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for the

HEARING BEFORE THE KIRKLAND PLANNING COMMISSION IN RESPONSE TO THE MRM PRIVATE AMENDMENT REQUEST (PAR)

March 14, 2013

NO.	DOCUMENT
1.	Letter to City of Kirkland, Kirkland Planning Commission, March 13, 2014
A.	Ordinance 3608
B.	Kirkland Downtown Strategic Plan
C.	Ordinance 3974
D.	Ordinance 3809
E.	Ordinance 4170 and Ordinance 3481
F.	Residential and Office Development in Downtown Kirkland (CBD) since 1990, <i>Illustration</i>
G.	Allowed Uses in Kirkland CBD / Dominant Development Types in Kirkland CBD, <i>Illustrations</i>
H.	Hovee Report: Downtown Kirkland Retail Strategy; Prepared by E.D. Hovee & Company, LLC, dated March 2009
I.	Puget Sound Business Journal: Talon Private Capital Working on Massive Kirkland Parkplace Project, March 5, 2014
J.	Kirkland Reporter.com: Prudential Partners with Talon on Kirkland Parkplace Project March 6, 2014
K.	Eric Shield's June 3, 2013 Memo on the Land Capacity Assumptions Used for the 2015 Comprehensive Plan Update
L.	Development Capacity Analysis, February, 6, 2014

March 13, 2014

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

Re: MRM Private Amendment Request (PAR)
File No. SEP13-00554/ZON11-00006

Honorable Planning Commission Members:

I am writing on behalf of Davidson, Serles and Associates, owner of the Emerald Building at 520 Kirkland Way. Please consider this letter and the attached documents as you deliberate and develop your recommendations on MRM's PAR.

The MRM proposal is in direct violation of numerous adopted city policies that have been consistently applied to protect and enhance office zoned properties in CBD-5 and to limit residential use in this area. Approval of MRM's proposal will undermine the critically important goal of maintaining a strong office environment in the core of downtown Kirkland.

The MRM proposal is also in conflict with the mandates of the Growth Management Act. If approved, the MRM proposal, coupled with the recently announced reduction in planned development at Parkplace, will put Kirkland in non-compliance with state law, which requires Kirkland to maintain zoning that provides adequate job capacity to meet the City's employment target.

Finally, the MRM proposal is contrary to the best interests of the City of Kirkland. Kirkland's citizens deserve a consistent approach to land use policy, continued focus on limiting residential use within CBD-5, and maintenance of the appropriate 5-story height limit in CBD-5. The City should not be granting MRM's requested spot rezone and arbitrarily changing established comprehensive plan policies that benefit only one property owner.

We urge you to recommend denial of MRM's request.

Policy Decisions from 1997 to 2008 Demonstrate that the MRM Proposal Should be Denied

Decisions by the Kirkland City Council since 1997 demonstrate that MRM's Proposal is wholly inconsistent with the City's Comprehensive Plan policies, which emphasize office use in CBD-5, prohibit primary residential uses in this area, and limit height to 5 stories. MRM's representatives have improperly suggested to the Planning Commission that the City's Land Use Policies concerning the East Core Frame and CBD-5 are long outdated. Nothing could be further from the truth.

The following Table summarizes these policy decisions:

TABLE 1 – POLICY DECISIONS FOR DOWNTOWN KIRKLAND (1997-2008)

Date	Reference	Description	How Decision Addresses Use	How Decision Addresses Height
December 18, 1997	Ord. 3608	Annual Comprehensive Plan Amendment	Updated the Downtown Neighborhood Plan (later renamed the Moss Bay Neighborhood) and amended the East Core Frame policy to add the following new language: <i>“[B]ecause 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.”</i>	Update heights for Design Districts, including Design District 5 stating that <i>“Building heights of two to six stories are appropriate in Design District 5. . . . Buildings over two stories in height should be reviewed through a City Council process 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 the building mass above the third story.”</i>
June 5, 2001	Res. #R-4294	Kirkland Downtown Strategic Plan	After intensive study, the Kirkland Downtown Action Team recommended a new downtown policy for CBD 5 which read: <i>12. Preserve the designation of the CBD 5 area as a Class A office district while allowing limited housing . . . c. Housing will be minor percentage of any project, and allowed only on western edge of CBD 5 . . .”</i>	

December 11, 2001	Ord. 3809	Annual Comprehensive Plan Amendment	<p>Updated Moss Bay Plan</p> <p>Retained Language that East Core Frame between Central Way and Kirkland Way <i>“provides the best opportunities in the Downtown for a vital employment bases”</i>. . . <i>area should continue to emphasize office redevelopment over residential</i></p> <p>Added policy for <i>“limited residential use”</i> <i>adjoin eastern edge of Peter Kirk Park as a complementary use.”</i></p>	<p>Addressed heights in several downtown design districts. For Design District 5 is stated: <i>Maximum building height should be between three and five stories. . . Buildings over two stories in height should be reviewed by the Design Review Board . . . 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 the building mass above the third story.</i></p>
December 14, 2004	Ord. 3974	Major Comprehensive Plan Update	<p>Retained all of Economic Development Policies from prior plan and adopted new Economic Policy ED-6 –“Implement and update the Downtown Strategic Plan” reaffirming CBD-5 as a Class A office district.</p>	<p>No adjustments were made to height policy during the major 2004 update.</p>

<p>December 16, 2008</p>	<p>4170</p>	<p>Annual Comprehensive Plan Amendment</p>	<p>Updated Moss Bay Plan with edits to East Core Frame. Those edits <i>continued to emphasize the East Core Frame for office use: "Because the area provides the best opportunities I the Downtown for creating a strong employment base, redevelopment for office use should be emphasized."</i> "Limited residential use should be allowed as a complementary use."</p>	<p>Height in new Design District 5A (Parkplace) was increased up to 8 stories due to unique circumstances as stated in the Plan: <i>"This property [5A] is distinguished from the remainder of Design District 5 by the following factors: it is a large parcel under common ownership; it is topographically distinct based on previous exaction ...; it has frontage on Central Way; and it contains a mix of uses not found on other office or residential only properties.</i> The policy language for height limits in Design District 5 was retained as in the 2001 update, with this slight modification: <i>"Portions of buildings facing Kirkland Way, and Peter Kirk Park should be limited to between two and three stories ..."</i></p>
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Policy Decisions Concerning Office Use

Beginning slightly over 15 years ago and continuing throughout the last decade, the City Council has consistently maintained strong public policies designed to encourage, maintain and protect a vital office core in CBD-5.

In 1997, the Council updated the Downtown Neighborhood Plan (later renamed the Moss Bay Neighborhood Plan) and adopted the key policy into the East Core Frame that MRM now seeks to dismantle. See Ord. 3068 (Attachment A). That policy reads:

[B]ecause 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.

Soon after this policy was adopted, a “Blue Ribbon Panel” was established by the City Council, known as the Kirkland Downtown Action Team, to recommend policies to advance Kirkland’s Downtown area. This was a major undertaking supported by a team of consultants. In 2001, the Kirkland Downtown Action Team produced the *Kirkland Downtown Strategic Plan* (a copy of which is included as Attachment B). Among its important recommendations, the *Kirkland Downtown Strategic Plan* made recommendations for CBD-5 including adding the following policy:

Preserve the designation of the CBD-5 area as a Class A office district while allowing limited housing.

The *Kirkland Downtown Strategic Plan* was adopted by the City Council as Resolution #R-4294 on June 5, 2001 and was incorporated into the City’s Comprehensive Plan as Policy ED-6 in the 2004 Major Update to the City’s Comprehensive Plan. See Ord.3974 (Attachment C).

Every annual update to the Comprehensive Plan since 1997 has either left these core office policies for CBD-5 intact or adopted refinements that retained this significant policy directive.

For example, in the 2001 Annual Comprehensive Plan Update, the Moss Bay Neighborhood Plan was amended to read:

[The East Core Frame 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.

See Ord. 3809 (Attachment D). A new policy was also added in 2001 providing for “limited residential use” adjoining the eastern edge of Peter Kirk Park and only as a complementary use.

In 2008, when the Parkplace master plan was being approved, the City Council could have changed the remaining portions of CBD-5 to deemphasize office use outside of Parkplace, but they did not. Instead, the City Council updated the Moss Bay Neighborhood Plan in 2008

and continued to emphasize office use throughout the East Core Frame area, including the area owned by MRM. The 2008 updated policy language reads:

Because the [East Core Frame] area provides the best opportunities in the Downtown for creating a strong employment base, redevelopment for office use should be emphasized. Limited residential use should be allowed as a complementary use.

Ord. 4170 (Attachment E).

The Planning Commission should also recall that, on three prior occasions, former owners of the MRM property have unsuccessfully attempted to overturn the City's sound land use policies that emphasize office use on the MRM property. The most recent attempt was made by Quadrant in 2003, when Quadrant proposed a residential project in conjunction with a transit center. Quadrant's PAR, like the two PAR's that preceded it, was denied because it was inconsistent with the core policies that prohibit primary residential use in CBD-5. MRM's PAR deserves the same fate.

Policy Decisions Addressing Height in Design District 5

In 1997, the Downtown Neighborhood Plan was amended and maximum building heights were established for various Design Districts. In Design District 5 (which now includes CBD-5), the following height policy was established:

Building heights of two to six stories are appropriate in Design District 5. . . Buildings over two stories in height should be reviewed through a City Council process...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 the building mass above the third story.

Attachment A.

In 2001, during the annual Comprehensive Plan update, the heights in Design District 5 were lowered to a maximum of five stories. Council retained the same policy for limiting height to two stories without further review, but directed that review to take place with the Design Review Board instead of the City Council.

The 2004 major update to the Comprehensive Plan retained all of the height policies previously in effect.

During consideration of the Parkplace master plan, new height policies were added by the City Council specific to new Design District 5A, applicable only to Parkplace. The City Council expressly retained the same height policy (a maximum of three to five stories) for Design District 5. The policy language for Design District 5A provides important guidance that distinguished the Parkplace property from Design District 5 (where MRM's property is located). That policy language states:

[The Parkplace] property is distinguished from the remainder of Design District 5 by the following factors: it is a large parcel under common ownership; it is topographically distinct based on previous exaction ...; it has frontage on Central Way; and it contains a mix of uses not found on other office or residential only properties.

Ord. 4170 (Attachment E). The policy decision on why Parkplace was granted this unique increase in height continues in the 2008 Comprehensive Plan update with the following language:

Heights of up to eight stores are appropriate [for Parkplace] as an incentive to create a network of public open spaces around which is organized a dynamic retail destination. . . transformation of this district . . . into a pedestrian-oriented center . . . creating generous pedestrian paths, public spaces and gathering spaces.

No Changes Have Occurred in Downtown Kirkland to Justify Changing the Strong City Policies Emphasizing Office Use in CBD-5

Nothing has changed since the City Council's 2003 denial of Quadrant's PAR that suggest the need to revise City policies that require office use as the primary use on the MRM site. In fact, the changes that have occurred in Downtown Kirkland strengthen, not diminish, the need for these policies.

In past meetings, the Planning Commission has been presented with illustrations showing the significant multifamily development that has occurred in downtown Kirkland since 1990. Copies of these illustrations are included at Attachment F and G. These illustrations confirm that in zones where multifamily use and office use were both allowed, the development community responded clearly and consistently by building multifamily projects. Although City policies and zoning supported and anticipated a mix of residential and office development in the downtown area, because office development was not emphasized by strict policies and standards in most downtown zones, office opportunities throughout much of Downtown Kirkland have been lost.

Parkplace was approved for significant office development in 2008 but with major strings attached. While 1.2 million square feet and 592,700 square feet of commercial development was approved in the Parkplace master plan, the City conditioned the master plan so that office development could only be achieved by developing a significant retail component (a 4:1 ratio of office to retail was imposed by condition).

In 2009, the City commissioned a study of the retail capacity of downtown Kirkland based on the potential to capture retail demand. This report, known as the Downtown Kirkland Retail Strategy, was written by E.D. Hovee & Company LLC, Economic and Development Services (the "Hovee Report"). A copy of the summary section of the Hovee Report is included here as Attachment H. In the expert opinion of the authors, retail space in downtown Kirkland could increase by 150,000 square feet between 2008 and 2020 under a moderate capture scenario. The authors cautioned, however, that such a capture rate was far above the city's

“track record averaging less than 6,000 square feet of new retail construction annually since 1994.”

The latest news from the owners of Parkplace appears to confirm the accuracy of the Hovee Report – that there is a limited demand for retail in downtown Kirkland and the assumptions in the approved Parkplace master plan were overzealous.

The most recent articles on Parkplace are included as Attachments I and J. These articles confirm that the current owners of Parkplace are interested in a smaller development with less retail. While the details have yet to emerge, one could reasonably assume that the 150,000 square feet of additional retail capture, identified in the Hovee Report, will be the maximum amount of retail to be built at Parkplace. Given the required 4:1 office to retail ratio in the approved master plan, this translates into a maximum of 600,000 square feet of office – half the master planned amount.

Given these changes at Parkplace, now is NOT the time to change the policies and zoning in CBD-5. Strong office-focused policies for this core area are needed now more than ever.

MRM’s 8-Story Height Increase is Contrary to City Policy and Not Supported by the Policy Changes Approved for Parkplace

The unique height increase granted to Parkplace was an express exception to the City’s long standing height policies for downtown Kirkland and is inapplicable to the MRM property and to MRM’s planned development.

As noted above, several factors, not present for MRM’s site or proposal, lead the City Council to approve 8-story height limits for Parkplace. These differences were expressly articulated in the adopted Comprehensive Plan policy for Design District 5A, covering only Parkplace. These factors included the large size of the Parkplace parcel, its specific topographic conditions, its frontage on Central Way, and the specific commitments made by Parkplace and written into a binding “master plan” to develop a dynamic, pedestrian-oriented regional shopping center with generous pedestrian paths and public gathering spaces. The City Council expressly distinguished Design District 5A from Design District 5 by retaining the three to five story height limit policy for the MRM site and the rest of Design District 5.

MRM’s property has none of the unique features of Parkplace’s property or proposal. Nor do any of the potential public “benefits” that MRM has suggested that it might provide compare with the elements within the Parkplace binding master plan.

The MRM Proposal is Inconsistent with Multiple City Policies

The policy decisions noted in Table 1 above do not represent the only policies that MRM seeks to ignore or eviscerate. Table 2 below summarizes all of the applicable City Comprehensive Plan policies and explains why the MRM proposal is inconsistent with each.

**Table 2: Summary of MRM Inconsistencies
with Key Comprehensive Plan Polices**

	Key Policies	Compliance Analysis
Land Use Policies	<p><i>Policy LU-2.3: Ensure an adequate supply of housing units and commercial floorspace to meet the required growth targets through efficient use of land.</i></p> <p>... The City should monitor its existing residential and nonresidential capacity to determine how fast and where new growth is occurring and whether Kirkland can accommodate the required growth targets. (KCP VI-10)</p>	<p>Inconsistent.</p> <p>The MRM proposal provides excess housing units (which the city doesn't need to meet growth targets) while reducing the employment capacity of the site by more than 800 jobs and jeopardizing the city's ability to meet job growth targets.</p>
	<p><i>Policy LU-3.2: Encourage residential development within commercial areas.</i></p> <p>... Residential development within commercial areas should be compatible with and complementary to business activity. Residential use should not displace existing or potential commercial use. (KCP VI-12)</p>	<p>Inconsistent.</p> <p>The MRM proposal would do exactly what the guidance for this policy attempts to prevent – displacing existing and potential commercial uses with residential development.</p>
	<p><i>Policy LU-4.4: Consider neighborhood character and integrity when determining the extent and type of land use changes.</i></p> <p>... Community character is most clearly expressed through the Neighborhood Plans. (KCP VI-13)</p> <p><i>Development in the East Core Frame should be in large, intensively developed mixed-use projects.</i></p> <p>Because this area provides the best opportunities in the Downtown for creating a strong employment base, redevelopment for office use should be emphasized.... Limited residential use should be allowed as a complementary use. (XV.D-8)</p>	<p>Inconsistent.</p> <p>The MRM proposal is located in the East Core Frame. The Moss Bay Neighborhood Plan explicitly calls for limiting residential uses and emphasizing redevelopment for office use.</p> <p>The MRM proposal for a predominantly residential building is inconsistent with the established character of the East Core Frame.</p>
	<p><i>Policy LU-5.2: Maintain and strengthen existing commercial areas by focusing economic development within them and establishing development guidelines.</i></p> <p>The intent of this policy is that future economic development be concentrated in existing commercial areas. This concentration can help to maintain and strengthen these areas and also promote orderly and efficient growth that minimizes impacts and service expansion costs. Concentration also allows businesses to benefit from proximity to each other. (KCP VI-16)</p>	<p>Inconsistent.</p> <p>The MRM proposal weakens the concentration of office uses in the CBD-5 zone by exchanging existing (and potential) office development space for more residential units.</p>
	<p><i>Policy LU-6.2: Encourage and support locations for businesses providing primary jobs in Kirkland.</i></p> <p>Primary jobs bring dollars into the community and result in a higher per capita income for Kirkland residents. (KCP VI-20)</p>	<p>Inconsistent.</p> <p>The MRM proposal reduces the job capacity of the site by more than 800 jobs and exchanges current well-paying office jobs for low-paying retail jobs.</p>

	Key Policies	Compliance Analysis
Economic Development Policies	<i>Policy ED-1.1: Work to retain existing businesses and attract new businesses.</i>	Inconsistent. Attracting new businesses requires adequate space for new businesses to locate. Class A office space in downtown Kirkland is in high demand and eliminating it to make room for more condos is a move in the wrong direction.
	<i>Policy ED-1.5: Encourage clusters of complementary businesses.</i> ... Economic development efforts should strive to develop new business clusters and identify ways to strengthen existing clusters, both locally and within the region. (KCP VIII-6)	Inconsistent. The MRM proposal will negatively impact the existing cluster of Class A office buildings in the CBD-5 zone by removing existing office jobs and displacing future office development with residential units.
	<i>Policy ED-1.6: Strive to maintain a balance of jobs and housing.</i> ...In 2000, Kirkland's ratio of jobs to housing was approximately 1.5 (similar to the region as a whole). As growth occurs, Kirkland should strive to maintain this balance. (KCP VIII-6)	Inconsistent. According to the SEIS, Kirkland's jobs to housing ratio was just above 1.0 in 2006 but is projected to rise to 1.25 by 2031. Trading commercial space for residential space means trading jobs for housing units and is a move in the wrong direction.
	<i>Policy ED-2.4: Consider the economic effects on businesses and the economic benefit to the community when making land use decisions.</i> ...When considering commercial land use decisions, City decision makers should carefully evaluate the short- and long-term economic benefits to the community in addition to social, environmental and aesthetic concerns. Economic factors to consider may include such things as the number and type of new jobs created, the types of goods or services provided, and fiscal benefits that businesses will contribute to the community. (KCP VIII-7)	Inconsistent. The MRM proposal will impact the aesthetics and economics of the CBD. An 8-story building would be out of scale with surrounding development. Development of a predominantly residential building would significantly decrease the employment potential of the CBD-5 zone both in terms of absolute job capacity and in terms of job quality.
	<i>Policy ED-3.3: Encourage infill and redevelopment of existing commercial areas consistent with the role of each commercial area.</i> ...To maintain the land use capacity to support the local economy, it will be necessary to encourage full utilization of planned development potential within employment centers, monitor commercial development activity, and maintain efficient infrastructure systems. (KCP VIII-9)	Inconsistent. As discussed above in the land use section, the CBD-5 zone was intended to emphasize office development and restrict residential development. Redevelopment should be consistent with this established role of the East Core Frame.