

ORDINANCE O-4644

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE, APPROVAL OF A PRELIMINARY (AND FINAL) PUD AS APPLIED FOR BY LAKE WASHINGTON SCHOOL DISTRICT IN THE PLANNING AND BUILDING DEPARTMENT FILE NO. ZON17-00198 AND SETTING FORTH CONDITIONS OF SAID APPROVAL.

1 WHEREAS, the City of Kirkland ("City") Planning and Building
2 Department has received an application, pursuant to Process IIB, for a
3 Preliminary (and Final) Planned Unit Development (PUD) filed by Lake
4 Washington School District as the Planning and Building Department File
5 No. ZON17-00198 to construct a new school and associated
6 improvements within a RSX 7.2 zone; and
7

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

14 WHEREAS, pursuant to the State Environmental Policy Act,
15 Chapter 43.21C RCW, and the Administrative Guideline and local
16 ordinance adopted to implement it, the Lake Washington School District,
17 as SEPA Lead Agency, performed SEPA Review for the application; and
18

19 WHEREAS, said environmental checklist and determination
20 have been available and accompanied the application throughout the
21 entire review process; and
22

23 WHEREAS, the application was submitted to the Kirkland
24 Hearing Examiner, who held hearing on April 25, 2018; and
25

26 WHEREAS, the Kirkland Hearing Examiner at such hearing did
27 consider the recommendations of the Planning and Building
28 Department, did adopt certain Findings, Conclusions and
29 Recommendations; and did recommend approval of the Process IIB
30 Permit subject to the specific conditions set forth in said
31 recommendations; and
32

33 WHEREAS, the City Council, in regular meeting, did consider the
34 environmental documents received from the responsible official,
35 together with the recommendation of the Hearing Examiner; and
36

37 WHEREAS, the Kirkland Zoning Ordinance requires approval of
38 this application for PUD to be made by ordinance.
39

40 NOW THEREFORE, the City Council of the City of Kirkland do
41 ordain as follows:
42

43 Section 1. The Findings, Conclusions, and Recommendations of the
44 Kirkland Hearing Examiner as signed by him and filed in the Planning
45 and Building Department File No. ZON17-00198 are adopted by the
46 Kirkland City Council as though fully set forth herein.

47 Section 2. After completion of final review of the PUD, as
48 established in Sections 125.50 through 125.75 (inclusive) of the Kirkland
49 Zoning Code, Ordinance 3719, as amended, the Process IIB Permit shall
50 be issued to the applicant subject to the conditions set forth in the
51 Recommendations hereinabove adopted by the City Council.
52

53 Section 3. Nothing in this ordinance 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, other than
56 expressly set forth herein.
57

58 Section 4. Failure on the part of the holder of the permit to
59 initially meet or maintain strict compliance with the standards and
60 conditions to which the Process IIB Permit is subject shall be grounds
61 for revocation in accordance with Ordinance No. 3719, as amended, the
62 Kirkland Zoning Ordinance.
63

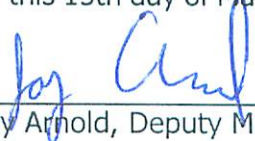
64 Section 5. This ordinance shall be in force and effect five days
65 from and after its passage by the Kirkland City Council and publication
66 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary
67 form attached to the original of this ordinance and by this reference
68 approved by the City Council.
69

70 Section 6 A complete copy of this ordinance, including Findings,
71 Conclusions and Recommendations adopted by reference, shall be
72 certified by the City Clerk, who shall then forward the certified copy to
73 the King County Department of Assessments.
74

75 Section 7. A certified copy of this ordinance, together with the
76 Findings, Conclusions, and Recommendations herein adopted shall be
77 attached to and become a part of the Process IIB Permit or evidence
78 thereof delivered to the permittee.
79

80 Passed by majority vote of the Kirkland City Council in open
81 meeting this 15th day of May, 2018.
82

83 Signed in authentication thereof on this 15th day of May, 2018.


Jay Arnold, Deputy Mayor

Attest:


Kathi Anderson, City Clerk

Publication Date: May 21, 2018

Approved as to Form:


Kevin Raymond, City Attorney

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

APPLICANT: Lake Washington School District

FILE NO: ZON17-00198, SAR17-00251

APPLICATION:

Site Location: 10601 NE 132ND Street

Request: Application for approval of a Master Plan, Preliminary Planned Unit Development (PUD), Final PUD, and Chapter 90 Public Agency Exception for the replacement of the existing Juanita High School with new buildings located south of the existing structures (see Attachments 2 and 3). The proposed project includes the following elements:

Master Plan

- Total gross floor area of approximately 217,000 square feet that includes general classrooms, science and project classrooms, administration, commons, kitchen, library, auditorium and performing arts classrooms, and general staff and building services support. The existing field house, pool, baseball field, softball field and stadium will remain as-is. The site work includes new walkways and landscaping at the building courtyard and the promenade leading to the existing fields; updates to north and east parking lots; re-surfacing tennis courts; and other miscellaneous site improvements and features. Additionally, temporary parking lots will be constructed onsite to address onsite parking demand during construction. This will be a 2-phase project allowing partial occupancy of the existing academic building while the new building is under construction. Program space will be supplemented with temporary campus facilities located onsite during construction which will include modular buildings for classrooms, administration and restroom facilities. Temporary classroom facilities will have minimal infrastructure needs, to include power and data, and exclude water and sewer.

PUD

- The proposed PUD seeks to increase the maximum allowable building height from 35 feet above average building elevation to 60 feet. A three-story building is being proposed in order to provide a smaller footprint that fits within the constraints of this previously developed site, with the additional height requested to make this approach feasible to accommodate the necessary square foot area of a comprehensive high school.

Public Agency Exception

- The Public Agency Exception requests the following exceptions from the requirements of KZC Chapter 90 regarding wetland and stream regulations:
 - Temporary sensitive area buffer impacts for two gravel parking lots (one for construction parking and one for staff parking),
 - An exception from the vegetative buffer standards for existing improved areas,
 - The construction of a proposed stormwater vault within a required wetland buffer.

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

Major Issues:

- a. Compliance with Zoning Permit Approval Criteria
- b. Compliance with PUD Approval Criteria
- c. Compliance with Public Agency Exception Criteria

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Community Development Hearing Examiner:	Approve with conditions Approve with conditions
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PUBLIC HEARING:

The Hearing Examiner held a public hearing on the applications at 10:00 am on April 25, 2018, 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 following 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.

For purposes of this recommendation, all section numbers refer to the Kirkland Zoning Code (“KZC” or “Code”) unless otherwise indicated.

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:

A. Findings:

1. The Findings of Fact set forth at pages 4 through 16 of the Department's Advisory Report, Exhibit A, are adopted by reference.

5. Neighbors to the south expressed support for the proposal. In particular, they were supportive of temporary parking measures that have been proposed, as loss of parking availability results in overflow parking into the adjacent neighborhood.

B. Conclusions:

1. The conclusions set forth in the Department's Advisory Report at pages 4 through 16 are adopted by reference.

C. Recommendation:

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner recommends that the Council approve the Master Plan and Preliminary and Final PUD, and Chapter 90 Public Agency Exception subject to the following conditions:

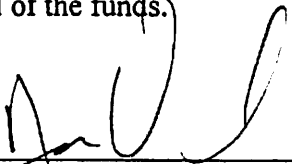
1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 4, Development Standards, 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 land surface modification permit submittal, the applicant shall:
 - a. Submit plans for construction of the temporary staff parking lot. The temporary staff lot shall be completed by August 1, 2018.
 - b. Submit a final tree retention plan.
 - c. Submit plans that incorporate the restoration plan for the temporary parking lots as outlined in Exhibit A Attachment 10.
3. As part of the building permit application for the school building, the applicant shall provide 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.

4. Prior to the final inspection of the building permit for the school building, the applicant shall:
 - a. Complete the proposed upgrade of the stream crossing identified as a public benefit. The proposed work may require an additional building permit from the City and permits from other agencies, which shall be approved prior to beginning the work.
 - b. Complete the required restoration work and submit a report prepared by the applicant's consultant. The work will be subject to inspection and final acceptance by the City's sensitive areas consultant at the applicant's expense. Additionally, the applicant shall submit monitoring reports, as outlined in Exhibit A Attachment 10, to the City for review by the City's sensitive areas consultant at the applicant's expense.

5. The applicant shall submit funds to the City to cover the cost of proposed bicycle crossing improvements identified as a public benefit. City Staff and the applicant shall work on the exact timing for submittal of the funds.

Entered this 4th day of May, 2018.

May 14, 2018



Ryan P. Vancil
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. Any person wishing to file or respond to a challenge 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., _____, 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 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:
Tony Leavitt, Senior Planner

From the Applicant:
Forest Miller

From the Public:
Paul Smith

EXHIBITS:

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

Hearing Examiner Recommendation
File Nos. ZON17-00198, SAR17-00251
Page 6 of 6

A. Department of Planning and Community Development Staff Advisory Report
dated April 20, 2018, with 15 attachments

PARTIES OF RECORD

Paul Smith
Applicant
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Hearing Examiner Exhibit

Appellant _____
Respondent _____ ADMITTED ✓
Department _____ DENIED _____

1

FILE # ZON17-00198 & SAR17-00251 2



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600 - www.kirklandwa.gov

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

To: Kirkland Hearing Examiner

From:  Tony Leavitt, Senior Planner

 Eric R. Shields, AICP, Planning Director

Date: April 20, 2018

File: **ZON17-00198, SAR17-00251
JUANITA HIGH SCHOOL MASTER PLAN, PUD, AND PUBLIC AGENCY
EXCEPTION**

Hearing Date and Place: April 25, 2018; 10:00 AM
City Hall Council Chamber
123 Fifth Avenue, Kirkland

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I. INTRODUCTION

A. APPLICATION

1. Applicant: Lake Washington School District
2. Site Location: 10601 NE 132ND Street (see Attachment 1)

Request: Application for approval of a Master Plan, Preliminary Planned Unit Development (PUD), Final PUD, and Chapter 90 Public Agency Exception for the replacement of the existing Juanita High School with new buildings located south of the existing structures (see Attachments 2 and 3). The proposed project includes the following elements:

Master Plan

- Total gross floor area of approximately 217,000 square feet that includes general classrooms, science and project classrooms, administration, commons, kitchen, library, auditorium and performing arts classrooms, and general staff and building services support. The existing field house, pool, baseball field, softball field and stadium will remain as-is.

The site work includes new walkways and landscaping at the building courtyard and the promenade leading to the existing fields; updates to north and east parking lots; re-surfacing tennis courts; and other miscellaneous site improvements and features. Additionally temporary parking lots will be constructed onsite to address onsite parking demand during construction.

- This will be a 2-phase project allowing partial occupancy of the existing academic building while the new building is under construction. Program space will be supplemented with temporary campus facilities located on-site during construction which will include modular buildings for classrooms, administration and restroom facilities. Temporary classroom facilities will have minimal infrastructure needs, to include power and data, and exclude water and sewer.

PUD

- The proposed PUD seeks to increase the maximum allowable building height from 35 feet above average building elevation to 60 feet. A three-story building is being proposed in order to provide a smaller footprint that fits within the constraints of this previously developed site, with the additional height requested to make this approach feasible to accommodate the necessary square foot area of a comprehensive high school.

Public Agency Exception

- The Public Agency Exception requests the following exceptions from the requirements of KZC Chapter 90 regarding wetland and stream regulations:
 - Temporary sensitive area buffer impacts for two gravel parking lots (one for construction parking and one for staff parking),
 - An exception from the vegetative buffer standards for existing improved areas,
 - The construction of a proposed stormwater vault within a required wetland buffer.

3. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
4. Summary of Key Issues:
 - a. Compliance with Zoning Permit Approval Criteria (see Section II.F.1)
 - b. Compliance with PUD Approval Criteria (see Section II.F.2)
 - c. Compliance with Public Agency Exception Criteria (see Section II.F.3)

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 land surface modification permit submittal, the applicant shall:
 - a. Submit plans for construction of the temporary staff parking lot. The temporary staff lot shall be completed by August 1, 2018 (see Conclusion II.G.3).
 - b. Submit a final tree retention plan (see Conclusion II.G.4).
 - c. Submit plans that incorporate the restoration plan for the temporary parking lots as outlined in Attachment 10 (see Conclusion II.F.3).
3. As part of the building permit application for the school building, the applicant shall provide 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.G.5).
4. Prior to the final inspection of the building permit for the school building, the applicant shall:
 - a. Complete the proposed upgrade of the stream crossing identified as a public benefit. The proposed work may require an additional building permit from the City and permits from other agencies, which shall be approved prior to beginning the work (see Conclusion II.F.2.d)
 - b. Complete the required restoration work and submit a report prepared by the applicant's consultant. The work will be subject to inspection and final acceptance by the City's sensitive areas consultant at the applicant's expense. Additionally, the applicant shall submit monitoring reports, as outlined in Attachment 10, to the City for review by the City's sensitive areas consultant at the applicant's expense (see Conclusion II.F.3.b.6).
5. The applicant shall submit funds to the City to cover the cost of proposed bicycle crossing improvements identified as a public benefit (see Conclusion II.F.2.d). City Staff and the applicant shall work on the exact timing for submittal of the funds.

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:

a. Facts:

- (1) Size: 42.36 acres
- (2) Land Use: The subject property contains the existing Juanita High School and associated improvements.
- (3) Zoning: The subject property is zoned RSX 7.2 (Residential Single-family). A School Use is an allowed use, subject to approval of a Master Plan, within this zone.
- (4) Terrain: The site is relatively flat.
- (5) Vegetation: The subject property contains numerous significant trees. The applicant's arborist and tree plan identified a total of significant trees on the site that could potentially be impacted by the proposed redevelopment (see Section II.G.4). The south half of the site is bordered by a Type F stream with associated wetlands on the east and west sides of the property.

b. Conclusions:

- (1) Size, land use, and terrain 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 a School Use occupying a property of more than 5 acres must be approved through a Master Plan process (see Section II.F.1).
- (3) Tree protection and retention on the subject property are factors in the review of the proposed development (see Section II.G.4).
- (4) The presence of sensitive areas on and near the site is a factor in review of the application.

2. Neighboring Development and Zoning:

a. Facts: The neighboring properties are zoned as follows and contain the following uses:

North: Zoned RSX 7.2 (Low Density Residential). Single-family residences and the Juanita Trace King County Housing Authority development.

West: Zoned RSX 5.0. Springbrook PUD, Single family residences

South: Zoned RSX 7.2. Single-family residences.

East: Zoned RSX 7.2 and RM 3.6. Single-family residences and Juanita County Condominium Development

b. Conclusion: The neighboring development and zoning are factors in the review of the proposed Master Plan and Planned Unit Development applications as the school is located a residential zone.

B. HISTORY

1. Facts: In 1991, the City approved a Master Plan for the existing campus after annexation into the City. The City has approved minor modifications to the 1991 Master Plan to allow additional improvements on the site.

C. PUBLIC COMMENT

1. Facts: The initial public comment period for this application ran from August 8, 2017 to September 5, 2017. Staff received no comments during the initial comment period or prior to drafting of this Staff Report.

D. STATE ENVIRONMENTAL POLICY ACT (SEPA)

1. Facts: Pursuant to WAC 197-11-924, the Lake Washington School District assumed Lead Agency status for the project. A Determination of Nonsignificance (DNS) was issued by the Lake Washington School District on January 11, 2017. The Environmental Checklist and Determination are included as Attachment 5. As a result of the SEPA review, the school district contributed funds towards the cost of the NE 132nd Street Right Turn Lane Project.
2. Conclusion: The Lake Washington School District has satisfied the requirements of SEPA.

E. CONCURRENCY

1. Facts: The Public Works Department has reviewed the application for concurrency. A concurrency test was passed for traffic on October 25, 2016. A Notice of Concurrency was distributed, published, and posted on August 17, 2017.
2. Conclusion: The applicant and City have satisfied Concurrency requirements.

F. APPROVAL CRITERIA

1. Master Plan
 - a. Facts:
 - (1) Kirkland Zoning Code (KZC) Section 15.20.130 Permitted Use Special Regulation 2 requires that a 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.

- (4) Some of the potential impacts of the proposed project include traffic and parking impacts related to increased enrollment, impacts to onsite sensitive area buffers, and impacts associated with the location of the new structure. Staff addresses these impacts in Section II.F.3 and II.G of this report.

b. Conclusions:

- (1) The application complies with the Master Plan requirements outlined in KZC Section 15.20.130 Permitted Use Special Regulation 2 (see Section II.G.1).
- (2) 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 an updated school campus while minimizing impacts on the surrounding neighborhood.

2. Planned Unit Development – KZC Chapter 125 establishes a mechanism for an applicant to propose a development that is innovative or otherwise beneficial, but which does not strictly comply with the provisions of the Code.

The proposed PUD seeks to increase the maximum allowable building height from 35 feet above average building elevation to 60 feet. A three-story building is being proposed in order to provide a smaller footprint that fits within the constraints of this previously developed site, with the additional height requested to make this approach feasible to accommodate the necessary square foot area of a comprehensive high school.

a. KZC Chapter 125 Requirements

- (1) Facts: KZC Chapter 125 establishes three decisional criteria with which the proposed PUD request must comply in order to be granted. The applicant's request is included as part of Attachment 3. Sections II.F.2.b through 2.d contain staff's findings of fact and conclusions based on these three criteria.
- (2) Conclusions: Based on the following analysis, the application meets the established criteria for approval of a Preliminary and Final PUD.

b. PUD Criterion 1: The proposed PUD must meet the requirements of Zoning Code Chapter 125.

(1) Facts:

- (a) KZC Chapter 125 sets forth the procedures by which a PUD is to be reviewed, criteria for PUD approval, the Zoning Code provisions that may be modified through a PUD, and PUD density provisions.
- (b) The proposal is being reviewed through the process established by Chapter 125.
- (c) The proposal must meet the criteria for PUD approval (see the following sections).
- (d) The proposed modifications 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 proposed PUD seeks to increase the maximum allowable building height from 35 feet above average building elevation to 60 feet.
 - (b) The increase in the maximum allowable building height could potentially result in a building that is incompatible, in terms of size, with neighboring residential uses
 - (c) The proposed structure is setback 100 feet from the north property line and 180 feet from the east property line. Setbacks from the west and south property lines are over 675 feet.
 - (d) The existing landscape buffer, planted with dense mature vegetation, will remain untouched.
 - (e) The applicant is proposing additional specific public benefits as discussed in subsection d. below.
 - (2) Conclusions:
 - (a) The height of the proposed structure is mitigated by the fact that the structure is 100 feet from the north property line and the existing mature landscape buffer will help to mitigate impacts on neighboring residential properties.
 - (b) The adverse impacts or undesirable effects of the proposed PUD have been minimized by a site design that lessens potential development related impacts. This is achieved by constructing the necessary square footage for the facility in a more vertical manner toward the center of the site rather than spreading out across the property in a manner that might have more significant impact to surrounding residential areas and adjoining critical areas. To the extent that they remain, any impacts are clearly outweighed by the identified benefits discussed below.

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

- (1) The applicant is providing public facilities that could not be required by the City for development of the subject property without a PUD.

Staff Response: This proposal meets this criteria. The applicant is proposing two public facility requirements that could not otherwise be required by the City. The applicant proposes to enhance neighborhood connection to the Juanita site by modernizing and upgrading the existing improvised stream crossing on the southern edge of the project site. In addition, the applicant proposes to fund a City Bicycle Improvement project which will add six new bicycle crossings along 100th Avenue NE and two crossings along 98th Ave NE (see Attachment 3). The bicycle improvement project has already gone through preliminary design and estimating and the applicant views this as an opportunity to work in partnership with the City to enhance the neighborhood by improving bicycle connectivity and safety throughout the neighborhood and to Juanita High School. The project is estimated to cost \$36,000.

- (2) 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.

Staff Response: Not applicable.

- (3) The design of the PUD incorporates active or passive solar energy systems.

Staff Response: Not applicable.

- (4) 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:

- (a) Increased provision of open space or recreational facilities.

Staff Response: The applicant is proposing the improvements of the existing stream crossing which will help improve pedestrian connection to the neighborhoods to the south.

- (b) Superior circulation patterns or location or screening of parking facilities.

Staff Response: Not applicable

- (c) Superior landscaping, buffering, or screening in or around the proposed PUD.

Staff Response: The applicant is utilizing existing landscape buffer that includes mature trees and dense vegetation. No impacts to the buffer will occur with the project.

- (d) Superior architectural design, placement, relationship orientation of structure.

Staff Response: The applicant is locating and designing the building in a way to minimize impacts on the neighboring residential properties. Additionally the building footprint is being reduced as part of the project.

- (e) Minimum use of impervious surfacing materials.

Staff Response: Not applicable

(5) Conclusion:

- (a) Staff concludes that the proposal includes offsite public improvements that would not be required as part of the project. The proposed benefits to the neighborhood and the city outweigh the impacts of the requested modifications and therefore, the PUD should be approved.
- (b) Additionally the adverse impacts or undesirable effects of the proposed PUD have been minimized by a site design that lessens potential development related impacts on neighboring properties and improves access to the site.
- (c) Prior to the final inspection of the building permit for the school, the applicant should complete the proposed upgrade of the stream crossing identified as a public benefit. The proposed work may require an additional building permit from the City and permits from other agencies, which shall be approved prior to beginning the work.
- (d) The applicant should submit funds to the City to cover the cost of proposed bicycle crossing improvements identified as a public benefit. City Staff and the applicant shall work on the exact timing for submittal of the funds.

- e. PUD Criterion 4: Any PUD which is proposed as special needs housing shall be reviewed for its proximity to existing or planned services (i.e., shopping centers, medical centers, churches, parks, entertainment, senior centers, public transit, etc.

- (1) Fact: Not applicable. Special needs housing is not proposed.

3. Public Agency Exception

a. Facts:

- (1) The subject property contains a total of 3 wetlands (one Category 2 and two Category 3) and a Type F Stream. KZC Section 90.55 requires respective buffer widths of 105 feet and 165 feet for the two wetland types (based on habitat points). KZC Section 90.65 requires a 100 foot buffer width from the Type F stream (see Attachment 6).
- (2) Within the required buffers, the site currently contains existing athletic fields including a baseball field, softball practice field and the football/ track stadium (see Attachment 7). The applicant is proposing to retain all existing improvements.

- (3) The applicant is proposing the construction of two temporary gravel parking lots within the buffers for construction and staff parking. KZC Section 90.55.1 and 90.65.1 would not allow the proposed improvements.
- (4) The applicant is proposing the construction of a stormwater vault in the buffer setback. KZC Section 90.140 would not allow the proposed improvement in the setback.
- (5) KZC Section 90.120 states the Planning Official may waive the required critical area buffer in that portion of the buffer isolated from the critical area where an existing legally established and improved public right-of-way or improved easement road interrupts a portion of the critical area buffer from the portion of the buffer adjacent to the critical area.
- (6) KZC Section 90.45 states that if the strict application of Chapter 90 would prohibit a development proposal by a public agency, the agency may apply for an exception pursuant to this section. The Lake Washington School District meets the definition of a public agency.
- (7) The applicant is requesting a Public Agency Exception (PAE) to exempt the project from certain requirements of KZC Chapter 90. Specifically, the PAE will be used for the following sections of KZC 90:
 - (a) KZC 90.60 - Wetland Modification and 90.70 - Stream Modification
 - (b) KZC 90.130 - Vegetative Buffer Standards
 - (c) KZC 90.140 - Structure Setback from Critical Area Buffer
- (8) The applicant has submitted a report outlining the exceptions being requested (see Attachment 8). The following is a summary of the requested exceptions:
 - (a) Temporary buffer impacts: The applicant is proposing two gravel parking lots for staff and construction parking within the improved portion of the onsite buffer. KZC 90 does not permit buffer impacts, except those associated with direct stream or wetland impacts.(KZC 90.60 and 90.70 Therefore, the project's temporary impacts to buffer only, must be processed under a PAE.

- (b) **Exception to Vegetative Buffer Standards:** The project will result in a net increase in impervious surface greater than 1,000 square feet. As a result, the vegetative buffer standards, KZC Section 90.130, would apply to the project. These standards require native cover of at least 80 percent throughout the wetland and stream buffer area, requires less than 10 percent of the buffer consist of noxious weeds, and require that existing improvements and structures in the buffer be removed. That portion of the existing naturally vegetated buffer adjacent to the stream and wetland areas meets the vegetative buffer percentage standards. However, the majority of the onsite buffer is made up of existing improvements such as the football field, track, baseball fields, javelin throw, and athletic practice fields that are not proposed for removal. The buffer area outside of these improvements consists of mowed lawn that is used by students and the community for recreation; these uses will remain the same after construction. Because the project cannot implement KZC 90.130, a PAE is requested.
 - (c) **Proposed stormwater vault within the required 10 foot setback from the wetland buffer:** The stormwater vault is located adjacent to the portion of site buffer that is separated from the associated wetland by NE 128th Street and a paved driveway.
- (9) Zoning Code section 90.45.3 states that a public agency exception application may be approved if:
- (a) There is no other practical alternative to the proposed project with less impact on the critical areas or buffer;
 - (b) Strict application of this chapter would unreasonably restrict or prohibit the ability to provide public utilities or public agency services to the public;
 - (c) The proposal minimizes impacts to the critical area or buffer through mitigation sequencing, and through type and location of mitigation, pursuant to KZC 90.145 and 90.150, if applicable, including such installation measures as locating facilities in previously disturbed areas, boring rather than trenching, and using pervious or other low impact materials; and
 - (d) The proposal protects and/or enhances critical area and buffer functions and values, consistent with the best available science and with the objective of no net loss of critical area functions and values.
- (10) The applicant has submitted a report addressing the criteria (see Attachment 8). The report was reviewed and commented on by The Watershed Company (see Attachment 9). The applicant submitted a response (see Attachment 10) that was reviewed by The Watershed Company (see Attachment 11).

b. Conclusions:

- (1) A Public Agency Exception is required to allow the temporary buffer impacts and an exception from the vegetative buffer standards.
- (2) Per KZC Section 90.120, the buffer area where the proposed stormwater vault is being constructed would be considered an interrupted buffer and not subject to the buffer setback requirements.
- (3) The Watershed Company's review of the applicant's report concludes that the proposed redevelopment of Juanita High School and the associated unavoidable sensitive area buffer impacts complies with the applicable decisional criteria for a Public Agency Exception under KZC 90.45.3.
- (4) Based on the following analysis, and with the recommended conditions of approval, the application meets the established criteria in KZC Section 90.45.3 for approving a Public Agency Exception.

- (a) There is no other practical alternative to the proposed project with less impact on the critical areas or buffer;

Staff Response: The applicant is locating the proposed permanent new improvements outside of the required critical area buffers. The project is avoiding permanent impacts to the buffers and temporary impacts are located within developed areas of the buffer, which are easily restore to pre-project conditions.

- (b) Strict application of this chapter would unreasonably restrict or prohibit the ability to provide public utilities or public agency services to the public;

Staff Response: The strict application of Chapter 90 would require that the applicant remove all existing improvements within the critical area buffers and replant the area to meet vegetative buffer standards. This would require the relocation of the improvements to upland areas and would make the project as a whole infeasible due to limited land area and costs. In addition, strict application would require the removal of a number of recreational fields that are heavily used, both for school activities and community as a whole.

- (c) The proposal minimizes impacts to the critical area or buffer through mitigation sequencing, and through type and location of mitigation, pursuant to KZC 90.145 and 90.150, if applicable, including such installation measures as locating facilities in previously disturbed areas, boring rather than trenching, and using pervious or other low impact materials.

Staff Response: The proposal has met the mitigation sequencing requirements of KZC Section 90.145. As outlined in the applicant's report the measure taken include:

- *Avoid: All new site features have been kept out of site critical areas and associated buffers and no permanent features will occur within unimproved critical areas buffer. No improvements are proposed to the existing football stadium, track, or athletic fields located within the site buffer. The proposed location of geothermal wells was moved out of the buffer, at a greater cost to project budget and schedule. Proposed addition of new tennis courts was eliminated when the proposed location could not be moved outside of the buffer.*
- *Minimize: The portion of the site unencumbered by critical areas and buffers is maximized to accommodate necessary high school programming needs., e.g., the academic building is proposed to be three stories in place of the existing one-story building to minimize the footprint.*
- *Rectify: All temporary disturbance will be expeditiously restored to pre-project conditions prior to project completion.*
- *Reduce or eliminate impacts: To capture stormwater in the school paved areas, the project design has implemented the use of rain gardens and biofiltration to the extent possible. Existing vegetative buffer adjoining critical areas will be preserved.*
- *Compensate: The minimal vegetative disturbance to the buffer area associated with the temporary driveway will be replaced with mitigation plantings of superior long-term environmental value.*
- *Monitoring: Monitoring of the restoration and mitigation areas will be required for a five year period.*

- (d) The proposal protects and/or enhances critical area and buffer functions and values, consistent with the best available science and with the objective of no net loss of critical area functions and values.

Staff Response: The proposal is avoiding impacts to the stream and wetlands onsite and additional permanent impacts to the critical area buffers. The proposal also includes the addition of water quality treatment of the onsite paved surfaces that discharge to the stream.

- (5) As part of the land surface modification permit, the applicant should submit plans that incorporate the restoration plan for the temporary parking lots as outlined in Attachment 10.

- (6) Prior to final inspection of the building permit for the school, the applicant should complete the required restoration work and submit a report prepared by the applicant's consultant. The work will be subject to inspection and final acceptance by the City's sensitive areas consultant at the applicant's expense. Additionally, the applicant shall submit monitoring reports, as outlined in Attachment 10, to the City for review by the City's sensitive areas consultant at the applicant's expense

G. DEVELOPMENT REGULATIONS

1. School Location Criteria

- a. Facts: KZC Section 15.20.130 Permitted Use Special Regulation 4, states that a school use may be located in a RSX zone only if:
 - (1) It will not be materially detrimental to the character of the neighborhood in which it is located.
 - (2) Site and building design minimizes adverse impacts on surrounding residential neighborhoods.
 - (3) The property is served by a collector or arterial street.
- b. Conclusions: The proposal is consistent with the criteria established in KZC Section 15.20.130 Permitted Use Special Regulation 4 as follows:
 - (1) There is an existing school at the site that includes recreational, parking, and other facilities normally associated with a school use. The proposal will not introduce new facilities or activities which would materially impact the character of the neighborhood.
 - (2) The new site plan and building have been designed to minimize impacts on surrounding residential development by designing the proposed structure with substantial setbacks from adjoining residential properties. The project will include or fund a number of transportation improvements to NE 132nd Street and the project access drive that will mitigate impacts associated with increased school traffic.
 - (3) The primary access to the site is from NE 132nd Street, classified as a principal arterial street.

2. Building Height

- a. Facts:
 - (1) KZC Section 15.03.130, Density Dimensions Special Regulation 31 permits the structure height of schools to be increased to up to 35 feet, if:
 - (a) The school use can accommodate 200 or more students; and
 - (b) The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by 1 foot for each additional 1 of structure height; and
 - (c) The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan.

- (d) The increased height will not result in a structure that is incompatible with surrounding uses or improvements.
 - (2) The applicant is requesting to increase the maximum allowed height from 35 feet to 60 feet through the Planned Unit Development Review Process (see Section II.F.2). In order to get a base height of 35 feet, the proposal must comply with the requirements of KZC Section 15.03.130, Density Dimensions Special Regulation 31.
 - b. Conclusions: The proposal is consistent with the criteria established in KZC Section 15.03.130, Density Dimensions Special Regulation 31 as follows:
 - (1) The proposed school use is designed to accommodate 1,800 students.
 - (2) The required setback for a school use is 50 feet. In order to increase the maximum height to 35 feet, the required setback is 55 feet. The closest that a proposed structure is to a property line is 100 feet.
 - (3) The North Juanita Neighborhood Plan does not contain any policies concerning building heights for the area in which the school is located.
 - (4) To help mitigate potential impacts of the increased height the applicant proposes increased setbacks and use of existing vegetative buffers.
- 3. Parking
 - a. Facts:
 - (1) KZC Section 15.40.130 does not establish a required parking ratio for school uses. Instead, it defers to KZC Section 105.25, which authorizes the Planning Official to establish required parking on a case-by-case basis.
 - (2) In this case, City staff determined the required number of parking stalls for the school is 608 stalls, based on a parking analysis prepared by Gibson Traffic Consultants (see Attachment 12) that (see Attachment 13). The proposed project will provide a total of 636 stalls.
 - (3) The existing parking demand for site is 485 stalls. During construction of the school, the onsite parking supply will be reduced to 345 stalls. To mitigate for the parking shortage, the applicant is proposing construction of a 175 stall temporary staff parking lot on the west side of the campus near the existing baseball field. Additionally the applicant has submitted a parking management plan to address a parking shortage that will occur until the temporary staff parking lot is constructed (see Attachment 12)
 - b. Conclusions:
 - (1) The proposed parking supply in the current design, 636 stalls, is adequate to serve the school use.

- (2) As part of the land surface modification permit submittal, the applicant should submit plans for construction of the temporary staff parking lot. The temporary staff lot should to be completed by August 1, 2018.

4. 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 retention value to the extent feasible and those with high retention value to the maximum extent possible.
- (2) The applicant has submitted an arborist report prepared by a certified arborist (see Attachment 14) and a tree retention plan (see Attachment 2).
- (3) Tree removal is concentrated in the interior of the site including removal within parking lots and around existing structures. The required landscape buffers on the exterior of the site will not be impacted.
- (4) The applicant is proposing a significant amount of new landscaping including additional trees within the parking lots and around the buildings.

- b. Conclusions: As part of land surface modification permit submittal, the applicant should submit a final tree retention plan.

5. Site Lighting

- a. Facts: KZC Section 115.85 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. 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 its building permit application, the applicant should provide 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.

H. COMPREHENSIVE PLAN

1. Facts: The subject property is located within the Juanita neighborhood. The Juanita Neighborhood Land Use Map designates the subject property as a public facility use (see Attachment 15).
2. Conclusion: The proposal is consistent with the public facility use designation.

I. 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. Any person wishing to file or respond to a challenge 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

Under Section 152.115 of the Zoning Code, the applicant must submit to the City a complete building permit application approved under Chapter 152, within four (4) years after the final approval on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 152.110, the running of the four 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. Furthermore, the applicant must substantially complete construction approved under Chapter 152 and complete the applicable conditions listed on the Notice of Approval within six (6) years after the final approval on the matter, or the decision becomes void.

VI. APPENDICES

Attachments 1 through 15 are attached.

1. Vicinity Map
2. Development Plans
3. Project Narrative
4. Development Standards
5. SEPA Determination
6. Critical Areas Report
7. Critical Areas Map
8. Public Agency Exception Report prepared by Shannon and Wilson Inc dated March 5, 2018'
9. Public Agency Exception Report Peer Review Letter prepared by The Watershed Company dated April 5, 2018
10. Email from Shannon and Wilson and Restoration Plan dated April 12, 2018
11. Public Agency Exception Report Second Peer Review Letter prepared by The Watershed Company dated April 17, 2018
12. Juanita High School Parking Management Plan
13. Juanita High School Parking Review Memo prepared by Thang Nguyen dated April 2, 2018
14. Arborist Report dated December 27, 2013
15. Juanita Neighborhood Land Use Map

VII. PARTIES OF RECORD

Applicant
Planning and Building Department
Department of Public Works

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

Links to Hearing Examiner Recommendation Exhibits:

Part 1: Staff Report and Attachment 1

Part 2: Attachment 2

Part 3: Attachments 3 thru 5

Part 4: Attachments 6

Part 5: Attachment 6 cont'd, Attachment 7 thru 9

Part 6: Attachments 10 thru 15

PUBLICATION SUMMARY
OF ORDINANCE O-4644

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE, APPROVAL OF A PRELIMINARY (AND FINAL) PUD AS APPLIED FOR BY LAKE WASHINGTON SCHOOL DISTRICT IN THE PLANNING AND BUILDING DEPARTMENT FILE NO. ZON17-00198 AND SETTING FORTH CONDITIONS OF SAID APPROVAL.

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

SECTION 2. Approves the application for a preliminary and final PUD and a preliminary subdivision subject to the Recommendations and conditions.

SECTION 3. The applicant must comply with any federal, state or local statutes, ordinance or regulations applicable to the project.

SECTION 4. Provides that failure to comply with the condition of approval for the Process IIB permit shall be grounds for revocation in accordance with the Kirkland Zoning Code, as amended.

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved 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. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

SECTION 7. A certified copy of this ordinance shall become a part of the Process IIB Permit and will be delivered to the applicant.

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 15th day of May, 2018.

I certify that the foregoing is a summary of Ordinance O-4644 approved by the Kirkland City Council for summary publication.



Kathi Anderson, City Clerk