

RESOLUTION R-5198

A RESOLUTION OF THE CITY OF KIRKLAND RELATING TO LAND USE; APPROVING A MASTER PLAN ZONING PERMIT AS APPLIED FOR BY BRODERICK ARCHITECTS FOR THE CORPORATION OF CATHOLIC ARCHBISHOP OF SEATTLE IN DEPARTMENT OF PLANNING AND BUILDING FILE NO. ZON14-02303; AND SETTING FORTH CONDITIONS OF APPROVAL.

1 WHEREAS, the Department of Planning and Building received an
2 application, pursuant to Process IIB, for a Master Plan zoning permit
3 filed by Broderick Architects on behalf of the property owner Corporation
4 of Catholic Archbishop of Seattle filed as Department of Planning and
5 Building File No. ZON14-02303 for the Holy Family Parish development
6 within a Single-Family Residential (RSX) 7.2 zone; and
7

8 WHEREAS, pursuant to the City of Kirkland's Concurrency
9 Management System, Kirkland Municipal Code Title 25, a concurrency
10 application was submitted to the City of Kirkland, such application has
11 been reviewed by the responsible Public Works official, the concurrency
12 test has been passed, and a concurrency test notice issued; and
13

14 WHEREAS, pursuant to the State Environmental Policy Act,
15 chapter 43.21C RCW, and the Administrative Guidelines and local
16 ordinance adopted to implement it, an environmental checklist was
17 submitted to the City of Kirkland, reviewed by the responsible official of
18 the City of Kirkland, and a determination of non-significance was issued;
19 and
20

21 WHEREAS, the environmental checklist and determination have
22 been available and accompanied the application through the entire
23 review process; and
24

25 WHEREAS, the application was submitted to the Kirkland
26 Hearing Examiner, who held hearing a hearing on May 19, 2016; and
27

28 WHEREAS, the Kirkland Hearing Examiner after her public
29 hearing and consideration of the recommendations of the Department
30 of Planning and Building adopted Findings, Conclusions and
31 Recommendations which recommended approval of the Process IIB
32 Permit subject to the specific conditions set forth in the
33 recommendations; and
34

35 WHEREAS, the City Council, in a regular meeting, considered the
36 environmental documents received from the responsible official,
37 together with the record before and recommendation of the Hearing
38 Examiner; and
39

40 NOW, THEREFORE, BE IT RESOLVED by the City Council of the
41 City of Kirkland as follows:
42

43 Section 1. The Findings, Conclusions and Recommendations of the
44 Kirkland Hearing Examiner, as signed by her and filed in Department of

45 Planning and Building File No. ZON14-02303 are adopted by the Kirkland
46 City Council as though fully set forth herein.

47
48 Section 2. The Process IIB Permit shall be issued to the applicant
49 subject to the conditions set forth in the Findings, Conclusions and
50 Recommendations adopted by the City Council and Section 1 of this
51 Resolution.

52
53 Section 3. Nothing in this Resolution shall be construed as
54 excusing the applicant from compliance with any federal, state or local
55 statutes, ordinances or regulations applicable to this project.


56
57 Section 4. Failure on the part of the holder of the permit to
58 initially meet or maintain strict compliance with the standards and
59 conditions to which the Process IIB Permit is subject shall be grounds
60 for revocation in accordance with Zoning Ordinance No. 3719, as
61 amended, the Kirkland Zoning Ordinance.

62
63 Section 5 A complete copy of this Resolution, including the
64 Findings, Conclusions and Recommendations adopted herein by
65 reference, shall be certified by the City Clerk, who shall then forward
66 the certified copy to the King County Department of Assessments.

67
68 Section 6. A certified copy of this Resolution, together with the
69 Findings, Conclusions, and Recommendations adopted by reference,
70 shall be attached to and become a part of the Process IIB Permit
71 provided to the permittee.

72
73 Passed by majority vote of the Kirkland City Council in open
74 meeting this 21st day of June, 2016.

75
76 Signed in authentication thereof this 21st day of June, 2016.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

Holy Family Parish Master Plan
City Council Memo
Enclosure 2
RECEIVED
MAY 23 2016
AM PM
PLANNING & BUILDING DEPT.
BY _____

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

APPLICANT: Broderick Architects on behalf of the Corporation of Catholic Archbishop of Seattle

FILE NO: ZON14-02303

APPLICATION:

Site Location: 7045 120th Avenue NE, 12003 NE 75th Street (rectory), and parcel no. 640070-0402 (overflow gravel parking lot east of 120th Avenue NE)

Request: Master Plan for future expansion of church and school uses in two phases over a 10-year period. The major elements of each phase are as follows:

Phase I

- A new parking lot (44 stalls) – which will double as an outdoor covered play area during school hours
- A new driveway, parking lot (10 stalls), and preschool drop-off area at the north end of the property
- A new maintenance/storage shed along the north property line (2,214 sq. ft.)
- Standard street frontage improvements along 119th Avenue NE and NE 75th Street.

Phase II

- Expanding the existing church nave by 3,322 sq. ft. to accommodate an additional 172 seats for a total of 758 seats
- Apply for a height variance to replace and expand the existing roof form. The height variance for the new roof form has not been applied for, considered, or approved as part of this Master Plan. The applicant will seek the variance request at a later date.

Review Process: Process IIB, Hearing Examiner holds a public hearing and makes a recommendation; City Council makes final decision.

Key Issues: Compliance with Zoning Permit approval criteria and applicable development regulations.

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Building

Approve with conditions

PUBLIC HEARING:

The Hearing Examiner held a public hearing on the application at 9:00 a.m. on May 18, 2016, in the Peter Kirk Room, City Hall, 123 Fifth Avenue, Kirkland, Washington. No members of the public signed up to speak or submitted written testimony at the hearing. A verbatim recording of the hearing is available in the City Clerk's office. The minutes of the hearing and the exhibit are available for public inspection in the Department of Planning and Building. The Examiner visited the site in advance of the hearing.

FINDINGS, CONCLUSIONS AND RECOMMENDATION:


Having reviewed the site and the Department's Advisory Report and all attachments, with emphasis on Attachment 6 (public comments) and Attachment 7 (transportation memoranda from Transpo Group, and memorandum from Thang Nguyen dated December 24, 2015), the Examiner finds that the findings of fact in the Advisory Report are accurate, complete and supported by the record. The Examiner therefore adopts them by reference.

The Conclusions set forth in the Department's Advisory Report are supported by the facts in the record, and are therefore adopted by reference.

Recommendation:

Based upon the adopted findings of fact and conclusions, the Hearing Examiner recommends that the Council approve the Master Plan application, subject to the three conditions set forth in section IB of the Department's Advisory Report.^{1, 2}

Entered this 20th day of May, 2016.


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.

¹ At the time of the hearing, the Applicant and the Department of Public Works had not resolved an issue concerning the Department's request that a "bump-out" on 120th Avenue NE, adjacent to the school, be removed and replaced with three stalls that would be available for load/unload during school hours, and for parking after school hours and on evenings and weekends. That matter is within the jurisdiction of the Department, and its resolution would have no impact on the Examiner's recommendation.

² See also Hearing Examiner recommendation below under "Lapse of Approval".

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, 2016, 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

1. KZC Section 152.115 requires that the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The

applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void.

2. KZC Section 152.115 states that for development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

3. The applicant is proposing a two phase development with the final phase occurring before 2026.

The Hearing Examiner recommends that the Notice of Approval be extended to allow the construction of all phases currently being proposed. The applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ten (10) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the ten (10) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within twelve (12) years after the final approval on the matter, or the decision becomes void.

TESTIMONY:

The following persons testified at the public hearing:

From the City:

Tony Leavitt, Project Planner
Thang Nguyen, Department of Public Works
Jeremy McMahan, Planning Manager

From the Applicant:

The Rev. Kurt Nagel
Kevin Broderick, Project Architect

EXHIBITS:

The Department of Planning and Building's Advisory Report dated May 11, 2016, with 8 attachments was entered into the record.

PARTIES OF RECORD

Broderick Architects, Applicant
Citizens on Parties of Record List
Department of Planning and Building
Department of Public Works
Department of Fire Services



CITY OF KIRKLAND
Planning and Building Department
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3600
 www.kirklandwa.gov

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

Date: May 11, 2016
To: Kirkland Hearing Examiner
From: Tony Leavitt, Senior Planner *[Signature]*
 Eric Shields, AICP, Planning Director *[Signature]*

File No.: ZON14-02303

Subject: HOLY FAMILY PARISH MASTER PLAN

Hearing Date and Place: May 19, 2016; 9:00 A.M.
 City Hall Council Chamber
 123 Fifth Avenue, Kirkland

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CITY OF KIRKLAND
Hearing Examiner Exhibit
 Applicant _____
 Department _____ A
 Public _____
 FILE # ZON14-02303

I. INTRODUCTION

A. APPLICATION

1. Applicant: Kevin Broderick and John Faley with Broderick Architects on behalf of the property owner Corp. of Catholic Archbishop of Seattle.
2. Subject Property: Holy Family Parish located at 7045 120th Avenue NE, rectory located at 12003 NE 75th Street, and the overflow gravel parking lot is located east of 120th Avenue NE with parcel no. 640070-0402 (see Attachment 1)
3. Request: The applicant is requesting approval of a Master Plan that outlines the future expansion of the church and school uses in two phases over a period of 10 years (see Attachments 2 and 3). Major elements of the proposal include the following:
 - a. Phase I
 - A new parking lot (44 stalls) – which will double as an outdoor covered play area during school hours
 - A new driveway, parking lot (10 stalls), and preschool drop-off area at the north end of the property
 - A new maintenance/storage shed along the north property line (2,214 sq. ft.)
 - Standard street frontage improvements along 119th Avenue NE and NE 75th Street.
 - b. Phase II
 - Expanding the existing church nave by 3,322 sq. ft. to accommodate an additional 172 seats for a total of 758 seats
 - Apply for a height variance to replace and expand the existing roof form. The height variance for the new roof form has not been applied for, considered, or approved as part of this Master Plan. The applicant will seek the variance request at a later date.
4. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation, City Council makes final decision.
5. Summary of Key Issues:
 - a. Compliance with Zoning Permit Approval Criteria (see Section II.E)
 - b. Compliance with Applicable Development Regulations (see Section II.F).

B. RECOMMENDATIONS

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend approval of this application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 4, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include

- all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 4, the condition of approval shall be followed.
2. As part of the development permit application for the new overflow parking lot and playground area, the applicant shall:
 - a. Submit landscape plans that comply with the requirements of KZC Section 95.42 (see Conclusion II.F.4); and
 - b. Submit a lighting plan showing the location, height, fixture type and wattage of all proposed exterior lights. The lighting plan shall be consistent with the requirements in KZC Section 115.85 (see Conclusion II. F.6).
 3. Staff recommends that the Notice of Approval be extended to allow the construction of all phases currently being proposed. The applicant must begin construction or submit to the City a complete building permit application for all of the development activity, use of land or other actions approved under this chapter within ten (10) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the ten (10) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within twelve (12) years after the final approval on the matter, or the decision becomes void. (See Conclusion V.2).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:
 - a. Facts:
 - 1) **Size:** The Holy Family campus consist of three separate parcels. The largest parcel, which contains the main church buildings and is located west of 120th Avenue NE, is 376,002 sq. ft. or 8.63 acres (based on survey map). East of 120th Avenue NE, is a parcel containing the rectory building which is 18,327 sq. ft. or 0.42 acres. Also east of 120th Avenue NE is a parcel containing a gravel parking lot which is 8,540 sq. ft. or 0.20 acres. Total size for all three parcels is 402,869 sq. ft. or 9.25 acres.
 - 2) **Land Use:** The site is currently developed with the Holy Family Parish which consists of a parish center, church, school, youth center, surface parking and associated driveways, a soccer field, and outdoor play areas (see Attachment 2).
 - 3) **Zoning:** RSX 7.2
 - 4) **Terrain:** The campus is relatively flat with only a 10 foot elevation change from the north to the south property line.
 - 5) **Vegetation:** There are a large number of significant trees located primarily at south/southwest and north/northwest portions of the subject property (see Attachment 5 Tree Retention Plan). There

are also a number of significant trees in the rights-of-way immediately adjacent to the campus. Tree Retention is addressed in Section II.F.5.

b. Conclusions:

- 1) Size, land use, terrain, vegetation are not constraining factors in the review of this application.
- 2) Zoning is a relevant factor in the review of this application, due to the fact that church and school uses occupying a property of more than 5 acres must be approved through a Master Plan process (see Section II.E.1).

2. Neighboring Development and Zoning:

a. Facts: The following is a list of the zoning designation and land uses adjacent to the subject property:

- 1) North: RSX 7.2, Lake Washington High School
- 2) East: RSX 7.2, single-family residential uses
- 3) South: RS 8.5, single-family residential uses
- 4) RSX 7.2 (adjacent to the northern portion of the subject property) & RM 3.6 (adjacent to southern portion of the subject property), single-family residential uses

b. Conclusion: The neighboring development and zoning are factors in the review of the proposed Master Plan application.

B. HISTORY

1. Facts: The following is a brief summary of prior approvals for the Holy Family Parish.

- a. December 1957 – Holy Family Parish completed
- b. July 1988 – Church destroyed by fire
- c. November 1990 – New church constructed
- d. January 2001 – Holy Family Parish Master Plan approved (File ZON99-00034). The Master Plan approval also included approval of the following variances and modifications:
 - 1) Setback variances for additions to the school along the 120th Avenue NE portion of the existing school building (50' setback required, approximately 20' to 33' setback approved for the additions)
 - 2) Setback variance from 119th Avenue NE for the northwest corner of the proposed storage at the existing gym (50' setback required, approximately 43' approved)
 - 3) Height variance for the church (30' height allowed, approximately 39' height approved)
 - 4) 15' landscape buffer modifications along east and west property lines
 - 5) Modification to eliminate required landscape islands in parking lot/play area west of the school

- 6) Allow a 10-year lapse of approval timeframe for the Master Plan with the ability to request an extension to the lapse of approval date with two 3-year extensions
 - e. October 2001 – Expansion to school completed (File BLD00-01561 – issued April 2001)
 - f. August 2009 – Minor expansion to school completed (File BLD09-00253)
 - g. June 2010 – Master Plan modification to relocate preschool
 - h. September 2010 – Preschool relocation completed (File BLD10-00255)
 - i. April 2010 – New Parish administration center completed (File BLD09-00103)
 - j. January 2011 – Holy Family Parish Master Plan expired and no applications to extend the Master Plan were requested
 - k. April 2012 – Modification to gym and storage area addition
 - l. September 2012 – Modification to gym and storage area addition completed (File BNR12-00533)
 - m. March 2015 – New rectory completed
2. Conclusions: The Holy Family Parish Master Plan, approved in 2001 (File ZON99-00034), established the existing layout of the campus including building locations that required variances. Otherwise, the history of subject property is not a constraining factor in the review of this permit.

C. PUBLIC COMMENT

1. Facts:
 - a. The initial public comment period ran from December 17, 2014 to January 16, 2015. The Planning Department received a total of 4 comment letters (see Attachment 6) during this comment period.
 - b. Issues raised in the letters were in regards to traffic impacts and traffic safety in the area of the subject property. Thang Nguyen, Transportation Engineer with the City of Kirkland Public Works Department has responded to the citizen concerns in his review memo (Attachment 7, Enclosure 6).
2. Conclusions: The public comments received have been adequately addressed by the proposal.

D. STATE ENVIRONMENTAL POLICY ACT (SEPA) AND CONCURRENCY

1. Facts:
 - a. A Determination of Nonsignificance (DNS) was issued on February 22, 2016. The Environmental Determination and Memo are included as Attachment 7. As a result of the SEPA review, a number of impacts, relating particularly to traffic and parking were identified. Measures to mitigate the impacts were identified, have been incorporated into the project, and will be required.
 - b. The project passed Traffic Concurrency on August 4, 2014.
 - c. The appeal period for both SEPA and Concurrency ended on March 7, 2016. No appeals were received.

2. Conclusion: The City has satisfied the requirements of SEPA and Concurrency.

E. APPROVAL CRITERIA

1. Master Plan

- a. Facts:

- 1) Kirkland Zoning Code (KZC) Section 15.20.020 PU-2 and 15.20.130 PU-2 requires that a church and school use with a property size of five acres or more receive Master Plan approval through a Process IIB review. The Master Plan must show building placement, building dimensions, roadways, utility locations, land uses within the Master Plan area, parking locations, buffering, and landscaping.
 - 2) The applicant has submitted development plans that show building locations and dimensions, roadways, utility locations, land uses within the Master Plan area, parking locations, buffering, and landscaping (see Attachment 2).
 - 3) Zoning Code section 152.70.3 states that a Process IIB application may be approved if:
 - (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.

- b. Conclusions:

- 1) The application complies with the Master Plan requirements outlined in KZC Section 15.20.020 PU-2 and 15.20.130 PU-2.
 - 2) The proposal complies with the criteria in KZC Section 152.70.3. It is consistent with all applicable development regulations, except where variances or modifications were previously granted with the 2001 Master Plan (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 provides for the spiritual and educational needs for certain segments of the community. Any negative impacts of the project have been mitigated through compliance with applicable regulations and the project has been designed to minimize impact on the neighborhood.

F. DEVELOPMENT REGULATIONS

1. Church and School Location Criteria

- a. Facts: KZC Section 15.20.020 PU-4 and 15.20.130 PU-4 states that church and school uses may locate on the subject property only if:
 - It will not be materially detrimental to the character of the neighborhood in which it is located.
 - Site and building design minimizes adverse impacts on surrounding residential neighborhoods.

- The property is served by a collector or arterial street (does not apply to existing church or school sites).
- b. **Conclusions:** The proposal is consistent with the criteria established in KZC Section 15.20.020 PU-4 and 15.20.130 PU-4 as follows:
- There are existing school and church uses on the site which include recreational, parking, and other facilities normally associated with these uses. The proposal will not introduce new uses or activities which would materially impact the character of the neighborhood.
 - The proposed site design minimizes impacts on neighboring residential uses by including landscape buffers along the west and north edges of the proposed parking and playground areas.
 - The property is served by NE 70th Street, which is classified as an arterial street.

2. Parking

a. **Facts:**

- 1) KZC Section 15.40.020 establishes a required parking demand of 1 stall for every 4 people based on the maximum occupancy of the area of worship.
- 2) KZC Section 15.40.130 does not establish a parking requirement for school uses. Instead, it defers to KZC Section 105.25, which authorizes the Planning Official to establish the number of required parking stalls based on the parking demand for the proposed use.
- 3) A parking demand study was submitted as part of the Traffic Impact Analysis (see Attachment 7, Enclosure 5).
- 4) The City's Transportation Engineer reviewed the parking demand study and recommended that the project incorporate mitigations into the proposal (see Attachment 7, Enclosure 6). As part of the SEPA Determination, the applicant agreed to the mitigations and incorporated the mitigations into the master plan proposal.

- b. **Conclusions:** The proposal complies with the parking requirements of KZC Sections 15.40.020 and 15.40.130.

3. Structure Setbacks

a. **Facts:**

- 1) KZC Section 15.30.020 requires a 20 foot setback for a church use. KZC Section 15.30.130 requires 50 foot setbacks for school buildings and 20 feet for structured play areas.
- 2) The proposal includes a new maintenance shed, covered play area and a church expansion. The maintenance shed and church expansion are part of the church use and the covered play area is part of the school use.

- b. **Conclusions:** The proposal complies with the setback requirements of KZC Section 15.30.020.

4. Landscape Buffers

a. Facts:

- 1) KZC Section 15.40.020 requires a Church Use in a RSX zone to comply with Landscape Category C. The school use is not required to install a landscape buffers along property lines along streets.
- 2) KZC Section 95.42 lists the minimum land use buffer requirements for Landscape Category C. The subject property is bordered on west side by single family residential uses and this section requires the installation of a landscape buffer that complies with Buffering Standard 1. For standard 1, the applicant shall provide a 15-foot-wide landscaped strip. Within the landscape strip, trees must be planted at the rate of 1 tree per 20 linear.

b. Conclusion: As part of the development permit application for the new overflow parking lot and playground area, the applicant should submit landscape plans that comply with the requirements of KZC Section 95.42.

5. Natural Features- Significant Landscaping

a. Facts:

- 1) Regulations regarding the retention of trees can be found in Chapter 95 of the Kirkland Zoning Code. The applicant is required to retain all trees with a moderate to high retention value to the maximum extent possible.
- 2) The applicant has submitted a Tree Retention Plan prepared by a certified arborist (see Attachments 5).
- 3) The City's Urban Forester has reviewed the Tree Retention Plan (see Attachment 4) and designated the onsite significant trees.

b. Conclusions: The applicant should retain all trees during the construction of the school as shown in Attachment 3 and comply with the recommendations contained in the Tree Retention Plan.

6. Site Lighting

a. Facts:

- 1) KZC Section 115.85.1 requires that the applicant use energy efficient light sources, comply with the Washington Energy Code with respect to the selection and regulation of light sources, and select, place, and direct light sources both directable and nondirectable so that glare produced by any light source, to the maximum extent possible, does not extend to adjacent properties or to the right-of-way.
- 2) The current submittal does not contain a detailed lighting plan that would show the location, height, fixture type, and wattage of proposed lights.

b. Conclusion: As part of the development permit application for the new overflow parking lot and playground area, the applicant should submit a lighting plan showing the location, height, fixture type and wattage of all proposed exterior lights. The lighting plan shall be consistent with the requirements in KZC Section 115.85.

G. COMPREHENSIVE PLAN

1. Facts: The subject property is located within the South Rose Hill neighborhood. The South Rose Hill Land Use Map designates the subject property for low density residential use (see Attachment 8). Church and school uses are permitted uses within low density zones.
2. Conclusion: The proposal is consistent with low density residential use designation.

H. DEVELOPMENT STANDARDS

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 4.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 4.

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**A. Facts:**

1. KZC Section 152.115 requires that the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void.
2. KZC Section 152.115 states that for development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.
3. The applicant is proposing a two phase development with the final phase occurring before 2026.

B. Conclusions:

1. Staff recommends that the Notice of Approval be extended to allow the construction of all phases currently being proposed. The applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ten (10) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the ten (10) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within twelve (12) years after the final approval on the matter, or the decision becomes void.

VI. APPENDICES

Attachments 1 through 8 are attached.

1. Vicinity Map
2. Development Plans
3. Project Narrative
4. Development Standards
5. Tree Plan
6. Public Comments
7. SEPA Determination with Memo and Attachments
8. Comprehensive Plan Map

VII. PARTIES OF RECORD

Applicant
Citizens on Parties of Record List
Department of Planning and Building
Department of Public Works
Department of Fire Services

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