



CITY OF KIRKLAND

Planning and Community Development Department
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**ADVISORY REPORT
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS**

To: Kirkland Hearing Examiner, Sue Tanner

From: _____ Janice Soloff, AICP, Project Planner

_____ Eric R. Shields, AICP, Planning Director

Date: September 27, 2007

File: **CAMWEST PUD AND HISTORIC OVERLAY ZONE, FILE ZON07-00022**

Hearing Date and Place: October 17, 2007, 7:00 pm
City Hall Council Chamber
123 Fifth Avenue, Kirkland

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I. INTRODUCTION

A. APPLICATION

1. Applicant: Camwest Fifth Avenue LLC.
2. Site Location: 400 State Street (see Attachment 1)
3. Request: As part of this proposal, the applicant is proposing the following requests (see applicant's project description in Attachment 2):
 - a. Move the historic Nettleton house (previously Green's Funeral Home) to the southwest corner of the property to condominium Lot 25, renovate the house back to a single family home and add an attached one car garage.
 - b. A quasi judicial project related rezone to place a historic overlay zone over lot 25 to preserve the historic significance of the Nettleton house.
 - c. A preliminary and final Planned Unit Development (PUD) to construct 24 detached condominium units on the remainder of the property. An internal private road with a 5' wide sidewalk will provide access to the site between 4th and 5th Avenues. The new development will include two common recreational open spaces and retention of three groupings of trees. The detached units will look like 2-3 story single family homes in an older architectural style. Homes will face the surrounding streets with direct pedestrian access to sidewalks and garages located in the rear accessible from the internal road.

As part of the planned unit development, modifications to Zoning Code requirements are proposed to:

 - reduce front yard setbacks along 4th and 5th Avenue So.
 - average the lot coverage requirements from both PLA 6B and 6D zones
 - allow the Nettleton house to exceed the height limit from 30 to 34 feet above average building elevation
 - provide public improvements beyond what the code requires on 4th Avenue So by widening the street and installing sidewalks to provide on street parking abutting the subject property
4. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
5. Summary of Key Issues and Conclusions: Key issues are meeting the criterion for approving a planned unit development, historic overlay zone, the significant historic features of the house and site, and retention of trees. See Section I.B. below for staff recommendations.

B. RECOMMENDATIONS

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend 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 11, 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 11, the condition of approval shall be followed (see Conclusion II.G).
2. Following approval of the zoning permit, trees shall not be removed or altered except as approved by the Planning Department. Attachment 11 Development Standards contains specific information concerning tree retention requirements. Additionally, the applicant shall implement the following recommendations of the City's Urban Forester (see Conclusion II.E.6):

Trees #37 (Beech), 40 (Beech) 42 (Oak) are of historic age and shall be considered landmark trees based on their species, age, excellent condition and as defined in KZC Chapter 95. Other viable trees worth saving are the Katsura trees along the east property line. Trees recommended to be removed per the applicant's arborist are shown on the tree retention plan.

HISTORIC OVERLAY

3. Prior to building permit issuance for the first detached condominium unit the applicant shall submit building permits to move and renovate the Nettleton house. The building permit plans for the Nettleton house shall reflect the drawings submitted in File ZON07-00022 including the following (see Conclusion II.D.1):
 - a. The Nettleton house front yard setback shall be approximately 80' from the front property line on State Street (excluding the front porch) and no less than 12' to the 5th Avenue So. property line (after dedication) in order to move house further outside of the drip line of tree #40 (see Conclusion II.D.3).
 - b. Maintaining a clear view of the Nettleton house from State Street is an aspect for retaining the historic integrity of the house therefore, predominately low growing landscaping shall be installed. The proposed fence in Tract A and within lot 25 shall not exceed a height of 4 ft. In order to provide an open view of the front façade, it may be necessary to prune the existing trees to be retained if doing so will not impact the health of the trees. An arborist should be consulted before pruning occurs. (see Conclusion II.D. 1 and E.7).
 - c. When relocated the Nettleton house shall not exceed the current building height (see Conclusion II.D.3).
 - d. With the exception of removing the rear addition and adding the one car garage, the exterior of the Nettleton house shall not be altered, other than minor repair and maintenance, unless approved through a separate permit under Zoning Code Section 75.35 (see Conclusion II.D.1).

The exterior renovation of the home and any future work should retain the historic integrity of the structure; existing historic materials on the exterior of the house shall be repaired or replaced in kind only as needed or required by energy or building codes. Replacement of original windows and doors, exterior trim details, and siding should only be done if the existing is beyond repair. Wood windows should not be replaced with vinyl or metal, and should maintain the historic muntin pattern. Wood siding should not be replaced with vinyl, metal, or any fiber cement product. (see Conclusion li.D.1).

4. Prior to occupancy of the Nettleton house the applicant shall:
 - a. Install required landscaping as shown on the landscape plan and required by KZC Chapter 95 (see Conclusion II.E.7).
 - b. Install an interpretive sign to be located in the northwest corner of Tract A adjacent to the sidewalk describing the historical significance of the house. In addition, a small plaque shall be installed on the façade of the Nettleton house near the front entrance identifying it as a historic landmark stating the name of the house, date when it was originally constructed and renovated (see Conclusion II.D.1)

PLANNED UNIT DEVELOPMENT

5. As part of any Land Surface Modification permit or application for the first building permit, the applicant shall:
 - a. The applicant's arborist shall provide recommendations on tree protection measures during the engineering and construction activity stages. At a minimum all construction activity shall follow the tree protection techniques contained in Development Standards (Attachment 11) (see Conclusion II.E.6).
 - b. Submit for recording with King County a landscape protective easement over the three trees to be preserved to ensure the trees are retained in perpetuity (Beech trees #40, #37 and Oak tree #42). Normal maintenance of the trees shall be allowed under the supervision of a certified arborist (see Conclusion II.D.1 and E.6).
 - c. Submit plans for installing the required public improvements described in the Public Works Development Standards in Attachment 11. Prior to installing these improvements, plans must be submitted for approval by the Department of Public Works. (see Conclusion II.E.3, 8 and G).
 - 1) The interior private access road shall be a minimum of 20' pavement with vertical curbs with a 5 ft wide sidewalk (outside the 20' roadway width). Revise plans for the pedestrian walkways to show scored or patterned concrete cross walks across the asphalt road on the north, south and east portions of the road.
 - 2) Along State Street property frontage, install new street improvements including curb return bump outs, a landscape strip and street trees located next to the curb, and dedication of 2' for right of way and underground overhead utility lines.
 - 3) Along 4th Avenue So. Property frontage, widen to 28' feet and install a 5' wide sidewalk adjacent to the curb and landscape strip with street trees planted along the property line. Record a 5' wide public easement over the property to retain the landscape strip.

- 4) Along 5th Avenue So. Dedicate 15 ft. of property for right of way along the entire south property line. Remove and replace any cracked curb, gutter or sidewalk, otherwise the existing street improvements may remain. Record a 3' wide landscape easement along the entire south property line to encompass a landscape strip planted with street trees.
- d. The applicant shall submit a recorded document indicating ownership and maintenance responsibilities for the private road and show the sign locations on the plans (see Conclusion II.E.2).
- e. The height of the new detached dwelling units shall not exceed the allowed building height in PLA 6B and PLA 6D of 30' above average building elevation.
- f. Required yard setbacks are approved as follows and measured from the property line after dedication (see Conclusion II.D.3):

4th Avenue So. front yard setbacks: 11' to the new building structures and 8' to the front porch.

5th Avenue So. front yard setbacks: 12' to the building structure and 10' to the front porch.
6. Prior to occupancy of the new detached condominium homes, the applicant shall:
 - a. Submit a copy of the homeowners association covenants for the Planned Unit Development which shall include a provision that the public benefits listed in Attachment 2 cannot be modified by the residents of the PUD. The covenants shall be recorded with the King County Department of Record and Elections prior to issuance of an occupancy permit.
7. 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.E.8).
8. If approved by City Council, the City shall change the Zoning Map by rezoning to place a historic overlay over lot 25 and add a PUD designation over the entire subject property (see Conclusion II.D.1, D.2.and D.3).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:
 - a. Facts:
 - 1) Size: 105,988 sq. ft. or 2.43 acres.
 - 2) Land Use: The site currently contains the Nettleton house previously operated as the Greens Funeral Home and one single family home (to be demolished) (see Attachment 3).
 - 3) Zoning: The subject property straddles the PLA 6B and PLA 6D zones. The development proposal must comply with the zoning requirements of KZC Sections PLA 6B 60.62.020 and PLA 6D 60.72.020. PLA 6B permits a density of 3600 sq. ft. of lot area per dwelling unit and office uses. PLA 6D allows a

higher density of 1800 sq. ft. per unit. Based on the size of the subject property within each zone, the applicant could construct 42 detached, attached or stacked residential units instead of the 25 units proposed. (see Attachment 3 and 8).

4) Terrain and Vegetation: The site is elevated above State Street and gently slopes up to the east. The northwest corner of the site contains a paved parking lot. An arborist report was submitted evaluating the condition of each tree (see Attachment 9). Three trees are recommended for preserving as landmark tree status in the southwest corner of the property because of their age, species, and condition as well as two other groups of trees (See section II.D.6 for more detail on the trees). (see Attachment 3).

b. Conclusions: The size, current land use, terrain and vegetation are not constraining factors in development of the site. The applicant is proposing less units than the zoning allows. The development proposal has taken the location of the existing trees into consideration in the layout of the project. To ensure preservation of the three landmark trees in perpetuity a landscape greenbelt protective easement covenant should be recorded over the trees. Trees on the tree retention plan should be protected during construction and maintained to ensure survival pursuant to the requirements of Chapter 95.

2. Neighboring Development and Zoning (see Attachment 1):

a. Facts:

North: Across the street is a Church in the PLA 6B zone.

East: Three story multi family buildings in the PLA 6D zone.

South: Across the street in PLA 6B are two single family homes and in PLA 6D, two three story apartment buildings.

West: Across the street are one Church and an office building in the PLA 6B zone.

b. Conclusion: The surrounding neighborhood development is a mix of multi family and single family homes, office uses and churches. The proposal is compatible in use and scale with the neighboring development.

B. HISTORY

1. Facts: The historical significance of the site is discussed under the evaluation of how the applicant's request for a historic overlay zone in Section II.D.1. Over the past few years the following development activity has occurred on the site:

a. A chapel was moved from the subject property to the church across the street on 4th Avenue So. (MOV06-00016).

b. Permit records show the following structures on site were demolished: a triplex, garage, shed and one single family home (BLD06-00182, BLD04-00016).

c. Clean-up of petroleum contaminated soil related to the previous funeral home use was removed and is undergoing continued monitoring (LSM06-00024, SEP06-00015).

2. Conclusion: The applicant donated the chapel structure to the church across the street. In preparation for redevelopment of the site the applicant has cleaned up the contaminated soil and will continue to monitor the site pursuant to Department of Ecology standards (this is not a constraining factor for redevelopment of the site).

C. PUBLIC COMMENT

1. Facts: The following is a summary of the public comments received to date (see Attachment 4):
 - Email from Moss Bay Neighborhood Association on 8/13/07 supporting the applicant's plan to restore the Nettleton residence and retain many of the trees.
 - Email from Cheryl Allen on 8/20/07 related to the location of house number 13. She believes the house will block her view of Lake Washington the City of Seattle because it will be less than the required 20' setback from 5th Avenue So. She requests the 20' front yard setback requirement be retained along 5th Avenue So.
 - Email from Marypat Meuli on 8/23/07 requesting that some of the open space in the project be available for a pea patch.
 - Email from Teresa Todd on 8/27/07 regarding existing traffic back ups along State Street in the evenings and the difficulty of turning left during these times. The addition of the new homes will worsen this problem. She also objects to the tree removal and construction noise that will occur.
 - Email from Theresa Jones on 9/5/07 objecting to the tree removal and noise during construction.

Conclusions: All parties who have provided comments on the proposal will be included as a party of record. Three groups of trees will be retained. Comments regarding the reduced front yard setbacks are discussed under the PUD Section II.D.3 below. City policy CC-4-5 of the Comprehensive Plan states that public scenic views and view corridors should be protected but private views are not protected. The Moss Bay Neighborhood Plan does not identify a private view corridor over the subject property. In response to one of the comment letters from a neighbor to the east concerned about view impacts along 5th Avenue So from their second story, it is difficult to judge if the home on lots 13, 14, 15 were to meet the 20' front yard setback would that lessen the impact on view obstruction. Trees to be removed will open up views for residents to the east. During construction, the applicant will need to comply with limits on the hours of construction activity of KZC Section 115.25 to protect impacts of construction on residential uses.

D. APPROVAL CRITERIA

The following is staff's analysis of how the applicant's development proposal complies with the approval criteria for 1) a historic overlay zones in KZC Chapter 72, 2) a quasi judicial rezone to place a historic overlay over the Nettleton house in KZC Chapter 130, 3) a preliminary and final Planned Unit Development in KZC Chapter 125 and 4) a Process IIB zoning permit process in KZC Chapter 152.

The applicant's response to these criteria are described in Attachment 2.

1. HISTORIC OVERLAY ZONE, KZC CHAPTER 72

a. Facts:

- 1) Section 75.10 establishes that the City will review and decide upon a proposal to designate an area as an Historic Landmark Overlay Zone on the Zoning Map using the nonproject quasi judicial rezone provisions of KZC Chapter 130.
- 2) A historic overlay is proposed over lot 25 once the Nettleton house is moved and renovated.
- 3) Section 75.20 establishes the criteria for approving designating an area as a Historic Landmark Overlay Zone if it finds that the rezone criteria of KZC Section 130.45 are met and either of the following criteria are met:

Either:

- a. The property contains an object, improvement, or site that is more than 40 years old, and that possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:
 - 1) Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or
 - 2) Is associated with the lives of persons significant in national, state or local history; or
 - 3) Embodies the distinctive characteristics of a type, period, style or method of design or construction, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
 - 4) Has yielded, or may be likely to yield, information important in prehistory or history; or
 - 5) Is an outstanding work of a designer or builder who has made a substantial contribution to the art; or
- b. The property contains an object, improvement or site which does not meet the criteria listed in subsection (1)(b)(1) of section 75.20 but which is:
 - 1) A religious property deriving primary significance from architectural or artistic distinction or historic importance; or
 - 2) A building or structure removed from its original location but which is significant primarily for its architectural value, or which

is the surviving structure most importantly associated with an historic person or event; or

- 3) A birthplace, grave or residence of an historic figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life; or
- 4) A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
- 5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- 6) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historic significance; or
- 7) A property achieving significance within the past 40 years if it is of exceptional importance.

NOTE: The criteria listed in subsection (1) (b) of this section are, with slight modification, the criteria used in evaluating entries to the National Register under the National Historic Preservation Act of 1966.

Staff's Response: The Nettleton house was originally constructed in 1914 by Clark M. Nettleton who was from Ohio and used as his residence for his family. In 1929 Bleitz Funeral home purchased and remodeled the home with an addition in the rear of the house. In 1937 Chester and Agnes Green resided in the home and began operating the Green's Funeral Home on the site until 2004 when it ceased operation. More information regarding the history of the past owners, the property and architectural features of the house is in Attachment 6, a historic inventory and Attachment 7 letter from the Office of Archaeology and Historic Preservation.

The house is of the southern Colonial Revival architectural style which is unusual in Kirkland. After moving the house to the southwest corner of the property to lot 25, the applicant plans to renovate the house by returning the home to a residence by removing the addition on the rear of the home and constructing an attached one car garage in the same architectural style as the home. A letter from Todd Scott with the King County Historic Preservation Program provides recommendations for the renovation of the house and the significant historic features of the home (see Attachment 7). Section 75.25 establishes that if City Council adopts an ordinance designating an area as an Historic Landmark Overlay Zone on the Zoning Map the ordinance must include 1) the boundaries of the area, a description of the improvement, object or site or significance sufficient to identify its location and 2) the significant features of the improvement, object, or site to which the restrictions of KZC 75.30 and 75.50 apply.

- 4) Section 75.30 establishes that if approved, a Historic Landmark Overlay zone (HL) will be placed over the area on the Zoning Map. As a result of the zone the following will apply:

- a. No significant feature in KZC 75.25.2 may be altered and
- b. The City may require a sign to be posted on the property identifying the historic landmark and
- c. Where there are conflicts with Zoning Code requirements, the provisions of the sections 75.30 and 75.50 the requirements of Chapter 75 shall apply.

- b. Conclusions: Based on the above analysis the applicant's proposal meets the criteria for a Historic Landmark Overlay Zone.

The original Nettleton house is 93 years old and possesses integrity of location, design, setting, materials, workmanship and characteristics of a Colonial Revival house unique in Kirkland. The new location for the house will be setback at a similar distance from the street and at approximately the same elevation as it currently exists on the property. Retention of several of the mature trees on site will create an established landscaping around the house. The proposal meets the above criteria.

Prior to occupancy of the building permit for the Nettleton house, the applicant should place at the entrance to the house a historical marker or sign that identifies the house when it was originally built and renovated. A second interpretive sign shall be placed in an open space adjacent to the sidewalk along State Street describing the historical significance of the Nettleton house and landmark trees. The design, materials and location of the marker and signs should be approved by the Department of Planning and Community Development.

The new garage should be limited to a one car garage, one story in height and constructed in the same architectural style and materials of the Nettleton house. The design and materials of the garage should be approved by the Department of Planning and Community Development as part of the building permit for the house.

The area between the Nettleton house and State Street should be kept open so it is visible from the street. Landscaping between the house and State Street should be of a low growing variety. It may be necessary to do minor limbing up of the existing trees to be retained to maintain the visibility under the supervision of an arborist. The fence shall be low, no taller than 4 ft.

The applicant should provide a surveyed drawing and legal description to describe the historic overlay boundary over lot 25.

If approved by City Council, the Zoning Map should be changed to add the historic overlay boundary to lot 25.

The proposal meets the criteria for a quasi judicial non-project rezone as described below in Section 130.45.

2. QUASI JUDICIAL NONPROJECT REZONE CRITERIA OF KZC SECTION 130

- a. Facts: The criteria for a nonproject quasi judicial rezone are contained in Section 130.45 KZC and listed below. A response from the applicant in Attachment 2:
- 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 propose rezone is appropriate because either:
 - a. Conditions in the immediate vicinity have so markedly changed since the property was given its present zoning and that under those changed conditions a rezone is within 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 Chapters 70 through 80 KZC; provided, that a showing of changed conditions pursuant to subsection (4) of this section is not required if the rezone will implement the policies of the Comprehensive Plan.
- b. Conclusions: The proposal meets the requirements of Criterion 1. The proposed rezone is consistent with the Comprehensive Plan for land use and preservation of historic structures (see Conclusion II.F). The proposed rezone bears a substantial relation to public health, safety or welfare. By establishing a historic overlay zone ensures preservation of the historic Nettleton house for the future. The proposed rezone is in the best interest of the residents of Kirkland since it will preserve and protect one of the City's historic structures (see Conclusion II.D.1). The proposed rezone is appropriate because the rezone will place an historic overlay zoning designation on the Zoning Map and meets the designation criteria of Chapter 75.

3. PUD APPROVAL CRITERIA OF KZC SECTION 125

- a) Facts:
- 1) The applicant is requesting a preliminary and final PUD with this approval. The applicant's response to these criteria can be found in Attachment 2. Based on the following analysis, the application meets the established criteria for a PUD.
 - 2) Section 125.20 establishes that zoning code provisions may be modified. The PUD proposal includes a request to modify the following Zoning Code requirements in PLA 6B and PLA 6D:
 - o Reduce the required 20' front yard setbacks along the street frontages (measured from new property lines after dedication):
 - 4th Avenue So: 11 feet to house; 8 feet to porch
 - 5th Avenue So: 12 feet to house; 10 feet to porch (new units and Nettleton house).

- State Street: No front yard setback modification requested. A minimum of a 20' front yard setback will be provided for all new structures. KZC Section 115.115 allows covered porches to be located within 13' of a front property line if certain criteria are met.
- Widen 4th Avenue South from 24 feet to 28 feet (beyond what is required by code) and add a 5 foot wide sidewalk next to the curb on the south side of the street to allow for on street parking. (see Attachment 8).
- Average the two lot coverage requirements in PLA 6B of 70% and 6D of 60% over the entire project to 66.8%, because the subject property straddles both zoning districts. (see Attachment 8).
- Allow the existing Nettleton house to exceed the maximum building height requirements of 30 feet in PLA 6B because of its current height of 33'.

Staff Response: The proposed modifications are not prohibited by Section 125.20.

- 3) Zoning Code section 125.35 establishes four decisional criteria with which a PUD request must comply in order to be granted.
- a. PUD Criterion 1: The proposed PUD meets the requirements of Zoning Code Chapter 125.
 - b. PUD Criterion 2: Any adverse impacts or undesirable effects of the proposed PUD are clearly outweighed by specifically identified benefits to the residents of the city.

Staff Response: As with other multi family projects tree removal will occur. The applicant is retaining viable trees where feasible (open spaces and setback yards) and still meet their redevelopment goals. New landscaping and street trees will be planted (see landscape plan).

In comparison the site plan will look and function like a typical subdivision for single family homes with an internal private road and common recreational open space, only smaller lots. The new 2-3 story detached dwelling units will have 2-3 car garages and range in size from 2100 to 3500 sq. ft. similar in size and scale of a single family development. The detached dwelling units are separated by 8 feet or greater.

As a result of the reduced front yard setbacks along the side streets, direct access from the front door to the sidewalk and garage access from the rear of the home, visually the streetscape will be more pedestrian oriented.

Widening 4th Avenue So and installing a sidewalk exceeds the Zoning requirements and therefore, will be a public benefit to the surrounding neighborhood residents.

The majority of the site is within PLA 6B which allows the greater lot coverage. Averaging the lot coverage to 66.8% will not have a significant impact to the City.

The Nettleton house building height is an existing non-conformance. Requiring the house to conform to 30' in height would require the house to alter the historic significance of the house.

- c. PUD Criterion 3: The applicant is providing one or more of the following benefits to the City as part of the proposed PUD:
- The applicant is *providing public facilities* that could not be required by the City for development of the subject property without a PUD.
 - The proposed PUD will *preserve, enhance or rehabilitate natural features of the subject property* such as significant woodlands, wildlife habitats or streams that the City could not require the applicant to preserve enhance or rehabilitate through development of the subject property without a PUD.
 - The design of the *PUD incorporates active or passive solar energy systems*.
 - The *design of the proposed PUD is superior* in one or more of the following ways to the design that would result from development of the subject property without a PUD:
 - Increased provision of open space or recreational facilities.
 - Superior circulation patterns or location or screening of parking facilities.
 - Superior landscaping, buffering, or screening in or around the proposed PUD.
 - Superior architectural design, placement, relationship orientation of structure.
 - Minimum use of impervious surfacing materials.

Staff Response:

Public improvements are proposed such as widening 4th Avenue South from 24 to 28 feet and providing a sidewalk on the south side of the street adjacent to the property to allow for on street parking for the homes beyond what the zoning requires and new sidewalks and street trees along State Street.

Approximately 20 trees will be retained on site. Of these, 3 are recommended by staff to be preserved as landmark tree status other trees are shown to be retained along the east property line and a cluster of fir trees in the center of the site.

No passive solar energy systems are planned for the project.

The site plan shows superior circulation patterns and parking facilities with the placement of nearly all the garages to the rear of the units not visible from perimeter streets, providing an internal pedestrian walkway in connecting the interior of the site to perimeter streets.

Landscaping will be planted in all common areas surrounding the units. Street trees will be planted on all three perimeter streets.

The new homes will have an older architectural style to complement the historic Nettleton residence. The design of the project is consistent with the Design Principles for Residential Development in Appendix I of the Comprehensive Plan encouraging front entrances facing the street, direct pedestrian access to sidewalks, garages in the rear of the homes, internal pedestrian connections, use of porches, compatible architectural style, and use of natural building materials. Common recreational space exceeds the size minimum of 5,000 SF but lacks the minimum width of 40'.

- d. PUD Criterion 4: These criteria related to special needs housing is not applicable.
- b. Conclusions: The proposal complies with the criteria in Section 125.20 for the reasons above. There are no adverse impacts or undesirable effects of the proposal beyond what the zoning or policies support. The proposed modifications of the reduced front setback yards increase in height for the Nettleton house, averaging the lot coverage should be approved. The proposal will provide public facilities of the street improvements that will be a benefit to the neighborhood and trees will be retained. The design of the PUD is superior in the amount of open space, circulation pattern, landscaping, superior architectural design and orientation of the homes on the site are consistent with residential design principles in the Comprehensive Plan.

4. PROCESS IIB APPROVAL CRITERIA

- a. Facts: Zoning Code section 152.70.3 states that a Process IIB application may be approved if:
 - 1) It is consistent what all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - 2) Is consistent with the Public health, safety, and welfares.
- b. Conclusions: The proposals comply with the criteria in Section 152.70. The are consistent the Comprehensive Plan, public health, safety and welfare because a historic resource will be preserved and protected and the proposed PUD site design will be consistent with surrounding development in the area.

E. ZONING REGULATIONS

- 1. General Zoning Requirements for PLA 6B, Section 60.60 and PLA 6D, Section 60.7 zones (see Attachment 8):
 - a. Building height- 30' above average building elevation.
 - b. Required yards for property- 20' front yards along State, 4th and 5th Avenue. 5' side yard along east property because the property contains 3 front yards. The applicant proposes to reduce the front yard setback for the new homes from 20' to 11-12 feet and porches, 8-10' to the property line.
 - c. Porches may extend 13' to front property lines- KZC Section 115.115 states that in residential zones, covered entry porches may be located within 13 feet of the front property line if certain criteria are met such as: the porch is one story and no higher than 4' above grade, open on 3 sides, roof form is compatible with house, no living area is on top of the porch roof, and the width does not exceed 50% of the façade. As allowed per

code, along State Street the applicant may choose to locate the porches up to 13' from the front property line (after dedication).

Conclusions: The new detached condominiums will meet height requirements. Zoning regulations encourage the front façade to extend closer to the front property line and garages behind. The proposed front yard setbacks seem reasonable and still provide opportunities for landscaping or lawn along the street.

2. Internal Vehicular Access Road

a. Facts:

- 1) Zoning Code section 105.10 and emergency access requirements establish dimensional standards for vehicular access easements or tracts. The internal access road is required to be a minimum of 20' of unobstructed pavement in a 20 foot wide easement and no parking signs or painted markings along the pavement.
- 2) The applicant is proposing a 20' wide internal access road within a separate Tract B with front entrances on both 4th and 5th Avenue So. Shorter, narrower access driveways provide access to individual units.
- 3) The road shall be segregated into a separate tract in which all property owners have common ownership and recording the tract document. The recorded documents must establish equal maintenance responsibilities for the owners of the property served by the roadway and require the owners to erect and maintain a sign where the easement or tract joins the serving improve public right of way to identify the road as private.

b. Conclusions: Prior to the issuance of a land surface modification permit the applicant shall submit a recorded document indicating ownership and maintenance responsibilities for the private road and show the sign location on the plans.

3. Pedestrian Circulation

a. Facts:

- 1) Zoning Code section 105.18 requires a minimum 5' wide pedestrian path be provided between uses on site and the adjacent streets. The applicant is showing a 5' wide internal pedestrian pathway system connecting the units to adjacent streets in all directions. Homes along State Street, 4th Avenue and 5th Avenue So. will provide direct pedestrian walkways to each street with garage access in the rear along the internal access road.
- 2) Staff recommends that stamped concrete (or similar material) crosswalks be added on the north, south and east to make pedestrian connections from the sidewalks across the road (see Attachment 3).

- b. Conclusion: The proposed vehicular access Tract B complies with section 105.10. A 20-foot wide paved road should be installed within the proposed vehicular access tract. The 5' wide pedestrian walkway complies with Section 105.18. The plans should be revised to show scored or pattern concrete (or similar material) pedestrian crossings inlaid into the asphalt to make pedestrian connections at the north, south and east access points.

4. Parking

- a. Facts: KZC Sections 60.62.020 and 60.72.020 establish that for detached dwelling units must 1.7 parking spaces per unit is required. Guest parking stalls at .5 per unit are recommended in Section 105.20. Each detached dwelling unit will have 2-3 car garages. 7 guest parking stalls will be available on site. All but 11 homes will have direct pedestrian access to the adjoining sidewalks for guests to park along the street.
- b. Conclusions: The 7 guest stalls in the center of the site are adequate to serve the internal lots without direct pedestrian access to perimeter streets. On street parking is adequate to serve as guest parking for perimeter homes. The proposal complies with parking requirements.

5. Common Recreational Open Space

- a. Facts:
 - 1) Common recreational space requirements for KZC Section 115.23 establish that detached dwelling units in PLA 6B and PLA 6D zones must contain at least 200 sq. ft. per unit of common recreational space. In this case, 5,000 sq ft is required. The open space must be in one or more pieces having a length and width of at least 40 feet. The open space must be usable for a variety of active and passive recreational activities that is not covered by residential buildings, parking or driving areas; not covered by vegetation that impedes access and is not on a slope that is too steep for recreational activities.
 - 2) Tract A, in front of the relocated Nettleton house will meet the dimension and exceeds the size requirement for common recreation open space. The area will contain a seating area with benches, a low sitting wall, lawn and mature trees. Tract C (8,032 SF) will not meet the dimension requirements but will provide for open space for a pedestrian path, bench and retention of trees. The homes will have individual private spaces such as patios, porches and decks.
- b. Conclusions: The proposal exceeds the amount of common recreation open space required for the number of units. Tract A alone meets both the size and dimension requirements for common recreational space for the entire property. The use of the open space is more passive rather than recreational because of the location of the trees, topography and pedestrian pathways. The development's covenants shall state that both Tract A and C are available to all the residents of the development as common recreational open space.

6. Natural Features – Tree Retention

- a. Facts:
 - 1) Regulations regarding the retention of trees can be found in Chapter 95 of the Kirkland Zoning Code. The applicant is required to retain at least all viable trees located in required yards and landscaping areas if feasible given the development goals. A Type II tree plan will be required describing tree removal and protection

techniques at the land surface modification and building permit stages of development.

- 2) The applicant has submitted an arborist report prepared by a certified arborist (see Attachment 9). Attachment 11, Development Standards states the requirements for tree retention prior to and during construction activity.
- 3) The City's Arborist has reviewed this plan and made specific recommendations concerning the applicant's tree plan, including the following preserving three trees as landmark trees (#37, #40, and #42) and retaining trees along the east property line. The applicant's arborist recommends removing the grouping of fir trees in the center of the site because of the health of the trees. The applicant will try to retain these trees.

b. Conclusion:

The applicant has submitted an arborist report evaluating the viability of each tree on site and indicated the trees to be retained in Attachment 3. The applicant should retain all viable trees during the construction of plat improvements and residences and comply with the specific recommendations of both the applicant's and City's arborist. During construction the arborist shall oversee protection of the trees shown to be retained. The applicant has agreed to retain the trees recommended for retention by the City's arborist including the landmark trees. Prior to final inspection the applicant shall submit a recorded document ensuring the preservation of the 3 landmark trees and record a maintenance agreement for the other trees shown to be retained.

7. Landscaping Requirements

- a. Fact: Zoning Code PLA 6B section 60.62 and PLA 6D 60.72 requires detached dwelling units to comply with Landscape Category D in Section 95.40. Because the subject property is adjacent to medium or high density residential uses to the east, institutional uses to the North and West and a mix of low density and high density across the street to the south no perimeter landscape buffer is required. The applicant must comply with the supplemental landscaping standards of Section 95.40.5 for any area of the property that is not covered with a building, vehicle circulation area, or committed to being used for a specific purpose. Attachment 3, Sheet L.1 shows the proposed landscape plan and street trees to be planted with the project.
- b. Conclusion: Pursuant to Zoning Code section 95.40.5. the applicant shall install the on site landscaping as proposed and pursuant to the installation standards in Section 95.45. In order to ensure that the landscaping is adequately maintained in good condition, prior to occupancy the applicant shall provide an as built landscape and agreement to maintain and replace all landscaping required by the City.

8. Right-of-Way Improvements

- a. Facts: KZC Chapter 110 requires the applicant to comply with the requirements of Chapter 110 of the Zoning Code with respect to dedication and improvement of adjacent right-of-way. Zoning Code Chapter 110 establishes right-of-way improvement requirements:

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 4th Avenue So,

State Street and 5th Avenue So. this is shown on the City Rights-of-Way Designation Map as a minor arterial and neighborhood access street. Section 110.35 and 110.45 and Development Standards in Attachment 11 establishes that the streets must be improved with:

- b. Conclusions: Pursuant to sections 110.10 and 110.25, the applicant should improve the one-half of the right-of-way immediately adjacent to the subject property, consistent with the standards set forth in Section 110.35, 110.45 and Attachment 11.

9. Bonds and Securities

- a. Fact: Zoning Code section 175.10.2 establishes the circumstances under which the City may consider the use of a performance security in lieu of completion of certain site work prior to occupancy. The City may consider a performance security 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 Zoning Code section 175.10.2.

F. COMPREHENSIVE PLAN

1. Fact: The subject property is located within the Moss Bay Neighborhood. Figure C-2 on page XV.D-3 of the Comprehensive Plan designates the west portion of the subject property as PLA 6B for office/multi-family uses at 12 dwelling units per acre and the east side of the property as PLA 6D allowing for high density multi family 12-24 units per acre (see Attachment 10). Preservation of historic structures is supported by goals and policies in the following sections of the Comprehensive Plan:
 - a. Framework Goal 5 states “Identify, protect and preserve the City’s historic resources, and enhance the identity of those area and neighborhoods in which they exist.
 - b. The Nettleton residence is designated as a Community Landmark in the Community Character Element. Goal CC-2 of the Community Character Element states “Preserve and enhance Kirkland’s historic identity”. Policy CC-2.1 is to “Preserve historic resources and community landmarks of recognized significance”. Policy CC-2.3 is to “Provide encouragement, assistance and incentives to private owners for preservation, restoration, redevelopment, reuse and recognition of significant historic buildings and sites. Policy CC-2.4 states “Buildings that are recognized as historic resources by the City should be considered when adjacent structures are being rebuilt or remodeled. The proposed new detached dwelling units will function like single family homes and the new homes will be architecturally designed to complement the historic Nettleton residence (see Attachment 3).
 - c. See discussion above in Section II.D.3 regarding consistency with Design Principles for Residential Development found in Appendix I.
2. Conclusion: The proposed historic overlay zone is in keeping with the goals and policies of the Comprehensive plan.

G. DEVELOPMENT STANDARDS

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 11.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 11.

H. STATE ENVIRONMENTAL POLICY ACT (SEPA)

1. Facts: A Determination of Non-significance (DNS) was issued on September 12, 2007 (see Attachment 5). A copy of the attachments to the DNS such as the environmental checklist and supporting documentation are located in File No. ZON07-00022 in the Planning Department.
2. Conclusion: The applicant and City have complied with the requirements of the State Environmental Policies Act.

I. CONCURRENCY

1. Facts: The Public Works Department has reviewed the application for concurrency. The proposal passed the concurrency test for water, sewer and traffic on February 16, 2007.
2. Conclusion: The Concurrency Test Notice shall expire in one year or February 16, 2008 unless a Certificate of Concurrency is issued with approval of a development permit or building permit. A Certificate of Concurrency shall expire six years from the date of issuance of the concurrency test notice unless all building permits are issued for buildings approved under the concurrency text notice.

III. 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.

IV. 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.

A. 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., _____, 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.

B. 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.

V. LAPSE OF APPROVAL

Under Section 152.115 of the Zoning Code, the applicant must begin the development activity or submit to the City a complete building permit application for the development activity, use of land or other actions approved under Chapter 152, within four (4) years after the final approval on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 152.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. Furthermore, the applicant must substantially complete the development activity approved under Chapter 152 and complete the applicable conditions listed on the Notice of Approval within six (6) years after the final approval on the matter, or the decision becomes void.

VI. APPENDICES

Attachments 1 through 11 are attached.

1. Aerial vicinity map and zoning
2. Applicants project description and response to approval criteria
3. Development Plans
4. Comment letters and emails (including KC letter)
5. Environmental determination
6. Historic inventory
7. Letter from King County Historic Preservation Office
8. Zoning for PLA 6B section 60.60 and PLA 6D section 60.70
9. Arborist report
10. Comprehensive Plan sections
11. Development Standards

VII. PARTIES OF RECORD

Applicant: Bruce Knowlton, Vice President for Development, Camwest Development, 9720 NE 120th PL, Suite #100, Kirkland WA 98034

Department of Planning and Community Development

Department of Public Works

Department of Building and Fire Services

Cheryl Allen, 326 5th Avenue So, Kirkland WA 98034

Theresa Jones, 315 5th Ave S #202, Kirkland WA 98033

Marypat Meuli, 489 2nd Avenue So., Kirkland WA 98033

Teresa Todd, 315 5th Avenue So. #102, Kirkland WA 98033

Don Winters Moss Bay Association, 417 6th Avenue So., Kirkland WA 98033

Mark Eliassen Moss Bay Association, 411 7th Avenue So., Kirkland WA 98033

J. Todd Scott, King County Office of Historic Preservation, 701 Fifth Avenue, Suite 2000, Seattle WA 98104

A written recommendation will be issued by the Hearing Examiner within eight calendar days of the date of the open record hearing.