



City Of Kenmore, Washington

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

May 19, 2011

Mr. Jack McCullough
McCullough Hill, PS
701 Fifth Avenue, Suite 7220
Seattle, WA 98104

Re: LakePointe Project Commercial Site Development Permit Extension

Dear Mr. McCullough:

Thank you for your interest in the City of Kenmore, and the Kenmore greater community. Since December 31, 2009, the City has granted temporary extensions of the LakePointe Commercial Site Development Permit (CSDP), most recently to February 4, 2011 to discuss the feasibility of developing a work program, schedule and process for modifying project entitlements including potential amendments to project phasing and other project conditions. The conclusion reached by both the City and your client, (LakePointe, Inc. and Pioneer Towing) who represent the project applicant and landowner, is that potential amendments to conditions of project approval are best considered at the time an investment or development partner, whose intent is development of the LakePointe project, is engaged by the current property owner. Given current economic and market conditions an extension of the CSDP is the appropriate option at this time.

A revised traffic information (memo from The Transpo Group dated June 22, 2009) was submitted September 14, 2009 via e-mail. The City Engineer reviewed the information (memo dated November 30, 2009) and this information was provided to you December 1, 2009. The City Engineer concurred with the conclusion of the Transpo Group that traffic levels adjacent to the project site have decreased to levels below the 1997 counts which provides additional justification for granting an extension of the CSDP.

The City's February 4, 2011 correspondence noted that you previously requested (correspondence dated October 27, 2008 and December 2, 2009) an extension of the period within which the first building permit application for the project must be submitted, to December 31, 2012. The City has considered this request and through our discussions believes there are mutual benefits that can be derived by extending this date to December 31, 2015. The City's February 4, 2011 correspondence further states that if on or before May 19, 2011 the City confirms in writing that the developer/applicant has demonstrated to the City's satisfaction that the terms, conditions and requirements of the CSDP and related agreements and documents are binding and enforceable on

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov

Lot B, then the City is willing to grant an extension to December 31, 2015, subject to certain conditions.

This letter supersedes my February 4, 2011 letter to you and provides written confirmation that the City grants an extension of the Commercial Site Development Permit to December 31, 2015, which is now the date within which the first building permit application for the Lakepointe project must be submitted, subject to the following conditions.

1. Consistent with the City's February 4, 2011 letter, the City is still of the opinion that the Lakepointe Property Utilization Agreement does not require the owner of Lot B to allow construction and operation of Lakepointe Way, or any other transportation and other infrastructure improvements, on Lot B. The City respects your opinion that a boundary line adjustment will likely not be necessary to accommodate the location of Lakepointe Drive but that possibility was included as an option in the agreement. Your opinion of the Lakepointe Property Utilization Agreement is that the owner of Lot B does not have the discretion as to whether a boundary line adjustment can be implemented and only limited discretion as to the replacement property to which they are entitled.

Therefore, issuance of this extension does not relieve the applicant of the obligation to provide adequate evidence to the City, prior to issuance of construction permits for the project that the applicant has obtained necessary consents and authorizations from owners of all property on which such work is proposed.

2. The Transportation Mitigation Agreement expires August 6, 2013. Prior to that date, an addendum to extend the terms of this agreement to December 31, 2015 must be signed by all parties, including the City of Kenmore, and owners of Lot B per the 2004 Boundary Line Adjustment, or in the alternative, the applicant/property owner of the site (excluding Lot B) may apply for and the City will process in accordance with applicable code provisions, an amendment of the Transportation Mitigation Agreement to exclude Lot B. The addendum shall also include amendments to the agreement to delete conditions no longer applicable and clarify conditions based on the terms of the extension. If an addendum is not executed, then the Commercial Site Development Permit will expire on August 6, 2013 consistent with the expiration of the Transportation Mitigation Agreement.
3. A building permit application or permit application to construct other site improvements within the 200 foot shoreline jurisdiction will not be accepted without an approved Shoreline Substantial Development Permit. The CSDP, master plan and building permit applications must be amended to comply with conditions of shoreline permit approval.
4. A building permit application or permit application to construct other site improvements must be submitted in accordance with the City's adopted surface water regulations in effect at the time of permit application.
5. Critical Area Ordinance (CAO) compliance is not required if development occurs under the vested CSDP. However, if the applicant seeks a minor modification of the CSDP, such modifications shall be designed (i) not to increase any nonconformity with the CAO, and (ii) where reasonably feasible, to achieve a higher level of conformance with the CAO, as compared to the vested project, without impairing the functionality or integrity of the

development plan or imposing significant new development costs. A major modification of the CSDP would require conformance with the CAO.

6. A building permit application or permit must be submitted in accordance with Building and Construction regulations per Kenmore Municipal Code Title 15 in effect at the time of permit application.
7. The applicant/property owner must submit an updated traffic analysis with a building permit application or permit application to construct other site improvements. The applicant/property owner may submit this updated traffic analysis before submitting such applications. The traffic analysis must include additional AM and PM peak hour turning movement traffic counts taken at the intersections of 68th Avenue NE and SR522, NE 170th Street and Juanita Drive NE and 61st Ave NE and SR522. In addition a three day 24 hour roadway count must be taken on SR522 west of 61st Avenue NE and west of 68th Avenue NE south of NE 175th Street NE. The counts must be taken between March and October. The purpose of the counts is to provide an assessment of traffic levels adjacent to the LakePointe site compared to the counts collected in 1997 documented in the Environmental Impact Statement. If this updated traffic analysis demonstrates additional adverse environmental impacts, such as increased traffic levels, the City shall conduct additional SEPA review, and may require additional mitigation as necessary.
8. Traffic and park impact fees must be paid in accordance with impact fees in effect at the time of building permit application.
9. The applicant/property owner must submit a status report by the end of each calendar year through 2015 on the progress and activities of the project.

Thank you for your cooperation and interest. If you have any questions, please do not hesitate to contact me.

Sincerely,



Frederick C. Stouder
City Manager

cc: Gary Sargeant
Rod Kaseguma, City Attorney
City Management Team