



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

ADVISORY REPORT
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Kirkland Hearing Examiner

From: _____ Tony Leavitt, Project Planner
 _____ Eric R. Shields, AICP, Planning Director

Date: October 13, 2011

File: **MERIT HOMES COMMERCIAL/ OFFICE BUILDING VARIANCE, FILE NO ZON11-00011**

Hearing Date and Place: October 20, 2011; 9am
 City Hall Council Chamber
 123 Fifth Avenue, Kirkland

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I. INTRODUCTION

A. APPLICATION

1. Applicant: Josh Lysen of Merit Homes, Inc; Property Owner
2. Site Location: 13122 NE 85th Street & 8505 132nd Avenue NE
3. Request: A variance request to allow an exception to the maximum horizontal facade requirements of KZC 115.30. The proposed building would include a parking garage roof and landscaped area within the required 20 foot horizontal modulation area required by this section (see Attachment 2, Sheet A-3).
4. Review Process: Process IIA, Hearing Examiner conducts public hearing and makes final decision.
5. Summary of Key Issues:
 - a. Compliance with Variance Criteria (see Section II.D)

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 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. As part of the building permit application, the applicant shall submit a tree plan per the requirements of Kirkland Zoning Section 95.30 (see Conclusion II.A.1).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:
 - a. Facts:
 - (1) Size: 19,491 square feet (0.45 acres). The subject property is approximately 125.75 feet by 155 feet.
 - (2) Land Use: The subject property contains a total of two single family residences on two parcels. The applicant is proposing to demolish the existing structures.

- (3) Zoning: Rose Hill Business District (RH) 8. Allows office uses with limited retail.
 - (4) Terrain: The property is relatively flat with a slight grade change from NE 85th Street.
 - (5) Vegetation: The subject property contains significant trees. The applicant has not submitted a tree retention plan as part of this application, but will be required to submit this as part of any building permit application (see Section II.F).
- b. Conclusions: Size, land use, zoning, terrain, and vegetation are not constraining factors in the review of this application. As part of the building permit application, the applicant should submit a tree plan per the requirements of Kirkland Zoning Section 95.30
2. Neighboring Development and Zoning:
- a. Facts: The neighboring properties are zoned as follows and contain the following uses:
North: Zoned RSX 7.2, Single-family residence
West: Zoned RH 8, Single-family residence
South: Zoned RH 8, Office Building
East: Located within City of Redmond, Clustered detached dwelling unit development
 - b. Conclusion: Neighboring development and zoning are factors in the review of this application. The existing development and the potential impacts of the proposed development should be considered in the review of the proposed variance application.

B. PUBLIC COMMENT

The initial public comment period for this application started on March 10, 2011 and ended on March 31, 2011. The Planning Department has received no comments through the drafting of this report.

C. STATE ENVIRONMENTAL POLICY ACT (SEPA) & CONCURRENCY

1. Facts: A Determination of Nonsignificance (DNS) was issued on September 12, 2011. The Environmental Determination is included as Attachment 4.
2. Conclusion: The applicant and the City have satisfied the requirements of SEPA.

D. ZONING CODE COMPLIANCE

1. SITE DEVELOPMENT STANDARDS

a. Facts:

- (1) For an office use, Section 53.82.2 requires that if any portion of a structure is adjoining a low density zone, then either the height of that portion of the structure shall not exceed 15 feet above average building elevation; or the maximum horizontal facade shall not exceed 50 feet in width.
- (2) The subject property adjoins a low density residential zone to the north. A structure within 100 feet of the low density residential zone boundary must comply with section 53.82.2.
- (3) Section 115.30.1.b states that two structures will be treated and considered as one structure if any elements of the structures are closer than 20 feet to each other.
- (4) The applicant proposes the construction of a two story office building above a first story parking garage. The structure will have the upper two stories divided into two segments of 50 feet wide each. The two segments will be separated by a 26 feet wide landscaped courtyard. The upper story facades comply with the horizontal façade requirement.
- (5) The applicant is seeking a variance to allow a structure; the parking garage cover and associated courtyard, to be located within the 20 foot horizontal façade separation area (see Attachment 2, Sheet A2 and A3).

b. Conclusion: The proposed structure does not comply with the maximum horizontal facade requirements of KZC Section 53.82.2. As a result, approval of a variance is needed.

2. VARIANCE CRITERIA

a. Facts:

- (1) Zoning Code Chapter 120 sets forth the mechanism whereby a provision of the Code may be varied on a case-by-case basis if the application of the provision would result in an unusual and unreasonable hardship.
- (2) Zoning Code section 120.20 establishes three decisional criteria with which a variance request must comply in order to be granted. The applicant's response to these criteria can be found in Attachment 5. Sections 2 through 4 contain the staff's findings of fact and conclusions based on these three criteria.

- b. Conclusions: Staff concludes that the variance complies with the applicable criteria of Chapter 120. Because the fundamental result of this variance allows construction of a landscaped courtyard above a parking structure, the result arguably provides a superior approach to building massing and site design than what would result without approval of the variance.

3. VARIANCE CRITERION 1

The variance will not be materially detrimental to the property or improvements in the area of the subject property or to the City, in part or as a whole.

a. Facts:

- (1) The intent of the maximum horizontal façade regulation is to reduce the impacts of large structures that adjoin low density residential zones.
- (2) The proposed structure will have two façades of 50 feet separated by a 26 foot wide court yard. The courtyard will be located on the second story of the structure and will also cover the first story parking garage. The applicant proposes the installation of landscaping within the courtyard as a way to soften the massing of the office building and emphasize the separation between the two office structures.
- (3) The proposed structure will be approximately 50 feet from the low density residential zone to the north. The adjoining property to the north is a single family lot with a detached dwelling unit.
- (4) Surface parking is allowed within the required 20' building separation.
- (5) At the time this report was prepared, the City has received no public comment on the proposed variance.

- b. Conclusion: The variance would not be materially detrimental to the property or improvements in the area of the subject property or to the City, in part or as a whole. The proposed structure within the area of required building is a minimal parking garage cover and landscaped courtyard above an otherwise allowed parking area. With the additional six feet of building separation of the office structures, the applicant is locating the building to minimize impacts on the adjoining low density zone. The proposed courtyard, with the landscaping, will help to soften the visual impacts of the structure. The resultant apparent mass of the development is not significantly greater than what would result from strict adherence to the code requirement.

4. VARIANCE CRITERION 2

The variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of preexisting improvements on the subject property that conformed to the Zoning Code in effect when the improvement was constructed.

a. Facts:

- (1) The subject property is 125.75 feet deep (north to south) and 155 feet wide. Any structure located within 100 feet of the low density zone is required to comply with the maximum horizontal façade regulation.
- (2) The area of the property outside of the required front yard and that is not encumbered by the horizontal façade regulation is limited to approximately 25.75 feet along 85th.
- (3) The property is located in the Rose Hill East End Design District. The design guidelines for this district encourage locating parking to the sides and rear of buildings as a way to improve the pedestrian orientation of new development along NE 85th Street. The applicant has responded by placing the parking behind the building and within a proposed parking structure.
- (4) The Design Guidelines also encourage buildings in this area to be oriented around an interior open space or courtyard. The proposal achieves this guideline by locating a courtyard above the parking, but within the area of required building separation.

b. Conclusion: The width and depth of the subject property in proximity to a low density residential zone combined with the design guidelines for the area, present special circumstance that necessitate the proposed variance. The proposed variance allows the development to balance these special circumstances by allowing for installation of a landscaped courtyard that otherwise would not be allowed by the zoning code. The result meets the objectives of the design guidelines by locating parking and a landscaped courtyard in the desired locations while also meeting the intent of the building separation requirements by providing functional separation between the dominant building masses.

5. VARIANCE CRITERION 3

The variance would not constitute a grant of special privilege to the subject property which is inconsistent with the general rights that this Code allows for other properties in the same area and zone as the subject property.

a. Facts:

- (1) The intent of the maximum horizontal façade regulation is to reduce the impacts of large structures that adjoin low density residential zones.
- (2) The proposed structure will comply with the maximum façade width and façade separation requirements of the zoning code.
- (3) The variance would allow for a landscaped courtyard on the second story that will also cover the first story parking garage.

- b. Conclusion: The proposed variance will not constitute a special privilege to the subject property which is inconsistent with the general rights that this Code allows for other properties in the same area and zone as the subject property. The structure complies with the overall intent of the maximum horizontal façade and the proposed landscaped courtyard also helps to minimize visual impacts of the structure.

6. GENERAL ZONING CODE CRITERIA

- a. Fact: Zoning Code section 150.65.3 states that a Process IIA application may be approved if:

It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and

It is consistent with the public health, safety, and welfare.

- b. Conclusion: The proposal complies with the criteria in section 150.65.3. It is consistent with all applicable development regulations and, to the extent that there is no applicable development regulation, the Comprehensive Plan (see Sections II.E). In addition, it is consistent with the public health, safety, and welfare because the proposed development will create infill development consistent with the goals of the Comprehensive Plan.

E. COMPREHENSIVE PLAN

- 1. Fact: The subject property is located within the North Rose Hill Neighborhood and the NE 85th Street Subarea. Figure NE85-2 on page XV.F/G-5 designates the subject property for Office use (see Attachment 6).
- 2. Conclusion: The proposal is consistent with the Office designation within the Comprehensive Plan.

F. DEVELOPMENT REGULATIONS

- 1. Facts: The proposed development requires Administrative Design Review and Building Permit Approvals prior to construction. The applicant was seeking to establish the basic building footprint and massing prior to applying for these permits. As part of these approvals, Staff will do a complete review of the project including compliance with applicable design regulations, tree retention and landscaping requirements, parking area regulations, and all other applicable zoning code regulations.
- 2. Conclusion: The variance application only applies to the maximum horizontal façade requirement. A review for compliance with all other regulations will occur as part of the Administrative Design Review and Building Permit application reviews.

G. 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 appeals. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

A. APPEALS

1. Appeal to City Council:

Section 150.80 of the Zoning Code allows the Hearing Examiner's decision to be appealed by the applicant and any person who submitted written or oral testimony or comments to the Hearing Examiner. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., _____, fourteen (14) calendar days following the postmarked date of distribution of the Hearing Examiner's decision on the application.

B. JUDICIAL REVIEW

Section 150.130 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 21 calendar days of the issuance of the final land use decision by the City.

V. LAPSE OF APPROVAL

Under Section 150.135 of the Zoning Code, the applicant must submit to the City a complete building permit application / begin the development activity approved under Chapter 150, 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 150.130, 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 150 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 6 are attached.

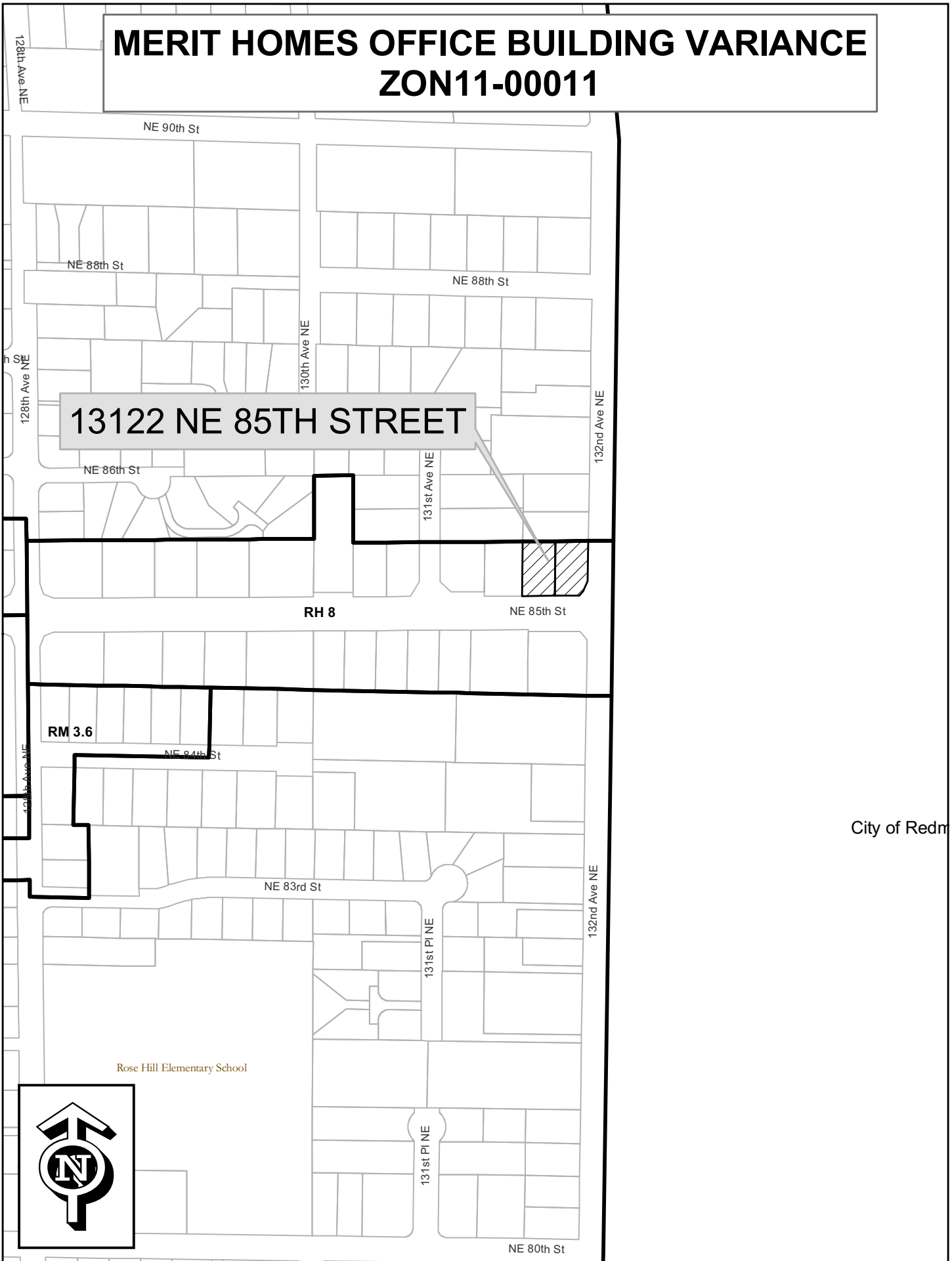
1. Vicinity Map
2. Development Plans
3. Development Standards
4. SEPA Determination
5. Applicant's Response to Variance Criteria
6. NE 85TH Street Subarea Map

VII. PARTIES OF RECORD

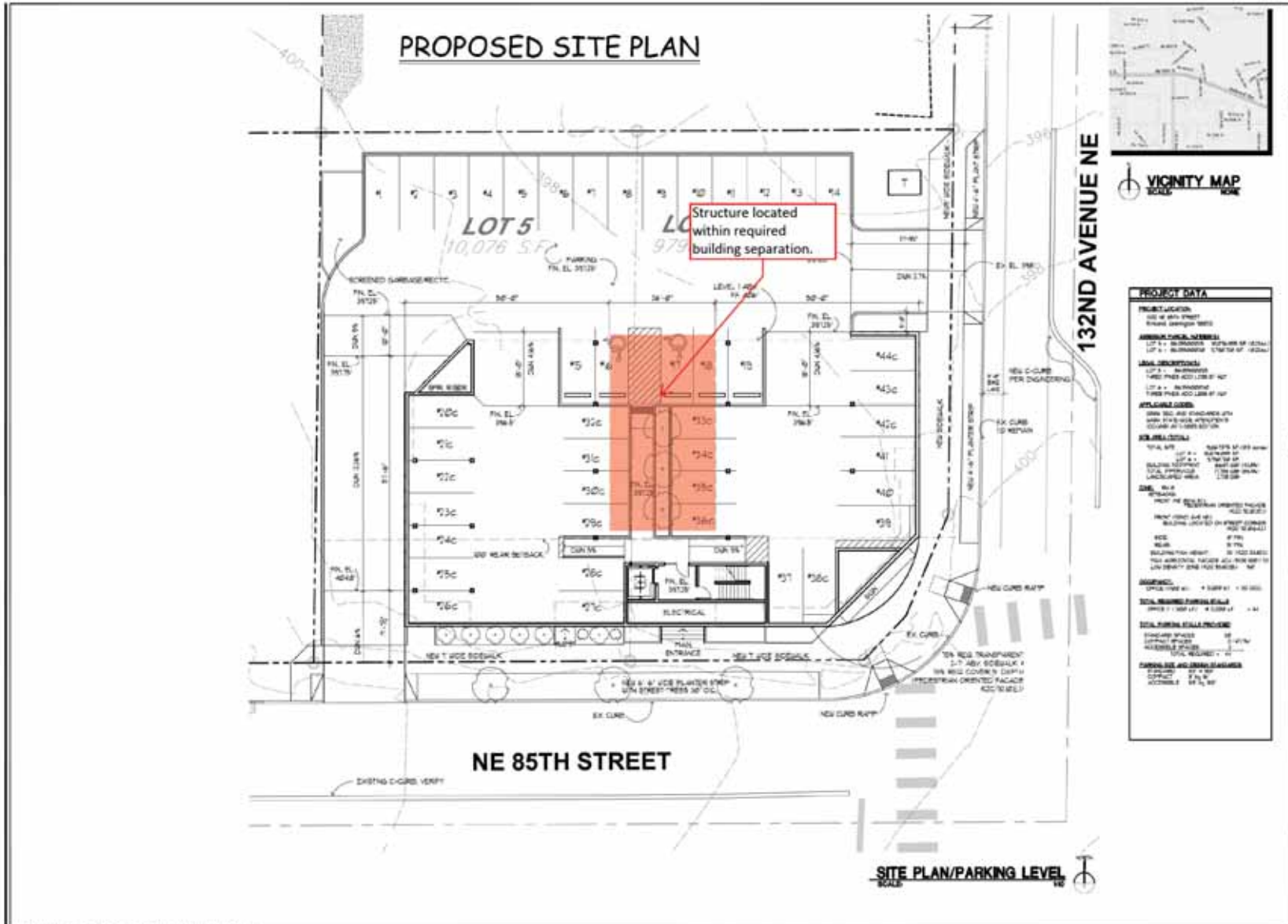
Applicant: Josh Lysen, Merit Homes Inc., 13023 NE 70th Place, Kirkland, WA 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

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

MERIT HOMES OFFICE BUILDING VARIANCE ZON11-00011



City of Redm



REVISIONS

**NEW OFFICE BUILDING FOR
GRIFFIS-LYSEN COMMERCIAL PROJECT**

216 A STREET NW
BURDEN, WASHINGTON
98001
PHONE: 206.236.2320

THE KEIMIG ASSOCIATES

ARCHITECTS
PLANNERS

JOB NUMBER: 08-29
DATE: 04-15-10
SHEET: **A-1**
OF



SOUTH ELEVATION
SCALE: 1/8" = 1'-0" (1/8" FLOOR TO FLOOR + STREET LEVEL)

EAST ELEVATION
SCALE: 1/8" = 1'-0" (1/8" FLOOR TO FLOOR + STREET LEVEL)



NORTH ELEVATION
SCALE: 1/8" = 1'-0" (1/8" FLOOR TO FLOOR + STREET LEVEL)

WEST ELEVATION
SCALE: 1/8" = 1'-0" (1/8" FLOOR TO FLOOR + STREET LEVEL)

Structure located within required building separation.

NO.	DESCRIPTION	DATE

New Office Building
Merit Homes
13277 Ave NE and 68th Street NE
Kirkland, Washington 98033

REGISTERED ARCHITECT
JAMES J. ATLAS
NOV 17 2010

216 A STREET NW
AUBURN, WASHINGTON
98001
PHONE 253.979.3222

THE KEIMIG ASSOCIATES

ARCHITECTS PLANNERS

JOB NUMBER: 08-29
DATE: 01-20-10

SHEET **A-3**
1/8" FLOOR TO FLOOR
OF 1 STREET LEVEL



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

DEVELOPMENT STANDARDS LIST
FILE: MERIT HOMES VARIANCE, ZON11-00011

ZONING CODE STANDARDS

92.35 Prohibited Materials In Design Districts. If in a design district the following building materials are prohibited or limited in use: mirrored glass or reflective materials, corrugated fiberglass, chain link fencing, metal siding, concrete block, backlit awnings. Water spigots are required along building facades along sidewalks for cleaning and plant watering. Commercial buildings with more than one tenant shall install a cornerstone or plaque.

95.51.2.a Required Landscaping. All required landscaping shall be maintained throughout the life of the development. The applicant shall submit an agreement to the city to be recorded with King County which will perpetually maintain required landscaping. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City.

95.44 Parking Area Landscape Islands. Landscape islands must be included in parking areas as provided in this section.

95.45 Parking Area Landscape Buffers. Applicant shall buffer all parking areas and driveways from the right-of-way and from adjacent property with a 5-foot wide strip as provided in this section. If located in a design district a low hedge or masonry or concrete wall may be approved as an alternative through design review.

95.50 Tree Installation Standards. All supplemental trees to be planted shall conform to the Kirkland Plant List. All installation standards shall conform to Kirkland Zoning Code Section 95.45.

95.52 Prohibited Vegetation. Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

100.25 Sign Permits. Separate sign permit(s) are required. In JBD and CBD cabinet signs are prohibited.

105.18 Pedestrian Walkways. All uses, except single family dwelling units and duplex structures, must provide pedestrian walkways designed to minimize walking distances from the building entrance to the right of way and adjacent transit facilities, pedestrian connections to adjacent properties, between primary entrances of all uses on the subject property, through parking lots and parking garages to building entrances. Easements may be required. In design districts through block pathways or other pedestrian improvements may be required. See also Plates 34 in Chapter 180.

105.32 Bicycle Parking. All uses, except single family dwelling units and duplex structures with 6 or more vehicle parking spaces must provide covered bicycle parking within 50 feet of an entrance to the building at a ratio of one bicycle space for each twelve motor vehicle parking spaces. Check with Planner to determine the number of bike racks required and location.

105.18 Entrance Walkways. All uses, except single family dwellings and duplex structures, must provide pedestrian walkways between the principal entrances to all businesses, uses, and/or buildings on the subject property.

105.18 Overhead Weather Protection. All uses, except single family dwellings, multifamily, and industrial uses, must provide overhead weather protection along any portion of the building, which is adjacent to a pedestrian walkway.

105.18.2 Walkway Standards. Pedestrian walkways must be at least 5' wide; must be distinguishable from traffic lanes by pavement texture or elevation; must have adequate lighting for security and safety. Lights must be non-glare and mounted no more than 20' above the ground.

105.18.2 Overhead Weather Protection Standards. Overhead weather protection must be provided along any portion of the building adjacent to a pedestrian walkway or sidewalk; over the primary exterior entrance to all buildings. May be composed of awnings, marquees, canopies or building overhangs; must cover at least 5' of the width of the adjacent walkway; and must be at least 8 feet above the ground immediately below it. In design districts, translucent awnings may not be backlit; see section for the percent of property frontage or building facade.

105.19 Public Pedestrian Walkways. The height of solid (blocking visibility) fences along pedestrian pathways that are not directly adjacent a public or private street right-of-way shall be limited to 42 inches unless otherwise approved by the Planning or Public Works Directors. All new building structures shall be setback a minimum of five feet from any pedestrian access right-of-way, tract, or easement that is not directly adjacent a public or private street right-of-way. If in a design district, see section and Plate 34 for through block pathways standards.

105.20 Required Parking. 44 parking spaces are required for this use.

105.47 Required Parking Pad. Except for garages accessed from an alley, garages serving detached dwelling units in low density zones shall provide a minimum 20-foot by 20-foot parking pad between the garage and the access easement, tract, or right-of-way providing access to the garage.

105.58 Parking Lot Locations in Design Districts. See section for standards unique to each district.

105.65 Compact Parking Stalls. Up to 50% of the number of parking spaces may be designated for compact cars.

105.60.2 Parking Area Driveways. Driveways which are not driving aisles within a parking area shall be a minimum width of 20 feet.

105.60.3 Wheelstops. Parking areas must be constructed so that car wheels are kept at least 2' from pedestrian and landscape areas.

105.60.4 Parking Lot Walkways. All parking lots which contain more than 25 stalls must include pedestrian walkways through the parking lot to the main building entrance or a central location. Lots with more than 25,000 sq. ft. of paved area must provide pedestrian routes for every 3 aisles to the main entrance.

105.77 Parking Area Curbing. All parking areas and driveways, for uses other than detached dwelling units must be surrounded by a 6" high vertical concrete curb.

110.52 Sidewalks and Public Improvements in Design Districts. See section, Plate 34 and public works approved plans manual for sidewalk standards and decorative lighting design applicable to design districts.

110.60.5 Street Trees. All trees planted in the right-of-way must be approved as to species by the City. All trees must be two inches in diameter at the time of planting as measured using the standards of the American Association of Nurserymen with a canopy that starts at least six feet above finished grade and does not obstruct any adjoining sidewalks or driving lanes.

115.25 Work Hours. It is a violation of this Code to engage in any development activity or to operate any heavy equipment before 7:00 am. or after 8:00 pm Monday through Friday, or before 9:00 am or after 6:00 pm Saturday. No development activity or use of heavy equipment may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. The applicant will be required to comply with these regulations and any violation of this section will result in enforcement action, unless written permission is obtained from the Planning official.

115.45 Garbage and Recycling Placement and Screening. For uses other than detached

dwelling units, duplexes, moorage facilities, parks, and construction sites, all garbage receptacles and dumpsters must be setback from property lines, located outside landscape buffers, and screened from view from the street, adjacent properties and pedestrian walkways or parks by a solid sight-obscuring enclosure.

115.47 Service Bay Locations. All uses, except single family dwellings and multifamily structures, must locate service bays away from pedestrian areas. If not feasible must screen from view.

115.75.2 Fill Material. All materials used as fill must be non-dissolving and non-decomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.

115.85 Rose Hill Business District Lighting Standards: See this section for specific requirements that apply to all exterior lighting on buildings, all open air parking areas and equipment storage yards within this business district. The intent of this section is to discourage excessive lighting and to protect low density residential zones from adverse impacts that can be associated with light trespass from nonresidential and medium to high density residential development.

115.90 Calculating Lot Coverage. The total area of all structures and pavement and any other impervious surface on the subject property is limited to a maximum percentage of total lot area. See the Use Zone charts for maximum lot coverage percentages allowed. Section 115.90 lists exceptions to total lot coverage calculations See Section 115.90 for a more detailed explanation of these exceptions.

115.95 Noise Standards. The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC. Any noise, which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

115.115 Required Setback Yards. This section establishes what structures, improvements and activities may be within required setback yards as established for each use in each zone.

115.115.3.g Rockeries and Retaining Walls. Rockeries and retaining walls are limited to a maximum height of four feet in a required yard unless certain modification criteria in this section are met. The combined height of fences and retaining walls within five feet of each other in a required yard is limited to a maximum height of 6 feet, unless certain modification criteria in this section are met.

115.115.3.p HVAC and Similar Equipment: These may be placed no closer than five feet of a side or rear property line, and shall not be located within a required front yard; provided, that HVAC equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

115.115.d Driveway Setbacks. Parking areas and driveways for uses other than detached dwelling units, attached and stacked dwelling units in residential zones, or schools and day-cares with more than 12 students, may be located within required setback yards, but, except for the portion of any driveway which connects with an adjacent street, not closer than 5 feet to any property line.

115.120 Rooftop Appurtenance Screening. New or replacement appurtenances on existing buildings shall be surrounded by a solid screening enclosure equal in height to the appurtenance. New construction shall screen rooftop appurtenances by incorporating them in to the roof form.

115.135 Sight Distance at Intersection. Areas around all intersections, including the entrance of driveways onto streets, must be kept clear of sight obstruction as described in this section.

150.22.2 Public Notice Signs. Within seven (7) calendar days after the end of the 21-day period following the City’s final decision on the permit, the applicant shall remove all public notice signs.

Prior to issuance of a grading or building permit:

95.30(4) Tree Protection Techniques. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans.

95.34 Tree Protection. Prior to development activity or initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities. Protection measures for trees to be retained shall include (1) placing no construction material or equipment within the protected area of any tree to be retained; (2) providing a visible temporary protective chain link fence at least 6 feet in height around the protected area of retained trees or groups of trees until the Planning Official authorizes their removal; (3) installing visible signs spaced no further apart than 15 feet along the protective fence stating “Tree Protection Area, Entrance Prohibited” with the City code enforcement phone number; (4) prohibiting excavation or compaction of earth or other damaging activities within the barriers unless approved by the Planning Official and supervised by a qualified professional; and (5) ensuring that approved landscaping in a protected zone shall be done with light machinery or by hand.

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. Please see KMC 27.06 for the current rate. Exemptions and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060. If a property contains an existing unit to be removed, a “credit” for that unit shall apply to the first building permit of the subdivision.

Prior to occupancy:

95.51.2.a Required Landscaping. All required landscaping shall be maintained throughout the life of the development. The applicant shall submit an agreement to the city to be recorded with King County which will perpetually maintain required landscaping. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City

110.60.5 Landscape Maintenance Agreement. The owner of the subject property shall sign a landscape maintenance agreement, in a form acceptable to the City Attorney, to run with the subject property to maintain landscaping within the landscape strip and landscape island portions of the right-of-way (see Attachment). It is a violation to pave or cover the landscape strip with impervious material or to park motor vehicles on this strip.

DEVELOPMENT STANDARDS
CASE NO.: ZON11-00011
PCD FILE NO.:ZON11-00011

Date:
10/13/2011

FIRE DEPARTMENT CONDITIONS

Fire department conditions are as noted in PRE09-00019.

*Existing hydrants in the area are adequate to provide coverage.

*Fire flow in the area is approximately 10,000 gpm which is adequate for this project.

*The building requires a fire sprinkler and fire alarm system, and fire extinguishers.

BUILDING DEPARTMENT CONDITIONS

Currently building permits must comply with the 2009 editions of the International Building and Mechanical Codes and the Uniform Plumbing Code as adopted and amended by the State of Washington and the City of Kirkland.

Currently, conditioned structures must comply with the 2009 Washington State Energy Code (WAC 51-11).

Structures must be designed for seismic design category D, wind speed of 85 miles per hour and exposure B.

Plumbing meter and service line shall be sized in accordance with the UPC.

Demolition permit(s) required for removal of existing structures.

Geotechnical report required to address development activity. Report must be prepared by a Washington State licensed Professional Engineer. Recommendations contained within the report shall be incorporated into the design of the subsequent structures.

An area must be set aside for recyclable materials and solid waste. Ref.: RCW 19.27.480 - in addition this area must be accessible to the serving utility Ref.: KMC 16.08.075



You can review your permit status and conditions at www.kirklandpermits.net

PUBLIC WORKS CONDITIONS

Permit #: ZON11-00011

Project Name: Griffis-Lysen Commercial

Project Address: 13122 NE 85th Street

Date: March 1, 2011

Public Works Staff Contacts

Land Use and Pre-Submittal Process:

John Burkhalter, Development Engineering Supervisor

Phone: 425-587-3846 Fax: 425-587-3807

E-mail: jburkhal@ci.kirkland.wa.us

Building and Land Surface Modification (Grading) Permit Process:

Philip Vartanian, Development Engineer

Phone: 425-587-3846 Fax: 425-587-3807

E-mail: jburkhal@ci.kirkland.wa.us

General Conditions:

1. All public improvements associated with this project including street and utility improvements, must meet the City of Kirkland Public Works Pre-Approved Plans and Policies Manual. A Public Works Pre-Approved Plans and Policies manual can be purchased from the Public Works Department, or it may be retrieved from the Public Works Department's page at the City of Kirkland's web site at www.ci.kirkland.wa.us.
2. This project will be subject to Public Works Permit and Connection Fees. At the pre-application stage, the fees can only be estimated. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The fees can also be review the City of Kirkland web site at www.ci.kirkland.wa.us. The applicant should anticipate the following fees:
 - Water and Sewer connection Fees (paid with the issuance of a Building Permit)
 - Side Sewer Inspection Fee (paid with the issuance of a Building Permit)
 - Septic Tank Abandonment Inspection Fee
 - Water Meter Fee (paid with the issuance of a Building Permit)
 - Right-of-way Fee
 - Review and Inspection Fee (for utilities and street improvements).
 - Traffic Impact Fee (paid with the issuance of Building Permit). For additional information, see notes below.
 - Stormwater connection Fee (paid with the issuance of a Building Permit)



3. Prior to submittal of a Building or Zoning Permit, the applicant must apply for a Concurrency Test Notice. Contact Thang Nguyen, Transportation Engineer, at 425-587-3869 for more information. A separate Concurrency Permit will be created.
4. Building Permits associated with this proposed project will be subject to the traffic impact fees per Chapter 27.04 of the Kirkland Municipal Code. The impact fees shall be paid prior to issuance of the Building Permit(s).
5. Any existing single family homes within this project which are demolished will receive a Traffic Impact Fee credit. The credit amount for each demolished single family home will be equal to the most currently adopted Traffic Impact Fee schedule. Additional credits in the amount of \$35,775 are available and may be used per the agreement signed October 1, 2010 between Merit Homes and the City of Kirkland.
6. All civil engineering plans which are submitted in conjunction with a building, grading, or right-of-way permit must conform to the Public Works Policy titled ENGINEERING PLAN REQUIREMENTS. This policy is contained in the Public Works Pre-Approved Plans and Policies manual.
7. All street improvements and underground utility improvements (storm, sewer, and water) must be designed by a Washington State Licensed Engineer; all drawings shall bear the engineers stamp.
8. All plans submitted in conjunction with a building, grading or right-of-way permit must have elevations which are based on the King County datum only (NAVD 88).
9. A completeness check meeting is required prior to submittal of any Building Permit applications.
10. Prior to issuance of any commercial or multifamily Building Permit, the applicant shall provide a plan for garbage storage and pickup. The plan shall be approved by Waste Management and the City.
11. The required tree plan shall include any significant tree in the public right-of-way along the property frontage.

Sanitary Sewer Conditions:

1. The City of Kirkland has extending sewer to these two parcels via the City of Kirkland Emergency Sewer Program. The cost of the extension was divided by all the beneficiaries and your fair share will be assessed on the Building Permits. Keep in mind if these parcels retain separate tax ids the west property will need to get an easement and enter into a joint maintenance agreement with the east property.
2. The existing septic system on each parcel shall be abandoned per City standards.



Water System Conditions:

1. The existing water main in the public right-of-way along the front of the subject property is adequate to serve the domestic needs this proposed development.
2. Irrigation systems require separate water service from domestic.
3. In mixed-use projects each use shall have a separate water meter, i.e., the retail use shall have a separate water meter.
4. The existing water service may be used provided that it is in the right location, is not galvanized or blue poly, and is sized adequately to serve the Project (per the Plumbing Code).
5. Provide fire hydrants per the Fire Departments requirements.
6. The available fire flow at this project location is 9,800 gpm. (for more detailed information, contact the Kirkland Fire Marshall at 425-587-3660).

Surface Water Conditions:

1. Provide temporary and permanent storm water control per the 2009 King County Surface Water Design Manual and the Kirkland Addendum. See Policies D-2 and D-3 in the PW Pre-Approved Plans for drainage review information, or contact city of Kirkland Surface Water staff at (425) 587-3800 for help in determining drainage review requirements. Summarized below are the levels of drainage review based on site and project characteristics:
 - Full Drainage Review
 - A full drainage review is required for any proposed project, new or redevelopment, that will:
 - ✓ Add or replaces 5,000ft² or more of new impervious surface area,
 - ✓ Propose 7,000ft² or more of land disturbing activity, or,
 - ✓ Be a redevelopment project on a single or multiple parcel site in which the total of new plus replaced impervious surface area is 5,000ft² or more and whose valuation of proposed improvements (including interior improvements but excluding required mitigation and frontage improvements) exceeds 50% of the assessed value of the existing site improvements.
2. Evaluate the feasibility and applicability of dispersion, infiltration, and other stormwater low impact development facilities on-site (per section 5.2 in the 2009 King County Surface Water Design Manual). If feasible, stormwater low impact development facilities are required. See PW Pre-Approved Plan Policy L-1 for more information on this requirement.



3. Amended soil per Ecology BMP T5.13 is recommended for all landscaped areas.
4. If a storm water detention system is required, it shall be designed to Level II standards. Historic (forested) conditions shall be used as the pre-developed modeling condition.
5. If this project is creating or replacing more than 5000 square feet of new impervious area that will be used by vehicles (PGIS - pollution generating impervious surface). Provide storm water quality treatment per the 2009 King County Surface Water Design Manual. The enhanced treatment level is encouraged when feasible for multi-family residential, commercial, and industrial projects.
6. Storm detention calculations for the entire site are required.
7. Provide a level one off-site analysis (based on the King County Surface Water Design Manual, core requirement #2).
8. When applicable, structural source control measures, such as car wash pads or dumpster area roofing, shall be shown on the site improvement plans submitted for engineering review and approval. Refer to Volume IV in the 2015 Department of Ecology Storm Water Management Manual for Western Washington for further information.
9. It doesn't appear that any work within an existing ditch will be required, however the developer has been given notice that the Army Corps of Engineers (COE) has asserted jurisdiction over upland ditches draining to streams. Either an existing Nationwide COE permit or an Individual COE permit may be necessary for work within ditches, depending on the project activities.
Applicants should obtain the applicable COE permit; information about COE permits can be found at: U.S. Army Corps of Engineers, Seattle District Regulatory Branch
http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_NWPs
Specific questions can be directed to: Seattle District, Corps of Engineers, Regulatory Branch, CENWS-OD-RG, Post Office Box 3755, Seattle, WA 98124-3755, Phone: (206) 764-3495
10. Provide an erosion control report and plan with Building or Land Surface Modification Permit application. The plan shall be in accordance with the 2009 King County Surface Water Design Manual.
11. Construction drainage control shall be maintained by the developer and will be subject to periodic inspections. During the period from May 1 and September 30, all denuded soils must be covered within 7 days; between October 1 and April 30, all denuded soils must be covered within 12 hours. Additional erosion control measures may be required based on site and weather conditions. Exposed soils shall be stabilized at the end of the workday prior to a weekend, holiday, or predicted rain event.



12. The storm sewer must be extended (8-inch) thru the driveway and terminated with a catch basin to provide for future extension to the property to the west. A storm water latecomers agreement may be filed against the property owner to the west. Provide a 10' wide private sewer easement.
13. All roof and driveway drainage must be tight-lined to the storm drainage system or utilize low impact development techniques.
14. Provide a plan and profile design for the storm sewer system.

Street and Pedestrian Improvement Conditions:

1. The subject properties abut NE 85th Street and 132nd Ave NE. These streets are Arterial type streets. Zoning Code sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:

NE 85th Street
 - A. New curb and gutter
 - B. New 6.5 ft. planter and 7 ft. sidewalk with street trees 30 ft. on center and pedestrian lighting. (tree species and pedestrian lighting to match City designed NE 85th Street Corridor Project)
132nd Ave. NE
 - A. New curb and gutter with curb face 22 feet from centerline.
 - B. Remove the existing sidewalk and install a 4.5 ft. wide landscape strip with street trees in tree grates 30 ft. on-center and a new 7 ft. wide sidewalk at the corner which may taper down to a 5 foot wide walk somewhere north of the corner.
 - C. Provide stripping plan for new bike lanes.
 - D. Dedicate 2' of ROW to encompass the 5 foot sidewalk. Provide pedestrian easement for sidewalk area beyond the 5 foot width next to the building at the corner.
2. A 2-inch asphalt street overlay will be required where three or more utility trench crossings occur within 150 lineal ft. of street length or where utility trenches parallel the street centerline. Grinding of the existing asphalt to blend in the overlay will be required along all match lines.
3. Per the Public Works Driveway Policy the following shall be met:
 - A. The driveway along NE 85th Street should be located as far west of the intersection as the property frontage allows.
 - B. The driveway along 132nd Ave NE should be located as far north of the intersection as the property frontage allows. However, there is a need to locate a communications vault at the northeast corner of the property which will necessitate the shifting of the driveway south. The



pre-submittal drawings show the driveway configuration correctly. This driveway shall only accommodate right turns in and out, and c-curbing along the frontage shall be required.

- C. Provide an access easement for the adjacent parcels to the west (8635700020 and 8635700015) to allow access thru to 132nd and the access drive to 85th. A reciprocal easement will be required of these parcels when they develop.
4. All street and driveway intersections shall not have any visual obstructions within the sight distance triangle. See Public Works Pre-approved Policy R.13 for the sight distance criteria and specifications.
5. It shall be the responsibility of the applicant to relocate any above-ground or below-ground utilities which conflict with the project associated street or utility improvements.
6. Underground all new and existing on-site utility lines and overhead transmission lines.
7. Underground any new off-site transmission lines.

Zoning Code Section 110.60.9 establishes the requirement that existing utility and transmission (power, telephone, etc.) lines on-site and in rights-of-way adjacent to the site must be underground. The Public Works Director may determine if undergrounding transmission lines in the adjacent right-of-way is not feasible and defer the undergrounding by signing an agreement to participate in an undergrounding project, if one is ever proposed. In this case, the Public Works Director has determined that undergrounding of existing overhead utility on NE 85th Street and 132nd Ave NE is feasible at this time. The City of Kirkland CIP is currently under design and will construct these improvements in the near future. If your project makes application prior to the completion of the work you will be asked to sign a concomitant agreement to agree to pay for you pro rata fair share of the cost of the improvements.

8. A striping plan for the street must be submitted with the building or grading permit.



CITY OF KIRKLAND
123 FIFTH AVENUE, KIRKLAND, WASHINGTON 98033-6189
(425) 587-3225

DETERMINATION OF NONSIGNIFICANCE (DNS) .

CASE #: SEP11-00009

DATE ISSUED: 9/12/2011

DESCRIPTION OF PROPOSAL

Construction of a 13,200 square foot commercial/ office building with associated onsite parking for 44 vehicles.

PROPONENT:

LOCATION OF PROPOSAL: 13122 NE 85TH STREET

LEAD AGENCY IS THE CITY OF KIRKLAND

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

This DNS is issued under 197-11-340 (2); the lead agency will not act on this proposal for 14 days from the date above. Comments must be submitted by 5:00 p.m. 9/26/2011

Responsible official:

9/13/11
Date

Eric Shields, Director
Department of Planning and Community Development
425-587-3225

Address: City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

You may appeal this determination to the Planning Department at Kirkland City Hall, 123 Fifth Avenue, Kirkland, WA 98033 no later than 5:00 p.m., September 26, 2011 by WRITTEN NOTICE OF APPEAL.

You should be prepared to make specific factual objections. Contact the Planning Department at 425-587-3225 to read or ask about the procedures for SEPA appeals.

Please reference case # SEP11-00009.

Publish in the Seattle Times (date): 9-15-2011

Distribute this form with a copy of the checklist to the following:

- Environmental Review Section, Department of Ecology, P.O. Box 47703, Olympia, WA 98504-7703
- Department of Fish and Wildlife (for streams and wetlands - with drawings) North Lake Washington Tributaries Area Habitat Biologist 16018 Mill Creek Boulevard, Mill Creek, WA 98012
- Department of Fish and Wildlife (for shorelines and Lake Wa. - with drawings) Lake Washington Tributaries Area Habitat Biologist

C/O DOE
3190 160th Avenue SE, Bellevue, WA 98008

Seattle District, U.S. Army Corps of Engineers,
P.O. Box C-3755
Seattle, WA 98124

Attn: Lynn Best, Acting Director, Environmental Division, Seattle City Light
700 5th Avenue, Suite 3316
P.O. Box 34023
Seattle, WA 98125-4023

Attn: Environmental Reviewer
Muckleshoot Indian Tribe Fisheries Division
39015 172nd Avenue SE
Auburn, WA 98092

AND

Attn: Preservation Program
Muckleshoot Indian Tribe Fisheries Division
39015 172nd Avenue SE
Auburn, WA 98092

Northshore Utility District
P.O. Box 82489
Kenmore, WA 98028-0489

Ken Howe, PE, General Manager
Woodinville Water District
17238 NE Woodinville-Duvall Rd.
PO Box 1390
Woodinville, WA 98072-1390

Shirley Marroquin
Environmental Planning Supervisor
King County Wastewater Treatment Division
201 South Jackson Street, MS KSC-TR-0431
Seattle, WA 98104-3856

Gary Kriedt
King County Metro Transit Environmental Planning
201 South Jackson Street, MS KSC TR-0431
Seattle, WA 98104-3856

Director of Facilities
Lake Washington School District No. 414
P.O. Box 97039
Redmond, WA 98073-9739

Budget Manager
Lake Washington School District No. 414
P.O. Box 97039
Redmond, WA 98073-9739

John Sutherland, Developer Services
Washington State Department of Transportation
15700 Dayton Ave. N. MS 240
P.O. Box 330310
Seattle, WA 98133-9710

Jan McGruder, Executive Director
East Lake Washington Audubon Society
PO Box 3115
Kirkland, WA 98083

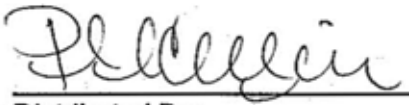
Applicant / Agent: _____

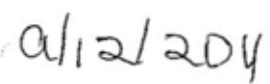
---MITIGATING MEASURES INCORPORATED INTO THE PROPOSAL: _____

As part of the building permit application, the applicant shall include plans for the installation of c-curb on the north leg of the intersection of NE 85th Street/132nd Avenue NE from the stop bar to the north project property line.

cc: Case # ZON11-00011

Distributed to agencies along with a copy of the checklist. (see attached).





Distributed By: _____
SEPA C A. rev: 9/8/2011

Date: _____



February 1st, 2011

13023 NE 70th Place
Kirkland, WA 98033

ANSWERS to
CRITERIA SHEET for Variances

1. This variance of the horizontal façade KZC 115.30 will not be a material detriment to our property or the neighboring properties or to the City whatsoever. To the contrary, our proposed design will be a significant improvement to our property, the neighboring single family property to the north and as a result, to the City.

Our proposed design would be a significant improvement because the elevated platform, that the code does not allow for, will be used to plant trees and bushes in planter boxes that are built on top of the elevated platform. This added greenery will do many beneficial things, such as;

- a. Enhance the look of the building from the property to the north by breaking up the north elevation of the building with greenery, rather than view of a building only.
- b. Provide shade for the building, keeping its occupants cooler and lowering air conditioning costs in the summer.
- c. Will be an attractive feature of the building by providing outdoor space for the buildings occupants to use for a breath of fresh air. This area would be more desirable than stepping out onto the busy NE 85th St.

2. The variance is necessary because KZC .507 Maximum Horizontal Façade prevents our building from having a cross-section wider than 100' on the north side.

KZC definition states the following, "The widest cross-section of the building(s) in the area adjoining the low density zone or within 100 feet of the adjoining lot containing the detached dwelling unit or low density use. The cross-section width is measured parallel to the zone or lot(s). (See Plate 38.)"

Our property is located adjacent to a low-density zoning. Thus, the north side of our building, specifically the ~12" thick by 26' wide platform above the parking garage in the center of the building, does not comply w/ KZC .507.

3. The Variance DOES NOT constitute a special privilege to the subject property because of how it benefits the neighboring properties and requires additional costs to us than it would otherwise. It benefits the neighboring properties by enhancing



their view of our property. We're enhancing their view by providing greenery (trees & bushes) elevated up on this platform, that partially obscures the building structure itself from their view and instead gives them a more desirable view. To accomplish this, we are spending a considerable amount of money to build the platform itself as well as to supply it with the mature greenery.

Josh Lysen
Vice-President
425.444.4041 phone
206.600.4914 fax
Josh@MeritHomesInc.com

