank of California
United Savings and Loan Bank
United States Fidelity and Guaranty Co.
Universal Field Services
Washington Capital Management, Inc.
Washington Cities Insurance Authority (WCIA)
Washington State Dept. of Transportation
Washington State Parks & Recreation
Commission
Weyerhaeuser Co.

EXHIBITS

RECEIVED
JUN 26 2006
PLANNING DEPARTMENT
BY _____

STREET VACATION LEGAL DESCRIPTION

That portion of unopened Right-Of Way known as Slater Avenue N.E. within a portion of the Northeast Quarter of the Northwest Quarter of Section 33, Township 26 North, Range 5 East, W.M., described as follows:

Beginning at the North Quarter Corner of said Section 33;
Thence North 88° 36' 29" West along the North line thereof, 384.65 feet;
Thence South 00° 51' 09" west parallel with the North-South centerline of said Section 33, 311.51 feet, more or less, to the South line of the North 311.5 feet of said subdivision and the beginning of a curve to the right having a radius of 78.00 feet;
Thence Southwesterly along said curve 73.67 feet through a central angle of 54° 06' 55";
Thence South 54° 58' 04" West 112.00 feet, more or less to the North line of Lot 1 in Short Plat No. 778140, according to the Short Plat survey recorded under King County Recording No. 7912100778;
Thence South 88° 36' 29" East, along said North line, 159.02 feet to the Westerly margin of Slater Avenue N.E. and the True Point Of Beginning;
Thence North 18° 12' 20" East along said Westerly margin, 2.57 feet, to the beginning of a curve to the right, having a radius of 1175.12 feet;
Thence along said curve and said Westerly margin 135.90 feet through a central angle of 06° 37' 34" to the South line of the North 311.5 feet of said subdivision;
Thence South 88° 36' 29" East along said South line and the South Margin of Vacated Slater Avenue N.E., recorded under King County Ordinance No. 8370, 32.78 feet to the Westerly margin of said Vacated Slater Avenue N.E. and the beginning of non-tangent curve to the left, having a radius of 1145.12 feet and a radial line through said point bearing North 64° 30' 57" West;
Thence along said curve and said Westerly margin 67.08 feet through a central angle of 03° 21' 23" to the North margin of N.E. 115th Place;
Thence South 88° 36' 29" East along said North margin 29.17 feet, to the beginning of a non-tangent curve to the left, having a radius of 100.00 feet and a radial line through said point bearing North 10° 05' 11" West;
Thence along said curve 107.70 feet through a central angle of 61° 42' 29";
Thence South 18° 12' 20" West 1.28 feet to the Northerly margin of Vacated Slater Avenue N.E., recorded under City of Kirkland Ordinance No. 3684A;
Thence North 71° 47' 40" West along said Vacated Slater Avenue N.E. 8.00 feet to the True Point Of Beginning.

Said Vacated Right-Of-Way contains
3,455 square feet, more or less.

Situate in City of Kirkland, King County, Washington



**PETITIONERS
PROPERTY**



SITE

8 NE 115TH PL 4500/184

LOT 1
8409140943

LOT 2

LOT 3

LOT 4

KCSP 1282035

SLATER RD (J.W. SLATER RD) 201' E 2-11-14

ATTACHMENT 01
VA 106-00002

Stacy Clauson

From: Eric Davison [eric.davison@metrokc.gov]
Sent: Tuesday, September 12, 2006 7:15 AM
To: Stacy Clauson
Subject: Re: Street Vacation Request - Portion of Slater Avenue NE

KCWTD has no facilities within this property.

On 9/11/06 11:47 AM, "Stacy Clauson" <SClauson@ci.kirkland.wa.us> wrote:

Dear Eric,

Attached is a vicinity map showing the area of proposed street vacation, together with a legal description of the area proposed for street vacation. Please let me know if you have any questions or whether King County has any facilities in the area that you would be interested in retaining a utility easement. Thank you,

Stacy Clauson

Planner

City of Kirkland

Planning and Community Development

123 Fifth Avenue

Kirkland, WA 98033

425-587-3248

sclauson@ci.kirkland.wa.us

ATTACHMENT <u>11 a</u>
<u>✓ Acolb-00002</u>

Stacy Clauson

From: chung-i.lin@verizon.com
Sent: Tuesday, September 12, 2006 10:44 AM
To: Stacy Clauson
Subject: Re: Street Vacation Request - Portion of Slater Avenue NE

Dear Stacy,

Verizon has aerial facilities on the west side of Slater Ave in the area for the street vacation. Please let me know what needs to be done to retain a utility easement. The senior fielder said that PSE and Comcast are on the same poles.

Thanks,
Chung

"Stacy Clauson"
<SClauson@ci.kirkland.wa.us>

09/11/2006 11:54
AM

To
Chung-I Lin/EMPL/WA/Verizon@VZNotes
cc

Subject
Street Vacation Request - Portion
of Slater Avenue NE

Dear Chung-I,

Attached is a vicinity map showing the area of proposed street vacation, together with a legal description of the area proposed for street vacation. Please let me know if you have any questions or whether Verizon has any facilities in the area that you would be interested in retaining a utility easement. Thank you,

Stacy Clauson
Planner
City of Kirkland
Planning and Community Development
123 Fifth Avenue
Kirkland, WA 98033
425-587-3248
sclauson@ci.kirkland.wa.us

[attachment "3773_001.pdf" deleted by Chung-I Lin/EMPL/WA/Verizon] [attachment "2828
001.pdf" deleted by Chung-I Lin/EMPL/WA/Verizon]

ATTACHMENT 116

✓Acol-00002

From: Biggs, Carol M [carol.biggs@pse.com]
Sent: Wednesday, August 30, 2006 9:07 AM
To: Stacy Clauson
Subject: Street Vacation City File No. VC-06-00002 / Slater Ave NE

Follow Up Flag: Follow up
Flag Status: Red

Hi Stacey,

Puget does have existing electrical facilities within the proposed vacation area. The location of these facilities must be secured by easement rights prior to vacation.

I will prepare the necessary documents and send them out as soon as possible.

Please call me if you have any questions,

Carol Biggs
Right Of Way Representative
Puget Sound Energy
P.O. Box 90868 / EST-06W
Bellevue, WA 98009
Voice: (425)456-2741 / 81-2741
Fax: (425)456-2688

ATTACHMENT 11.e

JACOB-00002

RECEIVED

AUG 21 2006

Pat, does this impact us?
RECEIVED

AM _____ PM
PLANNING DEPARTMENT

Done 8/18/06
AUG 17 2006
NORTHSHORE
UTILITY DISTRICT

BY _____

A petition for Slater Ave NE vacation has been submitted
(street or alley) Kirkland, Wa

by Mastro Properties to the City of Kirkland. We request a
(name of applicant)

statement within fourteen (14) days of receipt of this notice furnishing the following pertinent information in order to complete the City's review of the requested vacation:

1. There is an existing utility route within the area described.
2. There is not an existing utility route within the area described.
3. We have no interest in a potential utility route being retained in the vacated right-of-way or alley.
4. We do have an interest in a potential utility route being retained in the vacated right-of-way or alley. If so, please describe.
5. Call 425-587-3248 (City Project Planner phone number) if additional information is needed.
(City ^A File No. VC-06-10002).

Please address reply to:

Planner Stacy Clausen
City of Kirkland
Department of Planning and Community Development
123 Fifth Avenue
Kirkland, WA 98033

Attachments: Address and Legal Description of Proposed Street Vacation Request
Vicinity Map

NORTHSHORE UTILITY DISTRICT
Pat Saund
NORTHSHORE UTILITY DISTRICT

ATTACHMENT 11
VA06-0002

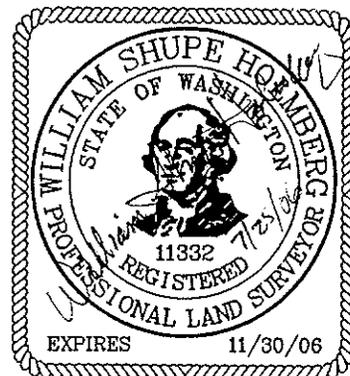
STREET VACATION LEGAL DESCRIPTION

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Thence Southwesterly along said curve 73.67 feet through a central angle of 54° 06' 55";
Thence South 54° 58' 04" West 112.00 feet, more or less to the North line of Lot 1 in Short Plat No. 778140, according to the Short Plat survey recorded under King County Recording No. 7912100778;
Thence South 88° 36' 29" East, along said North line, 159.02 feet to the Westerly margin of Slater Avenue N.E. and the True Point Of Beginning;
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Thence along said curve and said Westerly margin 135.90 feet through a central angle of 06° 37' 34" to the South line of the North 311.5 feet of said subdivision;
Thence South 88° 36' 29" East along said South line and the South Margin of Vacated Slater Avenue N.E., recorded under King County Ordinance No. 8370, 32.78 feet to the Westerly margin of said Vacated Slater Avenue N.E. and the beginning of non-tangent curve to the left, having a radius of 1145.12 feet and a radial line through said point bearing North 64° 30' 57" West;
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Thence South 88° 36' 29" East along said North margin 29.17 feet, to the beginning of a non-tangent curve to the left, having a radius of 100.00 feet and a radial line through said point bearing North 10° 05' 11" West;
Thence along said curve 107.70 feet through a central angle of 61° 42' 29";
Thence South 18° 12' 20" West 1.28 feet to the Northerly margin of Vacated Slater Avenue N.E., recorded under City of Kirkland Ordinance No. 3684A;
Thence North 71° 47' 40" West along said Vacated Slater Avenue N.E. 8.00 feet to the True Point Of Beginning.

Said Vacated Right-Of-Way contains
3,455 square feet, more or less.

Situate in City of Kirkland, King County, Washington



From: Dennis Anderson [dennis.anderson@Seattle.Gov]
Sent: Wednesday, September 13, 2006 7:12 AM
To: Stacy Clauson
Subject: Re: Street Vacation Request - Portion of Slater Avenue NE (File No. VAC06-00002)

Dear Ms. Clauson:

I have reviewed the attached map and have run out the attached legal description of the portion of Slater Ave. NE proposed for vacation. I submit, on behalf of Seattle City Light, for the requested statement, comments relative to the respective numbered statements below, in their corresponding numerical order:

1. We do not know. To my knowledge, no City Light personnel have researched either the King County records or those of the City of Kirkland to determine if there are any utility routes in the area described.
2. We do not know. To my knowledge, no City Light personnel have researched either the King County records or those of the City of Kirkland to determine if there are any utility routes in the area described.
3. Yes. We have no interest in any such route.
4. No. We do not have any interest in any such route.

If you have any questions, please call me at (206) 684-3328

Yours truly,

Dennis Anderson
Real Property Agent

>>> "Stacy Clauson" <SClauson@ci.kirkland.wa.us> 9/12/2006 1:02 PM >>>
Dear Mr. Anderson,

A petition for a partial street vacation of Slater Avenue NE has been submitted by Mastro Properties to the City of Kirkland.

Please submit a statement within fourteen (14) days of receipt of this notice furnishing the following pertinent information in order to complete the City's review of the requested vacation:

1. There is an existing utility route within the area described.
2. There is not an existing utility route within the area described.
3. We have no interest in a potential utility route being retained in the vacated right-of-way or alley.
4. We do have an interest in a potential utility route being retained in the vacated right-of-way or alley.

If so, please describe.

Please feel free to contact me if additional information is needed.

Attachments: Legal Description of Proposed Street Vacation Request
Vicinity Map

ATTACHMENT II .e
VAC06-00002

Stacy Clauson
Planner
City of Kirkland
Planning and Community Development
123 Fifth Avenue
Kirkland, WA 98033
425-587-3248
sclauson@ci.kirkland.wa.us

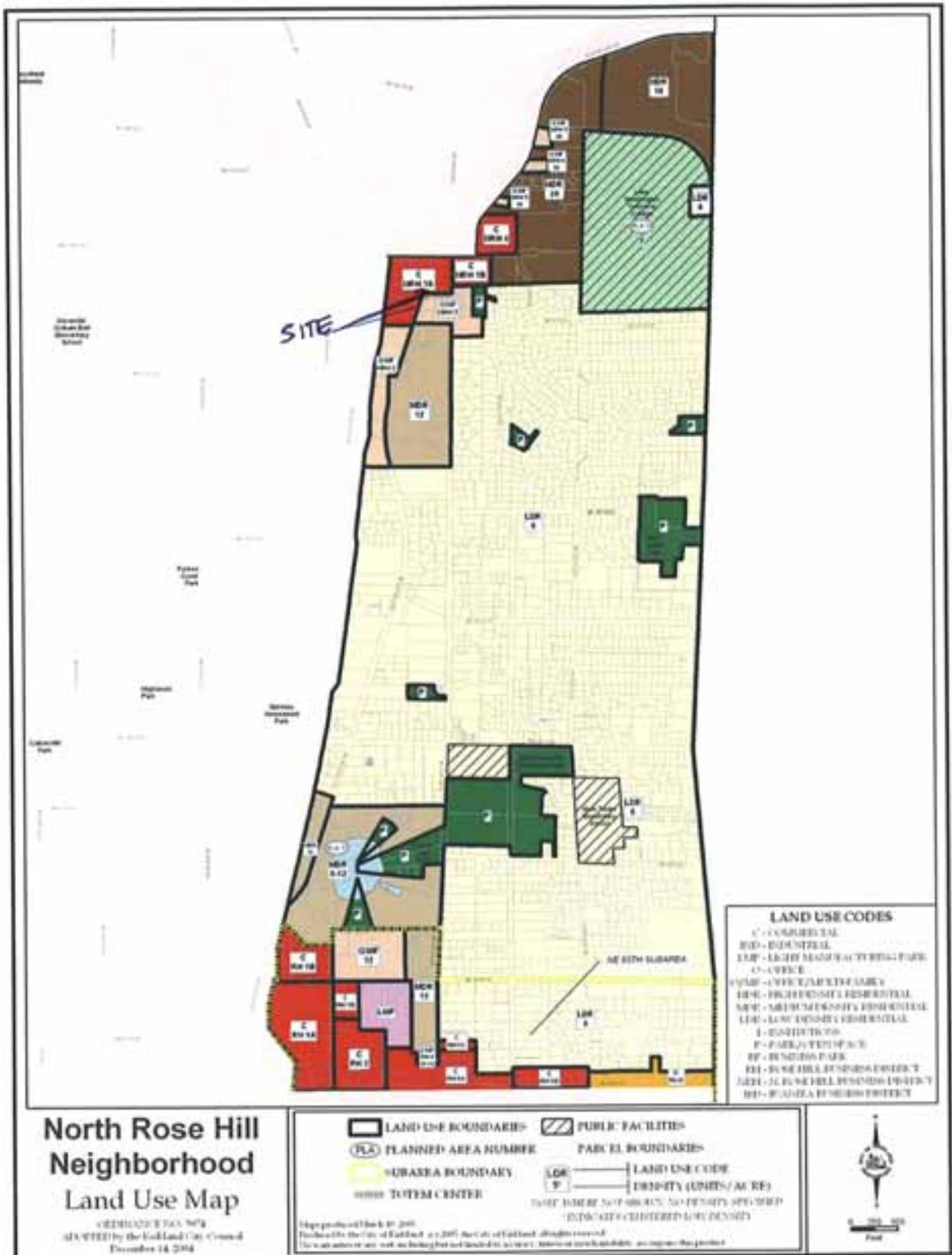


Figure NRH-4: North Rose Hill Land Use

Stacy Clauson

From: Stacy Clauson
Sent: Tuesday, October 03, 2006 9:18 AM
To: 'Maureen Harris'
Subject: RE: File No. VAC06-00002
Attachments: Map.pdf

Dear Maureen,

Thank you for your e-mail. Please see my responses to your questions below. Please feel free to contact me if you have any questions or concerns. Thank you,

Stacy Clauson
 Planner
 City of Kirkland
 Planning and Community Development
 123 Fifth Avenue
 Kirkland, WA 98033
 425-587-3248
 sclauson@ci.kirkland.wa.us

From: Maureen Harris [mailto:maur99@gmail.com]
Sent: Tuesday, October 03, 2006 7:38 AM
To: Stacy Clauson
Subject: File No. VAC06-00002

Dear Stacy,

I am a very concern resident on North Rose Hill.

1: What does Slater Ave Vacation mean? There is a small portion of a 30-foot right-of-way at the corner of Slater Avenue NE and NE 115th Place that projects north into the site. Please see the attached map which shows the general area of the right-of-way that is proposed to be vacated. The applicant has requested that the City vacate its ownership interest in this property so that the property can be incorporated into their surrounding site. In considering this issue, the City Council will review a number of issues, including whether the right-of-way is necessary for travel or other purposes and how much monetary compensation to charge the applicant in order to vacate the property. The hearing before the Council on this item is scheduled for Tuesday, October 17th.

2: What was the result of the September hearing regarding the same site and a 5 story building proposa? The September hearing was before the Design Review Board, who will be reviewing the project design, including the building mass. At the September meeting, the Design Review Board (DRB) focused on issues relating to building massing and scale and pedestrian access. The DRB expressed the need for significant changes to revise the mass of the building. The revised project will be reviewed by the DRB on Monday, October 16th. The meeting will be held at City Hall in the Council Chambers and will start at 7pm and is open to the public to attend and comment on the application.

Due to work I am unable to view both files at the planing department. Please note that we are posting

ATTACHMENT 13

VAC06-00002

10/3/2006

some of the project drawings for the design review application (DRC06-00003) on-line so that you can view these without needing to come down to City Hall. To access these drawings, please go to www.kirklandpermits.net and "search" for permits. Enter file number (DRC06-00003) and when the next screen loads, click on the case number for case details. Scroll down to the bottom of the page, where there is a section of downloadable documents. Click on any of the files to open. I will be posting the newest set of drawings as soon as I receive those.

Is a email response considered a written comment? Yes, e-mail is considered a written comment.

282 parking stalls on the corner of 124th Ave NE and NE 116th St is incomprehensible. One has to wait through 5 lights now at that corner during rush hour. Slater Ave NE also has been so severely impacted by recent development that traffic has made walking far less safe not to mention other negative impacts.

The project will need to undergo a traffic review, at which point the City will be evaluating the traffic and congestion issues associated with the project. That review is conducted by staff as part of the review of the proposal under the State Environmental Policy Act (SEPA). At this time, a SEPA application has not been submitted to the City for review. The SEPA review will need to be conducted before any building permits are issued on the project. As part of the SEPA application, the applicant will be responsible for submitting a traffic study completed by a qualified Transportation Engineer. This study will be evaluated by the City's Transportation Division for consistency with the City's Traffic Impact Analysis Guidelines, which address issues such as the level of service at nearby intersections that would be impacted by the proposal. If you have comments that you would like to share about traffic or congestion, please forward those on to me so that staff can consider these issues when the SEPA application is submitted.

3. Do any of the developers or anyone on the planning department live on North Rose Hill? I don't know the answer to this question, but can let you know that the land use and zoning for this property was adopted by City Council a couple of years ago after an extensive community input process, which included a Neighborhood Advisory Group that advised staff and the Planning Commission on issues relating to land use and zoning. I would also encourage you to participate in the specific review of the pending permit applications by submitted written or oral comments.

4. What kind of other responses are acceptable to the planning department and Kirkland City Council? Do you accept petitions? Etc? Please note that there are currently two separate applications pending before the City, an application for the street vacation and an application for design review of a new five-story building. The City Council will be focusing on issues related to the vacation while the Design Review Board will be reviewing issues relating to the building and site design. Staff will be reviewing issues related to traffic and congestion as part of the review of the proposal under the State Environmental Policy Act (SEPA).

Any interested person may participate in the public hearing for the street vacation to be held on October 17th in either or both of the following ways:

- (a) By submitting written comments to the city council either by delivering the comments to the planning department prior to the hearing or by giving the comments directly to the city council at the hearing; and
- (b) By appearing in person, or through a representative, at the hearing and making oral comments directly to the city council. The city council may reasonably limit the extent of these oral comments to facilitate the orderly and timely conduct of the hearing.

You may similarly participate in the public meeting before the Design Review Board on October 16th by submitting written or oral comments.

Please respond asap

Thank you,

Maureen Harris
12307 NE 97th St #A
Kirkland 98033
Hm phone 889-8848 wk phone 557-0958

RESOLUTION R-4610

A RESOLUTION OF THE CITY OF KIRKLAND EXPRESSING AN INTENT TO VACATE A PORTION OF A RIGHT-OF-WAY FILED BY MICHAEL R. MASTRO OF MASTRO PROPERTIES, FILE NUMBER VAC06-00002.

WHEREAS, the City has received an application filed by Micheal R. Mastro to vacate a portion of a right-of-way; and

WHEREAS, by Resolution Number R-4601, 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 as 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 Recommendation of the Department of Planning and Community Development contained in File Number VAC06-00002 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 90 days of the date of passage of this resolution the applicant or other person meets the following conditions:

(a) Pays to the City \$89,075 as compensation for vacating this portion of the right-of-way.

(b) Submit to the City a copy of the following recorded easements:

1. A public utility easement being a minimum of 8 feet in width and directly behind and following the radius of the street vacation.
2. A utility easement encompassing the entire vacated right-of-way unless the applicant prepares individual legal descriptions for each specific easement based on the location and minimum size determined by each utility company.

(c) 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 will 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 in Exhibit A.

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

SIGNED IN AUTHENTICATION THEREOF this _____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

EXHIBIT A

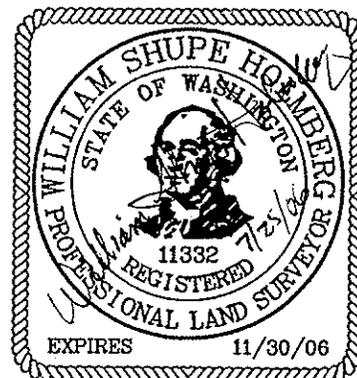
STREET VACATION LEGAL DESCRIPTION

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 Thence Southwesterly along said curve 73.67 feet through a central angle of $54^{\circ} 06' 55''$;
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 Thence along said curve and said Westerly margin 67.08 feet through a central angle of $03^{\circ} 21' 23''$ to the North margin of N.E. 115th Place;
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 3,455 square feet, more or less.

Situate in City of Kirkland, King County, Washington





CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225

MEMORANDUM

To: David Ramsay, City Manager

From: Teresa J. Swan, Senior Planner
Eric Shields, Planning Director
Carrie Hite, Deputy Parks and Community Services Director

Date: October 5, 2006

Subject: **EMERGENCY ORDINANCE FOR THE RELOCATION OF KIRKLAND HOPELINK,
FILE NO. MIS06-00038**

RECOMMENDATION

Conduct a public hearing and consider an Emergency Ordinance to allow the relocation of the Kirkland Hopelink to a City-owned property in a PR (professional office/multifamily residential) zone while the required Process I application under Chapter 145 of the Kirkland Zoning Code is reviewed.

BACKGROUND DISCUSSION

Kirkland Hopelink provides a variety of community services and programs for local residents, including emergency financial assistance, food education and outreach, energy assistance, and a food bank. Families, seniors, people with disabilities and others depend on Hopelink's uninterrupted services and programs. Since 1995 Kirkland Hopelink has been in its current location at 302 First Street, a City-owned building next to City Hall.

Over the past few years the facility has had some problems with rodents due to several conditions: an older building of wood construction that is located in the downtown area where some localized rodent infestation has been a problem, most likely from the close proximity to the lake. Kirkland Hopelink has had monthly pest inspection and control done to monitor the situation closely. Possibly from recent excavation and grading across the street for new home construction, rodent infestation has become so serious lately that an environmental microbiologist consultant strongly recommended that they vacate the premises immediately.

They have checked into other low cost options for a new site in Kirkland, but nothing is available at this time. Without a new home in Kirkland, the agency would move its offices, services and programs to the Bothell Hopelink. This would present an interruption in services for Kirkland clients. The transportation cost of driving to Bothell for services would significantly affect the clients' already limited incomes. There is

Memo to Dave Ramsay

October 5, 2006

Page 2 of 3

no direct bus service to Bothell from Kirkland so moving the agency out of Kirkland would be a hardship for the clients who take the bus to the services.

The City funds essential human services, such as those provided by Hopelink, through its adopted biennial budget and by providing a home for these services when City-owned property is available. In response to the recent request from Kirkland Hopelink to help them find a new home, the City extended an invitation for them to apply for a Process 1 permit to use the City-owned property at 13013 NE 65th Street, the prior South Rose Hill Water District office building located in the Bridle Trails Neighborhood (see Attachments 1 through 3). The building has been vacant since March 2006 and was last used by the City's Public Works Department's Facilities Division.

The City-owned property contains a 4,200 square foot office building and maintenance shop, a water tank 195 feet in diameter, a small storage building houses equipment used by a local "ham radio" organization, and a pump house maintained by the City of Kirkland's Public Works Department. The entire facility is surrounded by a high security fence. The site is surrounded on two sides by un-opened right-of-way (NE 65th Street and 130th Ave Street). Parking is available both in the front and back of the building. The site faces onto the back side of the Bridle Trails Shopping Center to the north. A cluster of dense trees and a pedestrian trail within an un-opened right-of-way separate the site from a single family home to the west. The water tank, other accessory structures and vegetation separate the City building from the single family home to the south and the Bridle Estate apartments to the east. The building is southeast and across the street from the Bridle Trails Apartments to the northwest. 130th Ave NE serves the site and is developed with a sidewalk on the west side of the street and available on-street parking on both sides of the street. The City-owned site is 1 1/2 blocks from NE 70th Street (see Attachments 1 through 3).

Kirkland Hopelink visited the site and determined that the size, layout and location of the building would serve their needs. Many of their clients live near the site. Approximately 25% of their clients use the bus to get to Kirkland Hopelink. Bus service is available on NE 70th Street just north of the site, a closer and an easier walk than the current situation from the downtown transit center up the hill on First Street to Kirkland Hopelink. The remaining clients come by car or by Access vans.

Under the Zoning Code, Kirkland Hopelink is considered a community facility use (see Attachment 4). The City-owned site is zoned PR (professional office/multifamily residential). A community facility use is permitted in a PR zone, but requires a Process I application review under Chapter 145 of the Zoning Code (see Attachment 5). The Planning Director reviews the Process I application for consistency with the Zoning Code, considers any needed mitigating conditions if there are impacts and then makes the final decision on the application. Notice is provided to adjacent residents, on public notice signs installed in various locations in the neighborhood and published in the local paper. Written comments may be sent to the Planning Director during the 18-day comment period. A Process I decision can be appealed to the Hearing Examiner and then further appeals to go judicial court. The Planning Department is currently processing the Process I permit and anticipates to complete the process by the end of November. If the decision is appealed, the process should be completed sometime in January 2007.

As part of their application for the Process I application, Kirkland Hopelink has provided a summary of their services and programs, and addressed various aspects of their operations for the proposed relocation to the City-owned site (see Attachment 6).

Memo to Dave Ramsay

October 5, 2006

Page 3 of 3

On October 10, 2006, a neighborhood meeting will be held in which representatives from Hopelink and City staff will discuss the relocation plans, the Emergency Ordinance and the Process I application with the neighborhood.

The Emergency Ordinance would allow Kirkland Hopelink to relocate to the City-owned building while the Process I application is being reviewed. The City Council has the authority to adopt an emergency ordinance for the protection of public health and safety. Notice of the public hearing for the Emergency Ordinance will be mailed to adjacent residents, the neighborhood association and interested parties, and will be made available at the neighborhood meeting on October 10, 2006.

In addition, Hopelink would like to request financial assistance for their unanticipated move. They operate on a July 1-June 30th fiscal year. They have no contingency funds to help with relocation costs, or the \$3000 per month lease payment to the Utility fund for occupancy of the South Rose Hill building through the remainder of their fiscal year. They would like to request a one time assistance of \$10,850 for relocation costs, \$3,692 for additional facilities costs and \$25,500 for nine lease payments covering October through June 2007 for a total of \$40,042. At that time, they will plan financially to cover the facility costs. A fiscal note is attached.

ATTACHMENTS

- 1 – Aerial of site and neighborhood
- 2 – Zoning of site and area
- 3 – Vicinity map showing addresses and the general location of buildings
- 4 – Definition of a community facility
- 5 – Zoning Code PR Use Zone, Section 25.10
- 6 – Summary of the Kirkland Hopelink programs, services and operations
- 7 – Hopelink Facilities Budget for 2006-2007

cc: Jessica Ivey, Center Manager, Kirkland Hopelink 302 First Street, Kirkland, WA 98033

South Rose Hill/Bridle Trails Neighborhood Association

Jennifer Schroder, Parks and Community Services Director

Daryl Grigsby, Public Works Director

Erin Leonhart, Public Works Facilities and Operation Administration Manager

Greg Neumann, Water Manager



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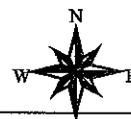
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City Limits

Property Parcel Outline

1/8 Miles Radius from the Property Location

100 0 100 200 Feet



ATTACHMENT 1

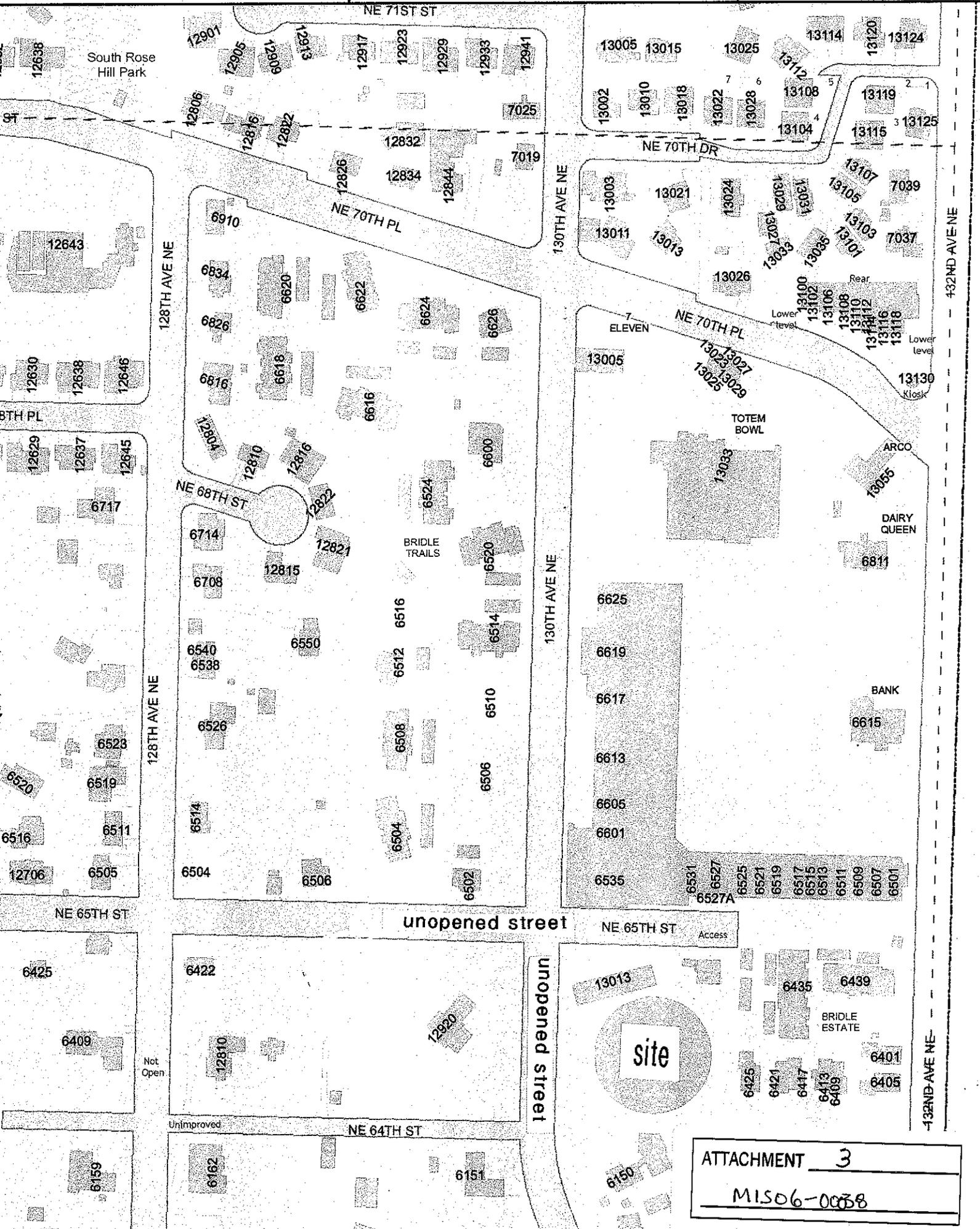
MIS 06-00038



Snyders
Corner
Park

SITE

ATTACHMENT 2
MIS 06-00038



ATTACHMENT 3
 M1506-0038

- .105 Bulkhead – A wall or embankment used for retaining earth.
- .107 Cabinet Sign – A sign incorporating a rigid frame, which supports and retains the sign face panel(s) and/or background constructed of plastic or similar material, and which has an internal light source. Cabinet signs do not include signs composed of individually-mounted and individually-illuminated letters, or logos no larger than the lettering to which they relate.
- .108 Center Identification Sign – A type of building-mounted or ground-mounted sign which identifies the name of a development containing more than one office, retail, institutional, or industrial use or tenant and which does not identify any individual use or tenant.
- .110 Certificate of Occupancy – “Certificate of Occupancy,” as that term is defined in the Uniform Building Code as adopted in KMC Title 21.
- .115 Changing Message Center – An electronically controlled public service time and temperature sign where copy changes are shown on the same lamp bank.
- .120 Church – An establishment, the principal purpose of which is religious worship, and for which the principal building or other structure contains the sanctuary or principal place of worship, and which includes related accessory uses.
- .125 City Manager – The chief administrative official of the City.
- .126 Class A Streams – As defined in Chapter 90 KZC.
- .127 Class B Streams – As defined in Chapter 90 KZC.
- .128 Class C Streams – As defined in Chapter 90 KZC.
- .130 Clustered Development – The grouping or attaching of buildings in such a manner as to achieve larger aggregations of open space than would normally be possible from lot by lot development at a given density.
- .135 Code (this) – The code of the City of Kirkland adopted as KMC Title 23.
- .140 Commercial Recreation Area and Use – An area and use operated for profit, with private facilities, equipment or services for recreational purposes, including swimming pools, tennis courts, playgrounds and other similar uses. The use of such an area may be limited to private membership or may be open to the public upon the payment of a fee.
- .145 Commercial Zones – The following zones: BN; BC; BCX; CBD; FC I; FC II; JBD 1; JBD 2; JBD 4; JBD 5; JBD 6; PLA 8; PLA 10A; ~~PLA 10A~~; NRH 1A; NRH 1B; NRH 4; and TL 2.
RH 1A, RH 1B, RH 2A, RH 2B, RH 2C, RH 3, RH 5A, RH 5B, RH 5C, RH 7
- .150 Common Recreational Open Space Usable for Many Activities – Any area available to all of the residents of the subject property that is appropriate for a variety of active and passive recreational activities, if that area:
- Is not covered by residential buildings, parking or driving areas; and
 - Is not covered by any vegetation that impedes access; and
 - Is not on a slope that is too steep for the recreational activities.
- .153 Community Facility – A use which serves the public and is generally of a public service, noncommercial nature. Such use shall include food banks, clothing banks, and other non-profit social service organizations; nonprofit recreational facilities; and nonprofit performing arts centers.

USE ZONE CHART

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

Section 25.10	USE REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.120	Convalescent Center or Nursing Home	NE 85 th Street Subarea Design Review, Chapter 142, KZC.	8,500 sq. ft. If PR 8.5 zone, otherwise 7,200 sq. ft.	20'	10' on each side	10'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	B	1 for each bed.	1. If a nursing home use is combined with an assisted living facility use in order to provide a continuum of care for residents, the required review process shall be the least intensive process between the two uses.
.130	Public Utility	Chapter 142, KZC.	None		20' on each side	20'			A		See KZC 105.25.	
.140	Government Facility Community Facility	Otherwise Process I, Chapter 145, KZC.			10' on each side	10'			C See Spec. Reg. 2.			1. Site design must minimize adverse impacts on surrounding residential neighborhoods. 2. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.150	Public Park	See Special Regulations 1 and 2.	Will be determined on case-by-case basis.						--	--		1. Except as provided for in Special Regulation 2 below, any development or use of a park must occur consistent with a Master Plan. A Master Plan shall be reviewed through a community review process, established by the Parks and Community Services Director, which shall include at a minimum: a. One formal public hearing, conducted by the Parks Board, preceded by appropriate public notice. The required public hearing on a Master Plan proposed within the Houghton Community Municipal Corporation shall be conducted by the Houghton Community Council, which may be a joint hearing with the Parks Board; b. The submittal of a written report on the proposed Master Plan from the Parks Board to the City Council, containing at least the following: 1) A description of the proposal; 2) An analysis of the consistency of the proposal with adopted Comprehensive Plan policies, including the pertinent Park and Recreation Comprehensive Plan policies; 3) An analysis of the consistency of the proposal with applicable developmental regulations, if any; 4) A copy of the environmental record, if the proposal is subject to the State Environmental Policy Act;



ATTACHMENT 5
M1506-00038

REGULATIONS CONTINUED ON NEXT PAGE

**Notice to Neighborhood
From Kirkland Hopelink
9/2006**

Proposal Description: The City of Kirkland is considering the lease of the prior South Rose Hill Water District Building to Hopelink of Kirkland in order to continue provision of community services to the residents of Kirkland. Hopelink currently occupies the City of Kirkland building located at 302 First Street. The on-site services include a Food Bank, an Emergency Services Program (emergency financial assistance), the Basic Food Education and Outreach Program (BFEO) and an Energy Assistance Program. Recently, the city has been working with Hopelink to make improvements to the existing facility. However, because of the age of the building, the location close to the water and nearby recent development, this building has had a rodent infestation, and is no longer a viable option for Hopelink. The situation has recently worsened, causing Hopelink to propose a move of their services to Bothell. City staff, acknowledging the immediacy of the situation, partnered with Hopelink to undergo an extensive search for a new facility.

The City recognizes the value of Hopelink services and wants to consider the use of the S. Rose Hill Water District building for their services. On September, 22nd 2006 we toured the South Rose Hill Water District administration building and felt that it is viable option for Hopelink Community Services operations. This building has adequate office space, extensive food storage space and a large space appropriate for efficient food bank operations. This is a newer building, cement block, and would be suitable as a rodent free food storage building. Additionally, the location of the building is convenient for many of the clients we serve.

Hours of Operation: Hopelink regular business hours are 8:30 A.M. to 5:00 P.M. Monday through Friday and 5:00 P.M. to 7:00 P.M. on the first and third Wednesday of each month. Approximately 3 times per year, Hopelink is open on Saturdays for seasonal events between the hours of 8:30 A.M. and 5:00 P.M. Staff works during the above stated business hours.

- **Clients:** Clients utilize our services 5 days a week. On an average non-food bank day (Monday through Wednesday and Friday) approximately 20 clients enter the facility throughout the day. During food bank distribution, which is held on **Thursdays from 11:30 A.M. to 2:00 P.M. and the first and third Wednesdays of the month from 5:00 P.M. to 7:00pm**, approximately 80 people enter our facility spread out over the day.
- **Staff:** Hopelink Kirkland has a staff of seven. 5 employees are on site regularly, while 2 work throughout the community on a regular basis. Our staff consists of a Center Manager, and Emergency Service Specialist, a Food Bank Coordinator, the Basic Food Education and Outreach Program Manager, the Basic Food Education and Outreach Program Assistant, the Basic Food Education and Outreach Mobile Educator and an Energy Program Specialist.

ATTACHMENT <u>6</u>
<u>MLS06-00038</u>

- **Volunteers:** On an average day, there are usually 3 to 6 volunteers on site. On food bank distribution days there are approximately 10 to 15 volunteers on site spread out throughout the day.

Client Transportation: The majority of clients drive personal vehicles. Approximately 25% of our clients (roughly 62 residents) utilize the public bus system. Currently, these clients walk from the downtown metro station, which is a longer distance than the walk from the NE 70th bus stop to this facility. Another 10 – 20% of our clients rely on the Access bus to receive our services.

Parking: Staff will occupy up to 7 parking stalls during regular business hours. Volunteers, although encouraged to park off-site, may utilize up to 5 additional parking stalls. Throughout regular business days, up to 2 parking stalls will be occupied by clients at any given time. During food bank distribution hours, all of the stalls will be utilized by clients and limited off-site parking will presumably be necessary on the east and/or west sides of 130th Ave NE. On-street parking is available along both sides of 130th Ave NE. Approximately 30 clients per hour attend food bank during food bank distribution hours.

Food Bank Waiting Area: This facility has a large room where food bank clients can wait for their appointments if they arrive early. Clients will not have to wait outside for any reason. Hopelink has operated food banks in numerous areas of the county for decades. Their operation relies on an efficient system in which clients have set appointment times, eliminating waiting periods and lines.

Food/Truck Deliveries: Hopelink receives deliveries of groceries during the hours of 8:30 A.M. and 12:00 P.M. Monday through Thursday. Most deliveries are brought to us by community volunteers using their personal vehicles. We receive 2 to 3 deliveries via large delivery trucks each week, also between the hours of 8:30 A.M. and 12:00 P.M.

Outdoor Storage: Hopelink has no need for outdoor storage.

Rodent Control: All Hopelink food banks have monthly contracts with pest control professionals. Appropriate actions are taken immediately when requested during monthly inspections. Additionally, all dry food is stored in milk crates and kept off of the floor and regular monitoring and rotation of the food supply ensures that food is regularly inspected for evidence of rodents. All aspects of our food bank operations are kept up to code.

At their current location, extensive rodent exclusion work has been done by contractors, at the direction of pest control professionals. Unfortunately however, due to the age and condition of the building and construction nearby causing continued rodent problems, completely effective exclusion work proved impossible. Fortunately, the South Rose Hill Water District building is constructed of brick and in general is much more tightly sealed.

Fencing for Security: In place.

Trees to remain: Yes.

Litter Control: Hopelink staff will personally "adopt" the stretch of road along 130th Ave NE that leads to the facility, ensuring regular, ongoing litter collection. Additional litter collection directly following food bank distribution, will ensure that no litter will be on the road, on the grounds or on adjacent properties next to 130th Ave NE.

Noise: All food bank operations will occur inside of the facility. One door will be open at the end of the distribution line. However, this should not result in appreciable noise.

Signage: In addition to a non-illuminated wall mounted sign on the building, a small directional street sign at the corner of NE 70th and 130th Ave NE will be sufficient for Hopelink's purposes.

Applicant: Hopelink Kirkland
302 First Street
Kirkland, WA 98033
425.889.7880

Hopelink Kirkland Facilities Budget for 2006-2007							
GL Acct	Trade	Vendor	Monthly	Annual	Projected Costs	Difference	Prorated *
8135	Copier Lease	IKON	188.22	2,258.64	2,258.64	0.00	\$0.00
8080	Fire Extinguisher Annual Inspections	Pacific Fire & Security	12.50	150.00	150.00	0.00	\$0.00
8080	General Building Repair	RAFN, VECA	66.67	800.00	2,000.00	1,200.00	\$850.00
6600	Janitorial	Advanced Cleaning	333.33	4,000.00	5,100.00	1,100.00	\$779.17
7005	Janitorial Supplies	Advanced Cleaning	66.67	800.00	950.00	150.00	\$106.25
8080	Landscaping		0.00	0.00	300.00	300.00	\$212.50
	Monitoring Security System				960.00	960.00	\$680.00
8080	Parking Lot Sweep	CAMS	12.50	150.00	600.00	450.00	\$318.75
	Pest Control	Sprague	70.72	848.64	900.00	51.36	\$36.38
8080	Pressure Washing	Interlake Window Cleaning	68.75	825.00	1,025.00	200.00	\$141.67
8080	Roof cleaning				250.00	250.00	\$177.08
	Verizon DSL		80.00	960.00	960.00	0.00	\$0.00
8060	Telephone Service		490.00	5,880.00	5,880.00	0.00	\$0.00
8040	Utilities						\$0.00
	Electricity	Puget Sound Energy	335.00	4,020.00	4,900.00	880.00	\$623.33
	Water, Sewer & Refuse	City of Kirkland	565.00	6,780.00	6,300.00	-480.00	-\$340.00
8290	Water (drinking)	Culligan	56.00	672.00	672.00	0.00	\$0.00
8080	Window Cleaning	Interlake Window Cleaning	25.00	300.00	450.00	150.00	\$106.25
	Total Facilities Budget		\$2,370.36	\$28,444.28	\$33,655.64	\$5,211.36	\$3,691.38
	*Prorated covers period October 18, 2006-June 30, 2007. Hopelink starts their new fiscal year on July 1, 2007 and will build these costs into their budget.						
	Projected Moving Costs						
	Cooler/Freezer Move	\$5,400					
	Furniture, etc. Move	5,000					
	Furniture Cleaning Prior To Move	450					
	Total Move	\$10,850					
	Additional Hopelink Costs						
Rent	\$3000 per month for 8.5 months	\$25,500					
Facilities		3,691.38					
Move		10,850					
Total Additional Costs		\$40,041.38					
				ATTACHMENT 7			
				MIS06-00038			

FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Eric Shields, Planning Director, Carrie Hite, Parks & Community Svcs Deputy Director, and Teresa Swan, Senior Planner							
Description of Request							
Request for funding of \$40,042 from the Contingency Fund to relocate Kirkland Hopelink to the South Rose Hill Building, which is owned by the City's Water/Sewer Utility. Kirkland Hopelink needs to move to a different facility due to rodent and health condition issues at their current facility. They do not have any contingency budget that will pay for relocation and additional rent costs in their current fiscal year budget. Hopelink is requesting assistance from the City for relocation costs, increased facilities maintenance costs and rent costs until their next fiscal period begins.							
Legality/City Policy Basis							
Fiscal Impact							
One-time use of \$40,042 of the Contingency Fund. The contingency is able to fully fund this request.							
Recommended Funding Source(s)							
	Description	2006 Est End Balance	Prior Auth. 2005-06 Uses	Prior Auth. 2005-06 Additions	Amount This Request	Revised 2006 End Balance	2006 Target
Reserve	Contingency	2,115,677	149,293	0	40,042	1,926,342	2,952,182
	2005-2006 Prior Authorized Uses includes \$26,000 for a Sidewalk Bond survey, \$10,000 for an assessment of the Cannery Building, \$30,293 for a pension payout related to the Municipal Court, \$52,000 for the purchase of water rights from the King County Water District #1, and \$31,000 for an assessment and update of the Downtown Strategic Plan.						
Revenue/ Exp Savings							
Other Source							
Other Information							

Prepared By	Sandi Miller, Financial Planning Manager	Date	October 5, 2006
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ORDINANCE NO. 4062

AN EMERGENCY ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO PERMIT THE USE OF THE CITY-OWNED PROPERTY AT 13013 NE 65TH STREET AS A COMMUNITY FACILITY BY KIRKLAND HOPELINK FOR UP TO 140 DAYS, WHILE A PROCESS I APPLICATION IS PENDING; REQUIRING KIRKLAND HOPELINK TO SECURE PROCESS I APPROVAL WITHIN 140 DAYS OF THIS ORDINANCE AND MAINTAIN PROCESS I APPROVAL THROUGH ANY ADMINISTRATIVE OR JUDICIAL APPEALS OR TO VACATE THE PREMISES AT 13013 NE 65TH STREET; AND DECLARING AN EMERGENCY. (FILE MISO6-00038.)

WHEREAS, the City funds essential human services through its adopted biennial budget; and

WHEREAS, for 35 years, Hopelink has been helping its clients work toward self-sufficiency and end the cycle of homelessness; and

WHEREAS, the services provided by Hopelink include: food; housing; child care; family development programs; literacy programs; transportation; interpreter services; financial assistance; energy assistance; and classes; and

WHEREAS, in September 2006, Kirkland Hopelink learned that it would need to immediately relocate from its current offices at 302 First Street, in Kirkland; and

WHEREAS, the City of Kirkland extended an invitation to house Kirkland Hopelink's "Community Facility" use in a building owned by the City located at 13013 NE 65th Street, Kirkland, located in a Professional Office Residential (PR) Zone; and

WHEREAS under KZC 25.10 a Community Facility use in a PR Zone requires approval through Process I; and

WHEREAS, on Friday, September 29, 2006, Kirkland Hopelink requested approval through Process I, described in Kirkland Zoning Code (KZC) Chapter 145, to locate its "Community Facility" in a Professional Office Residential (PR) Zone (Zoning File: ZON06-00029); and

WHEREAS, the typical review under Process I can take more than four months; and

WHEREAS, in order to allow for the relocation of Kirkland Hopelink and its uninterrupted service to local families, seniors, people with disabilities, and others who depend upon it, the Kirkland City Council has determined that there is a need for an emergency ordinance; and

WHEREAS, a public hearing on this emergency Ordinance was held prior to the passage of this Ordinance;

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

Section 1. The Kirkland City Council makes the following findings:

- a. The typical timeline for reviewing an application for Process I approval would not allow for the immediate relocation of the Kirkland Hopelink Community Facility use to the City-owned property at 13013 NE 65th Street in Kirkland within a PR Zone.
- b. Kirkland Hopelink has made application for Process I approval for its Community Facility to be located at the subject City-owned property.
- c. Kirkland Hopelink provides vital community services that should not be suspended while the Process I approval is pending.
- d. Until the pending application may be reviewed, there is an immediate need to relocate Kirkland Hopelink within the City.
- e. The interests of the citizens of Kirkland are served by providing a City-owned location for Kirkland Hopelink and the declaration of an emergency is necessary to allow the immediate, lawful occupancy of the City-owned property, subject to the terms and conditions of this ordinance.

Section 2. The City Manager is authorized to negotiate and enter into an agreement with Kirkland Hopelink for the immediate relocation of Kirkland Hopelink to the City-owned property at 13013 NE 65th Street, Kirkland, while its application for Process I approval is pending.

- a. Kirkland Hopelink must secure a Process I approval within 140 days of this Ordinance and maintain the Process I approval through any administrative or judicial appeals. In the event Kirkland Hopelink fails to secure Process I approval within 140 days or the Process I approval is reversed on administrative or judicial appeal, it must vacate the premises at 13013 NE 65th Street, Kirkland, 45 days after notice is given that the Process I approval has been denied following any administrative or judicial appeals.

Section 3. Duration. This Ordinance shall be effective for 140 days. This Ordinance may be renewed for one or more four-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 4. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 5. Emergency Ordinance. This is an emergency Ordinance necessary for the protection of the public health and safety and shall be in force and effect immediately upon passage by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting
this _____ day of _____, 2006.

Signed in authentication thereof this _____ day of
_____, 2006.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney



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

MEMORANDUM

To: David Ramsay, City Manager

From: Norm Storme, P.E., Chairman – Sidewalk Bond Exploratory Committee
Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: October 6, 2006

Subject: SIDEWALK BOND EXPLORATORY COMMITTEE – FINAL RECOMMENDATION

RECOMMENDATION:

The Sidewalk Bond Exploratory Committee (Committee) and City Staff recommend that Council not pursue a bond issue for sidewalk construction at this time. The Committee further recommends that Council reconsider a sidewalk bond at a future date based on Committee feedback to evaluate whether voter support has improved.

BACKGROUND DISCUSSION:

Sidewalk Bond Exploratory Committee

The City Council created the Sidewalk Bond Exploratory Committee in June of 2004 to study the feasibility of placing a sidewalk construction bond and maintenance levy issue before voters. By early 2005, the Committee had developed a list of over thirty projects divided into three tiers as follows:

- Tier 1— School Walk Routes \$6 million
- Tier 2— Arterial Streets \$2 million
- Tier 3— Neighborhood Projects \$7 million
- Tier 4— Sidewalk maintenance levy \$200,000 annually

Strong Support for School Walk Route Sidewalks

To determine the feasibility of the proposed bond and levy measures, the Committee and City Staff performed neighborhood outreach in the spring of 2005 which included a public open house and presentations of the proposed project list to the neighborhood associations and business groups throughout the City. In May 2005, an opinion survey was conducted by Elway Research to gauge support for the potential \$15 million sidewalk construction bond; The bond would increase the taxes on a \$400,000 home by \$53/year. That survey showed strong support for sidewalks around elementary schools (65%), but less support for arterial and neighborhood sidewalks (56% and 47%, respectively). The survey information was presented to Council on July 19, 2005, and based on those results, the Sidewalk Bond Exploratory Committee was asked to refine the proposed bond to focus only on sidewalks near elementary schools. At that meeting, Council also authorized a second public opinion survey regarding sidewalk bond support in the community. The follow-up survey was to measure support for a smaller-scale bond (\$5 million) that would construct sidewalks only on school walk routes and would result in a \$20/year tax increase. This survey,

performed in October 2005, indicated consistent overall support for sidewalks near schools (66%). However, when compared with the May 2005 survey, the supporters in October included more who said “probably support” and fewer who said “definitely support”. Thus, despite a significant reduction in scope, the proposed bond did not receive significant support in the community.

Factors Potentially Affecting Voter Support

The Committee concedes that current support for a sidewalk bond may be adversely affected by several factors. Chief among these is the fact that the regional economy is only recently starting to emerge from a difficult economic period. The survey results show that cost is the most significant factor affecting support of the proposed bond, with nearly a third of those polled agreed with the statement, “I pay enough taxes already; I can’t afford to pay any more.” The survey was also conducted at a time when the voters have recently been asked to pay more in gas and property taxes.

There is also the possibility that so-called “voter fatigue” may also be a factor leading to the modest support for the proposed bond. This phenomenon is attributed to voter’s feelings that their vote does not count or will not result in the outcome they desire, they are overburdened by the referendum process, or they are simply annoyed by the inconvenience of voting itself.

Other Funding Opportunities

The community process and continued emphasis on sidewalks in Kirkland have had favorable results. New opportunities for sidewalk construction and maintenance have been established in the time since the Sidewalk Bond Exploratory Committee has been reviewing the issue. These include:

- Council approval of funding for an annual sidewalk maintenance program. This program will repair existing facilities city-wide, focusing on fixing problems in areas with high pedestrian use and near vulnerable populations such as students and seniors and not deplete the street preservation program funding while doing so.
- Council recently adopted an ordinance requiring construction of sidewalks with all new single family residential infill projects. This change will lead to new sidewalk facilities around the community.
- In late 2005, the Washington State Department of Transportation announced two grant programs to provide funding for pedestrian facilities and programs aimed at improving elementary school walk route safety. City staff will pursue grants for these projects identified through the Committee’s process:
 - NE 100th Street between 112th Avenue NE and 116th Avenue NE
 - NE 60th Street between 122nd Avenue NE and 124th Avenue NE
- Staff will also apply for a grant from the Transportation Improvement Board for one of the identified projects: 99th Place/100th Avenue NE between NE 112th Street and NE 116th Street.

Summary

The citizens of Kirkland clearly support pedestrian safety in general, and the safety of school children is the highest priority. However, external factors that are likely to affect voter support for new taxes suggest that now is not the best time to place this issue on the ballot. The Committee is concerned that failure of this measure, even by a small margin, would cloud future consideration of a similar bond measure. The Committee therefore recommends that the sidewalk bond issue be deferred for reconsideration under more favorable economic conditions.



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
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MEMORANDUM

To: David Ramsay, City Manager

From: Elaine Borjeson, Solid Waste Coordinator
Erin Leonhart, Public Works Facilities and Operations Administrative Manager
Daryl Grigsby, Public Works Director

Date: October 5, 2006

Subject: 2007 SOLID WASTE ORDINANCE CHANGES

RECOMMENDATION

It is recommended that the City Council authorize the proposed rate changes to the Solid Waste Ordinance effective January 1, 2007 and adopt the attached ordinance confirming the rates. These rates were reviewed and approved by the City Council Finance Committee at their October 9, 2006 meeting.

BACKGROUND DISCUSSION

Solid waste rates have not changed substantially since December, 2003 when the new contract with Waste Management was implemented. In the past three years, minor changes lowering the residential rate for 20 gallon garbage carts from \$12.00 to \$11.00 and increasing the rate for 96 gallon garbage carts from \$34.50 to \$37.50 were made effective January 1, 2005. Effective January 1, 2006, rates were also established at the request of the business community for a new service level for uncompacted commercial containers that are collected six times per week.

Per the requirements of RCW 35A.21.152, changes to solid waste rates must be published once a week for two consecutive weeks in a newspaper of general circulation in the collection area at least forty-five days prior to the proposed effective date of the rate increase. Waste Management's rate increases to the City will be effective January 1, 2007.

Cost Increases from Waste Management: In 2005 and 2006, the solid waste utility fund absorbed the cost increases from Waste Management that are authorized by Section 3.3 of the Comprehensive Garbage, Recyclables and Organics (Yard Debris + Food Waste) Collection Contract. These costs are based on 70% of the annual percentage change in the Consumer Price Index (CPI) for the Seattle-Everett Metropolitan Area for Urban Wage Earners and Clerical Workers applied to the collection service portion of the rates that Waste Management charges the City. The rate increase

for 2005 was 1.77% and for 2006 was 1.62%. The expected increase in the collection fee portion of the rates for 2007 is 3.23% (70% of the 4.62% CPI increase for the year ending July 31, 2006).

Environmental Stewardship Programs: New environmental stewardship programs are proposed for 2007. These plans aim to increase resource conservation and recycling diversion in the residential and business communities through on-site education and outreach, newsletters, brochures and recognition programs. A battery recycling program is proposed for the convenient, environmentally safe reclamation of household batteries, and a citywide commercial organics program will be implemented to divert hundreds of tons of organic material from businesses for reuse as compost instead of burial at the Cedar Hills Regional Landfill.

PROPOSED CHANGES

The proposed changes to the solid waste ordinance for 2007 consist of increasing fees across the rate base by 4.00% and clarifying language relating to ongoing carry-out charges for single family residential customers. The effects of the rate change are shown on Table 1.

Table 1: Proposed Solid Waste Rates for 2007

Customer Type	Service Level	2006 Monthly Rate	Proposed Monthly Increase	2007 Proposed Monthly Rate	Percentage Change
Single Family Residential	64 gallon cart	\$23.50	\$0.94	\$24.44	4.00%
Multifamily Residential	64 gallon cart	\$23.50	\$0.94	\$24.44	4.00%
Commercial	1 cubic yard uncompact container emptied 4 times per week (1 cu yd = approx (3) 64-gal carts)	\$290.41	\$11.62	\$302.03	4.00%

Section 16.12.030 (1) (B) of the Kirkland Municipal Code (KMC) designates a carry-out surcharge of \$3.43 per occurrence as a miscellaneous service fee. Currently, this fee is only charged once per month instead of once per week for customers who request this service on an ongoing basis. It is recommended that a new fee be added to Section 16.12.030 (1) (A) of the KMC under the "Monthly Service" heading as an Ongoing Carry-out Surcharge of \$14.85 per month (\$3.43 X 4.33 weeks).

SUMMARY

Solid waste expenses have increased steadily in the past three years due primarily to CPI increases from Waste Management. The enterprise fund absorbed these costs in 2005 and 2006 but needs to adjust rates in 2007 to account for these costs as well as projected increases for the 2007 CPI increase from Waste Management and the proposed environmental stewardship programs.

Attachment: 1- Draft 2007 Solid Waste Ordinance

cc: Robin Jenkinson, City Attorney
Tracey Dunlap, Director of Finance and Administration
Michael Olson, Treasury Manager
Mike Reardon, Senior Accountant

ORDINANCE NO. 4063

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SOLID WASTE COLLECTION RATES AND AMENDING SECTION 16.12.030 OF THE KIRKLAND MUNICIPAL CODE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 16.12.030 of the Kirkland Municipal Code is hereby amended to read as follows:

16.12.030 Collection rates.

The rates to be charged for solid waste collection service in the city shall be as follows:

(1) Residential.

A. **Single-Family (Per Month) Rate**

Monthly Service

35-gallon cart ~~\$6.00~~ 6.24

Ongoing Carry-out surcharge 15.46

Weekly Service

20-gallon mini cart ~~\$11.00~~ 11.44

35-gallon cart ~~17.05~~ 17.73

64-gallon cart ~~23.50~~ 24.44

96-gallon cart ~~37.50~~ 39.00

35-gallon equivalent "extra" ~~6.50~~ 6.76

Extra Yard Debris Service

96-gallon cart ~~\$9.65~~ 10.04

As stated in Section 16.12.025, a senior citizen's discount of forty percent of the rate set forth here is available for qualified residents.

One gray yard waste cart and one blue recycling cart is provided to each customer at no extra charge. The contractor will charge a fee for additional yard waste receptacles above the first set provided. The contractor will provide a 35 or 96 gallon recycling cart on request to new residents and those residents needing less or additional capacity than provided by the default 64 gallon recycling cart.

B. Miscellaneous Service Fees (Per Occurrence)	Rate
Return trip	\$12.56 <u>13.06</u>
Drive-in charge	5.72 <u>5.95</u>
Redelivery fee (carts)	17.14 <u>17.83</u>
Carry-out surcharge	3.43 <u>3.57</u>
C. On-Call Bulky Waste Collection Fees (Per Occurrence – Per Item)	Rate
Appliances	\$85.72 <u>89.15</u>
Refrigerator/Freezer	85.72 <u>89.15</u>
Sofa	85.72 <u>89.15</u>
Chair	85.72 <u>89.15</u>
Mattress or box springs	85.72 <u>89.15</u>
Tire: Auto/light truck	22.86 <u>23.77</u>
Tire: Bus/heavy truck	28.58 <u>29.72</u>

Tire: Additional for rims or wheels	17.14 <u>17.83</u>
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Miscellaneous, per cubic yard	62.85 <u>65.36</u>
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D. **Temporary Container Service** **Rate**

Temp. 2-yard container	\$49.42 <u>51.40</u>
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Daily rent	1.10 <u>1.14</u>
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Delivery fee	41.80 <u>43.47</u>
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Temp. 4-yard container	62.64 <u>65.15</u>
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Daily rent	1.37 <u>1.42</u>
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Delivery fee	41.80 <u>43.47</u>
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Temp. 6-yard container	75.44 <u>78.46</u>
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Daily rent	1.65 <u>1.72</u>
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Delivery fee	41.80 <u>43.47</u>
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Temp. 100-yard container	2,460.16 <u>2,558.57</u>
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(2) Multifamily and Commercial.

A. **Carts**

Weekly Service **Rate**

20-gallon mini cart	\$11.00 <u>11.44</u>
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35-gallon cart	17.05 <u>17.73</u>
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64-gallon cart	23.50 <u>24.44</u>
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96-gallon cart	37.50 <u>39.00</u>
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35-gallon equivalent "extra"	6.50 <u>6.76</u>
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As stated in Section 16.12.025, a senior citizen's discount of forty percent of the rate set forth here is available for qualified residents.

B. Miscellaneous Services (Per Event) Rate

Return trip	\$29.19 <u>30.36</u>
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Carry-out service (per container)	3.25 <u>3.38</u>
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Redelivery	41.08 <u>42.72</u>
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Roll-out container	5.40 <u>5.62</u>
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Unlock container	1.84 <u>1.91</u>
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Gate opening	3.25 <u>3.38</u>
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Steam cleaning (per yard)	19.46 <u>20.24</u>
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C. Comm./Mf Uncompacted Containers Rate

1 Cubic Yard Uncompacted

1 pickup/week/container	\$ 79.66 <u>82.85</u>
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2 pickups/week/container	149.90 <u>155.90</u>
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3 pickups/week/container	220.15 <u>228.96</u>
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4 pickups/week/container	290.41 <u>302.03</u>
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5 pickups/week/container ~~360.66~~ 375.09

6 pickups/week/container ~~430.91~~ 448.15

1.5 Cubic Yard Uncompacted

1 pickup/week/container \$ ~~94.42~~ 98.20

2 pickups/week/container ~~177.80~~ 184.91

3 pickups/week/container ~~261.17~~ 271.62

4 pickups/week/container ~~344.55~~ 358.33

5 pickups/week/container ~~427.94~~ 445.06

6 pickups/week/container ~~511.32~~ 531.77

2 Cubic Yard Uncompacted

1 pickup/week/container \$~~108.44~~ 112.78

2 pickups/week/container ~~203.22~~ 211.35

3 pickups/week/container ~~298.00~~ 309.92

4 pickups/week/container ~~392.78~~ 408.49

5 pickups/week/container ~~487.54~~ 507.04

6 pickups/week/container ~~582.32~~ 605.61

3 Cubic Yard Uncompacted

1 pickup/week/container \$~~133.24~~ 138.57

2 pickups/week/container ~~250.80~~ 260.83

3 pickups/week/container ~~368.36~~ 383.09

4 pickups/week/container ~~485.94~~ 505.38

5 pickups/week/container ~~603.51~~ 627.65

6 pickups/week/container ~~721.08~~ 749.92

4 Cubic Yard Uncompacted

1 pickup/week/container ~~\$158.68~~ 165.03

2 pickups/week/container ~~299.03~~ 310.99

3 pickups/week/container ~~439.40~~ 456.98

4 pickups/week/container ~~579.76~~ 602.95

5 pickups/week/container ~~720.12~~ 748.92

6 pickup/week/container ~~860.48~~ 894.90

6 Cubic Yard Uncompacted

1 pickup/week/container ~~\$207.65~~ 215.96

2 pickups/week/container ~~393.59~~ 409.33

3 pickups/week/container ~~579.53~~ 602.71

4 pickups/week/container ~~765.49~~ 796.11

5 pickups/week/container ~~951.43~~ 989.49

6 pickups/week/container ~~1,137.38~~ 1,182.88

8 Cubic Yard Uncompacted

1 pickup/week/container \$ ~~255.75~~ 265.98

2 pickups/week/container ~~487.29~~ 506.78

3 pickups/week/container ~~718.82~~ 747.57

4 pickups/week/container ~~950.35~~ 988.36

5 pickups/week/container ~~1,181.88~~ 1,229.16

6 pickups/week/container ~~1,413.41~~ 1,469.95

“Extra” Uncompacted Cubic Yard ~~39.99~~ 41.59

D. Comm./Mf Compacted Containers (Weekly Pulls) Rate

1 cubic yard container \$~~157.48~~ 163.78

1.5 cubic yard container ~~204.90~~ 213.10

2 cubic yard container ~~251.40~~ 261.46

3 cubic yard container ~~340.31~~ 353.92

4 cubic yard container ~~430.04~~ 447.24

6 cubic yard container ~~859.85~~ 894.24

E. Comm./Mf Yard Debris (Per Month) Rate

96-gallon cart (weekly) \$ ~~9.81~~ 10.20

collection)

2 cubic yard container (weekly) ~~75.33~~ 78.34Extra cubic yard ~~23.43~~ 24.37Extra yard debris 32-gallon can ~~3.47~~ 3.61

**F. Roll-Off Container Rental
Permanent Noncompacted
Service**

10 cubic yard container ~~\$30.00~~ 31.2015 cubic yard container ~~35.00~~ 36.4020 cubic yard container ~~45.00~~ 46.8025 cubic yard container ~~50.00~~ 52.0030 cubic yard container ~~55.00~~ 57.2040 cubic yard container ~~60.00~~ 62.40

**G. Roll-Off Container Rental
Temporary Noncompacted
Service**

10 cubic yard container ~~\$35.00~~ 36.4015 cubic yard container ~~40.00~~ 41.6020 cubic yard container ~~46.00~~ 47.8425 cubic yard container ~~52.00~~ 54.0830 cubic yard container ~~57.00~~ 59.28

40 cubic yard container	67.00 <u>69.68</u>
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(3) Comm./Mf Drop-Box Collection (Per Haul).

A. Noncompacted Service	Rate
10 cubic yard container	\$101.62 <u>105.68</u>
15 cubic yard container	101.62 <u>105.68</u>
20 cubic yard container	101.62 <u>105.68</u>
25 cubic yard container	101.62 <u>105.68</u>
30 cubic yard container	101.62 <u>105.68</u>
40 cubic yard container	101.62 <u>105.68</u>
B. Compacted Service	Rate
10 cubic yard container	\$112.44 <u>116.94</u>
15 cubic yard container	112.44 <u>116.94</u>
20 cubic yard container	112.44 <u>116.94</u>
25 cubic yard container	112.44 <u>116.94</u>
30 cubic yard container	112.44 <u>116.94</u>
40 cubic yard container	112.44 <u>116.94</u>
C. Temporary	Rate
10 cubic yard container	\$107.02 <u>111.30</u>
15 cubic yard container	107.02 <u>111.30</u>

20 cubic yard container	107.02 <u>111.30</u>
25 cubic yard container	107.02 <u>111.30</u>
30 cubic yard container	107.02 <u>111.30</u>
40 cubic yard container	107.02 <u>111.30</u>
Delivery fee – all temp. customers	81.08 <u>84.32</u>

D. Additional Services

Additional mileage charge for hauls to other sites

Charge per mile	\$ 4.00 <u>4.16</u>
Return trip	35.00 <u>36.40</u>
Solid drop-box lid charge (per month)	35.00 <u>36.40</u>
Pressure washing (per yard)	8.00 <u>8.32</u>
Stand-by time (per minute)	2.00 <u>2.08</u>

Hourly Rates

Rear/side load packer and driver	\$105.00 <u>109.20</u>
Front load packer and driver	105.00 <u>109.20</u>
Drop-box truck and driver	105.00 <u>109.20</u>
Additional labor (per person)	50.00 <u>52.00</u>

(4) Wherever detachable containers are used having a capacity for which a rate has not been established, the director of public works is authorized to establish a rate for

such container, which shall be consistent with the ratio of the container capacity to rate charged for the rate herein established.

(5) In addition to the collection rates established in subsections (1), (2) and (3) of this section, there shall be included a county board of health hazardous waste charge as follows:

(A) For each single-family residential customer the amount of eighty cents per month;

(B) For each multifamily and nonresidential (commercial) customer the sum of nine dollars and seven cents per month.

Section 2. Effective date for new rates: The monthly rates established in this Ordinance shall go into effect and become the rates to be charged as of January 1, 2007.

Section 3. The garbage rates set forth in KMC 16.12.030, which is amended by this ordinance, shall remain in force and effect until the rates set forth in this ordinance go into effect.

Section 4. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.107, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2006.

Signed in authentication thereof this _____ day of _____, 2006.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney