
CITY OF KIRKLAND

CITY COUNCIL



Amy Walen, Mayor • Jay Arnold, Deputy Mayor • Dave Asher • Shelley Kloba
Doreen Marchione • Toby Nixon • Penny Sweet • Kurt Triplett, City Manager

Vision Statement

*Kirkland is an attractive, vibrant and inviting place to live, work and visit.
Our lakefront community is a destination for residents, employees and visitors.
Kirkland is a community with a small-town feel, retaining its sense of history,
while adjusting gracefully to changes in the twenty-first century.*

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • TTY Relay Service 711 • www.kirklandwa.gov

AGENDA

KIRKLAND CITY COUNCIL MEETING

Peter Kirk Room

Tuesday, February 16, 2016

6:00 p.m. – Study Session

7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.kirklandwa.gov. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (425-587-3190) or the City Manager's Office (425-587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 425-587-3190. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

EXECUTIVE SESSIONS may be held by the City Council only for the purposes specified in RCW 42.30.110. These include buying and selling real property, certain personnel issues, and litigation. The Council is permitted by law to have a closed meeting to discuss labor negotiations, including strategy discussions.

PLEASE CALL 48 HOURS IN ADVANCE (425-587-3190) if you require this content in an alternate format or if you need a sign language interpreter in attendance at this meeting.

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*
 - a. Joint Meeting with Lake Washington School District Board
4. *EXECUTIVE SESSION*
5. *HONORS AND PROCLAMATIONS*
6. *COMMUNICATIONS*
 - a. *Announcements*
 - b. *Items from the Audience*
 - c. *Petitions*
7. *SPECIAL PRESENTATIONS*
 - a. I-405 Express Toll Lane Operations – Washington State Department of Transportation
8. *CONSENT CALENDAR*
 - a. *Approval of Minutes:* February 2, 2016

QUASI-JUDICIAL MATTERS

Public comments are not taken on quasi-judicial matters, where the Council acts in the role of judges. The Council is legally required to decide the issue based solely upon information contained in the public record and obtained at special public hearings before the Council. The public record for quasi-judicial matters is developed from testimony at earlier public hearings held before a Hearing Examiner, the Houghton Community Council, or a city board or commission, as well as from written correspondence submitted within certain legal time frames. There are special guidelines for these public hearings and written submittals.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

NEW BUSINESS consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

- b. Audit of Accounts:*
 - Payroll* \$
 - Bills* \$

- c. General Correspondence*

- d. Claims*

- e. Award of Bids*

- f. Acceptance of Public Improvements and Establishing Lien Period*

- (1) Establish Lien Period for Kirkland Intelligent Transportation System Phase 1B (ITS 1B) Project, Prime Electric, Inc., Bellevue, WA, and Approve Use of Remaining ITS 1B Funds for Upcoming Intelligent Transportation System Phase II Project

- g. Approval of Agreements*

- h. Other Items of Business*

- (1) 3rd Street Watermain Funding Approval
- (2) Resolution R-5185, Determining the Anticipated Shortfall in Revenues for Providing Municipal Services to the Annexation Area as Required by RCW 82.14.415.
- (3) Resolution R-5186, Relinquishing Any Interest the City May Have in an Unopened Right-of-Way as Described Herein and Requested by Property Owners David and Joanna Van Thiel.
- (4) Remittance of Duck Dash Raffle Tax Receipts to Selected Agency
- (5) Report on Procurement Activities

- 9. PUBLIC HEARINGS*

- 10. UNFINISHED BUSINESS*

- a. 2016 State Legislative Update #3*
- b. Resolution R-5187, Authorizing the City to Acquire Real Property Necessary for the Construction of a New Fire Station No. 24 and Authorizing the City to Enter Into Purchase and Sale Agreements and Proceed With Closing the Acquisitions.*
- c. Downtown Parking Update*

- 11. NEW BUSINESS*

- a. Recommendation Approving Funding From Lodging Tax Advisory Committee Reserves for the Kirkland Performance Center Technology Upgrades*

- b. 124th Avenue NE - NE 116th Street Intersection Improvements - Grant Award
- c. Briefing on Upcoming Wetland and Stream Code Amendments (Chapter 90 Kirkland Zoning Code)

12. *REPORTS*

a. *City Council Reports*

- (1) Finance and Administration Committee
- (2) Legislative Committee
- (3) Planning, and Economic Development Committee
- (4) Public Safety Committee
- (5) Public Works, Parks and Human Services Committee
- (6) Tourism Development Committee
- (7) Regional Issues

b. *City Manager Reports*

- (1) Upcoming 2016 City Council Meetings with the Neighborhoods
- (2) Calendar Update

13. *ITEMS FROM THE AUDIENCE*

14. *ADJOURNMENT*

ITEMS FROM THE AUDIENCE

Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Tracey Dunlap, Deputy City Manager
Date: February 8, 2016
Subject: Joint Meeting with Lake Washington School District Board

RECOMMENDATION:

City Council hosts a joint meeting with the Lake Washington School District Board to discuss the April 2016 Bond Measure and other items of mutual interest.

BACKGROUND DISCUSSION:

Lake Washington School District has placed a Bond Measure on the April 2016 election. The School District will be present information on the Bond Measure and other items of mutual interest and will be available for questions and discussion. The District provided a brief overview (attached). The following individuals will be in attendance:

- Traci Pierce, Superintendent
- Nancy Bernard, President
- Chris Carlson, Vice President
- Siri Bliesner, Board Member
- Mark Stuart, Board Member
- Eric Laliberte, Board Member.



The Current Situation: Rapid Growth

- The Lake Washington School District is rapidly growing
- Current enrollment is **27,830 students**
- Enrollment has increased by **1,114 students over last year alone**
 - That is **34 classrooms** worth of students
- The Lake Washington School District has grown from the 6th largest district to the **4th largest district in the state** since just last year
- LWSD has experienced **7 straight years of enrollment growth**
 - Enrollment has grown by average of **625 students per year for the past five years**
 - This is equivalent to **a large elementary school every year**
- **By 2020-21**, in just five years, LWSD will have over **30,000 students**
- **By 2029-30**, LWSD will have over **32,000 students**

The Challenge: Not Enough Classrooms, Crowded Schools, Aging Facilities

- There is **not enough classroom space** to meet the needs of growing enrollment
- **Schools are overcrowded**
- By next school year, there will be **168 portable classrooms in the district**
 - That is the **equivalent of 7 elementary schools**
 - **14% of the total district classroom capacity** is portables
- The state is funding **all-day kindergarten** and **reduced class size at grades K-3**
 - This increases our need for more classroom space
- The district also has **aging facilities** that need to be addressed

The Solution: Build More Schools

- **A citizen-based 63-member Long Term Facility Task Force spent nearly a year** (December 2014 – November 2015) analyzing the district’s facility needs, engaging the community, and developing recommendations including:
 - Specific **construction projects** needed for the district through 2029-30
 - Strategies for **efficient and cost-effective facility designs**
- In order to implement the Long Term Facility Task Force recommendations, the district needs to **pass bond measures to get funding**
 - Once a bond measure is passed, the district can qualify for **state construction funding assistance**

The Funding Plan: Comprehensive, Responsible, Cost-Conscious, Fiscally Disciplined

- An **April 2016 bond** measure of \$398 million will fund the most **immediate, high priority** needs
 - **The bond measure will not increase tax rates**
 - **The total tax rate will be maintained at the 2015 rate**
 - The district will receive \$21 million in state construction funding assistance and \$10 million in school impact fees
 - **Cost-effective construction design principles** will be implemented
 - These bond measures **reduce the reliance on portable classrooms**

- Subsequent bond measures in **2018, 2022** and **2026** will fund the **longer-term needs**
 - Timing aligns with **current replacement levy cycle**
 - **These bond measures will not increase tax rates**
 - The total 2015 tax rate will be maintained and **kept steady over the next 15 years**
 - **Cost-effective construction design principles** will be implemented
 - These bond measures **reduce the reliance on portable classrooms**

April 2016 Bond	2018 Bond	2022 Bond	2026 Bond
<ul style="list-style-type: none"> • Rebuild and enlarge Juanita High School • Rebuild and enlarge Kirk Elementary • Rebuild and enlarge Mead • Build one new RLC middle school – Redmond Ridge • Build new RLC elementary – Redmond Ridge • Build new RLC elementary – North Redmond • Refurbish Old Redmond Schoolhouse for preschool • Replace Explorer portables with modulars • Complete other capital projects for Title IX and/or ADA 	<ul style="list-style-type: none"> • Addition at LWHS • One new LWLC elementary • Remodel or replace and enlarge Kamiakin Middle School • ELC/RLC Choice High School • Remodel or replace and enlarge Alcott Elementary • Special Education learning spaces • Land • Site specific capital projects/contingency 	<ul style="list-style-type: none"> • LWLC Choice High School • One new LWLC elementary • One new RLC elementary • Remodel or replace and enlarge Evergreen Middle • JLC/LWLC Preschool • Special Education learning spaces • Land • Site specific capital projects/contingency 	<ul style="list-style-type: none"> • Addition at Finn Hill Middle • Remodel or replace and enlarge Smith Elementary • Special Education learning spaces • Land for future projects • Potential future projects TBD • Site specific capital projects/contingency
<p>\$398 Million No tax rate increase</p>	<p>\$288 Million No tax rate increase</p>	<p>\$278 Million No tax rate increase</p>	<p>\$207 Million No tax rate increase</p>



KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
February 2, 2016

1. CALL TO ORDER
2. ROLL CALL

ROLL CALL:

Members Present: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Shelley Kloba, Councilmember Toby Nixon, Councilmember Penny Sweet, and Mayor Amy Walen.
Members Absent: Councilmember Doreen Marchione.

Councilmember Marchione was absent/excused due to illness.

3. STUDY SESSION

- a. Plastic Bag Reduction Policy Implementation Update

Joining Councilmembers for this discussion were City Manager Kurt Triplett, Solid Waste Programs Supervisor John MacGillivray, Recycling Programs Coordinator Jenna Higgins and Environmental Education/Outreach Specialist Tracy Durnell.

4. EXECUTIVE SESSION

- a. Closed Session To Discuss Labor Negotiations

Mayor Walen announced that Council would move into a closed session to discuss labor negotiations and would return to regular meeting at 7:30 p.m., which they did. Also present for the session were City Attorney Robin Jenkinson, City Manager Kurt Triplett, Deputy City Managers Marilynne Beard and Tracey Dunlap, Human Resources and Performance Management Director James Lopez, Interim Police Chief Bill Hamilton and Finance and Administration Director Michael Olson.

5. HONORS AND PROCLAMATIONS

None.

6. COMMUNICATIONS

- a. Announcements
- b. Items from the Audience

Frank Dennis
Gregor Miller

Jeff Churchill
Doug Huxtable
Karen Lightfeldt

c. Petitions

7. SPECIAL PRESENTATIONS

a. King County Metro Transit Long Range Plan

Public Works Director Kathy Brown introduced King County Metro Transportation Planner Stephen Hunt, who shared information related to the Metro Transit Long Range Plan.

8. CONSENT CALENDAR

a. Approval of Minutes: January 19, 2016

b. Audit of Accounts:

Payroll \$3,248,579.67

Bills \$3,858,762.59

run #1485 checks #568127 - 568130

run #1486 checks #568159 - 568336

run #1487 checks #568337 - 568353

run #1488 checks #568354 - 568355

run #1489 checks #568357 - 568463

c. General Correspondence

d. Claims

Claims received from James Easterlin, Stephen Franke and Michael Vallee were acknowledged via approval of the Consent Calendar.

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

h. Other Items of Business

(1) Resolution R-5181, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE DULY-APPOINTED ADMINISTERING AGENCY FOR A REGIONAL COALITION FOR HOUSING (ARCH) TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT FOR THE FUNDING OF AFFORDALBE HOUSING PROJECTS, AS RECOMMENDED BY THE ARCH

EXECUTIVE BOARD, UTILIZING FUNDS FROM THE CITY'S HOUSING TRUST FUND."

(2) Resolution R-5182, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE 2016 A REGIONAL COALITION FOR HOUSING (ARCH) WORK PROGRAM AND ADMINISTRATIVE BUDGET."

(3) Surplus Vehicles for Sale

Sale and Disposal of listed surplus vehicles was approved via approval of the Consent Calendar.

Fleet #	Year	Make	VIN/Serial Number	License #	Mileage
D05-10	2005	Chevrolet Blazer	1GNCT18X95K108051	39476D	65,272
P108	2011	Ford Expedition	1FMJU1G52BEF25143	53002D	75,226
P115	2011	Ford Expedition	1FMJU1G54BEF49136	54018D	81,813
T07-02	2007	Ford Expedition	1FMFU16577LA65164	44123D	79,291
F312	2001	Ford Road Rescue Aid Car	1FDXE45F01HB03485	34150D	49,611
F313	2002	Ford Road Rescue Aid Car	1FDXE45F42HB49029	36140D	56,814

Motion to Approve the Consent Calendar.

Moved by Councilmember Penny Sweet, seconded by Deputy Mayor Jay Arnold

Vote: Motion carried 6-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Shelley Kloba, Councilmember Toby Nixon, Councilmember Penny Sweet, and Mayor Amy Walen.

9. PUBLIC HEARINGS

None.

10. UNFINISHED BUSINESS

a. 2016 State Legislative Update #2

Intergovernmental Relations Manager Lorrie McKay reviewed the status of the City's 2016 legislative priorities in current session.

Motion to Adopt Attachment H, the 2016 Legislative Support Agenda, with the addition of support for criminal justice funding.

Moved by Councilmember Dave Asher, seconded by Councilmember Penny Sweet

Vote: Motion carried 5-1

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Shelley Kloba, Councilmember Penny Sweet, and Mayor Amy Walen.

No: Councilmember Toby Nixon.

b. Board and Commission Interview Selection Committee Recommendation

Motion to Approve the Board and Commission Interview Selection Committee Recommendation to interview incumbents whose terms are ending.

Moved by Councilmember Penny Sweet, seconded by Councilmember Dave Asher

Vote: Motion carried 6-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Shelley Kloba, Councilmember Toby Nixon, Councilmember Penny Sweet, and Mayor Amy Walen.

11. NEW BUSINESS

a. Resolution R-5183, Temporarily Increasing the Membership of the Human Services Advisory Committee by Two Members.

Motion to Approve Resolution R-5183, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND TEMPORARILY INCREASING THE MEMBERSHIP OF THE HUMAN SERVICES ADVISORY COMMITTEE BY TWO MEMBERS."

Moved by Councilmember Dave Asher, seconded by Councilmember Shelley Kloba

Vote: Motion carried 6-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Shelley Kloba, Councilmember Toby Nixon, Councilmember Penny Sweet, and Mayor Amy Walen.

b. Resolution R-5184, Adopting the 2015 Update of the City of Kirkland Comprehensive Emergency Management Plan.

Emergency Preparedness Coordinator Erin Tramontozzi responded to Council questions and comments on the draft plan.

Council recessed for a short break.

12. REPORTS

a. City Council Reports

(1) Finance and Administration Committee

Deputy Mayor Arnold reported on a list of potential future topics for future committee meeting where a decision was made to remove the item regarding the recovery of Emergency Sewer Program Outreach Funds be moved to the Public Works, Parks and Human Services Committee and to add two topics, the Future of the Library Board and the Employee Code of Ethics; review of the outline of the 2017-18 Budget and 2017-2022 Capital Improvement Program processes.

(2) Legislative Committee

Chair Asher reported on the Association of Washington Cities City Action Days in Olympia.

(3) Planning, and Economic Development Committee

Did not meet.

(4) Public Safety Committee

Did not meet.

(5) Public Works, Parks and Human Services Committee

Chair Kloba reported on review of the Transportation Commission work plan; and a follow up with King County Metro regarding the Bus Rapid Transit presentation at the previous Council meeting.

(6) Tourism Development Committee

Chair Nixon reported on an upcoming visit to the Kirkland Performance Center to view a number of the systems proposed for upgrades.

(7) Regional Issues

Councilmembers shared information regarding the recent Washington Coalition of Open Government conference; the Nourishing Networks Mid-Winter Break food box drive; an upcoming Sound Cities Association Public Issues Committee meeting; an Eastside Human Services Forum meeting; a King County Board of Health meeting; the Moss Bay Neighborhood Association meeting; the rooftop concert by Creme Tangerine to benefit Northwest Harvest; a King County Mental Illness and Drug Dependency Oversight Committee meeting; an upcoming King County Regional Transit Committee meeting; a question of about the lack of a density cap in the downtown area which inhibits the ability of the City to require affordable units new development was forwarded to the Planning and Economic Development Committee; the Greater Kirkland Chamber of Commerce Public Policy meeting; a presentation on water conservation by members from the Cascade Water Alliance Teachers Fellows program; an Association of Washington Cities nominating committee meeting; the Seattle/King County Coalition on Homelessness One Night Count; the upcoming Public Safety Committee meeting; the Association of Washington Cities Tech Cities Alliance presentation; the Puget Sound Regional Council Executive Board meeting; the Sound Cities Association Board Retreat; a Northend Mayors' meeting; and the local Lake Washington Parent Teacher Student Association membership drive and community outreach activities.

b. City Manager Reports

City Manager Kurt Triplett reported on the status of the City Hall renovation; the upcoming February 16 study session which will be a joint meeting with the Lake Washington School Board to discuss a bond measure; a proposal to make a three dimensional photo of the existing city model that was located in the lobby which would allow the original model to be surplus. Councilmember Asher requested the Council consider a long term goal of pursuing a general public affordable housing education initiative.

(1) Calendar Update

City Manager Kurt Triplett announced that the February 16 study session will be a joint meeting with the Lake Washington School Board; the Council was polled to see if they would be interested in possibly cancelling the August 2nd meeting and to have only one meeting for August on the 16th.

13. ITEMS FROM THE AUDIENCE

Jeanne Large

14. EXECUTIVE SESSION

None.

15. ADJOURNMENT

The Kirkland City Council regular meeting of February 2, 2016 was adjourned at 9:49 p.m.

City Clerk

Mayor



CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Kathi Anderson, City Clerk
Date: February 9, 2016
Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION

It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS

This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.040).

BACKGROUND DISCUSSION

The City has received the following Claim(s) for Damages from:

- (1) Kelly Hansen
500 106th Ave. NE #3109
Bellevue, WA 98004

Amount: \$820.16

Nature of Claim: Claimant states damage resulted from phone being dropped by a City employee.

- (2) Paul Savage
215 3rd Avenue.
Kirkland, WA 98033

Amount: \$10,000.00

Nature of Claim: Claimant states damage resulted from a City broken sewer pipe.

Note: Names of claimants are no longer listed on the Agenda since names are listed in the memo.



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Frank Reinart, P.E., Project Engineer
David Snider, P.E., Capital Projects Manager
Kathy Brown, Public Works Director

Date: February 4, 2016

Subject: KIRKLAND ITS IMPLEMENTATION PHASE 1B PROJECT
ACCEPT WORK

RECOMMENDATION:

Staff recommends that the City Council:

- Accept the work for the Kirkland Intelligent Transportation System Phase 1B (ITS 1B) Project, as completed by Prime Electric, Inc., Bellevue, WA, in the amount of \$433,553.33, thereby establishing the statutory lien period, and
- Approve the use of remaining ITS 1B funds for the upcoming Intelligent Transportation System Phase II Project.

By taking action on this memo during approval of the consent calendar, City Council is accepting the work for the Kirkland ITS Phase 1B Project and authorizing the transfer of all remaining Phase I Project funds to the Phase II Intelligent Transportation System Project.

BACKGROUND DISCUSSION:

The Kirkland ITS 1B Project upgraded traffic signal equipment, interconnected existing traffic signals, and added data collection and field monitoring equipment at various locations around the City. The City previously completed the ITS Phase 1A Project with the construction of a new Traffic Management Center (TMC) inside City Hall in 2014. With new field equipment installed and tested under the subject contract, direct communication and control between the new field equipment and the TMC is now possible. City staff will be completing all necessary internal programming of the complete system over the next couple of weeks in order to have a more fully operational TMC.

The ITS 1B Project sites occurred along two major City and regional arterial corridors, both leading to and from downtown Kirkland (also see Attachment A):

1. Lake Washington Blvd/Market Street/98th-100th Ave NE Corridor
2. Central Way/NE 85th Street Corridor

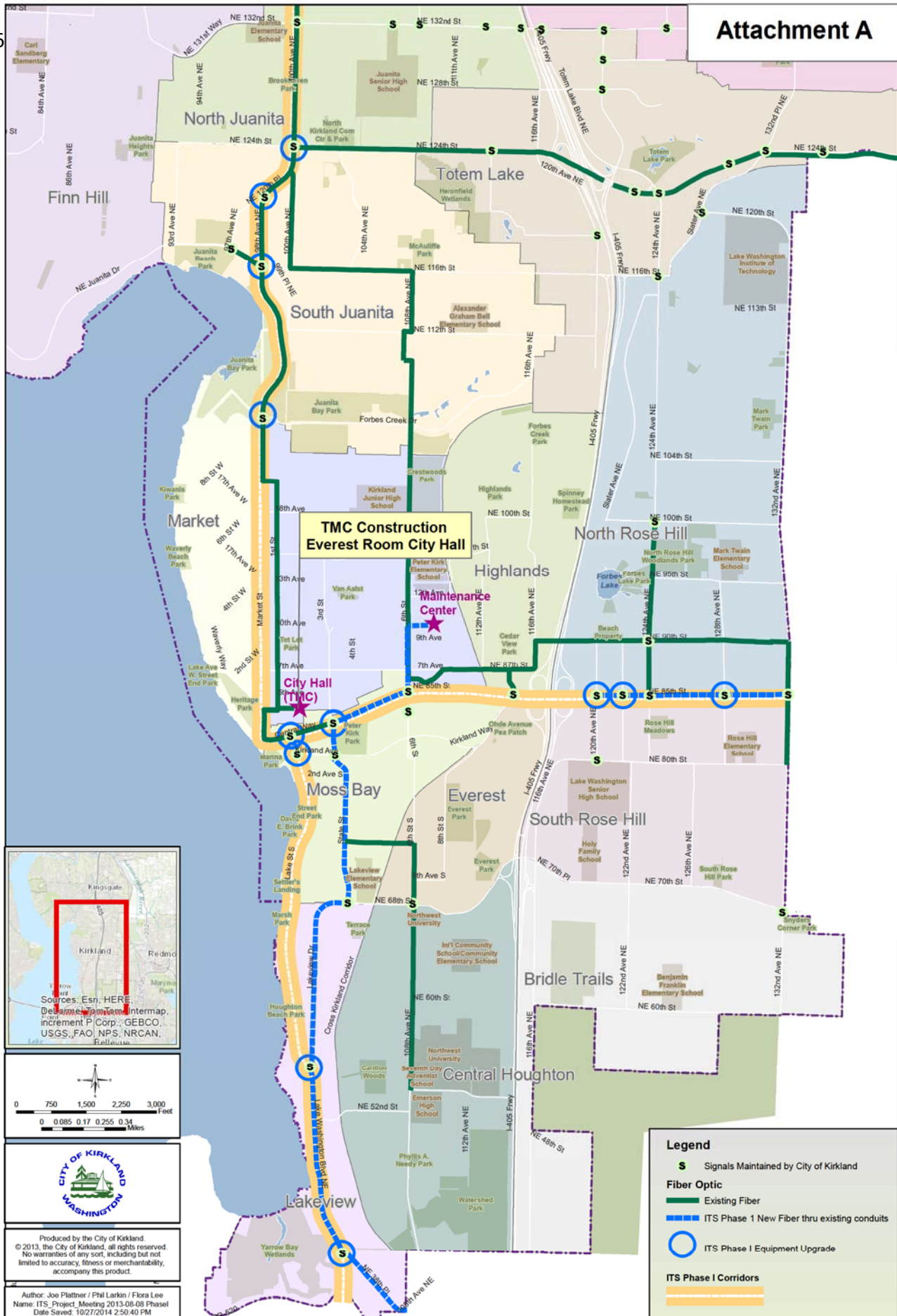
Specific equipment elements for the ITS 1B Project included new signal cabinet assemblies, updated signal controllers with accessible pedestrian signal (APS) devices, closed circuit television (CCTV) cameras for traffic monitoring, video detection, and all new central control hardware and software.

During its meeting of March 3, 2015, City Council awarded the ITS 1B Project to Prime Electric, Inc., in the amount of \$407,778.00. After a planned procurement and equipment configuration delay, the physical construction began in August and was completed on December 28, 2015. The total amount paid to the contractor was \$433,553.33, including three change orders totaling \$25,775.33. The change orders were needed to address unanticipated compatibility issues between the City's existing traffic signal equipment and software systems, and the new improvements provided by ITS 1B Project.

The funding for Phases 1A and 1B for this first-ever Kirkland ITS Project combined a federal Congestion and Mitigation of Air Quality (CMAQ) grant of \$1,800,000 with City transportation funds in the amount of \$371,000 for a total Project budget of \$2,171,000. The construction contract and design engineering costs are all known and the Project budget remains intact with an overall positive project contingency balance of over \$7,000 (Attachment B). With City Council acceptance of the work for the subject Project, staff will proceed with final close-out procedures for the CMAQ grant with assistance from the State of Washington Local Programs Office, as the grant administrator. At the completion of the Project close-out processes, after all related close-out expenses are complete, staff wishes to move all remaining funds to the ITS Phase II Project and is seeking City Council approval, as per the recommendation above.

Attachment A: Vicinity Map

Attachment B: Project Budget Report (Accept Work)



Kirkland ITS Implementation, Phase 1B

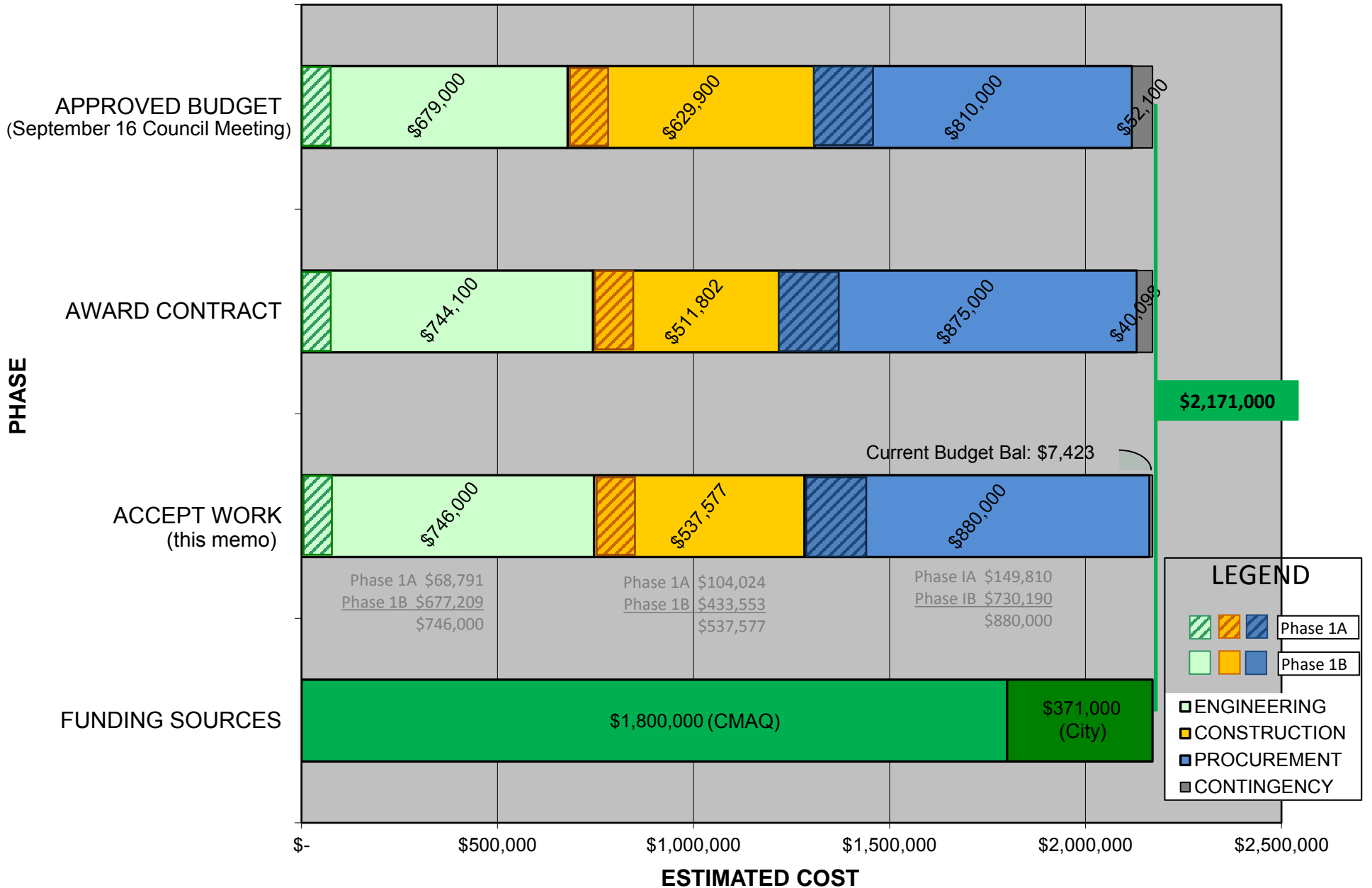
Vicinity Map

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 No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

Author: Joe Plattner / Phil Larkin / Flora Lee
 Name: ITS_Project_Meeting 2013-08-08 Phase1
 Date Saved: 10/27/2014 2:50:40 PM

**Kirkland ITS Implementation,
Phase IB - Installation of Signal Equipment (CTR-0111-000)
Project Budget Report**

Attachment B



**CITY OF KIRKLAND****Department of Public Works**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800

www.kirklandwa.gov**MEMORANDUM**

To: Kurt Triplett, City Manager

From: Frank Reinart, P.E., Project Engineer
David Snider, P.E., Capital Projects Manager
Kathy Brown, Public Works Director

Date: February 4, 2016

Subject: 3rd STREET/KIRKLAND TRANSIT CENTER WATERMAIN
FUNDING APPROVAL

RECOMMENDATION:

Staff recommends that the City Council approve the use \$104,036 in Water/Sewer Construction Reserve funds for reimbursement to King County Department of Natural Resources and Parks (KCDNRP) for the City's portion of construction costs associated with the replacement of the 3rd Street Watermain, in accordance with a 2009 Interagency Agreement.

By taking action on this memo during approval of the consent calendar, City Council is approving the use of Water/Sewer Construction Reserve funds to reimburse King County for the construction of Kirkland Water System improvements along 3rd Street.

BACKGROUND DISCUSSION:

The 2010 - 2011 construction of the Kirkland Transit Center by Sound Transit and the 2011 - 2014 re-construction of the (KCDNRP) Sanitary Sewer Lift Station resulted in the replacement and upsizing of a Kirkland waterline serving 3rd Street, Peter Kirk Park and adjacent Downtown Kirkland properties (Attachment A). The City's waterline replacement was necessitated due a conflict between the existing watermain and a new KCDNRP sewermain connected with the KCDNRP sewer lift station replacement located at the northwest corner of the intersection of 3rd Street and Park Lane. The new KCDNRP sewermain and the City's watermain construction occurred during the early phase of the Kirkland Transit Center project, ahead of the installation of the new Transit Center's concrete road surface.

At the time of the new Kirkland Transit Center and KCDNRP Lift Station construction projects, the Kirkland Water Comprehensive Plan (WCP) identified a need to increase the size of the City's 3rd Street watermain from an 8-inch diameter to a 12-inch diameter in order to serve future water demands for domestic and fire flow in the Downtown area. On October 6, 2009, the City Council approved Resolution R- 4778, authorizing the City Manager to sign an Interagency Agreement with KCDNRP. At the same meeting,

the City Council approved a City budget of \$140,000 to reimburse the County for the differential cost between the installation of an 8-inch watermain and the WCP identified 12-inch watermain. The construction of the Kirkland Transit Center, including the installation of the new 12-inch diameter line, was managed by King County and Sound Transit, with City inspection services provided by Kirkland staff.

In 2011, in conjunction with the completion of the Kirkland Transit Center, a total of \$42,450 was invoiced by the County and reimbursement was made by the City, as per the 2009 Interagency Agreement. Subsequent to that, with no further invoicing from KCDNRP, staff mistakenly concluded that all construction costs eligible for reimbursement had been submitted and, through the capital project closure process in 2013, the unspent balance was returned to the Water/Sewer Construction Reserve.

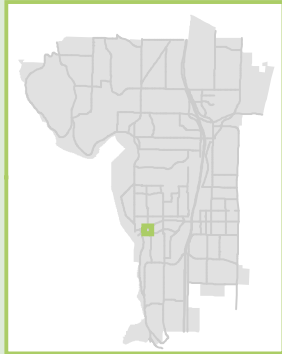
In 2014, at the conclusion of the KCDNRP Sewer Lift Station project, it was determined that the KCDNRP Wastewater Treatment Division had not submitted their final invoice to the City for reimbursement for the construction of the 12-inch watermain. When KCDNRP contacted the City and reported the total request for reimbursement it was apparent, from the documentation provided, that the reimbursement request was for the total cost of the watermain project, rather than just the differential cost agreed to in the Interagency Agreement. As a result, staff worked closely with KCDNRP staff to verify and validate all construction expenses associated with the watermain project. At the conclusion of those discussions in 2015, it was determined the City's final total cost of the City's share of all applicable watermain construction costs is \$146,486. With credit for the previously invoiced amount of \$42,450, the final amount of the City's share owed to KCDNR is \$104,036, for an amount that is 4.6% higher than the original budget balance of \$97,550.

As noted above, staff is recommending City Council approval for the use of Water/Sewer Construction Reserve in the amount of \$104,036 to fully reimburse KCDNRP for the City's share of the 3rd Street Watermain associated with the Kirkland Downtown Transit Center and KCDNR Sewer Lift Station projects (Attachment B).

Attachment A: Vicinity Map



Attachment B: Fiscal Note

3rd Street Watermain Upgrade



Vicinity Map

Map Legend

-  King County 12" Watermain
-  Preexisting Watermain



Former 8" Watermain

KCDNR Pump Station

New 12" Watermain



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accuracy, fitness or merchantability, accompany this product.

FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Kathy Brown, Public Works Director							
Description of Request							
Funding of \$104,036 for 3rd Street Watermain Upgrade CWA 0142 from the Water/Sewer Construction Reserve to fully reimburse King County Department of Natural Resources as described in the attached memo.							
Legality/City Policy Basis							
Fiscal Impact							
One-time use of \$104,036 from the Water/Sewer Construction Reserve. This reserve is fully able to fund this request.							
Recommended Funding Source(s)							
Reserve	Description	2016 Est End Balance	Prior Auth. 2015-16 Uses	Prior Auth. 2015-16 Additions	Amount This Request	Revised 2016 End Balance	2016 Target
	Water/Sewer Const. Rsv.	17,664,869	32,000		104,036	17,528,833	N/A
	Prior Authorized Uses of Water/Sewer Construction Reserve: Park Lane Phase II Pedestrian Improvements, \$5,000, and 4th Street Watermain Replacement, \$27,000. No prior authorized additions.						
Revenue/Exp Savings							
Other Source							
Other Information							

Prepared By	Neil Kruse, Senior Financial Analyst	Date	February 2, 2016
-------------	--------------------------------------	------	------------------



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance and Administration
Kyle Butler, Budget Analyst

Date: January 28, 2016

Subject: ANNEXATION STATE SALES TAX CREDIT RESOLUTION

RECOMMENDATION:

City Council approves the resolution required for notification of the Department of Revenue regarding the annexation state sales tax credit threshold for July 1, 2016 through June 30, 2017.

BACKGROUND DISCUSSION:

An important part of the implementation strategy for the 2011 annexation was the use of the annexation state sales tax credit to assist the City in providing municipal services in the area where the revenues are not yet sufficient to fund those services. RCW 82.14.415 requires the City to provide the Department of Revenue (DOR) with an estimate of the anticipated shortfall (labeled, "new threshold amount") in the annexation area for the next fiscal year (July 1, 2016 through June 30, 2017). To be eligible for the credit in the coming fiscal year, DOR must be notified no later than March 1, 2016, which necessitates approval of the attached resolution at the February 16, 2016 City Council meeting.

The state sales tax credit helps bridge the gap between revenues and expenditures in the annexation area. It is important to note that the credit is only available up to the amount needed to offset actual shortfalls due to annexation and may not be used for capital costs. The distribution is set up to match the State's fiscal year of July through June. The new threshold amount for the fiscal year beginning July 1, 2016 is \$3.935 million.

RCW 82.14.415 (9) also requires the City to provide the DOR with a certification of the City's true and actual costs to provide municipal services to the annexed area. This certification language is included in the resolution for the last completed State fiscal year (in this case, July 1, 2014 to June 30, 2015).

DOR makes the monthly distributions on a two-month delay (for example, July revenue received in September) and continues until the threshold amount has been reached or until June 30 of the following year, whichever occurs first.

RESOLUTION R-5185

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND DETERMINING THE ANTICIPATED SHORTFALL IN REVENUES FOR PROVIDING MUNICIPAL SERVICES TO THE ANNEXATION AREA AS REQUIRED BY RCW 82.14.415.

1 WHEREAS, RCW 82.14.415 authorizes the City to impose a sales
2 and use tax as a credit against the state tax to assist the City in providing
3 municipal services to the newly annexed areas; and
4

5 WHEREAS, on April 7, 2009, the City Council passed Resolution
6 R-4751 which directed the City Clerk to file a notice of intent to annex
7 the Finn Hill, Kingsgate and North Juanita Annexation Area with the King
8 County Boundary Review Board; and
9

10 WHEREAS, the Boundary Review Board held a public hearing on
11 the proposed annexation on June 8, 2009, and approved the annexation
12 on July 9, 2009; and
13

14 WHEREAS, the City Council passed Resolution R-4763 calling for
15 an election which was held pursuant to state statute; and
16

17 WHEREAS, the King County Council transmitted a certified
18 abstract of the vote in the November 3, 2009, general election reflecting
19 that the annexation was approved by the voters; and
20

21 WHEREAS, the City Council passed Ordinance No. 4229 on
22 December 15, 2009, annexing the Finn Hill, Kingsgate and North Juanita
23 Annexation Area, an area that has a population of at least twenty
24 thousand people; and
25

26 WHEREAS, on February 16, 2010, the City Council passed
27 Ordinance No. 4237 creating Chapter 5.07 of the Kirkland Municipal
28 Code and imposing the sales and use tax at the rate of 0.2 percent; and
29

30 WHEREAS, the annexation sales tax credit revenues for the fiscal
31 year July 1, 2014 to June 30, 2015, were necessary to support the true
32 and actual costs to provide municipal services to the Annexation Area;
33 and
34

35 WHEREAS, the City Council certifies the true and actual cost to
36 provide municipal services to the Annexation Area totaled \$25.84 million
37 for the period corresponding to the State's fiscal year July 1, 2014 to
38 June 30, 2015; and the revenue from the Annexation Area, excluding
39 gambling and sales tax revenues for the same period totaled \$20.52
40 million, resulting in a difference of \$5.32 million. The gambling tax
41 revenue from the Annexation Area of \$1.08 million reduced this gap to

42 \$4.24 million. The annexation sales tax credit received from the State
43 was \$3.65 million; and
44

45 WHEREAS, RCW 82.14.415 requires the City to provide the
46 Washington State Department of Revenue with an estimate of the
47 anticipated shortfall or "threshold amount" in the Annexation Area for
48 the next fiscal year by March 1, 2016; and
49

50 WHEREAS, the City Council finds and determines that the
51 projected net cost to provide municipal services to the Annexation Area
52 exceeds the projected general revenue that the City would receive from
53 the Annexation Area by \$3.935 million for the state fiscal year starting
54 July 1, 2016, through June 30, 2017.
55

56 NOW, THEREFORE, be it resolved by the City Council of the City
57 of Kirkland as follows:
58

59 Section 1. Purpose. The Kirkland City Council determines that
60 the City's projected net cost in providing municipal services to the Finn
61 Hill, Kingsgate and North Juanita Annexation Area is in the amount of
62 \$3.935 million. The City Council previously imposed a sales and use tax
63 at the rate of 0.2 percent, with the passage of Ordinance No. 4237 on
64 February 16, 2010.
65

66 Section 2. Implementation. The City Manager is authorized to
67 implement such administrative procedures as may be necessary to carry
68 out the directions of this Resolution.
69

70 Passed by majority vote of the Kirkland City Council in open
71 meeting this ____ day of _____, 2016.
72

73 Signed in authentication thereof this ____ day of _____,
74 2016.

MAYOR

Attest:

City Clerk



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Katy Coleman, Development Engineering Analyst
Kathy Brown, Public Works Director

Date: February 1, 2016

Subject: RESOLUTION TO RELINQUISH THE CITY'S INTEREST IN A PORTION OF UNOPENED RIGHT-OF-WAY VAC16-00111

RECOMMENDATION:

It is recommended that the City Council adopt the attached Resolution relinquishing interest in a portion of unopened right-of-way abutting the parcel located at 11201 NE 92nd Street. Specifically, the subject right-of-way is identified as the north 8 feet of the unopened alley abutting the south boundary of the following described property: Lots 14, 15, and 16, Block 237, Supplementary Plat to Kirkland, as per plat recorded in Volume 8 of Plats, page 5, records of King County, Washington.

Approval of this memo by adopting the Consent Calendar will authorize relinquishing interest in said right-of-way.

BACKGROUND DISCUSSION:

The unopened portion of the alley abutting the property of 11201 NE 92nd Street (Attachment 1) was originally platted and dedicated in 1891 as Supplementary Plat to Kirkland. The Five Year Non-User Statute provides that any street or right-of-way platted, dedicated, or deeded prior to March 12, 1904, which was outside City jurisdiction when dedicated, and which remains unopened or unimproved for five continuous years, is then vacated. The subject right-of-way has not been opened or improved, but it has never formally been vacated and still appears on the City records as unopened right-of-way.

David and Joanna Van Thiel, owners of the property abutting this right-of-way, submitted information to the City claiming the right-of-way was subject to the Five Year Non-User Statute (Vacation by Operation of Law), Laws of 1889, Chapter 19, Section 32. After reviewing this information, the City Attorney concurs with the owners, and recommends approval of the enclosed Resolution to bring closure to the matter.

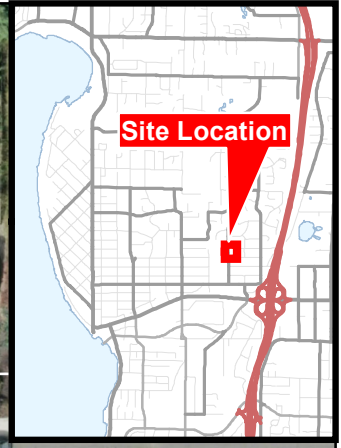
Attachment A: Vicinity Map
Resolution



112TH AVE NE






NE 92ND ST



NE 91ST ST

**Van Thiel Property
Non-User Vacation Exhibit
11201 NE 92nd Street**

-  Proposed Vacation
-  Granted Non-User Vacations
-  Van Thiel Property



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RESOLUTION R-5186

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNERS DAVID AND JOANNA VAN THIEL

1 WHEREAS, the City has received a request to recognize that any
2 rights to the land originally dedicated in 1891 as right-of-way abutting
3 a portion of Supplementary Plat to Kirkland has been vacated by
4 operation of law; and

5
6 WHEREAS, the Laws of 1889, Chapter 19, Section 32, provide
7 that any county road which remains unopened for five years after
8 authority is granted for opening the same is vacated by operation of law
9 at that time; and

10
11 WHEREAS, the area which is the subject of this request was
12 annexed to the City of Kirkland, with the relevant right-of-way having
13 been unopened; and

14
15 WHEREAS, in this context it is in the public interest to resolve
16 this matter by agreement,

17
18 NOW, THEREFORE, BE IT RESOLVED by the City Council of the
19 City of Kirkland as follows:

20
21 Section 1. As requested by the property owners David and
22 Joanna Van Thiel, the City Council of the City of Kirkland hereby
23 recognizes that the following described right-of-way has been vacated
24 by operation of law and relinquishes all interest it may have, if any, in
25 the portion of right-of-way described as follows:

26
27 A portion of unopened alley being identified as the north 8 feet of the
28 unopened alley abutting the south boundary of the following described
29 property: Lots 14, 15, and 16, Block 237, Supplementary Plat to
30 Kirkland, as per plat recorded in Volume 8 of Plats, page 5, records of
31 King County, Washington.

32
33 Section 2. This resolution does not affect any third party rights
34 in the property, if any.

35
36 Passed by majority vote of the Kirkland City Council in open
37 meeting this ____ day of _____, 2016

38
39 Signed in authentication thereof this ____ day of
40 _____, 2016.

MAYOR

Attest:

City Clerk



CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Cogle, Interim Director
Leslie R. Miller, Human Services Coordinator

Date: February 1, 2016

Subject: Remittance of Duck Dash Raffle Tax Receipts to Selected Agency

RECOMMENDATION

That the City Council approve the remittance of the Rotary Club of Kirkland 2015 Duck Dash raffle tax receipts to Eastside Baby Corner. By taking action on this memo during approval of the consent calendar the City Council authorizes raffle tax receipts in the amount of \$905.20 be distributed to Eastside Baby Corner.

BACKGROUND DISCUSSION

The Kirkland Rotary Club held its annual Puget Sound Duck Dash on August 2015. The Club raises funds through this event to support local charities.

All organizations that have raffles in Kirkland are required to collect and remit a raffle tax to the City. Gross revenues less cash paid as/for prizes are used to determine the taxable amount. When a raffle is conducted by a charitable or nonprofit organization, no taxes are imposed on the first ten thousand dollars (per calendar year) of gross receipts. The raffle tax due is based on the taxable amount times a rate of five percent.

At the June 1, 1999 City Council meeting, the Council requested that staff and the Human Services Advisory Committee review options and make recommendations for a process to distribute raffle tax revenues to human service agencies. Since that time, the City has honored this request by distributing raffle tax collected to local nonprofit or charitable organizations as requested by the event organizer.

City staff is proposing that the 2015 Kirkland Rotary Duck Dash raffle tax in the amount of \$905.20 be paid to Eastside Baby Corner as requested by the Kirkland Rotary Club. Eastside Baby Corner is a local non-profit agency and is the major source of diapers, clothing, baby food, diapers, car seats and cribs for 49 partner agencies.



CITY OF KIRKLAND

Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Barry Scott, Purchasing Agent

Date: February 4, 2016

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF FEBRUARY 16, 2016.

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of \$50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report, dated January 7, 2016, are as follows:

	Project	Process	Estimate/Price	Status
1.	Controllers (14) with Software for Intelligent Transportation System Project	Cooperative Purchase	\$59,199.81	Ordered from Western Systems of Everett using WA State Contract.
2.	Engineering Consulting Services for 2016 Street Preservation Program	A&E Roster Process	\$209,360	Contract awarded to Jennings Consulting Services of Stanwood based on qualifications per RCW 3.9.80.
3.	Engineering Services for Holmes Point Drive Storm Drain Replacement	A&E Roster Process	\$91,243	Contract awarded to KPFF of Seattle based on qualifications per RCW 39.80.
4.	Construction Mgmt. Services for Cochran Springs/Lake WA Blvd Crossing Enhancement	A&E Roster Process	\$343,300	Contract awarded to KBA, Inc. of Bellevue based on qualifications per RCW 39.80
5.	Document Scanning Services for Building Division	Request for Proposals	\$200,000	RFP released on 1/25 with proposals due on 2/17.

6.	NE 80 th Street Sewer and Watermain Replacement-Phase 2	Invitation for Bids	\$3,300,000 - \$3,600,000	Advertised on 1/26 with bids due on 2/10.
7.	Engineering Consulting Services for Juanita Drive Quick Wins Corridor Study	A&E Roster Process	\$197,492	Contract awarded to Perteet, Inc. of Everett based on qualifications per RCW 39.80.

Please contact me if you have any questions regarding this report.



CITY OF KIRKLAND
City Manager's Office
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Lorrie McKay, Intergovernmental Relations Manager
Date: February 5, 2016
Subject: 2016 STATE LEGISLATIVE UPDATE #3

RECOMMENDATION:

Council should receive its third update on the 2016 state legislative session

BACKGROUND DISCUSSION:

This memo reflects an update on the City's legislative interests as of February 5. At the writing of this memo, the legislature had concluded its fourth week of the 2016 State Legislative Session and had reached its first (February 5) session cutoff. Tuesday, February 9 is the next cutoff, which is last day to read in committee reports (pass bills out of committee and read them into the record on the floor) from House fiscal committees and Senate Ways & Means and Transportation committees in house of origin. And Wednesday, February 17, 2016 is the last day to consider (pass) bills in house of origin.

Council's Legislative Workgroup

The Council's Legislative Workgroup (Mayor Walen, Councilmember Asher and Councilmember Marchione) is scheduled to meet weekly throughout the session on Friday's at 3:30pm, to discuss the status of the City's 2016 legislative priorities (Attachment A). Councilmember Asher was the only member of the Workgroup available to meet on February 5. Staff had recommended the City take positions on 85 bill proposals (Attachment B) from over 140 that they have reviewed since the beginning of session (Attachment C).

Status Summary of the City's 2016 legislative priorities

- New policies and funding tools to address homelessness and create more affordable housing:

([House Bill 2397](#)) Demolition Fee bill

HB 2397 is dead.

([Senate Bill 6239](#) / [House Bill 2544](#)) Property tax exemption program for the preservation of housing

The City of Seattle is the lead on this bill, which authorizes city governing authorities to adopt a property tax exemption program, and county governing authorities to adopt a property tax exemption program for unincorporated jurisdictions, to preserve affordable housing that meets health and quality standards for very low-income households at risk of displacement or that cannot afford market-rate housing. The Senate version was heard Thursday, February 4 in Ways & Means. The House version was amended in the Community Development, Housing and Tribal Affairs Committee and referred to the Committee on Finance on February 5.

([House Bill 2395](#)) Fee on Condominium Conversions

HB 2395 is dead.

([House Bill 2086](#) / [Senate Bill 5900](#)) Prohibiting certain limitations on the hosting of the homeless by religious organizations

This bill was championed by local faith communities in 2015. The City supported it and Councilmember Marchione testified in support of the Senate version. The bill prohibits a local government from limiting a religious organization's: (1) Availability to host a rotating, established tent encampment to fewer than eight months during a calendar year; (2) Hosting term to fewer than four months; (3) Number of simultaneous hostings within the same municipality to one hosting during any given period of time; and (4) Availability to host safe parking efforts at its onsite parking lot. While the House version did not get scheduled for hearing this session, the Senate version was moved to the White Sheet in Rules.

([Senate Bill 6337](#) / [House Bill 2647](#)) Disposing tax foreclosed property to cities for affordable housing purposes

This bill is being championed by the City of Tacoma. The Senate version was amended in Human Services, Mental Health and Housing Committee on February 5 and passed to Senate Rules. The House version was amended February 2 and referred to Rules on February 5. The bill requires the county legislative authority to give notice to a city in which any tax foreclosed property is located within at least sixty days of acquiring the property and prohibits the county from disposing of the property at public auction or by private negotiation before giving the notice. The bill also requires the notice to offer the city the opportunity to purchase the property for the principal amount of the unpaid taxes, under certain conditions which include the city providing that the property is suitable and will be used for an affordable housing development and the city agreeing to transfer the property to a local housing authority or other nonprofit entity eligible to receive assistance from the affordable housing program.

([House Bill 2843](#)) Supporting affordable housing

This bill was amended in the House Community Development, Housing & Tribal Affairs Committee on February 2 and heard in Finance on February 5. The bill provides a business and occupation tax credit and a public utility tax credit for approved contributions that are made by a person to the affordable housing account. Requires an application for tax credits to be made to the department of revenue before making a contribution to the affordable housing account. Creates the Washington affordable housing account.

([Senate Bill 6647](#)) Responding to the crisis of homelessness in Washington (aka the Bring Washington Home Act)

This bill is supported by Washington Low Income Housing Alliance and was introduced to Senate Ways & Means on February 5. Senator Sharon Nelson (D-34) is the prime sponsor and is joined by Senators McAuliffe and Habib among others. Senate Bill 6647 addresses homelessness and immediate needs. The bill will allocate a total of \$300 million for affordable homes. It funds shelter, services, and permanent housing for people who need long-term support to get and stay off the streets. It addresses the needs of people with mental illnesses, homeless youth, families with children, and more. The bill increases funding for the Housing Trust Fund and addresses the shortfall in the Consolidate Homeless Grant. The bill includes funding for HOPE beds for homeless youth and new rental assistance vouchers for vulnerable people across the state.

Women & Family Shelter – Capital Budget Request

In partnership with Catholic Community Services, The Sophia Way and the City, ARCH (A Regional Coalition for Housing) has completed a Capital budget request for the women's shelter to be sited in Kirkland. Both House and Senate capital budget request forms are completed and submitted.

- Capital budget funding for a multimodal safety improvement project connecting the Cross Kirkland Corridor with the Redmond Central Connector:
Both House and Senate capital budget request forms are completed and submitted.
- Allow both the state and local governments the option of replacing the property tax cap:
The Washington State Association of Counties (WSAC) is organizing a series of meetings with legislators in Olympia on Thursday, February 18 to express support for raising the 1% property tax cap and set the stage for trying to move this issue in 2017. WSAC has extended an invitation to interested city officials to participate along with County elected officials, Prosecutors and Sheriffs. The day's activities require an all-day scheduling commitment. Interested councilmembers should let Lorrie McKay know if they are available.
- Facilitate greater access to rooftop residential and community solar installations by extending the timeframe for state solar incentives in the Renewable Energy System Cost Recovery program:
(House Bill 2346) Promoting a sustainable, local renewable energy industry through modifying renewable energy system tax incentives and providing guidance for renewable energy system component recycling. This bill is being championed by the Solar Industry of Washington (the installers). The bill resets the rates, ensures current payment to those customers already in, raises the cap and extends the program. HB 2346 was amended in Technology and Economic Development on January 27. After being referred to House Appropriations, it was heard there on Thursday, February 4.
- Clarify records retention, disclosure, and use limitations of video and/or sound recordings made by law enforcement or corrections officers:
(House Bill 2362) Concerning video and/or sound recordings made by law enforcement or corrections officers. Representative Hansen (D-23rd LD) was the prime sponsor of a bill on this topic last session. Rep. Hansen has filed this new bill. 2362 would allow people involved in an incident to get the recorded footage. While others could get the redacted information version, they would have to pay for it. The bill has a provision to sunset in two years and creates a task force in the meantime. The bill was referred to House Rules Committee on January 25.

Week 4 (2/1 – 2/7)

The primary focus in week 4

1. City's subject-matter expert review of bills dropped
2. Follow-up work from AWC Lobby Day
3. Efforts to encourage priority bills be moved out of committee of origin

Week 5 (2/8 – 2/14)

The primary focus in week 5

1. City's subject-matter expert review of bills dropped
2. Efforts to encourage priority bills be moved out of fiscal committees of origin
3. Determine information/material need to encourage bill passage out of the house of origin

Week 6 (2/15 – 2/21)

The primary focus in week 6

1. City's subject-matter expert review of bills dropped
2. Feb. 17 - the last day to consider (pass) bills in their house of origin

Hearings and Correspondence

Bill	Short Title	Cmte	Dt/Time	Notes
------	-------------	------	---------	-------

No hearings or executive action scheduled – as of the writing of this memo

Correspondence

No correspondence – as of the writing of this memo

BILL TRACKING AND THE BILL TRACKER:

Kirkland's Legislative Review Process

Proposed legislative bills are introduced daily in the Senate, the House, or both through the first cut-off, which is anticipated in mid-February. The City's state legislative advocacy consultant flags and forwards relevant bills to intergovernmental staff for review with department(s) and subject-matter experts in an effort to determine potential impacts to the City. This process also includes staff making an initial recommendation on City's position (Support/Oppose/Neutral) on a given bill. Intergovernmental staff then bring bills, reports and recommendations to the Council's Legislative Workgroup for consideration, discussion and validation of staff recommendations. The Legislative Workgroup's decisions are guided by the legislative agenda's general principles, as well as the City Council's Goals. Intergovernmental staff then communicate the City's position on bills to out legislative lobbyist, Council Members and Department Directors.

DRAFT SUPPORT ITEMS AGENDA:

At its February 2 meeting, Council moved to amend the 2016 Support Item Agenda that had been adopted at Council's January 19 meeting. The amendment directed staff to add the Washington State Criminal Justice Training Center and its 2016 supplemental operating budget request for \$641,000 (Attachment D). The funding would provide additional Basic Law Enforcement Academy (BLEA) classes, without which there is a six month delay for BLEA.

For Council's review, the amended and revised 2016 Legislative Support Items Agenda is attached in both track-changes (Attachment E) and a clean version (Attachment F).

- Attachments:
- A. Status update of the City's 2016 legislative priorities (2/5/16)
 - B. Bill Tracker – Recommended Positions (2/5/16)
 - C. Staff bill analysis (2/5/16)
 - D. Supplemental budget request on behalf of WA Criminal Justice Training Academy
 - E. Amended 2016 Legislative Support Items Agenda (in track changes)
 - F. Final 2016 Legislative Support Items Agenda

Legislative Priority	Bill #	Prime Sponsor	Status
<p>New policies and funding tools to address homelessness and create more affordable housing.</p> <ul style="list-style-type: none"> • Prop tax exemption for preservation of affordable housing • Encampments • Disposing tax foreclosed property to cities for affordable hsg. <ul style="list-style-type: none"> • Supporting affordable housing – (B&O) • Sale of manufactured/mobile home communities • Capital Budget Request for Women’s Shelter 	<p>SB 6239</p> <p>/HB 2544</p> <p>SB 5900</p> <p>SB 6337</p> <p>/2647</p> <p>HB 2843</p> <p>HB 2799</p>	<p>Sen Fain</p> <p>Rep. Frame</p> <p>Sen. Miloscia</p> <p>Sen. Darnielle</p> <p>Rep. Jinkins</p> <p>Rep. McBride</p> <p>Rep. McBride</p> <p>Rep. Tharinger</p> <p>Sen. Keiser</p>	<p>2/1 – Exec action in Human Svcs and Mental Hlth & Hsg</p> <p>2/4 – Heard in Ways & Means</p> <p>2/2 – Exec action in Comm. Dev, Housing & Tribal Affairs</p> <p>2/5 – Heard in Finance</p> <p>1/19 – Moved to Rules White Sheet</p> <p>2/4 – Exec action in Human Svcs and Mental Hlth & Hsg</p> <p>2/2 – Exec action in Comm. Dev, Housing & Tribal Affairs</p> <p>2/2 – Exec action in Comm. Dev, Housing & Tribal Affairs</p> <p>2/5 – Heard in Finance</p> <p>2/4 – Exec action in Judiciary</p> <p>2/1 - House project funding request form submitted</p> <p>2/1 - Senate project funding request form submitted</p>
<p>Capital budget funding for a multimodal safety improvement project connecting the Cross Kirkland Corridor with the Redmond Central Connector.</p>		<p>Rep. Tharinger</p> <p>Sen. Honeyford</p>	<p>House project funding request form submitted</p> <p>Senate project funding request form submitted</p>
<p>Allow both the state and local governments the option of replacing the property tax cap, currently fixed at 1 percent, with a cap that is indexed to both population growth and inflation.</p>			
<p>Facilitate greater access to rooftop residential and community solar installations by extending the timeframe for state solar incentives in the Renewable Energy System Cost Recovery program.</p>	HB 2346	Rep. Morris	2/4 – Heard in Appropriations
<p>Clarify records retention, disclosure, and use limitations of video and/or sound recordings made by law enforcement or corrections officers.</p>	HB 2362	Rep. Hansen	1/25 – Referred to Rules

* No HIGHLIGHTS = No change in status from last update.

Bill	Title	Position	Sponsor	Status
Support				
HB 1769	Reinstating tax preferences for high-technology research and development.	Support	Pettigrew	1/11 - Reintroduced & retained in present status.
HB 2086	Prohibiting certain limitations on the hosting of the homeless by religious organizations.	Support	McBride	1/11 - Reintroduced & retained in present status.
HB 2346	Promoting a sustainable, local renewable energy industry through modifying renewable energy system tax incentives and providing guidance for renewable energy system component recycling.	Support	Morris	2/4 Heard in Appropriations
HB 2353	Concerning civil penalties for knowing attendance by a member of a governing body at a meeting held in violation of the open public mtgs act.	Support	S. Hunt	1/29 - Referred to Rules 2 Review
HB 2362	Concerning video and/or sound recordings made by law enforcement or corrections officers.	Support	Hansen	1/25 - Referred to Rules 2 Review
HB 2372	Addressing the destruction of forfeited firearms in the custody of law enforcement agencies.	Support	Senn	1/21 - Heard in Judiciary
HB 2396	Concerning access to nonemergency, outpatient, primary health care services for unaccompanied homeless youth under the federal McKinney-Vento homeless assistance act.	Support	McBride	2/4 - Exec action in Judiciary
HB 2397	Supporting affordable housing by permitting a local government fee on demolitions that reduce potential housing stock.	Support	McBride	1/18 - Heard in Comm. Dev. and Housing & Trial Affairs
HB 2438	Concerning gradually increasing the local government share of excess liquor revenues until the percentage-based method for distributions is restored.	Support	Nealy	2/5- Referred to Appropriations
HB 2519	Allowing nuisance abatement cost recovery for cities.	Support	McCaslin	2/2 - Referred to Finance
HB 2569	Authorizing the use of high occupancy vehicle lanes by law enforcement and fire department vehicles	Support	Sells	1/25 - Heard in Transportation
HB 2576	Concerning public records act requests to local agencies.	Support	McBride	2/4 - Exec action in Local Government
HB 2708	Providing for fire protection district formation by the legislative authority of a city or town subject to voter approval	Support	Appleton	2/4 - Exec action in Local Government
HB 2741	Addressing state and local government fiscal agents.	Support	Kuderer	2/2 - Exec action in Business & Financial Services
HB 2583	Authorizing specified local governments to designate a portion of their territory as a creative district subject to certification by the Washington arts commission	Support	McBride	2/5 - Hearing / Exec action in Gen Gov & Info Tech
HB 2843	Supporting affordable housing.	Support	McBride	2/5 - Hearing in Finance
Oppose				
HB 2303	Adopting the international wildland urban interface code by reference for purposes of the state building code.	Oppose	Van De We	1/25 - Referred to Rules
HB 2347	Reducing the tax on useable marijuana, marijuana concentrates, and marijuana-infused products.	Oppose	Hurst	2/5 - Heard in Finance
HB 2407	Prohibiting regulation of the amount of rent for commercial properties.	Oppose	Manweller	1/13 - Referred to Local Government
HB 2442	Providing a property tax exemption for certain property w/in an affordable hsg incentive zone.	Concerns	Appleton	1/19 - Heard in Comm. Dev. and Housing & Trial Affairs
HB 2523	Concerning a leasehold excise tax credit for properties of market value in excess of \$10M.	Oppose	Lytton	1/22 - Heard in Commerce & Gaming
HB 2547	Ensuring that recreational facilities with synthetic turf materials are not a hazard to public health.	Oppose	Pollet	1/26 - Heard in Environment
HB 2589	Allowing the use of gender-segregated facilities	Oppose	G. Hunt	1/15 - Referred to Judiciary

HB 2631	Preventing discriminatory treatment by government of a person or entity based on beliefs and practices held with regard to marriage as the union btwn one man & one woman	Oppose	Klippert	1/18 - Referred to Judiciary
HB 2676	Authorizing cities and counties to exempt certain housing from the state building code.	Strongly oppose	Blake	1/18 - Referred to Judiciary
HB 2932	Authorizing cities and counties to approve the use of alternatives to the state building code	Oppose	Blake	2/3 - Heard in Local Government
EHB 1123	Regulating the minimum dimensions of habitable spaces in single-family residential areas	Oppose	Blake	1/28 - Placed on 3rd reading by Rules

Bill	Title	Position	Sponsor	Status
Support				
SB 5244	Disposing tax foreclosed property to cities for affordable housing purposes.	Support	Darneille	1/11 - Retained in present status
SB 5665	Reinstating tax preferences for high-technology research and development.	Support	Jayapal	1/11 - Retained in present status
SB 5900	Prohibiting certain limitations on the hosting of the homeless by religious organizations.	Support	Miloscia	1/19 - Moved to Rules White Sheet
SB 6171	Concerning civil penalties for knowing attendance by a member of a governing body at a meeting	Support	Roach	1/29 - Passed to Rules for 2nd reading
SB 6211	Concerning the exemption of property taxes for nonprofit homeownership development.	Support (weak)	Bailey	2/4 - Substitute passed to Rules for 2nd reading
SB 6239	Authorizing local governments to adopt a property tax exemption program for the preservation of certain affordable housing	Support	Fain	2/4 - Heard in Ways & Means
SB 6387	Providing for fire protection district formation by the legislative authority of a city or town subject to voter approval	Support	Roach	2/4 - Exec action in Gov. Opps.
SB 6397	Addressing state and local government fiscal agents.	Support	Hill	2/3 - heard in Ways and Means 2/4 - Passed to Rules for 2nd reading
SB 6425	Concerning gradually increasing the local government share of excess liquor revenues until the percentage-based method for distributions is restored.	Support	Hewitt	1/27 - heard in Ways and Means
Oppose				
SB 5880	Enacting the Washington human trafficking reporting act.	Oppose	Padden	2/5 - Substitute do pass Law & Justice
SB 6115	Limiting tax imposed by a city on a water / sewer distribution; water / sewerage system business.	Oppose Actively	Chase	1/18 - heard in Gov. Opps.
SB 6311	Providing a property tax exemption for certain property within an affordable housing incentive zone.	Concerns	Keiser	2/4 - Exec action Hmn Srvc, Mntl Health & Hsg
SB 6465	Concerning an alert program that allows residents to provide information to first responders pertaining to persons with developmental disabilities living at a registered address	Oppose	Hobbs	2/1 - Heard in Hmn Srvc, Mntl Health & Hsg
SB 6540	Ensuring safe playgrounds and turf fields.	Oppose	Chase	1/25 - Refrd to Energy, Environment & Telecom
SB 6548	Allowing the use of gender-segregated facilities.	Oppose	Warnick	2/4 - Substitute do pass Law & Justice

Bill	Title	Position	Sponsor	Status
Neutral				
HB 2296	Concerning the taxing authority of public facilities districts.	Neutral		
HB 2341	Concerning DNA biological samples.	Neutral		
HB 2358	Concerning water sewer districts	Neutral		
HB 2365	Allowing marijuana retailers to sell marijuana merchandise.	Neutral		
HB 2544	Authorizing local governments to adopt a property tax exemption program for the preservation of certain affordable housing	Support		
HB 2423	Creating an office of the homeowners' association ombuds.	Neutral		
HB 2459	Concerning city or county comprehensive plans or development regulations arising from the economic development element of the growth	Neutral or oppose		
HB 2565	Reducing the frequency of local sales and use tax changes	Neutral		
HB 2630	Addressing the overpayment of wages by a municipal corporation	Neutral		
HB 2663	Implementing sunshine committee recommendations to repeal obsolete exemptions to public disclosure provisions	Neutral		
HB 2688	Authorizing cities to impose a temporary property tax increase to fund historic building rehabilitation	Neutral		
HB 2689	Creating a financing program for historic building preservation	Neutral		
HB 2525	Concerning risk mitigation plans to promote the transition of eligible coal units.	Neutral		
HB 2758	Requiring the use of an ordinance to advise the county governing body of a city's preliminary intent regarding inclusion or exclusion from a public transportation benefit area	Neutral		
HB 2760	Modifying who is eligible for relocation assistance for tenants of closed or converted mobile home parks	Neutral		
HB 2764	Clarifying public defense fund distributions	Neutral		
HB 2799	Concerning the sale of manufactured/mobile home communities	Neutral		
HB 2903	Concerning electronic product recycling	Neutral		
HB 2934	Establishing the legislative task force for rail transportation in Washington state	Neutral	Moscoso	Forms a task force to support the rail industry. We should ask for representation from local government interests . Right now it's just legislators, state agencies and rail interests. We have interests in how freight and passenger rail is resolved on ERC north of CKC and it's not clear to me what influence this task force could have.

Bill	Title	Position	Sponsor	Status
Neutral				
HB 6147	Concerning water-sewer districts.	Neutral		
SB 6153	Concerning the maintenance of certificates of title for manufactured homes.	Neutral		
SB 6157	Concerning the age of individuals at which sale or distribution of tobacco and vapor products may be made.	Neutral		
SB 6207	Concerning public disclosure of information submitted to the liquor and cannabis board regarding marijuana product traceability and operations.	Neutral		
SB 6147	Concerning water sewer districts	Neutral		
SB 6257	Updating specified environmental statutes of the department of ecology to improve efficiency and provide for increased flexibility for local governments.	Neutral		
SB 6248	Concerning risk mitigation plans to promote the transition of eligible coal units.	Neutral		
SB 6378	Concerning electronic product recycling	Neutral		
SB 6422	Creating an affordable housing for all program	Neutral		
SB 6506	Establishing the legislative task force for rail transportation in Washington state	Neutral	Chase	Forms a task force to support the rail industry. We should ask for representation from local government interests. Right now it's just legislators, state agencies and rail interests. We have interests in how freight and passenger rail is resolved on ERC north of CKC and it's not clear to me what influence this task force could have.
SB 6508	Concerning public works assistance account loan repayment	Neutral		
SB 6518	Creating a department of housing.	Neutral		
SB 6623	Concerning the rental or lease of transportation property.	Neutral		

Bill #	Bill Short Title	Position	Companion	Notes	Leg Comm Review
SB 6378	Concerning electronic product recycling	Neutral	HB 2903	The bill appears to do two things. First, WMMFA is required to comply with State laws when procuring good and services. Second, the number of seats on the board of directors for reps from electronics manufrs with a smaller market share is decreased from six to three. Two of the seats are reserved for reps of companies involved in the collection and transport of collected electronics and one seat is reserved for a rep of an organization that advocates for recycling and reuse of electronic products. Consequently, the voting power on the board is shifted to the manufacturers with the largest market share who have five board seats.	5-Feb
HB 2583	Authorizing specified local governments to designate a portion of their territory as a creative district subject to certification by the Washington arts commission	Support		It is at the City's discretion as to whether a creative district is created. There is no money currently if the State Commission decides to create and certify these districts, but there might be in the future. We are looking for outside funding for the arts for the corridor and for other projects and programs	5-Feb
SB 6422	Creating an affordable housing for all program	Neutral		Would create requirements for Department of Commerce and Counties related to planning for affordable housing and use of recording fees.	5-Feb
HB 2758	Requiring the use of an ordinance to advise the county governing body of a city's preliminary intent regarding inclusion or exclusion from a public transportation benefit area	Neutral		I don't think we have a problem with this, but I doubt we'd go out of our way to promote it.	5-Feb
HB 2760	Modifying who is eligible for relocation assistance for tenants of closed or converted mobile home parks	Neutral		Would eliminate income limitation for applying for relocation assistance when mobile home parks are closing.	5-Feb
HB 2764	Clarifying public defense fund distributions	Neutral		Should have no fiscal impact on the City. Unsure of impact on the Municipal Court. Possibly Aimee Vance could give some perspective.	5-Feb

Bills Dropped, Department Analysis Recommendations

HB 2799	Concerning the sale of manufactured/mobile home communities	Neutral	Rep. McBride's mobile home park bill. This bill has changed some since pre-filed draft. Bill still requires notice to potential purchasing organizations and that sale not proceed for 120 days. Would only impact Kirkland if Firwood Lane came back on market.	5-Feb
SB 6465	Concerning an alert program that allows residents to provide information to first responders pertaining to persons with developmental disabilities living at a registered address	Opposed	The Wash. State Assoc. of Public Safety Communication Officials say this is Smart 911. WSAPCO is opposed. NORCOM is opposed. Most (if not all) KC PSAPs are opposed. This bill would take away limited 911 tax dollars for something that has a low ROI and, more importantly, is already bought and paid for in King County (over objections). King County E-911 has a current contract for Smart 911 for the next 5 years at an annual cost of \$618,000 (i.e. \$618,000 less per year that is available to the PSAPs for costs. Taking funds out of 911 taxes to put Smart 911 throughout the state would result in further reductions to what KC PSAPs receive from those taxes.	5-Feb
SB 6508	Concerning public works assistance account loan repayment	Neutral	Not sure of the purpose of this bill. It saves no funds for the entities, but redirects payments to their own capital projects. Not sure of the impact for not repaying the PWTFLL to the state.	5-Feb
SB 6518	Creating a department of housing.	Neutral	Transfers duties and employees that work on housing issues from Department of Commerce to a newly created Department of Housing.	5-Feb
HB 2843	Supporting affordable housing.	Support	Rep. McBride's B&O bill. Would allow a tax credit against B&O or public utility taxes when cash contributions are made to the Washington Affordable Housing Account. Proceeds may not exceed \$10 million per year and are directed to preserving and creating low income and special needs housing.	5-Feb

2016 Legislative Session
Bills Dropped, Department Analysis Recommendations

SB 6540	Ensuring safe playgrounds and turf fields.	Oppose	<p>Propose that City align with Washington Recreation and Parks Association position:</p> <p>The WRPA is aware of potential legislation that would place a moratorium on further installation of crumb-rubber materials in turf fields “until the science is more fully developed.”</p> <p>While WRPA agrees wholeheartedly that the No. 1 priority for local parks and recreation agencies is to ensure the health and safety of the children and adults they serve, we believe it is entirely premature to impose a moratorium on crumb-rubber use and would oppose such legislation. To date, peer reviews of studies across the nation have shown that there are no known measurable health or carcinogenic risks from crumb rubber – and in fact, a body of science shows the material can be beneficial in areas such as concussion risks.</p> <p>While the WRPA sees a moratorium as an inappropriate path forward, the Association would wholeheartedly support state-led efforts to do further scientifically-based studies into crumb rubber so that more unbiased and peer-reviewed information can be available on this important issue.</p>	2/5/2016
SB 6548	Allowing the use of gender-segregated facilities.	Oppose	<p>The title of this bill is a misnomer – it actually allows public and private entities to forbid transgender persons from using the facility of the gender for which that person identifies. It reverses a HRC rule. The proposed substitute adds a provision that allows a minor child to use a gender-segregated facility if accompanied by a grownup.</p>	2/5/2016

[SB 5880](#) Enacting the Washington human trafficking reporting act. Oppose

SB 5880 creates a human trafficking training and reporting requirement. The requirement to tie the training to the local jurisdiction's business license process creates a bureaucratic unfunded burden on local governments. The bill requires all employees in certain industries or public services to undergo training in identifying and reporting victims of human trafficking within 30 days of hire. The list includes hotels, bars, spas, and restaurants.

5-Feb

The administrative burden is unclear, yet there would be an increased burden to the City. This would require more administrative review, follow up, and also increase work for Public Safety in issuing citations for those businesses who do not comply and continue operating their business.

The local government connection is that the local licensing agencies are required to provide information regarding training options. Also, they may not issue a license to the business unless the business certifies in writing that they've complied with the training requirements.

This seems to be to be an unwieldy burden. The bill does not mention who will be putting together and vetting this training list. There are no draft certification forms. There's no funding source for the cost to produce and distribute the resource list. Not to mention that this provision is in RCW 9.68, which has nothing to do with local authority to regulate businesses. It should probably be in 35.21 or somewhere similar.

[HB 2932](#) Authorizing cities and counties to approve the use of alternatives to the state building code. Oppose

The state building codes already allow building departments to allow innovative construction that meets the intent of the building code.

5-Feb

2016 Legislative Session
Bills Dropped, Department Analysis Recommendations

HB 2934	Establishing the legislative task force for rail transportation in Washington state	Neutral with request for reprsntatn from local govrmnt	SB 6506	Forms a task force to support the rail industry. We should ask for representation from local government interests. Right now it's just legislators, state agencies and rail interests. We have interests in how freight and passenger rail is resolved on ERC north of CKC and it's not clear to me what influence this task force could have.	5-Feb
EHB 1123	Regulating the minimum dimensions of habitable spaces in single-family residential areas	Oppose		Pre-empts local control and discretion to address local issues.	5-Feb
SB 6623	Concerning the rental or lease of transportation property.	Neutral		This concerns leasing right of way and the way rent is calculated when (or if) we rent r-o-w. Since we never or only rarely do this, we don't have a problem with it, but it doesn't help us either.	5-Feb



Washington State Senate

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Senator Cyrus Habib
Senate Democratic Whip
48th Legislative District

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I would like to make a supplemental budget request on behalf of the Washington State Criminal Justice Training Center.

In total, the request is \$641,000. The breakdown of that cost is as follows:

- \$473,000 for 2 basic law enforcement classes (locals will provide an additional \$204,000 in matching funds)
- \$168,000 for 3 Corrections officer classes (\$56,000 local match)

Without the requested funds, the Basic Law Enforcement Academy will face a six month delay in classes, so your consideration is greatly appreciated.



CITY OF KIRKLAND 2016 LEGISLATIVE SUPPORT AGENDA

Kirkland generally supports the policy principles of the items below, however, formal City support is contingent upon reviewing and approving the specific language of any legislative proposal drafted to advance a particular item.

2016 Legislative Support

Select Legislative Support and carryovers from Kirkland's 2015 Support agenda

- Support vested rights legislation that keeps predictability and certainty for local governments, real estate developers and environmental and community advocates.
- Support legislation to enable local funding sources for multi-benefit watershed projects.
- Support providing cities with financing options to support public/private partnerships.
- Support brown grease to energy conversion legislation and programs.
- Support an amendment to RCW 46.68.090 that would allocate gas tax revenues between counties and cities based on a per capita allocation rather than the current fixed percentages.
- Support Hi-Tech Industry through the "Washington Tech Cities Coalition" (WTC²)

Support for Infrastructure Funding

- Public Works Trust Fund (PWTF) / Public Works Assistance Account (PWAA)
- Safe Routes to Schools & Complete Streets program Funding
- Transportation Investment Board Funding (TIB)
- Community Economic Revitalization Board (CERB)
- Washington Wildlife and Recreation Program (WWRP)
- Model Toxics Control Act (MTCA)
- Regional Mobility Grant Funding Program - Preserve
- Freight Mobility Strategic Investment Board Funding
- Support Healthy & Sustainable Communities Initiative

Additionally, Kirkland supports selected items from the 2016 legislative agendas led by the following ally organizations:

Association of Washington Cities

- **Infrastructure:** Halt the diversion from critical infrastructure programs to help cities grow and prosper.
- **Fiscal Sustainability:** Ensure sufficient and flexible revenue for essential city services.
- **Emergency Responsiveness:** Help cities prepare for and address impacts of natural disasters and other emergencies.
- **Public Records:** Strengthen the Public Records Act in response to changing technology and burdensome requests.
- **Human Services, Homelessness and Affordable Housing:** Enhance the provision of much needed human service programs to address issues that drive increased homelessness and public safety costs.

Transportation Issues

Transportation Choices Coalition

With the passage of the 16-year, \$15 billion Connecting Washington Transportation package, our legislative efforts will be focused on:

- Maintaining commitments to the record level of multi-modal investments to fund important transit, bicycle, pedestrian projects and the Safe Routes to Schools program.
- Implementation of practical design concepts to realize project savings for important maintenance needs.

Eastside Transportation Partnership - Not finalized yet (as of 1/22/16)

Washington Bikes

- **Investments that get Washingtonians where they want to go**
- **Protecting Trails Statewide**
- **Strengthen Washington State's Distracted Driving Laws**

* Note: The boards of directors of Washington Bikes and Cascade Bicycle Club have merged. As of Jan. 1, 2016, Washington Bikes, will serve as the organization's 501(c)4 arm and address statewide policy and outreach, selected statewide events and activities, and candidate endorsements. Cascade Bicycle Club will serve as the 501(c)3 tax-deductible wing, focused on education, diversity and inclusion programs, most of the signature events, and other advocacy work.

Human Services Issues

Eastside Human Services Forum

- **Support Access to Basic Needs and Health Services**
- **Make Homelessness Rare, Brief and One-Time**
- **Support the Most Vulnerable Older Adults and People with Disabilities**
- **Strengthen Early Learning and Youth Programs**

Washington Low Income Housing Alliance

- **Fund Affordable Housing**
- **Allow more local options for affordable housing funding**
- **Defend and Protect our state's Disability Lifeline:**
- **Implement a new Medicaid benefit for the services delivered in Permanent Supportive Housing**
- **Prohibit discrimination based on a renter's participation in a government assistance program.**
- **Pass the Fairness in Eviction Reporting Act**
- **Pass the Fair Tenant Screening Act**
- **Allow local jurisdictions to require 90-day notices of significant rent increases and to improve local options for relocation assistance.**

All Home

FUNDING PRIORITIES

- Fund the Washington State Housing Trust Fund
- Preserve the Housing and Essential Needs (HEN Program)
- Support new local financing options through Real Estate Excise Tax for Housing (REET)
- Address shortfall in Consolidated Homeless Grant funding
- HOPE Beds and Street Youth Services

POLICY PRIORITIES

- Preservation Tax Exemption
- Youth Consent
- Source of Income Restrictions

Faith Action Network

- Reducing Wealth Inequality
- Fully Fund & Protect Health & Human Services, Mental Health programs, and Public Education
- Dismantling the Culture of Violence
- Protect Housing & Prevent Homelessness
- Sustaining Washington's Environment

Environmental Issues

King County-Cities Climate Collaborative

- Colstrip and Puget Sound Energy (PSE)

Environmental Priorities Coalition *Have not received EPC Legislative Priorities yet.*

Northwest Product Stewardship Council (While the NPSC does not develop a legislative agenda, the NPSC does advocate in support of the principles of product stewardship and producer responsibility in policies and legislation.)

- Support Paint Stewardship legislation.

Water Issues

WRIA 8

- **Capital Budget:** During the 2016 Supplemental Legislative Session, communicate support for salmon recovery capital funding priorities, including:
 - Puget Sound Acquisition and Restoration (PSAR) Fund
 - Salmon Recovery Funding Board (SRFB)
- **Policy Legislation:** Support continued efforts to explore new watershed-based funding authorities to support multiple-benefit projects that address salmon habitat protection and restoration, water quality, stormwater management, and flood management.

Public Safety Issues

Washington Association of Sheriffs and Police Chiefs

- **Improve the State's Mental Health System**
- **Increase DNA Testing Capacity**
- **Address Unintended Consequences of the Public Records Act**
- **Ensure Sufficient Funding for Statewide Public Safety Programs**

Washington Fire Chiefs Association

- **Sustainable Fire/EMS funding** (examples)
 - Raise the E.M.S. levy cap to \$.75 /\$1000 of A.V.
 - Change fire levy funding to mirror port authorities which are outside the \$10 constitutional limit
 - Simple majority for RFA benefit service charge renewal
 - Restructure the 1% Lid Limit
 - Tax exempt facilities required to enter contract for fire protection
- **RFA structural equity with fire districts Statewide CBRNE response planning & funding Capital improvements for Fire Training Academy Support recommendations from volunteer recruitment & retention incentives committee** (examples)
 - Volunteer FF's opt into employer medical insurance pool
 - Employer tax credit for volunteer FF response during working hours

Washington State Criminal Justice Training Center

- **\$641,000 supplemental operating budget request for additional Basic Law Enforcement Academy (BLEA) classes.**
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Parks Issues

Washington Recreation and Parks Association

- **Support Updates & Refinements to WWRP While Preserving Structure, Integrity of Program**
- **Boating Facilities Program -- Appropriation in 2016 Supplemental Capital Budget**
- **Clarifying and Reinforcing Recreational Liability Immunity for Multi-Purpose Trails**
- **Governor's "Healthiest Next Generation" Initiative**

Planning Issues

Washington Chapter of the American Planning Association

Not finalized yet (as of 1/22/16)



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 - Employer tax credit for volunteer FF response during working hours

Washington State Criminal Justice Training Center

- **\$641,000 supplemental operating budget request for additional Basic Law Enforcement Academy (BLEA) classes.**
 - \$473,000 for 2 basic law enforcement classes (locals will provide additional \$204,000 in matching funds from WSCJTC 25% requirement)
 - \$168,000 for 3 Corrections officer classes (\$56,000 local match)

Parks Issues

Washington Recreation and Parks Association

- **Support Updates & Refinements to WWRP While Preserving Structure, Integrity of Program**
- **Boating Facilities Program -- Appropriation in 2016 Supplemental Capital Budget**
- **Clarifying and Reinforcing Recreational Liability Immunity for Multi-Purpose Trails**
- **Governor's "Healthiest Next Generation" Initiative**

Planning Issues

Washington Chapter of the American Planning Association

Not finalized yet (as of 1/22/16)

**CITY OF KIRKLAND**

City Attorney's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3030

www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Chris Dodd, Facilities Services Manager
Oskar Rey, Assistant City Attorney
Marilynne Beard, Deputy City Manager

Date: February 05, 2016

Subject: PROPOSED PURCHASE OF REAL PROPERTY - 13205, 13213, 13219 AND 13229 100TH PLACE, NE, KIRKLAND

RECOMMENDATION:

City Council authorizes the City Manager to enter into Purchase and Sale Agreements for acquisition of real property located at 13205, 13213, 13219 and 13229 100th Place NE, Kirkland.

BACKGROUND:

In October 2015, the City Council adopted Resolution 5156 adopting a plan for improving fire and emergency medical services in Kirkland. The resolution identified eight "immediate actions" to begin in 2015 and four "next steps" actions that would begin in 2016 and beyond. One of the adopted actions was to purchase property for a new Station 24 (estimated cost of up to \$2.5 million) near Juanita Elementary School using the remainder of the Fire District #41 money and a portion of the \$3 million the City has budgeted for the North End Fire Station. By purchasing these properties and constructing a new Fire Station 24, the Kirkland Fire Department would have the ability to decrease response times, respect the Interlocal Agreement with Fire District 41 and respect the City Council priority commitment of continuing to enhance public safety.

Since that time, staff approached all of the property owners regarding the City's purchase. As of the date of this memo, three of the four property owners have signed letters of intent to sell their properties to the City. City staff also reached out to adjacent residents to meet with them and answer questions about the proposed station.

Based on requests from some of the property owners, staff recommended that the City Council initiate eminent domain proceedings to facilitate the sale process. On January 19, 2016, the City Council approved Ordinance 4512 authorizing staff to proceed with eminent domain for all four of the properties.

The attached Purchase and Sale Agreements cover three parcels, which include Tax Parcel No. 395570-0070, commonly known as 13205 100th Pl. NE, Kirkland, Washington ("13205 Parcel"), Tax Parcel No. 395570-0060, commonly known as 13213 100th Pl. NE, Kirkland Washington ("13213 Parcel") and Tax Parcel No. 395570-0050, commonly known as 13219 100th Pl. NE,

Kirkland Washington ("13219 Parcel") (see attached map). The attached Purchase and Sale Agreements represent the next step in the acquisition process.

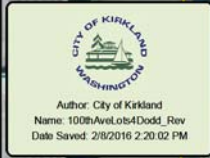
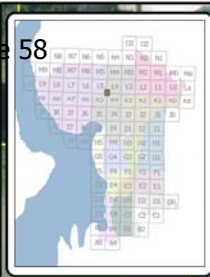
The Purchase and Sale Agreements have the 13205 Parcel and the 13213 Parcel closing within 60 days of the signed agreement. The 13219 Parcel would close on or before August 1, 2016.

Negotiations continue with Tax Parcel No. 395570-0060, commonly known as 13213 100th Pl. NE, Kirkland Washington ("13229 Parcel"). A not-to-exceed amount of \$715,000.00 has been established. Although the fourth property would create a larger footprint for the station, the station can be built with the three properties already secured.

An inspection of the properties will be conducted as part of a City conducted "due diligence" with respect to the land and the structures on the properties.

After the properties close, the City's property management company (Precision Management Company) would offer current tenants the option to continue to inhabit the property with new Lease terms at their current lease rates.

The Council is scheduled to discuss financing options for the construction of Station 24 as well as other planned station improvements at their February 24, 2016 City Council Retreat.



RESOLUTION R-5187

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY TO ACQUIRE REAL PROPERTY NECESSARY FOR THE CONSTRUCTION OF A NEW FIRE STATION NO. 24 AND AUTHORIZING THE CITY TO ENTER INTO PURCHASE AND SALE AGREEMENTS AND PROCEED WITH CLOSING THE ACQUISITIONS.

1 WHEREAS, the City annexed portions of the Juanita, Finn Hill
2 and Kingsgate neighborhoods on June 1, 2011 ("Annexation"); and
3

4 WHEREAS, prior to Annexation, the City entered into an
5 Interlocal Agreement ("Interlocal") with King County Fire Protection
6 District No. 41 ("District") in which the City agreed to continue and take
7 over certain District projects intended to improve response times; and
8

9 WHEREAS, on October 20, 2015, the City Council adopted
10 Resolution R-5156 in which it found that construction and operation of
11 a new Fire Station No. 24 to replace the existing Fire Station No. 24 was
12 consistent with the purpose and the intent of the Interlocal; and
13

14 WHEREAS, the City has identified a proposed site for Fire Station
15 No. 24 and is conducting negotiations with the owners of the properties
16 that comprise the proposed site; and
17

18 WHEREAS, on January 19, 2016, the City Council authorized
19 commencement of eminent domain proceedings with respect to four
20 properties; and
21

22 WHEREAS, the City has reached tentative agreements for the
23 acquisition of three of the properties; and
24

25 WHEREAS, the City Council would like to set forth the general
26 terms under which City staff is authorized to acquire a fourth property
27 on behalf of the City.
28

29 NOW, THEREFORE, be it resolved by the City Council of the City
30 of Kirkland as follows:
31

32 Section 1. The City Manager is authorized and directed to
33 execute on behalf of the City of Kirkland Residential Real Property
34 Purchase and Sale Agreements ("PSAs") for the following properties:
35

- 36 A. Property commonly known as 13205 100th Place NE,
37 Kirkland, Washington, owned by Jeffrey Forrest and Karen
38 Forrest, purchase price \$528,000.00;
- 39 B. Property commonly known as 13213 100th Place NE,
40 Kirkland, Washington, owned by Ronald A. Johnson,
41 purchase price \$528,000.00; and

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C. Property commonly known as 13219 100th Place NE, Kirkland, Washington, owned by Jimmy Lee Salgado and Renae Salgado, purchase price \$522,000.00.

The PSAs executed by the City Manager shall be substantially similar to those attached hereto as Exhibit "A." The City is authorized to take the steps necessary to complete these transactions in accordance with the PSAs without further approval from the City Council.

Section 2. The City Manager is authorized and directed to execute on behalf of the City of Kirkland a Residential Real Property Purchase and Sale Agreement for the following additional property: Property commonly known as 13229 100th Place NE, Kirkland, Washington, owned by Davood Esfandi and Dariush Esfandi ("Esfandi Property"), provided that the purchase price for the Esfandi Property shall not exceed \$715,000.00. In the event the City enters into a PSA for the Esfandi Property, the City Manager is authorized to take the steps necessary to complete the acquisition of the Esfandi Property without further approval from the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2016.

Signed in authentication thereof this ____ day of _____, 2016.

MAYOR

Attest:

City Clerk

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
SPECIFIC TERMS**

1. **Date:** _____ **MLS No.:** _____ **Offer Expiration Date:** _____
2. **Buyer:** City of Kirkland A Municipal Corporation
Buyer Buyer Status
3. **Seller:** Jeffrey R. Forrest Karen L. Forrest,
Seller Seller
4. **Property:** Tax Parcel No(s): 395570-0070 (King County)
13205 100th Place NE Kirkland WA 98034
Address City State Zip
Legal Description: Attached as Exhibit A.
5. **Included Items:** stove/range; refrigerator; washer; dryer; dishwasher; hot tub; fireplace insert;
 wood stove; satellite dish; security system; attached television(s); attached speaker(s); microwave;
 other _____
6. **Purchase Price:** \$ 528,000.00 Five Hundred Twenty-Eight Thousand Dollars
7. **Earnest Money:** \$ 10,000.00 Check; Note; Other _____ (held by Selling Firm; Closing Agent)
8. **Default:** (check only one) Forfeiture of Earnest Money; Seller's Election of Remedies
9. **Title Insurance Company:** Chicago Title Insurance Company
10. **Closing Agent:** a qualified closing agent of Buyer's choice; Chicago Title Insurance Company
11. **Closing Date:** within 60 days. See Addendum **Possession Date:** on Closing; Other _____
12. **Services of Closing Agent for Payment of Utilities:** Requested (attach NWMLS Form 22K); Waived
13. **Charges/Assessments Levied Before but Due After Closing:** assumed by Buyer; prepaid in full by Seller at Closing
14. **Seller Citizenship (FIRPTA):** Seller is; is not a foreign person for purposes of U.S. income taxation
15. **Agency Disclosure:** Selling Broker represents: Buyer; Seller; both parties; neither party
Listing Broker represents: Seller; both parties
16. **Addenda:** 22E(FIRPTA Cert.) 34(Addendum)

Buyer's Signature _____ Date _____

Seller's Signature _____ Date _____

Buyer's Signature _____ Date _____

Seller's Signature _____ Date _____

123 Fifth Avenue, Kirkland, WA 98033
Buyer's Address

13205 100th Place NE, Kirkland, WA 98034
Seller's Address

City, State, Zip

City, State, Zip

818.581.5933 425.587.3034

425.652.9313

Phone No. Fax No.

Phone No. Fax No.

CDodd@Kirklandwa.gov

beenuts@comcast.net

Buyer's E-mail Address

Seller's E-mail Address

New Ventures Group Development Services Inc.

New Ventures Group Development Services, Inc

Selling Firm MLS Office No.

Listing Firm MLS Office No.

Peter Folkins 39651

Selling Broker (Print) MLS LAG No.

Listing Broker (Print) MLS LAG No.

(206) 300-2914

Phone No. Firm Fax No.

Phone No. Firm Fax No.

Selling Firm Document E-mail Address

Listing Firm Document E-mail Address

peter@newventuresgroup.com

peter@newventuresgroup.com

Selling Broker's E-mail Address

Listing Broker's E-mail Address

23836 1671

Selling Broker DOL License No. Selling Firm DOL License No.

Listing Broker DOL License No. Listing Firm DOL License No.

RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS

Continued

- a. **Purchase Price.** Buyer shall pay to Seller the Purchase Price, including the Earnest Money, in cash at Closing, unless otherwise specified in this Agreement. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement and is not relying on any contingent source of funds, including funds from loans, the sale of other property, gifts, retirement, or future earnings, except to the extent otherwise specified in this Agreement.
- b. **Earnest Money.** Buyer shall deliver the Earnest Money within 2 days after mutual acceptance to Selling Broker or to Closing Agent. If Buyer delivers the Earnest Money to Selling Broker, Selling Broker will deposit any check to be held by Selling Firm, or deliver any Earnest Money to be held by Closing Agent, within 3 days of receipt or mutual acceptance, whichever occurs later. If the Earnest Money is held by Selling Firm and is over \$10,000.00 it shall be deposited into an interest bearing trust account in Selling Firm's name provided that Buyer completes an IRS Form W-9. Interest, if any, after deduction of bank charges and fees, will be paid to Buyer. Buyer shall reimburse Selling Firm for bank charges and fees in excess of the interest earned, if any. If the Earnest Money held by Selling Firm is over \$10,000.00 Buyer has the option to require Selling Firm to deposit the Earnest Money into the Housing Trust Fund Account, with the interest paid to the State Treasurer, if both Seller and Buyer so agree in writing. If the Buyer does not complete an IRS Form W-9 before Selling Firm must deposit the Earnest Money or the Earnest Money is \$10,000.00 or less, the Earnest Money shall be deposited into the Housing Trust Fund Account. Selling Firm may transfer the Earnest Money to Closing Agent at Closing. If all or part of the Earnest Money is to be refunded to Buyer and any such costs remain unpaid, the Selling Firm or Closing Agent may deduct and pay them therefrom. The parties instruct Closing Agent to provide written verification of receipt of the Earnest Money and notice of dishonor of any check to the parties and Brokers at the addresses and/or fax numbers provided herein.

Upon termination of this Agreement, a party or the Closing Agent may deliver a form authorizing the release of Earnest Money to the other party or the parties. The party(s) shall execute such form and deliver the same to the Closing Agent. If either party fails to execute the release form, a party may make a written demand to the Closing Agent for the Earnest Money. Pursuant to RCW 64.04, Closing Agent shall deliver notice of the demand to the other party within 15 days. If the other party does not object to the demand within 20 days of Closing Agent's notice, Closing Agent shall disburse the Earnest Money to the party making the demand within 10 days of the expiration of the 20 day period. If Closing Agent timely receives an objection or an inconsistent demand from the other party, Closing Agent shall commence an interpleader action within 60 days of such objection or inconsistent demand, unless the parties provide subsequent consistent instructions to Closing Agent to disburse the earnest money or refrain from commencing an interpleader action for a specified period of time. Pursuant to RCW 4.28.080, the parties consent to service of the summons and complaint for an interpleader action by first class mail, postage prepaid at the party's usual mailing address or the address identified in this Agreement. If the Closing Agent complies with the preceding process, each party shall be deemed to have released Closing Agent from any and all claims or liability related to the disbursement of the Earnest Money. If either party fails to authorize the release of the Earnest Money to the other party when required to do so under this Agreement, that party shall be in breach of this Agreement. For the purposes of this section, the term Closing Agent includes a Selling Firm holding the Earnest Money. The parties authorize the party commencing an interpleader action to deduct up to \$500.00 for the costs thereof.

- c. **Included Items.** Any of the following items, including items identified in Specific Term No. 5 if the corresponding box is checked, located in or on the Property are included in the sale: built-in appliances; wall-to-wall carpeting; curtains, drapes and all other window treatments; window and door screens; awnings; storm doors and windows; installed television antennas; ventilating, air conditioning and heating fixtures; trash compactor; fireplace doors, gas logs and gas log lighters; irrigation fixtures; electric garage door openers; water heaters; installed electrical fixtures; lighting fixtures; shrubs, plants and trees planted in the ground; and other fixtures; and all associated operating remote controls. Unless otherwise agreed, if any of the above items are leased or encumbered, Seller shall acquire clear title before Closing.
- d. **Condition of Title.** Unless otherwise specified in this Agreement, title to the Property shall be marketable at Closing. The following shall not cause the title to be unmarketable: rights, reservations, covenants, conditions and restrictions, presently of record and general to the area; easements and encroachments, not materially affecting the value of or unduly interfering with Buyer's reasonable use of the Property; and reserved oil and/or mining rights. Monetary encumbrances or liens not assumed by Buyer, shall be paid or discharged by Seller on or before Closing. Title shall be conveyed by a Statutory Warranty Deed. If this Agreement is for conveyance of a buyer's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a buyer's assignment of the contract sufficient to convey after acquired title.
- e. **Title Insurance.** Seller authorizes Buyer's lender or Closing Agent, at Seller's expense, to apply for the then-current ALTA form of Homeowner's Policy of Title Insurance for One-to-Four Family Residence, from the Title Insurance Company. If Seller previously received a preliminary commitment from a Title Insurance Company that Buyer declines to use, Buyer shall pay any cancellation fees owing to the original Title Insurance Company. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. If the Title Insurance Company selected by the parties will not issue a Homeowner's Policy for the Property, the parties agree that the Title Insurance Company shall instead issue the then-current ALTA standard form Owner's Policy, together with homeowner's additional protection and inflation protection endorsements, if available. The Title Insurance Company

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS

Continued

shall send a copy of the preliminary commitment to Seller, Listing Broker, Buyer and Selling Broker. The preliminary commitment, and the title policy to be issued, shall contain no exceptions other than the General Exclusions and Exceptions in the Policy and Special Exceptions consistent with the Condition of Title herein provided. If title cannot be made so insurable prior to the Closing Date, then as Buyer's sole and exclusive remedy, the Earnest Money shall, unless Buyer elects to waive such defects or encumbrances, be refunded to the Buyer, less any unpaid costs described in this Agreement, and this Agreement shall thereupon be terminated. Buyer shall have no right to specific performance or damages as a consequence of Seller's inability to provide insurable title.

f. Closing and Possession. This sale shall be closed by the Closing Agent on the Closing Date. If the Closing Date falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, the Closing Agent shall close the transaction on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. "Closing" means the date on which all documents are recorded and the sale proceeds are available to Seller. Seller shall deliver keys and garage door remotes to Buyer on the Closing Date or on the Possession Date, whichever occurs first. Buyer shall be entitled to possession at 9:00 p.m. on the Possession Date. Seller shall maintain the Property in its present condition, normal wear and tear excepted, until the Buyer is entitled to possession. Seller shall not enter into or modify existing leases or rental agreements, service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld. If possession transfers at a time other than Closing, the parties shall execute NWMLS Form 65A (Rental Agreement/Occupancy Prior to Closing) or NWMLS Form 65B (Rental Agreement/Seller Occupancy After Closing) (or alternative rental agreements) and are advised of the need to contact their respective insurance companies to assure appropriate hazard and liability insurance policies are in place, as applicable.

RCW 19.27.530 requires the seller of any owner-occupied single-family residence to equip the residence with a carbon monoxide alarm(s) in accordance with the state building code before a buyer or any other person may legally occupy the residence following the sale. The parties acknowledge that the Brokers are not responsible for ensuring that Seller complies with RCW 19.27.530. Buyer and Seller shall hold the Brokers and their Firms harmless from any claim resulting from Seller's failure to install a carbon monoxide alarm(s) in the Property.

g. Section 1031 Like-Kind Exchange. If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding the Assignment paragraph of this Agreement, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

h. Closing Costs and Prorations and Charges and Assessments. Seller and Buyer shall each pay one-half of the escrow fee unless otherwise required by applicable FHA or VA regulations. Taxes for the current year, rent, interest, and lienable homeowner's association dues shall be prorated as of Closing. Buyer shall pay Buyer's loan costs, including credit report, appraisal charge and lender's title insurance, unless provided otherwise in this Agreement. If any payments are delinquent on encumbrances which will remain after Closing, Closing Agent is instructed to pay such delinquencies at Closing from money due, or to be paid by, Seller. Buyer shall pay for remaining fuel in the fuel tank if, prior to Closing, Seller obtains a written statement from the supplier as to the quantity and current price and provides such statement to the Closing Agent. Seller shall pay all utility charges, including unbilled charges. Unless waived in Specific Term No. 12, Seller and Buyer request the services of Closing Agent in disbursing funds necessary to satisfy unpaid utility charges in accordance with RCW 60.80 and Seller shall provide the names and addresses of all utilities providing service to the Property and having lien rights (attach NWMLS Form 22K Identification of Utilities or equivalent).

Buyer is advised to verify the existence and amount of any local improvement district, capacity or impact charges or other assessments that may be charged against the Property before or after Closing. Seller will pay such charges that are or become due on or before Closing. Charges levied before Closing, but becoming due after Closing shall be paid as agreed in Specific Term No. 13.

i. Sale Information. Listing Broker and Selling Broker are authorized to report this Agreement (including price and all terms) to the Multiple Listing Service that published it and to its members, financing institutions, appraisers, and anyone else related to this sale. Buyer and Seller expressly authorize all Closing Agents, appraisers, title insurance companies, and others related to this Sale, to furnish the Listing Broker and/or Selling Broker, on request, any and all information and copies of documents concerning this sale.

j. Seller Citizenship and FIRPTA. Seller warrants that the identification of Seller's citizenship status for purposes of U.S. income taxation in Specific Term No. 14 is correct. Seller shall execute a certification (NWMLS Form 22E or equivalent) under the Foreign Investment in Real Property Tax Act ("FIRPTA") at Closing and provide the certification to the Closing Agent. If Seller is a foreign person for purposes of U.S. income taxation, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS

Continued

- k. Notices.** In consideration of the license to use this and NWMLS's companion forms and for the benefit of the Listing Broker and the Selling Broker as well as the orderly administration of the offer, counteroffer or this Agreement, the parties irrevocably agree that unless otherwise specified in this Agreement, any notice required or permitted in, or related to, this Agreement (including revocations of offers or counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and shall be deemed given only when the notice is received by Seller, by Listing Broker or at the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and shall be deemed given only when the notice is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. Receipt by Selling Broker of a Form 17, Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, Public Offering Statement or Resale Certificate, homeowners' association documents provided pursuant to NWMLS Form 22D, or a preliminary commitment for title insurance provided pursuant to NWMLS Form 22T shall be deemed receipt by Buyer. Selling Broker and Listing Broker have no responsibility to advise of receipt of a notice beyond either phoning the party or causing a copy of the notice to be delivered to the party's address shown on this Agreement. Buyer and Seller must keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice.
- l. Computation of Time.** Unless otherwise specified in this Agreement, any period of time measured in days and stated in this Agreement shall start on the day following the event commencing the period and shall expire at 9:00 p.m. of the last calendar day of the specified period of time. Except for the Possession Date, if the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of 5 days or less, except for any time period relating to the Possession Date, shall not include Saturdays, Sundays or legal holidays. If the parties agree that an event will occur on a specific calendar date, the event shall occur on that date, except for the Closing Date, which, if it falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, shall occur on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. If the parties agree upon and attach a legal description after this Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than on the date the legal description is attached. Time is of the essence of this Agreement.
- m. Facsimile and E-mail Transmission.** Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will confirm facsimile transmitted signatures by signing an original document. E-mail transmission of any signed original document or a direct link to such document, and retransmission of any such e-mail, shall be the same as delivery of an original, provided that the e-mail is sent to both Selling Broker and Selling Firm or both Listing Broker and Listing Firm at the e-mail addresses on page one of this Agreement. At the request of either party, or the Closing Agent, the parties will confirm e-mail transmitted signatures by signing an original document.
- n. Integration and Electronic Signatures.** This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Buyer and Seller. The parties acknowledge that a signature in electronic form has the same legal effect and validity as a handwritten signature.
- o. Assignment.** Buyer may not assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless the parties indicate that assignment is permitted by the addition of "and/or assigns" on the line identifying the Buyer on the first page of this Agreement.
- p. Default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the following provision, as identified in Specific Term No. 8, shall apply:
- i. Forfeiture of Earnest Money.** That portion of the Earnest Money that does not exceed five percent (5%) of the Purchase Price shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for such failure.
- ii. Seller's Election of Remedies.** Seller may, at Seller's option, (a) keep the Earnest Money as liquidated damages as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.
- q. Professional Advice and Attorneys' Fees.** Buyer and Seller are advised to seek the counsel of an attorney and a certified public accountant to review the terms of this Agreement. Buyer and Seller shall pay their own fees incurred for such review. However, if Buyer or Seller institutes suit against the other concerning this Agreement the prevailing party is entitled to reasonable attorneys' fees and expenses.
- r. Offer.** Buyer shall purchase the Property under the terms and conditions of this Agreement. Seller shall have until 9:00 p.m. on the Offer Expiration Date to accept this offer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. If this offer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer.

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

- s. **Counteroffer.** Any change in the terms presented in an offer or counteroffer, other than the insertion of the Seller's name and the Seller's warranty of citizenship status, shall be considered a counteroffer. If a party makes a counteroffer, then the other party shall have until 9:00 p.m. on the counteroffer expiration date to accept that counteroffer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the other party, the other party's broker, or at the licensed office of the other party's broker. If the counteroffer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer. 173-178
- t. **Offer and Counteroffer Expiration Date.** If no expiration date is specified for an offer/counteroffer, the offer/counteroffer shall expire 2 days after the offer/counteroffer is delivered by the party making the offer/counteroffer, unless sooner withdrawn. 179-181
- u. **Agency Disclosure.** Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. If Selling Broker and Listing Broker are the same person representing both parties then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency." 182-190
- v. **Commission.** Seller and Buyer shall pay a commission in accordance with any listing or commission agreement to which they are a party. The Listing Firm's commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing. Seller and Buyer hereby consent to Listing Firm or Selling Firm receiving compensation from more than one party. Seller and Buyer hereby assign to Listing Firm and Selling Firm, as applicable, a portion of their funds in escrow equal to such commission(s) and irrevocably instruct the Closing Agent to disburse the commission(s) directly to the Firm(s). In any action by Listing or Selling Firm to enforce this paragraph, the prevailing party is entitled to court costs and reasonable attorneys' fees. Seller and Buyer agree that the Firms are intended third party beneficiaries under this Agreement. 191-198
- w. **Cancellation Rights/Lead-Based Paint.** If a residential dwelling was built on the Property prior to 1978, and Buyer receives a Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (NWMLS Form 22J) after mutual acceptance, Buyer may rescind this Agreement at any time up to 3 days thereafter. 199-201
- x. **Information Verification Period and Property Condition Disclaimer.** Buyer shall have 10 days after mutual acceptance to verify all information provided from Seller or Listing Firm related to the Property. This contingency shall be deemed satisfied unless Buyer gives notice identifying the materially inaccurate information within 10 days of mutual acceptance. If Buyer gives timely notice under this section, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 202-206

Buyer and Seller agree, that except as provided in this Agreement, all representations and information regarding the Property and the transaction are solely from the Seller or Buyer, and not from any Broker. The parties acknowledge that the Brokers are not responsible for assuring that the parties perform their obligations under this Agreement and that none of the Brokers has agreed to independently investigate or confirm any matter related to this transaction except as stated in this Agreement, or in a separate writing signed by such Broker. In addition, Brokers do not guarantee the value, quality or condition of the Property and some properties may contain building materials, including siding, roofing, ceiling, insulation, electrical, and plumbing, that have been the subject of lawsuits and/or governmental inquiry because of possible defects or health hazards. Some properties may have other defects arising after construction, such as drainage, leakage, pest, rot and mold problems. Brokers do not have the expertise to identify or assess defective products, materials, or conditions. Buyer is urged to use due diligence to inspect the Property to Buyer's satisfaction and to retain inspectors qualified to identify the presence of defective materials and evaluate the condition of the Property as there may be defects that may only be revealed by careful inspection. Buyer is advised to investigate whether there is a sufficient water supply to meet Buyer's needs. Buyer is advised to investigate the cost of insurance for the Property, including, but not limited to homeowner's, flood, earthquake, landslide, and other available coverage. Buyer and Seller acknowledge that home protection plans may be available which may provide additional protection and benefit to Buyer and Seller. Brokers may assist the parties with locating and selecting third party service providers, such as inspectors or contractors, but Brokers cannot guarantee or be responsible for the services provided by those third parties. The parties shall exercise their own judgment and due diligence regarding third-party service providers. 207-222

**CERTIFICATION UNDER THE
FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA")**

Section 1445 of the U.S. Internal Revenue Code provides that a buyer of a U.S. real property interest must withhold tax if the Seller is a foreign person, unless one of the exceptions in the Act applies. The following will inform the Buyer and Closing Agent whether or not tax withholding is required.

Note: The above law applies to foreign corporations, partnerships, trusts, estates and other foreign entities, as well as to foreign individuals. If the Seller is a corporation, partnership, trust, estate or other entity, the terms "I" and "my" as used below means the corporation or other entity. A "real property interest" includes full or part ownership of land and/or improvements thereon; leaseholds; options to acquire any of the foregoing; and an interest in foreign corporations, partnerships, trusts or other entities holding U.S. real estate.

SELLER CERTIFICATION. Seller hereby certifies the following:

PROPERTY. I am the Seller of real property at:

_____ Address _____ City _____ State _____ Zip
or (if no street address) legally described on the attached.

CITIZENSHIP STATUS. I AM AM NOT a non-resident alien (or a foreign corporation, foreign partnership, foreign trust, foreign estate or other foreign business entity) for purposes of U.S. income taxation.

TAXPAYER I.D. NUMBER.

My U.S. taxpayer identification number (e.g. social security number) is _____
(Tax I.D. number to be provided by Seller at Closing)

ADDRESS.

My home address is _____
_____ Address _____ City _____ State _____ Zip

Under penalties of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete. I understand that this Certification may be disclosed to the Internal Revenue Service and that any false statement I have made here could be punished by fine, imprisonment, or both.

Seller Date Seller Date

BUYER CERTIFICATION (Fill this in only if the Seller is a non-resident alien).

NOTE: If the Seller is a non-resident alien, and has not obtained a release from the Internal Revenue Service, then the Closing Agent must withhold 10% of the amount realized from the sale and pay it to the IRS, unless Buyer certifies that **BOTH** statements below are correct:

- 1. **Amount Realized.** I certify that the total price that I am to pay for the property, including liabilities assumed and all other consideration to the Seller, does not exceed \$300,000; and
- 2. **Family Residence.** I certify that I or a member of my family* have definite plans to reside on the property for at least 50% of the time that the property is used by any person during each of the first two twelve month periods following the date of this sale.

* (Defined in 11 U.S.C. 267(c)(4). It includes brothers, sisters, spouse, ancestors and lineal descendants).

Under penalties of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief both statements are true, correct and complete. I understand that this Certification may be disclosed to the Internal Revenue Service and that any false statement I have made here could be punished by fine, imprisonment, or both.

Buyer Date Buyer Date

ADDENDUM / AMENDMENT TO PURCHASE AND SALE AGREEMENT

The following is part of the Purchase and Sale Agreement dated _____ between City of Kirkland, a Municipal Corporation ("Buyer") and Jeffrey R. Forrest and Karen L. Forrest, married persons, concerning 13205 100th Place NE, Kirkland, WA 98034 (the "Property"). It is agreed between the Seller and Buyer as follows:

1. **Closing Date:** Closing Date shall be within 60 days of the date of execution of the Purchase and Sale Agreement. *(Amends Specific Term #11 and General Term f. "Closing and Possession")*
2. **Earnest Money:** Upon execution of the Purchase and Sale Agreement, \$10,000.00 shall be deposited into an escrow account with Chicago Title of Washington. The Earnest Money payment shall be applicable to the Purchase Price and become nonrefundable upon expiration of the Feasibility Period. *(Supersedes General Term b. Earnest Money; First paragraph)*
3. **Feasibility Period:** Buyer shall have thirty (30) days from mutual acceptance of this Purchase and Sale Agreement (the "Feasibility Period") to verify all information provided by Seller, perform all inspections, and accept the Property. Inspections may include:
 - Title/survey examination.
 - Assessment of the physical condition of the property, including structural, oil tank.
 - Environmental assessment, including Phase 1 environmental, soils/geotechnical, wetland, asbestos, and lead paint studies.

The Property shall be deemed accepted unless Buyer gives timely written notice of non-acceptance of the Property, in which case this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. *(Supersedes General Term x. "Information Verification Period and Property Condition Disclaimer", Paragraph 1)*

4. **Closing Costs Paid by Buyer:** At Closing, Buyer shall pay for all excise tax, transfer or assumption fees, recording fees, and escrow fees. Buyer shall pay for a Standard Owner's Policy of Title Insurance. Buyer, at its option and cost, may elect to pay for extended title insurance coverage. Buyer shall pay any costs associated with the Buyer's due diligence. *(Amends General Term e. "Title Insurance" and amends General Term h. "Closing Costs and Prorations and Charges and Assessments")*
5. **Commissions:** New Ventures Group (Peter Folkins) represents the Buyer in this transaction. Upon Closing, Buyer shall pay all real estate commissions due. Seller shall be responsible for paying any commissions or fees to Seller's representative, should there be one. If Seller is not represented, New Ventures Group will be acting as a dual agent. Buyer and Seller confirm their consent to this dual agency and acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."
6. **Internal Revenue Code Section 1033 Exchange.** The provisions of General Term g, "Section 1031 Like-Kind Exchange," shall also apply to Internal Revenue Code Section 1033 Exchanges.

Buyers' Initials Date

Seller's Initials Date

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
SPECIFIC TERMS**

- 1. **Date:** _____ **MLS No.:** _____ **Offer Expiration Date:** _____
- 2. **Buyer:** City of Kirkland A Municipal Corporation
Buyer Buyer Status
- 3. **Seller:** Ronald A. Johnson an unmarried person
Seller Seller
- 4. **Property:** Tax Parcel No(s): 395570-0060 (King County)
13213 100th Place NE Kirkland WA 98034
Address City State Zip
Legal Description: Attached as Exhibit A.
- 5. **Included Items:** stove/range; refrigerator; washer; dryer; dishwasher; hot tub; fireplace insert;
 wood stove; satellite dish; security system; attached television(s); attached speaker(s); microwave;
 other _____
- 6. **Purchase Price:** \$ 528,000.00 Five Hundred Twenty-Eight Thousand Dollars
- 7. **Earnest Money:** \$ 10,000.00 Check; Note; Other _____ (held by Selling Firm; Closing Agent)
- 8. **Default:** (check only one) Forfeiture of Earnest Money; Seller's Election of Remedies
- 9. **Title Insurance Company:** Chicago Title Insurance Company
- 10. **Closing Agent:** a qualified closing agent of Buyer's choice; Chicago Title Insurance Company
- 11. **Closing Date:** within 60 days. See Addendum; **Possession Date:** on Closing; Other _____
- 12. **Services of Closing Agent for Payment of Utilities:** Requested (attach NWMLS Form 22K); Waived
- 13. **Charges/Assessments Levied Before but Due After Closing:** assumed by Buyer; prepaid in full by Seller at Closing
- 14. **Seller Citizenship (FIRPTA):** Seller is; is not a foreign person for purposes of U.S. income taxation
- 15. **Agency Disclosure:** Selling Broker represents: Buyer; Seller; both parties; neither party
Listing Broker represents: Seller; both parties
- 16. **Addenda:** 22E(FIRPTA Cert.) 34(Addendum)

Buyer's Signature _____ Date _____

Buyer's Signature _____ Date _____

123 Fifth Avenue, Kirkland, WA 98033
Buyer's Address _____

City, State, Zip _____
818.581.5933 425.587.3034
Phone No. _____ Fax No. _____

CDodd@Kirklandwa.gov
Buyer's E-mail Address _____

New Ventures Group Development Services, Inc
Selling Firm _____ MLS Office No. _____
Peter Folkins 39651
Selling Broker (Print) _____ MLS LAG No. _____
(206) 300 2914
Phone No. _____ Firm Fax No. _____

Selling Firm Document E-mail Address _____
peter@newventuresgroup.com
Selling Broker's E-mail Address _____
23836 1671
Selling Broker DOL License No. _____ Selling Firm DOL License No. _____

Seller's Signature _____ Date _____

Seller's Signature _____ Date _____

13213 100th Place NE, Kirkland, WA 98034
Seller's Address _____

City, State, Zip _____

Phone No. _____ Fax No. _____

ronjohnson44@gmail.com
Seller's E-mail Address _____

New Ventures Group Development Services, Inc
Listing Firm _____ MLS Office No. _____
Listing Broker (Print) _____ MLS LAG No. _____
Phone No. _____ Firm Fax No. _____

Listing Firm Document E-mail Address _____
peter@newventuresgroup.com
Listing Broker's E-mail Address _____
Listing Broker DOL License No. _____ Listing Firm DOL License No. _____

RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS

Continued

- a. **Purchase Price.** Buyer shall pay to Seller the Purchase Price, including the Earnest Money, in cash at Closing, unless otherwise specified in this Agreement. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement and is not relying on any contingent source of funds, including funds from loans, the sale of other property, gifts, retirement, or future earnings, except to the extent otherwise specified in this Agreement.
- b. **Earnest Money.** Buyer shall deliver the Earnest Money within 2 days after mutual acceptance to Selling Broker or to Closing Agent. If Buyer delivers the Earnest Money to Selling Broker, Selling Broker will deposit any check to be held by Selling Firm, or deliver any Earnest Money to be held by Closing Agent, within 3 days of receipt or mutual acceptance, whichever occurs later. If the Earnest Money is held by Selling Firm and is over \$10,000.00 it shall be deposited into an interest bearing trust account in Selling Firm's name provided that Buyer completes an IRS Form W-9. Interest, if any, after deduction of bank charges and fees, will be paid to Buyer. Buyer shall reimburse Selling Firm for bank charges and fees in excess of the interest earned, if any. If the Earnest Money held by Selling Firm is over \$10,000.00 Buyer has the option to require Selling Firm to deposit the Earnest Money into the Housing Trust Fund Account, with the interest paid to the State Treasurer, if both Seller and Buyer so agree in writing. If the Buyer does not complete an IRS Form W-9 before Selling Firm must deposit the Earnest Money or the Earnest Money is \$10,000.00 or less, the Earnest Money shall be deposited into the Housing Trust Fund Account. Selling Firm may transfer the Earnest Money to Closing Agent at Closing. If all or part of the Earnest Money is to be refunded to Buyer and any such costs remain unpaid, the Selling Firm or Closing Agent may deduct and pay them therefrom. The parties instruct Closing Agent to provide written verification of receipt of the Earnest Money and notice of dishonor of any check to the parties and Brokers at the addresses and/or fax numbers provided herein.

Upon termination of this Agreement, a party or the Closing Agent may deliver a form authorizing the release of Earnest Money to the other party or the parties. The party(s) shall execute such form and deliver the same to the Closing Agent. If either party fails to execute the release form, a party may make a written demand to the Closing Agent for the Earnest Money. Pursuant to RCW 64.04, Closing Agent shall deliver notice of the demand to the other party within 15 days. If the other party does not object to the demand within 20 days of Closing Agent's notice, Closing Agent shall disburse the Earnest Money to the party making the demand within 10 days of the expiration of the 20 day period. If Closing Agent timely receives an objection or an inconsistent demand from the other party, Closing Agent shall commence an interpleader action within 60 days of such objection or inconsistent demand, unless the parties provide subsequent consistent instructions to Closing Agent to disburse the earnest money or refrain from commencing an interpleader action for a specified period of time. Pursuant to RCW 4.28.080, the parties consent to service of the summons and complaint for an interpleader action by first class mail, postage prepaid at the party's usual mailing address or the address identified in this Agreement. If the Closing Agent complies with the preceding process, each party shall be deemed to have released Closing Agent from any and all claims or liability related to the disbursement of the Earnest Money. If either party fails to authorize the release of the Earnest Money to the other party when required to do so under this Agreement, that party shall be in breach of this Agreement. For the purposes of this section, the term Closing Agent includes a Selling Firm holding the Earnest Money. The parties authorize the party commencing an interpleader action to deduct up to \$500.00 for the costs thereof.

- c. **Included Items.** Any of the following items, including items identified in Specific Term No. 5 if the corresponding box is checked, located in or on the Property are included in the sale: built-in appliances; wall-to-wall carpeting; curtains, drapes and all other window treatments; window and door screens; awnings; storm doors and windows; installed television antennas; ventilating, air conditioning and heating fixtures; trash compactor; fireplace doors, gas logs and gas log lighters; irrigation fixtures; electric garage door openers; water heaters; installed electrical fixtures; lighting fixtures; shrubs, plants and trees planted in the ground; and other fixtures; and all associated operating remote controls. Unless otherwise agreed, if any of the above items are leased or encumbered, Seller shall acquire clear title before Closing.
- d. **Condition of Title.** Unless otherwise specified in this Agreement, title to the Property shall be marketable at Closing. The following shall not cause the title to be unmarketable: rights, reservations, covenants, conditions and restrictions, presently of record and general to the area; easements and encroachments, not materially affecting the value of or unduly interfering with Buyer's reasonable use of the Property; and reserved oil and/or mining rights. Monetary encumbrances or liens not assumed by Buyer, shall be paid or discharged by Seller on or before Closing. Title shall be conveyed by a Statutory Warranty Deed. If this Agreement is for conveyance of a buyer's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a buyer's assignment of the contract sufficient to convey after acquired title.
- e. **Title Insurance.** Seller authorizes Buyer's lender or Closing Agent, at Seller's expense, to apply for the then-current ALTA form of Homeowner's Policy of Title Insurance for One-to-Four Family Residence, from the Title Insurance Company. If Seller previously received a preliminary commitment from a Title Insurance Company that Buyer declines to use, Buyer shall pay any cancellation fees owing to the original Title Insurance Company. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. If the Title Insurance Company selected by the parties will not issue a Homeowner's Policy for the Property, the parties agree that the Title Insurance Company shall instead issue the then-current ALTA standard form Owner's Policy, together with homeowner's additional protection and inflation protection endorsements, if available. The Title Insurance Company

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS

Continued

shall send a copy of the preliminary commitment to Seller, Listing Broker, Buyer and Selling Broker. The preliminary commitment, and the title policy to be issued, shall contain no exceptions other than the General Exclusions and Exceptions in the Policy and Special Exceptions consistent with the Condition of Title herein provided. If title cannot be made so insurable prior to the Closing Date, then as Buyer's sole and exclusive remedy, the Earnest Money shall, unless Buyer elects to waive such defects or encumbrances, be refunded to the Buyer, less any unpaid costs described in this Agreement, and this Agreement shall thereupon be terminated. Buyer shall have no right to specific performance or damages as a consequence of Seller's inability to provide insurable title.

f. Closing and Possession. This sale shall be closed by the Closing Agent on the Closing Date. If the Closing Date falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, the Closing Agent shall close the transaction on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. "Closing" means the date on which all documents are recorded and the sale proceeds are available to Seller. Seller shall deliver keys and garage door remotes to Buyer on the Closing Date or on the Possession Date, whichever occurs first. Buyer shall be entitled to possession at 9:00 p.m. on the Possession Date. Seller shall maintain the Property in its present condition, normal wear and tear excepted, until the Buyer is entitled to possession. Seller shall not enter into or modify existing leases or rental agreements, service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld. If possession transfers at a time other than Closing, the parties shall execute NWMLS Form 65A (Rental Agreement/Occupancy Prior to Closing) or NWMLS Form 65B (Rental Agreement/Seller Occupancy After Closing) (or alternative rental agreements) and are advised of the need to contact their respective insurance companies to assure appropriate hazard and liability insurance policies are in place, as applicable.

RCW 19.27.530 requires the seller of any owner-occupied single-family residence to equip the residence with a carbon monoxide alarm(s) in accordance with the state building code before a buyer or any other person may legally occupy the residence following the sale. The parties acknowledge that the Brokers are not responsible for ensuring that Seller complies with RCW 19.27.530. Buyer and Seller shall hold the Brokers and their Firms harmless from any claim resulting from Seller's failure to install a carbon monoxide alarm(s) in the Property.

g. Section 1031 Like-Kind Exchange. If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding the Assignment paragraph of this Agreement, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

h. Closing Costs and Prorations and Charges and Assessments. Seller and Buyer shall each pay one-half of the escrow fee unless otherwise required by applicable FHA or VA regulations. Taxes for the current year, rent, interest, and lienable homeowner's association dues shall be prorated as of Closing. Buyer shall pay Buyer's loan costs, including credit report, appraisal charge and lender's title insurance, unless provided otherwise in this Agreement. If any payments are delinquent on encumbrances which will remain after Closing, Closing Agent is instructed to pay such delinquencies at Closing from money due, or to be paid by, Seller. Buyer shall pay for remaining fuel in the fuel tank if, prior to Closing, Seller obtains a written statement from the supplier as to the quantity and current price and provides such statement to the Closing Agent. Seller shall pay all utility charges, including unbilled charges. Unless waived in Specific Term No. 12, Seller and Buyer request the services of Closing Agent in disbursing funds necessary to satisfy unpaid utility charges in accordance with RCW 60.80 and Seller shall provide the names and addresses of all utilities providing service to the Property and having lien rights (attach NWMLS Form 22K Identification of Utilities or equivalent).

Buyer is advised to verify the existence and amount of any local improvement district, capacity or impact charges or other assessments that may be charged against the Property before or after Closing. Seller will pay such charges that are or become due on or before Closing. Charges levied before Closing, but becoming due after Closing shall be paid as agreed in Specific Term No. 13.

i. Sale Information. Listing Broker and Selling Broker are authorized to report this Agreement (including price and all terms) to the Multiple Listing Service that published it and to its members, financing institutions, appraisers, and anyone else related to this sale. Buyer and Seller expressly authorize all Closing Agents, appraisers, title insurance companies, and others related to this Sale, to furnish the Listing Broker and/or Selling Broker, on request, any and all information and copies of documents concerning this sale.

j. Seller Citizenship and FIRPTA. Seller warrants that the identification of Seller's citizenship status for purposes of U.S. income taxation in Specific Term No. 14 is correct. Seller shall execute a certification (NWMLS Form 22E or equivalent) under the Foreign Investment in Real Property Tax Act ("FIRPTA") at Closing and provide the certification to the Closing Agent. If Seller is a foreign person for purposes of U.S. income taxation, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

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- k. Notices.** In consideration of the license to use this and NWMLS's companion forms and for the benefit of the Listing Broker and the Selling Broker as well as the orderly administration of the offer, counteroffer or this Agreement, the parties irrevocably agree that unless otherwise specified in this Agreement, any notice required or permitted in, or related to, this Agreement (including revocations of offers or counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and shall be deemed given only when the notice is received by Seller, by Listing Broker or at the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and shall be deemed given only when the notice is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. Receipt by Selling Broker of a Form 17, Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, Public Offering Statement or Resale Certificate, homeowners' association documents provided pursuant to NWMLS Form 22D, or a preliminary commitment for title insurance provided pursuant to NWMLS Form 22T shall be deemed receipt by Buyer. Selling Broker and Listing Broker have no responsibility to advise of receipt of a notice beyond either phoning the party or causing a copy of the notice to be delivered to the party's address shown on this Agreement. Buyer and Seller must keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice.
- l. Computation of Time.** Unless otherwise specified in this Agreement, any period of time measured in days and stated in this Agreement shall start on the day following the event commencing the period and shall expire at 9:00 p.m. of the last calendar day of the specified period of time. Except for the Possession Date, if the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of 5 days or less, except for any time period relating to the Possession Date, shall not include Saturdays, Sundays or legal holidays. If the parties agree that an event will occur on a specific calendar date, the event shall occur on that date, except for the Closing Date, which, if it falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, shall occur on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. If the parties agree upon and attach a legal description after this Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than on the date the legal description is attached. Time is of the essence of this Agreement.
- m. Facsimile and E-mail Transmission.** Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will confirm facsimile transmitted signatures by signing an original document. E-mail transmission of any signed original document or a direct link to such document, and retransmission of any such e-mail, shall be the same as delivery of an original, provided that the e-mail is sent to both Selling Broker and Selling Firm or both Listing Broker and Listing Firm at the e-mail addresses on page one of this Agreement. At the request of either party, or the Closing Agent, the parties will confirm e-mail transmitted signatures by signing an original document.
- n. Integration and Electronic Signatures.** This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Buyer and Seller. The parties acknowledge that a signature in electronic form has the same legal effect and validity as a handwritten signature.
- o. Assignment.** Buyer may not assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless the parties indicate that assignment is permitted by the addition of "and/or assigns" on the line identifying the Buyer on the first page of this Agreement.
- p. Default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the following provision, as identified in Specific Term No. 8, shall apply:
- i. Forfeiture of Earnest Money.** That portion of the Earnest Money that does not exceed five percent (5%) of the Purchase Price shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for such failure.
- ii. Seller's Election of Remedies.** Seller may, at Seller's option, (a) keep the Earnest Money as liquidated damages as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.
- q. Professional Advice and Attorneys' Fees.** Buyer and Seller are advised to seek the counsel of an attorney and a certified public accountant to review the terms of this Agreement. Buyer and Seller shall pay their own fees incurred for such review. However, if Buyer or Seller institutes suit against the other concerning this Agreement the prevailing party is entitled to reasonable attorneys' fees and expenses.
- r. Offer.** Buyer shall purchase the Property under the terms and conditions of this Agreement. Seller shall have until 9:00 p.m. on the Offer Expiration Date to accept this offer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. If this offer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer.

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

- s. **Counteroffer.** Any change in the terms presented in an offer or counteroffer, other than the insertion of the Seller's name and the Seller's warranty of citizenship status, shall be considered a counteroffer. If a party makes a counteroffer, then the other party shall have until 9:00 p.m. on the counteroffer expiration date to accept that counteroffer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the other party, the other party's broker, or at the licensed office of the other party's broker. If the counteroffer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer. 173-178
- t. **Offer and Counteroffer Expiration Date.** If no expiration date is specified for an offer/counteroffer, the offer/counteroffer shall expire 2 days after the offer/counteroffer is delivered by the party making the offer/counteroffer, unless sooner withdrawn. 179-181
- u. **Agency Disclosure.** Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. If Selling Broker and Listing Broker are the same person representing both parties then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency." 182-190
- v. **Commission.** Seller and Buyer shall pay a commission in accordance with any listing or commission agreement to which they are a party. The Listing Firm's commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing. Seller and Buyer hereby consent to Listing Firm or Selling Firm receiving compensation from more than one party. Seller and Buyer hereby assign to Listing Firm and Selling Firm, as applicable, a portion of their funds in escrow equal to such commission(s) and irrevocably instruct the Closing Agent to disburse the commission(s) directly to the Firm(s). In any action by Listing or Selling Firm to enforce this paragraph, the prevailing party is entitled to court costs and reasonable attorneys' fees. Seller and Buyer agree that the Firms are intended third party beneficiaries under this Agreement. 191-198
- w. **Cancellation Rights/Lead-Based Paint.** If a residential dwelling was built on the Property prior to 1978, and Buyer receives a Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (NWMLS Form 22J) after mutual acceptance, Buyer may rescind this Agreement at any time up to 3 days thereafter. 199-201
- x. **Information Verification Period and Property Condition Disclaimer.** Buyer shall have 10 days after mutual acceptance to verify all information provided from Seller or Listing Firm related to the Property. This contingency shall be deemed satisfied unless Buyer gives notice identifying the materially inaccurate information within 10 days of mutual acceptance. If Buyer gives timely notice under this section, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 202-206

Buyer and Seller agree, that except as provided in this Agreement, all representations and information regarding the Property and the transaction are solely from the Seller or Buyer, and not from any Broker. The parties acknowledge that the Brokers are not responsible for assuring that the parties perform their obligations under this Agreement and that none of the Brokers has agreed to independently investigate or confirm any matter related to this transaction except as stated in this Agreement, or in a separate writing signed by such Broker. In addition, Brokers do not guarantee the value, quality or condition of the Property and some properties may contain building materials, including siding, roofing, ceiling, insulation, electrical, and plumbing, that have been the subject of lawsuits and/or governmental inquiry because of possible defects or health hazards. Some properties may have other defects arising after construction, such as drainage, leakage, pest, rot and mold problems. Brokers do not have the expertise to identify or assess defective products, materials, or conditions. Buyer is urged to use due diligence to inspect the Property to Buyer's satisfaction and to retain inspectors qualified to identify the presence of defective materials and evaluate the condition of the Property as there may be defects that may only be revealed by careful inspection. Buyer is advised to investigate whether there is a sufficient water supply to meet Buyer's needs. Buyer is advised to investigate the cost of insurance for the Property, including, but not limited to homeowner's, flood, earthquake, landslide, and other available coverage. Buyer and Seller acknowledge that home protection plans may be available which may provide additional protection and benefit to Buyer and Seller. Brokers may assist the parties with locating and selecting third party service providers, such as inspectors or contractors, but Brokers cannot guarantee or be responsible for the services provided by those third parties. The parties shall exercise their own judgment and due diligence regarding third-party service providers. 207-221

**CERTIFICATION UNDER THE
FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA")**

Section 1445 of the U.S. Internal Revenue Code provides that a buyer of a U.S. real property interest must withhold tax if the Seller is a foreign person, unless one of the exceptions in the Act applies. The following will inform the Buyer and Closing Agent whether or not tax withholding is required.

Note: The above law applies to foreign corporations, partnerships, trusts, estates and other foreign entities, as well as to foreign individuals. If the Seller is a corporation, partnership, trust, estate or other entity, the terms "I" and "my" as used below means the corporation or other entity. A "real property interest" includes full or part ownership of land and/or improvements thereon; leaseholds; options to acquire any of the foregoing; and an interest in foreign corporations, partnerships, trusts or other entities holding U.S. real estate.

SELLER CERTIFICATION. Seller hereby certifies the following:

PROPERTY. I am the Seller of real property at:

_____ Address _____ City _____ State _____ Zip
or (if no street address) legally described on the attached.

CITIZENSHIP STATUS. I AM AM NOT a non-resident alien (or a foreign corporation, foreign partnership, foreign trust, foreign estate or other foreign business entity) for purposes of U.S. income taxation.

TAXPAYER I.D. NUMBER.

My U.S. taxpayer identification number (e.g. social security number) is _____
(Tax I.D. number to be provided by Seller at Closing)

ADDRESS.

My home address is _____
_____ Address _____ City _____ State _____ Zip

Under penalties of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete. I understand that this Certification may be disclosed to the Internal Revenue Service and that any false statement I have made here could be punished by fine, imprisonment, or both.

Seller Date Seller Date

BUYER CERTIFICATION (Fill this in only if the Seller is a non-resident alien).

NOTE: If the Seller is a non-resident alien, and has not obtained a release from the Internal Revenue Service, then the Closing Agent must withhold 10% of the amount realized from the sale and pay it to the IRS, unless Buyer certifies that **BOTH** statements below are correct:

- 1. Amount Realized.** I certify that the total price that I am to pay for the property, including liabilities assumed and all other consideration to the Seller, does not exceed \$300,000; and
- 2. Family Residence.** I certify that I or a member of my family* have definite plans to reside on the property for at least 50% of the time that the property is used by any person during each of the first two twelve month periods following the date of this sale.

* (Defined in 11 U.S.C. 267(c)(4). It includes brothers, sisters, spouse, ancestors and lineal descendants).

Under penalties of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief both statements are true, correct and complete. I understand that this Certification may be disclosed to the Internal Revenue Service and that any false statement I have made here could be punished by fine, imprisonment, or both.

Buyer Date Buyer Date

ADDENDUM / AMENDMENT TO PURCHASE AND SALE AGREEMENT

The following is part of the Purchase and Sale Agreement dated _____ between City of Kirkland, a Municipal Corporation (“Buyer”) and Ronald A. Johnson, an unmarried person, concerning 13213 100th Place NE, Kirkland, WA 98034 (the “Property”). It is agreed between the Seller and Buyer as follows:

1. **Closing Date:** Closing Date shall be within 60 days of the date of execution of the Purchase and Sale Agreement. *(Amends Specific Term #11 and General Term f. “Closing and Possession”)*
2. **Earnest Money:** Upon execution of the Purchase and Sale Agreement, \$10,000.00 shall be deposited into an escrow account with Chicago Title of Washington. The Earnest Money payment shall be applicable to the Purchase Price and become nonrefundable upon expiration of the Feasibility Period. *(Supersedes General Term b. Earnest Money; First paragraph)*
3. **Feasibility Period:** Buyer shall have thirty (30) days from mutual acceptance of this Purchase and Sale Agreement (the “Feasibility Period”) to verify all information provided by Seller, perform all inspections, and accept the Property. Inspections may include:
 - Title/survey examination.
 - Assessment of the physical condition of the property, including structural, oil tank.
 - Environmental assessment, including Phase 1 environmental, soils/geotechnical, wetland, asbestos, and lead paint studies.

The Property shall be deemed accepted unless Buyer gives timely written notice of non-acceptance of the Property, in which case this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. *(Supersedes General Term x. “Information Verification Period and Property Condition Disclaimer”, Paragraph 1)*

4. **Closing Costs Paid by Buyer:** At Closing, Buyer shall pay for all excise tax, transfer or assumption fees, recording fees, and escrow fees. Buyer shall pay for a Standard Owner’s Policy of Title Insurance. Buyer, at its option and cost, may elect to pay for extended title insurance coverage. Buyer shall pay any costs associated with the Buyer’s due diligence. *(Amends General Term e. “Title Insurance” and amends General Term h. “Closing Costs and Prorations and Charges and Assessments”)*
5. **Commissions:** New Ventures Group (Peter Folkins) represents the Buyer in this transaction. Upon Closing, Buyer shall pay all real estate commissions due. Seller shall be responsible for paying any commissions or fees to Seller’s representative, should there be one. If Seller is not represented, New Ventures Group will be acting as a dual agent. Buyer and Seller confirm their consent to this dual agency and acknowledge receipt of the pamphlet entitled “The Law of Real Estate Agency.”
6. **Internal Revenue Code Section 1033 Exchange.** The provisions of General Term g, “Section 1031 Like-Kind Exchange,” shall also apply to Internal Revenue Code Section 1033 Exchanges.

 Buyer’s Initials

 Date

 Seller’s Initials

 Date

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
SPECIFIC TERMS**

1. **Date:** _____ **MLS No.:** _____ **Offer Expiration Date:** _____
2. **Buyer:** City of Kirkland A Municipal Corporation A married couple
Buyer Buyer Status
3. **Seller:** Jimmy Lee Salgado, Renaee M Salgado,
Seller Seller
4. **Property:** Tax Parcel No(s): 395570-0050 (King County)
13219 100th Place NE Kirkland WA 98034
Address City State Zip
Legal Description: Attached as Exhibit A.
5. **Included Items:** stove/range; refrigerator; washer; dryer; dishwasher; hot tub; fireplace insert;
 wood stove; satellite dish; security system; attached television(s); attached speaker(s); microwave;
 other _____
6. **Purchase Price:** \$ 522,000.00 Five Hundred Twenty-Two Thousand Dollars
7. **Earnest Money:** \$ 10,000.00 Check; Note; Other _____ (held by Selling Firm; Closing Agent)
8. **Default:** (check only one) Forfeiture of Earnest Money; Seller's Election of Remedies
9. **Title Insurance Company:** Chicago Title Insurance Company
10. **Closing Agent:** a qualified closing agent of Buyer's choice; Chicago Title Insurance Company
11. **Closing Date:** _____; **Possession Date:** on Closing; Other _____
12. **Services of Closing Agent for Payment of Utilities:** Requested (attach NWMLS Form 22K); Waived
13. **Charges/Assessments Levied Before but Due After Closing:** assumed by Buyer; prepaid in full by Seller at Closing
14. **Seller Citizenship (FIRPTA):** Seller is; is not a foreign person for purposes of U.S. income taxation
15. **Agency Disclosure:** Selling Broker represents: Buyer; Seller; both parties; neither party
Listing Broker represents: Seller; both parties
16. **Addenda:** 22E(FIRPTA Cert.) 34(Addendum)

Buyer's Signature _____ Date _____

Seller's Signature _____ Date _____

Buyer's Signature _____ Date _____

Seller's Signature _____ Date _____

123 Fifth Avenue, Kirkland, WA 98033
Buyer's Address

13219 100th Place NE, Kirkland, WA 98034
Seller's Address

City, State, Zip

City, State, Zip

818.581.5933 425.587.3034
Phone No. Fax No.

425.753.0286
Phone No. Fax No.

CDodd@Kirklandwa.gov
Buyer's E-mail Address

jsal98644@yahoo.com
Seller's E-mail Address

New Ventures Group Development Services, Inc.
Selling Firm MLS Office No.

New Ventures Group Development Services, Inc
Listing Firm MLS Office No.

Peter Folkins 39651
Selling Broker (Print) MLS LAG No.

New Ventures Group Development Services, Inc
Listing Broker (Print) MLS LAG No.

206.300.2914
Phone No. Firm Fax No.

206.300.2914
Phone No. Firm Fax No.

Selling Firm Document E-mail Address

Listing Firm Document E-mail Address

peter@newventuresgroup.com
Selling Broker's E-mail Address

peter@newventuresgroup.com
Listing Broker's E-mail Address

23836 1671
Selling Broker DOL License No. Selling Firm DOL License No.

23836 1671
Listing Broker DOL License No. Listing Firm DOL License No.

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

a. **Purchase Price.** Buyer shall pay to Seller the Purchase Price, including the Earnest Money, in cash at Closing, unless otherwise specified in this Agreement. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement and is not relying on any contingent source of funds, including funds from loans, the sale of other property, gifts, retirement, or future earnings, except to the extent otherwise specified in this Agreement. 1
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b. **Earnest Money.** Buyer shall deliver the Earnest Money within 2 days after mutual acceptance to Selling Broker or to Closing Agent. If Buyer delivers the Earnest Money to Selling Broker, Selling Broker will deposit any check to be held by Selling Firm, or deliver any Earnest Money to be held by Closing Agent, within 3 days of receipt or mutual acceptance, whichever occurs later. If the Earnest Money is held by Selling Firm and is over \$10,000.00 it shall be deposited into an interest bearing trust account in Selling Firm's name provided that Buyer completes an IRS Form W-9. Interest, if any, after deduction of bank charges and fees, will be paid to Buyer. Buyer shall reimburse Selling Firm for bank charges and fees in excess of the interest earned, if any. If the Earnest Money held by Selling Firm is over \$10,000.00 Buyer has the option to require Selling Firm to deposit the Earnest Money into the Housing Trust Fund Account, with the interest paid to the State Treasurer, if both Seller and Buyer so agree in writing. If the Buyer does not complete an IRS Form W-9 before Selling Firm must deposit the Earnest Money or the Earnest Money is \$10,000.00 or less, the Earnest Money shall be deposited into the Housing Trust Fund Account. Selling Firm may transfer the Earnest Money to Closing Agent at Closing. If all or part of the Earnest Money is to be refunded to Buyer and any such costs remain unpaid, the Selling Firm or Closing Agent may deduct and pay them therefrom. The parties instruct Closing Agent to provide written verification of receipt of the Earnest Money and notice of dishonor of any check to the parties and Brokers at the addresses and/or fax numbers provided herein. 5
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Upon termination of this Agreement, a party or the Closing Agent may deliver a form authorizing the release of Earnest Money to the other party or the parties. The party(s) shall execute such form and deliver the same to the Closing Agent. If either party fails to execute the release form, a party may make a written demand to the Closing Agent for the Earnest Money. Pursuant to RCW 64.04, Closing Agent shall deliver notice of the demand to the other party within 15 days. If the other party does not object to the demand within 20 days of Closing Agent's notice, Closing Agent shall disburse the Earnest Money to the party making the demand within 10 days of the expiration of the 20 day period. If Closing Agent timely receives an objection or an inconsistent demand from the other party, Closing Agent shall commence an interpleader action within 60 days of such objection or inconsistent demand, unless the parties provide subsequent consistent instructions to Closing Agent to disburse the earnest money or refrain from commencing an interpleader action for a specified period of time. Pursuant to RCW 4.28.080, the parties consent to service of the summons and complaint for an interpleader action by first class mail, postage prepaid at the party's usual mailing address or the address identified in this Agreement. If the Closing Agent complies with the preceding process, each party shall be deemed to have released Closing Agent from any and all claims or liability related to the disbursement of the Earnest Money. If either party fails to authorize the release of the Earnest Money to the other party when required to do so under this Agreement, that party shall be in breach of this Agreement. For the purposes of this section, the term Closing Agent includes a Selling Firm holding the Earnest Money. The parties authorize the party commencing an interpleader action to deduct up to \$500.00 for the costs thereof. 20
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c. **Included Items.** Any of the following items, including items identified in Specific Term No. 5 if the corresponding box is checked, located in or on the Property are included in the sale: built-in appliances; wall-to-wall carpeting; curtains, drapes and all other window treatments; window and door screens; awnings; storm doors and windows; installed television antennas; ventilating, air conditioning and heating fixtures; trash compactor; fireplace doors, gas logs and gas log lighters; irrigation fixtures; electric garage door openers; water heaters; installed electrical fixtures; lighting fixtures; shrubs, plants and trees planted in the ground; and other fixtures; and all associated operating remote controls. Unless otherwise agreed, if any of the above items are leased or encumbered, Seller shall acquire clear title before Closing. 37
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d. **Condition of Title.** Unless otherwise specified in this Agreement, title to the Property shall be marketable at Closing. The following shall not cause the title to be unmarketable: rights, reservations, covenants, conditions and restrictions, presently of record and general to the area; easements and encroachments, not materially affecting the value of or unduly interfering with Buyer's reasonable use of the Property; and reserved oil and/or mining rights. Monetary encumbrances or liens not assumed by Buyer, shall be paid or discharged by Seller on or before Closing. Title shall be conveyed by a Statutory Warranty Deed. If this Agreement is for conveyance of a buyer's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a buyer's assignment of the contract sufficient to convey after acquired title. 44
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e. **Title Insurance.** Seller authorizes Buyer's lender or Closing Agent, at Seller's expense, to apply for the then-current ALTA form of Homeowner's Policy of Title Insurance for One-to-Four Family Residence, from the Title Insurance Company. If Seller previously received a preliminary commitment from a Title Insurance Company that Buyer declines to use, Buyer shall pay any cancellation fees owing to the original Title Insurance Company. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. If the Title Insurance Company selected by the parties will not issue a Homeowner's Policy for the Property, the parties agree that the Title Insurance Company shall instead issue the then-current ALTA standard form Owner's Policy, together with homeowner's additional protection and inflation protection endorsements, if available. The Title Insurance Company 52
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Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS

Continued

shall send a copy of the preliminary commitment to Seller, Listing Broker, Buyer and Selling Broker. The preliminary commitment, and the title policy to be issued, shall contain no exceptions other than the General Exclusions and Exceptions in the Policy and Special Exceptions consistent with the Condition of Title herein provided. If title cannot be made so insurable prior to the Closing Date, then as Buyer's sole and exclusive remedy, the Earnest Money shall, unless Buyer elects to waive such defects or encumbrances, be refunded to the Buyer, less any unpaid costs described in this Agreement, and this Agreement shall thereupon be terminated. Buyer shall have no right to specific performance or damages as a consequence of Seller's inability to provide insurable title.

f. Closing and Possession. This sale shall be closed by the Closing Agent on the Closing Date. If the Closing Date falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, the Closing Agent shall close the transaction on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. "Closing" means the date on which all documents are recorded and the sale proceeds are available to Seller. Seller shall deliver keys and garage door remotes to Buyer on the Closing Date or on the Possession Date, whichever occurs first. Buyer shall be entitled to possession at 9:00 p.m. on the Possession Date. Seller shall maintain the Property in its present condition, normal wear and tear excepted, until the Buyer is entitled to possession. Seller shall not enter into or modify existing leases or rental agreements, service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld. If possession transfers at a time other than Closing, the parties shall execute NWMLS Form 65A (Rental Agreement/Occupancy Prior to Closing) or NWMLS Form 65B (Rental Agreement/Seller Occupancy After Closing) (or alternative rental agreements) and are advised of the need to contact their respective insurance companies to assure appropriate hazard and liability insurance policies are in place, as applicable.

RCW 19.27.530 requires the seller of any owner-occupied single-family residence to equip the residence with a carbon monoxide alarm(s) in accordance with the state building code before a buyer or any other person may legally occupy the residence following the sale. The parties acknowledge that the Brokers are not responsible for ensuring that Seller complies with RCW 19.27.530. Buyer and Seller shall hold the Brokers and their Firms harmless from any claim resulting from Seller's failure to install a carbon monoxide alarm(s) in the Property.

g. Section 1031 Like-Kind Exchange. If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding the Assignment paragraph of this Agreement, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

h. Closing Costs and Prorations and Charges and Assessments. Seller and Buyer shall each pay one-half of the escrow fee unless otherwise required by applicable FHA or VA regulations. Taxes for the current year, rent, interest, and lienable homeowner's association dues shall be prorated as of Closing. Buyer shall pay Buyer's loan costs, including credit report, appraisal charge and lender's title insurance, unless provided otherwise in this Agreement. If any payments are delinquent on encumbrances which will remain after Closing, Closing Agent is instructed to pay such delinquencies at Closing from money due, or to be paid by, Seller. Buyer shall pay for remaining fuel in the fuel tank if, prior to Closing, Seller obtains a written statement from the supplier as to the quantity and current price and provides such statement to the Closing Agent. Seller shall pay all utility charges, including unbilled charges. Unless waived in Specific Term No. 12, Seller and Buyer request the services of Closing Agent in disbursing funds necessary to satisfy unpaid utility charges in accordance with RCW 60.80 and Seller shall provide the names and addresses of all utilities providing service to the Property and having lien rights (attach NWMLS Form 22K Identification of Utilities or equivalent).

Buyer is advised to verify the existence and amount of any local improvement district, capacity or impact charges or other assessments that may be charged against the Property before or after Closing. Seller will pay such charges that are or become due on or before Closing. Charges levied before Closing, but becoming due after Closing shall be paid as agreed in Specific Term No. 13.

i. Sale Information. Listing Broker and Selling Broker are authorized to report this Agreement (including price and all terms) to the Multiple Listing Service that published it and to its members, financing institutions, appraisers, and anyone else related to this sale. Buyer and Seller expressly authorize all Closing Agents, appraisers, title insurance companies, and others related to this Sale, to furnish the Listing Broker and/or Selling Broker, on request, any and all information and copies of documents concerning this sale.

j. Seller Citizenship and FIRPTA. Seller warrants that the identification of Seller's citizenship status for purposes of U.S. income taxation in Specific Term No. 14 is correct. Seller shall execute a certification (NWMLS Form 22E or equivalent) under the Foreign Investment in Real Property Tax Act ("FIRPTA") at Closing and provide the certification to the Closing Agent. If Seller is a foreign person for purposes of U.S. income taxation, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS

Continued

- k. Notices.** In consideration of the license to use this and NWMLS's companion forms and for the benefit of the Listing Broker and the Selling Broker as well as the orderly administration of the offer, counteroffer or this Agreement, the parties irrevocably agree that unless otherwise specified in this Agreement, any notice required or permitted in, or related to, this Agreement (including revocations of offers or counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and shall be deemed given only when the notice is received by Seller, by Listing Broker or at the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and shall be deemed given only when the notice is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. Receipt by Selling Broker of a Form 17, Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, Public Offering Statement or Resale Certificate, homeowners' association documents provided pursuant to NWMLS Form 22D, or a preliminary commitment for title insurance provided pursuant to NWMLS Form 22T shall be deemed receipt by Buyer. Selling Broker and Listing Broker have no responsibility to advise of receipt of a notice beyond either phoning the party or causing a copy of the notice to be delivered to the party's address shown on this Agreement. Buyer and Seller must keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice.
- l. Computation of Time.** Unless otherwise specified in this Agreement, any period of time measured in days and stated in this Agreement shall start on the day following the event commencing the period and shall expire at 9:00 p.m. of the last calendar day of the specified period of time. Except for the Possession Date, if the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of 5 days or less, except for any time period relating to the Possession Date, shall not include Saturdays, Sundays or legal holidays. If the parties agree that an event will occur on a specific calendar date, the event shall occur on that date, except for the Closing Date, which, if it falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, shall occur on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. If the parties agree upon and attach a legal description after this Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than on the date the legal description is attached. Time is of the essence of this Agreement.
- m. Facsimile and E-mail Transmission.** Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will confirm facsimile transmitted signatures by signing an original document. E-mail transmission of any signed original document or a direct link to such document, and retransmission of any such e-mail, shall be the same as delivery of an original, provided that the e-mail is sent to both Selling Broker and Selling Firm or both Listing Broker and Listing Firm at the e-mail addresses on page one of this Agreement. At the request of either party, or the Closing Agent, the parties will confirm e-mail transmitted signatures by signing an original document.
- n. Integration and Electronic Signatures.** This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Buyer and Seller. The parties acknowledge that a signature in electronic form has the same legal effect and validity as a handwritten signature.
- o. Assignment.** Buyer may not assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless the parties indicate that assignment is permitted by the addition of "and/or assigns" on the line identifying the Buyer on the first page of this Agreement.
- p. Default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the following provision, as identified in Specific Term No. 8, shall apply:
- i. Forfeiture of Earnest Money.** That portion of the Earnest Money that does not exceed five percent (5%) of the Purchase Price shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for such failure.
 - ii. Seller's Election of Remedies.** Seller may, at Seller's option, (a) keep the Earnest Money as liquidated damages as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.
- q. Professional Advice and Attorneys' Fees.** Buyer and Seller are advised to seek the counsel of an attorney and a certified public accountant to review the terms of this Agreement. Buyer and Seller shall pay their own fees incurred for such review. However, if Buyer or Seller institutes suit against the other concerning this Agreement the prevailing party is entitled to reasonable attorneys' fees and expenses.
- r. Offer.** Buyer shall purchase the Property under the terms and conditions of this Agreement. Seller shall have until 9:00 p.m. on the Offer Expiration Date to accept this offer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. If this offer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer.

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

**RESIDENTIAL REAL ESTATE PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

- s. **Counteroffer.** Any change in the terms presented in an offer or counteroffer, other than the insertion of the Seller's name and the Seller's warranty of citizenship status, shall be considered a counteroffer. If a party makes a counteroffer, then the other party shall have until 9:00 p.m. on the counteroffer expiration date to accept that counteroffer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the other party, the other party's broker, or at the licensed office of the other party's broker. If the counteroffer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer. 173-178
- t. **Offer and Counteroffer Expiration Date.** If no expiration date is specified for an offer/counteroffer, the offer/counteroffer shall expire 2 days after the offer/counteroffer is delivered by the party making the offer/counteroffer, unless sooner withdrawn. 179-181
- u. **Agency Disclosure.** Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. If Selling Broker and Listing Broker are the same person representing both parties then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency." 182-190
- v. **Commission.** Seller and Buyer shall pay a commission in accordance with any listing or commission agreement to which they are a party. The Listing Firm's commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing. Seller and Buyer hereby consent to Listing Firm or Selling Firm receiving compensation from more than one party. Seller and Buyer hereby assign to Listing Firm and Selling Firm, as applicable, a portion of their funds in escrow equal to such commission(s) and irrevocably instruct the Closing Agent to disburse the commission(s) directly to the Firm(s). In any action by Listing or Selling Firm to enforce this paragraph, the prevailing party is entitled to court costs and reasonable attorneys' fees. Seller and Buyer agree that the Firms are intended third party beneficiaries under this Agreement. 191-198
- w. **Cancellation Rights/Lead-Based Paint.** If a residential dwelling was built on the Property prior to 1978, and Buyer receives a Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (NWMLS Form 22J) after mutual acceptance, Buyer may rescind this Agreement at any time up to 3 days thereafter. 199-201
- x. **Information Verification Period and Property Condition Disclaimer.** Buyer shall have 10 days after mutual acceptance to verify all information provided from Seller or Listing Firm related to the Property. This contingency shall be deemed satisfied unless Buyer gives notice identifying the materially inaccurate information within 10 days of mutual acceptance. If Buyer gives timely notice under this section, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 202-206

Buyer and Seller agree, that except as provided in this Agreement, all representations and information regarding the Property and the transaction are solely from the Seller or Buyer, and not from any Broker. The parties acknowledge that the Brokers are not responsible for assuring that the parties perform their obligations under this Agreement and that none of the Brokers has agreed to independently investigate or confirm any matter related to this transaction except as stated in this Agreement, or in a separate writing signed by such Broker. In addition, Brokers do not guarantee the value, quality or condition of the Property and some properties may contain building materials, including siding, roofing, ceiling, insulation, electrical, and plumbing, that have been the subject of lawsuits and/or governmental inquiry because of possible defects or health hazards. Some properties may have other defects arising after construction, such as drainage, leakage, pest, rot and mold problems. Brokers do not have the expertise to identify or assess defective products, materials, or conditions. Buyer is urged to use due diligence to inspect the Property to Buyer's satisfaction and to retain inspectors qualified to identify the presence of defective materials and evaluate the condition of the Property as there may be defects that may only be revealed by careful inspection. Buyer is advised to investigate whether there is a sufficient water supply to meet Buyer's needs. Buyer is advised to investigate the cost of insurance for the Property, including, but not limited to homeowner's, flood, earthquake, landslide, and other available coverage. Buyer and Seller acknowledge that home protection plans may be available which may provide additional protection and benefit to Buyer and Seller. Brokers may assist the parties with locating and selecting third party service providers, such as inspectors or contractors, but Brokers cannot guarantee or be responsible for the services provided by those third parties. The parties shall exercise their own judgment and due diligence regarding third-party service providers. 207-223

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

**CERTIFICATION UNDER THE
FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA")**

Section 1445 of the U.S. Internal Revenue Code provides that a buyer of a U.S. real property interest must withhold tax if the Seller is a foreign person, unless one of the exceptions in the Act applies. The following will inform the Buyer and Closing Agent whether or not tax withholding is required.

Note: The above law applies to foreign corporations, partnerships, trusts, estates and other foreign entities, as well as to foreign individuals. If the Seller is a corporation, partnership, trust, estate or other entity, the terms "I" and "my" as used below means the corporation or other entity. A "real property interest" includes full or part ownership of land and/or improvements thereon; leaseholds; options to acquire any of the foregoing; and an interest in foreign corporations, partnerships, trusts or other entities holding U.S. real estate.

SELLER CERTIFICATION. Seller hereby certifies the following:

PROPERTY. I am the Seller of real property at:

Address City State Zip

or (if no street address) legally described on the attached.

CITIZENSHIP STATUS. I AM AM NOT a non-resident alien (or a foreign corporation, foreign partnership, foreign trust, foreign estate or other foreign business entity) for purposes of U.S. income taxation.

TAXPAYER I.D. NUMBER.
My U.S. taxpayer identification number (e.g. social security number) is _____
(Tax I.D. number to be provided by Seller at Closing)

ADDRESS.
My home address is _____
Address City State Zip

Under penalties of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete. I understand that this Certification may be disclosed to the Internal Revenue Service and that any false statement I have made here could be punished by fine, imprisonment, or both.

Seller Date Seller Date

BUYER CERTIFICATION (Fill this in only if the Seller is a non-resident alien).

NOTE: If the Seller is a non-resident alien, and has not obtained a release from the Internal Revenue Service, then the Closing Agent must withhold 10% of the amount realized from the sale and pay it to the IRS, unless Buyer certifies that **BOTH** statements below are correct:

- Amount Realized.** I certify that the total price that I am to pay for the property, including liabilities assumed and all other consideration to the Seller, does not exceed \$300,000; and
- Family Residence.** I certify that I or a member of my family* have definite plans to reside on the property for at least 50% of the time that the property is used by any person during each of the first two twelve month periods following the date of this sale.

* (Defined in 11 U.S.C. 267(c)(4). It includes brothers, sisters, spouse, ancestors and lineal descendants).

Under penalties of perjury, I declare that I have examined this Certification and to the best of my knowledge and belief both statements are true, correct and complete. I understand that this Certification may be disclosed to the Internal Revenue Service and that any false statement I have made here could be punished by fine, imprisonment, or both.

Buyer Date Buyer Date

ADDENDUM / AMENDMENT TO PURCHASE AND SALE AGREEMENT

The following is part of the Purchase and Sale Agreement dated _____ between City of Kirkland, a Municipal Corporation (“Buyer”) and Jimmy Lee Salgado and Renae M Salgado, Husband and Wife (“Seller”) concerning 13219 100th Place NE, Kirkland, WA 98034 (the “Property”). It is agreed between the Seller and Buyer as follows:

1. **Closing Date:** Closing Date shall be August 1 or sooner, by Seller’s election. Seller must give Buyer 30 days’ notice of revised Closing Date. *(Supersedes Specific Term #11 and amends General Term f. “Closing and Possession”)*
2. **Earnest Money:** Upon execution of the Purchase and Sale Agreement, \$10,000.00 shall be deposited into an escrow account with Chicago Title of Washington. The Earnest Money payment shall be applicable to the Purchase Price and become nonrefundable upon expiration of the Feasibility Period. *(Supersedes General Term b. Earnest Money; First paragraph)*
3. **Feasibility Period:** Buyer shall have thirty (30) days from mutual acceptance of this Purchase and Sale Agreement (the “Feasibility Period”) to verify all information provided by Seller, perform all inspections, and accept the Property. Inspections may include:
 - Title/survey examination.
 - Assessment of the physical condition of the property, including structural, oil tank.
 - Environmental assessment, including Phase 1 environmental, soils/geotechnical, wetland, asbestos, and lead paint studies.

The Property shall be deemed accepted unless Buyer gives timely written notice of non-acceptance of the Property, in which case this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. *(Supersedes General Term x. “Information Verification Period and Property Condition Disclaimer”, Paragraph 1)*

4. **Closing Costs Paid by Buyer:** At Closing, Buyer shall pay for all excise tax, transfer or assumption fees, recording fees, and escrow fees. Buyer shall pay for a Standard Owner’s Policy of Title Insurance. Buyer, at its option and cost, may elect to pay for extended title insurance coverage. Buyer shall pay any costs associated with the Buyer’s due diligence. *(Amends General Term e. “Title Insurance” and amends General Term h. “Closing Costs and Prorations and Charges and Assessments”)*
5. **Commissions:** New Ventures Group (Peter Folkins) represents the Buyer in this transaction. Upon Closing, Buyer shall pay all real estate commissions due. Seller shall be responsible for paying any commissions or fees to Seller’s representative, should there be one. If Seller is not represented, New Ventures Group will be acting as a dual agent. Buyer and Seller confirm their consent to this dual agency and acknowledge receipt of the pamphlet entitled “The Law of Real Estate Agency.”

Buyers’ Initials Date

Seller’s Initials Date



CITY OF KIRKLAND
Department of Public Works
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathy Robertson, Neighborhood Traffic Control Coordinator
 Stephen Padua, AICP, Transportation Planner
 David Godfrey, P.E., Transportation Engineering Manager
 Kathy Brown, Public Works Director

Date: February 4, 2016

Subject: DOWNTOWN PARKING UPDATE

RECOMMENDATION:

It is recommended that City Council receive an update on strategies that have been implemented to improve downtown parking. It is also recommended that the City Council give direction to staff on time-restricted parking on Market Street.

BACKGROUND DISCUSSION:

This memo includes a summary update of all strategies, with particular emphasis on four areas: employee permit parking on Lake Avenue West, the employee parking permit program, Market Street time restrictions, and the planned new parking lot south of City Hall.

During the first half of 2015, Council actively investigated and recommended a package of changes to downtown parking as described in Table 1:

Table 1 City Council Actions to Improve Parking

Council Meeting Date (2015)	Council Action
January 6	Received briefing on draft parking report, directed staff to move forward with public outreach around a full range of options.
April 7	Received briefing on results of extensive public outreach; staff presented possible actions for 2015 and 2016. Directed staff to take a more aggressive approach to implementation by including more elements in the 2015 actions. Directed the Planning, Housing and Economic Development Committee reviewed various options, and suggested additional near-term actions.
May 5	Staff recommended a number of options for improving parking and submitted a request for funding, which City Council approved.
June 16	Council directed that <ul style="list-style-type: none"> • Sunday enforcement would not be considered at this time. • Evaluation of the lot south of City Hall should continue.

	<ul style="list-style-type: none"> • Development of concepts for additional parking at the Lake & Central lot should begin.
July 7th	<ul style="list-style-type: none"> • Adopted a resolution updating Parking Guidelines for Downtown Parking G-11 to allow employee permit parking on Lake Avenue West. • Approved the staff recommendation to not exempt homeowners on Market Street from the time restrictions. • Directed staff to collect data about parking usage on Lake Avenue West and Market Street, and report back to Council in approximately 6 months.

Table 2 lists the near-term parking actions that were approved by Council since April 2015 and the current status of those actions. The following four actions are discussed in further detail following Table 2:

- Lake Avenue West Employee Permit Parking,
- Market Street Time Restrictions
- Parking lot South of City Hall
- Employee Parking Permit Program

Table 2 Status of Downtown Parking Actions

Recommended Action	Status
Lake Ave West Employee Permit Parking	Implemented; see below for more discussion.
Market Street Time Restrictions	Implemented; see below for more discussion.
Employee Parking Permit Program	Implemented; see below for more discussion.
New signage at City Hall parking entrances	Implemented.
Improve wayfinding signage	Implemented.
Update & distribute parking maps	Implemented.
Steer people to parking website	Implemented.
Additional Parking Enforcement Vehicle Cameras	Completed & operational.
Pay Parking Lake & Central lot (9:00 AM to 9:00 PM)	Implemented.
Interim Parking Lot South of City Hall: 4 hour time limit for public/all day for employee permits.	Design and permitting underway; see below for more discussion
Additional Sites	Implement some low cost changes in 2016 Striping Program.
Explore Options for Shared Parking Agreements	Completed, results of potential private parking locations given to Kirkland Chamber of Commerce for sharing with employers.

Library Garage Improvements (power washing, striping, painting, LED lights.)	Completed.
Validation	Working on Pay-by-Phone integration options with paid parking and Police systems.

Employee Parking on Lake Avenue West

Background: As described in Table 1, at its July 7th meeting, City Council approved allowing downtown employees with permits to park on Lake Avenue West in existing parking areas on the northeast side of the street opposite the residences. Residents and their guests with permits can continue to park in the permit-only areas on both sides of the street. This arrangement is in effect 24 hours per day, 7 days per week. Employee permits that are valid in the permit areas of the library garage are also valid for parking on Lake Avenue West, although an employee permit does not guarantee an employee a parking space. The permits are available at no cost to downtown employees and are distributed at the Public Works counter at City Hall. The employee parking permits are numbered and associated with an employee, a specific car and a downtown business for tracking purposes.



Figure 1 Lake Avenue W. Employee parking is allowed in the green areas and prohibited in the red areas. The black area is time limited.

The City’s Parking Enforcement Officers (PEOs) use electronic License Plate Readers to check compliance and monitor this street 3 to 5 times per day. Residents can report concerns to a contact at Public Works during working hours and to the NORCOM police dispatch center phone number after hours. Public Works staff have been checking parking usage along Lake Avenue West on an average of twice weekly.

Usage: Typically, up to 9 cars (of approximately 55 available stalls) have been observed parking on the eastern portion of Lake Avenue West, west of the time-restricted public parking zone. Most of these cars have employee permits and are repeat parkers. Occasionally, a car with a resident or guest permit or contractors or vendors, who may not have a permit, park in this zone. Between December 26th and January 1st, and on a few other occasions, staff

observed 1 to 4 additional employee-permit cars parked in the next zone to the northeast. Cars with employee permits were not observed beyond these first two zones. Parking remains available to residents, their guests, and contractors on the southwest side of the street and most of the northeast side.

Concerns/Requests: Public Works and Kirkland Police received 6 questions or concerns from residents and one company in the past 6 months (see Table 3). Kirkland Police received 8 parking complaints of which 3 resulted in citations and the remaining 5 were either warnings or involved educating the resident about where to look for employee permits.

Table 3. Questions and concerns about Lake Avenue W.

From	Date	Question or Concern	Response
Resident	7/10/2015	Did the City notify employee permit holders when they notified the residents?	No, residents were informed in July, formal outreach to employers was conducted in the fall.
Resident	7/24/2015	Car parked for a week	Referred to KPD
Resident	1/18/2016	Cars parked with no permits	Referred to KPD
Resident	1/10/2016	Cars Parked late at night	Referred to KPD
Resident	1/8/2016	Company-branded cars parked; one for more than 24 hours	PW discussed with company
Employee	1/20/2016	Company cars used for commuting should be eligible for permits	PW Working on policy to allow this.

Two Lake Avenue West residents were recently contacted to find out their observations on employee parking over the past six months. One resident compiled her comments and those from neighbors, and emailed them to staff from the Public Works Department. They are included in Attachment A. A summary was included in the comments:

Most residents have indicated that the employee permit parking has not been an issue to date. But we realize that the busy summer season has not yet begun, and hope that there will continue to be regular reviews scheduled to monitor the parking situation.

Findings: Employees with parking permits are using the Lake Avenue West parking. Residents have not sent in complaints about a lack of parking because employees are now parking on Lake Avenue West. Enforcement has been effectively managing potential parking violations.

The PEOs will continue to monitor Lake Avenue West for parking violations. KPD will continue to respond when complaints are received.

Employee Parking Permit Program

The City has completed outreach to Downtown Kirkland businesses that are authorized to use the Employee parking program. A letter was sent out to all downtown businesses (October 2015), an email was distributed through the Chamber of Commerce (November 2015) and brochure was distributed door-to-door (December 2015 and January 2016). The majority of new permits have been issued at City Hall, but on three occasions (November 9th, December 1st, & December 3rd), a table was setup at the Library Garage to receive the new registrations and distribute new permits. Enforcement of the new permits is planned to commence in mid-February.

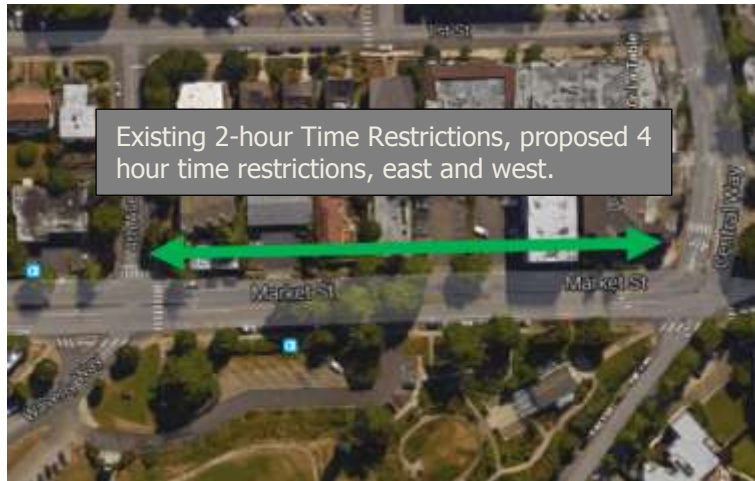
Parking lot South of City Hall

Public Works is currently working on the design of an 84-stall, pervious pavement surface, parking lot. The parking lot will be signed as permit parking for downtown employees. Further geotechnical investigation and soil analysis is required to accommodate the surface water drainage for the pervious pavement surface. The project also includes a survey and impervious surface calculation for all five parcels in the City Hall campus (Attachment B). To facilitate project implementation, Public Works staff is currently working with Planning staff to find efficiencies in the permitting process. Staff has also set up an advisory group with internal and external stakeholders to share information, as well as to guide the project. Based on the planned timeline, construction for the project is anticipated to begin in late spring 2016. The project has a budget of \$820,000. The construction market continues to be strong and 2016 construction cost indicators continue to rise. Staff will closely monitor construction costs and provide updates as necessary.

Time Restrictions on Market Street Parking

Based on Council adoption of staff recommendations, Market Street has 2-hour time limits between Central and 4th Avenue and 4-hour time restrictions between 4th Avenue and 6th Avenue. The time restrictions are in effect from 9 AM to 7:30 PM, apply to both sides of the street and do not apply to boat trailers.

During the time Council was deliberating about this change, public comments were received indicating that 2 hours was not a long enough period for shoppers to complete their errands and that, by placing any restriction, important employee parking was being eliminated. Establishing 2 hour parking as a way of improving turnover and providing customer parking met Council's the overarching goals so the decision was made to move forward with 2 hour parking. Post implementation, questions about utilization were again raised by the public.



Parking Enforcement Officers check this stretch of Market Street 2 to 4 times per day, typically between 9 AM and 4 PM, Monday through Saturday. There are approximately 14 parking stalls on the east side and approximately 15 on the west side of Market Street. License Plate Reader data from October 27, through December 4th, 2015 was analyzed to understand usage of the time limited parking.

During this data collection period, the reader picked up a total of 638 license plates with 50% or more of the vehicles parked on the west side versus the east side of Market. On average, 7 cars are parked on the east side and 9 cars parked on the west side. This results in an estimated occupancy of 50% on the east side and 53% on the west side (See Table 4). Given an optimum occupancy of 85%, staff recommends changing the 2-hour zone to a 4-hour time limit as a way to increase utilization under the theory that the stalls will be more desirable if they have a longer time limit. In fact, the reason for limiting the length of stay was that the stalls were over utilized. Staff will continue to use license plate reader data to evaluate the occupancy.

Table 4. Market Street Parking Occupancy

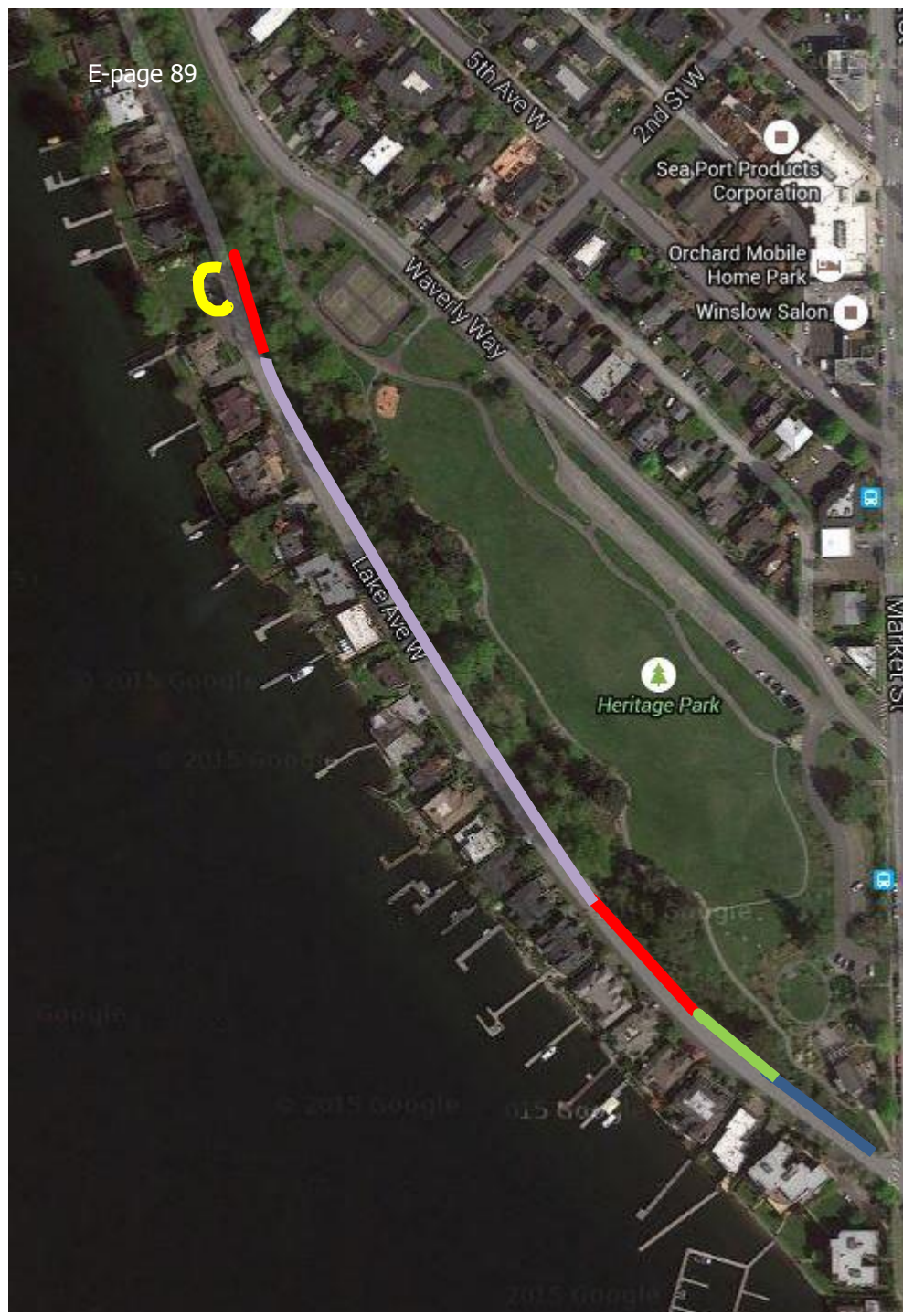
Side of Street	Number of stalls	Average number of parked cars	Estimated occupancy
East	14	7	50%
West	15	9	60%

KAN Survey

Kirkland Alliance of Neighborhoods (KAN) has conducted a survey of neighborhood parking concerns. A report on this survey was given under the Items from the Audience section of the January 19 Council meeting. KAN is preparing a follow up survey to examine possible solutions to the concerns.

SUMMARY

Council approved a wide ranging list of near-term actions to improve downtown parking and those actions have now been implemented. Nearly all of these actions appear to be working well, with no major concerns from businesses or residents. The exception is the 2-hour time limit on Market Street, which appears to have changed the over-utilization problem to an under-utilization problem at this location. Staff is therefore seeking Council approval to change the current 2-hour time restricted zone on Market Street to 4 hour in order to improve utilization.



Lake Ave W

Parking Update

since employee permitted parking started in July 2015

The street is seeing an increasing number of employee vehicles parking along the east side of the street, but most residents seem to think the situation is working so far.

Section 1: Entrance to street

Length: 140 feet
Parking: 7 spaces
2-hour parking 9am-7pm
Homes: 1 condominium building

Prior use: Full with commuter parking

Current Use: 0-2 cars during day, 4-5 cars on weekend evenings

If the purpose of this area is customer parking, it would appear there is very little demand as spaces are rarely used.

There is a single spot on the west side that does not require a permit – there is a commuter car parked there nearly every day all day long.



Section 2

Length: ~180 feet

Parking: 9 spaces, employee or resident permit

Homes: 3 single family residences

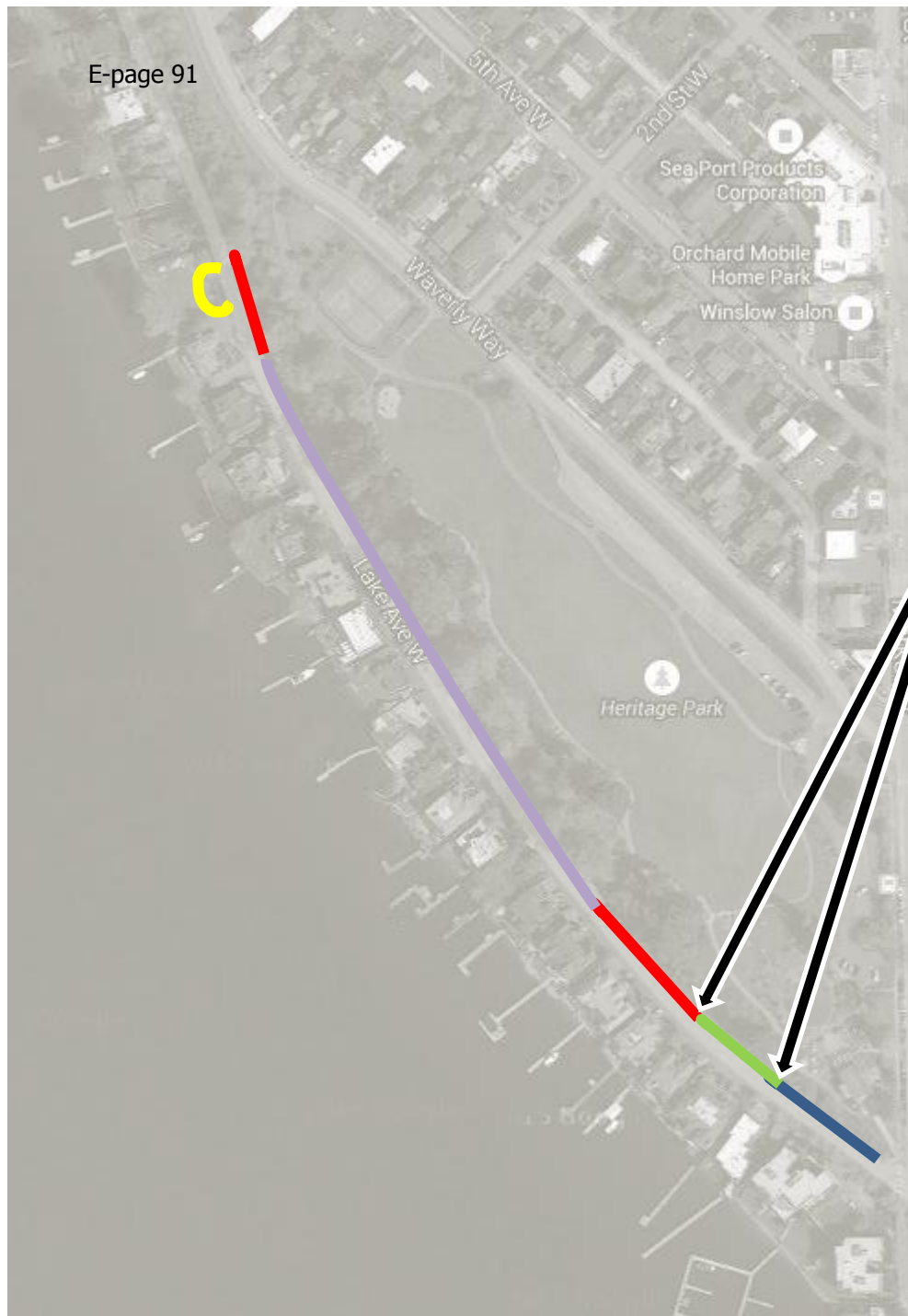
Prior use: Resident/guest parking

Current Use: all 9 spaces full weekdays, 8am to 6pm.
Vehicles usually park off pavement, leaving right-of-way available.

Nearly all spaces used by employees with permits daily. Occasional overnight use.

On most days, guests/residents of the 3 homes at the street cannot use the parking across the street, or within 4 other houses.

Some increase in litter along roadside has been observed. Steady degradation of parking surface (dirt), with muddy ruts, compaction of soil.



Section 3

Length: ~180 feet

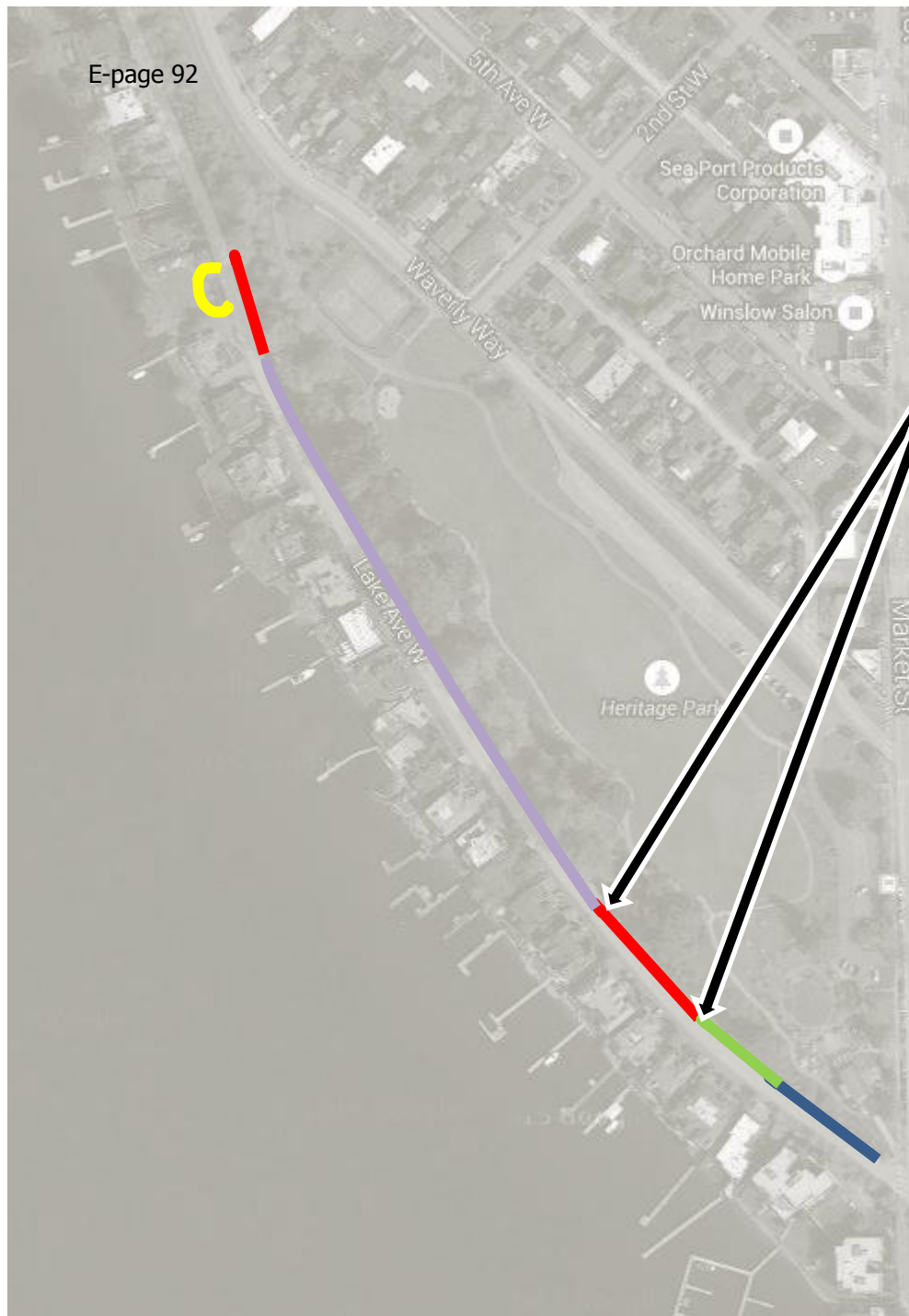
Parking: no parking zone (open ditch)

Homes: 3 single family residences

Prior use: occasional car parked in street

Current Use: usually no cars

Guests/residents of these homes cannot park across the street



Section 4

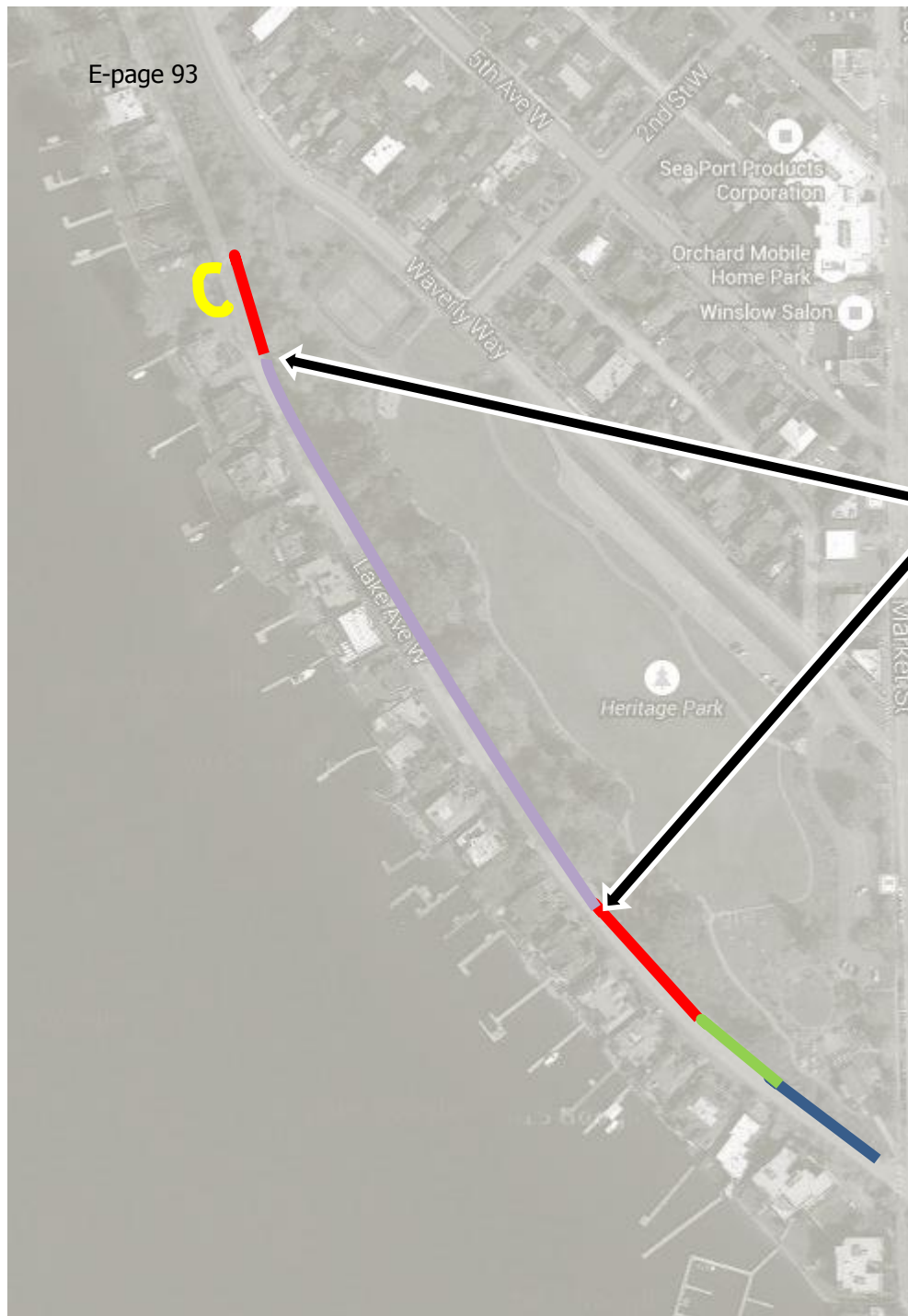
Length: ~900 feet

Parking: 45 spaces, employee or resident permit

Homes: 12 single family residences

Prior use: Resident/guest parking

Current Use: First section seeing increasing use by employees, especially since January 1 (now regularly 4+ vehicles). Remaining section sees occasional use by residents, guests, visitors.



Section 5

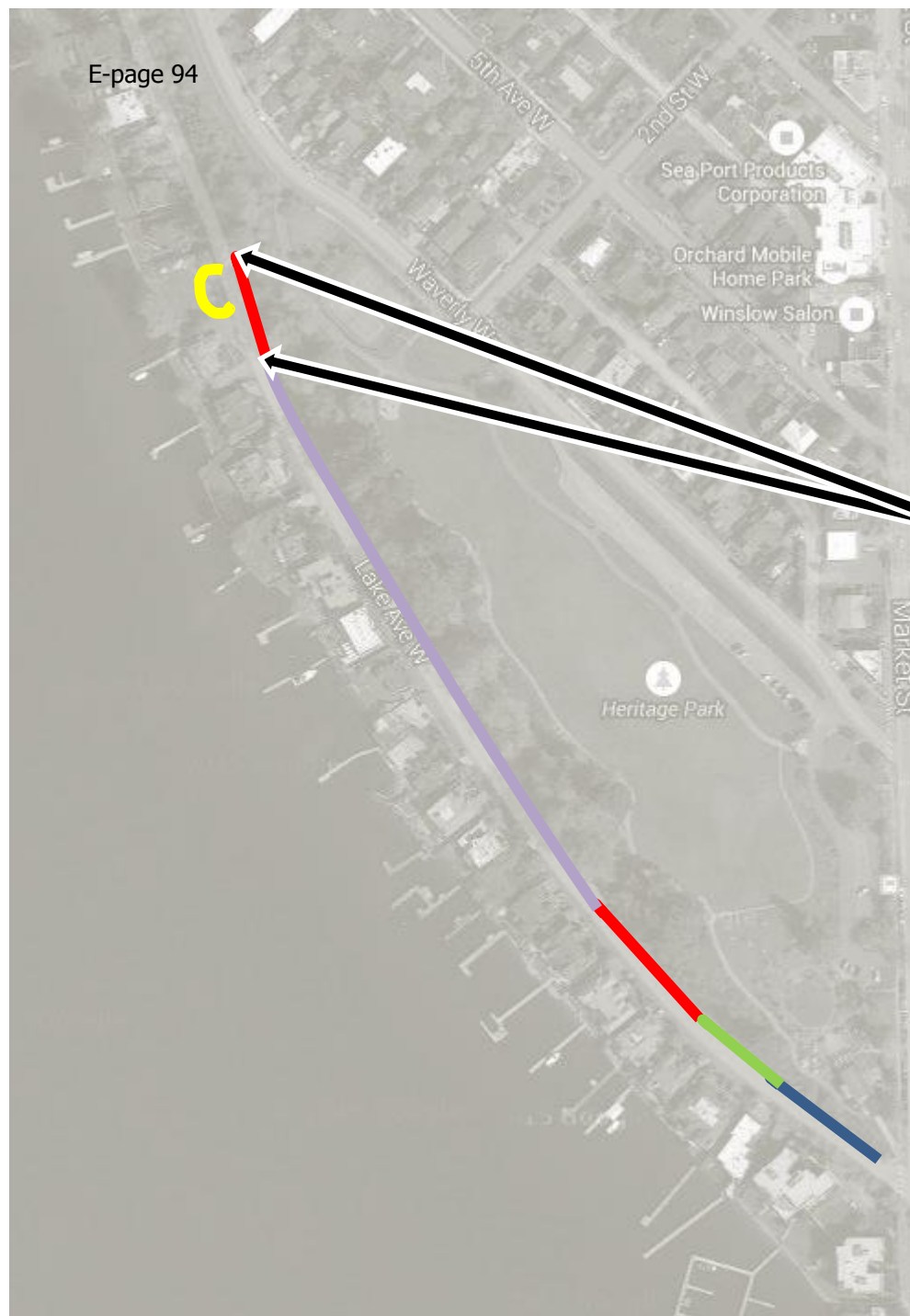
Length: ~160 feet

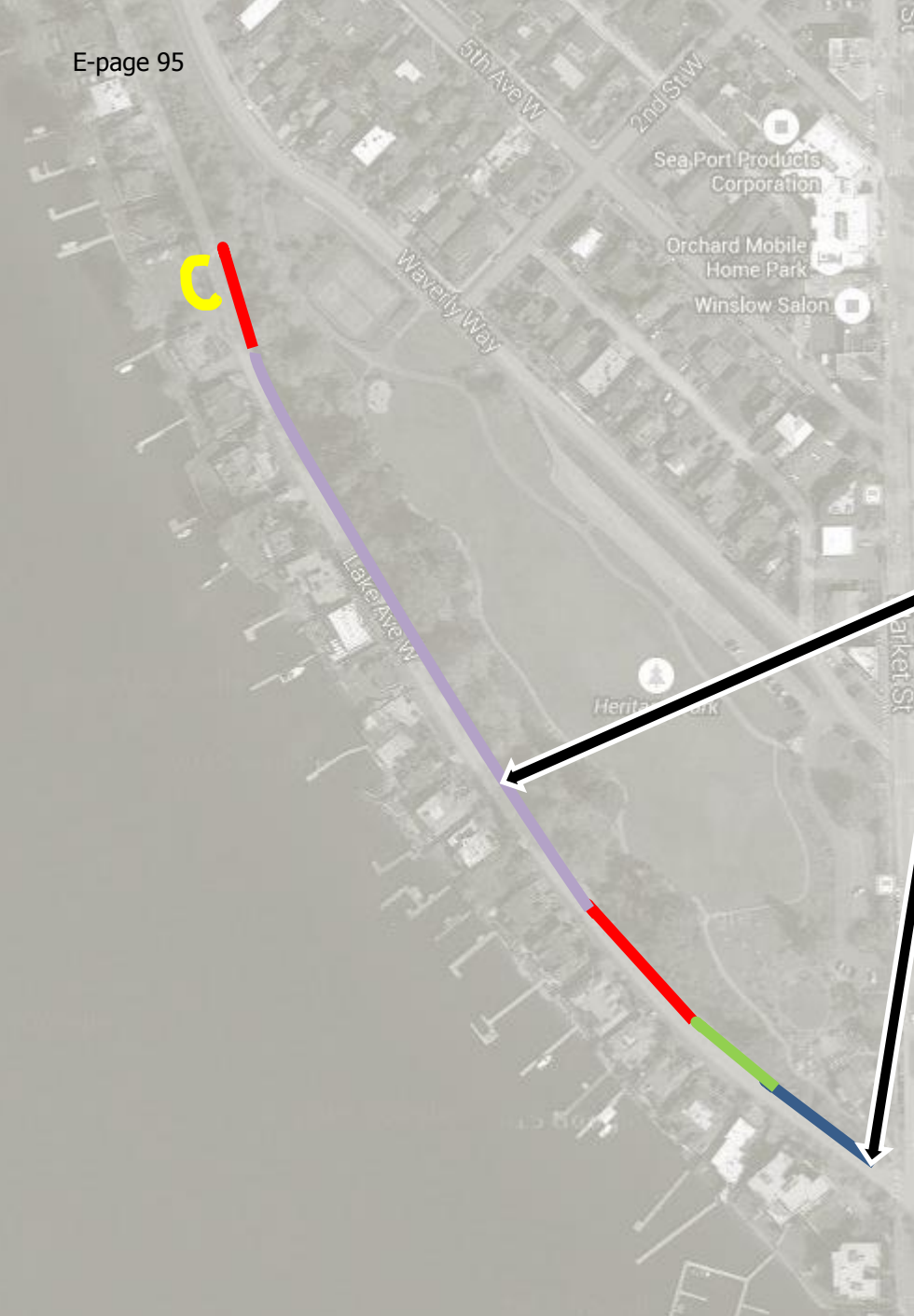
Parking: no parking along street. Three marked stalls for the park

Homes: 1 single family residence, next to mini-park

Prior use: occasional use of 3 marked stalls and parking on east side of street (signed “no parking” but frequently saw park-overflow vehicles. New “no parking” signs installed.)

Current Use: parking for park. Frequent night use even when park is closed. Parks department has painted “no parking” outside of marked stalls to discourage improper use.



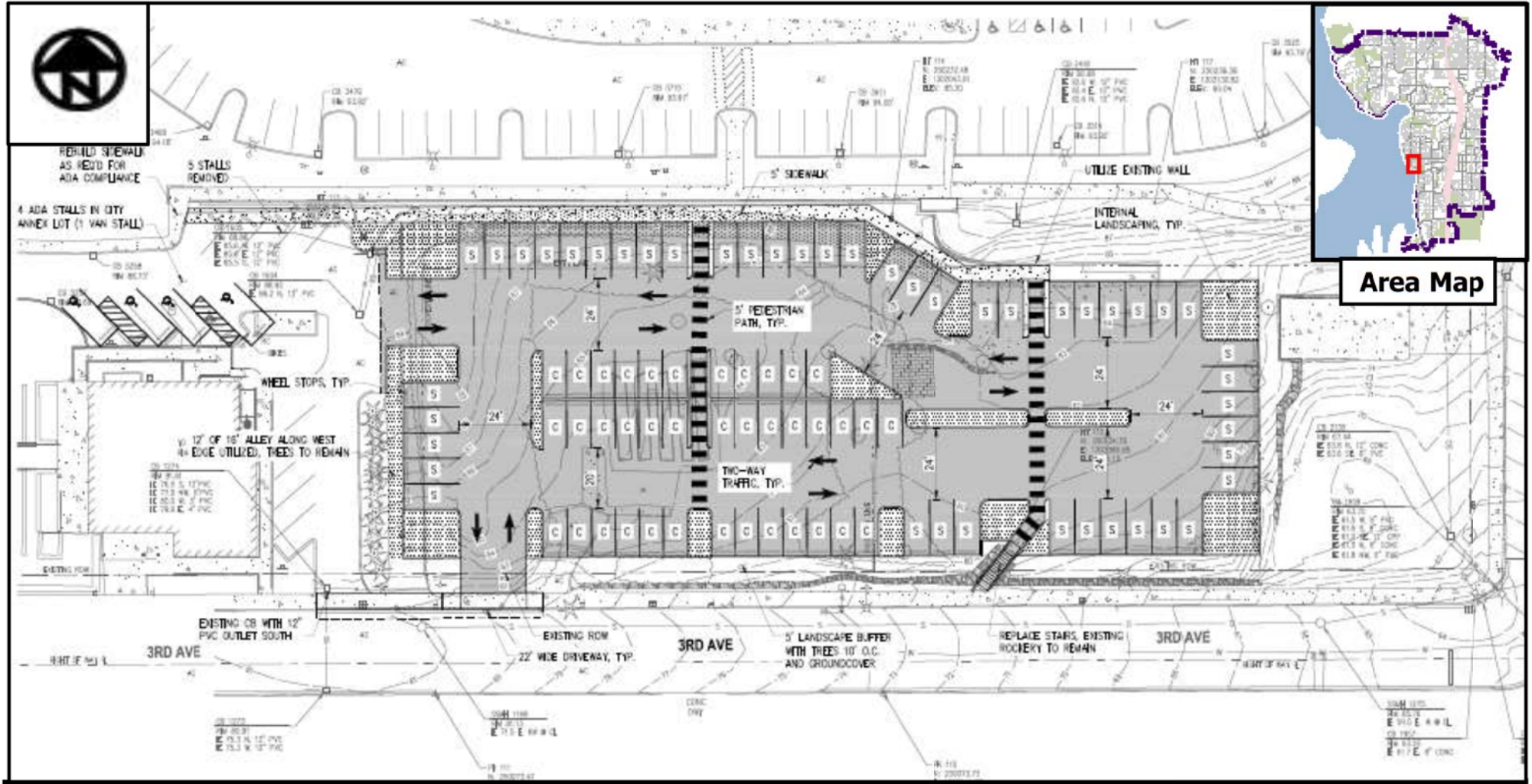


With current time-limited and employee permit parking, this area is generally unavailable for resident and guest parking from approximately 8:30am to 6:30pm Monday through Saturday. The guests/residents of the first homes at the street may have to park up to 7 homes away.

Other comments/observations

- Same employee cars parked each day. Vehicles stay all day. This is beneficial in minimizing increased traffic, but means that guests to residences have no place nearby to park all day long.
- The number of employee vehicles is steadily increasing over time (1-4 employee cars in the first few months, 12-14+ cars now)
- Low Sunday use by employees.
- The 2-hour parking area (7 spaces available) has changed from being 100% full of commuters to having only 1-2 cars during the day, and 2-5 cars in evenings (when 2-hour parking no long applies)
- Most, but not all, vehicles in permit area have employee permits. Tickets rarely seem to be issued to non-permitted vehicles. There seems to be confusion over the ?new? employee permits.
- The conditions of the parking area degrading, especially in wet winter weather. Not only are there deep ruts, but that dirt is tracked into the street when the cars turn around in the middle of the street.
- Cars turn around regularly in home driveways.
- Amount of garbage along street has increased somewhat.
- On at least one occasion, Fire cars were responding to an incident on the street and, with employee cars parked along the street, there was no room for vehicles to pass.

Most residents have indicated that the employee permit parking has not been an issue to date. But we realize that the busy summer season has not yet begun, and hope that there will continue to be regular reviews scheduled to monitor the parking situation.



Area Map



Vicinity Map
Permit Parking at City Hall
Initial Draft of 84 Stall Configuration

**CITY OF KIRKLAND****City Manager's Office**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Ellen Miller-Wolfe, Economic Development Manager

Date: February 4, 2016

Subject: Recommendation to approve funding from lodging tax reserves for the Kirkland Performance Center Technology Upgrades

RECOMMENDATION:

It is recommended that the City Council approve by motion the recommendation of the Tourism Development Committee (TDC) to commit \$100,000 from lodging tax reserves to partially fund the Kirkland Performance Center's Technology Upgrade Proposal. The funding is contingent on the Kirkland Performance Center successfully raising the remaining \$400,000 required to fund the full proposal.

BACKGROUND DISCUSSION:

The TDC which acts as the City's Lodging Tax Advisory Committee (LTAC) received a request from the KPC to partially fund needed technical equipment upgrades. The KPC is currently using 20-year old, antiquated equipment that, according to the Executive Director, Jeff Lockhart, and described in the Kirkland Performance Center Technology Upgrade Project Summary (Attachment A), limits the KPC's ability to attract entertainment and business meetings, each of which depend upon state-of-the-art digitized equipment. Further, the quality of the equipment decidedly places the KPC at a competitive disadvantage compared to existing community entertainment and convention centers (Edmonds Center for the Arts, Meydenbauer Center in Bellevue, Federal Way Performing Arts and Conference Center) as well as new centers (Tateuchi Center Bellevue) planned for the near future. New technical equipment for the KPC will attract more quality entertainment, business meetings and recording opportunities and result in more overnight stays for attendees of those programs.

The Tourism Development Committee heard and discussed the proposal at its meetings on January 7, 2016. (Attachment B) and February 4, 2016 (Attachment C). The TDC has the authority under state law for "supporting the operations and capital expenditures of tourism-related facilities owned or operated by a municipality" (RCW 67.28.1816). Past capital expenditures of the TDC included improvements to the Chamber's Visitor Center. In recent years lodging tax expenditures have primarily focused on tourism marketing and support for tourism events.

Other municipalities use lodging taxes for capital improvements. The KPC's Executive Director noted theatres in Longview and Bellingham that have benefitted from tourism sources.

The decision to not advertise for other proposals (RFP), as is the usual practice of announcing the availability of lodging tax funds, was reviewed by the City Attorney and found to be supportable. The rationale is that the KPC is City property and the City's major tourism asset, and also there would be no comparable facilities who could compete for this funding.

Fund Balance and Reserve Policies

The budgeted balance in the TDC reserve fund is \$190,548. This is the number recognized and adopted by the Council during the 2015-2016 budget process. It is not the usual policy of the City to update reserve amounts in between biennial budgets so the next time the TDC reserves would be officially recognized and updated would be at the end of 2016. However, in 2015 the Lodging Tax Fund spent \$81,000 less than budgeted and revenue came in at \$44,000 higher. This provides an additional \$125,000 that flow to TDC reserves when these funds are officially recognized in 2016. However the Council could also ask staff to update the reserve amounts earlier in the year and the Finance Department has confirmed that there is approximately \$320,000 now in the cash balance, and this amount can only be spent on tourism-related activities.

The City of Kirkland sets a target of at least \$50,000 in the reserve. So even without recognizing the new revenue, allocating \$100,000 to the KPC complies with Kirkland's current financial practice, as \$90,548 in recognized revenue would be remaining.

However the TDC has adopted its own tourism reserve policy that recommends that the TDC not draw down reserves to more than half of annual lodging tax revenue. This reserve policy has not been reviewed and approved by the Council, so it is not binding on the City. However it was important to the TDC to remain within their adopted policy. Revenue has been coming at approximately \$300,000 annually and the cash balance is currently at approximately \$320,000 (which is the \$190,000 reserve plus the additional cash balance). Therefore this withdrawal, if approved, meets TDC policy as well as city-wide practice regarding remaining TDC reserves.

The \$190,000 in the fiscal note is based on budgeted reserves including Council-approved adjustments. Since the City did not adjust budgets for the 2015 performance, the \$124,000 is not in the budgeted reserve number but will be recognized by the Council in the future.

Those voting in support of the \$100,000 request included the Chair, Toby Nixon. There was one vote in opposition from Jac Cooper, representing The Woodmark Hotel. He stated his belief that tourism funds should be used for marketing and promotion to directly attract overnight visitors to Kirkland, and other City funds should cover capital expenses like those under consideration here.

KIRKLAND PERFORMANCE CENTER TECHNOLOGY UPGRADE



PROJECT SUMMARY

2015-16

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INTRODUCTION

Kirkland Performance Center (KPC) is preparing for a capital project focused on a much needed upgrade to its production technology. For KPC, this proposed capital project will create a contemporary and forward-looking technological platform for performing arts, corporate meetings and conferences, arts education, web-based streaming capabilities, and audio-video production. As authorized by the KPC's Executive Committee of the Board of Directors, the KPC administration team has undertaken an intensive planning phase for this project.

This document is the summary of the KPC Technology Upgrade Project Plan. Its objectives are as follows:

1. To establish the objectives, project phases, and outcomes to accomplish the capital funding project.
2. To outline necessary equipment and labor for the proposed project.
3. To define funding sources for the project and assure normal operations continue throughout.

CASE STATEMENT

Kirkland Performance Center (KPC) is a vital arts resource in the Eastside community that has benefited hundreds of thousands of people. KPC's unique relationship and kindred partnership with the City of Kirkland and the support received by the municipality has added to the quality of life "Kirklanders" enjoy as their lives are enhanced by local, national, and international artists. Visitors to KPC are not merely passive observers; they are artists, students, and engaged patrons.

KPC's mission is to enrich, educate, and entertain through performances that ignite the imagination and connect audiences and artists. It asserts the belief that each and every individual has a purpose that is awakened when encountering creativity and its expression in the context of performing arts excellence and connectivity. Core to this belief is the interconnectivity between industry and artistry. Artistry can enhance enterprise and economic development, and symbiotically, industry can provide resources and networks that support artistic endeavor. KPC desires to achieve a greater platform of influence and leadership in the Eastside arts and business community by providing an evolved and technologically "current" environment for both creative artistic expression and business communications applications that enhance and complement one another.

KPC plans to invest in a new phase of production and communications technology to provide artists, students, clients, and customers the opportunity and resources to express their craft and share their work with the highest caliber technological excellence. Updating KPC's production value to offer industry standard equipment will

position KPC as an innovative leader that attracts businesses and production enterprises that desire an environment that meets and enhances their creative communications needs.

Kirkland Performance Center, built in early 2000, has provided a unique and intimate performance center experience for the Eastside region, yet is currently using production technology that is outdated and at the end of its useful life, after nearly sixteen years of exhausted service. Today's expectations of theatres and event venues assume state-of-the-art multi-media and production technology infrastructure. Over the last decade, advances in communications and media technologies have allowed opportunities to transform the theater experience throughout the performing arts and business communications world.

The standard for audio/visual elements and production values in theaters is higher than ever, and technological advances in the performing arts industry have provided artists with a way to produce events that are digitally efficient throughout the globe. KPC's research has shown that in our market area the majority of competitive performing arts venues have state of the art production and communications technology. These venues include, but are not limited to:

- Edmonds Center for the Performing Arts - Edmonds, WA
- Neptune Theatre – Seattle, WA
- Broadway Center for the Performing Arts – Tacoma, WA
- Columbia Theater – Longview, WA

It is becoming increasingly challenging for KPC to attract higher quality and more diverse shows and production opportunities with our current production technology. There have been artists/performance groups, corporations, and film and recording production companies that have declined presenting at KPC due to technological limitations. Seattle International Film Festival, which has used KPC as a venue for the past 6 years, has to rent and use their own projector in order to show films in the theater. This limits their ability to run multiple screening events at KPC. With upgrades to the current production technology, there are opportunities for expanded usage of the facility for business communications and multi-media production.

KPC's current system is even becoming obsolete with shows that have been presented in the 2015/16 season. During the Macy Gray performance at Kirkland Performance Center (November 7th, 2015), audio equipment had to be supplemented by the artist with rentals in order for the band to use their instruments and necessary monitors. This required time and staff support, increasing load-in and sound check work. KPC was reliant on the performer-rented equipment for this sold out show that brought ticket buyers from across Washington State

and Canada to the theater. Although this is not the case with all presented performances, this is the increasing trend with higher profile artists that draw larger audiences from across the region.

The Columbia Theater in Longview, Washington – a comparable venue to Kirkland Performance Center - underwent an 11 million dollar remodel which began in 2009 to remodel and restore the vaudeville era venue. In the following years, as the theater received funding, they spent \$100,000 on new lighting installation (October 2014) and \$20,000 on video projection (Spring 2015). The Columbia Theater saw a 50% increase in show bookings after the upgrades to the facility and technology. Their shows have also begun to draw audiences from Portland, Oregon (58 miles from Longview, WA). They were also able to increase their theater overall usage rental prices and include lighting rental at the cost of \$2400 per event. Due to the similarities in proposed upgrades, KPC expects and hopes to follow in the trend of the Columbia Theater.

Please see Appendix A for more information on the Columbia Theater and additional case studies.

It is KPC's desire to partner with the City of Kirkland and local businesses to encourage and attract tourism and business demand that benefits the surrounding economy. KPC's location makes it an ideal tourism draw to Downtown Kirkland. Increased demand and usage of KPC by diverse constituency groups provides the opportunity to increase hotel stays, restaurant spending, and shopping. An update to KPC's technology is expected to create a demand for local services by visitors not only locally but from a 50+ mile radius and beyond.

Please see Appendix B for Venue Tourism Revenue Comparisons.

There is a scarcity of meeting venues for over 100 people in Kirkland. KPC fulfills that need and can provide a venue with state of the art production and presentation technology. However, it has been noted that the introduction of new performing arts facilities in the region will become a credible threat to KPC and the community that it serves in the near future. Theaters currently in construction, including the Tateuchi Center for the Performing Arts (Bellevue, WA), the Federal Way Center for the Performing Arts, and the Vashon Island Center for the Arts will all have current technology that outperforms the production and communications equipment in place at KPC. The consideration of upgrades to KPC's technological and production infrastructure will allow KPC to continue as a leading center for performing arts and business communications in the Eastside region.

Given the production and business communications constraints of the current equipment, KPC is in need. KPC's vision is to evolve a fantastic building that currently employs technology that reflects the past into one that projects the technological future. The plan will utilize the strong foundation of KPC's well-designed and

beautiful theater space into a 21st century platform for production. Beginning in summer 2016, KPC will update all production lighting, front of house sound applications, video and audio recording infrastructure, online streaming capabilities, video projection technology, audience services, and lighting for video production. The intended result will offer a fully equipped space that uses technology to inspire creativity and seizes opportunities in the changing world of arts, business, and communications.

Please see Appendix C for a more detailed comparison of current and proposed technology/equipment.

PROJECT CONCEPT

The KPC technology upgrade project will include:

- Purchase and installation of all sound applications:
 - Front of house console
 - Monitor system
 - Sound speakers
 - Cabling, and digital wiring

- Purchase and installation of all stage lighting

- Purchase and installation of new facility theatrical lighting

- Purchase and installation of video and audio recording equipment and infrastructure

- Purchase and installation of video projection technology

- Purchase and installation of video production rigging and infrastructure

- Purchase and installation of internet streaming production equipment and infrastructure

- Concessions area and equipment upgrades

- Necessary labor for installation support

Please see Appendix D for proposed equipment with MSRP listing and labor expenses.

Prospect Approach, Fundraising Sources, and Public Announcements

The organization-wide goal is to rely on a small number of significant gifts and grants to fund the majority of this campaign. KPC will conduct a low profile, one to one solicitation approach. 59.6% of the \$500,000 goal will be raised in Major Gifts, the potential sources of which are outlined below:

- City of Kirkland project support - \$100,000
- 4Culture Equipment Grant - \$50,000
- State of Washington project support, with assistance from private donors - \$48,000
- Private Major Gifts - \$100,000, with \$10,000 already received from a private family foundation

Plans for subsequent donor approaches will be developed if needed at the appropriate times. During the project, KPC may announce that a committee will be formed to meet project needs, or even to report that major gifts have been received. When the project becomes “public,” it will receive major visibility through various media outlets and events. At that time, a minimum of 80% of the needed pledges will have been made and the final goal will have been confirmed. Additional funds will be contributed by KPC donors, patrons, and various KPC supporters.

Assumptions

1. KPC is adequately staffed to conduct the project. The current staff is stable and will continue their quality service for the duration of the project. Current theater operations and general operation fundraising will continue as usual.
2. The funds will come from several sources including The City of Kirkland, 4Culture, public and private foundations, corporations, and individuals. Although there is dependence on a limited number of major gifts, gifts and grants of every size will be received with gratitude.
3. KPC has the capability for research to identify potential major donors, and to determine appropriate strategies in asking for the gifts and grants.
4. KPC has started a designated fund to begin the project with a \$10,000.00 contribution toward the goal.

PREMISES OF THE PROJECT

1. The goal will be \$500,000.00
2. The period of fundraising will be dependent upon additional major gifts to the project.
3. The project will have its own identity, but it will be managed in conjunction with other on-going KPC fundraising activities. It will be carefully coordinated with KPC’s various annual fund programs and continuing promotional and event schedules.

4. KPC development programs will continue throughout the project and all donors/friends, whether or not they are capital prospects, will be asked to participate in annual giving programs. Thus, the specific capital fundraising targets of the campaign will be presented as an enhancement to, rather than in place of, continual private support.
5. It is the goal if KPC to diversify donation sources and attain new donors to the organization specifically for this project.
6. KPC leadership understands that City of Kirkland Tourism funds will not be spent on the project until all other campaign fundraising is completed and funds have been committed as bankable pledges.

OUTCOMES

As a result of this successful project:

1. The funds necessary to complete the project will be raised.
2. There will be a re-focus on the mission of Kirkland Performance Center and present significance.
3. New major donors to KPC will be identified and cultivated for future projects and campaigns.
4. There will be updated production and communications infrastructure installed at KPC. KPC's programs and offerings will be enhanced.
5. Kirkland Performance Center will be positioned for its next capital campaign.
6. KPC has full confidence that due to technology upgrades there will be potential for higher profile artists with tourist recognition and more corporate business use of the facility leading to an increase in overnight hotel stays and revenue for retail stores and restaurants in the surrounding Downtown Kirkland area.
7. There will be increased confidence in KPC's leadership.

ESTIMATED PROJECT PHASES

Broad outlines of project activity, dates dependent upon major gifts

I. Planning Phase

- Final approval of the project plan
- Finalize major gift prospect lists, research KPC giving relationships
- Further development of project plan and budgeting details
- Begin soliciting major leadership gifts

II. Implementation Phase

- Begin solicitation of KPC Board members (contributions/referral networks)
- Produce project collateral / literature if needed

- Continuation of corporate, foundation, and individual gift efforts

III. *Completion Phase*

- Continue prospective donor contact and cultivation as required
- Continue major gifts solicitations
- Continue distribution of project information to prospects
- Ongoing recognition of donors of major gifts
- KPC tech project completion celebration

Columbia Theater – Longview, WA

Gian Paul Morelli, Executive Director

- Began 11 million dollar remodel and restoration of vaudeville era theater (excluding major tech equipment) in 2009
- Serves the Longview, WA population – 50% retired/unemployed/receiving government assistance
- Theater upgrades brought new sense of pride/commerce to the city since remodel and tech upgrades
 - October 2014 - \$100,000 lighting installation
 - Spring 2015 - \$20,000 video projector
- After 2014 went from 47 total annual events to 82 annual events
 - 32 presented shows / 50 rental shows
 - 50% increase in show bookings
- Increased rental prices for theater usage
 - Able to charge rentals for lighting at each presentation for a cost of \$2,400 per event after upgrade
 - Increased theater rental usage for business purposes – considered the main presentation auditorium in Longview, WA
 - Increased usage has been “profound” (no exact percentages/data)
- Shows are beginning to draw Portland residents for presented shows (58 miles away)

Mount Baker Theater – Bellingham, WA

Brad Burdick, Executive Director

- Theater invests in LED light conversion every year (beginning in 2010)
- Profound payoff in energy/labor savings
- More technical ability with lighting after upgrade (color changes, dimmable LED colors)
- Upgraded sound system in 2000 with plans to upgrade again – currently renting sound equipment for artists at a large cost when necessary

Neptune Theater – Seattle, WA

Josh LaBelle, STG Executive Director

- Lighting - ETC LED Par cans and numerous moving lights
- Sound – D&B Speakers and Midas mixing board
- 3rd full season (September 2014 – August 2015) at The Neptune after upgrading to performance venue (after housing single screen movie theater)
 - 185 performances and private events
 - 114,664 patrons served
 - Total gross ticket sales: \$2.7M

APPENDIX B
VENUE TOURISM REVENUE COMPARISONS

Kirkland Performance Center (KPC) has been in contact with several regional performing arts venues throughout November/December 2015 for information regarding the economic impact of tourism as it relates to ticket sales for the venue and the surrounding tourist economy (hotels, restaurants, etc.). This information also includes percentages of overnight stays of patrons attending events traveling from 30-50 miles away. Data varies from not tracked to extensive reporting, depending on the venue. Most venues have rough estimates, but are not structured to gather specific data.

Venues and organizations approached include:

- ArtsFund (Seattle, WA) 2014 Economic Survey – Included as supplemental material
Full report can be found at:
<http://www.artsfund.org/programs/2014-economic-impact-study>
- Seattle Theater Group (Seattle, WA) Data available – January 2016
- City of Edmonds (Edmonds, WA) Referred to Federal Way – Included as supplemental material
Full report can be found at :
<http://www.cityoffederalway.com/09webb>
- Meydenbauer Center (Bellevue, WA) Referred to ArtsFund 2014 Economic Survey Report – Included
Please see above
- Visit Seattle (Seattle, WA) Data available – January 2016
- Columbia Theater (Longview, WA) Data included below (1)
- Mount Baker Theater (Bellingham, WA) Data included below (2)

1. Columbia Theater – Longview, WA

Gian Paul Morelli – Executive Director

- Theater remodel and tech upgrades brought new sense of pride and new commerce to the city
- After 2014, theater went from 47 to 82 annual events post-upgrades/remodel
 - 32 presented season shows, 50 rental shows
 - 50% increase in show bookings
- Theater is beginning to draw Portland (58 miles away) residents for events on a regular basis
- Exact tourism numbers not available as the momentum is new for the venue and is in the process of being tracked for the first time this year

2. Mount Baker Theater (MBT) – Bellingham, WA

Brad Burdick – Executive Director

- Executive Director (Brad Burdick) serves on the Bellingham Tourism Commission (19 years)
- MBT receives \$400,000 a year as a management fee for partially offset administrative costs to run the theater, which is considered a city facility
- MBT generates appx. 20% of total ticket sales for “tourism” as defined by state statute
- Theater estimates that 15% of numbers above are from overnight stays
- MBT purchases between 400-500 room nights annually for artists performing at the venue
- Annual attendance is 110,000
- Venue annual operating total budget is \$3.3 million

APPENDIX C
TECHNOLOGIES UPGRADE COMPARISON

Section 1: House Interior, Exterior and Stage Lighting assets and effects

Currently, KPC uses industry standard stage lighting and effects, circa 1998. Since then, efficiency and efficacy has been greatly improved in regards to wattage consumption and versatility. For example, the basic lights, or “Pars” above the KPC stage currently require a 750 watt lamp per instrument. There are 56 Pars consuming 42,000 watts per hour. The demand requires twenty-four 2.4K dimmers to operate the Pars as needed adding additional wattage consumption. With LED technology, KPC can cut this power consumption from 750W per instrument to 15W per instrument as well as run all Pars from one single 2.4K dimmer. The basic power savings are calculated below:

20 conventional Pars @ 750W per = 15,000wh (current system)
36 LED Pars @ 15W per = 540wh

For productions at KPC, there would still be a need for conventional instruments, but would no longer be the main source. New LED instruments will be put in place to cover more than 90% of production demand.



ECT Par
Current KPC lighting (750w)



ECT LED Par
Proposed KPC Lighting (15w)



Martin MAC 250
Current (1500w)



Martin Quantam LED
Proposed (50w)

House and exterior lighting is another area that we propose improving upon. This again returns to the efficacy of the fixtures as well as the visibility of the building itself. The lights currently above the KPC Auditorium are not standard lighting fixtures. They are “Strip Lights” designed for orchestra lighting and meant to be hung and used above the stage. In 2003, it was determined that the original Auditorium lighting was too dim. As there was extra strip lights already in-house, these lights were re-tasked to fit above the seat section of the Auditorium. The original cans were relocated to the stairway and the problem of finding funds for house lighting was temporarily delayed. What was a short-term fix has remained the solution for almost thirteen years.

Both the strip lights and cans are “lamp concealed” meaning the bulb is recessed below the fixture making the light directional. This is very ineffective for lighting a large area. A more efficient solution is the exposed lamp fixture which includes a refractive area around the lamp itself that diffuses the light over a large area while keeping the light itself warm. The current KPC Auditorium lighting fixtures hold a total of 120 individual lamps to cover an area that is 50’ by 70’. Current exposed lamp chandelier LED lights will reduce this need to just 12 and give far better coverage.



Altman Borderlights – Current KPC house lights (100w per bulb)



Chroma Q Spectra - Proposed House Lights (25w)



Example of Chroma Q Within Auditorium

Track and soffit lighting are currently the main source for lobby lighting. The original central chandelier is also a lamp concealed fixture. This not only generates a great amount of watt hours, but requires over 80 individual lamps drawing between 25w – 45w each to light an area of 16’ by 120’. The proposal would implement LED strips and inserts dropping for 80 to 50 fixtures and the usage per lamp from the 35w average to 3w - 15w per fixture.



KPC track lights – current lobby lights (50w per bulb)



Proposed Jesco Strip and Spotlight (15W)



Soffit lighting Example – jesco

Section 2: Auditorium and Facility Audio

KPC is one of the best acoustically designed performance settings in all of Washington State. The intimate setting and proximity to the artist is unique. The systems that are currently in place are far outdated and do not meet the basic needs of many clients KPC should and could be attracting. KPC loud speaker system is similar to a home surround sound system. With little speaker surface in the room, the existing speakers must be turned up loudly to reach the persons in the back of the room while punishing those persons closer to the front. We often hear that it is too loud or hard to understand. This problem is solved with the proposed speaker configuration.



Current Speaker Surface



Proposed Speaker Surface

The current mixing console also presents a problem for most artists and technicians. It is also cumbersome, weighing over 300lbs and is 6’ by 3.5’ taking up an entire section of seating at the back right side of the auditorium. This reduces our seating capacity by eight seats. The proposed upgrade from analogue to digital weighs 100lbs, is 3’ by 3’ and has so many more built in options, it would be pages to list. The most important point is the digital console is the industry standard and is expected and often required for performances. We currently are forced to rent these consoles to meet the needs of performing artists.



Current KPC Mixing Console



Proposed Mixing Console

The sound system in the lobby is also very limited. The proposed system would allow for better sound throughout the theater and would allow KPC to attract corporate as well as public interest for meetings, luncheons, and events that could include the lobby space by integrating audio and video.

Section 3: Video, Recording and Streaming

KPC currently has a home theater projection system. Although we host such clients as Warren Miller Films, Manhattan Short Film Festival and the Seattle International Film Festival, we do not have the equipment in-house to meet the client needs. These are high visibility rentals for KPC that attract audiences from a wide geographical range. KPC's clients are currently tasked with sourcing the proper equipment. KPC can attract more than projection focused rentals if outfitted correctly.

In addition to projection equipment, KPC has included filming and streaming equipment and technology to this proposal, which the venue currently is without. With the installation of equipment such as Jibs and hard disc recording, KPC can attract clients and artists that will see KPC as a filming and recording venue. This would also allow for streaming capabilities within the auditorium, increasing the appeal as a corporate meeting venue.



Example of Jib with camera attached



Example of Remote Jib

**APPENDIX D
EQUIPMENT AND LABOR PRICE LIST**

Dept	Item	Cost per Unit	Qty	Sub total	Notes	Estimated MSRP Total	Legend
1	ETC LED Par	\$630.00	36	\$22,680.00	MSRP	\$520,567.00	1=Lights Stage
1	Cabling	\$2,500.00		\$2,500.00	Estimated		2=Audio
1	Rigging	\$2,000.00		\$2,000.00	Estimated		3=Lights Facility
1	Martin Quantum Profile	\$6,500.00	8	\$78,000.00	MSRP		4=Audio Facility
1	Altman Spectra Cyc RGBA100	\$1,350.00	8	\$10,800.00	MSRP		5=Labor/Install
			Total	\$115,980.00			6=Video and Streaming
							7=Concessions
2	JBL VXT V25	\$13,500.00	5	\$67,500.00	MSRP		
2	JBL VXT G28	\$5,575.00	3	\$16,725.00	MSRP		
2	Rigging and fly equip	\$15,000.00		\$15,000.00	Estimated		
2	DSP and Amps and cabling	\$4,800.00	10	\$48,000.00	Estimated		
2	Yamaha CL5	\$21,000.00	1	\$21,000.00	MSRP		
2	Snake	\$2,500.00	1	\$2,500.00	MSRP		
2	JBL VXT F12	\$2,350.00	8	\$18,800.00	MSRP		
			Total	\$189,525.00			
3	Kichler 29w 35* LED Outdoor Lights	\$390.00	24	\$9,360.00	MSRP		
3	Chroma-Q Inspire LED House Lights	\$1,900.00	16	\$30,400.00	MSRP		
3	Jesco LED lighting strips and inserts	\$300.00	50	\$15,000.00	MSRP		
3	Installation and retrofitting	\$3,500.00		\$3,500.00	MSRP		
			Total	\$58,260.00			
4	JBL 8128 Speakers	\$47.00	16	\$752.00	MSRP		
4	QSC CX254 Amp	\$1,600.00	1	\$1,600.00	MSRP		
4	Cabling and mounting/misc	\$1,250.00		\$1,250.00	Estimated		
			Total	\$3,602.00			
5	Installation and Labor	\$250.00	75	\$18,750.00	Estimated		
5	Misc equipment	\$3,000.00		\$3,000.00	Estimated		
5	Shopstar Chain Hoist Motor	\$2,150.00	3	\$6,450.00	MSRP		
			Total	\$28,200.00			
6	JIB Auditorium	\$15,000.00	2	\$30,000.00	MSRP		
6	Editing Suit Computer	\$3,500.00	1	\$3,500.00	MSRP		
6	Cat5 and Network	\$6,500.00		\$6,500.00	Estimated		
6	Video Projection	\$20,000.00	1	\$20,000.00	Estimated		
6	Misc and Incidentals	\$10,000.00		\$10,000.00	Estimated		
			Total	\$70,000.00			
7	Concessions Refrigeration	\$14,500.00	1	\$14,500.00	MSRP		
7	Taps and fountains	\$5,500.00	1	\$5,500.00	MSRP		
7	Digital Signage	\$7,500.00	2	\$15,000.00	MSRP		
7	Construction	\$20,000.00		\$20,000.00	Estimated		
			Total	\$55,000.00			



**City of Kirkland
Tourism Development Committee (TDC) Minutes
January 7, 2016 9-10am
Norkirk Room**

Present: Toby Nixon (chair), Jac Cooper, Lori Goldfarb, Troy Longwith, Ardene Skraban,

Absent: Jennifer Gill, Michelle Quisenberry

Guests: Jeff Lockhart and Molly Arkin from Kirkland Performance Center.

Welcome of New Members: The Committee conducted introductions and welcomed new members Troy Longwith, General Manager at The Heathman Hotel and Ardene Skraban, General Manager at the Courtyard by Marriott.

Approval of Minutes: The minutes from Oct 1, 2015 were approved (Lori moved, Ardene seconded, unanimous)

Kirkland Performance Center Presentation:

Ellen explained the Tourism Development Committee's reserve policy and that there are sufficient funds to grant the request of \$100,000 from the Kirkland Performance Center. She also explained that the Kirkland Performance Center is owned by the City of Kirkland and that tourism funding can be used for capital improvement of city owned facilities.

Jeff Lockhart, Executive Director of the Kirkland Performance Center presented the technology upgrade project proposal. The technology hasn't been upgraded since 2000 and the KPC is finding it hard to compete and attract professional acts and business clientele. There is also demand for a state of the art recording stage from the film industry. In 2015 there were 1500 first time patrons to the Kirkland Performance Center and technology upgrades will be a catalyst for local commerce and tourism. The Kirkland Performance Center with 400 seats positions itself as the premier intimate theatre experience.

After the proposal Ellen shared the City of Kirkland's \$600,000 Capital Improvement investment in facility improvements over the next three years.

Toby asked for clarification on what exactly was going to be purchased. Jeff went over the equipment in detail. Questions arose regarding actual cost of equipment and it was clarified that a competitive bidding process would take place. The total cost of the upgrade is \$500,000 and the Kirkland Performance Center is requesting \$100,000 in tourism funding.

The strategy is to raise the total funding needed for the complete upgrade and install it within a few weeks. Installation in summer of 2016 is an initial target.

Questions arose regarding a depreciation schedule for the equipment and when it needs to be replaced. Jeff explained that a schedule would be developed and managed moving forward. There is limited after-market value for the current equipment that would be replaced.

The committee decided that it would discuss the proposal further in the February meeting when hopefully the absent members are able to attend or call in.

Ellen suggested holding the February meeting at the Kirkland Performance Center.

Staff Reports

Agenda Items for the Year and Tourism Funding Schedule: Philly went over the tourism funding schedule and draft agenda items for the year.

Art Integration Plan for the CKC: Philly mentioned the CKC Art Integration Plan meeting and invited the TDC to attend.

Waterfront Update:

Ellen explained the King County Ferry proposal and some of the challenges including parking and infrastructure that the City would need addressed. Argosy was awarded the lease to the Marina Dock space. A parasailing company also applied and there may be a second RFP for a smaller space on the Second Ave dock. A request is in to the City Manager for continued study and permitting of the Marina dock expansion.

Kirkland Downtown Association:

Ellen reported that the Kirkland Downtown Association is separating from the Kirkland Chamber.

Other:

Jac asked why the TDC was not required to open up the application publically to fund the Kirkland Performance Center. Ellen mentioned that City staff asked and received a legal opinion and that because it was a city-owned facility and one of a kind a competitive RFP process was not required.

Meeting adjourned at 10:20 a.m.

Minutes prepared by Philly Hoshko



City of Kirkland
Tourism Development Committee (TDC) Special Meeting Minutes
February 4, 2016 9-10am
Kirkland Performance Center

Present: Toby Nixon (chair), Jac Cooper, Lori Goldfarb, Troy Longwith, Michelle Quisenberry, Ellen Miller-Wolfe (staff), Philly Marsh (staff)

Absent: Jennifer Gill, Ardene Skraban

Guests: Jeff Lockhart, Jeff Cole and Molly Arkin from Kirkland Performance Center. Chris Dodd, City of Kirkland Facilities Manager

Welcome: Meeting came to order at 9:07am. Quick introductions were made.

Tour of Kirkland Performance Center: Jeff Lockhart gave a quick introduction and the members took a tour of the Kirkland Performance Center. Jeff explained and pointed out the light, sound, camera and projection upgrades that would occur as part of the proposal.

Following the tour Chris Dodd, City of Kirkland Facilities Manager gave background on the Capital Improvement Projects that the City of Kirkland has already funded taking place over the next four years. \$400,000 will be invested for roof, HVAC, interior painting and water heating improvements.

Jeff Lockhart gave a recap of the proposal and that the total funding needed is \$500,000 for the technology upgrade proposal. The Kirkland Performance Center (KPC) is asking the Tourism Development Committee for \$100,000. The \$100,000 commitment will help in leveraging other funds but is contingent on the remaining funding being raised.

Jeff Cole, the president of the KPC board stated that the board is 100% behind the proposal for the needed investment in technology infrastructure. The upgrades are needed to be competitive in the type and caliber of programming the KPC would like to bring to Kirkland.

Questions were asked regarding an ROI analysis and depreciation schedule. The KPC would set up a depreciation schedule for the equipment so the equipment could be replaced without another capital campaign. With upgraded equipment the KPC would be able to charge more for rentals which would fund the depreciation account.

A question was asked regarding the capital campaign and board participation. The board would participate and contribute the campaign and Jeff Lockhart shared that he would like 80% of the needed funding raised before going to the public.

The KPC's hope is to have the funds raised by July and equipment installed by their season opening in September.

Toby asked if the committee thought this investment would bring visitors and increase hotel stays. Jac stated that he felt the upgrades were needed but did not believe that tourism funding was the right source to fund the request. He noted that \$100,000 is a large investment that could be used for more direct tourism marketing to increase hotel stays.

Jeff Lockhart shared that other municipality tourism funds go toward theatre funding including Bellingham in which 400,000 goes to the Theater, Longview, Washington, Federal way and Leavenworth.

Troy Longwith mentioned that it was as good use of fund and with a higher caliber of out of state performers coming through they would stay at the Kirkland boutique hotels.

Lori mentioned that it is a great place to gather people and accommodate groups for corporate bookings.

Philly mentioned an initiative she is hoping to achieve with the Kirkland Performance Center, The Woodmark Hotel and The Heathman Hotel to come up with a marketing plan to attract corporate groups to have their conference at the KPC and stay at the Kirkland hotels.

Toby suggested that the KPC should present to City Council and ask for council contingency funding as well.

The Tourism Development Committee approved a recommendation to City Council to commit \$100,000 of Tourism Reserves to fund the Kirkland Performance Center technology upgrades proposal, contingent on the Kirkland Performance Center successfully raising the remaining amount needed to fund the full proposal.

Troy moved, Lori seconded, 4 in favor (Troy, Lori, Michelle, Toby), 1 opposed (Jac) Motion passed.

Meeting adjourned at 10:04am

Minutes prepared by Philly Marsh

FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Ellen Miller-Wolfe, Economic Development Manager							
Description of Request							
Funding of \$100,000 from the Lodging Tax Fund reserve for partially fund technical equipment at the Kirkland Performance Center.							
Legality/City Policy Basis							
The Kirkland Performance Center is a City-owned facility.							
Fiscal Impact							
One-time use of \$100,000 from Lodging Tax Fund Reserve. The budgeted balance in the TDC reserve fund is \$190,548, adopted by the Council during the 2015-2016 budget process. The projected cash balance is approximately \$320,000 (which is the \$190,000 reserve plus the additional cash balance from unbudgeted revenue and under-expeditures in 2015). This additional cash balance will be realized in the June budget adjustments, which would bring the balance in line with the TDC reserve policy.							
Recommended Funding Source(s)							
	Description	2016 Est End Balance	Prior Auth. 2015-16 Uses	Prior Auth. 2015-16 Additions	Amount This Request	Revised 2016 End Balance	2016 Target
	Lodging Tax Fund Reserve	190,548	0	0	100,000	90,548	N/A
Reserve	No previous Council-authorized uses or additions to this reserve. The additional cash balance in the fund will be recognized in the June adjustments to bring the balance in line with the TDC reserve policy.						
Revenue/Exp Savings							
Other Source							
Other Information							
Prepared By	Neil Kruse, Senior Financial Analyst				Date	February 4, 2016	

**CITY OF KIRKLAND**

Department of Public Works

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800

www.kirklandwa.gov**MEMORANDUM**

To: Kurt Triplett, City Manager

From: Rod Steitzer, P.E., Capital Projects Supervisor
Dave Snider, P.E., Capital Projects Manager
Kathy Brown, Public Works Director

Date: February 4, 2016

Subject: NE 116th ST / 124th AVE NE NORTHBOUND DUAL LEFT TURN LANES
PROJECT UPDATE & GRANT AWARD NOTIFICATION

Recommendation:

Staff recommends that the City Council:

- Receive an update on the NE 116th Street / 124th Avenue NE Northbound Dual Left Turn Lane Improvement Project (Project) including information on a prospective Transportation Improvement Board (TIB) grant award;
- Approve moving the Project, as number CTR 0092 within the current 2015 - 2020 Capital Improvement Program (CIP), from an "Unfunded" status to that of a "Funded" project status; and,
- Authorize the City Manager to sign an agreement with the TIB for grant funding in the amount of \$790,000, with City match funding of \$585,000, as discussed below.

Background and Discussion:

The intersection at NE 116th Street and 124th Ave NE is a major Kirkland intersection, providing access and connections between the North Rose Hill neighborhood, additional residential and commercial areas of Totem Lake to the north, the Lake Washington Technical College to the east, and I-405 on/off ramps at NE 116th Street to the west (Attachment A). As this part of Kirkland is now set to experience significant growth over the coming months and years, with the redevelopment of the new Village at Totem Lake (the former Totem Lake Mall), this timely intersection improvement will serve as a new south-central "gateway" to the Totem Lake Neighborhood.

The past and future development and growth in the Totem Lake and North Rose Hill neighborhoods, in both business and residential construction, has and will continue to impact mobility for motorized and non-motorized transportation. Over the last several

years, the subject intersection has consistently ranked as the highest crash location in the City. The average crash rate for this intersection is 1.24 accidents per million vehicles per year, which exceeds the City's 90th percentile crash rate value. During the period from 2012 to 2014, fifty-six (56) crashes occurred at, or within, the vicinity of this intersection. The most frequent types are left turn (57%) and rear-end (20%) type crashes.

The two main objectives of the Project are to improve safety and transportation efficiency for all modes of travel. The Project improvements will serve to maximize the existing capacity in order to address safety and operational issues caused by congestion, while also improving access to businesses in the vicinity. The Project benefits to the community include safety and efficiency improvements intended to provide enhanced multimodal transportation access in support of economic development.

The NE 116th Street and 124th Avenue NE intersection is listed under Policy TL-29.2 in the City's adopted Comprehensive Plan and improvements such as this are essential to maintaining mobility and meeting the City's level of service standards. The future land use and vision for the Totem Lake Neighborhood and Urban Center is for more intensive redevelopment that includes greater building height with mixed uses consisting of housing above retail.

Design Elements

The proposed Project will design and construct improvements consisting of reconstruction and rechannelization of the intersection's south leg to allow for two (dual) north-bound left-turn lanes. In addition, the right-turn only lane would be reconfigured to a right and through lane, and a bicycle lane would be added. The bicycle lane would link to an existing north-bound bicycle lane on 124th Avenue NE. The Project includes lane re-configuration, installation of new signal poles/signal heads, lighting and ADA improvements, together with the installation of new traffic signal equipment in support of the City's' Intelligent Transportation System (ITS), Flashing Yellow Arrow Left Turn Signals and Accessible Pedestrian Signals (APS).

The intersection's north leg receiving lane would also be realigned to accommodate the through traffic. All of the planned improvements are expected to result in measurable safety benefits since approximately 40% of crashes that occur at this intersection are attributed to traffic congestion in the north-bound direction. The flashing yellow turn-arrows, as an effective countermeasure for left turn crashes, is also expected to reduce left turn accidents. In addition, flashing yellow arrows would provide operational flexibility by facilitating the implementation of other left turn phasing by time-of-day alterations achieved through the City ITS network.

The Project's bicycle lane improvements would connect to the Cross Kirkland Corridor, as well as with the Transit Center at Evergreen Hospital; both facilities serve Kirkland and the broader region. The sidewalk improvements will be reconstructed to comply with American with Disabilities (ADA) requirements and provide a safer and a more inviting environment for pedestrians. The completed area sidewalks lead to the CKC,

the Village at Totem Lake and the Evergreen Hospital Transit Center, all less than one-mile from the intersection.

Grant Award

The NE 116th Street / 124th Avenue NE North-bound Dual Left Turn Lanes Improvement Project is currently an unfunded project within the 2015 – 2020 CIP, as approved by City Council on December 8, 2015. The project number is CTR 0092 and it is estimated at \$1,375,000.

In 2015, as staff sought appropriate grant funding opportunities on a wide variety of projects within the CIP, the intersection of NE 116th Street and 124th Avenue NE appeared to be a good match for the grant criteria under the Transportation Improvement Board's (TIB) Urban Arterial Program (UAP). A site visit with the City's Grant Team and the TIB engineer for the Greater Eastside Region resulted in a positive indication that the NE 116th Street and 124th Avenue NE intersection would be a strong candidate for the UAP.

A grant application was submitted in August and in December, 2015; the City received an award letter confirming the Project was a top candidate for the UAP program with a grant award amount of \$790,000. At that amount for the grant, the City's share is \$585,000 for this \$1,375,000 project.

Project Funding

Within the approved 2015 -2020 CIP is a new funded project, TR 0122 – Totem Lake Intersection Improvements, with a total budget of \$6,000,000. This project was developed as a placeholder for signalized intersection improvements at select Totem Lake area locations in support of the Totem Lake Mall redevelopment, now known as The Village at Totem Lake. The budget for the new TR 0122 project was purposely structured with \$3,000,000 of City revenue funds (Impact Fees) and \$3,000,000 in external (grant) funding. As the subject Project is a key Totem Lake Neighborhood intersection that is Impact Fee eligible, staff is recommending the use of \$585,000 of the \$3,000,000 Impact Fee source and applying the \$790,000 TIB grant funding as an off-set to the identified external funding being sought, as follows:

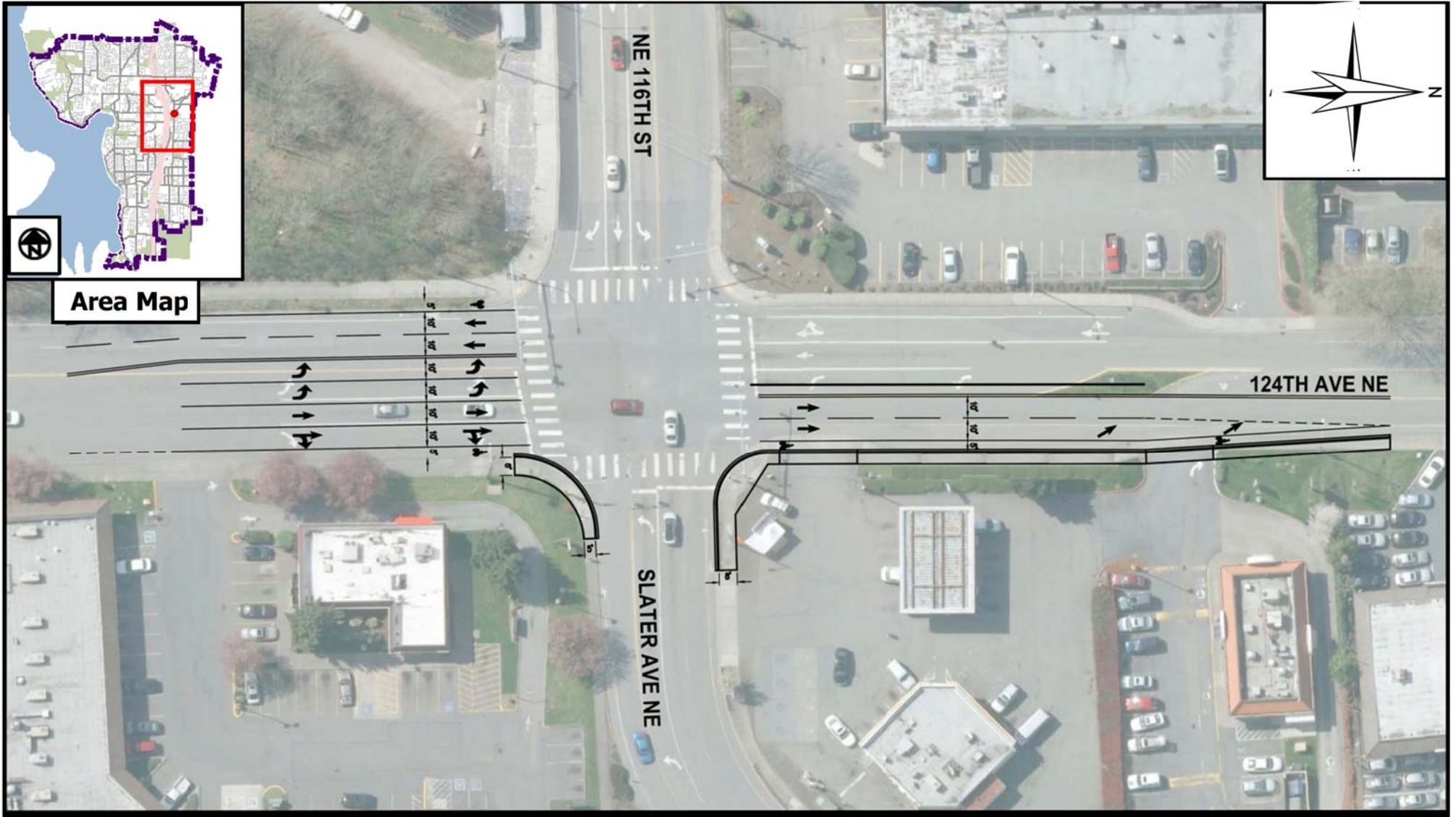
Table 1 – Recommended Project Funding

Project	Impact Fees	External Funds	TOTAL
CTR 0122 – Totem Lake Intersection Imps	\$3,000,000	\$3,000,000	\$6,000,000
* CTR 0092 – NE 116th St/124 Ave NE North-bound Dual Left Turn Lanes	- \$ 585,000	-\$ 790,000	-1,375,000
BALANCE (for TR 0122)	\$2,415,000	** \$2,210,000	\$4,625,000

* Subject Project for this memo ** unsecured external funds

With City Council concurrence for the above funding scenario, staff will adjust the CIP Project Sheet for TR 0122 – Totem Lake Intersection Improvements to reflect the reduction in both City funding available as well as for the grant funding component.

Attachment A – Vicinity Map



Vicinity Map
NE 116th St and 124th Ave NE Northbound Dual Left Turn Lanes



CITY OF KIRKLAND
PLANNING AND BUILDING DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033 425.587.3225
www.kirklandwa.gov

MEMORANDUM

Date: February 4, 2016

To: Kurt Triplett, City Manager

From: Teresa Swan, Senior Planner
Jeremy McMahan, Development Review Manager
Paul Stewart, Deputy Director, AICP

Subject: Briefing on Chapter 90 KZC Amendments (Critical Area Ordinance/Wetlands, Streams and Frequently Flooded Areas Regulations), File CAM15-01832, #4

I. RECOMMENDATION

Review the staff briefing memo on the upcoming code amendments to the Wetland, Stream and Frequently Flooded Areas regulations in Chapter 90 KZC and provide any comments or questions on the following:

- Background information (see Attachment 1)
- Best Available Science Report (see Attachment 2 – Part One)
- Gap Analysis (see Attachment 2 – Part Two)
- Mitigation, Monitoring and Maintenance Alternatives Assessment (see Attachment 3)

Staff also recommends that the City Council raise any policy issues that the Council would like addressed and/or identify any additional information that would be helpful. The Planning Commission and Houghton Community Council were briefed on this at a joint meeting on January 28th.

Lastly, if the City Council would like a more detailed briefing on the background information with staff and the City's consultant at a study session before it reviews the recommendation from the Planning Commission, this can be scheduled.

II. BACKGROUND

A. Best Available Science Standards under GMA

Under the Growth Management Act (GMA), RCW [36.70A.130](#), the City was required to complete its periodic updates to the Comprehensive Plan and development regulations by June 30, 2015, but updates to Critical Areas regulations may be completed one year later as stated in RCW

36.70A.130.7(a). Thus, the deadline to adopt amendments to the Critical Areas Ordinance (Wetlands, Streams and Frequently Flooded Areas) is June 30, 2016.

Critical areas include the following areas and ecosystems:

- Wetlands
- Fish and wildlife habitat conservation areas, including streams
- Frequently flooded areas (floodplains)
- Areas with critical recharging effect on aquifers used for potable water (Kirkland has none)
- Geologically Hazardous areas (e.g., areas prone to landslides, erosion or seismic reaction). These standards will be addressed under a separate process and time frame (see Section II.B below).

[WAC 365-195-900](#) and [RCW 36.70A.172 \(1\)](#) require that cities and counties must include the "best available science" or BAS information when developing policies and regulations to conserve and protect the functions and values of critical areas. The inclusion of the best available science in the development of critical areas policies and regulations is especially important to salmon recovery efforts, and to other decision-making affecting threatened or endangered species, wildlife habitat and other important environmentally sensitive areas. As salmonid fish species play an essential role in the ecosystem and are vital cultural resources, jurisdictions must also "give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries."

The City has had critical areas regulations in place since the early 1980's and updated them in 1992. During the 1990's, state law was passed that required cities and counties to adopt regulations based on best available science to protect the functions and values of critical areas and to preserve or enhance anadromous fisheries (e.g. salmon and cutthroat trout). On April 2, 2002, the City adopted Ordinance 3834 making interim regulations that had been in place for four years a permanent part of the code (Chapter 90). [Chapter 90 KZC](#) (called Drainage Basins) addresses wetlands, streams and frequently flooded areas based on best available science of the late 1990's.

Soon after adoption of the City's Chapter 90, the **Washington Department of Ecology** (Ecology) issued new guidance on [best available science](#) for wetlands. The result of the new guidance resulted in wider required critical area buffers and more restrictive buffer reduction allowances, among other changes. Since the City had just adopted Chapter 90, the Department of Ecology agreed that the City could wait to a later date to revise its regulations to meet the new guidance on best available science. Since then Ecology adopted a new **wetland rating system** in 2004 and then updated it again in [2014](#). Wetland buffers under the new Ecology guidance are greater than the City's current buffer widths and the rating system is more detailed and uses different criteria. The City must now bring its wetland regulations and rating system in line with Ecology's guidance to be consistent with GMA.

[Best available science](#) for streams has also evolved since adoption of Chapter 90. In 2005, [WAC 222-16-030](#) established the **stream water classification system** for Washington. The range of **stream buffers** supported by BAS is generally wider than the City's current standards and the stream classification system under the WAC is different than in Chapter 90. The City must now bring its stream regulations and classification system in line with BAS and WAC 222-16-030.

Under GMA, the [definition of critical areas](#) includes fish and wildlife habitat conservation areas. Thus, the City must also protect **habitat of endangered, threatened or sensitive species**. Sensitive species are any wildlife native to the state that are vulnerable or declining and are likely to become Endangered or Threatened in a significant portion of their population within the State without cooperative management or removal of threats. Sensitive Species for Kirkland include bald eagles, great blue herons, and pileated woodpeckers. The City can designate species and habitats of local importance or establish nomination criteria for such species. Many jurisdictions have chosen to establish nomination criteria for these species, rather than designate them during the update process.

Most if not all jurisdictions in King County have revised their regulations to comply with these requirements.

In 2010, the City adopted its **Shoreline Master Program (SMP)** as required by GMA, and then amended it in 2011 to incorporate the annexation area. The SMP regulates properties within 200 feet of Lake Washington and wetland areas associated with the lake. The City was required to have critical area regulations in the SMP that meet the updated best available science standards. King County's wetlands and stream buffer standards, buffer reductions and compensatory mitigation regulations were used as a basis for the City's shoreline critical areas in Sections 83.490-510 KZC because they meet the Best Available Science guidelines and the annexation area had already been subject to those same standards. Thus, the City is in general **compliance with GMA for critical areas protection for its shoreline area**.

Some of the main **implications of the current Best Available Science for Kirkland** are that:

- Critical area classifications need to change to better reflect their existing functions and values
- Buffer widths generally need to increase to better protect the critical areas, which may reduce development potential or increase the number of reasonable use exception requests
- Mitigation sequencing needs to be applied to consider options and impacts which may result in few modifications to the critical areas and their buffers
- Maximum buffer reductions should be reduced from one-third to one-quarter to better protect the critical areas, which may reduce development potential or increase the number of reasonable use exception requests
- Limitations on tree removal and time-of-year of construction needs to be imposed to protect Sensitive Species, which may put constraints on development in limited areas of the city
- Small wetlands will no longer be exempt to protect their functions and values, which may reduce development potential on certain properties
- More detailed standards for mitigation, monitoring and maintenance, which will improve the quality and success of mitigation
- Alternatives for off-site mitigation rather than on-site mitigation for some properties will provide mitigation opportunities on constrained properties and result which should result in improved or additional wetlands elsewhere in the watershed

B. Geologically Hazardous Areas

The City has regulations addressing **Geologically Hazardous Areas** (e.g., areas prone to landslides, erosion or seismic reaction) in Chapter 85 KZC. Best Available Science guidance on the subject of Geologically Hazardous areas has not advanced in the same manner as science for stream and wetland protection. Thus, the City currently meets the GMA requirement of having regulations for these areas. However, available technology for mapping and understanding geologically hazardous areas has advanced with tools such as Lidar (Light Detection and Radar). In addition, the Oso landslide event has heightened the need to be more thoughtful in understanding the potential risks (better data and science) and in how development is regulated in hazardous areas. The City is in the process of working with the University of Washington's Department of Earth and Space Sciences and geotechnical consultants to update Kirkland's geologic hazard maps. The City will use the updated maps to educate the community and evaluate and revise the regulations in Chapter 85. Mapping and background work (including Lidar) will commence over the next couple of months to be completed later in 2016. A review of the regulations in Chapter 85 will be done following the amendments to Chapter 90.

C. State Approval Process

The Department of Commerce is responsible to ensure that jurisdictions are compliant with GMA. The Department coordinates with other agencies who also have review authority for GMA, such as Puget Sound Regional Council, Department of Ecology and Department of Fish and Wildlife. Jurisdictions need to be certified as GMA compliant to receive certain state grants, including transportation and park grants.

Jurisdictions are required to send their draft amendments to the Department of Commerce at least 60 days prior to adoption for review and comments. The draft amendments are made available to the GMA review agencies. Comments from the review agencies need to be incorporated into the final amendments or the jurisdiction needs to justify how they are compliant without incorporating the comments. Agencies or interested parties can file a challenge before the state Growth Management Hearings Board that a jurisdiction is not compliant with GMA.

D. Description of Key Terms and Concepts

Staff has prepared a **description of key terms and concepts** relating to wetlands and streams to provide a foundation for reviewing the technical reports, discussing issues and considering the draft code amendments. See Attachment 1. If there are other terms or concepts that need an explanation, let staff know and we will add them to Attachment 1.

III. TECHNICAL REPORTS (see Attachments 2-3)

The City has contracted with **The Watershed Company** to provide professional assistance for the Chapter 90 KZC update and to prepare the following technical documents:

- Best Available Science (BAS) Report (Part A) – Attachment 2
- Gap Analysis (Part B) – Attachment 2
- Mitigation, Monitoring and Maintenance Alternatives Assessment – Attachment 3

- Case Studies of three to four sites – based on draft amendments that will be prepared later

The Watershed Company is very familiar with Kirkland's critical areas because they are the City's on-going consultants for wetland delineations, stream classifications, and peer review for critical areas mitigation and monitoring. The company has also assisted numerous other local cities in updates to their critical areas ordinances – most recently the City of Woodinville. Based on this knowledge, expertise and experience, The Watershed Company is able to help staff prepare and the Planning Commission and Houghton Community Council to consider new regulations that are tailored to the existing physical conditions and development issues unique to Kirkland while ensuring that the new regulations meet the Best Available Science standards. In addition, many of the requirements and standards (e.g. buffer widths) are already in effect in Kirkland for the shoreline area since it was necessary to incorporate those standards into the City's regulations in order for the Shoreline Master Program to be approved by the Department of Ecology.

A. Best Available Science (BAS) Report (Part A)

The Best Available Science (BAS) Report (see Attachment 2 – Part A) is an overview of the science relevant to the functions and values of critical areas and a brief description of the existing critical areas in Kirkland. The report provides an analysis based on a full, detailed BAS review of scientific literature for the City of Woodinville's code update. The Watershed Company believes that a full BAS review done for the City of Kirkland would mirror the BAS review done for City of Woodinville because of their similar environmental conditions and urban environment, and both are located in the same watershed which is the Lake Washington/Cedar/Sammamish Watershed (also known as WRIA 8). Using the work from the City of Woodinville's full BAS review saves considerable cost and time, and does not repeat the same effort.

The BAS report places specific emphasis on making clear connections between development impacts and potential mitigation measures.

The **executive summary** for the BAS report states that:

- Wetlands: Kirkland has more than 400 acres of mapped wetlands. BAS-based wetland protections include wetland identification, classification based on functions, and sufficiently protective buffers. When impacts to wetlands and/or buffers are proposed, mitigation sequencing, compensatory mitigation, and compliance oversight are central to maintaining wetland functions and values.
- Streams/Fish and Wildlife Habitat Conservation Areas: Kirkland has 15 drainage basins that enter into Lake Washington. BAS-based streams protection includes identification, classification, and protective buffers. Several of the streams provide habitat for salmonids, including species on state and federal lists. Other species documented within the city that are listed as endangered, threatened, or sensitive include the bald eagle (state sensitive) and pileated woodpecker (state sensitive). Washington State Department of Fish and Wildlife (WDFW) provides species-specific management recommendations for the pileated woodpecker while U.S. Fish and Wildlife provides recommendations for the bald eagle.

WDFW-designated Priority Habitats and Species (vulnerable to declining species or have commercial or recreational importance) that occur in the city include great blue heron breeding colonies, purple martin nesting occurrences, trumpeter swan and waterfowl concentrations and biodiversity areas and corridors, such as along Denny Creek in Finn Hill. Although not required, designation of these Priority Habitats and Species as Habitats and Species of Local Importance could be considered so that they are protected under local regulations.

- Frequently Flooded Areas: Four floodplain areas are mapped within the City, three of which are associated with large wetland complexes, and most are within City-owned properties. Frequently flooded areas (FFA) are managed to reduce potential risks to public safety. FFAs can also provide valuable instream habitat benefits, such as low-velocity instream habitat during high-flow events.

To comply with the requirements of the 2008 Federal Emergency Management Agency (FEMA) [Biological Opinion](#) and to incorporate BAS on FFA functions, floodplain habitat assessments are required in addition to standard flood safety measures for projects within floodplains. Because most floodplain areas are City-owned, the impacts are minimal and regulatory approach is simplified.

B. Gap Analysis (Part B)

The Gap Analysis (see Attachment 2 – Part B) compares the City's existing code with GMA requirements and approaches to buffer widths and to mitigation and non-conformances that to comply with BAS and with State Departments of Ecology and Fish and Wildlife and the U.S. Army Corp of Engineer guidance. Based on the BAS Report and Gap Analysis, the consultants have provided general recommendations on changes to the City's regulations.

The **executive summary** for the Gap Analysis provides the following list of recommended amendments to Chapter 90:

- Introduction summary:
 - ◆ Revise definitions to be consistent with GMA and reduce redundancy
 - ◆ Remove exemption for small wetlands to be consistent with BAS under GMA
 - ◆ Reconsider and clarify minor improvements that can be exempt from Chapter 90 regulations
- Wetlands:
 - ◆ Replace wetland delineation criteria based on the federal manual and regional supplement to be consistent with WAC 173-22-035
 - ◆ Replace wetland classifications using the current 2014 Wetland Rating System for Western Washington

- ◆ Replace wetland buffer width standards using one of the BAS-based Ecology guidance options
- ◆ Reduce the maximum allowable buffer modification option from the current one-third to one-quarter to meet BAS-based Ecology guidance
- ◆ Add mitigation sequencing requirements to ensure that impact avoidance and minimization are analyzed ahead of mitigation design
- ◆ Allow off-site mitigation banking and in-lieu fee programs as an alternative to on-site mitigation in certain circumstances, particularly for Reasonable Use Exceptions and small isolated wetlands
- Fish and Wildlife Habitat Conservation Areas (FWHCA), including streams:
 - ◆ Consider combining stream regulations with a new Fish and Wildlife Habitat Conservation Areas section for consistency with the WAC
 - ◆ Add regulations for sensitive, threatened, and endangered terrestrial species and habitats
 - ◆ Replace stream classification with the Permanent Water Typing System of [WAC 222-16-030](#)
 - ◆ Increase buffer widths to be consistent with the BAS
 - ◆ Reduce the buffer modification allowances from the existing one-third reduction to a one-quarter reduction to be consistent with BAS
 - ◆ Apply mitigation sequencing prior to proposing buffer modifications to be consistent with BAS
 - ◆ Provide specific fencing and signage requirements for location and design
 - ◆ Revise stream culvert provisions to be consistent with Washington State Department of Fish and Wildlife design guidelines and to encourage stream daylighting (culverted stream that is opened)
- Frequently Flooded Areas:

Clarify the relationship between terminologies used in Chapter 90 for “frequently flooded areas” and in Kirkland Municipal Code 21.56 - Flood Damage Prevention for “areas of special flood hazard”
- All Critical Areas – General Recommendations:
 - ◆ Combine regulations applicable to both wetlands and streams into one common section to eliminate redundancy

- ◆ Strengthen requirements for protection of wetlands and streams by placing greater emphasis on mitigation sequencing (first avoid, then minimize, lastly mitigate)
- ◆ Clarify that provisions to increase residential density or to allow deviations from other code standards under Planned Unit Developments, Variances and other sections of the Zoning Code are not applicable for properties subject to Chapter 90
- ◆ Allow off-site mitigation for some Reasonable Use Exceptions (RUE allows limited development in a critical area or buffer because all or most of the site is covered by critical areas. These exceptions are limited to one single family or an office depending on the zone)
- ◆ Clarify and increase options for changes to non-conformances
- ◆ Allow for reduction in setbacks to offset buffer areas
- ◆ Revise requirements for securities (bonds, cash, assignment of account, etc.) to encourage compliance for monitoring and maintenance of mitigation
- ◆ Clarify administrative provisions for appeals

C. Mitigation, Monitoring and Maintenance Alternatives Assessment

An applicant can request to **reduce the width of a critical area buffer** if mitigation (usually plantings and restoration) is done that improves the existing function of the buffer. The mitigation is installed followed by a 5-year monitoring and maintenance plan. A security is required to cover the work in case the City needs to step in to fulfill the requirement.

The Watershed Company reviewed 20 projects in Kirkland to evaluate past approaches to mitigation, maintenance and monitoring of buffer reduction mitigation. Attachment 3 is an assessment of their findings and a summary of recommendations. The mitigation projects were installed between 2002 and 2010. The outcome of the mitigation programs depends on the commitment of the applicants and their follow-thru on installation, monitoring, and weeding and replacement of plantings in the improved buffer.

The key findings and recommendations are as follows:

Findings:

- ◆ Sites that received regular maintenance met established performance standards on schedule at Year 5,
- ◆ Sites that were well maintained in Year 1 and 2 did well by Year 5,
- ◆ Sites commonly did not meet the established performance standards expected by Years 1 and 2, but did meet the final Year 5 standard with aggressive maintenance in Years 3-5,
- ◆ Sites with major issues early in the program, but then had intensive maintenance later were still successful by Year 5,
- ◆ Only 8 out of 20 sites did the required annual monitoring,
- ◆ Some bonds were released at Year 5 although specific performance standards were not met.

Recommendations:

- ◆ Require separate securities for maintenance and replanting,
- ◆ Require securities to cover six growing seasons to account for those sites that may take longer to establish and meet performance standards,
- ◆ Reimburse portion of the security at scheduled intervals through the submittal of approved maintenance invoices or demonstrated achievement of interim performance standards,
- ◆ Either require proof of a contract for maintenance for the entire monitoring period or City could contract with a landscaping company for all maintenance activities, with costs paid by the applicant,
- ◆ Consider allowing off-site mitigation for certain situations, such as sites encumbered by critical areas (Reasonable Use Exceptions) and sites with small isolated wetlands. Off-site mitigation options include King County's Mitigation Reserve Program. The program allows an applicant to buy credits instead of mitigating on their site. Approved mitigation banks and in-lieu fee programs go through a rigorous State and Federal certification process. These off-site mitigations need to be in Lake Washington/Cedar/Sammamish Watershed in which Kirkland is located.

It is important to understand that critical area modification permits are unique compared to other types of land use permits due to the intensive follow up required by the applicant and City. After review and approval of a land use permit to modify a critical area or its buffer, **City staff spends a considerable amount of time following up** on installation, monitoring and maintenance of buffer mitigation, sometimes with little success. Compliance with the mitigations for an approved modification is expensive and time consuming for the developer. Five years of monitoring and maintenance at regular intervals is often neglected and the City has limited resources to prod and remind applicants. Even in the best circumstances, the City is required to help coordinate the work of the applicant and consultants for at least a five year period after the permit is complete.

Sometimes, the security does not serve its purpose to remind the applicant of the ongoing obligation – with some extreme cases occurring during the recession. Staff would like to consider a different approach to the financing security of the work and the managing of the mitigation projects to simplify the process while also improving success rates.

IV. STAFF'S LIST OF ADDITIONAL CODE AMENDMENT ISSUES

In addition to the list of code amendments that Watershed has identified in Attachments 2 and 3, staff has a list of issues and desired code amendments dating back to 1999. Here are examples of some of the issues that staff will address:

- Move all definitions in Chapter 90 to Chapter 5, which is the main definition chapter for the Zoning Code, so that they are all in one location and are internally consistent,
- Consider reducing the review processes (e.g. - from Process IIA (Hearing Examiner) to Process I (Planning Director)) because the decisions are technical and not policy based
- General exceptions to the requirements in Chapter 90:
 - Allow specific minor improvements in critical area buffers, such as trails, benches and in required setbacks from buffer, such as patios, ground level decks, driveways, bay windows,

- Allow driveways in buffers and critical areas (subject to mitigation) if there is no feasible means of vehicular access to properties,
- Allow utilities in critical areas and buffers that connect to other existing utility lines where there are no feasible alternatives,
- Allow certain storm water outfalls in critical areas,
- Waive buffer requirement for adjacent properties when a stream is day-lighted (buffer is required), or when a wetland or stream is improved (greater buffer may be required)
- Allow pedestrian access through wetlands to piers on Forbes Lake,
- Clarify that future changes to a site are subject to buffer regulations in place at the time of a new proposal and not under past approvals,
- For Reasonable Use Exception, make lapse of approval same as other zoning permits, do not include long driveways in the maximum allowable developable area and potentially allow exception requests applicable to a broader range of uses,
- Provide more detailed requirements for mitigation plans, monitoring reports and standards for voluntary restoration,
- Look for another approach to implement mitigation programs so that all programs are successful by Year 5 and City staff is less burdened with overseeing compliance.

V. REVIEW PROCESS

On January 28, 2016, the Planning Commission held a joint study session with the Houghton Community Council in which staff and The Watershed Company provided background information and presented the Best Available Science Report and Gap Analysis (see Attachment 2). About 26 people from the public attended the meeting and a few spoke about the history of their properties, concerns about changes to the regulations and asking for better understanding on the implication of the changes to their existing improvements.

The Planning Commission will begin its review of issues and draft code amendments on February 25, 2016, with more study sessions to follow on March 24, 2016, April 28, 2016 and maybe May 26, 2016. The Houghton Community Council will hold study sessions on the draft code amendments once the Planning Commission has provided direction. In May or June 2016, the Planning Commission will hold a joint study hearing with the Houghton Community Council and then make a recommendation to the City Council.

It is anticipated that in July the City Council will consider the code amendments at a study session and then take action at another meeting.

VI. PUBLIC OUTREACH

Public interest in the Chapter 90 KZC update includes property owners with critical areas, owners who have required buffers from adjacent critical areas, developers, environmental organizations, state and federal agencies, and the local tribes.

The **public outreach efforts** are as follows:

- **January 2016:** A web page with an opportunity to sign up for email notices has been created. Postcard notice to about 11,000 property owners were sent out (see Attachment

4). Emailed notice have been sent to neighborhood associations, business groups, state and federal agencies, the local tribe, local jurisdictions, service providers, utilities, Kirkland newspapers and environmental organizations. The winter edition of the *City Update* newsletter included an article on this project. A joint study session with the Planning Commission and Houghton Community Council on the BAS and GAP technical reports was held. Approximately 30 people attended and several provided public comments.

As of February 3, 2016, 167 people have signed up for the listserv to receive email notices.

- **February 2016:** A briefing before the City Council on February 16, 2016, and the Kirkland Neighborhood Alliance (KAN) on February 10, 2016 about the upcoming update.
- **February-June 2016:** Hold study sessions before the Planning Commission with informational open houses before each meeting. Hold study sessions before the Houghton Community Council. Hold a joint hearing before the Planning Commission and Houghton Community Council with an open house before the hearing. Include an article in the spring edition of the *City Update* newsletter.

Email notices will be mailed out regularly to the listserv to provide dates of upcoming meetings, notice when the web site has changed and links to staff memos, etc.

ATTACHMENTS:

1. Description of Key Terms and Concepts
2. Best Available Science Report and Gap Analysis
3. Mitigation, Monitoring and Maintenance Alternatives Assessment memo
4. Postcard notice

DESCRIPTION OF KEY TERMS AND CONCEPTS – Q AND A

What is best available science?

Best Available Science or BAS is the most current science relevant to the functions and values of critical areas, including the role of buffers in protecting wetland and stream functions and fish and wildlife habitat conservation areas. Under the Growth Management Act [RCW 36.70A.175](#), best available science must be used to designate and protect critical areas and to take measures to preserve and enhance anadromous fisheries, such as salmon (fish born in fresh water and spends most of its life in the salt water and return to fresh water to spawn).

What are wetlands and what is their importance?



A wetland is an area inundated or saturated by surface or groundwater at a frequency and duration to support, under normal conditions, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. They also include artificial wetlands intentionally created from non-wetland sites as mitigation for the conversion of wetlands.

However, wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including irrigation and drainage ditches, grass-lined swales, canals, retention and/or detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetland also do not include those unintentionally created after July 1, 1990, as a result of the construction of a road, street, or highway (WAC 197-11-756).

Wetlands and their associated buffers are important in that they help maintain water quality; store and convey storm and flood water; recharge ground water; provide fish and wildlife habitat; and serve as areas for recreation, education, scientific study, and aesthetic appreciation.

What is a wetland delineation and what is the commonly accepted rating system?

A delineation determines the boundary and type of wetland using the U.S. Army Corps of Engineers Wetland Delineation Manual (1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region Version 2.0* (Regional Supplement) (Corps May 2010).

The Washington Department of Ecology's *Washington State Wetland Rating System* is the most commonly used and regionally-accepted wetland rating system. The rating system was last updated in June 2014 (Hruby 2014; Ecology Publication No. 14-06-019). It is a four-tier wetland rating system, which grades wetlands on a points-based system in terms of functions and values.

What are streams and what is their importance?



A stream is an area where surface waters produce a defined channel or bed that demonstrates clear evidence of the passage of water, including but not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. Historic channels that are now piped or have been moved are still considered streams. Streams do not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or convey a naturally occurring stream that has been diverted into the artificial channel.

Streams and their associated buffers are important in that they provide important fish and wildlife habitat and travel corridors; help maintain water quality; store and convey storm and flood water; recharge groundwater; and serve as areas for recreation, education, scientific study, and aesthetic appreciation.

What is a stream classification and what are the commonly accepted classification systems?

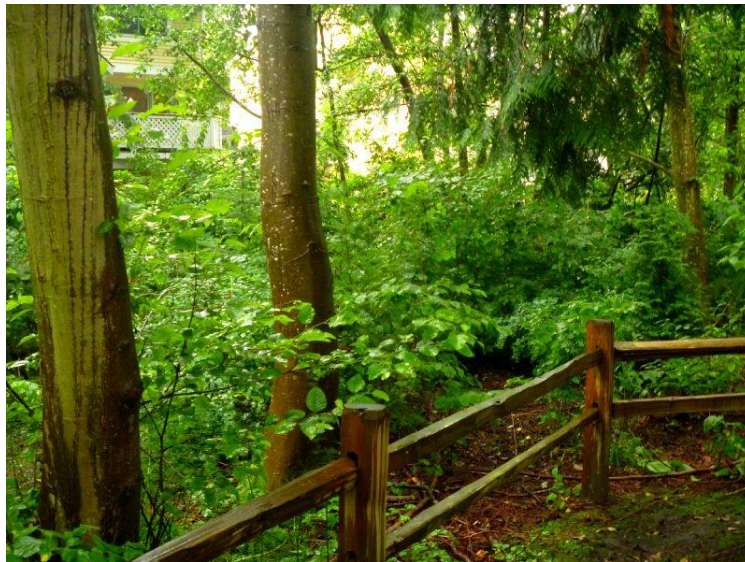
A classification determines the values and functions of a stream.

[WAC 222-16-030](#) establishes the stream water typing system for Washington. This approach, developed by the Department of Natural Resources classifies streams into four tiers:

- 1) Shorelines of the state (Type S)
- 2) Non-shoreline waters supporting fish habitat (Type F)
- 3) Non-fish-bearing perennial streams (Type Np)
- 4) Non-fish-bearing seasonal streams (Type NS)

Buffers may either be a set width for each stream classification, or buffer widths may vary based on slope, soil type and land use intensity. The variable approach is more site specific, but is more time consuming, costly to administer and unpredictable.

Buffers for streams are typically measured from the ordinary high water mark (highest water level indicated by markings).

What is a critical area buffer? What is its purpose? How does the classification system of the critical area relate to the width of the required buffer?

Critical area buffers are vegetative areas next to a wetland or stream that can protect them from or reduce the impacts of adjacent land uses. Buffers also provide wildlife habitat for wetland-dependent species that need both aquatic and terrestrial habitats for their life cycle.

Critical area buffers serve several purposes: moderate runoff volume and flow rates; reduce fine sediment accumulation from erosion; remove waterborne contaminants such as excess nutrients,

synthetic chemicals (e.g., pesticides, oils, and greases), and metals; provide shade for surface water temperature moderation; and provide wildlife habitat next to the critical area.

The higher the functions and values of the critical area or land use intensity proposed, the greater the buffer required to protect those functions and values.

What is a buffer setback?

A buffer setback is the distance from a wetland or stream buffer in which no building or other above ground structures may be construct, except for certain minor improvements. The buffer setback serves to protect the buffer during construction or routine maintenance occurring next to the buffer.

What is a critical area buffer modification?

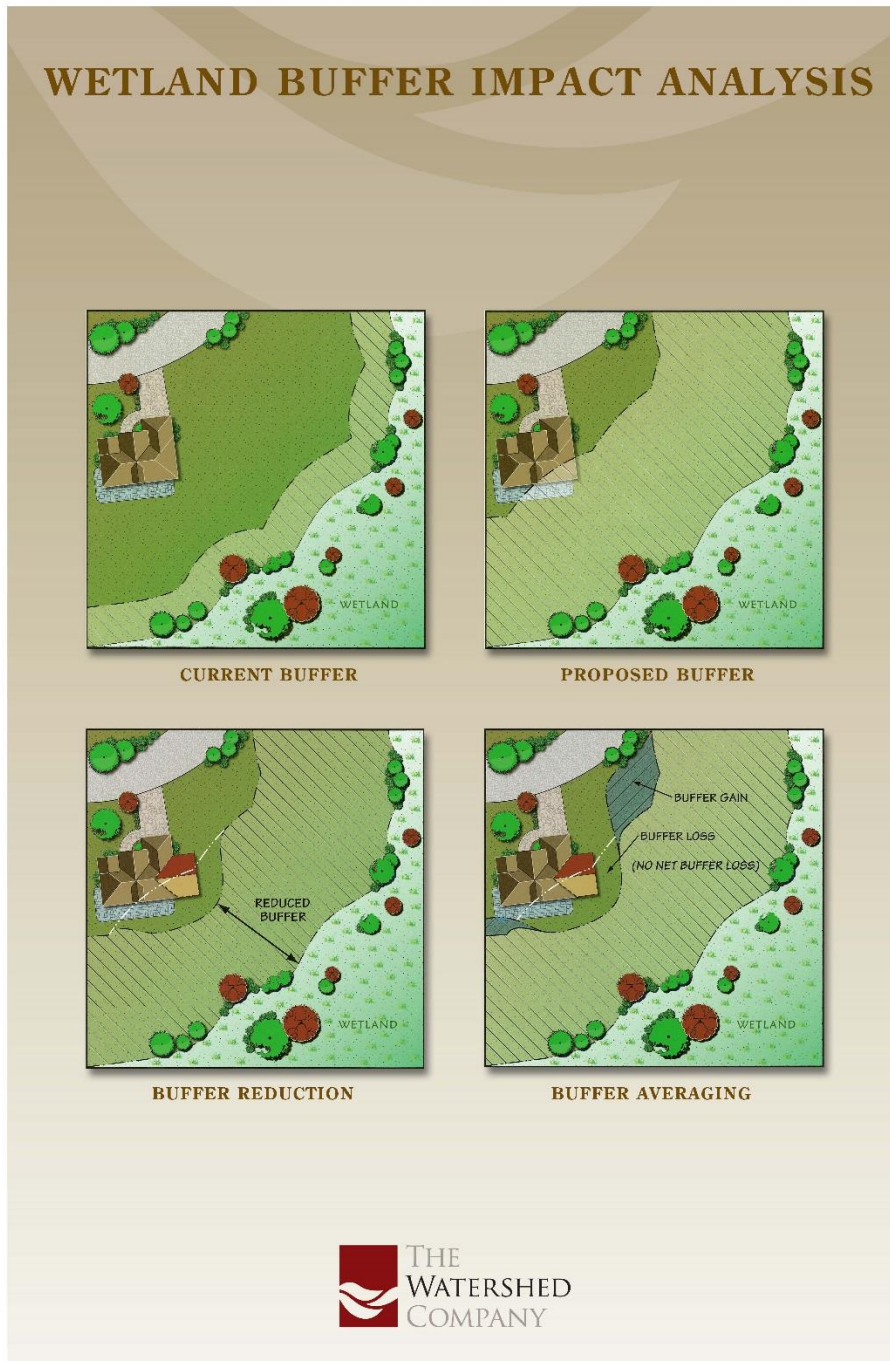
A critical area buffer may be proposed to be reduced through a City permit by either buffer width averaging (total square foot of buffer area is maintained but may be reduced in one area and enlarged in another area) or buffer width reduction with compensatory mitigation (*see next page*).

What is mitigation sequencing?

Mitigation sequencing is a sequence of steps taken to reduce the severity of an impact (action or situation) to a critical area. The steps in order of preference are: avoiding the impact, minimizing the impact, rectifying the impact, reducing or eliminating the impact, compensating for the impact, and monitoring the impact and then taking appropriate corrective measures.

What is compensatory mitigation?

When unavoidable impacts occur to a wetland, compensatory mitigation is required to replace lost or impacted wetland or buffer functions. Methods of providing compensatory mitigation include restoration, establishment (creation), rehabilitation and enhancement.



What is a reasonable use exception?

A reasonable use exception is a City permit that allows limited use of a property with minimal disturbance of the sensitive area and buffer when strict application of the City's Critical Areas Ordinance Chapter 90 KZC would deny all economically viable use of the property. Reasonable use exceptions typically arise where all or most of the site is in a critical area and/or its buffer. Uses are limited to one single family home in a residential zone and an office use in a commercial or industrial zone. The area of grading and development is limited.

What are Fish and Wildlife Habitat Conservation Area?

Fish and Wildlife Habitat Conservation Areas encompass streams, small lakes, habitat for endangered, threatened, and sensitive species, and any designated habitats or species of local importance.

Within Kirkland, several salmon species (Chinook, bull trout, and steelhead) are listed as federally threatened. In addition, bald eagles and peregrine falcons are listed as State-sensitive. These species and their habitats must be addressed under the critical areas regulations.

The City does not presently have a designated species or habitats of local importance, nor is there an established mechanism for designating such species. Development of a designation process for species or habitats of local importance is encouraged.

What are frequently flooded areas and what is their importance?

Areas within a 100-year floodplain and areas regulated by Chapter [21.56](#) KMC – Flood Damage Prevention.

Frequently flooded areas are important in that they help to store and convey storm and flood water; recharge ground water; provide important riparian habitat for fish and wildlife; and serve as areas for recreation, education, and scientific study. Development within and near these areas can be hazardous. Flooding also can cause substantial damage to public and private property that results in significant costs to the public and individuals.

What are the roles of Washington Department of Ecology, Washington Department Fish and Wildlife and U.S. Corps of Engineer?

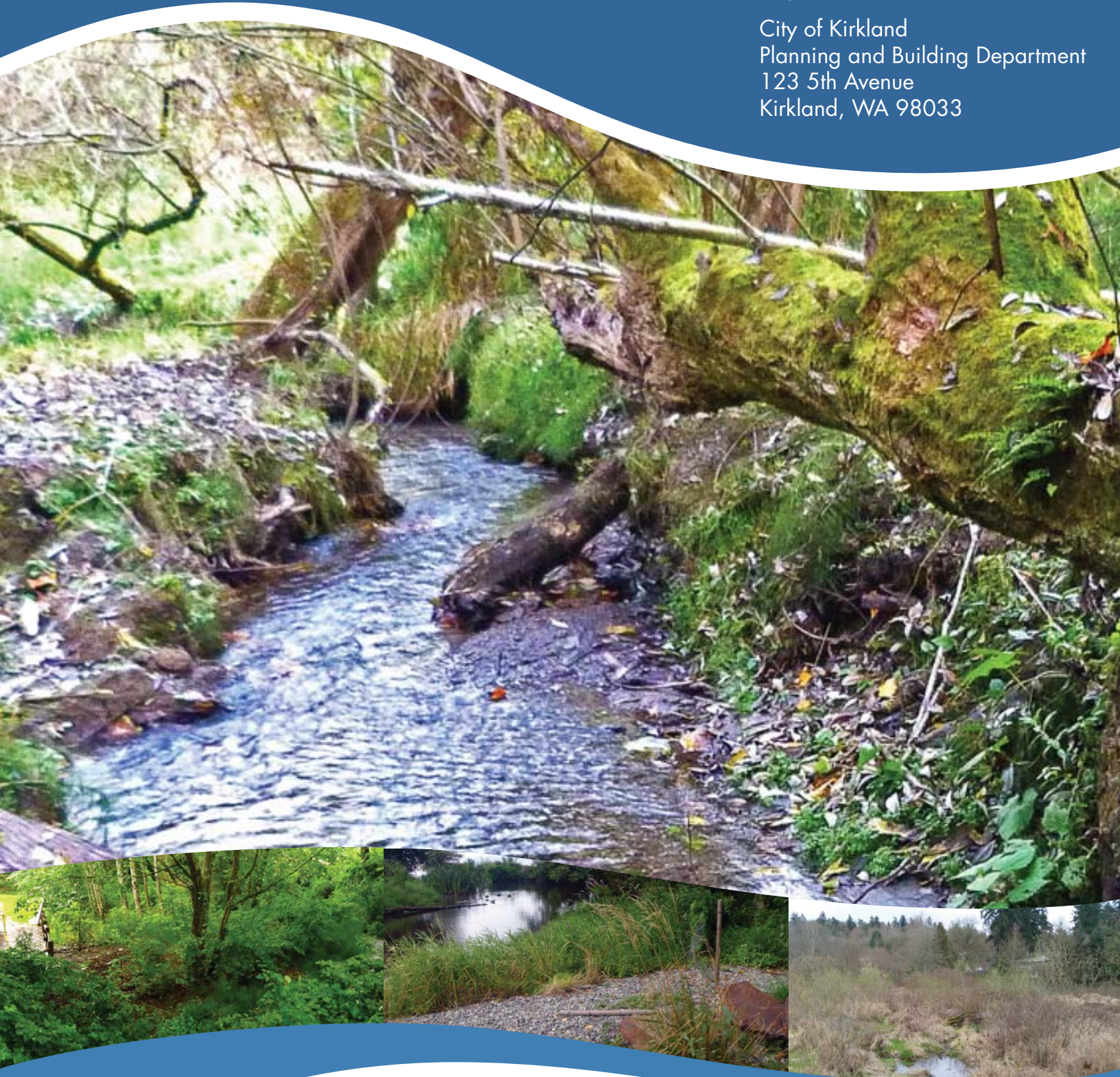
Department of Ecology provides [Best Available Science](#) guidance on wetlands. Department Fish and Wildlife provides [Best Available Science](#) on streams and on [priority habitat species](#). The agencies will review the City's code amendments and could challenge the City's new regulations under the Growth Management Act if the amendments do not meet Best Available Science.

Most in-water projects will require permits from the Washington Department of Ecology, the Washington Department of Fish and Wildlife, and the Corps of Engineers. Ecology issues permits for direct impacts to wetlands, streams and lakes. Fish and Wildlife issues permits for streams and lakes. The Corps of Engineers issues permits for impacts to navigable waters and wetlands, streams, and lakes. If a Corps-permitted project has the potential to affect a federally listed species, the Corps will consult with the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service under the Endangered Species Act.

City of Kirkland Critical Areas Regulations Technical Report

Prepared for:

City of Kirkland
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CITY OF KIRKLAND CRITICAL AREAS REGULATIONS TECHNICAL REPORT

**Part A- Review of Existing Conditions and Best Available Science
Part B- Gap Analysis**

Prepared for:



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January 2016

The Watershed Company Reference Number: 151019

EXECUTIVE SUMMARY

To comply with Growth Management Act (GMA) mandates, the City of Kirkland updated its Comprehensive Plan in 2015, and is currently in the process of updating its Critical Areas Ordinance. The City last updated its critical areas regulations in 2002. Under the Growth Management Act, RCW 36.70A.130, the City was required to complete its periodic updates to the Comprehensive Plan and development regulations by June 30, 2015, and to update every eight years thereafter. Updates to Critical Areas regulations can be completed one year later. Thus, the state deadline is June 30, 2016, to adopt amendments to its Critical Areas Ordinance. To support the City's GMA-mandated Critical Areas Ordinance update, The Watershed Company prepared a two-part technical report, Part A – Review of Existing Conditions and Best Available Science, and Part B – Gap Analysis of the City of Kirkland's Critical Areas Regulations. These documents A) review existing conditions in the City and relevant science related to management of critical areas, and B) recommend updates to the City's critical area provisions that comply with State guidance and best available science (BAS).

Part A – Review of Existing Conditions and Best Available Science (BAS) describes critical area resources within the City of Kirkland (City) and documents BAS-based approaches to protecting the functions and values those areas provide. Existing conditions in the city are based on the city's GIS mapping, existing City documents, other publically available documentation, and The Watershed Company staff's familiarity with the City from many years of on-call environmental review and project work. The BAS review references recent BAS reports prepared for nearby jurisdictions and new information relevant to the City. Findings for wetlands; fish and wildlife habitat conservation areas (FWHCAs), including streams; and frequently flooded areas (FFA) are summarized in-brief below. The BAS review does not address geologically hazardous areas, as those areas are being reviewed separately.

- Wetlands: Kirkland contains more than 400 acres of mapped wetlands. Wetlands are highly productive ecosystems that are valued for providing water quality functions, hydrologic functions, and habitat functions. Primary BAS-based wetland protections include wetland identification, classification based on functions, and sufficiently protective buffers. When impacts to wetlands and/or buffers are proposed, mitigation sequencing, compensatory mitigation, and compliance oversight are central to maintaining wetland functions and values.
- Fish and Wildlife Habitat Conservation Areas (FWHCAs): Kirkland is on the eastern shoreline of Lake Washington, all 15 drainage basins within the city drain to Lake Washington. Several streams in the City provide habitat for salmonids, including state- and federally-listed species. Other priority species, including bald eagle, great blue heron, and pileated woodpecker are documented within the city. FWHCAs support a variety of functions, including dynamic instream habitats, water quality, streambank stability, organic inputs, and habitat connections across the landscape. Streams are typically protected through identification, classification, and protective buffers. When

priority habitats and/or species are present, Washington State Department of Fish and Wildlife (WDFW) species-specific management recommendations provide BAS-based management strategies.

- Frequently Flooded Areas (FFAs): Four floodplain areas are mapped within the city, three of them are associated with large wetland complexes, and most of the floodplain areas are within City-owned properties. Frequently flooded areas (FFA) are managed to reduce potential risks to public safety. FFAs can also provide valuable instream habitat benefits, such as low-velocity instream habitat during high-flow events. To comply with the conditions of the 2008 FEMA Biological Opinion and incorporate BAS on FFA functions, floodplain habitat assessments are required in addition to standard flood safety measures for projects within floodplains.

Part B – Gap Analysis of the City of Kirkland’s Critical Areas Regulations reviews the existing critical areas regulations and identifies areas of the code that should be updated to be consistent with science-based recommendations. General recommendations concerning critical areas regulations organization and content are also provided in the gap analysis. Recommendations in the gap analysis are based on a review of the GMA requirements, the existing conditions and BAS review (Part A), current critical area regulations (KZC Chapter 90 – Drainage Basins), and recent updates to critical area regulations in neighboring jurisdictions. Critical area regulations will need to align with BAS practices, and any deviations from BAS recommendations must be documented and justified. In general, recommendations based on BAS-based guidance from the Department of Ecology are fairly prescriptive, whereas recommendations from primary BAS literature allow for more flexibility of policy implications and application to revising City code. Recommendations for Kirkland’s critical areas code update are summarized in brief below. As with Part A, KZC Chapter 85 – Geologically Hazardous Areas, is not addressed in this gap analysis. The City has begun the process of updating Kirkland’s geologic hazard maps using new advanced mapping tools such as Lidar, and then will evaluate the regulations in Chapter 85 once the mapping is done and after completion of the amendments to Chapter 90.

- Introduction summary: This code update provides an opportunity for the City to reorganize critical area regulations to better align with the definitions set forth in the GMA. The small wetlands exemption should be omitted or revised to align with BAS. General exceptions should be reviewed and clarified. Definitions could be reorganized and updated to reduce redundancy and better align with recent guidance and BAS.
- Wetlands: Wetland delineation criteria need to be based on the federal manual and regional supplement to align with Washington Administrative Code (WAC) 173-22-035. Wetland classifications should be based on the current 2014 Wetland Rating System for Western Washington (Ecology publication #14-06-029). Wetland buffer widths should be updated; there are multiple BAS-based Ecology guidance options for this update. Buffer modification options should be revised to limit allowances for buffer reductions. Mitigation sequencing requirements should be clarified to ensure that impact avoidance and minimization are analyzed ahead of mitigation design. Finally, the City should

consider how and when to allow use of off-site mitigation banking and in-lieu fee programs.

- Fish and Wildlife Habitat Conservation Areas, including streams: Stream regulations may be moved to a FWHCAs section for consistency with the WAC; provisions should be added for sensitive, threatened, and endangered terrestrial species and habitats. Stream classification should be updated; we recommend adopting the Permanent Water Typing System (WAC 222-16-030). Stream buffer widths, fencing/signage requirements, stream/buffer modification allowances, and mitigation requirements should all be updated to align with BAS. The City should review stream culvert provisions for consistency with WDFW design guidelines and to encourage stream daylighting.
- Frequently Flooded Areas: Frequently Flooded Areas are regulated, and floodplain habitat assessments are required under KMC 21.56 Flood Damage Prevention. Clarification of the relationship between terminology used in the KZC 90 (e.g., frequently flooded areas) and KMC 21.56 (e.g., areas of special flood hazard) should be considered.
- All Critical Areas – General Recommendations: The City should consider strengthening protective requirements and placing greater emphasis on mitigation sequencing (first avoid, then minimize, lastly mitigate). The City should further consider maximum development potential provisions relative to other density requirements in the City code. Reasonable use exceptions should be updated to add provisions for off-site mitigation. Bond requirements should be reviewed and revised to encourage compliance. Administrative provisions for appeals should be reviewed for clarity. We also recommend that the City provide more specific provisions for setbacks and nonconformance.

PART A

Review of Existing Conditions and Best Available Science

Prepared for:



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1 INTRODUCTION

With passage of the Growth Management Act (GMA), local jurisdictions throughout Washington State (State), including the City of Kirkland (City), were required to develop policies and regulations to designate and protect critical areas. Critical areas, as defined by the GMA (Revised Code of Washington [RCW 36.70A.030(5)], include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. The GMA directs jurisdictions to periodically conduct a thorough review and update their Comprehensive Plan and regulations (RCW 36.70A.130). When updating critical areas policies and regulations, jurisdictions must include the best available science (BAS). Any deviations from science-based recommendations should be identified, assessed and explained (Washington Administrative Code [WAC] 365-195-915). In addition, jurisdictions are to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

The City of Kirkland updated its Comprehensive Plan in 2015. The City last updated its critical areas regulations in 2002. Under the Growth Management Act, RCW 36.70A.130, the City was required to complete its periodic updates to the Comprehensive Plan and development regulations by June 30, 2015, and to update every eight years thereafter. Updates to Critical Areas regulations can be completed one year later. Thus, the state deadline is June 30, 2016, to adopt amendments to its Critical Areas Ordinance. This deadline must be met for the City to remain eligible to receive funds from the public works assistance and water quality accounts in the State Treasury. Several jurisdictions within King County have recently updated their Comprehensive Plans, reviewed BAS, and updated their critical area regulations in advance of the GMA deadline. This report draws from work recently completed by other nearby jurisdictions related to the review of BAS. In proceeding with its update to regulations, the City will also have the opportunity to review and evaluate how other nearby jurisdictions have recently updated their critical areas standards.

This report provides an overview of the science relevant to the functions and values of wetlands, streams, and wildlife habitat, as well as brief description of existing critical areas in the City of Kirkland. This report does not address geologically hazardous areas, as these areas are being reviewed separately. Critical aquifer recharge areas have not been documented in the City of Kirkland; therefore, these areas are not addressed in any detail in this report. Rather than include a full and extensive review of general BAS related to critical areas, this report references recent BAS reports prepared for nearby jurisdictions and includes new information relevant to the City, as well as a description of local conditions. This approach increases efficiency and reduces the expense for the City of Kirkland. The BAS Review for the City of Woodinville Comprehensive Plan Update, available [here](#) (The Watershed Company 2014) provides a detailed and extensive review of the functions and values of streams, lakes, and associated riparian habitats, as well as recommendations for protecting those functions. Given

the proximity and general similarities in climate, topography, and development, the discussion of literature in the BAS Review for the City of Woodinville is considered to be generally applicable to the City of Kirkland. As such, this report provides a summary of key conclusions and recommendations derived from the body of literature discussed in the Woodinville BAS review. Additional BAS sources are described as necessary to address conditions specific to the City of Kirkland and new information available since the completion of the 2014 report.

In addition to the summary of BAS-based recommendations, the location, extent, and general conditions of existing critical areas in the City of Kirkland are identified based on available information. The report authors from The Watershed Company drew from familiarity through work experience in the City of Kirkland to describe existing conditions and to recommend updates to code provisions (see Part B- Gap Analysis). The Watershed Company's recent experience in the City of Kirkland includes work on the City's Surface Water Master Plan Update, stream and wetland reconnaissance mapping in the 2011 annexation area, stream and wetland reconnaissance and surveys of fish presence along the Cross Kirkland Corridor, work on the Environmental Impact Statement for the City's Comprehensive Plan Update, and general on-call environmental review. The Watershed Company also assisted the City of Kirkland in its Shoreline Master Program update (approved by Ecology in 2010).

This report is the first of a two-part technical report. Part B-Gap Analysis reviews the existing critical areas regulations and identifies areas of the code that should be updated to be consistent with science-based recommendations.

2 WETLANDS

2.1 Existing Conditions

Kirkland has more than 400 acres of mapped wetlands, with over 120 individual wetland areas and 9 wetlands that are larger than 8 acres (Kirkland 2014, Figure 2-1). Large wetlands in the city that provide complex habitat structure include, Forbes Creek wetlands, Big Finn Hill wetland, Heronfield wetland, Juanita Creek wetlands, and Yarrow Bay wetlands. Numerous other wetlands are also mapped throughout the City (Kirkland 2013). Smaller wetlands occur amidst more highly developed residential areas. Although isolated wetlands amidst developed areas may have relatively low functions for wildlife habitat, they often serve important roles for improving water quality and managing hydrology to limit localized flooding.

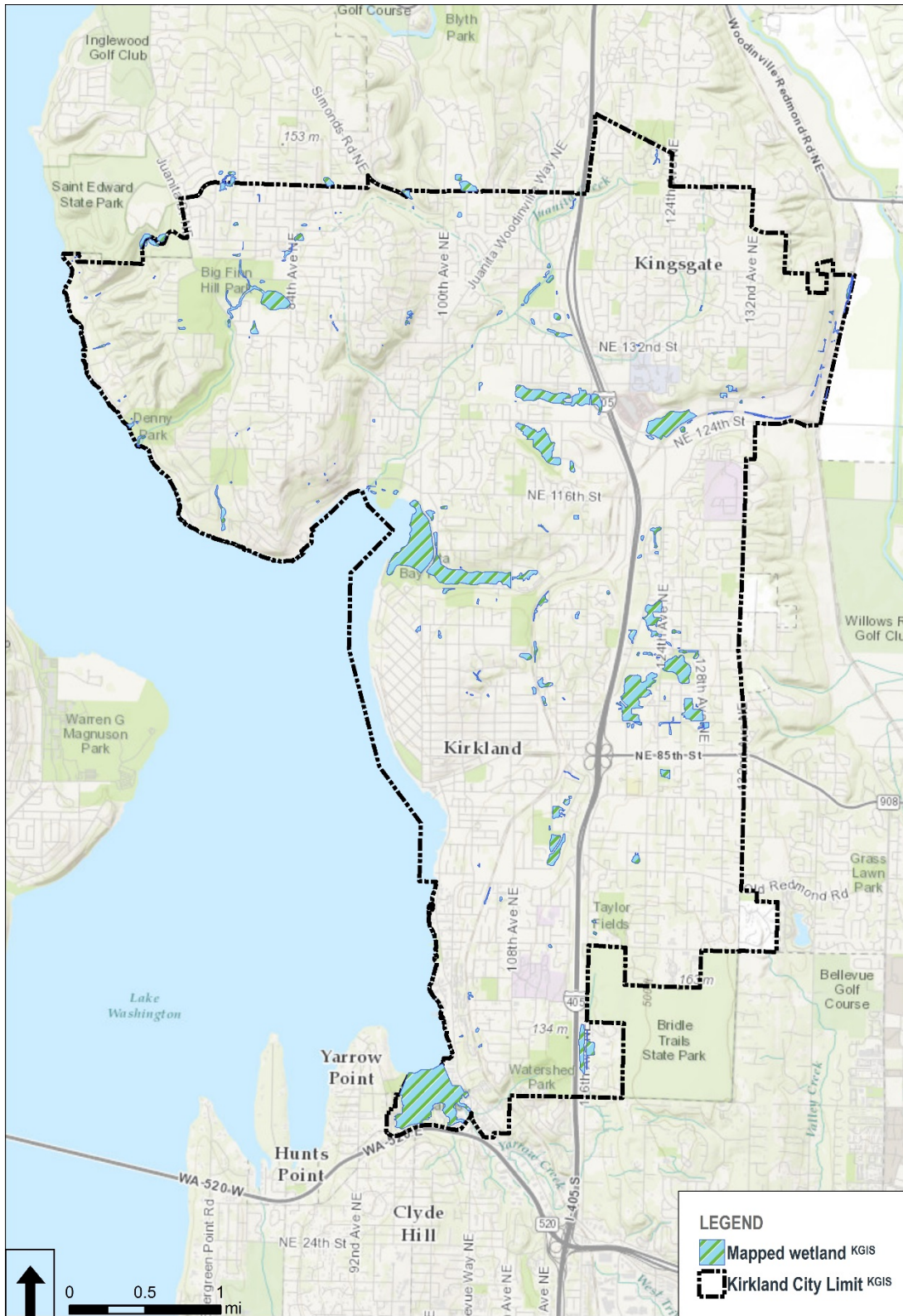
Per Kirkland Zoning Code (KZC) 90.75, "The majority, if not the entirety, of the perimeters of Totem Lake and Forbes Lake meet the definition of wetlands." Both of these small lakes are part of larger wetland complexes that span the surrounding landscape.

Forbes Lake is approximately 6.6 acres in total area. Volunteers have monitored water quality in Forbes Lake since 2006. Data indicate that the lake has medium to high primary productivity, meaning synthesis of organic biomass like plants and algae; it is considered to be at the

threshold of a eutrophic, or high nutrient-loaded, condition with fair water quality (Kirkland 2014).

The open water area in Totem Lake is just over three acres, but the combined area of emergent wetlands and open water is has been verified at just under 20 acres. Urban runoff and flooding has increased sediment transport to Totem Lake. Sediment accretion has reduced the area of open water by approximately 50% in the last 70-80 years (Kirkland 2013a). This trend occurs as runoff carries fine sediment into the waterbody, where it settles out and accumulates.

Wetlands are an important component of the surface water system, providing ecological values in the form of water quality filtering, flow attenuation, and they also provide significant habitat value for wildlife. Wetlands provide habitat for a unique and dense assemblage of plants and animals. In Kirkland, habitat functions are often limited by surrounding development, landscape-scale fragmentation, and proximity to Interstate-405.



Data Sources: WA Dept of Fish and Wildlife (WDFW), City of Kirkland GIS (KGIS, downloaded 11/30/2015), Esri.
Date: 12/11/2015

Figure 2-1. Mapped wetlands within the City of Kirkland

2.2 Best Available Science for Protection of Functions & Values

Wetland functions are affected by physical, chemical, and biological processes that occur within a wetland and the surrounding landscape (Sheldon et al 2005). Wetlands in the landscape provide essential conditions for growth of obligate and facultative-wetland plant species. Wetlands also provide habitat for reptiles, amphibians, birds, and mammals. Wetland scientists generally acknowledge that wetlands perform the following eight functions: 1) flood/storm water control, 2) base stream flow/groundwater support, 3) erosion/shoreline protection, 4) water quality improvement, 5) general habitat functions, 6) specific habitat functions, 7) cultural and socioeconomic values, and 8) natural biological support. Natural biological support refers to the ability to support diverse lifeforms, and is based on a wetland's vegetation structure and diversity, landscape-scale connectivity, surface water conditions, and organic accumulation and export potential (Cooke Scientific Services 2000). Wetland functions for flood and stormwater control, erosion protection, and water quality improvement are particularly valuable to protect infrastructure and limit the effects of development on water quality in the area's streams, rivers, and lakes.

The primary tools regulators rely on to conserve wetland functions and values are: accurate wetland identification and classification, buffer widths and composition, mitigation sequencing, compensatory mitigation, monitoring and maintenance periods, and financial surety.

Identification and classification

Per WAC 173-22-035, wetland delineations shall be conducted in accordance with the federal wetland delineation manual and applicable regional supplements. The U.S. Army Corps of Engineers (Corps) Wetland Delineation Manual (Corps 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region Version 2.0* (Regional Supplement) (Corps May 2010) should be the applied methodology.

The Washington Department of Ecology (Ecology) Washington State Wetland Rating System is the most commonly used and regionally-accepted wetland classification system. This rating system was last updated in June 2014 (Hruby 2014; Ecology Publication No. 14-06-019). It is a four-tier wetland rating system, which grades wetlands on a points-based system in terms of functions and values. Ecology specifically developed this tool to allow for relatively rapid wetland assessment while still providing some scientific rigor (Hruby 2004). This rating system incorporates other classification elements, such as Cowardin (Cowardin et al. 1979), hydrogeomorphic) classifications (Brinson 1993), and special characteristics such as bogs and mature forests. As described in the Ecology Rating System guidance: "This rating system was designed to differentiate between wetlands based on their sensitivity to disturbance, their significance, their rarity, our ability to replace them, and the functions they provide" (Hruby 2004, Hruby 2014). The rationale for each wetland category under the Ecology Rating System is described below.

- Category I: These are the most unique or rare high-functioning wetland types that are highly sensitive to disturbance and/or relatively undisturbed wetlands with functions that are impossible to replace in a human lifetime.
- Category II: These wetlands are high functioning and difficult, though not impossible, to replace, and provide a high level of some functions.
- Category III: These wetlands provide a moderate level of functions and can often be adequately replaced with a well-planned mitigation project. They have generally been disturbed in some way and are characterized by landscape fragmentation and less diversity.
- Category IV: These wetlands are low functioning and can be replaced or improved. They are characterized by a high level of disturbance and are often dominated by invasive weedy plants.

Wetland categorization provides an important tool for managing impacts. “The intent of the rating categories is to provide a basis for developing standards for protecting and managing the wetlands. Some decisions that can be made based on the rating include the width of buffers needed to protect the wetland from adjacent development and permitted uses in, and around, the wetland” (Hruby 2014).

Wetland Buffers

Buffers are vegetated areas next to an aquatic resource that can protect it from or reduce the impacts of adjacent land uses. Buffers also provide terrestrial habitat for wetland-dependent species that need both aquatic and terrestrial habitats for their life-cycle (Sheldon et al. 2005; Hruby 2013). Widely recognized buffer functions include limited moderation of precipitation and stormwater inputs (hydrology maintenance), removal of sediment, excess nutrients, and toxic substances (water quality improvement), influencing microclimate, maintaining adjacent habitat critical for wetland-dependent species, maintaining habitat connectivity (wildlife habitat), and screening adjacent disturbances (disturbance barrier) (Sheldon et al. 2005). The factors that influence the performance of a buffer include vegetative structure, percent slope, soils, and buffer width and length. The scientific literature identifies four primary factors important in determining buffer width to adequately protect wetlands. These are 1) the functions and values of the subject wetland, 2) the characteristics of the buffer itself, 3) the intensity of surrounding land uses and their expected impacts and 4) the specific functions the buffer is intended to provide (Sheldon et al. 2005). Protection of wetland functions from effects of surrounding land uses is most commonly achieved through fixed buffers the size of which is based on wetland functions.

A synthesis of scientific studies summarizing, among other wetland topics, effectiveness of various buffer widths relevant to Western Washington was published by the Washington State Department of Ecology (Sheldon et al. 2005). Water quality is the wetland function that has been studied most comprehensively in the context of adequate buffer width. Water movement and quantity, habitat, and disturbance protection functions have been addressed to a lesser extent. General studies on stream buffer widths were also deemed relevant to discussions of wetland

buffer widths because a vegetated buffer often operates independently of the sensitive area it is intended to protect, particularly for “sink” functions such as sediment and pollutant removal. The effective buffer width ranges given below (Table 2.1) are broad and variations are largely dependent on buffer condition, landscape setting, and specific metrics. For example, effective buffer widths for water quality functions vary depending on the physical (slope and soil conditions), chemical (nutrient or contaminant loads), or biological (pathogens) conditions and input being treated. Similarly, effective buffer widths for wildlife habitat functions vary depending on the animal species the buffer is intended to protect.

Table 2-1. Range of Effective Wetland Buffer Widths in Existing Literature for Applicable Functions

Function	Range in meters (feet) of Effective Buffer Widths	Sources Consulted
Stormwater control (hydrology maintenance)	15-90 m (50-300 feet) (generally); vegetative structure and impervious surface in basin are more important factors	Wong and McCuen 1982; McMillan 2000; Azous and Horner 2001
Erosion control	Unknown: wetland size and buffer type are more important factors	Cooke Scientific Services 2000; Kleinfelter et al. 1992, in McMillan 2000
Water quality	5-100 m (15-325 feet)	Horner and Mar 1982; Lynch et al. 1985; Lee et al. 1999; Shisler et al. 1987, in McMillan 2000; Dillaha and Inamdar 1997; Daniels and Gilliam 1996; Magette et al. 1989; Sheldon et al. 2005
Wildlife habitat	14-90 m (45-300 feet)	Castelle et al. 1992b; Desbonnet et al. 1994; Semlitsch 1998; Richter 1997, in McMillan 2000; Cooke 1992
Disturbance barrier	14-60 m (45-200 feet)	Cooke 1992; Shisler et al. 1987, in McMillan 2000; Desbonnet et al. 1994

The synthesis of science review for buffers was re-evaluated by Ecology in 2013 (Hruby 2013). Most of the conclusions from the 2005 literature review are still valid (Sheldon et al. 2005; Hruby 2013). The primary conclusions of the 2013 review are as follows.

- Wetland buffer effectiveness at protecting water quality varies in conjunction with several factors, including width, vegetation type, geochemical and physical soil properties, source and concentration of pollutants, and path of surface water through the buffer.
- Wider buffers are generally higher functioning than narrower buffers.
- Depending on site-specific environmental factors, different buffer widths may be needed to achieve the same level of protection.
- To protect wetland-dependent wildlife, a broader landscape-based approach that considers habitat corridors and connections is necessary.
- Many animals, particularly native amphibians, require undisturbed upland habitats for their survival (Hruby 2013).

As noted above, the Wetland Rating System was developed to categorize wetlands in accordance with the level of sensitivity and significance, and the categories may be used as a

tool to assign appropriate buffer widths. For example, it is appropriate to provide the greatest buffer protection for the highest functioning wetlands that are most difficult to replace. In addition, because habitat protection requires the large buffers to protect the most vulnerable and sensitive species, those wetlands with higher habitat scores warrant wider buffers. In Kirkland, large wetlands that provide complex habitat structure, such as, Forbes Creek wetlands, Big Finn Hill wetland, Heronfield wetland, Juanita Creek wetlands, and Yarrow Bay wetlands may warrant buffers at the larger end of the recommended scale. On the other hand, lower functioning wetlands with low habitat scores typically primarily support water quality functions, and buffers at the smaller end of the range would tend to provide adequate protection for those functions. Buffers at the smaller end of the scale may be appropriate for small, structurally simple wetlands, with fragmented landscape connections resulting from adjacent development in the city.

Based on the above type of rationale, Ecology developed recommended buffer width management strategies in Appendix 8-C of Wetlands in Washington State, Volume 2 – Protecting and Managing Wetlands (Granger et al. 2005). Hrubby's 2013 literature review of wetland buffer science did not prompt any new buffer width recommendations, although Ecology has updated its buffer width recommendations to correspond with the current outputs of the Wetland Rating System for Western Washington (Hrubby 2014).

Mitigation Sequencing

To bolster protection of our national wetland resources, no net loss policy was adopted in 1988 and has been upheld through the present administration. The no net loss policy requires a balance between wetland loss due to development and wetland mitigation to prevent further loss of the country's total wetland acreage. In 2008, the U.S. Environmental Protection Agency (EPA) issued the Wetlands Compensatory Mitigation Rule. This rule emphasizes BAS to promote innovation and focus on results.

Wetland mitigation is typically achieved through a series of steps known as mitigation sequencing, a sequence of steps taken "to reduce the severity of an action or situation" (Ecology et al. 2006). Ecology recommends that the CAO contain clear language regarding mitigation sequencing. The mitigation sequence according to the implementing rules of the State Environmental Policy Act (SEPA) (Chapter 197-11-768 WAC) follows:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

- (5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- (6) Monitoring the impact and taking appropriate corrective measures.

Compensatory Mitigation

Per Ecology, compensatory mitigation should replace lost or impacted wetland and buffer functions, unless out-of-kind mitigation can meet formally identified goals for the watershed. Ecology recommends prioritizing mitigation actions, location(s), and timing.

Mitigation Actions

Following mitigation sequencing, after demonstrating that a proposed wetland impact is unavoidable and has been minimized to the extent practical, compensatory mitigation is required by local, state and federal agencies. In general order of preference the agencies recommend wetland compensation in the form of: 1) re-establishment or rehabilitation, 2) creation (establishment), 3) enhancement, and 4) preservation (Ecology et al. 2006).

Wetland re-establishment or rehabilitation occurs when a historic or degraded wetland is returned to a naturally higher functioning system through the alteration of physical or biologic site characteristics. Re-establishment is typically achieved by restoring wetland hydrology; this may include removing fill or plugging ditches. Re-establishment achieves a net gain of wetland acres. Rehabilitation is achieved by repairing or restoring historic functions in a degraded wetland. Restoring a floodplain connection to an existing wetland by breaching a dike is an example of rehabilitation. Rehabilitation does not result in new wetland area.

Wetland creation is the development of a wetland at a site where a wetland did not naturally exist. Proximity to a reliable water source and landscape position are key design requirements for successful wetland creation (Ecology et al. 2006).

Both wetland enhancement and preservation result in a net loss of wetland acreage. Wetland enhancement typically increases structural diversity within a wetland, thus improving functions, or quality. Preservation of high functioning wetland systems in danger of decline may also be proposed as mitigation. While enhancement and preservation do not increase wetland acreage, these actions may result in long-term functional gains (Ecology et al. 2006).

Mitigation Ratios

Mitigation ratios are intended to replace lost functions and values stemming from a proposed land use while also accounting for temporal losses. Mitigation ratios recommended by Ecology in 2005 for wetland impacts can be found in Table 2-2 below. As noted above, the Corps and Ecology have a mandate to maintain "no net loss" of wetlands. Wetland creation and restoration are preferable to enhancement alone because wetland enhancement does not replace wetland area, and therefore, enhancement alone would result in a loss of wetland area. Ecology guidance does allow for enhancement as sole compensation for wetland impacts at quadruple the standard ratio (Granger et al. 2005). The higher ratios for enhancement-only are intended to

encourage actions that maintain existing wetland acreage and to ensure sufficient area of enhancement to retain wetland functions and values when a net loss of wetland acreage results.

Table 2-2. Ecology Recommended Mitigation Ratios (Granger et al. 2005)*

Category and Type of Wetland Impacts	Creation	Re-establishment-Rehabilitation Only	Creation and Rehabilitation	Creation and Enhancement	Enhancement Only
Category IV	1.5:1	3:1	1:1 C and 1:1 RH	1:1 C and 2:1 E	6:1
Category III	2:1	4:1	1:1 C and 2:1 RH	1:1 C and 4:1 E	8:1
Category II	3:1	6:1	1:1 C and 4:1 RH	1:1 C and 8:1 E	12:1
Category I: Forested	6:1	12:1	1:1 C and 10:1 RH	1:1 C and 20:1 E	24:1
Category I: Bog	Not possible	6:1 RH of a bog	Not possible	Not possible	Case-by-case
Category I: based on total functions	4:1	8:1	1:1 C and 6:1 RH	1:1 C and 12:1 E	16:1 E

*This document, Appendix 8-C of *Wetlands in Washington State, Volume 2 – Protecting and Managing Wetlands* (Granger et al. 2005).

Legend: C = Creation, RH = Rehabilitation, E = Enhancement

Credit-Debit Method

To give regulators and applicants a functions-based alternative to set mitigation ratios, the Washington State Department of Ecology recently developed a tool called the credit-debit method. This method, like the Ecology wetland rating form, is a peer reviewed rapid assessment tool. The credit-debit approach may be used to calculate functional gain of the proposed mitigation and functional loss due to proposed wetland impacts. This generates acre-points that can be compared in a balance sheet. Depending on specific site conditions, this may result in less or more mitigation than would be required under a set the standard mitigation ratio guidance (Hruby 2011). Both the ratios from Table 2-2 and the Credit-Debit Method are scientifically defensible methods to calculate required compensatory mitigation.

At present, the credit-debit method is used primarily for calculating credits for mitigation banks and in-lieu fee programs, such as the King County Mitigation Reserves Program. Other local jurisdictions still use mitigation ratios, as described above, yet many also allow the use of the credit-debit method to enable use of mitigation banks and in lieu fee programs. Because it is still early in the application of the credit-debit method, it is difficult to directly compare the outcomes of the credit-debit approach to use of mitigation ratios. Because it is a site-specific tool, it is expected that the credit-debit approach may result in higher or lower mitigation requirements relative to mitigation ratios depending on specific site conditions.

Mitigation Location

The Agencies (Ecology, Corps, and the U.S. Environmental Protection Agency Region 10) recommend selecting mitigation sites based on proximity to the impact and potential ability to replace impacted functions. In order of preference, a mitigation site should be:

“in the immediate drainage basin as the impact, then the next higher level basin, then the other sub-basins in the watershed with similar geology, and finally, the river basin” (Ecology et al. 2006).

In the past decade, national and state policies have shifted toward using a broader scale approach for mitigation site selection. A recent forum convened by Ecology and composed of regulators, businesses, and environmental/land use professionals recommend that local jurisdictions “establish an ecosystem- or watershed-based approach to mitigation” (Ecology 2008). The ecosystem and watershed-based approach to mitigation looks beyond the property where the impact is proposed to evaluate if off-site compensatory mitigation within the local watershed is a viable option and would have greater benefit to ecosystem functions in the long-term. This is becoming more relevant as land use intensity increases and on-site mitigation has the potential to be more isolated on a landscape-scale, thus reducing some functional potential. Due to the limited success of on-site mitigation, particularly in highly developed areas, a broader watershed scale approach is increasingly desirable and is viewed by the regulatory agencies as more sustainable (Ecology 2008). To guide practical applications of BAS-based compensatory mitigation, the Agencies issued an Ecology publication, *Selecting Wetland Mitigation Sites Using a Watershed Approach* (Hruby et al. 2009). As noted by Azous and Horner 2001 (in Hruby et al. 2009), recreating or maintaining wetland functions in a highly developed landscape may not be sustainable. To account for this, the watershed approach may require a combination of on- and off-site mitigation to achieve functional gains equivalent to the proposed losses (Ecology et al. 2006).

Watershed-based planning is a way for local jurisdictions to manage ecologic resources sustainably. Ecology recently developed a Puget Sound Watershed Characterization project. This project provides a landscape-scale perspective to help planners manage their wetland and wildlife resources in a targeted and effective manner. It is a coarse-scale tool that uses GIS-based water flow, water quality, and habitat assessments to compare areas within a watershed for restoration and protection value (Ecology 2010).

Mitigation Timing

Mitigation actions may occur concurrent with the impact or before project impacts. The mitigation ratios provided by Ecology (Table 2-2) assume concurrent mitigation actions. The amount of mitigation required may be reduced for an advanced mitigation project that reduces the temporal loss of functions. In other words, compensatory mitigation that is completed at the time of impact will take several years to reach full functions; however, when mitigation is completed in advance of the impact, the mitigation area will be more mature and higher functioning at the time the impact occurs. Because the lag period between impact and mitigation is reduced or eliminated with advance mitigation, mitigation ratios may be reduced.

Compensatory Mitigation Approach

Compensatory mitigation can occur through permittee-responsible mitigation (on-site or off-site), mitigation banks, or in-lieu fee programs. In recent years, with permittee-responsible mitigation as the typical approach, several studies have concluded that despite regulatory mechanisms to ensure “no net loss” of wetlands, substantial loss has occurred, both in terms of wetland area and wetland functions (Turner et al. 2001, Johnson et al. 2002, Matthews and Endress 2008). Losses through compensatory mitigation have been attributed to poor restoration success (Race and Fonseca 1996, Turner et al. 2001, Johnson et al. 2002) and a lag time between impacts and mitigation (Bendor 2009).

Based on a review of twenty buffer mitigation projects in the City of Kirkland initiated between 2002 and 2010, eleven (55%) were judged to meet mitigation standards at the end of the standard five-year monitoring period, and 75% were released within 7 years. Ninety percent of sites meeting mitigation standards by Year 5 were initiated since 2006, indicating an improving trend, which may be related to mitigation plan review, maintenance, monitoring, or other factors.

The increased establishment and use of wetland mitigation banking and in-lieu fee programs has been proposed as a solution to the issues that affect on-site mitigation because 1) regulators can devote more time to monitoring and ensuring the success of mitigation banks, 2) mitigation bank sites are generally situated in an ecologically significant area, and 3) mitigation banks tend to aggregate projects into larger wetlands that may provide more functions than small, isolated wetlands (Bendor and Brozovic 2007; Keddy et al. 2009). The Agencies have stated that, “Mitigation banks provide an opportunity to compensate for impacts at a regional scale and provide larger, better-connected blocks of habitat in advance of impacts” (Ecology et al. 2006). Mitigation banks are also advantageous because mitigation credits generally become available in stages as the wetland permit conditions are met and restoration is successful. This helps minimize the lag time that can create a temporal loss in wetland function (Race and Fonseca 1996, Bendor 2009). Based on this and similar rationale, in 2008, EPA and the U.S. Army Corps of Engineers jointly promulgated regulations revising and clarifying requirements regarding compensatory mitigation, and establishing the following hierarchal preference for implementation of compensatory mitigation: *Note: Delete “a” above*

- 1 Mitigation banks
- 2 In-lieu fee programs
- 3 Permittee-responsible mitigation under a watershed approach
- 4 Permittee-responsible mitigation through on-site and in-kind mitigation
- 5 Permittee-responsible mitigation through off-site or out-of-kind mitigation

Despite the theoretical merits of wetland banking, studies of wetland banking success have been largely equivocal in terms of its documented merits (Mack and Micacchion 2006, Reiss et al. 2009). A review of vegetative metrics of wetland banks from around the United States found that only 63% of mitigation banks over five years old would be considered successful (Spieles 2005). It is expected that the success rate has improved since that 2005 study as wetland

mitigation banking has become more common. Currently in King County, the Springbrook Creek Mitigation Bank is approved, but its service area does not extend into Kirkland, meaning that impacts in the city cannot be mitigated at the Springbrook Creek Mitigation Bank. Ecology and the Corps are reviewing the Keller Farm Mitigation Bank in Redmond, the service area of which would be expected to include Kirkland. Approved mitigation banks go through a rigorous state certification process. The certification process includes financial assurance requirements. Oversight from Ecology, the Corps, and other relevant agencies and a phased release of bond funds as mitigation bank performance standards are achieved help support mitigation success.

Another mitigation option is an in-lieu fee program. In-lieu fee programs are similar to mitigation banks, except that projects are implemented after credits are purchased, rather than before. In-lieu fee programs are operated by public agencies. The King County Mitigation Reserves Program (MRP) is an in-lieu fee program that was certified under 2008 federal rules. The program is designed to satisfy mitigation obligations for a wide variety of permit types and may be applied to City permits if the city code allows it. City of Kirkland is within the MRP service area. If allowed by local code, applicants within King County can use the MRP to buy credits for off-site mitigation. By purchasing credits, the applicant satisfies compensatory mitigation requirements and has no further involvement in the mitigation implementation. The MRP pools funds from the sale of credits in a given service area to develop mitigation sites from a predefined roster. The MRP plans, implements, monitors and maintains projects at chosen sites. At multiple points in the process, an Interagency Review Team will review and approve project proposals.

From an economic perspective, it may be more cost effective for small projects to pay a third party for mitigation credits through a mitigation bank or in-lieu fee program than to proceed with the design, permitting, and implementation of a small mitigation project (Bendor and Brozovic 2007). However, where in-lieu fee programs and mitigation banks include the cost of land acquisition, such as the MRP, credits tend to cost significantly more than on-site mitigation. Additionally, large projects may be able to plan, permit, and implement a large mitigation project for less than the cost of mitigation bank credits.

The City may wish to develop a policy prioritizing use of on-site versus off-site mitigation. The following considerations should factor into such a policy. From a landscape perspective, mitigation banking and in-lieu fee programs have a tendency to drive wetland mitigation from urban to rural areas (Bendor and Brozovic 2007). This migration may be driven by the lower cost of land in rural areas compared to urban areas or the availability of large areas of land for wetland restoration in rural areas (Bendor and Brozovic 2007; Robertson and Hayden 2008). A shift from small, urban wetlands to larger, rural wetlands may allow for a net increase in functions; however, small urban wetlands provide significant water quality functions and may be particularly important for controlling flooding in highly urbanized environments (Boyer and Polasky 2004), such as in the City of Kirkland. Urban wetlands may also provide recreational and educational opportunities and aesthetic values (Ehrenfeld 2000). Finally, developing urban wetlands may entail high "opportunity costs," meaning that once lost they will be difficult to

replace because of the high price of land in urban areas (Boyer and Polasky 2004). These factors should be considered when developing policies related to the use of mitigation banking and in-lieu fee programs in the City of Kirkland.

Mitigation Success

The Agencies recommend requiring financial assurances to ensure the success of a mitigation project. “Financial assurances may take the form of performance bonds or letters of credit. Applicants should check with their local planning department to determine if the local government will require performance bonds or other forms of financial assurances. A bond should estimate all costs associated with the entire compensatory mitigation project, including site preparation, plant materials, construction materials, installation oversight, maintenance, monitoring and reporting, and contingency actions expected through the end of the required monitoring period” (Ecology et al. 2006).

Compensatory mitigation projects should be protected in perpetuity. Legal mechanisms, such as deed restrictions and conservation easements, are typically used to achieve this (Ecology et al. 2006).

Additionally, physical site protection may be needed to keep people, pets, and equipment out of mitigation sites. Split-rail fencing and/or critical area signs indicating that the area should not be disturbed are typically required for site protection (Ecology et al. 2006).

3 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

3.1 Streams and Lakes

Existing Conditions

The City of Kirkland is situated along the eastern shoreline of Lake Washington. The Lake Washington watershed (Water Resource Inventory Area 8) encompasses 692 square miles, collecting water from two major rivers (Cedar and Sammamish Rivers) before flowing through Lake Union and ultimately into Puget Sound via the Lake Washington Ship Canal and Hiram Chittenden locks. All streams and drainage basins in the city drain to Lake Washington. Shorelines and associated wetlands of Lake Washington are designated as Shorelines of Statewide Significance (WAC 173-20-370). Areas within 200 feet landward from the Ordinary High Water Mark of Lake Washington, as well as associated wetlands (namely Forbes Creek wetlands) are regulated under the City of Kirkland’s Shoreline Master Program (KZC Chapter 83).

There are 15 drainage basins within the City of Kirkland, listed according to size in Table 3-1 and Figure 3-1. The basin analysis in Table 3-1 from the City’s Surface Water Master Plan (Kirkland 2014) identifies conditions in each drainage basin, including all tributaries and contributing areas.

The City of Kirkland currently designates stream basins as primary or secondary based on salmonid¹ use. The following basins are identified as primary basins with documented use by salmonids: Juanita Creek, Forbes Creek, South Juanita Slope, Yarrow Creek, Carillon Creek, Denny Creek, and Champagne Creek. Secondary basins in the city are Moss Bay, Houghton Slope A, Houghton Slope B, Kirkland Slope, Holmes Point, and Kingsgate Slope. Salmonids are not documented within the secondary basins; however, in creeks draining directly to Lake Washington, such as streams in the Holmes Point Basin, use by salmonids is possible.

The City presently defines streams as, “Areas where surface waters produce a defined channel or bed that demonstrates clear evidence of the passage of water, including but not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. Streams do not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or convey a naturally occurring stream that has been diverted into the artificial channel” (KZC 90.30.16). A map of the city’s streams, as well as documented fish passage barriers is provided in Figure 3-2.

Table 3-1. Summary of Drainage Basin Features in the City of Kirkland

Basin	Area (Acres)	Total Stream Length (Miles)	Open Stream Channel (Miles)	Floodplain/ Floodway Area (Acres)	Existing impervious % of basin
Primary Basins					
Juanita Creek (Including South Juanita Slope)	3,910	20.5	14.6	12.8	43
Forbes Creek	1,837	14.2	11.2	15.9 / 8.3	37
Denny Creek	804	3.9	3.2	NA	24
Champagne Creek	625	2.0	1.7	NA	30
Yarrow Creek	573	7.7	6.8	62.7	21
Carillon Creek	106	0.5	0.2	NA	38
Secondary Basins					
Moss Bay	1,487	9.3	4.8	2.5	46
Holmes Point	457	2.9	2.4	NA	22
Kingsgate Slope	564	2.5	2.4	NA	30
Houghton Slope A	376	2.75	0.8	NA	46
To Redmond	303	0.1	0.0	NA	38

¹ Salmonids include members of the fish family Salmonidae, which include Chinook, coho, chum, sockeye, and pink salmon; rainbow, steelhead, and cutthroat trout; brown trout; brook and dolly varden char; bull trout; kokanee; and white fish.

Basin	Area (Acres)	Total Stream Length (Miles)	Open Stream Channel (Miles)	Floodplain/ Floodway Area (Acres)	Existing impervious % of basin
Kirkland Slope	208	0.0	0.0	NA	39
Houghton Slope B	134	1.2	0.3	NA	41
Lower Sammamish River Valley	24	0.0	0.0	NA	41

Source: Kirkland 2014

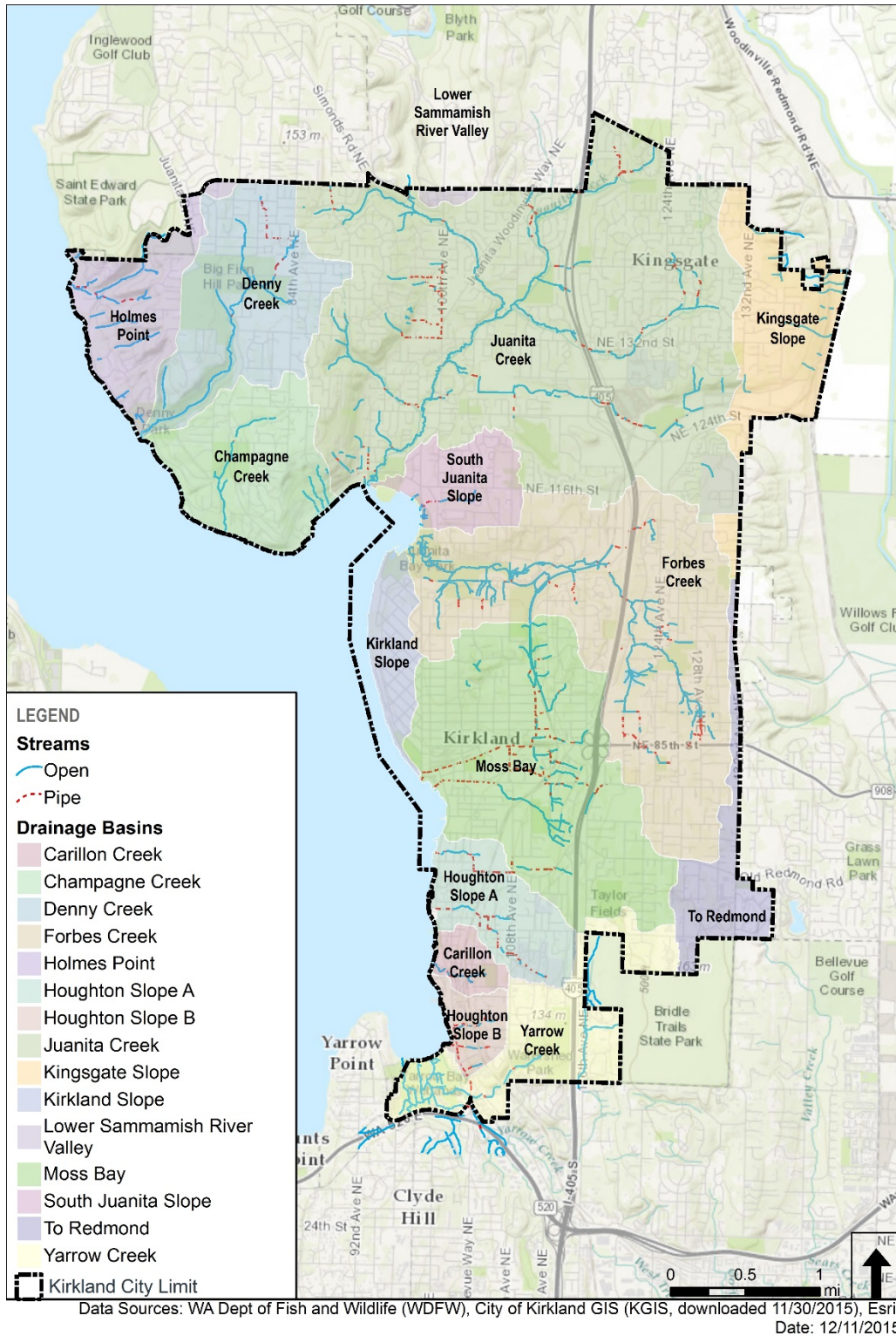


Figure 3-1. Map of Drainage Basins in the City of Kirkland

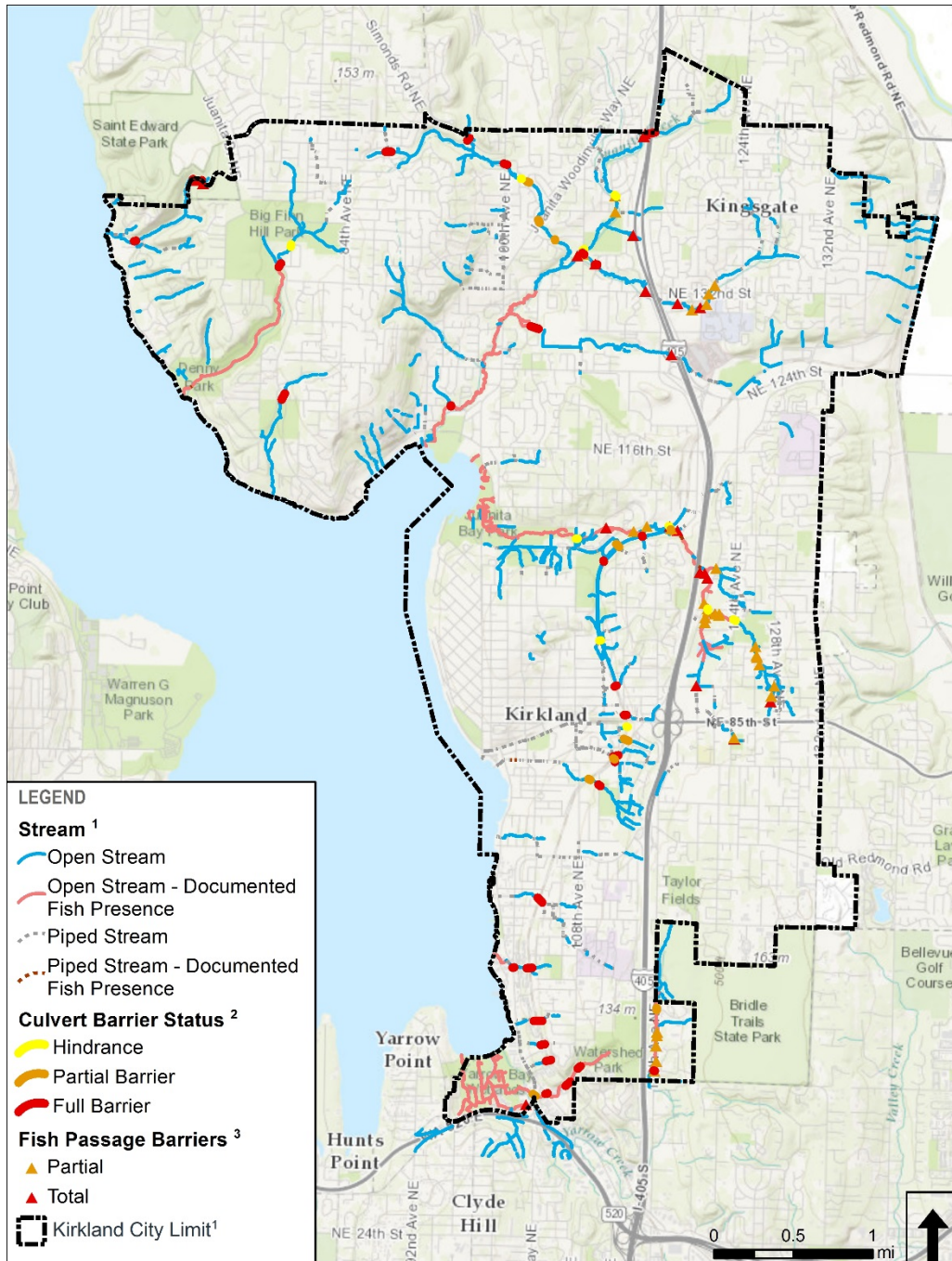


Figure 3-2. Map of Stream Channels and Fish Passage Barriers in the City of Kirkland

The City’s streams provide habitat for fish species of regional, state, and federal significance. In most cases, even non-fish bearing watercourses and water bodies provide important functions critical to maintaining productive downstream habitat conditions. Table 3-2 identifies the

priority fish species occurring within the city's water bodies, as reported in the City of Kirkland's Stream, Wetlands, and Wildlife Study (The Watershed Company 1998) and in Washington Department of Fish and Wildlife (WDFW) Priority Habitat Species (PHS) data. Figure 3-3 shows PHS mapping, including mapping of streams with documented, presumed, and modeled salmonid presence.

Table 3-2. Priority Fish Species Occurrence in the City of Kirkland

Basins in City of Kirkland	Common Name	Scientific Name	State Status	Federal Status
Juanita Creek	Chinook Salmon	<i>Oncorhynchus tshawytscha</i>	C	T
	Steelhead	<i>O. mykiss</i>	C	T
	Coho Salmon	<i>O. kisutch</i>	--	SoC
	Sockeye/ Kokanee Salmon	<i>O. nerka</i>	C	--
	Cutthroat Trout	<i>O. clarkia</i>	--	--
Denny Creek	Chinook Salmon (modeled presence)	<i>O. tshawytscha</i>	C	T
	Steelhead (modeled presence)	<i>O. mykiss</i>	C	T
	Coho Salmon	<i>O. kisutch</i>	--	SoC
	Sockeye/ Kokanee Salmon (modeled presence)	<i>O. nerka</i>	C	--
	Cutthroat Trout	<i>O. clarkia</i>	--	--
Forbes Creek	Chinook Salmon (modeled presence)	<i>O. tshawytscha</i>	C	T
	Steelhead (modeled presence)	<i>O. mykiss</i>	C	T
	Coho Salmon	<i>O. kisutch</i>	--	SoC
	Sockeye/ Kokanee Salmon	<i>O. nerka</i>	C	--
	Cutthroat Trout	<i>O. clarkia</i>	--	--
Yarrow Creek	Chinook Salmon (modeled presence)	<i>O. tshawytscha</i>	C	T
	Steelhead (modeled presence)	<i>O. mykiss</i>	C	T
	Coho Salmon	<i>O. kisutch</i>	--	SoC
	Sockeye/ Kokanee Salmon (modeled presence)	<i>O. nerka</i>	C	--
	Cutthroat Trout	<i>O. clarkii</i>	--	--
Carillon Creek	Coho Salmon	<i>O. kisutch</i>	--	SoC
	Cutthroat Trout	<i>O. clarkii</i>	--	--
Champagne Creek	Cutthroat Trout	<i>O. clarkia</i>	--	--

Source: The Watershed Company 1998, WDFW 2015.

C=Candidate, T= Threatened, SoC= Species of Concern, Cutthroat trout is on the WDFW Priority Habitat and Species List.

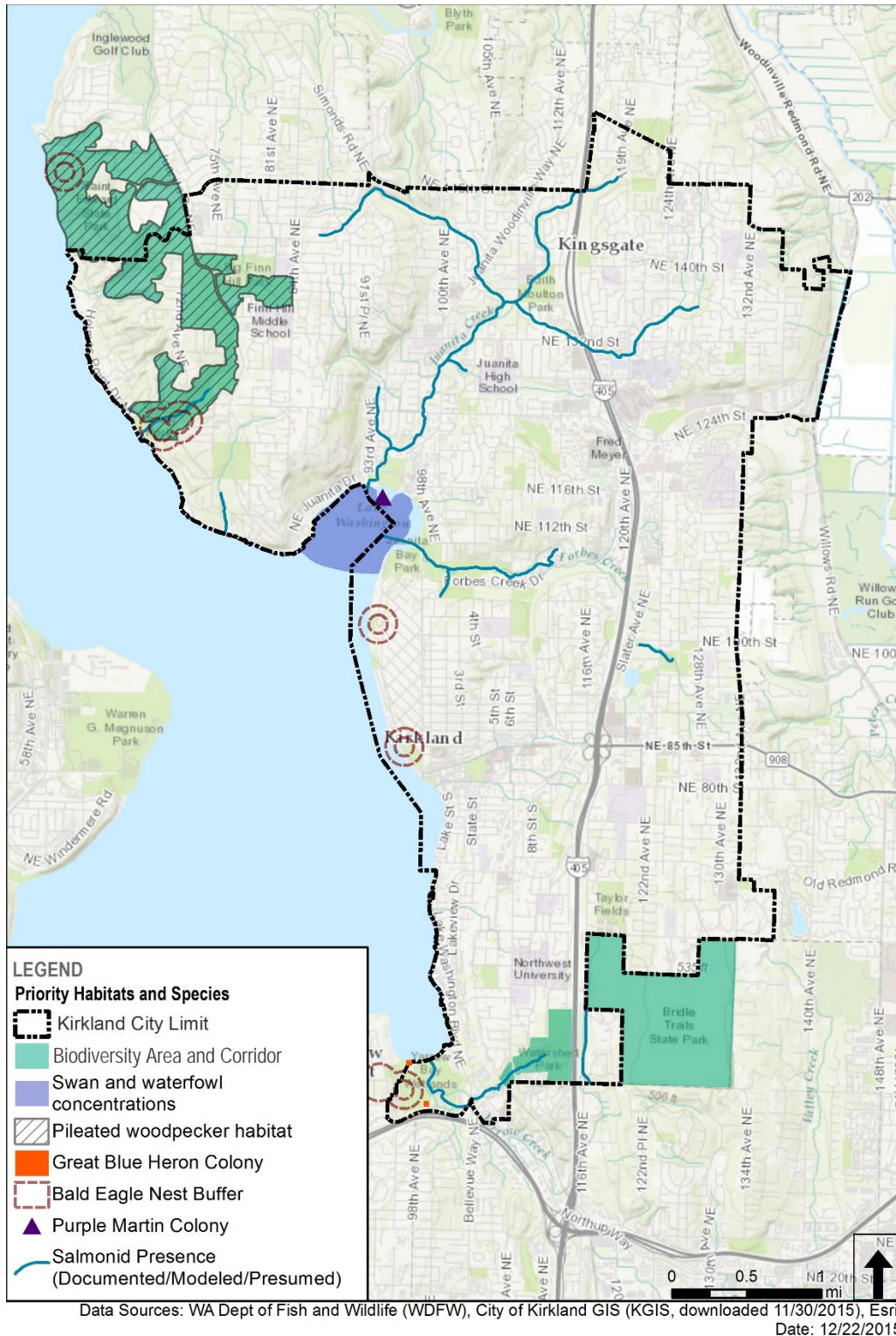


Figure 3.3. Map of Priority Habitats and Species data, including documented, modeled, and presumed salmonid use in the City of Kirkland. (Wetlands not included in map)

A description of the existing conditions of the city's watercourses and water bodies follows.

Juanita Creek

The largest basin in Kirkland, Juanita Creek originates east of I-405, and flows approximately five miles west and south entering Lake Washington on the west side of Juanita Beach Park. The lower reaches of Juanita Creek are confined to a narrow corridor, where bank armoring limits channel connectivity and complexity (King County 2002). There are three main tributaries flowing into Juanita Creek: an upper west (Simonds Tributary), a lower west, and a lower east (Totem Lake Tributary). The lower reach of the lower west tributary to Juanita Creek is confined to a pipe. The Totem Lake Tributary is also piped in places. Riparian corridors are highly altered, and erosion and instability of the stream bank is common (Kirkland 2014). The creek experiences rapid spikes in flow volumes immediately following rain events stemming from a high level of surrounding impervious surfaces (Kirkland 2014).

Water quality in Juanita Creek is listed as impaired for water temperature, fecal coliform bacteria, and dissolved oxygen by the 2012 Washington Department of Ecology's 303(d) list. King County maintained a 25-year record (1979-2004) of water quality conditions in Juanita Creek at two sampling locations, one located near the mouth, and the other located near NE 132nd St. Over that period, water quality degradation has been observed through increased water temperatures and conductivity at both locations and increased fecal coliform bacteria at the mouth; however, improvements through decreased total suspended solids and decreased nutrient concentrations have been noted over the same time period (King County electronic reference A). Fecal coliform levels have been high enough to result in periodic beach closures for swimming at Juanita Beach. These closures have occurred in 1998, 2000, 2005, 2007, 2008, and 2009 (King County electronic reference B). Typical closures last for several days; however in 1998, the closure lasted for two months, and in 2000, the closure lasted for three weeks. High fecal coliform levels were attributed to limited circulation and accumulation of goose feces. Notably, no swimming closures have occurred since renovations at Juanita Beach Park were completed. It is possible that these renovations effectively reduced the goose aggregations at the park.

The mainstem of Juanita Creek supports anadromous salmonids, including coho salmon and cutthroat trout, downstream from I-405. Existing vegetated buffer widths in the upper basin of Juanita Creek vary from 0 to 50 feet, although a wider buffer is present within Edith Moulton Park (The Watershed Company 1998). Residential development predominates throughout the upper Juanita Creek Basin. The lower reach of the western tributary just north of NE 124th Street is piped, and its confluence with the main stem presents a fish passage barrier. Several other complete fish passage barriers occur along the eastern tributaries of Juanita Creek (see Figure 3-2).

Forbes Creek

Forbes Creek drains from Forbes Lake and areas east of I-405 into the south side of Juanita Bay. Extensive riparian wetlands are present along the lower portion of Forbes Creek. The upper

portion of the creek is surrounded by residential and industrial development. Several small tributaries feed into Forbes Creek east of I-405. The mainstem originates at Forbes Lake, and other tributaries originate from extensive wetlands north and east of Forbes Lake. Culverts under I-405 limit hydrologic and habitat connectivity between the upper and lower portions of Forbes Creek (The Watershed Company 1998). The Moss Bay Basin, west of I-405, also drains north into Forbes Creek.

Higher and more frequent flows, due to increased development and reduced stormwater infiltration, have led to active channel downcutting and bank erosion in many reaches of the creek (Kirkland 2014). A stream survey in 2004 found that the lower reaches had limited potential to contribute large woody debris to the stream (via falling trees) because most of the surrounding wetland vegetation consists of smaller deciduous trees and shrubs (Parametrix 2004). The potential for adjacent forest to contribute large woody debris to the stream is variable in the upper watershed, reflecting the mix of forested and developed land uses there (Parametrix 2004). The frequency of deep, slow-moving pool habitats is low relative to fast-moving riffles and glides throughout the drainage (Parametrix 2004). Substrate composition is generally good, with low riffle embeddedness in fine sediment throughout most of the basin. The species composition of benthic invertebrates is commonly used as an overall indicator of water quality and stream habitat conditions, using a tool called the Benthic Index of Biotic Integrity (B-IBI). The B-IBI scores are rated as poor throughout the Forbes Creek Basin (Parametrix 2004).

Water quality in the lower reach of Forbes Creek, within Juanita Bay Park, is listed as impaired for water temperature, fecal coliform bacteria, and dissolved oxygen by the 2012 Washington Department of Ecology's 303(d) list. King County has monitored water quality near the mouth of Forbes Creek since 1979 (monitoring was discontinued from 2008-2012). Over the period from 1979 to 2007, nutrient loads and fecal coliform bacteria have decreased; however, stream temperatures and conductivity have increased, and dissolved oxygen concentrations have decreased (King County electronic reference A).

The lower mile of Forbes Creek is surrounded by a large emergent and scrub-shrub wetland complex. Anadromous fish occur from the mouth, upstream to I-405. Although not documented in the 1998 survey, resident cutthroat trout occur have been documented in one tributary east of the I-405 (see Figure 3-3).

Denny Creek

Denny Creek drains from north to south. The majority of the stream corridor is protected under public ownership, including Big Finn Hill Park and Denny Park. Within Denny Park, the riparian corridor is narrow, and there is evidence of previous channel stabilization efforts (Kirkland 2014). Upstream from Denny Park, mature forests provide a broad buffer from immediate land use impacts. However, drainage from surrounding developed residential areas may contribute to rapid spikes in flow volumes and significant erosion along the channel banks (The Watershed Company 1998). Plentiful large wood and boulders create hydraulic and aquatic habitat diversity within the channel (Kirkland 2014).

Large wood and boulders create hydraulic and aquatic habitat diversity within the channel (Kirkland 2014). Juanita Drive culvert is a complete barrier to fish movement, limiting anadromous salmon use in the basin (Kirkland 2014).

Champagne Creek

Champagne Creek is an independent drainage that enters Lake Washington at Champagne Point, north of Juanita Bay. It passes closely between several houses through their landscaped yards near its mouth. The stream channel shows signs of active erosion downstream of Juanita Drive and sediment deposition near the mouth (The Watershed Company 1998, Kirkland 2014). Upstream of the houses, it flows out of a fairly deep and steep-sided ravine, with ditch-like conditions in the upper reach (Kirkland 2014). In an analysis of sites likely to develop or redevelop, this basin was identified as having high potential for development and, the second largest potential for an increase in built-out impervious coverage over the next twenty years (Kirkland 2014).

Yarrow Creek

The Yarrow Creek drainage includes both Yarrow Creek and Cochran Springs Creek. The two creeks meet in the low gradient, 70+ acre, City-owned Yarrow Bay wetlands downstream from Lake Washington Boulevard, just prior to reaching Lake Washington. This large wetland complex was submerged by Lake Washington prior to the construction of the Chittenden Locks in the early 1900s; following construction of the Locks, the area was ditched and drained for agriculture. Today, the wetland complex is dominated by reed canarygrass and supports a beaver population. Sediment in the lower basin area is predominantly silts and sands, and past aggradation of sands and silts have resulted in flooding issues in the lower basin. Owners of the Plaza at Yarrow Bay conducted a project in 2013 to address flooding issues and enhance instream habitat downstream from Lake Washington Boulevard.

Both Yarrow Creek and Cochran Springs Creek are impacted by fish passage barriers, proximity to State Route 520, and proximity to developed areas. Fish passage improvements and instream habitat enhancements were recently completed on Yarrow Creek and a tributary to Yarrow Creek as a part of mitigation for the expansion of State Route 520.

Cochran Springs Creek originates from springs in Watershed Park, and the upper portion of the watershed is protected from development within the park. A fairly continuous corridor connects Cochran Springs Creek and Watershed Park.

Carillon Creek

Carillon Creek flows from east to west, originating in Carillon Woods and entering Lake Washington just north of Carillon Point. There is a significant elevation change between the upstream and downstream portion of the creek. Erosion in the upper portion of the basin has caused sedimentation of the downstream portion of the creek (City of Kirkland 2014). This sedimentation has degraded habitat and resulted in flooding issues. An open space area corridor in the upper basin in Carillon Woods buffers the upper creek from impacts from

surrounding suburban land uses. Like Cochran Springs Creek, springs in the Carillon Creek Basin provide fairly steady year-round flows (The Watershed Company 1998).

As a part of King County Water District 1, Carillon Creek served as the water supply to the Town of Yarrow Point until approximately 2003. Anadromous and resident salmonids are present in the lower reach, but have not been documented above the railroad grade embankment (The Watershed Company 1998).

Coho salmon and cutthroat are present below Lake Washington Boulevard, but have not been documented in the upper watershed (The Watershed Company 1998).

Secondary Urban Drainages

Secondary basins designated by the City are Moss Bay, Houghton Slope A, Houghton Slope B, Kirkland Slope, Holmes Point, and Kingsgate Slope. With the exception of the Holmes Point Basin, areas currently designated as secondary basins consist of small urban drainages. These drainages include small spring-fed creeks, the lower reaches of which are predominantly piped. Notable areas of open channels in these small urban drainages occur in and upslope of Everest Park; near Peter Kirk Elementary; and through steep ravines along the Houghton Slope (The Watershed Company 1998). No fish have been detected in these secondary urban drainages during previous stream inventory efforts (The Watershed Company 1998).

The most significant area of contiguous wildlife habitat among the urban secondary drainages is in Everest Park and the surrounding wetlands and wooded areas. The area encompasses wetland, stream, and upland habitats with a variety of plant communities. A 1998 study also noted habitat features such as snags and cavities in this area (The Watershed Company 1998). Other open space patches occur along the Houghton Slope, including a riparian greenbelt along Northwest College Creek from the railroad tracks to Lakeview Drive NE and a riparian greenbelt along Houghton Creek downstream of Lakeview Elementary.

In contrast to the small urban drainages described above, the Holmes Point basin, which was annexed into the City of Kirkland in 2011, located in the far northeastern portion of the city, is characterized by high forest coverage, relatively low impervious surface coverage, and drainages are predominantly conveyed through open stream channels. Despite these characteristics, most of the lower section of Holmes Point Creek is armored and piped in places, includes a concrete dam, which is a fish passage barrier, and has limited buffer areas from adjacent development (Kirkland 2014). The stream is also impacted by channel instability, fish passage barriers, and large man-made debris (Kirkland 2014). A unique zoning designation, the Holmes Point Overlay Zone, requires significant trees and native vegetation retention and restricted lot coverage. The term "secondary basin" and classification of fish use here may be somewhat misleading, since the lowermost portions of streams flowing directly into Lake Washington may support use by salmonids.

Best Available Science for Protection of Functions and Values

The BAS Review for the City of Woodinville Comprehensive Plan Update (The Watershed Company 2014) provides a full review of the functions and values of streams, lakes, and associated riparian habitats, as well as recommendations for protecting those functions. Given the proximity and general similarities in climate, topography, and development, the summary and discussion of literature in the BAS Review for the City of Woodinville ([here](#)) is considered to be generally applicable to the City of Kirkland.

The review addresses the role of riparian areas in maintaining stream functions important for supporting diverse and productive fish populations. These functions relate to:

- Water quality (i.e. sediment, nutrients, metals, pathogens, herbicides, and pharmaceuticals)
- Water temperature and microclimate
- Bank stability
- Invertebrate communities
- Inputs of organic detritus
- Instream habitat complexity, including large woody debris
- Dynamic habitat corridors

In an analysis of riparian zone ordinances, Wenger and Fowler (2000) support using approaches that allow some flexibility in how policies are implemented on a parcel scale. Variable-width buffer policies (i.e. policies that may vary depending on slope, soil type, and land use intensity) provide greater adaptability to address site-specific conditions; however, fixed buffer widths are more easily established, require a lesser degree of scientific knowledge to implement, and generally require less time and money to administer (Castelle and Johnson 1998).

Updates to critical area regulations within some other jurisdictions (e.g. King County, Thurston County, City of Redmond) have utilized a variable width approach in which stream buffers may be larger/smaller depending upon connectivity to special aquatic areas such as Puget Sound or other Shorelines of the State. Buffer averaging provides another example of flexibility, where limited reductions in riparian zone width are allowed so long as they are offset by wider riparian zones in adjacent areas. This type of approach is particularly effective if implemented such that the wider buffer areas are located in areas that protect specific functions. For example, research into water quality functions has found that source areas (areas where surface runoff first becomes channelized) are most important to protect to infiltration functions. Therefore, to maintain water quality functions, the buffer might be expanded to an area where surface runoff is likely to become channelized, such as existing depressions or swales. Another example would be to expand the buffer width in an area where it will contribute to habitat corridor connectivity.

If fixed-width buffers are implemented, conservative (larger) buffer widths are recommended in order to ensure that riparian buffers are effective under a range of variable conditions (Haberstock et al. 2000). Table 3-3 summarizes the ranges of effective buffer widths based on

each function, as described in the BAS Review for the City of Woodinville Comprehensive Plan Update (The Watershed Company 2014).

Table 3-3. Range of Effective Buffer Widths for Each Applicable Riparian Function

Function	Range of Effective Buffer Widths	Notes on Function
Water Quality		
<i>Sediment</i>	4-30 m (13-98 feet), up to 120 m (394 feet) for fine sediment	Filtration is widely variable depending on slope and soils.
<i>Nutrients</i>	Subsurface flow: not dependent on buffer width Surface flow: 15-131 m (49-430 feet)	In addition to buffer width, the rate of nutrient removal is dependent on infiltration, soil composition, and climate. Filtration capacity decreases with increasing loads, so best management practices that reduce nutrient loading will improve riparian function.
<i>Metals</i>	NA- Appropriate buffer width not established	Stormwater system improvements to slow and infiltrate runoff could help reduce metals entering aquatic systems.
<i>Pathogens</i>	NA- Appropriate buffer width not established	Minimizing the density of septic systems, maximizing the distance of septic systems from aquatic resource areas, and promoting pet waste management will help limit the transport of pathogens to aquatic systems.
<i>Herbicides</i>	6-18 m (20-59 feet)	Best management practices during application of herbicides and pesticides can help limit leeching to groundwater.
<i>Pharmaceuticals</i>	NA- Appropriate buffer width not established	Best management practices for disposal of pharmaceuticals may limit potential impacts.
Bank Stabilization	10-30 m (33-98 feet)	Beyond 98 feet from the stream, buffers have little effect on bank stability.
Stream Temperature	10-30 m (33-98 feet)	Percent areal cover/tree canopy is more closely related to stream temperature than buffer width.
Microclimate	(10-45 m) 33-150 feet	Most microclimate changes occur within 10-45 m (33 to 150 feet) from the edge, but microclimate effects extend over 240 m (790 feet) from the forest edge.
Invertebrates and Detritus	30 m (98 feet)	Areas with 10 m (33 feet) buffers exhibit changes in invertebrate community composition.
Wildlife Habitat	100 to 600 feet	Minimum width for supporting habitat varies among taxa, guides, and species. Functions include both corridor (travel and migration) and support of lifecycle stages, including breeding.

Function	Range of Effective Buffer Widths	Notes on Function
In-stream Habitat (large woody debris – LWD)	18-50 m (59 to 164 feet)	Most LWD is recruited from the area within one tree-height width from the stream, however, tree-fall from beyond that area may still affect LWD loading.

The review of science acknowledges several limitations of applying the results of primary scientific literature to policy decisions. In particular, it is important to recognize the setting of scientific investigations, as management recommendations differ between undeveloped forested environments and highly developed urban areas. For example, in urban areas, it is important to account for the presence of engineering and public works projects, such as surface-water detention facilities that may alter hydraulic conditions and sediment transport, or stormwater routing, which may cause runoff to bypass riparian areas altogether. Another consideration when evaluating primary literature is that scientific references commonly evaluate the effects of a single set of conditions, or in some cases several specific conditions. Depending on the specific conditions and function tested, outcomes may vary. Thus, although stream and riparian conservation measures should be based in BAS, some level of policy interpretation must be made by each local jurisdiction based on local conditions.

To achieve improved water quality in the city's streams, riparian buffer areas should be utilized effectively to provide both biofiltration of stormwater runoff and protection from adjacent land uses. Both of these goals can be achieved by providing dense, well-rooted vegetated buffer areas, and by protecting hydrologic source areas, including slope and depressional wetlands. Hydrologic source areas may also be protected by allowing for buffer averaging, where wider buffer areas apply in areas where surface water is likely to collect.

In addition to riparian buffers, the literature points to a range of recommended management measures to help maintain stream functions for fish and wildlife. Effective methods to reduce impacts from urbanization and associated runoff can include the following:

- Limiting development densities and impervious surface coverage
- Limiting vegetation clearing and retaining forest cover
- Concentrating impact activities, particularly roads, parking lots, and pollutant sources, away from watercourses
- Limiting the total area of roads and parking lots and requiring joint use of new access roads
- Protecting vegetation and limiting development on or near hydrologic source areas
- Low impact development (LID)
- Municipal stormwater treatment
- Public education
- Removal of fish passage barriers
- Daylighting of streams
- Removal or replacement of culverts to support passage of flood flows

Biofiltration swales, created wetlands, and infiltration opportunities for specific stormwater runoff discharges can be particularly effective to intercept runoff before it reaches stream channels. Stormwater runoff that is conveyed through stream buffers in pipes or ditch-like channels and discharged directly to stream channels “short circuits” or bypasses buffer areas and receives little water quality treatment via biofiltration. In areas where stormwater flows untreated through riparian buffer areas, the buffer is underutilized and is prevented from providing the intended or potential biofiltration function. Actions that increase filtration, including LID and targeted stormwater retrofits provide important opportunities to improve water quality and moderate the effects of development on flow conditions.

3.2 Terrestrial Habitat and Corridors

Existing Conditions

Kirkland contains several natural parks and open space areas, including Big Finn Hill Park, Denny Park, Juanita Bay Park, Everest Park, Carillon Woods, Yarrow Bay wetlands, Forbes Creek wetlands, and Watershed Park. The city parks provide terrestrial habitat patches and corridors to aquatic habitats within or adjacent to those parks. Watershed Park in the Yarrow Creek basin provides forested slopes, seeps, and riparian habitat. Habitat corridors between the Carillon Creek corridor and other open space corridors in the city are lacking. However, the riparian and upland communities within Carillon Woods provide a functional patch of forested and riparian habitat. Upstream from Denny Park, mature forests provide significant wildlife habitat. Beaver populations occur at several locations within the city, including Forbes Lake, the Forbes Creek wetlands, and the Yarrow Bay wetlands, as well as near the mouth of Juanita Creek. The lower Forbes valley is the longest connected open space in Kirkland, forming a nearly continuous corridor for wildlife movement (Kirkland 2014).

The City of Kirkland includes habitat types that are known to be used or could potentially be used by species of interest (excluding fish, which are discussed above), including those species with state or federal status and WDFW priority species. Mammals such as black-tailed deer, coyote, raccoon, and black bear occur in Kirkland. Habitats include forested upland, wetlands, riparian areas, scrub-shrub, and open habitat such as rights-of-way. Much of the northwestern portion of the city, particularly along Denny Creek and in Big Finn Hill Park is designated by WDFW as a Biodiversity Area and Corridor. This area is also identified as a pileated woodpecker breeding area. Mapped priority species and habitats are shown in Figure 3-3. Species designated as priority species by WDFW (based on their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance) that are likely to use habitat within the city are listed in Table 3-4. Because bald eagles and pileated woodpeckers are listed as Sensitive species by the State, their habitats are to be regulated as Fish and Wildlife Habitat Conservation Areas (FWHCA) per WAC 365-190-130. The City may elect to designate other PHS species or habitats, as well as other species or habitats within the city, as “Species of Local Importance” (WAC 365-190-130) as part of the update to the critical areas ordinance. It should be noted that only species mapped as occurring in the city are described below, and that other priority species, particularly highly mobile species may occur within the city. For

example, in the past couple of years, osprey, a PHS species, have nested near Lake Washington High School (Filan, J., City of Kirkland, personal communication).

Table 3-4. Mapped Priority Species in the City of Kirkland

Common Name	Scientific Name	State Status	Federal Status
Bald eagle	<i>Haliaeetus leucocephalus</i>	Sensitive	Species of Concern
Pileated woodpecker	<i>Dryocopus pileatus</i>	Sensitive	Species of Concern
Great blue heron	<i>Ardea herodias</i>	Monitor	None
Purple martin	<i>Progne subis</i>	Candidate	None
Trumpeter swan	<i>Cygnus buccinator</i>	None	None

Source: WDFW. PHS on the Web.

The meaning of state and federal statuses are described as follows:

- Federal Endangered: a species in danger of extinction throughout all or a significant portion of its range
- Federal Threatened: a species likely to become endangered in the foreseeable future throughout all or a significant portion of its range
- Federal Species of Concern: informal term, not defined in the federal Endangered Species Act, which commonly refers to species that are declining or appear to be in need of conservation
- State Endangered: wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state
- State Threatened: wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats
- State Sensitive: wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats
- State Candidate: fish and wildlife species that the Department will review for possible listing as State Endangered, Threatened, or Sensitive
- State Monitor: species that require management, survey, or data emphasis for one or more of the following reasons:
 - They were classified as endangered, threatened, or sensitive within the previous five years.
 - They require habitat that is of limited availability during some portion of their life cycle.
 - They are indicators of environmental quality.
 - There are unresolved taxonomic questions that may affect their candidacy for listing as endangered, threatened, or sensitive species.

- State Priority Species: species that require protective measures for their survival due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority species include State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable.

Best Available Science for Protection of Functions and Values

General recommendations for terrestrial habitat are listed in the following section. Where species-specific recommendations are available for Washington State from WDFW guidance documents, these are summarized separately below. WDFW species-specific recommendations are often referenced in local jurisdictions' critical areas regulations.

General Terrestrial Habitat Management Recommendations

Recommendations

- Generally, plan development to minimize fragmentation of native habitat, particularly large, intact habitat areas. Where large forest stands exist, manage for sensitive species and avoid fragmentation (Donnelly and Marzluff 2004, Diffendorfer et al. 1995, Mason et al. 2007, Orrock and Danielson 2005, Pardini et al. 2005 and others).
- Control invasive species where needed on a site- and species-specific basis. Address invasive species on a landscape scale, particularly focusing on areas where environmental conditions tend to promote infestation, including created edges, roadways, and riparian zones where they are contiguous with developed areas that may act as a seed source (Olden et al. 2004, Pimentel et al. 2005, McKinney 2002 and others).
- Maintain or provide habitat connectivity with vegetated corridors between habitat patches (Schaefer 2003, Clair 2008, Gilbert-Norton et al. 2010 and others).
- Protect, maintain, and promote habitat features such as snags and downed wood (Blewett and Marzluff 2005).
- Manage for increase native vegetative cover in landscaping and discourage lawns (Nelson and Nelson 2001).
- Plan habitat areas away from roads (Fahrig et al. 1995, Lehtinen et al. 1999).
- Promote buffers of adequate width to support wildlife guilds in adjacent habitat (Semlitsch and Bodie 2003, Crawford and Semlitsch 2007).
- Preserve habitat patches of at least moderate size 35 ha (86 ac) within developed areas (Kissling and Garton 2008).

WDFW Species-specific Management Recommendations

Bald Eagle

Bald eagles are likely to be detrimentally impacted by activities that alter nest, roost, or perch trees; removal of adequate buffers; noise and other human disturbance; and potentially

decreasing salmon runs (Watson and Rodrick 2000). There are currently 5 mapped nesting sites in the city, all of which are in close proximity to Lake Washington. WDFW previously required bald eagle management plans for development within the vicinity of a bald eagle nest. Since the state changed the bald eagle status from threatened to sensitive, the state no longer asserts regulatory authority over bald eagle management, nor does it provide current management recommendations. Nevertheless, previous WDFW management recommendations are still relevant to protecting this State-listed sensitive species. These recommendations focus on establishing management areas associated with different habitat features (e.g., nesting, roosting, perching), as summarized in in Table 3-5. Nesting recommendations are relevant to the City of Kirkland.

Exact activities and protections within each zone may vary by site, but generally should include retention of large trees and restriction of most construction (Protected Zone), and protection of alternate nest locations, perch trees, and foraging sites and avoidance of construction use activities that are not low-impact. Non-nesting protections include retaining and protecting perch trees and buffering foraging sites from disturbance.

Table 3-5. Bald eagle protection zones from Watson and Rodrick 2000

Habitat	Zone	Distance	Management Practice
Nesting tree	Protected Zone	120 m (400 feet)	Retain all existing large trees; avoid construction; during March-July, the nesting/fledgling season, limit noisy activities
	Conditioned Zone	100-240 m (330-800 feet) beyond Protected Zone	Avoid constructing noisy industrial facilities or multi-story buildings. Avoid constructing new roads or trails within sight of the nest. Limit noisy activities during nesting/fledgling season (March-July).
Communal Roost Sites	Human Disturbance Zone	100 m (400 feet)	Limit noisy activities during critical roosting period (November 15 - March 15)
Perching and Foraging	Perch Protection	75 m (246 feet) of top-of-streambank or shoreline	Protect known or potential perches greater than 20 inches diameter at breast height within 75 m (246 feet) of top-of-streambank or shoreline
	Human Disturbance and Structures	450 m (1,500 feet)	Limit human disturbance or permanent structures.

Pileated Woodpecker

Documented breeding pileated woodpecker habitat is mapped within O.O. Denny Park, Big Finn Hill Park, and St. Edwards State Park, as well as heavily forested areas adjacent to these parks. These areas include some of the few areas that include large snags in the City of Kirkland. WDFW management recommendations for pileated woodpecker specific to western Washington are aimed at forest stand features and protection strategies within home ranges rather than creation of buffers for individual nest sites. Maintaining snags and decaying live trees within home ranges for nesting and roosting, retaining snags and downed wood for foraging, using average snag-retention recommendations (rather than minimums), and creating snags in older secondary forest are general strategies (Lewis and Azerrad 2003 with January 2005 updates). In western Washington, home range size is on average 600 ha (1480 ac), west of the Cascades and about 850 ha (2100 ac) on the Olympic peninsula. Maintenance of coniferous forest of about 60 years or more in age at 70% canopy cover is recommended overall. Snag retention recommendations are given in Table 3-6.

Table 3-6. Snag retention recommendations for pileated woodpecker (from Lewis and Azerrad 2003 with January 2005 updates)

Habitat component focus	Size class (dbh)	Snags to retain (per ac)
Nesting and roosting	≥76 cm (≥30 in)	≥0.2
	155-310 cm (61-122 in)	≥7
Foraging	25-50 cm (10-20 in)	≥7
	50-76 cm (20-30 in)	≥3
	≥76 cm (≥30 in)	≥2

Great Blue Heron

In Kirkland, two great blue heron breeding colonies are mapped in the Yarrow Bay wetlands. WDFW recommends protection mechanisms for Heron Management Areas, which consist of the nesting colony, year-round and seasonal buffers, foraging habitat, and congregation areas where they exist (Azerrad 2012). Specifically, clearing vegetation, grading, and construction should never occur in the core zone (breeding area and year-round management zone), and other potential disturbances, including recreation and vegetation management, should be minimized or restricted to the period outside of the breeding season. Foraging habitat should be protected with riparian buffers, and activities such as vegetation removal, logging, perch tree disturbance, wetland filling, and construction should be minimized. Heron colonies closer to human activity may tolerate more disturbance than colonies in more undisturbed areas; therefore, appropriate buffers may be smaller in more developed areas. Year-round and seasonal management recommendations are provided in Table 3-.

Table 3-7. Great blue heron recommended management zones from Azerrad 2012

Adjacent land use	Distance from Nesting Colony	Management Practice
Undeveloped (0-2% developed area)	300 m (984 feet)	Avoid clearing vegetation, grading, and construction year-round

Adjacent land use	Distance from Nesting Colony	Management Practice
Suburban/rural (3-49% developed area)	200 m (656 feet)	
Urban (>50% developed area)	60 m (196 feet)	
All Uses	200 m (656 feet)	Avoid loud noises February-September
	400 m (1320 feet)	Avoid extreme loud noises February-September

Purple Martin

In Kirkland, nesting purple martin have been documented in gourds and cavities in abandoned pilings in Juanita Bay. The decline of the purple martin is attributed to the lack of snags containing nest cavities, as well as competition for nesting cavities with more aggressive species. Purple martins use cavities excavated by such species as pileated woodpeckers; therefore managing for pileated woodpeckers (see recommendations above) will indirectly benefit purple martins. Additional management recommendations for purple martin that apply to areas within the City of Kirkland are listed below (Hays and Milner 2003).

- Pilings with known purple martin nests in standing water and snags (especially snags near water) should be protected and left standing.
- Retain snags near wetlands.
- Snags can be created in forest openings, or at forest edges (e.g., by topping trees) where nesting cavities are lacking, especially within 10 miles of existing purple martin colonies.
- If natural sites are lacking and cannot be provided by manipulating habitat, artificial nesting structures can be provided. New colony establishment through the use of artificial nesting structures is only recommended if these structures will be maintained over time.

Trumpeter Swan

According to WDFW PHS maps, trumpeter swans and other waterfowl assemblages use Juanita Bay on Lake Washington. Trumpeter swans over-winter in Washington State, and the large emergent wetlands at the mouth of Forbes Creek likely provide an important foraging source for them. Conservation of these wetland habitats is expected to promote the continued use of the area. No other conservation measures are recommended for the species.

4 FREQUENTLY FLOODED AREAS

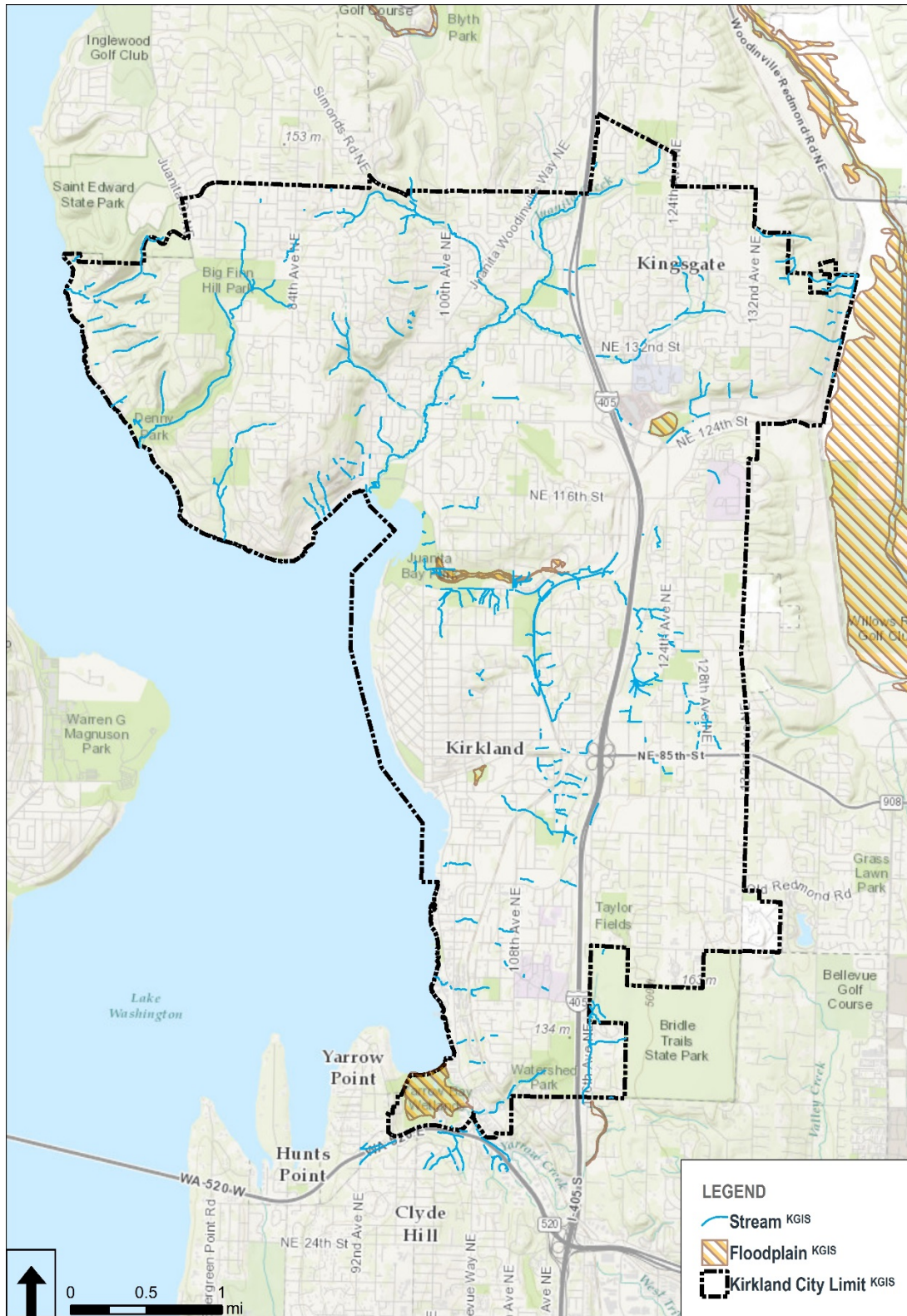
4.1 Existing Conditions

Frequently flooded areas (FFA) are regulated to manage potential risks to public safety. Such areas also provide valuable instream habitat benefits, such as low velocity habitat during flood

events. The City of Kirkland defines frequently flooded areas as areas within the 100-year floodplain.

Four floodplain areas are mapped within the City of Kirkland (Figure 4-1). Three of these floodplain areas are associated with large wetland complexes such as at Yarrow Bay, Totem Lake, and Forbes Creek near the mouth at Juanita Bay. However, the Moss Bay floodplain is located in a depression within the Peter Kirk ball fields; the adjacent stream is currently piped. Floodplain areas are predominantly, but not entirely, undeveloped and in public ownership.

Flooding within the city, with its small to mid-sized streams, is most often triggered by heavy rains, and exacerbated by runoff from impervious surfaces related to development.



Data Sources: WA Dept of Fish and Wildlife (WDFW), City of Kirkland GIS (KGIS, downloaded 11/30/2015), Esri.
Date: 12/11/2015

Figure 4-1. Mapped floodplain areas in the City of Kirkland

4.2 Best Available Science for Protection of Functions and Values

Frequently flooded areas are generally regulated to manage potential risks to public safety. Given the ecological role of floodplains in moderating flows, providing a source of organic material, and providing off-channel refuge for fish during high flows, the protection of floodplain functions is also important for maintaining ecological functions (The Watershed Company 2014).

A 2008 biological opinion related to the implementation of the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) in the Puget Sound Region summarizes the importance of floodplain functions for threatened salmonids and endangered southern resident killer whales (NMFS 2008). As a result of this biological opinion, cities and counties in the Puget Sound region are required to either amend regulations to protect floodplain functions or require habitat assessments for development in the floodway or floodplain. Through either approach, the city must ensure that development within the Special Flood Hazard Area (100-year floodplain) and riparian buffer zone, which extends 250 feet from the ordinary high water mark where a flood feature is present, does not adversely affect water quality, water quantity, flood volumes, flood velocities, spawning substrate, or floodplain refugia for listed salmonids. The biological opinion also applies to mapped floodways and channel migration zones, neither of which occur in the City of Kirkland. The City already addresses the requirement to conduct a floodplain habitat assessment through its Flood Damage Prevention regulations (KMC 21.56.055). Therefore, no additional regulations are needed to protect floodplain habitat.

Standards that continue to protect human life from flood hazards and provisions that ensure compliance with the 2008 NFIP biological opinion will help ensure that floodplain ecological functions are maintained.

5 OTHER CRITICAL AREAS

Critical Aquifer Recharge Areas and Geologically Hazardous Areas are not addressed in this report. As described in the Kirkland Comprehensive Plan, the city does not rely on local aquifers for potable water. However, aquifers in the city contribute to base stream flows and may be susceptible to groundwater contamination. Geologically hazardous areas present within City of Kirkland include, erosion hazards, landslide hazards, seismic hazards, and other geologic event hazards. Best available science and best management practices for these types of critical areas have previously been addressed by the City. Updated mapping and a review of existing regulations is being conducted through a parallel process and is thus not part of this report.

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7 ACRONYMS AND ABBREVIATIONS

ac.....	acres
BAS.....	Best Available Science
CAO	Critical Areas Ordinance
City	City of Kirkland
cm	centimeters
Corps	U.S. Army Corps of Engineers
dbh	diameter at breast height
Ecology	Washington State Department of Ecology
EPA	U.S. Environmental Protection Agency
FEMA.....	Federal Emergency Management Agency
ft.....	feet

FFA.....frequently flooded areas
FWHCA.....Fish and Wildlife Habitat Conservation Areas
GMA.....Growth Management Act
ha.....hectares
in.....inches
KZC.....Kirkland Zoning Code
LID.....Low Impact Development
LWD.....Large Woody Debris
m.....meter
NE.....Northeast
NFIP.....National Flood Insurance Program
PHS.....Priority Habitats and Species
SEPA.....State Environmental Policy Act
State.....Washington State
WAC.....Washington Administrative Code
WDFW.....Washington Department of Fish and Wildlife

PART B

Gap Analysis

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January 2016

The Watershed Company Reference Number: 151019

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1 INTRODUCTION

1.1 Overview and Purpose

With passage of the Growth Management Act (GMA), local jurisdictions throughout Washington State (State), including the City of Kirkland (City), were required to develop policies and regulations to designate and protect critical areas. Critical areas, as defined by the GMA (Revised Code of Washington [RCW 36.70A.030(5)]), include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

An ongoing requirement of the GMA is for local jurisdictions to periodically review and evaluate their adopted critical areas policies and regulations. In accordance with the GMA, the City last completed a comprehensive update of its critical areas policies with the adoption of its 2015 Comprehensive Plan, and regulations were last updated in 2002. The City's critical areas regulations are currently codified in Zoning Code Chapters 85 - Geologically Hazardous Areas and 90 - Drainage Basins.

When updating critical areas policies and regulations, jurisdictions must include the best available science (BAS). Any deviations from science-based recommendations should be identified, assessed and explained (Washington Administrative Code [WAC] 365-195-915). In addition, jurisdictions are to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. Part A of this report, entitled, *City of Kirkland Critical Areas Regulations: Review of Best Available Science and Existing Conditions*, references BAS summaries and provides an overall description of the occurrence, distribution, and characteristics of critical areas in the city.

The purpose of this document is to provide a review of the City's current critical areas regulations, noting gaps where existing regulations may not be consistent with BAS, the GMA, and/or its implementing rules. General recommendations concerning critical areas regulations organization and content are also provided. This document does not attempt to identify every instance where the existing critical areas regulations might be amended, but instead focuses on identifying the most significant potential amendments. The primary intention of this gap analysis is to help guide the update of the City's critical areas regulations. The analysis will focus on Kirkland Zoning Code (KZC) Chapter 90, Drainage Basins. KZC Chapter 85, Geologically Hazardous Areas will be reviewed as part of a separate evaluation.

This document is the second part of a two-part technical report. Part A – Review of Existing Conditions and Best Available Science – provides an overview of the science relevant to the functions and values of critical areas, as well as a brief description of existing critical areas in the city.

1.2 Document Organization

This document follows the same basic organizational structure as the City's existing critical areas regulations. Each section of the report features a critical areas review summary that identifies gaps where the existing critical areas regulations may not meet BAS, the GMA, and/or its implementing rules. Where appropriate, the section also provides a brief comparison to analogous regulations in the City's Shoreline Master Program (SMP), adopted in 2010 and codified in Chapter 83 of the Kirkland Zoning Code (KZC). This comparison is intended to help maximize consistency throughout City code. To highlight findings of the critical areas review, a summary table is provided at the beginning of each critical areas review summary section.

2 CHAPTER 90 INTRODUCTION

Chapter 90 - Drainage Basins addresses all critical areas except geologically hazardous areas. For clarity, the name of the chapter should be revised to more clearly indicate that the chapter addresses critical areas.

The first section within Chapter 90, Introduction, includes overview provisions such as purpose and applicability that introduce the reader to the chapter as a whole. Considerations for revisions and additions to these provisions are discussed below, and a summary of this review is provided in the following table.

Table 2-1. Introduction section review summary

Section	Title	Review Comment / Recommendations
90.05	User Guide	None
90.10	Purpose	None
90.15	Applicability	<ul style="list-style-type: none"> Consider removing or revising small wetlands exemption per BAS
90.20	General Exceptions	<ul style="list-style-type: none"> Consider including provisions defining exemption request and review processes Clarify definition of maintenance and repair Require retroactive mitigation for emergencies Consider developing additional provisions for allowed uses, including public access trails Consider clarifying the prohibition on increases in impervious areas Consider clarifying "expeditiously restored"
90.25	Sensitive Areas Maps and Other Resources	<ul style="list-style-type: none"> Clarify role of maps relative to critical area regulations and review
90.30	Definitions	<ul style="list-style-type: none"> Reduce redundancy and internal inconsistencies Consider reorganizing for ease of use Perform comprehensive review to ensure consistency with updated critical areas regulations

Section 90.15: Applicability

This section defines the applicability of Chapter 90. Under this section, smaller, lower-functioning wetlands are exempt from critical areas regulations. BAS indicates that even the smallest wetlands have value, and impacts to such wetlands should be mitigated to achieve no net loss of wetlands. However, if the City wishes to retain an exemption for small wetlands, Ecology recommends exempting only those isolated Category III and IV wetlands less than 1,000 square feet that are not associated with riparian areas or buffers, are not part of a wetland mosaic, and do not contain habitat identified by the Washington Department of Fish and Wildlife as essential for local populations of priority species (see Section 3 of this document for discussion of wetland categories) (Ecology 2012). Exempted wetlands would not be subject to buffer requirements or mitigation sequencing analysis, but impacts to exempted wetlands would still need to be compensated. (See discussion of wetland compensation measures under Section 3, below).

Section 90.20: General Exceptions

To better track and review exemptions, we recommend that this section be revised to define an exemption request and review process, in which the City reviews, grants or denies, and files exemptions. While exempt activities do not need to demonstrate mitigation sequencing, exemption should not be interpreted as permission to degrade a critical area or ignore risks from natural hazards. All exempt activities should use City-approved best management practices and other reasonable methods to minimize impacts to critical areas and their buffers. The City may require submittal of a critical area study if needed to assess public safety risks associated with an exempt activity.

Sections 90.20(1) and (2) are redundant with the wetland definition in 90.30. We recommend the City consider removing this section to streamline the code.

Section 90.20(4) allows utility work and roadway maintenance provided there is no increase in impervious areas. In implementation, this provision has occasionally led to the unnecessary installation of pervious sidewalks over impervious soils. To avoid this, the City should consider including a qualifier stipulating that impervious areas could be allowed where the underlying soils are shown by a qualified geotechnical engineer to be impervious (e.g. glacial till).

Section 90.20(6) exempts normal and routine maintenance or repair of structures, provided that such activities do not increase the footprint of a structure within a critical area or its buffer. We recommend that the City consider clarifying its definition of “normal and routine maintenance or repair of structures” in order to clarify that the exemption does not apply to significant or complete replacement, which should be required to undergo critical area review. These provisions should be reviewed and made consistent with KZC Chapter 162 (Nonconformances) and existing code interpretation(s).

Section 90.20(9) exempts emergency activities “necessary to prevent an immediate threat to public health, safety, or welfare.” To minimize long-term impacts to critical areas, we

recommend that this section also require that after the emergency, the person or agency undertaking the action fully fund and conduct necessary restoration and/or mitigation for any impacts to critical areas or their buffers resulting from the emergency action, in accordance with an approved critical area report and mitigation plan. Additionally, the section should require demonstration of coordination or permits from state and federal regulatory agencies.

Finally, the City should consider including a list of allowed uses within critical areas (that are not exempt from regulations), and providing specific standards for those uses. Examples include passive recreation that does not significantly impact vegetation, public pedestrian access trails, minor site investigative work, or restoration of critical areas, subject to review by the planning official.

Section 90.25: Sensitive Areas Maps and Other Resources

As stated in this section, maps are intended to be used only as guides, and do not portray the authoritative, comprehensive locations and dimensions of critical areas within the city. We recommend revising the language in this section to be more explicit that the provisions within Chapter 90, and the findings of a critical area review pursuant to Chapter 90, take precedence over the City's critical area maps.

Section 90.30: Definitions

This section should be comprehensively revisited as the City's critical areas regulations are updated to ensure consistency with the GMA, BAS, City code, and other applicable sources. The following are general recommendations for updating the definitions section:

- Reduce redundancy and internal inconsistencies. Several of the existing definitions in this chapter duplicate terms found elsewhere in City code, or conflict with definitions elsewhere in the chapter. For example, the definition section includes both "critical areas" and "sensitive areas," with overlapping definitions. Other terms, such as "minor improvements" and "frequently flooded areas," have placeholders in Chapter 5 KZC, Definitions that point readers to either the SMP or critical areas chapters of the code. We recommend using one, but not both, of each of these consistently throughout City code.
- Reorganize definitions logically. For ease of use, consider grouping definitions with overlapping subject matter. For example, the definitions for Class A, B, and C streams are separate from the definition for streams. A similar approach is taken for wetlands.

3 WETLANDS

The wetlands section of the critical areas regulations should be updated to be more consistent with BAS. Notable recommendations include: updating the manual used for wetland identification and delineation, using the state wetland rating system, updating buffer width

requirements to align with BAS, and providing more detailed mitigation regulations. Table 3-1 summarizes recommendations, which are addressed in more detail below.

Table 3-1. Wetlands regulations section review summary

Section	Title	Review Comment / Recommendations	Comparison to SMP
90.35	Wetland Determinations, Delineations, Regulations, Criteria, and Procedures	<ul style="list-style-type: none"> Update to reference federal manual and regional supplements 	<ul style="list-style-type: none"> Requires federal manual and regional supplements
90.40	Wetland Determinations	<ul style="list-style-type: none"> Update “surrounding area” boundary Reference latest version of rating system and consider “as amended” qualifier Update duration of decision to 5 years 	<ul style="list-style-type: none"> Surrounding area boundary defined as within 250 feet of the subject property in all directions Refers to 2004 wetland rating system, or as revised Wetland delineations expire after 5 years
90.45	Wetland Buffers and Setbacks	<ul style="list-style-type: none"> Update buffer width requirements Revise provisions on stormwater facilities, water quality facilities, and minor improvements in wetland buffers Consolidate provisions on permitted uses and modifications in wetland buffers 	<ul style="list-style-type: none"> Buffers based on wetland category and habitat score; widths range from 50-215 feet Stormwater, water quality, minor improvement, and permitted use standards same as Chapter 90
90.50	Wetland Buffer Fence or Barrier	<ul style="list-style-type: none"> Include additional specifications for signs and fencing Remove hedges for consideration as a barrier Move to general provisions section 	<ul style="list-style-type: none"> Same as Chapter 90
90.55	Wetland Modification	<ul style="list-style-type: none"> Require mitigation sequencing Require consistency with Ecology publication Revise mitigation requirements for increased specificity and consistency with SMP Consider use of mitigation banks and ILF programs 	<ul style="list-style-type: none"> Applicant must demonstrate mitigation sequencing Requires consistency with Ecology publication No provisions for off-site mitigation
90.60	Wetland Buffer Modification	<ul style="list-style-type: none"> Revise buffer averaging and reduction provisions Include optional impact-minimization measures for increased flexibility for applicants 	<ul style="list-style-type: none"> Buffer reduction with enhancement and buffer averaging limited to 25 percent standard buffer width No inclusion of impact-minimization measures
90.65	Wetland Restoration	<ul style="list-style-type: none"> Consolidate with wetland mitigation provisions 	<ul style="list-style-type: none"> Same as Chapter 90

Section	Title	Review Comment / Recommendations	Comparison to SMP
90.70	Wetland Access	<ul style="list-style-type: none"> • Include additional specifications for trails and other access features • Consolidate with other provisions on permitted uses and modifications in wetland buffers 	<ul style="list-style-type: none"> • City may develop access at a public park to minimize environmental impacts

Section 90.35: Wetland Determinations, Delineations, Regulations, Criteria, and Procedures

Currently, the City requires that all wetland delineations be made using "...the criteria and procedures described in WAC 173-22-035, now or hereafter amended." While this provision is still valid, we recommend that, similar to the City's shoreline critical areas regulations (KZC 83.500(2)), this section further specify the requirements under WAC 173-22-035: "All determinations and delineations of wetlands shall be made using the criteria and procedures contained in the approved federal wetland delineation manual and applicable regional supplements."

Section 90.40: Wetland Determinations

This section requires that an initial site assessment determine whether any portion of the subject property or surrounding area meets the definition of a wetland. "Surrounding area" includes the area within 100 feet of the subject property. This number should reflect the largest possible standard wetland buffer width in order to fully encompass all areas that may be subject to impacts from development. Under the shoreline critical areas in the City's SMP, the "surrounding area" includes the area within 250 feet of the subject property. For consistency with recommended buffer widths and the SMP, we recommend revising the "surrounding area" in this section to include the area within 250 feet of the subject property.

The City of Kirkland currently ranks individual wetland functions and values using the Kirkland Wetland Field Data Form (Kirkland Zoning Code, Chapter 180, Plate 26). This form was developed in the 1990s at the same time that the Washington State Department of Ecology Wetland Rating System was being drafted and it contains many similar elements. The Kirkland Wetland Field Data Form classifies wetlands as one of three types based on specific site characteristics and landscape setting. Wetlands that are contiguous with Lake Washington are highly valued (Type 1) under the City's current wetland classification system.

For wetlands in shoreline jurisdiction, the City's SMP requires use of the Washington State Wetland Rating System for Western Washington – Revised (Ecology publication No. 04-06-025, or as revised). Ecology updated this rating system in June of 2014. The current BAS-based wetland rating system is the *Washington State Wetland Rating System for Western Washington* (Hruby 2014, Ecology publication No. 14-06-029). Using reference wetlands, Ecology calibrated the updated 2014 wetland rating system to maintain roughly the same distribution of wetland categories that were present under the prior 2004 rating system.

For consistency with BAS and the SMP, we recommend that the City update its wetland classification and rating provisions to require that wetlands be classified into category I, category II, category III, and category IV according to the Washington State Wetland Rating System for Western Washington (Ecology publication No. 14-06-029, or as revised and approved by Ecology). The City could also use this section to briefly summarize the criteria for each wetland class, as defined formally in Ecology publication 14-06-029.

Finally, subsection 90.40(4) requires that a wetland determination be reviewed for any development activity proposed on the subject property within two years of the determination. Generally, approved jurisdictional determinations and wetland delineations expire after five years. Accordingly, the SMP uses five years for this requirement. We recommend that this provision be updated for consistency with Corps and Ecology policies and the SMP.

Section 90.45: Wetland Buffers and Setbacks

BAS indicates that effective wetland buffer widths vary depending on the targeted wetland functions, intensity of surrounding land use, and buffer characteristics. Buffers should be generally be larger for wetlands with higher habitat scores and for wetlands adjacent to higher-intensity land uses. The City's existing standard buffer widths in subsection 90.45(1) are based on wetland category and whether the wetland is located in a primary or secondary drainage basin (see Table 3-2 below). These buffer widths are generally smaller than those recommended by Ecology to effectively protect wetland functions and values, as evidenced in Tables 3-2 and 3-3. In addition, if the City wants to retain its simplified buffer provisions based on its category and drainage basin approach, significantly larger buffers will be required to ensure protection under diverse conditions.

Since most uses in the City of Kirkland fall under either moderate-intensity (e.g. low-density residential, paved trails, parks) or high-intensity (high-density residential, commercial) accounting for land use intensity may not be particularly useful. Instead, the City should consider a simplified approach, which bases buffer widths on wetland rating and habitat scores. Table 3-3 shows standard buffer widths recommended by Ecology. The recommendations were developed by Ecology for small cities with limited funding and/or staff to develop BAS-based buffers; however, because the recommendations incorporate consideration of land use intensity, they are applicable more broadly to both larger cities and unincorporated rural areas. These buffer widths are based on wetland rating and habitat score (on a range of 3 to 9, with 9 representing high habitat function), and assume moderate-to-high land use intensity (Ecology 2012). Ecology updated these standard buffer widths to the new rating system in June of 2015.

The buffers presented in Table 3-3 are wide enough to allow for buffer reduction through enhancement, buffer averaging, or implementation of optional impact-minimization measures (see discussion under section 90.60, Wetland Buffer Modification, below). This approach allows flexibility to accommodate site constraints or other existing conditions while still ensuring adequate protection of wetland functions and values.

Alternatively, the City could reduce all of the standard buffers in Table 3-3 by 25 percent, resulting in required buffers that range between approximately 40 to 225 feet (rather than 50 to 300) feet. Under this approach, buffers would be required to be fully functioning, meaning that any development that would increase impacts to the area adjacent to the buffer would be required to revegetate the buffer area (if degraded). This approach would not allow for the potential for any buffer reduction. This approach could also result in the need for additional planning review of buffer composition, functions, and monitoring.

Table 3-2. Standard wetland buffer widths in current City code

Wetland type	Buffer width for wetlands in primary basin (feet)	Buffer width for wetlands in secondary basin (feet)
1	100	75
2	75	50
3	50	25

Table 3-3. BAS-based standard buffer widths (Ecology 2015)

Wetland Category and Type ¹	Buffer width (in feet) based on habitat score (3-9)			
	3-4	5	6-7	8-9
I: Bogs and wetlands of high conservation value	250			300
I: All others	100	140	220	300
II	100	140	220	300
III	80	140	220	300
IV	55			

¹ Wetland categories based on the Western Washington Wetland Rating System (Ecology publication #14-06-029). Note that Ecology provides additional buffer recommendations for estuarine wetlands; these are not included in Table 3-3 due to a lack of marine shorelines in the city.

The City's shoreline critical areas regulations in the SMP (KZC 83.500(4)) adopt standard buffer widths based on habitat score for wetlands in shoreline jurisdiction (Table 3-4). These buffers are similar in width to the minimum buffer widths recommended by Ecology (Ecology 2012). Although the City's SMP references the 2004 wetland rating system, as amended (see above), the 2014 update significantly changed the way the scoring system for wetland functions; therefore, the habitat scores referenced in the SMP no longer correlate to the updated wetland rating system. Ecology has developed conversion tables for category scores between the 2004 and 2014 rating systems, which should be applied to shoreline critical areas until the City updates its SMP.

Table 3-4. Standard wetland buffer widths in the City's SMP

Wetland Category and Type ¹	Buffer width (in feet) based on habitat score		
	Less than 20	20-28	29-36
I: Bogs and wetlands of high conservation value	215		
I: All others	125	150	215
II	100	125	200
III	75	125	NA
IV	50		

1 Wetland categories based on the Western Washington Wetland Rating System (Ecology

Sections 90.45(3) and (4) also include provisions allowing stormwater outfalls and water quality facilities within wetland buffers under certain conditions. Ecology recommends limiting stormwater management facilities to dispersion outfalls and bioswales within the outer 25 percent of the buffer of Category III or IV wetlands, and then only when no other location is feasible and the facilities will not degrade wetland functions and values (Ecology 2012). We recommend that the City revise its regulations related to stormwater and water quality facilities in wetlands and wetland buffers to be consistent with this Ecology guidance.

Section 90.45(5) includes provisions allowing minor improvements within wetland buffers under certain conditions. This section should be revised to add guidance for types of minor improvements that may be permitted.

Finally, we recommend that the three sections described above be consolidated with those provisions in Section 90.60, Wetland Buffer Modification, in order to increase clarity regarding uses and modifications permitted in wetland buffers.

Section 90.50: Wetland Buffer Fence or Barrier

This section requires installation of both a temporary construction fence and, upon project completion, a permanent fence around the wetland and its buffer. To better align with BAS, this section should provide additional standards for permanent signs and fencing. Signs should be posted that identify the wetland area, and fencing should be designed so as to not interfere with species migration and to minimize impacts to the wetland. We recommend that these provisions be moved into a section containing general provisions which apply to all critical areas. Furthermore, the allowance of an “equivalent barrier” in lieu of a fence has proven problematic, especially when hedges are proposed. If the City wishes to retain this allowance, it should develop specific standards for hedge type, spacing, and maintenance over time in order to ensure equal protection.

Section 90.55: Wetland Modification

This section includes provisions that limit modifications to wetlands. These provisions allow up to a certain percentage of the wetland to be modified, depending on the wetland type and drainage basin. For all modifications, compensatory mitigation must be provided in order to achieve the goal of no net loss of wetland function, value, and acreage (KZC 90.55(4)). To better align with BAS, the City should consider requiring mitigation sequencing for all projects rather than establishing set limits on the percentage of wetland area that can be modified. Mitigation sequencing directs an applicant to take the following actions when designing a project, listed in order of preference: avoid the impact; minimize the impact; rectify the impact through repair, rehabilitation, or restoration; reduce or eliminate the impact over time; and compensate for the impact through replacement or substitution. Compensation is inherently more risky than avoidance or minimization because replicating or restoring self-sustaining physical, chemical, and biological wetland characteristics is a complex, uncertain undertaking that can require

years to achieve desired results. For this reason, applicants should complete a mitigation sequencing analysis, and compensation should be the last resort. The City's SMP includes provisions that require mitigation sequencing for land surface modification or development permits within critical areas (KZC 83.490(2)(a)).

Section 90.55(4) also includes mitigation ratios for compensatory wetland mitigation. These provisions generally align with state guidance, but should include more specificity. In particular, the wetland mitigation ratios in the City's current regulations are similar to those recommended by Ecology guidance based on BAS, but only for wetland creation or reestablishment. Table 3-5 shows wetland mitigation ratios required in the City's SMP. These ratios are generally consistent with current Ecology guidance and present more flexibility for wetland mitigation than the ratios in Chapter 90 (KZC 83.500(8)).

Table 3-5. Compensatory wetland mitigation ratios from City of Kirkland SMP

Category and Type of Wetland Impacts	Re-establishment or Creation	Re-habilitation Only	Re-establishment or Creation (R/C) and Rehabilitation (RH)	Re-establishment or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I Bog or Natural Heritage Site	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case by case
Category I – based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1

For greater flexibility, the City may wish to consider allowing a credit-debit analysis to be applied to individual projects. The Credit-Debit method is a tool “for estimating whether a plan for compensatory mitigation will adequately replace the functions and values lost when a wetland is altered. The tool is designed to provide guidance for both regulators and applicants during two stages of the mitigation process: 1) estimating the functions and values lost when a wetland is altered, and 2) estimating the gain in functions and values that result for the mitigation” (Hruby 2012). Ecology issued the tool in 2012 before the current 2014 wetland rating system was completed. As a result, use of the credit-debit method effectively requires two separate wetland ratings: one for buffer determination, with the 2014 rating system; and one for

credit-debit calculation, with the credit-debit method rating system. While the option to use the credit-debit method is based on a wetland functions analysis and provides more flexibility for applicants, the method is inherently more complex than use of mitigation ratios.

At present, the credit-debit method is used primarily for calculating credits for mitigation banks and in-lieu fee programs, such as the King County Mitigation Reserves Program. The City should consider allowing the use of the credit-debit method to enable use of mitigation banks and in lieu fee programs. Mitigation banks and in-lieu fee programs provide flexibility for compensatory mitigation. The potential advantages and disadvantages to allowing for the use of mitigation bank and in-lieu fee credits are discussed in Part A of this report. Certified wetland mitigation banks and in-lieu fee programs available for use by City residents are also discussed in Part A. Under current Chapter 90, wetland mitigation must be within the same drainage basin as wetland impacts. To make use of mitigation banking and in-lieu fee programs, the City would likely need to relax this restriction.

Off-site mitigation, including the use of mitigation banks or in-lieu fee programs, in general should be considered as an option where on-site mitigation is demonstrated to be infeasible or less likely to provide equal or improved wetland functions. Allowing for off-site mitigation may be particularly useful in the case of reasonable use exceptions, where on-site mitigation is often not feasible.

Finally, Ecology recommends that compensatory mitigation plans for wetland mitigation be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1* (Ecology Publication No. 06-06-011b, or as revised).

Section 90.60: Wetland Buffer Modification

This section includes provisions for buffer reduction, which is allowed either through averaging or through reduction with enhancement. These provisions allow buffer reduction (either through averaging or enhancement) of up to 33 percent at any given point of the buffer. In order to ensure adequate buffer functions, Ecology recommends limiting buffer reduction to 25 percent of standard buffer widths.

As noted above, the standard buffer widths presented in Table 3-3, above, were developed based on BAS for use in small cities, where land use intensity, and associated wetland impacts, are generally moderate to high. As noted above, the recommendations were developed to reduce the planning burden on small cities, but because they incorporate consideration of land use intensity, their applicability extends to large cities, as well as unincorporated rural areas. These buffer widths allow for buffer reduction of up to 25 percent with enhancement. Additionally, required buffer widths may be reduced for those projects that can mitigate the impacts and disturbances associated with surrounding land use. Table 3-6 lists impact-minimization measures that, when implemented where applicable, may allow an applicant to reduce the standard buffer widths in Table 3-3 by up to 25 percent (Ecology 2012). This approach provides flexibility for applicants while resulting in higher-functioning buffers that

are sensitive to existing wetland function. We recommend that the City update its buffer provisions to adopt the new BAS-based buffer widths in Table 3-3 together with the optional impact-minimization measures in Table 3-6.

Table 3-6. Incentive measures to reduce buffer widths and minimize impacts to wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate outdoor activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing development adjacent to the site • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (per PSAT publication on LID techniques)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> • Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

Finally, the City could provide additional flexibility for applicants by allowing buffer reduction for buffers interrupted and hydrologically disconnected by transportation corridors such as roadways or the Cross Kirkland Corridor. The City's SMP provides appropriate consideration of these circumstances.

Section 90.65: Wetland Restoration

To clarify when and how this section is implemented, we recommend that the City consolidate or merge this section with wetland mitigation provisions (Section 90.55).

Section 90.70: Wetland Access

This section of Chapter 90 allows for the City to develop access through a wetland and its buffer in conjunction with a public park. Ecology guidance does allow for walkways, trails, and wildlife viewing structures within wetland buffers. However, these uses should be limited in size (Ecology recommends no wider than five feet), located within the outer 25 percent of the wetland buffer area, and constructed of pervious materials. These specifications are more

detailed than what is provided in the City’s critical areas regulations and SMP. The City should consider incorporating these more detailed provisions to regulate access through wetland buffers. The City may provide additional allowances for trails through wetlands and wetland buffers when necessary for pedestrian access to small lakes or stream crossings, provided that such uses minimize wetland and wetland buffer impacts. We also recommend consolidating wetland access provisions from this section with other wetland buffer modification provisions (Section 90.60).

4 MINOR LAKES

This section states that “the majority, if not the entirety, of the perimeters of Totem Lake and Forbes Lake meet the definition of wetlands.” Accordingly, the shallow portions of these lakes are subject to the wetlands regulations of Sections 90.35 through 90.70.

Section 90.75 defines additional regulations regarding modifications to the deep water portions of the lake, including maintenance, moorage structures, and bulkheads. The City should consider whether new moorage structures and piers on these small lakes should continue to be permitted. Deep water areas would be regulated together with streams and other non-shoreline watercourses pursuant to WAC 365-190-130, and the City should consider including this section in a new Fish and Wildlife Habitat Conservation Areas section (see Section 5 of this document, below).

5 STREAMS (INCLUDING FISH AND WILDLIFE)

Stream regulations should be updated to improve protection and align with current BAS. Considerations for updates to stream designation, classification, and protection standards in current City code are discussed below, and a summary of this review is provided in the following table. Table 5-1 provides an overview of issues, which are discussed in greater detail below.

Table 5-1. Streams regulations section review summary

Section	Title	Review Comment / Recommendations	Comparison to SMP
All	Streams	<ul style="list-style-type: none"> Consider moving to new “Fish and Wildlife Habitat Conservation Areas” section Add provisions for endangered, threatened, and sensitive species Consider whether to designate locally important species or habitats 	<ul style="list-style-type: none"> Same as Chapter 90

Section	Title	Review Comment / Recommendations	Comparison to SMP
90.80	Activities in or Near Streams	<ul style="list-style-type: none"> Consider removing 	<ul style="list-style-type: none"> Same as Chapter 90
90.85	Stream Determinations	None	<ul style="list-style-type: none"> Same as Chapter 90
90.90	Stream Buffers and Setbacks	<ul style="list-style-type: none"> Update stream classification to use Permanent Water Typing System (WAC 222-16-030) Update buffer width requirements Revise provisions on stormwater facilities for clarity Include provisions for access to waterbody Consolidate provisions on permitted uses and modifications in stream buffers 	<ul style="list-style-type: none"> Permanent Water Typing System used for shoreline areas in RSA and RMA zones and O.O. Denny Park Separate buffer widths for the above areas; general stream buffers same as Chapter 90 Stormwater provisions same as Chapter 90
90.95	Stream Buffer Fence or Barrier	<ul style="list-style-type: none"> Include additional specifications for signs and fencing Move to general provisions section Remove hedges for consideration as a barrier 	<ul style="list-style-type: none"> Same as Chapter 90
90.100	Stream Buffer Modification	<ul style="list-style-type: none"> Limit buffer reduction with enhancement to 25% of standard buffer width Require minimum buffer width of 25 feet at any point 	<ul style="list-style-type: none"> Same as Chapter 90 Same as Chapter 90
90.105	Stream Relocation or Modification	<ul style="list-style-type: none"> Consider additional flexibility for stream restoration and daylighting Consider additional mitigation requirements for streams 	<ul style="list-style-type: none"> Same as Chapter 90
90.110	Bulkheads in Streams	<ul style="list-style-type: none"> Add requirements for HPA and use of design guidelines Consolidate with other stream modification provisions 	<ul style="list-style-type: none"> Requires HPA and 2003 WDFW design guidelines
90.115	Culverts in Streams	<ul style="list-style-type: none"> Revise provisions to consider bridges and 	<ul style="list-style-type: none"> Culvert proposals allowed only if bridge is infeasible More general title: "Stream Crossings"; requires HPA and use of 2003 WDFW design guidelines

Section	Title	Review Comment / Recommendations	Comparison to SMP
		bottomless culverts before pipe-style culverts <ul style="list-style-type: none"> • Add requirements for use of design guidelines • Include provisions for access to culvert/bridge through buffer • Consolidate with other stream modification provisions 	
90.120	Stream Rehabilitation	<ul style="list-style-type: none"> • Clarify intent • Encourage stream daylighting 	<ul style="list-style-type: none"> • Same as Chapter 90

Streams (Sections 90.80 – 90.120)

Under the GMA, jurisdictions are directed to include provisions that address land use issues that directly and indirectly impact fish and wildlife habitat. The designation of such areas should include areas with which endangered, threatened, sensitive, and locally important species have a primary association; certain aquatic habitats; waters of the state; state natural area preserves and natural resource conservation areas; and areas critical for habitat connectivity (WAC 365-190-130).

Current City code includes provisions that protect minor lakes and streams. To better align with state guidance, the City should consider consolidating its provisions for minor lakes and streams into a new Fish and Wildlife Habitat Conservation Area section, and expanding that section to address other habitats important to endangered, threatened, and sensitive species. Alternatively, the City could maintain separate sections for streams (together with minor lakes) and terrestrial species and habitats.

Presently, bald eagle and pileated woodpecker are the only non-salmonid species listed as sensitive. Because species distributions and state and federal designations can change, in addition to or in place of listing these species in the code, the City should consider stating that any state or federal endangered, threatened, or sensitive species shall be managed per state or federal recommendations. The Washington Department of Fish and Wildlife develops management recommendations for the state's priority habitats and species. Standards from these management recommendations can be incorporated into local regulations or referenced. Because the State of Washington no longer provides management recommendations for State-sensitive bald eagles, management provisions for bald eagles should be explicitly included in local regulations. A detailed discussion of species and habitats relevant to the City of Kirkland is provided in Part A of this report.

Whereas the City is required to adopt regulations to protect State or federally listed endangered, threatened, and sensitive species, it has the option to identify habitats and species of local importance. Rather than designate new species or habitats of local importance during

the critical areas regulatory update, several other jurisdictions have opted to establish nomination criteria in their critical areas provisions to facilitate potential future designation of these species and habitats.

Section 90.80 Activities in or near Streams

The provision in this section, which prohibits land surface modification and tree removal in streams and stream buffers, is identical to the first provision of Section 90.90, Stream Buffers and Setbacks. We recommend removing this section in order to eliminate redundancy and avoid confusion.

Section 90.90: Stream Buffers and Setbacks

The stream classification system and associated buffer widths that apply to most of the city under current City code are presented in Table 5-2 below. Class A streams are used by salmonids and generally correlate with Type F streams as defined in WAC 222-16-030. Class B and C streams are not used by salmonids and generally correlate with Type Np and Type Ns streams, respectively, as defined in WAC 222-16-030.

Table 5-2. Stream class and buffer widths under current City code

Stream Class	Buffer width for streams in primary basin (feet)	Buffer width for streams in secondary basin (feet)
A	75	N/A
B	60	50
C	35	25

For streams in shoreline jurisdiction within the single-family residential (RSA) and multi-family residential (RMA) zones and O.O. Denny Park, the SMP defines a different stream classification system (KZC 83.510), which is derived from the Department of Natural Resource (DNR) Permanent Water Typing System (WAC 222-16-030). To standardize stream classifications across the state, DNR recommends adopting the Permanent Water Typing System, which is more descriptive and inclusive than the stream classification defined in current Chapter 90. The primary difference between the current and recommended stream classification systems is that the recommended system considers all fish use, not just salmonids. Table 5-3 below describes the Permanent Water Typing System.

Table 5-3. Permanent Water Typing System (WAC 222-16-030)

Permanent Water Typing	Brief Description	Full Description
Type S	Shoreline of the State	All waters, within their bankfull width ¹ as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.
Type F	Fish bearing stream (may be perennial or seasonal)	Segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are

Permanent Water Typing	Brief Description	Full Description
		<p>described by one of the following four categories:</p> <p>(a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;</p> <p>(b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:</p> <p>(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and</p> <p>(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;</p> <p>(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;</p> <p>(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:</p> <p>(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and</p> <p>(ii) The off-channel water must be accessible to fish.</p>
Type Np	Non-fish bearing perennial stream	All segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
Type Ns	Non-fish bearing seasonal stream	All segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

¹ "Bankfull width" corresponds with the start of the floodplain receiving floodwaters in most years and characterized by two or more of the following: a change in the topography from a bank to a flat valley or bench, a change in vegetation from bare surface to water tolerant or upland species, and a change in sediment texture from gravel to fine sand (Pleus and Schuett-Hanes 1998).

Under current City code, stream buffer widths vary depending on whether the stream is located in a primary or secondary basin. As discussed in Part A of this report, a wide range of stream buffer widths are recommended depending on the target functions and buffer condition. Soils, slope, buffer continuity and vegetative quality are important factors in determining buffer effectiveness. Standard stream buffer requirements under current City code are generally lower than the range of buffer widths supported by BAS. Stream buffer widths in the SMP that are applicable to the RSA and RMA zones and O.O. Denny Park are within the range supported by BAS.

Table 5-4 below provides a summary of buffer width ranges supported by BAS and similar to other local jurisdictions in the Puget Sound area. In deciding on standard buffer widths, the City should consider the degree to which flexibility is important for City applicants. In general, wider standard buffers will provide for more opportunity for flexibility through buffer reduction and averaging. The City may also choose to consider whether certain riparian buffer functions are more important to protect for the city's streams. Table 3-3 of Part A of this report lists the range of effective buffer widths for different riparian functions.

Table 5-4. Appropriate buffer ranges by stream type per BAS

Stream Type	Sample Buffer Ranges
S	115 - 165 feet
F	100 - 165 feet
Np	50 - 65 feet
Ns	50 - 65 feet

Sections 90.90(3) and (4) also include provisions allowing stormwater outfalls and water quality facilities within stream buffers under certain conditions. These provisions require that stormwater be discharged at the surface through stream buffers unless such discharge would clearly pose a threat to slope stability, water quality, or fish and wildlife. These provisions generally align with BAS, which recommends that buffers be used to intercept runoff and provide biofiltration functions where possible. We recommend that these provisions be revised to explicitly allow discharge within the buffer, as far from the stream as feasible, when necessary to allow gravity flow to a receiving water from a detention facility.

Section 90.45(5) includes provisions allowing minor improvements within stream buffers under certain conditions. This section should be revised to add guidance for types of minor improvements that may be permitted, such as trails. As for trails in wetland buffers, revisions should include standards for maximum trail size, location, and materials. The City may provide additional allowances for trails through stream buffers when necessary for pedestrian access, provided that such uses minimize stream and stream buffer impacts.

Finally, we recommend that the three sections described above be consolidated with those provisions in Section 90.100, Stream Buffer Modification, in order to increase clarity regarding uses and modifications permitted in stream buffers.

Section 90.95: Stream Buffer Fence or Barrier

This section requires installation of both a temporary construction fence and, upon project completion, a permanent fence around the stream and its buffer. To better align with BAS, this section should provide additional standards for permanent signs and fencing. Signs should be posted that identify the stream and buffer, and fencing should be designed so as to not interfere with species migration and to minimize impacts to the stream and its buffer. We recommend that these provisions be moved into a section containing general provisions which apply to all critical areas.

Also, as with wetland buffers, the allowance of an “equivalent barrier” in lieu of a fence has proven problematic, especially when hedges are proposed. If the City wishes to retain this allowance, it should develop specific standards for hedge type, spacing, and maintenance over time in order to ensure equal protection.

Section 90.100: Stream Buffer Modification

Under this section of current City code, stream buffers may be reduced through buffer averaging or through reduction with enhancement, but may not be reduced at any point by more than one-third of the standard buffer width. The acceptable percent reduction will depend on the width of standard buffers proposed, and should be further limited if the buffer is located on a steep slope. Buffer reduction with enhancement should only be applied in cases where the existing buffer is degraded and can therefore benefit from enhancement. A maximum reduction of 25 percent of the standard buffer width is commonly applied in other jurisdictions, and is applied in the City’s SMP to shoreline areas in the RSA and RMA zones and O.O. Denny Park. As described above, the City may choose to define narrower standard buffers with limited reduction options or wider standard buffers with increased buffer reduction allowances; however, to ensure a functional buffer, the buffer should never be narrower than 25 feet at any point.

Section 90.105: Stream Relocation or Modification

This section includes provisions for stream relocation or modification, which is only permitted if stream functions will be significantly improved by the relocation or modification. The section effectively addresses stream restoration, and the City should consider including additional flexibility for stream restoration projects which relocate and/or daylight a stream channel. For example, the City could reduce buffer requirements for daylighted streams, particularly when constrained by adjacent properties. The City could also allow additional flexibility for buffer averaging or reduction to facilitate meandering of restored stream channels within existing vegetated corridors.

Although this section states that only those modifications which improve stream functions are permitted, other code sections provide allowances for bulkheads, culverts, trails, outfalls, water quality facilities, and other minor improvements in streams and stream buffers. In order to protect stream functions while still allowing these improvements, we recommend adding

mitigation requirements for stream and stream buffer modification projects, including specifications for mitigation sequencing and mitigation plans specific to streams.

Section 90.110: Bulkheads in Streams

The City's regulations in this section prohibit armoring in streams unless they are proven necessary to prevent against erosion. These provisions prohibit armoring when it results in adverse stream impacts. We recommend that bulkhead projects follow mitigation sequencing requirements to avoid, minimize, and compensate for adverse impacts. This will add flexibility in cases where bulkheads are necessary, while providing a framework for addressing unavoidable impacts.

We also recommend referring to the need for new streambank stabilization projects to obtain a Hydraulic Project Approval (HPA) and Section 404 permit, and for such projects to be designed consistent with the Washington Department of Fish and Wildlife's design guidelines for streambank stabilization. This approach is consistent with the City's SMP.

Section 90.115: Culverts in Streams

The City's regulations in this section prohibit culverts in streams unless they are proven necessary to provide required access. As for streambank stabilization projects, we recommend that culvert projects follow mitigation sequencing requirements to avoid, minimize, and compensate for adverse impacts in such cases when culverts are necessary.

As for streambank stabilization projects, we recommend referring to the need for new culvert projects to obtain a Hydraulic Project Approval, and for such projects to be designed consistent with the Washington Department of Fish and Wildlife's design guidelines for fish passage projects. The City should also consider requiring consideration of the use of a bridge or bottomless culvert as a preferred option over a traditional pipe-style culvert.

Section 90.120: Stream Rehabilitation

To clarify when and how this section is implemented, we recommend that the City add language to this section that explains its intent. For example, provisions could be added to explain under what circumstances stream rehabilitation would be required by the City. The City should also consider encouraging or requiring daylighting of streams where feasible, and where water quality and habitat conditions would be improved.

6 GENERAL

This section includes provisions that apply generally to all critical areas in the city. These regulations should be updated to improve protection and align with current BAS. Considerations for revisions and additions to general provisions in current City code are discussed below, and a summary of this review is provided in the following table.

Table 6-1. General section review summary

Section	Title	Review Comment / Recommendations
90.125	Frequently Flooded Areas	<ul style="list-style-type: none"> Define the relationship between frequently flooded areas and areas of special flood hazard Revise to incorporate protection of functions and values
90.130	Site Requirements and Sensitive Areas Protection Techniques	<ul style="list-style-type: none"> Consider adding general mitigation sequencing requirements Consider additional general protective requirements
90.135	Maximum Development Potential	<ul style="list-style-type: none"> Revise to clarify relationship to other density requirements in City code Evaluate past performance Assess impact of wider buffers
90.140	Reasonable Use Exception	<ul style="list-style-type: none"> Consider including compensation option
90.145	Bond or Performance Security	<ul style="list-style-type: none"> Consider raising the mitigation bond rate to motivate owner compliance Revise language to ensure that monitoring is covered under required bonds Consider developing bond quantity worksheet
90.150	Dedication	None
90.155	Liability	None
90.160	Appeals	<ul style="list-style-type: none"> Consider adding general administrative provisions to clarify review process
90.165	Setbacks and Buffers Required by Prior Approvals	<ul style="list-style-type: none"> Revise to better reflect intent Include provisions for nonconforming uses and structures
90.170	Planning/Public Works Official Decisions- Lapse of Approval	None

Section 90.125: Frequently Flooded Areas

This section refers to Kirkland Municipal Code (KMC) Chapter 21.56, Flood Damage Prevention, for all development in frequently flooded areas. Regulatory actions to prevent flood hazards include elevation above grade and prohibition of development in the floodway. The chapter also requires a habitat assessment for development within special flood hazard areas, consistent with the 2008 FEMA Biological Opinion (KMC 21.56.055). This flood hazard management approach is consistent with BAS findings on this topic. We recommend that the term “frequently flooded areas” be defined in this section in order to make a direct connection between such areas and the “areas of special flood hazard” identified in the City’s Flood Damage Prevention code (KMC 21.56).

Within the City’s critical areas regulations, KZC 90.10(4.) lists the major functions of frequently flooded areas, including storage and conveyance of flood waters, as well as provision of fish and wildlife habitat. The section states that the purpose of frequently flooded areas regulations is to “regulate development in the 100-year floodplain to avoid substantial risk and damage to public and private property.” Under the GMA, regulations of frequently flooded areas exist not

only to reduce flood risk, but also to protect the functions and values of floodplains. We recommend revising the existing purpose statement to reflect this dual purpose.

Section 90.130: Site Requirements and Sensitive Areas Protection Techniques

This section includes general protective actions that may be required of an applicant to limit or avoid impacts to critical areas. In addition, the section requires that applicants “locate all improvements to minimize adverse impacts to sensitive areas.” To better align with BAS, we recommend that the City consider revising these provisions to require that applicants demonstrate mitigation sequencing before permit approval is granted. As discussed in Section 4 of this gap analysis, the City’s SMP includes provisions that require mitigation sequencing for all land surface modification or development permits within critical areas (KZC 83.490(2)(a)).

In addition to mitigation sequencing provisions, the City should consider other general protective provisions, including:

- General buffer provisions. A general buffer section could be used to define the purpose of critical area buffers as well as vegetation management provisions and allowed/prohibited use provisions that would apply to all critical area buffers.
- General setback provisions. Current Chapter 90 requires a 10-foot setback from wetlands and stream buffers. These requirements could be consolidated into a section containing general setback provisions, which could be expanded to include clear provisions on permitted uses and modifications in setbacks. In general, setbacks should serve to allow access for maintenance and repair without disturbing buffer areas. Appropriate uses could include landscaping, bay windows, and impervious ground surfaces such as driveways and patios, provided that such improvements are subject to the City’s water quality regulations for stormwater management.
- Critical areas report. We recommend including regulations that clearly describe the purpose and required contents of a critical area report. Report requirements are found in various locations throughout the existing critical areas regulations. As such, their contents and applicability are not clearly conveyed. The Department of Commerce suggests that critical area report provisions require that the reports be prepared by a qualified professional; incorporate best available science; and include key information such as site plans, analysis of site development alternatives, and demonstration of mitigation sequencing.

Section 90.135: Maximum Development Potential

This section is used to calculate the base density allowed for properties that contain a wetland, stream, or minor lake, or their buffers. We recommend that the language in this section be revised to clarify its purpose as well as its relationship with Chapter 22.28 KMC, Design Requirements, and the density and dimensional requirements found in Chapter 15.30 KZC. The City should also consider evaluating whether the formula defined in this section has produced

desired outcomes in implementation since its adoption, and revise accordingly. Finally, the City should assess the impact of the potentially expanded stream and wetland buffers on existing density and dimensional requirements, and if necessary should consider adjusting the maximum development potential formula so that there is not a reduction in permitted density as a result of the wider buffer standards.

Section 90.140: Reasonable Use Exception

This section provides the City with a mechanism to approve limited uses within critical areas and critical area buffers when application of the City's critical areas regulations would deny all reasonable economic use of a property. The City should consider adding provisions to explicitly allow for the use of off-site compensatory mitigation to offset impacts associated with development authorized by Reasonable Use Exceptions.

Section 90.145: Bond or Performance Security

Under current City code, a performance bond is required to ensure compliance with applicable critical areas regulations. The amount of the bond, set at 125 percent of the estimated completion cost, is a standard amount recommended in state guidance. However, the City should evaluate overall compliance with critical areas regulations and determine whether an increased rate is justified to further motivate compliance. In addition, the City should consider amending the language in this section to include monitoring as a required component when estimating bond quantities, if monitoring will not be handled through payment to the City. The City could also allow for reduced bond amounts for bonds that include both maintenance and monitoring. Finally, the City should consider developing a bond quantity worksheet specific to City conditions. This would give the City more clarity and control over its approach to bonding.

Section 90.160: Appeals

Both Chapter 85 and Chapter 90 of the City's existing code contain sections on appeals, bonds, dedication, and liability. The City should consider how the code can be made clearer regarding process and decision authority for the various critical area administrative and discretionary approvals.

Section 90.165: Setbacks and Buffers Required by Prior Approvals

The City should consider revising this section to provide clarity of intent, and to provide further guidance for nonconforming uses and structures. In general, nonconforming uses and structures can be allowed to expand, provided their expansion does not increase the degree of nonconformity. For example, structures within a critical area buffer could be allowed to expand in the direction away from the buffer. The City could also allow such structures to expand laterally, or could set a threshold for lateral expansion. Nonconforming structures destroyed by fire or other casualty could be replaced pursuant to the nonconformance provisions in Chapter 162 of the KZC. Whether or not the City develops nonconformance provisions specific to critical areas, this section of Chapter 90 should include a reference to Chapter 162 of the KZC.

7 TREE MANAGEMENT AND REQUIRED LANDSCAPING (CHAPTER 95)

Chapter 95 of City code contains standards for tree management and required landscaping. The City's critical areas regulations refer to subsections of Chapter 95 where they apply in critical areas and critical area buffers. The subsections themselves align with BAS. To enhance usability, we recommend that the City move these subsections (those that apply in critical areas and critical area buffers only) into Chapter 90. The City should consider making them a part of a new section that contains general vegetation management provisions and that applies to all critical areas and critical area buffers. Additional vegetation management provisions could include specific tree replacement ratios and standards, and allowances for minor, nondestructive pruning. This approach would be consistent with the City's SMP, which includes similar provisions for tree and vegetation retention and replacement in shoreline jurisdiction (KZC 83.400).

8 CRITICAL AQUIFER RECHARGE AREAS

An aquifer recharge area is an area where water from rainfall, snowmelt, lakes, rivers, streams, or wetlands flows into the ground to an aquifer. Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

To protect CARAs, recommended BAS-based protection measures include identifying and categorizing CARAs, identifying potential sources of contamination, assessing vulnerability of water resources, imposing protections, and managing CARA withdrawals. The current City of Kirkland regulations include "areas with a critical recharging effect on aquifers used for potable water" in the definition of critical areas (KZC 90.30(7)). However, due to a lack of these areas within the city, the code does not include critical area provisions specific to aquifer recharge areas, and inclusion is not warranted.

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10 ACRONYMS AND ABBREVIATIONS

BAS.....	Best Available Science
CAO	Critical Areas Ordinance
CARA.....	Critical aquifer recharge areas
City	City of Kirkland
DNR	Department of Natural Resource
Ecology	Washington State Department of Ecology
E.....	Enhancement
FEMA.....	Federal Emergency Management Agency
GMA.....	Growth Management Act
HPA.....	Hydraulic Project Approval
KZC.....	Kirkland Zoning Code
LID.....	Low Impact Development
PSAT	Puget Sound Action Team
R/C.....	Re-creation
RCW	Revised Code of Washington
RH	Rehabilitation
RMA.....	Multi-Family Residential
RSA.....	Single Family Residential
SMP	Shoreline Master Program
State.....	Washington State
WAC.....	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife

TECHNICAL MEMORANDUM



Date: December 31, 2015

To: Teresa Swan, City of Kirkland

From: Sarah Sandstrom, Fisheries Biologist, Rose Whitson, Ecologist, and Nell Lund, Ecologist

Project Number: 151019

Project Name: Kirkland CAO Update

Subject: Mitigation, Monitoring, and Maintenance Alternatives Assessment

The purpose of this memorandum is to review past wetland and stream buffer mitigation site performance in the City of Kirkland (City). The memorandum reviews monitoring reports of 20 mitigation sites within the City where mitigation installation occurred between 2002 and 2010. The review identifies the success of mitigation over the monitoring period, as well as variables that affected site performance. Based on this review, the memorandum presents recommendations for the City to maximize mitigation success. The final section discusses in-lieu fee options and application in the City of Kirkland.

Mitigation and Monitoring Review

Twenty wetland and stream buffer mitigation sites initiated between 2002 and 2010 were reviewed to evaluate mitigation success and identify areas of potential improvement. Success is defined as completion of established performance standards within the established time frame. Typical monitoring periods for buffer mitigation are established for final sign-off and review five years following mitigation; however, interim performance standards are typically established. The three main types of performance standards used to define success include survival, native cover, and invasive cover. Some sites also included other performance standards related to species diversity, density, and hydrology monitoring. Performance standards vary by project depending on site conditions and mitigation goals but are generally centered around the vegetation standards of survival/native diversity, percent native cover and percent invasive weed cover. Since direct wetland impacts are increasingly rare, few projects actually create new wetland and have subsequent performance standards for wetland area, hydrology and soils. Table 1 below summarizes our review of mitigation site success relative to the standard five year monitoring schedule. Tables 2 and 3 give more detailed summaries of project history and annual performance at each mitigation site.

Table 1. Review of Mitigation Site Success Rates.

Percentage of sampled projects:	
Released on-schedule in Year 5	55%
Released after one additional year	10%
Released after two additional years	10%
Outcome unknown	15%
Monitoring in-progress	10%

More than half the mitigation projects reviewed met final performance standards on-schedule in Year 5. Eleven sites were successfully released by the end of Year 5. Of those eleven, one site required an additional season of weed maintenance, but no formal monitoring. Four sites met final performance standards after extending the monitoring period by one or two additional growing seasons. Monitoring at two additional sites has been extended into Year 6, which will occur in 2016; those sites are the Pars short plat and Cedar Crest Academy. The remaining three sites were either not monitored, or monitoring ended with the site failing to meet performance standards. Tables 2 and 3 below provide detailed summaries of each project.

Three main trends can be noted in the sites that were released on time. First, all of the sites that received regular maintenance met performance standards on-schedule in Year 5. Maintenance was documented as occurring in Year 5 for all of the sites, as well as at least two additional monitoring years for most of these sites. Second, sites commonly did not to meet established performance standards for Years 1 and 2, but then recovered in time for Years 3 – 5 (See Table 2). In some cases, such as sites where deer browse and noxious weeds were a major issue, the sites still successfully met Year 5 performance standards as a result of an intensive maintenance program. Third, annual monitoring was completed in every monitoring year at eight of the sites.

By contrast, the sites that did not meet final performance standards were either not monitored for at least two of the five monitoring years or monitoring documented a steady lack of maintenance and decline of site performance. In one case, annual monitoring occurred all five years, with each year noting increased noxious weed cover, decreased native plant cover, and a lack of maintenance.

Mitigation success may also be related to evolving mitigation plan review and monitoring standards. Nine of the ten sites meeting standards within five years had plans approved in 2006 or later; whereas, the mitigation plans for three of the five sites not meeting standards were approved before 2006. Several projects with plans approved in the early 2000s also allude to insufficient plantings in the original mitigation plans. This suggests that a critical review of mitigation plans with an emphasis on planting densities is an important factor affecting the success rate of mitigation sites.

Another consideration in evaluating the success of mitigation sites involves consistency in the development and application of performance standards. Some sites were released on time

despite not strictly meeting performance standards based on best professional judgement of the monitoring staff. In those cases, installed mitigation plants were well established, and determined to meet mitigation project goals. In some cases the performance standards were unusually high, such as 90% native woody cover by Year 5; or the Year 5 result was determined to be within the margin of sampling error. Kirkland GMP Homes, for example, was released on time despite not meeting the Year 5 performance standard for 90% native woody cover; the 90% standard is higher than typical for a monitoring site (80% is typical), and 82% native woody cover was achieved at the site by Year 5. To maintain a clear record and consistent annual monitoring protocols, any data collection modifications should be documented and justified, especially as it relates to project performance standards. While best professional judgement is sometimes necessary, it is preferable to establish clear, measurable, and attainable performance standards during the mitigation plan review, prior to commencing the monitoring period.

Generally, once sites are released, the City has little regulatory bearing to require continued maintenance. Follow-up on one site that experienced high invasive species coverage during mitigation establishment indicated that three years after sign-off, invasive species had grown in where maintenance had not continued, but native plants continued to succeed where maintenance had occurred. Because the City generally cannot require maintenance once a site is released, strict interpretation of performance standards for meeting release is encouraged.

Management Implications

Early maintenance appears to be key in the success rate of mitigation sites. Additionally, although successful plant establishment in Years 1 and 2 facilitates later plant growth and achievement of performance standards, past monitoring trends indicate that site recovery is still possible with dedicated maintenance even if the site is neglected during the first two years of monitoring.

Based on the recognition of the significance of maintenance, the City may want to consider options to incentivize or ensure that maintenance is completed. The following options could help incentivize maintenance:

- The City could require a separate bond for maintenance and replanting. Although the monitoring period typically covers five growing seasons, it is recommended that the bond cover six growing seasons to account for those sites that may take longer to establish and meet performance standards.
- The bond amount could be reimbursed at scheduled intervals through the submittal of approved maintenance invoices or demonstrated achievement of interim performance standards.
- The City could require proof of a contract for maintenance for the entire monitoring period.
- The City could contract with a landscaping company for all maintenance activities, with costs paid by the applicant.

- Bond amounts could be increased for years 1 and 2 with the incentive of bond returns for sites meeting specific goals in that timeframe.

Off-site Mitigation Options

The above mitigation evaluation considers the success of on-site mitigation. Off-site, third party mitigation options, including mitigation banks and in-lieu fee programs, are increasingly being developed in King County. Approved mitigation banks and in-lieu fee programs go through a rigorous certification process. The certification process includes financial assurance requirements and oversight from Ecology and the Corps of Engineers. A phased release of bond funds as mitigation bank performance standards are achieved are designed to support mitigation success.

Presently, there are no certified mitigation banks that include the City of Kirkland within the service area. However, the Keller Farm Mitigation Bank in Redmond is presently under review, and may provide available credits to the City of Kirkland in the future. King County operates the Mitigation Reserves Program (MRP), an in-lieu fee mitigation program certified in 2008. The MRP service area includes all of King County and can include watersheds draining to King County. The City of Kirkland is within the MRP service area.

If allowed by local code, applicants within King County can use the MRP to buy credits for off-site mitigation. By purchasing credits, the applicant satisfies compensatory mitigation requirements and has no further involvement in the mitigation implementation. The MRP pools funds from the sale of credits in a given service area to develop mitigation sites from a predefined Roster (see Roster Sites in the Cedar-Lake Washington Service Area in Figure 1). The MRP plans, implements, monitors and maintains projects at chosen sites. At multiple points in the process, an Interagency Review Team will review and approve project proposals.

Mitigation credit fees through the MRP are formulated to reflect full-cost accounting for establishment and management of mitigation sites, including costs associated with site selection, permitting and design, construction, monitoring and maintenance, long-term management, program administration, contingencies, and property rights acquisition (King County DNRP 2011). This methodology tends to result in high per-credit mitigation fees when compared to on-site mitigation.

Use of the MRP in the City of Kirkland would contribute to the implementation of mitigation actions to areas along the Cedar River. These mitigation projects would be expected to have meaningful watershed significance, particularly with regard to the regional priority of restoring habitat for threatened salmonids. On the other hand, extensive use of the MRP within the City of Kirkland could result in fewer wetlands and associated wetland functions within the City.

The City of Kirkland should consider whether the use of third party mitigation, such as in-lieu fee programs and mitigation banks, are consistent with its objectives. At the very least, use of the MRP and/or mitigation banking should be allowed and encouraged where mitigation on or adjacent to the development site is impractical or won't result in meaningful ecological benefit.

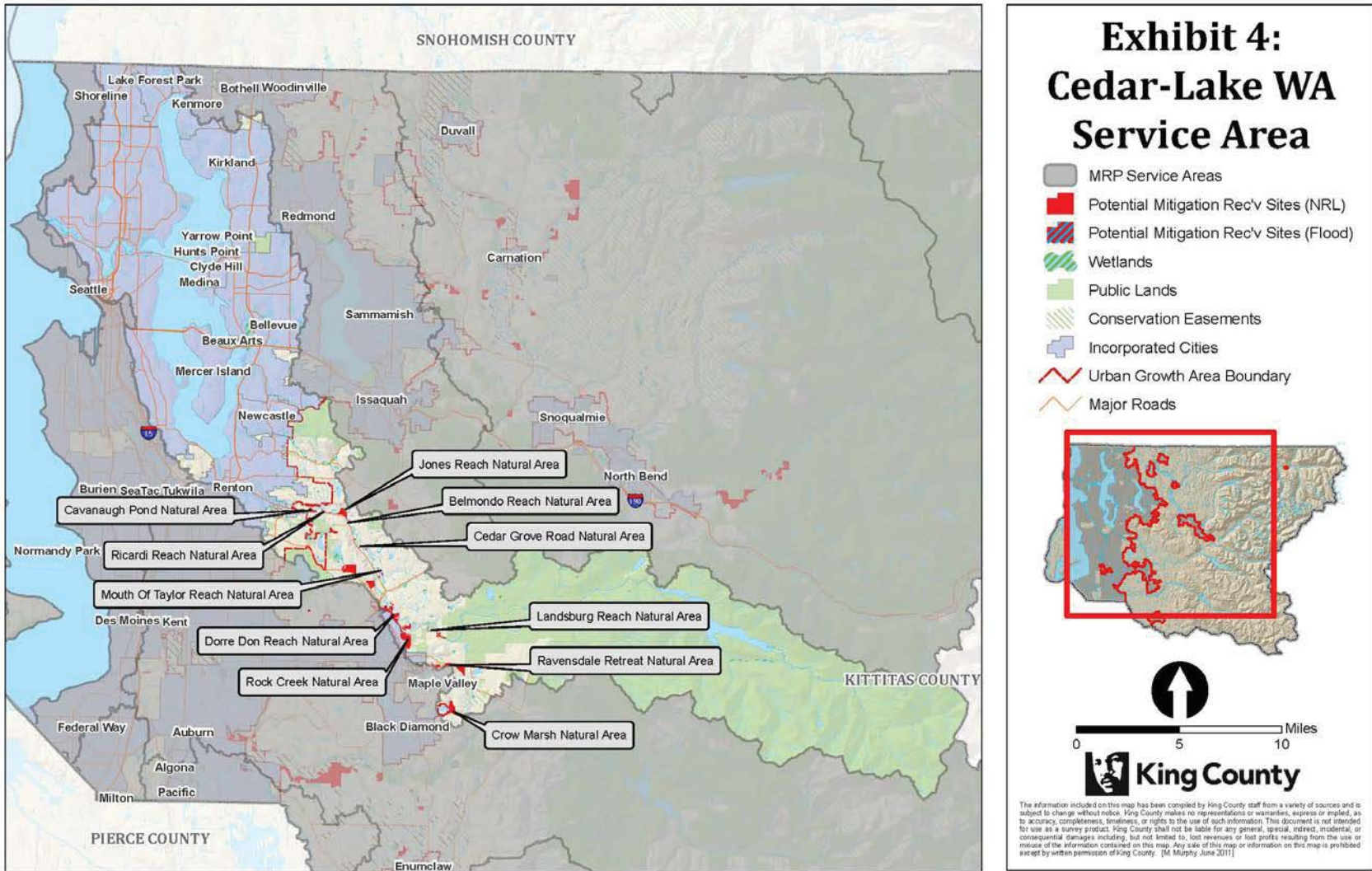


Figure 1. Management Reserves Program Roster Sites in the Cedar-Lake Washington Service Area.

Table 2. Mitigation and Monitoring Site Performance Summary

Project	Completed on-time?	Plan Approved	Monitoring Start	Maintenance Summary	General Summary
Carter/Lakeview Townhomes	Yes	2006	2009	It is unclear if maintenance occurred in Years 1-4. Maintenance occurred in Year 5.	Met performance standards on-schedule in Year 5.
Cedar Crest	No – Ongoing (Year 6)	2008	2011	Maintenance is unclear in some years but appears to have occurred.	Did not meet Year 5 performance standards for native and invasive cover. 2016 will be Year 6.
Chateau Pointe**	No	2002	2003	Very little, if any, maintenance occurred.	Required only 3 years of monitoring and went into extra monitoring. It was monitored in Year 2 and Year 4. After maintenance suggestions were consistently ignored, it was sent to enforcement.
Crestwoods at Forbes Creek	No – status unclear	2003	2007	By all appearances, little to no maintenance occurred.	Year 1 monitoring did not occur. Years 2-5 noted failure of the site. Despite relatively low thresholds for the native cover standards (40% native cover by Year 5), the site did not meet its performance standards by Year 5. No record of any follow-up actions.
Crestwood Highlands	No – Completed in Year 6	2002	2004	Maintenance was documented in Years 5 and 6 only.	Years 1-4 annual monitoring was not completed. Met Year 5 performance standards in Year 6, after one additional growing season.
Duren	No	2007	2010	No monitoring has been documented.	Project was installed in 2008, but needed to be improved. Final as-built approval occurred in 2009, with the recommendation that monitoring commence in 2010. No monitoring or monitoring reviews are documented since the as-built review. Year 5 should have been 2014.
GMP Homes*	Yes	2007	2008	Maintenance was documented in all years.	The project was signed off even though performance standards (90% cover) weren't met because it was expected they would be satisfied before the end of the year. The Year 5 result was within expected sampling error and 90% is a very high native cover PS for Year 5.
Heather Glen	Yes	2003	2004	Maintenance status unclear, but assumed to have occurred in Year 5 at minimum.	Monitoring did not occur in Years 1 and 3, but it occurred in Years 4 and 5. The mitigation project met performance standards on-schedule in Year 5.
Hindle-Rhode	Yes	2007	2009	It is unclear if maintenance occurred in Years 1-4, but given its success each year, it can be assumed that maintenance occurred in all years.	This site was extremely successful and met its respective performance standards on-schedule in Year 5.
Keesling	Yes	2009	2010	Maintenance occurred in all years.	Site had issues with weeds and deer browse, but was successful in meeting standards on time.
Pars Short Plat	No – Ongoing	2006	2009	Maintenance was not documented in years 1-3.	Project went into foreclosure, and bank went bankrupt. City has funding to complete maintenance and monitoring, to be pursued beginning in 2016.
Reiger/The Reserve	No – Completed in Year 7	2002	2007	Maintenance was noted in Year 6 only.	Planting Area A was released on time. Planting Area B underwent two additional years of monitoring. The site did not meet standards in Year 7, but the cover results were within the margin of error for the line-intercept method. Because invasive cover remained high, with no maintenance occurring, confirmation of weeding/maintenance was required prior to sign-off.
Resort at Forbes	Yes	2007	2009	It is unclear if maintenance occurred during Year 2. Maintenance was noted in Years 3 – 5.	This site consistently met performance standards from Years 3 to 5.
Rite Aid	No – Completed in the spring after Year 5	2005	2008	Maintenance was clearly documented in Years 3 and 5.	The site experienced high volumes of weeds every year. The site was not ready for signoff after the growing season in Year 5 due to excessive noxious weeds. Once recommended weeding and planting occurred, a site inspection occurred the following spring, at the start of the 6th growing season, and was recommended for sign-off, despite not achieving 90% cover. The 90% cover standard is considered extremely high. Weed control was to be conducted through fall 2014 to be considered a success. Three years after sign off, invasives have grown in where maintenance has not occurred. Native plants have survived where maintenance has occurred.
Robinson	Yes	2006	2007	Maintenance status unclear, but assumed to have occurred in Year 5 at minimum.	The mitigation project met performance standards on-schedule in Year 5.
Shumway	No – Completed in the spring after Year 6	unclear	2008	Maintenance is not clearly documented in any of the reports.	Initial planting was not adequate to satisfy the coverage standard. Additional plantings were installed 3 years later. Year 4 Monitoring did not occur. The final review in 2014 (Year 6) indicated that the site would meet performance standards with recommended maintenance.
Smith	Yes	2007	2007	Maintenance was documented in all years.	This site was very successful, meeting all performance standards in Years 3 – 5.
Village Apartments*	Yes	2006	2008	Some, but not all maintenance occurred in Year 3. Maintenance occurred in Years 4 and 5.	Despite Zone B not meeting the Year 5 native woody cover standard of 60%, the site was recommended for sign-off because of the 17% increase from the previous year and the perceived stability of the site to continue to self-sustain. This site included performance standards for density and low native cover.
Wells*	Yes	2008	2009	Maintenance was noted in Years 2, 3, and 5.	The mitigation site had unusual shrub cover standards. The Year-4 monitoring report was skipped to save money based on communication with Kirkland planner. The mitigation project met performance standards on-schedule in Year 5.
Woodlands Senior Apartments*	No – Released in Year 7	2002	2003	Maintenance was documented in Year 2 only	Monitoring was completed for Years 1 and 2. Years 3 and 4 were skipped because owner forgot to follow up with monitoring consultant. Year 5 monitoring report concluded that the site required two more years of monitoring in order to meet the cover standard for 50% shrub cover and 40% tree cover. Staff met several times with the applicant and monitoring consultant in 2008 to review potential for additional planting and monitoring. The applicant maintained the site that year, planted additional trees in the fall, and staff agreed to release the security in 2009.

* Site was signed off based on best professional judgement, did not strictly meet all performance standards.

**This site went to enforcement.

Table 3. Mitigation project performance by year.

Project name	Performance Standard met?																												
	Year 1				Year 2				Year 3					Year 4					Year 5					Year 6				Year 7	
	Survival	Native Woody Cover	Invasive Plant Cover	Plant Species Diversity	Survival	Native Woody Cover	Invasive Plant Cover	Plant Species Diversity	Survival	Native Woody Cover	Invasive Plant Cover	Plant Species Diversity	Wetland Hydrology	Survival	Native Woody Cover	Invasive Plant Cover	Plant Species Diversity	Wetland Hydrology	Survival	Native Woody Cover	Invasive Plant Cover	Plant Species Diversity	Wetland Hydrology	Survival	Native Woody Cover	Invasive Plant Cover	Plant Species Diversity	Native Woody Cover	Invasive Plant Cover
Carter/Lakeview Townhomes	Y	-	-	Y	Y	-	-	Y	Y	-	-	Y	-	Y	Y	N	Y	-	Y	Y	Y	Y	-	Project released Year 5.					
Cedar Crest	N	-	Y	-	-	-	Y	Y	-	Y	Y	Y	-	-	-	Y	Y	-	IN-PROGRESS 2015					-					
Chateau Pointe	N	-	N	-	N	-	N	-	Not monitored in Year 3.					N	N	Y	-	-	No further monitoring - code enforcement.										
Crestwoods at Forbes Creek	Not monitored Year 1.				N	Y	N	-	N	Y	N	-	-	N	-	N	-	-	N	N	N	-	-	No further monitoring conducted.					
Crestwood Highlands	Not monitored in Years 1 through 4.																Y	N	Y	-	-	Y	Y	Y	-	Project released Year 6.			
Duren	Not monitored after as-built acceptance.																												
GMP Homes	N	N	N	-	N	Y	Y	-	Y	Y	Y	-	-	Y	Y	Y	-	-	Y	N	Y	-	-	Project released Year 5.					
Heather Glen	-	*	Y	-	-	*	N	-	Not monitored in Year 3.					-	*	Y	-	-	-	Y	Y	-	-	Project released Year 5.					
Hindle-Rhode	Y	-	Y	-	Y	-	Y	-	-	N	Y	-	-	-	N	Y	-	-	-	Y	Y	-	-	Project released Year 5.					
Keesling	N	-	N	Y	-	-	N	Y	-	N	N	Y	-	-	-	N	Y	-	-	Y	Y	Y	-	Project released Year 5.					
Pars Short Plat	Y	-	N	Y	Y	-	N	Y	Y	-	N	Y	-	Not monitored in Years 4 and 5.										N	Y	N	Y	City to complete.	
Reiger/The Reserve	Not monitored in Years 1 through 4.																-	N	N	-	-	Y	N	N	-	N		N	
Resort at Forbes	N	-	Y	-	N	-	N	-	Y	-	Y	-	N	Y	-	Y	-	N	Y	Y	Y	-	-	Project released Year 5.					
Rite Aid	N	-	N	-	Y	-	N	-	Y	N	N	-	-	Y	N	N	-	-	Y	N	Y	-	-	Project released Year 5 with maintenance condition.					
Robinson	Y	-	N	-	N	-	N	-	-	Y	N	-	-	-	-	N	-	-	-	Y	Y	-	-	Project released Year 5.					
Shumway	Not monitored Year 1.				Y	-	Y	-	Y	-	N	Y	-	Not monitored in Year 4.					Y	N	Y	-	-	Y	N	Y	-	Project released Year 6.	
Smith	Y	-	-	-	N	-	-	-	Y	Y	Y	Y	-	-	Y	-	Y	-	-	Y	Y	Y	-	Project released Year 5.					
Village Apartments	N	-	Y	-	-	-	N	-	-	-	Y	-	-	-	Y	Y	-	-	-	Y	Y	Y	-	Project released Year 5.					
Wells	N	N	Y	Y	Y	N	Y	Y	Y	N	Y	Y	N	No Year 4 report.					Y	Y	Y	Y	Y	Project released Year 5.					
Woodlands Senior Apartments	Y	-	Y	-	Y	-	Y	-	Not monitored in Years 3 and 4.										N	N	Y	-	-	No further monitoring conducted.					

* Sample plots measured absolute cover of native woody plants instead of relative cover by strata or species.

- Performance standard not applicable in given year

UPCOMING WETLAND AND STREAM CODE AMENDMENTS



Dear Property Owner:

The City of Kirkland will be making amendments to its **Wetland, Streams and Frequently Flooded Areas** regulations as required under the state Growth Management Act. You are receiving this official notice because your property may contain or be located near a wetland or stream. The amendments may affect future construction or other changes to your property.

The Planning Commission will hold public meetings and a hearing on the code amendments, and then forward a recommendation to the City Council for a final decision by the end of summer 2016. Open houses will be held prior to the meetings to provide information. These events will be held at City Hall.

For more information, dates of upcoming meetings, proposed code amendments, how to provide verbal or written comments, and to sign up for email updates to receive future notices: go to www.kirklandwa.gov/KZC90.htm.

For questions, please contact **Teresa Swan, Senior Planner**, (425) 587-3258 or tswan@kirklandwa.gov.

January, 2016





City of Kirkland

Planning and Building Department

123 5th Ave., Kirkland WA 98033

Upcoming amendments to City's Wetlands, Streams and Frequently Flooded Areas regulations may affect future construction or changes on your property. Note that this may be the only mailed notice that you will receive. Go to www.kirklandwa.gov/KCZ90.htm for more information.



CITY OF KIRKLAND

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Kari Page, Neighborhood Outreach Coordinator
Date: January 14, 2016
Subject: Upcoming 2016 City Council Meetings with the Neighborhoods

RECOMMENDATION:

City Council finalize the schedule for the City Council Meetings in 2016.

BACKGROUND:

The first meeting scheduled for 2016 is the North Rose Hill Neighborhood Association, March 21, 6:45–8:45 p.m. at Fire Station 26, 9930 124th Ave NE. Unless otherwise instructed by Council, staff will continue to format the meetings as previously done. Residents will place dots on the subject areas they want the Council to address during the night. Time will be divided based upon the results with the greatest time allocated to those topics with the most interest (dots).

The agenda for the meeting is as follows:

- 6:45-7:00 p.m. Informal Casual Conversations
- 7:00-7:05 p.m. Welcome and Introduction - Mayor Amy Walen
- 7:05-7:10 p.m. Comments from the Neighborhood Chair
- 7:10-7:30 p.m. Introductions from City Council Members
- 7:30-8:45 p.m. General Discussion and Questions from Audience
- 8:45 p.m. Social Time

Proposed 2016 City Council Meetings with the Neighborhoods

North Rose Hill:
March 21, 2016
Fire Station 26, 9930 124th Ave NE

Everest:
May 24, 2016
Fire Station 22, 6602 108th Ave




Highlands & Norkirk:
November 16, 2016
City of Kirkland Maintenance Center, 915 8th Street

Attachment A outlines the timeline for receiving the questions and answers in advance of the 2016 meetings with the Neighborhoods and a map of the areas. Please contact Kari Page with any questions at (425) 587-3011.

City Council Meetings with the Neighborhoods

2016 Schedule

M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S
JANUARY							FEBRUARY							MARCH							APRIL						
				1	2	3	1	2	3	4	5	6	7	1	2	3	4	5	6					1	2	3	
4	5	6	7	8	9	10	8	9	10	11	12	13	14	7	8	9	10	11	12	13	4	5	6	7	8	9	10
11	12	13	14	15	16	17	15	16	17	18	19	20	21	14	15	16	17	18	19	20	11	12	13	14	15	16	17
18	19	20	21	22	23	24	22	23	24	25	26	28	28	21	22	23	24	25	26	27	18	19	20	21	22	23	24
25	26	27	28	29	30	31	29							28	29	30	31				25	26	27	29	29	30	
MAY							JUNE							JULY							AUGUST						
						1	1	2	3	4	5	1	2	3	1	2	3	4	5	6	7						
2	3	4	5	6	7	8	6	7	8	9	10	11	12	4	5	6	7	8	9	10	8	9	10	11	12	13	14
9	10	11	12	13	14	15	13	14	15	16	17	18	19	11	12	13	14	15	16	17	15	16	17	18	19	20	21
16	17	18	19	20	21	22	20	21	22	23	24	25	26	18	19	20	21	22	23	24	22	23	24	25	26	27	28
23	24	25	26	27	28	29	27	28	29	30				25	26	27	28	29	30	31	29	30	31				
30	31																										
SEPTEMBER							OCTOBER							NOVEMBER							DECEMBER						
			1	2	3	4						1	2	1	2	3	4	5	6				1	2	3	4	
5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13	5	6	7	8	9	10	11
12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20	12	13	14	15	16	17	18
19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27	19	20	21	22	23	24	25
26	27	28	29	30			24	25	26	27	28	29	30	28	29	30					26	27	28	29	30	31	
							31																				

Neighborhood Meetings Dates	
	North Rose Hill: March 21, 2016 Fire Station 26, 9930 124 th Ave NE
	Everest: May 24, 2015 Fire Station 22, 6602 108 th Ave
	Highlands & Norkirk: November 16, 2016 Kirkland Maintenance Center 915 8th Street

Milestones	
	Residents receive mailing and submit questions
	Regular Council meeting to finalize agenda
	Directors answer questions from residents
	City Council receives questions and answers
	City Council Meeting with the Neighborhood

