




CITY OF KIRKLAND
Planning and Building Department
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ADVISORY REPORT
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Kirkland Hearing Examiner

From:  Tony Leavitt, Senior Planner

 Adam Weinstein, AICP, Director of Planning and Building

Date: April 25, 2022

File: **VAR21-00543**
11 9th STREET SETBACK VARIANCE

Hearing Date and Place: May 5, 2022; 9:30 AM
Virtual Hearing

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I. INTRODUCTION

A. APPLICATION

1. Applicant: Mike Smith, Chrysalis Homes
2. Site Location: 11 9th Street (see Attachment 1)
Request: Variance to allow the reduction of the Kirkland Way front yard setback from the required 20 feet to 10 feet. The variance would allow for the construction of a duplex on the site (see Attachment 2).
3. Review Process: Process IIA, Hearing Examiner conducts public hearing and makes final decision.
4. Summary of Key Issues: Compliance with the variance and zoning permit approval criteria (see Section II.E).

B. RECOMMENDATIONS

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend approval of this application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed.
2. As part of the application for a building permit, the applicant shall submit construction plans consistent with the approved zoning permit plans as shown in Attachment 2 (see Conclusion II.E.5).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:
 - a. Facts:
 - (1) Size: 6,428 square feet (0.148 acre)
 - (2) Land Use: The subject property currently contains a single-family residence. The residence does not comply with setback requirements and encroaches onto the neighboring property to the west. The existing home will be demolished.
 - (3) Zoning: The subject property is zoned RM (Residential Multifamily) 3.6. Based on the lot size, 2 units are allowed on the subject property.
 - (4) Terrain: The property slopes gradually from north to south at a general slope of around 6 percent (see Attachment 2).
 - (5) Vegetation: The subject property contains 5 significant trees. The applicant is proposing to retain 2 of the trees. Trees within the Kirkland Way right-of-way will need to be removed to accommodate the required frontage improvements. Tree Retention is discussed in Section II.D.3.

- b. Conclusions:
 - (1) Size, land use, terrain, and vegetation are not constraining factors in the review of this application.
 - (2) Front yard setback regulations are a relevant factor in the review of the application since the applicant is requesting a reduction of the Kirkland Way front yard setback yard. Setbacks are discussed in Section II.D.1.
- 2. Neighboring Development and Zoning:
 - (1) Facts: The neighboring properties are zoned as follows and contain the following uses:
 - (a) North: Zoned PLA 5E, Developed with townhomes
 - (b) West: Zoned RM 3.6, Properties are developed with a four plex and single-family residence
 - (c) East and South: Zoned LIT (Light Industrial Technology), Cross Kirkland Corridor
 - (2) Conclusion: Neighboring development and zoning are not constraining factors in the review of this application.

B. PUBLIC COMMENT

The initial public comment period for the project ran from February 18, 2022 to March 18, 2022. Pursuant to KZC 150.35, a Process IIA Staff Report must include all comments received by the City prior to distribution of the staff report. The Planning Department received no comments during the initial comment period or prior to distribution of the staff report.

C. STATE ENVIRONMENTAL POLICY ACT (SEPA) AND CONCURRENCY

- 1. Facts: The project is exempt from SEPA and Traffic Concurrency reviews.
- 2. Conclusion: The project complies with City's SEPA and Traffic Concurrency requirements.

D. DEVELOPMENT REGULATIONS

- 1. Setbacks
 - a. Facts:
 - (1) The RM 3.6 Zoning District requires a front yard setback of 20 feet.
 - (2) The subject property fronts on two rights-of-way (Kirkland Way and 9th Street) that each require a front yard setback.
 - (3) The proposed project encroaches 10 feet into the Kirkland Way required setback. No structure encroachments into the 9th Street required setback are proposed.
 - b. Conclusion: A setback variance is needed to allow the proposed structure to encroach into the required front setback yards. Staff addresses the variance in Section II.E.1.
- 2. Driveway Width in Front Setback
 - a. Facts:

- (1) KZC Section 115.115.5.a limits a driveway and/or parking area to 20 feet in width in any required front yard.
 - (2) The proposed plan shows a driveway from 9th Street that starts at 20 feet in width and flares out to a maximum of 60 feet.
 - (3) KZC Section 115.115.5.a.3 states that the Planning Official may approve a modification to the driveway and/or setback requirements in subsection (5)(a)(1) of this section if:
 - The Public Works Department requires an on-site vehicular turnaround adjacent to the driveway, which must be the minimum necessary dimension as determined by the Public Works Department; or
 - The existing topography of the subject property or the abutting property decreases or eliminates the need for the setback; or
 - The location of pre-existing improvements or vegetation on the abutting site eliminates the need for or benefit of a setback; and
 - The modification will not have any substantial detrimental effect on abutting properties or the City as a whole.
 - b. Conclusion: As part of the building permit application, Staff will review the proposed driveway width modification request and determine if it meets the requirements of KZC Section 115.115.5.a.3. The modification is not being reviewed as part of the variance application.
3. Natural Features- Significant Landscaping
- a. Facts:
 - (1) Regulations regarding the retention of trees can be found in Chapter 95 of the Kirkland Zoning Code. The applicant is required to retain all trees with a moderate retention value to the extent feasible and those with high retention value to the maximum extent possible.
 - (2) The applicant has submitted an arborist report prepared by a certified arborist (see Attachment 4) and a tree retention plan (see Attachment 2).
 - (3) Tree removal is concentrated in the interior of the site including removal around the northern portion of the existing building.
 - b. Conclusion: As part of building permit application, the applicant should submit a final tree retention plan.
4. Parking
- a. Facts:
 - (1) The project is required to provide onsite parking for each 3-bedroom unit at a rate of 1.8 stalls per unit.
 - (2) The applicant is proposing a garage stall and a surface stall for each unit.

- (3) KZC Section 105.20.3.a requires a minimum ten (10) percent of the total number of required parking spaces shall be provided for guest parking and located in a common area accessible by guests. If the required number of guest parking spaces results in a fraction, the applicant shall provide the number of spaces equal to the next higher whole number. If the result is a fraction that requires less than one (1) guest stall, no guest parking stall is required if on-street parking is available within 600 feet of the subject property.
 - (4) The subject property is required to provided to 0.36 stalls and there is on-street parking available within 600 feet of the subject property on Kirkland Way.
 - b. Conclusions: The proposed plans show compliance with the City's parking requirements. Staff will verify compliance as part of the building permit application.
- 5. Lot Coverage
 - a. Facts:
 - (1) The maximum lot coverage for an attached dwelling unit use in the RM 3.6 zone is 60 percent.
 - (2) The applicant's plans show a maximum lot coverage of 51 percent.
 - b. Conclusions: The proposed plans show compliance with the City's lot coverage requirements. Staff will verify compliance as part of the building permit application.
- 6. Building Height
 - a. Facts:
 - (1) The maximum lot coverage for an attached dwelling unit use in the RM 3.6 zone is 30 feet above average building elevation.
 - (2) The applicant's plans show a maximum height of 30 feet above average building elevation.
 - b. Conclusions: The proposed plans show compliance with the City's building height requirements. Staff will verify compliance as part of the building permit application.
- 7. Landscape Buffer
 - a. Facts:
 - (1) KZC Section 95.42 requires the subject property to provide a 5-foot-wide land use buffer and fencing along any property line that is adjoining to a low-density residential use.
 - (2) The southwest corner of the subject property is adjoining a low-density residential use located at 848 Kirkland Avenue.
 - (3) The applicant's plans show a landscape buffer and fence along the common property line (see Attachment 2).

- b. Conclusions: The proposed plans show compliance with the City's landscape buffer requirements. Staff will verify compliance as part of the building permit application.

E. APPROVAL CRITERIA

1. VARIANCE

a. Facts:

- (1) Zoning Code Chapter 120 sets forth the mechanism whereby a provision of the Code may be varied on a case-by-case basis if the application of the provision would result in an unusual and unreasonable hardship.
- (2) The applicant requests a variance to allow the reduction of the Kirkland Way required front yard setback from the required 20 feet to 10 feet.
- (3) Attachment 5 is a narrative from the applicant describing the request and response to the Variance Criteria.
- (4) Zoning Code Section 120.20 establishes three decisional criteria with which a variance request must comply in order to be granted. Subsections 2 through 4 below contain the staff's findings of fact and conclusions based on these three criteria

- b. Conclusion: Based on the analysis in Subsections 2 through 4 below, the application meets the established criteria for a variance.

2. Variance Criterion 1: The variance will not be materially detrimental to the property or improvements in the area of the subject property or to the City, in part or as a whole.

a. Facts:

- (1) The required front yard setback of 20 feet from the Kirkland Way property line would be reduced to 10 feet as part of this proposal.
- (2) One potential impact would be the loss of perceived openness of the street corridor due to the reduced setback along Kirkland Way. The Kirkland Way right-of-way is 60 feet wide. The nearest building is approximately 80 feet to the north of Kirkland Way property line (see Attachment 6).
- (3) The applicant is proposing the installation of plantings (trees and bushes) along the Kirkland Way property line (see Attachment 2).

b. Conclusions:

- (1) The granting of the variance along Kirkland Way would move the structure closer to the neighboring properties to the north, but impacts would be lessened by the required proposed landscaping and right-of-way separation. Properties to the east, west and south would not be impacted by the proposed setback reduction.
- (2) Staff concludes that the proposed variance will not be materially detrimental to the property or improvements in the area of the subject property or to the City, in part or as a whole.

3. Variance Criterion 2: The variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of preexisting improvements on the subject property that conformed to the Zoning Code in effect when the improvement was constructed.
- a. Facts:
- (1) The subject property is located at the intersection of Kirkland Way and 9th Street and is a triangular shape. The Kirkland Way property line is slightly concaved into the lot.
 - (2) Kirkland Zoning Code section 5.10.720(1) defines a front property line as any property line that is adjacent to a street or vehicular access easement or tract more than 21 feet in width. Both of the adjacent rights-of-way are more than 21 feet in width.
 - (3) These required setbacks result in the subject property having a total area of approximately 2,116 square feet or 32.9% of the total lot area, referred to as "buildable area", that is not located within a required setback yard.
- b. Conclusion: The subject property is constrained by the fact that it is adjacent to two rights-of-way and that the property lines are considered to be front property lines. The amount of "buildable area" on the subject property makes any development of the property difficult. A variance is necessary due to special circumstances due to location, size, and shape of the subject property.
4. Variance Criterion 3: The variance would not constitute a grant of special privilege to the subject property which is inconsistent with the general rights that this Code allows for other properties in the same area and zone as the subject property.
- a. Facts:
- (1) The applicant is requesting the variance to allow the construction of a duplex. The duplex will be approximately 4,212 square feet with each unit around 2,100 square feet.
 - (2) Units on neighboring properties range in size from 864 square feet to 3,440 square feet.
 - (3) In the Market Street neighborhood, the City has approved setback variances for triangular shaped lots that have similar front yard setback requirements. VAR18-00070 approved front yard setback reductions ranging from 5 to 20 feet. ZON97-00012 approved front yard setback reductions ranging from 10.4 to 12.5 feet
- b. Conclusion: The granting of this variance would not constitute a special privilege to the subject property as the proposed project is similar in size to neighboring projects that have been approved in the same area and zone. The unique configuration of the subject property creates unusual setback requirements to which these other projects are not subject. Additionally, the City has approved setback variances for similar triangular shaped properties.
5. GENERAL ZONING CODE CRITERIA
- a. Facts: Zoning Code section 150.65.3 states that a Process IIA application may be approved if:

- (1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - (2) It is consistent with the public health, safety, and welfare.
- b. Conclusions:
- (1) The proposal complies with the criteria in section 150.65.3. It is consistent with all applicable development regulations (see Sections II.D & E) and the Comprehensive Plan (see Section II.F). In addition, it is consistent with the public health, safety, and welfare because the proposed development will create infill multi-family development while meeting the goals of the Comprehensive Plan for the Moss Bay Neighborhood.
 - (2) As part of the application for a building permit, the applicant should submit construction plans consistent with the approved zoning permit plans as shown in Attachment 2.

F. COMPREHENSIVE PLAN

1. Facts: The subject property is located within the Moss Bay Neighborhood and designated as a medium density residential zone with an allowed density of 12 dwelling units per acre.
2. Conclusion: The proposed project meets the density requirements of the Moss Bay Neighborhood plan.

G. DEVELOPMENT STANDARDS

3. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 3.
4. Conclusion: The applicant should follow the requirements set forth in Attachment 3.

III. SUBSEQUENT MODIFICATIONS

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

IV. APPEALS AND JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for appeals. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

A. APPEALS

Appeal to the City Council:

Section 150.80 of the Zoning Code allows the Hearing Examiner's decision to be appealed by the applicant and any person who submitted written or oral testimony or comments to the Hearing Examiner. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., _____, fourteen (14) calendar days following the postmarked date of distribution of the Hearing Examiner's decision on the application.

B. JUDICIAL REVIEW

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within twenty-one (21) calendar days of the issuance of the final land use decision by the City.

V. LAPSE OF APPROVAL

Under Section 152.115 of the Zoning Code, the applicant must submit to the City a complete building permit application approved under Chapter 152, within five (5) years after the final approval on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 152.110, the running of the five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. Furthermore, the applicant must substantially complete construction approved under Chapter 152 and complete the applicable conditions listed on the Notice of Approval within seven (7) years after the final approval on the matter, or the decision becomes void

VI. APPENDICES

Attachments 1 through 6 are attached.

1. Vicinity Map
2. Development Plans
3. Development Standards
4. Arborist Report
5. Variance Request Letter
6. Map of Neighboring Properties

VII. PARTIES OF RECORD

Applicant
Planning and Building Department
Department of Public Works

A written decision will be issued by the Hearing Examiner within eight calendar days of the date of the open record hearing.

11 9TH STREET VARIANCE .6
VAR21-00543

PLA 5D

3RD AVE

9TH ST

PLA 5A

KIRKLAND CIR

2ND AVE

Subject Property

PLA 5E

9TH ST

RM 3.6

8TH LN

RM 3.6

CEDAR ST

KIRKLAND

RA 5.0

10TH PL'S

RS 5.0

Neal-Landguth
Wetland Park

RM 5.0

11TH ST

LIT

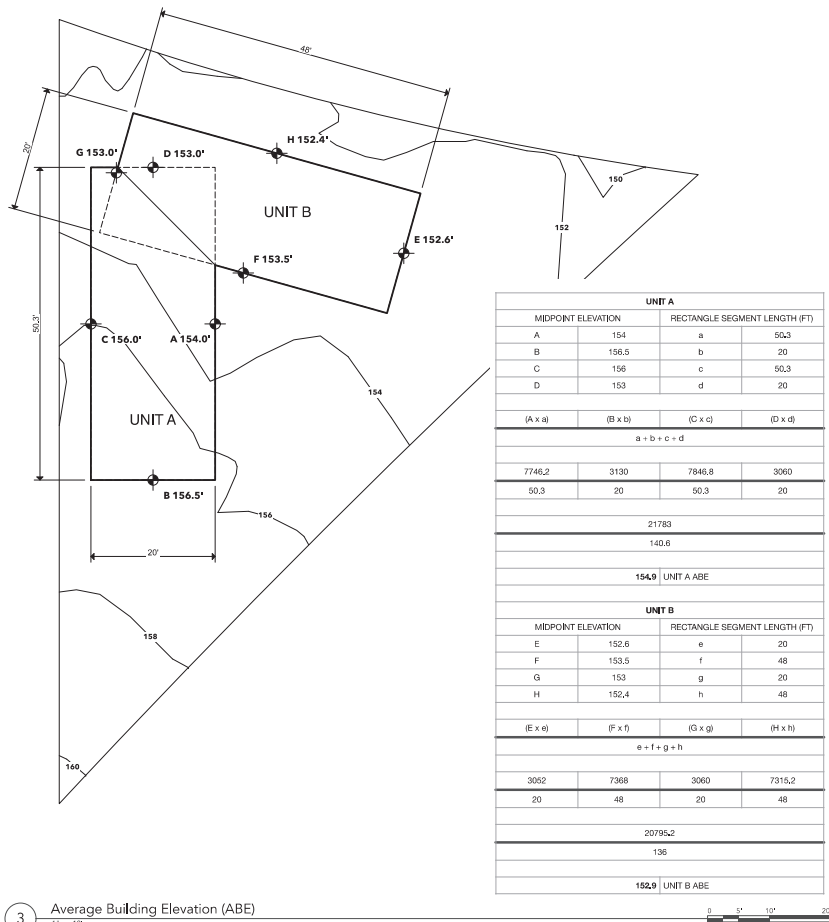
CROSS KIRKLAND CORRIDOR

RAILROAD AVE

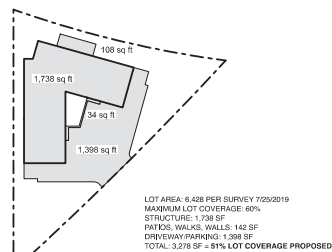
9TH ST

KIRKLAND WAY

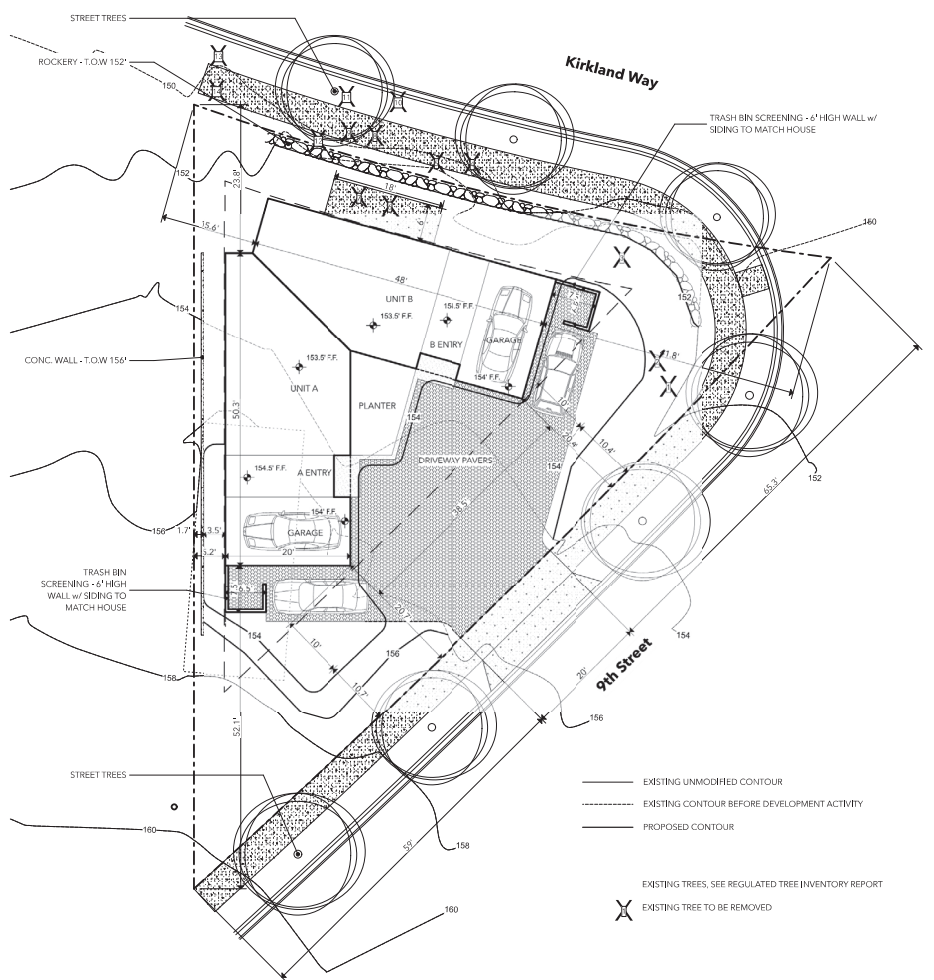




3 Average Building Elevation (ABE)



2 Lot Coverage



Zone
 RM3.5

Lot Area
 6,428 SF

Required Yards 20.30 Density/Dimensions
 FRONT: 20' (720 Property Line 1. Front property line is any property line that is adjacent to a street) Variance required for buildable lot
 SIDE: 5'
 REAR: 10' (None)

Parking
 20,40,000 1.8 per 3 or more bedroom unit = 4 spaces required
 Guest parking: none required per 105,20 3 x. (A minimum ten (10) percent of the total number of required parking spaces shall be provided for guest parking and located in a common area accessible by guests. If the required number of guest parking spaces results in a fraction, the applicant shall provide the number of spaces equal to the next higher whole number. If the result is a fraction that requires less than one guest stall, no guest parking shall be required if on-street parking is available within 600 feet of the subject property.)

Common Recreational Space Requirements
 none per 115,23 2' < less than 4 units

Construction Type
 VB Attached two-family dwelling

Gross Floor Area per 5,10-340
 Unit A + Garage: 2,048 SF
 Unit B + Garage: 2,164 SF
 Total: 4,212 SF

1 Site

SITE ADDRESS
 11 9th St
 Kirkland, WA 98033

PARCEL INFORMATION
 Parcel Number: 123890-0250

Legal Description:
 BURKE-FARRARS KIRKLAND GRDNS # 15
 SLY OF ST RD
 Plat Block: 54
 Plat Lot: 13-14

OWNER
 Michael Smith
 11 9th St Kirkland WA 98033

ARCHITECT
 Christopher T Wright
 2288 West Commodore Way
 Suite 210
 Seattle, Washington 98199
 chris@cwrightarchitecture.com
 206-334-8132

9032 REGISTERED ARCHITECT
 CHRISTOPHER T WRIGHT
 STATE OF WASHINGTON

Zoning Permit
 16 July 2021
 REVISED 08 NOV 2021

A1

2024
Jul 21, 2021 - 5:00pm - User: mchmchmch
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NW 1/4, SEC 33, TWP 26N, RGE 5E, W.M.

GENERAL NOTES:

1. LANDSCAPE CONTRACTOR SHALL VERIFY LOCATION OF ALL SITE UTILITIES PRIOR TO LANDSCAPE IMPLEMENTATION. PLANT LOCATIONS MAY BE ADJUSTED TO AVOID CONFLICT.
2. LANDSCAPE CONTRACTOR SHALL TAKE NECESSARY PRECAUTIONS TO PROTECT EXISTING SITE IMPROVEMENTS, PAVING, WALLS, AND UNDERGROUND UTILITIES. DAMAGE SHALL BE REPAIRED TO THE OWNER'S SATISFACTION AND AT NO ADDITIONAL COST.
3. PLANT COUNT IS FOR THE CONTRACTOR'S CONVENIENCE; IF THERE IS A DISCREPANCY, THE PLAN SHALL GOVERN. ACTUAL PLANT QUANTITIES TO BE DETERMINED BY REQUIRED PLANT SPACING.
4. SUBSTITUTION OF PLANT VARIETIES DUE TO LACK OF AVAILABILITY SUBJECT TO APPROVAL BY THE LANDSCAPE ARCHITECT.
5. FINISH GRADE OF MULCHED LANDSCAPE AREAS SHALL BE GRADED TO 1/2" MAX. BELOW CONCRETE OR OTHER PAVED SURFACES.
6. ALL LANDSCAPE AREAS ARE TO BE MAINTAINED BY A LICENSED PROFESSIONAL LANDSCAPE MAINTENANCE COMPANY.
7. ALL PLANT MATERIALS SHALL BE GUARANTEED FOR ONE YEAR MINIMUM FROM SUBSTANTIAL COMPLETION TO INCLUDE ONE FULL GROWING SEASON (THROUGH SEPT. 30).
8. ALL AREAS LEFT UNPLANTED SHALL BE DRESSED WITH 3" DEPTH BARK MULCH.
9. BARK MULCH SHALL BE MEDIUM BARK MULCH CONSISTING OF DOUGLAS FIR, PINE, OR HEMLOCK BARK. IT SHALL BE GRIND 50 THAT ON A LOOSE VOLUME BASIS, A MINIMUM OF 95% PASSES A 2-INCH SIEVE AND NO MORE THAN 30 PERCENT PASSES A NO. 4 SIEVE. THE BARK MULCH SHALL NOT CONTAIN SALTS, RESIN, TANNIN, OR ANY OTHER DELETERIOUS MATERIAL IN QUANTITIES THAT WOULD BE DETRIMENTAL TO PLANT LIFE.
10. IMPORT TOPSOIL FOR PLANTING BEDS SHALL CONSIST OF APPROX. 33-50% COMPOST AND 50-65% SAND OR SANDY LOAM AND MEET THE FOLLOWING SPECIFICATIONS:
ORGANIC MATTER (DRY WEIGHT): 15-20%
CONDUCTIVITY (UMH/CM): <5
pH: 6.0-7.5
CEC: >10 meq/100g
USDA TEXTURE: SANDY LOAM
WAC METALS: PASS
(CEDAR GROVE 3-WAY TOPSOIL IS AN APPROVED PRODUCT MEETING THIS SPEC.)
11. ON-GRADE PLANTING BEDS SHALL RECEIVE 12-INCH MIN. COMPACTED DEPTH (85% COMPACT) IMPORT TOPSOIL. FIRST TWO-INCH LIFT SHALL BE THOROUGHLY MIXED INTO EXISTING SUBSOIL TO A 4" MIN. DEPTH.

PLANT SCHEDULE

SYMBOL	QTY	SYMBOL	QTY	SYMBOL	QTY	SYMBOL	QTY	SYMBOL	QTY
	7		4		8		2		2
1. ACER NORON 'NORON' GREEN COLUMN 4-5/8" DIA	7	2. ANGLADELPH & GRANDIS 'PRINCESS DAWN' PRINCESS DAWN 4-5/8" DIA	4	3. TRILLIS OCCIDENTALIS 'TRILLIS SPIN' TRILLIS SPIN 4-5/8" DIA	8	4. TRILLIS PRINCESS 'PRINCESS SPIN' PRINCESS SPIN 4-5/8" DIA	2	5. TRILLIS PRINCESS 'PRINCESS SPIN' PRINCESS SPIN 4-5/8" DIA	2
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56. TRILLIS PRINCESS 'PRINCESS SPIN' PRINCESS SPIN 4-5/8" DIA	2	57. TRILLIS PRINCESS 'PRINCESS SPIN' PRINCESS SPIN 4-5/8" DIA	2	58. TRILLIS PRINCESS 'PRINCESS SPIN' PRINCESS SPIN 4-5/8" DIA	2	59. TRILLIS PRINCESS 'PRINCESS SPIN' PRINCESS SPIN 4-5/8" DIA	2	60. TRILLIS PRINCESS 'PRINCESS SPIN' PRINCESS SPIN 4-5/8" DIA	2
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CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600 ~ www.kirklandwa.gov

DEVELOPMENT STANDARDS LIST

FILE: 11 9TH STREET SETBACK VARIANCE, VAR21-00543

ZONING CODE STANDARDS

95.51.2.a Required Landscaping. All required landscaping shall be maintained throughout the life of the development. The applicant shall submit an agreement to the city to be recorded with King County which will perpetually maintain required landscaping. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City.

95.50 Tree Installation Standards. All supplemental trees to be planted shall conform to the Kirkland Plant List. All installation standards shall conform to Kirkland Zoning Code Section 95.45.

95.52 Prohibited Vegetation. Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

105.77 Parking Area Curbing. All parking areas and driveways, for uses other than detached dwelling units must be surrounded by a 6" high vertical concrete curb.

110.60.5 Street Trees. All trees planted in the right-of-way must be approved as to species by the City. All trees must be two inches in diameter at the time of planting as measured using the standards of the American Association of Nurserymen with a canopy that starts at least six feet above finished grade and does not obstruct any adjoining sidewalks or driving lanes.

115.25 Work Hours. It is a violation of this Code to engage in any development activity or to operate any heavy equipment before 7:00 am. or after 8:00 pm Monday through Friday, or before 9:00 am or after 6:00 pm Saturday. No development activity or use of heavy equipment may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. The applicant will be required to comply with these regulations and any violation of this section will result in enforcement action, unless written permission is obtained from the Planning official.

115.40 Fence Location. Fences over 6 feet in height may not be located in a required setback yard. A detached dwelling unit abutting a neighborhood access or collector street may not have a fence over 3.5 feet in height within the required front yard. No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard, which is coincident with the high waterline setback yard.

A detached dwelling unit may not have a fence over 3.5 feet in height within 3 feet of the property line abutting a principal or minor arterial except where the abutting arterial contains an improved landscape strip between the street and sidewalk. The area between the fence and property line shall be planted with vegetation and maintained by the property owner.

115.75.2 Fill Material. All materials used as fill must be non-dissolving and non-decomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.

115.90 Calculating Lot Coverage. The total area of all structures and pavement and any other impervious surface on the subject property is limited to a maximum percentage of total lot area. See the Use Zone charts for maximum lot coverage percentages allowed. Section 115.90 lists exceptions to total lot coverage calculations See Section 115.90 for a more detailed

explanation of these exceptions.

115.95 Noise Standards. The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC. Any noise, which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

115.115 Required Setback Yards. This section establishes what structures, improvements and activities may be within required setback yards as established for each use in each zone.

115.115.3.g Rockeries and Retaining Walls. Rockeries and retaining walls are limited to a maximum height of four feet in a required yard unless certain modification criteria in this section are met. The combined height of fences and retaining walls within five feet of each other in a required yard is limited to a maximum height of 6 feet, unless certain modification criteria in this section are met.

115.115.3.p HVAC and Similar Equipment: These may be placed no closer than five feet of a side or rear property line, and shall not be located within a required front yard; provided, that HVAC equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

115.135 Sight Distance at Intersection. Areas around all intersections, including the entrance of driveways onto streets, must be kept clear of sight obstruction as described in this section.

152.22.2 Public Notice Signs. Within seven (7) calendar days after the end of the 21-day period following the City's final decision on the permit, the applicant shall remove all public notice signs.

Prior to issuance of a grading or building permit:

95.30(4) Tree Protection Techniques. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans.

95.34 Tree Protection. Prior to development activity or initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities. Protection measures for trees to be retained shall include (1) placing no construction material or equipment within the protected area of any tree to be retained; (2) providing a visible temporary protective chain link fence at least 6 feet in height around the protected area of retained trees or groups of trees until the Planning Official authorizes their removal; (3) installing visible signs spaced no further apart than 15 feet along the protective fence stating "Tree Protection Area, Entrance Prohibited" with the City code enforcement phone number; (4) prohibiting excavation or compaction of earth or other damaging activities within the barriers unless approved by the Planning Official and supervised by a qualified professional; and (5) ensuring that approved landscaping in a protected zone shall be done with light machinery or by hand.

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. Please see KMC 27.06 for the current rate. Exemptions and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060. If a property contains an existing unit to be removed, a "credit" for that unit shall apply to the first building permit of the subdivision.

Prior to occupancy:

95.51.2.a Required Landscaping. All required landscaping shall be maintained throughout the life of the development. The applicant shall submit an agreement to the city to be recorded

with King County which will perpetually maintain required landscaping. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City

95.51.2.b Tree Maintenance. For detached dwelling units, the applicant shall submit a 5-year tree maintenance agreement to the Planning and Building Department to maintain all pre-existing trees designated for preservation and any supplemental trees required to be planted.

110.60.5 Landscape Maintenance Agreement. The owner of the subject property shall sign a landscape maintenance agreement, in a form acceptable to the City Attorney, to run with the subject property to maintain landscaping within the landscape strip and landscape island portions of the right-of-way. It is a violation to pave or cover the landscape strip with impervious material or to park motor vehicles on this strip.

110.60.6 Mailboxes. Mailboxes shall be installed in the development in a location approved by the Postal Service and the Planning Official. The applicant shall, to the maximum extent possible, group mailboxes for units or uses in the development.

110.75 Bonds. The City may require or permit a bond to ensure compliance with any of the requirements of the Required Public Improvements chapter.

DEVELOPMENT STANDARDS

VAR21-00543



BUILDING DEPARTMENT

1. Due to a moderate landslide hazard and a medium liquefaction hazard potential, a geotechnical report is required to address development activity. The report must be prepared by a Washington State licensed Professional Engineer. Recommendations contained within the report shall be incorporated into the design of the subsequent structures.
2. Prior to issuance of Building, Demolition or Land Surface Modification permit applicant must submit a proposed rat baiting program for review and approval. Kirkland Municipal Ordinance 21.41.302.
3. Plumbing meter and service line shall be sized in accordance with the current UPC.
4. Complete permit applications shall comply with the 2018 editions of the International Building, Residential and Mechanical Codes and the Uniform Plumbing Code as adopted and amended by the State of Washington and the City of Kirkland. Permits for the proposed structure to show compliance with the 2018 IRC for a two-family dwelling.
5. Structures shall comply with the 2018 edition of the International Energy Conservation Code as adopted and amended by the State of Washington.
6. Kirkland reviews, issues and inspects all electrical permits in the city. Complete electrical permit applications shall comply with the 2020 edition of the Washington Cities Electrical Code chapters 1 and 3 as published by WABO.
7. Structures must be designed for seismic design category D, wind speed of 110 miles per hour and exposure B.

FIRE DEPARTMENT

No direct impacts to fire protection requirements.

PUBLIC WORKS DEPARTMENT

General Conditions:

1. All public improvements associated with this project including street and utility improvements, must meet the City of Kirkland Public Works Pre-Approved Plans and Policies Manual. A Public Works Pre-Approved Plans and Policies manual can be purchased from the Public Works Department, or it may be retrieved from the Public Works Department's page at the City of Kirkland's web site.
2. This project will be subject to Public Works Permit and Connection Fees. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The applicant should anticipate the following fees:
 - o Water, Sewer, and Surface Water Connection Fees *
 - o Side Sewer Inspection Fee *
 - o Septic Tank Abandonment Inspection Fee
 - o Water Meter Fee *
 - o Right-of-way Fee
 - o Review and Inspection Fee
 - o Building Permits associated with this proposed project will be subject to the traffic, park, and school impact fees per Chapter 27 of the Kirkland Municipal Code. The impact fees shall be paid prior to issuance of the Building Permit(s). Any existing buildings within this project which are demolished will receive a Traffic Impact Fee credit, Park Impact Fee Credit and School Impact Fee Credit. This credit will be applied to the first Building Permits that are applied for within the project. The credit amount for each demolished building will be equal to the most currently adopted Fee schedule.

* Fee to be paid with the issuance of a Building Permit.

3. All street and utility improvements shall be permitted by obtaining a Land Surface Modification (LSM) Permit, including the required LSM Checklist.

4. Performance and Maintenance Securities:

- Prior to issuance of the BLD Permit a standard right of way restoration security ranging from \$10,000.00 to 30,000.00 (value determined based on amount of ROW disruption) shall be posted with Public Works Department. This security will be held until the project has been completed.

- Prior to Final Inspection there will be a condition of the permit to establish a two year Maintenance security.

5. This project is exempt from concurrency review.

6. All civil engineering plans which are submitted in conjunction with a building, grading, or right-of-way permit must conform to the Public Works Policy G-7, Engineering Plan Requirements. This policy is contained in the Public Works Pre-Approved Plans and Policies manual.

7. All street improvements and underground utility improvements (storm, sewer, and water) must be designed by a Washington State Licensed Engineer; all drawings shall bear the engineers stamp.

8. All plans submitted in conjunction with a building, grading or right-of-way permit must have elevations which are based on the King County datum only (NAVD 88).

9. A completeness check is required prior to submittal of any Building Permit applications.

10. Prior to issuance of any commercial or multifamily Building Permit, the applicant shall provide a plan for garbage, recycling and composting storage and pickup. The plan shall conform to Policy G-9 in the Public Works Pre-approved Plans and be approved by Waste Management and the City. Important feature is to provide enough storage area for recycling and composting; and being able to pick up containers without storing in the ROW overnight. Submit the plan with a cover letter to explain how Policy G-9 requirements will be met. Please contact John MacGillivray, 425.587.3804, if you have questions.

11. The required tree plan shall include any significant tree in the public right-of-way along the property frontage.

Sanitary Sewer Conditions:

1. The applicant shall extend the sanitary sewer system in accordance with KZC Chapter 110 and KMC Title 15.12.032 "Required sewer extension prior to connection". Extend an 8" sewer main along Kirkland Way 30 ft. and terminate with a manhole .

2. Provide a plan and profile design for the sewer line extension.

3. Provide a 6-inch minimum side sewer stub to each lot. Side sewers serving the property shall be PVC gravity sewer pipe per Public Works Pre-Approved Criteria.

4. The existing septic system shall be abandoned per City standards with a Demo Permit.

Water System Conditions:

1. The applicant shall extend the water system per KZC Chapter 110. Extend an 8" water main from the termination of the main across Kirkland Way at Monterey Townhomes Condo and extend to the west property line along Kirkland Way (terminate with a blow off) and extend to the property line on 9th St (connect to the existing 2 inch main). Provide a three way valve cluster in Kirkland Way at the split.

2. Provide a separate 1" minimum water service from the water main to the meter for each lot; City of Kirkland will set the water meter. The water size is determined when the Building Permit is submitted and is sized per the Uniform Plumbing Code. A ¾" meter is typical for a new single-family home, unless otherwise required by the City.

3. The existing water service shall be abandoned at the main.

4. See Fire Department conditions for fire flow requirements.

Surface Water Conditions:

1. Provide temporary and permanent storm water control in accordance with the 2016 King County Surface Water Design Manual (KCSWDM) and the City of Kirkland Addendum (Policy D-10).

2. To determine the drainage review level required, the target impervious surface area is the maximum allowable lot coverage area for the project, plus any offsite improved impervious areas. See Policies D-2 and D-3 in the Public Works Pre-Approved Plans for drainage review information, or contact Kirkland Surface Water staff at (425) 587-3800 for assistance. The Kirkland Drainage Review Flow Chart is a helpful tool to determine a project's drainage review level. Drainage review levels are summarized below:

- Targeted Drainage Review
 - o Threshold: Any project (size does not matter) will trigger a targeted drainage review if the project:
 - Contains or is adjacent to a flood, erosion, steep slope hazard area, or landslide hazard area, or
 - Proposes to construct or modify a drainage pipe /ditch that is 12" or larger or receives runoff from a 12" or larger drainage pipe /ditch, or
 - Redevelopment projects proposing >\$100,000 in improvements to an existing high use site.
 - o The KCSWDM core requirements included in a targeted drainage review are in addition to either basic or simplified drainage review
- Full Drainage Review
 - o Any non-single-family residential project that creates more than 2,000 sf of new and/or replaced impervious surface, or greater than 7,000 sf of land disturbing activity will trigger a Full Drainage Review.
 - o Single family residential projects that propose improvements greater than the Simplified thresholds explained above will be subject to a Full Drainage Review.

3. A preliminary drainage report (Technical Information Report) must be submitted with the subdivision application. This must include a downstream analysis for all projects (except for Basic and Simplified Drainage Review projects). Provide a level one off-site analysis per Core Requirement #2 of the KCSWDM.

- For Simplified Drainage Review, use the Simplified TIR Submittal Template available on the City of Kirkland website.

Navigate to the following webpage:

"City of Kirkland Utilities > Storm & Surface Water > Development & Construction"

4. This project is in a Level 1 Flow Control Area (Potential Direct Discharge), and is required to comply with core drainage requirements in the KCSWDM.

a) To qualify for direct discharge, the applicant must demonstrate (at a minimum):

- The conveyance system between the project site and Lake Washington will be comprised of manmade conveyance elements and will be within public right-of-way or a public or private drainage easement, AND
- The conveyance system will have adequate capacity per Core Requirement #4, Conveyance System, for the entire contributing drainage area, assuming build-out conditions to current zoning for the equivalent area portion and existing conditions for the remaining area;

b) If a stormwater detention system is required, this project may be designed to Level 1 flow control standards. Existing conditions may be used as the pre-developed condition. Calculations of the existing impervious surface area for modeling shall be in accordance with the formula described in the KCSWDM.

5. The project may qualify for an exception to detention if the target surfaces will generate no more than a 0.15 cfs increase over existing site conditions 100-year peak flow. The 15-minute time step must be used to perform the flow control analysis. Do not use the 1-hour time step. Approved hydrologic modeling programs are MGS Flood and WWHM 2012.

6. Evaluate the feasibility and applicability of dispersion, infiltration, and other stormwater Low Impact Development (LID) Best Management Practices (BMPs) per the KCSWDM. If feasible, stormwater LID BMPs are required to the maximum extent feasible. If LID BMPs are infeasible, pervious pavement cannot be used to reduce overall impervious lot coverage. The Private Maintenance Agreement will be recorded on all projects that construct a stormwater LID BMP or facility, per Policy D-7.

7. Soil information may be necessary for designing LID BMPs per the KCSWDM, and there are other reasons a soil report is necessary for a project (e.g., steep slopes, sensitive areas, etc.). Refer to Policy D-8 for details.
8. Special inspections may be required for LID BMPs on this project. Provide documentation of inspections by a licensed geotechnical professional that the BMP will function as designed.
9. If the project will create or replace more than 5,000 square feet of pollution generating impervious surface (PGIS), provide water quality treatment in accordance with the KCSWDM.
10. Soil Amendment per Pre-Approved Plan E.12 is required for all landscaped areas.
11. Provide a storm drain connection to the structure(s) for conveyance. All roof and driveway drainage must be tight-lined to the storm drain system or utilize low impact development techniques on-site.
12. Provide collection and conveyance of right-of-way storm drainage. Extend the storm main along the entire frontage in support of the frontage improvements, see Street and Pedestrian Improvements section. Provide a plan and profile design for the storm sewer system. Size and material of construction shall be in accordance with the City Kirkland Pre-Approved Plans and Notes. Refer to Policy D-5 for details.
 - Abandon the Kirkland Way crossing at structure ID#8866 and extend the storm around the frontage from structure ID#8821 and connect to storm on the west side of 9th S.
13. A storm sewer "Joint Maintenance Agreement" must be recorded with the property for the jointly used storm sewer lines.
14. If working within an existing ditch, the applicant is hereby given notice that the Army Corps of Engineers (COE) has asserted jurisdiction over upland ditches draining to streams. Either an existing Nationwide COE permit or an Individual COE permit may be necessary for work within ditches, depending on the project activities. Applicants should obtain the applicable COE permit; information about COE permits can be found at: U.S. Army Corps of Engineers, Seattle District Regulatory Branch
<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>

Specific questions can be directed to: Seattle District, Corps of Engineers, Regulatory Branch, CENWS-OD-RG, Post Office Box 3755, Seattle, WA 98124-3755, Phone: (206) 764-3495
15. A Hydraulic Project Approval (HPA) from WA State Department of Fish and Wildlife (WDFW) may be required for this project. Contact Stewart Reinbold at WDFW at 425-313-5660 or stewart.reinbold@dfw.wa.gov for determination, obtain an HPA if required, and submit a copy to COK. If an HPA is not required, the applicant will be required to provide written documentation from WDFW as verification. More information on HPAs can be found at the following website:
<http://wdfw.wa.gov/licensing/hpa/>
16. Construction Stormwater Pollution Prevention Plan (CSWPPP):
 - All proposed projects that will conduct construction activities onsite, or offsite must provide stormwater pollution prevention and spill controls to prevent, reduce, or eliminate the discharge of pollutants (including sediment) to onsite or adjacent stormwater systems or watercourses.
 - Refer to Core Requirement No. 5 in the KCSWDM and Policy D-12.
 - Provide an erosion control report and plan with the Building or Land Surface Modification Permit application. The plan shall be in accordance with the KCSWDM.
 - Construction drainage control shall be maintained by the developer and will be subject to periodic inspections. During the period from May 1 and September 30, all denuded soils must be covered within 7 days; between October 1 and April 30, all denuded soils must be covered within 12 hours. Additional erosion control measures may be required based on site and weather conditions. Exposed soils shall be stabilized at the end of the workday prior to a weekend, holiday, or predicted rain event.

Street and Pedestrian Improvement Conditions:

1. The subject property abuts Kirkland Way and 9th Street. These streets are Minor Arterial and Neighborhood Access type streets. Zoning Code sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:

A. Kirkland Way Frontage Improvements:

- Install Type A curb and gutter 18 ft from the right-of-way center line.
- Install a 4.5-ft landscape strip behind the curb, with street trees 30 feet on-center.
- Install a 5-ft wide concrete sidewalk behind the landscape strip.
- Dedicate right-of-way at the corner to accommodate a 30 ft curb radius and sidewalk improvements.

B. 9th Street Frontage Improvements:

- Install a 5-ft sidewalk with back edge at the property line.
- Install a 4.5-ft landscape strip in front of the sidewalk, with street trees 30 feet on-center.
- Install Type A curb.
- Widen the street to 20 feet by providing additional asphalt on the east side of roadway as necessary.
- Provide no parking signs both sides of the street.
- Provide double yellow centerline striping.

2. Public Improvements Modification (KZC 110.70.3): The City may require or grant a modification to the nature or extent of any required improvement for any of the following reasons:

- A. If the improvement as required would not match the existing improvements.
- B. If unusual topographic or physical conditions preclude the construction of the improvements as required.
- C. If other unusual circumstances preclude the construction of the improvements as required.
- D. If the City and a neighborhood has agreed upon a modified standard for a particular street (see the Public Works Pre-Approved Plans and Policies Notebook for a description of the Neighborhood Access Street Improvement Modification and Waiver Process).

E. Due to limited right-of-way along 9th Street and the unusual shape and size of the parcel public works proposes the following modifications to the 9th Street frontage.

- Install a 5-ft sidewalk with back edge at the property line.
- Install Type A curb in front of the sidewalk, no planter strip or street trees.
- Widen the street to 20 feet by providing additional asphalt on the east side of roadway as necessary.
- Provide no parking signs both sides of the street.
- Provide double yellow centerline striping.

3. Access Requirements (KZC Chapter 105.10):

- A. The unobstructed paved access shall be 20 feet wide.
- B. A circular driveway is allowed if it meets the requirements of Policy R-4.
- C. Provide vehicle turnarounds where needed to allow vehicles to drive forward onto street. OR if required for Fire Department vehicle maneuverability – see notes below.

4. Meet the requirements of the Kirkland Driveway Policy R-4. Spacing Table from R-4, for reference:

5. Meet the requirements of the Kirkland Intersection Sight Distance Policy R.13. All street and driveway intersections shall not have any visual obstructions within the sight distance triangle.

6. When three or more utility trench crossings occur within 150 lineal ft. of street length or where utility trenches parallel the street centerline, the street shall be overlaid with new asphalt or the existing asphalt shall be removed and replaced per the City of Kirkland Street Asphalt Overlay Policy R-7.

- Existing streets with 4-inches or more of existing asphalt shall receive a 2-inch (minimum thickness) asphalt overlay. Grinding of the existing asphalt to blend in the overlay will be required along all match lines.

- Existing streets with 3-inches or less of existing asphalt shall have the existing asphalt removed and replaced with an asphalt thickness equal or greater than the existing asphalt provided however that no asphalt shall be less than 2-inches thick and the subgrade shall be compacted to 95% density.

7. Install new monuments at the intersection of Kirkland Way and 9th St centerlines.
8. It shall be the responsibility of the applicant to relocate any above-ground or below-ground utilities which conflict with the project, associated street, or utility improvements.
9. Underground all new and existing on-site utility lines and overhead transmission lines. Underground any new off-site transmission lines.
10. Zoning Code Section 110.60.7.b establishes the requirement that existing utility and transmission (power, telephone, etc.) lines on-site and in rights-of-way adjacent to the site must be underground. The Public Works Director may determine if undergrounding transmission lines in the adjacent right-of-way is not feasible and defer the undergrounding by signing an agreement to participate in an undergrounding project, if one is ever proposed. In this case, the Public Works Director has determined that undergrounding of existing overhead utility on Kirkland Way and 9th Street is not feasible at this time and the undergrounding of off-site/frontage transmission lines should be deferred with a Local Improvement District (LID) No Protest Agreement.
11. New LED street lights may be required per Puget Sound Energy design and Public Works approval. Contact the INTO Light Division at PSE for a lighting analysis. If lighting is necessary, design must be submitted prior to issuance of a grading or building permit.

Brynja Almazan - Account Sales Manager, Intolight, PUGET SOUND ENERGY
Tel 253-395-6874 | Cell 206-604-3348 | Fax 425-462-3149
Email brynja.almazan@pse.com | Website: www.intolight.com
12. A striping plan for the street must be submitted with the building or grading permit.



Greenforest Incorporated



Consulting Arborist

TO: Michael T. Smith
Chrysalis Homes, LLC
11 - 9th Street
Kirkland WA 98033

REFERENCE: Regulated Tree Inventory

SITE ADDRESS: 11 - 9th Street, Kirkland WA 98033

DATE: June 7, 2021

PREPARED BY: Favero Greenforest, ISA Certified Arborist # PN -0143A
ISA Tree Risk Assessment Qualified
ASCA Registered Consulting Arborist® #379

Introduction

You contacted me and contracted my services as a consulting arborist. My assignment is to tag and inspect trees at the above referenced site. The purpose of this *significant tree inventory* is to establish the condition of the regulated trees to satisfy City of Kirkland permit submittal requirements (Kirkland Zoning Code §95.30.4.a).

I visited the site 6/2/2021 and visually inspected the trees, which are the subject of this report.

SUMMARY:

Parcel Size, SF	6,017
Parcel Size, Acres	0.14
Required Tree Credits	5

LIMITATIONS AND USE OF THIS REPORT

This tree report establishes, via the most practical means available, the existing conditions of the trees on the subject property. Ratings for health and structure, as well as any recommendations are valid only through the development and construction process. This report is based solely on what is readily visible and observable, without any invasive means.

There are several conditions that can affect a tree's condition that may be pre-existing and unable to be ascertained with a visual-only analysis. No attempt was made to determine the presence of hidden or concealed conditions which may contribute to the risk or failure potential of trees on the site. These conditions include root and stem (trunk) rot, internal cracks, structural defects or construction damage to roots, which may be hidden beneath the soil. Additionally, construction and post-construction circumstances can cause a relatively rapid deterioration of a tree's condition.

I marked each tree with 1" x 3.5" aluminum tag indicating tree number.

TREE INSPECTION

I visually inspected each tree from the ground. I performed a Level 1 risk assessment.¹ This is the standard assessment for populations of trees near specified targets, conducted in order to identify obvious defects or specified conditions such as a pre-development inventory. This is a limited visual assessment focuses on identifying trees with imminent and/or probable likelihood of failure, and/or other visible conditions that will affect tree retention.

I recorded tree species and size (DBH). I estimated the average dripline of each tree. I rated the condition of each tree, both health and structure. A tree's structure is distinct from its health. This inspection identifies what is visible with both.

High-risk trees can appear healthy in that they can have a dense, green canopy. This may occur when there is sufficient sapwood or adventitious roots present to maintain tree health, but inadequate strength for structural support.

Conversely, trees in poor health may or may not be structurally stable. For example, tree decline due to root disease is likely to cause the tree to be structurally unstable, while decline due to drought or insect attack may not.

¹ Companion publication to the ANSI A300 Part 9: Tree Shrub and Other woody Plant Management – Standard Practices, Tree Risk Assessment. 2011. ISA.