

CITY OF KIRKLAND
HEARING EXAMINER FINDINGS,
CONCLUSIONS AND RECOMMENDATION

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MAY 22 2012

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PLANNING DEPARTMENT

APPLICANT: Aaron Hollingbery for CamWest Development, LLC

FILE NO: ZON11-00026

APPLICATION:

1. **Site Location:** 11515 124th Avenue NE

2. **Request:** The applicant seeks to construct a 4- to 5-story mixed-use project with 10,200 square feet of commercial/retail space, 108 one-unit/studio work force residential units, and 128 parking stalls with a shared parking arrangement between different uses on the property. The proposal also includes an urban forest and dog park at the southwest corner of the site. The applicant seeks:

- a. A preliminary and final Planned Unit Development (PUD) to place residential parking spaces on the ground floor of the building and modify floor-to-floor heights. The Kirkland Zoning Code (KZC) does not allow stacked dwelling units and associated residential parking on the ground floor in the NRH 1A zone, although residential parking is allowed outside the building at grade.
- b. A parking modification to allow construction of 16 on-street parking stalls to count toward the parking requirement for the development.

Review Process: Process IIB, the Hearing Examiner conducts a public hearing and makes a recommendation to the City Council, which makes a final decision.

Key Issues:

- Compliance with the criteria for a Planned Unit Development;
- Compliance with the criteria for a parking modification

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Community Development
Hearing Examiner:

Approve with conditions
Approve with conditions

PUBLIC HEARING:

The Hearing Examiner held a public hearing on the applications on May 17, 2012, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington. A verbatim recording of the hearing is available in the City Clerk's office. The minutes of the hearing and the exhibits are available for public inspection in the Department of Planning

and Community Development. The Examiner visited the site visit in advance of the hearing.

PUBLIC COMMENT:

A list of those who testified at the public hearing, and a list of the exhibits offered at the hearing are included at the end of this Recommendation. The testimony is summarized in the hearing minutes.

FINDINGS, CONCLUSIONS AND RECOMMENDATION:

After considering the evidence in the record and inspecting the site, the Examiner enters the following:

Findings of Fact and Conclusions:

1. Site Description

The Facts and Conclusions on this matter set forth at Subsection II.A of the Planning Department's Advisory Report, dated May 8, 2012, (hereafter Exhibit A) are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

2. History

A. The Facts and Conclusions on this matter set forth at Subsection II.B of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

B. The Design Review Board's approval of the proposal was not appealed.

3. Concurrency

A. The Facts and Conclusions on this matter set forth at Subsection II.E of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

B. The concurrency test decision for the proposal was not appealed.

4. State Environmental Policy Act (SEPA)

The Facts and Conclusions on this matter set forth at Subsection II.D of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

5. Public Comment

A. The Facts and Conclusions on this matter set forth at Subsection II.C of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

B. Public testimony at the hearing focused primarily on transportation related issues, such as the accuracy of traffic counts, whether a signal was warranted at NE 115th Place, whether left turns from the project onto 124th Avenue NE will be possible in light of traffic volumes, pedestrian safety and the ability of pedestrians to cross 124th Avenue NE from the project, and parking. There were also comments on the desirability of requiring a sign identifying the area as North Rose Hill.

C. Because the Design Review Board's decision not to require the standard neighborhood gateway signage was not appealed, the Examiner has no jurisdiction to consider that issue.

D. The City reviews a development proposal's transportation impacts under two processes. The first process is concurrency review, which is a macro level review of a proposal's potential impacts on the City's transportation system. It determines whether system-wide transportation improvements are needed to accommodate the proposal's anticipated traffic while maintaining the City's adopted levels of service (volume to capacity ratios).

E. Because the City's concurrency test decision for the proposal was not appealed, the Examiner has no jurisdiction to consider issues related to that decision.

F. The second review of a development's transportation impacts is initiated by the Department pursuant to SEPA. This review examines localized impacts in and near the proposal and includes examination of intersection levels of service, analysis of development impacts upon non-motorized traffic, access, traffic safety, and parking.

G. Because the City's SEPA Determination of Nonsignificance was not appealed, the Examiner has no jurisdiction to consider transportation impacts that were reviewed pursuant to SEPA.

6. Approval Criteria

The Facts and Conclusions on this matter set forth at Subsection II.F of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

7. Development Regulations

The Facts and Conclusions on this matter set forth at Subsection II.G of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

8. Comprehensive Plan

The Facts and Conclusions on this matter set forth at Subsection II.H of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

9. Development Standards

The Facts and Conclusions on this matter set forth at Subsection II.I of Exhibit A are accurate and supported by the record, and therefore are adopted by reference as the Hearing Examiner's Findings and Conclusions.

Recommendation:

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner recommends that the City Council approve the Preliminary and Final PUD and parking modification, subject to the conditions set forth in section IB of Exhibit A.

Entered this 21st day of May, 2012.


Sue A. Tanner
Hearing Examiner

SUBSEQUENT MODIFICATIONS

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

CHALLENGES AND JUDICIAL REVIEW

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

CHALLENGE

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted

written or oral comments or testimony to the Hearing Examiner. A party who signed a petition may not challenge unless such party also submitted independent written comments or information. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., June 1, 2018, seven (7) calendar days following distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted comments or testimony to the Hearing Examiner, a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

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

Proof of such mail or personal delivery must be made by affidavit, available from the Planning Department. The affidavit must be attached to the challenge and response letters, and delivered to the Planning Department. The challenge will be considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

JUDICIAL REVIEW

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

LAPSE OF APPROVAL

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.

TESTIMONY:

The following persons testified at the public hearing:

From the City:

Jon Regala, Senior Planner
Thang Nguyen,
Transportation Engineer

From the Applicant:

Aaron Hollingbery
Kurt Gahnberg, Transportation Engineer

From the Public:

Karen Whittle
Margaret Carnegie

Bill Kreager
Karen Hoyer

EXHIBITS:

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

- A. Department of Planning and Community Development Staff Advisory Report dated May 8, 2012, with 19 attachments
- B. Hard copy of Department's PowerPoint presentation
- C. Letter of May 16, 2012 to Jon Regala from William H. Kreager, Quality Growth Alliance
- D. Hard copy of Applicant's PowerPoint presentation

PARTIES OF RECORD:

Aaron Hollingbery
Kurt Gahnberg
Citizens on Parties of Record List
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services