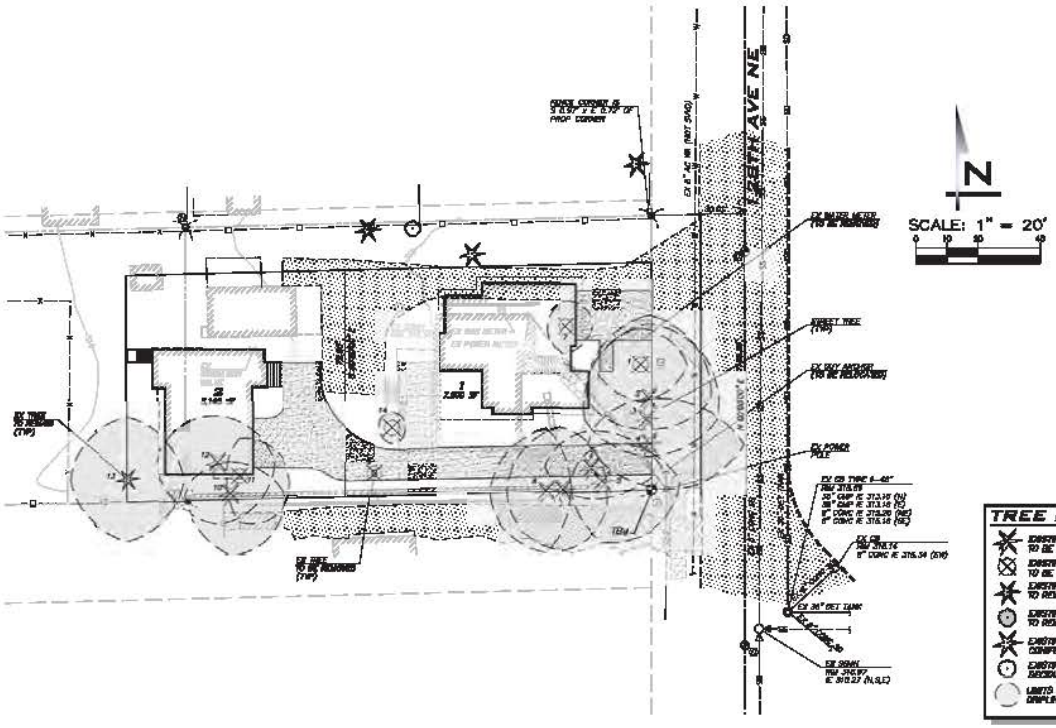
Attachment 4 Tree Retention Plan and Arborist Report
SUB14-01032

BW 1/4, SEC 17, TWP 25N, RGE 3E , W.M.

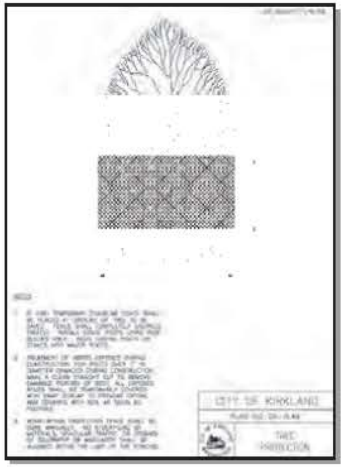


TREE LEGEND

- EXISTING CONIFEROUS TREE TO BE REMOVED
- EXISTING DECIDUOUS TREE TO BE REMOVED
- EXISTING CONIFEROUS TREE TO REMAIN
- EXISTING DECIDUOUS TREE TO REMAIN
- EXISTING OFF-SITE CONIFEROUS TREE
- EXISTING OFF-SITE DECIDUOUS TREE
- LIMITS OF DISTURBANCE/ DRIPLINE

TREE TABLE

TREE #	BOTANICAL NAME	COMMON NAME	DBH (INCHES)	HEALTH CONDITION	STRUCTURAL CONDITION	LIMITS OF DISTURBANCE	DRIP LINE RADIUS (FEET)				PROPOSED ACTION	CREDITS	NOTES
							N	E	S	W			
1	ACER GRISEUM	"RED" MAPLE	9	FAIR	POOR	DRIP LINE	12	14	12	12	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	CRACKING, BARK INCLUSIONS, RED CENTRAL LEAD & MULTIPLE DEAD LEADS
2	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	23.5	GOOD	FAIR	DRIP LINE	28	23	27	23	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	TOPPED AT APPX. 35 FEET, 3 NEW CENTRAL LEADS 40 FEET TALL—1 SUBORDINATED WITH OBVIOUS DEFECT
3	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	32.0	GOOD	FAIR	DRIP LINE	28	23	31	23	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	TOPPED—NEW LEAD APPX. 60 FEET TALL
4	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	32.0	GOOD	POOR	DRIP LINE	29	30	14	14	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	SKINNY TREE—LIKELY TO BE DAMAGED ON CONSTRUCTION SITE, MAKE PRP AT WRONG PLACE ON NORTH LEAD
5	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	30.0	GOOD	FAIR	DRIP LINE	17	25	12	25	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	TOPPED, 3 LEADS—1 DEAD, TALLEST 55 FEET TALL, DEAD TEST STUMP, SLIGHT LEAN SUNDAL, SOME CUT & ROOT ON TOP OF MAIN LEAD
6	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	17	GOOD	POOR	DRIP LINE	12	12	27	15	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	TOPPED, REST 40 FOOT LEAD—MAJOR DEFECTS EXISTS
7	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	23.1	GOOD	FAIR	DRIP LINE	12	14	20	26	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	TOPPED, SEEMS 65 FEET TALL, MAJOR DEFECTS LEANS & U-SHAPED
8	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	17.2	GOOD	FAIR	DRIP LINE	14	8	30	28	REMOVE (NOTICEABLE STRUCTURAL CONDITIONS)	0	TOPPED, 3 NEW LEADS 35 FEET TALL, MAJOR DEFECTS ON CONFIRMED SIDE OF MAIN NEW LEAD
9	PRUNUS SPECIES	CHERRY	7	POOR	POOR	DRIP LINE	1	1	1	1	REMOVE (DEAD TREE)	0	OVER MATURE & IN DECLINE, DISEASES
10	THUJA HETEROPHYLLA	WESTERN HEMLOCK	30	GOOD	FAIR	DRIP LINE	12	17	19	30	REMOVE (DEFECTIVE)	0	MULTIPLE TOPS—NARROW ANGLE OF ATTACHMENT
11	CORNUS FLORIDA	FLOWERING DOGWOOD	4.5	FAIR	FAIR	DRIP LINE	4	10	25	20	REMOVE (DEFECTIVE)	0	CANOPY UNDERVEILED BY ADJACENT CONIFERS, UNDERMANAGED
12	THUJA PLICATA	WESTERN RED CEDAR	28	GOOD	GOOD	DRIP LINE	28	12	19	26	REMOVE (DEFECTIVE)	0	N/A
13	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	23.0	GOOD	GOOD	DRIP LINE	14	10	30	28	REMOVE (DEFECTIVE)	11	HANGERS—GROWN CLEARING NEEDED IF RETAINED
14	ACER PALMATUM	JAPANESE MAPLE	4.4	FAIR	FAIR	DRIP LINE	4	4	3	3	REMOVE (DEFECTIVE)	0	MULTIPLE TOPS—NARROW ANGLE OF ATTACHMENT WITH INCLUDED BARK
17	CORNUS FLORIDA	FLOWERING DOGWOOD	7.2	GOOD	GOOD	DRIP LINE	8	9	8	8	REMOVE (DEAD)	0	SLOW GROW



TREE PROTECTION MEASURES

1. TREE PROTECTION FENCES WILL NEED TO BE PLACED AROUND EACH TREE OR GROUP OF TREES TO BE RETAINED.
   A. TREE PROTECTION FENCES ARE TO BE PLACED ACCORDING TO CITY STANDARD PLAN NO. CK-A.02 AND AS NOTED ON THE TREE INVENTORY/ASSESSMENT SPREADSHEET, COLUMN 7 – LIMITS OF DISTURBANCE (SEE ARBORIST REPORT DATED 3/5/14).
   B. TREE PROTECTION FENCES MUST BE INSPECTED PRIOR TO THE BEGINNING OF ANY CONSTRUCTION RELATED ACTIVITIES.
   C. NOTHING MUST BE PARKED OR STORED WITHIN THE TREE PROTECTION FENCES—NO EQUIPMENT, VEHICLES, GEAR, CLEANS, OR CONSTRUCTION SUPPLIES OF ANY KINDS.
2. CEMENT TRUCKS MUST NOT BE ALLOWED TO DEPOSIT WASTE OR WASH OUT MATERIALS FROM THEIR TRUCKS WITHIN THE TREE PROTECTION FENCES.
3. THE TREE PROTECTION FENCES NEED TO BE CLEARLY MARKED WITH THE FOLLOWING OR SIMILAR TEXT IN FOUR INCH OR LARGER LETTERS:

   TREE PROTECTION AREA, ENTRANCE PROHIBITED
   TO REPORT VIOLATIONS CONTACT
   CITY CODE ENFORCEMENT AT
   425-587-3225

4. THE AREA WITHIN THE TREE PROTECTION FENCING MUST BE COVERED WITH WOOD CHIPS, MOS PLATE, OR SIMILAR MATERIALS TO A DEPTH OF 6 TO 12 INCHES. THE MATERIALS SHOULD BE PLACED PRIOR TO BEGINNING CONSTRUCTION AND REMAIN UNTIL THE TREE PROTECTION FENCING IS TAKEN DOWN.
5. WHEN EXCAVATION BEGINS NEAR THOSE THAT ARE SCHEDULED FOR RETENTION, THE FOLLOWING PROCEDURE MUST BE FOLLOWED TO PROTECT THE LONG TERM SURVIVABILITY OF THE TREE:
   A. AN INTERNATIONAL SOCIETY OF ARBORICULTURE, (ISA) CERTIFIED ARBORIST MUST BE PRESENT WITH ALL EQUIPMENT OPERATORS.
      I. THE CERTIFIED ARBORIST SHOULD BE EQUIPPED WITH A SHOVEL, HAND PRUNERS, A PAIR OF LOPPERS, A HANDSAW, AND A POWER SAW (I.E. "SAWZALL" IS RECOMMENDED).
   B. THE HOE MUST BE PLACED TO "COMB" THE SOIL ONLY LIGHTLY FROM THE TRUNK AS OPPOSED TO CUTTING ACROSS THE ROOTS.
      I. CONSIDER IN THE SEASONAL EXCAVATION OF THE ROTTING CEDAR PLANTER AND SOIL IN BEFORE THAT ONLY EXTENDS AS DEEP AS THE TREES OF THE HOE.
   C. WHEN ANY ROOTS OF ONE INCH DIAMETER OR GREATER, OF THE TREE TO BE RETAINED, ARE EXPOSED BY THE EQUIPMENT, THE CERTIFIED ARBORIST SHOULD STOP THE EQUIPMENT OPERATOR.
   D. THE CERTIFIED ARBORIST SHOULD THEN EXCAVATE AROUND THE TREE ROOT BY HAND/SHOVEL AND CLEANLY CUT THE TREE ROOT.
      I. THE CERTIFIED ARBORIST SHOULD THEN INSTRUCT THE EQUIPMENT OPERATOR TO CONTINUE.
6. PATHING UTILITIES UNDER THE ROOT ZONES:
   A. DIGGING UNDER THE ROOT SYSTEMS OF TREES (AND OTHER VEGETATION) SHALL BE DONE UNDER THE SUPERVISION OF AN ISA CERTIFIED ARBORIST. THIS IS TO BE ACCOMPLISHED BY EXCAVATING A LIMITED TRENCH OR PIT ON EACH SIDE OF THE CRITICAL ROOT ZONE OF THE TREE AND THEN HAND DIGGING OR POKING THE PIPE THROUGH THE SOIL UNDER THE TREE. THE CLOSEST PIT WALLS SHALL BE A MINIMUM OF 2 FEET FROM THE CENTER OF THE TREE, AND SHALL BE SUFFICIENT DEPTH TO LAY THE PIPE AT THE GRADE AS SHOWN ON THE PLANS AND PROFILE.
   B. TUNNELING UNDER THE ROOTS OF TREES SHALL BE DONE UNDER THE SUPERVISION OF AN ISA CERTIFIED ARBORIST IN AN OPEN TRENCH BY CAREFULLY EXCAVATING AND HAND DIGGING AROUND ROOTS WHERE LARGE ROOTS ARE ENCOUNTERED. NO ROOTS 1 INCH IN DIAMETER OR LARGER SHALL BE CUT.
   C. THE CONTRACTOR SHALL VERIFY THE VERTICAL AND HORIZONTAL LOCATION OF EXISTING UTILITIES TO AVOID CONFLICTS AND ENSURE MINIMUM CLEARANCES. ADJUSTMENT SHALL BE MADE TO THE GRADE OF THE NEW UTILITY AS REQUIRED.
7. MULCHING:
   A. THE TREES WILL REQUIRE SIGNIFICANT MULCHING THROUGHOUT THE SUMMER AND EARLY FALL IN ORDER TO SURVIVE LONG-TERM. AN EVEN AND EXTENSIVE MULCHING CAN BE DONE USING 50-GALLON BARRELS PLACED THREE FEET FROM THE TRUNK OF THE TREE AND SPRINKLED AROUND THE TREE. THE 70-FOOT SCALED HOSE FOR TREE 18 INCREASE. IT IS BEST TO PLACE THE MULCHING USING LANDSCAPE STAPLES, (AVAILABLE FROM HD FOWLER IN GOLDSCHE FOR FORMER AREES) THEN COVER THE AREA WITH TIRE, TO PREVENT SCALED DISTURBED MATERIALS THE COMPOSTED MULCHING WILL ACT AS A MULCH TO INCREASE EVAPORATION AND WILL ALSO FURTHER THE MICROBIAL ACTIVITY OF THE SOIL WHICH IS ANOTHER BENEFIT TO THE HEALTH OF THE TREE.
   B. WATER THE TREE TO A DEPTH OF 18 TO 30 INCHES. I RECOMMENDED LEAVING THE WATER ON THE MULCHED HOSES FOR SAY TO EVERY HOURS AND THEN CHECKING CLOSE TO DETERMINE HOW DEEP THE WATER IS PENETRATING. THEN ADJUST ACCORDINGLY. IT MAY TAKE A GOOD TWO DAYS OF WATERING TO REACH THE PROPER DEPTH.
   C. GIVE THE TREES CHANGES THE PROPER DEPTH, THEN OFF THE HOSES FOR FOUR WEEKS AND THEN WATER AGAIN. WATER MORE OFTEN WHEN TEMPERATURES INCREASE—EVERY THREE WEEKS WHEN TEMPERATURES EXCEED 80 DEGREES AND EVERY TWO WEEKS WHEN TEMPERATURES EXCEED 90 DEGREES. THE DEPTH OUT OF THE SOIL AT BETWEEN WATERING IS IMPORTANT TO PREVENT SOIL PATHOGENS FROM ATTACKING THE TREES.

TREE RETENTION CALCULATIONS:

REQUIRED MIN. DENSITY = 36 CREDITS/ACRE * (0.35 AC) – 9 CREDITS

PROPOSED DENSITY = 11 CREDITS (AT PRELIMINARY SHORT PLAT SUBMITTAL)

ARBORIST NOTE

ARBORIST MAY BE REQUIRED TO BE ONSITE FOR WORK WITHIN TREE FENCING/LIMITS OF DISTURBANCE. CONTRACTOR TO FOLLOW ARBORIST'S RECOMMENDATIONS (IF REQUIRED) FOR WORK WITHIN THIS AREA.

DUST CONTROL

WHEN EXPOSED SOILS ARE DRY TO THE POINT THAT WIND TRANSPORT IS POSSIBLE, EXPOSED SOILS SHALL BE SPRAYED UNTIL WET BUT RUNOFF SHALL NOT BE GENERATED.

TESC NOTE

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.

UNDERGROUND UTILITY NOTE

UNDERGROUND UTILITIES ARE SHOWN IN THE APPROXIMATE LOCATION. THERE IS NO GUARANTEE THAT ALL UTILITY LINES ARE SHOWN, OR THAT THE LOCATION, SIZE AND MATERIAL IS ACCURATE. THE CONTRACTOR SHALL UNCOVER ALL INDICATED PIPING WHERE CROSSING, INTERFERENCES, OR CONNECTIONS OCCUR PRIOR TO BEGINNING OR EXCAVATION FOR ANY PIPE OR STRUCTURES, TO DETERMINE ACTUAL LOCATIONS, SIZE AND MATERIAL. THE CONTRACTOR SHALL MAKE THE APPROPRIATE PROVISION FOR PROTECTION OF SAID FACILITIES. THE CONTRACTOR SHALL NOTIFY ONE CALL AT 8-1-1 (WASHINGTONUTI.COM) AND ARRANGE FOR FIELD LOCATION OF EXISTING FACILITIES BEFORE CONSTRUCTION.

BLUELINE

SCALE: AS NOTED
PROJECT MANAGER: BRIAN L. MARTIN, PE
PROJECT ENGINEER: BRIAN L. MARTIN, PE
DESIGNER: A.J. GRILL
ISSUE DATE: 4/4/2014

NO	DATE	BY	REVISIONS

TREE RETENTION PLAN
AVALON EAST
PARCEL # 6743700370
CITY OF KIRKLAND WASHINGTON

6/5/2014
JOB NUMBER: 14-101
SHEET NAME: TR-01
SHT 2 OF 2

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Tree Solutions Inc
Consulting Arborists

TO:	Josh Lysen, Vice President Merit Homes
JOB SITE:	Avalon East & West - 10633 128th Ave NE, Kirkland, WA 98033
SUBJECT:	Tree Inventory & Assessment
DATE:	March 3, 2014; Revised October 22, 2014
PREPARED BY:	Sean Dugan, Registered Consulting Arborist #457 ISA Certified Board Certified Master Arborist PN-5459B ISA Qualified Tree Risk Assessor

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Assignment & Scope of Report
Methods
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Summary

I identified eighteen (18) significant size trees existing on the job site. Eight (8) of the trees are not viable due to poor health and/or non-viable structure. The total square footage of the two areas is 27,301 square feet. The Kirkland Zoning Code (95.33) requires a minimum tree density of 18.9 tree credits. I calculated the tree density credits for the remaining ten (10) trees to be 51 credits. Site development plans will need to be created to determine which trees can be preserved.

Two (2) trees on adjacent properties to the southwest and northeast have canopies that overhang the job site. These trees are unlikely to be negatively impacted due to being located far from the job site.

Assignment & Scope of Report

This report outlines the site inspection by Sean Dugan, of Tree Solutions Inc., on February 18, 2014.
I was asked to conduct a site visit to inventory all significant trees with descriptions of species, diameter size, health and structural condition, limits of disturbance, drip line radius, proposed action, tree credit values and notes for each tree. I was asked to develop a formal arborist report addressing city of Kirkland requirements for tree preservation.

Included in the report are observations from the site located at 10633 128th Ave NE, discussion, and recommendations. Josh Lysen, Vice President of Merit Homes, requested these services to acquire information for project planning in accordance with requirements set by the city of Kirkland.

Limits of Assignment

Unless stated otherwise: 1) information contained in this report covers only those trees that were examined and reflects the condition of those trees at the time of inspection; and 2) the inspection is limited to visual examination of the subject trees without dissection, excavation, probing, climbing, or coring unless explicitly specified. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the subject trees may not arise in the future.

I did not have permission to access the adjacent properties. Additional Assumptions and Limiting Conditions can be found in Appendix A.

Methods

I was provided with a site survey showing tree locations, which can be found in Appendix B. Numbers on the site survey correspond to those in the attached Table of Trees. Trees on adjacent properties with overhanging canopies are labeled on the survey using letters A and B. Measurements provided for these two trees are estimates as I did not have permission to access those sites.

I measured the diameter of each tree at standard height (DSH), typically 54-inches above grade. For multi-stemmed trees I calculated the equivalent single-stem equivalent diameter using the Guide to Trunk Area outlined in the Guide for Plant Appraisal (9th Edition).

I evaluated tree health and structure utilizing visual tree assessment (VTA) methods. The basis behind VTA is the identification of symptoms, which the tree produces in reaction to a weak spot or area of mechanical stress. Trees react to mechanical and physiological stresses by growing more vigorously to re-enforce weak areas, while depriving less stressed parts. (Mattheck & Breloer 1994) Understanding uniform stress allows me to make informed judgments about the condition of a tree.

Observations & Discussion

The Site

The site is comprised of two areas running east and west. The total square footage of both lots is 27,301 square feet. The lots are located in a residential neighborhood in the city of Kirkland. There are no environmentally critical areas or sensitive areas listed for the property.

The west lot is undeveloped and measured to be 14,104 square feet in size. The topography of the site is generally flat. The lot contains two of the nineteen significant trees inventoried.

The east lot is developed with an existing single family structure. The total area of this lot measures 13,197 square feet in size. The topography of this site is generally flat. There are seventeen significant-sized trees.

The adjacent site trees are located to the northeast and the southwest. Only a small portion of the canopies overhang the job site. The trees stand sufficiently away from the job site and the potential for them to be negatively impacted by proposed site development is very low.

The Trees

Eighteen (18) significant-sized trees stand on site. Tree species include Douglas-fir (*Pseudotsuga menziesii*), Japanese maple (*Acer palmatum)*, Vine maple (*Acer circinatum*), Flowering dogwood (*Cornus florida*), Black pine (*Pinus nigra*), Western red cedar (*Thuja plicata)*, and Western hemlock (*Tsuga heterophylla*) trees. Information specific to each tree can be found in the attached Table of Trees.

Ten of the trees I assessed are potentially viable and retention will be based on the site development plans.

The east and southeast portion of this site has a stand of Douglas-fir trees that are located in the front property of the existing dwelling. Due to the location, the City considers these to be high retention value trees. Unfortunately, it is my opinion that these are poor candidates for retention.

All of these trees have been topped in the past and the reiterative leads are approximately 40 to 60 feet tall. Several of the leads are poorly structured and are showing symptoms that indicate decay possibly exists at the point of the topping. (See Figure 1)

Figure 1. View looking southwest at trees 5, 6 and 7; white arrows point to the past topping cuts.

Each of the Douglas-fir trees in the stand currently present a moderate level of risk to the surrounding targets due to the potential for failure of the new leads. The likelihood of these failing will increase over time and so will the risk potential. Long-term management will be required to prevent a failure from contacting the future structure. Options for management are limited.

If any of the trees are removed I believe that it will have a negative impact on the adjacent trees. During my assessment, I was able to evaluate how the trees react in moderate wind gusts. Each tree relies on the adjacent trees for support during the bending moment of the leads. If a tree is removed, the support will go with it and there will be a greater likelihood of the remaining trees to fail.

Tree Density Credits

The Kirkland Zoning Code (95.33) requires tree density to satisfy 30 tree credits per acre. The property is 27,301 sq. ft., or 0.63 acres. Therefore, a tree density worth 18.9 tree credits (0.63 x 30 = 18.9) is required in order to meet the minimum requirement. Using viable trees, I calculated **51** tree credits are available on the site.

Adjacent Site Trees

Trees A and B are unlikely to be negatively impacted by site development.

Recommendations

- Create a site development plan that shows the location of all improvements, which can then be used to determine which trees can be retained.
- Plans should indicate basic tree protection measures for preserved trees on site and to assure minimal damage to the root systems of adjacent site trees.
- If 18.9 tree credits cannot be retained a supplemental tree planting plan will be required.
- Obtain all necessary permits and approval from the City prior to commencement of site work.

Glossary

Basal (root) flare: the rapid increase of diameter that occurs at the junction of the trunk and root crown, associated with stem and root tissues. (Dunster 1996)

DBH or DSH: diameter at breast or standard height; the diameter of the trunk measured 54 inches (4.5 feet) above grade (Matheny *et al.* 1998)

drip line: perimeter of the area under a tree delineated by the crown (Lilly 2001)

ISA: International Society of Arboriculture

References

ANSI A300 (Part 1) – 2008 American National Standards Institute. American National Standard for Tree Care Operations: Tree, Shrub, and Other Woody Plant Maintenance: Standard Practices (Pruning). New York: Tree Care Industry Association, 2008.

Dunster, Julian & Katherine. Dictionary of Natural Resource Management. Vancouver: UBC Press, 1996

ISA Pacific Northwest Chapter. Tree Risk Assessment in Urban Areas and The Urban/Rural Interface (Course Manual). British Columbia, Canada, 2009

Lilly, Sharon. Arborists' Certification Study Guide. Champaign, IL: The International Society of Arboriculture, 2001.

Matheny, Nelda and James R. Clark. Trees and Development: A Technical Guide to Preservation of Trees During Land Development. Champaign, IL: International Society of Arboriculture, 1998.

Mattheck, Claus and Helge Breloer, The Body Language of Trees.: A Handbook for Failure Analysis. London: HMSO, 1994

Appendix A – Assumptions & Limiting Conditions

1. Consultant assumes that any legal description provided to Consultant is correct and that title to property is good and marketable. Consultant assumes no responsibility for legal matters. Consultant assumes all property appraised or evaluated is free and clear, and is under responsible ownership and competent management.

2. Consultant assumes that the property and its use do not violate applicable codes, ordinances, statutes or regulations.

3. Although Consultant has taken care to obtain all information from reliable sources and to verify the data insofar as possible, Consultant does not guarantee and is not responsible for the accuracy of information provided by others.

4. Client may not require Consultant to testify or attend court by reason of any report unless mutually satisfactory contractual arrangements are made, including payment of an additional fee for such Services as described in the Consulting Arborist Agreement.

5. Unless otherwise required by law, possession of this report does not imply right of publication or use for any purpose by any person other than the person to whom it is addressed, without the prior express written consent of the Consultant.

6. Unless otherwise required by law, no part of this report shall be conveyed by any person, including the Client, the public through advertising, public relations, news, sales or other media without the Consultant's prior express written consent.

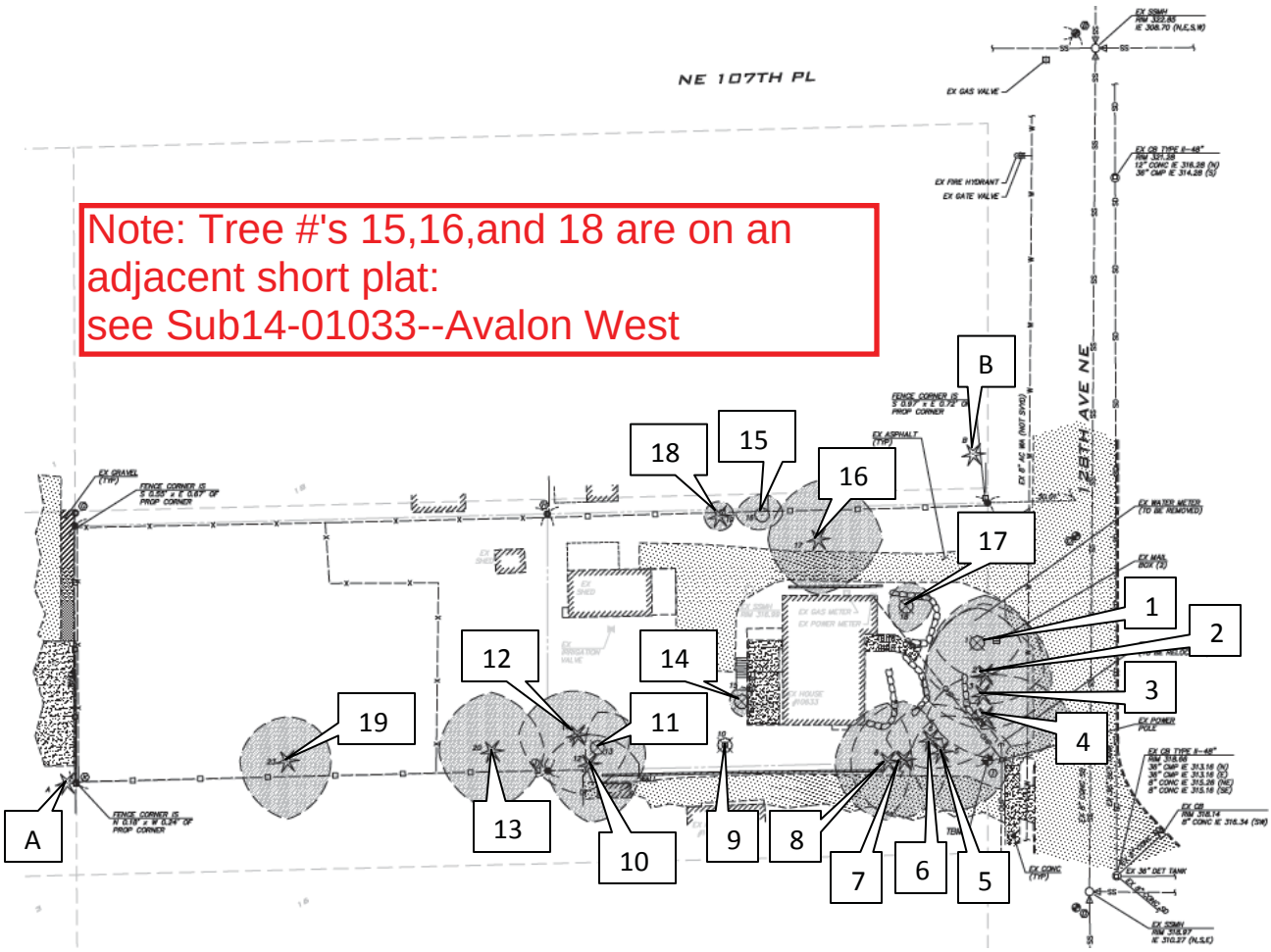
7. This report and any values expressed herein represent the opinion of the Consultant, and the Consultant's fee is in no way contingent upon the reporting of a specific value, a stipulated result, the occurrence of a subsequent event or upon any finding to be reported.

8. Sketches, drawings and photographs in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering or architectural reports or surveys. The reproduction of any information generated by architects, engineers or other consultants and any sketches, drawings or photographs is for the express purpose of coordination and ease of reference only. Inclusion of such information on any drawings or other documents does not constitute a representation by Consultant as to the sufficiency or accuracy of the information.

9. Unless otherwise agreed, (1) information contained in this report covers only the items examined and reflects the condition of the those items at the time of inspection; and (2) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, climbing, or coring. Consultant makes no warranty or guarantee, express or implied, that the problems or deficiencies of the plans or property in question may not arise in the future.

10. Loss or alteration of any part of this Agreement invalidates the entire report.

Appendix B – Site Survey with Tree Locations



Attachments:

Table of Trees

Tree Solutions Inc
Consulting Arborists

Table of Trees

10633 128th Ave NE, Kirkland, WA 98033

Date of Inventory- 02.18.2014
Table Prepared- 02.20.2014
Table Revised- 10.22.2014

Tree #	Common/ Scientific Name	DSH (inches)	Mult DSH (inches)	Health Condition	Structural Condition	Limits of Disturbance	Viability	Risk	Proposed Action	Tree Credits	Notes
1	Vine maple/ *Acer circinatum*	9*	2, 4, 2, 4, 2.5, 2.5, 3, 1.5, 3, 3	Fair	Poor	Drip Line	No	Low	Remove - Structure	0	cluster, wide spread, no central lead, multiple dead leads
2	Douglas-fir/ *Pseudotsuga menziesii*	22.9		Good**	Fair-	Drip Line	No	Moderate/ High	Remove - Structure	0	topped at approx. 20 feet, 2 new central leads 40 feet tall- one subordinated with girdling branch
3	Douglas-fir/ *Pseudotsuga menziesii*	21.9		Good**	Fair	Drip Line	No	Moderate/ High	Remove - Structure	0	topped- new lead approximately 50 feet tall
4	Douglas-fir/ *Pseudotsuga menziesii*	26.9		Good**	Poor	Drip Line	No	Moderate/ High	Remove - Structure	0	topped, 2 new leads on 50 feet tall north & south side- south side looks to be damaged on compression side, bark pop at shear plain on north lead
5	Douglas-fir/ *Pseudotsuga menziesii*	22.5		Good**	Fair-	Drip Line	No	Moderate/ High	Remove - Structure	0	topped, 3 leads- 1 dead, tallest 50 feet tall, decayed stump, slight resin stream, stub cut, kink on top main lead
6	Douglas-fir/ *Pseudotsuga menziesii*	17		Good**	Poor	Drip Line	No	Moderate/ High	Remove - Structure	0	topped, new 40 foot lead- major stress riser
7	Douglas-fir/ *Pseudotsuga menziesii*	22.3		Good**	Fair	Drip Line	No	Moderate/ High	Remove - Structure	0	topped, growth 60 feet tall, ridge between new leads, U-shaped
8	Douglas-fir/ *Pseudotsuga menziesii*	17.2		Good**	Fair-	Drip Line	No	Moderate/ High	Remove - Structure	0	topped, 2 new leads 50 feet tall, fiber buckling on compression side of main new lead
10	Western hemlock/ *Tsuga heterophylla*	20		Good	Fair	Drip Line	Yes	Low		6	multiple tops-narrow angle of attachment
11	Flowering dogwood/ *Cornus florida*	8.5		Fair	Fair	Drip Line	Yes	Low		1	canopy over whelmed by adjacent conifers, anthracnose

Tree Solutions Inc
Consulting Arborists

Table of Trees

10633 128th Ave NE, Kirkland, WA 98033

Date of Inventory- 02.18.2014
Table Prepared- 02.20.2014
Table Revised- 10.22.2014

12	Western red cedar/ *Thuja plicata*	28		Good	Good	Drip Line	Yes	Low		10	
13	Douglas-fir/ *Pseudotsuga menziesii*	29.5		Good	Good	Drip Line	Yes	Low	Retain & Protect	10	hangers- crown cleaning needed if retained
14	Japanese maple/ *Acer palmatum*	6.4*	5.5, 1, 1, 1, 2, 2	Fair	Fair	Drip Line	Yes	Low		1	multiple tops- narrow angle of attachment with included bark
15	*Japanese maple/ Acer palmatum*	6.9		Good	Good	Drip Line	Yes	Low	Remove - driveway & utilities	1	odd shrub form tree/bush, coral fungus, multiple pruning/ sheering events
16	Douglas-fir/ *Pseudotsuga menziesii*	32.5		Good	Good	Drip Line	Yes	Low	Remove - driveway & utilities	12	drive 2 west
17	Flowering dogwood/ *Cornus florida*	7.2		Good	Good	Drip Line	Yes	Low		1	slow grow
18	Black pine/ *Pinus nigra*	7.3		Fair	Fair	Drip Line	Yes	Low	Remove - driveway & utilities	1	sheared to small tree, topped in past
19	Western hemlock/ *Tsuga heterophylla*	24.6		Fair	Fair	Drip Line	Yes	Moderate	Remove - utilities	8	unusual basal structure on west lower trunk- restricting growth, internal foliage sparse, significant debris in root zone
									Total Tree Credits	51	
Adjacent Site Trees											
A	Western red cedar/ *Thuja plicata*	~10		Good	Good	Drip Line					canopy overhangs site by ten feet
B	Douglas-fir/ *Pseudotsuga menziesii*	~12+		Good	Good	Drip Line					canopy overhangs site by four feet

Additional Notes:

**Single stem equivalent DSH calculated using Guide to Trunk Area; **Internal decay likely*

From: Sandi Elder <elder.sandi@gmail.com>
Sent: Thursday, July 31, 2014 5:44 PM
To: Susan Lauinger
Subject: public comments on permits number SUB14-01033 and SUB14-01032
Attachments: Before removal of most prominent tree - picture 2.JPG; After tree removal.jpg; img011.jpg

I am writing to provide public comments on permits number SUB14-01033 and SUB14-01032. Both of these lots are directly behind my back fence. In 2011, my husband and I purchased our home at 12716 NE 106th Lane from Merit Homes. We bought the home because of the beautiful old trees that lined the back fence and hung as much as 25 feet into our yard. Merit homes used these trees as a selling point and suggested building changes to our home to include transparent instead of opaque windows due to the beautiful view of these trees. We are strongly opposed to these trees being removed to make room for their new homes and access easement. These trees provide value and desirability/resellability to our home. These trees are our landscaping and we will have to pay significant money to relandscape our backyard if they are removed. These trees provide significant privacy to the back of our home, which will be directly open to 107th if they are removed. These trees provide shade in our backyard which our 4 year old daughter seeks out on summer days. These trees help reduce freeway noise and filter pollution. Our family also practices Native American shamanism which is a nature based practice. These trees are our church and part of our souls. Further, these trees are only a few feet from the property line. Measures should be taken to build around these trees.

Merit homes has already cut down trees on both lots. One of which was the most prominent feature in our yard. It was a devastating loss to our family. Please see attached pictures to see the impact that has had on our property. In December, 2013 we found out that the lots behind our house were being sold to Merit. We sent a very polite email asking them to please talk to us before anything happened to those trees. We asked to work with them to find a solution where everyone would be happy. We were never given any response and came home about a month ago to find the most prominent tree in our yard cut down with no notice. We have to strongly oppose a construction project where the owners give no courtesy to the neighbors, especially given that we are also a previous customer.

Beyond the personal objections we have to this project, we also have more general concerns. When we purchased our home we did not realize the extent to which builders were buying homes on larger lots in Kirkland and building multiple homes. The amount of tree removal in our community for this process is staggering. I have great environmental concerns about the number of trees being removed for building. The traffic has also increased

tremendously in the only 3 years we have lived here as a result. The roads are not built to support the amount of additional homes that are being added.

We strongly request that Merit homes be required to plan their building in a way that will mitigate the damage to the neighbors of this project and the larger community. We are also attaching a letter from our 4 year old daughter, as she would like to submit public comments as well.

Sandi Elder

12716 NE 106th Lane

Kirkland, WA 98033

206-225-9600

Before Tree Removal

After Tree removal

From: Sam Elder <sam@samelderlaw.com>
Sent: Monday, August 11, 2014 3:24 PM
To: Susan Lauinger
Subject: Permit # SUB14-01032 and # SUB14-01033

I am writing regarding requests for Process I Permit, permits number SUB14-01032 and SUB14-01033. I oppose this project and request that permits not be issued by the City of Kirkland.

My primary concern is that a number of Significant Trees as defined in Kirkland City Code 95.10 (hereinafter "KCC") will be removed if this permit is issued which would violate various portions of KCC Chapter 95. The proposed permits contemplate a 15' wide access from 128th Ave NE, which would run right through at least 4 Significant Trees. This will both have a significant effect on the neighborhood as a whole and on my specific property which adjoins the lots for which the permits are sought. The trees in question are located right next to the property line and extend about 20-25 feet onto my property, 12716 NE 106th Lane, Kirkland, WA 98033. The Critical Root Zone as defined in KCC 95.10, is approximately 40% on my parcel. All of the trees in question qualify as Specimen Trees as defined by KCC 95.10.

The City of Kirkland has recognized the policy of protecting old growth trees and incorporated those policies legislatively into the Kirkland City Code. KCC 95.05 recognizes that:

> 1. Trees and other vegetation are important elements of the physical environment. They are integral to Kirkland's community character and protect public health, safety and general welfare. Protecting, enhancing, and maintaining healthy trees and vegetation are key community values. Comprehensive Plan Policy NE-3.1 describes working towards achieving a City-wide tree canopy coverage of 40 percent. The many benefits of healthy trees and vegetation contribute to Kirkland's quality of life by:
> a. Minimizing the adverse impacts of land disturbing activities and impervious surfaces such as runoff, soil
> erosion, land instability, sedimentation and pollution of waterways, thus reducing the public and private costs for storm water control/treatment and utility maintenance;
> b. Improving the air quality by absorbing air pollutants, mitigating the urban heat island effect, assimilating
> carbon dioxide and generating oxygen, and decreasing the impacts of climate change;
> c. Reducing the effects of excessive noise pollution;
> d. Providing cost-effective protection from severe weather conditions with cooling effects in the summer
> months and insulating effects in winter;e. Providing visual relief and screening buffers;

f. Providing recreational benefits;
g. Providing habitat, cover, food supply and corridors for a diversity of fish and wildlife; and
h. Providing economic benefit by enhancing local property values and contributing to the region's natural
beauty, aesthetic character, and livability of the community.
2. Tree and vegetation removal in urban areas has resulted in the loss to the public of these beneficial functions. The purpose of this chapter is to establish a process and standards to provide for the protection, preservation, replacement, proper maintenance, and use of significant trees, associated vegetation, and woodlands located in the City of Kirkland. The intent of this chapter is to:
a. Maintain and enhance canopy coverage provided by trees for their functions as identified in KZC 95.05(1);
b. Preserve and enhance the City of Kirkland's environmental, economic, and community character with mature landscapes;
c. Promote site planning, building, and development practices that work to avoid removal or destruction of trees and vegetation, that avoid unnecessary disturbance to the City's natural vegetation, and that provide landscaping to buffer the effects of built and paved areas;
d. Mitigate the consequences of required tree removal in land development through on- and off-site tree replacement with the goals of halting net loss and enhancing Kirkland's tree canopy to achieve an overall healthy tree canopy cover of 40 percent City-wide over time;
. Encourage tree retention efforts by providing flexibility with respect to certain other development requirements;
f. Implement the goals and objectives of the City's Comprehensive Plan;
g. Implement the goals and objectives of the State Environmental Policy Act (SEPA); and
h. Manage trees and other vegetation in a manner consistent with the City's Natural Resource Management Plan.
i. Preserve and protect street trees, trees in public parks and trees on other City property.

The City Counsel has adopted these rules with a clear intent and goal of maintaining existing trees. The following sections that set forth rules for tree removal should all be interpreted with these underlying policies in mind. KCC 95.25 specifies that the policies set forth in KCC 95.05 apply to Sustainable Site Development and constitute minimum standards for development.

KCC 95.30 sets forth specific rules for development of properties. It should be noted that Merit Homes specifically coordinated tree removal with the prior property owner as pre-condition of Merit Home's purchase of the subject property. On or about June 7, 2014, the prior owner cut down four Significant Trees as defined by KCC 95.10. These trees ranged upward of 24 inches DBH. This was done without any warning or notice. I specifically confronted the prior owner

about the tree removal, and he told me that Merit Homes made the decision not him. He informed me that I should contact Merit Homes if I had any issues that that it was a requirement that the tree removal occur as part of the purchase of the property. Washington law recognizes privity of contract. When a developer coordinates development activities with a land owner as a condition of the purchase and sale agreement, these activities are imputed to the developer who is in privity with that owner. Any attempt to circumvent development rules – including tree removal – is ineffective under these circumstances. When assessing the reasonableness of the development plan and the reasonableness of issuing permits, the actions imputed to Merit Homes as part of its pre-purchase development activity must be considered.

Merit Homes has thus already removed four significant trees. This tree removal did not comply with KCC 95.23 and no notice was provided to the City or neighbors. These trees extended about 20-25 feet onto my property and had approximately 40% of the Critical Root Zone on my property. The removal of these trees without permits or notice and in violation of Kirkland City Code both (1) endangers my property because the significant root systems located on my property is going to decay without any mitigation and (2) creates a track record of Merit Homes disregarding appropriate procedures before engaging in Tree Removal of Significant Trees as defined in KCC 95.10.

KCC 95.30 reiterates the City's policy in favor of "to retain as many viable trees as possible on a developing site." Locating the access road right through these Significant Trees violates KCC 95.30. The clear solution is to allow development of the property and allow an access road, but require Merit Homes to locate the access road on the north side of the Significant Trees.

KCC 95.30 requires approval of a tree retention plan because there would be disturbance of Significant Trees. No exemption pursuant to KCC 95.20 applies. KCC 95.30 specifically authorizes amendment of development plans to retain as many viable trees as possible. This is exactly what should happen – the development plans should be amended to put the access road on the north side of the trees. If the trees are removed, then minimum tree density standards will not be maintained. These standards must be met for both permit SUB 14-01032 and SUB 14-01033 because both developments contemplate single-family residences. As stated in KCC 95.30:

> The importance of effective protection of retained trees during construction is emphasized with specific protection standards in the last part of this section. These standards must be adhered to and included on demolition, grading and building plans as necessary.

This policy would be violated with the proposed location of the access road off 128th Ave. NE.

Merit Homes has not submitted a tree retention plan that complies with KCC 95.30. The proposed development calls for more than one tree retention plan component, thus KCC 95.30 requires that the more stringent tree retention plan requirements apply.

KCC 95.30(3) requires that the Tree Retention Plan be submitted and approved as part of the Process I Permit for the property. Failure to comply with all of the Tree Retention Plan requirements justify denial of the Process I Permit. Each tree must be given a retention value of low, medium, or high. The trees must be tagged, which they are not. Because Merit Homes is in privity with the prior owner and coordinated development pre-purchase, the trees removed in June 2014 must be included as part of the Tree Retention Plan. The DBH for each tree must be noted and considered. The trees must be inventoried and identified in terms of their health. Merit Homes has failed to comply with these standards.

The proposed development by Merit Homes would cause these lots to fall below the 30 tree credit per acre threshold required by KCC 95.33. Merit Homes has failed to submit a Tree Retention Plan that addresses the tree credit issue.

Any permits issued to Merit Homes should ensure compliance with KCC 95.34 regarding protection of existing trees during development. Merit Homes has already showed disregard for the Critical Root Zone of the trees that it had removed already. Much of that Critical Root Zone exists on my property and Merit Homes has taken no steps to mitigate the decay effects within the Critical Root Zone.

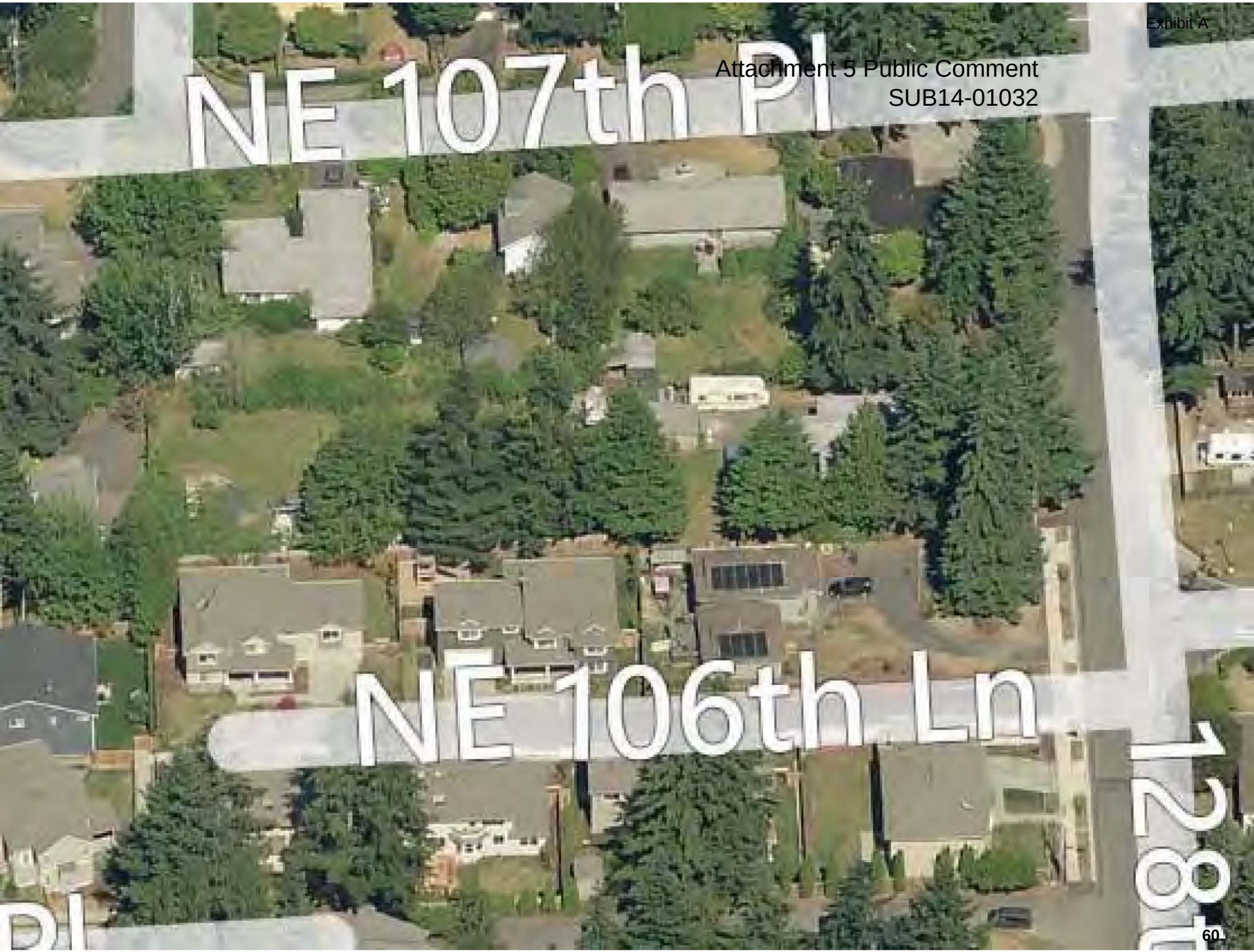
Another concern is that the impervious road surface proposed by Merit Homes would run directly adjacent to my property and cause run off of the water to flow onto my property. KCC 95.45 sets forth requirement for landscape buffering areas adjacent to driving surfaces. However, Merit Homes has failed to accommodate the requirements of KCC 95.45 and address water run off from impervious driving areas onto my property. The obvious solution is to move the access road onto the north side of the Significant Trees and use the area of the trees as the buffer contemplated by KCC 95.45.

I should also note that I have seen pileated woodpeckers in the trees that Merit Homes proposes to remove. Pileated woodpeckers are designed as a species of concern by the Washington State Department of Fish and Wildlife. I am concerned the removal of these trees which are some of the best habitats for pileated woodpeckers around with further endanger the species. I have only seen pileated woodpeckers in the trees that are directly adjacent and over my property.

For all of the reasons outlined above, I ask that the permit be denied. Permits should not be issued until Merit Homes complies with all aspects of KCC Section 95 and permits should be conditioned on retaining trees and moving the access road so that there is appropriate drainage from impervious surfaces and so required tree density is maintained. This will ensure that Kirkland's stated policies favoring tree preservation is effectuated. Thank you.

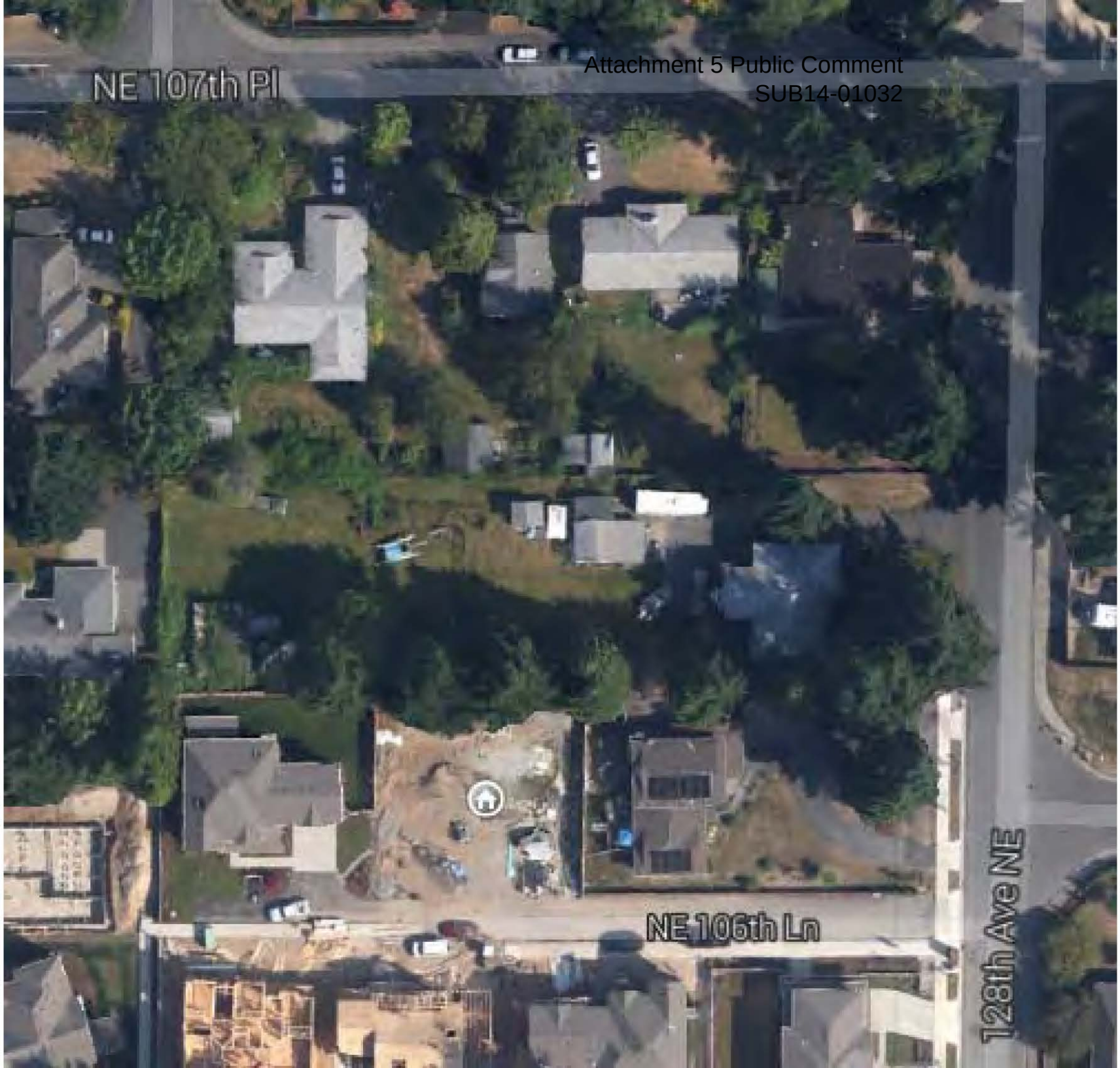
Sam Elder
Law Office of Sam Elder PLLC
12716 NE 106th Lane
Kirkland, WA 98033
425-999-8170 phone
425-999-8172 fax
sam@samelderlaw.com

This stump is from another cut down tree that is not on the arborist report.
This tree was between #13 and #19 -- kind of hard for the arborist to miss it.


NE 107th Pl
NE 106th Ln
128th

NE 107th Pl
128th Ave NE
NE 106th Ln

Attachment 5 Public Comment
SUB14-01032



12633
12707
12715
12721
12727
6743700295
6743700374
6743700375
6743700377
6743700376
12631
6743700371
6743700370
10633
12710
6743700361
12716
6743700362
10623
6743700366
12709
12717
12725

DEAR NEIGHBORS,
I WANT YOU TO
Stop CUTTING
DOWN TREES
PLEASE

LAUREN ELDER

Attachment 6
Access
SUB14-01032

SHEET: 2 OF 2

AVALON EAST - WEST

PORTION OF SE 1/4 OF SEC 33, TWP 26N, RGE 5E, WM

Subdivision
City of Kirkland

FILE NO:

LEGEND

- FOUND CONCRETE MONUMENT
- SET 1/2" REBAR/CAP #40524
- FOUND 1/2" REBAR/CAP AS NOTED
- SET AS NOTED
- UTILITY POLE
- UTILITY POLE WITH LUMINARE
- POWER METER
- GUY ANCHOR
- WATER METER
- HYDRANT
- WATER VALVE
- CATCH BASIN
- SANITARY SEWER MANHOLE
- GAS VALVE
- GAS METER
- W - APPROX. WATER LINE LOCATION
- S - APPROX. SANITARY SEWER LINE LOCATION
- OH - APPROX. OVERHEAD UTILITY LINE LOCATION
- (M) MEASURED DIMENSION
- (C) CALCULATED DIMENSION
- DECIDUOUS TREE
- CONIFEROUS TREE

CONTROL LEGEND

(A) FOUND 4" x 4" CONCRETE MONUMENT WITH TACK IN LEAD IN CASE DOWN 0.60'

(B) FOUND CONCRETE MONUMENT WITH TACK IN LEAD IN CASE DOWN 0.40'

(C) FOUND CONCRETE MONUMENT WITH TACK IN LEAD IN CASE DOWN 0.40'

(D) FOUND CONCRETE MONUMENT WITH BRASS TACK IN LEAD IN CASE DOWN 0.40'

(E) FOUND 4" x 4" CONCRETE MONUMENT WITH 3" BRASS DISK WITH PUNCH IN CASE DOWN 0.60'

(F) FOUND 4" x 4" CONCRETE MONUMENT WITH 2" BRASS DISK WITH PUNCH IN CASE DOWN 0.40'

(G) FOUND 1" IRON PIPE

(H) FOUND 1/2" REBAR/CAP #14490 WITH TACK AT CALCULATED POSITION

(I) FOUND 1/2" REBAR/CAP #40524 AT CALCULATED POSITION

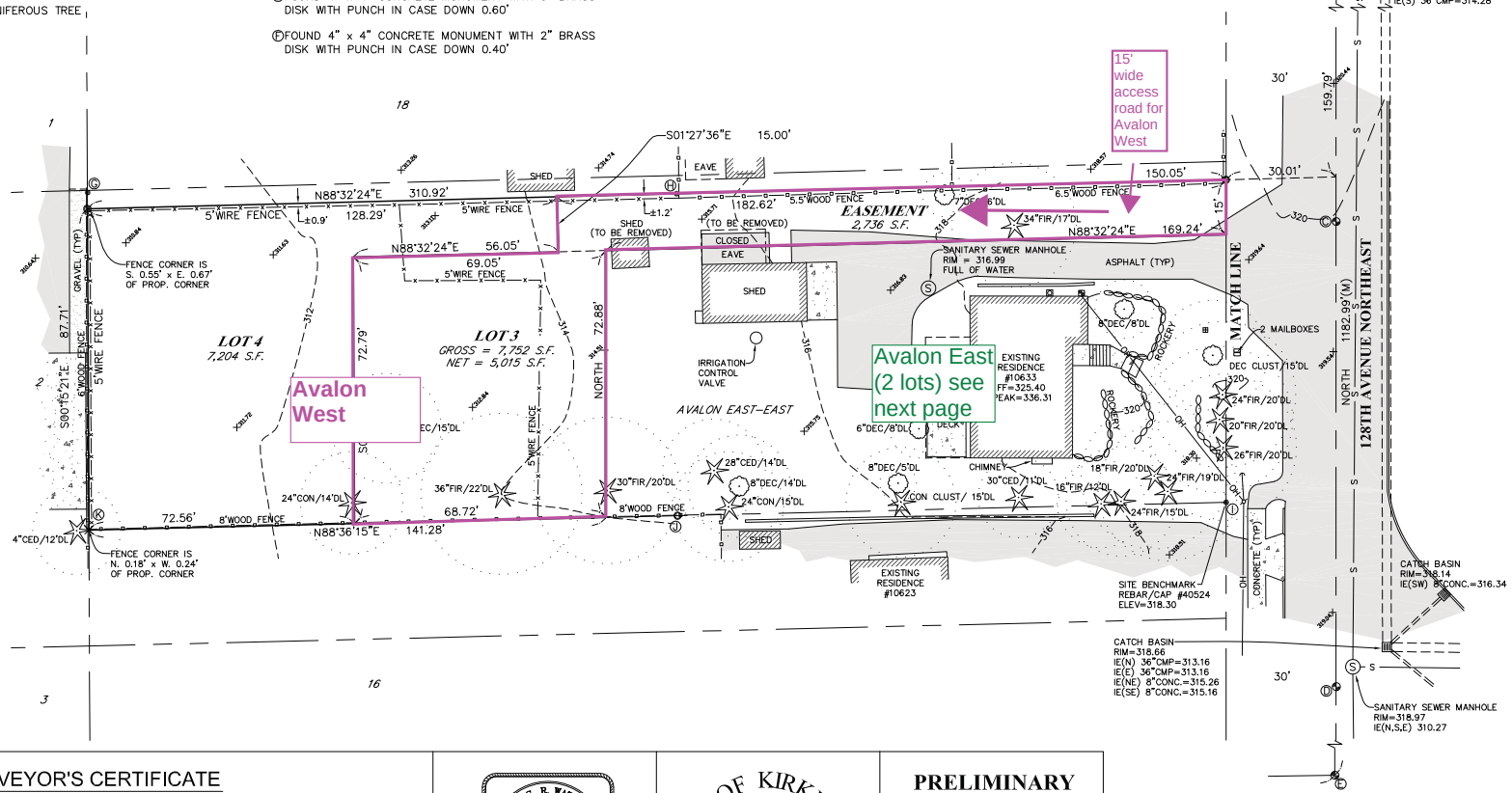
(J) SET 1/2" REBAR/CAP #40524 AT 0.30' OFFSET TO THE EAST. PROPERTY CORNER IS THE FENCE POST

(K) SET NAIL ON FENCE POST.

N S E W

20 10 0 20 40
SCALE IN FEET

ZONING
RSX 7.2



SURVEYOR'S CERTIFICATE

This map correctly represents a survey, made by me or under my direction, in conformance with the requirements of the Survey Recording Act at the request of Merit Homes, Inc. in February, 2014.

Jim R. Watkin
Surveyor

Certificate No. 40524

JAMES R. WATKINS
STATE OF WASHINGTON
40524
REGISTERED PROFESSIONAL LAND SURVEYOR
EXPIRES: 1/4/15
10/9/2014

CITY OF KIRKLAND WASHINGTON

PRELIMINARY SUBDIVISION
FOR
MERIT HOMES, INC.

SCALE: 1" = 20'
DATE: 10/9/2014

JOB NO.: 14008

Allied Land Surveying, Inc.
2312 168th Street Southeast
Bothell, Washington 98012
(P) 425-482-0223 (F) 425-482-0224

Attachment 6
Access
SUB14-01032

SHEET: 1 OF 1

AVALON EAST - EAST

PORTION OF SE 1/4 OF SEC 33, TWP 26N, RGE 5E, WM

Subdivision
City of Kirkland

FILE NO:

LEGEND

- FOUND CONCRETE MONUMENT
- SET 1/2" REBAR/CAP #40524
- FOUND 1/2" REBAR/CAP AS NOTED
- SET AS NOTED
- UTILITY POLE
- UTILITY POLE WITH LUMINARE
- POWER METER
- GUY ANCHOR
- WATER METER
- HYDRANT
- WATER VALVE
- CATCH BASIN
- SANITARY SEWER MANHOLE
- GAS VALVE
- GAS METER
- -W- APPROX. WATER LINE LOCATION
- -S- APPROX. SANITARY SEWER LINE LOCATION
- -OH- APPROX. OVERHEAD UTILITY LINE LOCATION
- (M) MEASURED DIMENSION
- (C) CALCULATED DIMENSION
- DECIDUOUS TREE
- CONIFEROUS TREE

CONTROL LEGEND

Ⓐ FOUND 4" x 4" CONCRETE MONUMENT WITH TACK IN LEAD IN CASE DOWN 0.60'

Ⓑ FOUND CONCRETE MONUMENT WITH TACK IN LEAD IN CASE DOWN 0.40'

Ⓒ FOUND CONCRETE MONUMENT WITH TACK IN LEAD IN CASE DOWN 0.40'

Ⓓ FOUND CONCRETE MONUMENT WITH BRASS TACK IN LEAD IN CASE DOWN 0.40'

Ⓔ FOUND 4" x 4" CONCRETE MONUMENT WITH 3" BRASS DISK WITH PUNCH IN CASE DOWN 0.60'

Ⓕ FOUND 4" x 4" CONCRETE MONUMENT WITH 2" BRASS DISK WITH PUNCH IN CASE DOWN 0.40'

Ⓖ SET 1/2" REBAR/CAP #40524 AT 0.30' OFFSET TO THE EAST. PROPERTY CORNER IS THE FENCE POST

Ⓗ FOUND 1/2" REBAR/CAP #14490 WITH TACK AT CALCULATED POSITION

Ⓘ FOUND 1/2" REBAR/CAP #40524 AT CALCULATED POSITION

ZONING
RSX 7.2

BASIS OF BEARINGS
NORTH ALONG THE MONUMENTED CENTER LINE OF 128TH AVENUE NORTHEAST.

DATUM
NAVD88
DESIGNATION: RED48
DB ID: 43315
DESCRIPTION: BRASS DISK IN CONCRETE STAMPED "CITY OF REDMOND BM 48 C.O.R."
LOCATION: IN THE SOUTHEAST ANGLE OF THE INTERSECTION OF NORTHEAST 104TH STREET AND 132ND AVENUE NORTHEAST.
ELEVATION: 334.247

REFERENCES
-LEE STREET SHORT PLAT RECORDED IN VOLUME 209, PAGE 47.

-PLAT OF H.C. PETTIT'S ALDER GROVE RECORDED IN VOLUME 21, PAGE 83.

NOTES
INSTRUMENTATION FOR THIS SURVEY WAS A SOKKIA 530R TOTAL STATION.

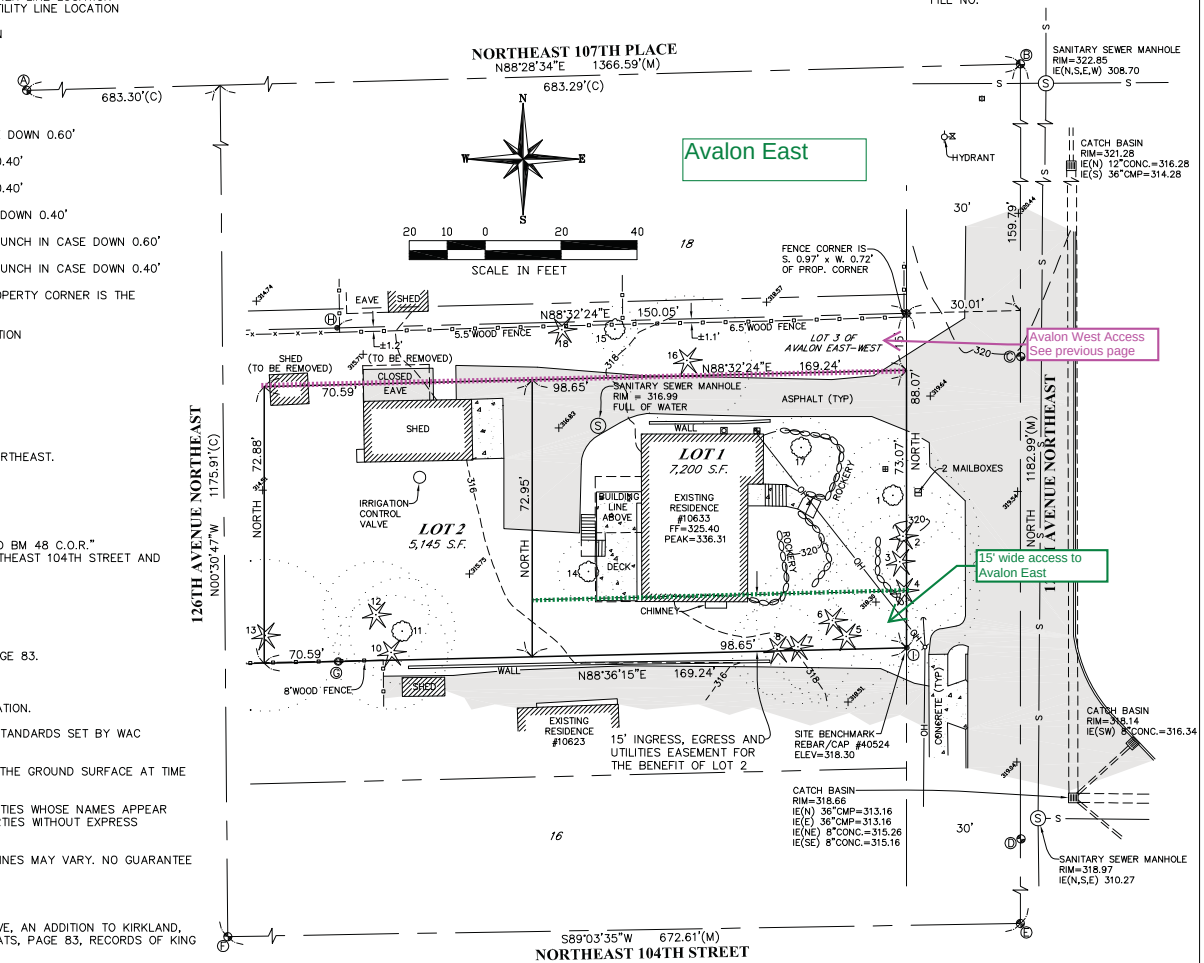
PROCEDURES USED WERE FIELD TRAVERSE, MEETING OR EXCEEDING STANDARDS SET BY WAC 332-130-090.

ALL UTILITIES SHOWN WERE DERIVED FROM PHYSICAL LOCATIONS ON THE GROUND SURFACE AT TIME OF SURVEY. CONTRACTOR TO VERIFY PRIOR TO ANY EXCAVATION.

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 REPRESENT DEED LOCATIONS, OWNERSHIP LINES MAY VARY. NO GUARANTEE OF OWNERSHIP IS EXPRESSED OR IMPLIED.

LEGAL DESCRIPTION
THE EAST 150 FEET OF LOT 17, BLOCK 4, H.C. PETTIT'S ALDER GROVE, AN ADDITION TO KIRKLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 21 OF PLATS, PAGE 83, RECORDS OF KING COUNTY, WASHINGTON.
EXCEPT THE NORTH 5 FEET;
AND EXCEPT THE SOUTH 31.66 FEET THEREOF.



SURVEYOR'S CERTIFICATE

This map correctly represents a survey, made by me or under my direction, in conformance with the requirements of the Survey Recording Act at the request of Merit Homes, Inc. in February, 2014.

Jim R. Watkin
Surveyor

Certificate No. 40524

JAMES R. WATKINS STATE OF WASHINGTON 40524 REGISTERED PROFESSIONAL LAND SURVEYOR
EXPIRES: 1/4/15
10/23/2014

CITY OF KIRKLAND WASHINGTON

PRELIMINARY SUBDIVISION
FOR
MERIT HOMES, INC.

SCALE: 1" = 20'
DATE: 10/23/2014

JOB NO.: 14007

Allied Land Surveying, Inc.
2312 168th Street Southeast
Bothell, Washington 98012
(P) 425-482-0223 (F) 425-482-0224

From: Sam Elder <sam@samelderlaw.com>
Sent: Thursday, November 13, 2014 12:41 PM
To: Susan Lauinger; Oskar Rey; Nancy Cox
Subject: Re: FW: tree restoration plan

Thank you, Susan. Have you read Kirkland Municipal Code 1.12.100? KMC 1.12.100(d)(1) states in relevant part, "In cases where the violator intentionally or knowingly violated this chapter or has committed previous violations of this chapter, restoration costs may be based on the city-appraised tree value of the subject trees in which the violation occurred, utilizing the industry standard trunk formula method in the current edition of the "Guide for Plant Appraisals." Was this provision used by Code Enforcement? The public records requests that I have currently made will expose the repeated violations by Merit Homes. Merit Homes used the Tree Removal Not Associated with Development forms when they were clearly in the process of development and had submitted development permit applications already before they cut down the tree. This is strong objective evidence of intent. Code enforcement should be using this provision.

Further, I se that KMC 1.12.100(d)(2)(B) requires "The minimum size for a tree planted for restoration is twelve-foot-tall conifer and three-inch caliper deciduous or broadleaf evergreen tree." Do the trees proposed by Merit meet this standard?

Am I correct in believing that these trees must be actually planted for Merit Homes to be in compliance? I do not believe that having a plan approved is compliant. The clear language requires PLANTING of the trees to be in code compliance. This has strong implications for approval of the subplat. Once those trees are planted for code compliance, Merit would then have to update the arborist report for purposes of the subplat application and include the recently planted trees. Am I right there?

KMC 1.12.100(d)(1) also states, "The restoration plan shall provide for repair of any environmental and property damage
and restoration of the site. The goal of the restoration plan shall be a site condition that, to the greatest extent
practical, equals the site condition that would have existed in the absence of the violation" I think this is a strong basis for insisting that Merit replant tress back in the same location as they removed trees. This is the best way to the "site condition that would have existed in the absence of a violation."

There is a provision for what happens if the site cannot be restored -- KMC 1.12.100(d)(2)(C). This provision is ONLY available if the site cannot be restored. This site can be stored. KMC 1.12.100(d)(2)(C) does not allow payment of a fine simply because the restoration would mess up some future building plan or it is inconvenient for the owner. KMC 1.12.100(d)(2)(C) can ONLY be used when restoration is impossible at the site. There is no indication that restoration is impossible at this site. I hope no such option was presented to Merit Homes because this would be improper use of KMC 1.12.100(d)(2)(C).

Has Merit Homes come up with a plan for the maintenance of the trees and an agreement or security to ensure the survival of the trees? They need to do this to comply with KMC

1.12.100(d)(2)(D). It seems to me that the construction of the homes that are proposed is inconsistent with the health of the trees that Merit Homes must plant in order to come into compliance.

My best guess is that Merit Homes intends to get approval of a tree remediation plan, then get all permits and develop the property, then plant the trees afterwards. The City should not allow this. The City must require the trees to be planted first. Then make Merit Homes submit a revised arborist report before approving the subplat, which recognizes the existence of the newly planted trees, then if the subplat is approved it should require that Merit Homes does not disturb the recently planted trees and kill them. Frankly, given the proximity of the trees that Merit Homes is proposing to replant to come into code compliance to the homes that they are trying to build, I cannot conceive that they can do so safely. If they cannot ensure the safety of the trees that they plant for code compliance, Merit Homes cannot comply with KMC 1.12.100(d)(2)(D), and thus the sub plat should not be approved.

Am I right that the City will require Merit Homes to solve its code compliance issue before it issues sub plat approval? In looking through the sub plat application, this appears to be a requirement. I have copied Oskar Rey on this email. It makes no sense to me that a developer could cut down trees illegally, be found in code violation, not remedy the situation, but still get their sub plat and development permits approved. If I am right that they must come into code compliance first, then Merit Homes is going to have to (1) remediate the site by planting the trees and (2) come up with plan to ensure the newly planted trees survive for a three year period. No sub plat approval should be issued until this is complete. Then Merit Homes would have to get a new arborist report that reflects the new trees for the sub plat due to changed conditions. Then Merit Homes would have to get approval of the sub plat considering both the newly planted trees and the plan to ensure survival. Is all of this right?

I note that KMC 1.12.100 is a non-exclusive list of enforcement procedures (according to KMC 1.12.090) and the replanting is in addition to other remedies.

In all fairness, shouldn't Merit Homes have to post new whiteboards associated with the subplat. The whiteboards that were posted do not accurately identify all the trees -- specifically they ignore the large trees that Merit Homes illegally cut down and for which the code enforcement was made. Shouldn't Merit Homes have to post new white boards that contain the actual conditions on the property, including the remediation efforts that Merit Homes is going to have to make. In fairness, all of this came to light AFTER the public comment period had ended. In fairness, the public should get new white boards with a new public comment period because it might elicit additional or new public comments based on the changed conditions. Also, the existing white board did not have the updated arborist information -- it posts incorrect information regarding the trees. We ask that they process for public comments period should start over.

Thank you again for your help.

Sam Elder
Law Office of Sam Elder PLLC
12716 NE 106th Lane
Kirkland, WA 98033
425-999-8170 phone
425-999-8172 fax

On Thu, Nov 13, 2014 at 10:35 AM, Susan Lauinger <SLauinger@kirklandwa.gov> wrote:

> Here is the tree restoration plan, which I have already rejected. The emails that are associated with this will follow, probably sometime today. I have to make sure I have them all first.
>
> Susan Lauinger
>
> Planning
>
> 425-587-3252
>
> ---
>
> **From:** Greg Griffis [mailto:Greg@merithomesinc.com]
> **Sent:** Wednesday, November 05, 2014 5:03 PM
> **To:** Susan Lauinger
> **Cc:** Penelope Skovold
> **Subject:** tree restoration plan
>
> Please review and get back to me asap
>
> Appreciate your time
>
> greg
>
> Greg Griffis
>
> MERIT HOMES

Principal / President

O - 425-605-0597 ext. 104 | M - 425-444-0309 | F - 206-600-4914

Greg@MeritHomesInc.com | www.MeritHomesInc.com | Facebook

805 Kirkland Ave, Suite 100, Kirkland, WA 98033