



CITY OF KIRKLAND

Planning and Community Development Department
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MEMORANDUM

To: Planning Commission

From: Angela Ruggeri, AICP, Senior Planner

Date: September 18, 2008

Subject: TOUCHSTONE (PARKPLACE), ORNI, AND ALTOM PRIVATE AMENDMENT REQUESTS (PARs) FILE NO. ZON07-00016, ZON07-00012, AND ZON07-00019

RECOMMENDATION

Discuss and give direction on traffic mitigations to be included in the Planned Action Ordinance for the Final Environmental Impact Statement (FEIS) and review the format for the draft Planned Action Ordinance.

BACKGROUND DISCUSSION

I. TRAFFIC DISCUSSION

At the July 31 Planning Commission meeting, the Planning Commission discussed the traffic mitigations outlined in the Draft Environmental Impact Statement (DEIS). Staff was given direction on some of the DEIS mitigations and will be reviewing those at the meeting on September 25. We will also be discussing the remaining mitigations and what will be included in the draft Planned Action Ordinance (PAO) for the FEIS. The EIS traffic team (Thang Nguyen from the City's Public Works Department and Ron Loewen and Jennifer Barnes from the City's consultant team) will be at the meeting to answer questions and discuss the mitigations to be included in the PAO. The applicant's traffic consultant, Marni Heffron will also be at the meeting.

A. TRAFFIC ANALYSIS

The Draft EIS uses three impact measurements to analyze traffic:

- 2014 Concurrency Test - measures compliance with concurrency requirements at the time of project completion, 2014.
- SEPA Traffic Impact Guidelines (2014) – measure impacts based on proportion of traffic at impacted intersections contributed by the project. This

is a more detailed analysis of project impacts at selected intersections at the time of project completion, 2014, using Highway Capacity Manual methods.

- 2022 “Concurrency” – measures the traffic level of service at the horizon year for the Comprehensive Plan amendments.

B. TRAFFIC MITIGATIONS

The Planning Commission will be recommending to the City Council which roadway improvements should be required as mitigations for the proposed projects. The list of proposed mitigations is included as Table 3.4-23 of the DEIS (see Attachment 1) and the mitigations are listed below. The Planning Commission discussed and agreed with staff recommendations on all but three of these mitigations at the July 31 meeting. The remaining three were on the 2022 list and were not reviewed at the last meeting.

Mitigation measures for many of the intersections listed below are essential to mitigating project generated traffic. In some cases the improvements would be needed under both the no action and the proposed action alternatives. Funding sources are also included below.

Improvements Needed through 2014

Mitigations for both no action and proposed action alternatives:

These 2014 mitigations were discussed and the Planning Commission determined that they should be included in the list of mitigations for the draft PAO (Attachment 2) in the FEIS.

- #4 - Central Way/Parkplace Driveway – install signal (unfunded - to be paid for by applicant)
- #109 - NE 85th Street/114th Avenue NE – restripe southbound dual left and eastbound right to through conversion (funded CIP project). HOV Queue Bypass for the eastbound-to-southbound on-ramp (unfunded – to be paid for by applicant).
- # 129 - Central Way/4th Street – extend two-way-left-turn by moving crosswalk to Parkplace signal (unfunded – to be paid for by applicant)

Mitigations for proposed action alternative only:

- #105 - Central Way/6th Street - Construct dual westbound left turn lane. Modify signal to provide westbound left/northbound right overlap phase (unfunded – to be paid for by applicant)
- #110 - 6th Street/4th Avenue – Dual eastbound left turn, with widening on 6th Street (unfunded – to be paid for by applicant)

- #112 - Kirkland Way/6th Street – Install signal (to be paid for by applicant with impact fee credit, because it is an unfunded CIP project)
- #128 - Central Way/5th Street – Install signal (unfunded – to be paid for by applicant)
- #169 - 6th Street/7th Avenue - add left turn lanes on the northbound and southbound approaches (unfunded – to be paid for by applicant).
 - Alternative to DEIS mitigation: Require addition of a left turn lane on the northbound approach only. Do not require the southbound left turn lane. The southbound lane was proposed to mirror the northbound left turn lane. In order to install this southbound lane, the existing curb bulbs that were installed for traffic calming would have to be removed. The southbound left turn volume is a minor amount.
- # 211 - Market Street/15th Avenue – install traffic signal (to be paid for by applicant with impact fee credit, because it is an unfunded CIP project)
 - Alternative to DEIS mitigation: Do not require the installation of the traffic signal, based on historical neighborhood concern about pass-through traffic in the Norkirk Neighborhood. The traffic volume difference in the DEIS reflects increased density with the proposed action along 6th Street and 15th Avenue. If the signal is installed it may encourage more pass-through traffic on these roadways. Both of these roadways are classified as collector streets and traffic calming measures have been implemented along these routes to reduce traffic speeds and discourage pass-through traffic.
- #402 - NE 85th Street/124th Ave NE – Add northbound right-turn-only pocket (unfunded – to be paid for by applicant)
 - Alternative to DEIS mitigation: Do not require this mitigation to add northbound right-turn lane, but require participation in cost of proposed or new improvements to NE 85th Street. The addition of the right turn lane would provide minimal results by reducing the delay for vehicles at the intersection by only 7 seconds, but increasing the pedestrian crossing time and length.

Improvements Needed through 2022

These mitigations were identified in the DEIS. Only one of them (#101) was discussed at the July 31 Planning Commission meeting.

Mitigations for both no action and proposed action alternatives:

Both the no action and proposed action impact the same 4 intersections in the year 2022 and the resulting Level of Service is very similar.

- #101 - Lake Washington Boulevard/NE 38th Place - Convert the northbound right lane to a through and right turn lane and extend the lane 720 feet to the north of the intersection (to be paid for by applicant with impact fee credit, because it is an unfunded CIP project). This mitigation would do little to improve the operation of the intersection.
- # 204 - 116th Way NE/NE 132nd Street – Reconfigure the intersection based on the 132nd Street Study and new I-405 SB off-ramp (it is assumed that improvement to this intersection would be included in the larger improvement that is planned by WSDOT for this location).
- # 304 - NE 132nd Street/124th Avenue NE – Construct eastbound dual left turn based on the 132nd Street Study (unfunded – to be paid for by applicant)
- #316 - Totem Lake Blvd/NE 132nd Street – Reconfigure the intersection based on the 132nd Street Study and new I-405 northbound on-ramp (it is assumed that improvement to this intersection would be included in the larger improvement that is planned by WSDOT for this location).

Mitigations for proposed action alternative only:

- # 202 - 100th Avenue NE/NE 124th Street – Modify the signal phase to be the same as during AM peak period. NB and SB to be split phase. The SB lane configuration change to left, left/through shared and through/right shared during the peak period. (No cost is assumed for this measure since it is already being implemented during the AM peak period).

2022 Mitigations:

The 5 intersections listed as needing improvements because of 2022 traffic impacts have the following mitigation issues.

- The mitigation for Intersection #101 will do little to improve the operation of the intersection.
- The mitigations for Intersections #204 and #316 can be assumed to be included in the larger improvement that is planned by WSDOT for the location.
- The mitigation for Intersection # 202 has no cost since the signal phasing is already being implemented during the AM peak period.
- The remaining intersection # 304 would be funded by the applicant.
- There is little difference between the impacts of the no action and the proposed action alternative and so it is questionable if there is justification for requiring these mitigations.

- There will be a Level of Service issue with the 2022 standard if these intersections are not improved or the Comprehensive Plan is not amended.

Planning Commission Recommendation on the 2022 mitigations:

The Planning Commission will be making a recommendation to the City Council on how to handle the 2022 mitigations. The options are as follows:

- Require the applicant to pay for the mitigations.
- Do not require the mitigations and amend the Capital Facilities Chapter of the Comprehensive Plan now to either; (1) remove the intersections that are not mitigated from the level of service calculation; or (2) change the LOS standard. Both of these Comprehensive Plan changes will fall within the jurisdiction of the Houghton Community Council.

Note: The Transportation Commission recommended against these Comprehensive Plan changes at this time, because they favor an overall review of the system before this type of change is made.

- Do not require the 2022 mitigations. Leave the Comprehensive Plan as it is at this time and review the Level of Service as part of the 2011 Comprehensive Plan update.

Latecomer's Agreement

The Parkplace applicant will construct all required improvements because neither the Altom nor the Orni PARs generate sufficient traffic to trigger any mitigations on their own. The applicants for Orni and Altom and other projects that may be proposed during the period the planned action is in effect, may be required to enter into a latecomer's agreement with the Parkplace applicant and contribute their pro rata share of required improvements. This will occur if the Parkplace applicant can demonstrate through appropriate analyses that such impacts contribute to the need for the required improvements and are attributable to Area B, Area C or other development proposals.

C. TRANSPORTATION DEMAND MANAGEMENT (TDM)

Mitigation for Parkplace must include design and implementation of a TDM program to support the assumptions that are integrated into the parking demand and trip generation analysis. The City may require that a TDM program and Parking Management Plan (including monitoring) be implemented as a condition of development approval, with specific measures defined in the case that it does not meet mode split targets.

TDM programs seek to modify travel behavior and encourage alternatives to the single occupancy vehicle (SOV). TDM may include incentives, programs, or regulations to reduce the number of SOV trips. Touchstone has proposed an aggressive TDM program. Staff is working with the Touchstone transportation consultant, Marni Heffron to complete the draft TDM program that will be included in the FEIS. The Planning Commission will be reviewing this document at the October 2nd study session.

II. WHAT'S NEXT IN THE PROCESS

- **10/2** – Study session to complete review and recommendation of Design Guidelines and TDM and Parking Management Plan for Parkplace.
- **10/7** – study session with City Council to summarize the draft EIS
- **October** – FEIS issued (exact date depends on PC progress at 9/23 and 9/25 meetings)
- **10/22 and 23** - Planning Commission hearings on PARs (tentative – depending on Planning Commission completion of review of all issues and date of issuance of FEIS)
- **11/13** - Planning Commission study session on recommendation to City Council
- **12/2 (tentative)** - Council study session on PC recommendation
- **12/16 (tentative)** City Council meeting and adoption

ATTACHMENTS

1. Table 3.4-23 of the DEIS
2. Planned Action Ordinance

Cc: Douglas Howe, 2025 1st Avenue, Suite 790, Seattle, WA 98121
Katherine Orni, 825 5th Avenue, Suite 202, Kirkland, WA 98033
Rhoda Altom, P.O. Box 22926, Seattle, WA 98122
File ZON07-00012
File ZON07-00016
File ZON07-00019

This table summarizes the estimated cost of projects that have been identified as mitigation.

Estimated Costs of Proposed Capacity Improvements

No	Intersection	Potential Mitigation	Estimated Cost	No Action	Proposed Action
Improvements Needed through 2014					
4	Central Way/ Parkplace Driveway	Install signal	\$566,000	X	X
109	NE 85th Street/ 114th Avenue NE	Re-stripe southbound dual left and eastbound right to through conversion (CIP Project #TR-0079 - funded). Requires CIP Project #TR-0056 (currently unfunded) HOV Queue Bypass for the eastbound-to-southbound on-ramp	166,400	X	X
129	Central Way/4th Street	Extend two-way-left-turn by moving crosswalk to Parkplace Signal	31,200	X	X
105	Central Way/6th Street	Construct dual westbound left turn lane. Modify signal to provide westbound left/northbound right overlap phase	3,044,000	-	X
110	6th Street/4th Avenue	Dual eastbound left turn, with widening on 6th Street	580,000	-	X
112	Kirkland Way/6th Street	Install signal. (CIP Project #TR-0065 - unfunded) ⁴	564,000	-	X
128	Central Way/5th Street	Install signal.	564,000	-	X
169	6th Street/7th Avenue	Add left turn lanes on northbound and southbound approaches	89,400	-	X
211	Market Street/15th Avenue	Install signal. (CIP Project #TR20-11 - unfunded)	564,000	-	X
402	NE 85th Street/ 124th Avenue NE	Add northbound right-turn-only pocket	889,000	-	X
Cost of Improvement Projects Through 2014				\$763,600	\$7,058,000
Improvements Needed through 2022					
101	Lake Washington Boulevard/NE 38th Place ¹	Add 720 ft right lane on northbound receiving lanes (north of the Intersection), modified to extend up to NE 43rd St w/ bike lanes (CIP Project #TR-0090 – unfunded)	1,953,000	X	X
204	116th Way NE/ NE 132nd St	Reconfigure the intersection based on the 132nd St Study and New I-405 SB off-ramp. (CIP Project #TR20-11 –	WSDOT ³	X	X

No	Intersection	Potential Mitigation (unfunded)	Estimated Cost	No Action	Proposed Action
304	NE 132nd St/124th Ave NE	Construct eastbound dual left turn based on the 132nd Street Study	4,438,100	X	X
316	Totem Lake Blvd/ NE 132nd St	Reconfigure the intersection based on the 132nd Street Study and new I-405 northbound on-ramp. CIP Project #TR20-11 – unfunded)	WSDOT ³	X	X
202	100th Ave NE/NE 124th St	Modify the signal phase to be same as during AM peak period. NB and SB to be split phase. The SB lane configuration change to left, left/through shared and through/right shared during the peak period. ²	-	-	X
Cost of Improvement Projects 2015 through 2022				\$6,391,100	\$6,391,100

1. This cost estimate assumes that widening would occur to allow the bicycle lane that currently exists along this segment of roadway to remain. If the improvement were made without keeping the bike lane, the estimated project cost would be \$2,234,000
2. No cost is assumed for this measure, since it is already being implemented during the AM peak period.
3. Assumed that improvement to this intersection would be included in the larger improvement that is planned by WSDOT for this location.
4. Projects funded in the CIP are partially funded by existing impact fees.

ORDINANCE _____

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

WHEREAS, the State Environmental Policy Act (“SEPA”) and implementing rules provide for the integration of environmental review with land use planning and project review through designation of “Planned Actions” by jurisdictions planning under the Growth Management Act (“GMA”); and

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

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

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

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

- A. Combine environmental analysis with land use planning;
- B. Streamline and expedite the development permit review process by relying on the environmental impact statement (EIS) completed for the Planned Action; and
- C. Establish criteria and procedures, consistent with state law, that will determine whether subsequent projects qualify as Planned Actions;
- D. Provide the public with an understanding of Planned Actions and how the City will process Planned Actions;
- E. Apply the City’s development regulations together with the mitigation measures described in the EIS and this Ordinance to address the impacts of future development contemplated by the Planned Action.

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

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

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

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

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

E. The mitigation measures identified in the Planned Action EIS and attached to this ordinance as Exhibit B, together with City development regulations, will adequately mitigate significant impacts from development within the Planned Action area;

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

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

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

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

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

K. Public services and facilities are adequate to serve the proposed Planned Action.

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

A. Planned Action Area. The Planned Action designation shall apply to the three areas in the Moss Bay Neighborhood as are specifically shown in Exhibit A, "Planned Action Area," the 11.5 acres of property at 457 Central Way known as the Parkplace Mall and generally located east of Peter Kirk Park (Area A on Exhibit A); the three parcels located at 825, 903, and 911 Fifth Avenue totaling approximately 2.0 acres of land (Area B on Exhibit A); and the parcel at

220 6th Street and the parcel at 603 4th Avenue to the north on 0.9 acres of land. Additionally, the Planned Action designation shall apply to any off-site improvements necessitated by proposed development on the subject sites, where the off-site improvements have been analyzed in the Planned Action EIS.

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

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

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

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

(a) The following uses are the primary uses analyzed in the Planned Action EIS for Area A:

- (i) Office;
- (ii) Retail and Other Commercial; and
- (iii) Hotel.

(b) The following uses are the primary uses analyzed in the Planned Action EIS for Area B:

- (i) Office; and
- (ii) Residential.

(c) The following uses are the primary uses analyzed in the Planned Action EIS for Area C:

(i) Office.

(2) *Land Use Review Threshold.*

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

Land Use	Area A (Parkplace)	Area B (Orni)	Area C (Altom)
Office	1,200,000 sq. ft.	119,000 sq.ft.	101,234 sq.ft.
Residential	<i>Not Analyzed</i>	69 dwelling units	<i>Not Analyzed</i>
Retail/Commercial *	592,700 sq.ft.	<i>Not Analyzed</i>	<i>Not Analyzed</i>
Hotel			
Restaurant			
Supermarket			
Mixed retail			
Athletic/health club			
Theater			
Total	1,792,700 sq.ft.	119,000 sq.ft 69 dwelling units	101,234 sq.ft.

* All uses listed under Retail/Commercial are included in the 592,700 s.f. total

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

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

(4) *Building Setbacks.* Adequate mitigation measures have been incorporated into the Planned Action EIS FEIS Review Alternative. Refer to Exhibit B, Land Use and Aesthetics/Light and Glare Mitigation Measures.

(5) *Open Space.* Adequate mitigation measures have been incorporated into the Planned Action EIS FEIS Review Alternative. Refer to Exhibit B, Land Use and Aesthetics/Light and Glare Mitigation Measures.

(6) *Transportation.*

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

Trip Generation – Net New Trips Reviewed in Planned Action EIS

Time	Area A (Parkplace) Range- Net New Trips	Area B (Orni) Range – Net New Trips	Area C (Altom) Range – Net New Trips
AM Peak Hour			
PM Peak Hour	3,545	219	176
Daily Total			

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

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

(d) *Transportation improvements.*

(i) Intersection Improvements. The Planned Action will require off-site transportation improvements identified in Exhibit B to mitigate significant impacts. These transportation improvements have been analyzed in the Planned Action EIS. Significant changes to the City’s transportation improvement plan that are proposed as part of any Planned Action Project that have the potential to significantly increase impacts to air quality, water quality, fisheries resources, noise levels or other factors beyond the levels analyzed in the Planned Action EIS may require additional SEPA review.

The applicant for development of Area A will construct all required improvements. The applicants for development of Area B and/or Area C, and other projects that

may be proposed during the period the planned action is in effect, may be required to enter into a latecomer's agreement with the Area A applicant and contribute their pro rata share of required improvements if the applicant for Area A can demonstrate through appropriate analyses that such impacts contribute to the need for the required improvements and are attributable to Area B, Area C or other development proposals.

(ii) **Transportation Management Program.** The owners or operators of development projects within Areas A, B and C shall prepare and implement Transportation Management Programs (TMP) as a means to encourage alternatives to single-occupant vehicles including transit and to thereby reduce traffic generation and parking demand. Each TMP shall include the TMP elements identified in the transportation mitigation measures in the Planned Action EIS, attached as Exhibit B to this ordinance. The City Transportation Engineering Manager shall have the discretion to modify the individual elements of a TMP as a means to accomplish its objectives and to enhance its effectiveness. Any such modification shall be based on the results of a monitoring program as required by the TMP mitigation measure identified in Exhibit B

(iii) **Parking Management.** Parking to support development within Areas A, B and C shall be provided as required by KZC xx.xxx.xxx, Consistent with the incentive provision of the aforementioned zoning code section, the developer may choose to reduce the number of parking spaces if it prepares and implements a parking management plan. Each parking management plan shall contain the elements set forth in the transportation mitigation measures in the Planned Action EIS, attached as Exhibit B of this ordinance.

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

(7) **Public Services and Utilities.** The Planned Action EIS does not identify significant impacts or required mitigation measures for public services and utilities. However, additional SEPA review will be required if there is a significant change from the base of information and significant impact analysis contained in the Planned Action EIS, or a significant change in the number of square feet or residential units beyond the maximum number reviewed in the Planned Action EIS, which has the potential to result in significant adverse environmental impacts.

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

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

E. Planned Action Review Criteria.

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

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

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

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

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

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

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

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

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

F. Effect of Planned Action.

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

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

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

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

(1) Development applications shall meet the applicable requirements of the Kirkland Municipal Code (KMC), including but not limited to applicable provisions of Titles 12, 15, 18, 19, 20, 21, 22, 23, 24, 25 and 27. Applications shall be made on forms provided by the City and shall include a SEPA checklist, revised SEPA checklist or such other environmental review forms provided by the City.

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

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

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

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

(6) To provide additional certainty, the City or an applicant may request consideration and execution of a development agreement for a Planned Action project. The development agreement may address review procedures applicable to a Planned Action project, permitted uses, mitigation measures, payment of impact fees, design standards, phasing, vesting of development rights, and any other topic that may properly be considered in a development agreement consistent with RCW 36.70B.170 et seq.

(7) If a project is determined to not qualify as a Planned Action, the City's Planning and Community Development Director shall so notify the applicant and the SEPA Responsible Official shall prescribe a SEPA review procedure consistent with the City's SEPA regulations and the requirements of state law. The notice shall describe the elements of the application that result in failure to qualify as a Planned Action. If deemed ineligible, the application may be amended to qualify.

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

H. Monitoring and Review.

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

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

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

Section 5. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application be declared unconstitutional or invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation.

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

Section 7. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2008.

Signed in authentication thereof this _____ day of _____, 2008.

MAYOR

Attest:

City Clerk