CITY OF KIRKLAND

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

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT MEMORANDUM

To: David Ramsay **QUASI JUDICIAL**

From: Eric Shields, AICP, Planning Director
Dawn Nelson, AICP, Planning Supervisor
Ronald Hanson, Planning Consultant

Date: June 8, 2007

Subject: APPEAL OF DIRECTOR APPROVAL OF AUBRY SHORT PLAT, FILE NO. SPL06-00007; APPEAL FILE NO's APL07-00002 AND APL07-00003

RECOMMENDATION

Conduct the appeal hearing on June 19, 2007. Following the hearing, the City Council should pass a motion that either:

1. Affirms the decision being appealed; or

2. Reverses the decision being appealed; or

3. Modifies the decision being appealed.

The motion should include a request for staff to prepare a written decision for consideration by the City Council at its next meeting. If the Council modifies the decision being appealed, they should specify the level of improvements to be installed in the 5th Avenue South right-of-way.

BACKGROUND DISCUSSION

1. Review Process:

   Kirkland Municipal Code Section 22.20.245 (Subdivision Code) states that the City Council, rather than the Hearing Examiner, will decide an appeal of the Planning Director's decision on a short subdivision when the short plat would result in the dedication of a new through public right-of-way, including right-of-way designed for future connection (See Enclosure 1). Procedures for these appeals are set forth in Zoning Code Sections 145.60 through 145.110 (See Enclosure 2).

   Zoning Code Section 145.70 permits only those persons entitled to appeal the Planning Director's decision on this matter to participate in the appeal hearing. They may participate by submitting written testimony to the City before or at the City Council hearing, or by testifying in person or through a representative at the hearing.

Zoning Code Section 145.75 limits the scope of the appeal hearing to the specific elements of the Planning Director's decision disputed in the letter of appeal. Council may only consider comments, testimony, and arguments on the specific appeal elements.

The appellant has the responsibility of convincing the City Council that the Planning Director made an incorrect decision on this short plat.

2. Location: The site is located at 341 8th Street South (see page 5). The site is currently accessed from 8th Street South to the east. The unopened 5th Avenue South right-of-way is located to the south.

3. Application: David Aubry submitted a Short Subdivision request to subdivide a developed 24,375 square foot (.56 acres) single-family lot into three (3) lots within the RS 8.5 zone. There is an existing single family home on the site that is being retained with the short plat. It was recently moved from near the center of the site to proposed Lot 1.

4. Short Plat Decision: On March 22, 2007, after consideration of the short plat proposal against the applicable review criteria and after consideration of the issues raised in the public comment letters, the Planning Director approved the short plat, subject to conditions (See Enclosure 3).

5. Letters to City Council: After approval of the short plat by the Planning Director, the City received seven letters addressed to the City Council opposing the City's decision to require the applicant to install street improvements in the currently unopened 5th Avenue South right-of-way (See enclosures 4 a-g). Since the City's decision had already been appealed to the City Council, the letters were not forwarded to the council members due to the "Appearance of Fairness" law (Chapter 42.36 RCW). The individuals who wrote letters were informed in writing of this fact.

6. Appeal of Short Plat Decision: Two appeals of the short plat decision were filed in a timely manner.

   The applicant, David and Anna Aubry filed an appeal on April 10, 2007 (See Enclosure 5-A). David and Anna Aubry subsequently revised their appeal on May 13, 2007 withdrawing two of the three appeal issues including: (1) Public Works Department conditions related to surface water; and (2) the requirement to underground overhead utility lines (See Enclosure 5-B)

   The second appeal was filled by Jerry and Beverly Gilbert, Tom and Sherri Lynn, Karen Tipp, and Doug Thompson on April 9, 2007 (See Enclosure 5-C)

   Both appellants are appealing city staff's decision to require the short plat applicant to install street improvements in the existing 5th Avenue South right-of-way, adjacent to the property, which would open 5th Avenue South between 6th Street South and 8th Street South. 5th Avenue South is currently unopened between 7th Street South and 8th Street South (See Enclosure 6). Street improvements on the north side of the right-of-way are to include a minimum of 20 feet of asphalt (14 feet from the centerline of the street to the new curb), install storm drainage, curb, gutter, a 4.5 foot wide planter strip with street trees planted 30 feet on-center, and a 5 foot wide sidewalk. On the south side of the right-of-way install storm drainage collection and conveyance as necessary.

   A summary of the reasons why the appellants are appealing the city's decision to open the 5th Avenue South right-of-way and staff responses to them are provided below.

   1. The emphasis of the goals and policies in the Comprehensive Plan are that transportation systems should not be improved to the detriment of neighborhood integrity.

2. Because 5th Avenue South ends at 6th Street South and Everest Park, opening this street does nothing to improve the City's grid system and does not provide improved access into, out of, or within the neighborhood.

3. Opening this street would provide an alternative arterial to congested traffic on 6th Street South through an established neighborhood to reach the 85th Street/I-405 interchange.

4. Opening the street will increase traffic on 7th Street South and the north end of 8th Street South. It will not disperse traffic more evenly in the neighborhood.

5. Opening the street will put an intersection centered on Everest Park that will fill with commuters at the same time of day that the park is heavily used by children's baseball teams.

6. There is currently full and convenient access to all areas of the neighborhood. Opening the street will not improve driving times, emergency vehicle response times or access routes.

7. Providing an improved pedestrian/bicycle pathway at this location fulfills the regulation found in the Subdivision Ordinance.

8. The integrity of the road base, the engineering and safety requirements necessary due to local topography, the environmental impact of the street improvement, and the additional hidden costs of these items have not been fully considered.

   Staff Response: All of these issues, except Item 8, were raised in some form by the appellants during the original notice period for the Short Plat. The issues were addressed by staff at that time in the Planning Department's Staff Report [See Enclosure 3, Staff Report Section II.C (Public Comment, pages 4 to 6), Section II.E.5 (Development Regulations, pages 3 and 4), and Memo from Rob Jammerman, City of Kirkland Development Engineering Manager (Attachment 5)].

   In reference to Item 8, the City has not completely evaluated engineering factors related to the installation of the required 5th Avenue South street improvements. Factors related to specific roadway design and construction methods are generally considered at the time of submittal of the required Land Surface Modification (LSM) permit for the installation of the required short plat infrastructure improvements. All factors related to roadway design and installation will be considered by the applicant's engineer and city staff at that time.

   Kirkland Zoning Code Section 110.25 states that if the one-half of the right-of-way opposite the subject property has not been improved based on the provisions of the Kirkland Zoning Code Chapter 110, the applicant shall install improvements in the right-of-way to include: (1) the required improvements from his/her property line to and including the curb; (2) grade to finish grade all the required driving and parking lanes in the entire right-of-way and a 5-foot wide shoulder on the side of the right-of-way opposite the subject property; and (3) pave outward 20 feet from the curb adjacent to his/her property or as required by the Public Works Director.

   In all cases, except for alleys, if the access point for the subject site is not connected to an existing improved street by an improved hard surface, the applicant shall provide a hard surface improvement, of at least 20 feet in width, to the existing improved street. The applicant may request a modification, deferment or waiver of this requirement through KZC 110.70.

   The Public Works Department has evaluated the subject short plat and the required improvements to the 5th Avenue South right-of-way. It was determined that the proposed

short plat does not meet the required criteria for waiving the street improvements (See Memo from Rob Jammerman, Development Engineering Manager, Enclosure 7).

Enclosures

1. Kirkland Municipal Code Section 22.20.245 (Subdivision Code)
2. Kirkland Zoning Code Section 145.60 – 145.110
3. Staff Report
4. Letters to City Council
   4A – Penny Ryan
   4B – Rhonda Marshall
   4C – Susan Leonhardt
   4D – Carol Parker
   4E – James Lauinger
   4F – Kathleen Sutton
   4G- Anne Ryan
   4H- Neil and Donna Clement
5. Letters of Appeal
   5.A – David and Anna Aubry
   5.B – David and Anna Aubry Revision to Appeal
   5.C – Jerry and Beverly Gilbert, Tom and Sherri Lynn, Karen Tipp, and Douglas Thompson
6. Vicinity Map
7. Memo from Rob Jammerman, Development Engineering Manager

Aubry Short Plat
341 8TH ST S
New Single-Family Home
Everest Park
To Be Opened
KIRKLAND AVE
RAILROAD AVE
8TH ST S
N

(19) A notation which shows the dimensioned setback of all existing structures relative to existing property lines and to proposed lot lines, if they are within twenty feet of existing or proposed lot lines;

(b) A vicinity map at a scale of one inch equals four hundred feet or larger showing the proposed short subdivision's relation to the area for a distance of at least three hundred feet on which the subject property is outlined with a bold or colored line;

(c) A current title company certificate for the property that has been issued no more than thirty calendar days prior to the initial filing of the short plat application. The certificate must include the name of all persons holding any ownership interest in the property;

(d) Any additional information required by the planning official;

(e) The filing fee as established by ordinance;

(f) All information required under the State Environmental Policy Act, Chapter 43.21C RCW, and the administrative guidelines and local ordinance adopted to implement it. (Ord. 4011 § 1, 2005: Ord. 3705 § 2 (part), 1999)

*Code reviser's note: Ord. 4011 § 6 provides as follows: "This ordinance shall be in full force and effect on January 1, 2006."

22.20.070 Application—Distribution—Water and sewer service.

Upon receipt of a short plat application, the planning official shall, in addition to all interested city departments, send a copy of the application to the authorities and agencies reviewing or furnishing water service and sanitary sewer service to the proposed short plat. (Ord. 3705 § 2 (part), 1999)

22.20.140 Planning director's decision—Criteria.

In addition to the decisional criteria identified in Section 145.45(2) of the zoning code, the planning director may approve the short subdivision only if:

(a) There are adequate provisions for open spaces, drainageways, rights-of-way, easements, water supplies, sanitary waste, power service, parks, playgrounds and schools; and

(b) It will serve the public use and interest and is consistent with the public health, safety and welfare. The planning director shall be guided by the policy and standards and may exercise the powers and authority set forth in Chapter 58.17 RCW. (Ord. 3705 § 2 (part), 1999)

22.20.170 Planning director's decision—Dedication of land or easements.

The planning director may require dedication of land or easements for right-of-way, utility or other public purposes. (Ord. 3705 § 2 (part), 1999)

22.20.245 Appeal to city council—When.

(a) The city council will decide an appeal of the planning director's decision on a short subdivision under the following circumstances:

(1) As approved by the planning director, the short plat would result in the dedication of a new through public right-of-way (including a right-of-way designed for future connection); or

(2) The proposed short plat included a request for modification using the provisions of Chapter 22.24 for "innovative or unusual plats."

(b) In the above circumstances, this section will govern the procedure for decision on appeal of the planning director's decision on a short subdivision. Such appeals will be heard and decided by the city council rather than by the hearing examiner. The procedures set forth in Sections 145.60 through 145.110 of Title 23 of this code will still apply to the appeal; except, that whenever the term "hearing examiner" appears in those sections, the term "city council" will be substituted. (Ord. 3705 § 2 (part), 1999)

22.20.270 Staff report on appeal—Distribution.

In the event of an appeal to the city council as provided for in Section 22.20.245, the planning official shall distribute copies of the staff report as follows: to the city council prior to the hearing. (Ord. 3705 § 2 (part), 1999)

22.20.340 Public hearing—Decision—Final.

The decision by the hearing examiner is the final decision of the city. If the hearing examiner affirms the approval of the proposed short plat, the hearing examiner shall sign the short plat documents on behalf of the city. (Ord. 3705 § 2 (part), 1999)

22.20.355 Short plat approval.

Short plats shall be approved, disapproved or returned to the owner within thirty calendar days following the date of filing of a complete application unless the time frame for processing the short plat is extended pursuant to Chapter 20.12. (Ord. 3705 § 2 (part), 1999)

ENCLOSURE 1

APL07-00002 & APL07-00003

d. A statement of the Director's conclusions based on those facts;

e. A statement of the criteria used by the Director in making the decision; and

f. A summary of the procedures, as established in this chapter, to appeal the decision of the Director.

5. Notice of Decision – Within four business days after the Planning Director's written decision is issued, the Planning Official shall mail a copy of the decision to the following persons:

a. The applicant.

b. Each person who submitted written comments or information on the application. The Planning Official is not required to send a notice of decision to a party who signed a petition, unless such party also submitted independent written comments or information.

c. Each person who has requested notice of the decision.

Ord 4072
eff 3-12-07

In addition, within four ~~calendar~~ business days after the Planning Director's decision is issued, the Planning Official shall post a summary of the decision, along with a summary of any threshold determination under SEPA and the procedures for appealing the decision under this chapter, on the public notice sign erected under KZC 145.22(2)(b).

6. The Planning Director retains jurisdiction to correct errors in and/or to clarify the decision until the appeal period under KZC 145.60 has expired.

145.50 Effect of the Decision

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

145.60 Appeals

1. Who May Appeal – The decision of the Planning Director may be appealed by:

a. The applicant, or

b. Any person who submitted written comments or information to the Planning Director on the application. A party who signed a petition may not appeal unless such party also submitted independent written comments or information.

2. Time To Appeal/How To Appeal – The appeal, in the form of a letter of appeal, must be delivered to the Planning Department within 14 calendar days following the postmarked date of distribution of the Planning Director's decision; provided, that the appeal letter must be delivered to the Planning Department within 21 calendar days of the postmarked date of distribution of the Planning Director's decision if state or local rules adopted pursuant to SEPA allow for public comment on a declaration of nonsignificance issued on the proposed development activity; and provided further, that if the fourteenth or twenty-first day, as applicable, of the appeal period falls on a Saturday, Sunday, or legal holiday, the appeal period shall be extended through the next day on which the City is open for business. It must contain:

a. A clear reference to the matter being appealed; and

b. A statement of the specific elements of the Planning Director's decision disputed by the person filing the appeal.

ENCLOSURE 2
APL07-00002 + APL07-00003

3. Fees – The person filing the appeal shall include with the letter of appeal the fee as established by ordinance.

4. Jurisdiction – Appeals from the decision of the Planning Director will be heard by the Hearing Examiner.

145.65 Notice of the Appeal Hearing

1. Content – The Planning Official shall prepare a notice of the appeal containing the following:

   a. The file number and a brief verbal description of the matter being appealed.

   b. A statement of the scope of the appeal including a summary of the specific factual findings and conclusions disputed in the letter of appeal.

   c. The time and place of the public hearing on the appeal before the Hearing Examiner.

   d. A statement of who may participate in the appeal.

   e. A statement of how to participate in the appeal.

2. Distribution – At least 14 calendar days before the hearing on the appeal, the Planning Official shall send a copy or a summary of this notice to each person entitled to appeal the decision under KZC 145.60.

145.70 Participation in the Appeal

Only those persons entitled to appeal the decision under KZC 145.60 may participate in the appeal. These persons may participate in either or both of the following ways:

1. By submitting written comments or testimony to the Hearing Examiner prior to the commencement of the hearing.

2. By appearing in person, or through a representative, at the hearing and submitting oral testimony directly to the Hearing Examiner. The Hearing Examiner may reasonably limit the extent of the oral testimony to facilitate the orderly and timely conduct of the hearing.

145.75 Scope of the Appeal

The appeal will be an open record appeal hearing. The scope of the appeal is limited to the specific elements of the Planning Director's decision disputed in the letter of appeal, and the Hearing Examiner may only consider comments, testimony and arguments on these specific elements.

145.80 Staff Report on the Appeal

1. Content – The Planning Official shall prepare a staff report containing the following:

   a. The written decision of the Planning Director.

   b. All written comments submitted to the Planning Director.

   c. The letter of appeal.

   d. All written comments on the appeal received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.

e. An analysis of the specific elements of the Planning Director's decision disputed in the letter of appeal.

2. Distribution – At least seven calendar days before the hearing, the Planning Official shall distribute copies of the staff report as follows:

a. A copy will be sent to the Hearing Examiner.

b. A copy will be sent to the applicant.

c. A copy will be sent to the person who filed the appeal.

d. A copy will be sent to any person who received a copy of the Director's decision.

145.85 Public Hearing on the Appeal

1. Hearing in General – The Hearing Examiner shall hold a public hearing on the appeal.

2. Hearing Declared Open – The hearings of the Hearing Examiner are open to the public.

145.90 Electronic Sound Recordings

The Hearing Examiner shall make a complete electronic sound recording of each hearing.

145.95 Burden of Proof

The person filing the appeal has the responsibility of convincing the Hearing Examiner that the Planning Director made an incorrect decision.

145.100 Continuation of the Hearing

The Hearing Examiner may continue the hearing if, for any reason, he/she is unable to hear all of the public comments on the appeal or if the Hearing Examiner determines that he/she needs more information within the scope of the appeal. If, during the hearing, the Hearing Examiner announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

145.105 Decision on the Appeal

1. General – The Hearing Examiner shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the appeal. Based on the Hearing Examiner's findings and conclusions, he/she shall either:

a. Affirm the decision being appealed;

b. Reverse the decision being appealed; or

c. Modify the decision being appealed.

2. Time Limits – The Hearing Examiner shall issue his/her decision within 90 calendar days of the date the letter of appeal was filed under KZC 145.60.

3. Notice of Decision – Within four business days after it is issued, the Hearing Examiner shall mail a copy of his/her decision to the following persons:

a. The applicant.

b. The person who filed the appeal.

c. All other persons who participated in the appeal.

d. Each person who has requested notice of the decision.

In addition, within four calendar days after the Hearing Examiner's decision is issued, the Planning Official shall post a summary of the decision, along with a summary of any threshold determination under SEPA, on the public notice signs erected under KZC 145.22(2)(b).

4. Effect – The decision by the Hearing Examiner is the final decision of the City.

145.110 Judicial Review

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

145.115 Lapse of Approval

The applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within four years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 145.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within six years after the final approval on the matter, or the decision becomes void. For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

145.120 Bonds

The Planning Director and the Hearing Examiner may require a bond as per Chapter 175 KZC to insure compliance with any aspect of a permit or approval.

145.125 Complete Compliance Required

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

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

   a. There is a change in use and this code establishes different or more rigorous standards for the new use than for the existing use; or

   b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change.

CITY OF KIRKLAND

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

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
ADVISORY REPORT
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Eric R. Shields, AICP, Planning Director

From: Ronald Hanson, Project Planner (Consultant)

Teresa Swan, Planning Supervisor

Date: March 20, 2007

File: AUBRY SHORT PLAT, SPL06-00007

I. INTRODUCTION

A. APPLICATION

1. Applicant: David Aubry

2. Site Location: 341 8th Street South (See Vicinity Map, Attachment 1)

3. Request: Subdivide one developed 24,375 square foot (.56 acres) single family zoned site located in the single-family RS 8.5 zone into three single-family lots. Proposed Lot 1 is 8,170 square feet, Lot 2 is 8,098 square feet, and Lot 3 is 8,107 square feet. Since the total site area is less than normally required for a 3 lot short plat in the RS-8.5 zone (25,500 square feet), this application is being reviewed under the lot size reduction provisions of Kirkland Municipal Code Section 22.28.030. In addition, pursuant to KZC Section 90.60, the applicant is requesting approval of a Wetland Buffer Modification to the on-site Type III Wetland (See Attachment 2, and Section II.E).

4. Review Process: Short Plat, Planning Director decision.

5. Summary of Key Issues and Recommendations: The key issues in consideration of this short plat are compliance with established development regulations, deviation from the minimum lot size requirements, compliance with the required FAR reduction one each lot, compliance with the applicable wetland buffer modification requirements, and the opening of 5th Avenue South right-of-way (See Attachment 3, Development Regulations, Attachment 5, Public Works Memo, Section II.C, Public Comments, Section II.E, and Section I.B. Recommendations).

B. RECOMMENDATIONS

Based on Findings of Fact and Conclusions (Section II), and the Attachments included in this report, city staff recommends approval of this application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these

ENCLOSURE 3

ordinances. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed (See Conclusion II.G.2).

2. The applicant shall install the following required half-street improvements to 8th Street. South and to 5th Ave South abutting the property as outlined in the Development Standards in Attachment 3:

   - 8th Street South shall be widened to 14 feet of asphalt from the centerline to face of the curb. Storm drainage, curb and gutter, a 4.5 foot wide planter strip with street trees 20 feet on center and a 5 foot wide sidewalk shall be installed.

   - 5th Ave South shall be improved with a minimum of 20 feet of asphalt (14 feet of asphalt from the centerline to the new curb). On the north side of the new asphalt, install storm drainage, curb and gutter, a 4.5 foot wide planter strip with street trees 20 feet on center, and a 5 foot wide sidewalk. On the south side of the street improvements, install storm drainage collection and conveyance as necessary.

3. Prior to issuance of a Land Surface Modification Permit for the required short plat improvements, or recording the short plat with King County, the applicant shall submit to the Planning Department for review and approval, a revised Wetland Buffer Enhancement and Monitoring Plan incorporating the changes recommended by The Watershed Company in their letter dated January 25, 2007 (See Conclusion II.A.4.b).

4. Prior to recording the short plat with King County, the applicant shall sign a covenant ensuring that the buildings on the new lots will comply with an FAR restriction of at least ten percentage points less (maximum 40%) than that allowed for the RS 8.5 zoning district (See Conclusion II.E.3.b).

5. Trees shall not be removed following short plat approval, except as approved by the Planning Department.

   a. Tree removal requests shall be approved by the Planning Department in two stages: as part of the Land Surface Modification Permit and as part of the Building Permit. No trees shall be removed other than those approved as part of the permits (See Conclusions II.E.2.b).

   b. As part of the Land Surface Modification Permit, the applicant shall revise the Tree Plan III submitted with the short plat application to show removal of only those viable trees that must be removed for installation of the plat improvements (roads, utilities, sidewalks, trails and storm drainage improvements). The City may require alterations in the design of the short plat improvements in order to achieve maximum retention of viable trees (See Conclusions II.E.2.b).

   c. As part of the Building Permit Application for each lot, the Tree Plan III submitted with the Land Surface Modification Permit shall be revised to show those viable trees that must be removed for the placement of buildings and other associated site improvements. The City may require minor alterations in the arrangement of buildings and other elements of the proposed development in order to achieve maximum retention of viable trees (See Conclusion II.E.2.b).

d. During construction activities associated with the LSM permit for the installation of the short plat improvements, and during the development of each individual lot, the applicant shall follow the arborist's recommendations contained in the approved Tree Plan III (See Conclusion II.E.2.b).

e. Pursuant to Kirkland Zoning Code Section 95.35.5, the applicant shall provide a minimum of 17 tree credits for the short plat site. If after selecting the trees to be retained at each phase in the development, the site falls below the minimum required tree density, replanting of trees will be required to meet the minimum density (See Conclusion II.E.2.b).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:

a. Facts:

(1) Size: The gross site area is 24,375 square feet (.56 acres). The site is rectangular in shape, with an approximate north/south dimension of 125 feet and an east/west dimension of 195 feet.

(2) Land Use: The site is presently developed with a single family home on proposed Lot 1. The house was recently moved from near the center of the site, as shown on the short plat site plan (See Attachment 2), to proposed Lot 1. The approved building permit for the relocation of the house also included a remodel and an addition (BLD06-00492). The approved building permit for the relocated house on proposed Lot 1 meets the required structure setback, reduced FAR (40%), and site coverage requirements of the RS 8.5 zone (See Section II.E.3).

(3) Zoning: RS 8.5, a single-family residential zone with a minimum lot size of 8,500 square feet. Proposed Lot 1 is 8,170 square feet, Lot 2 is 8,098 square feet, and Lot 3 is 8,107 square feet. Since the total site area is less than normally required in the RS 8.5 zone, this application is being reviewed under the lot size reduction provisions of KMC Section 22.28.030 (See Section II.E.3).

(4) Terrain: The site slopes down from an approximate elevation of 208 feet along the east property line adjacent to 8th Street South, to an approximate elevation of 194 feet along the west property line. The average grade across the site is approximately 7 percent (See Attachment 2).

(5) Vegetation: There are 6 significant trees on the site. The majority of the residential landscaping on the lot was removed with the relocation of the existing house (See Section II.E.2).

(6) Wetlands: There is a Type 3 Wetland located almost entirely on the site to the west, with 11 square feet of the wetland located on the subject site. The site is located in the Moss Bay Basin, which is considered a Secondary Basin. A Type 3 Wetland in a Secondary Basin is required to provide a 25 foot wide buffer with a 10 foot building setback from the

buffer edge. The applicant is proposing a 1/3 Wetland Buffer reduction as part of the subject short plat application (See Section II.E.4)

b. Conclusions: Size, land use, zoning, terrain, and vegetation are not constraining factors in this application. With the approval of the requested wetland buffer modification, as conditioned, the wetland is not a constraining factor.

2. Neighboring Development and Zoning:

a. Facts: The subject property is surrounded by the following uses:

North: The area is zoned RS 8.5 and is developed with single family homes.

South: To the south is the unimproved 5th Avenue South right-of-way and an area zoned RS 7.2 developed with single family homes.

East: To the east is 8th Street South and an area zoned "P" (Park/Open Space) developed with the Everest Park.

West: The site immediately to the west is zoned RS 8.5. A single family house is currently under construction on the site. The property further to the west, extending to 6th Street South, is zoned LIT and is partially developed on the western portion of the site with a single family home.

b. Conclusion: The neighborhood development and zoning are not constraining factors in this short plat.

B. HISTORY

1. Facts: The subject short plat site includes a portion of Tract 52, of the plat of Alexander Acre Tracts.

2. Conclusion: The subject short plat application is being processed under current Zoning and Subdivision regulations that apply to the property. The short plat will comply with all zoning, subdivision and municipal code requirements currently in effect in order to receive approval (See Section II.D). History is not a constraining factor in this application.

C. PUBLIC COMMENT

The public comment period for the short plat extended from May 18, 2006 to June 5, 2006. The Planning Department received 5 written responses during the above comment period (See Attachments 4a through 4e).

The first letter is signed by Jerry and Beverly Gilbert, Tom and Sherri Lynn, and Karen Tipp (See Attachment 4a). The letter includes a signed petition by approximately 138 people, and historical information from 1990 regarding a past proposal to open 5th Avenue South. In addition, a second letter was submitted by Beverly Gilbert with similar project issues (See Attachment 4b). The letters express opposition to the City's requirement to open the existing 5th Avenue South right-of-way and install street improvements from 8th Street South to the west property line of the short plat site. A summary of the reasons provided include: (1) Opening 5th Avenue South to vehicular traffic would devastate the character of the neighborhood and severely compromise the safety of the neighborhood streets; (2) The proposed right-of-way improvements would remove the existing

community maintained pedestrian path located within the existing right-of-way; (3) Increase cut through traffic throughout the neighborhood and; (4) Introduce a vehicle intersection between 5th and 8th at a location where the number of children crossing and playing is high.

Staff Response: *As a condition of approval of the subject short plat application, the Public Works Department is requiring that the applicant open the existing 5th Avenue South right-of-way between 8th Street South and the west property line of the short plat site. Improvements would include installing a minimum of 20 feet of asphalt from the center line of the existing right-of-way to the new curb, install storm drainage, curb, and gutter, a 4.5 foot wide planter strip with street trees 30 feet on-center, and a 5 foot wide sidewalk. Also, storm drainage collection and conveyance would be installed on the south side of the street improvements as necessary (See Attachment 3, Development Standards/Street and Pedestrian Improvement Conditions).*

In addition, the Public Works Department is requiring that the applicant install improvements to 8th Street South, adjacent to the site, including widening the street to 14 feet from center line to face of curb, and installing storm drainage, curb, gutter, a 4.5 foot wide planter strip with street trees 30 feet on-center, and a 5 foot wide sidewalk.

Although not part of this short plat application, the Public Works Department has required the builder of the new home being constructed on the RS 8.5 zoned site immediately west of the subject short plat site, to install the same street improvements along their portion of the 5th Avenue South right-of-way. The builder submitted a performance bond to the Public Works Department for the installation of these street improvements prior to issuance of a building permit for the house. With the installation of the required street improvements described above, the street connection between 8th Street South to the east and 6th Street South to the west would be complete.

In 1991, the City proposed to open the 5th Avenue South right-of-way in conjunction with the proposed Everest Park improvements. Primarily due to neighborhood opposition, the City Council decided not to open the right-of-way at that time. Since 1991 there has not been any development activity in the neighborhood that caused the opening of the street to be reexamined until the subject short plat application and adjacent building permit were submitted.

As discussed below under Section II.E.5, the recommended opening of 5th Avenue South is supported by the Subdivision Ordinance Sections 22,28,070 (Blocks – Maximum length) and 22.28.090 (Access--Right-of-way-Adjacent to plat), the Kirkland Zoning Code, Chapter 110 (Required Public Improvements), and the Comprehensive Plan's Framework FG-9 (accessibility to pedestrians, bicyclists within and between neighborhoods, public spaces and business districts), Land Use Element Goal LU-3 and Policy LU-3.6 (land use pattern that promotes mobility with vehicular and non-motorized connections between adjacent properties), and Transportation Element Policies T-2.2, T-4.3 and T-4.5 (maintain system of local access streets for an inter-connected network for vehicular circulation and quick emergency access).

There are several parcels in the immediate neighborhood that are of sufficient size to allow future short platting to occur. In particular, there are two short plats in the neighborhood that are currently being reviewed by the City. The first is a 2-lot short plat located at 710 7th Street South (File SPL07-00004), and the second is a 2-lot short plat located at 685 8th Street South. As these short plats are developed, and as other parcels in the neighborhood are short platted, there will be an increasing need to improve vehicular access in the neighborhood.

The proposed street improvement will help to improve emergency vehicle access and response times, provide for improved bicycle and pedestrian circulation, and help disperse traffic in the neighborhood. Please see the memo from Rob Jammerman, City of Kirkland Development Engineering Manager, for further discussion of the issues related to the opening of the 5th Avenue South right-of-way (Attachment 5).

It should be noted that those who signed the petition letter are not legal parties of record, and therefore cannot appeal the decision of the short plat (KZC 145.60).

The third letter is from Douglas Thompson who resides at 507 8th Street South, one lot south of the 5th Avenue South right-of-way (See Attachment 4c). Mr. Thompson is also concerned with the requirement to open the 5th Avenue South right-of-way as part of the short plat. The letter also addresses a separate issue on a different short plat site unrelated to the subject application. City staff is following up on that issue with Mr. Thompson.

Staff Response: See above for a discussion of the required 5th Avenue South improvements.

The forth letter is from Lisa Cox, who resides at 535 8th Street South, located south of the short plat site (See Attachment 4d). Ms. Cox is also concerned with the impacts to the neighborhood with the opening of the 5th Avenue South right-of-way.

Staff Response: See above for a discussion of the required 5th Avenue South improvements.

The fifth letter is from Julia Livas who resides at 842 8th Avenue South, located south of the short plat site (See Attachment 4e). Ms. Livas is supportive of the opening of the 5th Avenue South right-of-way. A summary of the reasons provided include (1) By not opening the street the City would be taking value from private property, and denying property owners the right to normal street access; (2) The new street improvements would provide for guest parking on the street; (3) Better access for waste management trucks; (4) Neighborhood traffic would be better distributed; (5) There are other methods to control traffic such as speed bumps, lower speed limits, and other traffic control devices; and (6) The existing nature trail may not be maintained after existing residents move. Due to the condition of the existing trail, a formal sidewalk is preferred.

Staff Response: See above for a discussion of the required 5th Avenue South improvements.

D. APPROVAL CRITERIA

1. Facts:

Municipal Code Section 22.20.140 states that the Planning Director may approve a short subdivision only if:

a. There are adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supplies, sanitary waste, power service, parks, playgrounds, and schools; and

b. It will serve the public use and interest and is consistent with the public health, safety, and welfare. The Planning Director shall be guided by the policy and standards and may exercise the powers and authority set forth in RCW 58.17.

Zoning Code Section 145.45 states that the Planning Director may approve a short subdivision only if:

a. It is consistent with all applicable development regulations, including but not limited to the Zoning Code and Subdivision Code, and to the extent there is no applicable development regulation, the Comprehensive Plan.

2. Conclusion: The proposal complies with Municipal Code Section 22.20.140 and Zoning Code Section 145.45. It is consistent with the Comprehensive Plan (See Section II.F). With the recommended conditions of approval, including the requirement to open 5th Avenue South, it is consistent with the Zoning Code and Subdivision regulations (See Section II. D), and there are adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supplies, sanitary waste, power service, parks, playgrounds, and schools. It will serve the public use and interest and is consistent with the public health, safety, and welfare because the proposal will retain the existing home on the site (Lot 1) while providing for additional infill development.

E. DEVELOPMENT REGULATIONS

1. Maximum Development Potential

a. Facts:

1) Zoning Code Section 90.135 provides that the maximum potential number of dwelling units for a site which contains a wetland, stream, minor lake, or their buffers shall be the buildable area in square feet divided by the minimum lot area per unit as specified by KZC Chapters 15 through 60, plus the area of the required sensitive area buffer in square feet divided by the minimum lot area per unit as specified in KZC Chapters 15 through 60, multiplied by the development factor derived from Subsection 2 of KZC Section 90.135.

2) The gross site area of the subject site is 24,375 square feet. The net site area, minus the 11 square foot on-site wetland, and the 1,309 square foot wetland buffer, is 23,055 square feet of buildable area. The maximum potential number of units allowed based on the buildable area only is 2.71 dwelling units. The site contains 1,309 square feet (5.3% of site) within the required sensitive area buffer. Based on KZC Section 90.135, Subsection 2, the allowable development factor is 100%. The maximum potential number of units allowed based on the wetland buffer area only is .154 units. The total maximum potential number of units allowed is 2.86 units. Since the shortage of site size is between 10 and 15 percent of the minimum lot size, subdivision into 3 lots may be considered under the provisions of Kirkland Municipal Code Section 22.28.030 (See Section II.E.3).

b. Conclusions: The proposal conforms to the maximum development potential requirements of KZC Section 90.135.

2. Natural Features - Significant Vegetation

a. Facts:

1) The tree preservation requirements are contained in Section 22.28.210 of the Kirkland Municipal Code and Chapter 95 of the Kirkland Zoning Code (Tree Management and Required Landscaping).

2) Kirkland Municipal Code Section 22.28.210 states that the applicant shall design the plat so as to comply with the tree management requirements set forth in Chapter 95 of the Zoning Code, maximize the chances of survival of trees and associated vegetation designated for retention, and minimize potential hazards to life or property.

3) Kirkland Zoning Code Section 95.05 establishes the purpose of the tree regulations. The purposes include minimizing adverse impacts of land disturbing activities, improving air quality, reducing effects of noise pollution, providing protection from severe weather conditions, providing visual relief and screening, providing recreational benefits, providing habitat cover, food supply and corridors for a diversity of fish and wildlife, and providing economic benefit by enhancing property values and the region's natural beauty, aesthetic character, and livability of the community.

4) Kirkland Zoning Code Section 95.35.1 states that it is the City's objective to retain as many viable trees as possible while still allowing the development proposal to move forward in a timely manner. Zoning Code provisions have been established to allow development standards to be modified in order to retain viable significant trees.

5) Kirkland Zoning Code Section 95.35.2.b.3), requires that a Tree Plan III be submitted with new residential short plats, subdivisions, and related land surface modification applications. See Attachment 6 for an overview of the tree requirements associated with a Tree Plan III. Section 95.35.2.b.1).c).iv requires that for lots from a short subdivision with an approved Tree Plan III, the tree information shall be transferred over from the short plat to the individual building permit for each lot, and the applicant must comply with the applicable Tree Plan III requirements.

6) Kirkland Zoning Code Section 95.35.4 establishes the site design review standards for tree retention. Tree retention shall not reduce the applicant's development potential (lot coverage, floor area ratio, and density) allowed by the Kirkland Zoning Code. In order to retain trees, the applicant should pursue provisions in Kirkland's codes that allow development standards to be modified. In addition, the Planning Official is authorized to require site plan alterations to retain Type 1 trees. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways easements or utilities.

7) Kirkland Zoning Code Section 95.35.5 establishes the minimum tree density requirements. For a short plat or subdivision, with an approved Tree Plan III, the tree density shall be calculated based on the entire site area excluding existing City right-of-way, or areas to be dedicated as City right-of-way. The minimum tree density is 30 tree credits per acre. The gross site area is 24,375 square feet or .56 acres. Based on the requirement of 30 tree credits per acre, the proposed short plat site must provide a minimum of 17 tree credits. The site contains a total of 67 tree credits.

8) The applicant submitted a Tree Plan III with the subject short plat application

(See Attachment 7). The Tree Plan has been reviewed by the City's Arborist There are a total of 6 significant trees on the site, 5 of which are viable trees. The Tree Plan III provides that 4 of the viable trees are Type 2 trees, and 1 is a Type 3. The applicant is proposing to retain all of the viable trees with the approval of the short plat. Additional trees may be required to be removed in conjunction with other required short plat improvements, and with the building permits on each of the new single family lots.

9) Zoning Code Section 115.75.3.a states that a land surface modification is permitted only if it has been approved as part of a valid development permit, subdivision, or substantial development permit.

b. Conclusions:

1) The applicant has provided a Tree Plan III with the short plat application that has been reviewed by the City's Arborist. There are 5 viable trees on the site, 4 Type 2 trees and 1 Type 3 tree. A total of 67 tree credits are shown on the tree plan. The minimum of 17 tree credits is met for the short plat.

2) The applicant should retain all of the viable trees on the site at the short plat approval stage. In addition, all viable trees should be retained with the required Land Surface Modification Permit, except for those trees needed to be removed for installation of the new public road, and other plat infrastructure improvements.

3) The applicant should retain all of the viable trees on the site during the development of each single family lot except those trees required to be removed for the construction of the house and other associated site improvements.

4) The Planning Official is authorized to require site plan alterations to retain Type 1 trees, including modifications to development standards and minor adjustments to the location of buildings, driveways, access ways, walkways, easements and utilities.

5) The applicant should follow the arborist's recommendations contained in the Tree Plan III submitted with the short plat application during installation of the required short plat improvements, and during development of each single family lot.

6) If after selecting the trees to be retained at each phase in the development, the site falls below the minimum required tree density, replanting of trees will be required to meet the minimum density.

3. Lot Size

a. Fact: Municipal Code Section 22.28.030 requires that all lots meet the minimum size requirements established for the property in the Kirkland Zoning Code or other regulatory documents. If a property is smaller than that required for subdivision by an amount greater than 10 percent and less than or equal to 15 percent of the minimum lot size for the zoning district as shown on the Kirkland Zoning Map, subdivision may still proceed as long as: (a) The shortage of area is spread evenly over all of the lots in the subdivision (unless an existing structure or other physical feature such as a sensitive area or easement makes even

distribution of the size shortage difficult); (b) All lots shall have a minimum lot width at the back of the required front yard of no less than 50 feet (unless the garage is located at the rear of the lot or the lot is a flag lot; (c) In zoning districts for which the Zoning Code establishes a floor area ratio (FAR) limitation, a covenant is signed prior to recording of the short plat ensuring that building on the new lots will comply with an FAR restriction at least ten percentage points less than that required by the zoning district as shown on the Kirkland Zoning Map; and (d) If any lot is smaller than the minimum lot size for the zoning district by an amount greater than 5% of the minimum lot size, the subdivision shall be reviewed and decided using Process IIB.

The RS 8.5 zone has a minimum lot size of 8,500 square feet. A total of 25,500 square feet would normally be required for the proposed three lot short plat. The existing site area is 24,375 square feet, which is 1,125 square feet (13.2 percent) less than that normally required, but the site area meets the lot size reduction provision noted above.

All three proposed lots are approximately the same size, with Lot 1 being slightly larger to allow the single family home that was proposed to be moved to Lot 1 to meet the required structure setback, FAR, and site coverage requirements. All proposed lots have a minimum width at the back of the required front yard of no less than 50 feet. All proposed lots are larger than 5 percent less than the minimum 8,500 square foot minimum lot size of the RS 8.5 zone (Minimum of 8,075 square feet), so the above Process IIB restriction does not apply.

b. Conclusion: The proposed short plat conforms to the lot size reduction provisions of Municipal Code Section 22.28.030 provided that the applicant sign and record with King County, a covenant limiting the future homes constructed on the lots to a maximum FAR of at least 10 percentage points less than normally required, or a maximum of 40%.

4. Approval Criteria (Wetland Buffer Modification)

a. Fact: Pursuant to KZC Section 90.60, the applicant is requesting approval of a 1/3 reduction of the normally required 25 foot wide Type III Wetland Buffer in a Secondary Basin down to 16.5 feet in width. KZC Section 90.60 establishes that a Type III Wetland Buffer may only be granted by the Planning Official when the proposed development is consistent with all of the following criteria:

1. Criterion 1: It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc. 1998).
2. Criterion 2: It will not adversely affect water quality.
3. Criterion 3: It will not adversely affect fish, wildlife, or their habitat.
4. Criterion 4: It will not have an adverse effect on drainage and/or storm water detention capabilities.
5. Criterion 5: It will not lead to unstable earth conditions or create erosion hazards.
6. Criterion 6: It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole.

7. Criterion 7: Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat.

8. Criterion 8: All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate.

9. Criterion 9: There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

2. Conclusion: Pursuant to the attachments included with this report, including the proposed site plan (Attachment 2), The Watershed Company Wetland Delineation Report dated August 10, 2006 (Attachment 8), the Wetland Buffer Mitigation Plan prepared by Aquatica Environmental Consulting, LLC dated November 1, 2006 (Attachment 9), and The Watershed Company Wetland Buffer Modification Review Letter dated January 25, 2007 (Attachment 10), the proposed development is consistent with the above criteria for a wetland buffer modification.

   The applicant should follow the enhancement and monitoring plan as identified in Attachment 9, along with the recommended changes outlined by The Watershed Company in Attachment 10.

5. Opening of the 5th Avenue South right-of-way

   a. Facts:

      1) The Kirkland Subdivision Section 22.28.070 states that generally blocks should not exceed 500 feet in length. Blocks that are more than 750 feet in length should allow for mid block pedestrian access.

      2) 8th Street South is a "super block" of 2,762.14 lineal feet (over 1/2 mile in length) with no through connection between 9th Ave South to the south and Kirkland Ave far to the northeast. The 50 foot wide unimproved right-of-way of 5th Ave South is the only through block connection along 8th Street South that can be made using an existing dedicated street. Opening 5th Avenue South would break the super block into a 1,240.02 lineal foot section in the southern portion and a 1,522.12 lineal foot section in the northern section (see Attachments 1 and 5).

      3) The Kirkland Subdivision Section 22.28.090 requires that the applicant shall comply with the requirements of the Zoning Code with respect to dedication and improvements of rights-of-way adjacent to the plat.

      4) The Zoning Code Sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of way abutting the subject property, including 5th Ave. South. Sections 110.30 through 110.50 establish what street improvements are required. The Development Standards in Attachment 3 lists the required improvements for 5th Ave South, including.

         A minimum of 20 feet of asphalt (14 feet of asphalt from the centerline to the new curb). On the north side of the new asphalt, install storm drainage, curb and gutter, a 4.5 foot wide planter strip with street trees 20 feet on center, and a 5 foot wide sidewalk shall be installed. On the south side of the street improvements, install storm drainage collection and conveyance as necessary.

5) The Comprehensive Plan has numerous policies that support opening of the 5th Ave South right of way:

- Framework Goal FG-9: "Provide accessibility to pedestrians, bicyclists and alternative mode users within and between neighborhoods, public spaces and business districts and to regional facilities."

- The Land Use Element's Goal LU-3: "Provide a land use pattern that promotes mobility and access to goods and services and physical activity." Policy LU-3.6 says to "Encourage vehicular and non-motorized connections between adjacent properties."

- The Transportation Element's Policy T-2.2: "Promote a comprehensive and interconnected network of pedestrian and bike routes within the neighborhoods." Policy: T-4.3: "Maintain a system of arterials, collectors, and local access streets that forms an inter-connected network for vehicular circulation." Policy T-4.5 "Maintain and improve convenient access for emergency vehicles."

6) Looking at the street network in the area, opening of 5th Ave South would provide convenient vehicle access and reduce driving distances for the property owners along the northern half of 8th Street South. Opening of the street would also disperse the neighborhood traffic along 8th Street South more evenly so that the neighbors on each end of 8th Street South would not have all of the traffic crossing in front of their properties.

7) Looking at the street network in the area, opening of the street would provide for safe and convenient pedestrian and bicycle connections at mid block along 8th Street South. The existing unimproved 5th Ave South has an informal pedestrian connection with no sidewalks and no stop sign at 8th Street South and 5th Ave South.

8) A new home is currently under construction on the lot to the west of the proposed short plat and on the north side of 5th Ave South. The same right-of-way improvements will be required to be installed on 5th Avenue South by the applicant for the new home if this short plat is required to install the improvements. With these two actions, 5th Ave South could then be open for use.

9) Land use patterns in the immediate neighborhood will be changing in the near future. Several parcels in the immediate neighborhood are of sufficient size to allow future short platting to occur. In particular, there are two short plats in the neighborhood that are currently being reviewed by the City. The first is a 2-lot short plat located at 710 7th Street South (File SPL07-00004), and the second is a 2-lot short plat located at 685 8th Street South. As these two short plats are developed, and as other parcels in the neighborhood are short platted, there will be an increasing need to improve vehicular access in the neighborhood.

b. Conclusions: Based on the goals and policies in the Comprehensive Plan and regulations found in the Subdivision Ordinance and the Zoning Code, 5th Avenue South should be opened and improved. By reducing the super block size almost in half, opening of 5th Avenue South would provide a convenient through vehicular and non-motorized connection for the local neighborhood

and a much quicker emergency services route. Opening of the street would disperse traffic more evenly in the neighborhood with less impact on the homes on each end of the super block and would reduce the vehicle driving distance for those residents located in the center of the super block. As the land use patterns change in the neighborhood and redevelopment of the larger lots in the area results in more homes, there will be a greater need to disperse the neighbor traffic with more through connections.

F. COMPREHENSIVE PLAN

1. Fact: The subject property is located within the Everest Neighborhood. The Land Use Plan on page XV.E-2, Figure E-1, designates the subject property for low-density residential, 5 dwelling units per acre (See Attachment 11). The proposed density is approximately 5.80 dwelling units per acre.

2. Conclusion: The proposal is consistent with the Comprehensive Plan designation.

G. DEVELOPMENT REVIEW COMMITTEE

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards Sheet, Attachment 3.

2. Conclusion: The applicant should follow the requirements set forth in Attachment 3.

III. SUBSEQUENT MODIFICATIONS

Modifications to approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

IV. APPEALS AND JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for appeals. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

A. APPEALS

Appeal to the Hearing Examiner:

Section 145.60 of the Zoning Code allows the Planning Director's decision to be appealed by the applicant or any person who submitted written comments or information to the Planning Director. A party who signed a petition may not appeal unless the party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., APRIL 10, 2007, fourteen (14) calendar days following the postmarked date of distribution of the Director's decision.

B. JUDICIAL REVIEW

Section 145.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

V. LAPSE OF APPROVAL

Under Section 22.20.370 of the Subdivision Ordinance, the short plat must be recorded with King County within four (4) years following the date of approval, or the decision becomes void; provided, however, that in the event judicial review is initiated, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the short plat.

VI APPENDICES

Attachments 1 through 11.

1. Vicinity Map
2. Boundary and Topographic Survey
3. Development Standards
4. Public Comments
    a. Letter signed by Beverly and Jerry Gilbert, Tom and Sherri Lynn, and Karen Tipp with a petition letter attached to the letter.
    b. Letter from Beverly Gilbert
    c. Letter from Douglas Thompson
    d. Letter from Lisa Cox
    e. Letter from Julie Livas
5. Memo From Rob Jammerman, City of Kirkland, Development Engineering Manager
6. Tree Plan III Handout
7. Arborist Report prepared by Northwest Woodlands, Urban Forestry Consultants, Inc.
8. Wetland Delineation Report prepared by the Watershed Company
9. Wetland Buffer Mitigation Plan prepared by Aquatica Environmental Consulting, LLC
10. Wetland Buffer Modification review letter prepared by The Watershed Company
11. Everest Land Use Plan on Page XV.E-2, Figure E-1

VII. PARTIES OF RECORD

David Aubry, 341 8th Street South, Kirkland, Wa. 98033
Douglas Thompson, 507 8th Street South, Kirkland, Wa. 98033
Beverly and Jerry Gilbert, 504 7th Street South, Kirkland, Wa. 98033
Julie Livas, 842 8th Avenue South, Kirkland, Wa. 98033
Lisa Cox, 535 8th Street South, Kirkland, Wa. 98033
Tom and Sherri Lynn, 501 8th Street South, Kirkland, Wa. 98033
Karen Tipp, 709 7th Street South, Kirkland, Wa. 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

(Note that those who signed only the Petition letter are not classified as parties of record per KZC 145.60)

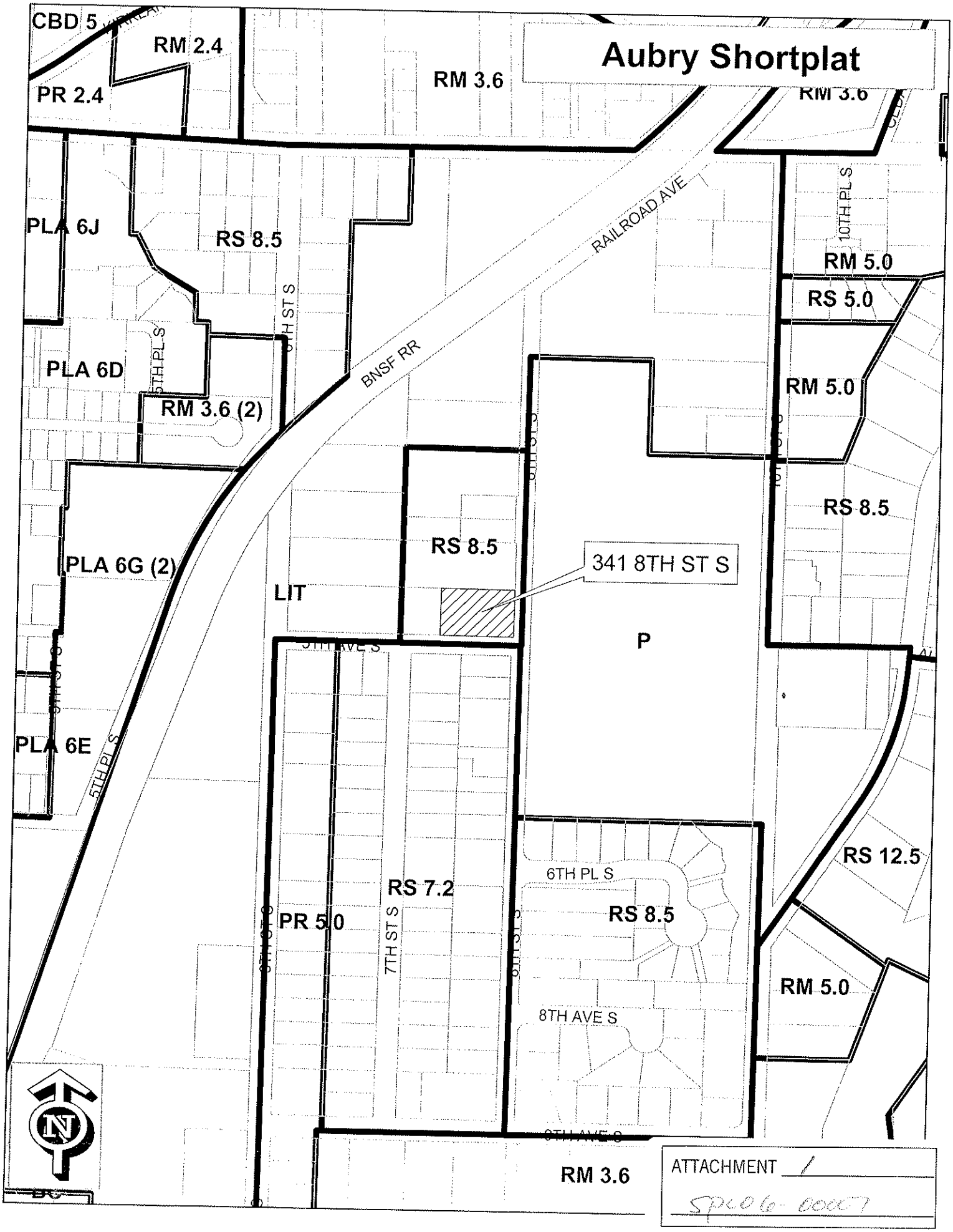
Review by Planning Director:

I concur ☐ I do not concur ☐

Comments: _____

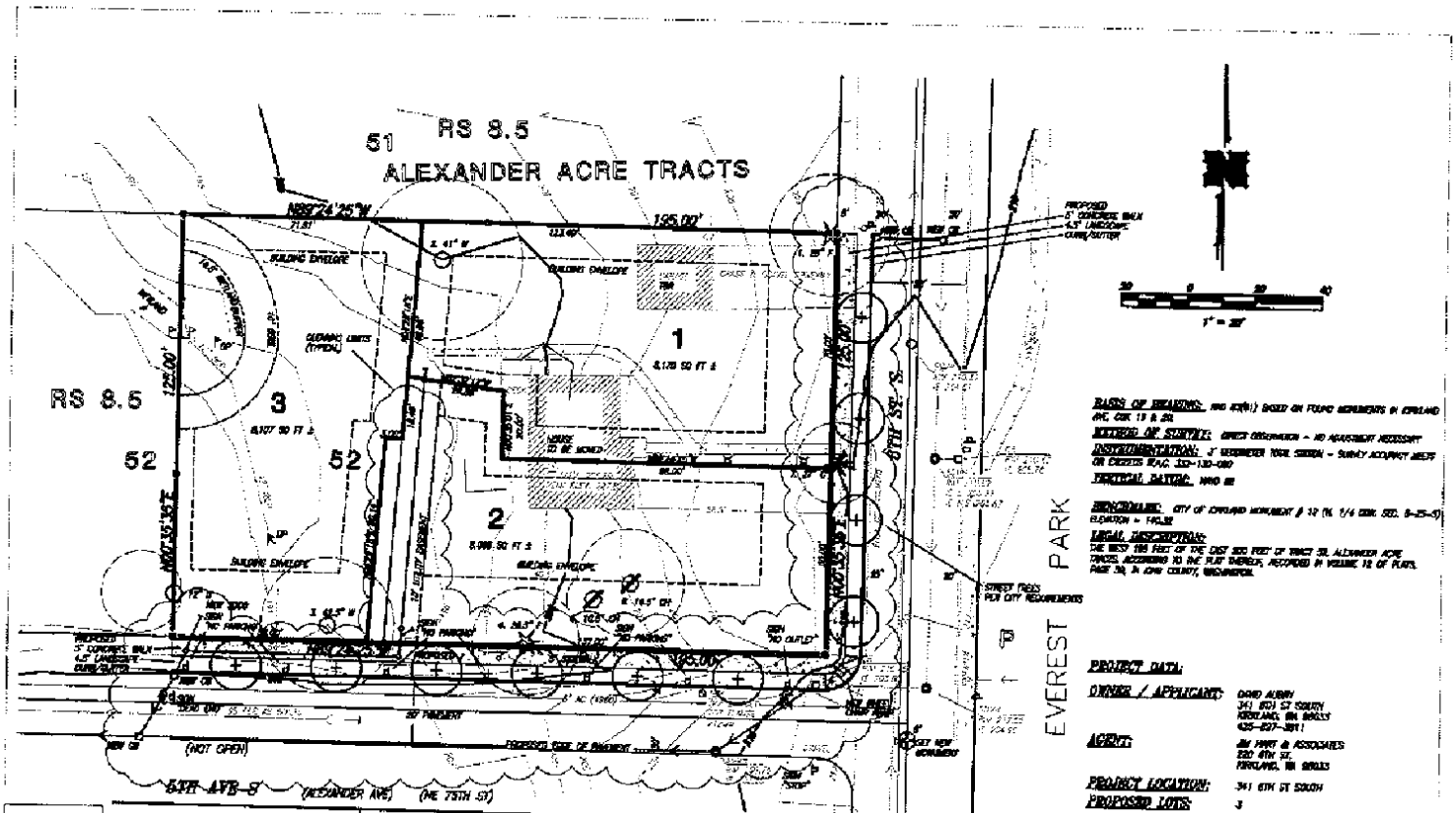
_____

_____
Eric R. Shields Date



ATTACHMENT 1

SP06-0007



BASIS OF BEARINGS: WAC 332(11) BASED ON FOUND MONUMENTS IN KIRKLAND AVE. COR. 13 & 20.

METHOD OF SURVEY: DIRECT OBSERVATION – NO ADJUSTMENT NECESSARY

INSTRUMENTATION: 3" WESTMINSTER TOOL SERIES – SURVEY ACCURACY MEETS OR EXCEEDS WAC 332-130-090

VERTICAL DATUM: NAVD 88

BENCHMARK: CITY OF KIRKLAND MONUMENT # 32 (N. 1/4 COR. SEC. 9-25-5) ELEVATION = 140.38

LEGAL DESCRIPTION:
THE WEST 195 FEET OF THE EAST 300 FEET OF TRACT 51, ALEXANDER ACRE TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 12 OF PLATS, PAGE 34, IN KING COUNTY, WASHINGTON.

PROJECT DATA:

OWNER / APPLICANT: DAVID AUBRY
341 6TH ST SOUTH
KIRKLAND, WA 98033
425-827-3911

AGENT: JIM HART & ASSOCIATES
220 4TH ST.
KIRKLAND, WA 98033

PROJECT LOCATION: 341 6TH ST SOUTH

PROPOSED LOTS: 3

AREA:
TOTAL AREA = 24,376 SQ. FT. ±
LOT 1 AREA = 8,178 SQ. FT. ±
LOT 2 AREA = 8,091 SQ. FT. ±
LOT 3 AREA = 8,107 SQ. FT. ±

TAX PARCEL NO.: 072000-0200

ZONING: RS 8.5

WATER: CITY OF KIRKLAND

SEWER: CITY OF KIRKLAND

PHONE: VERIZON

SCHOOLS: LAKE WASHINGTON SCHOOL DISTRICT #414

GAS: PUGET SOUND ENERGY CO.

ELECTRICITY: PUGET SOUND ENERGY CO.

LEGEND

NE IN CREK LOCATED	PROPERTY LINE
10/20 1/20/06	ADJACENT PROPERTY LINE
	EXISTING R.O.W.
	R.O.W. CENTERLINE
	FENCE
	STORM DRAIN
SE	SANITARY SEWER
T	
	BSBL
	WETLAND BUFFER
	WETLAND BOUNDARY
	B.S.B.L. BUILDING SETBACK LINE

CONIFER
DECIDUOUS TREE
COMPOSITE TREE

D DECIDUOUS
C CONIFER
T TIP
W WALK
W WILLOW

PERMIT UP ON 7/20/06
1 WETLAND PLAN

11 RS 7.2
W.B. FEHR'S KIRKLAND HOMELAND TRACTS

TREE INFORMATION LEGEND

EXISTING SIGNIFICANT TREES ON SITE	= 7 (100%)
TREES TO BE REMOVED	= 3 (43%)
TREES TO BE REMAINED	= 4 (57%)

1
10/25/06 ADDED WETLAND BUFFER PER AQUATICS, REVISED BUILDING ENVELOPE & B.S.B.L.
7/21/06 REVISED LOTS 1 & 2
7/20/06 REVISED LOTS 1 & 2, ADDED WETLANDS PLANS
4/21/06 REVISED LOTS 2 & 3

JAMES A. SAEY
STATE OF WASHINGTON
PROFESSIONAL LAND SURVEYOR

JIM HART AND ASSOCIATES
PROFESSIONAL LAND SURVEYORS
220 - 4th St. KIRKLAND, WASHINGTON 98033
PHONE (425) 822-4121

PRELIMINARY SHORT PLAT
FOR: DAVID AUBRY
341 6TH ST SOUTH
KIRKLAND, WA. 98033

NW ¼ NE ¼ Section 9 Twp 25 N.R. 5 E.W.M.

06-05-2006
SCALE: 1"=20' | DATE: 2/15/06
FIELD BOOK: 402
DRAWN BY: RJW
CHECKED BY: RSV
APPVD BY: JAH
FIELDWORK NO.: 06-03
SHEET: 1/1

ATTACHMENT 2

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

Date: 12/15/2006

DEVELOPMENT STANDARDS
CASE NO.: SPL06-00007
PCD FILE NO.:SPL06-00007

You can review your permit status and conditions at www.kirklandpermits.net

PUBLIC WORKS CONDITIONS

Permit Information
Permit #: SPL06-00007
Project Name: Aubry Short Plat
Project Address: 341 8th St. S.
Date: June 3, 2006

Public Works Staff Contacts
Land Use and Pre-Submittal Process:
Rob Jammerman, Development Engineering Manager
Phone: 425-587-3845 Fax: 425-587-3807
E-mail: rjammer@ci.kirkland.wa.us

Building and Land Surface Modification (Grading) Permit Process:
John Burkhalter, Senior Development Engineer
Phone: 425-587-3846 Fax: 425-587-3807
E-mail: jburkhal@ci.kirkland.wa.us

General Conditions:

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

2. This project will be subject to Public Works Permit and Connection Fees. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The fees can also be review the City of Kirkland web site at www.ci.kirkland.wa.us. The applicant should anticipate the following fees:
o Water and Sewer connection Fees (paid with the issuance of a Building Permit)
o Side Sewer Inspection Fee (paid with the issuance of a Building Permit)
o Water Meter Fee (paid with the issuance of a Building Permit)
o Right-of-way Fee
o Review and Inspection Fee (for utilities and street improvements).
o Traffic Impact Fee (paid with the issuance of Building Permit). For additional information, see notes below.

3. Because this project is exempt from SEPA, it is also exempt from concurrency review.

ATTACHMENT 3
SPL06-00007

4. Building Permits associated with this proposed project will be subject to the traffic impact fees per Chapter 27.04 of the Kirkland Municipal Code. The impact fees shall be paid prior to issuance of the Building Permit(s).

5. Any existing single family homes within this project which are demolished will receive a Traffic Impact Fee credit. This credit will be applied to the first Building Permit that is applied for within the subdivision (and subsequent Building Permits if multiple houses are demolished). The credit amount for each demolished single family home will be equal to the most currently adopted Traffic Impact Fee schedule.

6. All civil engineering plans which are submitted in conjunction with a building, grading, or right-of-way permit must conform to the Public Works Policy titled ENGINEERING PLAN REQUIREMENTS. This policy is contained in the Public Works Pre-Approved Plans and Policies manual.

7. All street improvements and underground utility improvements (storm, sewer, and water) must be designed by a Washington State Licensed Engineer; all drawings shall bear the engineers stamp.

8. All plans submitted in conjunction with a building, grading or right-of-way permit must have elevations which are based on the King County datum only (NAVD 88).

9. A completeness check meeting is required prior to submittal of any Building Permit applications.

10. All subdivision recording mylar's shall include the following note:

Utility Maintenance: Each property owner shall be responsible for maintenance of the sanitary sewer or storm water stub from the point of use on their own property to the point of connection in the City sanitary sewer main or storm water main. Any portion of a sanitary sewer or surface water stub, which jointly serves more than one property, shall be jointly maintained and repaired by the property owners sharing such stub. The joint use and maintenance shall "run with the land" and will be binding on all property owners within this subdivision, including their heirs, successors and assigns.

Public Right-of-way Sidewalk and Vegetation Maintenance: Each property owner shall be responsible for keeping the sidewalk abutting the subject property clean and litter free. The property owner shall also be responsible for the maintenance of the vegetation within the abutting landscape strip. The maintenance shall "run with the land" and will be binding on all property owners within this subdivision, including their heirs, successors and assigns.

Sanitary Sewer Conditions:

1. The existing sanitary sewer main within the 5th Ave S. and 8th St. So. is adequate to serve all the lots within the proposed project however, the sewer main in 5th Ave. So. Currently terminates with a temporary clean-out. As part of this development, this clean-out will need to be replaced with a manhole.

2. Provide a 6-inch minimum side sewer stub to each lot. The existing side sewer stub can be used if it can be located, and determined to be in good condition via a video inspection.

Water System Conditions:

1. The existing water main in the public right-of-way along the front of the subject property is adequate to serve this proposed development.

2. Provide a separate 1" minimum water service from the water main to the meter for each lot; City of Kirkland will set the water meter. The existing water service may be used provided that it is in the right location, is not galvanized, and is sized adequately to serve the building (per the Plumbing Code).

Surface Water Conditions:

1. Provide temporary and permanent storm water control per the 1998 King County Surface Water Design Manual. Contact City of Kirkland Surface Water Staff at (425) 587-3800 for help in determining drainage review requirements.

Small Site Drainage Review for Short Plats
The drainage design for short plats that create less than 5,000 square feet of new impervious surface area and clear less than 2 acres or 35% of the site, whichever is greater, should follow Policy D-3 of the Department of Public Works Pre-Approved Plans. Projects this size may require Targeted Drainage Review per Section 1.1.2 of the 1998 King County Surface Water Design Manual, depending on site conditions.

Full Drainage Review for Short Plats
The drainage design for short plats that create more than 5,000 square feet of new impervious surface area must comply with Core Requirements #1 - #8 in the 1998 King County Surface Water Design Manual.

2. Storm detention calculations for the entire site are required.

3. If a detention system is required, it will likely need to be placed in the front yard setback area on lots 2 and 3 and be encompassed in a 20 ft. wide drainage easement.

4. Provide a level one off-site analysis (based on the King County Surface Water Design Manual, core requirement #2).

5. If more than 5,000 square feet of new impervious area, subject to vehicular use, is created, provide storm water quality treatment per the most current City-adopted Surface Water Design Manual. Given the required street improvements, it appears that water quality treatment may be required.

6. The west portion of the lot is much lower than the available drainage system. Additional engineering study and design will be necessary to determine how to best convey the drainage from the lots to the City storm system. This additional work must be completed and reviewed by the Public Works Department prior to recording of the Short Plat or issuance of any Building or Land Surface Modification Permits.

7. As part of the roof and driveway drainage conveyance system for each new house, each lot shall contain a 10 ft. long (min.) infiltration trench with an overflow to the public storm drain system. These infiltration trenches shall be installed with the individual new houses.

8. Provide an erosion control plan with Building or Land Surface Modification Permit application. The plan shall be in accordance with the 1998 King County Surface Water Design Manual.

9. Construction drainage control shall be maintained by the developer and will be subject to periodic inspections. During the period from April 1 to October 31, all denuded soils must be covered within 15 days; between November 1 and March 31, all denuded soils must be covered within 12 hours. If an erosion problem already exists on the site, other cover protection and erosion control will be required.

10. Provide a separate storm drainage connection for each lot. All roof and driveway drainage must be tight-lined to the storm drainage system.

Street and Pedestrian Improvement Conditions:

1. The subject property abuts 8th St. South (a Collector type street) and 5th Ave. So (an unopened Neighborhood Access type street). Zoning Code sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:

8th St. So

A. Widen the street to 14 ft. from centerline to face of curb.
B. Install storm drainage, curb and gutter, a 4.5 ft. planter strip with street trees 30 ft. on-center, and a 5 ft. wide sidewalk.

5th Ave. So.
A. Install a minimum of 20 ft of asphalt (14 ft of asphalt from the centerline to the new curb).
B. On the north side of the new asphalt, install storm drainage, curb and gutter, a 4.5 ft. planter strip with street trees 30 ft. on-center, and a 5 ft. wide sidewalk.
C. Install storm drainage collection and conveyance on the south side of the street improvements as necessary.
Note: The Public Works Department has received many phone calls from neighbors that are concerned about the opening of 5th Ave. So between 7th St. So. and 8th St. So. The benefits to the opening 5th Ave. So. include better emergency access, dispersion of local traffic serving the immediate neighborhood along 8th Street South, and pedestrian and bicycle connections, and much more convenient access for those living near the unopened right-of-way of 5th Ave So..
Looking at the road network and the direction and volumes of traffic in the area, there appears to be no reason that the opening of 5th Ave South would encourage cut through traffic as an alternative to using 6th Street South.

We have explained to the neighbors that "street connectivity" is supported in the Comprehensive Plans and Public Works can not justify waiving the street connection without direction from the City Council. We have suggested to the neighbors that they use the existing appeal process so that this matter can be presented to the City Council. If the City Council recommends against the street connection, an 8 ft. wide paved pedestrian and bicycle path should still be installed in the 5th Ave. So. right-of-way.

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

3. The driveway for each lot shall be long enough so that parked cars do not extend into the access easement or right-of-way (20 ft. min.).

4. All street and driveway intersections shall not have any visual obstructions within the sight distance triangle. See Public Works Pre-approved Policy R.13 for the sight distance criteria and specifications.

5. Prior to the final of the building or grading permit, pay for the installation of stop and street signs at the new intersection.

6. Install "NO PARKING ANYTIME" signs along one side of the street improvements on 5th Ave. So.

7. Install a new right-of-way centerline monument at the intersection of 5th Ave. So and 8th St. So.

8. It shall be the responsibility of the applicant to relocate any above-ground or below-ground utilities which conflict with the project associated street or utility improvements.

9. Underground all new and existing on-site utility lines and overhead transmission lines.

10. Zoning Code Section 110.60.9 establishes the requirement that existing utility and transmission (power, telephone, etc.) in rights-of-way adjacent to the site must be underground. The Public Works Department shall determine if undergrounding transmission lines in the adjacent right-of-way is feasible or not. In this case, it has been determined that it is feasible to underground the lines in conjunction with installation of the street improvements. All of the overhead lines along 8th St. So. and 5th Ave. So. shall be converted to underground.

11. New street lights are required per Puget Power design and Public Works approval. Design must be submitted prior to issuance of a grading or building permit.

*** FIRE DEPARTMENT CONDITIONS ***
The Fire Department has no specific conditions for this short plat.

Available fire flow in the area is approximately 1,400 gpm, which is adequate for development.

Per Kirkland Municipal Code, all new buildings which are 5,000 gross square feet or larger require fire sprinklers. This requirement also applies to new single family homes; the garage is included in the gross square footage. (This comment is included in the short plat conditions for informational purposes only.)

BUILDING DEPARTMENT COMMENTS

Prior to issuance of Building, Demolition or Landsurface Modification permit applicant must submit a proposed rat baiting program for review and approval. Kirkland Municipal Ordinance 9.04.050

Building permits submitted on July 1, 2004 or after must comply with the 2003 International Building, Residential and Mechanical Codes and the 2003 Uniform Plumbing Code as adopted and amended by the State of Washington and the City of Kirkland.

Structure must comply with Washington State Energy Code ; and the Washington State Ventilation and Indoor Air Quality Code.

Plumbing meter and service line shall be sized in accordance with the 2003 UPC

Demolition permit required for removal of existing structures, if applicable. (If desired, the applicant has the option of combining demolition activity with a building permit .)

A separate house moving inspection permit (HOM) is required for house relocation.

A separate foundation permit is required for the new foundation for the moved house plans and details must be submitted to show all structural loads are transfered to bearing soil.

For more information contact Building Department Permit Center 425-587-3600.

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.828.1257
www.ci.kirkland.wa.us

DEVELOPMENT STANDARDS LIST
File: Aubry Short Plat, SPL06-00007
Subdivision Standards

22.28.030 Lot Size. Unless otherwise approved in the preliminary subdivision or short subdivision approval, all lots within a subdivision must meet the minimum size requirements established for the property in the Kirkland zoning code or other land use regulatory document.

22.28.130 Vehicular Access Easements. The applicant shall comply with the requirements found in the Zoning Code for vehicular access easements or tracts.

22.28.210 Significant Trees. The applicant shall design the plat so as to comply with the tree management requirements set forth in Chapter 95 of the Kirkland Zoning Code. Kirkland Zoning Code Section 95.35 states that it is the City's objective to retain as many viable trees as possible while still allowing the development proposal to move forward in a timely manner. The Planning Official is authorized to require site plan alterations to retain Type 1 trees provided the alterations do not reduce the applicant's development potential allowed by the Kirkland Zoning Code. The applicant shall retain all viable trees at the short plat approval stage and all viable trees with the required Land Surface Modification Permit, except for those trees needed to be removed for installation of the plat infrastructure improvements. The applicant shall also retain all viable trees during the development of each single family lot except for those trees required to be removed for the construction of the house and other associated site improvements. A Tree Plan III was submitted with the short plat. There are 6 significant trees on the site, 5 of which are viable Type 2 and 3 trees. The applicant is proposing to save all viable trees with the short plat approval. A minimum of 17 tree credits are required for the subject site. If at any stage of development, tree retention on the site falls below the minimum required tree density, replanting shall be required per KZC Section 95.35.

22.32.010 Utility System Improvements. All utility system improvements must be designed and installed in accordance with all standards of the applicable serving utility.

22.32.030 Stormwater Control System. The applicant shall comply with the construction phase and permanent stormwater control requirements of the Municipal Code.

22.32.050 Transmission Line Undergrounding. The applicant shall comply with the utility lines and appurtenances requirements of the Zoning Code.

22.32.060 Utility Easements. Except in unusual circumstances, easements for utilities should be at least ten feet in width.

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. The impact fee for new single-family dwelling units is $612. The impact fee for new multifamily dwelling units is $430. Exemptions and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060.

Prior to Recording:

22.20.362 Short Plat - Title Report. The applicant shall submit a title company certification which is not more than 30 calendar days old verifying ownership of the subject property on the date that the property owner(s) (as indicated in the report) sign(s) the short plat documents; containing a legal description of the entire parcel to be subdivided; describing any easements or restrictions affecting the property with a description, purpose and reference by auditor's file number and/or recording number; any encumbrances on the property; and any delinquent taxes or assessments on the property.
22.20.366 Short Plat - Lot Corners. The exterior short plat boundary and all interior lot corners shall be set by a registered land surveyor. If the applicant submits a bond for construction of short plat improvements and installation of permanent interior lot corners, the City may allow installation of temporary interior lot corners until the short plat improvements are completed.
22.20.390 Short Plat - Improvements. The owner shall complete or bond all required right-of-way, easement, utility and other similar improvements.
22.32.020 Water System. The applicant shall install a system to provide potable water, adequate fire flow and all required fire-fighting infrastructure and appurtenances to each lot created.
22.32.040 Sanitary Sewer System. The developer shall install a sanitary sewer system to serve each lot created.
22.32.080 Performance Bonds. In lieu of installing all required improvements and components as part of a plat or short plat, the applicant may propose to post a bond, or submit evidence that an adequate security device has been submitted and accepted by the service provider (City of Kirkland and/or Northshore Utility District), for a period of one year to ensure completion of these requirements within one year of plat/short plat approval.

Prior to occupancy:
22.32.020 Water System. The applicant shall install a system to provide potable water, adequate fire flow and all required fire-fighting infrastructure and appurtenances to each lot created.
22.32.040 Sanitary Sewer System. The developer shall install a sanitary sewer system to serve each lot created.
22.32.90 Maintenance Bonds. A two-year maintenance bond may be required for any of the improvements or landscaping installed or maintained under this title.

Zoning Code Standards
90.45 Wetlands and Wetland Buffers. No land surface modification may take place and no improvement may be located in a wetland or its buffer, except as specifically provided in this Section.
90.125 Frequently Flooded Areas. No land surface modification may take place and no improvements may be located in a frequently flooded area, except as specifically provided in Chapter 21.56 of the Kirkland Municipal Code.
90.130 Physical Barrier. The applicant shall install a berm, curb, or other physical barrier when necessary to prevent direct runoff and erosion from any modified land surface into any stream, minor lake, or wetland.

95.45 Tree Installation Standards. All supplemental trees to be planted shall conform to the Kirkland Plant List. All installation standards shall conform to Kirkland Zoning Code Section 95.45.

105.10.2 Pavement Setbacks. The paved surface in an access easement or tract shall be set back at least 5 feet from any adjacent property which does not receive access from that easement or tract. An access easement or tract that has a paved area greater than 10 feet in width must be screened from any adjacent property that does not receive access from it. Screening standards are outlined in this section.

105.20 Required Parking. Two parking spaces are required for each single-family home.

110.60.8 Street Trees. All trees planted in the right-of-way must be approved as to species by the City. All trees must be two inches in diameter at the time of planting as measured using the standards of the American Association of Nurserymen with a canopy that starts at least six feet above finished grade and does not obstruct any adjoining sidewalks or driving lanes.

115.25 Work Hours. It is a violation of this Code to engage in any development activity or to operate any heavy equipment between the hours of 8 p.m. and 7 a.m., Monday through Saturday, and all day on Sundays or holidays which are observed by the City, unless written permission is obtained from the Planning Official.

115.40 Fence Location. Fences over 6 feet in height may not be located in a required setback yard. A detached dwelling unit abutting a neighborhood access or collector street may not have a fence over 3.5 feet in height within the required front yard. No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard, which is coincident with the high waterline setback yard.

115.42 Floor Area Ratio (F.A.R.) limits. Floor area for detached dwelling units is limited to a maximum floor area ratio in low density residential zones. See Use Zone charts for the maximum percentages allowed. This regulation does not apply within the disapproval jurisdiction of the Houghton Community Council.

115.43 Garage Setback Requirements for Detached Dwelling Units in Low Density Zones. The garage must be set back five feet from the remaining portion of the front façade of a dwelling unit if: the garage door is located on the front façade of the dwelling unit; and the lot is at least 50 feet wide at the front setback line; and the garage width exceeds 50 percent of the combined dimensions of the front facades of the dwelling unit and the garage. This regulation does not apply within the disapproval jurisdiction of the Houghton Community Council.

115.75.2 Fill Material. All materials used as fill must be non-dissolving and non-decomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.

115.90 Calculating Lot Coverage. The total area of all structures and pavement and any other impervious surface on the subject property is limited to a maximum percentage of total lot area. See the Use Zone charts for maximum lot coverage percentages allowed. Section 115.90 lists exceptions to total lot coverage calculations including: wood decks; access easements or tracts serving more than one lot that does not abut a right-of-way; detached dwelling unit driveways that are outside the required front yard; grass grid

pavers; outdoor swimming pools; and pedestrian walkways. See Section 115.90 for a more detailed explanation of these exceptions.
115.95 Noise Standards. The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC. Any noise, which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.
115.115.3.g Rockeries and Retaining Walls. Rockeries and retaining walls are limited to a maximum height of four feet in a required yard unless certain modification criteria in this section are met. The combined height of fences and retaining walls within five feet of each other in a required yard is limited to a maximum height of 6 feet, unless certain modification criteria in this section are met.
115.115.3.n Covered Entry Porches. In low density residential zones, covered entry porches on detached dwelling units may be located within 13 feet of the front property line if certain criteria in this section are met. This incentive is not effective within the disapproval jurisdiction of the Houghton Community Council.
115.115.3.o Garage Setbacks. In low density residential zones, garages meeting certain criteria in this section can be placed closer to the rear property line than is normally allowed in those zones.
115.115.5.a Driveway Width and Setbacks. For a detached dwelling unit, a driveway and/or parking area shall not exceed 20 feet in width in any required front yard, and shall not be closer than 5 feet to any side property line unless certain standards are met.
115.135 Sight Distance at Intersection. Areas around all intersections, including the entrance of driveways onto streets, must be kept clear of sight obstruction as described in this section.
145.22.2 Public Notice Signs. Within seven (7) calendar days after the end of the 21-day period following the City's final decision on the permit, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development. The signs shall be disassembled with the posts, bolts, washer, and nuts separated from the sign board.

Prior to recording:
110.60.6 Mailboxes. Mailboxes shall be installed in the development in a location approved by the Postal Service and the Planning Official. The applicant shall, to the maximum extent possible, group mailboxes for units or uses in the development.

Prior to issuance of a grading or building permit:

85.45 Liability. The applicant shall enter into an agreement with the City, which runs with the property, in a form acceptable to the City Attorney, indemnifying the City for any damage resulting from development activity on the subject property which is related to the physical condition of the property.
90.130 Physical Barrier. The applicant shall install a berm, curb, or other physical barrier when necessary to prevent direct runoff and erosion from any modified land surface into any stream, minor lake, or wetland.

90.150 Natural Greenbelt Protective Easement. The applicant shall submit for recording a natural greenbelt protective easement to protect sensitive areas and their buffers, in a form acceptable to the City Attorney, for recording with King County.
90.155 Liability. The applicant shall enter into an agreement with the City which runs with the property, in a form acceptable to the City Attorney, indemnifying the City for any damage resulting from development activity on the subject property which is related to the physical condition of the stream, minor lake, or wetland
95.35.2. b. (3) (b) i Tree Protection Techniques. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans.
95.35.6 Tree Protection. Prior to development activity or initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities. Protection measures for trees to be retained shall include (1) placing no construction material or equipment within the protected area of any tree to be retained; (2) providing a visible temporary protective chain link fence at least 4 feet in height around the protected area of retained trees or groups of trees until the Planning Official authorizes their removal; (3) installing visible signs spaced no further apart than 15 feet along the protective fence stating "Tree Protection Area, Entrance Prohibited" with the City code enforcement phone number; (4) prohibiting excavation or compaction of earth or other damaging activities within the barriers unless approved by the Planning Official and supervised by a qualified professional; and (5) ensuring that approved landscaping in a protected zone shall be done with light machinery or by hand.

Prior to occupancy:
95.50 Tree Maintenance The applicant shall submit a 5-year tree maintenance agreement to the Planning Department to maintain all pre-existing trees designated for preservation and any supplemental trees required to be planted.
95.50.3 Maintenance of Preserved Grove The applicant shall provide a legal instrument acceptable to the City ensuring the preservation in perpetuity of approved groves of trees to be retained.
107.90 Maintenance Bonds. The applicant shall establish a two-year maintenance bond to ensure maintenance of the storm water system.
110.75 Bonds. The City may require or permit a bond to ensure compliance with any of the requirements of the Required Public Improvements chapter.

May 22, 2006

RECEIVED
JUN - 5 2006
9:35 AM PM
PLANNING DEPARTMENT
BY TRS

RECEIVED
JUN - 5 2006
AM PM
PLANNING DEPARTMENT
BY

Mr. Ron Hanson
Project Planner
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Dear Mr. Hanson:

Subject: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 dated May 18, 2006.

Cc: Rob Jammerman

These comments are in response to the City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 dated May 18, 2006.

The site plan for this proposed short plat (ref. Attachment 1) indicates full development of 5th Avenue South. We would like to go on record as opposing the opening of 5th Avenue South to vehicular traffic and once again (ref. Attachment 2) ask that the City of Kirkland drop plans to do so.

Everest neighborhood is a unique area within our city. Surrounded by multi-family zoning, Everest is a small haven of single family homes, a child oriented park, and quiet, safe, and child friendly streets. For this reason, numerous families have chosen Everest Neighborhood as a wonderful place to raise children. In fact 7th Street South alone boasts over 30 children under the age of 10!

Our neighborhood owes much of its character to a low volume of traffic and numerous walking trails within and leading up to the park. This is especially true of the walking/bicycling trail along the unopened portion of 5th Avenue South. The path is mowed and maintained by the neighbors to provide a 'secret garden' feel within the city. It is heavily planted with vegetation to attract birds and butterflies and is shaded along its length by beautiful mature trees. Throughout Kirkland this sort of character has been the victim of development. However in this case, we feel that we have an opportunity to welcome new development <u>and</u> still retain our character.

Unfortunately many people, including those driving large commercial trucks, use our neighborhood as a by-pass to and from the freeway. Traffic traveling north on 6th Street South often backs up beyond 5th Avenue South. If 5th Avenue South is opened to 8th Street South, additional impatient commuters headed towards 85th or 405 will use this route as a bypass, entering the neighborhood at both 5th Avenue South and from 9th Avenue South onto 7th Street South. Drivers with the intent to 'cut through' oftentimes drive more quickly and less cautiously; 8th Street South already suffers from bypass

ATTACHMENT 4a
SPL06-00006

traffic and we do not want our quiet, established neighborhood to be further overrun by through traffic.

The City of Kirkland and Everest Neighborhood have worked together successfully in the past to slow down the 'cut through' traffic in the following ways:

- Feb. 7, 1991 the City of Kirkland agreed that opening 5th Avenue South to vehicular traffic was not required as part of the Everest Park development, and that any further action regarding 5th Avenue would be discussed with the neighborhood. (ref. attachment 3)
- City of Kirkland installed speed humps and extra signage to slow down traffic and discourage 'cut through'.

The current proposal which would open 5th Avenue South to vehicular traffic would be in direct opposition to these past efforts. It would:

- Increase 'cut through' traffic throughout the neighborhood,
- Introduce a vehicle intersection between 5th and 8th at a location where the number of children crossing and playing is high.
- Detrimentally affect the character of the neighborhood by eliminating a celebrated nature path.

We understand that the development of the Aubry Short Plat requires access to the West lot (#3) and that the city fire code requires a 16 foot wide access road to the site. We feel this can be achieved with minimal impact to the character of the walking path by placing the 16 foot paved access along the southern border of the subject property. We would like to work with the city to site this access such that the mature maple, conifer and willow trees that provide so much of the character of the path are not lost.

In conclusion we feel that opening 5th Avenue South to vehicular traffic would not only devastate the character of the neighborhood, but would severely compromise the safety of our neighborhood streets. While we understand the zoning requirement for street improvements, opening this street will only route heavy commuter traffic through an existing neighborhood while providing no benefit to the neighborhood itself. Furthermore we feel that we have put forth a viable method of access to all proposed lots without compromising the valued character of our neighborhood and the nature path currently along the unopened portion of 5th Avenue South.

Sincerely,

Beverly Gilbert
504 7th Street South

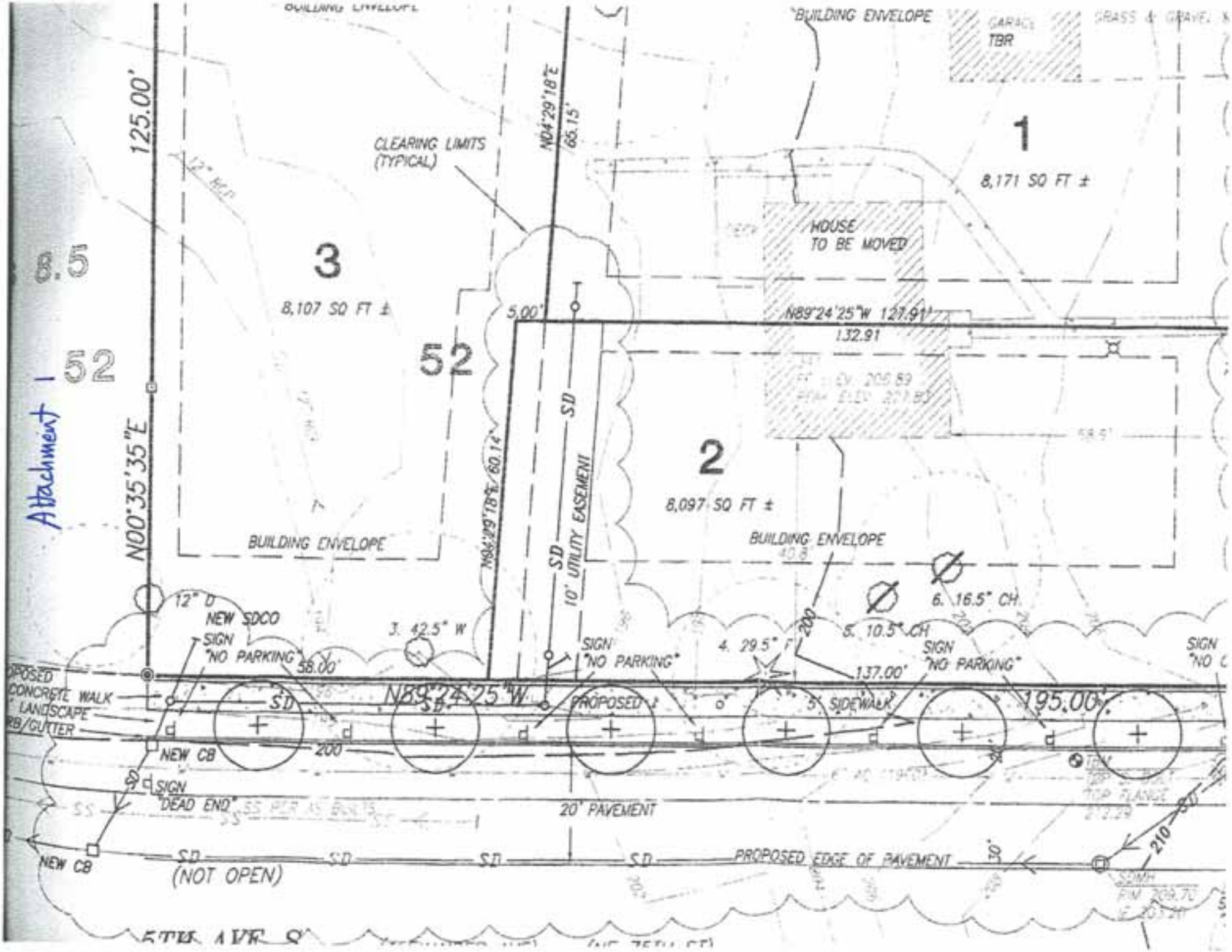
Jerry Gilbert
504 7th Street South

Tom Lynn
501 8th Street South

Karen Tipp
709 7th Street South

Sherri Lynn
501 8th Street South

Attachment 1



Attachment 2

501 Eighth Street South
341 Eighth Street South
Kirkland, WA 98033

June 17, 1990

Subject: Challenge to Findings, Conclusions, and Recommendation of City of Kirkland Hearing Examiner RE File No. III-89-84

Any response to this letter (City File No. III-89-84) must be delivered to the Planning Department within five (5) working days after the letter was filed with the Planning Department, or by _____.

Within the same time period, any person making the response must mail or personally deliver a copy of the response letter to the applicant and all other people who submitted comments on the matter. An affidavit must be attached to the response letter when it is delivered to the Planning Department, to show proof of such mail or personal delivery.

If you wish to submit a response letter, further information about procedural requirements is available from the Kirkland Planning Department at City Hall. The planner assigned to the application is Dorian Collins at 828-1257.

The Everest Neighborhood has some unique features, the most significant of which have been a relatively small size and a location that is somewhat isolated from other single family dwelling neighborhoods. Through the efforts of its residents, there has been some modification of these features giving the neighborhood increased viability. However, the neighborhood remains somewhat fragile in terms of its character, and any significant changes must be studied carefully, lest they have a negative effect on the neighborhood.

When Kirkland's current Land Use Policies Plan was first proposed, and the studies and meetings began in the mid-1970's, the Everest Neighborhood was at a cross roads; it could either decline and the houses could be replaced by multifamily dwellings, or the residents could come together and work to preserve and enhance Everest. This second alternative is in fact what occurred. Efforts went on over many years to ensure that adjacent multifamily dwellings were in appropriate locations and of a proper scale to not overwhelm the neighborhood. The residents worked with developers to ensure that single family dwelling projects on Ninth Avenue South, Sixth Place South, and Eighth Avenue South fit into the overall scale and improved the style of the neighborhood. Except for the multifamily dwelling issue, this was all achieved in a positive, constructive manner; unfortunately, some confrontations occurred regarding this issue. In the end, a solution was reached allowing all parties to proceed in compliance with the Land Use Policies Plan.

When the Park Bonds were presented to the voters last year, many Everest residents saw the planned improvements to Everest Park as a real asset and further strengthening of this unique area. Many residents actively supported the bond issue and attended the planning meetings for the implementation of the improvements. Some concerns were expressed, and the City responded in a positive manner to many of these. However, the issue of increasing traffic on Eighth

Street South has received little in the way of attention from the City; this in spite of efforts to communicate residents' concerns to the City both verbally and in writing over the past year. Further, at no time during the neighborhood meetings was the issue of opening Fifth Avenue South between Seventh Street South and Eighth Street South mentioned. Since our original concerns regarding the worsening traffic problem have not been dealt with, we are amazed the City would consider further complicating the traffic problem by opening Fifth Avenue South to vehicular traffic, thus creating a very difficult and perilous traffic pattern. It is our position that these issues must be addressed with the residents of the neighborhood. In spite of the above mentioned efforts at communicating these issues to the City in both public and private conversations and in writing, no response has been received from the City.

While it can be understood that Eighth Street South is a "Neighborhood Collector," traffic must still proceed at rates and in a manner consistent with the law, safety, and the existence of the neighborhood. The proposed openning of Fifth Avenue South as a "Local Access" street has no basis in logic--this short section "accesses" only two or three lots with no construction on them. The effects of this proposed action will only increase traffic passing through the neighborhood and will in no way improve access by the Everest residents or by other users of Everest Park. For these reasons, we are on record as opposing the opening of Fifth Avenue South to vehicular traffic and ask that the City drop plans in this area. The Everest Neighborhood Residents ask also that the City address the traffic situation and communicate with the Everest Neighborhood to work out plans and ideas for this.

Sincerely,

Thomas Lynn
(501 Eighth Street South)

David Aubry
(341 Eighth Street South)

We, the below signed residents of the Everest Neighborhood, have read the Challenge dated June 17,1990 by Thomas Lynn and David Aubry (File No. III-89-84) and agree with the Challenge.

NAME	ADDRESS

We, the below signed residents of the Everest Neighborhood, have read the Challenge dated June 17,1990 by Thomas Lynn and David Aubry (File No. III-89-84) and agree with the Challenge.

NAME	ADDRESS
[illegible]	928 6TH PL So Kirkland 98033
Alice Kaufman	13304 NE 47th Bellevue WA. 98005
[illegible] Collins	927 6th PLA Kirkland 98033
[illegible] Collins	927 6th Place S. Kirkland 98033
[illegible]	925 6TH PL S Kirkland 98033
[illegible] Schandl	921 6th Pl S. Kirkland 98033
RUTH GREENNUP	905 6th PL S. KIRKLAND 98033
Denise M. Evans	625 8th St. S. Kirkland 98033

We, the below signed residents of the Everest Neighborhood, have read the Challenge dated June 17,1990 by Thomas Lynn and David Aubry (File No. III-89-84) and agree with the Challenge.

NAME	ADDRESS
Bonnie S Brodd	748-9th Ave S Kirkland
Guy Brodd	" " " "
[illegible]	821 9th Ave S " "
Pam Phillips	785 8th St S. " "
Barbara Skidmore	842 8th Ave So. " "
Linda Eirich	825 8th Ave. S. " "
Richard Eirich	825 8th Ave. So. " "
Ann Kroenung	839 8th Ave. So. " "
Donna [illegible]	814 8th St. S. " "
Kaye Fleisch	814- 8th St. S. " "

Attachment 3

CITY OF KIRKLAND

123 FIFTH AVENUE • KIRKLAND, WASHINGTON 98033-6189 • (206) 828-1100 • TTY (206) 828-1244

February 7, 1991

SUBJECT: EVEREST PARK IMPROVEMENTS
5TH AVENUE S. OPENING

Last summer, when considering improvements to Everest Park and related off-site road improvements, the City Council determined more neighborhood input was required prior to the opening of 5th Avenue S., between 8th Street S. and 7th Street S. Therefore, the plans to open 5th Avenue were deleted until further neighborhood discussion could take place.

Subsequent to that, the City has undertaken a Transportation Study which will review, among other critical transportation issues, the opening of unopened right of way, connector routes, etc. Interim policies will be reviewed within the next several months by the City Council. It was felt that further discussion with the neighborhood on 5th Avenue S. would have more meaning when such interim policy decisions by the City Council are established. Therefore, further discussion with the neighbors regarding 5th Avenue S. has been delayed until such city-wide policy decisions are determined.

Be assured that before the City takes any action regarding revisions to traffic in your neighborhood, additional meeting(s) will be held to discuss City policy and the impacts of both existing traffic and traffic associated with the park development. If you have any questions concerning this matter, please don't hesitate to contact either myself (828-1236) or City Engineer, Gary Sund (828-1239).

Sincerely,

PUBLIC WORKS DEPARTMENT

Jim A. Arndt, P.E.
Public Works Director

JAA:gp

cc: Terry Ellis, City Manager

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS		
Jill M. Kerney	329 8th St. S	Kirkland	98033
[illegible]	323 8TH ST S	KIRKLAND	98033
[illegible]	511 8TH ST S	KIRKLAND	98033
Louise Worth	685 8th S.	Kirkland	98033
Mildred Hanson	743 8th St		98033
[illegible]	800 9th Ave S	KIRKLAND	98033
S Lacey	750 8th ST. S.	KIRKLAND	98033
[illegible] Whitlock	814 8th S.	KIRKLAND	98033
DAVID BREUNER	814 8th S	KIRKLAND	98033
Linda Lambert	825 8th Ave S.	Kirkland	98033
[illegible]	825 8th Ave S.	Kirkland	98033
[illegible]	845 8th Ave S	Kirk	98033
[illegible]	845 8th Ave S	Kirkland	98033
STEVEN LINDEN	843 8TH AVE. S.	KIRKLAND	98033
[illegible]	839 8TH AV. S	KIRKLAND	98033
Craig Phillips	785 8TH ST. S.	KIRKLAND	98033
Pam Ply	785 8th St S.	Kirkland	98033
[illegible] Roubeck	11707 NE 98th St	Kirkland	98033
[illegible] Peterson	12014 NE 67th ST	Kirkland	98033
Peter Knox	13019 NE 61 Pl	"	"
Jim Parker	10516 NE 125 PL	"	98034
Sharon L Webb	12911 NE 109th Pl		98033
[illegible]	12841 NE 113th Ave	KIRKLAND	98033
DALE DEERING	15504 N. STONE	Shoreline, Wa.	98133
DAVID BEAR	15504 Stone Ave N.	Shoreline Wa.	98133

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS		
[illegible]			
[illegible]	715 7th St. South	Kirkland WA	98033
[illegible]	784 7th St. S.	Kirkland, WA	98033
Anne Ryan	612 7th St. S.	Kirkland WA	98033
[illegible]	714 7th St S	"	"
[illegible]	745 7th St. S	"	"
Dave Green	693 7th St S	"	"
Ann Molitor	784 7th St S.	"	"
[illegible]			
Nabila Lacey	750 8th St S.	"	"
Paul DeVries	798 7th St. S.	"	"
[illegible]	612 7th St. S	"	"
Lori Newman	715 7th St. S.	Kirkland WA	98033
Darcy Fox	810 7th St S	Kirkland WA	98033
Rhonda Marshall	745 7th St S	"	"
[illegible]	810 7th St. S.	"	"
[illegible]	701 7th St. S.	Kirkland WA	98033
[illegible]	701 7th St S.	Kirkland, WA	98033
[illegible]	798 7th St S	Kirkland WA	98033
[illegible]	714 7th St	KIRKLAND, WA	98033
Deborah Schneider	809 7th St S	Kirkland	98033
Brian Lurie	809 7th St S	Kirkland	98033
[illegible]	523 7th St. S	Kirkland	98033
[illegible]	523 7th St. S	Kirkland	98033
Sherri Tipp	709 St S	Kirkland	98033

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS	
Yi SUN	812 6th PL S	[illegible]
JEAN CHEN	812 6th PL S	Jean Chen
Jay Nelson	818 6th PL S	[illegible]
Jen Nelson	818 6th PL S	[illegible]
Vicky M Carlson	830 6th PL. S.	V. Carlson
Mary E. CARLSON	830 6th PL. S	Mary E. Carlson
Karen Muller	904 6th PL S	Karen Muller
Lorene Cable	920 6th PL S	[illegible]
Bruce Cable	920 6th PL S.	[illegible]
Sarah Prodzinski	924 6th Pl. S.	Sarah Prodzinski
TODD PRODZINSKI	924 6th PL S.	Todd Prodzinski
Dug Chang	806 6th pl S	Dug Chang
Bill Fogleman	929 6th PL S.	Bill Fogleman
James M. Bryder	822 6th Pl. S.	James M. Bryder
Christopher Muller	904 6th Pl. S	[illegible]
Michael Stratt	910 6th PL S.	[illegible]
Lianne Leewens	914 6th PL. S.	L Leewens
Ed Haines	928 6th Pl. S	[illegible]
Heather Lovern	928 6th pl S	Heather Lovern
Steve Weinberg	932 6th PL S	[illegible]
Bob + Sue Colliton	927 6th Place S.	[illegible]
[illegible]	925 6th Pl S	[illegible]
James K Riley	921 6th Pl S	James K Riley
Dawn Riley	"	Dawn Riley

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS
Elle McLean	798 8th St S Kirk, WA 98033
Christel Miller	716 7th St. S Kirkland
[illegible]	716 7th St. S
Carol A Parker	803 7th St So Kirkland
[illegible]	507 8th St. S. Kirkland
[illegible]	629 5th Ave S Kirkland
[illegible]	621 7th St S Kirkland
[illegible]	621 7th St. S Kirkland
[illegible]	420 10th ST. So. KIRKLAND
Cynthia Carter	116 10th ST S. Kirkland Wa
[illegible]	106 10th ST S Kirkland WA
[illegible]	104 10th ST S, Kirkland
Rick Massei	110-10th ST S KIRKLAND, WA
Linda Marriott	" " " " " "
Elizabeth Jones	15 10th Place S Kirkland WA
Ruth Williams	21 10th Place S. Kirkland WA
[illegible]	29 10th Pl S. Kirkland WA
Jennie Miller	31 10th Pl S Kirkland Wa
Milly Mullarky	14 10th Pl. S. Kirkland Wa
Patrick [illegible]	14 10th Pl. S. Kirkland, WA
[illegible]	120 Kirkland Ave. Kirkland, WA
[illegible]	11 Slater St. Kirkland
Wendy Doane	327 8th St South Kirkland, WA
[illegible]	327 8th St. South Kirkland, WA

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS
Emi Khosraw	821 - 7th St. S, Kirkland WA 98033
Brian Boddy	825 7th St South, Kirkland WA 98033
Darcy Boddy	825 7th St South, Kirkland WA 98033
Britt Domer	622 9th Ave S, Kirkland, WA 98033
Jake Domer	622 9th Ave S, Kirkland, WA 98033
Eric J. Dix	801 7th Street South, Kirkland, WA 98033
Jessica Rodgers	749 7th St S Kirkland, WA 98033
Carlinson Strong	749 7th S Kirkland WA 98033
Helen Green	693 7th St. South, Kirkland WA 98033
Chormaine Homarkhah	691-7th St S, Kirkland, WA 98033
Ryan Hagstrom	691-7th St S Kirkland, WA 98033
Robert A Moore	527 7th St. So. Kirkland 98033
Mary Kay Moore	527-7th St S, Kirkland 98033
Erin Loughlin	629 5th Ave S, Kirkland 98033
Susan Leonhardt	517-7th St S Kirkland 98033
Mike Leonhardt	517-7th St S Kirkland 98033
DEBORAH PETERSON	520-7th St. South Kirkland 98033

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS		
Kim Ouwehand	PO Box 1333	Bellevue, WA	98009
[illegible]	PO Box 1333	Bellevue WA	98009
[illegible]	425 Slater St So	Kirkland	98033
[illegible]	MARK GAGGIANO 425 Slater St	Kirkland	98033
[illegible]	424 10th St. South		98033
[illegible]	424 10th St. South		98033
[illegible]	427 Slater Street South		98033
KAREN Meyers	430 10th St. South		98033
[illegible]	~~424~~ 430 10th St S.		98033
JACKIE FORBES	424 10th St. S		98033

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS
Jason Fortney	320 10TH ST 98033
James M. Bryden	822 8th Pl. So.
John & Lisa Rudolph	11 Slater St, Kirk, wa 98033
Cherry Gould	8009 + Ave South
[illegible]	814 9th Ave S. Kirkland 98033
Greg Brydd	798 9th ave S. 98033
Annemich Hageman	1545 Kirkland Ave, 98033
Clement Neil	700 5th Ave. So. Kirkland 98033

another page

NAME	ADDRESS	SIGNATURE
Terry Casey	816 7th St S.	[illegible]
Karen Casey	816 7th St S	Karen Casey
David Scraffield	710 7th S	Kirkland

We, the below signed residents of Everest Neighborhood, have read the: Comments to City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 written by Beverly and Jerry Gilbert, Thomas and Sherri Lynn and Karen Tipp on May 22, 2006 and agree with the Comments.

NAME	ADDRESS	
Khosrow Yohan	821 7th St. S	
Emalie Hines	120 10th Street S	

From: jewelry@gilbertdesigns.net

To: RJammerman@ci.kirkland.wa.us, rjammer@ci.kirkland.wa.us, dboddy@staffordfrey.com, lzeman@comcast.net, brian@kornfeldlaw.com, ronwhanson@comcast.net, Tom.Zeman@Tectura.com, julie_c_barker@hotmail.com, Karen@n-forge.com, jwgilber54@earthlink.net, jewelry@gilbertdesigns.net, john@kirklandbuildersgroup.com
Subject: 5th Avenue development

Date: Tue, 23 May 2006 16:58:40 +0000

Hi,
This e-mail is going out to all of you who are on Laura's distribution list as being interested in the 5th Avenue issue.

I live immediately adjacent to the unopened portion of 5th Street South and, like most of you, am concerned about the possible development of the street. Here is a little background on the issue and a heads up about what we are doing.

As you may be aware, there is a lot of history between the City of Kirkland and Everest Neighborhood regarding opening this street to vehicular traffic. Dave Aubry has extensive files on the past history and I have made copies of some of the pertinent information. In a nut shell there is a history of the neighborhood coming together to oppose development of the street and we have a letter from the city (1990) stating that development of the street is not necessary for access to Everest Park or for the neighborhood and that any future plans to develop the street will be discussed in detail with the neighborhood.

Since the Aubry's are in the process of short platting their property (the North Eastern border of the unopened street), they have kept me abreast of details of the process. They warned me that the City included development of the north half of 5th Avenue along their property with requirements to make street improvements to 8th along their property. This requirement is not unusual - the city is requiring all developers to make these improvements at the time of development (after a city-wide sidewalk fiasco a couple of years ago). This is a generic requirement and Dave felt that the planning department was open to discussion on the issue. Dave advised me to hold off comments until the short plat application was formallized. This occurred on May 18 and was given a File No. SPL06-00007. The public is now invited to comment on the short plat application by June 5.

In direct response to the short plat application, I have composed a letter opposing the development of the street and anticipate obtaining signatures from the neighborhood. In the letter, I hope to have addressed our concerns with opening the street, our desire as a neighborhood to retain the character of a natural walking path (as celebrated on the city website) and a solution to access of the Aubry's western-most lot.

As an aside, I know that the city will go through the same process with the developer of the newly sold 700 5th Ave. property. We would like to work with the city and the developers of all of the properties to make sure that the access roads are consistent with the neighborhood character.

I will bring the letter to the neighborhood meeting tonight, discuss the issue and try to obtain as many signatures as possible (to minimize our door to door effort). Karen Tipp helped distribute a flyer alerting the general neighborhood to the issue in the attempt to drum up attendance tonight and to pave the way for signature gathering in the next few days. She has volunteered to gather signatures with me and I would love to have more help if any of you are interested! Unfortunately, because the short plat application was formallized

ATTACHMENT 4b
SPL06-00006

after the neighborhood agenda was set, we are not on the meeting agenda, so the discussion may need to occur at the end of the meeting.

This letter coming from the neighborhood should send a very strong message to the city, however numerous individual letters would very much strengthen the argument.

Please e-mail or call if you have any questions, comments etc. I hope to see you tonight!

Beverly Gilbert
504 7th Street South
889-8479

[Back]

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Dear Mr. Hanson,

This letter pertains to two issues I have at the current time. My name is Douglas D. Thompson and I live at 507 8th St. S., Kirkland. My phone number is 425-827-3320 and my email address is dougt20@juno.com. The first issue involves the File# SPL06-00010. My property is adjacent to this on the north side. My question is: Has the applicant discussed or has written out how he will deal with the border between our properties? I am concerned with a possible adverse impact on the rockery and fence line that now exists there.

The second issue pertains to the proposed opening of the right of way which is 5th St. S. This is addressed in the Short Plat # SPL06-00007. I am totally opposed to putting a road in. I have signed the petition that was given to you but I also wanted you to hear it from me. I won't go into all of my reasons other than the city has blocked opening it twice before and we as a community are better off for it.

Thanks for your time.

Sincerely,

Douglas D. Thompson

RECEIVED
JUL -7 2006
AM 1:45 PM
PLANNING DEPARTMENT
BY

ATTACHMENT 4C
SP06 00006

From: "Lisa" <bailineusa@comcast.net>

To: <ronwhanson@comcast.net>, <rjammer@ci.kirkland.wa.us>

Cc: <jewelry@gilbertdesigns.net>

Subject: File #SPL06-00007

Date: Mon, 5 Jun 2006 23:23:29 +0000

Mr. Hanson and Mr. Jammerman.

Comments to City of Kirkalnd Notice of Application - Aubry Short Plat File #SPL06-00007 dated 2006

I am absolutely opposed to the development of 5th Avenue South to vehicular traffic, and would like the City of Kirkland to drop plans to do so.

I am certain if the many parents who bring their children to Everest Park for various ballgames had the opportunity to give their input they would absolutely oppose such action. They do not have this opportunity, but are greatly impacted by what would be a much less safe park for their children.

We finally got speed bumps which has been a great help. We used to see cars speeding at over 50 mph down our street. Many animals killed, and I am certain close calls for kids. This increase in car traffic as another "short cut" would also take away a beautiful walking path that our kids on 7th use to get to the park.

Please do not follow through with these plans.

Lisa Cox
535 8th Street South
Everest Neighborhood

[Back]

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ATTACHMENT 4d
SPL06-00006

From: "Julie Livas" <JulieL@artesiamortgage.com>

To: <ronwhanson@comcast.net>

Cc: <rjammer@ci.kirkland.wa.us>

Subject: Comments to City of Kirkland Notice of Application - Aubry short Plat File #SPL06-00007 dated May 18, 2006
Date: Mon, 5 Jun 2006 18:13:10 +0000

Julie Livas

842 8th Ave. S.

Kirkland, WA 98033

425-822-7624

June 5, 2006

Mr. Ron Hanson

Project Planner

City of Kirkland

123 5th Avenue

Kirkland, WA 98033

Dear Mr. Hanson:

Subject: Comments to City of Kirkland Notice of Application – Aubry short Plat File #SPL06-00007 dated May 18, 2006

Cc: Rob Jammerman

These comments are in response to the City of Kirkland Notice of Application – Aubry Short Plat File #SPL06-00007 dated May 18, 2006.

The site plan for this proposed short plan indicated full development of 5th Avenue South. I would like to go on record as supporting the opening of 5th Ave. S. to vehicular traffic. I understand a number of my neighbors in the Everest neighborhood are opposing the opening of this section of 5th Ave. S., and I would like to comment on some of their positions.

My main concern is that by not opening the street, the City would be taking value from private property, denying certain property owners the right to normal street access that other neighbors enjoy, and overriding the current zoning requirements for street improvements. This is a serious matter, and should only be done after very careful consideration. I would also like to say at this point that I don't know any of the parties involved in the Aubry short plat, and have no personal interest in the property.

ATTACHMENT 4e
SPL06-00006

The opposing neighbors suggest replacing a standard street plan for 5th Ave. S. with a 16 foot wide access strip to new lots. This would leave property owners with no on-street guest parking. Most likely the home owners would have to pave their own property to provide guest parking, as alternative street parking would be very far away. I also guess that Waste Management trucks would not be able to negotiate the 16 foot access strip, requiring home owners to push 2-3 containers as far as 100 feet to a main road every week in order to have their trash collected. This would be difficult at best during the dark, rainy winter months. In effect, the City would be denying these homeowners access to basic conveniences that the opposition group currently enjoys. I feel this would result in the devaluation and possible taking of private property

The opposition neighbors cite increased commuter traffic through their neighborhood as a reason for not opening the street. I agree that 5th Ave. S. may attract some traffic, but I feel that most of the drivers would be other residents of the Everest neighborhood who live to the east of 7th St. S. There are currently only two outlets to 6th Street S. for the neighborhood: 9th Ave. S at the south end, and the dangerous intersection of Railroad Street and Kirkland Ave. at the north end. By opening 5th Ave. South, neighborhood traffic would be more evenly distributed throughout the neighborhood and relieve the traffic burden that is now borne by the homeowners at the north and south ends. In addition, 9th Ave. S. opens directly across 6th St. S. from the old Sauder property that is now being redeveloped. New commuters would be just as likely to use 9th Ave. S. as 5th Ave. S. as a short cut to the freeway, thereby putting an even heavier traffic burden on the residents of 9th Ave. S.

But most importantly, I think that taking private property to mitigate traffic should only be used as a last resort after other efforts have failed. There are a number of other steps the City could take to discourage commuter traffic. For example, the new section of 5th Ave. S. could be built with speed bumps, a 15 mph speed limit, and a 3-way stop at the intersection of 5th Ave. S. and 8th St. S. near Everest Park. It is my understanding that the speed bumps on 8th St. S. have greatly reduced truck traffic in the last few years. If the new section of 5th Ave. S. was built as the same size as the current section, with speed bumps and a 15mph speed limit, I doubt it would attract many large commercial trucks.

Finally, I would like to comment on the "celebrated nature trail" cited by the opposition neighbors as a reason to not open 5th Ave. S. I assume this trail was originally cut by the residents of 7th St. S. to provide a quick route from their street to Everest Park This makes sense, and if I lived on 7th St. S., I would have done the same. Over the years, a few "gardening" types of people have made this cut-through trail much nicer that a typical one. However, I question their argument that the trail is of such importance that it should trump zoning requirements and private property rights. The trail will only exist in its current form if the neighbors continue to maintain it. But no one has a crystal ball to predict the future. If the residents who maintain the trail should move away, the trail would become overgrown and gone within a year. For that reason, I believe that if the City of Kirkland deems the trail to be of such importance that is should be the basis for taking private property and overriding zoning requirements, then the City should add the trail to its parks and trail system and maintain it for the future. As a side comment, I occasionally use the trail when I am walking downtown from my home on 8th Ave. S. It is very often wet and muddy. I personally would prefer a nice, dry sidewalk.

I have lived at my current address since December, 1992, and have seen many changes to the Everest neighborhood, including the almost total rebuilding of 7th St. S. with million dollar homes. I don't believe that the addition of a couple more

nice homes with a small street and sidewalk would devastate the character of the adjacent neighborhood. To the contrary, it would be consistent with the current trend of the neighborhood, and 7th Street S. in particular.

Thank you for your consideration of my comments, and please do not hesitate to contact me if you have any questions.

Sincerely,

Julie Livas

[Back]

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

MEMORANDUM

To: Ron Hanson, Planner

From: Rob Jammerman, Development Engineering Manager

Date: March 5, 2007

Subject: Aubry 3-lot Short Plat – 5th Avenue South Street Connection

The City is currently processing a proposed three lot Short Plat known as the Aubry Short Plat located at 341 8th Street South, File No. SPL06-00007. Chapter 110 of the Kirkland Zoning Code requires all development permits to install street improvements (curbs, sidewalks, storm drainage, and paving) along the respective street frontage of the subject property. In this case, the Aubry Short Plat is required to install street improvements along 8th Street South and 5th Avenue South. 5th Avenue South is an unimproved street right-of-way (ROW) along the south side of the Aubry Short Plat. If this street is improved, another new single-family home under construction to the west of the Aubry Short Plat will also be required to install street improvements and 5th Avenue South will be open for vehicular use between 7th Street South and 8th Street South. Property owners within the neighborhood have raised concern about opening 5th Avenue South for vehicular use; many letters opposing the opening of the street in conjunction with the Aubry Short Plat were received by the City. One letter supporting the opening of the street was also received. To help understand the reasoning for recommending that the street be opened, we would like to offer the following:

1. ***This area of the Everest Neighborhood lacks very few east/west street connections.*** After reviewing the attached map, you will find that there are only two east/west street connections in this area. On the north end is Kirkland Way and on the South end is 9th Avenue South. These east/west street connections are over a half-mile apart and any traffic traveling attempting to travel in an east/west direction is limited to one of these two streets. The primary beneficiary of opening 5th Avenue South would be those property owners who live on 9th Avenue South or on the south end of 8th Street South due to a potential reduction of vehicular travel along their portion of the street.

2. ***In general, how does staff review development, singularly and collectively, for the purpose of road connectivity?*** The Comprehensive Plan and Subdivision Ordinance promote a "grid" pattern which is described as an interconnected neighborhood street network allowing for a connected neighborhood with multiple accesses for the public and emergency vehicles. These regulations allow the City to require the installation of street improvements that provide for orderly development of the grid pattern transportation system.

   The Comprehensive Plan policies describe when and why the grid pattern was adopted:

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- Policy T-4.3 describes that cul-de-sacs should serve isolated pockets of new development where no other choice is available. The benefits of interconnected neighborhood street networks are many and have been discussed at length. Cul-de-sacs can result in uneven traffic distribution, benefit to some at the expense of others, and greater emergency response time, as well as interruption of traffic flow, including pedestrian and bicycle flow. Utilities are also easier to locate and maintain in street settings, rather than in 'backyard' easements.

- Policy T-4.5 states that interconnected street networks aid emergency vehicles in faster response times.

- Subdivision Ordinance Section 22.28.060 states that "The plat must be designed to allow for reasonable subdivision and use of adjoining properties. While the plat should generally conform to the grid pattern, innovative layouts will be considered based on the general requirements of this chapter."

3. ***How does the City determine the density of the street grid in a particular neighborhood?*** The layout of a street grid is influenced by several factors. Generally, 300 to 600-foot block spacing is used as the starting point for the grid layout. Then, other determining factors such as land development potential, topography, streams and wetlands, and other physical constraints shape the layout of the grid. In this particular neighborhood, a standard grid pattern will never be established, but opening of 5th Avenue South will establish at least one additional piece of the needed grid.

4. ***What are the pros and cons of street connections, and how can the cons be mitigated?***
   Pros:
   - ***Better emergency vehicle access.*** The Fire and Police Departments prefer to have multiple routes to reach an emergency.
   - ***Better distribution of traffic.*** As discussed above, good block spacing more evenly distributes traffic.
   - ***Better pedestrian and bicycle routes.*** Street connections provide multiple routes for pedestrians and bicyclists.
   - ***Better service for utilities.*** Water, sewer, and storm drainage utilities are better served and easier to maintain within open and improved rights-of-way.

   Cons:
   - ***By-pass traffic.*** Some street connections can encourage by-pass traffic. To mitigate this, street design has proven to be the key factor. Design elements like narrow street widths and speed humps reduce speed and make the street connection less desirable to use as a by-pass route.

- ***Dead-end streets provide a sense of community***. People who live on dead-end streets (usually a cul-de-sac) say that they like the sense of community that their street has. Conversely, people who live on through streets often say the same thing. This said, it seems that the sense of community promoted by a street (dead-end or through) increases when it has the following elements:

  ✓ Slow-moving traffic.
  ✓ Traffic which is generated by the particular neighborhood. In other words, minimal by-pass traffic.
  ✓ Safe pedestrian walkways; sidewalks for people to interact with each other.

5. ***It appears that the City considered the improvement and opening of 5th Avenue South in 1991, but chose not to. What has changed since then to cause this issue to be reconsidered?*** In 1991, the City considered the opening of the 5th Avenue South right-of-way in conjunction with the proposed Everest Park improvements. Although this would have been an off-site improvement in relation to the park property, the opening of the street was recommended because it would provide an alternative route to and from the park. Primarily due to neighborhood opposition, it was decided by the existing City Council to not improve and open the street at that time. Since 1991, there has not been any development activity in the neighborhood that caused the opening of the street to be re-examined until the Aubry Short Plat was submitted. Because there had been no resolution or ordinance adopted to permanently close the 5th Avenue South right-of-way, staff analysis of the existing codes and policies led us to recommend the street improvement and opening with the understanding that some neighbors may appeal this recommendation to the City Council. If the street connection is appealed and the current City Council decides that the street should not be opened for vehicular use, Staff would like to emphasize the need for an improved pedestrian and bicycle path, which the neighborhood has not been opposed to.

Attachment

cc: Daryl Grigsby, Public Works Director.

5th Ave. So. Area Map

CITY OF KIRKLAND
PLANNING & COMMUNITY DEVELOPMENT
123 5th Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

*****Notice to Our Customers*****

New Tree Regulations – Short Plats & Subdivisions

Effective January 1, 2006

Purpose of the new tree regulations

Trees and other vegetation are important elements of the physical environment which protect public health, safety and general welfare in a variety of ways. These regulations establish a process and standards to provide for the protection, preservation, replacement, proper maintenance and use of significant trees, associated vegetation and woodlands located in the City of Kirkland. **For Short Plats and Subdivisions, the regulations require retention of viable trees within the required setbacks and in potential preserved groves. The site is required to meet a minimum density of tree coverage on the subject property following construction of the project. These requirements are discussed in Section 95.35.2.B.3 of the Kirkland Zoning Code (KZC) and are summarized below.**

Helpful definitions to complete the tree plans described below:

1. **Significant Tree**: A tree that is at least 6" in diameter at breast height (DBH) (The diameter or thickness of a tree trunk measured at 4.5 feet from the ground).
2. **Dripline**: The distance from the tree trunk that is equal to the furthest extent of the tree's crown.
3. **Impact**: A condition or activity that affects a part of a tree, including the trunk, branches, and critical root zone.
4. **Qualified Professional**: An individual that possesses and demonstrates the ability to perform tree risk assessments and prescribe appropriate measures necessary for the preservation of trees during development; must at a minimum be certified by the International Society of Arboriculture (ISA).
5. A **Type 1 Tree** is a viable tree that meets at least one of the following criteria:
   i. Landmark tree (pre-designated);
   ii. Specimen tree (very good to excellent condition and free of major defects);
   iii. Tree groves and associated vegetation to be set aside as preserved groves;
   iv. Trees on slopes of at least 10%; or
   v. Trees that are a part of a grove that extends into adjacent property.

Permit Submittal Requirements – Short Plats and Subdivisions

The following information is required for all permits in order for the application to be deemed complete. Incomplete applications will not be accepted.

Tree Plan III shall be submitted with short plat and preliminary subdivision permit applications and subsequent Land Surface Modification permit applications. *The approved Tree Plan III will later be used to comply with the Tree Plan I requirement for the single-family building permit application of each lot.*

A. The following information must be incorporated on the site plan:
   1. Surveyed location of all significant trees;
   2. A tree inventory prepared by a qualified professional including a numbering system of existing significant trees (with corresponding tags on trees), measured driplines, size (DBH), species and tree status (removed or retained) based on health, risk of failure and suitability of species (see criteria in KZC 95.35.2.C) for all significant trees; and
   3. Approximate trunk location and dripline of significant trees that are on adjacent property with driplines extending over the subject property line.

B. Tree Plan III shall include a report from a qualified professional detailing:
   1. An indication and discussion, for each tree, of whether it is proposed to be retained [illegible] of failure and suitability of species;

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2. Limits of disturbance aro[illegible]ble trees; and
3. Special instruction for work within the critical root zone of viable trees;
4. Location and type of protection measures for viable trees.

C. Utilizing the information from the tree survey, inventory and report, the applicant must submit a site plan showing:
1. The proposed development activity – including location of lot lines, easements and roads
2. Location and limits of disturbance of viable trees to be retained according to the tree inventory, report, and City's determination of tree types
3. Trees being removed for proposed development or trees being removed that are not viable
4. Tree density calculations of retained trees compared to the minimum tree density for the site; The required minimum tree density is 30 tree credits per acre. Use the following formula to determine the required tree density:
(Project size in square feet*/43,560) X 30 = Required minimum tree density
   * excluding existing public right-of-way, areas to be dedicated as public right-of-way and access easements or tracts not counted in lot area

For example, the minimum tree density for a 15,000 square foot parcel is 10 tree credits and for 30,000 square feet, it is 21 tree credits.

Use the following chart to calculate the tree density for existing trees that are going to be retained.

Tree Density for Existing Significant Trees (Credits per minimum diameter - DBH)					
DBH	Tree Credits	DBH	Tree Credits	DBH	Tree Credits
3–5"	0.5				
6-10"	1	24"	8	38"	15
12"	2	26"	9	40"	16
14"	3	28"	10	42"	17
16"	4	30"	11	44"	18
18"	5	32"	12	46"	19
20"	6	34"	13	48"	20
22"	7	36"	14	50"	21

5. If the calculated tree density is below the minimum, indicate the type, size and location of the supplemental trees needed to meet the density requirement. Supplemental trees must be at least 6 feet tall if they are conifers or 2-inch caliper if they are deciduous or broad-leaf evergreens. They are worth one tree credit each. Larger supplemental trees may be awarded additional credits.

D. Additional Requirements:
1. The applicant shall pursue applicable variations to development as outlined in KZC 95.35.4.A.2 and 3 for the retention of Type 1 trees in required yards.
2. Prior to permit approval, the applicant shall provide a final plan showing tree density calculations, retained trees, trees to be removed, and any required supplemental trees to meet the minimum tree density. The plan must describe the details of site preparation, the installation of new trees, and the maintenance measures necessary for the long-term survival and health of all trees on site pursuant to KZC 95.45 and KZC 95.50.
3. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans, and protections measures must be in accordance with KZC 95.35.6.
4. Prior to plat recording, the applicant shall submit a five year preservation and maintenance agreement pursuant to KZC 95.50.

Note: This is an overview of tree requirements, for more details and information visit our website at http://www.ci.kirkland.wa.us/depart/planning/trees.htm or request a copy of Ordinance 4010.

Arborists Site Evaluation

Aubry Residence
341 8th Street South
Kirkland, WA.

April 2006 – Revised June 2006

Northwest Woodlands
Urban Forestry Consultants, Inc.

CERTIFIED ISA ARBORIST

ATTACHMENT 7
SP-06-00006

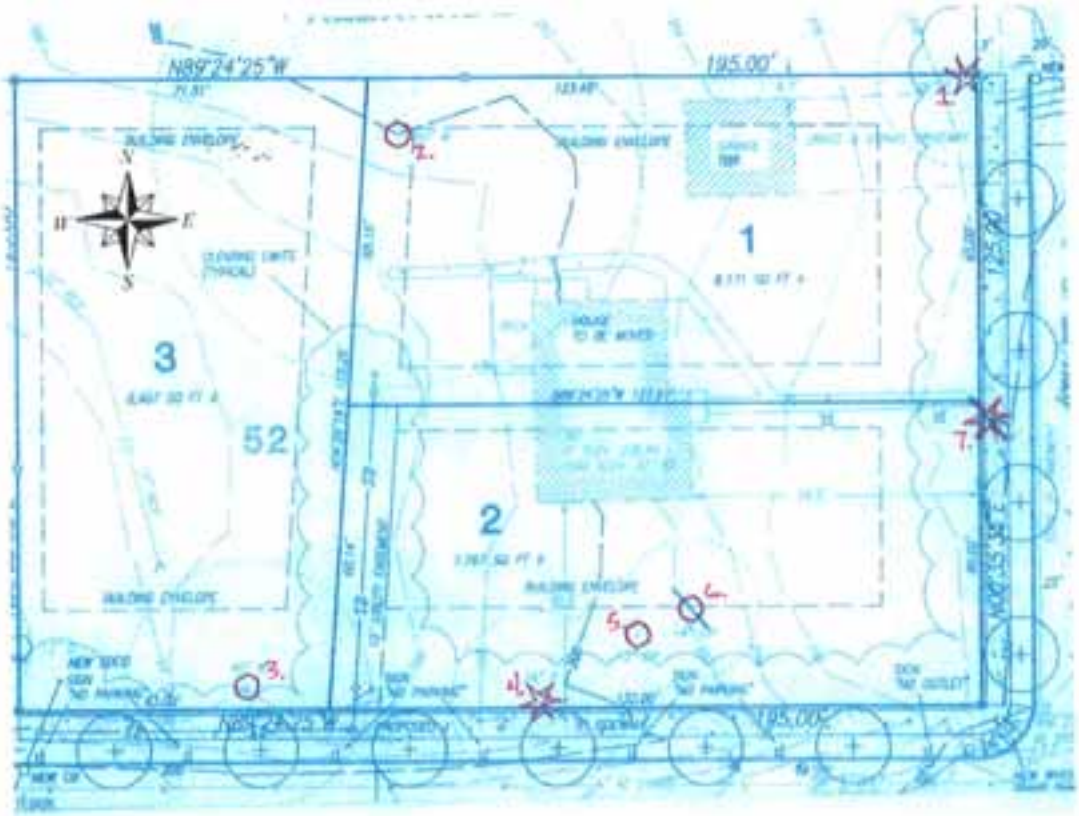
Objectives

On 4/9/06, NorthWest Woodlands was contracted by Anna Aubry to conduct an Arborists site evaluation at 341 8th St. S. in preparation for site development. This report is to be submitted to the City of Kirkland Planning Department for review and will serve as the 'Tree Plan III' under the City's new tree regulations effective January 1st, 2006.

This report will identify the size, species and viability of each tree as well as a brief discussion of each tree. Visual above ground structural deficiencies and obvious signs of disease will also be evaluated as needed. Tree identification corresponds with the location of the trees on the attached site maps.

Please be aware that the arborist has used best available knowledge in determining the species and health of the tree covered within this report. Outward visual deficiencies and growth patterns suggest the nature of the tree. It is possible that some trees may contain conditions not apparent to arborist. Root defects, internal stress cracks and other deficiencies may exist within trees but not be visible at the time of the evaluation.

Site Map:



Findings:

All trees to be retained during construction should be surrounded by tree protection fencing extending to at least the edge of the dripline; further if space is available, a tree protection fencing detail is attached to the end of this document. Should work need to occur within the tree protection fencing, the fencing can be temporarily removed and re-installed upon completion of the work each day. Hand work only should be allowed within the tree protection zone, no heavy machinery or mechanized machinery should be allowed within this zone. Please keep all debris and construction equipment outside of the protection zone. If work is done nearby the trees during dry months, the base of the tree should have mulch installed within the tree protection zone to a depth of 2 inches. Weekly deep root watering within this area is critical to ensure that the roots do not suffer from dry conditions; the amount of water will depend on the size of the tree and the proximity of the construction activities.

Tree #1: 28" Douglas Fir/18' Average Dripline (radius) – With good color and vigor throughout the canopy, this tree appears to be in overall good health. A co-dominant stem exists at approximately 40' but does not appear to be a threat at this time. The smaller of the 2 co-dominant stems should be removed at some point within the next few years to aid in the natural development of this tree into the future. The location of this tree places it adjacent to overhead power lines along NE 8th St to the east; this results in continued side trimming of the tree with good response from the tree at that location.

Designated on the site plan as a tree to be retained, concerns arise with the installation of the new sidewalk on the east side of this tree. The area around this tree should be excavated only by hand to the minimum depth necessary to install the sidewalk. Alternative methods for exposing the roots around this area include the use of an Airspade™ or the use of water to wash away the soil. Roots larger than one inch in diameter should be cut clean and covered with soil as soon as possible. During dry, summer months, weekly watering should be applied to the area where root excavation has occurred to maintain the health of the root system into the future. If large roots, over 4 inches in diameter, are to be cut for the sidewalk installation, please contact your arborist before they are cut to ensure the structural stability of this tree. This fir should be monitored annually for the first three years to ensure that damage to the root system does not put the tree into a state of decline.

Tree #2: 41" Big Leaf Maple/24'Average Dripline (radius) – Currently in good condition with no major defects, this Maple is in surprisingly good condition for its size, species and age. As this species of tree ages, it is prone to rot within the trunk, especially at or near branch unions, and may experience branch or large limb failure due to excessive end weight of the limb. To aid in the future safety risk of this tree and to maintain the current health for as long as possible, pruning of all dead wood is recommended as well as pruning to reduce the end weight of some of the larger limbs to reduce the limb failure potential.

The root system of this large tree appears to be widespread and likely shallow. To avoid any damage to this tree during construction, tree protection fencing should be installed along the perimeter of the dripline at a minimum. If space allows, the tree protection fencing should be installed as far from the tree as feasible. No construction activities including storage of materials should be allowed within the tree protection zone. Exposure of nearby soils outside of the tree protection zone may cause drying of the soils and the roots within the perimeter of the dripline. If nearby construction is to occur during hot periods, a thin layer of mulch approximately 2" thick should be applied within the tree protection zone to aid in moisture retention. Watering may be necessary should the soils within the tree protection zone begin to dry out. The soils should be sampled weekly during dry periods to ensure that the moisture levels are not too dry; this can be done by digging a small hole 1-1 ½ feet deep and either using a soil probe or check for moisture by compacting a handful of soil. If the compacted soil stays intact, the moisture levels are most likely adequate, if it easily fall apart, watering is necessary.

If construction is required within the tree protection zone, the work should only be done by hand and all exposed roots within this area should be covered at the end of each day with mulch and/or soil and water should be applied to thoroughly soak all the roots within the exposed area and the area immediately surrounding the exposed roots.

Tree #3: 42.5" Weeping Willow/20' Average Dripline (radius) – Currently in fair to good condition, this tree would benefit from pruning to reduce the end weight of larger limbs and to remove any dead wood within the canopy. Two pockets of rot were observed within the lower trunk and another may exist in the crotch of the upper canopy which was not visible from the ground. The rot pockets appear to have compartmentalized adequately but these should be monitored to ensure that the rot is not spreading; signs of bleeding, fungal growth and cracking may indicate problems within these areas. Similar to Tree #1, concerns arise with the installation of a sidewalk on the southern side of this tree. This area should be excavated only by hand and the roots cut clean, covered and watered as needed. From the site plan, it appears that the sidewalk will be approximately 5 feet from the trunk of this tree. This should provide adequate space for installation if care is taken during construction activities. Please follow the guidelines laid out under Tree #1 for excavation within this area.

Tree #4: 29.5" Douglas Fir/16' Average Dripline (radius) – Currently with good color and vigor, this tree is in fair to good condition with minor structural deficiencies in the form of a co-dominant stem approximately 60' from the base. The co-dominant stem should be monitored into the future to ensure cracking does not develop at this location. Thinning of the upper canopy will aid in reducing the amount of force exerted by wind loads during storm events which will aid in reducing the potential for failure of the co-dominant stems. Thinning of this style should target every third or fourth limb

throughout the tree with special attention paid to large, overweighed limbs. This pruning should occur in the late fall or early winter when water is plentiful for the tree to reduce stress; no more than 1/3rd of the foliage should be removed at any given time.
Again, sidewalk installation concerns arise with this tree, the discussion under Tree #1 should be followed when working around the base of this tree. If greater than 1/3rd of the root system surrounding this tree is to be removed due to the installation of the sidewalk, the tree may need to be removed.

Tree #5: 10.5" Lambert Cherry/6-8' Average Dripline (radius) – This tree is in very poor condition with heavy rot in the main stem. The viability of this tree into the future is short lived with failure eminent. Indicated as a tree to be retained, this is should be re-evaluated and switched with the retained tree as Tree #6.

Tree #6: 16.5" Lambert Cherry/15' Average Dripline (radius) – Currently in good condition with no major flaws, this tree shows good signs of viability over the next several years should it remain. Minor pruning for form and shape will aid in the lifespan of this tree and, if done correctly, will increase the fruit output during upcoming seasons. Please research pruning of fruit trees before attempting to prune a tree of this type, timing and limb selection have substantial effects on fruit development.

Tree #7: 27" Incense Cedar/12' Average Dripline (radius) – Heavy topping over the years by the power company have kept this tree from developing naturally. The tree has good color and vigor and may tolerate the power line pruning for some time but will most likely eventually begin to fall into decline.

Street Trees – The site plan indicates the installation of Street Trees along both the eastern and southern frontages of this property. With numerous species to choose from, care must be taken to ensure that conflicts do not arise into the future as these trees develop. The eastern frontage poses a problem in the overhead power lines; this reduces the choices for Street Tree selections significantly. The City of Kirkland may require certain trees to be installed along these frontages. I would recommend using smaller growing Maples on the eastern frontage to match the existing Maples across the street. A few choices such as Amur Maple, Flame Maple and Hedge maple will work well here and not cause dramatic problems with the overhead power lines. Assuming that no overhead power will be located along the southern frontage and noting the size of the indicated planter strip (4-5'), the species selection should be targeted towards a medium size tree. This will maximize the available canopy while minimizing disturbance to the sidewalk from the root system of these trees. Please work with the City of Kirkland's Urban Forester/Arborist for species selection along this frontage.

Required Tree Credit Information

Lot 1

Lot Size = 8,171ft²

Minimum tree density = 30 credits per acre (City requirements)

Minimum tree density calculation for 341 8th St S, Lot 1 = (8,171/43560) * 30 = 5.6 credits

Existing Tree Credits = 26 (#1-10, #2-16)

Trees to be retained – Tree #1&2

Retained Tree Credits = 26 (#1-10, #2-16)

Lot 2

Lot Size = 7,797ft²

Minimum tree density = 30 credits per acre (City requirements)

Minimum tree density calculation for 341 8th St S, Lot 2 = (7,797/43560) * 30 = 5.4 credits

Existing Tree Credits = 16 (#4-11, #5-1, #6-4)

Trees to be retained – Tree #4&6 (Recommended)

Retained Tree Credits = 15 (#4-11, #6-4)

Trees to be retained – Tree #4&6 (As indicated on site plan)

Retained Tree Credits = 12 (#4-11, #5-1)

Lot 3

Lot Size = 8,407ft²

Minimum tree density = 30 credits per acre (City requirements)

Minimum tree density calculation for 341 8th St S, Lot 3 = (8,407/43560) * 30 = 5.8 credits

Existing Tree Credits = 17 (#3-17)

Trees to be retained – Tree #3

Retained Tree Credits = 17 (#3-17)

*A supplemental tree planting plan is not attached; the retained tree credits for all lots exceed the required tree credits per lot.

Please feel free to contact me with any questions or comments pertaining to this report.

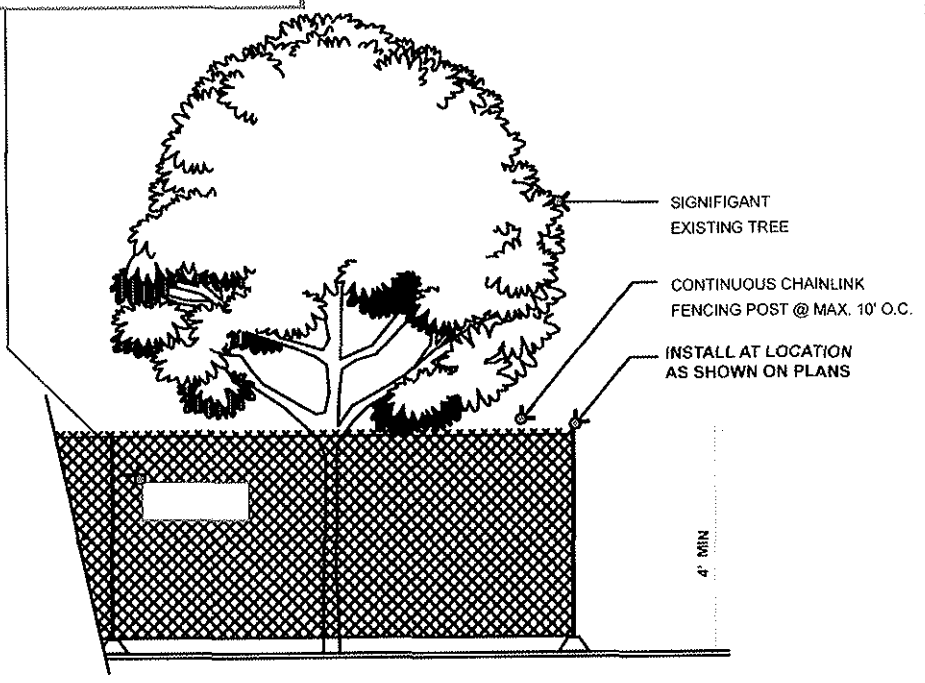
Don McQuilliams

Certified Arborist # PN1202A
Owner/Consultant
NorthWest Woodlands, Inc.
Don@Northwestwoodlands.com

Tree Protection Fencing Standard

FENCING SIGN DETAIL

Tree Protection Area, Entrance Prohibited
To report violations contact
City Code Enforcement
at (425)587-3225



1. MINIMUM FOUR (4) FOOT HIGH TEMPORARY CHAINLINK FENCE SHALL BE PLACED AT THE CRITICAL ROOT ZONE OR DESIGNATED LIMIT OF DISTURBANCE OF THE TREE TO BE SAVED. FENCE SHALL COMPLETELY ENCIRCLE TREE (S). INSTALL FENCE POSTS USING PIER BLOCK ONLY. AVOID POST OR STAKES INTO MAJOR ROOTS. MODIFICATIONS TO FENCING MATERIAL AND LOCATION MUST BE APPROVED BY PLANNING OFFICIAL.

2. TREATMENT OF ROOTS EXPOSED DURING CONSTRUCTION: FOR ROOTS OVER ONE (1) INCH DIAMETER DAMAGED DURING CONSTRUCTION, MAKE A CLEAN STRAIGHT CUT TO REMOVE DAMAGED PORTION OF ROOT. ALL EXPOSED ROOTS SHALL BE TEMPORARILY COVERED WITH DAMP BURLAP TO PREVENT DRYING, AND COVERED WITH SOIL AS SOON AS POSSIBLE.

3. NO STOCKPILING OF MATERIALS, VEHICULAR TRAFFIC, OR STORAGE OF EQUIPMENT OR MACHINERY SHALL BE ALLOWED WITHIN THE LIMIT OF THE FENCING. FENCING SHALL NOT BE MOVED OR REMOVED UNLESS APPROVED BY THE CITY PLANNING OFFICIAL. WORK WITHIN PROTECTION FENCE SHALL BE DONE MANUALLY UNDER THE SUPERVISION OF THE ON-SITE ARBORIST AND WITH PRIOR APPROVAL BY THE CITY PLANNING OFFICIAL.

4. FENCING SIGNAGE AS DETAILED ABOVE MUST BE POSTED EVERY FIFTEEN (15) FEET ALONG THE FENCE.

CITY OF KIRKLAND WASHINGTON

TREE PROTECTION FENCING DETAIL

THE WATERSHED COMPANY

August 10, 2006

Ron Hanson
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Re: Aubry Delineation Report - TWC Project Number 060701.2

Dear Ron:

On April 20 and July 18, 2006, Watershed Company ecologists conducted a wetland delineation study at the property belonging to David Aubry (parcel number 120000260), located on 8th Street South in the City of Kirkland. This letter summarizes the findings of this study and details applicable federal, state, and local wetland regulations. Wetland Determination Forms, a Wetland Field Data Form, and a site survey by Jim Hart and Associates are included.

Methods

The subject property was evaluated for wetlands using methodology from the *Washington State Wetlands Identification and Delineation Manual* (Manual) (Washington Department of Ecology [Ecology], 1997). Wetland boundaries were determined based on an examination of vegetation, soils, and hydrology. Areas meeting the criteria set forth in the Manual were determined to be wetland and marked with pink- and black-striped flagging. Data points were marked with yellow- and black-striped flagging.

We used observations in the field, information gathered from *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company 1998), and aerial photos from King County's online mapping tool, iMap, to rate the wetland found on the property. The wetland was classified using Kirkland's *Wetland Field Data Form*.

Findings

Wetland A

The northwest corner of the property includes a small area of a wetland, Wetland A, that extends off-site to a neighboring property (see enclosed Wetland Sketch). Most of the portion of Wetland A that occurs on the subject property is seeded with grass and maintained as lawn. Small amounts of creeping buttercup are also present. Some Himalayan blackberry occurs in the wetland off-site. Soil data collected during the April 20 field visit revealed very dark brown to black (10YR 2/1) silty sandy loam with no mottles and saturation at the surface. Standing water in soil pits was observed at a depth of 5 inches at this time as well. Gravel and drain rock has

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

ATTACHMENT 8
SP06-00006

clearly been placed throughout this wetland swale some time ago, and the area was subsequently seeded with grass and is regularly mown.

Uplands

Upland areas on the property are dominated by a grass lawn interspersed with an assemblage of weedy herbaceous species. This is a typical residential property with a single-family house and a sparse overstory consisting of various ornamental trees distributed throughout the yard. Most non-wetland soils on the site are very dark grayish brown (10YR 3/2) sandy loam with few mottles and were not saturated when we visited the site on July 18, 2006. One area located at the mouth of a non-functioning drainage pipe showed distinct and prominent mottling. The soil was, however, lacking other indicators of wetland hydrology, exhibiting only historic evidence of a hydric regime caused by the drainage pipe.

Local Regulations

The Kirkland Zoning Code (KZC 90.30) establishes a rating system that categorizes wetlands into three classes. Each wetland class has a definition based on a range of ecological attributes such as size, value of the wetland as wildlife habitat, number of vegetation classes within the wetland, whether or not plants or animals using the wetland are rare, endangered, or threatened, and others. These attributes are measured using the City's Wetland Field Data form (see attached completed form).

Wetland A would be classified under the City of Kirkland's system as a Type 3 wetland. The wetland is located in Moss Bay Basin, which is considered a secondary basin by the City. The City requires buffers of 25 feet for Type 3 wetlands in secondary basins, as well as a 10-foot buffer setback, in which minor improvements that would not adversely affect wildlife, habitat, or vegetation in the buffer or wetland may be permitted (KZC 90.45).

Type 3 wetlands located in secondary basins and less than 2,500 square feet in size are exempt from these requirements (KZC 90.15).

The size of wetland A, which extends beyond the subject parcel onto neighboring properties, was assessed during a site visit and through interpretation of aerial imagery, and was estimated to be greater than 2,500 square feet and therefore subject to regulation. An accurate assessment of Wetland A's actual size would require additional delineation work and surveys across neighboring properties.

Modification of buffer areas for Type 3 secondary-basin wetlands is permitted pursuant to requirements provided in the Code (KZC 90.60). Buffer widths may be reduced through either 1) buffer width averaging or 2) buffer reduction with enhancement, although the two mechanisms may not be used in combination. A land surface modification within the buffer are subject to review by the Planning Official, and would be approved under the conditions outlined in KZC 90.60.2(b), which are designed to protect drainage/storm water detention capabilities, water quality standards, and wildlife functions.

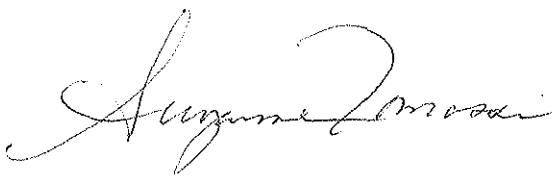
State and Federal Regulation

Wetlands are also regulated by the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act. Any filling of Waters of the State, including wetlands (except isolated wetlands), would likely require notification and permits from the Corps. Wetland A may be considered isolated by the Corps. Federally permitted actions that could affect endangered species (i.e. salmon or bull trout) may also require a biological assessment study and consultation with the U.S. Department of Fish and Wildlife and/or the National Marine Fisheries Service. Application for Corps permits may also require an individual 401 Water Quality Certification and Coastal Zone Management Consistency determination from Ecology.

Generally, neither the Army Corps of Engineers nor the Department of Ecology regulates wetland buffers.

Please call if you have any questions or if we can provide additional information.

Sincerely,



Suzanne Tomassi
Wetland/Wildlife Biologist

Enclosures

WETLAND DETERMINATION DATA FORM

THE WATERSHED COMPANY

750 Sixth Street South
Kirkland, Washington 98033
(425) 822-5242 Fax (425) 827-8136

WETLAND? ***YES*** **NO**

Date: 7/18/06 Data point: 1 Wetland # : _____
Project Name: Kirkland Aubry Data point location: _____
Biologist(s): ST/HM

Do normal environmental conditions exist? **YES** NO
Has vegetation, soils &/or hydrology been significantly disturbed within the past 5 yrs? **YES** NO

VEGETATION

Stratum: T=tree, S=shrub, H=herb, V=vine

Dominant Species	Stratum	WIS	Other Species	Stratum	WIS
Ranunculus repens	H	FACW			
Equisetum arvense	H	FAC			
Poa spp.	H	FAC			

Percent of dominant species that are FAC, FACW or OBL 100

Vegetation criteria met? **YES** NO
Notes: _____

SOILS

Depth	Horizon	Matrix Color	Mottles (Distinct/Prominent)	Texture
0-10"+	B	10YR 3/2	typ	Sandy loam

Hydric Indicators:
____ Gleyed/Low Chroma
____ Sulfidic odor
____ Histosol
____ Other (list in notes)

Soil Criteria Met? **YES** NO
Notes: Redoximorphic features due to old (no longer running) drainage pipe in area

HYDROLOGY

Surface saturation? YES **NO**
Depth to saturation _____
Depth of inundation _____
Depth to free water in pit _____
Flow? YES NO
Channel? ____ Sheet? ____

Primary Indicators: (1 required)
____ Observation of inundation
____ Observation of soil saturation
____ Water marks
____ Drift lines or drainage patterns
____ Sediment deposits

Secondary Indicators: (≥2 required)
____ Oxidized root channels
____ Water-stained leaves
____ Local soil survey data
____ FAC-neutral test

Hydrologic Criteria Met? YES **NO**

Recent rainfall: Very high High Normal Low Very low

Notes: Barely saturated

WILDLIFE OBSERVATIONS AND GENERAL NOTES

WETLAND DETERMINATION DATA FORM

THE WATERSHED COMPANY

750 Sixth Street South
Kirkland, Washington 98033
(425) 822-5242 Fax (425) 827-8136

WETLAND? *YES* **NO**

Date: 7/18/06 Data point: 2 Wetland # : _____
Project Name: Kirkland Aubry Data point location: _____
Biologist(s): ST/HM

Do normal environmental conditions exist? **YES** NO
Has vegetation, soils &/or hydrology been significantly disturbed within the past 5 yrs? **YES** NO

VEGETATION

Stratum: T=tree, S=shrub, H=herb, V=vine

Dominant Species	Stratum	WIS	Other Species	Stratum	WIS
Poa sp.	H	FAC			
Trifolium repens	H	FAC-			

Percent of dominant species that are FAC, FACW or OBL 50

Vegetation criteria met? YES **NO**
Notes: _____

SOILS

Depth	Horizon	Matrix Color	Mottles (Distinct/Prominent)	Texture
0-10"	B	10YR 3/2	few	Sandy loam

Hydric Indicators:
____ Gleyed/Low Chroma
____ Sulfidic odor
____ Histosol
____ Other (list in notes)

Soil Criteria Met? YES **NO**
Notes: _____

HYDROLOGY

Surface saturation? YES **NO**
Depth to saturation _____
Depth of inundation _____
Depth to free water in pit _____
Flow? YES NO
Channel? ____ Sheet? ____

Primary Indicators: (1 required)
____ Observation of inundation
____ Observation of soil saturation
____ Water marks
____ Drift lines or drainage patterns
____ Sediment deposits

Secondary Indicators: (≥2 required)
____ Oxidized root channels
____ Water-stained leaves
____ Local soil survey data
____ FAC-neutral test

Hydrologic Criteria Met? YES **NO**

Recent rainfall: Very high High Normal Low Very low

Notes: _____

WILDLIFE OBSERVATIONS AND GENERAL NOTES

WETLAND DETERMINATION DATA FORM

THE WATERSHED COMPANY

750 Sixth Street South
Kirkland, Washington 98033
(425) 822-5242 Fax (425) 827-8136

WETLAND? **YES** ***NO***

Date: 4/20/06 Data point: 3 Wetland # : A
Project Name: Kirkland Aubry Data point location:
Biologist(s): AB/HM

Do normal environmental conditions exist? **YES** NO
Has vegetation, soils &/or hydrology been significantly disturbed within the past 5 yrs? **YES** NO

VEGETATION

Stratum: T=tree, S=shrub, H=herb, V=vine

Dominant Species	Stratum	WIS	Other Species	Stratum	WIS
Ranunculus repens	H	FACW			
Rubus discolor	H	FACU			
Poa spp.	H	FAC			

Percent of dominant species that are FAC, FACW or OBL 66

Vegetation criteria met? **YES** NO
Notes:

SOILS

Depth	Horizon	Matrix Color	Mottles (Distinct/Prominent)	Texture
0-12"	B	10YR 2/1	no	Silty sandy loam

Hydric Indicators:
X Gleyed/Low Chroma
___ Sulfidic odor
___ Histosol
___ Other (list in notes)

Soil Criteria Met? **YES** NO
Notes: Gravel and drain rock was placed in this swale a long time ago and the area has been Seeded with grass and mown.

HYDROLOGY

Surface saturation? **YES** NO
Depth to saturation ___
Depth of inundation ___
Depth to free water in pit 5"
Flow? YES NO
Channel? ___ Sheet? ___

Primary Indicators: (1 required)
___ Observation of inundation
X Observation of soil saturation
___ Water marks
___ Drift lines or drainage patterns
___ Sediment deposits

Secondary Indicators: (≥2 required)
___ Oxidized root channels
___ Water-stained leaves
___ Local soil survey data
___ FAC-neutral test

Hydrologic Criteria Met? **YES** NO Recent rainfall: Very high High Normal Low Very low
Notes: Note date of observation – April visit

WILDLIFE OBSERVATIONS AND GENERAL NOTES

WETLAND FIELD DATA FORM – Aubry property located on 8th St S Kirkland, WA 98033.

Rating done on 7/18/2006 by The Watershed Company.

WETLAND FIELD DATA FORM

BEGIN BY CHECKING ANY OF THE FOLLOWING (a. – e.) THAT APPLY:

a. The wetland is contiguous to Lake Washington;

b. The wetland contains at least 1/4 acre of organic soils, such as peat bogs or mucky soils;

c. The wetland is equal to or greater than 10 acres in size and having three or more wetland classes, as defined by the U.S. Fish & Wildlife Service (Cowardin et al., 1979), one of which is open water;

d. The wetland has significant habitat value to state or federally listed threatened or endangered wildlife species; or

e. The wetland contains state or federally listed threatened or endangered plant species.

IF ANY OF THE CRITERIA LISTED ABOVE ARE MET, THEN THE WETLAND IS CONSIDERED TO BE TYPE 1. IF THAT IS THE CASE, PLEASE CONTINUE TO COMPLETE THE ENTIRE FORM, BUT DO NOT ASSIGN POINTS.

IF THE WETLAND DOES NOT MEET THE CRITERIA LISTED ABOVE FOR TYPE 1, COMPLETE THE ENTIRE FORM, USING THE ASSIGNED POINTS TO DETERMINE IF IT IS A TYPE 2 OR TYPE 3 WETLAND.

Type 2 wetlands typically have at least two wetland vegetation classes, are at least partially surrounded by buffers of native vegetation, connected by surface water flow (perennial or intermittent) to other wetlands or streams, and contain or are associated with forested habitat.

1. Total wetland area

Estimate wetland area and score from choices	Acres		Point Value	Points
	>20.00	=	6	
	10-19.99	=	5	
	5-9.99	=	4	
	1-4.99	=	3	
	0.1-0.99	=	2	
	<0.1	=	1	1

(1)

2. *Wetland classes:* Determine the number of wetland classes that qualify, and score according to the table.

	# of Classes		Points
Open Water: if the area of open water is >1/3 acre or >10% of the total wetland area	1	=	1
Aquatic Beds: if the area of aquatic beds is >10% of the **open water** area **or** >1/2 acre	**2**	=	**3**
Emergent: if the area of emergent class is >1/2 acre **or** >10% of the total wetland area	3	=	5
Scrub-Shrub: if the area of scrub-shrub class is >1/2 acre **or** >10% of the total wetland area	4	=	7
Forested: if the area of forested class is >1/2 acre or >10% of the total wetland area	5	=	10

(3)

3. Plant species diversity.

For all wetland classes which qualified in 2 above, count the number of different plant species and score according to the table below. You do not have to name them.

e.g., if a wetland has an aquatic bed class with 3 species, and emergent class with 4 species and a scrub-shrub class with 2 species, you would circle 2, 2, and 1 in the second column (below).

Class	# of Species	Point Value	Class	# of Species	Point Value
Aquatic Bed	1-2	= 1	Scrub-Shrub	1-2	= 1
	3	= 2		**3-4**	= **2**
	>3	= 3		>4	= 3
Emergent	**1-2**	= **1**	Forested	1-2	= 1
	3-4	= 2		3-4	= 2
	>4	= 3		>4	= 3

(3)

4. Structural diversity.

If the wetland has a forested class, add 1 point for each of the following attributes present:

Trees >50′ tall = 1

Trees 20′ to 49′ tall = 1

shrubs = 1

Herbaceous ground cover = 1

(0)

5. Intersperesion between wetland classes.

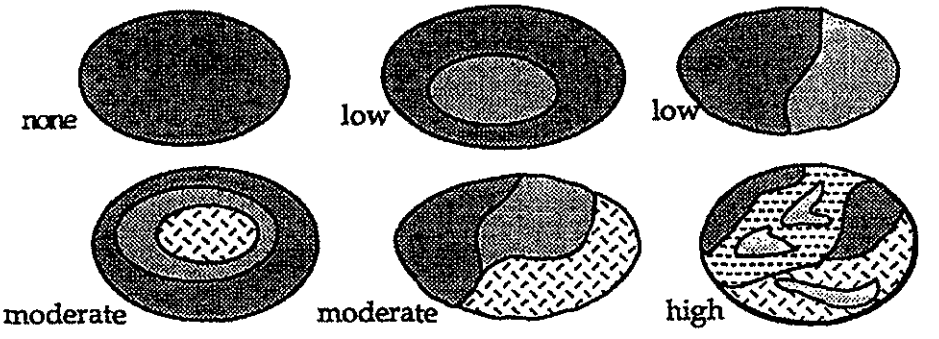
Decide from the diagrams below whether interspection between wetland classes is high, moderate, low or none

3 = High

2 = Moderate

1 = Low

0 = None



(1)

6. Habitat features

Add points associated with each habitat feature listed:

Is there evidence of current use by beavers?	= 3
Is a heron rookery located within 300′?	= 2
Are raptor nest(s) located within 300′?	= 1
Are there at least 2 standing dead trees (snags) per acre?	= 1
Are there any other perches (wires, poles, or posts)?	= 1
Are there at least 3 downed logs per acre?	= 1

(1)

7. Connection to streams

Is the wetland connected at any time of the year via surface water? **(score one answer only)**

Is the wetland connected at any time of the year via surface water?

To a perennial stream or a seasonal stream *with* fish	= 5
To a seasonal stream *without* fish	= 3
Is not connected to any stream	= 0

(0)

8. Buffers

Step 1: Estimate (to the nearest 5%) the percentage of each buffer or land-use type (below) that adjoins the wetland boundary. Then multiply these percentages by the factor(s) below and enter result in the column to the right.

	% of Buffer		Step 1	Width Factor		Step 2
Roads, buildings or parking lots	____ %	X 0 =	____	____	=	____
Lawn, grazed pasture, vineyards or annual crops	50 %	X 1 =	50	1	=	50
Ungrazed grassland or orchards	____ %	X 2 =	____	____	=	____
Open water or native grasslands	____ %	X 3 =	____	____	=	____
Forest or shrub	50 %	X 4 =	200	1	=	200
				Add buffer total 250		

Step 2: Multiply result(s) of step 1:

By 1 if buffer width is 25-50′

By 2 if buffer width is 50-100′

By 3 if buffer width is >100′

Enter results and add subscores

Step 3: Score points according to the following table:

Buffer Total

900-1200 = 4

600-899 = 3

300-599 = 2

100-299 = 1

(points)

9. Connection to other habitat areas:

Is there a riparian corridor to other wetlands within 0.25 of a mile, or a corridor >100′ wide with good forest or shrub cover to any other habitat area? = 5

Is there a narrow corridor <100′ wide with good cover or a wide corridor >100′ wide with low cover to any other habitat area? = 3

Is there a narrow corridor <100′ wide with low cover or a significant habitat area within 0.25 mile but no corridor? = 1

Is the wetland and buffer completely isolated by development and/or cultivated agricultural land? **= 0**

(0).

10. Scoring

Add the scores to get a total: 10

Question: Is the total greater than or equal to 22 points?

Answer:

Yes = Type 2

No = Type 3

Wetland Buffer Mitigation Plan

Aubry Property
Kirkland, Washington

Prepared For:

David Aubry
341 8th Street South
Kirkland, Washington 98033

Prepared By:

Aquatica Environmental Consulting, LLC
21214 Rimrock Road
Monroe, Washington 98272

RECEIVED
NOV 21 2006

November 1, 2006

ATTACHMENT 9
SP06-0006

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1.0 INTRODUCTION

This Wetland Buffer Mitigation Plan has been prepared to identify proposed impacts to sensitive areas and describe compensatory mitigation requirements for a proposed development. The subject property is located at 341 8th Street South in Kirkland, Washington (Parcel #0120000260). This report has been prepared for submittal to the City of Kirkland and has been prepared according to the City of Kirkland Zoning Code (KZC) Chapter 90.05.

2.0 CRITICAL AREAS

The wetland (Wetland A) identified on the property is located near the western property line. The majority of the wetland is located off-site to the west; only 11 sf of the wetland is located on the property. Wetland A is a Type 3 wetland, is located in a secondary (urban) drainage basin, and requires a 25-foot standard buffer (KZC 90.45(1)). This wetland was delineated by the Watershed Company. Additional details regarding the wetland and the delineation can be found in the Watershed Company's report.

The on-site portion of the wetland and its 25-foot buffer are both degraded. They are currently maintained as a lawn. Due to the lack of significant vegetation in the wetland and buffer, the wetland is a lower-value feature that does not perform the functions that wetlands typically provide at a high level, such as water quality improvement, stormwater storage, and wildlife habitat.

3.0 PROPOSED PROJECT

The proposed project includes subdividing the property into three lots (**Figure 1**). The existing garage will be removed and the existing house is proposed to be relocated to the northern lot.

A wetland buffer modification is requested, as allowed by KZC 90.60 (2)(a)(2). The buffer is proposed to be reduced by one-third; the remaining 16.5-foot buffer and wetland are proposed to be enhanced. Proposed mitigation for reducing the buffer will include enhancing the buffer with native trees, shrubs and ferns. A ten-foot building set back is required from the edge of the reduced buffer, in which above-ground structures shall not be built (KZC 90.30(3)).

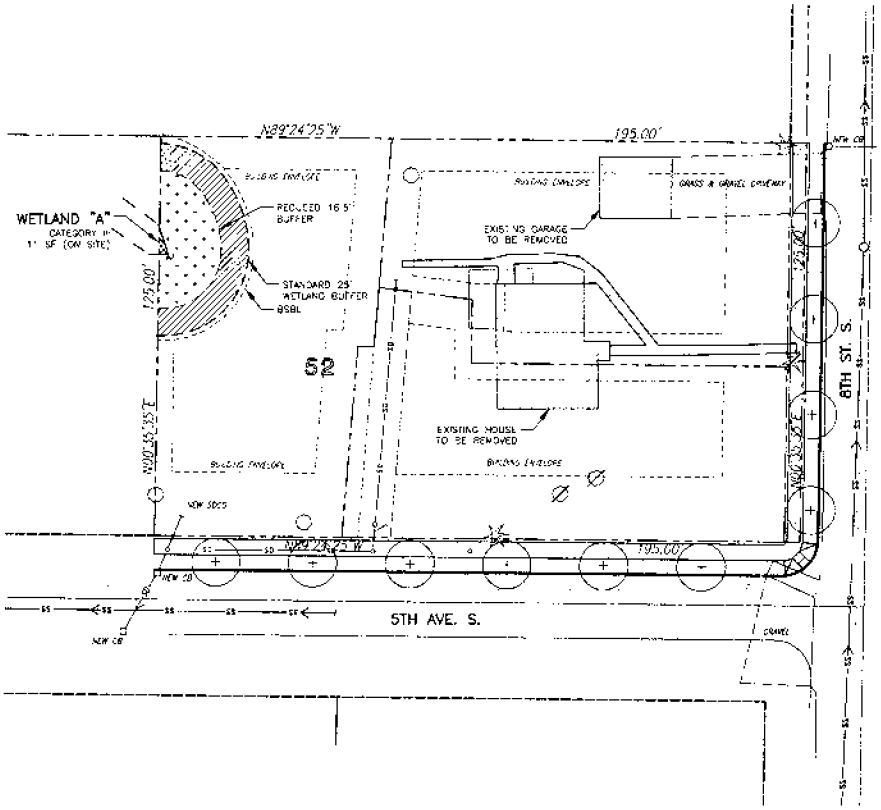
4.0 MITIGATION

The project proposes to reduce the wetland buffer by one third the standard buffer width, down to 16.5 feet. The remaining buffer (635 sf) and wetland (11 sf) will be enhanced with native trees and shrubs.

4.1 Goal, Objectives, and Performance Standards

The following goal, objectives, and performance standards have been created to mitigate for the reducing the wetland buffer.

Goal:



LEGEND

- PROPERTY LINE
- EXISTING WETLAND
- APPROXIMATED WETLAND BOUNDARY (NOT SURVEYED)
- STANDARD 25' WETLAND BUFFER
- REDUCED 16.5' BUFFER

IMPACTS

- BUFFER REDUCTION – 663 SF

MITIGATION (SEE FIGURE 2 FOR PLANTING PLAN)

- WETLAND ENHANCEMENT – 11 SF
- BUFFER ENHANCEMENT – 646 SF

Call 2 Working Days Before You Dig
1-800-424-5555
(Utilities Underground Location Center)
(ID,MT,ND,OR,WA)

NOT FOR CONSTRUCTION

THESE PLANS HAVE BEEN SUBMITTED TO THE APPROPRIATE AGENCIES FOR REVIEW AND APPROVAL. UNTIL APPROVED, THESE PLANS ARE

SUBJECT TO REVISION

NOTES

1. BASE PLAN PROVIDED BY JIM HART & ASSOCIATES, 220 6TH ST., KIRKLAND, WA 98033, (425) 822-4171.
2. THIS PLAN IS AN ATTACHMENT TO THE MITIGATION REPORT PREPARED BY AQUATICA IN SEPTEMBER, 2006

APPROVED FOR CONSTRUCTION

BY: _____
CITY OF KIRKLAND PLANNING DEPARTMENT

DATE: _____

GRAPHIC SCALE
(IN FEET)
0 15 30 60
SCALE 1"=30'

NORTH

AQUATICA ENVIRONMENTAL CONSULTING, LLC 21214 SIMROCK ROAD MONROE, WA 98272 T (425) 802-3988 F (360) 805-9603	SITE PLAN IMPACTS & MITIGATION AUBRY KIRKLAND, WASHINGTON	DRAWN BY: KG CHECKED BY: TO SCALE: AS NOTED DATE: 11.2.2006 PROJECT NO: 06-007 FIGURE 1 OF 3	

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Mitigate for buffer reduction by enhancing 635 sf of buffer and 11 sf of wetland. The wetland buffer enhancement area will be planted with trees and shrubs to eventually create a forested buffer.

Objective A: Increase the woody species diversity in the enhancement area.
Performance Standard A: Percent survival of planted woody species must be at least 85% for each year of the monitoring period

Objective B: Increase the native vegetation coverage in the enhancement area through native fern, shrub and tree species.
Performance Standard B: A combination of native sapling tree, shrub, and groundcover coverage will be at least 60% by the end of Year 5.

Objective C: Maintain invasive plants to less than 15% cover in the enhancement area.
Performance Standard C: After construction and following every monitoring event for a period of five years, exotic and invasive plant species will be maintained at levels below 15% total cover in the mitigation areas. These species include those listed on the King County noxious weed list.

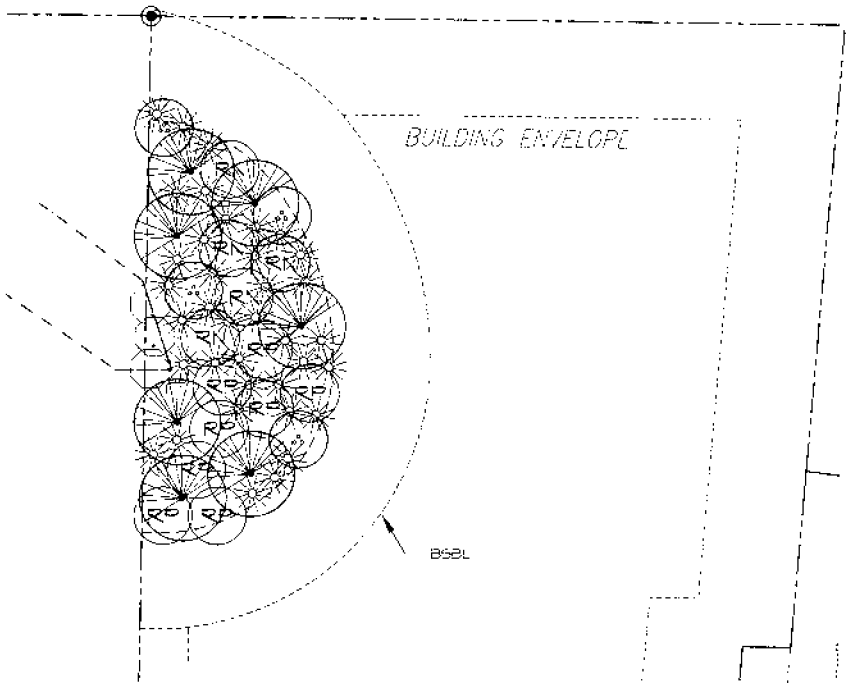
4.2 Wetland Buffer Enhancement and Restoration

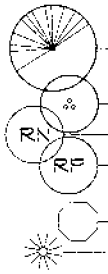
The buffer restoration area is devoid of significant woody vegetation and will be planted according to King County density guidelines for a forested upland buffer. Trees will be installed 9' on-center, shrubs will be installed 6' on-center, and ferns will be installed 4' on center (**Figure 2**).

The plant species depicted on the mitigation plan were chosen for a variety of qualities, including: adaptation to specific water regimes, value to wildlife, pattern of growth (structural diversity), and aesthetic values. Plants proposed to be planted in the buffer include plants native to the lowlands of western Washington, including: western red cedar, thimbleberry, Nootka rose, vine maple, and sword fern. While the buffer is an upland it does not appear to be excessively dry, therefore plants that can tolerate mesic conditions were selected. Through planting trees, shrubs, and a groundcover species, eventually three layers of vegetation will develop thereby creating a structurally diverse habitat that will appeal to a variety of wildlife species. Both thimbleberry and Nootka rose produce food for wildlife (berries and rose hips). It is assumed that birds will be the primary type of wildlife utilizing the buffer due to its urban surroundings. Plant materials may consist of a combination of bare-root shrubs (during the dormant season) and container plants. Plants shall not be installed during the dry, summer months (June through early September).

4.3 Temporary Irrigation System

An above ground temporary irrigation must be installed to provide irrigation to mitigation plantings during the dry season. At a minimum, the system must be operational for the first year following installation. If a significant number of plants die, replacement plantings must also be irrigated for their first year following installation. Mitigation areas shall be irrigated between June 15 (or earlier if needed) and October 15. The irrigation system shall be programmed to provide 1" of water per week.





PLANT SCHEDULE

TREES

QTY	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
7	THUJA PLICATA	WESTERN RED CEDAR	2 GAL	9' O.C.

SHRUBS

QTY	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
4	ACER CIRCINATUM	VINE MAPLE	2 GAL	6' O.C.
5	ROSA NUTKANA	NOOTKA ROSE	1 GAL	6' O.C.
8	RUBUS PARVIFLORUS	THIMBLEBERRY	1 GAL	6' O.C.

GROUNDCOVER

QTY	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
3	ATHYRIUM FILIX-FEMINA	LADY FERN	1 GAL	4' O.C.
37	POLYSTICHUM MUNITUM	SWORD FERN	1 GAL	4' O.C.

Call 2 Working Days Before You Dig
1-800-424-5555
Utilities Underground Location Center
(ID,MT,ND,OR,WA)

NOT FOR CONSTRUCTION

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APPROVED FOR CONSTRUCTION

BY: _____
CITY OF KIRKLAND PLANNING DEPARTMENT

DATE: _____

GRAPHIC SCALE
(IN FEET)
0 5 10 20
SCALE: 1"=10'

NORTH

AQUATICA
ENVIRONMENTAL CONSULTING, LLC
21214 RUNRECK ROAD
MONROE, WA 98272
T (425) 802-8988
F (360) 805-9508

PLANTING PLAN & SCHEDULE
AUBRY
KIRKLAND, WASHINGTON

DRAWN BY: XG	CHECKED BY: TC
SCALE: AS NOTED	DATE: 11.3.2006
PROJECT NO: 06-007	
FIGURE 2 OF 3	

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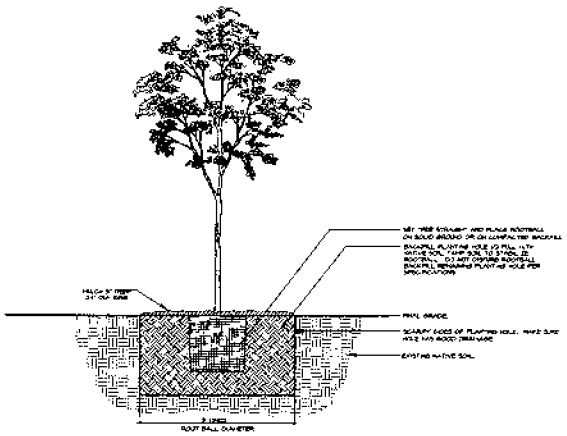
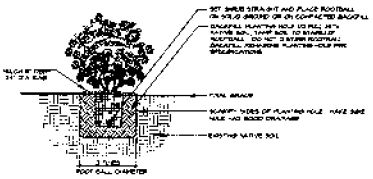


1 TREE PLANTING DETAIL

Scale NTS



2 SHRUB PLANTING DETAIL

Scale NTS

SPECIFICATIONS

- PRIOR TO CONSTRUCTION, THE LIMITS OF WORK WILL BE CLEARLY STAKED AT 20-FOOT INTERVALS AND ALL TEMPORARY EROSION AND SEDIMENTATION CONTROLS IN PLACE.
- SOIL IN UNVEGETATED BUFFER AREAS MUST BE DECONSOLIDATED TO A DEPTH OF 8 INCHES AND AMENDED WITH COMPOST AS NEEDED.
- PLANTS SHALL BE LOCALLY GROWN (WESTERN WASHINGTON OR OREGON), OF NORMAL HEALTH, VIGOROUS, AND FREE OF WEEDS, DISEASES, INSECTS, INSECT EGGS AND LARVAE.
- CONTAINER GROWN PLANTS SHALL NOT BE LOOSE IN CONTAINER AND SHALL NOT BE POT-BOUND.
- DO NOT PRUNE PLANTS PRIOR TO DELIVERY OR PLANTING.
- TAKE ALL PRECAUTIONS AND CUSTOMARY GOOD TRADE PRACTICES IN PREPARING PLANTS FOR TRANSPORT. COVER PLANTS TRANSPORTED ON OPEN VEHICLES WITH A PROTECTIVE COVERING TO PREVENT WIND BURN.
- PROTECT PLANTS FROM DRYING OUT. BARE ROOT AND B&B PLANT MATERIAL SHALL HAVE THEIR ROOTS KEPT MOIST AT ALL TIMES. PROTECT FROM FREEZING, WIND, AND SUN. IF PLANTING IS DELAYED BY MORE THAN 24 HOURS, COVER ROOTS/ROOT BALLS WITH SAWDUST, COMPOST, OR SOIL. WATER PLANTS AS NECESSARY.
- WATER PLANTS WITHIN 24 HOURS OF PLANTING.
- PROVIDE MULCH RINGS AROUND SHRUBS AND TREES, 24 INCHES IN DIAMETER, THREE INCHES IN DEPTH. MULCH MAY BE COMPOST, BARK, OR WOOD CHIPS.
- GUARANTEE PLANT MATERIAL TO BE ALIVE, HEALTHY, AND VIGOROUS.
- PLANTS MUST BE OF THE CORRECT SIZE AND SPECIES AS SHOWN ON THE PLAN. SPECIES SUBSTITUTION SHALL NOT BE MADE WITHOUT APPROVAL OF WETLAND BIOLOGIST.
- AN ABOVE GROUND TEMPORARY IRRIGATION SYSTEM MUST BE INSTALLED TO PROVIDE IRRIGATION TO MITIGATION PLANTINGS DURING THE DRY SEASON. AT A MINIMUM, THE SYSTEM MUST BE OPERATIONAL FOR THE FIRST YEAR FOLLOWING INSTALLATION. IF A SIGNIFICANT NUMBER OF PLANTS DIE, REPLACEMENT PLANTINGS MUST ALSO BE IRRIGATED FOR THEIR FIRST YEAR FOLLOWING INSTALLATION. MITIGATION AREAS SHALL BE IRRIGATED BETWEEN JUNE 15 (OR EARLIER IF NEEDED) AND OCTOBER 15. THE IRRIGATION SYSTEM SHALL BE PROGRAMMED TO PROVIDE 1" OF WATER PER WEEK.
- RECOMMENDED PLANT SOURCES:

STORM LAKE GROWERS MONROE, WA (360) 794-4842	TADPOLE HAVEN NATIVE PLANTS WOOD VALLEY, WA (425) 788-6150
FORTH CORNER NURSERY BELLINGHAM, WA (360) 592-2250	SOUND NATIVE PLANTS OLYMPIA, WA (306) 352-4122

- RECOMMENDED SEED SOURCES:

PLANTAS NATIVA BELLINGHAM, WA (360) 715-6855	INSIDE PASSAGE SEEDS PORT TOWNSEND, WA (360) 385-6114

FROSTY HOLLOW ECOLOGICAL RESTORATION
SANDY, WA
(380) 579-2332

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(DNT,ND,OR,WA)

NOTES

1. BASE PLAN PROVIDED BY JIM HART & ASSOCIATES, 230 6TH ST. KIRKLAND, WA 98033, (425) 822-4171
2. THIS PLAN IS AN ATTACHMENT TO THE MITIGATION REPORT PREPARED BY AQUATICA IN SEPTEMBER, 2006.

NOT FOR CONSTRUCTION

THESE PLANS HAVE BEEN SUBMITTED TO THE APPROPRIATE AGENCIES FOR REVIEW AND APPROVAL UNTIL APPROVED, THESE PLANS ARE

SUBJECT TO REVISION

APPROVED FOR CONSTRUCTION

BY
CITY OF KIRKLAND PLANNING DEPARTMENT

DATE

AQUATICA
ENVIRONMENTAL CONSULTING, LLC
212 A MONROE AVENUE
MONROE, WA 98272
T (425) 602-8888
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PLANTING DETAILS & SPECIFICATIONS
AUBRY
KIRKLAND, WASHINGTON

DRAWN BY KG	CHECKED BY TG
SCALE AS NOTED	DATE 11.2.2006
PROJECT NO 06-007	
FIGURE 3 OF 3	

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5.0 City Requirements

The KZC requires that a number of criteria be met prior to granting a buffer modification. These criteria are listed below in bold type; how the project will meet the criteria follow.

1. **It is consistent with *Kirkland's Streams, Wetlands, And Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998).**

As stated in The Watershed Company report, primary functions of wetlands located in urban basins include water quality maintenance and flood/stormwater conveyance. The Watershed report also notes that protection and enhancement of urban wetlands and buffers is needed. The proposed project will address all of these items. The wetland and reduced buffer will be permanently protected through the short plat process and will also be enhanced with native vegetation. Through installing native vegetation and requiring stormwater detention and treatment, the water quality and water conveyance functions of the wetland and buffer will not be degraded. See Questions 2 and 4, below, for more detail on these functions.

Recommendations in the Adolfson report relevant to this project include limiting the reduction of wetland buffers by only one-third and requiring enhancement of the remaining buffer. The project will not reduce the buffer by more than a third and is enhancing the remaining buffer and is therefore, consistent with this report.

2. **It will not adversely affect water quality**

The wetland and buffer will be planted with native ferns, shrubs and trees. The additional plant material will aid in the uptake of nutrients, which will help to improve water quality. This is expected to be an improvement over the existing conditions of the buffer, which is currently only vegetated with a maintained lawn. Lawns often introduce contaminants into wetlands, as they are often treated with fertilizer and herbicides.

3. **It will not adversely affect fish, wildlife, or their habitat.**

The enhanced buffer will not adversely affect fish or wildlife habitat. There are not any fish in the immediate vicinity, therefore the project is expected to have no effect on fish. Although the project is located within a residential area, urban-adapted wildlife such as raccoons and a variety of bird species likely are present in the area. Through planting native vegetation in the enhanced buffer, the buffer will provide food and cover for wildlife. The project is expected to have a positive affect on wildlife and their habitat.

4. **It will not have an adverse effect on drainage and/or storm water detention capabilities.**

The wetland and buffer currently provide little value in the way of storm water detention due to their topographic location (on a slope). The increase of impervious surfaces that the project will create could potentially have detrimental impacts, as water flows off of the new buildings and driveways rather than infiltrating into the ground. However, the project will adhere to City requirements that will involve the treating and detaining of stormwater, which will prevent adverse drainage or detention impacts. The installation of woody vegetation will also aid in reducing water run-off from the site, as the water is slowed by the physical structure of the plant.

5. It will not lead to unstable earth conditions or create an erosion hazard.

The wetland and buffer are located on a gradual slope. Since the slope is gradual and is currently vegetated, erosion or other possible instability is unlikely. As the vegetation planted in the buffer becomes established, the plants will provide further erosion control through root systems that are more expansive than the roots of the existing lawn grass. In addition, the project will adhere to best management practices such as the installation of a silt fence at the buffer edge.

6. *It will not be materially detrimental to any other property or the City as a whole.*

The proposed buffer reduction and enhancement is a minor project with minor impacts. Impacts will be fully mitigated through buffer enhancement. Overall the project will improve the wetland and buffer, and therefore will not cause any detrimental effects to the City or other properties.

7. *Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat.*

Fill material will not contain potentially harmful organic or inorganic material. Fill material will be clean and will come from an approved source.

8. All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate.

As described in Section 4.2 the vegetation proposed to be installed in the enhancement area will be native the lowland Puget Sound. The species were selected based on their ability to thrive in the soil and light conditions present on the site.

9. There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

The proposed alterations to the wetland buffer represent the least damaging practicable alternative, as determined by evaluating the environmental impacts and the ability of the project to perform its intended purpose. The reduced buffer was necessary to provide sufficient area to subdivide the property, as allowed by the zoning of the property. Since the wetland is of low value and the buffer is also extremely degraded, it was determined that the reduction of the buffer with enhancement will not adversely impact the wetland buffer.

10. The project will demonstrate that it will not adversely affect wetland functions and values.

The functions and values that wetlands and buffers provide include a) water quality maintenance, b) stormwater storage and conveyance, c) ground water recharge, d) providing wildlife habitat, and e) aesthetic and other functions valued by humans. Details regarding how the project will not adversely affect these functions are described/and or referenced below.

a). Water Quality Function. This was described above in Question 2.
b). Stormwater Storage. This was described above in Question 4.
c). Ground Water Recharge. This was also addressed above in Question 4.
d). Wildlife Habitat. This was described above in Question 3.
e). Social Functions. Due to the small size of the on-site portion of the wetland and because it is privately owned, it has limited value for recreation, education or scientific study. Vegetation that will be used for buffer enhancement will be attractive; therefore, the aesthetic value of the wetland and buffer will be improved. Fencing and signage will serve to educate the adjacent land owners of the presence of a wetland and buffer.

6.0 CONSTRUCTION/SPECIFICATIONS

- Prior to construction, limits of work will be clearly staked at 20-foot intervals and all temporary erosion and sedimentation controls in place.
- Soil in unvegetated buffer areas must be deconsolidated to a depth of 8 inches and amended with compost as needed.
- Plants shall be locally grown (western Washington or Oregon), of normal health, vigorous, and free of weeds, diseases, insects, insect eggs and larvae.
- Container grown plants shall not be loose in container and shall not be pot-bound.
- Do not prune plants prior to delivery or planting.
- Take all precautions and customary good trade practices in preparing plants for transport. Cover plants transported on open vehicles with a protective covering to prevent wind burn.
- Protect plants from drying out. Bare root and B&B plant material shall have their roots kept moist at all times. Protect from freezing, wind, and sun. If planting is delayed by more than 24 hours, cover roots/root balls with sawdust, compost, or soil. Water plants as necessary.
- Water plants within 24 hours of planting.
- Provide mulch rings around shrubs and trees, 24 inches in diameter, three inches in depth. Mulch may be compost, bark, or wood chips.
- Guarantee plant material to be alive, healthy, and vigorous.
- Plants must be of the correct size and species as shown on the plan. Species substitution shall not be made without approval of wetland biologist.
- An above ground temporary irrigation must be installed to provide irrigation to mitigation plantings during the dry season. At a minimum, the system must be operational for the first year following installation. If a significant number of plants die, replacement plantings must also be irrigated for their first year following installation. Mitigation areas shall be irrigated

between June 15 (or earlier if needed) and October 15. The irrigation system shall be programmed to provide 1" of water per week.

Plant Sources			
Storm Lake Growers Monroe, WA 360-794-4842	Tadpole Haven Native Plants Woodinville, WA 425-788-6100	Fourth Corner Nursery Bellingham, WA 360-592-2250	Sound Native Plants Olympia, WA 306-352-4122

Seed Sources		
Plantas Nativa Bellingham, WA 360-715-9655	Frosty Hollow Ecological Restoration Langley, WA 360-579-2332	Inside Passage Seeds Port Townsend, WA 360-385-6114

7.0 MONITORING PROGRAM

Performance monitoring of the mitigation areas will be conducted by a qualified biologist for a period of five years. Monitoring will include assessments of vegetation and wildlife usage, maintenance needs, as well as photo documentation. The results of each monitoring event will be summarized in a report to be submitted to the City. The first monitoring event will follow construction completion.

7.1 Vegetation

The growth and survival of the vegetation will be measured in one permanent transect, 25 feet long and ten feet wide. The transect will be established after construction, during the first monitoring event. During monitoring events, trees, shrubs, and herbaceous vegetation will be evaluated at this location. Percent survival of shrubs and trees will be evaluated in a 10-foot belt along the established transect. The species and location of shrubs and trees within this belt will be recorded, and will be evaluated during each monitoring event to determine percent survival.

Percent areal cover of trees and shrubs will be evaluated in the transect through the use of point-intercept sampling methodology. Using this methodology, a tape is extended between two permanent markers. Shrubs and trees intercepted by the tape will be identified, and the intercept distance recorded. Percent areal cover by species will then be calculated by adding the intercept distances and expressed as a total proportion of the tape length. Herbaceous and invasive vegetation coverage will be visually estimated in the transects.

7.2 Reports

Monitoring reports will include a summary of the quantitative vegetation sampling including shrub and tree coverage and survival; as well as a summary of qualitative estimates of herbaceous and invasive coverage. Observations of wildlife usage will also be noted, such as actual sightings, tracks, songs, calls, or scat. Photographs of the mitigation area will also be included with the report.

Reports will be submitted to the City according to the schedule presented in **Table 1**. If the performance standards for the project are met (**Section 4.1**), monitoring will cease after the fifth year, post-construction.

Table 1: Projected Calendar for Performance Monitoring and Maintenance Events

Year	Date*	Maintenance Review	Performance Monitoring	Report Due to City
1	Spring	X		
	Fall	X	X**	X
2	Spring	X		
	Fall	X	X	X
3	Spring	X		
	Fall	X	X	X
4	Spring	X		
	Fall	X	X	X
5	Spring	X		
	Fall	X	X	X***

*Beginning of monitoring period will start following construction completion.
**First monitoring visit will serve as the baseline assessment.
***Request approval of project approval from the City (presumes performance criteria are met).

7.3 MAINTENANCE (M) and CONTINGENCY (C)

Maintenance will be performed regularly to address any conditions that could jeopardize the success of the mitigation areas. During maintenance reviews (schedule shown in **Table 1**), any maintenance items requiring attention will be identified and reported to the property owner. Maintenance items requiring attention shall be completed within 30 days of the monitoring event.

Established performance standards for the project will be compared to the monitoring results to judge the success of the mitigation project. If there is a significant problem with the mitigation achieving its performance standards, the Bond-holder shall work with the City to develop a Contingency Plan. Contingency plans can include, but are not limited to: plant installation, erosion control, and plant substitutions of type, size, quantity, and location. Such contingency Plan shall be submitted to the City along with annual monitoring reports.

Contingency and maintenance items may include many of the items listed below and would be implemented if performance standards are not met. Maintenance and remedial action on the site will be implemented immediately upon completion of the monitoring event (unless otherwise specifically indicated below).

- During year one, replace all dead plant material. (M)

- Water all plantings at a rate of 1" of water at least every week between June 15 – September 15 during the first year after installation, and for the first year after any replacement plantings. (C & M)
- Replace dead plants with the same species or a substitute species that meets the goal and objectives of the mitigation plan, subject to the approval of the wetland biologist. (C)
- Re-plant area after reason for failure has been identified (e.g., moisture regime, poor plant stock, disease, shade/sun conditions, wildlife damage, etc.). (C)
- Weed trees and shrubs to the drip line, by hand. Do not use mechanized devices, herbicides, or pesticides. Maintain mulch rings around trees and shrubs at a depth of 3 inches. (M)
- Remove/control weedy or exotic invasive plants (e.g., Scot's broom, reed canarygrass, Himalayan blackberry, purple loosestrife, etc.). All non-native vegetation must be removed and dumped off site. (C & M)
- Clean up trash and other debris. (M)
- Selectively thin volunteer species (such as alder) to prevent domination by a single species. (M)

8.0 PERFORMANCE GUARANTEES

A maintenance/monitoring bond equal to the estimated installation, maintenance, monitoring, and contingency costs for the five-year monitoring period shall be posted with the City prior to finalization of the building permit. The bond may be released in partial amounts at the reasonable discretion of the City. Partial release of the bonding obligation would be in proportion to work successfully completed over the five-year monitoring period.

9.0 REFERENCES

Adolfson Associates, Inc. 1998. *City of Kirkland Sensitive Areas Recommendations Report.* August.

Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. *Classification of Wetlands and Deepwater Habitats of the United States.* U.S. Fish and Wildlife Service, Department of the Interior. FWSOBS-70/31.

Hitchcock, C.L., and A. Cronquist. 1973. *Flora of the Pacific Northwest.* University of Washington Press. 730 pp.

Kirkland, City of. Kirkland Zoning Code.

The Watershed Company. 1998. *Kirkland's Streams, Wetlands, and Wildlife Study.* July.

THE WATERSHED COMPANY

SCIENCE & DESIGN

January 25, 2007

Ron Hanson
City of Kirkland Planning
123 – 5th Avenue
Kirkland, WA 98033

Re: David Aubry Short Plat - Wetland Buffer Modification Review

Dear Ron:

Thank you for the opportunity to review the Wetland Buffer Mitigation plan prepared by Aquatica Environmental Consulting, LLC (AEC) and dated November 1, 2006. The Watershed Company conducted a wetland delineation study on the property on July 18, 2006.

Findings

The plan is well prepared and addresses all of the requirements for wetland buffer modification under Kirkland Zoning Code (KZC) section 90.60. Nevertheless, changes to the plan are necessary to ensure that when implemented, the buffer will function as intended under the requirements of the KZC.

The plan does not incorporate any woody debris or other habitat structures. One modest piece of woody debris is appropriate, if available from trees to be cleared for the new construction.

Plan objective "B" requires that a combination of native sapling tree, shrub and groundcover coverage be at least 60% by the end of year five. Groundcover is typically very difficult to establish. Therefore the cover goals should be tied to native woody vegetation (trees and shrubs) only. Also, at the density proposed and with good maintenance, this plan should reach at least 80% cover of native woody vegetation by the end of the monitoring period. Only the one percentage target is listed. Another target of 60% cover at year 3 is appropriate.

Plan objective "C" is to maintain invasive weeds to less than 15% cover. Since the site does not currently have any dense infestations of Himalayan blackberry or reed canarygrass, this limit should not be above 10%. Also, it should be worded such that no more than 10% cover by these weeds is allowed in any monitoring year.

No buffer fence or barrier is proposed as required under KZC 90.95. A fence or plantings of equal barrier is required at the edge of the buffer. However, a fence is preferable, as plantings need constant ongoing maintenance to ensure they have an equivalent barrier value. In practice we have found that shrub barriers do not reach the equivilent barrier value of a split rail fence.

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

ATTACHMENT 10
SP06-0006

In the Construction/Specifications section (6.0), the second bullet requires that soil in unvegetated areas be deconsolidated. There are no unvegetated areas in the planting areas. However, the lawn area does need de-compaction. This will also aid in reducing competition by the lawn grasses. To further elimninate or reduce the presence of lawn grasses, the entire area should be mulched with woodchips or "animal-friendly hog fuel" (available from Pacific Topsoils @ 1-800-884-7645). This mulch will greatly improve growth and survival while reducing root competition by weeds. Compost mulch, as recommended in bullet 9, should not be used, except when proposed as a soil amendment.

A biologist familiar with installation of mitigation projects should be on site to inspect soil preparation, plant material (prior to planting) and adequate plant placement. The biologist should prepare a short as-built letter certifying that the plan was installed as designed or documenting any plan departures.

The monitoring section (7.0) states that the first year monitoring is to take place following plant installation. Typically, an as-built inspection is done just after completion with the first year monitoring visits taking place in the first spring and summer following completion. Table 1 is not clear as to whether the monitoring biologist, or the maintenance crew does a "maintenance review". Regardless KZC 90.55 (4) c. requires two site visits per year by a qualified biologist. The first visit is usually done in the spring and consists of a quick evaluation for weeding and other maintenance. The second visit documents the bulk of the monitoring requirements, but also includes the findings of the spring visit.

Bullet 5 in the maintenance and contingency section (7.3) addresses weeding, however no details on the annual frequency are provided. At least two weedings per year are needed and more frequent work may be needed depending on the findings of the monitoring reports.

While section 8.0 covers the bond requirement, no bond estimate for the cost of the installation, monitoring or maintenance was provided. A simple and accurate bond quantity worksheet can be obtained from King County DDES or directly from this office.

Recommendations

We recommend the planning department require the following plan changes:

1) Add 1 modest piece of woody debris to the plan, if available from trees cleared for the new construction.
2) Change objective B to require cover of native woody shrubs reach at least 60% by year 3 and 80% by year 5.
3) Change objective C to require a maximum of 10% cover by invasive weeds in any monitoring year.
4) Add a split rail fence along the edge of the reduced buffer.
5) Propose deconsolidation of all lawn areas within the wetland and buffer by rototiller following by wood chip mulch to a depth of 4 inches across the entire planted area.
6) The plan should stipulate that a Biologist be on site to inspect soil deconsolidation, plant material acceptance and placement. Following site inspection, an as-built plan should be submitted to the City.

7) Monitoring visits should begin during the first spring following plant installation, following the as-built inspection. Also, the monitoring schedule should clearly detail two site visits per year.
8) The plan should propose a maintenance/weeding schedule.
9) The applicant should prepare a cost estimate for bonding purposes using the latest version of the King County Bond Quantity Worksheet.

The addition of these recommendations will ensure the plan meets the letter and intent of the Kirkland Zoning Code.

Please call with any questions.

Sincerely,

Hugh Mortensen

Hugh Mortensen, PWS
Ecologist

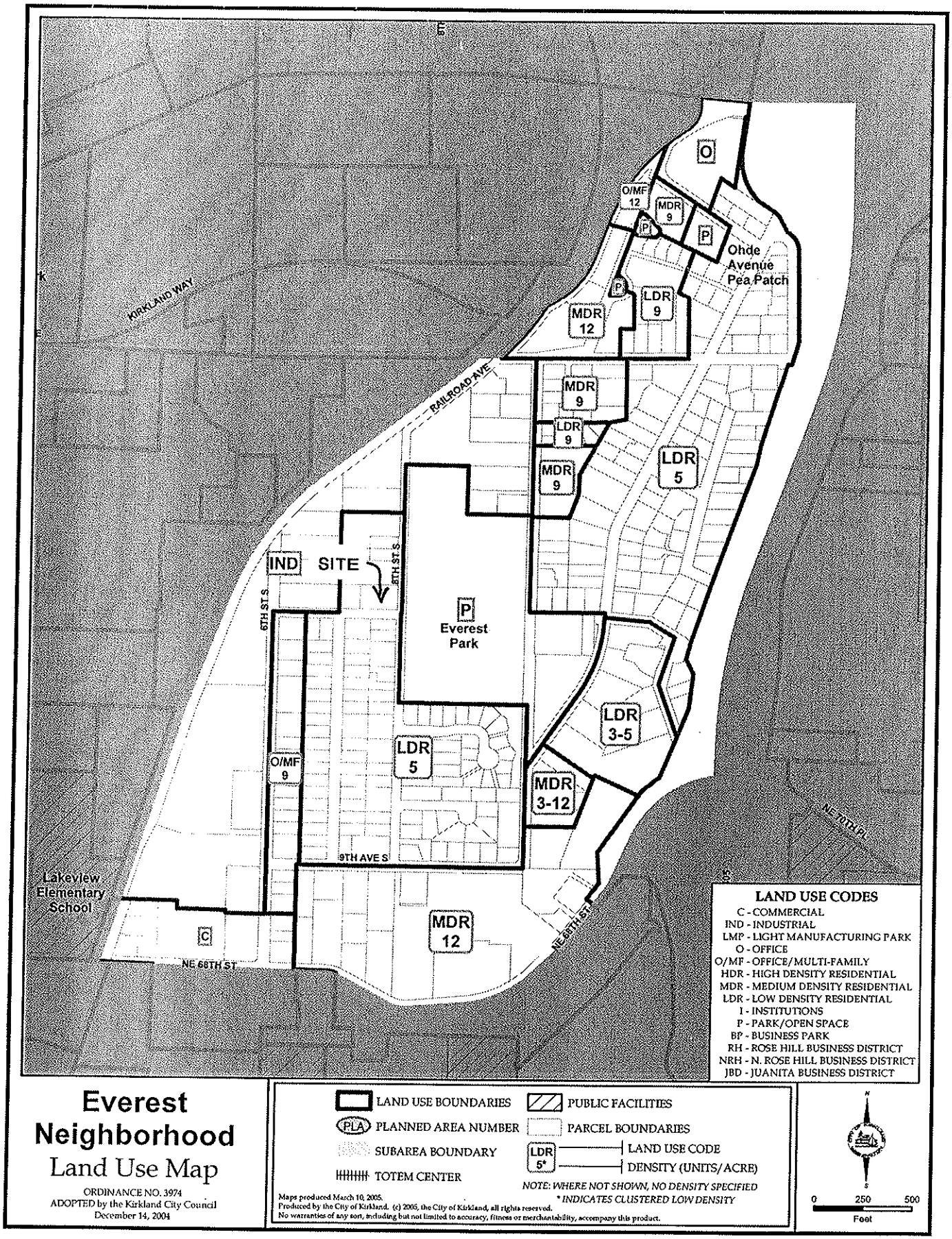
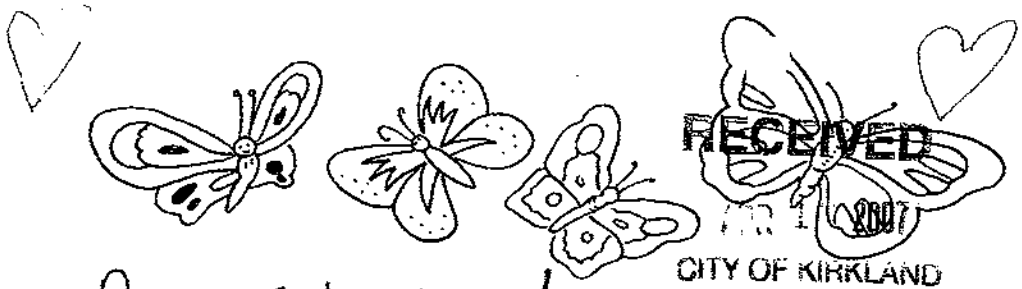


Figure E-1: Everest Land Use

City of Kirk

ATTACHMENT 11

SP06-0006



RECEIVED
APR 1 2007
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

Dear City Concil,
Please don't build that road. It will be right next to my friend's house. I think it would be very dangerous when me, my brother are playing in the street. That includes our friends too. So we really wish that you will not bulid that road. All of our friends are complaining and school and I'm really upset. For my final Word, Please do not bulid the road.

612 7th Street S Penny Ryan
(5th Ave. South)

ENCLOSURE 4A
SP06-00007

ENCLOSURE 4A
AP07-000024 AP07-00003

(quasi-judicial) to Planning

Rhonda Marshall
745 7th Street South
Kirkland, WA 98033

April 22, 2007

RECEIVED
MAY 01 2007
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

Kirkland City Council
123 5th Ave.
Kirkland, WA 98033
Attn: all City Council members

Dear City Council members;

Currently, 5th Ave South ends in a public footpath that goes between 7th Street South and 8th Street South near Everest. As you know, new home construction adjacent to this path will require extending 5th Ave South into at least a cul-de-sac off either 7th or 8th Street South in order to provide access to the new construction.

We have heard that the City of Kirkland plans to extend 5th Ave South into a through street between 7th and 8th Streets. This is an incredibly bad idea for the following reasons:

- As you know, a large business is being built on the west side of 6th Street South. 6th Street South is already very busy in the evening, and the new business, once completed, will add even more congestion on 6th Ave South parallel to our street during morning and evening rush hours.
- 8th Street South has speed bumps in order to deter people who would use it as a shortcut to get to the 85th Street and the entrances to 405. If there were a through street between 7th and 8th Street South, and people wanted to avoid the increased 6th Street South traffic would use 7th Street South instead of 8th Street South, which has no speed bumps at this time.
- 7th Street South is a narrow street, much narrower than 8th Street South. Along with a lack of speed bumps, it also has no contiguous sidewalks on either side, so when we walk (for example, with our children to school), we are essentially walking in the street.
- 7th Street South has more than 16 families with children under 10 years of age. Right now our street is quiet except for local traffic, and in the evenings our

ENCLOSURE 4B
APL07-00002 + APL07-00003

children ride their bikes and play in the street in relative safety, supervised by us parents. This has created a social atmosphere among the adults as well, and as a result we have a friendlier, more cohesive neighborhood.

In short, if 5th Ave South is extended to 8th Street South, our narrow, peaceful little road will become very busy during rush hour. In the mornings this will make it more dangerous for them to walk to school, and in the evenings they will have nowhere safe to play with each other as a general community. This change will decrease our property value, diminish our quality of life, and threaten our children's safety.

Even if the City of Kirkland attempts to mitigate the safety issues with sidewalks on both sides of the street and speed bumps, the community and character of our neighborhood will be irrevocably damaged.

Please do not make the proposed 5th Ave. South extension cut through to 8th Street South.

Thank you,

Rhonda Marshall

April 14, 2007

To the Kirkland City Council Members,

I just found out that a street is being planned on 5th Ave S. I am outraged that the city would even consider adding a street that would divert traffic through a neighborhood that has several small children! As a long time resident of the city of Kirkland, I have seen an explosion of development, some of it for the better, but I have always wondered where the traffic would go with all the housing being built so tightly together. I never thought the city would start diverting traffic through a residential neighborhood. I see this as a quick fix for a problem that was not well thought out. Not only will this NOT get anyone to I405 any faster but it will invite people to start using 7th St S as a thorough fair once people discover they can avoid traffic by going down this street.

I have used the historical trail, the very one being considered for an arterial, for several years almost every day and I can not even imagine how it would be conceived that a street would be appropriate. You would be killing the charm of Kirkland at the expense of the residents. **I will not vote for City Council members who choose to ignore the best interests of the neighborhoods and residents simply to mitigate traffic problems on the arterials.** Kirkland has been a wonderful and charming place to live with its lush greenery, but now instead of seeing green, I am starting to see concrete and houses everywhere. The charm that was once Kirkland is becoming less and less. Please STOP the planning on this small piece of property; this will solve nothing except the denigration of my neighborhood.

Susan Leonhardt
517-7thSt S
Kirkland Wa 98033
Susan.leonhardt@verizon.net

ENCLOSURE 4C
AP07-00002 + AP07-00003

To: Kirkland City Council Members

From: Carol Parker, 803 7th St South

Date: April 8, 2007

Subject: Aubry Short Plat Advisory Report #SPL06-00007

It was with considerable dismay and sadness that I learned of the city's plan to open an extension of 5th Ave S to vehicular traffic as a requirement to the Aubry Short Plat approval.

Generically speaking, it appears as if the order came without thought but rather as a requirement of the short plat process.

We understand the city's need to require improvements to the infrastructure. Yet, to insist on turning a well-loved and heavily treed walkway and designated city trail into a vehicular thoroughfare seems like a huge oversight.

I trust the council's integrity. And further, trust that the members want to keep a piece of the gentle Kirkland hometown feel while balancing this city's inevitable progress and growth.

Currently, the walkway has almost a sanctuary feel…overgrown with lush brush, a worn path where kids, pets and adults make their way through on daily walks. As sad as it would be to give up this paradise, the neighborhood would be most amenable to improving the pathway as a way to appease the city planners. And as citizenry, we'd get much more use and enjoyment out of a walkway than another road!

Citizens in the Everest Neighborhood will be participating in the appeal process. I concur with the points they make in their well thought out presentation and would like to re-iterate the following:

- ✓ 7th St S (perpendicular to 5th Ave S) has somewhat minimal traffic and is considered a 'neighborhood street'. Opening 5th Ave S will give peak traffic a shortcut to and from 85th. Regardless of any traffic study, it's human nature to take a less crowded alternative route when cars are backed up during rush hour!
- ✓ The new business park will increase traffic on 6th St. Opening 5th Ave S will just allow traffic to go from one arterial to another via a neighborhood street. Please don't give the opportunity to prove this theory true. Once the road is open and the traffic has increased, there is no turning back. The error will already have been made.
- ✓ Everest Park, home to a multitude of little league baseball teams and softball tournament, kids, and playgrounds, does not need an influx of motorized traffic. The proposed road with force traffic to 'T' at one of the busiest places in the park.
- ✓ With walkway intact, all lots still have access to all services and emergency personal & vehicles have access to all proposed lots
- ✓ It's what the majority of the neighborhood wants.
- ✓ Our small piece of walkway is the only thing that keeps our street from becoming a paved strip of houses wedged in an open grid adjacent to commercial traffic.
- ✓ The current walkway gives our properties a true residential neighborhood feel.
- ✓ City code indicates it's unwise to alleviate traffic by sacrificing neighborhood streets.

On behalf of an overwhelming majority of Everest neighbors, I am requesting the city council honor our request by keeping our walkway intact and not making the open extension of 5th Ave S a requirement of the Aubry Short Plat approval.

ENCLOSURE 4D

APL07-00002 + APL07-00003

Dawn Nelson

From: Robin Jenkinson
Sent: Tuesday, April 17, 2007 9:05 AM
To: James Lauinger; City Council
Cc: David Ramsay; Dawn Nelson
Subject: RE: Official Protest against opening of the 5th Ave. South public right-of-way

From: Ah Sim [mailto:Ahsim@comcast.net]
Sent: Sat 4/7/2007 1:44 PM
To: James Lauinger; Joan McBride; Dave Asher; Mary-Alyce Burleigh; Jessica Greenway; Tom Hodgson; Bob Sternoff
Subject: Official Protest against opening of the 5th Ave. South public right-of-way

To the Mayor and City Council of Kirkland...

My wife and I as taxpayers and 10 year residents of Kirkland - first in Juanita (next door neighbors to Nona Ganz) and now in Bridle Trails - want to express our protest against the city planning departments recent recommendation to demand the creation of a cut through street acros from the Everest Park's little league fields and kiddy play areas.

We as parents of two children under 10 love that park for its quiet and safe environment and we would hate to see that distroyed by creating a street extending 5th avenue south ...

We understand this issue will be before you in May or June and we want you to formally recognize our opposition and know we will be watching the outcome of this issue closely in terms of how we vote going forward...

Too much of what makes Krikland a great place to raise your kids is being distroyed and we feel acts like this are a key litmus test for how the future of this city will evolve..

Here is a more complete analysis that we support to explain our position

****

Summary of Arguments against opening of the 5th Ave. South public right-of-way

The City Planning Department has recommended granting the Aubrey's short plat subject to the condition that they pay half the cost of putting 5th Ave S. through to just across the street from Everest Park's Little League fields and kiddie play area.

Opening the street wouldn't significantly benefit the city as a whole, the neighborhood, or even individual property owners. On the other hand, it would cost the city a lot of money (more than they have realized), endanger its citizens, and disrupt existing community and neighborhood character.

Here are some of our main points we share with the neighborhood:

1) Because the street would simply close the short side of a rectangle, it wouldn't speed emergency response times. With or without the street, it would be exactly the same distance from the Houghton Fire Station to all homes, parks, and other locations. All of the existing corners streets are wide enough for fire trucks to easily turn and move; this wouldn't even improve turning radiuses or anything.

2) The most that the street might save on any neighborhood person's driving time is a few seconds. That's, for example, what it would save me if I chose to drive to Everest Park by going around rather than driving straight there on a new street. But why would I drive when right now I have a nice path to walk on where this new street would be built?

3) A street there would ruin this path, which is on city walking brochures and maps and which is well-used and

ENCLOSURE 4 E
APL07-00002 & APL07-00003

well-liked. City codes say that we're supposed to be fostering and protecting just these types of pedestrian alternatives to motorized travel.

4) A street would draw into the neighborhood commuter traffic from arterial and collector streets and streets designed for commercial traffic. The way 6th Street backs up to 5th Ave S., who wouldn't try to find a way to keep moving on the way to the freeway or north across town

-- right through the neighborhood? City codes say that new roads should not be built or "improved" if they would draw traffic from established routes and into neighborhoods.

5) There is overwhelming support behind the effort to leave 5th Ave S. unopened. 138 neighbors signed a petition to this effect; we would have gotten more, but we ran out of time.

6) Everyone we've talked to at Kirkland Little League opposes a new street there as it would be a hazard to the many young players, especially the youngest group, who use and tend to play around near the field that's closest to the proposed intersection. Games begin right around the time when cut-through rush hour traffic would be at its worst.

7) The road would be built on fill that was dumped there haphazardly over a period of years to lessen flooding downstream from there. In other words, it was filled to create a sort of dam, not to create a structure strong enough to support traffic. The integrity of the berm has not been evaluated for traffic. It would have to be studied (at quite a cost, I'm sure) and likely mitigated with retaining walls or something.

Add to those costs the cost of guardrails to protect adjacent and significantly lower play areas and bedrooms from cars that could leave the roadway. Plus, the berm is too narrow to support a road without the addition of more fill, again at significant cost.

8) All of this filling, etc. would take place adjacent to a wetland that was just surveyed as part of this short plat and the adjacent neighbor's home building. This wetland was deemed by the city too important to allow the homes to be built on it, but it's okay for them to put there a road that neighbors don't want and that won't benefit anyone?

9) The street would not by any stretch of the imagination help "complete the grid." It's a short block stretch between two neighborhood streets.

10) The neighborhood has gone through this issue several times over the past 30 years. We have a letter from the City from 1976 assuring neighbors that a road was not planned for this right-of-way. The issue was reopened in 1991, and drew unanamous opposition from the neighborhood. At the time, the road opening was also rejected.

11) This is occurring at the same time a huge commercial construction project is underway immediately on the other side of 6th St S from this neighborhood. Given that 6th St S already backs up daily during rush hour, how can the city consider putting a shortcut to the 85th St I-405 on-ramp immediately across from this project? The Kirkland Comprehensive Plan specifically recommends ?Avoiding connections through residential neighborhoods when they will create new routes for commercial/ industrial traffic or bypass routes for I-405?. Is the City simply ignoring their own guidelines because they have a difficult traffic problem that will be getting worse and this is a quick fix?

Sincerely,
Michael and Ngan Sim Aldridge
6914 120th Ave NE
Kirkland, WA
98033

April 11, 2007

Dear City Council members,

I strongly oppose the opening of 5th AVE South as a public right of way. The community and surrounding neighborhoods are opposed to this and it is environmentally unsound. Let's work together for better communities in greater harmony with mother earth.

respectfully,

Kathy Sutton

Kathleen Sutton
12933 99th AVE NE
Kirkland, WA 98034
425 820-2814

RECEIVED
APR 12 2007
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

ENCLOSURE 4F
APL07-00002 + APL07-00003

Dawn Nelson

From: Eric Shields
Sent: Wednesday, May 30, 2007 3:13 PM
To: Dawn Nelson
Subject: FW: Opposition to Aubry Short Plat

From: Anne Ryan [mailto:anneryan1@comcast.net]
Sent: Tuesday, May 29, 2007 4:45 PM
To: KirklandCouncil
Subject: Opposition to Aubry Short Plat

Dear City Council Members:

I am writing to you today as a concerned citizen of the great City of Kirkland. My family and I live on 7th Street South, and have been made aware of a plan to open up 5th Avenue South through to 8th Street South.

We have lived on this beautiful, quiet, safe street for 2 years now. Previously we lived in the east of Market neighborhood—also a beautiful street, but the traffic was terrible. In house hunting we were thrilled to find such a lovely setting for our family which includes an 8 year old girl, a 6 year old boy, and a new puppy. We were so happy to find so many young children on this street—kids who, like ours, enjoy riding bikes, scooters, roller blades and tricycles. On any given sunny day, it is likely that you will find kids playing happily in the street while watchful parents supervise. The kids know that when we call out, "Car!" they are to immediately pull over to the side of the street and stop while the occasional car passes.

I am fearful that the proposed "road improvement" will take away our peaceful street. At our last, informal count, we tallied up over 30 children ages 9 and under who reside on this street! Opening up 5th Avenue South will undoubtedly increase our street traffic and will pose a danger to the safety of our kids. I am urging the Council to reconsider approval of this plan.

Respectfully,

Anne M. Ryan
612 7th Street South
Kirkland, WA 98033

ENCLOSURE 46
APL07-00002 + APL07-00003

April 4, 2007

4/6 Quasi-Jud. Given to Eric

Dear Kirkland City Council Members,

We are writing to you in regards to the possibility of making 5th. Avenue in the Everest neighborhood, a thru street. Short Plat Advisory Report #SPL06-00007. We strongly oppose turning the current walking path into a road. Listed are our reasons why:

1. The main reason is the safety of the children who live in the neighborhood and the boys and girls who play baseball and softball at Everest park. With the increased volume of traffic, this puts the children at great risk of being hit by a vehicle. Commuters will be driving faster with the goal of possibly getting home quicker, resulting again in risk to children. The current walking path allows those in the neighborhood as well as those outside the neighborhood the opportunity to walk safely to the park with their children and pets. The walking trail alleviates the need to drive, which causes unnecessary pollution and taking up parking spots when they arrive at the park.

2. The negative environmental impact on trees, vegetation, the wetlands and wild life. As you know the new home we are building at 700 5th. avenue south was classified by the City of Kirkland with having wetlands as well as the land to the east of our property. A road would threaten the nature of the wetlands and streams, thus a study should be done by the Army Corp of Engineers and the clean water act should be followed when looking at putting this road thru. Also, the State and Federal regulatory authorities should be consulted on this matter, before further proceeding.

3. This road would create a devastating financial burden on all surrounding property owners who are being required by the City of Kirkland to pay for this road. There is an exceptional amount of prep work that needs to be done, before this road can be constructed properly to handle the volume of traffic. Such as extra fill will have to be brought in, drainage would have to implemented and several yards of asphalt would have to be poured to construct this road. We do not have the amount of money it would take to construct this road.

Does every neighborhood need several roads running thru them? Can't we keep Kirkland a Family friendly and environmentally sound city? Kirkland is a quaint, beautiful, wonderful city to live in. Building roads at every turn would alter Kirkland negatively. As you know there are many residents in Kirkland who are opposed to this road, but welcome walking trails. Mothers can walk with their children in strollers and residents can walk their dogs safely. It is time that the city of Kirkland finally puts the idea of having a road thru to rest for good and leave it a walking trail. The city of Kirkland needs to move on to other projects and spend valuable resources to benefit all residents of Kirkland.

Regards,
Clement Neil Donna Neil
Clement and Donna Neil

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APR 05 2007
CITY OF
CITY MANA

ENCLOSURE 4H
APL07-00002 + APL07-00003

Short Plat Conditions Appeal

To: Ronald Hanson, Project Pre-Submittal meeting Planner (Consultant)

From: David L. Aubry, Anna V. Aubry

Date: April 10, 2007

File: AUBRY SHORT PLAT, SPL06-00007

RECEIVED
APR 10 2007
AM PM
PLANNING DEPARTMENT
BY

Background:
This Short Plat application and separate Building Permit application are the result of our effort to save our house from the bulldozer. We have reached a point where we have been considering "downsizing." Because of the size of our lot, it would most likely be purchased by a developer who would divide the lot into three parcels and bulldoze our house, a house that has been a landmark in the Everest Neighborhood since 1928. In an effort to save the house, we have relocated it on the property, expanded and updated it while maintaining those features unique to the house and its time in Kirkland's history. Former owners of our house have supplied eggs to many Kirkland homes, have managed the historic Gateway Theatre, have been a long-term employee of our City's Public Works Department, have served as a Kirkland Volunteer Fire Fighter, and have contributed to the growth and character of Kirkland.

The property also has beautiful, mature trees that we have taken pains to protect; in fact, the location of these trees actually dictated where the house was relocated. (We have 67 tree credits on our property while only 17 tree credits would satisfy the requirements for Short Plat.)

We believe we are stewards of this house and its surroundings and have a responsibility to retain as much of the character of the house and beauty of the property as possible.

Similarly, as residents of this neighborhood since 1972, we feel a responsibility to our neighbors and to the Everest Neighborhood in general to ensure that actions related to this Short Plat have little, if any, negative impact on the Neighborhood.

With this background in mind, we respectfully submit our appeal of some of the conditions set forth in the City of Kirkland Department of Planning and Community Development Advisory Report Findings, Conclusions, and Recommendations dated March 20, 2007.

Surface Water Conditions:

- The "Small Site Drainage Review for Short Plats" section seems to contradict the "Small Site Drainage Review for Short Plats" section in the

ENCLOSURE 5a
APL07-00002 + APL07-00003

Pre-Submittal Meeting Public Works Conditions document dated December 12, 2005. We do not understand.

Street & Pedestrian Improvement Conditions:

- 5th Avenue South –
  - The neighborhood has at least a 30 year history of opposition to opening the 5th Ave S right-of-way to vehicular traffic (see attached documents).
  - From a practical point of view, 5th Ave S is currently one short block long running from 6th St S to 7th St S! Opening the subject portion (roughly 300' long) would mean that the street would be 600' long with no possibility of extension either E or W.
  - Additionally, it would:
    - Insert traffic onto a neighborhood collector street (8th St S) already notorious for traffic, speeding, and surges of traffic from Little League families depositing children up and down 8th St S, on both sides of the street. Introducing turning hazards in 3 directions into this mix would be a recipe for inevitable accidents and injuries.
    - The only possible non-park related use of the subject portion of 5th Ave S would be for commuters trying to get off 6th St S during commute hours in order to get to I-405 at 85th, or to the residential areas North of 85th and just West of I-405. In other words, 5th Ave S would quickly go from its advertised future status as a neighborhood access street to a collector.
  - In the end, opening a short piece of roadway that fits into no existing grid, is constrained on the East by Everest Park and on the West by the Seattle Door site and railroad tracks, serves no practical purpose. It would, instead, create a series of traffic nightmares in the Everest Neighborhood.
  - The Everest Neighborhood could have had this street opened in 1990-1, by the City, at City expense, as a condition of the Everest Park improvements. The Neighborhood did not want it then; it is clear the Neighborhood does not want it now.
  - Finally, the City talks about street grids and traffic flow as determinants of the status of street right-of-way. Yet, <u>twice</u> in the past couple of years, the City has permanently closed parts of existing streets downtown that clearly contributed to efficient traffic flow. This includes the right turn lane off of Kirkland Ave onto State St – by the Bears statue. This lane allowed traffic to merge onto State Street from Kirkland Ave without first going to 3rd St. Similarly, just North-East of the old Safeway store – now the Boulevard Condos– a right turn lane going east has been eliminated. Where it was once possible to drive directly up the hill on Kirkland Ave, one must now make a short detour on Kirkland Way before turning sharply right to rejoin to Kirkland Ave.

Generally, dedicated right turn lanes serve to ease traffic flows and mitigate lengthy commuter traffic congestion and back ups. In fact, the City is creating a right turn lane from east bound NE 68th onto 108th NE for just these reasons. Clearly decisions about the routing of roadways are not based solely on the maintenance of existing roadways and on efficient traffic flows.

- 5th Ave S simply should not be opened to through traffic – the Neighborhood continues to strongly oppose it, and the amount of in-filling in the area along 7th Ave So and 8th St S does not justify it. Further, the City has addressed this issue more than once in the past. For instance, in a letter referencing opening that portion of 5th Ave S dated February 6, 1991, Jim Arndt, then Public Works Director, stated "the City Council determined more neighborhood input was required prior to the opening of 5th Ave S, between 8th St S and 7th St S...Be assured that before the City takes any action regarding revisions to traffic in your neighborhood, additional meeting(s) will be held..." This is a firm commitment that the City made to the Everest Neighborhood; the City must keep its commitment.

- Undergrounding of Utilities
  - Item #10 of The Department of Planning and Community Development Advisory Report – Finding, Conclusions, and Recommendations, dated 3/20/2007, states that "The Public Works Department shall determine if undergrounding transmission lines in the adjacent right-of-way is feasible or not. In this case, it has been determined that it is feasible to underground the lines in conjunction with installation of the street improvements. All of the overhead lines along 8th St So. And 5th Ave So shall be converted to underground."
  - <u>However</u>, the Department of Planning and Community Development Advisory Report – Finding, Conclusions, and Recommendations (page 5 of the Pre-Submittal meeting document), dated December 12, 2005, states that " In this case, the Public Works Director has determined that undergrounding of existing overhead utility on 8th St S is *not feasible at this time and the undergrounding of off-site/frontage transmission lines should be deferred with a Local Improvement District (LID) No Protest Agreement.* The final recorded subdivision mylar shall include a condition requiring all associated lots to sign a LID No Protest Agreement prior to the issuance of a Building Permit for said lot. In addition, if a house is to be saved, on one of the lots within the subdivision, a LID No Protest Agreement shall be recorded against that lot at the time of recording." Obviously this was an important factor in our decision to risk this project.

- While we definitely agree to the conditions put forth in writing by the City in the original document dated December 12, 2005, we find the reversal of the recent change of conditions unacceptable.

Sincerely,

David L. Aubry

Anna V. Aubry

Attachments:

- Letter dated January 30, 1976, from Arthur E. Knutson, Public Service Director, to Carl J. Waluconis stating "The City does not plan a street for that section of public right-of-way along 5th Avenue South between 7th Street South and 8th Street South...."
- Letter dated June 17, 1990, from Thomas Lynn and David Aubry in challenge to "Findings, Conclusions, and Recommendation of City of Kirkland Hearing Examiner RE File No. III-89-84, stating "The proposed opening of Fifth Avenue South as a 'Local Access' street has no basis in logic....The effects of this proposed action will only increase traffic passing through the neighborhood and will in no way improve access by the Everest residents of by other users of Everest Park."
- Resolution No R-3612, A Resolution of the City of Kirkland Approving the Issuance of a Process III Permit as Applied for in Department of Planning and Community Development File No. III-89-84 by the Kirkland Parks and Recreation Department Being Within a P Zone, and Setting Forth Conditions to Which Such Process III Permit Shall Be Subject, Section 1, "Fifth Avenue South shall not be opened or improved as a part of this Park project."
- Letter dated February 7, 1991, from Jim A. Arndt, Public Works Director, Subject: Everest Park Improvements - 5th Avenue S. Opening, stating, "the City Council determined more neighborhood input was required prior to the opening of 5th Avenue S., between 8th Street S. and 7th Street S. Therefore, the plans to open 5th Avenue were deleted until further neighborhood discussion could take place.... Be assured that before the City takes any action regarding revisions to traffic in your neighborhood, additional meeting(s) will be held to discuss City policy and the impact of both existing traffic and traffic associated with the park development."

CITY OF KIRKLAND
210 MAIN STREET · KIRKLAND, WASHINGTON 98033 (206) 822-9271

January 30, 1976

Carl J. Waluconis
501 - 8th St. South
Kirkland, Washington 98033

Dear Mr. Waluconis,

Your letter dated January 9, 1976 was received and refered to the Public Service Department.

The City does not plan a street for that section of public right-of-way along 5th Avenue South between 7th Street South and 8th Street South. The City has worked over a period of years at dumping fill into the area occasionally to permit the eventual installation of a storm drain as the city has received complaints for years over drainage problems in the area.

The storm drainage has now been installed and the following work is yet to be accomplished, weather permitting.

1. Level the area so that it will be smooth and will drain off without puddling. By necessity this work must wait until the area drys out so the soil can be worked properly.

2. The broken limbs will be removed from the trees. This type of damage should not happen but it did so the pruning is necessary.

3. Some seeding will be necessary for erosion control.

Sincerely,

Arthur E. Knutson

ARTHUR E. KNUTSON
Public Service Director

AEK/sc

cc: City Manager
City Engineer

501 Eighth Street South
341 Eighth Street South
Kirkland, WA 98033

June 17, 1990

Subject: Challenge to Findings, Conclusions, and Recommendation of City of Kirkland Hearing Examiner RE File No. III-89-84

Any response to this letter (City File No. III-89-84) must be delivered to the Planning Department within five (5) working days after the letter was filed with the Planning Department, or by June 26, 1990.

Within the same time period, any person making the response must mail or personally deliver a copy of the response letter to the applicant and all other people who submitted comments on the matter. An affidavit must be attached to the response letter when it is delivered to the Planning Department, to show proof of such mail or personal delivery.

If you wish to submit a response letter, further information about procedural requirements is available from the Kirkland Planning Department at City Hall. The planner assigned to the application is Dorian Collins at 828-1257.

The Everest Neighborhood has some unique features, the most significant of which have been a relatively small size and a location that is somewhat isolated from other single family dwelling neighborhoods. Through the efforts of its residents, there has been some modification of these features giving the neighborhood increased viability. However, the neighborhood remains somewhat fragile in terms of its character, and any significant changes must be studied carefully, lest they have a negative effect on the neighborhood.

When Kirkland's current Land Use Policies Plan was first proposed, and the studies and meetings began in the mid-1970's, the Everest Neighborhood was at a cross roads; it could either decline and the houses could be replaced by multifamily dwellings, or the residents could come together and work to preserve and enhance Everest. This second alternative is in fact what occurred. Efforts went on over many years to ensure that adjacent multifamily dwellings were in appropriate locations and of a proper scale to not overwhelm the neighborhood. The residents worked with developers to ensure that single family dwelling projects on Ninth Avenue South, Sixth Place South, and Eighth Avenue South fit into the overall scale and improved the style of the neighborhood. Except for the multifamily dwelling issue, this was all achieved in a positive, constructive manner; unfortunately, some confrontations occurred regarding this issue. In the end, a solution was reached allowing all parties to proceed in compliance with the Land Use Policies Plan.

When the Park Bonds were presented to the voters last year, many Everest residents saw the planned improvements to Everest Park as a real asset and further strengthening of this unique area. Many residents actively supported the bond issue and attended the planning meetings for the implementation of the improvements. Some concerns were expressed, and the City responded in a positive manner to many of these. However, the issue of increasing traffic on Eighth

Street South has received little in the way of attention from the City; this in spite of efforts to communicate residents' concerns to the City both verbally and in writing over the past year. Further, at no time during the neighborhood meetings was the issue of opening Fifth Avenue South between Seventh Street South and Eighth Street South mentioned. Since our original concerns regarding the worsening traffic problem have not been dealt with, we are amazed the City would consider further complicating the traffic problem by opening Fifth Avenue South to vehicular traffic, thus creating a very difficult and perilous traffic pattern. It is our position that these issues must be addressed with the residents of the neighborhood. In spite of the above mentioned efforts at communicating these issues to the City in both public and private conversations and in writing, no response has been received from the City.

While it can be understood that Eighth Street South is a "Neighborhood Collector," traffic must still proceed at rates and in a manner consistent with the law, safety, and the existence of the neighborhood. The proposed openning of Fifth Avenue South as a "Local Access" street has no basis in logic--this short section "accesses" only two or three lots with no construction on them. The effects of this proposed action will only increase traffic passing through the neighborhood and will in no way improve access by the Everest residents or by other users of Everest Park. For these reasons, we are on record as opposing the opening of Fifth Avenue South to vehicular traffic and ask that the City drop plans in this area. The Everest Neighborhood Residents ask also that the City address the traffic situation and communicate with the Everest Neighborhood to work out plans and ideas for this.

Sincerely,

Thomas Lynn
(501 Eighth Street South)

David Aubry
(341 Eighth Street South)

~~Please see attached~~

RESOLUTION NO. R-3612

A RESOLUTION OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS III PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. III-89-84 BY THE KIRKLAND PARKS AND RECREATION DEPARTMENT BEING WITHIN A P ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS III PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Planning and Community Development has received an application for a Process III permit, filed by Kirkland Parks and Recreation Department, representing the owner of said property described in said application and located within a P zone.

WHEREAS, the application has been submitted to the Hearing Examiner who held a hearing thereon at his regular meeting of May 17, 1990; and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 4321C, and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a negative determination reached; and

WHEREAS, said environmental checklist and determination have been available and accompanied the application through the entire review process; and

WHEREAS, the Hearing Examiner after his public hearing and consideration of the recommendations of the Department of Planning and Community Development did adopt certain Findings, Conclusions, and Recommendations and did recommend approval of the Process III permit subject to the specific conditions set forth in said recommendation; and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner, as well as three timely filed challenges of said recommendation.

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

Section 1. The findings, conclusion, and recommendation of the Hearing Examiner as signed by him thereof and filed in the Department of Planning and Community Development File No. III-89-84 are adopted by the Kirkland City Council as though fully set forth herein, except Conclusion IIB and Recommendations III.3.b., III.3.c., III.3.g., III.4.b., III.4.c., and III.4.d., which are not adopted. Recommendations III.3.f. and III.4.a. are adopted, except as to the opening and improvements of Fifth Avenue South; Fifth

Avenue South shall not be opened or improved as a part of this Park project. In lieu of Recommendation III.3.b., the Council adopts the following: The Applicant shall sign a commitment agreement for improvements to Tenth South as itemized in Hearing Examiner Recommendation III.3.b., and shall install a hard surfaced pedestrian walkway from Tenth Street at Park entry north to the north boundary of the Park abutting on Tenth South.

Section 2. The Process III Master Plan permit shall be issued to the applicant subject to the conditions set forth in the recommendations hereinabove adopted by the City Council.

Section 3. Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinance, or regulations applicable to this project, other than expressly set forth herein.

Section 4. Failure on the part of the holder of the permit to initially meet or maintain strict compliance with the standards and conditions to which the Process III Master Plan permit is subject shall be grounds for revocation in accordance with Ordinance 2740, as amended, the Kirkland Zoning Ordinance.

Section 5. A certified copy of this resolution, together with the findings, conclusions, and recommendations herein adopted shall be attached to and become a part of the Process III permit or evidence thereof delivered to the permittee.

Section 6. Certified or conformed copies of this resolution shall be delivered to the following:

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

PASSED by majority vote of the Kirkland City Council on the 3rd day of July, 1990.

SIGNED IN AUTHENTICATION thereof on the 3rd day of July, 1990.

Robert W. Ellis
Mayor Pro Tem

Attest:

City Clerk

RES-EVRT.JUN/DC:cm

I hereby certify that the foregoing is a true and correct copy of a Resolution of the City of Kirkland and that the same was published or posted according to law, said Resolution being No. 3612 and entitled "A Resolution as above.

Janet L. Shimizu Deputy City Clerk"

CITY OF KIRKLAND

123 FIFTH AVENUE • KIRKLAND, WASHINGTON 98033-6189 • (206) 828-1100 • TTY (206) 828-1244

February 7, 1991

SUBJECT: EVEREST PARK IMPROVEMENTS
5TH AVENUE S. OPENING

Last summer, when considering improvements to Everest Park and related off-site road improvements, the City Council determined more neighborhood input was required prior to the opening of 5th Avenue S., between 8th Street S. and 7th Street S. Therefore, the plans to open 5th Avenue were deleted until further neighborhood discussion could take place.

Subsequent to that, the City has undertaken a Transportation Study which will review, among other critical transportation issues, the opening of unopened right of way, connector routes, etc. Interim policies will be reviewed within the next several months by the City Council. It was felt that further discussion with the neighborhood on 5th Avenue S. would have more meaning when such interim policy decisions by the City Council are established. Therefore, further discussion with the neighbors regarding 5th Avenue S. has been delayed until such city-wide policy decisions are determined.

Be assured that before the City takes any action regarding revisions to traffic in your neighborhood, additional meeting(s) will be held to discuss City policy and the impacts of both existing traffic and traffic associated with the park development. If you have any questions concerning this matter, please don't hesitate to contact either myself (828-1236) or City Engineer, Gary Sund (828-1239).

Sincerely,

PUBLIC WORKS DEPARTMENT

Gary Sund

for Jim A. Arndt, P.E.
Public Works Director

JAA:gp

cc: Terry Ellis, City Manager

May 13, 2007

Ron Hanson-Project Planner Consultant
Planning and Community Development
City of Kirkland
123 5th Ave
Kirkland, WA 98033

Dear Mr. Hanson,

Following a discussion with Mr. Rob Jammerman of the City of Kirkland's Public Works Department, we wish to withdraw numbers 1 and 2 of the following items in our appeal of our Short Plat, File No. SPL06-00007.

1. **Surface Water Conditions** – we had noted some differences in the language as set forth in the Pre-Submittal Meeting and the language in the Department's final determination. We do understand that the short plat will need to be designed in accordance with King County's design criteria regulations as described in the 1998 King County Surface Water Manual.

2. **Undergrounding of Overhead Utilities along 8th Street South and 5th Avenue South** – we understand that this has been determined to be not feasible as was originally stated after the Pre-Submittal Meeting. We understand that the City's determination is that the project will qualify for a deferment if we agree to sign a Local Improvement District Waiver Agreement.

3. **5th Avenue South Improvements** – the appeal of this condition still stands and is to be brought before the City Council, most likely in June.

We are most appreciative of the City's willingness to work through these issues with us and with the Neighborhood. We look forward to amicably resolving the remaining issues.

Sincerely,

Anna Aubry

David and Anna Aubry
341 8th St S
Kirkland, WA 98033
425-827-3811

cc: Rob Jammerman
Development Engineering Manager
Public Works Department
City of Kirkland

ENCLOSURE 56
APL07-00002 & APL07-00003

4/6/2007

RECEIVED
APR 09 2007
PLANNING DEPARTMENT
BY

Department of Planning and Community Development
City of Kirkland
123 Fifth Avenue
Kirkland, Washington 98033-6189

Attention: Eric R. Shields, Planning Director

Subject: Appeal of the Advisory Report Findings, Conclusions, and Recommendations on the Aubry Short Plat, SPL06-00007 dated March 20, 2007

References:

a. Department of Planning and Community Development Advisory Report Findings, Conclusions, and Recommendations dated March 20, 2007
b. City of Kirkland Comprehensive Plan
c. City of Kirkland Municipal Code
d. City of Kirkland Zoning Code
e. Letter of Comment and Petition on Aubry Application for Short Plat signed by Jerry and Beverly Gilbert, Tom and Sherri Lynn, and Karen Tipp. Petition signed by 138 residents of the Everest Park neighborhood.
f. Letter from Arthur Knutson, Public Service Director to Carl J. Waluconis dated January 30, 1976 (attached)

I. Introduction

Per the direction provided in Section 145.60 of the Kirkland Zoning Code, we are appealing the Advisory Report Findings, Conclusions, and Recommendations on the Aubry Short Plat, SPL06-00007 dated March 20, 2007.

The specific element of the Planning Director's decision that is being appealed is the condition of approval Item 2 under Section B, Recommendations, that the applicant install half-street improvements to currently unopened 5th Ave S. We oppose this decision and recommend that the condition of approval be modified to require driveway access to the westernmost proposed lot along with an improved pedestrian and bicycle pathway, in lieu of a through street.

Further, there is discussion in several sections of the Advisory Report of the new home construction immediately to the west of the subject short plat, also on the north side of and adjacent to unopened 5th Ave S, and the requirement levied on this project to also install half-street improvements. In Attachment 3 of the Advisory Report, the Public Works Department recommends that if a pedestrian and bicycle pathway is installed in lieu of through street improvements adjacent to the subject short plat, that this pathway also be installed adjacent to the new home being built to the west. We concur with this recommendation.

ENCLOSURE 5C
APL07-00002 + APL07-00003

II. Overview

This appeal is in response to the recommendation by the Planning Department provided in the subject short plat approval that the unopened section of 5th Ave S be improved and opened for motorized vehicle use.

The residents of Everest neighborhood strongly oppose the opening of the road right-of-way based on the traffic impact it will create and the engineering, safety and environmental considerations required due to the topography of this location. The very real potential for serious and unsafe impact will be demonstrated in this appeal.

The Planning Department Advisory Report focused on isolated references from the Kirkland Comprehensive Plan, Zoning Code and Municipal Code to support their position that the opening of the road right-of-way is required.

However, when the overall goals of the plan are reviewed, and all three of these documents are considered in total, these documents present a stronger argument to support the City in leaving this right-of-way unopened.

Based on the direction found in these documents, the potential impact to neighborhood traffic, and the overwhelming opposition of the neighborhood to the opening of this right-of-way, we respectfully request that 5th Avenue South remain unopened to motorized vehicles.

In this letter of appeal, we will demonstrate that:

- The Kirkland Comprehensive Plan policies and goals, and the Kirkland Municipal Code Subdivision Ordinance strongly support a pedestrian and bicycle pathway in this situation in lieu of a through street.

- Opening this street will not improve the "connectivity" of the city's street grid, it will not improve emergency vehicle response time and it will not improve access or disperse traffic within the neighborhood.

- Opening this street will provide a by-pass route for congested traffic on 6th St S through an established neighborhood to reach the 85th St/ I-405 interchange. This by-pass route will place a busy intersection immediately in front of the children's ball fields in Everest Park.

- There are engineering, safety and environmental aspects of the installation of this road that have not been considered and will substantially increase the cost of a street improvement in this location.

III. Background

A. Configuration of Neighborhood Streets

Opening the subject street section will provide little benefit to individual homeowners, the neighborhood of Everest Park, or the city at large in terms of improved emergency vehicle access, reduced driving distances, or dispersing of neighborhood traffic.

Opening this street will, however, provide an alternate direct route to the I-405/ 85th St arterials that will be utilized when commuter traffic backs up to a standstill on 6th St S, as it does daily.

Northbound commuter traffic on 6th St S backs up south from the 6th St and Kirkland Way intersection beyond 5th Ave S during weekday rush hours. Any traffic stopped south of 5th Ave S will choose to cut through the neighborhood instead of waiting, stopped in line on 6th St S. Depending on the length of the backup, commuters will enter the neighborhood at the west end of 5th Ave S or the south end of 7th St, knowing they have a bypass route to 85th and I-405 that takes them around the congested 6th St/ Kirkland Way intersection. This will increase commuter traffic on both 7th St S and on the north end of 8th St S.

With the completion of the large business development project under construction on the west side of 6th St in this area, this situation will only worsen.

The maps provided on the following pages in Figures 1 through 4 demonstrate these points.

Figure 1. Current Neighborhood Traffic Flow

Note that current access in and out of the neighborhood is at the north and south ends. Opening 5th Ave S will not change or improve access- this street does not continue at either end beyond the neighborhood. Opening this street will do nothing to improve or disperse neighborhood traffic.

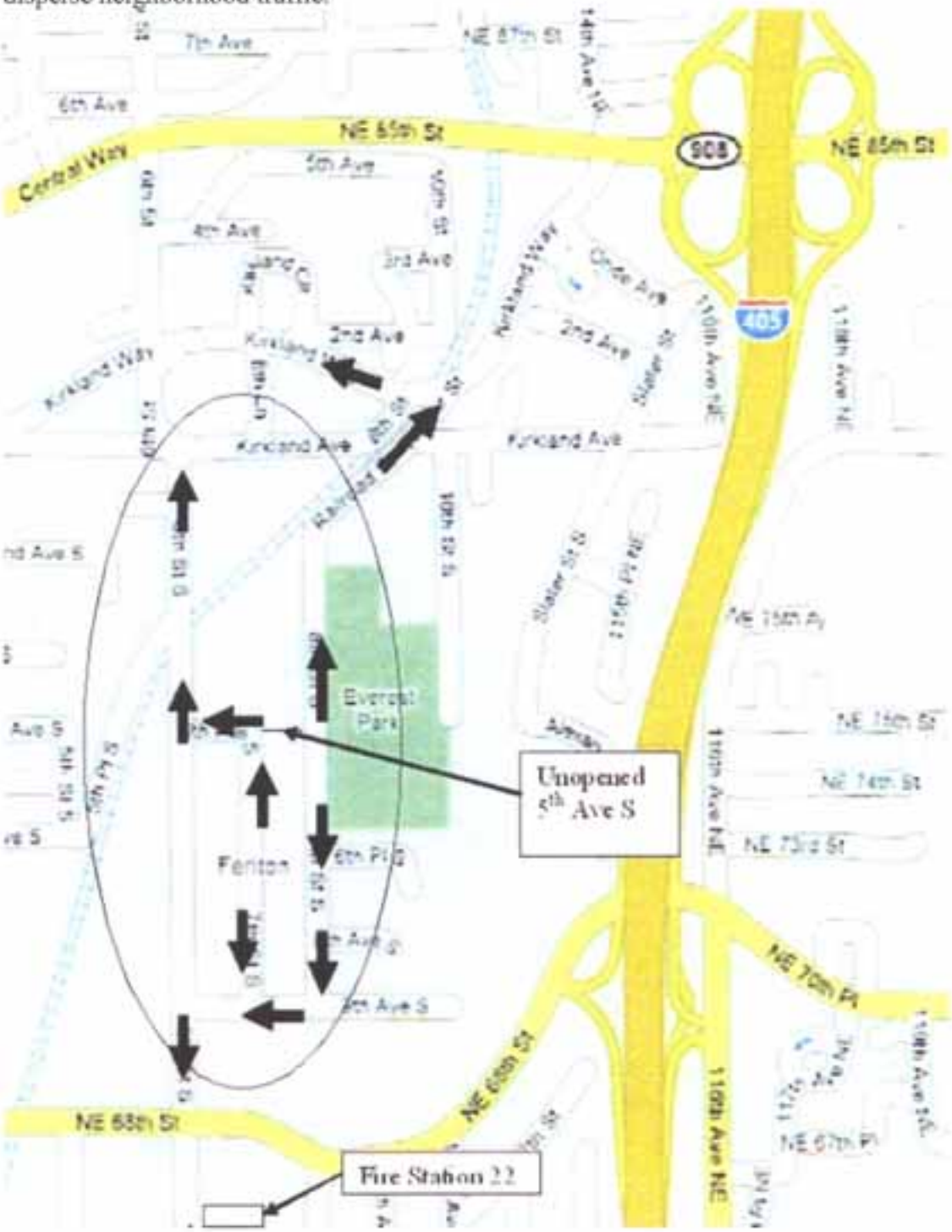


Figure 2. Current Commuter Traffic Flow

Note that current commuter traffic consistently backs up beyond 5th Ave S, northbound on 6th St S during weekday rush hours. This already creates additional by-pass traffic on 8th St S as shown. This is a consistent, daily occurrence. The completion of the commercial construction project on the west side of 6th St S will only make this worse.

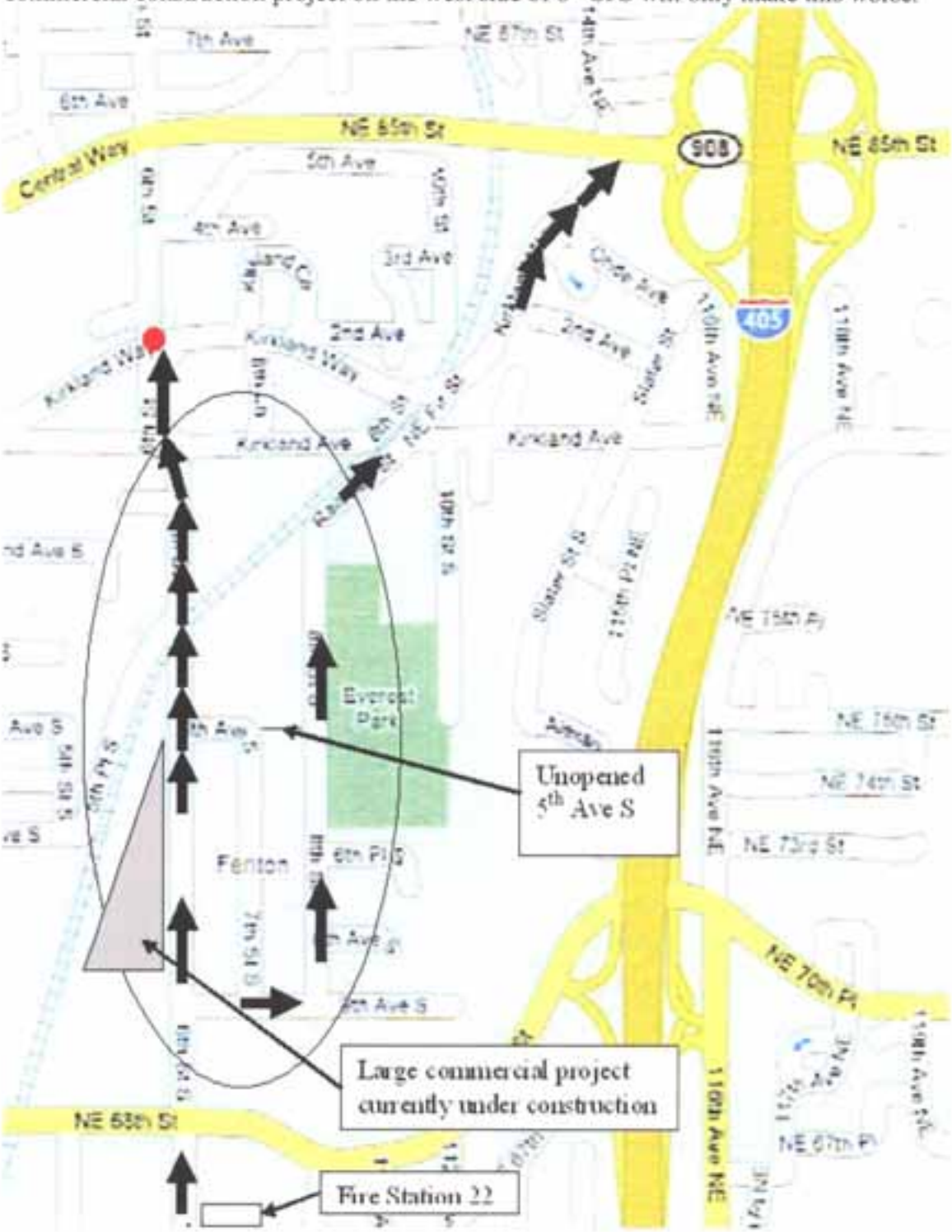


Figure 3. Commuter Traffic Flow if 5th Ave S is Opened

Because of the backups on Northbound 6th St S of commuters headed to the 85th St/ I-405 area, both 5th Ave S and 7th St S will become alternate arterials/ by-pass routes if 5th Ave S is opened.

Traffic through this existing neighborhood will become even heavier with completion of the commercial construction project on the west side of 6th St

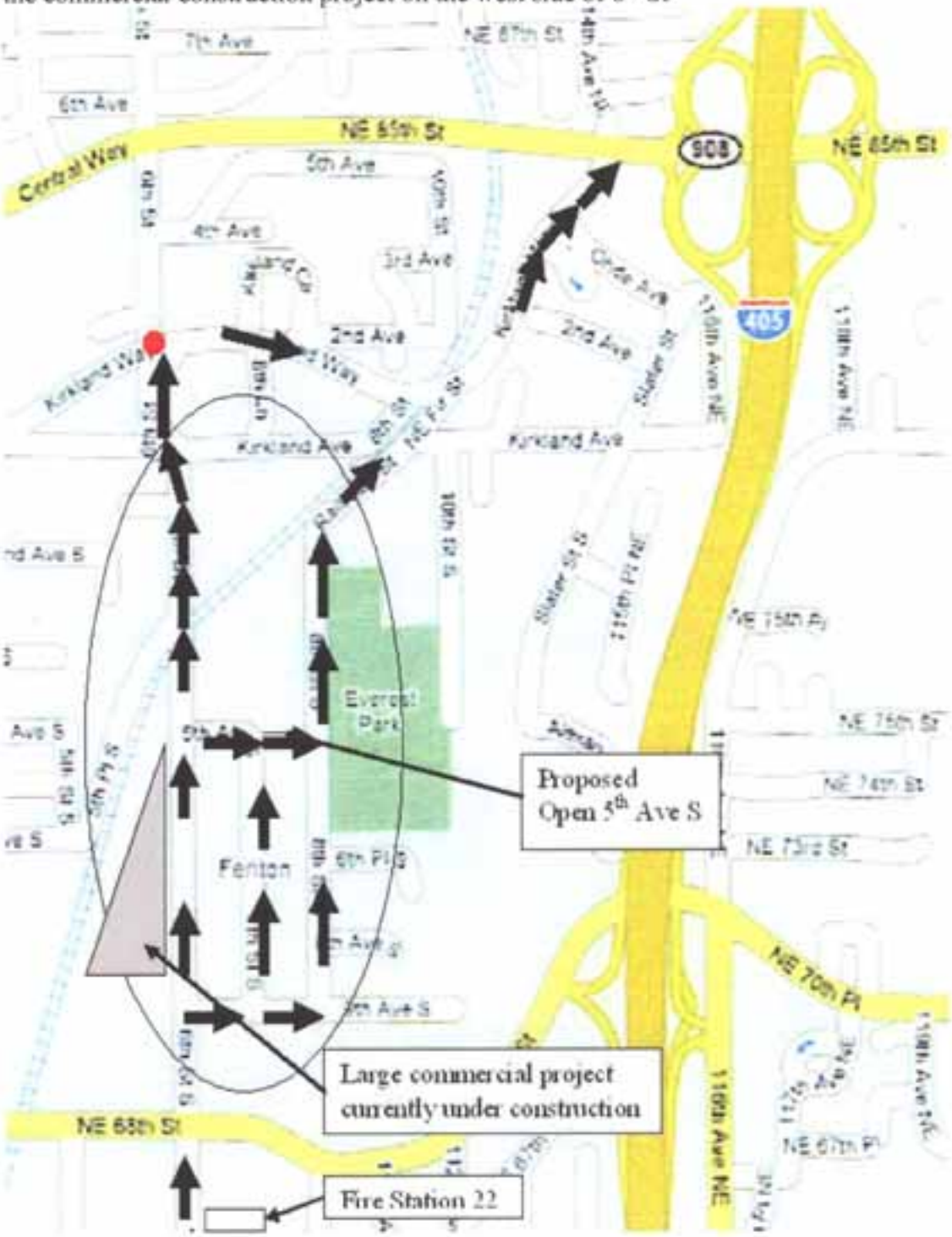
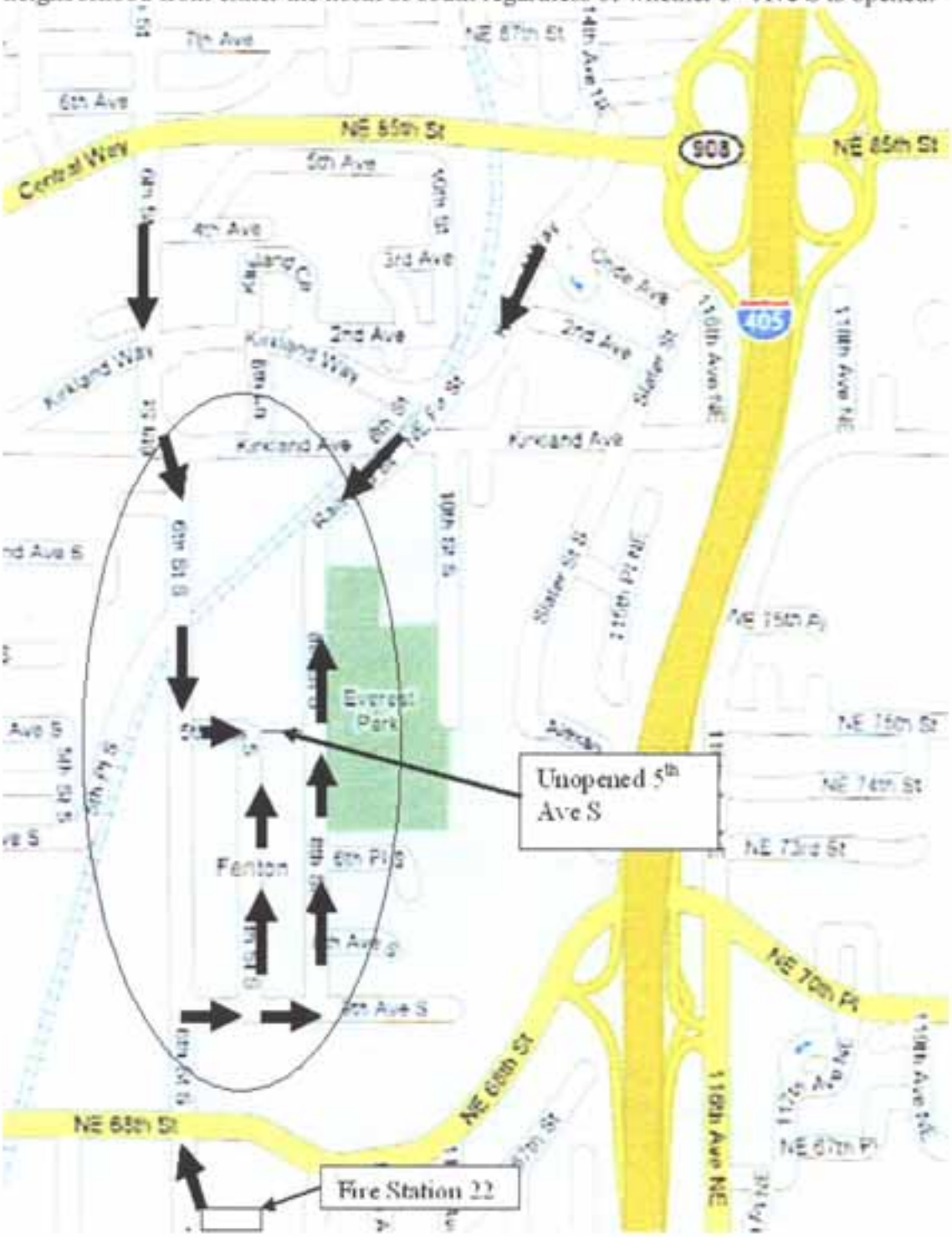


Figure 4. Emergency Access Routes

As can be seen on this map, there is full and convenient emergency access into all parts of the neighborhood from Fire Station 22 to the south, and for any other emergency services from either the north or south. Access from the east or west requires entering the neighborhood from either the north or south regardless of whether 5th Ave S is opened.



B. Connecting Streets are Currently Through Streets
It needs to be made clear here that neither 7th St S, 5th Ave S, nor 8th St S are cul-de-sacs or dead-end streets. These are all through streets as shown on the previous maps, that do not need improved access.

In Attachment 5 of the Advisory Report- a memorandum from the Public Works Department recommending the opening of the street- there are several misleading statements in this regard:

Subparagraph 1 argues for opening the street based on the fact that the only east-west connections are at the north and south ends which are over a half-mile apart, and suggests that 9th Ave S and the south end of 8th St S will benefit through reduced traffic if 5th Ave S is opened.

In fact, the map clearly shows that opening 5th Ave S does not improve any east-west connections- it ends at 6th St S and Everest Park; the north and south ends of the neighborhood would still be the only locations of east-west connections. The suggestion that 9th Ave S and the south end of 8th St S will see reduced traffic cannot be supported by review of traffic patterns in the neighborhood unless it is assumed that the current cut through traffic on 8th St S is diverted to 7th St S. It is much more likely that traffic levels on 9th Ave S and 8th St S will be maintained or increase along with increases on 7th St S as commuters discover this new, additional by-pass route.

Under Subparagraph 2, Policy T-4.3 is referenced discussing cul-de-sacs, implying that the streets in this area are cul-de-sacs that need improved access.

<u>There are no cul-de-sacs under consideration here.</u> 7th St S, 5th Ave S, and 8th St S are all through streets already.

Subparagraph 4 again discusses dead end streets as if to imply that 5th Ave S needs to be opened to provide through access.

Again, all of the streets connecting to the subject section of 5th Ave S are already through streets.

Note that in Subparagraph 3 of Attachment 5, the Public Works Department admits: "In this particular neighborhood, a standard grid pattern will never be established, but opening of 5th Ave S will establish at least one additional piece of the needed grid." Our interpretation of this statement is that it acknowledges that opening this street will provide no benefit, but it is being required anyway because of policy interpretation.

C. Designation of Connecting Streets

In Figure T-1 on Page IX-2 of the Comprehensive Plan, 6th St S is designated a Minor Arterial; 8th St S is designated a Collector, and 7th St S is designated a Neighborhood Access Street. The definitions of these designations from Kirkland Zoning Code Section 110.20 are reprinted below:

Street Designation	General Description	Average Daily Trips
Neighborhood Access	Streets providing access to adjacent residences and to cul-de-sacs. KZC 110.22 establishes criteria for subcategories of neighborhood access streets.	Less than 1,500
Collector	Streets providing access to adjacent uses, linking neighborhoods and commercial areas together, and linking these areas to the arterial system.	Up to 10,000
Minor Arterial	Intra-community highways connecting community centers. Access to adjacent residences should not be permitted when acceptable alternate access is available.	5,000 - 25,000

Opening 5th Ave S would link 8th St S to 6th St S, effectively changing 7th St S and 5th Ave S from Neighborhood Access Streets to Collectors/ alternate Minor Arterials. In the discussion below it can be seen that this is in direct conflict with the overall precepts and many of the specific goals and policies of the Comprehensive Plan.

IV. Discussion

A. Traffic Impact

The Planning Department Advisory Report Section II E 5 provides a list of 9 facts- mostly references to planning and code documents- and the conclusion that the subject street should be opened based on these points.

We would like to provide additional data from these documents that refute these points and support the conclusion that this street should not be opened.

1. The advisory report references Kirkland Subdivision Section 22.28.070: "Generally, blocks should not exceed five hundred feet in length. Blocks that are more than seven hundred fifty feet in length should allow for midblock pedestrian access pursuant to Section 22.28.170 of this chapter."

We would like to note that the referenced Section 22.28.170 is entitled "Access-Walkways" and states:

(a) The city may require the applicant to install pedestrian walkways in any of the following circumstances:

(1) If a walkway is indicated as appropriate in the comprehensive plan;

(2) If the walkway is reasonably necessary to provide efficient pedestrian access to a designated activity center of the city;

(3) Midblock pedestrian access may be required if blocks are unusually long.

(b) Pedestrian access shall be provided by means of dedicated rights-of-way, tracts or easements at the city's option. (Ord. 3705 § 2 (part), 1999)

These references address pedestrian access, which is currently provided by unopened 5th Ave S, and provide no requirement that a mid-block through street is required. We embrace the need for a pedestrian and bicycle walkway at this location and recommend it be improved as part of the development underway on the two properties adjacent to the unopened right-of-way.

2. The advisory report references Kirkland Subdivision Section 22.28.090 and Zoning Code Section 110 relative to requirements for developers to provide street improvements.

We concur that these are the standard requirements, but based on the impact the implementation of these requirements would have on the neighborhood as discussed in this appeal, we request that an improved pedestrian and bicycle walkway be required in lieu of half-street improvements. This letter seeks to demonstrate that the standard requirement of installation of a through street improvement would, in fact, not be an "improvement" in that it would do more harm than good to the neighborhood and city as a whole.

3. Three elements from the City of Kirkland Comprehensive Plan are also referenced in the advisory report. These are shown in italics below, followed in each case by our comments.

A. Framework Goal FG-9: "Provide accessibility to pedestrians, bicyclists and alternative mode users within and between neighborhoods, public spaces and business districts and to regional facilities."

Again, we concur with providing a pedestrian and bicycle path in this location, and would like to point out that Framework Goal FG-9 further discusses pedestrian and bicycle pathways and notes that "we need a completely connected system of pathways for pedestrians, bicyclists, and alternative mode users that is safe and convenient. Such pathways <u>can take a variety of forms, ranging from concrete sidewalks, bike lanes, and bridges to unimproved trails</u>. The intent of this goal can clearly be met by a pedestrian and bicycle pathway where that is a greater benefit to the neighborhood than a through street. Note that the current pedestrian pathway in this location is already listed by the City as part of Kirkland's systems of trails within the city.

B. Land Use Element Goal LU-3: "Provide a land use pattern that promotes mobility and access to goods and services and physical activity." Policy LU-3.6: "Encourage vehicular and non-motorized connections between adjacent properties."

There is currently full access to goods, services, and physical activity in the area of concern. We believe this is an excellent location for a "non-motorized connection between adjacent properties".

C. Transportation Element Policy T-22: Promote a comprehensive and interconnected network of pedestrian and bike routes within the neighborhoods." Policy T-4.3: "Maintain a system of arterials, collectors, and local access streets that forms an interconnected network for vehicular circulation." Policy T-4.5: "Maintain and improve convenient access for emergency vehicles."

We concur with providing pedestrian and bike routes within neighborhoods. Regarding the reference to Policy T-4.3, the intent of a system of arterials, collectors, and local access streets is to ensure that neighborhoods are not overrun with commuter traffic. Opening this street would effectively make the 7th St S neighborhood an alternate arterial during periods of heavy traffic.

There is currently full and convenient access for emergency vehicles to all properties in the area; opening this street would not change emergency response times to any locations. Fire Station 22 is just to the south of the neighborhood and opening this street would not change the response route taken to any homes either within the neighborhood or to locations beyond the neighborhood. In fact, the Fire Department declined to comment on the need for a through street in the Advisory Report. Note again that the connecting streets are not cul-de-sacs or dead-end streets, but existing through streets with wide corners and ample room for emergency vehicles to turn.

4. A broader review of the City of Kirkland Comprehensive Plan is merited at this point. Throughout the Plan, there is an overriding theme of recognizing the value of safe, pedestrian friendly neighborhoods and the need to protect their quality and integrity.

The Plan's Vision Statement notes: "Improved transit service and facilities allow us to commute within Kirkland and to other regional destinations without overburdening our neighborhood streets."

Framework Goal FG-3 states: "Maintaining vibrant and safe neighborhoods as desirable places to live is a high priority." It continues: "An essential part of this diversity is maintaining the integrity of existing single family neighborhoods."

7th St S is a small, quiet neighborhood that has attracted many young families. Our neighborhood is characterized by the children playing between neighbors' yards while parents stop to visit in front of their houses. This character will be gone if 5th Ave S opens, because it will change this quiet street into an alternate arterial during rush hours.

At the east end of the proposed connection is Everest Park, heavily used by Little League baseball teams. If 5th Ave S is opened, it will put impatient rush hour traffic at an intersection immediately in front of the Park ball fields at the same time of day that children are walking to the park for practice and games.

Within Framework Goal FG-10 it is stated that road building has slowed because of "an unwillingness to disrupt established neighborhoods, and doubts about the effectiveness of road building to solve congestion."

FG-14 states "careful attention must be paid to ensure that growth is accommodated in a manner that complements rather than detracts from Kirkland's unique character".

The opening of this street would not benefit the neighborhood or provide a necessary missing link in the circulation of neighborhood or emergency vehicles. It would only provide commuters from outside the neighborhood an alternate arterial through the area when traffic backs up. Creating an arterial through an established neighborhood is in direct conflict with the Comprehensive Plan Goals noted and the wishes of the citizens of Kirkland.

Further direction from the Comprehensive Plan can be gained by a review of Section IX, Transportation:

The introduction states: "In the past, roads have been developed predominantly with vehicles in mind; however, the role of roads in influencing community character has become clear over the years." And: "Our challenge is to provide a transportation system which will both enhance surrounding neighborhoods and provide effective mobility for people, goods, and services through multiple modes."

Here the plan is again emphasizing that the enhancement of neighborhoods should be considered as well as mobility. This implies street improvements should pull traffic out of neighborhoods, not create by-pass routes on neighborhood streets. The opening of this street does very little to improve mobility, while doing much to impact the livability of this neighborhood.

Policy T-1.2, "Mitigate adverse impacts of transportation systems and facilities on neighborhoods" offers extremely clear guidance that is directly applicable to this issue. The policy states: "Transportation systems and facilities can have adverse impacts on neighborhoods such as: Increased traffic resulting from drivers seeking alternate routes to congested arterials."
And the policy recommends the following to avoid this impact: "Avoiding connections through residential neighborhoods when they will create new routes for commercial/ industrial traffic or bypass routes for I-405"

Again, the Plan provides very clear direction that connections such as the one proposed should be avoided.

Throughout the Transportation Section of the Comprehensive Plan, the importance of minimizing the impact of transportation on neighborhoods is emphasized:

Policy T-1.3: "Establish a street system that promotes and maintains the integrity of neighborhoods"
"To promote neighborhood integrity, streets should be classified, designed, and developed in a manner that recognizes and respects the surrounding neighborhood."

On page IX-12 of the plan under the heading Maintaining Mobility: "The plan supports the maintenance and enhancement of vehicular capacity on the existing system and recognizes the continued importance of vehicular circulation to local mobility, but not at the expense of other modes of travel or community character."

Policy T-4.4: "Minimize bypass traffic and safety impacts on neighborhood streets" states: Cut-through traffic onto neighborhood streets from nearby congested arterials or collectors does occur. The intent of this policy is to minimize the amount of cut-through traffic".

We would like to note here that Policy T-5.1 discusses a detailed approach to evaluating traffic levels relative to capacity at intersections throughout the city. This policy defines the method by which the impacts on traffic flow caused by proposed developments will be evaluated. Table T-4 in this section indicates that the 6th St/ Kirkland Way intersection is not a "system intersection" and therefore is not one of the intersections at which capacity is considered.

In Attachment 3 of the Advisory Report, the Public Works Department makes the statement: "Looking at the road network and the direction and volumes of traffic in the area, there appears to be no reason that the opening of 5th Ave S would encourage cut through traffic as an alternative to using 6th St S."

We question how this statement can be made when the 6th St/ Kirkland Way intersection is not even considered in the transportation plan's capacity calculations. Further, we are concerned that this may indicate the impact of the large business development on the west side of 6th St in this area has not been fully considered relative to this decision to open 5th Ave S. Or conversely, this has been considered, and our neighborhood is being sacrificed to relieve an already overburdened 6th St S.

138 neighborhood residents have signed a petition opposing opening this street. Residents of this neighborhood experience the traffic backups on 6th St S daily and know that this street opening will in fact encourage cut through traffic.

This issue is also addressed in Section XV, Everest Neighborhood in the Comprehensive Plan as well: Subsection 4.(1) states: "The expansion of existing industrial uses should be permitted only if traffic impact on residential areas are mitigated.

And in Subsection 6: "The circulation pattern in the Everest Neighborhood is fairly well established and allows for convenient travel through the neighborhood with minimal impacts on the majority of residential uses." "Future modifications to circulation patterns in the Everest Neighborhood should conform with the following provisions: (1) Industrial traffic in residential areas should be discouraged. Consequently, industrial access should be directed towards the nearest arterial street capable of handling the traffic."

Once the business development on the west side of 6th St is complete there will be an increased, consistent flow of commercial delivery vehicles servicing this complex. Opening 5th Ave S would provide an additional arterial for this traffic, whether that is the intent or not.

5. The final point made in the Advisory Report is that there are additional short plats in work or under consideration in the area and as additional parcels are developed, there is a need for improved vehicular access in the neighborhood.

We would like to reference the map of the neighborhood to address this point. 5th Ave S is currently 1 block long and would be 2 blocks long if the subject section is opened. It ends to the east at Everest Park and it ends to the west at 6th St S. This street is not a missing link in a through way coming into or out of the neighborhood. All areas of the 7th St S and 8th St S neighborhoods are fully accessible from both the north and the south, and because 5th Ave S does not extend beyond 6th and 8th it provides no improvement in access from the east or west. Even if this street is opened, residents will still need to travel to the north or south ends of the neighborhood to reach an east-west through street.

A review of the map of this area clearly shows that opening this street will not change access patterns within the neighborhood; it will only provide an alternate arterial for those traveling through the neighborhood. The opening of this street would not improve vehicular access for the additional parcels that will be developed in the future.

6. The Everest Neighborhood is overwhelmingly opposed to the opening of this street. 138 residents have signed a petition opposing this action; 1 person has written in favor of it. In 1991 the proposed opening of the street was canceled because of overwhelming opposition at that time. It should be noted that in 1991 this improvement was to be fully funded by the city, and the neighborhood still overwhelmingly opposed it. This is not of benefit to the neighborhood. The people who live here are most familiar with the local traffic patterns and clearly see the negative impact this would have on their existing neighborhood, the safety of their children, and the safety of all of the children who use Everest Park.

While the words used in the goals and policies are "integrity" and "character" of neighborhoods, what we are really talking about here is a quiet street where children can safely play with their neighbors in front of their homes, being changed into a commuter arterial where it is no longer safe to cross the street.

Framework Goal FG-16 in the Comprehensive Plan, "Promote active citizen involvement and outreach education in development decisions and planning for Kirkland's future" states: "For development decisions, the City should actively encourage collaboration and consensus with the community".

The community is against this action for valid reasons, and hopes the City will reach consensus with us on this issue.

B. Impact of Installation of a Through Street

The Development Standards for this proposed Short Plat, provided as Attachment 3 to the Advisory Report, provide Public Works Department conditions for approval. Under the section entitled "Street and Pedestrian Improvement Conditions", the following are listed as requirements for the improvement of 5th Ave S:

A. Install a minimum of 20 feet of asphalt (14 feet of asphalt from the centerline to the new curb).

B. On the north side of the new asphalt, install storm drainage, curb and gutter, a 4.5 foot planter strip with street trees 30 feet on-center, and a 5 foot wide sidewalk.

C. Install storm drainage collection and conveyance on the south side of the street improvements as necessary.

The actual nature of the public right of way in question is not apparent in these Advisory report requirements nor on the Planning Department maps. It appears to be a simple, short section of road. It is not. In fact, we have serious concerns about the integrity, safety, environmental impact, and hidden costs of the proposed road if it is built according to the conditions outlined in the Advisory Report. Our concerns are discussed below and indicate that the true impact of this street installation does not appear to have been adequately considered.

1. Road Integrity:
This entire road would be built on top of fill of unknown quality.
Not apparent on maps or in the Advisory report is that the entire length of the unopened right-of-way consists of dirt fill to a level as high as eight feet above the surrounding terrain.

Attached is reference (f.), a letter from Arthur E. Knutson, Public Service Director to Carl J. Waluconis dated January 30, 1976, addressing concerns expressed by Mr. Waluconis relative to this section of the unopened right of way: *"The City does not plan a street for that section of public right-of-way along 5th Avenue South between 7th Street South and 8th Street South. The city has worked over a period of years to dump fill into the area occasionally to permit the eventual installation of a storm drain as the city has received complaints for years over drainage problems in the area"*.

The referenced fill is now a dirt berm up to 8 feet high by 20 feet wide at the top. According to the referenced letter, the city did not plan for a street at the time the fill was placed and therefore it is highly unlikely that this fill was engineered as a base for a street. Is it to be removed and replaced by engineered fill? There is no mention of this in the Public Works Conditions.

The resulting berm is not wide enough to accommodate the listed street improvements so the city would either need to remove the fill or bring in much more in order to build the road. Are the adjacent home builders to bear the cost of remediation of this issue or will this additional cost be borne by city taxpayers? There is no mention of retaining walls in the approval conditions either. We question whether there is adequate room in this easement for the proposed street improvements as well as retaining walls engineered for as much as 8 feet depth of fill. We also question how the approval condition to install street improvements can be imposed with no consideration of the engineering studies required to prove that the berm and additional fill would be able to withstand traffic including tractor-trailer trucks, loaded concrete trucks and other construction and commercial vehicles certain to cut through the neighborhood.

2. Road Safety
The berm that is the right-of-way is as much as 8 feet higher than the surrounding properties; higher than the ground floors of the adjacent homes and yards. This presents a tremendous concern for the safety of the surrounding families as well as drivers. There is no Public Works Conditions requirement for guardrails on either the north or south side of the berm to prevent cars and trucks from driving off the embankment. In fact, there are no requirements for protection of any kind for the properties adjacent to the south side of the right-of-way, not even a curb or raised sidewalk.

3. Environmental Impact
The berm in the right-of-way has created a 'dam' in the natural flow of water from the Everest neighborhood to the south and east through the wetlands associated with the Aubry property and the Neil property. The proposed road would therefore be adjacent to wet lands; based on the surrounding topography it appears this fill was placed directly across an existing wetland, effectively eliminating a large part of it. We feel that creating an unnecessary additional 7,000 square feet of impervious surface in this area is environmentally irresponsible.

There is also no mention in the street improvement conditions of improving/enlarging the storm sewer main underneath 5th Ave S. This storm sewer is already overburdened and deteriorated due to the intrusion of roots in the area. The Public Works Maintenance department has had to respond to flooding in the property adjacent to 5th Ave S on the south several times in the last few years. The Maintenance Department videoed the main and found it to be full of roots, and the maintenance crew indicated the main was not adequately sized, was degraded from root intrusion, and in need of replacement. Does the City plan to take care of this now or at a higher cost later when the street improvements are already in place, or has it not been considered?

There are a number of significant trees along the length of the berm that would be removed or compromised if the road were built. This does not seem consistent with the goals and policies of a city that represents itself as celebrating its tree canopy.

The City of Kirkland web site boasts of its walking trails and includes this path in a brochure of Everest Neighborhood Walking Paths. It is frequented by walkers, bicyclists, strollers and joggers. Many people in the neighborhood refer to it as their 'secret path'. All of this would be lost by creating a street that fulfills nothing other than a vague bureaucratic dictate to 'complete the grid'.

As individuals, as a city and as a society we give lip service to 'preserving the environment'. We have an opportunity in this situation to actually preserve the environment. Let's not sacrifice it simply to 'complete the grid'.

4. Other Hidden Costs
As discussed elsewhere in this appeal, opening of this right of way to vehicular traffic would connect an 'Arterial' to 'Collector Streets' and would therefore transform 5th Ave. South and 7th Street South from 'Neighborhood Access Streets' to 'Collector Streets'. This would eventually necessitate the addition of speed bumps along both streets, which is another unaddressed cost along with the additional engineering, fill, retaining walls, and guard rails discussed earlier.

Due to all of these concerns we feel that there are serious issues regarding the integrity, safety and environmental impact of the road; and believe that building it as proposed would be irresponsible. This is not a simple road. We have outlined a number of 'hidden costs' associated with the development of the proposed road that would be borne by the taxpayers of Kirkland. We question whether shaving a few seconds of travel time for a small handful of neighbors is worth the cost?

Conclusions

- The emphasis of the goals and policies in the Comprehensive Plan are that transportation systems should not be improved to the detriment of neighborhood integrity.

- Because 5th Ave S ends at 6th St S and Everest Park, opening this street does nothing to improve the city's grid system and does not provide improved access into, out of, or within the neighborhood.

- Opening this street would provide an alternate arterial to congested traffic on 6th St S through an established neighborhood to reach the 85th St/ I-405 interchange.

- Opening the street will increase traffic on 7th St S and the north end of 8th St S. It will not disperse traffic more evenly in the neighborhood.

- Opening the street will put an intersection centered on Everest Park that will fill with commuters at the same time of day that this part of the park is heavily used by children's baseball teams.

- There is currently full and convenient access to all areas of the neighborhood. Opening this street will not improve driving times, emergency vehicle response times or access routes.

- Providing an improved pedestrian/ bicycle pathway at this location fulfills the regulations found in the Subdivision Ordinance.

- The integrity of the road base, the engineering and safety requirements necessary due to the local topography, the environmental impact of this street improvement, and the additional hidden costs of each of these items have not been fully considered.

Based on the items discussed herein and summarized above, we respectfully request that 5th Ave S remain unopened. We understand that the standard requirement in the Kirkland Zoning Code for this type of development is to complete adjacent street improvements. However, in this location, residents of the Everest Neighborhood strongly feel that driveway access to the proposed westernmost lot and an improved pedestrian/ bicycle path in lieu of a through street provide much greater long term benefit to the neighborhood, to users of Everest Park and to the celebrated character of Kirkland, and request that this be the requirement for approval of the subject short plat.

Thank you for your consideration,

Jerry Gilbert
504 7th St S

Tom Lynn
501 8th St S

Karen E Tipp
Karen Tipp
709 7th St S

Beverly Gilbert
504 7th St S

Sherri Lynn
501 8th St S

Doug Thompson
507 8th St S

Attachment 1: Reference letter (f)

4/6/2007

CITY OF KIRKLAND

210 MAIN STREET · KIRKLAND, WASHINGTON 98033 (206) 822-9271

January 30, 1976

Carl J. Waluconis
501 - 8th St. South
Kirkland, Washington 98033

Dear Mr. Waluconis,

Your letter dated January 9, 1976 was received and refered to the Public Service Department.

The City does not plan a street for that section of public right-of-way along 5th Avenue South between 7th Street South and 8th Street South. The City has worked over a period of years at dumping fill into the area occasionally to permit the eventual installation of a storm drain as the city has received complaints for years over drainage problems in the area.

The storm drainage has now been installed and the following work is yet to be accomplished, weather permitting.

1. Level the area so that it will be smooth and will drain off without puddling. By necessity this work must wait until the area drys out so the soil can be worked properly.

2. The broken limbs will be removed from the trees. This type of damage should not happen but it did so the pruning is necessary.

3. Some seeding will be necessary for erosion control.

Sincerely,

Arthur E. Knutson

ARTHUR E. KNUTSON
Public Service Director

AEK/sc

cc: City Manager
City Engineer

Aubry Short Plat
2ND AVE
9TH LN
KIRKLAND WAY
6TH CT
8TH LN
9TH ST
2ND AVE
CEDAR ST
KIRKLAND AVE
KIRKLAND AVE
10TH PL S
RAILROAD AVE
BNSF RR
SLATER ST S
6TH ST S
NORTH AVE
341 8TH ST S
8TH ST S
10TH ST S
New Single-Family Home
Everest Park
5TH AVE S
To Be Opened
7TH ST S
ALEXANDER AVE
6TH PL S
N
Enclosure 6
8TH AVE S

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

MEMORANDUM

To: Ron Hanson, Planner

From: Rob Jammerman, Development Engineering Manager

Date: June 1, 2007

Subject: Response to the appeal of the Aubry 3-lot Short Plat – File No SPL06-00007

The Public Works Department has reviewed the two appeal letters related to the Aubry 3-lot Short Plat, File No. SPL07-00007. After reviewing the letters, we would like to offer the following:

1. **What are the adopted City code criteria for waiving street improvement requirements?** Chapter 110.70.5 of the Kirkland Zoning Code (copy attached) outlines the criteria for waiving street improvements. After reviewing the waiver language, you will find that the criteria is summarized as follows:

   A. The street improvements would cause a safety hazard or environmental impact that cannot be mitigated.
   B. The proposed project is for a single-family dwelling alteration (remodel) that is less than $200,000 in value.
   C. The project is along a Neighborhood Access street in the Bridle Trails Neighborhood with designated equestrian use.
   D. The existing improvements are adequate and will not be changed in the future.
   E. The City and the neighborhood have agreed upon a street improvement waiver per Public Works Policy R.14; this waiver program is for installation of street improvements such as sidewalks along an existing open street.

   When we reviewed the Aubry Short Plat, we could find no criteria that would allow for a waiver of the street improvements within the 5th Avenue South right-of-way.

2. **5th Avenue South is classified as a Neighborhood Access type street. If the street is extended to 8th Street South, will the street classification change?** The Public Works Department plans to continue to designate the street as a Neighborhood Access type street. The required street improvements match the City's R-28 Neighborhood Access Street Standard. Although it is not a requirement of the Aubry Short Plat, traffic calming devices such as speed cushions can be installed in the future if needed.

3. **Do the potential high costs to improve the street justify a waiver of the street improvements?** The appellants raise a number of concerns about the existing conditions in the 5th Avenue South right-of-way and the potential excessive costs to improve the street to meet City standards. The Public Works Department acknowledges that more engineering study will need to be done by the applicants' civil engineer to determine the final costs of the street improvements, but at this time there is no evidence that street improvements should be waived due to excessive costs. It is likely that these street improvements will be more expensive than other typical street improvements, but street and utility improvements costs vary from project to project. Each project has its own unique set of street and utility improvement costs that the developer has to take into account when they decide to develop the property.

Attachment (1)

110.70 Modifications, Deferments and Waivers, and Construction-in-Lieu

1. General – The provisions of this section establish under what circumstances the requirements of this chapter may be modified, deferred, waived, or provided for with a sidewalk construction-in-lieu.

2. Authority to Grant and Duration

   a. If the proposed development of the subject property requires approval through Process I, IIA, IIB or III, described in Chapters 145, 150, 152 and 155 KZC, respectively, or short plat or subdivision approval described in the subdivision ordinance, a request for a modification, deferment, waiver, or sidewalk construction-in-lieu, will be considered as part of this process under the provisions of this section. If granted under Process I, IIA, IIB or III, or through the short plat or subdivision processes, the modification, deferment, waiver, or sidewalk construction-in-lieu is binding on the City for all development permits issued for that development under the Building Code within five years of the granting of the modification, deferment, waiver, or sidewalk construction-in-lieu.

   b. If subsection (2)(a) of this section does not apply, the Public Works Director may grant a modification, deferment, waiver, or sidewalk construction-in-lieu in writing under the provisions of this section.

3. Modifications – The City may require or grant a modification to the nature or extent of any required improvement for any of the following reasons:

   a. If the improvement as required would not match the existing improvements.

   b. If unusual topographic or physical conditions preclude the construction of the improvements as required.

   c. If other unusual circumstances preclude the construction of the improvements as required.

   d. If the City and a neighborhood has agreed upon a modified standard for a particular street (see the Public Works Pre-Approved Plans and Policies Notebook for a description of the Neighborhood Access Street Improvement Modification and Waiver Process).

4. Deferment

   a. The City may require or permit that the required improvements be installed at a later time:

      1) If the required improvement is part of a larger project that has been scheduled for implementation in the City's six-year Capital Improvement Program; or

2) If other unusual circumstances preclude the construction of the improvements as required.

b. If the applicant meets the above criteria for deferment, he/she is only obligated to install, at a future date, improvements from the center line of the right-of-way to the property line.

c. If the City approves a deferment, the applicant must sign a concomitant agreement to run with the property, in a form acceptable to the City Attorney, specifying that the applicant shall install or reimburse the City for construction of the deferred improvements as directed by the Public Works Director. The applicant must file this agreement with the King County Bureau of Elections and Records.

d. The applicant must grade the subject portion of the right-of-way as though the improvement were to be immediately installed and stabilize the graded area in a manner approved by the Public Works Director. The applicant may be exempted from this requirement if the Public Works Department determines that unusual circumstances preclude the grading.

5. Waiver – The City may waive and not require or allow installations of a required improvement under the following circumstances:

a. If the installation of the improvements will cause a safety hazard or an environmental impact that cannot be mitigated; or

b. If the project is for a single-family dwelling alteration that is less than $200,000 in value, based on building alteration costs in effect on January 1, 2006. This threshold shall be reviewed annually and adjusted by a percentage equal to the percentage of increase in building alteration costs, if any (see KZC 110.10(1)(d) for building alteration costs information); or

c. If the development project fronts on a neighborhood access type street in the RS 35, RSX 35 and Planned Area 16 zones within the Bridle Trails neighborhoods north of Bridle Trails State Park; or

d. If the City determines that the current level and extent of the improvement in the right-of-way adjacent to the subject property will not be changed in the future; or

e. If the City and a neighborhood have agreed upon a street improvement waiver for a particular street (see the Public Works Pre-Approved Plans and Policies Notebook for a description of the Neighborhood Access Street Improvement Modification and Waiver Process).

6. Sidewalk Construction-in-Lieu Program

a. This subsection establishes circumstances in which the applicant may propose an off-site sidewalk construction-in-lieu of installing on-site street improvements in the right-of-way abutting the subject property (e.g., KZC 110.30, 110.35, and 110.38). The City will not accept the applicant's proposed sidewalk construction-in-lieu if the Public Works Director

determines that it is in the City's interest that the street improvements be installed abutting the subject property, taking into account such factors as the pedestrian safety impacts that result from the development. In addition to the criteria listed in KZC 110.30, 110.35, and 110.38, the City may accept a sidewalk construction-in-lieu of installing on-site sidewalks in the following circumstances:

1) If installation of the required improvement would require substantial off-site roadway modifications; or

2) If the Public Works Director determines that installation of the required improvement would result in a safety hazard; or

3) If other unusual circumstances preclude the construction of the improvements as required.

b. In each instance where the City approves a proposed sidewalk construction-in-lieu under the provisions of this section, the value of the sidewalk construction-in-lieu shall be 75 percent of the then-estimated cost of constructing the street improvements and right-of-way dedication that would otherwise be required under this chapter, based on information compiled and kept current by the Department of Public Works on the cost of street improvement construction.

c. After the value of the improvements has been determined, the Public Works Director shall determine the location of the off-site improvements. The improvements shall be located within the neighborhood of the subject development and directed toward sidewalks or other pedestrian improvements.

d. In each instance where the City accepts a sidewalk construction-in-lieu of installing sidewalk, the subject property will not be subject to participation in future sidewalk improvement costs (along the property frontage) unless redevelopment occurs to a more intense land use that what was occurring on the property at the time of the sidewalk construction-in-lieu payment.

7. Multiple Adjacent Rights-of-Way – When the subject property is adjacent to two or more rights-of-way, modifications, deferments, waivers, or sidewalk construction-in-lieu may be considered separately for each right-of-way. The highest level of improvement required must be constructed around the angle formed by the intersecting streets.

8. Appeals – The decision of the Public Works Director regarding deferments, modifications, waivers, and construction-in-lieu may be appealed using the appeal provisions, as applicable, of Process I of this code, KZC 145.60 through 145.110.