



**CITY OF KIRKLAND**  
Planning and Community Development Department  
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www.ci.kirkland.wa.us

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## MEMORANDUM

**To:** David Ramsay, City Manager

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

**Date:** March 5, 2009

**Subject:** ADOPTION OF ORDINANCES AND SUMMARY ORDINANCES AMENDING THE KIRKLAND COMPREHENSIVE PLAN, ZONING CODE AND MAP, AND ADOPTING A PLANNED ACTION ORDINANCE FOR THE ORNI PRIVATE AMENDMENT REQUEST (FILE NO. ZONO7-00012)

### RECOMMENDATION

Approve the enclosed three ordinances amending the Comprehensive Plan, Zoning Code and Map, and the Planned Action Ordinance for the Orni Private Amendment Request (PAR).

### BACKGROUND DISCUSSION

The Planning Commission's recommendation for the Orni private amendment request was transmitted to the City Council for review at the study session on December 2, 2008 "[Meeting Packet](#)". The Council heard from both the applicant and the neighbors to the east of the PAR site that the Planning Commission's recommendation was not acceptable to them. The Mayor and Councilmember Sternoff offered to meet with both parties to try to find an appropriate alternative. Two meetings were held at the beginning of 2009 and a compromise was reached. The proposed amendments represent that compromise. The applicant was most interested in an allowance for an office-only option, while the neighbors wanted a maximum height of 40 feet above average building elevation with greater setbacks from their property line for all uses. The compromise alternative allows for office-only development up to a maximum 40 feet above average building elevation with additional setbacks from the east property line for all permitted uses.

The following is a description of the applicant's original request; the existing Comprehensive Plan and Zoning requirements; the Planning Commission's recommendation; and the proposal that is being recommended for approval.

## **ORNI PRIVATE AMENDMENT REQUEST**

### **A. Existing Comprehensive Plan and Zoning**

The subject property is located in Planned Area 5, Subarea D of the Moss Bay Neighborhood and has a High-Density Residential (HDR) Comprehensive Plan designation. This designation allows detached, attached, or stacked residential uses at up to 24 dwelling units per acre. The office uses that exist in this area are not consistent with this Comprehensive Plan designation.

The subject property is zoned PLA 5D. This zone allows multifamily and non-residential uses that are typically found in residential zones, including churches, schools and daycare facilities, among others. Office and most commercial uses are not permitted in this zone. With at least 1 acre of property, multifamily buildings can be a maximum height of the lower of 4 stories or 40 feet above ABE. Otherwise, buildings may be a maximum of 30 feet above ABE.

### **B. Applicant's Original Request**

Kathy Orni submitted a PAR to amend the City of Kirkland Comprehensive Land Use Map from High Density Residential (HDR) to Office/Multifamily (O/MF) and to rezone the parcels at 825, 903, and 911 5<sup>th</sup> Avenue from the Planned Area 5D (PLA 5D) zone to the Planned Area 5C (PLA 5C) zone. The site currently contains three office buildings that are legally nonconforming uses. The applicant's request would make the offices conforming uses and would allow an increase in permissible building height above average building elevation (ABE) from 4 stories or 40 feet whichever is less up to the lower of 6 stories or 60 feet. An accompanying Zoning Code amendment would allow a reduction of building setbacks where PLA 5C development abuts low-density single family uses in the PLA 5A zone.

Although the site is zoned for high density residential use, it has contained office uses for nearly 30 years. The three existing legally nonconforming office buildings were allowed to be built because of a legal action that was taken when the property was rezoned from office to residential in 1979. The area was predominately single family when the original zoning was put in place. It is now predominately high density multifamily with office uses to the west.

### **C. Planning Commission Recommendation**

The Planning Commission developed potential amendments to the Comprehensive Plan and Zoning Code for recommendation to the City Council. Although the property has contained nonconforming office buildings for the past 30 years, the Commission felt that redevelopment of the property for exclusively office use would not be appropriate due to the predominance of residential uses to

the east and south. The Commission was also concerned with the potential impacts to adjoining residential properties if additional building height was permitted. However, in recognition of the existing offices and the location of the property between office and residential zones, the Commission recommended that a compromise mixed-use option be added to the PLA 5D zone. The recommendation allowed mixed-use with over 50% residential and the remainder office. An additional setback from residential uses on adjoining properties was required for development with office uses, but not for other types of development. The additional height requested was not recommended because of the concern for impact on the adjoining residential properties. In summary, the Planning Commission's recommended amendments included:

**1. Comprehensive Plan:**

The draft amendments to the Planned Area 5 section of the Moss Bay Neighborhood Plan included the following key revisions:

- Amend Planned Area 5D to allow mixed-use office and residential development.
- Remove reference to greater height limitation, large setbacks and limitation of horizontal dimensions adjacent to single family dwellings in Planned Area 5A.

In addition, various other minor text edits to Planned Area 5 were included.

**2. Zoning Map and Zoning Code:**

The draft amendments to the Kirkland Zoning Code included the following key revisions:

Uses: The PLA 5D existing zoning would be maintained, but an additional mixed-use listing (residential and office) would be added for the study area only. This listing would require that more than 50% of the building area on the site be residential. An office only development as proposed by the applicant would not be allowed.

Height Allowances: The maximum height limit for the new mixed-use listing would be 4 stories or 40 feet above ABE, whichever is less. This is consistent with the existing code, which presently allows multifamily buildings up to 4 stories or 40 feet above average building elevation (ABE), whichever is less if the site is at least one acre, otherwise 30' ABE is allowed.

Setback Requirements: A special regulation would be added requiring office uses to be setback at least 15' from residential uses on adjoining properties. Buildings containing office uses that are over 30 feet in height must set back portions of the building with office uses over 30' high an additional 10 feet from the property line if there are residential uses on adjoining properties. The existing code requirement for an additional setback from single family uses in PLA 5A for buildings over 30' above ABE would be removed.

Design review: Administrative design review would be a requirement for the mixed-use development, but not for residential only development.

**C. Revised recommendation after discussions with applicant and neighbors to the east of the PAR site.**

**1. Comprehensive Plan:**

The draft amendments to the Planned Area 5 section of the Moss Bay Neighborhood Plan include the following key revisions:

- Area included in the Orni PAR is moved from PLA 5D to PLA 5C in Figure C-2: Moss Bay Area Land Use.
- Amendment to PLA 5C to limit structures on the Orni PAR site to 4 stories.
- Additional setbacks required from the western boundary of PLA 5D for all uses in the PAR area.
- Various other minor text edits to Planned Area 5D are included.

**2. Zoning Map and Zoning Code:**

The draft amendments to the Kirkland Zoning Code include the following key revisions:

- Rezone: Area included in the Orni PAR is moved from the PLA 5D zone to the PLA 5C zone.
- Uses: The new zoning for the property allows office uses as well as multifamily. The previous proposed zoning for the site did not allow office only development.
- Height Allowances and Lot Size Requirements: The existing PAR zoning allows up to 4 stories or 40' above ABE whichever is less if the site is at least 1 acre, otherwise, 30' above ABE. The new PAR zoning will have the same height limits.

- New Special Regulation: A new special regulation will be added for the PAR site which will require all permitted uses to have a setback of 15 feet from the adjoining property to the east. An additional 35 foot building step back for portions of the building in excess of 30 feet above ABE has also been added for all uses. Previous PAR zoning had a 5 foot setback from the eastern property line.
- Design review: Administrative design review will be a requirement for all buildings over 30' above ABE.

**D. Planned Action Ordinance:**

Both the Planning Commission's recommendation and the latest revised recommendation include approval of a Planned Action Ordinance.

The Environmental Impact Statement that was done for the Orni project, along with the Touchstone (Parkplace) and Altom projects, includes the adoption of a Planned Action Ordinance designating the private amendment request for Orni as a Planned Action for the purposes of SEPA compliance, pursuant to RCW 43.21C.031(2)(a) and WAC 197-11-164. A Planned Action is intended to conduct early environmental review under SEPA so that impacts and mitigation measures for the planned development are identified up front.

The City will monitor the development levels approved in the planned action area as follows:

- Determine if the proposed land uses are within categories of land use studied in the EIS.
- Establish the maximum development potential for the private amendment request as reviewed in the EIS. Development potential can be expressed in square feet of development and in total vehicle trips.
- There is also a requirement for implementation of a transportation management plan and associated monitoring.

cc: ZON07-00012  
Katherine Orni, 825 5<sup>th</sup> Avenue, Suite 202, Kirkland, WA 98033  
Planning Commission

ORDINANCE NO. 4184

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 3481 AS AMENDED, TO IMPLEMENT CHANGES TO THE PLANNED AREA 5 SECTION OF THE MOSS BAY NEIGHBORHOOD PLAN, AND THE MOSS BAY NEIGHBORHOOD LAND USE MAP, AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO ZON07-00012.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain portions of the Comprehensive Plan for the City, Ordinance 3481 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated November 20, 2008, and bearing Kirkland Department of Planning and Community Development File No. ZON07-00012; and

WHEREAS, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, held public hearings on April 24, 2008, June 12, 2008, and October 22, 2008, on the amendment proposals and considered the comments received at said hearings; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a Planned Action Environmental Impact Statement. The Draft of which was issued on April 4, 2008 and the Final of which was issued on October 16, 2008 by the responsible official pursuant to WAC 197-11-400 through 197-11 560; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission; and

WHEREAS, the City Council after considering the recommendation of the Planning Commission and receiving public comment amended the Planning Commission's recommendation;

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

Section 1. Comprehensive Plan Text, Tables, and Graphics amended: The following specific portions of the text of the Comprehensive Plan, Ordinance 3481 as amended, be and they hereby are amended to read as follows:

A. Section XV.D. Moss Bay Neighborhood Plan:

Amendments to Figure C-2: Moss Bay Area Land Use as set forth in Exhibit A attached to this ordinance and incorporated by reference.

- B. Section XV.D. Moss Bay Neighborhood Plan:  
Amendments to 4. Perimeter Areas: C. Planned Area 5 as set forth in Exhibit B attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in full force and effect five days from and after its passage by the City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council as required by law.

Section 4. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SIGNED IN AUTHENTICATION THEREOF this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

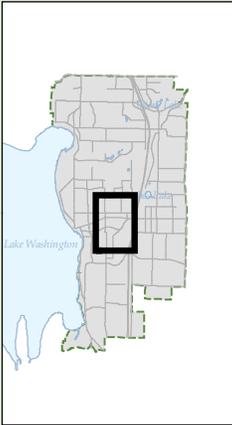
Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

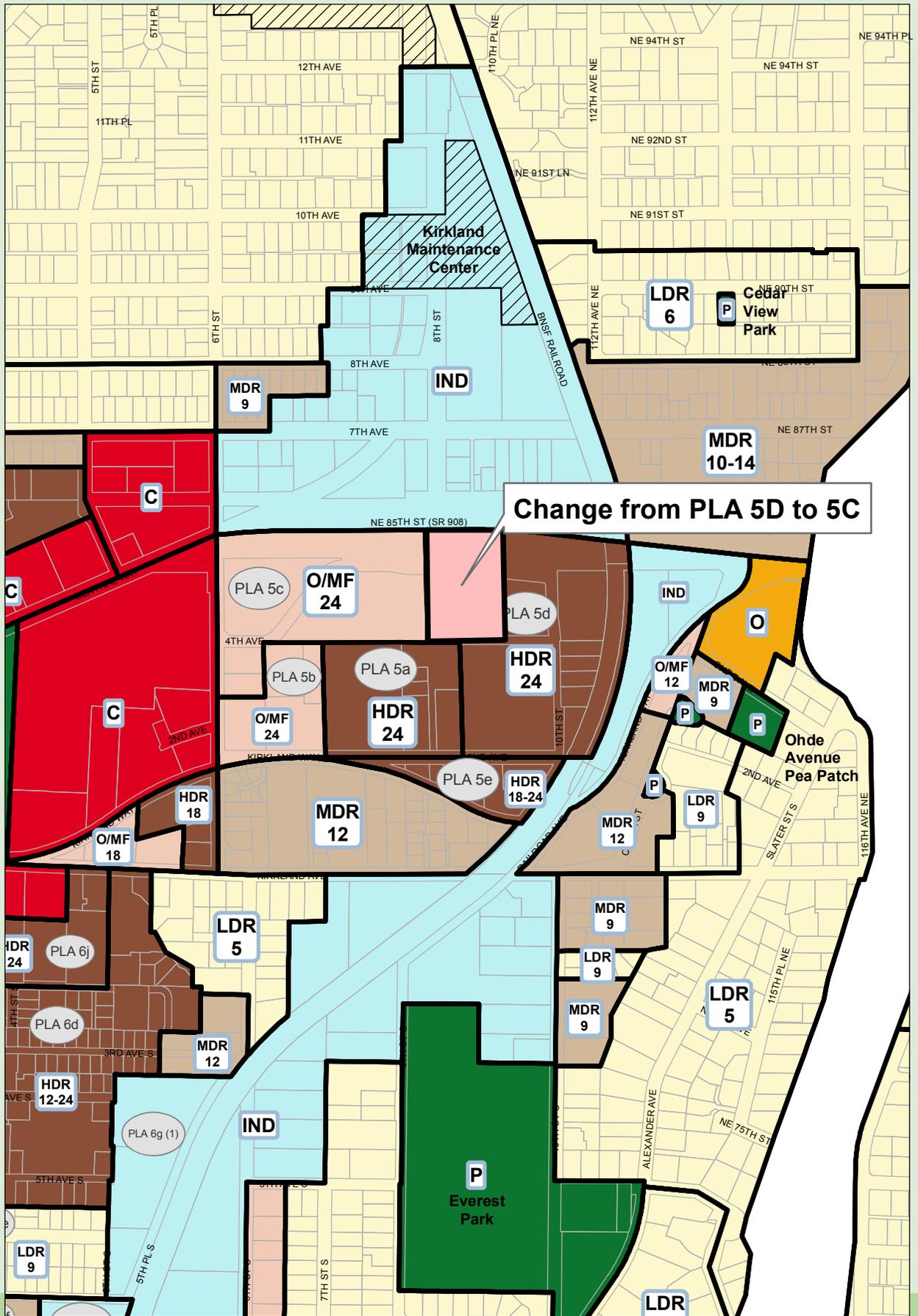
# Proposed Land Use Map Change



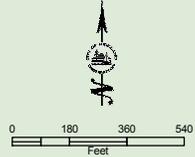
Vicinity Map



- Map Legend**
- PUBLIC FACILITIES
  - PARCEL BOUNDARIES
- LAND USE BOUNDARIES**
- COMMERCIAL
  - INDUSTRIAL
  - LIGHT MANUFACTURING PARK
  - TRANSIT ORIENTED DEVELOPMENT
  - OFFICE
  - OFFICE/MULTI-FAMILY
  - HIGH DENSITY RESIDENTIAL
  - MEDIUM DENSITY RESIDENTIAL
  - LOW DENSITY RESIDENTIAL
  - INSTITUTIONS
  - PARK/OPEN SPACE



Change from PLA 5D to 5C



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## C. PLANNED AREA 5

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### *High-density residential and office uses permitted in Planned Area 5.*

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The eastern portion of the Central Neighborhood has been designated as Planned Area 5. Due to topographic conditions and circulation patterns, land in Planned Area 5 is relatively secluded. The area has been designated for high-density residential and office uses because of the ability to buffer such high-density development from other uses in the area. The area is developed primarily in high-density residential development while limited office uses exist in the northwestern portion of the area. This planned area is divided into five subareas, based on the unique conditions for development within each area.

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### *Central A Subarea*

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The Central A subarea of PLA 5 should be permitted to develop with high-density residential uses (up to 24 dwellings/acre).

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### *West B Subarea*

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The southern portion of Subarea B is adjacent to 6th Street and the entire subarea is south of 4th Avenue. Subarea B is heavily impacted by traffic, as well as existing and future commercial uses and offices to the west. The noise and traffic make this area inappropriate for single-family use, while its ease of access and proximity to the Downtown makes it appropriate for both offices and multifamily uses at a density of up to 24 dwelling units per acre. New development in this subarea should minimize access points directly onto 6th Street. Access for offices, however, should be provided exclusively from 6th Street or 4th Avenue and precluded from Kirkland Way. Structures should be limited to three stories in height.

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### *North C Subarea*

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Subarea C, located north of Subareas B and A, **and north and west of Subarea D**, contains office development and the U.S. Post Office facility serving Greater Kirkland. Remaining land should develop as professional office or multifamily residential at a density of up to 24 dwelling units per acre. **Structures up to five or six stories in height are appropriate here in the area north**

**of Subareas B and A** for developments containing at least one acre. The adjacent steep hillside limits potential view obstruction from tall buildings. At the same time, taller than normal structures could themselves take advantage of views to the west while maintaining greater open area on site and enhancing the greenbelt spine. **Structures up to four stories in height are appropriate in the eastern portion near Subarea 5D for developments containing at least one acre, if additional building setbacks are provided from residential development to the east in Subarea 5D.**

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### *East D Subarea*

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The easternmost third of PLA 5 is identified as Subarea D. This area has developed in high-density multifamily uses **in recent years**. ~~Remaining developable land is limited to one parcel in the southeast portion of the subarea.~~ **Any future** development should be multifamily residential at a density of up to 24 dwelling units per acre. ~~However, to minimize impacts of future development or redevelopment on remaining single-family dwellings in Subarea A, height limitations, large setbacks, and limitation of horizontal dimensions should be required where this development is adjacent to single-family homes.~~

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### *South E Subarea*

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The most southerly subarea is the smallest and is somewhat isolated from the other subareas. Lying between 2nd Avenue and Kirkland Way, this area could develop with high-density multifamily residential (up to 24 units per acre). Due to sight distance problems on Kirkland Way, access to and from this area should be restricted to 2nd Avenue.

PUBLICATION SUMMARY  
OF ORDINANCE NO. 4184

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 3481 AS AMENDED, TO IMPLEMENT CHANGES TO THE PLANNED AREA 5 SECTION OF THE MOSS BAY NEIGHBORHOOD PLAN, AND THE MOSS BAY NEIGHBORHOOD LAND USE MAP, AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO ZON07-00012.

SECTION 1. Amends the following specific portions of the Kirkland Comprehensive Plan:

- A. Amendments to Figure C-2: Moss Bay Area Land Use,
- B. Amendments to Perimeter Areas: C. Planned Area 5 in the Moss Bay Neighborhood Plan section.

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 Kirkland Municipal Code 1.08.017 and establishes the effective date as five days after publication of summary.

SECTION 4. Establishes certification by City Clerk and notification of King County Department of Assessments.

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 \_\_\_\_\_, 2009.

I certify that the foregoing is a summary of Ordinance \_\_\_\_\_ approved by the Kirkland City Council for summary publication.

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 4185

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE) USE ZONE CHART IN CHAPTER 60 AND THE KIRKLAND ZONING MAP, ORDINANCE 3710 AS AMENDED, AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO ZON07-00012.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain portions of the Kirkland Zoning Code (Title 23 of the Kirkland Municipal Code), all as set forth in that certain report and recommendation of the Planning Commission dated November 20, 2008, and bearing Kirkland Department of Planning and Community Development File No. ZON07-00012; and

WHEREAS, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, held public hearings on April 24, 2008, June 12, 2008, and October 22, 2008, on the amendment proposals and considered the comments received at said hearings; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a Planned Action Environmental Impact Statement. The Draft of which was issued on April 4, 2008, and the Final of which was issued on October 16, 2008, by the responsible official pursuant to WAC 197-11-400 through 197-11 560; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission; and

WHEREAS, the City Council after considering the recommendation of the Planning Commission and receiving public comment amended the Planning Commission's recommendation;

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

Section 1. Zoning Text amended: The following specified sections of the text of the Kirkland Zoning Code (Title 23 of the Kirkland Municipal Code) are amended as follows:

- A. Chapter 60. Planned Area 5 Zones:  
Amendments to PLA 5C use zone chart as set forth in Exhibit A attached to this ordinance and incorporated by reference.

Section 2. Zoning Map amended: The following specified zones of Ordinance 3710 as amended, the Kirkland Zoning Map, are amended as set forth in Exhibit B, which by this reference is incorporated herein.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. This ordinance shall be in full force and effect five days from and after its passage by the City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SIGNED IN AUTHENTICATION THEREOF this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

## PLA5C USE ZONE CHART

*The following is excerpted from the PLA5C zone of the Zoning Code to illustrate changes related to the Orni PAR. Edited portions are indicated in shaded text.*

**KZC 60. 39 User Guide.** The charts in KZC 60.42 contain the basic zoning regulations that apply in Planned Area 5C, including subzones. 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.

### Section 60.40 - 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. If any portion of a structure is adjoining a low density use within PLA 5A, then either:
  - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
  - b. The horizontal length of any façade of that portion of the structure which is within 100 feet of the lot containing a low density use within PLA 5A shall not exceed 75 feet.

See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.  
(Does not apply to Detached Dwelling Unit uses).
3. Any portion of a structure that exceeds 30 feet above average building elevation must be setback from the front property line one foot for each one foot that the portion of the structure exceeds 30 feet above average building elevation (does not apply to Detached Dwelling and Public Park uses or property within 325' of the PLA5C eastern boundary).
4. If the subject property abuts the 4<sup>th</sup> Avenue right-of-way or the easterly extension of the alignment of that right-of-way to 10<sup>th</sup> Street, the following regulations apply:
  - a. The City may require the applicant to dedicate and improve land as shown in the Public Improvements Master Plan adopted by the City for this area.
  - b. Any required yard of the subject property abutting the 4<sup>th</sup> Avenue right-of-way or the easterly extension of that right-of-way will be regulated as a front yard.
  - c. Any required yard of the subject property abutting 5<sup>th</sup> Avenue will be regulated as a rear yard.
  - d. Service and parking areas must, to the maximum extent possible, be located and oriented away from the 4<sup>th</sup> Avenue right-of-way unless primary vehicular access to the subject property is directly from that right-of-way. (Does not apply to Public Park uses).

**USE ZONE CHART****Section 60.42.010**

Use: Detached Dwelling Units - *Remains unchanged.*

**Section 60.42.020**

Use: Detached, Attached or Stacked Dwelling Units

Required Review Process: If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, or within 325' of the PLA5C eastern boundary, then Administrative Design Review for buildings over 30' above average building elevation, Chapter 142 KZC; Otherwise, none.

Minimums:

Lot Size: 3,600 sq. ft. with at least 1,800 sq. ft. per unit.

Required Yards: Front: 20'; Side: 5' for detached units. For attached or stacked units, 5', but 2 side yards must equal at least 15'. From easterly edge of PLA 5C - 15'; and Rear: 10'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- If the development contains at least 1 acre, then the lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .8 acres, then the lower of 4 stories or 52' feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .4 acres, then the lower of 3 stories or 40 feet above average building elevation.
- Otherwise, 30 feet above average building elevation.

Landscape Category: D

Sign Category: A

Required Parking: 1.7 per unit.

**Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

### **Section 60.42.030**

Use: Office Use

Required Review Process: If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, or within 325' of the PLA5C eastern boundary, then Administrative Design Review for buildings over 30' above average building elevation, Chapter 142 KZC; Otherwise, none.

Minimums:

Lot Size: None

Required Yards: Front: 20'; Side: 5', but 2 side yards must equal at least 15'. From easterly edge of PLA 5C - 15'; and Rear: 10'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- If the development contains at least 1 acre, then the lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .8 acres, then the lower of 4 stories or 52' feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .4 acres, then the lower of 3 stories or 40 feet above average building elevation.
- Otherwise, 30 feet above average building elevation.

Landscape Category: C

Sign Category: D

Required Parking: If a Medical, Dental, or Veterinary office, then 1 per each 200 square feet of gross floor area. Otherwise, 1 per each 300 square feet of gross floor area.

### **Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

### **Section 60.42.040**

Use: Development Containing Stacked or Attached Dwelling Units and Office Uses.

Required Review Process: If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, or within 325' of the PLA5C eastern boundary, then Administrative Design Review for buildings over 30' above average building elevation, Chapter 142 KZC; Otherwise, none.

Minimums:

Lot Size: 3,600 sq. ft. with at least 1,800 sq.ft. per unit.

Required Yards: Front: 20'; Side: 5', but 2 side yards must equal at least 15'. From easterly edge of PLA 5C - 15'; and Rear: 10'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- If the development contains at least 1 acre, then the lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .8 acres, then the lower of 4 stories or 52' feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .4 acres, then the lower of 3 stories or 40 feet above average building elevation.
- Otherwise, 30 feet above average building elevation.

Landscape Category: C

Sign Category: D

Required Parking: See KZC 105.25.

### **Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

### **Section 60.42.050**

Use: Church

Required Review Process: Process I, Chapter 145 KZC

Minimums:

Lot Size: 7,200 sq. ft.

Required Yards: Front: 20'; Side: 20'on each side, and Rear: 20'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- The lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.

Landscape Category: C

Sign Category: B

Required Parking: 1 for every 4 people based on maximum occupancy load of any area of worship.

### **Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

### **Section 60.42.060**

Use: School or Day-Care Center

Required Review Process: If this use is adjoining a low density zone, then Process I, Chapter 145. Otherwise, None.

Minimums:

Lot Size: 7,200

Required Yards: If this use can accommodate 50 or more students or children then:  
 Front: 50'; Side: 50' on each side, and Rear: 50'  
 If this use can accommodate 13 to 49 students or children, then:  
 Front: 20'; Side: 20' on each side, and Rear: 20'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- The lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.

Landscape Category: D

Sign Category: B

Required Parking: See KZC 105.25.

**Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

**Section 60.42.070**

Use: Mini-School or Mini-Day-Care

Required Review Process: If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, or within 325' of the PLA5C eastern boundary, then Administrative Design Review for buildings over 30' above average building elevation, Chapter 142 KZC; Otherwise, none.

Minimums:

Lot Size: 3,600 sq.ft.

Required Yards: Front: 20'; Side: 5', but 2 side yards must equal at least 15'. From easterly edge of PLA 5C - 15'; and Rear: 10'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- If the development contains at least 1 acre, then the lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .8 acres, then the lower of 4 stories or 52' feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .4 acres, then the lower of 3 stories or 40 feet above average building elevation.
- Otherwise, 30 feet above average building elevation.

Landscape Category: E

Sign Category: B

Required Parking: See KZC 105.25

**Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

**Section 60.42.080**

Use: Assisted Living Facility

Required Review Process: If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, or within 325' of the PLA5C eastern boundary, then Administrative Design Review for buildings over 30' above average building elevation, Chapter 142 KZC; Otherwise, none.

Minimums:

Lot Size: 3,600 sq. ft.

Required Yards: Front: 20'; Side: 5', but 2 side yards must equal at least 15'. From easterly edge of PLA 5C - 15'; and Rear: 10'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- If the development contains at least 1 acre, then the lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C

eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.

- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .8 acres, then the lower of 4 stories or 52' feet above average building elevation.
- If the development is south of 4<sup>th</sup> Avenue and within 180 feet east of 6<sup>th</sup> Street, and contains at least .4 acres, then the lower of 3 stories or 40 feet above average building elevation.
- Otherwise, 30 feet above average building elevation.

Landscape Category: D

Sign Category: A

Required Parking: 1.7 per independent unit. 1 per assisted living unit.

### **Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

### **Section 60.42.090**

Use: Convalescent Center or Nursing Home

Required Review Process: Process I, Chapter 145 KZC

#### Minimums:

Lot Size: 7,200 sq. ft.

Required Yards: Front: 20'; Side: 10' on each side, and Rear: 10'

#### Maximums:

Lot Coverage: 70%.

Height of Structures:

- The lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.

Landscape Category: C

Sign Category: B

Required Parking: 1 for each bed.

**Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

**Section 60.42.100**

Use: Public Utility

Required Review Process: Process I, Chapter 145 KZC

Minimums:

Lot Size: None

Required Yards: Front: 20'; Side: 20' on each side, and Rear: 10'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- The lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.

Landscape Category: A

Sign Category: B

Required Parking: See KZC 105.25.

**Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

*The remainder of the special regulations are unchanged.*

**Section 60.42.110**

Use: Government Facility or Community Facility

Required Review Process: Process I, Chapter 145 KZC

Minimums:

Lot Size: none

Required Yards: Front: 20'; Side: 10' on each side, and Rear: 10'

Maximums:

Lot Coverage: 70%.

Height of Structures:

- The lower of 6 stories or 60 feet above average building elevation, except for properties within 325' of the PLA5C eastern boundary, then the lower of 4 stories or 40 feet above average building elevation.

Landscape Category: C

Sign Category: B

Required Parking: See KZC 105.25.

**Special Regulations:**

*New special regulation added:*

For properties abutting PLA5D, any portion of a building exceeding 30' above ABE shall be no closer than 50' to the easterly edge of PLA 5C.

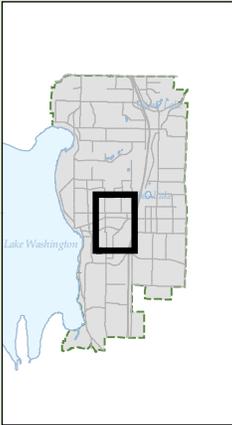
*The remainder of the special regulations are unchanged.*

**Section 60.42.120**

Use: Public Park

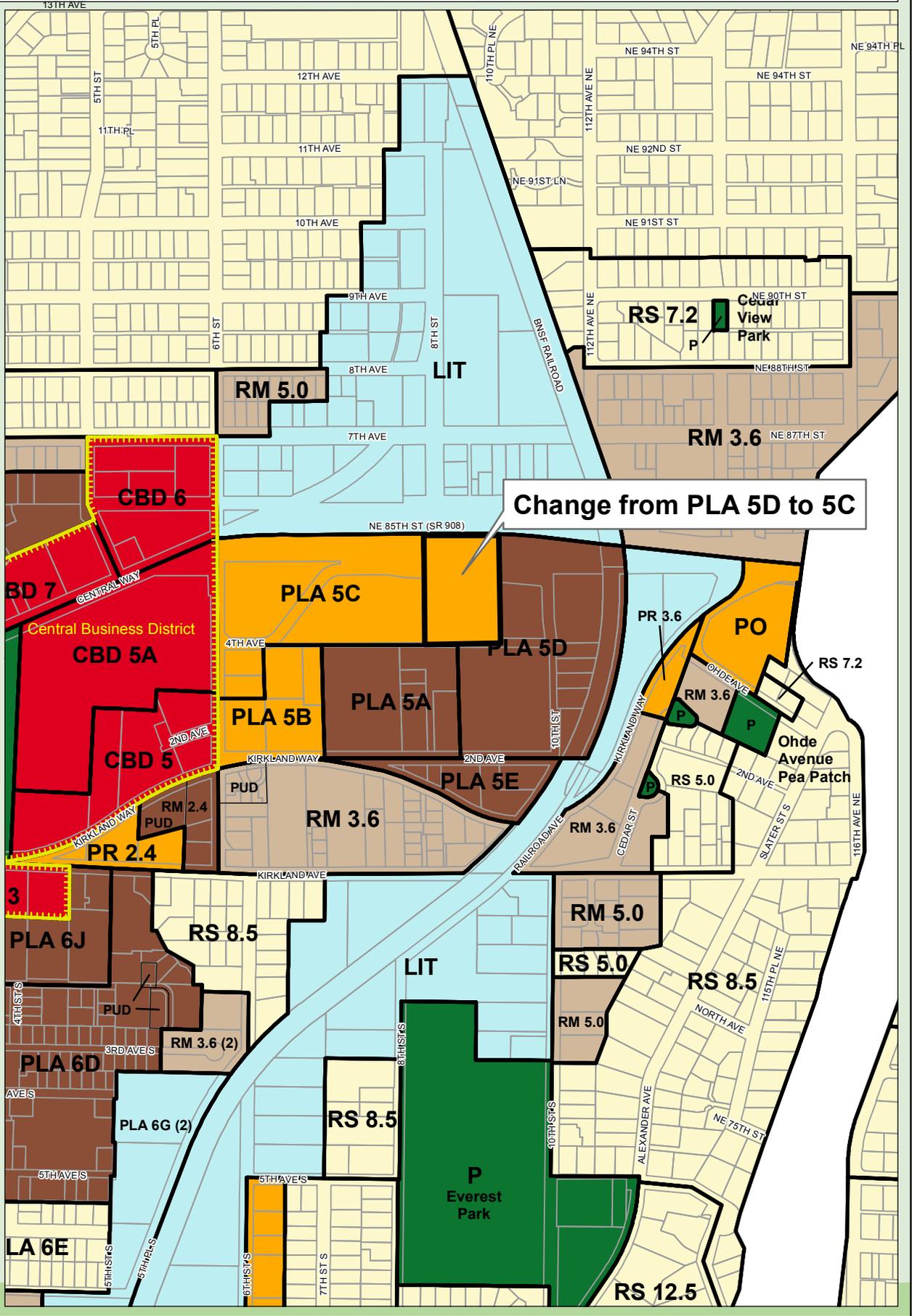
Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.

# Proposed Zoning Map Change



Vicinity Map  
0 5,900 11,800 17,700  
Feet

- Map Legend**
- Design Districts
  - ResOrdBoundaries
  - OverlayBoundaries
  - PUD Boundary
  - Tax Parcel Boundary
  - Commercial
  - Industrial
  - Light Manufacturing Park
  - Office
  - High Density Residential
  - Medium Density Residential
  - Low Density Residential
  - Institutions
  - Park/Open Space



0 180 360 540  
Feet



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PUBLICATION SUMMARY  
OF ORDINANCE NO. 4185

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE) USE ZONE CHART IN CHAPTER 60 AND THE KIRKLAND ZONING MAP, ORDINANCE 3710 AS AMENDED, AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO ZON07-00012.

SECTION 1. Amends the following specific portion of the Kirkland Zoning Code: Chapter 60. Planned Area 5 Zones, use zone chart PLA 5C;

SECTION 2. Amends the Kirkland Zoning Map as set forth in Exhibit B.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Kirkland Municipal Code 1.08.017 and establishes the effective date as five days after publication of summary.

SECTION 5. Establishes certification by City Clerk and notification of King County Department of Assessments.

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 \_\_\_\_\_, 2009.

I certify that the foregoing is a summary of Ordinance \_\_\_\_\_ approved by the Kirkland City Council for summary publication.

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 4186

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND PLANNING; ESTABLISHING A PLANNED ACTION FOR AN AREA IN THE MOSS BAY NEIGHBORHOOD GENERALLY LOCATED EAST OF 6TH STREET, SOUTH OF CENTRAL WAY/NE 85<sup>TH</sup> STREET, WEST OF 10<sup>TH</sup> STREET, AND NORTH OF KIRKLAND WAY PURSUANT TO THE STATE ENVIRONMENTAL POLICY ACT, RCW 43.21C.031.

WHEREAS, the State Environmental Policy Act ("SEPA"), RCW 43.21C, and implementing rules (WAC 197-11) provide for the integration of environmental review with land use planning and project review through designation of "Planned Actions" by jurisdictions planning under the Growth Management Act ("GMA"); and

WHEREAS, designation of a Planned Action expedites the permitting process for subsequent, implementing projects whose impacts have been previously addressed in a Planned Action environmental impact statement ("EIS"), and thereby encourages desired growth and economic development; and

WHEREAS, the Planned Action EIS identifies impacts and mitigation measures associated with planned development in the subject Planned Action Area; and

WHEREAS, the Planned Action EIS also identifies impacts and mitigation measures associated with planned developments in two other Planned Action Areas previously designated in the Moss Bay Neighborhood; and

WHEREAS, these Planned Actions Areas were designated in Ordinance No. 4175, passed by the Kirkland City Council on December 16, 2008, and are shown as Area A and Area C in Exhibit A to Ordinance No. 4175 and in Exhibit A to this Ordinance; and

WHEREAS, the mitigation measures identified in Exhibit B to Ordinance No. 4175 and Exhibit B to this Ordinance address all three Planned Action Areas and not only the subject Planned Action Area;

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

Section 1. Purpose. The purpose of this ordinance is to:

- A. Combine environmental analysis with land use planning;
- B. Streamline and expedite the development permit review process by relying on the EIS completed for the Planned Action;
- C. Establish criteria and procedures, consistent with state law, that will determine whether subsequent projects qualify as Planned Actions;
- D. Provide the public with an understanding of Planned Actions and how the City will process Planned Actions; and

E. Apply the City's development regulations together with the mitigation measures described in the EIS and this Ordinance to address the impacts of future development contemplated by the Planned Action.

Section 2. Findings. The City Council finds as follows:

A. The City is subject to the requirements of the Growth Management Act, RCW 36.70A, and is located within an Urban Growth Area;

B. The City has adopted a Comprehensive Plan complying with the GMA;

C. The City is adopting development regulations applicable to the proposed development concurrent with adoption of this Planned Action Ordinance to address many of the impacts of future development;

D. The City has prepared an EIS complying with SEPA for the area designated as a Planned Action ("Planned Action EIS") and finds that it adequately addresses the probable significant environmental impacts associated with the type and amount of development planned to occur in the designated Planned Action area;

E. The mitigation measures identified in the Planned Action EIS are attached to this Ordinance as Exhibit B. The mitigation measures also apply to two Planned Action Areas previously designated by Ordinance No. 4175 and shown as Areas A and C in the Exhibit A to Ordinance No. 4175 and this Ordinance. These mitigation measures, together with City development regulations, will adequately mitigate significant impacts from development within the Planned Action area;

F. The Planned Action EIS and this Ordinance identify the location, type and amount of development that is contemplated by the Planned Action;

G. Future projects that are consistent with the Planned Action will protect the environment, benefit the public and enhance economic development;

H. The City has provided numerous opportunities for meaningful public involvement in the proposed Planned Action; has considered all comments received; and, as appropriate, has modified the proposal or mitigation measures in response to comments;

I. The proposal is not an essential public facility as defined by RCW 36.70A.200(1);

J. The Planned Action area applies to a defined area that is smaller than the overall City boundaries; and

K. Public services and facilities are adequate to serve the proposed Planned Action with the mitigation measures identified in Exhibit B.

Section 3. Procedures and criteria for evaluating and determining projects as Planned Actions:

A. Planned Action Area. The Planned Action designation shall apply to Area B in the Moss Bay Neighborhood as specifically shown in Exhibit A, "Planned Action Area": the three parcels located at 825, 903, and 911 Fifth Avenue totaling approximately 2.0 acres of land. Additionally, the Planned Action designation shall apply to any off-site improvements necessitated by proposed development on the subject sites, where the off-site improvements have been analyzed in the Planned Action EIS.

B. Environmental Document. A Planned Action determination for a site-specific permit application shall be based on the environmental analysis contained in the Draft Planned Action EIS issued by the City on April 4, 2008, and the Final Planned Action EIS published on October 16, 2008. The mitigation measures contained in Exhibit B, which is attached hereto and adopted by reference as though fully set forth herein, are based upon the findings of the Draft and Final EISs and shall, along with existing City codes, ordinances, and standards, provide the framework that the City will use to impose appropriate conditions on qualifying Planned Action projects. The Draft and Final EISs shall comprise the Planned Action EIS.

C. Planned Action Designated. Land uses described in the Planned Action EIS, subject to the thresholds described in Subsection D of this Section and the mitigation measures contained in Exhibit B, are designated Planned Actions pursuant to RCW 43.21C.031. A development application for a site-specific Planned Action project located within the Planned Action Area shall be designated a Planned Action if it meets the criteria set forth in Subsection D of this Section and applicable laws, codes, development regulations and standards of the City.

D. Planned Action Thresholds. The following thresholds shall be used to determine if a site-specific development proposed within the Planned Action area is contemplated by the Planned Action and has had its environmental impacts evaluated in the Planned Action EIS. Thresholds and required mitigation measures are based on the FEIS proposed action contained in the Planned Action FEIS:

(1) *Land Uses.* Subject to the mitigation measures described in Exhibit B, the following land uses, together with the customary accessory uses and amenities described in the Planned Action EIS, are Planned Actions pursuant to RCW 43.21C.031.

Office use is the primary use analyzed in the Planned Action EIS for Area B:

(2) *Land Use Review Threshold.*

(a) The Planned Action designation applies to future development proposals that are comparable or within the ranges established by the Planned Action FEIS, as shown below:

Land Use: 145,000 square feet of office

(b) If future development proposals in the Planned Action Area exceed the maximum development parameters reviewed in the Planned Action EIS, further environmental review may be required under SEPA, as provided in WAC 197-11-172. If proposed plans significantly change the location of development or uses in a manner that would alter the environmental determinations in the Planned Action EIS, additional SEPA review would also be required. Shifting development proposals between categories of land uses may be permitted so long as the resulting development does not exceed the trip generation thresholds (see subsection 4(a) below) reviewed in the Planned Action EIS.

(3) *Building Heights, Bulk, and Scale.* Building heights, bulk, and scale shall not exceed the maximums reviewed in the Planned Action EIS.

(4) *Transportation.*

(a) *Trip Ranges:* The range of trips reviewed in the Planned Action EIS is as follows:

Trip Generation – Net New Trips Reviewed in Planned Action EIS

PM Peak Hour: Range – Net New Trips – 219.

(b) *Trip Threshold.* Development proposals that would exceed the maximum trips levels shown above will require additional SEPA review.

(c) *Public Works Discretion.* The City Public Works Director shall have discretion to determine incremental and total trip generation, consistent with the Institute of Traffic Engineers (ITE) Trip Generation Manual (latest edition) or an alternative manual accepted at the City Public Works Director's sole discretion, for each Planned Action Project permit application proposed under this Planned Action. It is understood that development of the Planned Action may occur in parts and over a period of years. The City shall require that off-site mitigation and transportation improvements identified in the Planned Action EIS be implemented in conjunction with development to maintain adopted levels of service standards.

(d) *Transportation improvements.*

(i) *Intersection Improvements.* The Planned Action will require off-site transportation improvements identified in Exhibit B to mitigate significant impacts. These transportation improvements have been analyzed in the Planned Action EIS. The City Public Works Director shall have the discretion to adjust the allocation of responsibility for required improvements as between individual Planned Action Projects based on their identified impacts. Significant changes to the City's

transportation improvement plan proposed as part of any Planned Action Project that have the potential to significantly increase impacts to air quality, water quality, fisheries resources, noise levels or other factors beyond the levels analyzed in the Planned Action EIS may require additional SEPA review.

(ii) Transportation Management Program. The owners or operators of development projects within Area B shall prepare and implement Transportation Management Programs (TMP) as a means to encourage alternatives to single-occupant vehicles including transit and to thereby reduce traffic generation and parking demand. The City Public Works Director shall have the discretion to modify the individual elements of a TMP as a means to accomplish its objectives and to enhance its effectiveness.

(iii) Parking Management. Parking to support development within Area B shall be provided as required by the Kirkland Zoning Code. A developer may choose to reduce the number of parking spaces based on a demand and utilization study prepared by a licensed transportation engineer. The City's Transportation Engineer must approve the scope and methodology of the study as well as the effectiveness of the TMP and parking management measures.

(e) Transportation Impact Fees. All Planned Action Projects shall pay, as a condition of approval, the applicable transportation impacts fees according to the methodology contained in the ordinance adopting such impact fees. The City may adjust such fees from time to time.

(f) Capital Facilities. Improvements to water facilities are identified in Exhibit B. The City Public Works Director shall have the discretion to determine and allocate responsibility for required improvements as between individual Planned Action projects.

(5) *Changed Conditions.* Should environmental conditions or assumptions change significantly from those analyzed in the Planned Action EIS, the City's SEPA Responsible Official may determine that the Planned Action designation is no longer applicable until supplemental environmental review is conducted.

(6) *Additional Mitigation Fees.* The City may adopt and apply such other fees as may be deemed necessary and appropriate to mitigate impacts to other capital facilities in the City and to accommodate planned growth. Such fees, if adopted, shall be in addition to the fee required in item (4)(e) of this subsection, and shall apply only to required improvements that are not addressed in this subsection.

E. Planned Action Review Criteria.

(1) The City's Planning and Community Development Director or designee is authorized to designate a project application that meets all of the following conditions as a Planned Action pursuant to RCW 43.21C.031(2)(a):

(a) The project is located within the Planned Action Area identified in Exhibit A, pursuant to Section 3(A) of this ordinance or is an off-site improvement directly related to a proposed development within the Planned Action Area;

(b) The project is consistent with the City of Kirkland Comprehensive Plan and the Comprehensive Plan policies for the Downtown Plan;

(c) The project's significant adverse environmental impacts have been adequately addressed in the Planned Action EIS;

(d) The proposed uses are consistent with those described in the Planned Action EIS and Section 3(D) of this Ordinance;

(e) The project is within the Planned Action thresholds of Section 3(D) and other criteria of this section of this Ordinance;

(f) The project's significant impacts have been mitigated by application of the measures identified in Exhibit B, as well as other City, county, state and federal requirements and conditions, including compliance with any conditions agreed to pursuant to a development agreement between the City and applicant if executed, which together constitute sufficient mitigation for the significant environmental impacts associated with the proposed project;

(g) The proposed project complies with all applicable local, state and/or federal laws and regulations, and where appropriate, the proposed project complies with needed variances or modifications or other special permits which have been identified; and

(h) The proposed project is not an essential public facility.

F. Effect of Planned Action.

(1) Upon designation by the City's Planning and Community Development Director that the project qualifies as a Planned Action pursuant to this Ordinance and WAC 197-11-172, the project shall not require a SEPA threshold determination, preparation of an EIS, or be subject to further review under SEPA.

(2) Being designated as a Planned Action means that a proposed project has been reviewed in accordance with this Ordinance and found to be consistent with the development parameters and environmental analysis contained in the Planned Action EIS.

(3) Planned Actions that meet all criteria established in this ordinance will not be subject to further procedural review under SEPA. However, projects will be subject to conditions as outlined in this document and the attached Exhibit B which are designed to mitigate any environmental impacts which may result from the project proposal. Additionally, projects will be subject to applicable City, state, and federal regulatory requirements. The Planned Action designation shall not excuse a project from meeting the City's code and ordinance requirements apart from the SEPA process.

G. Planned Action Permit Process. The City's Planning and Community Development Director or designee shall review projects and determine whether they meet the criteria as Planned Actions under applicable state, federal, local laws, regulations, codes and ordinances. The procedures shall consist, at a minimum of the following:

(1) Development applications shall meet the applicable requirements of the Kirkland Municipal Code (KMC). Applications shall be made on forms provided by the City and shall include a SEPA checklist, revised SEPA checklist or such other environmental review forms provided by the City;

(2) The City's Planning and Community Development Director shall determine whether the application is complete;

(3) If the application is for a project within the Planned Action Area shown as Area B on Exhibit A, the application will be reviewed to determine if it is consistent with and meets all of the qualifications of Section 3 of this Ordinance;

(4) After the City receives and reviews a complete application, the City's Planning and Community Development Director shall determine whether the project qualifies as a Planned Action. If the project does qualify, the Director shall notify the applicant and the project shall proceed in accordance with the applicable permit review procedure, except that no SEPA threshold determination, EIS, or additional SEPA review shall be required. The decision of the Director regarding qualification as a Planned Action shall be final;

(5) Public notice and review for projects that qualify as Planned Actions shall be tied to the underlying development permit and not to SEPA notice requirements. If notice is otherwise required for the underlying permit, the notice shall state that the project has qualified as a Planned Action. If notice is not otherwise required for the underlying permit, no special notice is required by this ordinance;

(6) If a project is determined not to qualify as a Planned Action, the City's Planning and Community Development Director shall so notify the applicant and the SEPA Responsible Official shall prescribe a SEPA review procedure consistent with the City's SEPA regulations and the requirements of state law. The notice

shall describe the elements of the application that result in failure to qualify as a Planned Action. If deemed ineligible, the application may be amended to qualify; and

(7) Projects that fail to qualify as Planned Actions may incorporate or otherwise use relevant elements of the Planned Action EIS, as well as other relevant SEPA documents, to assist in meeting SEPA requirements. The SEPA Responsible Official may limit the scope of SEPA review for the non-qualifying project to those issues and environmental impacts not previously addressed in the Planned Action EIS.

H. Development Agreements. The City or an applicant may request consideration and execution of a development agreement for a Planned Action project. The development agreement may address the following: review procedures applicable to a planned action project; permitted uses; mitigation measures; construction, financing and implementation of improvements, including methods of financing and proportionate shares, and latecomers agreements; payment of impact fees; phasing; and any other topic that may properly be considered in a development agreement consistent with RCW 36.70B.170 et seq.

I. Monitoring and Review.

A. The City shall monitor the progress of development in the designated Planned Action area to ensure that it is consistent with the assumptions of this Ordinance and the Planned Action EIS regarding the type and amount of development and associated impacts, and with the mitigation measures and improvements planned for the Planned Action area.

B. This Planned Action Ordinance shall be reviewed by the SEPA Responsible Official as part of the City's ongoing Comprehensive Plan update procedure to determine its continuing validity with respect to the environmental conditions of the Planned Action Area, the impacts of development, and the adequacy of required mitigation measures. Based upon this review, this Ordinance may be amended as needed, the City may supplement or revise the Planned Action EIS, and/or another review period may be specified. Subsequent reviews of the Planned Action Ordinance shall occur as part of the City's Comprehensive Plan amendment process.

Section 4. Conflict. In the event of a conflict between this Ordinance or any mitigation measures imposed pursuant thereto and any ordinance or regulation of the City, the provisions of this Ordinance shall control, except that the provisions of the state building code shall supersede this Ordinance. In the event of a conflict between this Ordinance (or any mitigation measures imposed pursuant thereto) and any development agreement between the City and a Planned Action applicant(s), the provisions of the development agreement shall control.

Section 5. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application be declared unconstitutional or

invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation.

Section 6. Expiration. This Ordinance shall expire ten (10) years from the date of passage unless it is extended by the City Council following a report from the SEPA Responsible Official and a public hearing.

Section 7. 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 \_\_\_\_\_, 2009.

Signed in authentication thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
MAYOR

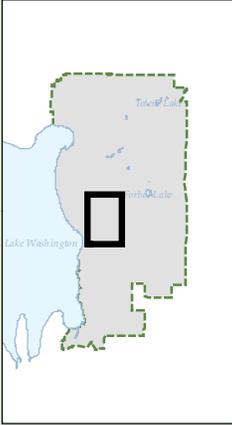
Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

# Vicinity Map

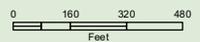


Vicinity Map

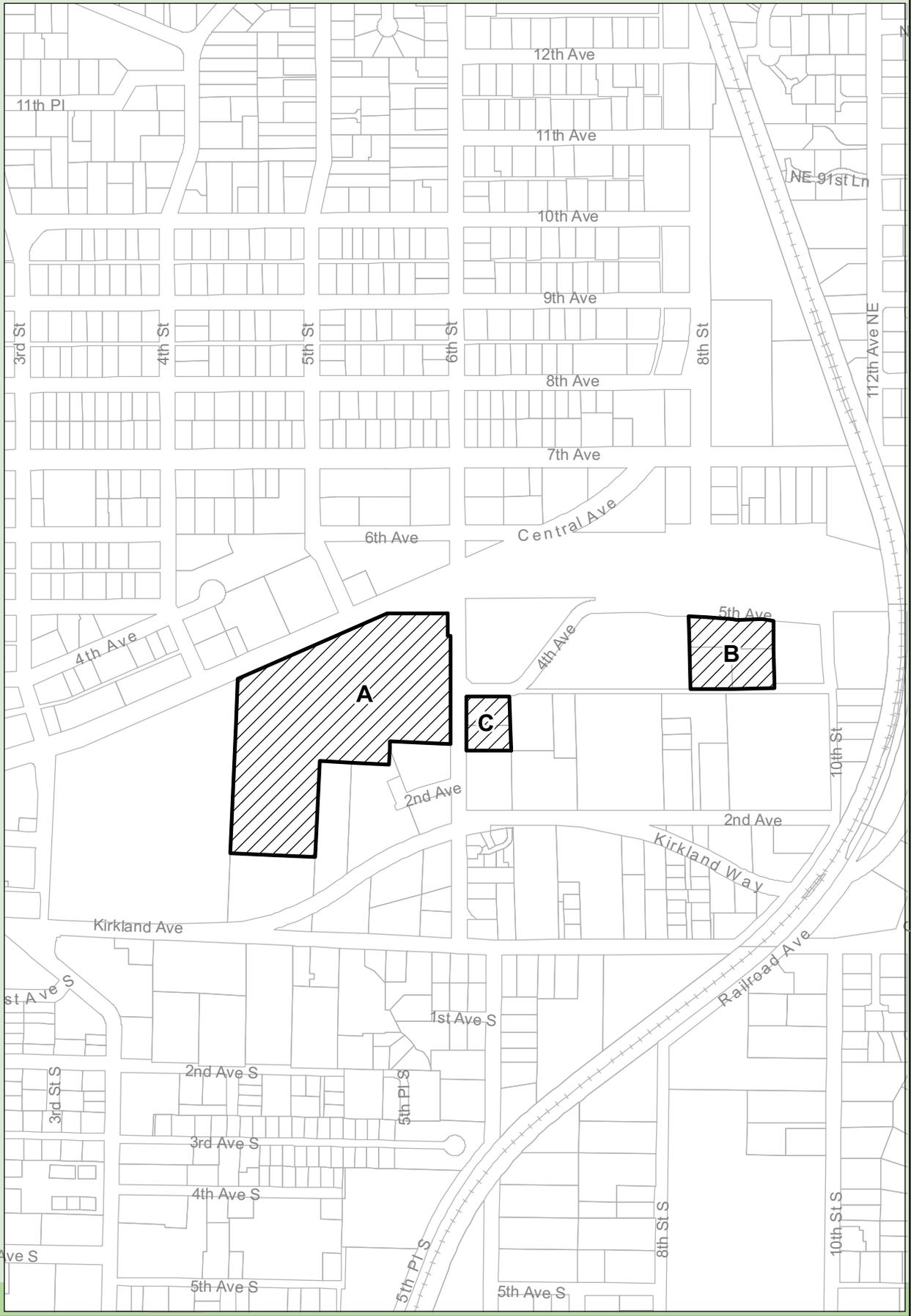


**Map Legend**

-  Planned Action Areas
- A = Touchstone (Park Place)
- B = Orni
- C = Altom



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## Planned Action Ordinance Mitigation Measures

**Table 3.4-18. Potential Capacity Improvements to Address Impacts**

ID	Location	Improvement	No Action <sup>1</sup>			Proposed Action <sup>1</sup>			FEIS Review <sup>1</sup>		
			2014 TIA	2014 Conc	2022 Conc	2014 TIA	2014 Conc	2022 Conc	2014 TIA	2014 Conc	2022 Conc
4	Central Way/Parkplace Driveway	Install signal	X			X			X		
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)			X			X			X
105	Central Way/6th Street	Construct dual westbound left turn lane and a southbound right turn lane between Central and 4 <sup>th</sup> Avenue. Modify signal to provide westbound left/northbound right overlap phase.				X		X	X		X
109	NE 85th Street/114th Avenue NE	Restripe southbound dual left and eastbound right to through conversion.	X		X	X	X	X	X	X	X
110	6th Street/4th Avenue	Dual eastbound left turn, with widening on 6th Street				X			X		
112	Kirkland Way/6th Street	Install signal. (CIP Project #TR20-3)				X			X		
128	Central Way/5th Street	Install signal.				X			X		
129	Central Way/4th Street	Extend two-way-left-turn by moving crosswalk to Parkplace Signal	X			X			X		
169	6th Street/7th Avenue	Add left turn lanes on northbound				X					

Final Environmental Impact Statement

ID	Location	Improvement	No Action <sup>1</sup>			Proposed Action <sup>1</sup>			FEIS Review <sup>1</sup>		
			2014 TIA	2014 Conc	2022 Conc	2014 TIA	2014 Conc	2022 Conc	2014 TIA	2014 Conc	2022 Conc
		and southbound approaches									
169	6th Street/7th Avenue	Add northbound approach left turn lane							X		
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. <sup>2</sup>						X			X
204	116th Way NE/NE 132nd Street	Reconfigure the intersection based on the 132nd Street Study and new I-405 northbound on-ramp			X			X			X
211	Market Street/15th Avenue	Install signal.				X					
211	Market Street/15th Avenue	Install signal at this location or at 7 <sup>th</sup> Avenue.							X		
304	NE 132nd Street/124th Street NE	Construct eastbound dual left turn lane, based on the 132nd Street Study			X			X			X
316	Totem Lake Boulevard/NE 132nd Street	Reconfigure the intersection based on the 132nd Street Study and new I-405 northbound on-ramp			X			X			X
402	NE 85th Street/124th Avenue NE	Add northbound right-turn-only pocket				X					
402	NE 85th Street/124th Avenue NE	Provide corridor improvements such as traffic signal interconnect							X		

<sup>1</sup>TIA = Traffic Impact Analysis; Conc = Concurrency

<sup>2</sup> 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.

## Police

Provision of on-site security services including video surveillance systems, to Area A in particular, may reduce the increased need for police response to that area. This reduction is largely dependent on the nature of the incident.

Security-sensitive design of buildings and the landscaping environment, such as installing only moderate height and density border shrubs, could reduce certain types of crimes, such as auto and store-front break-ins.

## Water

### No Action

The following water mitigation measures are required under the No Action:

- Segment A. This segment includes improvements identified as part of improvement number CIP 144. Replace an existing 8-inch diameter water main in Area A with a new 12-inch diameter water main. Replace the existing connections on the north side of Area A, crossing Central Way west of 5th Street and on the east side of the Area, crossing 6th Street south of 4th Avenue with 12-inch diameter water mains. Construct a new 12-inch diameter connection at the south side of Area A so that a looped connection is created to connect the proposed on-site 12-inch main to the existing 8-inch and 12-inch diameter water mains under Kirkland Avenue.
- Segment B. Replace the existing 8-inch water main along 6th Street with a new 12-inch water main between the east side of the Parkplace water main loop to approximately the intersection of 6th Street and Kirkland Circle.
- Segment C. Replace the existing 8-inch water main along Kirkland Circle from 6th Street to 4th Avenue with a new 12-inch main.
- Segment D. Replace the existing 8-inch water main along 4th Avenue, 5th Avenue, and 10th Street from Kirkland Circle to 3rd Avenue with a new 12 inch main.

In addition to the above segments, one of the following segments must also be constructed in order to accommodate development under either the No Action or Proposed Action alternatives.

- Segment E. Install a new 12-inch water main along the unimproved right-of-way between 2nd Avenue and 5th Avenue from approximately 4th Avenue to 10th Street. This improvement is not identified in the City of Kirkland Comprehensive Water System Plan.

- Segment F. Replace the existing 8-inch water main along 2nd Avenue and 10th Street from 6th Street to 3rd Avenue with a new 12-inch main.

### Proposed Action and FEIS Review Alternative

In addition to the improvements required under No Action, the Proposed Action will require that the new 12-inch water main in Segment C (located at Kirkland Circle from 6th Street to 4th Avenue) be enlarged to a 16-inch main.

PUBLICATION SUMMARY  
OF ORDINANCE NO. 4186

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND PLANNING; ESTABLISHING A PLANNED ACTION FOR AN AREA IN THE MOSS BAY NEIGHBORHOOD GENERALLY LOCATED EAST OF 6<sup>TH</sup> STREET, SOUTH OF CENTRAL WAY/NE 85<sup>TH</sup> STREET, WEST OF 10<sup>TH</sup> STREET, AND NORTH OF KIRKLAND WAY PURSUANT TO THE STATE ENVIRONMENTAL POLICY ACT, RCW 43.21C.031.

SECTION 1. Explains purpose of the Planned Action.

SECTION 2. Sets forth City Council findings relative to the Planned Action.

SECTION 3. Outlines procedures and criteria for evaluating and determining projects as Planned Actions.

SECTION 4. Provides that the ordinance and mitigation measures imposed by the ordinance shall control in the event a of conflict with other ordinances and regulations of the City, except in the case of conflicting provisions of the state building code or any development agreement between the City and a Planned Action applicant.

SECTION 5. Provides a severability clause for the ordinance.

SECTION 6. Provides the ordinance shall expire ten years from the date of passage unless extended by the City Council following a report from the SEPA Responsible Official and a public hearing.

SECTION 7. 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 \_\_\_\_\_, 2009.

I certify that the foregoing is a summary of Ordinance \_\_\_\_\_ approved by the Kirkland City Council for summary publication.

\_\_\_\_\_  
City Clerk