

From: uwkkg@aol.com
 To: [Potala EIS](#); [Teresa Swan](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [Glenn Peterson](#); [C Ray Allshouse](#)
 Cc: uwkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS Hearing: Staff's confirmation of Density miscalculations
 Date: Wednesday, August 15, 2012 9:06:11 AM
 Attachments: [Density by Parcel.pdf](#)
[Staff Reponse.xls](#)

Open letter to Eric Shields, City Council, Planning Commission and Staff:

Hi Eric:

Thank you for having the densities reviewed for the 15 errors in the list of 38 multifamily properties. After looking at the review by your staff it appears that neighbors are 100% in their claim that city erred in density calculations for multifamily. (I'll explain).

It also seems to indicate that when describing how land is currently being used, the Kirkland planning staff are still failing to recognize that 2/3 of the land use is by single family homes.

1) The review by your staff confirms several errors as being made.

2) The review by your staff justifies recalculation of actual density by some KIRKLAND MAKE BELIEVE process.

This process takes properties that have been agreed to as 40/acre and puts them through some artificial process so

that 40/acre is now seen as 177/acre. How can this be?

The assessors data spells out the density per acre on each parcel. The assessor data states the acreage and provides this is square feet of land (in this case .95 acres). It provides the number of units (in this case 38). Then the assessor data even provides the amount of square feet of land per unit (in this case 1101 sq ft = 39.5 units/acre). This is the density and the land agreed to by the assessor, the property owner, the mortgage companies, the title companies, and every other person involved with the properties. This is the amount of land and the density upon which property taxes are paid. Are you telling those property owners, the assessor, the lenders and the title companies that they are all wrong? Are you going to be refunding the property tax that these owners would not owe if the land they owned and were taxed on is smaller? What basis (other than to skew the numbers) did Kirkland Staff decide on some UNIQUE SLANT on density calculations? Why is this not the density calculation used in prior Kirkland documents? This is a new interpretation which is counterintuitive and has just sprung up in an effort to cover up sloppy/biased work. Here's the link to the property detail (assessor data) so anyone can see that density is already calculated by the assessor.

<http://info.kingcounty.gov/Assessor/eRealProperty/Detail.aspx?ParcelNbr=7698200000>

3) The review by your staff then shows bias in when rules are applied. Sometimes non-conforming properties are included in the list of 38 multifamily buildings but sometimes not???? There are two sets of rules. Non-conforming are

counted if they are "dense" projects, but not if they are less dense. Wow... Is this fair application of the rules?

- a. The over water properties are all non-conforming, have high densities and have had the KIRKLAND DENSITY AMPLIFICATION METHOD applied. These are readily counted in spite of being non-conforming.
- b. A large portion of the multifamily buildings in the area have non-conforming densities since they were built before the down-zone. Their densities are some of the larger ones. They are readily counted.
- c. BUT.... Neighbors point out 7 small multifamily developments that were not counted. Staff response: "they will not be counted since they are non-conforming"
- d. So are we counting non-conforming properties (a & b) or not (c)?

4) Please note also that waterfront properties have always been their own "beast" with different rules and zoning that apply (zones WD I, WD II, WD III). The comprehensive plan has been specific in the fact that zoning along the "east side of the boulevard shall be consistent with the properties to the north and south along the east side of the boulevard."

In summary, the Draft EIS has numerous incorrect facts and is therefore void and needs to be reissued. This is due to errors in other chapters as well as the errors discussed here.

i) For the land use chapter, please realize that land use is defined as all land uses parks, single family developments and multifamily developments. The fact that single family makes up 2/3 of the land use but was then claimed by the EIS to be "only a scattering of single family homes" is just the beginning of the flaw where single family homes were not properly represented. This all needs to be properly reviewed and rewritten.

ii) The calculations of units per acre need to be consistent with the assessor data and not be subjected to KIRKLAND ARTIFICIAL DENSIFICATION calculations. These charts and the review and the narrative needs to be restudied and recalculated and a factual narrative needs to be written.

iii) The study area should be redefined to the area between the south side of 7th Ave S, the north side of NE 64th St, the west side of State Street and the east side of Lake St/LWB. All of this is landlocked property that has similar types of zoning. Neighbors feel that it is inappropriate to mix WD I, WD II and WD III properties into the review since use of waterfront land is always different than "land use" that does not have waterfront.

I am submitting these comments on behalf of myself, my family, my HOA, the HOAs an neighbors and citizens

1
cont.

2

of Kirkland who have asked that I represent them, the neighbors in the study area, the members of STOP, the members of "One Neighborhood Block," the clients of Brian Lawler attorney, and the clients of David Mann attorney.

Sincerely,
Karen Levenson
6620 Lake Washington Blvd NE #101
Kirkland, WA 98033

-----Original Message-----

From: Eric Shields <EShields@kirklandwa.gov>
To: uwkkg <uwkkg@aol.com>
Cc: Teresa Swan <TSwan@kirklandwa.gov>
Sent: Tue, Aug 14, 2012 2:13 pm
Subject: FW: EIS Comments

Karen, I asked Tony Leavitt on my staff to check out the density figures about which you have raised concerns. Attached are his findings. As he noted below, the figures were derived from assessor's data. For several of the properties the discrepancy has to do with the fact that for overwater structures we used the land area which is much smaller than the lot area that extends into the lake. Eric Shields

From: Tony Leavitt
Sent: Monday, August 13, 2012 2:59 PM
To: Deborah Munkberg
Cc: Teresa Swan; Jeremy McMahan; Eric Shields
Subject: RE: EIS Comments

Deborah, Attached is a response to the information that was submitted Karen Levenson. It should be noted that we are relying on King County Assessor's Data and discrepancies do exist. I did correct the map to add 3 parcels that should have been included. Tony Leavitt, Associate Planner

City of Kirkland Planning and Community Development
123 5th Avenue; Kirkland, WA 98033
Phone: 425.587.3253
Fax: 425.587.3232
tleavitt@kirklandwa.gov
Work Hours: Monday thru Thursday, 6:30am to 5pm; Off on Fridays
From: Eric Shields
Sent: Monday, August 13, 2012 8:52 AM
To: Deborah Munkberg
Cc: Teresa Swan; Tony Leavitt; Jeremy McMahan
Subject: EIS Comments

Deborah, Attached are comments about the density figures stated in the EIS. Tony Leavitt in the Planning Department will be checking the figures and we plan to have corrections available tomorrow night.

-----Original Message-----

From: Eric Shields <EShields@kirklandwa.gov>
To: uwkkg <uwkkg@aol.com>
Cc: Teresa Swan <TSwan@kirklandwa.gov>
Sent: Tue, Aug 14, 2012 2:13 pm
Subject: FW: EIS Comments

Karen, I asked Tony Leavitt on my staff to check out the density

figures about which you have raised concerns. Attached are his findings. As he noted below, the figures were derived from assessor's data. For several of the properties the discrepancy has to do with the fact that for overwater structures we used the land area which is much smaller than the lot area that extends into the lake. Eric Shields

From: Tony Leavitt
Sent: Monday, August 13, 2012 2:59 PM
To: Deborah Munkberg
Cc: Teresa Swan; Jeremy McMahan; Eric Shields
Subject: RE: EIS Comments

Deborah, Attached is a response to the information that was submitted Karen Levenson. It should be noted that we are relying on King County Assessor's Data and discrepancies do exist. I did correct the map to add 3 parcels that should have been included. Tony Leavitt, Associate Planner

City of Kirkland Planning and Community Development

123 5th Avenue; Kirkland, WA 98033

Phone: 425.587.3253

Fax: 425.587.3232

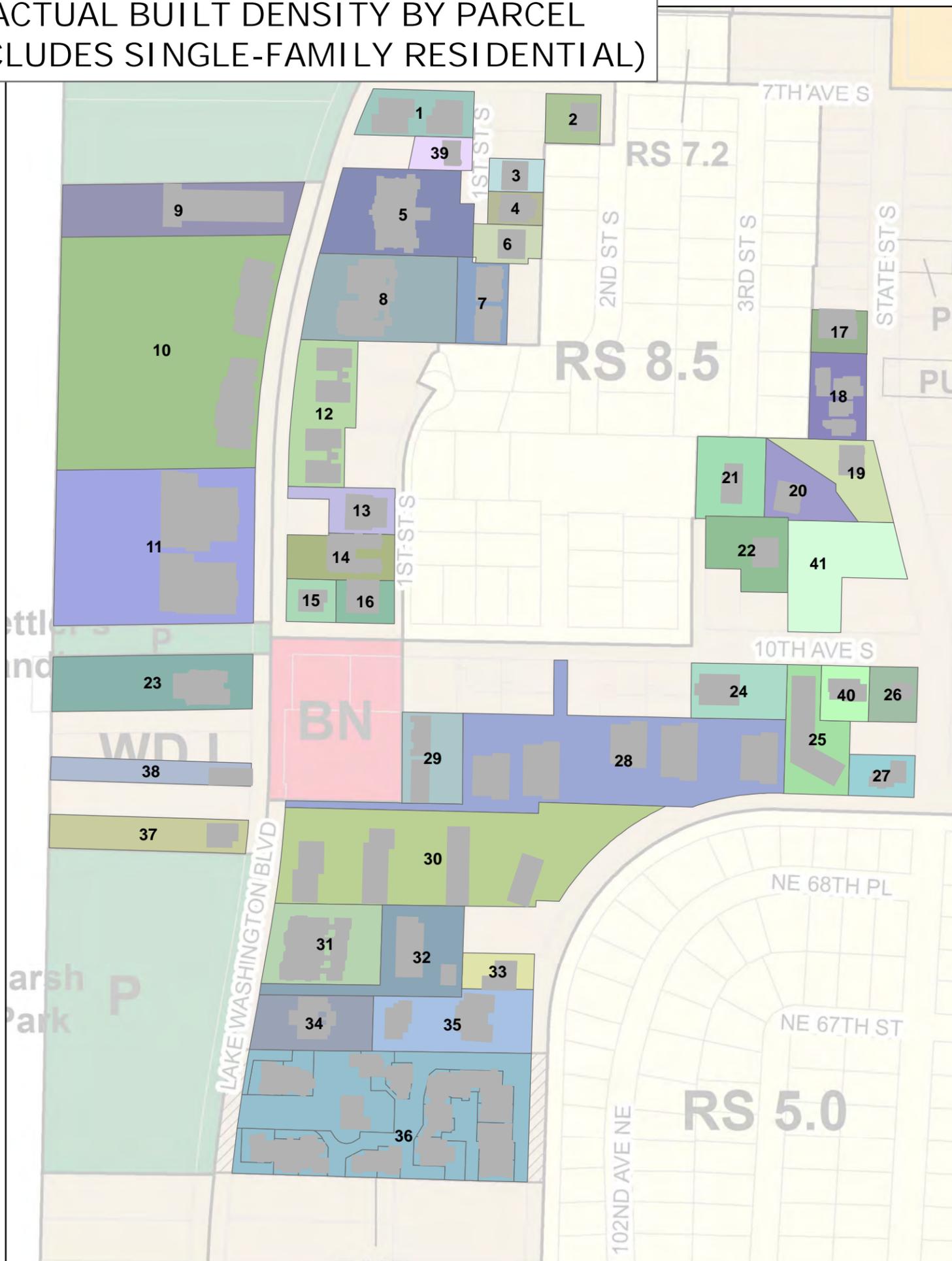
tlevitt@kirklandwa.gov

Work Hours: Monday thru Thursday, 6:30am to 5pm; Off on Fridays

From: Eric Shields
Sent: Monday, August 13, 2012 8:52 AM
To: Deborah Munkberg
Cc: Teresa Swan; Tony Leavitt; Jeremy McMahan
Subject: EIS Comments

Deborah, Attached are comments about the density figures stated in the EIS. Tony Leavitt in the Planning Department will be checking the figures and we plan to have corrections available tomorrow night.

**ACTUAL BUILT DENSITY BY PARCEL
(EXCLUDES SINGLE-FAMILY RESIDENTIAL)**



No.	PIN	No. of Units	Lot Size	Units Per Acre	SqFt per Unit
1	5555000000	4	16,695	10.4	4,174
2	1720800400	4	9,000	19.4	2,250
3	1720800335	3	6,000	21.8	2,000
4	2560880000	2	6,002	14.5	3,001
5	4098500000	11	38,938	12.3	3,540
6	8937000000	4	8,400	20.7	2,100
7	2560900000	4	13,868	12.6	3,467
8	3810950000	11	42,233	11.3	3,839
9	7698200000	38	9,343	177.2	246
10	8127900000	23	42,833	23.4	1,862
11	9197570000	13	58,469	9.7	4,498
12	1924100000	8	27,900	12.5	3,488
13	2286600000	4	11,100	15.7	2,775
14	3298580000	4	16,078	10.8	4,020
15	0825059209	4	7,365	23.7	1,841
16	0825059272	7	8,772	34.8	1,253
17	7698320000	2	7,492	11.6	3,746
18	7981500000	4	15,874	11.0	3,969
19	0825059276	4	16,624	10.5	4,156
20	3888350000	4	14,754	11.8	3,689
21	0825059238	2	17,939	4.9	8,970
22	9354900055	5	17,998	12.1	3,600
23	9195250000	6	20,299	12.9	3,383
24	9354900370	9	17,500	22.4	1,944
25	1419780000	12	22,330	23.4	1,861
26	9354900430	2	9,000	9.7	4,500
27	0825059244	3	8,880	14.7	2,960
28	0825059024	60	101,750	25.7	1,696
29	6641300000	8	18,150	19.2	2,269
30	6818000000	56	102,700	23.8	1,834
31	7804260000	12	29,486	17.7	2,457
32	8662700000	7	28,687	10.6	4,098
33	0825059219	2	8,450	10.3	4,225
34	6640800000	9	21,621	18.1	2,402
35	9320450000	16	30,928	22.5	1,933
36	Multiple	21	80,593	11.4	3,838
37	1310400000	5	5,493	39.7	1,099
38	0825059114	2	3,780	23.0	1,890
39	1720800480	2	7,050	12.4	3,525
40	9354900410	2	8,750	10.0	4,375
41	8578700000	7	31,085	9.8	4,441

ID on Map	Parcel Number	# of Bldgs	# of Stories	total # of units	Lot Sq Ft	Lot Acres	EIS Calculation	Address	Neighbor Calculation	Staff Notes
9	7698200000	1	3	38	41436 not 9343	0.95	177	733 Lake St S	40	9343 is correct. 41436 includes water area.
10	8127900000	2	3	23	37900 not 42833	0.87	23.4	807 Lake St S	26.43	Assessor's Map shows 42,833.
11	9197570000	2	3	13	102564 not 58469	2.35	9.7	905 LAKE ST S	5.53	58469 is correct. 102564 includes water area.
22	9354900055	2	2	5 NOT 4	17998	0.41	9.7	912 3RD ST S	12.2	4 plex plus 1 unit. 5 is correct number of units.
23	9195250000	1	3	6	36537 not 20299	0.84	12.9	1003 LAKE ST S	7.14	20299 is correct. 36537 includes water area.
34	6640800000	1	3	9 NOT 16	21621	0.5	32	6620 LAKE WASHINGTON	18	9 units is correct.
35	9320450000	2	3	16 (in 2 bldgs NOT 9)	30928	0.71	12.7	6627 LAKEVIEW DR	22.5	16 units is correct.
37	1310400000	1	2	5	21869 not 5493	0.5	39.7	6721 LAKE WASHINGTON	10	5493 is correct. 21869 includes lake area.
38	825059114	1	1	2	15319 not 3780	0.35	23	1025 LAKE ST S	5.71	3780 is correct. 15319 includes lake area.
Missing MF	1720800480	1	2	2	7050	0.16	12.5	709 1ST ST S	12.5	Assessor's Data listed "0" buildings. Should be included.
Missing MF	3892100010	1	2	2	7279	0.17	11.76	740 3RD ST S	11.76	Duplex in RS Zone. Nonconformance that was not included.
Missing MF	3892100005	1	2	2	7279	0.17	11.76	744 3RD ST S	11.76	Duplex in RS Zone. Nonconformance that was not included.
Missing MF	4149300035	1	1	2	7080	0.16	12.5	944 1ST AVE S	12.5	Duplex in RS Zone. Nonconformance that was not included.
Missing MF	8578700000	7	3	7	31085	0.71	9.86	314 10TH AVE S	9.86	7 Detached Units on single parcel. Should be included. Note that building footprints are not available.
Missing MF	9354900410	1	1	2	8750	0.2	10	323 10TH AVE S	10	Assessor's Data listed "0" buildings. Should be included.

From: uwkkg@aol.com
 To: [Teresa Swan](#)
 Subject: Re: Clarification # 3 and T Swan Comment re: Density Calculation
 Date: Wednesday, August 15, 2012 1:57:45 PM

Yes this is an EIS coment. Also my comment back to you in this email is for the EIS Comment file.....

1

Regarding your response, neithger the county assessors office, nor the title company, nor the owners, nor the insurers share the belief that these properties are smaller than what is in the assessors and title company records. The parcel owners pay taxes on the amount of land that all the other parties have agreed to.

2

I am very interested to see where you find the information on the shoreline regulations and the zoning regulations that show the things that you claim. Please forward me a link or a PDF of that information.

Karen Levenson

-----Original Message-----

From: Teresa Swan <TSwan@kirklandwa.gov>
 To: Uwkkg <Uwkkg@aol.com>
 Sent: Wed, Aug 15, 2012 11:03 am
 Subject: email sent to PotalaEIS@kirklandwa.gov

Hi Karen: See earlier email about emails that you have sent toPotalaEIS@kirklandwa.gov. Is the email below a formal comment that you want included in the Draft EIS? Teresa P.S. Both the Kirkland shoreline regulations dating back to 1973 and the zoning regulations prohibit including land under water to be included in density calculation.Hi Eric: I have not yet opened Tony's findings and I'll likely not have the time since I am just receiving this hours before tonight's meeting, but certify that the neighbor calculations were done with assessor data and we had a crew double and triple check them. The link to each property's assessment site was included to make review of the calculations very easy to validate. Each of the council members and planning commissioners has received this information so they can open the link and verify anything they choose. Regarding properties that are over the water, it would make sense to use the land for which the county believes the HOA owns and on which they pay taxes to the County and eventually to Kirkland. To choose any other number due to lake level increases, decreases, or other would not be correct. There are also several other arguments regarding whether the properties on the water side should be included. 1) Clearly the city has a history of treating landward properties different than waterfront properties. There are separate waterfront zoning descriptions. WDI, WDII etc. So should these really be something that a property on the east side of boulevard is compared with? 2) Recall the wording of the Land Use Chapter "properties on the east side of Lake Washington Boulevard are restricted to 12 units per acre consistent with the properties to the north and south"... this says nothing about consistent with the properties to the West!!! 3) Also because most of the big ones mentioned are overwater and their impact on passers by along the street is usually just a small horizontal facade with the length of the building over the water. Clearly this is different than the massive horizontal facade along Lake St S proposed by Potala. 4) Also the idea

Please see Letter No. 22

of putting in extra density if you can put it over the water will never again be allowed. This has not been allowed for many, many years. 5) Finally, the consultants chose the boundaries as just the south side of 7th Ave S (not both sides of street), just the north side of 64th (not both sides of street) and the west side of State St (not both sides). One could make an argument that it would be inconsistent to then use both sides of the street for just the western boundary. Best, Karen Levenson 6620 Lake Washington Blvd NE # 101 Kirkland, WA 98033 When you couple both arguments, I think there is a pretty strong case especially since the densities due to overwater structures have been strictly disallowed for many, many years and will not ever be allowed again. Thanks, Karen Levenson Teresa Swan
Senior Planner
(425) 587-3258 Fax (425) 587-3232
tswan@kirklandwa.gov
City of Kirkland
123-5th Ave
Kirkland, WA 98033 Mondays-Thursday 8:30am to 5:00pm

From: uwkkg@aol.com
To: [Teresa Swan](#); [Potala EIS](#); [Eric Shields](#); [Kurt Triplett](#); [Robin Jenkinson](#)
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: Re: T Swan Clarification # 4 and T Swan & K Levenson further comments for EIS
Date: Wednesday, August 15, 2012 2:09:47 PM

Hi:
Yes, this also is a formal comment for EIS. They all are. Most seem to have some additional comments from you. I am responding to them and ask that you include your comments and mine in the EIS comment file.

1

Teresa,
You state below that the 3 scenarios in the DEIS are conceptual massing studies and don't attempt to reflect the yard setbacks required by zoning code, but that seems to fly in the face of the review that DEIS is supposed to do (re: compliance with zoning, Comp Plan, Policies, Ordinances and other legal constraints).

2

We need the DEIS to reflect things that are aligned with our codes not provide pictures of things that would not be allowed because they don't meet the required front yard setbacks.

Karen Levenson
Commenting for all the parties previously mentioned in my earlier emails
6620 Lake Washington Blvd NE #101
Kirkland, WA 98033

-----Original Message-----
From: Teresa Swan <TSwan@kirklandwa.gov>
To: Uwkkg <Uwkkg@aol.com>
Sent: Wed, Aug 15, 2012 11:11 am
Subject: email sent to PotalaEIS@kirklandwa.gov

Hi Karen: See my earlier email concerning emails sent toPotalaEIS@kirklandwa.gov. Is the email below a formal comment on the Draft EIS that you want included in the Final EIS? Teresa P.S. The 3 scenarios in the DEIS are conceptual massing studies. They do not attempt to reflect the yard setback requirements. Any building proposed for the site will be required to meet the Zoning Code standards in effect at the time of building permit submittal. Dear City officials and staff: BN zoning 40.08 and 40.10 require at least two things with respect to front yards that I cannot find mentioned anywhere in the EIS and I find renditions of buildings that completely ignore these requirements. Can you tell me why there is no mention of the BN zoning requirement for a 20 foot front yard and for BN properties abutting Lake Washington Blvd / Lake St S there is specific requirement that properties taller than 25 feet have their front yard increased two feet for every foot of additional height. Were the EIS consultants not given this info by the city or did they choose to ignore it? If I missed their comments on the matter, please feel free to point me in the right direction since I have looked and looked for it. Furthermore, all the renditions seem to thumb their nose at these required yards as the buildings are pulled right up to the sidewalk. This area is known for its beautiful front yards, trees, shrubs, flowers, statues, fountains etc. I've heard that Water's Edge pays \$2800 per month per unit owner and much of this goes to maintaining its beautiful yard setback. I know our property is set way back from the road and we have gardens cascading over rockery, a

Please see Letter No. 23

statue, flowers, trees, etc. We will need some sort of revised discussion that includes KZC 40.08 and 40.10 as these are specific requirements of BN. The requirement for enhanced setbacks along LWB has created the character of the area that draws in visitors. Why would a project be allowed if it doesn't continue this neighborhood character and the same commitment to community benefit as all the other properties? Will current property owners still be willing to invest so heavily in maintaining their beautiful gardens if Kirkland does not continue to enforce these policies for all? Karen Levenson6620 Lake Washington Blvd NE # 101Kirkland, WA 98033 Teresa Swan Senior Planner (425) 587-3258 Fax (425) 587-3232 tswan@kirklandwa.gov City of Kirkland 123-5th Ave Kirkland, WA 98033Mondays-Thursday 8:30am to 5:00pm

From: uwkkg@aol.com
 To: [Potala EIS](#); [Eric Shields](#); [Jeremy McMahan](#); [Robin Jenkinson](#); [Kurt Triplett](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#); [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Byron Katsuyama](#); [Glenn Peterson](#); [Andrew Held](#); [C. Ray Allshouse](#)
 Subject: EIS: Actual assessor determined density PDF attached
 Date: Thursday, August 16, 2012 1:16:00 PM
 Attachments: [Parcel Detail land per unit example.pdf](#)

Eric and Teresa:

Please pass this along to the EIS Consultants as public comment. It is our intention that this information is used when correcting the EIS and that it be responded to as required.

1

Attached is one PDF of county assessor data. It is being provided as an example to all that "land per unit" is something that is already calculated and not something that requires Kirkland to modify. The example provided is 733 Lake Street S since there have been mixed reports on what the county assessor has determined for dwellings/acre at this site.

Please note the highlight where the County Assessor clearly identifies units in this condo have 1101 sq feet of land per unit (39.5 units per acre).

So why did Kirkland modify a density calculation that was already made?

How does the county's density calculation of 40/acre become 177/acre?

It appears there has been a gross misunderstanding of a sentence in the zoning code. The sentence applies to how we might determine "ALLOWABLE" density. It does not apply to how we calculate "EXISTING" density.

If you stop and consider that we no longer allow over water dwellings, it makes sense that "lands waterward of the ordinary high watermark may not be used to calculate allowable density."

Also for reference are historical quotations about density in Kirkland.

The most recently published comments on density seem to be ones that cite that CBD average density is 65 units per acre and it cites Moss Bay average density of 19 per acre. Density decreases in developments that are built farther from the Central Business District.

2

The properties in the Potala Proposal, are at the far south end of Moss Bay and the farthest from CBD. Neighbors calculated density based on the EIS consultant's study area. Average density in this study area is 11 units per acre. Again, this supports information in city documents wherein density decreases as properties become farther from downtown.

I submit this PDF and these comments on behalf of myself, my family, my HOA, all the HOAs and neighbors who have asked me to represent them, the neighbors belonging to STOP, the neighbors belonging to "One Neighborhood Block," the clients of David Mann Attorney and the clients of Brian Lawler Attorney.

Sincerely,
 Karen Levenson
 President

The Park, A Condominium
6620 Lake Washington Blvd NE #101
Kirkland, WA 98033

Adjacent to Greenbelt	NO
Other Designation	NO
Deed Restrictions	NO
Development Rights Purchased	NO
Easements	NO
Native Growth Protection Easement	NO
DNR Lease	NO

Problems	
Water Problems	NO
Transportation Concurrency	NO
Other Problems	NO
Environmental	
Environmental	NO

BUILDING

Apartment / Condo Complex Data	
Complex Type	Res Condo
Complex Description	38-UNIT CONDO
Value Distribution Method	Pcnt Land Val
# of Bldgs	1
# of Stories	3
# of Units	38
Avg Unit Size	849
Land Per Unit	1101
Project Location	ABOVE AVERAGE
Project Appeal	ABOVE AVERAGE
% With View	0
Construction Class	WOOD FRAME
Building Quality	AVERAGE
Condition	Good
Year Built	1969
Eff Year	1985
% Complete	100
Elevators	N
Security System	Y
FirePlace	N
Laundry	COMMON
Kitchens	
# of Meals	0
Founder's Fee	
Apt Conversion	Y
Condo Land Type	Fee Simple

← Assessor's data (tax roll)
 This shows properties at 733 Lake St S have 1101 sq ft of land per unit.
 This equals 39.5 units per acre

The owner is taxed on this amount of land per unit

Why then does Kirkland manipulate this number to show 177 units per acre?

Additionally, even with the Kirkland manipulations, this property is a tremendous anomaly, with nothing else even close in density within the identified study area.

The EIS constultant claim that 118 dwellings/acre is within "range" of what is built in the area is completely false and amazingly misleading. This needs to be changed to be accurate in the amount of density as per county assessor data. Actual range of densities is 1-40 and only 4 developments are greater than 24/acre (they were built in 1968 & 1969).

+ Units in this condominium complex

TAX ROLL HISTORY
SALES HISTORY
REVIEW HISTORY
PERMIT HISTORY
HOME IMPROVEMENT EXEMPTION

- New Search
- Property Tax Bill
- Map This Property
- Glossary of Terms
- Print Property Detail

Updated: Sept. 7, 2011

- Quick answers
- Property assessments
- Taxpayer assistance
- Online services
- Reports, data
- Forms
- News room
- Contact us
- About us
- Site map

- Home
- Privacy
- Accessibility
- Terms of use
- Search



King County
Always at your service

King County Department of Assessments

Fair, Equitable, and Understandable Property Valuations

You're in: [Assessments](#) >> [Online Services](#) >> eReal Property

[New Search](#)

[Property Tax Bill](#)

[Map This Property](#)

[Glossary of Terms](#)

[Print Property Detail](#)



PARCEL DATA

Parcel	769820-0000	Jurisdiction	KIRKLAND
Name		Levy Code	1700
Site Address	733 LAKE ST S 98033	Property Type	K
Geo Area	85-70	Plat Block / Building Number	
Spec Area	700-370	Plat Lot / Unit Number	APT 1-A
Property Name	733 LAKESIDE CONDOMINIUM	Quarter-Section-Township-Range	NW-8 -26-5

Legal Description

LAND DATA



Click the camera to see more pictures.



Highest & Best Use As If Vacant	MULTI-FAMILY DWELLING	Percentage Unusable	0
Highest & Best Use As Improved	PRESENT USE	Unbuildable	NO
Present Use	Condominium(Residential)	Restrictive Size Shape	NO
Base Land Value SqFt	0	Zoning	WD I
Base Land Value	2,000,000	Water	WATER DISTRICT
% Base Land Value Impacted	100	Sewer/Septic	PUBLIC
Base Land Valued Date	3/21/2012	Road Access	PUBLIC
Base Land Value Tax Year	2013	Parking	
Land SqFt	41,436	Street Surface	PAVED
Acres	0.95		

Views

Rainier	
Territorial	EXCELLENT
Olympics	EXCELLENT
Cascades	
Seattle Skyline	
Puget Sound	
Lake Washington	EXCELLENT
Lake Sammamish	
Lake/River/Creek	
Other View	

Waterfront

Waterfront Location	LAKE WASH
Waterfront Footage	100
Lot Depth Factor	
Waterfront Bank	
Tide/Shore	
Waterfront Restricted Access	
Waterfront Access Rights	NO
Poor Quality	
Proximity Influence	NO

Designations

Historic Site	
Current Use	
Nbr Bldg Sites	
Adjacent to Golf Fairway	NO

Nuisances

Topography	NO
Traffic Noise	MODERATE
Airport Noise	
Power Lines	NO
Other Nuisances	NO

Reference Links:

- [King County Tax Links](#)
- [Property Tax Advisor](#)
- [Washington State Department of Revenue](#) (External link)
- [Washington State Board of Tax Appeals](#) (External link)
- [Board of Appeals/Equalization](#)
- [Districts Report](#)
- [iMap](#)
- [Recorder's Office](#)
- [Scanned images of surveys and other map documents](#)
- [Scanned images of plats](#)

From: uwkkg@aol.com
 To: [Potala EIS](#); [Teresa Swan](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Toby Nixon](#); [Bob Sternoff](#); [Dave Asher](#); [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Glenn Peterson](#); [Andrew Held](#); [C Ray Allshouse](#); [Byron Katsuyama](#)
 Cc: uwkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala: Clarifying Emails re EIS
 Date: Monday, August 20, 2012 1:13:32 PM

Good Morning City Officials:

This is the last week for written comments on the EIS for Potala and you may find that you receive many emails.

I want to reassure you that reason for so much input this week is due to the deadline of Friday 8/24/2012 and the fact that there is so much inaccurate, inconsistent or superficial review that must be commented on prior to that time. We don't intend to irritate, but find we must provide excruciating level of detail if we want to preserve neighbor rights in this process.

1

Nearly every page, and nearly every comment, in the EIS seems either miscalculated, flawed, or flagrantly interpreted with bias in support of the proposal. (The bizarre comments that there are 5 story buildings in the study zone where there are none greater than 3, or the recalculation of the county supplied density of 40 to achieve a recalculated density of 177/acre) are just blatant starters for the discussion.

The top 5 issues are ones you've heard about often but we believe they are legally inadequate in how they are covered in the DEIS

1) DENSITY: Completely miscalculated and misrepresented by leaving off 2/3 of the land use (only 1/3 is multifamily buildings).

2

2) LACK OF REQUIRED ALTERNATIVES: As you likely know the EIS process specifically requires evaluating alternatives for development of a site. The process is specific in that the alternatives are not developer driven and cannot be chosen as to whether they meet the developer need, but must be more global than that (e.g. Provide market rate housing, provide neighborhood serving business). A full range of intensities is supposed to be explored. This was part of public comment and addressed by a letter from one of the neighbor attorneys. Further, the city hired another EIS consultant (prior Land Use Attorney) who also recommended that the city evaluate a lower intensity development as proposed by the citizens. This was so that this obvious challenge would not be open to citizen action. In spite of all this, the city chose to not require the EIS consultants to evaluate a mid-range alternative which leaves the Draft meaningless as to how development could still happen but at a more anticipated level of intensity.

3

2) COMPREHENSIVE PLAN REVIEW for consistency with the definition of RESIDENTIAL MARKET - COMMERCIAL: During EIS scoping the neighbors were reassured that a thorough review of the Comprehensive Plan designation of the property would be part of the study. The neighbor's articulated that this would include reviewing whether the proposal was consistent as a

4

"individual store or very small mixed-use building." They stated that review was needed to compare the proposed commercial medical office (requiring less parking) was consistent with the description of neighborhood serving business. They stated that the provision for community gathering spaces needed to be evaluated.

4
cont.

The consultant's were asked what would happen if they found that the proposal was not consistent with the definitions in the Comprehensive Plan - to which they remarked that any lack of consistency would be flushed out in the EIS and (if necessary) the steps needed to become consistent would be identified. None of this evaluation appears in the EIS.

3) INGRESS and EGRESS: Vehicular "Ingress" & "Egress" are quite different than traffic, and something clearly identified as restricting development at BN Lake St property (in the Comprehensive Plan), it is shocking that this is not discussed in the EIS. It was frequently requested by neighbors during the scoping process.

5

4) TRAFFIC: Neighbors were reassured that "Site Specific Traffic" and not general traffic models would be used for the EIS. That was not done. A traffic count was done at the time of the scoping meeting wherein the public commented that due to poor weather, the traffic count was not a true Peak PM traffic count. The request was for Peak PM evaluation (weekday) on good weather August or Early September days.

6

Somehow the consultants added an additional study of "good weather weekend days, but that was not what was requested. Very clearly neighbors argued that in a seasonally impacted area (like the boulevard) you do not achieve Peak PM unless it is Peak PM hour on a typical "peak day."

I apologize in advance that due to the overwhelming number of shortcomings in the Draft EIS for Potala there will likely be a very large number of emails.

I will try and reduce the overall quantity somewhat by writing on behalf of the neighbors and HOAs and groups that have asked me to represent them.

Sincerely,
Karen Levenson
6620 Lake Washington Blvd NE #101
Kirkland, WA 98033

From: Uwkkkg@aol.com
 To: [Potala EIS](#); [Teresa Swan](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#)
 Cc: uwkkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS Neighbor Statements - IMPORTANT Prelude to upcoming emails
 Date: Thursday, August 23, 2012 8:00:13 PM

Good evening City Council Members, Planning Commission and City Staff:

Over the next two days you will receive an incredible amount of information since the citizen teams have reviewed the Draft EIS and find nearly every sentence and every claim to be false, misleading, miscalculated, etc. We want you to have this information if it is helpful to you. There will likely be more information than you desire, and the way that EIS documents are written is often repetitive, so we mainly ask that you read at least this first email, and then pick and chose any additional reading (We mainly have to get all the information in prior to a deadline of 8/24/12 @ 5pm).

We have grave concerns about the fact that very close connections exist between the current planning director and those who he hired to give the required "hard look" and "unbiased review" of the impacts of Potala. Someone of sufficient arms length was requested and at the time we were told that "she" had only done a small amount of work for the city a long time ago." Please read the rest of this document. Future Documents will be Listed Potala DEIS #1 Response, #2 Response, etc and will be sent along for your optional review. Lots and lots of citizen time and energy has been spent to meet the deadline and highlight all the issues.... Thank you.

=====

EIS CONSULTANT SELECTION - NOT ARMS LENGTH REVIEW TEAM

Before embarking on deficiencies in the Draft EIS which make the DEIS worthless at best, and more likely harmful and legally inadequate, the citizens would like to comment on the selection of EIS consultants. This was something that was discussed during the scoping period with the Director of the Planning Department. Citizens wrote and verbally discussed the need for an EIS consultant who was able to be verified as impartial, experienced, and would provide the required "hard look" at all the impacts of the Potala Village project. This was to include the work done to date by the city of Kirkland, the information provided by the applicant and all available information as it applies to the subject property and the proposal.

At the outset, the selection of EIS consultant was considered flawed when citizens discovered that the selected team had past working relationship with the Planning Director of the City of Kirkland. The issue was raised by citizens who were told the working relationship had been for only a short period of time, a small amount of work and it was long ago. Now, new information uncovered the truth that not only is there a connection where the Inova lead was involved with the city of Kirkland, but also one of the Principals of Inova is Joseph Tovar, former Planning Director, former boss to Eric Shields who turned his position over to Eric when he went to Shoreline, and then became a planning director colleague of Kirkland's planning director.

The community objects again, as it did during scoping, that this close in relationship cannot possibly provide the arm's length review of the work already done by the city of Kirkland and therefore makes any conclusions suspect and void.

Indeed, we have already seen that false statements have arisen from this questionable review. Statements include the fact that 5 story buildings exist in the study area when most of the buildings are 1-2 stories and only 20% are 3 stories. Citizens have verified that there are no 4 or 5 story buildings in the study area. Additionally the consultants claim "mostly multifamily homes with a scattering of single family homes" yet the study area is confirmed at 2/3 single family homes. As you read through public comment on the draft EIS you will see innumerable errors, omissions, miscalculations, misrepresentations and the "parsing" of paragraphs which provide a biased commentary. Interestingly,

1

2

and troubling, is that much of the inaccurate or misleading information is lifted directly from Kirkland documents, graphs, charts and calculations without the slightest amount of review for accuracy.

2
cont.

This is not the "hard look" at impacts that a legally adequate DEIS or EIS requires. The citizens believe that the work is flawed due to either very sloppy work on the part of Inova, or by work that was done with the bias of attempting to make a square peg fit in a round hole. We invite you to review the DEIS critically with us and believe that you will find that much (or most) of the work defies the straight face test.

3

Submitted by Karen Levenson

6620 Lake Washington Blvd NE, Kirkland WA 98033

on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of Brian Lawler Attorney

From: Uwkkkg@aol.com
 To: [Potala EIS](#); [Teresa Swan](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#)
 Cc: uwkkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS: Intro #1 Flawed Scoping Process
 Date: Thursday, August 23, 2012 8:45:07 PM

Potala EIS: Introduction #1 Flawed Scoping Process - Citizen Comments

Scoping is the first step in the EIS process. It begins with the Notice of Intent and the initiation of the public scoping process. The purpose of the scoping process is to assure that the full range of issues related to the proposed action is addressed and that potential significant adverse impacts are identified and advanced for further study. Following the scoping process the next step is identifying objectives of the proposal and then a full range of alternatives that would meet the identified objectives.

1

Beginning with the scoping process, the EIS for Potala is fatally flawed.

2

- The EIS Scoping process was flawed in that the scope fails to address numerous concerns raised by individuals during the appropriate scoping comment period. Some of the concerns are merely left unanswered in the scoping document. Other specific concerns are rolled up into broad general categories where they get buried rather than ever getting addressed. Avoiding identified issues or burying them into broad general areas where they are essentially lost is contrary to the goal of the scoping process.

3

- The EIS Scoping process was flawed in that rather than active study of local circumstances and local impacts, the EIS only provides a general narrative based on textbook descriptions and national guidelines. were used even though local circumstances were different than those addressed in national publications.

4

- The EIS Scoping process was flawed because it was reduced in scope at the request of the developer's team for the purpose of fitting within their budget. (public records) As the EIS is supposed to be a mechanism to "take a hard look at all impacts" it is inappropriate to decrease the scope in order to be more financially agreeable to the developer. Additionally, the idea that the city would negotiate a lower rate for the EIS (on behalf of the developer) is a bit repugnant to the neighbors who requested an increase in scope of the EIS due to legitimate concerns and impacts to the surrounding area.

5

Submitted by Karen Levenson
 6620 Lake Washington Blvd NE, Kirkland WA 98033
 on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of Brian Lawler Attorney

From: Uwkkkg@aol.com
 To: [Potala EIS](#); [Teresa Swan](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Dave Asher](#); [Toby Nixon](#)
 Cc: uwkkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS: Intro #2 OBJECTIVES AND ALTERNATIVES FLAWED
 Date: Thursday, August 23, 2012 8:51:26 PM

EIS: OBJECTIVES AND ALTERNATIVES FLAWED

Please read along as we describe flaws in the Objectives and Alternatives listed in the DEIS for Potala. We will identify flaws and we will provide supporting recommendations by Richard Weinman, Land Use consultant hired by the City of Kirkland to advise regarding the Potala EIS process.

1

- The Objectives for the Potala EIS are flawed as they were developed after the alternatives were determined rather than as a starting point. This requirement to first determining "Objectives" is similar to the requirement of starting with "Purpose and Need" in national NEIS studies. The directionality of the process is intentional as it precludes starting with a desired proposal and working backwards to ensure the proposal "fits." In the Potala EIS, the directional process was incorrect and public records can be provided to support this.

- The Objectives for the Potala EIS are flawed also because they are supposed to be general in nature (qualitative) and not those of a developer. In the list of Objectives for the EIS, several of them are more project specific than allowed while a couple of them are more general and acceptable. For a project like Potala Village these would be general objectives like "provide market rate housing," or "provide neighborhood serving businesses." Once general objectives are set forward then the full range of densities or intensities is supposed to be explored through the EIS process.

- The Alternatives for the Potala EIS are flawed because they are supposed to provide a full range of alternatives and the no-build alternative. Each of these intensities is supposed to be reviewed throughout the entire EIS. It is required that the Alternatives include more than just the applicant's proposal and the no-build alternative but that was not done. Other alternatives were suggested by the neighbors during the appropriate scoping process that fit with the objectives.

2

- The Alternatives for the Potala EIS are also flawed in that the chosen alternative of 143 unit multiuse building is "CLEARLY INCONSISTENT" with a number of the "Objectives" as identified. The proposal would thus be washed out of consideration due to Fatal Flaw Analysis.***

3

The land use consultant, Richard Weinman, hired by the city of Kirkland (to advise on the Potala EIS) stated the following:

4

"One basic principle I use is that the applicant cannot state his/her objectives in a manner to limit the alternatives so that effectively no alternative other than the proposal can meet those objectives. If an applicant could do that, there would never be a reduced scale alternative in an EIS. It goes without saying that a developer is in business to make a profit, but a specific amount of profit, based on a pro forma, can't be used to eliminate alternatives which reduce units/profit. This could easily lead to a situation where there is no reasonable alternative (i.e., any reduction in proposed units would also reduce profit which would not meet the applicant's objectives). And this would defeat the purpose of alternatives analysis. Again, the Rules state that the alternative need only "approximate" the proposal's objectives and does not have to exactly meet them. So, within that context, a reduced scale alternative would meet the reasonableness test."

"In my experience, it is also quite common for an EIS to include alternatives which do not meet the applicant's objectives and to clearly state that in the EIS. This approach gets past the argument of whether or not a particular alternative is "reasonable" or not and allows the EIS to proceed."

The planning department also has in their records (now in public records) that they referenced DEIS done by other cities in Washington. These had examples of properly evaluated "Alternatives" where

5

there were up to 4 levels of density compared.

5
cont.

In spite of the guidance of Mr. Weinman, the current EIS did not include a lower intensity alternative for the full EIS study. The objectives were written after the scoping meeting when the alternatives of 143 or nothing were presented to the community.

When neighbors asked about a statement of the "Objectives" we were told that they did not yet exist (and public records confirm that they were later developed between the EIS Consultants and the Developer - also incorrect collaboration). Furthermore, when the neighbors asked why a lower intensity "Alternative" was not listed the reasoning was that lower intensity Alternative was not chosen because "it would not meet the objectives of the developer."

6

As you can clearly see, the focus of the Planning Director was in meeting the needs of the developer, however, that represents exactly the backwards approach to the EIS, and disregard for process that is supposed to allow for an unbiased, and useful review of all the impacts across a range of alternatives.

NOTE: It is important to recognize that the multiple renditions of bulk and massing may show lower number of residential units, however, even these are only "development scenerios" which are not put through the required comparisons that "Alternatives" require. The distinction cannot be overemphasized.

7

Submitted by Karen Levenson

6620 Lake Washington Blvd NE, Kirkland WA 98033

on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of Brian Lawler Attorney

From: Uwkkkg@aol.com
 To: [Potala EIS](#); [Teresa Swan](#); [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Joan McBride](#); [Doreen Marchione](#); [Penny Sweet](#); [Amy Walen](#); [Bob Sternoff](#); [Toby Nixon](#); [Dave Asher](#)
 Cc: uwkkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS: Chapter 1 - Neighbor citations needing correction for final EIS
 Date: Thursday, August 23, 2012 8:57:22 PM

Potala EIS - Chapter One - Neighbor citations needing correction for final EIS

1.1.1 Objectives of the Proposal

The proposed alternative completely fails to meet two of the four Objectives that have been established. This is a fatal flaw with the proposal of 143 unit multifamily and therefore cannot be considered as an Alternate.

- The proposal does not "Create a development that is compatible with the surrounding area."
- The proposal is not considered to be "an asset to Kirkland's citizens," nor does it "create an attractive residential mixed use development," both have been the subject of hundreds of neighbor comments, more than 1000 pages of neighbor emails and letters and a petition bearing several hundred signatures.

Chapter 1, pg 1-2

The analysis of Regulatory Statues is deficient in that it fails to include "Residential Market - Commercial" restrictions of the Comprehensive Plan. Clearly the comments include the BN zoning of the property and it includes the regulations of the Shoreline Master Program. Being deficient in not including the Ordinance that was passed to further restrict the BN zoned property as a lowest intensity "Residential Market - Commercial Use." This would also be the appropriate place for Kirkland Zoning Code 170.50 Conflict of Provisions to be addressed and the lack of its' inclusion is disturbing. KZC 170.50 states that "If provisions of the [zoning] code are in conflict with the provision of another Ordinance of the City, the most restrictive provision prevails." Clearly the Ordinance establishing and defining the Residential Market - Commercial Uses and the identification of subject property as a "Residential Market" is the more restrictive and therefore is applicable to the EIS review.

Chapter 1, pg 1-2 thru 1-3 Alternatives

As stated earlier, the DEIS is legally inadequate in that it doesn't provide for a range of alternatives - only the developer's alternative of 143 unit mixed use building or a no-build alternative (Please see important information in EIS Objectives and Alternatives section)

By only providing the proposed action or the no action alternative there is no ability to compare alternatives that would allow for lower intensity, superior design development. Later descriptions state that no action would include no clean up of contamination and no clean up of garbage and debris that is currently on-site. Neighbors would argue that clean up of ones property is a requirement regardless of high intensity development, lower intensity development or even vacant land.

1.3.2 Describes a single building *** 143 units*** 316 Parking*** Gross Sq Ft. *** Excavated below grade *** Total of 4 floors with first floor submerged below sidewalk level

Chapter 1, pg 1-3 Comments on the total lot coverage being 70%, however this is inconsistent with information provided in other documents by the applicant. The EIS Consultants do not reference any investigation into the reason for the discrepancy or why the applicant has provided different lot coverage figures. In all likelihood the lower lot coverage may be due to some of the newer renditions of the Potala Village project but these are not the subject of the EIS.

Chapter 1, pg 1-3 Alternative Development Scenerios are discussed. It is important to note that for the purposes of EIS, "Different Development Scenerios" are not the same as the required "Alternatives." Legal "Alternatives" get compared throughout the EIS in a pre-specified manner and while there is some value to development scenerios the introduction of these should not be confused with EIS Alternatives.

1
2
3
4
5
6

1.5 Summary of Potential Impacts

Alternative 1 - No Action vs. Alternative 2 143 units Multi-use

7

Compatibility is discussed

1) Authors state that vacant land and small buildings are not compatible

2) Authors state that multifamily use is consistent with surrounding land use

NOTE: Vacant land, which includes 1/4 vegetation does not create any incompatible impacts.

Additionally a small burger stand, a small laundry and a small home are all similar in intensity of use as surrounding properties. The author does not identify why vegetative cover and low impact single family home next door to another single family home is incompatible. The authors are correct in their comment that a multifamily use is consistent with surrounding land use, but they fail to qualify the intensity of multifamily use that is consistent with surrounding use. An inventory of multifamily buildings shows that for this multifamily use to be consistent with surrounding use, the multifamily building would approximate the local density of 11 units per acre, the building(s) would cover approximately 18% of each lot and the facade length (if compared to the biggest 20 buildings in the study area) would be approximately 104 feet in length and would not exceed 139 feet. Furthermore, to be compatible, the building would need to be no more than 3 stories tall (majority of buildings in subject area are 1-2 stories and none exceed 3).

CORRECT OBSERVATIONS (Needing greater emphasis)

1.5 Summary of Potential Impacts - Land Use

Authors correctly state that the proposed residential density is more dense than the surrounding residential area if overwater structures are excluded. This comment by the consultants, while true, fails to identify the amount of incompatibility in density in that the proposed density is 11 times the surrounding density of the study area which has been confirmed to be 11 dwellings per acre.

8

Authors correctly state that the landscape buffers would not serve their intended purpose of mitigating noise and visual impacts to the surrounding area. They don't provide further description of the amount of noise and visual impact that would occur so these comments need more detail. Neighbor comments during scoping indicated concerns about noise and visual impact being quite great with lights from hundreds of windows and the building envelope as well as noise from individual units when windows are open, stereos, air conditioning equipment, etc. The total impact of light and noise from a building of this mass and this residential density needs to serve as an example wherein the authors can adequately qualify the amount of noise and light trespass that will impact the neighborhood.

Authors correctly state that the landscape buffer widths meet requirements for office use but not retail use. It is important for the consultants to note that office use is not a neighborhood serving business as is required, therefore landscape treatment as a retail use are essential and must be increased.

1.5 INCORRECT Summary of Potential Impacts - Land Use

Authors fail in their comments about the proposal meeting fundamental use standards. They correctly cite BN zoning and Urban Mixed shoreline designation, but as said earlier in the review of this chapter, the authors are completely deficient in the overall discussion of fundamental use standards since they avoid any discussion of the residential market designation that was approved by ordinance with a definition of uses and assigned to subject property. Since KZC 170.50 states that incompatibilities with other Ordinances will have the most restrictive provisions as those that apply, this omission is of great consequence and must be corrected.

9

1.5 Summary of Potential Impacts - Plans and Policies

CORRECT COMMENTS (without adequate discussion of % variance)

The authors correctly identify inconsistencies with Policies LU-1.3 and LU-5.9 which seek to ensure that development is compatible in scale and character with the surrounding area. While their admission that the development is not compatible in scale or character, they fail to provide any qualitative or

10

quantitative information which would include 11 times the density, triple the facade length, 18 times the floor plate size. Without a reference that explains the amount of variance, the DEIS chart is inadequate.

10
cont.

INADEQUATE AND MISLEADING DISCUSSION of Plans and Policies:

This will be discussed in great detail in a later section of this review. The EIS Consultants use very few of the city plans and policies in their review and leave off numerous very important elements. They leave off any discussion of the legal settlement of 1979 that restricted this property and all contiguous properties on the east side of Lake St S/Lake Washington Boulevard. ***These will be brought into discussion later. The EIS consultants also claim that site contamination will continue if the proposal is not built at the level of 143 units per acre multi-use, however any development, small or large, would require this clean-up, and the debris on site must be cleaned up whether there is new construction or not.

11

1.5 Summary of Potential Impacts - AESTHETICS

CORRECT COMMENTS (without adequate discussion of % variance)

- The Authors correctly state that the proposed building size and mass appear to be larger and out of scale compared with surrounding development. The failure of their analysis is again due to the fact that they do not provide any context on the amount of variance. They do not comment on the incompatible appearance of a building with hundreds of residential windows or balconies, a building with a floor plate 18 times that of surrounding floor plates, a facade length more than twice the largest facade length and a height proposed for 4 stories wherein the majority of the surrounding buildings are 1-2 stories and only 14 buildings in the study area are 3 story structures.

12

SOMEWHAT CORRECT / SOMEWHAT MISLEADING

- The Authors correctly state that the proposed building footprint is larger and lot coverage higher than "MUCH" of the development in the surrounding area. The wording would indicate that some development in the area is the similar or greater which is absolutely untrue. In fact, footprint and lot coverage is much larger than ANY development in the surrounding area. The proposal has a footprint that is 18 times that of surrounding buildings and lot coverage that is four times surrounding lot coverage (and compounded by the fact that the proposal will span 3 contiguous properties making it even bigger in mass).

13

CORRECT COMMENTS - (Too Softly stated)

The Authors correctly state that the parking garage entrances is out of character with the surrounding development - This could use some farther emphasis as to how big a variance as compared to study area garage/driveway entrances.

14

The Authors correctly state that the retaining walls are out of character with the surrounding area. The Authors do not address city policies that require properties that are on corner lots to have two front yards. The proposal will have citizens staring at an unattractive side of a building that spans two parcels and has prominent retaining walls. This needs better discussion.

The Authors correctly comment on the landscape buffers not being visible to adjacent properties and, as discussed earlier, they need to provide some discussion on how this will negatively impact aesthetics with long hard facades with little vegetative relief.

The Authors correctly comment on the below grade elevation being inconsistent with the surrounding neighborhood as well as the incompatibility of building colors. Some of the proposed building materials are also inconsistent with the neighborhood aesthetics, and in one instance metal siding was suggested (some types of metal siding may not be allowed under SMP while others may be allowed).

1.5 Summary of Impacts - Transportation (insufficient re: Safety, parking, multimodal transportation)

This matter will be discussed in depth in a later chapter review.

The biggest concern, which is not addressed in this summary is safety. Increasing delay in drive time along the boulevard is known to increase illegal U-turns, unsafe use of intersecting neighborhood

15

streets (instead of arterials), and pedestrian/bicycle conflicts that reduce the usefulness of pedestrian and bicycle routes that have been identified as a high priority to preserve and improve. This reduction in useful pedestrian/bicycle routes is also a safety issue beyond that which is identified in this summary.

15
cont.

Vehicular ingress and egress issues are not sufficiently addressed. The comprehensive plan discussion of ingress and egress problems at the subject properties is not addressed at all. The ingress and egress discussion of the subject property and all properties on the east side of the boulevard that is documented in the 1977 downzone and the 1979 settlement was not reviewed or discussed. The back up of cars within the parking structure (while someone waits to turn left, and the back up of cars on southbound Lake Street when a car waits to enter the parking garage is not discussed at all.

16

Parking impact is insufficiently covered by the transportation impact discussion since problematic exit of parking structure will likely lead to street parking. Additionally, the amount of available on-street parking was not adequately studied during peak hours on peak summer weekdays. This creates an additional area of legally insufficient EIS review.

17

1.5 Summary of Impacts - Construction Impacts

The Authors provide insufficient discussion of traffic and parking impact during construction. In particular, since the excavation is required to be in the dry months (also not stated in the EIS), there will be a conflict with the dates that Lake St S already experiences full utilization of all parking spaces and traffic backup extending to Carrillon Point. A full discussion of how the project will be staged and the impact of all the trucks entering and exiting the roadway during peak season needs to be farther documented in this EIS.

18

As the impact to traffic on the Boulevard is likely going to create unmatched traffic delay, the impact on downtown businesses should be fully detailed by the EIS.

1.6 Mitigation Measures

Looking at the Mitigation Measures suggested by the EIS consultants, they are completely insufficient to mitigate the impacts. The mitigation measures would be like putting a tiny bandaid on a compound fracture that requires a tourniquet. Yes, you have bleeding and yes a bandaid is designed to help stop the bleeding, however a small bandaid will never do the work of a tourniquet.

19

Mitigation Measures - Land Use (Chapter 1, pg 1-8)

Again the author does not appropriately review Comprehensive Plan restrictions of "Residential Market - Commercial" or KZC 170.50 which states that when later Ordinances are approved, the most restrictive of the existing code or Ordinance prevails.

20

The authors INCORRECTLY state that adherence to BN zoning and Shoreline Master Program will ensure that the proposal is consistent with surrounding land use pattern. Again, these regulations alone will not ensure consistent or compatible use and it is for that reason that the Comprehensive Plan definition of "Residential Market-Commercial" was specifically designed for subject properties.

The authors do not identify any mitigation measures that will address conflicts in size, scale, bulk, mass, density, height, floor plate size, lot coverage, facade length or any of the other incompatible land use characteristics. This is an extreme oversight and leaves the EIS as legally inadequate.

Mitigation Measures - Plans and Policies (Chapter 1, pg 1-8)

Numerous additional mitigation measures will be required since numerous city plans, policies and legal constraints on the property were not at all discussed in the consultant's review of Plans and Policies. Additionally, this area only looks at zoning and shoreline master program and once again does not address the more recently adopted Ordinances establishing these properties as "Residential Market - Commercial" and defining allowed uses. KZC 170.50 states that when there are conflicts with a later adopted Ordinance, the most restrictive applies. It is insufficient review of regulations on the property to not include the Comprehensive Plan restrictions.

21

Kirkland's Comprehensive Plan states that the planning director may not approve development if it is not consistent with the Comprehensive Plan designation for the property. Building permits may not be issued if they are not consistent with the Comprehensive Plan.

22

1.6.3 Mitigation - Aesthetics

Once again the EIS consultants only comment on the development being required to comply with the zoning code. There are Shoreline master plan requirements on aesthetics and moreover there are Comprehensive Plan requirements on aesthetics that apply citywide and others that apply to "Residential Market - Commercial" and ensuring that there are aesthetic compatibilities with the surrounding residential neighborhood.

23

OTHER MITIGATION MEASURES (Considerations)

BUILDING MASSING AND SIZE

The authors make some well reasoned suggestions such as stepped back upper stories, deep balconies, separate buildings, reduced building footprints, reduced number of buiding floors and additional measure to achieve architectural and human scale as described in "Design Guidelines for Pedestrian-Oriented Business Districts and KZC 92.30.4 and 6.

HOWEVER, most of the requirements are minimal in degree of suggested change. It is one thing to suggest smaller building footprint but only require minimal reduction and quite another to require a building footprint that will be reduced to a size that is similar to surrounding properties. The mitigation measures generally achieve only the first level which is a modification to the project that is so insignificant that the modification is a sham.

24

PARKING

The authors address only the visual impact of parking driveway but propose nothing that will help mitigate parking on residential side streets.

25

LANDSCAPING AND BUILDING STREET RELATIONSHIP

Authors correctly instruct that first floor elevation should be brought to street level for consistency with the neighborhood and function.

26

AUTHORS FAIL COMPLETELY with regard to front yards required along Lake Washington Blvd, Lake Street S. The required yard per KZC 40.08 and 40.10 is 20 feet with an additional 2 feet for every foot that the structure is above 25 feet. THIS IS A REQUIREMENT OF THE BN ZONE. Authors incorrectly supply renditions that show the proposal being pulled right up to the sidewalk. This is inconsistent with surrounding properties that are all set back from the boulevard and provide lush landscaping and fountains, statues and other items of enjoyment and community benefit.

27

The authors fail to address the fact that both streets should have the appearance of front yards as required by Kirkland policies.

MITIGATION - Transportation

VERY IMPORTANT is the EIS consultant recommendation that parking be bundled with the apartment rental to reduce the likelihood that residents till forego on-sit parking and choose to park on the adjacent streets. Over-use of adjacent streets would crowd parking on neighborhood streets that are not arterials.

28

MITIGATION - CONSTRUCTION IMPACTS

The standard construction hours seem more lenient than the typical construction hours. Please double check.

29

Most of the mitigation measures are things that, in reality, are unenforceable. EIS consultants need to provide means of fully enforcing the proposed mitigations so they don't sound good on paper but end up worthless.

1.7 SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

1.7.1 Land Use - It is a complete misrepresentation to state that there will be no significant unavoidable adverse impacts. The current proposal is completely inconsistent with surrounding neighborhoods and thus will have definite negative impacts that cannot be adequately mitigated with the current proposal.

30

1.7.2 Plans and Policies - Most of the applicable plans, policies and legal restraints are not even mentioned in the current DEIS. Many of them cannot be mediated so there will be adverse impacts that remain if proposed project is approved.

31

1.7.3 Aesthetics - VERY IMPORTANT TO NOTE

Authors correctly state that "THIS DEVELOPMENT WILL CHANGE THE EXISTING CHARACTER AND LONG TERM RELATIONSHIP OF THE SITE TO THE SURROUNDING AREA. The authors then again quote only whether the project meets BN zoning restrictions and once again completely ignores the fact that additional restrictions were added to this BN property with the development of "Residential Market - Commercial" and its definition. The conflict is to be resolved in accordance with KZC 170.50 in favor of late ordinance and applying the most restrictive of policies.

32

1.7.4 Transportation - The current LOS shows going from an LOS of C to E. The city policies allow for a project to be denied if the change in LOS is unacceptable and those that use the boulevard have stated with volumes of letters that the decrease in LOS is unacceptable.

33

There are two additional unavoidable traffic impacts. One is that the construction time-frame during the dry months (as required) will almost shut down traffic flow along the boulevard.

The other is that during construction and after, the additional drag on traffic flow will have a negative impact on those that might choose to come to Kirkland for restaurants, retail or establishment of their businesses.

1.7.5 - Construction Impacts

Submitted by Karen Levenson

6620 Lake Washington Blvd NE, Kirkland WA 98033

on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of Brian Lawler Attorney

From: uwkkg@aol.com
 To: [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [C Ray Allshouse](#); [Glenn Peterson](#); [Teresa Swan](#); [Potala EIS](#); [Janet Jonson](#)
 Cc: uwkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS Neighbor Statements - IMPORTANT Prelude to upcoming emails
 Date: Friday, August 24, 2012 11:16:09 AM

Please see Letter No. 32

(Forwarding to Planning Commissioners - Was sent last night to City Council and Staff)

Good evening City Council Members, Planning Commission and City Staff:

Over the next two days you will receive an incredible amount of information since the citizen teams have reviewed the Draft EIS and find nearly every sentence and every claim to be false, misleading, miscalculated, etc. We want you to have this information if it is helpful to you. There will likely be more information than you desire, and the way that EIS documents are written is often repetitive, so we mainly ask that you read at least this first email, and then pick and chose any additional reading (We mainly have to get all the information in prior to a deadline of 8/24/12 @ 5pm).

We have grave concerns about the fact that very close connections exist between the current planning director and those who he hired to give the required "hard look" and "unbiased review" of the impacts of Potala. Someone of sufficient arms length was requested and at the time we were told that "she" had only done a small amount of work for the city a long time ago." Please read the rest of this document. Future Documents will be Listed Potala DEIS #1 Response, #2 Response, etc and will be sent along for your optional review. Lots and lots of citizen time and energy has been spent to meet the deadline and highlight all the issues.... Thank you.

=====

EIS CONSULTANT SELECTION - NOT ARMS LENGTH REVIEW TEAM

Before embarking on deficiencies in the Draft EIS which make the DEIS worthless at best, and more likely harmful and legally inadequate, the citizens would like to comment on the selection of EIS consultants. This was something that was discussed during the scoping period with the Director of the Planning Department. Citizens wrote and verbally discussed the need for an EIS consultant who was able to be verified as impartial, experienced, and would provide the required "hard look" at all the impacts of the Potala Village project. This was to include the work done to date by the city of Kirkland, the information provided by the applicant and all available information as it applies to the subject property and the proposal.

At the outset, the selection of EIS consultant was considered flawed when citizens discovered that the selected team had past working relationship with the Planning Director of the City of Kirkland. The issue was raised by citizens who were told the working relationship had been for only a short period of time, a small amount of work and it was long ago. Now, new information uncovered the truth that not only is

there a connection where the Inova lead was involved with the city of Kirkland, but also one of the Principals of Inova is Joseph Tovar, former Planning Director, former boss to Eric Shields who turned his position over to Eric when he went to Shoreline, and then became a planning director colleague of Kirkland's planning director.

The community objects again, as it did during scoping, that this close in relationship cannot possibly provide the arm's length review of the work already done by the city of Kirkland and therefore makes any conclusions suspect and void.

Indeed, we have already seen that false statements have arisen from this questionable review. Statements include the fact that 5 story buildings exist in the study area when most of the buildings are 1-2 stories and only 20% are 3 stories. Citizens have verified that there are no 4 or 5 story buildings in the study area. Additionally the consultants claim "mostly multifamily homes with a scattering of single family homes" yet the study area is confirmed at 2/3 single family homes. As you read through public comment on the draft EIS you will see innumerable errors, omissions, miscalculations, misrepresentations and the "parsing" of paragraphs which provide a biased commentary. Interestingly, and troubling, is that much of the inaccurate or misleading information is lifted directly from Kirkland documents, graphs, charts and calculations without the slightest amount of review for accuracy.

This is not the "hard look" at impacts that a legally adequate DEIS or EIS requires. The citizens believe that the work is flawed due to either very sloppy work on the part of Inova, or by work that was done with the bias of attempting to make a square peg fit in a round hole. We invite you to review the DEIS critically with us and believe that you will find that much (or most) of the work defies the straight face test.

Submitted by Karen Levenson
6620 Lake Washington Blvd NE, Kirkland WA 98033
on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of Brian Lawler Attorney

From: uwkkg@aol.com
 To: [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [C Ray Allshouse](#); [Glenn Peterson](#); [Teresa Swan](#); [Potala EIS](#); [Janet Jonson](#)
 Cc: uwkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS: Intro #1 Flawed Scoping Process
 Date: Friday, August 24, 2012 11:17:38 AM

(2nd email sent last night to City Council members - Now being sent to Planning Commissioners)

Please see Letter No. 33

Potala EIS: Introduction #1 Flawed Scoping Process - Citizen Comments

Scoping is the first step in the EIS process. It begins with the Notice of Intent and the initiation of the public scoping process. The purpose of the scoping process is to assure that the full range of issues related to the proposed action is addressed and that potential significant adverse impacts are identified and advanced for further study. Following the scoping process the next step is identifying objectives of the proposal and then a full range of alternatives that would meet the identified objectives.

Beginning with the scoping process, the EIS for Potala is fatally flawed.

- The EIS Scoping process was flawed in that the scope fails to address numerous concerns raised by individuals during the appropriate scoping comment period. Some of the concerns are merely left unanswered in the scoping document. Other specific concerns are rolled up into broad general categories where they get buried rather than ever getting addressed. Avoiding identified issues or burying them into broad general areas where they are essentially lost is contrary to the goal of the scoping process.
- The EIS Scoping process was flawed in that rather than active study of local circumstances and local impacts, the EIS only provides a general narrative based on textbook descriptions and national guidelines. were used even though local circumstances were different than those addressed in national publications.
- The EIS Scoping process was flawed because it was reduced in scope at the request of the developer's team for the purpose of fitting within their budget. (public records) As the EIS is supposed to be a mechanism to "take a hard look at all impacts" it is inappropriate to decrease the scope in order to be more financially agreeable to the developer. Additionally, the idea that the city would negotiate a lower rate for the EIS (on behalf of the developer) is a bit repugnant to the neighbors who requested an increase in scope of the EIS due to legitimate concerns and impacts to the surrounding area.

Submitted by Karen Levenson
 6620 Lake Washington Blvd NE, Kirkland WA 98033
 on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of Brian Lawler Attorney

From: uwkkg@aol.com
 To: [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [C Ray Allshouse](#); [Glenn Peterson](#); [Teresa Swan](#); [Potala EIS](#); [Janet Jonson](#)
 Cc: uwkkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS: Intro #2 OBJECTIVES AND ALTERNATIVES FLAWED
 Date: Friday, August 24, 2012 11:19:12 AM

Please see Letter No. 34

(3rd email sent last night to City Council Members - Now sending to Planning Commissioners)

EIS: OBJECTIVES AND ALTERNATIVES FLAWED

Please read along as we describe flaws in the Objectives and Alternatives listed in the DEIS for Potala. We will identify flaws and we will provide supporting recommendations by Richard Weinman, Land Use consultant hired by the City of Kirkland to advise regarding the Potala EIS process.

- The Objectives for the Potala EIS are flawed as they were developed after the alternatives were determined rather than as a starting point. This requirement to first determining "Objectives" is similar to the requirement of starting with "Purpose and Need" in national NEIS studies. The directionality of the process is intentional as it precludes starting with a desired proposal and working backwards to ensure the proposal "fits." In the Potala EIS, the directional process was incorrect and public records can be provided to support this.

- The Objectives for the Potala EIS are flawed also because they are supposed to be general in nature (qualitative) and not those of a developer. In the list of Objectives for the EIS, several of them are more project specific than allowed while a couple of them are more general and acceptable. For a project like Potala Village these would be general objectives like "provide market rate housing," or "provide neighborhood serving businesses." Once general objectives are set forward then the full range of densities or intensities is supposed to be explored through the EIS process.

- The Alternatives for the Potala EIS are flawed because they are supposed to provide a full range of alternatives and the no-build alternative. Each of these intensities is supposed to be reviewed throughout the entire EIS. It is required that the Alternatives include more than just the applicant's proposal and the no-build alternative but that was not done. Other alternatives were suggested by the neighbors during the appropriate scoping process that fit with the objectives.

- The Alternatives for the Potala EIS are also flawed in that the chosen alternative of 143 unit multiuse building is "CLEARLY INCONSISTENT" with a number of the "Objectives" as identified. The proposal would thus be washed out of consideration due to Fatal Flaw Analysis.***

The land use consultant, Richard Weinman, hired by the city of Kirkland (to advise on the Potala EIS) stated the following:

"One basic principle I use is that the applicant cannot state his/her objectives in a manner to limit the alternatives so that effectively no

alternative other than the proposal can meet those objectives. If an applicant could do that, there would never be a reduced scale alternative in an EIS. It goes without saying that a developer is in business to make a profit, but a specific amount of profit, based on a pro forma, can't be used to eliminate alternatives which reduce units/profit. This could easily lead to a situation where there is no reasonable alternative (i.e., any reduction in proposed units would also reduce profit which would not meet the applicant's objectives). And this would defeat the purpose of alternatives analysis. Again, the Rules state that the alternative need only "approximate" the proposal's objectives and does not have to exactly meet them. So, within that context, a reduced scale alternative would meet the reasonableness test."

"In my experience, it is also quite common for an EIS to include alternatives which do not meet the applicant's objectives and to clearly state that in the EIS. This approach gets past the argument of whether or not a particular alternative is "reasonable" or not and allows the EIS to proceed."

The planning department also has in their records (now in public records) that they referenced DEIS done by other cities in Washington. These had examples of properly evaluated "Alternatives" where there were up to 4 levels of density compared.

In spite of the guidance of Mr. Weinman, the current EIS did not include a lower intensity alternative for the full EIS study. The objectives were written after the scoping meeting when the alternatives of 143 or nothing were presented to the community.

When neighbors asked about a statement of the "Objectives" we were told that they did not yet exist (and public records confirm that they were later developed between the EIS Consultants and the Developer - also incorrect collaboration). Furthermore, when the neighbors asked why a lower intensity "Alternative" was not listed the reasoning was that lower intensity Alternative was not chosen because "it would not meet the objectives of the developer."

As you can clearly see, the focus of the Planning Director was in meeting the needs of the developer, however, that represents exactly the backwards approach to the EIS, and disregard for process that is supposed to allow for an unbiased, and useful review of all the impacts across a range of alternatives.

NOTE: It is important to recognize that the multiple renditions of bulk and massing may show lower number of residential units, however, even these are only "development scenerios" which are not put through the required comparisons that "Alternatives" require. The distinction cannot be overemphasized.

Submitted by Karen Levenson
6620 Lake Washington Blvd NE, Kirkland WA 98033
on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of Brian Lawler Attorney

From: uwkkg@aol.com
 To: [Eric Shields](#); [Jeremy McMahan](#); [Kurt Triplett](#); [Robin Jenkinson](#); [Mike Miller](#); [Jon Pascal](#); [Jay Arnold](#); [Andrew Held](#); [Byron Katsuyama](#); [C Ray Allshouse](#); [Glenn Peterson](#); [Teresa Swan](#); [Potala EIS](#); [Janet Jonson](#)
 Cc: uwkkg@aol.com; neighboringproperties@gmail.com
 Subject: Fwd: Potala EIS: Chapter 1 - Neighbor citations needing correction for final EIS
 Date: Friday, August 24, 2012 11:21:17 AM

Please see Letter No. 35

(4th email sent last night to City Council Members - Now including Planning Commissioners)

Potala EIS - Chapter One - Neighbor citations needing correction for final EIS

1.1.1 Objectives of the Proposal

The proposed alternative completely fails to meet two of the four Objectives that have been established. This is a fatal flaw with the proposal of 143 unit multifamily and therefore cannot be considered as an Alternate.

- The proposal does not "Create a development that is compatible with the surrounding area."

- The proposal is not considered to be "an asset to Kirkland's citizens," nor does it "create an attractive residential mixed use development," both have been the subject of hundreds of neighbor comments, more than 1000 pages of neighbor emails and letters and a petition bearing several hundred signatures.

Chapter 1, pg 1-2

The analysis of Regulatory Statues is deficient in that it fails to include "Residential Market - Commercial" restrictions of the Comprehensive Plan. Clearly the comments include the BN zoning of the property and it includes the regulations of the Shoreline Master Program. Being deficient in not including the Ordinance that was passed to further restrict the BN zoned property as a lowest intensity "Residential Market - Commercial Use." This would also be the appropriate place for Kirkland Zoning Code 170.50 Conflict of Provisions to be addressed and the lack of its' inclusion is disturbing. KZC 170.50 states that "If provisions of the [zoning] code are in conflict with the provision of another Ordinance of the City, the most restrictive provision prevails." Clearly the Ordinance establishing and defining the Residential Market - Commercial Uses and the identification of subject property as a "Residential Market" is the more restrictive and therefore is applicable to the EIS review.

Chapter 1, pg 1-2 thru 1-3 Alternatives

As stated earlier, the DEIS is legally inadequate in that it doesn't provide for a range of alternatives - only the developer's alternative of 143 unit mixed use building or a no-build alternative (Please see important information in EIS Objectives and Alternatives section)

By only providing the proposed action or the no action alternative there is no ability to compare alternatives that would allow for lower intensity, superior design development. Later descriptions state that no action would include no clean up of contamination and no clean up of garbage and debris that is currently on-site. Neighbors would argue that clean up of ones property is a requirement regardless of high

intensity development, lower intensity development or even vacant land.

1.3.2 Describes a single building *** 143 units*** 316 Parking*** Gross Sq Ft. *** Excavated below grade *** Total of 4 floors with first floor submerged below sidewalk level

Chapter 1, pg 1-3 Comments on the total lot coverage being 70%, however this is inconsistent with information provided in other documents by the applicant. The EIS Consultants do not reference any investigation into the reason for the discrepancy or why the applicant has provided different lot coverage figures. In all likelihood the lower lot coverage may be due to some of the newer renditions of the Potala Village project but these are not the subject of the EIS.

Chapter 1, pg 1-3 Alternative Development Scenerios are discussed. It is important to note that for the purposes of EIS, "Different Development Scenerios" are not the same as the required "Alternatives." Legal "Alternatives" get compared throughout the EIS in a pre-specified manner and while there is some value to development scenerios the introduction of these should not be confused with EIS Alternatives.

1.5 Summary of Potential Impacts

Alternative 1 - No Action vs. Alternative 2 143 units Multi-use

Compatibility is discussed

- 1) Authors state that vacant land and small buildings are not compatible
- 2) Authors state that multifamily use is consistent with surrounding land use

NOTE: Vacant land, which includes 1/4 vegetation does not create any incompatible impacts. Additionally a small burger stand, a small laundry and a small home are all similar in intensity of use as surrounding properties. The author does not identify why vegetative cover and low impact single family home next door to another single family home is incompatible. The authors are correct in their comment that a multifamily use is consistent with surrounding land use, but they fail to qualify the intensity of multifamily use that is consistent with surrounding use. An inventory of multifamily buildings shows that for this multifamily use to be consistent with surrounding use, the multifamily building would approximate the local density of 11 units per acre, the building(s) would cover approximately 18% of each lot and the facade length (if compared to the biggest 20 buildings in the study area) would be approximately 104 feet in length and would not exceed 139 feet. Furthermore, to be compatible, the building would need to be no more than 3 stories tall (majority of buildings in subject area are 1-2 stories and none exceed 3).

CORRECT OBSERVATIONS (Needing greater emphasis)

1.5 Summary of Potential Impacts - Land Use

Authors correctly state that the proposed residential density is more dense than the surrounding residential area if overwater structures are excluded. This comment by the consultants, while true, fails to identify the amount of incompatibility in density in that the proposed density is 11 times the surrounding density of the study area which has been confirmed to be 11 dwellings per acre.

Authors correctly state that the landscape buffers would not serve their intended purpose of mitigating noise and visual impacts to the

surrounding area. They don't provide further description of the amount of noise and visual impact that would occur so these comments need more detail. Neighbor comments during scoping indicated concerns about noise and visual impact being quite great with lights from hundreds of windows and the building envelope as well as noise from individual units when windows are open, stereos, air conditioning equipment, etc. The total impact of light and noise from a building of this mass and this residential density needs to serve as an example wherein the authors can adequately qualify the amount of noise and light trespass that will impact the neighborhood.

Authors correctly state that the landscape buffer widths meet requirements for office use but not retail use. It is important for the consultants to note that office use is not a neighborhood serving business as is required, therefore landscape treatment as a retail use are essential and must be increased.

1.5 INCORRECT Summary of Potential Impacts - Land Use

Authors fail in their comments about the proposal meeting fundamental use standards. They correctly cite BN zoning and Urban Mixed shoreline designation, but as said earlier in the review of this chapter, the authors are completely deficient in the overall discussion of fundamental use standards since they avoid any discussion of the residential market designation that was approved by ordinance with a definition of uses and assigned to subject property. Since KZC 170.50 states that incompatibilities with other Ordinances will have the most restrictive provisions as those that apply, this omission is of great consequence and must be corrected.

1.5 Summary of Potential Impacts - Plans and Policies

CORRECT COMMENTS (without adequate discussion of % variance)

The authors correctly identify inconsistencies with Policies LU-1.3 and LU-5.9 which seek to ensure that development is compatible in scale and character with the surrounding area. While their admission that the development is not compatible in scale or character, they fail to provide any qualitative or quantitative information which would include 11 times the density, triple the facade length, 18 times the floor plate size. Without a reference that explains the amount of variance, the DEIS chart is inadequate.

INADEQUATE AND MISLEADING DISCUSSION of Plans and Policies:

This will be discussed in great detail in a later section of this review. The EIS Consultants use very few of the city plans and policies in their review and leave off numerous very important elements. They leave off any discussion of the legal settlement of 1979 that restricted this property and all contiguous properties on the east side of Lake St S/Lake Washington Boulevard. ***These will be brought into discussion later. The EIS consultants also claim that site contamination will continue if the proposal is not built at the level of 143 units per acre multi-use, however any development, small or large, would require this clean-up, and the debris on site must be cleaned up whether there is new construction or not.

1.5 Summary of Potential Impacts - AESTHETICS

CORRECT COMMENTS (without adequate discussion of % variance)

- The Authors correctly state that the proposed building size and mass appear to be larger and out of scale compared with surrounding development. The failure of their analysis is again due to the fact that they do not provide any context on the amount of variance. They

do not comment on the incompatible appearance of a building with hundreds of residential windows or balconies, a building with a floor plate 18 times that of surrounding floor plates, a facade length more than twice the largest facade length and a height proposed for 4 stories wherein the majority of the surrounding buildings are 1-2 stories and only 14 buildings in the study area are 3 story structures.

SOMEWHAT CORRECT / SOMEWHAT MISLEADING

- The Authors correctly state that the proposed building footprint is larger and lot coverage higher than "MUCH" of the development in the surrounding area. The wording would indicate that some development in the area is the similar or greater which is absolutely untrue. In fact, footprint and lot coverage is much larger than ANY development in the surrounding area. The proposal has a footprint that is 18 times that of surrounding buildings and lot coverage that is four times surrounding lot coverage (and compounded by the fact that the proposal will span 3 contiguous properties making it even bigger in mass).

CORRECT COMMENTS - (Too Softly stated)

The Authors correctly state that the parking garage entrances is out of character with the surrounding development - This could use some farther emphasis as to how big a variance as compared to study area garage/driveway entrances.

The Authors correctly state that the retaining walls are out of character with the surrounding area. The Authors do not address city policies that require properties that are on corner lots to have two front yards. The proposal will have citizens staring at an unattractive side of a building that spans two parcels and has prominent retaining walls. This needs better discussion.

The Authors correctly comment on the landscape buffers not being visible to adjacent properties and, as discussed earlier, they need to provide some discussion on how this will negatively impact aesthetics with long hard facades with little vegetative relief.

The Authors correctly comment on the below grade elevation being inconsistent with the surrounding neighborhood as well as the incompatibility of building colors. Some of the proposed building materials are also inconsistent with the neighborhood aesthetics, and in one instance metal siding was suggested (some types of metal siding may not be allowed under SMP while others may be allowed).

1.5 Summary of Impacts - Transportation (insufficient re: Safety, parking, multimodal transportation)

This matter will be discussed in depth in a later chapter review. The biggest concern, which is not addressed in this summary is safety. Increasing delay in drive time along the boulevard is known to increase illegal U-turns, unsafe use of intersecting neighborhood streets (instead of arterials), and pedestrian/bicycle conflicts that reduce the usefulness of pedestrian and bicycle routes that have been identified as a high priority to preserve and improve. This reduction in useful pedestrian/bicycle routes is also a safety issue beyond that which is identified in this summary.

Vehicular ingress and egress issues are not sufficiently addressed. The comprehensive plan discussion of ingress and egress problems at the subject properties is not addressed at all. The ingress and egress discussion of the subject property and all properties on the east side

of the boulevard that is documented in the 1977 downzone and the 1979 settlement was not reviewed or discussed. The back up of cars within the parking structure (while someone waits to turn left, and the back up of cars on southbound Lake Street when a car waits to enter the parking garage is not discussed at all.

Parking impact is insufficiently covered by the transportation impact discussion since problematic exit of parking structure will likely lead to street parking. Additionally, the amount of available on-street parking was not adequately studied during peak hours on peak summer weekdays. This creates an additional area of legally insufficient EIS review.

1.5 Summary of Impacts - Construction Impacts

The Authors provide insufficient discussion of traffic and parking impact during construction. In particular, since the excavation is required to be in the dry months (also not stated in the EIS), there will be a conflict with the dates that Lake St S already experiences full utilization of all parking spaces and traffic backup extending to Carrillon Point. A full discussion of how the project will be staged and the impact of all the trucks entering and exiting the roadway during peak season needs to be further documented in this EIS.

As the impact to traffic on the Boulevard is likely going to create unmatched traffic delay, the impact on downtown businesses should be fully detailed by the EIS.

1.6 Mitigation Measures

Looking at the Mitigation Measures suggested by the EIS consultants, they are completely insufficient to mitigate the impacts. The mitigation measures would be like putting a tiny bandaid on a compound fracture that requires a tourniquet. Yes, you have bleeding and yes a bandaid is designed to help stop the bleeding, however a small bandaid will never do the work of a tourniquet.

Mitigation Measures - Land Use (Chapter 1, pg 1-8)

Again the author does not appropriately review Comprehensive Plan restrictions of "Residential Market - Commercial" or KZC 170.50 which states that when later Ordinances are approved, the most restrictive of the existing code or Ordinance prevails.

The authors INCORRECTLY state that adherence to BN zoning and Shoreline Master Program will ensure that the proposal is consistent with surrounding land use pattern. Again, these regulations alone will not ensure consistent or compatible use and it is for that reason that the Comprehensive Plan definition of "Residential Market-Commercial" was specifically designed for subject properties.

The authors do not identify any mitigation measures that will address conflicts in size, scale, bulk, mass, density, height, floor plate size, lot coverage, facade length or any of the other incompatible land use characteristics. This is an extreme oversight and leaves the EIS as legally inadequate.

Mitigation Measures - Plans and Policies (Chapter 1, pg 1-8)

Numerous additional mitigation measures will be required since numerous city plans, policies and legal constraints on the property were not at all discussed in the consultant's review of Plans and Policies. Additionally, this area only looks at zoning and shoreline master

program and once again does not address the more recently adopted Ordinances establishing these properties as "Residential Market - Commercial" and defining allowed uses. KZC 170.50 states that when there are conflicts with a later adopted Ordinance, the most restrictive applies. It is insufficient review of regulations on the property to not include the Comprehensive Plan restrictions.

Kirkland's Comprehensive Plan states that the planning director may not approve development if it is not consistent with the Comprehensive Plan designation for the property. Building permits may not be issued if they are not consistent with the Comprehensive Plan.

1.6.3 Mitigation - Aesthetics

Once again the EIS consultants only comment on the development being required to comply with the zoning code. There are Shoreline master plan requirements on aesthetics and moreover there are Comprehensive Plan requirements on aesthetics that apply citywide and others that apply to "Residential Market - Commercial" and ensuring that there are aesthetic compatibilities with the surrounding residential neighborhood.

OTHER MITIGATION MEASURES (Considerations)

BUILDING MASSING AND SIZE

The authors make some well reasoned suggestions such as stepped back upper stories, deep balconies, separate buildings, reduced building footprints, reduced number of building floors and additional measure to achieve architectural and human scale as described in "Design Guidelines for Pedestrian-Oriented Business Districts and KZC 92.30.4 and 6.

HOWEVER, most of the requirements are minimal in degree of suggested change. It is one thing to suggest smaller building footprint but only require minimal reduction and quite another to require a building footprint that will be reduced to a size that is similar to surrounding properties. The mitigation measures generally achieve only the first level which is a modification to the project that is so insignificant that the modification is a sham.

PARKING

The authors address only the visual impact of parking driveway but propose nothing that will help mitigate parking on residential side streets.

LANDSCAPING AND BUILDING STREET RELATIONSHIP

Authors correctly instruct that first floor elevation should be brought to street level for consistency with the neighborhood and function.

AUTHORS FAIL COMPLETELY with regard to front yards required along Lake Washington Blvd, Lake Street S. The required yard per KZC 40.08 and 40.10 is 20 feet with an additional 2 feet for every foot that the structure is above 25 feet. THIS IS A REQUIREMENT OF THE BN ZONE. Authors incorrectly supply renditions that show the proposal being pulled right up to the sidewalk. This is inconsistent with surrounding properties that are all set back from the boulevard and provide lush landscaping and fountains, statues and other items of enjoyment and community benefit.

The authors fail to address the fact that both streets should have the appearance of front yards as required by Kirkland policies.

MITIGATION - Transportation

VERY IMPORTANT is the EIS consultant recommendation that parking be bundled with the apartment rental to reduce the likelihood that residents till forego on-sit parking and choose to park on the adjacent streets. Over-use of adjacent streets would crowd parking on neighborhood streets that are not arterials.

MITIGATION - CONSTRUCTION IMPACTS

The standard construction hours seem more lenient than the typical construction hours. Please double check.

Most of the mitigation measures are things that, in reality, are unenforceable. EIS consultants need to provide means of fully enforcing the proposed mitigations so they don't sound good on paper but end up worthless.

1.7 SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

1.7.1 Land Use - It is a complete misrepresentation to state that there will be no significant unavoidable adverse impacts. The current proposal is completely inconsistent with surrounding neighborhoods and thus will have definite negative impacts that cannot be adequately mitigated with the current proposal.

1.7.2 Plans and Policies - Most of the applicable plans, policies and legal restraints are not even mentioned in the current DEIS. Many of them cannot be mediated so there will be adverse impacts that remain if proposed project ia approved.

1.7.3 Aesthetics - VERY IMPORTANT TO NOTE

Authors correctly state that "THIS DEVELOPMENT WILL CHANGE THE EXISTING CHARACTER AND LNG TERM RELATIONSHIP OF THE SIT TO THE SURROUNDING AREA. The authors then again quote only whether the project meets BN zoning restrictions and once again completely ignores the fact that additional restrictions were added to this BN property with the development of "Residential Market - Commercial" and its definition. The conflict is to be resolved in accordance with KZC 170.50 in favo of late ordinance and applying the most restrictive of policies.

1.7.4 Transportation - The current LOS shows going from an LOS of C to E. The city policies allow for a project to be denied if the change in LOS is unacceptable and those that use the boulevard have stated with volumes of letters that the decrease in LOS is unacceptable.

There are two additional unavoidable traffic impacts. One is that the construction time-frame during the dry months (as required) will almost shut down traffic flow along the boulevard.

The other is that during construction and after, the additional drag on traffic flow will have a negative impact on those that might choose to come to Kirkland for restaurants, retail or establishment of their businesses.

1.7.5 - Construction Impacts

Submitted by Karen Levenson 6620 Lake Washington Blvd NE, Kirkland WA 98033

on behalf of myself, my family, my HOA, other HOAs and neighbors who have asked that I represent them, neighbors of "One Neighborhood Block," citizens of STOP, clients of David Mann Attorney and Clients of

Brian Lawler Attorney

From: uwkkg@aol.com
To: [Potala EIS](#); [Teresa Swan](#)
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: Potala EIS Comments and Revisions needed Chapter 3.2 Vision and framework goals
Date: Friday, August 24, 2012 4:40:59 PM

Citizen comments pointing out shortcomings of EIS in Chapter 3.2 Vision and Framework Goals. These need to be farther investigated and documented by the consultant and better mitigation must be suggested

Comprehensive Plan Chapter II Vision/Framework Goals

While the EIS consultants include framework goal FG-3 and FG-13, they fail to include FG-1, FG-8, FG-09, FG-12, and FG-14 all of which have substantial, important bearing on the overall review of "All the Impacts" which is necessary for a complete and accurate EIS.

FG-1 requires "Maintain and enhance Kirkland's unique character." It goes on to state that each of the City's neighborhoods and businesses has its own distinctive identity and a prime goal is to protect and improve those qualities that make our neighborhoods and business districts so attractive." EIS consultants should be able to reference the citizen comments and their own conclusions that the proposal does not maintain the current unique neighborhood character of the area in which it is proposed.

FG-8 requires "Maintain and enhance Kirkland's strong physical, visual, and perceptual linkages to Lake Washington." This goal then goes on to discuss the importance of maintaining lake and territorial views from public spaces in the west facing slopes.

FG-9 requires "Provide safety and accessibility for those who use alternative modes of transportation within and between neighborhoods" It then states that an important part of Kirkland's existing character is its safety and accessibility for pedestrians, bicyclists and alternative modes of transportation. The proposal has been identified by traffic engineer and public safety as well as neighbors and the EIS consultants as one where the driveway will create severe impact on pedestrian, bicycle and alternative transit on the east side of the boulevard. The reduced safety and the increased likelihood of pedestrian or bicycle accidents has been clearly identified with respect to this proposal and yet the EIS consultants do not include FG-9 or sufficient discussion of how the project can be mitigated to support FG-9.

FG-12 requires that the public safety be ensured with respect to Police and Fire Protection. This will require obtaining new response times based on the fact that the only street accessing many properties in an emergency is the boulevard. When the LOS changes from C to E that length of delay for emergency vehicles must be investigated in order to document the new response time and this must be listed as a significant impact and then mitigated sufficiently.

FG-14 requires that while Kirkland must plan for its fair share of regional growth, "careful attention must be paid to ensure that growth is accommodated in a manner that complements rather than detracts from Kirkland's unique character. Clearly the incompatibilities identified by the citizens of Kirkland and by the EIS consultants are examples of

where the proposal fails to implement FG-14 and farther discussion and substantial mitigation measures are needed.

1
cont.

Karen Levenson

6620 Lake Washington Boulevard NE, Kirkland

This is submitted also on behalf of my family, my HOA, local neighbors and HOAs that have asked me to represent them, clients of Brian Lawer, clients of David Mann, neighbors of "One Neighborhood Block" and citizens represented by STOP

From: [Karen](#)
To: [Potala EIS](#); [Teresa Swan](#)
Subject: Potala Chapter 3.2 Markups and Areas of Correction for EIS
Date: Friday, August 24, 2012 4:43:56 PM
Attachments: [Potala DEIS Chapter 3_2.pdf](#)

I am submitting this as supplemental material regarding neighbor challenge of a very deficient and misleading DEIS

| 1

Karen Levenson

6620 Lake Washington Boulevard NE, Kirkland

This is submitted also on behalf of my family, my HOA, local neighbors and HOAs that have asked me to represent them, clients of Brian Lawer, clients of David Mann, neighbors of "One Neighborhood Block" and citizens represented by STOP

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).

***Within the city of Kirkland, the Ordinances that adopted the Comprehensive Plan also adopted wording that states that the city may not approve any development that is not consistent with the Comprehensive Plan.

***Also, in Kirkland, KZC ___ states that where conflicts exist between zoning code and later adopted ordinances or plan, the most restrictive regulations apply.

City of Kirkland
Potala Village Mixed Use Development Draft EIS

Plans and Policies
3.2-1

***This may be different than other cities, but since these have been approved as an ordinance by Kirkland's

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.¹

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.

Likely need to add other Framework Goals

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.

Likely need to add more Community Character info here

¹ 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 client 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.

3
cont.

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.

Likely need more on Economic Development here

Land Use Element

4

Some properties with density caps do not have these caps listed on the map. (e.g. MSC1 and MSC4 zones both have caps of 12 & 18. Staff's prior comment that density cap would always be shown on map is fully

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."² 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.

BN-Res Mkt Properties actually had residential uses specifically removed from allowed commercial uses in 1995.

6

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

5

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

This is not orderly land use and does not maintain or improve the City's existing Character.

- 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

It was removed from the description of Res Mkt in the Land Use Chapter, in the Economic Development Chapter, in the Neighborhood Plan Chapter and in the appendix area

7

² City of Kirkland, Comprehensive Plan: Land Use Element, September 2011.

Changed in 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;
This project will interfere with pedestrian/bicycle transportation w/ 1 car blocking the sidewalk as it tries to enter traffic each 30 seconds during PM Peak
- 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.

This project is not consistent with community character in size, scale, density, bulk, mass and lot coverage

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.

This proposal damages character, quality & function of existing residential neighborhoods. It dramatically exceeds growth planned for Mossbay during 1995 & 2004 Comp Plans

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.

This proposal is not consistent with the basic pattern of land use in the city. It is 10-15 times more intense land use than the neighborhood and it is more residentially intense than ANY residential dwelling 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.³

This is not small or very small as required. It is not residential in scale or design as required. It stands out like a sore thumb and does not integrate into the residential area as required. It does not allow for Medical Office as proposed by the developer (chosen because Medical office requires less parking than regular office or retail.... (NOTED IN PUBLIC RECORDS).

³City of Kirkland, Comprehensive Plan, September 2011.

Check if changed in 2011

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

11

This proposal is in sharp contrast with the lowest intensity development planned for the site. It is not consistent with this hierarchy.

Local citizens have demonstrated that they do not accept this plan for residential market. They are strongly opposed to current design and intensity/density.

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

320 parking spaces is not a minimal amount of parking

The building design is not compatible with neighborhood in size, scale or character

• 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:

12

The range of housing in Mossbay is within the range of 5-24 units per acre with only those properties closest to CBD being developed at 24 to provide transition to downtown

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.⁴

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.

5-12 dwellings per acre surround the subject site

13

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.

14

The cited text does not indicate a southerly boundary because the density of 12/acre extends all the way south along the boulevard to Carrillon Point and beyond. This is consistent with the changes made in 1977 that downzoned residential density in all the residential, office and commercial properties.

⁴ 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:

- 15 | The first sentence was left off !!!! Hmmm... In bold letters it highlights the vehicular ingress and egress issue as the reason for limiting development. *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.***⁵

This specifically identifies the subject property (although it looks like the consultant have slightly changed the wording from that which is in the



Source: City of Kirkland

⁵ City of Kirkland. Comprehensive Plan: Moss Bay Neighborhood Plan. September 2011.

Lakeview Neighborhood Plan

The subject site adjoins the north boundary of the Lakeview Neighborhood Plan (see Figure 3.2-4). Adjacent is a large area restricted to 12 units per acre. 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).

Adjacent is a large area restricted to 12 units per acre

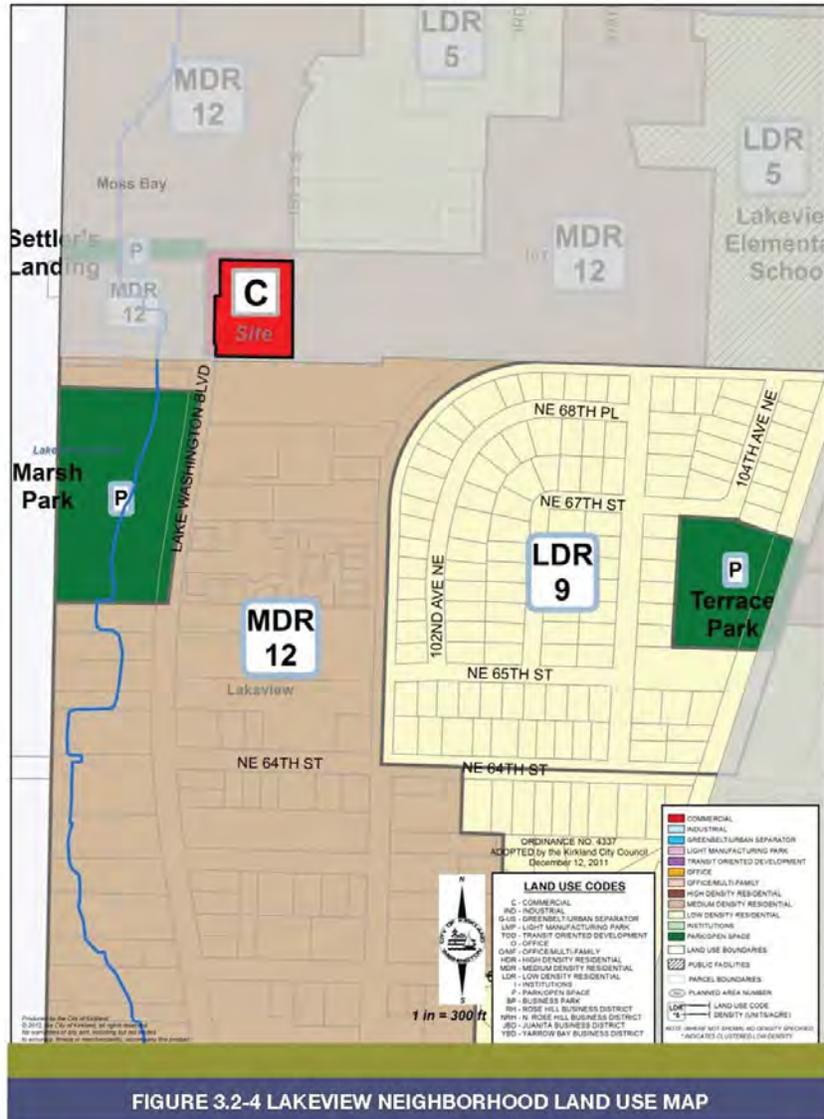


FIGURE 3.2-4 LAKEVIEW NEIGHBORHOOD LAND USE MAP

Source: City of Kirkland

NOTE: The last several pages discussed land use. This would have been the appropriate place to evaluate how the proposal fulfilled the land use restrictions to lowest intensity development "Residential Market." Neighbors were told that the EIS process would thoroughly study and discuss Residential Market Commercial and the proposal. This was not done whatsoever !!!!!!!!!!!!!!!

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. Neighbors cannot find any investigation of tire and battery investigation, only brief investigation of dry cleaners
- 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. It does not seem that any testing was done in the area of the service station.

- 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. It does not seem that any testing was done in the area where storage tanks might have been



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. *Neighbors saw some work consistent with removing tanks (late 2010 or early 2011) but have not found information showing that this was done by those required to oversee/perform removal*

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 applicant is not eligible for a development permit until he demonstrates that clean up is complete

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

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.

21

However, development at 12-24 units per acre plus neighborhood serving businesses would fulfill this. The city was asked (during appropriate comment period) to have this included in the EIS and a consultant that the city hired stated that an interim density should be studied. It wasn't. Why???

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.

Development at 12-24 units per acre plus neighborhood serving businesses (as recommended for study by the neighbors and a separate consultant to the city) would be fully supportive of Community Character Element AND could retain public scenic views and existing landforms.

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.

Development at 12-24 units per acre plus neighborhood serving businesses (as recommended for study by the neighbors and by a separate consultant to City of Kirkland would fully support all of this.

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.

Development at 12-24 units per acre plus neighborhood serving businesses (as recommended for study by the separate consultant hired by the City of Kirkland ... and the neighbors... would fully support all these goals and policies.

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.

22

It is important to note that city funds were used to hire a separate EIS/Land Use consultant to guide the city through the EIS process. He provided guidance that it would be a good idea to include the study of an alternative other than just the proposed development and the "No Action" alternative. It is unknown why the city therefore did not have the EIS cover an interim intensity project in this review. The city did receive email(s) from the developer asking if the EIS could be scaled back to reduce the cost. Is this appropriate? It would seem not. The purpose of EIS is to protect the Environment and the city and it would seem inappropriate to reduce the scale of investigation merely for the economic interest of the developer.

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

23 | The existing development on the eastern portion of the site is not consistent with the commercial designation since it was re-zoned commercial due to a mapping and rezoning error in 1995. (public records available)

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.

24 | If developed at 12-24 units/acre plus neighborhood serving businesses, there would be further investigation of site contamination and cleanup

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

25 | Concurrency Standards for transportation. Please see the Section 3.4 Transportation of this Draft EIS for additional discussion of transportation issues. However, the signalized intersections involved in Concurrency

Standards are not anywhere near the subject site. Site specific impacts were not studied with Concurrency

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*.⁶ 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.

⁶ 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 1/2 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.

This proposal does not support Goal LU-1 as it does not retain the community's character and quality of life

It does not minimize traffic congestion. The proposal DOES NOT comply with policy LU1-3 because it is not compatible in scale and character with neighborhood

It does not comply with policy LU1.4. There is not an effective transition between uses to minimize visual and noise impacts. The proposal is NOT benignly

"compact," instead it is damagingly ultra dense. Rather than providing areas for common space (as multifamily must do, this project puts

the burden of its open space requirement onto the general use sidewalks, parks and street parking spaces. This shifts the burden of providing for needs of development from the

applicant to the city and the local neighborhood

27

Proposal fails to provide on-site recreational open space as required for multifamily housing in Kirkland (there are no balconies, the courtyard and open spaces are smaller than required by code, etc)

Rather than providing these areas of relief needed by its residents, this project relies instead on local street corner, local sidewalk and local parks to fulfill this residential

need. This project will NOT improve the sidewalks, and instead, will have one car per 30 seconds crossing the driveway. This will impede pedestrian and bicycle flow.

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.

30

The EIS Consultant reworded the second standard.

The actual wording and the intent are to restrict development to a size that would require "a minimum of off-street parking." This is farther explained in the Comp Plan where it states that this is due

to documented vehicular ingress and egress troubles at both Res Mkt sites which make them unsuitable for commercial uses, however at both the 10th St site and the location of the Super 24, the Plan suggests that "LIMITED" commercial use may continue as long as it continues to bring neighborhood foot traffic instead of more cars.

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.

It is unacceptable for this type of cleanup to be done without Dept of Ecology or City of Kirkland oversight particularly since there was a lack of initial disclosure of the contamination (public records wherein staff emails developer when this was brought to her attention by a neighbor), questionable removal of underground tanks. The site is a sensitive location near Shorelines of Statewide Significance and slamonoid and Bull Trout habitat

The EIS Consultant left off part of LU-5.9

In the first standard it states that Res Mkts must demonstrate neighbor acceptance

This proposal has failed to meet that standard.

29

31

32

33

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. The site has been reviewed several times for development. Each time presubmittal documents state that compliance with the Comp Plan is also required, and if there are conflicts between plans, codes and ordinances the most restrictive regulation applies. This same information was provided to the applicant for discussion of proposed mitigation to ensure that

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.

NOTE that while commercial space is being proposed for Medical office to minimize parking requirement, this is insincere since the applicant is already planning for retail use (which otherwise requires greater parking)

3.2.4 Significant Unavoidable Adverse Impacts

No significant unavoidable adverse impacts are anticipated.

There are numerous unavoidable adverse impacts that are significant - EIS Consultant comments are mis-statements

The quality of life will be unavoidably and negatively impacted by the independent variable of residential density.

Adverse impacts will include:

- Large amounts of noise impact (stereos, voices, HVAC, etc)
- Large amounts of loss of privacy impacts into neighbor backyards, balconies, windows as ultra high intensity will make it impossible to stagger windows in a manner that will not invade the privacy of local neighbors.
- Large amounts of light impacts due to hundreds of windows emitting light that interferes with enjoyment of night sky and stars as well as the lake and the reflection of city lights
- Large amount of PUBLIC view loss due to a very large building and it's crossing of property lines. There is loss of view from 10th Ave S looking towards the lake, Lake Washington Blvd looking east towards the mountains, etc.
- Large amount of vehicular interruption along LWB as southbound cars stop and wait to enter the site and create backup of traffic (City of Kirkland estimates 1 car per 30 seconds across the driveway at Peak PM)
- Large amount of pedestrian and bicycle transportation interruption as both peds and bikes will have to wait for cars entering and exiting at 1 per 30 seconds during peak PM.
- Large amount of loss of community character since the project is proposed to be a big square looking box built at 70 or 80% lot coverage in a community where lot coverage is allowed at 60% but actual building is at 20-30% coverage. Also the other size, scale, setback, setbacks of existing development are not reflected in the current proposal.
- Large variance compared to required LWB/Lake St front yards will create "choppy" experience. As compared to the lush gardens, water fountains and statues provided by HOAs along the boulevard, the current proposal is not honoring the 20 foot front yard requirement or the requirement for additional front yard if the project is taller than 25 feet. This interrupts the lush lakefront experience and provides a harsh contrast which will irreparably impact the character of the area.

34

35

36

Hiring and "independent" consultant to do EIS was worthless as the EIS consultant has merely regurgitated early staff documents before it was recognized that the project was inconsistent with Comp Plan. Neighbors do not feel that "independent" consultant that has city oversight is any more likely to provide good protection to environment.

37

From: Uwkkq@aol.com
 To: [Potala EIS](#); [Teresa Swan](#)
 Cc: uwkkq@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS Chapter 3.2 Community Character deficient review and mitigations
 Date: Friday, August 24, 2012 4:47:11 PM

I am submitting these comments about the EIS Chapter 3.2 and the section on Community Character. It identifies numerous problems and many omissions by the EIS team. We expect to see a better document with suggestions that will truly mitigate the project to a level where it meets with Kirkland codes and policies

1

Comprehensive Plan - Community Character

The EIS consultants provide only minimal evaluation of the proposal with respect to Community Character Goals and Policies of the Comprehensive Plan. They limit their review to only CC-4.1 and 4.5. They fail to also review the following CC 1.4 and CC 4.6

2

CC-1.4 requires "Encourage and develop places and events throughout the community where people can gather and interact. This goes on to include "The city should encourage private developers to integrate public art into office, retail and multifamily projects. This oversight on the part of the EIS consultants is quite substantial because Kirkland requires a certain amount of open recreational space where multi-unit residences are built and the Proposal fails to meet the 200 sq ft per unit requirement. Additionally, the commercial designation of the subject property requires community gathering spaces. The EIS consultants need to include this in their review and suggest mitigation that will ensure that the development satisfies this criteria. Additionally the inclusion of public art and lush landscaping along the boulevard is provided by every building along this signature boulevard. To fit within the character of the neighborhood, this project must provide similar public art, fountains, and greenery.

CC-4.6 requires "Preserve natural landforms, vegetation, and scenic areas that contribute to the City's identity and visually define the community, its neighborhoods and districts." This goes on to discuss "Open space and areas of vegetation are valuable because they accentuate natural topography, define the edges of districts and neighborhoods, and provide a unifying framework and natural contrast to the City's streets, buildings and structures. Landscaping can improve the community character. Several neighborhoods contain unique natural features, including significant stands of trees. The intent of this policy is not to prohibit development but to regulate development activities to ensure they maintain the inherent values of the natural landscape." A more in-depth discussion of this matter is needed in the EIS. The subject properties have a dramatic slope that provides character and will be removed by excavation. More importantly there are numerous very significant trees that provide much of the character of this part of the neighborhood as well as providing habitat for many birds, including the neighborhood bald eagle. The EIS should discuss mitigations to include building around the significant trees rather than pulling out these significant trees and replacing with small street trees. The discussion of landscaping to provide community character is also in need of greater discussion as the proposal will otherwise be the only property along the boulevard that is devoid of any significant front landscaping.

CC-4.10 requires "Maintain and enhance the appearance of streets and other public spaces." It is important to note that the residential market designation which is specifically assigned to this property at the time of application requires community gathering spaces. For this reason there should be more discussion and mitigations required to support this item.

CC-4.11 requires "Minimize impacts from noise, lighting, glare and odor." This goes on to state that "As the community becomes more urban with mixed uses and denser development, impacts, such as noise, lighting, glare and odor, may occur. The City should have development regulations and urban design principles to reduce and, in some cases, prohibit these impacts. Site design, building orientation, landscape buffers ... and limitation on business hours of operation are some of the techniques that may be used." These provisions are very important. We see again here the emphasis on things like

landscape (which is basically non-existent with the proposal). We see the importance of site design, building orientation and landscape buffers.....Of particular importance, this item calls out the negative impacts of density... these are specifically the independent negative impacts of density that the neighbors have been identifying during this process.... noise, lighting , glare and odor. The proposal as suggested is so overly large and so overly filled with people that the site design will never be able to avoid numerous windows with light or noise or odor that will trespass into the lives of existing neighbors. A smaller building with less residents and less windows would allow for the building to be sited in such a way that windows could be staggered so as not to look so directly into the backyards, patios, balconies and windows of the existing neighbors. The amount of noise, lighting, glare and odor can be vastly reduced by a lower density and thoughtful site design. The EIS consultants haven't even scratched the surface on this issue. They need to fully explore the number of residents, the number of resulting windows, the amount of direct exposure to the neighbors of noise, light, glare and odor. This is an issue that greatly requires a look at a lower intensity development on the site. The EIS consultants need to identify substantial ways to minimize these impacts and thus support city regulations.

CC-4.12 requires "Support multimodal transportation options." and goes on to state "Public improvements and site design each play an important role in encouraging the use of alternative transportation modes." Site design is to be sensitive to these transportation modes however the proposal for 143 units and commercial with one busy driveway has already been identified as a deterrent to pedestrian and bicycle use of the east side of the boulevard and an increased safety hazard for them. Most troubling is that this is one of Kirkland's identified priority bicycle and pedestrian routes. EIS consultants gave sparse, if any comment on the impact this will have on this alternative transportation route. Remember, the EIS is supposed to provide a "hard look" at all impacts. EIS document is quite flawed without a more in-depth discussion of the impact that this project will have on transport due to the fact that the concurrency study concluded that 1 car will traverse the driveway every 30 seconds at peak pm.

Karen Levenson

6620 Lake Washington Boulevard NE, Kirkland

This is submitted also on behalf of my family, my HOA, local neighbors and HOAs that have asked me to represent them, clients of Brian Lawer, clients of David Mann, neighbors of "One Neighborhood Block" and citizens represented by STOP

From: Uwkg@aol.com
 To: [Potala EIS](#); [Teresa Swan](#)
 Cc: uwkg@aol.com; neighboringproperties@gmail.com
 Subject: Potala EIS Chapter 3.2 Natural Env: Consultant oversights need review/mitigation
 Date: Friday, August 24, 2012 4:49:29 PM

Comprehensive Plan - Natural Environment

The EIS Consultants provide absolutely no review of the Natural Environment provisions of the Comprehensive plan. This is one of hundreds of areas of deficiency in the EIS. These must be included, discussed and ADEQUATELY mitigated

1

Specifically the EIS should be addressing

NE-1.8 requires "Strive to minimize human impacts on habitat areas." This goes on to state that "In addition to physical alterations of natural resources, less obvious impacts, such as those from noise and light, should be minimized." The area is known habitat for numerous species of birds and is a known area used frequently by the neighborhood bald eagle. Not only does the current proposal make the parcel completely bald of mature trees and foliage, it will add a tremendous amount of noise and light. Discussion should be on how to minimize these impacts which may be unavoidable unless the size and density of the structure are reduced and the mature trees are maintained.

2

NE-2.2 requires "Protect surface water functions by preserving and enhancing natural drainage systems wherever possible" This goes on to state that "Urban development, through addition of impervious surface and removal of vegetation, increases the volume and rate and decreases the quality of stormwater runoff." "Steps to limit this damage include -Minimizing creation of new impervious surfaces, maximize use of soils and vegetation in slowing and filtering runoff, installing structural flow control facilities at new or redeveloping sites where appropriate to mimic the predevelopment hydrologic regime, require projects to provide water quality treatment facilities if they propose to alter or increase significant quantities of impervious surface" This discussion in the Comprehensive Plan is very important with respect to subject property. Currently there is a great deal of pervious soil as about 1/4 of the property is covered in vegetation. There will be a tremendous shift towards pervious surface since the applicant has stated that he will be at 80% lot coverage. On top of that there will be driveways and other impervious surfaces replacing vegetation. A full study done by a skilled professional should be included in this EIS so that these issues are sufficiently addressed by development on the site.

NE-2.3 requires "Comprehensively manage activities that may adversely impact surface and ground water quality or quantity. (see our discussion in NE-2.2)

NE-2.4 requires "Improve management of stormwater runoff from impervious surfaces by employing low impact development practices where feasible (see our discussion in NE-2.2)

NE-3 requires "manage the natural and built environments to protect and, where possible to enhance and restore vegetation.

NE- 3.1 requires "Work toward increasing Kirkland's tree cover to 40%." EIS Consultants should describe, at a minimum, how the proposal will be required to mitigate in order to at least achieve no net loss."

NE-3.2 requires "Preserve healthy mature native vegetation whenever feasible." This goes on to state that "Healthy mature native vegetation contributes numerous ecological benefits to the community, including oxygen production, provision of fish and wildlife habitat, filtration of stormwater runoff, erosion reduction, hillside and stream bank stabilization moderation of temperature, interception of rainfall that would otherwise become surface runoff, and scenic beauty." The EIS Consultants need to discuss how this will be achieved or mitigated since numerous mature trees and a great deal of vegetation will be replaced with impervious surface and will no longer serve these functions. Less lot coverage would allow for more preservation of this vegetation and its benefits.

NE-3.3 requires "Ensure that regulations, incentives and programs maximize the potential benefits of landscaping" This part of the comprehensive plan needs to be fully reviewed due to the numerous benefits outlined. Landscape is severely lacking in the proposal and all of these statements about appropriate landscaping and its benefits need to be explored and applied to this EIS review.

Karen Levenson

6620 Lake Washington Boulevard NE, Kirkland

This is submitted also on behalf of my family, my HOA, local neighbors and HOAs that have asked me to represent them, clients of Brian Lawer, clients of David Mann, neighbors of "One Neighborhood Block" and citizens represented by STOP

From: Uwkkq@aol.com
 To: [Potala EIS](#); [Teresa Swan](#)
 Cc: uwkkq@aol.com; neighboringproperties@gmail.com
 Subject: Potala DEIS Chapter 3.2 Comprehensive Plan better review and mitigation
 Date: Friday, August 24, 2012 4:53:54 PM

Chapter 3.2 Comprehensive Plan issues need better review and better mitigation

1

Comprehensive Plan - Land Use These areas are not appropriately covered and have misleading statements. The EIS consultants need to add additional review and correct their mis-statements.

This chapter is very important because it deals with land use. It is one of the most misrepresented areas of the EIS and has the most miscalculations. The EIS team also specifically avoids review of the Residential Market designation and whether it meets the definition assigned to this property by Ordinance on at least 4 occasions without appeal.

The land use chapter references the City's Community Profile document which the EIS team needs to review. This document provides information on current land uses. This will be helpful in correcting the wildly inaccurate density calculation previously provided by the consultants. This publication provides the densities of properties and deals with overwater buildings in the area as well as those that are landward. It provides the city's calculation of densities in the perimeter area of Moss Bay as 19 units per acre. It also states correctly that the properties farther from downtown decrease in density. This is supported by the neighbor's survey which confirmed 11 units per acre average in the study area.

2

Specific points raised in this chapter are that New Growth must be "managed to protect the residential character of the community."

3

Pg VI-4 in the Comprehensive Plan describes Commercial properties and identifies the Residential Markets as on the lowest end (smallest) vs. regional draws like Totem Lake and downtown.

4

To show whether or not the proposal meets the requirement for a small building, it is essential that the EIS team be presented, and use, several charts and graphs prepared by the city of Kirkland. The city has prepared charts and diagrams that show comparative residential densities, comparative lot coverage, comparative footprint size, comparative facade length and comparative heights and number of stories. The citizens have also provided a lot of this information. Any of the ways that one might determine if a building is small compared to its surroundings should be utilized in this review. Then any measures needed to make sure that the proposal can meet the definition of small building must be clearly articulated by the consultants.

Chapter 3.2 (pg 3.2-3

This incorrectly states that if properties have maximum densities (or density caps) they are illustrated on the map. While that is often true, it is not always true, therefore the lack of a density number on the map does not mean there is not a density cap. Other areas where there are density caps that don't appear on the map are the MSC zoned properties, for example where MSC1 and MSC4 have density caps of 12 and 18 but that is not shown on the map. This incorrect comment should be removed.

5

The next comment would lead one to believe that the residential market properties were anticipated for residential use as well as other uses. As can be documented by looking at historical records, the residential market definitions previously provided for residential use. Then during the growth management hearings committee work (at the time of 1995 CP) the committee specifically removed residential as an approved use.

6

Deborah Munkberg appears to have served on that committee and the city of Kirkland has all the minutes that indeed show that residential use was removed and no longer an allowed use. It was so documented in the Land Use Chapter, the Economic Chapter, the Moss Bay Neighborhood Chapter and the Glossary.

It is essential that the EIS committee get all the minutes of the Growth Management committee meetings as they discuss the idea of a corner grocery store and discuss the reasons that only low impact use is acceptable at subject site. All of these factors enter in to the discussion of all the IMPACTS as required by EIS.

6
cont.

The DEIS Chapter 3.2 (pg 3.2-3) discusses

LU-1 Manage community growth and redevelopment to ensure:

- An orderly pattern of use (NOTE: an abrupt change in density and use is not orderly land use)
- Maintenance and improvement of the City's existing character; (proposal is an extreme deviation)
- Protection of environmentally sensitive areas (The proposal will degrade environmentally sensitive area by removing all natural foliage, which includes 1/4 of the property and mature trees. The proposal greatly increases impervious surfaces and the resulting damage to runoff, water, etc, and the proposal will have a substantial negative impact on local wildlife which use the area, particularly the neighborhood bald eagle).

7

INCORRECTLY OMITTED - VERY IMPORTANT

LU-1.2 requires "Create logical boundaries between land use districts that take into account such considerations as existing land uses, access, property lines, topographical conditions, and natural features." It goes on to state that "boundaries between land use districts should make sense and allowed uses should be compatible with adjacent land use

*** The importance of this cannot be overstated. The Environmental Checklist provided by the applicant is incomplete which by itself should void his application. On top of that the question that he did not answer was the one asking for him to describe the adjacent land uses. It seems obvious that he did not want to draw attention to the fact that he was wanting to build a structure that is not at all compatible with adjacent land use as required here. There is no logical boundary and nothing about the proposal takes into account existing land uses. Furthermore, access is supposed to be taken into account and we know there are years of documented issues relating to access and that only a limited amount of ingress and egress are supposed to be allowed at the site. Finally, the proposal will remove all natural features and just supply a big box building. All of this was missed in the EIS review. Please pull Mr Dargey's Environmental checklist and note that he does not fill it out completely. The form particularly warns about this being an incomplete application and void. He also falsely fills out "land use" question of Comprehensive Plan by repeating his comments about zoning. The neighbors have called the State re: SEPA Environmental Checklist and have written confirmation that the project must be compared with Comprehensive Plan when a SEPA review is required. Lots of work is needed here.

8

LU-1.3 requires "Encourage attractive site and building design that is compatible in scale and character with existing or planned development." The consultants list this but don't seem to comment on the huge variance in the size and scale and character of the proposal vs. existing development. They must do a more thorough review as previously discussed and they must use the materials available to them from the city which show comparisons of lot coverage, building footprint size, density, facade length, height, number of stories, etc. They must then discuss how the proposal might be mitigated to actually be compatible in size, scale and character with existing development.

9

LU-1.4 requires "Create an effective transition between different land uses and housing types." Again this requirement is listed by the EIS Consultants however they don't comment on the huge variance and grossly ineffective transition that will occur with the proposal. They must do a better job discussing this and they must suggest what measures the developer can take to mitigate or make a project have an effective transition.

10

LU-2.1 requires "Support a range of development densities in Kirkland, recognizing environmental constraints and community Character." Again this is listed by the EIS team. The conflict with the proposal is that it is supposed to be built in a way that recognizes the community character. The proposed building does not fit with the local community character whatsoever. More Consultant work and mitigations to actually achieve this are needed.

11

LU-4 requires "Protect and enhance the character, quality and function of existing residential neighborhoods while accommodating the City's growth targets." When determining residential growth targets, the city did not count this property as one that was expected for residential units (see city documents). Nevertheless a compatible amount of density could be built and still protect and enhance the character, quality and function of existing residential neighborhoods. The proposal does not do this and the degree to which it misses the mark is enormous. The EIS consultants have to be more direct about the degree of incompatibility and must provide significant mitigation requirements to bring it in line.

12

LU-4.3 NOW HERE'S A MISCHARACTERIZATION

This states "Continue to allow for new residential growth throughout the community, consistent with the basic pattern of land use in the city." The EIS consultants see that there is multifamily in the neighborhood and they state that since this is multifamily it is consistent with the land use. WOW. Big misrepresentation. This is not just multifamily, it is mixed use which is different. Also small multifamily is not consistent with gigantic multifamily. This is clear mis-representation. This needs to be fixed and the consultants need to describe how the intense land use of the proposal is not consistent with the low to medium intensity land use that surrounds it.

13

The consultants provide the definition of Residential Markets but they don't do anything to try and show how the proposal meets these restrictions on Commercial use or how it will be the lowest intensity commercial. They need to discuss "individual store or very small mixed use building." They need to discuss "Residential scale and design are critical" They need to discuss "well integrated into the residential area." Finally they need to discuss the land uses that are allowed and that do not include residential uses. The option for residential use as part of a mixed use building was specifically removed in 1995 Comp Plan. A mixed use residential market was to be a mix of the uses discussed in the definition paragraph. EIS consultants totally dropped the ball on this one. They need to study each part of the definition, compare it to the proposal and suggest significant modifications and mitigation that will change the proposal into something that fits this definition.

14

LU-5 Hierarchy of uses - The proposal is in sharp contrast with the lowest intensity use of the hierarchy as assigned to the subject property. Consultants review and provide adequate mitigation.

15

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 the building design is compatible with the neighborhood in size, scale, and character

16

NOTE: None of LU-5.9 is supported by the proposal. It is not small scale. It is not neighborhood retail (it is genl/medical office), and certainly citizens have not accepted the "thing" that has been proposed.

- The Residential Market is supposed to need a minimum of parking and this was because of the ingress and egress problems. This many residents will require parking but with so many units there will be too much ingress and egress.
- As said repeatedly, the building design is not compatible with the neighborhood in size, scale or character.

EIS Consultants need to fully reexamine and reemphasize LU-5.9 then they need to suggest changes or significant mitigation that will make the proposal fit with LU-5.9

Karen Levenson

6620 Lake Washington Boulevard NE, Kirkland

This is submitted also on behalf of my family, my HOA, local neighbors and HOAs that have asked me to represent them, clients of Brian Lawer, clients of David Mann, neighbors of "One Neighborhood Block" and citizens represented by STOP

From: [Karen](#)
To: [Potala EIS](#); [Teresa Swan](#)
Subject: Potala DEIS Chapter 2 shortcomings and comments
Date: Friday, August 24, 2012 4:56:29 PM
Attachments: [Potala DEIS Chapter 2 - 1.pdf](#)

Here's the problems that need fixing in chapter 2

1

Karen Levenson

6620 Lake Washington Boulevard NE, Kirkland

This is submitted also on behalf of my family, my HOA, local neighbors and HOAs that have asked me to represent them, clients of Brian Lawer, clients of David Mann, neighbors of "One Neighborhood Block" and citizens represented by STOP

Note: The commentor has provided annotations to Draft EIS Chapter 2 in the following pages. For ease of reading, these annotations are shown as a list of numbered comments following the annotated section.



DESCRIPTION OF THE PROPOSAL AND ALTERNATIVES

This chapter of the Draft Environmental Impact Statement (Draft EIS) describes the Potala Village proposal and the No Action Alternative. This Chapter includes background information, an overview of the environmental review process, and a description of the proposal and no action alternative. Please see Chapter 1 for a summary of findings of the Draft EIS and Chapter 3 for a detailed discussion of the affected environment, potential significant impacts and mitigating measures for the Proposal and No Action Alternative.

Neighbors requested a smaller intensity proposal as did an advisor to the city. It is unclear why this was not done except to save the developer some expense which is not supposed to be the focus of decision making. The fact that the city would hire an outside consultant, who then recommended an additional lower intensity be reviewed, and then the city ignored this advice is concerning.

2.1 OVERVIEW

Lobsang Dargey of Dargey Enterprises is proposing to develop a 52,600 square foot¹ site located at the southeast quadrant of the intersection of Lake Street South and 10th Avenue South (See Figure 2.1). The site consists of three parcels. One parcel, located in the northwest quarter of the site currently a 2114 sf² commercial building containing a dry cleaner and a restaurant. A second parcel fronts on 10th Avenue S, uphill from the first parcel, and is developed with a single family residence. The third parcel consists of the southern half of the site and is undeveloped. All structures would be removed in the site construction.

The proposed development would consist of a mixed use building containing approximately 6,200 sf of commercial use (general office and medical office) and 143 residential units. Two levels of underground parking would be provided and vehicular access would be from Lake Street South. Please see Figure 2.2 (Site Plan), 2.3 (Preliminary Landscape Plan), and 2.4 (Building Elevations).

the EIS consultants were not given the 2009 presubmittal report for property to be developed by this applicant on this site. the traffic engineer commented on the traffic ingress and egress problems onto the Boulevard and ststed unequivocally that the driveway should not feed directly onto the boulevard. The traffic engineer indicated that problems with the site would not be used to alter this guidance and no later reports from city of Kirkland traffic engineers are in the record to show that the opinion was changed.

¹ Acreage data from the King County Department of the Assessor has been assumed in this EIS. The SEPA Checklist for the project (dated February 16, 2011) indicates lot dimensions of 265' by 204', or a lot size of 54,060 square feet. Assessor's data shows a lot size of 52,600 sf, or a smaller lot by 1,460 sf.

² Building data from the King County Department of the Assessor has been assumed in this EIS.

In footnote 1 it is mentioned that the lot size used by the EIS consultants was that which was provided by the applicant on the SEPA Checklist. Since many of the details supplied by the applicant on the Environmental Checklist are incorrect and this makes a significant difference when calculating lot coverage, it would be appropriate to use assessors data or an independent surveyor

Appendix 1 contains site sections and floor plans. The proposal is described in greater detail in Section 2.6, below.

The site is zoned Neighborhood Business (BN). The western portion of the site is within 200 feet of the designated Lake Washington shoreline and is subject to regulation through the City’s Shoreline Master Program (SMP). The affected shoreline area consists of approximately 10,370 sf along the western boundary of the site (see Figure 2.5). Within this area, the site is designated as Urban Mixed, defined in the SMP as “high intensity land uses, including residential, commercial, recreational, transportation and mixed-use development.”

It is important to note the concerns of the neighbors. This property was singled out and rezoned with discussions occurring between the city and developer. This was without public notice. It was designated shoreline Urban Residential just like all the properties to the north and south until 2010 when the city/developer actions changed the use classification DRAMATICALLY.

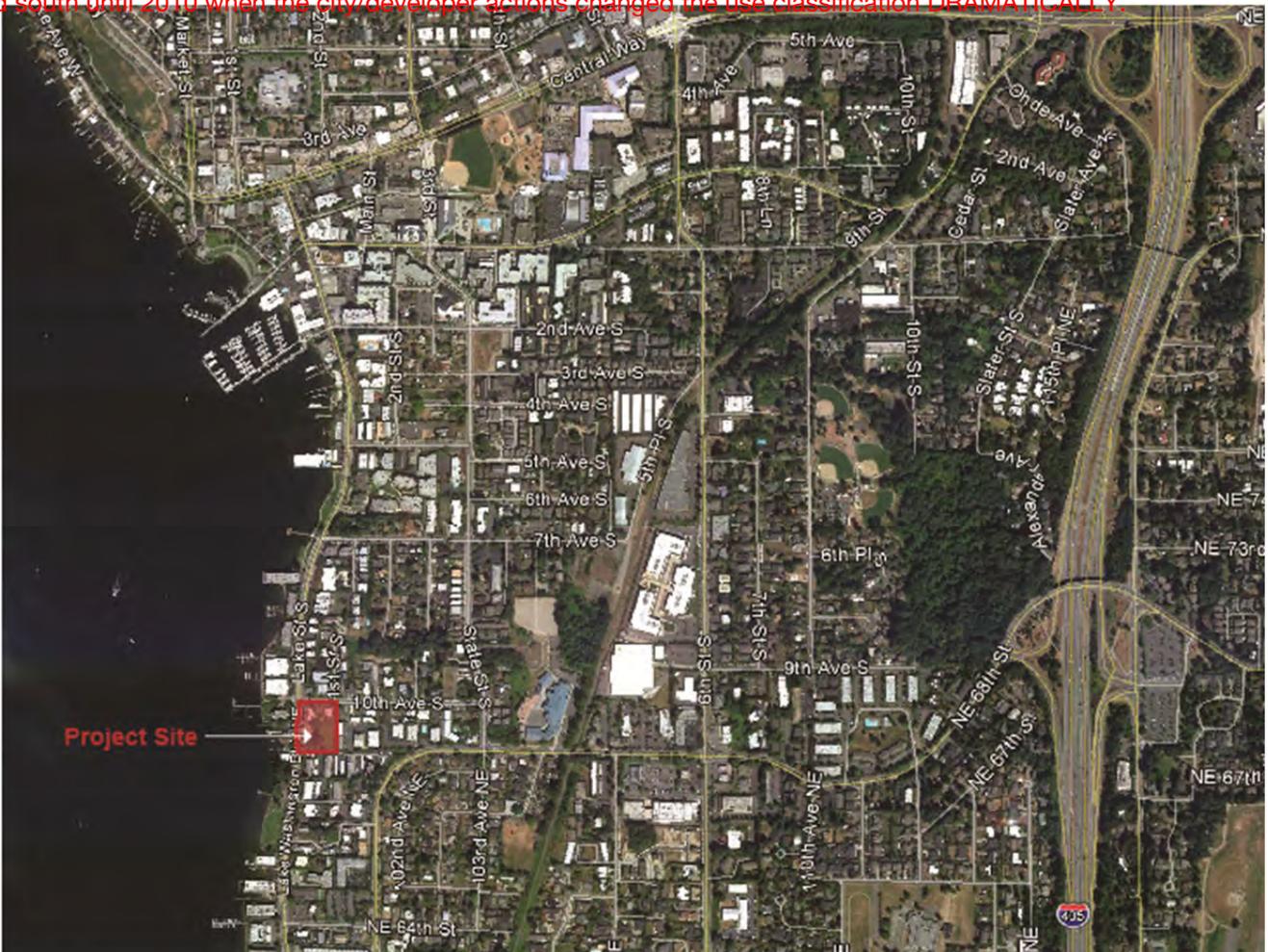
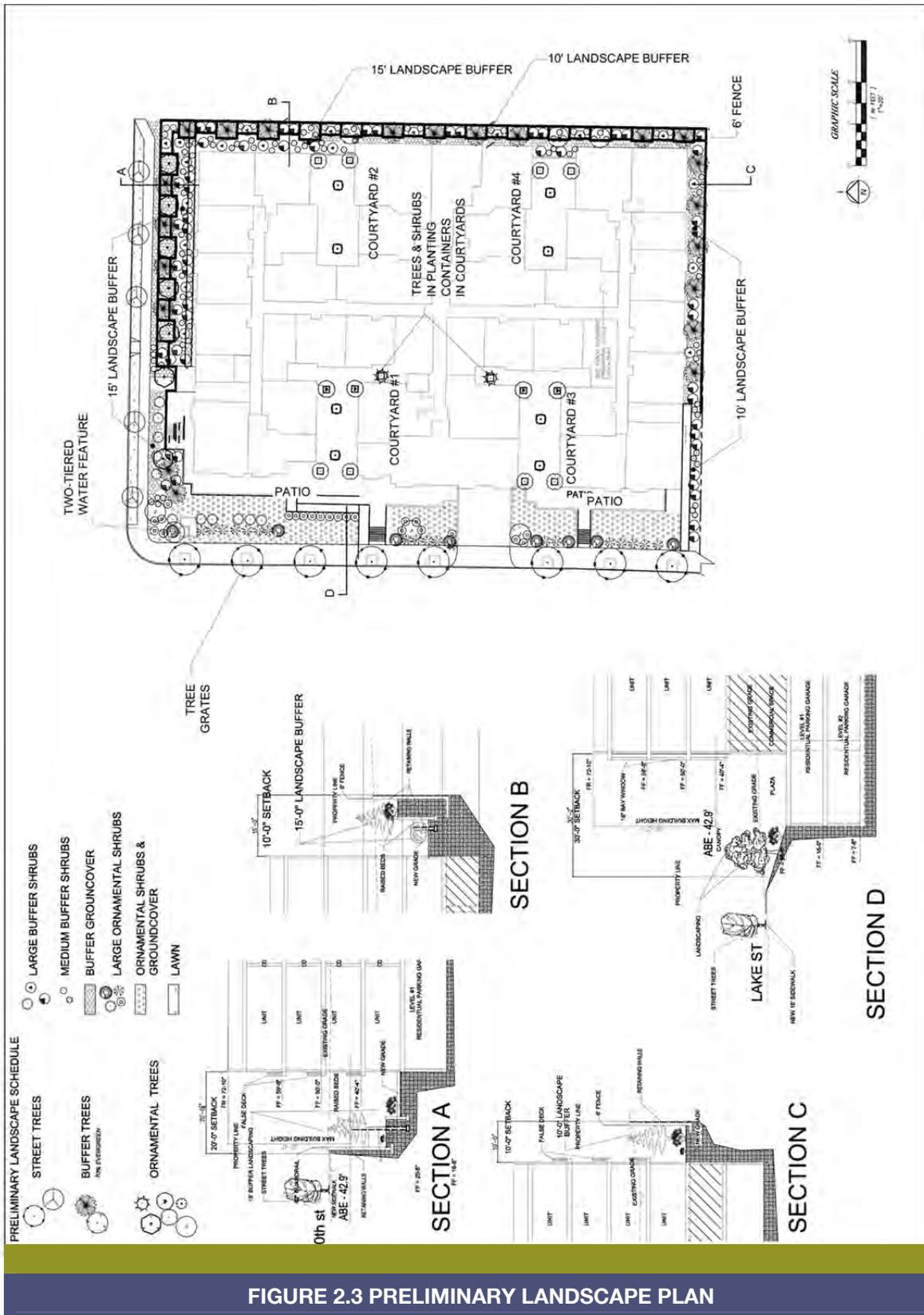


FIGURE 2.1 VICINITY MAP

Source: Google Maps



Source: Habitat Ecology & Designs Inc.

- 1) Setbacks/ landscaping does not provide sufficient protection to surrounding single family homes and low density condos
- 2) Stairwells are not allowed in setbacks and landscaped area but are shown in those area for this proposal-NOT ALLOWED
- 3) Courtyards are narrow and useless as community gathering spaces. This does not meet the openspace/recreation spaces as required by Residential Market Commercial designation or by Kirkland's requirement for open space in development that includes multifamily housing. The narrowness of the courtyards also leaves room for only minimal landscape instead of attractive plantings



FIGURE 2.4 BUILDING ELEVATIONS

Source: Studio 19 Architects, Charles Morgan & Associates

Note: North and east elevations appear to show landscape buffer plantings at adjacent site elevation. This does not match information in the preliminary landscape plan (Figure 2-3), which shows planting below adjacent site elevation.

1) The North elevation is on a corner lot - required to have 2 front yards. This design is a long ugly side of a building - not a front yard

2) The East elevation presents a long facade which is larger than current regs when adjoining low density use. It will also have two stories of residents looking into the backyards, balconies and windows of neighbors due to inability to stagger windows to avoid.

3) The East elevation provides landscaping that is insufficient to protect neighbors from intrusion

4) The West elevation shows a facade nearly 6 times as long as any other facade along the boulevard making it incompatible

2.1.1 Project History

On February 23, 2011, the City received a Shoreline Substantial Development Permit (SDP) application and State Environmental Policy Act (SEPA) documents for the Potala Village development. The SDP is applicable to the portion of the site within the designated shoreline jurisdiction. The SDP was placed on hold pending completion of the SEPA process.

NOTE: The SUBstantial Development Permit is on hold currently and has not been approved

On June 15, 2011, the City issued a SEPA Mitigated Determination of Non-Significance (MDNS). The City received three appeals to the MDNS and, on August 4, 2011, withdrew the MDNS and issued a Determination of Significance (DS), requiring an EIS. Prior to starting the EIS, the applicant delayed moving forward with the EIS because of pending parallel actions by the City to review the existing Neighborhood Business (BN) zone. These actions include the following:

There were dozens of appeals not just 3. Additionally the city failed to notify "interested parties" including the Muckleshoot Indian tribes who wrote to protest lack of notice and demanded reposting and restart of comment period.

- A moratorium on development in the BN zone passed by the City Council. This moratorium was originally set to expire on May 15, 2012, but was subsequently extended to November 15, 2012. The purpose of the moratorium is to provide the Planning Commission time to study potential changes to BN zoning.

BN includes MSC2, BN(1), BNA & BN Residential Market. Planning commission has said they all need reasonable density cap

- Planning Commission study of BN zoning and Comprehensive Plan designations. The City Council has directed the Planning Commission to review Comprehensive Plan text relating to residential markets and development standards for the BN zones. On May 14, 2012, the Planning Commission received further direction to consider a Commercial Center designation at the project site and to consider potential residential density limits. The Planning Commission continues to study whether revisions to existing policies and regulations pertaining to BN zones should be changed.

The planning commission has stated that changing residential market designation to neighborhood center is clearly not correct

It should be noted that these legislative activities by the Council and Planning Commission are separate actions from the project proposal under consideration in this Draft EIS. The legislative activities are described only to provide context related to ongoing planning efforts related to the project site.

In April 2012, at the applicant's request, the City reinitiated the EIS process. As part of the EIS startup, the City, on May 8, 2012, held a public meeting to describe the EIS process to interested members of the public. On July 12, 2012, the Draft EIS was issued for a 43-day comment period. During the 43-day comment period, the City will hold a public hearing on August 14, 2012. Please see the Fact Sheet of this Draft EIS or the City's Potala Village website (<http://www.kirklandwa.gov/depart/Planning/Development/Potala.htm>) for specific hearing time and location information. Following the close of the public comment period, the City will prepare a Final EIS, which is scheduled to be issued in late 2012.

Dozens of citizens attended the public meeting and asked why the concerns that they had identified in the initial public comment period were not being addressed by the EIS. There was no good answer given as neighbors were told that it was up to the discretion of one person, the planning director, as to whether the EIS would study their concerns. THIS IS IN CONTRAST WITH PROFESSIONAL EIS / LAND USE EXPERTS HIRED AS CONSULTANT TO THE CITY FOR THIS EIS

2.2 ENVIRONMENTAL REVIEW PROCESS

2.2.1 Determination of Significance and Scoping

On June 15, 2011, the City issued a SEPA Mitigated Determination of Non-Significance for the proposal. After review of comments received on the DNS and the three appeals to the DNS, the City withdrew the DNS and, on August 4, 2011, issued a Determination of Significance and Scoping Notice for the EIS (See Appendix 2). The Scoping Notice identified the following areas or elements for analysis in the EIS: height, bulk and scale of the building, residential density, traffic, parking, wildlife (threatened and endangered species), environmental remediation (contamination clean-up) and construction impacts. The Determination of Significance and Scoping Notice was issued on August 4, 2011 and established a 21-day comment period to receive comments on the EIS scope. Following an analysis of scoping comments and available information, the City made two changes to the initial EIS scope:

There were dozens of appeals to the DNS, including a letter from the Muckleshoot Indian tribes who had not been given any notice as required for these properties. The Muckleshoot demanded that the application be re-noticed and hearing reopened due to this.

1. Wildlife (threatened and endangered species)

Following a review of available information from the Washington Department of Fish and Wildlife, the City determined because there is no evidence of nest or roost sites belonging to threatened or endangered species on or near the property, this topic would be removed from the EIS scope of

Citizen evidence has been presented that there is a roost site of a bald eagle at the site in spite of it not having been previously documented with WDFW. Residents were assured that they would be contacted for their pictures and testimony but were not.

In order to confirm that the proposal would not be expected to result in a significant impact to bald eagle habitat, additional review of bald eagle habitat in the vicinity of the site was conducted. This information is summarized below; additional information is included in Appendix 3.

Bald eagles are frequently seen flying along the shoreline in the project area, particularly during the breeding season. Data from the Washington Department of Fish and Wildlife Priority Habitats and Species (PHS) program indicate the presence of three bald eagle nesting territories within approximately two miles of the subject site. The nearest of these, at Heritage Park in Kirkland, is approximately 0.8 mile from the project site. The others are more than 1.5 miles from the project site. Based on the distance from the known nest sites, it is unlikely that the Lake Washington shoreline near the proposed project site falls within the core foraging areas for any bald eagle breeding territories. PHS data do not indicate that any communal roosting sites have been documented within 5 miles of the project area.

The local bald eagle has been seen & photographed directly in the project area with fish hanging from his mouth. Isn't this foraging?

Several large cottonwood trees in Marsh Park along the Lake Washington shoreline immediately south of the proposed development site may serve as perch sites for bald eagles. Because they are smaller, farther from the shoreline and separated from Lake Washington by Lake Street South, the trees at the project site are less likely to serve as perch sites than those in Marsh Park. None of the trees at the project site falls within the typical height or size range associated with bald eagle nests in western Washington. Based on this, combined with the current high level of human activity surrounding the project area, it is unlikely that bald eagles would use any of the trees at the project site for nesting. The project site also lacks the characteristics of forest stands that support communal winter night roosts.

Neighbors directly next to the trees at the proposed project site have testified that the bald eagle does, in fact, use the trees on project site for perching.

Potential Effects of Project Activities

Project development is not likely to affect the availability of nesting, roosting, or foraging habitat for bald eagles. Based on the distance to known nest sites, as well as the existing levels of noise associated with traffic and other human activity, construction-related noise is not expected to be audible at any bald eagle nest sites. Notably, the nearest nest is 4,200 feet away from the project site, well beyond the 660-foot distance within which the U.S. Fish and Wildlife Service recommends activity restrictions to avoid disturbance to nesting bald eagles. Similarly, no communal roosting sites occur within the area where construction-related noise would be audible.

It is possible that bald eagles may perch in the cottonwood trees in Marsh Park or forage along the shoreline nearby while construction activities are underway. Birds that do so could respond to increased levels of noise and human activity by flying away or avoiding the area. If this occurs, the feeding activities of any such birds could be disrupted and the birds could be displaced to less preferred areas. Such effects would be temporary and limited to a small portion of the total foraging area available in the surrounding area. Any eagles that are displaced from the project area by construction-related activities would find ample foraging opportunities elsewhere along the shoreline of Lake Washington.

Construction-related disturbance would be limited to a single breeding season. It is unlikely that avoidance of the project area would have a negative effect on the productivity of any breeding pairs in the area.

The project site occurs in an urban area with relatively high levels of human activity. Traffic volumes on Lake Street S average approximately 13,800 vehicles per day (City of Kirkland 2008). Additional foot and vehicle traffic associated with the presence of the residential development at the Potala Village site would not constitute a substantial change in the area's character, and bald eagles would be unlikely to respond by avoiding the area over the long term.

Currently the site is minimally developed at the current time. This leaves about 50% vegetative cover with numerous trees where the eagle is seen perching. Removing all the vegetation, including these trees will disrupt and displace the neighborhood bald eagle.

2. Environmental Remediation

The process for environmental remediation (contamination clean-up) is established through state law and implementing regulations and any mitigating measures identified in the EIS would rely on these processes. Therefore, the discussion of environmental remediation will be addressed in the plans and policies section of the EIS. This section will describe available information on site contamination and the regulatory process for environmental site remediation.

There were no additional changes to the EIS scope or alternatives. A summary of scoping comments is included in Appendix 2.

2.3 OBJECTIVES OF THE PROPOSAL

For purposes of SEPA (WAC 197-11-440), the following are the primary objectives of the proposal:

- Maximize site development potential within the context of regulatory requirements and environmental and market conditions.

A land use/EIS consultant hired by the city for advice on this project emphasized to Kirkland that Objectives of the proposal are to be general objectives and not those designed to further the applicant's project. Instead the city is using objectives designed to do things such as "ensure that site development is financially feasible" - clearly a developer objective

- Redevelop the site to create an attractive residential mixed use development.
- Ensure that site development is financially feasible and sustainable.
- Create a development that is an asset to Kirkland’s citizens and is compatible with the surrounding area.

Citizens are clearly stating that high intensity development of any kind, particularly if it includes high intensity/density residential, at a site surrounded by single family homes and lower intensity condominiums is not considered an asset to them. They have also clearly documented that it is not compatible with the surrounding area. Planning Commissioners have also recently stated that very high intensity residential is incompatible with this site. See KPC tape dtd..... @.....

2.4 SITE DESCRIPTION

The 52,600 sf (1.21 acres) site is located at the southeast quadrant of Lake Street South and 10th Avenue South, approximately ½ mile south of downtown Kirkland. The site slope falls to the west from the eastern boundary toward Lake Washington, falling about 14 feet along the south boundary and 22 feet along the north boundary. About 10 feet of this grade change is contained within a steep slope that roughly bisects the site into east and west portions. See Figure 2.6 for existing site image.



FIGURE 2.6 EXISTING SITE

The northeast portion of the site is developed with a private single family residence and shed (See Figure 2.7). This area is landscaped with lawn and ornamental landscaping. Access to this portion of the site is from 10th Avenue South. The southeast portion of the site is undeveloped and covered in brush.

The Western and Eastern sides of the combined parcels are not only topographically similar, they were zoned with the lower elevation western half as commercial while the eastern part was all residential zoning prior to an UNNOTICED change in 1995 wherein the northwestern property (which has no Lake St frontage) was made commercial and the western half of the southern property was also NOT NOTICED but changed to commercial. The northwest portion of the site is developed with a 2,114 sf commercial building containing a dry cleaner and restaurant and paved parking area is located adjacent to 10th Avenue South (See Figure 2.8). In the remainder of the western portion of the site, there is

These properties prior to a legislative rezone were low density Single Family at 5 units per acre and multifamily at 12 units per acre. Additionally troubling about the legislative rezone is tht these changes were bundled with 900 other legislative rezones and were termed "minor and insignificant." These enormous rezones were also incorrectly listed in the city council packet as being in the Lakeview neighborhood when they are actually in Moss Bay. All in all, if you require a certain procedure to be followed in order to change density on a property, those things were clearly not done and two properties were changed from low intensity residential to commercial BN in an inappropriate manner.

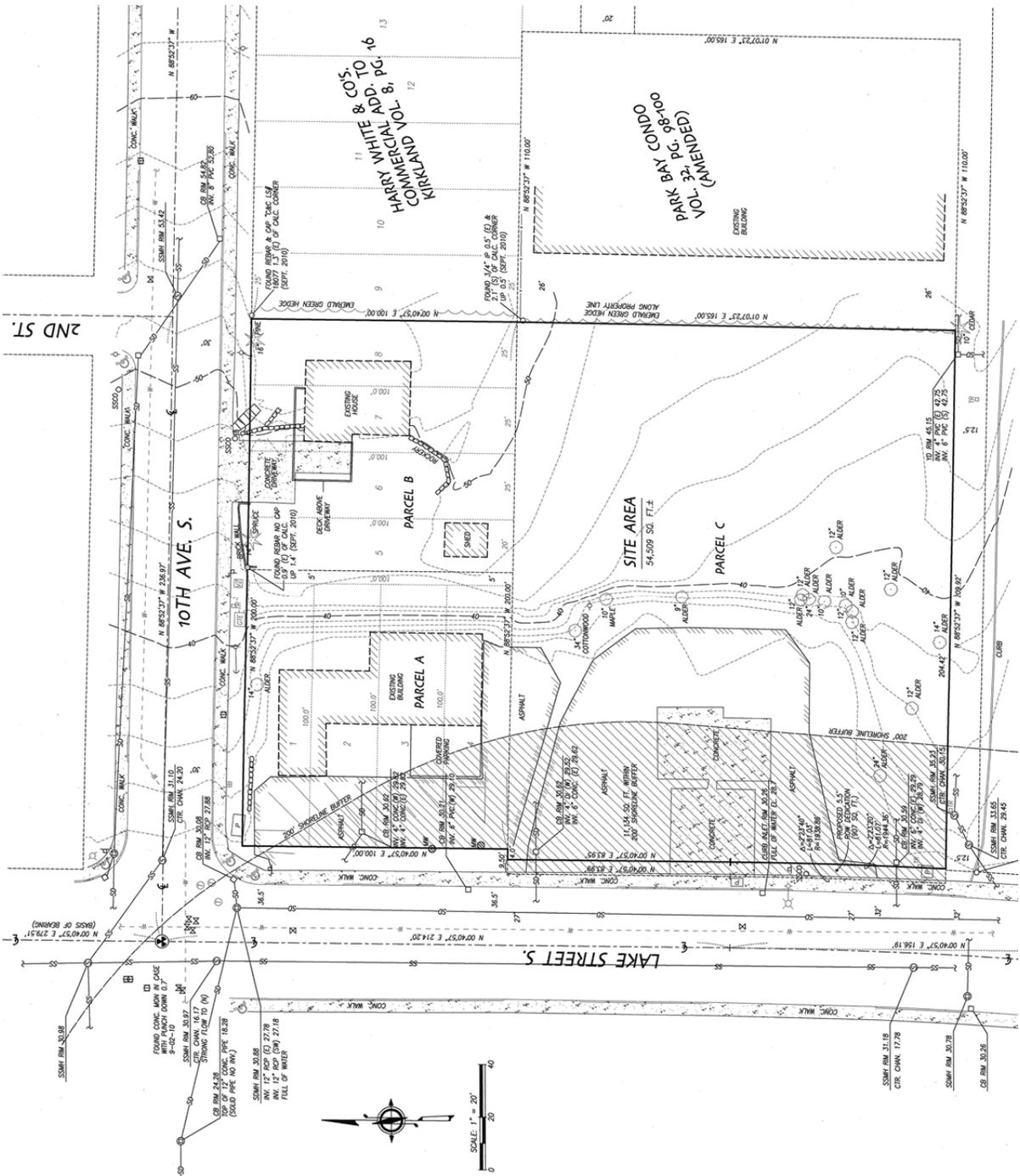


FIGURE 2.9 EXISTING FEATURES SITE PLAN

Source: Pacific Coast Surveys, Inc.

YES... All agree that new development should be built here. Citizens merely insist that the development be supported by the Comprehensive Plan decisions and the Residential Market-Commercial designation that was assigned to these properties AND the definition of Residential Market-Commercial that was written specifically to address the constraints on intensity so that only the **LOWEST OF INTENSITY** development, something along the line of a very small building that would fit with the neighborhood.

PLEASE NOTE: These are outdated Development Regulations as City Council has on 4 occasions voted to have more restrictive regulations and has instructed staff to create the zoning text that would implement the instructions on Residential Market - lowest intensity. While the work of staff has not been completed, the decision to have more restrictive developmental regulations, and the definitions of Res Mkt became local law 5 days after publication of BN of the Kirkland Zoning Code of Kirkland City Council

2.5 REGULATORY CONTEXT

2.5.1 Development Regulations

The site is located in the Neighborhood Business (BN) zone. Kirkland Zoning Code Section 40.10 establishes the use and development standards for the BN zone. Primary permitted uses include a range of retail uses, private club or lodge, office, stacked dwelling units, church, school/daycare center, assisted living facility and convalescent center/nursing home. Key special regulations for retail, office and stacked dwelling units include:

This review of development regulations only addresses the outdated regulations as applied to all BN zones prior to more current changes to BN which were voted into "local law" by City Council in 1995, 2004, 2007 and 2010. On at least these four occasions, starting in 1995, it was recognized that certain properties were not suitable for BN zoning as it existed and should be more restrictive. A brand new commercial use designation was created for the purpose of providing a "lowest intensity" use and a full definition of what would be allowed in this lowest intensity "Residential Market - Commercial" was deliberated, and approved by at least 4 planning commissions and city councils. The ordinances became "local law" as to how these new properties would be restricted each time the ordinance was approved and then published. There was never any challenge to the new law that created newer, more restrictive use for Residential Market properties. Each ordinance was also accompanied by instructions to staff to give high priority to providing the text so that the zone use charts would be easy to read and understand the changes made to the development regulations.

Table 2-1. BN Development Standards

Uses	Lot Size	Required Yards	Lot coverage	Structure Height	Required Parking
Office/Service	No minimum	Front: 20' Rear: 10' Side: Minimum 5', but 2 sides must equal 15'	80%	30', Unless adjoining a low density zone, then 25'	1 space/300 sf of gross floor area or 1 space/200 sf of gross floor area for medical office
Residential	No minimum lot area per unit	Based on the ground floor use			1.7/unit
Retail	No minimum	Front: 20' Rear: 10' Side: 10'	80%	30', Unless adjoining a low density zone, then 25'	1 space/300 sf of gross floor area

Note: development standards are summarized, refer to Kirkland Zoning Code 40.10 for all details

Insert Definition of residential market and the setback along LWB

2.5.2 Shoreline Master Program

An area near the western boundary of the site is within 200 feet of the designated Lake Washington shoreline and is subject to the City's Shoreline Master Program. The affected area is approximately 10,370 sf along the western boundary of the site (see Figure 2.5).

Within this area, the site is designated as Urban Mixed, defined in the Shoreline Master Program. See discussion above. This designation was a residential designation and was illegally changed (no notice to residents). Even Planning Commission and City Council were not told of this change during Shoreline Master Plan meetings where they were only informed of 3 Urban Mixed areas - Carrillon Point, CBD and Juanita Business District (Documentation can be provided to prove this fact).

Program as “high intensity land uses, including residential, commercial, recreational, transportation and mixed-use development.”

see last page re: illegal, unnoticed change from UR-1 Residential to Urban Mixed unlike surrounding properties (spot zone) Kirkland Zoning Code Chapter 83 establishes permitted uses and development standards for the designated shorelines. For the Urban Mixed zone, Chapter 83 establishes the following:

- Allowed uses: Stacked dwelling units, offices and retail uses are permitted with approval of an SDP
- Minimum lot size: 1,800 sf for multifamily residential; no minimum for commercial uses. Minimum lot size requirements apply only to the area within the shoreline jurisdiction.

24 units per acre = min lot size of 1800 sq ft. Also, within the last few years Kirkland was unclear as to whether shoreline restrictions applied to the whole parcel or just the area.

Public records show that Kirkland Planning Staff contacted Department of Ecology and asked for advice. They were told that Shoreline Regulations on dwelling units per acre applied to the whole parcel and not just the land that was subject to SMP. There is nothing in the public record to show that DOE has changed their stance on this.

2.6 DESCRIPTION OF THE PROPOSAL AND ALTERNATIVES

The City of Kirkland hired an independent specialist previously involved with Environmental Impact Studies and understanding land use law. He suggested that more alternatives than the No-Action and the developer's proposal should be reviewed. Why did the city choose, therefore, to dismiss the advice that they'd paid for? Why did they only require the applicant to review the proposed alternative and a "no Action" alternative when the citizens had requested that a lower intensity proposal @ 12-24 dwellings per acre be used as a middle alternative. The citizens requested this alternative properly during the comment timeframe which means the city must provide defensible reasons why they did not include this in the scope of the project.

2.6.1 Alternative 1: No Action

Overview

The No Action Alternative would retain the site as it currently exists. There would be no new development or changes to access, parking or vegetation on the site. See Figures 2.6 through 2.9 for images of the site as it currently exists.

No one is suggesting that the site should not have new development. For this reason the No Action Alternative is worthless review. Of course development is better than no development, however development of the planned size, scale and integration into neighborhood is not being studied as compared to ultra-intense development

Development

The existing 2,114 sf commercial building would remain as it currently exists on the northwest corner of the property and the existing single family residence would remain as it currently exists on the eastern portion of the property. The remainder of the site would remain in its current vacant condition.

Access and Parking

Parking impact, as well as vehicular ingress and egress would be only modestly increased with 12-24 units/acre and neighborhood serving retail/restaurants. This would also require less excavation for below grade parking and the lower density option was requested as a study option by neighbors during the established comment period. For this reason, the citizens request a plausible explanation why their request for study of this option was not included. An additional option besides "No Action" and the proposal was suggested as appropriate by the consultant hired to guide the city. He is expert in EIS and Land Use law. It is uncertain why the city did not follow the advice of the consultant that they hired.

Landscaping

Existing site vegetation includes deciduous trees and shrubs in the western portion of the site and lawn, ornamental landscaping in the northeastern portion of the site, and shrub/brush in the southeastern portion of the site. Under Alternative 1, there would be no change to existing landscaping.

Trees within the current landscaping are used by the neighborhood bald eagle

2.6.2 Alternative 2: Mixed Use Development

Overview

Alternative 2 consists of a mixed use development containing approximately 6,200 sf of commercial use (general office and medical office), 143 residential units and 316 parking stalls. The development would be contained in a single building with a total area of 227,961 gross sf. The site will be excavated below existing grade to achieve an additional floor of development and two levels of underground parking for a total of four floors above the final grade of the development. Total lot coverage would be approximately 35,385 sf, or approximately 70%³ of the total lot area. Please see Figures 2.2 through 2.4 and Appendix 1.

This would be the only 4-story building in the area and thus not similar to surrounding bldgs. Additionally, the lot coverage was incorrectly calculated using measurements supplied by the developer rather than neutral party. The assessor's measurements would yield higher % lot coverage. As lot coverage is an issue regarding compatibility, it is important to use impartially provided numbers.

Development

The proposed mixed use building would consist of four stories with two underground parking levels. Retaining walls would be constructed along 10th Avenue South and along the eastern and southern boundaries of the site to accommodate the change in finished grade between the project site and adjoining properties. In general, excavation will range from 25 to 40 feet of vertical cuts. Greatest excavation would be in the eastern portion of the site. Near the northeast corner of the site, along 10th Avenue South, approximately 38 vertical feet would be excavated and two floors of residential units and residential parking would be below existing grade. In the southeast corner of the site, approximately 38 vertical feet would be also excavated and one floor of residential units and commercial and residential parking would be below existing grade.

Along Lake Street South, approximately 24 feet of vertical cut is planned to accommodate commercial and residential parking. The main entrance to the building would slope down from Lake Street South approximately six feet below existing street grade.

Public records show that as early as 2009 the city told this developer that ingress and egress issues onto Lake St S from this site would require that ingress and egress needed to be onto 10th St S. It was indicated that this restriction would not be changed due to hardship. What happened?

Building modulation in the proposal would be provided by four courtyards opening toward Lake Street S and the eastern site boundary. These courtyards, together with other open space areas, will provide a total of 13,035 sf of common open space in the development. In addition, proposed building elevations include balconies and color for modulation and relief.

The building would have a flat roof and is proposed to meet the maximum allowable height under the KZC of 30 feet above existing average grade.

Access and Parking

Vehicular access would be solely from Lake Street South. Parking will be underground, with a total of 316 parking stalls proposed, including 29 stalls for commercial use, 244 for residential use and 43 stalls for residential guest parking. Guest parking would be provided at a ratio of 0.31 stalls per unit. In addition, the applicant has proposed to use commercial parking stalls for residential guest use after business hours. The parking supply meets the

³ Based on lot coverage of 36,835 sf (data provided by applicant) and 52,600 sf lot size. As noted in Table 2-1, up to 80% lot coverage is allowed in the BN zone.

Parking stalls have been noted as not standard in size, with columns interfering with width and the parking does not allow for flexibility in how the retail/office or restaurant uses may be leased over the years. Medical Office was specifically chosen due to lower parking requirement even though Medical Office is not a "Neighborhood serving business and the developer does not have an intended medical office tenant. It was merely to provide a "work-around" regarding parking requirement.

Kirkland Zoning Code parking standards for general office, medical office and residential uses.

Landscaping

All existing vegetation on the site would be removed. Landscape buffers are required around three sides of the building and street trees along Lake Street South and 10th Avenue South.

The proposal would provide landscape improvements as established by the City of Kirkland Zoning Code. New vegetation would be focused in the perimeter of the site and would include trees, shrubs and groundcover (See Figure 2.3 Preliminary Landscape Plan). Street trees along the Lake Street South and 10th Avenue South frontages would also be provided.

The landscaping as shown will be insufficient to provide buffer and will not sufficiently protect the adjoining or surrounding properties.

2.6.3 Alternative Development Scenarios

In addition to the two alternatives described above, Section 3.3 Aesthetics and Section 3.4 Transportation of this Draft EIS consider alternative development scenarios and/or development thresholds to address potential impacts. In Section 3.3, three alternative development scenarios are considered as potential mitigation to address building height and bulk and compatibility with the surrounding area. These scenarios are modeled and discussed in terms of their potential to mitigate identified impacts of the Proposed Action. In Section 3.4, development thresholds are discussed in terms of development levels that would reduce any identified transportation impacts. Please see Sections 3.3 and 3.4 for a complete discussion of these alternative scenarios.

2.7 BENEFITS AND DISADVANTAGES OF DEFERRING IMPLEMENTATION OF THE PROPOSAL

The benefits of deferring implementation of the proposal include:

- Potential impacts from development of the proposal on the transportation network, including increased congestion and delay on area streets, would not occur.
- Potential impacts from development of the proposal on community character would not occur.

The disadvantages of deferring implementation of the proposal include:

- Delay or loss of the opportunity to provide additional housing in the area.
- Delay or loss of the opportunity to locate neighborhood scale services and goods within walking distance of the surrounding area.
- Delay in environmental site clean-up
- Delay in improvements to the vacant site.

Alternatives that would develop the site at 12-24 dwelling units per acre (+ neighborhood serving businesses) would not create a loss of opportunity to provide additional housing in the area.

Alternatives that would develop the site at 12-24 dwelling units per acre (+ neighborhood serving businesses) would not create a loss of opportunity to locate neighborhood scale services and goods within walking distance of the surrounding area.

If the site were currently developed at the lower intensity of 12-24 un/ac + neighborhood serving business the environmental site clean up would still be a requirement of development

Lower impact development might actually accelerate improvements to the vacant site since there would not be further appeals to Environmental Impact as well as citizen GMA challenges or lawsuits.

Note: The following pages contain the comments provided in the preceding marked up document. Comments are numbered below for ease of reading and can be cross-referenced back to the document.

Annotation Summary for: Potala DEIS Chapter 2 - 1

Page 1, Typewriter (Red):

Comment: Neighbors requested a smaller intensity proposal as did an advisor to the city. It is unclear why this was not done except to save the developer some expense which is not supposed to be the focus of decision making. The fact that the city would hire an outside consultant, who, then recommended an additional lower intensity be reviewed, and then the city ignored this advice is concerning.

2

Page 1, Typewriter (Red):

Comment: the EIS consultants were not given the 2009 presubmittal report for property to be developed by this applicant on this site. the traffic engineer commented on the traffic ingress and egress problems onto the Boulevard and stated unequivocally that the driveway should not feed directly onto the boulevard. The traffic engineer indicated that problems with the site would not be used to alter this guidance and no later reports from city of Kirkland traffic engineers are in the record to show that the opinion was changed.

3

Page 1, Typewriter (Red):

Comment: In footnote 1 it is mentioned that the lot size used by the EIS consultants was that which was provided by the applicant on the SEPA Checklist. Since many of the details supplied by the applicant on the Environmental Checklist are incorrect and this makes a significant difference when calculating lot coverage, it would be appropriate to use assessors data or an independent surveyor

4

Page 2, Typewriter (Red):

Comment: It is important to note the concerns of the neighbors. This property was singled out and rezoned with discussions occurring between the city and developer. This was without public notice. It was designated shoreline Urban Residential just like all the properties to the north and south until 2010 when the city/developer actions changed the use classification DRAMATICALLY.

5

Page 3, Typewriter (Red):

Comment: City of Kirkland policies state that corner lot must have two front yards. this design clearly leaves folks on 10th staring at the side of a building and not a front yard - This is not allowed

6

Page 4, Typewriter (Red):

Comment: 1) Setbacks/ landscaping does not provide sufficient protection to surrounding single family homes and low density condos

- 2) Stairwells are not allowed in setbacks and landscaped area but are shown in those area for this proposal-NOT ALLOWED
- 3) Courtyards are narrow and useless as community gathering spaces. This does not meet the openspace/recreation spaces as required by Residential Market Comercial designation or by Kirkland's requirement for open space in development that includes multifamily housing. The narrowness of the courtyards also leaves room for only minimal landscape instead of attractive plantings

6
cont.

Page 5, Typewriter (Red):

Comment: 1) The North elevation is on a corner lot - required to have 2 front yards. This design is a long ugly side of a building - not a front yard

2) The East elevation presents a long facade which is larger than current regs when adjoining low density use. It will also have two stories of residents looking into the backyards, balconies and windows of neighbors due to inability to stagger windows to avoid.

3) The East elevation provides landscapin that is insufficient th protect neighbos from intrusion

4) The West elevation shows a facade nearly 6 times as long as any other facade along the boulevard making it incompatible

7

Page 5, Typewriter (Red):

Page 6, Typewriter (Red):

Comment: It is important to note the concerns of the neighbors. This property was singled out and rezoned with discussions occuring between the city and developer. This was without public notice. It was designated shoreline Urban Residential just like all the properties to the north and south until 2010 when the city/developer actions changed the use classification DRAMATICALLY.

8

Page 7, Typewriter (Red):

Comment: NOTE: The SUBstantial Development Permit is on hold currently and has not been approved

9

Page 7, Typewriter (Red):

Comment: There were dozens of appeals not just 3. Additionally the city failed to notify "interested parties" including the Muckleshoot Indian tribes who wrote to protest lack of notice and demanded reposting and restart of comment period.

10

Page 7, Typewriter (Red):

Page 7, Typewriter (Red):

Page 7, Typewriter (Red):

Comment: BN includes MSC2, BN(1), BNA & BN Residential Market.
Planning commission has said they all need reasonable density cap

11

Page 7, Typewriter (Red):

Comment: The planning commission has stated that changing residential
market designation to neighborhood center is clearly not correct

12

Page 7, Typewriter (Red):

Comment: Dozens of citizens attended the public meeting and asked why
the concerns that they had identified in the initial public comment
period were not being addressed by the EIS. There was no good answer
given as neighbors were told that it was up to the discretion of one
person, the planning director, as to whether the EIS would study their
concerns. THIS IS IN CONTRAST WITH PROFESSIONAL EIS / LAND USE EXPERTS
HIRED AS CONSULTANT TO THE CITY FOR THIS EIS

13

Page 8, Typewriter (Red):

Comment: There were dozens of appeals to the DNS, including a letter
from the Muckleshoot Indian tribes who had not been given any notice as
required for these properties. The Muckleshoot demanded that the
application be re-noticed and hearing reopened due to this.

14

Page 8, Typewriter (Red):

Comment: Citizen evidence has been presented that there is a roost
site of a bald eagle at the site in spite of it not having been
previously documented with WDFW. Residents were assured that they
would be contacted for their pictures and testimony but were not.

15

Page 8, Typewriter (Red):

Comment: The local bald eagle has been seen & photographed directly
in the project area with fish hanging from his mouth. Isn't this
foraging?

Page 8, Typewriter (Red):

Comment: Neighbors directly next to the trees at the proposed project
site have testified that the bald eagle does, in fact, use the trees on
project site for perching.

It is believed that the bald eagle investigation should have been
conducted with someone who has greater experience with eagle habitat
e.g. WDFW

Page 9, Typewriter (Red):

Comment: Currently the site is minimally developed at the current time. This leaves about 50% vegetative cover with numerous trees where the eagle is seen perching. Removing all the vegetation, including these trees will disrupt and displace the neighborhood bald eagle.

16

Page 9, Typewriter (Red):

Comment: A land use/EIS consultant hired by the city for advice on this project emphasized to Kirkland that Objectives of the proposal are to be general objectives and not those designed to farther the applicant's project. Instead the city is using objectives designed to do things such as "ensure that site development is financially feasible" - clearly a developer objective

17

Page 9, Typewriter (Black):

Page 10, Typewriter (Red):

Comment: Citizens are clearly stating that high intensity development of any kind, particularly if it includes high intensity/density residential, at a site surrounded by single family homes and lower intensity condominiums is not considered an asset to them. They have also clearly documented that it is not compatible with the surrounding area. Planning Commissioners have also recently stated that very high intensity residential is incompatible with this site. See KPC tape dtd..... @.....

18

Page 10, Typewriter (Red):

Comment: The Western and Eastern sides of the combined parcels are not only topographically similar, they were zoned with the lower elevation western half as commercial while the eastern part was all residential zoning prior to an UNNOTICED change in 1995 wherein the northwestern property (which has no Lake St frontage) was made commercail and the western half of the southern property was also NOT NOTICED but changed to commercial. These properties prior to a legislative rezone were low density Single Family at 5 units per acre and multifamily at 12 units per acre. Additionally troubling about the legislative rezone is tht these changes were bundled with 900 other legislative changes and were termed "minor and insignificant." These enormous rezones were also incorrectly listed in the city council packet as being in the Lakeview neighborhood when they are actually in Moss Bay. All in all, if you require a certain procedure to be followed in order to change density on a property, those things were clearly not done and two properties were changed from low intensity residential to commercial BN in an inappropriate manner.

19

Page 12, Typewriter (Red):

Comment: YES... All agree that new development should be built here. Citizens merely insist that the development be supported by the Comprehensive Plan decisions and the Residential Market-Commercial designation that was assigned to these properties AND the definition of Residential Market-Commercial that was written specifically to address the constraints on intensity so that only the LOWEST OF INTENSITY development, something along the line of a very small building that would fit with the neighborhood.

20

Page 13, Typewriter (Red):

Comment: PLEASE NOTE: These are outdated Development Regulations as City Council has on 4 occasions voted to have more restrictive regulations and has instructed staff to create the zoning text that would implement the instructions on Residential Market - lowest intensity. While the work of staff has not been completed, the decision to have more restrictive developmental regulations, and the definitions of Res Mkt became local law 5 days after publication of each of the affirmative decisions of Kirkland City Council

21

Page 13, Typewriter (Red):

Comment: This review of development regulations only addresses the outdated regulations as applied to all BN zones prior to more current changes to BN which were voted into "local law" by City Council in 1995, 2004, 2007 and 2010. On at least these four occasions, starting in 1995, it was recognized that certain properties were not suitable for BN zoning as it existed and should be more restrictive. A brand new commercial use designation was created for the purpose of providing a "lowest intensity" use and a full definition of what would be allowed in this lowest intensity "Residential Market - Commercial" was deliberated, and approved by at least 4 planning commissions and city councils. The ordinances became "local law" as to how these new properties would be restricted each time the ordinance was approved and then published. There was never any challenge to the new law that created newer, more restrictive use for Residential Market properties. Each ordinance was also accompanied by instructions to staff to give high priority to providing the text so that the zone use charts would be easy to read and understand the changes made to the development regulations.

22

Page 13, Typewriter (Blue):

Comment: Insert Definition of residential market and the setback along LWB

23

Page 13, Typewriter (Red):

Comment: See discussion above. This designation was a residential designation and was illegally changed (no notice to residents). Even Planning Commission and City Council were not told of this change during Shoreline Master Plan meetings where they were only informed of 3 Urban Mixed areas - Carrillon Point, CBD and Juanita Business District (Documentation can be provided for to prove this fact).

24

Page 14, Typewriter (Red):

Comment: see last page re: illegal, unnoticed change from UR-1 Residentail to Urban Mixed unlike surrounding properties (spot zone)

25

Page 14, Typewriter (Red):

Comment: 24 units per acre = min lot size of 1800 sq ft. Also, within the last few years Kirkland was unclear as to whether shoreline restrictions applied to the whole parcel or just the shoreline area. Public records show that Kirkland Planning Staff contacted Department of Ecology and asked for advice. They were told that Shoreline Regulations on dwelling units per acre applied to the whole parcel and not just the land that was subject to SMP. There is nothing in the public record to show that DOE has changed their stance on this.

26

Page 14, Typewriter (Red):

Comment: The City of Kirkland hired an independent specialist previously involved with Environmental Impact Studies and understanding land use law. He suggested that more alternatives than the No-Action and the developer's proposal should be reviewed. Why did the city choose, therefore, to dismiss the advice that they'd paid for? Why did they only require the applicant to review the proposed alternative and a "no Action" alternative when the citizens had requested that a lower intensity proposal @ 12-24 dwellings per acre be used as a middle alternative. The citizens requested this alternative properly during the comment timeframe which means the city must provide defensible reasons why they did not include this in the scope of the project.

27

Page 14, Typewriter (Red):

Comment: No one is suggesting that the site should not have new development. For this reason the No Action Alternative is worthless review. Of course development is better than no development, however development of the planned size, scale and integration into neighborhood is not being studied as compared to ultra-intense development

28

Page 14, Typewriter (Red):

Comment: Parking impact, as well as vehicular ingress and egress would be only modestly increased with 12-24 units/acre and neighborhood serving retail/restaurants. This would also require less excavation

29

for below grade parking and the lower density option was requested as a study option by neighbors during the established comment period. For this reason, the citizens request a plausible explanation why their request for study of this option was not included. An additional option besides "No Action" and the proposa was suggested as appropriate by the consultant hired to guide the city. He is expert in EIS an Land Use law. It is uncertain why the city did not follow the advise of the consultant that they hired.

29
cont.

Page 14, Typewriter (Red):

Comment: Trees within the current landscaping are used by the neighborhood bald eagle

30

Page 15, Typewriter (Red):

Comment: This would be the only 4 story building in the area and thus not similar to surrounding bldgs. Additionally, the lot coverage was incorrectly calculated using measurements supplied by the developer rather than neutral party. The assessor's measurements would yield higher % lot coverage. As lot coverage is an issue regarding compatibility, it is important to use impartially provided numbers.

31

Page 15, Typewriter (Red):

Comment: Public records show that as early as 2009 the city told this developer that ingress and egress issues onto Lake St S from this site would require that ingress and egress needed to be onto 10th St S. It was indicated that this restriction would not be changed due to hardship. What happened?

32

Page 15, Typewriter (Red):

Comment: Much of the information supplied by the applicant has proven unreliable. The difference was reported as a difference in the size of the lot between what is reported by the applicant and that which is on file in the county assessor records. It is important to either use the assessors records or have the property surveyed by an independent surveyor

33

Page 16, Typewriter (Red):

Comment: Parking stalls have been noted as not standard in size, with columns interfering with width and the parking does not allow for flexibility in how the retail/office or restaurant uses may be leased over the years. Medical Office was specifically chosen due to lower parking requirement even though Medical Office is not a "Neighborhood serving business and the developer does not have an intended medical office tenant. It was merely to provide a "work-around" regarding parking requirement.

34

Page 16, Typewriter (Black):

Page 16, Typewriter (Red):

Comment: The landscaping as shown will be insufficient to provide buffer and will not sufficiently protect the adjoining or surrounding properties.

35

Page 17, Typewriter (Red):

Comment: Alternatives that would develop the site at 12-24 dwelling units per acre (+ neighborhood serving businesses) would not create a loss of opportunity to provide additional housing in the area.

36

Alternatives that would develop the site at 12-24 dwelling units per acre (+ neighborhood serving businesses) would not create a loss of opportunity to locate neighborhood scale services and goods within walking distance of the surrounding area.

If the site were currently developed at the lower intensity of 12-24 un/ac + neighborhood serving business the environmental site clean up would still be a requirement of development

Lower impact development might actually accelerate improvements to the vacant site since there would not be further appeals to Environmental Impact as well as citizen GMA challenges or lawsuits.

From: Uwkgg@aol.com
To: [Potala EIS](#); [Teresa Swan](#)
Cc: uwkgg@aol.com; neighboringproperties@gmail.com
Subject: Potala EIS these documents must be reviewed
Date: Friday, August 24, 2012 4:58:28 PM

The EIS Consultants must review and comment on Legal decisions of 1977 and 1979 as they pertain to review of IMPACTS due to ingress and egress.

1

They need to review all the materials that established Residential market designation (meeting minutes from 1991-5) GM Advisory board

Karen Levenson

6620 Lake Washington Boulevard NE, Kirkland

This is submitted also on behalf of my family, my HOA, local neighbors and HOAs that have asked me to represent them, clients of Brian Lawer, clients of David Mann, neighbors of "One Neighborhood Block" and citizens represented by STOP

