

RESOLUTION R-5177

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN A TEMPORARY LICENSE AGREEMENT WITH KPP DEVELOPMENT LLC FOR THE TEMPORARY USE OF CITY PROPERTY FOR THE PURPOSE OF ACCESS TO CENTRAL WAY DURING THE CONSTRUCTION OF THE PARKPLACE PROJECT AND THE CONSTRUCTION OF PUBLIC UTILITIES TO BE PERMANENTLY LOCATED IN THE EASTERLY EDGE OF PETER KIRK PARK.

1 WHEREAS, the City owns the real property known as the Peter
2 Kirk Park generally located at 406 Kirkland Avenue, Kirkland (City
3 Property); and
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5 WHEREAS, KPP Development LLC (KPP) owns or controls
6 approximately 11.07 acres of real property immediately east of and
7 adjacent to the City Property known as the Parkplace Property and
8 generally located at 457 Central Way, Kirkland (Parkplace Property); and
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10 WHEREAS, KPP intends to develop the Parkplace Property as a
11 mixed use development (the Project) in accordance with the
12 Development Agreement dated August 24, 2015, between the City and
13 KPP recorded at King County Recording Number 20150827000785; and
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15 WHEREAS, the development plan calls for approximately 1.175
16 million square feet of development with 650,000 square feet of office;
17 225,000 square feet of retail/fitness/entertainment; and 300,000 square
18 feet of residential (250-300 units); and
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20 WHEREAS, KPP's goals for the Project are to develop a thriving
21 commercial, retail and commercial center, for a return on investment
22 and quality public infrastructure and service; and
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24 WHEREAS, the City's goals in the development of the Project
25 include implementing its comprehensive plan, producing positive
26 economic impacts to the City, promoting environmental quality, and
27 mitigation of Project impacts; and
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29 WHEREAS, in connection with KPP's construction of the Project,
30 KPP has requested that the City grant KPP a temporary license over,
31 under, across, through and upon a portion of the City Property for the
32 purposes of access to Central Way and construction of public water and
33 sewer utility lines which will be permanently placed in the easterly edge of
34 Peter Kirk Park; and
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36 WHEREAS, in consideration of the City's grant of a temporary
37 license, KPP shall construct and install pedestrian pathways, landscaping
38 and other improvements to Peter Kirk Park; and

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WHEREAS, in view of the public benefits to be gained by the City through construction and installation of improvements to the Park and development of the Project, the City is willing to grant a temporary license upon the terms and conditions set forth in the Temporary License Agreement.

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

Section 1. The City Manager is authorized to sign a Temporary License Agreement substantially in the form of the Temporary License Agreement attached to this Resolution.

Passed by majority vote of the Kirkland City Council in open meeting this 5th day of January, 2016.

Signed in authentication thereof this 5th day of January, 2016.


MAYOR

Attest:


City Clerk

DRAFT TEMPORARY LICENSE AGREEMENT

Grantor: City of Kirkland

Grantee: KPP Development LLC

Legal description (abbreviated): Grantor Property: Portion of Government Lot 5 and portion of SE Quarter of SW Quarter Section 5, Township 25 North, Range 5 East, WM, King County (as described in Lot Consolidation, recording number 20010619001842)
(See Exhibit A for complete legal description)

Grantee Property: Lots 1 – 17, Block 174, Burke & Farrar's Kirkland Addition, Volume 33, Page 36; and portion of Southwest Quarter, Section 5, Township 25 North, Range 5 East, WM, King County (See Exhibit B for complete legal description)

Assessor's Tax Parcel #s: 052505-9029 (Grantor)
124870-0051 (Grantee)

TEMPORARY LICENSE AGREEMENT

THIS TEMPORARY LICENSE AGREEMENT ("Agreement"), is made and entered into this ___ day of _____, 2016, by and between the CITY OF KIRKLAND ("City"), a Washington municipal corporation, and KPP DEVELOPMENT LLC, a Delaware limited liability company (together with its successors and assigns, "KPP").

RECITALS

WHEREAS, the City owns the real property known as the Peter Kirk Park generally located at 406 Kirkland Avenue, Kirkland, Washington, legally described in Exhibit A attached hereto ("City Property"); and

WHEREAS, KPP owns or controls approximately 11.07 acres of real property immediately east of and adjacent to the City Property known as the Parkplace Property and generally located at 457 Central Way, Kirkland, legally described in Exhibit B attached hereto ("Parkplace Property"); and

WHEREAS, KPP intends to develop the Parkplace Property as a mixed use development (the "Project") in accordance with the Development Agreement dated August 24, 2015, between the City and KPP recorded at King County Recording Number 20150827000785; and

WHEREAS, in connection with KPP's construction of the Project, the City has agreed to grant to KPP a temporary license over, under, across, through and upon a portion of the City Property for the purposes of access to Central Way and construction activities, upon the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. Consideration. The consideration for the City's grant of the Licenses shall be a combination of monetary consideration and KPP's construction and installation of pedestrian pathways, landscaping and other improvements ("Park Improvements") within that portion of the

City Property legally described in Exhibit C attached hereto ("License Area") and as further described in Section 5 below. The Park Improvements are generally depicted in Exhibit D attached hereto. The monetary consideration shall be the difference between the value of the proposed Park Improvements and: 1) the appraised value of the permanent encumbrance of public water and sewer utilities to serve the Park Place Project; plus 2) the appraised value of the temporary roadway and construction access as further described in Section 3 below. Any such monetary consideration shall be dedicated to Peter Kirk Park.

3. Grant of Licenses

3.1 Temporary Roadway License. City hereby grants to KPP a temporary license over, across, through and upon that portion of the License Area legally described in Exhibit E attached hereto ("Roadway Area"), for ingress and egress to and from the Parkplace Property and Central Way, for all vehicular and pedestrian access purposes necessary or desirable (a) for use and occupation of the QFC supermarket (and any successor businesses and uses) located on the Parkplace Property and (b) for KPP's construction of the Project, but shall not be permitted as an entrance or exit for truck hauling, point of access for regular material deliveries to the site or as a laydown or material storage area. Construction work may be permitted in the Roadway Area if the work is approved in writing by the City and is limited in scope.

3.2. Temporary Construction Access License. City hereby grants to KPP a temporary license over, under, across, through and upon the License Area for construction and maintenance activities in connection with the Project as described in this Subsection. The Temporary Construction Access License shall include the right by KPP, its successors, assigns, employees, agents and contractors to enter upon and use the License Area for the construction, installation, maintenance and repair of (a) a temporary roadway in the Roadway Area, (b) utilities for the Project and other neighboring properties ("Utilities"), as further described in Section 5 below and (c) the Park Improvements. The temporary roadway shall be constructed in accordance with design plans approved in writing by the City's Public Work Director or her designee.

4. City and Public's Use. The City may use the License Area for any purpose that does not interfere with the purposes of the Temporary Roadway License and the Temporary Construction Access License described above (collectively the "Licenses"); provided, however, that the City acknowledges and agrees that KPP shall have the right to close and physically block the License Area from the City's and/or public's use from time to time. Prior to any closure of the License Area from the City's and/or public's use, notification and plans for the same shall be submitted, in writing, to the City, at the address provided in Section 11.12 below. No closure of access shall occur without the Kirkland Fire Department's prior written approval which shall not be unreasonably withheld: Provided, that in the event of an emergency or for safety requiring immediate by KPP for the protection of its facilities or other persons or property, KPP shall have the right to close and physically block the License Area for such time and upon such notice to the City as is reasonable under the circumstances.

5. Park Improvements; Utilities. KPP shall install and construct the Park Improvements and the Utilities on or before the Termination Date (as defined in Section 8 below) substantially in accordance with Exhibit D. The design of the Park Improvements and the Utilities shall be approved through the permitting process for which KPP shall have the right to secure permits from City of Kirkland for the installation and construction of the Park Improvements and the Utilities on the City Property. If the City requests, KPP shall provide assurance of performance satisfactory to the City prior to KPP's commencement of the Park Improvements. Upon completion of the Park Improvements, KPP shall dedicate to the City, and the City shall accept, the Park Improvements and the Utilities constructed on the City Property. Until such time as the Park Improvements and the Utilities are dedicated to the City, KPP shall maintain all improvements constructed by KPP in the License Area in good and safe condition, at KPP's sole expense.

6. Restoration; Use; Liens

6.1 KPP will be solely responsible for repair and remediation of any damage to the City Property, including any improvements thereon, caused by KPP's exercise of its rights under this Agreement.

6.2 In no event shall KPP's use of the License Area and activities associated with its construction activities cause any material disruption in the use by City and the public on that portion of the City Property that lies outside the License Area.

6.3 KPP shall use good faith efforts to perform all construction on the City Property diligently and continuously to completion in a safe and workmanlike manner.

6.4 KPP shall keep the City Property free and clear of all liens, charges, and other monetary encumbrances arising out of the use of the License Area that may be claimed or asserted by any third party. KPP agrees to hold the City harmless for any loss or expense, including reasonable attorneys' fees and costs, arising from any such liens which might be filed against the City Property.

6.5 Upon completion of the construction of the Utilities, KPP shall restore the area above the Utilities to a condition which will permit the public to use and enjoy the area. The restoration shall include the reestablishment of grass and construction of temporary paths to be used until the final restoration described in Subsection 6.6.

6.6 Upon termination or revocation of this Agreement in any manner provided in this Agreement, KPP at its own cost and expense, shall abandon its use of the License Area, remove the temporary roadway in the Roadway Area and restore the License Area, including the Roadway Area, to like or better condition than it was prior to the construction of the temporary roadway in the Roadway Area.

6.7. If the City requests, KPP shall provide assurance of performance satisfactory to the City for the cost of repair, remediation and restoration of the City Property.

7. Compliance with Laws. KPP shall comply with all applicable laws and codes in connection with its activities performed under this Agreement and its use of the License Area and shall obtain all necessary permits and approvals for all such work at KPP's expense.

8. Term. KPP's rights with respect to the Licenses shall terminate on June 30, 2018 ("Termination Date"). If KPP has not abandoned the use of the License Area, removed the temporary roadway from the Roadway Area and restored the Roadway Area and License Area as described in Section 6 by the Termination Date, KPP shall pay the City an amount equal to 400 percent of the per day appraised value as established by the Valbridge Property Advisors Appraisal Report as of November 20, 2015, which equates to \$311 per day, until KPP has fully vacated and restored the License Area and Roadway Area..

9. Assignment. The Licenses and all rights and obligations of KPP in this Agreement are not assignable without the prior written consent of the City to the proposed assignment, which consent shall not be unreasonably withheld.

10. Insurance. During the term of this Agreement, KPP and the Permitted Assignees shall, at its or their own expense, maintain on file with the City prior to exercising any rights under this Agreement currently effective and satisfactory certification of primary Comprehensive General Liability insurance with limits of liability incident to KPP's exercise of rights under this Agreement of not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate. Such policy must specifically include "the City of Kirkland" as an additional insured for primary and non-contributory limits of liability incident to KPP's exercise of rights under this Agreement.

11. General Provisions

11.1 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

11.2 Severability. If any provision of this Agreement shall be held to be invalid or unenforceable, the rest of the Agreement shall be enforced without the invalid or the unenforceable provision.

11.3 Authority. Each party respectively represents and warrants that it has the power and authority and is duly authorized to enter into this Agreement on the terms and conditions herein stated, and to deliver and perform its obligations under this Agreement.

11.4 Exhibits Incorporated. Exhibits A, B, C, D and E are incorporated herein by this reference as if fully set forth.

11.5 Headings. The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

11.6 Time of the Essence. Time is of the essence of this Agreement and of every provision hereof. Unless otherwise set forth in this Agreement, the reference to "days" shall mean calendar days. If any time for action occurs on a weekend or legal holiday in the State of Washington, then the time period shall be extended automatically to the next business day.

11.7 Entire Agreement and Amendment. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and neither this Agreement nor any provision hereof may be waived, modified, amended or terminated except by a written agreement signed by all parties hereto.

11.8 Notice of Default. No party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written notice of default from any other party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure.

11.9 Enforcement. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction.

11.10 Revocation. The City may terminate KPP's rights under this Agreement if after notice of default under Section 11.8 KPP has not effected a cure; provided, no act of the City other than giving notice to KPP with express statement of termination shall terminate this Agreement.

11.11 Attorneys' Fees. In any action to enforce or determine a party's rights under this Agreement, the prevailing party shall be entitled to attorney's fees and costs.

11.12 Notices. All communications, notices, and demands of any kind that a party under this Agreement requires or desires to give to any other party shall be in writing and either (i) delivered personally or by reputable overnight courier (such as Federal Express), (ii) sent by facsimile with an additional copy mailed first class, or (iii) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the City: City of Kirkland
Attn: _____
123 Fifth Avenue
Kirkland, WA 98033
Facsimile: _____

If to KPP: KPP Development LLC
c/o CBRE, Inc.
1420 Fifth Avenue, Suite 1700
Seattle, WA 98101

With copies to: Prudential Real Estate Investors
4 Embarcadero Center, Suite 2700
San Francisco, CA 94111
Attention: Prisa II Asset Manager

Talon Private Capital
720 Olive Way, Suite 1020
Seattle, WA 98101
Attention: Kirkland Urban Asset Manager

Notice by hand delivery or facsimile shall be effective upon receipt, provided that notice by facsimile shall be accompanied by mailed notice as set forth herein and shall be evidenced by a printed confirmation of receipt. If sent by overnight courier, notice shall be deemed delivered on the next business day after deposited with the courier. If deposited in the mail, certified mail, return receipt requested, notice shall be deemed delivered forty-eight (48) hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given.

11.13 Delays. If either party is delayed in the performance of its obligations under this Agreement due to Force Majeure, then performance of those obligations shall be excused for the period of delay. For purposes of this Agreement, economic downturns, loss in value of KPP assets, inability to obtain or retain financing, do not constitute a force majeure event.

11.14 Indemnification and Release. KPP shall protect, defend, indemnify and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, actions, suits or liabilities for injury or death of any person, or for loss or damage to property, which arises directly or indirectly on account of or out of acts or omissions of KPP or KPP's servants, agents, employees and contractors in the exercise of its rights under this Agreement; except for injuries or damages caused by the sole negligence of the City.

This indemnity with respect to claims during the term of this Agreement shall survive the termination or revocation of this Agreement.

[INTENTIONAL PAGE BREAK]

11.15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one instrument.

Exhibits

Exhibit A	Legal Description of City Property
Exhibit B	Legal Description of Parkplace Property
Exhibit C	Legal Description of License Area
Exhibit D	Park Improvements
Exhibit E	Legal Description of Roadway Area

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, effective on the day and year set forth on the first page hereof.

CITY OF KIRKLAND, a Washington municipal corporation

By: _____
Print name: _____
Title: _____

KPP, LLC, a Delaware limited liability company

By: _____
Print name: _____
Title: _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (s)he signed this instrument, on oath stated that (s)he was authorized to execute the instrument and acknowledged it as the _____ of THE CITY OF KIRKLAND, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2016.

Notary Public for the State of Washington
residing at _____
Print name: _____
Commission expires: _____

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (s)he signed this instrument, on oath stated that (s)he was authorized to execute the instrument and acknowledged it as the _____ of KPP DEVELOPMENT LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2016.

Notary Public for the State of Washington
residing at _____
Print name: _____
Commission expires: _____

EXHIBIT A

CITY PROPERTY
LEGAL DESCRIPTION

THAT PORTION OF GOVERNMENT LOT 5 AND OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 25 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT DISTANT NORTH 89°39'00" EAST ALONG THE SOUTH LINE OF SAID SECTION 1511.50 FEET AND NORTH 00°21'00" WEST 30 FEET FROM THE MEANDER CORNER COMMON TO SECTIONS 5 AND 8 OF SAID TOWNSHIP AND RANGE;

THENCE SOUTH 89°39'00" WEST, PARALLEL TO THE SOUTH LINE OF SAID SECTION 5, A DISTANCE OF 721.50 FEET;

THENCE NORTH 00°21'00" WEST A DISTANCE OF 623.14 FEET, MORE OR LESS, TO THE SOUTHERLY LINE OF CENTRAL AVENUE IN KIRKLAND TERRACE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 21 OF PLATS, PAGE 42, IN KING COUNTY, WASHINGTON (FORMERLY LAKE AVENUE IN THE PLAT OF THE TOWN OF KIRKLAND ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 6 OF PLATS, PAGE 53, IN KING COUNTY, WASHINGTON);

THENCE NORTH 70°04'15" EAST ALONG THE SOUTHERLY LINE OF SAID CENTRAL AVENUE A DISTANCE OF 141.12 FEET TO AN ANGLE POINT IN SAID SOUTHERLY LINE;

THENCE NORTH 63°26'15" EAST ALONG SAID SOUTHERLY LINE A DISTANCE OF 656.01 FEET, MORE OR LESS, TO A POINT WHICH BEARS NORTH 00°21'00" WEST FROM THE POINT OF BEGINNING;

THENCE SOUTH 00°21'00" EAST A DISTANCE OF 960.20 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION THEREOF LYING WITHIN THE RIGHT OF WAY OF KIRKLAND WAY (ALSO KNOWN AS KIRKLAND AVENUE), AS IT EXISTED ON MAY 7, 1980.

(SAID LEGAL DESCRIPTION IS SET FORTH IN LOT CONSOLIDATION RECORDED AT KING COUNTY RECORDING NUMBER 20010619001842.)

EXHIBIT B

PARKPLACE PROPERTY
LEGAL DESCRIPTION

PARCEL A:

LOTS 1 THROUGH 17, INCLUSIVE, IN BLOCK 174 OF BURKE AND FARRAR'S
KIRKLAND ADDITION TO THE CITY OF SEATTLE DIVISION 39, AS PER PLAT
RECORDED IN VOLUME 33 OF PLATS, PAGE 36, RECORDS OF KING COUNTY,
WASHINGTON;

AND THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 5,
TOWNSHIP 25 NORTH, RANGE 5 EAST W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SUBDIVISION;

THENCE SOUTH 89°39'00" WEST ALONG THE SOUTHERLY LINE OF SAID
SUBDIVISION, A DISTANCE OF 708.00 FEET;
THENCE NORTH 00°21'00" WEST A DISTANCE OF 317.71 FEET TO THE TRUE
POINT OF BEGINNING;

THENCE SOUTH 89°46'25" WEST A DISTANCE OF 2.87 FEET;

THENCE SOUTH 89°34'30" WEST A DISTANCE OF 166.54 FEET;

THENCE NORTH 00°25'30" WEST A DISTANCE OF 0.58 FEET;

THENCE SOUTH 89°46'25" WEST A DISTANCE OF 160.59 FEET;

THENCE NORTH 00°21'00" WEST A DISTANCE OF 488.34 FEET;

THENCE SOUTH 63°26'15" WEST A DISTANCE OF 0.72 FEET;

THENCE NORTH 00°21'00" WEST A DISTANCE OF 184.39 FEET TO THE
SOUTHERLY MARGIN OF CENTRAL WAY AND A POINT THAT BEARS NORTH

89°39'00" EAST A DISTANCE OF 1,511.50 FEET ALONG THE SECTION LINE AND

NORTH 00°21'00" WEST A DISTANCE OF 990.20 FEET FROM THE CORNER OF

FRACTIONAL SECTIONS 5 AND 8, TOWNSHIP 25 NORTH, RANGE 5 EAST W.M.,

SAID POINT BEING ON THE SOUTHERLY MARGIN OF CENTRAL WAY;

THENCE NORTH 63°26'15" EAST ALONG SAID MARGIN A DISTANCE OF 60 FEET
TO THE NORTHWEST CORNER OF LOT 1 IN BLOCK 174, OF SAID

AFORMENTIONED PLAT;

THENCE SOUTH 00°21'00" EAST ALONG SAID LOT 1, A DISTANCE OF 183.91 FEET
TO THE SOUTHWEST CORNER OF LOT 1;

THENCE NORTH 63°26'15" EAST ALONG THE SOUTHERLY LINE OF LOT 1, LOT 2
AND LOT 3, TO THE SOUTHEAST CORNER OF LOT 3 AND ITS INTERSECTION

WITH THE WEST LINE OF LOT 4, A DISTANCE OF 161.48 FEET;

THENCE SOUTH 00°21'00" EAST ALONG THE WEST LINE OF LOT 4, A DISTANCE
OF 194.10 FEET TO THE SOUTHWEST CORNER OF LOT 4;

THENCE NORTH 89°39'00" EAST ALONG THE SOUTHERLY LINE OF LOT 4 AND

LOT 5, A DISTANCE OF 132.00 FEET TO A POINT IN LOT 5 THAT BEARS NORTH 00°21'00" WEST FROM THE TRUE POINT OF BEGINNING;
THENCE SOUTH 00°21'00" EAST A DISTANCE OF 392.43 FEET TO THE TRUE POINT OF BEGINNING;

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN INGRESS AND EGRESS AS GRANTED BY INSTRUMENT RECORDED JULY 20, 1990, UNDER RECORDING NO. 9007200568, IN KING COUNTY, WASHINGTON.

PARCEL C:

AN EASEMENT FOR INGRESS, EGRESS AND PARKING AS GRANTED IN THAT CERTAIN "GRANT OF MUTUAL EASEMENTS" RECORDED JUNE 27, 1985 UNDER RECORDING NO. 8506270132, AS MODIFIED BY AWARD ON ARBITRATION FILED OCTOBER 30, 1990, IN KING COUNTY SUPERIOR COURT CAUSE NO. 90-2-02367-2 AND AMENDMENT RECORDED MARCH 22, 1996 UNDER RECORDING NO. 9603220640, IN KING COUNTY, WASHINGTON.

EXHIBIT C

LICENSE AREA
LEGAL DESCRIPTION

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT BEARS NORTH 89°39'00" EAST A DISTANCE OF 1511.50 FEET ALONG THE SECTION LINE AND NORTH 00°21'00" WEST A DISTANCE OF 990.20 FEET FROM THE CORNER OF FRACTIONAL SECTIONS 5 AND 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., SAID POINT BEING ON THE SOUTHERLY MARGIN OF CENTRAL WAY;
THENCE SOUTH 00°21'00" EAST 184.32 FEET;
THENCE NORTH 63°26'15" EAST 0.72 FEET;
THENCE SOUTH 00°21'00" EAST 419.23 FEET;
THENCE NORTH 22°50'31" WEST 45.63 FEET;
THENCE NORTH 00°20'31" WEST 317.28 FEET;
THENCE NORTH 67°05'19" WEST 6.95 FEET;
THENCE NORTH 00°24'18" WEST 96.82 FEET;
THENCE NORTH 25°19'30" WEST 119.20 FEET, TO SAID MARGIN;
THENCE NORTH 63°27'48" EAST, ALONG SAID MARGIN, 81.98 FEET, TO THE POINT OF BEGINNING.

EXHIBIT D
PROPOSED PARK IMPROVEMENTS

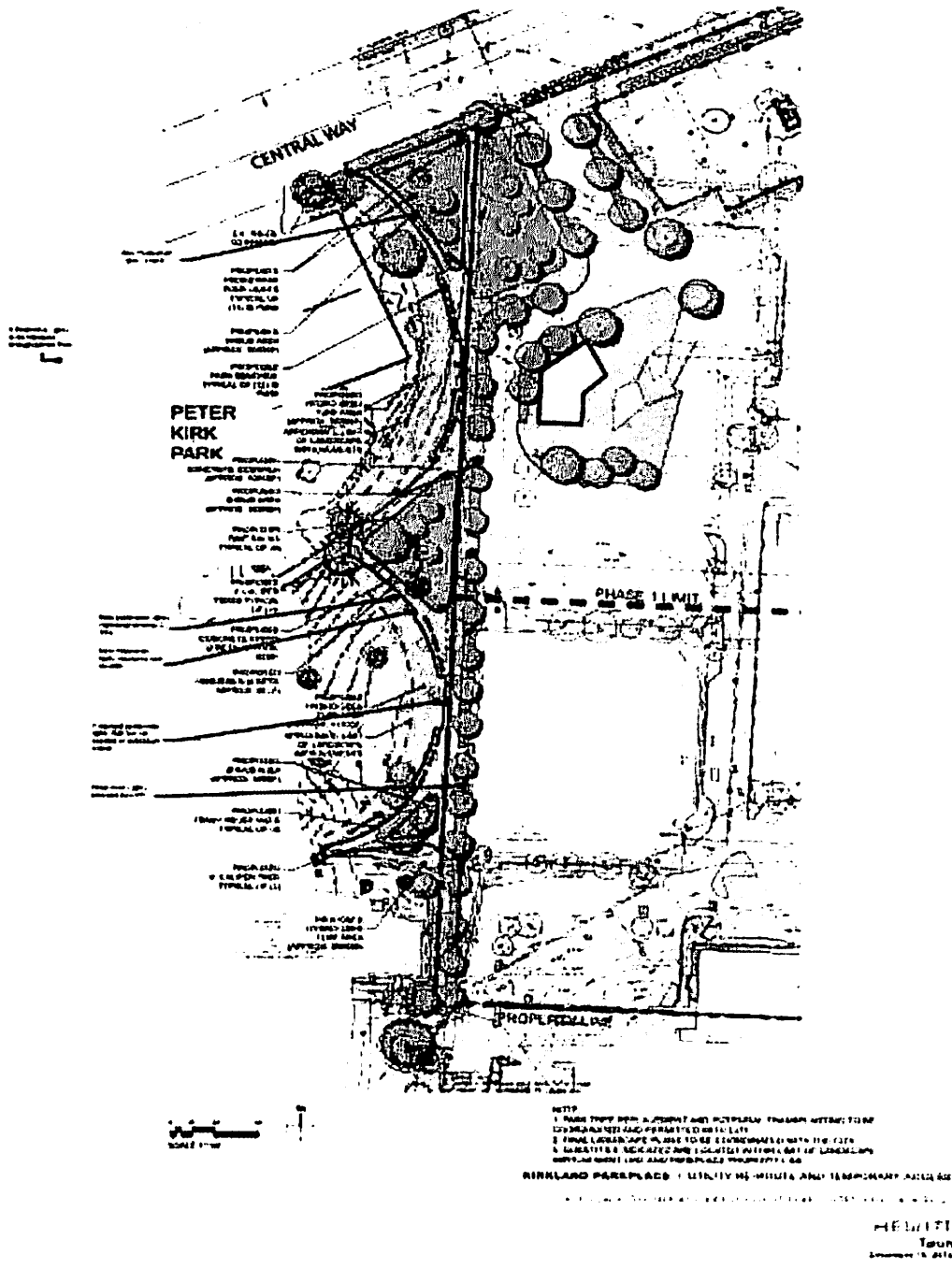


EXHIBIT E
ROADWAY AREA
LEGAL DESCRIPTION

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 25 NORTH, RAGE 5 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT BEARS NORTH 89°39'00" EAST A DISTANCE OF 1511.50 FEET ALONG THE SECTION LINE AND NORTH 00°21'00" WEST A DISTANCE OF 990.20 FEET FROM THE CORNER OF FRACTIONAL SECTIONS 5 AND 8, TOWNSHIP 25 NORTH, RAGE 5 EAST, W.M., SAID POINT BEING ON THE SOUTHERLY MARGIN OF CENTRAL WAY;
THENCE SOUTH 00°21'00" EAST 184.32 FEET;
THENCE NORTH 63°26'15" EAST 0.72 FEET;
THENCE SOUTH 00°21'00" EAST 405.14 FEET, TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET, THE CENTER OF WHICH BEARS NORTH 43°17'31" EAST;
THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 46°18'12", AN ARC DISTANCE OF 40.41 FEET, TO A POINT OF TANGENCY;
THENCE NORTH 00°24'18" WEST 503.76 FEET, TO A POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 24.50 FEET;
THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°07'54", AN ARC DISTANCE OF 11.17 FEET, TO A POINT OF TANGENCY;
THENCE NORTH 26°32'12" WEST 26.64 FEET, TO SAID MARGIN;
THENCE NORTH 63°27'48" EAST, ALONG SAID MARGIN, 32.99 FEET, TO THE POINT OF BEGINNING.