RESOLUTION NO. R - 2639

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RATIFYING SETTLEMENT OF CERTAIN LAWSUITS NOW PENDING IN KING COUNTY SUPERIOR COURT IN WHICH THE CITY APPEARS AS DEFENDANT, AND FURTHER RATIFYING THE ACTIONS OF THE ATTORNEY FOR THE CITY OF KIRKLAND IN SIGNING ON BEHALF OF THE CITY THE STIPULATION FOR ENTRY OF ORDER, JUDGMENT AND DECREE.

WHEREAS, over the past several years the City of Kirkland has carried on and completed an extensive review of land use development issues and policies as they pertain to the consolidated City of Kirkland (being the successor to the former cities of Kirkland and Houghton); and

WHEREAS, as a result thereof, the Kirkland City Council on May 15, 1977, adopted a New Land Use Policies or Comprehensive Plan as Ordinance No. 2346 and certain amendments to the Zoning Code and Zoning Map as Ordinance No. 2347; and

WHEREAS, certain property owners as plaintiffs in each of the entitled causes set forth in the Stipulation for Entry of Order, Judgment and Decree, commenced action in King County Superior Court to review the adoption of said Land Use Policies or Comprehensive Plan and Zoning Ordinance Amendments, alleging that said ordinances were either void in general or as applicable to the parties of said plaintiffs described in their individual complaints; and

WHEREAS, thereafter all of the above-entitled causes were consolidated and preassigned to a single judge of the King County Superior Court, and thereafter certain motions for summary judgment were filed by the plaintiffs and the defendants and a preliminary ruling was made by the court which states in part as follows:

> "The court finds that the public hearing required in conjunction with this process was held on April 21, 1977, after sufficient notice, the court also finds that the process of consideration and adoption of the Comprehensive Plan was a legislative function.
>
> Adoption of zoning ordinance amendments of general application consistent with the Comprehensive Plan was also a legislative function whether or not the amendments placed additional restrictions upon a particular piece of property.
>
> On the other hand, amendments of particular application not specifically related overall to the newly formulated Comprehensive Plan could not be validly made without affording the property owner a quasi-judicial hearing."; and

Exhibit H
APL08-00006 & APL08-00009

Exhibit H
APL08-00006 & APL08-00009

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SEATTLE-FIRST NATIONAL BANK,	NO. 828 974
DARREL WARD, et ux.,	NO. 828 975
JOHN BEHEYT, et ux.,	NO. 829 316
HARRY BROWN, et ux.,	NO. 829 317
R. ALEX POLSON, et ux., et al.	NO. 829 524
WESTSIDE SERVICE CORP.,	NO. 829 525
JACLYN WOLD,	NO. 829 660
EARL AMICK, et ux.,	NO. 829 943
JOHN L. STUART, et ux.,	NO. 829 944
LOUIS ROMANO, et ux., et al.,	NO. 834 128
LAKE WASHINGTON INVESTORS, et al., Plaintiffs, vs. CITY OF KIRKLAND, et al., Defendants.	NO. 837 109 ORDER, JUDGMENT AND DECREE

OSTRANDER, VAN EATON, THOMAS AND FERRELL
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THIS MATTER coming on before the undersigned Judge of the above-entitled Court this day, upon stipulation entered into and filed herein by all of the parties through their respective counsel; which Stipulation, in part, recites as follows:

"DECLARATIONS

"1. Over the past several years the City of Kirkland has carried on and completed an extensive review of land use and development issues and policies as they pertain to the consolidated City of Kirkland (being the successor to the former Cities of Kirkland and Houghton).

"2. As a result thereof, the Kirkland City Council on May 15, 1977, adopted a new land use policies or comprehensive plan as Ordinance No. 2346, entitled:

> "An Ordinance of the Consolidated City of Kirkland Adopting a Comprehensive Policies Plan, Including Goals, Policies and Guidelines for the Present and Future Development and Land Use for the Entire Consolidated City of Kirkland and Its Neighborhoods";

and certain amendments to the zoning code and zoning map as Ordinance No. 2347, entitled:

> "An Ordinance of the City of Kirkland Relating to Planning and Zoning, Amending Ordinance No. 2183, and Comprehensive Zoning Regulations for the City of Kirkland to be Consistent with the Land Use Policies Plan Adopted for the Consolidated City of Kirkland by Ordinance No. 2346".

"3. Plaintiffs in each of the above-entitled causes commenced action in this court to review the adoption of said Land Use Policies or Comprehensive Plan and zoning ordinance amendments alleging that said ordinances were either void in general, or as applicable to the properties of said plaintiffs described in their individual complaints.

"4. Thereafter, all of the above-entitled causes were consolidated and pre-assigned to the undersigned Judge (and

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thereafter) certain motions for summary judgment were filed by both the plaintiffs and the defendants, and a preliminary ruling was made which states in part as follows:

> "The Court finds that the public hearing required in conjunction with this process was held on April 21, 1977, after sufficient notice. The court also finds that the process of consideration and adoption of the comprehensive plan was a legislative function.
>
> Adoption of zoning ordinance amendments of general application, consistent with the comprehensive plan, was also a legislative function, whether or not the amendments placed additional restrictions upon a particular piece of property.
>
> On the other hand, amendments of particular application not specifically related overall to the newly formulated comprehensive plan, could not be validly made without affording the property owner a quasi-judicial hearing."

"5. There remain as unresolved issues in these causes the question of whether any of the plaintiffs' parcels of property were so affected by amendments of particular application not specifically related overall to the newly formulated comprehensive plan, together with additional unresolved issues raised by the pleadings and the motions for summary judgment submitted by both the plaintiffs and defendants. All of the above named parties wish to settle the differences between the parties with some certainty and in a manner consistent with the comprehensive plan as adopted."

The Court, having reviewed said Stipulation, and having made the ruling provided for in said Stipulation with regard to the matter of Westside Service Corporation vs. City of Kirkland, Cause No. 829525, and being fully advised, now, therefore, it is hereby:

ORDERED, ADJUDGED AND DECREED that this judgment shall be entered in each of the above-entitled causes of action as

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follows:

A. JUDGMENTS AND DECREE AS TO INDIVIDUAL ACTIONS:

1. Seattle-First National Bank v. Kirkland, No. 828974-

The property described in the complaint, to wit:

> The southerly 90 feet of the east 20 feet of Lot 9 and the Southerly 90 feet of Lot 10 and the southerly 90 feet of Lot 11, as measured on the west line of Block 174, Burke and Farrar's Kirkland Addition to the City of Seattle, Division No. 30, according to plat recorded in Volume 33 of Plats, page 36, in King County, Washington;

shall remain on the zoning map as within and subject to the regulations of Planned Area 4 established by Ordinance 2347; provided, however:

a. Notwithstanding any regulation, policy or provision of Ordinance No. 2347 specifically applicable to Planned Area 4 which may be to the contrary, the real property hereinabove described has and shall continue to have (when developed other than as a part of a PUD for all or substantially all of Planned Area 4) the right of reasonable access for ingress and egress to either Central Way or Sixth Avenue, although it is understood that because of channelization within the street right of way to be required in both Sixth Avenue and Central Way in connection with traffic signals installed or to be installed at the Sixth and Central Way intersection, some turning movements (both into and out of the property) may be restricted.

b. Said real property may be developed for professional office use (either "large" or "small" professional office) without the requirement of a PUD or CUP.

2. Darrell Ward, et ux. v. Kirkland, No. 828975 -

The properties described in the complaint in this cause, including those properties added by amendment, shall

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remain zoned or classified as they appear on the zoning map adopted by Ordinance No. 2347, provided that the owners of the following described parcel:

> The north 185 feet of the following: Commencing at a point on the north boundary line of the northwest quarter of the southeast quarter of Section 8, Township 25 North, Range 5 E.W.M., which point is 660 feet north 89°39'03" east of the northwest corner of said 1/16th section, thence north 89°39'03" east along said north boundary line 171.885 feet; thence south 0°07'42" east parallel with the east boundary line of said 1/16th section 687.27 feet to the north marginal line south 84°32'24" west 93.96 feet to a point of curve; thence along said marginal line on a curve to the right, radius 134.70 feet, 77.58 feet to a point of tangency; thence along said marginal line north 62°27'36" west 2.39 feet; thence north 0°13'19" west 679.48 feet to the place of beginning, EXCEPT a strip of land 30 feet wide off of the north end of above described tract heretofore deeded to King County for a public road, AND EXCEPT the west 30 feet thereof;

shall have the right to develop or construct on said parcel 10 residential units subject otherwise to the general provisions of the RM chapter of the Kirkland zoning code.

3. John Beheyt, et ux. v. Kirkland, No. 829316 -

a. The property described in the complaint, to wit:

> The South one-half (S1/2) of the following described Tract: BEGINNING 154.08 feet East and 30 feet South of the Northwest corner of the Northwest quarter (NW1/4) of the SE1/4 of Section 8, Township 25 North, Range 5, E.W.M.; thence North 89°39'02" East 89.95 feet; thence South 0°15'29" East 485.43 feet, more or less, to State Aid Road No. 4; thence Westerly along the North line of said Road 89.98 feet; thence North 0°15'29" West 483.10 feet, more or less, to the place of beginning;

shall, notwithstanding, the zoning map amendment of Ordinance No. 2347 be permitted to develop in accordance with and

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subject to the provisions of the BC (Business Commercial) chapter of the Kirkland Zoning Code; conditioned, nevertheless, upon installation of a landscaped buffer 15 feet in width along the North line of said described real property and 10 feet in width along the east line of said property.

4. Harry H. Brown, et ux. v. City of Kirkland, No. 829317 -

a. That portion of the real property described in the complaint as Lot 14, shall remain on the zoning map and subject to the requirements of RM 3600.

b. That portion of the real property described in the complaint as Lots 10, 11, and 12, Block 2 Houghton Addition according to plat recorded in Volume 5 of Plats, page 71, records of King County (a portion of which adjoin a PR zone classification to the south), shall be permitted to develop as though within a PR (Professional-Residential) zone but not to exceed four residential units, subject only to the provisions of the PR and/or RM chapters of the zoning code. (A conditional use permit will not be required.)

5. R. Alex Polson, et ux., et al. v. Kirkland, No. 829524 -

a. That portion of the real property described in the complaint as Block 5, Cormode and Adsits Addition, shall remain on the zoning map as RS 8500 and subject to the Land Use Policies Plan and the Zoning Code as amended.

b. The remainder of the real property described in said complaint, being a triangle bounded by 116th Avenue Northeast, Northeast 70th Place, and unopened Lake Street, shall remain residential in permitted use and may be developed, subject to the standards for RM 3600, to a density not to exceed one residential unit per 3600 square feet of area. It is understood by the parties hereto that this density formula will permit (depending upon actual area calculations)

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approximately 20 to 22 units upon the real property and up to approximately 25 units in the event the abutting portion of unopened Lake Street should be hereafter vacated: provided, density shall not exceed one unit per 3600 square feet of land. It is further understood by all parties that no commitment is hereby made by any party that such a vacation will be either requested, initiated, or occur and that such vacation, if requested, would be processed and considered in the manner required by law. The City of Kirkland recognizes that said triangle of property shall have the right to reasonable and safe access for ingress and egress to Northeast 70th Place at one, to be determined, location.

6. Westside Service Corporation v. Kirkland No. 829525 -

a. As a part of a total settlement of all the consolidated cases, the parties in this cause agree to submit to the Court the pending Motion of the plaintiff Westside Service Company for determination of whether or not the property described in the complaint in this cause was affected by a zoning amendment of particular application not directly related overall to the newly formulated comprehensive plan, and to abide by the ruling of the Superior Court; the parties further agree to waive their right of appeal therefrom.

b. Said motion was heard and considered by the undersigned Judge on July 6, 1979, and the Court now rules that the real property described in the Complaint in Westside Service Corporation v. City of Kirkland, No. 829525 was, *D.S. ~~was not~~, affected by an amendment of particular application not directly related overall to the newly formulated Comprehensive Plan. Therefore, pursuant to said stipulated agreement, said real property shall be subject to the regulations of the RM3600 zone classification of the City of Kirkland *D.S. ordinance.

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7. Jaclyn Wold v. Kirkland, No. 829660 -

a. The plaintiff herein is granted a non-suit and her complaint is dismissed.

8. Earl Amick v. Kirkland, No. 829943 -

a. The property described in this complaint, to wit:

> That portion of Government Lot 1, Section 20, Township 25 N., Range 5 E.W.M., described as follows: Beginning at the meander corner between sections 17 and 20, said township and range; thence S 68°56'40" E 560.17 feet; thence southeasterly 363.86 feet along a circular curve to the right, said curve having a radius of 955.37 feet which bears S 69°04'15" W from the curve beginning; thence S 00°53'32" W 95.66 feet; thence N 89°06'28" W 10.00 feet; thence S 00°53'32" W 199.97 feet; thence N 88°56'40" W 130.00 feet; thence S 00°53'32" W 100.00 feet; thence S 88°56'40" E 115.62 feet to the true point of beginning; thence southwesterly 32.69 feet along a circular curve to the right, said curve having a radius of 256.48 feet which bears N 58°35'17" W from the curve beginning; thence N 51°17'24" W 10.90 feet; thence S 38°42'36" W 370.00 feet; thence S 56°53'51" W 126.48 feet; thence S 78°47'20" W 144.25 feet; thence N 01°03'20" E 415.00 feet; thence S 88°56'40" E 498.54 feet to the true point of beginning;

shall remain on the zoning map as within and subject to the regulations of Planned Area 3, provided however, a "sit down" type restaurant use of this property may be made and developed subject to the requlations of Planned Area 3; and further subject to the following with respect to the location of access onto Lake Washington Boulevard or Points Drive for ingress and egress to the plaintiff's property: Because of existing and possible future development of adjacent property in Planned Area 2 and Planned Area 3, the City has concerns regarding the impact of traffic congestion at the intersections of Points Drive and Lake Washington Boulevard; therefore, in the event that a restaurant is proposed within Planned Area

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3 under either a planned unit development or a conditional use permit, appropriate attention shall be given to traffic considerations and potential congestion at Lake Washington Boulevard and Points Drive.

9. John L. Stuart, et ux. v. Kirkland, No. 829944 -

a. The property described in plaintiff's complaint, to wit:

> Lots 3 and 4 EXCEPT the North 144 feet thereof, ALL of lot 5 of Marshall's Addition to the City of Seattle, as per plat recorded in Volume 22 of Plats, on page 81, records of King County, Washington; situate in the City of Kirkland, County of King, State of Washington;

shall remain on the zoning map as within and subject to the regulation for Planned Area 5, provided, however, that said real property may be developed with a professional office ("large" or "small") use and/or multi-family to a density of RM 1800, not to exceed 20 units total without a planned unit development or conditional use permit; conditioned, however, that no construction be commenced until such time as provision is made for the installation and construction of necessary water, sewer, and drainage utilities, and required street improvements, either through the formation of a local improvement district within Planned Area 5 to provide for such construction and installation, or in the alternative, developer financed utilities and right-of-way improvements required to serve the property proposed for development and constructed in conformance with the City's design and plan for the installation of water, sewer, drainage, and right-of-way facilities to serve Planned Area 5. Provided, however, that in the event the City does not relocate access to Planned Area 5 from its current access on 85th Street to the unopened 84th Street (Fourth Street/alley) prior to an application for a building permit by the property owner, the

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City will allow access to the subject property from 85th Street; further, provided, however, that the development on the property shall be designed so as not to preclude relocation of the street or the use of 84th Street as an access to Planned Area 5.

10. Louis Romano, et ux., et al. v. Kirkland, No. 834128 -

a. The property described in plaintiff's complaint, to wit:

> Westerly 325.90 feet of easterly 533.80 feet of southwest quarter of southeast quarter of Section 5, Township 25 North, Range 5 East, W.M., in King County, Washington, lying northerly of a line which is parallel with and distant 999.00 feet northerly (measured along the west line of said subdivision) from the south line of said southwest quarter of the southeast quarter of said Section 5, EXCEPT portions hereof for Northeast 84th Street and for Northeast 85th Street and EXCEPT portion lying northerly of the south margin of Secondary State Highway No. 2-D as described and recorded in Volume 3 of Highway Plats, page 12, under Auditor's file No. 553072, located in King County, Washington;

shall remain on the zoning map as within and subject to the regulations of Planned Area 5, provided, however, that said real property may be developed with a professional office ("large" or "small") use and/or multi-family to a density of RM 1800, not to exceed 20 units total without a planned unit development or conditional use permit; conditioned, however, that no construction be commenced until such time as provision is made for installation and construction of necessary water, sewer, and drainage utilities and required street improvements either through the formation of a local improvement district within Planned Area 5 to provide for such construction and installation, or in the alternative, developed financed utilities and right-of-way improvements required to serve the property proposed for development and constructed in

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conformance with the City's design and plan for the installation of water, sewer, drainage, and right-of-way facilities to serve Planned Area 5. Provided, however, that in the event that the City does not relocate access to Planned Area 5 from its current access on 85th Street to the unopened 84th Street (Fourth Street/alley) prior to an application for a building permit by the property owner, the City will allow access to the subject property from 85th Street; further, provided, however, that the development on the property shall be designed so as not to preclude the relocation of the street or the use of 84th Street as an access to Planned Area 5.

11. Lake Washington Investors, et al. v. Kirkland, No. 837109 -

a. That portion of the property described in plaintiff's complaint as:

> Lot 1, Block 2, French's Homestead Villa, according to plat recorded in Volume 20 of Plats, page 24, in King County, Washington; EXCEPT portion conveyed to King County for road purposes by deed recorded under King County Recording No. 1126248;

shall remain on the zoning map as RM 3600 and subject to said regulations.

b. The balance of the property described in plaintiff's complaint, to wit:

> That portion of Government Lot 4, in Section 8, Township 25 North, Range 5 East, W.M., in King County, Washington, lying east of Lake Washington Boulevard as now established, south of the south line of Block 2, French's Homestead Villa, according to plat recorded in Volume 20 of Plats, page 24, in King County, Washington, north of the north line of Northeast 63rd Street "formerly Walnut Street", and west of 102nd Avenue Northeast, "formerly Second Street";

may be developed subject to and consistent with the general

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provisions of the RM chapter of the zoning code, provided, however, that such development shall not exceed 22 residential units. Provided, that unless some other method is arrived at by agreement between the owners of the real property hereinabove described and the owners of the Shorehouse Apartment, located across Lake Washington Boulevard, as to the existing Shorehouse off-street parking facility presently located on the property of plaintiffs, provision for the continuation of the "Shorehouse off-street parking facility" shall be retained or in the alternative provided for within the design for off-street parking within the westerly half of the total parcel, above described, and further provided that nothing herein shall be taken as preventing the owners of the property hereinabove described from imposing reasonable rules and regulations consistent with the ordinances of the City of Kirkland on the use of such off-street facilities by and for the benefit of the "Shorehouse Apartment", until such time as a court of competent jurisdiction shall determine that the owner of the Shorehouse Apartments does not have the right and privilege of using said property for off-street parking.

B. GENERAL PROVISIONS OF ORDER, JUDGMENT & DECREE APPLYING TO ALL OF THE CONSOLIDATED CASES:

As Judgment entered in all of the consolidated cases, it is further

ORDERED, ADJUDGED AND DECREED as follows:

1. In the event it becomes necessary for any party to any of the 11 consolidated actions to bring or institute any judicial proceeding to enforce any of the provisions of the Stipulation, Judgment, Order and Decree the prevailing party therein shall be entitled to reasonable attorney's fees, expert witness fees and costs.

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2. Except as provided in the prior paragraph, each party hereto shall bear their own attorney's fees and costs incurred herein.

3. This Order, Judgment and Decree shall be for the benefit of and be binding upon all successors and assigns of each party hereto.

4. Each of the above-entitled actions be and it hereby is (except as may in this Order, Judgment and Decree be specifically otherwise provided) dismissed with prejudice and without costs and attorneys' fees to any party herein.

5. The City will proceed in good faith to process any and all applications for the development of, including building permits with respect to, the subject properties in the manner prescribed in the stipulation and the order, judgment and decree, it being the intent that the plaintiffs and/or their successors or assigns may develope the properties referred to above as envisioned herein.

6. In the event there are inconsistencies or conflicts between the provisions of this Order, Judgment and Decree, and/or the zoning code, and/or ordinances affecting the development of the subject properties, the Order, Judgment and Decree will control.

7. Nothing in this Order, Judgment and Decree shall be construed in anyway as limiting the authority of the legislative body of the defendant CITY OF KIRKLAND from the lawful enactment of land use or other ordinances affecting the use and regulation of land under its constitutional and statutory police powers.

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Exhibit H
APL08-00006 & APL08-00009

DONE IN OPEN COURT this 6 day of July, 1979.

DAVID W. SOUKUP
JUDGE/~~COURT COMMISSIONER~~

PRESENTED BY:

/s/
RALPH I. THOMAS, of
OSTRANDER, VAN EATON,
THOMAS & FERRELL
Attorney for
Defendant-Kirkland

/s/
ROBERT P. TJOSSEM, of
LIVENGOOD, SILVERNALE,
CARTER & TJOSSEM
Attorney for Plaintiffs

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Exhibit H
APL08-00006 & APL08-00009

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
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SEATTLE-FIRST NATIONAL BANK,	NO. 828 974
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LAKE WASHINGTON INVESTORS, et al., Plaintiffs, vs. CITY OF KIRKLAND, et al., Defendants.	NO. 837 109 STIPULATION FOR ENTRY OF ORDER, JUDGMENT AND DECREE

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STIPULATION

All of the parties in the above-entitled causes, by and through their attorneys of record, hereby stipulate to the entry of an Order, Judgment and Decree in the above-entitled consolidated cases as follows:

DECLARATIONS

1. Over the past several years the City of Kirkland has carried on and completed an extensive review of land use and development issues and policies as they pertain to the consolidated City of Kirkland (being the successor to the former Cities of Kirkland and Houghton.

2. As a result thereof, the Kirkland City Council on May 15, 1977, adopted a new land use policies or comprehensive plan as Ordinance No. 2346, entitled:

> "An Ordinance of the Consolidated City of Kirkland Adopting a Comprehensive Policies Plan, Including Goals, Policies and Guidelines for the Present and Future Development and Land Use for the Entire Consolidated City of Kirkland and Its Neighborhoods";

and certain amendments to the zoning code and zoning map as Ordinance No. 2347, entitled:

> "An Ordinance of the City of Kirkland Relating to Planning and Zoning, Amending Ordinance No. 2183, and Comprehensive Zoning Regulations for the City of Kirkland to be Consistent with the Land Use Policies Plan Adopted for the Consolidated City of Kirkland by Ordinance No. 2346".

3. Plaintiffs in each of the above-entitled causes commenced action in this court to review the adoption of said Land Use Policies or Comprehensive Plan and zoning ordinance amendments alleging that said ordinances were either void in general, or as applicable to the properties of said plaintiffs described in their individual complaints.

4. Thereafter, all of the above-entitled causes were consolidated and pre-assigned to the undersigned Judge (and

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subdivision) from the south line of said southwest quarter of the southeast quarter of said Section 5, EXCEPT portions hereof for Northeast 84th Street and for Northeast 85th Street and EXCEPT portion lying northerly of the south margin of Secondary State Highway No. 2-D as described and recorded in Volume 3 of Highway Plats, page 12, under Auditor's file No. 553072, located in King County, Washington;

shall remain on the zoning map as within and subject to the regulations of Planned Area 5, provided, however, that said real property may be developed with a professional office ("large" or "small") use and/or multi-family to a density of RM 1800, not to exceed 20 units total without a planned unit development or conditional use permit; conditioned, however, that no construction be commenced until such time as provision is made for installation and construction of necessary water, sewer, and drainage utilities and required street improvements either through the formation of a local improvement district within Planned Area 5 to provide for such construction and installation, or in the alternative, developed financed utilities and right-of-way improvements required to serve the property proposed for development and constructed in conformance with the City's design and plan for the installation of water, sewer, drainage, and right-of-way facilities to serve Planned Area 5. Provided, however, that in the event that the City does not relocate access to Planned Area 5 from its current access on 85th Street to the unopened 84th Street (Fourth Street/alley) prior to an application for a building permit by the property owner, the City will allow access to the subject property from 85th Street; further, provided, however, that the development on the property shall be designed so as not to preclude the relocation of the street or the use of 84th Street as an access to Planned Area 5.

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The property described in the complaint, to wit:

> The southerly 90 feet of the east 20 feet of Lot 9 and the Southerly 90 feet of Lot 10 and the southerly 90 feet of Lot 11, as measured on the west line of Block 174, Burke and Farrar's Kirkland Addition to the City of Seattle, Division No. 30, according to plat recorded in Volume 33 of Plats, page 36, in King County, Washington;

shall remain on the zoning map as within and subject to the regulations of Planned Area 4 established by Ordinance 2347; provided, however:

a. Notwithstanding any regulation, policy or provision of Ordinance No. 2347 specifically applicable to Planned Area 4 which may be to the contrary, the real property hereinabove described has and shall continue to have (when developed other than as a part of a PUD for all or substantially all of Planned Area 4) the right of reasonable access for ingress and egress to either Central Way or Sixth Avenue, although it is understood that because of channelization within the street right of way to be required in both Sixth Avenue and Central Way in connection with traffic signals installed or to be installed at the Sixth and Central Way intersection, some turning movements (both into and out of the property) may be restricted.

b. Said real property may be developed for professional office use (either "large" or "small" professional office) without the requirement of a PUD or CUP.

2. Darrell Ward, et ux. v. Kirkland, No. 828975 -

The properties described in the complaint in this cause, including those properties added by amendment, shall remain zoned or classified as they appear on the zoning map adopted by Ordinance No. 2347, provided that the owners of the following described parcel:

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The north 185 feet of the following: Commencing at a point on the north boundary line of the northwest quarter of the southeast quarter of Section 8, Township 25 North, Range 5 E.W.M., which point is 660 feet north 89°39'03" east of the northwest corner of said 1/16th section, thence north 89°39'03" east along said north boundary line 171.885 feet; thence south 0°07'42" east parallel with the east boundary line of said 1/16th section 687.27 feet to the north marginal line south 84°32'24" west 93.96 feet to a point of curve; thence along said marginal line on a curve to the right, radius 134.70 feet, 77.58 feet to a point of tangency; thence along said marginal line north 62°27'36" west 2.39 feet; thence north 0°13'19" west 679.48 feet to the place of beginning, EXCEPT a strip of land 30 feet wide off of the north end of above described tract heretofore deeded to King County for a public road, AND EXCEPT the west 30 feet thereof;

shall have the right to develop or construct on said parcel 10 residential units subject otherwise to the general provisions of the RM chapter of the Kirkland zoning code.

3. John Beheyt, et ux. v. Kirkland, No. 829316 -

a. The property described in the complaint, to wit:

The South one-half (S1/2) of the following described Tract: BEGINNING 154.08 feet East and 30 feet South of the Northwest corner of the Northwest quarter (NW1/4) of the SE1/4 of Section 8, Township 25 North, Range 5, E.W.M.; thence North 89°39'02" East 89.95 feet; thence South 0°15'29" East 485.43 feet, more or less, to State Aid Road No. 4; thence Westerly along the North line of said Road 89.98 feet; thence North 0°15'29" West 483.10 feet, more or less, to the place of beginning;

shall, notwithstanding, the zoning map amendment of Ordinance No. 2347 be permitted to develop in accordance with and subject to the provisions of the BC (Business Commercial) chapter of the Kirkland Zoning Code; conditioned, nevertheless,

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upon installation of a landscaped buffer 15 feet in width along the North line of said described real property and 10 feet in width along the east line of said property.

4. Harry H. Brown, et ux. v. City of Kirkland, No. 829317 -

a. That portion of the real property described in the complaint as Lot 14, shall remain on the zoning map and subject to the requirements of RM 3600.

b. That portion of the real property described in the complaint as Lots 10, 11, and 12, Block 2 Houghton Addition according to plat recorded in Volume 5 of Plats, page 71, records of King County (a portion of which adjoins a PR zone classification to the south), shall be permitted to develop as though within a PR (Professional-Residential) zone but not to exceed four residential units, subject only to the provisions of the PR and/or RM chapters of the zoning code. (A conditional use permit will not be required.)

5. R. Alex Polson, et ux., et al. v. Kirkland No. 829524 -

a. That portion of the real property described in the complaint as Block 5, Cormode and Adsits Addition, shall remain on the zoning map as RS 8500 and subject to the Land Use Policies Plan and the Zoning Code as amended.

b. The remainder of the real property described in said complaint, being a triangle bounded by 116th Avenue Northeast, Northeast 70th Place, and unopened Lake Street, shall remain residential in permitted use and may be developed, subject to the standards for RM 3600, to a density not to exceed one residential unit per 3600 square feet of area. It is understood by the parties hereto that this density formula will permit (depending upon actual area calculations) approximately 20 to 22 units upon the real property and up to approximately 25 units in the event the abutting portion of unopened Lake Street should be hereafter vacated: provided, density shall not exceed one unit per 3600 square feet of

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land. It is further understood by all parties that no commitment is hereby made by any party that such a vacation will be either requested, initiated, or occur and that such vacation, if requested, would be processed and considered in the manner required by law. The City of Kirkland recognizes that said triangle of property shall have the right to reasonable and safe access for ingress and egress to Northeast 70th Place at one, to be determined, location.

6. Westside Service Corporation v. Kirkland No. 829525 -

a. As a part of a total settlement of all the consolidated cases, the parties in this cause agree to submit to the Court the pending Motion of the plaintiff Westside Service Company for determination of whether or not the property described in the complaint in this cause was affected by a zoning amendment of particular application not directly related overall to the newly formulated comprehensive plan, and to abide by the ruling of the Superior Court; the parties further agree to waive their right of appeal therefrom.

7. Jaclyn Wold v. Kirkland, No. 829660 -

a. The plaintiff herein is granted a non-suit and her complaint is dismissed.

8. Earl Amick v. Kirkland, No. 829943 -

a. The property described in this complaint, to wit:

That portion of Government Lot 1, Section 20, Township 25 N., Range 5 E.W.M., described as follows: Beginning at the meander corner between sections 17 and 20, said township and range; thence S 68°56'40" E 560.17 feet; thence southeasterly 363.86 feet along a circular curve to the right, said curve having a radius of 955.37 feet which bears S 69°04'15" W from the curve beginning; thence S 00°53'32" W 95.66 feet; thence N 89°06'28" W 10.00 feet; thence S 00°53'32" W 199.97 feet;

thence N 88°56'40" W 130.00 feet; thence S 00°53'32" W 100.00 feet; thence S 88°56'40" E 115.62 feet to the true point of beginning; thence southwesterly 32.69 feet along a circular curve to the right, said curve having a radius of 256.48 feet which bears N 58°35'17" W from the curve beginning; thence N 51°17'24" W 10.90 feet; thence S 38°42'36" W 370.00 feet; thence S 56°53'51" W 126.48 feet; thence S 78°47'20" W 144.25 feet; thence N 01°03'20" E 415.00 feet; thence S 88°56'40" E 498.54 feet to the true point of beginning;

shall remain on the zoning map as within and subject to the regulations of Planned Area 3, provided however, a "sit down" type restaurant use of this property may be made and developed subject to the requlations of Planned Area 3; and further subject to the following with respect to the location of access onto Lake Washington Boulevard or Points Drive for ingress and egress to the plaintiff's property: Because of existing and possible future development of adjacent property in Planned Area 2 and Planned Area 3, the City has concerns regarding the impact of traffic congestion at the intersections of Points Drive and Lake Washington Boulevard; therefore, in the event that a restaurant is proposed within Planned Area 3 under either a planned unit development or a conditional use permit, appropriate attention shall be given to traffic considerations and potential congestion at Lake Washington Boulevard and Points Drive.

9. John L. Stuart, et ux. v. Kirkland, No. 829944 -

a. The property described in plaintiff's complaint, to wit:

Lots 3 and 4 EXCEPT the North 144 feet thereof, ALL of lot 5 of Marshall's Addition to the City of Seattle, as per plat recorded in Volume 22 of Plats, on page 81, records of King County, Washington; situate in the City of Kirkland, County of King, State of Washington;

shall remain on the zoning map as within and subject to the

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thereafter) certain motions for summary judgment were filed by both the plaintiffs and the defendants, and a preliminary ruling was made which states in part as follows:

> "The Court finds that the public hearing required in conjunction with this process was held on April 21, 1977, after sufficient notice. The court also finds that the process of consideration and adoption of the comprehensive plan was a legislative function.
>
> Adoption of zoning ordinance amendments of general application, consistent with the comprehensive plan, was also a legislative function, whether or not the amendments placed additional restrictions upon a particular piece of property.
>
> On the other hand, amendments of particular application not specifically related overall to the newly formulated comprehensive plan, could not be validly made without affording the property owner a quasi-judicial hearing."

5. There remain as unresolved issues in these causes the question of whether any of the plaintiffs' parcels of property were so affected by amendments of particular application not specifically related overall to the newly formulated comprehensive plan, together with additional unresolved issues raised by the pleadings and the motions for summary judgment submitted by both the plaintiffs and defendants. All of the above named parties wish to settle the differences between the parties with some certainty and in a manner consistent with the comprehensive plan as adopted:

NOW, THEREFORE, IT IS AGREED AND STIPULATED:

That an Order, Judgment and Decree shall be entered in each of the above-entitled causes as follows:

A. STIPULATION FOR SETTLEMENT:
SPECIFIC STIPULATIONS AS TO INDIVIDUAL ACTION

1. Seattle First National Bank v. Kirkland, No. 828974 -

regulation for Planned Area 5, provided, however, that said real property may be developed with a professional office ("large" or "small") use and/or multi-family to a density of RM 1800, not to exceed 20 units total without a planned unit development or conditional use permit; conditioned, however, that no construction be commenced until such time as provision is made for the installation and construction of necessary water, sewer, and drainage utilities, and required street improvements, either through the formation of a local improvement district within Planned Area 5 to provide for such construction and installation, or in the alternative, developer financed utilities and right-of-way improvements required to serve the property proposed for development and constructed in conformance with the City's design and plan for the installation of water, sewer, drainage, and right-of-way facilities to serve Planned Area 5. Provided, however, that in the event the City does not relocate access to Planned Area 5 from its current access on 85th Street to the unopened 84th Street (Fourth Street/alley) prior to an application for a building permit by the property owner, the City will allow access to the subject property from 85th Street; further, provided, however, that the development on the property shall be designed so as not to preclude relocation of the street or the use of 84th Street as an access to Planned Area 5.

10. Louis Romano, et ux., et al. v. Kirkland, No. 834128 -

a. The property described in plaintiff's complaint, to wit:

Westerly 325.90 feet of easterly 533.80 feet of southwest quarter of southeast quarter of Section 5, Township 25 North, Range 5 East, W.M., in King County, Washington, lying northerly of a line which is parallel with and distant 999.00 feet northerly (measured along the west line of said

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11. Lake Washington Investors, et al. v. Kirkland, No. 837109 -

a. That portion of the property described in plaintiff's complaint as:

> Lot 1, Block 2, French's Homestead Villa, according to plat recorded in Volume 20 of Plats, page 24, in King County, Washington; EXCEPT portion conveyed to King County for road purposes by deed recorded under King County Recording No. 1126248;

shall remain on the zoning map as RM 3600 and subject to said regulations.

b. The balance of the property described in plaintiff's complaint, to wit:

> That portion of Government Lot 4, in Section 8, Township 25 North, Range 5 East, W.M., in King County, Washington, lying east of Lake Washington Boulevard as now established, south of the south line of Block 2, French's Homestead Villa, according to plat recorded in Volume 20 of Plats, page 24, in King County, Washington, north of the north line of Northeast 63rd Street "formerly Walnut Street", and west of 102nd Avenue Northeast, "formerly Second Street";

may be developed subject to and consistent with the general provisions of the RM chapter of the zoning code, provided, however, that such development shall not exceed 22 residential units. Provided, that unless some other method is arrived at by agreement between the owners of the real property hereinabove described and the owners of the Shorehouse Apartment, located across Lake Washington Boulevard, as to the existing Shorehouse off-street parking facility presently located on the property of plaintiffs, provision for the continuation of the "Shorehouse off-street parking facility" shall be retained or in the alternative provided

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for within the design for off-street parking within the westerly half of the total parcel, above described, and further provided that nothing herein shall be taken as preventing the owners of the property hereinabove described from imposing reasonable rules and regulations consistent with the ordinances of the City of Kirkland on the use of such off-street facilities by and for the benefit of the "Shorehouse Apartment", until such time as a court of competent jurisdiction shall determine that the owner of the Shorehouse Apartments does not have the right and privilege of using said property for off-street parking.

B. GENERAL STIPULATIONS APPLICABLE TO ALL CONSOLIDATED CASES

It is further stipulated by all parties to all of the consolidated cases:

1. In the event it becomes necessary for any party to any of the 11 consolidated actions to bring or institute any judicial proceeding to enforce any of the provisions of the Stipulation, Judgment, Order and Decree the prevailing party therein shall be entitled to reasonable attorney's fees, expert witness fees and costs.

2. Except as provided in the prior paragraph, each party hereto shall bear their own attorney's fees and costs incurred herein.

3. This agreement shall be for the benefit of and be binding upon all successors and assigns of each party hereto.

4. Each party agrees to approve and support for entry a judgment in all 11 of the consolidated actions incorporating the provisions of this stipulation, and (except as may in this stipulation be specifically otherwise provided) dismissing all actions with prejudice and which shall be a final and binding judgment on all of the parties.

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5. The City will proceed in good faith to process any and all applications for the development of including building permits with respect to the subject properties in the manner prescribed in this stipulation and order, judgment and decree to be entered as a result hereof, it being the intent that the plaintiffs and/or their successors or assigns may develope the properties referred to above as invisioned herein.

6. It is further understood and agreed that in the event there are inconsistencies or conflicts between provisions of this stipulation and/or the zoning code and/or ordinances affecting the development of the subject properties, this stipulation will control and that each party and/or their respective successors and assigns will allow the respective properties referred to herein to be developed in accordance with the terms of this stipulation and for the purposes and in the method and manner herein invisioned and specified.

7. Nothing in this stipulation and the order, judgment and decree to be entered as a result hereof shall be construed as in anyway limiting the authority of the legislative body of the defendant CITY OF KIRKLAND from the lawful enactment of land use or other ordinances affecting the use and regulation of land under its constitutional and statutory police powers.

DATED at Kirkland, Washington, this 22 day of June, 1979.

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