



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.kirklandwa.gov

MEMORANDUM

To: Houghton Community Council

From: Nancy Cox, AICP, Development Review Manager
Tony Leavitt, Associate Planner

Date: November 15, 2012

Subject: Kirkland Children's School Master Plan, PCD File No. ZON12-00659

RECOMMENDATION

The Houghton Community Council should take final action on Resolution 4944 (see Enclosure 1). On November 20, 2012 the City Council is expected to adopt Resolution 4944 approving the Kirkland Children's School Master Plan Master Plan Permit (ZON12-00659) as recommended by the Kirkland Hearing Examiner. The Houghton Community Council can proceed under one of the following options:

1. Approve the application. A majority of the entire membership of the Houghton Community Council could vote by resolution to approve the project as granted by the City Council.
2. Disapprove the application. A majority of the entire membership of the Community Council could vote by resolution to disapprove the application.
3. Take No Action. Resolution 4912 goes into effect if no action is taken by the Houghton Community Council within 60 calendar days of the City Council adoption date of Resolution 4912.

A resolution to approve the project as granted by the City Council is enclosed.

BACKGROUND DISCUSSION

Proposal

The owners of the Kirkland Children's School, represented by Steve Lee of Studio Meng Strazzara, are proposing a Master Plan zoning permit to allow the construction of a new 3,400 square foot building on the existing Kirkland Children's School site. The building will house 3 new classrooms for the preschool/daycare environmental education program, restroom facilities, and storage areas. The project also includes other site improvements including the addition of 9 parking stalls, a rain garden, parking lot lighting and landscaping. The existing buildings and parking lot on the property will remain.

Public Hearing

The Hearing Examiner and the Houghton Community Council held a joint open record public hearing on October 15, 2012. City Staff, the applicants and representatives, and 9 individuals (including neighbors and parents of students) testified during the hearing.

Houghton Community Council Recommendation

On October 15th, The Houghton Community Council deliberated and drafted a recommendation to the Hearing Examiner. The Houghton Community Council concurred with the staff analysis and the recommendation of approval.

Hearing Examiner Recommendation

On October 22nd, the Hearing Examiner recommended that the City Council approve the application subject to the conditions outlined in her report (see Enclosure 2).

City Council Action

The City Council will take action on the application on November 20. Due to the short turn-around time, staff will brief the HCC on the outcome at your meeting on the 26th.

ENCLOSURES

1. Resolution 4944
2. Hearing Examiner Recommendation
3. Approval Resolution

RESOLUTION. R-4944

A RESOLUTION OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS IIB PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. ZON12-00659 BY STEVE LEE FOR KIRKLAND CHILDREN'S SCHOOL BEING WITHIN A RS 8.5 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS IIB PERMIT SHALL BE SUBJECT.

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

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

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

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

WHEREAS, the application has been submitted to the Hearing Examiner who held a hearing thereon at her special meeting of October 15, 2012; and

WHEREAS, the Hearing Examiner after her public hearing and consideration of the recommendations of the Department of Planning and Community Development did adopt certain Findings, Conclusions, and Recommendations and did recommend approval of the Process IIB permit subject to the specific conditions set forth in said recommendation; and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner, as well as a timely filed challenge of said recommendation.

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

Section 1. The findings, conclusion, and recommendation of the Hearing Examiner as signed by the Hearing Examiner and

filed in the Department of Planning and Community Development File No. ZON12-00659 are adopted by the Kirkland City Council as though fully set forth herein.

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

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

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

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

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

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

PASSED by majority vote in open meeting of the Kirkland City Council on the _____ day of _____, 20__.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 20__.

—

Mayor

Attest:

City Clerk

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

APPLICANT: Steve Lee of Studio Meng Strazzara for Kirkland Children's School

FILE NO: ZON12-00659

APPLICATION:

Site Location: 5311 108th Avenue NE

Request: Master Plan zoning permit to allow construction of a new 3,400 square foot building on the existing Kirkland Children's School site. The building will house three new classrooms, totaling 2,750 square feet, for the preschool/daycare environmental education program, restroom facilities, and storage/laundry areas. The project includes other improvements, including the addition of 9 parking stalls, as well as a rain garden, parking lot lighting, and landscaping.

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

Key Issues: Compliance with Zoning Permit approval criteria and applicable development regulations

SUMMARY OF RECOMMENDATIONS:

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

PUBLIC HEARING:

The Hearing Examiner and Houghton Community Council held a joint public hearing on the application at 7:00 p.m. on October 15, 2012, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington. A verbatim recording of the hearing is available in the City Clerk's office. The minutes of the hearing and the exhibits are available for public inspection in the Department of Planning and Community Development. The Examiner visited the site in advance of the hearing.

FINDINGS, CONCLUSIONS AND RECOMMENDATION:

For purposes of this recommendation, all section numbers refer to the Kirkland Zoning Code (KZC or Code) unless otherwise indicated. After considering the evidence in the

Hearing Examiner Recommendation

File No. ZON12-00659

Page 2 of 7

record and inspecting the site, the Examiner enters the following findings of fact, conclusions and recommendation.

Findings of Fact:

1. The Findings of Fact set forth in section II.A of the Department's Advisory Report, Exhibit A, ("Site Description") are accurate, complete and supported by the record, and are therefore adopted by reference.

2. The Findings of Fact set forth in section II.B of the Department's Advisory Report ("History") are accurate, complete and supported by the record, and are therefore adopted by reference.

3. The initial public comment period ran from July 24, to August 23, 2012. The Planning Department received 28 comments during this period. All but two supported the application. Three additional written comments, as well as public testimony were received at the joint public hearing. A list of the applicant and staff representatives and the members of the public who testified at the hearing, and a list of the exhibits offered, are included at the end of this recommendation. The testimony is summarized in the hearing minutes.

4. The Applicant submitted a response to public comments that had expressed concerns about the project. *See* Exhibit A, Attachment 8.

5. The alley to the west of the Applicant's property is unopened and unimproved, and the City has no current plans to improve it.

6. The alley is usable by motor vehicles from NE 55th Street for approximately one-half of the block and is used for access by residents of some of the adjacent properties. The south half of the alley is obstructed by a tree and other vegetation and by a fence that parallels the Applicant's property and extends into the right-of-way.

7. The City makes unopened alleys available for use by the owners of property adjacent to them until the City decides to open and improve the alley. At that time, encroachments must be removed.

8. A neighbor who uses the northern part of the alley for access to his property believes that the alley is needed for emergency access. He asked that the City open the alley all the way to NE 53rd Street and require the Applicant to remove the encroaching fence.

9. One neighboring property owner expressed concern about impacts from the lighting to be installed as part of the new parking lot.

10. KZC 115.85.1 requires that light sources be directed so that, to the maximum extent possible, glare does not extend to adjacent properties or to the right-of-way.

11. Although the Applicant did not include a detailed lighting plan as part of the application, one will be required as part of the building permit application. In addition, the Applicant offered to work with the neighbors on the time settings for the parking lot lights.
12. A neighbor expressed concern about the environmental impact of the proposed parking stalls and the additional traffic on 108th Avenue NE.
13. The applicant is proposing the use of pervious paving for the new parking stalls and an onsite infiltration system for all stormwater drainage.
14. The project included a traffic study and was reviewed for traffic impacts. It was determined that the project will not create significant traffic impacts. *See Exhibit A, Attachments 10 and 15.*
15. A neighbor expressed concern about the noise impacts of additional children on the playground, which is near the neighbor's home.
16. The existing playground will remain unchanged. The applicant has indicated that the site design of the project will help to minimize noise impacts by creating an additional buffer. The applicant also stated an intent to stagger the children's outdoor time so that no more children would be on the playground at one time than are there with the existing school. *Exhibit A, Attachment 8.*
17. The Findings of Fact set forth in section II.D of the Department's Advisory Report ("State Environmental Policy Act (SEPA) and Concurrency") are accurate, complete and supported by the record, and are therefore adopted by reference.
18. The Findings of Fact set forth in section II.E of the Department's Advisory Report ("Approval Criteria") are accurate, complete and supported by the record, and are therefore adopted by reference.
19. The Findings of Fact set forth in section II.F of the Department's Advisory Report ("Development Regulations") are accurate, complete and supported by the record, and are therefore adopted by reference.
20. The Findings of Fact set forth in section II.G of the Department's Advisory Report ("Comprehensive Plan") are accurate, complete and supported by the record, and are therefore adopted by reference.
21. The Findings of Fact set forth in section II.H of the Department's Advisory Report ("Development Standards") are accurate, complete and supported by the record, and are therefore adopted by reference.

Hearing Examiner Recommendation

File No. ZON12-00659

Page 4 of 7

22. The Houghton Community Council has concurred with the Staff Analysis and Recommendation on the proposal and recommends approval of the proposal as set forth therein.

Conclusions:

1. The Conclusions set forth in section II.A of the Department's Advisory Report, Exhibit A, ("Site Description") are supported by the facts in the record, and are therefore adopted by reference.

2. The Conclusions set forth in section II.B of the Department's Advisory Report ("History") are supported by the facts in the record, and are therefore adopted by reference.

3. Because the City does not have current plans to open the alley to the west of the Applicant's property, the Examiner finds no basis at this time for requiring the Applicant to remove the fence that encroaches on that right-of-way.

4. The evidence in the record does not support the imposition of lighting or noise attenuation conditions beyond those required by Code.

5. The evidence in the record does not support the imposition of traffic or drainage conditions beyond those included in the project and required by Code. Further, these impacts were considered in the City's traffic concurrency and SEPA reviews, and neither the SEPA Determination of Nonsignificance nor the Traffic Concurrency Determination were appealed.

6. The Conclusions set forth in section II.D of the Department's Advisory Report ("State Environmental Policy Act (SEPA) and Concurrency") are supported by the facts in the record, and are therefore adopted by reference.

7. The Conclusions set forth in section II.E of the Department's Advisory Report ("Approval Criteria") are supported by the facts in the record, and are therefore adopted by reference.

8. The Conclusions set forth in section II.F of the Department's Advisory Report ("Development Regulations") are supported by the facts in the record, and are therefore adopted by reference.

9. The Conclusions set forth in section II.G of the Department's Advisory Report ("Comprehensive Plan") are supported by the facts in the record, and are therefore adopted by reference.

10. The Conclusions set forth in section II.H of the Department's Advisory Report ("Development Standards") are supported by the facts in the record, and are therefore adopted by reference.

Recommendation:

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner recommends that the Council approve the Master Plan zoning permit, subject to the four conditions set forth in section IB of Exhibit A.

Entered this 22nd day of October, 2012.



Sue A. Tanner
Hearing Examiner

SUBSEQUENT MODIFICATIONS

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

CHALLENGES AND JUDICIAL REVIEW

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

CHALLENGE

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted written or oral comments or testimony to the Hearing Examiner. A party who signed a petition may not challenge unless such party also submitted independent written comments or information. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., October 31, 2012, seven (7) calendar days following distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted comments or testimony to the Hearing Examiner, a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

Any response to the challenge must be delivered to the Planning Department within seven (7) calendar days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must deliver a copy of the response to the applicant and all other people who submitted comments or testimony to the Hearing Examiner.

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

considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

JUDICIAL REVIEW

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within twenty-one (21) calendar days of the issuance of the final land use decision by the City.

LAPSE OF APPROVAL

Under KZC 152.115, the applicant must submit to the City a complete building permit application 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 construction 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.

TESTIMONY:

The following persons testified at the public hearing:

From the City:

Tony Leavitt, Project Planner
Rob Jammerman, Development Engineering Mgr.
Department of Public Works

From the Applicant:

Donna Caditz, Owner
Christopher Brown, PE

From the Public:

Scott and Jennifer Judge
Gary Porter
Brian Gawthrop
Carol and Brooks Walton
Wen LaCasse
Rasekh Rifaat
George Britton-Simmons
Sacha Bailey
Gregory Wall
Eric Synn

EXHIBITS:

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

- A. Department of Planning and Community Development Staff Advisory Report dated October 8, 2012, with 15 attachments
- B. Three public comments, dated October 1, 2 and 10, 2012

PARTIES OF RECORD

Steve Lee, Studio Meng Strazzara, Applicant

Donna Caditz, Simca Group, Owner

Christopher Brown, PE

Scott and Jennifer Judge

Gary Porter

Rachel Mikulec

Brian Gawthrop

Carol and Brooks Walton

Wen LaCasse

Cheryl Hight

Spring Vitus

Rasekh Rifaat

George Britton-Simmons

Sacha Bailey

Gregory Wall

Eric Synn

Department of Planning and Community Development

Department of Public Works

Department of Building and Fire Services

RESOLUTION 2012-10

A RESOLUTION OF THE HOUGHTON COMMUNITY COUNCIL APPROVING RESOLUTION NO. 4944 ADOPTED BY THE KIRKLAND CITY COUNCIL ON NOVEMBER 20, 2012, RELATING TO LAND USE; APPROVING A PROCESS IIB PERMIT AS APPLIED FOR BY STEVE LEE FOR KIRKLAND CHILDREN'S SCHOOL IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. ZON12-00659 AND SETTING FORTH CONDITIONS OF THE APPROVAL.

WHEREAS, the Houghton Community Council has received from the Kirkland City Council Resolution No. 4944, approving a Process IIB Permit filed by Steve Lee for Kirkland Children's School as Department of Planning and Community Development File No. ZON12-00659 for the Kirkland Children's School Master Plan.

WHEREAS, the subject matter of this resolution, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council and shall become effective within the Houghton Community Municipal Corporation only upon approval by the Houghton Community Council or the failure of said Community Council to disapprove this resolution within 60 days of the date of the passage of this resolution; and

WHEREAS, the subject matter of this resolution was the focus of a public hearing before the Houghton Community Council on October 15, 2012; and

WHEREAS, the subject matter of this resolution was reviewed and discussed by the Houghton Community Council at a meeting held on October 15, 2012 and at said meeting the Houghton Community Council provided recommendations on said subject matter; and

WHEREAS, the subject matter of this resolution will serve the interests and promote the health, safety, and welfare of the Houghton Community Municipal Corporation;

NOW, THEREFORE, be it resolved that Resolution 4944 is hereby approved and effective within the Houghton Community Municipal Corporation.

PASSED by majority vote of the Houghton Community Council in regular, open meeting this ____ day of _____, 2012.

SIGNED IN AUTHENTICATION thereof this ____ day of _____, 2012.

Chair, Houghton Community Council

City Clerk