

## **3.2 PLANS AND POLICIES**

---

### **3.2.1 Affected Environment**

The City of Kirkland (City), like other cities in King County and the central Puget Sound region, plans under the Washington Growth Management Act (GMA). The City's plans and policies must be consistent with the GMA, elements of the City of Kirkland Comprehensive Plan must be consistent with each other, and any functional plans that the City has must be consistent with its Comprehensive Plan.

This plans and policies review discusses the GMA and the City of Kirkland Comprehensive Plan, including the Vision Statement, Framework Goals, Community Character and Land Use Elements and Moss Bay and Lakeview Neighborhood Plans; and Washington State requirements for contaminated site clean-up.

#### **Washington Growth Management Act**

The GMA establishes a framework for the planned and efficient growth of communities and protection of environmental and natural resources, and provides direction for development of comprehensive plans and subarea plans. Cities and counties planning under GMA must prepare and update comprehensive plans consistent with the GMA and implement them through their capital improvement plans, programs and development regulations.

The City of Kirkland is required to plan under the GMA. The City's development regulations must be consistent with the comprehensive plan and development permit applications must be consistent with the requirements of adopted development regulations.

#### **Kirkland Comprehensive Plan**

The City's Comprehensive Plan contains the City's 20-year vision for the community and includes the mandated elements of land use, housing, capital facilities, utilities, transportation, economic development, and parks and recreation. Kirkland has elected to include in its Comprehensive Plan several optional elements, including neighborhood plans and a Plan Vision and Framework Goals. State law requires that a comprehensive plan be internally consistent and that all elements of the plan be consistent with the Future Land Use Map (RCW 36.70A.070).

### Vision Statement and Framework Goals

The Vision Statement expressed in the City's Comprehensive Plan is a snapshot of how the City sees itself in the year 2022. The statement summarizes the desired character and characteristics of the City's community as expressed through public feedback received during outreach efforts undertaken as part of the City's 1995 and 2004 Comprehensive Plan updates. The Vision Statement is significant because it provides the ultimate goals for community planning and development efforts. The most pertinent portions of the Vision Statement are excerpted as follows:

*Our residential areas are well-maintained with single-family and multifamily homes and include traditional subdivisions, waterfront-oriented neighborhoods, urban villages and an equestrian community. We have worked to increase diversity and affordability, such as smaller homes on smaller lots, compact developments and accessory housing units. Mixed land uses in neighborhoods help to minimize driving. Many of our apartments and condominiums are close to commercial areas and transportation hubs.*

*Our transportation system offers a variety of ways to meet our mobility needs and provides efficient and convenient access to all areas of Kirkland and regional centers.*<sup>1</sup>

The City's Comprehensive Plan also contains a set of Framework Goals (FG) that express fundamental principles for guiding growth and development through 2022. Although all the FGs apply broadly to the Comprehensive Plan and Vision, the following are the most applicable to this analysis:

*FG-3: Maintain vibrant and stable residential neighborhoods and mixed-use development, with housing for diverse income groups, age groups, and lifestyles.*

*FG-13: Maintain existing adopted levels of service for important public facilities.*

### Community Character Element

The intent of the Community Character element is to broadly define the City's role in contributing to community character. Goals and policies consider the City's heritage, social and physical environment, and the City's future. Major goals focus on supporting the City's sense of community, preserving and enhancing the City's historic identity, accommodating change, and strengthening the City's natural and built environment. Selected community character (CC) goals and policies with the most relevance to the Proposal include:

*Goal CC-4: Maintain and enhance Kirkland's built and natural environment by strengthening the visual identity of Kirkland and its neighborhoods.*

*Policy CC-4.1: Enhance City identity by use of urban design principles that recognize the unique characteristics of different types of development, including single-family, multifamily, mixed-use, and various types and sizes of commercial development.*

*Policy CC-4.5: Protect public scenic views and view corridors.*

---

<sup>1</sup> City of Kirkland. Comprehensive Plan: Vision/Framework Goals. September 2011.

### Economic Development Element

The Economic Development Element provides a framework for encouraging a positive economic climate for diverse employment and businesses while maintaining the qualities that make Kirkland a desirable place to live. The Element focuses on a three-pronged strategy for the future of the Kirkland economy: the importance of diversifying our tax base, providing job opportunities, and providing goods and services to the community.

*Goal ED-3: Strengthen the unique role and economic success of Kirkland's commercial areas.*

*Policy ED-3.3: Encourage infill and redevelopment of existing commercial areas consistent with the role of each commercial area.*

*Policy ED-3.5: Encourage mixed-use development within commercial areas.*

### Land Use Element

The Land Use element provides the policy basis for the City's development regulations regarding the use of land, dimensional standards such as height, bulk, setbacks and other controls on the size and scale of development. The Comprehensive Plan Land Use Map, shown for the study area in Figure 3.2-1, assigns to each property in the city a land use category or designation (i.e., commercial, office, industrial, institutional, residential) and, in certain cases, a maximum residential density expressed as units per acre. Where maximum densities for specific properties are illustrated on the map, they appear as a number (i.e., 5, 9, 12, 24). Maximum densities are identified for sites designated for low, medium or high density residential and office/multifamily designations, however properties designated as commercial, office, and institutional typically do not indicate a residential density. The lack of a density assignment for properties designated commercial (C) does not mean that residential uses are not permitted on such lands, only that a maximum residential density is not established. The Land Use Element specifically notes: "The Comprehensive Plan Land Use Map contains land use designations reflecting the predominant use allowed in each area. These designations are reflected in a broad variety of zoning districts on the Kirkland Zoning Map."<sup>2</sup> It should also be noted that the use of the term "commercial" is intended to be general and descriptive, connoting intent, but not regulatory in terms of permitted uses or height, size or intensity of uses. Similarly, the term "mixed use" covers a variety of uses, such as housing, office, and retail.

Selected land use (LU) goals and policies with the most relevance to the proposed action include:

*Goal LU-1: Manage community growth and redevelopment to ensure:*

- An orderly pattern of land use;
- A balanced and complete community;
- Maintenance and improvement of the City's existing character; and
- Protection of environmentally sensitive areas

*Policy LU-1.3: Encourage attractive site and building design that is compatible in scale and in character with existing or planned development.*

---

<sup>2</sup> City of Kirkland. Comprehensive Plan: Land Use Element. September 2011.

*Policy LU-1.4: Create an effective transition between different land uses and housing types.*

*Goal LU-2: Promote a compact land use pattern in Kirkland to:*

- Support a multimodal transportation system;
- Minimize energy and service costs;
- Conserve land, water, and natural resources; and
- Efficient use of land to accommodate Kirkland's share of the regionally adopted 20-year population and employment targets.

*Policy LU-2.1: Support a range of development densities in Kirkland, recognizing environmental constraints and community character.*

*Policy LU-2.2: Use land efficiently, facilitate infill development or redevelopment, and, where appropriate, preserve options for future development.*

*Goal LU-3: Provide a land use pattern that promotes mobility and access to goods and services and physical activity.*

*Policy LU-3.2: Encourage residential development within commercial areas.*

*Goal LU-4: Protect and enhance the character, quality, and function of existing residential neighborhoods while accommodating the City's growth targets.*

*Policy LU-4.3: Continue to allow for new residential growth throughout the community, consistent with the basic pattern of land use in the City.*

*Policy LU-4.2: Locate the most dense residential areas close to shops and services and transportation hubs.*

The discussion of commercial land use designations under Goal LU-4 includes identification of a hierarchy of commercial development areas in the City, based primarily on size and relationship to the regional market and transportation system. In this hierarchy, the subject site is designated as a Residential Market, defined as follows:

*A residential market is an individual store or very small, mixed use building/center focused on local pedestrian traffic. Residential scale and design are critical to integrate these uses into the residential area. Uses may include corner grocery stores, small service businesses (social service outlets, daycares), Laundromats, and small coffee shops or community gathering places.<sup>3</sup>*

---

<sup>3</sup> City of Kirkland. Comprehensive Plan. September 2011.

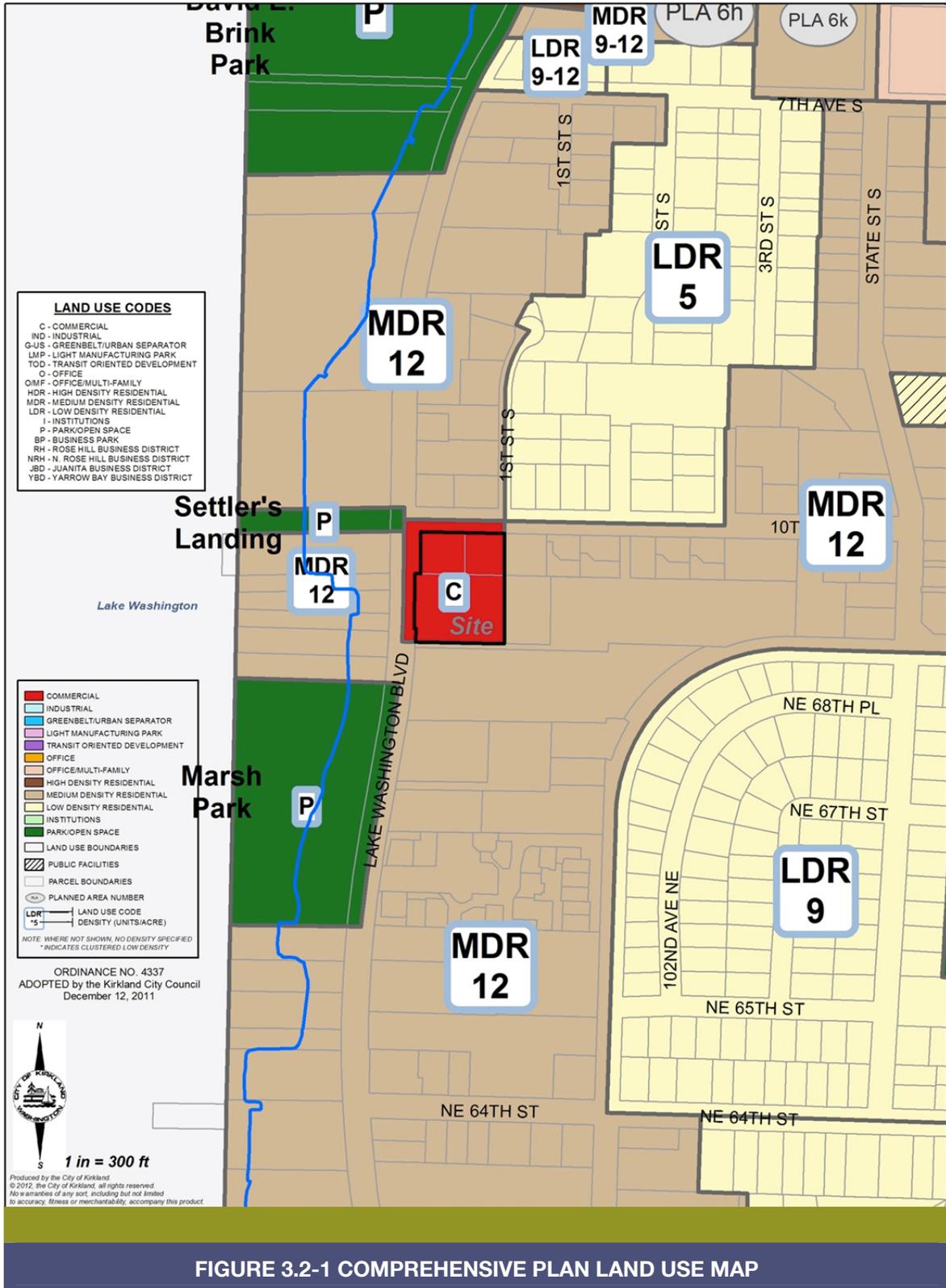


FIGURE 3.2-1 COMPREHENSIVE PLAN LAND USE MAP

Source: City of Kirkland

*Goal LU-5: Plan for a hierarchy of commercial development areas serving neighborhood, community, and/or regional needs.*

*Policy LU-5.9: Allow residential markets, subject to the following development and design standards:*

- *Locate small-scale neighborhood retail and personal services where local economic demand and local citizen acceptance are demonstrated.*
- *Provide the minimum amount of off-street parking necessary to serve market customers.*
- *Ensure that building design is compatible with the neighborhood in size, scale, and character.*

### Moss Bay Neighborhood Plan

The Moss Bay Neighborhood is divided into two areas: (1) the Downtown and (2) Perimeter Areas. The subject site is located adjacent to the south boundary of the Moss Bay Neighborhood, in the Perimeter Areas. See Figure 3.2-2.

The Moss Bay Neighborhood Plan notes that:

*The Moss Bay Neighborhood contains a wide variety of housing types, including many single-family residences and multifamily units. It is the intent of the Comprehensive Plan to provide a range of housing opportunities and a continued broad range is planned for the Moss Bay Neighborhood.*<sup>4</sup>

Figure 3.2-3 the Land Use Map for the Moss Bay Neighborhood shows land use designations, parcel boundaries, and subarea boundaries. Consistent with the Land Use Element, the subject site is designated as Commercial (C). Designations surrounding the subject site to the west, east and north include Medium Density Residential (MDR 12), Low Density Residential (LDR 5), and Parks/Open Space (P). Land use designations for property south of the subject site are described in the Lakeview Neighborhood discussion, below.

The text of the Moss Bay Neighborhood Plan discusses the medium density residential areas along Lake Washington Boulevard which are shown on Figure 3.2-3. The text provides:

*Lands on the east side of Lake Washington Boulevard, south of 7th Avenue South and west of the midblock between First and Second Streets South, are also appropriate for multifamily uses at a density of 12 dwelling units per acre. This designation is consistent with permitted densities to the north and south along Lake Washington Boulevard.*

The text cited above is consistent with the land use designations shown in Figure 3.2-3, which shows that most of the lands along Lake Washington Boulevard north of the subject property as far as 7th Avenue South are designated MDR-12. The cited text does not indicate a southerly extent to the area described above.

---

<sup>4</sup> City of Kirkland. Comprehensive Plan: Moss Bay Neighborhood Plan. September 2011.

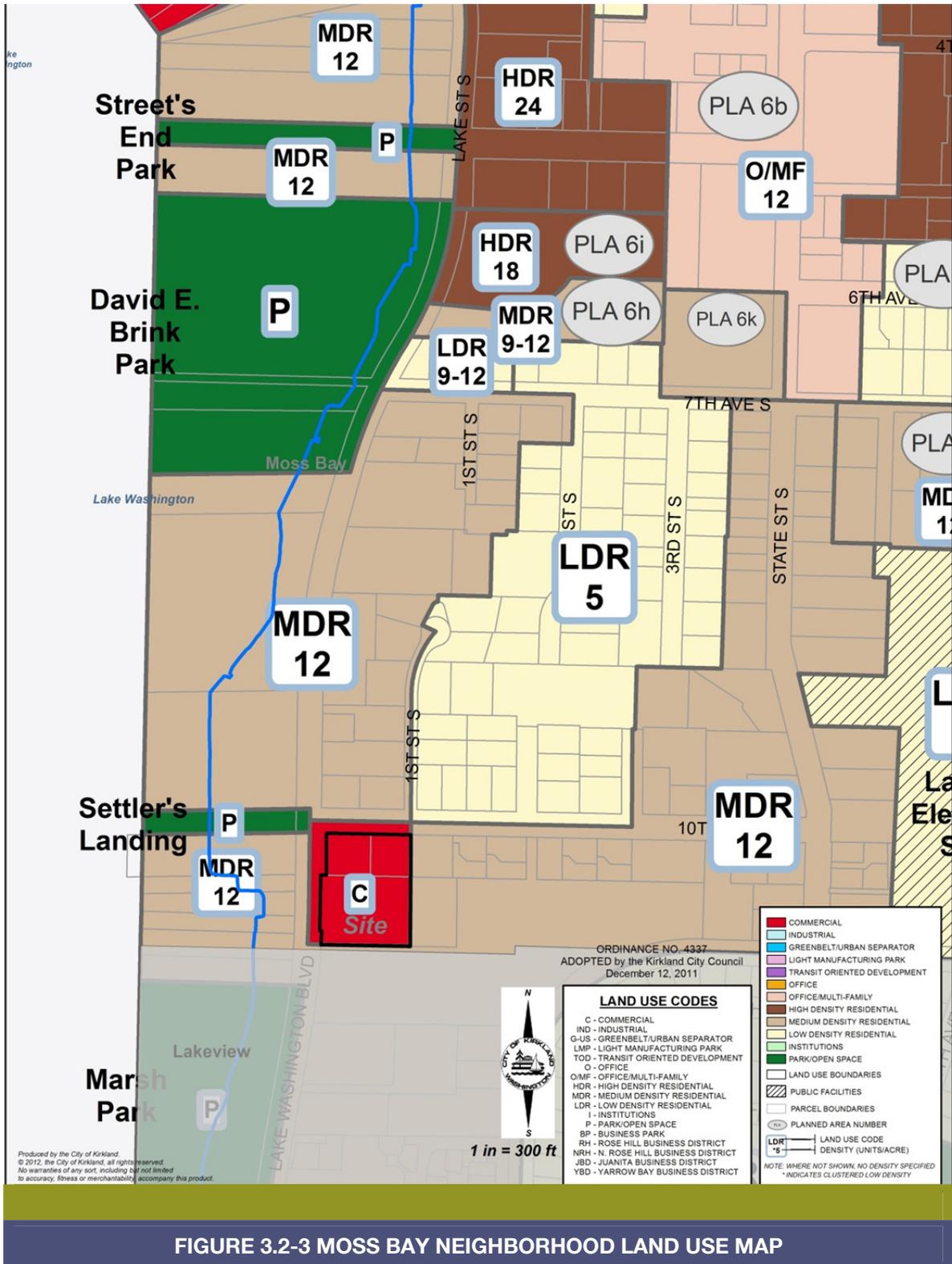
The Economic Activities Element of the Moss Bay Neighborhood Plan provides a specific reference to the subject site:

*Most of the land on the east side of Lake Street South appears to be unsuitable for commercial use because of steep slope conditions, as well as problems concerning vehicular ingress and egress. The southeast quadrant of the 10th Street (sic) South and Lake Street intersection, however, is developed with a market which serves as a convenience to the surrounding residences. Limited commercial use of this location, therefore, should be allowed to remain.<sup>5</sup>*



Source: City of Kirkland

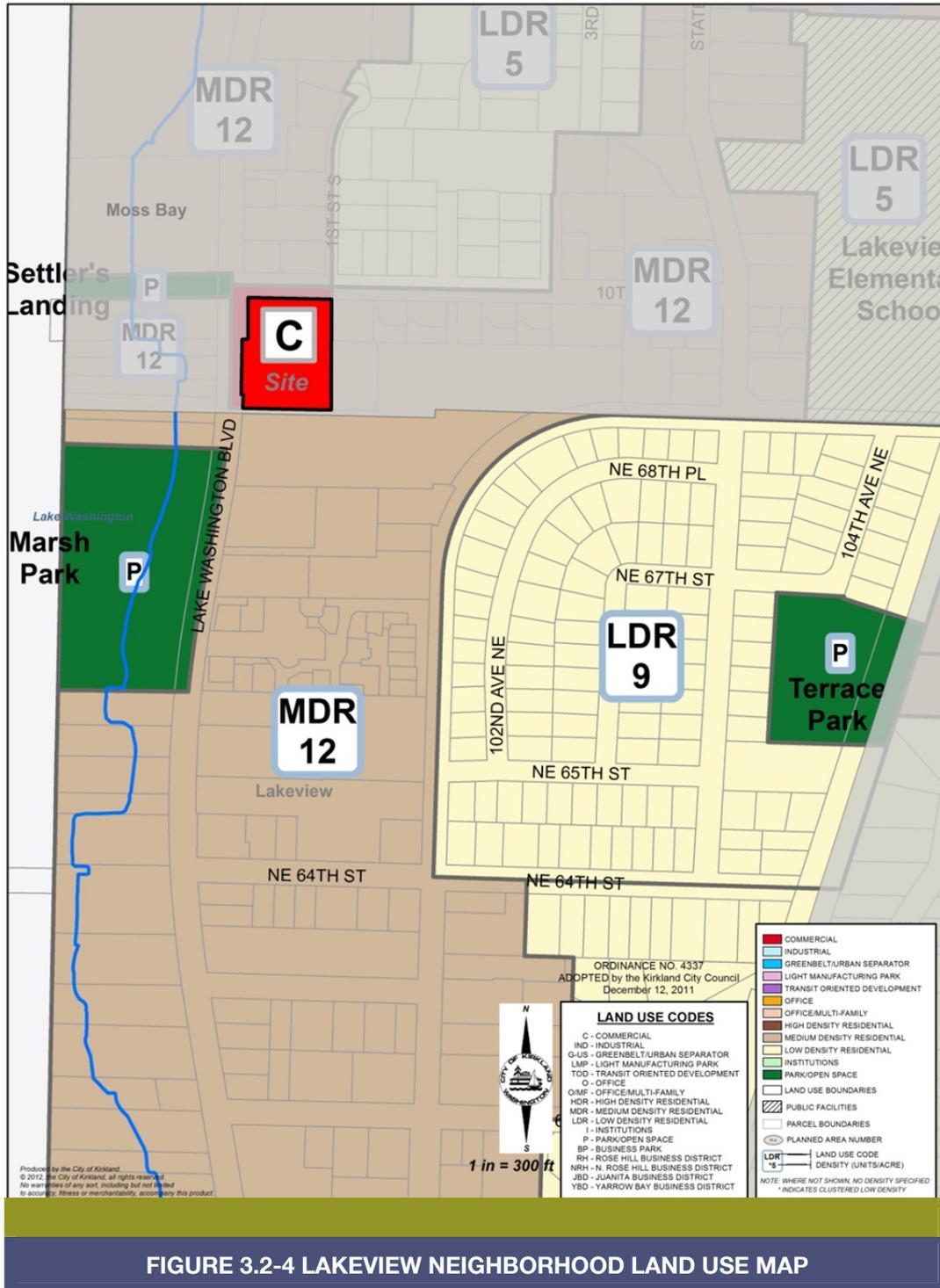
<sup>5</sup> City of Kirkland. Comprehensive Plan: Moss Bay Neighborhood Plan. September 2011.



Source: City of Kirkland

Lakeview Neighborhood Plan

The subject site adjoins the north boundary of the Lakeview Neighborhood Plan (see Figure 3.2-4). The site adjoins a large area designated as Medium Density Residential (MDR-12). Marsh Park, located to the southwest is designated as Park/Open Space (P).



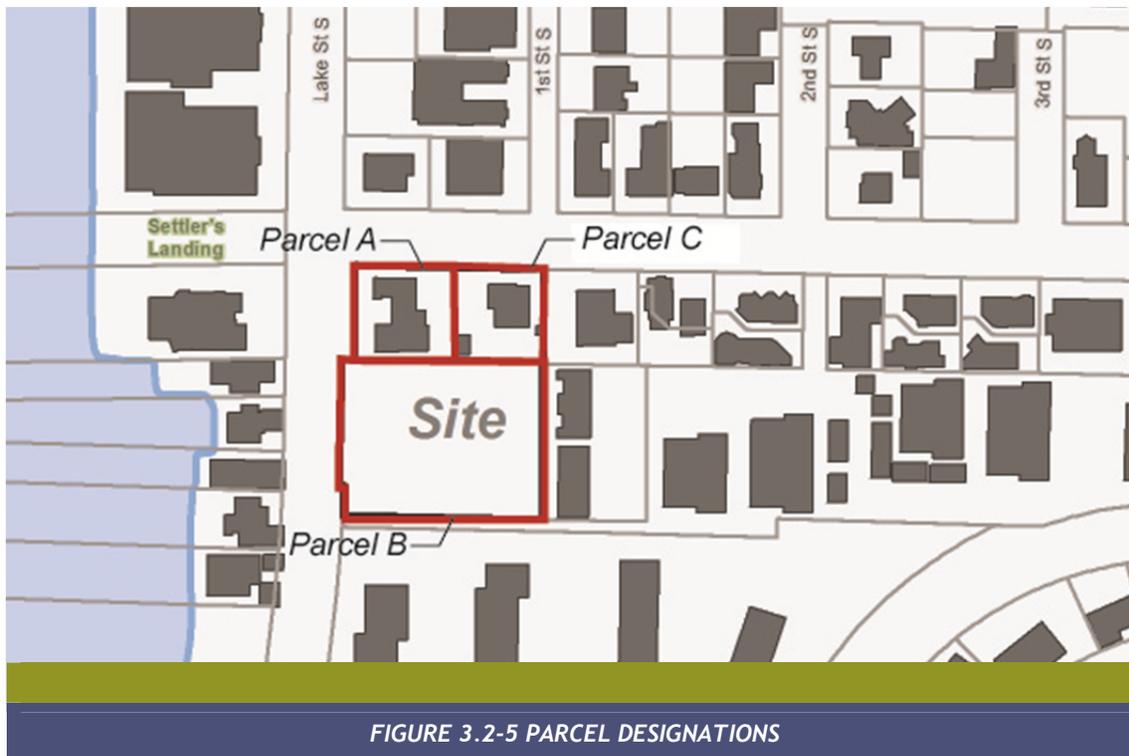
**FIGURE 3.2-4 LAKEVIEW NEIGHBORHOOD LAND USE MAP**

Source: City of Kirkland

## Washington Model Toxics Control Act

The subject site currently and historically has contained activities that are associated with potential site contamination. A Phase I Environmental Site Assessment was conducted in 2010 (Aspect Consulting, 2010). The purpose of this study was to identify, to the extent practicable using standard methods, the presence or likely presence of hazardous substances or petroleum products under conditions that indicate an existing release, a past release, or a material threat of a release into structures on the properties or into the ground, groundwater, or surface water of the properties. Key findings of the Phase I assessment include the following (See Figure 3.2-5 for parcel identification):

- Parcel A. Impacts associated with the dry cleaning operations appear to be limited to shallow groundwater in the area of the dry cleaning machine. A tire and battery automotive service shop operated on the property from 1958 until the mid-1970s.
- Parcel B. A service station operated on this parcel from 1957 until the early 1970s. At least three underground storage tanks (USTs) and possibly one hydraulic hoist remain on site from the former service station. According to the property owner, the USTs were decommissioned by filling with sand when the service station building was demolished.
- Parcel C. Tax assessor records indicate the home was heated by a pressure oil burner/oil burning unit. It is unknown whether the heating oil was stored in an above ground or underground storage tank, or if the tank was properly decommissioned.



Source: Aspect Consulting

The Washington Department of Ecology (Ecology) Toxics Cleanup Rules (referred to as the Model Toxics Control Act or MTCA) establish rules for remediation of contaminated soil and groundwater, and removal of underground storage tanks. These rules are summarized below.

### Underground Storage Tanks

The removal of underground storage tanks is governed by Washington Underground Storage Tank Regulations as codified in the Washington Administrative Code 173-360. Under these rules, USTs are to be removed by providers certified by the state to properly design and implement the removal of underground storage tanks. Typical removal activities involve removing UST contents, reducing explosive gases to permissible levels, removing the tanks and piping, collecting soil and/or groundwater samples, disposal of the tanks and contaminated soil, and restoring the site. Ecology also prescribes specific reporting requirements including a decommissioning report that describes the tank removal and a UST site assessment report that describes the results of soil and groundwater sampling.

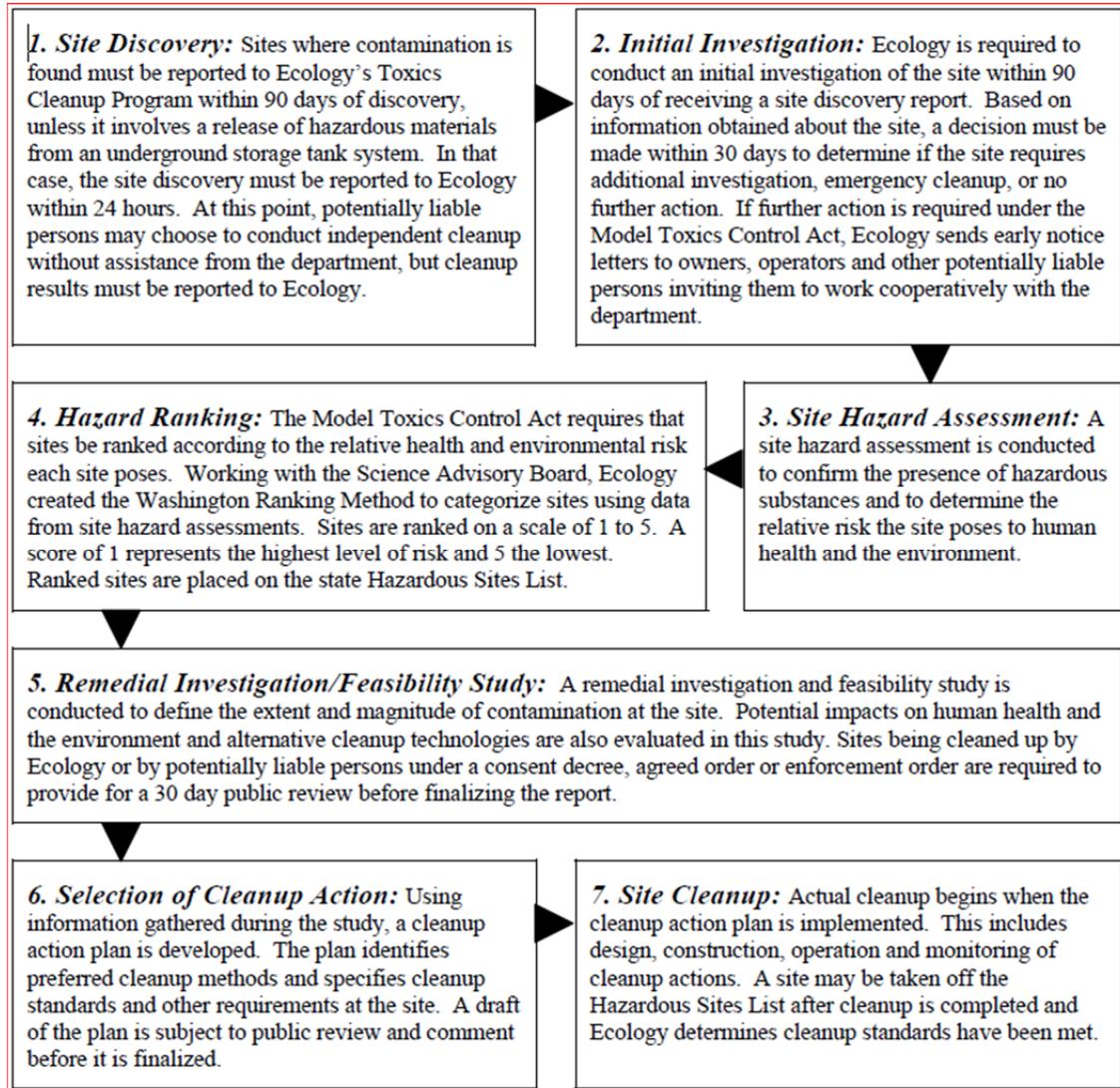
### Contaminated Site Clean-up

Where soil and/or groundwater is found to be contaminated, the state requires property owner to comply with MTCA requirements as prescribed in WAC 173-340. In addition, the City would require demonstration that site clean-up activities are complete before issuance of development permits.

The first step in this process is to notify Ecology that contamination has been detected. This notification is the first step in the site cleanup process, referred to as Site Discovery. An overview of the site cleanup process is shown in Figure 3.2-6.

Should contamination be encountered the property owner must comply with MTCA requirements to remedy the contamination. Property owner actions must meet the following threshold requirements:

- Protect human health and the environment
- Comply with cleanup standards
- Comply with applicable state and federal laws
- Use permanent solutions to the maximum extent practicable
- Provide for a reasonable restoration time frame
- Provide for compliance monitoring
- Consider public concerns



**FIGURE 3.2-6 WASHINGTON STATE CONTAMINATED SITE CLEAN-UP PROCESS**

Source: Washington Department of Ecology

### Responsibility for Cleanup

Under MTCA, individuals that may be liable for cleanup include:

- A current or past facility owner or operator
- Anyone who arranged for disposal or treatment of hazardous substances at the site
- Anyone who transported hazardous substances for disposal or treatment at a contaminated site, unless the facility could legally receive the hazardous materials at the time of transport
- Anyone who sells hazardous substances with written instructions for its use, and abiding by the instructions results in contamination

All potentially liable persons must assume responsibility for cleaning up contaminated sites. Ecology has responsibility for overseeing site cleanup to make sure that investigations, public involvement and actual cleanup and monitoring are done correctly. In cases where there is more than one potentially liable person, the Ecology encourages those persons to get together to negotiate how the cost of cleanup will be shared. Although Ecology has the legal authority to order a cleanup, the MTCA Rules are set up to encourage a cooperative process, as outlined in Figure 3.2-6.

### Mechanisms for Cleanup

There are a range of options for potentially liable persons to work with Ecology for site cleanup. These mechanisms allow Ecology to provide support to potentially liable persons, minimize costs by ensuring that cleanups meet state standards and minimize the potential that additional cleanup will be needed in the future. A summary of the most common mechanisms for working with Ecology is provided below:

#### *Voluntary Cleanup Program*

Cleanup efforts that are small or straightforward may be conducted independent of Ecology oversight. Because Ecology does not approve the cleanup, this approach may be problematic for property owners who need state approval to satisfy a buyer or lender. In order to address this need, a property owner may request a technical consultation through Ecology's Voluntary Cleanup Program. Under this program, the property owner submits a cleanup report for review by Ecology. Based on the review, Ecology either issues a letter stating that the site needs no further action or identifies the additional work needed.

#### *Consent Decrees*

A consent decree is a formal legal agreement outlining the work requirements and agreed to by the potentially liable persons, Ecology and the state Attorney General's office. Before being finalized, consent decrees must undergo a public review and comment period. Other specific types of consent decrees include De Minimus consent decrees, intended for landowners whose contribution to site contamination is insignificant in amount and toxicity, and prospective purchaser consent decrees, intended for persons not already liable for cleanup and wishing to purchase property for redevelopment or reuse.

#### *Agreed Orders*

An agreed order is a legally binding administrative order issued by Ecology and agreed to by the potentially liable person. Agreed orders are available for remedial investigations, feasibility studies and final cleanups. An agreed order describes the activities that must occur for Ecology to agree not to take enforcement action. Agreed orders are subject to public review and comment.

When an agreement with a potentially liable person cannot be negotiated or where any emergency exists, Ecology may issue an enforcement order. If the responsible party does not comply with the enforcement order, Ecology can clean up the site and later recover costs, including punitive damages.

### Worker Health and Safety

In Washington State, employers are required to comply with workplace safety and health regulations administered by the Washington State Department of Labor and Industries. For contaminated site cleanup, in addition to core workplace safety requirements, there are additional specific requirements for site safety plans, characterization, monitoring and employee training. The most relevant regulations include:

- Chapter 296-24 WAC (General Safety and Health Standards)
- Chapter 296-62 WAC (General Occupational Health Standards)
- Chapter 296-155 WAC (Safety Standards for Construction Work)
- Chapter 296-843 (Hazardous Waste Operations)

## **3.2.2 Significant Impacts**

### **Alternative 1. No Action**

#### City of Kirkland Comprehensive Plan

##### *Vision Statement and Framework Goals*

In general, existing site development does not implement the City's Vision Statement or Framework Goals. In its current condition, the site contains a single family residence, two small scale commercial services and undeveloped area. This development pattern is not consistent with the City's vision for healthy and vibrant residential and commercial areas, mixed use development, a compact land use pattern or diverse housing opportunities.

##### *Community Character Element*

Maintaining the site in its existing condition under No Action alternative is generally not the Community Character element goal of strengthening the visual identity of Kirkland and its neighborhoods. However, under the No Action alternative, public scenic views and existing natural landforms would be retained, consistent with policies CC-4.5 and CC-4.6.

##### *Economic Development Element*

Under the No Action Alternative, the site would remain in its existing condition and would generally not support Economic Development Element policies that promote infill and redevelopment of commercial areas and mixed use development.

##### *Land Use Element*

Under the No Action Alternative, the site would remain in its existing condition and would generally not support the goals and policies in the Land Use Element calling for a compact land use pattern, a range of development densities, and continuing to allow new residential growth throughout the community.

The western portion of the subject site would be generally consistent with the Residential Market designation, which call for individual stores or very small mixed uses. However, the undeveloped area and existing single family residence on the eastern portion of the site are not consistent with the vision established for the Residential Market designation.

### *Moss Bay and Lakeview Neighborhood Plans*

Under the No Action Alternative, the western portion of the subject site would be generally consistent with the commercial land use designation and with the text reference to continuing the historic commercial use. The existing single family residence on the eastern portion of the site is not consistent with the commercial designation. The existing development on the site is generally compatible with the surrounding area, including adjoining property in the Lakeview Neighborhood.

### Washington Model Toxics Control Act

Under the No Action Alternative, there would be no further investigation into potential site contamination or cleanup and the site would remain in its current state.

## **Alternative 2. Proposed Action**

### City of Kirkland Comprehensive Plan

#### *Vision Statement and Framework Goals*

To the extent that the Proposal would support a compact land use pattern and diverse housing opportunities in the City, it is consistent with the Comprehensive Plan Vision Statement. The Proposed Action is also consistent with pertinent Framework Goals. The proposed residential units would meet FG-3's aspiration to provide mixed -use development with housing for diverse income groups, age groups, and lifestyles. Similarly, the aspiration of FG-13 to maintain existing adopted levels of service for important public facilities is served in a number of ways, including the City's adopted transportation level of service standards. The Proposed Action has met the City's Concurrency Standards for transportation. Please see the Section 3.4 Transportation of this Draft EIS for additional discussion of transportation issues.

#### *Community Character Element*

Community Character goals and policies seek to preserve and enhance the City's visual identity. Please see Section 3.3, Aesthetics, for a full discussion of the Proposal and potential impacts to the visual character of the site and surrounding area. With respect to Policy CC-4.1, Draft EIS Section 3.3 also discusses urban design principles, as they are documented in the City's *Design Guidelines for Pedestrian-Oriented Business Districts*.<sup>6</sup> As described in Section 3.3, and consistent with Policy CC-4.5, the Proposal would not impact public scenic views in the area.

#### *Economic Development Element*

The Proposed Action would be consistent with Policy ED-3.3, which supports infill of underutilized land and redevelopment of existing commercial areas before expansion of commercial uses. Consistent with Policy ED-3.5, the Proposed Action would also provide for mixed use in a commercial zone. However, if retail uses are not provided, opportunities for shopping would not be provided.

---

<sup>6</sup> City of Kirkland. *Design Guidelines for Pedestrian-Oriented Business Districts*. March 3, 2009.

### *Land Use Element*

The Proposed Action is consistent with Goal LU-1 and supporting policies. This Goal seeks to maintain a balanced and complete community by retaining the community's character and quality of life, while accommodating growth and minimizing traffic congestion and service delivery costs. One of the key factors in accomplishing this goal is seeking to place housing where urban facilities and services are readily accessible and can be provided in a cost effective manner, such as in proximity to transit, services, parks and open spaces. There are three transit lines available to the subject site along State Street to the east. Settler's Landing City Park, Marsh Park and David E. Brink Park in the immediate vicinity of the site provide nearby open space and recreational opportunities. Utility capacity to serve the Proposed Action is well established. Supporting Policy LU 1-3 seeks to ensure that development is compatible in scale and character with the surrounding area. Please see Section 3.3, Aesthetics, of this Draft EIS for additional discussion of proposed development scale and character. Policy LU-1.4 calls for an effective transition between different land uses. The discussion under this policy references the use of buffers to minimize visual and noise impacts. As described in Section 3.1, Land Use, of this Draft EIS, landscape buffers along the site's east boundary and portions of the north and south boundaries are located significantly below adjoining grades and would not be effective in minimizing visual and noise impacts.

The Proposed Action is consistent with Goal LU-2 and supporting policies. This Goal and its policies seeks to promote a compact land use pattern in order to support multimodal transportation system, minimize energy and service costs, conserve land, water, and natural resources, and use land efficiently. As noted above, the Proposed Action would result in a compact development, located adjacent to transit and parks. Policy LU 2.1 which, in part, calls for a range of development densities in Kirkland, recognizing environmental constraints and community character. Please see Section 3.3, Aesthetics of this Draft EIS for additional discussion of proposed development scale and character.

The Proposed Action is consistent with Goal LU-3 because it manifests a land use pattern that promotes mobility and physical activity. The Proposal will improve the existing sidewalks along the frontages of the site and connect to the waterfront parks and public access trails within a quarter mile of the subject property. Specifically, the proposal would provide for residential development in a commercial area, consistent with Policy LU-3.2.

Consistent with Goal LU-4, the proposal provides new housing and employment that helps meet the City's growth targets. It protects and enhances the character, quality and function of the residential neighborhood by providing commercial services within walking distance while development a site that contains vacant, unmaintained, and underdeveloped areas. Please see Section 3.3 Aesthetics of this Draft EIS for additional discussion of proposed development scale and character.

The proposal is also generally consistent with Policy LU-4.2, which calls for locating highest densities near shops, services and transportation hubs. The Proposal is located roughly between the Houghton commercial center to the east and downtown Kirkland to the north, at about ½ mile distance from each. While this may exceed the distance that is commonly walked, the site has good access to shops, services and transportation hubs relative to many locations within the City.

Consistent with the Residential Market designation, the Proposal would include a small mixed-use commercial area for office use. However, the intent of the residential market is to focus on pedestrian traffic, which is more likely to occur with retail uses than with the proposed office use.

Policy LU-5.9 identifies development and design standards for residential markets. The first standard addresses the location of neighborhood retail and personal services. In the case of the Proposal, the site is located in a BN zone and site that has already been designated as a residential market, consistent with this standard. The second standard addresses parking standards, establishing a goal of minimizing off-street parking. The proposed parking is based on the City's standard minimum parking requirements. The third standard states that building design should be compatible with the neighborhood in size, scale and character. Please see Section 3.3 Aesthetics of this Draft EIS for additional discussion of proposed development scale and character.

### *Moss Bay and Lakeview Neighborhood Plans*

The Proposed Action is consistent with the Land Use Map and supporting text in the Moss Bay Neighborhood Plan. Consistent with Plan text, the Proposal would contribute to the range of housing opportunities in the area and allow the continued historic commercial use on the site. Although the Plan refers to a medium density residential designations surrounding the subject site (including in the Lakeview Neighborhood to the south), the MDR designation does not extend to the subject site, which is clearly designated for commercial use by both color and letter designations. The map does not identify a specific maximum residential density for the subject site.

### Washington Model Toxics Control Act

#### *Underground Storage Tanks*

Information developed as part of the permit application identifies that part of the property was used as a gas station until the 1970s (Aspect Consulting, 2010). Underground storage tanks, presumably used for gasoline and waste oil are reported to still be in the ground and based on the construction proposal would be encountered during excavation for subsurface structures. Removal of these tanks would be required pursuant to Washington State requirements for UST removal as outlined in WAC 173-360.

#### *Contaminated Site Cleanup*

Contamination that may be encountered include petroleum products from historical gas station operations; lead from fuel additives used in the 1960s and 1970s, other metals and solvents typical of waste oil; hydraulic oil; and dry cleaning fluid residues. Should soil and/or groundwater on the site require cleanup, all activities would be subject to the MTCA process, which requires a contaminated site to be cleaned up. (as shown in Figure 3.2-6). At this time, the mechanism for the cleanup process is not known.

As noted previously, a voluntary cleanup process could be completed without Ecology oversight. The MTCA process also does not specifically provide for monitoring and review of the cleanup effort. The City of Kirkland does not have staff expertise or resources to oversee the site cleanup process and ensure that MTCA requirements are met and the process is properly followed.

### **3.2.3 Mitigating Measures**

#### **Applicable Regulations and Commitments**

All new development on the subject property would be required to comply with the applicable standards of the Kirkland Zoning Code and, for the portion of the site within 200 feet of Lake Washington, the Shoreline Master Program.

#### **Other Potential Mitigation Measures**

Please see Draft EIS Section 3.1 Land Use for a discussion of proposed mitigation to ensure that landscape buffers provide an effective transition between the subject property and adjoining land uses. In particular, Section 3.1 describes buffering standards for retail uses adjoining residential uses and identifies a mitigating measure recommending use of this standard to allow for future retail use. Consistent with this mitigating measure and in order to meet the intent of a residential market to provide a variety of services that support the surrounding neighborhood, the 15-foot wide landscape buffer standard for retail uses adjoining residential uses would need to be provided.

Please see Draft EIS Section 3.3 Aesthetics for a discussion of proposed mitigation to address potential impacts to community character and compatibility in scale and character.

To assure follow-through of site clean-up, the applicant could provide funds for a qualified consultant selected by and under the supervision of the City to oversee the site cleanup process. Oversight of the process would include regular progress reports to the City to document that the MTCA process is being followed and a process for review and resolution of issues should problems be encountered. In the case of a voluntary cleanup, the consultant would coordinate technical consultation with Ecology, documented by a letter stating that no further action is needed.

### **3.2.4 Significant Unavoidable Adverse Impacts**

No significant unavoidable adverse impacts are anticipated.