



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

**To:** Kirkland Hearing Examiner

**From:** Jon Regala, Senior Planner  
 Eric Shields, AICP, Planning Director

**Date:** May 8, 2012

**File:** ZON11-00026 – TOTEM STATION MIXED USE PROJECT  
 PLANNED UNIT DEVELOPMENT (PUD)

**Hearing Date and Place:** May 17, 2012  
 6:30 p.m. (or as soon thereafter as possible)  
 City Hall Council Chamber  
 123 Fifth Avenue, Kirkland

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## I. **INTRODUCTION**

### A. **APPLICATION**

1. Applicant: CamWest Development LLC represented by Aaron Hollingbery
2. Site Location: 11515 124<sup>th</sup> Avenue NE (see Enclosure 1)
3. Request: The applicant is proposing to construct a new 4 to 5-story mixed use project. The majority of the project will be 4-stories. Lofts for three apartment units situated at building corners results in a 5-story building at those locations. The project also includes approximately 10,200 square feet of commercial/retail space, 108 one-unit/studio apartment units, and a total of 128 parking stalls (see Enclosure 2). An urban forest and dog park is proposed at the southwest corner of the site.

The applicant is requesting approval of a preliminary and final Planned Unit Development (PUD) in order to place residential parking spaces on the ground floor of the building and to modify floor-to-floor heights. The Kirkland Zoning Code (KZC) currently does not allow for stacked dwelling units and associated residential parking on the ground floor of a building in a development located in the NRH 1A zone. Residential parking is allowed outside of the building at the ground level. Eighty-four of the parking stalls are located on the ground floor of the building. Twenty-eight stalls are located on-site at ground level outside of the building.

The applicant is also proposing a shared parking approach between the different uses on the subject property and requesting a parking modification to allow 16 on-street parking stalls to count towards the parking requirement for the development.

4. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation, City Council makes final decision.
5. Summary of Key Issues: The Department of Planning and Community Development recommends approval of the proposed PUD and parking modification request with conditions (see Section I.B). The key issues for this project include compliance with the PUD criteria (see Section II.F.2) and parking modification criteria (see Section II.G.2).

### B. **RECOMMENDATIONS**

Based on Statements of Fact and Conclusions (Section II), and Enclosures 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. Enclosure 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This Enclosure does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Enclosure 3, the condition of approval shall be followed (see Conclusion II.1.2).
2. As part of the application for a Building Permit and/or Grading Permit the applicant shall submit:

- a. Detailed plans for staff review that are consistent with Design Review Board approval file DRC11-00002 (see Conclusion II.B.2, II.C.2, and II.F.2.d.2).
  - b. A Tree Retention Plan that includes specific information on how to minimize construction impacts to the two trees to be retained (see Conclusion II.G.4.b).
  - c. Plans consistent with the public improvements in Enclosure 2 (see Conclusion II.F.2.d.2).
  - d. Permit drawings consistent with the parking layout in Enclosure 2 and parking information which includes the following (see Conclusion II.G.2.b):
    - A parking management plan, to be reviewed and approved by the City that would allow for successful shared parking. The parking management plan should address the following:
      - Signing on-site parking spaces as reserved for commercial use during specified hours Monday through Friday.
      - Installing signs visible from the driveway directing customers to commercial parking available in the parking garage.
    - A signed parking agreement which would prohibit medical office, sport-type uses such as spinning classes, yoga, and pilates studios unless a parking study is provided for City review and approval pursuant to the regulations in KZC Chapter 105. Any other change in use shall comply with the NRH 1A zone parking requirements.
    - A draft Transportation/Shared Parking Management Program as proposed by the applicant to be reviewed and approved by staff.
3. Prior to final inspection, the applicant shall:
- a. Replace any existing public improvements damaged during construction consistent with Public Works Preapproved Road Construction Plans (see Conclusion II.C.2).
  - b. Install the shared parking requirements in subsection 2.d above (see Conclusion II.G.2.b).
  - c. Submit a public access easement to allow for future construction and connection of the urban forest pedestrian pathway to the west (see Conclusion II.G.3.b).

## **II. FINDINGS OF FACT AND CONCLUSIONS**

### **A. SITE DESCRIPTION**

1. Site Development and Zoning:
  - a. Facts:
    - 1) Size: 86,331 square feet or 1.98 acres
    - 2) Land Use: The subject property is currently vacant and bounded by public right-of-way on three sides: 124th Ave NE on the east; NE 116th Street on the north; and NE 115th Place/Slater Avenue NE on the south.
    - 3) Zoning: NRH 1A

4) Terrain and Vegetation: The subject property is currently undeveloped except for remnants of the old Slater Road, which has been vacated. The site contains a large number of trees which include the following species:

- Big Leaf Maple
- Western Red Cedar
- Douglas Fir
- Black Cottonwood
- Red Alder
- Bitter Cherry
- Cascara

The subject property slopes down from the southeast to northwest. From the intersection of NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE, the ground elevation drops approximately 11 feet over a distance of approximately 255 feet to the northwest property line. From the intersection of Slater Avenue NE and NE 115<sup>th</sup> Place, the ground elevation drops approximately 19 feet over a distance of approximately 186 feet to the north property line. The eastern portion of the site has a more gradual slope while the western portion of the site has steeper topography. The intersection of NE 116<sup>th</sup> Street and 124<sup>th</sup> Avenue NE is approximately 8 feet lower than the intersection of NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE.

b. Conclusion: Tree retention and protection during construction are factors in the review of the proposed development (see Section II.G.6).

2. Neighboring Development and Zoning:

a. Facts: The following are the existing uses, allowed heights, and zoning of the properties adjacent to the subject property:

- *North*: The site is bounded on the north by NE 116th Street. Across NE 116<sup>th</sup> Street is the TL 5 Zone. Maximum building height in the TL 5 Zone is 35 feet above average building elevation and may be increased to 55 feet or more above average building elevation in certain circumstances. Fronting on 124th Avenue NE is a retail complex containing a 7-11 store at the corner. Fronting on NE 116th Street is an auto body shop.
- *East*: The site is bounded on the east by 124th Ave NE. Across 124<sup>th</sup> Ave NE are NRH 1B and NRH 3 zones. In the NRH 1B zone, the potential maximum height is 58 feet. Properties to the east contain a retail complex with a Jack-in-the-Box fast food restaurant and the NE 116th Street retail plaza. In the NRH 3 zone, the potential maximum height is 30 feet above average building elevation. The property to the east, located in the NRH 3 zone, contains a single family residence.
- *South*: NRH 3 Zone. Potential maximum height is 30 feet above average building elevation. Properties to the south contain the Totem Square Office Park.

NRH 1A Zone. Also to the south, the subject property adjoins the Luna Sol mixed-use project which was

completed in 2010. Luna Sol is a 5-story mixed use building with a 3-story below grade parking structure.

- *West:* The site is bounded on the west by a private access tract and the NRH 1A Zone. Potential maximum height is 58 feet measured above the abutting right-of-way. Properties to the west contain a 76 gas station as well as the Brown Bag Café, Shari's restaurant, and the Best Western Hotel.
- b. Conclusion: Since the subject property will contain a mix of residential and office, retail, and restaurant uses, compliance with their respective development standards are required. In the instance where a PUD is being requested in order to deviate from a development standard, the applicable PUD criteria must be met. See Sections II.F (analysis of PUD approval criteria) and II.G (analysis of *Development Regulations*) below for further discussion on these requirements.

## B. HISTORY

1. Facts: The following is a brief summary of prior approvals for the subject property.
  - File BLD01-00059. Building permit for development of a two-story office building. Permit expired September 2003.
  - *Mastro Development* – Mixed-use building with 54 condominium units.
    - File VAC06-00002. Street vacation of portion of Slater Avenue that extends into the subject property. Street vacation completed in April 2007.
    - File DRC06-00003. Design Response Conference. Approved April 2007.
    - File BLD07-01017. Building Permit. Permit expired April 2010.
  - *Totem Station Development (current proposal)* - Mixed-use building with 108 apartment units.
    - DRC11-00002. Design Response Conference. Approved August 2011.
    - ZON11-00026. PUD application currently in review. The site layout and building design submitted with the PUD application is based on the Design Review Board (DRB) approval for file DRC11-00002.
2. Conclusion: Building permits and the design review approval associated with previous projects no longer apply to the subject property. However, the building and grading permit applications for this project (Totem Station) must comply with the DRB's approval in file DRC11-00002. If changes are proposed which are inconsistent with the DRB's decision, such changes must be reviewed again by the DRB and decided upon pursuant to KZC Section 142.50 – *[Design Review] Modifications*.

## C. PUBLIC COMMENT

1. Facts: The City provided notice for public comment on the applicant's PUD proposal. The public comment period for this application was from June 30, 2011 through July 18, 2011. A total of seven emails and/or letters were submitted to the City during this period (see Enclosure 4).

Most of the concerns raised by the public were related to the increase in traffic and lack of traffic calming and transportation improvements. Traffic issues were addressed during the SEPA review of the project and SEPA has not been appealed. The City's Traffic Impact Analysis, which includes responses to these traffic concerns, can be found in Enclosure 5. Although transportation mitigation was not required with SEPA, the applicant is proposing a traffic island and associated striping south of the NE 112<sup>th</sup> Place and Slater Avenue intersection to narrow the travel lane and promote slower vehicle speeds (see Enclosure 13). The applicant is proposing these improvements as a PUD public benefit (see Section II.F.2). The Slater Avenue Task Force supports the proposed traffic calming improvements (see Enclosure 14).

Below are other concerns that were brought up in the public comment emails/letters received and are appropriate to be addressed as part of the zoning permit review. Each comment is followed by staff's response.

a. Parking

- 1) *Comment:* The proposal does not have enough parking spaces and may impact street parking.
- 2) *Staff Response:* The applicant has proposed a shared parking approach as described in KZC Section 105.45. Shared parking between uses is allowed if the number of parking spaces provided is equal to the greatest number of required spaces for the uses operating at the same time.

The applicant is also proposing 16 parking stalls to be located within the City right-of-way along NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE. Because this is not normally required, the applicant must receive approval of a parking modification pursuant to KZC Section 105.103.3.d.

See Section II.G.2 for staff's analysis on shared parking and the parking modification to allow for street parking.

b. Rose Hill Neighborhood signage

- 1) *Comment:* The applicant agreed to post a North Rose Hill neighborhood sign on the property at the NE 116<sup>th</sup> Street and 124<sup>th</sup> Avenue NE intersection.
- 2) *Staff Response:* Comprehensive Plan policy NRH37.1 states: *Use public and private efforts to establish gateway features at the locations identified in Figure NRH-10.* Comprehensive Plan *Figure NRH-10: North Rose Hill Urban Design* identifies a gateway along NE 116<sup>th</sup> Street near the 124<sup>th</sup> Avenue NE intersection (see Enclosure 6). During the design review process, the DRB decided against requiring the standard neighborhood gateway signage and approved a gateway design which incorporates a small plaza and rose garden along NE 116<sup>th</sup> Street into the frontage improvements. A second rose garden was added between the building and sidewalk along 124<sup>th</sup> Avenue NE near the intersection to continue the rose garden theme around the corner. Enclosure 2 contains the landscape/gateway plan as approved by the DRB.

c. Damaged Improvements

- 1) *Comment:* Concern that the developer may damage improvements associated with the NE 116<sup>th</sup> Street improvements associated with the I-405 WSDOT NE 116<sup>th</sup> Street interchange project.

- 2) *Staff Response:* Public Works preapproved plans require that any damaged public improvements be repaired prior to final inspection for the project.
2. Conclusions: As determined during SEPA review, additional traffic improvements or traffic calming mitigation are not required due to the project falling below Level of Service thresholds and since significant traffic safety impacts on Slater Avenue NE are not anticipated. See Section II.F.2 for additional discussion on this topic.

The gateway design must be consistent with the DRB's approval in file DRC11-00002.

Any damaged WSDOT frontage improvements caused by the developer along NE 116<sup>th</sup> Street should be repaired by the applicant.

#### **D. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

1. Facts: A Mitigated Determination of Nonsignificance (MDNS) was issued for the proposal on March 21, 2012. The City required that the applicant submit a performance bond to cover the cost of installing a c-curb within the 124<sup>th</sup> Avenue NE right-of-way. The purpose of the c-curb is to prevent left turns from 115<sup>th</sup> Place NE and the need for the c-curb installation will be determined by the City based on traffic safety at this intersection for a period of 3 years after occupancy of the project. The SEPA Determination is included as Enclosure 7. The MDNS was not appealed. However, a comment letter was submitted during the comment and appeal period. The City's response can be found in Enclosure 8.
2. Conclusion: The applicant and City have satisfied SEPA requirements.

#### **E. CONCURRENCY**

1. Fact: The Public Works Department has reviewed the application for traffic concurrency. A concurrency test was passed for water, sewer and traffic on April 13, 2011. A Notice of Concurrency was distributed, published, and posted on the subject property on March 22, 2012.
2. Conclusion: The applicant and City have satisfied concurrency requirements.

#### **F. APPROVAL CRITERIA**

1. Process IIB
  - a. Facts: Zoning Code section 152.70.3 states that a Process IIB application may be approved if:
    - 1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
    - 2) It is consistent with the public health, safety, and welfare.
  - b. Conclusion:

The proposal complies with the criteria in KZC Section 152.70.3. It is consistent with all applicable development regulations (see Section II.G) and the Comprehensive Plan (see Section II.H). In addition, the proposal is consistent with the public health, safety, and welfare because the project will provide the community with housing and retail and/or office opportunities consistent with the goals of the Comprehensive Plan for this neighborhood.
2. Planned Unit Development (PUD)

- a. KZC Chapter 125 Requirements
  - 1) Fact: A PUD is intended to allow developments which benefit the City more than would a development which complies with the specific requirements of the Kirkland Zoning Code. KZC Section 125.35 establishes three 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 Enclosure 9.  
  
Sections II.F.2.b through II.F.2.d contains the staff's findings of fact and conclusions based on these three criteria.
  - 2) Conclusions: Based on the analysis in the following sections, the application meets the established criteria for a PUD.
- b. **PUD Criterion 1: The proposed PUD meets the requirements of Zoning Code Chapter 125.**
  - 1) Facts:
    - a. KZC Chapter 125 sets forth procedures by which a PUD is to be reviewed, the criteria for PUD approval, the Zoning Code provisions that may be modified through a PUD, and the PUD bonus density provisions.
    - b. The proposal is being reviewed through the process established by KZC Chapter 125.
    - c. The requested code modifications requested by the applicant are allowed through the PUD process.
  - 2) Conclusion: The proposed PUD is consistent with the requirements of KZC Chapter 125.
- c. **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.**
  - 1) Facts:
    - a) The subject property is zoned NRH 1A which allows a variety of uses including stacked dwelling units (see Enclosure 10).
    - b) NRH 1A Zoning
      - i. Special Regulation 1 for a 'stacked dwelling unit' use prohibits residential uses from being located on the ground floor of a structure (see Enclosure 10). Parking associated with the residential units is considered a part of the 'stacked dwelling unit' use. Therefore, the prohibition in Special Regulation 1 applies to parking stalls located within the structure that is associated with the residential use.
      - ii. General Regulation 2 outlines how building height is determined (see Enclosure 10). The maximum building height of a structure is determined by taking the sum of the floor heights allowed per story (based on use) which is then limited by the maximum number of stories allowed. The maximum number of stories allowed for a mixed-use residential development is 5 stories.
    - c) The applicant is proposing to build a mixed-use project that contains approximately 10,200 square feet of ground floor retail, office, and/or

restaurant space and 3 to 4 stories of stacked dwelling units located above the ground floor. The applicant has requested approval, through the PUD process to (see Enclosure 9):

- Place parking for the residential use in a parking garage located on the ground floor of the building; and
  - Modify floor-to-floor heights described in NRH 1A – General Regulation 2.
- d) Staff has reviewed the preliminary plans and determined that the proposed project complies with the height regulations for the NRH 1A zone. Therefore, the applicant's PUD request to modify the floor-to-floor heights is not needed. See Section II.G.1 for staff's analysis of the NRH 1A's height regulation as it applies to the applicant's proposal.
- e) The potential adverse impact or undesirable effect identified by staff as a result of allowing residential ground floor parking would be that ground floor retail/commercial and office building area is reduced. However, the negative effects that may result from allowing parking on the ground floor of the structure are not easily apparent (as compared to reductions to setback yards or increases in height, which are more visible).
- f) The applicant has provided an alternative project design example that eliminates residential parking from the parking garage in order to comply with ground floor residential use restriction (see Enclosure 9, Exhibit A). The illustration shows parking for the residential uses relocated to a surface lot behind the building. As a result, 42 residential units would be lost due to the elimination of the parking structure supporting the upper story units. The amount of retail/commercial space remains the same. The applicant states that below grade structured parking is not economically viable.
- g) The applicant has proposed a number of benefits to outweigh any adverse or undesirable effects as a result of locating residential parking on the ground floor of the building (see Enclosure 9). Staff has identified the following benefits proposed by the applicant as being applicable to this PUD criterion:
- A new south facing pedestrian oriented plaza along NE 115th Place
  - Superior urban streetscape along NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE to include wider sidewalks and 16 on-street parking stalls
  - Traffic calming island and associated striping south of NE 112<sup>th</sup> Street within Slater Avenue.
  - Superior building design.
- h) The Comprehensive Plan supports a mix of commercial and residential uses in the NRH 1A zone. See Section II.H for additional discussion regarding consistency with the Comprehensive Plan.
- i) The subject property is situated just south of the Totem Lake Neighborhood boundary at NE 116<sup>th</sup> Street. In November 2011, the Urban Land Institute (ULI) Seattle, released the following document: *ULI Technical Assistance Panel City of Kirkland - Totem Lake* (see

Enclosure 11). At the request of the City of Kirkland, the ULI studied current policies for Totem Lake and provided suggestions to aid in economic development in Totem Lake. One of the study areas includes zoning district TL 5 which contains the Totem Square Development and is located north of the subject property. The following are key points found in the ULI analysis that relate to the applicant's PUD proposal.

- *Retail demand is market-driven, and the City should not insist on ground-floor retail. As an interim measure, the City may be well advised to require that ground floor space be built with higher ceilings and other infrastructure to accommodate future conversion to retail.*
  - *The typical rents for these sectors [medium box retailers], which currently hover at a net effective rent of around \$12 per square foot, are simply not high enough to support new construction. Rents are unlikely to support new development in the foreseeable future, especially with structured parking.*
  - *The residential market is very cost-sensitive in the foreseeable future. The Totem Lake area competes primarily on price, as it lacks the amenities of town centers such as Bellevue and Redmond.*
- j) The City is currently in the process of reviewing existing commercial zoning standards and may relax requirements which prohibit residential uses (including residential parking) on the ground floor in the NRH 1A zone as part of a future project phase.
- k) The applicant's proposal does not entirely eliminate ground floor commercial area. The applicant is proposing approximately 10,200 square feet of ground floor liner retail, office, and restaurant spaces along 124<sup>th</sup> Avenue NE and NE 115<sup>th</sup> Place. The majority of the parking garage will be hidden behind the liner commercial space and will not be visible when viewed from the adjoining streets.

2) Conclusions:

- a) Since the proposal complies with the NRH 1A height regulations, a PUD is not needed regarding this topic (see Section II.G.1).
- b) Staff does not anticipate any adverse impacts with the PUD request for the proposed ground floor use since the ULI study recommends relaxing requiring ground floor retail in the Totem Lake area and the City is currently in the process of potentially reducing or removing related zoning requirements.

The proposal includes liner commercial space and a high-density residential component (54 units/acre) consistent with the land use goals for this area. The project would not present a significant impact to the long term economic development goals for the City given the mixed-use nature of the site. By placing parking for the residential uses behind the liner commercial spaces fronting NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE, the proposal screens the parking from the adjoining streets and properties.

- c) Since any adverse impacts or undesirable effects of the proposed PUD are minimal to none, the following public benefits proposed

by the applicant clearly outweigh any impacts created by the proposal: a pedestrian plaza, superior urban streetscape, superior building design, and traffic calming along Slater Avenue. See the following section (Section II.F.2.d) below for additional discussion on the proposed public benefits.

d. PUD Criterion 3: **The applicant is providing one or more of the following benefits to the City as part of the proposed PUD:**

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

1) Facts: The applicant has proposed a number of public benefits that could not have been required unless considered as part of a PUD (see Enclosure 9). Staff has identified the following benefits as being applicable to this PUD criterion.

a. *Providing public facilities that could not be required by the City for development of the subject property without a PUD*

1. Slater Traffic Calming. In 2006, neighbors along Slater Avenue established a Slater Avenue Traffic Calming Task Force consisting of nine residents that worked with the City's Neighborhood Traffic Control Program (NTCP) Coordinator to develop the Slater Avenue Traffic Calming Plan. The construction of traffic calming improvements within that Plan was to be completed as funding became available. In 2008, the Slater Avenue Traffic Calming Plan was approved by the neighborhood (see Enclosure 12). At that time funding was available to the neighborhood for the NTCP traffic improvements. In 2009 the City constructed curb bulbs and crosswalks at the intersection of NE 100<sup>th</sup> Street and Slater Avenue NE through the NTCP budget.

Currently, funding for the NTCP program is no longer available due to City budget cuts. To help implement the traffic calming

plan, the applicant is proposing to install the traffic island south of NE 112<sup>th</sup> Place (see Enclosure 13). The Slater Avenue Task Force supports the proposed traffic calming improvements (see Enclosure 14). In lieu of curb bulbs, the applicant will use striping to achieve the effect of narrowing the driving lanes. The curb bulbs would be installed when City budget allows.

2. Frontage Improvements. The City has an unfunded project to improve 124<sup>th</sup> Avenue by installing a second northbound left-turn lane (Public Works CIP Project No. TR-0092). With the Totem Station project, the City is requiring that the existing sidewalk be moved 6' west from its current location in order to accommodate the planned improvements. The applicant is proposing, as a public benefit, to also move the existing curb and storm water utilities. Therefore, this portion of the project would not have to be completed by the City with the future 124<sup>th</sup> Avenue NE intersection project.

Along NE 115<sup>th</sup> Place, the applicant is proposing, as a public benefit, a wider sidewalk. The City requires a 5' wide sidewalk. The applicant is proposing an 8' wide sidewalk along NE 115<sup>th</sup> Place to connect to the required 8' wide sidewalk along 124<sup>th</sup> Avenue NE.

b. *Superior architectural design, placement, relationship or orientation of structure*

1. Scale and massing. Although the project required design review and therefore consistency with design guidelines, the project provides a design superior than what would be required and in this case what was previously approved. To help illustrate this, the applicant has provided a comparison of the Totem Station project and the previously approved Mastro project (see Enclosure 9).

The Totem Station would be considered superior in several ways:

- *Architectural Scale* – The building is primarily a four story building with a 5<sup>th</sup> story located at key corners of the site. A combination of peaked and flat roof forms also help moderate the scale of the building. The building massing is further mitigated by creating two distinct building areas separated by a 2<sup>nd</sup> story terrace area approximately 7,200 square feet in size.
- *Gateway* – The retaining walls and ramps which were proposed with the previous project impacted the gateway area proposal. These features were removed with the Totem Station project. The ground floor retail level was brought down to the sidewalk grade to create a more inviting pedestrian plaza and greater retail presence. A rose garden was incorporated into the gateway design to subtly identify the North Rose Hill neighborhood.

In addition, the building corner was designed as a tower element to create visual interest to the pedestrian and provide a sense of human proportion and scale. The use of colors,

materials, and different roof treatment reinforced the building corner as an important design element of the project.

- *Context* – The project size results in an effective transition from the commercial area north of the subject property to the office and residential neighborhood to the south.
- *Modulation* – Horizontal modulation is achieved by the varying the colors, materials, and architecture at the top, middle, and bottom of the building. Vertical modulation was achieved by creating multi-story building areas that vary in height, roof forms, color, and materials.

2. Pedestrian Plaza. An approximately 2,200 square foot plaza is proposed along NE 115<sup>th</sup> Place where it has a southern exposure. The plaza is surrounded on the north, east, and west sides by the project which help define the plaza and provide a sense of protection and comfort. The surrounding tenant spaces also provide an opportunity for activating the plaza with outdoor dining and seating areas to further create pedestrian interest. The relatively lower traffic volumes on NE 115<sup>th</sup> Place also make the plaza location more enjoyable with low traffic and noise impacts.

2) Conclusions: The proposed PUD provides four public benefits instead of the code minimum requirement of one: traffic calming improvements on Slater Avenue NE, a wider sidewalk along NE 115<sup>th</sup> Place, relocation of the curb and stormwater facilities along 124<sup>th</sup> Avenue NE, and superior building design.

The proposed PUD meets the criteria of KZC Section 125.35if the following are incorporated into the project:

- a. The DRB's approval in file DRC11-00002. If changes are proposed that conflict with the DRB's decision, such changes should be reviewed and decided upon pursuant to KZC Section 142.50 – *[Design Review] Modifications*.
- b. The Slater traffic calming improvement in Enclosure 13.
- c. The public improvements shown in Enclosure 2.

## G. DEVELOPMENT REGULATIONS

### 1. Building Height

#### a. Facts:

- 1) The applicant has proposed a ground floor height of 14' as measured above NE 115<sup>th</sup> Place to accommodate both retail and office uses. Because the subject property slopes down towards NE 116<sup>th</sup> Street, the ground floor height along NE 116<sup>th</sup> Street is taller (approximately 22' above the sidewalk).
- 2) Based on the applicant's interpretation of the NRH 1A height regulations, the applicant has requested that the floor heights be modified through the PUD process (see Enclosure 9).
- 3) KZC Section 54.04, General Regulation 2 describes how the maximum building height is calculated (see Enclosure 10). The maximum building height of a structure is determined by taking the sum of the floor heights allowed per story (based on use) which is then limited by the maximum

number of stories allowed. The maximum number of stories allowed for a mixed-use residential development is 5 stories.

- 4) Based on the uses proposed by the applicant, the maximum height allowed is 55'.
- 5) Since the subject property abuts more than one right-of-way (NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE), the applicant may choose which right-of-way from which to measure building height. The applicant has chosen the NE 115<sup>th</sup> Place right-of-way.
- 6) The elevation at the midpoint of the property frontage on the abutting NE 115<sup>th</sup> Place right-of-way is 205.5'. The following chart shows the proposed structure height relative to the code allowed height based on elevation 205.5'.

	Maximum Height (+55')	Maximum Parapet Elevation (+4' allowed if average height around perimeter does not exceed 2')	Proposed Parapet Elevation	Maximum Peaked Roof Elevation (+8' allowed)	Proposed Peaked Roof Elevation
Elevation	260.5'	264.5'	262.5'	268.5'	267.5'

- b. Conclusions: The individual floor height allowances described above are part of the equation used to determine maximum height and do not limit the height of each floor. The NRH 1A maximum height limit is determined by the sum of the floor heights which are dictated by use and the number of stories allowed. The applicant's proposal does not exceed the total maximum structure height allowed by code which includes the exceptions to the height limit for parapets and peaked roof forms. This is consistent with the administrative practice utilized for multiple projects in the City. Therefore, a PUD is not needed as it relates to the application of the NRH 1A height regulations and floor height provisions.

## 2. Parking

### a. Facts:

- 1) Location of Parking Areas. KZC Section 105.58.2 requires that parking areas in the NRH 1A zone cannot be located between the street and the building unless no feasible alternative exists on the subject property. This regulation would apply to the 11 parking stalls at the west end of the project proposed to be located between NE 115<sup>th</sup> Place and the building. As part of the design review process, the DRB discussed this regulation as it applies to the project and determined that the proposed parking layout was acceptable given the unusual lot configuration, topography, and desire to keep the 'urban forest' in the location as proposed. The applicant has provided rationale for the proposed parking lot location (see Enclosure 15).

In addition, KZC Section 54.04.3 prohibits parking areas within the required 10-foot front yard setback. The applicant has proposed a surface parking lot that is located outside of the required 10-foot front yard setback (see Enclosure 2).

- 2) Shared Parking. Shared parking between uses is allowed if the number of parking spaces provided is equal to the greatest number of required spaces for the uses operating at the same time. The applicant has proposed a shared parking approach as described in KZC Section 105.45. In addition, to allow for successful shared parking, the applicant has proposed incentives such as installing a transportation kiosk, transit passes, and flex-bicycles (see Enclosure 16). Staff is referring to this as a Transportation/Shared Parking Management Program. The City Transportation Engineer reviewed the applicant's parking study as part of his Traffic Impact Analysis and recommended approval of the shared parking approach with the following conditions (see Enclosure 5).

Parking information should be submitted with the permit for the project which includes the following:

- A parking management plan, to be reviewed and approved by the City that would allow for successful shared parking. The parking management plan should address the following:
    - Signing on-site parking spaces as reserved for commercial use during specified hours Monday through Friday.
    - Installing signs visible from the driveway directing customers to commercial parking available in the parking garage.
  - A signed parking agreement which would prohibit medical office, sport-type uses such as spinning classes, yoga, and pilates studios unless a parking study is provided for City review and approval pursuant to the regulations in KZC Chapter 105. Any other change in use shall comply with the NRH 1A zone parking requirements.
  - A draft Transportation/Shared Parking Management Program as proposed by the applicant to be reviewed and approved by staff.
- 3) Parking Modification for Off-site Parking. Code required parking must be provided on the subject property. The applicant is proposing a total of 16 parking stalls along the subject property frontage within the NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE right-of-way. Construction of these stalls is not required by Code. The applicant will widen both streets over what is required by Code and construct additional frontage improvements in order to accommodate these parking stalls. Since these parking stalls are being constructed off-site, the applicant must receive approval of a parking modification pursuant to the approval criteria in KZC Section 105.103.3.d in order for these stalls to be counted towards the number of required parking stalls for the project. The criteria are listed below followed by staff response:

- *The proposed parking area will have no adverse impacts on adjacent properties*

Staff Response: The applicant's request for shared parking and an accompanying parking study was reviewed by the City Transportation Engineer. With the recommended conditions, the proposal contains enough parking to meet the project's peak parking demand. The 16 new street parking stalls will be in addition to the existing street parking located near the project. In addition, street parking will better serve the commercial spaces which face the adjacent sidewalks than parking located on-site.

The City Transportation Engineer also found that the location of the street parking would not impact traffic. No adverse impacts are anticipated with the proposed street parking.

- *It is reasonable to expect that the proposed parking will be used by the subject use*

Staff Response: The proposed street parking is immediately adjacent to the subject property and is anticipated to be used primarily by the customers of the ground floor commercial spaces lining the sidewalk.

- *A safe pedestrian and/or shuttle connection exists, or will be created, between the subject use and the proposed parking area.*

Staff Response: A safe pedestrian connection will be created with the project in the form of a new sidewalk between the proposed street parking and building.

b. Conclusions:

- 1) Locating the 11 parking stalls between the building and street should be allowed since it was determined through the design review process that no better alternative exists based on KZC Section 105.58.2.
- 2) In order to approve the shared parking approach requested by the applicant, the conditions in Section II.G.2.a.2 above should be required with the building permit application and finalized prior to building occupancy.
- 3) The parking modification request to place required parking stalls within the NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE right-of-way should be approved since the proposal complies with the criteria in KZC Section 105.103.3.d.

3. Pedestrian Connections

- a. Facts: KZC Section 54.04.4 requires that a pedestrian connection be developed to link Slater Avenue NE with NE 116<sup>th</sup> Street. As part of the design review process, the DRB approved the improved sidewalk design along NE 115<sup>th</sup> Place and 124<sup>th</sup> Avenue NE as the primary link to connect Slater Avenue NE with NE 116<sup>th</sup> Street.

A secondary pedestrian connection, which begins at the intersection of NE 115<sup>th</sup> Place and Slater Avenue NE, was approved to continue through the proposed urban forest and eventually connect to the property to the west (see Enclosure 2). The improved portion of the pedestrian connection stops short of the west property line due to the topography and location of an existing off-site rockery. The applicant will be providing a public access easement for the entire pathway to the west property line. The easement will allow for future construction and connection of the pathway when the property to the west develops.

- b. Conclusion: The proposal meets the pedestrian connection requirement in KZC Section 54.04.4 by providing two options for a pedestrian link to NE 116<sup>th</sup> Street from Slater Avenue NE.

4. Tree Retention

- a. Facts: The applicant has submitted a Tree Retention Plan prepared by a certified arborist dated May 5, 2011 and incorporates comments from the City's Urban Forester (see Enclosure 17). In the report, the arborist

identified a total of 119 trees of which 115 are considered significant trees by the KZC. Of the significant trees, the arborist identified 64 trees that are viable. The applicant is proposing to retain two large Douglas Fir trees (approximately 40-inches DBH) located at the southwest corner of the property (see Enclosure 2). These trees will remain and be incorporated into the proposed 'urban forest' at this location.

The City's Urban Forester has reviewed and approved the tree retention plan with the condition that subsequent permit drawings contain specific information on how to minimize impacts to the two trees to be retained given that a pedestrian path or sidewalk is located within the limits of disturbance for the trees (see Enclosure 18).

No specimen trees were identified on the subject property. The applicant is proposing to plant a variety of evergreen and deciduous trees with the project including specimen trees in the proposed southern courtyard (see Enclosure 2).

- b. Conclusions: The applicant should retain all trees identified for retention and comply with the specific recommendations of the City's arborist.

## H. COMPREHENSIVE PLAN

1. Fact: The subject property is located within the North Rose Hill neighborhood. Comprehensive Plan map Figure NRH-4 on page XV.F-11 shows the subject property as being located within the North Rose Hill Business District subarea 1A (NRH 1A) with a commercial land use designation (see Enclosure 19). The following policies for NRH 1A support and encourage a high-density residential mixed use development:

- Policy NRH 8.2: Locate new commercial development in the business districts at the north and south boundaries of the North Rose Hill neighborhood in order to prevent commercial encroachment.
- Policy NRH 19.1: Designate the following subareas to address site specific development standards. Use the NRH (North Rose Hill) Business District prefix to identify the subareas.

### NRH 1A

- West of 124th Avenue NE is a mixed-use retail commercial/residential designation.
- Increased building heights should be allowed in order to provide sufficient incentive to develop a range of housing choices in conjunction with commercial development.
- Policy LU-5.2: Maintain and strengthen existing commercial areas by focusing economic development within them and establishing development guidelines.
- Policy LU-5.6: Encourage increased residential capacity in the North Rose Hill Business District (NRHBD) to help meet housing needs.
  - Encourage mixed-use commercial/residential development.
  - Promote a broad range of uses as an extension of the Totem Lake Urban Center.
  - Provide a transition to the residential core in the North Rose Hill neighborhood.

2. Conclusion: The proposal is consistent with the Comprehensive Plan NRH 1A designation for a mixed-use development.

#### **I. DEVELOPMENT STANDARDS**

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Enclosure 3.
2. Conclusion: The applicant should follow the requirements set forth in Enclosure 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 and appeals. Any person wishing to file or respond to a challenge or appeal 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 KZC 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.

**VI. ENCLOSURES**

Enclosures 1 through 19 are attached.

1. Vicinity Map
2. Applicant Proposal
3. Development Standards
4. Public Comment Email/Letters
5. SEPA Traffic Impact Analysis Memo
6. Comprehensive Plan Figure NRH-10
7. SEPA Determination
8. SEPA Comment Response
9. Applicant Response to Criteria
10. NRH 1A Zoning Chart
11. ULI Technical Assistance Panel City of Kirkland – Totem Lake
12. Slater Avenue Traffic Calming Plan Map
13. Totem Station Traffic Calming Proposal
14. Slater Task Force Letter
15. Applicant Response to Staff Comments
16. Applicant Proposed Transportation/Shared Parking Management Program
17. Tree Retention Plan
18. Urban Forester Memo
19. Comprehensive Plan Map Figure NRH-4

**VII. PARTIES OF RECORD**

Applicant: Aaron Hollingbery with Camwest Development  
Citizens on Parties of Record List  
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.





