

ORDINANCE O-4359

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO APPROVAL OF A PRELIMINARY AND FINAL PUD AS APPLIED FOR BY CAMWEST DEVELOPMENT, LLC IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. ZON11-00026 AND SETTING FORTH CONDITIONS OF SAID APPROVAL.

WHEREAS, the Department of Planning and Community Development has received an application, pursuant to Process IIB, for a Preliminary and Final Planned Unit Development (PUD) filed by CamWest Development, LLC as Department of Planning and Community Development File No. ZON11-00026 to construct a mixed-use development within a NRH 1A zone; and

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

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C, and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist was submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a Mitigated Determination of Nonsignificance was issued; and

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

WHEREAS, the application was submitted to the Kirkland Hearing Examiner who held a hearing thereon at her meeting of May 17, 2012; and

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

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner; and

WHEREAS, the Kirkland Zoning Ordinance requires approval of this application for PUD to be made by ordinance;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. The Findings, Conclusions, and Recommendations of the Kirkland Hearing Examiner, attached to this ordinance are adopted by the Kirkland City Council and incorporated by this reference as though fully set forth herein.

Section 2. After completion of final review of the PUD, as established in Sections 125.50 through 125.75 (inclusive) of the Kirkland Zoning Code, the Process IIB Permit shall be issued to the applicant subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council.

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

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

Section 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Section 6. A complete copy of this ordinance, including the Findings, Conclusions and Recommendations adopted by Section 1 of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Section 7. A certified copy of this ordinance, together with the Findings, Conclusions, and Recommendations herein adopted shall be attached to and become a part of the Process IIB Permit or evidence thereof delivered to the permittee.

Passed by majority vote of the Kirkland City Council in open meeting this 19th day of June, 2012.

Signed in authentication thereof this 19th day of June, 2012.

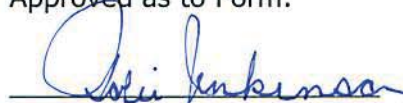


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

CITY OF KIRKLAND
HEARING EXAMINER FINDINGS,
CONCLUSIONS AND RECOMMENDATION

RECEIVED
MAY 22 2012

AM PM
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

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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.

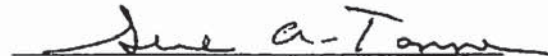
9. Development Standards

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, 2012, seven (7) calendar days following distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted comments or testimony to the Hearing Examiner, a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

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

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

JUDICIAL REVIEW

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

LAPSE OF APPROVAL

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

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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

PUBLICATION SUMMARY
OF ORDINANCE O-4359

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO APPROVAL OF A PRELIMINARY AND FINAL PUD AS APPLIED FOR BY CAMWEST DEVELOPMENT, LLC IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. ZON11-00026 AND SETTING FORTH CONDITIONS OF SAID APPROVAL.

SECTION 1. Adopts the Findings, Conclusions and Recommendations of the Kirkland Hearing Examiner.

SECTION 2. Provides that after completion of final review of the PUD, the Process IIB Permit shall be issued and subject to the adopted Recommendations.

SECTION 3. States applicant is not excused from compliance with any federal, state or local statutes, ordinances or regulations applicable to the project, other than as expressly set forth in the Ordinance.

SECTION 4. Provides grounds for revocation of the Process IIB Permit.

SECTION 5. Authorizes publication of the Ordinance by summary and for approval of summary by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

SECTION 6. Establishes requirement for certification of the Ordinance by City Clerk and notification of King County Department of Assessments.

SECTION 7. Provides for the certified Ordinance and adopted Findings, Conclusions and Recommendations to become part of the Process IIB Permit and delivered to permittee.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 19th day of June, 2012.

I certify that the foregoing is a summary of Ordinance O-4359 approved by the Kirkland City Council for summary publication.



City Clerk