



CITY OF KIRKLAND

Planning and Community Development Department
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MEMORANDUM

To: David Ramsay, City Manager **QUASI-JUDICIAL**

From: Eric Shields, AICP, Planning Director
Janice Soloff, AICP, Senior Planner

Date: April 23, 2008

Subject: **CONTINUANCE OF THE BANK OF AMERICA/MERRILL GARDENS APPEAL HEARING, FILE: DRC07-00006, CASE NO. APL08-00001**

PLEASE BRING THE CITY COUNCIL PACKET INFORMATION FROM THE APRIL 15, 2008 MEETING WITH YOU.

RECOMMENDATION

That City Council continue the April 15, 2008 open record hearing of the appeal of the Design Review Board decision on the Bank of America-Merrill Gardens project filed by Citizens for a Vibrant Kirkland (CiViK) to May 6, 2008. At the last meeting, City Council received a presentation from Planning staff, the Design Review Board Chair Jeff Bates, and the appellant (CiViK). City Council determined that no additional written materials would be accepted prior to the May 6, 2008 meeting. Staff recommends that City Council continue the appeal hearing process as outlined below, beginning with a presentation from the applicant SRM Development.

At the conclusion of the open record hearing on the matter, City Council should deliberate on the hearing then direct staff to return to the next regular City Council meeting with a resolution setting forth findings and conclusions that Council can adopt to either:

- Affirm the DRB decision; or
- Reverse the DRB decision; or
- Modify the DRB decision.

Staff recommends that the Council affirm the decision of the DRB.

RULES FOR CITY COUNCIL CONSIDERATION

Standard of Review- Kirkland Zoning Code (KZC) 142.40.11.a

Unless substantial relevant information is presented at the open record appeal hearing that was not considered by the DRB, the DRB decision shall be accorded substantial weight. The City Council may reverse or modify the DRB decision if, after considering all of the evidence in light of the design

regulations, design guidelines, and Comprehensive Plan, the City Council determines that a mistake has been made.

Scope of Review- KZC 142.40.7

The City Council shall only consider the specific elements of the DRB decision that are disputed in the letter of appeal and the City Council may only consider comments, testimony, and arguments on these specific elements.

Participation in and Conduct of Appeal- KZC 142.40.6

Only the following people may participate in the appeal: the applicant (SRM Development, LLC) or its representative; the appellant (CiViK) or its representative; and the Chair of the DRB (Jeff Bates) or his representative. Representatives of the Planning and Community Development Department may present this staff report and answer questions concerning the report and record for the City Council.

Staff recommends that the Appeal Hearing follow this order:

1. Introductory statements by Mayor and City Attorney *(Please repeat)*
2. The Planning and Community Development Department's presentation *(Completed)*
3. The appellant's presentation *(Completed)*
4. The Chair of the Design Review Board's presentation *(Completed)*
5. The applicant's presentation
6. Appellant's opportunity for rebuttal
7. Close of appeal hearing
8. City Council discussion and deliberation on appeal

Written Testimony or Comments

The parties have agreed that testimony will be given in a presentation form rather than a question and answer format. The City Council will have the opportunity to ask questions during or at the conclusion of each presentation. The parties will have the opportunity to ask questions as well.

In addition to memoranda, oral testimony, and arguments submitted by the parties that are within the scope of the appeal, the City Council may consider the DRB decision, written comments received by the DRB, the letter of appeal, written comments submitted after the DRB decision but prior to the appeal hearing, the staff report and presentation, and the DRB Chair's presentation.

Continuation of Hearing- KZC 142.40.10

The City Council may continue the hearing. If the hearing is continued, the Mayor should announce the date, time, and place of the continued hearing.