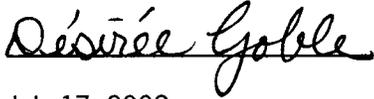




CITY OF KIRKLAND

Planning and Community Development Department
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ADVISORY REPORT FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Eric R. Shields, AICP, Planning Director
From:  Désirée Goble, AICP, Project Planner
Date: July 17, 2008
File: ZON06-00025 SABEGH STREAM AND BUFFER ENHANCEMENT PLAN

I. INTRODUCTION

A. APPLICATION

1. Applicant: Anthony Sabegh
2. Site Location: 10830 NE 68th St (see Attachment 1)
3. Request: Reduce the required stream buffer from 50 feet to 34 feet in width and install a culvert to provide access to the north side of the property (see Attachment 2). The proposal includes the following aspects: remove invasive species from the buffer, enhance the remaining buffer with native vegetation, widen the stream channel, re-grade the stream channel to accommodate existing flows and provide substrate, and install a gravel stream bed. The proposed project includes 5 detached buildings containing the following uses: residential, retail, auto sales, and an auto lube shop. The applicant has also indicated that some of the space may be developed for office use. Alternate uses consistent with the BC zone may be proposed with the building permit application.
4. Review Process: Process I, Planning Director decision for the requested stream buffer modification. The allowed use of the property is governed by R-2639 (see Section II.B., below)
5. Summary of Key Issues and Conclusions: Location of the culvert providing access to the area of the subject property located on the north side of the stream. Staff is recommending moving the driveway from the center of the property, as shown in the applicant's proposal, to the west side of the property. This issue is fully discussed in section II.F.2 of this report.

B. RECOMMENDATIONS

1. Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, I recommend approval of this application subject to the following conditions:
2. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This

attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed.

3. Trees shall not be removed or altered following zoning permit approval except as approved by the Planning Department. Attachment 3, Development Standards, contains specific information concerning tree retention requirements.
4. This case will be referred back to code enforcement if a Land Surface Modification (LSM) permit for the stream enhancement is not issued by July 1, 2009 and all work is completed by September 30, 2009 (see Conclusion II.B.2).
5. Dedicate a strip of land to the City along the property frontage on NE 68th Street that is 12 feet wide from the west property line to the east side of the proposed driveway; from the east side of the proposed driveway, the 12-foot wide dedication shall taper to 5 feet in width at the east property line to allow installation of a right turn lane and bike lane (see Conclusion II.G.1.b).
6. As part of the application for a Land Surface Modification or Building Permit the applicant shall:
 - a. Provide the funds necessary for an as-built inspection by a qualified 3rd party biologist for the stream reconstruction work (see Conclusion II.B.2).
 - b. Incorporate the changes to the bond worksheet as redlined by The Watershed Company into the approved stream and buffer enhancement plan (see Conclusion II.F.1.b).
 - c. The installation and maintenance of the mitigation plantings shall comply with the provisions of KZC 95.45.12 (see Conclusion II.F.1.b).
 - d. Relocate the driveway and pedestrian access to the west side of the property or submit written authorization from the adjoining property owner(s) to the west agreeing to the removal of the stream from the existing culvert (see Conclusion II.F.3.b and II.F.5.b).
 - e. Apply for a landscape buffer modification for the area located on the northwest side of the stream pursuant to requirements of KZC Section 95.40.6.j (see Conclusion II.G.2.b).
 - f. Show that the application complies with all zoning code criteria (i.e. parking, setbacks, height, landscaping, etc.) (see Conclusion II.G.4.b).
 - g. Install a six-foot high construction phase fence along the upland boundary of the entire stream buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities (see Attachment 3).
 - h. Submit a financial security device to cover the cost of completing the stream and stream buffer enhancement improvements. The security shall be consistent with the standards outlined in Zoning Code section 90.145 (see Conclusion II.F.3.b and II.G.6.b).
 - i. Submit a survey map and legal description showing the outline and dimensions of the Natural Greenbelt Protective Easement (see Conclusion II.G.7.b). The

map and legal description shall be prepared by a licensed surveyor. This information shall be provided on 8.5-inch by 11-inch paper and consist of the following.

- (1) The survey shall be located on the KCAS or plat bearing system and tied to known monuments.
 - (2) A metes and bounds legal description of the stream buffer located on the subject property showing all radii, internal angles, points of curvature, tangent bearings, and lengths of all arcs.
 - (3) Surveyor's certificate completed and seal signed.
 - (4) On a separate sheet, provide the legal description of the entire parcel.
- j. Submit a signed and notarized hold harmless agreement pertaining to the stream (see Conclusion II.G.8.b).
7. Prior to final inspection the applicant shall:
- a. Submit an as-built report and document any plan deviations for the stream reconstruction work (see Conclusion II.B.2).
 - b. Submit proof of a written contract with a qualified professional who will perform the monitoring and maintenance program outlined in Attachment 8.a (see Conclusion II.F.1.b).
 - c. The completion of the stream and stream buffer enhancement plan, the maintenance and monitoring work should be reviewed by the City's wetland consultant, the cost of which shall be borne by the applicant. Therefore, the applicant shall submit proof of a written contract with the City's stream/wetland consultant to cover the review of the final stream buffer plantings as well as the annual report prepared by the applicant's consultant for 5 years (see Conclusion II.F.1.b).
 - d. Complete all enhancement work in the stream and stream buffer and submit an as-built planting plan (see Conclusion II.F.1.b).
 - e. Install the required landscape buffer along the north, east, and west property lines complying with KZC Section 95.40.4 (see Conclusion II.G.2.b).
 - f. Submit a financial security device to cover the cost of monitoring and maintenance the stream and stream buffer enhancement improvements. The security shall be consistent with the standards outlined in Zoning Code section 90.145 (see Conclusion II.G.6.b).
 - g. Install between the upland boundary of all stream buffers and the developed portion of the site, either 1) a permanent three to four foot tall split rail fence, or 2) permanent planting of equal barrier value as proposed (see Attachments 3, 8.a and 9).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:

a. Facts:

- (1) Size: 21,785 per King County Assessor's information
- (2) Land Use: Unimproved
- (3) Zoning: Multifamily Residential with a minimum lot size of 3,600 square feet per unit (RM 3.6). The applicant has chosen to develop the property under the Business Commercial (BC) regulations, as allowed by Resolution 2639 (see Section II.B, below).
- (4) Terrain and Vegetation: Topography decreases as one moves from east to west and the lowest point on the site is close to the catch basin west of the stream on the west property line. There is an overall decrease of 12 feet from the southeast property corner to the catch basin an approximate grade change of 7.5 percent.

The survey indicates that trees number 3 and 4 are located on the subject property. The trunks of trees 1, 2, and 6 may straddle property line(s). Whenever trees straddle a property line both property owners must agree to a proposal to remove the tree. The applicant requested authorization to remove the Willow tree (tree #4) located within the stream buffer. The City Urban Forester reviewed the applicant's request and authorized turning the tree into a habitat tree (see Attachment 4). To date this tree has not been turned into a habitat tree. Much of the stream buffer is overgrown with Japanese knotweed, reed canary grass, evergreen blackberry, Scot's broom, a highly invasive non-native plant.

A Class B stream bisects the subject property approximately 160 feet north of the southwest property corner and flows from east to west. A Class B stream is a stream with perennial flow that does not support salmonids. The applicant is applying for a stream buffer modification and the ability to install a culvert to provide access to the northern portion of the property.

- b. Conclusions: Size, land use, zoning, terrain and vegetation are not constraining factors in the consideration of this application. The stream is a constraining factor in the consideration of this application and is fully discussed in Sections II.F through II.H of this report

2. Neighboring Development and Zoning:

a. Facts:

- (1) Properties to the north and east are zoned Multifamily Residential 3.6 (RM 3.6) and developed with multifamily residential uses.
- (2) Properties to the west are zoned Business Commercial (BC). There are three different uses/properties adjoining the subject property on the

west. A single-family residence is located north of the stream, a mixed-use building containing retail and office uses is south of the residence, and a retail structure is located on the southwest side.

- (3) Properties to the south across the NE 68th Street are zoned Professional Residential 3.6 (PR 3.6) and are developed with office buildings.
- (4) Property located at the southeast corner of NE 68th Street and 108th Ave NE is zoned BC and developed with a gas station

- b. Conclusion: Adjoining zoning and uses are not constraining factors in the consideration of this application.

B. HISTORY

1. Facts:

- a. Resolution R-2639 ("R-2639") ratified the settlement of certain lawsuits relating to the 1977 adoption of comprehensive plan and zoning ordinance amendments. R-2639 permitted each owner to develop their property even if that development would conflict with the 1977 actions, so long as the application fit within the special terms of the settlement (see Attachment 5).

R-2639 was adopted by the Kirkland City Council on July 16, 1979. R-2639 related to the zoning regulations that the City would apply to certain properties that were described in the Stipulation for Entry of Order, Judgment and Decree that was attached to R-2639.

The Stipulation for Entry of Order, Judgment and Degree identifies the property as "3. John Behey, et ux. V. Kirkland, No 829316." The property is allowed to develop as BC provided that the north side of the property provides at least a 15 foot wide landscaped buffer and the east side of the property provides at least a 10 foot wide landscape buffer, regardless of use.

The City shall apply the Kirkland Zoning Code as it exists at the time of a complete application (including the zoning shown on the current zoning map); except that if R-2639 provides for a result that is specifically inconsistent with the then current KZC, then R-2639 will prevail, but only to the extent of the specific inconsistency. For example, if a property is currently zoned RM but R-2639 allows it to be developed as BC, the applicant may choose to develop either under the RM regulations or under the BC regulations, but not under a combination of those chapters. The application will be subject to SEPA review and current environmental provisions of the KZC.

Only the first development of each of these properties is controlled by R-2639. "First development" here means the first time construction began or begins at the subject property subsequent to July 16, 1979. After a subject property is first developed, R-2639 shall be moot as to such property.

A development approved due to R-2639 but in conflict with current zoning shall be a "legal nonconformance" as that term is used in the KZC.

- b. The Planning Department received a complaint that on Saturday March 25, 2006, the stream had been relocated approximately three feet to the north. The Code Enforcement officer verified that unauthorized work had occurred within

the stream and issued a Cease and Desist Order on June 21, 2006.

On August 2, 2006, a Notice of Violation and Order to Correct was issued. It was agreed that Mr. Sabegh could apply for a stream buffer modification, provided that he include all of the elements of the Order to Correct as part of his application. A stream buffer modification application was submitted on August 15, 2006. However, the stream buffer modification proposal did not adequately address comments from the City's stream consultant, The Watershed Company, until November 14, 2007.

The applicant created a narrow but deeper channel than originally existed on the site prior to the violation. Therefore, the order to correct directed the property owner to restore the stream bed pursuant to the criteria of KZC section 90.120. Restoration of the stream channel was a requirement of the code enforcement action and The Watershed Company has recommended that the City require an as-built inspection by a qualified 3rd party biologist familiar with stream reconstruction prior to acceptance of the completed work. They also recommended that an as-built report document any plan deviations should be submitted for review prior to the inspection (see Attachment 9.d).

2. Conclusion: Resolution-2636 applies to initial construction on the subject property and allows the property to be developed as if it were zoned BC with specific minimum landscape buffers. Any proposed structures constructed under the BC regulations will be legal non-conforming structures once certificate of occupancy has been issued. The City has deferred action on the Notice of Violation issued on August 2, 2006 based on the understanding that the restoration work would be completed as part of this proposal. This case will be referred back to code enforcement if a Land Surface Modification (LSM) permit for the stream enhancement is not issued by July 1, 2009 and all work completed by September 30, 2009. The applicant should fund as-built inspection by a qualified 3rd party biologist familiar with stream reconstruction prior to acceptance of the completed stream channel work. An as-built report documenting any plan deviations should be submitted for review prior to the inspection (see Attachment 9.d).

C. STATE ENVIRONMENTAL POLICY ACT (SEPA)

1. Facts: A Mitigated Determination of Nonsignificance (MDNS) was issued on May 22, 2008 (see Attachment 6). The appeal and comment period expired June 5, 2008. The applicant submitted an appeal on June 4, 2008 regarding the requirement that the existing c-curb located in NE 68th Street be extended to the east side of the property and that vehicular access will be restricted to a right turn in and out of the property.
2. Conclusion: The SEPA appeal was filed in a timely manner and the hearing will be scheduled as soon as the appeal period has expired for the stream buffer modification request. If an appeal of the stream buffer modification is filed both appeals will be heard together before the Hearing Examiner.

D. CONCURRENCY

1. Facts: The Public Works Department has reviewed the application for concurrency. A concurrency test was passed for water, sewer, and traffic on March 27, 2007.
2. Conclusion: The applicant and City have passed the concurrency test.

E. PUBLIC COMMENT

1. Facts: Fourteen pieces of correspondence were received regarding this project (see Attachment 7). Below is a summary of the comments received by the Planning Department:
 - a. Stream: People expressed concern about potential uses that may result in harmful pollutants entering the stream and/or modified stream buffer.
 - b. Proposed uses: The property is zoned RM 3.6, yet the applicant is proposing a number of commercial uses. These uses are not allowed in the RM zone and are inappropriate for the site given surrounding uses.
 - c. Traffic: A number of commenter's have expressed concern about rush hour traffic congestion, proposed right-turn lane adjoining the subject property, bicycle lane, increase in "u-turns" at the intersection of NE 68th Street/6th Street South-108th Avenue Northeast, and at the property just east of the subject property. Queuing has also been identified as a concern for automobiles entering/exiting the property which may be exacerbated by the types of uses.
 - d. Dumpster Location: The original proposal indicated that the dumpster would be located on the southeast corner of the property and this generated concern about odor and potential hazardous waste.
 - e. Noise: The proposed uses may result loud noises in the early morning and late into the evening.
 - f. Lighting: The proposed auto sales may result in a high level of lighting on the subject property.
 - g. Trees: Some of the trees on the site include a weeping willow, cedars, pine, and pear which provide food and habitat for birds.
 - h. Flooding: Three flooding events have occurred at the dry cleaners located west of the subject property after the applicant dug out the stream channel.
 - i. Culvert: The driveway access to the north side of the stream should be relocated to the west side of the property to achieve the greatest benefit to the habitat.
2. Responses:
 - a. Stream: The applicant will be required to meet all building code requirements and storm water control requirements. Furthermore, all driving aisles and parking areas are required to be surrounded by a 6 inch high curb and all storm water will be conveyed to the storm water system (see Attachment 2).
 - b. Proposed uses: The history section of this report (Section II.B) explains that although this property is zoned RM 3.6 it has the ability to develop as Business Commercial (BC) or Multifamily Residential (RM). Since the application was originally submitted, a number of different alternatives have been considered by the applicant. The current proposal does not include a drive through hamburger-coffee stand that was previously proposed.
 - c. Traffic: Traffic issues have been addressed through the SEPA (see Section II.D

of this report and Attachment 6). The applicant is appealing the requirement that a “c-curb” be installed and traffic into and out of the property be restricted to a right turn only. All parties of record may participate in the SEPA appeal.

- d. Odor, dumpster location, lighting, noise: These issues are regulated by the zoning code and any proposal will need to comply with the requirements and are addressed in Attachment 3.
- e. Trees: The applicant has submitted an arborist report and will be required to retain as many trees as possible. The arborist report is included as Attachment 10, which has been reviewed by the City’s Urban Forester. The Urban Forester has determined that the Pear and Willow trees are not viable trees in fact the Willow tree was authorized to be turned into a habitat tree in December 2006 (see Attachment 4).
- f. Flooding: During recent heavy rainfalls, no additional flooding events have been reported. The applicant is required to restore the streambed in a manner that should address the flooding issues that previously occurred.
- g. Culvert: The location of the culvert is discussed in Sections II.F and H of this report.

F. APPROVAL CRITERIA

1. BUFFER MODIFICATIONS FOR CLASS B STREAM

a. Facts:

- (1) The stream on the subject property is a Class B stream located approximately 160 feet north of the south property line (see Attachment 2.a). The subject property is located in the Houghton Slope which is a secondary basin. A 50-foot stream buffer setback is required.
- (2) Zoning Code section 90.100.1.b allows stream buffers to be reduced through one of two means, either by buffer averaging or buffer reduction with enhancement. A combination of these two buffer reduction approaches can not be used. Stream buffers may not be reduced at any point by more than one-third of the standards in Kirkland Zoning Code 90.90.1.
- (3) The applicant is proposing the maximum buffer reduction allowed on both the north and south sides of the stream by enhancing the stream buffer. Reducing the required 50-foot stream buffer by 1/3rd results in a 33.5-foot buffer width.
- (4) The applicant submitted a Stream and Buffer Enhancement Plan prepared by Wetland Resources (see Attachment 8), which has been reviewed by the City’s consultant, The Watershed Company (see Attachment 9.a through 9.d). The applicant’s reports were revised to reflect most of The Watershed Company’s recommendations. See Attachment 8.a, pages 1 through 4.
- (5) Zoning Code Section 90.100.2 establishes nine decisional criteria for reducing a stream buffer. A stream buffer modification may only be granted when the proposal is consistent with all of the following:

- (a) Criterion 1: It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc. 1998).
 - (b) Criterion 2: It will not adversely affect water quality.
 - (c) Criterion 3: It will not adversely affect fish, wildlife, or their habitat.
 - (d) Criterion 4: It will not have an adverse effect on drainage and/or storm water detention capabilities.
 - (e) Criterion 5: It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions.
 - (f) Criterion 6: It will not be materially detrimental to any other property or to the City as a whole.
 - (g) Criterion 7: Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat.
 - (h) Criterion 8: All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate.
 - (i) Criterion 9: There is no practicable or feasible alternative development proposal that results in less impact to the buffer.
- b. Conclusion: Pursuant to the attachments included with this report, including the following: the applicant's proposed site plan, the buffer mitigation plan, the monitoring and maintenance plans, the applicant's response to the above buffer modification criteria (see Attachments 8.a), and the review letters/e-mail from the Watershed Company (see Attachments 9); the proposed buffer modification is consistent with the above criteria subject to the following conditions:
- (1) The bond quantity worksheet is updated to reflect the comments as outlined in Attachment 9.a.
 - (2) The installation and maintenance of the mitigation plantings should comply with the provisions of KZC 95.45.12. These specifications should be provided on the construction drawings.
 - (3) The applicant should submit proof of a written contract with a qualified professional who will perform the monitoring and maintenance program outlined in Attachment 8.a.
 - (4) The completion of the buffer enhancement plan, the maintenance and monitoring work should be reviewed by the City's wetland consultant, the cost of which should be borne by the applicant. Therefore, the applicant should submit proof of a written contract with the City's wetland consultant to cover the review of the annual report prepared by the applicant's consultant for 5 years.
 - (5) The enhancement plan should be completed and an as-built planting

plan should be submitted prior to the final inspection of any permits.

2. PLACEMENT OF A STREAM IN A CULVERT FOR AN ACCESS DRIVEWAY

a. Facts:

- (1) The applicant is proposing to install a culvert in the stream approximately 23 feet east of the west property line. Public Works will determine the actual length of the culvert but, it will be wide enough to support a 20-foot wide driving aisle and a 5-foot wide pedestrian walkway.
- (2) The applicant submitted a Stream and Buffer Enhancement Plan prepared by Wetland Resources (see Attachment 8.a and 8.b), which has been reviewed by the City's consultant, The Watershed Company (see Attachment 9.a through 9.d). The applicant's reports were revised to reflect most of The Watershed Company's recommendations. See Attachment 8.a, pages 4 through 6, and Attachment 8.b.
- (3) Zoning Code section 90.115 establishes two decisional criteria for allowing a stream to be put in a culvert. A culvert may only be installed when all of the following criteria have been met:
 - (a) Criterion 1: Placing the stream in a culvert is necessary to provide required vehicular, pedestrian, or utility access to the subject property. Convenience to the applicant in order to facilitate general site design shall not be considered.
 - (b) Criterion 2: The applicant submits a plan prepared by a qualified professional showing the culvert and implementation techniques that meet the following criteria
 1. There will be no adverse impact to water quality.
 2. There will be no adverse impact to fish, wildlife, and their habitat.
 3. There will be no increase in the velocity of stream flow, unless approved by the Planning Official to improve fish habitat.
 4. There will be no decrease in flood storage volumes.
 5. Neither the installation, existence, nor operation of the culvert will lead to unstable earth conditions or create erosion hazards.
 6. Neither the installation, existence, nor operation of the culvert will be detrimental to any other property in the area or to the City as a whole.

- b. Conclusions: Criteria 2.1, 2.3 through 2.5 are addressed by Wetland Resources (see Attachment 8.a) and The Watershed Company (see Attachment 9). Further discussion on Criterion 1 above, Criteria 2.2 and 2.6 is warranted and follows in Sections 3 through 5 below. Based on the following analysis, the application

meets the established criteria for placing a stream in a culvert, providing that the applicant follow all of the recommended conditions.

3. Criterion 1: Placing the stream in a culvert is necessary to provide required vehicular, pedestrian, or utility access to the subject property. Convenience to the applicant in order to facilitate general site design shall not be considered.

a. Facts:

- (1) The dimension of the area north of the stream is approximately 75 feet (north/south) by 90 feet (east/west). The applicant is proposing to construct a building that is 20 by 60 feet with parking for all of the uses on the site and a residential use above.
- (2) The Watershed Company's review letter dated September 22, 2006 recommended that the applicant explore a no-culvert option either by developing only on the southern portion of the site or by accessing the northern portion of the site via easements from adjoining properties. They concluded that, if the culvert is unavoidable, then its location should be changed to the western edge of the site to minimize the length of additional culvert needed and fragmentation of the existing stream and buffer habitat (see Attachment 9.d).
- (3) The applicant has not submitted any supporting documentation indicating that an attempt has been made to contact any of the adjoining property owners regarding gaining access to the northern portion of the subject property via an easement. However, the City has no authority to require that adjoining properties grant access rights to the subject property.
- (4) The applicant's stream biologist stated that moving the culvert to the west property line will result in an "unsafe, curvy road to access" the north side of the lot (see Attachment 8.b). The applicant has not provided documentation from a qualified professional (civil/traffic engineer) supporting this claim. Instead, the applicant has directed staff to have the Planning Director decide on the culvert location (see Attachment 8.a).
- (5) The applicant is proposing to install a new culvert to support a 20-foot wide driveway and 5 foot wide pedestrian pathway. This culvert would be located approximately 23 feet east of the west property line leaving approximately a 13-foot open stream segment between the driveway culvert and existing culvert (assuming the culvert will remain. This is discussed further in sections II.F.4 and II.F.5 below.) The property is approximately 90 feet wide and if the application is approved, as proposed, approximately 45 feet of the stream would be remain above grade.

- b. Conclusion: The portion of the property north of the stream contains approximately 6,750 square feet, a culvert/bridge is necessary to provide access to the north. The applicant has only considered site design in the placement of the culvert. The applicant should relocate the driveway to the west side of the property to minimize the amount of stream that will be located in a culvert. The applicant could redesign the project to locate the entire driveway and pedestrian access along the west property line.

4. Criterion 2.2: There will be no adverse impact to fish, wildlife, and their habitat.

a. Facts:

- (1) A 13-foot long culvert located on the property connects the stream to a catch basin located on the west property line. The survey indicates that the stream enters a culvert approximately 15 feet east of the west property line (see Attachment 2.d) and the site plan indicates that the culvert is approximately 20 feet east of the west property line (see Attachment 2.a). Staff confirmed, through a site visit, that the survey accurately depicts where the stream enters the culvert.
- (2) The proposed placement of the culvert fragments the open-channel section of the stream on the property and reduces its length more than necessary (see Attachment 11). Traveling from east to west along the stream there would be 37 feet of open stream, 25-foot wide culvert, 13 feet of open stream, and 15 feet of culvert/catch basin. The Watershed Company has stated that habitat fragmentation has an adverse impact on wildlife and habitat (see Attachment 9.d).
- (3) The mitigation planting areas shown to the west of the proposed access road would essentially be buffering a piped stream section. As such, they would offer little in the way of buffer functionality to either the piped section or the remaining open channel section upstream, now on the other side of the proposed access road.
- (4) Extending the existing culvert by the minimum length necessary and providing a road crossing along the west side of the site would allow the remaining, open-channel stream section to be restored and minimize fragmentation such that habitat is improved over what is currently in place (see Attachment 12). Traveling from east to west along the stream there would be 60 feet of open stream channel and 30 feet of culvert/catch basin.
- (5) Karen Walter, Watersheds and Land Use Team Leader, Muckleshoot Indian Tribe Fisheries Division (see Attachment 7.1) stated that "... the applicant should relocate the proposed culvert to the western portion of the site to provide access to the northern portion of the parcels. Nowhere in the materials could we find the applicant committing to this recommendation. This approach would minimize the project's impacts with respect to a needed stream crossing. Anything less will negate the buffer modification and cause additional adverse impacts to the affected stream that could be otherwise avoided."

- b. Conclusion: Allowing the proposal to proceed with the culvert in its proposed location would undermine any benefit of the enhanced stream buffer and would result in a fractured stream buffer habitat. The applicant should move the driveway to the west property line and leave a larger intact open stream channel and stream buffer on the east side of the property.

5. Criterion 2.6: Neither the installation, existence, nor operation of the culvert will be detrimental to any other property in the area or to the City as a whole.
- a. Facts:
- (1) The adjoining property to the west has submitted documentation of three flooding events occurring on June 12, 2006, September 19, 2006, and December 12, 2006.
 - (2) The applicant's proposal indicates that they are proposing to remove the existing culvert and daylight the stream. An existing structure located on the southwest side of the stream is located within the stream buffer (see Attachment 13). This attachment shows the location of a 50-foot wide buffer around the existing open channel. Removing the existing culvert would extend the western edge of the buffer approximately 13 feet further than shown on the attachment. The building setback extends an additional 10 feet beyond the stream buffer edge. Removal of the stream from the culvert will: increase buffers on the adjoining properties to the west; increase the non-conformance for the properties to the west; and, create a new non-conformance for the property to the southwest. It requires that the applicant get written approval from the affected property owners. Nothing has yet been submitted.
 - (3) Lengthening the existing culvert will reduce the stream buffer on the neighboring properties to the west.
- b. Conclusion: The applicant has not submitted the required statement signed by the owners of all affected properties, consenting to the buffer increase on to the properties to the west. Given the regulatory impacts of day lighting the stream, it is highly unlikely that the adjoining property owners would consent. Installing a new culvert does not address past flooding problems on the adjoining property.

2. GENERAL ZONING CODE CRITERIA

- a. Fact: Zoning Code section 145.45.2 states that a Process I application may be approved if:
- (1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - (2) It is consistent with the public health, safety, and welfare.
- b. Conclusion: The proposal complies with the criteria in section 145.45.2. It is consistent with all applicable development regulations (see Sections II.F through II.G) and the Comprehensive Plan (see Section II.H). In addition, it is consistent with the public health, safety, and welfare because it will provide infill housing, retail development, and protect the natural resources of the community through enhancement of the existing, degraded stream buffer.

G. DEVELOPMENT REGULATIONS

1. Provisions for Public and Semi-Public Land

- a. Facts: Zoning Code section 110.60 states that the Public Works Director may

require the applicant to make land available, by dedication, for new rights-of-way and utility infrastructure if this is reasonably necessary as a result of the development activity.

- (1) The City of Kirkland has an approved and funded CIP project to install improvements to the NE 68th Street/108th Avenue NE intersection. These improvements include a dedicated right-hand turn lane and bike lanes in the westbound direction on NE 68th Street from the east side of the subject property west toward 108th Avenue NE. The CIP project will require a right-of-way dedication from the subject property. The dedication will be 12-foot wide from the west property line to the east side of the proposed driveway; from the east side of the proposed driveway, the 12-foot wide dedication will taper to 5-foot in width at the east property line.
- (2) Public Works has stated that since the City is scheduled to build these street improvements, this development project will not be required to construct any street improvements along the NE 68th Street property frontage (see Attachment 3).

b. Conclusion: Pursuant to Zoning Code section 110.60, the applicant should dedicate the following: 12-foot wide from the west property line to the east side of the proposed driveway; from the east side of the proposed driveway, the 12-foot wide dedication should taper to 5-foot in width at the east property line.

2. Landscaping Requirements

a. Facts:

- (1) Zoning Code section 45.20 and 45.45 requires the uses proposed below to comply the landscape category shown below within the Business Commercial zone.

Proposed Use	Landscape Category	Building & Location on subject property	Adjoining Use	Buffer Standard
Vehicle or Boat Sales, Service, or Repair	A	Building A & B on the West	Retail	n/a
Retail Sales	B	Building C & D on the East	Medium Density Residential	1
Condo/Parking for uses on site	A	Building E on the North	West - Low Density Residential & North - Medium Density Residential	1

The east, north, and the area north of the stream on the west property lines are required to meet Buffering Standard 1. Zoning Code Section 95.40.6.a establishes that Buffering Standard 1 provide a 15-foot wide landscape strip, install a six foot high solid screening fence or wall, plant

one tree per 20 linear feet of land use buffer, at least 70 percent of trees shall be evergreen (see Attachment 14). The trees shall be distributed evenly throughout the buffer, spaced no more than 20 feet apart on center.

(2) Staff is recommending that the applicant request a landscape buffer modification from 15 feet to 5 feet in width from the property owner to the west in order to allow the pedestrian and vehicular access to be located along the west property line north of stream. This would reduce the length of additional culvert needed to provide access to the north part of the property. Kirkland Zoning Code section 95.40.6.j. regulates landscape buffer modifications. The applicant may request, and the Planning Official may approve, a modification of the requirements of the buffering standards of subsection (6) of this section if:

- (a) The owner of the adjoining property agrees to this in writing; and
- (b) The existing topography or other characteristics of the subject property or the adjoining property, or the distance of development from the neighboring property decreases or eliminates the need for buffering; or
- (c) The modification will be more beneficial to the adjoining property than the required buffer by causing less impairment of view or sunlight; or
- (d) The Planning Official determines that it is reasonable to anticipate that the adjoining property will be redeveloped in the foreseeable future to a use that would require no, or a less intensive, buffer; or

Staff's Response: A single-family residence is located on the adjoining property on the northwest side of the stream. There is a driveway and parking area between the house and subject property. The property owner has submitted a pre-submittal meeting request to discuss redevelopment of this property to a mixed-use building (general retail, office, and residential uses are being considered). King County Records indicate that the house was built in 1951 and the 2008 taxable value of improvements is 6,000 dollars. This property is zoned BC and any redevelopment of this site to a retail, commercial or mixed use project would eliminate the need for a landscape buffer on the subject property.

- (e) The location of pre-existing improvements on the adjoining site eliminates the need or benefit of the required landscape buffer.

b. Conclusion: The applicant should install the required landscape buffer along the north and east property lines that complies with KZC Section 95.40.4. The applicant should pursue a modification of the required landscape buffer located on the northwest side of the stream from 15 feet to 5 feet in width pursuant to requirements of KZC Section 95.40.6.j.

3. Natural Features - Significant Vegetation

a. Facts:

- (1) Regulations regarding the retention of trees can be found in Chapter 95 of the Kirkland Zoning Code. Tree removal will be considered at the land surface modification and building permit stages of development.
- (2) The applicant has submitted a Tree Plan II, prepared by a certified arborist. Specific information regarding the viability of each tree can be found in Attachment 10.

b. Conclusions: The applicant has provided a Tree Plan with the application and this plan has been reviewed by the City's Arborist. Except for the Willow, all viable trees are located within landscape buffers and should be retained.

4. Setbacks, Parking and other requirements

a. Facts: The applicant's site plan inaccurately depicts the stream buffer location, 10-foot building setback line from the modified stream buffer, and does not provide adequate information to determine if the proposed parking is sufficient to meet code requirement.

b. Conclusion: The applicant will need to show that the application complies with all zoning code criteria when submitting for a building permit.

5. Stream Buffer Setback

a. Facts: Zoning Code Section 90.90.2 requires that structures be set back at least 10 feet from the designated or modified stream buffer. The Planning Official may allow within this setback minor improvements that would have no potential adverse effect during their construction, installation, use, or maintenance to fish, wildlife, or their habitat or to any vegetation in the buffer or adjacent stream.

b. Conclusion: The application for a building permit should comply with the 10-foot building setback from the modified stream buffer.

6. Bonds And Securities

a. Fact: Zoning Code Section 90.145 established the requirement for the applicant to submit a performance or maintenance bond to ensure compliance with any aspect of the Drainage Basin regulations contained in Chapter 90 of the Kirkland Zoning Code or any decision or determination made pursuant to the chapter.

b. Conclusions:

(1) In order to ensure that the stream channel and stream buffer enhancement work is completed in compliance with the approved plans, prior to issuance of any permits for development activity on the site, the applicant should submit a financial security device to the Planning Department to cover the cost of completing the improvements. The security should be consistent with the standards outlined in Zoning Code Section 90.145.

(2) In order to ensure continued compliance with the stream channel and

stream buffer enhancement plan, prior to final inspection of any permits, the applicant should submit to the Planning Department a financial security device to cover all monitoring and maintenance activities that will need to be done including consultant site visits, reports to the Planning Department, and vegetation costs. The security shall be consistent with the standards outlined in Zoning Code Section 90.145.

7. Natural Greenbelt Protection Easement

- a. Fact: Zoning Code Section 90.150 requires the applicant to grant a greenbelt protection easement to the City to protect sensitive areas and their buffers. Land survey information shall be provided by the applicant for this purpose.
- b. Conclusion: Prior to issuance of any permits, the applicant should dedicate a Natural Greenbelt Protection Easement encompassing the stream and its buffer on the site (see Attachment 16). Boundaries of the Natural Greenbelt Protection Easement should correspond with the modified stream buffer and should be established by survey. All surveys shall be located on KCAS or plat bearing system and tied to known monuments.

8. Save Harmless Agreement

- a. Fact: Zoning Code Section 90.155 establishes that prior to issuance of a land surface modification permit or a building permit, whichever is issued first, the applicant shall enter into an agreement with the City that runs with the property, in a form acceptable to the City Attorney, indemnifying the City from any claims, actions, liability and damages to sensitive areas arising out of development activity on the subject property. This agreement shall be recorded with King County.
- b. Conclusion: The applicant should sign and notarize a covenant (see Attachment 17) that holds the City harmless against any future claims that may arise as a result of the development of the property.

H. COMPREHENSIVE PLAN

1. Facts:

- a. The subject property is located within the Everest neighborhood. Figure E-1 on page XV.E-2 designates the subject property for medium density residential with a maximum 12 dwelling units per acre (see Attachment 15).
- b. The comprehensive plan states that streams within the Everest Neighborhood should be, when necessary, rehabilitated to a natural condition to provide storage/flow of the natural drainage system, and natural amenities in the area.
- c. Policy NE-1.4 states: Proactively pursue restoration or enhancement of the natural environment. In addition, require site restoration if land surface modification violates adopted policy or development does not ensue within a reasonable period of time.

2. Conclusion: The subject property is proposing three dwelling units located above other commercial uses which below the maximum 12 dwelling units per acre. This proposal is the result of a code enforcement action and the applicant is proposing to rehabilitate the

stream and buffer.

I. DEVELOPMENT STANDARDS

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 3.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 3.

III. SUBSEQUENT MODIFICATIONS

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

IV. APPEALS AND JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for appeals. Any person wishing to file or respond to a appeal should contact the Planning Department for further procedural information.

A. APPEALS TO THE HEARING EXAMINER

Section 145.60 of the Zoning Code allows the Planning Director's decision to be appealed by the applicant or any person who submitted written comments or information to the Planning Director. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., August 11, 2008, twenty-one (21) calendar days following the postmarked date of distribution of the Director's decision.

B. JUDICIAL REVIEW

Section 145.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

V. LAPSE OF APPROVAL

Under Section 145.115 of the Zoning Code, the applicant must submit to the City a complete building permit application approved under Chapter 145, within four (4) years after the final approval on the matter, or the decision becomes void. Provided, however, that in the event judicial review is initiated per Section 145.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. Furthermore, the applicant must substantially complete the development activity approved under Chapter 145 and complete the applicable conditions listed on the Notice of Approval within six (6) years after the final approval on the matter, or the decision becomes void.

VI. APPENDICES

Attachments 1 through 14 are attached.

1. Vicinity Map
2. Applicants proposal
 - a. Site Plan, Sheet A 1.1
 - b. Elevation Drawings, Sheet 6.1
 - c. Elevation Drawings, Sheet 6.2
 - d. Survey

3. Development Standards
4. Authorization to convert the willow tree into a habitat tree
5. Resolution 2639
6. Mitigated Determination of Non-significance
7. Public Comment Letters
 - a. Bill Anspach, 934 6th St. S. #200, Kirkland, WA 98033
 - b. Toni Carpenter, 10834 NE 68th St. #B4, Kirkland, WA 98033
 - c. Louise Adams, 10832 NE 69th St. #A4, Kirkland, WA 98033
 - d. Matt Stitz, 10834 NE 68th St. #B3, Kirkland, WA 98033
 - e. Edmund Gwynne, 10530 NE 48th Pl., Kirkland, WA 98033
 - f. Matt Meisel, 10834 NE 68th St. #B6, Kirkland, WA 98033
 - g. Georgie Kilrain, 10832 NE 68th St. #A7, Kirkland, WA 98033
 - h. Jack Nichols, 10832 NE 68th St. #A2, Kirkland, WA 98033
 - i. Howard Shuman, 10832 NE 68th St. #A6, Kirkland, WA 98033
 - j. Margaret Bull, 6225 108th Pl. NE, Kirkland, WA 98033
 - k. Licia Howie, 10832 NE 68th St. #A5, Kirkland, WA 98033
 - l. Karen Walter, Muckleshoot Indian Tribe Fisheries Division, 39015 172nd Ave SE, Auburn, WA 98092
8. Stream and Buffer Enhancement Plan from Wetland Resources, Inc.
 - a. Final revision submitted November 1, 2007
 - b. Extracts from revision dated June 27, 2007
9. The Watershed Company Review letters
 - a. November 14, 2007 (e-mail)
 - b. October 17, 2007
 - c. July 23, 2007
 - d. May 4, 2007
 - e. September 22, 2006
10. Arborist Report
11. Applicant's Proposed Culvert Location and Resulting Buffers
12. Approximate Stream Buffer Location
13. Staff's Proposed Culvert Location and Resulting Buffers
14. Landscape Buffer Modification Criteria
15. Comprehensive Plan Map
16. Natural Greenbelt Protective Easement
17. Stream Hold Harmless Agreement

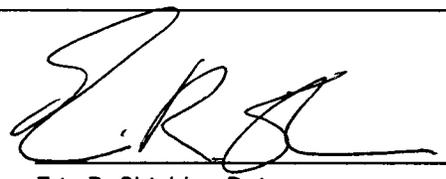
III. PARTIES OF RECORD

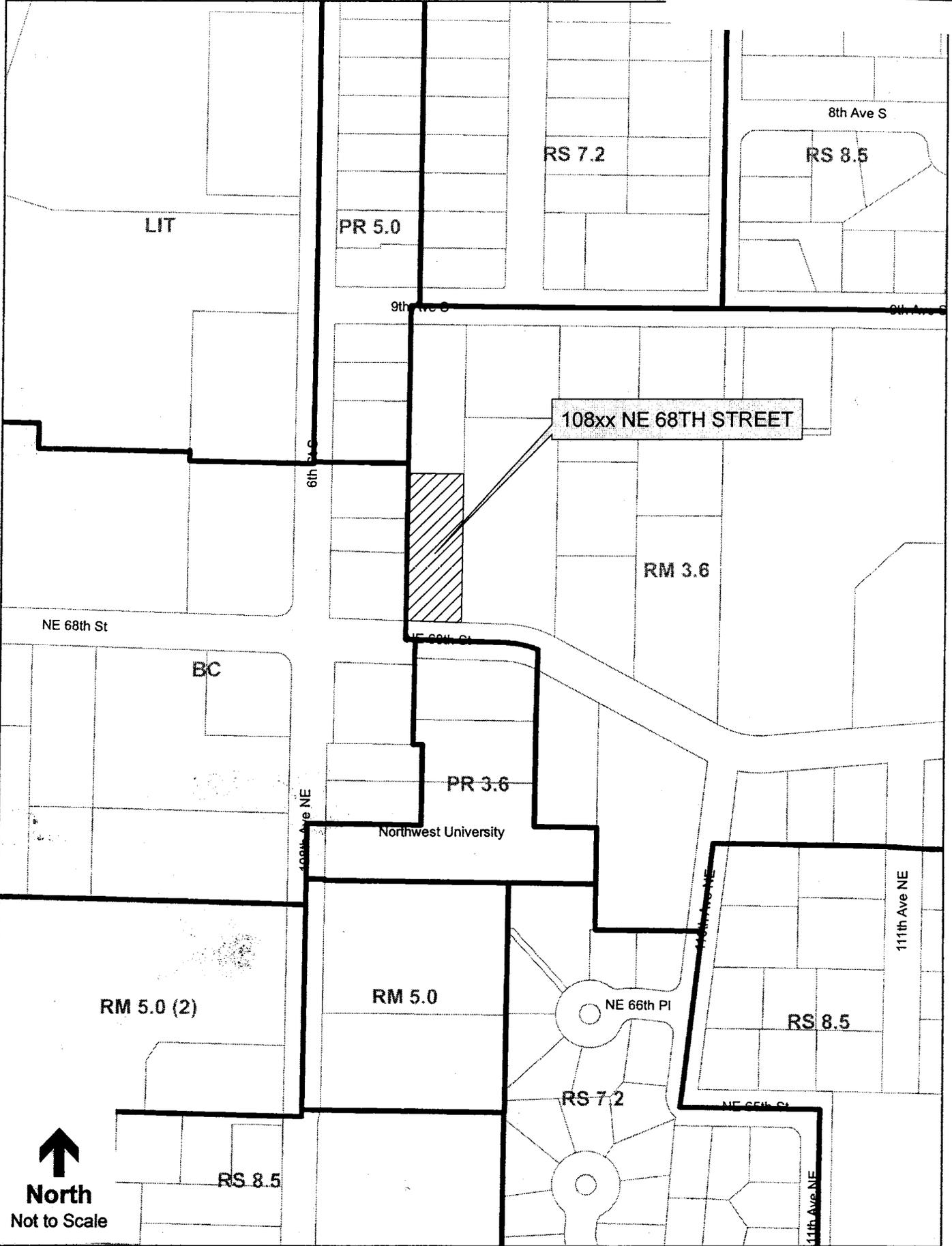
Anthony Sabegh, 6413 Lake Washington Boulevard N.E., Kirkland WA, 98033
Bill Anspach, 934 6th St. S. #200, Kirkland, WA 98033
Toni Carpenter, 10834 NE 68th St. #B4, Kirkland, WA 98033
Louise Adams, 10832 NE 69th St. #A4, Kirkland, WA 98033
Matt Stitz, 10834 NE 68th St. #B3, Kirkland, WA 98033
Edmund Gwynne, 10530 NE 48th Pl., Kirkland, WA 98033
Matt Meisel, 10834 NE 68th St. #B6, Kirkland, WA 98033
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Licia Howie, 10832 NE 68th St. #A5, Kirkland, WA 98033
Karen Walter, Muckleshoot Indian Tribe Fisheries Division, 39015 172nd Ave SE, Auburn, WA 98092
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Review by Planning Director:

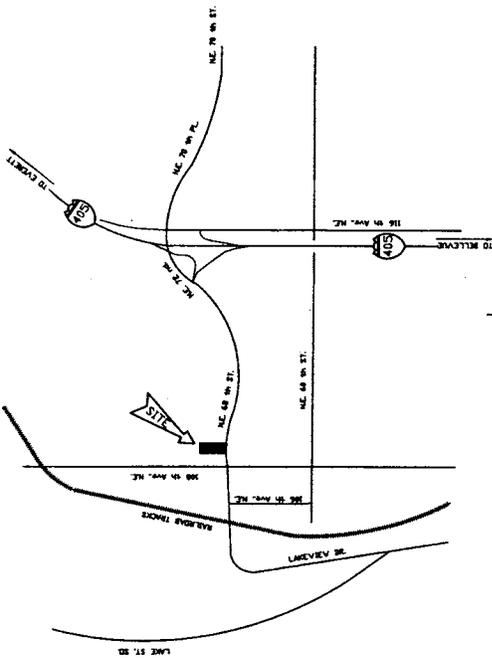
I concur I do not concur

Comments: _____

 7/17/08
Eric R. Shields Date




North
Not to Scale



VICINITY MAP
(CONT.)

LOT COVERAGE CALCULATIONS

TOTAL LOT AREA = 21,593 SQ. FT.

(AFTER SOUTH 1 FEET DEEDED TO CITY)

BUILDING FLOOR AREAS:

BLDG A,B,C,D

UPPER FLOOR: GROSS AREA = 1,650 SQ. FT.

TOTAL SQ FT 1,650 X 4 = 6,600 SF

DLDG A,B

LOWER FLOOR: GROSS AREA = 2,035 SQ. FT.

TOTAL SQ FT = 2,035 SF

DLDG E

UPPER FLOOR: GROSS AREA = 2,400 SQ. FT.

TOTAL SF 2,400

LOT COVERAGE BY PERCENTAGE:

BUILD GROSS AREA 4,500 SQ. FT.

DRIVEWAY GROSS AREA: 3,740 SQ FT

SIDEWALK GROSS AREA: 1,000 SQ FT

9,250.00

9,250.00 / 21,593.00 = 0.42 X 100 = 42.00 %

LEGAL DESCRIPTION

PARCEL NUMBER

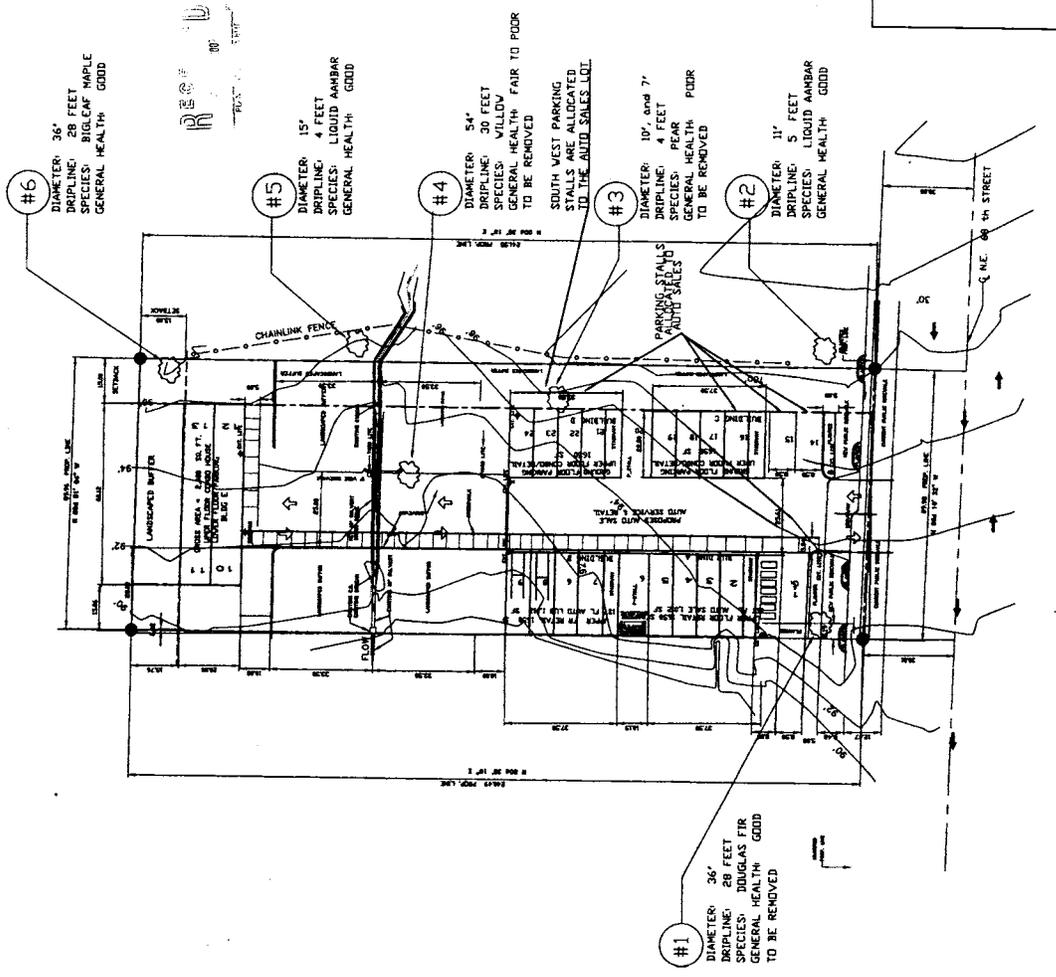
0825059081

SITE ADDRESS

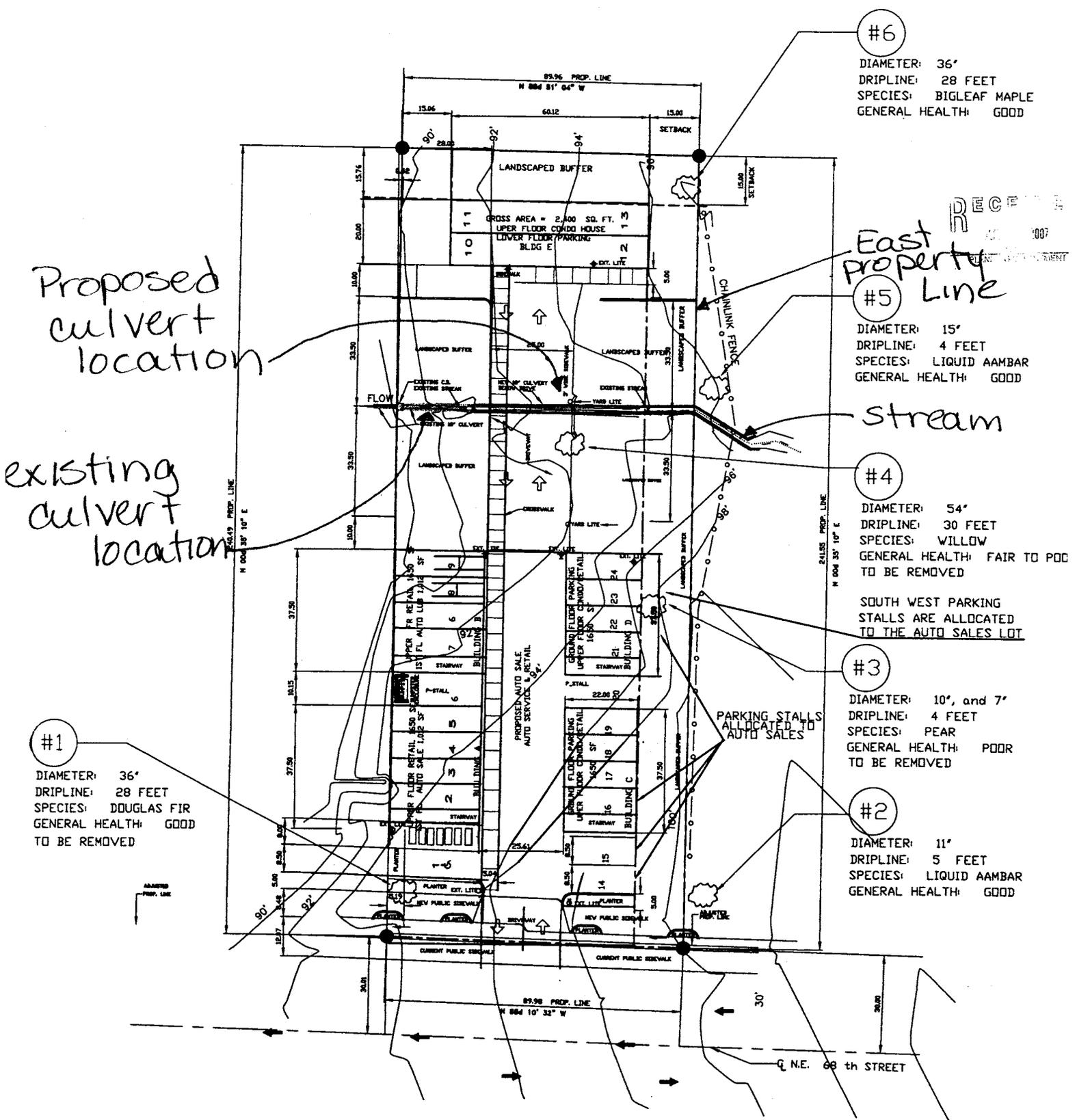
10850 N.E. 68TH STREET KIRKLAND 98033

PROPERTY OWNER

MARIAM SABEGH



SITE PLAN scale: 1" = 20'



Proposed culvert location

existing culvert location

#6
 DIAMETER: 36"
 DRIPLINE: 28 FEET
 SPECIES: BIGLEAF MAPLE
 GENERAL HEALTH: GOOD

East Property Line
 #5
 DIAMETER: 15"
 DRIPLINE: 4 FEET
 SPECIES: LIQUID AAMBAR
 GENERAL HEALTH: GOOD

stream

#4
 DIAMETER: 54"
 DRIPLINE: 30 FEET
 SPECIES: WILLOW
 GENERAL HEALTH: FAIR TO POOR
 TO BE REMOVED

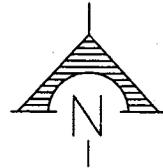
SOUTH WEST PARKING STALLS ARE ALLOCATED TO THE AUTO SALES LOT

#3
 DIAMETER: 10", and 7"
 DRIPLINE: 4 FEET
 SPECIES: PEAR
 GENERAL HEALTH: POOR
 TO BE REMOVED

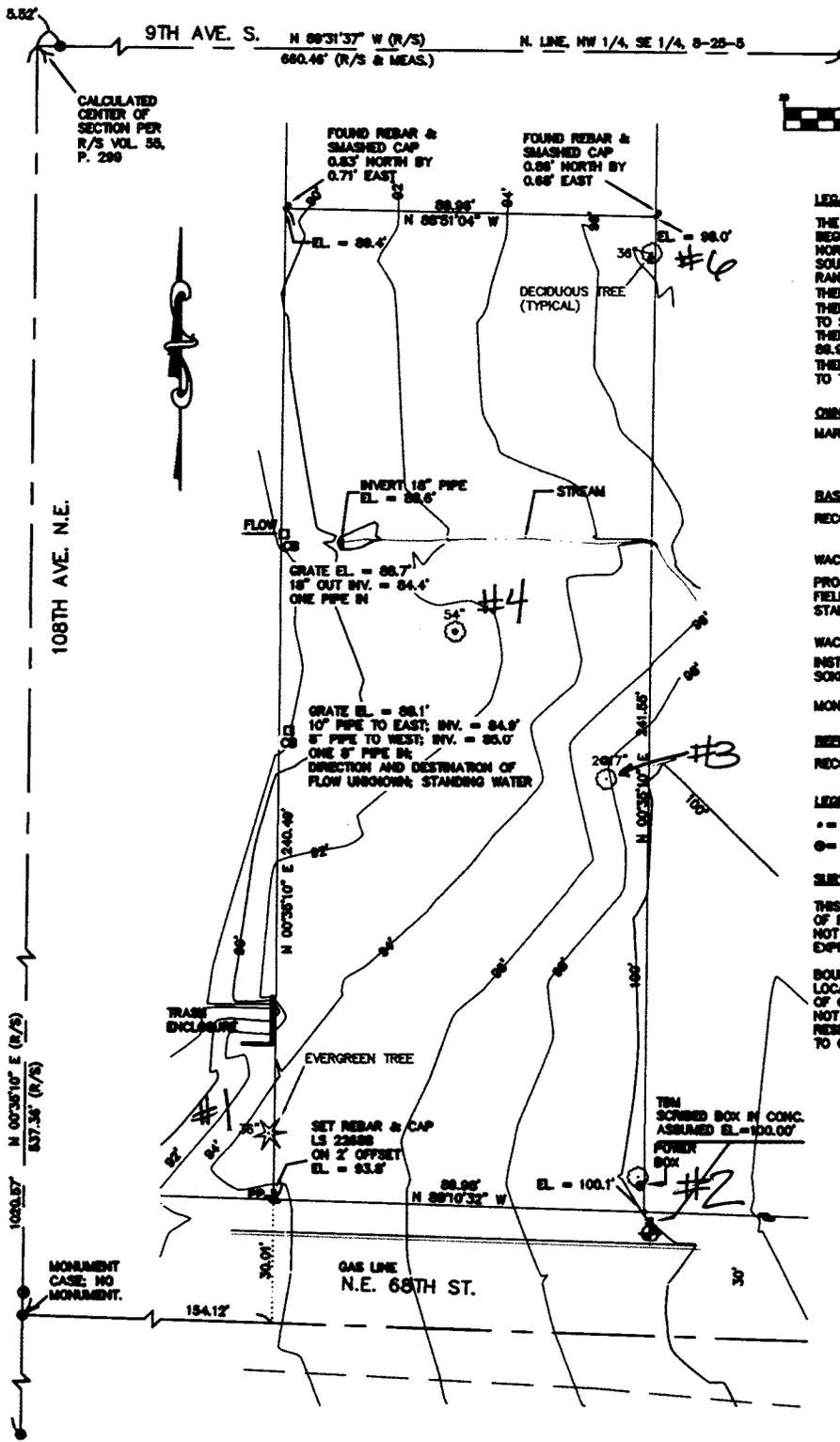
#2
 DIAMETER: 11"
 DRIPLINE: 5 FEET
 SPECIES: LIQUID AAMBAR
 GENERAL HEALTH: GOOD

#1
 DIAMETER: 36"
 DRIPLINE: 28 FEET
 SPECIES: DOUGLAS FIR
 GENERAL HEALTH: GOOD
 TO BE REMOVED

SITE PLAN scale: 1" = 20'



N.W. 1/4, S.E. 1/4, SECTION 8, TWP. 25 N., R. 5 E., W.M.



GRAPHIC SCALE



LEGAL DESCRIPTION

THE SOUTH ONE-HALF OF THE FOLLOWING DESCRIBED TRACT:
 BEGINNING 154.08 FEET EAST AND 30 FEET SOUTH OF THE
 NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE
 SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 25 NORTH,
 RANGE 5 EAST, W.M.;
 THENCE NORTH 89°36'02\"

OWNER
 MARIAN SABEGH

BASIS OF BEARING
 RECORD OF SURVEY, VOLUME 55, PAGE 290

WAC 332-130-080
 PROCEDURES USED IN THIS SURVEY WERE
 FIELD TRAVERSE, MEETING OR EXCEEDING
 STANDARDS SET BY WAC 332-130-080.

WAC 332-130-100
 INSTRUMENTATION FOR THIS SURVEY WAS A
 SOKKIA SET 3C 5 SECOND TOTAL STATION.

MONUMENTS LAST VISITED 10/9/2008.

REFERENCE
 RECORD OF SURVEY, VOLUME 55, PAGE 290

LEGEND
 * = SET REBAR & CAP LS22888
 ⊕ = CONCRETE MONUMENT FOUND

SURVEYOR'S NOTES
 THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE
 OF PARTIES WHOSE NAMES APPEAR HEREON ONLY, AND DOES
 NOT EXTEND TO ANY UNNAMED THIRD PARTIES WITHOUT
 EXPRESS RECERTIFICATION BY THE LAND SURVEYOR.

BOUNDARY LINES SHOWN AND CORNERS SET REPRESENT DEED
 LOCATIONS - OWNERSHIP LINES MAY VARY. NO GUARANTEE
 OF OWNERSHIP IS EXPRESSED OR IMPLIED. THIS SURVEY DOES
 NOT PURPORT TO SHOW ALL EASEMENTS, RESTRICTIONS,
 RESERVATIONS AND OCCUPATION WHICH MAY ENCUMBER TITLE
 TO OR USE OF THIS PROPERTY.



[Handwritten signature]

RECORD OF SURVEY
 FOR
 MARIAN SABEGH

SLB	10/9/2008	2008-088
JSD	1" = 20'	1 OF 1



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

DEVELOPMENT STANDARDS LIST

File: Sabegh Stream Buffer Modification, ZON06-00025

PLANNING DEPARTMENT

ZONING CODE STANDARDS

90.80 Streams. No land surface modification may take place and no improvements may be located in a stream except as specifically provided in this Section.

90.90 Stream Buffers. No land surface modification may take place and no improvement may be located within the environmentally sensitive buffer for a stream, except as provided in this Section.

90.95 Stream Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the entire stream buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities. Upon project completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either 1) a permanent three to four foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.100.3 Monitoring and Maintenance of Stream Buffer Modifications: Modification of a stream buffer will require that the applicant submit a 5-year monitoring and maintenance plan consistent with KZC section 95.55. This plan shall be prepared by a qualified professional and reviewed by the City's wetland consultant. The cost of the plan and the City's review shall be borne by the applicant.

90.125 Frequently Flooded Areas. No land surface modification may take place and no improvements may be located in a frequently flooded area, except as specifically provided in Chapter 21.56 of the Kirkland Municipal Code.

95.50.2.a Required Landscaping. All required landscaping shall be maintained throughout the life of the development. The applicant shall submit an agreement to the city to be recorded with King County which will perpetually maintain required landscaping. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City.

95.40.7.a Parking Area Landscape Islands. Landscape islands must be included in parking areas as provided in this section.

95.40.7.b Parking Area Landscape Buffers. Applicant shall buffer all parking areas and driveways from the right-of-way and from adjacent property with a 5-foot wide strip as provided in this section. If located in a design district a low hedge or masonry or concrete wall may be approved as an alternative through design review.

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

95.52 Prohibited Vegetation. Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

100.25 Sign Permits. Separate sign permit(s) are required. In JBD and CBD cabinet signs are prohibited.

105.18 Pedestrian Walkways. All uses, except single family dwelling units and duplex structures, must provide pedestrian walkways designed to minimize walking distances from the building entrance to the right of way and adjacent transit facilities, pedestrian connections to adjacent properties, between primary entrances of all uses on the subject property, through parking lots and parking garages to building entrances. Easements may be required.

In design districts through block pathways or other pedestrian improvements may be required. See also Plates 34 in Chapter 180.

105.32 Bicycle Parking. All uses, except single-family dwelling units and duplex structures with six or more vehicle parking spaces must provide covered bicycle parking within 50 feet of an entrance to the building at a ratio of one bicycle space for each twelve motor vehicle parking spaces. Check with Planner to determine the number of bike racks required and location.

105.18 Entrance Walkways. All uses, except single family dwellings and duplex structures, must provide pedestrian walkways between the principal entrances to all businesses, uses, and/or buildings on the subject property.

105.18 Overhead Weather Protection. All uses, except single family dwellings, multifamily, and industrial uses, must provide overhead weather protection along any portion of the building, which is adjacent to a pedestrian walkway.

105.18.2 Walkway Standards. Pedestrian walkways must be at least five feet wide; must be distinguishable from traffic lanes by pavement texture or elevation; must have adequate lighting for security and safety. Lights must be non-glare and mounted no more than 20 feet above the ground.

105.18.2 Overhead Weather Protection Standards. Overhead weather protection must be provided along any portion of the building adjacent to a pedestrian walkway or sidewalk; over the primary exterior entrance to all buildings. May be composed of awnings, marquees, canopies or building overhangs; must cover at least five feet of the width of the adjacent walkway; and must be at least eight feet above the ground immediately below it. In design districts, translucent awnings may not be backlit; see section for the percent of property frontage or building facade.

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

105.20 Required Parking. The applicant shall show any proposal complies with the applicable parking standards are required for proposed uses.

105.65 Compact Parking Stalls. Up to 50% of the number of parking spaces may be designated for compact cars.

105.60.2 Parking Area Driveways. Driveways which are not driving aisles within a parking area shall be a minimum width of 20 feet.

105.60.3 Wheelstops. Parking areas must be constructed so that car wheels are kept at least two feet from pedestrian and landscape areas.

105.60.4 Parking Lot Walkways. All parking lots which contain more than 25 stalls must include pedestrian walkways through the parking lot to the main building entrance or a central location. Lots with more than 25,000 sq. ft. of paved area must provide pedestrian routes for every three aisles to the main entrance.

105.77 Parking Area Curbing. All parking areas and driveways, for uses other than detached dwelling units must be surrounded by a 6-inch high vertical concrete curb.

105.96 Drive Through Facilities. See section for design criteria for approving drive through facilities.

110.52 Sidewalks and Public Improvements in Design Districts. See section, Plate 34 and public works approved plans manual for sidewalk standards and decorative lighting design applicable to design districts.

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

115.45 Garbage and Recycling Placement and Screening. All garbage receptacles and dumpsters must be

setback from property lines, located outside landscape buffers, and screened from view from the street, adjacent properties and pedestrian walkways or parks by a solid sight-obscuring enclosure.

115.47 Service Bay Locations. All uses, except single family dwellings and multifamily structures, must locate service bays away from pedestrian areas. If not feasible must screen from view.

115.50 Glare Regulation. Any artificial surface which produces glare which annoys; injures; endangers the comfort, repose, health or safety of persons; or in any way renders persons insecure in life, or in the use of property, is a violation of this code.

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

115.85 Lighting Regulations. All interior and exterior lighting in any zone must comply with this section. Energy-efficient light sources shall be used in any development and light sources shall be placed and directed so that glare produced by any light source does not extend to adjacent properties or to the right-of-way.

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

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

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

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

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

115.115.d Driveway Setbacks. Parking areas and driveways for uses other than detached dwelling units, attached and stacked dwelling units in residential zones, or schools and day-cares with more than 12 students, may be located within required setback yards, but, except for the portion of any driveway which connects with an adjacent street, not closer than five feet to any property line.

115.120 Rooftop Appurtenance Screening. New or replacement appurtenances on existing buildings shall be surrounded by a solid screening enclosure equal in height to the appurtenance. New construction shall screen rooftop appurtenances by incorporating them in to the roof form.

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

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

Prior to issuance of a grading or building permit:

90.95 Stream Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the entire stream buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities. Upon project

completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either 1) a permanent three to four foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.145 Bonds. The applicant shall submit a performance bond and/or a perpetual landscape maintenance agreement to ensure compliance with any aspect of the Drainage Basins chapter or any decision or determination made under this chapter.

90.150 Natural Greenbelt Protective Easement. The applicant shall submit for recording a natural greenbelt protective easement, in a form acceptable to the City Attorney, for recording with King County (see Attachment 16).

90.155 Liability. The applicant shall enter into an agreement with the City which runs with the property, in a form acceptable to the City Attorney, indemnifying the City for any damage resulting from development activity on the subject property which is related to the physical condition of the stream, minor lake, or wetland (see Attachment 17).

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

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

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

Prior to occupancy:

90.145 Bonds. The City shall require a monitoring and maintenance bond ensure compliance with any aspect of the Drainage Basins chapter or any decision or determination made under this chapter.

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

95.50.2.a Required Landscaping. All required landscaping shall be maintained throughout the life of the development. The applicant shall submit an agreement to the city to be recorded with King County which will perpetually maintain required landscaping. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City.

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

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

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

PUBLIC WORKS DEPARTMENT

GENERAL CONDITIONS:

1. All public improvements associated with this project including street and utility improvements, must meet the City of Kirkland Public Works Pre-Approved Plans and Policies Manual. A Public Works Pre-Approved Plans and Policies manual can be purchased from the Public Works Department, or it may be retrieved from the Public Works Department's page at the City of Kirkland's web site at www.ci.kirkland.wa.us.
2. This project will be subject to Public Works Permit and Connection Fees. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The fees can also be review the City of Kirkland web site at www.ci.kirkland.wa.us. The applicant should anticipate the following fees:
 - Water and Sewer connection Fees (paid with the issuance of a Building Permit)
 - Side Sewer Inspection Fee (paid with the issuance of a Building Permit)
 - Water Meter Fee (paid with the issuance of a Building Permit)
 - Right-of-way Fee
 - Review and Inspection Fee (for utilities and street improvements).
 - Traffic Impact Fee (paid with the issuance of Building Permit). For additional information, see notes below.
3. Concurrency review is required for this project. Contact Thang Nguyen, Public Works Transportation Engineer, at 425-587-3869 to complete the concurrency process.
4. Building Permits associated with this proposed project will be subject to the traffic impact fees per Chapter 27.04 of the Kirkland Municipal Code. The impact fees shall be paid prior to issuance of the Building Permit(s).
5. All civil engineering plans which are submitted in conjunction with a building, grading, or right-of-way permit must conform to the Public Works Policy titled ENGINEERING PLAN REQUIREMENTS. This policy is contained in the Public Works Pre-Approved Plans and Policies manual.
6. All street improvements and underground utility improvements (storm, sewer, and water) must be designed by a Washington State Licensed Engineer; all drawings shall bear the engineers stamp.
7. All plans submitted in conjunction with a building, grading or right-of-way permit must have elevations which are based on the King County datum only (NAVD 88).
8. A completeness check meeting is required prior to submittal of any Building Permit applications.
9. Prior to issuance of any commercial or multifamily Building Permit, the applicant shall provide a plan for garbage storage and pickup. The plan shall be approved by Waste Management and the City.

SANITARY SEWER CONDITIONS:

1. The existing sanitary sewer main within the public right-of-way along the front of the property is adequate to serve the proposed project.
2. Extend a 6-inch side sewer stub to serve the new buildings.

WATER SYSTEM CONDITIONS:

1. The existing water main in the public right-of-way along the front of the subject property is adequate to serve this proposed development.
2. Provide water service to the buildings sized per the Uniform Plumbing Code. Mixed use projects shall have separate water meters for each type of use, i.e., a separate water meter for retail use and a separate water meter for residential use.

3. Provide fire hydrants per the Fire Departments requirements.

SURFACE WATER CONDITIONS:

1. Provide temporary and permanent storm water control per the 1998 King County Surface Water Design Manual. Level 1 detention will be allowed if the storm water is discharged to the system in NE 68th Street, or to the pipe at the west property line. If the parking and driving areas exceed 5000 sq. ft., provide water quality treatment per the same manual.
2. See separate memorandum from Stacey Rush, PE, Surface Water Engineer, date April 23, 2007 regarding special drainage requirements for this site.
3. The Department of Fisheries must review and approve the project (HPA Permit).
4. Storm detention calculations for the entire site are required.
5. All roof and driveway drainage must be tight-lined to the storm drainage system.
6. Provide a plan and profile design for the storm sewer system.
7. Provide an erosion control plan with Building or Land Surface Modification Permit application. The plan shall be in accordance with the 1998 King County Surface Water Design Manual.
8. Construction drainage control shall be maintained by the developer and will be subject to periodic inspections. During the period from April 1 to October 31, all denuded soils must be covered within 15 days; between November 1 and March 31, all denuded soils must be covered within 12 hours. If an erosion problem already exists on the site, other cover protection and erosion control will be required.

STREET AND PEDESTRIAN IMPROVEMENT CONDITIONS:

1. The subject property abuts NE 68th Street. Zoning Code sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:
 - A. The City of Kirkland will be installing a dedicated right-hand turn lane and bike lanes in the westbound direction on NE 68th Street in front of this property and west toward 108th Ave. NE. This project will require a right-of-way dedication from this subject property. The dedication will be 12 ft wide from the west property line to the east side of the proposed driveway; from the east side of the proposed driveway, the 12 ft wide dedication shall taper to 5 ft in width at the east property line.
 - B. Because the City is scheduled to build these street improvements, this development project will not be required to construct any street improvements along the NE 68th Street property frontage.
 - C. This development will receive a traffic impact fee credit for the dedicated right-of-way; the value of the credit will be based on the value of the dedicated right-of-way. If the value of the traffic impact fees exceeds the value of the right-of-way dedication, the development project shall pay the difference.
2. A 2-inch asphalt street overlay will be required where more than three utility trench crossings occur with 150 lineal ft. of street length or where utility trenches parallel the street centerline. Grinding of the existing asphalt to blend in the overlay will be required along all match lines.
3. A c-curb shall be installed in NE 68th Street to restrict left-turn movements.
4. It shall be the responsibility of the applicant to relocate any above-ground or below-ground utilities which conflict with the project associated street or utility improvements.
5. Underground all new and existing on-site utility lines and overhead transmission lines.
6. Zoning Code Section 110.60.9 establishes the requirement that existing utility and transmission (power, telephone, etc.) lines on-site and in rights-of-way adjacent to the site must be underground. The Public Works Director may determine if undergrounding transmission lines in the adjacent right-of-way is not feasible and defer the undergrounding by signing an agreement to participate in an undergrounding project, if one is ever proposed. In this case, the Public Works Director has determined that undergrounding of existing overhead utility on NE 68th Street is not feasible at this time and the undergrounding of off-

site/frontage transmission lines should be deferred with a concomitant agreement or LID No Protest Agreement.

BUILDING DEPARTMENT

1. Given the preliminary nature of the drawings submitted, a thorough plan review was not possible; however the following concerns were identified.
2. Fire-resistive rated wall construction would be required based on the type of construction, use and distance from property line of each wall of each building per IBC Table 602. Other fire rated construction might be required per IBC Table 601.
3. No openings would be allowed where a building wall is 3' or less from a property line. As this distance increases beyond 3', the amount of allowed openings increases according to IBC Table 704.8 depending on whether the openings are protected or if the building is sprinklered.
4. A clear path of exit discharge from each building to the public way is not identified. A clear accessible route from the public way to each building is not identified. The barrier free parking stalls access aisles do not appear to connect to all buildings.
5. Given the overall complexities of this project, design professionals registered in the State of Washington should be consulted to help document a code compliant design. An intake meeting will be required to determine completeness for submitting for a building permit application.

FIRE DEPARTMENT

1. It is difficult to determine exactly what is proposed from the sketch provided. General fire department requirements include but may not be limited to:
 - 20 foot wide paved, unobstructed fire department access shall be provided to within 150 feet of the back of the property. The access shall meet the requirements of Kirkland Fire Department Operating Policy 6.
 - Any building over 5,000 square feet will be required to be provided with a fire sprinkler system and a fire alarm system; any building which contains a combination of residential and other use, which is not constructed under the IRC, will also require fire sprinklers.
 - Fire extinguishers are required for any commercial building.
 - One additional hydrant is required to be installed on the right of way, across from the property. The hydrant will be required to be equipped with a 5" Stortz fitting. Note: Sprinklering of buildings does not alleviate requirement for hydrants. (See Operating Policy 4) Available fire flow is adequate for development (approximately 2,400 gpm).
2. You can review your permit status and conditions at www.kirklandpermits.net

Desiree Goble

Exhibit A
APL08-00006 & APL08-00009
ATTACHMENT 4
ZON06-00025

From: Desiree Goble
Sent: Thursday, December 21, 2006 3:36 PM
To: 'Sabegh, Anthony A'
Subject: Willow Tree

Mr. Sabegh,

During a prior conversation, you mentioned that you would like to remove the willow tree on your property. Stacy Ray, Urban Forester, and I reviewed the information that we received from your arborist and then we conducted a site visit to inspect the tree. We agree that the upper portion of the tree should be cut. Below is a photo of the tree with a red line indicating the point where the tree should be cut. The red "X"s indicate the portions of the tree that can be removed. Everything below the red line should remain as a snag. There are also two broken limbs on the right side of the photo that should be cut to reduce any future hazard. The limb segments to the left of the black lines in the photo below should remain. The black "X" indicates the portion of the limbs that can be removed. Please understand that the remaining trunk (from the ground up approximately 30 feet) shall remain as a habitat tree since this tree is located within a stream buffer. If you have any questions please feel free to call.

Désirée Goble, AICP
Planner



Desiree Goble, AICP
Planning and Community Development
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

e-mail: dgoble@ci.kirkland.wa.us
Phone: 425.587.3251
Fax: 425.587.3232



CITY OF KIRKLAND

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

MEMORANDUM

To: Interpretation No. 04-1
From: Eric R. Shields, AICP
Planning Director 
Date: March 11, 2004
Subject: EFFECT OF RESOLUTION R-2639 ON VARIOUS PROPERTIES

ISSUE

Does R-2639 still affect the zoning regulations applicable to specific properties?

INTERPRETATION

Short Answer. R-2639 will have potential future effect only as to a property that has neither been rezoned nor developed since 1979.

Details. Resolution R-2639 ("R-2639") was adopted by the Kirkland City Council on July 16, 1979. R-2639 related to the zoning regulations which the City would apply to certain properties that were described in the Stipulation for Entry of Order, Judgment and Decree that was attached to R-2639. This Interpretation will identify the zoning regulations that apply to those certain properties at this time and will clarify the possible future effect of R-2639.

The following general rules will apply to processing applications concerning these properties:

- A. The City shall apply the Kirkland Zoning Code as it exists at the time of a complete application (including the zoning shown on the current zoning map); except that if R-2639 provides for a result that is specifically inconsistent with the then current KZC, then R-2639 will prevail, but only to the extent of the specific inconsistency. For example, if a property is currently zoned RM but R-2639 allows it to be developed as BC, the applicant may choose to develop either under the RM regulations or under the BC regulations, but not under a combination of those chapters. The application will be subject to SEPA review and current environmental provisions of the KZC.
- B. If one of these properties is or was rezoned subsequent to July 16, 1979, then R-2639 shall be moot (of no further effect) as to such property.

- C. In the event that a PUD is or was approved for one of these properties subsequent to July 16, 1979, thereafter R-2639 shall be moot as to such property.
- D. Only the first development of each of these properties is controlled by R-2639. "First development" here means the first time construction began or begins at the subject property subsequent to July 16, 1979. After a subject property is first developed, R-2639 shall be moot as to such property.
- E. A development approved due to R-2639 but in conflict with current zoning shall be a "legal nonconformance" as that term is used in the KZC.

Below are my conclusions as to the current status of the properties that were affected by R-2639:

- 1. Park Place – southwest corner of Central Way & 6th Street. R-2639 is moot.
- 2. Houghton Townhomes – 9th Avenue South & 8th Street South. R-2639 is moot.
- 3. John and Betty Behey property (Parcel 082505-9081). First development of the subject property may be as if it is zoned "BC", so long as there is installation of a landscaped buffer 15 feet in width along the north line and 10 feet in width along the east line of the subject property.
- 4. 5910 and 5918 Lake Washington Boulevard NE. R-2639 is moot.
- 5. Houghton Park & Ride – NE 70th Place. & 116th Avenue NE. R-2639 is moot.
- 6. Sablewood – 4800 block of 116th Avenue NE. R-2639 is moot.
- 7. Jaclyn Wold property. To avoid confusion, a property owned by Jaclyn Wold was mentioned in documents attached to R-2639, but R-2639 never had any effect on that property.
- 8. Yarrow Village – NE Points Drive. R-2639 is moot.
- 9. PLA 5C – 4th & 5th Avenues. R-2639 is moot.
- 10. Kirkland Place – PLA 5D, 5th Avenue. R-2639 is moot.
- 11. Pointe Vista Townhomes and Water Touch Condominiums – Lake Washington Boulevard NE between NE 63rd and NE 64th Streets. R-2639 is moot.

ANALYSIS

R-2639 ratified the settlement of certain lawsuits relating to the 1977 adoption of comprehensive plan and zoning ordinance amendments. R-2639 permitted each owner to develop their property even if that development would conflict with the 1977 actions, so long as the application fit within the special terms of the settlement. The settlement did not reverse or vacate the 1977 rezones and other effects of the 1977 ordinances and except as specified in the settlement, the properties remained subject to the KZC and other land use and environmental regulations. The settlement did not permanently freeze the regulations that would apply to plaintiffs' properties. For example, the settlement specified that it did not limit the authority of the City to enact other or future regulations affecting the land use of the properties.

Consequently, R-2639 was intended to be a kind of one-time offer. The terms of the resolution apply only to the first development on the property. Since many of the properties have since been developed (some under the terms of the resolution, others not), the resolution is no longer applicable to those properties. It stands to reason, however, that projects developed under the resolution, and which as a result do not conform to a particular aspect of the current zoning, should be treated as though they are legally nonconforming.

Interpretation 04-1
March 11, 2004
Page 3

Also, because the resolution did not bind the City from subsequently rezoning or changing the zoning regulations pertaining to any of the properties covered by the settlement, such subsequent actions are applicable to the properties. Rezones and approved PUDs have the effect of totally superceding the settlement terms. Likewise, changes to zoning regulations establishing new development standards also apply to the properties.

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



DETERMINATION OF NONSIGNIFICANCE (DNS) .

CASE #: SEP08-00009

DATE ISSUED: 5/22/2008

DESCRIPTION OF PROPOSAL

Zoning permit to reduce the required stream buffer from 50 feet to 34 feet in width; install a culvert in order to cross the stream; restore the stream by widening the channel, changing the grade and installing a gravel stream bed. The proposed project includes 5 detached buildings containing the following uses: residential, retail, office, auto sales, and an auto lube shop.

PROPONENT: ANTHONY SABEGH

LOCATION OF PROPOSAL

LOCATED EAST OF 7-11 LOCATED ON THE NE CORNER OF 6TH ST S & NE 68TH ST.

LEAD AGENCY IS THE CITY OF KIRKLAND

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

This DNS is issued under 197-11-340 (2); the lead agency will not act on this proposal for 14 days from the date above. Comments must be submitted by 5:00 p.m. 6/5/2008

Responsible official:

5/22/08

Eric Shields, Director
Department of Planning and Community Development
425-587-3225

Date

Address: City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

You may appeal this determination to the Planning Department at Kirkland City Hall, 123 Fifth Avenue, Kirkland, WA 98033 no later than 5:00 p.m., June 05, 2008 by WRITTEN NOTICE OF APPEAL.

You should be prepared to make specific factual objections. Contact the Planning Department at 425-587-3225 to read or ask about the procedures for SEPA appeals.

Please reference case # SEP08-00009.

Publish in the Seattle Times (date): _____

Distribute this form with a copy of the checklist to the following:

- Environmental Review Section, Department of Ecology,
P.O. Box 47703, Olympia, WA 98504-7703
- Department of Fish and Wildlife (for streams and wetlands - with drawings)
North Lake Washington Tributaries Area Habitat Biologist
16018 Mill Creek Boulevard, Mill Creek, WA 98012
- Department of Fish and Wildlife (for shorelines and Lake Wa. - with drawings)
Lake Washington Tributaries Area Habitat Biologist
C/O DOE
3190 160th Avenue SE, Bellevue, WA 98008
- Seattle District, U.S. Army Corps of Engineers,
P.O. Box C-3755
Seattle, WA 98124
- Attn: Lynn Best, Acting Director, Environmental Division, Seattle City Light
700 5th Avenue, Suite 3316
P.O. Box 34023
Seattle, WA 98125-4023
- Muckleshoot Tribal Council, Environmental Division, Fisheries Department
39015 172nd SE
Auburn, WA 98092
- Northshore Utility District,
P.O. Box 82489
Kenmore, WA 98028-0489
- Shirley Marroquin
Environmental Planning Supervisor
King County Wastewater Treatment Division
201 South Jackson Street, MS KSC-NR-0505
Seattle, WA 98104-3855 - and -
- Gary Kriedt
King County Metro Transit Environmental Planning
201 South Jackson Street, MS KSC-TR-0431
Seattle, WA 98104-3856
- Director of Support Services Center
Lake Washington School District No. 414
P.O. Box 97039
Redmond, WA 98073-9739
- John Sutherland, Developer Services
Washington State Department of Transportation
15700 Dayton Ave. N., MS 240
P.O. Box 330310
Seattle, WA 98133-9710
- Jan McGruder, Executive Director
East Lake Washington Audubon Society
PO Box 3115
Kirkland, WA 98083

Applicant / Agent Anthony Sabegh, 6413 Lake Washington Blvd, NE,
Kirkland, WA 98033

---MITIGATING MEASURES INCORPORATED INTO THE PROPOSAL: -----

As part of the land surface modification and/or building permit submittal the applicant shall:

- a. Extend the existing c-curbing to the east property line (approximately 70 feet east).
- b. Indicate that ingress/egress to the property is limited to a right-turn in and out.

cc: Case # SEP08-00009

Distributed to agencies along with a copy of the checklist. (see attached).

Betty Kalan

Distributed By:
SEPA_C_A, rev: 5/16/2008

5/22/08
Date:

Desiree Goble

From: Bill Anspach [banspach@mindspring.com]
Sent: Friday, June 29, 2007 8:45 AM
To: Desiree Goble
Subject: File No. ZON06-00025 Sabegh Stream Buffer Modification

Good Morning Desiree,

Yesterday, I reviewed the complete file and application of Mr. Sabegh to restore the stream and to modify the buffer so that he can develop the property according to his plan.

I fully support his application to restore the stream and right to bring about a change to the stream that will increase its hydraulic capacity while being able to improve the flow control of the upland water.

As you know last year we had three floods in which the storm water overflowed the bank of the ditch. This was basically due to the sedimentation build up caused by the vegetation growing in the stream channel which limited greatly the capacity of the channel to contain the excessive water runoff causing overflow. Additionally, the culvert at the catch basin near the building over the years had never been cleaned and further restricted the water flow causing severe flooding.

My memos to the City of Kirkland show the damage that such flooding caused and the threat to the lives of people working in the dry cleaning business because of the equipment being operated.

Mr. Sabegh's plan will greatly improve the flow control of the stream by adding the additional culvert to catch the upland water and by opening the stream bed to an appropriate size so that the upland water from a 100 year storm can be contained and not cause property damage and put people and businesses at risk.

Design Concerns:

1. Trash Rack

I did not see on Mr. Sabegh's restoration plan and in the evaluation as prepared by the Watershed Company a requirement for a trash rack which will prevent the culvert from becoming clogged and causing flooding.

2. Connection to Existing Catch Basin and Culvert

The existing culvert extends approximately 16 ft on to the Sabegh property. This culvert is connected to a CB. However, reason for the debris building up inside of the culvert last year was due to the sharp bend in the culvert needed to go from the stream elevation to the invert elevation of the CB. The difference in elevation height is about 4 to 5 feet. The angle is too great and over the years the culvert opening where it bends became greatly restricted due to debris growth which reduced the hydraulic flow and capacity. I would ask that the design be reviewed so that the water flow does not become restricted and the connection is according to code. This may mean that the channel has to be deepened so that there is a straight line connection into the CB.

Compliance:

I realize that there may be compliance issues that needs correction. I trust that Mr. Sabegh will continue to cooperate in order to make the required changes to meet all code requirements.

Summary:

Most of the upland stream in the condo areas is contained in an underground culvert system with some daylight areas. The "stream" on Mr. Sabegh's property is actually the conveyance channel for upland storm water and it's time that this issue is addressed and

the flooding problem solved. I am thankful that Mr. Sabegh is using his resources to bring about a long overdue change that will greatly improve the quality of the stream and reduce the apparent threat from flooding that his plan provides.

The City of Kirkland has avoided fixing the problem as it relates to controlling the upland water flow because the stream is located on private property. While I understand this position, we now have a time whereby the City and Mr. Sabegh can agreed to bring about a positive change to our neighborhood that will improve stream conditions and quality of life in Kirkland.

I ask that the City of Kirkland "approves this application with conditions" and put a timeline on the installation of the stream restoration before the rainy season begins this year and that such conditions meet code, and criteria for safety, design and annual stream maintenance requirements.

Kindest regards,

Bill Anspach
934 6th Street South #200
930 6th Street South
Kirkland, WA 98033

PS... Please confirm receipt of this email

Desiree Goble

From: Carpenter, Toni [Toni.Carpenter@METROKC.GOV]
Sent: Monday, July 02, 2007 10:25 AM
To: Desiree Goble
Subject: Sabegh Stream Buffer Modification - File No. ZON06-00025

Toni Carpenter

10834 NE 68th ST #B4

Kirkland, WA 98033

Sabegh stream buffer modification – File No. ZON06-00025

Ms Goble,

I am extremely disappointed with your department for even considering a zoning change that will allow a residential parcel to be turned into an Auto Lube Shop. Do you know how small this parcel is? 5 buildings, plus parking, plus a fire department turn around, it's inconceivable. This cannot happen. Here are the problems as I see them:

Zoning – When and how did the zoning change on this parcel to allow commercial buildings? According to your zoning map the parcel is Medium Density Residential. Did you change the zoning specifically for Sabegh? This zoning change directly affects me and I did not receive any notice about it. The zoning on this parcel should remain residential to maintain the character of the neighborhood.

Auto Lube Shop – Are you freaking kidding me??? An auto lube shop in our neighborhood is absolutely ridiculous! Do you even know this area of Kirkland? There is a stream that runs through the middle of the parcel. The stream will be ruined by runoff and debris from an auto lube shop. Oil will seep thru the ground and contaminate the water.

Traffic – In case you didn't know, traffic in the mornings and evenings in Kirkland is a nightmare. Especially on NE 68th ST. There is no way for people to turn left into this parcel. Drivers turning South onto 108th pack the turn lane all the way up to my driveway entrance, which is the Lakepointe condos. When I come home from work I have a hard time getting into the turn lane. You will create massive traffic problems if you allow commercial buildings to be built. Plus, I guarantee you drivers will use our driveway as a turn around. This is already a problem. You will only make it worse.

Mr. Sabegh – This man has trespassed on our property and he has illegally altered the stream. We watched him from our decks dig up the stream in an attempt to re-route it. You should not reward this behavior with a parcel zoning change and a reduced stream buffer!

The city needs to maintain the guidelines it has in place. NO REDUCED STREAM BUFFER – NO ZONING CHANGE FROM RESIDENTIAL TO COMMERCIAL!!! If he wants to build something it has to be CONDOS. That will comply with the zoning and maintain the character of the neighborhood. Anything else is a slap in the face to those of us who make this area our home.

Thank you for your consideration,

Toni Carpenter

King County GIS

Client Services

206-263-4502

Louise Adams
40832 NE 69th Street, #A4
Kirkland, WA 98033
Phone: (425) 827-6168
E-Mail Addresses: 72459@msn.com or
gingerkitty_kittyginger@yahoo.com

June 30, 2007

City of Kirkland
Planning and Community Development Department
1213 Fifth Avenue
Kirkland, WA 9033

Attention: Desiree Goble, Project Manager

Re: SABEGH Stream Buffer Modification, file #ZON06-00025
Location 108XX NE 68th Street

Dear Ms. Goble:

This letter is in response to your notice of application mentioned above. I live directly to the east of the property, and wish to offer my opinion regarding this application.

Stream Modification: At a time when it has become very evident that we should be striving for protection of salmon spawning runs and other naturally occurring ecological benefits for our environs, to allow even more encroachment to this protected salmon spawning stream is unreasonable. We need to protect as much of our natural assets as possible, even within our cities. To allow this property owner to change the stream (which he already attempted to illegally do on his own and was caught and photographed by an observant occupant in our building), so that he can completely exploit the property for his financial gain is exactly what the stream was protected against in the first place! To allow the development as has been applied for will pollute the underground water and add to the pollution of yet another naturally occurring asset in Kirkland. We do not need to increase our land use at the expense of this natural asset. If this property is to be developed, then the present restriction of 50 feet on each side of the stream should be respected, and it should not be converted or built over. For the benefit of nature and all of us in Kirkland, this stream needs to be allowed to remain as it is. **The reason has been protected is still valid, if not even more so than in earlier times – it is vital that we preserve this natural asset for the City of Kirkland’s fidelity to the benefits to nature. Don’t disturb this protected salmon spawning stream.**

It is my understanding that this lot is also zoned as residential only, which I believe is appropriate; building businesses, such as an auto lube or repair business plus other shops is not. There is not enough room for mixed residential and business parking on this property, nor for parking along 68th street, so the autos coming to the business will be left to every available spot on the property and will no doubt create runoff of petroleum products that would simply destroy this salmon spawning stream. Yes, I realize that there can be sumps and drainage tricks build into the property. **However, in reality there will still be damaging run-off that will seep into the ground and pollute stream. Don’t allow pollution to this protected salmon spawning stream.**

In addition, the business on this property will draw more non-residential autos on 68th street when it is already over-laden with drive-through traffic. There is no way of widening 68th as it is already so close to buildings that there is no room left. Between the busy hours of 7:00 to 9:30 AM and 3:30 to 7:00 PM, traffic is completely clogged and at a standstill from the corner of 108th and 68th east to the 405 on and off ramps, as well as from the off ramps west on 68th street well past 108th. The traffic congestion is so heavy that it is dangerous and almost impossible to come out of driveways onto 68th Street and move into the traffic. When do we realize that we live in an area that has allowed so much land exploitation that we are over-build, unattractive, and undesirable, and watch our property values slide? When do we decide that we have already over-reached our maximum density, and we need to slow down to protect the future desirability of this lovely City? To build to the **maximum density** that has been applied for, with traffic-causing business, **creates even more traffic dangers and burden to the street, and adds to the already undesirable traffic problems for this area of the City.**

Further, building four three-story buildings on the southern part of this property will result in removing a very large and glorious pine tree that has graced the area for many years. Leave this beauty for everyone to enjoy. **Kirkland made laws protecting large trees, and this should be one of those trees that deserves protection. Don't simply take it down and replace it with yet more maximum density buildings.**

Inclosing, I realize that the owner of this property has the right to build on it. However, I believe this request for the four three-story business/residential buildings on the south portion of this lot is unreasonable, will cause damage to the stream, create an unacceptable level of building density and add to the already over-burdened traffic. **The stream should stay restricted as the law now requires, and the property should remain zoned as residential only.**

Sincerely,

Louise Adams

Desiree Goble

From: Matt Stitz [mstitz@gmail.com]
Sent: Saturday, June 30, 2007 7:26 AM
To: Desiree Goble
Subject: File No. ZON06-00025

Hello Desiree,

I am writing with respect to File Number ZON06-00025 regarding the "Sabegh Stream Buffer Modification" proposal.

I am appalled at this proposal, and am extremely hopeful the city of Kirkland, of which I am a proud member, is simply entertaining the request for the sake of due process. There are several main concerns I have and would like to address.

My first concern is the stream modification proposal. The stream is a vital part of our water ecosystem; and, I am strongly against any increased chance for pollution. Allowing commercial businesses (particularly an auto lube) to be in within a proximity closer than the law of 50ft introduces the chance for harmful pollutants to enter the stream. In addition, re-routing the stream could be detrimental to communities down stream. Has anyone considered that rerouting the stream could cause water damage to nearby residence and businesses ? As one answer to the question, on record Mr. Sabegh, in an extremely illegal act, took it upon himself to attempt the re-routing of the stream. Mr. Sabegh's actions were an attempt to bypass city ordinances and improve his chances to gain a permit for construction. As a result, and also documented, his illegal act caused flooding to the Dry Cleaners business just to the west of his property.

Secondly, there is great concern regarding traffic congestion. Having lived in the Houghton area for the greater part of one year, I am very aware of the traffic congestion problem near intersection 68th Street and 6th Street, and even more prominent of a problem to and from the 405 freeway. Mr. Sabegh's proposal would not only increase the flow of traffic, but cause bottlenecks at the crux of the traffic congestion, the traffic light! For instance, you will not be able to cross lanes from the 68TH and 6TH street intersection until after reaching our property, which will allow drivers to use our driveway as a "turn around spot" accessing the businesses proposed more quickly. For obvious reasons this plan does not help, but rather hinder, the ability to manage the flow of traffic.

I thank you for your time and consideration of my concerns. I hope the city will evaluate and consider all perspectives and do their due diligence protecting the stream, the natural habitat within, and of course, the many economic factors that make this such a great city to be a resident of.

Regards,

Matt Stitz

Mailing Address

10834 NE 68TH ST
UNIT B3
KIRKLAND, WA 98033

E-Mail Address

mstitz@gmail.com

7/2/2007

Desiree Goble

From: Ed & Diane [thegwynnes@hotmail.com]
Sent: Friday, June 29, 2007 11:01 AM
To: Desiree Goble
Subject: File No. ZON06-00025

Dear Ms. Goble

I am writing in regard to the above mentioned file and the requested modification to the Kirkland stream buffer regulation. Kirkland City Government has , in the past, been a staunch advocate for strict management and protection of waterfront, stream- bed and wet land usage.

I am adamantly opposed to any proposed change that will decrease the protection now afforded to our diminishing natural resource environment. To allow a potential polluter such as an auto lube to occupy the foreshortened set back is in my mind unconscionable. Mr. Sebegh has shown his callous disregard for that stream by his past actions that are well documented.

Thank you for the opportunity to comment.

Sincerely
Edmund C. Gwynne
10530 NE 48th Pl.
Kirkland, 98033

(thegwynnes@hotmail.com)

Matthew L. Meisel
10834 NE 68th ST Unit #B-6
Kirkland, WA 98033
mattme@microsoft.com

June 27, 2007

Attn: Ms. Desiree Goble
Re: File No. ZONO6-00025: Sabegh Stream Buffer Modification
City of Kirkland Project Planner
123 5th Avenue
Kirkland, WA 98033

Dear Ms. Goble:

I'm writing to express my disappointment that the city of Kirkland is considering Anthony's Sabegh application for a Zoning Permit to reduce the size of the required stream buffer. Mr. Sabegh, during his short ownership of the land west of Lakepointe Condominiums, has demonstrated clear contempt for the law and the permit application process by trespassing on the Lakepointe Condominium property on October 15, 2006 and diverting the flow of the protected creek, consequently flooding the property of Bella Cleaners at 940 6th Street South.

Granting this permit to Mr. Sabegh will have nothing but a negative impact to the Houghton / Everest neighborhood. I'm distressed that the city of Kirkland would consider Mr. Sabegh's application.

Environmental: Building an Auto lube / fast food business within 34 feet of a protected salmon spawning creek will unquestionably pollute the creek and kill its wildlife.

Traffic: The Everest neighborhood is already burdened by extremely heavy traffic during the evening rush hour, most drivers leaving the congested Interstate 405 to cut through Kirkland surface streets. We already anticipate an even greater volume of traffic once the large office construction on 6th street is complete.

Community: The Everest neighborhood is an intentionally small, family-friendly, environmentally-conscious neighborhood with businesses such as PCC, Starbucks and Houghton market. Building an auto sales / lube / fast food shop at this location would offer no value to the community and denigrate the character and charm of the Everest neighborhood.

Should this application be approved, it stands to reason that Mr. Sabegh will show the same contempt for the law and will not adhere to city ordinances concerning pollution run-off into the creek, traffic controls, noise ordinances and other community considerations which will affect our neighborhood's way of life. I hope that the Planning Department will seriously consider the negative impact of granting this application.

Ms. Desiree Goble
June 27, 2007
Page 2

Sincerely,

Matthew L. Meisel

Matthew L. Meisel
10834 NE 68th ST Unit #B-6
Kirkland, WA 98033
mattme@microsoft.com

Sincerely,

Matthew L. Meisel

June 21, 2007

RECEIVED
JUN 25 2007
AM _____ PM
PLANNING DEPARTMENT
BY _____

Desiree Goble
City of Kirkland
Planning Department
123 Fifth Street
Kirkland, Wa. 98033

Subject: Sabegh stream buffer modification
108xx NE 68th Street, Kirkland

Dear Desiree Goble:

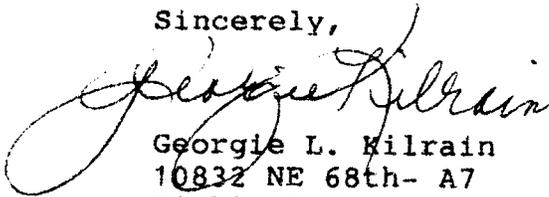
Recently I wrote a letter with regard to the proposed development and stream buffer modification on the above property.

While the issues of possible pollution and over development were addressed, I overlooked something which I feel has particular significance.

On the west edge of the property is one of the largest cedars I have ever seen in the entire area! There is also a very large weeping willow tree, which must be years old, as well as a producing pear tree. All these trees are teaming with birds, most of whom would have to "move on" if this development were allowed. The trees would probably have to be removed to accommodate the large development proposed for this site.

An EPA study should probably be required for this property. There is little to be gained, and much to be lost, if this development is allowed to go forward.

Sincerely,



Georgie L. Wilrain
10832 NE 68th- A7
Kirkland, Wa. 98033

RECEIVED
JUN 18 2007

June 15, 2007

AM _____ PM
PLANNING DEPARTMENT
BY _____

Desiree Goble
City of Kirkland
Planning Department
123 Fifth Avenue
Kirkland, Wa. 98033

SUBJECT: File No. ZON06-00025
Sabegh Stream Buffer Modification

Dear Ms. Goble:

I wish to express my concern about the Sabegh stream buffer modification as well as the proposed use of the property.

I live in the Lakepointe condominiums adjacent to the now vacant lot owned by Mr. Sabegh. Our understanding has always been that the stream empties into the lake and, therefor, anything entering the stream would also be emptying into the lake.

For that reason, not only does the modified stream buffer seem inappropriate but the entire use of the property seems inappropriate! Car sales, auto lube, retail, office, residential . . . way too many uses for such a small lot. Also, oil from the autos and the auto lube leaching into the soil could pollute the stream waters.

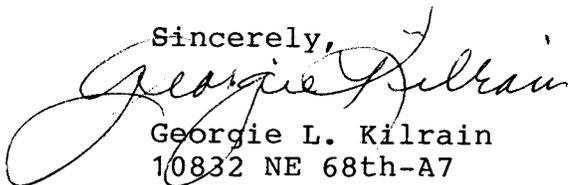
There is additional concern about the noise level that would be generated -- most likely too early in the morning and too late at night. With auto sales, would the owner expect to add high level lighting on the property.

The areas to the east and south of this property are residential; and any development of this scale would be out of character with the neighborhood.

Additionally, how would users enter the property since there is no left turn allowed at that point to the north. Would users coming from the west turn into other properties in order to double back to Sabegh's property?

All in all, I voice a strong opposition to that type of development at that location. I still feel it would be a perfect spot for a small passive park. We need to preserve open/green spaces.

Sincerely,



Georgie L. Kilrain
10832 NE 68th-A7
Kirkland, Wa. 98033
425/827-0606

R

JUN 18 2007



AM _____ PM
PLANNING DEPARTMENT
BY _____

Jack A. Nichols
10832 NE 68th St APT A2
Kirkland, WA 98033
206.755.1511
June 12, 2007

Desiree Goble
Project Planner
City of Kirkland – Planning Department
123 5th Ave.
Kirkland, WA 98033

Re: Sabegh Stream Buffer Modification – File No. ZON06-00025

To Whom It May Concern:

I am writing to express my concern regarding the application for a stream buffer modification referenced by file ZON06-00025. There are a variety of issues with this application that I would like to raise to the attention of the City Planners, and I strongly urge the City of Kirkland to reject this application and retain the current 50 foot stream buffer requirement on this parcel.

KZC 90.100(2) outlines very specific conditions that must be met in order for a buffer reduction to be approved. Specifically, the condition:

There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

is not met by the proposal outlined at [http://www.kirklandpermits.net/tm_web/doc/200702/ZON0600025/ZON06-00025%20STREAM%20BUFFER%20MODIFICATION%20\(2-3\).pdf](http://www.kirklandpermits.net/tm_web/doc/200702/ZON0600025/ZON06-00025%20STREAM%20BUFFER%20MODIFICATION%20(2-3).pdf). An alternative development proposal does exist – develop only the south end of the property without crossing the stream. This alternative is discussed in several other documents related to this case, and seems to have been dismissed by the applicant because appropriate right-of-ways could not be obtained from adjacent parcel owners to allow access to the north end of the parcel without crossing the stream. Although I respect the desire of the applicant to fully utilize the entire parcel, the south portion of the parcel constitutes a tract of approximately 80 feet that could be developed without crossing the stream.

That said, however, KZC 90.115 also outlines very specific conditions that must be met in order to place a stream in a culvert. The condition:

Neither the installation, existence, nor operation of the culvert will be detrimental to any other property or to the city as a whole.

June 13, 2007

Page 2

is also not met by Mr. Sabegh's proposal. The installation of the culvert will permit the property to be fully developed as outlined in the proposal, and fully developing the property will be detrimental to the city and adjacent property owners in the following ways:

1. The volume of vehicles queuing for and accessing the services provided by the on-site businesses will be detrimental to the traffic condition on NE 68th St. NE 68th St currently experiences very high traffic volumes during rush hour, and what is currently an unsafe condition will become even more unsafe. Of principal concern is the coffee and burger stand. Where are the customers that are ordering a burger to wait while their food is prepared? No mention of this is made in any of the applications, and no space seems to exist for such activity anywhere on the site plan, and so one wonders if Mr. Sabegh is expecting the City of Kirkland to provide space for his customers to wait by blocking NE 68th St.
2. As I understand that access to the property will be made via a right turn only traveling westbound on NE 68th St, a large number of customers to the businesses on the property will likely use the driveway for 10832 and 10834 NE 68th St (Lakepointe) as either:
 - An illegal U-Turn, in which a driver would be required to block the sidewalk and bike lane, as well as the oncoming lane of traffic, in order to make the U-Turn before the island; or
 - A U-Turn on the Lakepointe property, which would require a driver to trespass on the Lakepointe property in order to make a three-point turnaround in the driveway.

No documentation exists, either from the city or the applicant, to address this concern. This condition is not only unsafe for both traffic on and around the Lakepointe property, but is a violation of the property rights of the owners of the Lakepointe property.

3. I have significant concerns about the number of customers accessing the Sabegh property and the impact that this will have on the privacy and security of the owners and residents of the Lakepointe property as well as the other surrounding businesses and residences. Although a chain-link fence lines the border between the Lakepointe property and the Sabegh property, this fence will be insufficient to ensure the privacy and security of the Lakepointe residents, and no additional improvements are shown on the site plan to address this concern.
4. Mr. Sabegh proposes to place the garbage collection receptacles at the south-east corner of the property, directly adjacent to the street and to the Lakepointe property. Although the site plan does show some type of barrier around these garbage receptacles, no consideration appears to have been given to the smell generated by them and the impact it will have on the surrounding parcels. Considering the nature of the trash that is to be expected from the auto service shop, this smell could be considerable, and potentially hazardous, especially with the direction of prevailing winds in the area progressing from southwest to northeast.
5. The development of this property will be adversely impact the neighborhood in which it resides, both in terms of real and perceived value. The Houghton neighborhood is currently comprised of numerous single and multi-family homes, as well as several small retail businesses and

June 13, 2007

Page 3

restaurants. An auto sales, service, and repair shop or a hamburger stand does not in any way fit with the character of the overall neighborhood, nor the immediate surrounds of the parcel, and will have the effect of lowering the real and perceived value of the adjacent properties as well as the neighborhood and city.

No provision(s) have been made in Mr. Sabegh's application to address any of these concerns.

I also have concerns about the current zoning of this property and the proposed use. This property is shown as being zoned RM3.6 on multiple maps, which is multi-family residential. It is unclear to me how an auto sales, service, and repair shop, along with a coffee and burger stand, can be considered multi-family residential. Rezoning this parcel would likewise be detrimental to the neighborhood for all of the reasons cited above.

Finally, I would like to call attention to the Everest Neighborhood Comprehensive Plan, available at http://kirklandcode.ecitygov.net/Kirkcompplan_pdfs/XVe.pdf. On the first page, an excellent summary can be found:

The policy emphasis for the Everest Neighborhood is to maintain the character of the existing single-family areas in the central and east portions of the neighborhood to minimize the disruption of regulated slopes, and to allow for the infilling of multifamily and industrial areas consistent with their existing character.

As has been stated throughout this document, the existing character of the neighborhood surrounding this parcel is multi-family residential, and permitting the buffer modifications desired by the applicant would allow inappropriate development and ruin this existing character.

In closing, I again urge the City Planner to reject this application, and thank you for your time in considering my comments.

Sincerely,



Jack A. Nichols

June 14, 2007

Desiree Goble
123 5th Ave.
Kirkland, WA. 98033

JUN 19 2007

AM PM
PLANNING DEPARTMENT

BY _____

Dear Ms. Goble,

In regards to File No. ZON06-00025

I am alarmed to read that Anthony Sabegh is requesting a Zoning Permit to alter the required stream buffer for a salmon stream from 50 to 34 feet and to increase the area's traffic flow and noise by constructing residential, retail, office, auto sales, and an auto lube shop. I believe these buildings are inconsistent with the living standards of the nearby condominiums, including mine at 10832 NE 68th St. Unit A-6. I believe such construction and changing the stream flow of the nearby salmon spawning creek would lessen the value of my property and other condominiums in the Lakepointe complex.

Recently the Seattle Post Intelligencer ran a front page article about a federal judge's ruling to continue to protect wild salmon under the Endangered Species Act. I believe that widening the channel, changing the grade, and installing gravel stream bed, may harm this salmon stream by hindering the wild salmon's return to spawning.

I also believe that allowing traffic to use the Lakepointe Condominium entrance as a turn around would be detrimental to residents of those units. Also, traffic at the 68th st. traffic light would become even worse than it is, and it would become almost impossible for residents of Lakepointe Condominiums to make a left turn onto 68th street in order to reach Highway 405.

Thank you for your consideration.



Howard Shuman
10832 NE 68th St. Apt A-6
Kirkland, WA. 98033

Desiree Goble

From: Howard Shuman [h_shuman1@juno.com]
Sent: Wednesday, June 13, 2007 8:01 PM
To: Desiree Goble

I believe the proposed addition, including the modification of the stream bed; will seriously alter the value and livability of my property at 10832 NE 68th St. Apt. A-6. One of the main values of living at this location is to be able to view the Olympic Mountains and Lake Washington.

I believe that the type of addition that is proposed for the property adjacent (west) to mine will definitely be detrimental to my view and to the livability and the value of my property.

Howard Shuman, owner
Unit A-6
10832 NE 68th St.
Kirkland, WA.
98033.

Desiree Goble

From: Margaret Bull [ladywisteria@verizon.net]
Sent: Tuesday, January 15, 2008 3:50 PM
To: Desiree Goble
Subject: sabegh property 082505-9081

Hi Debbie,

I live at 6225 108th Place NE and have many concerns about the development that is going on in Houghton. I find it difficult to keep up with all the various property development plans and waivers that are being allowed. I missed seeing the sign regarding the property behind the 7-11 at 68th that indicated that permits were being sought. I know I am too late to be a party of record but would still like to be kept up-to-date on this property and the permits that are being given.

Pending

ANTHONY SABEGH

108XX NE 68TH ST

108XX NE 68TH ST

August 15, 2006

082505-9081

Description:

Zoning permit to reduce the required stream buffer from 50 feet to 34 feet in width; install a culvert in order to cross the stream; restore the stream by widening the channel, changing the grade and installing a gravel stream bed. The proposed project includes 5 detached buildings containing the following uses: residential, retail, office, auto sales, and an auto lube shop.

I have several concerns.

I feel that the alteration of the stream should not be allowed especially the reduction of the buffer zone. It doesn't seem wise to place an oil changing business near a stream bed because there can be accidental run-off. I don't believe the changes suggested in this proposal will be an improvement to the stream and I know that as citizens of Kirkland we should be striving to improve the stream beds for ecological reasons. That is why there are so many guidelines in place.

I also think that this property is in a poor position on the street to allow the amount of traffic that this development would entail especially an "in and out business" such as a Jiffy Lube. As I understand it, the lane next to the property will be made into a "right turn only" lane. This means that any one exiting the property would have to turn right or block traffic while getting over to the middle lane. If they aren't allowed to turn left, they would have to do a u-turn along NE 68th St or along 6th St. I can't imagine any place that this would be a safe option. It is an area used by many pedestrians, including school children, and the fact that there are so many exits to the parking lots along this street makes it dangerous. When the new building along 6th Street is finished and Goggle moves in the whole intersection at 108th Ave/ 6th Street and NE 68th Street will become much busier. I'm sure the 7-11 business will not want drivers from the proposed development behind it using it's driveway for a turn around. I would hope that there was an environmental impact statement done before the new building on 6th Street was approved. This should indicate how much the traffic will increase at this corner and also give some indication that the Anthony Sabegh property may have to be limited in it's development due to the difficult egress in addition to the impact on the stream bed.

Please keep me informed about the changes that are happening with the Sabegh property.

Margaret Bull
6225 108th Place NE
Kirkland WA 98033
425-822-2925

4/30/2008

June 12, 2007

Ms. Goble,

In regards to File No. ZON06-00025

I am outraged that you would allow Anthony Sabegh a permit to reduce that buffer from 50 feet to only 34 feet on the creek that flows through his property. On October 15, 2006, Mr. Sabegh trespassed on Lakepointe Condominium property and was photographed altering the flow of the creek to better his position to get a permit to build. In doing so he flooded the Dry Cleaners to the west of his property. An occupant of Lakepointe condominiums, observed Mr. Sabegh's action and notified the city and the land was posted for him to stop. I contacted the Dept. of Fish & Wildlife and I was told by David Brock (425)775-1311 ext.114. For Mr. Sabegh to reroute a protected creek he would need to obtain a Hydraulic Permit, also permission to trespass, which he did not. I am disappointed that the City of Kirkland would even consider reducing a buffer to a protected creek, and allow a person to build an Auto Lube Shop next to it, I can just imagine the polluted run off into the creek, and Mr. Sabegh has no concern for the Environment and shown such disrespect for the law. Also, on the notice of proposal I do not see mention of a Habitat Biologist inspection.

I would also like to know what the City of Kirkland is going to do about the added traffic. At 5pm it is grid lock on 70th street, not to mention Lake Washington blvd. and State Street. I have not seen any mention of a solution to this problem, so allowing someone to build more, causing more traffic and pollution doesn't seem logical. Also, how can one parcel of property be zoned as residential and commercial?

I appreciate your investigation of this situation.

Thank you,



Licia Howie

10832 NE 68th St. #A-5
Kirkland, WA 98033
(206)280-6169

Desiree Goble

From: Karen Walter [Karen.Walter@muckleshoot.nsn.us]
Sent: Friday, June 06, 2008 11:58 AM
To: Desiree Goble
Subject: RE: Sabegh Stream buffer reduction SEP08-00009, Determination of Non-Significance

Desiree,

Thank you for your prompt response to our email below. We reviewed the information provided via the links below. Please note one link is not functioning for the Watershed Company's July 3 2007 review letter (a pdf file).

Based on the documents we did review, we have a comment/recommendation at this time. Per the various Watershed Company's review letters, the project should be conditioned to require the applicant to relocate the proposed culvert to the western portion of the site to provide access to the northern portion of the parcels. No where in the materials could we find the applicant committing to this recommendation. This approach would minimize the project's impacts with respect to a needed stream crossing. Anything less will negate the buffer modification and cause additional adverse impacts to the affected stream that could be otherwise avoided.

We look forward to the City's response to this comment/recommendation.

Thank you again for sending the materials,
Karen Walter
Watersheds and Land Use Team Leader
Muckleshoot Indian Tribe Fisheries Division

From: Desiree Goble [mailto:DGoble@ci.kirkland.wa.us]
Sent: Thursday, June 05, 2008 6:21 PM
To: Karen Walter
Subject: RE: Sabegh Stream buffer reduction SEP08-00009, Determination of Non-Significance

Karen,

Here is a link to documents related to the Sabegh Stream Buffer Modification. Below are links to the applicants proposed site plan, the stream buffer modification proposal, JARPA application, and The Watershed Company's review of the applicants stream buffer modification request.

- [Applicant's site plan](#)
- [Applicant's Stream Buffer Modification Proposal](#)
- [Applicant's JARPA Application](#)
- [The Watershed Company's November 14, 2007 review letter.pdf](#)
- [The Watershed Company's October 17, 2007 review letter.pdf](#)
- [The Watershed Company's May 4, 2007 review letter.pdf](#)
- [The Watershed Company's July 3, 2007 review letter.pdf](#)
- [The Watershed Company's October 12, 2006 review letter.pdf](#)

I'm currently working on the staff report for the stream buffer modification request. If you have any additional questions please call me at 425.587.3251.

Desiree

Desiree Goble
Phone: 425.587.3251
Fax: 425.587.3232

From: Karen Walter [mailto:Karen.Walter@muckleshoot.nsn.us]
Sent: Thursday, June 05, 2008 3:30 PM
To: Eric Shields
Subject: Sabegh Stream buffer reduction SEP08-00009, Determination of Non-Significance
Importance: High

Mr. Shields,

The Muckleshoot Indian Tribe Fisheries Division has reviewed the threshold determination and the environmental checklist for the above referenced project. We need additional information about this project to fully evaluate it for its potential impacts to salmonids and their habitats and would appreciate the following documents:

1. Site plan showing the proposal and the sensitive areas on or adjacent to the site.
2. Information regarding the proposal to "restore the stream by widening the channel; changing the channel grade and installing a gravel stream bed".
3. Information regarding the proposed culvert.
4. Mitigation measures for any stream, wetland and riparian impacts associated with this proposal.

We would prefer to get this information electronically. If it is not available, please have this information sent to:

Muckleshoot Indian Tribe Fisheries Division
39015 172nd Ave SE
Auburn WA 98092
Attn: Karen Walter

If the City does not have extra copies of the documents, please forward this email to the applicant and ask them to respond to this request. Once we have received and reviewed this information, we will provide any necessary comments to the City as soon as possible.

Thank you for the opportunity to review this project. Please call me at 253-876-3116 should you have any questions.

Karen Walter
Watersheds and Land Use Team Leader
Muckleshoot Indian Tribe Fisheries Division



RECEIVED
NOV 08 2007

Exhibit A
APL08-00006 & APL08-00009
ATTACHMENT 8.a
ZON06-00025

Delineation / Mitigation / Restoration / Habitat Creation / Permit Assistance

PLANNING DEPARTMENT
9505 19th Avenue S.E.

BY _____
Suite 106
Everett, Washington 98208
(425) 337-3174
Fax (425) 337-3045

STREAM AND BUFFER ENHANCEMENT PLAN

FOR

SABEGH MIXED USE COMPLEX

Wetland Resources, Inc. Project #06546

Prepared By:

Wetland Resources, Inc.
9505 19th Ave. SE
Suite 106
Everett, WA 98208
(425) 337-3174

For:

Anthony Sabegh
6413 Lake Washington Blvd
Kirkland, WA 98033-6518

January 19, 2007
Revision #3: November 1, 2007

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SITE DESCRIPTION

On January 10, 2006 *Wetland Resources, Inc.* visited the 0.5-acre site located at 10850 68th Street in the city of Kirkland, Washington. The subject property lies within a portion of Section 8, Township 25N, Range 05E, W.M.

Access to this undeveloped site is from the south via NE 68th Street. All of the surrounding properties have currently been developed to residential and commercial uses. Vegetation on this site is represented by herbaceous, weedy species. One Class B stream flows west across the northern portion of the property. This is a perennial stream that is not used by salmonids. Class B streams in secondary basins in the city of Kirkland typically receive 50-foot protective buffers.

PROJECT DESCRIPTION

The applicant is proposing a mixed-use development for this property. Because the stream buffer is currently dominated by invasive species, the applicant is proposing to reduce the typically required 50-foot buffer down to 33.5 feet with enhancement. A total of 4,368 square feet of buffer is proposed to be enhanced. Enhancement is proposed to consist of controlling invasive species, planting native species, and installing a shrub barrier along the perimeter of the reduced buffer. In addition, the stream itself is proposed to be enhanced through grading, placement of large woody debris, and appropriate gravel substrate. The existing on-site culvert will be removed. In an effort to avoid crossing the stream and the associated impacts, the applicant pursued access easements from the property owners located north of the site. However, none of these property owners are interested in granting an easement. As a result, the only feasible way to access the northern portion of this property is to cross the stream.

RESPONSE TO WATERSHED COMPANY COMMENTS (R3)

Below is the applicant's response to comments and concerns expressed by The Watershed Company in their October 17, 2007 review letter. The numbered responses below correspond to the numbered comments in this letter.

1. The planning director will address the location of the road and culvert.
2. The scales on the plan sheet were reviewed both in cad and on paper and were found to be accurate. However, the 33.5-foot buffer was established from the original stream channel and not the enhanced channel. This has been corrected. The buffer now measures 33.5 feet from the top of bank or the enhanced stream channel. The proposed locations of the buildings in

the southern portion of the site have been shifted to accommodate this change.

3. The applicant is proposing a split rail fence between the access road and the buffer. This shall be a split rail fence and will not be replaced with a shrub barrier.
4. A general description of erosion control measures has been provided. A final erosion control plan prepared by a qualified erosion control specialist shall be prepared as an element of the construction plans. Provisions for an emergency stream bypass have been included, as well as a narrative description of channel excavation and reconstruction.
5. The bond has been updated to include the items listed.

COMPLIANCE WITH KZC 90.100(2)

Per KZC 90.100(2), proposals for buffer reduction shall be approved if the following conditions are met:

It is consistent with "Kirkland's Streams, Wetlands and Wildlife Study" (The Watershed Company, 1998) and the "Kirkland Sensitive Areas Regulatory Recommendations Report" (Adolfson Associates, Inc., 1998):

Per *Kirkland's Streams, Wetlands and Wildlife Study*, the on-site stream is a portion of the stream unofficially named Houghton Creek by the Watershed Company. This is a Class B stream in a secondary drainage basin. A large portion of this stream is currently piped. The applicant is proposing to reduce the typically required 50-foot buffer down to 33.5 feet with enhancement. Buffer enhancement is proposed to consist of controlling invasive species and planting native trees and shrubs. The majority of the buffer is currently dominated by invasive herbs. This proposal is consistent with the *Kirkland Sensitive Areas Regulatory Recommendations Report*, prepared by Adolfson Associates, Inc. This report states "Research indicates that, in many cases, narrower well-vegetated stream buffers may function at the same level as wider poorly-vegetated stream buffers". This proposal is consistent with *"Kirkland's Streams, Wetlands and Wildlife Study" (The Watershed Company, 1998)* and the *"Kirkland Sensitive Areas Regulatory Recommendations Report" (Adolfson Associates, Inc., 1998)*.

It will not adversely affect water quality:

The proposed buffer enhancement will increase the vegetative structure and species diversity of this buffer. This will improve the ability of this buffer to filter sediment from overland flow as well as increase the potential for nutrient uptake. In addition, the applicant is proposing to enhance the streambed itself. This will increase the stormwater storage capacity, provide floodflow attenuation (likely ameliorating the current flooding problems), and reduce downstream sediment loads. The proposed mitigation should improve both on-site and downstream water quality. No adverse impact to water quality will occur as a result of this proposal.

It will not adversely affect fish, wildlife, or their habitat:

This stream does not support fish. This site is in a highly urban area and the on-site buffer is currently dominated by invasive species with a minimum of vegetative structure. As a result, the on-site buffer currently provides a low level of functions and values. Enhancing the on-site buffer with native species will increase the overall level of functions and values. This project will not adversely affect fish, wildlife, or their habitat.

It will not have an adverse affect on drainage and/or stormwater detention capabilities:

The stream and buffer enhancement proposed by this project will increase the infiltrative capacity of the buffer as well as improve the ability of the stream channel to convey storm flows. The proposed culvert will be sized to WDF&W specifications to properly convey the maximum potential flood. This project will not have an adverse affect on drainage and/or stromwater detention capabilities.

It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions:

The applicant is proposing to re-grade the stream to better accommodate the existing flows as well as provide appropriate substrate. Both of these actions will reduce the potential for scouring or erosion. This project will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions.

Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat:

No fill material is proposed to be placed within the stream or buffer.

All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate:

The entire stream buffer is proposed to be enhanced through planting native trees and shrubs.

There is no practicable or feasible alternative development proposal that results in less impact to the buffer:

To access the usable space in the northern portion of the property it is necessary to cross the on-site stream and associated buffer. The road has been kept to the minimum required width and the entire remaining buffer is proposed to be enhanced with native plants. This will provide an increase in the overall functions and values even through the buffer width is being reduced. The culvert for the road will be approved by WDF&W and will not constrain the flow of the stream. No other alternative would result in less impact to the buffer.

COMPLIANCE WITH KZC 90.115

Per KZC 90.115, proposals to place streams in culverts shall be approved if the following conditions are met:

Placing a stream in a culvert is necessary to provide required vehicular, pedestrian, or utility access to the subject property. Convenience to the applicant in order to facilitate general site design shall not be considered:

In order to provide access to the northern portion of the subject property it is necessary to cross this stream. This is not a question of convenience because there is no other way to access this portion of the site.

The culvert and implementation techniques must meet the following criteria.

There will be no adverse impact to water quality:

The proposed culvert will be sized to accommodate the 100-year storm event and will be approved by WDF&W. In addition, the applicant is proposing a stream enhancement that will allow a freer, more natural flow of water and will provide a cobble gravel substrate and large woody debris located in the stream. This in combination with planting the buffer with native species will improve on-site and downstream water quality. This project will not have an adverse impact on water quality.

There will be no adverse impact to fish, wildlife, and their habitat:

This is not a fish bearing stream due to significant, likely permanent downstream blocks to fish access. The proposed culvert will be designed and sized to allow fish passage in the event that fish will be able to access the site in the future. The proposed stream and buffer enhancement will greatly improve habitat opportunities for wildlife. No adverse impact to fish, wildlife, or their habitat will result from this project.

There will be no increase in the velocity of stream flow, unless approved by the Planning Official to improve fish habitat.

The stream enhancement plan is proposing to re-grade the stream to increase the channel size and provide increased sinuosity. In addition, a cobble gravel substrate is proposed to be added along with lagged woody debris. These measures are designed to dissipate energy and slow the flow of water. This proposal will not result in an increase in the velocity of stream flow.

There will be no decrease in flood storage volumes:

The applicant is not proposing to decrease flood storage volumes through fill or any other means. It is likely that the proposed stream enhancement will slightly increase flood storage volumes by expanding the overall size of the channel.

Neither the installation, existence, nor operation of the culvert will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions:

This culvert will be designed to accommodate the 100-year storm event and will span the ordinary high water mark of the stream. If installed as designed, neither the installation, existence, nor operation of the culvert will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions.

Neither the installation, existence, nor operation of the culvert will be detrimental to any other property or to the city as a whole:

Because this culvert will be sized to accommodate this stream neither its installation nor its existence will be detrimental to any other property or to the city as a whole.

BUILDING SETBACK

Pursuant to KZC 90.90(2), *Structures shall be set back at least 10 feet from the designated or modified stream buffer. The Planning Official may allow within this setback minor improvements which would have no potential adverse effect during their construction, installation, use, or maintenance to fish, wildlife, or their habitat or to any vegetation in the buffer or adjacent stream.* The structure overhangs and parking that were previously proposed within the BSBL have been removed.

ENVIRONMENTALLY SENSITIVE AREAS

The on-site stream and buffer shall be designated as an Environmentally Sensitive Area (ESA). Environmentally Sensitive Areas are not to be disturbed in compliance with the city of Kirkland restrictions. An example of a Sensitive Area Sign is as follows:

ENVIRONMENTALLY SENSITIVE AREA
THIS WETLAND IS PROTECTED TO PROVIDE WILDLIFE HABITAT AND
MAINTAIN WATER QUALITY
PLEASE DO NOT DISTURB THIS VALUABLE RESOURCE

STREAM FUNCTIONS AND VALUES ASSESSMENT

Methodology

The methodology for this functions and values assessment is based on professional opinion developed through past field analyses and interpretation. This assessment pertains specifically to this site, but is typical for assessments of similar systems common to western Washington.

Existing Conditions

The on-site stream flows west across the northern third of the subject property. This stream flows from a culvert just off-site to the east, flows across the property in a small (approximately one foot wide) hand dug ditch, and enters an 18-inch culvert on the western portion of the property. The majority of the off-site portion of this stream, both up and down stream, is culverted. The on-site buffer of this stream is dominated by Japanese knotweed (*Polygonum cuspidatum*, FacU) with one large willow located in the south central portion of the buffer. As a result of the large amount of this stream that has been piped, the lack of native, woody vegetation in the buffer, the lack of a natural stream channel, and the urban nature of this stream, it provides a low level of functions for all assessed values.

Proposed Impacts to Functions and Values

The applicant is proposing to reduce the standard 50-foot stream buffer down to 33.5 feet. In addition, the applicant is proposing to construct a road over the stream and through the buffer. This will result in a loss of overall buffer area. Given the existing low level of functions provided by this site, there should be no significant impact to the on-site functions and values as a result of this project.

Post Mitigation Functions and Values

As mitigation for the buffer reduction and road crossing, the applicant is proposing to enhance the stream and its associated buffer. This enhancement will remove invasive species and plant native species throughout the buffer, thereby improving the functions of the buffer and increasing protection to the stream over that which would be provided by maintaining the standard 50-foot buffer. Creation of a more natural, meandering stream channel with large woody debris and gravel substrate will improve the ability of this stream to accommodate high flows as well as increase in-stream habitat opportunities for wildlife. Overall, the proposed mitigation will result in an increase of functions and values provided by the site.

STREAM BUFFER ENHANCEMENT

As mitigation for the proposed buffer reduction and to improve the overall functions and values of the site, the applicant is proposing to enhance the reduced buffer. Buffer enhancement is proposed to consist of controlling invasive species and planting the native trees and shrubs listed below.

One of the dominant invasive species on the site is Japanese knotweed (*Polygonum cuspidatum*, FacU). To control this plant, the stems should be cut to approximately three feet and injected with an approved herbicide. Following uptake of the herbicide, the canes should be cut to the ground and the entire buffer mulched with arborists wood chips and planted with the species listed below. Herbicide should be applied only by a state licensed applicator. For further information regarding chemical control of Japanese knotweed, please refer to the attached documents (Addendum 1 and 2).

The large on-site maple removed during site preparation shall be stockpiled and placed in the buffer as large woody debris. Large woody debris shall be placed in the buffer after removal of invasive species, but prior to installation of the plants. Upon completion of the buffer enhancement a shrub barrier fence shall be installed along the perimeter of the buffer. The following species are proposed for buffer enhancement.

Buffer Enhancement (4,368 square feet)

Common Name	Latin Name	Size	Spacing	Quantity
Douglas fir	<i>Pseudotsuga menziesii</i>	2 gallon	9'	14
Big leaf maple	<i>Acer macrophyllum</i>	2 gallon	9'	14
Western red cedar	<i>Thuja plicata</i>	2 gallon	9'	14
Red alder	<i>Alnus rubra</i>	2 gallon	9'	14
Salmonberry	<i>Rubus spectabilis</i>	1 gallon	6'	20
Osoberry	<i>Oemleria cerasiformis</i>	1 gallon	6'	20
Snowberry	<i>Symphoricarpos albus</i>	1 gallon	6'	20
Baldhip rose	<i>Rosa gymnocarpa</i>	1 gallon	6'	20
Oregon grape	<i>Berberis nervosa</i>	1 gallon	4'	30
Salal	<i>Gaultheria shallon</i>	1 gallon	4'	30

To comply with KZC 90.95, the applicant is proposing to install a 3 to 4 foot tall barrier hedge comprised of Black hawthorne and Black gooseberry. These will be planted along the edge of the buffer, in an alternating double offset row on eighteen-inch centers. A temporary fence shall be installed and maintained adjacent to these planting until the planted species create a solid 3-foot wide barrier.

Common Name	Latin Name	Size	Spacing	Quantity
Black hawthorne	<i>Crataegus douglasii</i>	1 gallon	18"	100
Nootka rose	<i>Rosa nutkana</i>	1 gallon	18"	100

STREAM CHANNEL CONSTRUCTION

Stream channel construction will follow all specifications of the approved Hydraulic Project Approval (HPA), including timing restrictions and construction methods. The existing stream channel will be enhanced to provide a more natural, better functioning stream channel. The new channel will be sized to convey the 100-year storm flow as calculated by a civil engineer. The sinuous design will mimic a natural stream channel and help to reduce flow velocities. The channel will be approximately six feet in width and twenty inches in depth, with an overall slope of approximately 12 percent. The new channel will be provided with meanders and a thalweg within the channel. The sinuous design will slow flows that are currently conveyed by the linear ditched stream channel, allowing for a more natural flow pattern. The exact channel location will be flagged in the field prior to grading to take advantage of micro-topographic conditions. At least four large woody debris features shall be added to the stream enhancement area.

Generally, construction of the stream will proceed as follows: following proper installation and approval of erosion control measures, a track hoe or other appropriate piece of equipment shall be used to grade the channel as described in this plan. Upon completion of the grading, large woody debris shall be securely placed followed by stream gravel. Finally, the buffer shall be enhanced with the species listed in this plan and the sensitive area fence shall be installed.

A minimum of eight (8) inches of clean, rounded, uniformly-graded gravel with the following size composition shall be placed throughout the entire length of the created stream channel:

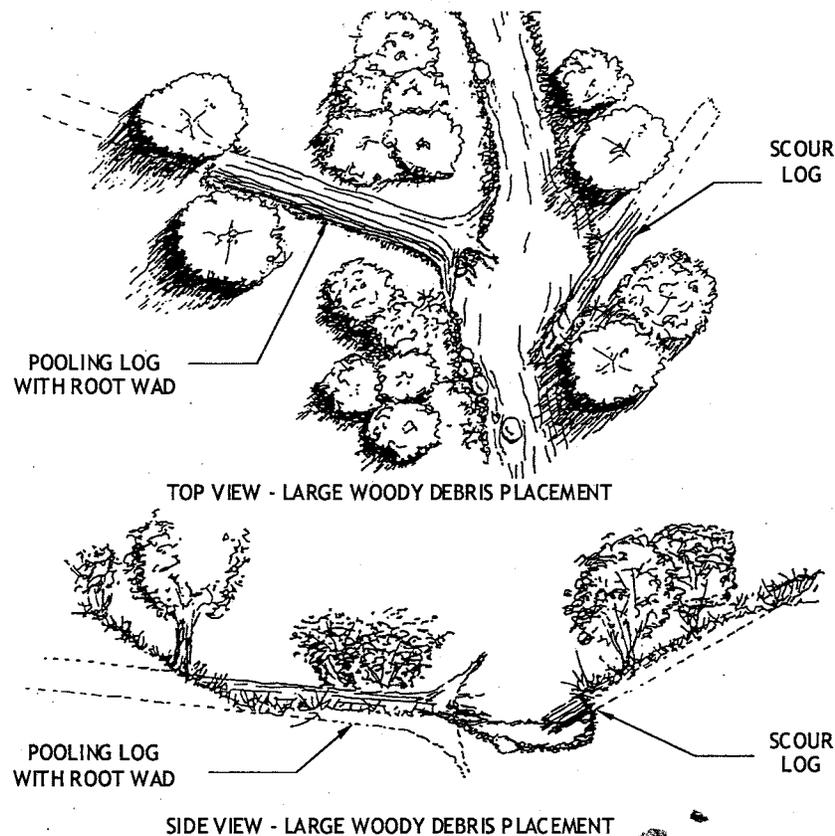
15 percent of 4.0 to 3.0 inches
40 percent of 3.0 to 1.5 inches
45 percent of 1.5 to 0.25 inches
with fines less than 0.25 inches not exceeding 3.0 percent total volume

This plan will be submitted to Washington Department of Fish & Wildlife for HPA review. All requirements of the HPA will be followed.

LARGE WOODY DEBRIS

During site clearing, any large woody debris (LWD) found on-site will be collected and stockpiled for stream and buffer enhancement. A total of four pieces of large woody debris shall be placed in the stream, if a total of four pieces of suitable large woody debris are not available on-site, material shall be imported from off-site. Special consideration should be given to any large stumps on the site, root balls, and large logs. Large woody debris should be a minimum of 10 inches dbh and 6 feet long, and placed a minimum of fifty percent of its length in to the stream bank. The exact location of LWD will be determined on-site by the consulting wetland biologist. Placement of LWD will provide structure and wildlife habitat in the wetland and buffer. In the stream it will serve to create habitat complexity, provide refuge for wildlife, create scour pools, provide a source of food for aquatic invertebrates who in turn provide food for larger species, and slow the flow of water, thus reducing stream damage from high flows.

LARGE WOODY DEBRIS DETAIL (NTS)



EROSION CONTROL

An erosion control plan prepared by a qualified erosion control specialist shall be prepared as an element of the construction plans. To minimize the chance of sediment entering the stream during construction, the following or similar erosion control measures may be implemented:

- All grading and erosion control measures shall comply with the King County engineering standards in effect this date.
- Temporary erosion/sediment control facilities shall be constructed prior to any grading or extensive land clearing.
- Temporary erosion control measures including but not limited to temporary interceptor swales, rock check dams, silt fencing, and straw bales, may be used on the site.

- The applicant shall establish a permanent vegetative ground cover or otherwise control soil erosion on all areas of land disturbance not covered by impervious surfaces. Please refer to this plan or the final approved erosion control plan for grass seed specifications.

The above list is meant to give a general idea of erosion control measures to be used on the site. The final erosion control plan prepared by a qualified erosion control specialist for construction plans shall supercede any contradictory elements of this section.

TEMPORARY EROSION AND SEDIMENTATION CONTROL

Prior to initiation of construction activities adjacent to sensitive areas, silt fencing shall be placed around the perimeter areas of proposed disturbance. This control measure will function to prevent siltation within the streams and buffers. All sedimentation control structures shall be kept in place and functioning until ground vegetation is firmly established. Refer to the site engineer's TESC plan for all details.

STREAM BYPASS CONSTRUCTION

In the event of inopportune construction timing or unseasonable summer storms, a stream bypass will be used. This bypass will be designed per specifications found in *Culvert Fish Passage Construction Guidelines for Maintenance Crews (2004)* produced by the King County Department of Transportation. This document is included in this report as an appendix and may be found at <http://www.metrokc.gov/kcdot/roads/maintenance/docs2005/CulvertFishPassageConstructionGuidelines102504.pdf>. Stream channel construction, including the emergency bypass will follow all specifications of the approved Hydraulic Project Approval (HPA), including timing restrictions and construction methods. WDF&W can not review this project for an HPA until a SEPA determination is made.

PROJECT MONITORING PROGRAM

Requirements for monitoring project:

1. Initial compliance report
2. Bi-annual site inspection (once in the spring and fall of each year) for five years
3. Annual reports including final report (one report submitted in the fall of each monitored year)

Purpose for Monitoring: The purpose for monitoring this mitigation project shall be to evaluate its success. Success will be determined if monitoring shows at the end of five years that the definitions of success stated below are being met. The property owner shall grant access to the mitigation area for inspection and maintenance to the contracted landscape or wetland specialist and the City biologist during the period of the bond or until the project is evaluated as successful.

Monitoring: Monitoring shall be conducted annually for 5 years in accordance with the approved Monitoring Plan.

MONITORING REPORTS

Report Contents: Monitoring reports shall be submitted by October 31 of each year during the monitoring period. As applicable, monitoring reports must include descriptions / data for:

- a. Site plan and location map
- b. Historic description of project, including date of installation, current year of monitoring, restatement of mitigation / restoration goals, and performance standards
- c. Plant survival, vigor, and aerial coverage for every plant community
- d. Slope condition, site stability, any structures or special features
- e. Buffer conditions, e.g., surrounding land use, use by humans, and/or wild and domestic creatures
- f. Observed wildlife, including amphibians, avians, and others
- g. Assessment of nuisance / exotic biota and recommendations for management
- h. Receipts for any structural repair or replacement

MAINTENANCE

The mitigation areas will require periodic maintenance to replace vegetation mortality as necessary. Maintenance shall be required in accordance with King County Sensitive Areas Restoration Guidelines (2002) and approved plans. Maintenance may include, but not be limited to, removal of competing grasses (by hand if necessary), irrigation, fertilization (if necessary), replacement of plant mortality, and the replacement of mulch for each maintenance period. Chemical control, only if approved by city staff, shall be applied by a licensed applicator following all label instructions.

Duration and Extent: In order to achieve performance standards, the permittee shall have the mitigation area maintained for the duration of the five year monitoring period. Maintenance will include watering, weeding around the base of

installed plants, pruning, replacement, restaking, removal of all classes of noxious weeds (see Washington State Noxious Weeds List, WAC 16-750-005) as well as Himalayan blackberry, and any other measures needed to insure plant survival. The Landscape Designer and/or Wetland Biologist shall direct all maintenance.

Survival: The Permittee shall be responsible for the health of 100% of all newly installed plants for one *growing season* after installation has been accepted. A growing season for these purposes is defined as occurring from spring to spring (March 15 to March 15, of the following year). For fall installation (often required), the growing season will begin the following spring. The permittee shall replace any plants that are failing, weak, defective in manner of growth, or dead during this growing season, as directed by the Landscape Designer, Wetland Biologist, or city representative.

Installation Timing for Replacement Plants: Replacement plants shall be installed between September 15 and January 15, unless otherwise determined by the Landscape Designer, Wetland Biologist, or city representative.

Standards for Replacement Plants: Replacement plants shall meet the same standards for size and type as those specified for the original installation unless otherwise directed by the Landscape Designer, Wetland Biologist, or city representative.

Replanting: Plants that have settled in their planting pits too deep, too shallow, loose, or crooked shall be replanted as directed by the Landscape Designer, Wetland Biologist, or city representative.

Irrigation / Watering: Water shall be provided during the dry season (June 15 through September 15) for the first two years after installation to ensure plant survival and establishment. A temporary above ground irrigation system and/or water truck should provide water. Water should be applied at a rate of 2 inches of water once per week for year 1 and 1 inch per week during year 2.

Weeding: Trees and shrubs must be weeded to the dripline, and mulch maintained at 3" depth. Weed herbaceous plantings as necessary. Weeding shall occur at least four times a year, in March, May, July, and October of each year. If necessary, additional site visits for weeding shall be conducted.

Removal: All litter, dumping, and non-native vegetation must be removed, e.g., Himalayan blackberry, reed canary grass, evergreen blackberry, Scots broom, English ivy, morning glory, Japanese knotweed, Etc., and properly disposed of off-site.

Structures: Damaged or missing fences, posts, signs, habitat or hydrology structures must be repaired or replaced.

General: The permittee shall include in general maintenance activities, the replacement of any vandalized or damaged signs, habitat features, fences, or other structural components of this mitigation site.

PROJECT NOTES

Pre-Construction Meeting

There will be a pre-construction meeting on this site between the applicant, the consulting biological professional, equipment operator(s), and a city representative. The objective will be to verify the location of erosion control facilities, verify the location of the mitigation areas, site access points to the mitigation areas, and to discuss project sequencing.

Inspections

A biological consultant shall be contracted to periodically inspect the mitigation measures described in this plan. Minor adjustments to the original designs may be necessary prior to and during construction due to unusual or hidden site conditions. A city of Kirkland representative and/or the consulting biologist will make these decisions during construction.

Erosion and Disturbance Control Measures

The mitigation measures will be implemented during the dry season to the greatest extent possible. Refer to the Temporary Erosion and Sedimentation Control Measures on this plan. Erosion control methods (e.g.: filter fabric or straw bales) shall be used to prevent silt-laden water from entering the stream.

Construction Timing and Sequencing

All mitigation plantings shall take place during the dormant season (October 1st to March 1st).

PLANTING NOTES

Order all plants from a reputable nursery. Care and handling of all plant materials is extremely important to the overall success of the project. The origin of all plant materials specified in this plan shall be native plants, nursery grown in the Puget Sound region of Washington. Some limited species substitution may be allowed, only with the agreement of the Landscape Designer, Wetland Biologist, or city representative. Larger plant stock may be used without consultation. Substitutions with smaller plant stock than specified may require consultation.

Handling

Plants shall be handled so as to avoid all damage, including breaking, bruising, root damage, sunburn, drying, freezing or other injury. Plants must be covered during transport. Plants shall not be bound with wire or rope in a manner that could damage branches. Protect plant roots with shade and wet soil in the time period between delivery and installation. Do not lift container stock by trunks, stems, or tops. Do not remove from containers until ready to plant. Water all plants as necessary to keep moisture levels appropriate to the species horticultural requirements. Plants shall not be allowed to dry out. All plants shall be watered thoroughly immediately upon installation. Soak all containerized plants thoroughly prior to installation.

Storage

Plants stored by the Permittee for longer than one month prior to planting shall be planted in nursery rows, and treated in a manner suitable to that species horticultural requirements. Plants must be reinspected by the Wetland Biologist and / or Landscape Designer prior to installation.

Damaged plants

Damaged, dried out, or otherwise mishandled plants will be rejected at installation inspection. All rejected plants shall be immediately removed from the site.

Plant Names

Plant names shall comply with those generally accepted in the native plant nursery trade. Any question regarding plant species or variety shall be referred to the Landscape Designer, Wetland Biologist or city representative. All plant materials shall be true to species and variety and legibly tagged.

Quality and condition

Plants shall be normal in pattern of growth, healthy, well-branched, vigorous, with well-developed root systems, and free of pests and diseases. Damaged, diseased,

pest-infested, scraped, bruised, dried out, burned, broken, or defective plants will be rejected. Plants with pruning wounds over 1" in diameter will be rejected.

Roots

All plants shall be containerized, unless explicitly authorized by the Landscape Designer and / or Wetland Biologist. Matted or circling roots of containerized plantings must be pruned or straightened and the sides of the root ball must be roughened from top to bottom to a depth of approximately half an inch in two to four places.

Sizes

Plant sizes shall be the size indicated in the plant schedule in approved plans. Larger stock may be acceptable provided that it has not been cut back to size specified, and that the root ball is proportionate to the size of the plant.

Form

Evergreen trees shall have single trunks and symmetrical, well-developed form. Deciduous trees shall be single trunked unless specified as multi-stem in the plan schedule. Shrubs shall have multiple stems, and be well-branched.

Site conditions

The contractor shall immediately notify the Landscape Designer and / or Wetland Biologist of drainage or soil conditions likely to be detrimental to the growth or survival of plants. Planting operations shall not be conducted under the following conditions: freezing weather, when the ground is frozen, excessively wet weather, excessively windy weather, or in excessive heat.

Planting Pits

Planting pits shall be circular or square with vertical sides, and shall be 6" deeper and 12" larger in diameter than the root ball of the plant. Break up the sides of the pit in compacted soils. Set plants upright in pits, as illustrated in planting detail. Burlap shall be removed from the planting pit. Backfill shall be worked back into holes such that air pockets are removed without adversely compacting down soils.

Plant Location

Three foot by 2-inch by 1/4-inch lath stakes or suitable flagging material shall be placed next to or on each planting to assist in locating the plants while removing the competing non-native vegetation and to assist in locating the plants during the monitoring period.

Arrangement and Spacing

The plants shall be arranged in a pattern with the appropriate numbers, sizes, species, and distribution that are required in accordance with the approved plans. The actual placement of individual plants shall mimic natural, asymmetric vegetation patterns found on similar undisturbed sites in the area. Spacing of the plantings may be adjusted to maintain existing vegetation with the agreement of the Landscape Designer, Wetland Biologist, or city representative.

Inspection(s)

A biological professional shall be present on site to inspect the plants prior to planting. Minor adjustments to the original design may be required prior to and during construction.

Mulch

Arborists wood chips shall be placed over the entire buffer area to a depth of 4 inches. The proposed species shall be planted through this mulch.

PROJECT SUCCESS AND COMPLIANCE

Criteria for Success:

Upon completion of the proposed mitigation plan, an inspection by a qualified biologist will be made to determine plan compliance. A compliance report will be supplied to the city of Kirkland within 30 days after the completion of planting. A landscape professional or biological scientist will do condition monitoring of the plantings in the spring and fall, annually. A written report describing the monitoring results will be submitted to the city of Kirkland after the fall inspection of each monitored year. Final inspection will occur 5 years after completion of this project.

Definition of Success:

The buffer enhancement area shall support at least 80 percent of the native plants set forth in the approved mitigation plan by the end of five years. The species mix should resemble that proposed in the planting plans, but strict adherence to obtaining all of the species shall not be a criterion for success. By the end of the fifth growing season, the percent areal coverage of native plants shall be 80 percent in the mitigation area. In addition, the mitigation area shall show a minimum of two established native tree species, three native shrub species, and one native groundcover by year 5. A maximum of 10 percent cover by invasive species will be tolerated in any monitored year. Of the allowable invasive species, none shall be Japanese knotweed. Complete eradication of Japanese knotweed on this site is a goal of this plan. A zero percent cover of this species will be permitted in any monitoring year.

Shrub and sapling tree coverage*	>15%	>30%	>45%	>80%
Shrub and sapling tree survival	100%	>85%	>80%	>80%
Maximum allowable invasive species	10%	10%	10%	10%

*Includes beneficial native plants in that category that are recruited naturally.

In addition, the **barrier hedge** shall be examined during each monitoring visit to ensure that the hedge is providing an equivalent level of protection to that afforded by a split rail fence.

CONTINGENCY PLAN

Should any monitoring report reveal the mitigation has failed in whole or in part, and should that failure be beyond the scope of routine maintenance, the applicant must submit a Contingency plan. This plan may range in complexity from a list of plants substituted, to cross-sections of proposed engineered structures. Once approved, it may be installed, and will replace the approved mitigation plan. If the failure is substantial, the city of Kirkland will likely extend the monitoring period for that mitigation.

To the greatest extent possible, the stream channel enhancement has been designed to alleviate sedimentation and flooding problems. If excessive sedimentation within the stream channel leads to flooding problems emergency action may be taken pursuant to KMC 90.20(8). Emergency action may consist of removal of sediment or clearing of the culvert by hand or using hand held tools. Once the immediate danger has passed, a meeting with the property owner, consulting biologist, city representative, and a WDFW representative will occur to decide upon further contingency and mitigation measures.

USE OF THIS REPORT

This Stream and Buffer Enhancement Plan is supplied to Anthony Sabegh as a means of determining on-site wetland conditions, as required by the City of Kirkland during the permitting process. This report is based largely on readily observable conditions and, to a lesser extent, on readily ascertainable conditions. No attempt has been made to determine hidden or concealed conditions. Reports may be adversely affected due to the physical condition of the site and the difficulty of access, which may lead to observation or probing difficulties.

The laws applicable to wetlands are subject to varying interpretations and may be changed at any time by the courts or legislative bodies. This report is intended to provide information deemed relevant in the applicant's attempt to comply with the laws now in effect.

The work for this report has conformed to the standard of care employed by wetland ecologists. No other representation or warranty is made concerning the work or this report and any implied representation or warranty is disclaimed.

Wetland Resources, Inc.



Louis Emenhiser
*Senior Wetland Ecologist
Professional Wetland Scientist*

REFERENCES

Cowardin, et al., 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S.D.I. Fish and Wildlife Service. FWS/OBS-79/31. December 1979.

Kirkland Zoning Code, Chapter 90. Kirkland, WA. December 9, 2003.

National List of Plant Species that Occur in Wetlands, Northwest Region. 1996. U.S. Department of the Interior, Fish and Wildlife Service. Washington, D.C.

Soil Survey: King County Area, Washington. U.S.D.A. Soil Conservation Service. November 1973.

Washington State Wetlands Identification and Delineation Manual. Washington State Department of Ecology. Publication #96-94. March 1997.

Web date: 11/21/2005

Bond Quantity Worksheet for Critical Area Mitigations

Project Name: Sabegh Mixed Use Development
Project Number: WRI # 06546
Location: 10850 68th Street Kirkland, WA 98033
Contact Name: Anthony Sabegh **Address:** Kirkland, WA 98033

PLANT MATERIALS:

Plant Material prices include labor, installation, contractors' markup and sales tax, but don't include delivery. (128% of wholesale plant price plus "planting" from page 5.)

TREES										
Scientific Name	Common Name	Unit Price	Qty	Total Cost						
		4" pot		1 gallon		2 gallon		5 gallon		
<i>Abies grandis</i> *	grand fir									
<i>Acer macrophyllum</i>	big leaf maple			\$ 13.54		\$ 24.15	14			\$ 338.10
<i>Alnus rubra</i>	Red alder			\$ 13.22		\$ 24.15	14			\$ 338.10
<i>Arbutus menziesii</i>	Pacific madrone			\$ 14.50						\$ -
<i>Betula papyrifera</i>	paper birch			\$ 13.22						\$ -
<i>Fraxinus latifolia</i>	Oregon ash			\$ 13.22		\$ 23.51				\$ -
<i>Picea sitchensis</i> *	Sitka spruce			\$ 13.54		\$ 24.15				\$ -
<i>Pinus contorta</i> *	Shore pine			\$ 13.54		\$ 24.15				\$ -
<i>Pinus monticola</i> *	Western white pine			\$ 13.54		\$ 24.15				\$ -
<i>Populus tremuloides</i>	quaking aspen					\$ 24.15				\$ -
<i>Populus trichocarpa</i>	black cottonwood			\$ 13.54		\$ 23.51				\$ -
<i>Prunus emarginata</i>	bitter cherry			\$ 13.54						\$ -
<i>Pseudotsuga menziesii</i> *	Douglas fir			\$ 13.54		\$ 23.51	14	\$ 44.74		\$ 329.14
<i>Taxus brevifolia</i> *	Pacific yew									\$ -
<i>Thuja plicata</i> *	western red cedar			\$ 13.54		\$ 23.51	14	\$ 44.74		\$ 329.14
<i>Tsuga heterophylla</i> *	western hemlock			\$ 13.54		\$ 23.82		\$ 44.74		\$ -
<i>All plant prices are from Fourth Corner Nurseries, Sound Native Plants, Storm Lake Growers, and Wabash Natives (containers); and Abundant Life and Frosty Hollow (seeds).</i>										

Web date: 11/21/2005

SHRUBS										
Scientific Name	Common Name	Unit Price 4" pot	Qty	Unit Price 1 gallon	Qty	Unit Price 2 gallon	Qty	Other	Qty	Total Cost
<i>Acer circinatum</i>	vine maple			\$ 13.54		\$ 23.51				\$ -
<i>Amelanchier alnifolia</i>	serviceberry			\$ 13.54		\$ 23.82				\$ -
<i>Berberis aquifolium</i>	tall Oregon grape					\$ 24.15				\$ -
<i>Berberis nervosa</i>	short Oregon grape			\$ 13.86	30					\$ 415.80
<i>Cornus stolonifera</i>	red-osier dogwood			\$ 13.22		\$ 23.51				\$ -
<i>Corylus comuta</i>	hazelnut			\$ 13.54		\$ 23.51				\$ -
<i>Crataegus douglasii</i>	black hawthorn			\$ 13.22	100	\$ 23.51				\$ 1,322.00
<i>Gaultheria shallon</i>	salal	\$ 1.89		\$ 13.86	30					\$ 415.80
<i>Holodiscus discolor</i>	ocean spray			\$ 13.54		\$ 23.51				\$ -
<i>Lonicera involucrata</i>	black twinberry			\$ 13.54		\$ 22.87				\$ -
<i>Myrica gale</i>	sweetgale									\$ -
<i>Oemleria cerasiformis</i>	Indian plum			\$ 13.54	20	\$ 23.51				\$ 270.80
<i>Oplopanax horridus</i>	Devil's club			\$ 13.86		\$ 24.15				\$ -
<i>Philadelphus lewisii</i>	mock orange			\$ 13.54		\$ 22.87				\$ -
<i>Physocarpus capitatus</i>	Pacific ninebark			\$ 13.22		\$ 23.51				\$ -
<i>Prunus virginiana</i>	choke cherry									\$ -
<i>Pyrus fusca</i>	western crabapple			\$ 13.22		\$ 23.51				\$ -
<i>Rhamnus purshiana</i>	cascara			\$ 13.22		\$ 23.51				\$ -
<i>Rhododendron macrophyllum</i>	Pacific rhododendron			\$ 14.19						\$ -
<i>Ribes bracteosum</i>	stink currant			\$ 13.22						\$ -
<i>Ribes lacustre</i>	prickly currant			\$ 13.86						\$ -
<i>Ribes sanguineum</i>	red-flowering currant			\$ 13.86						\$ -
<i>Rosa gymnocarpa</i>	Wood rose			\$ 13.54	20	\$ 24.15				\$ 270.80
<i>Rosa nutkana</i>	Nootka rose			\$ 13.54	100	\$ 23.51				\$ 1,354.00
<i>Rosa pisocarpa</i>	clustered rose			\$ 13.54		\$ 22.87				\$ -
<i>Rubus leucodermis</i>	black raspberry									\$ -
<i>Rubus parviflorus</i>	thimbleberry			\$ 13.54						\$ -
<i>Rubus spectabilis</i>	salmonberry			\$ 13.22	20	\$ 23.51				\$ 264.40
<i>Salix geyeriana</i>	Geyer willow			\$ 13.22		\$ 22.87				\$ -
<i>Salix hookeriana</i>	Hooker's willow			\$ 12.91		\$ 22.87				\$ -
<i>Salix lasiandra</i>	Pacific willow			\$ 13.22		\$ 22.87				\$ -
<i>Salix scouleriana</i>	Scouler willow									\$ -
<i>Salix sitchensis</i>	Sitka willow			\$ 13.22		\$ 22.87				\$ -
<i>Sambucus racemosa</i>	red elderberry			\$ 13.54		\$ 23.51				\$ -
<i>Sorbus sitchensis</i>	Cascade mountain ash									\$ -
<i>Symphoricarpos albus</i>	snowberry			\$ 13.22	20	\$ 23.51				\$ 264.40
<i>Vaccinium ovatum</i>	evergreen huckleberry			\$ 13.86						\$ -
<i>Vaccinium parvifolium</i>	red huckleberry	\$ 2.91		\$ 15.47						\$ -

Web date: 11/21/2005

Herbs and Groundcovers										
Scientific Name	Common Name	Unit Price	Qty	Unit Price	Qty	Unit Price	Qty		Qty	Total
		4" pot		1 gallon		Seeds/oz.				Cost
<i>Achillea millefolium</i>	Yarrow					\$ 11.52				\$ -
<i>Anaphalis margaritacea</i>	Pearly everlasting					\$ 7.68				\$ -
<i>Arctostaphylos uva-ursi</i>	Kinnikinnick	\$ 2.27				\$ 33.28				\$ -
<i>Aruncus dioicus</i>	Goat's beard			\$ 13.54		\$ 33.28				\$ -
<i>Caltha palustris</i>	Marsh marigold			\$ 14.19		\$ 20.48				\$ -
<i>Dicentra formosa</i>	Bleeding heart	\$ 2.27		\$ 13.22		\$ 122.88				\$ -
<i>Epilobium angustifolium</i>	Fireweed					\$ 61.44				\$ -
<i>Fragaria chiloensis</i>	Coast strawberry	\$ 2.27				\$ 57.60				\$ -
<i>Geum macrophyllum</i>	Big-leaf avens	\$ 2.27				\$ 51.20				\$ -
<i>Heracleum lanatum</i>	Cow parsnip	\$ 1.45								\$ -
<i>Hydrophyllum tenuipes</i>	Pacific waterleaf	\$ 2.27				\$ 17.92				\$ -
<i>Linnaea borealis</i>	Twinflower	\$ 2.27				\$ 143.46				\$ -
<i>Lupinus polyphyllus</i>	Big-leaf lupine					\$ 6.72				\$ -
<i>Lysichiton americanum</i>	Skunk cabbage			\$ 13.86						\$ -
<i>Maianthemum dilatatum</i>	Wild lily of the valley	\$ 2.27								\$ -
<i>Mimulus guttatus</i>	Yellow monkey flower	\$ 2.27				\$ 128.00				\$ -
<i>Myosotis laxa</i>	Small forget-me-not					\$ 26.88				\$ -
<i>Oenanthe sarmentosa</i>	Water parsley			\$ 12.58		\$ 44.80				\$ -
<i>Osmorhiza chiloensis</i>	Sweet cicely					\$ 44.80				\$ -
<i>Oxalis oregana</i>	Wood-sorrel	\$ 2.27				\$ 89.60				\$ -
<i>Petasites frigidus</i>	Coltsfoot			\$ 13.22						\$ -
<i>Polygonum persicaria</i>	Lady's thumb									\$ -
<i>Potentilla fruticosa</i>	Bush potentilla									\$ -
<i>Smilacina stellata</i>	Solomon's Star	\$ 2.27								\$ -
<i>Stachys cooleyae</i>	Great betony					\$ 102.40				\$ -
<i>Tellima grandiflora</i>	Fringecup					\$ 38.40				\$ -
<i>Tiarella trifoliata</i>	Foamflower					\$ 143.46				\$ -
<i>Toimiea menziesii</i>	Piggy-back plant	\$ 2.27				\$ 102.40				\$ -
<i>Viola glabella</i>	Stream violet	\$ 2.27								\$ -

web date: 11/21/2005

INSTALLATION COSTS (LABOR, EQUIPMENT, OVERHEAD & PROFIT)							
Type	Unit Price	Unit	Quantity				Total
Compost, vegetable, delivered and spread	\$ 37.88	CY					\$ -
Decompacting till/hardpan, medium, to 6" depth	\$ 1.57	CY					\$ -
Decompacting till/hardpan, medium, to 12" depth	\$ 1.57	CY					\$ -
Fertilize, slow release tablets, 30gm/tree	\$ 3.21	Each					\$ -
Hydroseeding	\$ 0.51	SY					\$ -
Labor, general (landscaping)	\$ 25.00	HR	40				\$ 1,000.00
Labor, general (construction)	\$ 37.00	HR	20				\$ 740.00
Labor: Consultant, supervising	\$ 55.00	HR					\$ -
Labor: Consultant, on-site re-design	\$ 95.00	HR					\$ -
PLANTS: Potted, 4" diameter, medium	\$ 0.68	Each					\$ -
PLANTS: Container, 1 gallon, medium soil	\$ 10.02	Each					\$ -
PLANTS: Container, 2 gallon, medium soil	\$ 16.47	Each					\$ -
PLANTS: Container, 5 gallon, medium soil	\$ 29.38	Each					\$ -
PLANTS: Seeding, by hand	\$ 0.44	SY					\$ -
PLANTS: Slips (willow, red-osier)	\$ 1.32	Each					\$ -
PLANTS: Stakes (willow)	\$ 0.96	Each					\$ -
Rental of decompacting machinery & operator	\$ 70.65	Hour					\$ -
Sand, coarse builder's, delivered and spread	\$ 42.06	CY					\$ -
Staking material (set per tree)	\$ 7.00	Each					\$ -
Surveying, line & grade	\$ 605.44	DAY					\$ -
Surveying, lot location & lines	\$ 1,353.60	ACRE					\$ -
Surveying, topographical	\$ 2,160.00	ACRE					\$ -
Tilling topsoil, disk harrow, 20hp tractor, 4"-6" deep	\$ 1.02	SY					\$ -

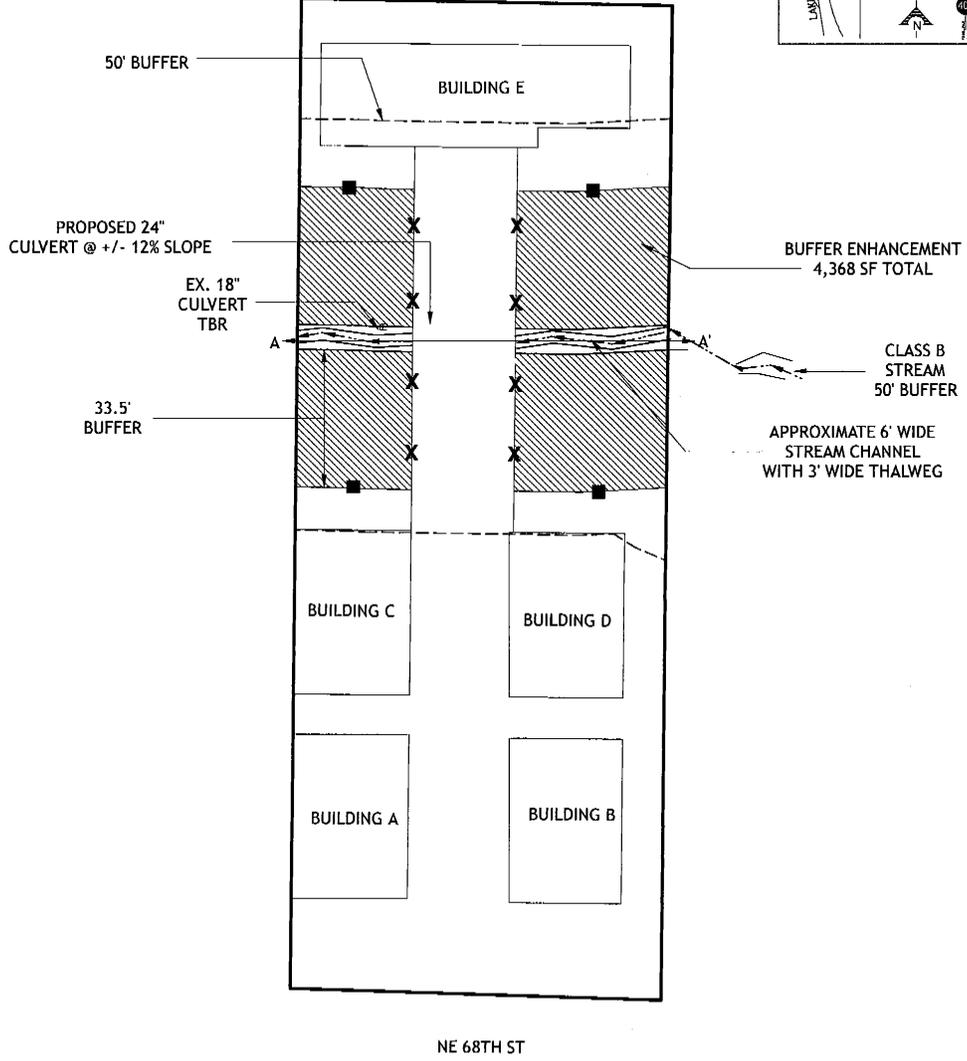
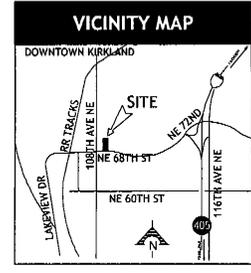
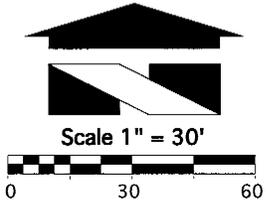
OTHER COSTS — THROUGHOUT MONITORING PERIOD

Type	Unit Price	Unit	Quantity				Total
Inspection, annual	\$ 460.00	EACH	\$ 4.00				\$ 1,840.00
Inspection, final	\$ 575.00	EACH	\$ 1.00				\$ 575.00
Maintenance, semi-annual	250		10				\$ 2,500.00
Maintenance, annual							\$ -
Monitoring, annual	\$ 750.00		\$ 5.00				\$ 3,750.00
Watering, 1" of water, 50' soaker hose	\$ 3.62	MSF					\$ -
Irrigation - temporary	\$ 2,000.00	Acre	\$ 0.10				\$ 200.00
Irrigation - buried	\$ 4,500.00	Acre					\$ -

Web date: 11/21/2005

HABITAT STRUCTURES (includes delivery)							
ITEMS	Unit Cost	Unit	Quantity				Total
Fascines (willow)		Each					\$ -
Logs, (cedar), w/ root wads, 16"-24" diam., 40' long	\$ 1,000.00	Each					\$ -
Logs (cedar) w/o root wads, 16"-24" diam., 40'	\$ 400.00	Each					\$ -
Logs, w/o root wads, 16"-24" diam., 40' long	\$ 245.00	Each					\$ -
Logs w/ root wads, 16"-24" diam., 40' long	\$ 460.00	Each					\$ -
Rocks, one-man	\$ 60.00	Each					\$ -
Rocks, two-man	\$ 85.00	Each					\$ -
Root wads	\$ 163.00	Each					\$ -
Spawning gravel, type A	\$ 22.00	CY	15				\$ 330.00
Weir - log	\$ 1,500.00	Each					\$ -
Weir - adjustable	\$ 2,000.00	Each					\$ -
Woody debris, large	\$ 163.00	Each	4				\$ 652.00
Snags - anchored	\$ 400.00	Each					\$ -
Snags - on site	\$ 50.00	Each					\$ -
Snags - imported	\$ 800.00	Each					\$ -
EROSION CONTROL							
ITEMS	Unit Cost	Unit	Quantity				Total
Backfill and Compaction-embankment	\$ 4.89	CY					\$ -
Crushed surfacing, 1 1/4" minus	\$ 74.30	CY					\$ -
Ditching	\$ 7.03	CY					\$ -
Excavation, bulk	\$ 1.30	CY	23				\$ 29.90
Fence, silt	\$ 1.20	LF	400				\$ 480.00
Jute Mesh	\$ 1.26	SY					\$ -
Mulch, by hand, straw, 2" deep	\$ 1.27	SY					\$ -
Mulch, by hand, wood chips, 2" deep	\$ 3.25	SY					\$ -
Mulch, by machine, straw, 1" deep	\$ 0.32	SY					\$ -
Piping, temporary, CPP, 6"	\$ 9.30	LF					\$ -
Piping, temporary, CPP, 8"	\$ 14.00	LF	20				\$ 280.00
Piping, temporary, CPP, 12"	\$ 18.00	LF					\$ -
Plastic covering, 6mm thick, sandbagged	\$ 2.00	SY	30				\$ 60.00
Rip Rap, machine placed, slopes	\$ 33.98	CY					\$ -
Rock Constr. Entrance 100'x15'x1'	\$ 2,546.68	Each					\$ -
Rock Constr. Entrance 50'x15'x1'	\$ 1,273.34	Each					\$ -
Sediment pond riser assembly	\$ 1,695.11	Each					\$ -
Sediment trap, 5' high berm	\$ 15.57	LF					\$ -
Sediment trap, 5' high berm w/spillway incl. riprap	\$ 59.60	LF					\$ -
Sodding, 1" deep, level ground	\$ 5.24	SY					\$ -
Sodding, 1" deep, sloped ground	\$ 6.48	SY					\$ -
Straw bales, place and remove	\$ 432.00	TON	0.2				\$ 86.40
Topsoil, delivered and spread	\$ 35.73	CY					\$ -

STREAM AND BUFFER ENHANCEMENT PLAN
SABEGH MIXED USE COMPLEX
 PORTION OF SECTION 8, TOWNSHIP 25N, RANGE 5E, W.M.



LEGEND	
	BUFFER ENHANCEMENT
	ESA SIGN
	SPLIT-RAIL FENCE

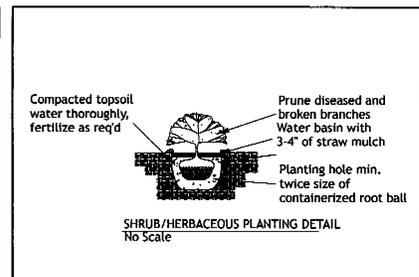
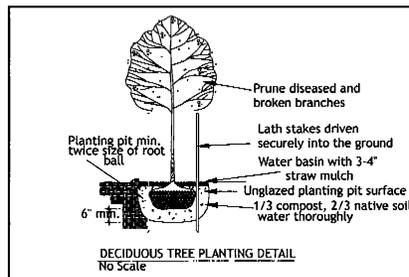
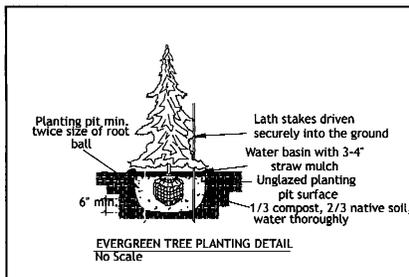
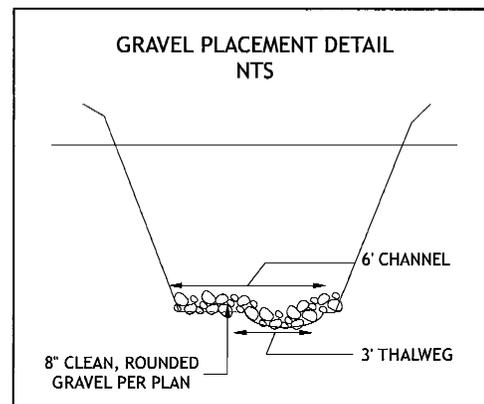
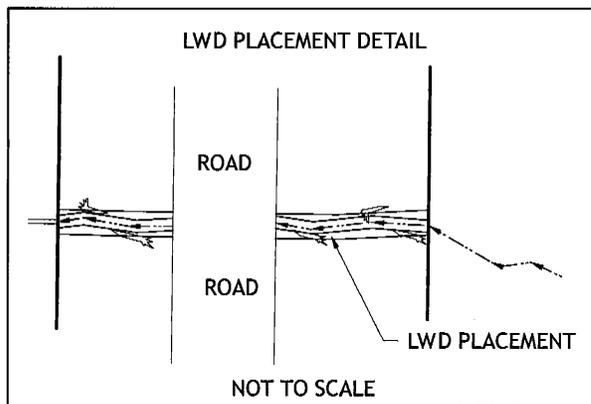
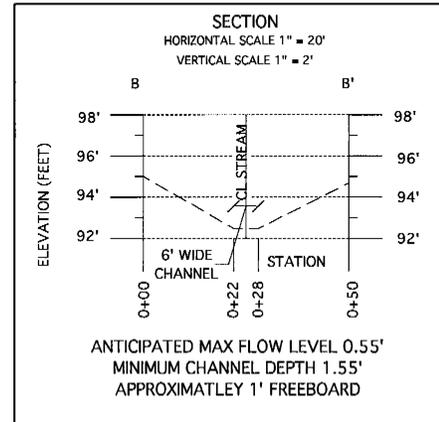
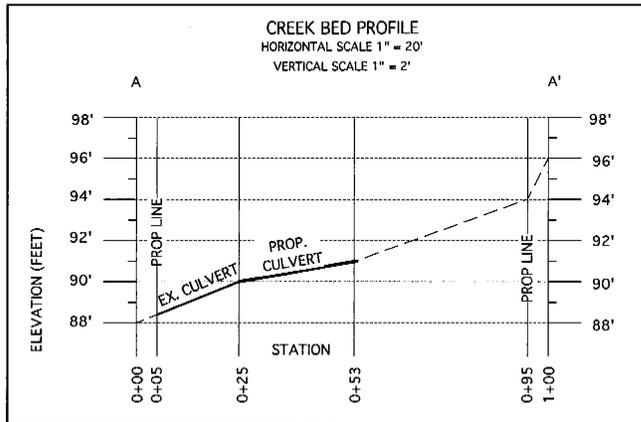
Wetland Resources, Inc.
 Delineation / Mitigation / Restoration / Habitat Creation / Permit Assistance
 9505 19th Avenue S.E. Suite 106 Everett, Washington 98208
 Phone (425) 337-3174
 Fax (425) 337-3045
 E-mail: mailbox@wetlandresources.com

STREAM AND BUFFER ENHANCEMENT PLAN
SABEGH - MIXED USE DEVELOPMENT
 KIRKLAND, WASHINGTON

Anthony Sabegh
 133 10th Avenue S
 Kirkland, WA 98033

Sheet 1/3
 Job #06546
 Drawn by: L. Emenhiser
 Date: January 19, 2007
 Revision #3: November 1, 2007

STREAM AND BUFFER ENHANCEMENT PLAN
SABEGH MIXED USE COMPLEX
 PORTION OF SECTION 8, TOWNSHIP 25N, RANGE 5E, W.M.



Wetland Resources, Inc.
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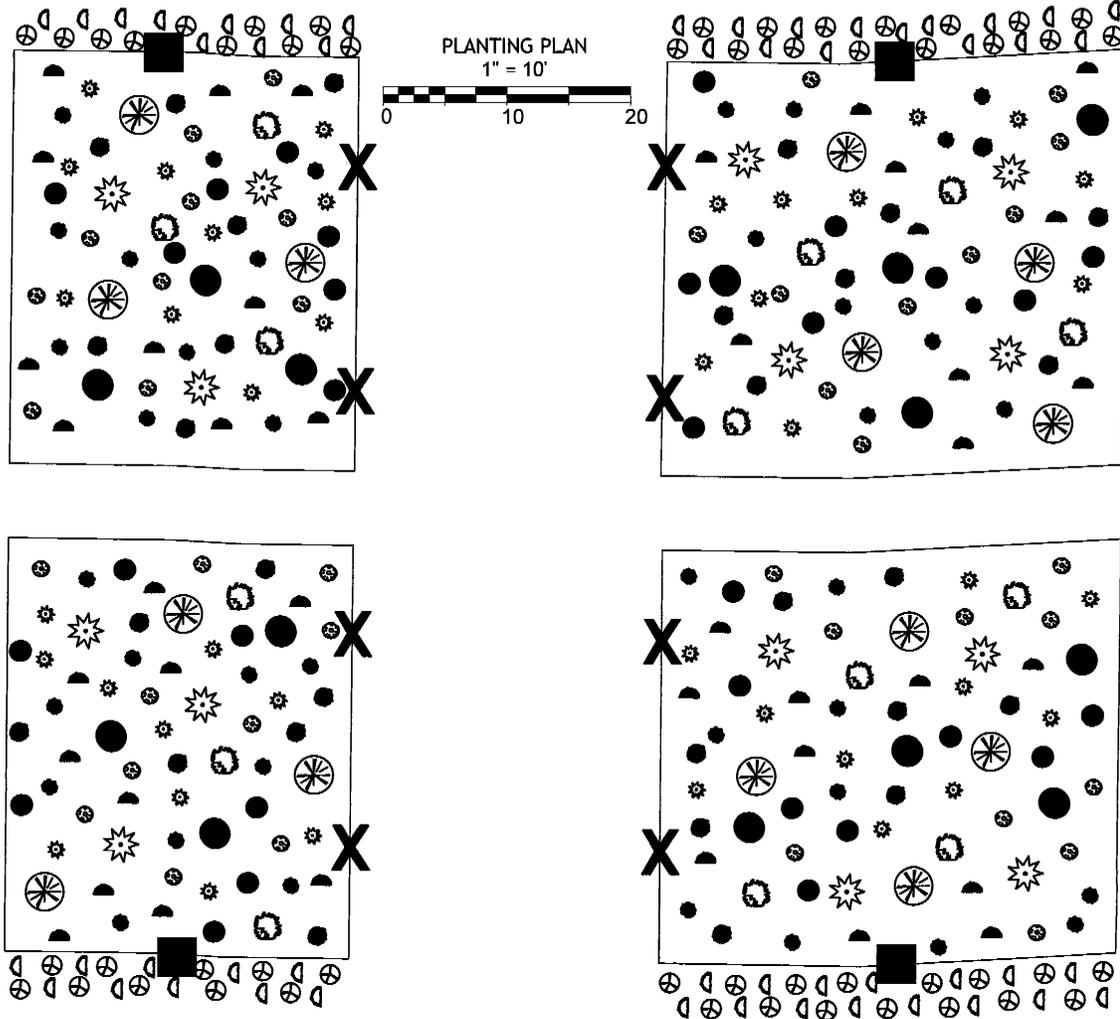
STREAM AND BUFFER ENHANCEMENT PLAN
SABEGH - MIXED USE DEVELOPMENT
 KIRKLAND, WASHINGTON

Anthony Sabegh
 133 10th Avenue S
 Kirkland, WA 98033

Drawn by: L. Emehiser
 Date: January 19, 2007
 Revision #3: November 1, 2007

Sheet 2/3
 Job #06546

STREAM AND BUFFER ENHANCEMENT PLAN
SABEGH MIXED USE COMPLEX
 PORTION OF SECTION 8, TOWNSHIP 25N, RANGE 5E, W.M.



LEGEND

ENHANCEMENT PLANTINGS

- | | | | |
|--|--|--|---------------------------------------|
| | Douglas fir <i>Pseudotsuga menziesii</i> | | Osoberry <i>Oemleria cerasiformis</i> |
| | Big leaf maple <i>Acer macrophyllum</i> | | Snowberry <i>Symphoricarpos albus</i> |
| | Western red cedar <i>Thuja plicata</i> | | Baldhip rose <i>Rosa gymnocarpa</i> |
| | Red Alder <i>Alnus rubra</i> | | Oregon grape <i>Berberis nervosa</i> |
| | Salmonberry <i>Rubus spectabilis</i> | | Salal <i>Gaultheria shallon</i> |
| | Black hawthorne <i>Crataegus douglasii</i> | | Nootka rose <i>Rosa nutkana</i> |

Please note: this planting plan should serve as a rough guide.
 Actual placement of plants shall be determined by conditions in the field.
 For shrubs, planting symbols represent groups of two (2) plants.

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STREAM AND BUFFER ENHANCEMENT PLAN
SABEGH - MIXED USE DEVELOPMENT
 KIRKLAND, WASHINGTON

Sheet 3/3
 Job #06546
 Drawn by: L. Emenhiser
 Date: January 19, 2007
 Revision #3: November 1, 2007

Anthony Sabegh
 133 10th Avenue S
 Kirkland, WA 98033

July 19, 2004

2004 Fish Passage Construction

Glossary

Armor gravel: A streambed mix of gravel that contains 0-5% fines passing the #200 sieve and 10-20% passing the #40 sieve. This mix is used as an upper layer during streambed construction.

Bankfull channel width: The zone that extends to the edge of the rooted vegetation on each side. Characterized by the start of perennial vegetation, and often by a change in the channel side slope to a more horizontal grade. The stage at which stream flow enters the floodplain.

Boulder cascade: A stream channel of greater than 4% gradient where the substrate is composed of large boulders that are immobile during most flows. Pools are small, shallow and flow is often turbulent.

Hydraulic control: The streambed at the outlet of a pool that maintains the water surface elevation within the pool. A streambed feature that creates a backwater in an area of the channel.

Monolithic channel: A stream channel characterized by the massiveness, rigidity and uniformity of its substrate.

Plunge Pool: A pool created by vertical scour, usually associated with a waterfall or culvert outlet.

Residual Pool: A pool that exists at extreme low flow and in which the water surface is maintained by the hydraulic control.

Riffle Meander: A stream channel of 0.5% to 4% gradient in which the vertical grade features are provided by pools and riffles, and which demonstrates lateral sinuosity.

Sub-grade gravel: A streambed gravel mix containing contains 5-10% fines passing the #200 sieve and 15-30% passing the #40 sieve. This material is placed underneath the armor gravel layer and is designed to help support surface flows by providing a rapid sealing of interstitial spaces.

Thalweg: The stream path that the lowest flow will follow; usually in the form of a deep trough in the cross section view of the channel



Delineation / Mitigation / Restoration / Habitat Creation / Permit Assistance

9505 19th Avenue S.E.
Suite 106
Everett, Washington 98208
(425) 337-3174
Fax (425) 337-3045

STREAM AND BUFFER ENHANCEMENT PLAN

FOR

RECEIVED
JUL 2 2007

SABEGH MIXED USE COMPLEX

Wetland Resources, Inc. Project #06546

PLANNING DEPARTMENT
BY _____ PM

Prepared By:

Wetland Resources, Inc.
9505 19th Ave. SE
Suite 106
Everett, WA 98208
(425) 337-3174

For:

Anthony Sabegh
133 10th Ave South
Kirkland, WA 98034

Replaced by
revision
submitted
on 9/21/07

January 19, 2007
Revision #1: June 27, 2007

SITE DESCRIPTION

On January 10, 2006 *Wetland Resources, Inc.* visited the 0.5-acre site located at 10850 68th Street in the city of Kirkland, Washington. The subject property lies within a portion of Section 8, Township 25N, Range 05E, W.M.

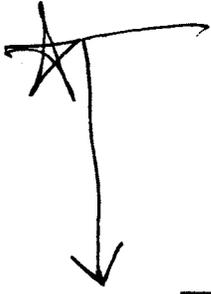
Access to this undeveloped site is from the south via NE 68th Street. All of the surrounding properties have currently been developed to residential and commercial uses. Vegetation on this site is represented by herbaceous, weedy species. One Class B stream flows west across the northern portion of the property. This is a perennial stream that is not used by salmonids. Class B streams in secondary basins in the city of Kirkland typically receive 50-foot protective buffers.

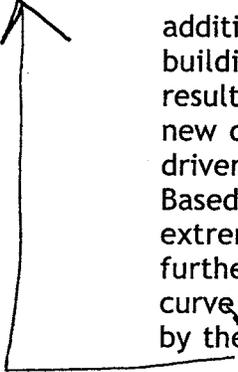
PROJECT DESCRIPTION

The applicant is proposing a mixed-use development for this property. Because the stream buffer is currently dominated by invasive species, the applicant is proposing to reduce the typically required 50-foot buffer down to 33.5 feet with enhancement. A total of 4,368 square feet of buffer is proposed to be enhanced. Enhancement is proposed to consist of controlling invasive species, planting native species, and installing a shrub barrier along the perimeter of the reduced buffer. In addition, the stream itself is proposed to be enhanced through grading, placement of large woody debris, and appropriate gravel substrate. The existing on-site culvert will be removed. In an effort to avoid crossing the stream and the associated impacts, the applicant pursued assess easements from the property owners located north of the site. However, none of these property owners are interested in granting an easement. As a result, the only feasible way to access the northern portion of this property is to cross the stream.

RESPONSE TO WATERSHED COMPANY COMMENTS

Below is the applicant's response to comments and concerns expressed by The Watershed Company in their May 4, 2007 review letter. The numbered responses below correspond to the numbered comments in this letter.

- 
1. The applicant is proposing to construct the access road through the center of the property. Buildings A, and C extend approximately 28 feet from the west property line. In order to provide safe access to building E, the road currently extends 28 feet away from the west property line. According to the latest request and in compliance with the City setback and landscape buffer code, Building E is sitting 15 feet east of the west property line. Even if we design our building "garage" right after this setback, there is an



additional portal wall which is a minimum of 36 inches wide according to the building code. This adds an additional three feet to the 15-foot setback, resulting in a total of 18 feet from the west property line. If we install our new culvert access road at least 18 feet away from the west property line, drivers still have to go through an unsafe, curvy road to access Building E. Based on the above data, it appears logical that this access road would be extremely unsafe for drivers. If we were to move the access road even further towards the west property line it would increase the amount of curve in the road and make the condition worse. A robust design proposed by the architect is shown on the site plan.

2. The shrub barrier has been moved outside of the reduced buffer, and will be installed as previously proposed.
3. The remaining components of KZC 90.105(5) have been addressed in the *Stream Channel Construction* section of this report.
4. The depth of the gravel has been increased to a minimum of eight (8) inches.
5. A stream profile and cross section have been completed. Excavation will be conducted to provide a two-foot wide stream channel with three to one (3:1) side slopes. A site-specific detail for placement of large woody debris has been provided.
6. In stream work is expected to take approximately two weeks and will be conducted following all provisions of the Hydraulic Project Approval HPA (pending) for this project. Construction will occur during the low-flow season, likely between July 1 and September 15; or as specified by the HPA. A temporary bypass will also be installed as per specifications of the approved HPA.
7. The grass seed provision has been removed. Site wide mulch will be used in its place.
8. The monitoring schedule has been revised, monitoring will now occur twice a year as described in the May 4, 2007 memo from the Watershed Company. This is addressed in the *Project Monitoring* section of this plan.
9. This comment relates to the city.
10. Four weeding visits per year have been specified. This can be found in the *Project Monitoring* section of this report, under the heading *Maintenance*.

Desiree Goble

From: Desiree Goble
Sent: Wednesday, November 21, 2007 4:33 PM
To: 'Sabegh, Anthony A'; 'Louis Emehiser'
Subject: FW: Sabegh - review of 11/01/07 WRI submittal
Attachments: 2150_001.pdf

F.Y.I.

Desiree Goble
Phone: 425.587.3251
Fax: 425.587.3232

From: Hugh Mortensen [mailto:HMortensen@watershedco.com]
Sent: Wednesday, November 14, 2007 10:22 AM
To: Desiree Goble
Subject: Sabegh - review of 11/01/07 WRI submittal

Desiree:

Attached are redlined pages 5, 6 and 7 from the bond quantity worksheet prepared for this project under the latest submittal from Wetland Resources, Inc. (11/01/07).

Below is an explanation of the redlines:

- 1) The mitigation plan mentions (at our request) a minimum of 4 maintenance visits per year, yet the bond sheet shows only 10 total (presumably two visits per year for 5 years). Doubling this figure to 20 total visits adds an additional \$2,500 to the bond cost.
- 2) The mitigation plan stipulates the entire planted buffer area receive a minimum of 4 inches of woodchip mulch. Covering the 4,368 square feet of area to a depth of 4 inches will require 54 cubic yards of mulch. Woodchip mulch costs \$15 per yard delivered – I assume spreading it will be covered under the 40 hours of general landscaping labor shown near the top of page 5. 54 yards at \$15/yard adds an additional \$810 to the bond cost.
- 3) KZC 90.145 requires the applicant post a bond equivalent to 125% of the cost of the project.
- 4) The addition of the mulch, maintenance visits and the 125% brings the total bond to \$38,175.77.

I found no other problems with the submittal, other than the difference regarding the culvert location mentioned in past communications.

Please call or reply if you have any questions.

-Hugh

HUGH MORTENSEN; PWS

Senior Ecologist

THE WATERSHED COMPANY

6/22/2008

750 6th Street S.

Kirkland, WA 98033

425.822.5242 t

425.827.8136 f

www.watershedco.com

<<2150_001.pdf>>

web date: 11/21/2005

INSTALLATION COSTS (LABOR, EQUIPMENT, OVERHEAD & PROFIT)									
Type	Unit Price	Unit	Quantity						Total
Compost, vegetable, delivered and spread	\$ 37.88	CY							\$ -
Decompacting till/hardpan, medium, to 6" depth	\$ 1.57	CY							\$ -
Decompacting till/hardpan, medium, to 12" depth	\$ 1.57	CY							\$ -
Fertilize, slow release tablets, 30gm/tree	\$ 3.21	Each							\$ -
Hydroseeding	\$ 0.51	SY							\$ -
Labor, general (landscaping)	\$ 25.00	HR	40						\$ 1,000.00
Labor, general (construction)	\$ 37.00	HR	20						\$ 740.00
Labor: Consultant, supervising	\$ 55.00	HR							\$ -
Labor: Consultant, on-site re-design	\$ 95.00	HR							\$ -
PLANTS: Potted, 4" diameter, medium	\$ 0.68	Each							\$ -
PLANTS: Container, 1 gallon, medium soil	\$ 10.02	Each							\$ -
PLANTS: Container, 2 gallon, medium soil	\$ 16.47	Each							\$ -
PLANTS: Container, 5 gallon, medium soil	\$ 29.38	Each							\$ -
PLANTS: Seeding, by hand	\$ 0.44	SY							\$ -
PLANTS: Slips (willow, red-osier)	\$ 1.32	Each							\$ -
PLANTS: Stakes (willow)	\$ 0.96	Each							\$ -
Rental of decompacting machinery & operator	\$ 70.65	Hour							\$ -
Sand, coarse builder's, delivered and spread	\$ 42.06	CY							\$ -
Staking material (set per tree)	\$ 7.00	Each							\$ -
Surveying, line & grade	\$ 605.44	DAY							\$ -
Surveying, lot location & lines	\$ 1,353.60	ACRE							\$ -
Surveying, topographical	\$ 2,160.00	ACRE							\$ -
Tilling topsoil, disk harrow, 20hp tractor, 4"-6" deep	\$ 1.02	SY							\$ -
OTHER COSTS — THROUGHOUT MONITORING PERIOD									
Type	Unit Price	Unit	Quantity						Total
Inspection, annual	\$ 460.00	EACH	\$ 4.00						\$ 1,840.00
Inspection, final	\$ 575.00	EACH	\$ 1.00						\$ 575.00
Maintenance, semi-annual	250		30	20					\$ 2,500.00 + \$2,500
Maintenance, annual									\$ -
Monitoring, annual	\$ 750.00		\$ 5.00						\$ 3,750.00
Watering, 1" of water, 50' soaker hose	\$ 3.62	MSF							\$ -
Irrigation - temporary	\$ 2,000.00	Acre	\$ 0.10						\$ 200.00
Irrigation - buried	\$ 4,500.00	Acre							\$ -

Web date: 11/21/2005

HABITAT STRUCTURES (includes delivery)							
ITEMS	Unit Cost	Unit	Quantity				Total
Fascines (willow)		Each					\$ -
Logs, (cedar), w/ root wads, 16"-24" diam., 40' long	\$ 1,000.00	Each					\$ -
Logs (cedar) w/o root wads, 16"-24" diam., 40'	\$ 400.00	Each					\$ -
Logs, w/o root wads, 16"-24" diam., 40' long	\$ 245.00	Each					\$ -
Logs w/ root wads, 16"-24" diam., 40' long	\$ 460.00	Each					\$ -
Rocks, one-man	\$ 60.00	Each					\$ -
Rocks, two-man	\$ 85.00	Each					\$ -
Root wads	\$ 163.00	Each					\$ -
Spawning gravel, type A	\$ 22.00	CY	15				\$ 330.00
Weir - log	\$ 1,500.00	Each					\$ -
Weir - adjustable	\$ 2,000.00	Each					\$ -
Woody debris, large	\$ 163.00	Each	4				\$ 652.00
Snags - anchored	\$ 400.00	Each					\$ -
Snags - on site	\$ 50.00	Each					\$ -
Snags - imported	\$ 800.00	Each					\$ -
EROSION CONTROL							
ITEMS	Unit Cost	Unit	Quantity				Total
Backfill and Compaction-embankment	\$ 4.89	CY					\$ -
Crushed surfacing, 1 1/4" minus	\$ 74.30	CY					\$ -
Ditching	\$ 7.03	CY					\$ -
Excavation, bulk	\$ 1.30	CY	23				\$ 29.90
Fence, silt	\$ 1.20	LF	400				\$ 480.00
Jute Mesh	\$ 1.26	SY					\$ -
Mulch, by hand, straw, 2" deep	\$ 1.27	SY					\$ -
Mulch, by hand, wood chips, 2" deep	\$ 15.00	SY	54				\$ 810.00
Mulch, by machine, straw, 1" deep	\$ 0.32	SY					\$ -
Piping, temporary, CPP, 6"	\$ 9.30	LF					\$ -
Piping, temporary, CPP, 8"	\$ 14.00	LF	20				\$ 280.00
Piping, temporary, CPP, 12"	\$ 18.00	LF					\$ -
Plastic covering, 6mm thick, sandbagged	\$ 2.00	SY	30				\$ 60.00
Rip Rap, machine placed, slopes	\$ 33.98	CY					\$ -
Rock Constr. Entrance 100'x15'x1'	\$ 2,546.68	Each					\$ -
Rock Constr. Entrance 50'x15'x1'	\$ 1,273.34	Each					\$ -
Sediment pond riser assembly	\$ 1,695.11	Each					\$ -
Sediment trap, 5' high berm	\$ 15.57	LF					\$ -
Sediment trap, 5' high berm w/spillway incl. riprap	\$ 59.60	LF					\$ -
Sodding, 1" deep, level ground	\$ 5.24	SY					\$ -
Sodding, 1" deep, sloped ground	\$ 6.48	SY					\$ -
Straw bales, place and remove	\$ 432.00	TON	0.2				\$ 86.40
Topsoil, delivered and spread	\$ 35.73	CY					\$ -

4368 ft² @ 4" deep = 54 cubic yards



Memorandum

Date: October 17, 2007
To: Desiree Goble, City of Kirkland Planning
From: Hugh Mortensen, PWS
Subject: Sabegh Mixed Use Complex September 10, 2007 revised stream buffer modification plan

Desiree,

The revised submittal does not meet applicable Kirkland Zoning Code criteria. The following is a brief summary of the deficiencies:

- 1) The culvert location has not changed. Review comments from prior review letters are still valid. I understand the Planning Director will address this question.
- 2) Buffers are smaller than allowed under buffer modification. While the scale on the sheet 1/3 is wrong (1 inch actually measures 31.6 feet on the scale bar, not 30 feet as listed), the buffers measure only one inch on the south side and 0.95 to 0.96 inches on the north side of the stream. This is under the 33.5 feet required under either the scale bar or the stated 1" = 30' stated scale. On sheet 3/3 no scale bar is shown so there is no way to check the accuracy of the scale. However, at 1" = 10' the buffers areas measure only 31.5 to 32 feet wide – again, smaller than the minimum buffer modification width of 33.5 feet. Buffers must be measured from the stream bank, which is now shown as 6 feet wide.
- 3) A fence is shown along the drive, but the plan notes that this could change to a hedge barrier at the applicant's discretion. Note that since the code requires the minimum disturbance necessary to accomplish the project and since a hedge is wider than a fence and must be located outside the buffer, then a fence results in more enhanced and functional buffer area and less disturbance.
- 4) Only vague mention of erosion control is provided. While the plan is to be constructed during the dry season "to the greatest extent possible", provisions for inopportune construction timing or unseasonable summer storms are needed. Specific instructions for bypassing stream flow during channel construction are needed, as are specific channel excavation and reconstruction instructions.
- 5) The bond sheet does not list costs for temporary fence for the shrub barrier, the split rail fence along the road, the stream flow bypass installation and removal, channel excavation, or gravel and woody debris placement.



July 23, 2007

Desiree Goble
City of Kirkland Planning
123 – 5th Avenue
Kirkland, WA 98033

Re: Sabegh Property Stream Buffer Modification

Dear Desiree:

Thank you for the opportunity to review the *Stream and Buffer Enhancement Plan* (report form) for the Sabegh Mixed Use Complex prepared by Wetland Resources, Inc. (WRI) and dated January 19, 2007; revised June 27, 2007.

Findings

Several recommendations from my first review letter have been incorporated. However, as with the last review, several key recommendations were not followed. The letter outlines the applicant's responses. The following summarizes the remaining discrepancies and our responses:

- 1) The culvert remains centered on the lot and has not been moved to preserve continuity of the stream channel as requested. The reason given is that of diminished traffic safety as a result of additional curves to the access drive. We are not qualified to assess the safety of roads. A traffic or civil engineer should assess the relative risk of additional driveway curves.
- 2) The applicant has chosen to use a hedge as an equivalent barrier to a split rail fence. Of the two species chosen, black gooseberry is a poor choice, as it prefers to grow in wetland conditions and not at the extreme edge of an upland buffer adjacent to a parking lot. It prefers shade or partial shade, neither of which will be present on the property. The ability of the proposed shrubs to form an adequate barrier immediately upon installation is further in question as the spacing of the shrubs is too wide to provide an immediate adequate barrier for typical plant sizes available at nurseries. The spacing is two rows, with plants on 3-foot centers. This is not dense enough to present much of a barrier. The plants specified are 1-gallon container, which rarely have a branch-spread wider than 1 foot when purchased. At 3-foot centers, there would be at least 2 feet between each plant. A temporary fence coupled with denser planting (18" o.c.) could work in the interim between when the shrubs are installed and when they mature. The fence should remain in place until the planted vegetation creates a solid 3-foot wide barrier without gaps.
- 3) The location of the barrier should also extend along the access drive on both sides of the stream buffer. Per Kirkland Zoning Code (KZC) 90.95, the barrier shall be installed "between the upland boundary of all stream buffers and the developed portion of the site." The access road clearly is part of the developed portion. Again, the barrier shall be installed outside of the buffer. Since a fence would take up less room than an equivalent vegetated barrier, and since the applicant is required to reduce impacts to the maximum

extent practical, the use of a fence in this location should be required, as it will not reduce the area available for buffer enhancement.

- 4) There should be a performance standard and monitoring requirement specifically for the hedge barrier. It should be written such that the barrier is examined and is shown to be providing an actual barrier equivalent to a split rail fence.
- 5) KZC section 90.105 requires, among other things, the creation of natural meander patterns and the creation of a thalweg within the meandering channel. Neither of these features is readily apparent in the plan drawings. While a sinuous channel is mentioned on page 9 of the report, none of the drawings show any sinuosity to the channel whatsoever. No apparent deviation from the current channel location is proposed. The channel is shown as only 1 foot wide west of the road and only up to 2.5 feet wide east of the road. Clearly there is not enough room for a meandering channel within these narrow confines.
- 6) One cross section is included, however it is inadequate for instructing contractors on the details of how it is to be built. There is no depiction of gravel placement, or illustration of anticipated maximum flow levels.
- 7) Sheet 1 of 3 is difficult to interpret. For instance, there are no clearly marked areas for parking. Some buildings have bisecting lines and others do not. There are call-out arrows with no associated text. What could be sidewalks are shown as a series of short, disconnected parallel lines.
- 8) Recent guidance from the Department of Ecology is to adopt a zero tolerance for Japanese knotweed in mitigation sites. Therefore, with respect to knotweed, the performance standards should be written to achieve complete eradication of this plant from the site and state that zero percent cover be permitted in any monitoring year.
- 9) No contingency plan for stream sedimentation is offered other than a site meeting with City and State officials. A plan is necessary that addresses a case where sedimentation does clog the channel and cause additional downstream flooding. If such a maintenance plan were written into the proposal, it may alleviate the potential for future permits from Kirkland and the Department of Fish and Wildlife should the need to clean the channel arise.
- 10) The Corps regulates discharges (e.g. gravel) to streams of less than 300 linear feet under Nationwide Permit 39; for lengths greater than 300 feet, applicants must apply for an Individual Permit.
- 11) No revised bond quantity worksheet was provided for review.

Adequately addressing the above comments will ensure the plan meets the letter and intent of the Kirkland Zoning Code.

Please call with any questions.

Sincerely,



Hugh Mortensen, PWS
Ecologist



May 4, 2007

Desiree Goble
City of Kirkland Planning
123 – 5th Avenue
Kirkland, WA 98033

Re: Sabegh Property Stream Buffer Modification

Dear Desiree:

Thank you for the opportunity to review the *Stream and Buffer Enhancement Plan* (three full-sized sheets) for the *Sabegh Mixed Use Complex* prepared by Wetland Resources, Inc. (WRI) and dated January 19, 2007. I also reviewed the following documents:

- 1) Stream and Buffer Enhancement Plan (report form) for the Sabegh Mixed Use Complex prepared by WRI.
- 2) Bond Quantity worksheet, prepared by WRI.
- 3) JARPA form, prepared by WRI.
- 4) Sabegh Property Level One Downstream Analysis, prepared by Site Development Associates, LLC.

Findings

Several recommendations from my first review letter have been incorporated. However, several key recommendations were not followed. Additionally, several problems and inconsistencies were also noted throughout the documents reviewed.

- 1) As stated in my first review, moving the culvert location from the center of the parcel to the downstream (west) side is advised. The proposed placement of the culvert fragments the open-channel section of the stream on the property and reduces its length more than necessary. Habitat fragmentation is well documented to adversely impact wildlife and habitat (criteria 2.b. in Kirkland Zoning Code (KZC) section 90.115). Since there appears to be approximately 15 feet of culvert in existence on the western subject property line, which will remain regardless, it would be advantageous to extend the current culvert to the extent necessary to provide access, thereby keeping the impacts confined towards the western property line. This would result in the least increase in culvert length necessary to accommodate a new stream crossing on-site. Furthermore, the mitigation planting areas as shown to the west of the proposed access road would essentially be buffering a piped stream section. As

such, they would offer little in the way of buffer functionality to either that piped section or the remaining open channel section upstream, now on the other side of the proposed access road. Extending the existing culvert by the minimum length necessary and providing a road crossing along the west side of the site would allow the remaining, open-channel stream section to be restored without fragmentation such that habitat is improved over what is currently in place. Additionally, KZC 90.115.1 states "Convenience to the applicant in order to facilitate general site design may not be considered."

- 2) Page 1 of the report describes a split rail fence to demarcate the buffer edge. This is inconsistent with page 7 of the report and sheet 2 of the mitigation plan, which describe a shrub barrier of equivalent barrier value. The density of the shrub barrier plantings is higher than in the last proposal. However, as stated in my first review, while a shrub barrier technically meets the requirements of KZC 90.95, a split rail fence will not only be more effective in the long run, but also will likely be cheaper and easier to install compared to installing and maintaining shrubs as required to offer a barrier of equivalent value. KZC 90.95 states that the barrier be placed "between the upland boundary of all stream buffers and the developed portion of the site." In this instance, the shrub barrier is included within the reduced buffer, rather than outside it, as required.
- 3) The streambed gravel portion of this project also falls under KZC section 90.105, Stream Relocation or Modification. The plan and report contain or demonstrate most of the requirements of this section. Specifically, the proposal still needs to address the items in number 5 relating to meander patterns, gentle and stable side slopes, and a thalweg within the channel.
- 4) The specified gravel mix is acceptable, however, the thickness of the application is not. WRI stipulates a thickness of only 2 inches; more than 15 percent of the gravel particles will exceed this thickness simply by their dimension. Two inches is not thick enough to stay uniformly in place, leaving patches of exposed soils beneath the gravel, and will not thwart the growth of vegetation within the channel. The main reason the existing channel is failing is that vegetation is trapping sediment and aggrading the channel depth. We recommend that the overall gravel thickness be increased to a minimum of 8 inches, in which case it will be at least two particles thick at all locations given that the largest gravel size is 4 inches.
- 5) No channel cross-section for the gravel mix is shown on the plan. The contractor would not know how or if the channel is to be deepened and if the gravel is to extend up the banks of the channel at least to the ordinary high water mark, as is common accepted practice. It is assumed that some excavation of the existing channel is needed to accommodate high flows plus the thickness of the gravel. The cross section shown for woody debris placement (sheet 2) appears to be a boilerplate figure and does not match the site topography. A formal drawing of where and how these logs are to be placed is needed. Such logs on these flat site grades could cause deflection of stream water and resumption flooding problems if not installed properly.

- 6) No project timing for in stream work is proposed. In stream work will need a temporary bypass plan to route site water around the channel during construction. This is needed, even if working during the summer, as a contingency if the stream is not dry or starts flowing following an unseasonable summer storm.
- 7) Two grass seed mixes are proposed, one for uplands and another for the stream. However, no demarcation of where the two mixes are to be applied is found. Grass seed will compete with the installed plants, reducing survival and growth rates. Also, grass mix in the stream channel is antithetical to the goal of preventing future sedimentation and resultant flooding problems. The goal of the channel restoration is to keep sediment-trapping vegetation (including grasses) out of the stream. Further, both seed mixes conflict with the site-wide mulch requirement found on page 15 of the report and on sheet 3 of the mitigation plan. Site-wide mulch is an excellent tool as it suppresses weeds, limits erosion and retains moisture during droughts.
- 8) The monitoring requirements are well spelled out. However, consistent with wetland mitigation requirements in KZC 90.55.4, monitoring should be stipulated to take place at least twice per year. The first annual visit can be in the spring and can consist of a maintenance (weeding) check for vegetation plus a check of the stream channel and its habitat features, including the log structures, banks, and substrate, to identify any maintenance or repairs that would need to be done during the upcoming low-flow season. The second visit is typically done in the late summer or fall and contains the bulk of the measurement and reporting requirements. Also, since no wetland creation is proposed or required, no documentation of site hydrology or soils is necessary as outlined on pages 10 and 11 of the report (items d and i).
- 9) The City should consider requiring an as-built inspection by a qualified 3rd party biologist familiar with stream reconstruction prior to acceptance of the completed work. An as-built report documenting any plan deviations should be submitted for review prior to this inspection.
- 10) The maintenance requirements are also well spelled out, except that there should be a schedule for site weeding to ensure at least 4 weeding visits per year with a contingency that more frequent weeding may be necessary.
- 11) There are several references to King County throughout the report. All local jurisdictional references should be to the City of Kirkland.
- 12) The performance standards need some adjustment. The table in the report has year columns that do not line up with the rows of target percentages. The table in the mitigation plan appears to be correctly formatted. However, as stated in the first review, a suitable Year 5 goal for woody vegetation (shrubs and sapling trees) is 80% cover, rather than the 60% offered. Rather than a survival standard beyond Year 2, which is difficult to track accurately, a diversity goal of number of native tree and shrub species should be established. Fairly optimistic goals for herbaceous vegetation are proposed despite the lack of any herbaceous plants **being proposed** on the plan.

All of the plants proposed are woody shrubs or trees. Herbaceous plants are generally not very successful in this type of a mitigation site where there is a large amount of exposure in an upland buffer. No herbaceous plants are recommended and therefore, no performance standards for these species are necessary. Finally, while spelled out in the text, the table should also contain the 10% maximum percent cover by invasive weeds standard. Please refer to my first review letter for the recommended performance standards.

- 13) The proposal should offer a contingency plan if sediment accretion aggrades the channel and again causes flooding problems.
- 14) The plan view drawings on the first sheet of the mitigation plan conflict with each other and with the proposed square footage quoted. For instance, the top right (northeastern) buffer quadrant measures 37 feet wide on the 10-scale drawing, but only 26 feet wide on the 30-scale drawing – a difference of 11 feet. Neither drawing appears to match the quoted planted area figure of 4,368 square feet.
- 15) The JARPA form box for a Corps 404 permit should be checked. Placement of stream gravel in this stream comes under Corps jurisdiction. Also, the JARPA should contain an explanation of the gravel placement beyond simply quoting the cubic yardage.
- 16) The bond quantity estimate for annual and final inspections by Kirkland is far too low. Also \$250 for annual maintenance is far too low. No amount is provided for annual monitoring. The gravel quantity shown is only 5 yards while the JARPA figure for gravel is 15 yards. Finally, a habitat snag is included on the worksheet, yet none are proposed in the report or on the mitigation plan.
- 17) The level one downstream analysis was not reviewed for the accuracy of the engineering calculations. However, the “Other Permits” section states that the project will not require an HPA, Corps of Engineers or other outside permit. All work within the ordinary high water mark of a stream requires an HPA from the Washington State Fish and Wildlife Department. As stated above in #15, gravel placement requires a Corps permit. Finally, the street identified in the report as 108th Avenue NE is called Sixth Street South within the city limits.

Adequately addressing the above comments will ensure the plan meets the letter and intent of the Kirkland Zoning Code.

Please call with any questions.

Sincerely,



Hugh Mortensen, PWS
Ecologist

cc. Dawn Nelson



September 22, 2006

Desiree Goble
City of Kirkland Planning
123 – 5th Avenue
Kirkland, WA 98033

Re: Sabegh Property Stream Buffer Modification

Dear Desiree:

Thank you for the opportunity to review the Sabegh Mixed Use Development Stream Buffer Mitigation Plan prepared by The Riley Group, Inc. (TRG) and dated March 28, 2006. In addition, Senior Fisheries Biologist/EIT, Greg Johnston and I also made a site visit on September 19, 2006.

Findings

The buffer reduction concept of the plan appears generally sound, with a few exceptions, including some calculation errors (see item #2, below). However the proposed placement of the culvert does not appear to be in concert with the language regarding stream modification in the Kirkland Zoning Code (KZC). Code section 90.115 allows streams to be put in culverts only if there is no other access to the subject property. That section also states: “Convenience to the applicant in order to facilitate general site design may not be considered.”

The option of development without a culvert should also be explored. This could include construction on only the southern portion of the property or alternative access to the northern portion via easements from the Puget Sound Energy parcel, Anspach parcel or Houghton Properties parcel.

If the no-culvert option is not feasible, then moving the culvert location from the center of the parcel to the downstream (west) side is advised. The proposed placement of the culvert fragments the existing remaining channel length on the property. Habitat fragmentation is well documented to adversely impact wildlife and habitat (criteria b in 90.115). Since there appears to be approximately 15 feet of culvert in existence on the western subject property line, it would be advantageous to extend the current culvert to the extent necessary for access and keep the impact towards the western property line. The remaining stream section could then be restored such that habitat is improved over what is currently in place.

Part 2 of Section 90.115 lists 6 criteria that must be demonstrated by the applicant. None of these criteria have been specifically addressed. Section 90.115 also requires that the culvert pass the 100-year storm event. No engineering design of the culvert to show that the design meets

this standard was provided to this office for review. The existing on site culvert may also need to be analyzed to determine if it is properly sized.

The code also requires that buffer modifications, such as the one to reduce the buffer width on both sides of the stream, meet the 9 criteria outlined in KZC 90.100 2. (a-i).

Other noted problems with the buffer modification proposal include the following:

- 1) Structure overhangs and parking are proposed in the buffer setback. The Planning Official may allow minor improvements within this setback. However, these improvements have typically included ornamental landscaping, lawns, fences, etc. Structure overhangs and parking areas have adverse effects to wildlife and habitat during their construction, maintenance and use, and therefore are only allowed outside of this setback zone.
- 2) There are various inconsistencies in the quantifications provided in the proposal: 1) The size of the proposed enhancement provided on page 2, third paragraph offers 5,040 square feet, but the following bullet offers only 5,025 square feet. 2) On page 1, last paragraph, it is stated that the subject stream is daylighted for approximately 70 feet on-site, yet the last paragraph under *Proposed Alterations* on page 2 states that the stream length across the site is 90 feet. The 90-foot figure may include the segment presently piped, but this needs to be clarified. 3) Also pertaining to the last paragraph under *Proposed Alterations* on page 2, 90 minus 25 times 33.6 times 2 equals 4,368 square feet, not 5,040. The document should be consistent, or explain deviations.
- 3) Proposed tree and shrub species are appropriate for the area and should do well if installed properly. However, no groundcover species are proposed. Hearty groundcovers such as sword fern, salal, should be incorporated into the plan to increase structural and species diversity and improve habitat quality.
- 4) The plan indicates that “natural recruitment [of native plants] is anticipated”, but the entire site is vegetated with non-native invasive weeds. There are no native plants nearby to provide a source for recruitment. Therefore, plant spacing and density needs to be increased in order to meet performance standards. To restore 5,040 square feet of buffer with trees on 9-foot triangular spacing and shrubs on 6-foot spacing, will require at least 60 trees and 141 shrubs. This density is necessary to compete with invasive weeds and meet sufficient cover values, while allowing for some mortality.
- 5) The plan does not incorporate any woody debris or other habitat structures. Woody debris or brush piles in the buffer would improve habitat for reptiles, amphibians, and songbirds without substantial additional cost to the applicant. Materials for these features could likely be obtained from on-site tree clearing outside of the buffer.
- 6) As weed control, the plan proposes covering the entire area with black plastic for one year. This unnecessarily delays the restoration, resulting in temporal losses of

function in the stream buffer. Despite being infested with weeds, this vegetation does provide some stream function (wildlife cover, biofiltration, erosion control, runoff control, etc). A much more effective method is to cut knotweed to about 3 feet tall and inject the hollow stems with an approved herbicide. Following uptake of the herbicide, all the canes are cut to the ground and the entire site is planted and then mulched with at least 4 inches of wood chips. Herbicide application is then repeated as necessary to control the minimal re-sprouting of weed shoots.

- 7) Performance standards for native plant cover is broken into native woody plants and overall native plants, however no other plants other than woody ones are proposed. As stated previously, natural recruitment of native plants to this site is expected to be minimal. See the recommendations section for minimum cover standards over time.
- 8) The performance standards extend only to year 3. Performance standards on mitigation plans should be at least 5 years in duration, especially when establishing native plants where invasive weeds currently dominate.
- 9) Monitoring length is listed as 5 years on page 5, but the maintenance plan is listed as only 3 years on page 6. As in number 8) above, successful mitigation sites need to be maintained for at least 5 years to ensure successful establishment.
- 10) No irrigation system is proposed for the site. Buffer mitigation plantings need temporary irrigation during the summer drought period to properly establish. See the recommendations section for a description of an adequate irrigation system.
- 11) While a shrub barrier technically meets the requirements of KZC 90.95, a split rail fence will not only be more effective in the long run, but also will likely be cheaper and easier to install compared to installing and maintaining shrubs as required to offer a barrier of equivalent value. Further, the plan only proposes 18 thorny plants on either side of the buffer. This is not dense enough to form a thicket of equivalent value to a split rail fence.
- 12) No timing for the work is proposed. Plant installation is best done in the dormant season (October 1st to March 1st). Plant installation outside of this time will result in higher mortality and poor establishment and therefore will require higher planting densities to achieve performance standards.
- 13) The bond quantity worksheet does not include all costs of the proposed plan. Monitoring is calculated at 5 years times 2 times per year at \$25 per hour for a total of only \$250. This translates into only 1 hour of work by one maintenance person per year – clearly not adequate. No line item is included for plant mulch as is specified. The black plastic weed control materials or labor (mentioned above) is also not included. Also, it is stated on the footer of the worksheet “All prices effective August 8, 1998.” We believe that a more current template of the bond quantity worksheet is available from King County but, in any case, current price estimates should be used in these calculations.

Current flooding problems

The current state of the stream channel makes it prone to over bank flooding which damages buildings and businesses on the adjoining, downslope property to the west. On the day of our site visit, the stream had overtopped its banks and flooded a business in that building. Water had reached a height of approximately 1 foot against the eastern wall of the building and water had been several inches deep within the building itself.

It is our opinion that this problem is related to the fact that the stream flows in an artificial, excavated channel that is too small to carry stormwater flows from the watershed. The excavated section has become clogged with vegetation, which traps sediment thereby reducing its conveyance capacity.

A long-term solution to this problem is to reconstruct the stream channel to enlarge its current cross section (widen the channel), even out its gradient across the site, and to place a mix of gravel, cobbles and boulders in the stream bottom that will be unfavorable to the growth of vegetation, thereby allowing sediment bed load to pass along the channel rather than accumulating and causing future flooding problems. Such a solution will require permits from the City of Kirkland (under KZC 90.105) as well as from the Washington Department Fish and Wildlife and the US Army Corps of Engineers. Since the project will improve the overall stream condition and is necessary to reduce flooding and the risk to property and human safety, permits should be obtainable from these other agencies.

Such a stream channel restoration plan should be combined with the buffer modification enhancement plan in order to fix both problems in one time period and permitting submittal.

Recommendations

We recommend the planning department require the following plan changes:

- 1) The applicant should consider a no-culvert option either by developing only on the southern portion or through easements from adjoining properties.
- 2) If the culvert is unavoidable, then its location should be changed to along the western edge of the site to minimize the length of additional culvert needed and fragmentation of the existing stream.
- 3) The plan needs to address the 6 criteria in KZC 90.115 and the 9 criteria in KZC 90.100.2.
- 4) If a new culvert or a modification/extension of the existing culvert is unavoidable, the applicant needs to show that it is sized large enough to pass the 100-year storm event. The existing culvert should similarly be studied. A water resources engineer typically performs this calculation.
- 5) Redesign the proposal to eliminate structure overhangs and parking from the 10-foot buffer setback.
- 6) Recalculate the buffer restoration area and be consistent throughout the document.
- 7) Add at least two hearty native groundcover species at moderate density (no more than 60 are needed).

- 8) Increase tree density to 9 feet on-center (0.012 trees/ft²) and shrub density to 6 feet on-center (0.028 shrubs/ft²).
- 9) Add downed woody debris and/or brush piles to the plan. Utilization of trees cleared during construction is encouraged; however, use of invasive vegetation is not permissible (Japanese knotweed, English laurel, holly, ivy, blackberry, etc).
- 10) Eliminate the black plastic weed control method and substitute an alternative method that utilizes injection of knotweed nodes with herbicide by a state licensed applicator.
- 11) Performance standards should be extended to 5 years and include the following:
 - a. Minimum native cover: 60% by year 3; minimum 80% by year 5.
 - b. Minimum two established native tree species by year 5, three native shrub species by year 5 and 1 native groundcover by year 5.
 - c. Maximum 10% cover by invasive weeds in any monitoring year.
- 12) Specify a 5-year monitoring and maintenance period.
- 13) Specify an aboveground temporary irrigation system capable of delivering at least 2 inches of water to the entire planted area once per week during the period of June 15 through September 15.
- 14) Replace the shrub barrier with a split rail fence.
- 15) Specify plant installation timing or density escalators if planted outside of the dormant season (October to March).
- 16) Revise the bond quantity worksheet to accurately reflect project costs, including an update of unit prices used in the calculations. It appears that the bond quantity sheet is derived from the King County Excel spreadsheet. This spreadsheet has recently been revised, with more modest prices for plants. An electronic file of the new bond quantity worksheet can be obtained from King County DDES or directly from this office.
- 17) Work with the City of Kirkland Planning Department to develop a long-term solution to the current flooding problems that meets KZC requirements as well as those of state Fish and Wildlife and the US Army Corps of Engineers.

The addition of these recommendations will ensure the plan meets the letter and intent of the Kirkland Zoning Code.

Please call with any questions.

Sincerely,



Hugh Mortensen, PWS
Ecologist



October 2008

____ AM _____ PM
PLANNING DEPARTMENT
BY _____

Anthony Sabegh
133 10th Ave S Kirkland, WA 98033
425 830 2269

Robert L Gandt
1122 E pike #1153
Seattle WA 98122
206 322 9292

Dear Mr. Sabegh: You asked me to look at 6 trees located on a proposed building site located behind a 7-11 in Kirkland at 108th Ave and NE 68th Ave. You need, according to Kirkland City requirements, for each of the trees to be measured, identified, evaluated, drip lines thereof to be measured, and for it to be noted the impact of proposed construction on said trees.

Analysis: Each tree is numbered on an included site plan, and will be referenced in this report by that number, with the required data thereon.

Tree# 1: Douglas fir, 36" in diameter, condition good. Said tree has been pruned away from power lines on street, and has been somewhat compromised by this pruning. Drip line of said tree extends 28 feet out, with about 20 feet of canopy extending over the 7-11 parking lot. No sign of air borne or soil borne terminal pathogens. The southwest corner of the proposed construction will require excavation to within ten feet of said tree. In my opinion, said tree will not survive the excavation or the changed water table from leveling. Recommend removal.

viable
Type 2

Tree # 2: *Liquidambar* Liquid Aambar, 11" in diameter, condition good. No sign of air borne or soil borne terminal pathogens Drip line is several feet but no construction is to take place within ten feet of edge of drip line, according to site plan. This tree will be fine as is.

viable

Tree#3: Pear, bi-stemmed, 10" and 7" respectively. Condition is poor, as one entire stem is dead, signs of anthracnose and iron chlorosis, as well as extensive ivy damage. Said tree will not survive long with or without construction. Recommend removal.

not viable

Tree#4: Willow, 54 " in diameter, fair to poor condition, 38" lead has failed leaving a large wound on said tree's bole, about 10 feet above ground. Signs of decay in and around that area of trunk. Drip line extends over all proposed construction, 30 feet or so, and trunk of tree lies directly in the path of proposed entrance to building. Recommend removal.

not viable

Tree# 5: Liquid Aambar, 15" in diameter, condition good. No sign of air borne or soil borne terminal pathogens Drip line is several feet but no construction is to take place within ten feet of edge of drip line, according to site plan. This tree will be fine as is.

viable

Tree # 6: Bigleaf Maple, 36" diameter, 28 ft. drip line. No sign of air borne or soil borne terminal pathogens, but tree should be thinned and dead wooded as it has included bark in

viable

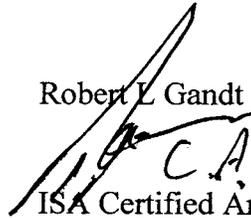
several of the crotches, and lies within 15 feet of proposed construction to the SW. Special care should be taken when excavating near this tree, pulling dirt away from the trunk in a lateral manner so as not to crack roots and damage tree to basal flare. Roots should be cut properly, and a run off shield should be installed next to forms to prevent cement run off from being absorbed by tree's root system.

Conclusion: To protect trees that are to remain, no material of any kind should be stored within noted drip lines of trees, nor should heavy equipment be parked or driven across soil within said drip lines. Wood chips can be placed two to three inches high within said drip lines to retain moisture as well.

I hope the above information and opinions assist you in proceeding with this matter.

Respectfully,

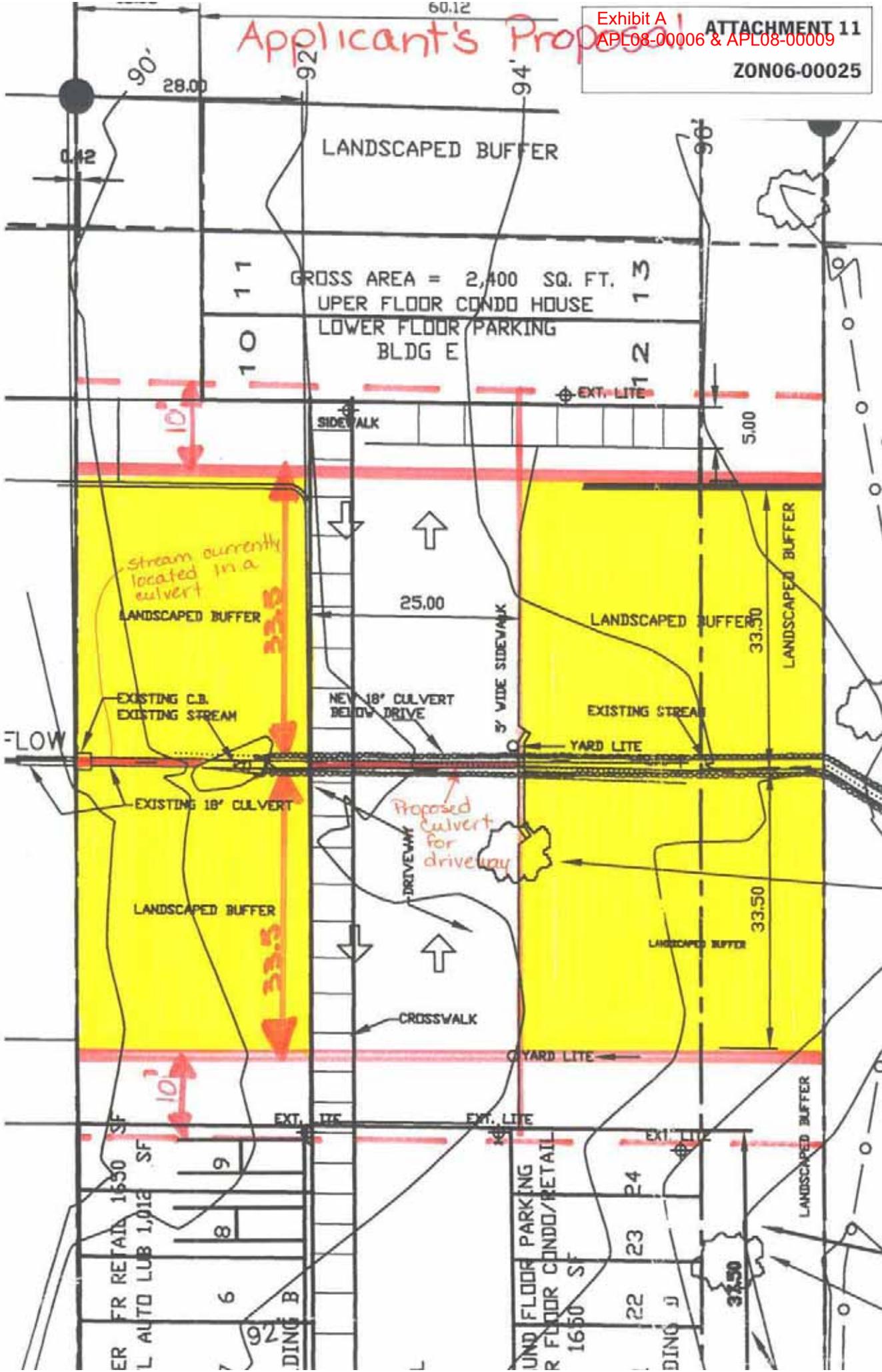
Robert L Gandt

A handwritten signature in black ink, appearing to read 'R. Gandt', with a stylized flourish extending upwards and to the left.

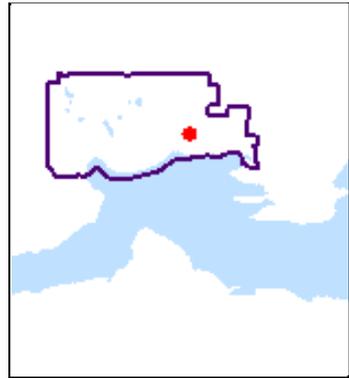
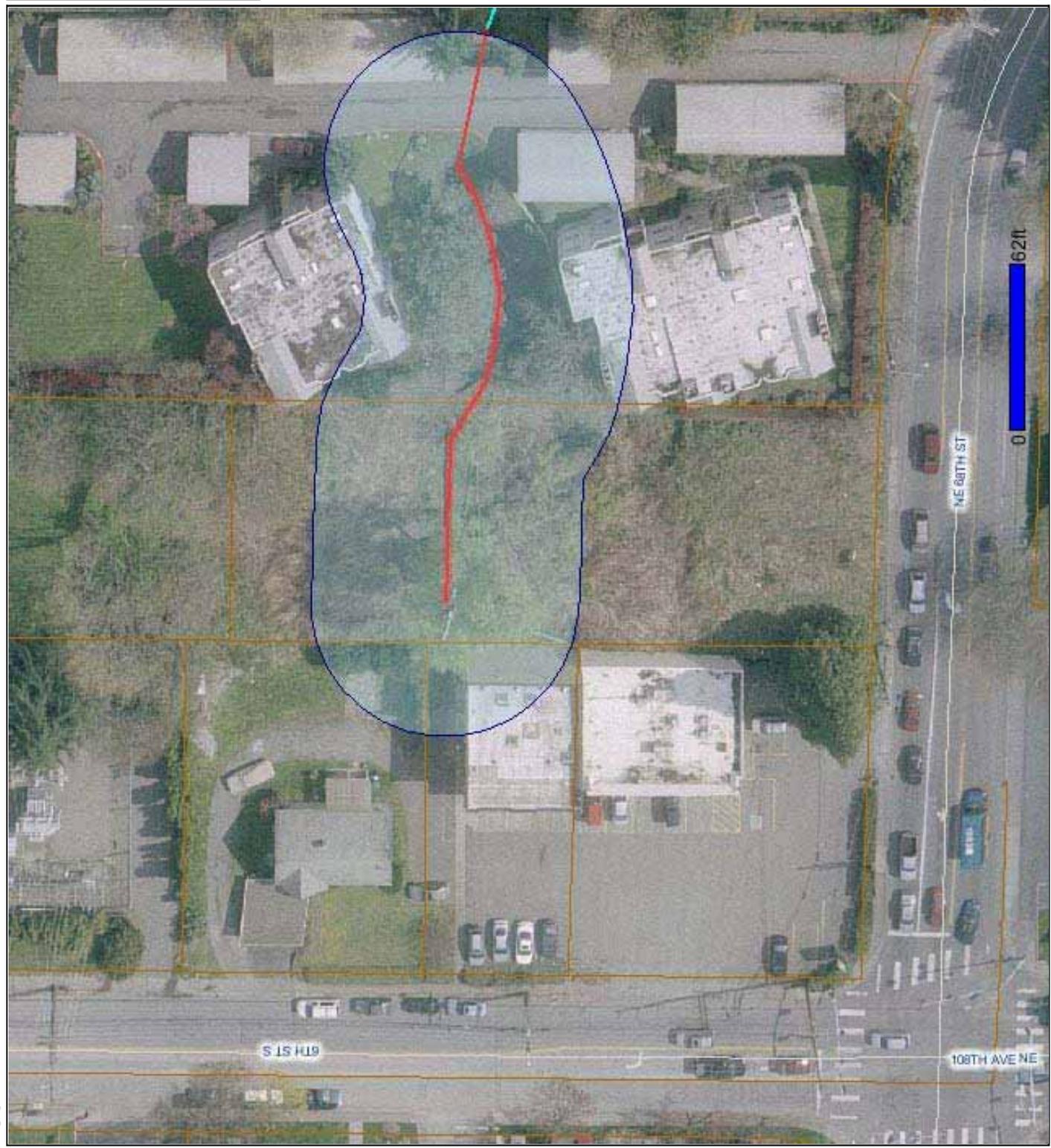
ISA Certified Arborist
PNW Chapter, PIN # 1110

Applicant's Proposal

Exhibit A
APL08-00006 & APL08-00009
ATTACHMENT 11
ZON06-00025



Approximate Stream Buffer Location



- Streams
- Open
- Pipe
- Parcels

Approximate
Scale 1:700
1 in = 58 ft

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Requirements pertaining to each landscaping category are located throughout this chapter, except that Landscaping Category E is not subject to this section.

Landscape Categories A, B, C, D, and E may be subject to additional related requirements in the following other chapters:

- a. Various use zone charts, in Chapters 15 through 60 KZC, establish additional or special buffering requirements for some uses in some zones.
 - b. Chapter 85 KZC, Geologically Hazardous Areas, addresses the retention of vegetation on steep slopes.
 - c. Chapter 90 KZC, Drainage Basins, addresses vegetation within sensitive areas and sensitive area buffers.
 - d. Chapter 110 KZC and Chapter 19.36 KMC address vegetation within rights-of-way, except for the I-405, SR-520, and Burlington Northern rights-of-way.
 - e. KZC 115.135, Sight Distance at Intersections, which may limit the placement of landscaping in some areas.
 - f. Chapter 22 KMC addresses trees in subdivisions.
2. Use of Significant Existing Vegetation.
- a. General. The applicant shall apply subsection KZC 95.35(4) to retain existing trees and vegetation in areas subject to the landscaping standards of this section. The Planning Official shall give substantial weight to the retained trees and vegetation when determining the applicant's compliance with this section.
 - b. Supplement. The City may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this section to supplement the existing vegetation in order to provide a buffer at least as effective as the required buffer.
 - c. Protection Techniques. The applicant shall use the protection techniques described in KZC 95.35(6) to ensure the protection of significant existing vegetation.
3. Landscape Plan Required. In addition to the tree plan required pursuant to KZC 95.35(2), application materials shall clearly depict the quantity, location, species, and size of plant materials proposed to comply with the requirements of this section, and shall address the plant installation and maintenance requirements set forth in KZC 95.45 and 95.50. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.
4. Minimum Land Use Buffer Requirements. The applicant shall comply with the provisions specified in the following chart and with all other applicable provisions of this chapter. Land use buffer requirements may apply to the subject property, depending on what permitted use exists on the adjoining property or, if no permitted use exists, depending on the zone that the adjoining property is in.

LANDSCAPING CATEGORY 	ADJOINING PROPERTY 	*Public park or low density residential use or if no permitted use exists on the adjoining property then a low density zone.	Medium or high density residential use or if no permitted use exists on the adjoining property then a medium density or high density zone.	Institutional or office use or if no permitted use exists on the adjoining property then an institutional or office zone.	A commercial use or an industrial use or if no permitted use exists on the adjoining property then a commercial or industrial zone.
A	Must comply with KZC 95.40(6)(a) (Buffering Standard 1)	Must comply with KZC 95.40(6)(a) (Buffering Standard 1)	Must comply with KZC 95.40(6)(b) (Buffering Standard 2)		
B	Must comply with KZC 95.40(6)(a) (Buffering Standard 1)	Must comply with KZC 95.40(5), (6)(a) (Buffering Standard 1)			
C	Must comply with KZC 95.40(6)(a) (Buffering Standard 1)	Must comply with KZC 95.40(6)(b) (Buffering Standard 2)			
D	Must comply with KZC 95.40(6)(b) (Buffering Standard 2)				
E					
Footnotes: *If the adjoining property is zoned Central Business District, Juanita Business District, North Rose Hill Business District, Rose Hill Business District, Totem Center or is located in TL 5, KZC 95.40(6) does not apply.					

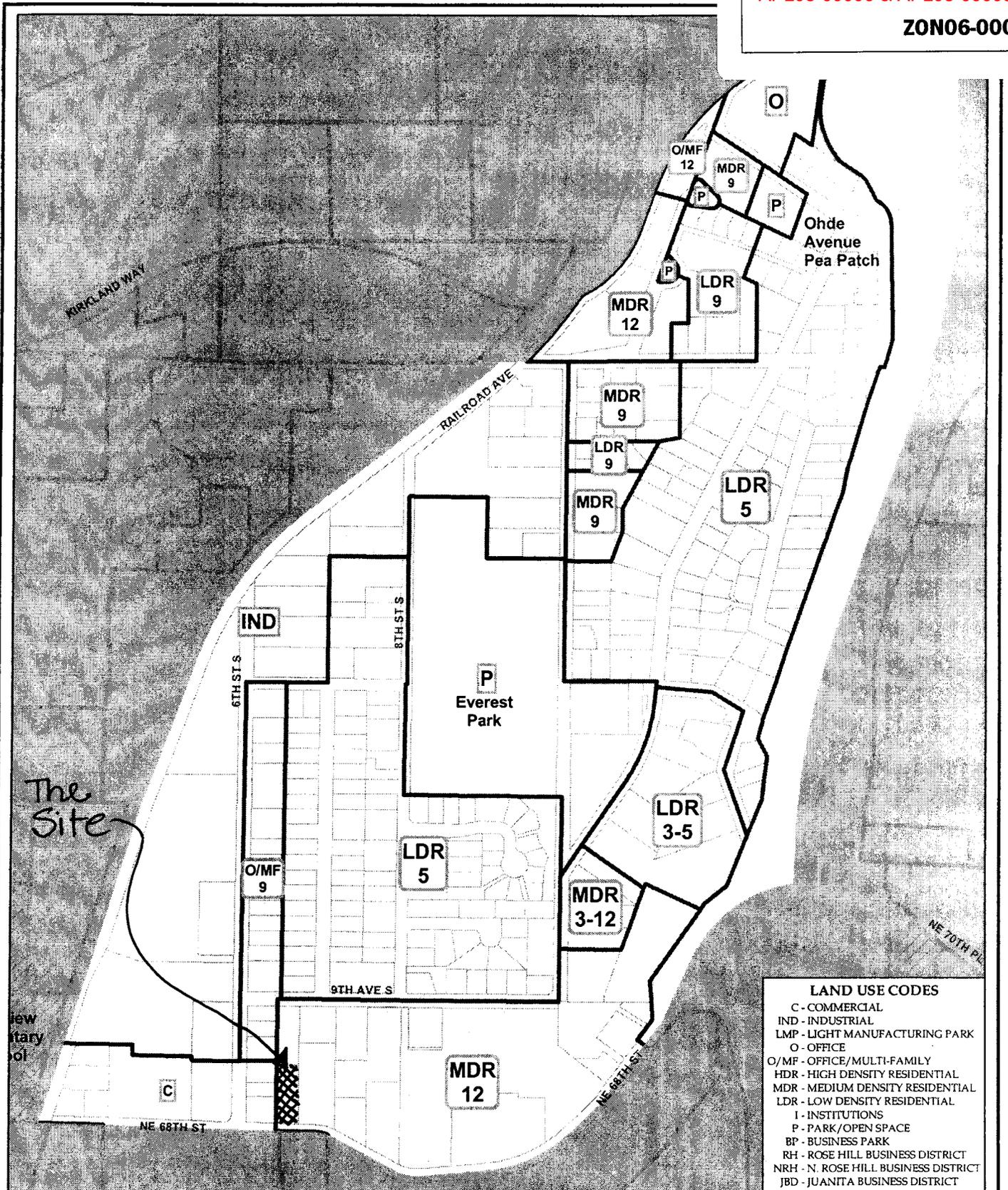
5. Supplemental Plantings.

- a. General. The applicant shall provide the supplemental landscaping specified in subsection (5)(b) of this section in any area of the subject property that:
 - 1) Is not covered with a building, vehicle circulation area or other improvement; and
 - 2) Is not a critical area, critical area buffer, or in an area to be planted with required landscaping; and
 - 3) Is not committed to and being used for some specific purpose.
- b. Standards. The applicant shall provide the following at a minimum:
 - 1) Living plant material which will cover 80 percent of the area to be landscaped within two years. If the material to be used does not spread over time, the applicant shall re-plant the entire area involved immediately. Any area that will not be covered with living plant material must be covered with nonliving groundcover.
 - 2) One tree for each 1,000 square feet of area to be landscaped. At the time of planting, deciduous trees must be at least two inches in caliper and coniferous trees must be at least five feet in height.
 - 3) If a development requires approval through Process I, IIA, IIB or III as described in Chapters 145, 150, 152 and 155 KZC, respectively, the City may require additional vegetation to be planted along a building facade if:

- a) The building facade is more than 25 feet high or more than 50 feet long; or
 - b) Additional landscaping is necessary to provide a visual break in the facade.
 - 4) In RHBD varieties of rose shrubs or ground cover along with other plant materials shall be included in the on-site landscaping.
 - 5) If development is subject to Design Review as described in Chapter 142, the City will review plant choice and specific plant location as part of the Design Review approval. The City may also require or permit modification to the required plant size as part of Design Review approval.
6. Land Use Buffering Standards. The chart in subsection (4) of this section establishes which buffering standard applies in a particular case. The following subsections establish the specific requirement for each standard:
- a. For standard 1, the applicant shall provide a 15-foot-wide landscaped strip with a six-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC 115.40 for additional fence standards. The land use buffer must be planted as follows:
 - 1) Trees planted at the rate of one tree per 20 linear feet of land use buffer, with deciduous trees of two and one-half inch caliper, minimum, and/or coniferous trees eight feet in height, minimum. At least 70 percent of trees shall be evergreen. The trees shall be distributed evenly throughout the buffer, spaced no more than 20 feet apart on center.
 - 2) Large shrubs or a mix of shrubs planted to attain coverage of at least 60 percent of the land use buffer area within two years, planted at the following sizes and spacing, depending on type:
 - a) Low shrub – (mature size under three feet tall), one- or two-gallon pot or balled and burlapped equivalent);
 - b) Medium shrub – (mature size from three to six feet tall), two- or three-gallon pot or balled and burlapped equivalent);
 - c) Large shrub – (mature size over six feet tall), five-gallon pot or balled and burlapped equivalent).
 - 3) Living ground covers planted from either four-inch pot with 12-inch spacing or one-gallon pot with 18-inch spacing to cover within two years 60 percent of the land use buffer not needed for viability of the shrubs or trees.
 - b. For standard 2, the applicant shall provide a five-foot-wide landscaped strip with a six-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC 115.40 for additional fence standards. The landscaped strip must be planted as follows:

- 1) One row of trees planted no more than 10 feet apart on center along the entire length of the buffer, with deciduous trees of two inch caliper, minimum, and/or coniferous trees at least six feet in height, minimum. At least 50 percent of the required trees shall be evergreen.
 - 2) Living ground covers planted from either four-inch pot with 12-inch spacing or one-gallon pot with 18-inch spacing to cover within two years 60 percent of the land use buffer not needed for viability of the trees.
- c. Plant Standards. All plant materials used shall meet the most recent American Association of Nurserymen Standards for nursery stock: ANSI Z60.1.
 - d. Location of the Land Use Buffer. The applicant shall provide the required buffer along the entire common border between the subject property and the adjoining property.
 - e. Multiple Buffering Requirement. If the subject property borders more than one adjoining property along the same property line, the applicant shall provide a gradual transition between different land use buffers. This transition must occur totally within the area which has the less stringent buffering requirement. The specific design of the transition must be approved by the City.
 - f. Adjoining Property Containing Several Uses. If the adjoining property contains several permitted uses, the applicant may provide the least stringent land use buffer required for any of these uses.
 - g. Subject Property Containing Several Uses. If the subject property contains more than one use, the applicant shall comply with the land use buffering requirement that pertains to the use within the most stringent landscaping category that abuts the property to be buffered.
 - h. Subject Property Containing School. If the subject property is occupied by a school, land use buffers are not required along property lines adjacent to a street.
 - i. Encroachment into Land Use Buffer. Typical incidental extensions of structures such as chimneys, bay windows, greenhouse windows, cornices, eaves, awnings, and canopies may be permitted in land use buffers as set forth in KZC 115.115(3)(d); provided, that:
 - 1) Buffer planting standards are met; and
 - 2) Required plantings will be able to attain full size and form typical to their species.
 - j. Modification. The applicant may request a modification of the requirements of the buffering standards of subsection (6) of this section. The Planning Official may approve a modification if:
 - 1) The owner of the adjoining property agrees to this in writing; and
 - 2) The existing topography or other characteristics of the subject property or the adjoining property, or the distance of development from the neighboring property decreases or eliminates the need for buffering; or
 - 3) The modification will be more beneficial to the adjoining property than the required buffer by causing less impairment of view or sunlight; or

- 4) The Planning Official determines that it is reasonable to anticipate that the adjoining property will be redeveloped in the foreseeable future to a use that would require no, or a less intensive, buffer; or
 - 5) The location of pre-existing improvements on the adjoining site eliminates the need or benefit of the required landscape buffer.
- k. Outdoor use, activity, and storage (KZC 115.105(2)) must comply with required land use buffers for the primary use, except that the following outdoor uses and activities, when located in commercial or industrial zones, are exempt from KZC 115.105(2)(c)(1) and (2)(c)(2) as stated below:
- 1) That portion of an outdoor use, activity, or storage area which abuts another outdoor use, activity, or storage area which is located on property zoned for commercial or industrial use.
 - 2) Outdoor use, activity, and storage areas which are located adjacent to a fence or structure which is a minimum of six feet above finished grade; and do not extend outward from the fence or structure more than five feet; provided, that the total horizontal dimensions of these areas shall not exceed 50 percent of the length of the facade or fence (see Plate 11).
 - 3) If there is an improved path or sidewalk in front of the outdoor storage area, the outdoor use, activity or storage area may extend beyond five feet if a clearly defined walking path at least three feet in width is maintained and there is adequate pedestrian access to and from the primary use. The total horizontal dimension of these areas shall not exceed 50 percent of the length of the facade of the structure or fence (see Plate 11).
 - 4) Outdoor dining areas.
 - 5) That portion of an outdoor display of vehicles for sale or lease which is adjacent to a public right-of-way that is improved for vehicular use; provided, that it meets the buffering standards for driving and parking areas in subsections (7)(b)(1)(a) and (7)(b)(1)(b) of this section; and provided further, that the exemptions of subsection (7)(b)(2) of this section do not apply unless it is fully enclosed within or under a building, or is on top of a building and is at least one story above finished grade.
 - 6) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days, and outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services, if these uses will not exceed seven days.
7. Landscaping and Buffering Standards for Driving and Parking Areas.
- a. Landscaping – General.
 - 1) The following internal parking lot landscape standards apply to each parking lot or portion thereof containing more than eight parking stalls.
 - a) The parking lot must contain 25 square feet of landscaped area per parking stall planted pursuant to subsections (7)(a)(1)(b) and (c) of this section;
 - b) The applicant shall arrange the landscaping required in subsection (7)(a)(1)(a) of this section throughout the parking lot to provide landscape islands or peninsulas



LAND USE CODES

- C - COMMERCIAL
- IND - INDUSTRIAL
- LMP - LIGHT MANUFACTURING PARK
- O - OFFICE
- O/MF - OFFICE/MULTI-FAMILY
- HDR - HIGH DENSITY RESIDENTIAL
- MDR - MEDIUM DENSITY RESIDENTIAL
- LDR - LOW DENSITY RESIDENTIAL
- I - INSTITUTIONS
- P - PARK/OPEN SPACE
- BP - BUSINESS PARK
- RH - ROSE HILL BUSINESS DISTRICT
- NRH - N. ROSE HILL BUSINESS DISTRICT
- JBD - JUANITA BUSINESS DISTRICT

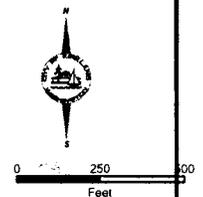
Everest Neighborhood Land Use Map

ORDINANCE NO. 3974
 ADOPTED by the Kirkland City Council
 December 14, 2004

- LAND USE BOUNDARIES
- PLANNED AREA NUMBER
- SUBAREA BOUNDARY
- TOTEM CENTER
- PUBLIC FACILITIES
- PARCEL BOUNDARIES
- LAND USE CODE
- DENSITY (UNITS/ ACRE)

NOTE: WHERE NOT SHOWN, NO DENSITY SPECIFIED
 * INDICATES CLUSTERED LOW DENSITY

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NATURAL GREENBELT PROTECTIVE EASEMENT

Parcel Data File: _____

Grantor: _____, owner of the hereinafter described real property, hereby grants to

Grantee: The City of Kirkland, a municipal corporation.

A natural greenbelt protective easement over and across the following described real property to wit ("Easement Area"): _____

No tree trimming, tree topping, tree cutting, tree removal, shrub or brush-cutting or removal of native vegetation, application of pesticides, herbicides, or fertilizers; construction, clearing, or alteration activities shall occur within the Easement Area without prior written approval from the City of Kirkland. Application for such written approval to be made to the Kirkland Department of Planning and Community Development who may require inspection of the premises before issuance of the written approval and following completion of the activities. Any person conducting or authorizing such activity in violation of this paragraph or the terms of any written approval issued pursuant hereto, shall be subject to the enforcement provisions of Chapter 170, Ordinance 3719, the Kirkland Zoning Code. In such event, the Kirkland Department of Planning and Community Development may also require within the immediate vicinity of any damaged or fallen vegetation, restoration of the affected area by planting replacement trees and other vegetation as required in applicable sections of the Kirkland Zoning Code. The Department also may require that the damaged or fallen vegetation be removed.

It is the responsibility of the property owner to maintain critical areas and their buffers by removing non-native, invasive, and noxious plants in a manner that will not harm critical areas or their buffers and in accordance with Kirkland Zoning Code requirements and other vegetation within critical areas and critical area buffers.

The City shall have a license to enter the Easement Area (and the property if necessary for access to the Easement Area) for the purpose of monitoring compliance with the terms of this easement.

Development outside of this Natural Greenbelt Protective Easement may be limited by codified standards, permit conditions, or movement of the critical area.

Each of the undersigned owners agree to defend, pay, and save harmless the City of Kirkland, its officers, agents, and employees from any and all claims of every nature whatsoever, real or imaginary, which may be made against the City, its officers, agents, or employees for any damage to property or injury to any person arising out of the existence of said Natural Greenbelt Protective Easement over said owner's property or the actions of the undersigned owners in carrying out the responsibilities under this agreement, including all costs and expenses, and recover attorney's fees as may be incurred by the City of Kirkland in defense thereof; excepting therefrom only such claims as may arise solely out of the negligence of the City of Kirkland, its officers, agents, or employees.

This easement is given to satisfy a condition of the development permit approved by the City of Kirkland under Kirkland File/Permit No. _____, for construction of _____ upon the following described real property:

This easement shall be binding upon the parties hereto, their successors and assigns, and shall run with the land.

DATED at Kirkland, Washington, this _____ day of _____, _____

DRAFT



SAVE HARMLESS AGREEMENT - STREAM

The undersigned, being all of the owners of the hereinafter described real property, hereby agree to indemnify, defend, and save harmless the City of Kirkland, its officers and employees from any claim, real or imaginary, filed against the City of Kirkland, its officers, or employees, alleging damage or injury caused by fault on the part of the undersigned, their employees or agents, and/or the City of Kirkland, its officers, or employees and arising out of maintenance, flooding, damming or enlargement of the stream existing on the hereinafter described real property; provided, however, this agreement shall not include damage resulting from the sole fault of the City of Kirkland, its officers, or employees. Fault as herein used shall have the same meaning as set forth in RCW 4.22.01. This Agreement shall also include all reasonable cost and expense, including attorney's fees, incurred by the City of Kirkland in investigation and/or defense of any such claim.

This Agreement shall be binding upon the heirs, successors, and assigns of the parties hereto and shall run with the land.

The real property subject to this Agreement is situated in Kirkland, King County, Washington, and described as follows:

See Exhibit A

DATED at Kirkland, Washington, this _____ day of _____, _____.

DRAFT

(Sign in blue ink)

(Individuals Only)

OWNER(S) OF REAL PROPERTY (INCLUDING SPOUSE)

(Individuals Only)

STATE OF WASHINGTON)
) SS.
County of King)

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, _____ personally _____ appeared

and _____
to me known to be the individual(s) described herein and who executed the Save Harmless Agreement and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary's Signature

Print Notary's Name
Notary Public in and for the State of Washington, Residing at:

My commission expires: _____