



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225 -
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager **Quasi-Judicial**

From: Tony Leavitt, Associate Planner
Eric Shields, AICP, Planning Director

Date: February 23, 2012

Subject: International Community School (ICS)/ Community Elementary School (CES) Master Plan, PCD File No. ZON11-00023

RECOMMENDATION

Staff recommends that the City Council consider the Process IIB Master Plan application for the International Community School (ICS)/ Community Elementary School (CES) project and pass the enclosed resolution to grant the application as recommended by the Hearing Examiner.

Prior to voting on the resolution, the Council must pass a motion to allow the vote to occur at the March 6th meeting, rather than at the following (March 20th) meeting.

BACKGROUND DISCUSSION

City Council Rules of Procedure

Under the Council Rules of Procedure, Section 26, the City Council shall consider a Process IIB application at one meeting and vote on the application at the next or a subsequent meeting. The City Council may, by a vote of at least five members, suspend the rule to vote on the matter at the next meeting and vote on the application at this meeting.

Quasi-Judicial Decisions

This application is reviewed under Process IIB in which the Hearing Examiner holds a public hearing and then makes a recommendation to the City Council for the final decision. It is a quasi-judicial process. Quasi-judicial processing is for permits that:

- Require a hearing (in this case held by the Hearing Examiner);
- Involve discretionary criteria for approval; and
- Require the decision-maker to review the facts and applicable code in order to issue a decision (similar to a judge).

City Council Consideration

The City Council must consider the Process IIB application based on the record before the Hearing Examiner and the Houghton Community Council and the recommendation of the Hearing Examiner. Process IIB does not provide for testimony and oral arguments at the Council meeting. However, the City Council, in its discretion, may ask questions of the applicant and the staff regarding facts in the record, and may request oral argument on legal issues.

The City Council has four options when reviewing a Process IIB application:

- Grant the application as recommended by the Hearing Examiner;
- Modify and grant the application;
- Deny the application; or
- If the Council determines that the record compiled by the Hearing Examiner is incomplete or inadequate for the Council to make a decision, direct that the application be considered at a reopening of the hearing before the Hearing Examiner and Houghton Community Council and specify the issues to be considered at the rehearing.

This application is subject to the disapproval of the Houghton Community Council. The decision of the City Council will not be effective unless and until it is affirmed by the Community Council or the Community Council does not disapprove of the decision within 60 days.

ICS/ CES Site History

In 1983, LWSD applied for a zoning permit to allow the Community Elementary School to locate on the subject property. The City Council and Houghton Community Council approved the proposal. In 1999, LWSD applied for a minor modification of the zoning permit to allow the International Community School to locate on the property within the Gordon Hauck Center building. As part of the process, the LWSD and the Gordon Hauck Neighbors signed an agreement to address concerns about the proposed relocation. The agreement addressed potential impacts to the neighborhood including traffic, parking, student enrollment, future expansions, and additional issues. In September of 1999 the Planning Department approved the minor modification and SEPA Determination, which allowed the LWSD to proceed with its proposed plan.

ICS/ CES Project Proposal

The Lake Washington School District is requesting approval of a Master Plan zoning permit to build a new school structure that will house both the International Community School (ICS) and Community Elementary School (CES). Major elements of the proposal include the following:

- Demolition of the existing school structure and portable buildings totaling approximately 46,000 square feet and construction of a new structure totaling 65,000 square feet. This represents an increase in size of approximately 19,000 square feet or 41%.
- Increase of ICS student enrollment from 380 students to 445 students. Increase of ICS staff from 21 to 23 persons. No change in CES student enrollment (70 students) and staff (5 persons). Total site enrollment of 515 students.
- Construction phasing and site plan design to allow the existing schools to remain in operation during construction. The new structure is proposed to be constructed west of the existing structures. Completion of the project is anticipated by the end of 2013.
- New surface parking lots accessed from 111th Avenue NE and NE 65th Street. Total onsite parking would increase from 131 parking stalls to 145 stalls.
- New frontage improvements along NE 62nd Street, 111th Avenue NE, and NE 65th Street.
- A new playfield located in the northeast portion of the property and relocation of the existing sports court to the southwest corner of the playfield.

Public Comment

The initial public comment period ran from September 23 to October 21, 2011. The Planning Department received 7 emails and letters during this comment period. Numerous issues were raised in the comments, with the most common issues being:

- Traffic impacts associated with the proposed development including increased vehicle trips, increased bus traffic, impacts to neighboring streets, impacts to street intersections, access to the site, and other related traffic issues.
- Construction related impacts including the amount of truck traffic required for the importing and exporting of materials, construction worker parking, noise, dust and debris, hours of construction, etc.
- Future enrollment increases
- A 2010 zoning code amendment that modified a special regulation requires school uses to be located on an arterial or collector street. The amendment exempted existing school sites, including ICS/CES, from the requirement.
- Enforcement of the 1999 Gordon Hauck Agreement, specifically the public noticing and SEPA provisions outlined in the agreement relative to the proposed master plan.
- The LWSD issuing SEPA for the proposed master plan instead of the City, and the district's SEPA policies including noticing.
- View and lighting impacts

Public Hearing

Prior to the hearing, Staff prepared an Advisory Report that was forwarded to all parties of record, the Hearing Examiner and the Houghton Community Council. The report recommended approval of the application subject to conditions.

The Hearing Examiner and the Houghton Community Council held a joint open record public hearing on January 10, 2012. City Staff, the applicants and their representatives, and 21 individuals (including neighbors, parents of students, and a student) testified during the hearing (see Enclosure 2 for Hearing Minutes). Testimony at the hearing addressed many of the items that were brought up during the initial public comment period.

Houghton Community Council Recommendation

On January 30th, The Houghton Community Council deliberated and drafted a recommendation to the Hearing Examiner (see Enclosure 3). The Houghton Community Council concurred with the staff analysis and the recommendation of approval and recommended additional conditions including limitations on new vegetation, requiring and modifying items in the Transportation and Parking Management Plan, and requiring a new zoning permit process for any increases in enrollment or building square footage.

Hearing Examiner Recommendation

On February 6th, the Hearing Examiner recommended that the City Council approve the application subject to the conditions outlined in her report (see Enclosure 4 for report and links to all exhibits). The Hearing Examiner agreed with the Houghton Community Council's recommended conditions and added two additional conditions that required a yearly student enrollment report and a prohibition on construction parking along neighborhood streets.

Additionally the Hearing Examiner concluded that the proposed Master Plan is not subject to the 1999 Gordon Hauck Agreement and any action to enforce the agreement would require private action by the signatories of the agreement.

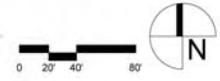
ENCLOSURES

1. Site/ Landscape Plan
2. Hearing Minutes from January 10th Joint Hearing
3. Houghton Community Council Recommendation
4. Hearing Examiner Recommendation



TREES	BOTANICAL NAME	COMMON NAME
<u>EXISTING DECIDUOUS TREES</u>		
<u>EXISTING EVERGREEN TREES</u>		
<u>SMALL TREES:</u>		
	ACER CIRCINATUM	VINE MAPLE
	ACER JAPONICUM	JAPANESE MAPLE
<u>MEDIUM TREES:</u>		
	ACER RUBRUM	RED MAPLE
	ACER TRUNCATUM "PACIFIC SUNSET"™	PACIFIC SUNSET MAPLE
	CORNUS FLORIDA	FLOWERING DOGWOOD
<u>EVERGREEN TREES:</u>		
	PINUS CONTORTA	SHORE PINE
	PINUS THUNBERGII	BLACK PINE
<u>SHRUB AREAS</u>	<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
	ARBUTUS UNEDO "COMPACTA"	DWARF STRAWBERRY TREE
	CALLUNA VULGARIS	HEATHER
	CISTUS COBARIENSIS	ROCKROSE
	CORNUS STOLONIFERA "BAILEY"	REDTWIG DOGWOOD
	CORNUS STOLONIFERA "FLAVIRIMEA"	YELLOWTWIG DOGWOOD
	CORNUS STOLONIFERA "KELSEY"	DWARF REDTWIG DOGWOOD
	ERICA DARLEYENSIS	HEATH
	GAULTHERIA SHALLON	SALAL
	KERRIA JAPONICA	JAPANESE KERRIA
	MAHONIA AQUIFOLIUM	OREGON GRAPE
	MAHONIA REPENS	CREeping MAHONIA
	MYRICA CALIFORNICA	PACIFIC WAX MYRTLE
	POLYSTICHUM MUNITUM	SWORDFERN
<u>GROUND COVERS</u>	<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
	HYDROSEED	

1 SITE PLAN
 1" = 40' - 0"



Copyright © 2010 Magellan Associates, LLC

Magellan
 ARCHITECTS
 8800 158th Avenue Northeast, Suite 200
 Redmond, Washington 98073
 Tel: (425) 886-8800
 www.magellanarchitects.com

**INTERNATIONAL COMMUNITY SCHOOL /
 COMMUNITY ELEMENTARY SCHOOL**
 REPLACEMENT PROJECT
 111.33 N.E. 65th STREET
 KIRKLAND, WASHINGTON 98033

NO.	DATE	BY

ISSUE DATES
 DESIGN APPROVAL:
 PERMIT SUBMITTAL:
 PERMIT RECEIVED:
 BID DOCS:
 OWNER DOCS:

24"x36" SCALE: 1"=40'
 PLOT DATE: 9/14/11
 CAD FILE:
 JOB NUMBER: 10-022
 CHECKED: TR
 DRAWN: LP
 STATUS: SCHEMATIC DESIGN



L1.01



**KIRKLAND HOUGHTON COMMUNITY COUNCIL & HEARING EXAMINER
MEETING
January 10, 2012**

1. **Call to Order / Roll Call (6:35 PM)**

Members Present: Sue Tanner - Hearing Examiner, Georgine Foster - HCC, Lora Hein - HCC, John Kappler - HCC, Betsy Pringle - HCC, Elsie Weber - HCC Vice Chair, and Rick Whitney - HCC Chair.

Members Absent: Bill Goggins - HCC.

Staff Present: Nancy Cox - Development Review Manager, Tony Leavitt - Associate Planner, Thang Nguyen - Transportation Engineer, John Burkhalter - Senior Development Engineer, Rob Jammerman - Development Engineering Manager, and Susan Hayden - Recording Secretary.

Lora Hein and John Kappler arrived at 6:45 PM.

2. **Announcement of Agenda**

3. **Public Hearing (6:35 PM)**

A. **International Community School (ICS) & Community Elementary School (CES) - File No.: ZON11-00023**

Sue Tanner, Hearing Examiner, opened the public hearing at 6:35 PM and explained the hearing is in regard to the International Community School (ICS) & Community Elementary School (CES), 11133 NE 65th Street, File No. ZON11-00023. She explained hearing procedures and advised that she will issue a written decision within 8 days of receiving the Houghton Community Council's recommendation.

Tony Leavitt, Associate Planner, was sworn in and presented at this time. He submitted the staff report as Exhibit 1 as well as five letters and five emails as Exhibit 2 into the record.

Mr. Leavitt presented on the City review process, master plan application, proposal, initial public comments, Gordon Hauck Agreement, SEPA Determination, master plan approval criteria and staff recommendation.

Mr. Leavitt responded to the Council's questions regarding the Gordon Hauck Agreement. He explained that the new master plan will establish requirements for the proposed project. A discussion took place about former and current practices for notifying neighborhoods about projects, SEPA determinations and appeal processes.

The Hearing Examiner called the applicant forward to present.

Forrest Miller, 15212 NE 95th Street, Redmond, of the Lake Washington School District, represents the applicant. He was sworn in and presented at this time. A pamphlet describing the International Community School and its programs was entered into the record as Exhibit 3. He also addressed the public process regarding the project and neighborhood involvement. He stated there was no appeal filed during the SEPA process.

Mr. Glen Steiner, 8383 158th Avenue NE, Redmond, represents the applicant. He was sworn in and presented at this time. He presented an aerial photograph, site plans and illustrations to describe the project.

Todd McBryan, 6544 NE 61st Street, Seattle, represents the applicant and was sworn in at this time. He presented on traffic analysis and conclusions.

Mr. McBryant responded to the Council's questions regarding traffic flow surrounding the project. In

addition, he was asked to address the direction of busses and parking.

Mr. McBryant responded to the Council's questions regarding the commuter peak hour related to the concurrency analysis, specifically regarding 112th Avenue.

Mike Finnegan, 15212 NE 95th Street, Redmond, represents the applicant and was sworn in at this time. He distributed to the Hearing Examiner a PowerPoint presentation (Exhibit 4), documents reflecting background information on the project (Exhibit 5), the district's SEPA's policy (Exhibit 6), evaluation of the Gordon Hauck Agreement (Exhibit 7). He addressed the parking and transportation management plans, lighting, landscape buffers, view preservation, relocation of the playing field, construction schedule and impacts to the neighborhood.

Mr. Finnegan responded to the Council's questions regarding Exhibit 5, specifically modernization, penalties to contractors for parking violations, avenues for the neighborhood to express concerns, variances to landscaping, limits on tree height, bus activity, parking, limit on number of students, the January 2010 presentation to the Houghton Community Council, notice for the SEPA determination and mechanism for public comment, timing regarding the appeal of the SEPA process, and involvement of the neighborhood committee.

Mr. McBryant returned to respond to the Council's questions regarding the effect of traffic and the navigation of busses on the surrounding neighborhood streets, specifically regarding driveways and turn radiuses and impact these may have on neighborhood parking.

Thang Nguyen and Tony Leavitt responded to the Council's questions on mitigation of traffic, the transportation plan, use of alternate routes, potential unsafe traffic conditions, traffic impacts on intersections, inconvenience to neighbors, width of neighborhood roads in regard to parking and access.

The Hearing Examiner announced the public comment portion of the hearing. She swore in all audience speakers at once.

1. Brian Keegan, 6200 111th Avenue NE, Kirkland was sworn in at this time. He spoke against changing the footprint of the schools as well as the expansion of this project. He expressed concern about the current level of congestion in the area, parking, and the subsequent increase in safety risk for neighbors. He also expressed concern about the lack of transparency about this project by the school district. He presented a document to the Hearing Examiner, Exhibit 8.

2. Jeff Nouwens, P.O. Box 658, Kirkland, spoke against the project and presented a video to illustrate the flow of traffic in the neighborhood exiting the school, specifically school busses not stopping as they exit.

Mr. Keegan returned to address questions of the Council.

The Chair called for a 10 minute break.

The Hearing Examiner called the hearing back to order and public comment continued.

3. Leon Zhang, 4552 205th Place NE, Kirkland, spoke in favor of the project as a current student at the International Community School and believes the benefits of the project will outweigh the drawbacks.

4. Tamer Erzuramlu, 9221 128th Avenue NE, Kirkland, spoke in favor of the project as his son attends the school and feels the culture is positive and that the school brings value to the neighborhood.

5. Robin Hirano, 9309 138th Ct NE, Redmond, spoke in favor of the project. She explained parking rules and regulations at the school and notifications that go out to neighbors about school events. She also explained about resolution around potentially problematic bus routes.

6. Greg Cox, 1204 Kirkland Avenue, Kirkland, spoke against further negative impact expansion of the schools may have on the neighborhood. He expressed that the public process may have been followed, but the original agreement with neighbors was not honored by the school district. He expressed concern about the 5-minute limit on public input. He also provided corrections on staff's earlier presentation. Mr. Cox responded to Council's questions about the original agreement written, whether it was legally enforceable and if any notice of the project was given to neighbors. Mr. Cox submitted a letter that was

entered as Exhibit 10.

7. Daphna Robon, 11210 NE 88th Street, Kirkland, spoke in favor of the project, stating that expansion is necessary to accommodate current student capacity and that the benefits of the school outweigh the inconveniences.

8. Amaan Kurjy, 6515 112th Avenue NE, Kirkland, expressed concerns about construction, traffic and the impact on the neighborhood, specifically the single entry/exit on a small neighborhood street that cannot safely handle the combination of commercial vehicles, pedestrians, busses and parents transporting children.

9. Glen Campbell, 9122 134th Ct NE, Redmond, spoke in favor of the project and expansion of the schools as a show of support of public education.

10. Annette Cox, 6221 111th Avenue NE, Kirkland, spoke against expansion of the footprint, and showed photographs of the current traffic and safety impacts on the neighborhood.

11. Lori Duncan, 6321 110th Avenue NE, Kirkland, spoke against expansion of the project without proper planning.

12. Steve Friedman, 11218 NE 65th Street, Kirkland, spoke against expansion of the project and provided photographs, Exhibit 11, that depict the loss of view from neighbors' properties and impact on property values. Mr. Friedman responded to questions from the Council regarding height limitations.

13. Jerry Forell, 11004 NE 65th Street, Kirkland, spoke against expansion of the project on this site and the impact of traffic on the neighborhood. He expressed concerns about the construction impacts on the neighborhood over the course of 26 months. He asked that another site be used for the expansion of the school.

14. Susan Bush, 11231 NE 67th Street, Kirkland, spoke against the project regarding the process and expansion of the project and subsequent traffic problems and potential traffic accidents and safety impacts. She expressed that the original agreement has been discounted. She agrees with former speakers' comments including those on zoning.

15. Boris Pavlovic, 11208 NE 62nd Street, Kirkland, expressed concern about how the school is being renovated, specifically regarding loss of view and impact on property value. He expressed concern about the process and the attitude of the school district in the beginning of the process. He expressed that Kirkland neighbors are not represented.

16. Tania Bennett, 14108 NE 62nd Street, Redmond, spoke in favor of the project and sees current parking and traffic issues as being solved separately from construction issues. Ms. Bennett then responded to the Council's questions.

17. Greta Climer, 6504 125th Avenue NE Kirkland, spoke in favor of the project, expressing that the school will add value to the neighborhood and that traffic issues must be addressed whether the project goes through or not.

18. Margaret Bull, 6225 108th Place NE, Kirkland, supports expansion of the school. She spoke about the history of the school and its former service to children with disabilities, and that much of the traffic problem could be solved by students using the metro bus system. She also expressed concern about the school being up to code in the case of an earthquake.

19. Cynthia Olsen, 13833 218th Avenue NE, Woodinville, spoke in favor of expansion of the school to accommodate current capacity, including the HVAC system and storage needs and lack of space for students to eat lunch.

20. Mark Marshall, 6524 112th Avenue NE, Kirkland, spoke against the project due to safety issues around traffic and reckless driving by parents.

21. Mike McGivern, 11001 NE 65th Street, Kirkland, spoke against expansion of the project in relation to traffic issues, reduction of open green space, potential reduction of views, and that another site would be

more suitable for this project.

There were no comments from staff in response to audience members' testimony.

Staff responded to questions raised by the Council regarding the process around project approval, current procedures and implications regarding future projects and any subsequent modifications to the master plan.

The applicant returned to address citizen concerns regarding the difference of \$3 million in proposals, the construction schedule, the level of truck traffic and spoke the use of existing soil versus bringing in new soil. The applicant also responded to Council member questions regarding building new versus renovation and the suitability of the site in relation to site alternatives. Mr. Cox provided Exhibit 12 reflecting proposal information.

Staff responded to Council's questions regarding the definition of material detrimental impact on a neighborhood.

Staff responded to Council's questions regarding traffic safety comparisons in similar neighborhoods.

Staff requested that the record stay open for a week in order to obtain traffic safety comparison data. Staff will also contact Mr. Joseph Tovar regarding the enforceability of the original agreement.

Neither the City or the District had rebuttal testimony.

The Council will issue a recommendation on January 30th and the Hearing Examiner will issue a decision within 8 days.

Mr. Kappler requested clarification regarding the count of the Exhibits. The Hearing Examiner will email an Exhibit list to Mr. Leavitt.

Ms. Hein stated that the \$3M difference is closer to \$2.5M.

The Hearing Examiner closed the public meeting at 11:04 PM.

4. **Adjournment (11:04 PM)**



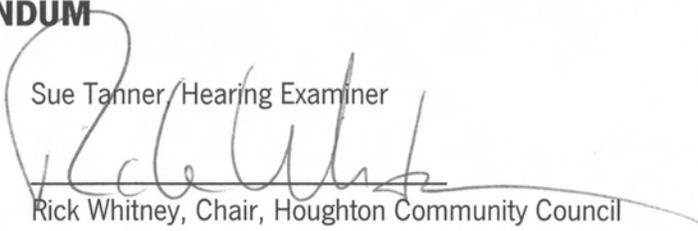
Houghton Community Council

CITY OF KIRKLAND

123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Sue Tanner, Hearing Examiner

From: 
Rick Whitney, Chair, Houghton Community Council

Date: January 30, 2012

Subject: INTERNATIONAL COMMUNITY SCHOOL (ICS)/ COMMUNITY ELEMENTARY SCHOOL (CES)
MASTER PLAN, ZON11-00023
RECOMMENDATION OF HOUGHTON COMMUNITY COUNCIL

Recommendation to the Hearing Examiner:

After consideration of the testimony and record presented at the public hearing on File ZON11-00023 held on January 10, 2012, the Houghton Community Council (HCC) concurs with the staff analysis and the recommendation of approval, with the following additional recommendations:

Recommendation 1

To condition 6.b add that no trees shall be planted in the required landscape buffers.

Recommendation 2

No new vegetation shall be planted that exceeds 15 feet at maturity.

Recommendation 3

All provisions of the Transportation Master Plan and the Parking Master Plan in Exhibit 1, Attachment 27 are considered conditions of approval.

Recommendation 4

A Process IIB zoning permit process is required for any increase in building square footage or student population above 515 students.

Recommendation 5

To condition 4.b add that the parent groups would identify a traffic liaison for communicating issues identified in the reports required by the TMP. In addition, the parent group will use parent volunteers to monitor the intersection of the driveway and NE 65th St. during morning drop off and afternoon release.

Recommendation 6

Number 3 of the TMP and PMP regarding Goals of the TMP and PMP shall be amended to read, "The goals of the Transportation Management Plan (TMP) and the Parking Management Plan (PMP) shall be to avoid negative traffic impacts and to...

Recommendation 7

Number 5 of the TMP and PMP regarding traffic studies shall be amended in the years traffic studies are prepared, the City will publish the study on their website for ICS/CES on or before March 15th.

Motion – To approve this recommendation regarding the ICS/ CES Master Plan as written. (5 yes, 2 no)

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

APPLICANT: Mike Finnegan, Lake Washington School District (LWSD)

FILE NO: ZON11-00023

APPLICATION:

Site Location: 11133 NE 65th Street

Request: The applicant is seeking approval of a Master Plan zoning permit to build a new school structure that will house both the International Community School (ICS) and Community Elementary School (CES).

Review Process: Process IIB, Houghton Community Council and Hearing Examiner conduct a public hearing and make recommendations; City Council makes final decision. The Houghton Community Council has disapproval jurisdiction over the land use proposal.

Summary of Key Issues: Compliance with Zoning Code criteria and applicable development regulations.

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Community Development	Approve with conditions
Houghton Community Council	Approve with conditions

PUBLIC HEARING

The Hearing Examiner and Houghton Community Council (Community Council) held a joint public hearing on the application at 6:30 p.m. on January 10, 2012, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington. The Examiner visited the site prior to the hearing. The record was held open to receive information requested by the Community Council on traffic safety data for ICS/CES and an agreement between LWSD and the neighborhood, and for the Hearing Examiner to receive the Community Council's recommendation on the application. The Examiner subsequently requested a copy of the Department's SEPA determination on a 1999 LWSD modification request to locate ICS at the subject site.

The SEPA determination and traffic safety data were received on January 30, 2012 and marked as Exhibit 13. Further information on the agreement was not available. The Community Council's recommendation was received on January 31, 2012. A verbatim recording of the hearing is available in the City Clerk's office. The minutes of the hearing and the exhibits are available for public inspection in the Department of Planning and Community Development.

PUBLIC COMMENT

The public comment period ran from September 23, to October 21, 2012. The Planning Department received 7 comment letters during this period. (Attachments 10 through 16 to the Planning Department's Advisory Report dated January 3, 2012 (hereafter Exhibit 1)), and responded to them in the Exhibit 1 at pages 5-7.

Additional public comment letters and public testimony were received at the public hearing. A list of those who testified at the hearing, and a list of the exhibits offered are included at the end of this recommendation. The testimony is summarized in the hearing minutes.

Public comments generally related to: 1) LWSD's failure to follow certain terms of an agreement between LWSD and the Gordon Hauck neighbors concerning the schools at the site; 2) lack of notice of a Zoning Code amendment that removed the requirement that existing schools be located on properties served by a collector or arterial; 3) LWSD's acting as lead agency under SEPA and lack of notice of the determination of non-significance issued for the proposal; 4) the potential for a future increase in enrollment and requests that enrollment be capped; 5) traffic and parking impacts associated with the proposed development; 6) construction impacts; 7) view impacts; 8) lighting impacts; and 9) concern with student access to adequate recreation areas and equipment.

FINDINGS, CONCLUSIONS AND RECOMMENDATION:

For purposes of this recommendation, all section numbers refer to the Kirkland Zoning Code (KZC or Code) unless otherwise indicated. After considering the evidence in the record and the recommendation of the Houghton Community Council, and inspecting the site, the Examiner enters the following Findings of Fact and Conclusions.

SITE DESCRIPTION

Site Development and Zoning:

Facts:

1. Size and Land Use:

A. The subject property is 10.37 acres in size and developed with the existing International Community School (ICS) (grades 7 through 12) and Community Elementary School (CES) (grades 1 through 6).

B. The existing school consists of a main building, five portables; a greenhouse and cottage; a sports court; a play area; a field; parking for 131 vehicles, including 78 student spaces; and other associated facilities.

C. ICS has 380 enrolled students and 21 staff. CES has 70 enrolled students and 5 staff.

2. Zoning: The property is zoned RS 8.5 (Residential Single-family), in which a school use is allowed, subject to approval of a master plan. The master plan must be processed through a Process IIB review if the property exceeds 5 acres in size.

3. Terrain: The site slopes from the east to west with an overall elevation change of approximately 45 feet. Existing neighborhood views to the west include Lake Washington and Seattle.

4. Vegetation: The landscaping of the site includes numerous significant trees. The City's Urban Forester identified 60 significant trees that could be impacted by the proposed redevelopment.

5. Access: The property is served by local access streets rather than by a collector or arterial street

Conclusions:

1. Size, land use and terrain are not relevant factors in the review of this application.
2. Zoning is a relevant factor in the process required for review of the application.
3. Access is an issue of concern to some neighboring property owners.
4. Tree protection and retention on the property are relevant factors in the review of the proposed development.

Neighboring Development and Zoning:

Fact: Neighboring properties are zoned RS 8.5 and RS 7.2 and developed with single-family residences.

Conclusion: Neighboring zoning and development are factors to be considered in the review of this application.

PROPOSAL

Facts:

1. A new school structure totaling 65,000 square feet would be constructed on the property, and the existing 46,000 square-foot structures would be demolished, for an increase in square footage of approximately 41 percent.
2. ICS enrollment would increase by 65 to 445 students, and staff would increase by 2 to 23. There would be no change to CES student enrollment or staff. Total site enrollment would be 515 students, an increase of 65 students.
3. The proposal includes a construction phasing and site plan designed to allow the existing schools to remain in operation during construction. The new structure would be constructed west of the existing structures on the lower portion of the site. Project completion is anticipated by the end of 2013.
4. The new building would meet or exceed height and setback requirements for the zone and would use wood siding, masonry and low-pitched roofs for a more residential appearance than currently exists.
5. The redeveloped site would provide land use buffers required for the zone, and existing significant trees would be retained to the extent feasible.

Hearing Examiner Recommendation

File No. ZON11-00023

Page 4 of 20

6. A larger, grass sports field would be located in the northeast portion of the property, the existing sports court would be relocated to the southwest corner of the field, and new walking trails that circle the campus would be constructed. The existing play area for young children would be maintained and enhanced. All of these areas would be open to the public.

7. The applicant would construct new frontage improvements (curb, gutter and sidewalk) along NE 62nd Street, 111th Avenue NE, and NE 65th Street.

8. The applicant submitted a Traffic Impact Analysis (TIA) developed by a transportation engineer (see Attachment 20 to Exhibit 1). The TIA concluded that the proposed school would provide an increase of 55 AM peak hour trips (see Exhibit 1, Attachment 20 at 13). (The school's AM peak hour corresponds to the AM commuter peak hour whereas the school's PM peak hour does not.)

9. Because the proposal would not have a one percent proportional impact or greater on any off-site intersection, no off-site intersections were required to be analyzed for level of service. However, based on public comment, the applicant was required to analyze the project impact with the existing school traffic distribution pattern as well as the impact with the school traffic redistributed onto 112th Avenue NE, as proposed. The results show in both conditions that the traffic volume increase is well within the capacity of the streets, with all driveway intersections expected to continue to operate at LOS C or better (see Exhibit 1, Attachment 20 at 16).

10. The TIA includes a parking demand study which concluded that peak parking demand for the existing schools is 92 stalls, which would increase to 103 stalls with the project.

11. The applicant submitted a Transportation Management Plan (TMP) and Parking Management Plan (PMP) as part of the proposal (see Exhibit 1, Attachment 27). The document is an update of the schools' existing TMP and PMP and states that it was developed to prevent on-street parking by those associated with the schools, prevent on-street student drop-off and pickup by parents, minimize the number of students driving to the site, and provide for transit and ridesharing needs for students and staff.

12. New surface parking lots would be accessed from 111th Avenue NE and NE 65th Street, and total on-site parking would increase from 131 to 145 stalls. The number of student parking stalls (78) would not change.

13. A car passenger loading/unloading area would be located within the interior of the site, near the main parking lots. The proposed bus loading area would be separated from the car passenger area and located on the west side of the property near 111th Avenue NE.

14. The proposed plans show numerous pedestrian walkways throughout the site, including those designed to minimize walking distances from the building entrances and the right-of-way. Specific design details have not yet been provided.

15. The applicant and neighboring property owners have expressed interest in pursuing a modification of the buffer requirement to eliminate tree planting along the east and a portion of the south property lines. This would normally require a written agreement of neighboring property owners. *See* KMC 95.46.1.

16. Temporary parking for construction workers would be located in the northwest corner of the property and/or at a remote location away from the neighborhood that would require shuttle service to the site. The applicant states that construction contracts will include a condition prohibiting construction parking along neighborhood streets.

17. The applicant has committed to development of a construction management plan (CMP) to address traffic and pedestrian control during construction.

18. The applicant's submitted plans do not include a detailed lighting plan

Conclusions:

1. The application is subject to SEPA, and the regulations discussed below.
2. The evidence in the record indicates that students will have access to adequate recreation areas and equipment.

HISTORY

Facts:

1. The Gordon Hauck Center, a special education institute, was located on the subject property until 1983.
2. In 1983, the City Council and Houghton Community Council approved a zoning permit to allow LWSD to locate the CES on the subject property (see Attachment 5 to Exhibit 1).
3. In 1999, LWSD sought a minor modification of the 1983 zoning permit to allow ICS to locate on the property (see Attachment 16 to Exhibit 1). In conjunction with that process, the LWSD and Gordon Hauck Neighborhood residents entered into an agreement (Agreement) to address residents' concerns about the impacts of the proposed modification (see Attachment 7 to Exhibit 1).
4. The Agreement included a map and map narrative which, together with Section 4 of the Agreement, constituted the "Site Utilization Plan" for the property. The Site Utilization Plan and LWSD's building permit application were to constitute the "proposed action" for purposes of SEPA. The Agreement in its entirety was to constitute a "mitigating condition" under SEPA.

5. Section 4 of the Agreement includes provisions covering buildings on the site, student population, and transportation and parking issues. Section 5 states that "[A]ny proposed changes to this agreement and/or its provisions shall constitute a new action subject to the City of Kirkland zoning and SEPA processes in place at the time of the proposed change ... LWSD agrees to file a SEPA application, checklist, and filing fee to the City (with the City as lead agency) for any such proposed change even if the proposed change is below the threshold of the City's adopted SEPA 'Categorical Exemptions'. LWSD shall provide advance notice (at least 60 days prior to the earlier of application to the City or pre-application meeting with the City) via mailing to the undersigned neighbors and neighbors within 300 feet of the property and [sic] as well as posting a notice on sign boards on the subject property adjacent to the three street right-of-ways around the property regarding any planned changes. Any of the provisions of this agreement not expressly changed through such new action will remain intact."

6. An "Addendum to Agreement Between The Lake Washington School District And the Gordon Hauck Neighbors" (Addendum) was executed the same day as the Agreement and provides additional clarification of Agreement paragraph 5. It states that "[I]t is the intent of the LWSD and the GHN that the third and fourth sentences of the agreement (requiring the filing of SEPA applications, checklist, and fees, and requiring notice to neighbors) apply only in the case of proposed changes affecting the property contrary to the specific terms of the agreement and to proposed changes to the agreement itself." The Addendum provides examples of the types of actions that would not be covered by the Agreement and then states "as further examples, our agreement would require filing of SEPA applications, checklist, and fees and would require notice to neighbors for the following:

- addition of building(s) or portable(s) for expansion of existing building(s) resulting in any amount of added square footage;
- increasing the student population of the International Community School to 361 or more
- proposed revisions to the terms of our agreement."

7. The City was not a party to the Agreement or the Addendum in that it did not sign either of them.

8. In conjunction with the minor modification, LWSD agreed to implement a Transportation Management and Parking Management Plan (TMP/PMP) to prevent on-street parking by students and parents and on-street drop-off and pick-up by parents, and to reduce the number of vehicles driven to and from school (see Attachment 8 to Exhibit 1).

9. In September of 1999, the Department issued a SEPA Determination of Nonsignificance (DNS) on the proposed minor modification. The DNS included a condition stating that the conditions of the Agreement and Addendum were considered part of the application for the ICS building permit and "therefore meeting the agreement shall be a condition of the SEPA Determination". The Department then approved the minor modification to allow relocation of ICS to the subject property.

10. In the intervening years, the Department has approved minor modifications to allow 8 on-site parking stalls pursuant to the TMP/PMP, an emergency preparedness storage container, and a sports court.

Conclusions:

1. Because the Agreement and Addendum were incorporated as conditions of the SEPA DNS for the 1999 minor modification to the 1983 zoning permit for the site, they could be enforced by the Department in conjunction with the minor modification. However, because the City was not a signatory to the Agreement and Addendum, the Department could not enforce them except as conditions of the minor modification.

2. The present LWSD application is for a new Master Plan zoning permit for the site. It is not subject to the Agreement and Addendum that were made a condition to the 1999 LWSD modification request. Any action to enforce the Agreement and Addendum would require private action by those who signed the documents.

DEVELOPMENT REGULATIONS

Height

Fact: Under KZC 15.10.030, a school in an RS zone within the disapproval jurisdiction of the Houghton Community Council is limited in height to 25 feet above average building elevation, the same height limitation imposed upon detached dwelling units in an RS zone. *See* KZC 15.10.010.

Conclusion: The proposal meets the height requirement of the Zoning Code.

Student Enrollment

Facts:

1. KZC 15.10.030, Special Regulation 4, provides authority to limit the number of school attendees to reduce impacts on neighboring residential uses.

2. The Community Council has recommended that a condition be imposed on the proposal requiring a Process IIB zoning permit process for any increase in building square footage or increase in student population above 515 students.

Conclusions:

1. Limiting site enrollment to 515 students would reduce potential traffic and parking impacts on neighboring residential uses, and enrollment should be capped at that level.

2. To assure compliance with the cap on enrollment, LWSD should report total site enrollment to the City of Kirkland, Department of Planning and Development, no later than two weeks after the first school day of each academic year.

3. A condition should be imposed on the proposal requiring a Process IIB zoning permit process for any proposed increase in building square footage or increase in student population above 515 students.

Passenger Loading Area

Facts:

1. KZC 15.10.030, Special Regulations 6 and 7, read as follows:
 - A. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements....
 - B. The location of passenger loading areas shall be designed to reduce impacts on nearby residential uses.
2. Public Works Department staff reviewed the applicant's proposed passenger loading areas for buses and cars and concluded that they are adequately sized.

Conclusions:

1. The interior location of the car passenger loading area, the right-of-way adjoining the bus loading area, and required parking lot landscaping will combine to reduce the loading areas' impacts on nearby residential uses.
2. The proposed passenger loading areas comply with KZC 15.10.030, Special Regulations 6 and 7.

Traffic Impacts

Facts:

1. The City's Transportation Engineer reviewed the applicant's TIA (Exhibit 1, Attachment 21) and TMP and PMP (Exhibit 1, Attachment 27). At hearing, the Transportation Engineer indicated that although the proposed TMP/PMP is very similar to the schools' existing TMP/PMP, it is acceptable.
2. The City's Transportation Engineer recommended that the proposal be approved with conditions requiring: 1) payment of a road impact fee; 2) provision of at least 128 on-site parking spaces; 3) provision of at least 92 on-site parking stalls for school staff and students during construction; 4) rerouting of bus traffic to 111th Avenue NE or 110th Avenue NE if a three-year pattern of traffic accidents with buses on 112th Avenue NE is shown; and 5) requiring a traffic count and assessment of southbound queues on 112th Avenue NE within a year after the completion of the project, with the potential of requiring signage and notification to parents and students to use alternative streets to access the schools.
3. The Community Council recommended that the phrase "avoid negative traffic impacts and to" be inserted in the TMP and PMP at line 2 of paragraph 3, "Goals of the TMP and PMP," so that the first sentence of that paragraph would read as follows: "The goals of the Transportation Management Plan (TMP) and the Parking Management Plan (PMP) shall be to avoid negative traffic impacts and to have all parking and drop-off and pickup for ICS and CES occur on site and not on the streets, and to limit ICS vehicles driven by students to and from school each school day."

4. The Community Council recommended that language be added to the Department's recommended condition 4.b to provide that parent groups would identify a traffic liaison for communicating issues identified in the reports required by the TMP and require that the parent group use volunteers to monitor the intersection of the driveway and NE 65th Street during morning drop-off and afternoon release.

5. The Community Council recommended that paragraph 5 of the TMP and PMP be amended to add a requirement that in years that traffic studies are prepared, the City will publish the study on its website for ICS/CES on or before March 15 of that year.

6. The Community Council recommended that the TMP and PMP be made a condition of project approval.

Conclusions:

1. The evidence in the record supports the traffic conditions recommended by the Transportation Engineer, and they should be imposed as conditions of project approval.

2. The evidence in the record supports the transportation-related recommendations of the Community Council (Recommendations 3, 5, 6 and 7), and they should be incorporated into the conditions of project approval.

Parking

Facts:

1. KZC 15.10.030 does not establish a parking requirement for school uses, but defers to KZC 105.25, which authorizes the Planning Official to establish the number of required parking stalls on a case-by-case basis, based on the parking demand for the proposed use.

2. The City's Transportation Engineer reviewed the parking demand study included in the TIA. Although the parking demand rate would require only 103 stalls, the Engineer recommended that the applicant provide a minimum of 128 on-site parking stalls to accommodate daily and seasonal demand fluctuations.

3. The schools' existing parking demand of 92 stalls will require accommodation during construction.

Conclusions:

1. The minimum required number of on-site parking stalls for the proposal is 128, and the applicant's proposal of a total of 145 on-site parking stalls is therefore adequate to serve the project.

2. As part of the building permit application, the applicant should submit plans to provide a minimum of 92 temporary on-site parking stalls to serve the existing schools during construction of the project.

Landscaping Requirements

Facts:

1. KZC 15.10.030 requires a school use in the RS zone to comply with Landscape Category D.

Hearing Examiner Recommendation

File No. ZON11-00023

Page 10 of 20

2. KZC 95.42 lists the minimum buffer requirements for Landscape Category D. The subject property is surrounded on all sides by single family residential uses and requires installation of a landscape buffer that complies with Buffering Standard 2, which requires a five-foot-wide landscaped strip with a six-foot-high solid screening fence or wall. Within the landscaped strip, trees must be spaced 10 feet apart.
3. KZC 95.40.6.h states that for property occupied by a school, landscape buffers are not required along property lines adjacent to a street.
4. The site's north, west and most of the south property lines are adjacent to streets.
5. KZC 95.46.1 provides for buffer modification and requires that neighboring property owners approve such a modification in writing.
6. Although the applicant and neighbors have expressed an interest in pursuing a buffer modification to eliminate the tree planting requirement along the east, and a portion of the south property lines, the Department had not received the minimum number of neighborhood approval letters for the modification prior to the hearing.
7. The Community Council has recommended that the Department's recommended condition 6.b on the landscape buffer along the east and a portion of the south property lines be amended to add the no trees may be planted in the buffer.

Conclusion: As part of the building permit application, the applicant should submit plans for the installation of a landscaped buffer along the east, and a portion of the south property lines that complies with KZC 95.40.4, or, if a total of eight neighboring property owners agree in writing, a plan that complies with the buffer modification requirements of KZC 95.46.1. The buffering plan shall be designed to screen the schools while minimizing impacts to territorial views from neighboring properties, and no trees should be planted in the required buffer. Prior to submitting the plan, LWSD shall provide an opportunity for abutting property owners to review them and offer comments.

Natural Features – Significant Landscaping

Facts:

1. Pursuant to Chapter 95 KZC, the applicant must retain all trees with a moderate to high retention value to the maximum extent possible.
2. The applicant has submitted a Tree Retention Plan prepared by a certified arborist and a revised Plan incorporating the City's Urban Forester's recommendations (see Exhibit 1, Attachments 23, 24 and 25).
3. The Community Council has recommended that no new vegetation that would exceed 15 feet at maturity be planted on the site.

Conclusion: The applicant should retain all trees during construction as shown in Attachment 25 to Exhibit 1 and comply with the specific recommendations of the City's Urban Forester outlined in Attachment 24 to Exhibit 1. However, no new vegetation that would exceed 15 feet at maturity should be planted on the site.

Pedestrian Connectivity

Fact: KZC 105.18 requires institutional uses, including schools, to provide pedestrian walkways designed to minimize walking distances from the building entrance to the right-of-way and adjacent transit facilities. The walkways are to be five feet wide, distinguishable from traffic lanes by pavement texture or elevation, and have adequate lighting for security and safety.

Conclusion: As part of the building permit application, the applicant should submit detailed pedestrian walkway plans that comply with KZC 105.18.

Construction Impacts

Facts:

1. The Public Works Department has included a condition requiring that the applicant provide a Construction Mobilization Plan that addresses contractor parking, hauling routes, and pedestrian routing during project construction.

2. In a letter dated November 21, 2011 (Exhibit 1, Attachment 17 at 8) the applicant proposed to address construction impacts as follows:

"as outlined in section 14.1 of the SEPA checklist: The District will develop a construction management plan (CMP) to be implemented by the selected contractor that addresses traffic and pedestrian control. The CMP will define truck routes, lane closures, sidewalk closures, and parking disruptions, as necessary. To the extent possible, the CMP will direct trucks along the shortest route to arterials and away from residential streets to avoid unnecessary conflicts with resident and pedestrian activity. The CMP will identify parking locations for the construction staff. The CMP will also identify locations for school bus loading/unloading as well as parent-vehicle loading/unloading if there were periods when the existing facilities are not available. The location and access to these areas would consider walk routes to school buildings and vehicular access to the local street network."

3. As noted above, LWSD has agreed to include in construction contracts a condition prohibiting construction parking along neighborhood streets.

Conclusions:

1. Construction contracts for the proposal should include a prohibition on construction parking along neighborhood streets.

2. Prior to issuance of the building permit, the applicant should submit for review and approval by the Public Works Department, a Construction Mobilization Plan that includes a specific construction parking plan, hauling route information, pedestrian routing and other information outlined on page 8 of Attachment 17 to Exhibit 1.

Lighting Impacts

Fact: KZC 115.85.1 requires that the applicant use energy efficient light sources, comply with the Washington Energy Code concerning the selection and regulation of light sources, and select, place, and direct light sources, both directable and nondirectable, so that, to the maximum extent possible, glare produced by any light source does not extend to adjacent properties or to the right-of-way.

Conclusion: As part of its building permit application, the applicant should submit a lighting plan that is consistent with the requirements of KZC 115.85 and shows the location, height, fixture type and wattage of all proposed exterior lights.

School Location Criteria

Facts:

1. KZC 17.10.030, Special Regulation 2, provides that a school use may be located in a RS zone only if:

It will not be materially detrimental to the character of the neighborhood in which it is located.

Site and building design minimizes adverse impacts on surrounding residential neighborhoods.

The property is served by a collector or arterial street (does not apply to existing school sites).

2. The exemption from the collector or arterial street requirement for existing school sites was adopted by the City Council on January 4, 2011.

3. The phrase "materially detrimental" is not defined in the Code. "Undefined common statutory terms are given their common dictionary meaning unless there is strong evidence the [legislative body] intended something else." *Michaels v. CH2MHill, Inc.*, 171 Wn. 2d 587, 601, 257 P.3d 532 (2011). Webster's Third New International Dictionary, Unabridged, defines "material" as "2. Being of real importance or great consequence: Substantial". It defines "detriment" as "injury or damage, or something that causes it".

4. "Materially detrimental," or similar language, is commonly used in criteria adopted by local governments for variances and special or conditional use permits. For example:

A. In *Citizens to Preserve Pioneer Park LLC v. City of Mercer Island*, 106 Wn. App. 461, 24 P.3d 1079 (2001), the planning commission determined that a 133-foot wireless communication monopole would alter the character of the neighborhood and detract from property values and uses, and therefore denied a variance application for it. However, the city council determined that the commission's decision was not supported by substantial evidence. They found no evidence in the record that the pole would detract from property values or uses and concluded that it would not be "injurious to property or materially detrimental to the public welfare". A reviewing court noted with approval one councilmember's statement that the standard of "materially detrimental to the public welfare or injurious to property" was a "pretty significant standard". *Id.* at 474.

B. In *City of Medina v. T-Mobile USA, Inc.*, 123 Wn. App. 19, 95 P.3d 377 (2004), a hearing examiner granted a special use permit and height and setback variances for a T-Mobile wireless communication facility. T-Mobile suggested that the facility would not be "materially detrimental to the public welfare" because it would replace an existing light standard, adjacent properties were oriented away from the site, and the area had existing vegetation and trees that would provide screening. In addition, T-Mobile provided two limited market studies finding no evidence that wireless communication facilities had a negative impact on residential property values in the vicinity. The city planning department provided contrary opinion evidence, as did the city council, but it was not substantiated by any factual evidence in the record. The reviewing court concluded that the examiner properly determined, based on the evidence, that T-Mobile met the criteria for a variance and the application was not "materially detrimental" to the public welfare". *Id.* at 32-33.

C. By contrast, in *Deer Creek Developers LLC v. Spokane Cy*, 157 Wn. App. 1, 236 P.3d 906 (2010), a developer challenged a county's denial of a conditional use permit to construct a two-phase residential development near the Spokane International Airport and Fairchild Air Force Base. The hearing examiner concluded that the conditional use would be "detrimental to the public health, safety or general welfare". The reviewing court upheld the decision, finding that it was based on evidence in the record which established that the site would be subject to airport noise for the foreseeable future, would adversely impact the layout, length and orientation of the proposed runway would jeopardize current and future airport operations, would be located within the Fairchild Air Force Base "area of influence," subjecting future residents to significant noise and potential hazards, and that approval could violate written contractual commitments between the county and federal government to protect the airport, thereby jeopardizing the county's receipt of future federal grants. *Id.* at 913-14.

Conclusions:

1. The Examiner has no jurisdiction to consider the validity of the exemption in KZC 17.10.030, Special Regulation 2, that allows existing schools to be served by local access streets.
2. The existing schools on the site include recreational, parking and other facilities normally associated with a school use. The site plan and building have been designed to minimize view impacts on the neighborhood. The proposal will not introduce new facilities or activities that would materially impact the character of the neighborhood.
3. A lighting plan that complies with KZC 115.85.1 will minimize lighting impacts on the neighborhood.
4. The proposal will generate construction impacts, but they will be adequately mitigated by the recommended conditions of approval.

Hearing Examiner Recommendation

File No. ZON11-00023

Page 14 of 20

5. The proposed increase in student population will generate some increase in traffic impacts and an increase in parking impacts for occasional special events. However, both traffic and parking impacts will be adequately mitigated by the recommended conditions of approval.

6. For the proposal to be determined to be "materially detrimental" under KZC 17.10.030, Special Regulation 2, the record would have to include factual evidence, not just opinion, demonstrating the likelihood that the proposal would cause substantial damage to the surrounding neighborhood. There is no such evidence in the record.

7. The proposal would not be materially detrimental to the character of the neighborhood in which it is located.

STATE ENVIRONMENTAL POLICY ACT (SEPA)

Facts:

1. WAC 197-11-926(1) provides that "when an agency initiates a proposal, it is the lead agency for that proposal."

2. Pursuant to WAC 197-11-926(1), LWSD assumed lead agency status for the proposal using its own SEPA procedures (see Exhibit 6). LWSD issued a Determination of Non-significance (DNS) on March 2 2011, which was not appealed. (The DNS and SEPA Checklist are included as Attachment 18 to Exhibit 1.)

Conclusions:

1. The Examiner has no jurisdiction over the issue of the notice given by LWSD for its SEPA determination.

2. The LWSD has satisfied SEPA requirements for the proposal.

CONCURRENCY

Facts:

1. Concurrency review is a macro level review of a proposal's potential impacts on the City's transportation system. It determines whether system-wide transportation improvements are needed to accommodate the proposal's anticipated traffic while maintaining the City's adopted levels of service (volume to capacity ratios).

2. The Public Works Department reviewed the LWSD application for concurrency and on March 29, 2011, issued a Concurrency Test Notice stating that the proposal had passed traffic concurrency.

Conclusion: The City's concurrency requirements have been satisfied.

COMPREHENSIVE PLAN

Facts:

1. The subject property is located within the Central Houghton neighborhood and is designated as a public facility by the Central Houghton Neighborhood Land Use Map (Attachment 26 to Exhibit 1).

2. Policy CH-8.1 of the Central Houghton Neighborhood Plan states that opportunity should be provided "for early community involvement in any expansion plans for, modifications to, or changes in uses within schools".

3. LWSD completed a public process that included meeting with the Houghton Community Council in the latter half of 2010 to inform them of the project, assembling a modernization team composed of school staff, parents and one neighbor, posting the site during the SEPA process and reviewing comments received, creating a project website, holding two neighborhood meetings, and meeting with neighbors individually when requested.

4. Policy CH-13.1 states that the City should "pursue partnerships with schools in Central Houghton" to ensure adequate park and recreational facilities in the neighborhood.

5. LWSD's completed project will include a publicly accessible playfield, sports court and walking trail.

Conclusion: The proposal is consistent with the public facility use designation and policies within the Comprehensive Plan.

APPROVAL CRITERIA

Facts:

1. KZC 15.10.030, Special Regulations 10 requires that a school use on property five acres or more in size receive Master Plan approval through a Process IIB review. The Master Plan must show building placement and dimensions, roadways, utility locations, land uses within the Master Plan area, parking locations, buffering and landscaping.

2. KZC 152.70.3 states that a Process IIB application may be approved if it is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan, and is consistent with the public health, safety, and welfare.

Conclusions:

1. LWSD submitted development plans (Attachment 3 to Exhibit 1) that show building placement and dimensions, roadways, utility locations, land uses within the Master Plan area, parking locations, buffering and landscaping.

2. The application complies with the Master Plan requirements of KZC 152.10.030.

3. As discussed above, the proposal is consistent with all applicable development regulations and the Comprehensive Plan. Because it will provide the City with an improved school campus while minimizing impacts on the surrounding neighborhood, it is also consistent with the public health, safety and welfare. The proposal complies with KZC 152.70.3.

DEVELOPMENT STANDARDS

Fact: Additional comments and requirements placed on the project are found in the Development Standards, Attachment 4 to Exhibit 1.

Conclusion: The applicant should follow the requirements set forth in Attachment 4 to Exhibit 1.

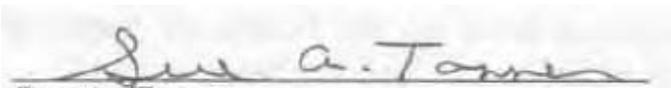
RECOMMENDATION

Based on Findings of Fact and Conclusions, the Hearing Examiner recommends that the City Council **APPROVE** the 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 4 to Exhibit 1, "Development Standards," is provided to familiarize the applicant with some of the additional development regulations. Attachment 4 does not include all of the additional regulations. If a condition of approval conflicts with a development regulation in Attachment 4, the condition of approval controls.
2. Student enrollment on the site is limited to 515 students.
3. To assure compliance with the limit on enrollment, LWSD shall report total site enrollment to the City of Kirkland, Department of Planning and Development, no later than two weeks after the first school day of each academic year.
4. A Process IIB zoning permit process is required for any proposed increase in building square footage or increase in student population above 515 students.
5. The minimum required number of onsite parking stalls for the project is 128.
6. If there is a pattern of traffic accidents with buses for 3 consecutive years, bus traffic to the school shall be rerouted via 111th Avenue NE or 110th Avenue NE where the streets are wider than 112th Avenue NE.
7. Within a year after completion of the expansion, LWSD shall make traffic counts on 112th Avenue NE. If significant traffic shifts to 112th Avenue NE, and southbound queues are 300 feet or more continuously for 10 minutes at the intersection of 112th Avenue NE/NE 65th Street, LWSD shall provide signage and notify parents and students to use 110th Avenue NE and 111th Avenue NE. The notification shall be made by letter and shall include a map illustrating the route to the school. Further, school parent groups shall use parent volunteers to monitor the intersection of the school driveway and NE 65th Street during morning drop-off and afternoon release.
8. School parent groups shall identify a traffic liaison for communicating to the parent groups issues identified in the reports required by the TMP/PMP.
9. The first sentence of paragraph 3 of the TMP/PMP (Attachment 27 to Exhibit 1), entitled "Goals of the TMP and PMP," is amended to read as follows: "The goals of the Transportation Management Plan (TMP) and the Parking Management Plan (PMP) shall be to avoid negative traffic impacts and to have all parking and drop-off and pickup for ICS and CES occur on site and not on the streets, and to limit ICS vehicles driven by students to and from school each school day."

10. Paragraph 5 of the TMP is amended to add the following sentence at the end: In the years that traffic studies are prepared, the City will publish the study on its website page for ICS/CES on or before March 15 of that year.
11. All provisions of the Transportation Management Plan and Parking Master Plan are conditions of approval.
12. The applicant shall retain all trees shown for retention in Attachments 25 to Exhibit 1 during the construction of the school and comply with the specific recommendations of the City's Urban Forester as outlined in Attachment 24 to Exhibit 1. However, no new vegetation that would exceed 15 feet at maturity shall be planted on the site.
13. As part of the building permit application, the applicant shall submit for approval by the Department of Planning and Community Development:
 - A. Plans to provide a minimum of 92 temporary onsite parking stalls to serve the existing schools during construction of the new schools.
 - B. Plans for the installation of a landscape buffer along the east and a portion of the south property lines that comply with KZC Section 95.40.4, or with the buffer modification requirements of KZC Section 95.40.6.j. The buffering plan shall be designed to screen the schools while minimizing impacts to territorial views from neighboring properties, and no trees shall be planted in the required buffer. Prior to submitting the plans, LWSD shall provide an opportunity for abutting property owners to review the plans and offer comments.
 - C. Detailed pedestrian walkway plans that comply with KZC Section 105.18.
 - D. A lighting plan showing the location, height, fixture type and wattage of all proposed exterior lights. To minimize impact to adjoining properties, the lighting plan shall be consistent with the requirements in KZC Section 115.85.1.
14. Construction contracts for the project shall include a prohibition on construction parking along neighborhood streets.
15. Prior to issuance of a building permit, the applicant or contractor shall submit a construction mobilization plan for review and approval by the Public Works Department. The plan shall include a specific construction parking plan, hauling route information, pedestrian routing and the other items outlined in the applicant's proposal, including the items outlined on page 8 of Attachment 17 to Exhibit 1.

Entered this 6th day of February, 2012, per authority granted by KZC 152.70. A final decision on this application will be made by the City Council.


Sue A. Tanner
Hearing Examiner

SUBSEQUENT MODIFICATIONS

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

CHALLENGES AND JUDICIAL REVIEW

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

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 comments or testimony to the Hearing Examiner. A party who signed a petition may not challenge unless such party also submitted independent written comments or information. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., February 15, 2012, seven (7) calendar days following 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 comments or 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 seven (7) calendar 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 comments or 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.

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 twenty-one (21) calendar days of the issuance of the final land use decision by the City.

LAPSE OF APPROVAL

The applicant must submit to the City a complete building permit application approved under Chapter 125 within four (4) years after approval of the Final PUD, or the lapse provisions of Section 152.115 will apply. Furthermore, the applicant must substantially complete construction approved under Chapter 125 and complete the applicable conditions listed on the Notice of Approval within six (6) years after approval of the Final PUD, or the decision becomes void.

TESTIMONY:

The following persons testified at the public hearing:

From the City:

Tony Leavitt, Project Planner
Nancy Cox,
Development Review Manager
Thang Nguyen,
Transportation Engineer

From the Applicant:

Mike Finnegan,
Deputy Program Manager
Forrest Miller,
Director of Support Services
Glenn Steiner, Architect
Todd McBryan,
Transportation Engineer

From the Public:

Brian Keegan
Leon Zhang
Tamer Erzuramlu
Robin Hirano
Greg Cox
Jeff Nouwens (showed video)
Daphna Robon
Amaan Kurji
Glen M. Campbell
Annette Cox
Lori Duncan
Steve Friedman
Jerry Forell
Susan Busch
Mike McGivern
Boris Pavlovic
Tania Bennett
Greta Climer
Margaret Bull
Cynthia Olsen
Mark Marshall

(Several other members of the public signed up to speak but ceded their time to one or more of those listed above.)

EXHIBITS:

The following exhibits were offered and entered into the record at the public hearing:

1. Department of Planning and Community Development Staff Advisory Report dated January 3, 2010 with 28 attachments
2. Comment Letters from Lee Anne Charouhas, Karen Anderson, Deborah Munkberg and Margaret Bull
3. Brochure on International Community School
4. Hard copy of Steiner's PowerPoint presentation
5. 2006 Lake Washington School District bond information re replacement or modernization for school projects
6. Lake Washington School District SEPA Procedures
7. Letter from Lake Washington School District to Hearing Examiner and Houghton Community Council re District's position on the Hauck Neighbor Agreement
8. Petition dated October 22, 2011 from Houghton Community Neighbors
9. Flyer from ICS to Houghton Neighbors dated January 9, 2012 re spillover parking for school events
10. Copy of Gregory Cox testimony to Hearing Examiner and Houghton Community Council
11. Two photographs showing project view impacts on Friedman residence
12. Lake Washington School District Cost Budget Analysis comparing cost to modernize vs. cost to replace ICS/CES
13. Cover memo of January 25, 2012 from Tony Leavitt Associate Planner, attached to ICS/CES traffic safety data and the SEPA determination for this 1999 LWSD request to locate ICS at the Gordon Hauck site.

Links to Hearing Examiner Recommendation Exhibits

[Exhibit 1, Part 1](#)

Staff Advisory Report

Attachments:

1. Vicinity Map
2. ICS/ CES Project Description
3. Development Plans

[Exhibit 1, Part 2](#)

Attachments:

4. Development Standards
5. 1983 Gordon Hauck Center Site Plan
6. 1999 ICS Minor Modification Request
7. 1999 LWSD/ GHN Agreement and Site Utilization Map
8. 1999 Transportation and Parking Management Plan
9. 1999 ICS Minor Modification Approval Memo
10. Email from Annette Cox
11. Email from Jeff Nouwens
12. Email from Margaret Bull
13. Letter from Susan and Ralph Busch
14. Letter from Jerry Forell
15. Email from Steve and Sharon Friedman
16. Letter from Brian Keegan
17. LWSD Public Comment Response Letter
18. SEPA Determination
19. Traffic Concurrency Memo
20. Transportation Analysis Report prepared by Heffron Transportation dated 6/3/2011

[Exhibit 1, Part 3](#)

Attachments:

21. City TIA Review Memo prepared by Thang Nguyen dated 9/8/2011
22. HCC Memo prepared by Jon Regala dated 7/13/2011
23. Tree Plan prepared by Urban Forestry Services Inc dated 7/14/11
24. City Urban Forester Review Memo prepared by Tina Cohen dated 11/9/11
25. Revised Tree Plan prepared by Urban Forestry Services Inc dated 12/18/11
26. Central Houghton Land Use Map
27. Transportation Management Plan (TMP)/ Parking Management Plan (PMP)
28. Temporary Parking Lot Plans

[Exhibits 2 thru 10](#)

Exhibits:

2. Comment Letters from Charouhas, Anderson, Munkberg and Bull
3. Brochure on International Community School

4. Hard copy of Steiner's PowerPoint presentation
5. 2006 LWSD Bond Information
6. Lake Washington School District SEPA Procedures
7. Letter from LWSD re Hauck Neighbor Agreement
8. Petition dated October 22, 2011 from Houghton Community Neighbors
9. Flyer from ICS to Houghton Neighbors dated January 9, 2012
10. Copy of Gregory Cox Testimony

Exhibits 11 thru 13

Exhibits:

13. Two photographs showing project view impacts on Friedman residence
12. LWSD Cost Budget Analysis comparing cost to modernize vs. cost to replace
- 13 Staff Memo attached to ICS/CES traffic safety data and the SEPA determination for this 1999 LWSD request to locate ICS at the Gordon Hauck site.

RESOLUTION R-4912

A RESOLUTION OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS IIB PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. ZON11-00023 BY THE LAKE WASHINGTON SCHOOL DISTRICT BEING WITHIN A RS 8.5 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS IIB PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Planning and Community Development has received an application for a Process IIB permit, filed by Lake Washington School District, the owner of said property described in said application and located within RS 8.5 zone; and

WHEREAS, pursuant to the City of Kirkland's Concurrency Management System, KMC Title 25, a concurrency application has been submitted to the City of Kirkland, reviewed by the responsible Public Works official, the concurrency test has been passed, and a concurrency test notice issued; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C, and the Administrative Guideline and local ordinance adopted to implement it, the Lake Washington School District, as SEPA Lead Agency, performed SEPA review for the application; and

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

WHEREAS, the application has been submitted to the Hearing Examiner who held hearing thereon at her special meeting of January 10, 2012; and

WHEREAS, the Hearing Examiner after her 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 approval of the Process IIB permit 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, conclusion, and recommendation of the Hearing Examiner as signed by the Hearing Examiner and filed in the Department of Planning and Community Development

File No. ZON11-00023 are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Process IIB permit shall be issued to the applicant subject to the conditions set forth in the recommendations hereinabove adopted by the City Council.

Section 3. Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinance, or regulations applicable to this project, other than expressly set forth herein.

Section 4. Failure on the part of the holder of the permit to initially meet or maintain strict compliance with the standards and conditions to which the Process IIB permit is subject shall be grounds for revocation in accordance with Ordinance 3719, as amended, the Kirkland Zoning Ordinance.

Section 5. Notwithstanding any recommendation heretofore given by the Houghton Community Council, the subject matter of this resolution and the permit herein granted are, pursuant to Ordinance 2001, subject to the disapproval jurisdiction of the Houghton Community Council or the failure of said Community Council to disapprove this resolution within sixty days of the date of the passage of this resolution.

Section 6. A complete copy of this resolution, including Findings, Conclusions and Recommendations adopted by reference, shall be certified by the City Clerk who shall then forward the certified copy to the King County Department of Assessments.

Section 7. A copy of this resolution, together with the findings, conclusions, and recommendations herein adopted shall be attached to and become a part of the Process IIB permit or evidence thereof delivered to the permittee.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012.

Signed in authentication thereof this ____ day of _____, 2012.

MAYOR

Attest:

City Clerk