

RESOLUTION NO. R - 2639

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RATIFYING SETTLEMENT OF CERTAIN LAWSUITS NOW PENDING IN KING COUNTY SUPERIOR COURT IN WHICH THE CITY APPEARS AS DEFENDANT, AND FURTHER RATIFYING THE ACTIONS OF THE ATTORNEY FOR THE CITY OF KIRKLAND IN SIGNING ON BEHALF OF THE CITY THE STIPULATION FOR ENTRY OF ORDER, JUDGMENT AND DECREE.

WHEREAS, over the past several years the City of Kirkland has carried on and completed an extensive review of land use development issues and policies as they pertain to the consolidated City of Kirkland (being the successor to the former cities of Kirkland and Houghton); and

WHEREAS, as a result thereof, the Kirkland City Council on May 15, 1977, adopted a New Land Use Policies or Comprehensive Plan as Ordinance No. 2346 and certain amendments to the Zoning Code and Zoning Map as Ordinance No. 2347; and

WHEREAS, certain property owners as plaintiffs in each of the entitled causes set forth in the Stipulation for Entry of Order, Judgment and Decree, commenced action in King County Superior Court to review the adoption of said Land Use Policies or Comprehensive Plan and Zoning Ordinance Amendments, alleging that said ordinances were either void in general or as applicable to the parties of said plaintiffs described in their individual complaints; and

WHEREAS, thereafter all of the above-entitled causes were consolidated and preassigned to a single judge of the King County Superior Court, and thereafter certain motions for summary judgment were filed by the plaintiffs and the defendants and a preliminary ruling was made by the court which states in part as follows:

"The court finds that the public hearing required in conjunction with this process was held on April 21, 1977, after sufficient notice, the court also finds that the process of consideration and adoption of the Comprehensive Plan was a legislative function.

Adoption of zoning ordinance amendments of general application consistent with the Comprehensive Plan was also a legislative function whether or not the amendments placed additional restrictions upon a particular piece of property.

On the other hand, amendments of particular application not specifically related overall to the newly formulated Comprehensive Plan could not be validly made without affording the property owner a quasi-judicial hearing."; and



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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SEATTLE-FIRST NATIONAL BANK,) NO. 828 974

DARREL WARD, et ux.,) NO. 828 975

JOHN BEHEYT, et ux.,) NO. 829 316

HARRY BROWN, et ux.,) NO. 829 317

R. ALEX POLSON, et ux., et al.) NO. 829 524

WESTSIDE SERVICE CORP.,) NO. 829 525

JACLYN WOLD,) NO. 829 660

EARL AMICK, et ux.,) NO. 829 943

JOHN L. STUART, et ux.,) NO. 829 944

LOUIS ROMANO, et ux., et al.,) NO. 834 128

LAKE WASHINGTON INVESTORS, et al.,) NO. 837 109

ORDER, JUDGMENT AND DECREE

Plaintiffs,

vs.

CITY OF KIRKLAND, et al.,

Defendants.

ORDER, JUDGMENT & DECREE

1 thereafter) certain motions for summary judgment were filed
2 by both the plaintiffs and the defendants, and a preliminary
3 ruling was made which states in part as follows:

4 "The Court finds that the public hearing required
5 in conjunction with this process was held on
6 April 21, 1977, after sufficient notice. The
7 court also finds that the process of consideration
8 and adoption of the comprehensive plan was a
9 legislative function.

10 Adoption of zoning ordinance amendments of general
11 application, consistent with the comprehensive
12 plan, was also a legislative function, whether or
13 not the amendments placed additional restrictions
14 upon a particular piece of property.

15 On the other hand, amendments of particular appli-
16 cation not specifically related overall to the
17 newly formulated comprehensive plan, could not be
18 validly made without affording the property owner
19 a quasi-judicial hearing."

20 "5. There remain as unresolved issues in these causes
21 the question of whether any of the plaintiffs' parcels of
22 property were so affected by amendments of particular
23 application not specifically related overall to the newly
24 formulated comprehensive plan, together with additional
25 unresolved issues raised by the pleadings and the motions
26 for summary judgment submitted by both the plaintiffs and
27 defendants. All of the above named parties wish to settle
28 the differences between the parties with some certainty and
29 in a manner consistent with the comprehensive plan as
30 adopted."

31 The Court, having reviewed said Stipulation, and
32 having made the ruling provided for in said Stipulation with
33 regard to the matter of Westside Service Corporation vs.
34 City of Kirkland, Cause No. 829525, and being fully advised,
35 now, therefore, it is hereby:

36 ORDERED, ADJUDGED AND DECREED that this judgment shall
be entered in each of the above-entitled causes of action as

ORDER, JUDGMENT & DECREE

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1 follows:

2 A. JUDGMENTS AND DECREE AS TO INDIVIDUAL ACTIONS:

3 1. Seattle-First National Bank v. Kirkland, No. 828974-

4 The property described in the complaint, to wit:

5 The southerly 90 feet of the east 20 feet of Lot 9
6 and the Southerly 90 feet of Lot 10 and the
7 southerly 90 feet of Lot 11, as measured on the
8 west line of Block 174, Burke and Farrar's Kirkland
Addition to the City of Seattle, Division No. 30,
according to plat recorded in Volume 33 of Plats,
page 36, in King County, Washington;

9 shall remain on the zoning map as within and subject to the
10 regulations of Planned Area 4 established by Ordinance 2347;
provided, however:

11 a. Notwithstanding any regulation, policy or
12 provision of Ordinance No. 2347 specifically applicable to
13 Planned Area 4 which may be to the contrary, the real
14 property hereinabove described has and shall continue to
15 have (when developed other than as a part of a PUD for all
16 or substantially all of Planned Area 4) the right of reasonable
17 access for ingress and egress to either Central Way or Sixth
18 Avenue, although it is understood that because of channelization
19 within the street right of way to be required in both Sixth
20 Avenue and Central Way in connection with traffic signals
installed or to be installed at the Sixth and Central Way
intersection, some turning movements (both into and out of
the property) may be restricted.

21 b. Said real property may be developed for
22 professional office use (either "large" or "small" professional
23 office) without the requirement of a PUD or CUP.

24 2. Darrell Ward, et ux. v. Kirkland, No. 828975 -

25 The properties described in the complaint in this
26 cause, including those properties added by amendment, shall

ORDER, JUDGMENT & DECREE

1 remain zoned or classified as they appear on the zoning map
2 adopted by Ordinance No. 2347, provided that the owners of
3 the following described parcel:

4 The north 185 feet of the following: Commencing
5 at a point on the north boundary line of the
6 northwest quarter of the southeast quarter of
7 Section 8, Township 25 North, Range 5 E.W.M.,
8 which point is 660 feet north 89°39'03" east of
9 the northwest corner of said 1/16th section,
10 thence north 89°39'03" east along said north
11 boundary line 171.885 feet; thence south 0°07'42"
12 east parallel with the east boundary line of said
13 1/16th section 687.27 feet to the north marginal
14 line south 84°32'24" west 93.96 feet to a point of
15 curve; thence along said marginal line on a curve
16 to the right, radius 134.70 feet, 77.58 feet to a
17 point of tangency; thence along said marginal line
18 north 62°27'36" west 2.39 feet; thence north
19 0°13'19" west 679.48 feet to the place of beginning,
20 EXCEPT a strip of land 30 feet wide off of the
21 north end of above described tract heretofore
22 deeded to King County for a public road, AND
23 EXCEPT the west 30 feet thereof;

24 shall have the right to develop or construct on said parcel
25 10 residential units subject otherwise to the general provisions
26 of the RM chapter of the Kirkland zoning code.

3. John Behey, et ux. v. Kirkland, No. 829316 -

a. The property described in the complaint, to
wit:

The South one-half (S1/2) of the following described
Tract: BEGINNING 154.08 feet East and 30 feet
South of the Northwest corner of the Northwest
quarter (NW1/4) of the SE1/4 of Section 8, Town-
ship 25 North, Range 5, E.W.M.; thence North
89°39'02" East 89.95 feet; thence South 0°15'29"
East 485.43 feet, more or less, to State Aid Road
No. 4; thence Westerly along the North line of
said Road 89.98 feet; thence North 0°15'29" West
483.10 feet, more or less, to the place of beginning;

shall, notwithstanding, the zoning map amendment of Ordinance
No. 2347 be permitted to develop in accordance with and

ORDER, JUDGMENT & DECREE

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1 subject to the provisions of the BC (Business Commercial)
2 chapter of the Kirkland Zoning Code; conditioned, nevertheless,
3 upon installation of a landscaped buffer 15 feet in width
4 along the North line of said described real property and 10
feet in width along the east line of said property.

5 4. Harry H. Brown, et ux. v. City of Kirkland, No. 829317 -

6 a. That portion of the real property described
7 in the complaint as Lot 14, shall remain on the zoning map
8 and subject to the requirements of RM 3600.

9 b. That portion of the real property described
10 in the complaint as Lots 10, 11, and 12, Block 2 Houghton
11 Addition according to plat recorded in Volume 5 of Plats,
12 page 71, records of King County (a portion of which adjoin
13 a PR zone classification to the south), shall be permitted
14 to develop as though within a PR (Professional-Residential)
15 zone but not to exceed four residential units, subject only
16 to the provisions of the PR and/or RM chapters of the zoning
17 code. (A conditional use permit will not be required.)

18 5. R. Alex Polson, et ux., et al. v. Kirkland, No.
19 829524 -

20 a. That portion of the real property described
21 in the complaint as Block 5, Cormode and Adsits Addition,
22 shall remain on the zoning map as RS 8500 and subject to the
23 Land Use Policies Plan and the Zoning Code as amended.

24 b. The remainder of the real property described
25 in said complaint, being a triangle bounded by 116th Avenue
26 Northeast, Northeast 70th Place, and unopened Lake Street,
shall remain residential in permitted use and may be developed,
subject to the standards for RM 3600, to a density not to
exceed one residential unit per 3600 square feet of area. It
is understood by the parties hereto that this density formula
will permit (depending upon actual area calculations)

ORDER, JUDGMENT & DECREE

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1 approximately 20 to 22 units upon the real property and up
2 to approximately 25 units in the event the abutting portion
3 of unopened Lake Street should be hereafter vacated: provided,
4 density shall not exceed one unit per 3600 square feet of
5 land. It is further understood by all parties that no
6 commitment is hereby made by any party that such a vacation
7 will be either requested, initiated, or occur and that such
8 vacation, if requested, would be processed and considered in
9 the manner required by law. The City of Kirkland recognizes
10 that said triangle of property shall have the right to
11 reasonable and safe access for ingress and egress to Northeast
12 70th Place at one, to be determined, location.

13 6. Westside Service Corporation v. Kirkland No. 829525 -

14 a. As a part of a total settlement of all the
15 consolidated cases, the parties in this cause agree to
16 submit to the Court the pending Motion of the plaintiff
17 Westside Service Company for determination of whether or not
18 the property described in the complaint in this cause was
19 affected by a zoning amendment of particular application not
20 directly related overall to the newly formulated comprehensive
21 plan, and to abide by the ruling of the Superior Court; the
22 parties further agree to waive their right of appeal therefrom.

23 b. Said motion was heard and considered by the
24 undersigned Judge on July 6, 1979, and the Court now rules
25 that the real property described in the Complaint in Westside
26 Service Corporation v. City of Kirkland, No. 829525 was, *D.S.
~~was not~~, affected by an amendment of particular application
not directly related overall to the newly formulated Compre-
hensive Plan. Therefore, pursuant to said stipulated agreement,
said real property shall be subject to the regulations of
the RM3600 zone classification of the City of Kirkland *D.S.
ordinance.

ORDER, JUDGMENT & DECREE

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7. Jaclyn Wold v. Kirkland, No. 829660 -

a.. The plaintiff herein is granted a non-suit and her complaint is dismissed.

8. Earl Amick v. Kirkland, No. 829943 -

a. The property described in this complaint, to wit:

That portion of Government Lot 1, Section 20, Township 25 N., Range 5 E.W.M., described as follows: Beginning at the meander corner between sections 17 and 20, said township and range; thence S 68°56'40" E 560.17 feet; thence southeasterly 363.86 feet along a circular curve to the right, said curve having a radius of 955.37 feet which bears S 69°04'15" W from the curve beginning; thence S 00°53'32" W 95.66 feet; thence N 89°06'28" W 10.00 feet; thence S 00°53'32" W 199.97 feet; thence N 88°56'40" W 130.00 feet; thence S 00°53'32" W 100.00 feet; thence S 88°56'40" E 115.62 feet to the true point of beginning; thence southwesterly 32.69 feet along a circular curve to the right, said curve having a radius of 256.48 feet which bears N 58°35'17" W from the curve beginning; thence N 51°17'24" W 10.90 feet; thence S 38°42'36" W 370.00 feet; thence S 56°53'51" W 126.48 feet; thence S 78°47'20" W 144.25 feet; thence N 01°03'20" E 415.00 feet; thence S 88°56'40" E 498.54 feet to the true point of beginning;

shall remain on the zoning map as within and subject to the regulations of Planned Area 3, provided however, a "sit down" type restaurant use of this property may be made and developed subject to the regulations of Planned Area 3; and further subject to the following with respect to the location of access onto Lake Washington Boulevard or Points Drive for ingress and egress to the plaintiff's property: Because of existing and possible future development of adjacent property in Planned Area 2 and Planned Area 3, the City has concerns regarding the impact of traffic congestion at the intersections of Points Drive and Lake Washington Boulevard; therefore, in the event that a restaurant is proposed within Planned Area

1 3 under either a planned unit development or a conditional
2 use permit, appropriate attention shall be given to traffic
3 considerations and potential congestion at Lake Washington
Boulevard and Points Drive.

4 9. John L. Stuart, et ux. v. Kirkland, No. 829944 -

5 a. The property described in plaintiff's complaint,
6 to wit:

7 Lots 3 and 4 EXCEPT the North 144 feet thereof,
8 ALL of lot 5 of Marshall's Addition to the City of
9 Seattle, as per plat recorded in Volume 22 of
Plats, on page 81, records of King County, Wash-
ington; situate in the City of Kirkland, County of
King, State of Washington;

10 shall remain on the zoning map as within and subject to the
11 regulation for Planned Area 5, provided, however, that said
12 real property may be developed with a professional office
13 ("large" or "small") use and/or multi-family to a density of
14 RM 1800, not to exceed 20 units total without a planned unit
15 development or conditional use permit; conditioned, however,
16 that no construction be commenced until such time as provision
17 is made for the installation and construction of necessary
18 water, sewer, and drainage utilities, and required street
19 improvements, either through the formation of a local
20 improvement district within Planned Area 5 to provide for
21 such construction and installation, or in the alternative,
22 developer financed utilities and right-of-way improvements
23 required to serve the property proposed for development and
24 constructed in conformance with the City's design and plan
25 for the installation of water, sewer, drainage, and right-
26 of-way facilities to serve Planned Area 5. Provided,
however, that in the event the City does not relocate access
to Planned Area 5 from its current access on 85th Street to
the unopened 84th Street (Fourth Street/alley) prior to an
application for a building permit by the property owner, the

ORDER, JUDGMENT & DECREE

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1 City will allow access to the subject property from 85th
2 Street; further, provided, however, that the development on
3 the property shall be designed so as not to preclude relocation
4 of the street or the use of 84th Street as an access to
Planned Area 5.

5 10. Louis Romano, et ux., et al. v. Kirkland, No. 834128 -

6 a. The property described in plaintiff's complaint,
7 to wit:

8 Westerly 325.90 feet of easterly 533.80 feet of
9 southwest quarter of southeast quarter of Section
10 5, Township 25 North, Range 5 East, W.M., in King
11 County, Washington, lying northerly of a line
12 which is parallel with and distant 999.00 feet
13 northerly (measured along the west line of said
14 subdivision) from the south line of said southwest
15 quarter of the southeast quarter of said Section
5, EXCEPT portions hereof for Northeast 84th
Street and for Northeast 85th Street and EXCEPT
portion lying northerly of the south margin of
Secondary State Highway No. 2-D as described and
recorded in Volume 3 of Highway Plats, page 12,
under Auditor's file No. 553072, located in King
County, Washington;

16 shall remain on the zoning map as within and subject to the
17 regulations of Planned Area 5, provided, however, that said
18 real property may be developed with a professional office
19 ("large" or "small") use and/or multi-family to a density of
20 RM 1800, not to exceed 20 units total without a planned unit
21 development or conditional use permit; conditioned, however,
22 that no construction be commenced until such time as provision
23 is made for installation and construction of necessary
24 water, sewer, and drainage utilities and required street
25 improvements either through the formation of a local improvement
26 district within Planned Area 5 to provide for such construction
and installation, or in the alternative, developed financed
utilities and right-of-way improvements required to serve
the property proposed for development and constructed in

ORDER, JUDGMENT & DECREE

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1 conformance with the City's design and plan for the installation
2 of water, sewer, drainage, and right-of-way facilities to
3 serve Planned Area 5. Provided, however, that in the event
4 that the City does not relocate access to Planned Area 5
5 from its current access on 85th Street to the unopened 84th
6 Street (Fourth Street/alley) prior to an application for a
7 building permit by the property owner, the City will allow
8 access to the subject property from 85th Street; further,
9 provided, however, that the development on the property
10 shall be designed so as not to preclude the relocation of
11 the street or the use of 84th Street as an access to Planned
12 Area 5.

11. Lake Washington Investors, et al. v. Kirkland,
12 No. 837109 -

13 a. That portion of the property described in
14 plaintiff's complaint as:

15 Lot 1, Block 2, French's Homestead Villa, according
16 to plat recorded in Volume 20 of Plats, page 24,
17 in King County, Washington; EXCEPT portion conveyed
18 to King County for road purposes by deed recorded
19 under King County Recording No. 1126248;

20 shall remain on the zoning map as RM 3600 and subject to
21 said regulations.

22 b. The balance of the property described in
23 plaintiff's complaint, to wit:

24 That portion of Government Lot 4, in Section 8,
25 Township 25 North, Range 5 East, W.M., in King
26 County, Washington, lying east of Lake Washington
Boulevard as now established, south of the south
line of Block 2, French's Homestead Villa, according
to plat recorded in Volume 20 of Plats, page 24,
in King County, Washington, north of the north
line of Northeast 63rd Street "formerly Walnut
Street", and west of 102nd Avenue Northeast,
"formerly Second Street";

may be developed subject to and consistent with the general

1 provisions of the RM chapter of the zoning code, provided,
2 however, that such development shall not exceed 22 residen-
3 tial units. Provided, that unless some other method is
4 arrived at by agreement between the owners of the real
5 property hereinabove described and the owners of the Shore-
6 house Apartment, located across Lake Washington Boulevard,
7 as to the existing Shorehouse off-street parking facility
8 presently located on the property of plaintiffs, provision
9 for the continuation of the "Shorehouse off-street parking
10 facility" shall be retained or in the alternative provided
11 for within the design for off-street parking within the
12 westerly half of the total parcel, above described, and
13 further provided that nothing herein shall be taken as
14 preventing the owners of the property hereinabove described
15 from imposing reasonable rules and regulations consistent
16 with the ordinances of the City of Kirkland on the use of
17 such off-street facilities by and for the benefit of the
18 "Shorehouse Apartment", until such time as a court of competent
19 jurisdiction shall determine that the owner of the Shorehouse
20 Apartments does not have the right and privilege of using
21 said property for off-street parking.

17
18 B. GENERAL PROVISIONS OF ORDER, JUDGMENT & DECREE
19 APPLYING TO ALL OF THE CONSOLIDATED CASES:

19 As Judgment entered in all of the consolidated cases,
20 it is further

21 ORDERED, ADJUDGED AND DECREED as follows:

22 1. In the event it becomes necessary for any party to
23 any of the 11 consolidated actions to bring or institute any
24 judicial proceeding to enforce any of the provisions of the
25 Stipulation, Judgment, Order and Decree the prevailing party
26 therein shall be entitled to reasonable attorney's fees,
expert witness fees and costs.

ORDER, JUDGMENT & DECREE

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1 2. Except as provided in the prior paragraph, each
2 party hereto shall bear their own attorney's fees and costs
3 incurred herein.

4 3. This Order, Judgment and Decree shall be for the
5 benefit of and be binding upon all successors and assigns of
6 each party hereto.

7 4. Each of the above-entitled actions be and it
8 hereby is (except as may in this Order, Judgment and Decree
9 be specifically otherwise provided) dismissed with prejudice
10 and without costs and attorneys' fees to any party herein.

11 5. The City will proceed in good faith to process any
12 and all applications for the development of, including
13 building permits with respect to, the subject properties in
14 the manner prescribed in the stipulation and the order,
15 judgment and decree, it being the intent that the plaintiffs
16 and/or their successors or assigns may develop the properties
17 referred to above as envisioned herein.

18 6. In the event there are inconsistencies or conflicts
19 between the provisions of this Order, Judgment and Decree,
20 and/or the zoning code, and/or ordinances affecting the
21 development of the subject properties, the Order, Judgment
22 and Decree will control.

23 7. Nothing in this Order, Judgment and Decree shall
24 be construed in anyway as limiting the authority of the
25 legislative body of the defendant CITY OF KIRKLAND from the
26 lawful enactment of land use or other ordinances affecting
the use and regulation of land under its constitutional and
statutory police powers.

1 DONE IN OPEN COURT this 6 day of July, 1979.

2
3 DAVID W. SOUKUP
4 JUDGE/COURT COMMISSIONER

5
6 PRESENTED BY:

7 LSJ
8 RALPH I. THOMAS, of
9 OSTRANDER, VAN EATON,
10 THOMAS & FERRELL
11 Attorney for
12 Defendant-Kirkland

13 CSJ
14 ROBERT P. TJSSEM, of
15 LIVENGOOD, SILVERNALE,
16 CARTER & TJSSEM
17 Attorney for Plaintiffs

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ORDER, JUDGMENT & DECREE

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SEATTLE-FIRST NATIONAL BANK,) NO. 828 974

_____) NO. 828 975

DARREL WARD, et ux.,) NO. 829 316

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R. ALEX POLSON, et ux., et al.) NO. 829 660

_____) NO. 829 943

WESTSIDE SERVICE CORP.,) NO. 829 944

_____) NO. 834 128

JACLYN WOLD,) NO. 837 109

_____) STIPULATION FOR ENTRY OF

EARL AMICK, et ux.,) ORDER, JUDGMENT AND DECREE

_____) NO. 837 109

LAKE WASHINGTON INVESTORS, et) STIPULATION FOR ENTRY OF

al.,) ORDER, JUDGMENT AND DECREE

Plaintiffs,

vs.

CITY OF KIRKLAND, et al.,

Defendants.

STIPULATION FOR ENTRY OF
ORDER, JUDGMENT & DECREE

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subdivision) from the south line of said southwest quarter of the southeast quarter of said Section 5, EXCEPT portions hereof for Northeast 84th Street and for Northeast 85th Street and EXCEPT portion lying northerly of the south margin of Secondary State Highway No. 2-D as described and recorded in Volume 3 of Highway Plats, page 12, under Auditor's file No. 553072, located in King County, Washington;

shall remain on the zoning map as within and subject to the regulations of Planned Area 5, provided, however, that said real property may be developed with a professional office ("large" or "small") use and/or multi-family to a density of RM 1800, not to exceed 20 units total without a planned unit development or conditional use permit; conditioned, however, that no construction be commenced until such time as provision is made for installation and construction of necessary water, sewer, and drainage utilities and required street improvements either through the formation of a local improvement district within Planned Area 5 to provide for such construction and installation, or in the alternative, developed financed utilities and right-of-way improvements required to serve the property proposed for development and constructed in conformance with the City's design and plan for the installation of water, sewer, drainage, and right-of-way facilities to serve Planned Area 5. Provided, however, that in the event that the City does not relocate access to Planned Area 5 from its current access on 85th Street to the unopened 84th Street (Fourth Street/alley) prior to an application for a building permit by the property owner, the City will allow access to the subject property from 85th Street; further, provided, however, that the development on the property shall be designed so as not to preclude the relocation of the street or the use of 84th Street as an access to Planned Area 5.

STIPULATION FOR ENTRY OF
ORDER, JUDGMENT & DECREE

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The property described in the complaint, to wit:

The southerly 90 feet of the east 20 feet of Lot 9 and the Southerly 90 feet of Lot 10 and the southerly 90 feet of Lot 11, as measured on the west line of Block 174, Burke and Farrar's Kirkland Addition to the City of Seattle, Division No. 30, according to plat recorded in Volume 33 of Plats, page 36, in King County, Washington;

shall remain on the zoning map as within and subject to the regulations of Planned Area 4 established by Ordinance 2347; provided, however:

a. Notwithstanding any regulation, policy or provision of Ordinance No. 2347 specifically applicable to Planned Area 4 which may be to the contrary, the real property hereinabove described has and shall continue to have (when developed other than as a part of a PUD for all or substantially all of Planned Area 4) the right of reasonable access for ingress and egress to either Central Way or Sixth Avenue, although it is understood that because of channelization within the street right of way to be required in both Sixth Avenue and Central Way in connection with traffic signals installed or to be installed at the Sixth and Central Way intersection, some turning movements (both into and out of the property) may be restricted.

b. Said real property may be developed for professional office use (either "large" or "small" professional office) without the requirement of a PUD or CUP.

2. Darrell Ward, et ux. v. Kirkland, No. 828975 -

The properties described in the complaint in this cause, including those properties added by amendment, shall remain zoned or classified as they appear on the zoning map adopted by Ordinance No. 2347, provided that the owners of the following described parcel:

STIPULATION FOR ENTRY OF ORDER, JUDGMENT & DECREE

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1 The north 185 feet of the following: Commencing
2 at a point on the north boundary line of the
3 northwest quarter of the southeast quarter of
4 Section 8, Township 25 North, Range 5 E.W.M.,
5 which point is 660 feet north 89°39'03" east of
6 the northwest corner of said 1/16th section,
7 thence north 89°39'03" east along said north
8 boundary line 171.885 feet; thence south 0°07'42"
9 east parallel with the east boundary line of said
10 1/16th section 687.27 feet to the north marginal
11 line south 84°32'24" west 93.96 feet to a point of
12 curve; thence along said marginal line on a curve
13 to the right, radius 134.70 feet, 77.58 feet to a
14 point of tangency; thence along said marginal line
15 north 62°27'36" west 2.39 feet; thence north
16 0°13'19" west 679.48 feet to the place of beginning,
17 EXCEPT a strip of land 30 feet wide off of the
18 north end of above described tract heretofore
19 deeded to King County for a public road, AND
20 EXCEPT the west 30 feet thereof;

11 shall have the right to develop or construct on said parcel
12 10 residential units subject otherwise to the general provisions
13 of the RM chapter of the Kirkland zoning code.

14 3. John Behey, et ux. v. Kirkland, No. 829316 -

15 a. The property described in the complaint, to
16 wit:

17 The South one-half (S1/2) of the following described
18 Tract: BEGINNING 154.08 feet East and 30 feet
19 South of the Northwest corner of the Northwest
20 quarter (NW1/4) of the SE1/4 of Section 8, Town-
21 ship 25 North, Range 5, E.W.M.; thence North
22 89°39'02" East 89.95 feet; thence South 0°15'29"
23 East 485.43 feet, more or less, to State Aid Road
24 No. 4; thence Westerly along the North line of
25 said Road 89.98 feet; thence North 0°15'29" West
26 483.10 feet, more or less, to the place of beginning;

23 shall, notwithstanding, the zoning map amendment of Ordinance
24 No. 2347 be permitted to develop in accordance with and
25 subject to the provisions of the BC (Business Commercial)
26 chapter of the Kirkland Zoning Code; conditioned, nevertheless,

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1 upon installation of a landscaped buffer 15 feet in width
2 along the North line of said described real property and 10
3 feet in width along the east line of said property.

4 4. Harry H. Brown, et ux. v. City of Kirkland, No. 829317 -

5 a. That portion of the real property described
6 in the complaint as Lot 14, shall remain on the zoning map
7 and subject to the requirements of RM 3600.

8 b. That portion of the real property described
9 in the complaint as Lots 10, 11, and 12, Block 2 Houghton
10 Addition according to plat recorded in Volume 5 of Plats,
11 page 71, records of King County (a portion of which adjoins
12 a PR zone classification to the south), shall be permitted
13 to develop as though within a PR (Professional-Residential)
14 zone but not to exceed four residential units, subject only
15 to the provisions of the PR and/or RM chapters of the zoning
16 code. (A conditional use permit will not be required.)

17 5. R. Alex Polson, et ux., et al. v. Kirkland No.
18 829524 -

19 a. That portion of the real property described
20 in the complaint as Block 5, Cormode and Adsits Addition,
21 shall remain on the zoning map as RS 8500 and subject to the
22 Land Use Policies Plan and the Zoning Code as amended.

23 b. The remainder of the real property described
24 in said complaint, being a triangle bounded by 116th Avenue
25 Northeast, Northeast 70th Place, and unopened Lake Street,
26 shall remain residential in permitted use and may be developed,
subject to the standards for RM 3600, to a density not to
exceed one residential unit per 3600 square feet of area. It
is understood by the parties hereto that this density formula
will permit (depending upon actual area calculations)
approximately 20 to 22 units upon the real property and up
to approximately 25 units in the event the abutting portion
of unopened Lake Street should be hereafter vacated: provided,
density shall not exceed one unit per 3600 square feet of

1 land. It is further understood by all parties that no
2 commitment is hereby made by any party that such a vacation
3 will be either requested, initiated, or occur and that such
4 vacation, if requested, would be processed and considered in
5 the manner required by law. The City of Kirkland recognizes
6 that said triangle of property shall have the right to
7 reasonable and safe access for ingress and egress to Northeast
8 70th Place at one, to be determined, location.

9 6. Westside Service Corporation v. Kirkland No. 829525 -

10 a. As a part of a total settlement of all the
11 consolidated cases, the parties in this cause agree to
12 submit to the Court the pending Motion of the plaintiff
13 Westside Service Company for determination of whether or not
14 the property described in the complaint in this cause was
15 affected by a zoning amendment of particular application not
16 directly related overall to the newly formulated comprehensive
17 plan, and to abide by the ruling of the Superior Court; the
18 parties further agree to waive their right of appeal therefrom.

19 7. Jaclyn Wold v. Kirkland, No. 829660 -

20 a. The plaintiff herein is granted a non-suit
21 and her complaint is dismissed.

22 8. Earl Amick v. Kirkland, No. 829943 -

23 a. The property described in this complaint, to
24 wit:

25 That portion of Government Lot 1, Section 20,
26 Township 25 N., Range 5 E.W.M., described as
follows: Beginning at the meander corner between
sections 17 and 20, said township and range;
thence S 68°56'40" E 560.17 feet; thence southeasterly
363.86 feet along a circular curve to the right,
said curve having a radius of 955.37 feet which
bears S 69°04'15" W from the curve beginning;
thence S 00°53'32" W 95.66 feet; thence N 89°06'28"
W 10.00 feet; thence S 00°53'32" W 199.97 feet;

1 thence N 88°56'40" W 130.00 feet; thence S 00°53'32"
2 W 100.00 feet; thence S 88°56'40" E 115.62 feet to
3 the true point of beginning; thence southwesterly
4 32.69 feet along a circular curve to the right,
5 said curve having a radius of 256.48 feet which
6 bears N 58°35'17" W from the curve beginning;
7 thence N 51°17'24" W 10.90 feet; thence S 38°42'36"
8 W 370.00 feet; thence S 56°53'51" W 126.48 feet;
9 thence S 78°47'20" W 144.25 feet; thence N 01°03'20"
10 E 415.00 feet; thence S 88°56'40" E 498.54 feet to
11 the true point of beginning;

12 shall remain on the zoning map as within and subject to the
13 regulations of Planned Area 3, provided however, a "sit
14 down" type restaurant use of this property may be made and
15 developed subject to the regulations of Planned Area 3; and
16 further subject to the following with respect to the location
17 of access onto Lake Washington Boulevard or Points Drive for
18 ingress and egress to the plaintiff's property: Because of
19 existing and possible future development of adjacent property
20 in Planned Area 2 and Planned Area 3, the City has concerns
21 regarding the impact of traffic congestion at the intersections
22 of Points Drive and Lake Washington Boulevard; therefore, in
23 the event that a restaurant is proposed within Planned Area
24 3 under either a planned unit development or a conditional
25 use permit, appropriate attention shall be given to traffic
26 considerations and potential congestion at Lake Washington
Boulevard and Points Drive.

9. John L. Stuart, et ux. v. Kirkland, No. 829944 -

a. The property described in plaintiff's complaint,
to wit:

Lots 3 and 4 EXCEPT the North 144 feet thereof,
ALL of lot 5 of Marshall's Addition to the City of
Seattle, as per plat recorded in Volume 22 of
Plats, on page 81, records of King County, Wash-
ington; situate in the City of Kirkland, County of
King, State of Washington;

shall remain on the zoning map as within and subject to the

1 thereafter) certain motions for summary judgment were filed
2 by both the plaintiffs and the defendants, and a preliminary
3 ruling was made which states in part as follows:

4 "The Court finds that the public hearing required
5 in conjunction with this process was held on
6 April 21, 1977, after sufficient notice. The
7 court also finds that the process of consideration
8 and adoption of the comprehensive plan was a
9 legislative function.

10 Adoption of zoning ordinance amendments of general
11 application, consistent with the comprehensive
12 plan, was also a legislative function, whether or
13 not the amendments placed additional restrictions
14 upon a particular piece of property.

15 On the other hand, amendments of particular appli-
16 cation not specifically related overall to the
17 newly formulated comprehensive plan, could not be
18 validly made without affording the property owner
19 a quasi-judicial hearing."

20 5. There remain as unresolved issues in these causes
21 the question of whether any of the plaintiffs' parcels of
22 property were so affected by amendments of particular
23 application not specifically related overall to the newly
24 formulated comprehensive plan, together with additional
25 unresolved issues raised by the pleadings and the motions
26 for summary judgment submitted by both the plaintiffs and
defendants. All of the above named parties wish to settle
the differences between the parties with some certainty and
in a manner consistent with the comprehensive plan as
adopted:

27 NOW, THEREFORE, IT IS AGREED AND STIPULATED:

28 That an Order, Judgment and Decree shall be entered in
29 each of the above-entitled causes as follows:

30 A. STIPULATION FOR SETTLEMENT:
31 SPECIFIC STIPULATIONS AS TO INDIVIDUAL ACTION

32 1. Seattle First National Bank v. Kirkland,
33 No. 828974 -

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R-2639

1 regulation for Planned Area 5, provided, however, that said
2 real property may be developed with a professional office
3 ("large" or "small") use and/or multi-family to a density of
4 RM 1800, not to exceed 20 units total without a planned unit
5 development or conditional use permit; conditioned, however,
6 that no construction be commenced until such time as provision
7 is made for the installation and construction of necessary
8 water, sewer, and drainage utilities, and required street
9 improvements, either through the formation of a local
10 improvement district within Planned Area 5 to provide for
11 such construction and installation, or in the alternative,
12 developer financed utilities and right-of-way improvements
13 required to serve the property proposed for development and
14 constructed in conformance with the City's design and plan
15 for the installation of water, sewer, drainage, and right-
16 of-way facilities to serve Planned Area 5. Provided,
17 however, that in the event the City does not relocate access
18 to Planned Area 5 from its current access on 85th Street to
19 the unopened 84th Street (Fourth Street/alley) prior to an
20 application for a building permit by the property owner, the
21 City will allow access to the subject property from 85th
22 Street; further, provided, however, that the development on
23 the property shall be designed so as not to preclude relocation
24 of the street or the use of 84th Street as an access to
25 Planned Area 5.

20 10. Louis Romano, et ux., et al. v. Kirkland, No. 834128 -

21 a. The property described in plaintiff's complaint,
22 to wit:

23 Westerly 325.90 feet of easterly 533.80 feet of
24 southwest quarter of southeast quarter of Section
25 5, Township 25 North, Range 5 East, W.M., in King
26 County, Washington, lying northerly of a line
which is parallel with and distant 999.00 feet
northerly (measured along the west line of said

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11. Lake Washington Investors, et al. v. Kirkland,
No. 837109 -

a. That portion of the property described in plaintiff's complaint as:

Lot 1, Block 2, French's Homestead Villa, according to plat recorded in Volume 20 of Plats, page 24, in King County, Washington; EXCEPT portion conveyed to King County for road purposes by deed recorded under King County Recording No. 1126248;

shall remain on the zoning map as RM 3600 and subject to said regulations.

b. The balance of the property described in plaintiff's complaint, to wit:

That portion of Government Lot 4, in Section 8, Township 25 North, Range 5 East, W.M., in King County, Washington, lying east of Lake Washington Boulevard as now established, south of the south line of Block 2, French's Homestead Villa, according to plat recorded in Volume 20 of Plats, page 24, in King County, Washington, north of the north line of Northeast 63rd Street "formerly Walnut Street", and west of 102nd Avenue Northeast, "formerly Second Street";

may be developed subject to and consistent with the general provisions of the RM chapter of the zoning code, provided, however, that such development shall not exceed 22 residential units. Provided, that unless some other method is arrived at by agreement between the owners of the real property hereinabove described and the owners of the Shorehouse Apartment, located across Lake Washington Boulevard, as to the existing Shorehouse off-street parking facility presently located on the property of plaintiffs, provision for the continuation of the "Shorehouse off-street parking facility" shall be retained or in the alternative provided

1 for within the design for off-street parking within the
2 westerly half of the total parcel, above described, and
3 further provided that nothing herein shall be taken as
4 preventing the owners of the property hereinabove described
5 from imposing reasonable rules and regulations consistent
6 with the ordinances of the City of Kirkland on the use of
7 such off-street facilities by and for the benefit of the
8 "Shorehouse Apartment", until such time as a court of competent
9 jurisdiction shall determine that the owner of the Shorehouse
10 Apartments does not have the right and privilege of using
11 said property for off-street parking.

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B. GENERAL STIPULATIONS APPLICABLE TO ALL
CONSOLIDATED CASES

It is further stipulated by all parties to all of the
consolidated cases:

1. In the event it becomes necessary for any party to
any of the 11 consolidated actions to bring or institute any
judicial proceeding to enforce any of the provisions of the
Stipulation, Judgment, Order and Decree the prevailing party
therein shall be entitled to reasonable attorney's fees,
expert witness fees and costs.

2. Except as provided in the prior paragraph, each
party hereto shall bear their own attorney's fees and costs
incurred herein.

3. This agreement shall be for the benefit of and be
binding upon all successors and assigns of each party hereto.

4. Each party agrees to approve and support for entry
a judgment in all 11 of the consolidated actions incor-
porating the provisions of this stipulation, and (except as
may in this stipulation be specifically otherwise provided)
dismissing all actions with prejudice and which shall be a
final and binding judgment on all of the parties.

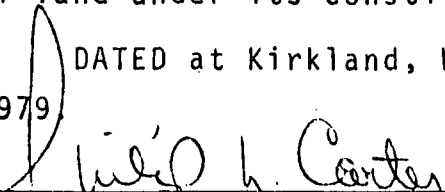
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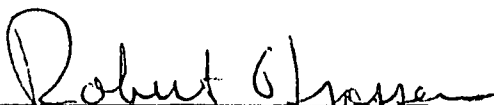
5. The City will proceed in good faith to process any and all applications for the development of including building permits with respect to the subject properties in the manner prescribed in this stipulation and order, judgment and decree to be entered as a result hereof, it being the intent that the plaintiffs and/or their successors or assigns may develop the properties referred to above as invisioned herein.


6. It is further understood and agreed that in the event there are inconsistencies or conflicts between provisions of this stipulation and/or the zoning code and/or ordinances affecting the development of the subject properties, this stipulation will control and that each party and/or their respective successors and assigns will allow the respective properties referred to herein to be developed in accordance with the terms of this stipulation and for the purposes and in the method and manner herein invisioned and specified.

7. Nothing in this stipulation and the order, judgment and decree to be entered as a result hereof shall be construed as in anyway limiting the authority of the legislative body of the defendant CITY OF KIRKLAND from the lawful enactment of land use or other ordinances affecting the use and regulation of land under its constitutional and statutory police powers.

DATED at Kirkland, Washington, this 22 day of June, 1979


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