

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

**Carillon Point Apartments Master Plan Amendment  
Process IIB Review, ZON21-00460**

**December 7, 2022**

**1. FINDINGS OF FACT**

**1.1 Proposal.** Master Plan amendment allowing a 3,084 square foot one-story amenity building and two parking stalls. Current development on the 15.1 acre site includes 131 dwelling units in 13 buildings. This existing apartment complex was approved through a 1988 Master Plan.<sup>1</sup>

The 1988 Master Plan authorized a slightly larger (3,200 square foot) amenity building. Since then, critical areas regulations have changed, putting the original amenity building within a stream buffer. The amendment moves the building outside the buffer.

The new location to the site’s east and adjacent to the Cross Kirkland Corridor is the only other viable location on site. Given Corridor presence, though public amenity features are not required, additional bench seating, native and meadow planting with enhanced landscaping within the Cross Kirkland Corridor, a pet relief station within the Cross Kirkland Corridor, directional signage, and utility support for a potential future City public bathroom are provided.<sup>2</sup> The building is 30 feet below the original Master Plan’s maximum view study height and removing the high risk cottonwoods will improve views.<sup>3</sup>

**Applicant**                      Clark Barnes Architects, c/o Craig Carney  
1401 W Garfield Street, Seattle, WA 98119

**Site Location**                Carillon Point Apartments  
5604 Lakeview Drive, Kirkland WA 98033

**1.2 Zoning and Surrounding Uses.** The site is zoned PLA 15B, Medium Density Residential. Multi-family<sup>4</sup> units are allowed subject to Master Plan approval. The surrounding zoning provides for a variety of residential and commercial uses.

- North: RS 8.5 – Low Density Residential
- South: PLA 15B – Medium Density Residential
- East: Cross Kirkland Corridor and RS 8.5 – Low Density Residential
- West: PR 3.6 – Office and PLA 15A - Commercial

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<sup>1</sup> Exhibit A (Staff Report), pp. 4-5. Minor revisions have updated the Plan five times.

<sup>2</sup> Exhibit C (Applicant Power Point), pp. 10, 20, and 21; Testimony, Mr. Clark.

<sup>3</sup> Testimony, Mr. Clark; Exhibit C (Applicant Power Point), p. 8. The 1988 view analysis assessed a 211 foot elevation limit. The building roof extends to 180’ 6”.

<sup>4</sup> Described in code as attached or stacked dwelling units. KZC 20.20.060.

**1.3 SEPA Review.** The Department determined the proposal is exempt.<sup>5</sup>

**1.4 Hearing.** An open record public hearing was held December 1, 2022. The hearing was conducted remotely, with the Examiner, City Planning and Building Department, and Applicant calling in. Access information was provided to the public to allow citizens to join via either a video link or telephone. There were no reported technical difficulties during the call or afterwards. However, in case any citizens who wished to comment had difficulty calling in, the record was kept open through December 2, 2022. At the hearing, the Department, through Associate Planner Anderer, summarized the proposal. The Applicant, through Mr. Clark, provided added background on the project and its design features.

Lisa McConnell provided citizen comment. She expressed support for the project and the community outreach which had occurred. She had a question on construction staging. She asked that the Cross Kirkland Corridor not be blocked as there are no detour options. The Applicant, through Mr. Carney, confirmed that building construction staging would be on private property and the trail will not be blocked during construction. There were no other public comments.

**1.5 Administrative Record.** The Staff Report (Exhibit A), with Attachments 1-19, the Department's power point presentation (Exhibit B), and the Applicant's power point presentation (Exhibit C) were all admitted. A public comment was received the day after the hearing and was admitted (Exhibit D). The Examiner completed a site visit the day before the hearing. The visit provides useful context, but is not evidence.

**1.6 Public Comment During Staff Review.** The Department received six public comments at the end of 2021 addressing a variety of concerns.<sup>6</sup> The Staff Report details the responses, but to summarize:

- **Public Notice.** The Department's notice and outreach went beyond code requirements. Outreach included a zoom meeting, outreach to community groups, and a mailing list extension from the minimum 300 feet to half a mile.<sup>7</sup>
- **Cross Kirkland Corridor Encroachment.** The building will not encroach into Corridor right-of-way.
- **Tree Retention.** The applicant submitted a peer reviewed arborist report to ensure compliance with code retention standards. *See* Finding 1.8.8.
- **Critical Area/Buffer Locations.** Peer reviewed critical areas reports were provided. *See* Finding 1.8.7.
- **Lighting.** The applicant will submit a lighting plan to ensure code requirements are met. *See* Finding 1.8.11.

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<sup>5</sup> Exhibit A (Staff Report), p. 19.

<sup>6</sup> Exhibit A (Staff Report), Attachment 8.

<sup>7</sup> Testimony, Ms. Anderer; Exhibit A (Staff Report), pp. 5-6.

- **Transit Line Impacts.** No impacts are anticipated, though the Applicant will work with Public Works as needed to coordinate during construction.
- **Amenity Building Use.** Uses of the building (fitness room, lounge, leasing office) and regulation of those uses is detailed in the Staff Report. Noise, property maintenance, and occupancy loads are all regulated.<sup>8</sup>
- **Doreen Marchione Memorial Bench.** This Bench is being moved 100 feet north along the Cross Kirkland Corridor away from overgrown vegetation to a location that better captures Lake Washington views. This will be coupled with an upgraded bench and signage memorializing Doreen Marchione and providing other interpretative information.<sup>9</sup>

**1.7 Public Comment after the Hearing.** A comment was received from Bill Alford. The comment addresses concerns over the proposal and supports denial, advocating for existing conditions to remain as is and to maintain existing views.

## **1.8 Code Requirements.**

**1.8.1 Compatibility with Planning Area 15A (PU-12).** As detailed below, the proposal is consistent with and supports existing residential uses.

**1.8.2 Vehicular Circulation/Lake Washington Blvd. and Lakeview Drive (PU-12).** Vehicular circulation will not change. The building provides a space primarily for existing complex occupants so would generate limited new traffic.

**1.8.3 Views (from Cross Kirkland Corridor) and Height.** There is no specific height limit in the PLA 15 zone. It is based on compatibility with adjacent uses and maintenance of the slope's natural characteristics.<sup>10</sup> The building is one-story and will not exceed the Master Plan's 211-foot view elevation.<sup>11</sup> View analysis was completed and a design selected with high transparency from the Cross-Kirkland corridor and which blends with the hillside.

**1.8.4 Density/Dimensions.** The project does not alter density or lot size. The structure is not within the Houghton Slope or near the north, west, or south property lines so does not encroach into required yards. It is along the east property line adjacent to the Cross Kirkland Corridor. The Master Plan originally established a 25-foot setback. However, properties adjoining the Cross Kirkland Corridor require only ten-foot yards.<sup>12</sup> The structure is outside this ten-foot area, its new location eliminates the critical areas code inconsistency, and lot coverage will remain under the 50% lot coverage requirement.<sup>13</sup>

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<sup>8</sup> KZC 115.95; KMC 21.41.

<sup>9</sup> For detail on comment responses see Exhibit A (Staff Report), pp. 5-8.

<sup>10</sup> KZC 20.30, Density/Dimensions Special Regulations 20 (DD-20).

<sup>11</sup> Exhibit A (Staff Report), Attachment 2, pp. 22-23.

<sup>12</sup> KZC 115.24.2(a).

<sup>13</sup> Exhibit A (Staff Report), p. 11; KZC 20.30.

**1.8.5 Geologically Hazardous Areas.** The site slopes upward west to east at a 23% grade and is mapped as high and moderate landslide hazard. Earth Solutions NW prepared a peer reviewed geotechnical engineering study.<sup>14</sup> Notice of site conditions through recordation is required<sup>15</sup> as is an indemnification agreement.<sup>16</sup> Report recommendations will be followed.

**1.8.6 Ravine.** Structures are to be clustered and located away from areas with soil limitations and outside the ravine near the middle of Planned Area 15B. The structure is outside the ravine. The geotechnical study identified site conditions and determined conditions can be mitigated during and after construction by following identified erosion and control standards.

**1.8.7 Stream and Wetlands.** A peer reviewed stream and wetland report was submitted.<sup>17</sup> A Category III wetland with a 6-point habitat score and two Type Np streams are on-site. The wetland has a 165-foot buffer and the streams a 50-foot buffer.<sup>18</sup> The building and two parking stalls are outside the critical area buffers. 25 square-feet of pavement to accommodate a hammerhead turnaround is within the wetland buffer. This does not trigger required vegetative plantings, but the requested buffer averaging must meet four criteria.<sup>19</sup>

- Buffer not reduced below 75%.
- Total area within buffer no less than under standard approach.
- Additional critical area protection results, including net improvement of critical area habitat, functions and values.
- Due to variations in ecological sensitivity the critical area would benefit from the averaging and not adversely affect the resource.

The applicant documented compliance through a peer reviewed technical analysis.<sup>20</sup> The analyses demonstrates the City's sizing and ecological function criteria are met.

**1.8.8 Tree Retention.** A peer reviewed arborist report and tree retention plan was submitted which identifies eight significant trees that could be affected.<sup>21</sup> A final tree retention plan compliant with KZC Ch. 95 will be submitted.

**1.8.9 Parking.** The approved Master Plan required 284 parking stalls for 135 residential units and a recreation building. Though only 131 units were ultimately constructed, the site currently has 284 parking stalls. The amenity building does not require additional parking but two stalls are added, one of which will be ADA compliant.

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<sup>14</sup> Exhibit A (Staff Report), Attachment 10; KZC 85.15, 85.22.

<sup>15</sup> KZC 85.50, Exhibit A (Staff Report), Attachment 12.

<sup>16</sup> KZC 85.45. Exhibit A (Staff Report), p. 12 and Attachment 11.

<sup>17</sup> KZC 90.105. 90.110. Exhibit A (Staff Report), Attachments 13 and 14.

<sup>18</sup> Exhibit A (Staff Report), p. 4 and Attachment 17.

<sup>19</sup> KZC 90.60.3(b); KZC 90.115.2 (a-d).

<sup>20</sup> Exhibit A (Staff Report), Attachments 15-18.

<sup>21</sup> Exhibit A (Staff Report), Attachments 2, p. 7; Attachment 19.

**1.8.10 Cross Kirkland Corridor.** Development must complement the Corridor’s public nature through site and building design.<sup>22</sup> Landscaping is provided consistent with requirements. The building will connect with the Corridor and improves bicycle access with at least one additional bicycle parking space. The building facades meet blank wall treatment criteria through window and doorway placement with materials used including wood, metal, and glass, and no portion of the building exceeds 120 feet without vertical definitions. Further review will occur at the building permit stage to confirm criteria consistency.

**1.8.11 Site Lighting.** Energy-efficient light sources, glare reduction on adjacent properties and rights-of-way, and Washington Energy Code compliance is required by code.<sup>23</sup>

**1.8.12 Comprehensive Plan.** The Lakeview Neighborhood Plan applies to the site. Under its policies, development standards are to protect property from landslides, seismic events, and surface water runoff while allowing redevelopment compatible with the Houghton Slope. The Slope creates challenging site distances so driveways are to be consolidated and vehicular access limited. Public scenic views of Lake Washington, Seattle, and the Olympic Mountains from public rights-of-way are to be served. A Master Plan applies and multi-family uses are among those contemplated at this location.<sup>24</sup>

These policies are addressed. KZC Ch. 85 will be complied with and no new access is required. The use and proposal follow the Master Plan. The building and design comply with Cross Kirkland Corridor standards, the building is integrated into the hillside, and the project provides a well-landscaped rest stop surrounding the new location of the Doreen Marchione bench. Also, removing the Black Cottonwoods due to likely failure will improve public views.

**1.9 Staff Report Incorporation and Conditions.** Except as modified, the Staff Report is incorporated. Staff Report conditions should be included without substantive revision to ensure KZC requirements are met.

## **2. CONCLUSIONS OF LAW**

**2.1** The Hearing Examiner conducts a public hearing and issues a recommendation in a Process IIB review. The City Council then makes a final decision on the amended Master Plan.<sup>25</sup>

**2.2** The attached dwelling units and accessory uses within the PLA 15B zone require Master Plan approval.<sup>26</sup> The Master Plan is approved in two stages with the Preliminary Master Plan reviewed through the City’s IIB review process (Hearing Examiner Recommendation followed by City Council Decision).<sup>27</sup> The present proposal is for Preliminary Approval of a Revised Master Plan. The Master Plan must include “[a] site plan which diagrammatically shows the general location, shape and use of the major features of development,” with a description of

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<sup>22</sup> KZC 115.24.3; KZC 115.24.3(a)(i-iv).

<sup>23</sup> KZC 115.85.

<sup>24</sup> Exhibit A (Staff Report), pp. 18-19; *see e.g.*, Lakeview Neighborhood Plan Policies L-3.2, 3.3, 5, 6.1, and 8.8.

<sup>25</sup> Ch. 152 KZC.

<sup>26</sup> KZC 20.20.060, Permitted Use Special Regulation 11 (PU-11).

<sup>27</sup> The Final Master Plan is then reviewed through either Process IIA (KZC 150) or Process IIB (KZC 152) as the Preliminary Master Plan directs

the area to be developed with nonresidential uses.<sup>28</sup> The revised site plan has been submitted consistent with Master Plan and KZC 20.20.060 requirements.

**2.3** The Applicant must demonstrate proposal consistency with these criteria:<sup>29</sup>

- a. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- b. It is consistent with the public health, safety and welfare.<sup>30</sup>

The project is consistent with City development regulations.<sup>31</sup> As detailed in the Findings and in the Staff Report, applicable requirements are complied with. No area was identified lacking regulatory coverage, but the project also follows the Comprehensive Plan, which supports appropriately sited residential development with supporting amenities. The Master Plan revision supports the existing residential use consistent with the public health, safety, and welfare, and should be approved.

### **RECOMMENDATION**

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, recommends approval of the requested Master Plan revision, subject to these 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. Staff Report, Attachment 4, Development Standards, was provided 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 4, the condition of approval shall be followed.
2. As part of the building permit application, the applicant shall submit:
  - a. Plans consistent with the proposal shown in Staff Report Attachments 2 and 3 (see Staff Report Conclusions II.E.1.b, II.E.2.b, II.E.6.b, and II.E.7.b)
  - b. Construction plans that incorporate the recommendations from the geotechnical engineering study prepared by Earth Solutions NW dated July 16, 2019 (see Staff Report Attachment 10) (see Staff Report Conclusions II.E.1.b and II.E.3.b).
  - c. Construction plans that establish a maximum building height (see Staff Report Conclusion II.E.2.b).

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<sup>28</sup> KZC 20.20.060, Permitted Use Special Regulation 11 (PU-11).

<sup>29</sup> KZC 152.55 (applicant has the burden of proof).

<sup>30</sup> KZC 152.70.3.

<sup>31</sup> Exhibit A (Staff Report), *see also* Attachment 4, identifying various development standards.

d. Construction documents consistent with the final critical area study and buffer averaging plan incorporating the recommendations from The Watershed Company review dated August 7, 2020 (*see* Staff Report Attachment 18 and Staff Report Conclusion II.E.4.b).

e. A final tree retention plan compliant with KZC Chapter 95 (*see* Staff Report Conclusion II.E.5.b).

f. Plans for the two proposed parking stalls compliant with the buffer averaging standards in KZC Chapter 90 (*see* Staff Report Conclusion E.6.b).

g. Construction plans compliant with KZC Chapter 115.24 that incorporate site design and building design standards for properties adjacent to the Cross Kirkland Corridor (*see* Staff Report Conclusion II.E.7.b).

h. A lighting plan showing the location, height, fixture type, and wattage of all proposed interior and exterior lights. The lighting plan shall be consistent with the requirements in KZC Section 115.85 (*see* Staff Report Conclusion II.E.8.b).

3. Prior to issuance of the building permit, the applicant shall:

a. Fund a peer review of the geotechnical engineering study prepared by Earth Solutions NW dated July 16, 2019 (*see* Staff Report Attachment 10 and Staff Report Conclusion II.E.3.b).

b. Record a Geotechnically Hazardous Areas Covenant on the subject property (*see* Staff Report Attachment 11 and Staff Report Conclusion II.E.3.b)

c. Record a Notice of Geologically Hazardous Area on the subject property (*see* Staff Report Attachment 12 and Staff Report Conclusion II.E.3.b).

The Applicant, or any party who submitted written or oral comments to the Hearing Examiner, may challenge this recommendation within seven calendar days of distribution, if the challenge is properly made, filed, and served.<sup>32</sup> The City Council makes the final decision.

Entered December 7, 2022.



City of Kirkland Hearing Examiner  
Susan Elizabeth Drummond

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<sup>32</sup> *See* Ch. 152.85 KZC for requirements and Exhibit A (Staff Report), pp. 8-9 and 20 for a summary of the process.