

To: Bob Sokol, Community Development Director
The City of Kenmore
P.O. Box 82607
Kenmore, WA 98028-0607

From: Dan Olsen and Bonnie Olsen
6504 Northeast 196th Street
Kenmore, WA 98028

Allan McFadden and Karen McFadden
19604 – 66th Northeast
Kenmore, WA 98028

Date: 2/20/03

Re: Appeal of City of Kenmore land use decision to grant the Lakepointe Commercial Site Development Permit an extension.

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CITY OF KENMORE
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We are appealing the decision by Kenmore on 1/30/03 by Bob Sokol, Community Development Director, to extend the Lakepointe development Commercial Site Development Permit. (Reference letter from Bob Sokol to Jack McCullough on 1/30/03)

Under Kenmore City Code this action is classified as a Type 2 decision:

19.25.020 Classifications of land use decision processes

TYPE 2 (Decision by director appealable to hearing examiner, no further administrative appeal)

Short plat; short plat revision; short plat alteration; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; temporary use; shoreline substantial development permit; Type 1 decision for which the department has issued a SEPA threshold determination 3; procedural and substantive SEPA decision; site development permit; approval of residential density incentives or transfer of development credits; re-use of public schools; reasonable use exceptions under KMC 18.55.070(B); preliminary determinations under KMC 19.25.030(B); sensitive areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on Chapter 18.55 KMC; binding site plan; waivers from the moratorium provisions of this code based upon a finding of special circumstances.

Further, Kenmore City Code stipulates that decisions about proposed actions for Type 2 permits require public notification of the decision with provision for an appeal period for parties of record:

19.25.060 Notice of application.

A. A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA or subsections (J) and (K) of this section.

B. Notice of the application shall be provided by the department within 14 days following the department's determination that the application is complete. A public comment period of at least 21 days shall be provided, except as otherwise provided in Chapter 90.58 RCW and RCW 58.17.215 with regards to alterations. The public comment period shall commence on the third day following the department's mailing of the notice of application as provided for in subsection (G) of this section.

H. Notice of a proposed action shall be published by the department within 14 days after the department's determination of completeness in the city's official newspaper of record.

19.25.090 Notice of decision or recommendation – Appeals.


A. The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the threshold determination, if any, the dates for any public hearings and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology and to agencies with jurisdiction if required by Chapter 19.35 KMC, to the Department of Ecology and Attorney General as provided in Chapter 90.58 RCW, to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments, and to property owners of record, as provided in KMC 19.25.060(G).

There was no public notice with appeal period regarding the decision when the City of Kenmore granted the Lakepointe developer an extension of the period to file for an initial building permit under the project Commercial Site Development Permit. The undersigned persons earlier requested notice of decisions relating to the Lakepointe project and thus are parties of record. They did not receive the required notice. Kenmore must issue notification regarding the decision and the appeal period as required by KCC 19.25.060 and 19.25.090.

This appeal is based on the following reasons: Kenmore erred in its decision to extend the time allowed the Lakepointe developer to apply for building permits. As a result, the Lakepointe Commercial Site Development Permit is null and void as of 2/14/03. (KMC 18.90.070(B)) The extension issued on 1/30/03 is invalid. We request that Kenmore comply with KCC 19.25.060 and 19.25.090 regarding public notice and appeals. It was inappropriate to grant an extension based on identical reasons for which a previous extension was granted. The extension is also not in compliance with the Growth Management Act in its implementing of regulations.

We believe the contents of this appeal to be true. The appeal is filed in a timely manner pursuant to KCC 19.25.020 and 19.25.060 and is accompanied by the required appeal fee of \$ 125.00 with check number 7783.

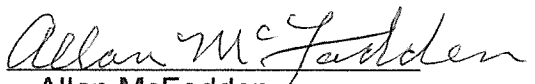
Dated this 20th day of February, 2003



Dan Olsen



Bonnie Olsen



Allan McFadden



Karen McFadden

Cc: Bob Sokol, Director of Community Development, City of Kenmore