



CITY OF KIRKLAND

City Attorney's Office

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MEMORANDUM

To: David Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: July 8, 2008

Subject: McLeod Mixed Use Project Appeal/Findings and Conclusion

RECOMMENDATION

That the City Council review the Findings, Conclusions, and Decision along with the attached Resolution, and consider whether these accurately reflect its decision on the appeal of the Design Review Board decision granting design review approval to the McLeod Mixed Use Project at 118 and 150 Lake Street South. If changes are desired, they may be made at the meeting of July 15, 2008.

BACKGROUND DISCUSSION

The applicant, Mark Smedley, with Stock & Associates ("Applicant") applied for design review approval of the McLeod Mixed Use Project at 118 and 150 Lake Street South. On March 20, 2008, the Design Review Board issued its decision granting design review approval to the McLeod Mixed Use Project. Twelve parties (collectively, the "Appellants") filed a timely appeal. On June 3, June 17, and July 1, 2008, the City Council heard the appeal in open record proceeding. After deliberations at the hearing on July 1, 2008, the City Council directed staff to return to the next regular City Council meeting with findings and conclusions that: 1) the Design Review Board did not err with respect to the appeal issues brought forward; and 2) the decision of the Design Review Board was affirmed with modification of Façade D of the McLeod Mixed Use Project from a three-story façade to a two-story façade as proposed by the Applicant.

Once a resolution has been passed adopting findings and conclusions, the Findings, Conclusions, and Decision will be mailed to the Appellants and Applicant.

Please let me know if you have any questions.

RESOLUTION R-4715

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ADOPTING FINDINGS AND CONCLUSIONS AND AFFIRMING THE DECISION OF THE DESIGN REVIEW BOARD GRANTING DESIGN REVIEW APPROVAL TO THE MCLEOD MIXED USE PROJECT AT 118 AND 150 LAKE STREET SOUTH, EXCEPT AS MODIFIED WITH RESPECT TO THE ALTERNATE DESIGN OF FAÇADE D.
(FILE NO.: DRC 07-00007; APPEAL CASE NO.: APL08-00004)

WHEREAS, the applicant, Mark Smedley with Stock & Associates (“the Applicant”), applied for design review approval of the McLeod mixed use project (“McLeod Mixed Use Project”) located at 118 and 150 Lake Street South; and

WHEREAS, on March 12, 2008, the Kirkland Design Review Board voted to approve the project, and on the March 20, 2008, the Design Review Board issued its decision granting design review approval to the McLeod Mixed Use Project; and

WHEREAS, twelve parties filed a timely appeal of the Design Review Board’s decision; and

WHEREAS, on June 3, 17, and July 1, 2008, the Kirkland City Council heard the appeal in an open record proceeding; and

WHEREAS, Kirkland Zoning Code 142.40.11.b requires that the City Council adopt findings and conclusions; and

WHEREAS, after deliberating at the hearing on July 1, 2008, the City Council directed staff to return to the Council’s next regular meeting with findings and conclusions that: 1) the Design Review Board did not err with respect to the appeals issues brought forward; and 2) the decision of the Design Review Board was affirmed with modification of Façade D of the McLeod Mixed Use Project from a three-story façade to a two-story façade as proposed by the Applicant.

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

Section 1. The City Council hereby adopts the Findings, Conclusions, and Decision attached hereto as Exhibit “A” and by this reference incorporated herein, affirming the decision of the Design Review Board except as modified with respect to the alternate design of Façade D.

Section 2. The City shall distribute the Council’s decision by mail to the appellants and the applicant.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2008.

Signed in authentication thereof this ____ day of _____, 2008.

MAYOR

Attest:

City Clerk

BEFORE THE KIRKLAND CITY COUNCIL

APPEAL OF THE DESIGN REVIEW)	APPEAL CASE NO.: APL08-00004
BOARD DECISION ON THE)	
MCLEOD MIXED USE PROJECT AT)	CITY COUNCIL’S FINDINGS,
118 AND 150 LAKE STREET SOUTH)	CONCLUSIONS, AND DECISION
)	ON THE APPEAL
FILE NO.: DRC07-00007)	
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I. PROCEDURAL FINDINGS

1.1 The Applicant, Mark Smedley with Stock & Associates (“Applicant”) applied for design review approval for a new four-story mixed use building (“McLeod Mixed Use Project”) located at 118 and 150 Lake Street South.

1.2 On March 12, 2008, the Design Review Board voted to approve the project subject to conditions and issued its decision dated March 20, 2008, granting design review approval to the McLeod Mixed Use Project. *Design Review Board Decision dated March 20, 2008, is attached hereto as Attachment 1.*

1.3 Twelve parties filed a timely appeal of the Design Review Board’s Decision: Dean Little; Maureen Baskin; Mary Toy; David Lombard; Shirley A. Hogsett; Rob Brown; Dean Tibbott; Andrew Chavez; Rosita McCauley; Shelia K. Harding; Eric Dahlke; and William & Nancy Maynard (collectively, the “Appellants”). *Appeal of the decision of the Kirkland Design Review Board (dated April 4, 2008.)*

1.4 On June 3, June 17 and July 1, 2008, the Kirkland City Council heard the appeal in an open record proceeding. *June 3, June 17 and July 1, 2008, Proceedings.*

1.5 The Appellants represented themselves. The Applicant was represented by Christopher Brain of Tousley Brain Stephens PLLC.

1.6 The City Council Members made appearance of fairness disclosures at the outset of the proceedings and no objections were raised by the parties to the participation of any member. Mayor James Lauinger presided over the appeal proceedings. *June 3, June 17 and July 1, 2008, Proceedings.*

1.7 The City Council heard testimony from the Department of Planning and Community Development (“Planning”) staff, and testimony and oral argument from representatives of the Appellants and representatives of the Applicant, and asked questions. The City Council had before it the following documents: (a) the decision of the Design Review Board with attachments including Planning staff memoranda, applicant submittals, and summary of public comment letters submitted to the Design Review Board; (b) the Planning staff report to the City Council with attachments; and (c) written submissions by the parties, including briefing and exhibits. *June 3, June 17 and July 1, 2008, Proceedings.*

1.8 As part of its submittal, the Applicant requested that the City Council consider an alternative design for Façade D which would reduce the three-story façade approved by the Design Review Board to a two-story façade. *June 3, June 17 and July 1, 2008, Proceedings.*

1.9 After deliberating, the City Council directed staff to return to the next regular meeting with a resolution setting forth findings and conclusions that: 1) the Design Review Board did not err with respect to the appeal issues brought forward; and 2) the decision of the Review Board was affirmed with the modification of Façade D from a three-story façade to a two-story façade as proposed by the Applicant. *July 1, 2008, Proceedings.*

1.10 Any Conclusion set forth below that is deemed a Finding of Fact and any finding of Fact set forth below that is deemed a Conclusion is hereby adopted as such.

II. STANDARD OF REVIEW

2.1 The Kirkland City Council has jurisdiction over the appeal pursuant to Kirkland Zoning Code (KZC) 142.40.1.b. Under KZC 142.40.11.a, “[u]nless substantial relevant information is presented which was not considered by the Design Review Board,” the City Council is required to accord the Design Review Board decision substantial weight.

2.2 The decision of the Design Review Board “may be reversed or modified 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.” *KZC 142.40.11.a.*

III. FINDINGS REGARDING APPEAL

3.1 The issues raised in the appeal, as stated by the appellants, were:

a) **McLeod Project Exceeds Provisions of Comprehensive Plan that Limit Buildings to Two Stories Along all of Lake Street.** The Comprehensive Plan, Zoning Code, and Ordinances of the City of Kirkland

expressly limit buildings “to two stories along all of Lake Street.” Specifically, the Comprehensive Plan provides:

“Buildings should be limited to two stories along all of Lake Street South to reflect the scale of development in Design District 2. Along Park Lane west of Main Street, Third Street, and along Kirkland Avenue, a maximum height of two stories along street frontages will protect the existing human scale and pedestrian orientation.”

The Comprehensive Plan clearly distinguishes between *two story buildings* and *two story frontages*, and clearly and undoubtedly states: *“Buildings should be limited to two stories along all of Lake Street.”* The DRB erred in approving more than two stories for the McLeod Project building along all of Lake Street.

b) DRB Has No Discretion to Approve Building of More Than Two Stories Along Lake Street. The DRB is bound by the Comprehensive Plan’s limitation on the height of buildings along all of Lake Street. If the Comprehensive Plan and all of the effort that went into its creation can be ignored by the Planning Department and DRB, then the Comprehensive Plan is no more than mere inconsequential verbiage without force and effect. The DRB is required to limit buildings to two stories all along Lake Street and has demonstrated no sufficient reasons, based on either the provisions or the policies of the Comprehensive Plan, for its approval of the McLeod Project. The DRB lacks discretion to approve “buildings” for more than “two stories along all of Lake Street.”

c) McLeod Project Fails to Meet Other Provisions of Comprehensive Plan. The Comprehensive Plan, Zoning Code, and Ordinances of the City of Kirkland expressly provide for the following: (a) a mix of two to four stories in Design District 1B; (b) rooftop appurtenances of limited height for elevator shafts, heating and cooling equipment, and the like; (c) reduction in mass of buildings above the second story in Design District 1B; and (d) in other portions of Design District 1B – i.e., other than along all of Lake Street – buildings should step up from the North and West with the tallest portions at the base of the hillside. As set forth in Section 3.1 b), above, the DRB has no discretion to approve buildings contrary to the provisions of the Comprehensive Plan. The DRB erred in approving the McLeod Project building which fails to meet the foregoing provisions.

d) McLeod Project Will Decrease Pedestrian Safety and Friendliness. The DRB erred in approving the McLeod Project without adequate consideration of the adverse impact on pedestrian safety from automobile traffic, pedestrian circulation due to elimination of public walkways and open spaces, and pedestrian “friendliness” in the downtown environment – all of which are

important general policies of the Comprehensive Plan. The DRB also erred in failing to assess the economic impact of the McLeod Project on the entire CBD.

e) **DRB Erred in Limiting its Considerations to Design Elements and Failing to Enforce the Comprehensive Plan.** The DRB, due to flawed advice from the Planning Department, erred in limiting its role to consideration of design elements of the McLeod Project, to the exclusion and detriment of the provisions of the Comprehensive Plan and the McLeod Project's impact on the whole of downtown Kirkland.

3.2 The City Council hereby adopts all of the Design Review Board Discussion in its decision dated March 20, 2008, as the Council's Findings. *Design Review Board Decision dated March 20, 2008, Section III, Design Review Board Discussion and Conclusions, pages 5-9.*

IV. ADDITIONAL FINDING REGARDING HEIGHT ON LAKE STREET

4.1 Kirkland Zoning Code 142.40.11.b. authorizes the City Council to modify the decision of the Design Review Board on appeal.

V. CONCLUSIONS AS TO HEIGHT ON LAKE STREET SOUTH

5.1 The City Council hereby adopts the Design Review Board's Conclusions under Section III. A – D of its decision dated March 20, 2008. *Design Review Board Decision, Section III, Conclusions, pages 7 – 9.*

5.2. In its Conclusion under Section III.A, "Building Height, Massing, Architectural, and Human Scale," the Design Review Board concluded that that the three-story façade of Façade D, as presented to the Design Review Board, met the intent of the Downtown Plan upper story setback policies along Lake Street South. The City Council does not adopt this portion of the Design Review Board's Conclusion. *Design Review Board Decision, Section III.A, DRB Conclusions, pages 6 – 7.*

5.3 The City Council concludes that the alternative design of Façade D, submitted by the Applicant, reduces the three-story façade to a two-story façade, meets the intent of the Downtown Plan upper story setback policies along Lake Street South. The City Council hereby adopts the remainder of the Design Review Board's "Conclusions" section under Section III.A. *Design Review Board Decision, III.A, DRB Conclusions, pages 6 – 7.*

VI. CONCLUSIONS REGARDING APPEAL

6.1 After according substantial weight to the decision of the Design Review Board, and after considering all of the evidence in light of the design regulations, design

guidelines, and Comprehensive Plan, the City Council concludes that the decision of the Design Review board should be affirmed as modified by this Decision.

For the reasons set forth in the foregoing Findings and Conclusions, the decision of the Design Review Board is hereby AFFIRMED, except as modified by this Decision with respect to the alternate design of Façade D.

Decision adopted by the Kirkland City Council this _____ day of _____, 2008.

MAYOR

**CITY OF KIRKLAND**

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
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**DESIGN RESPONSE CONFERENCE
DESIGN REVIEW BOARD DECISION**

DATE: March 20, 2008

PROJECT NAME: McLeod Mixed Use Project

APPLICANT: Mark Smedley with Stock & Associates

FILE NO.: DRC07-00007

PROJECT PLANNER: Jon Regala, Senior Planner

I. SUMMARY OF DECISION

On November 19, 2007, Mark Smedley, with Stock & Associates, applied for design review for a new 4-story mixed use building located at 118 and 150 Lake Street South. The new building contains approximately 32,723 square feet of restaurant and retail uses at the ground floor. The upper 3 stories contain approximately 124,656 square feet of new office space. Five hundred twenty parking stalls are proposed in a 5-level subterranean parking garage with access coming from the 22-foot wide alley north of the subject property. The south 122 feet of the existing retail and office building will be retained.

On March 12, 2008, the Design Review Board (DRB) approved the project as shown on the plans dated March 12, 2008 (see Attachment 1), the addendum dated March 12, 2008 (see Attachment 2), and 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 3, Development Standards, is 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 and a follow-up review by the DRB, the applicant shall submit construction plans consistent with Attachment 1 and 2 and that reflect the following conditions:
 - 1. The 3rd and 4th story of Façade B (Hector's Façade) shall be set back an additional 2 feet. Also at the 3rd and 4th story on this façade, the sunshades shall be removed, a darker color is required, and the 2nd story cornice line shall be raised to help further obscure the view of the upper stories from across the street at ground level.
 - 2. At Façade C (the 'gasket'), the 2nd story shall be pushed back so that it is at the same plane as the 3rd and 4th story on this façade.

3. Cornice returns at Façade B and D shall be resolved and shall not terminate at the glass railings.
4. At Façade D, windows at the ground floor shall be redesigned to better reflect a balance between the design guidelines for larger street front windows and the need for meeting pedestrian scale guidelines encouraging varied window treatments.
5. At Façade E, window size and proportions at the 3rd and 4th story shall be revised so that the apparent heaviness and massing is reduced to be in keeping with the structural elements at the 1st and 2nd stories.
6. No signs shall be located above 2nd story.
7. No internally illuminated signs are allowed where facing residential uses.
8. Building lighting is not allowed at upper stories except where required by the Building Code. Where lighting is required, light fixtures shall be directed inwards into the subject property.
9. Bollards shown on the site plan shall be removed where Lake Street South sidewalk meets the alley.
10. Benches, vegetation, and other improvements where located next to on-street parking areas shall be removed.
11. A low profile planter shall be constructed in northwest corner enclave to contain plants and seating.
12. Details for the 'green screen' located at the east and south facades facing the Portsmouth Condominiums.
13. Details for the water feature to be located at the south entrance of the culinary court. The applicant should work with the Cultural Council in incorporating art into the design of the water feature.

II. DESIGN RESPONSE CONFERENCE MEETINGS

A. Background Summary

Below is a summary of the Board's discussions at the four Design Response Conferences held on December 17, 2007, January 17, 2008, February 12, 2008, and March 12, 2008.

December 17, 2007 Design Response Conference: The DRB reviewed the plans submitted by the applicant dated December 3, 2007. Staff provided an overview of the Zoning Code regulations and Comprehensive Plan policies for the CBD 1 zone and Design District 1B. Staff's memo dated December 10, 2007 provides an analysis of the project's consistency with zoning regulations, Comprehensive Plan policies, and Design Guidelines for Pedestrian Oriented Districts. A model with several building massing alternatives, submitted by the applicant, was reviewed by the DRB at the meeting.

After receiving public comment on the project and deliberating, the Board requested that the applicant return for a second meeting to respond to their recommendations regarding the buildings massing and upper story setbacks. The DRB wanted to see the building revised to reflect a 'U' shaped building design and to incorporate additional upper story setbacks to further address the Downtown Plan building massing and upper story setback policies for buildings along Lake Street South. The DRB also asked for clarification from staff as to the sight distance requirements at the alley and Lake Street South and the required sidewalk improvements.

January 17, 2008 Design Response Conference: The DRB reviewed the plans submitted by the applicant dated January 9, 2008. The staff memo dated January 9, 2008 provides an overview and analysis of the project modifications made in response to the DRB's previous direction. At the meeting, the DRB asked the applicant to further refine their preferred massing option by exploring additional building setbacks above the 2nd story fronting Lake Street South and to utilize horizontal and vertical modulation techniques to achieve architectural scale. The DRB also asked the applicant to look at redesigning the northwest corner of the building as the project was continued to the next DRB meeting.

February 12, 2008 Design Response Conference: The DRB reviewed the plans submitted by the applicant dated February 12, 2008. The staff memo dated February 5, 2008 provides an overview and analysis of the project modifications made in response to the DRB's previous direction. After deliberation, the DRB noted that additional upper story setbacks are needed in order to meet the Downtown Plan building massing and upper story setback policies. The building as proposed still appeared to the DRB as a 3 to 4 story structure and did not reflect the scale of the 2-story buildings across the street. The DRB therefore discussed detailed setback recommendations per façade with the applicant and asked for revisions that reflect their recommendations for their review. The DRB also asked for further refinement of the northwest corner of the building to make it more retail oriented and to provide a softer transition as it turns into the alley.

The DRB briefly discussed opportunities for landscaping and human/architectural elements and asked the applicant to bring information regarding signage, site/building sections, and detailed landscape plans to the next meeting.

March 12, 2008 Design Response Conference: The DRB reviewed the plans submitted by the applicant dated March 12, 2008. The staff memo dated March 4, 2008 provides an overview and analysis of the project modifications made in response to the DRB's previous direction. An addendum to the plans, dated March 12, 2008, was submitted at the DRB meeting which corrected minor detailing errors and updated the landscape plan previously submitted. At the meeting the DRB reviewed the applicant's revisions and determined that their proposal along with the conditions of approval listed in Section I above was consistent with the applicable Comprehensive Plan policies and design guidelines.

See also Section III below for additional discussion of the DRB's March 12, 2008 decision.

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 public meetings. All comments are contained in the City's official file DRC07-00007. Below is a summary of the general public comment themes that emerged through the design review process:

- Proposed buildings are too large and out of scale with Downtown core
- Buildings should be limited to 2 stories
- Proposal damages character, small town feel, charm, and overshadows ambiance
- Project should explore a green roof concept
- Proposal should preserve character and uniqueness of Downtown
- Upper stories should be setback from the pedestrian pathway located on the Portsmouth property
- Results in loss of public views
- Proposal is not consistent with the Downtown Strategic Plan and Comprehensive Plan
- Too much traffic congestion
- DRB should consider public comment
- Encourage:
 - Less massing
 - Deeper setbacks
 - Pedestrian friendly design along east façade
 - Orient rooftop appurtenances away from residences
- Need to stop and rethink downtown vision and building heights
- Buildings/awnings appear 'industrial'
- Western elevation lacks imagination and creativity
- Project should have center courtyard approach with a single prominent entry
- Condo owners are not the only stakeholders in the Downtown
- Scale of the proposed buildings is consistent with Portsmouth building
- The project has an urban village style
- The project consists of a high quality and desirable building
- Provides additional parking in the downtown core
- Improves upon look and condition of existing older buildings
- Project will create a vibrant pedestrian area
- Project will provide office space which will complement existing retail environment
- The project complies with the Comprehensive Plan, the Design District guidelines, and the Zoning Code and is consistent with the vision for the Downtown
- Increased tax revenue
- Proposed parking garage is a benefit to the City

- The project has an appealing design
- Roofs should be clear of rooftop units
- The project is good for Kirkland
- Maintain a mid-block pedestrian connection to the Portsmouth public walkway
- Need a better business district to attract shoppers and tenants
- Additional upper story setbacks are not needed

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 design response conferences contained in File DRC07-00007.

A. Building Height, Massing, Architectural, and Human Scale

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

- The subject property is located in Design District 1B. The maximum number of stories is 2 to 4 with one additional story allowed for upper story residential. No minimum setbacks are required from property lines.
- Discretionary approval is required for buildings taller than two stories.
- Stories above the second story should be setback from the street.
- To preserve existing human scale of this area, development over two stories requires review and approval by the Design Review board based on the priorities set forth in this plan [the Downtown Plan].
- Buildings should be limited to two stories along all of Lake Street South to reflect the scale of development in Design District 2.
- The portions of Design District 1 designated as 1B provide the best opportunities for new development that could contribute to the pedestrian fabric of Downtown. To provide for redevelopment and because these larger sites have more flexibility to accommodate additional height, a mix of two to four stories in height is appropriate.
- South of Kirkland Avenue, building forms should step up from the north and west with the tallest portions at the base of the hillside to help moderate the mass of large buildings on top of the bluff.

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

Since the applicant is not proposing upper story residential uses and is not requesting an additional 5th story, the criteria regarding significant upper story setbacks, rooftop appurtenances, and providing superior retail space at the street level does not apply to the applicant's proposal.

DRB Discussion: The DRB deliberations focused primarily on whether the project met the Downtown Plan policies on massing and upper story setbacks. Early discussions revolved around whether the project should take on a 'U' shaped configuration to deal with bulk and mass issues. In response, the applicant was able to provide the DRB information regarding office use layouts and the need to maintain their preferred massing option given the shape of the subject property and the need for creating rentable office tenant spaces.

Although the DRB eventually agreed with the applicant's preferred option, the DRB asked that the applicant explore additional upper story setbacks in order to be consistent with the Downtown Plan. The discussion on the upper story setbacks occurred over the course of several meetings. The DRB also asked that the northwest corner be made softer as it turned the corner to the alley and orient more towards the pedestrian.

The DRB deliberations were also focused on architectural scale, and vertical and horizontal modulation/definition to help mitigate the length of the proposed building. Techniques were discussed about breaking up the building façade along Lake Street South in order to appear as several buildings through the use of different colors, materials, and setbacks. In addition, the DRB expressed their concern that the scale at the ground floor in regards to window size seemed to overwhelm the pedestrian and should be revised.

DRB Conclusions: The DRB reviewed the applicant's revised proposal at the March 12, 2008 meeting and determined that the applicant's proposal is consistent with the applicable Downtown Plan policies and Guidelines for Pedestrian Oriented Business Districts with several conditions. The DRB required the following items in order for the proposal to be consistent with the Downtown Plan policies regarding massing and upper story setbacks:

- The 3rd and 4th story of Façade B (Hector's Façade) should be set back an additional 2 feet to further reinforce the scale of the buildings west of Lake Street South. Also at the 3rd and 4th story on this façade, the sunshades should be removed and a darker color should be required to help the building appear less massive. The 2nd story cornice line should also be raised to help further obscure the view of the upper stories from across the street at ground level.
- At Façade C (the 'gasket'), the 2nd story should be pushed back so that it is at the same plane as the 3rd and 4th story on this façade.

The DRB allowed Façade D (south of the 'gasket') to be setback approximately 4 feet from the property line and be three stories tall. The DRB concluded that this three-story façade as designed meets the intent of the Downtown Plan upper story setback policies along Lake Street South. The façade provides human scale and pedestrian orientation at the ground level while

utilizing vertical modulation to break up the lengthy two-story horizontal aspect of the façade. The three-story façade also helps make the 4th story disappear at this façade when viewed at the ground level from across the street keeping it scale with buildings west of Lake Street South.

To be consistent with policies regarding architectural and pedestrian scale, the DRB required the following:

- At Façade D windows at the ground floor should be redesigned to better reflect a balance between the design guidelines for larger windows and the need for meeting pedestrian scale policies.
- At Façade E (south entry to culinary court), window size and proportions at the 3rd and 4th story should be revised so that the apparent heaviness and massing is reduced.

B. Vehicular and Pedestrian Access

Vehicular access to the subject property is from Kirkland Avenue via an access road that also serves the Merrill Gardens project to the east. The subject property can also be accessed from a 22-foot wide alley along the property's north property line that connects to Lake Street South. Parking is proposed in a subterranean parking structure containing 520 parking stalls. Pedestrian access occurs primarily along Lake Street South. A minor pedestrian connection is located along the north side of the alley. The loading and unloading area is to the rear of the subject property. The Downtown Plan policies require that pedestrian amenities and building design should be included in new developments to promote a vibrant, attractive, and safe pedestrian experience.

DRB discussion: The DRB wanted to make sure that the building design at the northwest corner incorporates the required sight distance standards and that the City's sidewalk standards are met.

The DRB also asked for additional changes that address the following design guideline:

Building design at the street wall should contribute to a lively, attractive, and safe pedestrian streetscape.

The original building design at the northwest corner of the building did not orient well to the corner where the alley meets Lake Street South and to pedestrians. The DRB asked that the corner be redesigned to orient more towards the pedestrian as it turned the corner towards the alley.

DRB conclusions: The DRB 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 wider sidewalks along Lake Street South. The DRB agreed to the revisions at the northwest corner of the building provided that the applicant provide a low profile planter to be constructed in the enclave at the northwest corner to contain plants and seating for pedestrians.

C. Building Materials, Color, and Detail

DRB discussion: The DRB reviewed the applicant's proposed materials and color palettes as well as a conceptual signage plan. The DRB expressed concerns regarding the proposed signage locations, lighting, and location of bollards. There was also a concern on several facades where the cornice returned back to glass railings. The DRB did not think that this was an appropriate treatment of the cornice given the difference of materials.

The DRB also recommended that the applicant contact the Cultural Council to get feedback in designing the water feature proposed in the culinary courtyard.

DRB conclusions: The DRB agreed to the applicant's proposed materials and color palette, and building detailing with the following conditions:

- Cornice returns at Façade B and D should not terminate at the glass railings.
- In order to diminish the perception of building massing above the second story, no signs should be located above 2nd story
- No internally illuminated signs should be allowed where facing residential uses
- Building lighting should not be allowed at upper stories except where required by the Building Code. Where lighting is required, light fixtures should be directed inwards into the subject property.
- Bollards shown on the site plan should be removed where Lake Street South sidewalk meets the alley
- Details for the water feature to be located at the south entrance of the culinary court. The applicant should work with the Cultural Council in incorporating art into the design of the water feature.

D. Landscaping

DRB discussion: The DRB reviewed and discussed the proposed landscape design submitted by the applicant. The DRB reviewed a detailed landscape plan that called out the specific plantings proposed and details as to how the proposed green screen would function where facing the Portsmouth Condominiums. At the final meeting an addendum was submitted that further refined the landscape plan to remove plants that are on the City's prohibitive plant list and changed out the street trees to be consistent with the City's street tree list.

DRB conclusions: The DRB concluded that the proposed landscaping plan is consistent with the Downtown Plan and Design Guidelines for Pedestrian Oriented Business Districts with the following conditions:

- Benches, vegetation, and other improvements where located next to on-street parking areas should be removed to avoid conflicts with car doors and pedestrians exiting cars.

- Details should be provided with the building permit for the 'green screen' located at the east and south facades facing the Portsmouth Condominiums.

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

A. 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 or 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.

B. 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. Applicant Proposal Dated March 12, 2008
2. Addendum Dated March 12, 2008
3. Development Standards

VIII. PARTIES OF RECORD

APPLICANT: MARK SMEDLEY, STOCK & ASSOCIATES, 109 BELL STREET, SEATTLE, WA 98109
OWNER: STUART MCLEOD, 118 LAKE STREET SOUTH SUITE E, KIRKLAND, WA 98033
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

DEPARTMENT OF FIRE AND BUILDING SERVICES
DEPARTMENT OF PUBLIC WORKS

The following is a list of parties that have submitted written or oral comment to the DRB:

1. ALAN AND DONNA WILSON, 108 2ND AVENUE SOUTH #301, KIRKLAND, WA 98033
2. ALICIA MCCANN & FENN SHRADER, 225 2ND STREET SOUTH, KIRKLAND, WA 98033
3. ALVIN AND JACQUELINE GOLDFARB, 4823 LAKE WASHINGTON BLVD NE #3, KIRKLAND, WA 98033
4. ALZIRA ZOLLO, 8533 NE JUANITA DRIVE, KIRKLAND, WA 98034
5. AMY FLECK
6. ANDREA HANEFELD, 9485 NE 121ST PLACE, KIRKLAND, WA 98034
7. ANDREW & AMY CHAVEZ, 109 2ND STREET SOUTH #239, KIRKLAND, WA 98033
8. ANDY LOOS, SRM DEVELOPMENT LLC 808 5TH AVENUE NORTH, SEATTLE, WA 98109
9. ANNE DETTELBACH, 11220 115TH PLACE NE, KIRKLAND, WA 98033
10. ANNETTE WILLIAMS, 15618 72ND AVENUE NE, KENMORE, WA 98028
11. BARBARA & FLOYD PAGARIGAN, 201 2ND STREET SOUTH #104, KIRKLAND, WA 98033
12. BARBARA BROWN, TEC REAL ESTATE 3625 1332ND AVE SE STE. 201, BELLEVUE, WA 98006
13. BARBARA LOCKHART, 120 STATE AVE #1191, OLYMPIA, WA 98501
14. BEA NAHON, 129 3RD AVE #503, KIRKLAND, WA 98033
15. BETH PRICHARD, 319 7TH AVE WEST, KIRKLAND, WA 98033
16. BOB BURKE, 1032 4TH ST , KIRKLAND, WA 98033
17. BONNIE LINDBERG, 101 LAKE ST S, KIRKLAND, WA 98033
18. BRANDY CORUJO
19. BRIAN HOUSLEY, STANTON NORTHWEST 11410 NE 122ND WAY SUITE 102, KIRKLAND, WA 98034
20. BROOK STABBERT, 225 1ST STREET , KIRKLAND, WA 98033
21. CAROL DORE, 211 KIRKLAND AVE #204, KIRKLAND, WA 98033
22. CHARLENE BOYS
23. CHRIS MILLER, 225 4TH AVENUE #A-503, KIRKLAND, WA 98033
24. CHRISTINA HUFF, 2223 112TH AVE NE SUITE 100, BELLEVUE, WA 98004
25. CHRISTOPHE AND ALEX LOISEY, 1121 1ST STREET, KIRKLAND, WA 98033
26. CINDY MUELLER, 16625 NE 26TH STREET, BELLEVUE, WA 98008
27. CITIZENS FOR A VIBRANT KIRKLAND, 218 MAIN STREET PMB 675, KIRKLAND, WA 98033
28. DAN CRITTENDEN, COBALT MORTGAGE 11255 KIRKLAND WAY SUITE 100, KIRKLAND, WA 98033
29. DANIEL NIX, 1030 3RD STREET, KIRKLAND, WA 98033
30. DAVID LOMBARD & SHEILA HARDING , 109 2ND STREET SOUTH #629, KIRKLAND, WA 98033
31. DAVID SPOUSE, 433 11TH AVE WEST, KIRKLAND, WA 98033
32. DEAN LITTLE, 225 4TH AVENUE #B303, KIRKLAND, WA 98033
33. DEAN TIBBOTT, 109 2ND STREET SOUTH #627, KIRKLAND, WA 98033
34. DENNIS BOHN, 10802 47TH AVENUE WEST, MUKILTEO, WA 98275
35. DENNIS GEELS, 4705 110TH AVENUE NE, KIRKLAND, WA 98033
36. DIANE BACH, PO BOX 2268, BOTHELL, WA 98041-2268
37. DIANE DEWITT, 127 3RD AVE SUITE 302, KIRKLAND, WA 98033-6177
38. DON & CAROLYN BARNES, 201 2ND STREET SOUTH #412, KIRKLAND, WA 98033
39. DON VILEN, 733 LAKE STREET SOUTH, KIRKLAND, WA 98033
40. DONNA RIDDELL, 109 2ND STREET SOUTH #621, KIRKLAND, WA 98033
41. DOUG WAUN, 9 LAKESHORE PLAZA, KIRKLAND, WA 98033
42. ELAINE SHEARD
43. ELIZABETH & MICHAEL JOHNSON, 255 4TH AVENUE, KIRKLAND, WA 98033
44. ERIC DAHLKE, 109 2ND STREET SOUTH #229, KIRKLAND, WA 98033
45. FRED CERF, 725 1ST STREET SOUTH #202, KIRKLAND, WA 98033
46. GAIL COTTLE, 225 2ND STREET SOUTH D-2, KIRKLAND, WA 98033
47. GARY REID, 201 2ND STREET SOUTH #307, KIRKLAND, WA 98033
48. GARY REID, 1089 LAWSON ROAD, CAMANO ISLAND, WA 98282

49. GAYLE ZILBER
50. GEORGE PLATIS
51. GLENN PETERSON
52. GUNNAR NORDSTROM, 730 1ST ST S #3, KIRKLAND, WA 98033
53. HAROLD RUBIN, 14248 92ND PLACE, BOTHELL, WA 98011
54. HARVEY HOYT, MD, 5020 112TH AVE NE, KIRKLAND, WA 98033
55. IRENE & JAMES DALGARN, 202 2ND STREET SOUTH #202, KIRKLAND, WA 98033
56. J. DONALD DICKS, 10635 NE 116TH STREET, KIRKLAND, WA 98034
57. J. JOHNSON, 109 2ND STREET SOUTH #330, KIRKLAND, WA 98033
58. JAMES GILLILAND, 622 13TH AVENUE WEST, KIRKLAND, WA 98033
59. JANENE WORTHINGTON, 222 15TH AVE, KIRKLAND, WA 98033
60. JANN CASTLEBERRY, PO BOX 2848 , BELFAIR, WA 98528
61. JEFF HELLINGER, 6204 108TH PLACE NE, KIRKLAND, WA 98033
62. JEFF RIDLEY, 11627 NE 75TH STREET, KIRKLAND, WA 98033
63. JEN GREENE, BEN & JERRY'S 176 LAKE STREET SOUTH, KIRKLAND, WA 98033
64. JEN STROHL, 7650 NE 125TH STREET, KIRKLAND, WA 98033
65. JENNIFER FISHER, COBALT MORTGAGE 11255 KIRKLAND WAY SUITE 100, KIRKLAND, WA 98033
66. JENNIFER LANGFORD, COBALT MORTGAGE 11255 KIRKLAND WAY SUITE 100, KIRKLAND, WA 98033
67. JENNIFER NILSSEN, TEC REAL ESTATE 3625 1332ND AVE SE STE. 201, BELLEVUE, WA 98006
68. JIM AND CAROLYN HITTER, 119 8TH LANE, KIRKLAND, WA 98033
69. JIM AND LINDA HOFF
70. JOANNE WILSON, 521 16TH AVENUE WEST, KIRKLAND, WA 98033
71. JOE CASTLEBERRY, PO BOX 2848 , BELFAIR, WA 98528
72. JOHN BRIGHTBILL, 5819 108TH AVE NE, KIRKLAND, WA 98033
73. JOHN GILDAY, 500 7TH AVE SOUTH, KIRKLAND, WA 98033
74. JOHN STARBARD, 109 2ND STREET SOUTH #220, KIRKLAND, WA 98033
75. JON HESSE, BIKINI BEACH 9 LAKE STREET, KIRKLAND, WA 98033
76. JONNI RESSLER, 1306 5TH STREET, KIRKLAND, WA 98033
77. JULIE CHEN
78. JULIE HIRSCH, 109 2ND STREET SOUTH #436, KIRKLAND, WA 98033
79. JUSTIN UBERTI, 115 17TH PLACE, KIRKLAND, WA 98033
80. KARA WEINAND, 12426 84TH AVENUE NE, KIRKLAND, WA 98034
81. KAREN MASSENA, 11807 110TH AVENUE NE, KIRKLAND, WA 98034
82. KATE MCKINNEY, 5726 LAKEWASHINGTON BLVD NE S-2, KIRKLAND, WA 98033
83. KATHERINE WALKER, 612 14TH PLACE, KIRKLAND, WA 98033
84. KEITH MAEHLUM, 10836 NE 108TH STREET, KIRKLAND, WA 98033
85. KELLIE JORDAN, 11410 NE 106TH LANE, KIRKLAND, WA 98033
86. KEN AND DEBORAH RICE, 420 6TH STREET SOUTH, KIRKLAND, WA 98033
87. KIM WHITNEY, PO BOX 2081, KIRKLAND, WA 98033
88. KIMBERLY THOMSON, 812 MARKET STREET, KIRKLAND, WA 98033
89. LAURE SMITH, 201 2ND STREET SOUTH #404, KIRKLAND, WA 98033
90. LINDA WICKS, 201 2ND STREET SOUTH #112, KIRKLAND, WA 98033
91. LOMA GREGG, THE ONE SOLUTION INC. 22005 SE 32ND ST, SAMMAMISH, WA 98075
92. MARC CHATALAS, CACTUS RESTUARANTS 121 PARK LANE, KIRKLAND, WA 98033
93. MARGIT MOORE, 109 2ND STREET SOUTH #335, KIRKLAND, WA 98033
94. MARK AND VICTORIA FANNING, 8614 NE 121ST PLACE, KIRKLAND, WA 98033
95. MARK CROHN, 109 2ND STREET SOUTH #429, KIRKLAND, WA 98033
96. MARK SEHLIN, 11227 115TH PLACE NE, KIRKLAND, WA 98033
97. MARK WORTHINGTON, 222 15TH AVE, KIRKLAND, WA 98033
98. MARY JOCHUM, 18027 NE 12TH PLACE, BELLEVUE, WA 98008
99. MARY TOY, 108 2ND AVENUE SOUTH #101, KIRKLAND, WA 98033
100. MARYPAT MEULI, 489 2ND AVE SOUTH, KIRKLAND, WA 98033
101. MELISSA OLSON, PO BOX 362, KIRKLAND, WA 98083

102. MICHAEL AND JUDITH VOSS, 10119 NE 112TH PLACE, KIRKLAND, WA 98033
103. MICHAEL FERRERA, RESOURCE 1211 MARKET STREET, KIRKLAND, WA 98033
104. MONIQUE AND DON KENNY, 9727 NE JUANITA DRIVE #309, KIRKLAND, WA 98034
105. NANCY & WILLIAM MAYNARD, 109 2ND STREET SOUTH #237, KIRKLAND, WA 98033
106. NICOLE PARKHILL, 7 DRAGONS 143 PARK LANE #201, KIRKLAND, WA 98033
107. PAT TOLLE, 10111 MARINE VIEW DRIVE, MUKILTEO, WA 98275
108. PATRICIA LEVERETT, 7833 115TH PLACE NE, KIRKLAND, WA 98033
109. PATRICIA RICE
110. PATRICK TRUDELL, 3724 LAKE WASHINGTON BLVD NE, KIRKLAND, WA 98033
111. PATTY BRANDT, 9532 150TH ST SE, SNOHOMISH, WA 98296
112. PAULA HEDDIE
113. PENNY SWEET, 700 20TH AVENUE WEST, KIRKLAND, WA 98033
114. PERRI DELANEY, 609 13TH AVENUE WEST, KIRKLAND, WA 98033
115. PETER GLASE, 109 2ND STREET SOUTH #327, KIRKLAND, WA 98033
116. RACHEL KNIGHT AND JONATHAN LOVE, 12615 NE 134TH PLACE, KIRKLAND, WA 98034
117. RAVI KHANNA, 302 2ND STREET SOUTH #C5, KIRKLAND, WA 98033
118. RICK DROTTZ, KENNEDY WILSON PROPERTIES NW 301 116TH AVENUE SE STE 100, BELLEVUE, WA 98004
119. RICK LEAVITT, 10228 NE 58TH STREET, KIRKLAND, WA 98033
120. RICK MOORE, RICK MOOR GROUP INC 5914 LAKE WASHINGTON BLVD NE, KIRKLAND, WA 98033
121. ROB BROWN, 108 2ND AVE S #105, KIRKLAND, WA 98033
122. ROBIN SANDERS, 612 KIRKLAND AVE, KIRKLAND, WA 98033
123. ROSITA MCCAULEY, 108 2ND AVE SOUTH #508, KIRKLAND, WA 98033
124. SANDY DAIN, 12120 94TH PLACE NE, KIRKLAND, WA 98034
125. SCOTT AND TONYA BAKER, 11344 NE 90TH STREET, KIRKLAND, WA 98033
126. SCOTT BROWN, 339 KIRKLAND AVE, KIRKLAND, WA 98033
127. SHELLY LAMBERT, COBALT ESCROW 11255 KIRKLAND WAY SUITE 100, KIRKLAND, WA 98033
128. SHERI LARSEN
129. SHIRLEY HOGSETT, 108 2ND AVE SOUTH #104, KIRKLAND, WA 98033
130. SHIRLEY POSEY, 405-13TH AVENUE, KIRKLAND, WA 98033
131. STEVE LINGENBRINK, 3724 LAKE WASHINGTON BLVD NE, KIRKLAND, WA 98033
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133. SUE CONTRERAS
134. SUNDEE RICKEY
135. SUNNY & MICHAEL
136. SUSAN THORNES, 10106 NE 38TH CT, KIRKLAND, WA 98033
137. TED & JOYCE COX, 602 BELLEVUE WAY SE, BELLEVUE, WA 98004
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142. TOM BROWN, COBALT MORTGAGE 11255 KIRKLAND WAY SUITE 100, KIRKLAND, WA 98033-3417
143. VICKI & MIKE STORINO, 160 WAVERLY WAY, KIRKLAND, WA 98033
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VII. APPROVAL

Jeff Bates, Chair
Design Review Board

Date