CITY OF KIRKLAND
Planning and Community Development Department
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DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM

To: David Ramsay, City Manager

From: Jon Regala, Senior Planner
Paul Stewart, AICP, Deputy Director
Eric Shields, AICP, Director

Date: February 20, 2008

Subject: **GORDON HART PRIVATE AMENDMENT REQUEST**
TRANSMITTAL OF PLANNING COMMISSION RECOMMENDATION
FILE ZON06-00019

I. RECOMMENDATION

Staff recommends that the City Council:

A. Consider the recommendation from the Planning Commission found in Exhibit A; and

B. Provide direction to staff in drafting an 'Intent to Adopt' resolution to be considered at the City Council's May 20, 2008 meeting

II. CITY COUNCIL REVIEW

The March 4, 2008 meeting is the City Council's opportunity to provide direction on any changes to the Planning Commission's recommendation described in this memorandum. Staff will then draft an 'Intent to Adopt' resolution, to be adopted by the Council at their May 20, 2008 meeting, as a place keeper for this private amendment request until a final ordinance adopting all 2007-2008 updates to the Comprehensive Plan is presented to the City Council for consideration in summer 2008.

At the City Council's March 4, 2008 meeting, Karen Tennyson, Planning Commission Chair, will transmit the Planning Commission's recommendation and staff will present an overview of the recommended Comprehensive Plan amendment changes related to the Gordon Hart Private Amendment Request. Staff suggests that the Council consider the policy highlights listed in Exhibit A, the Planning Commission's memo, and a terrain modeling video, to be presented at the meeting, depicting the topography on the subject property in 3-D, as a guide for their discussion on their recommended action. The video was prepared by the City's Geographic Information System staff.

III. APPLICANT'S REQUEST

The Hart private amendment request (PAR) consists of increasing the Comprehensive Plan residential density from medium density residential at 8-9 dwelling units per acre (RM 5.0 zoning designation) to medium-density residential at 12 dwelling units per acre (RM 3.6 zoning designation) to create single-family lots at a higher density. The subject property is located at 130xx 132nd Avenue NE (see Exhibit B).

The private amendment request also includes revising or removing site specific development criteria outlined in Comprehensive Plan Policy TL-17.3 (see Exhibit C). This Comprehensive Plan policy provides property specific development criteria regarding density, lot coverage limitations, retention of watercourses, slope stability, location of improvements, surface water runoff, and vehicular access. The applicant's primary concern is the slope and setback standard found in Policy TL-17.3 condition #7. The applicant contends that these conditions prohibit reasonable development of the subject property. The applicant is asking that by revising or deleting these conditions new development would then be subject to the same zoning standards that would be applied to residential development elsewhere in the City instead of being subject to the site specific development conditions found in the Comprehensive Plan.

IV. PROCESS

The private amendment request followed the Process IV procedures as established in the Zoning Code for amendments to the Comprehensive Plan. The Totem Lake Neighborhood Association, the Kirkland Chamber of Commerce, and residents and property owners within 500 feet of the subject property were mailed a notice of the private amendment request. In addition, a public notice sign was erected in front of the subject property. Public notice of the hearing has been provided based on City code requirements. Below is a brief timeline and summary of the private amendment request.

December 1, 2004 The applicant, Gordon Hart, submitted the private amendment request (PAR) on December 1, 2004. The PAR originally included the adjoining property to the west which is owned by the Fiorito family. The request was to remove the development conditions described in Comprehensive Plan Policy TL-17.3, remove the greenbelt located on the Fiorito property, and to amend the Comprehensive Plan land use designation from medium density residential at 8 dwelling units per acre to medium-density residential at 12 dwelling units per acre in order to construct single-family lots at a higher density.

February 10, 2005 The Planning Commission recommended to the City Council that consideration of the Hart PAR be postponed until the completion of the Totem Lake neighborhood zoning and design regulations update.

March 15, 2006 The City Council conducted a threshold review of several private amendment requests and directed staff to begin full review of the Hart PAR following the completion of the Totem Lake Neighborhood zoning and design guidelines. ***The City Council clarified that the Hart PAR***

request be limited only to the Hart property. The Fiorito property was not to be considered except to the extent portions of the Fiorito property may be utilized for access to the Hart property.

October 2006	Mr. Hart requested to delay the review of his PAR to 2007 for personal reasons.
August 23, 2007 & December 13, 2007	Planning Commission study sessions on the Hart PAR
January 24, 2008	Planning Commission public hearing and recommendation on the Hart PAR

The Planning Commission *packets* for the study sessions and public hearing can be found at the following link:

http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission.htm

The Planning Commission *minutes* for the study sessions and public hearing can be found at the following link:

http://www.ci.kirkland.wa.us/depart/Planning/Planning_Commission/Planning_Commission_Meetings_Online.htm

V. PLANNING COMMISSION RECOMMENDATION

At their January 24, 2008 public hearing, the Planning Commission did not recommend approval of the applicant's request to remove the 100-foot buffer along the north property line and their request to increase the residential density. The Planning Commission determined that the steep slopes and development limitations imposed by the wetlands on the site, as well as vehicular access concerns, preclude supporting additional density. Also, maintaining the 100-foot buffer preserves the public greenway discussed in the neighborhood plan and is consistent with other policies that seek to protect steep slopes.

To help a developer achieve most if not all of their allowed density, the Planning Commission recommended that stacked units should be permitted at the southern end of the site and that additional height be allowed if affordable housing is provided. Therefore, the majority of the Planning Commission members (6 in favor and 1 opposed) recommended approval of the Comprehensive Plan conditions summarized as follows:

- Development should be subject to the City's Process IIA zoning permit review process. This process allows for public oral and written testimony with discretionary approval to be made by the Hearing Examiner.
- Stacked units may be permitted on the subject property.
- The condition limiting development northward no more than 150 feet into any slope in excess of 15 percent should be removed.

- The condition requiring a hold harmless covenant with the City should be removed since the Kirkland Zoning Code has very specific requirements in regards to hold harmless covenants and environmentally sensitive areas.
- An increase in height to 5 stories should be allowed if at least 10% of the units provided are affordable units

See also Exhibit A for the Planning Commission recommendation memo. The Planning Commission's recommended changes to the Comprehensive Plan text can be found in Exhibit C. The Planning Commission's recommended changes to the Zoning Code, reflecting the Comprehensive Plan text changes can be found in Exhibit D. The Zoning Code section in which the proposed changes will be located will be clarified with the adopting ordinance.

BACKGROUND ON DENSITY DISCUSSION

The subject property is large but is constrained by sensitive areas. According to the King County Assessors Office, the Hart property is 162,914 square feet or 3.74 acres. The subject property is vacant and contains naturally occurring vegetation. The slopes on the subject property are in excess of 46% (see Exhibit E) and have been identified as being located in a high landslide hazard area on the City of Kirkland's sensitive areas maps. Exhibit F contains several still shots of the subject property taken from a terrain modeling video prepared by the City's Geographic Information System (GIS) Staff which depicts the steep slopes on the subject property.

The subject property also contains a Type II wetland which requires 75-foot buffers and an off-site Class C stream which requires 35-foot buffers (see Exhibit G). The wetland and buffers are located on the western half of the property. Based on an estimate by staff, the wetland and its buffers encompass approximately 59% of the subject property. A survey of the wetland and stream flagging has not been provided by the applicant.

Staff has been able to estimate the development potential of the subject property based on the preliminary sketch provided by The Watershed Company. Staff has estimated the size of the sensitive area, its buffer, and the dry land area as follows:

	Estimated Size *
Wetland Area	24,846 square feet
Wetland and Stream Buffer Area	71,587 square feet
Dry Land Area	66,481 square feet
Total Property Size	162,914 square feet

**** This information is very preliminary and is subject to change based on a future survey of the sensitive area***

Using the formula in KZC 90.35 which determines the maximum residential unit potential given the size of the sensitive area and their buffers, the approximated maximum development potential for the subject property is shown in the following chart.

	Maximum # Residential Units allowed*
RM 5.0 (existing zoning)	21 residential units
RM 3.6 (proposed zoning)	30 residential units
**** The results of the calculations above do not take into account any vehicular access easements or right-of-way dedication that may be required through the subdivision process, areas of parking or driveway access, or other factors such as site and building constraints that may reduce the number of units allowed on the subject property.***	

Staff was able to approximate the location of the buildable area on the subject property using The Watershed Company's wetland sketch as the base map. Staff created an overlay of the required 75-foot wetland buffer, 35-foot stream buffer, property line setbacks, and required Comprehensive Plan standards (see Exhibit H). Below is a chart which approximates the size of the building area given the various standards.

Scenario	**Approximate Size of Buildable Area**
Existing Standards (100' setback from north property line and 150' slope restriction)	18,362 square feet
Removal of 100' setback from north property line and 150' slope restriction and assuming 15' north property line setback (largest landscape buffer required by KZC) and standard setbacks.	45,810 square feet

BACKGROUND ON 100-FOOT BUFFER DISCUSSION

Staff had recommended deleting the conditions requiring a 100-foot buffer from the north property line and limiting development 150 feet into the slope. Research has shown that the 100-foot buffer was a condition of industrial/commercial land use on the subject property as part of approval of a 1982 private amendment request. Below is a brief summary of the land use history of the subject property:

September 2, 1980 The subject property was annexed into the City of Kirkland (Ordinance 2545). King County land use, in the Northshore Plan, designated the southern portion of the subject property as *ip - industrial park*, and the northern portion of the subject property *o - open space/cemeteries*.

However, King County zoning for the subject property was *G - general*, this allowed for agricultural and residential uses at a maximum density of one dwelling unit per 35,000 square feet of lot area. When annexed, the City of Kirkland adopted the RS 35 zone for the subject property which was similar to the County's zoning and a land use designation of LR – Low Density Residential.

April 19, 1982 The City Council approved a Comprehensive Plan amendment that changed the land use of the subject property from Low Density Residential

to Industrial (Ordinance 2661) at the request of the property owner (Gordon Hart). Various development standards, including the 100-foot buffer requirement were added to the Comprehensive Plan to protect the environmental features of the hillside and buffer industrial uses from the single-family residences located north of the subject property.

July 11, 1995 The City Council approved a Comprehensive Plan amendment, as requested by the property owner (Gordon Hart) that changed the land use of the subject property from Industrial to Medium-Density Residential (Ordinance 3481). No changes were made to the 100-foot buffer requirement and remain unchanged to this day.

If the 100-foot setback language were to be removed as a condition of the subject property, existing City regulations would then apply to new development on the subject property. KZC Chapter 85 contains regulations that address building on hazardous slopes while KZC Chapter 95 contains regulations for landscape buffers when building next to single-family residences. In addition, the RM zoning standards contain minimum side yard setback requirements and horizontal façade regulations which mitigate development from the single-family uses.

However, to retain the public greenway described in Policy TL-16.1 the Planning Commission recommended maintaining the 100-foot buffer currently required along the north property line. By preserving the 100-foot buffer, the Planning Commission drew support from existing Comprehensive Plan policies that protects steep slopes, maintains vegetation on steep slopes, and requires development to conform to the natural constraints of the site, as well as to maintain policy that has been in place for 25 years. Exhibit I contains the policies that support the Planning Commission's recommendation.

In addition, by incorporating new conditions that allow stacked units and a significant increase in height if affordable housing is provided, the Planning Commission determined that the residential density allowed under existing regulations could be realistically achieved by a developer while still protecting the steep slopes and preserving the public greenway described in Policy TL-16.1 (see Exhibit I).

VI. PUBLIC COMMENT

The Planning Commission held two study sessions leading up to the January 24, 2008 public hearing. Neighboring residents provided input either in letter format or spoke at the study sessions and public hearing, expressing their concerns about the proposed private amendment request. The co-applicant and co-owner of the subject property spoke at the study sessions and public hearing in support of the private amendment request primarily stating that the 100-foot buffer is no longer appropriate given the residential zoning on the subject property.

The public's concerns are summarized as follows:

- The zoning should remain as is since it does not appear that the subject property can accommodate additional density

- Development plans should be provided for the subject property based on the proposed changes in order to understand the impacts and development potential of the applicant's request
- The Zoning Code criteria for private amendment requests will not be met if the applicant's request is approved
- The 100' buffer should remain since it supported by Comprehensive Plan policies regarding preserving open space, wildlife habitat, and scenic vistas
- Clustered housing at the base of the hillside is potentially feasible
- Steep slopes should be protected and slope stability and erosion concerns should be addressed
- Additional Comprehensive Plan policies should be considered regarding preservation of habitat, open space, and scenic vistas
- The 100' buffer along the north property line should remain
- The spirit of the Comprehensive Plan should be maintained
- The subject property still has buildable areas without any changes
- The public greenway should be preserved across the subject property
- Concerns regarding traffic safety and access

The letters received from the public throughout this process and considered by the Planning Commission can be found in Exhibit J.

VII. PRIVATE AMENDMENT REQUEST CRITERIA

Certain criteria found in the Zoning Code must be considered when reviewing a private amendment request.

A. Factors for Consideration: KCZ 140.25 establishes that the City must take into consideration, but is not limited to, certain factors when considering a Comprehensive Plan Amendment. Below is a list of the criteria followed by staff analysis.

1. *The effect upon the physical, natural, economic, and/or social environment.*

   Approval of the request will result in changes to the natural environment since the subject property is currently undeveloped. The majority of the subject property (approximately 60%) will be preserved in its natural state due to KZC requirements for protecting wetlands and their buffers. For the physical environment, approval of the request may result in up to 30 residential units depending on the site constraints, development standards, and access issues. Approval of the request would not adversely impact the economic or social environments.

2. *The compatibility with and impact on adjacent land uses and surrounding neighborhoods.*

Approval of the applicant's request would result in a medium density designation and a clustered residential development given the location of the sensitive areas on the subject property. There is no proposed change in the land use designations from what exists today. If the Comprehensive Plan conditions are defaulted to the Zoning Code regulations, the subject property will be held to the same standards that multi-family residential uses are held to when adjoining other single-family zones in the City.

3. *The adequacy of and impact on public facilities and services, including utilities, roads, public transportation, parks, recreation and schools.*

Existing public facilities are adequate to serve the existing RM 5.0 zone and the proposed RM 3.6 zone. The site is accessed by a major arterial (132nd Avenue NE) and is near transit routes on 132nd Avenue NE, NE 132nd Street, and NE 124th Street. Public utilities exist through the area. The extension of utilities on-site would be the responsibility of the future developer. The site is near several schools and parks located to the north in the City's potential annexation area.

4. *The quantity and location of land planned for the proposed land use type and density.*

According to the 2007 King County Buildable Lands report, the City had, as of 2006, land capacity for 4,761 new units throughout the City with much of this future growth to occur in the Totem Lake area. The City has enough land capacity to meet 2012-2022 housing targets.

According to the City's Community Profile, as of 2003, the Totem Lake Neighborhood had 33 single-family homes, 1,855 multi-family units, and a capacity for 1,805 residential units. Of the 620 acres in the Totem Lake Neighborhood, only 117 acres contain residential uses. The average residential density in the Totem Lake Neighborhood is 15 units per acre with an estimated population of 3,073 people (based on January 2004 King County Assessor's data).

5. *The effect upon other aspects of the Comprehensive Plan.*

If the land use designation for this site is changed, the text on pages XV.H-22 and Comprehensive Plan neighborhood land use map would need to be changed. Other aspects of the Comprehensive Plan are expected to be unaffected.

B. Criteria for Amending the Comprehensive Plan: KZC 140.30 establishes the criteria by which a Comprehensive Plan Amendment must be evaluated. These criteria and the relationship of the proposal to them are as follows:

1. *The amendments must be consistent with the Growth Management Act.*

The amendment is consistent with the following Growth Management Act, including the following planning goals (RCW 36.70A.020):

- Urban Growth: Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- Reduce Sprawl: Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- Housing: Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
- Open Space and Recreation: Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.
- Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

It is also consistent with the directive of the Growth Management Act that each comprehensive land use plan is subject to continuing evaluation and review by the city.

2. *The amendments must be consistent with the Countywide Planning Policies.*

The amendment is supported by the following Countywide Planning Policies on Land Use:

- Policy LU-26 states that land within Urban Growth Areas shall be characterized by urban development.
- Policy LU-66 calls for an efficient use of land within the Urban Growth Area and a mix of housing types.
- Policy LU-69 encourages infill development.
- Policy FW-24 states that all jurisdictions shall support the County's existing diversity of places to live, work and recreate and the ethnic diversity of our communities. The Countywide development pattern shall include sufficient supply of quality places for housing, employment, education, recreation, and open space and the provision of community and social services.

The amendment is not in conflict with the following Countywide Planning Policies on Fish and Wildlife and Geologic Hazard Areas, provided that the City's environmental regulations are applied to future development:

- Policy CA-9: Natural drainage system, including associated riparian and shoreline habitat, shall be maintained and enhanced to protect water quality, reduce public costs, protect fish and wildlife habitat, and prevent environmental degradation.
- Policy CA-13: All jurisdictions shall regulate development on certain lands to protect public health, property, important ecological and hydro-geologic functions, and environmental quality, and to reduce public costs.

Regulations shall include, at a minimum, provisions for vegetation retention, seasonal clearing and grading limits, setbacks, and drainage and erosion controls.

3. *The amendments must not be in conflict with other goals, policies, and provisions of the Kirkland Comprehensive Plan.*

The *Natural Environment Element* of the Comprehensive Plan contains the following goals and policies to protect the sensitive areas:

- Goal NE-1: Protect natural systems and features from the potentially negative impacts of human activities, including, but not limited to, land development.
- Policy NE-1.6: Strive to minimize human impacts on habitat areas.
- Policy NE-2.2: Protect surface water functions by preserving and enhancing natural drainage systems wherever possible.

The *Totem Lake Neighborhood Plan* of the Comprehensive Plan contains the following goals and policies to protect sensitive areas, existing vegetation, and transition between uses:

- Policy TL-16.1: Create a public greenway as shown in Figure TL-6.
- Policy TL-16.3: In natural areas of the greenway, maintain the natural vegetation to the greatest extent possible.
- Goal TL-17: Protect potentially hazardous areas, such as landslide, seismic and flood areas, through limitations on development and maintenance of existing vegetation.
- Policy TL-17.1: Maintain existing vegetation in high or moderate landslide areas.
- Policy TL-17.2: Require slope stability analyses in high or moderate landslide areas and regulate development to minimize damage to life and property.
- Policy TL-17.3: Restrict development in identified landslide hazard areas to ensure public safety and conformity with natural constraints.
- Goal TL-25: Provide effective transitions between the industrial, commercial and higher density multi-family uses in the neighborhood and single-family residential areas surrounding the neighborhood.
- Policy TL-25.1: Provide for site and building development requirements and other regulations that address transition areas to protect nearby residential neighborhoods.

The *Land Use Element* contains the following goals and policies that support additional housing units in residential neighborhoods while protecting the quality of the neighborhoods and the sensitive areas:

- Goal LU-2: Promote a compact land use pattern in Kirkland.

- Goal LU-4: Protect and enhance the character, quality, and function of existing residential neighborhoods while accommodating the City's growth.

The Comprehensive Plan will be internally consistent. If the request is approved, the amendments will not be in conflict with The Natural Environment and Land Use goals, policies or provisions of the Comprehensive Plan, provided that an adequate wetland buffer is provided between development and the sensitive area and recommendations of a geotechnical report are followed.

4. *The amendments will result in long-term benefits to the community as a whole, and is in the best interest of the community.*

If the request is approved, the amendments will provide the long-term community benefit of allowing for additional residential units without eroding the general land use patterns of the surrounding neighborhood. The study area can physically accommodate residential units with reduced impacts to the surrounding uses provided that the sensitive area buffers are maintained and that adverse impacts as a result of building on the steep slopes are avoided. The request serves the community's interest in the efficient use of land while protecting it from the impacts that growth can bring.

VIII. ENVIRONMENTAL REVIEW

An EIS Addendum was issued on January 17, 2008 for the Gordon Hart Private Amendment Request and is available for viewing in the formal file located in the Planning Department, file ZON06-00019. According to SEPA rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document. An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document. The issued EIS Addendum fulfills the environmental requirements for the proposed changes.

IX. EXHIBITS

A. Planning Commission Recommendation
B. Vicinity Map
C. Revised Comprehensive Plan Text
D. Revised Zoning Language
E. Topographic Map
F. Terrain Modeling Still Shots
G. Watershed Company Sensitive Areas Map
H. Staff Buildable Areas Map
I. Comprehensive Plan Policies
J. Public Comment Letters

CC: Gordon Hart, 3 -168th Avenue NE, Bellevue, WA 98008
Bill Kost, 328 – 37th Street NW #A, Auburn, WA 98001
Planning Commission
Totem Lake Neighborhood Association
Kirkland Chamber of Commerce
File: ZON06-00019

CITY OF KIRKLAND
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MEMORANDUM

To: City Council

From: Planning Commission
Karen Tennyson, Chair

Date: February 20, 2008

Subject: **PLANNNG COMMISSION RECOMMENDATION**
GORDON HART PRIVATE AMENDMENT REQUEST
FILE ZON06-00019

I. INTRODUCTION

We are pleased to submit the recommendation on the Gordon Hart Private Amendment Request (PAR). The Hart PAR consists of increasing the Comprehensive Plan residential density from medium density at 8-9 dwelling units per acre to medium-density at 12 dwelling units per acre to create single-family lots at a higher density.

The private amendment request also includes revising or removing site specific development criteria outlined in Comprehensive Plan Policy TL-17.3. This Comprehensive Plan policy provides property specific development criteria regarding density, lot coverage limitations, retention of watercourses, slope stability, location of improvements, surface water runoff, and vehicular access. The applicant's primary concern is the slope and setback standard found in Policy TL-17.3, condition #7. The applicant contends that these conditions prohibit reasonable development of the subject property given the location of existing wetlands and stream.

II. RECOMMENDATION ON GORDON HART PRIVATE AMENDMENT REQUEST

The Planning Commission recommends that Comprehensive Plan Policy 17.3 on pages XV.H-21 and 22 be changed to reflect the following items:

- Clarify that development should be subject to the City's Process IIA process. This process allows for public oral and written testimony with discretionary approval to be made by the Hearing Examiner.
- Stacked units may be permitted on the subject property.
- The condition limiting development northward no more than 150 feet into any slope in excess of 15 percent should be removed since the Zoning Code contains already contains regulations when building on steep slopes. Also, by removing this condition, a developer should be able to

realize most, if not all of their allowed density at the southern end of the subject property while preserving the 100-foot buffer along the north property line.

- The condition requiring a hold harmless covenant with the City should be removed. The Kirkland Zoning Code has very specific requirements in regards to hold harmless covenants and environmentally sensitive areas.
- An increase in height to 5 stories should be allowed if at least 10% of the units provided are affordable units.

In addition, the Planning Commission recommends revising the Zoning Code text for the RM 5.0 (1) to reflect the above changes. In making their recommendations, the Planning Commission considered the criteria found in Kirkland Zoning Code Sections 140.25 and 140.30 with which the Comprehensive Plan amendment must be evaluated. No other changes to the Zoning Map or Comprehensive Plan maps are recommended as part of this private amendment request.

III. POLICY HIGHLIGHTS

The Planning Commission discussed at length the various issues related to this private amendment request. The history of the subject property, as well as issues involving wetlands, steep slopes, vehicular access, density, and land use compatibility all contributed to the complexity of the discussions. After careful deliberation, the Planning Commission did not recommend approval of the applicant's requests to increase the residential density and to eliminate the 100' buffer along the north property line for several reasons.

In terms of density, the buildable area of the site is very limited due to the existing environmental and physical constraints. The site is constrained to the west by a wetland and its buffer and constrained to the east by very steep slopes. The Planning Commission questioned if the current density can even be achieved given the site constraints and development conditions, let alone an increase in density.

The Comprehensive Plan does not contain policies which support an increase in residential density on the subject property. However, by removing the 150-foot slope limitation, allowing additional height if affordable housing is proposed, and allowing stacked units, it appears that a developer should be able to realize most if not all of the property's density potential. The Planning Commission would like to clarify that without a survey of the wetlands on the subject property and formalized development plans it is unclear as to the actual number of residential units the subject property can support at this time. Kirkland Zoning Code Chapter 85 contains regulations that apply to building on steep slopes. New development on the subject property will be required to meet the standards in this code section.

To preserve the public greenway described in Policy TL-16.1 the Planning Commission also recommends maintaining the 100-foot buffer currently required along the north property line. Preserving the 100-foot buffer will further reinforce policies that seek to protect the steep slopes, maintain vegetation on the steep slopes, and restrict development that conforms to the natural constraints of the site, as well as to maintain a policy that has been in place for 25 years.

IV. PUBLIC COMMENT

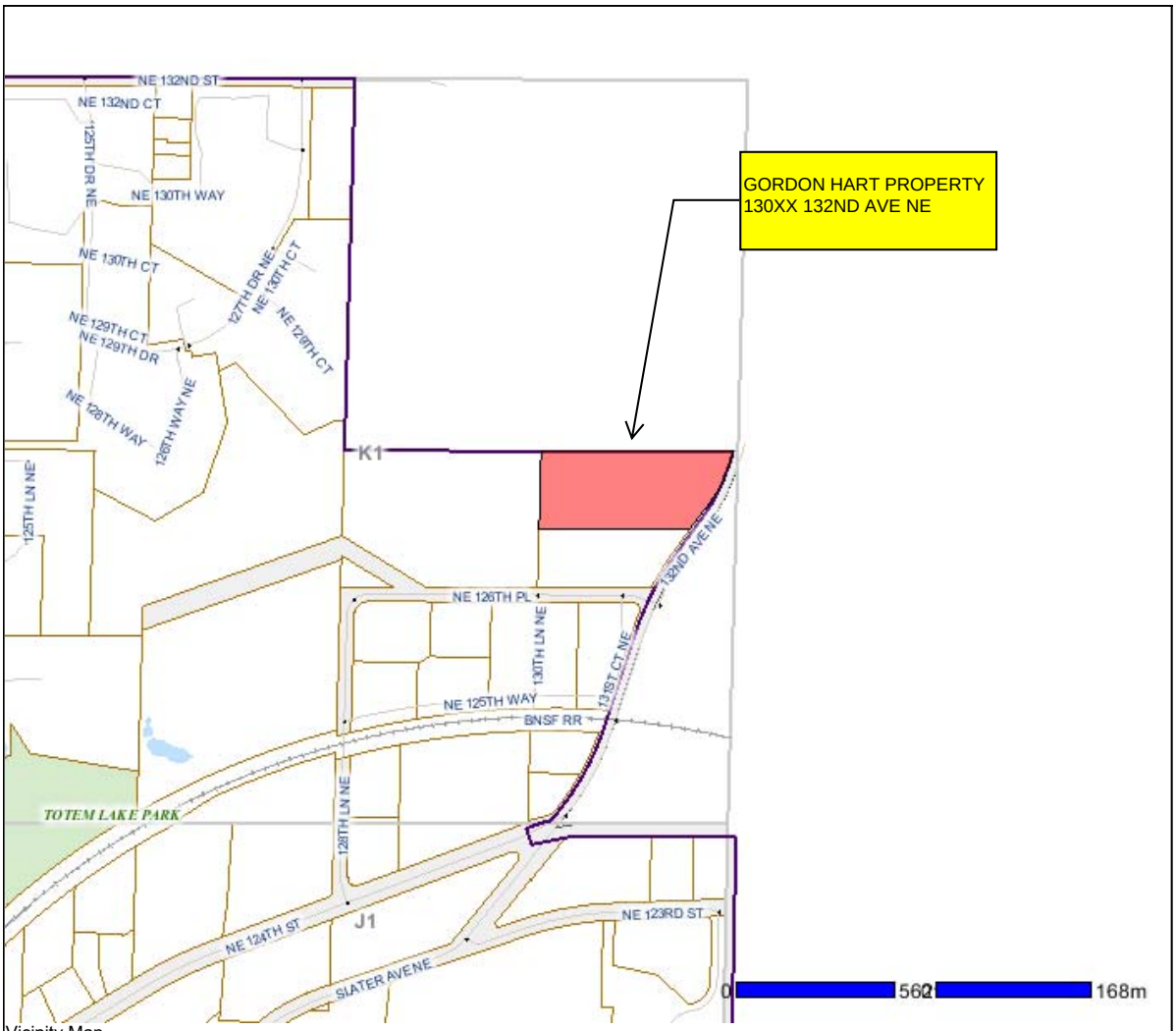
The Planning Commission held two study session leading up to the January 24, 2008 public hearing. At the public hearing, the co-applicant and co-owner of the subject property, William Kost, spoke in support of the private amendment request. Mr. Kost felt that the private amendment request will eventually result in a project compatible to the single-family residences to the north. Mr. Kost also expressed that the existing Comprehensive Plan requirement for a 100' buffer along the north property line should no longer apply since it was a result of industrial uses originally being allowed on the subject property in the early 1980's. Mr. Kost also reiterated that their proposal to construct single family residences at a higher density should be subject to the same setbacks and geotechnical requirements that would be applied to other residential projects in the City of Kirkland.

Also at the public hearing, several citizens expressed their concern regarding the applicant's private amendment request. In their deliberation, the Planning Commission considered the public's concerns which are summarized as follows:

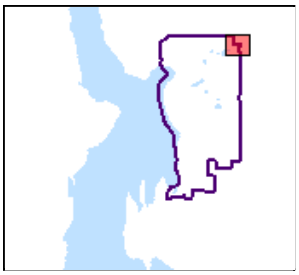
- The zoning should remain as is since it does not appear that the subject property can accommodate additional density
- Steep slopes should be protected
- Additional Comprehensive Plan policies should be considered regarding preservation of habitat, open space, and scenic vistas
- The 100' buffer along the north property line should remain
- The spirit of the Comprehensive Plan should be maintained
- The subject property still has buildable areas without any changes
- The public greenway should be preserved across the subject property
- The subject property should be viewed in the context of the region
- An updated geotech report is needed to address slope stability and erosion concerns
- Concerns regarding traffic safety and access

EXHIBIT B
ZON06-00019

GORDON HART PROPERTY



Vicinity Map



Approximate
Scale 1:6,755
1 in = 563 ft

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Policy TL-17.3:
Restrict development in identified landslide hazard areas to ensure public safety and conformity with natural constraints.

High ground water with soft soil conditions in the low-lying parts of the neighborhood may limit or require special measures for development. The presence of loose saturated soils increases the risk for differential settlement and seismically induced soil liquefaction. In these areas, development must demonstrate methods to prevent the settlement of structures and utility systems and to withstand seismic events.

The steep, heavily vegetated hillside in the northeastern portion of the neighborhood lies within an identified high landslide area (see Figures TL-5 and TL-11, District TL 9). Although a range of office, industrial or multifamily uses are permitted in the southern portion of the hillside north of NE 126th Place, this development and all development on the hillside is subject to the following conditions:

(1) Development should be subject to public review and discretionary approval through the City's Process IIA process.

(2) The base density for residential development on the slope should be eight dwelling units per acre.

(3) Lot coverage for development should be lower than that allowed for the less environmentally sensitive properties to the south, to enable the preservation of vegetation and watercourses on the site.

(4) Vegetative cover should be maintained to the maximum extent possible. Clustering of structures may be required to preserve significant groupings of trees.

(5) Watercourses should be retained in a natural state.

(6) Development should only be permitted if an analysis is presented that concludes that the slope will be stable. The analysis should indicate the ability of the slope and adjacent areas to withstand development, the best locations for development, and specific structural designs and construction techniques necessary to ensure long-term stability.

(7) The hillside with the steepest slopes should be left undisturbed in a natural condition and retained as permanent natural open space through the creation of a greenbelt easement or the dedication of air rights. In order to provide property owners with reasonable development potential, ~~some development~~stacked units may be permitted on the southern, lower portion of the hillside. In no case should such development or associated land surface modification extend ~~northward more than 150 feet into any slope in excess of 15 percent, nor~~ no closer than 100 feet to existing single-family residential development north of the slope.

~~(8)~~ (7) Any part of the hillside which is retained as permanent natural open space, but which has been previously altered from its natural state, or which is so altered as a result of soils testing or watercourse rehabilitation, should be returned to its natural condition.

~~(9)~~ (8) Surface water runoff should be maintained at predevelopment levels.

~~(10) The developer should indemnify and hold harmless the City by a covenant running with the land in a form approved by the City Attorney.~~

~~(11)~~ (9) Vehicular access should be from south of the slope. If necessary, access may be from 132nd Avenue NE, provided that such access is limited to one point and meets other City standards.

(10) A total of 5 stories measured above an average building elevation is allowed if at least 10% of the units provided are affordable units.

EXHIBIT D
ZON06-00019

RECOMMENDED ZONING TEXT CHANGES
HART PRIVATE AMENDMENT REQUEST

The following zoning code language is recommended to be added to the Zoning Code. As part of the adopting ordinance, staff will finalize it's location in the TL 9 zoning chart.

New development on the parcel located in the northeast corner of the Totem Lake Neighborhood at 130xx 132nd Avenue NE and having parcel number 282605-9004 shall be reviewed through Process IIA KZC Chapter 150 and shall be subject to the following standards:

a) The base density for residential development on the slope is eight dwelling units per acre.

b) Lot coverage for development shall be lower than that allowed for the less environmentally sensitive properties to the south, to enable the preservation of vegetation and watercourses on the site.

c) Vegetative cover shall be maintained to the maximum extent possible. Clustering of structures may be required to preserve significant groupings of trees.

d) Watercourses shall be retained in a natural state.

e) Development shall only be permitted if an analysis is presented that concludes that the slope will be stable. The analysis shall indicate the ability of the slope and adjacent areas to withstand development, the best locations for development, and specific structural designs and construction techniques necessary to ensure long-term stability.

f) The hillside with the steepest slopes shall be left undisturbed in a natural condition and retained as permanent natural open space through the creation of a greenbelt easement or the dedication of air rights.

g) In order to provide property owners with reasonable development potential, stacked units is permitted on the southern, lower portion of the hillside. In no case shall such development or associated land surface modification extend no closer than 100 feet to existing single-family residential development north of the subject property.

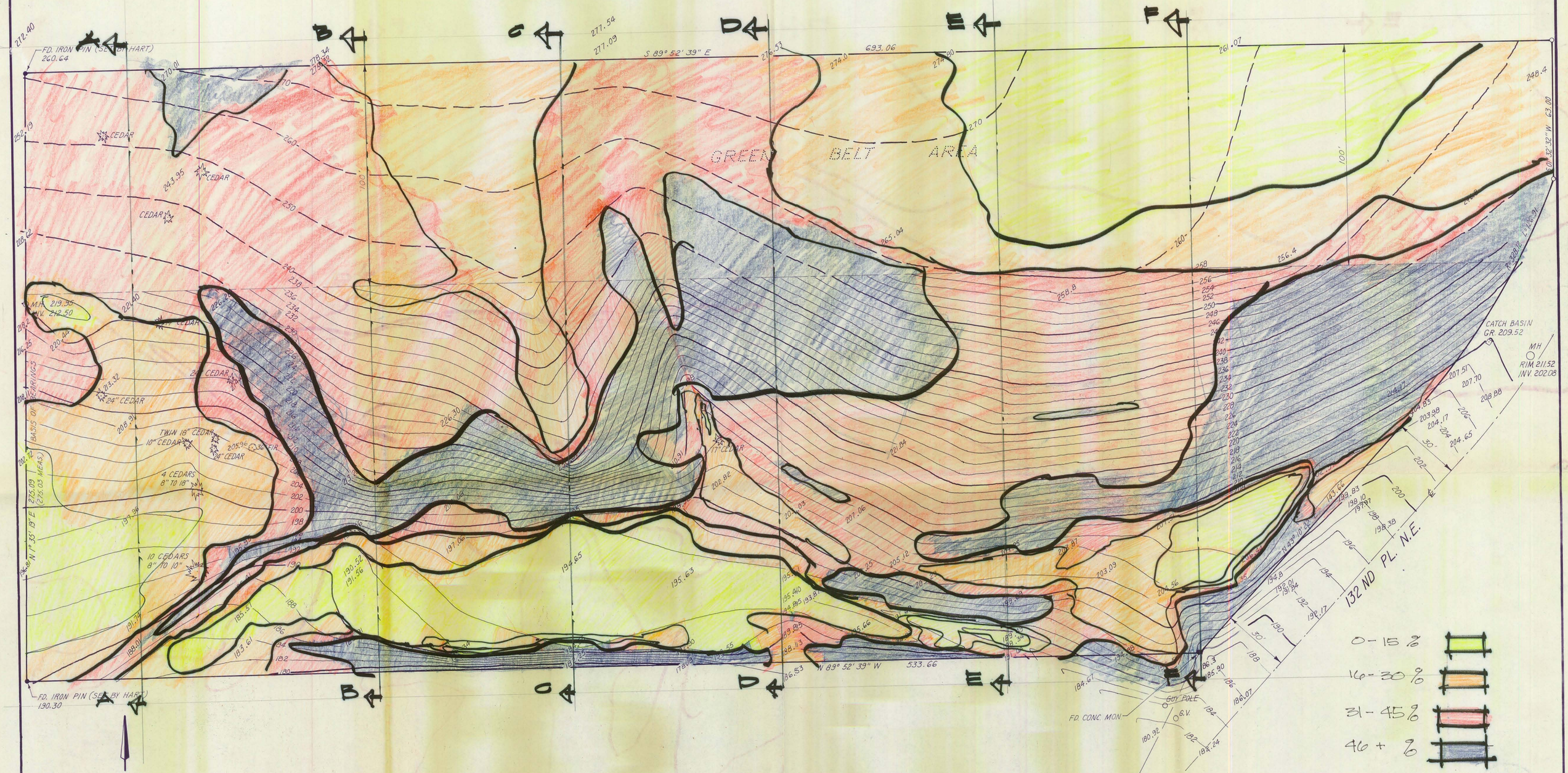
h) Any part of the hillside which is retained as permanent natural open space, but which has been previously altered from its natural state, or which is so altered as a result of soils testing or watercourse rehabilitation shall be returned to its natural condition.

i) Surface water runoff shall be maintained at predevelopment levels.

j) Vehicular access shall be from south of the slope. If necessary, access may be from 132nd Avenue NE, provided that such access is limited to one point and meets other City standards.

k) The maximum building height may be increased to 50' above average building elevation if at least 10 percent of the units provided in new residential developments of 10 units or greater are affordable housing units, as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units.

EXHIBIT E
ZON06-00019



0 - 15 %

16 - 30 %

31 - 45 %

46 + %

SCALE 1" = 20 FEET
BASIS OF BEARINGS K.C.A.S.

BM INVERT ELEV. 156.77 MANHOLE
INTERSECTION 132 PL. N.E. AND N.E. 126 TH PL.

● INDICATES FOUND MON. DESCRIBED HEREON

CONTOURS 2' EXCEPT GREEN BELT AREA

LEGAL DESCRIPTION

THAT PORTION OF THE NORTH 275 FEET OF THE E 1/2 OF THE SE 1/4 OF THE NE 1/4 LYING WESTERLY OF 132 ND PL. N.E. ALL IN SEC. 28 T 26 R 5 E

EXHIBIT "S"
SLOPE ANALYSIS

REVISIONS			
DATE	NO.	DESCRIPTION	BY

TOPOGRAPHIC SURVEY

AD VENTURES
% WESTERN REALTY SERVICES, INC.
515 - 116TH AVE. N.E.
BELLEVUE, WA. 98004

MOORE, WALLACE & KENNEDY, INC.
ENGINEERS. LAND SURVEYORS & PLANNERS
1932 FIRST AVENUE • SEATTLE, WASHINGTON 98101 • 624-2623

DES. BY M.G.	CK'D BY D.N.	DATE FEB., 1981	DRAWING NO.
DWN. BY B.F.	APP'D BY M.G.	SCALE 1" = 20'	6681.010

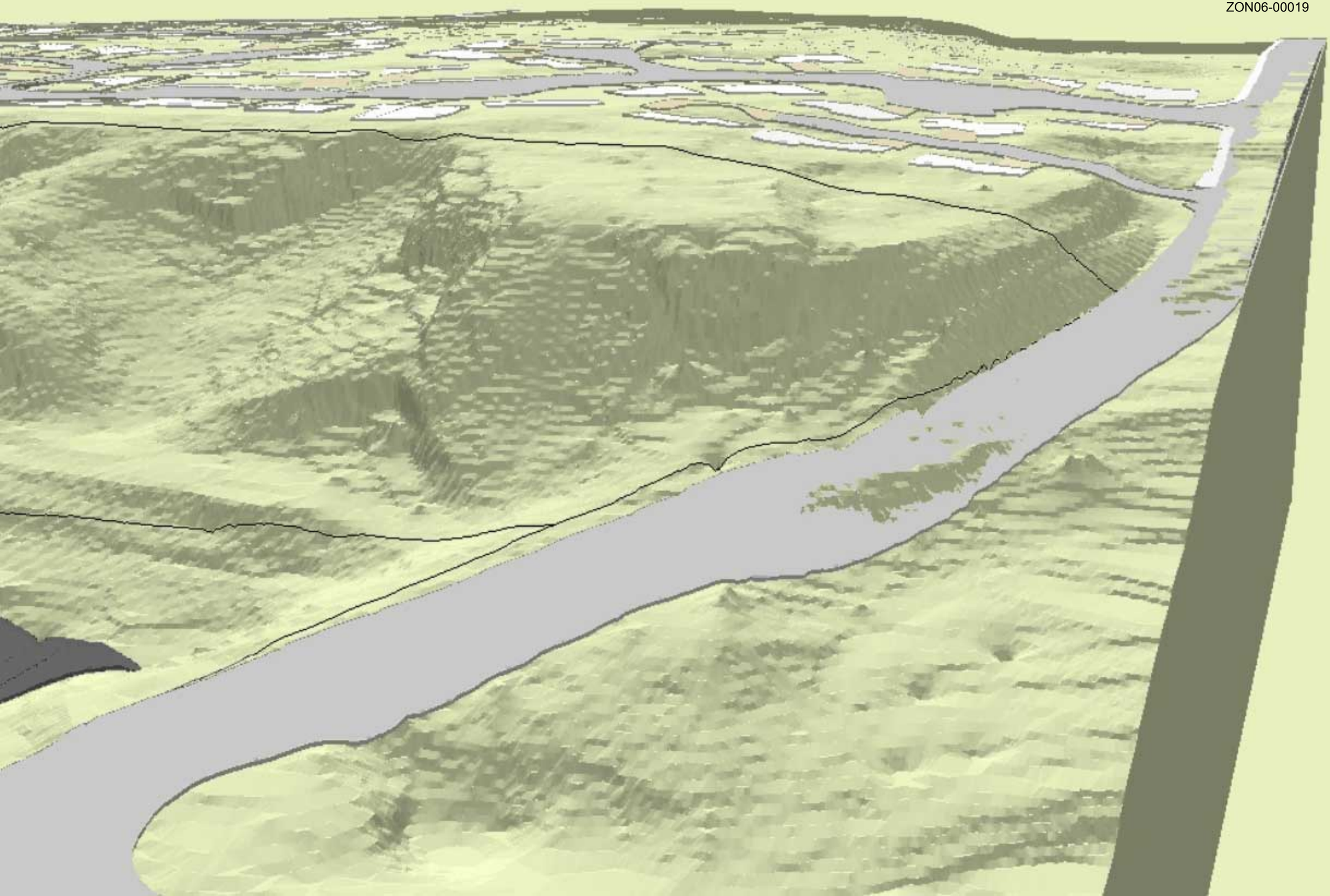
F.B. 81-2

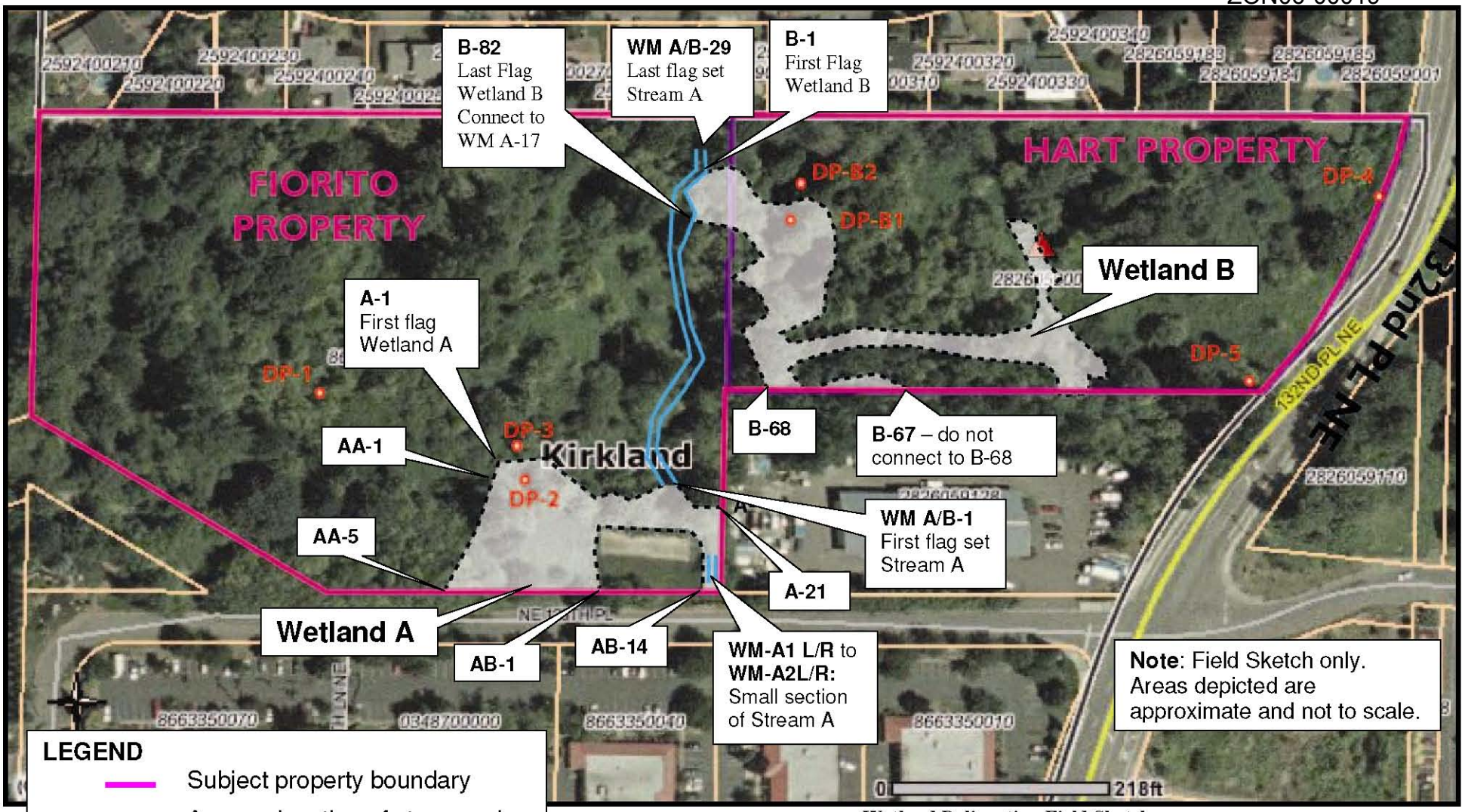
2.26.81 MF

EXHIBIT F
ZON06-00019

EXHIBIT F
ZON06-00019

EXHIBIT F
ZON06-00019





LEGEND

- Subject property boundary
- Approx. location of stream edge
- Approx. location of wetland edge
- Data Point

Wetland Delineation Field Sketch

For parcel numbers 866335-9120 and –9004 in the City of Kirkland
Site visits on October 19, November 2 and November 9, 2007
Prepared for Jon Regala, Senior Planner, City of Kirkland Planning Department
November 12, 2007

N

THE WATERSHED COMPANY

750 Sixth Street South | Kirkland | WA 98033
p 425.822.5242 f 425.827.8136

EXHIBIT H
ZON06-00019

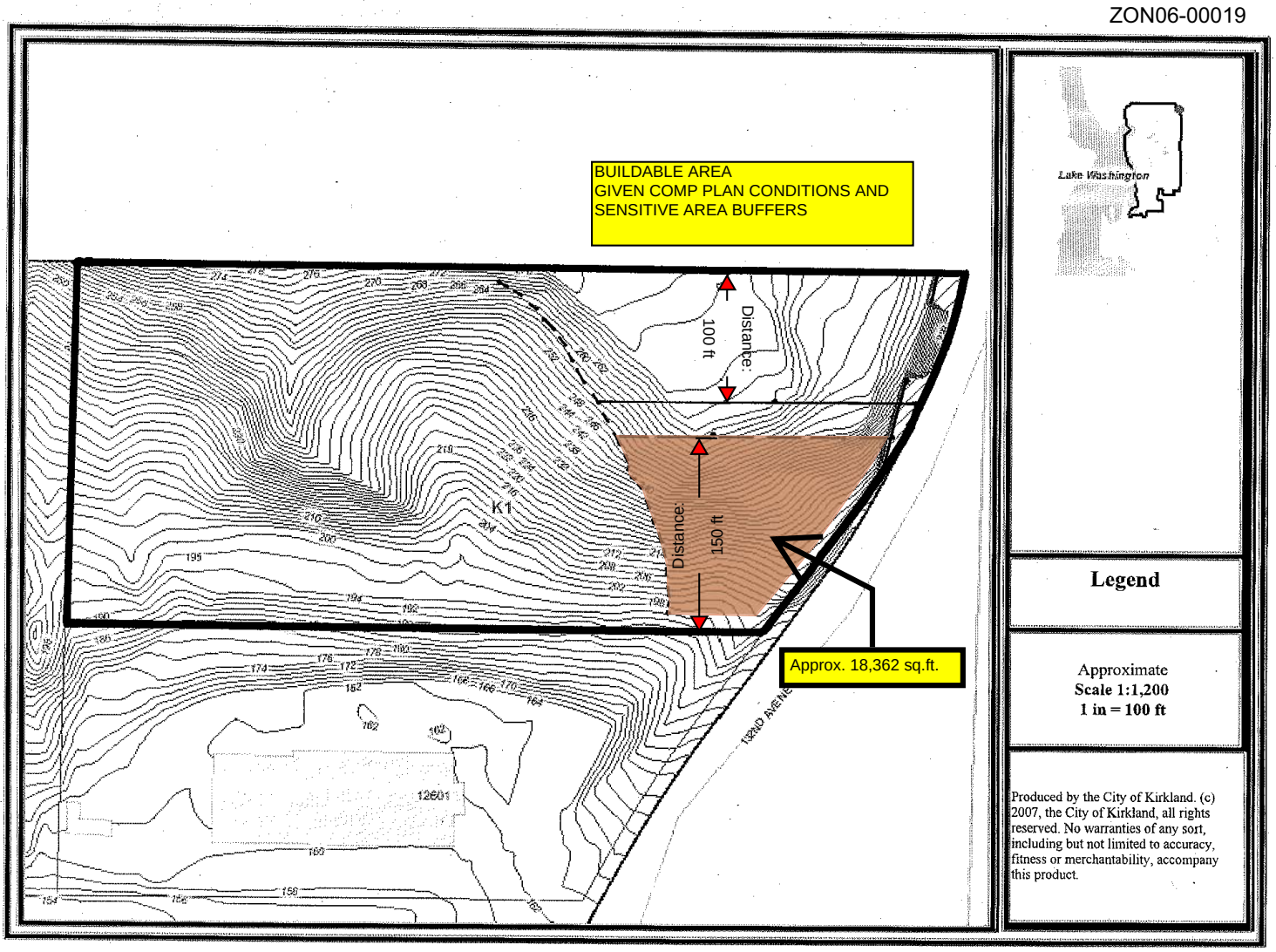


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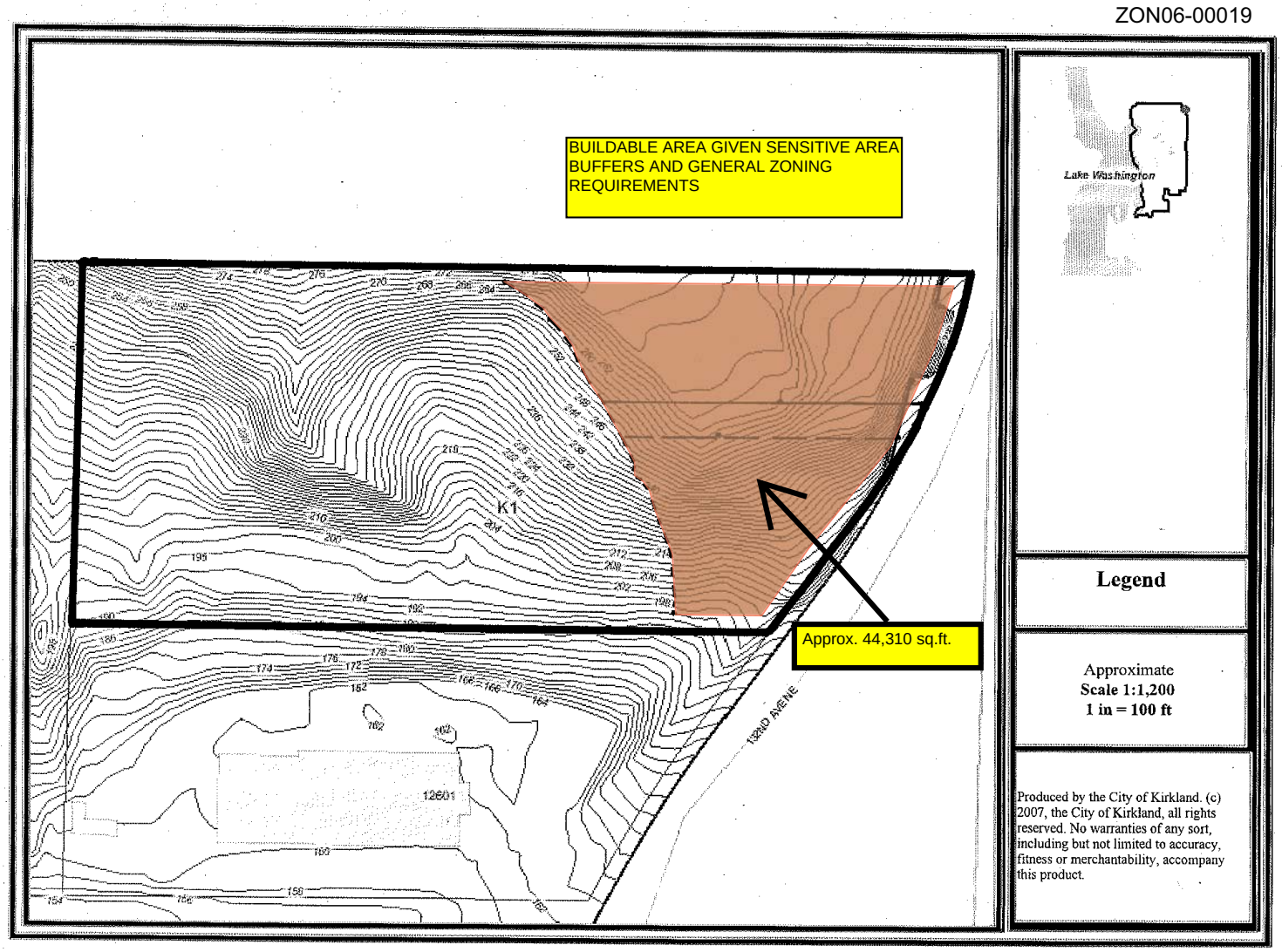
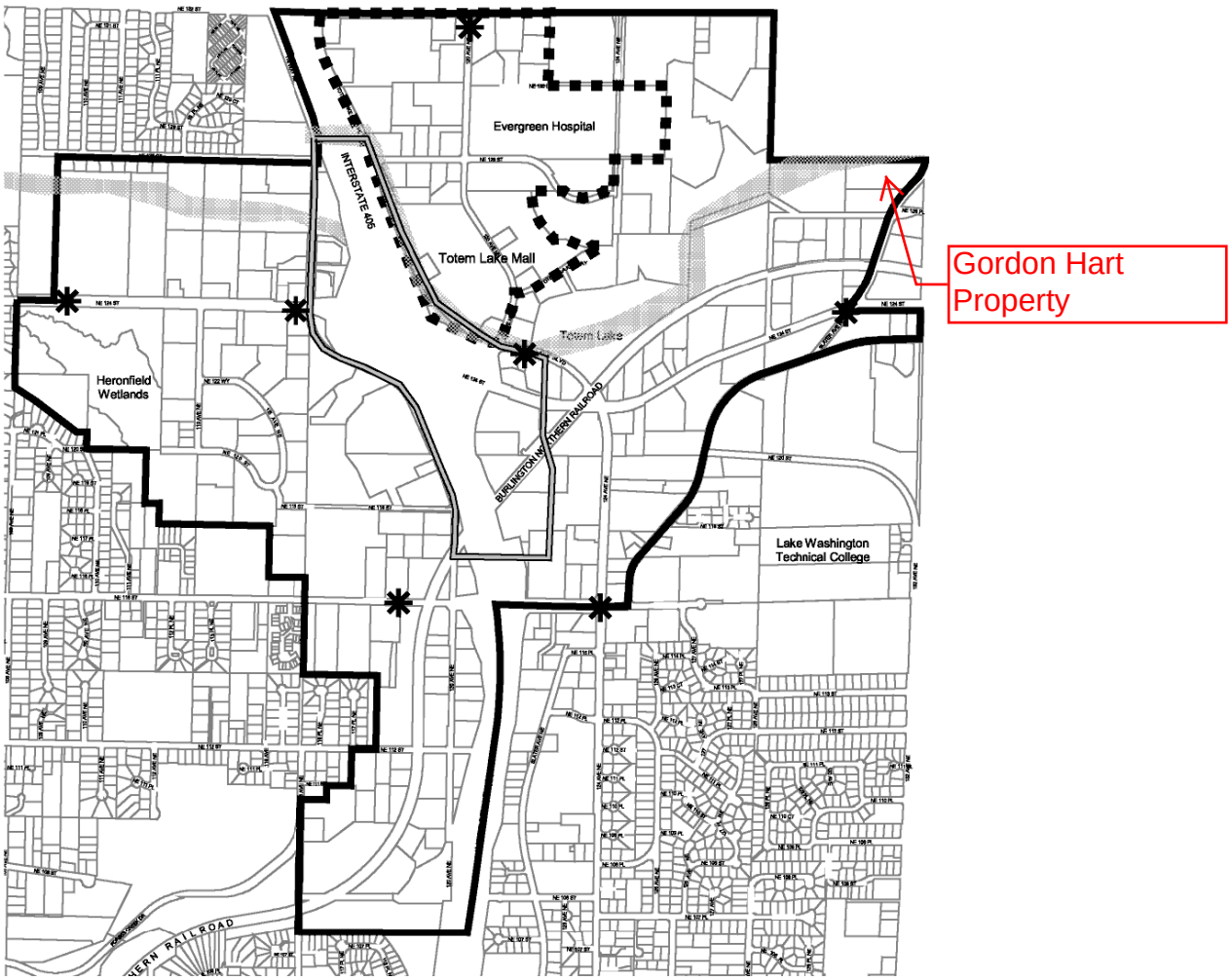
EXHIBIT H
ZON06-00019



COMPREHENSIVE PLAN POLICIES
HART PROPERTY

Policy TL-16.1:
Create a public greenway as shown in Figure TL-6.

In the Totem Lake Neighborhood, a new public greenway should extend from the steep slope in the eastern portion of the neighborhood, through Totem Lake and the Juanita Creek corridor to the western edge of the neighborhood (see Figure TL-6 below).



(NOTE: Width and location of Greenway and Landscaped Boulevard are generalized)

Policy TL-16.3:
In natural areas of the greenway, maintain the natural vegetation to the greatest extent possible.

Within the natural areas of the greenway, natural vegetation should be maintained to the greatest extent possible. This may include management to replace invasive non-native plants with native vegetation. This will enhance the overall habitat and stormwater control function of these areas.

Goal TL-17: Protect potentially hazardous areas, such as landslide, seismic and flood areas, through limitations on development and maintenance of existing vegetation.

Policy TL-17.1:
Maintain existing vegetation in high or moderate landslide areas.

In all landslide areas, most of the existing vegetation should be preserved in order to help stabilize the slopes as well as maintain natural drainage patterns. In particular, areas with significant existing vegetation, such as the wooded ridge along NE 116th Street (District TL 10B on Figure TL-11), and the hillside northeast of Totem Lake (District TL 9), should retain vegetative cover to the maximum extent possible.

Policy TL-17.2:
Require slope stability analyses in high or moderate landslide areas and regulate development to minimize damage to life and property.

Construction on or adjacent to landslide hazard areas may cause or be subject to erosion, drainage or other related problems. Therefore, a slope stability analysis is required prior to development. Development should be regulated on these slopes to minimize damage to life and property.

Policy TL-17.3:
Restrict development in identified landslide hazard areas to ensure public safety and conformity with natural constraints.

Goal TL-25: Provide effective transitions between the industrial, commercial and higher density multi-family uses in the neighborhood and single-family residential areas surrounding the neighborhood.

Policy TL-25.1:
Provide for site and building development requirements and other regulations that address transition areas to protect nearby residential neighborhoods.

Where commercial development adjoins established residential areas, the commercial use should incorporate site and building design features to soften its visual and physical impact and ensure that it is a positive element to the nearby residential neighborhood.

Techniques used could include limits on height, building bulk and placement, and lighting; setbacks of taller buildings away from residential neighborhoods; requirements for landscaping; noise control and other appropriate measures. Transitional regulations should include provisions for greenbelts, buffers or other site and building design features that will ensure a compatible relationship between commercial and residential development.

EXHIBIT J
ZON06-00019

January 24, 2008

Planning Commission
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

RE: Gordon Hart Private Amendment Request
File No. ZON06-00019

We have resided in the Plat of Forest Grove, north of the subject property since 1997. We have reviewed the information made available by the City for the applicant's proposal, including the Planning Department staff reports and recommendations.

We have the following concerns regarding the proposed Private Amendment Request:

1. Green Belt Value
We believe there is considerable value to the subject property in regards to providing continuity of the Totem Lake Preserve and the adjacent greenbelt to the west, to the established greenbelt and ultimately the Sammamish River valley to the east. In the 11+ years we have lived here, we have seen many species of wildlife that benefit from this area as habitat and an access corridor. We have seen many birds, including stellar jays hawks and bald eagles. Also deer, raccoon, opossum, and mountain beaver. We do not believe that adequate analysis of the impact to wildlife has been performed by the applicant or required by the City. It does not appear that the property has been viewed in the greater context of the region, but rather as a "corner" of the City. Our hope is that the City would reconsider the use of this property in a larger context before acting on a project-specific revision to development codes.

2. Compatibility
The limited buildable area of the property will force the allowable number of lots to be constructed on small lots (5,000 sq.ft.). The neighboring properties are already larger than that, at 7,000 – 10,000 sq.ft. We do not feel the smaller lots would be a compatible use, and do not feel that a further reduction in lot size is justified. We are also concerned about the setback being much narrower than the current dimensions and configuration of the homes to the north. All of the lots to the north have back yards on the property line and we would ask that a condition be included to require back yards along the north property line of the subject property, to be compatible with the existing adjacent lots.

Please take our concerns into account while considering this PAR.

Regards,
Bill and Lauren Reynolds
13033 NE 128th Place
Kirkland, WA 98034

William Reynolds
Lauren Reynolds

EXHIBIT J
ZON06-00019

December 10, 2007

Planning Commission
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

Attention: Jon Regala, Senior Planner

Subject: **Gordon Hart Private Amendment Request ZON06-00019**
Comments to the Memo dated December 5, 2007

Dear Jon:

This letter summarizes my comments regarding the above referenced request, based on our meeting on December 6, 2007 and my review of your memo addressed to the Planning Commission, dated December 5, 2007 for the above-referenced file. In general, I agree with the staff recommendation not to change the zoning classification; however I have concerns regarding the staff recommendations to change some of the current limitations on development.

COMMENTS

Pages 6 to 8: Staff recommendations 1 through 6
I agree with the recommendations to keep these conditions as they are.

Page 8: Hillside with the steepest slopes should be left undisturbed...
Staff recommendation 7 recommends deleting the hillside development restrictions that were put in place by the City at the request of Gordon Hart in 1995, and the restrictions that were adopted in the Totem Lake Neighborhood Plan. I disagree with deleting these conditions in their entirety at this time. Site specific development restrictions were put in place for this property because this area is known to be a high landslide hazard. Additionally, the geology of the hillsides that flank the Totem Lake Valley (including the subject site) have unique and severe landslide and erosion hazards that are not present at other locations within the City (due to the relatively unique geologic formation of the Totem Lake Valley). It is due to the landslide and erosion hazards that site specific criteria were imposed in this area. This is not uncommon; municipalities often impose site specific restrictions in areas of known hazards.

In my opinion, the zoning protections should not be changed without site specific geotechnical studies that recommend and justify changes to the zoning protections. I expect that site specific geotechnical studies may recommend revisions to the hillside protections, but I doubt they would recommend deleting all of the current protections.

Page 8: Any part of the hillside which is retained as permanent natural open space...
I disagree with Staff recommendation 8 to delete this condition. The KZC Section 90.20.6 only addresses one particular way that the land may be altered, and KZC Section 115.75 does not

contain the language, "...should be returned to its natural condition." This is an important condition since it describes how any damage should be restored, rather than simply saying it must be stabilized. A more appropriate response would be to keep the condition as is, since it provides additional policy support to KZC Section 90.20.6 and KZC Section 115.75.

Page 12: B. Criteria for Amending the Comprehensive Plan 1.
I disagree with bullet 4 and 5. The proposed changes are not consistent with the goals of retaining open space or protecting the environment. The Growth Management Act created the designation of sensitive areas, including steep slopes and landslide hazard areas. The proposed changes to the Comprehensive Plan would remove protections to the steep slope and landslide hazard area.

Page 12: 2. The amendments must be consistent with the Countywide Planning Policies.
I disagree with bullet 4: Policy FW-24. The proposed amendment does not protect open space.

I disagree with bullet 6: Policy CA-13 concerning Geologic Hazardous Areas. The policy states that "Regulations shall include, at minimum, provisions for ...setbacks..." This amendment would eliminate setbacks for the steep slopes.

Page 13: 3. The amendments must not be in conflict...
The proposed amendment does conflict with other goals, policies and provisions in the Comprehensive Plan because it seeks to delete goals and policies in the Totem Lake Neighborhood Plan, which is part of the Comprehensive Plan. Specifically, it seeks to eliminate policy TL-17.3, and it will prevent goal TL-16.1.

Page 14: 4. The amendments will result in long-term benefits...
The amendment is not in the best interests of the community and does not result in long-term benefits. It would prevent the goal of creating a green belt that connects to Totem Lake; it would create a traffic hazard on 132nd Avenue NE; it would reduce open space and natural habitat; and it would reduce the protection from growth impacts.

Attachment 5
The December 2004 Hart Private Amendment Request states that, "a detailed geotechnical analysis is forthcoming and will be provided for City review as part of this proposal." Please provide this document for public review. Please note that the letter by Earth Consultants dated December 1, 2004 does not represent a detailed geotechnical analysis.

CLOSURE

Please consider my comments regarding the amendment request, and provide a written response to these comments. If you have any questions or desire additional information or clarification, feel free to contact me.

Sincerely,

Todd D. Wentworth, P.E., L.G.
12919 NE 128th Place
Kirkland, WA 98034

Dec. 13, 2007

Bill and Julia Ritter
13029 NE 128th PL
Kirkland, WA 98034

A history of the slope since we moved in,

The slope had eroded beneath the fence line. The previous owners even placed the fence approximately 3 feet from the property line as the slope in its current state would not support the fence.

After we bought the property we brought in fill dirt to try to stabilize the bank.

Finally in 1997 we purchased erosion jute to place on the hillside along with ivy that was recommended by the nursery people to try to stabilize the bank. Once we got the bank built up we then planted laurels to hold the bank in place. Again the nursery people stated that they were deep rooted and would be the best thing to plant.

We have pictures that show the state of the back.

When the boring happened at the time when they wanted to build before, we had property damage caused by the boring. Our fireplace settled at least ¼ inch and the firewall, unknown to us at the time fell. The next time we started a fire in the fireplace we ended up with a house fire because the firewall had fallen. This was in 1981. We also had ceilings separating from the walls and this all needed repaired.

At this time the slope is still unstable and doesn't even hold the roots of the trees. Many trees have fallen each time we have a wind storm. There once was so many trees we couldn't see the roads below and now there are not many left.

We also put in a rock retaining wall and the first snow that ended up at the bottom of the slope.

Bill Ritter
Julie Ritter

EXHIBIT J
ZON06-00019

EXHIBIT J
ZON06-00019