

ORDINANCE O-4825

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ESTABLISHING A PLANNED ACTION FOR THE KIRKLAND NE 85TH STREET STATION AREA.

1           WHEREAS, the State Environmental Policy Act (SEPA) and its  
2 implementing regulations provide for the integration of environmental  
3 review with land use planning and project review through the  
4 designation of planned actions by jurisdictions planning under the  
5 Growth Management Act (GMA), including the City of Kirkland (City);  
6 and  
7

8           WHEREAS, Section 43.21C.440 of the Revised Code of  
9 Washington (RCW) Sections 197-11-164 through 172 of the  
10 Washington Administrative Code (WAC) allow for and govern the  
11 adoption and application of a planned action designation under SEPA;  
12 and  
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14           WHEREAS, the City has adopted SEPA Rules regarding  
15 Planned Actions in Kirkland Municipal Code (KMC) 24.02.180; and  
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17           WHEREAS, the designation of a planned action expedites the  
18 permitting process for projects of which the impacts have been  
19 previously addressed in a supplemental environmental impact  
20 statement (SEIS); and  
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22           WHEREAS, a subarea of Kirkland consisting of the NE 85th  
23 Street Station Area as depicted on the map attached hereto as **Exhibit**  
24 **A** and incorporated herein by this reference has been identified as a  
25 planned action area for future redevelopment to a mixed-use center  
26 (Planned Action Area); and  
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28           WHEREAS, the City Council adopted Resolution R-5547  
29 adopting a NE 85<sup>th</sup> Street Station Area Plan and amended its  
30 Comprehensive Plan in Ordinance O-4800 to adopt the NE 85th Street  
31 Station Area subarea plan (Station Area Plan) as an element of the  
32 Comprehensive Plan to guide development within the Planned Action  
33 Area; and  
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35           WHEREAS, the City Council adopted Ordinances O-4801 and  
36 O-4802 addressing Phase 1 Zoning Map and Zoning Code  
37 Amendments (Phase 1 amendments), respectively, and Ordinance O-  
38 4803 addressing design guidelines, to regulate development within the  
39 Planned Action Area; and  
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41           WHEREAS, after public participation and coordination with  
42 affected parties, the City, as lead SEPA agency, issued the NE 85th  
43 Street Station Area Final Supplemental Environmental Impact

44 Statement dated December 30, 2021 (FSEIS), which identifies the  
45 impacts and mitigation measures associated with planned development  
46 in the Future Planned Action Area; and  
47

48 WHEREAS, on June 24, 2022 and April 21 2023, the City's  
49 SEPA Responsible Official issued related Addenda to the FSEIS and  
50 circulated it to the recipients of the FSEIS pursuant to WAC 197-11-  
51 625(4); and  
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53 WHEREAS on June 28, 2022, the City Council amended its  
54 Comprehensive Plan to adopt the NE 85th Street Station Area subarea  
55 plan to guide development within the Future Planned Action Area; and  
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57 WHEREAS, the City desires to designate a planned action under  
58 SEPA for the NE 85th Street Station Area (Planned Action); and  
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60 WHEREAS, adopting a Planned Action for the NE 85th Street  
61 Station Area with appropriate standards and procedures will help  
62 achieve efficient permit processing and promote environmental quality  
63 protection; and  
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65 WHEREAS, in addition to the above-referenced Phase 1  
66 amendments, the City is adopting Phase 2 zoning map amendments  
67 through Ordinance O-4856 and Phase 2 form-based zoning regulations  
68 through Ordinance O-4855 concurrent with the Planned Action for the  
69 Planned Action Area; and  
70

71 WHEREAS, the City Council of the City of Kirkland finds that  
72 adopting this Ordinance and its Exhibits is in the public interest and will  
73 advance the public health, safety, and welfare.  
74

75 NOW, THEREFORE, the City Council of the City of Kirkland do  
76 ordain as follows:  
77

78 Section 1. Findings. The findings of the City of Kirkland City  
79 Council are as follows:

80 A. The procedural and substantive requirements of SEPA RCW  
81 43.21C, have been complied with.

82 B. The procedural requirements of GMA RCW 36.70A, have  
83 been complied with.

84 C. The proposed action is consistent with the City's  
85 Comprehensive Plan, as amended.

86 D. The proposed amendments have been reviewed and  
87 processed in accordance with the SEPA Procedures and Policies in  
88 Chapter 24.02 KMC.

89 E. All necessary public meetings and opportunities for public  
90 testimony and comment have been conducted in compliance with State  
91 law and the City's municipal code.

92 F. Regulation of land use and development is subject to the  
93 authority and general police power of the City, and the City reserves its

94 powers and authority to appropriately amend, modify, and revise such  
95 land use controls in accordance with applicable law.

96 G. The Planned Action SEIS adequately identifies and  
97 addresses the probable significant environmental impacts associated  
98 with the type and amount of development planned to occur in the  
99 designated Planned Action Area.

100 H. The mitigation measures identified in the Planned Action  
101 SEIS, attached to this Ordinance as Exhibit B and incorporated herein  
102 by reference, together with adopted City development regulations are  
103 adequate to mitigate significant adverse impacts from development  
104 within the Planned Action Area.

105 I. The Station Area Plan, form-based zoning regulations, and  
106 Planned Action SEIS identify the location, type, and amount of  
107 development that is contemplated by the Planned Action.

108 J. Future projects that are implemented consistent with the  
109 Planned Action will protect the environment, benefit the public, and  
110 enhance economic development.

111 K. The City provided multiple opportunities for meaningful public  
112 involvement and review in the Station Area Plan and Planned Action  
113 SEIS processes, including a community meeting consistent with RCW  
114 43.21C.440; has considered all comments received; and, as  
115 appropriate, has modified the proposal or mitigation measures in  
116 response to comments.

117 L. Essential public facilities, as defined in RCW 36.70A.200 are  
118 excluded from the Planned Action as designated herein and are not  
119 eligible for review or permitting as planned action projects unless they  
120 are accessory to or part of a project that otherwise qualifies as a planned  
121 action project.

122 M. The designated Planned Action Area is located entirely within  
123 an Urban Growth Area and is smaller than the overall Kirkland  
124 boundaries.

125 N. Implementation of the mitigation measures identified in the  
126 Planned Action SEIS will provide for adequate public services and  
127 facilities to serve the proposed Planned Action Area.

128  
129 Section 2. Purpose. The purposes of this Ordinance are to:

130 A. Combine environmental analysis, land use plans,  
131 development regulations, and City codes and ordinances together with  
132 the mitigation measures in the Planned Action SEIS to mitigate  
133 environmental impacts and process Planned Action development  
134 applications in the Planned Action Area;

135 B. Designate the NE 85th Street Station Area shown in Exhibit A  
136 as a Planned Action Area for purposes of environmental review and  
137 permitting of designated planned action projects pursuant RCW  
138 43.21C.440;

139 C. Confirm that the Planned Action SEIS meets the requirements  
140 of a planned action SEIS pursuant to SEPA;

141 D. Establish criteria and procedures for the designation of certain  
142 projects within the Planned Action Area as planned action projects  
143 consistent with RCW 43.21C.440;

144 E. Provide clear definition as to what constitutes a planned  
 145 action project within the Planned Action Area, identify the criteria for  
 146 planned action project approval, and determine how development  
 147 project applications that qualify as planned action projects will be  
 148 processed by the City;

149 F. Streamline and expedite the land use permit review process  
 150 by relying on the Planned Action SEIS; and

151 G. Apply the mitigation framework contained in this Ordinance  
 152 for the processing of planned action project applications and incorporate  
 153 the applicable mitigation measures into the underlying project permit  
 154 conditions in order to address the impacts of future development  
 155 contemplated by this Ordinance.

156  
 157 Section 3. Procedures and Criteria for Evaluating and  
 158 Determining Planned Action Projects within the Planned Action Area.

159 A. Planned Action Area. This Planned Action designation shall  
 160 apply to the area shown in Exhibit A of this Ordinance.

161 B. Environmental Document. A planned action project  
 162 determination for a site-specific project application within the Planned  
 163 Action Area shall be based on the environmental analysis contained in  
 164 the Planned Action SEIS. The mitigation measures contained in Exhibit  
 165 B of this Ordinance are based upon the findings of the Planned Action  
 166 SEIS and shall, along with adopted City regulations, provide the  
 167 framework the City will use to apply appropriate conditions on qualifying  
 168 planned action projects within the Planned Action Area.

169 C. Planned Action Project Designated. Land uses and activities  
 170 described in the Planned Action SEIS, subject to the standards in  
 171 Subsection 3.D of this Ordinance and the mitigation measures  
 172 contained in Exhibit B of this Ordinance, are designated planned action  
 173 projects ("Planned Action Projects") pursuant to RCW 43.21C.440. A  
 174 development application for a site-specific project located within the  
 175 Planned Action Area that meets the criteria in Subsections 3.D and 3.E  
 176 may be designated a Planned Action Project pursuant to the process in  
 177 Subsection 3.G.

178 D. Planned Action Qualifications. The following standards shall  
 179 be used to determine if a site-specific development proposed within the  
 180 Planned Action Area is a Planned Action Project and has had its  
 181 environmental impacts evaluated in the Planned Action SEIS:

182 (1) Qualifying Land Uses.

183 (a) Planned Action Categories: The following general categories/types  
 184 of land uses are defined in the NE 85th Street Station Area Plan and  
 185 can qualify as Planned Actions:

186 i. Residential

187 ii. Industrial

188 iii. Office

189 iv. Retail

190 v. Mixed uses

191 vi. Open Space, Passive or Active Parks, Trails, Recreation,  
 192 Gathering Spaces

- 193 vii. Street and non-motorized circulation improvements
- 194 consistent with the Transportation evaluation in the Planned
- 195 Action SEIS.
- 196 vii. Civic, Cultural, Governmental and Utility Facilities as
- 197 identified in the NE 85th Street Station Area Plan and allowed in
- 198 the Kirkland Zoning Code (KZC).
- 199 ix. Other uses allowed in the Zoning regulations applicable to the
- 200 NE 85th Street Station Area that are similar to studied uses as
- 201 determined by the responsible official or designee.
- 202 x. Enlargement or intensification of uses existing at the time the
- 203 Planned Action Area is approved, so long as such enlargement
- 204 or intensification complies with the Form-based Code to the
- 205 extent practicable.
- 206 (b) Planned Action Project Land Uses: A land use can qualify as a
- 207 Planned Action Project land use when:
  - 208 i. it is within the Planned Action Area as shown in Exhibit A of
  - 209 this Ordinance; and
  - 210 ii. it is within one or more of the land use categories described in
  - 211 Subsection 3.D(1)(a) above; or
  - 212 iii. it is a common accessory use or appurtenant to a permitted
  - 213 use.
- 214 A Planned Action Project may be a single planned action land
- 215 use, or a combination of Planned Action land uses together in a
- 216 mixed-use development. Planned action land uses may include
- 217 accessory uses.
- 218 (c) Public Services: The following public services, infrastructure, and
- 219 utilities can also qualify as Planned Actions: streets and non-motorized
- 220 improvements, utilities, parks, trails, civic, cultural, governmental, and
- 221 similar facilities developed consistent with the Planned Action SEIS
- 222 mitigation measures, City design standards, critical area regulations,
- 223 and the Kirkland Municipal and Zoning Codes.
- 224 (2) Development Limits:
- 225 (a) Land Use: The following maximum levels of new land uses are
- 226 contemplated by the Planned Action:

**Planned Action Development Limits 2020-2044+**

<b>Net Development 2020-2044+</b>	<b>Existing</b>	<b>Preferred Net Growth</b>	<b>Total</b>
Housing Units	1,909	6,243	8,152
Jobs*	4,988	17,763	22,751

- 228 Notes: \*Job assumptions based on 350 square feet/office
- 229 employee, 375 square feet/retail employee, 600 square
- 230 feet/industrial employee.
- 231 (b) Shifting development amounts between land uses identified in
- 232 Subsection 3.D(2)(a) may be permitted by the responsible official or
- 233 designee provided the person trips for the preferred alternative are not
- 234 exceeded and the development impacts identified in the Planned Action
- 235 SEIS are mitigated consistent with Exhibit B of this Ordinance.

236 (c) Further environmental review may be required pursuant to WAC 197-  
237 11-172 if any individual Planned Action Project or combination of  
238 Planned Action Projects exceeds the development levels specified in  
239 this Ordinance and/or alter the assumptions and analysis in the Planned  
240 Action SEIS.

241 (3) Transportation Limits:

242 (a) Trip Ranges & Limits. The number of total person trip ends  
243 anticipated in the Planned Action Area and reviewed in the Planned  
244 Action SEIS and addendum dated June 24, 2022 are as follows:

**Planned Action Limits:  
PM Peak Hour Person Trips 2044 with TDM**

Period	Total Net Person Trips
2018-2044	19,070

249 i. In no case shall trip ends exceed the Preferred Alternative.  
250 Monitoring shall be conducted by the City to ensure planned  
251 improvements are implemented concurrent with development  
252 before the final level of trips in the Preferred Alternative is  
253 authorized for development.

254 ii. All planned actions shall be consistent with subsections (b) to  
255 (f).

256 (b) Concurrency. All Planned Action Projects shall meet the City's  
257 transportation concurrency requirements standards per KMC Title 25.

258 (c) Impact Fee. All Planned Action Projects shall pay applicable impact  
259 fees for improvements addressed in the City Comprehensive Plan and  
260 Capital Facility Plan and impact fee ordinances.

261 (d) Mitigation. Each planned action shall provide its proportionate share  
262 of transportation capital improvements considered in the Planned Action  
263 SEIS.

264 (e) The SEPA Responsible Official shall require a Level 1 Traffic Impact  
265 Analysis Review per Policy R-38 prepared by Planned Action Project  
266 applicants identifying: added trips, that the project meets the  
267 concurrency standards of Subsection 3.D(3)(b), that the project paid  
268 impact fees per 3.D(3)(c), conformity with City standards for safe and  
269 efficient circulation and site access, and that the project has mitigated  
270 impacts consistent with Subsection 3.D (3)(d).The SEPA Responsible  
271 Official shall track that cumulative added trips identified in Subsection  
272 3.D(3)(a) are not exceeded

273 (f) Discretion.

274 i. The City's SEPA Responsible Official shall determine  
275 incremental and total trip generation, consistent with the Institute  
276 of Traffic Engineers (ITE) Trip Generation Manual (latest edition)  
277 or an alternative method accepted by the responsible City official  
278 at their sole discretion, for each project permit application  
279 proposed under this Planned Action.

280 ii. The City's SEPA Responsible Official shall condition Planned  
281 Action Project applications to meet the provisions of this Planned  
282 Action Ordinance and the Kirkland Municipal Code.

283           iii. Planned Action Project applicants shall pay a proportionate  
 284           share of the costs of the projects identified in Exhibit B. The  
 285           City's SEPA Responsible Official shall allocate responsibility for  
 286           required improvements between individual Planned Action  
 287           Projects based upon their identified impacts and share of  
 288           mitigation costs per Exhibit B.

289           (4) Elements of the Environment and Degree of Impacts. A proposed  
 290           project that would result in a significant change in the type or degree of  
 291           adverse impacts to any element(s) of the environment analyzed in the  
 292           Planned Action SEIS will not qualify as a planned action project.

293           (5) Changed Conditions. Should environmental conditions change  
 294           significantly from those analyzed in the Planned Action SEIS, the City's  
 295           SEPA Responsible Official may determine that the Planned Action  
 296           Project designation is no longer applicable until supplemental  
 297           environmental review is conducted.

298           E. Planned Action Project Review Criteria.

299           (1) When evaluating a Planned Action according to the permit process  
 300           in Subsection F, the City's SEPA Responsible Official, or authorized  
 301           representative, may designate as a Planned Action Project, pursuant to  
 302           RCW 43.21C.440, a project application that meets all of the following  
 303           conditions:

304           (a) the project is located within the Planned Action Area identified in  
 305           Exhibit A of this Ordinance;

306           (b) the proposed uses and activities are consistent with those described  
 307           in the Planned Action SEIS and Subsection 3.D of this Ordinance;

308           (c) the project is within the Planned Action thresholds and other criteria  
 309           of Subsection 3.D of this Ordinance;

310           (d) the project is consistent with the City's Comprehensive Plan  
 311           including the policies of the NE 85th Street Station Area Plan  
 312           incorporated into the Comprehensive Plan and the regulations of the NE  
 313           85th Street Station Area Plan integrated into the KMC;

314           (e) the project's significant adverse environmental impacts have been  
 315           identified in the Planned Action SEIS;

316           (f) the project's significant impacts will be mitigated by application of the  
 317           measures identified in Exhibit B of this Ordinance and other applicable  
 318           City regulations, together with any conditions, modifications, variances,  
 319           design review, or special permits that may be required;

320           (g) the project complies with all applicable local, state and/or federal  
 321           laws and regulations and the SEPA Responsible Official determines that  
 322           these constitute adequate mitigation; and

323           (h) the project is not an essential public facility as defined by RCW  
 324           36.70A.200 unless the essential public facility is accessory to or part of  
 325           a development that is designated as a Planned Action Project under this  
 326           Ordinance.

327           (2) The City shall base its decision to qualify a project as a Planned  
 328           Action Project on review of the SEPA Checklist form in WAC 197-11  
 329           together with the supplemental Planned Action Ordinance Checklist in  
 330           Exhibit C, and review of the Planned Action Project submittal and  
 331           supporting documentation, provided on City required forms, using the  
 332           procedures of Subsection 3.G.

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F. Effect of Planned Action Designation.

(1) Designation as a Planned Action Project by the City's SEPA Responsible Official means that a qualifying project application will be reviewed in accordance with this Ordinance.

(2) Upon determination by the City's SEPA Responsible Official, pursuant to the process in Subsection 3.G, that the project application meets the criteria of Subsection 3.D and qualifies as a Planned Action Project, the project shall not require a SEPA threshold determination, preparation of a SEIS or be subject to further review pursuant to SEPA. Planned Action Projects will still be subject to all other applicable City, state, and federal regulatory requirements. The Planned Action Project designation shall not excuse a project from meeting the City's code and ordinance requirements apart from the SEPA process.

G. Planned Action Project Permit Process. Applications submitted for qualification as a Planned Action Project shall be reviewed pursuant to the following process:

(1) Development applications shall meet all applicable requirements of the KMC, KZC, and this Ordinance in place at the time of the Planned Action Project application.

(2) Applications for Planned Action Projects shall:

(a) be made on forms provided by the City;

(b) include the SEPA checklist in WAC 197-11;

(c) include the traffic impact analysis per Section 3.D(3); and

(d) meet all applicable requirements of the KMC and this Ordinance.

(3) The City's SEPA Responsible Official shall determine whether the application is complete and shall review the application to determine if it is consistent with and meets all of the criteria for qualification as a Planned Action Project as set forth in this Ordinance.

(4) (a) If the City's SEPA Responsible Official determines that a proposed project qualifies as a Planned Action Project, they shall issue a Determination of Consistency and shall mail or otherwise verifiably deliver said Determination to the applicant; the owner of the property as listed on the application; and federally recognized tribal governments and agencies with jurisdiction over the Planned Action Project and pursuant to RCW 43.21C.440(3)(b).

(b) Upon issuance of the Determination of Consistency, the review of the underlying project permit(s) shall proceed in accordance with the applicable permit review procedures specified in the KZC and KMC, except that no SEPA threshold determination, SEIS, or additional SEPA review shall be required.

(c) The Determination of Consistency shall remain valid and in effect as long as the underlying project application approval is also in effect.

(d) Public notice and review for qualified Planned Action Projects shall be tied to the underlying project permit(s). If notice is otherwise required for the underlying project permit(s), the notice shall state that the project qualifies as a Planned Action Project. If notice is not otherwise required for the underlying project permit(s), no special notice is required by this Ordinance.



383 (5) (a) If the City's SEPA Responsible Official determines that a  
 384 proposed project does not qualify as a Planned Action Project, they shall  
 385 issue a Determination of Inconsistency and shall mail or otherwise  
 386 verifiably deliver said Determination to the applicant; the owner of the  
 387 property as listed on the application; and federally recognized tribal  
 388 governments and agencies with jurisdiction over the Planned Action  
 389 Project, and pursuant to RCW 43.21C.440(3)(b).

390 (b) The Determination of Inconsistency shall describe the elements of  
 391 the Planned Action Project application that result in failure to qualify as  
 392 a Planned Action Project.

393 (c) Upon issuance of the Determination of Inconsistency, the City's  
 394 SEPA Responsible Official shall prescribe a SEPA review procedure for  
 395 the non-qualifying project that is consistent with the City's SEPA  
 396 regulations and the requirements of state law.

397 (d) A project that fails to qualify as a Planned Action Project may  
 398 incorporate or otherwise use relevant elements of the Planned Action  
 399 SEIS, as well as other relevant SEPA documents, to meet the non-  
 400 qualifying project's SEPA requirements. The City's SEPA Responsible  
 401 Official may limit the scope of SEPA review for the non-qualifying project  
 402 to those issues and environmental impacts not previously addressed in  
 403 the Planned Action SEIS.

404 (6) To provide additional certainty about applicable requirements, the  
 405 City or applicant may request consideration and execution of a  
 406 development agreement for a Planned Action Project, consistent with  
 407 RCW 36.70B.170 et seq.

408 (7) A Determination of Consistency or Inconsistency is accomplished  
 409 consistent with KMC Chapter 24.02 and may be appealed pursuant to  
 410 the procedures established in Chapter 145 of the KZC. An appeal of a  
 411 Determination of Consistency shall be consolidated with any pre-  
 412 decision or appeal hearing on the underlying project application.

413  
 414 Section 4. Monitoring and Review.

415 A. The City will monitor the progress of development in the designated  
 416 Planned Action area in association with the City periodic review of its  
 417 Comprehensive Plan to help ensure that it is consistent with the  
 418 assumptions of this Ordinance and the Planned Action SEIS regarding  
 419 the type and amount of development and associated impacts, the mode  
 420 and location of person trips, and with the mitigation measures and  
 421 improvements planned for the Planned Action Area.

422 B. This Planned Action Ordinance shall be reviewed by the SEPA  
 423 Responsible Official at least every five (5) years in conjunction with the  
 424 City's regular Comprehensive Plan review cycle, or 5-year monitoring  
 425 report, whichever is first. The review shall determine the continuing  
 426 relevance of the Planned Action assumptions and findings with respect  
 427 to environmental conditions in the Planned Action Area, the impacts of  
 428 development, and required mitigation measures (Exhibit B). Based  
 429 upon this review, the City may propose amendments to this Ordinance  
 430 or may supplement or revise the Planned Action SEIS.

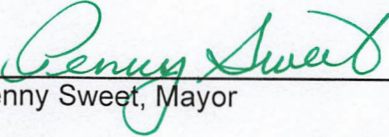
431  
 432 Section 5. If any provision of this ordinance or its application to  
 433 any person or circumstance is held invalid, the remainder of the

434 ordinance or the application of the provision to other persons or  
435 circumstances is not affected.  
436

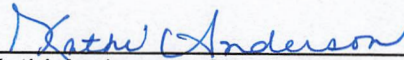
437 Section 6. This ordinance shall be in force and effect five days  
438 from and after its passage by the Kirkland City Council and publication  
439 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary  
440 form attached to the original of this ordinance and by this reference  
441 approved by the City Council.  
442

443 Passed by majority vote of the Kirkland City Council in open  
444 meeting this 18<sup>th</sup> day of July, 2023.  
445

446 Signed in authentication thereof this 18<sup>th</sup> day of July, 2023.

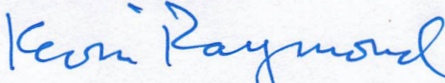
  
\_\_\_\_\_  
Penny Sweet, Mayor

Attest:

  
\_\_\_\_\_  
Kathi Anderson, City Clerk

Publication Date: July 24, 2023

Approved as to Form:

  
\_\_\_\_\_  
Kevin Raymond, City Attorney



PUBLICATION SUMMARY  
OF ORDINANCE NO. O-4825

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO  
ESTABLISHING A PLANNED ACTION FOR THE KIRKLAND NE  
85<sup>TH</sup> STREET STATION AREA, AND APPROVING A SUMMARY  
ORDINANCE FOR PUBLICATION, FILE NO. CAM20-00153.

1            SECTION 1. Establishes findings of the City of Kirkland  
2 City Council related to the Planned Action.  
3

4            SECTION 2. Establishes the purpose of the ordinance.  
5

6            SECTION 3 Establishes the procedures and criteria for  
7 evaluating and determining the Planned Action projects within the  
8 Planned Action Area.  
9


10           SECTION 4. Establishes monitoring and review measures  
11 for the Planned Action.  
12

13           SECTION 5. Provides a severability clause for the  
14 ordinance.  
15

16           SECTION 6. Authorizes publication of the ordinance by  
17 summary, which summary is approved by the City Council pursuant  
18 to Section 1.08.017 Kirkland Municipal Code and establishes the  
19 effective date as five days after publication of summary.  
20

21           The full text of this Ordinance will be mailed without charge  
22 to any person upon request made to the City Clerk for the City of  
23 Kirkland. The Ordinance was passed by the Kirkland City Council  
24 at its meeting on the 18th day of July, 2023.  
25

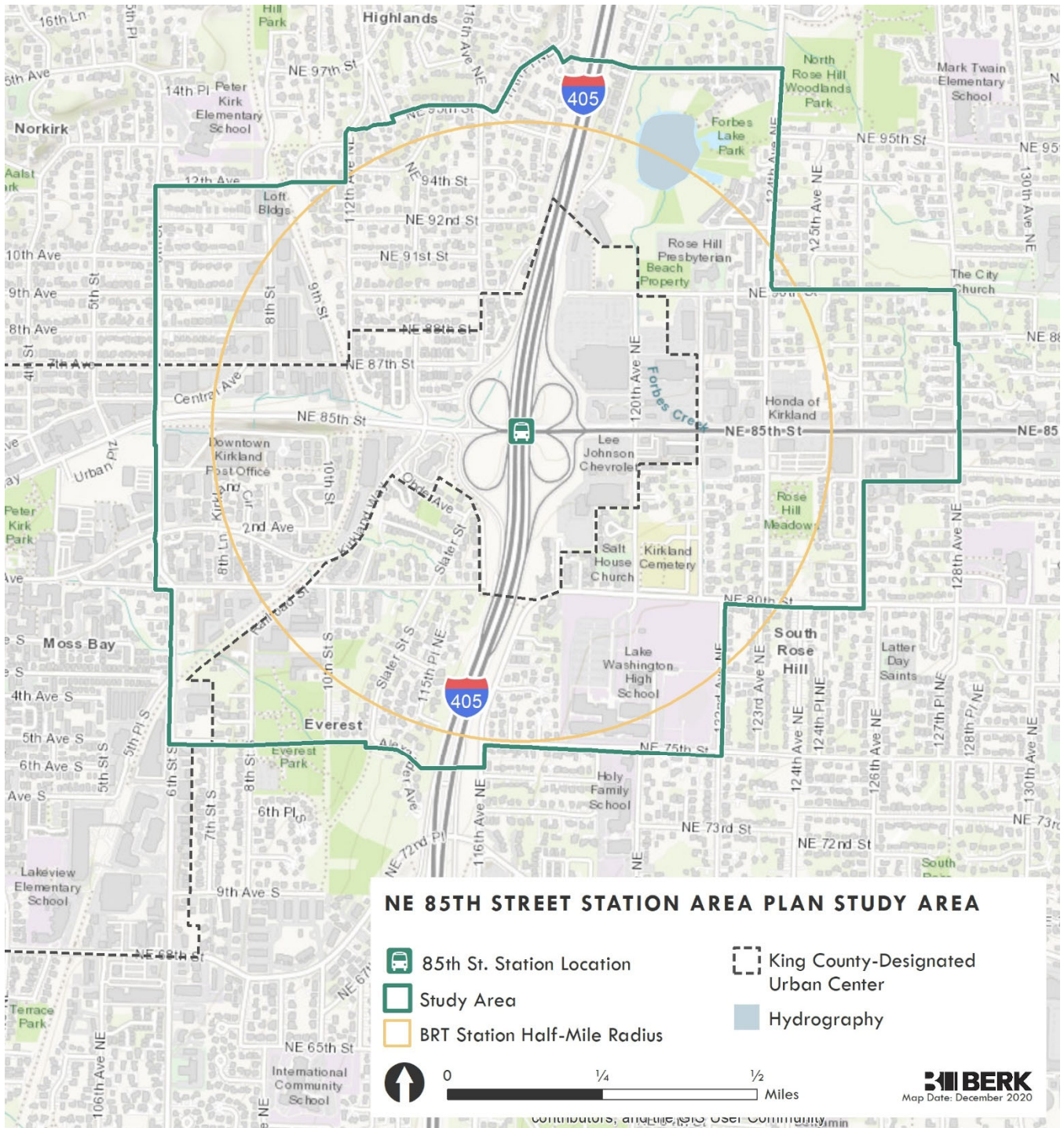
26           I certify that the foregoing is a summary of Ordinance O-  
27 4825 approved by the Kirkland City Council for summary  
28 publication.

  
\_\_\_\_\_  
Kathi Anderson, City Clerk

Publication Date: July 24, 2023



Exhibit A. Planned Action Area  
(Denoted as Study Area)



## Exhibit B. Mitigation Measures

### INTRODUCTION

This section includes B-1 Mitigation Measures referenced in the Planned Action EIS and adopted codes and regulations in Section B-2. Performance standards are included to ensure conformity with mitigation measures that were incorporated into the Station Area Plan and Form-Based Code.

Definitions of mitigation measures and performance measures include:

- Mitigation Measure: means to prevent, reduce or control adverse environmental effects of a planned action consistent with WAC 197-11-768, as described in the Final SEIS and incorporated into Exhibit B of this Ordinance.
- Performance Measure: A criterion that a planned action must adhere to in order to demonstrate mitigation is achieved consistent with the Final SEIS.

### B-1. MITIGATION MEASURES

#### Air Quality/Greenhouse Gas

1. Performance Measure: New residential uses are not included in the Commercial Mixed Use District in the station area.
2. Performance Measure: The Planned Action shall demonstrate compliance with Form-Based Code Section 57.25.04 Landscaping, Green Infrastructure, and Environmental Features.

#### Surface Water and Stormwater

3. Performance Measure: Planned Action applications shall demonstrate conformity with 57.15 Street Types; Section 57.25.04 Landscaping, Green Infrastructure, and Environmental Features; and 57.25.07 Sustainability Standards, iii. Ecosystems and Green Infrastructure.

#### Land Use Patterns, Plans and Policies, and Aesthetics

4. Performance Measure: Planned Action applications shall demonstrate conformity with NE 85<sup>th</sup> Street Station Area Plan policies, Kirkland design review regulations or guidelines (Design Guidelines for NE 85<sup>th</sup> St. Station Subarea Plan), and Form-Based Code standards addressing ground-level setback, upper-story stepbacks, or building height transition standards (57.25.05 Transitions).
5. Performance Measure: Planned Action applications shall demonstrate consistency with applicable Comprehensive Plan, Station Area Plan, and Form-Based Code policies and standards addressing inclusionary housing and commercial space standards and policies.
6. Performance Measure: Design of exterior building illumination shall reduce light pollution and spillover into low-density residential zoned lands outside the station area, including the use of shielded lighting, ground-level fixtures, or other screening techniques consistent with the Station Area Plan and Form-Based Code (57.25.04.4, Dark Sky Fixtures).

#### Transportation

7. Performance Measure: Planned Action applications shall demonstrate consistency with frontage

and street design standards established in the Station Area Plan and Form-Based Code (57.15 Street Types, 57.15 Frontage Types).

8. Mitigation Measure: Planned Action applications shall implement motorized and nonmotorized transportation improvements mitigating a Planned Action Project’s impacts consistent with Table B-1 and City standards. The City shall condition Planned Action applications to:
  - a. Implement system transportation improvements related to growth in the subarea. A Planned Action Project’s responsibility to provide for system improvements is based on the payment of citywide impact fees for improvements included therein. In addition, the Planned Action Project shall pay its fair share of system improvements not included in the citywide impact fee in proportion to the person trips generated to support necessary improvements identified in the Planned Action EIS and Addendum.
  - b. Provide site specific mitigation consistent with City standards. The City shall require safe and efficient circulation and site access and improvements attributable to individual developments in order to meet City standards based on the results of the Level 1 Traffic Impact Analysis Review in Policy R-38.
9. Mitigation Measure: Where a Planned Action development’s street frontage includes an existing or planned transit stop, such development shall be conditioned to install transit stops to the standards of King County Metro or Sound Transit.
10. Mitigation Measure: The SEPA Responsible Official shall condition Planned Action Projects to ensure the proposed use or development contributes to the subarea achieving the desired reduction in vehicle travel. Planned Actions shall implement transportation demand management (TDM) measures consistent with the Station Area Plan and Form-Based Code (57.25.07 Transportation Demand Management). The City will record conditions of approval applicable to future tenants to ensure the TDM measures are implemented.
11. Performance Measure The City may authorize latecomers’ agreements in accordance with Chapter 35.72 RCW for installing transportation capacity improvements that exceed the minimum frontage requirement or traffic impact fee requirement. The agreement shall identify the proposed improvement’s extent and value, benefit area, costs borne by the property owner, and pro rata share of costs to other property owners. The agreement shall specify the time period of the agreement and methods for the City’s recovery of costs as conditions of future development approval in the benefit area.

**Table B-1. Transportation Improvements**

Project Name	Description	Anticipated Start Year	Anticipated End Year
1. Lee Johnson East Access	NE 83rd St/120th Ave NE signalized access, and 120th Ave NE corridor improvements of added sidewalks and NB left turn lane (NE 83rd St to NE 85th St)	2025	2027

Project Name	Description	Anticipated Start Year	Anticipated End Year
2. Lee Johnson South Access	NE 80th St/118th Ave NE mini roundabout, and 118th Ave complete street	2025	2027
3. NE 80th St/ 120th Ave NE Intersection Improvement	Added SB left turn pocket, signal revisions, and 120th Ave NE corridor improvements of added sidewalks and SB bike lane (NE 80th St to NE 83rd St)	2027	2029
4. 124th Ave NE Roadway Widening	Widen roadway to five lane cross section from NE 85th St through the NE 90th St intersection, widened sidewalks and raised protected bike lanes from NE 84th Ln through NE 90th St intersection	2036	2039
5. NE 85th St/120th Ave NE Intersection Improvement	Revised signalization for added NB left turn lane, and curb ramps, crosswalk striping, signalization for shared use paths	2025	2027
6. 5th Ave to Kirkland Way Shared Use Trail Improvements	Widen existing trail to 12 feet, minimize grade, and add lighting	2038	2040
7. 5th Ave Greenway	Add pavement markings and signage for greenway designation from 6th St to 10th St	2038	2039
8. 6th St Widened Sidewalks	Widen sidewalks on the east side of 6th St from Kirkland Way to NE 85th St	2038	2040
9. Kirkland Way Complete Street	Add buffered bike lanes and continuous sidewalks from 6th St to NE 85th St	2036	2039
10. 7th Ave/NE 87th St Complete Street	Widened sidewalks and buffered bike lanes from 6th St to 116th Ave NE. Parking lane protecting the south side (EB) bike lane from 6th St to the CKC, and landscape strips added to sidewalks from the CKC to 116th Ave NE	2028	2030
11. 116th Ave NE Complete Street (NE 87th St to NE 90th St)	Buffered bike lanes and sidewalk infill from NE 87th St to NE 90th St	2039	2040
12. 116th Ave NE Complete Street (NE 90th St to NE 100th St)	Buffered bike lanes and sidewalk infill from NE 90th St to NE 100th St	2039	2040
13a. I-405/NE 85th St Shared Use Trail (SW Quadrant)	Shared use trail connecting BRT station to 116th Ave NE	2027	2030
13b. I-405/NE 85th St Shared Use Trail (NE Quadrant)	Shared use trail connecting BRT station to Slater Ave NE	2036	2039



Project Name	Description	Anticipated Start Year	Anticipated End Year
13c. I-405/NE 85th St Shared Use Trail (SE Quadrant)	Shared use trail connecting BRT station to NE 80th St	2025	2027
14. 90th Street Complete Street (I-405 to 122nd Ave NE)	Add shared use path and landscape strip on the north side of roadway, and sidewalk and landscape strip on south side of roadway	2033	2035
15. 90th Street Complete Street (122nd Ave NE to 128th Ave NE)	Buffered bike lanes and sidewalks with landscape strips from 122nd Ave NE to 124th Ave NE, greenway treatments including new sidewalks and curb ramps, pavement markings and signage from 124th Ave NE to 128th Ave NE	2033	2035
16. 122nd Ave NE Bike Route	Widen sidewalks, add lighting, and stripe buffered bike lanes from NE 80th St to NE 90th St	2031	2033
17. NE 82nd Green Midblock Connection	Share Use trail connection between 120th Ave NE to 122nd Ave NE in the vicinity of NE 82nd Ln and the edge of the Kirkland Cemetery	2034	2036
18a. NE 85th St Shared Use Paths (I-405 to 120th Ave NE)	Wide shared use paths and landscape strips from the I-405 interchange to 120th Ave NE	2025	2029
18b. NE 85th St Enhanced Sidewalks and Raised Protected Bike Lanes (120th Ave NE to 122nd Ave NE)	Widened sidewalks, landscape strips, and raised protected one-way bike lanes (120th Ave NE to 122nd Ave NE)	2028	2031
18c. NE 85th St Enhanced Sidewalks and Raised Protected Bike Lanes (122nd Ave NE to 124th Ave NE)	Widened sidewalks, landscape strips, and raised protected one-way bike lanes (122nd Ave NE to 124th Ave NE)	2028	2031
18d. NE 85th St Enhanced Sidewalks and Raised Protected Bike Lanes (124th Ave NE to 126th Ave NE)	Widened sidewalks, landscape strips, and raised protected one-way bike lanes (124th Ave NE to 126th Ave NE)	2035	2038
18e. NE 85th St Enhanced Sidewalks and Raised Protected Bike Lanes (126th Ave NE to 128th Ave NE)	Widened sidewalks, landscape strips, and raised protected one-way bike lanes (126th Ave NE to 128th Ave NE)	2035	2038
19. 116th Ave NE Ped/Bike Overcrossing Access Improvements	Widen sidewalk and bike lane on the northwest side of 116th Ave NE from NE 80th St to existing I-405 ped/bike bridge,	2025	2027



Project Name	Description	Anticipated Start Year	Anticipated End Year
	includes RRFB crossing of 116th Ave NE to the south		
20. 120th Ave NE Corridor Improvements (NE 85th St to NE 90th St)	Overlay and sidewalk infill between NE 85th St and NE 90th St	2033	2035
P1. 6th St/7th Ave Intersection Improvements	Bike lane striping and sidewalk improvements at the intersection to connect to 7th Ave complete street improvements	2028	2030
P2. NE 85th St/122nd Ave NE Protected Intersection	Striping, signalization changes, and protection islands at the intersection for sidewalks and raised protected bike lanes on NE 85th St	2028	2029
P3. NE 87th St/116th Ave NE Intersection Improvement	Mini roundabout and associated striping and sidewalk changes	2025	2026
P4. NE 80th St/122nd Ave NE Intersection Improvement	South side curb extension, crosswalks, and RRFBs added for north-south walking and biking connection to Lake Washington High School	2031	2033
P5. 6th St/NE 85th St Protected Intersection	Striping, signalization changes, and protection islands at the intersection for sidewalks and raised protected bike lanes on NE 85th St	2038	2040
P6. 6th and Kirkland Way Protected Intersection	Striping, signalization changes, and protection islands at the intersection for sidewalks and buffered bike lanes on Kirkland Way	2038	2040

#### Public Services

12. Performance Measure: Planned Action applications shall demonstrate consistency with on-site open space requirements in the Form-Based Code (57.15.04.04 Plaza/Public Space, 57.30 Incentive Zoning Program)
13. Mitigation Measure: Planned Action applications shall pay Park Impact Fees to address system needs in the Parks, Recreation, and Open Space Plan.
14. Mitigation Measure: The City may require Planned Actions to provide on-site private security agreements to reduce calls for service.
15. Mitigation Measure: The City may require a mitigation agreement between the Planned Action Project developer and Kirkland Fire Department prior to development to address needed capital investments at stations serving the Study Area (e.g., stations and ladder trucks or other) that exceed the fire impact fee basis, or additional staffing needs.

16. Mitigation Measure: The City may require Planned Action proposals to develop protocols for fire aid and emergency medical services in conjunction with the Kirkland Fire Department.

#### Utilities

17. Mitigation Measure: Planned Action applicants shall pay applicable Sewer and Water Capital Facility Charges.

#### Cultural Resources (DSEIS Appendix A)

18. Mitigation Measure: The City shall require Planned Actions to include inadvertent Human Remains Discovery Language recommended by the Washington State Department of Archaeology and Historic Preservation (DAHP) as a condition of project approval.

19. Mitigation Measure: The City shall require Planned Actions to conduct a site inspection or evaluation by a professional archaeologist in coordination with affected tribes prior to issuance of permits in areas documented to contain archaeological resources.

### B-2. CODES AND REGULATIONS SERVING AS MITIGATION

The Planned Action SEIS identifies specific regulations that act as mitigation measures. These are summarized below SEIS topic. All applicable federal, state, and local regulations shall apply to Planned Action Projects. Planned Action Project applicants shall comply with all adopted regulations in place at time of development application where applicable including those listed in the Planned Action EIS and those not included in the Planned Action SEIS.

#### Surface Water and Stormwater

- The City will require projects to implement enhanced stormwater treatment for all hard surfaces requiring treatment within the Forbes Creek watershed in addition to the existing stormwater code requirements.
- Per KZC 90.60 and 90.70, modifications to wetlands, streams, and associated buffers are prohibited except under certain circumstances.
- Per KZC 95, a Tree Retention Plan is required, including inventory and survey of significant trees that may be impacted by the proposal. Tree canopy loss would be minimized through the retention of high value street trees and on-site trees to the maximum extent possible, and moderate value trees where feasible. Additionally, a forest management plan may be required for significantly wooded sites greater than 35,000 square feet. New tree canopy would be added with new street tree plantings, installation of required landscaping, and general project landscaping.

#### Land Use Patterns and Policies

- Kirkland Zoning Code regulates land use, landscaping, parking, and other aspects of development to ensure development meets the City's long-term vision. Design guidelines, adopted by Section 3.30.040 of the Kirkland Municipal Code establish urban design policies to be used in development design review. See also Section 3.5 Aesthetics.
- Kirkland Zoning Code Chapter 112 addresses affordable housing incentives and minimum inclusionary requirements.

- The City regulates noise under Chapter 115.95 of the Kirkland Zoning Code. Noise related to construction activities is regulated under Chapter 115.25 of the Kirkland Zoning Code.

### Transportation

- Transportation Impact Fees are required per Chapter 27.04 Transportation Impact Fees.
- Washington State Commute Trip Reduction (CTR) law focuses on employers with 100 or more employees whose shifts begin during the typical AM commute.
- Transportation Management Plans (TMPs) are required for property owners of newly constructed commercial and residential buildings consistent with City codes and standards. TMPs are designed to reduce automobile trips and their traffic impacts on city facilities.

### Public Services

- New development will be required to comply with the provisions of Title 21 of the Kirkland Municipal Code – Buildings and Construction (KMC 21). Provisions include that all new buildings with either more than five stories above grade plane, a total building area of 50,000 square feet or more, or a total basement area of 10,000 square feet or more have approved radio coverage for emergency responders (KMC 21.20.065).
- New development will be required to comply with the provisions of Title 21 of the Kirkland Municipal Code – Buildings and Construction (KMC 21). Provisions include that fire extinguishing systems are required for all new buildings with a gross floor area greater than 5,000 square feet (KMC 21.33.040).
- New development is subject to collection of fire impact fees under Chapter 27.10 of the Kirkland Municipal Code. Fire impact fees are used to fund additional staffing, equipment, and facility needs.
- New development is subject to collection of park impact fees under Chapter 27.06 of the Kirkland Municipal Code. Park impact fees are used to build or acquire new facilities.

### Utilities

- RCW 19.27.097 provides that an applicant for a building permit must provide evidence of an adequate supply of potable water.
- Requirements for adequate connections include:
  - Sewer Service Installation KMC Chapter 15.12
  - Water service installation and fees KMC 15.14
- The means by which utilities can be extended to address area-specific needs and potentially distribute the costs include:
  - Local Improvement Districts KMC 18.08
  - Sewer Extension Charges KMC 15.38.030 to collect sewer extension charges from owners of properties which individually benefit from publicly built sewer extension facilities.
  - Latecomers' agreements per RCW 35.91. The City has allowed for such agreements where

the City agrees to collect funding from benefited properties where a developer agrees to install public infrastructure that is of a greater capacity or a longer distance than is needed for that developer's project alone.

EXHIBIT C SUPPLEMENTAL CHECKLIST

This form supplements the standard SEPA Checklist at [WAC 197-11-960](#). This form supports the City’s determination of consistency. The applicant shall fill in fields referenced for applicants. City staff shall complete the consistency fields referenced.

**Table E-1. Proposal Elements and Planned Action Consistency**

Proposal	Applicant Information	Consistency (City to Complete)	
Property Information	Address:	In Planned Action Area?	
	Parcel #:	<input type="checkbox"/> Yes	
	Parcel Acres:	<input type="checkbox"/> No	
Land Use	Dwellings # (Net) ▪ Attached: ▪ Detached:	Consistent with Planned Action Land Uses and KZC? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	Employment Sq Ft (Net): ▪ Office ▪ Retail ▪ Industrial	Beginning Housing Unit Balance: Post Project Housing Unit Balance #:	
	Average Tenant Space Sq Ft: Estimated Jobs (Net):	Beginning Job Balance: Post Project Job Balance #:	
	Building Height Ft: Stories #:		
	Transportation	Frontage Type:	Beginning Person Trip Balance:
		Person Trips (Total):	Post Project Trip Balance:
Person Trips (Net):		Traffic Impact Fee Addresses Project Contribution to System Need: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Transportation Impact Fee Due:			
FBC TDM Strategies:		Includes FBC TDM Measures <input type="checkbox"/> Yes <input type="checkbox"/> No	
	Transportation Improvements required per Table B-1 or City standards to address safety, circulation, and access:	Traffic improvements address impacts of Planned Action Project: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Parks & Stormwater	Impervious Area:	Consistent with KZC?	
	Green Infrastructure Element:	<input type="checkbox"/> Yes	
	Plaza/Open Space Sq Ft:	<input type="checkbox"/> No	
	Green Factor:		

Proposal	Applicant Information	Consistency (City to Complete)
	Park Impact Fee Due:	Park Impact Fee Addresses Project Contribution to System Need: <input type="checkbox"/> Yes <input type="checkbox"/> No
Utilities	Water Fee Due: Sewer Fee Due:	System Development Charges Address Project Contribution to System Need: <input type="checkbox"/> Yes <input type="checkbox"/> No

Table E-1 Applicant Narrative

Table E-1 City Discussion

## E-2. Mitigation Measure Consistency

EIS Topic	Description of B-1 Mitigation (Applicant Information)	Consistent (City to Complete)	Discussion (City to Complete)
Air Quality/ Greenhouse Gas	1. 2.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Surface Water and Stormwater	3.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Land Use and Aesthetics	4. 5. 6.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Transportation	7. 8. 9. 10. 11.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Public Services	12. 13. 14.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

EIS Topic	Description of B-1 Mitigation (Applicant Information)	Consistent (City to Complete)	Discussion (City to Complete)
	15. 16.		
Utilities	17.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Cultural Resources	18. 19.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

*Table E-2 Applicant Narrative*

*Table E-2 City Discussion*