CITY OF KIRKLAND

CITY COUNCIL

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

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AGENDA
KIRKLAND CITY COUNCIL MEETING
City Council Chamber
Tuesday, October 7, 2008
5:00 p.m. – Special Study Session – Peter Kirk Room
7:30 p.m. – Regular Meeting

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

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

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

P - denotes a presentation from staff or consultant

1. *CALL TO ORDER*

2. *ROLL CALL*

3. *SPECIAL STUDY SESSION*, Peter Kirk Room, **5:00 p.m.**

   a. Briefing on Draft Environmental Impact Statement for Touchstone (Parkplace), Orni and Altom Private Amendment Requests

4. *EXECUTIVE SESSION*

   a. To Discuss Pending Litigation

   b. To Discuss Property Acquisition

5. *SPECIAL PRESENTATIONS*

   a. Domestic Violence Awareness Month Proclamation

   b. Walk Your Child to School Proclamation

   c. Green Tips

6. *REPORTS*

   a. *City Council*

      (1) Regional Issues

   b. *City Manager*

      (1) Calendar Update

7. COMMUNICATIONS

a. Items from the Audience

b. Petitions

8. CONSENT CALENDAR

a. Approval of Minutes: (1) September 16, 2008

(2) September 18, 2008

b. Audit of Accounts:

Payroll $

Bills $

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

c. General Correspondence

(1) Washington Public Interest Group (WashPIRG), Regarding City Council's Position on the '21st Century Transportation for America' Platform

(2) Kaylee Nilan, Margaret Carnegie, Karen Tennyson, and James McElwee Regarding School Walk Route Priority

(3) Michael Bonewits, Regarding Downtown Motorcycle Parking

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

(1) Ratifying the Purchase and Sale Agreement Between Olga and Viktor Razumovich and the City of Kirkland

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

h. Other Items of Business

(1) Approving Advance of 2009 Funds for Cochran Springs/Plaza at Yarrow Bay Flood Control

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

* (2) Resolution R-4726, Approving the Preliminary Subdivision and Preliminary Plat of Garden Gate as Applied for by Phoenix Development of Sundquist Homes Being Department of Planning and Community Development File No. FSB08-00002 and Setting Forth Conditions to Which Such Preliminary Plat Shall Be Subject

P - denotes a presentation from staff or consultant

(3) Ordinance No. 4138 and its Summary, Relating to Transportation Demand Management, Repealing and Reenacting Chapter 7.06 of the Kirkland Municipal Code Relating to Commute Trip Reduction, Adopting the City of Kirkland Commute Trip Reduction (CTR) Plan and Implementing Measures as Required by RCW 70.94.527

(4) Resolution R-4727, Relinquishing any Interest the City May Have in an Unopened Right-of-Way as Described Herein and Requested by Property Owners James W. and Katherine W. Osborne

(5) Authorizing the Issuance of a Cabaret Music License to Café Harlequin

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

9. PUBLIC HEARINGS

a. Ordinance No. 4140 and its Summary, Granting Verizon Northwest Inc. a Non-Exclusive Cable Franchise

b. Ordinance No. 4141 and its Summary, Granting Northshore Utility District, a Washington Municipal Corporation, the Right, Privilege, Authority and Franchise to Construct and Maintain, Repair, Replace, Operate Upon, Over, Under, Along and Across the Franchise Area for Purposes of its Water and Sewer Utility Business

c. Resolution R-4728, Stating the City Council's Opposition to Initiative 985 on the November 4, 2008, General Election Ballot

(1) Initiative Measure No. 985 concerns transportation

This measure would open high-occupancy vehicle lanes to all traffic during specified hours, require traffic light synchronization, increase roadside assistance funding, and dedicate certain taxes, fines, tolls and other revenues to traffic-flow purposes.

Should this measure be enacted into law?
YES [ ]

NO [ ]

d. Downtown Plan and Zoning:

(1) Ordinance No. 4142, Imposing a Moratorium Within Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8 on the Acceptance of Applications for Review and/or Issuance of Development Permits or Applications for Design Review for Any New Development That Would Add or Create in Excess of 500 Square Feet of Gross Floor Area; and Repealing Ordinance No. 4139

(2) Ordinance No. 4143, Relating to Land Use and Zoning, Adopting Interim Zoning Regulations for the Review Process for City Council Initiated Amendments to the Comprehensive Plan and/or Text of the Zoning Code in Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8, Including Amendments to Kirkland Zoning Code Chapter 142, Design Review

P - denotes a presentation from staff or consultant

10. UNFINISHED BUSINESS

a. Approving 2009-2010 Utility Rates for Water, Wastewater, Solid Waste and Surface Water:

(1) Ordinance No. 4144 and its Summary, Relating to Solid Waste Collection Rates and Amending Section 16.12.030 of the Kirkland Municipal Code

(2) Ordinance No. 4145, Relating to 2009 Sewer System Customer Rates and Amending Table15.24.070 of the Kirkland Municipal Code

(3) Ordinance No. 4146, Relating to 2010 Sewer System Customer Rates and Amending Table15.24.070 of the Kirkland Municipal Code

(4) Ordinance No. 4147, Relating to Water System Customer Rates for 2009 and Providing for Changes in Said Rates

(5) Ordinance No. 4148, Relating to Water System Customer Rates for 2010 and Providing for Changes in Said Rates

b. Retaining Neighborhood Traffic Control Program Procedures

c. Appointing Design Review Board Alternate

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

11. NEW BUSINESS

12. ANNOUNCEMENTS

13. ADJOURNMENT

P - denotes a presentation from staff or consultant

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

MEMORANDUM

To: David Ramsay, City Manager

From: Angela Ruggeri, Senior Planner
Eric Shields, Planning Director

Date: September 26, 2008

Subject: City Council Briefing on Draft Environmental Impact Statement (DEIS) for Touchstone (Parkplace), Orni and Altom Private Amendment Requests (PARs) (File No. ZON07-00016, ZON07-00012 and ZON07-00019)

Recommendation

Receive a briefing and overview of the Draft Environmental Impact Statement for the Touchstone, Orni and Altom Private Amendment Requests.

Background

Staff and the City's EIS consultants for the Parkplace, Orni and Altom EIS will brief the City Council on the Draft EIS at the Council study session on October 7. The Draft EIS was issued on April 4, 2008. The City's consultants will give the Council an overview of the DEIS similar to the one given to the Planning Commission earlier this year (see Attachments 1 and 2 for Power Point presentation and Traffic Summary).

This overview will be for information purposes only since it will occur before the Final EIS is issued later in October. This is an opportunity for the Council to gain a better understanding of the contents of the DEIS and ask clarifying questions. However, because the Planning Commission is still in the process of developing their recommendation, policy direction should wait until the Council receives the recommendation from the Commission after their public hearing. The Planning Commission will be holding the public hearing in late October after the Final EIS is published. Once their recommendation is ready, the Planning Commission will present it to the Council to be used in the development of the Council's final decision on the three PARs. The tentative schedule for these events is listed below.

10/10 – Final Planned Action EIS issued
10/22 – Public hearing on Orni and Altom PARs
10/23 – Public hearing on Touchstone Parkplace PAR
11/13 – Planning Commission study session to develop recommendation on 3 PARs

12/02 – City Council study session on Planning Commission's recommendation
12/16 - Potential adoption at regular Council meeting

The environmental review process for the 3 PARs includes a Planned Action Environmental Impact Statement (EIS) which considers the potential impacts associated with land use, aesthetics, transportation, public services and water and sewer utilities. The statute and rules for planned actions (RCW 43.32C.031 and WAC 197-11-164) establish a process to address site-specific environmental impacts of planned projects and mitigation measures early in the planning stage of the projects. This early review is intended to provide greater certainty and efficiency in project level environmental review. A preliminary draft of the Planned Action Ordinance was included as Appendix C to the Draft EIS.

Background Questions

Staff has received a number of questions from the Council relating to the Draft EIS. The questions and staff responses are listed below. Many of these topics will be discussed in more detail at the Council study session.

1. *What are the significant transportation issues triggered by Parkplace? How much in additional CIP dollars will be needed to successfully address traffic impacts from the project?*

   The Draft EIS identifies impacts to 15 intersections. Mitigations are proposed for each intersection, but only one is a funded CIP project. Another three are unfunded CIP projects which were included in calculations of impact fees. The developers would be required to pay for these four projects, but would get a credit on their impact fees for the cost. Two projects are part of larger improvements planned by WSDOT. The remainder of the potential mitigations would be paid for by the applicant unless the City agrees to offset the cost through a development agreement. We will be discussing these mitigations in more detail at the study session.

2. *When will Council receive a revenue scenario for the Planned Action in property tax and sales tax so that the Council can determine if there are sufficient dollars to fund the potential needed City services as detailed in Chapter 3.5-15*

   Based on a review of initial figures regarding the revenues from the proposed development, the Finance Department has indicated that potential revenues would be in excess of the amount required to fund the additional ongoing City services identified in the DEIS. The City staff and the developer have agreed on an analytical framework for the final financial analysis in anticipation of a development agreement. Once the Planned Action is decided upon by the City Council, a final evaluation of the expected cash flows will be generated for City Council consideration based on the final project configuration.

3. *Why is the Proposed Action height figured at 8 stories above the street and the No Action height figured above average building elevation.*

   The Proposed Action height is figured above the street because that is what the applicant proposed. The No Action alternative height is calculated according to the existing Zoning Code which uses existing grade (called average building elevation) as a starting point.

4. *Concern was voiced about the possibility of having "Seattle style" parking restrictions in the neighborhoods if there is any parking spillover from the project to the neighboring streets.*

   The Draft EIS identified these issues. Staff and the applicant are working on a Transportation and Parking Management Plan to address them further. The Planning Commission will be making a recommendation on this plan to the City Council in November or December.

5. *Concern was expressed about the architectural feature to commemorate a historic Native American/early settler trail at the entrance to Peter Kirk Place.*

   This architectural feature was built as part of the existing Park Place (it is a concrete archway east of the skate park). The feature itself does not have historic significance and is not part of the DEIS.

6. *There was some confusion about the square footage of the No Action alternative as stated on page 2-20 of the DEIS.*

   The No Action alternative is based on assumed square footage (roughly based on the previous Shulman Park Place proposal) that was used by staff when the existing Comprehensive Plan was updated in 2005. It includes 629,500 feet of office and 209,200 square feet of commercial. The square footage for this no action alternative was not part of the applicant's proposal.

7. *Where is the discussion of roof top appurtenances?*

   There will be information on rooftop appurtenances in the FEIS.

8. *There was a request to discuss the public benefit of the proposal.*

   Chapter 140 of the Zoning Code establishes criteria for amending the Comprehensive Plan. One criterion is that "the amendment will result in long-term benefits to the community as a whole, and is in the best interest of the community." A discussion of whether the proposed Comprehensive Plan amendments meet the criteria is not appropriate at this time. The City Council may discuss this after the Final EIS is issued and the Planning Commission has made their recommendation to the City Council.

9. *Is the water system sufficient to supply the new development? If not, how will improvements be funded?*

   There is a water main across the Parkplace site that will need to be upgraded from 8" to 12". This is true for both the No Action and the Action alternatives. The developer will pay the cost for this upgrade unless the City agrees to offset the cost through a development agreement.

   There will also need to be upgrades to water lines in the vicinity of the Atom and Orni developments. If these sites are developed in the near future, the developers of the sites will pay for the upgrades. If they are not developed for some time, the City may complete the upgrades as part of ongoing improvements to the area.

10. *Is the sewer system sufficient to service the new development? If not, how will improvements be funded?*

    An upgrade of the 3rd Street lift station is in the planning stages with King County. The upgrade has been designed to have sufficient capacity for the No Action alternative, but may be insufficient to handle the Action alternative. City staff is working with King County to further analyze capacity and determine if an additional upgrade is needed for the Action alternative. If King County is unwilling to pay the cost of this additional upgrade, the developer will be responsible unless the City agrees to offset the cost through a development agreement.

ATTACHMENTS

1. Consultant's Power Point presentation for the Council study session
2. Transportation Summary

Cc: Douglas Howe, 2025 1st Avenue, Suite 790, Seattle, WA 98121
Katherine Orni, 825 5th Avenue, Suite 202, Kirkland, WA 98033
Rhoda Altom, P.O. Box 22926, Seattle, WA 98122
File ZON07-00012
File ZON07-00016
File ZON07-00019

Downtown Area Planned Action Draft Environmental Impact Statement

City of Kirkland

City Council

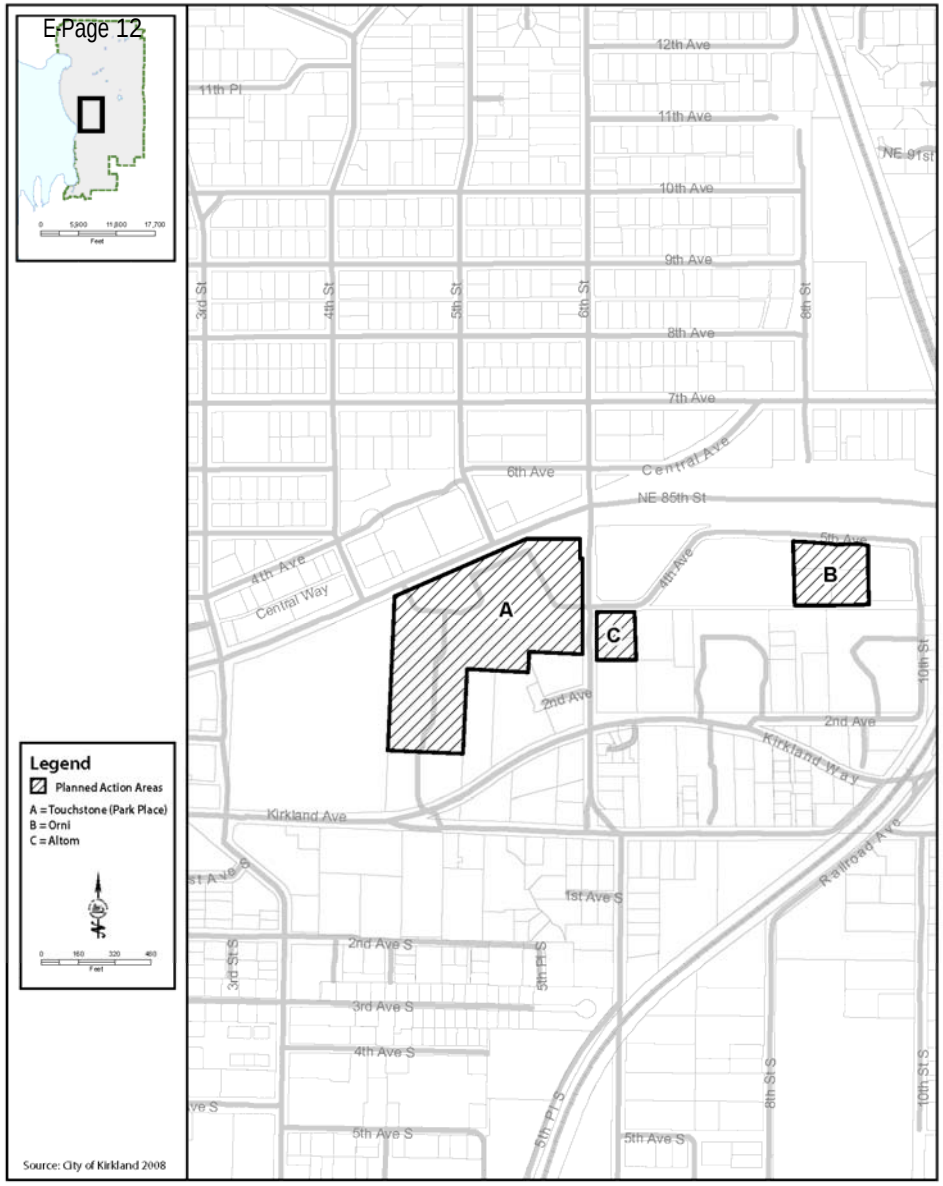
October 7, 2008

Presentation Overview

- Description of Alternatives
- Aesthetics
- Facilities
- Transportation and Parking

Description of Alternatives

- Description of Proposed Action
- Existing and Proposed Comprehensive Plan Designations
- Existing and Proposed Zoning



Jones & Stokes

Figure 2-1
Vicinty Map

Proposed Action

- Private Amendment requests
  - Area A, Touchstone Corporation (Parkplace)
  - Area B, Orni
  - Area C, Altom
- Planned Action Ordinance

Existing Land Uses

Comprehensive Plan Designations

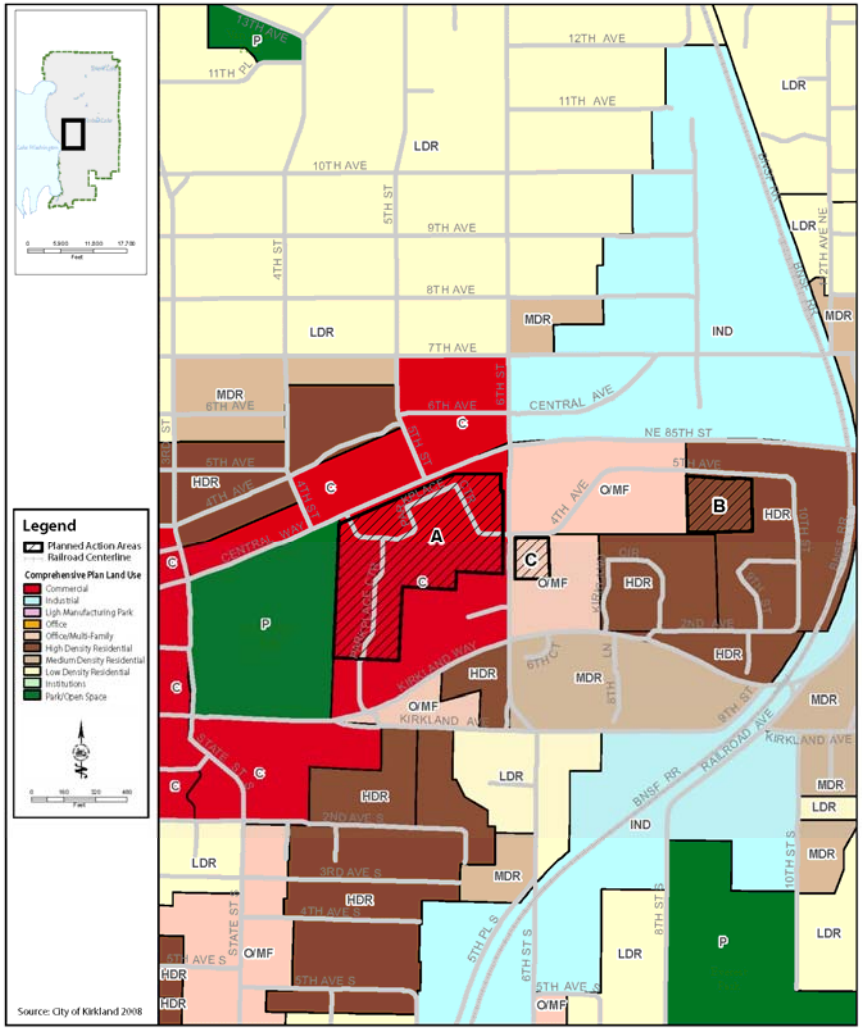


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Figure 3.1-3
Existing Comprehensive Plan Designations

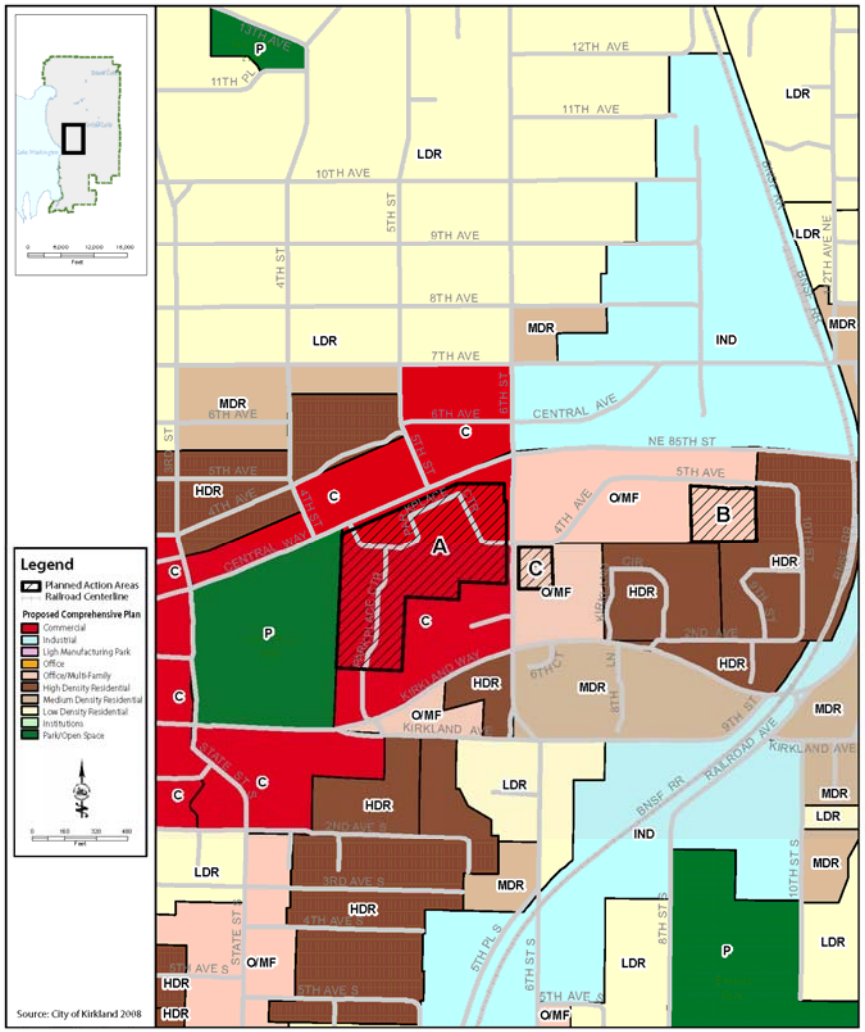

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Figure 3.1-4
Proposed Comprehensive Plan Designations

Existing

Proposed

Zoning

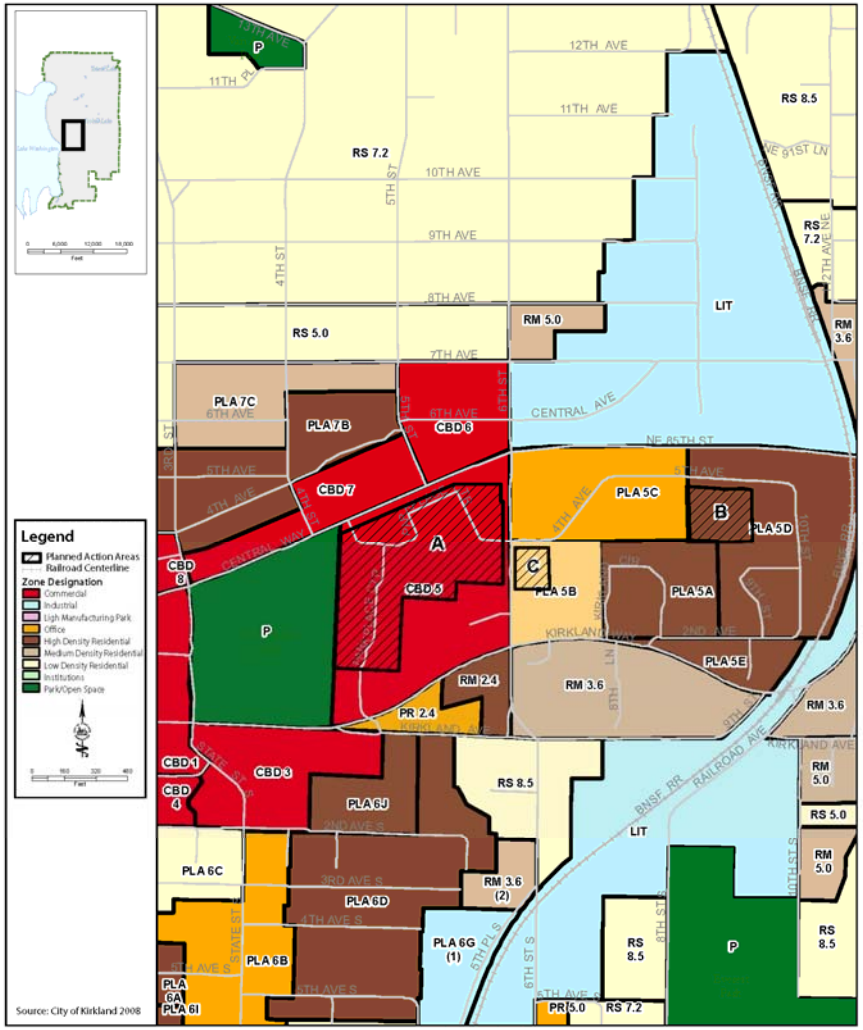

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Figure 3.1-5
Existing Zoning

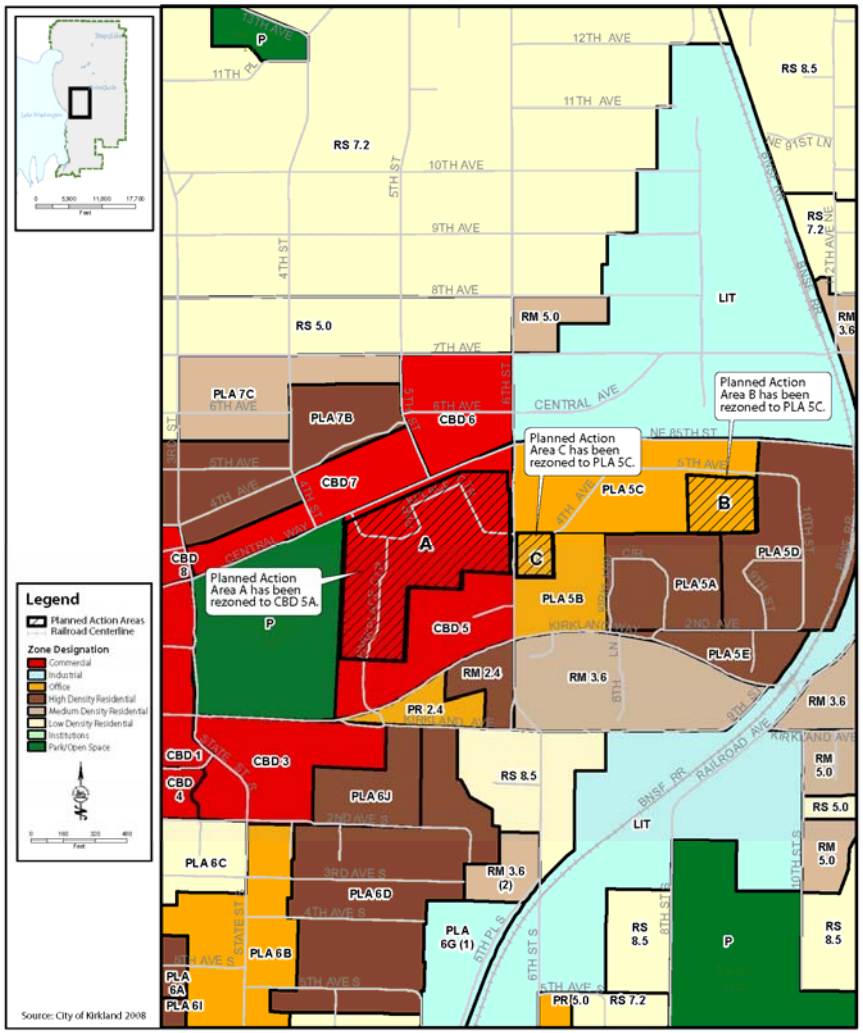

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Figure 3.1-6
Proposed Zoning

I Action Area B has been rezoned to PLA 5C

Existing

Proposed

Proposed Action Alternative Summary

	Area A (Touchstone/Parkplace)	Area B (Orni)	Area C (Altom)
Existing Land uses	95,300 sf office 143,150 sf commercial	33,700 sf office	9,700 sf office
Existing Employees	668	135	39
No Action Land uses	629,500 sf office 209,200 sf commercial	33,700 sf office (except for Aesthetics and Public Services analyses)	27,700 sf office
No Action Employees	2,936	135	111
Proposed Action Land uses	1,200,000 sf office 592,700 sf commercial	145,000 sf office	103,500 sf office
Proposed Action Employees	5,986	580	414

Questions about the Proposed Alternatives?

Aesthetics

- Building Heights
- View Analysis
- Shading Analysis

Building Heights Analyzed

	No Action	Proposed Action
Area A (Touchstone/Parkplace)	3 stories near Peter Kirk Park 5 stories farther back	4 stories near Peter Kirk Park 8 stories farther back
Area B (Orni)	4 stories / 40 feet (assumes redevelopment as multi-family at maximum height)	6 stories / 60 feet
Area C (Altom)	30 feet	6 stories / 60 feet

View Analysis

View Corridor

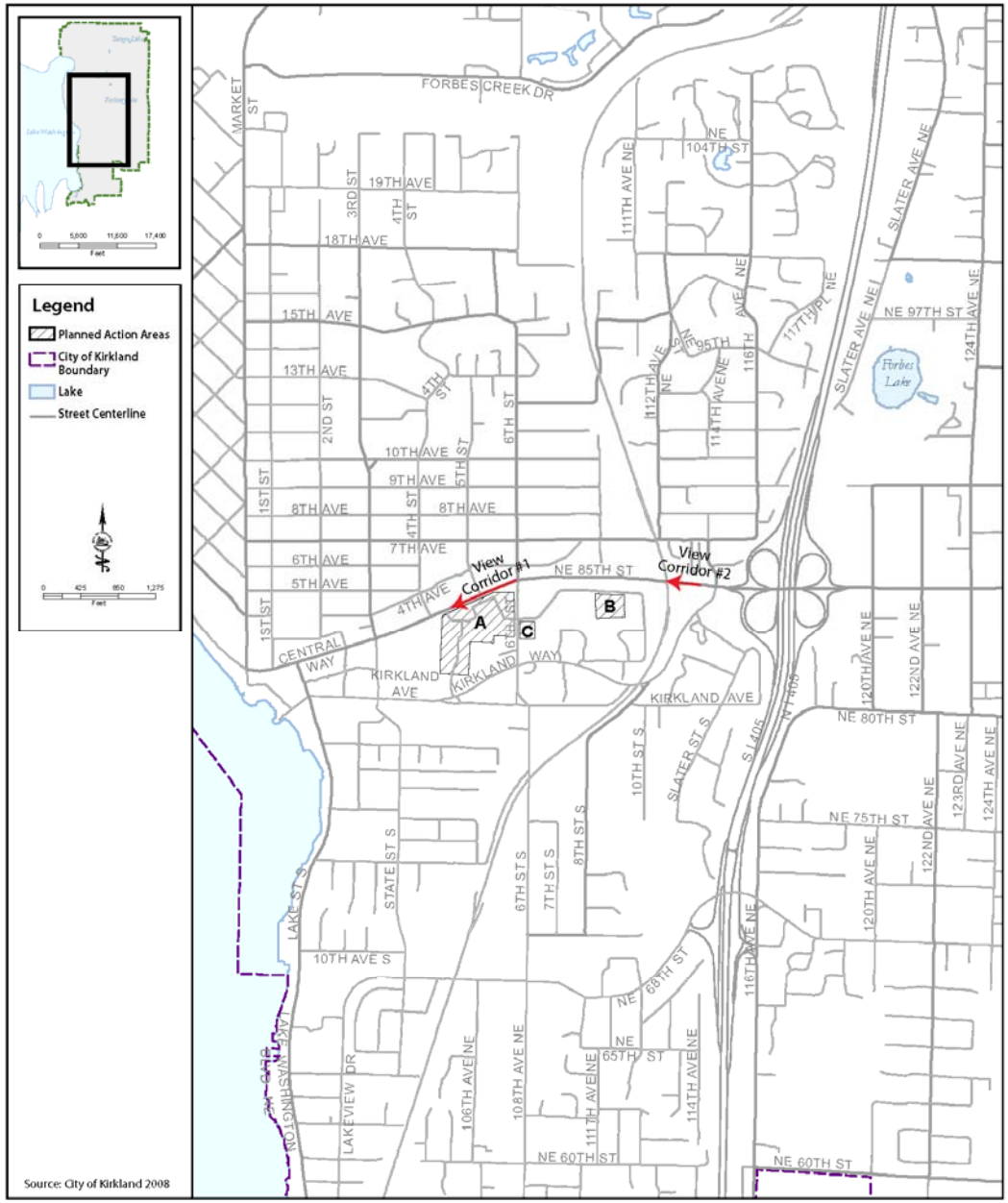

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Figure 3.3-2
Aesthetics View Corridors

View Analysis

Source: LMN Architects 2007

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Figure 3.3-6
View Corridor 2 Proposed Action and No Action (Winter)

View Corridor 2 – Proposed Action/No Action in Winter

View Analysis

Source: LMN Architects 2007

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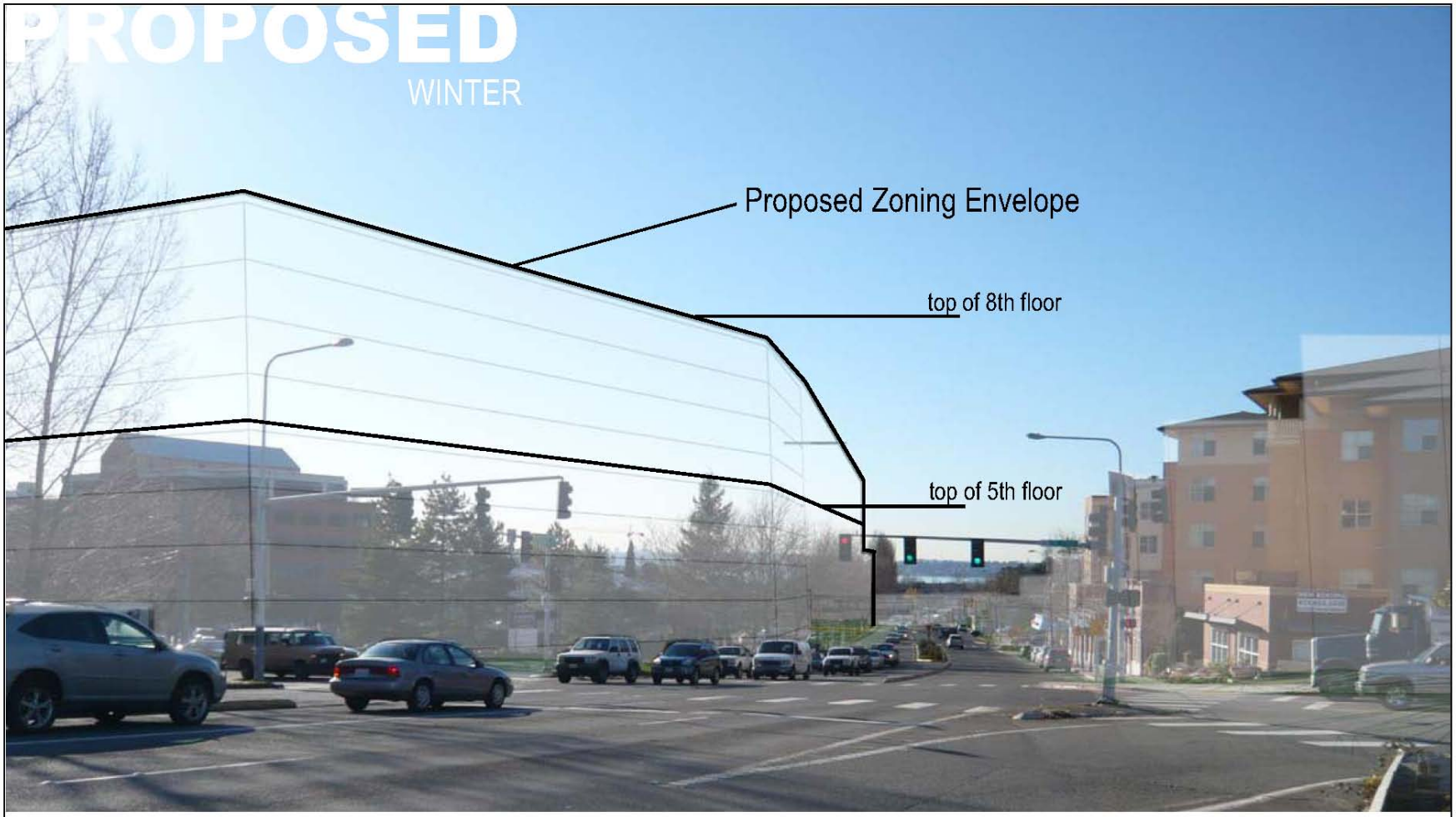
Figure 3.3-7
View Corridor 2 Proposed Action and No Action (Summer)

View Corridor 2 – Proposed Action/No Action in Summer

View Analysis



Source: LMN Architects 2007

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Figure 3.3-4
View Corridor 1 Proposed Action and No Action

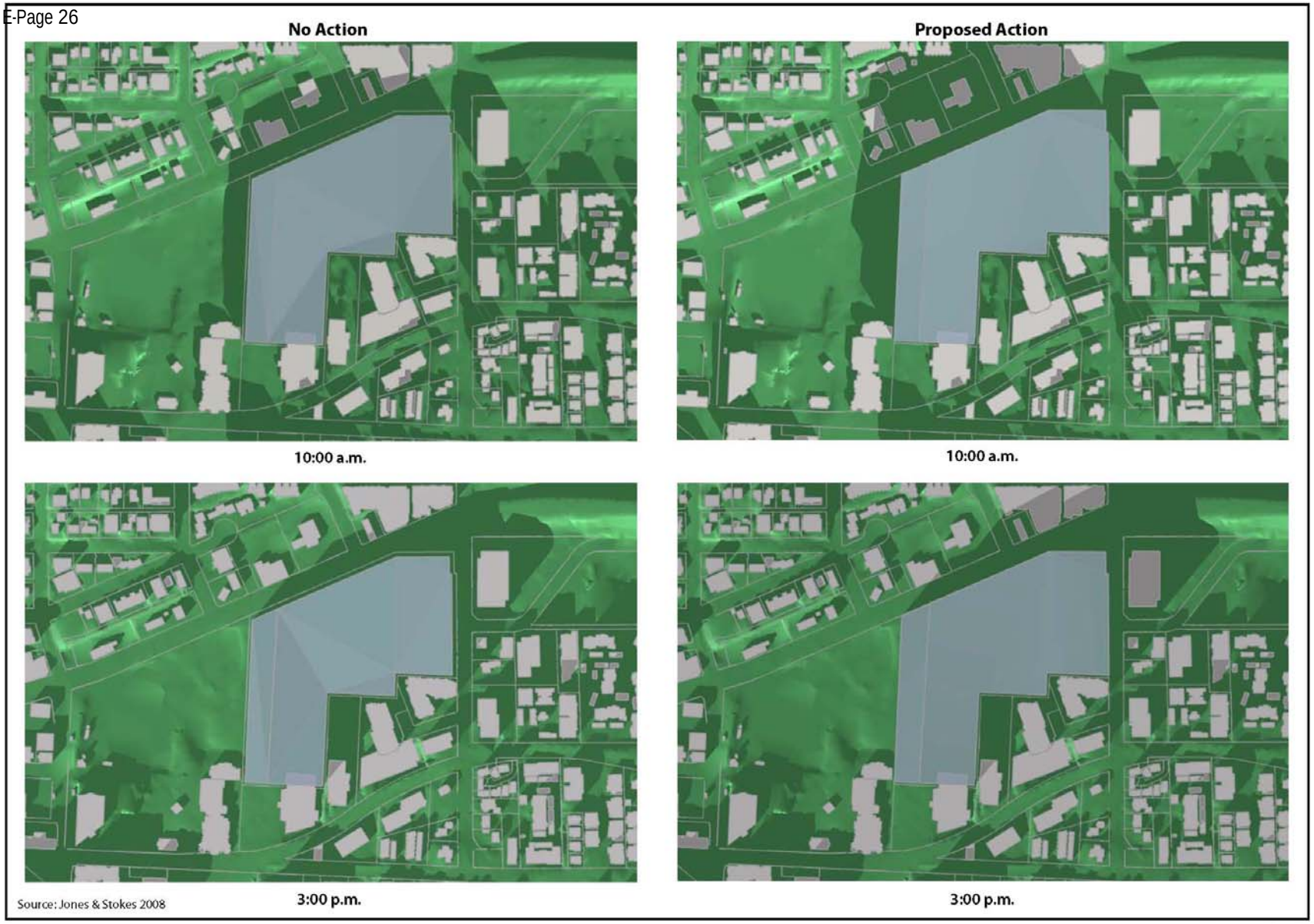
View Corridor 1 – Proposed Action/No Action in Winter

Questions about View Analysis?

Shading Analysis

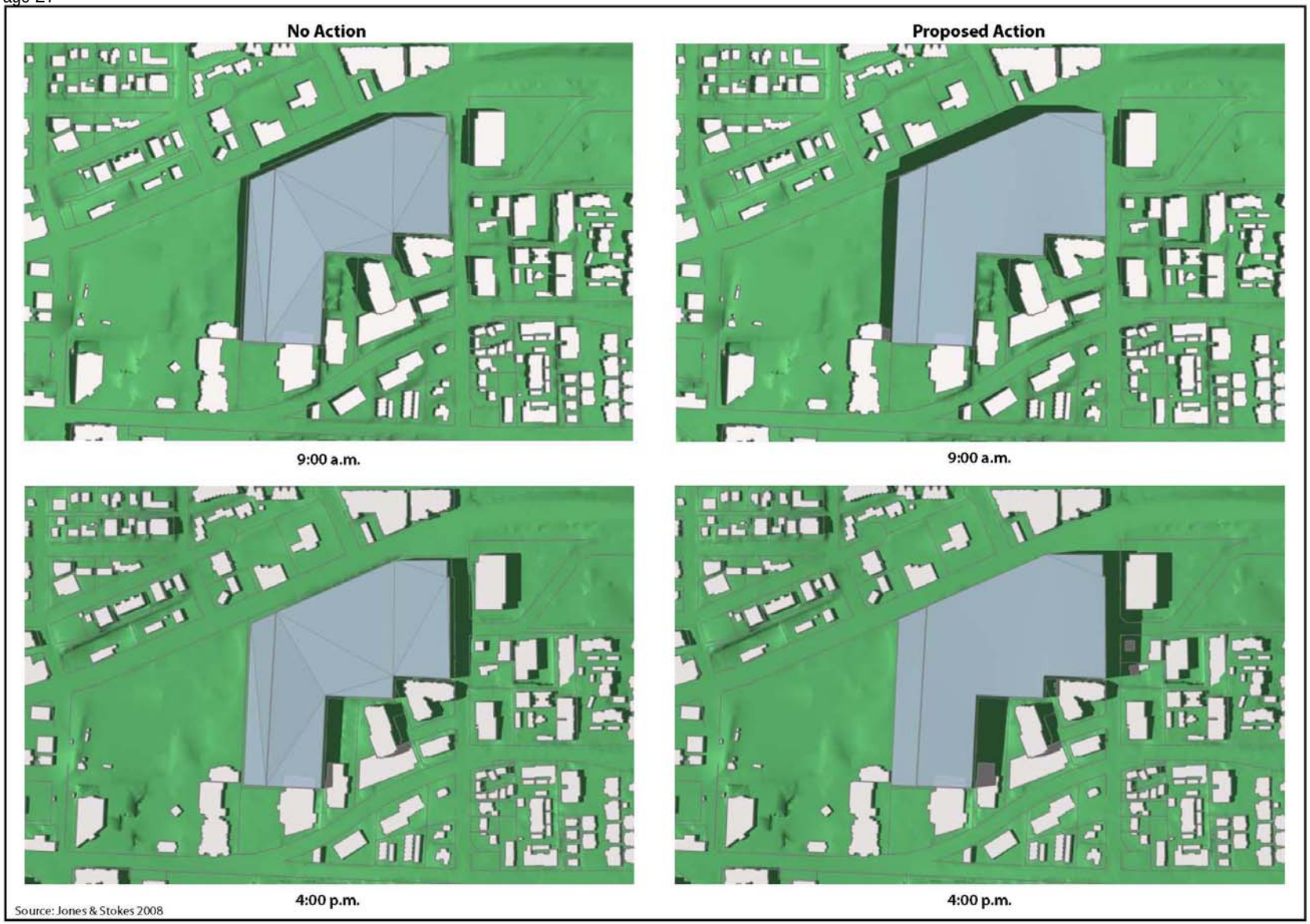
- Winter shading analyzed for each of 3 sites

- Shading analyzed
  - At 10:00 a.m. and 3:00 p.m.
  - Under No Action and Proposed Action maximum height conditions



Source: Jones & Stokes 2008

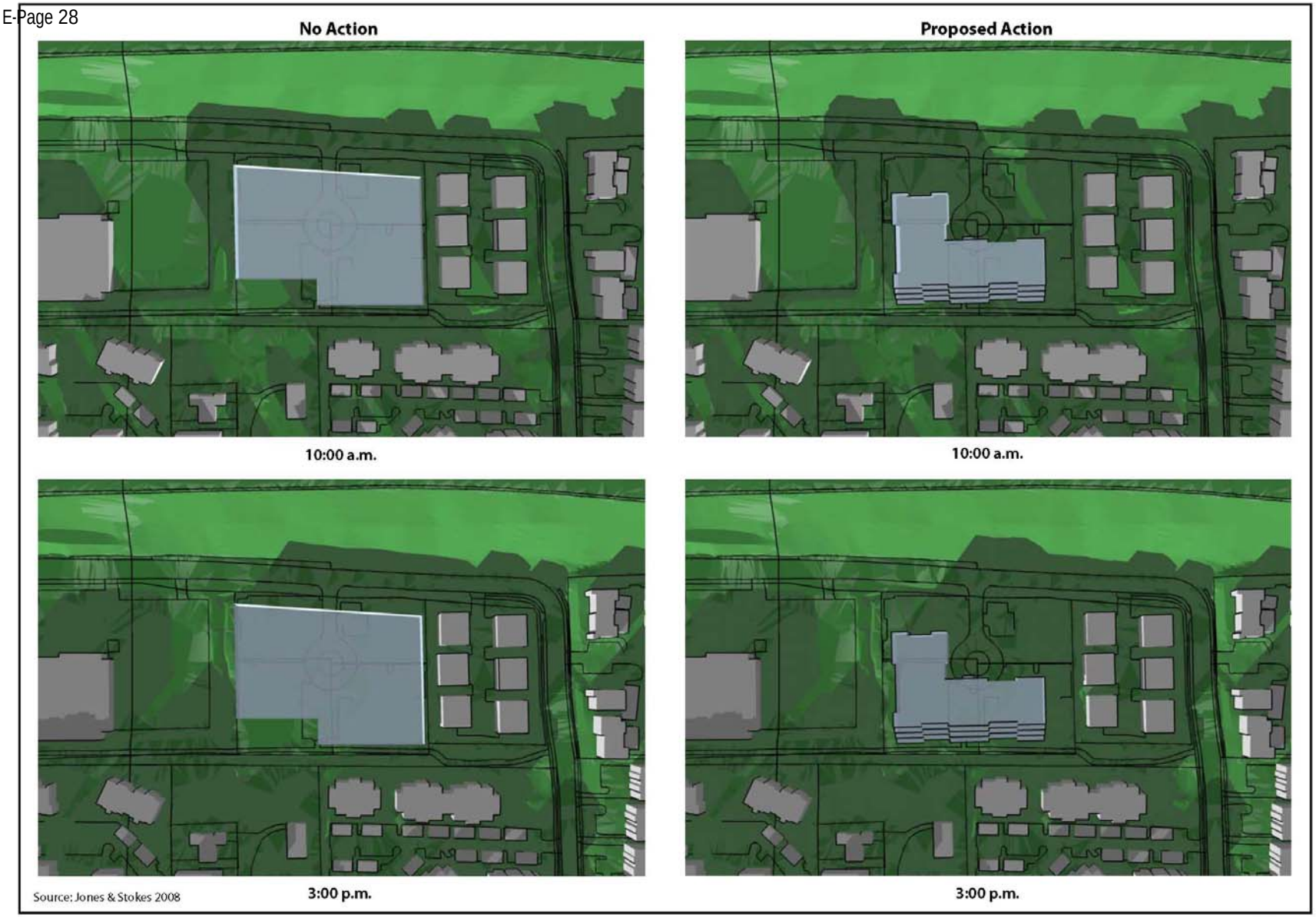
Winter Shading – Area A



Source: Jones & Stokes 2008

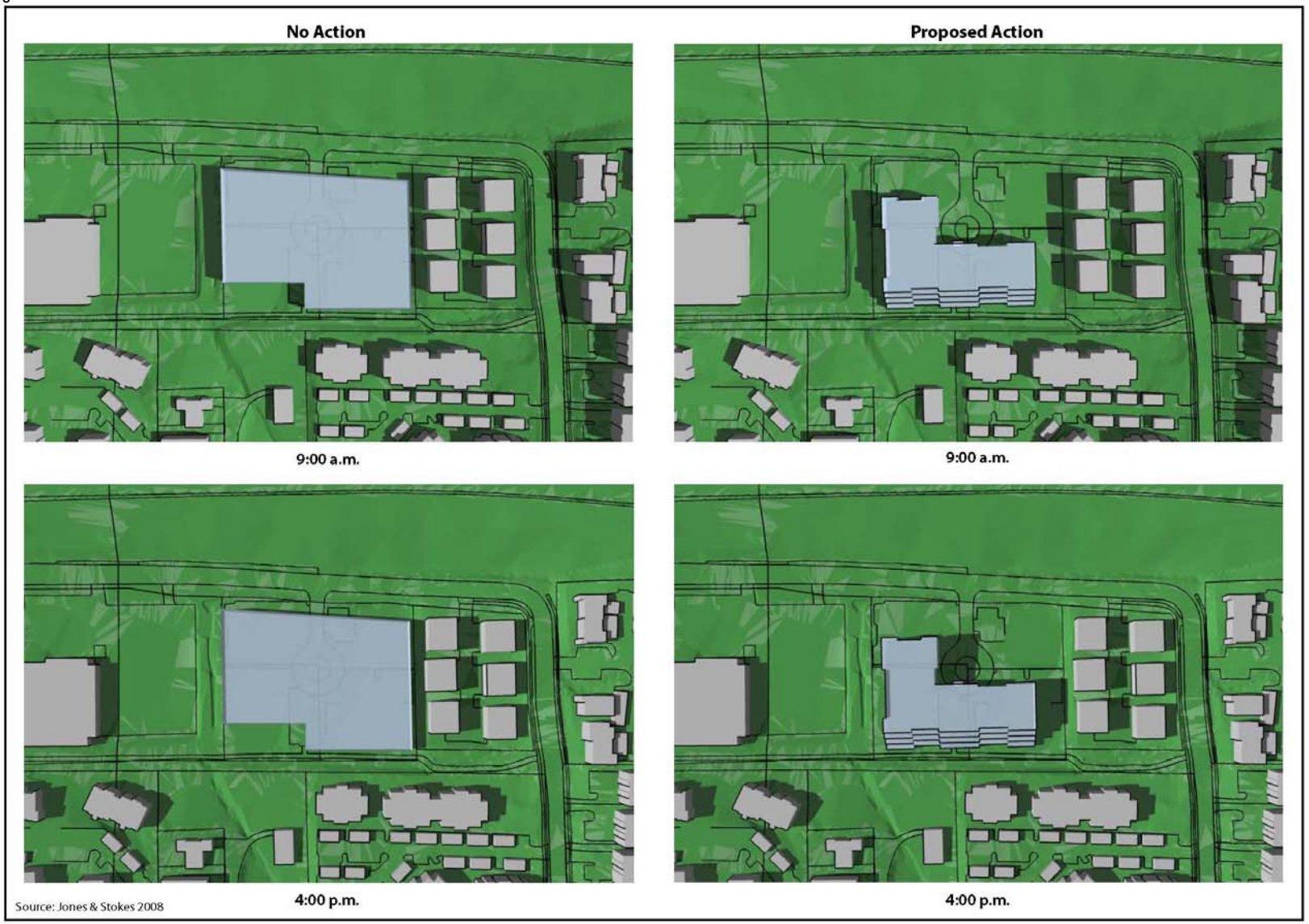
Jones & Stokes

Figure 3.3-8
Area A Summer Shading Conditions



Source: Jones & Stokes 2008

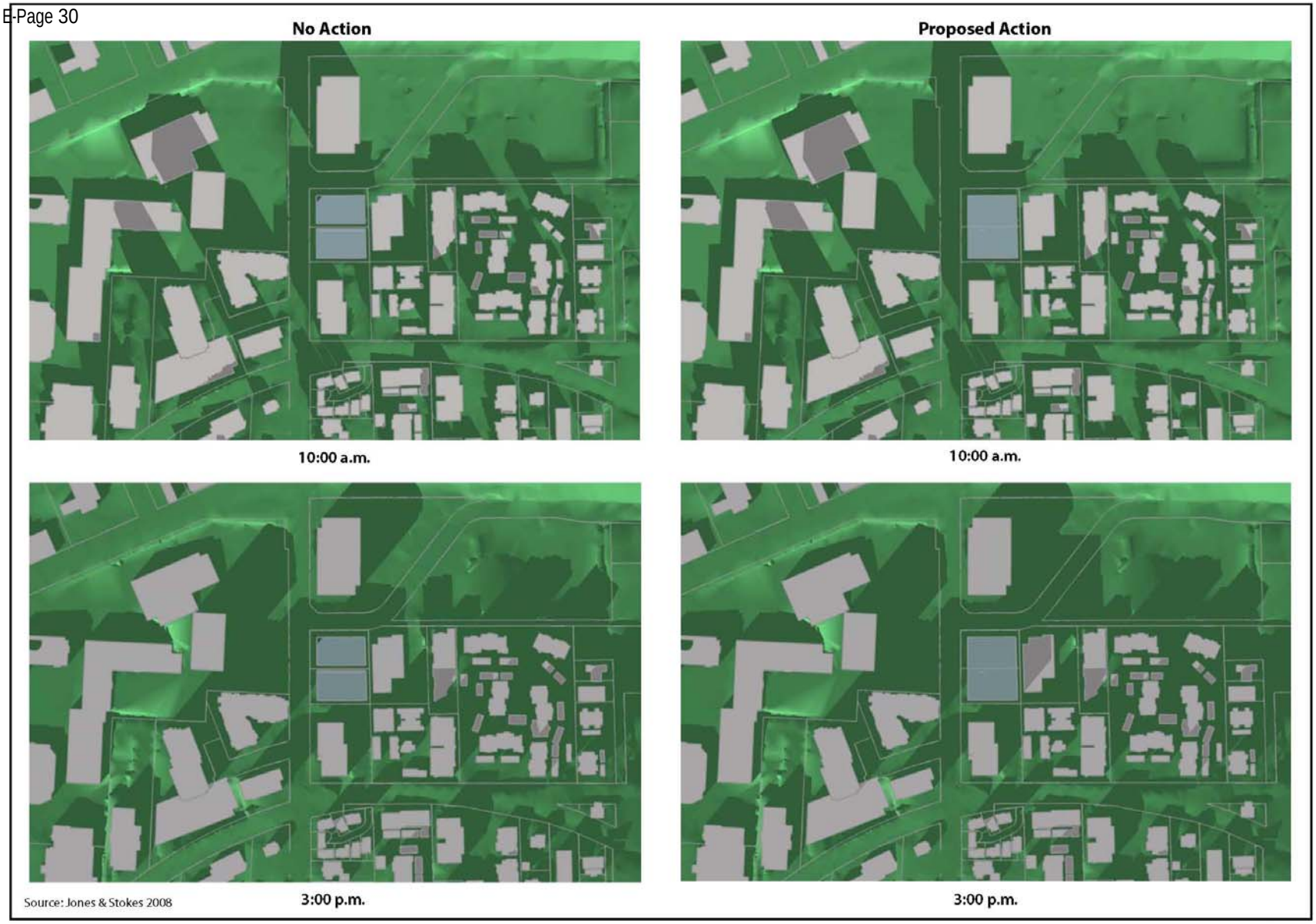
Winter Shading – Area B



Source: Jones & Stokes 2008

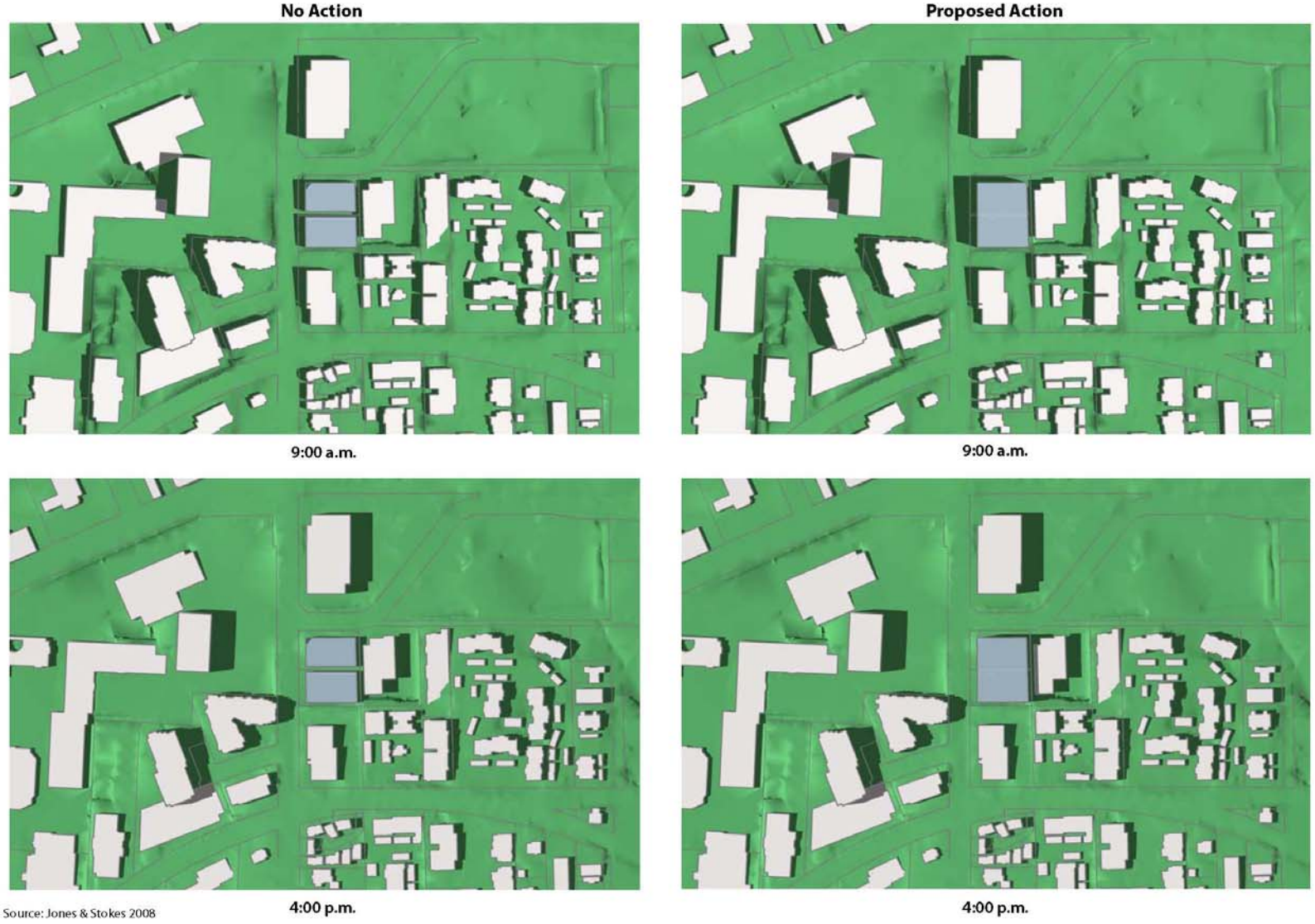
Jones & Stokes

Figure 3.3-10
Area B Summer Shading Conditions



Source: Jones & Stokes 2008

Winter Shading – Area C



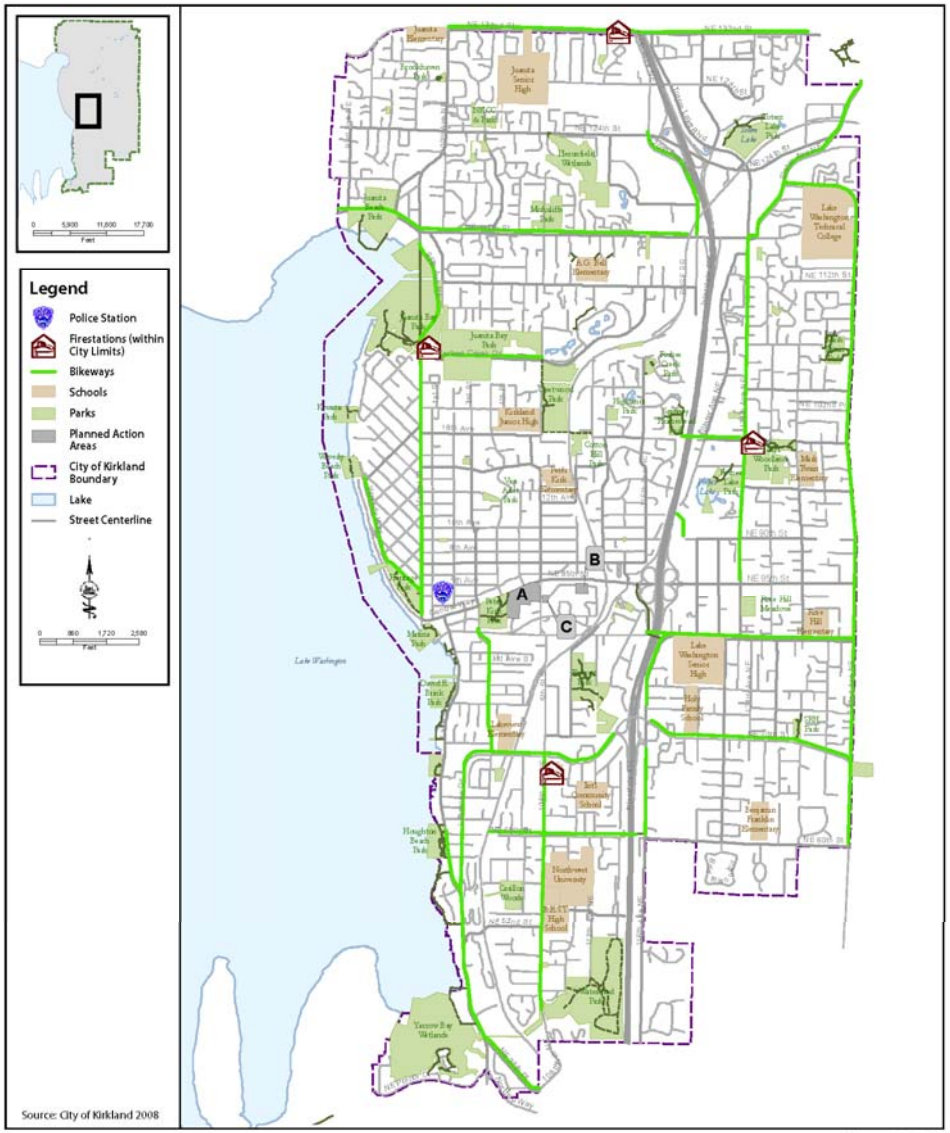
Source: Jones & Stokes 2008

Jones & Stokes

Figure 3.3-12
Area C Summer Shading Conditions

Questions about Shading Analysis?

Citywide Facilities/Services



Jones & Stokes

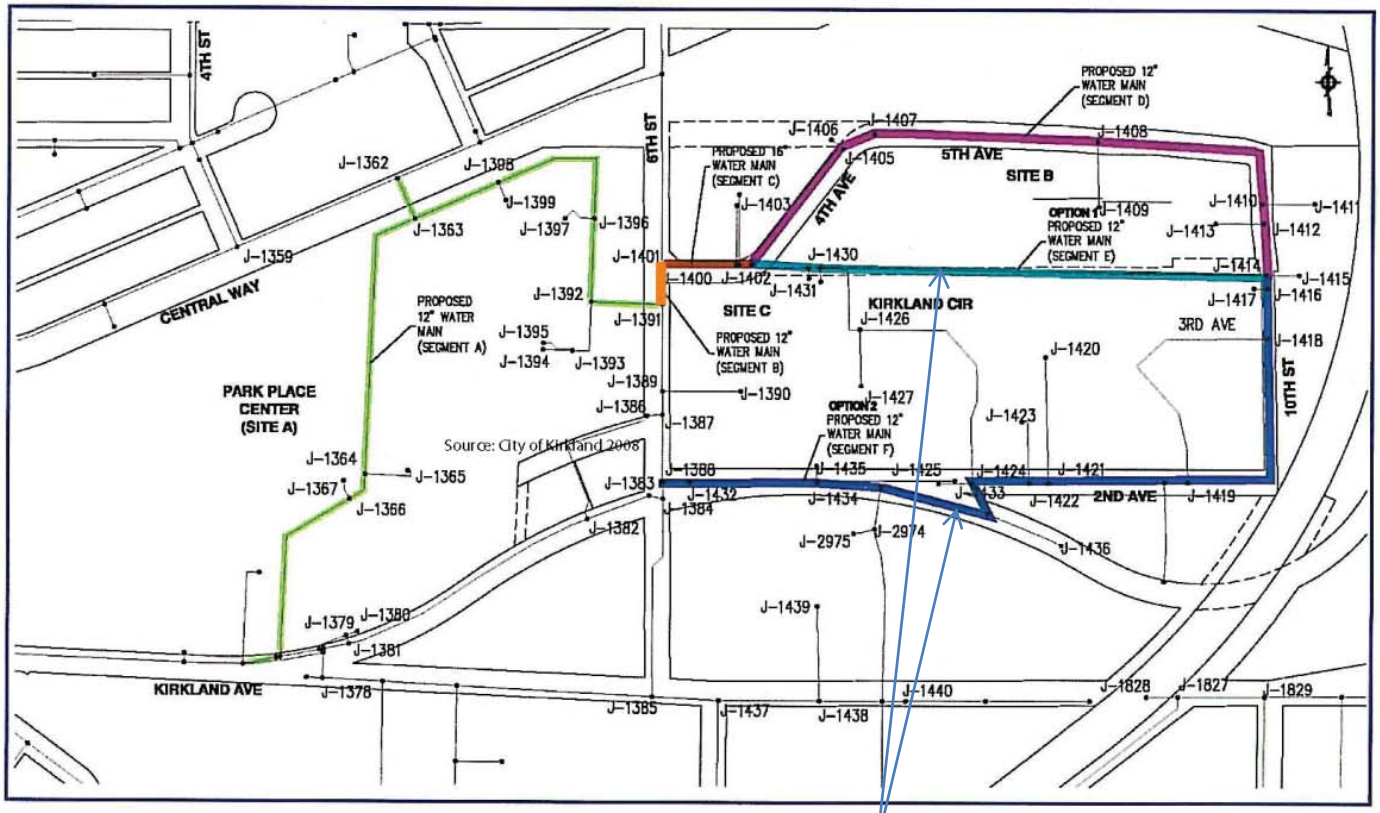
Figure 3.5-1
Citywide Facilities

Additional Police and Fire Service Compared to Existing Conditions

No Action	Proposed Action
+1.6 police officers	+3.1 police officers
+0 firefighters	+8 firefighters *
+0 EMS firefighters	+ 4 EMS firefighters *

* Number of new staff needed to provide full coverage (24 hours/7 days) for firefighter and Emergency Medical Service (EMS) positions under Proposed Action.

Proposed Water System Improvements



Construct either Segment E or F

Legend

Proposed Project Mitigation Measures

- Segment A: 12" Water Main
- Segment B: 12" Water Main
- Segment C: 16" Water Main
- Segment D: 12" Water Main
- Segment E: 12" Water Main
- Segment F: 12" Water Main

Source: City of Kirkland 2008

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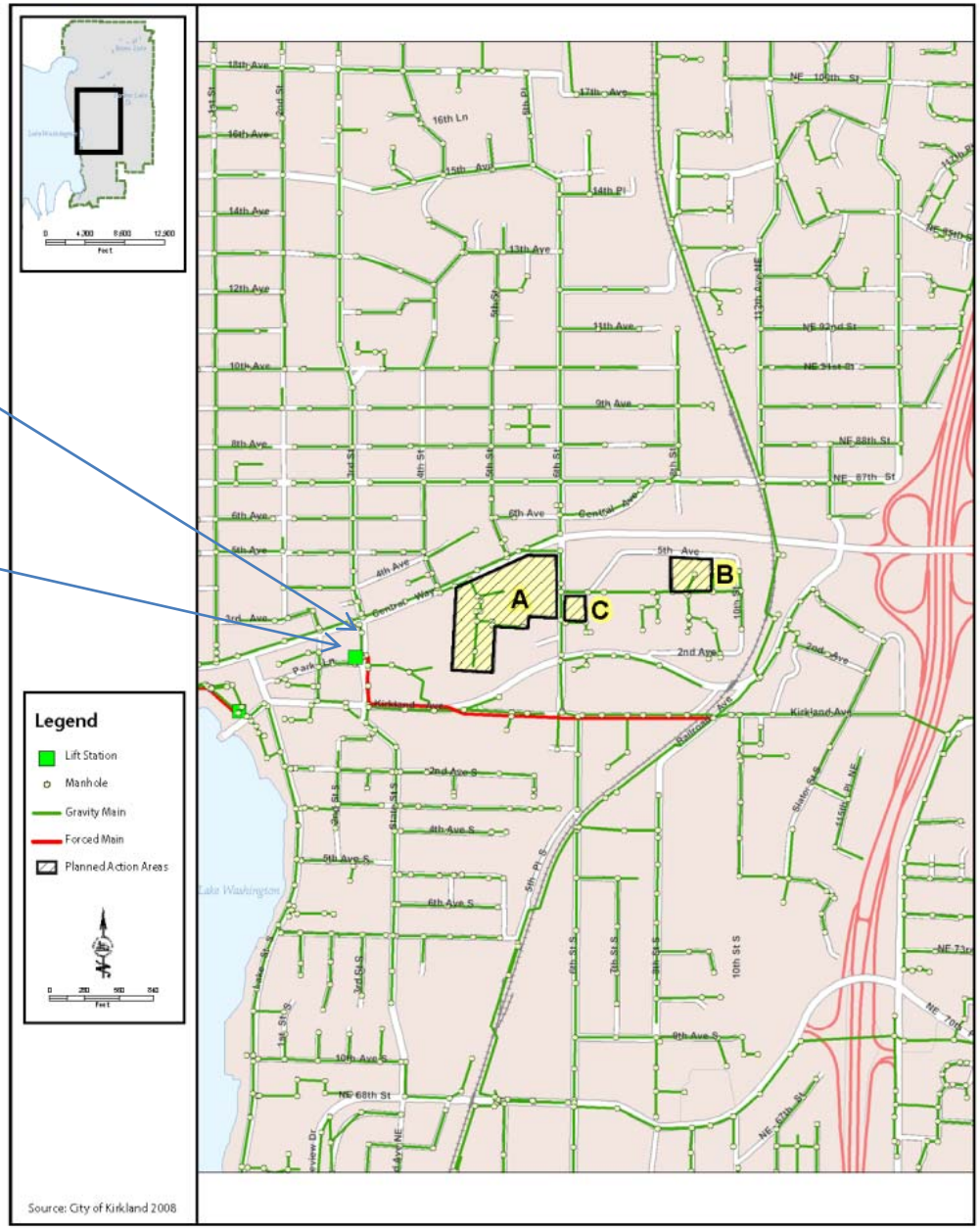
Figure 3.6-4
Proposed Water System Improvements

Sewer Infrastructure

Area where surcharging occurs

Lift Station



Jones & Stokes

Figure 3.6-3
Sewer Infrastructure

Questions about Facilities?

Transportation

- Traffic Impacts
  - Traffic Impact Analysis (TIA) Guidelines – 2014
  - 2014 Concurrency
  - 2022 Concurrency
- Parking
- Transit, Non-Motorized, Greenhouse Gas Emissions

Traffic Impacts

- Summary of Approach
- Summary of Results

Traffic Impact Approach

- Three impact measures in DEIS
  - **SEPA Traffic Impact Analysis (TIA) Guidelines** – measures impacts at intersections through 2014, and proportion of traffic contributed by project at those locations
  - **Six-Year Concurrency** – measures compliance with adopted LOS standards through 2014
  - **Long-Range Concurrency** – measures compliance with adopted LOS goals through 2022 (horizon year of Comprehensive Plan)

Land Use Assumptions

- Outside of planned action areas
  - Consistent with Comprehensive Plan
  - Regional growth unrelated to project
  - Same for No Action and Proposed Action

- Inside of planned action areas
  - No Action – increases allowed under existing zoning
  - Proposed Action – build-out of proposals

Mode Split Assumptions

Mode	% Split	Number of Trips
Walk / Bike	3.5%	133
Transit	2.1%	78
Vehicle	94.4%	3,546
	100.0%	

- Derived from local data
  - Commute Trip Reduction data
  - Puget Sound Regional Council
  - WSDOT
  - U.S. Census
- "Conservative yet reasonable" based upon
  - location of the site
  - availability of alternative transportation modes
  - City policies
  - locally observed mode split data

Mode Split Assumptions

- Transit and carpool - similar to or lower than local observed data (6%, compared to observed downtown range of 5.9% to 12.3%)

- Walk/bike modes slightly higher than local observed data (3.5%, compared to observed range of 0.7% - 2.8%)
  - proposed TDM program designed to encourage alternative modes
  - WSDOT pedestrian study
  - City policies

Traffic Projections

- PM peak hour projections
  - derived using BKR model
  - 2014 and 2022

- AM peak hour projections
  - derived using traffic counts, traffic growth rates, modeled traffic distributions
  - 2014 only

Traffic Impact Thresholds

- TIA Guidelines
  - Level of Service (LOS) analyzed – LOS A through F
  - Impact identified:
    - If LOS E, project traffic > 15% of total traffic
    - If LOS F, project traffic > 5% of total traffic
  - Analysis completed for 2014, AM and PM peaks

Traffic Impact Thresholds

- Concurrency Guidelines
  - Volume to Capacity ratio (V/C) analyzed
  - Impact identified:
    - If individual intersection V/C > 1.40
    - If subarea average > threshold adopted for analysis year
  - Analysis completed for 2014 and 2022, PM peaks

Questions about Traffic Impact Analysis Approach?

Impact and Mitigation Results

No Action

Mitigation by 2014:

- 4–Central Way/Parkplace Driveway ●
- 109–NE 85th Street/114th Avenue NE ● ▲
- 129–Central Way/4th Street ●

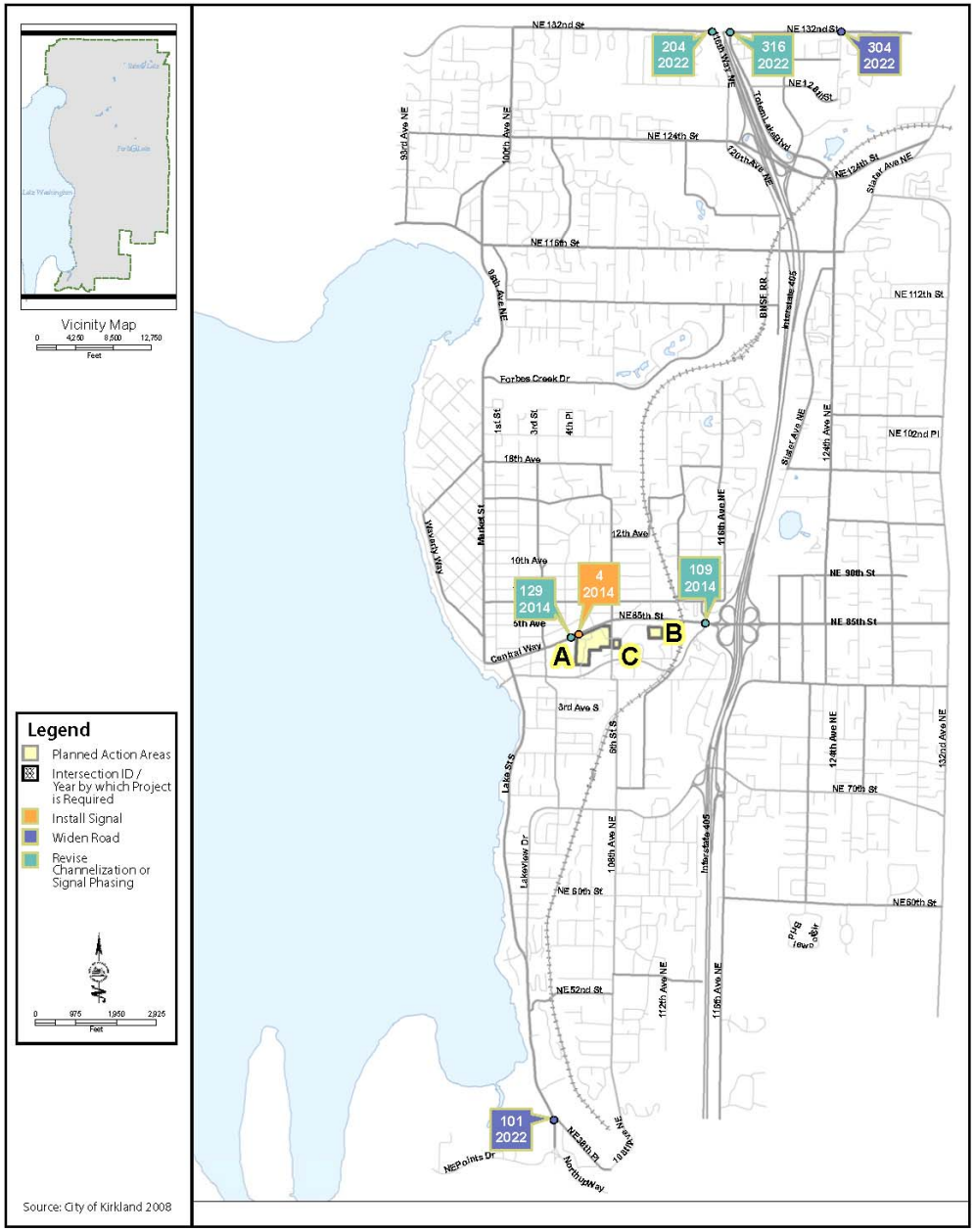
Mitigation by 2022:

- 101–Lake Washington Blvd/NE 38th Pl ▲
- 204–116th Way NE/NE 132nd Street ▲
- 304–NE 132nd Street/124th Street NE ▲
- 316–Totem Lake Blvd/NE 132nd Street ▲
- Northwest subarea ▲
- Southwest subarea ▲

● Impact under 2014 SEPA TIA

■ Impact under 2014 Concurrency (none)

▲ Impact under 2022 Concurrency



Jones & Stokes

Figure 3.4-10
Summary of Improvements—No Action

Impact and Mitigation Results

Proposed Action (also for No Action)

Mitigation by 2014:

- 4–Central Way/Parkplace Driveway ●
- 105–Central Way/6th Street ● ▲
- 109–NE 85th Street/114th Avenue NE ● ■ ▲
- 110–6th Street/4th Avenue ●
- 112–Kirkland Way/6th Street ●
- 128–Central Way/5th Street ●
- 129–Central Way/4th Street ●
- 169–6th Street/7th Avenue ●
- 211–Market Street/15th Avenue ●
- 402– NE 85th Street/124th Avenue NE ●
- Southwest subarea ■ ▲

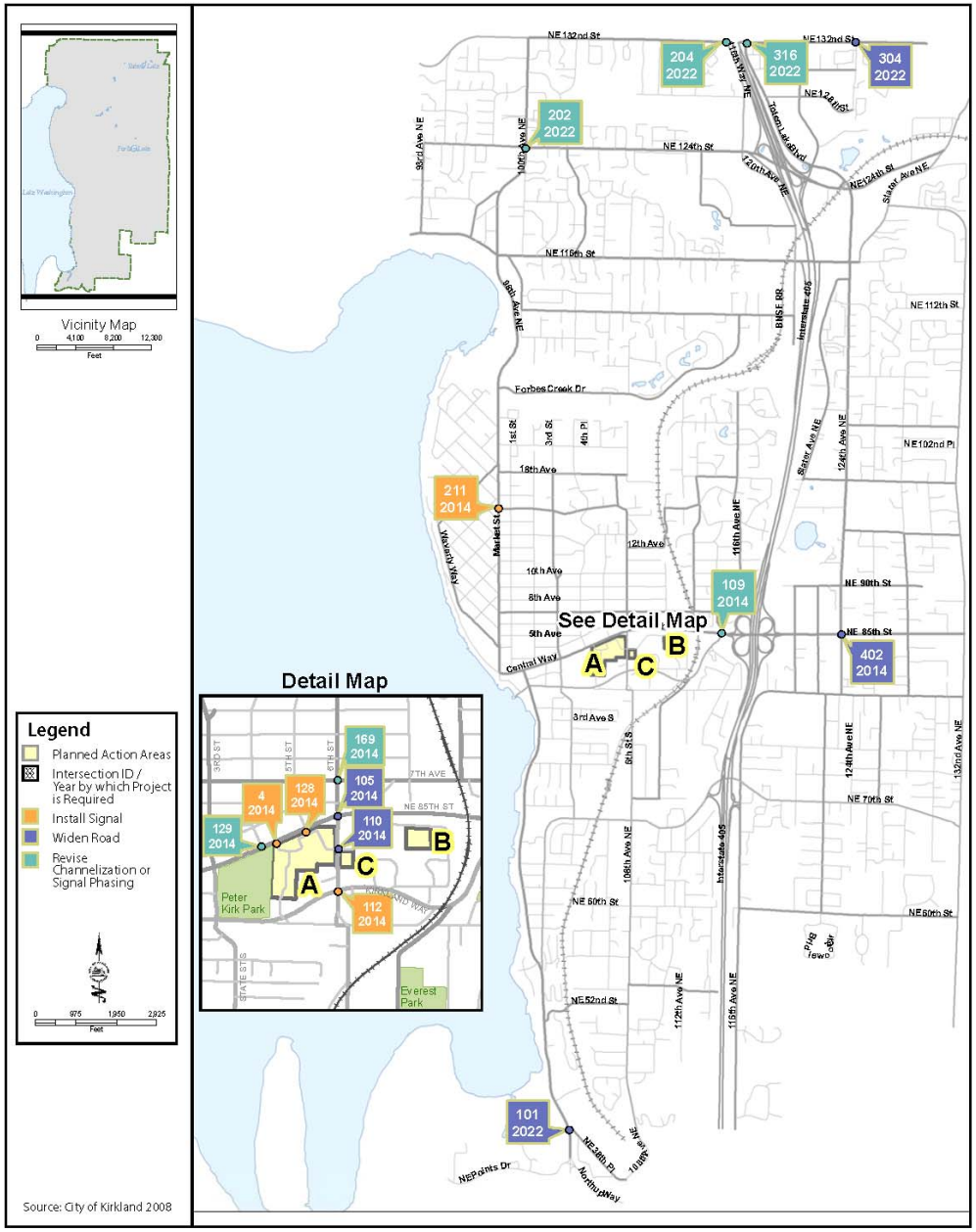
Mitigation by 2022:

- 101–Lake Washington Blvd/NE 38th Pl ▲
- 202–100th Avenue NE/NE 124th Street
- 204–116th Way NE/NE 132nd Street ▲
- 304–NE 132nd Street/124th Street NE ▲
- 316–Totem Lake Blvd/NE 132nd Street ▲
- Northwest subarea ▲

● Impact under 2014 SEPA TIA

■ Impact under 2014 Concurrency

▲ Impact under 2022 Concurrency



Jones & Stokes

Figure 3.4-11
Summary of Improvements—Proposed Action

Estimated Cost of Mitigation

	2014	2022
No Action	3 projects Est. Cost $764,000	4 projects Est. Cost $6,391,000[1]
Proposed Action	10 projects Est. Cost $7,058,000	5 projects Est. Cost $6,391,000[1,2]

1. Includes two planned WSDOT projects – no cost to City assumed
2. Includes revised signal phasing at 100th Ave NE/NE 124th St – no cost to City

Questions about Traffic Impacts or Mitigation?

Parking Impacts

- Area B (Orni) and Area C (Altom)
  - Proposals assume parking supply will be consistent with zoning requirements

- Area A (Parkplace)
  - Without modification, zoning would require ~5,100 spaces for individual uses
  - 3,500 spaced proposed with modification

Parking Mitigation

- Area A (Parkplace) proposal includes ‘shared parking’ analysis
  - Transportation Demand Management plan
    - reduce overall vehicle demand related to commutes
  - Internal and Multi-Stop Trips
    - mixed use results in increased trips internal to site, than would otherwise
  - Parking demand by day, or time of day
    - Different uses have peak demands at different times
    - Allows parking supply to be shared

Parking Mitigation

- Recommended measures
  - Transportation Management Plan (TMP)*
  - Parking Management Plan (includes monitoring)
- Other potential measures
  - Permitted parking in surrounding neighborhood
  - Land use measures – reduce allowed development at certain locations

*TMP is required to mitigate parking impacts, but will also help reduce overall traffic generation

Questions about Parking?

Transit and Non-Motorized Impacts

- Proposed Action most supportive of City policies
- No Action more supportive than existing
- No mitigation required

Greenhouse Gas (GHG) Emissions

- Increased vehicle miles traveled resulting from proposals would increase GHG emissions

- Trip reduction measures would also serve to reduce GHG

Remaining Questions?

City of Kirkland Planned Action Ordinance
Summary of Transportation Impacts and Mitigation

Roadway Operations

Roadway Operational impacts were assessed according to Traffic Impact Analysis (TIA) and concurrency guidelines, described as follows.

Traffic Impact Analysis

The City has established Traffic Impact Analysis (TIA) guidelines by which the effect of development proposals on roadway operations must be analyzed for the expected year of project completion. For 2014 Traffic Impact Analysis, an impact is identified if either of the following conditions occur:

a. If the intersection is projected to operate at LOS E, an impact is identified and mitigation required if greater than 15% of traffic projected to travel through the intersection is generated by the project.

b. If the intersection is projected to operate at LOS F, an impact is identified and mitigation required if greater than 5% of traffic projected to travel through the intersection is generated by the project.

Concurrency

Concurrency analysis considers the effects of proposed land use on the transportation system at the time of project completion, and for the long-range planning horizon. Concurrency planning for the year of project completion, which is 2014 for this project, is a legal requirement to ensure that the City has funding secured in its 6-year Capital Improvement Plan (CIP) for transportation projects needed to support development planned through that time period. Concurrency analysis is required additionally applied for the long- range planning horizon, which is 2022 for this project, because the Proposed Action would result in a change in the City Comprehensive Plan. The long-range concurrency analysis allows for a long-range transportation plan to be developed to support the Proposed Action proposed development through the planning year defined in the Comprehensive Plan. Traffic conditions meet concurrency standards when both of the following conditions are met for a typical weekday PM peak hour:

- no individual signalized system intersection may have a V/C greater than 1.40; and
- maximum allowed subarea average V/C for signalized system intersections in each subarea may not exceed the values listed in Table 1.

Table 1. Concurrency Thresholds

	Subarea Average V/C		
Subarea	Existing (2008)	2014	2022
Southwest	0.90	0.90	0.92
Northwest	0.90	0.91	1.01
Northeast	0.88	0.88	0.99
East	1.05	1.05	1.10
Maximum allowed individual system intersection V/C	1.40	1.40	1.40

Table 2 summarizes the intersections at which impacts were identified, under the No Action and Proposed Action scenarios. LOS and V/C values that reflect adverse impacts, based upon the guidelines described above, are underlined.

Table 2. Intersection Operational Impacts

		2014 TIA (LOS/Delay)		2014 Concurrency (V/C)		2022 Concurrency (V/C)	
ID	Location	No Action	Prop Action	No Action	Prop Action	No Action	Prop Action
4	Central Way/Parkplace Driveway	F/>300	F/>300	--	--	--	--
101	Lake Washington Boulevard/NE 38th Place	D/49.2	D/48.4	1.04	1.04	1.47	1.48
105	Central Way/6th Street	C/34.5	F/96.3	0.89	1.04	1.01	1.43
109	NE 85th Street/114th Avenue NE	F/132.1	F/227.9	1.30	1.57	1.54	1.41
110	6th Street/4th Avenue	B/17.5	E/75.1	--	--	--	--
112	Kirkland Way/6th Street	F/149.6	F/231.0	--	--	--	--
128	Central Way/5th Street	F/103.5	E/66.2	--	--	--	--
129	Central Way/4th Street	F/82.4	F/119.0	--	--	--	--
169	6th Street/7th Avenue	E/45.9	F/86.7	--	--	--	--
202	100th Avenue NE/NE 124th Street	E/58.3	E/62.6	1.06	1.09	1.27	1.29
204	116th Way NE/NE 132nd Street	--	--	0.99	1.00	1.47	1.49
211	Market Street/15th Avenue	F/70.1	F/153.3	--	--	--	--
304	NE 132nd Street/124th Street NE	F/213.4	F/217.4	1.06	1.07	1.43	1.44
316	Totem Lake Boulevard/NE 132nd Street	D/48.2	E/48.7	1.09	1.09	1.69	1.70
402	NE 85th Street/124th Avenue NE	E/74.2	F/81.0	1.07	1.08	0.99	1.01
	SW Subarea Average (for concurrency)	--	--	0.85	0.91	0.99	1.05
	NW Subarea Average (for concurrency)	--	--	0.81	0.81	1.09	1.13

1. TIA = Traffic Impact Analysis; LOS = Level of Service, Delay = average seconds per vehicle

2 No impact was identified at this intersection. This mitigation measure is recommended in order to improve conditions in the subarea, to address the concurrency impact that was identified in the northwest subarea under the 2022 Proposed Action scenario.

Table 3 summarizes the mitigation measures that have been identified to address intersection impacts for the Proposed Action. (Note, the identified mitigation measures would also address impacts identified under the No Action scenario)

Table 3. Proposed Mitigation to Address Operational Impacts – Proposed Action

			2014 TIA (LOS/Delay)		2014 Concurrency (V/C)		2022 Concurrency (V/C)	
ID	Location	Improvement	Unmiti-gated	Miti-gated	Unmiti-gated	Miti-gated	Unmiti-gated	Miti-gated
4	Central Way/Parkplace Driveway	Install signal	F/>200	C/21.3	--	--	--	--
101	Lake Washington Boulevard/NE 38th Place	Add 720-ft right lane on northbound receiving lanes (north of the Intersection), modified to extend up to NE 43rd St w/ bike lanes)	D/48.4	--	1.04	1.04	1.48	0.84
105	Central Way/6th Street	Construct dual westbound left turn lane. Modify signal to provide westbound left/northbound right overlap phase.	F/96.3	D/39.0	1.04	0.95	1.43	1.14
109	NE 85th Street/114th Avenue NE	Restripe southbound dual left and eastbound right to through conversion. Requires completion of HOV Queue Bypass for the eastbound-to-southbound on-ramp.	F/227.9	F/110.4	1.57	1.35	1.41	1.16
110	6th Street/4th Avenue	Dual eastbound left turn, with widening on 6th Street	E/75.1	C/22.0	--	--	--	--
112	Kirkland Way/6th Street	Install signal.	F/231.0	C/23.6	--	--	--	--
128	Central Way/5th Street	Install signal.	E/66.2	D/38.7	--	--	--	--
129	Central Way/4th Street	Extend two-way-left-turn by moving crosswalk to Parkplace Signal	F/119.0	C/21.3	--	--	--	--
169	6th Street/7th Avenue	Add left turn lanes on northbound and southbound approaches	F/86.7	E/42.6	--	--	--	--
202	100th Avenue NE/NE 124th Street	Modify the signal phase to be the same as during AM peak period, with northbound and southbound to be split phase, and southbound configuration to be left, left/through shared, and through/right shared.[2]	E/62.6	--	1.09	1.09	1.29	1.15
204	116th Way NE/NE 132nd Street	Reconfigure the intersection based on the 132nd Street Study and new I-405 northbound on-ramp	--	--	1.00	1.00	1.49	1.03
211	Market Street/15th Avenue	Install signal	F/153.3	B/15.9	--	--	--	--
304	NE 132nd Street/124th Street NE	Construct eastbound dual left turn lane, based on the 132nd Street Study	F/217.4	--	1.07	1.07	1.44	1.36
316	Totem Lake Boulevard/NE 132nd Street	Reconfigure the intersection based on the 132nd Street Study and new I-405 northbound on-ramp	E/48.7	--	1.09	1.09	1.70	1.13
402	NE 85th Street/124th	Add northbound right-turn-only	F/81.0	E/78.4	1.08	1.08	1.01	1.01

ID	Location	Improvement	2014 TIA (LOS/Delay)		2014 Concurrency (V/C)		2022 Concurrency (V/C)	
			Unmiti-gated	Miti-gated	Unmiti-gated	Miti-gated	Unmiti-gated	Miti-gated
	Avenue NE	pocket						
	SW Subarea Average (for concurrency)		--	--	0.91	0.88	1.05	0.92
	NW Subarea Average (for concurrency)		--	--	0.81	0.81	1.13	1.01

1. TIA = Traffic Impact Analysis; LOS = Level of Service, Delay = average seconds per vehicle

2 No concurrency impact was identified at this intersection. This mitigation measure is recommended in order to improve conditions in the subarea, to address the concurrency impact that was identified in the northwest subarea under the 2022 Proposed Action scenario.

Table 4 summarizes the estimated cost of projects that have been identified as mitigation.

Table 4. Estimated Costs of Proposed Capacity Improvements

No	Intersection	Potential Mitigation	Estimated Cost	No Action	Proposed Action
Improvements Needed through 2014					
4	Central Way/ Parkplace Driveway	Install signal	$566,000	X	X
109	NE 85th Street/ 114th Avenue NE	Restripe southbound dual left and eastbound right to through conversion (CIP Project #TR-0079 - funded). Requires CIP Project #TR-0056 (currently unfunded) HOV Queue Bypass for the eastbound-to-southbound on-ramp	166,400	X	X
129	Central Way/4th Street	Extend two-way-left-turn by moving crosswalk to Parkplace Signal	31,200	X	X
105	Central Way/6th Street	Construct dual westbound left turn lane. Modify signal to provide westbound left/northbound right overlap phase	3,044,000	-	X
110	6th Street/4th Avenue	Dual eastbound left turn, with widening on 6th Street	580,000	-	X
112	Kirkland Way/6th Street	Install signal. (CIP Project #TR-0065 - unfunded)[4]	564,000	-	X
128	Central Way/5th Street	Install signal.	564,000	-	X
169	6th Street/7th Avenue	Add left turn lanes on northbound and southbound approaches	89,400	-	X

No	Intersection	Potential Mitigation	Estimated Cost	No Action	Proposed Action
211	Market Street/15th Avenue	Install signal. (CIP Project #TR20-11 - unfunded)	564,000	-	X
402	NE 85th Street/ 124th Avenue NE	Add northbound right-turn-only pocket	889,000	-	X
			Cost of Improvement Projects Through 2014	$763,600	$7,058,000
Improvements Needed through 2022					
101	Lake Washington Boulevard/NE 38th Place[1]	Add 720 ft right lane on northbound receiving lanes (north of the Intersection), modified to extend up to NE 43rd St w/ bike lanes (CIP Project #TR-0090 – unfunded)	1,953,000	X	X
204	116th Way NE/ NE 132nd St	Reconfigure the intersection based on the 132nd St Study and New I-405 SB off-ramp. (CIP Project #TR20-11 – unfunded)	WSDOT[3]	X	X
304	NE 132nd St/124th Ave NE	Construct eastbound dual left turn based on the 132nd Street Study	4,438,100	X	X
316	Totem Lake Blvd/ NE 132nd St	Reconfigure the intersection based on the 132nd Street Study and new I-405 northbound on-ramp. CIP Project #TR20-11 – unfunded)	WSDOT[3]	X	X
202	100th Ave NE/NE 124th St	Modify the signal phase to be same as during AM peak period. NB and SB to be split phase. The SB lane configuration change to left, left/through shared and through/right shared during the peak period.[2]	-	-	X
			Cost of Improvement Projects 2015 through 2022	$6,391,100	$6,391,100

1. This cost estimate assumes that widening would occur to allow the bicycle lane that currently exists along this segment of roadway to remain. If the improvement were made without keeping the bike lane, the estimated project cost would be $2,234,000
2. No cost is assumed for this measure, since it is already being implemented during the AM peak period.
3. Assumed that improvement to this intersection would be included in the larger improvement that is planned by WSDOT for this location.
4. Projects funded in the CIP are partially funded by existing impact fees.

Other Impacts and Mitigation

Table 5 summarizes the other potential impacts and proposed mitigation measures that have been identified for the Proposed Action. (Note, incorporated Plan Features are those features that the applicant has built into the proposal)

Table 5. Other Impacts and Mitigation

Impacts	Mitigation
Parking For Area A, the spaces that would be required by the City's zoning code are much higher—approximately 5,157— than the approximately 3,500 spaces that are being proposed. The differences in standard code parking requirements and the proposed parking supply are due to expected shared parking and proposed measures to reduce parking demand. A parking management program, which encourages use of alternative modes and efficient use of the available parking, will be needed to ensure that parking supply is adequate to meet demand. Otherwise, there is potential for parking to spill out into the surrounding neighborhoods, which would be considered a significant impact. Since proposals for Areas B and C do not include any provisions for reduced parking supply, it is assumed that future development in these areas would follow provisions of the City zoning code.	Incorporated Plan Features Under the Proposed Action, Area A includes a total of 3,500 parking spaces at full build-out, which is lower than the approximate 5,100 spaces that would be required under current zoning. The applicant has provided analysis that demonstrates how the proposed amount of parking is expected to accommodate the shared parking demand. The parking demand estimate for the Area A mixed-use project was determined by combining parking accumulation (demand by time of day) for each of the proposed land uses, considering the following factors: ▪ Mode of travel. The Area A development would include a transportation demand management plan developed for the office tenants to increase transit, carpooling, walking, and bicycling to work. Increased use of these modes would reduce the parking demand associated with the office use. In addition, some of the retail and restaurant customers are expected to walk to the site from nearby residential uses. ▪ Internal and multi-stop trips. Many of the daytime customers to the area's retail and restaurant uses are expected to come from offices at the area. Likewise, hotel guests could also shop or dine in the area. No additional parking would be needed for these customers. Many of the area's customers will visit more than one use. For example, a restaurant patron may also shop at the supermarket or retail store, or visit the theater. ▪ Parking demand by time of day or day of week. The peak parking demand for each use occurs at different times of the day or on different days of the week. This allows some of the parking to be shared among uses.
	Transportation Demand Management The cumulative parking demand estimates for the office use require that some of the trips to and from Area A would occur by modes of travel other than SOV. To encourage use of other modes, the project proposes to implement a Transportation Management Plan (TMP) for the office tenants. The following elements are proposed: ▪ Provide a transportation coordinator to manage and promote the program. ▪ Provide transit pass subsidy. ▪ Charge for daily parking. ▪ Offer a part-time parking pass option. ▪ Provide ride-match information. ▪ Provide free parking for vanpools. ▪ Provide reserved parking spaces for vanpools. ▪ Provide shower and locker facilities. ▪ Provide bike storage. ▪ Provide parking for a car-sharing program (e.g., Zipcar). ▪ Offer guaranteed ride home to employees who commute by

Impacts	Mitigation
	alternative modes. ▪ Install electronic kiosk(s) that provides up-to-date information about transportation services. ▪ Monitor success of the TDM program. ▪ Join transportation management association. ▪ Implement a TDM program as a condition of development approval, with specific measures defined in the case it does not meet mode split targets.
	Parking Management The following parking management measures are proposed: ▪ Charge for all daytime parking. ▪ Validate customer and visitor parking. ▪ Use internal gates and controls to divide the garage into sections that are reserved for specific uses at different times of the day. ▪ Reserve areas of the garage for short-term parking by customers and visitors. ▪ Reserve parking for hotel. ▪ Share office parking on weeknights and weekends. ▪ Do not reserve individual spaces for office parking. No parking space in the garage would be reserved for an individual user. This allows all office parking to be shared by employees. ▪ Monitor garage use and adjust allocation or implement additional management measures, if needed. ▪ Monitor public parking outside of Areas A, B, and C. The City may require a parking management program be implemented as a condition of development approval, with specific measures defined in the case that tenants do not meet parking demand targets.
	Permitted Parking in Neighborhoods If, over the long-term, monitoring indicates that even with the parking management measure described above in place, that parking supply is not adequate to meet typical demand, and overflow traffic is parking in neighborhoods, the City may consider establishing permitted parking in neighborhoods. This would allow residents to park long-term in their neighborhoods at no charge, but would restrict visitors to an established maximum.
	Policy and Land Use Measures In the case that revenue is not available to address all identified capacity needs, or if TDM measures do not produce adequate reduction to reduce needed capacity improvements, the GMA allows the City to achieve the needed balance between land use and the transportation system through policy or land use measures. Land use measures may include reducing the level of development at certain locations to reduce the number of trips in the transportation system. Policy measures can include refining LOS and concurrency standards to allow more congestion at certain locations.
Pedestrian and Bicycle Mobility With the Proposed Action's potential for a master planned redevelopment more site amenities are likely to be provided in terms of non-motorized connectivity, landscaping, and gathering spaces. With these features, the Proposed Action would be more conducive to pedestrian and bicycle mobility, and would support the City's non-	No mitigation required.

Impacts	Mitigation
motorized policies. Lower square footages for retail and commercial uses and a potentially less efficient use of land could be less conducive to pedestrian and bicycle mobility and less supportive of the City's non-motorized policies than the Proposed Action. However, there is a greater potential for improved pedestrian and bicycle mobility compared with current conditions.	
Transit Service Higher density under the Proposed Action would be more conducive to transit service and would support the City's transit policies. A report by the PSRC identifies employment densities of 25 jobs per gross acre as a threshold for supporting frequent high-capacity transit service, with a density of 50 jobs per acre as preferred for higher frequency service. The PSRC report identifies that commercial uses with surface parking should strive for a floor area ratio of at least 0.5 to 1.0, and preferably 2.0. The Proposed Action would result in a net increased employment density of 238 jobs per acre above the No Action employment density. The Proposed Action alternative is expected to result in an employment density of 462 jobs per acre and a floor area ratio of 3.25. Both of these measures are well above the thresholds identified by the PSRC to support frequent high capacity transit service. Under the No Action alternative, increased residential and employment growth is anticipated, although to a lesser degree than under the Proposed Action. Therefore, it is expected that the No Action alternative would support increased transit service, although to a lesser degree than the Proposed Action. The No Action alternative is expected to result in an employment density of 224 jobs per acre and a floor area ratio of 1.4. Both of these measures are above the thresholds identified by the PSRC to support frequent high capacity transit service.	No mitigation required.
Greenhouse Gasses Greenhouse gas emissions are expected to increase with increased vehicle traffic. However, trip reduction measures would also have the effect of reducing greenhouse gases.	In addition to trip reduction measures such as transit, carpooling, and walking, there are several other ways that future developers in the analysis area could reduce greenhouse gas emissions. Appendix D of the DEIS lists a variety of additional mitigation measures that could reduce GHG emissions caused by building construction, space heating, and vehicle usage.

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

CITY MANAGER'S OFFICE MEMORANDUM

To: David Ramsay, City Manager

From: Marie Stake, Communications Program Manager

Date: September 23, 2008

Subject: Domestic Violence Awareness Month Proclamation

RECOMMENDATION**:**

Council authorizes the Mayor Lauinger to sign the Domestic Violence Awareness Month Proclamation.

BACKGROUND DISCUSSION:

Domestic Violence is a serious crime that affects women, children and their community. Outreaching to communities and individuals through education, advocacy and support will lead to the awareness and prevention of domestic violence in homes. City, county and state governments can play a significant role in ending domestic violence through public awareness efforts. Many domestic violence agencies as well as other non-profit agencies recognize October as the awareness month.

The Eastside Domestic Violence Program (EDVP) is a City of Kirkland human service provider and offers clients the following services:

Confidential Shelter:	Provides confidential and safe shelter and 24-hour crisis counseling.
Early Crisis Intervention:	Provides council to domestic violence victims
Community Advocacy & Education:	Provides support, education, and advocacy for domestic violence victims, through crisis intervention, and coordination with the criminal justice system and other service providers

EDVP Board Member Ray DiCasparro will be attending the October 7th Council meeting to accept the Domestic Violence Awareness Month proclamation.

A PROCLAMATION OF THE CITY OF KIRKLAND

Designating October 2008 as *"Domestic Violence Awareness Month"* in the City of Kirkland

WHEREAS, domestic violence is a serious crime that affects almost four million women each year and often has severe consequences for survivors, their children, their employers, and the community;

WHEREAS, the national Crime Survey found that domestic violence has a direct bearing on productivity, effectiveness, absenteeism, and employee turnover in the workplace; and

WHEREAS, stopping the cycle of this vicious crime requires not only the resolve and courage of survivors, but also the support and involvement of all of us, including employers; and

WHEREAS, in Washington State, more than 400 people were killed between 1997 and 2006 due to domestic violence; and

WHEREAS, on average, in King County, there are more than 90,000 domestic violence related incidents each year and more than 800 incidents in the City of Kirkland in 2007; and

WHEREAS, enhanced education, prevention, and intervention efforts help to increase public awareness about the severity and extent of domestic violence, and, as a result, help to prevent acts of violence among family members while simultaneously helping to reduce the related costs to society and employers; and

WHEREAS, the City of Kirkland Police Department, through its Family Violence Unit, and the Eastside Domestic Violence Program, endeavor to raise awareness about domestic violence in general, and about how domestic violence affects the workplace, in particular;

NOW, THEREFORE, I, James L. Lauinger, do hereby proclaim October 2008, as *Domestic Violence Awareness Month* in the City of Kirkland and encourage all City of Kirkland employees and Kirkland residents to dedicate themselves to reducing domestic violence in our community and region, and I call upon all employers to educate their employees about domestic violence and to inform them about available community resources.

Signed this 7ND day of October 2008,

_____

James L. Lauinger, Mayor

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

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Jim Dare, NTCP Manager

Date: September 22, 2008

Subject: WALK YOUR CHILD TO SCHOOL PROCLAMATION

The City Council has presented Walk to School Week proclamations in past years to designate the annual Walk Your Child to School Week in Kirkland. This year the event is October 6 – October 10. Councilmembers are invited to participate in the Feature Day for each school. The schedule is currently as listed below, but may be adjusted. Staff will notify Councilmembers of any changes.

Tuesday, October 7	8:15 - 8:45	Peter Kirk
Wednesday, October 8	8:30 - 9:00	AG Bell
Wednesday, October 8	8:30 - 9:00	Juanita El
Thursday, October 9	8:00 - 8:30	Rose Hill
Thursday, October 9	8:30 - 9:00	Ben Franklin
Friday, October 10	8:00 - 8:25	Mark Twain
Friday, October 10	8:20 - 8:50	Lakeview

A PROCLAMATION OF THE CITY OF KIRKLAND

Designating October 6 – 10, 2008, as "Walk to School Week"

Whereas, October 6 – 10, 2008 has been declared *Walk to School Week* by Partnership for a Walkable America; and

Whereas, children, parents and community leaders are joining together nationwide to walk to school and to evaluate pedestrian safety in their community; and

Whereas, the City of Kirkland is committed to making the journey to and from school safer and healthier for all children; and

Whereas, walking to school encourages physical fitness through the easiest-to-do and most enjoyable form of exercise and promotes safety by teaching children the skills to walk safely and to identify safe routes to school; and

Whereas, walking to school during this week allows local community leaders, parents, and children to share valuable time with each other;

NOW, THEREFORE, I, James L. Lauinger, Mayor of Kirkland, do hereby proclaim October 6th to 10th, 2008, as Walk to School Week in the City of Kirkland and encourage everyone to consider the safety of pedestrians today and everyday.

Signed this 7th day of October, 2008

_____

James L. Lauinger, Mayor

KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
September 16, 2008

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.
Members Absent: None.

3. STUDY SESSION

a. Design Review Process and Downtown Zoning

Joining Councilmembers for this discussion in addition to City Manager Dave Ramsay were Director of Planning and Community Development Eric Shields, Planning Supervisor Jeremy McMahan, City Attorney Robin Jenkinson, Design Review Board Chair Brian Berg and Vice-Chair Carter Bagg.

4. EXECUTIVE SESSION

a. To Discuss Pending Litigation

b. To Discuss Property Acquisition

5. SPECIAL PRESENTATIONS

a. Jill Kintner Proclamation

Olympic bronze medalist Jill Kintner accepted the proclamation.

b. Janet Jonson - Twenty-Five Year Recognition

c. Kirkland Performance Center and Recognition of Steve Lerian

d. Day of Concern for the Hungry Proclamation

Program Coordinator Brian Anderson accepted the proclamation on behalf of the Emergency Feeding Program of Seattle-King County.

6. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding the recent All City Boards and Commissions Dinner; Highlands Neighborhood Picnic; Concours d'Elegance; Highlands Cotton Hill Park Trail; Association of Washington Cities Legislative Committee top five priorities; and the Pro Bike/Pro Walk 2008 Conference.

b. City Manager

(1) City Council Meeting with Juanita Neighborhoods

(2) Calendar Update

7. COMMUNICATIONS

a. Items from the Audience

Rob Brown, 108 2nd Avenue South, #105, Kirkland, WA
Maureen Baskin, 412 13th Avenue, Kirkland, WA
Maura Hanneman, 211 Kirkland Avenue, #503, Kirkland, WA
G.G. Getz, 11332 NE 67th, Kirkland, WA
Lisa McConnell, 5905 106th Avenue NE, Kirkland, WA
Dick Beazell, 4913 111th, Avenue NE, Kirkland, WA
Marilyn Dillard, 2053 Minor Avenue East, Seattle, WA
Kiri Rennaker, 100 20th Avenue, Kirkland, WA
Dean Tibbott, 109 2nd Street South, Kirkland, WA
Debra Sinick, 9415 110th Place NE, Kirkland, WA
Elaine Darling, 9330 Juanita Drive NE, Kirkland, WA
William Brown, 6829 117th Avenue NE, Kirkland, WA

b. Petitions

(1) Lakeview Park Homeowners Requesting Revised No Parking Signage

The petition was acknowledged.

8. CONSENT CALENDAR

a. Approval of Minutes: September 2, 2008

b. Audit of Accounts:
Payroll $ 2,118,198.91
Bills $ 2,257,196.32

run # 769 check #'s 501775 - 501908
run # 770 check #'s 501909 - 501944
run # 771 check #'s 502033 - 502217
run # 772 check #'s 501969 - 502032

c. General Correspondence

d. Claims

(1) Teresa Andrews

(2) Regina S. Fell

(3) Allen Jahani

(4) Chris Kahne

e. Award of Bids

(1) The contract for the NE 73rd Street Sidewalk and Watermain Improvement Project in the amount of $418,895.79 was awarded to Dennis R. Craig Construction Company of Redmond, Washington.

f. Acceptance of Public Improvements and Establishing Lien Period

(1) Carter House Hazard Mitigation and Deconstruction with City Hall Annex Hazard Mitigation

g. Approval of Agreements

h. Other Items of Business

(1) 2007 Impact Fee Report

(2) Leasehold Excise Tax Repayment

This item was pulled and moved to item 10.a. on the evening's agenda.

Motion to Approve the Consent Calendar, with the exception of item 8.h.(2). which was pulled and moved to item 10.a. under Unfinished Business.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

Council recessed for a short break.

9. PUBLIC HEARINGS

a. Resolution R-4725, entitled ’A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AND ADOPTING THE ANNUAL UPDATE FOR THE SIX-YEAR TRANSPORTATION AND STREET CONSTRUCTION AND IMPROVEMENT PROGRAM IN ACCORDANCE WITH SECTION 19.08.051, KIRKLAND MUNICIPAL CODE

Mayor Lauinger opened the public hearing. Capital Projects Manager Ray Steiger reviewed the Plan. No further testimony was offered and the Mayor closed the hearing.

Motion to Approve Resolution R-4725, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AND ADOPTING THE ANNUAL UPDATE FOR THE SIX-YEAR TRANSPORTATION AND STREET CONSTRUCTION AND IMPROVEMENT PROGRAM IN ACCORDANCE WITH SECTION 19.08.051, KIRKLAND MUNICIPAL CODE."
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. 2009-2010 Revenue Sources

Mayor Lauinger opened the public hearing. Finance Director Tracey Dunlap provided a brief presentation on the process. Also providing testimony was Bill Vadino, 401 Park Place, Suite 102, Kirkland, WA. No further testimony was offered and the Mayor closed the hearing.

c. Consideration of Taking an Official Position on the Sound Transit (A Regional Transit Authority) Proposition No. 1 Mass Transit Expansion:
Proposition No. 1, Mass Transit Expansion
The Sound Transit Board passed Resolution No. R2008-11 concerning an expansion of mass transit. This measure would expand and coordinate light-rail, commuter-rail, and (beginning 2009) express bus service, and improve access to transit facilities in King, Pierce and Snohomish Counties, and authorize Sound Transit to impose an additional five-tenths of one percent sales and use tax, and to use existing taxes to fund the local share of the $17.9 billion estimated cost (includes construction, operations, maintenance, interest and inflation), with independent audits, as described in Resolution R2008-11 and the Mass Transit Guide. Should this measure be:

[ ] Approved
[ ] Rejected

Mayor Lauinger opened the public hearing. Public Works Director Daryl Grigsby introduced Matt Sheldon of Sound Transit, who reviewed Sound Transit's plans. Additional testimony was provided by:
Sharon Riddle, 4921 102nd Lane NE, Kirkland, WA
Dave Russell, 4507 105th Avenue NE, Kirkland, WA
Mike O'Brien, 604 North 45th Street, Seattle, WA
Chuck Curran, 10411 NE 52nd Street, Kirkland, WA
Jim Erickson, 4523 102nd Avenue NE, Kirkland, WA
Jeanne Accutanza, 1514 Third Place, Kirkland, WA
No further testimony was offered and Mayor Lauinger closed the hearing.

Motion to support the Sound Transit (A Regional Transit Authority) Proposition No. 1 for Mass Transit Expansion.
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Dave Asher
Vote: Motion carried 6-1
Yes: Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.
No: Mayor Jim Lauinger.

10. UNFINISHED BUSINESS

a. Leasehold Excise Tax

Finance Director Tracey Dunlap responded to Council comment and questions.

Motion to accept the staff recommendation on the leasehold excise tax repayment.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 6-1
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.
No: Councilmember Dave Asher.

11. NEW BUSINESS

a. Proposed 2009-2010 Utility Rates for the City of Kirkland

Motion to Approve the proposed 2009-2010 Utility Rates for the City of Kirkland.
Moved by Councilmember Dave Asher, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway,

Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. Potential Lease of Property for Maintenance Center

Motion to authorize the City Manager to enter into an agreement to lease property adjacent to the City's maintenance center.
Moved by Councilmember Jessica Greenway, seconded by Councilmember Dave Asher
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

c. Cemetery Business Plan

This item was postponed to a future Council meeting agenda.

d. Development Permit Moratorium Within the Central Business District:

City Attorney Robin Jenkinson explained the two options being presented for Council consideration in response to Council's request for an ordinance defining a downtown building moratorium.

(1) Ordinance No. 4139, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN CENTRAL BUSINESS DISTRICT (CBD) ZONES 1, 2, 3, 4, 6, 7, AND 8 ON THE ACCEPTANCE OF APPLICATIONS FOR REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT THAT WOULD ADD OR CREATE IN EXCESS OF 500 SQUARE FEET GROSS FLOOR AREA."

Motion to Approve Ordinance 4139 entitled "AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN CENTRAL BUSINESS DISTRICT (CBD) ZONES 1, 2, 3, 4, 6, 7, AND 8 ON THE ACCEPTANCE OF APPLICATIONS FOR REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT THAT WOULD ADD OR CREATE IN EXCESS OF 500 SQUARE FEET GROSS FLOOR AREA."
Moved by Councilmember Jessica Greenway, seconded by Councilmember Dave Asher
Vote: Motion carried 4-3
Yes: Mayor Jim Lauinger, Councilmember Dave Asher, Councilmember Jessica Greenway, and Councilmember Tom Hodgson.
No: Deputy Mayor Joan McBride, Councilmember Mary-Alyce Burleigh, and Councilmember Bob Sternoff.

Motion to amend the main motion to limit the moratorium to the west and east sides of Lake Street and Park Lane up to Main Street.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Deputy Mayor Joan McBride
Vote: Motion failed 3 - 4
Yes: Deputy Mayor Joan McBride, Councilmember Mary-Alyce Burleigh, and Councilmember Bob Sternoff.
No: Mayor Jim Lauinger, Councilmember Dave Asher, Councilmember Jessica Greenway, and Councilmember Tom Hodgson.

Motion to put off discussion of the moratorium until Council can conduct a public hearing.
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Bob Sternoff
Vote: Motion failed 3 - 4
Yes: Deputy Mayor Joan McBride, Councilmember Mary-Alyce Burleigh, and Councilmember Bob Sternoff.
No: Mayor Jim Lauinger, Councilmember Dave Asher, Councilmember Jessica Greenway, and Councilmember Tom Hodgson.

(2) Ordinance No. 4139*, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN CENTRAL BUSINESS DISTRICT (CBD) ZONES 1, 2, 3, 4, 6, 7, AND 8 ON THE ACCEPTANCE OF APPLICATIONS FOR REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS FOR ANY NEW DEVELOPMENT THAT WOULD EXCEED TWO STORIES IN HEIGHT."

No action was taken on this version of the proposed ordinance.

e. Agreement for Legal Services

Motion to Approve the agreement for legal services with the firm of Kenyon Disend as provided by the City Attorney.
Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

f. Stay of Litigation

Motion to authorize the Kenyon Disend firm to enter into a sixty day stay in King County Superior Court Case number 08-2-29048 SEA with the conditions that the petitioner/plaintiff will not make any changes to it's pending building permit

application during the stay and that the stay may be terminated by any party.
Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

12. ANNOUNCEMENTS

None.

13. ADJOURNMENT

The Kirkland City Council regular meeting of September 16, 2008 adjourned at 11:34 p.m.

City Clerk

Mayor

KIRKLAND CITY COUNCIL SPECIAL MEETING

Minutes

September 18, 2008

1. CALL TO ORDER

Mayor Lauinger called the Special Meeting of the Kirkland City Council to order at 6:00 p.m.

2. ROLL CALL

Members Present: Mayor James Lauinger, Deputy Mayor Joan McBride, Councilmembers Mary-Alyce Burleigh, Jessica Greenway, Tom Hodgson and Bob Sternoff. Councilmember Asher attended via telephone conference call.

3. PARKING ADVISORY BOARD INTERVIEWS

a. David Garland
b. Bill Anspach
c. Jennifer Lindsay
d. Robert Pease

4. DESIGN REVIEW BOARD INTERVIEWS

a. Noriko Marshall
b. Margit Moore
c. Sharlene Towey

Following the interviews, Council adjourned to executive session.

5. EXECUTIVE SESSION

a. Discussion of Qualifications for Board Members

Council then reconvened in open meeting.

6. SELECTION AND APPOINTMENT OF PARKING ADVISORY BOARD AND DESIGN REVIEW BOARD MEMBERS

Councilmember Burleigh moved to appoint Robert Pease to an unexpired four year term ending 3/31/2011 on the Parking Advisory Board. Councilmember Hodgson seconded the motion, which passed unanimously.

Councilmember Burleigh moved to select Jennifer Lindsey as an alternate appointee should an additional vacancy arise on the Parking Advisory Board with the next six months. Councilmember Hodgson seconded the motion, which passed unanimously.

Councilmember Burleigh moved to appoint Noriko Marshall to an unexpired term ending March 31, 2009 on the Design Review Board. Councilmember Asher seconded the motion, which passed unanimously.

Councilmember Burleigh moved to select Margit Moore as an alternate appointee should an additional landscape architect vacancy arise on the Board within the next six months. Councilmember Hodgson seconded the motion, which passed unanimously.

Council further directed that an agenda item be brought back at the next regular meeting to select an additional alternate appointee to the Design Review Board from the remaining July architect interviewees.

Council then adjourned to executive session.

5. EXECUTIVE SESSION

a. To Discuss Labor Negotiations

Following the discussion, Council returned to open meeting.

6. ADJOURNMENT

The September 18, 2008 Special Meeting of the Kirkland City Council was adjourned at 8:30 p.m.

City Clerk

Mayor

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

MEMORANDUM

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director

Date: September 24, 2008

Subject: Council support of '21st Century Transportation for America'

The Washington Public Interest Group (WashPIRG) is requesting cities and other agencies in the state to support its '21st Century Transportation for America' agenda. WashPIRG is a consumer advocacy association that seeks to represent consumers in the areas of health care, transportation, media reform and other areas.

The Seattle chapter of WashPIRG submitted a letter to the Mayor which outlines the state of transportation challenges in the country, including fuel costs, global warming, congestion and other issues and seeks the Kirkland City Council to endorse its efforts in federal transportation funding. Its "21st Century" campaign proposes a three-point platform to address those issues:

- priority for transit, bus rapid transit and mass transit,
- funding existing roads and bridges, and
- promoting projects that reduce dependence on oil, curb global warming and alleviate congestion.

These three points are consistent with the positions taken by the Kirkland City Council relative to transportation priorities and expenditures. We are recommending the Council support the '21st Century Transportation for America' platform. WashPIRG is also requesting support of other cities, including Seattle, Redmond and others.

The U.S. PIRG Education Fund commissioned a report "A Better Way to Go: Meeting America's 21st Century Transportation Challenges with Modern Public Transit" (March 2008). The report is available online at http://www.washpirg.org/.

WashPIRG

Standing Up To Powerful Interests

1402 3rd Avenue, Suite 715 | Seattle, WA 98101
www.washpirg.org (206) 568-2854 (ph)
info@washpirg.org (206) 568-2858 (fx)

RECEIVED
SEP 11 2008
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

September 10, 2008

The Honorable James Lauinger
123 Fifth Avenue
Kirkland, WA 98033

"21st Century Transportation for America"

Dear Mayor Lauinger,

I'm writing to ask you to support improvements to the way the federal government funds transportation, and in so doing, better fund your city's and state's transportation needs.

Washingtonians are spending more time than ever stuck in congestion, more money than ever at the pumps, and we are increasingly concerned about our sluggish economy, our dependence on foreign oil, and our aging bridges and overpasses. Clearly, the time is now for intelligent investment that addresses these challenges and gives people more clean and efficient alternatives to driving.

In the Everett-Seattle-Tacoma Metropolitan Area, public transportation saves 24.1 million gallons of oil each year, saves consumers $63,000,000 in gasoline costs annually, and reduces global warming pollution by 154.3 thousands tons. Nationally, public transportation saves 3.4 billion gallons of oil, prevents 541 million hours of traffic delay and reduces global warming pollution by 26 million tons.

In 2007, you and hundreds of your colleagues showed remarkable vision and leadership by signing The U.S. Conference of Mayors' Climate Protection Agreement, a pledge to reduce carbon dioxide emissions by 7 percent below 1990 levels by 2012. This objective cannot be realistically accomplished without addressing the transportation sector, which is responsible for one third of our global warming pollution.

WashPIRG supports a three-point federal transportation reform platform that will enhance our economy, national security, public health, environment, and overall quality of life.

This means:

- Prioritizing new capital funds for light rail, commuter rail, rapid bus service, high-speed intercity rail, and other forms of modern public transportation.
- Dedicating more federal highway money to fixing crumbling roads and bridges, rather than building massive new highway projects.
- Spending taxpayers' money more wisely by focusing transportation dollars on projects that produce real results, such as reducing dependence on oil, curbing global warming pollution, alleviating congestion, and improving public safety.

We are building support for these principles by asking mayors, planning organizations, business interests, and other key constituencies to pledge support. Your endorsement will encourage our Congressional delegation to be advocates for transportation reform.

At the end of 2009, debate will begin on the next federal transportation bill. In the past, this bill has been written behind closed doors with little regard for local interests, and federal transportation funds have prioritized new highway projects and rewarded states and municipalities for high gasoline consumption, more highway lane-miles, and more vehicle miles traveled by car and truck. These formulas effectively punish states with reduced federal funds if they lead the effort to reduce America's dependence on oil and global warming pollution.

We hope you will endorse a simple statement that champions changing the way federal transportation funding is allocated to reflect our principles.

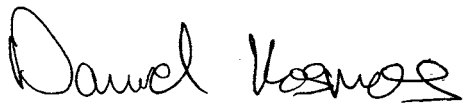
Washington would benefit greatly if federal funding better focused on states that have aging infrastructure and want more public transportation.

Attached you will find our *21st Century Transportation for America* principles. We hope you will join your fellow mayors nationwide in a unified call to reform the federal transportation funding system by signing these principles and sending them to:

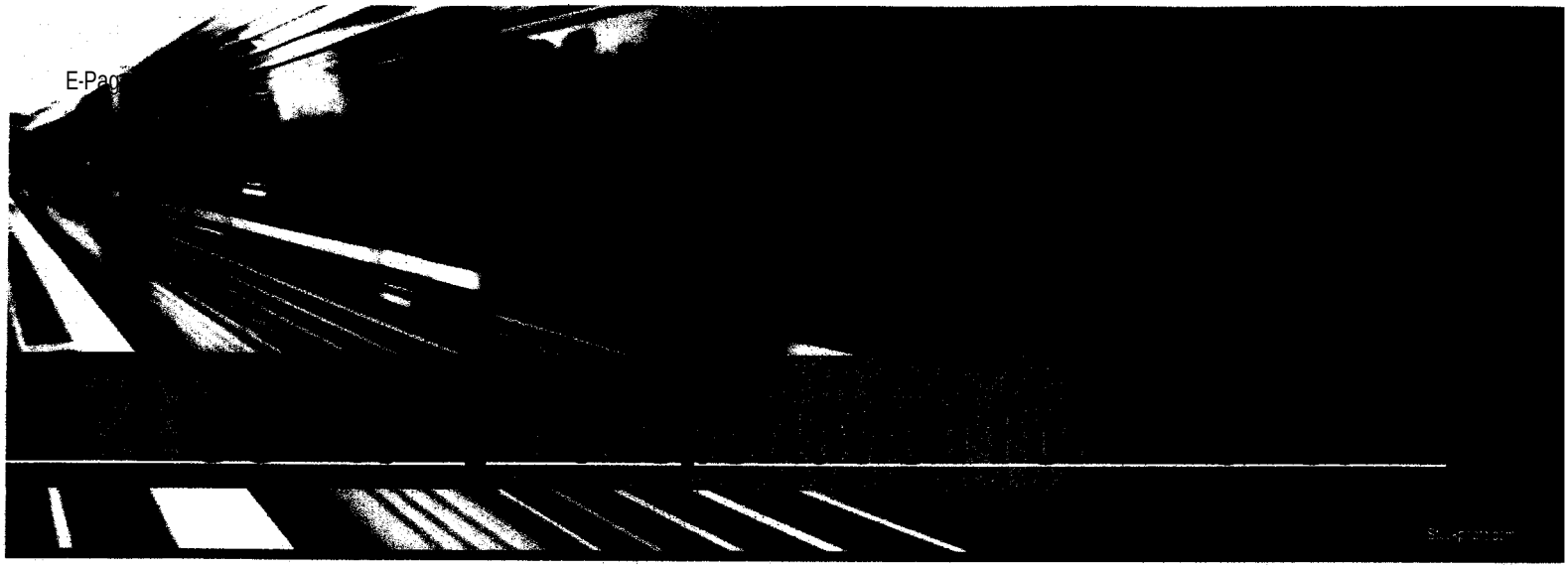
WashPIRG
1402 3rd Ave.
Suite 715
Seattle, Wa 98101

We look forward to working with you and your staff on this issue.
If you have questions or comments regarding our work, please feel free to contact me at 206-910-5963. We greatly appreciate your consideration.

Sincerely,



David Kosmos
WashPIRG
Program Associate
www.washpirg.org



Advancing Solutions To America's Transportation Problems: The nation's transportation system is in trouble. America's dependence on cars for transportation is the number one cause of our addiction to oil and a major contributor to global warming and air pollution. Americans waste millions of hours each year on congested roads – many of which are in increasingly poor repair. At the same time, we spend billions of taxpayer dollars each year on wasteful projects that should go to basic maintenance, modernization and investments in better transportation choices.

America must move toward a new transportation future for the 21st century that enhances our economy, national security, public health, environment, and quality of life. To get there, we need a new federal transportation policy that does the following:

- ***Expands clean, efficient transportation choices for Americans*** by prioritizing investment of new capital funds for light rail, commuter rail, rapid bus service, high-speed intercity rail and other forms of modern public transportation. At the same time, federal policy should encourage transportation investments that build dynamic and accessible communities, where more Americans can walk, bike or take transit to get where they need to go.

- ***Fixes our crumbling roads and bridges*** by investing more federal highway money in maintenance, not massive new highway projects. It's time for the federal government to embrace an approach to highway spending that prioritizes maintaining and modernizing our existing highways over building more.

- ***Spends taxpayers' money more wisely*** by focusing transportation dollars on solving our nation's biggest problems. For decades, the federal government has spent billions of dollars on highway projects with little evaluation and no accountability. That must change. Federal transportation money should be spent only on projects that produce real results over the long haul – for example, by reducing our dependence on oil, curbing global warming pollution, alleviating congestion, improving safety, and supporting healthy, sustainable communities.

U.S. PIRG
Federation of State PIRGs
218 D St., SE | Washington, DC 20003
202-546-9707 ph | 202-546-2461 fax
uspirg@pirg.org

D R A F T

David Kosmos
Program Associate
Washington Public Interest Group (WashPIRG)
1402 3rd Avenue, Suite 715
Seattle, Washington 98101

Dear Mr. Kosmos:

Thank you for providing the Kirkland City Council with information about WashPIRG's "*21st Century Transportation for America*" initiative. As you may know, the City of Kirkland is coordinating multiple sustainability efforts that align with WashPIRG's three-point federal funding reform platform to expand public transportation opportunities, invest in infrastructure improvements, and focus transportation dollars on solving major problems.

The City of Kirkland actively advocates for non-motorized transportation improvements, transit, mass transit, walking, biking, skinny streets, maintaining the basic road infrastructure and other techniques that promote sustainable mobility. Our pedestrian promotion and safety programs are nationally recognized. In addition, the city has worked with transit agencies and others to fund a Downtown Transit Center, a Freeway Direct Transit Access Project, and a Transit Center at Evergreen Hospital, one of our largest employers. In 2005, the City signed the U.S. Conference of Mayors' Climate Protection Agreement and has adopted greenhouse gas emission reduction targets for the years 2012, 2020 and 2050. The City recognizes that a significant reduction in vehicle miles traveled will be necessary to meet these goals.

The Kirkland City Council is cognizant of the importance of federal transportation funding. The upcoming reauthorization of the U.S. Highway and Transit Bill provides an opportunity for additional non-motorized and transit funding in addition to necessary investments in existing infrastructure. The Kirkland City Council will support these changes in the 2009 legislative agenda.

The Kirkland City Council congratulates WashPIRG on it it's "21st Century Transportation for America" campaign and supports your agency's commitment to federal transportation funding reform. Please keep the City informed of your efforts by contacting Erin Leonhart, Intergovernmental Relations Manager, at 425-587-3009.

Sincerely,

Kirkland City Council

By James L. Lauinger, Mayor

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

MEMORANDUM

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director

Date: September 26, 2008

Subject: RESPONSE TO SCHOOL WALK ROUTES E–MAILS

RECOMMENDATION**:**

It is recommended that the City Council authorize the Mayor to sign a letter responding to the e-mails received regarding school walk routes in Kirkland.

BACKGROUND:

Currently staff and the City's Transportation Commission are working through an update of the City's Non-Motorized Transportation plan (this is the first update since 2001). The updated NMT Plan will provide the framework for the next few years of the non-motorized network in the City of Kirkland. During the community outreach and update of the NTM Plan, staff and the Commission are looking at the prioritization of non-motorized improvements and are examining other approaches/evaluation criteria to consider. These alternatives are currently under review and would not be adopted, if at all, until a later date and not without additional and ongoing community input.

From: Jeff Trager [mailto:jtrager@comcast.net]
Sent: Sunday, September 21, 2008 2:14 PM
To: David Godfrey
Cc: KirklandCouncil
Subject: Sidewalks for school walk routes

I recently learned that the city staff has dropped School Walk Routes within ¼ mile of elementary schools in Kirkland as the top priority for sidewalks. This comes as a great shock and surprise because I know that residents and City Council have expressed again and again that School Walk Routes are the number one priority for sidewalks in Kirkland. A study commissioned by the city reported that survey participants agreed overwhelmingly that sidewalks around schools are the most important.

I want to express my support for reinstating the School Walk Routes within ¼ mile of elementary schools, as identified by the School Walk Route Advisory Committee, as the top priority for sidewalks in the City of Kirkland. We need to protect these most vulnerable residents of our city. As the days shorten and we begin the season of dark, wet mornings when our kids are walking side-by-side with cars on their way to school, we remember the accidents that have happened in these conditions and renew our efforts to prevent them from happening again!

Sincerely, Kaylee Nilan

-----Original Message-----
From: Margaret Carnegie [mailto:carnegiema@netzero.com]
Sent: Tuesday, September 23, 2008 9:59 AM
To: KirklandCouncil
Subject: sidewalks

Dear Council Members,

At the North Rose Hill Neighborhood Association meeting on September 15th, David Godfrey gave a presentation on sidewalks. We wanted information on sidewalks, as the lack of sidewalks was one of the major concerns expressed by the residents in a recent neighborhood survey.

Mr. Godfrey made the statement, as I understood it, that sidewalks in school areas no longer have the top priority rating that they used to have.
Presuming that I did hear him correctly, I want to state that I strongly believe that safe walking routes to schools should have the highest priority. We need to care for the children in our city and one way to do that is to provide safety to and from school. I believe that should be all levels of schools, but I would put elementary schools at the top of the list as those children are the most vulnerable.

Thank you for your time and I'm trusting your dedication to the children of Kirkland in your decision making.

Sincerely,
Margaret Carnegie
11259 126th Ave. N.E.
Kirkland, WA 98033

From: TennysonKK@aol.com [mailto:TennysonKK@aol.com]
Sent: Wednesday, September 24, 2008 7:31 PM
To: David Godfrey; KirklandCouncil
Subject: Sidewalks

As one who has volunteered to serve on two sidewalk advisory committees, I'm disheartened to be informed through a neighborhood email that the City of Kirkland has removed from their priority list sidewalks within 1/4 mile of schools. It is especially discouraging to think that the city would take this action without talking with the neighborhood associations first.

Please reconsider this action, school walkways was the most popular item when the survey was done for the potential sidewalk bond. It would be great if we could not only restore the priority of 1/4 mile within schools, but increase it to 1/2 mile. This is an investment in our future.

Thanks,
Karen Tennyson
12617 N. E. 87th Place
Kirkland, WA 98033

From: James McElwee [mailto:jandlmcwee@msn.com]
Sent: Sunday, September 21, 2008 10:12 PM
To: jandlmcwee@msn.com
Cc: Kari Page
Subject: Sidewalks Near Schools--Urgent Message

To: KAN Reps and Neighborhood Activists

If you see merit in my message, please forward it or your own version of it to your neighborhood people and especially to folks you know who are active in the PTSAs in your neighborhood.

This message has not been reviewed by any KAN committee. I am doing this of my own volition because there is nothing higher in my priorities than our children. I hope you agree and will pass on your comments to the City Staff and City Council.

Jim McElwee

Sidewalks Near Schools

I learned earlier in the week that the City staff have dropped sidewalks around elementary schools as the top priority for sidewalks. It appears that the staff is not using “within 1/4 mile of schools” as a top priority for sidewalks. To my knowledge the change was made without consulting the Neighborhoods and possibly without consulting the City Council.

If sidewalks close to schools are a top priority for our Neighborhoods and our City, we need to press the City staff hard on the issue of sidewalks around elementary schools. For our most vulnerable population, we have let school kids slip back into the multi-page prioritization list that we determined several years ago was not working adequately.

The City is seeking public input on a revision to the non-motorized transportation plan. I would like to see out residents, and maybe our Neighborhood Associations, send a strong message that

sidewalks around elementary schools must be the City's top priority. Our expressions can go a long way to raising the issue that the policy appears to have changed without notice. To get the most responses, it is often best to draft a message that expresses the issues and encourage the writer to personalize their message.

Some talking points that I just pulled out of my head. Personalize your message by using these points or others that are relevant—

Dark mornings and rainy evenings are already upon us.

Even the best drivers sometimes suffer from unclear windshields and headlight glare.

A child wearing non-reflective clothing is very difficult to see, even within the headlight cone.

Drivers are more distracted than ever as they rush to jobs or school drop-offs.

Our children are not safe walking on the edge of the street. Sidewalks are where they belong.

It's the right thing to do.

Our children don't have a choice in this situation, but we do as residents, parents, citizens. We need to make the safety of our children the highest priority we can achieve.

October 7, 2008 **DRAFT**

Dear Concerned Citizen:

Thank you for your interest and recent input regarding School Walk Routes in the City of Kirkland. We want to assure you that the City continues to operate under the same prioritization criteria that were developed as a part of a community process and approved by City Council in 1998. In other words, all things equal, a higher priority continues to be given to an identified school walk route (SWR). This emphasis has been supported by citizens, various committees, PTSA's, and the City Council over the years and remains an essential part of the rating criteria.

In 1995, the City Council adopted a set of 'ad-hoc' criteria which were developed by a citizen advisory committee for evaluating and prioritizing transportation projects. These ad-hoc criteria, also known as the Transportation Project Evaluation, were then used in the City's Capital Improvement Program (CIP) for two years to prioritize all of the proposed transportation projects. After two full CIP prioritization processes, the City Council reconvened the original committee to ascertain whether or not the resulting CIP projects reflected the desired outcome of the committee. After looking at the projects that were being funded in the CIP, the committee concluded that the projects did not provide enough recognition for a SWR. As a result, the committee recommended, and the City Council approved, a modification to the criteria in May of 1998. The criteria gives additional points to sidewalk project proposals on identified SWR's.

These modifications were included in the Transportation Project Evaluation process and are used by staff to rate non-motorized projects for placement on the priority list and ultimately in the CIP. In addition, the Transportation Project Evaluation was included in the City of Kirkland's Non-Motorized Plan adopted in 2001 by the City Council and remains the City's published criteria.

In further support of the City's continued commitment to providing projects along SWR, in October of 2000 the City Council created a School Walk Route Committee including residents, parents, the School District and others. In May of 2002, after numerous meetings, discussions, open houses and interaction with the various schools, the City Council approved the committee's recommendations. These recommendations included:

- Build $1 million worth of priority SWR projects identified by each school
- Allow other identified SWR's to compete in the CIP process using the rating process *(described earlier)*
- Explore possibility of a Sidewalk Bond
- Collect on concomitant agreements

The priority SWR projects were constructed at each of the seven elementary schools by the Fall of 2002, and other routes continue to be evaluated in the CIP process. The Sidewalk Bond was not undertaken after a further study.

Currently, staff and the City's Transportation Commission are working through an update of the City's Non-Motorized Transportation (NMT) plan. This is the first update since 2001. The updated NMT Plan will provide the framework for the next few years of the non-motorized network in the City of Kirkland. During the community outreach and update of the NMT Plan, staff and the Commission are looking at the way non-

motorized improvements are being prioritized and are examining other approaches/evaluation criteria to consider. Other approaches, and or evaluation criteria, being looked at during this update process are being introduced at various open houses, on the City's web-site, and at the Transportation Commission meetings. Feedback and input received from the community is being considered in the final decision on the prioritization process.

Your input on the current or any future approaches is valued and appreciated. The update process will continue through this year, and we welcome your comments and assure you that staff will consider your input as they develop the criteria, project lists, network, and programmatic elements of the Plan.

If you have other thoughts or ideas, please contact David Godfrey, Public Works Department at425-587-3865 or dgodfrey@ci.kirkland.wa.us. Information regarding the status of the NMT Plan and information on the existing 2001 Plan is located on the City of Kirkland Public Works Department website at www.ci.kirkland.wa.us.

Sincerely,

Kirkland City Council

By: James L. Lauinger, Mayor

Cc: David Godfrey, Transportation Engineering Manager

Council Meeting: 10/07/2008
Agenda: General Correspondence
Item #: 8. c. (3).

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

To: Dave Ramsay, City Manager

From: Tami White, Parking Coordinator

Date: September 25, 2008

Subject: RESPONSE TO MR. MICHAEL BONEWITS REGARDING DOWNTOWN MOTORCYCLE PARKING

RECOMMENDATION**:**

It is recommended that the City Council authorize the Mayor to sign a letter of response to Mr. Bonewits, who wrote the City about his reward incentive plan regarding the parking for motorcycles/scooters.

BACKGROUND DISCUSSION:

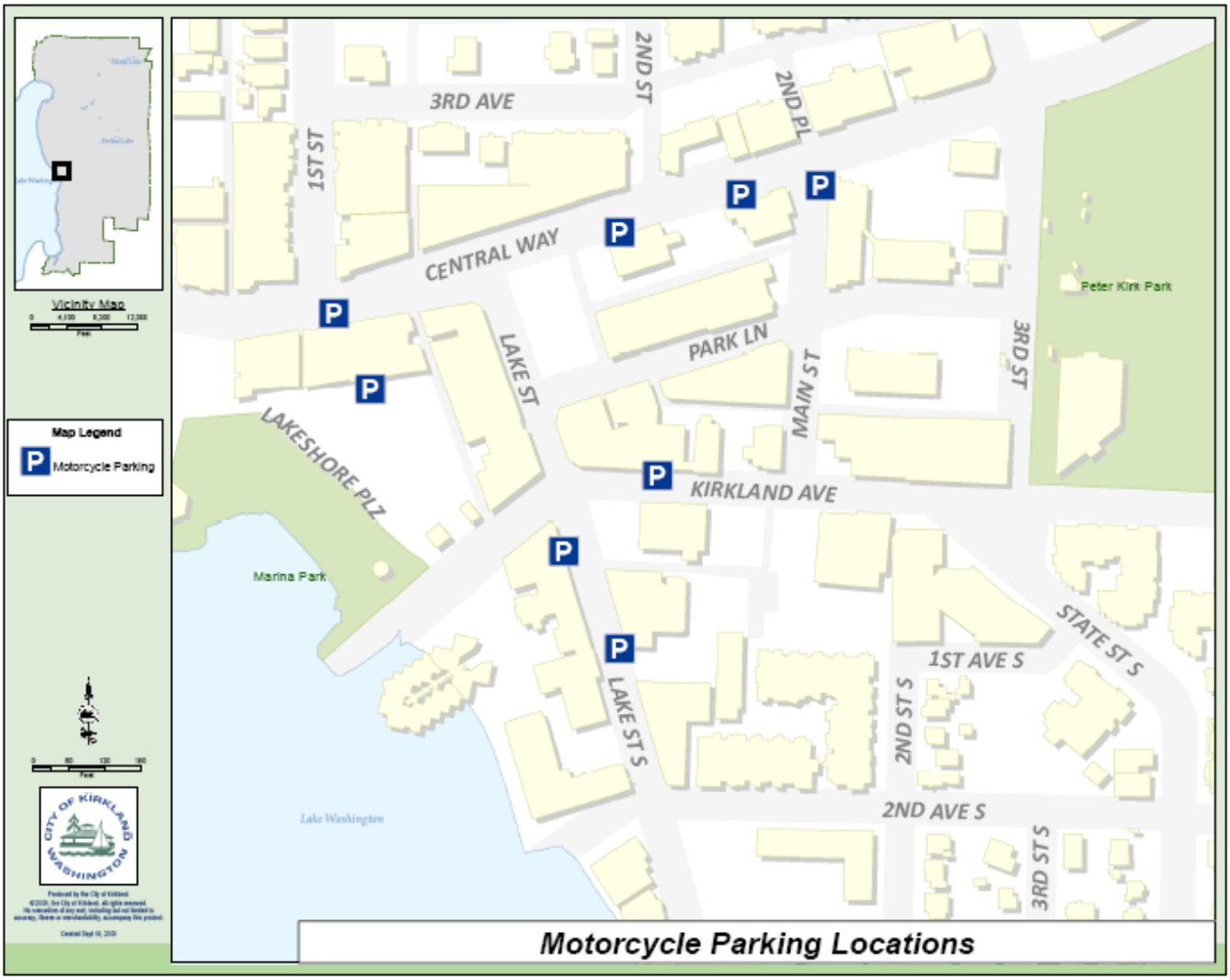
Mr. Bonewits presents, by email, to the Mayor and City Council an idea in his words "for a common sense Incentive Plan to be implemented to find cost effective solutions to this overdue issue." He proposes a section in the downtown core be dedicated for motorcycles and scooters, even smart electric cars. He contends that the location of this should be in "prime" area(s), suggesting one to be in front of Hallmark Realty. Mr. Bonewits states this area will provide an incentive and reward for people to use fuel efficient spaces to reduce their effort and reward their sacrifice. He also mentions cities in Europe find it to work well.

In addition, Mr. Bonewits makes reference to parking enforcement citing people who park more than one bike (motorcycle) in a stall.

Finally, he is asking for consideration to be given to his idea and is awaiting a response.

The Parking Advisory Board discussed his proposal on September 4th, and staff did try to contact him prior to invite him to attend; unfortunately, Mr. Bonewits was not available. At their meeting, the PAB decided the current motorcycle/scooter locations are sufficient to accommodate the needs; however they will give future consideration of other potential locations to possibly implement such a proposal.

Below is a map of the current motorcycle locations.


Vicinity Map
Map Legend
Motorcycle Parking
3RD AVE
2ND ST
2ND PL
1ST ST
CENTRAL WAY
PARK LN
LAKE ST
MAIN ST
3RD ST
Peter Kirk Park
LAKESHORE PLZ
KIRKLAND AVE
Marina Park
STATE ST S
1ST AVE S
2ND ST S
LAKE ST S
2ND AVE S
3RD ST S
Lake Washington
CITY OF KIRKLAND WASHINGTON
Motorcycle Parking Locations

From: Mike Bonewits <mikethebuilder@comcast.net>
Date: August 21, 2008 9:32:18 PM PDT
To: jlauinger@ci.kirkland.wa.us, thodgson@ci.kirkland.wa.us, jgreenway@ci.kirkland.wa.us, dasher@ci.kirkland.wa.us, mburleigh@ci.kirkland.wa.us, jmcbride@ci.kirkland.wa.us, bsternoff@ci.kirkland.wa.us, Rrjammer@ci.kirkland.wa.us
Cc: dad Bonewits <richb2@msn.com>, Todd Ormsby Ormsby <toddormsby@comcast.net>, Wyomia Bonewits <wyomia@comcast.net>
Subject: Motorcycle and Parking issues "The Reward Incentive Plan"

Honorable Jim Lauinger, and City Council Members

I am a 25+ year resident in Kirkland and every summer I realize we have a significant parking problem. I know there has been effort by The City to curb the traffic problems and parking issues at great expense to us. In my opinion, these issues will worsen over time.

For clarification, the term motorcycle or cyclist should include scooters and other similar types of efficient reduced size vehicles such as Smart cars, electric cars and bicycles.

The main reason I am contacting you is that I have a request and Plan for The City to provide more motorcycle/scooter parking spaces to promote and accommodate the increased use of these vehicles. I have coined it "The Reward Incentive Plan".

I have spoken to many people, strangers and friends, (including myself) who have purchased motorcycles and scooters and an electric car to offset the high fuel costs and also aid in the navigation of and parking in Kirkland in the summer. Now more than ever, it is a sign of the times.
The big complaint is there is not ample parking in the core area. The spaces spread around town are 2 spaces in front of Hallmark Real Estate, a couple on 85th/Central Way, a few in the lot next to US bank, and a few on Kirkland Ave., for a total of approximately 10-15 spaces. While these spaces are greatly appreciated, on warm or sunny days these spaces often fill quickly. This forces the cyclist to take a entire car space for a single bike if one can be found. The parking enforcement officer says we can't double park bikes in a full size space without receiving a ticket. This makes no sense to me. You can easily put 3 or 4 bikes in a single parallel spot with no adverse affect. The only people who hate this is the ones in cars who see this and realize the cyclists have found a spot and they haven't. Ha!

It's time for a common sense "Incentive Plan" to be implemented to find cost effective solutions to this overdue issue.

My suggestions are:
1. Provide a section of no cost spaces that are dedicated for scooters, motorcycles (and maybe smart or electric cars) centrally located in the core.
2. Designate these spaces in the "prime location" of town. Proposed Location: Kirkland Ave in front of Hallmark Real Estate or The Shop. Give them "the front row."
3. These dedicated areas will provide an incentive and reward for people to use these fuel

efficient space saving smaller vehicles. It reduces their effort and thus rewards their sacrifice.
4. After the implementation of the first "incentive plan" evaluate the plan and expand on it if its working and necessary.
5. Keep it simple. The more accommodating or convenient these locations are, the more people will start to see and want to use them.

Instead of trying to penalize the cyclist, provide incentives for them and their use will increase.
Each cycle used does many things: It at least reduces the demand for the full car spaces which we don't have enough. It reduces congestion. It will promote people to come to the downtown core to buy food or shop, thus promoting business, if they don't have to circle around for 10-15 minutes to try to park a car where they might not want to hassle with it and just stay home.

Most cities in Europe have been providing accommodations for scooters and bicycles for decades, out of necessity and solid municipal planning. Its a way of life for people and is the best solution because it provides a need at a low or no additional cost. Best of all, it won't cost hundreds of thousands of dollars like most of the other less than brilliant ideas that have failed to effectively address or resolve this issue.
One of the most bustling cities I have been to is in Maastricht, Holland, where people use mostly bicycles in the core of the town. No cars. Business was booming! Kirkland has the chance to be a role model and leader to make a positive change to improve on our parking and congestion issues.

This is a general outline to get the ball rolling and gears turning. I have more ideas regarding this topic and am willing to discuss them with whomever wants too. Feel free to contact me by email or phone. I appreciate your time and hope this gives you some inspiration to think of the possibilities that can happen with some thought and unity.

I look forward to hearing from you.

Sincerely,

Michael Bonewits

425 577 1300

mikethebuilder@comcast.net

October 7, 2008 **D R A F T**

Mr., Bonewits
P.O. Box 2334
Kirkland, WA 98083

Dear. Mr. Bonewits,

Thank you for taking the time to write the Kirkland City Council to share your "Reward Incentive Plan" that proposes ways to increase parking for motorcycles and scooters. As you may be aware, the City's Parking Advisory Board (PAB) is an advisory board to the City Council on parking matters. One of the primary missions of the Board is to evaluate parking demand and supply. Your Reward Incentive Plan idea was presented to the PAB at its September 4th meeting, and although you present some creative ideas, it was the consensus of the Board that its scope is too encompassing to achieve the results you seek.

It was important to the PAB that we share with you the Board's efforts to provide motorcycle/scooter stalls. The Board believes that these dispersed locations gave people a wider area to choose from rather than one central area, and they feel the current locations are more than sufficient to accommodate the needs. The locations below provide for how many:

- Central Way between Lake Street & 3rd Street – south side
- Lakeshore Plaza (in the Marina lot) – center north side
- Central Way & 1st Street – south side
- Lake Street between Kirkland Avenue & 2nd Avenue S.– east side
- Lake Street & Kirkland Avenue (in front of Hallmark, your suggestion) – west side
- Kirkland Avenue & Lake Street across from Bank of America– north side
- Main Street & Central Way – east side of Main Street

Your email mentions that the City issues citations for double parking of motorcycles within a single stall. According to our Parking Enforcement Division, no citations are issued in this situation provided the vehicles fit within the one stall.

Kirkland is committed to continually addressing parking needs while encouraging alternative means of transportation. As your letter points out, motorcycles and scooters do consume less fuel. We appreciate your creative and new ideas; however, unfortunately we cannot act on your proposal at this time. Perhaps at a future date, the PAB and staff will research other location(s) as recommended in your letter. The PAB meets the first Thursday of each month and the public is welcome to attend. Thank you for taking the time to write us, if you have any further comments, please contact Tami White, Parking Coordinator, at 425-587-3871 or twhite@ci.kirkland.wa.us.

Sincerely,
KIRKLAND CITY COUNCIL

James L. Lauinger, Mayor

cc: Parking Advisory Board
Tami White, Parking Coordinator

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Jennifer Schroder, Director
Michael Cogle, Park Planning and Development Manager

Date: September 26, 2008

Subject: Acquisition of Property

RECOMMENDATION:

That Council ratify the Purchase and Sale agreement entered into on September 25, 2008 between Olga and Viktor Razumovich and the City of Kirkland in the amount of $410,000.00. The Purchase and Sale Agreement is for the purchase of a single parcel (Lot 2 - 123850-0762) that is 1.49 acres, located at 9241 124th Avenue NE, and contiguous to City owned Forbes Lake Park.

BACKGROUND DISCUSSION:

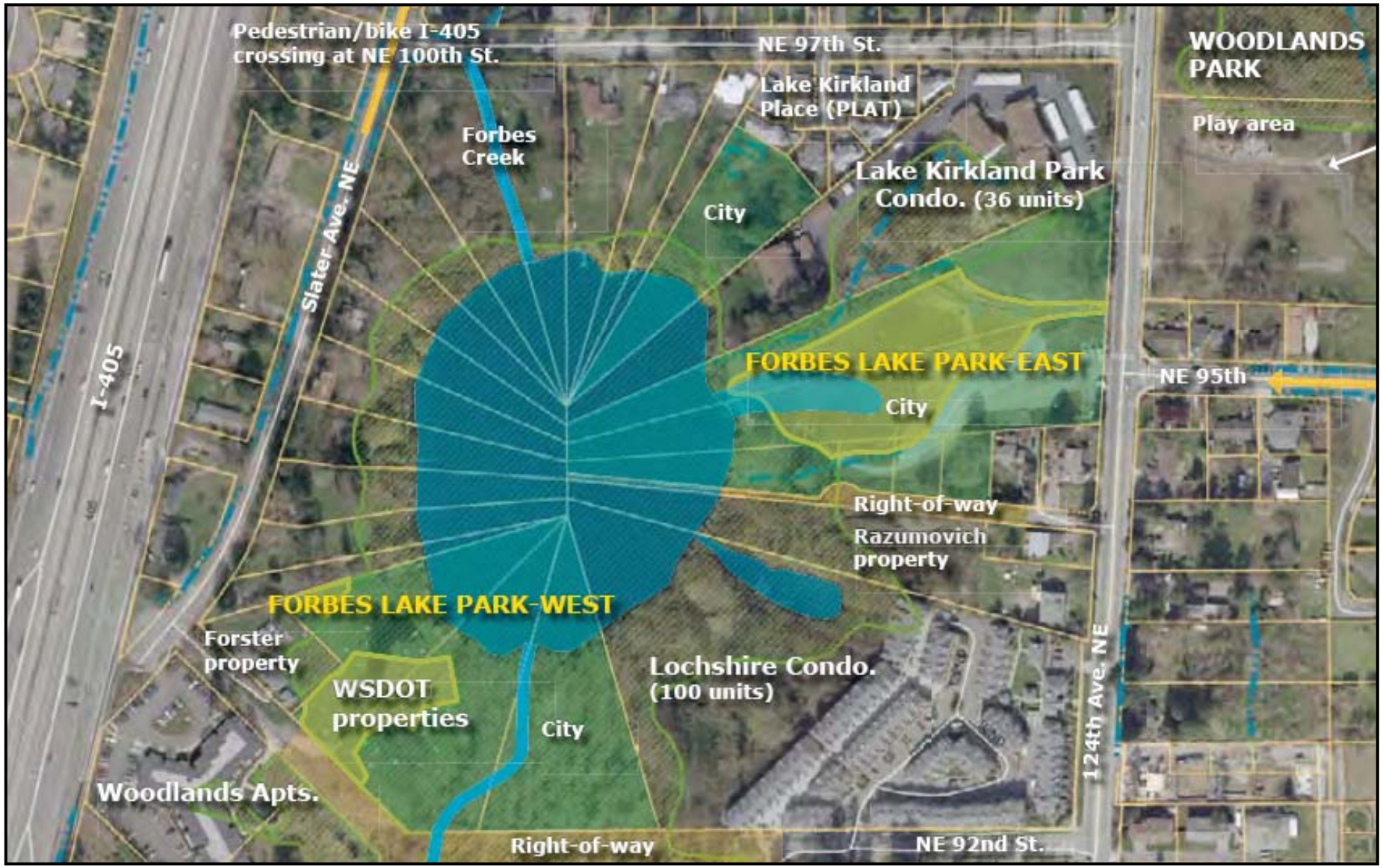
Staff obtained an appraisal from Allan-Bracett. The subject property is zoned PLA 17 and the appraised value came to $425,000.00.

Acquisition of this parcel is consistent with the Comprehensive Park, Open Space and Recreation Plan to provide unique natural resources and protection of critical urban wildlife habitat for its citizens. Acquisition of the property also provides an opportunity to create a unified trail and boardwalk system connecting various public park properties around Forbes Lake.

Source of funds

- Park Capital Improvement Project – Acquisition account

Razumovich Property Acquisition at Forbes Lake



Razumovich Property

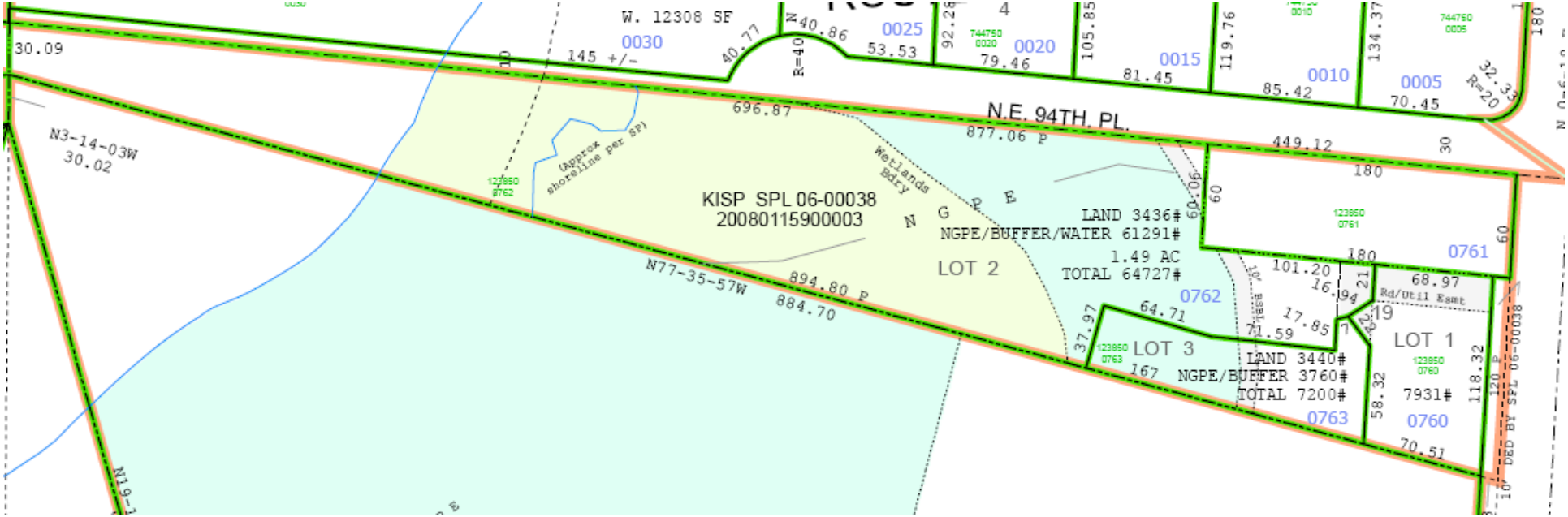


Image from King County Assessor Section Map NW 04-25-05

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Jennifer Schroder, Parks & Community Services Director

Description of Request

Request for funding of $410,000 for the purchase of the Razumovich Property (Lot 2 -123850-0762), which is 1.49 acres and located at 9241 124th Avenue NE and is contiguous to City owned Forbes Lake Park. In addition, $7,700 is requested for the estimated escrow ($6,000) associated with the purchase and for the appraisal of the property ($1,700). The purchase price, appraisal and closing costs (total cost estimated at $417,700) will be funded from the Parks CIP Park Property Acquisition project.

Legality/City Policy Basis

Fiscal Impact

The Park and Open Space Acquisition Program project is an approved 2008-13 CIP project with a total 2008 budget of $835,000 funded by Park Impact Fees.

Recommended Funding Source(s)

	Description	2008 Est End Balance	Prior Auth. 2007-08 Uses	Prior Auth. 2007-08 Additions	Amount This Request	Revised 2008 End Balance	2008 Target
Reserve	Park & Open Space Acquisition Proj.	N/A	N/A	N/A	417,700	N/A	N/A
Revenue/ Exp Savings							
Other Source							

Other Information

Prepared By	Sandi Hines, Financial Planning Manager	Date	September 28, 2008

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

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: September 25, 2008

Subject: COCHRAN SPRINGS/PLAZA AT YARROW BAY FLOOD CONTROL
ADVANCE 2009 FUNDS

RECOMMENDATION:

It is recommended that the City Council approve the use of programmed 2009 CIP project funds for construction in 2008 on the subject project.

BACKGROUND DISCUSSION:

Cochran Springs Creek flows within a publicly owned parcel of land immediately adjacent to the Plaza at Yarrow Bay Office Park, near the mouth of Yarrow Bay (Attachment A). In the past, overflow of the Creek from this parcel has resulted in flooding of the Office Park during heavy storm events. In response to this flooding issue, and based on input received from the property owner during development of the 2008-2013 CIP, Council approved a project that is intended to reduce flooding of the Office Park while at the same time enhance the habitat function of the stream corridor.

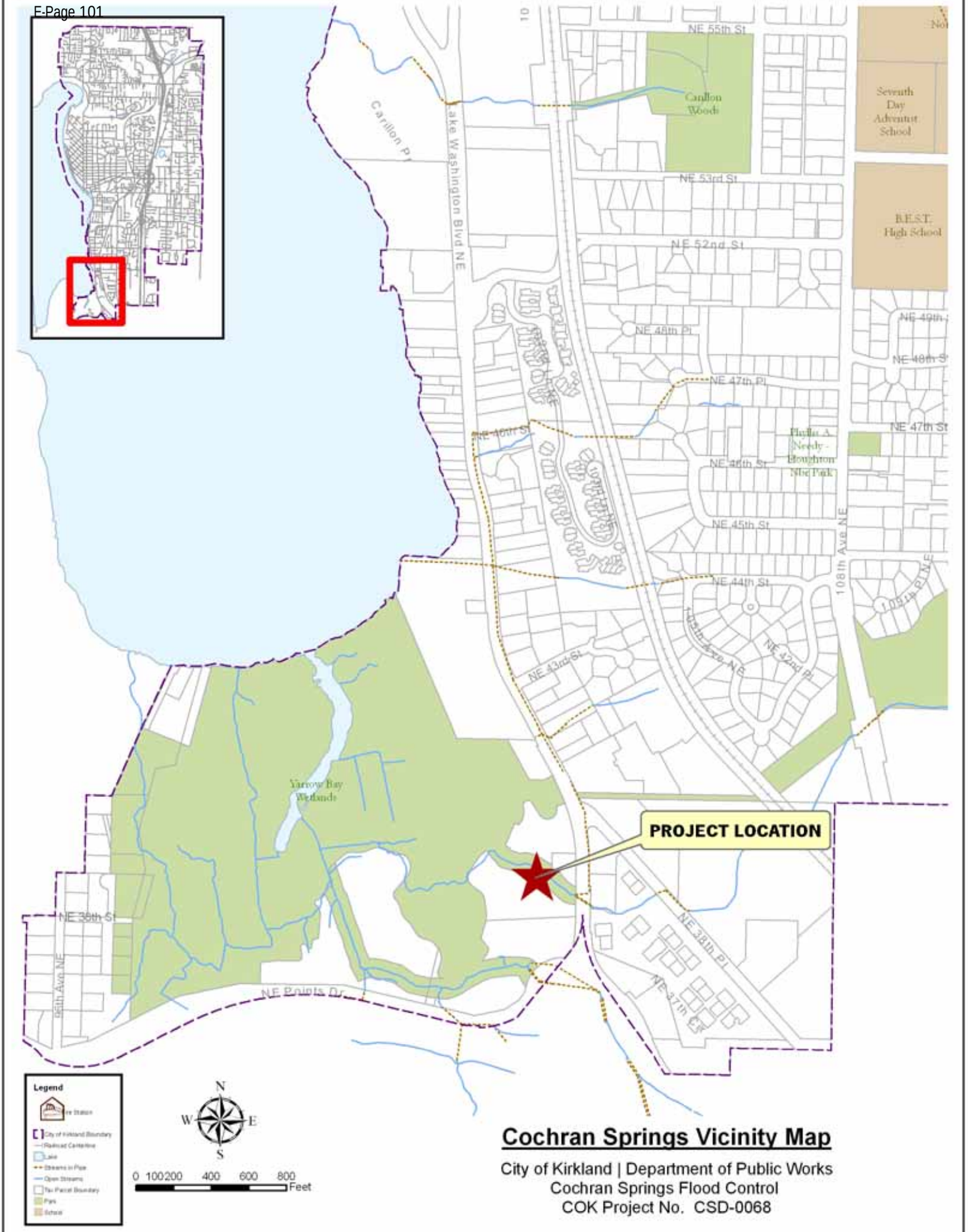
The total project budget in the CIP identifies $60,000 for 2008 and $107,600 for 2009. During the scoping of the project for the CIP, based on historical timing for similar surface water CIP projects for design and permitting, funding for 2008 was to be used to study the underlying causes of the problem, develop a design, and to obtain permitting to correct the situation – construction was programmed in 2009. By employing a design-build approach for the project, the study, design, and permitting have all been completed, and there are 2008 funds still available.

The project will consist of building two berms that will parallel the Creek and keep it within its banks during high flow periods, in addition, the project will include removing invasive plants and replanting the disturbed area with native species (see Attachment B). The design-build approach taken with this project calls for City surface water forces to undertake the berm construction along the Creek; plantings will be performed subsequent to the construction by EarthCorps.

EarthCorps is based in Seattle, and their work consists of volunteer-based and contracted restoration projects on public lands throughout the Puget Sound and Cascade mountain region. EarthCorps alumni volunteer on environmental restoration projects around the world, for example building and maintaining the Great Baikal Trail in Siberia. Two-thirds of EarthCorps' program participants come from the United States, one-third come from partner organizations from six different continents. This cooperative effort between the City and EarthCorps on the Project will allow it to be completed much more timely and for considerably less funding than originally anticipated, however in order to take full advantage of this opportunity, Staff is recommending that the project move to construction this fall.

In order to construct the entire project this year, Staff is proposing that the $107,600 of surface water funding programmed in 2009 be made available for use in 2008. With Council's authorization to use 2009 funds in 2008 for this project, construction will commence in early October and be complete by mid-November.

Attachments: (3)



Cochran Springs Vicinity Map

City of Kirkland | Department of Public Works
Cochran Springs Flood Control
COK Project No. CSD-0068

Legend

- Streams in Pipe
- Open Streams
- Parcel Boundary
- Road or Parking Lot
- Building
- Sidewalks

N
W E
S

0 50 100 Feet

Cochran Springs Project Area

City of Kirkland | Department of Public Works
Cochran Springs Flood Control
COK Project No. CSD-0068

FISCAL NOTE

ATTACHMENT C

CITY OF KIRKLAND

Source of Request

Daryl Grigsby, Public Works Director

Description of Request

Advancement of $107,600 in funding programmed for 2009 for the Cochran Springs/Plaza at Yarrow Point Flood Control CIP project. This project was approved in the adopted 2008-13 CIP and is recommended to be approved in the pending 2009-14 CIP. Due to early completion of the design and permitting stages, and to take advantage of a cooperative opportunity with EarthCorps, it is recommended to advance the programmed 2009 funding in order to complete the project in 2008. The cooperative effort between the City and EarthCorps will allow the project to be completed in a more timely manner.

Legality/City Policy Basis

Fiscal Impact

Advancement of $107,600 of Surface Water capital funding from the Surface Water Capital Contingency. Funding for Surface Water capital projects are from surface water rates and the funding for the request to advance funding is available from the accumulated contingency in the Surface Water Capital Fund.

Recommended Funding Source(s)

	Description	2008 Est End Balance	Prior Auth. 2007-08 Uses	Prior Auth. 2007-08 Additions	Amount This Request	Revised 2008 End Balance	2008 Target
Reserve	Surface Water Capital Contingency	876,760	397,400	0	107,600	371,760	876,760
	Prior 2007-08 Authorized Uses includes $360,500 for the Juanita Creek Channel Enhancements project for additional design work due to Dept. of Fish and Wildlife permits, higher than anticipated construction costs received on opened bids, and storm events that damaged in process and completed work and additional funding of $36,900 for the NE 126th St/94th Ave Channel Restoration project.						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Sandi Hines, Financial Planning Manager	Date	September 29, 2008

Council Meeting: 10/07/2008
Agenda: Other Business
Item #: * 8. h. (2).

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

MEMORANDUM

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

From: Eric Shields, AICP, Planning Director
Susan Greene, Project Planner

Date: September 23, 2008

Subject: Garden Gate Final Subdivision, File No. FSB08-00002

RECOMMENDATION

Approve with conditions the Final Subdivision for the Garden Gate Plat. The City Council may do so by adopting the enclosed resolution.

BACKGROUND DISCUSSION

The Preliminary Subdivision was heard by the Hearing Examiner on December 10th, 2007. The Hearing Examiner approved the project with conditions on December 17th, 2007. A concurrency test was passed for traffic on June 4th, 2007. A Determination of Non-significance was issued for the proposal on October 12th, 2007.

The proposal includes the following general elements:

- Subdivide 2 existing lots, 4.58 total acres, into 24 lots for single-family residences within an RSX 7.2 zone with a minimum lot size of 7,200 square feet.
- The subdivision was approved using the lot averaging provisions of the Kirkland Municipal Code. The proposed lots will range in size from 6,570 square feet to 8,848 square feet, with an average lot size of 7,200 square feet. Four lots will be under the minimum lot size, but will not exceed a ten percent reduction in size as required by the Kirkland Municipal Code.
- Primary access to the subdivision will be from a dedicated public right of way called 112th Ave NE, which is accessed off of NE 132nd Street. Two easements within the plat will provide access to two lots: numbers 11 and 14.
- The applicant, with the encouragement of the Public Works Department, incorporated Low Impact Development (LID) elements into the project design as part of the land surface modification application.

The Planning Director recommends approval of the final subdivision with the conditions outlined in the staff advisory report dated September 23, 2008 (see Enclosure 1).

ATTACHMENTS:

1. Staff Advisory Report dated September 23rd, 2008

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

MEMORANDUM
ADVISORY REPORT
FINDINGS, CONCLUSION, AND RECOMMENDATIONS

To: Eric R. Shields, AICP, Planning Director

From: Susan Greene, Planner

Date: September 23, 2008

File: GARDEN GATE (FORMERLY CEDAR PARK) FINAL SUBDIVISION, FILE FSB08-00002

I. RECOMMENDATION

Recommend approval of the Final Subdivision application for Garden Gate 24 Lot Plat subject to the following conditions:

A. The application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, Building and Fire Code, and Subdivision Ordinance. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 1, Preliminary Subdivision Notice of Approval, is provided in this memo to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations.

B. Prior to recording the final plat mylar with King County the applicant shall:

1. Submit a title report no more than 30 days old from the date the final plat mylar was signed by the owners. The title report shall reflect that all taxes and assessments for the subject property have been paid.

2. Have a registered land surveyor set the exterior plat boundary and all interior lot corners.

II. BACKGROUND

A. The applicant is Phoenix Development of Sundquist Homes.

B. This is a Final Subdivision application to approve a 24-lot subdivision on a 3.99-acre site (see Enclosure 1 for the Vicinity Map, Enclosure 2 for the Preliminary Plat approval, and Enclosure 3 for the final plat plans).

C. The Preliminary Subdivision (File No. PSB07-00001) was approved by the Hearing Examiner on December 17, 2007.

D. The site is located at 11211 and 11219 NE 132nd Street.

III. HISTORY

The Preliminary Subdivision was heard by the Hearing Examiner on December 10th, 2007. The Hearing Examiner approved the project with conditions on December 17th, 2007. A concurrency test was passed for traffic on June 4th, 2007. A Determination of Non-significance was issued for the proposal on October 12th, 2007. The proposal included the following general elements:

1. Subdivide 2 existing lots, 4.58 total acres, into 24 lots for single-family residences within an RSX 7.2 zone with a minimum lot size of 7,200 square feet. The proposed lots will range in size from 6,570 square feet to 8,848 square feet, with an average lot size of 7,200 square feet. Since four of the lots were less than the minimum lot size requirement of 7,200 square feet, the subdivision was reviewed and approved through the lot averaging provisions of Kirkland Subdivision Code Section 22.28.040. This provision allows up to 20% of the lots to be up to 10% short of the minimum lot size. This proposal meets that requirement because four of the twenty four lots are less than 7,200 square feet and the lot with the least square footage is still above the 10% shortage allowed.

2. Primary access to the subdivision will be from a dedicated public right of way called 112th Ave NE, which is accessed off of NE 132nd Street. This dedication along with required dedication along NE 132nd Street changed the total square footage of the plat from 4.58 acres to 3.99 acres which still meets the square footage requirements for 24 lots. Two easements within the plat will provide access to two lots: numbers 11 and 14.

3. The applicant, with the encouragement of the Public Works Department, incorporated Low Impact Development (LID) elements into the project design as part of the land surface modification application.

IV. ANALYSIS

Section 22.16.080 of the Kirkland Municipal Code discusses the conditions under which the final plat may be approved by the City Council. These conditions are as follows:

1. Consistency with the preliminary plat, except for minor modifications allowed under Kirkland Municipal Code Section 22.16.080; and

2. Consistency with the provisions of the Subdivision Ordinance and RCW 58.17.

The applicant has proposed very minor changes to some of the lot sizes but has kept the averaged lots to only four. The basic configuration of the lots is the same as the preliminary plat. The dedication square footage has changed from the preliminary plat due to improvements planned along NE 132nd Street.

The applicant has complied with all of the conditions that were placed on the preliminary subdivision application approved by the Hearing Examiner, except for those conditions that must be accomplished prior to Final Plat recording. The applicant has submitted a bond to ensure future completion of the remaining public improvements required as part of the preliminary subdivision.

V. CHALLENGE, JUDICIAL REVIEW, AND LAPSE OF APPROVAL

A. Section 22.16.070 of the Kirkland Municipal Code states that any person who disagrees with the report of the Planning Director may file a written challenge to City Council by delivering it to the City Clerk not later than the close of business of the evening City Council first considers the final plat.

B. Section 22.16.110 of the Subdivision Ordinance allows the action of the City in granting or denying this final plat to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

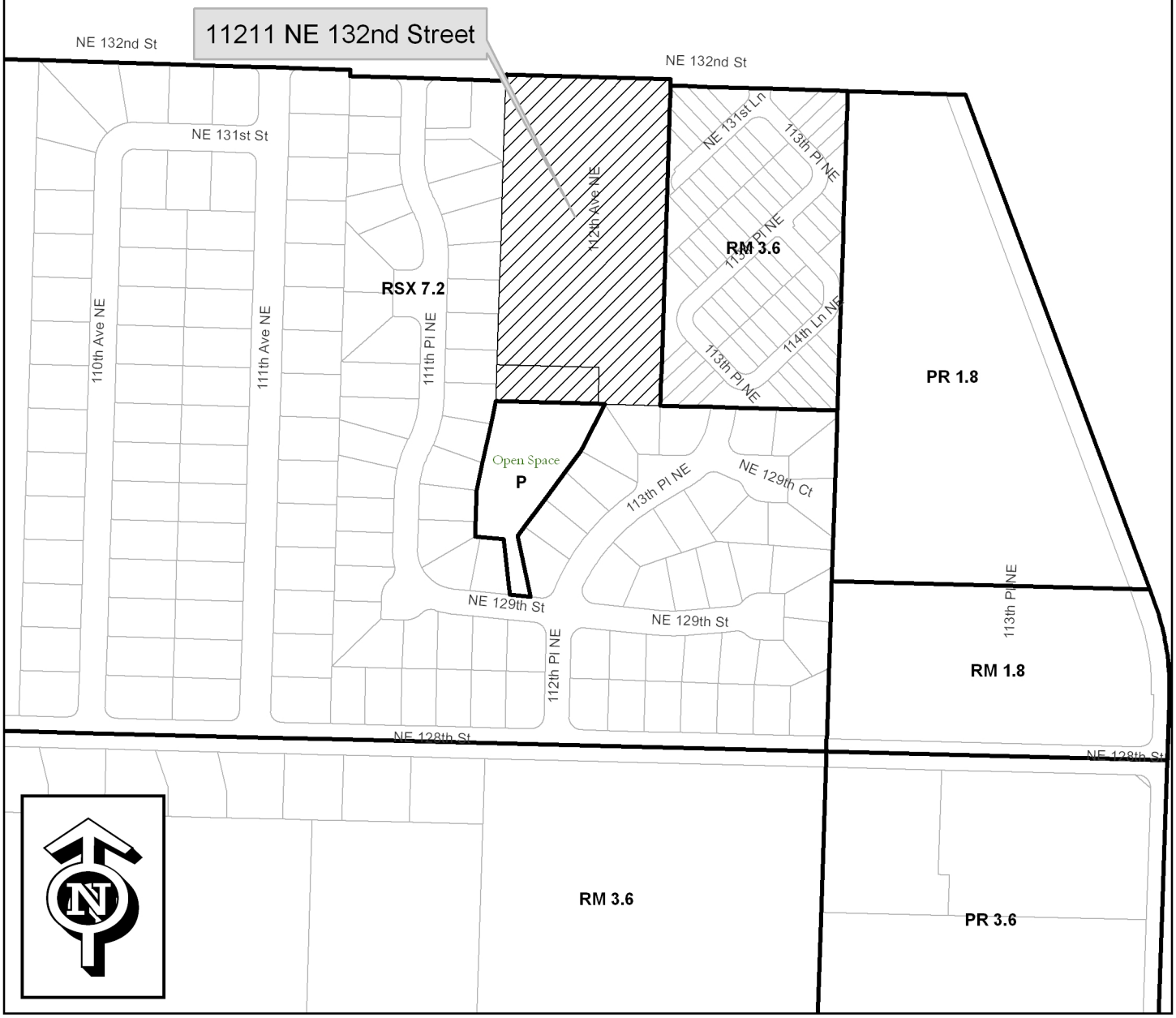
C. Section 22.16.130 of the Kirkland Municipal Code requires that the final plat be submitted to the City for recording with King County within four (4) years of the date of approval of the preliminary plat, unless specifically extended in the decision on the plat, or the decision becomes void: provided, however, that in the event judicial review is initiated per Section 22.16.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the plat.

VI. APPENDICES

Enclosures 1-3 are attached.

1. Vicinity Map
2. Preliminary Subdivision Notice of Approval
3. Final Plat map

Garden Gate Subdivision
FSB08-00002



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

CEDAR PARK PRELIMINARY SUBDIVIWSION
FILE PSB07-00001
NOTICE OF APPROVAL

PERMIT NO. PSB07-00001

PROJECT NAME: CEDAR PARK PRELIMINARY SUBDIVISION

PROJECT ADDRESS: 11211 AND 11219 NE 132nd Street

APPLICANT OR AGENT: Geoffrey Thomas, Phoenix Development Inc.

CITY OF KIRKLAND APPROVAL DATE: December 17, 2007

LAPSE OF APPROVAL DATE(S) Under Section 22.16.130 of the Subdivision Ordinance, the owner must submit a final plat application to the Planning Department, meeting the requirements of the Subdivision Ordinance and the preliminary plat approval, and submit the final plat for recording, within four years following the date the preliminary plat was approved (by December 17, 2011) or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 22.16.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the plat. **However, the applicant must submit a complete application for final plat by April 17, 2011) (8 months prior to lapse of approval and plat survey mylars for recording by August 17, 2011 (4 months prior to lapse of approval).**

LAPSE OF APPROVAL DATE APPLIES UNLESS JUDICIAL REVIEW PROCEEDINGS ARE INITIATED WITHIN 21 CALENDAR DAYS OF ISSUANCE OF THE FINAL LAND USE DECISION BY THE CITY.

This NOTICE OF APPROVAL is granted subject to the attached conditions and development standards. Failure to meet or maintain strict compliance shall be grounds for revocation in accordance with the Kirkland Zoning Ordinance No. 2740 as amended.

The applicant must also comply with any federal, state or local statutes, ordinances or regulations applicable to this project. This Notice of Approval does not authorize grading or building without issuance of the necessary permits from the Kirkland Building Department.

CITY OF KIRKLAND
PLANNING AND COMMUNITY DEVELOPMENT

By: Susan Greene
Susan Greene
Planner

Attachments:

Conditions of Approval
Development Standards

CONDITIONS OF APPROVAL

CEDAR PARK PRELIMINARY SUBDIVISION
FILE NO. PSB07-00001

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

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

2. Trees shall not be removed or altered following short plat approval except as approved by the Planning Department. Attachment 3, Development Standards, and Attachment 5, the Urban Forester recommendations, contains specific information concerning tree retention requirements. Additionally, the applicant shall implement the following recommendations of the City's Urban Forester (Arborist) (see Conclusion II.F.4.b of this report for the following recommendations of approval below (a-c)):

    a. In consideration of the fir trees lined on proposed lots 10, 11 &12 numbered 562-572 (see Attachment 5a), retention of these trees will need to be evaluated by an arborist at the time that improvements are located on site. If any of these trees will be retained, protective fencing would need to remain in place at 20 feet from the base of each trunk for the entire time of construction, and they must be evaluated periodically for as long as they are retained.

    b. The grove of trees in the southwest corner of the site numbered 583-586 and along the west property line (tree numbers 589-599; 600 & 631-635) shall be retained as two separate groves of trees and thereby shall be considered when considering placement of the homes or utilities on any lot that would affect these two groves. Prior to approval of the final subdivision, the applicant shall work with the Planning Department to determine the extent of the protection for these two groves of trees by submitting an easement agreement acceptable to the City Attorney that will preserve these trees in perpetuity.

c. Tree numbers 606-620, 623 and 624-630 while not significant as defined by Chapter 95 shall be retained and protected during construction.

3. As part of the land surface modification permit application, the applicant shall submit plans for the installation of the required improvements as described in Attachment 3 including a 5-foot wide paved walkway within a 10-foot wide pedestrian easement which will extend to the City's open space to the south (see Conclusion II.F.2).

ATTACHMENT ~~Enclosure~~ 3 continued
PSB07 - 00001

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

DEVELOPMENT STANDARDS LIST

File: PSB07-00001 Cedar Park Subdivision

SUBDIVISION STANDARDS

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

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

22.28.210 Significant Trees. The applicant shall design the plat so as to comply with the tree management requirements set forth in Chapter 95 of the Kirkland Zoning Code. The Planning Official is authorized to require site plan alterations to retain Type 1 trees. The applicant shall retain all viable trees at the short plat approval stage and all viable trees with the required Land Surface Modification Permit, except for those trees needed to be removed for installation of the plat infrastructure improvements. The applicant shall also retain all viable trees during the development of each single family lot except for those trees required to be removed for the construction of the house and other associated site improvements. A Tree Plan III was submitted with the short plat which can be found as attachment ? in this report. The City arborist recommendations can be found as attachment ? and makes specific recommendations concerning retention of both significant and non-significant trees on site. A minimum of 137 tree credits are required for the subject site. If at any stage of development, tree retention on the site falls below the minimum required tree density, replanting shall be required per KZC Section 95.35.

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

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

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

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

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. Please see KMC 27.06 for the current rate. Exemptions and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060. If a property contains an existing unit to be removed, a "credit" for that unit shall apply to the first building permit of the subdivision.

Prior to Recording:

22.16.030 Final Plat - Lot Corners. The exterior plat boundary, and all interior lot corners shall be set by a registered land surveyor.

22.16.040 Final Plat - Title Report. The applicant shall submit a title company certification which is not more than 30 calendar days old verifying ownership of the subject property on the date that the property owner(s) (as indicated in the report) sign(s) the subdivision documents; containing a legal description of the entire parcel to be subdivided; describing any easements or restrictions affecting the property with a description, purpose and reference by auditor's file number and/or recording number; any encumbrances on the property; and any delinquent taxes or assessments on the property.

22.16.150 Final Plat - Improvements. The owner shall complete or bond all required right-of-way, easement, utility and other similar improvements.

22.32.020 Water System. The applicant shall install a system to provide potable water, adequate fire flow and all required fire-fighting infrastructure and appurtenances to each lot created.

22.32.040 Sanitary Sewer System. The developer shall install a sanitary sewer system to serve each lot created.

22.32.080 Performance Bonds. In lieu of installing all required improvements and components as part of a plat or short plat, the applicant may propose to post a bond, or submit evidence that an adequate security device has been submitted and accepted by the service provider (City of Kirkland and/or Northshore Utility District), for a period of one year to ensure completion of these requirements within one year of plat/short plat approval.

Prior to occupancy:

22.32.020 Water System. The applicant shall install a system to provide potable water, adequate fire flow and all required fire-fighting infrastructure and appurtenances to each lot created.

22.32.040 Sanitary Sewer System. The developer shall install a sanitary sewer system to serve each lot created.

22.32.090 Maintenance Bonds. A two-year maintenance bond may be required for any of the improvements or landscaping installed or maintained under this title.

ZONING CODE STANDARDS

85.25.1 Geotechnical Report Recommendations. The geotechnical recommendations contained in the report by Earth Consulting Inc. dated June 20th, 2007 shall be implemented.

85.25.3 Geotechnical Professional On-Site. A qualified geotechnical professional shall be present on site during land surface modification and foundation installation activities.

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

95.50.3 Maintenance of Preserved Grove. The applicant shall provide a legal instrument acceptable to the City ensuring the preservation in perpetuity of approved groves of trees to be retained.

100.25 Sign Permits. Separate sign permit(s) are required.

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

105.19 Public Pedestrian Walkways. The height of solid (blocking visibility) fences along pedestrian pathways that are not directly adjacent a public or private street right-of-way shall be limited to 42 inches unless otherwise approved by the Planning or Public Works Directors. All new building structures shall be setback a minimum of five feet from any pedestrian access right-of-way, tract, or easement that is not directly adjacent a public or private street right-of-way. If in a design district, see section and Plate 34 for through block pathways standards.

105.20 Required Parking. Two parking spaces per single family unit are required for this use.

105.47 Required Parking Pad. Except for garages accessed from an alley, garages serving detached dwelling units in low density zones shall provide a minimum 20-foot by 20-foot parking pad between the garage and the access easement, tract, or right-of-way providing access to the garage.

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

115.25 Work Hours. It is a violation of this Code to engage in any development activity or to operate any heavy equipment before 7:00 am. or after 8:00 pm Monday through Friday, or before 9:00 am or after 6:00 pm Saturday. No development activity or use of heavy equipment may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. The applicant will be required to comply with these regulations and any violation of this section will result in enforcement action, unless written permission is obtained from the Planning official.

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

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

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

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

115.90 Calculating Lot Coverage. The total area of all structures and pavement and any other impervious surface on the subject property is limited to a maximum percentage of total lot area. See the Use Zone charts for maximum lot coverage percentages allowed. Section 115.90 lists exceptions to total lot coverage calculations See Section 115.90 for a more detailed explanation of these exceptions.

115.95 Noise Standards. The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC. Any noise, which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

115.115 Required Setback Yards. This section establishes what structures, improvements and activities may be within required setback yards as established for each use in each zone.

115.115.3.g Rockeries and Retaining Walls. Rockeries and retaining walls are limited to a maximum height of four feet in a required yard unless certain modification criteria in this section are met. The combined height of fences and retaining walls within five feet of each other in a required yard is limited to a maximum height of 6 feet, unless certain modification criteria in this section are met.

115.115.3.n Covered Entry Porches. In residential zones, covered entry porches on dwelling units may be located within 13 feet of the front property line if certain criteria in this section are met. This incentive is not effective within the disapproval jurisdiction of the Houghton Community Council.

115.115.3.o Garage Setbacks. In low density residential zones, garages meeting certain criteria in this section can be placed closer to the rear property line than is normally allowed in those zones.

115.115.3.p HVAC Equipment: These may be placed no closer than five feet of a side or rear property line, and shall not be located within a required front yard; provided, that HVAC equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

115.115.5.a Driveway Width and Setbacks. For a detached dwelling unit, a driveway and/or parking area shall not exceed 20 feet in width in any required front yard, and shall be separated from other hard surfaced areas located in the front yard by a 5-foot wide landscape strip. Driveways shall not be closer than 5 feet to any side property line unless certain standards are met.

115.135 Sight Distance at Intersection. Areas around all intersections, including the entrance of driveways onto streets, must be kept clear of sight obstruction as described in this section.

150.22.2 Public Notice Signs. Within seven (7) calendar days after the end of the 21-day period following the City's final decision on the permit, the applicant shall remove all public notice signs.

Prior to recording:

110.60.5 Landscape Maintenance Agreement. The owner of the subject property shall sign a landscape maintenance agreement, in a form acceptable to the City Attorney, to run with the subject property to maintain landscaping within the landscape strip and landscape island portions of the right-of-way (see Attachment 3). It is a violation to pave or cover the landscape strip with impervious material or to park motor vehicles on this strip.

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

Prior to issuance of a grading or building permit:

85.25.1 Geotechnical Report Recommendations. A written acknowledgment must be added to the face of the plans signed by the architect, engineer, and/or designer that he/she has reviewed the geotechnical recommendations and incorporated these recommendations into the plans.

95.35.2.b.(3)(b)i Tree Protection Techniques. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans.

95.35.6 Tree Protection. Prior to development activity or initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities. Protection measures for trees to be retained shall include (1) placing no construction material or equipment within the protected area of any tree to be retained; (2) providing a visible temporary protective chain link fence at least 4 feet in height around the protected area of retained trees or groups of trees until the Planning Official authorizes their removal; (3) installing visible signs spaced no further apart than 15 feet along the protective fence stating "Tree Protection Area, Entrance Prohibited" with the City code enforcement phone number; (4) prohibiting excavation or compaction of earth or other damaging activities within the barriers unless approved by the Planning Official and supervised by a qualified professional; and (5) ensuring that approved landscaping in a protected zone shall be done with light machinery or by hand.

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. Please see KMC 27.06 for the current rate. Exemptions and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060. If a property contains an existing unit to be removed, a "credit" for that unit shall apply to the first building permit of the subdivision.

Prior to occupancy:

95.40 Bonds. The City may require a maintenance agreement or bond to ensure compliance with any aspect of the Landscaping chapter.

95.50.2.b Tree Maintenance. For detached dwelling units, the applicant shall submit a 5-year tree maintenance agreement to the Planning Department to maintain all pre-existing trees designated for preservation and any supplemental trees required to be planted.

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

110.75 Bonds. The City may require or permit a bond to ensure compliance with any of the requirements of the Required Public Improvements chapter.

ATTACHMENT 3 continued
PSB07-00001

Enclosure 3

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

PUBLIC WORKS CONDITIONS

Permit Information
Permit #: PSB07-00001
Project Name: Cedar Park 24-lot Plat
Project Address: 11215 & 11219 NE 132nd Ave. NE
Date: November 20, 2007

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

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

General Conditions:

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

2. This project will be subject to Public Works Permit and Connection Fees. At the pre-application stage, the fees can only be estimated. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The fees can also be review the City of Kirkland web site at www.ci.kirkland.wa.us. The applicant should anticipate the following fees:
   - Right-of-way Fee
   - Review and Inspection Fee (for utilities and street improvements).
   - Traffic Impact Fee (paid with the issuance of Building Permit). For additional information, see notes below. **Note: Traffic and Park Impact Fees increase on February 1, 2008.**

3. All street and utility improvements shall be permitted by obtaining a Land Surface Modification Permit.

4. The subdivision can be recorded in advance of installing all the required street and utility improvements by posting a performance security equal to 130% of the value of work. Contact the Development Engineer assigned to this project to assist with this process.

5. This project has passed concurrency and received a Traffic Concurrency Test Notice on June 4, 2007.

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

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

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

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

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

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

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

Sanitary Sewer and Water Conditions:

1. Northshore Utility District (NUD) approval required for water and sewer service. A letter of sewer and water availability is required from NUD prior to recording the plat of issuance of any Building or Land Surface Modification Permits.

Surface Water Conditions:

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

2. If a detention system is proposed, it shall be designed to Level II standards.

3. The project is voluntarily proposing to use a combination of Low Impact Development (LID) drainage techniques including porous concrete, rain gardens, individual lot infiltration, and a street drainage infiltration system. By using LID techniques, the post-development surface water will more closely mimic the pre-developed conditions. The Public Work Department has reviewed the preliminary drainage report and recommends that the proposed LID techniques be approved with the following conditions:

    - **Porous Concrete:** The public sidewalk along the west side of the new street will be porous concrete. To ensure that the porous concrete sidewalk does not get damaged or plugged with silt during construction of the new homes, all porous sidewalk will be poured after the homes are constructed. The installation of the sidewalk will be a Building Permit condition with each new home and the Public Work Department will coordinate the installation of the sidewalk with the developer as the new homes are being finished. Because the sidewalk installation will be a Building Permit condition, the developer

of the plat will not be required to install the sidewalk nor post a performance bond for the installation of the sidewalk. In addition, if the sidewalk is installed as each home is completed and the sidewalk is protected to insure that it is not driven on by construction equipment, a 2-year maintenance bond for the sidewalk will not required. The sidewalk will be subject to a 90-day inspection to insure that the product was installed correctly and there are no signs of failures due to poor workmanship. After installation, long term structural maintenance of the sidewalk will be borne by the City (as is the case with other public sidewalks); general cleaning maintenance of the sidewalk is borne by the adjacent property owner.

- **Rain Gardens:** 10 separate rain gardens are proposed along new street. These rain gardens will provide infiltration for the majority of the street surface water run-off. Any rain garden that is not in the street right-of-way shall be encompassed in a public drainage easement. The City will be responsible for the repair and maintenance of any drainage structures in the rain gardens in addition to all other drainage structures in the street right-of-way. The plat recording mylar shall include language stating that the homeowners association shall be responsible for maintaining the landscaping in the rain gardens.
- **Infiltration Chamber:** A long infiltration chamber is proposed under the north side of the new street along the front of lots 19-24. This infiltration chamber will function as part of the public drainage system for the plat and will be owned and maintained by the City. Special care must be taken to ensure that this infiltration chamber is not compromised or disrupted when various utility crossings are installed.
- **Individual lot infiltration:** Many of the individual lots will have on-site infiltration systems for the drainage from the roofs and/or driveways. The individual lot infiltration systems will be installed as the homes are constructed and not as a plat improvement. Each of these infiltration systems will be maintained by the property owner and a note shall be added to the plat recording mylar depicting which lots have infiltration and will be responsible for perpetual maintenance of the infiltration system.
- **Plan Review:** The City encourages and supports the used of LID Drainage Techniques. As a pilot program, the Public Works Department is offering to provide expedited engineering plan review of the Land Surface Modification (LSM) Permit. First review comments of a complete LSM Permit application will be provided in 3-4 weeks after submittal.

4. This project disturbs greater than one acre, the applicant is responsible to apply for a *Construction Stormwater General Permit* from Washington State Dept. of Ecology. Specific permit information can be found at the following website: http://www.ecy.wa.gov/programs/wq/stormwater/construction/ Among other requirements, this permit requires the applicant to prepare a *Storm Water Pollution Prevention Plan* (SWPPP) and identify a *Certified Erosion and Sediment Control Lead* (CESCL) prior to the start of construction. The CESCL shall attend the City of Kirkland Public Works Department pre-construction meeting with a completed SWPPP.

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

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

7. Any house that is tight-lined to the public storm system (i.e., the lot does not have a planned on-site infiltration system) shall contain a 10 ft. long (min.) infiltration trench with an overflow to the public storm drain system. These infiltration trenches shall be installed with the individual new houses.

8. All roof and driveway drainage must be tight-lined to an approved storm drainage system. Each lot will be served by a rain garden, on-site infiltration system, or public storm system in the new street.

Street and Pedestrian Improvement Conditions:

1. The subject property abuts NE 132nd Street (an arterial type street) and proposed a new cul-de-sac to serve the project. Zoning Code sections 110.10 and 110.25 require the applicant to make street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:

NE 132nd St.

A. Dedicate 3,155 sq. ft. of property along 132nd Ave. NE to allow future widening of the street by WSDOT (the plans reflect this required dedication); in general, the dedication is 17 ft wide on the east and tapers to 5 ft wide on the west. Because this dedication is for future street widening in conjunction with a planned capacity project and this capacity project serves the goals and objectives of the capital facilities plan, the project will receive a Traffic Impact Fee credit as defined in Kirkland Municipal Code 27.04.060 and no traffic impact fees will be due for any Building Permits issued in conjunction with this subdivision, i.e., the new homes on each new lot
B. Remove and replace any cracked curb, and gutter or sidewalk.
C. Plant street trees 30 ft on-center in the existing landscape strip.

New cul-de-sac (112th Ave. NE)

A. Dedicate 40 ft of public right-of-way for the new road and 80 ft of right-of-way for the cul-de-sac.
B. Provide 20 ft of paving with a 70 ft of paving in the cul-de-sac (includes 6-inch gutter).
C. Provide curb and gutter along both sides of the street and around the cul-de-sac.
D. Provide six ft wide parking bump-outs on the east side the street between the driveways for lots 18 and 19, 20 and 21, and 22 and 23.
E. Provide a pervious concrete 5 ft wide sidewalk along the entire west side of the street and around the cul-de-sac to the property line between lots 10 and 12. The sidewalk shall then continue in a 5 wide pedestrian easement along side the access easement serving lot 11 and within a 10 ft wide pedestrian easement along the east property line of lot 11. This sidewalk will link to the unimproved park property to the south of lot 11 and 12.
F. Provide a 4.5 ft minimum landscape strip along both sides of the street and around the cul-de-sac with street trees 30 ft on-center or as directed by the Public Works Department. The street trees will be behind the sidewalk in a landscape easement along the frontage of lot 9 and 10.
G. Public Works recommends that the sidewalk be meandered to the west into a 5 ft wide minimum pedestrian easement along the fronts of lots 1-9 so that the landscape strip area can be widened to and 5 separate rain gardens can be installed (see site plan)

H. This length of street would typically required sidewalks on both sides of the street, but the developer has proposed to install sidewalk on the west side only and participate in the sidewalk construction-in-lieu program instead of installing sidewalk on the east side of the new street. Per Chapter 110.70 of the Kirkland Zoning Code, the dollar value of the construction-in-lieu sidewalk is 75% of the value of the sidewalk not installed in the plat, and the land area not dedicated for the sidewalk. The construction-in-lieu is calculated as follows:

	Sq. Ft or Length	**Cost/Unit**	**Total Value**
Value of Sidewalk	280 ft.	$18/ft	$5,040
Value of Right-of-way	1,300 Sq. Ft.	$40/Sq. Ft*.	$52,000
		Total	$57,040
		75% of value	**$42,780**

*$40/Sq. Ft. is used based on a recent City-approved appraisal of similar residential land in the Juanita Neighborhood.

In this case, the City has determined that the construction-in-lieu value is $42,780 and the developer has asked if they can help pay for on-going or future City-installed or City-funded pedestrian improvements in the neighborhood. Public Works is in favor of this and will be seeking a set-aside for future pedestrian improvements in the unimproved park property to the south of the subject property, or a contribution toward the City-funded portion of the pedestrian improvements being installed along the east side of 116th Ave. NE in conjunction with the NE 128th St Sound Transit Project. In either case, the developer will sign an agreement acknowledging that they are voluntarily requesting to contribute to City-fund pedestrian improvement instead of installing off-site improvements. The City Attorney will prepare this agreement and it shall be signed prior to recording the plat.

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

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

4. The developer and builder are encouraged to consider the use of pervious concrete or brick pavers for the individual driveways.

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

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

7. Install "NO PARKING ANYTIME" around the perimeter of the cul-de-sac.

8. Install new monuments at the new intersection and the cul-de-sac.

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

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

11. Zoning Code Section 110.60.9 establishes the requirement that existing utility and transmission (power, telephone, etc.) lines on-site and in rights-of-way adjacent to the site must be underground. The Public Works Director may determine if undergrounding transmission lines in the adjacent right-of-way is not feasible and defer the undergrounding by signing an agreement to participate in an undergrounding project, if one is ever proposed. In this case, the Public Works Director has determined that undergrounding of existing overhead utility on NE 132nd St is not feasible at this time and the undergrounding of off-site/frontage transmission lines should be deferred with a Local Improvement District (LID) No Protest Agreement. The final recorded subdivision mylar shall include a condition requiring all associated lots to sign a LID No Protest Agreement prior to the issuance of a building permit for said lot. In addition, if a house is to be saved on one of the lots within the subdivision, a LID No Protest Agreement shall be recorded against this lot at the time of subdivision recording.

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

ATTACHMENT 3 continued
PSB07-00001

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

Date:
11/26/2007

DEVELOPMENT STANDARDS
CASE NO.: PSB07-00001
PCD FILE NO.:PSB07-00001

FIRE DEPARTMENT CONDITIONS

Access to lots 14 & 11 is less than 16 feet paved to within 150 feet of the furthest setback corner. Fire sprinklers are required for these 2 lots.

One new fire hydrant is required on-site as indicated on the plans. This new hydrant as well as the one across the street from the project shall be equipped with 5 inch Storz adapter couplings. The new hydrant & Storz fittings shall be installed prior to any combustible construction.

BUILDING DEPARTMENT COMMENTS

If submitted prior to July 1, 2004, Buildings must comply with 1997 editions of the Uniform Building & Mechanical Codes and 2000 edition of the Plumbing Code. Building permits submitted on July 1, 2004 or after must comply with the 2003 International Building, Residential and Mechanical Codes and the 2003 Uniform Plumbing Code as adopted and amended by the State of Washington and the City of Kirkland.

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

Plumbing meter and service line shall be sized in accordance with UPC 1009 (h) and Table 10-2.

Demolition of existing structures is required prior to recording of the subdivision. Demolition permit(s) required for removal of existing structures.

Due to number of lots, a geotechnical report is required to address development activity. Report must be prepared by a Washington State licensed Professional Engineer. Recommendations contained within the report shall be incorporated into the design of the Short Plat and subsequent structures.

Prior to issuance of Building, Demolition or Landsurface Modification permit applicant must submit a proposed rat baiting program for review and approval. Kirkland Municipal Ordinance 9.04.040

Enclosrue 3

GARDEN GATE

CITY OF KIRKLAND FILE NO. PSB07-00001

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M.,
CITY OF KIRKLAND, KING COUNTY, WASHINGTON

DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT WE, THE UNDERSIGNED BEING ALL OF THE OWNERS OF THE LAND HEREBY SUBDIVIDED, HEREBY DECLARE THIS PLAT TO BE THE GRAPHIC REPRESENTATION OF THE SUBDIVISION MADE HEREBY, AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS AND AVENUES NOT SHOWN AS PRIVATE HEREON AND DEDICATE THE USE THEREOF FOR ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES, AND ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS SHOWN HEREON IN THE ORIGINAL REASONABLE GRADING OF SAID STREETS AND AVENUES, AND FURTHER DEDICATE TO THE USE OF THE PUBLIC ALL THE EASEMENTS AND TRACTS SHOWN ON THIS PLAT FOR ALL PUBLIC PURPOSES AS INDICATED HEREON, INCLUDING BUT NOT LIMITED TO PARKS, OPEN SPACE, UTILITIES AND DRAINAGE UNLESS SUCH EASEMENTS OR TRACTS ARE SPECIFICALLY IDENTIFIED ON THIS PLAT AS BEING DEDICATED OR CONVEYED TO A PERSON OR ENTITY OTHER THAN THE PUBLIC.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED WAIVE FOR THEMSELVES, THEIR HEIRS, AND ASSIGNS AND ANY PERSON OR ENTITY DERIVING TITLE FROM THE UNDERSIGNED, ANY AND ALL CLAIMS FOR DAMAGES AGAINST THE CITY OF KIRKLAND, ITS SUCCESSORS AND ASSIGNS WHICH MAY BE OCCASIONED BY THE ESTABLISHMENT, CONSTRUCTION, OR MAINTENANCE OF ROADS AND/OR DRAINAGE SYSTEMS WITHIN THIS SUBDIVISION OTHER THAN CLAIMS RESULTING FROM INADEQUATE MAINTENANCE BY THE CITY OF KIRKLAND.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED AGREE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS TO INDEMNIFY AND HOLD THE CITY OF KIRKLAND, ITS SUCCESSORS AND ASSIGNS, HARMLESS FROM ANY DAMAGE, INCLUDING ANY COSTS OF DEFENSE, CLAIMED BY PERSONS WITHIN OR WITHOUT THIS SUBDIVISION TO HAVE BEEN CAUSED BY ALTERATIONS OF THE GROUND SURFACE, VEGETATION, DRAINAGE, OR SURFACE OR SUBSURFACE WATER FLOWS WITHIN THIS SUBDIVISION OR BY ESTABLISHMENT, CONSTRUCTION OR MAINTENANCE OF THE ROADS WITHIN THIS SUBDIVISION. PROVIDED, THIS WAIVER AND INDEMNIFICATION SHALL NOT BE CONSTRUED AS RELEASING THE CITY OF KIRKLAND, ITS SUCCESSORS OR ASSIGNS, FROM LIABILITY FOR DAMAGES, INCLUDING THE COST OF DEFENSE, RESULTING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF KIRKLAND, ITS SUCCESSORS, OR ASSIGNS.

THIS SUBDIVISION DEDICATION, WAIVER OF CLAIMS AND AGREEMENT TO HOLD HARMLESS IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNERS.

IN WITNESS WHEREOF WE SET OUR HANDS AND SEALS.

SUNDQUIST HOMES, LLC
A WASHINGTON LIMITED LIABILITY COMPANY

BY: _____ ITS: _____

WASHINGTON FIRST INTERNATIONAL BANK

BY: _____ ITS: _____

ACKNOWLEDGMENTS

STATE OF WASHINGTON)
) SS
COUNTY OF _____)

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____ IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT (HE/SHE/THEY) SIGNED THIS INSTRUMENT, ON OATH STATED THAT (HE/SHE/THEY) WAS/WERE AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE _____ OF SUNDQUIST HOMES, LLC, A WASHINGTON LIMITED LIABILITY COMPANY TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED THIS _____ DAY OF _____, 20___

SIGNED: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

_____
(NOTARY NAME TO BE PRINTED)
RESIDING AT _____
MY APPOINTMENT EXPIRES _____

STATE OF _____)
) SS
COUNTY OF _____)

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____ IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT (HE/SHE/THEY) SIGNED THIS INSTRUMENT, ON OATH STATED THAT (HE/SHE/THEY) WAS/WERE AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE _____ OF WASHINGTON FIRST INTERNATIONAL BANK TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED THIS _____ DAY OF _____, 20___

SIGNED: _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

_____
(NOTARY NAME TO BE PRINTED)
RESIDING AT _____
MY APPOINTMENT EXPIRES _____

NOTES AND RESTRICTIONS

1. THIS PLAT IS SUBJECT TO COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE GARDEN GATE HOMEOWNERS ASSOCIATION.

2. ADDRESSING SHALL BE IN ACCORDANCE WITH KIRKLAND BUILDING DIVISION POLICY MANUAL NUMBER 9.001, "ASSIGNMENT OF STREET NUMBERS AND ROAD SIGNAGE".

3. UTILITY MAINTENANCE:
EACH PROPERTY OWNER SHALL BE RESPONSIBLE FOR MAINTENANCE OF THE SANITARY SEWER OR STORM WATER STUB FROM THE POINT OF USE ON THEIR OWN PROPERTY TO THE POINT OF CONNECTION IN THE CITY SANITARY SEWER MAIN OR STORM WATER MAIN. ANY PORTION OF A SANITARY SEWER OR SURFACE WATER STUB, WHICH JOINTLY SERVES MORE THAN ONE PROPERTY, SHALL BE JOINTLY MAINTAINED AND REPAIRED BY THE PROPERTY OWNERS SHARING SUCH STUB. THE JOINT USE AND MAINTENANCE SHALL "RUN WITH THE LAND" AND WILL BE BINDING ON ALL PROPERTY OWNERS WITHIN THIS SUBDIVISION, INCLUDING THEIR HEIRS, SUCCESSORS AND ASSIGNS.

4. PUBLIC RIGHT-OF-WAY SIDEWALK, PUBLIC PEDESTRIAN EASEMENT AND VEGETATION MAINTENANCE:
EACH PROPERTY OWNER SHALL BE RESPONSIBLE FOR KEEPING THE SIDEWALK AND PUBLIC PEDESTRIAN EASEMENT ABUTTING THE SUBJECT PROPERTY CLEAN AND LITTER FREE. THE PROPERTY OWNER SHALL ALSO BE RESPONSIBLE FOR THE MAINTENANCE OF THE VEGETATION WITHIN THE ABUTTING LANDSCAPE STRIP EXCEPT FOR THOSE AREAS OTHERWISE DESIGNATED. THE MAINTENANCE SHALL "RUN WITH THE LAND" AND WILL BE BINDING ON ALL PROPERTY OWNERS WITHIN THIS SUBDIVISION, INCLUDING THEIR HEIRS, SUCCESSORS AND ASSIGNS.

5. THE GARDEN GATE HOMEOWNER'S ASSOCIATION SHALL BE RESPONSIBLE FOR MAINTAINING THE LANDSCAPING IN THE RAIN GARDENS.

6. INDIVIDUAL LOT INFILTRATION SYSTEMS, WILL BE INSTALLED ON LOTS 1 THROUGH 8 AND LOTS 17 THROUGH 24. THE OWNERS OF THESE LOTS SHALL BE RESPONSIBLE FOR PERPETUAL MAINTENANCE OF THE INFILTRATION SYSTEM INSTALLED ON THEIR PROPERTY.

7. FIRE SPRINKLERS ARE REQUIRED FOR LOTS 11 AND 14.

8. AN EXISTING SLOPE EASEMENT (PER RECORDING NO. 7501270085), WHICH IS ADJOINING THE STREET FRONTAGE OF THIS PLAT, (ALONG NE 132ND STREET) LIES WITHIN THAT PORTION SHOWN ON THE FACE OF THIS PLAT, AS BEING DEDICATED TO THE PUBLIC FOR ADDITIONAL ROAD RIGHT-OF-WAY. THEREFORE UPON THE RECORDING OF THIS PLAT, THIS EASEMENT WILL LIE WITHIN THE PUBLIC ROAD RIGHT-OF-WAY AND NOT WITHIN ANY PORTION OF THIS PLAT.

9. THIS PLAT IS SUBJECT TO SANITARY SEWER EASEMENTS PER RECORDING NUMBERS 20080429001780, 20080429001781 AND 20080429001814, AND ARE AS SHOWN ON THIS PLAT.

10. THIS PLAT IS SUBJECT TO A WATER LINE EASEMENT PER RECORDING NO. 20080429001815, AND IS AS SHOWN ON THIS PLAT.

11. THIS PLAT IS SUBJECT TO AN AGREEMENT OF REQUIRED LANDSCAPE BUFFER PER RECORDING NO. 20050112000205.

12. THIS PLAT IS SUBJECT A MITIGATION AND SETTLEMENT AGREEMENT PER RECORDING NO. 20071107001639.

APPROVALS

APPROVED BY THE KIRKLAND CITY COUNCIL THIS _____ DAY OF _____, 20_____.

ATTEST: _____ _____

EXAMINED AND APPROVED THIS _____ DAY OF _____, 20_____.
DEPARTMENT OF PUBLIC WORKS

_____
CITY ENGINEER (DIRECTOR)

CITY TREASURER CERTIFICATE

I HEREBY CERTIFY THAT THERE ARE NO DELINQUENT LOCAL IMPROVEMENT ASSESSMENTS AND THAT ALL SPECIAL ASSESSMENTS ON ANY OF THE PROPERTY HEREIN CONTAINED, DEDICATED AS STREETS OR FOR OTHER PUBLIC USE ARE PAID IN FULL THIS _____ DAY OF _____, 20_____.

_____
TREASURER, CITY OF KIRKLAND

CITY OF KIRKLAND DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

EXAMINED, REVIEWED AND APPROVED BY THE CITY OF KIRKLAND PURSUANT TO THE SUBDIVISION PROVISIONS OF TITLE 22 (LAND SUBDIVISION) KIRKLAND MUNICIPAL CODE THIS _____ DAY OF _____, 20_____.

_____
DIRECTOR, DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

KING COUNTY FINANCE DIRECTOR CERTIFICATE

I HEREBY CERTIFY THAT ALL PROPERTY TAXES ARE PAID, THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION AND THAT ALL SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION ON ANY OF THE PROPERTY HEREIN CONTAINED, DEDICATED AS STREETS, OR FOR ANY OTHER PUBLIC USE, ARE PAID IN FULL.
THIS _____ DAY OF _____, 20_____.

DEPARTMENT OF FINANCE

_____ _____
DIRECTOR DEPUTY

DEPARTMENT OF ASSESSMENT

EXAMINED AND APPROVED THIS _____ DAY OF _____, 20_____.

_____ _____
KING COUNTY ASSESSOR DEPUTY ASSESSOR

RECORDER'S CERTIFICATE

RECORDING NO. _____

FILED FOR RECORD AT THE REQUEST OF THE CITY OF KIRKLAND THIS _____ DAY OF _____, 20_____, AT _____ MINUTES PAST _____ M. AND RECORDED IN VOLUME _____ OF PLATS, PAGE(S) _____, RECORDS OF KING COUNTY, WASHINGTON.

DIVISION OF RECORDS AND ELECTIONS

_____ _____
MANAGER SUPERINTENDENT OF RECORDS

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF
SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M.,
CITY OF KIRKLAND, KING COUNTY, WASHINGTON

CITY OF KIRKLAND WASHINGTON

CHARLES A. RICHARDSON
STATE OF WASHINGTON
29291
REGISTERED
PROFESSIONAL LAND SURVEYOR
EXPIRES 8-29-09
08/14/08

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT OF GARDEN GATE IS BASED ON AN ACTUAL SURVEY AND SUBDIVISION OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., AS REQUIRED BY STATE STATUTES; THAT DISTANCES, COURSES AND ANGLES ARE SHOWN THEREON CORRECTLY; THAT THE MONUMENTS SHALL BE SET AND LOT AND BLOCK CORNERS SHALL BE STAKED CORRECTLY ON THE GROUND, THAT I FULLY COMPLIED WITH THE PROVISIONS OF THE STATE AND LOCAL STATUTES AND REGULATIONS GOVERNING PLATTING.

CHARLES A. RICHARDSON, CERTIFCATION NO. 29291
REGISTERED PROFESSIONAL LAND SURVEYOR

08/14/08
DATE

SUMMIT SURVEYING
12606-82ND AVE. N.E., KIRKLAND, WA 98034
(425) 814-8487

DRAWN BY: CR	DATE: MAY, 2008	JOB NO. 07109
CHECKED BY: CR/JT	SCALE: N/A	SHEET: 1 OF 3

GARDEN GATE

CITY OF KIRKLAND FILE NO. PSB07–00001

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M.,
CITY OF KIRKLAND, KING COUNTY, WASHINGTON

LEGAL DESCRIPTION

PARCEL A:

THE SOUTH 70 FEET OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;
EXCEPT THE EAST 132 FEET THEREOF;

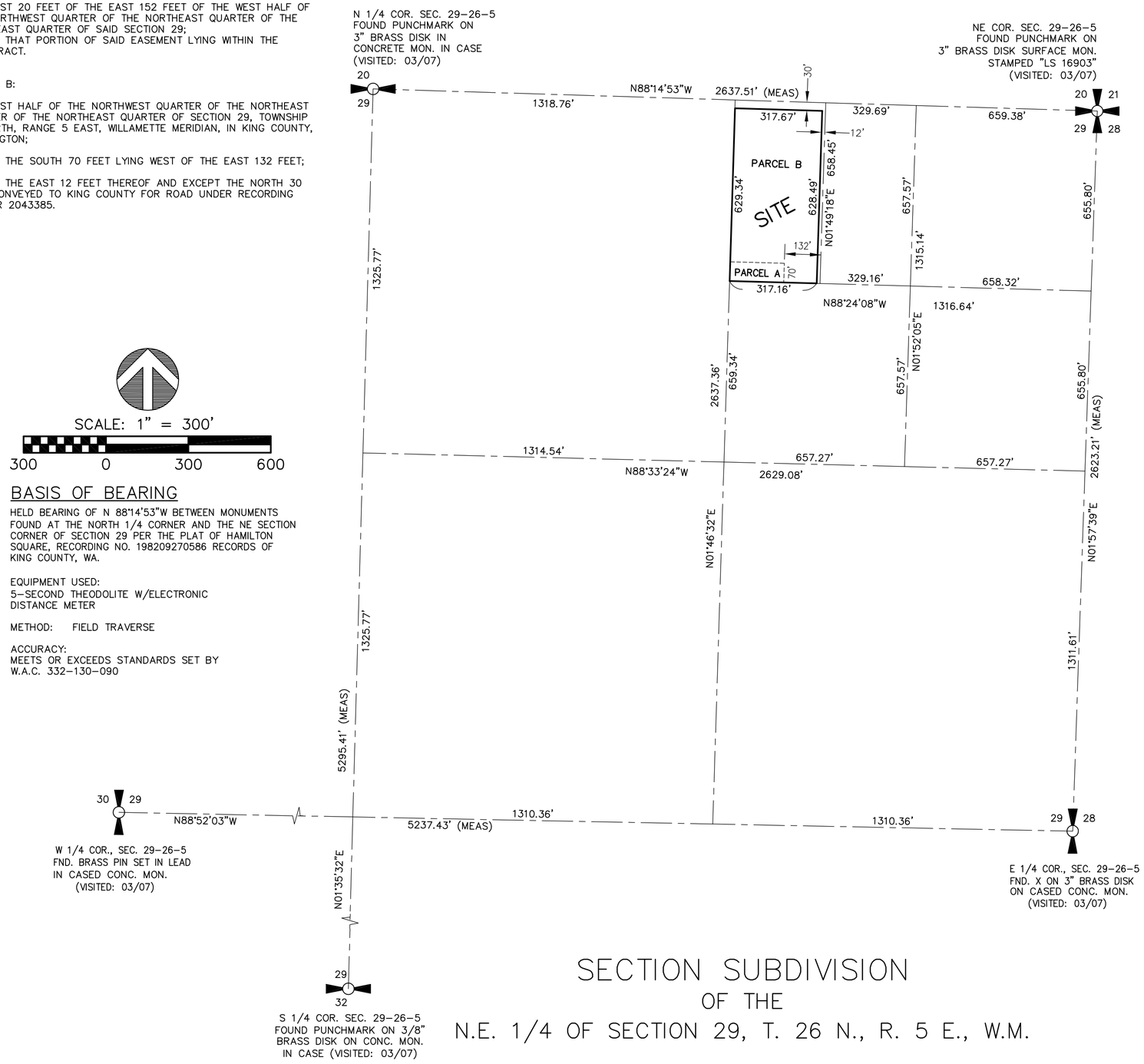
TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER THE WEST 20 FEET OF THE EAST 152 FEET OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 29;
EXCEPT THAT PORTION OF SAID EASEMENT LYING WITHIN THE MAIN TRACT.

PARCEL B:

THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 70 FEET LYING WEST OF THE EAST 132 FEET;

EXCEPT THE EAST 12 FEET THEREOF AND EXCEPT THE NORTH 30 FEET CONVEYED TO KING COUNTY FOR ROAD UNDER RECORDING NUMBER 2043385.



SCALE: 1" = 300'

300 0 300 600

BASIS OF BEARING

HELD BEARING OF N 88°14'53"W BETWEEN MONUMENTS FOUND AT THE NORTH 1/4 CORNER AND THE NE SECTION CORNER OF SECTION 29 PER THE PLAT OF HAMILTON SQUARE, RECORDING NO. 198209270586 RECORDS OF KING COUNTY, WA.

EQUIPMENT USED:
5–SECOND THEODOLITE W/ELECTRONIC DISTANCE METER

METHOD: FIELD TRAVERSE

ACCURACY:
MEETS OR EXCEEDS STANDARDS SET BY W.A.C. 332–130–090

EASEMENT PROVISIONS

A PRIVATE EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO PUGET SOUND ENERGY COMPANY, QWEST, COMCAST, (OTHER PRIVATE UTILITIES), AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS UNDER AND UPON ALL PRIVATE STREETS, ALLEYWAYS AND PRIVATE DRIVES AND, THE EXTERIOR 10 FEET (OR AS SHOWN) PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF ALL LOTS AND TRACTS AND 5.00 FEET PARALLEL WITH AND ADJOINING ALLEYWAYS AND PRIVATE DRIVES. FURTHER EASEMENTS ARE RESERVED OVER PRIVATE LANDS FOR VAULTS, PEDESTALS AND RELATED FACILITIES ("VAULT EASEMENTS") ADJACENT TO THE 5–FOOT WIDE UTILITY EASEMENT RESERVED IN THE PRECEDING SENTENCE AS FOLLOW: THE VAULT EASEMENT MAY OCCUPY UP TO AN ADDITIONAL 5–FEET IN WIDTH (FOR A TOTAL WIDTH OF 10 FEET) WITH THE LENGTH OF EACH VAULT EASEMENT EXTENDING 5 FEET FROM EACH END OF THE AS–BUILT VAULT(S). THE NUMBER AND LOCATION OF VAULT EASEMENTS WILL BE "AS INSTALLED" DURING THE UTILITY'S INITIAL INSTALLATION OF FACILITIES. THE EASEMENTS ARE RESERVED AND GRANTED IN ORDER TO INSTALL, LAY, CONSTRUCT, RENEW, OPERATE AND MAINTAIN UNDERGROUND PIPE, CONDUIT, CABLES, WIRES, VAULTS AND PEDESTALS WITH NECESSARY FACILITIES AND OTHER EQUIPMENT FOR THE PURPOSE OF SERVING THIS SUBDIVISION AND OTHER PROPERTY WITH ELECTRIC, TELEPHONE, GAS, TELECOMMUNICATIONS, DATA TRANSMISSION, STREET LIGHTS AND UTILITY SERVICE TOGETHER WITH THE RIGHT TO ENTER UPON FOR THESE PURPOSES SHALL BE RESTORED AS NEAR AS POSSIBLE TO THEIR ORIGINAL CONDITION. NO LINES OR WIRES FOR TRANSMISSION USES SHALL BE PLACED OR PERMITTED TO BE PLACED WITHIN THIS EASEMENT UNLESS THE SAME SHALL BE UNDERGROUND.
NO PERMANENT STRUCTURE SHALL BE PLACED WITHIN THE EASEMENTS WITHOUT PERMISSION FROM EASEMENT OWNERS.

PRIVATE ACCESS, UTILITY & DRAINAGE EASEMENTS

1. THE 15–FOOT WIDE ACCESS & UTILITY EASEMENT SHOWN OVER LOT 10 IS HEREBY GRANTED AND CONVEYED TO, AND IS FOR THE BENEFIT OF LOTS 10 AND 11 FOR THE PURPOSE OF UTILITIES AND A JOINT–USE DRIVEWAY. THE OWNERS OF LOTS 10 AND 11 SHALL BE EQUALLY AND JOINTLY RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITIES WITHIN SAID EASEMENT, WHICH THEY HAVE BENEFIT OF USE.

2. THE 15–FOOT WIDE ACCESS & UTILITY EASEMENT SHOWN OVER LOT 15 IS HEREBY GRANTED AND CONVEYED TO, AND IS FOR THE BENEFIT OF LOTS 14 AND 15 FOR THE PURPOSE OF UTILITIES AND A JOINT–USE DRIVEWAY. THE OWNERS OF LOTS 14 AND 15 SHALL BE EQUALLY AND JOINTLY RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITIES WITHIN SAID EASEMENT, WHICH THEY HAVE BENEFIT OF USE.

3. THE 5–FOOT WIDE PRIVATE DRAINAGE EASEMENT OVER LOT 12 IS HEREBY GRANTED AND CONVEYED TO, AND IS FOR THE BENEFIT OF LOT 11. THE OWNERS OF LOT 11 SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE FACILITIES WITHIN SAID EASEMENT.

ENTRY MONUMENT EASEMENTS

THE ENTRY MONUMENT EASEMENTS SHOWN ON LOTS 1 AND 24 ARE HEREBY GRANTED AND CONVEYED TO, AND SHALL BE MAINTAINED BY, THE GARDEN GATE HOMEOWNERS ASSOCIATION.

SECTION SUBDIVISION
OF THE
N.E. 1/4 OF SECTION 29, T. 26 N., R. 5 E., W.M.

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M.,
CITY OF KIRKLAND, KING COUNTY, WASHINGTON

CITY OF KIRKLAND WASHINGTON

CHARLES A. RICHARDSON
STATE OF WASHINGTON
29291
REGISTERED
PROFESSIONAL LAND SURVEYOR
EXPIRES 8-29-09
08/14/08

SUMMIT SURVEYING
12606-82ND AVE. N.E., KIRKLAND, WA 98034
(425) 814-8487

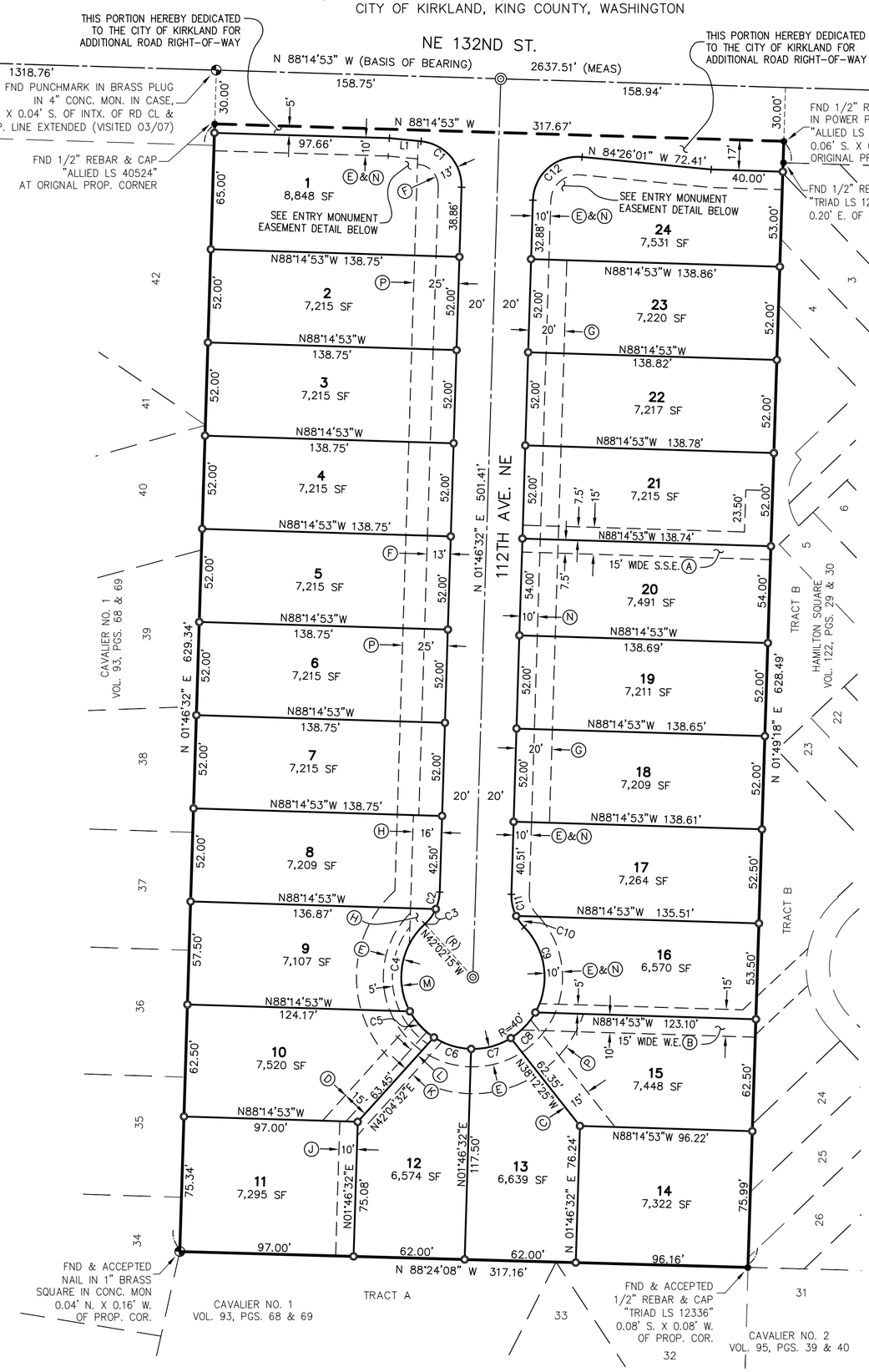
DRAWN BY: CR	DATE: MAY, 2008	JOB NO. 07109
CHECKED BY: CR/JT	SCALE: 1" = 300'	SHEET: 2 OF 3

Enclosure 3

GARDEN GATE

CITY OF KIRKLAND FILE NO. PSB07-00001

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M.,
CITY OF KIRKLAND, KING COUNTY, WASHINGTON



LEGEND

- CONCRETE MONUMENT WITH PUNCHMARK IN BRASS DISK IN CASE, STAMPED "29291" (TO BE SET AS CONSTRUCTION IS COMPLETED).
- SET 1/2" X 24" REBAR & PLASTIC CAP "SSI LS 29291", AT CORNERS AND ANGLE POINTS, AS SHOWN (TO BE SET AS CONSTRUCTION IS COMPLETED).
- FOUND PROPERTY CORNER AS NOTED (VISITED: MARCH, 2007)
- (R) RADIAL BEARING
- (A) EXISTING 15' WIDE SANITARY SEWER EASEMENT PER RECORDING NO. 20080429001814
- (B) EXISTING 15' WIDE WATER LINE EASEMENT PER RECORDING NO. 20080429001815
- (C) 15' WIDE ACCESS & UTILITY EASEMENT AS GRANTED BY THIS PLAT & EXISTING 15' WIDE SANITARY SEWER EASEMENT PER RECORDING NO. 20080429001780
- (D) 15' WIDE ACCESS & UTILITY EASEMENT AS GRANTED BY THIS PLAT & EXISTING 15' WIDE SANITARY SEWER EASEMENT PER RECORDING NO. 20080429001781
- (E) 10' WIDE UTILITY & PUBLIC STORM DRAINAGE EASEMENT PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE NORTH PORTION OF LOT 1 AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF THE EASTERLY PORTION OF LOTS 9 AND 10, AS SHOWN, AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 12 THROUGH 17 AND LOT 24, AS SHOWN.
- (F) 13' WIDE UTILITY, PUBLIC STORM DRAINAGE & PUBLIC SIDEWALK/PEDESTRIAN EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE EAST PORTION OF LOT 1 AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 2 THROUGH 7, AS SHOWN.
- (G) 20' WIDE UTILITY & PUBLIC STORM DRAINAGE EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 18 THROUGH 23, AS SHOWN.
- (H) 16' WIDE UTILITY, PUBLIC STORM DRAINAGE & PUBLIC SIDEWALK/PEDESTRIAN EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOT 8, OR AS SHOWN, AND THE NORTHEAST PORTION OF LOT 9, AS SHOWN.
- (J) 10' WIDE PUBLIC SIDEWALK/PEDESTRIAN EASEMENT
- (K) 5' WIDE PRIVATE STORM DRAINAGE EASEMENT
- (L) 5' WIDE PUBLIC SIDEWALK/PEDESTRIAN EASEMENT
- (M) 5' WIDE PUBLIC SIDEWALK/PEDESTRIAN EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 9 AND 10, AS SHOWN.
- (N) 10' WIDE PUGET SOUND ENERGY EASEMENT, PER RECORDING NO. 20080807000600, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE NORTH PORTION OF LOT 1 AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 16 THROUGH 24, AS SHOWN.
- (P) 25' WIDE PUGET SOUND ENERGY EASEMENT, PER RECORDING NO. 20080807000600, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE EAST PORTION OF LOT 1, AS SHOWN, AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 2 THROUGH 15, AS SHOWN.
- S.S.E. SANITARY SEWER EASEMENT
- W.E. WATER LINE EASEMENT

NOTE: SEE EASEMENT PROVISIONS ON SHEET 2.

SCALE: 1" = 50'

50 0 50 100

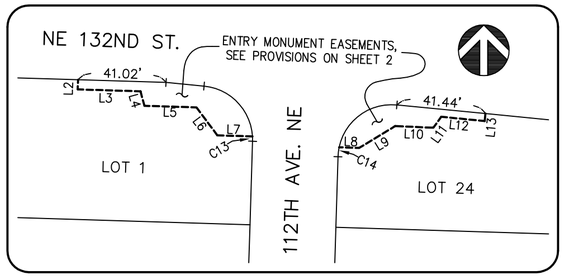
BASIS OF BEARING

HELD BEARING OF N88°14'53"W BETWEEN MONUMENTS FOUND AT THE NORTH 1/4 CORNER AND THE NE SECTION CORNER OF SECTION 29 PER THE PLAT OF HAMILTON SQUARE, REC. NO. 198209270586 RECORDS OF KING COUNTY, WA.

EQUIPMENT USED:
5-SECOND THEODOLITE W/ELECTRONIC DISTANCE METER

METHOD: FIELD TRAVERSE

ACCURACY:
MEETS OR EXCEEDS STANDARDS SET BY W.A.C. 332-130-090



ENTRY MONUMENT EASEMENT DETAIL
1" = 50'

LINE TABLE		
LINE	BEARING	LENGTH
L1	N84°26'01"W	17.78'
L2	N01°45'07"E	4.50'
L3	N88°14'53"W	29.22'
L4	N15°16'22"W	6.98'
L5	N88°14'53"W	24.27'
L6	N36°38'38"W	16.23'
L7	N88°14'53"W	16.39'
L8	N88°14'53"W	9.30'
L9	N58°47'20"E	19.63'
L10	N87°30'07"W	17.82'
L11	N35°24'42"E	6.24'
L12	N84°26'01"W	20.38'
L13	N05°33'59"E	3.50'

CURVE TABLE			
CURVE	DELTA	LENGTH	RADIUS
C1	86°12'33"	37.62'	25.00'
C2	22°20'23"	9.75'	25.00'
C3	23°50'50"	10.41'	25.00'
C4	76°21'30"	53.31'	40.00'
C5	28°38'52"	20.00'	40.00'
C6	31°32'20"	22.02'	40.00'
C7	33°19'29"	23.27'	40.00'
C8	28°38'53"	20.00'	40.00'
C9	73°51'22"	51.56'	40.00'
C10	17°32'37"	7.65'	25.00'
C11	28°38'36"	12.50'	25.00'
C12	93°47'27"	40.92'	25.00'
C13	05°08'27"	2.24'	25.00'
C14	10°07'47"	4.42'	25.00'

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., CITY OF KIRKLAND, KING COUNTY, WASHINGTON

CHARLES A. RICHARDSON IV
STATE OF WASHINGTON
29291
REGISTERED PROFESSIONAL LAND SURVEYOR
EXPIRES 8-29-09
08/14/08

SUMMIT SURVEYING
12606-82ND AVE. N.E., KIRKLAND, WA 98034
(425) 814-8487

DRAWN BY: CR	DATE: MAY, 2008	JOB NO. 07109
CHECKED BY: CR/JT	SCALE: 1" = 50'	SHEET: 3 OF 3

CITY OF KIRKLAND WASHINGTON

RESOLUTION R-4726

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE PRELIMINARY SUBDIVISION AND PRELIMINARY PLAT OF GARDEN GATE AS APPLIED FOR BY PHOENIX DEVELOPMENT OF SUNDQUIST HOMES BEING DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. FSB08-00002 AND SETTING FORTH CONDITIONS TO WHICH SUCH PRELIMINARY PLAT SHALL BE SUBJECT.

WHEREAS, the Department of Planning and Community Development has received application for a subdivision and preliminary plat of property within a RSX 7.2 zone and said application having been made by PHOENIX HOMES the owner of the real property described in said application; and

WHEREAS, pursuant to the City of Kirkland's Concurrency Management System, KMC Title 25, (a concurrency application has been submitted to the City of Kirkland, reviewed by the responsible Public Works official, the concurrency test has been passed, and a concurrency test notice issued) (this action is exempt from the concurrency management process); and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a negative determination reached; and

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

WHEREAS, the proposal for subdivision and preliminary plat has been submitted to the Kirkland Hearing Examiner, who held public hearing thereon at his regular meeting of December 10, 2007; and

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

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner, (together with a timely filed challenge of said recommendation).

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

Section 1. The Findings, Conclusions and Recommendations of the Kirkland Hearing Examiner as signed by him and filed in Department of Planning

and Community Development File No. FSB08-00002 are hereby adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The subdivision and preliminary plat of is hereby given approval subject to the conditions set forth in the recommendations hereinabove adopted by the City Council.

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

Section 4. A complete copy of this resolution, including Findings, Conclusions and Recommendations adopted by reference, shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Section 5. A copy of this resolution, along with the Findings, Conclusions and Recommendations hereinabove adopted, shall be attached to and become a part of the evidence of the preliminary approval of said subdivision and preliminary plat to be delivered to the applicant.

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

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

CITY OF KIRKLAND
123 Fifth Avenue, Kirkland, WA 98033 (425) 587-3000
www.ci.kirkland.wa.us

To: Dave Ramsay, City Manager

From: Thang T. Nguyen, Transportation Engineer
David Godfrey, P.E., Transportation Engineering Manager
Daryl Grigsby, Public Works Director

Date: September 23, 2008

Subject: CTR Plans, GTEC and TRPP Grant Applications Update

This is an update on the progress of the CTR Plan and Ordinance adoption and other commute trip reduction programs (Green Bike) the City of Kirkland is involved in. The City of Kirkland CTR Ordinance has been updated to satisfy the new CTR Efficiency law.

Recommendation
It is recommended that the Council authorize the Mayor to sign the attached CTR Ordinance and to adopt the updated CTR Plan.

Background:
Synopsis
In 2006, the Washington State Legislature passed the Commute Trip Reduction Efficiency Act to update the CTR law that has been in effect since 1991. This action required local jurisdictions to update their CTR ordinances and it offered the opportunity to create optional Growth and Transportation Efficiency Centers (GTEC) in regionally designated Urban Centers. A process was laid out that consists of the following basic steps:

1. Jurisdictions prepare plans for CTR and GTEC
2. Draft plans are reviewed by PSRC
3. Plans are updated based on comments from PSRC and from Council
4. Final plans are submitted to the State Commute Trip Reduction Board for approval
5. Jurisdictions enact ordinances to put the approved plans into effect.

The City Council approved the CTR and GTEC plans last September. A resolution was passed by Council approving the designation of Totem Lake as a GTEC in February 2008. We are in the process of amending our CTR ordinance to put the CTR Plan into effect. The adopted CTR Plan has been modified with updated information on the CTR sites' mode split and corresponding CTR goals. The City Council also approved a budget of $50,000 to fund the CTR plan.

The trip reduction goal for the City documented in the CTR Plan was 70% SOV and 12.2 VMT by 2011 based on the 2005 survey. The CTR Board has revised the requirement and is requiring the goal to be based on a more recent 2007 employee commute trip survey. WSDOT is still processing some of our CTR employers' survey results and we will have some new CTR employees (Nintendo and Google) so we won't know what our actual goal will be until that gets finalized.

What will the new plan require from CTR employers?
The new CTR law requires us to make a minimum 10% decrease from 2007 levels of drive alone commuters. This decrease is to be accomplished within 5 years. Employers that have more than 100 employees reporting to a single location will be affected. There are 12 such employers in Kirkland today. Taken as a whole, today's affected CTR employers have about 77% of their employees driving alone, so the new goal will be 70%. Our Comprehensive Plan goal is 65% drive alone trips by 2022.

The ordinance will put the plan into action by prescribing the requirements employers must follow in order to comply with the Kirkland's CTR regulations and the penalties for not doing so. Previous efforts have been successful by requiring implementation of a range of simple measures such as designating an employee coordinator, making bus schedules available, requiring progress reports every two years, offering new employees information and distributing information to all employees on a regular basis. Often, employers take steps beyond these to encourage ridesharing, walking, bicycling and transit ridership. When employers don't meet their goal there are no specific punitive penalties. Rather, we work with the employer to attempt to make progress toward their goal. We expect that the same system of encouragement versus penalties will be included in the new ordinance. The plan calls for use of a wide range of tools to reduce drive alone trips. New tools that will be used to help employers reduce drive alone trips include:

- Evaluate market for a car sharing service.
- Develop a telework program to encourage employers to implement telework at their work sites.
- Work with business groups to increase management support for CTR.
- Increase networking opportunities among CTR work sites to coordinate ridesharing activities.
- Work with King County Metro to improve ride matching services to commuters.
- Continue to implement land use regulations that encourage development of high density centers to promote higher transit services and use.
- Continue to implement development regulations that encourage connection to non-motorized and multi-modal facilities.
- Work with employers to implement parking management strategies to discourage driving alone.

Changes to the ordinance affecting the employers:

	Current	**New**
CTR worksite must identify themselves	Within 120 days of adopted CTR Ordinance	90 days
Submit a CTR program	150 days of being affected	90 days of being affected
Program implementation	Implement CTR program within 180 days of approval	Implement CTR program within 90 days of approval
New CTR affected site must complete a baseline survey	90 days after being identified as a CTR employers	Same requirement

Modification to CTR Program Elements	At the written request of the employer any time between annual survey	At the written request of the employer but not within 90 days of the annual survey
Implementation of Modified CTR Program Elements	n/a	Within 60 days of approval
Goals		
	Within 2 years meet 15% reduction in SOV & VMT from baseline	Within 1 year after the adoption of the CTR Ordinance, meet 2.5% reduction in SOV and VMT from baseline
	Within 4 years meet 20% & VMT reduction	Subsequent years must show good faith effort to reduce additional SOV trips
	Within 6 years meet 25% & VMT reduction from baseline	Reduce 10% SOV and 13% VMT of baseline by year 2011
	Within 12 years meet 35% & VMT reduction from baseline	
Goal Modification	Employers may request goal modification 60 days prior to the date the worksite is required to submit its program requirements and annual report	Same as current
Employee Commute Survey	Survey every two years in March	Biennial Measurement
Survey Process	Written or On-line Survey	On-line survey unless the employee has no access to on-line survey
Submission of Program Report	None	Regular progress report
Worksite Exemption	May be granted based on hard-ship, bankruptcy, unable to reduce trips with the CTR program	No Change
Penalty	$250 per day	No Change
Appeal of the Penalty	Within seven (7) calendar days of receiving a violation notice from the City	No Change

Growth and Transportation Efficiency Centers (GTEC) Update

Our GTEC plan was submitted to the CTR Board for State funding but was not selected. However, the State will be paying for an employer commute survey for our GTEC. This is an approximately $25,000 service package. With this survey, we will be better equipped to modify our GTEC plan to fit the needs of the Totem Lake area and increase our changes to get outside funding in the next GTEC funding cycle.

We've also receive $850 from the State for incentive to increase participation in the commute survey and 118 employers have agreed to take the commute survey. We are currently in the process of sending out survey questionnaires to employers. Governor Gregoire and the CTR Board are advocating for increasing funding for CTR and GTEC programs.

Green Bike Project

The City of Kirkland, King County and other cities teamed up and received a $225,000 TRPP grant to fund our Green Bike Project (GBP). The goal of the GBP is to SOV trips.

The Green Bike Project (GBP) will provide 200 new commuter bikes - and 100 tune ups for existing bikes - to commuters in return for their pledge to reduce drive-alone commuting by 60% during the project. This program is open to all CTR employers located within the jurisdictions that are participating.

The GBP will begin in mid-August, 2008 and will conclude on May 31, 2009. Participants are not required to commute by bike from mid-November through mid-February. However, any bicycle commute trips they make during the winter months will count towards their reduction pledge. At the end of the project, participants who fulfill their pledge will earn sole ownership of their green bike, or if the participant opted for a tune up of their existing bike, be entered into a drawing for a $1,000 REI gift card.

Seventeen worksites are participating and all 200 bikes and 100 bike tune-ups have been given away to qualified participants. Twenty-five (25) employees at the City of Kirkland are participating in the GBP. Fifteen are receiving new bikes and ten are receiving bike tune-ups. This is a great success; in the past eight years, we've only had three to four additional employees commuting by bicycle on a regular basis. With this program, we are doubling the number of employees that bike to work. If the program meets its goal, we will have a very good chance in securing additional funds to continue the program next year.

City of Kirkland
Commute Trip Reduction Plan

August 2008 Update

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INTRODUCTION

In 1993, the City of Kirkland adopted the Commute Trip Reduction Ordinance (KMC 7.06). The purpose of this ordinance was to comply with the Commute Trip Reduction Act RCW 70.94.521 adopted by the Washington State Legislature in 1991. This law requires employers of 100 or more employees who arrive between 6 and 9 a.m. to develop and implement a program to encourage their employees to reduce vehicle miles traveled and single occupant vehicle trips.

In 2006, the Washington State Legislature passed the Commute Trip Reduction Efficiency Act which amended the requirements for local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle trips. This plan has been prepared in accordance with these revisions to RCW 70.94.521.

The Commute Trip Reduction Plan is a collection of jurisdiction-adopted goals and policies, facility and service improvements and marketing strategies about how the jurisdiction will help make progress for reducing drive alone trips and vehicle miles traveled over the next four years. Building upon the success of the existing commute trip reduction program, the jurisdiction strives to meet the goals of the plan for the future by working in partnership and coordination with other agencies and employers.

This proposed Plan has been developed through extensive involvement by employers, transit agencies, organizations and individuals from throughout the City who helped identify strategies and ways for successful achievement of the goals. This plan helps to support the achievement of the City's vision and the goals of its comprehensive plan.

Benefits of the CTR Program to City of Kirkland

Although the Commute Trip Reduction Program only applies to a few sites in the City of Kirkland, the CTR program will continue to grow and address a variety of transportation and environmental issues. Several trends are increasing the value of CTR in Kirkland, particularly as an alternative to expanding roads and parking facilities. The major transportation problems facing Kirkland are traffic and parking congestion, inadequate mobility for non-divers, and various economic, social and environmental costs associated with high levels of automobile travel; all problems that can be addressed by CTR. The value of CTR is further enhanced by the following trends:

- *Rising facility costs.* The cost of expanding highways and parking facilities is increasing. In many cases it is more cost effective to manage demand than to continue expanding supply. If the CTR program is successful, it will help reduce the demand on state, regional and local streets. This in turn helps to reduce the need to expand the roadway system.

- *Increased urbanization.* In Kirkland, the majority of people and jobs are located in urban areas, where traffic and parking problems are significant and alternative modes are cost effective.

- *Demographics*. As the population becomes older and more mature, it will become more important to increase the availability of quality travel options for non-drivers. Senior citizens will be more dependent on transit and non-motorized travel options.

- *Energy Costs*. Vehicle fuel costs have risen dramatically and are projected to increase in the future due to depletion of oil supplies and environmental constraints. Rising costs have increased the demand for non-drive alone travel alternatives. The vanpool market, in particular, has exceeded demand and there are currently waiting lists for available vanpools.

- *Consumer preferences and market trends*. CTR is addressing current consumer preferences in which more consumers want to live in more multi-modal communities where it is possible to walk and bicycle safely, use neighborhood services, and have access to quality public transportation.

- *Environmental concerns*. CTR helps to address concerns over air pollution, sprawl and other environmental impacts by reducing the demand for automobiles. Automobiles comprise 55% of air pollutants. For each car that is taken off the road, there is a significant benefit to the environment.

In summary, the CTR program is a cost-effective program that addresses a number of issues in the City of Kirkland. Although CTR has been applied to only a few work sites, the program will continue to grow and expand as solutions are needed to complex transportation and environmental issues.

I. BASELINE ASSESSMENT

Affected CTR Work Sites

Under the CTR ordinance, there are twelve affected worksites in the City of Kirkland. To be a CTR- affected work site, the work site must contain 100 or more employees who arrive at the work site between 6 a.m. and 9 a.m. The CTR-affected worksites in Kirkland include the following sites:

Work Site	Address
Kirkland City Hall	123 5th Avenue
FileNET an IBM Company	720 4th Avenue
Digio Broadband Inc.	8815 122nd Avenue NE
Who's Calling Inc.	5000 Carillon Point
Eagle Home Mortgage	10510 Northup Way
Kenworth Truck Company	10630 NE 36th Place
DR Horton	12931 NE 126th Place
Evergreen Health Care	12040 NE 128th Street
House Values Inc.	11332 NE 122nd Way
Lake Washington Technical College	10605 132nd Avenue NE
Wireless Data Services North America Inc.	10809 120th Avenue NE
Electronic Evidence Discovery	3933 Lake Washington Blvd.

The attached map of the jurisdiction shows the locations of the CTR worksites (see Appendix A). A site profile has been prepared for each CTR-affected work site. The site profile describes the existing conditions such as the availability of transit and non-motorized facilities, transit routes, parking, and available CTR program elements.

Major Issues Regarding Land Use and Transportation Conditions Around CTR Work Sites

City of Kirkland – 123 5th Avenue

Existing and planned land use conditions:	The city offices are located on the in the Downtown Activity Area, north of the Central Business District, in a High Density Residential zone. The City plans for further growth to occur within the Central Business District.
Existing and planned transportation facilities:	This worksite is located at the intersection of 5th Avenue and 1st Street, northeast of Lake Washington. The adjacent streets have sidewalks and on-street parking. There are no dedicated bike lanes. The city plans add or improve signalization within the Downtown Area. No other major roadway improvements are planned for this area.
Existing and planned transit services and facilities:	Metro Transit and Sound Transit bus routes serve the downtown area, including local service throughout Kirkland, Redmond, and Bellevue; and commuter service to Seattle, Redmond, Bothell, and Everett. There is a transit center in Downtown Kirkland, near this site. Metro plans to provide two new frequent-service core routes, to expand the hours of service on existing routes, and to increase the frequency of service near this worksite.
Existing parking conditions:	The worksite contains free parking to employees and visitors. Free on-street parking is available for city employees.
Existing CTR Program	City of Kirkland provides flexpass to employees, alternative work schedules, bicycle and shower facilities and subsidies for carpooling, vanpooling, bicycling and walking. The City offers a monetary incentive for participating in non-drive alone modes and a telework program to its employees.

City of Kirkland

Parking lot

Street parking

Street parking on 5th Avenue

City of Kirkland	City of Kirkland
ID Number:	E80739
Total Number of Employees:	290
Affected CTR Employees:	111
2011 Drive Alone Goal:	67%
2011 VMT/Employee Goal:	9 Miles/day
Services Available:	Metro Transit and Sound Transit
Bus Routes:	MT 230, 234, 236, 238, , 245, 251, 254, 255; ST 540
Parking:	Parking is free and there are some capacity constraints for on-site parking; employees are allowed to use on-street parking spaces.
Recommended CTR Strategies:	Increase subsidies for carpooling and vanpooling; Reduce parking capacity for employees.

FileNET / an IBM Company – 720 4th Avenue

Existing and planned land use conditions:	This business is located in the Everest Industrial High Tech Area, east of the Central Business District. The area is zoned Office.
Existing and planned transportation facilities:	This worksite is located on 4th Ave NE just east of 6th Street, a minor arterial. The worksite has sidewalks along the street frontages, and connections to the Downtown Activity Center. There are no marked bicycle lanes. The roadway improvements planned near this worksite include adding a traffic signal at the intersection of Kirkland Way and 6th Street, including controlled pedestrian crosswalks.
Existing and planned transit services and facilities:	There are eight Metro Transit and one Sound Transit bus routes that serve the worksite area, with local service throughout Kirkland and commuter service to University District, downtown Seattle, Redmond, Bothell and Bellevue. There is a transit center to the west. King County Metro plans to provide two new frequent-service core routes, to expand the hours of service on existing routes, and to increase the frequency of service near this worksite.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program	Employer offers flexpass to its employees.

FileNET, an IBM Company

Building

Parking lot

Parking garage

6th Street with building on the right side

City of Kirkland	FileNET an IBM Company
ID Number:	E86660
Total Number of Employees:	140
Affected CTR Employees:	92
2011 Drive Alone Goal:	62%
2011 VMT/Employee Goal:	8 Miles/day
Services Available:	Bus
Bus Routes:	MT 230, 234, 236, 238, 245, 255, 277, ST 540
Parking:	Free; capacity is constrained
Recommended CTR Strategies:	Offer subsidies for carpooling and vanpooling; implement telework for selected employees.

Digio Broadband, Inc. – 8815 122nd Avenue NE

Existing and planned land use conditions:	This business is located in the Rose Hill Business District, east of I-405. The area is zoned Commercial. The vision in the 85th Street Subarea Plan includes a more compact land use pattern, with less of "strip" development feel and better pedestrian mobility. Policies in the Plan aim to create a mixed-use development, with retail on the ground floor and office or residential in the upper floors.
Existing and planned transportation facilities:	This worksite is located on 122nd Ave NE just north of NE 85th Street and west of 124th Ave NE, two major arterials. It has easy automobile access to I-405. The worksite has sidewalks along the street frontages and no marked bicycle lanes. The roadway improvements planned near this worksite include expanding the intersection of NE 85th Street and 124th Ave NE, expanding the intersection at NE 85th Street and 120th Ave NE, and adding a queue bypass from NE 85th Street to I-405 heading northbound.
Existing and planned transit services and facilities:	There are four Metro Transit, one Community Transit and one Sound Transit bus routes that serve the worksite area, with local service throughout Kirkland and commuter service to University District, downtown Seattle, Lynnwood and Redmond.
Existing parking conditions:	This business is located in the Rose Hill Business District, east of I-405. The area is zoned Commercial. The vision in the 85th Street Subarea Plan includes a more compact land use pattern, with less of "strip" development feel and better pedestrian mobility. Policies in the Plan aim to create a mixed-use development, with retail on the ground floor and office or residential in the upper floors.
Existing CTR program	Digio participants in the transportation management program that is offered by the property management. Program includes a $25/month subsidy for non-drive alone uses.

Digio Broadband, Inc.

Building

Bicycle storage

Parking lot

Carpool parking

City of Kirkland	Digio Broadband, Inc.
ID Number:	E85583
Total Number of Employees:	167
Affected CTR Employees:	59
2011 Drive Alone Goal:	65%
2011 VMT/Employee Goal:	9 Miles/day
Services Available:	Bus
Bus Routes:	MT 230, 238, 254, 277, ST 540, CT 441
Parking:	Free; no capacity constraints
Recommended CTR Strategies:	Supplement existing subsidies from property manager to encourage more carpooling and vanpooling; implement telework program.

Who's Calling, Inc. – 5000 Carrillon Point

Existing and planned land use conditions:	This business is located in the south end office area in the Carillon Business District. The area is zoned Commercial.
Existing and planned transportation facilities:	This worksite is located on Carillon Point just east of Lake Washington Blvd and Lakeview Drive, major arterials. The worksite has sidewalks along the street frontages and no marked bicycle lanes.
Existing and planned transit services and facilities:	There is one bus route that serves this worksite by Metro Transit, with service to Kirkland, Bellevue and Redmond.
Existing parking conditions:	The worksite contains pay parking for employees and visitors. Employer provides a $72/month subsidy for transit. Reduced rates are offered to carpoolers.
Existing CTR program:	Employer provides a $72 monthly subsidy for transit and offers a reduced parking rate for carpoolers.

Who's Calling, Inc.

Sidewalk and crosswalk

City of Kirkland	Who's Calling, Inc.
ID Number:	E89854
Total Number of Employees:	180
Affected CTR Employees:	105
2011 Drive Alone Goal:	TBD
2011 VMT/Employee Goal:	10 Miles/day
Services Available:	Bus
Bus Routes:	MT 230
Parking:	Pay; no capacity constraints
Recommended CTR Strategies:	Offer subsidies for carpooling and vanpooling; implement telework and parking cash out program for employees.

Eagle Home Mortgage – 10510 Northup Way

Existing and planned land use conditions:	This business is located in the south end office area in the Yarrow Bay Business District. The area is zoned Office.
Existing and planned transportation facilities:	This worksite is located on Northup Way just east of Lake Washington Blvd, a major arterial. It has easy access to SR 520. The roadway improvements planned near this worksite include expanding the intersection at Lake Washington Blvd and NE 38th Pl, and adding a queue bypass onto SR 520 from Lake Washington Blvd. The worksite has sidewalks along the street frontages and no marked bicycle lanes.
Existing and planned transit services and facilities:	There are five bus routes that serve this worksite by Metro Transit and there is a park-and-ride near the worksite with additional local and commuter service to Redmond, Bellevue, Kenmore, Downtown Seattle, and the University District.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer promotes carpooling by offering priority spaces for carpoolers. They also offer guaranteed ride home for their employees.

Eagle Home Mortgage

Building

Bus stop across street from building

Parking garage

Northup Way looking west

City of Kirkland	Eagle Home Mortgage
ID Number:	E89417
Total Number of Employees:	134
Affected CTR Employees:	86
2011 Drive Alone Goal:	69%
2011 VMT/Employee Goal:	10 Miles/day
Services Available:	Bus
Bus Routes:	MT 220, 234, 230, 243, 255, 256
Parking:	Free; no capacity constraints
Recommended CTR Strategies:	Offer subsidies for carpooling and vanpooling; implement telework program for selected employees; provide flexpass to employees.

Kenworth Truck Company – 10630 NE 36th Place

Existing and planned land use conditions:	This business is located in the south end office area in the Yarrow Bay Business District. The area is zoned Office.
Existing and planned transportation facilities:	This worksite is located on Northup Way just east of Lake Washington Blvd, a major arterial. It has easy access to SR 520. The roadway improvements planned near this worksite include expanding the intersection at Lake Washington Blvd and NE 38th Pl, and adding a queue bypass onto SR 520 from Lake Washington Blvd. The worksite has sidewalks along the street frontages and no marked bicycle lanes.
Existing and planned transit services and facilities:	There are five bus routes that serve this worksite by Metro Transit and there is a park-and-ride near the worksite with additional local and commuter service to Redmond, Bellevue, Kenmore, Downtown Seattle, and the University District.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer offers Flexpass to their employees and charges $7/month for covered parking. Employer also a registered carpooler program and a company provided van for business related trips.

Kenworth Truck Company

Building entrance

Parking lot

Parking lot

Park and Ride

City of Kirkland	Kenworth Truck Company
ID Number:	E80069
Total Number of Employees:	404
Affected CTR Employees:	293
2011 Drive Alone Goal:	65%
2011 VMT/Employee Goal:	10 Miles/day
Services Available:	Bus
Bus Routes:	MT 220, 234, 230, 243, 255, 256
Parking:	Free; no capacity constraints
Recommended CTR Strategies:	Increase subsidies that are offered to employees to increase vanpooling and carpooling; implement telework program.

DR Horton – 12931 NE 126th Place

Existing and planned land use conditions:	This business is located in the north end of the City in the Totem Lake Urban Center. The area is zoned Industrial. The City expects a large portion of the future growth in the City to occur within the Totem Lake Urban Center. This will include higher densities and higher intensity land use directly around Totem Lake Mall, and compact land use patterns to support nonmotorized use and mass transit. A mix of medical, retail, office and housing uses are anticipated.
Existing and planned transportation facilities:	This worksite is located on NE 126th Place just north of Slater Way, a minor arterial. It has access to NE 124th Street, a major arterial. The worksite has sidewalks along the street frontages to facilitate pedestrian connections; however, pedestrian use is limited by the BNSF tracks to the south. There are marked bicycle lanes on either side of the street. The roadway improvements planned near this worksite include improving the intersection of NE 126th Street and 132nd Pl NE.
Existing and planned transit services and facilities:	There is one bus route that serves this worksite by Metro Transit, with commuter service to Redmond.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer offers a carpool incentive of $50/carpooler per month.

DR Horton 12931 NE 126th Place (newly affected CTR work site)

Building entrance

Pedestrian trail on 126tn Place

132nd Street

128th Lane looking south

City of Kirkland	DR Horton
ID Number:	TBD
Total Number of Employees:	TBD
Affected CTR Employees:	TBD
2011 Drive Alone Goal:	TBD
2011 VMT/Employee Goal:	TBD
Services Available:	Bus
Bus Routes:	MT 291
Parking:	Free; no capacity constraints
Recommended CTR Strategies:	Increase subsidies for carpooling and vanpooling; implement telework program for selected employees.

Evergreen Health Care – 12040 NE 128th Street

Existing and planned land use conditions:	This business is located in the north end of the City in the Totem Lake Urban Center. The area is zoned Institutional. The City expects a large portion of the future growth in the City to occur within the Totem Lake Urban Center. This will include higher densities and higher intensity land use directly around Totem Lake Mall, and compact land use patterns to support nonmotorized use and mass transit. A mix of medical, retail, office and housing uses are anticipated.
Existing and planned transportation facilities:	This worksite is located on NE 128th Street east of Totem Lake Blvd, a major arterial. It has access to I-405. The worksite has some sidewalks along the street frontages. There are no marked bicycle lanes. The roadway improvements planned near this worksite include widening 120th Ave NE from three to five lanes, extending NE 130th Street between Totem Lake Blvd and 120th Ave NE, and installing traffic calming devices and pedestrian improvements on 120th Ave NE.
Existing and planned transit services and facilities:	There are seven bus routes that serve this worksite by Metro Transit, with local service to Kirkland and Bellevue and additional commuter service to Seattle, Redmond, Woodinville and Bothell.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer offers flexpass to employees and promotes non-drive alone alternatives on a regular basis. They also provide priority parking spaces for carpoolers.

Evergreen Health Care

Carpool parking

Parking garage

City of Kirkland	Evergreen Health Care
ID Number:	E80101
Total Number of Employees:	2688
Affected CTR Employees:	750
2011 Drive Alone Goal:	63%
2011 VMT/Employee Goal:	9 Miles/day
Services Available:	Bus
Bus Routes:	MT 230, 236, 238, 252, 255, 291, 935
Parking:	Free; no capacity constraints
Recommended CTR Strategies:	Offer subsidies for carpooling and vanpooling; implement telework program for selected employees.

House Values, Inc. – 11332 NE 122nd Way

Existing and planned land use conditions:	This business is located in the Totem Lake Urban Center. The area is zoned Office. The City expects a large portion of the future growth in the City to occur within the Totem Lake Urban Center. This will include higher densities and higher intensity land use directly around Totem Lake Mall, and compact land use patterns to support nonmotorized use and mass transit. A mix of medical, retail, office and housing uses are anticipated.
Existing and planned transportation facilities:	This worksite is located on NE 122nd Way just south of NE 124th Street, a major arterial. It has easy access to I-405. The worksite has sidewalks along the street frontages and no marked bicycle lanes. The roadway improvements planned near this worksite include adding a queue bypass onto southbound I-405 from NE 124th Street and expanding the intersection of NE 124th Street and 116th Ave NE.
Existing and planned transit services and facilities:	There are two bus routes that serve this worksite by Metro Transit, with service to downtown Seattle, Bellevue and Kenmore.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer offers a subsidy to employees who participate in non-drive alone modes.

House Values, Inc.

Entrance

Parking lot behind building

Street parking on 122nd Way

City of Kirkland	House Values, Inc.
ID Number:	E80336
Total Number of Employees:	460
Affected CTR Employees:	304
2011 Drive Alone Goal:	75%
2011 VMT/Employee Goal:	11 Miles/day
Services Available:	Bus
Bus Routes:	MT 255, 935
Parking:	Free; no capacity constraints
Recommended CTR Strategies:	Offer flexpass to employees and implement telework program for selected employees.

Lake Washington Technical College – 10605 132nd Avenue NE

Existing and planned land use conditions:	This business is located just east of the Totem Lake Urban Center. The area is zoned Institutional. The City expects a large portion of the future growth in the City to occur within the Totem Lake Urban Center. This will include higher densities and higher intensity land use directly around Totem Lake Mall, and compact land use patterns to support nonmotorized use and mass transit. A mix of medical, retail, office and housing uses are anticipated.
Existing and planned transportation facilities:	This worksite is located on 132nd Ave NE, a minor arterial. The worksite has sidewalks along the street frontages, and no marked bicycle lanes.
Existing and planned transit services and facilities:	There is one bus route that serves this worksite by Metro Transit, with service between Bothell and Kirkland.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer offers subsidies to staff and students for participating in non-drive alone modes.

Lake Washington Technical College

School entrance

Carpool parking

Bus stop at east entrance

City of Kirkland	Lake Washington Technical College
ID Number:	E86595
Total Number of Employees:	621
Affected CTR Employees:	125
2011 Drive Alone Goal:	76%
2011 VMT/Employee Goal:	10 Miles/day
Services Available:	Bus
Bus Routes:	MT 238
Parking:	Free; no capacity constraints
Recommended CTR Strategies:	Increase subsidies for carpooling and vanpooling; offer flexpass to employees; implement telework program to selected employees.

Wireless Data Services North America, Inc. – 10809 120th Avenue NE

Existing and planned land use conditions:	This business is located at the south end of the Totem Lake Urban Center. The area is zoned Office. The City expects a large portion of the future growth in the City to occur within the Totem Lake Urban Center. This will include higher densities and higher intensity land use directly around Totem Lake Mall, and compact land use patterns to support nonmotorized use and mass transit. A mix of medical, retail, office and housing uses are anticipated.
Existing and planned transportation facilities:	This worksite is located on 120th Ave NE, which is a minor arterial north of NE 112th Street. It has access to I-405. There are sidewalks to the north of the worksite, but pedestrian connections to those sidewalks are not defined. There are no marked bicycles lanes.
Existing and planned transit services and facilities:	There are two bus routes that serve this worksite by Metro Transit, with local service to Bothell and Woodinville and commuter service to Seattle.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer offers flexpass to its employees.

Wireless Data Services North America, Inc.

Building

Parking north of building

Parking south of building

End of sidewalk

City of Kirkland	Wireless Data Services North America, Inc.
ID Number:	E80353
Total Number of Employees:	255
Affected CTR Employees:	126
2011 Drive Alone Goal:	TBD
2011 VMT/Employee Goal:	10 Miles/day
Services Available:	Bus
Bus Routes:	MT 236, 260
Parking:	Free; capacity is constrained.
Recommended CTR Strategies:	Implement parking management program; implement telework program to selected employees.

Electronic Evidence Discovery Inc. 3933 Lake Washington Blvd.

Existing and planned land use conditions:	This business is located in the south end office area in the Yarrow Bay Business District. The area is zoned Office.
Existing and planned transportation facilities:	This worksite is located on Lake Washington Blvd, a major arterial. It has easy access to SR 520. The roadway improvements planned near this worksite include expanding the intersection at Lake Washington Blvd and NE 38th Pl, and adding a queue bypass onto SR 520 from Lake Washington Blvd. The worksite has sidewalks along the street frontages and no marked bicycle lanes.
Existing and planned transit services and facilities:	There are five bus routes that serve this worksite by Metro Transit and there is a park-and-ride near the worksite with additional local and commuter service to Redmond, Bellevue, Kenmore, Downtown Seattle, and the University District.
Existing parking conditions:	The worksite contains free parking to employees and visitors.
Existing CTR program:	Employer offers Flexpass to employees..

Electronic Evidence Discovery 3933 Lake Washington Blvd.

Work site is located at the Plaza at Yarrow Bay

City of Kirkland	Electronic Evidence Discovery
ID Number:	E80311
Total Number of Employees:	177
Affected CTR Employees:	137
2011 Drive Alone Goal:	59%
2011 VMT/Employee Goal:	10.2 Miles/day
Services Available:	Bus
Bus Routes:	MT 230
Parking:	Free; some capacity constraints
Recommended CTR Strategies:	Continue to offer flexpass and offer subsidies for carpooling and vanpooling; implement telework program.

Summary of Existing CTR Programs in the City of Kirkland

Overall, the City's CTR program has received strong participation from its affected work sites. Many of them offer subsidies and transit passes to their employees and have supporting transit services, bicycle and pedestrian facilities.

- Six out of the eleven sites offer either a Flexpass program or monthly subsidy for transit.
- The majority of work sites do not charge for parking. Only two sites charge their employees for parking.
- Eleven out of the twelve work sites have access to transit (transit stop is within a quarter mile from the work site).
- Eleven out of the twelve work sites have sidewalks that connect to their work site.

Supporting Comprehensive Plan Policies

As part of the CTR planning process, the City reviewed its current Comprehensive Plan to identify policies that support the CTR program. The most current version of the City of Kirkland Comprehensive Plan was adopted in December 2004.

Key goals and policies that support CTR include the City's vision for the Downtown Activity Center and Totem Lake Subarea, including a mixed-use center that is supportive of transit, pedestrian and bicycle use.

The City's policies also support pedestrian-oriented streetscape environment for residential and commercial activity. It also encouraged mixed-use development patterns that provide a variety of commercial and residential opportunities, including both multi-family and small lot single-family residences.

Other Transportation Plan policies include producing design standards for a safe, usable non-motorized transportation network throughout the City, effective public transit, and a well-developed pedestrian and bicycle network.

The Appendices include an analysis of the comprehensive plan goals and policies that support CTR. The CTR Planning Guide included a list of goals and policies that CTR-affected jurisdictions should incorporate into their comprehensive plans. The analysis shows that there are a number of goals and policies that are not yet incorporated in the Kirkland Comprehensive Plan. During the next update cycle, the appropriate steps could be taken to create a stronger basis for the City's CTR program.

Supporting Transportation Policies, Plans and Projects

The City is currently performing a number of actions to encourage transit and non-motorized transportation. These actions include the following:

Ordinances are being developed to encourage density and non-motorized mobility. The City is in the process of revising the zoning code to require bike racks for commercial developments and requiring pedestrian connections from commercial buildings to public walkways and access to adjacent properties. The subdivision Ordinance KMC 22.28.170 stress the same requirements for residential developments.

The Kirkland Zoning Code requires various element that support CTR. The design guidelines requires multi-modal connection and transit oriented development features. In the downtown area, mixed use developments are encouraged by requiring ground floors to be commercial retail. Parking requirements for downtown Kirkland is less than elsewhere in the City to encourage multi-modal.

The City has adopted the following plans that support non-motorized transportation:

- The Complete Street Program which strives to connect bike lanes and sidewalks throughout the City.
- Non-Motorized Transportation Plan that includes bike facilities and pedestrian facilities.
- Crosswalk Upgrade Program
- Annual Sidewalk Maintenance Program
- School Walk Route Program

The following projects are planned and funded to be constructed near existing CTR-affected worksites:

- A new traffic signal, including controlled pedestrian crosswalk at Kirkland Avenue and 6th Street Project Number TR 0065, scheduled for completion in 2009. Total cost: $400,000

- Traffic calming and pedestrian amenities on 120th Avenue NE from Totem Lake Boulevard to NE 128th Street. The project includes installation of various traffic calming measures, parking, pedestrian and landscape improvements. Project number ST 0070, scheduled to begin design in 2007. Total cost: $500,000

- Installing sidewalks on NE 112th Street from NE 87th Street to NE 90th Street. Project number NM 0049, scheduled for completion in 2011. Total cost: $200,000.

The following projects are planned but not funded for construction near existing CTR-affected worksites:

- There are plans by King County to convert an Burlington Northern Santa Fe railroad line into a multi-purpose trail, which would provide additional choice for commuters.
- Queue bypasses lanes are planned for the following interchanges:
    - From 85th Street onto I-405,
    - From Lake Washington Boulevard onto SR 520,
    - From 124th to I-405, and
    - From 116th to I-405

- A transit center is planned in the Totem Lake Transit Center.

In addition to these projects, roadway improvements are also planned that include installation of non-motorized facilities.

Supporting Transit Plans and Projects

King County Metro and Sound Transit provide service to the City of Kirkland. King County has a six-year transit development plan that outlines goals and policies for improving transit in King County. There are a number of service enhancements that are being planned which will support CTR-affected work sites. Improvements to transit services and facilities include the following:

- King County Metro and the City are working to implement a new transit center in Totem Lake.
- Transit services in the Totem Lake neighborhood will be revised to connect transit routes to the new transit center.
- Increase frequencies on Sound Transit Route 545.

Planning Coordination and Cross Boundary Issues

The City of Kirkland developed its CTR plan in coordination with other CTR-affected jurisdictions in King County. The City of Kirkland also met with representatives from East King County jurisdictions to discuss the proposed GTEC plans.

The City of Kirkland has a number of cross boundary issues that affects its CTR Plan. Many of the commuters who travel to CTR-affected work sites live outside of Kirkland. Commuters travel to Kirkland from Seattle, Bellevue, Snohomish County and South King County. Interstate 405 is the major state facility that commuters use to travel to the City of Kirkland. The City is working with WSDOT to improve I-405 and to provide local access to the facility.

To address other cross boundary issues, the City is working with regional partners on the following:

- Working with King County Metro to provide transit service to the regional hubs.
- Working with Sound Transit to improve transit access to the City.
- Working with WSDOT to coordinate state highway projects, including I-405.
- Working with the PSRC to coordinate on regional TDM issues.

II. and III. BASELINE AND GOALS FOR 2011

The goal of the CTR program is to reduce drive alone vehicle use and vehicle miles traveled among employees who work in CTR-affected worksites by 10% and 13% respectively. The targets are based on the most recent CTR work site drive alone and vehicle miles traveled rates.

The target was established by taking the most recent SOV rate and multiplying the rate by 10%. This number was then subtracted from the most recent SOV rate and the result established the target for 2011.

Example:

2007 SOV Rate (78% * .10) = 7.8%
Target Rate = 2007 SOV Rate (78%) – (7.8%) = 70%

Area of Jurisdiction	2007 SOV Rate	Goal	2011 SOV Target Rate	2007 VMT	Goal	2011 Target VMT
City of Kirkland (overall)	**75%**	**10%**	**67%**	**12.48**	**13%**	**11**

Employer	2007 SOV Rate	Goal	2011 SOV Target Rate	2007 VMT	Goal	2011 Target VMT
Kirkland City Hall	74%	10%	67%	10.5	13%	9
Digio Broadband Inc	72%	10%	65%	12.4	13%	11
Eagle Home Mortgage	77%	10%	69%	15.4	13%	13
Evergreen Health Care	70%	10%	63%	10.2	13%	9
FileNET Corporation	69%	10%	62%	9.4	13%	8
House Values Inc	83%	10%	75%	12.5	13%	11
Kenworth Truck Company	72%	10%	65%	12.4	13%	11
Lake Washington Technical College	84%	10%	76%	13.2	13%	11
Who's Calling Inc	TBD	10%	TBD	TBD	13%	TBD
Wireless Data Services North America Inc	TBD	10%	TBD	TBD	13%	TBD
DR Horton	TBD	10%	TBD	TBD	13%	TBD
Electronic Evidence Discovery	66%	10%	59%	10.2	13%	9

TBD- to be determined

In addition to the CTR goals and targets, the City has established a mode split target in its Comprehensive Plan. The mode split goal for 2022 is 65% for drive alone vehicles and 35% for non-drive alone vehicles.

To ensure progress in achieving CTR goals, employers should try to achieve a 2.5% reduction in drive-alone from their base drive-alone survey result.

IV. STRATEGIES FOR ACHIEVING GOALS AND TARGETS

Potential Actions for the City to Eliminate Barriers

The following potential actions have been identified as strategies that will help the City of Kirkland achieve its 2011 goal:

- Transit:

  Transit ridership among CTR-affected work sites is low, the City will continue to work with Metro Transit to increase transit ridership at CTR-affected work sites by increasing awareness of transit services and working with employers to offer transit subsidies.

  Sound Transit has plans to increase the frequency of Route 545. King County Metro plans to test the feasibility of adding wi-fi technology on buses. These service enhancements may help increase transit ridership.

- Parking:

  To increase the percentage of commuters using transit, vanpool, carpool and non-motorized forms of transportation, the City should work with CTR employers to implement a parking fee program. Parking fees should be charged to drive alone vehicles and discounts should be applied to non-drive alone vehicles. Other parking management techniques that can be used include giving priority spaces to carpools and vanpools and offering parking cash out to employees for choose not to drive alone.

  In addition to working with its CTR-affected work sites, the City should explore updating its Comprehensive Plan with policies that support parking pricing and parking management at CTR work sites.

- Local Networking Opportunities:

  To increase opportunities for ridesharing and creating partnerships between employers, the City will create local networking opportunities for affected employers. Local networking with other CTR-affected employers will offer opportunities to discuss CTR and transportation issues, conduct joint promotions, and offer coordinated programs that can benefit their employees.

- Land Use

  The City will implement its current land use policies that encourage the development of Centers. Employers will be encouraged to locate in the Centers where higher levels of services, such as transit, non-motorized and TDM programs

are offered. Higher densities will be allowed which will help increase transit and ridesharing activities.

- Employer Assistance

  To help CTR-affected work sites achieve their goals, the City and Metro Transit will continue to provide assistance to employers with implementing their programs. Metro Transit will help promote CTR programs at work sites through transit fairs and preparing public information materials.

- Management Support and ETC training

  The City will work with major employers and business organizations to increase support for CTR programs. It will also develop guidelines for Employee Transportation Coordinators and provide training to help them implement their programs.

- Subsidies

  The City will work with CTR-affected work sites to provide subsidies, i.e. Flexpass and vanpool incentives, to encourage commuters to shift to non drive alone modes of travel.

- Construction Mitigation

  WSDOT and the City are currently preparing for upcoming construction projects on major highways and arterials. These projects are expected to cause traffic delays for motorists. To help reduce the traffic impacts that will be caused by construction activities, the City will work with WSDOT, Metro Transit and employers to develop programs that will help reduce drive alone trips on facilities that are impacted by construction. These programs will help ease traffic congestion and further increase awareness of alternative travel options for commuters.

Recommended Strategies to Achieve Goals

Based on the potential actions that were identified, the following strategies are planned that will help the City make progress towards its 2011 goal. These strategies will be performed in coordination with other King County cities, King County Metro Transit, and other partners. The strategies listed below have been selected because of the following reasons:

- Strategy has received support from affected employers.
- Past experience has shown that the strategy is effective in reducing drive alone trips.
- Strategy is able to be implemented by the City during the next four years.
- Strategy is cost effective.

Strategy	Description
Policies and Regulations	
Employer Notification and Enforcement	This program would improve the system of requiring new CTR affected employers and existing CTR affected employers to notify their jurisdiction about program changes. The City will use its business licensing program to help identify new employers.
ETC Training and Guidelines	Employer Transportation Coordinators (ETCs) are essential for a successful CTR program. Their job duties should include coordination of annual fairs, conducting promotions, distributing information, notifying the jurisdiction about program changes, and reporting employee numbers. Guidelines and training should be provided to ETCs to assist them with their duties. Employers should provide them with the necessary resources (time and funding) to be successful.
Review Parking Policies	The City will review the development code for parking requirements that discourage single-occupancy vehicle use. The City will consider establishing parking maximums for new development and look to reduce parking supply to encourage alternative travel modes.
Amend Comprehensive Plan to include language about the CTR Efficiency Act	The City should review its Comprehensive Plan and add new policies to correspond with its CTR plan, if necessary.

Strategy	Description
Services and Facilities	
Transit Services	King County Metro Transit will continue to provide transit services to CTR work sites, where service is currently available. King County Metro Transit will make service enhancements based on its updated Six-Year Transit Development Plan.
Vanpool Services	King County Metro Transit will target adding 5 new vans city-wide in 2008.
Carpool Services	The City and King County Metro Transit will continue to encourage carpooling and use of www.rideshareonline.com or Pierce Transit staff to assist in carpool matching services.
Bicycling and Walking Amenities	King County Metro Transit will work with major employers to encourage the provision of amenities such as bike lockers, access to shower facilities and changing facilities to increase usage of non-motorized transportation.
Telework Program	The City will work with King County Metro Transit to create a telework education program that would educate employers on how to implement telework at their work site, if applicable. The program includes education on human resource policies and information technology assistance to allow employees to work from home.
Car Sharing Service	The City will evaluate the market for a car sharing service, such as Flexcar, near CTR sites.
Alternative and Flexible Schedules	The City will work with employers to encourage them to offer alternative and flexible work schedules for their employees, including compressed work weeks.
Employer Assistance	The City will coordinate with King County Metro Transit to provide assistance to affected employers to help them meet the requirements of the CTR Efficiency ACT and implement their programs.
Marketing and Incentives	
Management Support	The City and King County Metro Transit will work with CTR worksite managers and owners to educate them about the benefits of CTR to their

Strategy	Description
	organizations.
Subsidies	The City will encourage employers to offer subsidy programs to persuade employees to shift to non-drive alone commute modes. Examples include six-months of free vanpool participation, transit pass subsidies, and a one-time payment or gift card for starting a carpool.
Parking Management	Employers are encouraged to charge employees for parking or allow their employees to receive cash for their parking spot if they choose to not use their parking space, which could be used toward transit costs or vanpool costs.
Marketing and Education	This program would expand education efforts to CTR employees about alternative commuting including workshops, information brochures, and advertising.
Transportation Fairs	The City will work with King County Metro Transit and major employers to conduct on site promotions, transportation fairs, and challenges to increase awareness and use of commute alternatives.
Networking Opportunities	The City and King County Metro Transit will work with the major employers to create networking opportunities to discuss CTR issues, coordinate ridesharing programs, and conduct joint promotional efforts.
Programs to Help Mitigate Construction Activities	The City will work with WSDOT and Metro Transit to develop programs to help mitigate impacts that will be caused from road construction activities. Programs will focus on reducing drive alone trips on specific facilities, i.e. Interstate 405 during construction.

V. REQUIREMENTS FOR MAJOR EMPLOYERS

Employers that are affected by the CTR Law will be required to implement the following program elements:

Required Element	Description
Designate Employee Transportation Coordinator	The Employee Transportation Coordinator is the point of contact between the employer and its workforce to implement, promote and administer the organization's CTR program. He/she is also the point of contact between the employer and the local jurisdiction to track the employer's progress in meeting CTR requirements Affected employers will be responsible for providing adequate training for the ETC, allow them to attend networking meetings, and provide them with the necessary time to administer the program.
Regular Distribution of Information to Employees	Information about commute alternatives will be distributed at least monthly to employees. Information packets will be distributed to new employees at CTR-affected work sites. Examples of information that will be distributed will include: • Description of the employer's commute options program • Transit system maps and schedules • Vanpool rider alerts • Weekly traffic alerts • Wheel Options campaign promotional materials
CTR Reporting	Once a year, The employer is required to complete the Employer Report and Program Description Form to determine if progress is being made towards achieving the goals. Reports will be submitted to the City.
CTR Survey	Biennially, the CTR affected employers shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) to achieve at least a 70 percent response rate.
Implementation of a Set of Measures	The employer is required to implement a set of measures that are designed to increase the percentage of employees using some or all of the following modes: • Transit • Vanpool • Carpool • Bicycle or walking • Telework, Compressed Work Week, or Flexible Work

Required Element	Description
	Schedule • Other non-single occupant vehicle modes Measures to reduce drive alone trips and vehicle miles traveled include, but are not limited to: • Provision of preferential parking or reduced parking charges for high occupancy vehicles • Instituting or increasing parking charges for single-occupant vehicles • Provision of commuter ride matching services • Provision of subsidies for transit fares • Provisions of vans for vanpools • Provisions of subsidies for carpooling or vanpooling • Provision of car sharing services • Permitting the use of the employer's vehicles for carpooling or vanpooling • Permitting flexible work schedules • Cooperation with transportation providers to provide additional regular or express service to the worksite • Construction of special loading and unloading facilities for transit, carpool, and vanpool users • Provision of bicycle parking facilities, lockers, changing areas, and showers • Provision of a program for parking incentives such as a rebate for employees who do not use the parking facility • Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes • Establishment of a program of alternative work schedules such as compressed work week schedules (such as 4/40 or 9/80) • Implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and emergency taxi services • Employers or owners of worksites may form or utilize an existing transportation management association or other transportation-related associations by RCS 35.87A.010 to assist members in developing and implementing commute trip reduction programs

VI. FINANCIAL PLAN

In the City's CTR financial plan, the city has identified the different funding sources that are used to fund the program. In addition, the City has identified expenses for administering the program and a list of unfunded programs. The unfunded programs are necessary to help the City achieve its 2011 goals and targets. These programs could potentially be funded by various grants, employer contributions and City funds.

Funding Sources

The City's CTR program is funded by two primary sources: WSDOT CTR Funds and City of Kirkland operating revenue:

Source of Funding	Responsible Agency	Estimated Amount for 2008	Estimated Amount for 2009	Estimated Amount for 2010	Estimated Amount for 2011
CTR Funds	WSDOT	$26,500	$26,500	$26,500	$26,500
Contributions from City of Kirkland	City of Kirkland	$16,000	$16,000	$16,000	$16,000
King County Metro Transit Funds	King County Metro	$20,000	$20,000	$20,000	$20,000
TOTAL		$62,500	$62,500	$62,500	$62,500

Program Expenses

The cost of implementing is shared primarily by the City, the transit agency, and the employers. The following CTR program expenses have been identified:

Expense	Responsible Party	Estimated Annual Cost 2008	Estimated Annual Cost 2009	Estimated Annual Cost 2010	Estimated Annual 2011
Prepare local CTR plan, Comprehensive Plan, and CTR ordinance	City of Kirkland	$5,000	$5,000	$5,000	$5,000
Employer Notification	City of Kirkland	$2,500	$2,500	$2,500	$2,500
Administer CTR program (contract management, annual reporting, program review, surveys, coordination meetings)	King County Metro Transit (under contract with the City)	$25,000	$25,000	$25,000	$25,000
Administer Program for Transportation Management Plans	City of Kirkland	$10,000	$10,000	$10,000	$10,000
Employer Incentives	King County Metro	$20,000	$20,000	$20,000	$20,000
TOTAL		$62,500	$62,500	$62,500	$62,500

Financial Gaps

The following table summarizes program areas that are not currently funded. However, some potential funding sources have been identified for the applicable organization to target.

Service or Strategy	Target Market	What Strategy Will Accomplish	Financial Gap
Develop Management Support	Chief Executive Officers, program managers	Increase management support for CTR program by giving employer recognition and describing benefits of program to CEOs	$ 25,000
Telework Education	CEOs, ETCs	Training and assistance to help set up telework programs,	$ 25,000
Transit, vanpool and carpool subsidies	Commuters at CTR-affected work sites	Subsidies to encourage commuters to shift to transit, vanpool and carpools	$50,000
Marketing and Promotions	Commuters at CTR-affected work sites	Increase awareness of transit and ridesharing programs.	$50,000
TOTAL			$150,000

The following funding sources have been identified that potentially could be used to fund CTR programs:

- Congestion Management Air Quality Grants
- Surface Transportation Program Grants
- Employer Trip Reduction Performance Grants
- Washington State Construction Mitigation Funding
- Transit Agency Funds
- Local Jurisdiction Funds
- Major Employers

Summary

The following table shows the amount of money necessary to implement all of the proposed strategies listed in the previous tables. There are insufficient funds at this time; however, some potential funding sources were identified in the previous table for the jurisdiction or transit agency to target.

Budget Summary	Estimated Annual Cost 2008	Estimated Annual Cost 2009	Estimated Annual Cost 2010	Estimated Annual 2011
Existing Funding	$42,500	$32,500	$32,500	$32,500
Existing Expenses	$42,500	$32,500	$32,500	$32,500
Unfunded Programs	$150,000	$150,000	$150,000	$150,000
Needed Funds	$150,000	$150,000	$150,000	$150,000

VII. IMPLEMENTATION STRUCTURE

The City plans to work in partnership with King County Metro Transit and its affected work sites to implement the CTR program.

Organization	Responsibility
City of Kirkland	The City will be responsible for developing and implementing their local CTR plan. It is responsible for ensuring that CTR plan is consistent with its local comprehensive plans. As part of its CTR plan, the City will set the goals and targets for the affected employers. For CTR program administration, the City is responsible for ensuring that affected employers are in compliance with the CTR law.
King County Metro Transit	In partnership with the City, King County Metro Transit will be responsible for employer outreach, conducting marketing and promotional activities, and providing services to CTR-affected work sites.
Major Employers	Employers that are affected under the CTR law are responsible for notifying the City when they are affected. Employers are responsible for implementing their CTR program requirements, including information distribution, designating an ETC, submitting program reports, delegating adequate time for ETCs to perform duties and implementing program elements.

CTR Program Activities

Program Strategy or Service	Agency Responsible	Scheduled Date for Implementation
Policies and Regulations		
Update Comprehensive Plan	City of Kirkland	2008
CTR Program Enforcement	City of Kirkland	On-going
Implement Vision of Downtown Kirkland and Centers	City of Kirkland	On-going
Review Parking Policies	City of Kirkland	2008 - 2011
Services and Facilities		
Transit Services	King County Metro Transit	On-going
Vanpool Services	King County Metro Transit	On-going
Sounder and Regional Express Bus	Sound Transit	On-going

Ridematching services	King County Metro Transit	On-going
Bicycle and Pedestrian Facilities	City of Kirkland	On-going
Marketing and Incentives		
Wheel Options Campaign	City of Kirkland and King County Metro Transit	2008 – 2011 (conducted twice a year)
Management Support	King County Metro Transit and City of Kirkland	On-going
Subsidies	King County Metro Transit	On-going
Parking Management	City of Kirkland and King County Metro Transit	On-going
Marketing and Education	King County Metro Transit	On-going
Promotional Events	King County Metro Transit	On-going
Marketing and Education	King County Metro Transit	On-going

VIII. DOCUMENTATION OF CONSULTATION

The City's CTR Plan was developed in consultation with the following organizations:

- Metro Transit
- City of Bellevue
- City of Redmond
- City of Bothell
- City of Mercer Island
- City of Issaquah
- City of Woodinville
- City of Renton

The City conducted the following outreach and coordination meetings:

- In the first week of January, we mailed out information to all CTR sites about the new CTR Efficiency requirements and invited them the CTR workshops in January 2007.

- The City of Kirkland participated in an interlocal meeting to discuss about the CTR and GTEC plans with the following jurisdiction on April 30th: Bothell, Mercer Is., Woodinville, Renton, Bellevue, Redmond, and Issaquah.

- The City met with King County on March 12th to talk about strategies for GTEC and matching funding from K.C. for the GTEC.

- The City plans to send out copies of the draft CTR plans to CTR-affected work sites and have them review and comment on the draft plans.

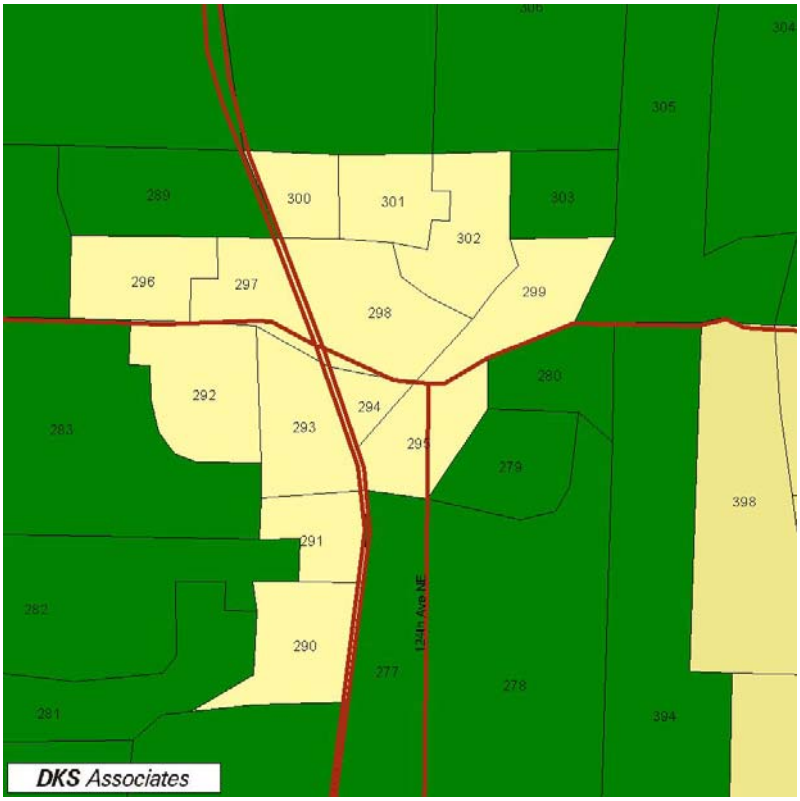
- On January 29, 2007, a CTR Employer Workshop was held for all affected employers at the City of Kirkland's offices. During these workshops, employer requirements to comply with the CTR law and CTR strategies were discussed. A summary of the workshop can be found in Appendix F.

IX. GROWTH AND TRANSPORTATION EFFICIENCY CENTER

The City has elected to designate the Totem Lake Neighborhood as a Growth and Transportation Efficiency Center. The purpose of a Growth and Transportation Efficiency Center is to increase access to the neighborhood while reducing the number of drive alone trips.

The GTEC program is a collection of jurisdiction-adopted goals and policies, facility and service improvements and marketing strategies about how the City will help make progress for reducing drive along trip and vehicle miles traveled for the GTEC over the next six years. The program also specifies a financial plan and organizational structure for implementing the program strategies and services. Building upon the success of the existing commute trip reduction (CTR) program, the City strives to meet the goals of the plan for the future by working in partnership and coordination with other agencies.

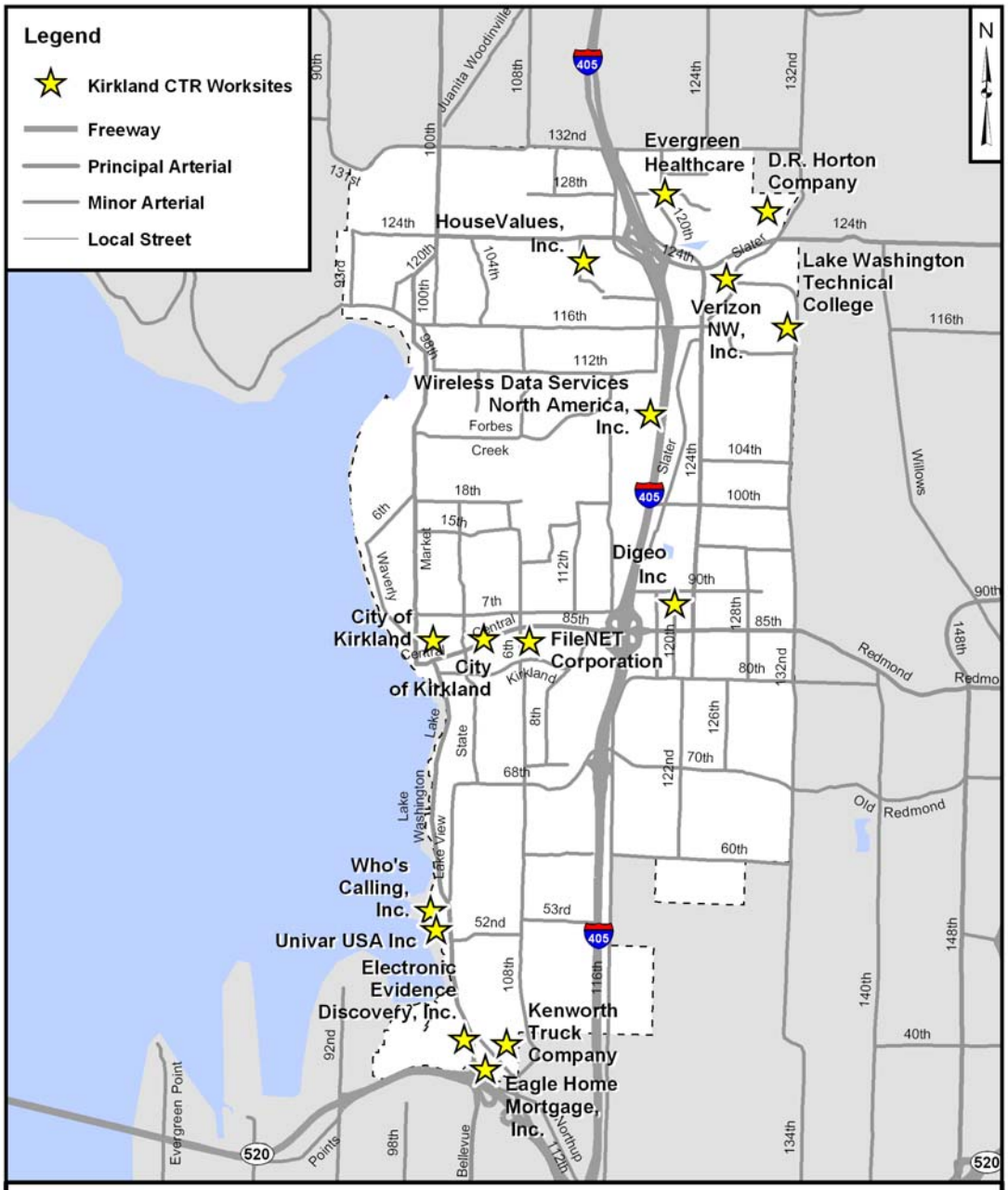
The City has prepared a draft Growth and Transportation Efficiency Center program. The draft program is contained in a separate document titled, "Growth and Transportation Efficiency Center for Totem Lake." Shown below is the area of the proposed designated GTEC:



APPENDICES

Appendix A

CITY OF KIRKLAND
VICINITY CTR WORKSITE PLANS



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February 21, 2007

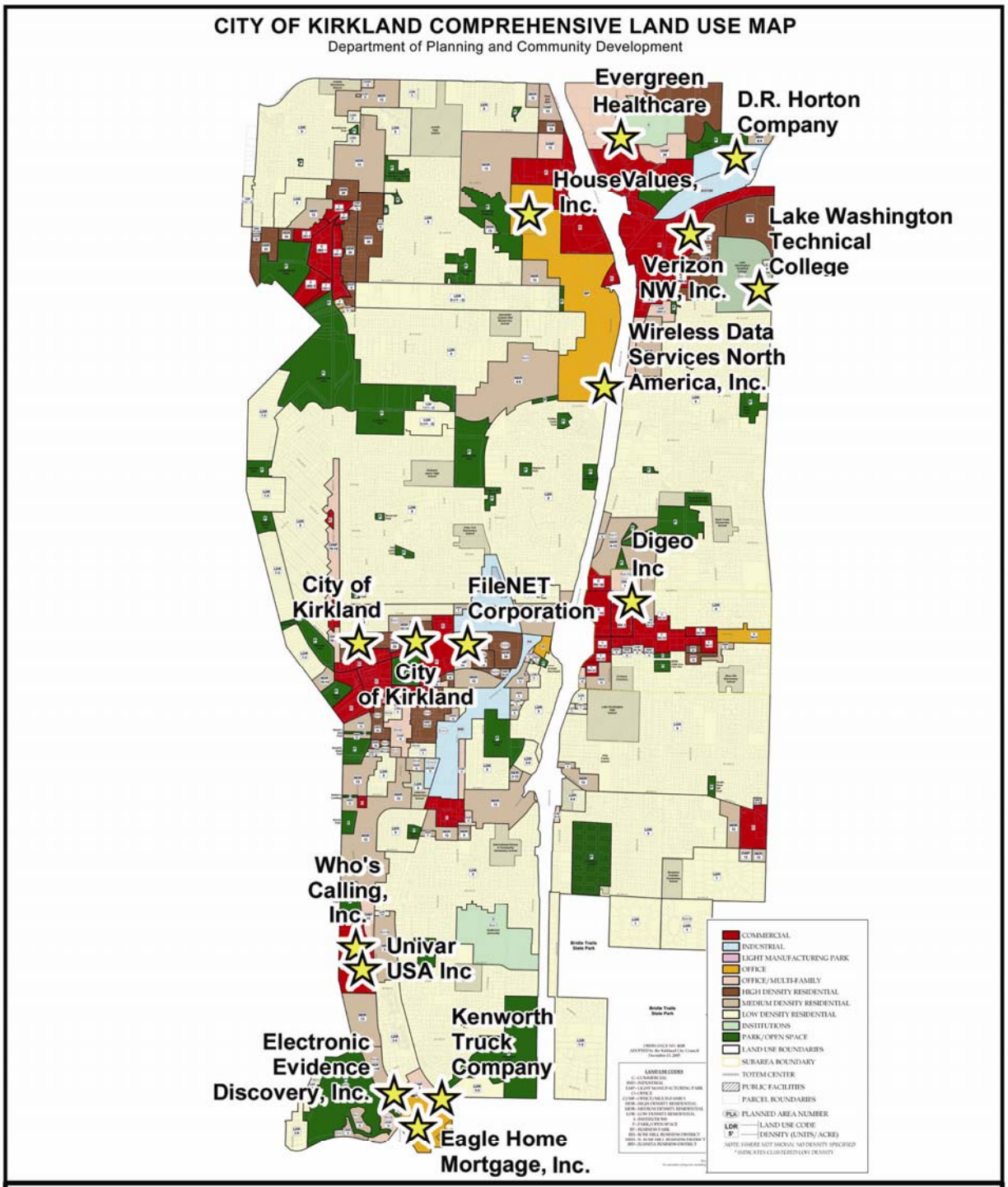
0 0.25 0.5 1 Miles

City of Kirkland
Kirkland CTR Worksites

Figure A

Appendix B

CITY OF KIRKLAND COMPREHENSIVE PLAN



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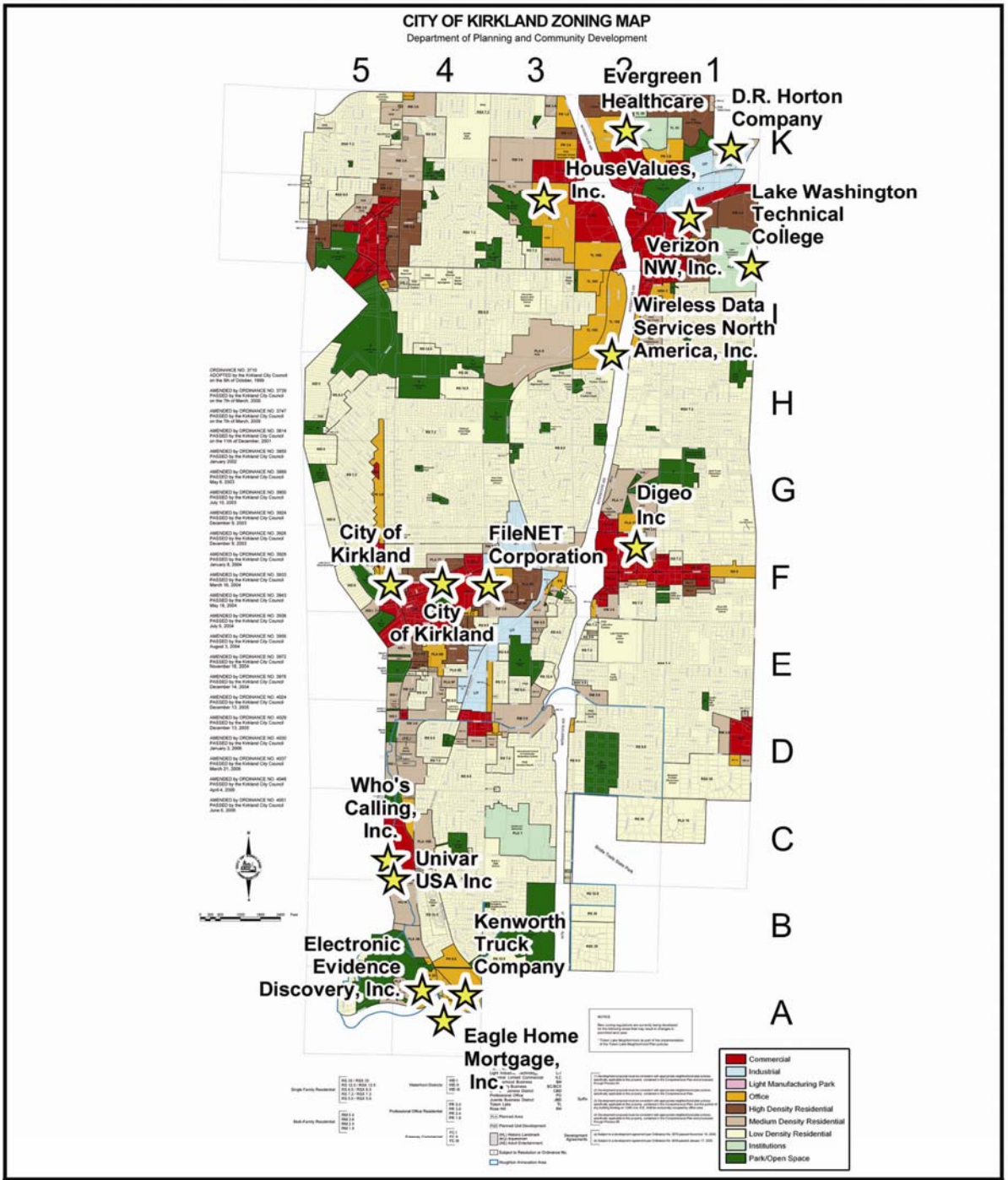
February 21, 2007

City of Kirkland
Kirkland CTR Worksites
2005 Land Use
Source Map Date: 12/13/05
Figure B

Appendix C

CITY OF KIRKLAND
ZONING MAP



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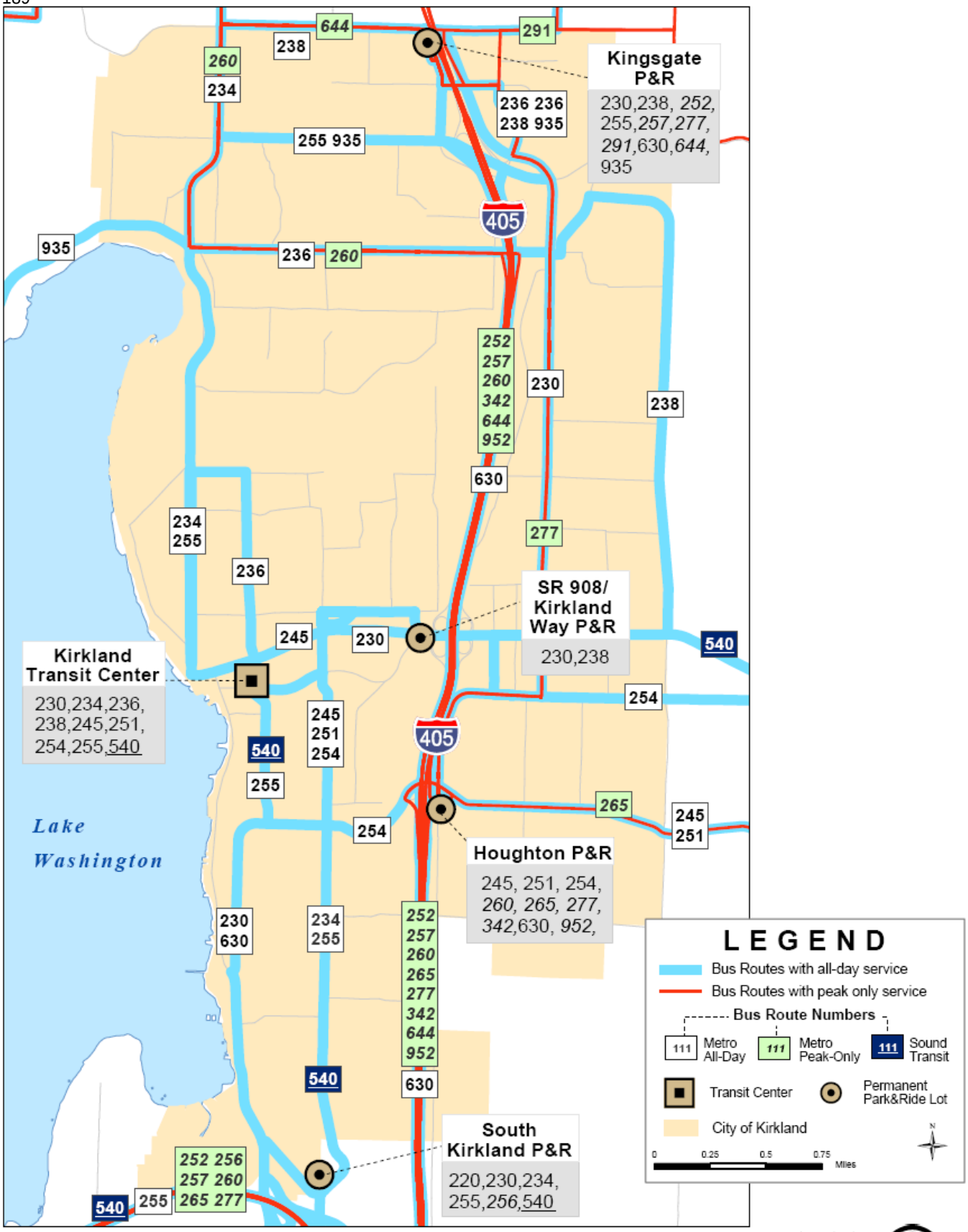
February 21, 2007

City of Kirkland
Kirkland CTR Worksites
2006 Zoning Map
Source Map Date: 06/06/2006
Figure C

Appendix D

CITY OF KIRKLAND
TRANSIT SERVICES AND FACILITIES

City of Kirkland
Kirkland CTR Worksites
Transit Routes, Bus Stops, and
Park & Ride Facilities
Figure D



KIRKLAND
Transit Routes

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February 21, 2007

King County

KIRKLAND
Route Frequency

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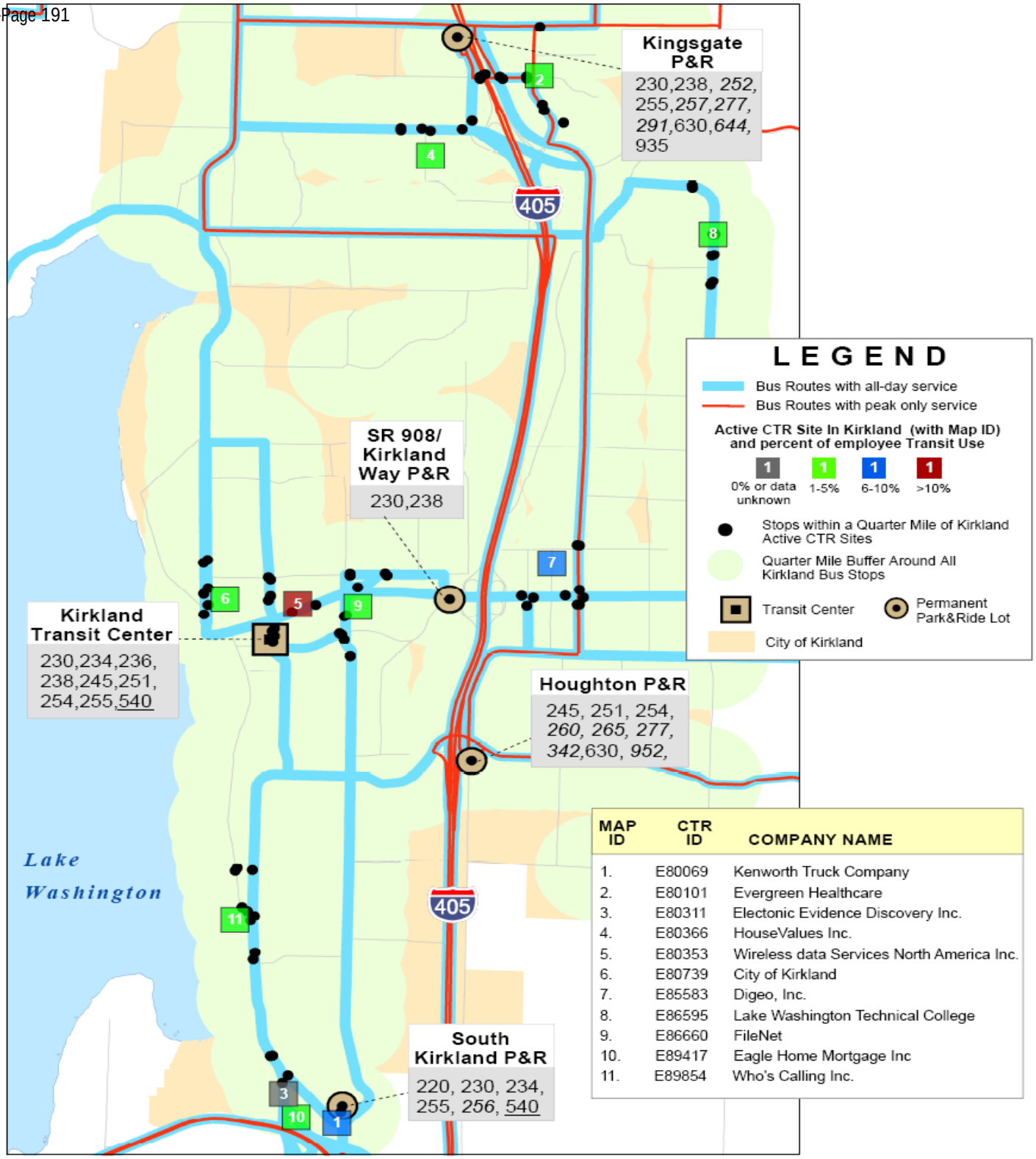
February 7, 2007

King County



MAP ID	CTR ID	COMPANY NAME
1.	E80069	Kenworth Truck Company
2.	E80101	Evergreen Healthcare
3.	E80311	Electonic Evidence Discovery Inc.
4.	E80366	HouseValues Inc.
5.	E80353	Wireless data Services North America Inc.
6.	E80739	City of Kirkland
7.	E85583	Digeo, Inc.
8.	E86595	Lake Washington Technical College
9.	E86660	FileNet
10.	E89417	Eagle Home Mortgage Inc
11.	E89854	Who's Calling Inc.

KIRKLAND
Active CTR Sites

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February 14, 2007

King County

Appendix E

CITY OF KIRKLAND
NON-MOTORIZED FACILITIES

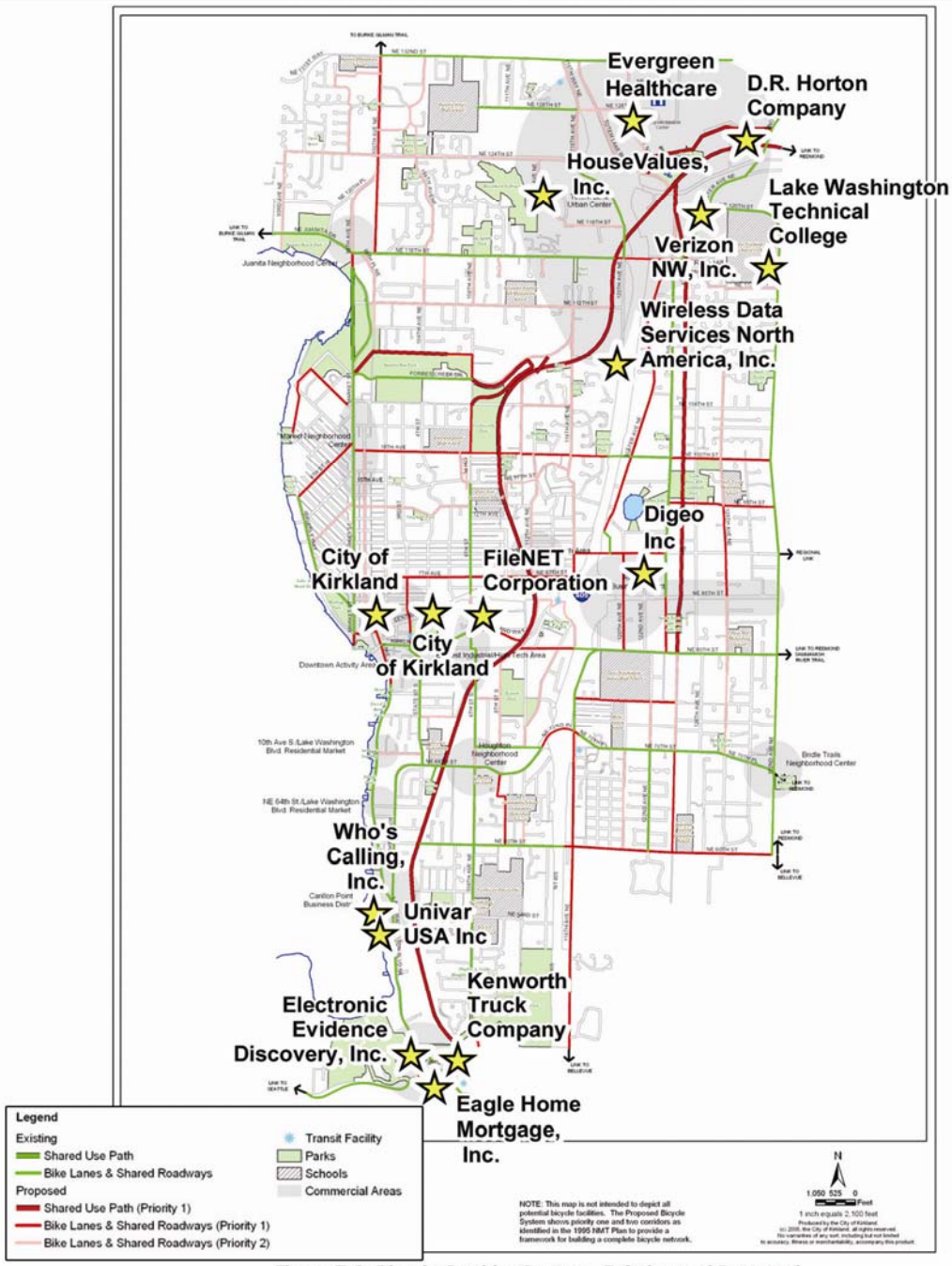

Figure T-2: Bicycle Corridor System - Existing and Proposed

Perteet

February 21, 2007

City of Kirkland
Kirkland CTR Worksites
2004 Existing and Proposed Bicycle Facilities
Figure E.1

Appendix F

COMMUTE TRIP REDUCTION WORKSHOP SUMMARY

City of Kirkland Commute Trip Reduction
Employer Workshop
January 29, 2007

Results of Employer Workshop

Participants:

Name	Organization
Nelson Gipson	Digeo Inc.
Nancy Vance	Kenworth Trucks
Mike Kauffman	Lake Washington Technical College
Sue Jorgensen	Lake Washington Technical College
Debbie Pinney	IBM/Filenet
Donna Dorman	IBM/Filenet
Kenneth Aitchison	WDS Global
Sandy Hall	Who's Calling
Jim Hann	Citizen
Pamela Cook	King County Metro
Dave Hollar	King County Metro
David Godfrey	City of Kirkland
Thang Nguyen	City of Kirkland
Jonathan Dong	Perteet

Feedback from Employers

Representatives from Filenet mentioned that their parent company, IBM, does not pay too much attention to the CTR program. The corporate office is located outside of Washington State. Filenet does offer incentives for non-drive alone commuters, including a rewards program, free bus passes, shower, bike lockers.

Who's Calling Again is facing issues of employee turnover. They expect to be below the 100-employee threshold. They used to subsidize gas cards for carpoolers. They offer flex schedules and telework.

Digio offers commuter bonus vouchers. Their employees prefer carpooling and motorcycles as drive alone alternatives.

Kenworth Trucks offers a comprehensive program of TDM benefits. They include free flexpasses, vanpool subsidies, covered bike parking, showers, and subsidies for carpool, bikes and walkers.

Wireless Data Services charges $100/month for parking. It also offers shuttles to their satellite parking lots. It also offers flexpasses, although transit service is not available at their site.

Lake Washington Technical College offers a comprehensive program of benefits for commuters. However, their site lacks sufficient bus service.

Attendance and Remarks

Seven out of twelve affected employers attended the workshop.
Most of the employers mentioned that they did not learn any new information. However, they appreciated the discussion at the end of the workshop. They also would like to see more services from the City, especially more bike and sidewalk facilities. Employers would like to see more workshops if they provide new information such as new services and construction issues.

Employer Issues

Many of the employers are facing issues of employee turnover. This makes it difficult to form vanpools and carpools.

Overall, the City of Kirkland major employers offer strong CTR programs. Major barriers for successful CTR programs include:

1. Lack of parking management
2. Lack of transit services
3. Subsidies may not be high enough to attract employees to use alternative travel modes

Appendix G

COMMUTE TRIP REDUCTION
SUMMARY OF POLICIES THAT SUPPORT CTR

COMPREHENSIVE PLAN GOALS AND POLICIES ANALYSIS

This section provides a list of CTR supportive comprehensive plan goals and policies that the City of Kirkland either has or doesn't have. The right hand column identifies the policies that the jurisdiction has in place relating to the recommended goals and policies in the left hand column. If the jurisdiction doesn't have some of the recommended goals and policies listed below, then they may want to consider adding some of these recommended goals and policies to their comprehensive plan during the next update.

Commute Trip Reduction & Growth Management Planning Policies	
Land Use Element	
Inter-Agency Coordination	
Work with transit providers to provide transit that is fast, frequent and reliable between urban centers, urban villages, GTEC's and accessible to most of the city's residences and businesses.	None
Urban Growth Areas	
Enter into agreements and establish procedures for setting priorities, programming, maintaining and financing for countywide, regional and state transportation facilities and services consistent with the GMA current federal transportation legislation	None
Land use and transportation goals and decisions should be integrated with one another and coordinated with adjacent jurisdictions and with the Regional Transportation Plan to determine the types and levels of transportation facilities to be provided within the unincorporated county.	None
The county/city should use future land use projections to identify and provide for adequate safety, structural, rights-of-way and other possible improvements that support vehicle transportation, non-motorized and transit needs of the region plus use alternative transit modes as areas develop.	None
Integrate Commute Trip Reduction land use planning by requiring non-motorized pedestrian connections between retail, living, and work places. Non-motorized connects shall include, but not be limited to: transit connections, bus stops, sidewalks, bike facilities, trails and encouraging employers to participate in ride sharing programs.	None
When evaluating land use changes to the Comprehensive Plan, proposals should include an analysis of how the development furthers the goals of Commute Trip Reduction planning.	None

Pursue transportation demand management (TDM) strategies at the local/regional level by coordinating with regional and state partners so customers see their travel choices and the various TDM promotions as a coordinated, integrated system that makes a difference in the community. Example: Regulations to influence travel behavior Marketing Improvements in services and facilities	None
Require the integration of non-motorized and transit connections when planning and developing urban centers or GTEC's.	LU-5.1
Establish urban centers and/or GTEC's where they can be served by regional transit agencies, or work with the appropriate transit agency to expand service to the urban center within a reasonable timeframe.	LU-5.3, LU-5.4, LU-5.8
Urban Design	
Encourage new housing developments to be located in urban growth areas and small towns to help provide a sense of community and safe, non-motorized transportation to community facilities and public transit modes.	LU-3.2, LU-4.2, LU-5.6
Discourage transportation improvements that would trigger development that is premature or not consistent with applicable comprehensive plans, policies, or zoning.	None
Provide aesthetic and functional amenities along pedestrian facilities, such as water fountains, benches, trash receptacles, public art, and open spaces (such as seating plazas).	None
Provide pedestrian, and bicycle connections in newly developing areas of the city, promoting both internal access and linkages with the rest of the city.	LU-3.6, LU-5.1, LU-5.4
Incorporate transit-supportive and pedestrian friendly design features in new development through the development review process. Examples include: Provide pedestrian pathways that minimize walking distances to activities and to transit stops. Provide weather protection such as covered walkways or arcades connecting building developments, and covered waiting areas for transit and ridesharing.	LU-3.5, LU-3.6, LU-5.1
Incorporate guidelines for addressing that sidewalks and walkways are separated from the roadway by a landscaping strip or drainage swale.	LU-3.6

Adopt pedestrian friendly design guidelines, especially in high pedestrian activity zones, such as wide sidewalks, landscape buffers or strips, street trees, adequate lighting, traffic calming measures (such as traffic circles, curb bulbs, raised medians, speed tables and chicanes), special pavements, and bollards.	LU-3.5, LU-5.1, LU-5.5
Adopt development design standards that promote a pedestrian friendly environment. Such standards may include reduced building setbacks, requirements for display windows, building entrances oriented toward the street, and locating parking lots to the rear or side of buildings.	LU-5.1, LU-5.5, LU-5.9
Secure bike lanes and trail improvements or easements through the development review process to develop portions of the bicycle and pedestrian system.	LU-3.5
Require new developments to incorporate non-motorized features or programs designed to promote use of alternatives to single-occupant vehicles, such as; • Preferential parking for car pools and van pools • Special loading and unloading facilities • Transit facilities, including comfortable bus stops, and waiting areas, adequate turning room, and where appropriate, signal preemption and queue-jump lanes • Bicycle parking and related facilities	LU-3.5
Inter-Agency Coordination	
Pursue strategies that make transit safe, secure, comfortable, and affordable.	None
Integrate multiple access modes, including buses, carpools, and vanpools, bicycles, and pedestrians.	LU-5.1
Integrate transit-oriented development opportunities with the private and public sectors.	None
Zoning	
Discourage the development of major, stand-alone park and ride facilities with city limits. Situations where additions to park and ride capacity could be considered include: At the terminus for a major, regional transit system. When opportunities exist for “shared parking “(e.g., where transit commuter parking can be leased from another development. Such as a shopping center, movie theatre, church, etc.) Areas where alternatives to automobile uses are particularly inadequate (e.g., lack of direct transit system, or pedestrian and bicycle access) or cannot be provided in a cost-effective manner.	None

Allow a reduction in the number of required parking spaces if a development provides ride-share programs, car pool parking spaces, bike racks, lockers or other approved non-motorized parking options.	None
Encourage transit oriented development and pedestrian friendly land use characteristics through zoning and land use policies that encourage mixtures of land uses, increased densities in targeted areas with design standards.	LU-5.1, LU-5.3, LU-5.4, LU-5.5, LU-5.6
Adopt a parking credit program that allows developers to reduce the number of required parking spaces if they provide an alternative transportation program to single occupant vehicles.	None
Housing Element	
Work with other jurisdictions to achieve a jobs/housing balance that makes it possible for people to live closer to where they work.	None
Promote quality, community-friendly residential development, through features such as enhanced open space and pedestrian connectivity.	None
Capital Facilities Element	
Explore the possibility of encouraging cooperative funding for bicycle trails.	None
Implement a methodology for public-private partnerships when it would result in a more efficient use of public resources.	None
Aggressively seek funding opportunities for safety, mobility, intermodal, bicycle, pedestrian, neighborhood, and transportation demand management improvements	None
Provide adequate and predictable funding to construct and maintain pedestrian and bicycle capital projects.	None
Effectively link pedestrian project funding and approval decisions to priorities identified in the CTR plan, as well as the Non-Motorized element of the jurisdiction's Comprehensive Plan.	None
Support a greater investment in pedestrian enhancements, and ensure that all new transportation projects include funding for pedestrian improvements.	None
Continue programs to construct, maintain, and repair sidewalks.	None
Assign high priority to pedestrian and bicycle projects that provide access to major employment areas and activity centers, provide linkages to transit, complete planned bicycle facilities and provide system connectivity.	None
Effectively link TDM program funding and approval decisions to priorities identified in the CTR plan, as well as the transportation element of the jurisdiction's Comprehensive Plan.	None

Utilities Element	
Secure sidewalk and trail easements over existing utility lines where ever feasible	U-1.8
Transportation Element	
Carpools, Vanpools, & Ride Share	
Ensure that the city as an employer sets a positive example by maintaining a strong transportation demand management program for its employees.	None
Pedestrian System Connectivity	
The county should ensure that continuous and/or direct bicycle lanes are provided between all jurisdictions and major activity centers.	T-2, T-2.1, T-2.2, T-2.4, T-8.5
Consider pedestrians along with other travel modes in all aspects of developing the transportation system. Provide safe and convenient pedestrian access in all new and improved transportation projects, unless exceptional circumstances exist.	T-2.1, T-2.4
Remove barriers and deterrents along the existing pedestrian system to create better access between employment facilities, residential and other uses.	T-2.3, T-6.2
Coordinate the local jurisdiction's existing and planned pedestrian system with adjacent jurisdictions to provide a continuous, coordinated system, especially when major employment and activity centers are nearby.	T-2.1, T-8.5
Secure sidewalks and trail improvements or easements through the development review process to develop portions of the pedestrian system.	T-3.1, T-5.4
Pedestrian Safety and Security	
Adopt and use national (American Association of State Highway and Transportation Officials, AASHTO) design standards for pedestrian facilities.	None
Address the special needs of citizens with various degrees of mobility in planning, designing, implementing and maintaining pedestrian facilities.	T-3.1, T-6.2
Provide consistently designed pedestrian activated signal crossings, and consider technologies that enhance pedestrian safety at crossings, such as longer crossing times and audible crossings.	None
Consider access management to reduce the number of conflict points (driveways) between pedestrians and vehicles, thereby improving pedestrian safety.	T-4.8

Ensure that pedestrian facilities are designed and monitored to improve security and safety, through lighting, openness, vegetation upkeep and security features such as panic buttons at key locations.	None
Design midblock crossings with safety as a high priority, and consider improvements such as pedestrian crossing signals, flared curbs (bulbouts), pedestrian refuge islands, medians, and adequate sight distance around parked vehicles.	None
Pedestrian and Bicycle Convenience	
Conduct periodic analyses of bicycle and pedestrian environments in and around urban centers and regional transit stations to identify deficiencies and to plan access improvements.	None
Include bicycle facilities in the six-year capital improvement program (for trails that will be utilized by bikes) or the six-year transportation program (for widening shoulder projects that will accommodate bikes).	None
Implement way-finding (signage) along sidewalks and trails that direct pedestrians to key locations or destinations, such as major activity centers, business districts, institutions, major medical facilities, parks or recreational facilities.	None
Provide internal pedestrian circulation systems within and between existing, new or redeveloping commercial, multi-family or single family developments, and other appropriate activity centers. Provide convenient connections to frontage pedestrian systems and transit facilities.	None
Encourage transit use by improving pedestrian and bicycle linkages to the existing and future transit and school bus system, and by improving the security of and utility of park-and-ride lots and bus stops.	T-3.1, T-7.3
Provide bicycle connections and secure bicycle parking and storage convenient to major transit facilities; increase the number of secure parking areas for bicycles.	None
Conduct bicycle transportation studies to improve safety and overall quality of bicycling.	None
Cooperate with the public and private schools, bicycle clubs and other interests groups to provide education and strategies to promote safe riding skills and the transportation and recreation opportunities of bicycling.	None
Improve mobility and safe access for walking and bicycling, and create incentives to promote non-motorized travel to employment centers, commercial districts, transit stations, schools and major institutions, and recreational destinations	T-3.1

Update and review the Pedestrian and Bicycle transportation Plan every five years. The updates should consider the existing and future role of the single-occupant vehicle in relation to non-motorized and public transportation modes, as well as newly annexed areas, areas experiencing unforeseen development and/or redevelopment, and other emerging issues.	T-2.5
Develop an effective "share the road/share the trail" concept for pedestrian and bicycle education programs for the motorized and non-motorized public.	None
Accessibility	
Sidewalks or pedestrian facilities should be located along all both sides of all arterials, collectors, and at least one side of most local streets.	None
Pedestrian facilities should be wide enough to allow the disabled, such as wheelchair users, to access them, usually a minimum of 5' to 6'. A wider facility should be provided along principal arterials (generally a minimum of 8'), or in business districts that attract more pedestrians.	T-3.1, T-6.2
Direct pedestrian linkages should be considered whenever possible, to connect between internal land uses and arterials. This reduces walking distances to transit stops and commercial uses.	None
Public Transportation	
Encourage interconnections and time coordination of public transportation modes (bus, coach and rail) to increase level of service and ridership.	None
Work with transit providers to provide transit service that is fast, frequent, and reliable between urban centers and urban villages and that is accessible to most of the city's residences and businesses. Pursue strategies that make transit safe, secure, comfortable, and affordable.	None
Support development of an integrated, regional high capacity transit system that links urban centers within the city and the region.	T-3.2, T-3.3
Develop partnerships with transit providers to implement projects providing neighborhood-to-transit links that improve pedestrian and bicycle access to transit services and facilities.	None
Coordinate with regional, state, and federal agencies, local governments, and transit providers when planning and operating transportation facilities and services in order to promote regional mobility for people and goods and the urban center approach to growth management.	T-2.1, T-3.4, T-8.1, T-8.2, T-8.3, T-8.5
Design transit access into large developments, considering bus lanes, stops, shelters, non-motorized lanes & facilities as part of the project design	T-5.4, T-5.6

Coordinate with transit providers and the private sector to develop and implement compatible transportation demand management regulations and strategies that are consistent with the Commute Trip Reduction Act.	T-5.2, T-5.6
Work with car share companies to provide car share opportunities at key locations, such as major employers, business districts, and high density residential areas.	None
Provide preferential lanes, such as High Occupancy Vehicle (HOV) lanes on roads which will benefit commuters the most, such as those with major transit routes, and those experiencing the greatest congestion.	T-4.2
Ferries	
For water-borne travel across Puget Sound, encourage the expansion of the passenger-only ferry service and land-side facilities and terminals that encourage walk-on (by-foot, bicycle, transit) trips rather than ferry travel with automobiles.	N/A
Coordinate ferry arrivals and departures with mass transit systems to ensure an efficient flow of people and traffic.	N/A
Education and Encouragement	
Educate the general public and public officials about the economic, transportation system performance, environmental, health and social benefits of walking and biking and develop improved programs to encourage increased levels of walking and biking.	None
Educate drivers and pedestrians about pedestrian safety issues, and enforce pedestrian related laws.	None
Consider the formation of a pedestrian advisory committee to provide input to the jurisdiction (staff and elected officials) on pedestrian related issues and needs, as well as review of major transportation projects to ensure that pedestrian needs are adequately addressed or considered.	None
Develop a pedestrian walking/biking map that is focused on major activity centers, such as business districts or major employment areas. The map should identify sidewalks, trails, bike routes, transit corridors and bus stops/transit centers, and key activity centers such as institutional uses and government centers, major employers, commercial or retail areas, parks, and other points of interest.	None
Monitoring	
Ensure that the local government monitors the results of its TDM programs and policies, and continually evaluate changes needed to improve mode split goals.	None

Continually evaluate large employer CTR program effectiveness and reduce the employer threshold if needed to achieve the jurisdiction's mode split goals.	None
Economic Development Element	
Funding Mechanisms	
Promote public awareness of the impact travel choices have on household finances, personal quality of life, society, and the environment, and increase awareness of the range of travel choices available.	None
Employment	
Require large employers to implement a commute trip reduction program for employees, as mandated by the Commute Trip Reduction Act.	None
The county/city should encourage employers in urbanized areas to offer staggered work hours or flextime and other Transportation demand Management programs such as parking management, ride match services and preferential parking of vanpools, carpools, covered bike racks, lockers and showers at work sites.	ED-2.3
Encourage employers to provide information and marketing on commute alternatives, such as transit schedules, rideshare information, and guaranteed ride home programs.	None
Encourage employers to develop telecommuting options, which allow employees to work one or more days at home or at a "satellite work center" closer to their homes.	ED-1.8
Encourage employers to allow flexible work schedules or compressed work weeks to help reduce the number of vehicles using local and regional roadways.	None
Encourage major employers to provide daycare opportunities onsite or nearby.	None
Encourage employers to provide subsidies to employees who commute using other modes, such as free or reduced prices for transit passes, or discounted parking for rideshare vehicles.	None
Parks & Open Space Element	
Provide for adequate roadway, pedestrian, and bicycling connections in newly developing areas of the city, promoting both internal access and linkages with the rest of the city.	PR-1.2
Identify areas to be designated as pedestrian promenades, with pedestrian friendly environments.	None
Provide for uniform bicycle and pedestrian markings and design standards for travel along city bikeways and walkways.	None

Appendix H

GLOSSARY OF TERMS

GLOSSARY OF TERMS

Affected Employee: Under the Commute Trip Reduction (CTR) law, an affected employee is a full-time employee who regularly begins work between 6 a.m. and 9 a.m., at a single work site, on tow or more weekdays for at least 12 continuous months.

Affected Employer: An employer is "affected" under the CTR law if there are at least 100 "affected" employees at a single work site.

Alternative Work Schedules: AWS programs offer alternatives to the typical eight-hour work day. Options include flex-time, a compressed work week, and staggered work hours.

Automobile Dependency: Transportation and land use patterns that result in high levels of automobile use and limited transportation alternatives. In this case, "automobile" includes cars, vans, light trucks, SUVs and motorcycles

Base Year: The CTR law requires affected employers to measure the results of their employee trip program against base year values for VMT and drive alone vehicles. The goal year is 2011.

Bus Rapid Transit: Special lanes dedicated to transit buses, often incorporating other features to insure high quality transit service.

Carpool: Two to six people age 16 and older, sharing the ride in an automobile to and from the work place.

Commute: The trip made by an employee between their home and work locations, regardless of the distance or mode used.

Compressed Work Week: A work week that is compressed from the typical five-day, 40 hour work week into a shorter work week but maintaining the same number of hours.

Commute Trip Reduction Program: A CTR program is comprised of strategies used by an employer to reduce employee use of single-occupant vehicles (SOVs) and the vehicle miles traveled (VMT) per employee. The CTR program specifies the measures to be used that will achieve the target goals.

Drive Alone Vehicles: A vehicle that is occupied by one person.

Employee Transportation Coordinator: The CTR law requires employers to appoint an employee transportation coordinator, or ETC. The personal is personal change agent who provides the "human touch" needed to remedy traffic congestion and air pollution problems. An ETC is the organization's key contact person providing commuting information to employees and liaison activities with transit agencies and local jurisdictions. The ETC creates marketing strategies, administers employee ridesharing programs, and measures results.

Guaranteed Ride Home (GRH): GRH programs provide an emergency ride home for employees who commute to work in a ridesharing mode and have an illness or emergency. Typically, an employee can take a cab ride home and charge the ride to their employer's account or be reimbursed for the expense.

High-Occupancy Vehicle (HOV): a passenger vehicle carrying more than a specified minimum number of passengers. HOVs include carpools, vanpools, and buses. HOV requirements are often indicated as 3+ (three or more passengers required) or 4+ (four or more passengers required).

HOV Lane: This is a traffic lane limited to carrying high occupancy vehicles (HOVs) and certain other qualified vehicles.

HOT Lanes (High Occupancy Toll Lanes): HOV facilities that allow lower occupancy vehicles, such as solo drivers, to use the facility if they pay a toll. This offers users three options: drive alone on an unpriced but congested general purpose lane, drive alone and pay to use a less congested lane, or rideshare (carpool, vanpool or ride transit) to use a less congested lane without any additional fee.

Mobility: The movement of people and goods.

Mobility Management (Also called *Transportation Demand Management*): Various strategies that change travel behavior (how, when and where people travel) in order to increase transport system efficiency and achieve specific objectives such as reduced traffic congestion, road and parking cost savings, increased safety, improved mobility for non-drivers, energy conservation and pollution emission reductions.

Nonmotorized Transportation (also known as *Active Transportation* and *Human Powered Transportation*) includes Walking, Bicycling, Small-Wheeled Transport (skates, skateboards, push scooters and hand carts) and Wheelchair travel.

Parking Management: Strategies aimed at making better use of available parking supply. Parking management strategies include preferential parking or price discounts for carpools and/or short-term parkers, and disincentives, prohibitions and price supplements for those contributing more to congestion.

Parking Pricing: Strategy to reduce automobile use by requiring motorists to pay directly for using parking facilities. Time variable parking pricing can be used as a congestion reduction strategy.

Parking Cash-Out: This means that people (typically commuters, and sometimes residents of multi-family housing) who are offered a free parking space are also offered the cash equivalent when they use alternative transportation modes and so do not impose parking costs.

Ridesharing: Ridesharing is any cooperative effort of two or more people sharing a motor vehicle traveling to a common destination, such as a work site. Carpools and vanpools are common forms of ridesharing.

Smart Growth: Land use development practices that create more resource efficient and Livable communities, with more Accessible land use patterns. An alternative to sprawl.

Sprawl: Dispersed, low-density, single-use, automobile dependent land use patterns.

Stakeholder: Individuals or groups that are affected by a decision and have an interest in its outcome.

Teleworking: Teleworking involves the use of telephones, computers, and other technology to work from a location other than a conventional office.

Transportation Demand Management (TDM): Various strategies that change travel behavior (how, when and where people travel) in order to increase transport system efficiency and achieve specific objectives such as reduced traffic congestion, road and parking cost savings, increased safety, improved mobility for non-drivers, energy conservation and pollution emission reductions. Also called *Mobility Management*.

Transportation Management Association (TMA): A TMA is a partnership or organization that brings interested parties together to work on transportation issues.

Vanpool: A vanpool consists of seven to fifteen people sharing their commute in a passenger van, generally riding to the same place of employment.

Vehicle Miles Traveled: Number of miles a vehicle has traveled for a commute.

ORDINANCE NO. 4138

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION DEMAND MANAGEMENT, REPEALING AND REENACTING CHAPTER 7.06 OF THE KIRKLAND MUNICIPAL CODE RELATING TO COMMUTE TRIP REDUCTION, ADOPTING THE CITY OF KIRKLAND COMMUTE TRIP REDUCTION (CTR) PLAN AND IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527.

WHEREAS, State law and policy requires the City of Kirkland to develop and implement a plan to reduce single occupant vehicle commute trips; and

WHEREAS, a number of legislative and administrative changes to the commute trip reduction (CTR) program have taken place recently; and

WHEREAS, many of these changes require corresponding changes to the City's CTR chapter; and

WHEREAS, the City seeks to make its CTR chapter consistent with State law and the guidelines established by the CTR task force; and

WHEREAS, the Commute Trip Reduction Efficiency Act of 2006 requires the City to amend its CTR Plan and Chapter 7.06 of the Kirkland Municipal Code consistent with RCW 70.94.527; and

WHEREAS, the City recognizes the importance of increasing citizen awareness of air quality, energy consumption, and traffic congestion and the contribution individual actions can make toward addressing these issues.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Chapter 7.06 of the Kirkland Municipal Code is hereby repealed and reenacted to read as follows:

Chapter 7.06
COMMUTE TRIP REDUCTION

7.06.010 Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Affected employee" means a full-time employee who is scheduled to begin his or her regular workday at a single worksite between six a.m. and nine a.m. (inclusive) on two or more weekdays per week for at least twelve continuous months. For the purposes of this chapter, shareholders, principals and associates in a corporation, partners (general or limited) in a partnership and participants in a joint venture are to be considered employees.

(2) "Affected employer" means a public or private employer that, for twelve continuous months, employs one hundred or more full-time employees at a

single worksite who are scheduled to begin their regular workday between six a.m. and nine a.m. (inclusive) on two or more weekdays. The individual employees may vary during the year. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

(3) "Alternative commute mode" means any type of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed workweeks if they result in reducing commute trips.

(4) "Alternative work schedules" mean programs such as compressed workweeks that eliminate work trips for affected employees.

(5) "Base year" means the twelve-month period which commences when a major employer is determined by the City to be participating within the CTR program. The City uses this twelve-month period as the basis upon which it develops CTR goals.

(6) "Base year survey" or "baseline measurement" means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The City uses this measurement to develop CTR goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by the City.

(7) "Carpool" means a motor vehicle, including a motorcycle, occupied by two to six people of at least 16 years of age traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.

(8) "City" means the city of Kirkland.

(9) "Commute trips" means trips made from a worker's home to a worksite (inclusive) on weekdays.

(10) "CTR" is the abbreviation of Commute Trip Reduction.

(11) "CTR plan" means the city's plan as set forth in this chapter to regulate and administer the CTR programs of affected employers within its jurisdiction.

(12) "CTR program" means an employer's strategies to reduce affected employees' drive alone vehicle use and VMT per employee.

(13) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

(14) "Compressed workweek" means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one workday every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and biweekly arrangements, the most typical being four ten-hour days or eighty hours in nine days, but may also include other arrangements.

(15) "Custom bus/buspool" means a commuter bus service arranged specifically to transport employees to work.

(16) "Dominant mode" means the mode of travel used for the greatest distance of a commute trip.

(17) "Drive Alone" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

(18) Drive Alone Trips" means commute trips made by employees in single occupant vehicles.

(19) "Employee" means any person who receives financial or other remuneration in exchange for work provided to an employer, including owners or partners of the employer, provided however, an independent contractor shall not constitute an employee.

(20) "Employee Transportation Coordinator (ETC)" means a person who is designated as responsible for the development, implementation, and monitoring of an employer's CTR program.

(21) "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit, or private, that employs workers.

(22) "Exemption" means a waiver from any or all CTR program requirements granted to an employer by the City based on unique conditions that apply to the employer or employment site.

(23) "Flex-time" is an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their working hours.

(24) "Full-time employee" means a person other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two weeks per year for an average of at least thirty-five hours per week.

(25) "Good faith effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this chapter and is working collaboratively with the City to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

(26) "Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521 through 70.94.555 and this chapter as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to drive alone commuting, and commencement of other measures according to their CTR program and schedule.

(27) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their regular work day between six a.m. and nine a.m. on weekdays for at least twelve continuous months.

(28) "Major employer worksite" or "affected employer worksite" or "worksite" means the physical location occupied by a major employer, as determined by the local jurisdiction.

(29) "Major employment installation" means a military base or federal reservation, excluding tribal reservations, or other locations as designated by the City, at which there are one hundred or more affected employees.

(30) "Mode" means the type of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work week schedule and telecommuting.

(31) "Notice" means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on

which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday.

(32) "Peak period" means the hours from six a.m. to nine a.m. (inclusive), Monday through Friday, except legal holidays.

(33) "Peak period trip" means any employee trip that delivers the employee to begin his or her regular workday between six a.m. and nine a.m. (inclusive), Monday through Friday, except legal holidays.

(34) "Proportion of drive alone vehicle trips" or "drive alone rate" means the number of commute trips over a set period made by affected employees in drive alone vehicles divided by the number of affected employees working during that period.

(35) "Public Works Director" means the direct of the Public Works Department or his/her designee.

(36) "Ride Matching Service" means a system which assists in matching comuters for the purpose commuting together.

(37) "Telecommuting" or "teleworking" means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

(38) "Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger ferry, rail, shared-ride taxi, shuttle bus, or vanpool.

(39) "Transportation Demand Management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

(40) "Transportation Management Association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.

(41) "Vanpool" means a vehicle occupied by from five (5) to fifteen (15) people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

(42) "Vehicle miles traveled (VMT) per employee" means the sum of the individual vehicle commute trip lengths in miles made by employees over a set period divided by the number of employees during that period.

(43) "Week" means a seven-day calendar period, starting on Monday and continuing through Sunday.

(44) "Weekday" means any day of the week except Saturday or Sunday.

(45) "Writing," "Written," or "In Writing" means orginal signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

7.06.020 City of Kirkland CTR Plan.

The City Council hereby approves and adopts the August 2008 City of Kirkland CTR plan. This Plan may be amended by further action of the City Council.

The goals established for the jurisdiction and affected employers in the City's Commute Trip Reduction Plan set forth in Attachment A are incorporated herein by reference. The City staff is directed to make any corrections for typographical errors, include any graphical materials for information, and complete the Commute Trip Reduction Plan.

7.06.030 Commute Trip Reduction Goals.

a. The City's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in the City's jurisdiction, major employment installations, and other areas designated by the City are hereby established by the City's CTR Plan incorporated by Section 7.06.020 above. These goals establish the desired level of performance for the CTR program in its entirety in the City.

b. The City will set the individual worksite goals for affected employers based on how the worksite can contribute to the City's overall goal established in the CTR Plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in Section 7.06.110 below.

7.06.040 CTR Goals for Affected Employers.

a. The drive-alone and VMT goals for affected employers in the City are set forth in the CTR Plan adopted in Section 7.06.020 above.

b. If the goals for an affected employer or newly affected employer are not listed in the CTR Plan, they shall be established by the City at a level designed to achieve the City's overall goals and other areas as designated by the City.

c. The City shall provide written notification of the goals for each affected employer worksite by providing the information when the City reviews the employer's proposed program and incorporating the goals into the program approval issued by the City.

7.06.050 Responsible agency.

The City Public Works Department shall be responsible for implementing this chapter, the CTR plan and the City's CTR program for its own employees. The City Public Works director shall have the authority to issue such rules and administrative procedures and delegate authority to other City departments as may be necessary to implement this chapter.

7.06.060 Applicability.

The provisions of this chapter shall apply to any affected employer at any single worksite within the corporate limits of the City. Employees will only be counted at their primary worksite. The following classifications of employees are excluded from the counts of employees: (1) seasonal agricultural employees, including seasonal employees of processors of agricultural products; and (2) employees of construction worksites when the expected duration of the construction is less than two (2) years.

(a) Notification of Applicability.

(1) In addition to the City's established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for affected employers to comply with this chapter, and subsequent revisions shall be published at least once in a newspaper of general circulation in the City within thirty (30) days after adoption of this chapter or revisions.

(2) Within thirty (30) days after adoption of this chapter, the City Public Works Director will issue to known affected employers located in the City a formal written notification by certified mail that they are subject to this chapter.

(3) Affected employers that do not receive notice within thirty (30) days of adoption of this chapter must identify themselves to the City Public Works Director within ninety (90) days of the adoption of this chapter. Upon identifying themselves within said ninety-day period, such employers will be granted ninety (90) days from the date of self-identification within which to develop and submit a CTR program.

(4) Affected employers that have not been identified or do not identify themselves within ninety (90) days of the passage of this chapter and do not perform a baseline measurement consistent with the measurement requirements specified by the City within ninety (90) days from the passage of this chapter are in violation of this chapter.

(5) If an affected employer has already performed a baseline measurement, or an alternative acceptable to the City, previously under this chapter, the employer is not required to perform another baseline measurement.

(6) Any existing employer of seventy-five (75) or more persons who obtains a business license in the City, subsequent to adoption of this chapter, will be required to complete an employer assessment form. The employer assessment form will be used to assist the City Public Works Director to determine whether or not an employer will be deemed affected or non-affected in accordance with the provisions of this chapter.

(b) New Affected Employers. Employers that fall within definition of "affected employer" must identify themselves to the City Public Works Director within ninety (90) days of either moving into the boundaries of the City or growing in employment at a worksite to one hundred (100) or more affected employees. Once they identify themselves, such employers shall submit a complete baseline survey within ninety (90) days and they shall be granted a total of ninety days to develop and submit a CTR program. Employers who do not identify themselves within ninety (90) days are in violation of this chapter.

(1) Newly affected employers identified as such shall be given ninety (90) days to perform a mandatory baseline measurement consistent with the measurement requirements specified by the City. Employers who do not perform a baseline measurement within ninety (90) days of receiving written notification that they are subject to this chapter are in violation of this chapter.

(2) Not more than ninety (90) days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to the City. The program will be developed in consultation with the City to be consistent with the goals of the CTR Plan adopted in Section 7.06.020. The program shall be implemented not more

than ninety (90) days after approval by the City. Employers who do not implement an approved CTR Program according to this schedule are in violation of this chapter and subject to the penalties outlined in Section 7.06.120.

(c) Change in Status as an Affected Employer. Any of the following changes in an employer's status will change the employer's CTR program requirements:

(1) If an affected employer can document that it faces an extraordinary circumstance that will change its status as an affected employer, it may apply for a full or partial exemption from CTR program requirements pursuant to Section 7.06.130 of this chapter.

(2) If an employer initially designated as an affected employer no longer employs one hundred (100) or more affected employees and expects not to employ one hundred (100) or more affected employees for the next twelve (12) months, that employer is placed on a 12-month watch and is subject to the same program requirements as other affected employers. At the end of the 12-month watch, if they no longer employ one hundred (100) affected employees, they are no longer an affected employer. It is the responsibility of the employer to provide documentation to the City Public Works Director that it is no longer an affected employer. The burden of proof lies with the employer. The City Public Works Director shall review such documentation to determine whether the employer is no longer an affected employer.

(3) If the same employer returns to the level of one hundred (100) or more affected employees twelve (12) or more months after its change in status to an "unaffected" employer, that employer shall be treated as a new affected employer, and will be subject to the same CTR program requirements as other new affected employers.

7.06.070 Requirements for Employers — RCW 70.94.531

An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and drive alone_commute trips. The CTR program must include the mandatory elements described below, including submittal of a CTR program description and annual progress report. Transportation Management Associations may submit CTR program descriptions and annual reports on behalf of employers; however, each affected employer shall remain accountable for the compliance of its CTR program.

(a) Description of Employer's CTR Program. Each affected employer is required to submit a description of its CTR program to the City on an official form available from the Public Works Department. At a minimum, the employer's description must include:

(1) General description of each employment site location within the City limits, including transportation characteristics, surrounding services, and unique conditions experienced by the employer or its employees;

(2) Number of employees affected by the CTR program;

(3) Documentation of compliance with the mandatory CTR program elements (as described in subsection (b) of this section);

(4) Description of the additional elements included in the CTR program;

(5) Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources to carry out the CTR program; and

(6) A statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

(b) Mandatory Program Elements. Each employer's CTR program shall include the following mandatory elements:

(1) Transportation Coordinator. The employer shall designate a transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location, and telephone number must be displayed prominently at each affected worksite. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the City. An affected employer with multiple sites may have one transportation coordinator for all sites.

(2) Information Distribution. The employer shall provide information about alternatives to drive alone commuting to employees at least once a year. This shall consist of, at a minimum, a summary of the employer's program, including the transportation coordinator's name and phone number. The summary of the employer's CTR Program shall also be submitted to the City with the employer's program description and regular report.

Affected employers shall be required to implement the following:

1. Promotional events;
2. Commuter information center;
3. Preferential parking for high-occupancy vehicles, carpools and vanpools; and
4. Provide secure covered bicycle parking facilities.

(c) Additional Program Elements. In addition to the specific program elements described above, the employer's CTR program shall include a set of measures designed to meet CTR goals. Elements may include, but are not limited to, one or more of the following:

1. Reduced parking charges for high-occupancy vehicles;
2. Instituting or increasing parking charges for drive alone commuters;
3. Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
4. Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;
5. Provision of vans or buses for employee ridesharing;
6. Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;
7. Provision of incentives for employees who do not drive alone to work;
8. Permitting the use of the employer's vehicles for carpooling or vanpooling;
9. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
10. Cooperation with transportation providers to provide additional regular or express service to the worksite;
11. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

12. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

13. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

14. Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes which reduces commute trips;

15. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;

16. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities, emergency taxi services, or guaranteed ride home programs;

17. Charging employees for parking, and/or the elimination of free parking; and

18. Other measures that the employer believes will reduce the number and length of commute trips made to the site.

7.06.080 CTR Program Report and Description.

a. Affected employers shall review their program and file a regular progress report with the City in accordance with the format provided by the City.

b. The CTR Program Report and Description outlines the strategies to be undertaken by an employer to achieve the commute trip reduction goals for the reporting period. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other to implement program elements.

c. At a minimum, the employer's CTR Program Report and Description must include:

1. A general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities, and surrounding services;

2. The number of employees affected by the CTR program and the total number of employees at the site;

3. Documentation on compliance with the mandatory CTR program elements (as described in *Section 7.06.070*);

4. Description of any additional elements included in the employer's CTR program (as described in *Section 7.06.070*); and

5. A statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

7.06.090 Biennial Measure of Employee Commute Behavior.

In addition to the baseline measurement, employers shall conduct a mandatory program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) at least once every two (2) years, and strive to achieve at least a 70% response rate from employees at the worksite.

7.06.100 Record keeping.

Affected employers shall maintain a copy of their approved CTR Program Description and Report, their CTR Program Employee Questionaire results, and all supporting documentation for the descriptions and assertions made in any CTR report to the City for a minimum of forty-eight (48) months. The City and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

7.06.110 Schedule and process for CTR program review and implementation.

a. Document Review. The City shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within ninety (90) days of submission, the employer's program or annual report is deemed accepted. The City may extend the review period up to ninety (90) days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

b. Scheduling. Upon review of an employer's initial CTR program, the City shall establish the employer's regular reporting date. This report will be provided in a form provided by the City consistent with Section 7.06.080 above.

c. Modification of CTR Program Elements. Any affected employer may submit a request to the City for modification of CTR requirements. Such request may be granted if one of the following conditions exist:

1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or

2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

The City may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request. Requests to modify the CTR requirement shall be filed in writing at least sixty (60) days prior to the employer's regular reporting date. All requests for modification of CTR program must be made in writing to the City Public Works Director by certified mail or delivery, return receipt.

d. Extensions. An employer may request additional time to submit a CTR Program Description and Report, or to implement or modify a program. Such requests shall be via written notice at least thirty (30) days before the due date

for which the extension is being requested. Extensions not to exceed ninety (90) days shall be considered for reasonable causes. The City shall grant or deny the employer's extension request by written notice within ten (10) working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for thirty (30) days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these extensions. An employer's regular reporting date may be extended at the discretion of the City.

e. Implementation of Employer's CTR Program. Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than ninety (90) days after receiving written notice from the City that the program has been approved or with the expiration of the program review period without receiving notice from the City.

7.06.120 Enforcement.

(a) Compliance. For purposes of this section, compliance shall mean:

1. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;

2. Providing a complete CTR Program Description and Report on the regular reporting date; and

3. Distributing and collecting the CTR Program Employee Questionaire during the scheduled survey time period.

(b) Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of drive alone trips shall be applied in determining requirements for employer CTR program modifications:

1. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;

2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, but has not met the applicable drive alone or VMT goal, no additional modifications are required.

3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable drive alone or VMT reduction goal, the City shall direct the employer to revise its program within thirty (30) days to come into compliance with the measures defined by RCW 70.94.534(2), including specific recommended program modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program Description and Report, including the requested modifications or equivalent measures, within thirty (30) days of receiving written notice to revise its program.

4. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the

City will send written notice to that effect to the employer within thirty (30) days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within ten (10) working days of the conference.

(c) Modification of CTR Program Goals.

1. An affected employer may request that the City modify its CTR program goals. Such requests shall be filed in writing at least sixty (60) days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The City will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

3. An employer may not request a modification of the applicable goals until one year after the City approval of its initial program description or biennial report.

(d) Violations.

Violation of a provision of this chapter is a civil infraction for which a monetary penalty may be imposed under this chapter. The following actions shall constitute a violation of this chapter:

1. Failure to self identify as an affected employer;

2. Failure to perform a baseline measurement, including:

a. Employers notified or that have identified themselves to the City within ninety (90) days of the chapter being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within ninety (90) days from the notification or self-identification;

b. Employers not identified or self-identified within ninety (90) days of the chapter being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within ninety (90) days from the adoption of the ordinance;

3. Failure to develop and/or submit on time a complete CTR program;

4. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in this chapter;

5. Submission of false or fraudulent data in response to survey requirements;

6. Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter; or

7. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this chapter.

(e) Penalties.

(1) No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive alone or VMT goal.

(2) Each day of failure by an employer to (a) implement a commute trip reduction program, or (b) modify an unacceptable commute trip reduction program, or (c) fail to perform any activity required by this chapter relating to implementation of or required modification to a CTR program shall constitute a separate violation and shall be considered a civil infraction. The penalty for a violation shall be two hundred fifty dollars ($250.00) per day.

(3) An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Employers having unionized employees shall be presumed to act in good faith compliance if they:

(a) propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

(b) Advise the union of the existence of the statute and the mandates of the CTR program approved by the City and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

(4) Payment of a monetary penalty pursuant to this chapter does not relieve an affected employer of the duty to comply with the activities required by this chapter.

(5) Nothing in this chapter limits the right of the city to pursue other civil or equitable remedies it may have to obtain compliance with the activities required by this chapter.

(6) A notice of violation and imposition of monetary penalties represents a determination that a civil infraction has been committed. The determination is final unless appealed as provided in this chapter.

(7) A notice of violation and imposition of monetary penalties shall be served on the affected employer, either personally or by mailing a copy of the notice by certified mail, postage prepaid, return receipt requested to the affected employer at his/her last known address. The person who effected personal service or service by mail shall make proof of service at the time of service by a written declaration under penalty of perjury declaring the time and date and the manner in which service was made.

7.06.130 Worksite Exemptions.

An affected employer may request the City to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the ordinance as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the City at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The City shall grant or deny the request within thrirty (30) days of receipt of the request. The City shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

7.06.140 Employee Exemptions.

Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The City will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests. The City shall grant or deny the request within thrity (30) days of receipt of the request. The City shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

7.06.150 Appeals

An affected employer may request an appeal of penalties.

(1) An affected employer to whom a notice of violation and imposition of monetary penalties is directed may appeal the notice including the determination that a violation exists or may appeal the amount of any monetary penalty imposed to the City Hearing Examiner.

(2) An affected employer may appeal a notice of violation by filing a written notice of appeal with the Department of Public Works within seven (7) calendar days from the date of service of the notice of violation and imposition of monetary penalties.

(3) The monetary penalty for a continuing violation does not accrue during the pendency of the appeal; however, the Hearing Examiner may impose a daily monetary penalty from the date of service of the notice of civil infraction if he or she finds that the appeal is frivolous or intended solely to delay compliance.

(4) The hearing before the Hearing examiner shall be conducted as follows:

(a) The Office of the Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant at least seventeen (17) calendar days before such hearing.

(b) The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure as provided by the Administrative Procedure Act, Chapter 34.05 RCW. The City and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.

(5) The Hearing Examiner shall determine whether the City has proved by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend or modify the amount of any monetary penalty imposed by the notice of civil violation with or without written conditions.

(6) The Hearing Examiner shall consider the following in making his/her determination:

(a) Whether the intent of the appeal was to delay compliance; or

(b) Whether the appeal is frivolous; or

(c) Whether the appellant exercised reasonable and timely effort to comply with applicable requirements; or

(d) Any other relevant factors.

(7) The Hearing Examiner shall mail a copy of his decision to the appellant by certified mail, postage prepaid, return receipt requested.

(8) The decision of the Hearing Examiner may be reviewed for illegal, corrupt or arbitrary or capricious action in King County Superior Court. The

petition for review must be filed within thirty calendar days of the final decision of the Hearing Examiner.

(9) The collection of the monetary penalty shall be as follows:

(a) The monetary penalty constitutes a personal obligation of the person to whom the civil infraction is directed. Any monetary penalty assessed must be paid to the City Clerk within seven (7) calendar days from the date of service of notice of violation and imposition of monetary penalties or, if an appeal was filed pursuant to this chapter, within seven (7) calendar days of the Hearing Examiner's decision.

(b) The City Attorney, on behalf of the city, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.

(c) In the event of failure to appear at a hearing provided herein, the Hearing Examiner shall assess the monetary penalty prescribed and a penalty of twenty-five dollars ($25.00).

(d) In the event of a conflict between this chapter and any other City ordinance providing for a civil penalty, this chapter shall control.

(10) A person who willfully fails to pay a monetary penalty as required by provisions of this chapter may be found in civil contempt of court after notice and hearing.

Section 2. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

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

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4138

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION DEMAND MANAGEMENT, REPEALING AND REENACTING CHAPTER 7.06 OF THE KIRKLAND MUNICIPAL CODE RELATING TO COMMUTE TRIP REDUCTION, ADOPTING THE CITY OF KIRKLAND COMMUTE TRIP REDUCTION (CTR) PLAN AND IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527.

SECTION 1. Repeals and reenacts Kirkland Municipal Code Chapter 7.06 related to commute trip reduction and adopts the City of Kirkland Commute Trip Reduction plan.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2008.

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

_____
City Clerk

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

MEMORANDUM

To: David Ramsay, City Manager

From: Katy Coleman, Development Engineering Analyst
Daryl Grigsby, Public Works Director

Date: September 24, 2008

Subject: RESOLUTION TO RELINQUISH THE CITY'S INTEREST IN A PORTION OF UNOPENED RIGHT-OF-WAY

RECOMMENDATION**:**

It is recommended that the City Council adopt the enclosed Resolution relinquishing interest in a portion of unopened alley being identified as the north 8 feet of the unopened alley abutting the south boundary of the following described property: The south 60 feet of Lots 13, 14, 15 and 16, Block 172, Town of Kirkland, according to the plat thereof recorded in Volume 6 of Plats, page 53, records of King County, Washington.

BACKGROUND DISCUSSION:

The unopened portion of the alley abutting the property of 808 4th Street was originally platted and dedicated in 1890 as Town of Kirkland. The Five Year Non-User Statute provides that any street or right-of-way platted, dedicated, or deeded prior to March 12, 1904, which was outside City jurisdiction when dedicated and which remains unopened or unimproved for five continuous years is then vacated. The subject right-of-way has not been opened or improved.

James and Katherine Osborne, the owners of the property abutting this right-of-way, submitted information to the City claiming the right-of-way was subject to the Five Year Non-User Statute (Vacation by Operation of Law), Laws of 1889, Chapter 19, Section 32. After reviewing this information, the City Attorney believes the approval of the enclosed Resolution is permissible.

Attachments: Vicinity Maps
Resolution

Copy: Rob Jammerman, Development Engineering Manager

Osborne Residence Non-User Vacation
808 4TH ST

- Osborne Residence
- Proposed Vacation
- Granted Non-User Vacations
- Pedestrian Easement
- Building Outline

CITY OF KIRKLAND WASHINGTON

Produced by the City of Kirkland.

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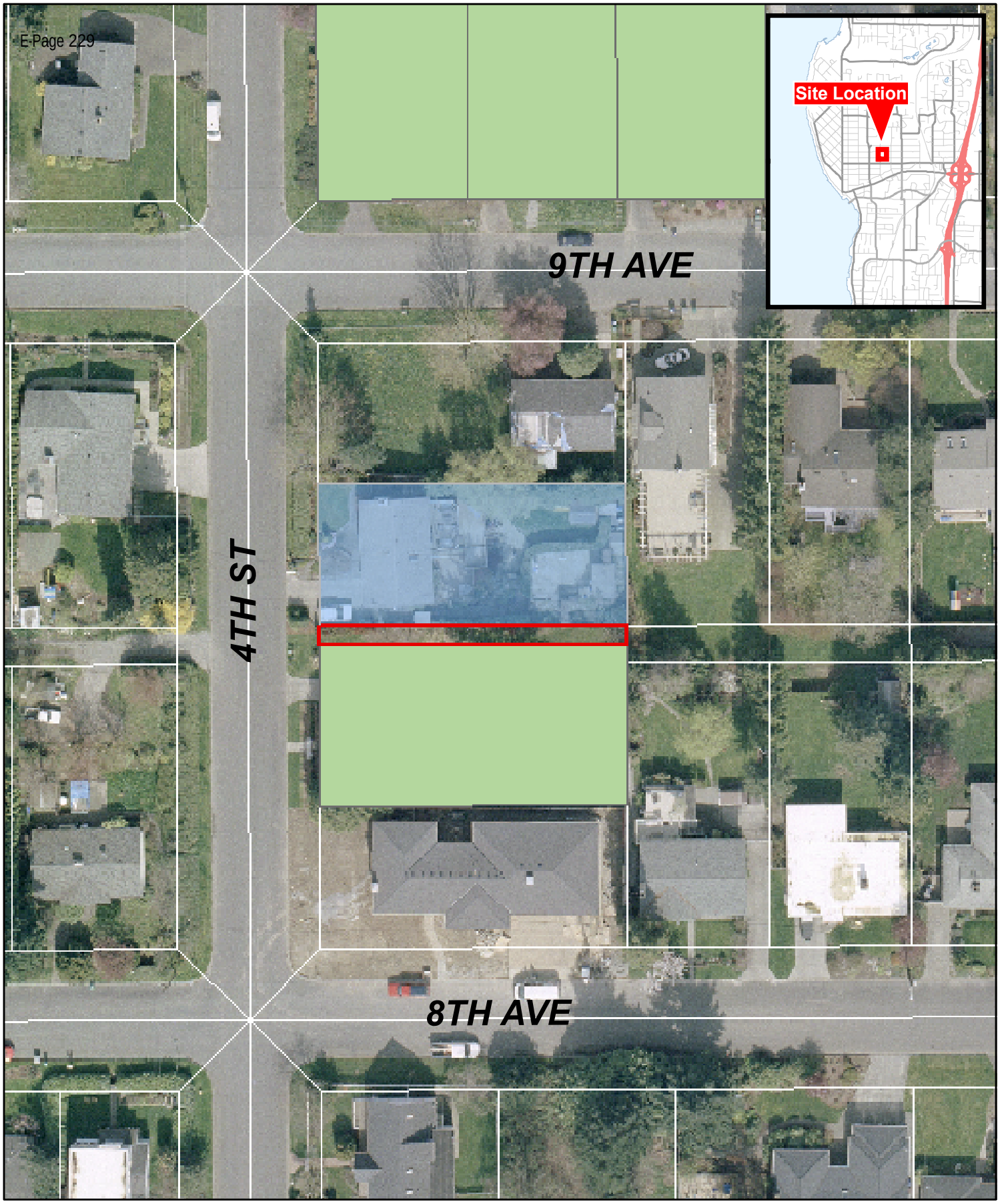
No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

Printed September 25, 2008 - Public Works GIS



Osborne Residence Non-User Vacation
808 4TH ST

Osborne Residence
Pedestrian Easement
Proposed Vacation
Granted Non-User Vacations

CITY OF KIRKLAND WASHINGTON

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Printed Sept 25, 2008 - Public Works GIS

RESOLUTION R-4727

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNERS JAMES W. AND KATHERINE W. OSBORNE

WHEREAS, the City has received a request to recognize that any rights to the land originally dedicated in 1890 as right-of-way abutting a portion of the Town of Kirkland have been vacated by operation of law; and

WHEREAS, the Laws of 1889, Chapter 19, Section 32, provide that any county road which remains unopened for five years after authority is granted for opening the same is vacated by operation of law at that time; and

WHEREAS, the area which is the subject of this request was annexed to the City of Kirkland, with the relevant right-of-way having been unopened; and

WHEREAS, in this context it is in the public interest to resolve this matter by agreement,

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

Section 1. As requested by the property owners James W. and Katherine W. Osborne, the City Council of the City of Kirkland hereby recognizes that the following described right-of-way has been vacated by operation of law and relinquishes all interest it may have, if any, in the portion of right-of-way described as follows:

A portion of unopened alley being identified as the north 8 feet of the unopened alley abutting the south boundary of the following described property: The south 60 feet of Lots 13, 14, 15 and 16, Block 172, Town of Kirkland, according to the plat thereof recorded in Volume 6 of Plats, page 53, records of King County, Washington.

Section 2. This resolution does not affect any third party rights in the property, if any.

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

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

MEMORANDUM

To: Dave Ramsay

From: Tracey Dunlap, Director of Finance and Administration

Date: September 16, 2008

Subject: Cabaret Music License

RECOMMENDATION:

City Council authorizes the issuance of a Cabaret Music License to Café Harlequin.

BACKGROUND DISCUSSION:

The request and recommended action being presented to the City Council is consistent with the Municipal Code and City Council practice.

BACKGROUND DISCUSSION:

The Café Harlequin, located at 107 Lake Street, has made application for a Cabaret Music License. Staff has completed its review/investigation and the above referenced establishment has met the requirements of the Municipal Code. Staff recommends the issuance of a Cabaret Music License be granted.

The restrictions contained within KMC 7.20.030 are the standards by which the police department representatives reviewing applications are legally allowed to approve or deny the issuance of a license. The City's application form was last updated in 2006 and was updated to include a perjury statement and waiver to allow a more stringent background check. These checks are completed prior to approval by the police department representative assigned to complete the investigation. The application form was also updated to include wording allowing approval by the designee of the Chief of Police, as has been past practice.

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 425.587.3140

LICENSE APPLICATION FOR CABARET, CELEBRATION, PUBLIC DANCE

This application may be used for the procurement of any of the following: **a Public Dance License** whereby a public dance shall include any dance to which the general public is admitted for which an attendance charge or donation is imposed as a condition of attendance; **a Celebration License** for a one-time event, **a Cabaret License** permitting music only, or permitting both music and dancing, in a place of business in which food or liquor is sold and consumed on the premises.

This license may be issued to the manager of the place of business or in the name of a corporation or partnership. Full information must be supplied with references to all of the partners, officers and directors of the corporation, as required by City ordinances. Upon report by the Chief of Police, this application will be referred to the City Council for final determination.

PLEASE PRINT OR TYPE

1. **CHECK ONE**

____	* Application for Public Dance License	$ 100.00	yearly
____	* Application for Public Dance Permit	$ 25.00	per dance
X	** Application for Cabaret Music License	$ 100.00	yearly
____	** Application for Cabaret Dance License	$ 250.00	yearly
____	Application for Celebration License	$ 25.00	one day - one-time

Date of Event Only _____

(* Application must be submitted 48 hours prior to dance.)

(** $ 15.00 deposit for investigative costs required with application.)

2. Name of Applicant: LARRY STEPEK Applicant's Telephone: 408.590.0901
   Applicants Address: 107 LAKE STREET SECOND FLOOR
3. Name of Business: PERSPASSO, INC. dba CAFÉ HARLEQUIN Business Telephone: 408.590.0901
4. Will any admission fee be charged for the listed activity? If so, how much? NO
5. Name and address where event is to be held (if different from business address): _____
6. Name of Manager: LARRY STEPEK Manager's Telephone: 408.590.0901
   Manager's Address: 5502 LAKEVIEW DRIVE, #5502C, KIRKLAND, WA 98033
7. Name of person(s) or corporation to whom or which license is to be issued: PERSPASSO, INC. dba CAFÉ HARLEQUIN
8. Qualifications of person signing this application:
   a. How long have you resided in King County? 8 MONTHS
   b. How long have you resided in the State of Washington? 8 MONTHS
   c. Previous address: 754 THE ALAMEDA, #1305, SAN JOSE, CA Dates at that address: 05/06 - 10/07
9. Have you ever been convicted of committing a felony? NO

DECLARATION:
I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

10. Signature and official capacity of applicant: [signature] PRESIDENT / TREASURER PERSPASSO, INC.
11. Signature of person accepting fee: Patricia A Ball Date: 7/17/2008

RETURN COMPLETED FORM AND PAYMENT TO:

City of Kirkland/Licensing
123 Fifth Avenue
Kirkland WA 98033
(425) 587-3140 or Fax (425)587-3110

FOR OFFICIAL USE ONLY

Record of Report of Chief of Police/or his designee

I hereby recommend LARRY STEPEK of license for which application has been made.

Remarks: SEE INVESTIGATOR'S REMARKS

Signature of the Chief of Police DESIGNEE LT. B. GILMORE Date: 8-29-08

Action of the Kirkland City Council (where applicable)

Application Approved by _____ Date: _____

Application Approved by _____ Date: _____

Reason for Disapproval _____

License No. _____ Date: _____

Receipt No. 163558 Date: 7/17/08

Fee Amount: $100.00

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

MEMORANDUM

To: David Ramsay, City Manager

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

Date: October 7, 2008

Subject: Proposed Cable Franchise with Verizon

RECOMMENDATION

1. First reading of proposed ordinance to grant a franchise to Verizon Northwest Inc.
2. Conduct a public hearing on the proposed franchise.

BACKGROUND DISCUSSION

Verizon Northwest Inc. has requested a cable franchise to provide their FiOS cable television service to Kirkland residents. The proposed franchise is reasonably comparable to the franchise issued to Comcast and complies with federal and local regulations. Some of the detailed definitions and clauses read somewhat differently due to differences in the way the two companies do business (one arose as a cable provider who began offering other services, and one started as a telephone company who is now offering cable television) and to the differences in the two companies legal teams. On balance, we believe that our goal to provide a generally level playing field between the firms has been met.

Some of the benefits to having Verizon offer cable are:

1. Brings competition to the market giving Kirkland residents a choice between two providers (Verizon and Comcast)
2. Verizon will offer their services to businesses 18 months after franchise is executed
3. Verizon will provide education and government channels equivalent to those provided by Comcast
4. Verizon's customer service standards meet or exceed those outlined in the Kirkland Municipal Code

Two readings of a franchise ordinance are required before formal action can be taken. Council's first reading will be October 7th along with a public hearing. The second reading is scheduled for October 21st and is when formal action can be taken on the franchise ordinance.

ORDINANCE NO. 4140

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING VERIZON NORTHWEST INC. A NON-EXCLUSIVE CABLE FRANCHISE.

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

Section 1. The City Manager is authorized and directed to execute the cable franchise agreement attached hereto as Exhibit A between the City of Kirkland and Verizon Northwest Inc., the terms of which are incorporated herein by reference as if fully set forth.

Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

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

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

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

CABLE FRANCHISE AGREEMENT

between

CITY OF KIRKLAND

and

VERIZON NORTHWEST INC.

2008

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THIS CABLE FRANCHISE AGREEMENT (the "Franchise" or "Agreement") is entered into by and between Kirkland, a duly organized city under the applicable laws of the State of Washington (the "City") and Verizon Northwest Inc., a corporation duly organized under the applicable laws of the State of Washington (the "Franchisee").

WHEREAS, the City wishes to grant Franchisee a nonexclusive franchise to construct, install, maintain, extend and operate a cable communications system in the Franchise Area as designated in this Franchise;

WHEREAS, the City is a "franchising authority" in accordance with Title VI of the Communications Act (*see* 47 U.S.C. §522(10)) and is authorized to grant one or more nonexclusive cable franchises pursuant to Washington state law;

WHEREAS, Franchisee is in the process of installing a Fiber to the Premise Telecommunications Network ("FTTP Network") in the Franchise Area for the transmission of Non-Cable Services pursuant to authority granted by the State of Washington;

WHEREAS, the FTTP Network will occupy the Public Rights-of-Way within the City, and Franchisee desires to use portions of the FTTP Network once installed to provide Cable Services (as hereinafter defined) in the Franchise Area;

WHEREAS, the City has considered the financial, technical and legal qualifications of Franchisee, and has determined that Franchisee's plans for its Cable System are adequate, in a full public proceeding affording due process to all parties;

WHEREAS, the City has found Franchisee to be financially, technically and legally qualified to operate the Cable System;

WHEREAS, the City has determined that the grant of a nonexclusive franchise to Franchisee is consistent with the public interest; and

WHEREAS, the City and Franchisee have reached agreement on the terms and conditions set forth herein and the parties have agreed to be bound by those terms and conditions.

NOW, THEREFORE, in consideration of the City's grant of a franchise to Franchisee, Franchisee's promise to provide Cable Service to residents of the Franchise/Service Area of the City pursuant to and consistent with the Communications Act (as hereinafter defined)**,** pursuant to the terms and conditions set forth herein, the promises and undertakings herein, and other good and valuable consideration, the receipt and the adequacy of which are hereby acknowledged.

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

1. **DEFINITIONS**

Except as otherwise provided herein, the definitions and word usages set forth in the Communications Act (as hereinafter defined) are incorporated herein and shall apply in this Agreement. In addition, the following definitions shall apply:

1.1. *Access Channel:* A video Channel, which Franchisee shall make available to the City without charge for non-commercial Public, Educational, or Governmental use for the transmission of video programming as directed by the City. For purposes of this definition, non-commercial shall not preclude the City, or any entity managing its Access Channel, from entering into underwriting or sponsorship arrangements with third party entities that conform with sponsorship guidelines used by the Public Broadcasting Service.

1.1.1. *Public Access Channel*: An Access Channel where the public is the primary user.

1.1.2. *Educational Access Channel*: An Access Channel where Schools are the primary users or exercise primary editorial control over programming and services.

1.1.3. *Government Access Channel*: An Access Channel means an Access Channel where governmental institutions or their designees are the primary users or exercise primary editorial control over programming and services.

1.1.4. *PEG*: Public, Educational, and Governmental.

1.2. *Additional Service Area:* Shall mean any such portion of the Service Area added pursuant to Section 3.1.3 of this Agreement.

1.3. *Affiliate:* Any Person who, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, the Franchisee.

1.4. *Basic Service:* Any service tier which includes the retransmission of local television broadcast signals as well as the PEG Channels required by this Franchise.

1.5. *Cable Service* or *Cable Services:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(6), as may be amended from time to time.

1.6. *Cable System* or *System:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(7), meaning Franchisee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area. The Cable System shall be limited to the optical spectrum wavelength(s), bandwidth or future technological capacity that is used for the transmission of Cable Services directly to Subscribers within the Franchise/Service Area and shall not include the tangible network facilities of a common carrier subject in whole or in part to Title II of the Communications Act or of an Information Services provider.

1.7. *Channel:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(4), as may be amended from time to time.

1.8. *City:* The City of Kirkland, Washington.

1.9. *Communications Act*: The Communications Act of 1934, as amended.

1.10. *Control:* The ability to exercise *de facto* or *de jure* control over day-to-day policies and operations or the management of Franchisee's affairs.

1.11. *FCC*: The United States Federal Communications Commission or successor governmental entity thereto.

1.12. *Force Majeure* An event or events reasonably beyond the ability of Franchisee to anticipate and control. This includes, but is not limited to, severe or unusual weather conditions, strikes, labor disturbances, lockouts, war or act of war (whether an actual declaration of war is made or not), insurrection, riots, act of public enemy, accidents for which the Franchisee is not primarily responsible, fire, flood, or other acts of God.

1.13. *Franchise Area*: The incorporated area (entire existing territorial limits) of the City and such additional areas as may be included in the corporate (territorial) limits of the City during the term of this Franchise.

1.14. *Franchisee:* Verizon Northwest Inc., and its lawful and permitted successors, assigns and transferees.

1.15. *Gross Revenue:* All revenues derived directly by the Franchisee or its Affiliates from the operation of the Cable System to provide Cable Services within the Service Area, including Franchise fees. Subject to Section 1.15.10 below, fees, payments, or other consideration received by the Franchisee from programmers for carriage of programming on the Cable System and advertising sales commissions shall be included as part of Gross Revenues if they are recognized as revenues under generally accepted accounting principles ("GAAP"). Gross Revenue shall not include:

1.15.1. Revenues received by any Affiliate or other Person in exchange for supplying goods or services used by Franchisee to provide Cable Service over the Cable System, provided that the purpose of the payments is not to reduce the amount of the Franchise fee;

1.15.2. Bad debts written off by Franchisee in the normal course of its business, provided, however, that bad debt recoveries shall be included in Gross Revenue during the period collected;

1.15.3. Refunds, rebates or discounts made to Subscribers or other third parties to the extent the revenues refunded would otherwise be included in Gross Revenue;

1.15.4. Any revenues classified, in whole or in part, as Non-Cable Services revenue under federal or state law including, without limitation, revenue received from

Telecommunications Services; revenue received from Information Services, and any other revenues attributed to Non-Cable Services in accordance with FCC or state public utility regulatory commission rules, regulations, standards or orders. Nothing in this Subsection 1.15.4 shall have the effect of excluding from Gross Revenue any revenues derived from Cable Service over the Cable System;

1.15.5. Any revenue paid directly by Subscribers for the sale of merchandise through any home shopping channel, infomercial, or advertisement, provided that, commissions or other compensation related to such sales paid to the Franchisee shall be included in Gross Revenue;

1.15.6. Any revenues paid by subscribers and received by third-party channel lessees, except for the portion paid to Franchisee for services and facilities Franchisee provides to the third party channel lessee;

1.15.7. Any tax of general applicability imposed upon Franchisee or upon Subscribers by a city, state, federal or any other governmental entity and required to be collected by Franchisee and remitted to the taxing entity (including, but not limited to, sales/use tax, gross receipts tax, excise tax, utility users tax, public service tax, communication taxes and non-cable franchise fees);

1.15.8. Any foregone revenue which Franchisee chooses not to receive in exchange for its provision of free or reduced cost cable or other communications services to any Person, including without limitation, employees of Franchisee and public institutions or other institutions designated in the Franchise; provided, however, that such foregone revenue which Franchisee chooses not to receive in exchange for trades, barters, services or other items of value shall be included in Gross Revenue;

1.15.9. Sales of capital assets or sales of surplus equipment;

1.15.10. Reimbursement by programmers of marketing costs incurred by Franchisee for the introduction of new programming pursuant to a written marketing agreement;

1.15.11. Directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement and electronic publishing. Nothing in this Subsection 1.15.11 shall have the effect of excluding from Gross Revenue any revenues derived from Cable Service over the Cable System;

1.15.12. Any fees or charges collected from Subscribers or other third parties for PEG Grants.

1.16. *Information Services*: Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(20).

1.17. *Initial Service Area*: The portion of the Franchise Area as outlined in Exhibit A.

1.18. *Internet Access*: A service that enables Subscribers to access the Internet.

1.19. *Non-Cable Services*: Any services that are not Cable Services.

1.20. *Normal Operating Conditions*: Those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages beyond the control of Franchisee or an Affiliate, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or rebuild of the Cable System. *See* 47 C.F.R. § 76.309(c)(4)(ii).

1.21. *Person*: An individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

1.22. *Public Rights-of-Way*: The surface of and space above and below any real property in the City in which the city has a regulatory interest, or interest as a trustee for the public, as they now or hereafter exist, including, but not limited to, all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the City, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for public utility purposes; provided, however, this shall not include public parks for which a separate authorization and agreement to utilize any part of same shall be required from the City. Public Rights-of-Way do not include the airwaves above a right-of-way with regard to cellular or other nonwire communications or broadcast services.

1.23. *Service Area*: All portions of the Franchise Area where Cable Service is being offered, including the Initial Service Area, and any Additional Service areas.

1.24. *Service Date*: The date that the Franchisee first provides Cable Service on a commercial basis directly to multiple Subscribers in the Franchise Area. The Franchisee shall memorialize the Service Date by notifying the City in writing of the same, which notification shall become a part of this Franchise.

1.25. *Service Interruption:* The loss of picture or sound on one or more cable channels.

1.26. *Subscriber*: A Person who lawfully receives Cable Service over the Cable System with Franchisee's express permission.

1.27. *Telecommunications Facilities*: Franchisee's existing Telecommunications Services and Information Services facilities and its FTTP Network facilities.

1.28. *Telecommunication Services:* Shall be defined herein as it is defined under Section 3 of the Communications Act, 47 U.S.C. § 153(46).

1.29. *Title II*: Title II of the Communications Act.

1.30. *Title VI*: Title VI of the Communications Act.

1.31. *Video Programming:* Shall be defined herein as it is defined under Section 602 of the Communications Act, 47 U.S.C. § 522(20), as may be amended from time to time.

2. GRANT OF AUTHORITY; LIMITS AND RESERVATIONS

2.1. *Grant of Authority*: Subject to the terms and conditions of this Agreement and the Communications Act, the City hereby grants the Franchisee the right to own, construct, operate and maintain a Cable System along the Public Rights-of-Way within the Franchise Area, in order to provide Cable Service. This Franchise is for the provision of Cable Services only. No privilege or power of eminent domain is bestowed by this grant; nor is such a privilege or power bestowed by this Agreement.

2.2. *City's Regulatory Authority Over Telecommunications Facilities*: The parties recognize that Franchisee's FTTP Network is being constructed and will be operated and maintained as an upgrade to and/or extension of its existing Telecommunications Facilities for the provision of Non-Cable Services. The jurisdiction of the City over Franchisee's Telecommunications Facilities is restricted by federal and state law, and the City will not assert jurisdiction over Franchisee's FTTP Network in contravention of those laws. This Agreement shall not be construed to limit the regulatory authority, if any, the City has under federal and state law with respect to the FTTP Network facilities as Telecommunications Facilities. Nothing in this Section 2.2 is intended to expand or contract any rights the City may have to regulate Non-Cable Services. Both the City and the Franchisee reserve all rights with respect to the issue of the provision of Non-Cable Services.

2.3. *Term:* This Franchise shall become effective on _____, 20__ (the "Effective Date"). The term of this Franchise shall be ten (10) years from the Effective Date unless the Franchise is earlier revoked as provided herein.

2.4. *Grant Not Exclusive:* The Franchise and the rights granted herein to use and occupy the Public Rights-of-Way to provide Cable Services shall not be exclusive, and City reserves the right to grant other franchises for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use themselves, at any time during the term of this Franchise. Any such rights which are granted shall not adversely impact the authority as granted under this Franchise.

2.5. *Franchise Subject to Federal Law:* Notwithstanding any provision to the contrary herein, this Franchise is subject to and shall be governed by all applicable provisions of federal law as it may be amended, including but not limited to the Communications Act.

2.6. No Waiver:

2.6.1. The failure of City on one or more occasions to exercise a right or to require compliance or performance under this Franchise, the Communications Act or any other applicable State or Federal law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the City nor to excuse Franchisee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

2.6.2. The failure of the Franchisee on one or more occasions to exercise a right under this Franchise or applicable law, or to require performance under this Franchise, shall not be deemed to constitute a waiver of such right or of performance of this Agreement, nor shall it excuse City from performance, unless such right or performance has been specifically waived in writing.

2.7. Construction of Agreement:

2.7.1. The provisions of this Franchise shall be liberally construed to effectuate their objectives

2.7.2. Nothing herein shall be construed to limit the scope or applicability of Section 625 Communications Act, 47 U.S.C. § 545.

2.8. *Police Powers*: Nothing in the Franchise shall be construed to prohibit the lawful exercise of the City's police powers. However, if the lawful exercise of the City's police power results in any material alteration of the terms and conditions of this Franchise, then the parties shall modify this Franchise to the mutual satisfaction of both parties to ameliorate the negative effects on the Franchisee of the material alteration. Any modifications shall be in writing. If the parties cannot reach agreement on the above-referenced modification to the Franchise, then the Franchisee may terminate this Agreement without further obligation to the City or, upon mutual consent of the parties, the parties shall submit the matter to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association.

3. **PROVISION OF CABLE SERVICE**

3.1. Service Area:

3.1.1. *Initial Service Area*: Franchisee shall offer Cable Service to significant numbers of Subscribers in residential areas of the Initial Service Area and may make Cable Service available to businesses in the Initial Service Area, within eighteen (18) months of the Effective Date of this Agreement, and shall offer Cable Service to all residential areas in the Initial Service Area within five (5) years of the Effective Date of this Agreement, except: (A) for periods of Force Majeure; (B) for periods of delay caused by the City; (C) for periods of delay resulting from Franchisee's inability to obtain authority to access rights-of-way in the Service Area; (D) actions or inactions of any government instrumentality or public utility including condemnation; (E) in areas where developments or buildings are subject to claimed exclusive arrangements with other providers; (F) in areas, developments or buildings where Franchisee cannot access under reasonable terms and conditions after good faith negotiation, as determined by Franchisee; (G) in developments or buildings that Franchisee is unable to

provide Cable Service for technical reasons or which require non-standard facilities which are not available on a commercially reasonable basis; (H) work delays caused by waiting for utility providers to service or monitor utility poles to which Franchisee's FTTP Network is attached, or caused by unavailability of materials and/or qualified labor to perform the work necessary; and (I) in areas where the occupied residential household density does not meet the density requirements set forth in sub-section 3.1.2.

3.1.2. *Density Requirement:* Franchisee shall make Cable Services available to residential dwelling units in all areas of the Service Area where the average density is equal to or greater than 30 occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the active FTTP Network trunk or feeder line. Should, through new construction, an area within the Initial Service Area meet the density requirements after the time stated for providing Cable Service as set forth in subsection 3.1.1, Franchisee shall provide Cable Service to such area within twelve (12) months of receiving notice from the City that the density requirements have been met.

3.1.3. *Additional Service Areas*: Except for the Initial Service Area Franchisee shall not be required to extend its Cable System or to provide Cable Services to any other areas within the Franchise Area during the term of this Franchise or any Renewals thereof. If Franchisee desires to add Additional Service Areas within the Franchise Area, Franchisee shall notify the City in writing of such Additional Service Area at least ten (10) days prior to providing Cable Services in such areas.

3.1.4. *Annexation:* To the extent that the City annexes any areas of unincorporated King County served by the Kirkland and Juanita wire centers, as shown in Exhibit A, such annexed areas shall be subject to Section 3.1.1 above. Any other annexed areas shall be subject to Section 3.1.3 above. The City shall give Franchisee at least 30 days notice of the effective date of any annexation.

3.2. *Availability of Cable Service*: Franchisee shall make Cable Service available to all residential dwelling units and may make Cable Service available to businesses within the Service Area in conformance with Section 3.1 and Franchisee shall not discriminate between or among any individuals in the availability of Cable Service. In the areas in which Franchisee shall provide Cable Service, Franchisee shall be required to connect, at Franchisee's expense, other than a standard installation charge, all residential dwelling units that are within one hundred twenty five (125) feet of trunk or feeder lines not otherwise already served by Franchisee's FTTP Network. Franchisee shall be allowed to recover, from a Subscriber that requests such connection, actual costs incurred for residential dwelling unit connections that exceed one hundred twenty five (125) feet and actual costs incurred to connect any non-residential dwelling unit Subscriber.

3.3. *Cable Service to Municipal Buildings*:

3.3.1. Subject to Section 3.1, upon request by the City Grantee shall provide the following, without charge, to those buildings set forth in Exhibit B; provided, however, that if it is necessary to extend Franchisee's trunk or feeder lines more than three hundred (300) feet solely to provide service to any such building, the City shall have the option

of paying Franchisee's direct costs for such extension in excess of three hundred (300) feet, or of releasing or postponing Franchisee's obligation to provide service to such building:

3.3.1.1. One service drop to each building;

3.3.1.2. One Subscriber digital converter activated for the lowest service tier which includes the retransmission of local television broadcast signals and the PEG Channels required by this Franchise (except as otherwise agreed by the parties in writing); and

3.3.1.3. One service outlet activated for the lowest service tier which includes the retransmission of local television broadcast signals and the PEG Channels required by this Franchise (except as otherwise agreed by the parties in writing).

3.3.2. The Franchisee shall be permitted to recover, from any building owner entitled to free service under this Section 3.3, the direct cost of installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than three hundred (300) feet of drop cable; provided however that Franchisee shall not charge for the provision of the lowest service tier which includes the retransmission of local television broadcast signals and the PEG Channels required by this Franchise to the additional outlets once installed.

3.3.3. The cost of inside wiring, additional drops or outlets and additional converters requested by the City within these specified facilities are the responsibility of the City. The City shall be responsible for the cost of any "terminal equipment," including TV monitors, VCRs, and/or computers.

3.3.4. Cable Service may not be resold or otherwise used in contravention of Franchisee's rights with third parties respecting programming. Equipment provided by Franchisee shall be replaced at retail rates if lost, stolen or damaged.

4. **SYSTEM FACILITIES**

4.1. *System Characteristics:* Franchisee's Cable System shall be designed to be an active two-way plant for subscriber interaction, if any, required for selection or use of Cable Service.

4.2. *Technical Requirement:* The Cable System shall meet or exceed any and all applicable technical performance standards of the FCC, the National Electrical Safety Code, and the National Electric Code.

4.3. *Subscriber Network:* Franchisee shall comply with the closed captioning requirements of the FCC.

4.4. *Interconnection:* The Franchisee shall design its Cable System so that it may be interconnected with other cable systems contiguous to or in the Franchise Area. Interconnection of systems may be made by direct cable connection, microwave link, satellite, or other appropriate methods.

4.5. *Emergency Alert System*: Franchisee shall comply with the Emergency Alert System ("EAS") requirements of the FCC in order that emergency messages may be distributed over the System.

4.6. *Cable System Performance Testing:*

4.6.1. Franchisee shall perform all tests required by the FCC on its Cable System. Upon written request, all FCC required tests may be witnessed by an employee of the City.

4.6.2. Franchisee shall maintain written records of all Cable System test results performed by or for Franchisee. Copies of such test results will be available as part of its public file available for inspection as provided by applicable rules and regulations.

4.6.3. Franchisee shall promptly take such corrective measures as are necessary to correct fully any performance deficiencies and to prevent their recurrence as far as possible.

4.7. Additional Tests: Franchisee shall conduct special proof of performance tests of the Cable System or a segment thereof when Subscriber complaints received by the City indicate tests are warranted. Upon request from the City, the results of any such testing shall be provided to the City within a reasonable time.

5. **PEG SERVICES**

5.1. PEG Access Channels:

5.1.1. All PEG Access Channels provided for herein shall be administered by the City or its designee. The City or its designee shall establish rules and regulations for use of PEG facilities consistent with, and as required by, 47 U.S.C. §531.

5.1.2. In order to ensure universal availability of public, educational and government programming, Franchisee shall provide on the Basic Service tier two (2) Government Access Channels and one (1) Educational Access Channel, and shall reserve three (3) additional dedicated Access Channels for City's future use ("Reserve Access Channels"). On the Educational Access Channel, Franchisee shall transmit within the Service Area, at the request of the City, the Video Programming which originates on the campus of Bellevue Community College, 3000 Landerholm Circle SE, Bellevue, WA to the extent Franchisee has the legal and technical ability to access and obtain that Video Programming signal in a commercially reasonable manner. If Franchisee is not so able to access and obtain that Video Programming signal from the Video Programming origination location, the City will make arrangements to provide the signal to Franchisee at the PEG Origination Site in accordance with the conditions set forth in Subsection 5.2.1.

5.1.3. The City hereby authorizes Franchisee to transmit PEG programming within and without the City's jurisdictional boundaries. Franchisee specifically reserves its right to make or change channel assignments in its sole discretion. In the event Franchisee changes any PEG Channel assignment, Franchisee shall use best efforts to provide

ninety (90) days and at least forty-five (45) days advance written notice to the City prior to any such re-assignment. In connection with the movement of any of the City's Government Access Channels to other Channel numbers, Franchisee shall provide notice as provided in Sections 10.H and 10.I of Exhibit C. If a PEG Channel provided under this Article is not being utilized by the City, Franchisee may utilize such PEG Channel, in its sole discretion, until such time as the City elects to utilize the PEG Channel for its intended purpose. Franchisee shall neither have nor attempt to exercise any editorial control over the Access Channel programming.

5.1.4. Reserved PEG Access Channels: The City may activate the Reserve Access Channel(s) subject to the following conditions:

5.1.4.1. The City must provide Franchisee written documentation of its need to activate the reserved capacity that cannot be fulfilled by the existing PEG Access Channel(s). Such need may be demonstrated by the use of the existing PEG Access Channel(s) for original programming (excluding character generated and filler programming, e.g., AM/FM radio programming) during fifty percent (50%) of the hours between 10:00 am and 10:00 pm, five days per week, during any consecutive eight (8) week period. The programming on the new channel shall be distinct and non-repetitive of the existing PEG Channels;

5.1.4.2. The City shall require other cable providers to provide similar additional Access Channel(s) (except to the extent the City cannot legally require such additional Access Channel(s) from those cable providers which, as of the Effective Date of this Agreement, are subject to a franchise agreement with King County which does not require such Channel(s)); and

5.1.4.3. In the event the origination point of the Reserve Access Channel(s) is the PEG Origination Site as defined below, Franchisee will provide the Reserve Access Channel within one hundred eighty (180) days following the City's written request and verification of compliance with each of the foregoing conditions and those specified in Section 5.2. If the origination point is not the PEG Origination Site, the timing of the availability and other conditions will be by mutual agreement of the parties. Unless the parties agree otherwise, the origination point shall not be located outside of the Service Area.

5.1.5. The City shall require all local producers and users of any of the PEG facilities or Channels to agree in writing to authorize Franchisee to transmit programming consistent with this Agreement and to defend and hold harmless Franchisee and the City from and against any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations or other requirements of local, state or federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by the producer or user; and for any other injury or damage in law or equity, which result from the use of a PEG facility or Channel.

5.2. PEG Connections:

5.2.1. The City shall provide and ensure suitable video signals for the Government Access Channels to Franchisee at Kirkland City Hall, 123 5th Avenue, Kirkland, Washington 98033 (the "PEG Origination Site"). The Franchisee's obligations under this Subsection 5.2.1, including its obligation to provide upstream equipment and facilities necessary to transmit signals, shall be subject to the provision by the City, without charge to the Franchisee, of: (1) access to the PEG Origination Site facility; (2) access to any required PEG equipment within the PEG Origination Site facility and suitable required space, environmental conditions, electrical power supply, access, and pathways within the PEG Origination Site facility; (3) video signals in NTCS format, with any future format to be a mutually agreed upon format suitable for PEG Access Channel programming ; (4) any third-party consent that may be necessary to transmit PEG signals (including, without limitation, any consent that may be required with respect to third-party facilities, including the facilities of the incumbent cable provider, used to transmit PEG content to the PEG Origination Site from auxiliary locations); and (5) any other cooperation by the City and access to facilities as are reasonably necessary for the Franchisee to fulfill the obligations stated herein. To the extent a suitable video signal is provided to Franchisee and the foregoing conditions are met, Franchisee shall, within one hundred twenty (120) days of the Service Date or provision of a suitable video signal, whichever is later, provide, install, and maintain in good working order the equipment necessary for transmitting the PEG signal to Subscribers. Franchisee shall attempt in good faith to install such equipment earlier, if commercially reasonable. The transmission of PEG Channels shall be simulcast in a manner in which the signals originally provided to Franchisee experience no greater degradation during such transmission than do any other signals on the Basic Service tier broadcast by the Franchisee to Subscribers.

5.2.2. The City shall have the right to relocate the PEG Origination Site one time during the term of this Franchise as follows: The new location shall be located within one hundred twenty-five (125) feet of one of Franchisee's active, video-enabled FTTP trunk or feeder lines in the Service Area; Franchisee's obligation shall be subject to the same conditions that apply to the PEG Origination Site in Section 5.2.1; the City shall provide access to such space at least ninety (90) days prior to anticipated use of the new PEG Origination Site; and the City shall reimburse fifty percent of Franchisee's costs associated with the relocation of equipment necessary for transmitting the PEG signal, not to exceed Ten Thousand Dollars ($10,000).

5.3. PEG Grant:

5.3.1. Franchisee shall provide an annual grant to the City to be used in support of the production of local PEG programming (the "PEG Grant"). Such grant shall be used by the City for capital costs for PEG access equipment, including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment, or for renovation or construction of PEG access facilities.

5.3.2. The PEG Grant provided by Franchisee hereunder shall be the sum of twenty-five cents ($0.25), per month, per Subscriber in the Franchise Area to Franchisee's Basic Service tier. Payment of the PEG Grant shall be contingent upon the City imposing a PEG Grant requirement of at least twenty-five cents ($0.25) per subscriber, per month on all Cable Operators in the Service Area (except to the extent the City cannot legally

require such PEG Grant from those Cable Operators which, as of the Effective Date of this Agreement, are subject to a franchise agreement with King County which does not require a PEG Grant of at least twenty-five cents ($0.25) per subscriber, per month). The per subscriber, per month amount of the PEG Grant can be modified as determined by the City Council no more than once each year, shall be no greater than $1.00, per Subscriber, per month, and shall be the same amount required of all other Cable Operators in the Service Area (except to the extent the City cannot legally require such PEG Grant from those Cable Operators which, as of the Effective Date of this Agreement, are subject to a franchise agreement with King County which does not require a PEG Grant of at least twenty-five cents ($0.25) per subscriber, per month). The City shall provide Franchisee with at least sixty (60) days written notice of any change in the amount of the PEG Grant pursuant to this subsection. Franchisee shall deliver the PEG Grant payment, along with a brief summary of the Subscriber information upon which it is based, to the City concurrent with the Franchise fee payment. Calculation of the PEG Grant will commence with the first calendar quarter during which Franchisee obtains its first Subscriber in the Service Area. The City shall give Franchisee sixty (60) days prior written notice if it ceases to require financial support from any new or existing providers within the Franchise Area.

5.3.3. Upon request by Franchisee, the City shall provide Franchisee a summary report concerning the actual use of funds granted pursuant to this Section.

5.3.4. To the extent permitted by federal law, the Franchisee shall be allowed to recover the costs of the PEG Grant and any other costs arising from the provision of PEG services from Subscribers and to include such costs as a separately billed line item on each Subscriber's bill. Without limiting the forgoing, if allowed under state and federal laws, Franchisee may externalize, line-item, or otherwise pass-through these costs to Subscribers.

6. **FRANCHISE FEES**

6.1. *Payment to City:* Franchisee shall pay to the City a Franchise fee of five percent (5%) of annual Gross Revenue. In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise fee shall be a calendar year. Such payments shall be made no later than forty-five (45) days following the end of each calendar quarter. Payments shall be due and payable in May (for the first quarter), August (for the second quarter), November (for the third quarter), and February (for the fourth quarter). Franchisee shall be allowed to submit or correct any payments that were incorrectly omitted, and shall be refunded any payments that were incorrectly submitted, in connection with the quarterly Franchise fee remittances within 90 days following the close of the calendar year for which such payments were applicable.

6.2. *Acceptance of Payment:* No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

6.3. *Late Payments:* In the event any payment due the City is not timely made, Franchisee shall pay, in addition to the amount due, interest at the maximum allowed rate for judgments as provided under Washington law until the date the City receives the payment.

6.4. *Underpayments*: If franchise fee underpayments are discovered as a result of an audit, Grantee shall pay, in addition to the amount due, interest at the maximum allowed rate for judgments as provided under Washington law, calculated from the date the underpayment was originally due until the date the City receives the payment.

6.5. *Supporting Information:* Each franchise fee payment shall be accompanied by a brief report that provides line items of revenue sources and is verified by a financial manager of Franchisee showing the basis for the computation.

6.6. *Limitation on Fee Actions*: The parties agree that the period of limitation for recovery of any fee payable hereunder shall be four (4) years from the date on which payment by Franchisee is due.

6.7. *No Limitation on Taxing Authority*: Nothing in this Franchise shall be construed to limit any authority of the City to impose any tax, fee, or assessment of general applicability. Nothing in this Franchise is intended to preclude Franchisee from exercising any right it may have to challenge the lawfulness of any tax, fee, or assessment imposed by the City or any state or federal agency or authority, or intended to waive any rights the Franchisee may have under 47 U.S.C. § 542.

6.8. *Bundled Services*: Bundled Services: In the event that Grantee offers Cable Services and Non-Cable Services to its Subscribers in the City, and those services are included in one monthly bill to each Subscriber, then Grantee shall clearly itemize each of the respective services on the bill. The rates for cable service shall accurately reflect the rate card rates less discounts, if any exist.

7. **CUSTOMER SERVICE**

7.1. Customer Service Requirements are set forth in Exhibit C, which shall be binding unless amended by written consent of the parties. Exhibit C is hereby incorporated into and subject to this Agreement.

8. **REPORTS AND RECORDS**

8.1. *Open Books and Records*: Upon reasonable written notice to the Franchisee and with no less than thirty (30) business days written notice to the Franchisee, the City shall have the right to inspect Franchisee's books and records pertaining to Franchisee's provision of Cable Service in the Franchise Area at any time during normal business hours and on a nondisruptive basis, as are reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the section or subsection of the Franchise which is under review, so that Franchisee may organize the necessary books and records for appropriate access by the City. Franchisee shall not be required to maintain any books and records for Franchise compliance purposes longer than four (4) years. Notwithstanding anything to the contrary set forth herein, Franchisee shall not be required to

disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose any of its or an Affiliate's books and records not relating to the provision of Cable Service in the Service Area. To the extent permitted under State law, the City shall treat any information disclosed by Franchisee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. If the City receives a request from any Person for disclosure of any confidential information, the City shall, so far as consistent with applicable law, advise Franchisee and provide a copy of such request to Franchisee within six (6) business days of its receipt so that Franchisee has an opportunity to seek an appropriate protective order prior to disclosure. Franchisee may disclose Subscriber information to the extent consistent with Section 631 of the Communications Act, 47 U.S.C. § 551.

8.2. *Records Required*: Franchisee shall at all times maintain:

8.2.1. Records of all written complaints for a period of four (4) years after receipt by Franchisee. The term "complaint" as used herein refers to complaints about any aspect of the Cable System or Franchisee's cable operations, including, without limitation, complaints about employee courtesy. Complaints recorded will not be limited to complaints requiring an employee service call;

8.2.2. Records of outages for a period of four (4) years after occurrence, indicating date, duration, area, and the number of Subscribers affected, type of outage, and cause;

8.2.3. Records of service calls for repair and maintenance for a period of four (4) years after resolution by Franchisee, indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was resolved;

8.2.4. Records of installation/reconnection and requests for service extension for a period of four (4) years after the request was fulfilled by Franchisee, indicating the date of request, date of acknowledgment, and the date and time service was extended.

9. **INSURANCE AND INDEMNIFICATION**

9.1. *Insurance*:

9.1.1. Franchisee shall maintain in full force and effect, at its own cost and expense, during the Franchise Term, the following insurance coverage:

9.1.1.1. Commercial General Liability Insurance in the amount of two million dollars ($2,000,000) combined single limit for property damage and bodily injury. Such insurance shall cover the construction, operation and maintenance of the Cable System, and the conduct of Franchisee's Cable Service business in the City.

9.1.1.2. Automobile Liability Insurance in the amount of two million dollars ($2,000,000) combined single limit for bodily injury and property damage coverage.

9.1.1.3. Workers' Compensation Insurance meeting all legal requirements of the State of Washington.

9.1.1.4. Employers' Liability Insurance in the following amounts: (A) Bodily Injury by Accident: $100,000; and (B) Bodily Injury by Disease: $100,000 employee limit; $500,000 policy limit.

9.1.2. The City shall be designated as an additional insured under each of the insurance policies required in this Article 10 except Worker's Compensation and Employer's Liability Insurance.

9.1.3. Franchisee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Agreement.

9.1.4. Each of the required insurance policies shall be with sureties qualified to do business in the State of Washington, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition.

9.1.5. Upon written request, Franchisee shall deliver to City Certificates of Insurance showing evidence of the required coverage.

9.2. Indemnification:

9.2.1. Franchisee agrees to indemnify, save and hold harmless, and defend the City, its officers, agents, boards and employees, from and against any liability for damages or claims resulting from tangible property damage or bodily injury (including accidental death), to the extent proximately caused by Franchisee's negligent construction, operation, or maintenance of its Cable System, provided that the City shall give Franchisee written notice of its obligation to indemnify the City within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, Franchisee shall not indemnify the City, for any damages, liability or claims resulting from the willful misconduct or negligence of the City, its officers, agents, employees, attorneys, consultants, independent contractors or third parties or for any activity or function conducted by any Person other than Franchisee in connection with PEG Access, or EAS, or the distribution of any Cable Service over the Cable System.

9.2.2. With respect to Franchisee's indemnity obligations set forth in Subsection 10.2.1, Franchisee shall provide the defense of any claims brought against the City by selecting counsel of Franchisee's choice to defend the claim, subject to the consent of the City, which shall not unreasonably be withheld. Nothing herein shall be deemed to prevent the City from cooperating with the Franchisee and participating in the defense of any litigation by its own counsel at its own cost and expense, provided however, that after consultation with the City, Franchisee shall have the right to defend, settle or compromise any claim or action arising hereunder, and Franchisee shall have the authority to decide the appropriateness and the amount

of any such settlement. In the event that the terms of any such proposed settlement includes the release of the City and the City does not consent to the terms of any such settlement or compromise, Franchisee shall not settle the claim or action but its obligation to indemnify the City shall in no event exceed the amount of such settlement.

9.2.3. The City shall hold harmless and defend Franchisee from and against and shall be responsible for damages, liability or claims resulting from or arising out of the willful misconduct or negligence of the City.

9.2.4. The City shall be responsible for its own acts of willful misconduct or negligence, or breach of obligation committed by the City for which the City is legally responsible, subject to any and all defenses and limitations of liability provided by law. The Franchisee shall not be required to indemnify the City for acts of the City which constitute willful misconduct or negligence, on the part of the City, its officers, employees, agents, attorneys, consultants, independent contractors or third parties.

10. **TRANSFER OF FRANCHISE**

10.1. Subject to Section 617 of the Communications Act, 47 U.S.C. § 537, no "Transfer of the Franchise" shall occur without the prior consent of the City, provided that such consent shall not be unreasonably withheld, delayed or conditioned. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Franchisee in the Franchise or Cable System in order to secure indebtedness, provided that any such pledge of assets which results in Franchisee's inability to satisfy its obligations under this Franchise shall constitute a violation of this Franchise.

10.2. A "Transfer of the Franchise" shall mean any transaction in which:

10.2.1. an ownership or other interest in Franchisee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that Control of Franchisee is transferred; or

10.2.2. the rights held by Franchisee under the Franchise are transferred or assigned to another Person or group of Persons.

Notwithstanding Subsections 10.2.1 and 10.2.2, a Transfer of the Franchise shall not include (a) transfer of an ownership or other interest in Franchisee to the parent of Franchisee or to another Affiliate of Franchisee; (b) transfer of an interest in the Franchise or the rights held by Franchisee under the Franchise to the parent of Franchisee or to another Affiliate of Franchisee; (c) any action which is the result of a merger of the parent of Franchisee; or (d) any action which is the result of a merger of another Affiliate of Franchisee. Franchisee shall provide written notice to the City prior to a transfer of any interest described in (a) or (b) of this paragraph. Also with respect to transfers to Affiliates described in (a) or (b) of this paragraph, Franchisee shall guaranty the performance of this Agreement by such Affiliate; provided, however, that Franchisee may request the City to release said guaranty and the City shall act upon such request as promptly as reasonably possible. In considering such request, the City shall make its decision as to whether or not to release said guaranty by and upon evaluating the financial qualifications

of the assignee or transferee. Franchisee shall provide the City with such information as may be reasonably required for the City to make such evaluation. Subject to Franchisee's compliance with such obligation, the City shall conduct such evaluation and reach its decision as promptly as practicable and shall not unreasonably withhold, delay or deny its consent to the release of said guaranty. Upon making its decision, the City shall promptly deliver to Franchisee written notice thereof. If the City shall agree to release said guaranty, it shall promptly deliver to Franchisee a written document evidencing such release of said guaranty.

10.3. Franchisee shall make a written request ("Request") to the City for approval of any Transfer of the Franchise and furnish all information required by law and/or reasonably required by the City in respect to its consideration of a proposed Transfer of the Franchise. In reviewing a Request related to a Transfer of the Franchise, the City may inquire into any matter reasonably related to the ability and willingness of the prospective transferee to perform, including the legal, technical and financial qualifications of the prospective transferee. Franchisee shall assist the City in so inquiring.

10.4. The City shall render a final written decision on the Request within one hundred twenty (120) days of the Request, provided it has received all information which the City may lawfully require, such as a complete FCC Form 394. Subject to the foregoing, if the City fails to render a written decision on the Request within one hundred twenty (120) days, the Request shall be deemed granted unless Franchisee and the City agree to an extension of time. The City may condition said Transfer of the Franchise upon such terms and conditions as it deems reasonably appropriate, provided, however, any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective transferee or to the resolution of outstanding and unresolved issues of Franchisee's noncompliance with the terms and conditions of this Agreement.

10.5. Franchisee shall ensure that any transferee or assignee shall, prior to consummation of any transaction resulting in a transfer or assignment of this Franchise, agree in writing to be bound by the terms of this Franchise and to assume the obligations and liabilities to the City of its predecessor under this Franchise.

10.6. The consent or approval of the City to any Request by the Franchisee shall not constitute a waiver or release of any rights of the City.

11. **RENEWAL OF FRANCHISE**

11.1. The City and Franchisee agree that any proceedings undertaken by the City that relate to the renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Communications Act, 47 U.S.C. § 546.

11.2. Notwithstanding anything to the contrary set forth herein, Franchisee and the City agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the City and Franchisee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the City may grant a renewal thereof.

11.3. Franchisee and the City consider the terms set forth in this Article 11 to be consistent with the express provisions of 47 U.S.C. 546.

12. **ENFORCEMENT AND TERMINATION OF FRANCHISE**

12.1. *Notice of Violation*: If at any time the City believes that Franchisee has not complied with the terms of the Franchise, the City shall notify Franchisee in writing of the exact nature of the alleged noncompliance in a reasonable time (for purposes of this Article, the "Noncompliance Notice").

12.2. *Franchisee's Right to Cure or Respond:* Franchisee shall have thirty (30) days from receipt of the Noncompliance Notice to: (i) respond to the City, if Franchisee contests (in whole or in part) the assertion of noncompliance; (ii) cure such noncompliance; or (iii) in the event that, by its nature, such noncompliance cannot be cured within such thirty (30) day period, initiate reasonable steps to remedy such noncompliance and notify the City of the steps being taken and the date by which cure is projected to be completed. Upon cure of any noncompliance, City shall provide written confirmation that such cure has been effected, provided that, it shall be the Franchisee's burden to demonstrate, that the noncompliance has been cured.

12.3. *Enforcement:* Subject to applicable federal and state law, in the event the City, determines that Franchisee is in default of any provision of this Franchise, the City may:

12.3.1. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

12.3.2. Seek liquidated damages pursuant to Section 12.4 below; or

12.3.3. Commence an action at law for monetary damages or seek other equitable relief; or

12.3.4. In the case of a substantial material default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 12.6

12.4. *Liquidated Damages:* In the event that the City finds that a violation continues to exist and that Franchisee has not corrected the same in a satisfactory manner or has not diligently pursued correction of such violation, Franchisee agrees that the City may recover liquidated damages from Franchisee in the amounts set forth below following the notice and opportunity to cure provisions set forth in Section 12.2 above. The City shall provide Franchisee with written notice that it intends to elect the liquidated damage remedies set forth herein. If City elects to recover liquidated damages, City agrees that such recovery shall be its exclusive remedy for the time period in which liquidated damages are assessed; provided, however, once City has ceased to assess its liquidated damages remedy as set forth in Section 12.4.1, it may pursue other available remedies.

12.4.1. The following liquidated damages shall apply:

- For failure to maintain the FCC technical standards as set forth in Section 4 – $100 per day for each day the violation continues;
- For failure to provide PEG Services to the community specified in Section 5 – $100 per day for each day the violation continues;
- For failure to provide City with any reports or records required by the Agreement within the time period required – $50 per day for each day the violation continues;
- For failure to meet customer service requirements in Sections 2, 3 and 4 of the Customer Service Standards set forth in Exhibit C – $100 per day for each day the violation continues; and
- For any other material breach not previously listed - $100 per day for each day the violation continues.

The total amount of all liquidated damages per annum shall not exceed twenty-five thousand dollars ($25,000) in the aggregate. All similar violations or failures arising from the same factual events affecting multiple subscribers shall be assessed as a single violation, and a violation or a failure may only be assessed under any one of the above-referenced categories. The City's right to collect liquidated damages shall not commence until the Franchisee has failed to cure as provided in Section 12.2.

12.5. *Public Hearing:* If Franchisee disputes the assessment of any liquidated damages hereunder, Franchisee may request and City agrees to schedule a public hearing with regard to such dispute. The City shall provide Franchisee at least thirty (30) business days prior written notice of such public hearing, which will specify the time, place and purpose of such public hearing, and provide Franchisee the opportunity to be heard.

12.6.*Revocation*: Should the City seek to revoke this Franchise after following the procedures set forth above in this Article, the City shall give written notice to Franchisee of such intent. The notice shall set forth the specific nature of the noncompliance. The Franchisee shall have sixty (60) days from receipt of such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from Franchisee, it may then seek termination of the Franchise at a public hearing. The City shall cause to be served upon the Franchisee, at least thirty (30) business days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

12.6.1. At the designated hearing, Franchisee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the City, to compel the testimony of other persons as permitted by law, and to question and/or cross examine witnesses. A complete verbatim record and transcript shall be made of such hearing.

12.6.2. Following the public hearing, Franchisee shall be provided up to thirty (30) days to submit its proposed findings and conclusions in writing and thereafter the City shall determine (i) whether an event of default has occurred; (ii) whether such event of default is excusable; and (iii) whether such event of default has been cured or will be cured by the Franchisee. The City shall also determine whether to revoke the Franchise based on the information presented, or, where applicable, grant additional time to the Franchisee to affect any cure. If the City determines that the Franchise shall be revoked, the City shall promptly provide Franchisee with a written decision setting forth its reasoning. Franchisee may appeal such determination of the City to an appropriate court. Franchisee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within thirty (30) days of Franchisee's receipt of the determination of the franchising authority.

12.6.3. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise.

12.7. *Letter of Credit*: If there is an uncured breach by Franchisee of a material provision of this Franchise or a pattern of repeated violations of any provision(s) of this Franchise, then Franchisee shall, upon written request, establish and provide to the City, as security for the faithful performance by Franchisee of all of the provisions of this Franchise, a letter of credit in the amount of twenty-five thousand dollars ($25,000).

12.7.1. If a letter of credit is furnished pursuant to subsection 12.7, the letter of credit shall then be maintained at that same amount throughout the remaining term of this Franchise.

12.7.2. After written notice has been provided to Franchisee and expiration of any applicable cure period, the letter of credit may be drawn upon by the City for purposes including, but not limited to, the following:

12.7.2.1. Failure of Franchisee to pay the City sums due under this Franchise;

12.7.2.2. Reimbursement of costs and expenses borne by the City to correct Franchise violations not corrected by Franchisee;

12.7.2.3. Monetary remedies or damages assessed against Franchisee as provided in this Franchise.

12.7.3. Within thirty (30) days following notice that a withdrawal has occurred, Franchisee shall restore the letter of credit to the full amount required by subsection 12.7. Franchisee's maintenance of the letter of credit shall not be construed to excuse unfaithful performance by Franchisee or limit the liability of Franchisee to the amount of the letter of credit or otherwise limit the City's recourse to any other remedy available at law or in equity.

12.7.4. Franchisee shall have the right to appeal to the City Council for reimbursement in the event Franchisee believes that the letter of credit was drawn upon improperly. Franchisee shall also have the right of judicial appeal if Franchisee believes the letter

of credit has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the letter of credit shall be returned to Franchisee with interest, from the date of withdrawal at the prevailing interest rate for local government borrowing as provided under State law.

12.8. *Franchisee Termination:* Franchisee shall have the right to terminate this Franchise and all obligations hereunder within ninety (90) days after the end of three (3) years from the Service Date of this Franchise, if at the end of such three (3) year period Franchisee does not then in good faith believe it has achieved a commercially reasonable level of Subscriber penetration on its Cable System. Franchisee may consider subscriber penetration levels outside the Franchise Area in this determination. Notice to terminate under this Section 13.6 shall be given to the City in writing, with such termination to take effect no sooner than one hundred and twenty (120) days after giving such notice. Franchisee shall also be required to give its then current Subscribers not less than ninety (90) days prior written notice of its intent to cease Cable Service operations.

13. **MISCELLANEOUS PROVISIONS**

13.1. *Actions of Parties*: In any action by the City or Franchisee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld, delayed or conditioned.

13.2. *Binding Acceptance*: This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns, and the promises and obligations herein shall survive the expiration date hereof.

13.3. *City Hearing:* The parties acknowledge that the City may hold a hearing at any time to review Subscriber satisfaction with Cable Services in the City.

13.4. *Preemption:* In the event that federal or state law, rules, or regulations preempt a provision or limit the enforceability of a provision of this Agreement, the provision shall be read to be preempted to the extent, and for the time, but only to the extent and for the time, required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City.

13.5. *Force Majeure*: Franchisee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by a Force Majeure.

13.5.1. Furthermore, the parties hereby agree that it is not the City's intention to subject Franchisee to penalties, fines, forfeitures or revocation of the Franchise for

violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on Subscribers, or where strict performance would result in practical difficulties and hardship being placed upon Franchisee which outweigh the benefit to be derived by the City and/or Subscribers.

13.6. *Notices:* Unless otherwise expressly stated herein, notices required under the Franchise shall be mailed first class, postage prepaid, to the addressees below. Each party may change its designee by providing written notice to the other party.

13.6.1. Notices to Franchisee shall be mailed to:

Verizon Northwest Inc.
Attn: Tim McCallion, President
112 Lakeview Canyon Road, CA501GA
Thousand Oaks, CA 91362

13.6.2. with a copy to:

Mr. Jack H. White
Senior Vice President & General Counsel - Verizon Telecom
One Verizon Way
Room VC43E010
Basking Ridge, NJ 07920-1097

13.6.3. Notices to the City shall be mailed to:

Janice Perry
Multimedia Communications Manager
City Hall
123 – 5th Avenue
Kirkland, WA 98033-6189

13.6.4. with a copy to:

Brenda Cooper
Chief Information Officer
IT Department
City Hall
123 5th Avenue
Kirkland, WA 98033-6189

13.7. *Entire Agreement*: This Franchise and the Exhibits hereto constitute the entire agreement between Franchisee and the City, and it supersedes all prior or contemporaneous agreements, representations or understanding (whether written or oral) of the parties regarding the subject matter hereof. Any ordinances or parts of ordinances that conflict with the provisions of this Agreement are superseded by this Agreement.

13.8. *Amendments:* Amendments to this Franchise shall be mutually agreed to in writing by the parties.

13.9. *Captions:* The captions and headings of articles and sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

13.10. *Severability*: If any section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

13.11. *Recitals:* The recitals set forth in this Agreement are incorporated into the body of this Agreement as if they had been originally set forth herein.

13.12. *Modification:* This Franchise shall not be modified except by written instrument executed by both parties.

13.13. *FTTP Network Transfer Prohibition:* Under no circumstance including, without limitation, upon expiration, revocation, termination, denial of renewal of the Franchise or any other action to forbid or disallow Franchisee from providing Cable Services, shall Franchisee or its assignees be required to sell any right, title, interest, use or control of any portion of Franchisee's FTTP Network including, without limitation, the Cable System and any capacity used for cable service or otherwise, to the City or any third party. Franchisee shall not be required to remove or to relocate the FTTP Network or any portion thereof as a result of revocation, expiration, termination, denial of renewal or any other action to forbid or disallow Franchisee from providing Cable Services. This provision is not intended to contravene leased access requirements under Title VI or PEG requirements set out in this Agreement.

13.14. *Independent Review*: The City and Franchisee each acknowledge that they have received independent legal advice in entering into this Agreement. In the event that a dispute arises over the meaning or application of any term(s) of this Agreement, such term(s) shall not be construed by the reference to any doctrine calling for ambiguities to be construed against the drafter of the Agreement.

SIGNATURE PAGE FOLLOWS

AGREED TO THIS _____ DAY OF _____, 2008.

CITY OF KIRKLAND

By: _____
David Ramsay, City Manager

Verizon Northwest Inc.

By: _____
Tim McCallion, President

EXHIBITS

Exhibit A: Service Area Map

Exhibit B: Municipal Buildings to be Provided Free Cable Service

Exhibit C: Customer Service Standards

EXHIBIT A
SERVICE AREA MAP

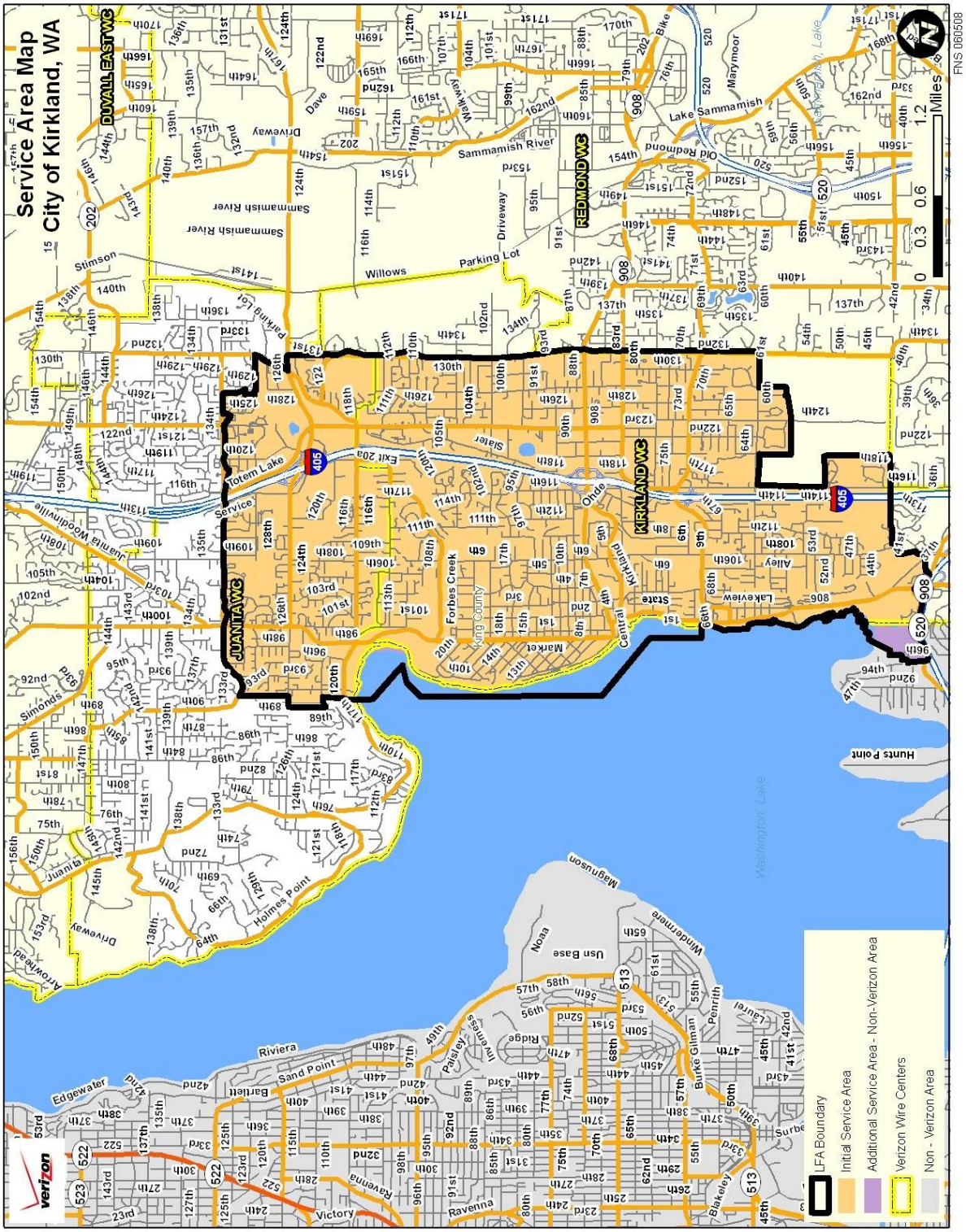


EXHIBIT B
MUNICIPAL BUILDINGS TO BE PROVIDED FREE CABLE SERVICE

City Hall
123 Fifth Avenue
Kirkland, WA 98033

City Hall Annex 2
505 Market Street
Kirkland, WA 98033

North Kirkland Community Center
12421 103rd Avenue NE
Kirkland, WA 98033

Peter Kirk Community Center
352 Kirkland Avenue
Kirkland, WA 98033

Maintenance Center
915 8th Street
Kirkland, WA 98033

Fire Station 21
9816 Forbes Creek Drive
Kirkland, WA 98033

Fire Station 22
6602 108th Avenue NE
Kirkland, WA 98033

Fire Station 24
8411 NE 141st Street
Kirkland, WA 98033

Fire Station 25
12033 76th Place NE
Kirkland, WA 98033

Fire Station 26
9930 124th Avenue NE
Kirkland, WA 98033

Fire Station 27
11210 NE 132nd
Kirkland, WA 98033

Kirkland Municipal Court
11515 NE 118th Street
Kirkland, WA 98033

Kirkland Library
308 Kirkland Avenue
Kirkland, WA 98033

EXHIBIT C
CUSTOMER SERVICE STANDARDS

These standards shall, starting six months after the Service Date, apply to the Franchisee to the extent it is providing Cable Services over the Cable System in the Franchise area.

SECTION 1: DEFINITIONS

A. Respond: Franchisee's investigation of a Service Interruption by receiving a Subscriber call and opening a trouble ticket, if required.

B. Service Call: The action taken by the Franchisee to correct a Service Interruption the effect of which is limited to an individual Subscriber.

C. Service Interruption: The loss of picture or sound on one or more cable channels.

D. Standard Installation: Installations where the subscriber is within one hundred twenty five (125) feet of trunk or feeder lines.

E. System Outage: A significant outage of the Cable Service shall mean any Service Interruption lasting at least four (4) continuous hours that affects at least ten percent (10%) of the Subscribers in the Service Area.

SECTION 2: TELEPHONE AVAILABILITY

A. The Franchisee shall maintain a toll-free number to receive all calls and inquiries from Subscribers in the Franchise Area and/or residents regarding Cable Service. Franchisee representatives trained and qualified to answer questions related to Cable Service in the Franchise Area must be available to receive reports of Service Interruptions twenty-four (24) hours a day, seven (7) days a week, and other inquiries at least forty-five (45) hours per week. Franchisee representatives shall identify themselves by name when answering this number.

B. Franchisee employees or agents who are capable of responding to Service Interruptions must be available twenty-four (24) hours a day, seven (7) days a week.

C. The Franchisee's telephone numbers shall be listed, with appropriate description (e.g. administration, customer service, billing, repair, etc.), in the directory published by the local telephone company or companies serving the Service Area, beginning with the next publication cycle after acceptance of this Franchise by the Franchisee.

D. Franchisee may use an Automated Response Unit ("ARU") or a Voice Response Unit ("VRU") to distribute calls. If a foreign language routing option is provided, and the Subscriber does not enter an option, the menu will default to the first tier menu of English options.

After the first tier menu (not including a foreign language rollout) has run through three times, if customers do not select any option, the ARU or VRU will forward the call to a queue for a live representative. The Franchisee may reasonably substitute this requirement with another method of handling calls from customers who do not have touch-tone telephones.

E. Under Normal Operating Conditions, calls received by the Franchisee shall be answered within thirty (30) seconds. The Franchisee shall meet this standard for ninety percent (90%) of the calls it receives at all call centers receiving calls from Subscribers, as measured on a cumulative quarterly calendar basis. Measurement of this standard shall include all calls received by the Franchisee at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting.

F. Under Normal Operating Conditions, callers to the Franchisee shall receive a busy signal no more than three (3%) percent of the time during any calendar quarter.

G. Upon request from the City, but in no event more than once a quarter thirty (30) days following the end of each quarter, the Franchisee shall report to the City the following for all call centers receiving calls from Subscribers except for temporary telephone numbers set up for national promotions:

(1) Percentage of calls answered within thirty (30) seconds as set forth in Subsection 2.D.

(2) Percentage of time customers received busy signal when calling the Verizon service center as set forth in Subsection 2.E.

Subject to consumer privacy requirements, underlying activity will be made available to the City for review upon reasonable request.

H. At the Franchisee's option, the measurements and reporting above may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change at least thirty (30) days in advance of any implementation.

SECTION 3: INSTALLATIONS AND SERVICE APPOINTMENTS

A. All installations will be in accordance with FCC rules, including but not limited to, appropriate grounding, connection of equipment to ensure reception of Cable Service, and the provision of required consumer information and literature to adequately inform the Subscriber in the utilization of the Franchisee-supplied equipment and Cable Service.

B. The Standard Installation shall be performed within seven (7) business days after an order is placed if the Optical Network Terminal ("ONT") is already installed on the customer's premises or within fourteen (14) business days after an order is placed if the ONT is not already installed on the customer's premises.

The Franchisee shall meet this standard for ninety-five percent (95%) of the Standard Installations it performs, as measured on a calendar quarter basis, excluding customer requests for connection later than seven (7) business days after an order is placed if the ONT is already installed on the customer's premises or fourteen (14) business days after an order is placed if the ONT is not already installed on the customer's premises.

C. If the Franchisee determines that a residential installation that is not a standard installation is required, the Franchisee shall provide the customer in advance with a cost estimate and an estimated date of completion.

D. All underground cable drops from the curb to the home shall be buried within a reasonable period of time from the initial installation, or at a time mutually agreed upon between the Franchisee and the Subscriber. In all instances, the Franchisee must comply with the State of Washington's "one call" requirements.

E. The Franchisee shall provide the City with a report upon request from the City, but in no event more than once a quarter thirty (30) days following the end of each quarter, noting the percentage of Standard Installations completed within the seven (7) day period, excluding those requested outside of the seven (7) day period by the Subscriber. Subject to consumer privacy requirements, underlying activity will be made available to the City for review upon reasonable request.

At the Franchisee's option, the measurements and reporting of above may be changed not more than one time during the Term of this Agreement from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change not less than thirty (30) days in advance.

F. The Franchisee will offer Subscribers "appointment window" alternatives for arrival to perform installations, Service Calls and other activities of a maximum four (4) hours scheduled time block between 8:00 AM and 6:00 PM or another block of time mutually agreed upon by the Subscriber and the Franchisee. These options shall be clearly explained to the Subscriber at the time of scheduling. These hour restrictions do not apply to weekends.

G. The Franchisee may not cancel an appointment with a Subscriber after 5:00 PM on the day before the scheduled appointment, except for appointments scheduled within twelve hours after the initial call.

H. If Franchisee's representative is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Subscriber will be contacted. The appointment will be rescheduled as necessary at a time that is convenient for the Subscriber. If the Subscriber is absent when the technician arrives, the technician shall leave written notification of timely arrival.

SECTION 4: SERVICE INTERRUPTIONS AND OUTAGES

A. The Franchisee shall notify the City of any System Outage.

B. The Franchisee shall exercise reasonable efforts to limit any System Outage for the purpose of maintaining, repairing, or constructing the Cable System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, the Franchisee may schedule an outage of service between 6 a.m. and 12:01 a.m. which affects at least 250 Subscribers for a period of more than two (2) hours during any twenty-four (24) hour period only after the City and each affected Subscriber in the Service Area have been given fifteen (15) days prior notice. Notwithstanding the forgoing, Franchisee may perform modifications, repairs and upgrades to the System between 12:01 a.m. and 6 a.m. which may interrupt service, and this Section's notice obligations respecting such possible interruptions will

be satisfied by notice provided to Subscribers upon installation and in the annual subscriber notice.

C. Under Normal Operating Conditions, the Franchisee must Respond to a call from a Subscriber regarding a Service Interruption or other service problems within the following time frames:

(1) In the event of a System Outage resulting from Franchisee equipment failure, the Franchisee shall remedy the problem as quickly as reasonably possible.

(2)Within twenty-four (24) hours, including weekends, of receiving subscriber calls respecting Service Interruptions in the Service Area.

(3) The Franchisee must begin actions to correct all other Cable Service problems the next business day after notification by the Subscriber or the City of a Cable Service problem.

D. Under Normal Operating Conditions, the Franchisee shall complete Service Calls within seventy-two (72) hours of the time Franchisee commences to Respond to the Service Interruption, not including weekends and situations where the Subscriber is not reasonably available for a Service Call to correct the Service Interruption within the seventy-two (72) hour period.

E. The Franchisee shall meet the standard in subsection D of this Section for ninety percent (90%) of the Service Calls it completes, as measured on a quarterly basis.

F. The Franchisee shall provide the City with a report upon request from the City, but in no event more than once a quarter within thirty (30) days following the end of each calendar quarter, noting the percentage of Service Calls completed within the seventy-two (72) hour period not including Service Calls where the Subscriber was reasonably unavailable for a Service Call within the seventy-two (72) hour period as set forth in this Section. Subject to consumer privacy requirements, underlying activity will be made available to the City for review upon reasonable request. At the Franchisee's option, the above measurements and reporting may be changed from calendar quarters to billing or accounting quarters. The Franchisee shall notify the City of such a change at least thirty (30) days in advance.

G. Under Normal Operating Conditions, the Franchisee shall provide a credit upon Subscriber request when all Channels received by that Subscriber are out of service for a period of four (4) consecutive hours or more. The credit shall equal, at a minimum, a proportionate amount of the affected Subscriber(s) current monthly bill. In order to qualify for the credit, the Subscriber must promptly report the problem and allow the Franchisee to verify the problem if requested by the Franchisee. If Subscriber availability is required for repair, a credit will not be provided for such time, if any, that the Subscriber is not reasonably available.

H. Under Normal Operating Conditions, if a System Outage affects all Video Programming Cable Services for more than twenty-four (24) consecutive hours, the Franchisee shall issue an automatic credit to the affected Subscribers in the amount equal to their monthly recurring charges for the proportionate time the Cable Service was out, or a credit to the affected Subscribers in the amount equal to the charge for the basic plus enhanced basic level of service for the proportionate time the Cable Service was out, whichever is technically feasible or, if both are technically feasible, as determined by Franchisee provided such determination is non-

discriminatory. Such credit shall be reflected on Subscriber billing statements within the next available billing cycle following the outage.

SECTION 5: CUSTOMER COMPLAINTS

A. Franchisee shall establish written procedures for receiving, acting upon, and resolving complaints without intervention by the City (except where necessary) and shall publicize such procedures clearly as set forth in Section 10.K of these standards. Said written procedures shall describe a simple process by which any Subscriber may submit a complaint to the Franchisee.

B. The Franchisee shall also notify the Subscriber of the Subscriber's right to file a complaint with the City in the event the Subscriber is dissatisfied with the Franchisee's decision.

C. Under Normal Operating Conditions, the Franchisee shall investigate Subscriber complaints referred by the City within five (5) business days. The Franchisee shall notify the City of those matters that necessitate an excess of five (5) business days to resolve, but those matters must be resolved within fifteen (15) days of the initial complaint. The City may require reasonable documentation to be provided by the Franchisee to substantiate the request for additional time to resolve the problem. For purposes of this Section, "resolve" means that the Franchisee shall perform those actions, which, in the normal course of business, are necessary to investigate the Customer's complaint and advise the Customer of the results of that investigation.

SECTION 6: BILLING

A. Subscriber bills must be itemized to describe Cable Services purchased by Subscribers and related equipment charges. Bills shall clearly delineate activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. Franchisee shall, without limitation as to additional line items, be allowed to itemize as separate line items, Franchise fees, taxes and/or other governmentally imposed fees. The Franchisee shall maintain records of the date and place of mailing of bills.

B. Every Subscriber with a current account balance sending payment directly to Franchisee shall be given at least twenty (20) days from the date statements are mailed to the Subscriber until the payment due date.

C. A specific due date shall be listed on the bill of every Subscriber whose account is current. Delinquent accounts may receive a bill which lists the due date as upon receipt; however, the current portion of that bill shall not be considered past due except in accordance with Subsection 6.B. above.

D. Any Subscriber who, in good faith, disputes all or part of any bill shall have the option of withholding the disputed amount without disconnect or late fee being assessed until the dispute is resolved provided that:

(1) The Subscriber pays all undisputed charges;

(2) The Subscriber provides notification of the dispute to Franchisee within five (5) days prior to the due date; and

(3) The Subscriber cooperates in determining the accuracy and/or appropriateness of the charges in dispute.

(4) It shall be within the Franchisee's sole discretion to determine when the dispute has been resolved.

E. Under Normal Operating Conditions, the Franchisee shall initiate investigation and resolution of all billing complaints received from Subscribers within five (5) business days of receipt of the complaint. Final resolution shall not be unreasonably delayed.

F. The Franchisee shall provide a telephone number and address on the bill for Subscribers to contact the Franchisee.

G. The Franchisee shall forward a copy of any Cable Service related billing inserts or other mailing sent to Subscribers to the City upon request.

H. The Franchisee shall provide all Subscribers with the option of paying for Cable Service by check or an automatic payment option where the amount of the bill is automatically deducted from a checking account designated by the Subscriber. Franchisee may in the future, at its' discretion, permit payment by using a major credit card on a preauthorized basis. Based on credit history, at the option of the Franchisee, the payment alternative may be limited.

I. The City hereby requests that Franchisee omit the City's name, address and telephone number from Franchise bill as permitted by 47 CFR 76.952.

SECTION 7: DEPOSITS, REFUNDS AND CREDITS

A. The Franchisee may require refundable deposits from Subscribers 1) with a poor credit or poor payment history, 2) who refuse to provide credit history information to the Franchisee, or 3) who rent Subscriber equipment from the Franchisee, so long as such deposits are applied on a non-discriminatory basis. The deposit the Franchisee may charge Subscribers with poor credit or poor payment history or who refuse to provide credit information may not exceed an amount equal to an average Subscriber's monthly charge multiplied by six (6). The maximum deposit the Franchisee may charge for Subscriber equipment is the cost of the equipment which the Franchisee would need to purchase to replace the equipment rented to the Subscriber.

B. The Franchisee shall refund or credit the Subscriber for the amount of the deposit collected for equipment, which is unrelated to poor credit or poor payment history, after one year and provided the Subscriber has demonstrated good payment history during this period. The Franchisee shall pay interest on other deposits if required by law.

C. Under Normal Operating Conditions, refund checks will be issued within the next available billing cycle following the resolution of the event giving rise to the refund, (e.g. equipment return and final bill payment).

D. Credits for Cable Service will be issued no later than the Subscriber's next available billing cycle, following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonably delayed.

E. Bills shall be considered paid when appropriate payment is received by the Franchisee or its' authorized agent. Appropriate time considerations shall be included in the Franchisee's collection procedures to assure that payments due have been received before late notices or termination notices are sent.

SECTION 8: RATES, FEES AND CHARGES

A. The Franchisee shall not, except to the extent permitted by law, impose any fee or charge for Service Calls to a Subscriber's premises to perform any repair or maintenance work related to Franchisee equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Subscriber (including, but not limited to a situation in which the Subscriber reconnects Franchisee equipment incorrectly) or by the failure of the Subscriber to take reasonable precautions to protect the Franchisee's equipment (for example, a dog chew).

B. The Franchisee shall provide reasonable notice to Subscribers of the possible assessment of a late fee on bills or by separate notice.

SECTION 9: DISCONNECTION /DENIAL OF SERVICE

A. Charges for Cable Service will be discontinued at the time of the requested termination of service by the Subscriber, except equipment charges may by applied until equipment has been returned. No period of notice prior to requested termination of service can be required of Subscribers by Franchisee. No charge shall be imposed upon the Subscriber for or related to total disconnection of Cable Service or for any Cable Service delivered after the effective date of the disconnect request, unless there is a delay in returning Franchisee equipment or early termination charges apply pursuant to the Subscriber's service contract. If the Subscriber fails to specify an effective date for disconnection, the Subscriber shall not be responsible for Cable Services received after the day following the date the disconnect request is received by Franchisee. For purposes of this subsection, the term "disconnect" shall include Subscribers who elect to cease receiving Cable Service from Franchisee. No charge shall be imposed upon the Subscriber for or related to downgrading of Cable Service, unless there is a delay in returning Grantee equipment or downgrade charges apply pursuant to the terms and conditions in the Subscriber's service contract.

B. The Franchisee shall not terminate Cable Service for nonpayment of a delinquent account unless the Franchisee mails a notice of the delinquency and impending termination prior to the proposed final termination. The notice shall be mailed to the Subscriber to whom the Cable Service is billed. The notice of delinquency and impending termination may be part of a billing statement.

C. Cable Service terminated in error must be restored without charge within twenty-four (24) hours of notice. If a Subscriber was billed for the period during which Cable Service was terminated in error, a credit shall be issued to the Subscriber if the Service Interruption was reported by the Subscriber.

D. Nothing in these standards shall limit the right of the Franchisee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to the Franchisee's equipment, abusive and/or threatening behavior toward the Franchisee's employees or representatives, or refusal to provide credit

history information or refusal to allow the Franchisee to validate the identity, credit history and credit worthiness via an external credit agency.

SECTION 10: COMMUNICATIONS WITH SUBSCRIBERS

A. All Franchisee personnel, contractors and subcontractors contacting Subscribers or potential Subscribers outside the office of the Franchisee shall wear a clearly visible identification card bearing their name and photograph. The Franchisee shall make reasonable effort to account for all identification cards at all times. In addition, all Franchisee employees who routinely come into contact with members of the public at their places of residence shall wear a uniform provided by the Franchisee, except to the extent such requirement is affected by or subject to any contractual agreement(s) between the Franchisee and any Person other than the City. Every service vehicle of the Franchisee and its contractors or subcontractors shall be clearly identified as such to the public. Specifically, Franchisee vehicles shall have the Franchisee's logo plainly visible. The vehicles of those contractors and subcontractors working for the Franchisee shall have the contractor's / subcontractor's name plus markings (such as a magnetic door sign) indicating they are under contract to the Franchisee.

B. All Customer Service Representatives ("CSRs") shall identify themselves to callers immediately following the greeting during each telephone contact with the public. Each CSR, technician or employee of the Franchisee, in each contact with a Subscriber, shall state the standard cost of the service, repair, or installation prior to delivery of the service or before any work is performed.

C. All contact with a Subscriber or potential Subscriber by a Person representing the Franchisee shall be conducted in a courteous manner.

D. Franchisee shall maintain an Internet web presence. Except for normal and regularly scheduled maintenance, the web site shall be available twenty-four hours and seven days a week under Normal Operating Conditions.

E. A customer service representative may have the authority to provide credits, waive fees, schedule service appointments and change billing cycles, where appropriate in Franchisee's judgment. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall attempt to resolve the problem within seventy-two (72) hours or within such other time frame as is acceptable to the Subscriber and the Franchisee.

F. The Franchisee shall send annual notices to all Subscribers informing them that any complaints or inquiries not satisfactorily handled by the Franchisee may be referred to the City.

G. The Franchisee must take appropriate steps to ensure that all written Franchisee promotional materials, announcements and advertising of Cable Service to Subscribers and the general public, where price information is listed in any manner, clearly and accurately discloses price terms. In the case of telephone orders, the Franchisee will take appropriate steps to ensure that prices and terms are clearly and accurately disclosed to potential Subscribers in advance of taking the order.

H. All notices identified in this Section shall be by either:

(1) A separate document included with a billing statement or included on the portion of the monthly bill that is to be retained by the Subscriber; or

(2) A separate electronic notification.

I. The Franchisee shall provide reasonable notice to Subscribers of any changes in rates, programming services or channel positions to the Subscribers' service or other changes affecting Cable Service of the Subscriber (excluding sales discounts). Such notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if within the control of the Franchisee, and the Franchisee shall provide a copy of the notice to the City including how and where the notice was given to Subscribers.

J. In addition to the requirements regarding advance notification to Subscribers of any changes in rates, programming services or channel positions or other changes affecting Cable Service (excluding sales discounts), the Franchisee shall give fifteen (15) days' written notice to the City before implementing any rate or service change.

K. The Franchisee shall provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers, at any time upon request, and, subject to Subsection 10.I., at least thirty (30) days prior to making significant changes in the information required by this Section if within the control of the Franchisee:

(1) Products and Cable Service offered;

(2) Prices and options for Cable Services and condition of subscription to Cable Services. Prices shall include those for Cable Service options, equipment rentals, program guides, installation, downgrades, late fees and other fees charged by the Franchisee related to Cable Service;

(3) Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided;

(4) Channel positions of Cable Services offered on the Cable System;

(5) Complaint procedures, including the name, address and telephone number of the City, but with a notice advising the Subscriber to initially contact the Franchisee about all complaints and questions;

(6) Procedures for requesting Cable Service credit;

(7) The availability of a parental control device;

(8) Franchisee practices and procedures for protecting against invasion of privacy; and

(9) The address and telephone number of the Franchisee's office to which complaints may be reported.

A copy of notices required in this Subsection 10.K. will be given to the City at least fifteen (15) days prior to distribution to subscribers if the reason for notice is due to a change that is within the control of Franchisee and as soon as possible if not within the control of Franchisee.

L. Notices of changes in rates shall indicate the Cable Service new rates and old rates, if applicable.

M. Notices of changes of Cable Services and/or Channel locations shall include a description of the new Cable Service, the specific channel location, and the hours of operation of the Cable Service if the Cable Service is only offered on a part-time basis. In addition, should the channel location, hours of operation, or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.

N. Every notice of termination of Cable Service shall include the following information:

(1) The name and address of the Subscriber whose account is delinquent;

(2) The amount of the delinquency for all services billed;

(3) The date by which payment is required in order to avoid termination of Cable Service; and

(4) The telephone number for the Franchisee where the Subscriber can receive additional information about their account and discuss the pending termination.

O. Subscriber Contract. The Franchisee's terms of service and any Subscriber contract shall be consistent with the terms of this Franchise.

P. Franchisee must provide for the pick up or drop off of equipment free of charge in one of the following manners: (i) by having a Franchisee representative going to the Subscriber's residence, (ii) by using a mailer, or (iii) by establishing a local business office within the Franchise Area.

SECTION 11: MISCELLANEOUS

A. Services for Mobility-Impaired Subscribers. For any Subscriber that is mobility impaired, the Franchisee shall, at no charge, deliver and pick up converters and other Franchisee equipment at the Subscriber's home. In the case of a malfunctioning converter or such other equipment, the technician shall provide another converter or such other equipment, hook it up and ensure that it is working properly, and shall return the defective converter or such other equipment to the Franchisee.

B. The Franchisee shall provide customer service via TDD/TTY calls as requested by any hearing-impaired Subscriber at no charge.

C. Franchisee Representative: Within thirty (30) days of the Effective Date, Franchisee shall assign a representative to be available to the City to address Franchise implementation issues. Within such time period, Franchisee shall notify the City in writing of

the name and contact information for such representative. If Franchisee changes the representative assigned to the City, Franchisee shall notify the City in writing of such change.

D. Late Fees*:* Franchisee's late fee and disconnection policies shall be in accordance with applicable federal and state law, including all laws relating to nondiscrimination.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4140

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING VERIZON NORTHWEST INC. A NON-EXCLUSIVE CABLE FRANCHISE.

SECTION 1. Authorizes the City Manager to sign a cable franchise agreement with Verizon Northwest Inc.

SECTION 2. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2008.

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

_____
City Clerk

Council Meeting: 10/07/2008
Agenda: Public Hearings
Item #: 9. b.

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

MEMORANDUM

To: David Ramsay, City Manager

From: Janice Perry, Multimedia Communications Manager
Rob Jammerman, Developing Engineering Manager
William Evans, Assistant City Attorney

Date: October 7, 2008

Subject: Northshore Utility District Franchise

RECOMMENDATION

1. First reading of the proposed ordinance granting a franchise to Northshore Utility District (NUD) and;
2. Conduct a public hearing to receive comments on the proposed franchise.

POLICY IMPLICATIONS

This increases the revenue the city will generate from the Northshore Utility District for use of the city rights of way by approximately $145,000 per year. This is a re-negotiated agreement and would replace the franchise adopted in December 2000. Citizens in the areas of Kirkland served by the Northshore Utility District may see an increase in their bills.

BACKGROUND DISCUSSION

Northshore Utility District (NUD) provided services to some pockets of Kirkland to the north. After the annexation of Juanita and Totem Lake areas, NUD wanted to enter into a franchise agreement to utilize our right of way and keep providing service in the newly annexed area. A franchise agreement was entered into December 2000.

Our franchise with NUD provided windows of opportunity where we could revisit the agreement. NUD continues to provide good service to Kirkland residents and businesses. We did however recognize the need to update the agreement to reflect inflation for the first time since adoption in 2000.

Significant changes to the franchise agreement include:

- Changing the method for calculating the franchise. The franchise fee charge will now be calculated using the linear feet of Kirkland right of way in the NUD service area (126,627 feet) multiplied by $3.25 per foot versus a flat 5% fee. The change in fee calculation will result in an increase in revenue of approximately $145,000 per year.

- The franchise fee will be included in NUD's rate calculation each year.
- A provision for inflation adjustment has been included in the new franchise agreement and will be adjusted each year per CPI-U for Seattle.
- We have clarified the responsibility for relocation costs.

ORDINANCE NO. 4141

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING NORTHSHORE UTILITY DISTRICT, A WASHINGTON MUNICIPAL CORPORATION, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO CONSTRUCT AND MAINTAIN, REPAIR, REPLACE, OPERATE UPON, OVER, UNDER, ALONG AND ACROSS THE FRANCHISE AREA FOR PURPOSES OF ITS WATER AND SEWER UTILITY BUSINESS.

WHEREAS, Northshore Utility District ("NUD") was previously granted a franchise agreement to operate within the City of Kirkland ("City") limits under ordinance number 3767, approved on December 11th, 2000; and

WHEREAS, this existing agreement needed to be updated and NUD and the City have therefore re-negotiated the agreement;

NOW THEREFORE, City Council of the City of Kirkland do ordain as follows:

Section 1. Definitions. Where used in this franchise (the "Franchise") these terms have the following meanings:

(a) "NUD" means Northshore Utility District, a Washington municipal corporation, and its respective successors and assigns.

(b) "City" means the City of Kirkland, a municipal corporation of the State of Washington, and its respective successors and assigns.

(c) "Franchise Area" means any, every and all of the roads, streets, avenues, alleys, highways and rights-of-way of the City as now laid out, platted, dedicated or improved in NUD's service area within the present limits of the City.

(d) "Facilities" means tanks, meters, pipes, mains, services, valves, manholes, pressure reducing valves ("PRVs"), pump stations, meter stations, lines, and all necessary or convenient facilities and appurtenances thereto, whether the same be located over or under ground.

(e) "Ordinance" means this Ordinance No. _____, which sets forth the terms and conditions of this Franchise.

Section 2. Franchise.

A. Facilities within Franchise Area. The City does hereby grant to NUD the right, privilege, authority and franchise to:

(a) Construct, support, attach, and connect Facilities between, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along, through and across the Franchise Area for purposes of its water and sewer utility business as defined in RCW 82.04.065.

B. Permission Required to Enter Onto Other City Property. Nothing contained in this Ordinance is to be construed as granting permission to NUD to go upon any other public place other than those types of public places specifically designated as the Franchise Area in this Ordinance. Permission to go upon any other property owned or controlled by the City must be sought on a case-by-case basis from the City.

C. Compliance with Laws and Regulations. At all times during the term of this Franchise, NUD shall fully comply with all applicable federal, state, and local laws and regulations.

Section 3. Non-interference of Facilities.

NUD's Facilities shall be located, relocated and maintained within the Franchise Area so as not to unreasonably interfere with the free and safe passage of pedestrian and vehicular traffic and ingress or egress to or from the abutting property and in accordance with the laws of the State of Washington. Nothing herein shall preclude NUD from effecting temporary road closures as reasonably necessary during construction or maintenance of its Facilities provided NUD receives prior City approval, which shall not be unreasonably withheld. Whenever it is necessary for NUD, in the exercise of its rights under this Franchise, to make any excavation in the Franchise Area, NUD shall, upon completion of such excavation, restore the surface of the Franchise Area to the specifications established within the City of Kirkland Public Works Policies and pre-approved plans and in accordance with standards of general applicability imposed by the City by ordinance or administrative order; provided, however, if the surface of the affected Franchise Area has an Overall Condition Index (OCI)* rating of 40 or less prior to NUD's excavation, then the area shall be restored with a permanent asphalt patch per City of Kirkland Pre-approved Plans in lieu of an asphalt street overlay.

If NUD should fail to leave any portion of any Franchise Area so excavated in a condition that meets the City's specifications per the Public Works Policies and Standards, then, subject to the foregoing sentence, the City may after notice of not less than five (5) days to NUD, which notice shall not be required in case of an emergency, order any and all work considered necessary to

restore to a safe condition that portion of the Franchise Area so excavated, and NUD shall pay to the City the reasonable cost of such work; which shall include among other things the overhead expense of the City in obtaining completion of said work. The parties agree that this provision may be renegotiated upon the request of either party.

*The City of Kirkland's Overall Condition Index (OCI) rating is based upon standard pavement condition rating methodologies as recognized by the Washington State Department of Transportation (WSDOT) and the Northwest Pavement Managers Association (NWPMA).

B. Any surface or subsurface failure occurring during the term of this Agreement and caused by any excavation by NUD shall be repaired to the City's specifications, within fifteen (15) days or upon five (5) days written notice to NUD by the City; if NUD fails to so timely repair, then the City shall order all work necessary to restore the damaged area to a safe and acceptable condition and NUD shall pay the reasonable costs of such work to the City.

Section 4. Relocation of Facilities.

A. Whenever the City causes the grading or widening of the Franchise Area or undertakes construction of any water, sanitary sewer or storm drainage line, lighting, signalization, sidewalk improvement, pedestrian amenities, or other public street improvement [for purposes other than those described in section 4(B) below] and such project requires the relocation of NUD's then existing Facilities within the Franchise Area, the City shall:

(a) Provide NUD, at least ninety (90) days prior to the commencement of such project, written notice that a project is expected to require relocation; and

(b) Provide NUD with reasonable plans and specifications for such grading, widening, or construction and a proposed new location within the Franchise Area for NUD's Facilities.

After receipt of such notice and such plans and specifications, NUD shall relocate such Facilities within the Franchise Area so as to accommodate such street and utility improvement project; provided, however, NUD may, after receipt of written notice requesting a relocation of its Facilities, submit to the City written alternatives to such relocations. The City shall within a reasonable time evaluate such alternatives and advise NUD in writing whether one or more of the alternatives is suitable to accommodate work that would otherwise necessitate relocation of the Facilities. If so requested by the City, NUD shall submit such additional information as is reasonably necessary to assist the City in making such evaluation. The City shall give each alternative full and fair consideration. In the event the City ultimately reasonably determines that there is no other reasonable or feasible alternative, then NUD shall relocate its Facilities as otherwise provided in this Section 4. The City shall cooperate with NUD to designate a substitute

location for its Facilities within the Franchise Area. City will establish a date by which Facilities will be relocated, which date will be not less than sixty (60) days after written notice to NUD as to the facility to be relocated. NUD must finish relocation of each such Facility by the date so established. The cost of relocating such Facilities existing within the present limits of the City shall be paid as follows:

(a) if the relocation occurs within six (6) years after NUD initially constructed such Facility, then the relocation shall be at the City's sole cost;

(b) if the relocation occurs more than six (6) years but within ten (10) years after NUD initially constructed such Facility, then the City shall pay fifty percent (50%) of the cost of such relocation and NUD shall pay the remaining fifty percent (50%); and

(c) if the relocation occurs more than ten (10) years after NUD initially constructed such Facility, then the relocation shall be at NUD's sole cost.

(d) For the purpose of planning, NUD and the City shall provide each other with a copy of their respective current adopted Capital Improvement Plan annually and upon request by the other party.

B. Whenever any person or entity, other than the City, requires the relocation of NUD's Facilities to accommodate the work of such person or entity within the Franchise Area, or whenever the City requires the relocation of NUD's Facilities within the Franchise Area for the benefit of any person or entity other than the City, then NUD shall have the right as a condition of such relocation to require such person or entity to:

(a) make payment to NUD at a time and upon terms acceptable to NUD for any and all costs and expense incurred by NUD in the relocation of NUD's Facilities; and

(b) protect, defend, indemnify and save NUD harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of NUD's Facilities, to the extent such injury or damage is caused by the negligence or willful misconduct of the person or entity requesting the relocation of NUD's Facilities or other negligence or willful misconduct of the agents, servants or employees of the person or entity requesting the relocation of NUD's Facilities.

C. Any condition or requirement imposed by the City upon any person or entity (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development) which necessitates the relocation of NUD's Facilities within the Franchise Area shall be subject to the provisions of subsection 4(B). However, in the event the City reasonably determines (and promptly

notifies NUD in writing of such determination) that the primary purpose of imposing such condition or requirement upon such person or entity which necessitates such relocation is to cause the construction of an improvement on the City's behalf and in a manner consistent with City approved improvement plans [as described in 4(A) above] within a segment of the Franchise Area then:

> NUD shall require only those costs and expenses incurred by NUD in integrating and connecting such relocated Facilities with NUD's other Facilities to be paid to NUD by such person or entity, and NUD shall otherwise relocate its Facilities within such segment of the Franchise Area in accordance with the provisions of subsection 4(A) above.

The provisions of this Section 4(C) shall in no manner preclude or restrict NUD from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person or entity other than the City, where the facilities to be constructed by such person or entity are not or will not become City owned, operated or maintained facilities, provided that such arrangements do not unduly delay a City construction project.

E. This Section 4 shall govern all relocations of NUD's Facilities required in accordance with this Franchise. Any cost or expense in connection with the location or relocation of any Facilities existing under benefit of easement or other rights not in the Franchise Area, excluding rights arising under any prior King County franchise, shall be borne by the City. Costs for location or relocation of any Facilities existing under any prior King County franchise shall be borne solely by NUD.

F. NUD recognizes the need for the City to maintain adequate width for installation and maintenance of City owned utilities such as, but not limited to, sanitary sewer, water, storm drainage and telecommunication facilities. Thus, the City reserves the right to maintain reasonable clear zones within the public right-of-way for installation and maintenance of said utilities. The clear zones for each right-of-way segment shall be noted and conditioned with the issuance of each right-of-way permit. If adequate clear zones are unable to be achieved on a particular right-of-way, NUD shall locate in an alternate right-of-way, obtain easements from private property owners, or propose alternate construction methods, which maintain and/or enhance the existing clear zones.

G. For the purpose of this Section 4, a project or improvement is considered to be caused by the City [as described in 4(A) above] if it is permitted by the City and both of the following conditions exist:

1. the City is lead agency for the project or improvement, and

2. the City is responsible for over 50% of the overall costs of said improvement or project, which 50%, if applicable, includes any grant money received from another entity for the project.

However, regardless of its percentage of participation, the City will never be liable for NUD's costs of location or relocation simply because a participating agency that would have been responsible for those costs was able to avoid paying NUD for those costs on a claim of exemption under state or federal law so long as the exempt agency was the entity to initiate the project.

Section 5. Indemnification. NUD shall indemnify, defend and hold the City, its agents, officers, employees, volunteers and assigns harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever, including all costs and attorney's fees, made against them on account of injury, sickness, death or damage to persons or property which is caused by or arises out of, in whole or in part, the willful, tortious or negligent acts, failures and/or omissions of NUD or its agents, servants, employees, contractors, subcontractors or assigns in the construction, operation or maintenance of its Facilities or in exercising the rights granted NUD in this Franchise; provided, however, such indemnification shall not extend to injury or damage caused by the negligence or willful misconduct of the City, its agents, officers, employees, volunteers or assigns.

In the event any such claim or demand be presented to or filed with the City, the City shall promptly notify NUD thereof, and NUD shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand, provided further, that in the event any suit or action be begun against the City based upon any such claim or demand, the City shall likewise promptly notify NUD thereof, and NUD shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

Section 6. Default. If NUD shall fail to comply with any of the provisions of this Franchise, unless otherwise provided for herein, the City may serve upon NUD a written order to so comply within thirty-days from the date such order is received by NUD. If NUD is not in compliance with this Franchise after expiration of said thirty-day period, the City may act to remedy the violation and may charge the costs and expenses of such action to NUD. The City may act without the thirty-day notice in case of an emergency. The City may in addition, by ordinance adopted no sooner than five (5) days after notice of the City Council hearing (at which NUD will have an opportunity to be heard) on the impending ordinance is given to NUD, declare an immediate forfeiture of this Franchise, provided, however, if any material failure to comply with this Franchise by NUD cannot be corrected with due diligence within said thirty (30) day period (NUD's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control, in which case the time within which NUD may so comply shall be extended for such time as may be

reasonably necessary and so long as NUD commences promptly and diligently to effect such compliance), provided good faith dispute does not exist concerning such compliance.

In addition to other remedies provided herein, if NUD is not in compliance with requirements of the Franchise, and if a good faith dispute does not exist concerning such compliance, the City may place a moratorium on issuance of pending NUD right-of-way use permits until compliance is achieved.

Section 7. Non-exclusive Franchise. This Franchise is not and shall not be deemed to be an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area, which do not interfere with NUD's rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof.

Section 8. Franchise Term. Subject to the provisions of Section 9 and 10 below, this Franchise is and shall remain in full force and effect from January 1, 2009 until December 31, 2013, provided that on January 1, 2014, and on January 1 every five (5) years thereafter, the term shall automatically be extended for an additional five (5) years, unless either NUD or the City gives the other party written notice of non-renewal prior to any such renewal date, in which case this Franchise shall terminate five (5) years after such renewal date; and provided further, however, NUD shall have no rights under this Franchise nor shall NUD be bound by the terms and conditions of this Franchise unless NUD shall, within thirty (30) days after the passage date of the Ordinance, file with the City its written acceptance of this Franchise, in a form acceptable to the City Attorney. On any renewal date, the City has the option of extending the term for more than 5 years but all subsequent renewal dates would remain automatically five (5) years unless the City again opted to extend any of them for more than five (5) years.

Section 9. Non-assumption. In consideration for the franchise fee and acceptance of the other terms and conditions of this Franchise, the City agrees that it will not exercise its statutory authority to assume jurisdiction over NUD or any NUD responsibilities, property, facilities or equipment within the City's corporate limits while this Franchise is in effect.

Section 10. Franchise Fee. In consideration for the rights granted NUD under this Agreement for Facilities in the Franchise Area, NUD agrees to pay to the City an annual franchise fee of $3.25 per foot of the 126,627 feet of the roads, streets, avenues, alleys, highways and rights-of-way of the City as now laid out, platted, dedicated or improved in NUD's service area within the present limits of the City. For 2009 this results in a fee of $411,538, which fee will be raised by inclusion in NUD's rate calculation for ratepayers within City limits. The fee will be adjusted for inflation each January 1st thereafter during the term of this agreement using the June-to-June CPI-U index for the Seattle – Tacoma – Bremerton area for the preceding year, as the CPI-U more closely reflects the changes in real estate value. Said annual Franchise Fee shall be paid in four

equal quarterly installments. Fees for each calendar quarter shall be due thirty (30) days following the end of the calendar quarter. Should NUD be prevented by judicial or legislative action from paying any or all of the franchise fee, NUD shall be excused from paying that portion of the franchise fee. Should a court of competent jurisdiction declare, or a change in law make the franchise fee invalid, in whole or in part, or should a court of competent jurisdiction hold that the franchise fee is in violation of a pre-existing contractual obligation of NUD, then NUD's obligation to pay the fee to the City under this Section shall be terminated in accordance with and to the degree required to comply with such court action. NUD agrees that the franchise fee established by this Section is appropriate and that NUD will not be a party to or otherwise support legal or legislative action intended to result in judicial determinations or legislative action referred to above. City shall defend, indemnify and hold NUD harmless from and against any and all claims, suits, actions or liabilities (including costs and attorneys' fees) incurred or asserted against NUD directly or indirectly arising out of NUD's payment of the franchise fee as provided in this Franchise. If new roads, streets, avenues, alleys, highways and rights-of-way of the City are added to the Franchise Area, the City will notify NUD no more than once per year of the number of feet added, which amount will then be added to the calculation of the franchise fee for the next calendar quarter.

Section 11. Compliance With Codes And Regulations.

A. The rights, privileges and authority herein granted are subject to and governed by this ordinance and all other applicable ordinances and codes of the City of Kirkland, as they now exist or may hereafter be amended. Nothing in this ordinance limits the City's lawful power to exercise its police power to protect the safety and welfare of the general public. Any location, relocation, erection or excavation by NUD shall be performed by NUD in accordance with applicable federal, state and city rules and regulations, including the City Public Works Policies and Pre-approved Plans, and any required permits, licenses or fees, and applicable safety standards then in effect or any Memorandum of Understanding with NUD.

B. Upon written inquiry, NUD shall provide a specific reference to either the federal, state or local law or the Washington Utilities and Transportation Commission ("WUTC") order or action establishing a basis for NUD's actions related to a specific franchise issue.

C. In the event that any territory served by NUD is annexed to the City after the effective date of this Franchise, this franchise agreement shall be deemed to be the new agreement required to be granted to a franchisee in annexed territory by RCW 35A.14.900 for whatever period of time is then required under that statute or the remaining time left under this franchise agreement for the Franchise Area, whichever is longer. Such territory shall then be governed by the terms and conditions contained herein upon the effective date of such annexation. The first franchise fee for any annexed area shall be calculated pro rata from the effective date of the annexation to the end of the next calendar quarter and paid to the City at the same time as the fee for the Franchise Area is paid for that quarter.

Section 12. Location of Facilities and Equipment. With the exception of components that are traditionally installed above ground such as fire hydrants, blow-offs, vault lids, risers and utility markers, all Facilities and equipment to be installed within the Franchise Area shall be installed underground; provided, however, that such Facilities may be installed above ground if so authorized by the City, which authorization shall not be unreasonably withheld, conditioned or delayed, consistent with the provisions of the City's Land Use Code and applicable development pre-approved plans.

Section 13. Record of Installations and Service. With respect to excavations by NUD and the City within the Franchise Area, NUD and the City shall each comply with its respective obligations pursuant to Chapter 19.122, RCW and any other applicable state law.

Upon written request of the City, NUD shall provide the City with the most recent update available of any plan of potential improvements to its Facilities within the Franchise Area; provided, however, any such plan so submitted shall be for informational purposes within the Franchise Area, nor shall such plan be construed as a proposal to undertake any specific improvements within the Franchise Area.

As-built drawings of the precise location of any Facilities placed by NUD in any street, alley, avenue, highway, easement, etc., shall be made available to the City within ten (10) working days of request.

Section 14. Shared Use of Excavations. NUD and the City shall exercise best efforts to coordinate construction work either may undertake within the Franchise Area so as to promote the orderly and expeditious performance and completion of such work as a whole. Such efforts shall include, at a minimum, reasonable and diligent efforts to keep the other party and other utilities within the Franchise Areas informed of its intent to undertake such construction work. NUD and the City shall further exercise best efforts to minimize any delay or hindrance to any construction work undertaken by themselves or other utilities within the Franchise Area.

If at any time, or from time to time, either NUD, the City, or another franchisee, shall cause excavations to be made within the Franchise Area, the party causing such excavation to be made shall afford the others, upon receipt of a written request to do so, an opportunity to use such excavation, provided that:

(a) Such joint use shall not unreasonably delay the work of the party causing the excavation to be made;

(b) Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties. The parties shall each cooperate with other utilities in the Franchise Area to minimize hindrance or delay in construction.

The City reserves the right to not allow open trenching for five (5) years following a street overlay or improvement project. NUD shall be given written notice at least ninety (90) days prior to the commencement of the project. Required trenching due to an emergency will not be subject to five (5) year street trenching moratoriums.

The City reserves the right to require NUD to joint trench with other facilities if both parties are anticipating trenching within the same portion of the Franchise Area and provided that the terms of (a) and (b) above are met.

Section 15. Insurance. NUD shall maintain in full force and effect throughout the term of this Franchise, a minimum of One Million Dollars ($ 1,000,000.00) liability insurance for property damage and bodily injury.

The City shall be named as an additional insured on any policy of liability insurance obtained by NUD for the purpose of complying with the requirements of this Section.

In satisfying the insurance requirement set forth in this section, NUD may self-insure against such risks in such amounts as are consistent with good utility practice. NUD shall provide the City with sufficient written evidence, the sufficiency of which shall be determined at the reasonable discretion of the City, upon request, that such insurance (or self-insurance) in being so maintained by NUD. Such written evidence shall include, to the extent available from NUD's insurance carrier, a written certificate of insurance with respect to any insurance maintained by NUD in compliance with this Section.

Section 16. Tariff Changes. If NUD shall file, pursuant to Chapter 80.28 RCW, with the WUTC (or its successor) any tariff affecting the City's rights arising under this Franchise, NUD shall give the City Clerk written notice thereof within five (5) days of the date of such filing.

Section 17. Assignment. All of the provisions, conditions, and requirements herein contained shall be binding upon NUD, and no right, privilege, license or authorization granted to NUD hereunder may be assigned or otherwise transferred without the prior written authorization and approval of the City, which the City may not unreasonably withhold, condition or delay. Notwithstanding the foregoing, NUD may assign this agreement to an affiliate, parent or subsidiary or as part of any corporate financing, reorganization or refinancing which does not require assignment to any but an affiliate, parent or subsidiary without the consent of, but upon notice to, the City.

Section 18. Notice. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States Mail, certified, registered, or express mail with postage prepaid, or if sent by facsimile transmission with electronic confirmation. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given one (1) business day after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given three (3) business days after the deposit thereof in the United States Mail. If such notice is sent by facsimile transmission, it shall be deemed given at the time of the sender's receipt of electronic confirmation. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To City:	Multimedia Communications Manager City of Kirkland 123 Fifth Avenue Kirkland, WA 98033-6169 Fax: (425) 576-2921
To NUD:	General Manager Northshore Utility District 6830 NE 185th St. Kenmore, WA 98028 Fax:(425) 398-4435
With copy to:	Kinnon Williams Williams & Williams, PSC 18806 Bothel Way NE Bothell, Washington 98011-1933 Fax: (425) 485-8449

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

Section 19. Miscellaneous. If any term, provision, condition or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise, which shall continue in full force and effect. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

In addition to the franchise fee due under Section 10 above, NUD shall pay for the City's reasonable administrative costs in drafting and processing this franchise agreement and all work related thereto. NUD shall further be subject to all permit fees associated with activities undertaken through the authority granted in this franchise ordinance or under the laws of the City. Where the City incurs cost and expenses for review, inspection, or supervision of activities undertaken through the authority granted in this franchise or any ordinances relating to the subject for which a permit fee is not established, NUD shall pay such costs and expenses directly to the City. In addition to the above, NUD shall promptly reimburse the City for any and all costs it reasonably incurs in response to any emergency involving NUD's facilities.

City has the right, but not the obligation, to take over control and ownership of Franchisee's Facilities in the Franchise Area, specifically including the water and sewer plant network, without compensation, if (1) such facilities are abandoned; or (2) in the event this Franchise is terminated and Franchisee does not remove such facilities at its own expense within a reasonable period of time. Furthermore, the City is specifically interested in retaining abandoned water and sewer lines for use as conduit for communication purposes and NUD shall notify the City at least 180 days prior to abandonment of any water or sewer line.

This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise, and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 5 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by NUD of any and all rights, benefits, privileges, obligations, or duties in and under this Franchise, unless such permit, approval, license, agreement or document specifically:

(a) references this Franchise; and

(b) states that it supersedes this Franchise to the extent it contains terms and conditions which change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise.

In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document that does not comply with subsections (a) and (b) referenced immediately above, the provisions of this Franchise shall control.

This Franchise is subject to the provisions of any applicable tariff now or hereafter on file with the WUTC or its successor. In the event of any conflict of inconsistency between the provisions of this Franchise and such tariff, the provisions of such tariff shall control.

Section 20. Termination of Prior Franchise Agreement. Upon NUD's acceptance of this franchise agreement in accordance with Section 8 above, the prior Franchise Agreement negotiated in December 2000 and previously approved under City Ordinance No. 3767 and NUD Resolution No. 2000-11-20 shall be deemed terminated on December 31, 2008. The terms and conditions of that 2000 Franchise Agreement shall have no further force and effect after that date.

Section 21. Effective Date. The franchise agreement established in this ordinance shall go into effect and become the new NUD Franchise Agreement as of January 1, 2009.

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

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

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

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY OF
ORDINANCE NO. 4141

AN ORDINANCE OF THE CITY OF KIRKLAND GRANTING NORTHSHORE UTILITY DISTRICT, A WASHINGTON MUNICIPAL CORPORATION, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO CONSTRUCT, AND MAINTAIN, REPAIR, REPLACE, REMOVE AND OPERATE UPON, OVER, UNDER, ALONG AND ACROSS THE FRANCHISE AREA FOR PURPOSES OF ITS WATER AND SEWER UTILITY BUSINESS.

SECTIONS 1-15. Provide for: the grant to Northshore Utility District of a franchise for a water and sewer utility business for 10 years on specified terms and conditions with the possibility of 5 year or, at the City's discretion, longer, extensions thereafter, payment of franchise fees to the City and non-assumption of NUD facilities within Kirkland for as long as the franchise is in effect or, in the event of annexation, as long as required by RCW 35A.14.900, whichever is later.

SECTIONS 16-21. Sets forth administrative provisions and establishes the effective date of this new franchise.

SECTION 21. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

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

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

_____
City Clerk

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Erin J. Leonhart, Intergovernmental Relations Manager

Date: October 1, 2008

Subject: PUBLIC HEARING REGARDING INITIATIVE 985

Recommendation:
It is recommended that City Council hold a public hearing and consider a resolution opposing Initiative 985.

Background:
Initiative 985, the Reduce Traffic Congestion Initiative is a state-wide measure that will be on the November 4, 2008, General Election ballot. This Initiative, sponsored by Tim Eyman, would open carpool lanes to all drivers outside of the hours of 6am to 9am and 3pm to 6pm Monday thru Friday; require traffic light synchronization; and increase roadside assistance funding. It also creates a "Reduce Traffic Congestion Account" in the state treasury that would divert an estimated $600 million from the state General Fund – which pays for schools, health, and law enforcement. The Initiative would also require that all revenues from traffic light camera fines that would have gone to cities or counties go instead to the "Reduce Traffic Congestion Account."

Opponents of I-985, which include the Suburban Cities Association, are concerned that the Initiative will adversely impact commuters, by reducing the speed of buses, vanpools and carpools and forcing more single-occupancy vehicle drivers back onto the roads and increasing commute times. Opponents also voice concern over the $600 million that would be diverted from the state's general fund, which is has a projected $3.8 billion shortfall.. It would also prevent tolling on the I-90 Bridge to help pay for State Route 520 bridge construction.

The Council Legislative Committee requested this be brought to the Council for consideration at the first meeting in October. According to state law, City Councils may collectively vote to support or oppose a ballot measure at a properly noticed public meeting, where supporters and opponents of the measure are given an equal opportunity to express views.

The full text of I-985 and the ballot summary are attached to provide additional background information.

INITIATIVE MEASURE 985

AN ACT Relating to reducing traffic congestion on public highways, freeways, streets, and roads: amending RCW 46.61.165, 47.66.090, 47.56.403, 82.08.020, 43.17.200, 43.46.090, 47.56.030, 47.56.160, and 47.56.170; reenacting and amending RCW 46.63.110; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 47.01 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 46.68 RCW; creating new sections; and providing an effective date.

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

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** During these tough economic times, the people deserve a common sense proposal to reduce traffic congestion by implementing basic congestion relief strategies and improving Washington's transportation system with better use of existing public resources.

In 2005, the voters of Washington overwhelmingly approved Initiative 900 granting the state auditor the power to conduct independent, comprehensive performance audits of state and local governments. The auditor was hired by the people to determine ways for government to deliver services as effectively and efficiently as possible. Through extensive outreach with citizens, including focus groups and town hall meetings, in 2006, the state auditor learned that eighty percent of citizens said reducing traffic congestion is their number one transportation priority. Traffic congestion incurs incredible costs to citizens, businesses and government; it is an important aspect of transportation and is an indicator of how well the state's transportation system is working. Reducing traffic congestion means minimizing vehicle trip delays, the amount of time it takes a vehicle to get from point A to point B. So the state auditor contracted with the prestigious auditing firm of Talbot, Korvola and Warwick, LLP who brought years of experience in performance auditing. They hired subject-matter experts with internationally recognized experience in traffic and congestion management. Members of the audit team had more than two hundred years' of cumulative experience auditing transportation systems. In October 2007, the state auditor released the results of their independent performance audit report "Managing and Reducing Congestion." Their number one finding was that traffic congestion relief is not a top priority of the department of transportation so the audit's fundamental recommendation was: "Commit to congestion management and reduction as a primary goal." The anger, defensiveness, and condescending dismissal of the report by the department of transportation, the legislature, and the governor was swift and resolute. The new head of the department of transportation rejected the recommendations on the day they were released. House of representatives and senate transportation committees refused to acknowledge the report or even hold a public hearing as required under Initiative 900. At the public hearing held by an unaffiliated legislative committee, legislators lashed out at the state auditor for even broaching the topic. The governor's chief of staff said citizens do not understand transportation and simply take for granted what government does. Legislators quoted from statutes that no longer existed to defend the status quo. Some promised legislative retribution on the state auditor and interference in future audits, which is illegal under Initiative 900. The state auditor identified and retained internationally recognized experts in state, federal and international transportation issues. Their recommendations are crystal clear. This act provides voters with the opportunity to implement the strategies recommended in the report that will have an immediate impact on reducing traffic congestion using existing infrastructure and resources. Upon its approval by the voters, it is incumbent upon the department of transportation, the legislature, and the governor to listen to the people and make traffic congestion management and reduction the primary goal of transportation. As State Auditor Brian Sonntag says in his accompanying letter to the report: "Citizens have identified congestion as a priority, and therefore, so must the Department (of Transportation) and the Legislature." It is clear from the establishment's reaction to this transportation performance audit that the only way for voters to change the attitude of those in power is to approve this act.

This measure would open carpool lanes during non-peak hours, require synchronization of traffic lights on heavily-traveled arterials and streets, increase funding for emergency roadside assistance, and dedicate a portion of existing vehicle-related revenue for these purposes.

The intent of sections 2 and 3 of this act: We all pay taxes for our carpool lanes, so everyone should be allowed to use them at least some of the time. This act strikes a reasonable balance by allowing our carpool lanes to be open

to everyone during non-peak hours, meaning midday and evenings on weekdays and all day and all night on weekends. Existing road capacity must be utilized to maximize its effectiveness. How can we increase road capacity and reduce traffic congestion on our most congested highways and roadways without spending billions of dollars? By opening our carpool lanes to everyone during non-peak hours. This will quickly, significantly, and cost-effectively relieve traffic congestion and increase traffic flow on our most congested highways and roadways and illustrate that increased road capacity results in reduced traffic congestion. These sections do not create or impose new tolls on carpool lanes; but if tolls or charges are imposed on carpool lanes, then these sections ensure that the toll revenue is used to reduce traffic congestion.

The intent of sections 4 and 15(1)(b) of this act: due to the voters' approval of Initiative 960 in 2007, any tolls or charges must be decided and approved by a simple-majority vote of the Legislature, not unilaterally imposed by unelected bureaucrats on the transportation commission. Such decisions are too important and too impactful to be made by anyone other than our elected representatives.

The intent of sections 5 and 6 of this act: To increase traffic flow and reduce traffic congestion, each city must synchronize the traffic signals on heavily-traveled arterials and streets within its jurisdiction. Heavily-traveled arterials and streets include routes of regional and local significance and include major and secondary arterials and streets. For heavily-traveled arterials and streets outside of a city, the county must synchronize the traffic signals. For heavily-traveled arterials and streets that are the responsibility of the state or other local government, it is the responsibility of the state or other local government to synchronize the traffic signals. What is the use of having a top-notch Medic One system if it simply gets stuck in traffic? Synchronizing traffic lights ensures increased traffic flow, reduced traffic congestion, and better safety. Transferring goods to and from our ports, and other freight mobility necessities, are hampered by stop-and-go traffic at successive traffic lights. Reducing traffic congestion and increasing traffic flow is critical for freight mobility. Synchronization of traffic signals is a coordinated set of timing plans for a group of signals on arterials and streets used to facilitate smooth traffic flow. The objective of synchronizing traffic signals is to allow progression through arterials and streets with the fewest stops at intersections, while minimizing delay for the side street. Synchronizing traffic lights creates more uniform speeds along streets, increases traffic flow, reduces time delays at intersections, and creates opportunities for traffic from side streets to safely enter a main street. This act helps cities, counties, and other governments fund these improvements.

The intent of section 7 of this act: Traffic accidents and other temporary obstructions greatly hinder the smooth flow of traffic and must be responded to and cleared as quickly as possible. This involves coordination, communication, equipment, and manpower. A blocked highway or roadway can result in miles of backups and long delays. A large portion of all traffic congestion is caused by collisions, disabled vehicles, spills, and other events that impede the normal flow of traffic. An initial incident has the potential for creating secondary incidents such as vehicles running out of fuel or overheating, or collisions that occur from lane changing and rapid braking in the initial incident's traffic backup. The quicker the initial incident is cleared, the less time motorists and response personnel are exposed to traffic hazards and the possibility of a secondary collision. The Washington state department of transportation and other government entities and contracted companies, including tow truck operators, must expeditiously assist in the safe, prudent, and quick removal of vehicles and other debris involved in traffic accidents or other temporary obstructions. The people want the roads cleared and drivers helped as quickly as possible to reduce traffic congestion and restore the normal flow of traffic. This act provides increased funding for these programs.

We need to fix what we already have using the taxes we're already paying. Taxpayers can't afford to pay for the mega-platinum option for every mega-project, especially when it's simply to satisfy the aesthetic preferences of Seattle's elite. A perfect example is the decade of debate over the Alaska Way viaduct (Highway 99), a major north-south state highway that everyone is paying for. The people want practical, pragmatic solutions that will reduce traffic congestion, not make it worse. Government too often has a knee-jerk reaction: If their pick-up truck gets a flat tire, rather than repairing the tire, they instead replace the pick-up with a Mercedes. The people want a solution that reduces traffic congestion for the thousands of vehicles that travel over state highways every day, but at a minimum, it shouldn't be made worse. Taxpayers are already paying billions of dollars in taxes and they expect and demand improvements now, rather than promises of "less bad" decades from now. Taxpayers want

transparency and accountability with the focus on solving the problem rather than using the problem to leverage the public to swallow yet another tax increase. It is way past time for the people to get something in return for the taxes they're already paying.

The intent of sections 8 and 9 of this act: In order to reduce traffic congestion, it is essential that existing vehicle taxes be spent on this critical priority. Vehicle purchases generate approximately $850 million per year in state tax revenue and using 15% of those revenues to reduce traffic congestion is reasonable and prudent. People who purchase vehicles want their taxes to go toward reducing traffic congestion on our roads, streets, and highways at the state and local level.

The intent of section 11 of this act: To provide additional revenue for the policy requirements of this act, moneys collected from fines and civil penalties from red light traffic cameras shall be used to reduce traffic congestion and increase traffic flow.

The intent of sections 12 through 14 of this act: To provide additional revenue for the policy requirements of this act, any transportation-related public works project shall not be required to spend a percentage of its funds on purchases of art, instead a percentage will be dedicated to reducing traffic congestion. Taxpayers don't have bottomless wallets so every dollar possible must go toward the people's top priority: reducing traffic congestion.

The intent of sections 15 through 17 of this act: These sections do not create or impose new tolls; but if tolls or charges are imposed, then these sections ensure taxpayers are protected. There has been talk of simply charging people extra just to drive on existing highways, freeways, roads, and streets, including adding global positioning system (GPS) devices or transponders to vehicles or other methods to collect revenue. If citizens are double-taxed, then any tolls or charges will be used to reduce traffic congestion.

Year after year, Washington voters have repeatedly rejected the business-as-usual, the-only-solution-is-a-tax-increase mentality. During these tough economic times, the people deserve a common sense proposal to reduce traffic congestion and increase traffic flow by implementing basic traffic congestion relief strategies and improving Washington's transportation system with better use of existing public resources.

Reduced traffic congestion ensures a growing, thriving economy that is essential in generating the tax revenue necessary to fund government services.

This measure will make travel times faster immediately on our highways and roadways, reduce traffic congestion, increase traffic flow, increase safety and freight mobility, and result in fewer vehicles idling thus decreasing carbon emissions, all by maximizing the use of existing public resources.

OPENS CARPOOL LANES TO EVERYONE DURING NON-PEAK HOURS

Sec. 2. RCW 46.61.165 and 1999 c 206 s 1 are each amended to read as follows:

The state department of transportation and the local authorities are authorized, subject to the requirements in this section, to reserve all or any portion of any highway under their respective jurisdictions as carpool lanes, including any designated lane or ramp, for the exclusive or preferential use of public transportation vehicles or private motor vehicles carrying no fewer than a specified number of passengers when ((~~such~~)) the limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources. Regulations authorizing ((~~such~~)) exclusive or preferential use of a highway facility ((~~may be declared to be~~)) are effective ((~~at all times or~~)) only at the specified times of day ((~~or~~)) and on the specified days designated in this section. In order to reduce traffic congestion, existing road capacity must be utilized to maximize its effectiveness. On and after December 4, 2008, all carpool lanes shall be opened during non-peak hours for use by all traffic otherwise lawfully abiding by the rules of the road of this state, including RCW 46.61.100. This policy shall be in effect for any carpool lane in effect on January 1, 2008, and for any new or expanded carpool lanes designated after January 1, 2008, on any highway, freeway, or roadway in the state. Electronic and nonelectronic signage must be substantially updated and expanded to ensure that drivers are fully alerted to the policies required under this section.

For the purposes of this section:

(1) "Carpool lanes" are high-occupancy vehicle lanes, including express lanes, lanes like those established under RCW 47.56.403, off-ramp bypass lanes, and on-ramp bypass lanes on any highway, freeway, or roadway in the state.

(2) "Non-peak hours" mean midday on weekdays, evenings on weekdays, and all day and all night on weekends.

(a) "Midday on weekdays" is between the hours of 9:00 a.m. and 3:00 p.m. on Monday through Friday;

(b) "Evenings on weekdays" are between the hours of 6:00 p.m. and 6:00 a.m. on Monday through Thursday;

(c) "All day and all night on weekends" is between the hours of 6:00 p.m. on Friday and 6:00 a.m. on Monday;

(d) "Peak hours" are between the hours of 6:00 a.m. and 9:00 a.m. and 3:00 p.m. and 6:00 p.m. on Monday through Friday.

(3) During hours not specified as non-peak hours under this section, the use of carpool lanes by a motor vehicle is limited to those carrying two or more persons, except in the case of a motorcycle, which may use a carpool lane if carrying one or more persons.

(4) A governmental entity, authority, or agency shall not avoid the requirements of this section by redesignating a carpool lane as another name or designation.

(5) To reduce traffic congestion by encouraging traffic to use carpool lanes during non-peak hours, a toll may not be charged on any vehicle in a high-occupancy toll lane under RCW 47.56.403 during non-peak hours, and any tolls or charges imposed and collected for such lanes during peak hours which exceeds the costs identified in section 3 of this act must be deposited in the Reduce Traffic Congestion Account created in section 10 of this act.

This section does not restrict the operation of RCW 46.44.080, 46.61.100, or 46.61.135, thus continuing restricted truck usage of city streets.

Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction.

Sec. 3. RCW 47.66.090 and 2005 c 312 s 4 are each amended to read as follows:

The high-occupancy toll lanes operations account is created in the state treasury. The department shall deposit ((~~all~~)) only those revenues received by the department as toll charges collected from high-occupancy toll lane users that are necessary to cover the costs of construction and operation of the toll lanes. Moneys in this account may be spent only if appropriated by the legislature. ((~~Moneys in this account may be used for, but be not limited to, debt service, planning, administration, construction, maintenance, operation, repair, rebuilding, enforcement, and expansion of high-occupancy toll lanes and to increase transit, vanpool and carpool, and trip reduction services in the corridor. A reasonable proportion of the moneys in this account must be dedicated to increase transit, vanpool, carpool, and trip reduction services in the corridor. A reasonable proportion of the moneys in this account must be dedicated to increase transit, vanpool, carpool, and trip reduction services in the corridor.~~)) All toll charge revenues exceeding these costs shall be dedicated to reducing traffic congestion and be deposited in the Reduce Traffic Congestion Account created in section 10 of this act.

Sec. 4. RCW 47.56.403 and 2005 c 312 s 3 are each amended to read as follows:

(1) The department may provide, subject to the requirements of RCW 46.61.165, 47.66.090, and any other applicable law, for the establishment, construction, and operation of a pilot project of high-occupancy toll lanes on state route 167 high-occupancy vehicle lanes within King county. The department may issue, buy, and redeem bonds, and deposit and expend them; secure and remit financial and other assistance in the construction of high-occupancy toll lanes, carry insurance, and handle any other matters pertaining to the high-occupancy toll lane pilot project.

(2) Tolls for high-occupancy toll lanes will be established as follows:

(a) The schedule of toll charges for high-occupancy toll lanes must be established by the transportation commission and collected in a manner determined by the commission.

(b) Toll charges shall not be assessed on transit buses and vanpool vehicles owned or operated by any public agency.

(c) The department shall establish performance standards for the state route 167 high-occupancy toll lane pilot project. The department must automatically adjust the toll charge, using dynamic tolling, to ensure that toll-paying single-occupant vehicle users are only permitted to enter the lane to the extent that average vehicle speeds in the lane remain above forty-five miles per hour at least ninety percent of the time during peak hours as defined in RCW 46.61.165. The toll charge may vary in amount by time of day, level of traffic congestion within the highway facility, vehicle occupancy, or other criteria, as the commission may deem appropriate. The commission may also vary toll charges for single-occupant inherently low-emission vehicles such as those powered by electric batteries, natural gas, propane, or other clean burning fuels.

(d) The commission shall periodically review the toll charges to determine if the toll charges are effectively maintaining travel time, speed, and reliability on the highway facilities.

(3) The department shall monitor the state route 167 high-occupancy toll lane pilot project and shall annually report to the transportation commission and the legislature on operations and findings. At a minimum, the department shall provide facility use data and review the impacts on:

(a) Freeway efficiency and safety;

(b) Effectiveness for transit;

(c) Person and vehicle movements by mode;

(d) Ability to finance improvements and transportation services through tolls; and

(e) The impacts on all highway users. The department shall analyze aggregate use data and conduct, as needed, separate surveys to assess usage of the facility in relation to geographic, socioeconomic, and demographic information within the corridor in order to ascertain actual and perceived questions of equitable use of the facility.

(4) The department shall modify the pilot project to address identified safety issues and mitigate negative impacts to high-occupancy vehicle lane users.

(5) Authorization to impose high-occupancy vehicle tolls for the state route 167 high-occupancy toll pilot project expires if either of the following two conditions apply:

(a) If no contracts have been let by the department to begin construction of the toll facilities associated with this pilot project within four years of July 24, 2005; or

(b) Four years after toll collection begins under this section.

(6) The department of transportation shall adopt rules that allow automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits.

(7) The conversion of a single existing high-occupancy vehicle lane to a high-occupancy toll lane as proposed for SR-167 must be taken as the exception for this pilot project.

(8) A violation of the lane restrictions applicable to the high-occupancy toll lanes established under this section is a traffic infraction.

(9) Procurement activity associated with this pilot project shall be open and competitive in accordance with chapter 39.29 RCW.

REQUIRES SYNCHRONIZATION OF TRAFFIC LIGHTS ON HEAVILY-TRAVELED ARTERIALS AND STREETS

NEW SECTION. **Sec. 5.** A new section is added to chapter 35.21 RCW to read as follows:

(1) To reduce traffic congestion and increase traffic flow, each city must synchronize the traffic lights on heavily-traveled arterials and streets within its jurisdiction to optimize traffic flow. Heavily-traveled arterials and streets include routes of regional and local significance and include major and secondary arterials as defined in RCW 35.78.010. For heavily-traveled arterials and streets outside of a city, the county must synchronize the traffic lights to optimize traffic flow. For heavily-traveled arterials and streets that are the responsibility of the state or other local government, the state or other local government must synchronize the arterials' and streets' traffic lights to optimize traffic flow. Cities, counties, and other governments must cooperate and coordinate their efforts in implementing this traffic light synchronization mandate. Funding shall be allocated from the dedicated revenue in the Reduce Traffic Congestion Account created in section 10 of this act to assist efforts after January 1, 2008 by cities, counties, and other governments to synchronize traffic lights to optimize traffic flow and reduce traffic congestion.

(2) The state auditor shall identify and establish performance benchmarks using best practices for traffic light synchronization to optimize traffic flow under this section. The state auditor shall investigate and track local governments' progress on these benchmarks and shall provide information on such progress and other relevant information to the public on a regular basis.

NEW SECTION. **Sec. 6.** A new section is added to chapter 36.01 RCW to read as follows:

(1) To reduce traffic congestion and increase traffic flow, each county must synchronize the traffic lights on heavily-traveled arterials and streets within its jurisdiction to optimize traffic flow. Heavily-traveled arterials and

streets include routes of regional and local significance and include major and secondary arterials as defined in RCW 35.78.010. For heavily-traveled arterials and streets in an incorporated city or town, the city or town must synchronize the traffic lights to optimize traffic flow. For heavily-traveled arterials and streets that are the responsibility of the state or other government entity, the state or other government entity must synchronize the traffic lights to optimize traffic flow. Cities, counties, and other governments must cooperate and coordinate their efforts in implementing this traffic light synchronization mandate. Funding shall be allocated from the dedicated revenue in the Reduce Traffic Congestion Account created in section 10 of this act to assist efforts after January 1, 2008 by cities, counties, and other local governments to synchronize traffic lights to optimize traffic flow and reduce traffic congestion.

(2) The state auditor shall identify and establish performance benchmarks using best practices for traffic light synchronization to optimize traffic flow under this section. The state auditor shall investigate and track local governments' progress on these benchmarks and shall provide information on such progress and other relevant information to the public on a regular basis.

INCREASES FUNDING FOR EMERGENCY ROADSIDE ASSISTANCE

NEW SECTION. **Sec. 7.** A new section is added to chapter 47.01 RCW to read as follows:

(1) To reduce traffic congestion and increase traffic flow, the department of transportation and other governmental entities must rapidly respond to traffic accidents and other obstructions on highways, freeways, roads, and streets, and clear these accidents and obstructions as expeditiously as possible. The department and other governmental entities must receive increased funding for emergency roadside assistance from the dedicated revenue in the Reduce Traffic Congestion Relief Account created in section 10 of this act. To maximize flexibility and response times, the state, the department, and other governmental entities may and are encouraged to contract out emergency roadside assistance services to private companies, including tow truck operators.

(2) The state auditor shall identify and establish performance benchmarks using best practices for emergency roadside assistance under this section and shall investigate and track progress fulfilling this requirement, providing this and other relevant information to the public on a regular basis.

DEDICATES A PORTION OF EXISTING VEHICLE-RELATED REVENUE TO HELP FUND THE OPENING OF CARPOOL LANES TO EVERYONE DURING NON-PEAK HOURS, HELP FUND THE SYNCHRONIZATION OF TRAFFIC LIGHTS ON HEAVILY-TRAVELED ARTERIALS AND STREETS, AND INCREASE FUNDING FOR EMERGENCY ROADSIDE ASSISTANCE

Sec. 8. RCW 82.08.020 and 2006 c 1 s 3 are each amended to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and there shall be collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsections (3) and (8) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(5) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section shall be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection shall be deposited in the performance audits of government account created in RCW 43.09.475.

(6) The taxes imposed under this chapter shall apply to successive retail sales of the same property.

(7) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

(8) To effectively utilize existing resources to reduce traffic congestion, beginning on December 4, 2008, fifteen

percent of the taxes collected under subsection (1) of this section on the retail sale of those vehicles taxed under subsection (3) of this section shall be dedicated to reducing traffic congestion and deposited in the Reduce Traffic Congestion Account created in section 10 of this act. This subsection (8) of this section dedicates a portion of existing vehicle sales tax revenue and does not raise taxes.

NEW SECTION. **Sec. 9.** A new section is added to chapter 82.12 RCW to read as follows:

Beginning on December 4, 2008, fifteen percent of the taxes collected under RCW 82.12.020 on vehicles taxed under RCW 82.08.020(3) based on the rate in RCW 82.08.020(1) shall be dedicated to reducing traffic congestion and deposited in the Reduce Traffic Congestion Account created in section 10 of this act.

CREATES "REDUCE TRAFFIC CONGESTION ACCOUNT"

NEW SECTION. **Sec. 10.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The Reduce Traffic Congestion Account is hereby created in the state treasury as a subaccount of the motor vehicle fund. All receipts from: The fifteen percent of sales and use taxes dedicated in RCW 82.08.020(8) and section 9 of this act; any tolls or charges collected under RCW 46.61.165(5) and 47.66.090; revenue from infractions dedicated to reducing traffic congestion under RCW 43.63.110; appropriate allocated funds under section 13 of this act; and any tolls or charges collected under RCW 47.56.030 and 47.56.170 must be deposited in the subaccount. Moneys in the subaccount may be spent only after appropriation. Expenditures from the subaccount may be used only:

(a) To pay for costs associated with the opening of carpool lanes to everyone during non-peak hours as required under RCW 46.61.165, including new and modified electronic and nonelectronic signage; lane striping, improvements, and maintenance; and shoulder maintenance and improvements, including bumpers;

(b) To pay for costs associated with synchronizing traffic lights on heavily-traveled arterials and streets as required under sections 5 and 6 of this act;

(c) To provide increased funding for emergency roadside assistance as required under section 7 of this act; and

(d) To provide funding for the activities of the state auditor required under this section and sections 5, 6, and 7 of this act.

(2) After payment of costs identified in subsections (1)(a) through (d) of this section, any other purpose which reduces traffic congestion by reducing vehicle delay times by expanding road capacity and general purpose use to improve traffic flow for all vehicles may be provided funding from the subaccount. Purposes to improve traffic flow for all vehicles do not include creating, maintaining, or operating bike paths or lanes, wildlife crossings, landscaping, park and ride lots, ferries, trolleys, buses, monorail, light rail, or heavy rail.

(3) Revenue deposited in the subaccount and not appropriated shall be retained by this subaccount.

(4) To measure the level of compliance with the policies, purposes, and intent of this act, the state auditor shall investigate and track the revenues and expenditures required under this act and shall report this and other relevant information to the public on a regular basis.

DEDICATES REVENUE FROM RED LIGHT TRAFFIC CAMERAS TO THE "REDUCE TRAFFIC CONGESTION ACCOUNT"

Sec. 11. RCW 46.63.110 and 2007 c 356 s 8 and 2007 c 199 s 28 are each reenacted and amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay

a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority

account, and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Revenue to be deposited into the county or city current expense fund from infractions issued under RCW 46.63.170 shall instead be dedicated to reducing traffic congestion and be deposited in the Reduce Traffic Congestion Account created in section 10 of this act. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

DEDICATES REVENUE PREVIOUSLY ALLOCATED TO ART TO THE "REDUCE TRAFFIC CONGESTION ACCOUNT"

NEW SECTION. **Sec. 12.** RCW 43.17.200 and 2005 c 36 s 4 are each amended to read as follows:

All state agencies including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated for the original construction of any public building, except for appropriations after December 4, 2008 for transportation-related public works projects, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. In addition to the cost of the works of art, the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration of the visual arts program, including conservation of the state art collection, by the Washington state arts commission and all costs for installation of the works of art. For the purpose of this section, building shall not include highway construction sheds, warehouses or other buildings of a temporary nature.

NEW SECTION. **Sec. 13.** To provide additional funds for reducing traffic congestion, all state agencies, including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated after December 4, 2008 for any transportation-related public works project, an amount of one-half of one percent of the appropriation to be dedicated to reducing traffic congestion and be deposited in the Reduce Traffic Congestion Account created in section 10 of this act. The people find that their top priority is reducing traffic congestion.

Sec. 14. RCW 43.46.090 and 1983 c 204 s 1 are each amended to read as follows:

The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen by the establishment of the Washington state arts commission. The legislature declares it to be a policy of this state that a portion of appropriations for capital expenditures, except as provided in RCW 43.17.200 and section 13 of this act, be set aside for the acquisition of works of art to be placed in public buildings or lands. There is hereby established a visual arts program to be administered by the

Washington state arts commission.

CRITICAL TAXPAYER PROTECTION:
PREVENTS POLITICIANS FROM DIVERTING TOLL REVENUE TO THE GENERAL FUND;
TOLLS ON A PROJECT GET SPENT ON THE PROJECT

Sec. 15. RCW 47.56.030 and 2002 c 114 s 19 are each amended to read as follows:

(1) Except as permitted under chapter 47.46 RCW:

(a) The department of transportation shall have full charge of the construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon, subject to all applicable laws, and shall perform all duties and exercise all powers relating to the financing, refinancing, and fiscal management of all toll bridges and other toll facilities including the Washington state ferries, and bonded indebtedness in the manner provided by law. Except for Washington state ferries toll facilities, revenue from any new tolls or charges established after December 4, 2008, that exceed the cost of construction, operation, or maintenance of toll facilities and new capital improvements to highways, freeways, roads, bridges, and streets, shall be dedicated to reducing traffic congestion and deposited in the Reduce Traffic Congestion Account created in section 10 of this act. Except for Washington state ferries toll facilities, in the absence of any capital improvements, revenue from any new tolls or charges established after December 4, 2008, that exceed the cost of collecting the tolls or charges shall be dedicated to reducing traffic congestion and deposited in the Reduce Traffic Congestion Account created in section 10 of this act.

(c) The department shall have full charge of design of all toll facilities.

(d) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (d)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) Except as provided in (d) of this subsection, when the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life cycle cost analysis that includes an evaluation of fuel efficiency. When a life cycle cost analysis is used, the life cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

(d) If the department is procuring large equipment or systems (e.g., electrical, propulsion) needed for the support, maintenance, and use of a ferry operated by Washington state ferries, the department shall proceed with a formal request for proposal solicitation under this subsection (2) without a determination of necessity by the secretary.

Sec. 16. RCW 47.56.160 and 1984 c 7 s 258 are each amended to read as follows:

Except for revenues to be deposited in the Reduce Traffic Congestion Account under RCW 47.56.030(1)(b), ((~~A~~))all tolls or other revenues received from the operation of any toll bridge or toll bridges constructed with the proceeds of bonds issued and sold hereunder shall be paid over by the department to the state treasurer. The treasurer shall deposit them forthwith as demand deposits in a depository or depositories authorized by law to receive deposits of state funds. The deposit shall be made to the credit of a special trust fund designated as the toll revenue fund of the particular toll bridge or toll bridges producing the tolls or revenue, which fund shall be a trust fund and shall at all times be kept segregated and set apart from all other funds.

Sec. 17. RCW 47.56.170 and 1984 c 7. s 259 are each amended to read as follows:

From the money deposited in each separate construction fund under RCW 47.56.160, the state treasurer shall transfer to the place or places of payment named in the bonds such sums as may be required to pay the interest as it becomes due on all bonds sold and outstanding for the construction of a particular toll bridge or toll bridges during the period of actual construction and during the period of six months immediately thereafter. The state treasurer shall thereafter transfer from each separate toll revenue fund to the place or places of payment named in the bonds such sums as may be required to pay the interest on the bonds and redeem the principal thereof as the interest payments and bond redemption become due for all bonds issued and sold for the construction of the particular toll bridge or toll bridges producing the tolls or revenues so deposited in the toll revenue fund. All funds so transferred for the payment of principal or interest on bonds issued for any particular toll bridge shall be segregated and applied solely for the payment of that principal or interest. The proceedings authorizing the issuance of bonds may provide for setting up a reserve fund or funds out of the tolls and other revenues not needed for the payment of principal and interest, as the same currently matures and for the preservation and continuance of the fund in a manner to be provided therein. The proceedings may also require the immediate application of all surplus moneys in the toll revenue fund to the retirement of the bonds prior to maturity, by call or purchase, in such manner and upon such terms and the payment of such premiums as may be deemed advisable in the judgment of the department.

The moneys remaining in each separate toll revenue fund after providing the amount required for interest and redemption of bonds as provided in this section shall be held and applied as provided in the proceedings authorizing the issuance of the bonds. If the proceedings authorizing the issuance of the bonds do not require surplus revenues to be held or applied in any particular manner, they shall be ((~~allocated and used for such other purposes incidental to the construction, operation, and maintenance of the toll bridge or bridges as the department may determine~~)) dedicated to reducing traffic congestion and deposited in the Reduce Traffic Congestion Account created in section 10 of this act.

NEW SECTION. **Sec. 18.** This act does not inhibit or prohibit the department of transportation or any other state or local government agency or body from allocating or expending other revenue from other sources to fund costs associated with opening carpool lanes to everyone during non-peak hours, synchronizing traffic lights on heavily-traveled arterials and streets, or increasing funding for emergency roadside assistance as required under this act.

NEW SECTION. **Sec. 19.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 20.** Subheadings used in this act are not any part of the law.

NEW SECTION. **Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 22.** This act shall be known and cited as the Reduce Traffic Congestion Act of 2008.

NEW SECTION. **Sec. 23.** This act takes effect December 4, 2008.

Initiative Measure 985 - Proposed by Initiative Petition

Initiative Measure No. 985 concerns transportation.

This measure would open high-occupancy vehicle lanes to all traffic during specified hours, require traffic light synchronization, increase roadside assistance funding, and dedicate certain taxes, fines, tolls and other revenues to traffic-flow purposes.

Should this measure be enacted into law?

Yes [ ] No [ ]

RESOLUTION R-4728

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S OPPOSITION TO INITIATIVE 985 ON THE NOVEMBER 4, 2008, GENERAL ELECTION BALLOT.

WHEREAS, on November 4, 2008, voters in Washington State will have the opportunity to vote on Initiative 985 (I-985); and

WHEREAS, over five years, I-985 would take approximately $622.6 million out of state and local general transportation funds and deposit this money into a traffic congestion account without outlining specific uses or projects and with no timeline for implementation; and

WHEREAS, if passed I-985 will likely make traffic congestion worse, not better, by opening up High Occupancy Vehicle (HOV) lanes 18 hours a day and dramatically undermining the reliability of transit and the carpools and vanpools used more and more by large employers around the clock; and

WHEREAS, Lake Washington commuters will be particularly impacted as I-985 will prevent tolling the I-90 bridge to help pay for the reconstruction of the SR 520 bridge; and

WHEREAS, I-985 would remove money from the state general fund at a time when the state already faces a projected $3.2 billion revenue shortfall which will result in placing education and human and social services programs at risk for more than six million Washington residents; and

WHEREAS, I-985 takes fines paid by offenders caught by local automated traffic safety camera programs being used by 12 Washington cities and sends all the revenues from these programs to the state; and

WHEREAS, the Suburban Cities Association is a nonprofit organization serving 35 suburban cities in King County; and

WHEREAS, at the request of 28 members cities, and in a strong show of solidarity, the Suburban Cities Association's Board of Directors has voted unanimously to oppose I-985; and

WHEREAS, pursuant to RCW 42.17.130, the Kirkland City Council wishes to show its opposition to I-985;

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

Section 1. The City Council, after considering public comment at a duly noticed public hearing, hereby opposes Initiative 985.

Section 2. The City Council hereby urges citizens to vote no on Initiative 985 on November 4, 2008.

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

Council Meeting: 10/07/2008
Agenda: Public Hearings
Item #: 9. d.

CITY OF KIRKLAND
123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor

Date: September 26, 2008

Subject: CBD Moratorium – Zoning and Policy Information and Potential Work Plan

RECOMMENDATION:

Review the proposed work plan to address resolution of the moratorium.

WORK PLAN:

Staff recommends that the City Council consider the following work plan:

Step 1: Review existing Zoning Code and Downtown Plan policies for each CBD zone (except CBD 5 as it is exempted from the moratorium). Staff suggests that the Council start by reviewing the simpler/less discretionary zones and moving to more complex/highly discretionary zones. This would suggest the following order (staff rationale provided in italics; see table below and attached detailed maps, codes, and policies for supporting information):

a. CBD 3 *(zone is fully developed except Fox Cleaners site, low (3 stories) allowed building heights, no DRB height discretion)*
b. CBD 6 *(zone is fully developed except Acropolis Pizza site, no DRB height discretion)*
c. CBD 4 *(zone is small and largely developed except older single family homes between St. John's Church and Portsmith, no DRB height discretion)*
d. CBD 7 *(low allowed building heights (3 stories), no DRB height discretion, largely underdeveloped)*
e. CBD 8 *(no DRB height discretion)*
f. CBD 2 *(low allowed building heights (1-3 stories), some DRB height discretion)*
g. CBD 1 *(high level of DRB height discretion)*

Step 2: Decide if there are CBD zones that do not require further study and can therefore be removed from the moratorium. Factors that might exempt a zone include:

- Clarity of existing regulations
- Extent to which zones are already built out

Step 3: For zones that are included in the moratorium, identify the specific issues that need to be addressed. The scope of those issues will define whether the potential action requires amendments to the Zoning Code or both the Zoning Code and Comprehensive Plan.

Step 4: Review options for resolving identified issues and agree to draft amendments to the Zoning Code (and Comprehensive Plan if applicable) for consideration at a public hearing.

Step 5: Conduct City Council public hearing on the proposed amendments. The public notice process needs to start 3-4 weeks in advance of the public hearing.

Step 6: Adopt or modify the amendments based on public testimony and Council deliberations.

Step 7: Terminate the moratorium ordinance after the effective date of the amendments.

In terms of City resources, note that this process is requiring the diversion of staff resources from other projects. The Planning Department plans to backfill those projects with consultants, but will need budget resources to accomplish this

BACKGROUND:

The following information is attached for Council consideration. This packet of information is intended to serve as base information for upcoming Council study sessions and can be supplemented as needed to provide Council with any additional information. The information can be accessed directly by clicking the links below:

- Maps, Zoning Code Use Zone Charts, and Downtown Plan Policies for each zone (CBD 1, CBD 2, CBD 3, CBD 4, CBD 6, CBD 7, CBD 8). The complete text of the Downtown Plan is included as well.
- Zoning Code Section 50.62 building height provisions for the CBD that convert maximum allowed number of stories into maximum allowed height in feet.
- Zoning Code Chapter 142 (Design Review Process)
- The Design Guidelines for Pedestrian-Oriented Business Districts can be accessed online by clicking this link.
- The 2001 Downtown Strategic Plan can be accessed online by clicking this link.
- The interim Downtown Kirkland Retail Strategy report from Eric Hovee can be accessed online by clicking this link.

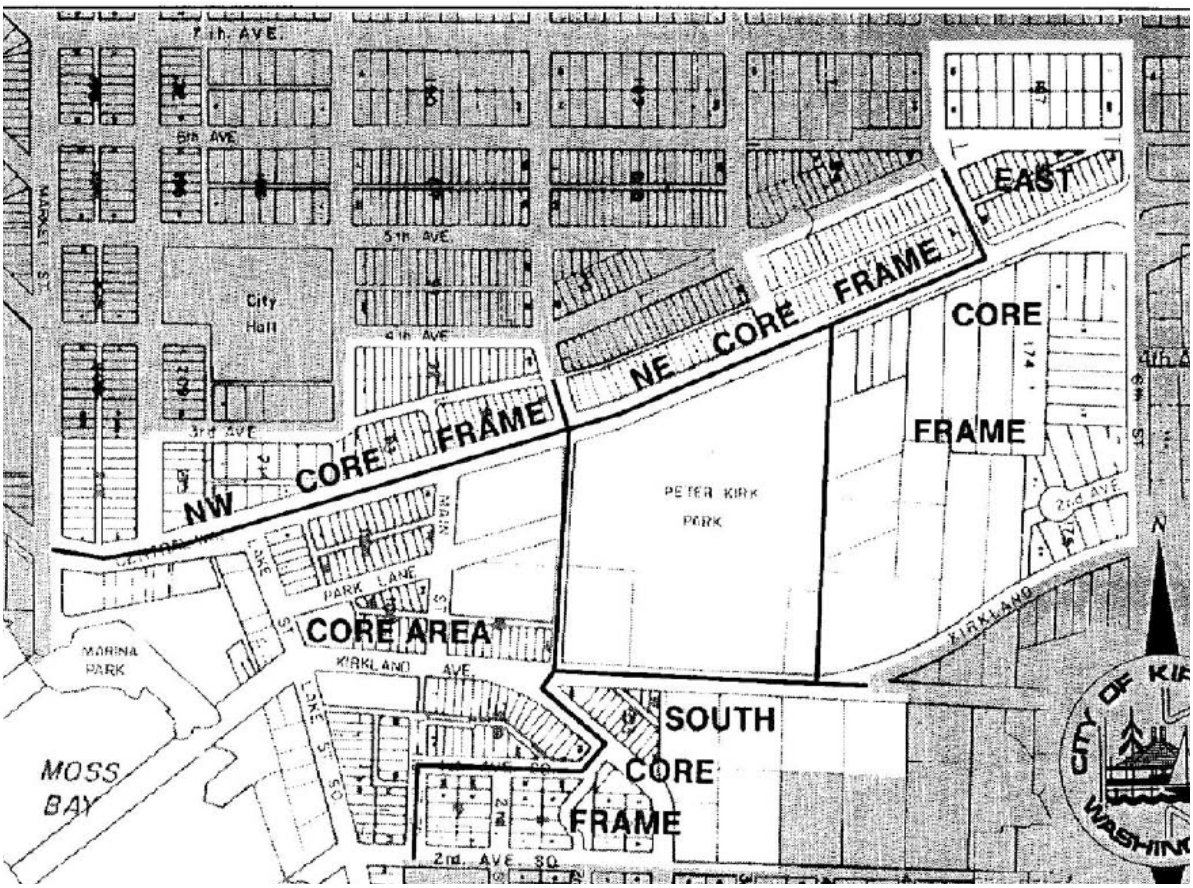
Downtown Plan

When reviewing the policies of the Downtown Plan, it is important to note that the Comprehensive Plan is not typically a regulatory document. Under state growth management statutes, comprehensive plans are policy documents. Zoning regulations must be consistent with comprehensive plans, but if there is found to be an inconsistency, the regulations govern. For most CBD zones, the adopted regulations follow this model and provide a clear expression of the Comprehensive Plan policies. In a few CBD zones, however, the Zoning Code specifically references the Comprehensive Plan, thereby incorporating the Comprehensive Plan as a regulatory document. As Council is aware, this is the case for CBD 1, where the Zoning Code

establishes a range of building heights and indicates that a determination of the appropriate height is to be made by using the criteria in the Comprehensive Plan polices.

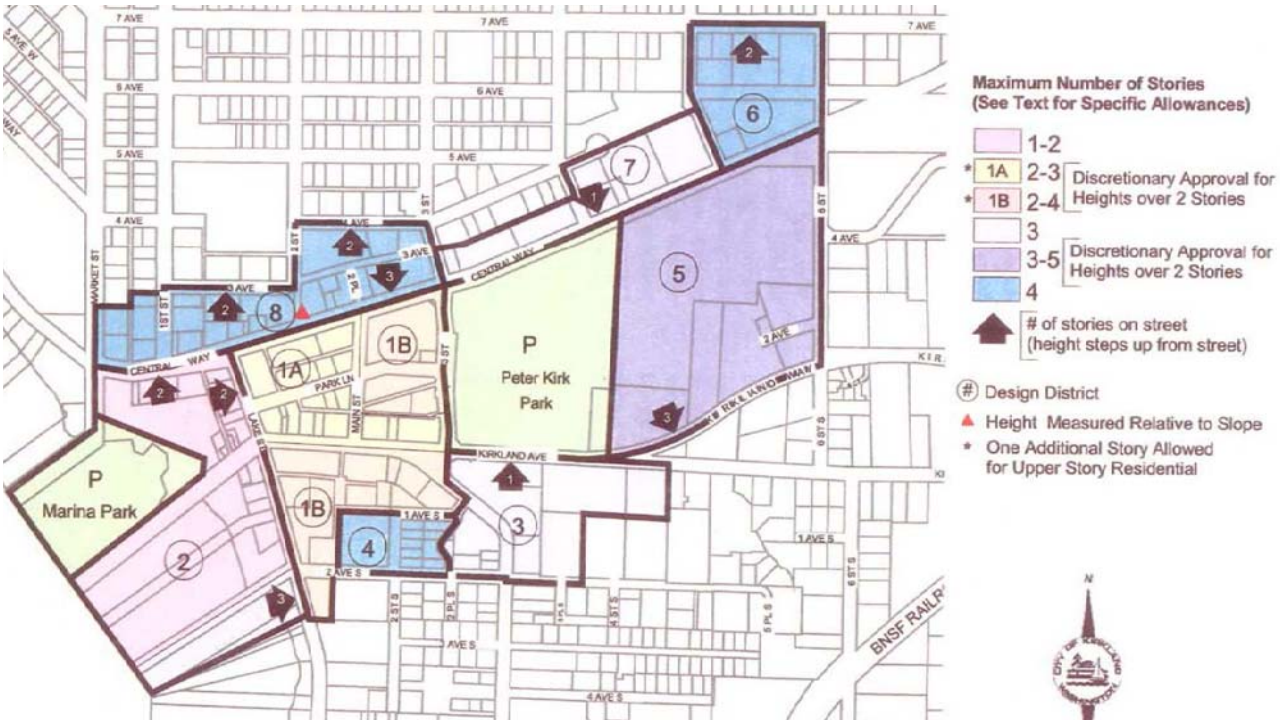
The Downtown Plan (hereinafter "the Plan") geographically segregates the downtown in two different manners for two distinct purposes. For purposes of establishing policies for uses, the Plan segregates the downtown into the following five land use districts (CBD zoning key provided).

- East Core Frame = CBD5 & CBD 6
- Northeast Core Frame = CBD 7
- South Core Frame = CBD 3 & 4
- Northwest Core Frame = CBD 8
- Core Area = CBD 1 & 2



Downtown Plan Land Use Districts

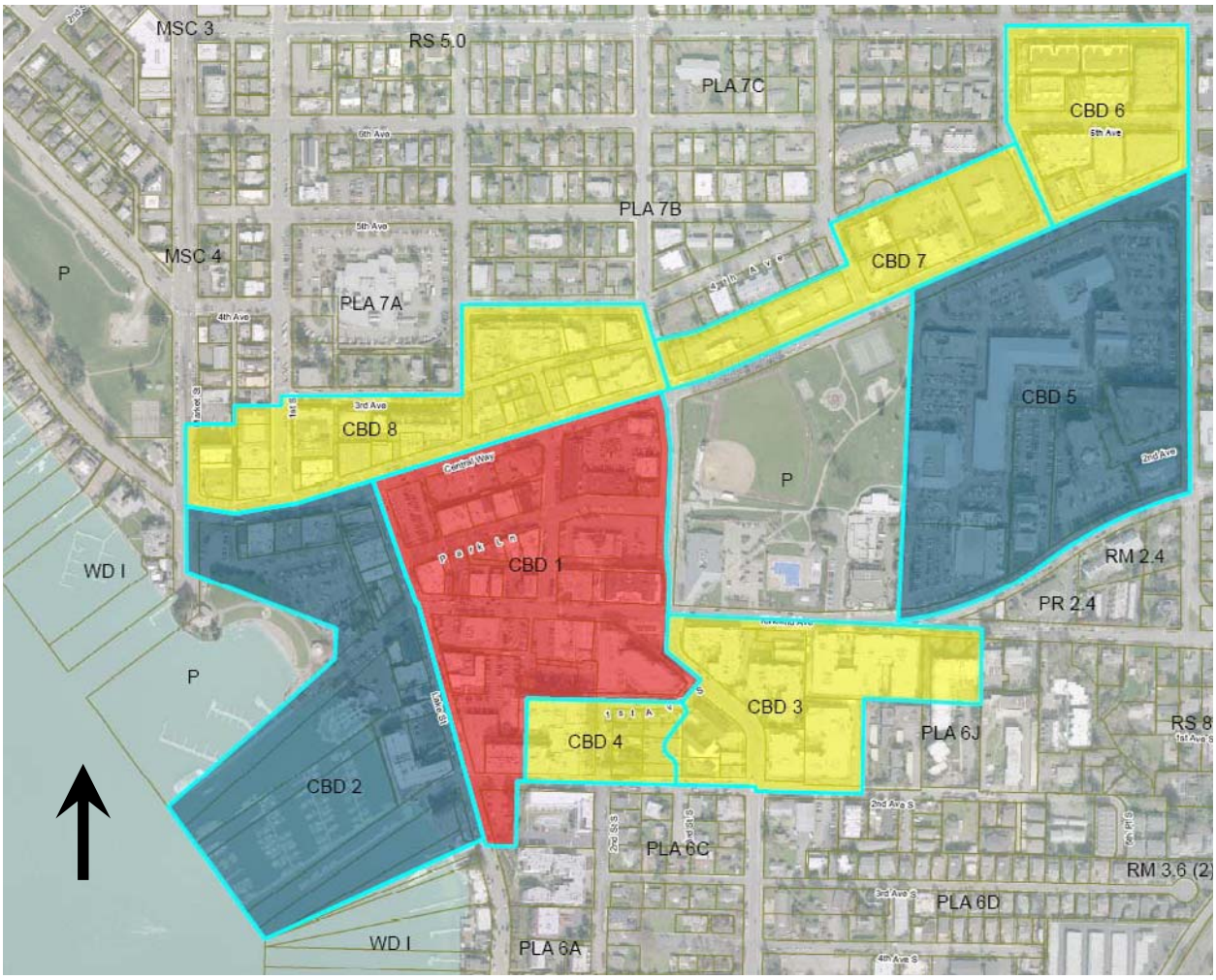
For purposes of establishing policies for height and design, the Plan segregates the downtown into eight Height and Design Districts. Geographically and numerically these districts correlate directly with the CBD zones (e.g. – Design District 1 covers the same area as CBD 1). Height and Design Districts are illustrated on the following page.



Downtown Plan Height and Design Districts

Downtown Zoning

As illustrated in the map on the following page, the Central Business District is divided into eight separate zones (CBD 1 – CBD 8), each unique in terms of allowed uses, building heights, setbacks, etc.



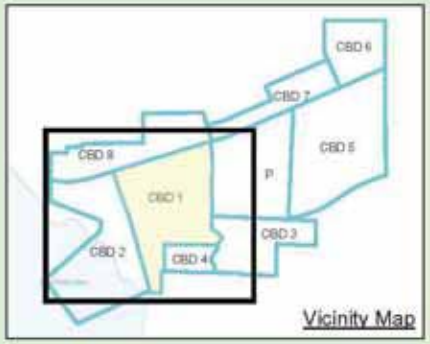
Zoning map, colors keyed to matrix below

The summary on the following page indicates basic development allowances as well as examples of approved projects in various CBD zones (for more project information, a folio of downtown private development projects is attached). For each zone, staff has attempted to rate the level of DRB discretion around building heights with RED representing a HIGH level of discretion, BLUE representing a MODERATE level of discretion, and YELLOW representing LITTLE OR NO discretion. Obviously, discretion arises when the allowed building heights are specified in a range as opposed to area where maximum heights are clearly spelled out. Note that in all of the City's design districts, Chapter 142.25.6 grants the DRB authority to grant minor variations to setback requirements subject to criteria.

Zone	Maximum Allowed Height	Height Discretion through Comp Plan?	Minimum Front Setbacks	Required Stepbacks	Design Review Projects
CBD 1	2-5 stories (5th floor for upper story residential with additional discretionary criteria)	Yes	0'	Case by case	Heathman Hotel Kirkland Central Merrill Gardens Lake Street Office
CBD 2	1-3 stories (varies by block)	Yes	0'	None	213 Lake St S.*
CBD 3	3 stories	No	20' (0' for retail)	Non-retail uses have 20' setback	123 State Apartments Boulevard Condos St. John's Expansion
CBD 4	4 stories	No	0'-10' depending on location and use	None	Portsmith*
CBD 5	3-5 stories	Yes	20'	Kirkland Way: above the 2nd and 4th stories. Not defined for Central Way or 6th St.	Emerald Building* Watermark Apartments* Parkplace Office (pend.)
CBD 6	4 stories	No	20' (0' for retail)	Non-retail uses have 20' setback	602 5th Street Condos* Park Avenue Condos* 6th Avenue Condos* Soho Condos* Tera Apartments*
CBD 7	3 stories	No	20' (0' for retail)	Non-retail uses have 20' setback	None
CBD 8	41' above Central, terracing up to north based on formula	No	0' on Central, 20' on side streets	3:1 angle from Central Way facade	Marina Heights* Park 34 Condos* Brezza* Tiara de Lago* Waterview Condos* Westwater Apartments*

* indicates project approved under prior code through ADR process

CBD 1



CBD 1

1. **Lake Street Place**
   Mixed-use: Retail/Office

2. **Portsmith Condos***
   Condominiums

3. **Merrill Gardens**
   Mixed-use: Assisted Living/ Retail

4. **Kirkland Central**
   Mixed-use: Condominiums/ Retail

5. **Heathman Hotel**
   Hotel

○ Design District 1A/1B

* Project constructed under previous CBD regulations

CHAPTER 50 - CENTRAL BUSINESS DISTRICT (CBD) ZONES

50.05 User Guide.

The charts in KZC 50.12 contain the basic zoning regulations that apply in the CBD 1 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Zone CBD-1	**Section 50.10 – GENERAL REGULATIONS** The following regulations apply to all uses in this zone unless otherwise noted:
	1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
	2. Height measured at the midpoint of the frontage of the subject property on the abutting right-of-way, excluding First Avenue South. Buildings exceeding two stories must demonstrate compliance with the design regulations of Chapter 92 KZC and all provisions contained in the Downtown Plan. The City will determine compliance with these requirements through Design Review (D.R.).

Section 50.12	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Restaurant or Tavern	D.R., Chapter 142 KZC	None	0′	0′	0′	100%	2 to 4 stories above each abutting right-of-way.	D	E	One per each 125 sq. ft. of gross floor area. See KZC 50.60.	1. Drive-in or drive-through facilities are prohibited.
.020	Any Retail Establishment, other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, excluding banking and related financial services										One per each 350 sq. ft. of gross floor area. See KZC 50.60.	1. The following uses are not permitted in this zone: a. Vehicle service stations. b. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. c. Drive-in facilities and drive-through facilities. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.

Section 50.12 Zone CBD-1 USE ZONE CHART

Section 50.12	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.025	Banking and Related Financial Services	D.R., Chapter 142 KZC	None	0′	0′	0′	100%	2 to 4 stories above each abutting right-of-way.	D	E	One per each 350 sq. ft. of gross floor area. See KZC 50.60.	1. Drive-through facilities are permitted as an accessory use if: a. The drive-through facility existed prior to January 1, 2004, OR the drive-through facility will replace a drive-through facility which existed on January 1, 2004, and which drive-through facility: 1) Was demolished to allow redevelopment of the site on which the primary use was located; and 2) Will serve the same business served by the replaced facility, even if that business moves to a new location; and 3) Does not result in a net increase in the number of drive-through lanes serving the primary use; and b. The Public Works Department determines that vehicle stacking will not impede pedestrian or vehicular movement within the right-of-way, and that the facility will not impede vehicle or pedestrian visibility as vehicles enter the sidewalk zone; and c. The vehicular access lanes will not be located between the street and the buildings and the configuration of the facility and lanes is generally perpendicular to the street; and d. Any replacement drive-through facility is reviewed and approved pursuant to Chapter 142 KZC for compliance with the following criteria: 1) The design of the vehicular access for any new drive-through facility is compatible with pedestrian walkways and parking access. 2) Disruption of pedestrian travel and continuity of pedestrian-oriented retail is limited by minimizing the width of the facility and associated curb-cuts.

Section 50.12	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	Hotel or Motel	D.R., Chapter 142 KZC	None	0′	0′	0′	100%	2 to 5 stories above each abutting right-of-way.	D	E	One for each room. See Spec. Reg. 2 and KZC 50.60.	1. The following uses are not permitted in this zone: a. Vehicle service stations. b. Vehicle and/or boat sale, repair, service or rental. c. Drive-in facilities and drive-through facilities. 2. The parking requirement for hotel or motel use does not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis.
.040	Entertainment, Cultural and/or Recreational Facility							2 to 4 stories above each abutting right-of-way.			See KZC 50.60 and 105.25.	

Section 50.12 Zone CBD-1 USE ZONE CHART

Section 50.12	USE ⇩ / REGULATIONS ⇨	Required Review Process	Lot Size (MINIMUMS)	Required Yards (See Ch. 115) Front (MINIMUMS)	Side (MINIMUMS)	Rear (MINIMUMS)	Lot Coverage (MAXIMUMS)	Height of Structure (MAXIMUMS)	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.060	Private Club or Lodge	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 to 4 stories above each abutting right-of-way.	D	B	See KZC 50.60 and 105.25.	1. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. 2. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 3. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect signed by an Acoustical Engineer, must be submitted with the D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units.
.070	Office Use									D	One per each 350 sq. ft. of gross floor area. See KZC 50.60.	
.080	Stacked or Attached Dwelling Units							2 to 5 stories above each abutting right-of-way.		A	1.7 per unit. See KZC 50.60.	
.090	School, Day-Care Center or Mini School or Day-Care Center							2 to 4 stories above each abutting right-of-way.		B	See KZC 50.60 and 105.25.	1. A six-foot-high fence is required along all property lines adjacent to outside play areas. 2. Structured play areas must be setback from all property lines by at least five feet. 3. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

Section 50.12	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.100	Assisted Living Facility See Special Regulation 3.	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 to 5 stories above each abutting right-of-way.	D	A	1.7 per independent unit. 1 per assisted living unit. See KZC 50.60.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.
.110	Public Utility, Government Facility, or Community Facility							2 to 4 stories above each abutting right-of-way.	D See Special Reg. 1.	B	See KZC 50.60 and 105.25.	1. Landscape Category B or C may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses.
.120	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Comprehensive Plan/Downtown Plan
Land Use Policies for CBD 1 (Core Area)

Pedestrian activity in the core area is to be enhanced.

The core area should be enhanced as the pedestrian heart of Downtown Kirkland. Land uses should be oriented to the pedestrian, both in terms of design and activity type. Appropriate uses include retail, restaurant, office, residential, cultural, and recreational.

Restaurants, delicatessens, and specialty retail shops, including fine apparel, gift shops, art galleries, import shops, and the like constitute the use mix and image contemplated in the Vision for Downtown. These uses provide visual interest and stimulate foot traffic and thereby provide opportunities for leisure time strolling along Downtown walkways for Kirklanders and visitors alike.

Drive-through facilities and ground-floor offices are prohibited.

The desired pedestrian character and vitality of the core area requires the relatively intensive use of land and continuous compact retail frontage. Therefore, automobile drive-through facilities should be prohibited. Similarly, office uses should not be allowed to locate on the ground level. These uses generally lack visual interest, generate little foot traffic, and diminish prime ground floor opportunities for the retail uses that are crucial to the ambiance and economic success of the core area.

The attractiveness of the core area for pedestrian activity should be maintained and enhanced. Public and private efforts toward beautification of the area should be promoted. Mitigation measures should be undertaken where land uses may threaten the quality of the pedestrian environment. For example, in areas where take-out eating facilities are permitted, a litter surcharge on business licenses should be considered as a means to pay for additional trash receptacles or cleaning crews.

The creation and enhancement of public open spaces is discussed.

Public open spaces are an important component of the pedestrian environment. They provide focal points for outdoor activity, provide refuge from automobiles, and stimulate foot traffic which in turn helps the retail trade. The establishment and use of public spaces should be promoted. Surface parking lots should be eliminated in favor of structured parking. In the interim, their role as one form of open area in the Downtown should be improved with landscaped buffers adjacent to rights-of-way and between properties. Landscaping should also be installed where rear sides of buildings and service areas are exposed to pedestrians.

A high-priority policy objective should be for developers to include only enough parking stalls in their projects within the core area to meet the immediate need and to locate the majority of their parking in the core frame. This approach would reserve the majority of core land area for pedestrian movement and uses and yet recognize that the adjacent core frame is within a very short walk.

The City should generally avoid vacating alleys and streets in the core area. The existing network of street and alleys provides a fine-grained texture to the blocks which allows service access and pedestrian shortcuts. The small blocks also preclude consolidation of properties which might allow larger developments with less pedestrian scale. Vacations may be considered when they will not result in increased building mass and there is a substantial public benefit. Examples of public benefit might include superior pedestrian or vehicular linkages, or superior public open space.

Comprehensive Plan/Downtown Plan
Height and Design District Policies for CBD 1 (Design District 1)

Maximum building height in Design District 1 is between two and five stories, depending on location and use.

This district is bordered by Lake Street, Central Way, 3rd Street, and generally 1st Avenue South. When combined with District 2, this area corresponds to the core area as shown in Figure C3.

The maximum building height in this area should be between two and five stories with no minimum setback from property lines. Stories above the second story should be set back from the street. To preserve the 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.

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. Buildings up to three stories in height may be appropriate along Central Way to reflect the scale of development in Design District 8 and as an intermediate height where adequately set back from the street. A continuous three-story street wall should be avoided by incorporating vertical and horizontal modulations into the design of buildings.

The portions of Design District 1 designated as 1A in Figure C-5 should be limited to a maximum height of three stories. As an incentive to encourage residential use of upper floors and to strengthen the retail fabric of the Core Area, a fourth story of height may be allowed. This additional story may be considered by the Design Review Board for projects where at least two of the upper stories are residential, the total height is not more than four feet taller than the height that would result from an office project with two stories of office over ground floor retail, stories above the second story are set back significantly from the street and the building form is stepped back at the third and fourth stories to mitigate the additional building mass, and the project provides superior retail space at the street level. Rooftop appurtenances and related screening should not exceed the total allowed height, and should be integrated into the height and design of any peaked roofs or parapets.

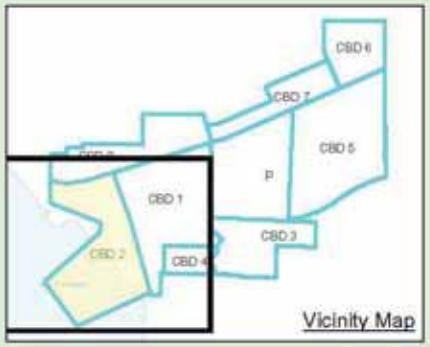
The portions of Design District 1 designated as 1B in Figure C-5 provide the best opportunities for new development that could contribute to the pedestrian fabric of the Downtown. Much of the existing development in these areas consists of older auto-oriented uses defined by surface parking

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 two to four stories in height is appropriate. East of Main Street, development should combine modulations in building heights with modulations of facade widths to break large buildings into the appearance of multiple smaller buildings. 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.

As with Design District 1A, an additional story of height may be appropriate in 1B to encourage residential use of the upper floors and to strengthen the retail fabric in the Core Area. This additional story may be considered by the Design Review Board for projects where at least three of the upper stories are residential, the 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, stories above the second story are set back significantly from the street and the building form is stepped back at the at the third, fourth, and fifth stories to mitigate the additional building mass, and the project provides superior retail space at the street level. Rooftop appurtenances and related screening should not exceed the total allowed height, and should be integrated into the height and design of any peaked roofs or parapets.

Design considerations of particular importance in this area are those related to pedestrian scale and orientation. Building design at the street wall should contribute to a lively, attractive, and safe pedestrian streetscape. This should be achieved by the judicious placement of windows, multiple entrances, canopies, awnings, courtyards, arcades, and other pedestrian amenities. Service areas, surface parking, and blank facades should be located away from the street frontage.

CBD 2


CBD 6
CBD 7
CBD 5
P
CBD 1
CBD 2
CBD 3
CBD 4
Vicinity Map

CBD 2

Marina Park Building
Central Way
Lake Street Mall
Park Ln
CBD 1
Lakeshore Plaza
WD I
Marina Park
Williams Building
P
Lake St
1st A
Home Port Marina Building
CBD 4
CBD 2
Lake Washington
Chaffey Building
2nd St S
WD I
PLA 6A

50.14 User Guide.

The charts in KZC 50.17 contain the basic zoning regulations that apply in the CBD 2 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Zone CBD-2	**Section 50.15 – GENERAL REGULATIONS** The following regulations apply to all uses in this zone unless otherwise noted:
	1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
	2. See KZC 50.20 for regulations regarding bulkheads and land surface modification.
	3. Along Lake Street South, north of Kirkland Avenue, buildings exceeding one story above Lake Street South shall demonstrate compliance with the Design Regulations of Chapter 92 KZC and all provisions of the Downtown Plan. Through Design Rev iew (D.R.) the City shall find that any allowance for additional height is clearly outweighed by identified public benefits such as through-block public pedestrian access or through-block view corridors (does not apply to Public Access Pier or Boardwalk and Moorage Facility for One or Two Boats uses).
	4. In no case shall the height exceptions identified in KZC 50.62 and 115.60(2)(d) result in a structure which exceeds 28 feet above the abutting right-of-way (does not apply to Public Access Pier or Boardwalk, Moorage Facility for One or Two Boats uses and General Moorage Facility Uses).
	5. South of Second Avenue South, maximum height of structure is three stories above Lake Street South as measured at the midpoint of the frontage of the subject property on Lake Street South. Buildings exceeding two stories shall demonstrate compliance with the design regulations of Chapter 92 KZC and all provisions of the Downtown Plan (does not apply to Public Access Pier or Boardwalk and Moorage Facility for One or Two Boats uses).
	6. For purposes of measuring building height, if the subject property abuts more than one right-of-way, the applicant may choose which right-of-way shall be used to measure the allowed height of structure (does not apply to Public Access Pier or Boardwalk, Moorage Facility for One or Two Boats, and General Moorage Facility uses).
	7. May not use land waterward of the high waterline to determine lot size or to calculate allowable density.
	8. Development in this zone may also be regulated under the City's Shoreline Master Program; consult that document.

link to Section 50.17 table

Section 50.17	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	A Retail Establishment, other than those specifically listed, limited, or prohibited in this zone, selling goods or providing services, including banking and related financial services	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 stories above the abutting right-of-way measured at the midpoint of the frontage of the subject property on each right-of-way.	D	E	One per each 350 sq. ft. of gross floor area. See KZC 50.60.	1. The following provisions, which supersede any conflicting provisions of this Chapter, apply only if the subject property abuts or includes a portion of Lake Washington: a. A high waterline yard equal in depth to the greater of 15 feet or 15 percent of the average parcel depth is hereby established on the subject property. b. Balconies that are at least 15 feet above finished grade may extend up to four feet into the high waterline yard. c. No structure, other than moorage structures, may be waterward of the high waterline. For regulation regarding moorages, see the moorage listings in this zone. d. Must provide public pedestrian access from an adjoining right-of-way to and along the entire waterfront of the subject property within the high waterline yard. In addition, the City may require that part or all of the high waterline yard be developed as a public use area. The City shall require signs designating public pedestrian access and public use areas. 2. The following uses are not permitted in this zone: a. Vehicle service stations. b. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. c. Drive-in facilities and drive-through facilities. 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 4. The parking requirement for hotel or motel use does not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis.
.020	Entertainment, Cultural and/or Recreational Facility										See KZC 50.60 and 105.25.	
.030	Hotel or Motel										One for each room. See Special Regulation 4 and KZC 50.60.	
.040	Restaurant or Tavern										One per each 125 sq. ft. of gross floor area. See KZC 50.60.	

Section 50.17 Zone CBD-2 USE ZONE CHART

Section 50.17	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	School, Day-Care Center, or Mini School or Day-Care Center	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 stories above the abutting right-of-way measured at the midpoint of the frontage of the subject property on each right-of-way.	D	B	See KZC 50.60 and 105.25.	1. The following provisions, which supersede any conflicting provisions of this Chapter, apply only if the subject property abuts or includes a portion of Lake Washington: a. A high waterline yard equal in depth to the greater of 15 feet or 15 percent of the average parcel depth is hereby established on the subject property. b. Balconies that are at least 15 feet above finished grade may extend up to four feet into the high waterline yard. c. No structure, other than moorage structures, may be waterward of the high waterline. For regulations regarding moorages, see the moorage listings in this zone. 2. A six-foot-high fence is required along all property lines adjacent to outside play areas. 3. Structured play areas must be setback from all property lines by at least five feet. 4. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 5. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 6. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

Section 50.17	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.060	Assisted Living Facility See Special Regulation 4.	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 stories above the abutting right-of-way measured at the midpoint of the frontage of the subject property on each right-of-way.	D	A	1.7 per independent unit. 1 per assisted living unit. See KZC 50.60.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 3. The following provisions, which supersede any conflicting provisions of this Chapter, apply only if the subject property abuts or includes a portion of Lake Washington: a. A high waterline yard equal in depth to the greater of 15 feet or 15 percent of the average parcel depth is hereby established on the subject property. b. Balconies that are at least 15 feet above finished grade may extend up to four feet into the high waterline yard. c. No structure, other than moorage structures, may be waterward of the high waterline. For regulations regarding moorages, see the moorage listings in this zone. d. Must provide public pedestrian access from an adjoining right-of-way to and along the entire waterfront of the subject property within the high waterline yard. In addition, the City may require that part or all of the high waterline yard be developed as a public use area. The City shall require signs designating public pedestrian access and public use areas. 4. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.

Section 50.17 Zone CBD-2 USE ZONE CHART

Section 50.17	USE ⇩ REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.070	Private Club or Lodge	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 stories above the abutting right-of-way measured at the midpoint of the frontage of the subject property on each right-of-way.	D	B	See KZC 50.60 and 105.25.	1. The following provisions, which supersede any conflicting provisions of this Chapter, apply only if the subject property abuts or includes a portion of Lake Washington: a. A high waterline yard equal in depth to the greater of 15 feet or 15 percent of the average parcel depth is hereby established on the subject property. b. Balconies that are at least 15 feet above finished grade may extend up to four feet into the high waterline yard. c. No structure, other than moorage structures, may be waterward of the high waterline. For regulations regarding moorages, see the moorage listings in this Zone. d. Must provide public pedestrian access from an adjoining right-of-way to and along the entire waterfront of the subject property within the high waterline yard. In addition, the City may require that part or all of the high waterline yard be developed as a public use area. The City shall require signs designating public pedestrian access and public use areas. 2. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. 4. Veterinary offices are not permitted in this zone.
.080	Office Use									D	One per 350 sq. ft. of gross floor area. See KZC 50.60.	

Section 50.17	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.090	Stacked or Attached Dwelling Units	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 stories above the abutting right-of-way measured at the midpoint of the frontage of the subject property on each right-of-way.	D	A	1.7 per unit. See KZC 50.60.	1. The following provisions, which supersede any conflicting provisions of this Chapter, apply only if the subject property abuts or includes a portion of Lake Washington: a. A high waterline yard equal in depth to the greater of 15 ft. or 15 percent of the average parcel depth is hereby established on the subject property. b. Balconies that are at least 15 feet above finished grade may extend up to four feet into the high waterline yard. c. No structure, other than moorage structures, may be waterward of the high waterline. For regulations regarding moorages, see the moorage listings in this Zone. d. Must provide public pedestrian access from an adjoining right-of-way to and along the entire waterfront of the subject property within the high waterline yard. In addition, the City may require that part or all of the high waterline yard be developed as a public use area. The City shall require signs designating public pedestrian access and public use areas. 2. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.
.100	Public Access Pier or Boardwalk			Landward of the high waterline 0′ 0′ 0′ Waterward of the high waterline 0′ 10′ 0′ See Special Regulation 8.			--	Pier decks may not be more than 24 feet above mean sea level. Diving boards and similar features may not be more than 3 feet above the deck.	--	See Spec. Reg. 7.	--	1. No accessory uses, buildings, or activities may be permitted as part of this use. 2. If a structure will extend waterward of the Inner Harbor Line, the applicant must obtain a lease from the Washington State Department of Natural Resources prior to proposing this use. 3. May not treat structures with creosote, oil base, or toxic substances. 4. Must provide at least one covered and secured waste receptacle. 5. All utility lines must be below the pier deck and, where feasible, underground. 6. Piers must be adequately lit; the source of the light must not be visible from off the subject property. 7. The pier or boardwalk must display the street address of the subject property. The address must be oriented to and visible from the lake with letters and numbers at least four inches high. 8. The side property line yards may be reduced for over water public access piers or boardwalks which connect with waterfront public access on adjacent property.

Section 50.17 Zone CBD-2 USE ZONE CHART

Section 50.17	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS									
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.110	Moorage Facility for One or Two Boats	D.R., Chapter 142 KZC.	None	Landward of the high waterline 0′ 0′ 0′ Waterward of the high waterline 0′ 10′ 0′ See Special Regulation 5.			100%	Pier decks may not be more than 24 feet above mean sea level. Diving boards and similar features may not be more than 3 feet above the deck.	--	See Spec. Reg. 9.	See KZC 50.60 and 105.25.	1. No accessory use, buildings, or activities are permitted as part of this use. Various accessory components are permitted as part of a General Moorage Facility. See that listing in this zone. 2. Moorage structures may not extend waterward beyond a point 150 feet from the high waterline. In addition, piers and docks may not be wider than is reasonably necessary to provide safe access to the boats, but not more than eight feet in width. 3. If moorage structures will extend waterward of the Inner Harbor Line, the applicant must obtain a lease from the Washington State Department of Natural Resources prior to proposing this use. 4. May not treat structures with creosote, oil-based, or toxic substances. 5. Moorage structures may not be closer than 25 feet to another moorage structure not on the subject property. 6. Must provide at least one covered and secured waste receptacle. 7. All utility lines must be below the pier deck and, where feasible, underground. 8. Piers must be adequately lit; the source of the light must not be visible from off the subject property. 9. Moorage structures must display the street address of the subject property. The address must be oriented to and visible from the lake, with letters and numbers at least four inches high. 10. Covered moorage is not permitted. 11. A high waterline yard equal in depth to the greater of 15 feet or 15 percent of the average parcel depth is hereby established on the subject property. No structure other than moorage structures may be within the high waterline yard.

Section 50.17	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.120	General Moorage Facility	Process IIA, Chapter 150 KZC, and D.R., Chapter 142 KZC.	None, but must have at least 100 ft. of frontage on Lake Washington.	0′ See Spec. Reg 10.	0′	0′	100%	Landward of the high waterline, 2 stories above average building elevation. Waterward of the high waterline, pier decks may not be more than 24 feet above mean sea level. Diving boards and similar features may not be more than 3 feet above the deck.	See Spec. Reg. 5.	B See Spec. Reg. 14.	See KZC 50.60 and 105.25.	1. The City will determine the maximum allowable number of moorages based on the following factors: a. The topography of the area. b. The ability of the land waterward of the high waterline to support the moorages. c. The nature of nearby uses. d. The potential for traffic congestion. e. The effect on existing habitats. 2. Moorage structures may not be larger than is reasonably necessary to provide safe and reasonable moorage for the boats to be moored. The City will specifically review the size and configuration of moorage structures to insure that: a. The moorage structures do not extend waterward of the point necessary to provide reasonable draft for the boats to be moored, but not beyond the Outer Harbor Line. b. The moorage structures are not larger than is necessary to moor the specified number of boats. c. The moorage structures will not interfere with the public use and enjoyment of the water or create a hazard to navigation. 3. The following accessory components are allowed if approved through Process IIB, Chapter 152 KZC: a. Gas and oil sale for boats, if: 1) Storage tanks are underground and on dry land; and 2) The use has facilities to contain and clean up oil and gas spills. b. An over-water shed, which is no more than 50 square feet and not more than 10 feet high as measured from the deck, accessory to oil and gas sale for boats. c. Boat and motor sales and leasing. d. Boat or motor repair and service if: 1) This activity is conducted on dry land and either totally within a building or totally sight screened from the adjoining property and the right-of-way; and 2) All dry land motor testing is conducted within a building. e. Meeting and special events rooms. 4. Must provide public pedestrian access from an adjoining right-of-way to and along the entire waterfront of the subject property within the high waterline yard. In addition, the City may require that part or all of the high waterline yard be developed as a public use area. The City shall require signs designating public pedestrian access and public use areas. 5. The City may require the applicant to install a buffer between the subject property and adjoining property. The City will use the requirements of Chapter 95 as a guide for requiring a buffer. REGULATIONS CONTINUED ON NEXT PAGE

Section 50.17 Zone CBD-2 USE ZONE CHART

Section 50.17	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.120	General Moorage Facility (continued)											6. At least one pump-out facility shall be provided for use by the general public. This facility must be easily accessible to the general public and clearly marked for public use. 7. Must provide public restrooms unless moorage is available only for the residents of dwelling units on the subject property. 8. If moorage structures will extend waterward of the Inner Harbor Line, the applicant must obtain a lease from the Washington State Department of Natural Resources prior to proposing this use. 9. May not treat moorage structures with creosote, oil-based, or toxic substances. 10. No moorage structure may be within: a. 100 feet of a public park; b. 50 feet of any abutting lot that contains a detached dwelling unit; and c. 25 feet of another moorage structure not on the subject property. 11. Must provide at least two covered and secured waste receptacles. 12. All utility lines must be below the pier decks and, where feasible, underground. 13. Piers must be adequately lit; the source of the light must not be visible from off the subject property. 14. Moorage structures must display the street address of the subject property. The address must be oriented to and visible from the lake, with letters and numbers at least four inches high. 15. Covered moorage is not permitted. Aircraft moorage is not permitted. 16. A high waterline yard equal in depth to the greater of 15 feet or 15 percent of the average parcel depth is hereby established on the subject property. No structure other than moorage structures may be within the high waterline yard. 17. Balconies that are at least 15 feet above finished grade may extend up to four feet into the high waterline yard. 18. No structures, other than moorage structures, may be waterward of the high waterline.

Section 50.17	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.130	Public Utility	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	2 stories above the abutting right-of-way measured at the midpoint of the frontage of the subject property on each right-of-way.	D	B	See KZC 50.60 and 105.25.	1. May be permitted only if locating this use in the immediate area of subject property is necessary to permit efficient service to the area or the City as a whole. 2. No structures, other than moorage structures, may be waterward at the high water-line. For regulations regarding moorages, see the moorage listings in this zone.
.140	Government Facility											
.150	Community Facility											
.160	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Comprehensive Plan/Downtown Plan
Land Use Policies for CBD 2 (Core Area)

Pedestrian activity in the core area is to be enhanced.

The core area should be enhanced as the pedestrian heart of Downtown Kirkland. Land uses should be oriented to the pedestrian, both in terms of design and activity type. Appropriate uses include retail, restaurant, office, residential, cultural, and recreational.

Restaurants, delicatessens, and specialty retail shops, including fine apparel, gift shops, art galleries, import shops, and the like constitute the use mix and image contemplated in the Vision for Downtown. These uses provide visual interest and stimulate foot traffic and thereby provide opportunities for leisure time strolling along Downtown walkways for Kirklanders and visitors alike.

Drive-through facilities and ground-floor offices are prohibited.

The desired pedestrian character and vitality of the core area requires the relatively intensive use of land and continuous compact retail frontage. Therefore, automobile drive-through facilities should be prohibited. Similarly, office uses should not be allowed to locate on the ground level. These uses generally lack visual interest, generate little foot traffic, and diminish prime ground floor opportunities for the retail uses that are crucial to the ambiance and economic success of the core area.

The attractiveness of the core area for pedestrian activity should be maintained and enhanced. Public and private efforts toward beautification of the area should be promoted. Mitigation measures should be undertaken where land uses may threaten the quality of the pedestrian environment. For example, in areas where take-out eating facilities are permitted, a litter surcharge on business licenses should be considered as a means to pay for additional trash receptacles or cleaning crews.

The creation and enhancement of public open spaces is discussed.

Public open spaces are an important component of the pedestrian environment. They provide focal points for outdoor activity, provide refuge from automobiles, and stimulate foot traffic which in turn helps the retail trade. The establishment and use of public spaces should be promoted. Surface parking lots should be eliminated in favor of structured parking. In the interim, their role as one form of open area in the Downtown should be improved with landscaped buffers adjacent to rights-of-way and between properties. Landscaping should also be installed where rear sides of buildings and service areas are exposed to pedestrians.

A high-priority policy objective should be for developers to include only enough parking stalls in their projects within the core area to meet the immediate need and to locate the majority of their parking in the core frame. This approach would reserve the majority of core land area for pedestrian movement and uses and yet recognize that the adjacent core frame is within a very short walk.

The City should generally avoid vacating alleys and streets in the core area. The existing network of street and alleys provides a fine-grained texture to the blocks which allows service access and pedestrian shortcuts. The small blocks also preclude consolidation of properties which might allow larger developments with less pedestrian scale. Vacations may be considered when they will not result in increased building mass and there is a substantial public benefit. Examples of public benefit might include superior pedestrian or vehicular linkages, or superior public open space.

Comprehensive Plan/Downtown Plan
Height and Design District Policies for CBD 2 (Design District 2)

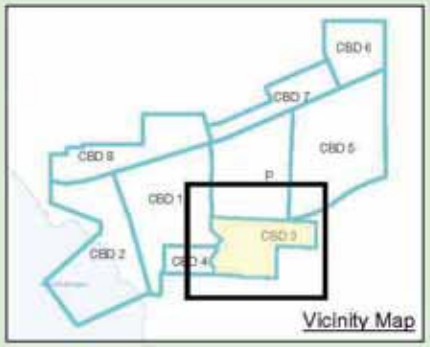
One to three stories in building height above Central Way or Lake Street are appropriate in Design District 2, depending on location.

This area is bordered by the shoreline, Central Way, Lake Street, and 3rd Avenue South. This area serves as the link between Downtown and the Lake and helps define the traditional pedestrian-oriented retail environment. In addition, the existing low development allows public views of the Lake from many vantages around the Downtown and allows evening sun into the Downtown core. To emphasize this link and the traditional role, building heights in this area should remain low. Two stories above the street are appropriate along Central Way and south of Kirkland Avenue. Along Lake Street South between Kirkland Avenue and Central Way, buildings should be limited to one story above the street. Two stories in height may be allowed in this area where the impacts of the additional height are offset by substantial public benefits, such as through-block public pedestrian access or view corridors. Buildings over one story in this area should be reviewed by the Design Review Board for both design and public benefit considerations. These benefits could also be provided with the development of the Lakeshore Plaza project identified in the Downtown Master Plan (see Figure C-4). Building occurring in conjunction with that project or thereafter should be reviewed in relation to the new context to determine whether two stories are appropriate. South of Second Avenue South, buildings up to three stories above Lake Street South are appropriate. Buildings over two stories should be reviewed by the Design Review Board to ensure an effective transition along the street and properties to the south.

As in District 1, pedestrian orientation is an equally important design consideration in District 2. In addition, improvements related to the visual or physical linkage between building in this area and the lake to the west should be incorporated in building design.

The public parking lot located near Marina Park at the base of Market Street is well suited for a parking structure of several levels, due to its topography. Incentives should be developed to encourage the use of this site for additional public parking.

CBD 3



CBD 3

1. **Plaza on State ***
   Condominiums

2. **The Boulevard**
   Mixed-use: Condominiums/Retail

3. **128 on State**
   Apartments

* Project constructed under previous CBD regulations

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50.24 User Guide.

The charts in KZC 50.27 contain the basic zoning regulations that apply in the CBD 3 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Zone CBD-3	**Section 50.25 – GENERAL REGULATIONS** The following regulations apply to all uses in this zone unless otherwise noted:
	1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
	2. No portion of a structure within 100 feet of the southerly boundary of 2nd Avenue South abutting Planned Area 6C may exceed 25 feet above average building elevation (does not apply to Detached Dwelling Unit uses).
	3. Site and building design must include installation of pedestrian linkages consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan (does not apply to Detached Dwelling Unit uses).

link to Section 50.27 table

Section 50.27	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Entertainment, Cultural, and/or Recreational Facility	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 4.	0′	0′	80% See Spec. Reg. 4.	3 stories above average building elevation.	D See Spec. Reg. 3.	E	See KZC 105.25.	1. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 2. The parking requirement for hotel or motel use does not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis. 3. Landscape Category B is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J. 4. The required front yard for this use shall be zero feet for one story at street level. No parking may encroach into the required 20-foot front yard. If this use provides a zero-foot front yard, the lot coverage for the entire property shall be 100 percent.
.020	Hotel or Motel										One for each room. See Spec. Reg. 2.	
.030	Restaurant or Tavern										One per each 125 sq. ft. of gross floor area.	1. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 2. Drive-in facilities and drive-through facilities are not permitted in this zone. 3. Landscape Category B is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J. 4. The required front yard for this use shall be zero eet for one story at street level. No parking may encroach into the required 20-foot front yard. If this use provides a zero-foot front yard, the lot coverage for the entire property shall be 100 percent.

Section 50.27 Zone CBD-3 USE ZONE CHART

Section 50.27	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.040	Any Retail Establishment, other than those specifically listed, limited, or prohibited in this zone, selling goods or providing services including banking and related financial services	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 5.	0′	0′	80% See Spec. Reg. 5.	3 stories above average building elevation.	D See Spec. Reg. 4.	E	One per each 350 sq. ft. of gross floor area.	1. The following uses are not permitted in this zone: a. Vehicle service stations. b. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. c. Drive-in facilities and drive-through facilities. 2. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 4. Landscape Category B is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J. 5. The required front yard for this use shall be zero feet for one story at street level. No parking may encroach into the required 20-foot front yard. If this use provides a zero-foot front yard, the lot coverage for the entire property shall be 100 percent.

Section 50.27	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	Private Lodge or Club See Spec. Reg. 3.	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 4.	0′	0′	80%	3 stories above average building elevation.	D See Spec. Reg. 2.	B	See KZC 105.25.	1. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 2. Landscape Category C is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. This special regulation shall not apply along portions of State Street and Second Avenue South not designated as pedestrian-oriented streets. 4. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.

Section 50.27 Zone CBD-3 USE ZONE CHART

Section 50.27	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.060	Office Use See Spec. Reg. 5.	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 6.	0′	0′	80%	3 stories above average building elevation.	D See Spec. Reg. 4.	D	One per each 350 sq. ft. of gross floor area.	1. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 2. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units. 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 4. Landscape Category C is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J. 5. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. This special regulation shall not apply along portions of State Street and Second Avenue South not designated as pedestrian-oriented streets. 6. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.

Section 50.27	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.070	Stacked or Attached Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 2.	0′	0′	80%	3 stories above average building elevation.	D	A	1.7 per unit.	1. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. This special regulation shall not apply along portions of State Street and Second Avenue South not designated as pedestrian-oriented streets. 2. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.
.080	Detached Dwelling Units	None	3,000 sq. ft.	20′	5′	10′	70%	If adjoining a low density zone, then 25′ above average building elevation. Otherwise, 30′ above average building elevation.	D	A	2.0 per unit.	1. For this use, only one dwelling unit may be on each lot regardless of size. 2. This use may only be located west of State Street. 3. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use.

Section 50.27 Zone CBD-3 USE ZONE CHART

Section 50.27	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.090	Church	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 4.	0′	0′	80%	3 stories above average building elevation.	D See Spec. Reg. 3.	B	One per every four people based on maximum occupancy of any area of worship. See Spec. Reg. 2.	1. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 2. No parking is required for day-care or school ancillary to the use. 3. Landscape Category C is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J. 4. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.
.100	School, Day-Care Center, or Mini-School or Day-Care Center			20′ See Spec. Reg. 7.					D		See KZC 105.25.	1. A six-foot-high fence is required along all property lines adjacent to outside play areas. 2. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 3. Structured play areas must be setback from all property lines by at least five feet. 4. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 5. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 6. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 7. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.

Section 50.27	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.110	Assisted Living Facility See Special Regulation 3.	D.R., Chapter 142 KZC.	None	20′	0′	0′	80%	3 stories above average building elevation.	D	A	1.7 per independent unit. 1 per assisted living unit.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. This special regulation shall not apply along portions of State Street and Second Avenue South not designated as pedestrian-oriented streets. 4. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.
.120	Public Utility			20′ See Spec. Reg. 3.					C See Special Reg. 1.			1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses. 2. Landscape Category C is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J. 3. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.
.130	Government Facility or Community Facility								D See Special Regs. 1 and 2.			
.140	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Comprehensive Plan/Downtown Plan
Land Use Policies for CBD 3 (South Core Frame)

Retail, office, and office/multifamily mixed-use projects are suitable for the South Core Frame.

The South Core Frame immediately abuts the southern boundary of the core area. This area is suitable for retail, office, and office/multifamily mixed-use projects.

Public parking may be provided in the South Core Frame.

The South Core Frame, like the Northwest Core Frame, presents an excellent opportunity for the development of close-in public parking. Developers should be allowed to include surplus public parking in their projects in this area or to accommodate private parking "transferred" from the core or funded by "fee-in-lieu" or other municipal source.

The western half of the South Core Frame should develop more intensively than the eastern half of this area, due to its proximity to the Downtown core. The vacation of 1st Avenue South, west of 2nd Street South, and 1st Street South should be considered as a means of concentrating more intensive development to the west.

Mitigation measures to reduce impacts on single-family residences may be required.

As this area lies just north of an established single-family neighborhood, mitigation measures may be required to minimize the impacts of any new nonresidential development on these single-family homes. These measures may include the restriction of vehicle access to projects within the South Core Frame to nonresidential streets. Public improvements, such as physical barriers to restrict traffic flow in these areas, may be considered. The architectural massing of projects in this area should be modulated both horizontally and vertically to reduce their visual bulk and to reflect the topography which presently exists

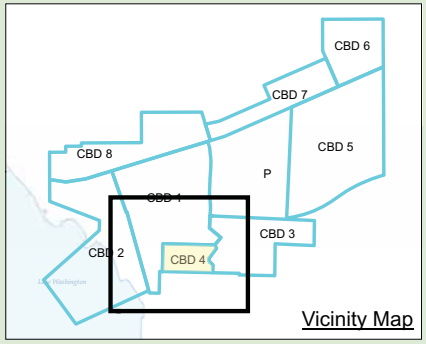
Comprehensive Plan/Downtown Plan
Height and Design District Policies for CBD 3 (Design District 3)

Maximum building height is three stories in Design Districts 3 and 7.

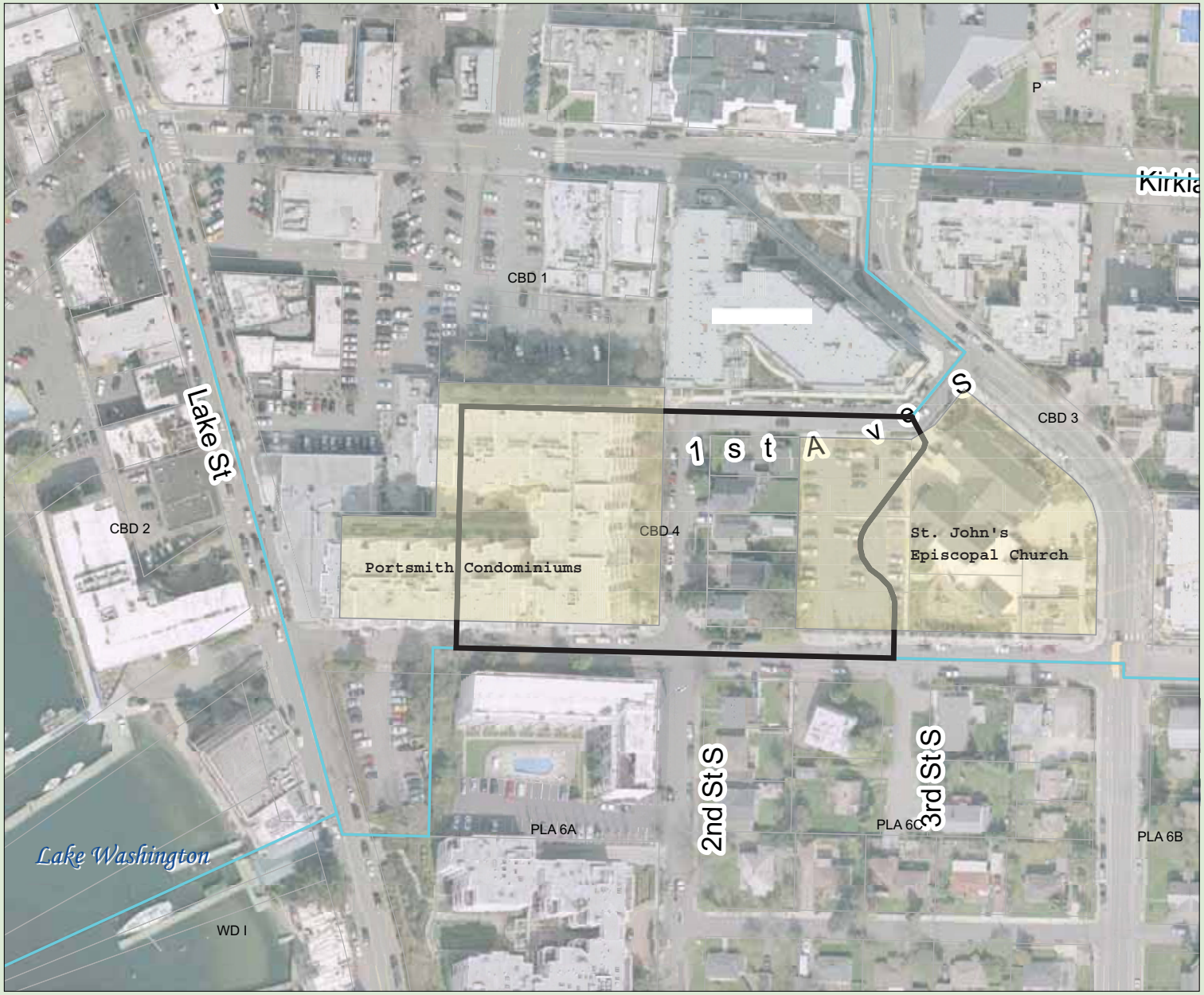
These districts are east of 3rd Street, north of Central Way, and south of Peter Kirk Park. Maximum building height should be three stories, with a minimum front yard setback of 20 feet and maximum lot coverage of 80 percent. Lower portions of projects with a pedestrian orientation should be allowed to encroach into the setbacks to stimulate pedestrian activity and links to eastern portions of the Downtown. Street trees and ground cover are appropriate along Kirkland Avenue and Central Way. By keeping structures in this area relatively low-rise and set back from the street, views from upland residences can be preserved and the openness around Peter Kirk Park enhanced.

In Design District 3, the restriction of access points to nonresidential streets may be necessary in order to prevent a negative impact of development in this area on the single-family enclave which exists to the south.

CBD 4



CBD 4



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50.29 User Guide.

The charts in KZC 50.32 contain the basic zoning regulations that apply in the CBD 4 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Zone CBD-4	**Section 50.30 – GENERAL REGULATIONS** The following regulations apply to all uses in this zone unless otherwise noted:
	1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
	2. Structures east of Second Street South shall be set back 10 feet from Second Avenue South (does not apply to Detached Dwelling Unit and Public Park uses).
	3. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure (does not apply to Public Park uses).
	4. Maximum height of structure is 55.4 feet above average building elevation west of Second Street South, including any adjacent structure in CBD-1 west of 2nd Street South developed with a structure in this zone.
	5. No portion of a structure within 100 feet of the southerly boundary of Second Avenue South abutting Planned Area 6C shall exceed 35 feet. No portion of a structure within 40 feet of First Avenue South shall exceed 3 stories (does not apply to Detached Dwelling Unit uses).
	6. Development shall not isolate any existing detached dwelling unit in this zone (does not apply to Detached Dwelling Unit and Public Park uses).

link to Section 50.32 table

Section 50.32	USE ⇩ REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Restaurant or Tavern	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	4 stories above average building elevation or existing grade.	D See Spec. Reg. 3.	E	One per each 125 sq. ft. of gross floor area.	1. No aspect or component of this use, including open dining areas, may be oriented towards Second Avenue South. 2. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 3. Landscape Category B is required if subject property is adjacent to Planned Area 6C. 4. Drive-in or drive-through facilities are prohibited.
.020	Entertainment, Cultural or Recreational Facility								D See Spec. Reg. 4.		See KZC 50.60 and 105.25.	1. No aspect or component of this use, including hotel/motel rooms and open dining areas, may be oriented toward Second Avenue South. 2. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 3. The parking requirement for hotel or motel use does not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis. 4. Landscape Category B is required if subject property is adjacent to Planned Area 6C.
.030	Hotel or Motel										One for each room. See Spec. Reg. 3.	
.040	Any Retail Establishment, other than those specifically listed, limited, or prohibited in this zone, selling goods or providing services including banking and related financial services.										One per each 350 sq. ft. of gross floor area.	1. The following uses are not permitted in this zone: a. Vehicle service stations. b. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. c. Drive-in facilities and drive-through facilities. 2. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and dependent upon this use and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 4. Landscape Category B is required if subject property is adjacent to Planned Area 6C.

Section 50.32 Zone CBD-4 USE ZONE CHART

Section 50.32	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	Private Lodge or Club	D.R., Chapter 142 KZC.	None	10′	0′	0′	100%	4 stories above average building elevation or existing grade.	D See Spec. Reg. 2.	B	See KZC 105.25.	1. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 2. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
.060	Office Use								D See Spec. Reg. 4.	D	One per each 350 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units. 2. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 3. Primary vehicle access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 4. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
.070	Church								D See Spec. Reg. 3.	B	One per every 4 people based on maximum occupancy load of any area of worship. See Spec. Reg. 2.	1. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 2. No parking is required for daycare or school ancillary to the use. 3. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
.080	Stacked or Attached Dwelling Units								D See Spec. Reg. 1.	A	1.7 per unit.	1. Landscape Category C is required if subject property is adjacent to Planned Areas 6C.

Section 50.32	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.090	School, Day-Care or Mini-School or Day-Care Center	D.R., Chapter 142 KZC.	None	10′	0′	0′	100%	4 stories above average building elevation of existing grade.	D	B	See KZC 105.25.	1. A six-foot-high fence is required along all property lines adjacent to outside play areas. 2. Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists. 3. Structured play areas must be setback from all property lines by at least five feet. 4. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 5. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 6. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.100	Assisted Living Facility								D See Spec. Reg. 3.	A	1.7 per independent unit. 1 per assisted living unit.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 3. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
.110	Detached Dwelling Units	None	3,600 sq. ft.	20′	5′	10′	60%	If adjoining a low density zone, then 25′ above average building elevation. Otherwise, 30′ above building elevation.	E	A	2.0 per unit.	1. For this use, only one dwelling unit may be on each lot regardless of lot size. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use.
.120	Public Utility, Government Facility, or Community Facility	D.R., Chapter 142 KZC.	None	10′	0′	0′	100%	4 stories above average building elevation of existing grade.	D See Spec. Reg. 1	B	See KZC 105.25.	1. Landscape Category C is required if subject property is adjacent to Planned Area 6C. Landscape Category A or B may be required depending on the type of use on the subject property and impacts associated with the use on nearby uses.
.130	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Comprehensive Plan/Downtown Plan
Land Use Policies for CBD 4 (South Core Frame)

Retail, office, and office/multifamily mixed-use projects are suitable for the South Core Frame.

The South Core Frame immediately abuts the southern boundary of the core area. This area is suitable for retail, office, and office/multifamily mixed-use projects.

Public parking may be provided in the South Core Frame.

The South Core Frame, like the Northwest Core Frame, presents an excellent opportunity for the development of close-in public parking. Developers should be allowed to include surplus public parking in their projects in this area or to accommodate private parking "transferred" from the core or funded by "fee-in-lieu" or other municipal source.

The western half of the South Core Frame should develop more intensively than the eastern half of this area, due to its proximity to the Downtown core. The vacation of 1st Avenue South, west of 2nd Street South, and 1st Street South should be considered as a means of concentrating more intensive development to the west.

Mitigation measures to reduce impacts on single-family residences may be required.

As this area lies just north of an established single-family neighborhood, mitigation measures may be required to minimize the impacts of any new nonresidential development on these single-family homes. These measures may include the restriction of vehicle access to projects within the South Core Frame to nonresidential streets. Public improvements, such as physical barriers to restrict traffic flow in these areas, may be considered. The architectural massing of projects in this area should be modulated both horizontally and vertically to reduce their visual bulk and to reflect the topography which presently exists

Comprehensive Plan/Downtown Plan
Height and Design District Policies for CBD 4 (Design District 4)

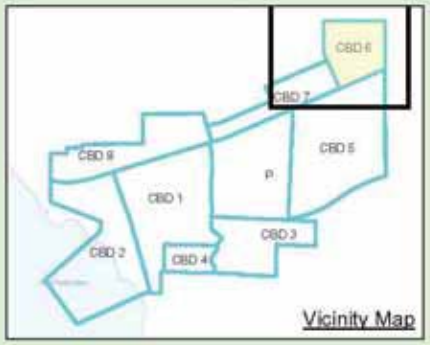
Maximum building height to be four stories.

This district is located south of 1st Avenue South, east of 1st Street South. Land in this area is appropriate for developments of four stories in height.

The method for calculating building height should be modified for this area as described in the discussion of height calculation for structures in District 8. The opportunity to take advantage of substantial grade changes with terraced building forms also exists in the western half of District 4.

Vehicular circulation will be an important consideration in project design in this area. The restriction of access points to nonresidential streets in order to prevent a negative impact of development in this area on the single-family enclave which exists to the south may be necessary.

CBD 6



CBD 6

1. Soho Condominiums
2. Park Avenue Condominiums*
3. Sixth Avenue Condominiums*
4. 602 5th Street Condominiums*
5. Tera Apartments
   Mixed Use: Apartments/retail

* Project constructed under previous CBD regulations

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50.39 User Guide.

The charts in KZC 50.42 contain the basic zoning regulations that apply in the CBD 6 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Zone CBD-6	**50.40 – GENERAL REGULATIONS** The following regulations apply to all uses in this zone unless otherwise noted:
	1. Refer to Chapter 1 KZC to determine what other provisions of this Code may apply to the subject property.
	2. The entire zone must be physically integrated both in site and building design. In addition, the design and development of the subject property must provide pedestrian linkage through this zone and between Central Way and areas to the north of this zone, consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan.
	3. The City may require that areas of the northeastern and southeastern portions of the subject property be developed with pedestrian scale amenities and landscaping to enhance the entryway into the Central Business District.

link to Section 50.42 table

Section 50.42	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Restaurant or Tavern See Spec. Reg, 1.	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 5.	10′	10′	80%	4 stories above average building elevation.	D See Spec. Reg. 4.	E	One per each 125 sq. ft. of gross floor area.	1. These uses are only permitted south of Sixth Avenue. Subterranean parking for these uses may be located north of 6th Avenue; provided, that the parking structures are not visible from 7th Avenue or 5th Street north of 6th Avenue. 2. Vehicular access for these uses and components of these uses, including subterranean parking must be on Central Way or Fifth or Sixth Streets south of Sixth Avenue. The applicant may be required to install traffic diverters or employ other mechanisms to direct nonresidential traffic associated with subject property away from areas north of Sixth Avenue. 3. Access for drive-through facilities must be approved by the Public Works Department. 4. Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Areas 7B or 7C zones. 5. The required front yard for this use shall be zero feet from Central Way for one or two stories. No parking may encroach into the required 20-foot front yard.

Section 50.42 Zone CBD-6 USE ZONE CHART

Section 50.42	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.030	Any Retail Establishment, other than those specifically listed, limited or prohibited in this Zone, selling goods or providing services, including banking and related financial services. See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 8.	10′	10′	80%	4 stories above average building elevation.	D See Spec. Reg. 6.	E	One per each 350 sq. ft. of gross floor area.	1. These uses are only permitted south of Sixth Avenue. Subterranean parking for these uses may be located north of 6th Avenue provided that the parking structures are not visible from 7th Avenue or 5th Street north of 6th Avenue. 2. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers is not permitted. Motorcycle sales, service, or rental is permitted if conducted indoors. 3. Vehicular access for these uses and components of these uses, including subterranean parking, must be on Central Way or Fifth or Sixth Streets south of Sixth Avenue. The applicant may be required to install traffic diverters or employ other mechanisms to direct nonresidential traffic associated with subject property away from areas north of Sixth Avenue. 4. Ancillary assembly and manufacture of goods on premises may be permitted as part of a retail establishment if: a. The assembled or manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 5. Access for drive-through facilities must be approved by the Public Works Department. 6. Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Areas 7B or 7C zones. 7. The parking requirement for hotel or motel use does not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis. 8. The required front yard for this use shall be zero feet from Central Way for one or two stories. No parking may encroach into the required 20-foot front yard.
.040	Hotel or Motel. See Spec. Reg, 1.										One for each room. See Spec. Reg. 7.	
.050	Entertainment, Cultural and/or Recreational Facility. See Spec. Reg, 1.										See KZC 105.25.	

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Section 50.42 Zone CBD-6 USE ZONE CHART

Section 50.42	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.060	Office Use See Special Regulation 1.	D.R., Chapter 142 KZC.	None	20′ See Special Regulation 6.	10′	10′	80%	4 stories above average building elevation.	D See Spec. Reg. 5.	D	One per each 350 sq. ft. of gross floor area.	1. These uses are only permitted south of Sixth Avenue. Subterranean parking for these uses may be located north of 6th Avenue provided that the parking structures are not visible from 7th Avenue or 5th Street north of 6th Avenue. 2. Veterinary offices are not permitted in this zone. 3. Vehicular access for this uses and components of this use, including subterranean parking, must be on Central Way or Fifth or Sixth Streets south of Sixth Avenue. The applicant may be required to install traffic diverters or employ other mechanisms to direct nonresidential traffic associated with subject property away from areas north of Sixth Avenue. 4. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent upon this office use; and b. The outward appearance and impacts of this office use with ancillary assembly or manufacturing activities must be no different from other office uses. 5. Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Areas 7B or 7C zones. 6. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.
.070	Private Club or Lodge See Special Regulation 1.									B	See KZC 105.25.	

Section 50.42	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.080	Stacked, or Attached Dwelling Units See Special Regulation 1.	D.R., Chapter 142 KZC.	None	20′ See Special Regulations 2 and 5.	10′	10′	80%	4 stories above average building elevation. See also Special Regulation 3.	D See Spec. Reg. 4.	A	1.7 per unit.	1. Along Central Way, this use is only permitted above the ground floor. 2. For any portion of a structure on the subject property within 40 feet of Seventh Avenue or Fifth Street north of Sixth Avenue that does not exceed 30 feet in height above average building elevation, the minimum required side yards are five feet but two side yards must equal at least 15 feet. 3. No portion of a structure on the subject property within 40 feet of Seventh Avenue may exceed 25 feet above the elevation of Seventh Avenue as measured from at the midpoint of the frontage of the subject property on Seventh Avenue. No portion of a structure on the subject property within 40 feet of Fifth Street north of Sixth Avenue may exceed 30 feet above the elevation of Fifth Street, as measured at the midpoint of the frontage of the subject property on Fifth Street. 4. Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Areas 7B or 7C zones. 5. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure. 6. Along Seventh Avenue, buildings shall be designed with predominantly sloped roof forms. 7. Within 40 feet of Seventh Avenue, the maximum length of any facade is 50 feet and a minimum 50 percent of this area shall be open space.

Section 50.42 Zone CBD-6 USE ZONE CHART

Section 50.42	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.090	School, Day-care, or Mini-School or Day-care Center	D.R., Chapter 142 KZC.	None	20′ See Special Regulations 1 and 9.	10′	10′	80%	4 stories above average building elevation. See also Special Regulation 2.	D See Spec. Reg. 3.	B	See KZC 105.25.	1. For any portion of a structure on the subject property within 40 feet of Seventh Avenue of Fifth Street north of Sixth Avenue that does not exceed 30 feet above average building elevation, the minimum required side yards are five feet but two side yards must equal at least 15 feet. 2. No portion of a structure on the subject property within 40 feet of Seventh Avenue may exceed 25 feet above the elevation of Seventh Avenue as measured at the midpoint of the frontage of the subject property on Seventh Avenue. No portion of a structure on the subject property within 40 feet of Fifth Street north of Sixth Avenue may exceed 30 feet above the elevation of Fifth Street as measured at the midpoint of the frontage of the subject property on Fifth Street. 3. Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Areas 7B or 7C zones. 4. A six-foot high fence is required along all property lines adjacent to outside play areas. 5. Structured play areas must be setback from all property lines by at least five feet. 6. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 7. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 9. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.

Section 50.42	USE / REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.100	Assisted Living Facility See Spec. Reg. 3.	D.R., Chapter 142 KZC.	None	20′	10′	10′	80%	4 stories above average building elevation. See Special Regulation 6.	D See Spec. Reg. 7.	A	1.7 per independent unit. 1 per assisted living unit.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 3. Along Central Way, this use is only permitted above the ground floor. 4. For any portion of a structure on the subject property within 40 feet of Seventh Avenue or fifth Street north of Sixth Avenue that does not exceed 30 feet in height above average building elevation, the minimum required side yards are five feet but two side yards must equal at least 15 feet. 5. The development shall provide significant openness adjacent to Sixth Street. 6. No portion of a structure on the subject property within 40 feet of Seventh Avenue may exceed 25 feet above the elevation of Seventh Avenue as measured at the midpoint of the frontage of the subject property on Seventh Avenue. No portion of a structure on the subject property within 40 feet of Fifth Street north of Sixth Avenue may exceed 30 feet above the elevation of Fifth Street as measured at the midpoint of the frontage of the subject property on Fifth Street. 7. Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Area 7B or 7C zones. 8. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure. 9. Along Seventh Avenue, buildings shall be designed with predominantly sloped roof forms. 10. Within 40 feet of Seventh Avenue, the maximum length of any facade is 50 feet and a minimum 50 percent of this area shall be open space.

Section 50.42 Zone CBD-6 USE ZONE CHART

Section 50.42	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.110	Church	D.R., Chapter 142 KZC.	None	20′ See Special Regulations 1 and 6.	10′	10′	80%	4 stories above average building elevation. See also Special Regulation 2.	D See Spec. Reg. 3.	B	See KZC 105.25. See Special Regulation 5.	1. For any portion of a structure on the subject property within 40 feet of Seventh Avenue or Fifth Street north of Sixth Avenue that does not exceed 30 feet above average building elevation, the minimum required side yards are five feet, but two side yards must equal at least 15 feet. 2. No portion of a structure on the subject property within 40 feet of Seventh Avenue may exceed 25 feet above the elevation of Seventh Avenue as measured at the midpoint of the frontage of the subject property on Seventh Avenue. No portion of a structure on the subject property within 40 feet of Fifth Street north of Sixth Avenue may exceed 30 feet above the elevation of Fifth Street as measured at the midpoint of the frontage of the subject property on Fifth Street. 3. Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Areas 7B or 7C zones. 4. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses. 5. No parking is required for daycare or school ancillary to the church use. 6. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.
.120	Public Utility, Government Facility, or Community Facility								D See Spec. Regs. 3 and 4.		See KZC 105.25.	
.130	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

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Comprehensive Plan/Downtown Plan
Land Use Policies for CBD 6 (East Core Frame)

Development in the East Core Frame should be in large, intensively developed mixed-use projects.

The East Core Frame includes the area where the Kirkland Parkplace shopping center is located, and extends northerly to 7th Avenue. Developments in this area should continue to represent a wide range of uses, in several large, mixed-use projects. However, because the area between Central Way and Kirkland Way provides the best opportunities in the Downtown for a vital employment base, this area should continue to emphasize office redevelopment over residential.

Limited residential use should be allowed adjoining the eastern edge of Peter Kirk Park as a complementary use. These residential uses should be designed to accommodate the active nature of the park (e.g., noise, lighting, etc.) to avoid potential conflicts between future residents and park uses.

The north side of Central Way, within the East Core Frame, has been redeveloped to nearly its full potential with high density residential uses.

Comprehensive Plan/Downtown Plan
Height and Design District Policies for CBD 6 (Design District 6)

Maximum building heights of two to four stories are appropriate for Design District 6.

This large block of land located between 5th Street and 6th Street, north of Central Way, and south of 7th Avenue, is identified as a major opportunity site for redevelopment elsewhere in this document. Figure C6 contains a schematic diagram of design and circulation considerations that should be incorporated in the redevelopment of this district. Development of this district should be relatively intensive and should be physically integrated through pedestrian access routes, design considerations, and intensive landscaping.

Safe, convenient, and attractive pedestrian connections across the district should be provided. This path should be designed under a covered enclosure or arcade along the storefronts in this area. Visual interest and pedestrian scale of these storefronts will contribute to the appeal of this walkway to the pedestrian. A connection of this pathway to Central Way should be made, with a continuation of the overhead enclosure to unify this pedestrian route.

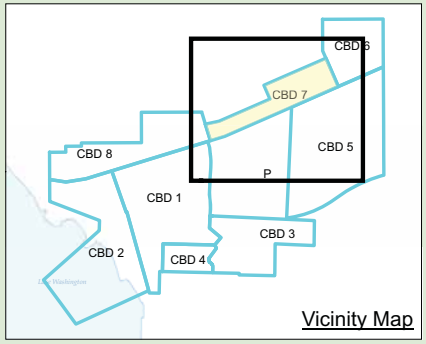
Design considerations related to vehicular and pedestrian access, landscaping, and open space are particularly important in this area. The intersection of 6th Street and Central Way is a prominent gateway to the Downtown. New development in this area should have a positive impact on the image of Kirkland and should be designed to enhance this entry.

A substantial building setback or mitigating design such as the site configuration on the south side of Central Way is necessary in order to preserve openness at this important gateway site. The

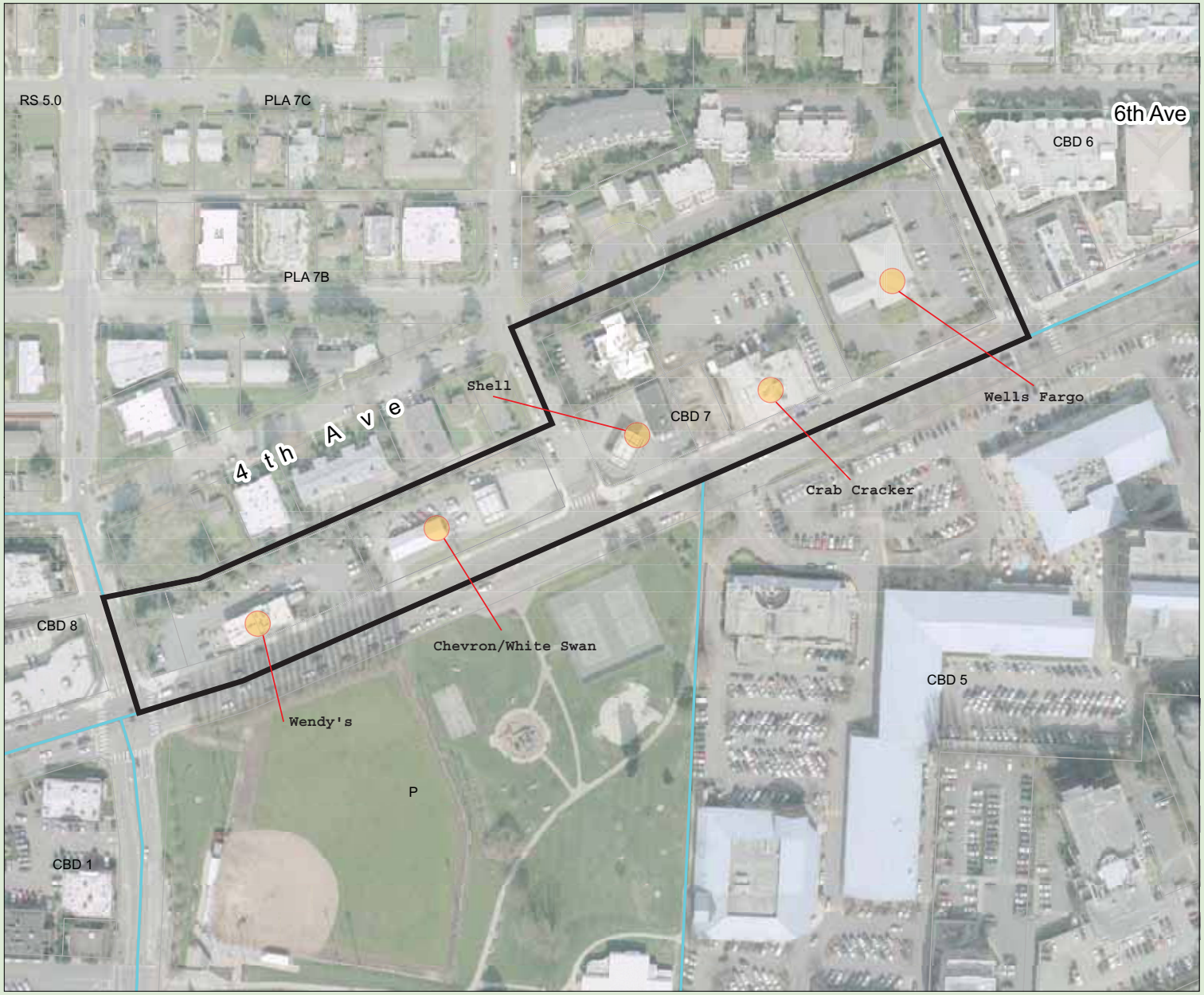
northeast and southeast corners of this block should be set aside and landscaped to provide public open spaces or miniparks at these gateways. Side-yard setbacks, however, should be minimal to reduce the appearance of a building surrounded by a parking area.

The northern portion of this district should be developed in uses that are residential both in function and scale. Access to this portion of the site may be either from 7th Avenue or from one of the adjacent side streets. Some of the significant trees along 7th Avenue should be incorporated into the site design as a means of softening the apparent mass of any new structures and to provide additional elements of continuity facing the single-family residences along 7th Avenue. In addition, building mass should step down toward 7th Avenue and design consideration should be given to the massing and form of single-family homes to the north.

CBD 7



CBD 7



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50.44 User Guide.

The charts in KZC 50.47 contain the basic zoning regulations that apply in the CBD 7 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Zone CBD-7	**Section 50.45 – GENERAL REGULATIONS** The following regulations apply to all uses in this zone unless otherwise noted:
	1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
	2. Site design must include installation of pedestrian linkages between public sidewalks and building entrances and between walkways on the subject property and existing or planned walkways on abutting properties consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).
	3. No setback is required adjacent to Third Street (does not apply to Vehicle Service Station and Public Park uses).

link to Section 50.47 table

Section 50.47	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Vehicle Service Station	D.R., Chapter 142 KZC.	22,500 sq. ft. None	20′ See Spec. Reg. 2.	15′	15′	80%	3 stories above average building elevation.	B See Spec. Reg. 3.	E	See KZC 105.25.	1. May not be more than two vehicle service stations at any intersection. 2. Gas pump islands must be setback at least 20 feet from all property lines. Canopies and covers over gas pump islands may not be more than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity, and Storage, for further regulations. 3. Landscape Category A is required if the subject property is adjacent to Planned Area 7B.
.020	Restaurant or Tavern			20′ See Spec. Reg. 2.	0′	0′	80% See Spec. Reg. 2.		D See Spec. Reg. 1.		1 per each 125 sq. ft. of gross floor area.	1. Landscape Category B is required if the subject property is adjacent to Planned Area 7B, unless drive-in or drive-through facilities are present in which case Landscape Category A shall apply. 2. The required front yard for this use shall be zero feet for one story at street level. No parking may encroach into the required 20-foot front yard. If this use provides a zero-foot front yard, the lot coverage for the entire property shall be 100 percent. 3. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.040	Entertainment, Cultural and/or Recreational Facility			20′ See Spec. Reg. 3.	0′	0′	80% See Spec. Reg. 3.		D See Spec. Reg. 2.		See KZC 105.25.	1. The parking requirement for hotel or motel use does not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis. 2. Landscape Category B is required if the subject property is adjacent to Planned Area 7B. 3. The required front yard for this use shall be zero feet for one story at street level. No parking may encroach into the required 20-foot front yard. If this use provides a zero-foot front yard, the lot coverage for the entire property shall be 100 percent.
.050	Hotel or Motel										One for each room. See Spec. Reg. 1.	

Section 50.47 Zone CBD-7 USE ZONE CHART

Section 50.47	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.060	Any Retail Establishment, other than those listed, limited, or prohibited in this zone, selling goods or providing services, including banking and related financial services	D.R., Chapter 142 KZC.	None	20′ See Spec. Reg. 5.	0′	0′	80% See Spec. Reg. 5.	3 stories above average building elevation.	D See Spec. Reg. 4.	E	1 per each 350 sq. ft. of gross floor area.	1. Access for drive-through facilities must be approved by the Public Works Department. 2. Ancillary assembly and manufacture of goods on premises may be permitted only if: a. The assembled or manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 3. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers is not permitted. Motorcycle sales, service, or rental is permitted if conducted indoors. 4. Landscape Category B is required if the subject property is adjacent to Planned Area 7B. 5. The required front yard for this use shall be zero feet for one story at street level. No parking may encroach into the required 20-foot front yard. If this use provides a zero-foot front yard, the lot coverage for the entire property shall be 100 percent.
.070	Private Lodge or Club See Spec. Reg. 3.			20′	0′	0′	80%		D See Spec. Reg. 2.	B	See KZC 105.25.	1. No parking is required for daycare or school ancillary to the use. 2. Landscape Category C is required if the subject property is adjacent to Planned Area 7B. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.
.080	Church See Spec. Reg. 3.										One per every four people based on maximum occupancy load of any area of worship. See Spec. Reg. 1.	

Section 50.47 USE ⇩ REGULATIONS ⇨		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.090	Office Use See Spec. Reg. 4.	D.R., Chapter 142 KZC.	None	20′	0′	0′	80%	3 stories above average building elevation.	D See Spec. Reg. 3.	D	1 per each 350 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on premises may be permitted as part of office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent upon this office use; and b. The outward appearance and impacts of this office use with ancillary assembly or manufacturing activities must be no different from other office uses. 2. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect signed by an acoustical engineer must be submitted with the D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units. 3. Landscape Category C is required if the subject property is adjacent to Planned Area 7B. 4. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.
.100	School, Day-Care Center, or Mini-School or Day-Care Center See Spec. Reg. 6.								D	B	See KZC 105.25.	1. A six-foot-high fence is required along all property lines adjacent to outside play areas. 2. Structured play areas must be setback from all property lines by at least five feet. 3. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 6. This use may be located on the Central Way level of a building only if there is an intervening retail storefront between this use and the right-of-way.

Section 50.47 Zone CBD-7 USE ZONE CHART

Section 50.47	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.110	Assisted Living Facility See Spec. Reg. 3.	D.R., Chapter 142 KZC.	None	20′	0′	0′	80%	3 stories above average building elevation.	D	A	1.7 per independent unit. 1 per assisted living unit.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.
.120	Stacked or Attached Dwelling Units See Special Regulation 1.										1.7 per unit.	1. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.
.130	Public Utility, Government Facility, or Community Facility								D See Spec. Reg. 1.	B	See KZC 105.25.	1. Landscape Category C is required if the subject property is adjacent to Planned Area 7B. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses.
.140	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Comprehensive Plan/Downtown Plan
Land Use Policies for CBD 7 (Northeast Core Frame)

A broad range of commercial uses should be encouraged in the Northeast Core Frame.

The Northeast Core Frame currently contains the bulk of the Downtown area's automobile-oriented uses. Redevelopment or new development in this area should be encouraged to represent a broader range of commercial uses.

Future development should set the bulk of structures back from the street while providing low, one-story retail shops at the edge of the sidewalk. Development should also underground utilities, and incorporate parking lot landscaping and a reduction in lot coverage in site design. This will present an open, green face to Central Way and, in conjunction with Peter Kirk Park on the south side of the street, create a tree-lined boulevard effect as one approaches the core area from the east.

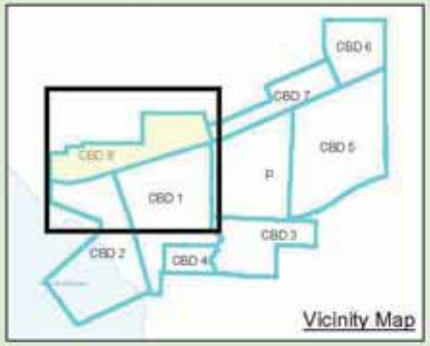
Comprehensive Plan/Downtown Plan
Height and Design District Policies for CBD 7 (Design District 7)

Maximum building height is three stories in Design Districts 3 and 7.

These districts are east of 3rd Street, north of Central Way, and south of Peter Kirk Park. Maximum building height should be three stories, with a minimum front yard setback of 20 feet and maximum lot coverage of 80 percent. Lower portions of projects with a pedestrian orientation should be allowed to encroach into the setbacks to stimulate pedestrian activity and links to eastern portions of the Downtown. Street trees and ground cover are appropriate along Kirkland Avenue and Central Way. By keeping structures in this area relatively low-rise and set back from the street, views from upland residences can be preserved and the openness around Peter Kirk Park enhanced.

In Design District 3, the restriction of access points to nonresidential streets may be necessary in order to prevent a negative impact of development in this area on the single-family enclave which exists to the south.

CBD 8



CBD 8

1. **Tiara De Lago***
   Mixed Use: Condos/Retail

2. **Westwater Suites**
   Mixed Use: Condos/Retail

3. **Waterview Condominiums**

4. **Marina Heights***
   Mixed Use: Condos/Retail

5. **Brezza Condominiums***

6. **Park 34 Condominiums***

* Project constructed under previous CBD regulations

50.49 User Guide.

The charts in KZC 50.52 contain the basic zoning regulations that apply in the CBD 8 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Zone CBD-8	**50.50 – GENERAL REGULATIONS** The following regulations apply to all uses in this zone unless otherwise noted:
	1. Refer to Chapter 1 KZC to determine what other provisions of this Code may apply to the subject property.
	2. The maximum height of a facade along Central Way is three stories above the elevation of Central Way as measured above the midpoint of the frontage of the subject property on Central Way.
	3. A minimum 20-foot front yard setback is required adjacent to: a. Fourth Avenue between 2nd Street and 3rd Street; b. Third Street between 3rd Avenue and 4th Avenue; c. Market Street.
	4. The minimum required side and/or rear yard abutting the PR 3.6 and PLA 7A zones is five feet.
	5. No portion of a structure shall exceed the height established by a 3:1 angle starting at a point 41 feet above the elevation of Central Way as measured at the projected midpoint of the subject property on Central Way and continuing to a point which intersects the established 30-foot height limit above 3rd Avenue or 4th Avenue.
	6. For properties on the west side of 1st Street, the 30-foot height limit shall be measured above the midpoint of the intersection of 1st Street and 3rd Avenue. For properties with frontage on Market Street, the 30-foot height limit shall be measured above the midpoint of the subject property bordering the PR zone to the north. For properties fronting on 3rd Avenue between 2nd Place and 3rd Street, the 30-foot height limit shall be measured above the projected midpoint on 4th Avenue (does not apply to Public Park uses).
	7. Site design must include installation of pedestrian linkages between public sidewalks and building entrances and between walkways on the subject property and existing or planned walkways on abutting properties consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).
	8. The site must be designed so that vehicles coming from and going to the site will be directed away from residential neighborhoods to the north of this zone (does not apply to Stacked or Attached Dwelling Units or Assisted Living Facilities uses).

link to Section 50.52 table

Section 50.52	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Restaurant or Tavern See Special Regulation 1.	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	30 feet above the elevation of 3rd Avenue or 4th Avenue as measured at the projected midpoint of the frontage of the subject property on the nearest applicable right-of-way.	D See Spec. Reg. 3.	E	One per each 125 sq. ft. of gross floor area. See KZC 50.60.	1. This use is permitted only if the subject property abuts Central Way. The site and building must be designed so that this use is primarily oriented towards Central Way. No aspect or component of this use may be located on or oriented towards Third Avenue between First Street and Second Street or Fourth Avenue. If the subject property abuts Third Avenue between First Street and Second Street or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 2. Drive-in facilities and drive-through facilities are not permitted in this zone. 3. Landscape Category B is required if the subject property is adjacent to the Planned Areas 7A or 7B or PR 3.6 zones.
.030	Entertainment/ Cultural and/or Recreational Facility See Special Regulation 1.										See KZC 50.60 and 105.25.	1. This use is permitted only if the subject property abuts Central Way. The site and building must be designed so that this use is primarily oriented towards Central Way. No aspect or component of this use may be located on or oriented towards Third Avenue between First Street and Second Street or Fourth Avenue. If the subject property abuts Third Avenue between First Street and Second Street or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 2. The parking requirements for hotel or motel use do not include parking requirements for ancillary meeting rooms and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis. 3. Landscape Category B is required if the subject property is adjacent to the Planned Areas 7A or 7B or PR 3.6 zones.
.040	Hotel and Motel See Special Regulation 1.										One per each room. See Spec. Reg. 2 and KZC 50.60.	

Section 50.52 Zone CBD-8 USE ZONE CHART

Section 50.52	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	Any Retail Establishment, other than those specifically listed, limited, or prohibited in this Zone, selling goods or providing services including banking and related financial services. See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	0′	0′	0′	100%	30 feet above the elevation of 3rd Avenue or 4th Avenue as measured at the projected midpoint of the frontage of the subject property on the nearest applicable right-of-way.	D See Spec. Reg. 3.	E	1 per each 350 sq. ft. of gross floor area. See KZC 50.60.	1. This use is permitted only if the subject property abuts Central Way. The site and building must be designed so that this use is primarily oriented towards Central Way. No aspect or component of this use may be located on or oriented towards Third Avenue between First Street and Second Street or Fourth Avenue. If the subject property abuts Third Avenue between First Street and Second Street or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 2. The following uses are not permitted in this zone: a. Vehicle service stations. b. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. c. Drive-in facilities and drive-through facilities. 3. Landscape Category B shall be provided if the subject property is adjacent to Planned Areas 7A or 7B, or PR 3.6. Boat sales, repair, service, or rental shall provide a Landscape Category C unless the subject property is adjacent to Planned Areas 7A, 7B, or PR 3.6 zones; then Landscape Category A is required. 4. Boat repair and service shall be conducted within an enclosed structure.
.060	Private Club or Lodge See Spec. Reg. 1.			10′					D See Spec. Reg. 2.	B	See KZC 50.60 and 105.25.	1. This use is permitted only if the subject property abuts Central Way. If the subject property abuts Third Avenue between First Street and Second Street or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 2. Landscape Category C is required if the subject property is adjacent to Planned Areas 7A or 7B, or PR 3.6 zones. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. REGULATIONS CONTINUED ON NEXT PAGE

Section 50.52	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.060	Private Club or Lodge (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 4. Ground floor porches and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the facade of the structure.
.070	Office Use See Special Regulation 6.	D.R., Chapter 142 KZC.	None	10′	0′	0′ See Special Regulation 5.	100%	30 feet above the elevation of 3rd Avenue or 4th Avenue as measured at the projected midpoint of the frontage of the subject property on the nearest applicable right-of-way.	D See Spec. Reg. 4.	D	1 per each 350 sq. ft. of gross floor area. See KZC 50.60.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certificate to this effect signed by an Acoustical Engineer must be submitted with the D.R. and building permit application. d. A veterinary office is not permitted if the subject property contains dwelling units. 2. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on the office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 3. If the subject property abuts Third Avenue between First Street and Second Street, or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 4. Landscape Category C is required if the subject property is adjacent to Planned Areas 7A or 7B, or PR 3.6 zones. 5. Ground floor porches and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the facade of the structure. 6. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. This special regulation shall not apply along portions of Third Avenue not designated as pedestrian-oriented streets.

Section 50.52 Zone CBD-8 USE ZONE CHART

Section 50.52	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.080	Church See Special Regulation 1.	D.R., Chapter 142 KZC.	None	10′ See Special Regulation 4.	0′	0′	100%	30 feet above the elevation of 3rd Avenue or 4th Avenue as measured at the projected midpoint of the frontage of the subject property on the nearest applicable right-of-way.	D See Spec. Reg. 3.	B	1 per every four people based on maximum occupancy load of any area of worship. See Spec. Reg. 2 and Section 60 of this Chapter.	1. This use is permitted only if the subject property abuts Central Way. If the subject property abuts Third Avenue between First Street and Second Street or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 2. No parking is required for daycare or school ancillary to the use. 3. Landscape Category C is required if the subject property is adjacent to Planned Areas 7A or 7B, or PR 3.6 zones. 4. Ground floor porches and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the facade of the structure.
.090	School, Day-Care Center or Mini-School or Day-Care Center			0′	0′	0′			D		See KZC 50.60 and 105.25.	1. If the subject property abuts Third Avenue between First Street and Second Street, or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 2. A six-foot-high fence is required along all property lines adjacent to outside play areas. 3. Structured play areas must be setback from all property lines by at least 5 feet. 4. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 5. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 6. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

Section 50.52	USE / REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.100	Assisted Living Facility See Special Regulation 3.	D.R., Chapter 142 KZC.	None	10′	0	0	100%	30 feet above the elevation of 3rd Avenue or 4th Avenue as measured at the projected midpoint of the frontage of the subject property on the nearest applicable right-of-way.	D	A	1.7 per independent unit. 1 per assisted living unit. See KZC 50.60.	1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: a. One parking stall shall be provided for each bed. 3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. 4. This use is not permitted on the street level floor adjacent to Central Way. 5. If the subject property abuts Third Avenue between First Street and Second Street, or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 6. Ground floor porches and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the facade of the structure.
				See Special Regulation 6.								
.110	Stacked or Attached Dwelling Units			10′	0′	0′					1.7 per unit. See KZC 50.60.	1. This use is not permitted on the street level floor adjacent to Central Way. 2. If the subject property abuts Third Avenue between First Street and Second Street, or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue. 3. Ground floor porches and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the facade of the structure.
				See Special Regulation 3.								
.120	Public Utility, Government Facility, or Community Facility			0′	0′	0′			D See Spec. Reg. 1.	B	See KZC 50.60 and 105.25.	1. Landscape Category C is required if the subject property is adjacent to Planned Areas 7A or 7B, or PR 3.6 zones. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses.
.130	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Comprehensive Plan/Downtown Plan
Land Use Policies for CBD 8 (Northwest Core Frame)

Office and office/multifamily mixed-use projects are appropriate in the Northwest Core Frame.

The Northwest Core Frame includes the area south of City Hall and north of the core area. This area should develop with office, or office/multifamily mixed-use projects, whose occupants will help to support the commercial establishments contained in the core. Retail and restaurant uses are desirable provided that they have primary access from Central Way.

This area presents an excellent opportunity for the development of perimeter parking for the core area and is so shown in the Downtown Master Plan (Figure C4). Developers should be encouraged to include surplus public parking in their projects, or to incorporate private parking "transferred" from projects in the core or funded by the fee-in-lieu or other municipal source. While pedestrian pathways are not as critical in this area as they are in the core, drive-through facilities should nevertheless be encouraged to locate elsewhere, to the east of 3rd Street.

Comprehensive Plan/Downtown Plan
Height and Design District Policies for CBD 8 (Design District 8)

Building heights of two to four stories are appropriate, depending on location.

This district is located north of Central Way and south of 4th Avenue, between Market Street and 3rd Street. Maximum building height should be three stories abutting Central Way and two stories at 3rd and 4th Avenues. Structures which do not abut either of these streets should be allowed to rise up to four stories.

Building height calculation should require terracing of building forms on sloped sites.

Where dramatic elevation changes exist in this district, an innovative method of calculating height is appropriate. In order to encourage the terracing of building forms on the hillside, building height should be calculated relative to the ground elevation above which the individual planes of the structure lie. Additional bulk controls should apply to restrict the height within 100 feet of noncommercial neighborhoods to the same height allowed in the adjacent zone. Heights on the north side should step down to ease the transition to the core area and moderate the mass on top of the hillside.

Vehicular circulation to nonresidential portions of projects within this area should not occur on primarily residential streets. In addition, design elements should be incorporated into developments in this area which provide a transition to the residential area to the north.

50.62 Building Height Provisions in the CBD

1. In cases where the height of structures is specified in number of stories, the following heights per story are allowed:

   a. Ground floor retail; ground floor restaurant and tavern; ground floor entertainment/cultural and/or recreational facility shall be a minimum of 13 feet in height and a maximum of 15 feet in height.

   b. Office; private club or lodge; church; school, day-care center; public utility, government facility, or community facility; public park; ground floor of hotel or motel; retail above the ground floor shall be a maximum of 13 feet.

   c. Residential; hotel or motel above the ground floor shall be a maximum of 10 feet.

2. To determine the allowed height of structure, determine the number of stories allowed in the use zone charts and apply the allowed height per story specified in subsection (1) of this section. For example, if three stories are allowed and the proposed use is ground floor retail with two stories of residential above, the allowed height would be 35 feet.

   Buildings which are not constructed with the maximum allowable number of stories may increase the height of the stories actually constructed by an amount that does not result in a height greater than that which would have resulted from a building constructed with the maximum allowable number of stories. For the purpose of this height calculation, it shall be assumed that each unconstructed story would have been used for residential purposes if constructed, and therefore allows an additional 10 feet of height that can be added to the building.

   For example, if three stories are allowed, but only two stories are constructed, an additional 10 feet may be added to the building height.

3. Height shall be measured above the point of measurement (e.g, above average building elevation, or above right-of-way) as specified in the particular use zone charts. For purposes of measuring building height above the abutting right(s)-of-way, alleys shall be excluded.

4. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in CBD zones are established:

   a. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.

   b. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal or greater than four feet vertical to 12 feet horizontal.

Chapter 142 – DESIGN REVIEW

Sections:

142.05 User Guide
142.15 Development Activities Requiring D.R. Approval
142.25 Administrative Design Review (A.D.R.) Process
142.35 Design Board Review (D.B.R.) Process
142.40 Appeals of Design Review Board Decisions
142.50 Modifications
142.55 Lapse of Approval for Design Review Board Decisions
142.60 Bonds

142.05 User Guide

Various places in this code indicate that certain developments, activities, or uses are required to be reviewed through design review or D.R. Design review may either be administrative design review (A.D.R.) or design board review (D.B.R.). This chapter describes these design review processes.

142.15 Development Activities Requiring D.R. Approval

1. Design Board Review (D.B.R.)

a. The following development activities shall be reviewed by the Design Review Board pursuant to KZC 142.35:

1) New buildings greater than one story in height or greater than 10,000 square feet of gross floor area, or in the Market Street Corridor Historic District (MSC 3 Zone).

2) Additions to existing buildings where:

a) The new gross floor area is greater than 10 percent of the existing building's gross floor area; and

b) The addition is greater than 2,000 square feet of gross floor area; and

c) Either:

1) The existing building and addition total more than 10,000 square feet of gross floor area; or

2) The addition adds another story; or

3) Is in the Market Street Corridor Historic District (MSC 3 zone).

3) Renovations to existing facades, where the building is identified by the City as an historic structure or is in the Market Street Corridor Historic District (MSC 3 zone).

b. Exemptions from D.B.R. – The following development activities shall be reviewed through the administrative design process in KZC 142.25:

1) Any development where administrative design review is indicated in the applicable Use Zone Chart.

2) Any development in the following zones within the NE 85th Street Subarea: RH 8, PR 3.6, RM, PLA 17A.

3) Any development in the MSC 1, MSC 2, and MSC 4 zones located within the Market Street Corridor.

2. Administrative Design Review (A.D.R.) – All other development activities not requiring D.B.R. review under subsection (1) of this section shall be reviewed through the A.D.R. process pursuant to KZC 142.25.

3. Exemptions from Design Review – The following development activities shall be exempt from either A.D.R. or D.B.R. and compliance with the design regulations of Chapter 92 KZC:

a. Any activity which does not require a building permit; or

b. Interior work that does not alter the exterior of the structure; or

c. Normal building maintenance including the repair or maintenance of structural members; or

d. Any development listed as exempt in the applicable Use Zone Chart.

142.25 Administrative Design Review (A.D.R.) Process

1. Authority – The Planning Official shall conduct A.D.R in conjunction with a related development permit pursuant to KZC 142.25.

The Planning Official shall review the A.D.R. application for compliance with the design regulations contained in Chapter 92 KZC. In addition, the following guidelines and policies shall be used to interpret how the regulations apply to the subject property:

a. Design guidelines for pedestrian-oriented business districts, as adopted in KMC 3.30.040.

b. Design guidelines for the Rose Hill Business District (RHBD) and the Totem Lake Neighborhood (TLN) as adopted in KMC 3.30.040.

c. The neighborhood plans contained in the Comprehensive Plan for areas where Design Review is required, such as the Downtown Plan, Juanita Business District Plan, the Totem Lake Neighborhood Plan, the North Rose Hill Neighborhood Plan for the North Rose Hill Business District (NRHBD), the NE 85th Street Subarea Plan for the Rose Hill Business District (RHBD), and the Market Street Corridor Plan for the Market Street Corridor (MSC).

d. For review of attached or stacked dwelling units within the NE 85th Street Subarea and the Market Street Corridor, Appendix C, Design Principles for Residential Development contained in the Comprehensive Plan.

2. Application – As part of any application for a development permit requiring A.D.R., the applicant shall show compliance with the design regulations in Chapter 92 KZC by submitting an A.D.R. application on a form provided by the Planning Department. The application shall include all documents and exhibits listed on the application form, as well as application materials required as a result of a pre-design conference.

3. Pre-Design Conference – Before applying for A.D.R. approval, the applicant may schedule a pre-design meeting with the Planning Official. The meeting will be scheduled by the Planning Official upon written request by the applicant. The purpose of this meeting is to provide an opportunity for an applicant to discuss the project concept with the Planning Official and the Planning Official to designate which design regulations apply to the proposed development based primarily on the location and nature of the proposed development.

4. A.D.R. Approval

a. The Planning Official may grant, deny, or conditionally approve the A.D.R. application. The A.D.R. approval or conditional approval will become conditions of approval for any related development permit, and no development permit will be issued unless it is consistent with the A.D.R. approval or conditional approval.

b. Additions or Modifications to Existing Buildings

1) Applications involving additions or modifications to existing buildings shall comply with the design regulations of Chapter 92 KZC to the extent feasible depending on the scope of the project. The Planning Official may waive compliance with a particular design regulation if the applicant demonstrates that it is not feasible given the existing development and scope of the project.

2) The Planning Official may waive the A.D.R. process for applications involving additions or modifications to existing buildings if the design regulations are not applicable to the proposed development activity.

5. Lapse of Approval – The lapse of approval for the A.D.R. decision shall be tied to the development permit and all conditions of the A.D.R. approval shall be included in the conditions of approval granted for that development permit.

6. Design Departure and Minor Variations

a. General – This section provides a mechanism for obtaining approval to depart from strict adherence to the design regulations or for requesting minor variations from requirements in the following zones:

1) In the CBD: minimum required yards; and

2) In the Totem Center: minimum required yards, floor plate maximums and building separation requirements; and

3) In the RHBD and the TLN: minimum required yards, landscape buffer and horizontal facade requirements; and

4) In the MSC 1 and MSC 4 zones of the Market Street Corridor: minimum required front yards and horizontal facade requirements.

5) In the MSC 2 zone of the Market Street Corridor: height (up to an additional five feet), minimum required front yards and horizontal facade requirements.

6) In the MSC 3 zone of the Market Street Corridor: horizontal facade requirements.

This section does not apply when a design regulation permits the applicant to propose an alternate method for complying with it or the use zone chart allows the applicant to request a reduced setback administratively.

b. Process – If a design departure or minor variation is requested, the D.R. decision, including the design departure or minor variation, will be reviewed and decided upon using the D.B.R. process.

c. Application Information – The applicant shall submit a complete application on the form provided by the Planning Department, along with all information listed on that form, including a written response to the criteria in subsection (6)(d) of this section.

d. Criteria – The Design Review Board may grant a design departure or minor variation only if it finds that all of the following requirements are met:

1) The request results in superior design and fulfills the policy basis for the applicable design regulations and design guidelines;

2) The departure will not have any substantial detrimental effect on nearby properties and the City or the neighborhood.

142.35 Design Board Review (D.B.R.) Process

1. Timing of D.B.R. – For any development activity that requires D.B.R. approval, the applicant must comply with the provisions of this chapter before a building permit can be approved; provided, that an applicant may submit a building permit application at any time during the design review process. An applicant may request early design review, but such review shall not be considered a development permit or to in any way authorize a use or development activity. An application for D.R. approval may be considered withdrawn for all purposes if the applicant has not submitted information requested by the City within 60 calendar days after the request and the applicant does not demonstrate reasonable progress toward submitting the requested information.

2. Public Meetings – All meetings of the Design Review Board shall be public meetings and open to the public.

3. Authority – The Design Review Board shall review projects for consistency with the following:

   a. Design guidelines for pedestrian-oriented business districts, as adopted in Chapter 3.30 KMC.

   b. Design Guidelines for the Rose Hill Business District (RHBD) and the Totem Lake Neighborhood (TLN) as adopted in Chapter 3.30 KMC.

   c. The applicable neighborhood plans contained in the Comprehensive Plan for areas where Design Review is required.

   d. The Design Principles for Residential Development contained in Appendix C of the Comprehensive Plan for review of attached and stacked dwelling units located within the NE 85th Street Subarea and the Market Street Corridor.

4. The Design Review Board is authorized to approve minor variations in development standards within certain Design Districts described in KZC 142.25(6)(a) provided the variation complies with the criteria of KZC 142.25(6)(b).

5. Pre-Design Conference – Before applying for D.B.R. approval, the applicant shall attend a pre-design conference with the Planning Official. The conference will be scheduled by the Planning Official upon written request by the applicant. The purpose of this conference is for the Planning Official to discuss how the design regulations, design guidelines, and other applicable provisions of this code and the Comprehensive Plan relate to the proposed development and to assist the applicant in preparing for the conceptual design conference. A pre-design conference may be combined with a pre-submittal meeting.

6. Conceptual Design Conference – Before applying for design review approval, the applicant shall attend a conceptual design conference (CDC) with the Design Review Board. The conference will be scheduled by the Planning Official to occur within 30 days of written request by the applicant. The applicant shall submit a complete application for Design Review within six months following the CDC, or the results of the CDC will be null and void and a new CDC will be required prior to application for design review approval. The purpose of this conference is to provide an opportunity for the applicant to discuss the project concept with the Design Review Board and:

   a. To discuss how the design regulations, design guidelines and other applicable provisions of the Comprehensive Plan affect or pertain to the proposed development;

   b. For the Design Review Board to designate which design regulations, design guidelines and other applicable provisions of the Comprehensive Plan apply to the proposed development based primarily on the location and nature of the proposed development; and

c. For the Design Review Board to determine what models, drawings, perspectives, 3-D CAD model, or other application materials the applicant will need to submit with the design review application.

7. Application – Following the conceptual design conference, the applicant shall submit the design review application on a form provided by the Planning Department. The application shall include all documents and exhibits listed on the application, as well as all application materials required as a result of the conceptual design conference.

8. Public Notice

a. Contents – On receipt of a complete design review application, the Planning Official shall schedule a design response conference with the Design Review Board to occur within 60 calendar days of receiving the complete application. The Planning Official shall provide public notice of the design response conference. Public notice shall contain the name of the applicant and project, the location of the subject property, a description of the proposed project, time and place of the first design response conference, and a statement of the availability of the application file.

b. Distribution – The Planning Official shall distribute this notice at least 14 calendar days before the first design response conference as follows:

1) By mailing the notice or a summary thereof to owners of all property within 300 feet of any boundary of the subject property.

2) Publish once in the official newspaper of the City.

3) Post conspicuously on the subject property on a public notice sign. The Department of Planning and Community Development is authorized to develop standards and procedures for public notice signs.

9. Design Response Conference – The design response stage allows the Design Review Board to review the design plans and provide direction to the applicant on issues to be resolved for final approval. The applicant shall present a summary of the project to the Design Review Board. The Planning Official shall present a review of the project for consistency with the requirements specified in subsection (3) of this section. Public comment relevant to the application may be taken. Persons commenting must provide their full name and mailing address. The Design Review Board may reasonably limit the extent of comments to facilitate the orderly and timely conduct of the conference.

The Design Review Board shall decide whether the application complies with the requirements specified in subsection (3) of this section. The Design Review Board shall make its decision by motion that adopts approved project drawings in addition to changes or conditions required by the Design Review Board. If the Design Review Board finds that the application does not meet those requirements, it shall specify what requirements have not been met and options for meeting those requirements. The Design Review Board may continue the conference if necessary to gather additional information necessary for its decision on the design review application. If the conference is continued to a specific date,

no further public notice is required; otherwise notice shall be mailed to all parties participating in the design response conference.

Conceptual Master Plan Conference for TL 2 – The Design Review Board shall consider a Conceptual Master Plan (CMP) for properties over one and one-half acres in size in TL 2. The CMP shall incorporate the design principles set forth in the special regulations for the use in the TL 2 zoning chart.

Conceptual Master Plan Conference for TL 5 – The Design Review Board shall consider a Conceptual Master Plan (CMP) for properties over four acres in size in TL 5. The CMP shall incorporate the design principles set forth in the special regulations for the use in the TL 5 zoning chart.

Conceptual Master Plan Conference for RHBD – The Design Review Board shall consider a Conceptual Master Plan (CMP) in the RH 3 zone within the NE 85th Street Subarea. The CMP shall incorporate the design considerations for the RH 3 zone set forth in the Design Guidelines for the Rose Hill Business District.

10. Approval – After reviewing the D.B.R. application and other application materials, the Design Review Board may grant, deny or conditionally approve subject to modifications the D.B.R. application for the proposed development. No development permit for the subject property requiring D.B.R. approval will be issued until the proposed development is granted D.B.R. approval or conditional approval. The terms of D.B.R. 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 D.B.R. approval or conditional approval. The Planning Official shall send written notice of the D.B.R. decision to the applicant and all other parties who participated in the conference(s) within 14 calendar days of the approval. If the D.B.R. is denied, the decision shall specify the reasons for denial. The final D.B.R. decision of the City on the D.B.R. application shall be the postmarked date of the written D.B.R. decision or, if the D.B.R. decision is appealed, the date of the City's final decision on the appeal. Notwithstanding any other provision of this code, if an applicant submits a complete application for a building permit for the approved D.B.R. development within 180 days of the final D.B.R. decision, the date of vesting for the building permit application shall be the date of the final D.B.R. decision.

Additional Approval Provision for TL 2 and TL 5 – The Notice of Approval for a Conceptual Master Plan (CMP) shall set thresholds for subsequent D.B.R. or A.D.R. review of projects following approval of a CMP in TL 2 or TL 5. The Notice of Approval shall also include a phasing plan for all improvements shown or described in the CMP.

Additional Approval Provision for RHBD – The Design Review Board shall determine the thresholds for subsequent D.B.R. or A.D.R. review of projects following approval of a Conceptual Master Plan (CMP) in the RHBD. The Notice of Approval for the CMP will state the thresholds for future review of projects and also include a phasing plan for all improvements shown or described in the CMP.

142.40 Appeals of Design Review Board Decisions

1. Jurisdiction – Appeals of the decision of the Design Review Board will be heard as follows:

   a. If a related development permit requires an open record public hearing, then the appeal shall be heard at that hearing and decided upon by the hearing body or officer or officer hearing the related development permit.

   b. If there are no other open record hearings required for related development permits, then the decision of the Design Review Board shall be heard at an open record hearing by the City Council.

   Only those issues under the authority of the Design Review Board as established by KZC 142.35(3) and (4) are subject to appeal.

2. Who May Appeal – The decision of the Design Review Board may be appealed by the applicant or any other individual or entity who submitted written or oral comments to the Design Review Board.

3. Time To Appeal/How To Appeal – The appeal, in the form of a letter of appeal, must be delivered to the Planning Department within 14 calendar days following the postmarked date of the distribution of the Design Review Board decision. It must contain a clear reference to the matter being appealed and a statement of the specific elements of the Design Review Board decision disputed by the person filing the appeal.

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

5. Notice

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

      1) The file number and a brief written description of the matter being appealed.

      2) A statement of the scope of the appeal including a summary of the specific matters disputed in the letter of appeal.

      3) The time and place of the public hearing on the appeal.

      4) A statement of who may participate in the appeal.

      5) A statement of how to participate in the appeal.

   b. Distribution – At least 14 calendar days before the hearing on the appeal, the Planning Official shall send a copy or a summary of this notice to the

applicant, appellant(s), and Design Review Board. The notice of appeal may be combined with the hearing notice for the related development permit, if applicable.

6. Participation in the Appeal – Only the person(s) who filed the appeal, the applicant, and the chair (or designee) of the Design Review Board may participate in the appeal. These persons may participate in the appeal in either or both of the following ways:

   a. By submitting written comments or testimony to the hearing body or officer prior to commencement of the hearing.

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

7. Scope of the Appeal – The scope of the appeal is limited to the specific elements of the Design Review Board decision disputed in the letter of appeal and the hearing body or officer may only consider comments, testimony, and arguments on these specific elements.

8. Staff Report on the Appeal

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

      1) The written decision of the Design Review Board.

      2) All written comments received by the Design Review Board.

      3) The letter of appeal.

      4) All written comments on the appeal received by the Planning Department from the appellant or applicant and within the scope of the appeal.

      5) An analysis of the specific element(s) of the Design Review Board's decision disputed in the letter of appeal.

      The Planning Official may present the staff report orally to the hearing body or officer.

   b. Distribution – At least seven calendar days before the hearing, the Planning Official shall distribute copies of the staff report to the hearing body or officer, the appellant, and the applicant.

9. Electronic Sound Recordings – The hearing body or officer shall make a complete electronic sound recording of each hearing.

10. Continuation of the Hearing – The hearing body or officer may continue the hearing if, for any reason, it is unable to hear all of the testimony on the appeal or if it determines that it needs more information within the scope of the appeal. If, during the hearing, the hearing body or officer announces the time and place of the continued hearing on the matter, no further notice of that hearing need be given.

11. Decision on the Appeal

a. Criteria – Unless substantial relevant information is presented which was not considered by the Design Review Board, the decision of the Design Review Board shall be accorded substantial weight. The decision may be reversed or modified if, after considering all of the evidence in light of the design regulations, design guidelines, and Comprehensive Plan, the hearing body or officer determines that a mistake has been made. Specific allowances established by the applicable use zone charts may not be appealed unless the Design Review Board has approved exceptions to those allowances.

b. General – The hearing body or officer shall consider all information and material within the scope of the appeal submitted by the appellant. The hearing body or officer shall adopt findings and conclusions and either:

1) Affirm the decision being appealed; or

2) Reverse the decision being appealed; or

3) Modify the decision being appealed.

c. Issuance of Written Decision – Within eight calendar days after the public hearing, the hearing body or officer shall issue a written decision on the appeal. Within four business days after it is issued, the hearing body or officer shall distribute the decision by mail to the appellant and the applicant.

d. Effect – If the appeal hearing is combined with an open record hearing for a related development permit, the decision on the appeal shall become part of the decision on the related development permit. The final decision of the City on the appeal of the Design Review Board decision shall occur at the same stage as the final decision of the City on the related development permit. Any appeal or challenge of the action of the hearing body or officer on the appeal of the Design Review Board decision shall be limited to the scope of the initial appeal.

142.50 Modifications

1. The Planning Official may approve a modification to the D.R. approval for the proposed development if:

a. The need for the modification was not known and could not reasonably have been known before the D.R. approval was granted;

b. The modification is minor and will not, in any substantial way, change the proposed development or violate any requirement imposed by the Design

Review Board. The Planning Official may consult with the Design Review Board in his/her decision; and

c. The development that will result from the modification will be consistent with the design regulations, design guidelines, and Comprehensive Plan.

2. Any modification, other than as specified in subsection (1) of this section, must be reviewed and decided upon as a new D.R. approval under this chapter.

142.55 Lapse of Approval for Design Review Board Decisions

1. General – Unless otherwise specified in the decision granting D.B.R. 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 D.B.R. approval within one year after the final decision granting the D.B.R. approval or that decision becomes void. The applicant must substantially complete construction consistent with the D.R. approval and complete all conditions listed in the D.B.R. approval decision within three years after the final decision on the D.B.R. approval or the decision becomes void. “Final decision” means the final decision of the Planning Official or Design Review Board.

2. Extensions

a. Application – The applicant may apply for a one-time extension, of up to one year, of the time limits under subsection (1) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (1) of this section. The letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the D.B.R. approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (1) of this section.

b. Fee – The applicant shall include with the letter of request the fee as established by ordinance.

c. Review Process – An application for a time extension will be reviewed by the Planning Official.

3. Appeals

a. Who Can Appeal – Any person who is aggrieved by a time extension or denial of a time extension under this section may appeal that determination.

b. How To Appeal – The applicant must file a letter of appeal within 14 days of the approval or denial of the time extension indicating how the determination affects his/her property and presenting any relevant arguments or information on the correctness of the determination. The applicant shall include the appeal fee as established by ordinance.

c. Applicable Procedures – All appeals of decisions under this section will be reviewed and decided upon using Process IIA, described in Chapter 150 KZC.

142.60 Bonds

The Planning Official may require a bond under Chapter 175 KZC to ensure compliance with any aspect of a D.R. approval.

A. Vision Statement

Downtown Kirkland provides a strong sense of community identity for all of Kirkland. This identity is derived from Downtown's physical setting along the lakefront, its distinctive topography, and the human scale of existing development. This identity is reinforced in the minds of Kirklanders by Downtown's historic role as the cultural and civic heart of the community.

Future growth and development of the Downtown must recognize its unique identity, complement ongoing civic activities, clarify Downtown's natural physical setting, enhance the open space network, and add pedestrian amenities. These qualities will be encouraged by attracting economic development that emphasizes diversity and quality within a hometown setting of human scale.

B. Land Use

A critical mass of retail uses and services is essential to the economic vitality of the Downtown area.

The Downtown area is appropriate for a wide variety of permitted uses. The area's economic vitality and identity as a commercial center will depend upon its ability to establish and retain a critical mass of retail uses and services, primarily located west of 3rd Street. If this objective is not reached, it relegates the Downtown to a weaker and narrower commercial focus (i.e., restaurant and offices only) and lessens the opportunities and reasons for Kirklanders to frequent the Downtown.

The enhancement of the area for retail and service businesses will best be served by concentrating such uses in the pedestrian core and shoreline districts and by encouraging a substantial increase in the amount of housing and office floor area either within or adjacent to the core. In implementing this land use concept as a part of Downtown's vision, care must be taken to respect and enhance the existing features, patterns, and opportunities discussed in the following plan sections on urban design, public facilities, and circulation.

Land use districts in the Downtown area are identified in Figure C-3.

Figure C-3 identifies five land use districts within the Downtown area. The districts are structured according to natural constraints such as topographical change, the appropriateness of pedestrian and/or automobile-oriented uses within the district, and linkages with nearby residential neighborhoods and other commercial activity centers.

Core Area

Pedestrian activity in the core area is to be enhanced.

The core area should be enhanced as the pedestrian heart of Downtown Kirkland. Land uses should be oriented to the pedestrian, both in terms of design and activity type. Appropriate uses include retail, restaurant, office, residential, cultural, and recreational.

Restaurants, delicatessens, and specialty retail shops, including fine apparel, gift shops, art galleries, import shops, and the like constitute the use mix and image contemplated in the Vision for Downtown. These uses provide visual interest and stimulate foot traffic and thereby provide opportunities for leisure time strolling along Downtown walkways for Kirklanders and visitors alike.

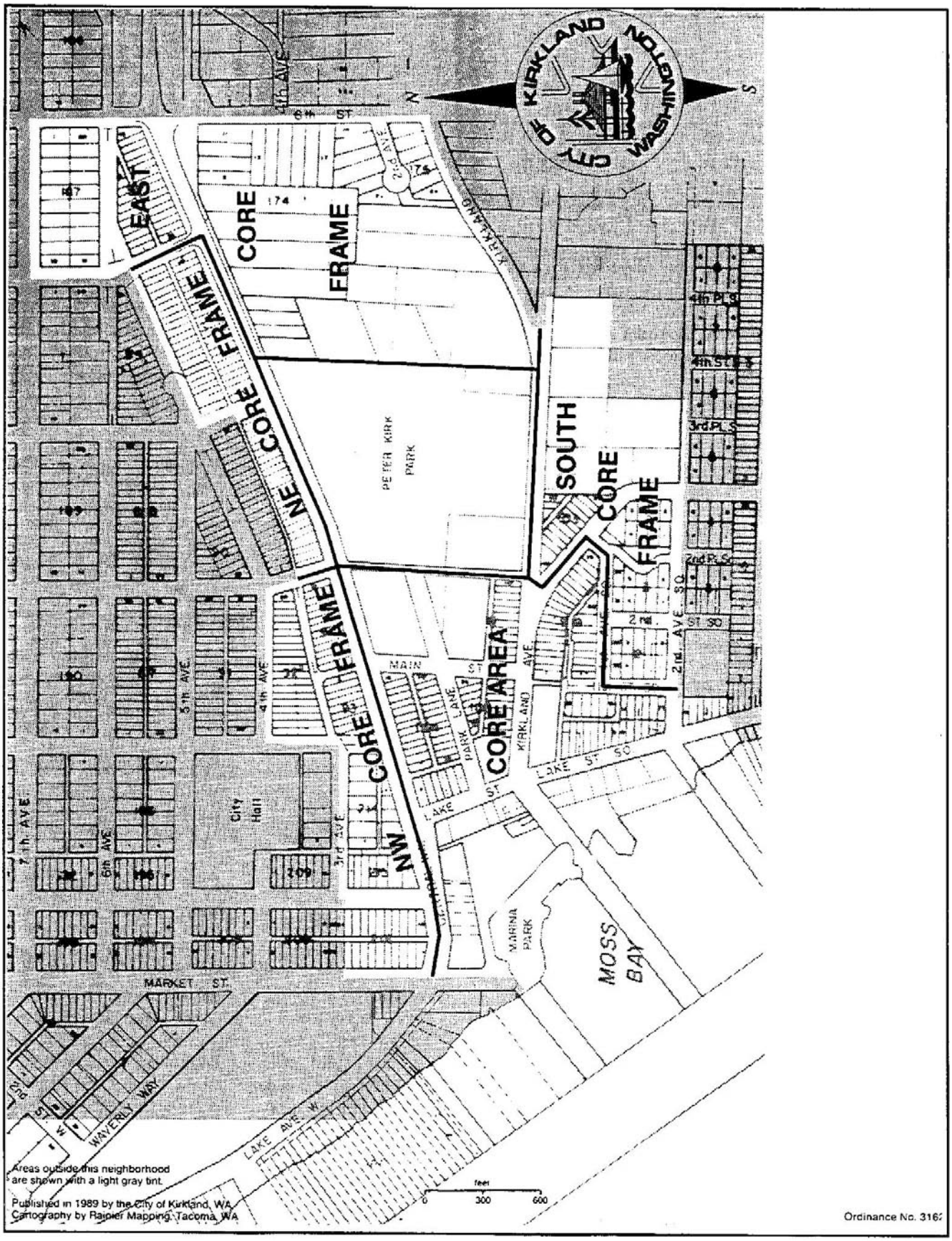


Figure C-3: Downtown Land Use Districts

Drive-through facilities and ground-floor offices are prohibited.

The desired pedestrian character and vitality of the core area requires the relatively intensive use of land and continuous compact retail frontage. Therefore, automobile drive-through facilities should be prohibited. Similarly, office uses should not be allowed to locate on the ground level. These uses generally lack visual interest, generate little foot traffic, and diminish prime ground floor opportunities for the retail uses that are crucial to the ambiance and economic success of the core area.

The attractiveness of the core area for pedestrian activity should be maintained and enhanced. Public and private efforts toward beautification of the area should be promoted. Mitigation measures should be undertaken where land uses may threaten the quality of the pedestrian environment. For example, in areas where take-out eating facilities are permitted, a litter surcharge on business licenses should be considered as a means to pay for additional trash receptacles or cleaning crews.

The creation and enhancement of public open spaces is discussed.

Public open spaces are an important component of the pedestrian environment. They provide focal points for outdoor activity, provide refuge from automobiles, and stimulate foot traffic which in turn helps the retail trade. The establishment and use of public spaces should be promoted. Surface parking lots should be eliminated in favor of structured parking. In the interim, their role as one form of open area in the Downtown should be improved with landscaped buffers adjacent to rights-of-way and between properties. Landscaping should also be installed where rear sides of buildings and service areas are exposed to pedestrians.

A high-priority policy objective should be for developers to include only enough parking stalls in their projects within the core area to meet the immediate need and to locate the majority of their parking in the core frame. This approach would reserve the majority of core land area for pedestrian movement and uses and yet recognize that the adjacent core frame is within a very short walk.

The City should generally avoid vacating alleys and streets in the core area. The existing network of street and alleys provides a fine-grained texture to the blocks which allows service access and pedestrian shortcuts. The small blocks also preclude consolidation of properties which might allow larger developments with less pedestrian scale. Vacations may be considered when they will not result in increased building mass and there is a substantial public benefit. Examples of public benefit might include superior pedestrian or vehicular linkages, or superior public open space.

Northwest Core Frame

Office and office/multifamily mixed-use projects are appropriate in the Northwest Core Frame.

The Northwest Core Frame includes the area south of City Hall and north of the core area. This area should develop with office, or office/multifamily mixed-use projects, whose occupants will help to support the commercial establishments contained in the core. Retail and restaurant uses are desirable provided that they have primary access from Central Way.

This area presents an excellent opportunity for the development of perimeter parking for the core area and is so shown in the Downtown Master Plan (Figure C-4). Developers should be encouraged to include surplus public parking in their projects, or to incorporate private parking "transferred" from projects in the core or funded by the fee-in-lieu or other municipal source. While pedestrian pathways are not as critical in this area as they are in the core, drive-through facilities should nevertheless be encouraged to locate elsewhere, to the east of 3rd Street.

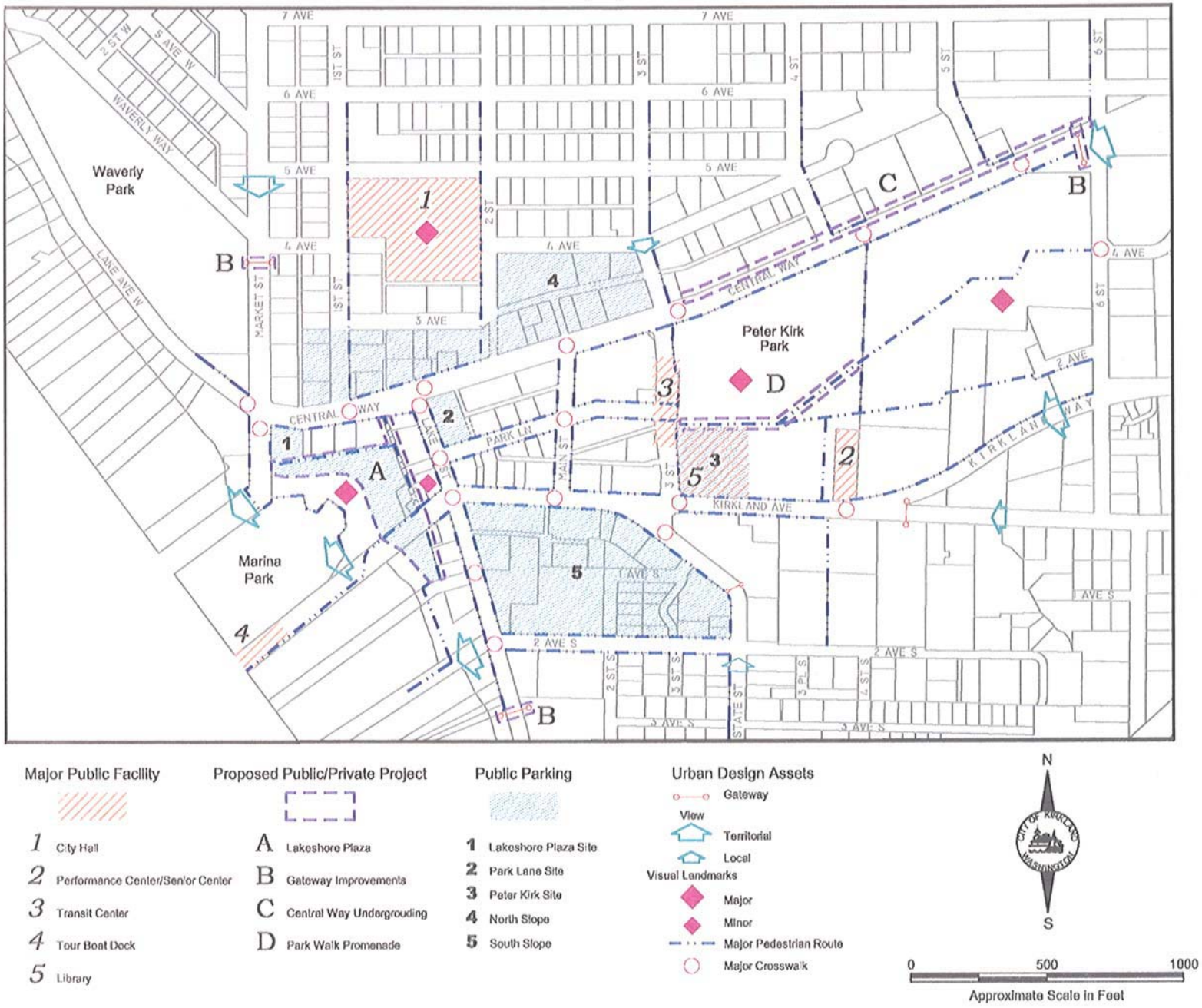


Figure C-4: Downtown Master Plan

Northeast Core Frame

A broad range of commercial uses should be encouraged in the Northeast Core Frame.

The Northeast Core Frame currently contains the bulk of the Downtown area's automobile-oriented uses. Redevelopment or new development in this area should be encouraged to represent a broader range of commercial uses.

Future development should set the bulk of structures back from the street while providing low, one-story retail shops at the edge of the sidewalk. Development should also underground utilities, and incorporate parking lot landscaping and a reduction in lot coverage in site design. This will present an open, green face to Central Way and, in conjunction with Peter Kirk Park on the south side of the street, create a tree-lined boulevard effect as one approaches the core area from the east.

East Core Frame

Development in the East Core Frame should be in large, intensively developed mixed-use projects.

The East Core Frame includes the area where the Kirkland Parkplace shopping center is located, and extends northerly to 7th Avenue. Developments in this area should continue to represent a wide range of uses, in several large, mixed-use projects. However, because the area between Central Way and Kirkland Way provides the best opportunities in the Downtown for a vital employment base, this area should continue to emphasize office redevelopment over residential.

Limited residential use should be allowed adjoining the eastern edge of Peter Kirk Park as a complementary use. These residential uses should be designed to accommodate the active nature of the park (e.g., noise, lighting, etc.) to avoid potential conflicts between future residents and park uses.

The north side of Central Way, within the East Core Frame, has been redeveloped to nearly its full potential with high density residential uses.

South Core Frame

Retail, office, and office/multifamily mixed-use projects are suitable for the South Core Frame.

The South Core Frame immediately abuts the southern boundary of the core area. This area is suitable for retail, office, and office/multifamily mixed-use projects.

Public parking may be provided in the South Core Frame.

The South Core Frame, like the Northwest Core Frame, presents an excellent opportunity for the development of close-in public parking. Developers should be allowed to include surplus public parking in their projects in this area or to accommodate private parking "transferred" from the core or funded by "fee-in-lieu" or other municipal source.

The western half of the South Core Frame should develop more intensively than the eastern half of this area, due to its proximity to the Downtown core. The vacation of 1st Avenue South, west of 2nd Street South, and 1st Street South should be considered as a means of concentrating more intensive development to the west.

Mitigation measures to reduce impacts on single-family residences may be required.

As this area lies just north of an established single-family neighborhood, mitigation measures may be required to minimize the impacts of any new nonresidential development on these single-family homes. These measures may include the restriction of vehicle access to projects within the South Core Frame to nonresidential streets. Public

improvements, such as physical barriers to restrict traffic flow in these areas, may be considered. The architectural massing of projects in this area should be modulated both horizontally and vertically to reduce their visual bulk and to reflect the topography which presently exists.

C. Urban Design

The urban design of Downtown Kirkland consists of many disparate elements which, together, define its identity and "sense of place." This document provides policy guidelines for the design of private development and a master plan for the development of the public framework of streets, pedestrian pathways, public facilities, parks, public buildings, and other public improvements (see Figure C-4).

The following discussion is organized into three sections:

A. Downtown Design Guidelines and Design Review;

B. Building Height and Design Districts; and

C. The Image of the City: Urban Design Assets.

Downtown Design Guidelines and Design Review

Mechanics of Design Review are described.

The booklet entitled "Design Guidelines," which is adopted in Chapter 3.30 of the Kirkland Municipal Code, contains policy guidelines and concepts for private development in Downtown Kirkland. The booklet includes an explanation of the mechanics of the Design Review process to be used for all new development and major renovations in the Downtown area. Discretion to deny or condition a design proposal is based on specific Design Guidelines adopted by the City Council and administered by the Design Review Board and Planning Department. Design Review enables the City to apply the Guidelines in a consistent, predictable, and effective manner.

The Guidelines are intended to balance the desired diversity of project architecture with the equally desired overall coherence of the Downtown's visual and historic character. This is to be achieved by injecting into each project's creative design process a recognition and respect of design principles and methods which incorporate new development into Downtown's overall pattern. The Guidelines would be applied to any specific site in conjunction with the policy guidance provided by the Downtown Master Plan and the following text regarding Design Districts.

The Design Review Process enables the City to require new development to implement the policy guidance contained in the Guidelines, the Master Plan for Downtown, and to protect and enhance the area's urban design assets. A more complete description of how Design Review should operate is found in the Zoning Code.

Building Height and Design Districts

Figure C-5 identifies eight height and design districts within Downtown Kirkland. The boundaries of these districts are determined primarily by the topographical characteristics of the land and the area's proximity to other noncommercial uses.

Design District 1

Maximum building height in Design District 1 is between two and five stories, depending on location and use.

This district is bordered by Lake Street, Central Way, 3rd Street, and generally 1st Avenue South. When combined with District 2, this area corresponds to the core area as shown in Figure C-3.

The maximum building height in this area should be between two and five stories with no minimum setback from property lines. Stories above the second story should be set back from the street. To preserve the 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.

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. Buildings up to three stories in height may be appropriate along Central Way to reflect the scale of development in Design District 8 and as an intermediate height where adequately set back from the street. A continuous three-story street wall should be avoided by incorporating vertical and horizontal modulations into the design of buildings.

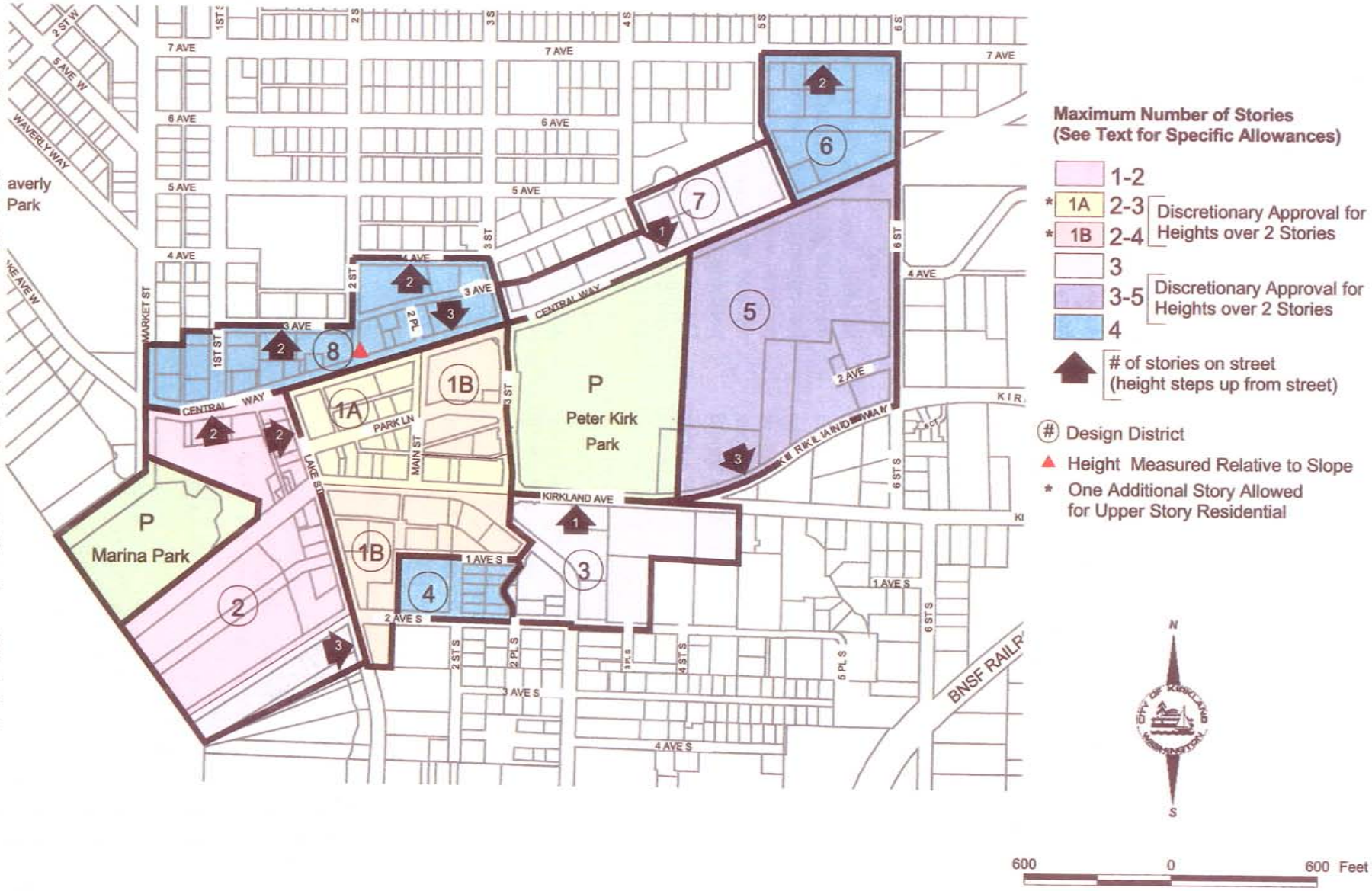
The portions of Design District 1 designated as 1A in Figure C-5 should be limited to a maximum height of three stories. As an incentive to encourage residential use of upper floors and to strengthen the retail fabric of the Core Area, a fourth story of height may be allowed. This additional story may be considered by the Design Review Board for projects where at least two of the upper stories are residential, the total height is not more than four feet taller than the height that would result from an office project with two stories of office over ground floor retail, stories above the second story are set back significantly from the street and the building form is stepped back at the third and fourth stories to mitigate the additional building mass, and the project provides superior retail space at the street level. Rooftop appurtenances and related screening should not exceed the total allowed height, and should be integrated into the height and design of any peaked roofs or parapets.

The 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 the Downtown. Much of the existing development in these areas consists of older auto-oriented uses defined by surface 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 two to four stories in height is appropriate. East of Main Street, development should combine modulations in building heights with modulations of facade widths to break large buildings into the appearance of multiple smaller buildings. 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.

As with Design District 1A, an additional story of height may be appropriate in 1B to encourage residential use of the upper floors and to strengthen the retail fabric in the Core Area. This additional story may be considered by the Design Review Board for projects where at least three of the upper stories are residential, the 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, stories above the second story are set back significantly from the street and the building form is stepped back at the at the third, fourth, and fifth stories to mitigate the additional building mass, and the project provides superior retail space at the street level. Rooftop appurtenances and related screening should not exceed the total allowed height, and should be integrated into the height and design of any peaked roofs or parapets.

Design considerations of particular importance in this area are those related to pedestrian scale and orientation. Building design at the street wall should contribute to a lively, attractive, and safe pedestrian streetscape. This should be achieved by the judicious placement of windows, multiple entrances, canopies, awnings, courtyards, arcades, and other pedestrian amenities. Service areas, surface parking, and blank facades should be located away from the street frontage.

Figure C-5: Downtown Height and Design Districts



Design District 2

One to three stories in building height above Central Way or Lake Street are appropriate in Design District 2, depending on location.

This area is bordered by the shoreline, Central Way, Lake Street, and 3rd Avenue South. This area serves as the link between Downtown and the Lake and helps define the traditional pedestrian-oriented retail environment. In addition, the existing low development allows public views of the Lake from many vantages around the Downtown and allows evening sun into the Downtown core. To emphasize this link and the traditional role, building heights in this area should remain low. Two stories above the street are appropriate along Central Way and south of Kirkland Avenue. Along Lake Street South between Kirkland Avenue and Central Way, buildings should be limited to one story above the street. Two stories in height may be allowed in this area where the impacts of the additional height are offset by substantial public benefits, such as through-block public pedestrian access or view corridors. Buildings over one story in this area should be reviewed by the Design Review Board for both design and public benefit considerations. These benefits could also be provided with the development of the Lakeshore Plaza project identified in the Downtown Master Plan (see Figure C-4). Building occurring in conjunction with that project or thereafter should be reviewed in relation to the new context to determine whether two stories are appropriate. South of Second Avenue South, buildings up to three stories above Lake Street South are appropriate. Buildings over two stories should be reviewed by the Design Review Board to ensure an effective transition along the street and properties to the south.

As in District 1, pedestrian orientation is an equally important design consideration in District 2. In addition, improvements related to the visual or physical linkage between building in this area and the lake to the west should be incorporated in building design.

The public parking lot located near Marina Park at the base of Market Street is well suited for a parking structure of several levels, due to its topography. Incentives should be developed to encourage the use of this site for additional public parking.

Design Districts 3 and 7

Maximum building height is three stories in Design Districts 3 and 7.

These districts are east of 3rd Street, north of Central Way, and south of Peter Kirk Park. Maximum building height should be three stories, with a minimum front yard setback of 20 feet and maximum lot coverage of 80 percent. Lower portions of projects with a pedestrian orientation should be allowed to encroach into the setbacks to stimulate pedestrian activity and links to eastern portions of the Downtown. Street trees and ground cover are appropriate along Kirkland Avenue and Central Way. By keeping structures in this area relatively low-rise and set back from the street, views from upland residences can be preserved and the openness around Peter Kirk Park enhanced.

In Design District 3, the restriction of access points to nonresidential streets may be necessary in order to prevent a negative impact of development in this area on the single-family enclave which exists to the south.

Design District 4

Maximum building height to be four stories.

This district is located south of 1st Avenue South, east of 1st Street South. Land in this area is appropriate for developments of four stories in height.

The method for calculating building height should be modified for this area as described in the discussion of height calculation for structures in District 8. The

opportunity to take advantage of substantial grade changes with terraced building forms also exists in the western half of District 4.

Vehicular circulation will be an important consideration in project design in this area. The restriction of access points to nonresidential streets in order to prevent a negative impact of development in this area on the single-family enclave which exists to the south may be necessary.

Design District 5

Building heights of two to five stories are appropriate in Design District 5.

This district lies at the east side of Downtown between Central Way and Kirkland Way. Maximum building height should be between three and five stories. The existing mix of building heights and arrangement of structures within the district preserves a sense of openness within the district and around the perimeter. Placement, size, and orientation of new structures in this district should be carefully considered to preserve this sense of openness. Buildings over two stories in height should be reviewed by the Design Review Board for consistency with applicable policies and criteria. Within the district, massing should generally be lower toward the perimeter and step up toward the center. Facades facing Central Way, Kirkland Way, and Peter Kirk Park should be limited to between two and three stories, with taller portions of the building stepped back significantly. Buildings over three stories in height should generally reduce building mass above the third story.

Buildings fronting Peter Kirk Park and the Performance Center should be well modulated, both vertically and horizontally, to ease the transition to this important public space. Buildings should not turn their backs onto the park with service access, blank walls, etc. Landscaping and pedestrian linkages should be used to create an effective transition. Residential development should be designed to integrate into both the office/retail character of the zone and the active urban nature of Peter Kirk Park. Residential development should also be limited to those portions of the property fronting on park green space, rather than those portions fronting the Teen Center and Performance Center.

Design considerations related to vehicular and pedestrian access, landscaping, and open space are particularly important in this area. The intersection of 6th Street and Central Way is a prominent gateway to the Downtown. New development in this area should have a positive impact on the image of Kirkland and should be designed to enhance this entry. Within the district, a north-south vehicular access between Central Way and Kirkland Way should be preserved and enhanced with pedestrian improvements.

Design District 6

Maximum building heights of two to four stories are appropriate for Design District 6.

This large block of land located between 5th Street and 6th Street, north of Central Way, and south of 7th Avenue, is identified as a major opportunity site for redevelopment elsewhere in this document. Figure C-6 contains a schematic diagram of design and circulation considerations that should be incorporated in the redevelopment of this district. Development of this district should be relatively intensive and should be physically integrated through pedestrian access routes, design considerations, and intensive landscaping.

Safe, convenient, and attractive pedestrian connections across the district should be provided. This path should be designed under a covered enclosure or arcade along the storefronts in this area. Visual interest and pedestrian scale of these storefronts will contribute to the appeal of this walkway to the pedestrian. A connection of this pathway to Central Way should be made, with a continuation of the overhead enclosure to unify this pedestrian route.

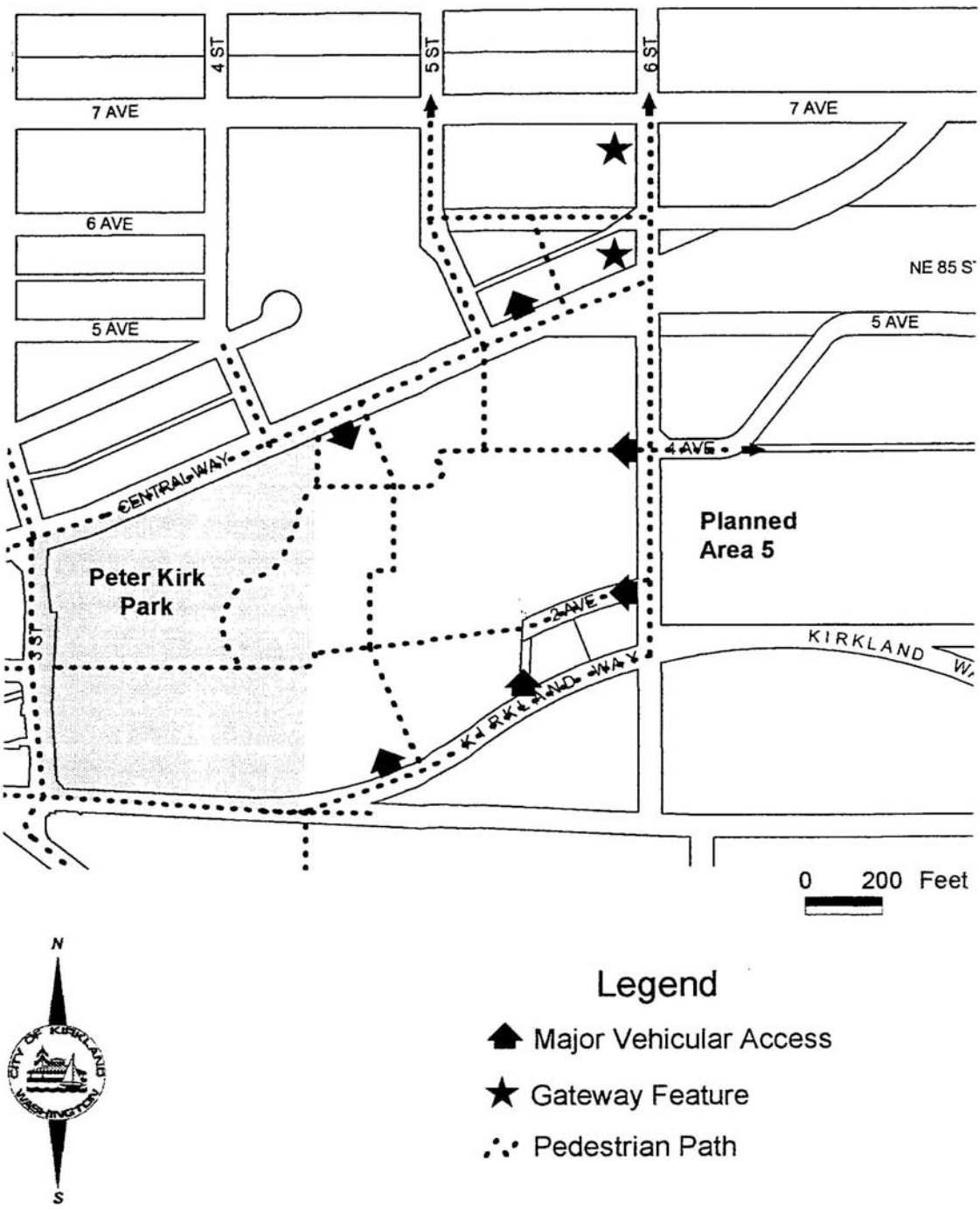


Figure C-6: Design Districts 5 and 6 - Circulation and Gateways

Design considerations related to vehicular and pedestrian access, landscaping, and open space are particularly important in this area. The intersection of 6th Street and Central Way is a prominent gateway to the Downtown. New development in this area should have a positive impact on the image of Kirkland and should be designed to enhance this entry.

A substantial building setback or mitigating design such as the site configuration on the south side of Central Way is necessary in order to preserve openness at this important gateway site. The northeast and southeast corners of this block should be set aside and landscaped to provide public open spaces or miniparks at these gateways. Side-yard setbacks, however, should be minimal to reduce the appearance of a building surrounded by a parking area.

The northern portion of this district should be developed in uses that are residential both in function and scale. Access to this portion of the site may be either from 7th Avenue or from one of the adjacent side streets. Some of the significant trees along 7th Avenue should be incorporated into the site design as a means of softening the apparent mass of any new structures and to provide additional elements of continuity facing the single-family residences along 7th Avenue. In addition, building mass should step down toward 7th Avenue and design consideration should be given to the massing and form of single family homes to the north.

Design District 8

Building heights of two to four stories are appropriate, depending on location.

This district is located north of Central Way and south of 4th Avenue, between Market Street and 3rd Street. Maximum building height should be three stories abutting Central Way and two stories at 3rd and 4th Avenues. Structures which do not abut either of these streets should be allowed to rise up to four stories.

Building height calculation should require terracing of building forms on sloped sites.

Where dramatic elevation changes exist in this district, an innovative method of calculating height is appropriate. In order to encourage the terracing of building forms on the hillside, building height should be calculated relative to the ground elevation above which the individual planes of the structure lie. Additional bulk controls should apply to restrict the height within 100 feet of noncommercial neighborhoods to the same height allowed in the adjacent zone. Heights on the north side should step down to ease the transition to the core area and moderate the mass on top of the hillside.

Vehicular circulation to nonresidential portions of projects within this area should not occur on primarily residential streets. In addition, design elements should be incorporated into developments in this area which provide a transition to the residential area to the north.

The Image of the City: Urban Design Assets

Many of Downtown's urban design assets are mapped on the Master Plan (Figure C-4) or are discussed explicitly in the text of the Height and Design Districts or the Downtown Design Guidelines. The following text should read as an explanation and amplification of references made in those two parts of the Downtown Plan.

Visual Landmarks

Lake Washington is a major landmark in Downtown Kirkland.

The most vivid landmark in Downtown Kirkland is Lake Washington. The lake provides a sense of openness and orientation and is a prominent feature from two of the three main approaches to the Downtown. Many residents and visitors to Kirkland form their impressions of the community from these important vantage points. The preservation and

enhancement of views from the eastern (Central Way) and northern (Market Street) gateways is a high-priority policy objective.

Despite the prominence from these vantage points, the core area is not well oriented to capitalize on its waterfront setting. The existing activity centers of the retail core and the lake are separated by large surface parking lots. The City and property owners around Marina Park should aggressively pursue opportunities to correct this deficiency by structuring the existing surface parking below a public plaza. This open space amenity could redefine the Downtown and become the focal point of the community.

Other outstanding visual landmarks include the large green expanse of Peter Kirk Park, which provides an open space relief to the densely developed Downtown core to the west. The library and Senior Center building at the southeast edge of Peter Kirk Park, as well as the METRO transit center at the western boundary of the park, are also well-known local landmarks.

The City Hall facility provides an important visual and civic landmark on the northern slope above the Downtown. Marina Park and the pavilion structure situated there are also symbolic reference points of community, recreational, and cultural activities.

There are a number of features in and nearby the Downtown area with historic significance which add to its visual character and historic flavor. These landmarks include the historic buildings on Market Street and the old ferry clock on Lake Street at Kirkland Avenue. These structures should be recognized for their community and historic value, and their preservation and enhancement should have a high priority. In contrast to the bland architecture of many of the buildings in the Downtown constructed since the 1940's, some of the older structures help define the character of the Downtown. The City will consider preserving this character through a process of inventorying these structures and adopting historic protection regulations. New regulations could range from protecting the character of designated historic buildings to protecting the actual structure. Some form of preservation would provide continuity between the Downtown vision and its unique past.

Public Views

Important Downtown views are from the northern, southern, and eastern gateways.

A number of dramatic views exist in the Downtown and its immediate vicinity due to the hills, the valley, and the sloping land areas which form the bowl-like topography which characterizes the City's center. One of the views most often associated with Downtown Kirkland is from the eastern gateway, where Central Way meets 6th Street. From this vantage point, the hills north and south of the core area form a frame for a sweeping view of Lake Washington in the distance and the Olympic mountain range beyond.

Another striking view, identified in Figure C-4, is from the Market Street entry into Downtown. This approach is met with a view of the lake, Marina Park and its pavilion, and the City's shoreline. This view could be enhanced with redevelopment of the GTE site, where the existing massive building substantially diminishes this broad territorial view.

Where the Kirkland Avenue and 2nd Avenue South rights-of-way cross Lake Street and continue to Lake Washington, an unobstructed view of open water is visible to pedestrians and people traveling in vehicles. These views are very valuable in maintaining the visual connection and perception of public accessibility to the lake. These views should be kept free of obstruction.

Gateways

Topographic changes define gateways into the Downtown area.

The gateways into Downtown Kirkland are very clear and convey a distinct sense of entry. Two of the Downtown's three major gateways make use of a change in topography to provide a visual entry into the area.

At the eastern boundary of the Downtown area, Central Way drops toward the lake, and the core area comes clearly into view. This gateway could be enhanced by an entry sign, similar to one located farther up the hill to the east, or some other distinctive structure or landscaping feature.

A second major gateway is the Downtown's northern entrance where Market Street slopes gradually down toward Marina Park. The historic buildings at 7th Avenue begin to form the visual impression of Downtown's character and identity, and the landscaped median adds to the boulevard feeling of this entryway. Some type of sign or other feature could be incorporated into the improvements to the Waverly site.

At the Downtown's southern border, the curve of Lake Street at about 3rd Avenue South provides a very clear gateway into the commercial core. It is at this point that the transition from residential to retail uses is distinctly felt. Here, also, is an opportunity to enhance this sense of entry by creation of literal gateposts, signs, or landscape materials.

Pathways

An extensive network of pedestrian pathways covers the Downtown area.

The size and scale of Downtown Kirkland make walking a convenient and attractive activity. An extensive network of pedestrian pathways covers the Downtown area, linking residential, recreational, and commercial areas. Downtown Kirkland is a pedestrian precinct unlike virtually any other in the region. It is almost European in its scale and quality.

The core of the shopping district, with its compact land uses, is particularly conducive to pedestrian traffic. Both sides of Lake Street, Park Lane, and Kirkland Avenue are major pedestrian routes. Many residents and visitors also traverse the land west of Lake Street to view and participate in water-oriented activities available there.

The Downtown area's major east/west pedestrian route links the lake with Peter Kirk Park, the Kirkland Parkplace shopping center, and areas to the east. For the most part, this route is a visually clear pathway, with diversity and nearby destinations contributing to its appeal to the pedestrian. Enhancement and improved definition of this important east-west pedestrian corridor would help link Park Place with the rest of the shopping district.

Minor pedestrian routes link the residential areas north of Central Way and south of Kirkland Avenue. These linkages need to be strengthened in order to accommodate the residential and office populations walking from the Norkirk Neighborhood and core frames, respectively. Additional improvements, such as brick paver crosswalks, pedestrian safety islands, and signalization, are methods to strengthen these north-south linkages.

Enhancement of Downtown pedestrian routes should be a high-priority objective.

Enhancement of the Downtown area's pedestrian routes should be a high-priority policy and design objective. For example, minor architectural features and attractive and informative signs should be used to identify public pathways. Public and private efforts to make pedestrian walkways more interesting, functional, convenient, and safe, should be strongly supported. Figure C-4 highlights a number of projects proposed for this purpose. These projects are discussed in detail elsewhere in this text.

D. Public Facilities

Open Space/Parks

Four major park sites are critical to the Downtown's feeling of openness and greenery. These parks weave a noncommercial leisure-time thread into the fabric of the area and provide a valuable amenity, enhancing Downtown's appeal as a destination. Each of the major approaches to the Downtown is met with a park, with the Waverly site and Marina Park enhancing the northern entry, and Peter Kirk

Park and Dave Brink Park augmenting the eastern and southern approaches. Physical improvements in and near these parks should strengthen their visual prominence and prevent view obstruction.

Marina Park and Peter Kirk Park in particular are well-used by families and recreational groups. Public facilities at these parks should continue to expand opportunities for residents, such as the installation of permanent street furniture and play equipment for children at Marina Park.

Pedestrian improvements should be made to improve connections between parks and nearby facilities.

Downtown projects which are not directly related to the parks should continue to locate adjacent to the parks, and in some cases, should share access or parking. Impacts from projects, such as the tour boat dock at Marina Park and the METRO transit center at Peter Kirk Park, should be minimized. Efforts to provide continuity between these facilities and the parks through the use of consistent walkway materials, landscaping, and other pedestrian amenities, will help to reduce the appearance of a separation of uses at these locations.

The boat launch ramp which exists at Marina Park is an important amenity in the community. It should be retained until another more suitable location is found.

Other Public Facilities

City Hall and the Library/Senior Center facility add to the community atmosphere and civic presence in the Downtown area. The plan for Downtown developed in 1977 recommended that the City Hall facility be moved from its previous location in the core area to its present site overlooking the Downtown from the northern slope. In its new location, City Hall is close enough to Downtown to contribute workers to the retail and restaurant trade, as well as to provide a visually prominent and symbolic landmark when viewed from the Downtown.

Public efforts to assist the Downtown business district should be continued.

The City should help to foster economic vitality in the Downtown by working with the private sector and by encouraging independent efforts toward economic development by the private sector. Such assistance to the business community might include supporting efforts to establish local improvement or business improvement districts. This could take the form of seed money for preliminary studies and the dissemination of information.

Other public efforts to strengthen the Downtown business climate should include the continued promotion of public projects such as the tour boat dock, in addition to continued support for private projects such as the Lakeshore Plaza Boardwalk, which would help to implement public policy goals.

E. Circulation

Pedestrian

Pedestrian routes should have equal priority to vehicular routes in Downtown circulation.

Pedestrian amenities and routes should continue to be improved, and should be given equal priority with that of vehicular routes for circulation within the Downtown. Modifications to the street network and traffic patterns should not be allowed to disrupt Downtown pedestrian activity and circulation.

To be a truly successful walking environment, the core area of the Downtown must be safe, convenient, and pleasant for the pedestrian. Pedestrian safety would be increased greatly by reducing opportunities for conflicts with cars. The reprogramming of crosswalk signals to favor the pedestrian would discourage jaywalking and allow sufficient time for slower walkers to cross the street.

Convenience to the pedestrian will be enhanced by improving the directness and ease of pedestrian

routes. "Shortcuts" between streets, or even between buildings, can link pedestrian routes over large distances where vehicles cannot circulate. Coordinated public directory signs and maps of walkways should be developed to clearly identify public pathways for the pedestrian.

A system of overhead coverings should be considered to improve the quality of pedestrian walkways year-round.

The pleasures of walking in the Downtown area would be enhanced by the installation of minor public improvements, such as street furniture (benches, planters, fountains, sculptures, special paving treatments), flower baskets, and coordinated banners and public art. The creation of a system of overhead coverings such as awnings, arcades, and marquees would provide protection to the pedestrian during inclement weather, allowing for pedestrian activity year-round. All of these features would add visual interest and vitality to the pedestrian environment.

Brick crosswalks have been installed at 3rd Street and Park Lane in conjunction with the METRO transit center facility. The expansion of the use of brick for crosswalks throughout the Downtown should be considered. In any case, additional restriping of crosswalks in the Downtown area should be actively pursued.

The establishment and improvement of pedestrian pathways between activity centers should be a high-priority policy objective. Major pedestrian routes within the Downtown area are identified in Figure C-4. Major pathways include the extensive east-west "spine" or "Park Walk Promenade," which links the lake with points east of 6th Street and the shoreline public access trail.

The Downtown Master Plan also identifies other important pedestrian routes which provide north-south pedestrian access. Improvements to these pathways should be promoted, particularly at the intersection of 6th Street and Central Way. Elevated crosswalks should be considered among the alternatives reviewed for pedestrian access across Central Way. Disadvantages to elevated crosswalks which should be considered are potential view blockage and the loss of on-street pedestrian traffic.

The portion of the Park Walk Promenade spanning Peter Kirk Park was installed by the City during renovation of the park facilities. The walk serves the Senior Center and library, as well as commercial areas to the east and west. This walkway should be expanded upon when the remaining land south of Kirkland Parkplace develops.

Figure C-4 illustrates pedestrian system improvements for the two major routes which are intended to serve several purposes. These projects would improve the safety, convenience, and attractiveness of foot traffic in the Downtown, provide shelter from the weather, and create a unifying element highlighting the presence of a pedestrian linkage.

A large public plaza should be constructed west of buildings on Lake Street to enhance the Downtown's lake front setting (See Figure C-4).

The Lakeshore Plaza shown on the Downtown Master Plan envisions a large public plaza constructed over structured parking. Ideally, the plaza would be developed through public/private partnerships to provide a seamless connection between the Downtown and the lake. The plaza would be at the same grade as Lake Street and would provide visual and pedestrian access from a series of at-grade pedestrian connections from Central Way and Lake Street.

The Park Walk Promenade identified on the Downtown Master Plan should consist of a series of minor structures placed at prominent locations along the walkway in order to clearly identify the pathway throughout its length, as well as to provide some protection during wet weather. The plexiglas and metal "space frames" used at Mercer Island's Luther Burbank Park and at the Seattle Center are possible design options for protective structures. The concrete and metal gateway feature where Parkplace

abuts Peter Kirk Park is a good model for visual markers along the east-west pedestrian spine.

Vehicular

Automobiles and public transit are the modes of transportation which move people in and out of the Downtown, and often between the core area and the frame. Within the Downtown, pedestrian circulation should be given equal priority with vehicular circulation. A primary circulation goal should be to emphasize pedestrian circulation within the Downtown, while facilitating vehicle access into and out of the Downtown.

Alternate traffic routes should be considered.

Lake Street should be designated to function as a major pedestrian pathway. The objectives for land use and pedestrian circulation should be seriously considered during any plans for traffic and roadway improvements on Lake Washington Boulevard. The goal to discourage commuter traffic on the boulevard should not be viewed independently from the need to retain vehicle access for tourists, shoppers, and employees to the Downtown.

State Street should continue to serve as a major vehicular route, bringing shoppers and workers into the Downtown area. Sixth Street should be developed to accommodate additional vehicles. Future plans for Lake Street and Lake Washington Boulevard may include the diversion of cars from the Downtown area, and 6th Street would provide the most appropriate north/south alternative route. The existence of commercial development on this street renders it more appropriate than State Street to handle substantial commuter traffic.

The use of public transportation to the Downtown should be encouraged.

Third Street has been designed for the pedestrian and public transit user, with the METRO transit center located on this street. The use of public transportation as an alternative for people who work or shop in the Downtown should be encouraged. Increased use of this mode of transportation would help to reduce traffic congestion and parking problems in the core area.

The number of vehicular curb cuts in the Downtown area should be limited. Both traffic flow in the streets and pedestrian flow on the sidewalks are disrupted where driveways occur. In the core frame in particular, the placement of driveways should not encourage vehicles moving to and from commercial areas to travel through residential districts.

Parking

The core area is a pedestrian-oriented district, and the maintenance and enhancement of this quality should be a high priority. Nevertheless, it should be recognized that pedestrians most often arrive in the core via an automobile which must be parked within easy walking distance of shops and services. To this end, as discussed elsewhere in this chapter, private projects which include a substantial amount of surplus parking stalls in their projects should be encouraged to locate these parking stalls in the core frame.

The Downtown area contains a variety of parking opportunities. Four public parking lots exist in the Downtown area: at the west side of Peter Kirk Park, the street-end of Market Street at Marina Park, in Lakeshore Plaza, and at the intersection of Central Way and Lake Street. These lots are shown on the Downtown Master Plan (Figure C-4).

Public parking to be a permitted use on private properties north and south of the core area.

Other sites that would be appropriate for public parking include the north and south slope of the Downtown as shown in Figure C-4. Public parking in these areas would help to serve core-area businesses, while not detracting from the dense pattern of development critical to the pedestrian environment there.

More intensive development of existing parking areas should be considered as a way to provide more close-in public parking. Certain sites, such as the Market Street-End lot and the Peter Kirk lot would adapt well to structured parking due to the topography in the immediate vicinity of these lots. Structuring parking below Lakeshore Plaza could make more efficient use of the available space and result in a dramatic increase in the number of stalls available.

The fee-in-lieu of parking alternative allows developers in the core area to contribute to a fund instead of providing required parking on site. The City's authority to spend the monies in this fund should be expanded to include the use of the funds on private property in conjunction with parking facilities being provided by private developers.

Another option for off-site parking should be considered which would allow developers to provide the parking required for their projects elsewhere in the core area or core frame. This alternative should include the construction of parking stalls in conjunction with another developer, if it can be shown that the alternative parking location will be clearly available to the public and is easily accessible to the core area.

The City's parking management and enforcement program should be maintained. The program should be evaluated periodically to assess its effectiveness, with revisions made when necessary.

A. Living Environment

The Central Neighborhood contains a wide variety of housing types, including many single-family residences and multifamily units. It is the intent of the Comprehensive Plan to provide a range of housing opportunities, and a continued broad range is planned for the Central Neighborhood (Figure C-1).

Considerations for low-density residential development are discussed.

The various residential densities designated for land in the Central Neighborhood, and particularly for the areas lying south of Kirkland Avenue, will be compatible if certain concerns are addressed. For example, a low-density designation is appropriate in any area developed predominantly in single-family homes, if the likelihood exists that these structures will be maintained for the lifetime of this Plan. Similarly, an area should remain committed to low-density uses if a higher-density development in the area could not be adequately buffered from single-family houses.

Considerations for medium- and high-density residential development are discussed.

A medium-density designation is appropriate for areas where sufficient land area is available to separate such development from adjacent single-family uses. In addition, medium-density residential development should not be allowed where it would significantly increase traffic volumes on streets where single-family housing is the predominant land use. Other considerations include the overall compatibility of medium-density development with adjacent single-family uses, with respect to height, setbacks, landscaping, and parking areas. If special precautions are taken to reduce adverse impacts on existing single-family homes, higher densities may be allowed. Within the Central Neighborhood, land surrounding the Downtown is generally most appropriate for these higher-density developments.

Medium-density residential development permitted in block between Kirkland Avenue and Kirkland Way, along 6th Street South, as well as south and west of Planned Area 6.

The block of land lying east of 6th Street, between Kirkland Way and Kirkland Avenue, is largely developed in a mix of single-family and multifamily uses. Medium-density residential development at a

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MEMORANDUM

To: David Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: September 26, 2008

Subject: Moratorium Ordinance

RECOMMENDATION:

After conducting the public hearing, the City Council determine whether to repeal, modify, or renew, for up to six months, the moratorium initially imposed by Ordinance 4139.

BACKGROUND:

On September 16, 2008, the City Council passed Ordinance 4139, imposing a moratorium on the acceptance of applications for development permits which would add or create in excess of 500 square feet of gross floor area. The moratorium applies to Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8. The purpose of the moratorium is to provide the City Council time to consider whether Comprehensive Plan and/or Zoning Code amendments related to Downtown development should be adopted.

The moratorium is in effect for an initial period of 60 days, until November 21, 2008, unless renewed, repealed or modified by the City Council. As provided in RCW 35A.63.220 and RCW 36.70A.390, the moratorium may not be renewed unless the City Council firsts holds a public hearing to accept and consider public comment and testimony. Ordinance 4139 provides that such hearing shall occur no later than November 15, 2008. Following the hearing, the City Council may adopt a moratorium extension of up to six months. Additional renewals are permitted, but each must be preceded by a public hearing and can be for no longer than six months. The proposed ordinance attached to this memorandum extends the moratorium of up to 180 days, beginning on its effective date.

The proposed ordinance includes all but one of the exceptions to the application of the moratorium that were allowed in Ordinance 4139. Ordinance 4139 created an exemption, consistent with the Zoning Code, for an applicant who submitted a complete building application for an approved Design Board Review development within 180 days of the final Design Board Review decision. Staff has determined that building permit applications have been received for all approved Design Board Review developments, so this exception is no longer necessary.

The following exceptions included in Ordinance 4139 are extended under the proposed ordinance: 1) development permit applications that were submitted and vested prior to September 27, 2008, (the effective date of Ordinance 4139); 2) shoreline permits administered by the City under the Shoreline Management Act; 3) the Park/Public Use (P) Zone, publicly owned property and/or facilities, or the public

right-of-way; and 4) the Bank of America project for which a complete building permit application has already been submitted and Superior Court review is pending.

Under RCW 35A.63.220 and RCW 36.70A.390, the City Council must adopt findings of fact justifying its action imposing the moratorium. Section 8 of the proposed ordinance includes findings of fact for the City Council's consideration. These were developed based upon City Council comments at the September 2 and 16, 2008, City Council meetings. The City Council may adopt, reject or supplement these findings or request that additional findings be prepared and returned at the Council's next regular meeting.

Please do not hesitate to contact me with any questions.

City Attorney's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3030
www.ci.kirkland.wa.us

To: David Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: September 29, 2008

Subject: CBD Interim Regulations for City Council Review Process

RECOMMENDATION:

After conducting the public hearing, the City Council determine whether to pass attached ordinance which would enable the Council to hold future public hearings to consider and decide on potential amendments to the Comprehensive Plan and/or Zoning Code related to Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8 without receiving a recommendation and report from the Planning Commission.

BACKGROUND:

On September 16, 2008, the City Council passed Ordinance 4139, imposing a moratorium on the acceptance of applications for development permits which would add or create in excess of 500 square feet of gross floor area. The moratorium applies to Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7, and 8. The purpose of the moratorium is to provide the City Council time to consider whether Comprehensive Plan and/or Zoning Code amendments related to Downtown development should be adopted.

At its September 2 and September 16, 2008, meetings, the City Council discussed conducting the review of potential amendments to the Comprehensive Plan and/or Zoning Code itself, without receiving a report and recommendation from the Planning Commission. The attached ordinance provides that the City Council will hold the public hearing(s) for the potential amendments and that the procedures for the hearing(s), notification, staff report, publication, and effective date of any resulting ordinance would be the same as those in Kirkland Zoning Code Chapter 160 for Process IV.

Under RCW 35A.63.220 and RCW 36.70A.390, the City Council must adopt findings of fact justifying its action imposing the interim regulations. Section 4 of the proposed ordinance includes findings of fact for the City Council's consideration. These were developed based upon City Council comments at the September 2 and 16, 2008, City Council meetings. The City Council may adopt, reject or supplement these findings or request that additional findings be prepared and returned at the Council's next regular meeting.

Please do not hesitate to contact me with any questions.

ORDINANCE NO. 4142

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN CENTRAL BUSINESS DISTRICT (CBD) ZONES 1, 2, 3, 4, 6, 7, AND 8 ON THE ACCEPTANCE OF APPLICATIONS FOR REVIEW AND/OR ISSUANCE OF DEVELOPMENT PERMITS OR APPLICATIONS FOR DESIGN REVIEW FOR ANY NEW DEVELOPMENT THAT WOULD ADD OR CREATE IN EXCESS OF 500 SQUARE FEET OF GROSS FLOOR AREA; AND REPEALING ORDINANCE 4139.

WHEREAS, the Kirkland City Council has previously identified a goal of maintaining the overall coherence of the Downtown's visual and historic character, which goal is articulated in the Downtown Plan, the Design Guidelines for Pedestrian Oriented Business Districts, the Zoning Code and Design Review regulations, and in other policy/planning documents; and

WHEREAS, recent disputes concerning the application of provisions of the Downtown Plan, the Zoning Code, and Design Review regulations to specific Downtown development proposals indicate that members of the public and development community do not share a common understanding of the meaning of said provisions or the way in which they should be applied; and

WHEREAS, the lack of shared understanding and resulting disputes interfere with the predictability of Downtown development and achievement of the goal of maintaining the overall coherence of the Downtown's visual and historic character; and

WHEREAS, the City has a compelling interest in ensuring that the goals and policies contained within the Downtown Plan and other policy/planning documents are fulfilled; and

WHEREAS, the clarification of applicable Plan, Zoning Code, and Design Review provisions may promote broader understanding and acceptance, reduce disputes, and help streamline the Downtown development approval process; and

WHEREAS, amendments to the Comprehensive Plan and/or Zoning Code may assist in providing clarification; and

WHEREAS, a moratorium on acceptance of applications for any new development or applications for Design Review that would add or create in excess of 500 square feet of gross floor area in CBD Zones 1, 2, 3, 4, 6, 7, and 8 would provide the City Council time to consider whether Comprehensive Plan and/or Zoning Code amendments should be adopted; and

WHEREAS, the City will establish a work plan to study and develop any Comprehensive Plan and/or Zoning Code amendments that may be needed to address the concerns identified above; and

WHEREAS, the City is authorized pursuant to RCW 35A.63.220 and RCW 36.70A.390 to adopt a moratorium for the purpose of preserving the status quo while Comprehensive Plan and/or Zoning Code amendments are considered, and, if determined to be necessary, prepared and enacted; and

WHEREAS, on September 16, 2008, the City Council passed Ordinance 4139 establishing a moratorium in CBD Zones 1, 2, 3, 4, 6, 7, and 8 on the application for any development permit which would add or create in excess of 500 square feet of gross floor area; and

WHEREAS, Washington state law, including RCW 35A.63.220 and RCW 36.70A.390, authorizes cities to adopt moratoria for a period of up to six months following a public hearing, with additional extensions possible with additional hearings; and

WHEREAS, the City Council held a public hearing on October 7, 2008;

NOW THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Repeal. Ordinance 4139, passed September 16, 2008, is hereby repealed.

Section 2. Imposition of Moratorium. A moratorium is hereby imposed in Central Business District (CBD) Zones 1, 2, 3, 4, 6, 7 and 8 on the application for, intake of, review of, or issuance of any development permit or application for Design Review which would add or create in excess of 500 square feet of gross floor area except as provided in Sections 3, 4, 5, 6, and 7.

Section 3. The moratorium established in Section 2 of this Ordinance shall not apply to development permits that became vested prior to September 27, 2008, in accordance with RCW 19.27.095 and RCW 58.17.033.

Section 4. The moratorium established in Section 2 of this Ordinance shall not apply to applications for substantial development permits, conditional use permits, or variances under the Shoreline Management Act, Chapter 90.58 RCW, and Kirkland Municipal Code Chapter 24.06.

Section 5. The moratorium established in Section 2 of this Ordinance shall not apply to the Park/Public Use (P) Zone, publicly owned property and/or facilities, or public right-of-way.

Section 6. The moratorium established in Section 2 of this Ordinance shall not apply to the Bank of America/Merrill Gardens Mixed Use Project at 101 Kirkland Avenue, File No. DRC07-00006, Case No. APL08-00001 ("Bank of America Project"). Design Review for the Bank of America Project was approved by the City Design Review Board (DRB) on January 16, 2008, but the City Council reversed the DRB decision on August 5, 2008. The applicant for the Bank of America Project appealed the City Council decision to King County Superior Court, and that appeal is currently pending. (Case No. 08-2-29048-4SEA).

Section 7. Duration and Scope of Moratorium. The moratorium imposed by this Ordinance shall continue in effect for a period of up to one hundred eighty (180) days from the effective date of this Ordinance, unless repealed, extended, or modified by the City Council.

Section 8. Findings of Fact.

A. The recitals set forth on pages 1-2 above are hereby adopted as findings of fact.

B. Although decisions of the City Council on appeals of Design Review approvals for Downtown development reflect the meaning of Comprehensive Plan, Zoning Code, and Design Review provisions as adopted by the City Council, property developers and City residents desire greater certainty concerning the meaning and application of the Comprehensive Plan, Zoning Code, and/or Design Review provisions governing Downtown development.

C. It is necessary for the City Council to consider whether changes to the Downtown Plan, Zoning Code, and/or Design Review provisions can provide more certainty and predictability, thereby facilitating achievement of Downtown Plan and other goals.

D. To provide the time for such consideration and to avoid the potential for submission and vesting of applications for development that may be inconsistent with Plan and/or Code clarifications considered by the City Council, a moratorium as set forth in Section 2 above is necessary.

E. To facilitate greater predictability and certainty in the Downtown development approval process, Downtown Plan and/or Zoning Code provisions could also be clarified to provide additional, more specific guidance to Design Review Board in the exercise of its discretion.

F. The City Council also needs to consider whether the tasks and level of discretion currently delegated to the Design Review Board strike the appropriate balance or whether changes in the Design Review approval process could provide greater predictability and certainty.

G. A planning process including significant opportunities for participation by property owners, residents and other stake-holders will be undertaken and the moratorium is required to maintain current conditions while the planning process progresses.

Section 9. Additional Extensions. If a period of more than one hundred eighty (180) days is required to complete consideration of any changes to the Comprehensive Plan and/or Zoning Code, the City Council may adopt additional extensions of this moratorium after any required public hearing pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 10. Severability. Should any provision of this Ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to any other persons or circumstances shall not be affected.

Section 11. Savings Clause. Ordinance 4139, which is repealed by this Ordinance, shall remain in force and effect until the effective date of this Ordinance.

Section 12. Effective Date. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

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

Approved as to Form:

_____
City Attorney

ORDINANCE NO. 4143

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, ADOPTING INTERIM ZONING REGULATIONS FOR THE REVIEW PROCESS FOR CITY COUNCIL INITIATED AMENDMENTS TO THE COMPREHENSIVE PLAN AND/OR TEXT OF THE ZONING CODE IN CENTRAL BUSINESS DISTRICT (CBD) ZONES 1, 2, 3, 4, 6, 7, AND 8, INCLUDING AMENDMENTS TO KIRKLAND ZONING CODE CHAPTER 142, DESIGN REVIEW.

WHEREAS, on September 16, 2008, the City Council passed Ordinance 4139 establishing a moratorium on certain development applications in CBD Zones 1, 2, 3, 4, 6, 7, and 8 for the purpose of providing the City Council time to consider whether Comprehensive Plan and/or Zoning Code amendments related to Downtown development should be adopted; and

WHEREAS, due to the workload of the Planning Commission and the time sensitivity created by the contemporaneous moratorium, it would be beneficial to have the the City Council conduct the review of any City Council initiated amendments to Comprehensive Plan and/or text of the Zoning Code without receivinng a recommendation and report from the Planning Commission; and

WHEREAS, the City Council finds it in the public interest to adopt an interim zoning regulations which will enable the City Council to carefully and thoroughly review Council initated amendments to the Comprehensive Plan and/or text of the Zoning Code;

WHEREAS, the City has the authority to adopt interim zoning regulations pursuant to RCW 35A.63.220 and RCW 36.70A.390; and

WHEREAS, the City Council held a public hearing on October 7, 2008;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. As an interim zoning regulation, for amendments to the Comprehensive Plan initiated by the City Council for Central Business Zones (CBD) 1, 2, 3, 4, 6, 7, and 8, the City Council shall hold a public hearing using the process described in Kirkland Zoning Code (KZC) 160.40 for notice; KZC 160.45 for staff report; KZC 160.55, 160.65 and 160.70 for public hearing; and KZC 160.90 for publication and effect. The Planning Official shall notify the Planning Commission in writing about the proposed amendment to the Comprehensive Plan at least 14 days before the public hearing.

Section 2. As an interim zoning regulation, for amendments to the text of the Kirkland Zoning Code initiated by the City Council for CBD Zones 1, 2, 3, 4, 6, 7, and 8, including KZC Ch. 142, Design Review, the City Council shall hold a public hearing using the process described in KZC 160.40 for notice; KZC 160.45 for staff report; KZC 160.55, 160.65 and 160.70 for public hearing; and KZC 160.90 for publication and effect. The Planning Official shall

notify the Planning Commission in writing about the proposed amendment to the text of the Zoning Code at least 14 days before the public hearing.

Section 3. Duration of Interim Regulations. The interim regulations imposed by this Ordinance shall continue in effect for a period of up to one hundred eighty (180) days from the effective date of this Ordinance, unless repealed, extended, or modified by the City council.

Section 4. Findings of Fact.

A. The recitals set forth on page 1 above are hereby adopted as findings of fact.

B. Although decisions of the City Council on appeals of Design Review approvals for Downtown development reflect the meaning of the Comprehensive Plan, Zoning Code, and Design Review provisions as adopted by the City Council, property developers and City residents desire greater certainty concerning the meaning and application of the Comprehensive Plan, Zoning Code, and/or Design Review provisions regarding Downtown development.

C. In order to provide for timely consideration and to avoid overburdening the Planning Commission; it is necessary to adopt interim regulations to provide a City Council review process for all City Council initiated amendments to the Comprehensive Plan and/or the text of the Zoning Code.

Section 5. Extensions. If a period of more than one hundred eighty (180) days is required to complete consideration of any changes to the Comprehensive Plan and/or Zoning Code, the City Council may adopt extensions of this interim ordinance after any required public hearing pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 6. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to any other persons or circumstances shall not be affected.

Section 7. Effective Date. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

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

Approved as to Form:

_____
City Attorney

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

MEMORANDUM

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director

Date: September 24, 2008

Subject: 2009-10 City of Kirkland Utility Rates

On September 16, 2009, the City Council approved Utility rates for the Water, Wastewater, Solid Waste and Surface Water Utilities for the City of Kirkland. These rates had also been reviewed and approved by the Finance Committee at their meetings in July and August.

Ordinances for Council approval have been prepared for the agenda of October 7th. As discussed in the reports to Council, the adopted rates insure system reliability, encourage stewardship, conservation and recycling, and provide for adequate capital replacement.

Attachments: 1 - Utility Rates Memo to Dave Ramsay
2 - Ordinance

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

MEMORANDUM

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director

Date: September 2, 2008

Subject: Proposed Utility Rates for the City of Kirkland, 2009-10

On July 28 and August 26 the Finance Committee of the Kirkland City Council reviewed detailed information regarding the rate proposals for the 2009-10 rates for the Solid Waste Utility, the Surface Water Utility, and the Water and Wastewater Utilities. Staff responded at the second meeting to questions and issues raised at the July 28th session. On August 26, the Finance Committee recommended to full Council the rate proposals detailed below.

SOLID WASTE UTILITY

Single Family Typical Monthly Rate History:

	2007	2008	Proposed 2009	Proposed 2010
64 Gallon Cart	$24.44	$27.11	$31.92	$31.92
Percent increase		10.92%	17.75%	0.00%
35 Gallon Cart	$17.73	$19.67	$17.46	$17.46
Percent increase		10.94%	-11.24%	0.00%

The Solid Waste Utility funds the collection and disposal services provided by Waste Management, billing services performed by the Utility billing division in Finance, and program development and outreach. The City of Kirkland currently administers an increasingly successful Single Family recycling program. In 2007, Kirkland's single family recycling program tied with Bellevue in achieving the highest recycling diversion rate in King County. In 2008, the single-family sector has continued to perform well, evidenced by a one-month, all-time diversion rate high in June of 75.6%. In addition, the number of participants in the recently-approved Commercial Organics Program has increased to 65 and the 24 tons of organic material collected in June 2008 was also a one-month high. Staff is working to enhance the Multi-Family recycling efforts and has delivered over 1,200 recycling containers to 30 apartments and condominium properties in the first half of 2008. A key effort in the second half of 2008 is partnering with Waste Management to identify and contact properties with low recycling to garbage volume ratios to offer free assistance in reconfiguring services to improving recycling opportunities for tenant and owners.

In addition to the above efforts, Council requested last year that staff explore ways to enhance recycling by including additional incentives in the rates. This rate proposal accomplishes Councils request. At Council's direction, Public Works staff is recommending a 'cost of service' solid waste rate structure for 2009-2010. The cost of service model enables the Single Family and the Multi-Family/Commercial sectors to balance revenues and expenses within each classification. In other words, it would eliminate any subsidy between the two classifications. During the 2008 Solid Waste rate discussion, it was noted, the Single Family sector currently subsidizes Multi-Family/Commercial sector.

In addition, Council requested staff develop a rate structure that encourages recycling. Therefore, we are recommending a 'linear' rate model. This model provides for a cost difference between the rates for various can sizes that is proportional to the difference in can size. In other words, downsizing from a 96 to 64 gallon cart, or from a 64 to 35 gallon cart, results in a larger cost saving to the customer. This creates a financial incentive for either recycling or waste reduction by increasing the savings when customers reduce the can size. Under the current rate structure the cost difference is not as dramatic between the 35, 64, and 96 gallon containers. This proposed structure also will maintain rate equity so similar can sizes cost the same in each sector.

A linear rate structure will result in an increase in the average rate of 4.71% for the multi-family/commercial sector and a 2.28% decrease for single-family customers. Overall, the rate increase for all Solid Waste customers is 1.71%. The average two-year rate for Single Family Residential is 2.28% lower for 2009-10. However, different cart sizes will experience increases or decreases to accomplish the linear rate described above. It is very important to note that a consequence of this rate change results in an increase of $17.75% per month on the bill of those Single Family residents with 64 gallon carts. There are more customers (4361) with this cart size than any other can size. The rate model, intended to encourage recycling or waste reduction, assumes a large percentage (See Attachment A) of users will reduce their can size in order to save on their monthly bill. The monthly bill for the 35 gallon cart will be 11.25% lower than the current rate. Therefore, a citizen with a 64 gallon cart who is able to implement waste reduction and recycling will experience significant savings. In other words, Council's direction to provide incentives for recycling and waste reduction is fulfilled in the new rate structure. The consultant utilized information from other municipalities who experienced shifts in can size after implementing similar rate models. The details of this information are contained in Attachment A, where we display the various rates for each category, as well as the number of current and projected customers in each category.

Overall there are two primary drivers of the proposed rate changes. The first is the shift to both Linear and Cost of Service Models. The second is our contract with Waste Management which allows for an annual COLA for 70% of their operating costs, assumed to be the cost of their collection services. Attachment B is a summary of the current expenditures, by category, from the Solid Waste fund.

The City of Kirkland has a successful recycling program, and Council direction to modify the rates will enhance the opportunities of residents and businesses to increase recycling opportunities and reduce their monthly rates.

Attachment I displays a summary of all the single family typical monthly rates from 2006 through 2010, with and without the proposed Utility Tax increase from 7.5% to 10.5% overall.

Recommendation: Council approval for the Solid Waste rate overall increase of 1.71% in 2009 and 0.00% in 2010 and the change in rate structure. This increases the typical monthly single family bill from $27.11 per month to $31.92 in 2009 and $31.92 in 2010, assuming a 64 gallon cart.

WATER UTILITY

Single Family Typical Monthly Rate History:

	2007	2008	Proposed 2009	Proposed 2010
Base rate + 7 Units*	$28.93	$31.68	$33.58	$35.60
Percent Increase		9.50%	6.00%	6.00%

* Assumes base rate and an additional 7 Units (I unit = 100 Cubic Fee (CF) = 750 gallons)

The Water Utility collects funds for the construction, replacement and rehabilitation of water distribution and storage facilities, funds the purchase of water from the Cascade Water Alliance (CWA), and provides for ongoing maintenance and operations of the water utility. Overall the Water Utility is meeting the Capital Financing and Reserve requirements as outlined by a detailed report from 1998 and updated in 2006. In addition, the Utility is funding adequate water supply and annual ongoing maintenance and operations. City participation in CWA is intended to have a voice and a vote over reliable and adequate drinking water supplies. Approximately 40% of the total annual expenditures are payments for water to the Cascade Water Alliance.

There are two primary drivers for rate changes in the Water Utility. First are the costs for drinking water from the Cascade Water Alliance. The second is our own fiscal requirements, in this case driven by COLA and inflation-related program cost increases. There are no new operation programs, staff additions, or other changes in the Water Utility Fund. Attachment C contains information on the typical expenditures from the Water Utility Fund. Attachment D portrays the drivers for the rate proposal.

CWA rates will be increasing by 14.66% or $466,248 in 2009 and 8.00% or $299,898 in 2010. In addition, the City is experiencing inflation and COLA increases. As have other City departments, Water Utility staff have implemented efficiencies and cost-savings programs to reduce the rate of increase due to COLA and inflation. As examples, field staff and Utility billing modified the temporary meter program, and we have implemented diver cleaning of water tanks to reduce water loss and reservoir down-time.

Recommendation: Council approval to increase the water rate of $31.68 by 6.00% in 2009, and 6.00% in 2010. This increases the typical single family bill to $33.58 in 2009 and $35.60 in 2010.

WASTEWATER UTILITY

Single Family Typical Monthly Rate History:

	2007	2008	Proposed 2009	Proposed 2010
AWWC – 6 Units*	$45.77	$48.59	$52.54	$54.09
Percent Increase		6.00%	8.04%	2.99%

* Rate is based on the Average Winter Water Consumption (AWWC) of 6 Units

The Wastewater Utility funds Kirkland's share of the regional wastewater collection, treatment, disposal and biosolids reuse program administered by King County. In addition, it funds the construction, operation and maintenance of the City's wastewater collection system. Both of these are sound and reliable systems, and the City of Kirkland has minimized system overflows and pump station failures. Approximately 59.34% of the total annual budgeted expenditures including debt service and capital expenditures for 2009 are to the County for regional wastewater services.

King County Council approved a monthly wholesale rate of $31.90 per month for 2009 and 2010, a 14 % increase from the 2008 County rate of $27.95 per month. This portion of the utility bill is a pass-through, approved by the King County Council, and paid by the component agencies of the wastewater system. This funds the costs of Brightwater and the ongoing treatment and conveyance needs in the regional wastewater system.

The biggest factor leading to the proposed 2009 wastewater rates is current expansion of the wastewater utility system – its greatest expansion since the 1960s. Construction is continuing at the Brightwater Treatment Plant. This plant will supplement the two major treatment plants in Renton and in Seattle. In addition, the new plant will utilize Membrane Bioreactic technology (MBR) and produce a large amount of reclaimed water for regional use.

Like the water utility, there are no additional City wastewater costs or program increases aside from those generated by cost of living and inflationary program costs. Also like the Water Utility, the Wastewater Utility has implemented program efficiencies to reduce annual financial requirements. Extensive use of the maintenance management system targets maintenance efforts where necessary and prevents overflows and overtime responses.

The details of the two primary rate drivers, local program costs and King County regional treatment services are contained on Attachment E. Attachment F shows how the current funds are expended by category. Based on the financial requirements and review of revenues we are recommending a wastewater rate increase.

Recommendation: Council approval for an 8.04% increase to $52.54 in 2009 and an increase of 2.99% to $54.09 in 2010.

SURFACEWATER UTILITY

Single Family Typical Monthly Rate History:

	2007	2008	Proposed 2009	Proposed 2010
Rate	$14.15	$14.15	$14.15	$14.15
Percent Increase		0.00%	0.00%	0.00%

The Surface Water Utility funds the construction, operation and maintenance of the surface water drainage, erosion control and water quality system. In addition it funds other program services such as outreach and citizen stewardship. The capital and operational annual requirements are based on the City's Surface Water Master Plan approved in 2005. In addition, the Utility enables the City to comply with the Phase II National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater permit required by the Environmental Protection Agency's Clean Water Act. The permit is issued and administered by the Department of Ecology, and the Phase II permit covers

cities with populations over 10,000. The permit calls for a level of system maintenance, monitoring, outreach, documentation and other efforts intended to reduce flooding, control erosion, and, above all, protect water quality.

The current rate of $14.15 per month funds capital, operating and outreach programs as specified in the Surface Water Master Plan.

In the 2009-10 biennium there are three primary drivers on the rate. Attachment G outlines the expenditures by category and Attachment H displays the primary rate drivers. The three primary drivers are as follows:

1. **Proper Allocation of Services that benefit the Utility**. We have determined that specific general fund activities that benefit the Surface Water Utility have not been allocated to the Surface Water Fund. As an example, the GIS position in the City was funded exclusively from the General Fund. We have determined, however, that the Utilities, including Surface Water, should pay a share proportionate to their benefits. There are other similar examples of this cost reallocation.
2. **Proper Allocation of Services that enhance water quality and reduce runoff, erosion.** Staff has determined that the work of the Arborist and some of the work done by the grounds crew benefits water quality. Nationally and regionally there is scientific information which details the benefits of the treescape to water quality, erosion control and urban runoff. Municipalities around the country are allocating a portion of their tree programs to the Surface Water Utility.
3. **1.00 New Surface Water Engineer to meet the requirements of our Phase II National Pollutant Discharge Elimination System (NPDES) permit.** Now that we have had a year of experience with the NPDES permit, there is the need for an additional 1.00 full time Surface Water Engineer. There will be a service package prepared for this position. Generally, this position will help implement permit conditions, coordinate and implement Low Impact Development programs, staff regional forums such as the County Flood Control Zone District and the WRIA 8 Forum, and respond to urban flooding and surface water issues in the City.

The costs of the three (3) points above resulted in additional expenses of approximately $260,000 to the annual financial obligations of the Surface Water Fund. At the June 30 Finance Committee meeting, staff recommended holding on new projects for 2009-11 based on the backlog of projects. This was also discussed at the full Council study session of ?? A large portion of the backlog was for surface water projects. Currently $2,825,000 per year ($950,000 for Transportation related Surface Water Capital projects, $950,000 for Surface Water Capital projects, $437,500 for depreciation, $437,500 for the Surface Water Master Plan, and $50,000 for GIS) is transferred to the Surface Water Capital Fund from annual revenues. This allocation is at previous Council direction.

After further review of the financial stability and obligations of the Surface Water Fund, we are recommending no rate increase for 2009. This recommendation is based on two primary reasons.

1. As noted above, the Finance Committee earlier heard information about our plan to reduce the backlog of CIP projects. This plan includes a smaller Surface Water program for 2009-11. We propose therefore to reduce the size of the transfer from the operating budget to the capital fund from $2.8 million to an average of $1.65 million per year from 2008 to 2010. This results in a smaller annual revenue requirement.
2. Staff and the consultant reviewed some of the financial policies of the Surface Water Fund and found the current Minimum Target Fund Balance of 310 days of operating costs is too high. This time frame was based on the fact that Surface Water Fees are collected through the Property Tax levied in April and October. There is therefore the potential to receive one large revenue surge and one smaller one from the two Property Tax bills. It was believed a 310 day balance would provide enough operating cash to manage the Utility during potential lean months. However, after further review it was determined that the revenue

stream comes in more equal components, almost a 50/50 split between April and October; therefore, staff and the consultant have decided a Balance that meets operating needs for 180 days is more appropriate. This move reduces actual needed annual cash for the Surface Water Utility.

In addition, staff would suggest we take several months to review our actual Surface Water Construction capacity. The Surface Water Master Plan outlined an array of projects which would reduce flooding, improve water quality and manage surface water. The reality of natural resource projects is that permitting, provisions for fish passage, mitigation, and other elements can delay projects such that agencies cannot complete their plan according to the original schedule. We would like to do some additional analysis to determine if the amount we currently transfer to Surface Water capital projects represents a practical allocation. Our review may determine the size and scope of the capital program is adequate and we should proceed with the suggestions of our Master Plan. Another alternative is that the current capital plan is too aggressive given constraints, and we should scale back accordingly.

Our recommendation therefore, is to temporarily reduce the size of the operating transfer to the capital fund to accommodate the reduced 2009-11 CIP reviewed previously by the Finance Committee and at a full Council study session. In addition, staff recommends we conduct the review of the Capital Plan as noted above. We would return to Council sometime in 2009 with an updated Capital Plan for 2012 and beyond, as well as scenarios that show the capital program scope, the fund balances, and the rates necessary to manage the Surface Water Capital program.

Recommendation: Council approval to shift a smaller transfer from the operating fund to the capital fund for 2009-11, and reduce the minimum operating balance from 310 days to 180 days to manage the Surface Water budget and eliminate the need for a rate increase in the 2009-10 biennium.

NEXT STEPS

We will come to the City Council meeting of October 7th, 2008, with an Ordinance reflecting Council direction at this meeting. It should be noted that state law requires Council action on Solid Waste rates by the October 21st meeting in order to be effective by January 1st, 2009. All rates will be effective on January 1st 2009.

CONCLUSION

	2008		Proposed 2009	Proposed 2010
Solid Waste assuming a 64 Gallon Cart	10.92%		17.75%	0.00%
Solid Waste assuming a 34 Gallon Cart	10.94%		-11.24%	0.00%
Water	9.50%		6.00%	6.00%
Wastewater	6.00%		8.04%	2.99%
Surfacewater	0.00%		0.00%	0.00%
Total average overall percent increase	**7.47%**		**4.11%**	**1.80%**

ORDINANCE NO. 4144

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

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

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

16.12.030 Collection rates.

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

(1) Residential.

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

Monthly Service

35-gallon cart	$ ~~6.92~~ 4.03
Ongoing Carry-out surcharge	~~16.21~~ 15.94

Weekly Service

20-gallon mini cart	$~~12.69~~ 9.98
35-gallon cart	~~19.67~~ 17.46
64-gallon cart	~~27.11~~ 31.92
96-gallon cart	~~43.26~~ 47.88
35-gallon equivalent "extra"	~~7.50~~ 3.68

Extra Yard Debris Service

96-gallon cart	$~~10.53~~ 10.35

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

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

B. **Miscellaneous Service Fees (Per Occurrence)**	**Rate**
Return trip	$~~13.69~~ 13.50
Drive-in charge	~~6.24~~ 6.14
Redelivery fee (carts)	~~19.78~~ 18.41
Carry-out surcharge	~~3.74~~ 3.68

C. **On-Call Bulky Waste Collection Fees (Per Occurrence – Per Item)**	**Rate**
Appliances	$ ~~98.89~~ 92.06
Refrigerator/Freezer	~~98.89~~ 92.06
Sofa	~~98.89~~ 92.06
Chair	~~98.89~~ 92.06
Mattress or box springs	~~98.89~~ 92.06
Tire: Auto/light truck	~~26.37~~ 24.56

Tire: Bus/heavy truck	~~32.97~~ 30.68
Tire: Additional for rims or wheels	~~19.78~~ 18.41
Miscellaneous, per cubic yard	~~72.50~~ 67.51

D.

Temporary Container Service	**Rate**
Temp. 2-yard container	$~~53.89~~ 53.03
Daily rent	~~1.20~~ 1.22
Delivery fee	~~45.58~~ 46.65
Temp. 4-yard container	~~68.31~~ 67.22
Daily rent	~~1.49~~ 1.53
Delivery fee	~~45.58~~ 46.65
Temp. 6-yard container	~~82.26~~ 80.89
Daily rent	~~1.80~~ 1.83
Delivery fee	~~45.58~~ 46.65
Temp. 100-yard container	~~2,682.62~~ 2,636.37

(2) Multifamily and Commercial.

A.

Carts

Weekly Service	**Rate**
20-gallon mini cart	$~~12.69~~ 9.98
35-gallon cart	~~19.67~~ 17.46

64-gallon cart	~~27.11~~ 31.92
96-gallon cart	~~43.26~~ 47.88
35-gallon equivalent "extra"	~~7.50~~ 3.68

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

B. **Miscellaneous Services (Per Event)**	**Rate**
Return trip	$~~31.83~~ 32.24
Carry-out service (per container)	~~3.54~~ 3.59
Redelivery	~~44.79~~ 45.37
Roll-out container	~~5.89~~ 5.98
Unlock container	~~2.00~~ 2.03
Gate opening	~~3.54~~ 3.59
Steam cleaning (per yard)	~~21.22~~ 21.48

C. **Comm./Mf Uncompacted Containers**	**Rate**
1 Cubic Yard Uncompacted	
1 pickup/week/container	$ ~~91.90~~ 71.47
2 pickups/week/container	~~172.94~~ 137.74
3 pickups/week/container	~~253.98~~ 204.02

4 pickups/week/container	~~335.04~~ 270.30
5 pickups/week/container	~~416.08~~ 336.57
6 pickups/week/container	~~497.13~~ 402.85

1.5 Cubic Yard Uncompacted

1 pickup/week/container	$ ~~108.93~~ 90.83
2 pickups/week/container	~~205.12~~ 175.56
3 pickups/week/container	~~301.31~~ 260.28
4 pickups/week/container	~~397.49~~ 345.01
5 pickups/week/container	~~493.70~~ 429.74
6 pickups/week/container	~~589.89~~ 514.48

2 Cubic Yard Uncompacted

1 pickup/week/container	$~~125.11~~ 109.79
2 pickups/week/container	~~234.45~~ 212.01
3 pickups/week/container	~~343.79~~ 314.23
4 pickups/week/container	~~453.13~~ 416.46
5 pickups/week/container	~~562.46~~ 518.69
6 pickups/week/container	~~671.80~~ 620.92

3 Cubic Yard Uncompacted

1 pickup/week/container	$~~153.71~~ 145.87
2 pickups/week/container	~~289.34~~ 283.11
3 pickups/week/container	~~424.96~~ 420.32
4 pickups/week/container	~~560.61~~ 557.55
5 pickups/week/container	~~696.25~~ 694.77
6 pickups/week/container	~~831.88~~ 832.00

4 Cubic Yard Uncompacted

1 pickup/week/container	$~~183.07~~ 182.33
2 pickups/week/container	~~344.98~~ 354.55
3 pickups/week/container	~~506.92~~ 526.77
4 pickups/week/container	~~668.85~~ 699.00
5 pickups/week/container	~~830.77~~ 871.21
6 pickup/week/container	~~992.71~~ 1,043.44

6 Cubic Yard Uncompacted

1 pickup/week/container	$~~239.56~~ 254.20
2 pickups/week/container	~~454.07~~ 496.41
3 pickups/week/container	~~668.58~~ 738.62
4 pickups/week/container	~~883.12~~ 980.84

5 pickups/week/container	~~1,097.63~~ 1,223.05
6 pickups/week/container	~~1,312.16~~ 1,465.28

8 Cubic Yard Uncompacted

1 pickup/week/container	$ ~~295.05~~ 325.58
2 pickups/week/container	~~562.17~~ 637.78
3 pickups/week/container	~~829.27~~ 950.00
4 pickups/week/container	~~1,096.38~~ 1,262.20
5 pickups/week/container	~~1,363.50~~ 1,574.40
6 pickups/week/container	~~1,630.60~~ 1,886.62

"Extra" Uncompacted Cubic Yard	~~46.14~~ 19.48

Comm./Mf Compacted Containers (Weekly Pulls)		**Rate**
1	cubic yard container	$181.68
1.5	cubic yard container	~~236.39~~ 252.69
2	cubic yard container	~~290.04~~ 323.18
3	cubic yard container	~~392.60~~ 461.91
4	cubic yard container	~~496.12~~ 601.11
6	cubic yard container	~~991.97~~ 1,286.66

E. **Comm./Mf Yard Debris (Per Month)**	**Rate**

96-gallon cart (weekly collection)	$ ~~10.69~~ 10.38
2 cubic yard container (weekly)	~~82.14~~ 83.17
Extra cubic yard	~~25.55~~ 25.87
Extra yard debris 32-gallon can	~~3.79~~ 3.67

F. **Roll-Off Container Rental Permanent Noncompacted Service**	**Rate**
10 cubic yard container	$~~32.71~~ 36.45
15 cubic yard container	~~38.16~~ 42.51
20 cubic yard container	~~49.07~~ 54.67
25 cubic yard container	~~54.52~~ 60.76
30 cubic yard container	~~59.97~~ 66.83
40 cubic yard container	~~65.43~~ 72.89

G. **Roll-Off Container Rental Temporary Noncompacted Service**	**Rate**
10 cubic yard container	$~~38.16~~ 42.52
15 cubic yard container	~~43.62~~ 48.60
20 cubic yard container	~~50.16~~ 55.89
25 cubic yard container	~~56.70~~ 63.18
30 cubic yard container	~~62.16~~ 69.26

40 cubic yard container	~~73.06~~ 81.41

(3) Comm./Mf Drop-Box Collection (Per Haul).

Noncompacted Service	**Rate**
10 cubic yard container	$~~110.80~~ 114.20
15 cubic yard container	~~110.80~~ 114.20
20 cubic yard container	~~110.80~~ 114.20
25 cubic yard container	~~110.80~~ 114.20
30 cubic yard container	~~110.80~~ 114.20
40 cubic yard container	~~110.80~~ 114.20

Compacted Service	**Rate**
10 cubic yard container	$~~122.61~~ 126.35
15 cubic yard container	~~122.61~~ 126.35
20 cubic yard container	~~122.61~~ 126.35
25 cubic yard container	~~122.61~~ 126.35
30 cubic yard container	~~122.61~~ 126.35
40 cubic yard container	~~122.61~~ 126.35

Temporary	**Rate**
10 cubic yard container	$~~116.70~~ 120.27

15 cubic yard container	~~116.70~~ 120.27
20 cubic yard container	~~116.70~~ 120.27
25 cubic yard container	~~116.70~~ 120.27
30 cubic yard container	~~116.70~~ 120.72
40 cubic yard container	~~116.70~~ 120.72
Delivery fee – all temp. customers	~~88.41~~ 91.12

Additional Services

.

Additional mileage charge for hauls to other sites

Charge per mile	$ ~~4.36~~ 4.87
Return trip	~~38.16~~ 42.51
Solid drop-box lid charge (per month)	~~38.16~~ 42.51
Pressure washing (per yard)	~~8.72~~ 9.73
Stand-by time (per minute)	~~2.18~~ 2.44

Hourly Rates

Rear/side load packer and driver	$~~114.49~~ 127.56
Front load packer and driver	~~114.49~~ 127.56
Drop-box truck and driver	~~114.49~~ 127.56

Additional labor (per person) ~~54.52~~ 60.76

(4) Wherever detachable containers are used having a capacity for which a rate has not been established, the director of public works is authorized to establish a rate for such container, which shall be consistent with the ratio of the container capacity to rate charged for the rate herein established.

(5) In addition to the collection rates established in subsections (1), (2) and (3) of this section, there shall be included a county board of health hazardous waste charge as follows:

(A) For each single-family residential customer the amount of eighty cents per month;

(B) For each multifamily and nonresidential (commercial) customer the sum of nine dollars and seven cents per month.

Section 2. Effective date for new rates: The monthly rates established in this Ordinance shall go into effect and become the rates to be charged as of January 1, 2009.

Section 3. The garbage rates set forth in KMC 16.12.030, which is amended by this ordinance, shall remain in force and effect until the rates set forth in this ordinance go into effect.

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

Section 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

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

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

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Ord\09Solid waste rates

PUBLICATION SUMMARY
OF ORDINANCE NO. 4144

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

SECTION 1. Amends Section 16.12.030 of the KMC by amending solid waste collection rates.

SECTION 2 - 3. Provides an effective date for the rates.

SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2008.

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

_____
City Clerk

ORDINANCE NO. 4145

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO 2009 SEWER SYSTEM CUSTOMER RATES AND AMENDING TABLE 15.24.070 OF THE KIRKLAND MUNICIPAL CODE.

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

Section 1. Table 15.24.070 of Section 15.24.070 of the Kirkland Municipal Code, as last amended by Ordinance 4069, which establishes the monthly sewer charge required to be paid to the City by customers of the Kirkland Sewer System is further amended to read as follows:

Table 15.24.070

Customer Class	**Rate**
a. Single-family residential	
Basic charge	$~~38.27~~ 42.22 for first 300 cubic feet of average winter water consumption ("AWWC").
PLUS	
Consumption charge	$~~3.44~~ 3.44 per 100 cubic feet of AWWC beyond first 300 cubic feet.
b. Multifamily residential and commercial	
Basic charge	$~~37.77~~ 40.80 for first 600 cubic feet of water consumed.
PLUS	
Consumption charge	$~~6.63~~ 7.16 per 100 cubic feet of water consumed beyond first 600 cubic feet.

c. In special cases, single-family residents will be billed according to the following policies:

Special Case	**Sewer Rate Policy**
New homes	Billed only basic charge until use is established.
Changes in property ownership	Billed only basic charge until use is established.
Changes in tenancy	Billed only basic charge until use is established.
Non-water customers	Billed at system average.
Leak adjustments	Billed per adjusted winter volume. City will factor water leak adjustment into calculation for sewer rate

Section 2. Effective date for new rates: The monthly service and consumption rates for sewer customers established in this ordinance shall go into effect and become the rates to be charged as of December 1, 2008; provided that, the monthly rates for sewer customers billed on the City of

Kirkland billing cycles number 2, number 4, and number 5 shall go into effect January 1, 2009.

Section 3. The sewer rates set forth in KMC 15.24.070, which is amended by this ordinance, shall remain in force and effect until the rates set forth in this ordinance go into effect.

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

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

Approved as to Form:

_____
City Attorney

ORDINANCE NO. 4146

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO 2010 SEWER SYSTEM CUSTOMER RATES AND AMENDING TABLE 15.24.070 OF THE KIRKLAND MUNICIPAL CODE.

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

Section 1. Table 15.24.070 of Section 15.24.070 of the Kirkland Municipal Code, as last amended by Ordinance 4145, which establishes the monthly sewer charge required to be paid to the City by customers of the Kirkland Sewer System is further amended to read as follows:

Table 15.24.070

Customer Class	**Rate**
a. Single-family residential	
Basic charge	$~~42.22~~ 43.00 for first 300 cubic feet of average winter water consumption ("AWWC").
PLUS	
Consumption charge	$~~3.44~~ 3.70 per 100 cubic feet of AWWC beyond first 300 cubic feet.
b. Multifamily residential and commercial	
Basic charge	$~~40.80~~ 42.01 for first 600 cubic feet of water consumed.
PLUS	
Consumption charge	$~~7.16~~ 7.37 per 100 cubic feet of water consumed beyond first 600 cubic feet.

c. In special cases, single-family residents will be billed according to the following policies:

Special Case	**Sewer Rate Policy**
New homes	Billed only basic charge until use is established.
Changes in property ownership	Billed only basic charge until use is established.
Changes in tenancy	Billed only basic charge until use is established.
Non-water customers	Billed at system average.
Leak adjustments	Billed per adjusted winter volume. City will factor water leak adjustment into calculation for sewer rate

Section 2. Effective date for new rates: The monthly service and consumption rates for sewer customers established in this ordinance shall go into effect and become the rates to be charged as of December 1, 2009; provided that, the monthly rates for sewer customers billed on the City of

Kirkland billing cycles number 2, number 4, and number 5 shall go into effect January 1, 2010.

Section 3. The sewer rates set forth in KMC 15.24.070, which is amended by this ordinance, shall remain in force and effect until the rates set forth in this ordinance go into effect.

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

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

Approved as to Form:

_____
City Attorney

ORDINANCE NO. 4147

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO WATER SYSTEM CUSTOMER RATES FOR 2009 AND PROVIDING FOR CHANGES IN SAID RATES.

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

Section 1. Table 15.24.020 of Section 15.24.020 of the Kirkland Municipal Code, as last amended by Ordinance 4068, which establishes the monthly water charge required to be paid to the City by customers of the Kirkland Water System is further amended to read as follows:

Table 15.24.020

Customer Class	Rate
a. Single-family residential	
(1) Basic charge (includes 200 cubic feet of water consumed)	$~~14.43~~ 15.30
PLUS	
(2) Water consumption charge - 201 cubic feet to 1,200 cubic feet	$~~3.45~~ 3.66 per 100 cubic feet
PLUS	
(3) Water consumption charge - over 1,200 cubic feet	$~~4.53~~ 4.80 per 100 cubic feet

b. All other customers, including commercial and multifamily residential

	Meter Size (inches)	Rate	
(1) Basic charge per size of meter	5/8 x 3/4	$~~13.27~~	14.07
	1	$~~22.82~~	24.19
	1-1/2	$~~36.27~~	38.45
	2	$~~58.19~~	61.68
	3	$~~165.29~~	175.21
	4	$~~228.32~~	242.02
	5	$~~295.22~~	312.93
	6	$~~390.87~~	414.32
	8	$~~582.19~~	617.12

PLUS

(2) Water consumption charge	~~$4.01~~ 4.25 per 100 cubic feet of water consumed

PLUS

(3) Sprinkler consumption charge	~~$4.53~~ 4.80 per 100 cubic feet of water consumed

Section 2. Effective date for new rates: The monthly service and consumption rates for water customers established in this ordinance shall go into effect and become the rates to be charged as of December 1, 2008, provided, however, that the monthly rates for water customers billed on the City of Kirkland billing cycles number 2, number 4, and number 5 shall go into effect January 1, 2009.

Section 3. The water rates set forth in KMC 15.24.020, which is amended by this ordinance, shall remain in force and effect until the rates set forth in this ordinance go into effect.

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

Section 5. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

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

Approved as to Form:

_____
City Attorney

ORDINANCE NO. 4148

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO WATER SYSTEM CUSTOMER RATES FOR 2010 AND PROVIDING FOR CHANGES IN SAID RATES.

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

Section 1. Table 15.24.020 of Section 15.24.020 of the Kirkland Municipal Code, as last amended by Ordinance 4147, which establishes the monthly water charge required to be paid to the City by customers of the Kirkland Water System is further amended to read as follows:

Table 15.24.020

Customer Class	Rate
a. Single-family residential	
(1) Basic charge (includes 200 cubic feet of water consumed)	$~~15.30~~ 16.21
PLUS	
(2) Water consumption charge - 201 cubic feet to 1,200 cubic feet	$~~3.66~~ 3.88 per 100 cubic feet
PLUS	
(3) Water consumption charge - over 1,200 cubic feet	$~~4.80~~ 5.09 per 100 cubic feet

b. All other customers, including commercial and multifamily residential

	Meter Size (inches)	Rate	
(1) Basic charge per size of meter	5/8 x 3/4	$~~14.07~~	14.91
	1	$~~24.09~~	25.64
	1-1/2	$~~38.45~~	40.76
	2	$~~61.68~~	65.38
	3	$~~175.21~~	185.72
	4	$~~242.02~~	256.54
	5	$~~312.93~~	331.71
	6	$~~414.32~~	439.18
	8	$~~617.12~~	654.15

PLUS

(2) Water consumption charge	$~~4.25~~ 4.50 per 100 cubic feet of water consumed

PLUS

(3) Sprinkler consumption charge	$~~4.80~~ 5.09 per 100 cubic feet of water consumed

Section 2. Effective date for new rates: The monthly service and consumption rates for water customers established in this ordinance shall go into effect and become the rates to be charged as of December 1, 2009, provided, however, that the monthly rates for water customers billed on the City of Kirkland billing cycles number 2, number 4, and number 5 shall go into effect January 1, 2010.

Section 3. The water rates set forth in KMC 15.24.020, which is amended by this ordinance, shall remain in force and effect until the rates set forth in this ordinance go into effect.

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

Section 5. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

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

Approved as to Form:

_____
City Attorney

Council Meeting: 10/07/2008
Agenda: Unfinished Business
Item #: 10. b.

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

To: Dave Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Jim Dare, NTCP Manager

Date: September 3, 2008

Subject: NEIGHBORHOOD TRAFFIC CONTROL PROGRAM REVIEW

Recommendation
Retain use of current Neighborhood Traffic Control Program procedures.

Background
In late 2006, two citizens approached both the Transportation Commission and the City Council with a request that the City's Neighborhood Traffic Control Program be reviewed. Of specific concern was the percentage of households required to pass a ballot measure and the nature of the process by which proposals for devices were developed. The Commission proposed to add a review to its 2007 work plan and in March of 2007, Council concurred with the work plan proposal.

On October 27, 2007, Public Works staff briefed the Transportation Commission on Kirkland's Neighborhood Traffic Control Program (NTCP) processes. Included in the presentation were the results of a region-wide survey of cities and counties operating similar programs. Kirkland's procedures and support requirements are similar to other jurisdictions in the region. The Commission also heard public testimony, principally on the type of facilitation most appropriate in developing NTCP solutions.

Having reviewed this information again at their last meeting, the Transportation Commission concurs with staff's recommendation to retain use of the current NTCP procedures, and recommends this to the City Council.

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

To: Kirkland City Council

From: Transportation Commission, Jon Pascal Chair

Date: September 3, 2008

Subject: NEIGHBORHOOD TRAFFIC CONTROL PROGRAM REVIEW

In late 2006, two citizens approached both the Transportation Commission and the City Council with a request that the City's Neighborhood Traffic Control Program be reviewed. Of specific concern was the percentage of households required to pass a ballot measure and the nature of the process by which proposals for devices were developed. The Commission proposed to add a review to its 2007 work plan and in March of 2007, Council concurred with the work plan proposal.

On October 27, 2007, Public Works staff briefed the Transportation Commission on Kirkland's Neighborhood Traffic Control Program (NTCP) processes. Included in the presentation were the results of a region-wide survey of cities and counties operating similar programs. A copy of the survey results is attached (Attachment 1). The Commission also heard public testimony, principally on the type of facilitation most appropriate in developing NTCP solutions.

Having reviewed this information, the Transportation Commission has four key observations.

1. Existing NTCP processes establish minimum levels of support for Phase II NTCP devices (e.g. traffic circles, speed cushions, etc.). Once residents have identified a preferred solution, the devices are not installed unless at least 70% of the ballots from affected residents are in favor of them. Details of how the support rate is measured and how the affected area is determined are included in Attachment 2. Our October review of NTCP procedures in the region indicates that Kirkland's procedures are generally consistent with those used by other jurisdictions.

2. The NTCP does not dictate what type of process a neighborhood must employ to develop preferred solutions that meet the required support levels. The wide variety in the scope of NTCP projects, as well as the varying needs of neighborhood groups require some flexibility. Neighborhoods may choose to use a consensus process to develop solutions, or they may use alternate approaches.

3. Should neighborhoods choose to use a formal consensus process in the development of solutions, the potentially time-consuming nature of this approach may limit residents' ability to participate in it. Accordingly, it is important to retain the ballot-based approach for final approval of NTCP solutions (#1 above). This ensures all residents get an opportunity to weigh in.

4. While the ideal goal for any NTCP project is unanimous neighborhood support, the different goals between motorists who drive down a street and residents who live along it may make 100% approval for any solution difficult to achieve.

In light of these considerations, the Transportation Commission recommends continued use of the current NTCP procedures.

Attachment 1

REGIONAL SURVEY
of
NEIGHBORHOOD TRAFFIC CONTROL PROGRAM CRITERIA
October 18, 2007
by City of Kirkland Public Works

Note: the following is a summary of a survey that asked specific questions to help the City of Kirkland in a review of its policies. The following summary is paraphrased from the responses and is not intended to provide a detailed description of each agency's Neighborhood Traffic Calming Program (NTCP), each of which is more complex than portrayed here and each should be considered as having been developed to address situations unique to each jurisdiction and its constituencies.

1. What support rate do you require for the installation of traffic calming devices such as traffic circles and speed humps?

Auburn: 40% must vote, 70% of which must favor.
Bellevue: 65% of those returning ballots + 100% of adjacent properties.
Bothell: 60% except 90% for diverters, closures, and turn restrictions.
Federal Way: 51% of returned ballots. If a ballot measure fails, a one-year waiting period is required to restart the process. The removal of a traffic calming device requires all of the following criteria to be met: a petition by owners or residents of at least ten lots within the affected area; 51% of the returned ballots favor removal; and a minimum period of 12 months has passed since the installation of the device(s) and the completion of an engineering analysis
Issaquah: Petition of 70% for humps on thru streets; 80% for humps on sole access streets; 60% for circles, chicanes; 70% for closures, diverters, turn/access restrictions.
Metro/King County: 70% or higher
Kennewick: 75%
Kirkland: 70% of all households if the project area is less than 70 households; 70% of returned ballots if the project area is larger. Work with a Task Force of 6 – 12 residents to develop a traffic control plan; the Task Force presents to the whole neighborhood at an Open House prior to the vote.
Kitsap County: 70%
North Bend: 90%
Pierce County: Majority
Redmond: 70% but considering reducing that to 65% or 60%
Seattle: 60%
Shoreline: 60%
Snohomish County: 60%
Thurston County: 30% support to begin design, 50% to construct.
Woodinville: 80% of the residents within 500 feet of the device plus approval of the household(s) where the device is located. *100% of the property owners within 150 feet along both sides of the street adjacent to a traffic control device provide a letter of support. To remove a traffic control device, 67% if the device has been in place for at least 12 months.*

2. How do you define the area of households who get to vote?

Auburn: On a case-by-case basis, but can be up to 4 blocks away.
Bellevue: By development or nearest collector arterial.
Bothell: Generally residents who have a frontage along the street, however, in the case of cut-though issues, parallel routes need to be considered.
Federal Way: Property owners and residents (owner-occupants get 2 votes) within 600 feet of the proposed device plus properties where the proposed devices would be located along their sole access route.
Issaquah: The street to receive the devices.
Metro/King County: All impacted homeowners are included in the petition area (e.g., all homes on nearby alternate/bypass routes)
Kennewick: the area is determined by the City's Traffic Engineer.
Kirkland: The impact area: households along the street and those who would have to use the route for access to their homes.
Kitsap County: People who live on the street or have to drive on that street to get home.
North Bend: By neighborhood
Pierce County: Neighborhood
Redmond: We don't vote, we survey. The area is generally the street to be calmed within 400 feet of the device or the nearest intersection, whichever is less. The area for a traffic circle is one block in each direction. These are guidelines that can be modified as judgment dictates.
Seattle: Generally the immediately adjacent blocks. Mid-block measures would be households on each side of the street of that block. Traffic circles would be each block face of the intersection streets. Traffic diverters would require a wider neighborhood approval.
Shoreline: Traffic circles – households within one block of the intersection; speed humps and chicanes – households on the street where the devices will be installed and any other streets that, based on engineering assessment, would be significantly impacted.
Snohomish County: The area is based upon a number of factors such as direct access to the road, attendance at the neighborhood meeting, etc.
Thurston County: If there is an association, then it is the entire association; if there is no association, then just the street being evaluated and abutting residents.
Woodinville: The households within 500 feet of the device.

3. What are your minimum speed requirements? (e.g. 85th percentile 5 mph over the speed limit)

Auburn: 85th percentile speed 10 mph over the speed limit; or 5 or more drivers per 24 hour period driving in excess of 15 mph over the speed limit; or Evidence of cut-through traffic from parallel high volume arterials; or criteria nearly met and engineering judgment deems there to be a significant speeding problem.

Bellevue: 85th % must be 35 mph or greater (on 25 mph streets), 30 mph or greater in marked school zones, & 33 mph or greater adjacent to neighborhood parks.

Bothell: 85th percentile 30 mph or higher.

Federal Way: A point system us used ranging from ½ point for 85th percentile speeds of 26 mph to 3 points for speeds over 41 mph.

Issaquah: 10 mph over the posted speed limit in residential areas; 10 mph over the in school zones; 8 mph over adjacent to parks including neighborhood parks.
Metro/King County: Case-by-case
Kennewick: The 85th percentile speed a minimum of 5 mph over the limit.
Kirkland: An 85th percentile speed of at least 5 mph over the speed limit.
Kitsap County: 75 percentile 10 mph or more over the speed limit.
North Bend: 85 percentile 5 mph or more over the speed limit and the fastest 12 percent of the traffic must exceed the speed limit by 10 mph.
Pierce County: No minimum over the speed limit currently required. Pierce County is developing a program through a traffic calming pilot project.
Redmond: The 85th percentile speed 10 mph over the posted speed limit.
Seattle: No minimum speed requirement for traffic circles, although higher speeds weigh more in our priority ranking. Generally we look for 85th percentile speeds 10 mph over the speed limit for mid-block measures on residential streets, but it's not hard and fast. Arterial traffic calming standards will also generally require 85th percentile speeds of 10 mph over.
Shoreline: Traffic circles – no minimum; speed humps and chicanes – 85th percentile is 35 mph or greater, but if the street has a higher volume (over 1,000 vpd) then the speed criterion is lowered to an 85th percentile of 32 mph.
Snohomish County: The 85th percentile must be 35% over the posted speed limit; only 25 and 30-mph streets are eligible.
Thurston County: We have a weighted formula that includes speed, volume, and other factors such as schools. We use these factors if the project is funded by the County, but not if the neighborhood funds the project.
Woodinville: 85th percentile speeds over a 24 hour period 10 mph or greater over the posted speed limit or when the peak hour volumes are grater than 25 trips per hour or 40 trips per two consecutive hours and the 85th percentile of these vehicles are 10 mph or more over the posted speed limit; or if the location is within a school zone, the 85th percentile speed is 5 mph over the speed limit of either 25 mph or 20 mph when children are present

4. Minimum/Maximum traffic volume and/or street classification requirements.

Auburn: not indicated (ni)
Bothell: 25% of the traffic is determined to be non-local, based on ITE trip generation guidelines. No speed cushions on collectors or higher classified streets.
Bellevue: Traffic circles 300 – 2000 ADT; 12' speed hump 300 – 2000 ADT; 22' speed hump 2000 – 3500 ADT
Federal Way: A point system is used ranging from ½ point for 500 vehicles per day to 3 points for volumes over 3,500 vpd. Only allowed on local, minor, and principal collectors with 25 mph posted speed limits.
Issaquah: 300 – 2,000 for speed humps, traffic circles, chicanes, slow point chokers; 300 – 6,500 for curb extensions, medians, entry treatments/gateways; less than 2,000 and more than 30% thru traffic during any given hour for street closures, diverters, turn/access restrictions. Calming devices are not allowed on classified roadways (arterials).
Metro/King County: Volume is case-by-case; non-arterial streets only.

Kennewick: A minimum of 500 vpd; local residential or neighborhood collector streets only.
Kirkland: A minimum of 200 vpd and a maximum of 5,000 vpd.
Kitsap County: 200 – 3,000 vpd. Must be in a 25-mph zone with the street classified as residential. Calming devices are discouraged on collector roads.
North Bend: Does not apply to arterials or collector streets.
Pierce County: Have used temporary (rubberized) and permanent (asphalt) speed humps on local roadways and use radar signs on arterials.
Redmond: Greater than 300 vehicles per day and less than 3,500 vpd.
Seattle: Traffic circles and speed humps are for residential streets only. We usually look for ADTs over 400 vpd, but it's not a hard and fast rule. Higher ADT's generally rank higher. Certain traffic calming measures (e.g. speed cushions) can be considered on lower classification arterials, primarily collectors.
Shoreline: A minimum of 700 AWDT and a maximum of 2,500 AWDT.
Snohomish County: Minimum volume of 600 vpd, must be through. Must be residential streets, not arterials.
Thurston County: Only consider calming on residential roads; see response to question 3.
Woodinville: No max/min volume requirements if the 85th percentile speed requirement is met. Cut-through traffic volumes represent at least 30% of the total daily traffic on a residential street. Used on residential streets only.

5. Other criteria if any:
    a. Do you prohibit calming devices on emergency response routes?

Bothell: No.
Bellevue: Have MOU with the Fire Department; each proposal is reviewed by Fire. Generally do not have calming measures such as circles or speed humps on emergency response routes with volumes greater than 6500 ADT. Exceptions have extensive design/review process with Fire.
Federal Way: Nothing more disruptive than speed tables (3" x 22') on principal collectors.
Issaquah: No.
Metro/King County: Yes
Kennewick: Must not be on primary emergency routes. Other emergency routes may have restrictions on the types of devices.
Kirkland: Yes, on both primary and secondary emergency response routes. We are working with the KFD on a policy for the installation of traffic circles on non-designated emergency routes where the measure of their response time criteria would be measured against the delay added by a traffic circle.
Kitsap County
North Bend: Not indicated in their program
Redmond: No prohibition, but we try and avoid placing devices on primary response routes.
Seattle: Traffic circles and speed humps are prohibited. Speed cushions can be used.
Shoreline: We work with the Fire Department to obtain support for each specific location. If they have serious concerns about a proposed installation or oppose the project, we will not install it.
Snohomish County: No

Thurston County: No, we work with emergency services and only install devices they approve. Emergency services have veto rights.
Woodinville: No, because the design of our traffic control devices allows emergency responses to pass with minimal to no delay.

b. Do you have a maximum grade criterion?

Bothell: No, although good engineering judgment is used.
Bellevue: less than 8%
Federal Way: 8%
Issaquah: No, but interested in what other jurisdictions use.
Metro/King County: No
Kennewick: 8% maximum grade or along horizontal curves with sight distances less than 200' or adjacent to driveways.
Kirkland: 10%
Kitsap County: 5% maximum
Redmond: 10% maximum grade.
Seattle: No speed humps over about 6% grade. Traffic circles installed at intersections with high grade approach streets get additional striping on the approach.
Shoreline: We do not install speed humps on streets with a grade of 8% or greater.
Snohomish County: Less than 8%.
Thurston County: No, but we have not installed them on any grades of significance and we inform neighbors that we avoid grades and curves for installations.
Woodinville: No specific criteria, but all are subject to engineering judgment.

c. Do you have any street width requirements?

Bellevue: No
Bothell: Yes, 11 foot lanes are typically desired.
Federal Way: No. Only placed on streets with no more than 2 lanes and a pavement width not greater than 40 feet.
Issaquah: No
Metro/King County: No
Kirkland: No.
Kitsap County: No.
Redmond: No, but we generally don't build streets narrower than 20 feet for two-way traffic.
Seattle: No.
Snohomish County: No.
Thurston County: No, but we only use these physical devices on residential roads so roadway width is typically not an issue. If width becomes an issue, we may look at medians and bulb-outs as options in lieu of more traditional approaches.
Woodinville: No.

d. Other?

Auburn: Three-phased process used. Phase I primarily pavement marking and signing solutions; Phase II temporary traffic calming devices using rubberized material bolted to the pavement; Phase III permanent devices. Removal of Phase III

devices can be done at the neighborhood's expense after the devices have been in place for at least 6 months.
Bothell: No blockage of bike lanes.
Federal Way: Points are given for the number and severity of accidents in a 5-year period. ½ point for 0.3 accidents per year to 3 points for more than 1.3 accidents per year; ½ point for 0.1 injury accidents/year and 3 points for more than 0.5 injury accidents per year.
Kennewick: There must be a minimum of ¼ mile in uninterrupted street length. Drainage, utility location, street lighting, and other considerations may also limit the placement of traffic calming devices.
Kirkland: Collision rates on non-arterial residential access streets are so rare in Kirkland that we do not use them as a criterion for installation.
Kitsap County: Discouraged around schools where there is a lot of bus traffic.
North Bend: Three phase approach before physical modifications are considered. The City Council must approve and provide funding.

Redmond: We don't put devices on severe curves. No speed humps within 300' of a stop sign or traffic signal.
Shoreline: The households immediately adjacent to proposed speed humps must support the installation.
Snohomish County: Minimum sight distance of 150' from humps or islands; humps at least 100' from intersections; spacing of speed humps 150' – 300' apart; islands are typically not landscaped.
Thurston County: Our ranking formulas are under review and will probably be revised in the coming months. In general we use a ranking system to prioritize county-funded work. We spend $0k on traffic calming construction annually and this will increase to $60k in 2008. We also require neighborhoods to actively participate in the process for traffic calming devices regardless of the funding source. Active participate is residents using the speed watch program. We also deploy smart trailers and temporarily mount speed feedback signs on signposts and streetlights in neighborhoods. The speed feedback signs and streetlights have been very popular with our elected officials and neighborhoods. Our sheriff's department likes the mounted signs.
Woodinville: Other criteria include no pedestrian sidewalk, path, shoulder area, or trail is provided or road shoulders (paved, gravel, or earth) that are less than 3 feet wide. A sight distance condition exists where engineering judgment indicates that a traffic control device would improve safety.
All new installations shall be a single speed bump per travel direction. A double bump may be considered only after a single bump has been in operation for 6 months and based on engineering judgment a 2nd bump is needed. One of the following conditions must exist for a 2nd speed bump: 85th percentile speed 10 mph over the speed limit within 150 of the existing bump; peak hour volumes are greater than 25 trips per hour or 40 trips for 2 consecutive hours and the peak hour 85th percentile speed is 10 mph over the speed limit; or within a distance of 25 feet from the bump, the 85th percentile 24 hour or peak period speeds are greater than 25 mph.

6. If a "warrant" were not met for a traffic-calming device, under what conditions, if any, would you allow/recommend the device be installed anyway? e.g.

a. Stronger support than you minimum required?

Bothell: Possible, but funding doesn't allow for much deviation from the criteria.
Federal Way: No
Issaquah: Only by City Council direction.
Metro/King County: Case-by-case
Kirkland: No
Redmond: No.
Seattle: We are developing criteria on these issues, but an increased level of community support will not likely be a factor.
Thurston County: No.
Woodinville: If 80% of a neighborhood along the affected section of street where a traffic control device is proposed, provide written support. In one case, a 90% support rate over-rode a homeowner objection to having the device in front of their home.

b. A non-city funding source?

Auburn: Neighborhoods may pay for their NTC devices if they choose not to wait for the City funding process, which must prioritize within a budget.
Bothell: Possible, but funding doesn't allow for much deviation from the criteria.
Federal Way: Yes
Issaquah: Possibly, but this has not come up.
Metro/King County: Case-by-case
Kennewick: The City currently does not fund a program, so all devices are resident-funded.
Kirkland: Only for traffic circles, which have other values: landscaped entry to a neighborhood, drainage infiltration.
Kitsap County: Yes, but the device still requires a 70% support rate.
Redmond: No.
Seattle: For traffic circles we will allow lesser criteria when a community proposes alternative city grant sources for funding as compared with the criteria we use for internal programmatic funds. Our goal is to look further into this issue and systematically evaluate what prioritization/ranking criteria we will apply to devices built using internal program funds vs. non-city funds for other devices.
Thurston County: We would consider it.

c. Collision rates higher than average

Bothell: Possible, but funding doesn't allow for much deviation from the criteria.
Federal Way: This is one of their evaluation criteria.
Issaquah: Possibly if other methods did not correct a collision problem.
Metro/King County: Case-by-case
Kirkland: Have not encountered this yet, but it would likely be a consideration.
Kitsap County: Yes, we did this in one case.
Redmond: This hasn't come up.
Seattle: Not sure, although collision rates currently are central to our ranking criteria for traffic circles and are considered for other devices.
Shoreline: If the collision rate were higher than average, we would consider installing physical devices.
Snohomish County
Thurston County: We would consider it.

d. Other?

Bellevue: City Council Directive
Federal Way: If a project's severity score reaches 6 or more points, staff develops a proposal with citizen input, but the balloting process may be bypassed. Also, developer mitigation for connecting to a stub street.
Issaquah:
Metro/King County: Case-by-case
Kitsap County: County Commissioner directive.
Seattle: We are trying to strengthen our policies on the issue of non-city funded calming devices.
Snohomish County: Elected official decision.

e. Would not consider it at all.

Federal Way: It depends
Issaquah: Would consider all options but ultimately it is the decision of the City Council.
Metro/King County: Case-by-case

Attachment 2

NTCP VOTING GUIDELINES
For projects balloted after January 2, 2002

Eligibility:

For a series of non-intersection devices such as speed humps:

1. You may vote if your property abuts the street proposed for calming
   a) between proposed devices or
   b) less than 500 feet from one of the proposed devices.

2. You may also vote if you do not have an alternate route which would avoid travel over the proposed devices. An alternate route is a route which is less than twice as long as the calmed route and which is not already calmed.

For devices at intersections or for single devices
You may vote if your property abuts one of the intersecting streets (for an intersection device) or is on the calmed street (for a single device) and you live within 500' of the device.

General considerations:

1. If 70 or more households are eligible to vote, 70% of the ballots returned must be positive for the project to pass. If less than70 households are eligible 70% of the ballots distributed must be positive for the project to pass and ballots that are not returned are considered negative. In either case, abstaining votes or undeliverable ballots are subtracted from the total number of ballots when calculating the percentage of positive votes.

2. Small portions of street segments should not be excluded from voting based on the 500 foot consideration, instead, the entire street should be included.

3. Each unit in a multifamily dwelling receives one ballot. Businesses receive one ballot per business, regardless of business size, except that if a business has access to other routes in addition to the one being treated, it is not eligible to vote regardless of its location.

4. A major principle of NTCP voting is full participation and consideration of the opinions of as many eligible households as possible. The distribution of ballots by other than the City of Kirkland staff is prohibited. Non-city issued ballots will not be accepted. Official city-issued ballots signed by the voter and returned by mail, by hand or by fax are acceptable forms of responses. Email responses are acceptable but must include the voter's phone number and address.

5. Results of the balloting are available for public inspection throughout the voting process.

6. There is always room for fine tuning and adjustment based on the judgment of the Public Works Department. Experience shows that situations will arise that policy can't anticipate without being too rigid.

City of Kirkland Traffic Control

Legend

- Radar Sign
- Small Landscape Median
- Raised Crosswalk
- Speed Cushion
- Speed Humps
- Traffic Circle
- Large Landscaped Median

Arterial System

- Collector
- Minor Arterial
- Principal Arterial
- Neighborhood Boundary

1 inch equals 1,776 feet

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Printed July 5, 2007 - Public Works GIS

CITY OF KIRKLAND
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MEMORANDUM

To: Dave Ramsay, City Manager

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

Date: September 22, 2008

Subject: Appointment of Additional Design Review Board Alternate

On July 26, 2008, the City Council interviewed applicants for the Design Review Board. Three of those interviewees were not appointed to the available seats at that time. Council expressed a desire to select one of these candidates as an alternate appointee, following their September interviews of candidates for a landscape architect seat on the Board. Those interviews and appointments have now been made and the following three candidates are eligible for Council selection as an alternate to the Design Review Board: Mark Adams, Bozurka Pejcic-Morrison and Corey Petersen.

Council may make a motion to select one of these candidates as an alternate appointee should an additional architect vacancy arise on the Board in the next six months.