

RESOLUTION R 3059

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND EXPRESSING AN INTENT TO VACATE A PORTION OF THE SOUTH HALF OF FIFTH AVENUE (NORTHEAST 85TH STREET) LYING WITHIN PLANNED AREA 5 AND EXTENDING ALONG THE NORTH LINE OF LOTS 1 THROUGH 6 OF MARSHALL'S ADDITION ACCORDING TO PLAT THEREOF, RECORDS OF KING COUNTY, CITY OF KIRKLAND FILE NO. CC-83-72.

Whereas, the City of Kirkland has, in conjunction with the public improvements to be constructed through Local Improvement District 121, initiated a street vacation procedure pursuant to RCW Chapter 35.79 and Chapter 19.16 of the Kirkland Municipal Code, to vacate a portion of the south half of the public right-of-way known as Fifth Avenue (Northeast 85th Street) within Planned Area 5; and

Whereas, by Resolution R-3052, the City Council of the City of Kirkland established a date for a public hearing on the proposed street vacation; and

Whereas, proper notice for the public hearing on the proposed vacation was given and the hearing was held in accordance with law; and

Whereas, an environmental checklist was filed pursuant to the State Environmental Policies Act and applicable state guidelines and local implementing ordinances which were reviewed by the responsible official of the City of Kirkland who issued a negative declaration on the proposed street vacation; and

Whereas, this environmental checklist and negative declaration have been available and accompanied this matter through the entire review process; and

Whereas, it is appropriate for the City to vacate public street right-of-way in exchange for the acquisition of alternative or replacement street right-of-way; and

Whereas, no property owner will be denied direct access as a result of this street vacation and realignment of public street, pursuant to the public improvements to be constructed through Local Improvement District 121; and

Whereas, the City council finds that it is desirable and in the best interest of the City, its residents, the general public and the property owners abutting upon the portion of public right-of-way to be vacated; now, therefore

Be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The findings, conclusions and recommendations contained in Exhibit N/A of the staff advisory report in File No. CC-83-72 are hereby adopted as though fully set forth herein.

Section 2. Except as stated in Section 3 of this resolution, the City will, by appropriate ordinance, vacate the portion of right-of-way (being a portion of the south half of Fifth Avenue [Northeast 85th Street] extending along the north line of Lots 1 through 6, inclusive of Marshall's Addition according to plat thereof records of King County) specifically described in Section 4 of this resolution, provided that within 90 days of the date of passage of this resolution the exchange and conveyance of real properties, including conveyance to the City of Kirkland for replacement right-of-way, as set forth in that certain agreement, dated June, 1983 between the City of Kirkland, the United States Postal Service, Linda Nordstrom Mowat and John Bruce Flynn, have been accomplished. Said agreement is attached to the original of this resolution as Exhibit A.

Section 3. If the portion of the right-of-way described in Section 4 of this resolution is vacated, the City will retain and reserve an easement together with the right to exercise and grant easements along, over, under and across the vacated right-of-way for the installation, construction, repair and maintenance of public utilities and services.

Section 4. The right-of-way to be vacated is situate in Kirkland, King County, Washington and is described as follows:

The south 30 feet of N.E. 85th Street adjacent to Lots 2 and 3 of said Marshall's Addition and that portion of the south 30.00 feet of N.E. 85th Street lying east of the northerly prolongation of the west line of Lot 5 of said

Marshall's Addition to the City of Seattle, and lying northwesterly of the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.

Section 5. The Director of the Department of Planning and Community Development shall send a copy of this resolution to each of the signature parties of the agreement attached hereto as Exhibit A within five working days of the date of passage of this resolution.

Section 6. Certified or conformed copies of this resolution shall be delivered to the following:

A. Department of Planning and Community Development of the City of Kirkland;

B. Fire and Building Departments of the City of Kirkland;

C. Public Works Department of the City of Kirkland;


D. The office of the Director of Administration and Finance (ex officio City Clerk for the City of Kirkland).

Passed by majority vote of the Kirkland City Council in regular, open meeting this 7th day of November, 1983.

Signed in authentication thereof this 7th day of November, 1983.


MAYOR

ATTEST:


Director of Administration & Finance
(ex officio City Clerk)

COPY

MEMORANDUM OF UNDERSTANDING

WHEREAS, all of the parties hereto are in agreement that it is within their respective best interest to carry out the agreements, undertakings and understandings set forth herein in order to relocate a portion of Fifth Avenue and its intersection with Sixth Street within the City of Kirkland and to recommend for vacation certain portions of Fifth Avenue to be abandoned as public right-of-way following such relocation; and

WHEREAS, in order to accomplish the foregoing plan, conveyances of land for right-of-way, other real property exchanges and street vacation procedures will be required, all of which may require a period of several months to be accomplished; and

WHEREAS, all of the parties desire to expedite the actual roadway realignment in order that construction of said realigned roadway may be completed timely and in conjunction with the construction of the new Kirkland post office and the "Mowat" development adjacent to said realignment on Fifth Avenue

Now, therefore, in consideration of the mutual promises and undertakings herein set forth IT IS AGREED between the parties as follows:

1. The Department of Public Service for the City of Kirkland will forthwith make its best effort to expedite the transfer of such portions of Fifth Avenue as are presently within the jurisdiction of the Washington State Department of Transportation to the jurisdiction of the City of Kirkland, and as soon as reasonably possible to initiate the local procedures required for vacation of the hereinafter identified portions of Fifth Avenue pursuant to state law and local ordinance governing street vacation (Exhibit 1 Legal Descriptions: Parcels 12 and 11).

It is understood and agreed by all parties hereto that the decision to vacate public rights-of-way is a legislative decision to be made by the Kirkland City Council, that such decision rests solely within the legislative discretion of said City council, to be arrived at only following public hearing and other procedures required by law. Neither the Kirkland Department of Public Service nor the signature party hereto for the City of Kirkland have, nor do they represent herein to have,

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the power to vacate public rights-of-way; nor do they intend in any way to lead the other parties into believing that a pre-commitment to vacate public right-of-way may be made by contract or otherwise.

2. Linda Nordstrom Mowat and John Bruce Flynn hereby grant to the City of Kirkland, including its contractors and/or agents, a right to enter onto, improve, and use as public roadway, the real property described in Exhibit 1, Legal Descriptions: Parcels 1, 4 and 6.

3. The United States Postal Service hereby grants to the City of Kirkland a right to enter onto, improve and use as public roadway, the real property described in Exhibit 1, Legal Descriptions: Parcels 3, 5 and 8.

4. Linda Nordstrom Mowat and John Bruce Flynn hereby agree to convey by deed to the City of Kirkland for road purposes, said real property described in Exhibit 1, Parcels 1, 4 and 6 at such time as the portions of Fifth Avenue described in Exhibit 1 as Parcel 12 may be vacated.

5. The United States Postal Service hereby agrees to convey by deed to the City of Kirkland for road purposes, said parcels of real property described in Exhibit 1 as Parcels 3, 5 and 8 at such time as the portion of Fifth Avenue described in Exhibit 1 as Parcel 12 may be vacated.

6. The United States Postal Service hereby agrees to convey to Linda Nordstrom Mowat and John Bruce Flynn, at such time as may be mutually agreed upon between the postal service and Mowat, the real property described in Exhibit 1 Legal Descriptions as Parcel 2, and all future rights to the real property described in Exhibit 1, Legal Descriptions as Parcel 11.

7. Linda Nordstrom Mowat and John Bruce Flynn hereby agree to convey to the United States Postal Service at such time as may be mutually agreed upon between Mowat and the U. S. Postal Service, the real property described in Exhibit 1, Legal Descriptions, as Parcel 7.

8. It is further agreed by all of the parties hereto that the conveyances of real property by deed, as set forth in paragraphs 3 through 7, inclusive, shall be accomplished not later than 60 days following the effective date of the street vacation to be requested as set forth in paragraph 1.

9. The City of Kirkland agrees that it will timely and in good faith process in the manner and by the procedure required by appropriate City ordinances, the application or applications for land use development permits (including any preliminary requests for modification or amendment to the land use comprehensive or other land use policy plans of the City) filed or to be filed by Linda Nordstrom Mowat and John Bruce Flynn with respect to the real property identified in the application made on their behalf to the Kirkland Planning Commission dated December 30, 1982. It being specifically understood and agreed to by the parties hereto that the agreement in this paragraph made by the City shall in no way be deemed to commit the City, its planning commission or City council as to any particular substantive decision in respect of said applications.

10. It is understood by all of the parties hereto that the City of Kirkland as a code city of the State of Washington, is vested with the power of eminent domain to acquire real property for public (including municipal) purposes; an acquisition by the City of Kirkland of the properties described in Exhibit 1, Parcel Nos. 1, 4 and 6 are under the threat of condemnation.

THIS AGREEMENT entered into this _____ day of _____, 1983.

CITY OF KIRKLAND

BY *Allen B. Felt*

Linda Nordstrom Mowat 4-18-83
LINDA NORDSTROM MOWAT

John Bruce Flynn
JOHN BRUCE FLYNN

UNITED STATES POSTAL SERVICE

BY *Ronald C. Watson*
*Acting Regional Director
Real Estate & Buildings Department*

Approved as to Form:
Ronald C. Watson
Sr. Asst. Regional Counsel
Western Region
United States Postal Service

DODDS ENGINEERS, INC.

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1/26/83

PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 1 (MOWAT TO CITY)

That portion of Lot 2, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey recorded in Volume 27 of surveys, page 249, records of said county, lying ~~south~~ of the following described tract of land:

within *as I. (UM)*

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



EXHIBIT 1

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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 2 (POST OFFICE TO MOWAT)

That portion of the south half of Lot 3, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey, recorded in Volume 6 of surveys, page 274, records of said county, lying northwesterly of the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



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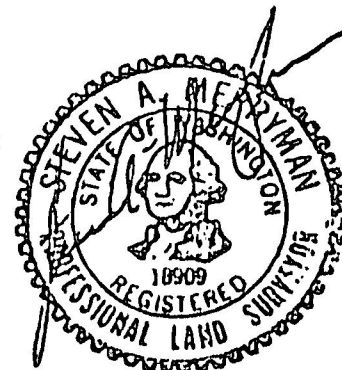
PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 3 (POST OFFICE TO CITY)

That portion of the south half of Lot 3, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey, recorded in Volume 6 of surveys, page 274, records of said county, lying within the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



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EXHIBIT 1

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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 4 (MOWAT TO CITY)

That portion of the north half of Lot 3, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey recorded in Volume 27 of surveys, page 249, records of said county, lying within the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 5 (POST OFFICE TO CITY)

That portion of the south half of Lot 4, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey recorded in Volume 6 of surveys, page 274, records of said county, lying within the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.

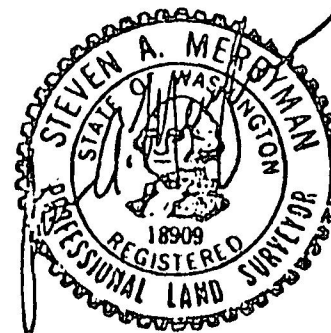


EXHIBIT 1

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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 6 (MOWAT TO CITY)

That portion of the north half of Lot 4, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey recorded in Volume 27 of surveys, page 249, records of said county, lying within the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 7 (MOWAT TO POST OFFICE)

That portion of the north half of Lot 4, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey recorded in Volume 27 of surveys, page 249, records of said county, lying southeasterly of the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 8 (POST OFFICE TO CITY)

That portion of Lot 5, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, as delineated by Record of Survey, recorded in Volume 6 of surveys, page 274, records of said county, lying within the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 11 (CITY TO POST OFFICE)

That portion of the south 30.00 feet of N.E. 85th Street lying east of the northerly prolongation of the west line of Lot 5, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington and lying northwesterly of the following described tract of land:

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



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PLANNED AREA 5, POST OFFICE PROPERTY TRADE

PARCEL 12 (CITY TO MOWAT)

That portion of the south 30.00 feet of N.E. 85th Street lying east of the northerly prolongation of the west line of Lot 2, Marshall's Addition to the City of Seattle, as recorded in Volume 22 of plats, page 81, records of King County, Washington, and lying west of the northerly prolongation of the east line of Lot 4, of said plat.

A strip of land 50 feet in width over those portions of Lots 1, 2, 3, 4 and 5, said plat of Marshall's Addition to the City of Seattle, and other lands, the northerly and northwesterly margin of which is described as follows:

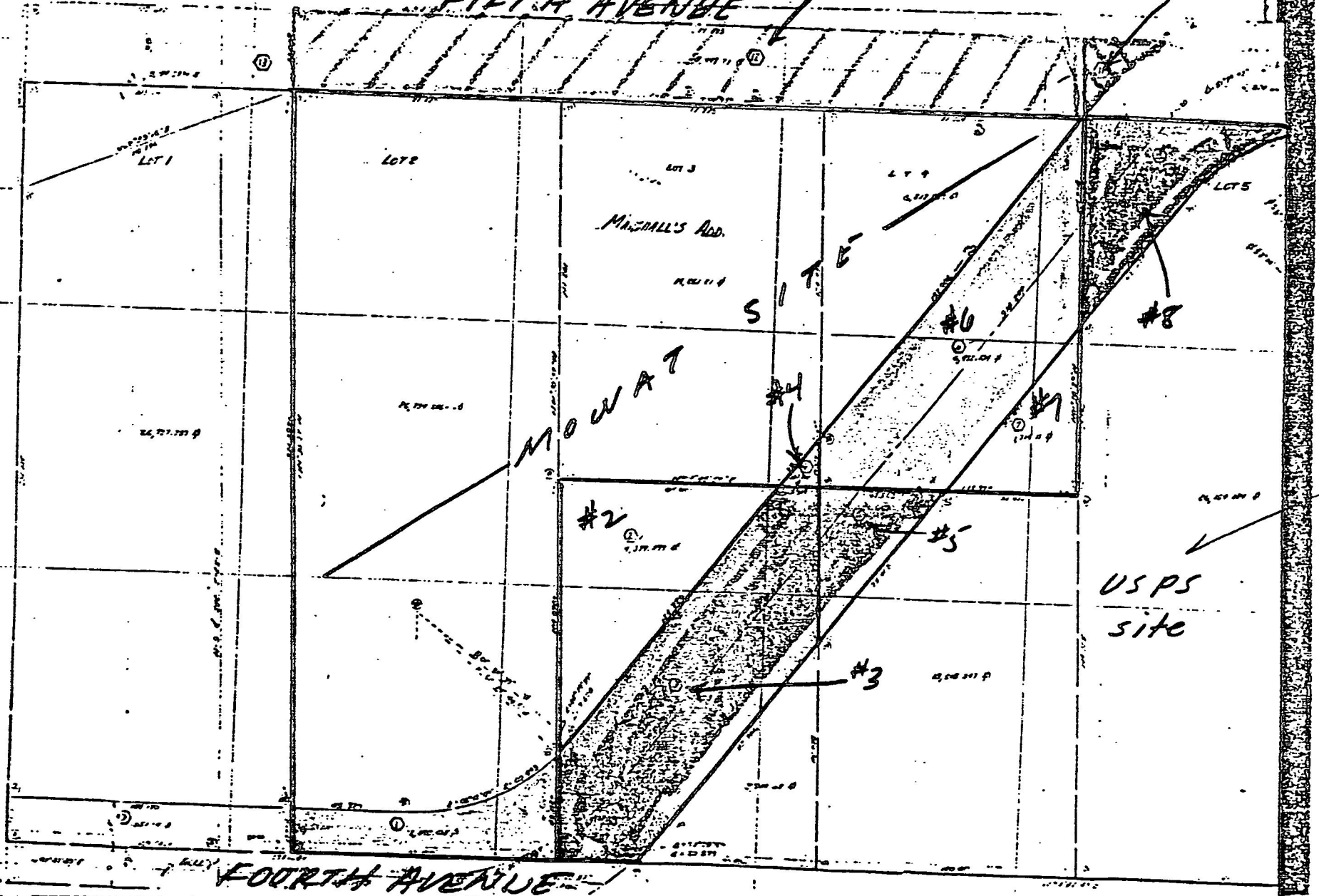
Beginning at the southwest corner of said Lot 1; thence N 00°15'48" W along the west line thereof to an intersection with the northerly line of the south 17 feet of said Lot 1; thence N 89°47'43" E along said northerly line and its easterly production 154.50 feet to a point of tangency with a 75 foot radius curve to the left; thence northwesterly along said curve an arc length of 68.12 feet through a central angle of 52°02'12"; thence N 37°45'31" E 307.80 feet to the northwest corner of said Lot 5; thence continuing N 37°45'31" E 2.57 feet to a point of tangency with a 124.93 foot radius curve to the right; thence northeasterly along said curve an arc length of 113.34 feet through a central angle of 51°58'41" to the terminus of the herein described margin.



1/26/83

SIXTH STREET

(N.E. 85th Street)
FIFTH AVENUE



FOURTH AVENUE

Kirkland, WA - Map

USPS / MOWAT / CITY OF KIRKLAND

EXHIBIT 2