



CITY OF KIRKLAND

Planning and Community Development Department
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MEMORANDUM

To: David Ramsay, City Manager **QUASI-JUDICIAL**

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

Date: March 27, 2008

Subject: **APPEAL OF DESIGN REVIEW BOARD DECISION ON THE BANK OF AMERICA/MERRILL GARDENS MIXED USE PROJECT AT 101 KIRKLAND AVENUE, FILE: DRC07-00006, CASE NO. APL08-00001**

RECOMMENDATION

That City Council conduct an open record hearing for the appeal of the Design Review Board (DRB) decision on the Bank of America-Merrill Gardens project (File DRC07-00006) filed by the Citizens for a Vibrant Kirkland (CiViK). At the conclusion of the hearing, close the hearing and direct staff to return to the next regular City Council meeting with a resolution setting forth findings and conclusions that Council can adopt to either:

- Affirm the DRB decision (See Attachment 2); or
- Reverse the DRB decision; or
- Modify the DRB decision.

Staff recommends that the Council affirm the decision of the DRB.

RULES FOR CITY COUNCIL CONSIDERATION

Standard of Review- Kirkland Zoning Code (KZC) 142.40.11.a

Unless substantial relevant information is presented at the open record appeal hearing that was not considered by the DRB, the DRB decision shall be accorded substantial weight. The City Council may reverse or modify the DRB decision if, after considering all of the evidence in light of the design regulations, design guidelines, and Comprehensive Plan, the City Council determines that a mistake has been made.

Scope of Review- KZC 142.40.7

The City Council shall only consider the specific elements of the DRB decision that are disputed in the letter of appeal and the City Council may only consider comments, testimony, and arguments on these specific elements.

Participation in and Conduct of Appeal- KZC 142.40.6

Only the following people may participate in the appeal: the applicant (SRM Development, LLC) or its representative; the appellant (CiViK) or its representative; and the Chair of the DRB (Jeff Bates) or his representative. Representatives of the Planning and Community Development Department may present this staff report and answer questions concerning the report and record for the City Council.

Staff recommends that the Appeal Hearing follow this order:

1. Introductory statements by Mayor and City Attorney
2. The Planning and Community Development Department's presentation
3. The appellant's presentation
4. The Chair of the Design Review Board's presentation
5. The applicant's presentation
6. Appellant's opportunity for rebuttal
7. Close of appeal hearing
8. City Council discussion and deliberation on appeal

Written Testimony or Comments

The parties have agreed that testimony will be given in a presentation form rather than a question and answer format. The City Council will have the opportunity to ask questions during or at the conclusion of each presentation. The parties will have the opportunity to ask questions as well.

In addition to memoranda, oral testimony, and arguments submitted by the parties that are within the scope of the appeal, the City Council may consider the DRB decision, written comments received by the DRB, the letter of appeal, written comments submitted after the DRB decision but prior to the appeal hearing, the staff report and presentation, and the DRB Chair's presentation.

Continuation of Hearing- KZC 142.40.10

The City Council may continue the hearing. If the hearing is continued, the Mayor should announce the date, time and place of the continued hearing.

BACKGROUND OF DEVELOPMENT PROPOSAL AND DESIGN REVIEW PROCESS

The subject property is located in the CBD 1 zone at the corner of Lake Street So. and Kirkland Avenue. The development proposal submitted by SRM Development includes a five story building with 72 residential units on four levels above ground floor retail (11,285 gfa) and a parking garage for 131 parking stalls (See Attachment 3). Under the proposal, the Bank of America will return to the northwest corner of the site. The northwest and northeast corners of the site will contain open space plazas with art and landscaping incorporated into the design of the sidewalk area. A parking modification request to reduce the Zoning Code required parking stalls for the residential portion of the property was approved by the DRB after review of a parking study and recommendation from the Public Works and Planning Departments.

To provide for increased pedestrian and vehicular circulation within the block, property will be dedicated along the alley between the site and Hector's restaurant. The alley will be widened to 22' for vehicular access and to add a new pedestrian walkway between the Merrill Gardens Assisted Living project to the east and Lake Street So. Access to the underground parking garage will be from the alley. The existing drive through facility will be relocated connecting the alley to Kirkland Avenue. At the retail street level along Lake Street So. and Kirkland Avenue, new wider than required sidewalks will be provided with landscape strips and street trees. Most of the existing street trees on Kirkland Avenue will be retained.

Design Review Board Meetings

The DRB held one Conceptual Design Conference on October 1, 2007 (File CDC07-00005) and three Design Response Conferences on November 19, 2007, December 3, 2007 and January 7, 2008 (DRC07-00006). Staff reports, minutes and public comment letters from these meetings are available at http://www.ci.kirkland.wa.us/depart/Planning/DRB_Meeting_Information.htm or in the above files. The Chair signed the final decision on January 16, 2008. The Notice of Decision was issued on January 17, 2008 (see Attachment 2). A summary of the issues raised in the public comment letters is in the DRB decision. Comment letters received after the DRB decision are included as Attachment 7.

Excerpts of the architectural drawings are contained in Attachment 3. The remaining architectural drawings submitted for the Design Response Conferences and staff reports are contained in File DRC07-00006 are included as Appendix to this staff report, and available in the City Council Study for review. The final approved drawings included with the DRB decision were submitted on January 7, 2008.

SCOPE OF THE APPEAL

On behalf of Citizens for a Vibrant Kirkland (CiViK), a Washington non-profit corporation, J. Richard Aramburu of Aramburu and Eustis, LLP, has filed an appeal of the DRB's Design Response Conference (DRC) decision for the Bank of America – Merrill Gardens mixed use project contained in File No. DRC07-00006. In its appeal letter, the appellant raises a number of issues and requests that the City Council reverse the DRB decision or remand the matter back to the DRB for further proceedings. (see Attachment 1)

SUMMARY OF ISSUES BROUGHT FORTH BY APPELLANT AND STAFF RESPONSE

CiViK alleges that the DRB erred in its decision for the reasons listed below and contained in Attachment 1. Staff has responded to each of the issues.

1. *Violation of State Environmental Policy Act*- The appellant alleges that the DRB erred in reviewing, considering and issuing discretionary approval for the Bank of America/Merrill Gardens project in violation of the State Environmental Policy Act (SEPA) for the reasons stated in a January 2, 2008 letter (see Attachment 1). The January 2 letter may be summarized as stating that the DRB should have considered the environmental aspects of the project and that the SEPA determination should

have been issued prior to the DRB's decision on the application. In addition, CiViK's appeal letter asserts that the environmental checklist submitted on December 31, 2007 did not accurately describe the proposal because it did not include an additional floor of parking.

Staff response Kirkland Municipal Code (KMC) Chapter 24.02 establishes the City's procedures for implementing SEPA and adopts by reference many sections of Chapter 197-11 of the Washington Administrative Code (WAC) for conducting SEPA review.

Pursuant to KZC 142.35.1, KMC Chapter 24.02.015 and WAC 197-11-704, Design Board Review applications are not considered a "development permit or project action." At the design review process stage of a development proposal, the design of a project is considered preliminary. As part of the design review decision the DRB may recommend that a development proposal change prior to a building permit application. A building permit is considered the project permit or license to modify the environment (WAC197-11-704). Therefore, for development proposals subject to Design Board Review, the City conducts SEPA review with the submittal of a building permit application when the proposal is more specifically defined.

SEPA review is conducted administratively and evaluated based on review of an environmental checklist submitted by the applicant describing the development proposal. The applicant submitted an original environmental checklist and fee on December 17, 2007. Based on City staff and the DRB's recommendation on the parking modification request, a revised checklist was submitted by the applicant via email on January 10, 2008. This revision updated the number of parking stalls proposed to 131 and added another level of underground parking (see parking modification section below). A mitigated determination of non-significance (MDNS) and concurrency notice was issued on February 19, 2008 (contained in File DRC07-00006 and BLD08-00066). A building permit application BLD08-00066 for the project was submitted on January 28, 2008. The SEPA appeal deadline was March 4, 2008. No SEPA appeal was filed.

Under SEPA and the SEPA Rules, the failure to issue a threshold determination is not subject to administrative appeal. RCW 43.21C.075 (3) (a); WAC 197-11-680 (2) and 3 (a) (iii). Consistent with state law, KMC 24.02.105 provides that only the issuance of a determination of non-significance or the issuance of a determination of significance is appealable. Other SEPA issues such as categorical exemption determinations, adequacy of Environmental Impact Statement scoping, and failure to issue a threshold determination are not administratively appealable and may be challenged only in court. The City's threshold mitigated determination of non-significance issued on the building permit application for the Bank of America Project/Merrill Gardens project could have been administratively appealed to the City Hearing Examiner, but was not.

2. *Buildings should be limited to two stories along Lake Street* The appellant alleges the DRB was inconsistent with the Downtown Plan in approving a building over two stories on Lake Street. See item 4 below for staff response.
3. *Exercise of DRB discretion in approving a greater than two story building* The appellant alleges the DRB erred in limiting its exercise of discretion to consider only the design elements for the third and

fourth stories and in its understanding that it lacks discretion to disapprove new construction over two stories to four stories. See item 4 below for staff response.

4. *DRB Decision is inconsistent with Downtown Plan* The appellant alleges that the DRB approval was inconsistent with the Downtown Plan for the following reasons: the applicant does not provide justification to allow the building height above two floors, the failure of those stories above the second story to be set back significantly from the street, the building does not step back at those floors above the second floor, the building fails to reduce building mass above the second floor, the building does not contribute to a mix of two to four story buildings in Design District 1B, and the building fails to step up from the north and west to the base of the bluff.

Staff Response to items #2, #3, #4 above CBD 1 Zoning (KZC 50.10) states that buildings exceeding two stories must demonstrate compliance with the design regulations of Chapter 92 KZC and provisions contained in the Downtown Plan. The City Council has authorized the DRB to conduct the design review process to determine compliance with these requirements. For CBD 1 Zoning Code Use Zone Chapter 50 regulations link to:
http://kirklandcode.ecitygov.net/CK_KZC_Search.html

For Downtown Plan Policies relevant to the subject property see Figure C-5 (see Attachment 4) on page XV.D-11 and policies for Design District 1B on pages XV.D-9-XV.D-11 located in the Moss Bay Neighborhood section or link to: http://kirklandcode.ecitygov.net/CK_comp_Search.html. Attachment 5 is an annotated version of staff's analysis of how the project meets each of the Downtown Plan policies included as an attachment to the December 3rd DRB packet.

The following is a summary of the key Downtown Plan policies regarding maximum building height in Design District 1B:

- Two to five stories with 0' setbacks from property lines are allowed provided certain design policies are applied
- Buildings along Lake Street and Kirkland Avenue should be limited to two stories
- Stories above the second floor should be setback from the street in order to reduce building mass and preserve the human scale and pedestrian orientation of the core area
- A mix of two to four stories is allowed as an incentive for redevelopment
- Taller buildings should step up toward the hillside to help moderate the mass of large buildings on top of the bluff (for example, Portsmouth).
- Five stories may be allowed if
 - at least three stories are residential
 - stories above the second story are significantly setback from the street
 - buildings are designed for superior retail space at street level
 - rooftop appurtenances are screened and integrated into design of building

The DRB discussed how the Downtown Plan policies regarding building height should be applied to this project and the extent of its authority to deny or approve buildings of two to five stories. The DRB interpreted the policy regarding a two story limitation to mean that buildings should have a two story street façade along Lake Street So and Kirkland Avenue. The DRB discussed the extent of building setbacks and modulation provided at the street and at upper levels along both Kirkland

Avenue and Lake St So. The DRB looked at other projects in the area for the extent of upper story setbacks approved such as the Merrill Gardens Assisted Living project to the east along Kirkland Avenue.

At a subsequent meeting, the DRB requested staff to provide a more detailed analysis of the upper story setbacks of other previously approved projects in CBD 1. Results of this research identified the extent of upper story setbacks (measured from the face of either the 1st or 2nd story depending on where the upper story setback occurs) previously approved as follows: the Heathman Hotel ranged from 5' to 31'; the Kirkland Central building ranged from 11' to 52'; and the Merrill Gardens Assisted Living project ranged from 8.67' to 20.67'. The proposed Bank of America-Merrill Gardens project upper story setbacks range from 9.83' to 27' along the north façade and along the west façade range from 8.12' to 48.28' (and greater if measured from the property line).

In its decision, the DRB concluded that a five story building should be approved because the project complies with the Downtown Plan polices, Design Guidelines and Zoning requirements. The project provides a one to two story street façade along Lake Street and Kirkland Avenue. The stories above the second story are setback significantly from both streets. The building form is stepped back at the third, fourth, and fifth stories to mitigate building mass, to terrace toward the hillside, and to maintain human scale. The rooftop appurtenances and related screening will not exceed the total allowed height and will be integrated into the parapets. The DRB challenged the applicant to design the building at a higher standard for superior retail space and pedestrian orientation. The DRB concluded the project had met that challenge (see superior retail discussion below in item #10).

Because of the high degree of public interest in the height issue, on two occasions the DRB reaffirmed its decision that the project met the policy criteria for a five story building. The DRB confirmed it has applied these regulations and Downtown Plan design criteria in approving three previous buildings in the CBD 1 (Kirkland Central, Merrill Gardens Assisted Living and Heathman Hotel). (see DRB Decision in Attachment 2, Section III.A. regarding building height, architectural and human scale for discussion and conclusions).

It is the appellants' position that the Downtown Plan policies should be interpreted to limit entire buildings to two stories. If this were true, why would Figure C-5 (see Attachment 4) specifically allow a range of building height and policy text describe that stories above the second floor should be stepped back from the street and toward the hillside? If entire buildings were limited to two stories for all properties that are along all streets where policies discuss building height limits (such as Lake Street and Kirkland Avenue), only buildings without frontage on these designated streets would be allowed to exceed two stories. Attachment 6 is a graphic representation demonstrating that under this interpretation there would only be three parcels in CBD 1 where buildings higher than two stories could be constructed. Staff does not believe that this is the intent of these policies. Nor is this consistent with how the DRB has interpreted these policies in the past.

5. Parking Modification- The appellant alleges that: 1) there is insufficient evidence that the occupants of the residential units will have significantly fewer vehicles resulting in reduced parking demand, 2) the DRB did not evaluate the adequacy of the proposed guest parking rate, and 3) there are no

covenants or written conditions that limit the use of the property to senior housing or limit the occupants to one vehicle per bedroom.

Staff Response KZC 105.103 (2) (a) and 105.103 (3) (c) allows DRB approval of parking modifications to decrease the number of parking stalls if a parking demand and utilization study finds that the reduced number of stalls are sufficient to fully serve the use. The study must be prepared by a licensed transportation engineer or other qualified professional. The applicant submitted a parking modification request along with supporting data from William Popp and Associates to reduce the number of required parking stalls for the residential portion of the project from the required 1.7 stalls per unit to 1 stall per bedroom. One of the arguments for the reduced rate was because seniors may have fewer cars per unit.

Thang Nguyen, Transportation Engineer with the Public Works Department, evaluated the parking proposal and technical supporting data from William Popp and Associates. dated December 26, 2007 and concluded that the senior housing element should not be a factor in establishing the parking rate. He recommended to staff and the DRB that the project should provide 1 stall per bedroom plus .15 parking stalls per bedroom for visitors. In addition, 16 parking stalls allocated for the bank should be made available to visitor parking between 7pm and 6am. This decision is consistent with other similar parking modifications approved for multiple projects in the CBD. The DRB discussed the modification request at the January 7, 2008 meeting and agreed with staff's recommendation. The applicant concurred with staff's recommendation and revised the development proposal to provide additional parking stalls and an additional below grade parking level. This negates the need for covenants limiting the use to senior housing. No previous parking modifications approved by the City have limited occupants to individuals or families that have only as many vehicles as they have bedrooms.

6. A bank is not a retail use The appellant alleges that a bank is not considered a retail establishment.

Staff Response The CBD 1 zone use listing for banking and related financial services (Section 50.12.025) falls into the general definition of a retail use category not an office use for the following reasons. KZC Section 5.10.795 establishes the definition of a "retail establishment" as "*a commercial enterprise which provides goods and/or services directly to the consumer, whose goods are available for immediate purchase and removal from the premises by the purchaser and/or whose services are traditionally not permitted within an office use*".....(emphasis added) The definition of an "office use" in KZC Section 5.10.590 states: "*banks, loan companies and similar financial institutions are excluded from the definition of office.*"

7. Lack of binding conditions of approval The appellant alleges that the DRB erred in not requiring conditions restricting the occupancy of units based on the parking modification, and in not mandating that the proposed café be retained and retail uses maintained.

Staff Response KZC 142.35.10 establishes the authority of the DBR to grant, deny or conditionally approve the development proposal: "*the terms of DBR approval or conditional approval will become a condition of approval on each subsequent development permit and no subsequent development permit will be issued unless it is consistent with the DBR approval or*

conditional approval.” In other words, the building permit application must be consistent with the plans approved with the DRB decision. Attachment 2 includes the conditions of approval issued with the DRB’s decision. The parking modification was not approved based on the residential units being for seniors. Once a DRB decision has been issued, KZC 142.50 establishes criteria for evaluating subsequent modifications to the approved development proposal either administratively or for return to the DRB for its evaluation. The Zoning Code establishes the types of uses allowed in CBD 1 zone and the DRB does not have the authority to further restrict the types of land uses allowed in each zone. It will be City staff’s responsibility, as part of the building permit review, to ensure the application materials comply with the plans approved during the design review process, the conditions of approval in the DRB decision and all City regulations including the allowed uses and number of approved parking stalls.

8. *The superior retail standard is an unconstitutionally vague standard* The appellant alleges: “the term ‘superior retail’” is too vague to set forth uniform guidelines so that its interpretation is not left solely to the discretion of administrative bodies or officials and thus cannot be considered a criterion to allow additional height. Several Washington appellate court opinions are cited in the appeal letter. See item 10 below for a staff response.
9. *Application of superior retail criteria* The Appellant alleges the DRB should have applied the superior retail guidelines to the type of retail use rather than the physical configuration of the retail space. See item 10 below for a staff response.
10. *Superior Retail* – A bank and small retail spaces do not constitute superior retail uses to justify the fifth floor.

Staff Response to items #8, #9, #10 Basic requirements for the design of retail space are established in the Zoning Code CBD 1 section, Design Regulations of KZC Chapter 92, and the Design Guidelines For Pedestrian Oriented Districts standards. These requirements include among others: the minimum size, depth, height, pedestrian orientation, sidewalk width, building materials, and amount of windows necessary to support retail activity in pedestrian oriented areas. In order to justify the “bonus” fifth floor of housing in Design District 1, the applicant must demonstrate compliance with the applicable criteria in the Downtown Plan, including the provision of “superior retail space at the street level.” The Plan uses the word “space” rather than “use.” Because “superior retail space” is not a defined term, staff and the DRB have established a written list of guidelines or criteria to define how to design for superior retail space (see Attachment 7 for basic and superior retail space guidelines). These provisions have been applied to three previous projects in determining compliance with the Downtown Plan for a “bonus” story.

Early on in the subject design review process, the DRB provided direction to the applicant as to how to meet the expectations for superior retail space. The applicant responded to suggestions from the DRB and public by designing for superior retail. The DRB determined that the project exceeded the basic requirements for pedestrian orientation and access to the project, size of retail space, depth and height of the retail space, and using superior quality of building materials. The DRB has used the same superior retail criteria in approving other four to five story buildings in CBD 1.

The Zoning Code Section 50.12 establishes the types of uses that may be permitted in the CBD 1 zone. The DRB does not have the authority to prohibit allowed retail uses that may locate on the site. Rather, because retail uses change over time, the DRB has regulated the physical aspects of a building for superior retail space. The DRB concluded the building provides for superior retail space and determined the building met the other policies in the Downtown Plan, Zoning and Design Guidelines to approve a fifth story.

11. Drive through Feature The appellant alleges that the DRB erred in approving the drive through feature of the Bank of America project because it is inconsistent with the Downtown Plan.

Staff Response The Downtown Plan (page XV.D-6) generally discourages drive through facilities and office uses on the ground floor because of the pedestrian orientation of the Downtown. However, KZC CBD 1 Section 50.12.025 provides that for bank uses, drive through facilities are permitted as an accessory use if the drive through existed prior to January 1, 2004 or will replace a drive through facility which existed on January 1, 2004 and certain criteria are met. These criteria are related to pedestrian safety, minimizing vehicular access and queuing issues. The proposed drive through replaces an existing drive through that existed prior to or on January 1, 2004. It is for the bank use only. The proposed drive through also meets the criteria in KZC 50.12.025 as the number of lanes have been reduced; and the plans were revised to address vehicular and pedestrian access issues.

ATTACHMENTS

1. Appeal letter from CiViK organization from J.Richard Aramburu dated January 31, 2008 (includes 1/2/08 letter from Aramburu).
2. Design Review Board decision dated January 17, 2008
3. Development proposal vicinity map, excerpts from plans (File DRC07-00006 contains full set).
4. Downtown Plan Figure C-5 showing Height and Design Districts
5. Annotated version of Downtown Plan policies with staff analysis
6. Graphic showing properties without frontage along designated streets.
7. Superior retail space guidelines
8. Letters received after issuance of the DRB final decision

APPENDIX

The Appendix includes the staff memos, applicant submittals, public comment letters to the DRB contained in File DRC07-00006 available to City Council members in the Council office or at http://www.ci.kirkland.wa.us/depart/Planning/DRB_Meeting_Information.htm including:

- November 19, 2007 DRB meeting packet: Staff memo dated 11/9/07; Drawings dated 11/5/07 (received by PCD 11/9/07)
- December 3, 2007 DRB meeting packet: Staff memo dated 11/28/07; Drawings dated 11/26/07
- January 7, 2008 DRB meeting packet: Staff memo dated 12/26/07; Drawings dated 1/7/08
- Public comment letters received prior to DRB decision

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January 31, 2008

Kirkland Planning Department
Kirkland City Council
123 Fifth Avenue
Kirkland, WA 98033-6189

Appeal of the decision of the Kirkland Design Review Board (DRB) to approve Bank of America Mixed Use Project under Permit No. DRC07-00006, for property located at 101 Kirkland Ave.

1. DECISION APPEALED. The appellant designated below hereby appeals the decision of the Kirkland Design Review Board (DRB) to approve the Bank of America Mixed Use Project under Permit No. DRC07-00006, for property located at 101 Kirkland Ave. That project will be referenced herein as the "BOA Project." This decision is dated January 17, 2008, a copy of which is attached and will be referenced as the "DRB Decision." This appeal is brought pursuant to §142.40 of the Kirkland Zoning Code ("KZC"), Appeals of Design Review Board Decisions, and requests review and decision by the City Council.

2. IDENTITY OF APPELLANT. This appeal is brought by Citizens for a Vibrant Kirkland, "CIViK." CIViK is a local citizens organization and a Washington nonprofit corporation consisting of residents, business owners and other interested persons concerned with the economic, environmental and civic development of downtown Kirkland. The address of CIViK is:

CIViK
218 Main Street
PMB 675
Kirkland, WA 98033

CIViK and its members provided written and oral comments on the BOA Project before the DRB.

CIVIK is represented in this matter by J. Richard Aramburu, whose address is:

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720 Third Avenue, Suite 2112
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All telephone, fax and e-mail addresses will remain the same.

3. ISSUES ON APPEAL. The DRB Decision was in error and should be reversed for the following reasons:

3.1 State Environmental Policy Act. The DRB erred in reviewing, considering and issuing discretionary approval for the BOA Project in violation of SEPA, for the reasons stated in the letter sent to the DRB dated January 2, 2008 and attached hereto. Also, the checklist did not accurately describe the proposal, including, but not limited to the addition of an additional parking floor as a part of the proposal before the DRB.

3.2 Buildings Limited to Two Stories along Lake Street. Under the Downtown Plan, buildings should be limited to two stories along all of Lake Street. The DRB erred in permitting more than two stories for this building located on Lake Street.

3.3 Exercise of Discretion. The DRB erred in limiting its exercise of discretion to consideration only of the design elements of the third and fourth stories and erred in its understanding and determining that it lacks discretion to disapprove any new construction over two stories up to four stories.

3.4 Downtown Plan. The DRB approval was inconsistent with the terms of the "Downtown Plan" as required by the KZC section 50.10. The BOA Project applicant does not provide justification to increase the height of the proposal over the two floors permitted in underlying zoning. Such inconsistencies, include, but are not limited to, the failure of those stories above the second story to be set back significantly from the street, the failure of the building to step back at those floors above the second floor, the

failure of the proposal to reduce building mass above the second floor, the failure of this building to contribute to a mix of two to four story in Design District 1B and the failure of the proposed structure to step up from the north and west to the base of the bluff.

3.5 Parking Modification. The DRB erred in approving the parking modification that reduced the number of required parking stalls for the project from 1.7 stalls per unit to 1 stall per bedroom. There is insufficient evidence that the occupants of the residential units will have significantly less vehicles that support reduced parking demand. The DRB further erred in not evaluating the adequacy of the applicant's proposed guest parking at .15 per unit whereas KZC 105.20 would allow the DRB to have required as much as .5 spaces per unit. Further, there are no covenants or written commitments limiting the use of this property to senior housing or limiting occupants to individuals or families that have only as many vehicles as they have bedrooms.

3.6 Bank as Retail Use. The DRB erred in concluding that banks, such as the proposed Bank of America, are retail uses on page 8 (first line) of its decision. Pursuant to KZC 50.12.020 and .030 "banking and related financial institutions" are listed as different uses, with different requirements, than "retail establishments."

3.7 Lack of Binding Commitments for DRB Conditions. The DRB erred in not requiring that the various features, conditions and uses described in its decision be made binding on the applicant through conditions and restrictions of title on the property. This applies especially to the limitation on units based upon the parking modifications, the failure to assure that the proposed café be retained and that retail uses shall be maintained.

3.8 Unconstitutionally Vague Standard. The DRB made its decision based on its conclusion that the BOA Project met a standard for "superior retail." The term "superior retail" is too vague to set forth uniform guidelines so that its interpretation is not left solely to the discretion of administrative bodies or officials and thus cannot be considered a criteria to allow additional height. See *Anderson v. Issaquah*, 70 Wn. App. 64, 79, 851 P.2d 744 (1993); *Indian Trail Property Owner's Ass'n v. City of Spokane*, 76 Wn. App. 430, 437, 886 P.2d 209 (1994); *Burien Bark Supply v. King Cy.*, 106 Wn. 2d 868, 725 P.2d 994 (1986).

3.9 Application of Superior Retail Criteria. The DRB erred in interpreting the "superior retail" criteria to be applied to the physical

configuration of the retail space instead of the use to which the space will be put.

3.10 Superior Retail. Even if "superior retail" is a legally permissible standard and can be applied to a physical configuration, the known anchor tenant and the small retail spaces found in the BOA Project do not constitute "superior retail." As such, at least the fifth floor of the proposal should be eliminated.

3.11 Drive-through Feature. The DRB erred in approving the drive through feature of the BOA Project as it is inconsistent with the downtown plan and will result in threats to pedestrian safety.

4. RELIEF REQUESTED.

Based on the foregoing, the CIVIK requests that the City Council reverse the decision of the DRB, or in the alternative remand the matter to the DRB for further proceedings.

ARAMBURU & EUSTIS, LLP



J. Richard Aramburu
Attorney for CIVIK

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January 2, 2008

Design Review Board
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

Re: File Number DRC07-00006 (CDC 07-00005)
Bank of America/Merrill Gardens

Dear Design Review Board:

This office represents Citizens for a Vibrant Kirkland (CIVIK). CIVIK is a nonprofit grassroots organization committed to advocating for the quality of life and future vitality of Kirkland.

I am writing today to ask that the Design Review Board (DRB) suspend any further consideration of the above referenced proposal pending completion of the SEPA process for this proposal.

The DRB has before it a proposal for a mixed use project for residential, retail, bank and associated parking. The applicant requests certain discretionary decisions from the DRB, including the approval of a fifth floor on the proposal. Under city codes, a decision to approve an additional floor for the building will be binding on future City decisions.

The City has just received a SEPA Environmental Checklist for this proposal with a date of submission of December 31, 2007. Following comments by the public and staff review, a "threshold determination" must be made by the City's responsible SEPA official as to whether an environmental impact statement (EIS) should be prepared for the proposal. This decision must be made "as close as possible to the time that an agency has developed or is presented with a proposal." WAC 197-11-310.

Under WAC 197-11-055(2), the City is required to complete its SEPA process at the earliest point in this decision making:

(1) Integrating SEPA and agency activities. The SEPA process shall be integrated with agency activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

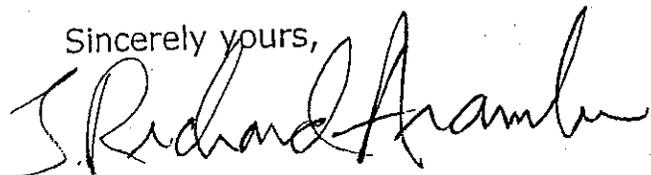
(2) Timing of review of proposals. The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

In the present case, the SEPA Checklist for the above referenced proposal has just been received; indeed CIVIK doubts that members of the DRB have yet reviewed it. To our knowledge, City staff has not yet reviewed the proposal and has not made a threshold determination.

Under SEPA, the threshold determination process, and the possible preparation of an EIS, must precede any decisions made by the DRB. The DRB must consider environmental aspects of its decisions. The decision of the DRB will be substantive as it will decide whether the proposal will be allowed to add an additional floor and that decision will be binding on the City in future permitting. The DRB has traffic, aesthetic and other environmental impacts that are appropriately considered only after all environmental information and analysis is received.

Based on the foregoing, CIVIK requests that the DRB suspend further review of the above referenced proposal pending the completion of the threshold determination process.

Sincerely yours,



J. Richard Aramburu

JRA/py

cc: CIVIK



CITY OF KIRKLAND

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

DESIGN REVIEW BOARD DECISION

FILE NO.: DRC07-00006

PROJECT NAME: Bank of America/Merrill Gardens Mixed Use Retail/Residential Project at 101 Kirkland Avenue

APPLICANT: SRM Development LLC

PROJECT PLANNER: Janice Soloff, Senior Planner

I. SUMMARY OF DECISION

Any Loos of SRM Development applied for design review of a mixed use project at 101 Kirkland Avenue with approximately 11,285 gfa of ground floor retail, 72 units of senior housing, and 131 parking stalls (see Attachment 2). The project includes new retail tenant spaces along Kirkland Avenue and Lake Street S. The Bank of America would return to the northwest corner of the site and a drive through facility located between the buildings will access from the alley. Vehicle access to the parking garage will also be from the alley. The alley will be widened to 22 feet to accommodate two-way vehicle traffic. A pedestrian walkway along the alley building façade will connect pedestrians from the Merrill Gardens Assisted Living project to the east to Lake Street S. Wider sidewalks with landscape strips, street trees and decorative light fixtures will be provided along property frontage on Kirkland Avenue and Lake Street S. Two open space plazas with art integrated into the areas will be provided in the northwest and northeast corners of the property. A parking modification to reduce the code required parking ratio for the residential portion of the project was requested.

On January 7, 2008, the Design Review Board (DRB) approved the project as shown on the plans dated January 7, 2008 subject to the following conditions:

- A. 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 ordinances. Attachment 1, Development Standards, intended to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations.
- B. As part of the application for a building permit the applicant shall submit the following:
 1. Building plans that show the maximum building height is no more than 55 feet above the midpoint of the property frontage along Kirkland Avenue.
 2. Decorative parapets may exceed the height limit by a maximum of four feet pursuant to KZC Section 50.62.4, provided that the average height of the parapet around the perimeter of the structure shall not exceed two feet. Rooftop appurtenances must fall below this height including perimeter screening (KZC Section 115.120).

3. A parking modification (pursuant to KZC 105.103) is approved per staff recommendation described in the December 26, 2007 memo from Thang Nguyen for the residential portion of the project only based on a parking ratio of one parking stall per bedroom. In addition, visitor parking shall be provided at a ratio of .15 parking stalls per bedroom plus 16 parking stalls allocated for the bank use shall also be made available for visitor parking between 7pm and 6am. All other uses for the property shall meet the parking requirements of the Zoning Code. The final parking count may be influenced by the property owner's participation in the LID 119 or floor area exemptions in KZC Section 50.60. The applicant shall inform staff about how the stalls will be managed. The applicant shall provide revised parking plans that meet these and all other Zoning Code requirements.
4. Install public improvements as determined by the Public Works Department on Kirkland Avenue and Lake Street S.
5. Continue to work with the Cultural Council to finalize incorporating art into the design of the project along street level building facades and the NE and NW corners of the project. Prior to final issuance of the building permit, final design for the pedestrian plazas and art shall be approved by the DRB.
6. Building details and colors of such things as railings, canopies, marquees, signage, lighting, shall be significantly different in design from the Merrill Gardens assisted living project (under construction at 201 Kirkland Avenue). Prior to building permit issuance, the Design Review Board shall approve the final details of these features.
7. At the NW corner, the proposed modification of the bay to wrap around the corner is approved. Above the expanded bay (at the NW corner of the Level 5 roof terrace) the roof line shall be changed from a solid parapet to an open/transparent corner treatment.
8. At the proposed bank facades on the northwest corner of the building, revise plans to lessen the width of the vertical columns between the windows to provide greater glazing opportunities at the street and replace the horizontal and vertical bands of white brick with red brick.
9. The applicant should explore enlarging the depth of the NE corner retail space along Kirkland Avenue by shifting the lobby hallway south, over the parking below. The DRB recognizes that this may not be feasible given the ceiling heights of the parking garage.

II. DESIGN RESPONSE CONFERENCE MEETINGS

A. Background Summary

Below is a summary of the Board's discussions at the three Design Response Conferences held on November 19, 2007, December 3, 2007 and January 7, 2008.

November 19, 2007 Conference: The Design Review Board reviewed the plans submitted by Runberg Architects dated November 5, 2007. Staff provided an overview of the Zoning Code and Comprehensive Plan policies for the CBD 1 area and the key design issues for the project. Staff's memo dated November 9, 2007 provides an analysis of project consistency with the Zoning regulations, Downtown Plan Comprehensive Plan policies and Design Guidelines for Pedestrian Oriented Districts.

After receiving public comment on the project and deliberating, the Board requested the applicant to return for a second meeting to respond to the following DRB comments:

Building Height and Scale: Deemphasize upper stories at northwest corner and provide generous upper story setbacks, especially from Lake Street, at 3rd, 4th and 5th levels. Show a more active retail program along Lake Street S. such as consider moving the space labeled as a coffee shop/café so it has a more prominence along the street, increase interaction between retail and pedestrians, increase entrances and provide more landscaping at the base of the building.

Alley Design: The alley width, pedestrian walkway and whether or not the alley should be two-way were discussed. One way circulation would require drivers to circle around the block to access the site. A two-way alley is preferred by the Public Works Department to allow more circulation choices within the block for vehicles coming from Kirkland Avenue, through new Main Street, or Lake Street S. to access garage entrances of both this project and future redevelopment of the property to the south.

Drive-through Design: The Board questioned if there was adequate sight distance at the alley entrance. They requested the applicant to design the exit driveway on Kirkland Avenue to be more pedestrian friendly.

Streetscape, Open Spaces and Landscaping: Extend the landscape strip planter along Lake Street S. north. Add additional greenery to the northeast bulb out. Provide ground cover in addition to tree grates. Show landscape plans for private terraces. Include details for water feature and art sculpture. In response the applicant revised the landscape plan with the above information.

Exterior Lighting, Art, Plaza and Signage: Examples of the exterior lighting fixtures, art, signage and plans for the plaza were discussed.

December 3, 2007 Conference: The Design Review Board reviewed the plans submitted by Runberg Architects dated November 26, 2007. The staff memo dated November 28, 2007 provides an overview and analysis of the project modifications made in response to DRB direction.

After receiving public comment on the project, the Board discussed the applicant's response from the requested items discussed above. By motion, the Board reached consensus to support approving a five story building, finding that the proposal complied with applicable requirements including setback of upper stories and superior retail. The Board then moved on to continue discussion of further project details. The Board requested the applicant to return for a third meeting to respond to the following DRB comments:

Building Materials: Provide a comparison of the building materials and colors for the Merrill Gardens assisted living project under construction at 201 Kirkland Avenue with the Bank of America project with the goal of achieving uniqueness and individuality between the two projects. Explore options to strengthen the variety of colors and materials between the 3 building segments.

East Elevation: Fine tune the east elevation design details.

Roofline: Explore modulations in parapet heights to enhance the treatment of building mass as 3 building segments and avoid long horizontal lines.

Retail details: Provide more building material details of the superior retail spaces.

Landscaping: Provide greater street tree choices (deciduous; richness in color) (variety will also help break up facades); provide upper story planters and detailing for upper story terraces and containers.

Art and Plaza Design: Have the Cultural Council review and comment on the open space plazas, water feature and artwork.

January 7, 2008 Conference: The Design Review Board reviewed the plans submitted by Runberg Architects dated January 7, 2008. The staff memo dated December 26, 2007 provides an overview and analysis of the project modifications made in response to DRB direction. The applicant met with the Cultural Council subcommittee on December 17th and their comments are summarized in Attachment 1 of the January 7th staff report.

The Board reviewed the revised plans and the staff recommendation for the parking modification. After receiving additional public comment on the project, the Board discussed the following:

Northwest corner bay: In response to the applicant's request to revisit the upper story corner bay at the NW corner of the building, the Board agreed to the revised plans of including a more transparent corner of windows with a simpler roofline for the upper residential unit.

Building materials/details: The Board discussed the importance of having each of the Merrill Gardens projects to have their own identity in use of building materials, colors and details such as signage, lighting, canopies, awnings and railings.

Art and plaza design: The Board considered the recommendations from the Cultural Council for the art integrated into the project.

Parking modification: The parking modification was approved as recommended by staff.

Café tenant space: The Board expressed the importance of keeping the space labeled as a café as a separate tenant space at that location to add a diversity of retail along Lake Street and discouraged the space from becoming an ATM location for the bank.

Building Height and Scale: In response to the continued public comment regarding the issue of compliance with criteria for approval of a 5th story, and some public perception that the Board had not had the opportunity to read and review previous comments, the Board discussed their findings from the December 3, 2007 Conference. On review, the DRB concluded that the application met the requirements and should be approved subject to conditions.

B. Public Comment

All public comment letters and e-mails received during the Design Response Conference meetings were forwarded on to the Board for consideration in addition to the oral comment from the three public meetings. All comments are contained in the City's official file. Below is a summary of the general public comment themes that emerged through the design review process:

- The DRB should review all public comment before rendering a decision
- The compatibility of proposed building height at this location
- Change to the small town look and feel
- Should a bank and drive-thru use be considered superior retail justifying the 5th story
- Pedestrian safety along streets and the alley
- Adequacy of proposed parking
- Consistency with City policies and regulations
- Benefits and impacts to downtown retail

III. DESIGN REVIEW BOARD DISCUSSION AND CONCLUSIONS

Below is a summary of the key issues and conclusions reached by the Design Review Board during the design review process. For more background on these issues and evaluation of how the project meets the Zoning Code and Comprehensive Plan policies see staff advisory reports from the three Conferences contained in File DRC07-00006.

A. BUILDING HEIGHT, ARCHITECTURAL AND HUMAN SCALE

CBD 1 Zoning (KZC 50.12) establishes a maximum building height of 2-5 stories with General Regulations requiring buildings exceeding two stories to demonstrate compliance with design regulations and the Downtown Plan. The City is to determine compliance with these provisions through Design Review. Guidance in the Downtown Plan (pages XV.D-9 - XV.D-11) relative to allowed building height in this district includes the following:

- Subject property is located in Height and Design District 1B. Maximum number of stories is 2-4 with one additional story allowed for upper story residential. Discretionary approval required for heights over two stories.
- Stories above the 2nd floor should be setback from the street. To preserve the existing human scale of this area development over two stories require review and approval the Design Review Board based on priorities set forth in the Downtown Plan.
- Buildings should be limited to 2 stories along all of Lake Street South to reflect the scale of development in district 2 (west side of Lake Street S.). Along Kirkland Avenue, a maximum of 2 stories along street frontages will protect the existing human scale and pedestrian orientation.
- Portions of Design District 1B provide the best opportunities for new development that could contribute to the pedestrian fabric of Downtown. The existing development in this area is older, auto-oriented, defined by parking lots and poor pedestrian orientation.
- To provide incentive for redevelopment and because these larger sites have more flexibility to accommodate additional height, a mix of 2-4 stories is appropriate.

- South of Kirkland Avenue, building forms should step up from the north and west with tallest portions at the base of the hillside to help moderate the mass of large buildings on top of the bluff.
- Buildings over two stories should generally reduce the building mass above the second story.
- One additional story (5th story) may be appropriate to encourage residential on upper floors and strengthen retail in the core area. This additional story may be considered by the DRB if:
 - At least 3 of the upper stories are residential,
 - Total height is not more than one foot taller than the height that would result from an office project with three stories of office over ground floor retail (55 feet),
 - Stories above the second story are setback significantly from the street,
 - The building form is stepped back at the third, fourth, and fifth stories to mitigate additional building mass,
 - Superior retail space is provided at street level,
 - Rooftop appurtenances and related screening does not exceed the total allowed height is integrated into the height and design of peaked or parapet roofs.

DRB deliberations focused on whether the project met the Downtown Plan direction, particularly: 1) whether the project was appropriately designed for superior retail in order to approve the fifth floor and 2) the amount of setback and building mass above the second story. It should be noted that the Board has applied these regulations and design guidance in approving three previous buildings in CBD 1 (Kirkland Central, Merrill Gardens, and Heathman Hotel).

DRB Discussion – Building Setbacks: The Board discussed the building height regulations and direction from the Downtown Plan and concluded that a maximum two story street façade along Kirkland Avenue and Lake Street S. is required to provide a human scale and pedestrian orientation to the street with building forms setback above the 2nd floor to terrace up toward the hillside (Portsmouth building) to reduce building mass. Along Kirkland Avenue, a one and two-story street façade is brought out to the sidewalk at both east and west ends of the building. At the 3rd and 4th levels the amount of building setback above the second story ranges from approximately 10' on the west to 23' for the east third of the building. It was noted that the building is setback between approximately 5' to 34' from the Lake Street S. and Kirkland Avenue property lines in order to provide wider sidewalks and public open space. As a result, the upper story setbacks are even greater if measured from the property line. The Board discussed the design, materials and amount of setback from the 2nd floor of the upper story corner bay at the northwest corner of the building especially as viewed from the street. The 5th level is setback an additional amount for private patios and a roof deck that overlooks Lake Street S below. Private patios are also on the 2nd- 4th levels.

DRB Discussion – Superior Retail:

Basic requirements for retail space are established in the Zoning Code CBD 1 section, Design Regulations of Chapter 92, and the Design Guidelines. To be granted the 5th story, the Downtown Plan states that development must show that the project provides superior retail space at the street level. As projects have been approved in the Downtown, staff and the Board have developed a list of basic retail requirements to evaluate whether the retail space proposed exceeds those basics (for example, is the retail space larger, deeper, taller; does it use quality of materials,; what is the relationship to the

streetscape; and how does it compliment other tenant mixes in the Downtown). The Board's review of the project's retail space focused on the following:

- Pedestrian Orientation and Streetscape Experience (sidewalk width, glazing, weather protection): Because of the prominent corner location of the project at Lake Street S. and Kirkland Avenue, the Board discussed the importance of the project creating a strong pedestrian environment around the entire building including, creating a pedestrian plaza at the NW corner, providing wider sidewalks and pedestrian connections to adjacent properties, ground level landscaping and upper story decks that overlook the pedestrian experience at the street. The Board discussed with the architect the desire for the bank space and café to have greater retail presence at the street with several entrances, areas for pedestrians to gather, wider weather protection, greater transparency and quality building materials. The architect responded by modulating and splitting up the bank and café spaces, providing the open space plaza at the corner with a water feature, sitting benches, and landscape strips at the curb. Retail building facades along the street provide building details such as patterned and varying colored brick, concrete pedestals at the base, decorative concrete medallions and decorative lighting.
- Retail Size: In response to the Board's comments, the proposed café tenant space was enlarged and brought out along the street and treated with a white brick in contrast to the red brick to differentiate it from the bank space. The four retail spaces range in size from 880 SF for the café, to 2,365 SF and 2,450 SF for spaces along Kirkland Avenue and 5,720 SF for the bank. The proposal meets or exceeds the size and amount of retail opportunities along the street.
- Retail Depth: The depth of the two retail spaces along Kirkland Avenue ranges from 26' to 50'. The bank ranges from 64'6"- 88'8" in depth. The space labeled as a cafe is shown as 32'6". The board requested the applicant to examine enlarging the eastern most tenant space along Kirkland Avenue. The retail spaces generally exceed the minimum 30' depth requirement, and are on average significantly deeper than 30'.
- Retail Height: Per minimum code requirements, retail space must be a minimum of 13' to 15' in height to provide greater opportunities for window height for interior light and visibility from the street of interior and merchandise display. The space labeled as a cafe and the bank will provide a floor height of 14'6". The western most retail space will be 13'6" and the eastern most retail space will be 20' in height.
- Superior Quality Building Materials: The architect responded to the Boards comments to provide high quality building materials for the retail facades by including a variety of colored brick, fiber cement siding, vinyl windows, aluminum storefronts, and metal canopies decorative exterior lighting.

The Board reviewed and discussed the public comment that the bank should not be considered as a superior retail. The DRB noted the following:

- The Kirkland Zoning Code specifically treats banks as retail uses. Further, the DRB has affirmed that it does not have authority to prohibit uses specifically allowed by the Kirkland Zoning Code. This position was confirmed by the City Attorney at the DRB meeting of January 7, 2007.
- Given the authority of the DRB over issues of design and the absence of authority over use, the DRB has applied the term “superior retail” to apply to physical characteristics of the retail environment.
- Retail tenants will change over time, so focusing on creating places and spaces that will foster successful retail uses is the appropriate exercise of DRB authority.

DRB Conclusions: The Board concluded that a fifth story should be approved because the project complies with the Downtown Plan policies and Zoning requirements. The project is designed for three floors of residential, stories above the second story are setback significantly from the street, the building form is stepped back at the third, fourth, and fifth stories to mitigate building mass, superior retail space is provided at street level (see discussion above) and the rooftop appurtenances and related screening will not exceed the total allowed height, and will be integrated into the parapets. Specific to the requirement for superior retail, beginning at the Conceptual Design Conference and following through the design review process, the DRB challenged the applicant to demonstrate that the design of the project, from the curb to the retail façade, provide a design that was superior to code requirements to the extent that it justified the 5th story. The Board concluded that the applicant has met that challenge and that the project does provide superior retail space.

B. VEHICULAR AND PEDESTRIAN ACCESS

In the Downtown Plan, development in the CBD 1 is encouraged to be designed in scale and orientation to the pedestrian for a lively, attractive, and safe streetscape experience. Design Guidelines provide techniques to achieve this such as placement of windows, multiple entrances, canopies, awnings, courtyards, arcades, and other pedestrian amenities. Service areas, surface parking and blank facades should be located and not visible from the street frontage.

DRB discussion: The Board discussed concerns for pedestrian safety at the drive through exit at Kirkland Avenue and sight distance at the entrance to the drive through along the alley. As a result the applicant angled the building corners at the drive through at the alley entrance and exit. At the Kirkland Avenue exit, the building was pulled back and low-growing landscaping and lighting was added.

DRB conclusions: The Board concluded that the proposal is consistent with vehicular and pedestrian requirements and complies with the policies and guidelines regarding providing enhanced pedestrian circulation such as the wider sidewalks along Kirkland Avenue and Lake Street S. and the pedestrian walkway connection along the alley. The Board agreed to the revisions to the drive through.

C. BUILDING MATERIALS, COLOR AND DETAIL

DRB Discussion: The Board discussed the importance of the building materials to be unique from the other Merrill Gardens project to the east. The architect reviewed the building material details of both projects.

DRB Conclusions: The Board agreed to the general approach to proposed building materials and requested that the building details such as the railings, decks, awnings, signage etc. be brought back to them for approval with the building permit application to ensure that the two projects are architecturally distinct.

D. LANDSCAPING

DRB Discussion and Conclusions: The Board discussed the proposed design and plant selection for the landscaping and agreed with the recommendation to provide the three landscaping nodes around the property, retain three of the existing trees in the sidewalk along Kirkland Avenue, and vary from the standard street tree grates to provide landscape strips adjacent to the curb. The Board suggested landscape pots along the facades where there are no awnings to provide additional landscaping at the base of the building.

E. PARKING MODIFICATION REQUEST

DRB Discussion: Under the provisions of KZC Section 105.103, the applicant requested a reduction of the number of code required parking stalls for the residential portion of the project. A recent code amendment to that section gives the Design Review Board authority to evaluate and approve parking modification requests to reduce the number of parking stalls as part of the design review process.

Section 105.103 requires a request for a parking modification to be documented by a demand and utilization study to serve the type of land use, prepared by a licensed transportation engineer and substantiated by technical data. The parking modification requests to reduce the number of required parking stalls for the residential portion of the project from 1.7 stalls per unit to 1 stall per unit. The December 20, 2007 memo from William Popp Associates includes supporting data for the request. A memo from Thang Nguyen, Traffic Engineer dated December 26, 2007 evaluated their request. Based on his analysis, Mr. Nguyen concludes that the project should provide 1 stall per bedroom plus .15 parking stalls per bedroom and concludes that the 16 parking stalls allocated for the bank use should be made available to visitor parking between 7pm and 6am. The applicant reviewed Mr. Nguyen's recommendations and concurred.

DRB Conclusions: This recommendation is consistent with the ratio approved for similar parking medications approved in the CBD. The DRB approved the parking modification request based on the staff's recommendation. The applicant agrees with staff and therefore will need to revise the parking plans to accommodate the additional stalls.

IV. DEVELOPMENT REVIEW COMMITTEE

Comments and requirements placed on the project by City departments are found on the Development Standards, Attachment 1.

V. SUBSEQUENT MODIFICATIONS

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

VI. APPEALS OF DESIGN REVIEW BOARD DECISIONS AND LAPSE OF APPROVAL

Appeals

Section 142.40 of the Zoning Code allows the Design Review Board's decision to be appealed to the City Council by the applicant and any person who submitted written or oral comments to the Design Review Board. The appeal must be in the form of a letter of appeal and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., _____, fourteen (14) calendar days following the postmarked date of distribution of the Design Review Board's decision.

Only those issues under the authority of the Design Review Board as established by Kirkland Zoning Code 142.35(2) are subject to appeal.

Lapse of Approval

Section 142.55.1 of the Zoning Code states that unless otherwise specified in the decision granting DR approval, the applicant must begin construction or submit to the City a complete Building Permit application for development of the subject property consistent with the Design Review approval within one (1) year after the final decision to grant the DR approval or that decision becomes void. Furthermore, the applicant must substantially complete construction consistent with the DR approval and complete all conditions listed in the DR approval decision within three (3) years after the final decision on the DR approval or the decision becomes void. Application and appeal procedures for a time extension are described in Sections 142.55.2 and 142.55.3.

VII. ATTACHMENTS

1. Development Standards
2. Applicant Proposal

VIII. PARTIES OF RECORD

The parties of record list is located in File DRC07-00006 in the Planning Department.

IX. APPROVAL

Jeff Bates, Chair
Design Review Board

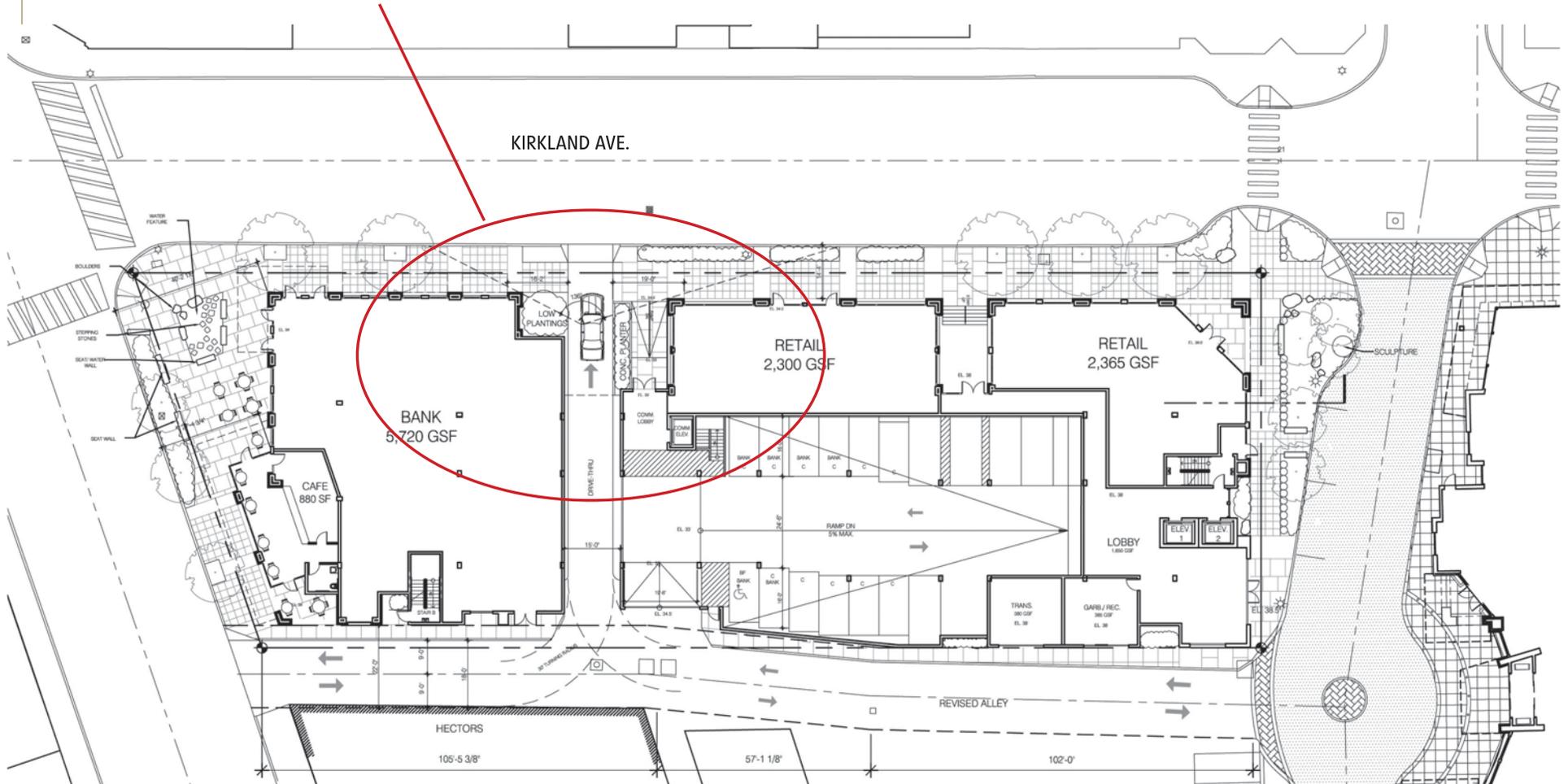
Date

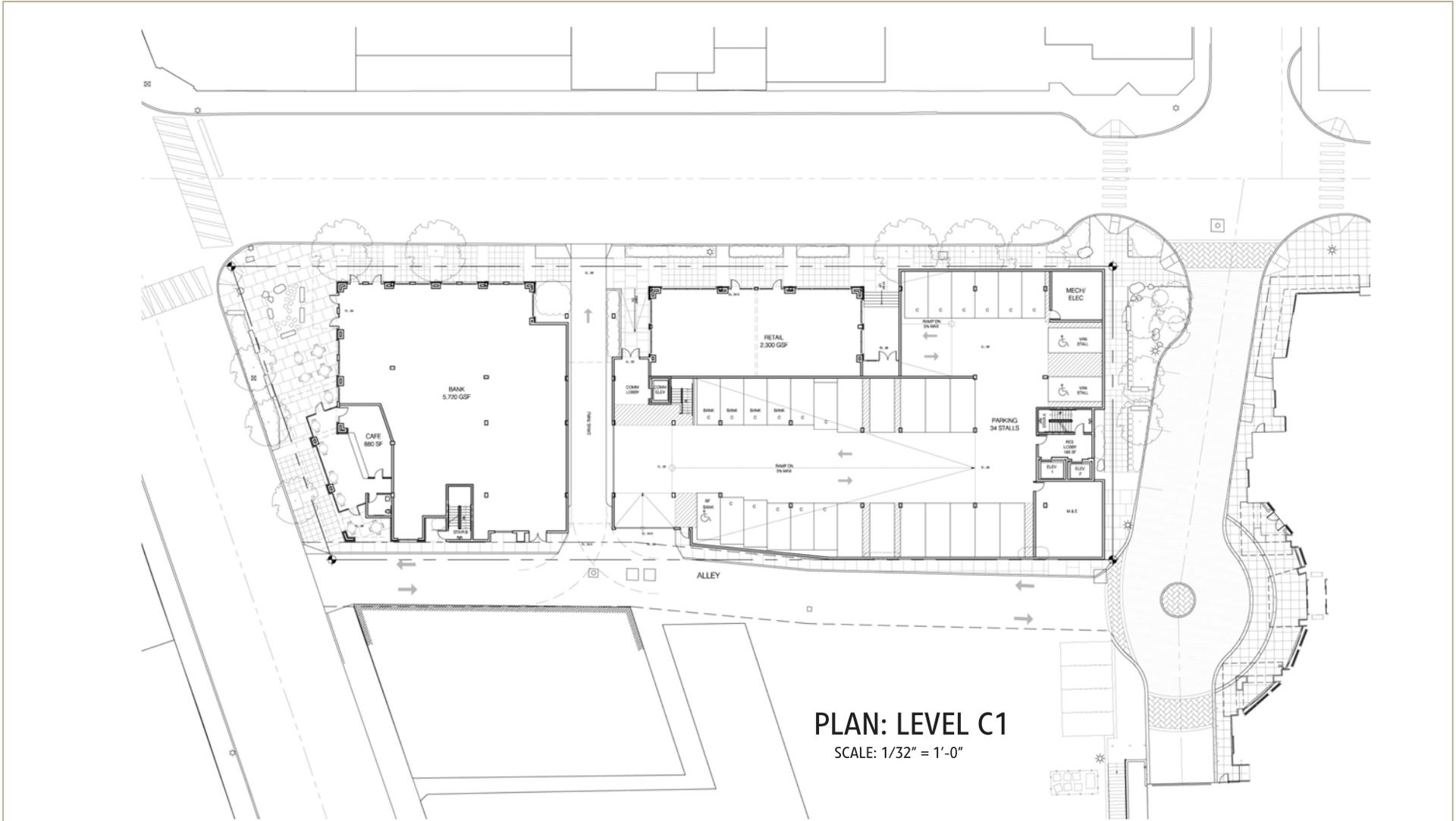


BIRDS EYE PERSPECTIVE



The commercial lobby was eliminated allow for better sight lines on the drive side, giving a 136 degree field of vision for the driver with the nose of the car nudging out into the pedestrian crosswalk. Low landscape plantings are used to soften the area created by the sight triangle. Retail 2, to the east of the drive-thru was reduced and the access passageway to the commercial parking and elevator were enhanced.





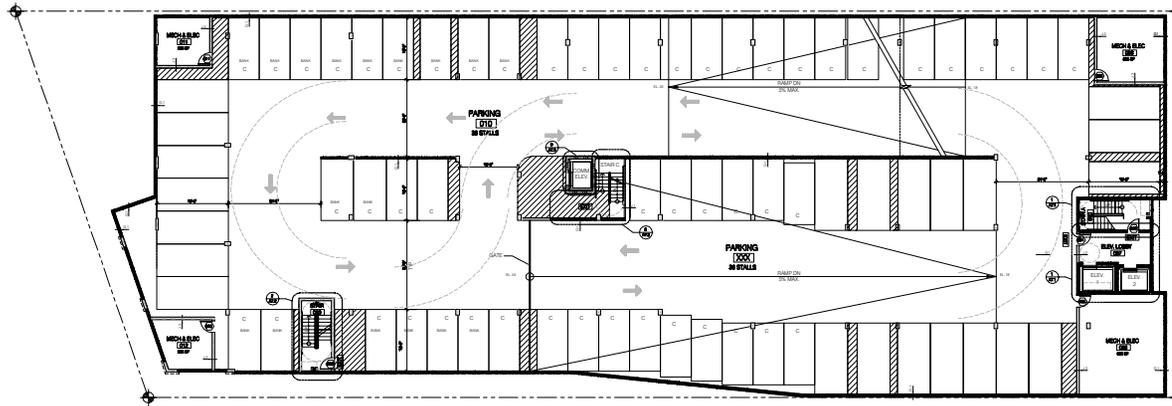
PLAN: LEVEL C1

SCALE: 1/32" = 1'-0"





One Yesler Way
Suite 200
Seattle, WA 98104
p 206-956-1970
f 206-956-1971



PLAN: PARKING LEVEL P1

SCALE: 1/32" = 1'-0"



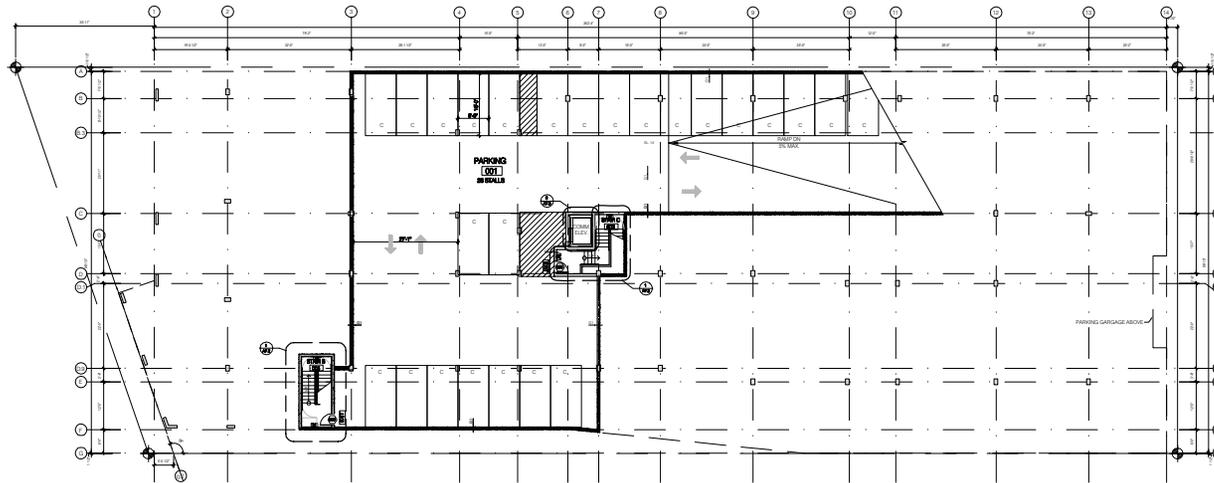
PLAN

**Kirkland Ave
& Lake St.
Mixed-Use**

12/17/07

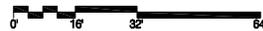


One Yesler Way
Suite 200
Seattle, WA 98104
p 206-956-1970
f 206-956-1971



PLAN: PARKING LEVEL P2

SCALE: 1/32" = 1'-0"

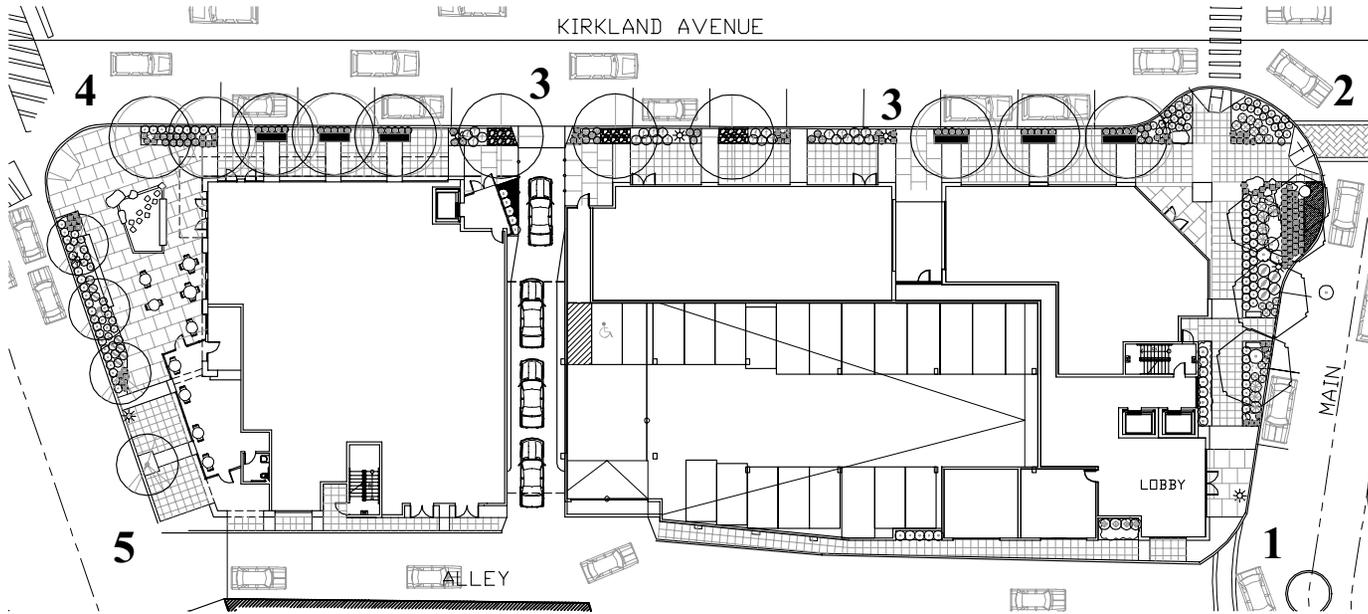


PLAN

**Kirkland Ave
& Lake St.
Mixed-Use**

12/31/07

Attachment 3



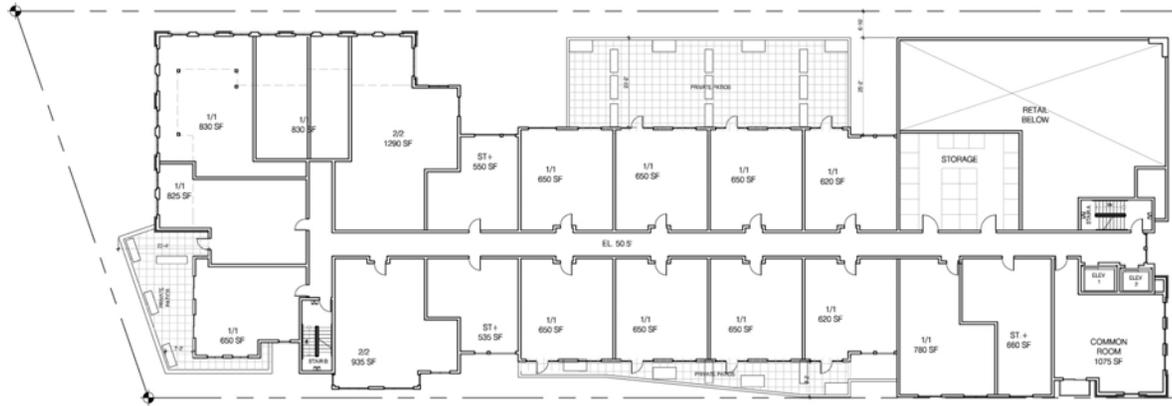
- node 1. entry
- node 2. retail
- node 3. mid-block
- node 4. corner
- node 5. active

Plant Schedule		BOTANICAL NAME	COMMON	SIZE	MAIN ST.				
KIRKLAND AVE		<i>Acer rubrum</i> 'Bowhall'	Bowhall Maple	3"cal		<i>Cercidiphyllum japonicum</i>	Katsura	3"cal	
		<i>Carex</i> 'Ice Dance'	Sedge	1 gal.		<i>Cholysya ternata</i>	Mexican Orange	5 gal.	
		<i>Cornus s.</i> 'Kelsey'	Kelsey Dogwood	15" x 15"		<i>Camellia sasanqua</i>	Camellia	5 gal.	
		<i>Hemerocallis</i> 'Stella d'Oro'	Evergreen Daylily	1 gal.		<i>Ilex crenata</i> 'Green Island'	Japanese Holly	18" x 18"	
		<i>Liriope muscari</i>	Big Blue Lily Turf	1 gal.		<i>Hydrangea macrophylla</i>	Bigleaf Hydrangea	5 gal.	
		<i>Polystichum munitum</i>	Sword Fern	1 gal.		<i>Miscanthus s.</i> 'Morning Light'	Eulalia Grass	5 gal.	
		<i>Prunus l.</i> 'Otto Luyken'	Otto Luyken Laurel	18" x 18"		<i>Spiraea n.t.</i> 'Snowmound'	NCN	2 gal.	
		<i>Viburnum davidii</i>	Davids Viburnum	1 gal.		<i>Syringa vulgaris</i>	Lilac	5 gal.	
	LAKE ST.		<i>Fraxinus pennsylvanica</i> 'Patmore'	Patmore Ash	3"cal				
			<i>Helictotrichon sempervirens</i>	Blue Oat Grass	1 gal.				
			<i>Calluna vulgaris</i>	Heather	1 gal.				
			<i>Prunus l.</i> 'Otto Luyken'	Otto Luyken Laurel	18" x 18"				
		<i>Pennisetum a.</i> 'Hamelin'	Fountain Grass	1 gal.					
		<i>Stipa tenuissima</i>	Mexican Feather Grass	1 gal.					



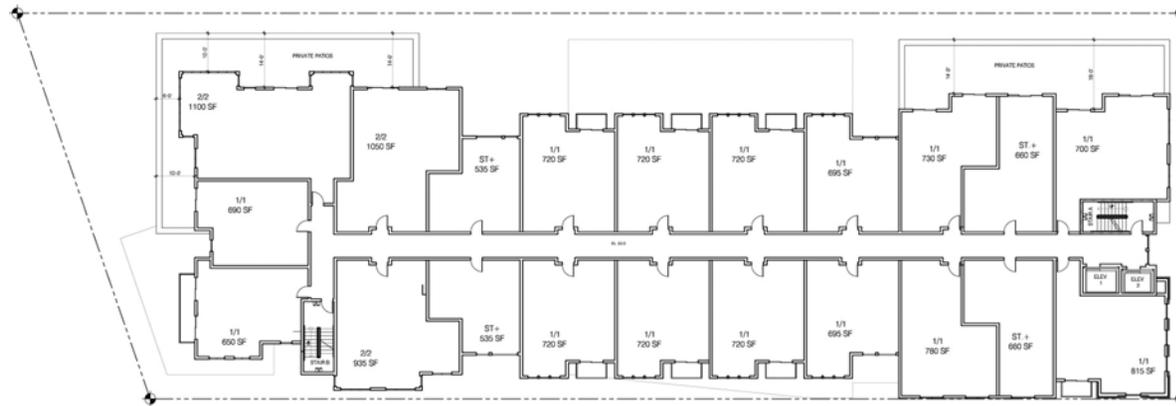
landscape plan

kirkland ave & lake street mixed use



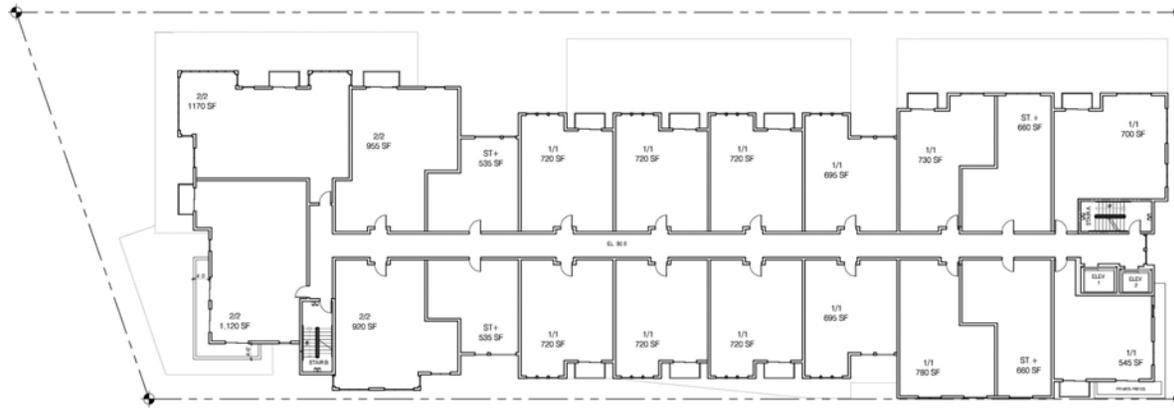
PLAN: LEVEL L2

SCALE: 1/32" = 1'-0"



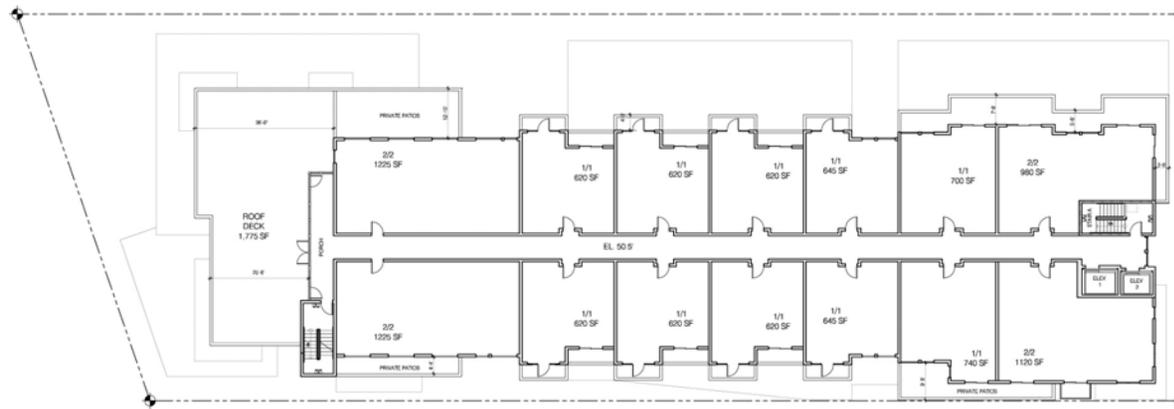
PLAN: LEVEL L3

SCALE: 1/32" = 1'-0"



PLAN: LEVEL L4

SCALE: 1/32" = 1'-0"



PLAN: LEVEL L5

SCALE: 1/32" = 1'-0"



WEST ELEVATION



Superior Retail 1



Superior Retail 1 without trees



101 Kirkland Avenue Mixed-Use Development



November 26, 2007



owner:
SRM Development/
Merrill Gardens
805 5th Ave N
Seattle, WA 98109

contact:
Andy Loos
206.352.7873



architect:
Runberg Architecture Group PLLC
One Yesler Way, Suite 200
Seattle, WA 98104

contact:
Chad Lorentz
206.956.1970

table of contents:

A.1	Alley Proposal
B.1 - B.2	Streetscape/Landscape Revisions
C.1 - C.2	Superior Retail Revisions
D.1 - D.2	Building Height Revisions
E.1 - E.9	Site Plan/Project Data/Plans
F.1 - F.3	Elevations/Material Board
G.1 - G.4	Superior Retail plans/vignettes
H.1 - H.5	Perspective Views



Cafe/Coffee shop





Merrill Gardens at Kirkland

101 Kirkland

NORTH ELEVATION - COMBINED

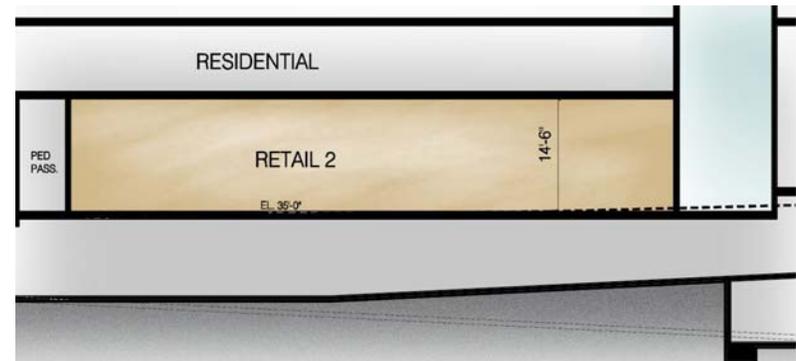
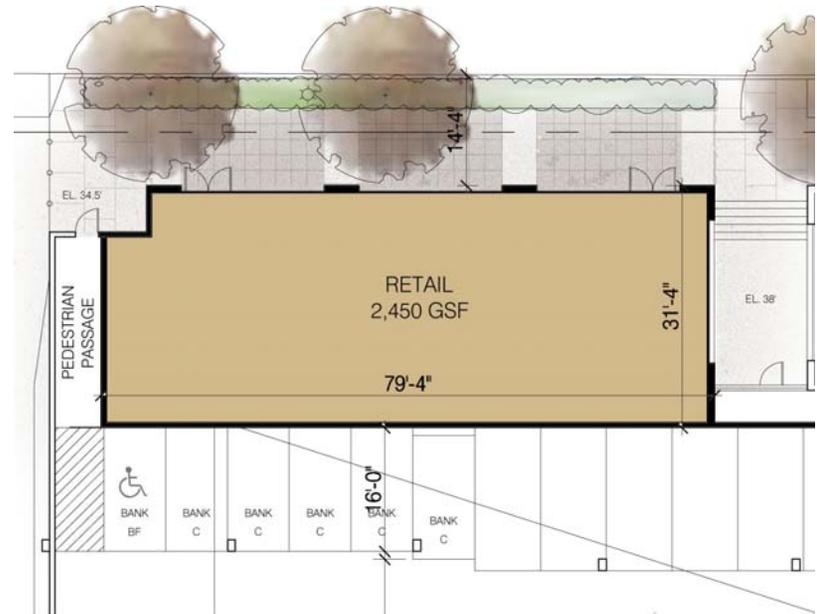




Superior Retail 2



Superior Retail 2 without trees





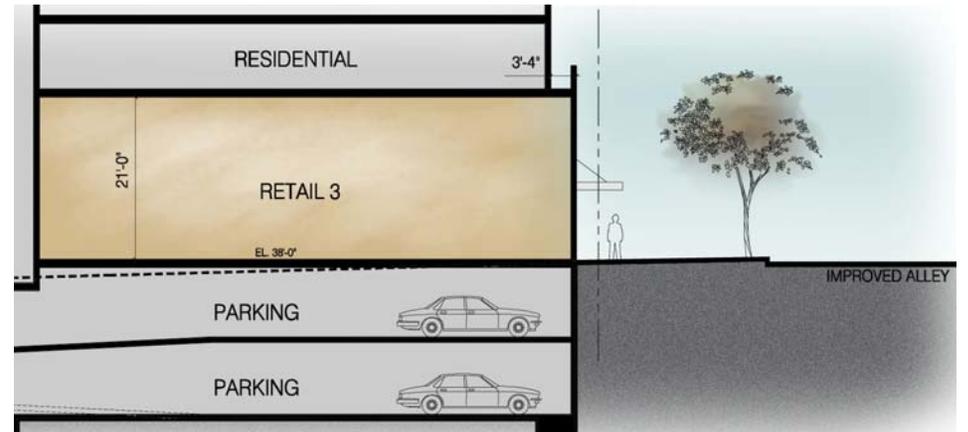
EAST ELEVATION



Superior retail 3



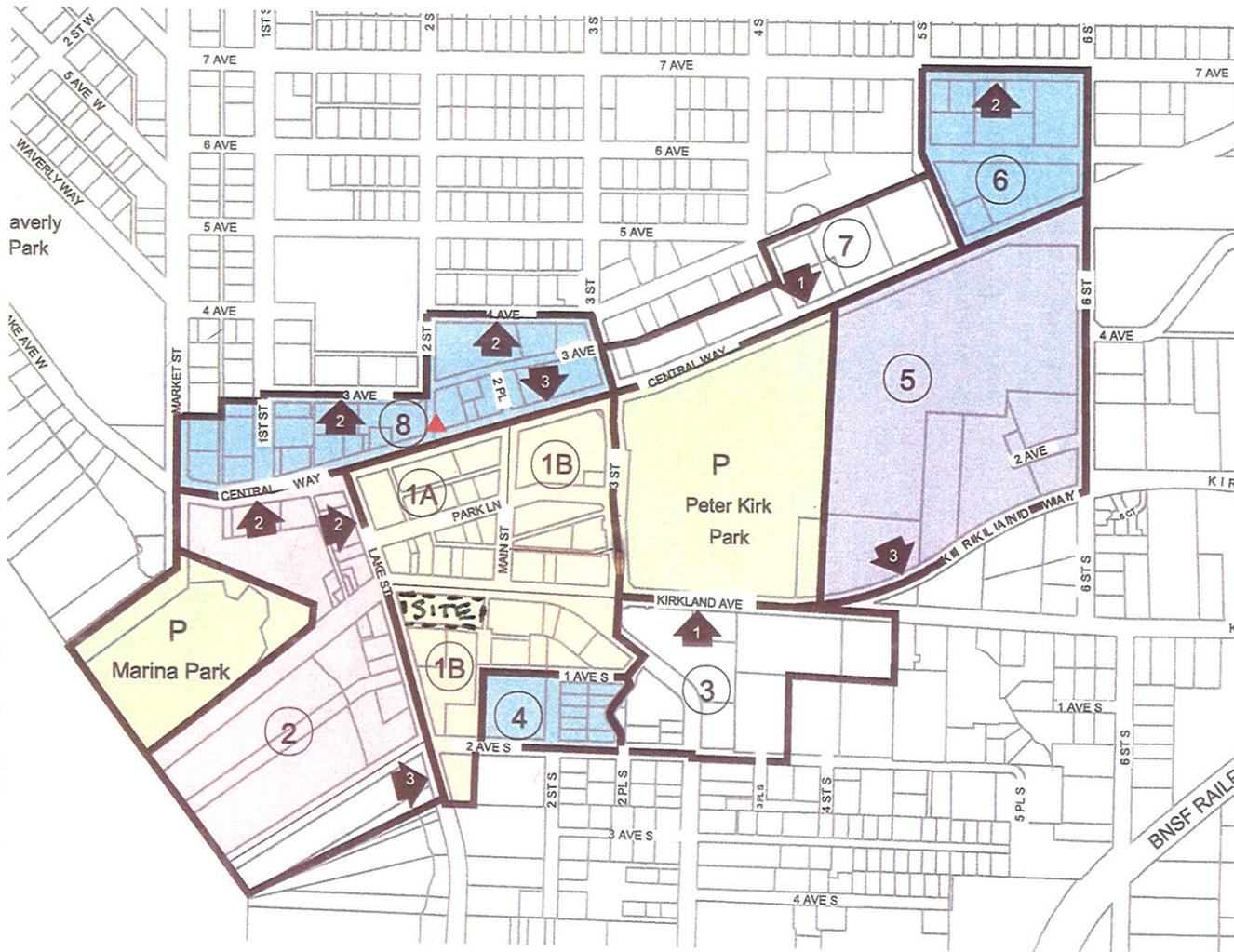
Superior retail 3 without trees





Aerial view looking southeast of both 201 and 101 Kirkland projects

Figure C-5: Downtown Height and Design Districts



- Maximum Number of Stories**
(See Text for Specific Allowances)
- 1-2
 - * 1A 2-3 Discretionary Approval for Heights over 2 Stories
 - * 1B 2-4 Discretionary Approval for Heights over 2 Stories
 - 3
 - 3-5 Discretionary Approval for Heights over 2 Stories
 - 4
 - ▲ # of stories on street (height steps up from street)
 - Ⓝ Design District
 - ▲ Height Measured Relative to Slope
 - * One Additional Story Allowed for Upper Story Residential



Maximum Building Height in CBD 1B

To determine maximum building height in CBD 1, regulations and policies in both the Zoning Code and Downtown Plan policies must be considered. The DRB should evaluate the proposal against these specific criteria below to determine the allowed height. Below is a copy of the Downtown Plan policies as written and reformatted for reading ease. Staff's analysis of how the proposal responds to each policy is described in italics.

1. ZONING REGULATIONS

CBD 1 Zoning allows a range of building height depending on use (section 50.12):

- 2-4 stories for mixed use retail and office
- 2-5 stories for mixed use retail, hotels, attached or stacked dwelling units, and assisted living
- Buildings exceeding 2 stories must demonstrate compliance with design regulations in KZC chapter 92 and all provisions of the Downtown Plan.

2. DOWNTOWN PLAN HEIGHT AND DESIGN POLICIES

A. Figure C-5 Downtown Height and Design Districts

Design District 1 allows a range of 2-5 stories with discretionary approval for over 2 stories (see text below for specific allowances)

1B (orange) allows 2-4 stories with 1 additional story (5 stories) for upper story residential and if the design considerations described in the text below are met:

B. Design District 1B Text-General:

Maximum building height in the core area should be 2-5 stories with 0' setbacks from property lines:

- ✓ Stories above the 2nd floor should be setback from the street. To preserve the existing human scale of this area development over two stories require review and approval the Design Review Board based on priorities set forth in this plan.

Staff Comments- The Board has the authority to evaluate how buildings of 3-5 stories are designed to preserve or enhance the human scale of the Core area using the policies described below along with the design techniques contained in the Design Guidelines for Pedestrian Oriented Districts. These policies are intended to build on each other, for example, see C. below describing the design considerations to approve a 2-4 story building. Once those are met, for a 5 story building the additional policies must be met such as providing 3 levels of residential, greater step backs at upper stories, designing for superior retail opportunities etc.

In addition to providing setbacks at the ground floor from all property lines to provide wider sidewalks, the proposed project is setback from the 2nd story at the 3rd-5th floors along Kirkland Avenue and Lake Street So. (see page 13-18).

- ✓ Buildings should be limited to 2 stories along all of Lake Street South to reflect the scale of development in District 2 (west side of Lake Street So.).

Staff Comments- Plans show the building as two stories along Lake Street So. to mirror the 2 story height in CBD 2.

- ✓ Along Kirkland Avenue a maximum of 2 stories along street frontages will protect the existing human scale and pedestrian orientation.

Staff Comments- Plans show the building as two stories along Kirkland Avenue.

- ✓ Portions of Design District 1 designated as 1B (in Figure C-5) provide the best opportunities for new development that could contribute to the pedestrian fabric of Downtown. The existing development in this area is older, auto-oriented, defined by parking lots and poor pedestrian orientation.

Staff Comments- The existing bank building is surrounded by a surface parking lot. The Comprehensive Plan supports taller buildings in this area as an incentive for redevelopment. The project plans incorporate pedestrian oriented design techniques along all sides of the building.

C. To provide incentive for redevelopment and because these larger sites have more flexibility to accommodate additional height, a mix of 2-4 stories is appropriate.

Design Considerations for 2-4 stories:

- ✓ South of Kirkland Avenue, building forms should step up from the north and west with tallest portions at the base of the hillside to help moderate the mass of large buildings on top of the bluff.

Staff Comments- The subject property is located south of Kirkland Avenue. At the time the policies were written Portsmouth condominiums were built and many of the properties below the hillside were in poor condition, underdeveloped, surrounded by surface parking lots, or considered opportunity sites for redevelopment. The intent of this policy is to terrace building form from two stories along streets to taller portions of the building (3rd, 4th, 5th stories) toward the hillside.

Project plans show two stories along the street, the building stepping back above the 2nd story on the north (Kirkland Avenue) and west (Lake Street So.). Building mass is reduced at the 3-5 floors along all sides of the building especially along both streets shifting the building form toward the alley.

- ✓ Buildings over two stories should generally reduce the building mass above the second story.

Staff Comments- Project plans show building mass reduced above the second 2nd story at levels 3-5 along Lake Street So and Kirkland Avenue. (see plan views on pages 15-18 and elevation drawings 19-20 and aerial views on p. 4, 27-28).

D. One additional story (5 stories) may be appropriate to encourage residential on upper floors and strengthen retail in the core area. This additional story (5th floor) may be considered by the DRB if:

- ✓ At least 3 of the upper stories are residential,

Staff Comment- Three stories will be residential.

- ✓ Total height is not more than one foot taller than the height that would result from an office project with three stories of office over ground floor retail (55 feet),

Staff Comment- Project plans indicate the building will meet the maximum height requirement of 55' above Kirkland Avenue.

- ✓ Stories above the second story are setback significantly from the street,

Staff Comments- The 3-5th stories are generously setback from both the property line at the ground floor and above the second story along both Lake Street So. and Kirkland Avenue. At the previous meeting the applicant compared the amount of setback at upper levels from

previously approved projects in the area. Staff concludes the amount of setback meets the policy intent. The Board will need to determine if the upper story setbacks are sufficient to meet the intent of this policy.

- ✓ The building form is stepped back at the third, fourth, and fifth stories to mitigate additional building mass,

Staff Comments- The 3rd-5th stories are setback from the second story along both Lake Street So. and Kirkland Avenue to mitigate building mass.

- ✓ Superior retail space is provided at street level,

Staff Comments- In the previous staff report for the November 19, 2001 DRC meeting staff analyzed how the project meets the superior retail principles. The plans have been revised to respond to the additional DRB comments relating to strengthening the retail especially along the Lake Street So. façade (see pages 6–8, 22-25). Along the Lake Street So. façade, the façade is now broken up into two vertical and horizontal segments and use of different building materials and color. The café is now oriented toward Lake Street So. providing two storefronts for opportunities for more active retail, multiple entrances, an increase in overhead weather protection for the pedestrian, space for outdoor seating, and increased landscaping at the curb. Increased building setbacks from the property line at the ground level provide wider sidewalks and pedestrian oriented spaces help meet the superior retail criteria.

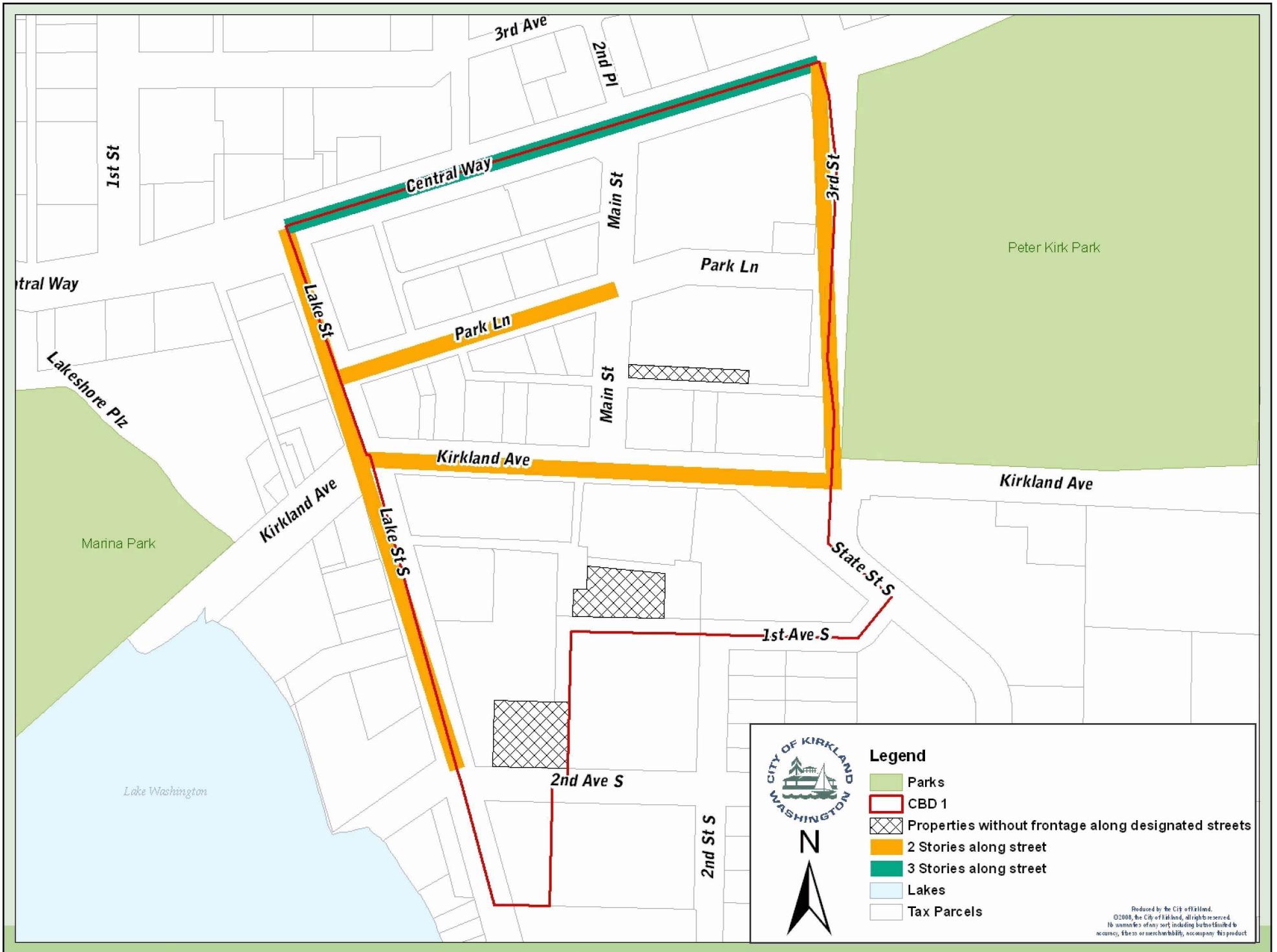
- ✓ Rooftop appurtenances and related screening does not exceed the total allowed height is integrated into the height and design of peaked or parapet roofs.

Staff Comments- Plans in the previous DRC meeting packet show the design for the rooftop appurtenances screening.

E. General design considerations related to pedestrian scale and orientation are of particular importance in this area:

- ✓ Street wall (façade) should contribute to lively, attractive, and safe pedestrian streetscape
- ✓ Judicious placement of windows
- ✓ Multiple entrances
- ✓ Awnings and canopies
- ✓ Courtyards, arcades
- ✓ Other pedestrian amenities
- ✓ Service area, parking, blank facades are located away from street frontage

Staff Comments- Revised plans provide the above pedestrian oriented design along both Kirkland Avenue and Lake Street So.. Sidewalks will be wider than the standard 10' width and decorated with a pattern. Landscape strips along the curb with more landscaping than the standard tree grates will be provided. The building facades along the streets show many windows, multiple entrances for both residents and tenant visitors, adequate awnings for weather protection, open space terraces for residents and generous open spaces for pedestrians at three corners of the site with planned art, water features, seating areas, and landscaping. Entrances to parking areas are from the alley and service areas will not be visible from pedestrian oriented streets.



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What Defines Superior Retail Space?

Issue: Within Design Districts 1A and 1B, the Downtown Plan provides that “as an incentive to encourage residential use of upper floors and to strengthen the retail fabric of the Core Area”, an additional story of height may be allowed. Among the criteria for the DRB to consider is that the project provides “superior retail space at the street level”.

A. What is the basic retail expectation (without height bonus):

What is the “basic” zoning expectation for retail:

- Code Standards:
 - Minimum 30’ depth required if intervening between street and office or housing use (Use Zone Charts)
 - Minimum 13’ height (Building Height Provisions)
- Pedestrian Orientation (Design Regulations):
 - Minimum 10’ sidewalk width
 - Minimum 75% glazing required between 2’ and 7’ height (or artwork or landscape treatments).
 - Minimum 80% pedestrian weather protection of property frontage
 - Minimum 5’ width
 - Should compliment architecture of building
 - Steel, glass, fabric and other materials of a more permanent nature are encouraged

Applicable Comprehensive Plan design considerations:

- Building design at the street wall should contribute to a lively, attractive, and safe pedestrian experience
 - Judicious placement of windows, multiple entrances, canopies, awnings, courtyards, arcades, and other pedestrian amenities.
 - Service areas, surface parking, blank facades located away from street frontage

B. What is the expectation for “superior” retail space:

- Physical features:
 - Size – Is it larger/deeper/higher than the norm?
 - Quality – Are the materials and details superior to the norm?
 - Streetscape – Are the public improvements superior to the norm (sidewalks, street trees, street furniture, public art, etc.)
- How does the retail fit into/contributes to downtown?
 - Does it support other retail by virtue of its tenants, pedestrian connections/linkages,, etc.
 - Is it space that attracts desired tenant types (local serving retail, anchor tenant space, etc.)

As of 3/19/08

From: Donna Riddell [mailto:donna_riddell007@yahoo.com]

Sent: Monday, January 07, 2008 10:18 AM

To: Eric Shields; Jeremy McMahan

Cc: Donna Riddell

Subject: You are our representatives, not the Developer's!

Dear Eric and Jeremy:

Please forward to the Design Review Board for tonight's Bank of America agenda item. Donna

I am writing to ask you to rescind your earlier approval of a 5th floor on the Bank of America project at tonight's DRB meeting. It is my understanding that you have the ability to withdraw your earlier vote and I strongly urge you to do so tonight.

Even though Janice dismisses the comments from people in Kirkland who live in condos and seems to view them as some sort of 2nd class citizens - I remind you that even if we don't live in a house, we are tax payers, we are residents and we are clearly not alone in our opposition to the destruction of the soul of Kirkland.

You must acknowledge the unprecedented volume of letters on the subject, the over 300 signatures on the petition and the unusually high attendance at each DRB and City Council meeting with the Lake Street projects on the agenda.

The people who are in opposition to buildings taller than two stories along Lake Street come from **every corner** of Kirkland.

You cannot, in good conscious, continue to turn your back on this strong community sentiment.

I know that when you initially voted to approve the 5th storey, you had not had the opportunity to review the voluminous community feedback you had received.

Now that you have had a chance to digest all the comments you have received, and have observed the continuing outpouring of opposition to the height, I feel confident that you will have had serious second thoughts about your earlier actions.

I feel sure that the flood of comments from citizens will have served to remind you that **you are tasked with the responsibility of representing the interests of the people of Kirkland.**

Please remember - you are *not* tasked with representing the interests of the Developers!

I trust that you will be impacted by the outpouring of heartfelt concern for the direction you seem to be defaulting to. In short: The Developer wants 5 stories. The citizens want 2 stories. Please do the right thing. Stand up and represent the citizens, not the Developer.

If the community opposition to the 3rd, 4th and 5th stories of this project are not enough to stop it from going forward in it's current design, the parking problem will surely cause you to rethink this situation.

The revelation that they will be adding to our already acute parking problems by having a shortfall of 26 spots must not be allowed.

The project should be reduced in size so that the parking slots provided are adequate.

Do not let the Developer try to wiggle out of compliance by hiding behind the initial proposal of having 'seniors' as residents. That is, at best, a temporary situation. You know full well that that designation can/will be changed in a heartbeat but the legacy of your decision will live with us forever.

Thank you for your attention to this important matter.

Donna Riddell

109 2nd Street South #621

Kirkland 98033

From: Andy Loos [mailto:andy@srmdevelopment.com]
Sent: Monday, January 07, 2008 10:39 AM
To: KirklandCouncil
Cc: Janice Soloff; Ellen Miller-Wolfe
Subject:

City Council:

I listened to the City Council discussion of January 2, 2008.

At the risk of sounding self-serving I wanted to let you know how I see the development of downtown Kirkland. Some of you have said that you like the “funky” aspect of downtown. I appreciate that and I too like small towns for their charm. But Kirkland is no longer a small town and although the Kirkland of 1960 may be one that you wish could remain forever the forces of growth have changed Kirkland and the rest of the region forever. We all enjoy the benefits of having density and growth – like having Cosco a half-mile from downtown, or a beautiful City Hall, senior center, new library, employers like Cosco and Google- these are not what we would typically find in a funky downtown. These are the result of growth- whether we like it or not and growth will continue as our population doubles by 2050.

Every city in the region, including Kirkland, has been the recipient of major growth. It is now widely accepted that growth should occur in downtown core areas where employment, utilities, roads, transit stations and shopping are centrally located to preserve open space in outlying areas, reduce sprawl and the need for more roads, utility lines, cars, pollution etc. – avoid the Los Angeles suburban model.

Developing buildings in urban areas is now considered the environmentally sensitive approach to growth. Mid-rise buildings use less energy, natural resources, roads and parking. Property values are higher for higher density dwellings and they appreciate faster than suburban dwellings. They promote social interaction and contribute to local commercial uses better than their suburban counterparts. They use less land per person thus preserving farmland, forest land and watersheds.

We wouldn't think that North Bend would have any problem finding land to build on. But they are now changing their zoning to add density in their little downtown core- three-story mixed-use buildings in North Bend to prevent sprawl. This same model- downtown densities- are occurring in every city in the region and Kirkland has been no exception as evidenced by its Comprehensive Plan to promote density in the downtown.

I think there are two issues for the City Council to consider:

1. Is this Council prepared to repeal the current Comprehensive Plan for lower density in the downtown?
2. If so then what would happen next? All two-story buildings in downtown? What would the ramifications be? (I'd be happy to give my opinions).

As a property owner in the downtown SRM Development has purchased property and gone forward to develop the property according to current statutes, ordinances, codes and processes approved, published and supported by representatives of the City of Kirkland. We have engaged in open public meetings. We have responded to suggestions from the public, City Staff and from the Design Review Board in the design of our project. We have met and will meet all applicable guidelines and codes. We're not asking for a zone change. We're not asking for special treatment. We're not asking for City property or money. We're making a significant investment of time, energy and good will to enhance Kirkland. We simply are asking to do what City Ordinances allow us to do as property owners in the City of Kirkland.

As a property owner we would all ask that we be treated fairly. If you bought your house assuming you could live there with your family and then the City decided that only three of your four family members could reside in the house you would probably think that was unfair. Now you would only be able to sell the house to families with three people so what is the impact on the value of your home?

The current zoning, comprehensive plan and design guidelines have been in place for many years. For these ordinances to be questioned after we have just purchased the property and applied for permits and after we had the exact same height and density approved on the adjacent property in the same zoning designation (without any issue from this Council) is not what I would consider to be fair or ethical.

I'd hope that all of you would consider the current Comprehensive Plan and the extensive work put into that Plan before taking any action to circumvent it no matter how genuine you may feel are the concerns raised by neighbors about height and densities in the downtown. There is a process for making changes to the Comprehensive Plan. If ordinances and zoning regulations are subject to change by a vote of four Council members at any point in time without due process then I think we could be moving down a very slippery slope.

Thank you.

Andy Loos
SRM Development
Property Owner: 747, 767, 777 6th Street; 212 State Street, 201 Kirkland Avenue, 101 Kirkland Avenue.

Andy Loos
Development Manager
SRM Development, LLC
808 5th Avenue North
Seattle, WA 98109
(P) 206-352-7873
(F) 206-352-7132
(C) 206-200-0675

From: Patty Brandt [mailto:pann855@aol.com]
Sent: Monday, January 07, 2008 3:47 PM
To: KirklandCouncil
Subject: Fwd: Bank of America Project

Dear Ms. Soloff,

I am writing in support of the Bank of America project in downtown. As a long time Kirkland business and property owner I believe that this opportunity will provide Kirkland's Downtown a very high quality and desirable building that has been specifically designed with the urban village style consistent with the Vision Statement created by the DAC and delivered to the City Council on October 16, 2007. The project will help solve many of our problems we face in Downtown Kirkland including the lack of adequate and convenient parking, the poor condition and appearance of many of our existing buildings, the lack of space availability for larger retailers, the lack of much needed daytime shoppers and the chronic problem of seasonality of downtown's retail business climate. Kirkland is not only losing it's charm but losing business to places like Bellevue and Redmond. Condo and business owners alike will benefit from the increased choices available, the enhanced atmosphere and additional revenues generated.

The Bank of America project is compliant with the City Comprehensive Plan, the Design District Guidelines and the Zoning Code all which have been in place for many years.

The Bank of America project provides a vibrant, valuable and charming development that is desperately needed for any continued success for Downtown Kirkland and I strongly recommend that the DRB approve this project.

Thank you,

Patricia Brandt and Lois Myers
"The Flame Building"

9532 150 ST SE
Snohomish, WA 98296
(360) 668-8543 Home/Fax or
(425) 485-6776

From: Donna Riddell [mailto:donna_riddell007@yahoo.com]

Sent: Saturday, December 08, 2007 12:58 PM

To: Eric Shields; Jeremy McMahan; Janice Soloff; David Ramsay; James Lauinger; Jessica Greenway; Joan McBride; Bob Sternoff; Dave Asher; Tom Hodgson; Mary-Alyce Burleigh

Subject: Fwd: City of Kirkland Customer Request #560

Hello:

I must reiterate my shock and disappointment in the obvious lack of interest in the opinions of the residents of Kirkland in the development approval process.

I attempted to express my outrage to the DRB that my letter and my verbal comments at the 3Dec meeting were utterly ignored, and was informed that I'm not allowed to communicate with them.

I was assured by the Communications Manager (via 'Contact Us' on the City's website) that my concerns would be passed on to another person who in turn would pass them on to the DRB.

Since I haven't have a response to *either* my original letter (attached) or my message (below), it begs the question.... is anyone out there listening?

It is beyond my comprehension why there is any need to change the current 2 storey height along Lake Street.

No one has offered an explanation as to *why* new development has to be higher.

Why can't new development be just that - new?

Donna Riddell
Concerned Kirkland Resident

2 December 2007

City of Kirkland, WA
Members of the Design Review Board
c/o Ms. Janice Soloff, City Planner

Re: Pending Application – Bank of America

2 December 2007

City of Kirkland, WA
Members of the Design Review Board
c/o Ms. Janice Soloff, City Planner
Re: Pending Application – Bank of America

Dear Members of the Design Review Board:

I appeal to the Design Review Board to use the discretion they have been empowered with to preserve the soul of Kirkland and reject any plans that destroy the charming village atmosphere we know and love.

I have called Kirkland home for over a decade. I revel in the fact that my visitors always make comments about how they feel like they are on vacation when they come to Kirkland, because downtown feels like a quaint resort town. I feel like I'm on a mini vacation every minute of my evenings and weekends when I escape the tall cold buildings of Seattle and Bellevue and come home to 'my village'.

Looking over the various websites** that glowingly describe our town, it causes me pain to think that we appear to be heading in a development direction that specifically takes away the very aspects of Kirkland that we are collectively most proud of. We brag about things like:

- 'The charming pedestrian friendly downtown calls out to be explored.'
- 'Downtown Kirkland has a village atmosphere with a cluster of shops along its main streets and connecting tree-lined lanes.'
- 'Strolling the streets past eclectic storefronts is a favorite past-time activity and outdoor cafes provide plenty of people-watching opportunities.'
- 'Community that has managed to retain much of its original charm.'
- 'Walkers, joggers, and cyclists enjoy the scenic surroundings of downtown Kirkland.'
- 'There are good restaurants, interesting places to walk.'
- 'Very few communities can boast having BOTH waterfront access AND a vibrant and pedestrian-friendly downtown.'

Clearly the ambiance of downtown Kirkland is what makes our town unique. It's what visitors and residents alike love about it. If we succumb to the temptation to build higher and higher buildings right along the heart of our central shopping area – we demolish the very thing that we all hold so dear.

I plead that the members of the Board adhere to the concepts expressed in the City of Kirkland Comprehensive Plan and ensure that buildings are more than 2 stories high along Lake Street. A tunnel of 4-5 story structures lining downtown will take away the pleasant open feeling we enjoy today and create the sensation of being in a dark tunnel. The 'setbacks' shown in the B of A design don't change the fact that our precious moments of sunlight will be completely obliterated by the proposed buildings towering over our pedestrian areas.

Thank you for your dedicated efforts. I trust that our charming town is safe in your good hands.
Regards, Donna Riddell

109 2nd Street South #621
Kirkland WA 98033

** Quotes from:<http://www.explorekirkland.com/>
<http://www.mosshbay.org/about.htm>
http://kirklanddowntown.org/about_kirkland.htm
http://en.wikipedia.org/wiki/Kirkland,_Washington
http://www.nwsourc.com/travel/scr/tf_detail.cfm?id=4177

Our firm provides real estate services work for US Bank on their branch banks. US Bank owns a branch bank location in downtown Kirkland and they have asked me to send this correspondence. They support the Bank of America project because it provides the City of Kirkland a very high quality and desirable building specifically designed with the urban village style that is consistent with the Vision Statement created by the DAC and delivered to the City Council on October 16,2007. The project as well as future similiar projects, will help solve many of the problems in Downtown Kirkland including the lack of adequate and convenient parking, the poor condition and appearance of many of the existing buildings, the lack of space availability for larger retailers, the lack of much needed daytime shoppers and the chronic problem of seasonality of downtown's retail business climate.

Having watched the previous fiasco regarding the redevelopment of the City Parking lot and the US Bank site under a request for proposal from Millikan Martin a few years ago, it is frustrating to see the lack of certainty in the City Codes and the indication of potential waivering of those codes. The Bank of America project is compliant with the City Comprehensive Plan, the Design District Guidelines and the Zoning Code-both of which have been in place for many years.

The Bank of America project provides a vibrant, valuable and charming development that is desparately needed for any continued success for Downtown Kirkland. I strongly recommend the the DRB approve this project.

Rick Drottz
Kennedy Wilson Properties Northwest Ltd.
301-116th Ave SE, Ste 100
Bellevue, Wa. 98004
Telephone: 425-453-2500 ext 103
Fax: 425-453-0505
E-Mail: rdrottz@kennedywilson.com

Jim & Carolyn Hitter

119 8th Lane, Kirkland, Washington 98033
ph: 425-803-0590 e-mail: <cjhitter@earthlink.net>

April 3, 2008

Dear Mayor and City Council:

As downtown Kirkland residents since the 1950's, we believe that it's important to make our feelings about downtown development known to you. We strongly favor the projects proposed for the Bank of America property, Hector's and especially Park Place.

Of course, we expect that the City Council and the Design Review Board will exercise their responsibilities to insure that the projects are built with good taste, provision of public amenities, and with proper attention paid to traffic and parking considerations.

We have no financial interest in any downtown business or property (except for our home), and we expressly oppose the imposition of a building moratorium.

Not very long ago the City Council made a choice for a surface parking lot instead of a nicely designed commercial structure. In that case the Council was dealing with property owned by the City. The projects now under consideration are different – private property owners wanting to develop (mostly) within current zoning. While we hope that these owners would, on their own, develop with sensitivity, this is where Kirkland can lead the way by providing design guidance that will enable willing investors to develop economically viable and attractive buildings that will serve our citizens.

It's rather sad, but so common these days, that residents move to Kirkland to live in big new houses or big new condominium developments and then want development to stop. From what we gather, the opponents of these downtown development projects are mainly residents of the bulky overlooking condos and oversize mega-mansions. Kirkland has many more folks who understand that views are not permanent entitlements and that small town amenities don't necessarily preclude new developments.

We like the idea that we can, and do, walk to the library, movie theatre, market, dentist, performance center, bus stop, bank, City Hall, waterfront, cleaners, bakery, café, and more. You won't be surprised to know that we would also like to walk to a downtown doctor, a place to buy a cup hook or a USB cable, a good deli, a larger market, and more.

Sincerely,

Jim and Carolyn Hitter

From: Rachel Knight [mailto:rachel_knight@comcast.net]
Sent: Tuesday, January 15, 2008 9:53 PM
To: Janice Soloff
Subject: BOA project

Dear Janice,

Retail and offices are what keeps the City of Kirkland with revenue to work with to create a quality place to live. We need projects like the Bank of American project and I am voicing my concern for the vitality of our city and its sustainable longevity if we become a little condoville.

I support the BOA project) because it provides the City of Kirkland with a very high quality and desirable building specifically designed with the urban village style that is consistent with the Vision Statement created by the DAC and delivered to the City Council on October 16, 2007.

The project will help solve many of our problems we face in Downtown Kirkland including the lack of adequate and convenient parking, the poor condition and appearance of many of our existing buildings, the lack of space availability for larger retailers (desperately needed to help support traffic for the smaller more boutique retailers), the lack of much needed daytime shoppers and the chronic problem of seasonality of downtown's retail business climate.

The BOA is compliant with the City Comprehensive Plan, the Design District Guidelines and the Zoning Code - both of which have been in place for many years.

I strongly recommend that this project be approved.

Thank you for your consideration.

Rachel Knight

Cell: 425-417-8818

Dear City Council Members,

We all know that our City of Kirkland needs a stronger tax base. We also need a better downtown business district to attract the shoppers necessary for its survival. Currently we have plenty of homes, condominiums and apartments but relatively few businesses. Our downtown business district does not attract businesses that would provide our citizens with "one-stop shopping". Therefore, we are forced to shop in Bellevue and Redmond - spending our dollars in places other than Kirkland.

You, the Council, our Planning Department and our Design Review Board have done an excellent and thorough job of continuing the vision for developing our city. There are several projects in the downtown area that are currently in review that lend themselves to providing the structure necessary to make our downtown area a much more viable destination for both visitors and our citizens. Both the McLeod Project and the Bank of America Project meet our city's Comprehensive Plan, our Design District Guidelines and our Zoning Code. (The future redevelopment of Park Place will also improve our downtown business area but is not the subject of this letter).

I am concerned that a group of condo owners who are against these developments may destroy the future of our city. I believe that their main objection may be because the project could alter their views. I don't believe that views should be (nor are they currently) part of the Design Review Process, nor should they be grandfathered in to prevent future development. We must not lose sight of our vision for the future of Kirkland at the expense of placating a small minority.

I therefore urge you to approve these projects. Let's continue making Kirkland's Downtown more livable for all our citizens. Let's keep more of our tax dollars in the City. Let's reduce the burden of taxes by having a stronger business core that will contribute to our tax base.

Thank you for your work of behalf of all of our citizens and thank you for your thoughtful consideration of these projects.

J. Donald Dicks
10635 NE 116th Street
Kirkland, WA 98034
jddicks@verizon.net

Planning Department c/o Janice,

I am greatly concerned that there is a minority in our city that seem to have developed a majority voice with our elected officials. As a state we voted to densify our cities to eliminate the urban sprawl, and now that the density is becoming a reality those citizens that live next to the development are saying "NO", even though most of the condo's in Kirkland were fought in much the same way before they were built. The cost of land on the East side has sky rocketed and the people that own the down town properties cannot make a profit on their investments if they cannot build to the maximum the code allows. How can we as a city change the building codes to satisfy the minority. We all say we want a vibrant, active, down town, but if we do not let some change happen, we may not have an active down town.

Back in the 1970's Kirkland was a "dead" town, I grew up an hour north of here and had never heard of Kirkland until I went to college. When I met students who grew up in Kirkland they would almost whisper where they were from, they were ashamed of their home town. Back then our city officials came up with a vision to get this town moving in the right direction, and Kirkland has improved, and it was not without some growing pains. We cannot stop, we need to keep moving to a future that keeps our city vibrant and active and makes people proud of where they came from. By no means do I want to see Kirkland grown up like Bellevue did, but we do need to let the down town grow up a bit.

Sincerely
Sharon Clark
9516 130th Ave. NE
Kirkland WA 98033

January 31, 2008

Jeff Bates, Chair
Design Review Board
City of Kirkland
123 Fifth Ave.
Kirkland, WA 98033

RECEIVED
FEB 04 2008
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

Dear Mr. Bates and members of the Design Review Board,

Last summer I purchased a copy of a little booklet called Kirkland, The Power of a Dream by Stephen L. Lamson. Over the past few weeks I have spent a lot of time with a magnifying glass looking at the photos of early Kirkland, especially the photos of the downtown core. After attending many Design Review Board meetings concerning the Bank of America building and the proposed developments at Parkplace and the Hector's location, I was curious about the past appearance of Kirkland. Many residents of Kirkland have spoken out against the developments in downtown, saying that they want to keep the current ambiance and village-like feel in town.

Since the founding of Kirkland, each generation has left its mark on the city, some marks better than others. In the photos on pages 52 and 54 of the Lamson book, the bones of our current city can easily be seen. The downtown of the 1970s looks dingy, car-oriented, and boring. It appears to have been created on a whim at the shore of the lake and at the terminus of several major streets. I see neither ambiance nor village-like charm; it is amazingly similar to downtown today.

In the years since those aerial photographs were taken, possibly the biggest changes have been the addition of condominiums and the development of Parkplace. The newest buildings have pulled Kirkland (kicking and screaming) into the future. Although I heard a lot of complaints at the meetings about condominiums, the additional residents have added vitality to a sleepy bedroom community, and the buildings have added interest and character to downtown.

Now you are involved in creating a downtown for the next generation or longer to accommodate retailers, residents, and workers as you make decisions about Parkplace, the McLeod (Hector's) development, and deal with the possible appeal of the Bank of America project. I don't envy your task as you try to weigh the requests of the developers against the passion of the community and square it all up with the city's codes and zoning regulations. It's almost a thankless task, but that is the reason I'm writing. I would like to say thank you for making the hard decisions about what our city will look

like. What I've seen and admired at the meetings is a group of people who really care about Kirkland. You haven't rubber stamped plans submitted by developers with deep pockets and you haven't caved in to community groups resisting changes just because they are changes. The requests you've made on the different projects have been thoughtful and have resulted in better designs than were originally proposed. The direction you are taking Kirkland is exciting. I am optimistic that it will result in an interesting, attractive small town that takes advantage of its unique and beautiful location. I encourage you to keep up the good work.

Sincerely,

A handwritten signature in cursive script that reads "Chris Miller".

Chris Miller
225 4th Ave. #A-503
Kirkland, WA 98033

Cc: James Lauinger, Mayor; Dave Ramsay, City Manager

From: Patty Brandt [mailto:pann855@aol.com]
Sent: Friday, February 01, 2008 12:22 PM
To: KirklandCouncil
Subject: Against Building Moratorium

Dear Kirkland City Council Members:

I am writing to you today to let you know that I am against the petition received by the City on January 22, 2008 related to imposing a building moratorium in Downtown Kirkland. This petition is short-sighted and not in the best long term interests of the City.

The minority group signing this petition is trying to over-ride the City's Comprehensive Plan and Zoning Code that has been in place for many years and has proven to be successful. Kirkland's Comp Plan and Zoning Code was developed by the City and it's residents in part to respond to the mandatory requirements of the Growth Management Act for the State of Washington. Our region has serious environmental issues and Kirkland must do their part to detract from urban sprawl. The GMA dictates that high density business and population growth be strictly concentrated in urban areas, and all cities must develop zoning codes and land use guidelines that specify and promote this type of new development. As a result, the City Staff, City consultants and a very thoughtful group of concerned Kirkland stakeholders carefully drafted the current Comprehensive Plan, Design Districts and Zoning Code to encourage four and five story buildings. The rationale for the current code is clear and it was never intended to reduce density or restrict buildings to 2 or 3 story height.

It is time to look to the future and to build a vibrant and economically viable downtown area. Our downtown retailers and service industries need our help to encourage smart development to promote shopping, spending and economic vitality. As quaint as it may seem, we are not living in the past and we must move forward to build a better Kirkland. To try and put Kirkland in a bubble of no growth is not realistic or progressive and it will likely lead to the economic disaster for downtown in the future.

Please Vote **AGAINST** the petition.

Sincerely,

Patty Brandt
Kirkland Business Owner/Business-person/Commercial Property Owner since 1977
9532 150 ST SE
Snohomish, WA 98296
(360) 668-8543 Home/Fax or
(425) 485-6776

From: Jennifer Linden [<mailto:jenlinden@verizon.net>]
Sent: Saturday, February 02, 2008 8:33 PM
To: Jeremy McMahan
Subject: Bank of America site proposal

Dear Planning Department, and whomever else:

I wish to express my dismay at the prospect of a big building going up on the corner of Lake & Kirkland Way. Please stick with the 2- story height limit, and do not reward developers with "extra stories" for any reason. That site, located so near Marina Park, would be nice with very generous set-backs of any building, perhaps even a pocket park right at the corner to maintain good visibility. It is a shame to have the limited winter sun blocked out by the tall buildings going up along Kirkland Way. I hear so much about keeping Kirkland livable & walkable; having the massive buildings make it a lot less pleasant to walk—on shaded, wet, &/or icy sidewalks. Let the tall buildings go to the Totem Lake area or to Bellevue or Seattle. Let central Kirkland be more human-scaled.

Thank you for your consideration.
Jennifer Linden

From: Michael Moore [mailto:michaelmoore@cbbain.com]
Sent: Friday, February 01, 2008 7:04 PM
To: KirklandCouncil
Subject: Please vote no on the Moratorium!

Dear Kirkland City Council Members:

I am writing to you today to let you know that I am against the petition received by the City on January 22, 2008 related to imposing a building moratorium in Downtown Kirkland. This petition is short-sighted and certainly is not in the best long term interests of the City as a whole.

The petition is signed primarily from residential condominium owners living in the Downtown area in buildings that may be directly affected by any new development. This minority group is trying to override the City's Comprehensive Plan and Zoning Code that has been in place for many years.

The City's Comp Plan and Zoning Code was developed by the City and it's residents in part to respond to the mandatory requirements of the Growth Management Act for the State of Washington. Our region has serious environmental issues and Kirkland must do their part to detract from urban sprawl. The GMA dictates that high density business and population growth be strictly concentrated in urban areas, and all cities must develop zoning codes and land use guidelines that specify and promote this type of new development. As a result, the City Staff, City consultants and a very thoughtful group of concerned Kirkland stakeholders carefully drafted the current Comprehensive Plan, Design Districts and Zoning Code to encourage four and five story buildings. The rationale for the current code is clear and it was never intended to reduce density or restrict buildings to 2 or 3 story height.

It is time to look to the future and to build a vibrant and economically viable downtown area. Our downtown retailers and service industries need our help to encourage smart development to promote shopping, spending and economic vitality. As quaint as it may seem, we are not living in the past and we must move forward to build a better Kirkland. To try and put Kirkland in a bubble of no growth is not realistic or progressive and it will likely lead to the economic disaster for downtown in the future.

Please Vote AGAINST the petition.

Best Wishes,

Michael Moore
The Moore Group
Coldwell Banker Bain Commercial
12721 Bel-Red Road, Suite 1
Bellevue, WA 98005

P: 425-519-4205
P: 800-459-5860
F: 425-519-8048
E: michaelmoore@cbba.com

February 3, 2008

Dear Kirkland City Council Members:

We are writing to you today to let you know that we are against the petition received by the City on January 22, 2008 related to imposing a building moratorium in Downtown Kirkland. This petition is short-sighted and certainly is not in the best long term interests of the City as a whole.

The petition is signed primarily from residential condominium owners living in the Downtown area in buildings that may be directly affected by any new development. This minority group is trying to over-ride the City's Comprehensive Plan and Zoning Code that has been in place for many years.

The City's Comp Plan and Zoning Code were developed by the City and its residents in part to respond to the mandatory requirements of the Growth Management Act for the State of Washington. Our region has serious environmental issues and Kirkland must do their part to detract from urban sprawl. The GMA dictates that high density business and population growth be strictly concentrated in urban areas, and all cities must develop zoning codes and land use guidelines that specify and promote this type of new development. As a result, the City Staff, City consultants and a very thoughtful group of concerned Kirkland stakeholders carefully drafted the current Comprehensive Plan, Design Districts and Zoning Code to encourage four and five story buildings. The rationale for the current code is clear and it was never intended to reduce density or restrict buildings to 2 or 3 story height.

It is time to look to the future and to build a vibrant and economically viable downtown area. Our downtown retailers and service industries need our help to encourage smart development to promote shopping, spending and economic vitality. As quaint as it may seem, we are not living in the past and we must move forward to build a better Kirkland. To try and put Kirkland in a bubble of no growth is not realistic or progressive and it will likely lead to the economic disaster for downtown in the future.

Please Vote **AGAINST** the petition.

Sincerely,

Larry & Mary Brill
501 Kirkland Ave. #109
Kirkland, WA 98033-6246

From: Laukaitis, Matthew [mailto:matt.laukaitis@sap.com]

Sent: Sunday, February 03, 2008 8:00 AM

To: KirklandCouncil

Subject: We support the moratorium

Hello Kirkland City Council,

My wife, family, and I all support the building moratorium in downtown Kirkland. Let's preserve the wonderful sense of community we currently have...fast high rise development, especially along the main downtown streets, will destroy what makes Kirkland so special.

Best regards,
Matt

Matt Laukaitis

From: Scott Thompson [mailto:SThompson@weberthompson.com]
Sent: Monday, February 04, 2008 2:49 PM
To: KirklandCouncil
Subject: Petition for a Construction Moratorium Downtown

City Council -

As a resident of Kirkland and an architect very concerned about the vitality of my downtown, **I strongly oppose any moratorium on redevelopment.** This petition is short-sighted and certainly is not in the best long term interests of our City as a whole. Successful, vibrant downtowns depend on concentrated residential to support the retailers. As I continue to see the constant turnover of businesses at the street, It is apparent that downtown Kirkland desperately needs the housing. The city already has an excellent comprehensive plan and zoning code to mitigate the height and bulk of buildings. Let's stay with something that is working.

Please reject this petition signed by folks mostly concerned about maintaining personal views from their condo units rather than what is healthy for the entire community. Whose view was blocked when their condominium project was built?

Regards:
Scott

Scott E. Thompson AIA, LEED AP

senior principal
206 344 5700 x217

WEBER + THOMPSON

425 Pontius Avenue N Suite 200
Seattle WA 98109

please visit our website
www.weberthompson.com

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From: Blake Stedman [mailto:bstedman@coastmgt.com]
Sent: Monday, February 04, 2008 3:50 PM
To: KirklandCouncil
Subject: City comp plan and proposed moratorium

Dear City Council:

My son and I invested in property in Kirkland a few years ago. To date, we have been quite pleased with our investment, however, I am concerned that should the current petition proposing a building moratorium in Downtown Kirkland, our property may actually diminish in value, as to accept the petition sends a very unfavorable message to the businesses in and around the area.

My understanding is that the current zoning was developed in response to the Growth Management Act for the State of Washington, in an effort to minimize urban sprawl. As such, the GMA dictates that zoning codes be updated to promote higher density business and residential populations. Therefore, I humbly request you vote AGAINST the petition to limit growth in the downtown area.

Thank you

Blake Stedman
Bryan Stedman
12742 NE 116th LN #J26
Kirkland, WA 98034

From: Bill Cooper [mailto:bill.cooper@pacific-re.com]

Sent: Monday, February 04, 2008 4:49 PM

To: KirklandCouncil

Cc: Paul Stelzer

Subject: Voting against

I own two residential properties in Kirkland and am opposed to the the petition to limit downtown projects.

My home address is 10621 117th pl ne Kirkland, WA 98033. Home # is 425-922-2941

Best Regards,

Bill Cooper

From: Pat Kaluna [mailto:patk@ascentis.com]

Sent: Monday, February 04, 2008 5:02 PM

To: KirklandCouncil

Subject: RE: The petition filed with the City to impose a building moratorium on all new development in Downtown Kirkland

To Whom It May Concern:

I vote NO on the petition filed with the City to impose a building moratorium on all new development in Downtown Kirkland.

We need to look to the future and support developments that will build a vibrant and economically viable Downtown. As we all can agree Kirkland's quaint and small town feel is what has attracted people to it, however we are not living in the past and must move forward to build a better Kirkland so we don't put the community in a bubble of no growth which would likely lead to economic down turn for it in the future.

Pat Kaluna

Manager of Services and Support

Ascentis, Corporation

1-800-229-2713 x 177

425-462-7171 x 177

From: Kevin Pedersen [mailto:kevinpedersen@msn.com]
Sent: Monday, February 04, 2008 5:29 PM
To: KirklandCouncil
Cc: pstelzer@elitegroupnw.com
Subject:

To whom it may concern

Re: petition to create a moratorium against commercial development in Downtown Kirkland area.

My name is Kevin Pedersen. I am a Kirkland resident and reside at 9727 NE Juanita Drive# 301,

I would like to represent a vote against this petition as I strongly believe that the projects currently on the table in Kirkland such as the Mcleod project and The Bank of America project are the kinds of projects that this city needs to continue to drive business and economic activity in to Kirkland so that businesses currently in Kirkland can continue to be successful. I also believe if we do not become proactive in this manner, we will become an irrelevant player in the eastside business community when compared to the progressive thinking that has allowed redmond, Bellevue, and Issaquah to transform their city centers into vibrant communities that are thriving and growing. I hope that many others will also respond in this kind

Kevin Pedersen

From: Anthony Ewing [mailto:anthony@mcacorp.net]
Sent: Tuesday, February 05, 2008 7:16 AM
To: KirklandCouncil
Cc: 'Paul Stelzer'
Subject: Petition to halt building in Downtown Kirkland

To Whom It May Concern,

I would like to voice my opinion by voting against the petition to stop development in downtown Kirkland. I believe this new development will help Kirkland in many ways and I look forward to the positive changes it will bring to our city. I have been a Kirkland resident for over 9 years and truly believe our downtown area needs some serious updating.

Thank you for your time,

Anthony A. Ewing

Senior Mortgage Consultant | [First National Mortgage Sources](#) | 512 6th St S, Suite 101 | Kirkland, WA 98033
|
Toll Free: 888.887.7771 EXT 514 | Office: 425.250.4814 | Cell: 206.229.4567 | Fax: 425.650.7046 |

Customized mortgage solutions...

From: mila vladi [mailto:milavladi@gmail.com]
Sent: Monday, February 04, 2008 7:16 PM
To: KirklandCouncil
Subject: Petition

Dear Kirkland City Council Members:

I am writing to you today to let you know that I am against the petition received by the City on January 22, 2008 related to imposing a building moratorium in Downtown Kirkland. This petition is short-sighted and certainly is not in the best long term interests of the City as a whole.

The petition is signed primarily from residential condominium owners living in the Downtown area in buildings that may be directly affected by any new development. This minority group is trying to over-ride the City's Comprehensive Plan and Zoning Code that has been in place for many years.

The City's Comp Plan and Zoning Code was developed by the City and it's residents in part to respond to the mandatory requirements of the Growth Management Act for the State of Washington. Our region has serious environmental issues and Kirkland must do their part to detract from urban sprawl. The GMA dictates that high density business and population growth be strictly concentrated in urban areas, and all cities must develop zoning codes and land use guidelines that specify and promote this type of new development. As a result, the City Staff, City consultants and a very thoughtful group of concerned Kirkland stakeholders carefully drafted the current Comprehensive Plan, Design Districts and Zoning Code to encourage four and five story buildings. The rationale for the current code is clear and it was never intended to reduce density or restrict buildings to 2 or 3 story height.

It is time to look to the future and to build a vibrant and economically viable downtown area. Our downtown retailers and service industries need our help to encourage smart development to promote shopping, spending and economic vitality. As quaint as it may seem, we are not living in the past and we must move forward to build a better Kirkland. To try and put Kirkland in a bubble of no growth is not realistic or progressive and it will likely lead to the economic disaster for downtown in the future.

Please Vote **AGAINST** the petition.

Sincerely,

The Kochman Family

10319 111th Ave NE
Kirkland, WA 98033

From: Stephanie Reimann [mailto:sreimann@microsoft.com]

Sent: Monday, February 04, 2008 5:23 PM

To: KirklandCouncil

Subject: Commerical Building Projects in Kirkland

To whom it may concern:

I am against the petition to limit commercial building projects in Kirkland.

My name is Stephanie Reimann

Address:

9217 122nd Court NE B115

Kirkland, WA.98033

425-889-0615

Thanks

Stephanie

From: Paul Stelzer [mailto:pstelzer@elitegroupnw.com]
Sent: Monday, February 04, 2008 6:08 PM
To: KirklandCouncil
Subject: Opposed to petition filed on limiting Downtown Development

To Whom It May Concern:

I am a local business owner and own property in the Totem Lake Area. I oppose the petition filed against the developing of Downtown.

As we do need to be sensitive in what we are developing the current height increases are needed to bring new office, retail and parking. We need to look to the future and support developments that will build a vibrant and economically viable Downtown. As we all can agree Kirkland's quaint and small town feel is what has attracted people to it, however we are not living in the past and must move forward to build a better Kirkland so we don't put the community in a bubble of no growth which would likely lead to economic down turn for it in the future.

I truly hope you take a real look at the future of this wonderful community and make the right decision. Change is inevitable and we must take the necessary steps to promote growth and economic stability for Kirkland.

Paul Stelzer
Managing Broker
Elite Real Estate Group
121 Lake Street South
Suite 201
Kirkland, WA 98033
Office 425-250-3390
Direct 425-250-3305
Fax 425-250-3393

From: Jacsnedeker@aol.com [mailto:Jacsnedeker@aol.com]

Sent: Monday, February 04, 2008 6:45 PM

To: KirklandCouncil

Subject: Moratorium

I oppose the petition for the moratorium!!

Jacqueline Snedeker

From: Jana Thomas [mailto:jana@Sunriseid.com]
Sent: Monday, February 04, 2008 5:45 PM
To: KirklandCouncil
Cc: 'pstelzer@elitegroupnw.com'
Subject: Downtown Kirkland Development

I own two residential properties in Kirkland and am opposed to the petition to limit downtown projects.

My home address is 10621 117th pl ne Kirkland, WA 98033. Home # is 206-999-8018

Thank you!
Jana Cooper

jana thomas cooper
senior account manager
sunrise identity

t 425.897.6262
c 206.999.8018
f 206.350.6927
www.sunriseid.com

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From: Jennifer Lansangan [mailto:Jennifer.Lansangan@pacific-re.com]
Sent: Monday, February 04, 2008 6:27 PM
To: KirklandCouncil
Subject: I am against the petition to limit commercial building projects in Kirkland

I am against the petition to limit commercial building projects in Kirkland

Jennifer Lansangan
Pacific Real Estate Partners
425-974-4027

From: Pam Schmoll [<mailto:pam@inspireawe.com>]
Sent: Tuesday, February 05, 2008 7:11 AM
To: KirklandCouncil
Subject: Kirkland downtown renovation

Downtown Kirkland is not as charming as it once was. It is beginning to look tired and I think keeping it "tired" is bad for everyone. Please ignore the condo owner's petition to ban homes like the ones they currently inhabit!

-

Pam Schmoll
Associate Broker
"Connect With the Realtor Who Cares!"
RE/MAX Real Estate Center
e-mail: pamschmoll@remax.net
web site: www.pamschmoll.com
direct: (425) 922-9344

From: Heidi Litzenberger [mailto:HeidiLitzenberger@EliteEvolution.com]
Sent: Tuesday, February 05, 2008 10:10 AM
To: KirklandCouncil
Cc: Paul Stelzer
Subject: Re: petition to create a moratorium against commercial development in Downtown Kirkland area.

My name is Heidi Litzenberger. I am a lifetime Kirkland resident and currently reside at 10810 107th PL NE Kirkland.

I would like to represent a vote against this petition as I strongly believe that the projects currently on the table in Kirkland such as the McLeod project and The Bank of America project are the kinds of projects that this city needs to continue to drive business and economic activity in to Kirkland so that existing businesses can continue to be successful. I also believe if we do not become proactive in this manner, we will become an irrelevant player in the eastside business community when compared to the progressive thinking that has allowed Redmond, Bellevue, and Issaquah to transform their city centers into vibrant communities that are thriving and growing. Thank you.

Heidi Litzenberger

Heidi Litzenberger
Yarrow Bay Mortgage
Senior Processor
425-250-3382 phone
425-250-3394 fax

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From: Patty Brandt [mailto:pann855@aol.com]
Sent: Tuesday, February 05, 2008 10:03 AM
To: KirklandCouncil
Subject: No on proposed Moratorium

City Council Meeting Feb 5, 2008

My name is Patricia Brandt and I live at 9532 150 ST SE in Snohomish. Kirkland has been my place of business for over 33 years. I started busing tables at the Flame when my mother bought the building in the 70's and I stayed with the Flame until it closed in 1989. I continue to manage my mother's property and I commute to Kirkland daily for my accounting job. I care about Kirkland and I have a vested interest in its success.

I am here to ask you to vote against the proposed Moratorium on building Downtown. The Moratorium sends a negative and backwards thinking message to current and future business owners and investors as well as prospective buyers of residential and commercial properties. Kirkland can not exist in a vacuum – change is hard but that doesn't make change bad.

I am excited about the new projects in Kirkland. Downtown is very much in need of the revitalization that new development will bring. The increased aesthetic value of the area in addition to the benefits of more retail space, office space and parking will bring more people to the Downtown area. This all equates to revenue for the local businesses, more choices for the citizens and increased dollars to the city. Dollars needed to maintain our streets, parks and to fund community projects. A prosperous City contributes to the stabilization of residential and commercial property values and property taxes.

We all benefit from a strong and economically viable downtown. Please do not let a small special interest group dictate our future. Kirkland's comprehensive plan and zoning code was developed by the city and its people in order to help build the future for all of Kirkland.

Please vote no on the moratorium and that will be a yes for Kirkland's bright future.

Thank you for your time.
Take Care,

Patty Brandt
9532 150 ST SE
Snohomish, WA 98296
(360) 668-8543 Home/Fax or
(425) 485-6776

From: Brady Yeager [mailto:BradyYeager@EliteEvolution.com]
Sent: Tuesday, February 05, 2008 11:10 AM
To: KirklandCouncil
Subject: McCloud Project

I vote against the petition to stop the McCloud project. Last week a petition was filed with the City to impose a building moratorium on all new development in Downtown Kirkland, I feel that this hurt the city of Kirkland. I have lived in downtown Kirkland for 10 years and feel this would be a great improvement to the area.

Thank you.

Brady Yeager
530 Alexander Ave
Kirkland, Wa 98033

Brady B. Yeager
Managing Broker
Yarrow Bay Mortgage Inc.
121 Lake Street Suite 201
Kirkland, WA. 98033
Phone 800.978.1560 ext 2002
Fax 425.250.3396
byeager@ybmlans.com
www.yarrowbaymortgage.com

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From: Adrian [mailto:adrian.webb@westernthrift.net]
Sent: Tuesday, February 05, 2008 11:33 AM
To: KirklandCouncil
Cc: Paul Stelzer
Subject: I vote against the petition.

I am out of town so I cannot attend the meeting, but I would like to vote against the peition. I am for growth and development in the city of Kirkland.

My address is 421 2nd St. S
Kirkland WA 98033
(206) 795-8411

Thank You

Adrian Webb
Sierra Capital Group
www.sierracapitalonline.com
(206) 795-8411 Cell

From: william.hawkins@comcast.net [mailto:william.hawkins@comcast.net]
Sent: Tuesday, February 05, 2008 11:54 AM
To: KirklandCouncil
Subject:

Dear Kirkland City Council Members:

I am writing to you today to let you know that I am against the petition received by the City on January 22, 2008 related to imposing a building moratorium in Downtown Kirkland. This petition is short-sighted and certainly is not in the best long term interests of the City as a whole.

The petition is signed primarily from residential condominium owners living in the Downtown area in buildings that may be directly affected by any new development. This minority group is trying to over-ride the City's Comprehensive Plan and Zoning Code that has been in place for many years.

The City's Comp Plan and Zoning Code was developed by the City and it's residents in part to respond to the mandatory requirements of the Growth Management Act for the State of Washington. Our region has serious environmental issues and Kirkland must do their part to detract from urban sprawl. The GMA dictates that high density business and population growth be strictly concentrated in urban areas, and all cities must develop zoning codes and land use guidelines that specify and promote this type of new development. As a result, the City Staff, City consultants and a very thoughtful group of concerned Kirkland stakeholders carefully drafted the current Comprehensive Plan, Design Districts and Zoning Code to encourage four and five story buildings. The rationale for the current code is clear and it was never intended to reduce density or restrict buildings to 2 or 3 story height.

It is time to look to the future and to build a vibrant and economically viable downtown area. Our downtown retailers and service industries need our help to encourage smart development to promote shopping, spending and economic vitality. As quaint as it may seem, we are not living in the past and we must move forward to build a better Kirkland. To try and put Kirkland in a bubble of no growth is not realistic or progressive and it will likely lead to the economic disaster for downtown in the future.

Please Vote **AGAINST** the petition.

Sincerely,

Lois Myers

Owner

21 Central Way,

Kirkland, WA 98033

From: Kaluna, Andre K [mailto:andre.k.kaluna@smithbarney.com]
Sent: Tuesday, February 05, 2008 2:06 PM
To: KirklandCouncil
Cc: Paul Stelzer
Subject: Vote against Petition to stop McCleod Project

Andre K. Kaluna, CRPS®

Vice President-Wealth Management
Financial Advisor

The K Group

411 - 108th Ave NE #1600
Bellevue, WA. 98006
(425) 453-6926 / (425) 453-3467-Fax
(800) 426-3348
andre.k.kaluna@smithbarney.com

Josh M. Meryman

Registered Associate
Wealth Advisory Associate
(425) 453-3492

joshua.m.meryman@smithbarney.com

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for your account. Your e-mail message is not private in that it is subject to review by the Firm, its officers, agents and employees

From: Justin Dickens [mailto:jdickens@TroonGolf.com]
Sent: Tuesday, February 05, 2008 10:46 AM
To: KirklandCouncil
Subject: Commercial Building Projects

I am against the petition to limit commercial building projects in Kirkland. I believe commercial development is vital for the future of Kirkland.

Thanks,

Justin Dickens
10002 114th Ave NE
Kirkland, WA 98033
(425) 396-6001

From: Troy Adams [mailto:troy@tracosteelproducts.com]
Sent: Tuesday, February 05, 2008 2:58 PM
To: KirklandCouncil; stelzer@elitegroupnw.com
Cc: Jennifer McGowan
Subject: OPPOSED TO LIMITING DOWNTOWN PROJECTS

-

I own residential properties in Kirkland and am opposed to the petition to limit downtown projects.

My home address is 436 8TH AVE). Home # (425) 208-1703

From: mmobrand@felyxfinancial.com [mailto:mmobrand@felyxfinancial.com]
Sent: Tuesday, February 05, 2008 10:55 AM
To: KirklandCouncil
Subject: Petition item 7.b.(1)
Importance: High

To Whom It May Concern:

Please register my vote AGAINST the petition dated January 22, 2008 with the City to impose a building moratorium on all new development in Downtown Kirkland. We have tremendous economic opportunity here: Having the ability to augment our professional community will not only bring support to local retail shops, but will also help infuse our residential real estate market, maintain wealth and stability in our community that has given strength to our school system, etc., etc. I am a ten year resident of Kirkland with my two kids and I love this city. I welcome this growth and improvement to our community. Thanks for taking my vote into consideration.

Warmest regards,

Miki Mobrand
Managing Director
FeLyx Financial
Commercial Real Estate Financing
P: 206-396-7421
F: 425-896-8286
mmobrand@felyxfinancial.com

From: Sarah Cason [mailto:sarah@sierracapitalonline.com]
Sent: Tuesday, February 05, 2008 10:41 AM
To: KirklandCouncil
Cc: 'Paul Stelzer'
Subject: Downtown Kirkland Development

To whom it may concern,

It has come to my attention that a petition is being passed around to stop development in downtown Kirkland. I would like to vote against this petition. Future development in downtown Kirkland will allow for much needed parking to be added and help the community's economic growth for business owners, retailers, and home owners.

Thank you for your time.

Sarah Cason
530 Alexander Ave
Kirkland, WA 98033

Sarah Cason

530 Alexander Ave
[Kirkland, WA 98033](#)

800.573.0334 toll free

206.963.0843 mobile

425.650.6765 fax

"Be the change you wish to see..."

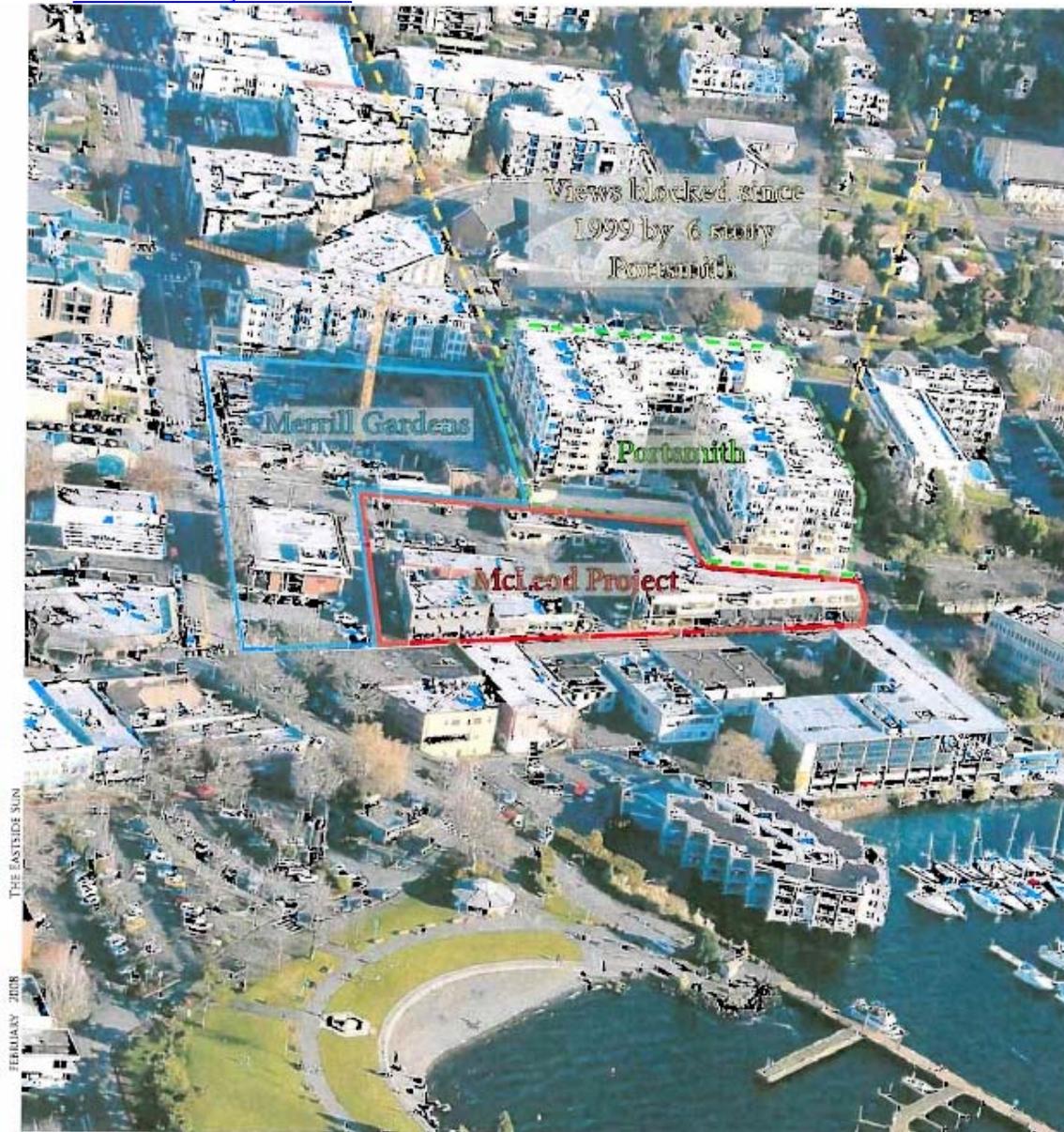
From: Richard Pope [mailto:rproper@gci.net]
Sent: Tuesday, February 05, 2008 11:31 AM
To: KirklandCouncil
Subject: Re: Fwd: Fight Against the Building Moratorium Petition in Kirkland

I am writing this note in opposition to the building moratorium petition. As an investor in several downtown Kirkland business's, I am opposed to this anti-growth and development scheme cooked up by a small percentage of condo residence!!! Please do not ruin it for those of us that choose to invest in downtown Kirkland's business's. Thank you,
Richard J Pope 21 Central Way Kirkland, WA

From: Drott, Rick KWP [mailto:RDrott@kennedywilson.com]
Sent: Tuesday, February 05, 2008 10:33 AM
To: KirklandCouncil
Subject: Downtown Moratorium Petition

I wholeheartedly support the attached article from the Eastside Sun and hope the Kirkland City Council will reject the petition for moratorium on downtown redevelopment.

Rick Drott
Kennedy Wilson Properties Northwest Ltd.
301-116th Ave SE, Ste 100
Bellevue, Wa. 98004
Telephone: 425-453-2500 ext 103
Fax: 425-453-0505
E-Mail: rdrott@kennedywilson.com



THE EASTSIDE SUN
FEBRUARY 2008
PAGE 12

*A healthy city needs retail, office space and housing.
We've done a great job building the housing. Now it's time to finish the job.
Stuart McLeod*

EDITORIAL

WHAT PRICE FUNKY?

"We are in danger of losing our funky downtown"
letter to city opposing change

The small, quaint village concept is dead. The ghost many people try to prop up died with Jerry Garcia. Why can't we acknowledge the fact and bury it before it begins to stink? Businesses come in with high hopes, go bankrupt and close - only to be replaced by the next generation of starry eyed dreamers.. Kirkland needs an influx of private capital to survive and that capital won't materialize if the City of Kirkland Design Review Board continues to drag it's feet approving private projects.

The Merrill Garden Assisted Care Living Facility has produced a net loss in both available parking and in the diversity of businesses in downtown. 500,000 to 800,000 square feet of office and retail should have gone in the space occupied by this apartment complex. Underground public parking for 800+ cars should have filled that project's footprint. 20 new retail businesses could have attracted shoppers to our city's core year round. Google, Yahoo, Microsoft and untold other businesses that pay both high rents and high wages would have fought for office space in our little home by the lake.

But that ship has sailed. All we are waiting for now is the flood of noise complaints from the future occupants.

"Hello, Police? George's Cafe is banging their skulls again and its barely 11 am!"

The Hector's Block

So, just when we think all hope is lost, Stuart McLeod has proposed a redevelopment of the Lake Street block encompassing Hector's all the way south to Ben and Jerry's. The entire eastern side of Lake Street will gain a new, vibrant retail, office and parking structure (space for 500 cars that will be public after 5pm) that can revitalize the entire downtown. In the same way Lincoln Square added a new vibrance to shopping and entertainment in Bellevue, this project can give downtown Kirkland a much needed transfusion. This project is a no-brainer.

And speaking of no-brainers

A half million dollars has been spent designing, redesigning and redesigning yet again the layout of this development to win approval from the City of Kirkland Design Review Board. Alternative design after alternative design has been submitted and rebuffed. Each time more and more leasable office space is lost to arbitrary setbacks.

"This is the perfect place for a Public/Private Partnership. The city pays the cost of adding one more floor of parking garage for 24 hour public use!"
Penny Sweet, businesswoman

A setback is a terrace above the second and

third floors that reduce the mass and the 'box' appearance of a building. It is also space that can't be leased. A landlord that loses tens of thousands of square feet is far less likely to put in that extra floor of public parking, far less likely to build non-revenue producing public spaces and courtyards.

A 600 foot long setback that is 12 feet deep represents 7,200 sq. ft. of lost office space. A 24 foot setback equals 14,400 sq. ft. lost.

Lost office space equates to lost office workers. Lost office workers means that many fewer lattes brewed, that many fewer lunches served. Fewer office workers with high paying jobs mean that many fewer bikinis, paintings, diamond rings, beers, doggie coats, skateboards and pizzas sold. Each office worker supports 10 square feet of retail according to Gibb Development.

This writer is calling for the City of Kirkland to change its course. Instead of throwing up roadblocks to this project at every turn, put a new team together to facilitate its rapid approval. Work with us for the economic health of our city. Instead of steadfastly holding to simple setbacks and cast-in-stone formulas, work with the architects to do some horse trading. *"we'll give you this variance if you give us that public area."* This project is a life and death decision for Downtown Kirkland. Let's choose life.

The Opposition

Dozens of letters have been sent to the city and this newspaper in support of and opposition to this project as well as the Merrill Garden proposal for the Bank of America site (a project that was quickly approved by The City of Kirkland). The majority of letters in opposition to the McLeod Project came from residents of the Portsmouth buildings located directly east of the McLeod project.

If you don't recognize the name Portsmouth you will recognize the buildings. Just think oversized, bulky, excessively high, out-of-scale and view blocking. When the Portsmouth was being built the neighbors behind them complained that it was too high. The developer responded that they had special exemption because the permit was issued before height restrictions were imposed. The unspoken message was "we're building this monster and there's nothing you can do about it, so quit whining." The neighbors lost their views and live in late afternoon shadows.

Among the objections to the McLeod project;

- o Proposed buildings are too large
- o Buildings should be limited to 2 stories
- o Proposal damages character, small town feel, charm, and overshadows ambiance
- o Upper stories should be setback from the pedestrian pathway located on the Portsmouth property
- o Proposal is not consistent with the Downtown Strategic Plan

This is where NIMBY meets NIMFY... Not In My Front Yard. My guess is the Portsmouth's neighbors to the east are chuckling softly.

What we can expect if we fail

Stuart McLeod has every right to do with his property whatever he sees fit. In the event he throws up his hands and says 'screw it' he will sell it to the highest bidder (read that: condo developers or Merrill Gardens) and they will build housing. Housing is a great return on investment, a quick and easy approval process and another nail in the coffin of a potentially great retail district. Housing has its place and retail/office has its place. Favoring one at the expense of the other is done at our peril.

If a condo developer buys the property we can kiss the last/best block of retail/office space in Kirkland goodbye. More condos in an overbuilt market and, of course, no public parking.

Don't expect any residential developer to provide a single public parking space beyond the limited number required for their first floor retail occupants.

If Merrill Gardens Assisted Care Living Facility buys the McLeod property, then the cityscape of Kirkland will change forever. What pocket protectors are to Redmond, aluminum walkers will be to Kirkland. What chewing tobacco is to NASCAR, Depends Adult Diapers will be to Kirkland. Noise control police will be on every corner with decibel meters waiting for that loud car stereo in July, that boater coming in for dinner and those darn kids and their rock 'n roll music.

Don't get me wrong, I have nothing against the elderly. Every morning I ponder the fact that I am far closer to my death than to my birth. The grey on my head may be hidden by dye, but I'm not fooling anyone - least of all myself. I'm older than most of my contemporaries and there's nothing wrong with that - but when I reach the golden years I hope I have the sense to NOT live in the noisiest center of commerce and entertainment on The Eastside.

So Kirkland, this is your last chance.

Grab the brass ring... pick up the golden ticket while the offer is still on the table. Don't let this chance to reinvent, reinvigorate and refresh downtown Kirkland go to waste.

There are organized groups in opposition to any change - no matter how positive. A telling story came from a merchant who was approached by a group of women asking directions to a meeting place, when asked what the meeting was they stated that they were mounting opposition to changing Kirkland's 'small town feel'. When asked what merchants downtown they supported they stated that "they shop in Bellevue because of the lack of choices in Kirkland."

A word from Gunnar

Gallery owner Gunnar Nordstrom wrote an eloquent e-mail in support of this project and made several salient points...

Dear neighbors,

I support the McLeod project because it provides the City of Kirkland a very high quality and desirable building specifically designed with the urban village style that is consistent with the Vision Statement created by the DAC and delivered to the City Council on October 16, 2007.

The project will help solve many of the problems we face in Downtown Kirkland including the lack of adequate and convenient parking, the poor condition and appearance of many of our existing buildings, the lack of space availability for larger retailers (desperately needed to help support traffic for the smaller, more boutique, retailers), the lack of much needed daytime shoppers and the chronic problem of seasonality of downtown's retail business climate.

The McLeod project is compliant with the City Comprehensive Plan, the Design District Guidelines and the Zoning Code, which have been in place for many years.

Just think... a place to park in Kirkland and the City didn't have to pay for it... A private developer is offering at his own expense to build a 500 car parking garage to satisfy his office and retail tenants and then open the remainder to the public as well as all the office spaces in the evening.

This property will be developed, there is no question, that will happen, so let's make it the right project and not another wrong one.

This is an opportunity that might never come our way again, so I am requesting that you send an e-mail in support of the McLeod project to Jon Regala, the city planner for the McLeod project.

*His e-mail address is:
JRegala@ci.kirkland.wa.us*

I strongly recommend that the Design Review Board approve this project.

*Thanks for your help,
Gunnar Nordstrom*

THE EASTSIDE SUN

FEBRUARY 2008

PAGE 13

From: Kirsten Carlson [mailto:kcarlson@elitegroupnw.com]
Sent: Tuesday, February 05, 2008 11:56 AM
To: KirklandCouncil
Subject:

My name is Kirsten Carlson. I am a lifetime Kirkland resident and currently reside at 12705 NE 114th ST, Kirkland, WA, 98033

I would like to represent a vote against this petition as I strongly believe that the projects currently on the table in Kirkland such as the McLeod project and The Bank of America project are the kinds of projects that this city needs to continue to drive business and economic activity in to Kirkland so that existing businesses can continue to be successful. I also believe if we do not become proactive in this manner, we will become an irrelevant player in the eastside business community when compared to the progressive thinking that has allowed Redmond, Bellevue, and Issaquah to transform their city centers into vibrant communities that are thriving and growing. Thank you.

Kirsten Carlson
Elite Real Estate Group
Real Estate Professional
800-978-1324 ext: 2027
Direct: 425-250-3327
Cell: 206-851-2479
Fax: 425-250-3393
www.elitegroupnw.com
KCarlson@elitegroupnw.com

From: Barbara Pope [mailto:cupcakedog49@yahoo.com]
Sent: Tuesday, February 05, 2008 10:46 AM
To: KirklandCouncil
Subject: Against the Building Moratorium Petition in Kirkland

Dear Kirkland City Council Members:

I am writing to you today to let you know that I am against the petition received by the City on January 22, 2008 related to imposing a building moratorium in Downtown Kirkland. This petition is short-sighted and certainly is not in the best long term interests of the City as a whole.

The petition is signed primarily from residential condominium owners living in the Downtown area in buildings that may be directly affected by any new development. This minority group is trying to over-ride the City's Comprehensive Plan and Zoning Code that has been in place for many years.

The City's Comp Plan and Zoning Code was developed by the City and it's residents in part to respond to the mandatory requirements of the Growth Management Act for the State of Washington. Our region has serious environmental issues and Kirkland must do their part to detract from urban sprawl. The GMA dictates that high density business and population growth be strictly concentrated in urban areas, and all cities must develop zoning codes and land use guidelines that specify and promote this type of new development. As a result, the City Staff, City consultants and a very thoughtful group of concerned Kirkland stakeholders carefully drafted the current Comprehensive Plan, Design Districts and Zoning Code to encourage four and five story buildings. The rationale for the current code is clear and it was never intended to reduce density or restrict buildings to 2 or 3 story height.

It is time to look to the future and to build a vibrant and economically viable downtown area. Our downtown retailers and service industries need our help to encourage smart development to promote shopping, spending and economic vitality. As quaint as it may seem, we are not living in the past and we must move forward to build a better Kirkland. To try and put Kirkland in a bubble of no growth is not realistic or progressive and it will likely lead to the economic disaster for downtown in the future.

Please Vote **AGAINST** the petition.

Sincerely,

Steven Pope
7047 Linden Circle
Anchorage Ak. 99502

P.S. My family have been commercial property owners in Kirkland for nearly 4 decades and we are strongly opposed to this unfair moratorium.

Barbara

From: mmobrand@felyxfinancial.com [mailto:mmobrand@felyxfinancial.com]
Sent: Tuesday, February 05, 2008 10:55 AM
To: KirklandCouncil
Subject: Petition item 7.b.(1)
Importance: High

To Whom It May Concern:

Please register my vote AGAINST the petition dated January 22, 2008 with the City to impose a building moratorium on all new development in Downtown Kirkland. We have tremendous economic opportunity here: Having the ability to augment our professional community will not only bring support to local retail shops, but will also help infuse our residential real estate market, maintain wealth and stability in our community that has given strength to our school system, etc., etc. I am a ten year resident of Kirkland with my two kids and I love this city. I welcome this growth and improvement to our community. Thanks for taking my vote into consideration.

Warmest regards,

Miki Mobrand
Managing Director
FeLyx Financial
Commercial Real Estate Financing
P: 206-396-7421
F: 425-896-8286
mmobrand@felyxfinancial.com

From: ARC Network [mailto:arc@accidentreconstruction.com]
Sent: Tuesday, February 05, 2008 11:49 AM
To: KirklandCouncil
Subject: Kirkland Petition

Kirkland City Council,

I am writing you, as a Kirkland resident, to let you know that I am **against** the petition received by the City on January 22, 2008 related to imposing a building moratorium in Downtown Kirkland.

Sincerely,

Scott and Tonya Baker

Kirkland Resident
11344 NE 90th Street
Kirkland, WA 98033

From: Shannon Fitzgerald [mailto:sfitzgerald@elitegroupnw.com]
Sent: Tuesday, February 05, 2008 2:04 PM
To: KirklandCouncil
Subject: I vote against Petition 7781

To Whom it may Concern:

I would like to hereby vote against this petition. I am a resident of Kirkland, and I work in Kirkland and believe that building is necessary to move forward and build an economically vibrant downtown Kirkland city. I think that if this petition goes through it will be detrimental to our future economic growth.

Please feel free to contact me with any questions or further comment at any of the information below.

Regards,
Shannon Fitzgerald

[Shannon Fitzgerald](#)
[Real Estate Professional](#)
[Elite Real Estate Group, LLC](#)
[121 Lake Street South, Suite 201](#)
[Kirkland, WA 98033](#)

[Direct: 206.953.6615](#)
[Fax: 425.650.7045](#)
[Email: Sfitzgerald@elitegroupnw.com](mailto:Sfitzgerald@elitegroupnw.com)
www.elitegroupnw.com

From: Chris Miller [mailto:cm.kirkland@verizon.net]
Sent: Tuesday, February 12, 2008 11:22 AM
To: Andy Loos
Subject: Feb. 14 gathering/Kirkland

Dear Mr. Loos,

My husband and I have been attending the Kirkland Design Review Board meetings about the proposed redevelopment of downtown Kirkland that includes your project at the Bank of America location. We were impressed with the initial design of the building and extremely pleased with the changes your company made to the plans that were finally approved. We look forward to having an attractive, revitalized downtown Kirkland.

We live in one of the downtown condo buildings and over the weekend became aware that the group who filed an appeal of your project to the City Council is planning a big gathering at the Bank of America building on February 14. They intend to show their support of the current downtown buildings and to protest the proposed four and five-story buildings. You can find out more information about the gathering at civik.org.

I wanted to make you aware of the situation in case you hadn't heard about the gathering. The group seems to think that the only ones who love Kirkland are the ones against developments such as yours.

Best regards,

Chris Miller

From: Moore, Margit W [mailto:MooreMa@bsd405.org]

Sent: Tuesday, February 12, 2008 5:26 PM

To: KirklandCouncil

Subject: Height Restrictions Along Lake Street

Please consider the unique and attractive pedestrian-friendly buildings along Lake Street and the intent of existing human-scale zoning. No more than two stories on Lake Street unless EXCEPTIONAL conditions are met, which justify the sacrifice of light, air, and view for city residents and visitors..

The Design Review Board pro-development bias consistently disregards the input of citizens—failing to include their comments in summaries or public minutes of the meetings.

Margit Moore

Chinook Middle School Assistant Principal

moorema@bsd405.org (425) 456-6300

Hello Janice,

I would like to voice my strong support for the project that is proposed for the Bank of America property. I am a long time resident (for many years living just two blocks from this location) and business owner of Kirkland plus have been active and involved in all of the major zoning discussions sponsored by the City for the past 20 years. I was also an original member of the Downtown Action Team working on the Kirkland Downtown Strategic Plan and continue working on its current update. I feel that the Bank of America proposal is consistent with the intent of these plans and will be a benefit to City of Kirkland and the downtown neighborhood. I urge the City to approve this development.

Best Regards - Keith

Keith Maehlum
10836 NE 108th Street
Kirkland, WA 98033

From: Shirley Posey [mailto:sposey412@verizon.net]
Sent: Monday, February 25, 2008 5:00 PM
To: KirklandCouncil
Subject: Proposed downtown buildings

I have been reading about the proposed high rise buildings in downtown Kirkland and Parkplace and would like to voice my concern.

I have lived in Kirkland Wa. for 47 years. I fell in love with this city when I first saw it.

I loved the small town atmosphere and the friendly concerned and caring people. The "City Fathers" at that time went to great lengths to keep it from being overrun with high rise business's and apartment buildings. The waterfront beaches were just that, waterfront beaches. There were no high rise condos or apartments. That of course eventually changed, mostly during the "70's". That was of great concern to many people, particularly those who had views. One of the better changes I had the privilege of seeing while residing in Kirkland, was the construction of the road coming into Kirkland, which is now 85th St. It has one the most spectacular breathtaking views I have ever seen. After you exit 405 and come to the first light, there before you lies a picture perfect scene. You see our beautiful downtown Kirkland surrounded by Lake Washington, a view of Seattle, the Olympics, and beautiful skyline. I marvel at the beauty of it everytime I see it. I can't even imagine how anyone could think differently and want to change something so beautiful.

I was disappointed when they planted high growing trees along the railings on both sides, because that already cut off some of the view, especially in the summer. I realize it may have been necessary for lower maintenance and absorption of water. I am not sure what the purpose was, However I believe a low growing bush would have served this purpose as well. That only upset me a little. Now I am reading of the development of high rise buildings in downtown Kirkland and Parkplace. That upsets me a lot.

I take great pride in living in Kirkland and two of the main reasons are:

1. The wonderful small town atmosphere and
2. The beautiful scenery not only coming into Kirkland, but everywhere in Kirkland.

I consider myself to be someone who is generally able to accept changes;However, the proposed high rise buildings in and near downtown Kirkland is one I have great difficulty accepting.

Please do not destroy our city by allowing high rise buildings to take over our beautiful views. We have enough 4,000 square foot homes with no yards, sometimes just blacktop, that have already spoiled the look of our city. Where and when will it end?

Sincerely,
Shirley Posey
405-13th Ave.
Kirkland, Wa. 98033
(425) 822-8688

From: Chuck Pilcher [mailto:chuck@bourlandweb.com]
Sent: Thursday, February 28, 2008 7:46 PM
To: KirklandCouncil
Subject: Downtown Development Plan

Dear Council Members,

Thank you all for taking the time to look at the Downtown Development Plan on the agenda for the next Council meeting, i.e., a response to the petition submitted by citizens in January. I did not sign it, but had I had the opportunity, I would have.

I see the biggest issue facing us as a City being the lack of a vision for integrating Lake Washington into our downtown plan. Nothing is more ridiculous than that PARKING LOT sitting on the biggest potential asset in the City, the Marina Park area.

Several years ago citizen input was sought on how best to develop Lake Street between Central and Kirkland Avenue. Nothing ever came of this, though there were many good ideas.

Although it would be expensive, I think the citizens of Kirkland may be willing to pay whatever it costs to turn our Downtown into a destination park and shopping area extending from Park Place to the Lake. We absolutely MUST eliminate buildings on the west side of Lake Street between Central Way and Kirkland Avenue. The plan to put in a parking garage under a lidded park to the lake always struck me as visionary.

Deciding building heights without an overall plan for Lake Street and Marina Park is foolish and short-sighted at this time. At this point, nothing else matters.

I wonder if there is not room for negotiation with both developers and concerned citizens to come up with some tradeoffs that would allow us to open up the park from Lake Wash to Lake Street... and pay for it.

Good luck with your deliberations. Let's do this right, not quick.

Chuck Pilcher
Lakeview Neighborhood

From: Andrew G. Chavez [mailto:agchavez@verizon.net]
Sent: Sunday, March 02, 2008 3:51 PM
To: KirklandCouncil
Cc: 'Amy L. Chavez'
Subject: City Council-Do NOT Delegate Bank of America Appeal to Hearing Examiner
Importance: High
Sensitivity: Personal

Dear City Council members, it is with great interest that my wife and I are writing this email to request that you do NOT delegate the Bank of America appeal to the Hearing Examiner. Why are we writing to the Council on this matter? Let me site all the critical reasons why this appeal must NOT be delegated:

1. This appeal is to important to the future of Downtown Kirkland not to have each of you put your own personal stake into deciding the decision of this appeal and not a Hearing Examiner. The legacy this Council leaves is in your hands.
2. While we can appreciate the predicament the City Council is in, however, the appeal hearing is just 6 short weeks away, and so the consideration of the petition can and should wait until after the appeal.
3. Those of us Citizens that find it important enough to put our time and effort into preserving a smaller Downtown Kirkland feel it should be of the same importance for the City Council to be the ones who hear the appeal – so that each of you personally get acquainted with each of the issues, small and large, that relate to the appeal, because those issues are relevant to all of downtown – and delegating this to the Hearing Examiner will deprive this City Council of that important background information and would speak volumes to the importance of your views in a vibrant and small Downtown Kirkland.
4. Most importantly, this is why we elected each of you to take on issues large and small and as such, we want you to and expect you to act as the elected representatives for the citizens of Kirkland and not let something as important as this appeal be scape goated to a Hearing Examiner!

We hope you take this issue seriously and live up to your duties as City Council and hear and act on this appeal. Your decision will leave a legacy that should be to important for you to consider any other way!

Regards, Andrew & Amy Chavez
109 2nd Street South
Suite 239
Kirkland, WA 98033
425.576.1257

From: Bill Anspach [<mailto:banspach@mindspring.com>]
Sent: Monday, March 03, 2008 10:25 AM
To: KirklandCouncil
Subject: Response to ³Petition to Stop High-Rise Buildings in Downtown Kirkland²

Dear Council Members,

My name is Bill Anspach.

We live in a great city and, as elected officials, are stewards charged with the awesome responsibility to make decisions that will be for the good of all Kirkland citizens and for future generations.

I am thankful that you have chosen to serve in your capacity and feel that the above petition, which is agenda item 11a for the March 4th Council meeting, needs your undivided attention to focus on the issues surrounding this petition for the future of the City of Kirkland. The response letter as drafted provides excellent guidelines and options to consider.

I urge you to DEFER this agenda item until after you have judged the appeal presented before you regarding the Bank of America project so as not to interfere with the due process required. I don't think it appropriate for a Hearing Examiner to be put into a position to make a decision on the BOA project which the Council should own.

We are at a very critical time in the development of downtown Kirkland. I recommend that you remain open to gathering the facts, review the appropriate codes to make sure they are correct and then decide on the petition later as your decision will have an impact for future downtown developments.

May you all have great wisdom and judgment as you consider this very important issue.

Kindest regards,

Bill Anspach
934 6th Street South #200
Kirkland, WA 98033
425.591.7916

From: karen@tinyisland.com [<mailto:karen@tinyisland.com>]
Sent: Monday, March 03, 2008 4:20 PM
To: KirklandCouncil
Subject: Please defer consideration of downtown petition until after BoA appeal

Dear City Council,

I am writing to ask that you defer your consideration of the downtown petition until after the BoA appeal, and that you, the City Council, consider the appeal yourselves. The appeal is only 6 weeks away, so I feel that it is reasonable to defer consideration of the petition for this amount of time.

I feel strongly that the Council should consider the appeal, and not the Hearing Examiner. You are my elected representatives, and I am counting on you to take the time to understand and consider the many aspects of this complex issue.

The decisions you make will affect our beloved city in profound ways. They are not easy decisions. But they should be your decisions.

Sincerely,

Karen Story
9017 Slater Ave NE
Kirkland WA 98033

(No postal mail reply please - save a tree and a stamp!)

From: Harold Dahlke [mailto:hsdahlke@hotmail.com]

Sent: Monday, March 03, 2008 10:38 PM

To: KirklandCouncil

Subject: Request to Delay Discussion of the Petition Scheduled for Mar 4 Meeting

Dear Mayor and Council Members,

It is the purpose of this e-mail to express my firm conviction that the Kirkland City Council should deal directly with the appeal regarding the Bank of America/Merrill Gardens property. The best interests and the future of our city have been well served by our elected officials. I have both hope and confidence that this tradition will continue. We do not need to import an "expert" hearing examiner in order to reach the right decision. To give both the appeal and the petition the consideration they deserve, I'm urging you to delay discussion of the petition until after you conclude your deliberations on the appeal.

Sincerely,

Harold S. Dahlke
109 Second Street South, #435
Kirkland, WA 98033

From: Liz & Mike Johnson [mailto:lizmikej@hotmail.com]
Sent: Tuesday, March 04, 2008 9:37 AM
To: KirklandCouncil
Subject: Downtown Kirkland Development Petition - Response Options

I see that at tonight's council meeting you will be discussing if/how to respond to the petition from citizens concerned about downtown Kirkland development. One of the options you are considering is delegating the Appeal to the Hearing Examiner so you can respond to the petition.

I strongly urge the council members be the ones to hear the Appeal. This is an important and critical process and we need you personally involved and educated. Delegating this to the Hearing Examiner will deprive you of the important background information required to make an informed decision.

As my elected officials, I want and expect you to directly and personally deal with the appeal, involvement in studying the background, issues, and options. While I respect that you are busy and have to make trade-offs on which issues you can deal with directly vs. delegating to staff or other boards, this is one action that is too important to the future of downtown Kirkland to delegate. These are the duties we elected/hired you to perform.

With the hearing only six weeks away I think the citizens who signed the petition would understand a delayed response that may be more inclusive than anything you provide earlier.

Thank you,
Elizabeth Johnson
225 4th Avenue
B-409
Kirkland, WA. 98033

From: marna@yogaatlarge.com [<mailto:marna@yogaatlarge.com>]
Sent: Monday, March 03, 2008 10:24 PM
To: KirklandCouncil
Subject: Agenda Item for March 4, 2008

Dear City Council Members:

As a newer resident of Kirkland I truly appreciate all that the Council does for the GREAT City of Kirkland. I was one of the people who signed a petition several months ago that was delivered to the Council. Now that there is an appeal hearing scheduled for April 15th, it would seem from a logical standpoint that the petition should be put "on hold" until after the Council hears the appeal. And yes, you as the City Council are the ones to hear that appeal. You are elected by the citizens of Kirkland to personally be involved and acquaint yourself with EVERY issue relevant to the City be it downtown or points beyond. Your responsibility should not be delegated to anyone! Someone such as a Hearing Examiner will not have the knowledge and back round information as the Council does and therefore cannot make an educated decision and should not be listening to anything as important as these issues.

I want, NO I EXPECT the Council to act like the elected representatives you all took the Oath to uphold and represent the citizens of Kirkland.

Sincerely,

Marna Hanneman
211 Kirkland Avenue
Kirkland, Wa 98033

From: Eric Dahlke [mailto:eric.dahlke@verizon.net]

Sent: Monday, March 03, 2008 11:28 PM

To: KirklandCouncil

Subject: Request to Delay Discussion of the Petition until after the Bank of America Appeal

Dear Mayor Lauinger and Council Members,

Everyone understands that density and growth are facts of life, but I believe Kirkland can strike a balance between the ostensibly opposing interests of maintaining a small town feel in the downtown core and achieving the higher density that growth management requires. However, that balance requires objective deliberate and thoughtful consideration, as well as creativity. And you, our elected representatives, are the only group that can truly be objective in striking that balance.

I've attended many council and DRB meetings, and I am fully aware of how contentious these issues are. I also appreciate that you have many important issues that demand attention. However, I submit that this balance will do more to shape the future of our city than any other issue in front of you.

Please do not delegate the Bank of America/Merrill Gardens appeal to a Hearing Examiner. Both the petition and the appeal are significant and cannot be handled effectively by outside parties. You need to be hands-on with both of these important deliberations – this is exactly why we voted for you. I urge that you delay reviewing the petition until after the Bank of America appeal, so that you can treat each deliberation fairly and impartially.

I plan to attend tomorrow's council meeting.

Sincerely,

Eric Dahlke
109 Second Street South #229
Kirkland, WA 98033

From: karen@tinyisland.com [<mailto:karen@tinyisland.com>]
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Karen Story
9017 Slater Ave NE
Kirkland WA 98033

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