

RESOLUTION NO. R- 3115

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A DEVELOPMENT PROPOSAL SUBMITTED UNDER THE QUASI-JUDICIAL PROJECT REZONE PROVISIONS OF CHAPTER 130 OF THE KIRKLAND ZONING CODE, ORDINANCE 2740, AS AMENDED, AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. IIB-84-54 BY THE FOSTER COMPANY TO CONSTRUCT A RETAIL ESTABLISHMENT WHICH PROVIDES VEHICLE SERVICE, REPAIR, AND SALE OF VEHICULAR COMPONENTS AND SETTING FORTH CONDITIONS TO WHICH SUCH DEVELOPMENT PROPOSAL SHALL BE SUBJECT AND SETTING FORTH THE INTENTION OF THE CITY COUNCIL TO, UPON APPROVED COMPLETION OF SAID DEVELOPMENT, REZONE THE PROPERTY FROM RM 3600 TO BC.

WHEREAS, the Department of Planning and Community Development has received an application filed by The Foster Company as owner of the property described in said application requesting a permit to develop said property in accordance with the Quasi-Judicial Project Rezone procedure established in Chapter 130 of Ordinance 2740, as amended; and

WHEREAS, said property is located within an RM 3600 zone and the proposed development is a permitted use within the BC zone; and

WHEREAS, the application has been submitted to the Hearing Examiner who held a public hearing thereon at his regular meeting of August 9, 1984; and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a negative declaration reached; and

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

WHEREAS, the Hearing Examiner, after his public hearing and consideration of the recommendations of the Department of Planning and Community Development, and having available to him the environmental checklist and negative declaration, did adopt certain Findings, Conclusions and Recommendations, and did recommend to the City Council approval of the proposed development and the Quasi-Judicial Project Rezone pursuant to Chapter 130 of Ordinance 2740, as amended, all subject to the specific conditions set forth in said recommendation; and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Planning Commission.

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

Section 1. The Findings, Conclusions and Recommendations of the Kirkland Planning Commission as signed by the Chairperson thereof and filed in the Department of Planning and Community Development File No. IIB-84-54 are hereby adopted by the Kirkland City Council as though fully set forth herein.

Section 2. A Development Permit, pursuant to the Quasi-Judicial Project Rezone procedure of Chapter 130 of Ordinance 2740, as amended, shall be issued to the applicant subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council.

Section 3. The City Council approves in principle the request for reclassification from RM 3600 to BC, pursuant to the provisions of Chapter 23.130 of Ordinance 2740, as amended, and the Council shall, by ordinance, effect such reclassification upon being advised that all of the conditions, stipulations, limitations, and requirements contained in this Resolution, including those adopted by reference, have been met; provided, however, that the applicant must begin the development activity, use of land or other actions approved by this Resolution within one year from the date of enactment of this Resolution, or the decision becomes void.

Section 4. Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state or local statutes, ordinances or regulations applicable to the proposed development project, other than as expressly set forth herein.

Section 5. Failure on the part of the holder of the development permit to initially meet or maintain strict compliance with the standards and conditions to which the development permit and the intent to rezone is subject shall be grounds for revocation in accordance with Ordinance 2740, as amended, the Kirkland Zoning Ordinance.


Section 6. A certified copy of this Resolution together with the Findings, Conclusions, and Recommendations herein adopted shall be attached to and become a part of the development permit or evidence thereof, delivered to the permittee.

Section 7. Certified or conformed copies of this Resolution shall be delivered to the following:

- (a) Department of Planning and Community Development of the City of Kirkland
- (b) Fire and Building Department for the City of Kirkland
- (c) Public Works Department of the City of Kirkland
- (d) The Office of the Director of Administration and Finance (ex officio City Clerk) for the City of Kirkland


PASSED by majority vote of the Kirkland City Council in regular, open meeting on the 20th day of August, 1984.

SIGNED IN AUTHENTICATION THEREOF on the 20th day of August, 1984.



Mayor

ATTEST:



Director of Administration and Finance
(ex officio City Clerk)

CITY OF KIRKLAND

HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

APPLICANT: Jim Foster

APPLICATION: The applicant has applied for a Process IIB Permit for an Intent to Rezone from RM 3600 (multi-family) to BC (Community Business). The applicant proposes to build a retail establishment which provides vehicle service, repair and sale of vehicular components.

SUMMARY OF RECOMMENDATIONS:

Planning Department Recommendation: Recommend Approval with Conditions.

Hearing Examiner Recommendation: Recommend Approval with Conditions.

PUBLIC HEARING:

After reviewing the Department of Planning and Community Development Advisory Report, and after visiting the site and inspecting the sign, the Examiner conducted a Public Hearing on the application as follows:

The hearing on Item IIB-84-54 was opened by the Examiner at 9:48 a.m. on August 9, 1984, in the Council Chamber, City Hall, Kirkland, Washington, and was closed at 10:03 a.m. Participants in the hearing, and exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Department of Planning and Community Development.

FINDINGS, CONCLUSIONS AND RECOMMENDATION:

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

I. FINDINGS OF FACT

A. SITE DESCRIPTION

1. Terrain: The site is topographically split by 20' high steeply rising bank. Except for the bank area the site is relatively flat. The proposal involves excavating the entire bank. Two soils reports are found in Attachments "7" and "8".
2. Vegetation: There is no significant vegetation on the site.
3. Neighboring Development and Zoning: BC zoning is found on the east, north and west. Property to the south is zoned RS 7.2 and can be redeveloped into RM 3600. An existing single-family home is on this property to the south. An office project is under construction on the east, an existing shopping center is to the north and an ARCO gasoline station is to the west. The site fronts on N.E. 85th Street (an arterial) and 120th Avenue N.E. (commercial collector).

B. HISTORY

1. The front portion of the site received approval to modify the landscape buffer requirements for a proposed "rent-it-shop." (File I-83-64, approval granted September, 1983.)
2. A stop work order for grading without a permit was issued on April 24, 1984.
3. A letter from the applicant to the Planning Commission regarding scheduling was received June 19, 1984 (Attachment "11").

C. GENERAL CODE COMPLIANCE

1. The applicant has the responsibility of convincing the City that, based on criteria in the Zoning Code, the applicant is entitled to the requested decision.

2. The Use Zone Chart addressing car repair service and related sales, in a BC zone, is shown on Attachment "4". The proposal complies with all of the requirements of the Zoning Code, except for the standards found in Attachment "10", Development Standards.
3. A Final Declaration of Non-significance was issued on July 27, 1984. The Environmental Checklist and Declaration are found on Attachments "5" and "6".
4. Comments and requirements placed on the project by other departments are found in Technical Committee comments, Attachment "9".

D. SPECIFIC ZONING CODE REQUIREMENTS

1. Section 130.60 sets the criteria for a quasi-judicial project rezone.
 - a. The proposed rezone is specifically consistent with the Comprehensive Plan - Figure 58A identifies the front portion of this site as Planned Area 14A and the back portion as Planned Area 14E. Text on page 479K states "Sub-area (e) is a small area located between sub-area (a) and land designated for medium density residential development. If developed in conjunction with adjacent property in sub-area (a), the property in sub-area (e) should be permitted to be developed with commercial uses, subject to the standards specified for sub-area (a). If this does not occur, residential development should be permitted at the same density (10-14 dwelling units/ acre) and subject to the same standards as the adjacent medium density residential area."
 - b. The proposed rezone bears a substantial relation to public health, safety, or welfare
 - i. The Kirkland Car Center proposal is adjacent to a residential use along the south property line, however, the roof of the southern building is 0 to 7 feet below the elevation of the adjacent southern property. This topographic change will help buffer any impacts

from the commercial use as it may effect the residential uses to the south.

- ii. The number of parking stalls required for automotive service and repair is discretionary based on Section 105.25 which states the parking is established on a case by case basis using actual parking demand. The drawings show a total of 41 parking stalls. Seven of these stalls are in front of the bay door, and cannot be used while the bays are open.
 - iii. However, cars will be parked inside the bays while they are open.
 - iv. The site will be zoned BC, allowing retail users. Retail requires a parking ratio of one stall for every 300 sq. ft. of gross floor area (including the outdoor storage area). A total of 40 stalls would be required.
 - v. The site could provide 40 stalls for retail use, since parking could locate in front of the bay doors.
 - vi. If the space in front of the dumpsters were used for parking it would block access to the dumpsters.
 - vii. Traffic from the Arco Station to the west currently cuts across this site. A vertical curb along the western edge of the landscape buffer would protect the plant material from the traffic.
- c. The proposed rezone is in the best interest of the residents of Kirkland - the proposal represents a development of vacant property in accordance with the policies of the Land Use Policies Plan and the standards of the Zoning Code.

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- d. The proposed rezone is necessary because:
 - i. Conditions in the immediate vicinity have so markedly changed that a rezone is required in the public interest.
 - ii. Recent development in the immediate area includes Kirkland Court which is on abutting property to the east and Rose Hill Plaza which is on the north-east corner of the intersection of N.E. 85th Street and 122nd Avenue N.E.
2. The proposed project complies with this code in all respects - the site has been reviewed for compliance and some modifications must be made as outlined in the Development Standards, Attachment "10" and Technical Committee comments, Attachment "9".
3. The site plan of the proposed project is designed to minimize all adverse impacts on existing land use in the immediate vicinity of the subject property - based on the change in elevation between this site and the property to the south which is residential and the conditions imposed through the Environmental Declaration, the review for adverse impacts on existing land use in the immediate vicinity has been completed.

E. LAND USE POLICIES PLAN (LUPP)

Standards in the Land Use Policies Plan for commercial development on this site states:

1. Vehicular access points located on north-south side streets should be set back from adjacent residential properties as much as possible without creating problems for traffic turning to and from N.E. 85th Street.
2. In order to minimize visual impacts to adjacent residential uses, structures should be residential in scale and character.
3. Structures, parking areas, driveways and outdoor storage areas should be set back from adjacent residential properties.

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4. A heavily landscaped buffer strip at least 15 feet in width should be located along any boundary with residential properties or with streets separating commercial development from residential properties. This landscaped area should be precluded from further development in perpetuity by the creation of a greenbelt easement or dedication of air rights.

F. TESTIMONY

Mr. Carl Kolbo, a neighboring property owner, testified in favor of the development proposal.

III. CONCLUSIONS

1. The project generally meets the requirements of the Zoning Code.
2. The project generally meets the criteria for an intent to rezone.
3. The space in front of the dumpster should be marked "No Parking".
4. A vertical curb should be placed along the western edge of the landscape buffer.
5. The project meets the standards of LUPP since the driveways are placed away from the residential zone, the buildings are low and there is a 15 foot buffer between buildings A and B and the residential zone.
6. The applicant should dedicate the air rights of the 15 foot buffer after it is landscaped.
7. There is support from neighboring property owners.

IV. RECOMMENDATIONS

Based on Statements of Fact (Section I), Conclusions (Section II), and Attachments in this report, I 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, Building and Fire Code, Subdivision Ordinance, and Shoreline Master Program. It is the responsibility of the applicant

to ensure compliance with the various provisions contained in these ordinances. Attachment "10", 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.

2. The Department of Planning and Community Development shall be authorized to approve minor modifications to the site plan proposal, provided that such adjustments do not increase the total amount of floor space, reduce the approved setback yards, change the amount of required parking or loading facilities, significantly change any points of ingress or egress to the site, or alter any other conditions of approval.
3. At time of Building Permit application, the drawings shall:
 - a. Mark the space next to the dumpster as "no parking".
 - b. Indicate a vertical curb along the west side of the perimeter parking buffer adjacent to the Arco Station.
4. At time of Certificate of Zoning, compliance for Building B, the 15 foot buffer shall be landscaped and air rights dedicated to the City.

V. APPEALS, RECONSIDERATIONS, CHALLENGES AND JUDICIAL REVIEW

A. REQUEST FOR RECONSIDERATION

Under Section 152.70 of the Zoning Code, the applicant and others who submitted comments may request the Hearing Examiner to reconsider any aspects of his/her recommendation by delivering a written request for reconsideration to the Planning Department within four working days of the issuance of the Hearing Examiner's written recommendation.

B. CHALLENGE

Under Section 152.80 of the Zoning Code, the applicant and others who submitted comments may challenge the Hearing Examiner's recommendation by delivering a written challenge to the Planning Department prior to

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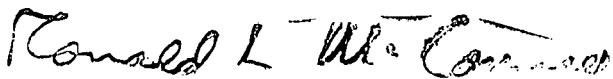
the beginning of the meeting at which the City Council first considers the application or to the Planning Official at the beginning of that meeting.

C. JUDICIAL REVIEW

Under Section 152.105 of the Zoning Code, the action of the City in granting or denying this application may be reviewed in the King County Superior Court. Petition for review must be reviewed within 30 days of the final decision of the City.

VI. LAPSE OF APPROVAL

The applicant must begin the development activity use, of land or other actions approved under this Chapter, within one year after the final decision on the matter or the decision becomes void.



Ronald L. McConnell
Hearing Examiner

Entered August 20, 1984, per authority granted by Section 152.40, Code. This recommendation is final unless a request for reconsideration is filed within 4 days as specified below.

Work may not commence until the final decision of the City of Kirkland is issued by the City Council.

REQUEST FOR RECONSIDERATION

Any of the parties of record listed below may request the Hearing Examiner to reconsider any aspect of this recommendation. The request for reconsideration must be filed with the Department of Planning and Community Development within 4 work days of the date of this recommendation. The request for reconsideration must clearly state what aspect of the recommendation the requester wants to have reconsidered as well as the specific reasons why that aspect of the recommendation should be changed. (Section 152.70, Code).

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NOTICE OF RIGHT TO CHALLENGE

Any party of record listed below may challenge this recommendation before City Council. The challenge must be in writing and identify the specific findings of fact or conclusions that are disputed. This challenge may be delivered to the Department of Planning and Community Development before the first meeting where City Council considers this matter or to the Planning Official at the beginning of that City Council meeting. It is not necessary to have filed a request for reconsideration in order to challenge this recommendation. (Section 152.80, Code).

Attachments

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MINUTES OF THE AUGUST 9, 1984 PUBLIC HEARING
ON FILE NO. IIB-84-54: Jim Foster

Ronald L. McConnell was the Hearing Examiner for this matter. Participating in the hearing were: Jeffrey Wilson representing the Planning Department, Wayne Ivory representing the applicant, and Carl Kolbo, a neighboring property owner.

The following exhibits were offered and entered into the record:

1. Vicinity Map
2. Site Plan
3. Elevations
4. Zoning
5. Environmental Declaration
6. Environmental Checklist
7. Soils Report of 7/10/84
8. Soils Report of 7/12/84
9. Technical Committee Comments
10. Development Standards
11. Letter from the Applicant to Planning Commission
12. Information Submitted by Applicant on Parking Demand
13. Revised Site Plan

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