



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

**ADVISORY REPORT
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS**

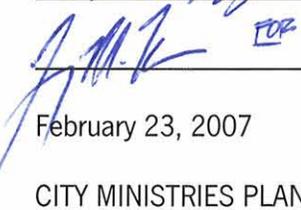
To: Kirkland Hearing Examiner
From:  Tony Leavitt, Project Planner
 Eric R. Shields, AICP, Planning Director
Date: February 23, 2007
File: CITY MINISTRIES PLANNED UNIT DEVELOPMENT, ZON06-00021
Hearing Date and Place: March 1, 2007, 7:00 P.M.
City Hall Council Chamber
123 Fifth Avenue, Kirkland

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I. **INTRODUCTION**

A. **APPLICATION**

1. Applicant: Dennis Riebe of Riebe & Associates for City Ministries, Property Owner
2. Site Location: 8807 & 8819 132nd Avenue NE (see Attachment 1)
3. Request: An application for a Preliminary and Final Planned Unit Development (PUD) to allow construction of 13 detached dwelling units (3 units will be Affordable Housing Units) and associated onsite infrastructure on a 1.59 acres (69,451 square foot) parcel zoned RSX 7.2 (see Attachment 2). The applicant will be required to install public improvements (curb, gutter, sidewalk, etc.) within the 132nd Avenue and NE 90th Street right-of-ways. Through the PUD process, the applicant is requesting the following modifications from the Kirkland Zoning Code:
 - Increased Density: The applicant is proposing to increase the density from the existing 6 dwelling units per acre, the maximum allowed by the use zone and the Comprehensive Plan to approximately 8 units per acre. A total 13 detached dwelling units are being proposed on the project site, with 3 of the units being designated as affordable housing units.
 - Multiple Detached Dwelling Units on a Single Parcel: The applicant is proposing to construct multiple detached dwelling units on a single parcel. The Kirkland Zoning Code only allows for one detached dwelling unit per parcel in the RSX 7.2 zone.
 - Front Yard Setback Reduction: The applicant is proposing to locate one of the residences approximately 17 feet from the NE 90th Street property line. This property line is considered a front property line that requires a 20 foot setback yard.
4. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
5. Summary of Major Issues and Recommendations
 - Compliance with PUD Approval Criteria (see Section II.F)
 - Compliance with Applicable Development Regulations (see Section II.G)

B. **RECOMMENDATIONS**

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend approval of this application for Preliminary and Final PUD 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 3, 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 3, the condition of approval shall be followed.

2. Prior to submittal of grading or building permit applications for the project, the applicant shall explore the use of pervious surface materials (for walkways, driveways, parking areas, etc.) and other Low Impact Development (LID) methods (see Conclusion II.F.4).
3. Prior to issuance of any development permits the applicant shall:
 - a. Prepare and submit a document, to be approved by the City Attorney, stating that the PUD will become void and use and occupancy must cease if the development is used for any purpose other than that for which it was specifically approved. This document, which will run with the subject property, must be recorded in the King County Department of Elections and Records. Additionally, the applicant should submit a copy of the agreement with ARCH for the Affordable Housing element of the project (see Conclusion II.G.2).
 - b. Explore site plan changes to save additional trees as identified by the City's Urban Forester. Staff shall be authorized to approve minor site plan changes as identified in the City's Urban Forester's comments (see Conclusion II.G.3).

II. **FINDINGS OF FACT AND CONCLUSIONS**

A. **SITE DESCRIPTION**

1. Site Development and Zoning:
 - a. Facts:
 - (1) Size: 1.59 acres (69,451 square foot)
 - (2) Land Use: The subject property is currently vacant. The residences on the subject property were removed in 2005 and 2006.
 - (3) Zoning: The subject property is zoned RSX 7.2. The RSX 7.2 zoning requires a minimum lot size of 7,200 square feet per unit and does not allow for multiple detached dwelling units on a single parcel, which the applicant is requesting.
 - (4) Terrain: The subject property slopes gradually downward from the southwest corner of the property to the northeast corner. The property does not contain any identified environmentally sensitive areas.
 - (5) Vegetation: According to an arborist report submitted by the applicant (see Attachment 4, Enclosure 10), the subject property contains a total of 148 trees. A total of 78 trees are defined as significant trees.
 - b. 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 review of this application, due to the fact that the applicant's proposed development involves multiple detached dwelling units on a single parcel.
 - (3) Tree protection and retention on the subject property are factors in the review of the proposed development (see Section II.G.3).

2. Neighboring Development and Zoning:

- a. Facts: The neighboring properties are zoned as follows and contain the following uses:

North: Zoned RSX 7.2. Currently vacant, but construction is commencing on an approved 9-unit PUD.

West: Zoned RSX 7.2. A vacant property owned by City Church adjacent to the northwest corner of the subject property. Single-family residences are adjacent to the southwest corner of the subject property.

South: Zoned RSX 7.2. Single-family residences are located across NE 88th Street from site.

East: The properties to the east of the subject property are within the City of Redmond and are developed with single-family residences.

- b. Conclusion: The neighboring development and zoning are factors in the review of the proposed Planned Unit Development.

B. HISTORY

Facts: In July of 2004, the City Council approved a 9 unit Planned Unit Development for the property to the north of the subject property. A grading (LSM) permit and building permits have been approved by the City and work on the project should commence in the next month or so.

C. PUBLIC COMMENT

Facts: The public comment period ran from August 3rd to August 25, 2006. The Planning Department received a total of 5 comment e-mails and letters (see Attachment, Enclosures 5 thru 9) during this comment period. Additionally the applicant has submitted a letter summarizing a Neighborhood Meeting that was held by the applicant of the project (see Attachment 8). The issues raised in the letters along with staff responses follow:

- Traffic Impacts

Neighbors are concerned that the traffic from the proposed PUD will have a negative impact on the neighborhood.

Staff Response: The Public Works Department has reviewed the Concurrency Management Review Application for the proposed PUD (see Attachment 4) and concluded that the project will not have a negative traffic impact on existing facilities. The proposed project will have a net trip generation increase of 105 daily trips and 11 PM Peak Trips. Based on this preliminary trip generation information, the proposed project passed concurrency on November 23, 2005 and an extension was approved on December 22, 2006. It should be noted that a typical 9 unit development (the current allowed density) would have a net trip generation increase of 67 daily trips and 7 PM Peak Trips.

- Increased Density of the Proposed PUD

Neighbors have concerns about the density of the proposed project.

Staff Response: Staff addresses the proposed increased density and potential impacts in Section II.F.

- Significant Tree Retention

Neighbors are concerned about the removal of a significant number of trees on the subject property.

Staff Response: Staff addresses the retention of significant trees in Section II.G.3.

D. STATE ENVIRONMENTAL POLICY ACT (SEPA)

1. Facts: A Determination of Nonsignificance (DNS) was issued on January 19, 2007. The Environmental Checklist, Determination, and additional environmental information are included as Attachment 4.
2. Conclusion: The applicant and the City have satisfied the requirements of SEPA.

E. CONCURRENCY

1. Facts: The Public Works Department has reviewed the application for concurrency. A concurrency test was passed for traffic on November 23, 2005 (see Attachment 4, Enclosure 3).

F. APPROVAL CRITERIA

1. Fact: Zoning Code section 125.35 establishes four decisional criteria with which a PUD request must comply in order to be granted. The applicant's response to these criteria can be found in Attachment 5. Sections II.F.2 through II.F.5 contain the staff's findings of fact and conclusions based on these four criteria.

Conclusions: Based on the following analysis, the application meets the established criteria for a PUD.

2. PUD Criterion 1: The proposed PUD must meet the requirements of Zoning Code Chapter 125.
 - a. Facts:
 - (1) Kirkland Zoning Code Chapter 125 sets forth the procedures by which a PUD is to be reviewed, criteria for PUD approval, the Zoning Code provisions that may be modified through a PUD, and PUD density provisions.
 - (2) The proposal is being reviewed through the process established by Chapter 125.
 - (3) The proposal the meets the criteria for PUD approval (see the following sections).
 - (4) The proposed modifications are allowed through the PUD process.
 - (5) The proposal meets PUD density requirements (see Conclusion II.G.2).
 - b. Conclusion: The proposed PUD is consistent with the requirements of KZC Chapter 125.

3. 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.

a. Facts: The applicant is proposing three modifications (increased density, allowing multiple detached dwelling units on a single parcel, and reduction of a required front yard setback) as part of the PUD process. A summary of the modifications being requested and staff's analysis of the benefits follows.

- Increased Density

The applicant is proposing to increase the density from the existing 6 dwelling units per acre, the maximum allowed by the use zone and the Comprehensive Plan, to approximately 8 units per acre. A total 13 detached dwelling units are being proposed on the project site, with 3 of the units being designated as affordable housing units.

Staff Analysis: Potential undesirable or adverse effects of the increased density are the impacts associated with allowing the additional dwelling units (13 units rather than 9 units) on the subject property. Staff concludes that the following benefits clearly outweigh these potential impacts:

- The proposed PUD is providing for 3 affordable housing units, which would not be required if the subject property was subdivided and development with nine detached dwelling units. The creation of affordable housing units is supported by the Housing Diversity Element of the of the City's Comprehensive Plan to ensure that the needs of moderate-income and low-income persons are adequately served (see Attachment 12).
- The proposal is providing an alternative style of housing that is less intensive and smaller in scale than other developments in the area. To compare the proposed PUD's building scale and impact, staff looked at an approved 9 lot subdivision that was recently developed in the South Rose Hill Neighborhood in the 8100 block of 128th Avenue NE (see Attachment 6). The development, the Morales Short Plat, involves construction of 8 new detached dwelling units. The following table compares the proposed PUD and the Morales short plat.

	Morales SP (Per Lot Average)	Proposed PUD
Percent Lot Coverage	45.71%	40.80%
Floor Area Ratio	46.07%	32.70% (includes the Community Center)
Average Height (above Average Building Elevation)	27.61 feet	23.67 feet

As outlined in this table, even with the increased density, the proposed PUD will provide detached dwelling units that are smaller in scale with less massing impact than other detached dwelling units being constructed in the area. The overall height, bulk, and impervious area

impact will be less than what is currently being constructed in the vicinity of this property.

- Multiple Detached Dwelling Units on a Single Parcel

The applicant is proposing to construct multiple detached dwelling units on a single parcel. The Kirkland Zoning Code only allows for one detached dwelling unit per parcel in the RSX 7.2 zone (see Attachment 7).

Staff Analysis: Potential undesirable or adverse effects of the allowing multiple dwelling units on a single parcel are development related impacts (including bulk of structures, height, etc.) and incompatibility with neighboring properties. Staff concludes that the following benefits clearly outweigh these potential impacts:

- The placement of multiple dwelling units on a single parcel allows for better overall site development, because there is more flexibility in placement of buildings and pavement. The applicant is proposing to consolidate the parking in larger parking areas with three right-of-way access points, instead of multiple driveways and curb cuts that would be needed for a typical subdivision. The applicant is also proposing a pedestrian friendly site design.
- The following table compares the proposed PUD impacts and impacts if the property was subdivided into nine separate parcels (the maximum lots that could be created through the subdivision process).

	SFR Subdivision Maximum Potential	PUD Proposal
Units	9	13
Total Floor Area (GFA in square feet)	34,433 (50% FAR)	21,359 (31%)
Lot Coverage (in square feet)	34,433 (50%)	26,810 (39%)
Height (maximum above ABE)	30 feet	22 to 25 feet

This table shows that even with the increased density, when compared to the development potential of the site through the subdivision process, the proposed PUD will result in less development related impacts including less total impervious area, smaller sized residences, lower Floor Area Ratio and a lower maximum structure height.

- Reduction of a Required Front Yard Setback

The applicant is proposing to locate House #11 approximately 17 feet from the NE 90th Street property line. This property line is considered a front property line that requires a 20 foot setback yard.

Staff Analysis: Potential undesirable or adverse effects of the allowing a reduction of a required front yard setback is the loss of open space along the right-of-way. Staff concludes that the following benefit clearly outweighs these potential impacts:

- The setback reduction facilitates the retention of significant trees (trees 427 and 428 in the tree plan) that are located south of the house's proposed location. Allowing for a reduction of the front yard setback will provide for more open space on the subject property and retention of more significant trees.
- A larger percentage of NE 90th Street is open space than would likely be open space with a typical subdivision development.

b. Conclusion: The adverse impacts or undesirable effects of the proposed PUD have been minimized by a site design that lessens potential development related impacts. To the extent that they remain, the adverse impacts and undesirable effects are outweighed by the PUD benefits, including the provision for affordable housing units, consolidated parking, minimizing vehicular access points, and retention of significant trees.

4. 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 or orientation of structure(s)
 - Minimum use of impervious surfacing materials

a. Facts: The following benefits are provided by the proposed PUD:

(1) Superior Circulation Patterns or Location or Screening of Parking Facilities

The parking areas are consolidated into two larger parking areas, instead of nine separate areas that could be proposed through a typical subdivision. A majority of the parking stalls are located away from the public right-of-ways. As a result of consolidating the parking areas and minimizing vehicular access points, the applicant has been able to create a very pedestrian friendly site by including pedestrian walkways throughout the site and by orienting the main entries to most of the residences towards the adjacent right-of-ways. It should be noted that the 20 foot wide driveway that runs through the site from NE 90th Street to NE 88th Street is being required by the Fire Department. The alignment of the north side of the driveway is required to line up with the proposed driveway for the approved PUD across NE 90th Street. The alignment of the south side of the driveway is required to be as far west as possible on NE 88th Street.

(2) Superior Landscaping in the Proposed PUD

The applicant is proposing an extensive landscaping plan (see Attachment 2) that will incorporate existing significant trees, new deciduous and coniferous trees, a variety of shrubs, different varieties of perennial groundcover including lawns, and existing significant vegetation.

(3) Superior Relationship and Orientation of Structures

The proposed PUD orients the proposed single-family structures towards the NE 90th Street, 132nd Avenue NE, and NE 88th Street. The entrances to nine of the homes face the adjacent right-of-ways. Three of the homes in the back of the development are oriented towards a common walkway and common area.

(4) Minimum Use of Impervious Surfacing Materials

The applicant is proposing a lot coverage total of approximately 39%. While this is less than the maximum lot coverage allowed in this zone, the use of pervious materials could reduce the lot coverage even more. This would increase the benefit by reducing impacts of surface water runoff by increasing on-site infiltration.

The applicant states in a letter to Staff that they will explore with their Civil Engineers the possibility of using pervious materials (see Attachment 8). Staff recommends that the applicant explore the use of pervious materials and other Low Impact Development (LID) methods prior to submittal of the building permit application.

b. Conclusion:

- (1) The proposed PUD provides a sufficient number of benefits to the City. The PUD will benefit the city by providing a site with superior parking location, a site with superior landscape design, and structures that have superior relationship to each other and the public right-of-ways. None of these benefits could be required by the City for development of the subject property without a PUD.
- (2) As noted in Section II.G.3, the applicant should explore the retention of additional viable trees to increase the overall tree retention for the site.
- (3) Prior to submittal of grading or building permit applications for the project, the applicant should explore the use of pervious surface materials (for walkways, driveways, parking areas, etc.) and other Low Impact Development (LID) methods.

5. PUD Criterion 4: Any PUD which is proposed as special needs housing shall be reviewed for its proximity to existing or planned services (i.e., shopping centers, medical centers, churches, parks, entertainment, senior centers, public transit, etc.

- a. Facts: The affordable (low and moderate income) housing component of this PUD is considered "special needs housing". The affordable housing units will be adjacent to 132nd Avenue NE, a minor arterial, which has public transit service. The subject property is approximately a quarter mile from the NE 85th Commercial Area, right next to an existing church, 1.5 miles from Lake Washington Technical College, and within a mile of multiple parks and schools.
- b. Conclusion: The site is adequately served by public transit and is within close proximity to a variety of services.

6. Fact: Zoning Code section 152.70.3 states that a Process IIB application may be approved if:

- a. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- b. It is consistent with the public health, safety, and welfare.

Conclusion: The proposal complies with the criteria in section 152.70.3. It is consistent with all applicable development regulations (see Sections II.G) and the Comprehensive Plan (see Section II.H). In addition, it is consistent with the public health, safety, and welfare because the project will provide the City with additional affordable housing units while meeting the goals of the Comprehensive Plan for this neighborhood (see section II.F).

G. DEVELOPMENT REGULATIONS

1. Development Regulations

- a. Facts: The fundamental zoning regulations pertaining to detached dwelling units in the RSX 7.2 zone are established by KZC section 17.10.010 (see Attachment 7). The applicant seeks modifications, through this PUD application, of the required minimum lot size per dwelling unit (density) and allowing more than one dwelling unit per lot.
- b. Conclusions: The proposal complies with the requirements of KZC section 17.10.010, except for the specific relief that is being sought through the PUD process.

2. Density

a. Facts:

- (1) The subject property has a total lot area of 69,448 square feet. The Public Works Department is requiring a 2 foot dedication along NE 132nd Street which will deduct 582 square feet from the total lot area. This will result in a net lot area of 68,866 square feet. A typical subdivision of the site could yield a maximum of 9 lots through a normal subdivision process.
- (2) KZC section 125.30.4 (see Attachment 9) requires that the if the PUD is proposed in an RSX 7.2 Zone, the City will subtract the area actually used for vehicular circulation and surface parking areas that serve more than one dwelling unit, before determining the maximum number of dwelling units potentially permitted under this section. Based on this requirement, the net site area for density calculations is 56,930 square feet.
- (3) KZC section 125.30.1 states the maximum permitted residential density is the greater of that recommended by the Comprehensive Plan or 110 percent of that permitted in the zone in which the PUD is located. The Comprehensive Plan recommends 6 dwelling units per acre or 7.84 units for this subject property. Based on the net site area of 56,930 square feet, 110 percent of the permitted density in the RSX 7.2 zone works out to be 8.69 units.
- (4) KZC section 125.30.2b states that housing for low or moderate income households may be permitted a maximum density above the density permitted under subsections (1) and (2)(a) of this section based upon the percentage of dwelling units which are low or moderate income units, using the following multipliers:

% of Low or Moderate Income Units	=	Multiplier
5 – 9%	=	1.1
10 – 14%	=	1.2
15 – 19%	=	1.3
20 – 24%	=	1.4
25% +	=	1.5

- (5) The applicant is proposing to have 3 units of the base allowance of 8.69 units (34%) as low or moderate income units. As a result, the maximum project density for this PUD is 13 dwelling units (8.69 multiplied by 1.5). The applicant is proposing 13 dwelling units.
- (6) KZC section 125.30.4 requires if a project consists of special needs housing, the applicant shall prepare a document, to be approved by the City Attorney, stating that the PUD will become void and use and occupancy must cease if the development is used for any purpose other than that for which it was specifically approved. This document, which will run with the subject property, must be recorded in the King County Department of Elections and Records.

b. Conclusions:

- (1) The proposed density is allowed pursuant to Kirkland Zoning Code section 125.30 if the PUD is approved.
- (2) Prior to issuance of any development permits the applicant should prepare and submit a document, to be approved by the City Attorney, stating that the PUD will become void and use and occupancy must cease if the development is used for any purpose other than that for which it was specifically approved. This document, which will run with the subject property, must be recorded in the King County Department of Elections and Records. Additionally, the applicant should submit a copy of the agreement with ARCH for the Affordable Housing element of the project.

3. Natural Features - Significant Vegetation

a. Facts:

- (1) Kirkland Zoning Code Section 95.05 establishes the purpose of the tree regulations. The purposes include minimizing adverse impacts of land disturbing activities, improving air quality, reducing effects of noise pollution, providing protection from severe weather conditions, providing visual relief and screening, providing recreational benefits, providing habitat cover, food supply and corridors for a diversity of fish and wildlife, and providing economic benefit by enhancing property values and the region's natural beauty, aesthetic character, and livability of the community.

- (2) Kirkland Zoning Code Section 95.35.1 states that it is the City's objective to retain as many viable trees as possible while still allowing the development proposal to move forward in a timely manner. Zoning Code provisions have been established to allow development standards to be modified in order to retain viable significant trees.
- (3) Kirkland Zoning Code Section 95.35.2.b.2 requires that a Tree Plan II be submitted with a new residential development with three or more detached dwelling units.
- (4) Kirkland Zoning Code Section 95.35.4 establishes the site design review standards for tree retention. Tree retention shall not reduce the applicant's development potential (lot coverage, floor area ratio, and density) allowed by the Kirkland Zoning Code. In order to retain trees, the applicant should pursue provisions in Kirkland's codes that allow development standards to be modified. In addition, the Planning Official is authorized to require site plan alterations to retain Type 1 trees. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways easements or utilities.
- (5) Kirkland Zoning Code Section 95.35.2.b.4 states that based on the tree plan information submitted by the applicant and the Planning Official's evaluation of the trees and proposed development on subject property, the Planning Official will designate each tree as:
 - Type 1, a viable tree that meets at least one of the criteria set forth in subsection (4)(a)(1)(b) of this section;
 - Type 2, a viable tree that is to be retained if feasible; or
 - Type 3, a tree that is either (1) not viable or (2) is in an area where removal is unavoidable due to the anticipated development activity.
- (6) Additionally KZC Section 95.35.2.b.4 states that tree retention efforts should be directed towards onsite tree groves and groves that extend off site.
- (7) Kirkland Zoning Code Section 95.35 states that the Planning Official and the applicant shall work in good faith to find reasonable solutions for retention of viable trees.
- (8) The applicant submitted a Tree Plan II with the PUD application that was reviewed by the City's Urban Forester. There are a total of 78 significant trees on the site. Of these 78 trees, the City's Urban Forester has determined that 43 of the trees are viable trees (see Attachment 10 for Site Plan and Urban Forester Comments). Four of the trees have been identified as Type I Trees. The applicant has proposed removal of all four Type I trees. While the City's Urban Forester agrees with the removal of three of those trees based on their locations, Staff is recommending that tree 449 be explored for retention.

b. Conclusions:

- (1) The City's Urban Forester has reviewed the applicant's tree retention plan and proposed site plan. The City's Urban Forester that some of trees that were identified for retention are not viable trees, while some trees that were identified for removal are viable.
- (2) Based on a review of the development plans and a site visit, the Urban Forester has made following recommendations for potential changes to the site plan to allow for retention of additional viable trees:
 - Look to realign House #2 to retain trees 379, 380, and 381.
 - Shift House #3 to the west to retain 392 and look to meander the sidewalk along 132nd Avenue to save trees 385, 386, 387, and 390.
 - Shift House #12 south or east to retain trees 499, 500, and 601.
 - Shift House #10 to retain small grove that includes trees 618, 620, 622, 623, and 624.
 - Flip and shift House #8 west to retain 454, 455, and 456.
 - Shift House #7 east to retain trees 442 and 443.
- (3) Prior to issuance of any development permits, the applicant should explore site plan changes to save additional viable trees. Staff should be authorized to approve minor site plan changes as identified in the City's Urban Forester's comments (Attachment 10).
- (4) The applicant should follow the arborist's recommendations contained in the Tree Plan II submitted with the PUD application during installation of the required public improvements and during development of all site improvements.
- (5) The applicant should retain all of the viable trees on the site during the development of each residence except those trees required to be removed for the construction of the house and other associated site improvements.

4. Preliminary and Final PUD Review

- a. Facts: Kirkland Zoning Code section 125.10 states that the applicant may request to have the preliminary and final PUD applications reviewed concurrently. The applicant has made this request.
- b. Conclusions: Staff recommends that the preliminary and final PUD applications be approved as part of this application.

H. COMPREHENSIVE PLAN

1. Facts:

- a. The subject property is located within the North Rose Hill neighborhood. The North Rose Hill Neighborhood Land Use Map on page XV.F-11 designates the subject property for low density residential use at a density of 6 dwelling units per acre (see Attachment 11). The proposed PUD reflects a density of approximately 8 units per acre. The applicant is requesting approval of additional density through the PUD process.
- b. North Rose Hill Neighborhood Land Use Policy NRH 8.1 encourages a variety of housing styles and types to serve a diverse population.
- c. North Rose Neighborhood Goal NRH 10 looks to maintain predominately detached single-family residential development at a density of six units per acre in low density areas and allow some density increase if specific public benefits are demonstrated as allowed by Citywide policies. Additionally, Policy NRH 10.1 considers densities that support public values if it results in less or equal development intensity as compared to traditional development.

2. Conclusions:

- a. The proposal must receive PUD approval in order to achieve the proposed density.
- b. The proposed PUD will create a unique style of housing that will be compatible, in terms of architectural and site design, with the adjacent single-family development. The project also involves the creation of 3 affordable housing units, which will help to serve a diverse population.
- c. The proposed PUD is providing public benefits to the neighborhood and the City as outlined in Section II.F of this report. Additionally, the proposed PUD will result in less or equal development intensity as compared to a traditional subdivision as outlined in Section II.F.3.

I. DEVELOPMENT STANDARDS

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 3.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 3.

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

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.

"Date of approval" means the date of approval by the City of Kirkland, or the termination of review proceedings if such proceedings were initiated pursuant to RCW 90.58.180 and WAC 173-27-220.

VI. APPENDICES

Attachments 1 through 11 are attached.

1. Vicinity Map
2. Development Plans
3. Development Standards
4. SEPA Determination and Enclosures
5. Applicant's Response to PUD Criteria
6. Morales Short Plat Vicinity Map
7. RSX 7.2 Use Zone Chart
8. Letter from Applicant dated September 29, 2006
9. Kirkland Zoning Code Section 125.30
10. Tree Plan Map and Comments
11. North Rose Hill Neighborhood Land Use Map

12. Comprehensive Plan Housing Goals and Policies

VII. PARTIES OF RECORD

E. Dennis Riebe, Riebe and Associates, 2112 116th Avenue NE, Bellevue, WA 98004
Eston Catlett, The City Ministries, 9051 132nd Avenue NE, Kirkland, WA 98033
Mary Kooistra, 13022 NE 88th Street, Kirkland, WA 98033
Robert Brewer, 13046 NE 88th Street, Kirkland, WA 98033
Carol Nielson, 12915 NE 94th Street, Kirkland, WA 98033
John and Lyn Qualsund, 13038 NE 88th Street, Kirkland, WA 98033
Jan A Rucker, 8563 132nd Avenue NE, Kirkland, WA 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

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

