

RESOLUTION NO. R- 3615

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A DEVELOPMENT PROPOSAL SUBMITTED UNDER THE QUASI-JUDICIAL PROJECT REZONE PROVISIONS OF CHAPTER 130 OF THE KIRKLAND ZONING CODE, ORDINANCE 2740, AS AMENDED, AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. IIB-89-147 BY SHELTER VENTURES TO DEVELOP A 22-UNIT CONDOMINIUM PROJECT AND SETTING FORTH CONDITIONS TO WHICH SUCH DEVELOPMENT PROPOSAL SHALL BE SUBJECT AND SETTING FORTH THE INTENTION OF THE CITY COUNCIL TO, UPON APPROVED COMPLETION OF SAID DEVELOPMENT, REZONE THE PROPERTY FROM RS 8.5 TO RM 3.6.

WHEREAS, the Department of Planning and Community Development has received an application filed by Robert Holmes as owner of the property described in said application requesting a permit to develop said property in accordance with the Quasi-Judicial Project Rezone procedure established in Chapter 130 of Ordinance 2740, as amended; and

WHEREAS, said property is located within a RS 8.5 zone and the proposed development is a permitted use within the RM 3.6 zone; and

WHEREAS, the application has been submitted to the Hearing Examiner who held a public hearing thereon at the regular meeting of June 28, 1990; and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a negative determination reached; and

WHEREAS, said environmental checklist and determination have been available and accompanied the application through the entire review process; and

WHEREAS, the Hearing Examiner, after the public hearing and consideration of the recommendations of the Department of Planning and Community Development, did adopt certain Findings, Conclusions and Recommendations, and did recommend to the City Council approval of the proposed development and the Quasi-Judicial Project Rezone pursuant to Chapter 130 of Ordinance 2740, as amended, all subject to the specific conditions set forth in said recommendation; and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The Findings, Conclusions, and Recommendations of the Hearing Examiner as signed by him and filed in the Department of Planning and Community Development File No. IIB-89-147 are hereby adopted by the Kirkland City Council as though fully set forth herein.

Section 2. A Development Permit, pursuant to the Quasi-Judicial Project Rezone procedure of Chapter 130 of Ordinance 2740, as amended, shall be issued to the applicant subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council.

Section 3. The City Council approves in principle the request for reclassification from RS 8.5 to RM 3.6, pursuant to the provisions of Chapter 23.130 of Ordinance 2740, as amended, and the Council shall, by ordinance, effect such reclassification upon being advised that all of the conditions, stipulations, limitations, and requirements contained in this Resolution, including those adopted by reference, have been met; provided, however, that the applicant must begin the development activity, use of land or other actions approved by this Resolution within one year from the date of enactment of this Resolution, or the decision becomes void.

Section 4. Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state or local statutes, ordinances or regulations applicable to the proposed development project, other than as expressly set forth herein.

Section 5. Failure on the part of the holder of the development permit to initially meet or maintain strict compliance with the standards and conditions to which the development permit and the intent to rezone is subject shall be grounds for revocation in accordance with Ordinance 2740, as amended, the Kirkland Zoning Ordinance.

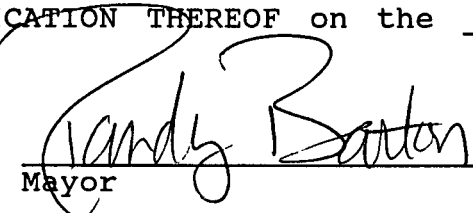
Section 6. A certified copy of this Resolution together with the Findings, Conclusions, and Recommendations herein adopted shall be attached to and become a part of the development permit or evidence thereof, delivered to the permittee.

Section 7. 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 Department for the City of Kirkland
- (c) Public Works Department of the City of Kirkland
- (d) City Clerk for the City of Kirkland

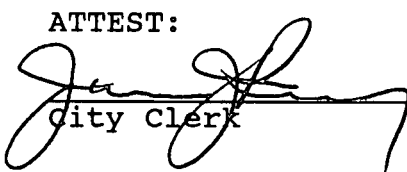
PASSED by majority vote of the Kirkland City Council in regular, open meeting on the 7th day of August, 19 90.

SIGNED IN AUTHENTICATION THEREOF on the 7th day of August, 19 90.



Mayor

ATTEST:



City Clerk

Proof of such mail or personal delivery must be made by affidavit, available from the Planning Department. The affidavit must be attached to the challenge and response letters, and delivered to the Planning Department.

The challenge will be considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

C. JUDICIAL REVIEW (FOR ZONING PERMIT ONLY)

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 30 days following the postmarked date when the City's final decision was distributed.

If issues under RCW 43.21C (the State Environmental Policy Act--SEPA) are to be raised in the judicial appeal, the "SEPA" appeal must be filed with the King County Superior Court within 30 days following the postmarked date when the City's final decision was distributed.

IV. LAPSE OF APPROVAL

A. ZONING PERMIT

Under Section 152.115.1 of the Zoning Code, the applicant must submit to the City a complete building permit application within one year after the final decision on the matter, or the decision becomes void. In the event that judicial review proceedings are initiated pursuant to Section 152.110, the decision would be void one year after the termination of judicial review proceedings. Furthermore, the applicant must substantially complete construction of the development activity, use of land, or other actions approved under Chapter 152 and complete the applicable conditions listed on the Notice of Approval within five (5) years after the final decision on the matter, or the decision becomes void. Application and appeal procedures for a time extension are described in Section 152.115.2 and 152.115.3.

RECONSIDERATIONS, APPEALS, CHALLENGES AND JUDICIAL REVIEW

The following is a summary of the deadline and procedures for filing reconsiderations and challenges. Any person wishing to file or respond to a recommendation or challenge should contact the Planning Department for further procedural information.

A. REQUEST FOR RECONSIDERATION

Section 152.80 of the Zoning Code allows the applicant or any person who submitted written or oral testimony to the Hearing Examiner to request that the Hearing Examiner reconsider his/her recommendation. The request must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department within five (5) working days following the postmarked date when the Hearing Examiner's written recommendation was distributed (by July 24, 1990). Within this same time period, the person making the request for reconsideration must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the request letter together with notice of the deadline and procedures for responding to the request.

Any response to the request for reconsideration must be delivered to the Planning Department within five (5) working days after the request letter was filed with the Planning Department. Within the same time period, the person making the response must also mail or personally deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, attached to the request and response letters, and delivered to the Planning Department. The affidavit form is available from the Planning Department.

B. CHALLENGE

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted written or oral testimony to the Hearing Examiner. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by July 31, 1990, ten (10) working days following the postmarked date of distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

Any response to the challenge must be delivered to the Planning Department within five (5) working days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

5. Within seven (7) calendar days after the final public hearing, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development. The signs shall be disassembled with the posts, bolts, washer, and nuts separated from the sign board (see Exhibit A, Conclusion II.C.12.b).

EXHIBITS:


The following exhibits were offered and entered into the record:

- A. Department of Planning and Community Development Staff Advisory Report
- B.
 1. Letter from Scott Rodman, dated 6/14/90
 2. Letter from Steven R. Miller, dated 6/14/90
 3. Letter from Anthony Cresci, dated 6/23/90

PARTIES OF RECORD:

Robert Holmes, Shelter Ventures, 155 - 108th NE, Suite 601, Bellevue, WA 98004
Larry Ho, Architect, 10940 NE 33rd, Suite 202, Bellevue, WA 98004
Ed Winkle, 705 Kirkland Way NE, Kirkland, WA 98033
Charlie Szekeres, 836 Kirkland Ave., Kirkland, WA 98033
Inez Turner, 631 Kirkland Ave., C19, Kirkland, WA 98033
Greg Steinhauer, 1020 - 108th, Suite 107, Bellevue, WA 98004
Anthony Cresci, 609 Kirkland Ave., Kirkland, WA 98033
Scott Rodman, 811 Kirkland Way, Kirkland, WA 98033
Steven R. Miller, 624 Kirkland Ave., Kirkland, WA 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Entered this 16th day of July, 1990, per authority granted by Section 152.70, Ordinance 2740 of the Zoning Code. This recommendation is final unless a request for reconsideration is filed within five (5) working days as specified below. A final decision on this application will be made by the City Council. My recommendation may be challenged to the City Council within ten (10) working days as specified below.


Ronald L. McConnell
Hearing Examiner

- e. A signed and notarized concomitant agreement, as set forth in Attachment 11, to underground all existing utility lines bordering the subject property within the Kirkland Way and Kirkland Avenue rights-of-way to be approved by the Department of Planning and Community Development and recorded with the King County Records and Elections Division (see Exhibit A, Conclusion II.C.7.b(3)).
 - f. Sufficient information concerning construction and occupancy of structures to determine fire flow requirements, as well as plans for any on- or off-site improvements necessary to meet fire flow requirements (see Exhibit A, Conclusion II.D.1.b).
 - g. Submit a topographic survey of the site. The survey shall be tied to an existing datum point in an adjacent public right-of-way (see Exhibit A, Conclusion II.C.2.b).
4. Prior to occupancy, the applicant shall:
- a. Complete all site improvements indicated on the site plan approved by the Department of Planning and Community Development at the time of application for a Building Permit (see Exhibit A, Conclusion II.C.13.b).
 - b. Complete the installation of the half-street improvements within the Kirkland Way and Kirkland Avenue rights-of-way bordering the subject property as specified in Condition I.B.3.d (see Exhibit A, Conclusion II.C.7.b(1)).
 - c. Submit for approval by the Department of Planning and Community Development a signed and notarized agreement, as set forth in Attachment 12, to maintain the landscaping within the Kirkland Way and Kirkland Avenue rights-of-way to be recorded with the King County Records and Elections Division (see Exhibit A, Conclusion II.C.7.b(2)).
 - d. Install a fully-operational permanent storm water control system (see Exhibit A, Conclusion II.C.6.b).
 - e. Complete improvements necessary to meet fire flow requirements (see Exhibit A, Conclusion II.D.1.b).
 - f. Submit to the Department of Planning and Community Development a security device to ensure maintenance of landscaping, the permanent storm water retention system, and other site improvements (see Exhibit A, Conclusion II.C.14.b).
 - g. In lieu of completing any required improvements, a security device to cover the cost of installing the improvements may be submitted if the criteria in Zoning Code Section 175.10.2 are met (see Exhibit A, Conclusion II.C.13.b).

measured 1 foot above grade subject to the review and approval of the Department of Planning and Community Development.

- (d) The applicant shall comply with the protection techniques specified in Section 95.15.4 for the one significant tree to be retained in the landscaped area adjacent to the visitor parking (see Exhibit A, Attachment 19) and for all trees and shrubs which are on neighboring properties, but have driplines which extend onto the subject property (Hearing Examiner Conclusion B2). These protection techniques must be in place and inspected and approved by the Department of Planning prior to issuance of any grading permits.
- c. A signed and notarized covenant, as set forth in Exhibit A, Attachment 10, indemnifying the City from any loss, including claims made therefore, resulting from soils disturbance on the subject project to be approved by the Department of Planning and Community Development and recorded with the King County Records and Elections Division (see Exhibit A, Conclusion II.C.3.b).
- d. Plans for installing the following half-street improvements in the Kirkland Way right-of-way bordering the subject property: vertical curb, gutters, underground storm sewers, minimum 4½-foot-wide landscape strip planted with street trees every 30 feet on center, street trees to be planted no closer than 36 inches to the curb, a minimum 5-foot-wide sidewalk located behind the landscape strip, with a minimum 2½-foot-wide utility strip plus any excess right-of-way to be located immediately behind the sidewalk, and minimum paving of approximately 18 feet of asphalt from the face of the curb toward the centerline to be approved by the Department of Public Works.

Plans for installing the following half-street improvements in the Kirkland Avenue right-of-way bordering the subject property: vertical curb, gutter, and underground storm sewer, a minimum 4½-foot-wide landscape strip planted with street trees every 30 feet on center, the street trees to be planted no closer than 36 inches to the curb, a minimum 5-foot-wide concrete sidewalk located behind the landscape strip, with a minimum 2½-foot-wide utility strip plus any excess right-of-way to be located immediately behind the sidewalk and a minimum paving of approximately 14 feet of asphalt from the face of the curb toward the centerline to be approved by the Department of Public Works.

- (a) The modification of the driveway turnaround at the south end of the project adjacent to Kirkland Avenue (see Exhibit A, Attachment 7).
 - (b) The provision of grass grid pavers to provide emergency vehicular access connecting the project driveway with Kirkland Avenue. There should be no landscaping other than the grass grid pavers within the emergency driveway connection to Kirkland Avenue (see Exhibit A, Attachment 7).
 - (c) A removable bollard may be placed in the grasscrete area by the applicant following review and approval by the City of Kirkland Fire Marshall. (Hearing Examiner Conclusion B.1)
- (2) A revised Landscape Plan showing the following changes to be approved by the Department of Planning and Community Development (see Exhibit A, Conclusion II.C.4.b):
- (a) The relocation of the existing aspen and birches in the northwest corner of the site to the open space area in the southwest corner of the site (see Exhibit A, Attachment 8).
 - (b) The provision of a Buffering Standard 3 along the westerly eighty (80) feet of the north property line (see Exhibit A, Attachment 9). This buffering standard consists of a minimum 5-foot-wide landscaped strip planted as follows:
 - (i) One row of trees planted 8 to 10 feet on center. Up to 100 percent of the required trees may be deciduous. At the time of planting, deciduous trees must be at least 2 inches in diameter as measured using the standards of the American Association of Nurserymen; and coniferous trees must be at least 5 feet in height.
 - (ii) Shrubs 18 inches high planted to attain a coverage of at least 60 percent of the buffer area within two years.
 - (c) If the retained or relocated trees do not survive construction or within two years of occupancy of the project, the applicant shall plant replacement trees at least 3 to 5 inches in diameter as

III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, approval of this application is recommended subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Exhibit A, Attachment 6, Development Standards, is provided to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Exhibit A, Attachment 6, the condition of approval shall be followed.
2. The Department of Planning and Community Development shall be authorized to approve minor modifications to the approved site plan, provided that:
 - a. The change will not result in reducing the landscaped area, buffering areas, or the amount of open space on the project;
 - b. The change will not result in increasing the residential density or gross floor area of the project;
 - c. The change will not result in any structure, or vehicular circulation or parking area being moved more than 10 feet in any direction and will not reduce any required yard;
 - d. The change will not result in any increase in height of any structure; and
 - e. The City determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project (see Exhibit A, Conclusion II.C.9.b).
3. As part of the application for a Building Permit the applicant shall submit:
 - a. Plans for a permanent and construction-phase storm water control system to be approved by the Department of Public Works (see Exhibit A, Conclusion II.C.6.b).
 - b. (1) A revised site plan showing the following changes to be approved by the Department of Planning and Community Development and the Fire Department (see Exhibit A, Conclusion II.C.5.b):

5. A high quality fence should be constructed.
 6. Access should only be from Kirkland Way.
 7. Twenty-two new condominiums are too many in an area which is already overcrowded.
 8. There is already too much traffic, added traffic is not needed.
 9. There are underground springs in the area and there may be surface water problems if this project is built.
 10. Due to the difference in topography, the large building in this project will loom over the single-story condominiums to the west of the subject property.
- F. One neighbor testified that he would like the sewer line to be extended further to the east and said that water pressure in the area was already low.

II. CONCLUSIONS:

- A. The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 8 to 19 of the Department's Advisory Report, accurately set forth the conclusions of the Hearing Examiner and, by this reference, are adopted as part of the Hearing Examiner's conclusions. A copy of said report is available in the Department of Planning and Community Development.
- B. Most of the concerns raised by neighbors have been addressed in Exhibit A. The Examiner believes additional concerns should also be addressed.
1. The removable bollard which was recommended by the applicant would allow emergency access to the site, but would prevent regular ingress and egress to Kirkland Avenue.
 2. A tree protection plan should be developed to show how trees and shrubs along adjacent property boundaries will be protected.
 3. The City of Kirkland limits construction hours to protect neighbors from extended periods of construction noise. Hours in which construction may occur are 7:00 a.m. to 8:00 p.m., Monday through Saturday.
 4. The applicant is proposing a fence with landscaping along the southwest boundary and is proposing landscaping which meets City of Kirkland requirements along the other property lines. No fence is required by City code in this instance.

Examiner conducted a public hearing on the application. The hearing on the Holmes/Shelter Ventures application was opened at 2:00 p.m., June 28, 1990, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 2:37 p.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the City Clerk's office.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

I. FINDINGS:

- A. The findings of fact recommended on pages 7 to 19 of the Department of Planning and Community Development Advisory Report (Hearing Examiner Exhibit A) are found by the Hearing Examiner to be supported by the evidence presented during the hearing and, by this reference, are adopted as part of the Hearing Examiner's findings of fact. A copy of said report is available in the Department of Planning and Community Development.
- B. The applicant's architect testified at the hearing that he designed the proposed condominium to be compatible with the surrounding area. He proposed a mixture of low and high density dwellings on the site. He said he agreed with most of the conditions, but wanted to have a removable bollard added to the emergency access point.
- C. The applicant testified that he concurred with the recommended conditions, but did not want a sidewalk to cross over the proposed grasscrete emergency access area. He said he didn't want to encourage people to cross the property.
- D. One person testified in favor of the application. He said this is a good location for this type of development and felt this proposal will be a credit to the City.
- E. Three persons wrote letters (Exhibits B1, B2 and B3) and two persons testified at the hearing with concerns about the project. Those concerns included the following:
 1. Property borders must be respected and not encroached upon with earth-moving equipment or building materials.
 2. Any plantings or shrubbery located on common property lines should not be damaged or removed without the permission of the adjacent property owner.
 3. Care should be exercised to prevent soil erosion.
 4. Normal working hours should be observed for construction (8 a.m. to 6 p.m.) to prevent disturbing the local residents.

**CITY OF KIRKLAND
HEARING EXAMINER FINDINGS,
CONCLUSIONS, AND RECOMMENDATION**

APPLICANT: Robert Holmes, Shelter Ventures, Inc.

FILE NO.: IIB-89-147

APPLICATION:

1. Site Location: 705, 721, and 731 Kirkland Way; and 626 and 800 Kirkland Avenue (see Attachment 1).
2. Request: To rezone approximately 2.05 acres (89,357 square feet) from RS 8.5 (single-family residential, minimum lot size 8,500 square feet) to RM 3.6 (multifamily residential, minimum lot size 3,600 square feet). The rezone is requested to construct 22 condominium units consisting of 5 attached bungalows, 2 townhouses with 2 units each, and a 13-unit multifamily condominium pursuant to Zoning Code Sections 20.10.a and .b, and Chapters 130 and 152 (see Attachments 2-4).
3. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
4. Major Issues:
 - a. Compliance with Zoning Code Sections 20.10.a and .b for the development of attached and stacked dwelling units.
 - b. Compliance with the rezone criteria as set forth in Chapter 130 of the Zoning Code.
 - c. Compliance with the decisional criteria as set forth in Chapter 152 of the Zoning Code.

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Community Development: Approve with conditions.

Hearing Examiner: Approve with conditions.

PUBLIC HEARING:

After reviewing the official file which included the Department of Planning and Community Development Advisory Report and after visiting the site, the Hearing

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (206) 828-1257

**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
ADVISORY REPORT
FINDINGS, CONCLUSION, AND RECOMMENDATIONS**

To: Kirkland Hearing Examiner

From: Paul D. Stewart Paul D. Stewart, Project Planner
Joseph Tovar Joseph Tovar, Planning Director

Date: June 21, 1990

File: IIB-89-147, Shelter Ventures

Hearing Date, Time, and Place: June 28, 1990, 1:30 p.m.
City Hall Council Chamber
123 Fifth Avenue, Kirkland

TABLE OF CONTENTS

| <u>Section</u> | <u>Page</u> |
|-----------------------------------------------|-------------|
| Application | 2 |
| Recommendations | 2 |
| Site Description | 7 |
| State Environmental Policies Act (SEPA) | 9 |
| Zoning Code Compliance | 9 |
| Technical Committee | 18 |
| Comprehensive Plan | 18 |
| Request for Reconsiderations | 19 |
| Challenge | 20 |
| Judicial Review | 20 |
| Lapse of Approval | 21 |
| Appendices | 21 |
| Parties of Record | 22 |

EXHIBIT A
FILE NO. IIB-89-147

I. INTRODUCTION

A. APPLICATION

1. Applicant: Robert Holmes, Shelter Ventures, Inc.
2. Site Location: 705, 721, and 731 Kirkland Way; and 626 and 800 Kirkland Avenue (see Attachment 1).
3. Request: To rezone approximately 2.05 acres (89,357 square feet) from RS 8.5 (single-family residential, minimum lot size 8,500 square feet) to RM 3.6 (multifamily residential, minimum lot size 3,600 square feet). The rezone is requested to construct 22 condominium units consisting of 5 attached bungalows, 2 townhouses with 2 units each, and a 13-unit multifamily condominium pursuant to Zoning Code Sections 20.10.a and .b, and Chapters 130 and 152 (see Attachments 2-4).
4. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
5. Major Issues:
 - a. Compliance with Zoning Code Sections 20.10.a and .b for the development of attached and stacked dwelling units.
 - b. Compliance with the rezone criteria as set forth in Chapter 130 of the Zoning Code.
 - c. Compliance with the decisional criteria as set forth in Chapter 152 of the Zoning Code.

B. RECOMMENDATIONS

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

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 6, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development

regulation in Attachment 6, the condition of approval shall be followed.

2. The Department of Planning and Community Development shall be authorized to approve minor modifications to the approved site plan, provided that:
 - a. The change will not result in reducing the landscaped area, buffering areas, or the amount of open space on the project;
 - b. The change will not result in increasing the residential density or gross floor area of the project;
 - c. The change will not result in any structure, or vehicular circulation or parking area being moved more than 10 feet in any direction and will not reduce any required yard;
 - d. The change will not result in any increase in height of any structure; and
 - e. The City determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project (see Conclusion II.C.9.b).

3. As part of the application for a Building Permit the applicant shall submit:
 - a. Plans for a permanent and construction-phase storm water control system to be approved by the Department of Public Works (see Conclusion II.C.6.b).

 - b. (1) A revised site plan showing the following changes to be approved by the Department of Planning and Community Development and the Fire Department (see Conclusion II.C.5.b):
 - (a) The modification of the driveway turnaround at the south end of the project adjacent to Kirkland Avenue (see Attachment 7).

 - (b) The provision of grass grid pavers to provide emergency vehicular access connecting the project driveway with Kirkland Avenue. There should be no landscaping other than the grass grid pavers within the emergency driveway

connection to Kirkland Avenue (see Attachment 7).

- (c) The provision of a minimum 5-foot-wide paved pedestrian pathway or sidewalk connecting the site to Kirkland Avenue.
- (2) A revised Landscape Plan showing the following changes to be approved by the Department of Planning and Community Development (see Conclusion II.C.4.b):
- (a) The relocation of the existing aspen and birches in the northwest corner of the site to the open space area in the southwest corner of the site (see Attachment 8).
 - (b) The provision of a Buffering Standard 3 along the westerly eighty (80) feet of the north property line (see Attachment 9). This buffering standard consists of a minimum 5-foot-wide landscaped strip planted as follows:
 - (i) One row of trees planted 8 to 10 feet on center. Up to 100 percent of the required trees may be deciduous. At the time of planting, deciduous trees must be at least 2 inches in diameter as measured using the standards of the American Association of Nurserymen; and coniferous trees must be at least 5 feet in height.
 - (ii) Shrubs 18 inches high planted to attain a coverage of at least 60 percent of the buffer area within two years.
 - (c) If the retained or relocated trees do not survive construction or within two years of occupancy of the project, the applicant shall plant replacement trees at least 3 to 5 inches in diameter as measured 1 foot above grade subject to the review and approval of the Department of Planning and Community Development.

- (d) The applicant shall comply with the protection techniques specified in Section 95.15.4 for the one significant tree to be retained in the landscaped area adjacent to the visitor parking (see Attachment 19). These protection techniques must be in place and inspected and approved by the Department of Planning prior to issuance of any grading permits.
- c. A signed and notarized covenant, as set forth in Attachment 10, indemnifying the City from any loss, including claims made therefore, resulting from soils disturbance on the subject project to be approved by the Department of Planning and Community Development and recorded with the King County Records and Elections Division (see Conclusion II.C.3.b).
- d. Plans for installing the following half-street improvements in the Kirkland Way right-of-way bordering the subject property: vertical curb, gutters, underground storm sewers, minimum 4½-foot-wide landscape strip planted with street trees every 30 feet on center, street trees to be planted no closer than 36 inches to the curb, a minimum 5-foot-wide sidewalk located behind the landscape strip, with a minimum 2½-foot-wide utility strip plus any excess right-of-way to be located immediately behind the sidewalk, and minimum paving of approximately 18 feet of asphalt from the face of the curb toward the centerline to be approved by the Department of Public Works.

Plans for installing the following half-street improvements in the Kirkland Avenue right-of-way bordering the subject property: vertical curb, gutter, and underground storm sewer, a minimum 4½-foot-wide landscape strip planted with street trees every 30 feet on center, the street trees to be planted no closer than 36 inches to the curb, a minimum 5-foot-wide concrete sidewalk located behind the landscape strip, with a minimum 2½-foot-wide utility strip plus any excess right-of-way to be located immediately behind the sidewalk and a minimum paving of approximately 14 feet of asphalt from the face of the curb toward the centerline to be approved by the Department of Public Works.

- e. A signed and notarized concomitant agreement, as set forth in Attachment 11, to underground all existing utility lines bordering the subject property within the Kirkland Way and Kirkland Avenue rights-of-way to be approved by the Department of Planning and Community Development and recorded with the King County Records and Elections Division (see Conclusion II.C.7.b(3)).
 - f. Sufficient information concerning construction and occupancy of structures to determine fire flow requirements, as well as plans for any on- or off-site improvements necessary to meet fire flow requirements (see Conclusion II.D.1.b).
 - g. Submit a topographic survey of the site. The survey shall be tied to an existing datum point in an adjacent public right-of-way (see Conclusion II.C.2.b).
4. Prior to occupancy, the applicant shall:
- a. Complete all site improvements indicated on the site plan approved by the Department of Planning and Community Development at the time of application for a Building Permit (see Conclusion II.C.13.b).
 - b. Complete the installation of the half-street improvements within the Kirkland Way and Kirkland Avenue rights-of-way bordering the subject property as specified in Condition I.B.3.d (see Conclusion II.C.7.b(1)).
 - c. Submit for approval by the Department of Planning and Community Development a signed and notarized agreement, as set forth in Attachment 12, to maintain the landscaping within the Kirkland Way and Kirkland Avenue rights-of-way to be recorded with the King County Records and Elections Division (see Conclusion II.C.7.b(2)).
 - d. Install a fully-operational permanent storm water control system (see Conclusion II.C.6.b).
 - e. Complete improvements necessary to meet fire flow requirements (see Conclusion II.D.1.b).
 - f. Submit to the Department of Planning and Community Development a security device to ensure maintenance of landscaping, the permanent storm water retention system, and

other site improvements (see Conclusion II.C.14.b).

g. In lieu of completing any required improvements, a security device to cover the cost of installing the improvements may be submitted if the criteria in Zoning Code Section 175.10.2 are met (see Conclusion II.C.13.b).

5. Within seven (7) calendar days after the final public hearing, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development. The signs shall be disassembled with the posts, bolts, washer, and nuts separated from the sign board (see Conclusion II.C.12.b).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:

a. Facts:

- (1) Size: Approximately 2.05 acres or 89,357 square feet.
- (2) Land Use: Currently developed with five single-family detached dwelling units on the subject property.
- (3) Zoning: RS 8.5, single-family residential.
- (4) Terrain and Vegetation: The existing topography gradually slopes from the highest portion in the southeast corner (elevation at 158) to the northwest corner (lowest elevation at 120) at a distance of approximately 500 feet.

The steepest grade is in the far northwest corner adjacent to Kirkland Way with the slope at approximately 20 percent. The existing houses fronting Kirkland Way are approximately 10 to 12 feet above the street.

Vegetation on the site is typically associated with detached single-family dwelling units. There are five significant trees on site and several groupings of maples, birches, and aspens

(see Attachment 5). Four significant trees would be lost due to the development. Several trees such as aspen, chestnuts, and birches would also be displaced.

- b. Conclusions: Although there is a gradual sloping downward from southeast to northwest, and a small bluff adjacent to Kirkland Way (approximately 20 percent), there does not appear to be significant constraints to development. Of the vegetation and five significant trees on site, only one significant tree will be retained. The relocation of the clumps of aspens and birches to the common open space area in the southwest corner would result in retaining some of the existing mature vegetation and would provide a better designed landscape.

2. Neighboring Development and Zoning:

a. Facts:

- (1) North: This area is currently zoned Planned Area 5A and B and developed with single family to the northwest and multifamily apartments to the north and northeast (Kirkland Gardens West Apartments).
- (2) South: Southwest of the site is one single-family unit zoned RS 8.5. Across Kirkland Avenue are the Puget Power offices and storage area, and the Moss Bay Commerce Center consisting of a mix of office, light industrial, and warehousing. This area is zoned LI (Light Industrial).
- (3) East: This area is zoned RM 3.6 and is developed with one single-family dwelling unit, as well as a paved parking area for Puget Power.
- (4) West: This property is zoned RM 3.6 and is developed with multifamily condominiums--the Moss Bay Commons Condos (with the exception of one lot zoned RS 8.5 with a single-family dwelling unit located on it).

- b. Conclusion: The surrounding land use and zoning consists of a variety of types and uses ranging from detached single-family units and

multifamily condominiums and apartments to a commerce park, office building, and off-site parking area. Buffering standards will be required for those areas adjacent to the single-family residences to the northwest and southwest. An existing single-family dwelling unit would remain in the northeast corner of the site. The project is a mix of housing types: single-family attached bungalows, two townhouse structures of two units each, and a 13-unit multifamily building. The rezone, if developed in accordance with the standards and codes of the City of Kirkland and the recommended conditions of approval, would be consistent with the surrounding zoning and land use.

B. STATE ENVIRONMENTAL POLICIES ACT (SEPA)

1. Fact: A Determination of Nonsignificance (DNS) was issued on May 18, 1990. The Environmental Checklist, Determination, and additional Environmental Information are included as Attachments 13 and 14.
2. Conclusion: The applicant and the City have satisfied the requirements of SEPA.

C. ZONING CODE COMPLIANCE

1. a. Fact: The fundamental site development standards pertaining to attached or stacked units in a RM 3.6 zone are set forth in Section 20.10.a and .b (see Attachment 17).
- b. Conclusion: The proposal complies with the regulations for the RM 3.6 zone as set forth in Section 20.10.a and .b, except as discussed in Section 4.a and 4.b below.
2. a. Fact: Section 20.10.a and .b requires attached and stacked dwelling units in a RM 3.6 zone to not exceed the maximum structure height of 30 feet above average building elevation. The proposal as submitted by the applicant calls for a building which will be 30 or less feet above average building elevation (see attachments 3 and 16).

Zoning Code Section 5.10.45 defines Average Building Elevation as "the average elevation of the topography prior to any development activity..."

- b. Conclusion: In order to accurately determine the topography of the site prior to any development activity, for the purposes of calculating the average building elevation, the applicant should submit prior to the issuance of any building permit, a topographic survey of the site. This survey should be tied to an existing datum point within an existing public right-of-way.
3. a. Fact: Chapter 85 sets forth regulations pertaining to property containing or within 25 feet of a regulated slope (an average slope, 15 percent or greater). Section 85.15 authorizes the City to require a soils report. The applicant has submitted a report which indicates that the site appears compatible with the proposed development (see Attachment 15). Section 85.45 requires the applicant to enter into an agreement with the City to indemnify the City from any loss resulting from development activity. The site contains a small area in the northwest corner where the slope is approximately 20 percent.
- b. Conclusion: Pursuant to Section 85.45, the applicant should enter into an agreement with the City, to run with the property, which indemnifies the City for any loss resulting from development activity on or within 25 feet of any slope, 15 percent or greater (see Attachment 10).
4. a. Fact: Section 20.10.a and .b requires attached and stacked dwelling units in a RM 3.6 zone to comply with Landscape Category D. Section 95.10 lists the applicable regulations for Landscape Category D. Because the subject property is adjacent to single-family dwelling units to the northwest and southwest, the applicant must comply with Section 95.25.3. Buffering Standard 3 requires that the applicant plant one row of trees planted 8 to 10 feet on center along the westerly 80 feet of the north property line and along the southwest property lines adjacent to the single-family dwelling unit.

Section 95.15.1 requires the applicant to retain significant trees on the subject property to the maximum extent possible. There are five significant trees existing on the site. The project would result in the displacement of four of those trees. The

existing site also has several groupings of birch and aspen that would be displaced as a result of location of structures.

Section 95.15.3 states that the City may require the applicant to plant trees on the subject property if all or substantially all of the significant trees are brought down (see Attachment 19).

Section 95.15.4 specifies certain protection techniques for retention of significant trees. Section 95.15.5 requires that if trees have been damaged or destroyed during construction or within two years following the end of construction through the fault of the applicant, then replacement trees shall be planted at least 3 to 5 inches in diameter as measured 1-foot above grade.

- b. Conclusion: Pursuant to Section 95.10 and 95.25.3 the applicant should provide one row of trees planted 8 to 10 feet on center along the west 100 feet of the north property line and along the southwest property line adjacent to the single-family dwelling unit (see Attachment 9).

Relocating the aspen and birch trees to the open space area in the southwest corner of the property would enable the applicant to retain the existing mature vegetation and to some degree mitigate the displacement of existing significant trees. The applicant shall apply the protection techniques identified in Section 95.15.4 for the tree to be retained, and such techniques should be approved, installed, and inspected prior to issuance of any grading permit.

The relocated and retained trees should be replaced by the applicant pursuant to Section 95.15.3 if these trees are damaged or destroyed during construction or within two years following completion of construction subject to the review and approval of the Department of Planning.

5. a. Fact: The applicant has provided an emergency access turnaround at the south end of the project adjacent to Kirkland Avenue. In discussions with the Fire Department, an acceptable alternative would be to provide grass grid pavers to connect to Kirkland

Avenue. This would enable emergency vehicles to have a straight shot rather than complicating turning movements and would, in effect, provide two access points. It also has the benefit of increasing the common open space adjacent to the public right-of-way and increasing the useable area for the residents of the project.

- b. Conclusion: A revised site plan should be submitted that modifies the turnaround to include grass grid pavers to connect the driveway to Kirkland Avenue and increase the common open space area. The revised plan should also incorporate sufficient fire lane markings and standard vehicular turnaround space (see Attachment 26).
6. a. Fact: Chapter 107 sets forth requirements for both construction-phase and permanent storm water control.
- b. Conclusion: Pursuant to Chapter 107, the applicant must submit plans and undertake improvements for construction-phase and permanent storm water control.
7. a. Facts: Chapter 110 establishes right-of-way improvement requirements:
- (1) Sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. The subject property abuts Kirkland Way on the north and Kirkland Avenue on the south.

Kirkland Way is shown on the City Rights-of-Way Designation Map as a Collector Arterial. Section 110.40 establishes that a Collector Arterial must be improved with: vertical curb; gutters; underground storm sewers; minimum 4½-foot-wide landscape strip planted with street trees every 30 feet on center, street trees to be planted no closer than 36 inches to the curb; a minimum five-foot-wide sidewalk located behind the landscape strip, with a minimum 2½-foot-wide utility strip plus any excess right-of-way to be located immediately behind the sidewalk; and minimum paving of approximately 18 feet of asphalt from the face of the curb toward the centerline (see Attachment 21).

Kirkland Way is currently minimally improved with pavement, but no curb, gutter, sidewalks, or underground storm sewers adjacent to the property.

Kirkland Avenue is shown on the City Rights-of-Way Designation Map as a Neighborhood Access street. Section 110.35 establishes that a Neighborhood Access street must be improved with: curb; gutter; and underground storm sewer; a minimum 4½-foot-wide landscape strip planted with street trees every 30 feet on center, the street trees to be planted no closer than 36 inches to the curb; a minimum five-foot-wide concrete sidewalk located behind the landscape strip, with a minimum 2½-foot-wide utility strip plus any excess right-of-way to be located immediately behind the sidewalk; and a minimum paving of approximately 14 feet of asphalt from the face of the curb toward the centerline (see Attachment 22). Kirkland Avenue is currently improved, but with no curb, gutter, or sidewalk along the north side of the street.

- (2) Section 110.70 establishes the authority of the City to require or grant a modification, deferment, or waiver of normal right-of-way requirements.

The applicant has not requested a modification, deferment, or waiver to the requirements of Section 110.35 or 110.40 for Kirkland Way or Kirkland Avenue.

- (3) Sections 110.60.4 and .5 require the owners of property abutting a right-of-way to submit for recording an agreement, which runs with the property, to maintain landscaping within the landscape strip and landscape island portions of the right-of-way.
- (4) Section 110.60.9 establishes the requirement that existing utility and transmission (power, telephone, etc.) lines on-site and in rights-of-way adjacent to the site must be undergrounded. The Public Works Director may determine undergrounding transmission lines adjacent to the right-of-way is infeasible. If undergrounding is not

feasible, the applicant is required to sign a concomitant agreement to underground the overhead lines at a future date.

Kirkland Way currently has no overhead lines on the south side of the street. Kirkland Avenue, however, does have overhead lines on the north side of the street abutting the subject property.

- (5) Section 110.60.6 requires the applicant to group mailboxes, to the maximum extent possible, to serve units in the development. The applicant has indicated the location of clustered mailbox structures on his/her plans in a location approved by the U.S. Postal Service Growth Management Representative.

b. Conclusion:

- (1) The applicant does not meet the criteria for a modification, deferment, or waiver. Consequently, pursuant to Sections 110.10 and 110.25, the applicant must improve the one-half of the Kirkland Way and Kirkland Avenue rights-of-way immediately adjacent to the subject property, consistent with the standards set forth in Section 110.35 and 110.40.
- (2) Pursuant to Sections 110.60.4 and .5, the owner of the subject property should sign an agreement to continually maintain the landscaping within the Kirkland Way and Kirkland Avenue rights-of-way (see Attachment 12).
- (3) Pursuant to Section 110.60.9.b, undergrounding of existing overhead utility lines on Kirkland Avenue is infeasible because other properties are served off the existing utility line. Consequently, the applicant should sign a concomitant agreement to underground the utility lines adjacent to the right-of-way (see Attachment 11). All on-site utility lines and overhead transmission lines must be underground.
- (4) Pursuant to Section 110.60.6, the applicant should group clustered mailbox structures within the development to the

greatest extent possible and in a location approved by the U.S. Postal Service.

8. a. Fact: Section 130.60 states that a quasi-judicial project rezone may be approved only if:

- (1) The proposed rezone is consistent with the Comprehensive Plan; and
- (2) The proposed rezone bears a substantial relation to public health, safety, or welfare; and
- (3) The proposed rezone is in the best interest of the residents of Kirkland; and
- (4) The proposed rezone is necessary because either:
 - (a) Conditions in the immediate vicinity have so markedly changed that a rezone is required in the public interest; or
 - (b) The rezone will correct a zone classification or zone boundary that was inappropriate when established; or
 - (c) The rezone is to place or remove an overlay zoning designation on the Zoning Map and the proposal meets the applicable designation criteria of Chapter 70 through 80 of this Code.
- (5) The proposed project complies with this Code in all respects; and
- (6) The site plan of the proposed project is designed to minimize all adverse impacts on existing land use in the immediate vicinity of the subject property.

The applicant's response to the criteria is shown in Attachment 23.

b. Conclusion: The proposed rezone is consistent with the criteria set forth in Section 130.60:

- (1) It is consistent with the Land Use Policies Plan (see Conclusion II.E.2).

- (2) It bears a substantial relation to public health, safety, or welfare and is in the best interest of Kirkland residents because the project consists of a mix and variety of housing types including attached bungalows, townhouses, and a multifamily building. The location of the project is in relative close proximity (easy walking distance) to downtown, the central business district, shopping, and recreation facilities (Peter Kirk Park).
- (3) It is appropriate because it is complementary with adjacent development. Where it is adjacent to single family, appropriate buffers will be provided.
- (4) If modified as suggested in I.B.3.b, it will comply with the Code in all respects and will not result in adverse impacts.

9. a. Fact: Section 130.70 permits minor modifications to the site plan approved for a quasi-judicial project rezone if:

- (1) The change will not result in reducing the landscaped area, buffering areas, or the amount of open space on the project; and
- (2) The change will not result in increasing the residential density or gross floor area of the project; and
- (3) The change will not result in any structure, or vehicular circulation, or parking area being moved more than 10 feet in any direction and will not reduce any required yard; and
- (4) The change will not result in any increase in height of any structure; and
- (5) The City determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project.

b. Conclusion: Minor modifications to the proposal should be permitted pursuant to the above criteria.

10. a. Fact: Section 152.70.2 states that a Process IIB application may be approved if:

- (1) It is consistent with the intent of the goals and policies and of the applicable neighborhood plan provisions of the Comprehensive Plan;
 - (2) It is consistent with all applicable Zoning Code regulations, including those adopted by reference from the Comprehensive Plan; and
 - (3) It is consistent with the public health, safety, and welfare.
- b. Conclusion: The proposal complies with the criteria in Section 152.70.2. It is consistent with the goals and policies of the Comprehensive Plan (see Section II.E) and is consistent with all applicable Zoning Code regulations (see Section II). In addition, it is consistent with the public health, safety, and welfare.
11. a. Fact: Section 152.125.2 permits modification to the specific use or site plan approved through Process IIB without having the modifications reviewed using that process, unless:
- (1) There is a change in the use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use; or
 - (2) The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change.
- b. Conclusion: Minor modifications to the proposal should be allowed pursuant to the above criteria.
12. a. Fact: Section 152.30 requires that the applicant remove the public notice sign(s) within seven (7) calendar days after the final public hearing.
- b. Conclusion: The applicant should remove all public notice signs pursuant to Section 152.30.
13. a. Fact: Section 175.10.2 establishes the circumstances under which the City may consider the use of performance bonds in lieu of

completion of certain site work prior to occupancy. The City may consider a performance bond only if: the inability to complete work is due to unavoidable circumstances beyond the control of the applicant; there is certainty that the work can be completed in a reasonable period of time; and occupancy prior to completion will not be materially detrimental to the City or properties adjacent to the subject site.

- b. Conclusion: In order to ensure timely completion of all required site and right-of-way improvements, such improvements should be completed prior to occupancy, unless the applicant can demonstrate compliance with the criteria in Section 175.10.2.
14. a. Fact: Sections 95.40, 105.105, 107.90.3, and 175.10.1 allow the City to require a maintenance bond to ensure continued compliance with code requirements.
- b. Conclusion: Pursuant to Sections 95.40, 105.105, 107.90, and 175.10.1, a maintenance bond should be required to ensure that landscaping and parking areas are maintained in good condition for a period of two years following initial occupancy of the site.

D. TECHNICAL COMMITTEE

- 1. Fact: Comments and requirements placed on the project by other departments are found on the Development Standards Sheet, Attachment 6. One of the recommendations of Public Works is to provide a through access between Kirkland Way and Kirkland Avenue. The Department of Planning would recommend that this requirement not be incorporated. Opening up this access may result in non-residential traffic using the project driveway to access to the office, commercial, and industrial area to the south of the property.
- 2. Conclusion: The applicant must follow the requirements of other Departments set forth in Attachment 6, except for the provision of a through access to Kirkland Avenue.

E. COMPREHENSIVE PLAN

- 1. Fact: Figure C-1 of the Comprehensive Plan designates the subject property for medium

residential density at 12 units per acre (see Attachments 24 and 25).

2. Conclusion: The proposed rezone of the subject property from single-family to medium density at 12 units per acre for the purpose of constructing 22 condominium units and retaining one single-family unit is consistent with Comprehensive Plan Map and text for the Central Neighborhood. The proposed density is slightly less than 12 units per acre. The text of the Comprehensive Plan (see Attachment 25) indicates that medium-density residential is appropriate for this area.

III. RECONSIDERATIONS, APPEALS, CHALLENGES AND JUDICIAL REVIEW

The following is a summary of the deadline and procedures for filing reconsiderations, appeals, and challenges. Any person wishing to file or respond to a recommendation, appeal, or challenge should contact the Planning Department for further procedural information.

A. REQUEST FOR RECONSIDERATION

Section 152.80 of the Zoning Code allows the applicant or any person who submitted written or oral testimony to the Hearing Examiner to request that the Hearing Examiner reconsider his/her recommendation. The request must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department within five (5) working days following the postmarked date when the Hearing Examiner's written recommendation was distributed (by _____). Within this same time period, the person making the request for reconsideration must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the request letter together with notice of the deadline and procedures for responding to the request.

Any response to the request for reconsideration must be delivered to the Planning Department within five (5) working days after the request letter was filed with the Planning Department. Within the same time period, the person making the response must also mail or personally deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, attached to the request and response letters, and delivered to the Planning Department. The affidavit form is available from the Planning Department.

B. CHALLENGE

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted written or oral testimony to the Hearing Examiner. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by _____, ten (10) working days following the postmarked date of distribution of the Hearing Examiner's written recommendation on the application or decision on a Request for Reconsideration. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

Any response to the challenge must be delivered to the Planning Department within five (5) working days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, available from the Planning Department. The affidavit must be attached to the challenge and response letters, and delivered to the Planning Department. The challenge will be considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

C. JUDICIAL REVIEW

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 30 days following the postmarked date when the City's final decision was distributed.

If issues under RCW 43.21C (the State Environmental Policy Act--SEPA) are to be raised in the judicial appeal, the "SEPA" appeal must be filed with the King County Superior Court within 30 days following the postmarked date when the City's final decision was distributed.

IV. LAPSE OF APPROVAL

Under Section 152.115.1 of the Zoning Code, the applicant must submit to the City a complete building permit application approved under Chapter 152, within one year after the final decision on the matter, or the decision becomes void. Furthermore, the applicant must substantially complete construction approved under Chapter 152 and complete the applicable conditions listed on the Notice of Approval within five (5) years after the final decision on the matter, or the decision becomes void. Application and appeal procedures for a time extension are described in Section 152.115.2 and 152.115.3.

"Final Decision" means the final decision of the City of Kirkland, or the termination of judicial review proceedings if such proceedings were initiated pursuant to Section 152.110.

V. APPENDICES

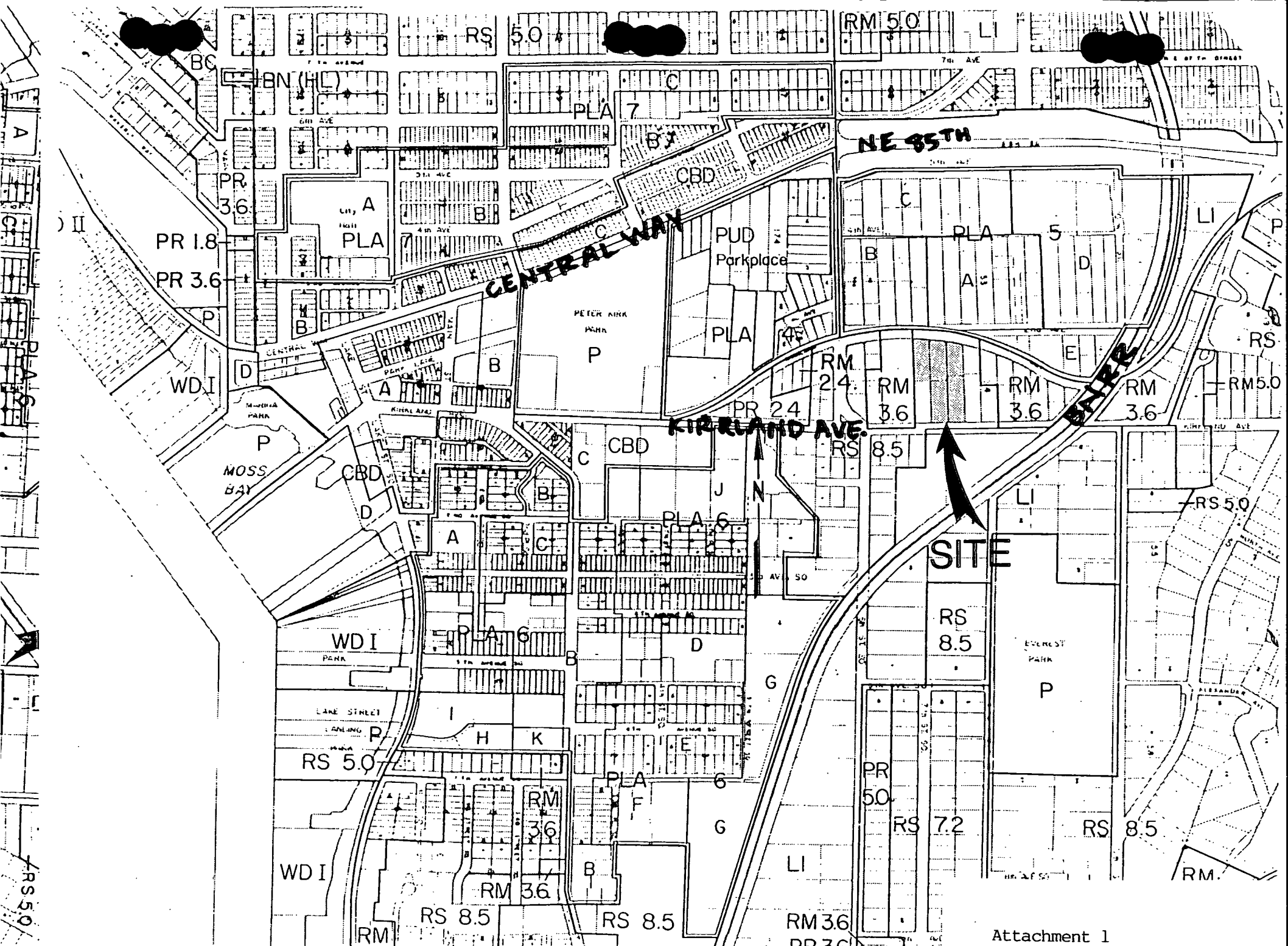
Attachments 1 through 26 are attached.

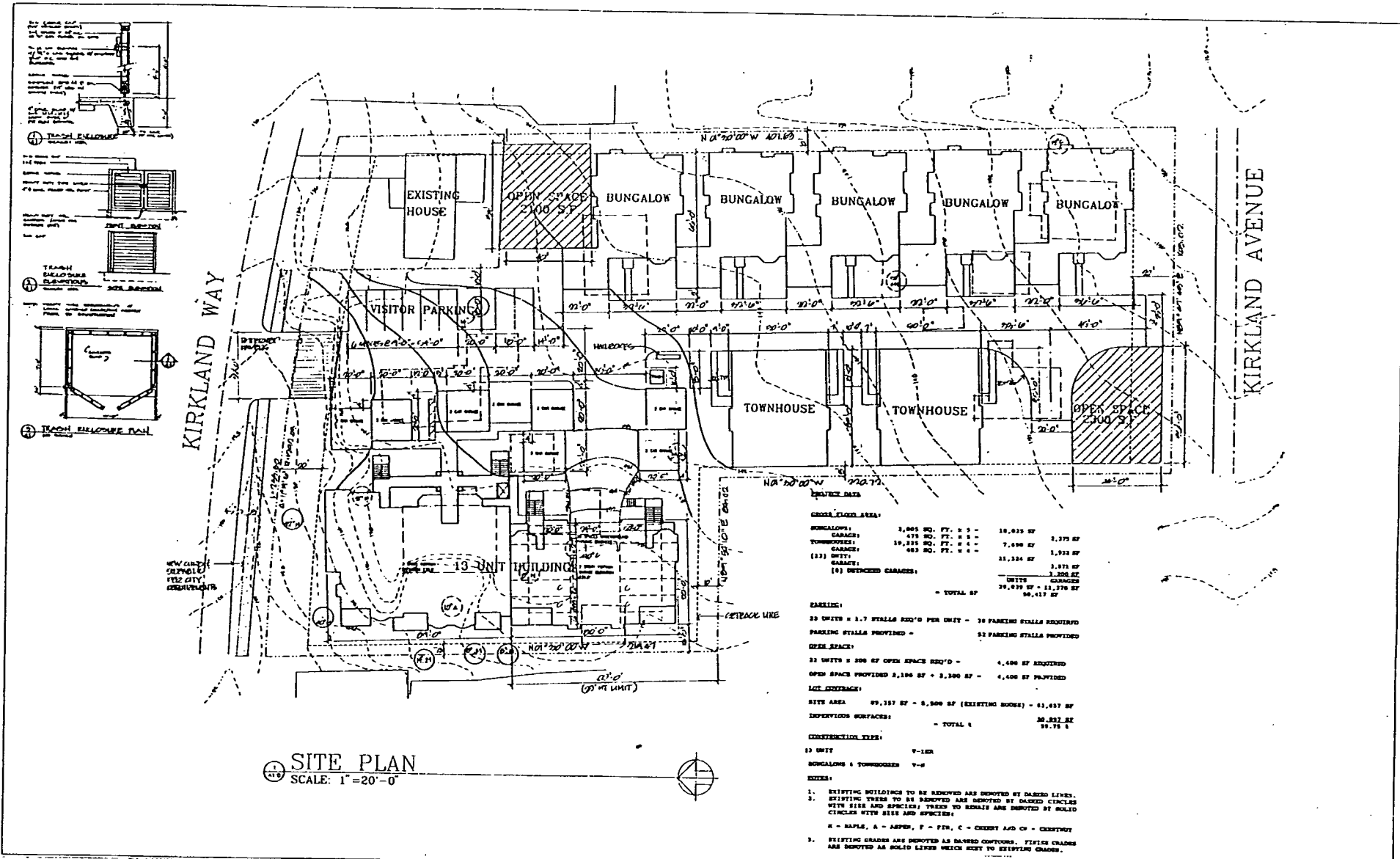
1. Vicinity and Zoning Map
2. Site Plan
3. Conceptual Elevation Drawings
4. Proposed Landscape Plan
5. Existing Site Plan
6. Development Standards
7. Site Plan with Modified Turnaround
8. Area of Trees to be Relocated
9. Location of Buffering Standard 3
10. Covenant
11. Concomitant Agreement - Underground Utilities
12. Landscape Maintenance Agreement
13. SEPA Determination of NonSignificance
14. Environmental Checklist and Supporting Information
15. Geotechnical Report
16. Average Building Elevation Calculations
17. Zoning Code Section 20.10.a and 20.10.b
18. Zoning Code Section 95.10
19. Zoning Code Section 95.15
20. Zoning Code Section 95.25.3
21. Zoning Code Section 110.40
22. Zoning Code Section 110.35
23. Applicants Response to Criteria to Section 130.60
24. Central Neighborhood Land Use Map
25. Comprehensive Plan Text Reference
26. Turnaround Space (Plate 20 of Zoning Code)

VI. PARTIES OF RECORD

Bob Holmes, Shelter Ventures
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

A written recommendation will be issued by the Hearing Examiner within two weeks of the close of the public hearing. If you have any questions about the timing or content of the report, contact Hearing Examiner Ron McConnell at 827-6550.





SITE PLAN
SCALE: 1"=20'-0"

CRUDE FLAOD AREA:

| | | |
|-------------|---------------------|-----------|
| BUNGALOWS: | 2,005 SQ. FT. X 5 = | 10,025 SF |
| TOWNHOUSES: | 478 SQ. FT. X 2 = | 956 SF |
| TOTAL: | | 10,981 SF |

CONCRETE AREA:

| | |
|-------------|----------|
| OPEN SPACE: | 2,100 SF |
| DRIVEWAYS: | 1,376 SF |
| TOTAL: | 3,476 SF |

PARKING:
23 UNITS @ 1.7 STALLS REQ'D PER UNIT = 39 PARKING STALLS REQUIRED
PARKING STALLS PROVIDED = 52 PARKING STALLS PROVIDED

OPEN SPACE:
23 UNITS @ 200 SF OPEN SPACE REQ'D = 4,600 SF REQUIRED
OPEN SPACE PROVIDED 2,100 SF + 2,300 SF = 4,400 SF PROVIDED

NET COVERABLE:
SITE AREA 89,357 SF - 8,900 SF (EXISTING ROOMS) = 80,457 SF
IMPERVIOUS SURFACES: 10,981 SF + 3,476 SF = 14,457 SF
TOTAL: 94,914 SF

CONSTRUCTION TYPES:
13 UNIT 7-1ER
BUNGALOWS & TOWNHOUSES 7-0

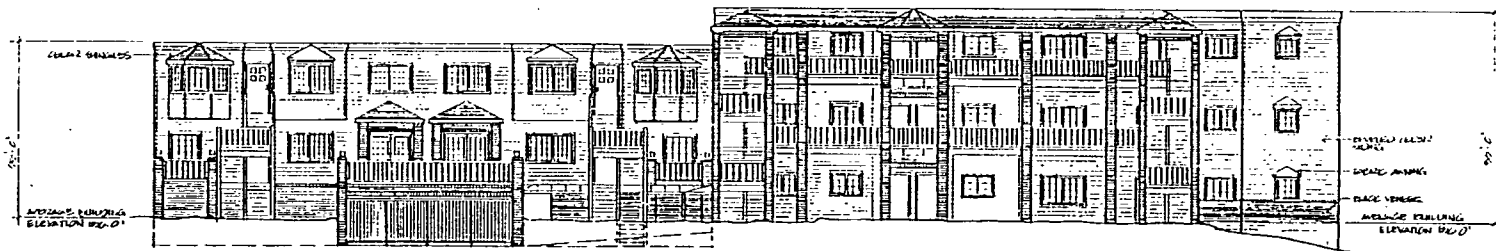
- NOTES:**
- EXISTING BUILDINGS TO BE REMOVED ARE SHOWN BY DASHED LINES.
 - EXISTING TREES TO BE REMOVED ARE SHOWN BY DASHED CIRCLES WITH SIZE AND SPECIES; TREES TO REMAIN ARE SHOWN BY SOLID CIRCLES WITH SIZE AND SPECIES.
 - EXISTING GRASSES ARE SHOWN AS DASHED CONTOURS. FUTURE GRASSES ARE SHOWN AS SOLID LINES WHICH MEET 80% TO EXISTING GRASSES.

KIRKLAND WAY CONDOMINIUMS
FOR SHELTER VENTURES
KIRKLAND, WASHINGTON

REVISIONS

Attachment 2
File IIB-89-147

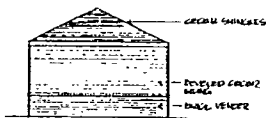
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| | JSP | A1.0 |
| | DATE: | 11/1/89 |
| | PROJECT NO. OF | 69109 |



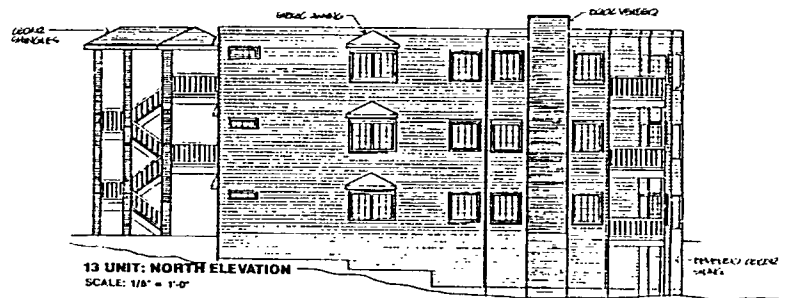
13 UNIT: EAST ELEVATION
SCALE: 1/8" = 1'-0"



TYPICAL DETACHED GARAGE: FRONT ELEVATION
SCALE: 1/8" = 1'-0"



TYPICAL DETACHED GARAGE: SIDE ELEVATION
SCALE: 1/8" = 1'-0"



13 UNIT: NORTH ELEVATION
SCALE: 1/8" = 1'-0"

KIRKLAND WAY CONDOMINIUM
FOR SHELTER VENTURES
KIRKLAND, WASHINGTON

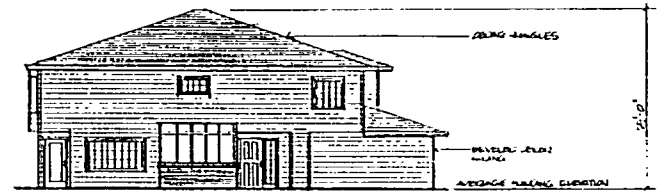
Attachment 3
File IIB-89-147

| | | | |
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| | DATE | | 11-10-09 |
| | PROJECT NO. | | 11-89-09 |
| | DATE | | 11-10-09 |



BUNGALOW: SOUTH ELEVATION

SCALE: 1/8"=1'-0"



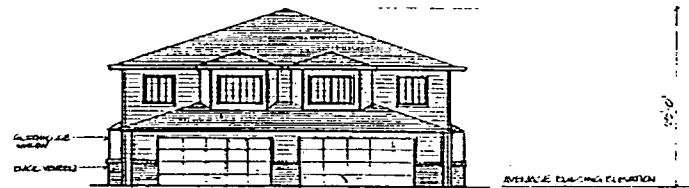
TOWNHOUSE: SOUTH ELEVATION

SCALE: 1/8"=1'-0"



BUNGALOW: WEST ELEVATION

SCALE: 1/8"=1'-0"



TOWNHOUSE: EAST ELEVATION

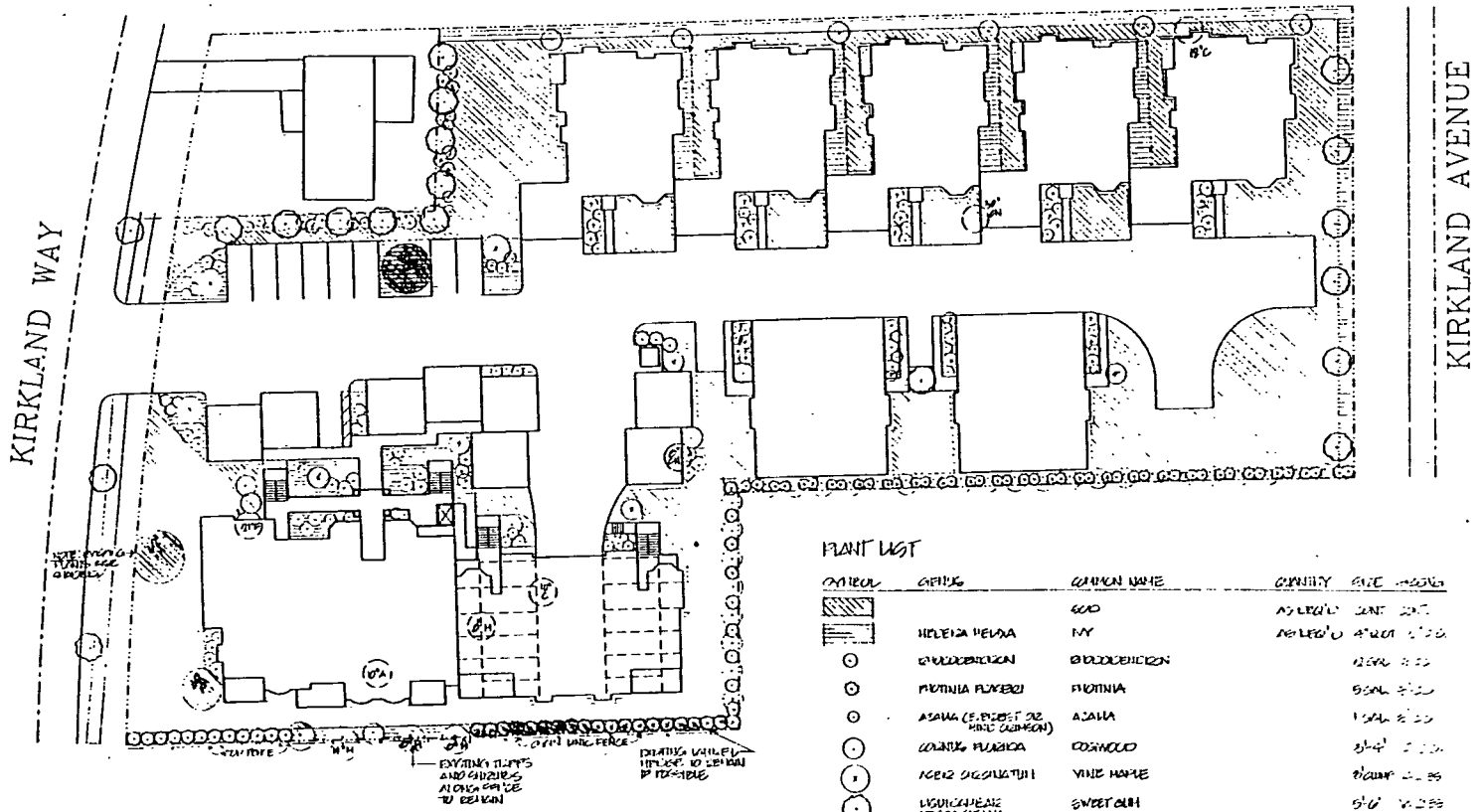
SCALE: 1/8"=1'-0"

KIRKLAND WAY CONDOMINIUM
 FOR SHELTER VENTURES
 KIRKLAND, WASHINGTON

PLANNING

FRENHET & HO
ARCHITECTS, INC. P&A
 Copyright 1991, 8750 NE 34th Place, Suite 202, Bellevue, WA 98005 (206) 837-2200

| | | |
|---------|-------------|-------------|
| DATE | DESIGNED BY | SHEET |
| 11-2-89 | ESH | A3.0 |
| | | |
| | | |



PLANT LIST

| SYMBOL | GENUS | COMMON NAME | COUNTY | SIZE | REMARKS |
|-------------------|------------------------------------------------------|-------------|----------|--------------|---------|
| [Hatched Box] | HELEIA HELIA | WY | AS REQ'D | 20 FT | |
| [Hatched Box] | HELEIA HELIA | WY | AS REQ'D | 4' X 2' X 2' | |
| [Circle with dot] | BRADYBLUEN | BRADYBLUEN | | 12 FT | 3' X 3' |
| [Circle with dot] | MERTENSIA FLORIDA | MERTENSIA | | 55 FT | 3' X 3' |
| [Circle with dot] | ASARUM (E. PLANT OR WHITE COMMON) | ASARUM | | 15 FT | 3' X 3' |
| [Circle with dot] | CORYLUS FLORIDA | CORYLUS | | 3' X 4' | 2' X 2' |
| [Circle with dot] | NERIS CASCADENSIS | VINE MAPLE | | 10 FT | 2' X 2' |
| [Circle with dot] | LIQUIDAMBAR STYRACIFLUA | SWEET GUM | | 5' X 6' | 2' X 2' |
| [Circle with dot] | TREES TO BE REMOVED | | | | |
| [Circle with dot] | M=MAINTENANCE A=ASBESTOS C=CORROSION F=FIT Q1=QUARTZ | | | | |
| [Circle with dot] | EXISTING TREES TO REMAIN | | | | |

LANDSCAPE PLAN
SCALE: 1"=20'-0"

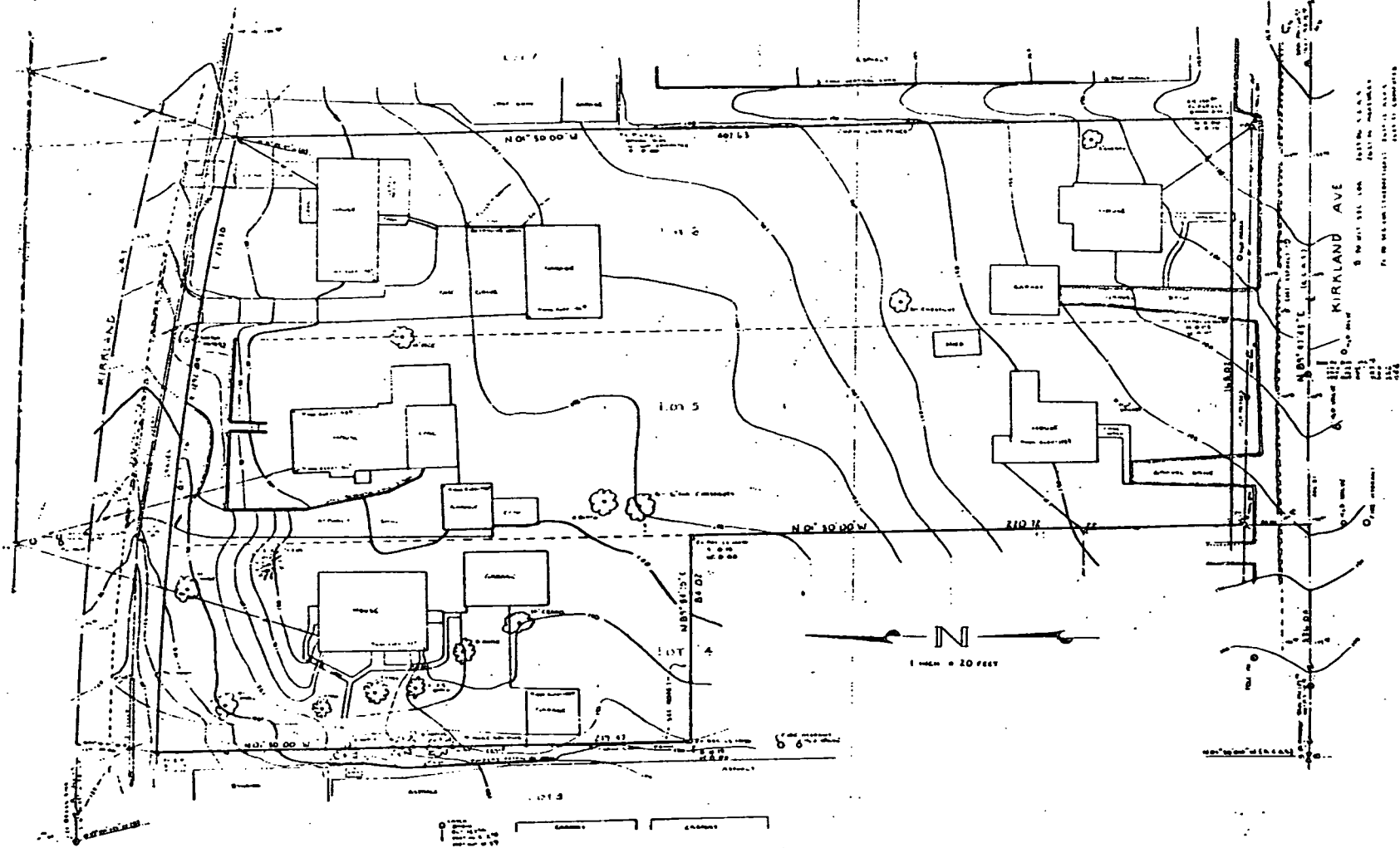
KIRKLAND WAY CONDOMINIUMS
FOR SHELTER VENTURES
KIRKLAND, WASHINGTON

REVISIONS

Attachment 4
File IIB-89-147

| | |
|----------------------|-------|
| 09189SP.DWG | SHEET |
| DRAWN BY: JSP | L1.0 |
| DATE: 11/1/88 | |
| PROJECT NO. OF 89188 | |

SE 1/4, SEC. 5, T. 25N. R. 5E, W.M.



1 inch = 20 feet

DATED: City of Kirkland

REFERENCE: 5th of con. Lot 2, Survey 2 Former Parkland Addition, including the so, unrecorded, West Side Park and Lot 1 to East 1/2 of Section 5, T. 25N. R. 5E, W.M.

BASE OF BEARING: North line, Southeast Quarter, Section 5, T. 25N. R. 5E, W.M., between the Southeast Quarter and the West Side Park to the Southeast Quarter of said Section 5, both maps Township 25 North, Range 5 East, T. 25N. R. 5E, W.M., as rec'd on the survey recorded in Volume 11 of Surveys, Page 69.

DESCRIPTION:

A PORTION OF LAND SHOWN IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 25 NORTH, RANGE 5 EAST, R. 5E, W.M., UNRESERVED, LINDA, NORTHEASTLY 50 FEET OF THE SECTION FOR ROAD PURPOSES, SOUTHWESTLY OF THE SOUTHWESTLY LINE, EXPOSED TO THE COUNTY FOR ROAD BY DEED RECORDED UNDER ADJUTANT'S FILE NO. 770284 AND SOUTHWESTLY OF THE PORTION CONVEYED BY KING COUNTY'S SURVEY (DUST) FILE NO. 188844 FOR THE KIRKLAND RESIDENTS STREET-LINE ROAD, AND PORTION DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THIS SECTION 5, THENCE NORTH 01°15'15\"/>

I ALSO BEGIN AT THE NORTH HALF OF LOT 4, LOTS 3 AND 4, SURVY 54 OF DURE AND FARBER'S KIRKLAND GARDEN ADDITION TO THE CITY OF SEATTLE, DIVISION 54, ACCORDING TO THE UNRECORDED PLAT THEREOF.

*Amend F&H
1/1/09*



USEC
 1200 1st Ave, S.E.
 Seattle, WA 98104
 Phone: 206-461-1111
 Fax: 206-461-1112

DEVELOPMENT STANDARDS

Shelter Ventures Rezone, File No. IIB-89-147

A. Department of Planning and Community Development

1. Zoning Code:

- a. Chapter 95; Landscaping
- b. Chapter 107; Storm Water Control
- c. Chapter 110; Required Public Improvements

B. Department of Public Works

1. a. Sanitary Sewer:

- 1) Replace sewer main with eight-inch to east property line.
- 2) Install sewer stubs for each property.
- 3) Joint maintenance agreement required for buildings being served off of Kirkland Avenue.
- 4) Sanitary sewer profile required for six-inch sanitary sewer off of Kirkland Avenue.

b. Authority: K.M.C. Title 15

2. a. Domestic Water:

- 1) Conceptual design adequate.
- 2) Existing mains in Kirkland Avenue and Kirkland Way adequate.

b. Authority: K.M.C. Title 15

3. a. Storm Water:

- 1) Provide detention per City of Kirkland standards.
- 2) Provide storm drainage connection for each lot.
- 3) Storm detention calculations required.
- 4) Provide for right-of-way storm drainage.
- 5) Downstream analysis required.
- 6) Provide for existing ditch drainage on Kirkland Way.

b. Authority: Zoning Code Chapter 107

4. a. Right-of-Way Improvements:

- 1) Install half street improvements along property frontage per City of Kirkland standards on Kirkland Way and Kirkland Avenue.

- 2) Kirkland Way needs to be 18 feet from center line.
- 3) Kirkland Avenue needs to be 14 feet from center line.
- 4) Planter strip required between curb and gutter and sidewalk.

b. **Authority:** Zoning Code Chapter 110

5. a. **Transmission Lines:**

- 1) Underground all on-site utility lines.
- 2) Defer with concomitant agreement for Kirkland Way and Kirkland Avenue.

b. **Authority:** Zoning Code Chapter 110

6. a. **Other:**

- 1) Through access should be provided to Kirkland Avenue and Kirkland Way.
- 2) Show driveway location on Kirkland Way in relation to Second Avenue and Kirkland Way intersection.

C. **Building Department**

1. **Relevant Building Code Requirements:**

- a. Buildings must comply with the Uniform Building Code, Uniform Mechanical Code, and the Uniform Plumbing Code, as adopted and amended by the City of Kirkland.
- b. Fire retardant roofing required.

2. **Dumpster:** Must be placed on a level approach and accessible by the serving utility.

D. **Fire Department**

F.D. Ref. #F3-18

1. **Emergency Access (UFC 10.207):**

- a. **Fire Lanes:** Must be completed and approved prior to occupancy.
- b. **Turn-around:** Must be completed and approved prior to occupancy.
- c. **Grade:** Not to exceed 15 percent.

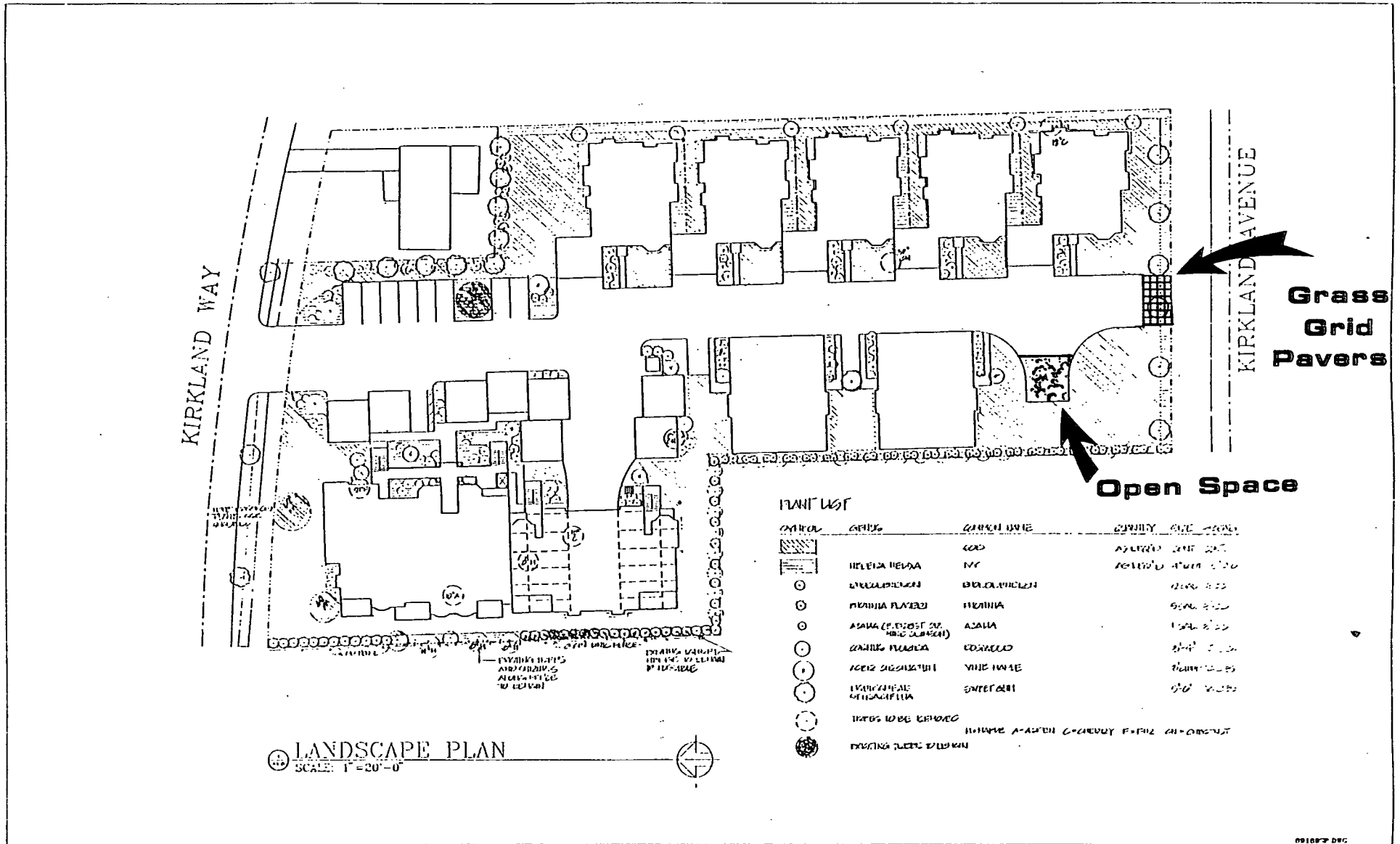
2. **Fire Alarm Systems (KMC 21.08.213):** Must be completed and approved prior to occupancy.

3. **Fire Extinguishers (UFC 10.301):** Must be completed and approved prior to occupancy.

4. **Key Box (UFC 10.209):** Must be completed and approved prior to occupancy.
5. **Sprinkler System (UFC 10.309):** Must be completed and approved prior to occupancy.
6. **Fire Hydrants (UFC 10.301):** Must be completed and approved prior to any combustibile construction.
7. **Fire Flow Information (UFC 10.301):** Fire flow requirement to be determined at time of building permit application. Contact Public Works for available fire flow at location.
8. **Other:** Dumpster location may be a problem.

DS-89-147.JUN/PS:rk

Modified Driveway Turn-Around



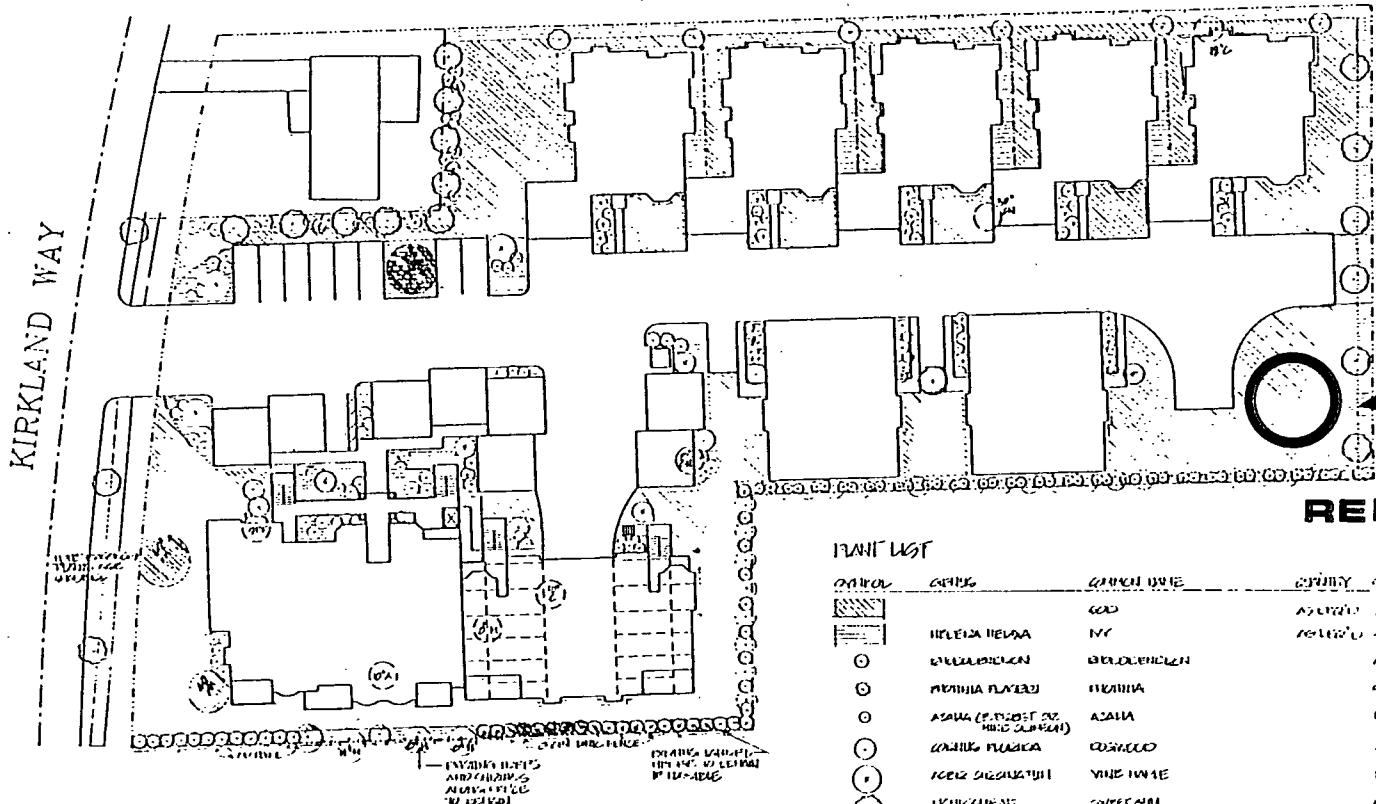
KIRKLAND WAY CONDOMINIUMS

FOR SHELTER VENTURES
KIRKLAND, WASHINGTON

REVISIONS

Attachment 7
File IIB-89-147

DESIGNER: DGC
DRAWN BY: JSP
DATE: 11/1/99
PROJECT NO: 90100
SHEET: L1.0



KIRKLAND AVENUE

KIRKLAND WAY

**TREE
RELOCATION
AREA**

PLANT LIST

| SYMBOL | COMMON NAME | COMMON NAME | SPACING | SIZE | REMARKS |
|--------------------------|------------------------------------|--------------------|-----------|--------|----------|
| [Hatched Box] | WALKWAY | WOOD | ASAP | 2" DIA | SEE PLAN |
| [Solid Box] | WALKWAY | NY | ASAP | 4" DIA | SEE PLAN |
| [Circle with Center Dot] | HELENA HELSA | HELENA | 12' x 12' | 2' DIA | |
| [Circle with Center Dot] | HELENA HELSA | HELENA | 12' x 12' | 2' DIA | |
| [Circle with Center Dot] | ASALA (P. FOLIAGE OR HARDY ORANGE) | ASALA | 12' x 12' | 2' DIA | |
| [Circle with Center Dot] | LAUREL PLUMBER | LAUREL | 12' x 12' | 2' DIA | |
| [Circle with Center Dot] | ICEBERG CRANFORD | VINE PLANT | 12' x 12' | 2' DIA | |
| [Circle with Center Dot] | LYONIAE CRANFORD | SPRING | 12' x 12' | 2' DIA | |
| [Circle with Center Dot] | TRIFOLIUM CRANFORD | TRIFOLIUM CRANFORD | 12' x 12' | 2' DIA | |
| [Circle with Center Dot] | PRUNING PLANT | PRUNING PLANT | 12' x 12' | 2' DIA | |

LANDSCAPE PLAN
SCALE: 1" = 20'-0"



KIRKLAND WAY CONDOMINIUMS
FOR SHELTER VENTURES
KIRKLAND, WASHINGTON

REVISIONS

Attachment 8
File IIB-89-147

| | | | |
|-------------|------------|-------|-------|
| PROJECT NO. | 891897.DWG | SHEET | 1.1.0 |
| DATE | 11/1/89 | OF | |
| PROJECT NO. | 89189 | OF | |



COVENANT

Declarant Robert Holmes hereby declares and agrees as follows:

1. Declarant is the owner of the real property described in Exhibit A below and incorporated herein by reference, which is the "property" referred to herein.
2. Declarant agrees to defend and hold the City of Kirkland harmless from all loss, including claim made therefor, which the City may incur as a result of any landslide occurring on the property and for any loss including any claim made therefor resulting from soil disturbance on the "property" in connection with the construction of buildings and utilities, including but not limited to storm water retention and foundations. "Loss" as used herein means loss including claim made therefor from injury or damage incurred on or off the "property," together with reasonable expenses including attorneys fees for investigation and defense of such claim.
3. This hold harmless is a perpetual covenant running with the "property" and is binding upon the Declarant's successor and assigns.

Exhibit A

A portion of land situated in the southwest quarter of the southeast quarter of Section 5, Township 25 North, Range 5 East W.M., King County, Washington, lying northerly of the southerly 30 feet of said section for road purposes, southerly of the southerly line conveyed to King County for road by deed recorded under auditor's file no. 949826 and southerly of that portion condemned by King County Superior Court Cause No., 188846 for the Kirkland-Redmond Short-Line Road, said portion described as follows:

Commencing at the south quarter corner of said Section 5; thence N 89°47'43" E along the south line of said Section 5 a distance of 336.04 feet; thence N 01°30'00" W a distance of 30.01 feet to a point on the north line of the said southerly 30 feet, said point being the point of beginning; thence continuing 220.72 feet; thence S 89°54'10" W a distance of 84.02 feet; thence N 01°30'00" W a distance of 219.47 feet to a point on said southerly road margins, said point being on an arc of a curve to the right from which the center bears S 01°30'31" W, 1,292.05 feet distance; thence easterly along said curve and margin through a central angle of 11°19'16", an arc distance of 255.30 feet; thence S 01°30'00" E a distance of 407.63 feet to the north line of the said southerly 30 feet; thence S 89°47'43" W along said north line a distance of 168.02 feet to the point of beginning.

The above described parcel contains 89,357 square feet, more or less.

(Also known as the north half of Lot 4, Lots 5 and 6, Block 54 of Burke and Farrar's Kirkland Garden Addition to the City of Seattle, Division 15, according to the unrecorded plat thereof.)

DATED this _____ day of _____, 19____.

(Partnerships Only)

OWNER(S) OF REAL PROPERTY

(Name of Partnership or Joint Venture)

By General Partner

By General Partner

By General Partner

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, _____, and _____ to me, known to be general partners of _____,

the partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of each personally and of said partnership, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument.

(Corporations Only)

OWNER(S) OF REAL PROPERTY

(Name of Corporation)

By President

By Secretary

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ to me, known to be the President and Secretary, respectively, of _____,

the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument and that the seal affixed is the corporate seal of said corporation.

(Individuals Only)

OWNER(S) OF REAL PROPERTY
(INCLUDING SPOUSE)

STATE OF WASHINGTON }
County of King } SS.

On this day personally appeared before me _____ and _____ to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the
State of Washington
Residing at: _____
My commission expires: _____

The foregoing Agreement is accepted by the City of Kirkland this
_____ day of _____, 19____.

CITY OF KIRKLAND

BY: _____

**CONCOMITANT AGREEMENT RELATING TO CONSTRUCTION
OR INSTALLATION OF PUBLIC IMPROVEMENTS**

Parcel Data File: 705, 721, and 731 Kirkland Way;
626 and 800 Kirkland Avenue

THE UNDERSIGNED acknowledge that application has been made to the City of Kirkland for:

| |
|-----------------------------------------------------------------------------------|
| Zoning Permit File No. IIB-89-147 |
| Project Name: Shelter Ventures Rezone |
| Project Addresses: 705, 721, and 731 Kirkland Way; 626 and 800 Kirkland Avenue |

for proposed development of the hereinafter described real property, which development, alone or in conjunction with existing and/or future developments, makes necessary certain public improvements and that such additional public improvements will benefit said real property.

THE UNDERSIGNED warrant to the City of Kirkland that they are all the owners of the real property hereinafter described with full power to enter into agreements and/or covenants which will run with the land.

In lieu of actual construction of required public improvements at this time, and to also provide for mitigation of the impacts of the proposed development, THE UNDERSIGNED agree to immediately install or pay for, as instructed by the City of Kirkland in written notice given within fifteen (15) years from the date of this Agreement, the proportionate share of the cost of undergrounding overhead utility lines adjacent to the property frontage within the Kirkland Way and Kirkland Avenue rights-of-way.

Any money paid by THE UNDERSIGNED to be used by the City toward the cost of a public improvement shall be subject to the repayment provisions of RCW 82.02.020 unless the basis for requiring the payment is the mitigation of an adverse environmental impact required by RCW 43.21C or Chapter 24.02 Kirkland Municipal Code, in which case RCW 82.02.020 shall not apply.

THE UNDERSIGNED agree to be responsible for the full performance of this agreement until the City actually accepts the improvement and hereby secure this performance as binding upon all of the owners of the real property hereinafter described and their heirs, successors and assigns and agrees that this agreement shall run with the land described as follows:

A portion of land situated in the southwest quarter of the southeast quarter of Section 5, Township 25 North, Range 5 East

W.M., King County, Washington, lying northerly of the southerly 30 feet of said section for road purposes, southerly of the southerly line conveyed to King County for road by deed recorded under auditor's file no. 949826 and southerly of that portion condemned by King County Superior Court Cause No., 188846 for the Kirkland-Redmond Short-Line Road, said portion described as follows:

Commencing at the south quarter corner of said Section 5; thence N 89°47'43" E along the south line of said Section 5 a distance of 336.04 feet; thence N 01°30'00" W a distance of 30.01 feet to a point on the north line of the said southerly 30 feet, said point being the point of beginning; thence continuing 220.72 feet; thence S 89°54'10" W a distance of 84.02 feet; thence N 01°30'00" W a distance of 219.47 feet to a point on said southerly road margins, said point being on an arc of a curve to the right from which the center bears S 01°30'31" W, 1,292.05 feet distance; thence easterly along said curve and margin through a central angle of 11°19'16", an arc distance of 255.30 feet; thence S 01°30'00" E a distance of 407.63 feet to the north line of the said southerly 30 feet; thence S 89°47'43" W along said north line a distance of 168.02 feet to the point of beginning.

The above described parcel contains 89,357 square feet, more or less.

(Also known as the north half of Lot 4, Lots 5 and 6, Block 54 of Burke and Farrar's Kirkland Garden Addition to the City of Seattle, Division 15, according to the unrecorded plat thereof.)

The provisions of this agreement may be enforced by civil action commenced by either party for specific performance, civil damages, equitable relief, or declaratory judgment. Provided, however, that in any action commenced to enforce this agreement, the validity or appropriateness of the payment for or installation of the specified public improvements by THE UNDERSIGNED shall not be raised as an issue, since opportunity to raise such issue has been available. The prevailing party in any enforcement action upon this Agreement shall be entitled to reasonable attorneys' fees.

DATED this _____ day of _____, 19____.

| (Partnerships Only) | (Corporations Only) | (Individuals Only) |
|-------------------------------------------------|--------------------------------|-------------------------------------------------|
| OWNER(S) OF REAL PROPERTY | OWNER(S) OF REAL PROPERTY | OWNER(S) OF REAL PROPERTY (INCLUDING SPOUSE) |
| _____ (Name of Partnership or Joint Venture) | _____ (Name of Corporation) | _____ |
| _____ By General Partner | _____ By President | _____ |
| _____ By General Partner | _____ By Secretary | _____ |
| _____ By General Partner | | _____ |

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, and _____ to me, known to be general partners of _____, the partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of each personally and of said partnership, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument.

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ to me, known to be the President and Secretary, respectively, of _____, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument and that the seal affixed is the corporate seal of said corporation.

STATE OF WASHINGTON }
County of King } SS.

On this day personally appeared before me _____ and _____ to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the
State of Washington
Residing at: _____
My commission expires: _____

The foregoing Agreement is accepted by the City of Kirkland this _____ day of _____, 19____.

CITY OF KIRKLAND

BY: _____

MAINTENANCE AGREEMENT - LANDSCAPE STRIP

Parcel Data File: 705, 721, and 731 Kirkland Way, and
626 and 800 Kirkland Avenue

Project Planner: Paul Stewart

This agreement is entered into between each of the undersigned owners of real property and the City of Kirkland in consideration of approval by the City of a land use permit under City of Kirkland File No. IIB-89-147 for the hereinafter described real property in Kirkland, King County, Washington and Section 110.60.4, Kirkland Ordinance 2740. For the purposes of this agreement, the phrase "Landscape Strip" shall mean that portion of the public right-of-way fronting the hereinafter described real property. For this file, the specific rights-of-way are Kirkland Way and Kirkland Avenue.

Each undersigned owner hereby agrees to plant the Landscape Strip abutting the lot or lots owned by such owner when required by the City with vegetation approved by the City and to install root deflectors for any street trees therein planted as may be required by Sections 110.30, 110.35, 110.40, 110.45 or 110.50, Ordinance 2740. Each undersigned owner further agrees to maintain such vegetation and, in the meantime, to maintain the vegetation presently within the Landscape Strip.

Each of the undersigned owners agree to defend, pay, and save harmless the City of Kirkland, its officers, agents, and employees from any and all claims of every nature whatsoever, real or imaginary, which may be made against the City, its officers, agents, or employees for any damage to property or injury to any person arising out of the maintenance of said Landscape Strips abutting said owner's property or the actions of the undersigned owners in carrying out the responsibilities under this agreement, excepting therefrom only such claims as may arise solely out of the gross negligence of the City of Kirkland, its officers, agents, or employees.

This Agreement shall be binding upon the heirs, successors and assigns of each of the undersigned owners and shall run with the land. This Agreement shall, at the expense of the undersigned owners, be recorded by the City of Kirkland with the King County Department of Elections and Records.

The real property owned by the undersigned and the subject property of this Agreement is situated in Kirkland, King County, Washington and described as follows:

A portion of land situated in the southwest quarter of the southeast quarter of Section 5, Township 25 North, Range 5 East W.M., King County, Washington, lying northerly of the southerly 30 feet of said section for road purposes, southerly of the southerly line conveyed to King County for road by deed recorded under auditor's file no. 949826 and southerly of that portion condemned by King County Superior Court Cause No., 188846 for the Kirkland-Redmond Short-Line Road, said portion described as follows:

Commencing at the south quarter corner of said Section 5; thence N 89°47'43" E along the south line of said Section 5 a distance of

336.04 feet; thence N 01°30'00" W a distance of 30.01 feet to a point on the north line of the said southerly 30 feet, said point being the point of beginning; thence continuing 220.72 feet; thence S 89°54'10" W a distance of 84.02 feet; thence N 01°30'00" W a distance of 219.47 feet to a point on said southerly road margins, said point being on an arc of a curve to the right from which the center bears S 01°30'31" W, 1,292.05 feet distance; thence easterly along said curve and margin through a central angle of 11°19'16", an arc distance of 255.30 feet; thence S 01°30'00" E a distance of 407.63 feet to the north line of the said southerly 30 feet; thence S 89°47'43" W along said north line a distance of 168.02 feet to the point of beginning.

The above described parcel contains 89,357 square feet, more or less.

(Also known as the north half of Lot 4, Lots 5 and 6, Block 54 of Burke and Farrar's Kirkland Garden Addition to the City of Seattle, Division 15, according to the unrecorded plat thereof.)

DATED this _____ day of _____, 19____.

(Partnerships Only)

OWNER(S) OF REAL PROPERTY

(Name of Partnership or Joint Venture)

By General Partner _____

By General Partner _____

By General Partner _____

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, and _____ to me, known to be general partners of

_____, the partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of each personally and of said partnership, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument.

(Corporations Only)

OWNER(S) OF REAL PROPERTY

(Name of Corporation)

By President _____

By Secretary _____

STATE OF WASHINGTON }
County of King } SS.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ to me, known to be the President and Secretary, respectively, of _____,

the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument and that the seal affixed is the corporate seal of said corporation.

(Individuals Only)

OWNER(S) OF REAL PROPERTY
(INCLUDING SPOUSE)

STATE OF WASHINGTON }
County of King } SS.

On this day personally appeared before me _____ and _____ to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the
State of Washington
Residing at: _____
My commission expires: _____

The foregoing Agreement is accepted by the City of Kirkland this
_____ day of _____, 19____.

CITY OF KIRKLAND

BY: _____

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (206) 828-1257

RCW 197-11-970 Determination of nonsignificance (DNS).

DETERMINATION OF NONSIGNIFICANCE

Description of proposal Rezone of approximately 2 acres from RS 8.5 to RM 3.6 to construct 22 condominium units.

Proponent Shelter Ventures, Inc.

Location of proposal, including street address, if any South of Kirkland Way, North of Kirkland Ave. and East of 6th St. (705, 713 & 721 Kirkland Way and 626 & 800 Kirkland Ave.

Lead agency CITY OF KIRKLAND

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

- There is no comment period for this DNS.
- This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 15 days from the date below. Comments must be submitted by _____.

Responsible Official Joseph W. Tovar

Position/Title Director, Department of Planning and Community Development
Phone 828-1257

Address City of Kirkland, 123 Fifth Avenue, Kirkland, WA 98033-6189

Date 5/18/90 Signature 

You may appeal this determination to Nancy L. Carlson at Kirkland City Hall, 123 Fifth Avenue, Kirkland, no later than (date) 5/25/90 by WRITTEN NOTICE OF APPEAL

You should be prepared to make specific factual objections. Contact Nancy L. Carlson to read or ask about the procedures for SEPA appeals.

Distribute to "Checked" Agencies on Reverse side of this form along with a copy of the Checklist.

Publish in the Daily Journal American, Date: _____

Mailed to the following agencies with Environmental Checklist:

— Department of Ecology, Environmental Review Section,
Mail Stop PV-11, Olympia, WA 98504-8711

— Department of Fisheries,
115 General Administration Building, Olympia, WA 98504-8711

— Department of Wildlife,
16018 Mill Creek Boulevard, Mill Creek, WA 98012

— Seattle District, U.S. Army Corps of Engineers,
P. O. Box C-3755, Seattle, WA 98124

— Rose Hill Water District
P. O. Box 539, Kirkland, WA 98033

— NE Lake Washington Water and Sewer District
P. O. Box 489, Kenmore, WA 98028

— Applicant/Agent Shelter Ventures, Inc.

cc: Planning & Community Development File No. IIB-89-147
— Building Department (Permit No. _____)

— Mitigating Measures Incorporated into the Proposal:

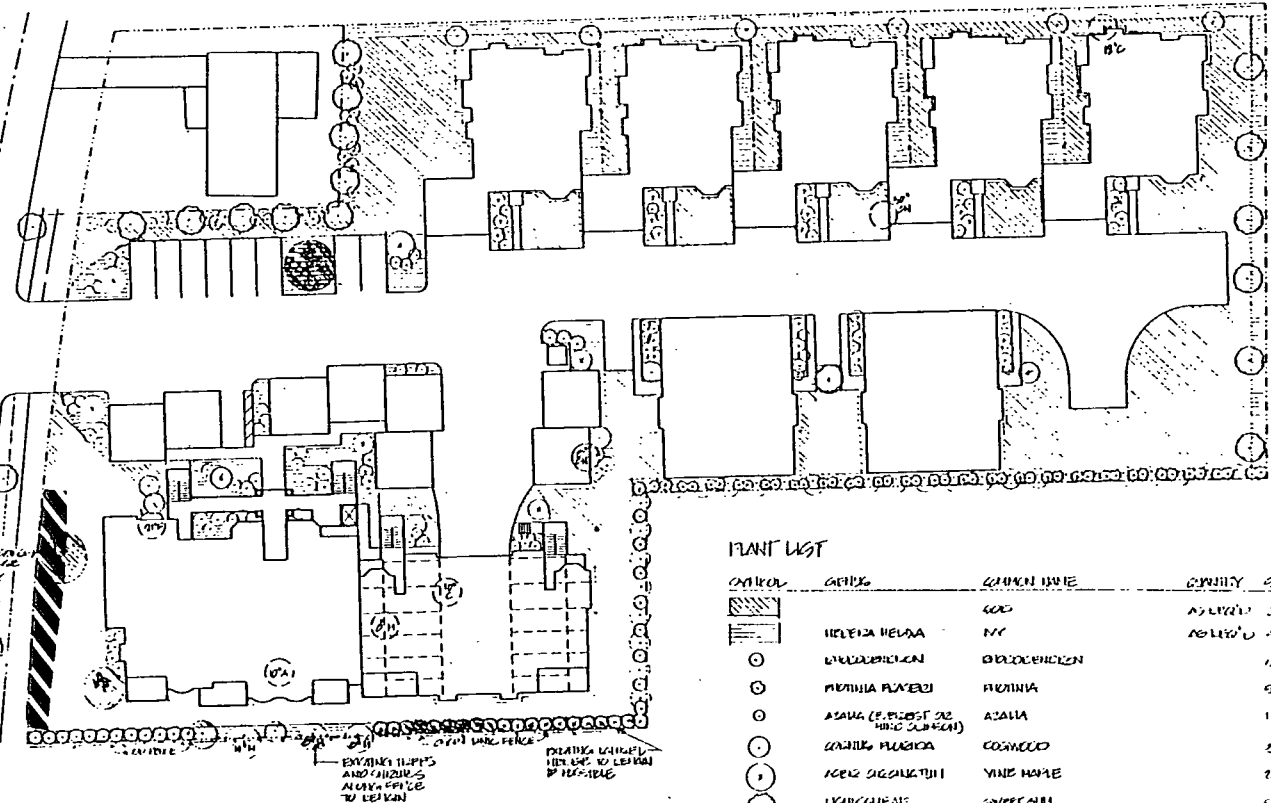
None

Distributed by: _____ on: _____

Landscape Buffer 3

KIRKLAND WAY

KIRKLAND AVENUE



PLANT LIST

| SYMBOL | GENUS | COMMON NAME | CULTIVAR | SIZE | REMARKS |
|-------------------|---------------------------------|--------------------------------|----------|------------|---------|
| [Hatched Box] | | WOOD | | AS PLANTED | |
| [Solid Box] | | NY | | AS PLANTED | |
| [Circle with dot] | HELENA HELVA | WOOD | | AS PLANTED | |
| [Circle with dot] | WYBRIDUBIKON | BRIDGEMAN | | AS PLANTED | |
| [Circle with dot] | PERITHIA PLATANI | PERITHIA | | AS PLANTED | |
| [Circle with dot] | ASARA (E. PLANT OR HIGH GROWER) | ASARA | | AS PLANTED | |
| [Circle with dot] | GAULTH. PLURICA | COGNAC | | AS PLANTED | |
| [Circle with dot] | ACER CIRCUMJECTUM | VINE MAPLE | | AS PLANTED | |
| [Circle with dot] | LYONCHIAE UNILACINATA | SWEET GUM | | AS PLANTED | |
| [Circle with dot] | | TREES TO BE KEPT | | | |
| [Circle with dot] | | PLANTING TO BE KEPT TO MINIMUM | | | |

LANDSCAPE PLAN
SCALE: 1" = 20'-0"

KIRKLAND WAY CONDOMINIUMS
FOR SHELTER VENTURES
KIRKLAND, WASHINGTON

REVISIONS

Attachment 9
File IIB-89-147

| | | |
|------------|-------------|-------|
| 081089.DWG | DRAWN BY: | SHEET |
| JSP | | L1.0 |
| DATE | PROJECT NO. | OF |
| 11/1/88 | | |
| PRINT DATE | 081089 | |

5. Tree Restoration - If any tree designated for retention, or required to be planted, is damaged or destroyed during construction or within two years following the end of construction through the fault of the applicant, the applicant shall plant a tree of the same species at least 3 to 5 inches in diameter as measured one-foot above grade in the immediate vicinity of the damaged or destroyed tree. The City may require the applicant to remove the damaged or destroyed tree.

95.20

Supplemental Plantings

1. General - The applicant shall provide the supplemental landscaping specified in paragraph 2 of this section in any area of the subject property that--
 - a. Is not covered with a building, vehicle circulation area or other improvement; and
 - b. Is not committed to and being used for some specific purpose.
2. Standards - The applicant shall provide the following at a minimum:
 - a. Living plant material which will cover 80% of the area to be landscaped within two years. If the material to be used does not spread over time, the applicant shall plant the entire area involved immediately. Any area that will not be covered with living plant material must be covered with nonliving ground cover.
 - b. One tree for each 1,000 square feet of area to be landscaped. At the time of planting, deciduous trees must be at least 2" in diameter as measured 1' above grade, and coniferous trees must be at least 5' in height.
 - c. If a development requires approval through Process I, IIA, IIB or III as described in Chapter 145, 150, 152 and 155 of this Code respectively, the City may require additional vegetation to be planted along a building facade if--
 - (1) The building facade is more than 25 feet high or more than 50 feet long; or
 - (2) Additional landscaping is necessary to provide a visual break in the facade.

95.25

Buffering Standards

The Chart in Section 10 of this Chapter establishes which buffering standard applies in a particular case. The following paragraphs establish the specific requirement for each standard.

1. For standard 1, the applicant shall provide either the buffer described in paragraph a or the buffer described in paragraph b below:
 - a. A 25-foot wide landscaped strip planted as follows:
 - (1) Two rows of trees, planted eight feet on center along the entire length of the buffer. No more than 50% of the required trees may be

Significant Trees

1. General - The applicant shall retain significant trees on the subject property to the maximum extent possible.
2. Minor Site Plan Changes Required by the City - The City may require minor alterations in the arrangement of buildings and other elements of the proposed development in order to achieve the maximum retention of significant trees. The City may not require an alteration which will result in a significant added expenditure to the applicant or in a decrease in the number of units or bulk of structures permitted.
3. Replacement If Significant Trees Removed - If all or substantially all of the significant trees on the subject property are brought down, the City may require the applicant to plant trees on the subject property. The maximum number of trees that the City may require the applicant to plant is equal to the number of significant trees that are brought down. The trees that are planted must be at least 3 to 5 inches in diameter as measured one foot above grade.
4. Protection Techniques
 - a. General - In order to provide the best possible conditions for the retention of significant trees, the applicant shall comply with the following requirements.
 - (1) The applicant may not excavate within the area defined by the drip line of any tree to be retained.
 - (2) The applicant shall construct a temporary but immovable 4 foot high sturdy fence generally corresponding to the drip line of each tree to be retained.
 - (3) If the grade level adjoining to a tree to be retained is to be raised, the applicant shall construct a dry rock wall or rock well around the tree. The diameter of this wall or well must be equal to the diameter of the tree plus 5 feet.
 - (4) The applicant may not install impervious surface within the area defined by the dripline of any tree to be retained.
 - (5) The applicant shall prune branches and roots, fertilize, and water as appropriate.
 - (6) The grade level around any tree to be retained may not be lowered within the greater of the following areas:
 - a) The area defined by the dripline of the tree.
 - b) An area around the tree equal to one foot in diameter for each one inch of tree diameter as measured one foot above grade.
 - b. Alternative Techniques - The Planning Official may approve the use of alternative tree protection techniques if the significant trees will be protected to an equal or greater degree than by the techniques listed in Paragraph 1 of this section.