



City of Kenmore - 18120 68th Avenue NE - P.O. Box 82607 - Kenmore, WA 98028
Phone: 425-398-8900 - Fax: 425-481-3236 - E-mail: cityhall@kenmorewa.gov

City of Kenmore
City Council Regular Meeting Agenda
7:00 p.m., Monday, April 17, 2017
Kenmore City Hall, Council Chambers
18120 68th Ave. NE, Kenmore, WA 98028

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call the City Clerk at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. Council agendas are also available on our website at www.kenmorewa.gov.

I. CALL MEETING TO ORDER

II. ROLL CALL

III. FLAG SALUTE

IV. AGENDA APPROVAL

V. CITIZEN COMMENTS

- A. This is an opportunity to express your views on issues that are important to you and to the community. Please limit your comments to three (3) minutes.

VI. CONSENT AGENDA

- A. Authorize the City Manager to Execute a Contract with Welwest Construction for the NE 202nd Street Safe Routes to Schools Project in the Amount of \$1,071,339.00.
[Agenda Item](#)
- B. Authorize the City Manager to Execute an Interlocal Agreement with Northshore Utility District for Utility Relocation Work for the NE 202nd Street Safe Routes to Schools Project.
[Agenda Item](#)
- C. Authorize the City Manager to Execute a Contract with Kamins Construction for the 62nd Avenue Sidewalk Project in the Amount of \$758,956.96.
[Agenda Item](#)
- D. Authorize the City Manager to Execute an Interlocal Agreement with Northshore Utility District for Utility Relocation Work for the 62nd Avenue NE Corridor Project
[Agenda Item](#)

- E. Resolution No. 17-292 Approving Amendments to the Nationwide 401(a) Money Purchase Government Retirement Plan and Trust Agreement.
[Agenda Item](#)

VII. BUSINESS AGENDA

- A. Commercial Site Plan for Lodge at St. Edward State Park - Samantha Loyuk, Associate Planner
[Agenda Item](#)
- B. 2016 Year End Development Services Report - Bryan Hampson, Director of Development Services
[Agenda Item](#)
- C. Land Use Streamline Project - Debbie Bent, Director of Community Development
[Agenda Item](#)
- D. Discussion of Twin Springs Preliminary Master Plan Approach - Debbie Bent, Director of Community Development
[Agenda Item](#)

VIII. STAFF REPORT

IX. COUNCILMEMBER REPORTS & COMMENTS

X. COUNCILMEMBER INITIATIVES

XI. ADJOURNMENT

Upcoming Meetings:

Wednesday, April 19, 2017 (6:30 p.m.) Special City Council Meeting
Monday, April 24, 2017 Regular City Council Meeting
Monday, May 1, 2017 Special City Council Meeting



City Council Business Agenda Item City of Kenmore, WA

Subject/Topic: NE 202nd Street Safe Routes to Schools Project Construction Contract Award Authorization

For Council Meeting Agenda of: April 17, 2017

Department: Public Works

Prepared by: John Vicente, Capital Projects Manager

Proposed Council Action/Motion:

Authorize the City Manager to execute a contract with Welwest Construction for the NE 202nd Street Safe Routes to Schools Project for the amount of \$1,071,339 (includes a 10% construction contingency).

Approved by Department Head:

Approved by City Attorney:

Approved by Finance Director:

Approved by City Manager:

Initial & Date

KMO 4/6/17

NA

4/6/17

NKORRK

6 APR 2017

Exhibits/Attachments:

N/A

Expenditure Required

\$1,071,339

Amount Budgeted

\$1,190,950

Appropriation Required

\$0

INFORMATION/BACKGROUND:

Project Description: The NE 202nd Street Safe Routes to Schools project will install new sidewalk along the south side of NE 202nd Street from NE 201st Place to 66th Ave NE and new sidewalk along both sides of 66th Ave NE from NE 202nd Street to Kenmore Junior High School. The new sidewalk will be 6 feet wide and will have a 4-foot wide amenity strip separating the sidewalk from the travel lane. The amenity strip will be landscaped with shrubs and trees and will also contain mailboxes, fire hydrants, and utility poles.

Project Status:

The project was formally advertised on February 13, 2017 and bids were opened on March 7th. Three bids were received and Welwest Construction was determined to be the lowest responsible bidder at an amount of \$973,944. City staff has verified that Welwest Construction meets the responsibility criteria defined by law and the City contract documents. Construction is expected to start on June 23rd and will be completed late in the fall of this year. The Engineer's estimate for this project was \$935,000. Below is a summary of the bids received.

Bidders	Bid Amount Received
Welwest Construction – Low Bidder	\$973,944.00
Trimaxx Construction	\$996,368.00
Kamins Construction	\$1,015,563.07

Recommendation: Staff recommends that City Council authorize the City Manager to execute a contract with Welwest Construction for the NE 202nd Street Safe Routes to Schools Project in the amount of \$1,071,339, which is the base bid of \$973,944 plus a 10% contingency of \$97,395.

FISCAL CONSIDERATION:

The project budget is \$1,190,950 (2017-2018 biennium). The overall cost estimate for construction is within the available project budget. However, total project cost will exceed total revenues. This is primarily due to the bids

received exceeding the Engineer's estimate for the work. A budget amendment will be necessary to cover the projected cost for Construction Management services during construction. Below is a breakdown on total project cost.

EXPENDITURES

Design:		
Staff and other Direct Expenses	\$3,000	
Consultant Design Contract	\$165,090	
Total Design		\$168,090
Right of Way Acquisition:		
Property Acquisitions	\$42,550	
Consultant Design Contract	\$18,500	
Total Right of Way		\$61,050
Construction:		
Staff and other Direct Expenses	\$4,600	
Engineering Services During Construction	\$16,615	
Construction Management Services (estimate)	\$105,180	
Construction Contract (Welwest Const.)	\$973,944	
Total Construction		\$1,100,339
Contingency		\$97,394
Total Project Cost		\$1,426,873

REVENUE

Safe Routes to Schools Grant	\$814,056
Complete Streets Grant	\$500,000
Transportation Fund	\$32,349
Total Revenue	\$1,346,405

An estimated budget amendment of approximately \$80,468 will be needed at a later date. Sufficient revenue to cover this amount is available in the Real Estate Excise Tax Fund and the General Fund.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Council goal 1: To focus and emphasize multimodal transportation safety in the City of Kenmore with a specific focus on pedestrian, bicycle and other means of travel.

Subject/Topic: NE 202nd Street Safe Routes to Schools Project Northshore Utility District Interlocal Agreement Authorization



City Council Business Agenda Item City of Kenmore, WA

Subject/Topic: 62nd Avenue NE Corridor
Sidewalk Project Construction Contract Award
Authorization

For Council Meeting Agenda of: April 17, 2017

Department: Public Works

Prepared by: John Vicente, Capital Projects Manager

Proposed Council Action/Motion:

Authorize the City Manager to execute a contract with Kamins Construction for the 62nd Avenue NE Sidewalk Project for the amount of \$758,956.96, (includes a 10% construction contingency).

Approved by Department Head:

Approved by City Attorney:

Approved by Finance Director:

Approved by City Manager:

Initial & Date

KMO 4/6/17

3/27/17 (via Email)

3/27/17

AKO PERK

6 APR 2017

Exhibits/Attachments:

N/A

Expenditure Required

\$758,957

Amount Budgeted

\$785,505

Appropriation Required

\$0

INFORMATION/BACKGROUND:

Project Description: The 62nd Avenue NE Corridor Sidewalk project will install new sidewalk along the east side of 62nd Avenue NE from just south of NE 181st Street to NE 185th Street. The new sidewalk will tie into the new sidewalk constructed by the SR522 West A Project. The new sidewalk will be 6 feet wide and will have a 4-foot wide amenity strip separating the sidewalk from the travel lane. The amenity strip will be landscaped with shrubs and trees and will also contain mailboxes and utility poles. The project will also construct new traffic circles at the NE 182nd, NE 184th, and NE 185th Street intersections.

Project Status:

The project was formally advertised on February 22, 2017 and bids were opened on March 22nd. 7 bids were received and Kamins Construction was determined to be the lowest responsible bidder at an amount of \$689,960.87. RRJ Company was the lowest bid received, however, they were deemed non-responsive as they did not meet the required goals for Disadvantaged Business Enterprise (DBE). As this project is receiving federal funds for construction, DBE goals for construction are established and must be met. WSDOT has directed the City to reject the low bid and award to the next lowest bidder. The Engineer's estimate for this project was \$713,000. Below is a summary of the bids received.

Bidder	Bid Amount Received
RRJ Company	\$ 670,836.96
Kamins	\$ 689,960.87
Marshbank	\$ 691,092.50
Welwest Construction	\$ 744,881.00
Trinity	\$ 768,357.60
Road Construction Company	\$ 774,110.00
A-1 Landscaping	\$ 993,976.00

City staff has verified that Kamins Construction meets the responsibility criteria defined by law and the City contract documents. Construction is expected to start on June 12th and will be completed late in the summer/early fall of this year.

Recommendation: Staff recommends that City Council authorize the City Manager to execute a contract with Kamins Construction for the 62nd Avenue NE Corridor Sidewalk Project in the amount of \$758,956.96, which is the base bid of \$689,960.87 plus a 10% contingency of \$68,996.09.

FISCAL CONSIDERATION:

The project budget is \$785,505 (2017-2018 biennium). The overall cost estimate for construction is within the available project budget. However, total project cost will exceed total revenues. Expenditures were higher than projected due to:

- A retaining wall adjacent to the new sidewalk that appeared stable prior to and during design, began to show signs of failure near the end of the design phase. Replacing the wall now was in the best interest of the City as continued failure was unavoidable and would have resulted in replacement at a later date.
- Redesign efforts to address concerns from residences within the construction area.

A budget amendment will be necessary to cover the projected cost for Construction Management and Engineering services during construction. Below is a breakdown on estimated total project cost.

EXPENDITURES			
Design:			
	Staff and other Direct Expenses	\$16,255	
	Consultant Design Contract	\$120,400	
	Total Design		\$136,655
Construction:			
	Staff and other Direct Expenses	\$6,500	
	Engineering Services During Construction	\$19,100	
	Construction Management Services (estimate)	\$126,375	
	Construction Contract (Kamins Cons.)	\$689,961	
	Total Construction		\$841,936
	Contingency		\$68,996
	Total Project Cost		\$1,047,587
REVENUE			
	Highway Safety Improvement Program Grant		\$813,200
	Transportation Fund		\$104,575
	Total Revenue		\$917,775

An estimated budget amendment of \$129,812 will be needed at a later date.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Council goal 1: To focus and emphasize multimodal transportation safety in the City of Kenmore with a specific focus on pedestrian, bicycle and other means of travel.

Subject/Topic: 62nd Avenue NE Corridor Project Northshore Utility District Interlocal Agreement Authorization Proposed Council Action/Motion: Authorize the City Manager to execute an interlocal agreement with the Northshore Utility District for the 62nd Avenue NE Corridor Project.	For Council Meeting Agenda of: April 17, 2017 Department: Public Works Prepared by: John Vicente Approved by Department Head: <u>KMO 4/6/17</u> Approved by City Attorney: <u>2/6/17 (via email)</u> Approved by Finance Director: <u>[Signature] 4/11/17</u> Approved by City Manager: <u>N/A [Signature] 7 APR 2017</u> Exhibits/Attachments: N/A	
Expenditure Required NA	Amount Budgeted NA	Appropriation Required NA
<u>INFORMATION/BACKGROUND:</u>		
<u>Project Description:</u> The 62nd Avenue NE Corridor Sidewalk project will install new sidewalk along the east side of 62nd Avenue NE from just south of NE 181st Street to NE 185th Street. The project will also construct new traffic circles at the NE 182nd, NE 184th, and NE 185th Street intersections. As part of this project, new storm drainage systems will be constructed. Some of Northshore Utility Districts (NUD) utilities will require relocation as they conflict with the City's proposed storm drainage work. NUD will be performing their relocations during construction of the project. Per the franchise agreement, NUD is to complete this work prior to construction but through negotiation and cooperation, the City has agreed to allow NUD to complete their work during construction to save cost. This agreement will outline the requirements between NUD and the City during construction.		
<u>Project Status:</u> The project was formally advertised on February 22, 2017 and bids were opened on March 22nd. Construction is expected to start on June 12th and will be completed late in the summer/early fall of this year.		
<u>Recommendation:</u> Staff recommends that City Council authorize the City Manager to execute an interlocal agreement with the Northshore Utility District for utility relocation work for the 62nd Avenue NE Corridor Project.		
<u>FISCAL CONSIDERATION:</u> The relocation work will be performed by NUD and will be at their own expense per the City's franchise agreement with NUD.		
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Council goal 1: To focus and emphasize multimodal transportation safety in the City of Kenmore with a specific focus on pedestrian, bicycle and other means of travel.		



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Resolution No. 17-294 Approving Amendments to the Nationwide 401(a) Money Purchase Government Retirement Plan and Trust Agreement Proposed Council Action/Motion: Adopt Resolution No. 17-294 Approving Amendments to the Nationwide 401(a) Money Purchase Government Retirement Plan and Trust Agreement	For Council Meeting Agenda of: April 17, 2017 Department: Finance and Administration Prepared by: Joanne Gregory <u>Initial & Date</u> Approved by Department Head: <u>Greg 4-6-17</u> Approved by City Attorney: <u>Greg 4-6-17</u> Approved by Finance Director: <u>Greg 4-6-17</u> Approved by City Manager: <u>Nikobrk 6 APR 2017</u> Exhibits/Attachments: Resolution 17-294 Amending the Plan Exhibit 1. Adoption Agreement for the Plan Exhibit 1. Resolution No. 02-055 (Previously Amending the Plan) Exhibit 2. Resolution No. 98-018 (Establishing the Plan)
Expenditure Required N/A Amount Budgeted N/A Appropriation Required N/A	
<u>INFORMATION/BACKGROUND:</u> Periodically the IRS requires that all plan documents be updated for recent law changes. This is commonly referred to as a restatement cycle. A new restatement cycle in 2016, due to the Pension Protection Act (PPA), has caused our plan to be updated. The Nationwide Retirement Plans administrator has prepared the restated plan documents in accordance with the Pension Protection Act and Council action is necessary to approve the updated Adoption Agreement. This Nationwide 401(a) Plan is what we refer to as the City's social security replacement plan for regular, full time employees and City Council. The Plan has been in place since date of incorporation, 1998.	
<u>FISCAL CONSIDERATION:</u> There are no changes of a financial nature. Employee contributions remain at 6.2% of compensation and Employer contributions are 5.2%. Vesting and distribution provisions are unchanged.	
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Efficient and Effective Services	

**CITY OF KENMORE
WASHINGTON**

RESOLUTION NO. 17-294

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF KENMORE, WASHINGTON, AMENDING THE
MONEY PURCHASE GOVERNMENT RETIREMENT
PLAN AND TRUST IN CONFORMITY WITH THE
PENSION PROTECTION ACT**

WHEREAS, Internal Revenue Service requires plan sponsors of plans qualified under Internal Revenue Code § 401(a) to conform their plan documents to the Pension Protection Act; and

WHEREAS, the City of Kenmore desires to comply with that requirement,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Money Purchase Government Retirement Plan Amended. The City of Kenmore hereby amends and restates the Money Purchase Government Retirement Plan set forth in the Nationwide Retirement Solutions, Inc. Governmental Money Purchase Plan and Trust, effective January 1, 2016. The plan was originally effective September 1, 1998.

Section 2. Authorization. The City Manager or designee are hereby authorized and directed to perform all acts, sign all documents necessary to put said plan into operation so that said plan may qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended.

Section 3. Trustee Appointed. The City Manager is hereby appointed as Trustee and upon acceptance, by executing the Adoption Agreement of said plan, is directed to assume ownership of all Trust assets.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON,
AT A REGULAR MEETING THEREOF THIS 10th DAY OF APRIL, 2017.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Kelly Chelin, City Clerk

Approved as to form:

Rod Kaseguma, City Attorney

EXHIBIT 1

Governmental Money Purchase Plan

**ADOPTION AGREEMENT FOR
NATIONWIDE FINANCIAL SERVICES, INC.
GOVERNMENTAL VOLUME SUBMITTER MONEY PURCHASE PLAN**

CAUTION: Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

EMPLOYER INFORMATION

(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER, TIN AND FISCAL YEAR

Name: CITY OF KENMORE

Address: P. O. Box 82607, 18120 68Th Ave. N.E.
Street
Kenmore Washington 98028-0607
City State Zip

Telephone: 425-398-8900

Taxpayer Identification Number (TIN): 91-1912254

Employer's Fiscal Year ends: December 31st

2. TYPE OF GOVERNMENTAL ENTITY. This Plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

- a. ☐ State government or state agency
- b. ☐ County or county agency
- c. ☒ Municipality or municipal agency
- d. ☐ Indian tribal government (see Note below)
- e. ☐ Other: _____

NOTE: An Indian tribal government may only adopt this Plan if such entity is defined under Code §7701(a)(40), is a subdivision of an Indian tribal government as determined in accordance with Code §7871(d), or is an agency or instrumentality of either, and all of the Participants under this Plan employed by such entity substantially perform services as an Employee in essential governmental functions and not in the performance of commercial activities (whether or not an essential government function).

3. PARTICIPATING EMPLOYERS (Plan Section 1.38). Will any other Employers adopt this Plan as Participating Employers?

- a. ☒ No
- b. ☐ Yes

PLAN INFORMATION

(An amendment to the Adoption Agreement is not needed solely to reflect a change in the information in Questions 9. through 10.)

4. PLAN NAME:

City of Kenmore Money Purchase Plan & Trust

5. PLAN STATUS

- a. ☐ New Plan
- b. ☒ Amendment and restatement of existing Plan
PPA RESTATEMENT (leave blank if not applicable)
 1. ☒ This is an amendment and restatement to bring a plan into compliance with the Pension Protection Act of 2006 ("PPA") and other legislative and regulatory changes (i.e., the 6-year pre-approved plan restatement).

6. EFFECTIVE DATE (Plan Section 1.16) (complete a. if new plan; complete a. AND b. if an amendment and restatement)

Initial Effective Date of Plan

- a. September 1, 1998 (enter month day, year) (hereinafter called the "Effective Date" unless 6.b. is entered below)

Restatement Effective Date. If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

- b. January 1, 2016 (enter month day, year; may enter a restatement date that is the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

Governmental Money Purchase Plan

7. PLAN YEAR (Plan Section 1.42) means, except as otherwise provided in d. below:

- a. ☒ the calendar year
 b. ☐ the twelve-month period ending on _____ (e.g., June 30th)

SHORT PLAN YEAR (Plan Section 1.46). This is a Short Plan Year (if the effective date of participation is based on a Plan Year, then coordinate with Question 14):

- c. ☒ N/A
 d. ☐ beginning on _____ (enter month day, year; e.g., July 1, 2013)
 and ending on _____ (enter month day, year).

8. VALUATION DATE (Plan Section 1.52) means:

- a. ☒ every day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, and any stock exchange used by such agent are open for business (daily valuation)
 b. ☐ the last day of each Plan Year
 c. ☐ the last day of each Plan Year quarter
 d. ☐ other (specify day or days): _____ (must be at least once each Plan Year)

NOTE: The Plan always permits interim valuations.

9. TRUSTEE(S) OR INSURER(S) (Plan Sections 1.25 and 1.50):

- a. ☐ **Insurer.** This Plan is funded exclusively with Contracts and the name of the Insurer(s) is:

(1) _____ (2) _____ (if more than 2, add names to signature page).

- b. ☒ **Individual Trustee(s).** Individual Trustee(s) who serve as Trustee(s) over assets not subject to control by a corporate Trustee. (add additional Trustees as necessary)

Name(s)

Title(s)

Rob Karlinsey

City Manager

Address and telephone number

1. ☒ Use Employer address and telephone number
 2. ☐ Use address and telephone number below:

Address:

_____ Street

_____ City _____ State _____ Zip

Telephone:

- c. ☐ **Corporate Trustee(s)** (add additional Trustees as necessary)

Name:

Address:

_____ Street

_____ City _____ State _____ Zip

Telephone:

Directed/Discretionary Trustee. Unless otherwise specified below, if there is a corporate Trustee, it will serve as a Directed (nondiscretionary) Trustee (Plan Section 1.21) and if there is an individual Trustee, he or she will serve as a Discretionary Trustee (Plan Section 1.22) over all Plan assets (select all that apply; leave blank if defaults apply)

- d. ☐ Directed Trustee exceptions (leave blank if no exceptions):

Directed Trustee over specified Plan assets (select all that apply; leave blank if none apply)

1. ☐ The corporate Trustee will serve as Directed Trustee over the following assets: _____

- Separate trust.** Will a separate trust agreement that is approved by the IRS for use with this Plan be used?

VI. E. Resolution No. 17-292 Approving Amendments to the Nat...

Governmental Money Purchase Plan

4. ☒ Part-time/temporary/seasonal Employees. A part-time, temporary or seasonal Employee is an Employee whose regularly scheduled service is less than employees who hold jobs of limited duration from special projects, abnormal work loads or emergencies. Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.54). However, if any such excluded Employee actually completes a Year of Service, then such Employee will no longer be part of this excluded class.
5. ☐ Other: _____ (must be definitely determinable under Regulations §1.401-1(b). Exclusions may be employment title specific but may not be by individual name nor result in only a finite group of individuals (e.g., excluding anyone hired after 12/31/12.)

13. **CONDITIONS OF ELIGIBILITY (Plan Section 3.1)**

- a. ☒ **No age or service required.** No age or service required for all Contribution Types (skip to Question 14).
- b. ☐ **Eligibility.** An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following (complete c. and d., select e. and f. if applicable):

Eligibility Requirementsc. ☐ **Age Requirement**

1. ☐ No age requirement
2. ☐ Age 20 1/2
3. ☐ Age 21
4. ☐ Age _____ (may not exceed 26)

d. ☐ **Service Requirement**

1. ☐ No service requirement
2. ☐ _____ (not to exceed 60) months of service (elapsed time)
3. ☐ 1 Year of Service
4. ☐ _____ (not to exceed 5) Years of Service
5. ☐ _____ consecutive month period from the Eligible Employee's employment commencement date and during which at least _____ Hours of Service are completed.
6. ☐ _____ consecutive months of employment from the Eligible Employee's employment commencement date.
7. ☐ Other: _____ (e.g., date on which 1,000 Hours of Service is completed within the computation period) (must satisfy the Notes below)

NOTE: If c.4. or d.7. is selected, the condition must be an age or service requirement that is definitely determinable and may not exceed age 26 and may not exceed 5 Years of Service.

NOTE: Year of Service means Period of Service if elapsed time method is chosen.

Waiver of conditions. The service and/or age requirements specified above will be waived in accordance with the following (leave blank if there are no waivers of conditions):

- e. ☐ If employed on _____ the following requirements, and the entry date requirement, will be waived. The waiver applies to any Eligible Employee unless 3. selected below. Such Employees will enter the Plan as of such date (select 1. and/or 2. AND 3. if applicable):
1. ☐ service requirement (may let part-time Eligible Employees into the Plan)
2. ☐ age requirement
3. ☐ waiver is for: _____

Amendment or restatement to change eligibility requirements

- f. ☐ This amendment or restatement (or a prior amendment and restatement) modified the eligibility requirements and the prior eligibility conditions continue to apply to the Eligible Employees specified below. If this option is NOT selected, then all Eligible Employees must satisfy the eligibility conditions set forth above.
1. ☐ The eligibility conditions above only apply to Eligible Employees who were not Participants as of the effective date of the modification.
2. ☐ The eligibility conditions above only apply to individuals who were hired on or after the effective date of the modification.

14. **EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)**

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the:

- a. ☒ date such requirements are met
- b. ☐ first day of the month coinciding with or next following the date on which such requirements are met
- c. ☐ first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met
- d. ☐ earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met
- e. ☐ first day of the Plan Year coinciding with or next following the date on which such requirements are met (Eligibility must be six months of service (or 1 1/2 Years (or Periods) of Service if 100% immediate vesting is selected) or less and age must be 20 1/2 or less.)
- f. ☐ first day of the Plan Year in which such requirements are met

Governmental Money Purchase Plan

- g. ☐ first day of the Plan Year in which such requirements are met, if such requirements are met in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if such requirements are met in the last 6 months of the Plan Year.
- h. ☐ other: _____ (must be definitely determinable)

SERVICE**15. RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Sections 1.39 and 1.54)**

- a. ☒ No service with other employers is recognized except as otherwise required by law (e.g., the Plan already provides for the recognition of service with Employers who have adopted this Plan as well as service with Affiliated Employers and predecessor Employers who maintained this Plan; skip to Question 16).
- b. ☐ Prior service with the designated employers is recognized as follows (answer c. and select one or more of c.1. - 3.; select d. - f. as applicable) (if more than 3 employers, attach an addendum to the Adoption Agreement or complete option h. under Section B of Appendix A):

Other Employer	Eligibility	Vesting	Contribution Allocation
c. ☐ Employer name: _____	1. ☐	2. ☐	3. ☐
d. ☐ Employer name: _____	1. ☐	2. ☐	3. ☐
e. ☐ Employer name: _____	1. ☐	2. ☐	3. ☐

Limitations

- f. ☐ The following provisions or limitations apply with respect to the recognition of prior service: _____
(e.g., credit service with X only on/following 1/1/13)

NOTE: If the other Employer(s) maintained this qualified Plan, then Years (and/or Periods) of Service with such Employer(s) must be recognized pursuant to Plan Sections 1.39 and 1.54 regardless of any selections above.

16. SERVICE CREDITING METHOD (Plan Sections 1.39 and 1.54)

NOTE: If no selections are made in this Section, then the provisions set forth in the definition of Year of Service in Plan Section 1.54 will apply, including the following defaults:

1. A Year of Service means completion of at least 1,000 Hours of Service during the applicable computation period.
2. Hours of Service (Plan Section 1.24) will be based on actual Hours of Service.
3. For eligibility purposes, the computation period will be as defined in Plan Section 1.54 (i.e., shift to the Plan Year if the eligibility condition is one (1) Year of Service or less).
4. For vesting and allocation purposes, the computation period will be the Plan Year.

- a. ☐ **Elapsed time method.** (Period of Service applies instead of Year of Service) Instead of Hours of Service, elapsed time will be used for:
1. ☐ all purposes (skip to Question 17)
 2. ☐ the following purposes (select one or more):
 - a. ☐ eligibility to participate
 - b. ☐ vesting
 - c. ☐ sharing in allocations or contributions
- b. ☒ **Alternative definitions for the Hours of Service method.** Instead of the defaults, the following alternatives will apply for the Hours of Service method (select one or more):
1. ☐ **Eligibility computation period.** Instead of shifting to the Plan Year, the eligibility computation period after the initial eligibility computation period will be based on each anniversary of the date the Employee first completes an Hour of Service
 2. ☐ **Vesting computation period.** Instead of the Plan Year, the vesting computation period will be the date an Employee first performs an Hour of Service and each anniversary thereof.
 3. ☒ **Equivalency method.** Instead of using actual Hours of Service, an equivalency method will be used to determine Hours of Service for:
 - a. ☒ all purposes
 - b. ☐ the following purposes (select one or more):
 1. ☐ eligibility to participate
 2. ☐ vesting
 3. ☐ sharing in allocations or contributions

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Such method will apply to:

- c. ☐ all Employees
 d. ☒ Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees)
 e. ☐ other: _____ (e.g., per-diem Employees only)

Hours of Service will be determined on the basis of:

- f. ☐ days worked (10 hours per day)
 g. ☐ weeks worked (45 hours per week)
 h. ☐ semi-monthly payroll periods worked (95 hours per semi-monthly pay period)
 i. ☒ months worked (190 hours per month)
 j. ☐ bi-weekly payroll periods worked (90 hours per bi-weekly pay period)
 k. ☐ other: _____ (e.g., option f. is used for per-diem Employees and option g. is used for on-call Employees).

4. ☐ **Number of Hours of Service required.** Instead of 1,000 Hours of Service, Year of Service means the applicable computation period during which an Employee has completed at least _____ (not to exceed 1,000) Hours of Service for:
 a. ☐ all purposes
 b. ☐ the following purposes (select one or more):
 1. ☐ eligibility to participate
 2. ☐ vesting
 3. ☐ sharing in allocations or contributions

VESTING

17. **VESTING OF PARTICIPANT'S INTEREST – EMPLOYER CONTRIBUTIONS (Plan Section 6.4(b))**
 a. ☐ N/A (no Employer contributions; skip to Question 19)
 b. ☒ The vesting provisions selected below apply. Section B of Appendix A can be used to specify any exceptions to the provisions below.

NOTE: The Plan provides that contributions for converted sick leave and/or vacation leave are fully Vested.

Vesting for Employer contributions other than matching contributions

- c. ☐ N/A (no Employer contributions (other than matching contributions); skip to f.)
 d. ☒ 100% vesting. Participants are 100% Vested in Employer contributions (other than matching contributions) upon entering Plan.
 e. ☐ The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer contributions (other than matching contributions):
 1. ☐ 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
 2. ☐ 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
 3. ☐ 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
 4. ☐ Cliff: 100% vesting after _____ (not to exceed 15) years
 5. ☐ Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

Vesting for Employer matching contributions

- f. ☒ N/A (no Employer matching contributions)
 g. ☐ The schedule above will also apply to Employer matching contributions.
 h. ☐ 100% vesting. Participants are 100% Vested in Employer matching contributions upon entering Plan.
 i. ☐ The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer matching contributions:
 1. ☐ 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
 2. ☐ 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
 3. ☐ 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
 4. ☐ Cliff: 100% vesting after _____ (not to exceed 15) years
 5. ☐ Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

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Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

18. VESTING OPTIONS

Excluded vesting service. The following Years of Service will be disregarded for vesting purposes (select all that apply; leave blank if none apply):

- a. ☐ Service prior to the initial Effective Date of the Plan or a predecessor plan (as defined in Regulations §1.411(a)-5(b)(3))
- b. ☐ Service prior to the computation period in which an Employee has attained age _____.
- c. ☐ Service during a period for which an Employee did not make mandatory Employee contributions.

Vesting for death, Total And Permanent Disability and Early Retirement Date. Regardless of the vesting schedule, a Participant will become fully Vested upon (select all that apply; leave blank if none apply):

- d. ☐ Death
- e. ☐ Total and Permanent Disability
- f. ☐ Early Retirement Date

RETIREMENT AGES**19. NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.32) means:**

- a. ☒ **Specific age.** The date a Participant attains age 65 (may not exceed 65)
- b. ☐ **Age/participation.** The later of the date a Participant attains age _____ (may not exceed 65) or the _____ (may not exceed 10th) anniversary of the first day of the Plan Year in which participation in the Plan commenced

NOTE: Effective for Plan Years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three months after the final regulations are published in the Federal Register, Normal Retirement Age of less than age 62 must meet Regulation §1.401(a)-1(b)(2).

Qualified police or firefighters. Normal Retirement Age for qualified public safety employees (as defined in Code §72(t)(1)) (leave blank if not applicable)

- c. ☐ Age _____ (may not be less than 50)

20. NORMAL RETIREMENT DATE (Plan Section 1.33) means, with respect to any Participant, the:

- a. ☐ date on which the Participant attains "NRA"
- b. ☒ first day of the month coinciding with or next following the Participant's "NRA"
- c. ☐ first day of the month nearest the Participant's "NRA"
- d. ☐ Anniversary Date coinciding with or next following the Participant's "NRA"
- e. ☐ Anniversary Date nearest the Participant's "NRA"
- f. ☐ Other: _____ (e.g., first day of the month following the Participant's "NRA").

21. EARLY RETIREMENT DATE (Plan Section 1.15)

- a. ☒ N/A (no early retirement provision provided)

- b. ☐ Early Retirement Date means the:

- 1. ☐ date on which a Participant satisfies the early retirement requirements
- 2. ☐ first day of the month coinciding with or next following the date on which a Participant satisfies the early retirement requirements
- 3. ☐ Anniversary Date coinciding with or next following the date on which a Participant satisfies the early retirement requirements

Early retirement requirements

- 4. ☐ Participant attains age _____

AND, completes.... (leave blank if not applicable)

- a. ☐ at least _____ Years (or Periods) of Service for vesting purposes
- b. ☐ at least _____ Years (or Periods) of Service for eligibility purposes

- c. ☐ Early Retirement Date means: _____ (must be definitely determinable)

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COMPENSATION

22. COMPENSATION with respect to any Participant is defined as follows (Plan Sections 1.10 and 1.23).

Base definition

- a. ☒ Wages, tips and other compensation on Form W-2
- b. ☐ Code §3401(a) wages (wages for withholding purposes)
- c. ☐ 415 safe harbor compensation

NOTE: Plan Section 1.23(c) provides that the base definition of Compensation includes deferrals that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), 402(h)(1)(B)(SEP), 414(h)(2), & 457(b).

Determination period. Compensation will be based on the following "determination period" (this will also be the Limitation Year unless otherwise elected at option f. under Section B of Appendix A):

- d. ☒ the Plan Year
- e. ☐ the Fiscal Year coinciding with or ending within the Plan Year
- f. ☐ the calendar year coinciding with or ending within the Plan Year

Adjustments to Compensation (for Plan Section 1.10). Compensation will be adjusted by:

- g. ☐ **No adjustments** (skip to i. below)
- h. ☒ **Adjustments.** Compensation will be adjusted by (select all that apply):
 - 1. ☒ excluding salary reductions (401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2) pickup, & 457(b))
 - 2. ☐ excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in 1. above) and welfare benefits.
 - 3. ☒ excluding Compensation paid during the "determination period" while not a Participant in the Plan.
 - 4. ☐ excluding Military Differential Pay
 - 5. ☐ excluding overtime
 - 6. ☐ excluding bonuses
 - 7. ☒ other: Compensation in excess of current year taxable wage base (e.g., describe Compensation from the elections available above or a combination thereof as to a Participant group (e.g., no exclusions as to Division A Employees and exclude bonuses as to Division B Employees); and/or describe another exclusion (e.g., exclude shift differential pay)).

Military Differential Pay Special Effective Date (leave blank if not applicable)

- i. ☐ If this is a PPA restatement and the provisions above regarding Military Differential Pay (included unless h.4. is selected) have a later effective date than Plan Years beginning after December 31, 2008, then enter the date such provisions were first effective: _____ (may not be earlier than January 1, 2009; for Plan Years beginning prior to January 1, 2009, Military Differential Pay is treated in accordance with the post-severance Compensation provisions in the following Question).

23. POST-SEVERANCE COMPENSATION (415 REGULATIONS)

The following optional provision of the 415 Regulations will apply to Limitation Years beginning on or after July 1, 2007 unless otherwise elected below:

415 Compensation (post-severance compensation adjustments) (select all that apply at a.; leave blank if none apply)

NOTE: Unless otherwise elected under a. below, the following defaults apply: 415 Compensation will **include** (to the extent provided in Plan Section 1.23), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.

- a. ☐ The defaults listed above apply except for the following (select one or more):
 - 1. ☐ Leave cash-outs will be **excluded**
 - 2. ☐ Nonqualified unfunded deferred compensation will be **excluded**
 - 3. ☐ Military Differential Pay will be **included** (Plan automatically includes for Limitation Years beginning after December 31, 2008)
 - 4. ☐ Disability continuation payments will be **included**

Plan Compensation (post-severance compensation adjustments)

- b. ☒ **Defaults apply.** Compensation will **include** (to the extent provided in Plan Section 1.10 and to the extent such amounts would be included in Compensation if paid prior to severance of employment) post-severance regular pay, leave cash-outs, and payments from nonqualified unfunded deferred compensation plans.
- c. ☐ **Exclude all post-severance compensation.** Exclude all post-severance compensation for allocation purposes.
- d. ☐ **Post-severance adjustments.** The defaults listed at b. apply except for the following (select one or more):
 - 1. ☐ Exclude all post-severance compensation
 - 2. ☐ Regular pay will be **excluded**
 - 3. ☐ Leave cash-outs will be **excluded**
 - 4. ☐ Nonqualified unfunded deferred compensation will be **excluded**
 - 5. ☐ Military Differential Pay will be **included**
 - 6. ☐ Disability continuation payments will be **included**

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NOTE: The above treatment of Military Differential Pay only applies to Plan Years beginning prior to January 1, 2009. For Plan Years beginning after such date, Military Differential Pay is not considered post-severance compensation and the provisions of Question 22 apply.

Post-severance compensation special effective date (leave blank if not applicable)

- e. ☐ If this is a PPA restatement and the post-severance compensation adjustments above for 415 Compensation or Plan Compensation applied other than the first day of the Plan Year beginning on or after July 1, 2007, then enter the date such provisions were first effective: _____

CONTRIBUTIONS AND ALLOCATIONS

24. **EMPLOYER CONTRIBUTIONS (OTHER THAN MATCHING CONTRIBUTIONS)** (Plan Section 4.1(a)(2)) (skip to Question 26 if Employer contributions are NOT selected at Question 11.b.)

CONTRIBUTION FORMULA (select one or more of the following contribution formulas:)

- a. ☒ **Fixed contribution** equal to (only select one):
1. ☒ 5.2 % of each Participant's Compensation for each:
 - a. ☒ Plan Year
 - b. ☐ calendar quarter
 - c. ☐ month
 - d. ☐ pay period
 - e. ☐ week
 2. ☐ \$_____ per Participant.
 3. ☐ \$_____ per Hour of Service worked while an Eligible Employee
 - a. ☐ up to _____ hours (leave blank if no limit)
 4. ☐ other: _____ (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b)).
- b. ☐ **Sick leave/vacation leave conversion.** The Employer will contribute an amount equal to an Employee's current hourly rate of pay multiplied by the Participant's number of unused accumulated sick leave and/or vacation days (as selected below). Only unpaid sick and vacation leave for which the Employee has no right to receive in cash may be included. In no event will the Employer's contribution for the Plan Year exceed the maximum contribution permitted under Code §415(c).

The following may be converted under the Plan: (select one or both):

1. ☐ Sick leave
2. ☐ Vacation leave

Eligible Employees. Only the following Participants shall receive the Employer contribution for sick leave and/or vacation leave (select 3. and/or 4; leave blank if no limitations provided, however, that this Plan may not be used to only provide benefits for terminated Employees)

3. ☐ **Former Employees.** All Employees terminating service with the Employer during the Plan Year and who have satisfied the eligibility requirements based on the terms of the Employer's accumulated benefits plans checked below (select all that apply; leave blank if no exclusions):
 - a. ☐ The Former Employee must be at least age _____ (e.g., 55)
 - b. ☐ The value of the sick and/or vacation leave must be at least \$_____ (e.g., \$2,000)
 - c. ☐ A contribution will only be made if the total hours is over _____ (e.g., 10) hours
 - d. ☐ A contribution will not be made for hours in excess of _____ (e.g., 40) hours
4. ☐ **Active Employees.** Active Employees who have not terminated service during the Plan Year and who meet the following requirements (select all that apply; leave blank if no exclusions):
 - a. ☐ The Employee must be at least age _____ (e.g., 55)
 - b. ☐ The value of the sick and/or vacation leave must be at least \$_____ (e.g., \$2,000)
 - c. ☐ A contribution will only be made if the total hours is over _____ (e.g., 10) hours
 - d. ☐ A contribution will not be made for hours in excess of _____ (e.g., 40) hours
- c. ☐ **Social Security Replacement Plan.** An amount equal to 7.5% of the Participant's Compensation for the entire Plan Year, reduced by Employee and Employer contributions to this Plan actually contributed to the Participant's Account during such Plan Year. (may only be selected if Question 11.b.1. has also been selected)
Include only part-time, seasonal and temporary Employees (leave blank if not applicable)
 1. ☐ Regardless of any other provision in this to the contrary, the contribution above will only be made for part-time, seasonal, or temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2.

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25. **ALLOCATION CONDITIONS** (Plan Section 4.3). If 24.a. is selected above, indicate requirements to share in allocations of Employer contributions (select a. OR b. and all that apply at c. - e.)
- a. ☐ **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 26).
- b. ☒ **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)
- Conditions for Participants NOT employed on the last day of the Plan Year**
1. ☒ A Participant must complete at least 1 (not to exceed 1,000) Hours of Service (or _____ (not to exceed 12) months of service if the elapsed time method is selected).
 2. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 3. ☐ Participants will NOT share in the allocations, regardless of service.
 4. ☐ Participants will share in the allocations, regardless of service.
 5. ☐ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).
- Conditions for Participants employed on the last day of the Plan Year**
6. ☐ No service requirement.
 7. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 8. ☒ A Participant must complete at least 1 (not to exceed 1,000) Hours of Service during the Plan Year.
 9. ☐ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).
- Waiver of conditions for Participants NOT employed on the last day of the Plan Year.** If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):
- c. ☒ Death
 - d. ☒ Total and Permanent Disability
 - e. ☒ Termination of employment on or after Normal Retirement Age
 1. ☐ or Early Retirement Date
26. **EMPLOYER MATCHING CONTRIBUTIONS** (Plan Section 4.1(a)(3)). (skip to Question 29 if matching contributions are NOT selected at Question 11.c.) The Employer will make the following matching contributions:
- A. **Elective deferrals taken into account.** For purposes of applying the matching contribution provisions below, elective deferrals include elective deferral (pre-tax and Roth) contributions to the following Employer plan(s) (insert name of Plan(s) to which the elective deferral contributions being matched will be made):
- a. ☐ **457 plan(s).** Enter Plan name: _____
 - b. ☐ **403(b) plan(s).** Enter Plan name: _____
- NOTE:** If selected at Question 32, after-tax voluntary Employee contributions are also considered elective deferrals for purposes of matching contributions.
- B. **Matching Formula.** (select one)
- c. ☐ **Fixed - uniform rate/amount.** The Employer will make matching contributions equal to _____% (e.g., 50) of the Participant's elective deferrals
 1. ☐ that do not exceed _____% of a Participant's Compensation (leave blank if no limit)
 - d. ☐ **Fixed - tiered.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's elective deferrals, determined as follows:

NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

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- e. ☐ **Fixed - Years of Service.** The Employer will make matching contributions equal to a uniform percentage of each Participant's elective deferrals based on the Participant's Years of Service (or Periods of Service if the elapsed time method is selected), determined as follows (add additional tiers if necessary):

Years (or Periods) of Service	Matching Percentage
_____	_____ %
_____	_____ %
_____	_____ %

For purposes of the above matching contribution formula, a Year (or Period) of Service means a Year (or Period) of Service for:

1. ☐ vesting purposes
 2. ☐ eligibility purposes
- f. ☐ Other: _____ (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b))

27. **MATCHING CONTRIBUTION PROVISIONS**

- A. **Maximum matching contribution.** The total matching contribution made on behalf of any Participant for any Plan Year will not exceed:

- a. ☐ N/A (no Plan specific limit on the amount of matching contribution)
- b. ☐ \$_____.
- c. ☐ _____ % of Compensation.

- B. **Period of determination.** The matching contribution formula will be applied on the following basis (and elective deferrals and any Compensation or dollar limitation used in determining the matching contribution will be based on the applicable period):

- d. ☐ the Plan Year
- e. ☐ each payroll period
- f. ☐ each month
- g. ☐ each Plan Year quarter
- h. ☐ each payroll unit (e.g., hour)

28. **ALLOCATION CONDITIONS FOR MATCHING CONTRIBUTIONS (Plan Section 4.3).** Select a. OR b. and all that apply of c. - h.

- a. ☐ **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 29).
- b. ☐ **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)

Conditions for Participants NOT employed on the last day of the Plan Year.

 1. ☐ A Participant must complete at least _____ (not to exceed 1,000) Hours of Service (or _____ (not to exceed 12) months of service if the elapsed time method is selected).
 2. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 3. ☐ Participants will NOT share in the allocations, regardless of service.
 4. ☐ Participants will share in the allocations, regardless of service.
 5. ☐ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Conditions for Participants employed on the last day of the Plan Year

6. ☐ No service requirement.
7. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. ☐ A Participant must complete at least _____ (not to exceed 1,000) Hours of Service during the Plan Year.
9. ☐ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c. ☐ Death
- d. ☐ Total and Permanent Disability
- e. ☐ Termination of employment on or after Normal Retirement Age
 1. ☐ or Early Retirement Date

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Conditions based on period other than Plan Year. The allocation conditions above will be applied based on the Plan Year unless otherwise selected below. If selected, the above provisions will be applied by substituting the term Plan Year with the specified period (e.g., if Plan Year quarter is selected below and the allocation condition is 250 Hours of Service per quarter, enter 250 hours (not 1000) at b.8. above).

- f. ☐ The Plan Year quarter.
- g. ☐ Payroll period.
- h. ☐ Other: _____ (must be definitely determinable and not subject to Employer discretion and may not be longer than a twelve month period).

29. **FORFEITURES (Plan Sections 1.21 and 4.3(e))**

Forfeitures of Employer contributions other than matching contributions will be:

- a. ☐ added to the Employer contribution and allocated in the same manner
- b. ☒ used to reduce any Employer contribution
- c. ☐ allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
- d. ☐ other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

Forfeitures of Employer matching contributions will be:

- e. ☒ N/A. Same as above or no Employer matching contributions.
- f. ☐ used to reduce the Employer matching contribution.
- g. ☐ used to reduce any Employer contribution.
- h. ☐ other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

30. **ALLOCATION OF EARNINGS (Plan Section 4.3(c))**

Allocation of earnings with respect to amounts which are not subject to Participant investment direction and which are contributed to the Plan after the previous Valuation Date will be determined:

- a. ☒ N/A. (all assets in the Plan are subject to Participant investment direction)
- b. ☐ by using a weighted average based on the amount of time that has passed between the date a contribution or distribution is made and the prior Valuation Date
- c. ☐ by treating one-half of all such contributions as being a part of the Participant's nonsegregated Account balance as of the previous Valuation Date
- d. ☐ by using the method specified in Plan Section 4.3(c) (balance forward method)
- e. ☐ other: _____ (must be a definite predetermined formula)

31. **MANDATORY EMPLOYEE CONTRIBUTIONS (Plan Section 4.8) (skip if mandatory Employee contributions NOT selected at Question 11.d.)**

- a. ☒ An Eligible Employee must contribute to the Plan 6.2 % (not to exceed 25%) of Compensation.
- b. ☐ An Eligible Employee must, prior to his or her first Entry Date, make a one-time irrevocable election to contribute to the Plan from _____ % (not less than 1%) to _____ % (not to exceed 25%) of Compensation.
- c. ☐ Other: _____ (must be definitely determinable)

Employer pick-up contribution. The mandatory Employee contribution is "picked up" by the Employer under Code §414(h)(2) unless elected below.

- d. ☐ The mandatory Employee contribution is not "picked-up" by the Employer.

32. **AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS (Plan Section 4.9) (skip if after-tax voluntary Employee contributions NOT selected at Question 11.e.)**

Matching after-tax voluntary Employee contributions. There are no Employer matching contributions on after-tax voluntary Employee contributions unless elected below.

- a. ☐ After-tax voluntary Employee contributions are considered elective deferrals for purposes of applying any matching contributions under the Plan.

DISTRIBUTIONS

33. **FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)**

Distributions under the Plan may be made in (select all that apply; must select at least one):

- a. ☒ lump-sums
- b. ☒ substantially equal installments
- c. ☐ partial withdrawals, provided the minimum withdrawal is \$ _____ (leave blank if no minimum)

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- d. ☒ partial withdrawals or installments are only permitted for Participants or Beneficiaries who must receive required minimum distributions under Code §401(a)(9) except for the following (e.g., partial is not permitted for death benefits; leave blank if no exceptions):

1. ☐ _____
 e. ☐ annuity: _____ (describe the form of annuity or annuities)
 f. ☐ other: _____ (must be definitely determinable and not subject to Employer discretion)

NOTE: Regardless of the above, a Participant is not required to request a withdrawal of his or her total Account for an in-service distribution, a hardship distribution, or a distribution from the Participant's Rollover Account.

Cash or property. Distributions may be made in:

- g. ☒ cash only, except for (select all that apply; leave blank if none apply):
 1. ☐ insurance Contracts
 2. ☐ annuity Contracts
 3. ☐ Participant loans
 h. ☐ cash or property, except that the following limitation(s) apply: (leave blank if there are no limitations on property distributions):
 1. ☐ _____ (must be definitely determinable and not subject to Employer discretion)

34. **CONDITIONS FOR DISTRIBUTIONS UPON SEVERANCE OF EMPLOYMENT.** Distributions upon severance of employment pursuant to Plan Section 6.4(a) will not be made unless the following conditions have been satisfied:

A. Accounts in excess of \$5,000

- a. ☒ Distributions may be made as soon as administratively feasible following severance of employment.
 b. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
 c. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year quarter coincident with or next following severance of employment.
 d. ☐ Distributions may be made as soon as administratively feasible after the Valuation Date coincident with or next following severance of employment.
 e. ☐ Distributions may be made as soon as administratively feasible after _____ months have elapsed following severance of employment.
 f. ☐ No distributions may be made until a Participant has reached Early or Normal Retirement Date.
 g. ☐ Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

B. Accounts of \$5,000 or less

- h. ☒ Same as above
 i. ☐ Distributions may be made as soon as administratively feasible following severance of employment.
 j. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
 k. ☐ Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

C. Timing after initial distributable event. If a distribution is not made in accordance with the above provisions upon the occurrence of the distributable event, then a Participant may elect a subsequent distribution at any time after the time the amount was first distributable (assuming the amount is still distributable), unless otherwise selected below (may not be selected with 34.f. and 34.h.):

- l. ☐ Other: _____ (e.g., a subsequent distribution request may only be made in accordance with l. above (i.e., the last day of another Plan Year); must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

D. Participant consent (i.e., involuntary cash-outs). Should Vested Account balances less than a certain dollar threshold be automatically distributed without Participant consent (mandatory distributions)?

NOTE: The Plan provides that distributions of amounts of \$5,000 or less are only paid as lump-sums.

- m. ☒ No, Participant consent is required for all distributions.
 n. ☐ Yes, Participant consent is required only if the distribution is over:
 1. ☐ \$5,000
 2. ☐ \$1,000
 3. ☐ \$_____ (less than \$1,000)

NOTE: If 2. or 3. is selected, rollovers will be included in determining the threshold for Participant consent.

Governmental Money Purchase Plan

Automatic IRA rollover. With respect to mandatory distributions of amounts that are \$1,000 or less, if a Participant makes no election, the amount will be distributed as a lump-sum unless selected below.

4. ☐ If a Participant makes no election, then the amount will be automatically rolled over to an IRA provided the amount is at least \$_____ (e.g., \$200).

- E. **Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions, or consent rules.

o. ☐ Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

NOTE: Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

35. **DISTRIBUTIONS UPON DEATH** (Plan Section 6.8(b)(2))

Distributions upon the death of a Participant prior to the "required beginning date" will:

- a. ☒ be made pursuant to the election of the Participant or "designated Beneficiary"
- b. ☐ begin within 1 year of death for a "designated Beneficiary" and be payable over the life (or over a period not exceeding the "life expectancy") of such Beneficiary, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2
- c. ☐ be made within 5 (or if lesser _____) years of death for all Beneficiaries
- d. ☐ be made within 5 (or if lesser _____) years of death for all Beneficiaries, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2 and be payable over the life (or over a period not exceeding the "life expectancy") of such "surviving Spouse"

NOTE: The elections above must be coordinated with the Form of distributions (e.g., if the Plan only permits lump-sum distributions, then options a., b. and d. would not be applicable).

36. **OTHER PERMITTED DISTRIBUTIONS** (select all that apply; leave blank if none apply)

A. **IN-SERVICE DISTRIBUTIONS** (Plan Section 6.11)

In-service distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (if applicable, answer a. - e.; leave blank if not applicable):

- a. ☒ In-service distributions may be made to a Participant who has not separated from service provided the following has been satisfied:
1. ☒ Age. The Participant has reached:
 - a. ☐ Normal Retirement Age
 - b. ☐ age 62
 - c. ☒ age 70 1/2 (may not be earlier than age 62)

Special effective date (may be left blank if same as Plan or Restatement Effective Date)

- d. ☐ _____ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than the first day of the Plan Year beginning in 2007)

Account restrictions. In-service distributions are permitted from the following Participant Accounts:

- b. ☒ all Accounts
- c. ☐ only from the following Accounts (select one or more):
1. ☐ Account attributable to Employer matching contributions
 2. ☐ Account attributable to Employer contributions other than matching contributions
 3. ☐ Rollover Account
 4. ☐ Transfer Account
 5. ☐ Other: _____ (specify Account(s) and conditions in a manner that satisfies the definitely determinable requirement under Regulations §1.401-1(b) and is not subject to Employer discretion)

Limitations. The following limitations apply to in-service distributions:

- d. ☐ N/A (no additional limitations)
- e. ☒ Additional limitations (select one or more):
1. ☐ The minimum amount of a distribution is \$_____.
 2. ☐ No more than _____ distribution(s) may be made to a Participant during a Plan Year.
 3. ☒ Distributions may only be made from Accounts which are fully Vested.
 4. ☒ In-service distributions may be made subject to the following provisions: For Distributions occurring the later of: (1) on or after January 1, 1998, (2) effective date of the plan, (3) the effective date of the first fee agreement with Nationwide Life Insurance Company services (or its predecessor after the date such predecessor was acquired by Nationwide Life Insurance Company): age 70 1/2 and any election by a Participant to receive a distribution pursuant to this Section shall constitute a Required Minimum Distribution under Section 6.8 of the Plan. (must satisfy the definitely determinable requirement under Regulations §1.401-1(b) and not be subject to Employer discretion).

Governmental Money Purchase Plan

37. HEART ACT PROVISIONS (Plan Section 6.17)

Continued benefit accruals.

- a. ☒ Continued benefit accruals will NOT apply
 b. ☐ Continued benefit accruals will apply

Special effective date. If this is a PPA restatement and the provision applied other than as of the first day of the 2007 Plan Year, then enter the date such provision was first effective: (leave blank if not applicable)

- c. ☐ _____ (may not be earlier than the first day of the 2007 Plan Year)

Distributions for deemed severance of employment

- d. ☒ The Plan does NOT permit distributions for deemed severance of employment
 e. ☐ The Plan permits distributions for deemed severance of employment

Special effective date (may be left blank if same as Plan or Restatement Effective Date)

1. ☐ _____ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than January 1, 2007)

MISCELLANEOUS

38. LOANS TO PARTICIPANTS (Plan Section 7.6)

- a. ☐ New loans are NOT permitted.
 b. ☒ New loans are permitted.

NOTE: Regardless of whether new loans are permitted, if the Plan permits rollovers, then the Administrator may, in a uniform manner, accept rollovers of loans into this Plan.

39. ROLLOVERS (Plan Section 4.6) (skip if rollover contributions are NOT selected at 11.f.)

Eligibility. Rollovers may be accepted from all Participants who are Employees as well as the following (select all that apply; leave blank if not applicable):

- a. ☒ Any Eligible Employee, even prior to meeting eligibility conditions to be a Participant
 b. ☐ Participants who are Former Employees

Distributions. When may distributions be made from a Participant's Rollover Account?

- c. ☐ At any time
 d. ☒ Only when the Participant is otherwise entitled to a distribution under the Plan

PPA TRANSITION RULES

The following questions only apply if this is a PPA restatement (i.e., Question 5.b.1. is selected). If this is not a PPA restatement, then this Plan will not be considered an individually designed plan merely because the following questions are deleted from the Adoption Agreement.

NOTE: The following provisions are designed to be left unanswered if the selections do not apply to the Plan.

40. WRERA - RMD WAIVERS FOR 2009 (Plan Section 6.8(f))

Suspension/continuation of RMDs. Unless otherwise elected below, required minimum distributions (RMDs) for 2009 were suspended unless a Participant or Beneficiary elected to receive such distributions:

- a. ☐ RMDs for 2009 were suspended for any Participant or Beneficiary who was scheduled to receive his/her first RMD for 2009 or who did not make a continuing election prior to 2009 to receive his/her RMD (unless the Participant or Beneficiary made an election to receive such distribution). RMDs for 2009 were continued for any Participant or Beneficiary who had made a continuing election to receive an RMD prior to 2009 (unless the Participant or Beneficiary made an election to suspend such distribution).
 b. ☐ RMDs continued unless otherwise elected by a Participant or Beneficiary.
 c. ☐ RMDs continued in accordance with the terms of the Plan (i.e., no election available to Participants or Beneficiaries).
 d. ☐ Other: _____

Direct rollovers. The Plan also treated the following as "eligible rollover distributions" in 2009 (If no election is made, then a "direct rollover" was only offered for "2009 RMDs"):

- e. ☐ "2009 RMDs" and "Extended 2009 RMDs."
 f. ☐ "2009 RMDs" but only if paid with an additional amount that is an "eligible rollover distribution" without regard to Code §401(a)(9)(H).

41. NON-SPOUSAL ROLLOVERS (Plan Section 6.14(d)). Non-spousal rollovers are permitted effective for distributions after December 31, 2006 unless an alternative effective date is selected at a. below:

- a. ☐ Non-spousal rollovers are allowed effective _____ (may not be earlier than January 1, 2007 and not later than January 1, 2010; the Plan already provides for non-spousal rollovers effective as of January 1, 2010)

Governmental Money Purchase Plan

The adopting Employer may rely on an advisory letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Code §401 only to the extent provided in Rev. Proc. 2011-49 or subsequent guidance.

The Employer may not rely on the advisory letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the advisory letter issued with respect to the Plan and in Rev. Proc. 2011-49 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

This Adoption Agreement may be used only in conjunction with the Volume Submitter basic Plan document #09. This Adoption Agreement and the basic Plan document will together be known as Nationwide Financial Services, Inc. Governmental Volume Submitter Money Purchase Plan #09-002.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Nationwide Financial Services, Inc. will notify the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan. Furthermore, in order to be eligible to receive such notification, the Employer agrees to notify Nationwide Financial Services, Inc. of any change in address. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Nationwide Financial Services, Inc. no longer has any obligations to the Employer that relate to the adoption of this Plan.

With regard to any questions regarding the provisions of the Plan, adoption of the Plan, or the effect of an advisory letter from the IRS, call or write (this information must be completed by the sponsor of this Plan or its designated representative):

Name: Nationwide Retirement Solutions
 Address: P.O. Box 182797
Columbus Ohio 43218
 Telephone: (800) 321-7167

The Employer and Trustee (or Insurer) hereby cause this Plan to be executed on the date(s) specified below:

EMPLOYER: CITY OF KENMORE

By: 

4-6-17
DATE SIGNED

TRUSTEE (OR INSURER):

☐ The signature of the Trustee or Insurer appears on a separate agreement or Contract,

OR (add additional Trustee signature lines as necessary)

Rob Karlinsey


TRUSTEE OR INSURER

4-5-17
DATE SIGNED

Governmental Money Purchase Plan

**APPENDIX A
SPECIAL EFFECTIVE DATES AND OTHER PERMITTED ELECTIONS**

A. Special effective dates (leave blank if not applicable):

- a. ☐ **Special effective date(s):** _____. For periods prior to the specified special effective date(s), the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions. A special effective date may not result in the delay of a Plan provision beyond the permissible effective date under any applicable law.

B. Other permitted elections (the following elections are optional):

- a. ☐ **No other permitted elections**

The following elections apply (select one or more):

- b. ☐ **Deemed 125 compensation** (Plan Section 1.23). Deemed 125 compensation will be included in Compensation and 415 Compensation.
- c. ☐ **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions)** (Plan Section 3.5(d)). The "rule of parity" provisions in Plan Section 3.5(d) will apply for (select one or both):
1. ☐ eligibility purposes
 2. ☐ vesting purposes
- d. ☐ **Beneficiary if no beneficiary elected by Participant** (Plan Section 6.2(e)). In the event no valid designation of Beneficiary exists, then in lieu of the order set forth in Plan Section 6.2(e), the following order of priority will be used: _____ (specify an order of beneficiaries; e.g., children per stirpes, parents, and then step-children).
- e. ☐ **Common, collective or pooled trust funds** (Plan Sections 7.2(c)(5) and/or 7.3(b)(6)). The name(s) of the common, collective or pooled trust funds available under the Plan is (are): _____.
- f. ☐ **Limitation Year** (Plan Section 1.29). The Limitation Year for Code §415 purposes will be _____ (must be a consecutive twelve month period) instead of the "determination period" for Compensation.
- g. ☐ **415 Limits when 2 defined contribution plans are maintained** (Plan Section 4.4). If any Participant is covered under another qualified defined contribution plan maintained by the Employer or an Affiliated Employer, or if the Employer or an Affiliated Employer maintains a welfare benefit fund, as defined in Code §419(e), or an individual medical account, as defined in Code §415(l)(2), under which amounts are treated as "annual additions" with respect to any Participant in this Plan, then the provisions of Plan Section 4.4(b) will apply unless otherwise specified below:
1. ☐ Specify, in a manner that precludes Employer discretion, the method under which the plans will limit total "annual additions" to the "maximum permissible amount" and will properly reduce any "excess amounts": _____.
- h. ☐ **Recognition of Service with other employers** (Plan Sections 1.39 and 1.54). Service with the following employers (in addition to those specified at Question 15) will be recognized as follows (select one or more):

	Eligibility	Vesting	Contribution Allocation
1. ☐ Employer name: _____	a. ☐	b. ☐	c. ☐
2. ☐ Employer name: _____	a. ☐	b. ☐	c. ☐
3. ☐ Employer name: _____	a. ☐	b. ☐	c. ☐
4. ☐ Employer name: _____	a. ☐	b. ☐	c. ☐
5. ☐ Employer name: _____	a. ☐	b. ☐	c. ☐
6. ☐ Employer name: _____	a. ☐	b. ☐	c. ☐

Limitations

- | | | | |
|---|-----------------------------|-----------------------------|-----------------------------|
| 7. ☐ The following provisions or limitations apply with respect to the recognition of prior service: _____
(e.g., credit service with X only on/following 1/1/13) | a. ☐ | b. ☐ | c. ☐ |
|---|-----------------------------|-----------------------------|-----------------------------|

Governmental Money Purchase Plan

- i. ☐ **Other vesting provisions.** The following vesting provisions apply to the Plan (select one or more):
1. ☐ **Special vesting provisions.** The following special provisions apply to the vesting provisions of the Plan: _____ (must be definitely determinable and satisfy the parameters set forth at Question 17)
 2. ☐ **Pre-amendment vesting schedule.** (Plan Section 6.4(b)). If the vesting schedule has been amended and a different vesting schedule other than the schedule at Question 17 applies to any Participants, then the following provisions apply (must select one of a. – d. AND complete e.):

Applicable Participants. The vesting schedules in Question 17 only apply to:

 - a. ☐ Participants who are Employees as of _____ (enter date).
 - b. ☐ Participants in the Plan who have an Hour of Service on or after _____ (enter date).
 - c. ☐ Participants (even if not an Employee) in the Plan on or after _____ (enter date).
 - d. ☐ Other: _____ (e.g., Participants in division A)

Vesting schedule

e. The schedule that applies to Participants not subject to the vesting schedule in Question 17 is:

Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
- j. ☐ **Minimum distribution transitional rules** (Plan Section 6.8(e)(5))
- NOTE:** This Section does not apply to (1) a new Plan, (2) an amendment or restatement of an existing Plan that never contained the provisions of Code §401(a)(9) as in effect prior to the amendments made by the Small Business Job Protection Act of 1996 (SBJPA), or (3) a Plan where the transition rules below do not affect any current Participants.
- The "required beginning date" for a Participant is:
1. ☐ April 1st of the calendar year following the year in which the Participant attains age 70 1/2. (pre-SBJPA rules continue to apply)
 2. ☐ April 1st of the calendar year following the later of the year in which the Participant attains age 70 1/2 or retires (the post-SBJPA rules), with the following exceptions (select one or both; leave blank if both applied effective as of January 1, 1996):
 - a. ☐ A Participant who was already receiving required minimum distributions under the pre-SBJPA rules as of _____ (may not be earlier than January 1, 1996) was allowed to stop receiving distributions and have them recommence in accordance with the post-SBJPA rules. Upon the recommencement of distributions, if the Plan permits annuities as a form of distribution then the following apply:
 1. ☐ N/A (annuity distributions are not permitted)
 2. ☐ Upon the recommencement of distributions, the original Annuity Starting Date will be retained.
 3. ☐ Upon the recommencement of distributions, a new Annuity Starting Date is created.
 - b. ☐ A Participant who had not begun receiving required minimum distributions as of _____ (may not be earlier than January 1, 1996) may elect to defer commencement of distributions until retirement. The option to defer the commencement of distributions (i.e., to elect to receive in-service distributions upon attainment of age 70 1/2) applies to all such Participants unless selected below:
 1. ☐ The in-service distribution option was eliminated with respect to Participants who attained age 70 1/2 in or after the calendar year that began after the later of (1) December 31, 1998, or (2) the adoption date of the restatement to bring the Plan into compliance with the SBJPA.
- k. ☐ **Other spousal provisions** (select one or more)
1. ☐ **Definition of Spouse.** The term Spouse includes a spouse under federal law as well as the following: _____
 2. ☐ **Automatic revocation of spousal designation** (Plan Section 6.2(f)). The automatic revocation of a spousal Beneficiary designation in the case of divorce does not apply.
 3. ☐ **Timing of QDRO payment.** A distribution to an Alternate Payee shall not be permitted prior to the time a Participant would be entitled to a distribution.
- l. ☒ **Applicable law.** Instead of using the applicable laws set forth in Plan Section 9.4(a), the Plan will be governed by the laws of: Washington
- m. ☐ **Total and Permanent Disability.** Instead of the definition at Plan Section 1.49, Total and Permanent Disability means: _____ (must be definitely determinable).

Governmental Money Purchase Plan

- n. ☐ **Permissible Trust (or Custodian) modifications.** The Employer makes the following modifications to the Trust (or Custodial) provisions as permitted under Rev. Proc. 2011-49 (or subsequent IRS guidance) (select one or more of 1. - 3. below):

NOTE: Any elections below must not: (i) conflict with any Plan provision unrelated to the Trust or Trustee; or (ii) cause the Plan to violate Code §401(a). In addition, this may not be used to substitute all of the Trust provisions in the Plan.

1. ☐ **Investments.** The Employer amends the Trust provisions relating to Trust investments as follows:

2. ☐ **Duties.** The Employer amends the Trust provisions relating to Trustee (or Custodian) duties as follows:

3. ☐ **Other administrative provisions.** The Employer amends the other administrative provisions of the Trust as follows:

Governmental Money Purchase Plan

ADMINISTRATIVE PROCEDURES

The following are optional administrative provisions. The Administrator may implement procedures that override any elections in this Section without a formal Plan amendment. In addition, modifications to these procedures will not affect an Employer's reliance on the Plan.

- A. **Loan Limitations.** (complete only if loans to Participants are permitted; leave blank if none apply)
- a. ☒ Limitations (select one or more):
 1. ☒ Loans will be treated as Participant directed investments.
 2. ☐ Loans will only be made for hardship or financial necessity as specified below (select i. or ii.)
 - a. ☐ hardship reasons specified in Plan Section 6.12
 - b. ☐ financial necessity (as defined in the loan program).
 3. ☒ The minimum loan will be \$ 1000.
 4. ☐ A Participant may only have _____ (e.g., one (1)) loan(s) outstanding at any time.
 5. ☒ All outstanding loan balances will become due and payable in their entirety upon the occurrence of a distributable event (other than satisfaction of the conditions for an in-service distribution (including a hardship distribution), if applicable).
 6. ☐ **Account restrictions.** Loans will only be permitted from the following Participant Accounts (select all that apply or leave blank if no limitations apply):
 - a. ☐ Account(s) attributable to Employer matching contributions
 - b. ☐ Account attributable to Employer contributions other than matching contributions
 - c. ☐ Rollover Account
 - d. ☐ Transfer Account
 - e. ☐ Other: _____

AND, if loans are restricted to certain accounts, the limitations of Code §72(p) will be applied:

 - f. ☐ by determining the limits by only considering the restricted accounts.
 - g. ☐ by determining the limits taking into account a Participant's entire interest in the Plan.
- Additional Loan Provisions** (select all that apply; leave blank if none apply)
- b. ☒ **Loan payments.** Loans are repaid by (if left blank, then payroll deduction applies unless Participant is not subject to payroll (e.g., partner who only has a draw)):
 1. ☒ payroll deduction
 2. ☐ ACH (Automated Clearing House)
 3. ☐ check
 - a. ☐ Only for prepayment
 - c. ☒ **Interest rate.** Loans will be granted at the following interest rate (if left blank, then 3. below applies):
 1. ☐ _____ percentage points over the prime interest rate
 2. ☐ _____%
 3. ☒ the Administrator establishes the rate at the time the loan is made
 - d. ☐ **Refinancing.** Loan refinancing is allowed.
- B. **Life Insurance.** (Plan Section 7.5)
- a. ☒ Life insurance may not be purchased.
 - b. ☐ Life insurance may be purchased...
 1. ☐ at the option of the Administrator
 2. ☐ at the option of the Participant
- Limitations**
3. ☐ N/A (no limitations)
 4. ☐ The purchase of initial or additional life insurance will be subject to the following limitations (select one or more):
 - a. ☐ Each initial Contract will have a minimum face amount of \$_____.
 - b. ☐ Each additional Contract will have a minimum face amount of \$_____.
 - c. ☐ The Participant has completed _____ Years (or Periods) of Service.
 - d. ☐ The Participant has completed _____ Years (or Periods) of Service while a Participant in the Plan.
 - e. ☐ The Participant is under age _____ on the Contract issue date.
 - f. ☐ The maximum amount of all Contracts on behalf of a Participant may not exceed \$_____.
 - g. ☐ The maximum face amount of any life insurance Contract will be \$_____.
- C. **Plan Expenses.** Will the Plan assess against an individual Participant's Account certain Plan expenses that are incurred by, or are attributable to, a particular Participant based on use of a particular Plan service?
- a. ☐ No
 - b. ☒ Yes

Governmental Money Purchase Plan**D. Directed investments**

- a. ☐ Participant directed investments are NOT permitted.
- b. ☒ Participant directed investments are permitted from the following Participant Accounts:
 - 1. ☒ all Accounts
 - 2. ☐ only from the following Accounts (select one or more):
 - a. ☐ Account attributable to Employer contributions
 - b. ☐ Rollover Account
 - c. ☐ Transfer Account
 - d. ☐ Other: _____ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

E. Rollover Limitations. Will the Plan accept rollover contributions and/or direct rollovers from the sources specified below?

- a. ☐ No, Administrator determines in operation which sources will be accepted.
- b. ☒ Yes

Rollover sources. Indicate the sources of rollovers that will be accepted (select one or more)

- 1. ☒ **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from (select one or more):
 - a. ☒ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), excluding after-tax employee contributions
 - b. ☐ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), including after-tax employee contributions
 - c. ☒ a plan described in Code §403(a) (an annuity plan), excluding after-tax employee contributions
 - d. ☐ a plan described in Code §403(a) (an annuity plan), including after-tax employee contributions
 - e. ☒ a plan described in Code §403(b) (a tax-sheltered annuity), excluding after-tax employee contributions
 - f. ☐ a plan described in Code §403(b) (a tax-sheltered annuity), including after-tax employee contributions
 - g. ☒ a plan described in Code §457(b) (eligible deferred compensation plan)

Direct Rollovers of Participant Loan. The Plan will NOT accept a direct rollover of a Participant loan from another plan unless selected below (leave blank if default applies)

- h. ☐ The Plan will accept a direct rollover of a Participant loan
- i. ☐ The Plan will only accept a direct rollover of a Participant loan only in the following situation(s): _____ (e.g., only from Participants who were employees of an acquired organization).

- 2. ☒ **Participant Rollover Contributions from Other Plans (i.e., not via a direct plan-to-plan transfer).** The Plan will accept a contribution of an eligible rollover distribution (select one or more):
 - a. ☒ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan)
 - b. ☒ a plan described in Code §403(a) (an annuity plan)
 - c. ☒ a plan described in Code §403(b) (a tax-sheltered annuity)
 - d. ☒ a governmental plan described in Code §457(b) (eligible deferred compensation plan)
- 3. ☒ **Participant Rollover Contributions from IRAs:** The Plan will accept a rollover contribution of the portion of a distribution from a traditional IRA that is eligible to be rolled over and would otherwise be includible in gross income. Rollovers from Roth IRAs or a Coverdell Education Savings Account (formerly known as an Education IRA) are not permitted because they are not traditional IRAs. A rollover from a SIMPLE IRA is allowed if the amounts are rolled over after the individual has been in the SIMPLE IRA for at least two years.

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 02-055**

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF KENMORE, WASHINGTON, AMENDING
THE MONEY PURCHASE GOVERNMENT
RETIREMENT PLAN AND TRUST WITH 414(b) PICK-
UP OPTION ADOPTION AGREEMENT**

WHEREAS, Internal Revenue Service Notice 2001-42 requires plan sponsors of plans qualified under Internal Revenue Code § 401(a) to conform their plan documents to the "GUST" legislative changes, no later than December 31, 2001; and

WHEREAS, the City of Kenmore desires to comply with that requirement,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

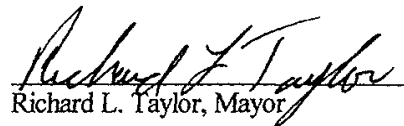
Section 1. Money Purchase Government Retirement Plan Amended. The City of Kenmore hereby amends and restates the Money Purchase Government Retirement Plan set forth in the Nationwide Retirement Solutions, Inc. Governmental Money Purchase Plan and Trust, effective as of January 1, 2001. The plan was originally effective September 1, 1998.

Section 2. Authorization. The City Manager or designee are hereby authorized and directed to perform all acts, sign all documents necessary to put said plan into operation, and to secure the approval of said plan by the Internal Revenue Service so that said plan may qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended.

Section 3. Trustee Appointed. The City Manager is hereby appointed as Trustee and upon acceptance, by executing the Adoption Agreement of said plan, is directed to assume ownership of all Trust assets.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 7th DAY OF January, 2002.

CITY OF KENMORE


Richard L. Taylor, Mayor

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08/20/98

RESOLUTION NO. 98-118

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF KENMORE, WASHINGTON, ESTABLISHING A DEFINED
CONTRIBUTION PLAN.

WHEREAS, the City of Kenmore has employees rendering valuable services; and

WHEREAS, the City of Kenmore desires to establish a pension plan pursuant to
the provisions of Section 401(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the City of Kenmore intends to provide reasonable retirement
security for its employees; and

WHEREAS, the Public Employees Benefit Services Corporation (PEBSCO) has
been selected to provide record keeping and administrative services for the pension plan; NOW,
THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON,
HEREBY RESOLVES AS FOLLOWS:

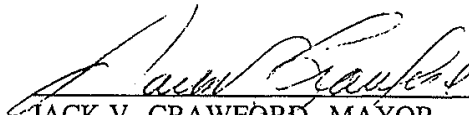
Section 1. The City of Kenmore appoints Public Employees Benefit Services
Corporation (PEBSCO) to provide record keeping, employee education and other technical and
administrative services relating to the plan.

Section 2. The City of Kenmore hereby authorizes and directs the City Manager
to perform all acts and sign all documents necessary to put said plan into operation.

Section 3. City Manager is hereby appointed as Trustee and upon acceptance, by executing the Adoption Agreement of said plan, shall receive the necessary reports, notices, etc. from PEBSCO and Nationwide Life Insurance Company.

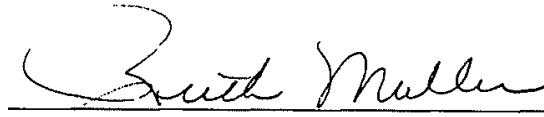
RESOLVED this 31st day of August, 1998.

APPROVED by the Mayor this 31st day of August, 1998.

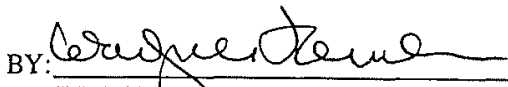

JACK V. CRAWFORD, MAYOR

FILED this 31st day of August, 1998.

ATTEST:


RUTH MULLER, INTERIM CITY CLERK

APPROVED AS TO FORM:

BY: 
INTERIM CITY ATTORNEY
OGDEN MURPHY WALLACE, P.L.L.C.

RESOLUTION NO. 98-018



**Business of the City Council
City of Kenmore, WA**

Subject/Topic: Site Plan Review for the proposed Lodge at Saint Edward State Park, located at 14445 Juanita DR NE. Proposed Council Action/Motion: Motion to adopt Ordinance No. 17-0437 accepting the Hearing Examiner's recommendation to City Council for the proposed Lodge at Saint Edward Site Plan application, and approving the Site Plan subject to conditions, reference file # CSP16-0077.	For Council Meeting Agenda of: <u>April 17, 2017</u> Department: <u>Development Services</u> Prepared by: <u>Samantha Loyuk, Associate Planner</u> <table><tr><td></td><td><u>Initial & Date</u></td></tr><tr><td>Approved by Department Head:</td><td><u>BD 3/31/17</u></td></tr><tr><td>Approved by City Attorney:</td><td><u>✓ RLC 3/30/17</u></td></tr><tr><td>Approved by Finance Director:</td><td><u>Jay 4/4/17</u></td></tr><tr><td>Approved by City Manager:</td><td><u>POK</u></td></tr></table> Exhibits/Attachments: 1. Ordinance 17-0437 2. Exhibit A; Hearing Examiner's Final Site Plan Recommendation and Decision on FEIS Appeal No. CSP16-0077 (Including Appendix A (Summary of Oral Testimony) and Appendix B (Master Exhibit List)) 3. Exhibit B; The Lodge at Saint Edward Site Plan Note: Exhibit A and all documents and Exhibits referenced in and adopted by Exhibit A are available on the City's web site: http://www.kenmorewa.gov/LodgeatSaintEdward		<u>Initial & Date</u>	Approved by Department Head:	<u>BD 3/31/17</u>	Approved by City Attorney:	<u>✓ RLC 3/30/17</u>	Approved by Finance Director:	<u>Jay 4/4/17</u>	Approved by City Manager:	<u>POK</u>
	<u>Initial & Date</u>										
Approved by Department Head:	<u>BD 3/31/17</u>										
Approved by City Attorney:	<u>✓ RLC 3/30/17</u>										
Approved by Finance Director:	<u>Jay 4/4/17</u>										
Approved by City Manager:	<u>POK</u>										
Expenditure Required N/A	Amount Budgeted N/A	Appropriation Required N/A									
<u>INFORMATION/BACKGROUND:</u> On June 30, 2016, Daniels Real Estate filed a Type 4, Site Plan application to establish a lodge-type hotel with accessory uses at Saint Edward State Park. The project, known as "The Lodge at Saint Edward," proposes to restore and reuse the existing deteriorated Saint Edward Seminary Building. The hotel is proposed for up to 100 guest rooms; meeting and conference rooms (including a 1,250 to 2,000 square foot area reserved for a State or State authorized non-profit organization or public institution);											

administrative spaces; an exercise facility and wellness spa; a restaurant; and a café. The project will preserve the historic and architectural integrity of the Building as much as possible.

The Building and adjacent area ("Project site"), approximately 5.5 acres in size, is owned by the Washington State Parks and Recreation Commission and is located between Juanita Drive NE and Lake Washington, with an address of 14445 Juanita Drive NE. The Project site is in the "Parks" zone of the City.

The proposed "hotel" use is classified within the Zoning Code, but is not designated as a "permitted", "conditionally permitted", or "prohibited" use in the Parks zone. See KMC 18.28.020, Table A. Therefore, pursuant to KMC 18.28.020, 18.28.060, and 18.105.020(A)(3), the proposed hotel must be approved through a site plan review.

As required by KMC 18.105.030(B) and 19.25.020(A)(4) (including Exhibit A), the application was processed as a Type 4 land use decision, which includes a recommendation by the Development Services Director to the Hearing Examiner; an open record public hearing by the Hearing Examiner; a recommendation by the Hearing Examiner to the City Council; and a decision by the City Council, based on the record established by the Hearing Examiner.

In connection with the application, the City completed State Environmental Policy Act (SEPA) review and issued Environmental Impact Statement (EIS) consisting of a draft EIS, final EIS, and Addendum. Citizens for Saint Edward State Park filed an appeal of the EIS pursuant to KMC 19.35.160(A). On March 1 and 2, 2017, the Hearing Examiner conducted the EIS appeal hearing concurrent with the open record public hearing for the Site Plan application.

STATUS OF CITY COUNCIL CONSIDERATION

During its consideration of the Hearing Examiner's recommendation on the application, the City Council will act as a quasi-judicial body. Acting as a quasi-judicial body, the City Council must base its decision only on the record before the Hearing Examiner, which is the transcript of the public hearings held by the Hearing Examiner, the Exhibits admitted into evidence at the public hearings by the Hearing Examiner, and the Recommendation and Decision of the Hearing Examiner. The City Council, therefore, should not accept testimony and comments on the application or the project from the applicant, the staff, or the audience during this item or any other part of the agenda for the meeting, including "citizen comments".

HEARING EXAMINER'S RECOMMENDATION (AND DENIAL OF SEPA APPEAL)

On March 24, 2017, the Hearing Examiner issued a "Final Site Plan Recommendation and Decision on FEIS Appeal" (Recommendation and Decision), which recommends approval of the Site Plan application with conditions and denies the SEPA appeal of the EIS (Exhibit A).

The Hearing Examiner's decision on the SEPA appeal is the final decision on the SEPA appeal. Under City code, the City Council cannot further rule on the SEPA appeal decision, but as discussed and recommended below, Council can consider additional SEPA mitigation recommended by the Hearing Examiner as a consequence of the SEPA appeal hearing and decision.

The Hearing Examiner's recommendation to approve the application (the "Recommendation" portion of the Recommendation and Decision) includes 29 recommended conditions on pages 52-54 of the Recommendation and Decision. Recommended condition numbers 1-27 are identical to the conditions that staff recommended to the Hearing Examiner. Staff supports and concurs with the Hearing Examiner's two additional conditions (Nos. 28 and 29). The Hearing Examiner's denial of the SEPA Appeal (the "Decision" portion of the Recommendation and Decision) recommends three additional SEPA mitigations on pages 54 and 55 of the Recommendation and Decision. Staff supports and concurs with the Hearing Examiner's three additional SEPA mitigations.

CITY COUNCIL DECISION

The Hearing Examiner has recommended that the City Council approve the Site Plan application, with 29 conditions and three additional SEPA mitigations. The City Council must decide whether to:

- Approve the application with the recommended conditions and SEPA mitigations;
- Approve the application with modified conditions and SEPA mitigations; or
- Deny the application.

If the City Council desires to approve the application, as recommended by the Hearing Examiner, the City Council should pass the Ordinance 17-0437, attached to this Agenda Bill. If the City Council desires to deny the application, it should pass a motion stating the reasons for the denial and a requesting City staff to prepare an appropriate ordinance for City Council consideration. If the City Council desires to approve the application, but desires to modify a condition or conditions, or modify a SEPA mitigation or mitigations, it should pass a motion describing the modifications and requesting City staff to prepare an appropriate ordinance for City Council consideration.

For the City Council's information, on January 9, 2017, the Washington State Parks and Recreation Commission voted unanimously to execute a 62-year lease with Daniels Real Estate. Daniels Real Estate and the State of Washington, through the Commission, have executed the Lease. As part of the Lease, Daniels Real Estate agreed to purchase a 9.7-acre private property that lies adjacent to the Park, along Lake Washington (known as the McDonald Property), and transfer ownership to State Parks in exchange for re-use of the Building as the lodge which is the subject of the application. The transferred property will add to the park's acreage and Lake Washington shoreline.

**CITY OF KENMORE
WASHINGTON**

ORDINANCE NO. 17-0437

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, APPROVING WITH CONDITIONS THE
LODGE AT SAINT EDWARD STATE PARK SITE PLAN
(FILE CSP2016-0077) LOCATED AT 14445 JUANITA DR NE,
KENMORE, WASHINGTON.**

WHEREAS, The Saint Edward Seminary building served as a Catholic Seminary for young men from 1931 to 1958; and

WHEREAS, Washington State Parks purchased the 316-acre Saint Edward Seminary campus from the Archdiocese of Seattle in 1977, naming it “Saint Edward State Park”; and

WHEREAS, Washington State Parks struggled for years to preserve the historic character of the Seminary building; and

WHEREAS, in 1997, the Saint Edward Seminary property (Property) was placed on the Washington Heritage Register; and

WHEREAS, in 2007, the Property was listed in the National Register of Historic Places; and

WHEREAS, the estimated repair costs for the Seminary building range from 23 to 50 million dollars and the estimated annual maintenance costs for the Seminary building are \$100,000 per year; and

WHEREAS, in 2013, Washington State Parks staff renewed agency efforts to save the Seminary building and explore public and/or private partnerships; and

WHEREAS, in 2014, Washington State Parks and Recreation Commission directed State Parks staff to develop an acceptable rehabilitation proposal or the Seminary building would be vacated, fenced off, closed to the public and left to deteriorate; and

WHEREAS, in 2015, Washington State Parks received a proposal from Daniels Real Estate, LLC (Daniels Real Estate) to rehabilitate the Seminary building in the tradition of the great National Parks lodges; and

WHEREAS, Daniels Real Estate proposes to rehabilitate Saint Edward Seminary Building for use as a lodge-type hotel with up to 100 guest rooms, meeting/conference rooms (including a portion of which would be reserved for use by a State or State authorized a non-profit organization or public institution), administrative spaces, an exercise facility/wellness spa, a restaurant and a café; and

WHEREAS, the Property is zoned “Parks” under the City Code; and

WHEREAS, the City Code includes “hotel” as a classified land use, but does not designate a hotel as a permitted, conditionally permitted, or prohibited use in the Parks Zone; and

WHEREAS, classified land uses that are not permitted, conditionally permitted, or prohibited in the Parks zone may be allowed through an approved site plan; and

WHEREAS, on June 30, 2016, Daniels Real Estate, LLC, applied for a type 4 site plan approval (File No. CSP 16-0077) (Site Plan Application); and

WHEREAS, the Site Plan Application was reviewed and processed in accordance with City Code ; and

WHEREAS, on February 8, 2017, the Development Services Director issued “Findings, Conclusions and Revised Approval with Conditions to the Hearing Examiner” for the Site Plan Application; and

WHEREAS, on January 9, 2017, the Washington State Parks and Recreation Commission voted unanimously to execute a 62-year lease with Daniels Real Estate; and

WHEREAS, in connection with the Site Plan Application, the City completed SEPA review and issued an environmental impact statement (“EIS”) for the project consisting of a draft EIS, final EIS, and Addendum, which was appealed to the Hearing Examiner; and

WHEREAS, on March 1 and March 2, 2017, the Hearing Examiner held an open record public hearing on the application and the SEPA EIS appeal; and

WHEREAS, on March 24, 2017, the Hearing Examiner issued a “Final Site Plan Recommendation and Decision on FEIS Appeal” (Hearing Examiner Recommendation and Decision”), in which he found that the EIS was adequate and that the Site Plan Application should be approved with conditions; and

WHEREAS, the City Council has duly reviewed and considered the record for the Site Plan Application and the Hearing Examiner Recommendation and Decision;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Recitals adopted. The recitals set forth above are incorporated herein as if set forth in full.

Section 2. Site Plan Approval with Conditions. The City Council approves the Site Plan Application adopts the Decision portion of the “*Final Site Plan Recommendation and Decision on FEIS Appeal, No. CSP16-007,*” issued by the Hearing Examiner on March 24, 2017, attached to this Ordinance as Exhibit A (“Hearing Examiner Recommendation and Decision) and incorporated by reference, including the twenty-nine (29) conditions on pages 52-54 of and the three (3) additional SEPA mitigations on pages 54-55 of the Recommendation.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

APPROVED by the City Council this 17th day of April, 2017.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Kelly Chelin, City Clerk

Approved as to form:

Rod Kaseguma, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 17-0437

EXHIBIT A

BEFORE THE HEARING EXAMINER FOR THE CITY OF KENMORE

In the Matter of the SEPA Appeal of:

THE LODGE AT ST. EDWARD

FINAL SITE PLAN RECOMMENDATION
AND DECISION ON FEIS APPEAL
NO. CSP16-0077

How to Use this Document

This Recommendation and Decision is more than 50 pages long, but it is designed to provide easy and direct access to whatever information the reader needs to evaluate The Lodge at St. Edward project. Please note that this Recommendation and Decision makes a recommendation on a site plan application and a final decision on an appeal on the adequacy of the Final Environmental Impact Statement ("FEIS") for the project. The City Council only needs to make a decision on the site plan application, which is addressed in the first 19 pages of this Recommendation and Decision. A two-page summary of the Recommendation and Decision is provided at p. 5. An overview of the project is detailed in Finding of Fact ("FOF") No. 3, p. 7. The Table of Contents below identifies where every issue concerning the proposal is addressed in this Recommendation and Decision. A summary of the two days of hearing testimony is attached as Appendix A. The summary includes citations to every five pages of hearing transcripts, so that it should be easy to locate the summarized testimony in the transcripts themselves. As noted in the summary of this Recommendation and Decision, the major outstanding issue of concern for the proposal is parking. That issue is addressed in more detail in FOF No. 7, 8, 9(A) and 12 and Conclusions of Law ("COL") No. 2, 7, and 8. An overview of the proposal's conformance to the City's development standards is provided in FOF No. 9.

SITE PLAN AND FEIS APPEAL - 1

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SUMMARY

This document is a recommendation from the Hearing Examiner on a site plan application and a final decision on an appeal of the adequacy of a Final EIS (FEIS) associated with the site plan application. It is recommended that the City Council approve the site plan application. The FEIS is found to be adequate and its appeal is denied.

The Applicant proposes to convert the 80,900-square foot seminary building in St. Edward Park into a lodge with 16,600 square feet of conference facilities and approximately 35,000 square feet of lodging space. Exterior modifications are limited to (1) the addition of a multi-level parking garage in the middle of the grounds that is slightly above ground level, (2) expanded surface parking, (3) replacement of an outdoor volleyball court listed in the National Register of Historic Places with an organic garden, and (4) landscaping. An overview of the exterior changes in the proposal is readily observed by comparing the site plan of the proposal, FEIS Figure 2-4, with the aerial site map of the proposal, FEIS Figure 2-3. Washington State Parks has approved a 62-year lease granting the Applicant 5.5 acres of seminary grounds to use for this purpose.

Although exterior modifications are arguably modest, the project has been of significant public concern. The project is in a historically registered structure amid historically registered grounds in the middle of a 316-acre park on the shores of Lake Washington. To further complicate matters, the City is also involved in the concurrent development of ballfields in St. Edward Park. The impacts associated with these special circumstances have resulted in thousands of pages of documented analysis and two full days of hearing before the Hearing Examiner.

The Applicant and City staff have done a thorough job in addressing all impacts and ensuring that they are fully mitigated to legislatively acceptable levels. During the hearing, the Applicant's owner, project manager and architect demonstrated significant experience and sensitivity in working with historical properties and assuring that they are maintained for public as well as private benefit. Public access is required by the Applicant's lease to the outdoor seminary grounds and interior common areas of the seminary building. The one and significant deficiency in the Applicant's evaluation of project impacts is parking. Under any common sense or technical evaluation of the Applicant's parking analysis, it is unreasonable to conclude from the underlying data that the proposed 153 parking will meet parking demand on a regular basis.

The FEIS addresses parking demand, concluding at page 1-10 that the 153 spaces "*would meet the demand for most conference/meeting events.*" Upon questioning of the Applicant's traffic engineer, it was revealed that the data used to reach this conclusion did not provide that assurance. The conclusion was based upon an evaluation of seven¹ days of conference attendance in January, 2013 at Cedarbrook Lodge in the City of SeaTac. The traffic engineer recognized that parking data from Cedarbrook may

¹ The traffic study noted that traffic counts were taken over seven days between January 11, 2013 and January 20, 2013. DEIS, Appendix H, att. B, p 1. It's unclear from the study whether conference guest counts were limited to the days traffic counts were taken or whether the guest counts were taken over the entire time frame from January 11, 2013 through January 20, 2013.

be skewed low, since the proximity of the lodge to Sea-Tac Airport meant that some conference guests would access the site by taxi or shuttle. Prorating conference attendance down to the somewhat smaller size of the Applicant's proposal, the daily average conference attendance for the proposal would be 129 conference guests per day. With parking demand at the rate of 0.9 parking spaces per conference guest, this leaves 37 parking spaces for lodging guests. At 0.45 parking spaces needed per occupied hotel room, this means that on average the hotel rooms cannot be more than 82% occupied to avoid exceeding parking supply. In the Applicant's favor, it is recognized that the Institute of Transportation Engineers (ITE) Parking Generation manual estimates a need for only 89 parking spaces at the site. But this estimate is based upon a "hotel" category that doesn't distinguish between hotels with conference rooms and those without. 129 conference guests comprises less than a third of the functional capacity of the proposed conference center. In the FEIS, the Applicant noted that maximum functional capacity would be 550 conference guests. These numbers make it questionable that parking supply will be sufficient under "most" circumstances. In the absence of any other data in the record, it is reasonable to be skeptical about the sufficiency of parking.

In order to ensure that parking will be sufficient, it is recommended that the City Council impose a condition requiring monitoring of parking sufficiency over a three-year period. If parking proves deficient, the Applicant would have to institute mitigation measures from a menu of options that includes restricting the sizes of events, requiring the acquisition of off-site parking rights, or amending the site plan for additional parking.

ORAL TESTIMONY

A summary of the two days of hearing is attached as Appendix A.

EXHIBITS

An exhibit list is attached as Appendix B.

FINDINGS OF FACT (SITE PLAN AND FEIS)

Procedural²

1. Applicant. The Applicant is Daniels Real Estate.
2. Hearing. A hearing on the site plan application and FEIS appeal was held on March 1 and March 2, 2017. The FEIS Appeal and site plan hearings were consolidated, meaning that one combined hearing was held for the site plan application and FEIS appeal, creating one administrative record. The hearing commenced with testimony on the site plan application, where anyone could testify. Once the site plan testimony was concluded, testimony was allowed for the FEIS appeal. Only the Applicant, SEPA Appellant, Property Owner (Washington State Parks) and City were allowed to participate in the FEIS appeal portion of the consolidated hearing.

Substantive

3. Site/Proposal Description. The Applicant proposes to convert the 80,900-square foot seminary building in St. Edward State Park into a lodge with conference facilities. Washington State Parks has approved a 62-year lease granting the Applicant to use 5.5 acres of seminary grounds for this purpose. Existing land uses within the lease area include: the former St. Edward Seminary Building, a gymnasium, swimming pool building, volleyball court, surface parking, and open space (south of the pool building). As part of the lease, the applicant would acquire and dedicate to State Parks for public use and benefit an approximately 9.9-acre, privately-owned parcel that is located contiguous to the northwest corner of the park.

The applicant proposes to rehabilitate the existing deteriorating St. Edward Seminary building for use as a lodge-type hotel with up to 100 guest rooms, 16,600 square feet of meeting/conference rooms, administrative spaces, an exercise facility/wellness spa, restaurant and a café. A portion of the meeting/conference room space could potentially be utilized for a variety of programming uses, including classes, events and programs in support of outdoor education and recreation including a 1,250 to 2,000 square foot portion of which would be used by a non-profit organization or public institution. Section 2.4 of the lease requires the Applicant to provide public access to the seminary grounds and the common areas of the seminary building. The application will reuse the historic seminary building and preserve the historic and architectural integrity of the structure by not modifying the exterior of the building and by maintaining the interior character of the building as much as possible. No changes are proposed for the gymnasium or the pool. The proposed action would provide 153 on-site parking spaces for guests and staff of the Lodge at St. Edward within a structured parking garage (located partly below ground) and surface parking located to the north of the gymnasium in an existing lot. Existing

² FOF No. 2-5 are based upon uncontested findings in the staff report. FOF No. 6 is based upon uncontested facts identified in the Applicant's First Motion to Dismiss, Ex. A45. Ex. A45 contains references pertinent exhibits for each of the factual assertions used for FOF No. 6. The SEPA Appellant provided what appears to be an accurate explanation for why the attempted prior uses in FOF No. 6 failed in Ex. S8.

surface parking areas surrounding the Seminary Building would be improved for park users, including a resurfaced/restriped surface parking area east of the Seminary Building and pool, and an expanded surface parking area to the northeast of the gymnasium. The Applicant asserts that no net loss of parking for the general public would occur. No changes would occur to site access.

Currently, the north portion of the first floor of the Seminary Building (Grand Dining Hall) may be rented from State Parks for receptions, parties, and so forth; room capacity (per fire code) is 49 people. Public access is restricted on all other portions of the first floor, as well as floors above and below the first floor.

4. Characteristics of the Area. The site is located in the central portion of the 316-acre St. Edward State Park. The site is bordered on all sides by park property with the ballfield and ballfield parking located immediately east of the seminary site. The Lake Washington shoreline is located approximately 1,500 feet (0.3 mile) to the west of the site. The site is already developed, containing the seminary building (approximately 80,000 square feet in size), the gymnasium (approximately 14,000 square feet), the pool house (approximately 10,000 square feet), and associated surface parking. Access to the parking lot serving the site is off NE 145th Street and Juanita Drive NE on the east. Forest surrounds most of the site, with streams and wetlands to the north and east. The areas surrounding the Park property are predominately residential.

5. History of the Site Prior to Acquisition by Washington State Parks. Construction of the St. Edward Seminary Building began in 1930 and was completed in 1931. The building served as a major college-level seminary from 1935 to 1958. A 316-acre portion of the campus of St. Edward Seminary – less the site of St. Thomas Seminary (now the Bastyr University campus) was sold to the State of Washington in 1977. The St. Edward Seminary property was placed on the Washington Heritage Register in 1997 and was listed in the National Register of Historic Places in 2007.

6. Washington State Parks Efforts to Use the Site. According to uncontested assertions made in the Applicant's Motion to Dismiss, Ex. A45, Washington State Parks has struggled for years to preserve the historic character of the seminary building. Current repair estimates range from \$23 to \$50 million. Annual maintenance costs approach \$100,000 per year. Several past attempts to use the space have not succeeded. In the 1980s, a plan to convert the building into temporary housing for refugees fleeing wars and genocide in Southeast Asia failed. In the mid-2000s, plans to convert the seminary building into a brewery and hotel failed due to the adoption of regulations prohibiting alcohol sales in the park. A more recent effort to convert the building into offices for a data security firm also failed.

In 2014, the Washington State Parks Commission decided that it should either develop an acceptable rehabilitation proposal within one year or vacate the facility entirely. The Commission set a deadline for September 30, 2015 for its staff to identify a rehabilitation proposal and announced that, if no reasonable proposal was brought within that time, the seminary would be vacated, fenced off, and completely closed to the public. Commission staff released a request for proposals for use of the seminary grounds. The proposal subject to this site plan and FEIS review was the only response.

On January 9, 2017, the Washington State Parks and Recreation Commission voted unanimously to accept the 62-year lease with Daniels Real Estate of Seattle to rehabilitate the St. Edward Seminary

Building at St. Edward State Park. As part of the agreement, Daniels agreed to purchase a 9.7-acre private property (referred to as the “McDonald’s Property”) that lies adjacent to the park and transfer ownership to State Parks in exchange for adaptive re-use of the building as a lodge. The property adds to the park’s acreage and natural area along Lake Washington.

SITE PLAN

Findings of Fact:

7. Primary Use of Proposal. A major factual issue for application of the City’s parking standards as identified in COL No. 2 is whether the proposal will be primarily used as a conference center. Staff takes the position that since the meeting rooms are not large enough to hold large conferences that the conference room use is not the primary use of the proposal. It is determined that staff is correct in this conclusion, but part of the factual basis for the conclusion is in error.

During the appeal hearing, staff asserted that the proposed facility isn’t a conference center because it isn’t developed “primarily” as a meeting center. Tr. 52:22-56:2. This position was based upon the opinion that the meeting space was too small to accommodate large conferences. This position is questionable. Eilean Davis, a senior planner testifying for the City, testified that she considered the facility to be a hotel with meeting rooms as opposed to a conference center because the largest meeting room as depicted in the EIS floor plans, Figures 2.5-2.7 of the FEIS, is only 1,357 square feet. Id. Ms. Davis believed this amount of space isn’t sufficient to hold the general session portions of large conferences and that, therefore, the proposed meeting space will only accommodate relatively small meetings. Id. Ms. Davis overlooked the approximately 2,400-square-foot meeting room located in the basement of the proposed facility. See FEIS Figure 2-5³. The Cedarbrook occupancy charts, Ex. S2, advertise that its 2,184 square foot meeting spaces can accommodate 100 people in a classroom seating arrangement and 150 in a theater seating arrangement. Further, the Applicant appears to consider the floor plans to be conceptual, which means walls could be removed and meeting rooms expanded. The Applicant’s project manager testified that the floor plans for the hotel rooms were likely to be changed, since the living quarters as depicted in the FEIS floor plans are too small for typical hotel accommodations. Tr. 448:2-14.

From the facts in the record, the conference room predominates in terms of parking demand and occupancy, while hotel use predominates in terms of space. Since the Cedarbrook Lodge data shows that its 2,184-square foot meeting room can accommodate a general session of 100 to 150 people depending on seating arrangement, it is concluded that the 2,400-square-foot meeting room of the proposal can accommodate a similar number of people—which is not a small meeting as opined by City staff. Of course, other meetings and smaller conferences can be held concurrently with a conference of 100-150 guests. The Applicant asserts a maximum functional occupancy of 550 people for the meeting rooms as noted in p. 2-8 and 2-9 of the FEIS. As determined in FOF No. 12, data

³ Figure 2-5 identifies the area of the meeting room as 3,200 square feet. However, approximately 800 square feet of that space is sectioned off into separate meeting rooms.

prorated from average parking of a similar sized lodge/conference facility estimates an average of 129 conference attendees per day. There doesn't appear to be any data in the administrative record that identifies the maximum or average occupancies of the hotel rooms. However, given the small size of the hotel rooms it is reasonable to conclude that maximum occupancy would be two hotel guests per room. At maximum functional occupancy of the hotel and conference rooms, the conference rooms will likely accommodate over two times as many people as the hotel rooms. In terms of parking demand, Table 3.12-5 identifies that the proposal is estimated to generate daytime parking demand of 0.45 parking spaces per occupied hotel room and 0.90 parking spaces per conference guest. Accordingly, at maximum functional occupancy of the hotel and conference rooms, the conference rooms will likely generate roughly⁴ five times more demand for parking than the hotel rooms. In terms of space, hotel space predominates, with the project architect testifying that total lodging space is 35,000 square feet. Tr. 380:23-25; 381:1.

Given the mixed nature of the primacy of the conference room use within the proposal, it cannot be conclusively determined that the conference rooms serve as the primary use of the facility.

Given that the floor plans of the proposed meeting rooms played a key role in the staff's assessment of parking adequacy, the conditions of approval will provide that the proposal is limited to the maximum meeting room sizes depicted in the floor plans.

8. Conference Use Doesn't Add Significantly to Traffic Generation. As determined in FOF No. 12.D, the only available information on average conference attendance yields a daily average attendance of 129 persons for the proposal. On its face, it appears that this would significantly add to trips generated by a 100-room hotel. However, Table 3.12-2 of the Draft EIS (DEIS) reveals that, based upon the Applicant's traffic study, the number of PM Peak Hour trips is only increased from 0.70 trips per room to 0.83 trips per room during PM Peak Hour, a 19% increase. Since PM Peak Hour is the time when added traffic has the greatest adverse impact, it is an appropriate time to assess the significance of added traffic.

9. Conformity to Development Standards.⁵ The project will conform to applicable development standards as follows:

- A. Parking. Finding IV(9)(g) of the staff report concludes that the Applicant was authorized by KMC 18.40.020(B) to submit a parking demand study to determine the required number

⁴ This number is tempered by the fact that conference room guests may also be hotel guests at the same time. Under any analysis, however, parking demand from conference guests at full occupancy is significantly greater than parking demand by hotel guests.

⁵ Conformity to development standards is usually assessed via conclusions of law. However, site plan review standards are highly detailed and technical. In the absence of any disagreement over the application or any indication in the record of a code compliance issue, the examiner will rely upon assurances made by staff that standards are met, based upon the staff's exercise of professional judgment. Since these determinations of conformity are based upon staff expertise instead of application of law to fact, the determinations regarding conformance to development standards are treated as findings of fact.

of parking spaces. KMC 18.40.020(B) only allows the use of parking demand studies for unclassified uses. Therefore, Finding IV(9)(g) directly conflicts with Finding IV(5)(a), which determines that the proposed use is in fact a classified use, specifically a hotel. In fact, if the proposal is unclassified as required by KMC 18.40.020(B), it would be a prohibited use because the P zone per KMC 18.28.020 only authorizes expressly permitted uses (none of which apply) and classified uses approved via site plan review that aren't prohibited. As determined in COL No. 2, the proposal qualifies as a hotel use, which is a classified use. As a hotel use, KMC 18.40.030 requires one parking space per bedroom, which would be 100 parking spaces for the proposal. Since the Applicant is proposing 153 parking spaces, the proposal meets applicable parking code requirements.

In accordance with KMC 18.40.030.E, any development providing 6 or more parking stalls shall provide bicycle parking. The site plan depicts a proposed bike rack on the southern portion of the site and complies with the bicycle parking requirements (Exhibit 13). It is recommended that the application be conditioned such that bike parking standards are verified prior to engineering permit issuance.

B. Transportation. City staff have reviewed the application for compliance with the City's transportation standards and have found it to be fully compliant.

a. The application is subject to compliance with KMC 12.50 and the 2016 City of Kenmore Road Standards (COKRS) and shall be reviewed for compliance prior to engineering permit issuance.

b. The project qualifies as an adaptive reuse project of a registered historic site and the historic registration includes the park entrance road. Per COKRS 1.06.I, the project is not required to fully comply with all portions of COKRS, but must still provide safe site access for all users. The applicant's traffic and parking analysis (Exhibit 14) demonstrates that safe site access can be provided without new frontage improvements and/or access road improvements. Accordingly, the application does not include a requirement to provide frontage improvements along Juanita Drive or to improve the existing access road to current standards.

c. The vehicle entrance to the primary park and parking areas serving the seminary building is located on the eastern side of the park and is accessed from Juanita Drive NE. As noted in the applicant's traffic and parking analysis (Exhibit 14), the project complies with concurrency and safe site access standards per KMC 12.80. The existing signalized intersection at Juanita Drive NE and NE 145th St. has the capacity for the vehicle trips related to background population growth over time, development of the lodge, and renovations to the ballfield.

d. The project, per the applicant's traffic and parking analysis (Exhibit 14), is anticipated to generate 83 PM peak-hour vehicle trips. The City assesses impact fees based on mobility units and uses a conversion rate of 1.45 mobility units per PM peak-hour vehicle trip for lodging type projects. Accordingly, the project will be required to

pay traffic impact fees for 120 mobility units at the time of building permit application, consistent with KMC 20.47, at the rates in affect at that time. The number of mobility units generated by the project and the required traffic impact fee is subject to change if the project scope and/or proposed uses change.

e. Per KMC 18.40.100, the project is required to provide pedestrian and bicycle access at all site arrival points and adjacent parking lots. The arrival point is determined by the intersection of Juanita Drive and NE 145th St. A gravel pathway currently meanders between the main portion of the project site and the arrival point. The existing gravel path shall be improved to be compliant with current Americans with Disabilities Act (ADA) regulations to the maximum extent feasible while maintaining the historic nature of the existing roadway and trail. Additional ADA compliant walkways will be required between the entrance trail, proposed parking areas, or point of interest created, and the main building entrance. The application will be conditioned such that walkway and ADA standards are verified prior to engineering permit issuance.

C. Drainage (Chapter 13.35 KMC and 2009 KCSWDM). City staff have determined that the proposal is consistent with the City's drainage standards as follows:

a. The application is subject to compliance with the 2009 King County Surface Water Design Manual (KCSWDM), as adopted and amended in KMC 13.35 and shall be reviewed for compliance prior to engineering permit issuance.

b. Based on the scope of proposed improvements, the project is a "redevelopment" as defined by the KCSWDM. The application will create approximately 99,400 square feet of new impervious surfaces, mostly in the form of parking, and will require drainage review pursuant to KMC 13.35 and KCSWDM 1.1.1.

c. A full drainage report pertaining to the downstream analysis and conceptual sizing of facilities (including existing, historic, and proposed land coverage areas) per the 2009 KCSWDM and KMC 13.35 is required.

d. New drainage easements and/or covenants may be required to be recorded on the property title to allow for public inspection of the system and to ensure future maintenance of the proposed system can be completed. The need for easements or covenants shall be reviewed prior to engineering permit approval and shall be recorded prior to issuance of a certificate of occupancy for the building.

D. Project Design (Chapter 18.50 KMC). City staff have determined that the proposal conforms to the City's design standards as follows:

a. The site is subject to the design requirements per Chapter 18.50 KMC.

b. For proposed existing structure reuse or other activities that are less than new construction, the City shall determine the extent of compliance with the design standards as appropriate to recognize current conditions and further the intent of the design standards. The required design or development standards shall be related to the improvements proposed pursuant to KMC 18.50.220.

c. Compliance with applicable design standards have been reviewed based on the scope of the alterations to the existing site and building. The application meets applicable design standards based on the following:

- i. Purpose (KMC 18.50.010): The application will re-use the historic seminary building and preserve the historic and architectural integrity of the structure by not modifying the exterior of the building and maintaining the interior character of the building as much as possible. The planned re-use of the building will ensure continued use of the site.
- ii. Re-use of Facilities – Purpose (KMC 18.50.180): The application will encourage the adaptive re-use of an existing historic resource that will continue to serve the community. City and Parks review of the redevelopment plans will ensure the permanent re-use of the historic seminary building as listed on the National Historic Register. Final review of the re-use requirements will be conducted during construction permit review.
- iii. Re-use of Facilities – Standards for Conversion of Historic Building (KMC 18.50.220): In order to ensure that significant features of the property are protected pursuant to Chapter KMC 2.20, the following design standards apply to the conversion of the historic seminary building:

- The application will not increase the gross floor area of the seminary building.
- Additions are not planned for the rehabilitation and re-use of the structure.

E. Critical Areas (Chapter 18.55 KMC). City staff have determined that the proposal complies with the City's critical area regulations as follows:

a. Areas to the north and east of the project site contain Class II wetlands and Type 4 streams. These areas are located at least 300 feet outside of the project boundary. There is a geological hazard area more than 500 feet to the southwest of the project boundary and to the north of the project boundary (Exhibit 12). The Lake Washington shoreline, which is about 1,500 feet to the west of the project site. No improvements or alterations are proposed within the site boundary that would impact environmentally critical areas.

b. The project site is located approximately one-quarter mile east of a bald eagle nest, a protected species, and 0.3 miles east of the Lake Washington shoreline. The project site is located outside of the bald eagle shoreline foraging area. Evidence of pileated woodpecker, a candidate species, and their habitat was observed in the forested areas surrounding the site

boundary. The application does not include any clearing, grading, or land disturbing activity. The final construction permits should be reviewed to confirm construction activities do not warrant further review for compliance with wildlife and habitat protection standards.

F. Water and Sewer (Title 13 KMC and Chapter 18.45 KMC). City staff have determined that the proposal complies with the City's water and sewer standards as follows:

a. The Northshore Utility District (NUD) provides water and sewer service to the site. The Northshore Fire District reviewed the application for compliance with KMC 18.45.030 and 18.45.040 for adequate water and sewer services.

b. Certificates of water and sewer availability were provided by the Northshore Utility District (Exhibits 15 & 16).

c. The site currently has a 12-inch domestic water line which can be used for the proposed lodge and restaurant. The water availability certificate indicates that the existing water service provides approximately 3,000 to 4,000 gallons per minute with approximately 105 PSI available.

d. The water line was installed in the mid-1980's and a site inspection of the path of the water line was recently performed. There were no visible problems indicated with the water line. However, the water line bisects steep terrain and as such a method to provide a temporary service, in the event of a failure, will need to be analyzed.

e. If irrigation is provided, a separate meter and backflow assembly will be required.

f. The site is currently connected to the NUD sewer system. The existing 8-inch sewer line originates to the east, in Juanita Drive NE, and ends approximately 650 feet east of the seminary building. The line then transitions to a private sanitary sewer line that serves the seminary building and other surrounding structures in the park. Northshore Utility District review comments state that the sewer lines and manholes within the project site area will need to be updated and/or replaced to meet projected occupant capacity when project is in operation (Exhibit 17).

G. Fire Protection and Emergency Access (KMC Title 15 and KMC 18.45).

a. Fire protection and emergency access requirements are outlined in KMC 18.45.080 and Title 15 KMC. The Northshore Fire Marshal reviewed the application for compliance with applicable requirements and will require the development of a life safety plan and review of the water system examination results to ensure satisfaction of fire protection and emergency access requirements.

b. Existing domestic and fire protection connections are located on site and have been determined adequate for fire flow by the Northshore Fire District.

- c. Fire Marshal conditions have been incorporated into the Recommended Conditions of Approval section below.
- H. Landscaping (Chapter 18.35 KMC). City staff have determined that the proposal complies with applicable landscaping standards as follows:
 - a. The application has been reviewed for compliance with the landscape standards in Chapter 18.35 KMC. The proposed use is a non-listed use for landscape screening purposes pursuant to KMC 18.35.030. Landscaping requirements will be determined and specified by the design review process and will be installed as part of the project impact mitigation enhancements.
 - b. Parking lot landscaping is proposed near planned parking areas to provide additional landscaped open space within the site area that would be accessible to the public. Parking lot landscaping is also proposed in areas where alterations to the existing parking area are planned. The site plan (Exhibit 13) depicts areas of new parking lot landscaping. A final landscape plan will be reviewed at the time of construction permit review to ensure that the cultural integrity of the area and existing landscaping is maintained.
- I. Park Zone and General Development Standards (Chapter 18.28 and 18.30 KMC). City Staff have determined that the proposal complies with zoning district and general development standards as follows:
 - a. The site is zoned P (Parks). The proposed Lodge at Saint Edward is classified as a “Hotel” pursuant to the zoning code definition in KMC 18.20, and could include a central kitchen and dining room and accessory shops and services catering to the general public and it could include, among other facilities, a central kitchen, dining room, and accessory shops and services catering to the general public. Meeting rooms, exercise facilities, and spas are considered allowed accessory uses to the primary Hotel use. KMC 18.20.035. Depending on the organization involved, use of space in the building by a non-profit organization would be considered an allowed accessory use to the Hotel, an allowed accessory use to the established Parks use of the State Park, or a cultural facility—all permitted uses. KMC 18.28.020 Table A & KMC 18.20.045.
 - b. While a “hotel” is classified in the zoning code, it is not specifically listed as being permitted, conditionally permitted, or prohibited in the Parks zone use allowances in KMC 18.28.020, Table A. Pursuant to KMC 18.28.020.B, classified land uses not listed or prohibited in Table A may be allowed through completion of a Site Plan Review process in accordance with KMC 18.28.060 and Chapter 18.105 KMC. As noted above, the Site Plan Review is required to go through a Type 4 land use review process. An approval of the Site Plan application would establish the proposed Lodge at Saint Edward as a permitted Hotel use on the site along with allowed accessory uses.
 - c. The proposed re-use of the existing structure on site will not alter any physical

dimensions of the existing structure. Any future alterations to the site or the structure's size, shape, or height will be reviewed for compliance with the Parks zoning development standards pursuant to KMC 18.28.040.

d. Trash and storage space for development shall comply with the size, location, and screening standards in KMC 18.30.250. The proposed storage location has been reviewed for the size, location, and screening standards and determined to comply. The application will be conditioned for construction permits to be reviewed for compliance with these provisions.

10. Compatibility with Character and Appearance of Existing Development. The proposal is consistent with appearance and character of the existing development. Issues of compatibility are addressed as follows:

- A. Nuns' Garden. Anne Aagard testified that she was concerned that the Nuns' Garden, located to the northeast of the proposed lease area, would be damaged by proposed parking. Tr. 120. The Nuns' Garden is listed on the National Register of Historic Places and was a garden used by the seminary nuns for their enjoyment and as a place of worship and contemplation. See Ex. A1, p. 3 of Section 7. The Nuns' Garden is actually located outside of the project site and no construction is proposed on or adjacent to it. TR. 442:16-21. A recommended condition of approval will also prohibit any development in the Nuns' Garden.
- B. Exterior Modifications. Exterior alterations are modest and do not appear to significantly detract from the historical character of the grounds. Ms. Aagard testified that she did not believe the multi-level parking garage and modifications to the access road along the west side of the project are consistent with the historical character of the seminary grounds. Tr. 124: 13-125:6. There do not appear to be any elevations or any detailed information in the record on the parking structure other than that it is composed of more than one level and will not be as tall as the seminary building. See Tr. 76:14-25; 77:1-8. However, the project architect testified that the parking garage would have a vegetated roof that people will be able to cross on foot, implying that the roof will be close to ground level. Tr. 376:1-19. The only other exterior alteration of significance is the replacement of the volleyball courts with an organic garden. Overall, these alterations only take up a small portion of the 5.5 acre leased premises. From these circumstances it is determined that the character of the grounds will remain intact.
- C. Wildlife. Elizabeth Mooney testified she was concerned about impacts of the proposal to surrounding wildlife, insufficient consideration of the cumulative impacts with the ballfields, and City conflicts of interest arising from concurrent development of the ballfields. Tr. 131:1-148:8. Cumulative impacts with the ballfields and wildlife impacts were not found to be significantly adverse as determined in FOF No. 19. As to conflicts of interest, the findings and conclusions of this Recommendation and Decision are based solely upon evidence presented by professionals and concerned citizens. There is no basis to reasonably conclude that any of the evidence found

pertinent to these findings and conclusions was inaccurate due to any conflict of interest arising from the concurrent development of nearby ballfields.

- D. Trees. Ann Anderson requested that the examiner review the Applicant's arborist report, since tree retention is often an afterthought in development proposals. Tr. 148:10-23. The Arborist Report, Ex. 40, notes that the project site has 73 trees. According to report, ten trees are proposed for removal to accommodate proposed parking expansion just outside of the northeastern portion of the project site. Chapter 18.57 KMC requires tree retention of at least 210 tree units. The project will retain 325.2 units per the report. Since the tree removal does not exceed the City's tree retention standards, impacts on trees and to the character of the site by tree removal are not found to be significant.

Conclusions of Law

1. Authority of Hearing Examiner. Site plan reviews for classified uses in the P zone are classified as a Type 4 review by KMC 18.105.030(B). KMC 19.25.020(A)(4) provides that the hearing examiner shall establish the record and make recommendations to the City Council on Type 4 applications.
2. Proposal Properly Classified as a Hotel Use. The staff report correctly classified the proposed use as hotel. From the uses classified in the use tables of the zoning code, the proposal qualifies as either a conference center or hotel. Since the conference rooms cannot be considered the primary use of the proposal, the use is most accurately classified as a hotel use.

A hotel is defined by KMC 18.20.1375 as a building or portion thereof designed or used for transient rental for sleeping purposes. KMC 18.20.1375 doesn't include conference centers or meeting rooms within the definition of hotel. However, KMC 18.28.030 authorizes accessory uses in the P zone. KMC 18.20.035 defines an accessory use as "...typically subordinate in size to the principal use; that would not contribute significantly to traffic generation, noise, or nuisance; and that supports the primary use operation without displacing it." In terms of traffic, noise or nuisance, the only questionable issue is whether the proposal would significantly increase traffic generation. As determined in FOF No. 8, conference use would only increase PM Trip generation by 19%, which isn't a significant increase when assessing primary use. For the reasons identified in FOF No. 7, the conference rooms are not considered to displace the hotel use of the facility. Given that many conference room attendees could concurrently serve as hotel guests, it is also concluded that the conference room use supports the hotel use. For all these reasons, the proposed use satisfies the hotel definition.

A conference center is defined by KMC 18.20.560 as follows:

"Conference center" means an establishment developed primarily as a meeting facility, including only facilities for recreation, overnight lodging, and related activities provided for conference participants.

As determined in Finding of Fact No. 9, there is mixed data relevant to whether or not the proposed use is “primarily” developed as a meeting facility. As noted in FOF No. 3, total hotel room space is almost twice the size of meeting space. Given that the definition states “developed primarily” as opposed to “used primarily” as a meeting facility, the comparative amount of space would appear to be significant to the definition. From the context of parking standards, the comparative parking demand created by the hotel rooms verses conference rooms would be of logical significance. As noted in FOF No. 7, the parking demand created by the meeting rooms will be roughly five times greater than that created by the hotel rooms at full functional occupancy. However, it must be recognized that the “conference center” definition is not a definition that applies only to the parking standard; it applies throughout the zoning code, including the tables of allowed uses. Even though from a parking standpoint the use of the facility is “primarily” a conference facility, in other parts of the code the size and aesthetics of the facility plays a larger role. Given the ambiguity in the applicability of the conference center definition, the more clearly applicable hotel definition is found to apply.

3. Review Criteria. KMC 18.105.050 governs the criteria for site plan review. Applicable criteria are quoted in italics and applied through corresponding conclusions of law below:

KMC 18.105.050(A): *The city manager may approve, deny, or approve with conditions an application for a site plan review. The decision shall be based on the following approval criteria:*

1. Conformity with adopted City and State rules and regulations in effect on the date the complete application was filed;

- A. The criterion is met, as the proposal is consistent with applicable development standards as determined in FOF No. 9 and COL No. 2.

KMC 18.105.050(A)(2): *Consideration of the recommendations or comments of interested parties and those agencies having pertinent expertise or jurisdiction, consistent with the requirements of this title;*

- B. The criterion is met, as all of the dozens of public comment letters and agency comment letters have been submitted, reviewed and responded to, from the DEIS through this Recommendation and Decision.

KMC 18.105.050(A)(3): *Compatibility with the character and appearance of existing or proposed development in the vicinity of the subject property;*

- C. The criterion is met, since the proposal only involves modest exterior parking and access road modifications and limited interior changes focused upon maintaining historical character and improving upon public access inside the building. For the reasons outlined in FOF No. 10 and FOF No. 19, these changes are not significantly adverse and are compatible with the character and appearance of the existing development and surrounding uses.

SITE PLAN AND FEIS APPEAL - 18

KMC 18.105.050(A)(4): *Compatibility with plans for existing and proposed pedestrian and vehicular traffic in the vicinity of the subject property; and*

- D. The criterion is met. No transportation plans applicable to the project have been alleged other than the City's adopted level of service standards. As determined in FOF No. 9 and 17, the proposal will not violate adopted level of service standards. No other plans regarding pedestrian or vehicular traffic appear to apply to the proposal.

KMC 18.105.050(A)(5): *Conformity with the City's comprehensive plan.*

- E. The criterion is met. The proposal is consistent with applicable comprehensive plan policies as follows:

a. Policy LU-1.1.1 of the Land Use Element states that the City should: "*Encourage development within Kenmore that creates and supports a healthy and diverse community. Kenmore should contain affordable housing and employment opportunities and should protect the natural environment and significant cultural resources.*" The proposal would create employment opportunities in the hotel, spa, restaurant, and café; would have no significant impacts on the environment; and would maintain and preserve the historic seminary building.

b. Policy LU-3.2.2 states that the City should: "*Encourage land uses and development that retain and enhance significant historic and archaeological resources and sustain historic community character.*" The proposal would retain and maintain the historic and archaeological character of the seminary building; changes to the historic exterior character of the building are not proposed and the interior character of the structure would be maintained as much as possible.

c. Policy LU-12.1.3: "*Encourage private reinvestment in residential and commercial areas by...investigating mechanisms that support historic residential and commercial sites or neighborhoods.*" The proposal encourages private reinvestment in a commercial site located within a residential area that will support and maintain the historic character of the neighborhood.

SEPA APPEAL (State Environmental Policy Act, chapter 43.21C RCW)

Conclusions of Law

4. Examiner Authority. KMC 19.35.160(A) provides that appeals of FEIS adequacy shall be heard by the hearing examiner pursuant to KMC 19.30.070. KMC 19.30.070(A), which applies to most if not all administrative appeals, provides that appeals to the hearing examiner shall be final subject to appeal to superior court. However, KMC 19.25.020(B) provides that "*all Type 2, 3 and 4 decisions included in*

consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest-numbered land use decision type applicable to the project application.” (emphasis added).

Despite KMC 19.25.020(B), at the hearing, the City and Applicant argued that the City Council is barred from considering the SEPA appeal and that the examiner’s decision must be final. The parties were not able to cite to any legal authority at the time, but it appears this position is likely based upon WAC 197-11-680(3)(a)(iv), which provides that “[a]n agency shall provide for only one administrative appeal of a threshold determination or of the adequacy of an EIS; successive administrative appeals on these issues within the same agency are not allowed.” Read strictly, this quoted language only prohibits an appeal of an examiner FEIS adequacy decision to the City Council. A recommendation of the examiner is not technically reviewed by the City Council as a “successive appeal” and hence would technically not violate WAC 197-11-680(3)(a)(iv). However, the SEPA handbook (published by DOE as an interpretive guide to the SEPA rules) interprets the “successive appeal” language as encompassing “successive review”:

A DS, DNS, or EIS are each subject to a single administrative appeal proceeding. Successive reviews within the same agency are not allowed. For example, a hearing examiner’s decision on the appeal of a DS cannot be further reviewed by the local legislative body. Further consideration is limited to review by a court as part of a judicial appeal.

SEPA Online Handbook, Washington State Department of Ecology, Section 11.1.

Under the SEPA Handbook language, consideration of the FEIS adequacy appeal by the City Council is prohibited. Given the SEPA handbook and the lack of any objection to barring City Council review of the FEIS Appeal, the examiner’s authority on the FEIS appeal is construed as issuing a final decision subject to appeal to superior court.

5. Standard of Review. At the pre-hearing conference the hearing examiner identified the basic standard of review for EIS adequacy as the “Rule of Reason.” The most recent Washington State judicial manifestation of the Rule of Reason was enunciated as follows:

We examine the legal sufficiency of the environmental data contained in an EIS to determine whether the EIS is adequate under SEPA. We test EIS adequacy according to the “rule of reason.” The EIS must present decision makers with a “reasonably thorough discussion of the significant aspects of the probable environmental consequences’ of the agency’s decision.” An EIS aids the decision-making process and need not address every conceivable effect or alternative to a proposed project. “[T]he EIS need include only information sufficiently beneficial to the decision-making process to justify the cost of its inclusion. Impacts or alternatives which have insufficient causal relationship, likelihood, or reliability to influence decisionmakers are “remote” or “speculative” and may be excluded from an EIS.’

Cascade Bicycle Club v. Puget Sound Regional Council, 175 Wash. App. 494, 508-09 (2013).

Other comments often cited in the legal briefing on EIS adequacy include the following:

- A. Challenges may not “flyspeck” an EIS; omissions in analysis may be “unfortunate, but not fatal.” *Mentor v. Kitsap County*, 22 Wn. App. 285, 290 (1978).
- B. The “comprehensive review envisioned by SEPA is to be detailed and does not invite a lackadaisical approach.” *Leschi Improvement Council v. Washington State Highway Commission*, 84 Wn.2d 271, 280 (1978).
- C. SEPA requires agencies to take a “hard look” at environmental factors. *PUD No. 1 of Clark County v. PCHB*, 137 Wn. App. 150, 158 (2007).
- D. Finally, the hearing examiner must give “substantial weight” to the Responsible Official’s determination that the EIS is legally adequate. RCW 43.21C.090

Appeal Issue No. 1

The SEPA responsible official did not require or collect the necessary or adequate information upon which to make a decision regarding parking, traffic, drainage, air quality, noise pollution, light pollution, existing park culture, impacts on current park users, adjacent property owners and residents of the community, character and livability of the surrounding neighborhoods (including parking ingress and egress to adjacent properties), quality of life of nearby residents and pedestrians, child safety, public services, flooding and flood-ways, wildlife, bio-diversity, and flora degradation, light and glare, soil erosion, and groundwater and drainage patterns. The level of analysis and information were inadequate and fell below meeting the burden of review required by the responsible official under the State Environmental Policy Act (SEPA), ch. 43.21A RCW, and state and local regulation implementing that law, including WAC 197-11-080 and WAC 197-11-335.

Conclusion of Law

6. WAC 197-11-080 and WAC 197-11-335. The Appellant has cited WAC 197-11-080 and WAC 197-11-335 as the legal basis for determining that specified impacts were inadequately addressed in Appeal Issue No. 1. WAC 197-11-080 sets out how incomplete or unavailable information should be addressed. The factual issues of Appeal Issue No. 1 are identical to the factual issues of Appeal Issue No. 2. For the reasons identified in the assessment of the factual issues of Appeal Issue No. 2, below, information was sufficient to assess impacts or there were no significant impacts to assess. In either event, the information was neither incomplete or unavailable. Consequently, there is no basis to conclude that the FEIS was inadequate due to incomplete or unavailable information under WAC 197-11-080. WAC 197-11-335 applies to threshold determinations, which is irrelevant to an appeal based upon the adequacy of an FEIS.

Appeal Issue No. 2

The proposed Lodge at St. Edward is likely to have significant adverse and unmitigated impacts on parking, traffic, drainage, air quality, noise pollution, light pollution, existing park culture, impacts on current park users, adjacent property owners and residents of the community, character and livability of the surrounding neighborhoods (including parking ingress and egress to adjacent properties), quality of life of nearby residents and pedestrians, child safety, public services, flooding and floodways, wildlife, bio-diversity, and flora degradation, and light and glare. These impacts have not been adequately identified, analyzed, or mitigated in the FEIS.

Findings of Fact for Appeal Issue No. 2

11. Issue as Presented. At hearing, the Examiner granted the Applicant's motion to remove from Appeal Issue No. 1 issues pertaining to drainage, air quality, police, flooding, soil erosion, and ground water, as the Appellant did not pursue these issues at the hearing. The traffic issues raised by the Appellant are addressed under other appeal issues. The remaining issues are individually addressed as follows:

12. Parking. The most difficult SEPA appeal issue is the adequacy of the EIS parking analysis. It is concluded that the EIS provides a reasonably thorough discussion of the parking demands created by the proposal and thus satisfies the Rule of Reason for adequacy. However, the FEIS' conclusion that proposed parking is adequate is a questionable one given the supporting data. The information used to support the FEIS supports the conclusion that the 153 parking spaces proposed by the Applicant may not be sufficient to meet parking demand on a regular basis. Based upon these conclusions, it is recommended that the City Council employ its SEPA authority to condition the project with monitoring requirements that will ensure adequate parking.

- A. Basis of Parking Concern. Parking is a significant concern to the SEPA Appellant because Appellant believes that overflow from the proposal lodge parking would likely use the public parking of St. Edward Park. St. Edward has 220 public parking spaces. See App. H, Section 2.6. The Appellant testified that on nice weekends in the summer months, the parking at St. Edward is at full capacity and that large events at the proposal would create parking problems for park users. Tr. 299:16-23.
- B. Applicant's Adequacy Argument Not Compelling. Prior to assessing the parking information contained in the FEIS, it must be noted that the Applicant's position on adequacy of parking analysis was not compelling. The Applicant argued that the FEIS parking analysis was adequate solely because the FEIS identified that at full hotel occupancy there would be enough parking to accommodate 120 additional conference guests and that if parking wasn't sufficient, then excess parking could be accommodated at Bastyr or by valet parking. See, e.g. Tr. 610:25-612:17. When parking is a concern in a land use application, the obvious and primary issue is whether proposed parking will

meet demand. According to the Applicant, an adequate EIS parking analysis only needs to identify how much parking remains available when one part of a multi-use building is at full occupancy. That position is absurd. In the absence of some estimate of parking demand, data on parking availability is useless. If the information in the FEIS were limited to parking supply, the FEIS parking analysis would be unquestionably inadequate.

- C. FEIS Conclusions on Adequacy of 153 Parking Spaces. Despite the shortcomings of the Applicant's arguments, useful information on parking demand was presented in the FEIS and this information can be used by the decision maker to adequately mitigate against parking impacts. Ironically, the Applicant used this same information to support its questionable FEIS conclusion that parking would be adequate. The FEIS, at page 1-10, concludes that the spaces available for up to 120 guests "*would meet the demand for most conference/meeting events.*" This conclusion is evidently based upon the conclusion of the Applicant's traffic expert, Jennifer Barnes, who concluded at page 15 of her firm's traffic report, Appendix H to the DEIS, that "[t]he proposed on-site parking is expected to exceed parking demand under most conditions with the Lodge alternatives." The DEIS and traffic study do not identify how Ms. Barnes arrived at this conclusion.
- D. Cedarbrook Study Shows 153 Spaces Inadequate. It was only when pressed at the hearing that Ms. Barnes stated she based her conclusion that parking was adequate upon a traffic study of a comparable facility located close to the Sea-Tac Airport, Cedarbrook Lodge. Tr. 559:1 through 560:4. The traffic study for Cedarbrook Lodge was issued on February 18, 2013 for a proposed expansion of that facility. At the time of the study, the Cedarbrook Lodge had 110 guest rooms and 18,000 square feet of meeting space, compared to the 100 guest rooms and 16,600 square feet of meeting rooms for the subject proposal. See DEIS, app. H, att. B. The Cedarbrook study was conducted over a ten-day period from January 11, 2013 to January 20, 2013. Ms. Barnes' conclusion was based upon the traffic and parking counts taken during this ten-day period, which apparently were taken over seven days of traffic counts. See Footnote No. 1. During cross-examination, Ms. Barnes was unable to state the number of guests that would typically use the conference facilities at St. Edward. Tr. 543:22-544:25. The DEIS also acknowledges that the parking demand rate for Cedarbrook conference guests was probably less than the proposal's conference guest rate, because Cedarbrook is close to Sea-Tac and many of its guests are transported by taxi and airport shuttle instead of by personal car. Tr. 528:15-20. See DEIS p. 3.12-7.

The problem with Ms. Barnes' testimony is that the Cedarbrook study doesn't support her conclusions. During the January 11, 2013 through January 20, 2013 traffic data collection period for the Cedarbrook study, the Cedarbrook conference facility had daily conference attendance ranging from 100 to 200 guests with an average of 140 guests per day. See DEIS, Appendix H, att. B, p. 4. Scaled down on a prorated basis based on comparable conference facility area (18,000 square feet for Cedarbrook verses 16,600 feet for the proposal), that equates to an average of 129 guests per day for the Applicant's proposal. As previously noted, the Applicant's traffic consultant had concluded that parking for only up to 120 guests would be available at full hotel occupancy. The Applicant's traffic

consultant also determined from the Cedarbrook data that 0.9 parking spaces are needed per conference guest. See DEIS, Table 3.12-5. Using the Cedarbrook conference data, this means that 116 parking spaces are needed for the average 129 conference guests, leaving 37 parking spaces for hotel guests. The Applicant's consultant determined that 0.45 parking spaces are needed per hotel room occupancy during daytime use, see DEIS Table 3.12.-5, meaning that on a day of average conference attendance, the hotel cannot be at greater than at 82% occupancy to avoid exceeding parking supply. If occupancy is greater, or if conference attendance is more than average, the number of parking stalls would be insufficient to meet parking demand.

As previously noted, the Applicant's traffic analysis acknowledges that parking generation rates per conference guest for the proposal are probably higher than at Cedarbrook because Cedarbrook patrons will more frequently use taxis and airport shuttles due to the proximity of Sea-Tac Airport. Given these circumstances, it is questionable to conclude that "*under most conditions*," parking will be sufficient. It is recognized that hotel occupancy may rarely exceed 82%, but in the absence of any evidence to the contrary, it is statistically implausible that under "*most conditions*" conference attendance will remain at or below average numbers on a regular basis. One could give some deference to Ms. Barnes' professional judgment on the issue, but Ms. Barnes was adamant in her testimony that she didn't know how many people would typically attend conferences. Tr. 543:22 through 544:25.

- E. Functional Occupancies Support Suggest 153 Spaces Inadequate. The inadequacy of the parking is further highlighted by information presented by the Appellant. The Appellant submitted Cedarbrook floor plans obtained from the facility that identified occupancy limits for each of its meeting rooms based upon six types of seating arrangements, ranging from the lowest-capacity "U-Shape" seating to the maximum functional occupancy of "Cocktail Seating." See Ex. S2. Based upon this occupancy data, the Appellant determined that the maximum occupancy of all meeting rooms combined for Cedarbrook was 1017 people and the minimum occupancy was 544. See Ex. S5. Prorating to the smaller meeting space of the subject proposal, the Appellant determined that the maximum/minimum occupancy for the proposal is 938/487⁶. In short, if one conference uses the minimum occupancy "U-Shaped" seating arrangements for its registrants, as noted at p. 3.12-11 of the DEIS, it will exceed parking capacity if it has more than 120 registrants when the hotel is fully booked with overnight guests. If the hotel has no overnight guests, parking demand will exceed supply when there are more than 170

⁶ The Appellant arrived at a figure of 986/528, which was based upon a total meeting space of 17,077 square feet of total meeting space as advertised on the Cedarbrook website, Ex. S2. The 938/487 figure is based upon a total meeting space of 18,000 square feet for Cedarbrook as reported in the Cedarbrook traffic study, Att. B to app. H to DEIS. The Cedarbrook traffic study is found to be more accurate on total meeting space for purposes of comparison because the methodology of the two traffic reports (written by the same consulting firm) in determining meeting area is likely more comparable than the methodology used to report meeting space at the Cedarbrook website.

registrants⁷. Under this latter scenario, parking demand for an empty hotel would exceed capacity for a conference that takes up less than a third of available meeting space at the minimum occupancy “U-Shaped” seating arrangement. Of course, most professional conferences don’t use the space-wasting “U-Shaped” arrangement, but usually economize with classroom seating, which more than doubles capacity in larger meeting rooms. Given all these factors, it is reasonable to conclude that just one large conference on its own, taking less than a third of the facility’s meeting space, will exceed parking demand. A couple weddings with just 100-200 guests each scheduled during a summer weekend, when parking demand is greatest in the surrounding park, could significantly exceed facility parking and place a significant strain on public parking available in the St. Edward Park.

F. City’s Parking Standards Suggest Parking Inadequate. Another indicator that the proposed parking is inadequate is the City’s parking standards. Adopted parking standards are often determinative on the adequacy of parking, since they identify what has been legislatively determined to be adequate parking for a specific community. In this case, as noted in COL No. 2, the proposal doesn’t fit neatly into any of the City’s use classifications and it can be only marginally concluded that the proposal qualifies as a hotel instead of a conference center. As further noted in COL No. 2, as a hotel use, the City’s parking standards only require 100 parking places, which is easily met by the project. However, as an indicator of parking demand, the City’s conference center use classification is far more telling. As noted in COL No. 2, the City’s hotel use definition doesn’t mention conference or meeting room space. It is likely that conference or meeting space played little or no role in estimating parking demand for overall hotel use. However, parking demand created by conference center use obviously does take parking demand created by conference center use in to account. The Applicant’s architect testified that the proposal includes 35,000 square feet of lodging space. Tr. 280:25-281:1. If the proposal were just a 16,600 square foot conference center instead of a 16,600 square foot conference center with 35,000 square feet of lodging space, there would be no question that the proposal would qualify as a conference center. As a 16,600 square foot conference center, KMC 18.30.040 would require 332 parking spaces for the facility, based upon the rate of one parking space per 50 square feet of meeting space. It would be fairly absurd to conclude that since the proposal has added 35,000 square feet of lodging space that parking demand is cut in half. The City’s conference center parking standard was clearly more specifically directed at estimating conference center parking demand. Under that standard, the proposed 153 spaces are inadequate.

G. Maximum Building Code Occupancy Argument Irrelevant. The Applicant’s architect, Ron Wright, testified that the maximum building code occupancies are rarely used. Tr. 376:20-380:16. This testimony was irrelevant. The Cedarbrook analysis used by the

⁷ The total amount of parking proposed for the proposal is 153 spaces. The traffic study for the proposal determined that conference guests generate a demand of 0.9 parking spaces per conference attendee, which means that 170 guests would need 153 spaces.

SEPA Appellant, FOF No. 11(E), was based upon occupancies dependent upon seating arrangements, not maximum building code occupancies. See Ex. S2. This Recommendation and Decision refers to the Cedarbrook seating plan occupancies as “functional occupancies” to distinguish them from building code occupancies. Further, even if maximum functional occupancies are rarely met, it is difficult to believe that “*under most conditions*” the conference facilities will be operating at less than a third of functional capacity, the maximum occupancy that can be attained with an empty hotel before exceeding parking demand as determined in Finding of Fact No. 13(E).

- H. ITE Parking Demand Studies Arguably Support Adequacy. The Institute of Traffic Engineers Parking Generation 4th Ed. estimates parking demand of only 89 parking spaces for the facility. See DEIS Table 3.12-5. This is based on the “Hotel” designation, which is defined as “places of lodging that provide sleeping accommodation and supporting facilities, such as restaurants, cocktail lounges, meeting and banquet rooms, or convention facilities.” Tr. 59:21-60:7. The FEIS determined that the ITE hotel rate applies to the proposal and the Appellants did not identify any more appropriate category. Ms. Barnes confirmed there is no conference center designation in the ITE parking generation manual and that the “Hotel” ITE definition fits the proposed use precisely. Tr. 536:22-537:23. However, Ms. Barnes’ use of Cedarbrook data reveals that she didn’t believe that the ITE hotel classification was well suited to assess traffic and parking impacts of a hotel with a significantly sized conference center. Ms. Barnes’ election to supplement her analysis with Cedarbrook unfortunately falls under the “no good deed goes unpunished” category, but nonetheless her resort to Cedarbrook data evidences the inadequacy of the ITE “Hotel” category for estimating parking demand.
- I. Small Size Proposed Conference Room Suggests Smaller Conferences than Cedarbrook. One argument not raised by the Applicant but derived from the City’s parking “conference center” interpretation is that the largest meeting room in the proposal is substantially smaller than the meeting room in Cedarbrook. Excluding the 4,190-square foot “Reflections Gallery” in the Cedarbrook floorplans, which for some reason can’t be used for most types of conference seating, the largest conference room in Cedarbrook is 3,276 square feet. This 3,276-square-foot meeting room enables conference seating of up to 175 guests and theater seating up to 225 guests, which is 75 more conference guests than the proposal could accommodate in its largest meeting room under the floorplans depicted in the FEIS. If the Applicant doesn’t change the floor plans to create a larger meeting room, the limitations in maximum meeting space could have a downward influence on average daily attendance. Ms. Barnes could have factored this reduction in maximum meeting room space when she employed her expertise to determine that proposed parking was adequate, but this would be contrary to her testimony. Ms. Barnes testified that she was unable to accurately ascertain projected demand because the conference center hadn’t been designed yet. Tr. 560:5-10. This begs the question of how she was able to conclude the proposed parking was sufficient in the first place.
- J. FEIS Establishes Reasonable Concern that Parking Will Often Be Insufficient. Overall, even with the substantial weight due the SEPA responsible official’s determination of

FEIS adequacy, the majority of evidence in the record supports a reasonable concern that the proposed parking will not be sufficient to meet parking demand on a regular basis. The only direct data on parking demand, from the Cedarbrook study, reveals that on an average day parking demand will only be sufficient if the hotel operates at less than 82% occupancy. As determined in FOF No. 11(E), average conference attendance is less than a third of functional occupancy. This means that on the sunny weekends of summer, when St. Edward Park parking is in high demand, a large wedding or similar gathering in combination with other conference center events could easily exceed available parking. The Cedarbrook data is particularly concerning since the Applicant's traffic consultant acknowledged it probably underestimates parking demand for the proposal. ITE data suggests that parking may be adequate, but this is based upon a hotel use classification that doesn't distinguish between hotels with conference centers and those without. The Applicant's traffic consultant acknowledged the deficiencies of the Hotel classification by adding the Cedarbrook data to her parking demand analysis. City parking standards directed at stand-alone conference centers suggest that the parking for the facility should be twice as much as proposed.

13. Marbled Murrelet. The second most compelling appeal issue raised by the SEPA Appellant was the marbled murrelet, a species listed as threatened under the Endangered Species Act. Tr. 198:25-199:1. The Appellant constructed a compelling and creative case that although the project site is not anywhere near any marbled murrelet habitat currently, St. Edward Park will be an ideal habitat for marbled murrelet habit a couple decades from now when park trees become old enough to qualify as old growth forest. As shall be discussed, there are significant problems with this argument, but properly presented it could serve as a valid foundation for an adequacy appeal. However, the Appellant's argument ultimately did not hold up when it came to establishing that this proposal, which is primarily limited to the conversion of an existing building to a hotel, would adversely affect marbled murrelet nests. Given that the proposal will make only nominal exterior changes to the facility and will add a negligible amount of daytime foot traffic on the trails, impacts to the murrelet are limited to nighttime use of the trails. The evidence is too remote and speculative to conclude that the proposal would create any significant adverse impacts to marbled murrelet nests due to night time trail use.

A. Qualifications of Witnesses.

a. Dr. William Bain provided the marbled murrelet testimony for the Appellant. Dr. Bain had significantly more expertise in working with marbled murrelet than any other witness at the hearing. He earned a Ph.D. in biology from the University of California at Santa Cruz. Tr. 197:9-10. He is one of about 70 certified marbled murrelet observers, a qualification that requires field experience and identification skills plus attendance at annual trainings. Tr. 197:17-23. Though his primary specialty is killer whales and other marine mammals, killer whales and marbled murrelets share offshore habitat. Tr. 210:22-24. He has done over 10,000 hours of fieldwork in this habitat, routinely cataloguing the location of marbled murrelets he observes. Tr. 197:11-12, 211:15-23. He has recently done more in-depth monitoring for the U.S. Fish and Wildlife Service, focusing on disturbance of marbled murrelets. Tr. 211-12, 213:17-19. Though he has not published his own work on the marbled murrelets, he has contributed to a publication related to how noisemaking

devices may be use to ward marbled murrelets away from gill nets. Tr. 197:12-16. And he testified he has collected enough data on the marbled murrelets to write the equivalent of a master's thesis on the species. Tr. 238:12-16. Of the witnesses who testified regarding the marbled murrelet, Dr. Bain has the most focused and relevant experience with the species.

b. The Applicant had two primary witnesses address this issue. The first was Ms. Nel Lund, a wetland ecologist whose firm compiled a wetland and wildlife study for this project. Tr. 453-54. She is a professional wetland scientist, but she personally does not focus on wildlife. Tr. 454:3-21. The applicant's arborist, Mr. Scott Baker, has 40 years' experience in arboriculture with an urban forestry specialization. Tr. 480:3-11. He is a registered consultant arborist with the American Society of Consulting Arborists, and he is a board-certified Master Arborist. Tr. 480-82. Mr. Baker is familiar with the marbled murrelet from that background, but he denied involvement in any previous projects concerning the marbled murrelet. Tr. 486:15-25, 489-90. Of the witnesses, Mr. Baker has the most experience identifying and working with old-growth forests.

B. Characteristics of the Marbled Murrelet. Marbled murrelets are coast-oriented birds who nest in trees and feed at sea, traveling back and forth to feed the chicks left in the nest. Tr. 199:12-23. Dr. Bain testified that marbled murrelets will only nest in habitat that meets three conditions: 1) old-growth forest; 2) tree stands more than 60 acres in size; and 3) a site less than 50 miles from Puget Sound. Tr. 199:3-7, 200:5-6. Dr. Bain and Mr. Baker both stated that "old-growth" for the murrelet's purposes would include trees more than 100 years old. Tr. 199:6, 487:4-9. Marbled murrelets leave their nests in the early morning and come back around dusk, spending most of the day at sea. They rely on the cover of darkness to prevent predators from observing their nests. Tr. 201:10-19. The marbled murrelets value their privacy and will tend to nest away from human activity. Tr. 273-75.

C. Likelihood of Marbled Murrelet Nesting in St. Edward State Park.

a. No party disputes that St. Edward State Park is not suitable marbled murrelet habitat right now. Tr. 199:7-9, 487-88. As Dr. Bain and Mr. Baker testified, the area was logged in the 1920s. Tr. 222:20, 488:11-14. Dr. Bain testified that within the life of the lease, in about 20 years, the trees will be old enough to qualify as old-growth. Tr. 219:1-5. Marbled murrelets are likely to still be on the endangered species list in 60 years. Tr. 219:5-6. Because this park is much closer to the shoreline than other known nesting sites, Dr. Bain believes that the energy savings will make St. Edward a good nesting option. Tr. 199:12-23, 204:18-20. He identified two areas of the park which he believed could provide enough buffer for future nests. Tr. 473-75.

b. Mr. Baker estimated that it would take over 30 years before the park could possibly become murrelet habitat. Tr. 488:3-11. He noted that the park currently has patches of invasive species, which he speculated could make the forest less attractive to the murrelet. Tr. 488-89. More importantly, he noted that determining whether a forest is old-growth is more complex than calculating the age of individual trees. Tr. 489:2-5.

A key component of old-growth forests is that no biomass has been removed by logging, so the biomass from fallen trees stays in the system. Tr. 492-93. Based on the timing of logging at St. Edward, Mr. Baker thought it likely that, after the area was logged, the debris was burned and the forest was left to regrow naturally without replanting. Tr. 493:10-16. In that case, it could take more time for the forest to return to an old-growth state appropriate for marbled murrelets.

- D. Availability of Alternative Nesting Sites. It is logical to infer a strong inverse causal relationship between the incidence of suitable habitat in the region and the likelihood of an actual nesting site at St. Edward State Park in the future. For example, if St. Edward will be the only 60-plus-acre old-growth site within five miles of Puget Sound 20 years from now, that type of statistic strongly supports Dr. Bain's opinion that a future nesting site is likely at the project site. Indeed, Dr. Bain testified that "essentially all" of the marbled murrelet's coastal breeding habitat in the region has been lost. Tr. 204:7-10. The population now nests in the foothills, much further from shore. Tr. 204:14-15. Dr. Bain's written statement suggests that there may be only three other sites in the "area" that may develop marbled murrelet habitat in the future, but he does not define the "area" and it is not clear that these are the only suitable sites. There is no information in the record about how much suitable habitat exists, or may soon exist, in the Puget Sound region. Dr. Bain testified that this is an open question, as the Department of Natural Resources is now preparing a forest plan for this "nesting area" (again, not defined in the record) that could add as much as 21,000 acres (or subtract as much as 1,000 acres) of marbled murrelet breeding habitat. If DNR increases their habitat acreage, it is less critical that St. Edward State Park be preserved. Tr. 200:14-21, 202:1-15.
- E. Significant Adverse Impacts to Future Marbled Murrelet Nests Not Established. Regardless of whether St. Edward is "likely" to become marbled murrelet habitat in the next 20 to 60 years, the Appellant's marbled murrelet arguments ultimately do not reveal any inadequacy in the FEIS, because the Appellant didn't establish that the proposal would create significant adverse impacts to any future marbled murrelet nests in the park. If such a nest were located at St. Edward park 20 years from now. The exterior impacts of the proposed conversion are relatively modest, and neither Dr. Bain nor Mr. Baker believed that murrelets would ever nest in the leased project area. Tr. 222:5-9, 234:3-9, 487:15-23. Dr. Bain conceded that nothing proposed within in the project area was likely to directly affect the marbled murrelet; the primary concern would be traffic to and from the site. Tr. 216:1-4. Dr. Bain noted six potential impacts to marbled murrelets, mostly related to increased traffic to, from, and within the park:
- a. Food scraps: Dr. Bain testified that increased use of any sort would increase the number of food scraps in the park, which would attract crows and other predators. Tr. 201:6-9, 236:2-8. But he did not dispute that the park is heavily used, hosting about 865,000 people per year per the EIS. Tr. 232:13, 237:4-8. There was no testimony on whether food scraps are an issue now, and no evidence was presented that the lodge guests would generate significantly more food scraps than the current park baseline.
 - b. Light: Dr. Bain testified that increased light levels in the park could allow predators to observe murrelets' movements and raid their nests while they are out at sea. Tr.

201:10-19. Ms. Lund agreed that light impacts from this project are likely to cause wildlife to avoid the project area, though she did not have hard data on these effects or on how well the forest would buffer them from wildlife. Tr. 465-68, 471-72. She recognized that the timing of the light and glare would make a difference to wildlife. Tr. 478-79. But when Dr. Bain questioned Ms. Lund, the two witnesses agreed that marbled murrelets would avoid the project site anyway and would nest in parts of the park that are at least a quarter mile from the project site. Tr. 473-75. Dr. Bain expressed concern that any light from the project would be reflected toward the water by snow or clouds, but he admitted that this reflected light would likely not be materially different from the existing reflected light of surrounding development, particularly if “done right.” Tr. 226-28, 236:21-24. Mr. Ding, who performed the applicant’s light and glare study, opined that the mitigation measures identified are sufficient to address light spillage. Tr. 579-80.

c. Noise: Dr. Bain testified that marbled murrelets are more easily disturbed by noise than many other birds, a fact not considered in the EIS. Tr. 228:5-10. Dr. Bain testified that noises like yelling would be a concern, but a normal conversation would not be an issue. Tr. 205:2-5. Ms. Lund was not sure how the forest might buffer noise from the project site, but she testified that, based on a preliminary overview, noise levels would have to increase 20 to 25 decibels to disturb species such as the marbled murrelet. Tr. 465-69. Dr. Bain mentioned noise standards based on Navy studies, though it is not clear if he and Ms. Lund are referring to the same standard. Tr. 238:22-239:1. Dr. Bain noted that the research on marbled murrelets and gill nets suggests that a much lower level of noise would affect murrelet behavior. Tr. 239:1-3. Aside from new noise due to nighttime trail use (discussed below), the evidence does not establish that the project site will create noise impacts that would disrupt future murrelet nesting.

d. Human visual contact: Dr. Bain testified that it is a concern if humans are close enough for marbled murrelets to see them. A 300-foot buffer is recommended, though Dr. Bain noted that the science is not necessarily adequate to support that. Tr. 205:6-10. Witnesses agreed that the murrelet would avoid the project site and frequently-used trails. Tr. 473-75. The project does not add new trails to the park area. Tr. 230:23-231:1. Given that the project site is already developed and there are an estimated 865,000 people a year who use the park already, the appellants did not establish that the additional lodge guests would materially affect human visual contact at the project site or within the trail system.

e. Vehicle collisions: Dr. Bain briefly suggested that vehicle collisions might be an issue. Tr. 201:20-25. He agreed with the EIS’ conclusion that an increase in car traffic to and from the site may affect wildlife. Tr. 224:18-225:6. Since, as multiple witnesses testified, the marbled murrelet is unlikely to frequent existing human travel routes, the appellants did not demonstrate that this would have significant impacts on the marbled murrelet.

f. Trail use: As Dr. Bain testified, the largest potential impact is from additional human activity within the park and along the trails. He did not dispute Mr. Kaseguma's suggestion that the trails would have perhaps 100 new users a day from the project. He agreed that, based on an estimated 865,000 annual park attendance now, that would only represent a 4.2% increase in traffic. Tr. 236-37. However, Dr. Bain testified that the timing of use is important: new trail users at night or within two hours of dawn or dusk would have greater impacts on the marbled murrelet than new daytime users. Tr. 237:7-13. In any event, as discussed in COL No. 13, there is nothing in the record to reasonably suggest that there will be enough nighttime trail use to have significant impacts, and mitigation identified in COL No. 14 should aid in clarifying trail hours for lodge guests and discouraging nighttime trail use that could affect a range of wildlife—including any future populations of marbled murrelet.

14. Noise. Tracey Hendershott testified that at night the park is currently closed and the proposal would change this by enabling night time use of the seminary building, which in turn would lead to noise generating activities that could adversely affect wildlife. Tr. 170:8-15.

- A. Sources of night time noise. Ms. Hendershott noted that night time noise generating activity could involve activity in the seminary building and grounds, vehicles coming in from the road and people using adjoining trails, particularly trails to the water's edge. This noise could affect wildlife and deprive it of a chance to rest after all-day human activity. Tr. 195:4-12.
- B. Noise can Potentially Adverse Wildlife. Ms. Hendershot submitted written materials referencing studies that have determined that the magnitude of noise impacts on individual animals or population health is unknown. The studies show that impacts to human activity on trails displace animals and cause some to shift their activity from daytime to nighttime hours. The studies conclude that this displacement in time and space "*may carry survival costs for wildlife such as increased predation or decreased feeding efficiency at night for certain species.*" Ex. S7, Nighttime Access Management Paper, p. 5.
- C. FEIS Mitigation Partially Addresses Noise. The DEIS contains a mitigation measure at page 3.3-13 that requires the Applicant to avoid or limit construction activities during February through July to minimize disturbances to nearby breeding birds as feasible. The applicant's wildlife expert, Neil Lund, testified that if this mitigation is followed, there shouldn't be a significant impact to breeding birds in the area. Tr. 468:1-9.
- D. DEIS Identifies Noise Impacts. Section 3.3-10 of the DEIS acknowledges "*that Operational noise and light from the proposed project could also affect wildlife in the site vicinity. Since use of the park is not currently permitted after dusk, the greatest long-term effect from the project would occur in the form of increased noise from dusk to dawn*" and also that "*[c]onstruction activities would be limited to daylight hours, and temporary increases in noise could temporarily disturb wildlife occurring adjacent to the project area.*"
- E. No Protected Species at Project Site. According to the uncontested findings of the Applicant's Habitat Assessment of St. Edward State Park Seminary, DEIS Section 3.3;3.3.1, there are no

protected species located at the “animal study area,” which was comprised of the project lease area and areas approximately 900 feet beyond the lease area, as depicted at p. 3.3-2 of the DEIS.

15. Light; Light and Glare. The SEPA Appellants assert that the FEIS fails to adequately address night time lighting impacts on plants, fish and wildlife. Tr. 170:24-25.

A. Light Can Affect Human Health and Ecosystems. Tracey Hendershott submitted an article from the Audubon Society that notes that artificial light is a form of pollution that impacts human health and entire ecosystems. The article noted that the American Medical Association published an article encouraging municipalities to follow good lighting practices when selecting street lighting to “*minimize potential human and environmental effects.*” Ex. S7, “Light Pollution-the Reversible Scourge on Our Night Sky.”

B. Comprehensive Plan Requires Mitigation of Light Impacts. Comp Plan Policy LU 13.3.2 requires “...*appropriate illumination levels and light shields and direction for lighting standards along streets and in public open spaces and parks.*” City staff determined that the Applicant has prepared a careful lighting design that is appropriate for its location within the park consistent with LU 13.3.2. Tr. 38:7-10.

C. Project Light Could Affect Lake Washington Fish. Dr. Bain, the Appellant’s marbled murrelet witness, testified that light from the proposal could potentially bounce off clouds or snow and illuminate Lake Washington, thus adversely affecting fish. Tr. 227:15-17. Dr. Bain acknowledged that in this regard the light from the proposal wouldn’t be that different from other development around the area, but that somebody should measure it. Tr. 227:20-228:1.

D. DEIS Recognizes Light Impacts. Section 3.3-10 of the DEIS acknowledges “*that operational noise and light from the proposed project could also affect wildlife in the site vicinity. Since use of the park is not currently permitted after dusk, the greatest long-term effect from the project would occur in the form of increased noise from dusk to dawn*”

E. FEIS Mitigation Measures Address Light Impacts. Jeff Ding, the project manager for the EIS, testified that he evaluated light impacts for the EIS. Mr. Ding is a land use planner with 16 years’ experience with a focus on environmental review. For the EIS he compared current light conditions, which are minimal, with light impacts that would result from the proposal. Mr. Ding determined that there would be light spill from construction work and daily operations and that this spillage could affect wildlife as disclosed in Section 3.8 of the DEIS. Tr. 576-80. In Mr. Ding’s opinion, mitigation measures identified at Section 3.8.3 of the DEIS, which require shielded and downward lighting for operations and construction work, should be sufficient to adequately mitigate against light impacts. Tr. 580:22-24.

16. Wildlife. Noise and light impacts to wildlife have already been addressed separately. The only remaining impact to wildlife raised by the Appellant is added trail use.

- A. Addition of Trail Trips Insignificant. During the hearing, the City assumed in its questioning that Dr. Bain had estimated that the proposal would add 100 trail users to St. Edward Park on a daily basis. See Tr. 237. Dr. Bain didn't in fact make any such estimate, but the 100 trips isn't an entirely speculative maximum daily trail use estimate, given that there are 100 hotel rooms proposed. Ex. A26, p. 7, which contains the most recent park attendance figures, notes that in 2007 park attendance was 865,000 people. As noted by the City in its questioning of Dr. Baine, if all 865,000 persons are considered to use the trails, the added trail use generated by the proposal would only be a 4.2% increase over 2007 park attendance. Tr. at p. 237, ln 1-6. Even using 200 added trail trips per day, which would account for the large majority of hotel and conference guests on an average day, the increase in trail use is negligible and the Appellant presented no evidence that such a nominal increase in trail use could create significant adverse impacts to wildlife and nothing in the record suggests such impacts as a reasonable possibility.
- B. Night Time Trail Use Likely Insignificant. Dr. Baine was particularly concerned about night time trail use. As noted in FOF No. 14, noise from day-time trail use can displace wildlife activity to night hours, so presumably night time trail use would be more disruptive to wildlife if that is the last refuge for activity. The Lake Washington shoreline is 1,500 feet away, see FOF No. 3, so it is possible that some guests may make walk the trails in the dark to get to the shoreline. However, park rules prohibit night time trail use. See WAC 352-32-050. There is nothing in the record to reasonably suggest that significant numbers of proposal patrons will elect to walk to the shoreline or anywhere else in the dark in violation of park rules. Early morning hours at first light when the park isn't yet open could be a draw to early morning joggers. To mitigate the situation if the City Council is concerned about trail use during closed park hours, a condition could be added to the site plan decision to require the applicant to post restrictions on trail heads close to the proposal and also provide that information in written form to hotel guests.

Conclusions of Law for Appeal Issue No. 2

7. Parking FEIS Analysis Adequate. The parking analysis in the FEIS is adequate under the Rule of Reason. Under the Rule of Reason the FEIS adequately addresses parking if it provides a reasonably thorough discussion of the significant aspects of the parking impacts of the proposal. The FEIS accomplishes this by providing sufficient information to reveal that the proposed 153 parking spaces is not likely to be sufficient to meet parking demand. In the absence of any information on average hotel occupancy rates, it is appropriate to apply the "worst case" full hotel occupancy scenario to assess the adequacy of parking required by WAC 197-11-080 when applying the Cedarbrook data on average conference attendance. As determined in Finding of Fact No. 12(D), the average number of conference center guests for the hotel based upon Cedarbrook data is 129. The DEIS concludes at p. 3.12-11 that the proposed 153 parking spaces can only accommodate 120 guests at full occupancy. Even if the worst-case scenario isn't employed, the other factors addressing parking demand in FOF No. 12 strongly suggest the potential for parking overflow as a frequent occurrence. Further, the City's parking standards, as applied in FOF No. 12(F) reasonably indicate that the upper levels of average parking demand could approach 332 spaces. It would have been useful for the FEIS to evaluate the impacts of project overflow parking on St. Edward Park parking, such as how often St.

Edward Park parking is full and the options available for overflow parking. However, the Rule of Reason does not require that every conceivable impact be addressed as concluded at COL No. 5. Under the overall reasonableness standard of the Rule of Reason, the determinative inquiry is whether the FEIS provides a sufficiently thorough discussion of parking impacts to enable the City Council to ascertain whether there are significant parking impacts and to a limited degree, how those impacts can be mitigated. In this regard, the information in the FEIS provides sound legal justification for mitigation that should ensure adequate parking as addressed in COL No. 10 on parking mitigation. In this regard, the FEIS parking analysis has proven to be sufficient and satisfies the Rule of Reason.

8. Sufficient Basis for Parking Monitoring Plan as Exercise of SEPA Substantive Authority. KMC 19.35.070(B) authorizes the exercise of SEPA substantive authority to condition a project if due to unusual circumstances of a development project, existing regulations are inadequate to mitigate against impacts. As demonstrated by FOF No. 7 and 12 and COL No. 2, the proposal doesn't fit squarely into the parking use standards. Although the proposal is properly classified as a "hotel" for purposes of zoning code regulations, its impacts are likely more aligned with the "conference center" classification in terms of parking impacts. In addition, the proposal is in the middle of a state park with limited parking. On sunny weekends, any overflow parking from the project can potentially take away from 220 overflowing public parking spaces of St. Edward Park. To further exacerbate matters, the development of the ballfields takes away an area that has been used for overflow parking in the past, further limiting options during times of peak parking demand.

KMC 19.35.070(B) requires that the exercise of SEPA authority be based upon SEPA policies. KMC 19.35.070(A)(2) adopts the City's comprehensive plan as a SEPA policy. The most directly applicable comprehensive plan policy is Policy T-2.4.2, which provides as follows: "[e]nsure that regulations require appropriate parking for business customers." A policy of more general application, Policy LU-2.4.3, seeks to "[e]nsure that infrastructure and facilities are sized appropriately to community needs and are located with attention to the desired neighborhood character." To ensure that the site plan regulations provide an adequate amount of parking as contemplated in Policy T-2.4.2, it is necessary to require additional parking mitigation through SEPA due to the unusual circumstances of the proposal as identified in the preceding paragraph. To ensure that the amount of parking is sized appropriately to avoid taking parking away from St. Edwards as encouraged by Policy LU-2.4.3, additional SEPA parking mitigation is necessary.

Since the FEIS has revealed that there is a good chance that the 153 parking spaces is inadequate to meet parking demand, it is recommended that the City Council exercise its SEPA authority to impose the following condition to ensure adequate parking:

The Applicant shall prepare a parking monitoring plan, subject to approval by staff prior to issuance of any certificate of occupancy, that monitors the adequacy of parking over a three-year period from the date that the proposal is fully operational. The monitoring plan shall be targeted at the three largest conference/meeting room events held at the proposal each year. The results of the monitoring shall be submitted to City staff at the end of each of the three years subsequent to full proposal operations. To the extent reasonably practicable, the monitoring reports shall identify how much parking was used for the proposal and how many proposal patrons park off-site. If

the reports reveal that parking is inadequate, the Applicant shall implement remedial measures to assure adequate parking. These measures may include a shared off-site parking agreement, valet parking, an approve site plan amendment for additional parking or limitations on conference center use. The remediation measures shall be subject to staff approval and staff may order peer review at the expense of the Applicant to verify that the proposed remedies will effectively address parking deficiencies. If remediation measures are found necessary, the Applicant will have to submit another three-year monitoring plan subject to the same terms and conditions as the first monitoring plan.

9. Impacts to Marbled Murrelets Too Remote and Speculative for Inclusion in FEIS. For the reasons detailed in FOF No. 13, the likelihood that the proposal will harm marbled murrelets is too remote and speculative to necessitate inclusion in the FEIS. An EIS “need analyze only the reasonable alternatives and probable adverse environmental impacts that are significant.” WAC 197-11-405(1). The marbled murrelet impacts asserted by the Appellant do not qualify as “probable,” defined by the SEPA rules as follows:

“Probable” means likely or reasonably likely to occur, as in “a reasonable probability of more than a moderate effect on the quality of the environment” (see WAC 197-11-794). Probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative....

WAC 197-11-080. The speculative nature of impacts to future habitat is reflected in the City’s critical area regulations designed to protect threatened species. Those regulations only protect currently existing habitat. See KMC 18.55.500. The unique circumstances of the project site may justify going beyond the City’s regulations with SEPA to assess potential impacts to likely future habitat, but those impacts need to be at least modestly ascertainable for SEPA review to provide any useful information to the decision maker. Those impacts are too remote and speculative in this case to generate any such useful information.

10. FEIS Analysis of Noise Impacts Adequate. The FEIS analysis on noise impacts is adequate under the Rule of Reason. One reason for this conclusion is that the potential impacts to wildlife would not be considered significant. Just about any development project will create some impact to wildlife. Impacts to a particular non-threatened species are arguably not significant because the survival of the species as a whole will not be threatened by the development. Any impact less than this is a judgment and value call as to what impacts should be considered significant. The City Council has made that judgment call by adopting critical area regulations that identify wildlife species that must be protected from development. KMC 18.55.500(A) only requires protection of species listed by the federal or state government as endangered or threatened or herons⁸. As determined in FOF No. 13, there are no protected species at the project site. Since there are no protected species at the project site, impacts to wildlife would not be considered significant even if noise did adversely affect wildlife. Beyond this, the FEIS contains mitigation measures to reduce impacts to wildlife in any event, and no other reasonable mitigation measures are apparent from the record.

⁸ Reference is also made to Washington State regulations addressing bald eagle protection, but the state has stopped regulating the protection of bald eagles since it was delisted as threatened by the state and federal government.

Even if noise impacts to nonthreatened species were significant, those impacts are too remote and speculative to be addressed with any greater detail in the FEIS. As previously noted, the FEIS already acknowledges that night time noise could affect wildlife. The studies presented by Ms. Hendershott don't suggest a more thorough analysis would reveal anything of greater use to the decision maker. In point of fact, the studies acknowledge that specific noise impacts are "unknown" and also identifies impacts that "may" occur. The FEIS says basically the same thing, that wildlife "could" be affected by the operations of the proposal and construction noise "could" disturb wildlife.

Nothing from the noise evidence presented by the Appellant reasonably suggests that further study would reveal any more concrete information beyond what the FEIS already discloses that could be used by the City Council in its review of the Applicant's site plan application. Consequently, giving substantial weight to the SEPA responsible officials determination that the FEIS is adequate, it is concluded that the FEIS provides a reasonably thorough discussion of the significant aspects of the noise impacts created by the proposal and therefore adequately addresses noise impacts under the Rule of Reason.

11. FEIS Adequately Assesses Light Impacts. As with noise impacts, the FEIS discloses and assesses light impacts to the extent that the information would be reasonably useful to the decision maker. The SEPA Appellant established through the Ex. S7 Audubon article that light can adversely affect wildlife, but this was readily acknowledged in the DEIS. Further, there is nothing in the record to suggest that any further study on light impacts would provide any more significant useful information. The Audubon article encourages the use of "good lighting" practices to reduce light pollution. Examples of "good lighting" practices identified in the Audubon article, as recommended by the American Medical Association, include minimizing blue-rich white light intensities, setting a threshold for light intensity, and use of property light shielding with lamp dimming control. The Applicant's environmental review expert, Jeff Ding testified that in his opinion the "good lighting" practices recommended as mitigation, i.e. downward lighting and light shielding, would provide adequate mitigation for impacts to nesting birds. Given all these circumstances, it is concluded that giving substantial weight to the SEPA responsible officials determination that the FEIS is adequate, the FEIS provides a reasonably thorough discussion of the significant aspects of the noise impacts created by the proposal and therefore adequately addresses light impacts under the Rule of Reason.

12. SEPA Condition Requiring Enhanced Lighting Plan Justified. The fact that the Applicant's own witnesses and the FEIS confirm that light can adversely affect wildlife in addition to the information provided by the Appellant establishes the importance of minimizing light impacts to adjoining wildlife. KMC 19.35.070(B) authorizes the exercise of SEPA substantive authority when unique circumstances are present. The proximity of the proposal to acres of parkland with ample wildlife is certainly a unique circumstance. In this regard, the City Council may wish to consider the exercise of SEPA substantive authority to require that the applicant prepare a lighting plan that demonstrates that lighting intensity will be held to the minimum necessary for functionality and safety and that lighting be directed away from the adjoining undeveloped areas to the maximum extent practicable. Comprehensive Plan Policy LU-21.2.2, a SEPA policy, provides that Kenmore should encourage the conservation of fish, wildlife, and other renewable resources. Conditioning the proposal as suggested with an enhanced lighting plan would help implement this policy.

13. FEIS Adequately Addresses Wildlife Impacts. As noted in FOF No. 14 and 15, light and noise impacts are addressed separately so the only remaining impacts to wildlife is trail use. As noted in FOF No. 16, there is nothing in the record to suggest that the proposal would generate enough added trail use to create significant adverse impacts to wildlife. Part of this conclusion is based upon the fact that park hour restrictions will limit trail use at the time wildlife may be most vulnerable. Given the absence of any significant impacts arising from trail, there were no “significant aspects of the probable environmental consequences” under the Rule of Reason, see COL No. 5, to require FEIS review.

14. SEPA Condition Requiring Posting of Hour Restrictions Justified. In order to ensure that proposal patrons are aware of the park hour restrictions to limit night time trail use, it is suggested that the City Council exercise its SEPA substantive authority to require the Applicant to post trail heads that are close to the project site with park hour restrictions and to provide information to hotel registrants about the restrictions as well. Such a condition would implement Comprehensive Plan Policy LU-21.2.2, which as noted in COL No. 12 encourages the protection of wildlife. The unique circumstances justifying the condition are the centralized location of the proposal in a 316 acre-park.

15. Public Services, Flooding and Flood-ways, Biodiversity, Flora Degradation and Child Safety Dismissed as Abandoned. The applicant presented no evidence and no argument on the issues of public services, flooding and flood-ways, child safety, bio-diversity, and flora degradation. During the site plan hearing a citizen inquired about the safety implications of having new proposed parking adjacent to a play area, but her concerns were fully addressed by City staff who pointed out that there will be no new parking adjacent to any play area. Tr. 104:17-105:18. There is no evidence of any potential child safety impact associated with the proposal. Those issues are dismissed as abandoned, or in the alternative that there is no evidence to reasonably suggest that those impacts would be significant as required for inclusion in an FEIS under the Rule of Reason.

16. Remaining Appeal No. 2 Issues Dismissed as Abandoned. Issues not yet addressed from Appeal Issue No. 2 are impacts to existing park culture; impacts on current park users, adjacent property owners and residents of the community; impacts on character and livability of the surrounding neighborhoods (including parking ingress and egress to adjacent properties); and impacts on quality of life of nearby residents and pedestrians. These issues are dismissed as abandoned.

In response to the Applicant’s first motion to dismiss, filed on February 3, 2017, the Hearing Examiner directed the SEPA Appellant to identify the specific impacts associated with the issues addressed by this COL and how those impacts relate to the impacts that can be considered in environmental review, as listed in WAC 197-11-440. The Appellant’s response, Ex. S15 made no reference to WAC 197-11-440 and provided no clarification as to what the terms addressed by this paragraph (park culture, impacts to park users, etc.) was intended to address. The Appellant should have specifically defined those terms so that the parties could know how to defend themselves and also whether the impacts contemplated by the Appellant qualified as environmental impacts validly subject to environmental review. Ex. S15 did not provide this needed clarity and instead appeared to add entirely new appeal issues to the appeal. There was no linkage between the terms used in Appeal Issue No. 2 and the issues raised in Ex. S15. The terms addressed by this paragraph

are, therefore, dismissed. Further, park culture, character and livability and quality of life are not by themselves recognized as elements of the environment in WAC 197-11-444, and therefore are not valid impacts subject to EIS review under WAC 197-11-440(6). The reference to parking ingress and egress is specific enough for review and qualifies as a transportation impact under WAC 197-11-444(2)(c). That issue is addressed under another appeal issue.

It is recognized that Examiner's request for a rewrite may have been confusing to the Appellant. However, terms such as "park culture" should not have been in the Appeal statement without further clarification in the first place and the Appellants had no due process right for a second opportunity to write their appeal. Many of the issues that were raised in Ex. S13 were addressed under other appeal issues, so the dismissal doesn't appear to have placed the Appellant at any significant disadvantage.

Appeal Issue No. 3

The proposed Lodge at St. Edward is likely to have significant adverse impacts on the local flora and fauna, which the SEPA responsible official has failed to adequately investigate, disclose, and/or mitigate. The proposal will permanently change the environment for plants and wildlife in the state park ecosystem. These impacts include, but are not limited to, light pollution, which will negatively affect nocturnal and nonnocturnal animals. As mentioned in the DEIS, this light pollution is likely to cause "increased orientation or disorientation" and "could affect foraging, reproduction, communication or other behaviors."

Findings of Fact

17. Issue as Presented. Impacts to wildlife, including light pollution, are addressed under Appeal Issue No. 2 so assessment of Appeal Issue No. 3 is limited to flora. The Appellant presented no argument or evidence on impacts to flora.

- A. No Threatened or Endangered Plant Species. According to uncontested findings at page 3.3-7 of the DEIS, no threatened or endangered plant species were identified in the study area. The study area was identified as the leased area and areas within approximately 900 feet of the leased area at page 3.3-2 of the DEIS.
- B. Ten Trees Will Be Removed. Page 3.3-9 of the DEIS discloses that ten or possibly more trees will likely have to be removed to accommodate expanded parking under the preferred alternative. The City's land alteration requirements, Chapter 15.25 KMC, have provisions that provide for the protection of trees and these provisions will be applied when the applicant applies for a land alteration permit.
- C. No Significant Adverse Impacts to Flora. As noted in the wildlife analysis under Appeal Issue No. 2, unless there is fauna that is protected by City regulations that would be

affected by the proposal, fauna impacts are not found to be significant. In this case there is no protected flora except for trees. There is nothing in the record to reasonably suggest that the City's tree protection standards are inadequate to protect the trees. Given these factors, it is determined that the proposal will not create any significant adverse impacts to trees.

Conclusion of Law

17. FEIS Adequately Addresses Flora Impacts. As noted in FOF No. 17, the FEIS discloses the removal of trees and tree removal is the only potentially significant flora impact associated with the proposal. Since the City's land clearing standards address the protection of trees in detail and there is nothing in the record to suggest that those standards are inadequate to protect trees, there is no reason for any further analysis of Flora impacts in the FEIS. Under these circumstances, it is concluded that under the Rule of Reason the FEIS analysis of flora is adequate since the FEIS provides for a reasonably thorough discussion of flora impacts. In the alternative, since the Appellant did not pursue its claim that the FEIS was inadequate as to flora impacts, that issue is dismissed as abandoned.

Appeal Issue No. 4

Dismissed as abandoned by the examiner at the hearing.

Appeal Issue No. 5

The SEPA responsible official failed to adequately investigate, analyze, and mitigate for lodge and conference center visitors use of public parking lots, which are grossly underestimated or unrepresented in the FEIS. The result will be intense competition for parking and a reduction in the quality and character of the park experience. Relatedly, the SEPA responsible official erred when he did not accurately or faithfully apply KMC 18.40.030 computation of off street parking. The SEPA responsible official grossly overlooked and accepted the underestimated the parking needs of the Lodge Conference Center.

Parking is fully addressed in the parking analysis under Appeal Issue No. 2.

Appeal Issue No. 6

The SEPA responsible official erred by relying on dated and inadequate traffic and parking analysis by Heffron. The city relied on an inadequate parking and traffic study and failed to clearly understand the parking/traffic issues associated with the proposed Lodge at St. Edward. Relatedly, the SEPA responsible official failed to request a contemporary traffic and parking study, which would include a study of Bastyr University's current traffic and projected traffic growth. The result will be increased traffic on surrounding surface streets and park entrance road and in the

park. By failing to conduct a more thorough analysis of traffic and parking impacts, the SEPA responsible official violated WAC 197-11-080 and WAC 197-11-335.

Findings of Fact

18. Issue as Presented. The issues contained in Appeal Issue No. 6 were elaborated upon in the Appellant's Traffic and Parking Brief, Ex. S13.

- A. Traffic Study Based Upon Compelling Data. The FEIS was clearly not deficient in its analysis of traffic impacts. As noted at page 3.12.-2 of the DEIS, traffic counts for existing traffic conditions were taken on January 12, 2016 and May 3, 2016. Data for existing traffic conditions was taken on days of good weather with baseball practices and a baseball game, so the data is determined to be both current and representative of busy park use. Projected trip generation estimates were made for 2020, when the proposal is anticipated to be open and operating at full occupancy.
- B. Growth Rates, Ballfields and Bastyr University Factored in Traffic Study. As noted in Section 3.12.2 of the DEIS, the 2020 trip estimates were based upon an annual growth rate of 1.1 % (derived from the City's Comprehensive Plan), projected trip generation from Bastyr University and the City's planned ballfields project for St. Edward Park. A growth rate of 4% was assigned to Bastyr University, which exceeds the 3% growth rate projected in the Bastyr Master Plan and the 2.3% historical growth rate between 2008 and 2014. Data on the ballfields project was acquired from the traffic study completed for the ballfields project, Ex. I to the DEIS.
- C. Trip Generation Under Adopted LOS Standards. For the 2020 trip generation of the proposal, the Applicant's traffic engineer found that the PM trip generation under the applicable ITE Hotel category estimated 0.70 trips per occupied room verses 0.83 trips at Cedarbrook Lodge (discussed in the Appeal Issue No. 2 parking analysis) during conference events. The consultant therefore took a conservative approach and used the Cedar Lodge rate. As noted in the DEIS, trip generation for the proposal would probably be less than at Cedarbrook, since a large amount of Cedarbrook traffic would be composed of taxis and airport shuttles, where every ingress or egress to the facility would generate two trips instead of the one for the proposal (hotel occupants would park their cars at the facility, whereas taxis and shuttles instead leave or enter the facility without the occupant). Based upon all this data, the Applicant's traffic consultant concluded at p. 3.12-6 that current LOS at the affected intersection (Juanita Dr NE and NE 145th St) is B and that with or without the project, the consultant determined in Table 3.12-3 of the DEIS that the intersection would operate at LOS C. The City's adopted level of service is D.
- D. Cedarbrook Data Appropriate Basis for Trip Generation Estimates. The Appellant argues that the Cedarbrook data doesn't represent an accurate portrayal of the type of traffic that could be generated by the proposal. The Appellant notes that Cedarbrook conference facilities were only operating at 18% functional capacity during the traffic counts and that

the traffic counts were only taken over a nine-day period in January, 2013, which may not accurately represent typical conference conditions. See Ex. S13. Unlike the situation with the parking data, there is no evidence in the record that directly undermines the judgment of the Applicant's traffic expert or the adequacy determination of the SEPA responsible official that the Cedarbrook data accurately portrays trip generation for the proposal. In the Applicant's parking analysis, the Cedarbrook data relied upon by the Applicant's traffic consultant undermined her conclusion that parking would be sufficient. There is no such conflict of data for trip generation. Further, as discussed in the parking analysis, the limited size of the largest meeting room in the proposal limits the size of single conferences to numbers below the daily average of the reporting period for Cedarbrook. Certainly, other meetings can be held concurrently with a major conference at the proposed facility, and the applicant noted a maximum functional capacity of 550 attendees for the conference rooms at p. 2-9 of the FEIS, but overall there is no compelling evidence in the record to overcome the expert conclusions of the Applicant's traffic consultant that the Cedarbrook data serves as a reliable estimate for average trip generation.

It is also important to recognize that to adequately assess trip generation only average numbers are required. Peak generation rates are of limited value because a high in the trip generation of one use contributing to an intersection may be averaged out by lows from other uses contributing to the intersection. It is likely for this reason that traffic impacts are assessed by average numbers by transportation engineers. A worst-case scenario under WAC197-11-080 is only required if data essential to a reasoned choice amongst alternatives is unavailable or the costs of necessary data acquisition would be exorbitant. As is consistent with all traffic engineers, the Applicant's traffic consultant relied upon average numbers to assess traffic impacts. No compelling evidence was presented to refute the professional judgment of the Applicant's traffic consultant that this methodology and data was sufficient to estimate trip generation, so there was no need for additional data or a worst-case scenario analysis.

Conclusion of Law

18. **FEIS Adequately Assessed Trip Generation Impacts.** All of the deficiencies alleged by the Appellant on trip generation analysis were in fact well addressed in the Applicant's traffic analysis. As identified in FOF No. 8, the Applicant's traffic analysis did a thorough and accurate job in assessing cumulative traffic growth. The proposal will clearly keep affected intersections at below adopted level of services standards, so no adverse impacts are anticipated. As required by the Rule of Reason, the trip generation analysis provides a reasonably thorough discussion of the significant aspects of the traffic impacts created by the proposal and therefore adequately addresses traffic impacts.

Appeal Issue No. 7

The SEPA responsible official accepted traffic and parking analysis that will seriously underestimate traffic and parking mitigation fees due to the city of Kenmore for the

Lodge at St. Edward. Without an accurate estimate of the proposal's traffic and parking impacts, the resulting fees will be inadequate to mitigate the proposal's significant adverse environmental impacts.

Parking and traffic impacts are adequately addressed as determined in the assessment of Appeal Issues No. 2 and 6. The remaining portion of Appeal Issue No. 7, i.e. the computation of park and traffic impact fees, is beyond the jurisdiction of the examiner as ruled in the Examiner's Rulings on Applicant's First Motion to Dismiss, Ex. 22(C).

Appeal Issue No. 8

The SEPA responsible official failed to require proof that the proposed Lodge at St. Edward has access to offsite parking for the term of the lease. The Heffron study is misleading with suggested solutions to internal traffic and parking. No evidence was presented by Heffron that such solutions were in place and workable. The result will be difficult and/or no parking for some of the general public.

Conclusion of Law

19. Parking Mitigation Meets Requirements of SEPA Rules. The Heffron solutions identified in the Appeal issue are valet parking or off-site parking at Bastyr University. See DEIS, p. 3.12-11. WAC 197-11-440(6) mandates that the "Affected environment, significant impacts, and mitigation measures" section of an FEIS "shall discuss reasonable measures that would significantly mitigate significant environmental impacts of the project and indicate the intended environmental benefits of those mitigation measures." The Heffron study accomplished this through the suggested mitigation measures – an off-site parking arrangement and valet parking are reasonable measures in the sense that they can be implemented and the opinion of the Heffron expert is that they will solve any overflow problems. The Appellant essentially argued at hearing that an off-site parking arrangement with Bastyr University is not reasonable because there's no evidence that Bastyr would be willing to enter into such an agreement or that it has sufficient extra parking for such an arrangement. Tr. 628:15-24. It certainly is within the realm of possibility that an off-site parking arrangement may not be possible. However, the courts have made it clear that not every impact must be completely mitigated in an EIS. As noted by one court in response to the argument that mitigation in an EIS was incomplete:

".... a FEIS does not require inclusion of specific remedies of each environmental impact. The basic purpose for requiring a FEIS is to require local governments to consider total environmental and ecological factors to the fullest extent when taking 'major actions significantly affecting the quality of the environment.' Wash. State Boundary Review Bd., 122 Wn.2d at 659 (quoting Lassila v. City of Wenatchee, 89 Wn.2d 804, 813, 576 P.2d 54 (1978) (quoting RCW 43.21C.030(c))."

Residents Opposed to Kittitas Turbines, 165 Wn.2d 275, 312 (2008).

In this case, the information in the EIS was sufficient to enable the examiner to recommend mitigation measures that should eliminate significant adverse parking impacts. Given the case law and the added mitigation, there is no need for additional discussion of mitigation for parking impacts in the FEIS.

Appeal Issue No. 9

The SEPA responsible official failed to analyze how the Lodge at St. Edward will be held responsible for parking and traffic impacts. The documents only stated that Daniels Real Estate would be responsible for parking for lodge and conference center guests but not how the city or Washington State Parks will be able to enforce this responsibility. The result will be that, after the Lodge is built, there will be no compelling reason for the Lodge operator to provide parking solutions. These impacts can only be mitigated by devising fines and sanctions payable to the City of Kenmore to be levied aggressively against the lodge operator to ensure "no net loss of parking for the general public would occur," the stated standard in the FEIS.

Conclusion of Law

20. **Parking Mitigation Compliant with SEPA Rules.** As noted in the analysis of Appeal Issue No. 8, the FEIS contains mitigation measures that are reasonably sufficient to address parking impacts. As further noted in the preceding analysis, additional mitigation recommended by the examiner will help ensure that the proposal has adequate on-site parking. There is no evidence in the record to reasonably suggest that with adequate on-site parking that patrons of the proposal would still elect to park further away from the project site to public parking spaces in the park. Since discussion of mitigation satisfies applicable SEPA rules as determined in COL No. 19, no further analysis is necessary under the Rule of Reason.

Appeal Issue No. 10

Dismissed at hearing as abandoned.

Appeal Issue No. 11

The SEPA responsible official failed to require a comprehensive accounting for the number of people that could fill each occupancy at capacity (e.g., hotel, conference facility, restaurant, bar, cafe, spa). Without a comprehensive and transparent accounting of numbers of people, the totality of environmental impacts cannot be accurately assessed for many of the impact categories included in this FEIS, particularly regarding traffic and parking and impact to general public visitors to the park. Relatedly, The SEPA responsible official failed to provide a comprehensive study of current daily visitors to the park at peak times during the months of May-September, how many cars require parking, how many current car trips to the park and the projected growth due to population increases in the area. By failing to acknowledge

these data gaps, by failing to collect the missing information, and/or by failing to justify, the city's decision to proceed notwithstanding this missing information, the SEPA responsible official violated the procedural requirements of WAC 197-11-080 and the FEIS is not premised on information reasonably sufficient to evaluate the proposal's environmental impacts as required by WAC 197-11-335.

Conclusion of Law

21. Methodology of Parking and Traffic Analysis Adequate. Appeal Issue No. 11 essentially asserts that the methodology used by the Applicant's traffic engineer was incorrect. Ultimately, the examiner did conclude that the conclusions of the Applicant's traffic consultant on sufficiency of parking was not supported by the data she used to reach that conclusion. However, there's been no compelling evidence presented that the methodology used by the traffic consultant fails to meet industry standards or does not accurately assess traffic and parking impacts if used correctly. The Appellant has presented no expert testimony to the contrary. Given these circumstances and the deference due the determination of the SEPA responsible official, it is concluded that the methodology used by the Applicant's traffic consultant has enabled a reasonably thorough discussion of the significant aspects of the traffic and parking impacts created by the proposal.

Appeal Issue No. 12

The SEPA responsible official did not place the findings in context, each of the impact categories (particularly traffic and parking) with the projected growth for Seattle, the Puget Sound region, Washington State and neighboring Bastyr University. This project is not occurring in a vacuum. Good planning requires the project be built with a plan for the neighbors and future growth. Responsible stewardship requires understanding how all of the pieces will come together in the future. The City of Kenmore can seriously damage future prospects for Kenmore, Kirkland and St. Edward State Park. By failing to analyze these aspects of the context surrounding the proposed Lodge at St. Edward, the SEPA responsible official has failed to investigate the proposal's adverse significant impacts within the meaning of WAC 197-11-794 and has not collected reasonably sufficient information within the meaning of WAC 197-11-335.

Finding of Fact

19. Issue as Presented. The Appellant argued that the FEIS fails to address cumulative impacts for traffic, parking and wildlife. See Ex. S13 and Tr. 345-348.

A. Cumulative Traffic, Parking and Wildlife impacts all addressed in FEIS. Cumulative impacts of traffic were well addressed for the proposal as identified in the analysis of Appeal Issue No. 6. Cumulative impacts of parking are identified at page 3.12-14 of the DEIS, where it is noted that development of the ballfields could result in the loss of overflow parking. Page 3.3-12 of the DEIS contains a page of cumulative impact analysis on wildlife, which includes cumulative impacts associated with the ballfield development.

Conclusion of Law

22. FEIS Analysis of Cumulative Traffic, Parking and Wildlife Impacts Adequate. Under the Rule of Reason and the deference due the adequacy determination of the SEPA responsible official, there was a reasonably thorough discussion of cumulative impacts in the FEIS and it is considered adequate. As concluded under Appeal Issue No. 9, the FEIS discussion was unquestionably adequate for cumulative traffic impacts. Further discussion on the cumulative impacts of loss of overflow parking occasioned by development of the ballfields would have been marginally helpful, but since the conditions of approval will assure adequate parking on-site that added information takes on less significance. The DEIS also contained a thorough enough discussion on wildlife cumulative impacts given that no protected species is within range of the adverse effects of the proposal.

Appeal Issue No. 13

The FEIS fails to consider significant adverse cumulative effects flowing from the city's current plan to expand the nearby ballfields and associated facilities at St. Edward State Park. The significant adverse impacts associated with the proposed Lodge at St. Edward will be exacerbated by similar adverse impacts associated with the ballfield expansion. Is this all we need to say here? Seems weak.

Conclusion of Law

23. FEIS Analysis of Cumulative Impact of Ballfields Adequate. The ballfields are addressed in the cumulative impact analysis identified in the assessment of Appeal Issue No. 12. The trip generation of the ballfields was included in the Applicant's traffic analysis as outlined in the analysis of Appeal Issue No. 6. Cumulative parking impacts should be rendered nominal by the recommended mitigation. Wildlife impacts, as identified in the assessment of Appeal Issues No. 2 and 3, are nominal given the absence of any protected wildlife species in the vicinity of the project area. Given these factors, it is determined that the FEIS provides a reasonably thorough discussion of the significant cumulative impact issues pursued by the Appellant in their appeal.

Appeal Issue No. 14 – 16

Dismissed as abandoned during appeal hearing.

Appeal Issue No. 17

The proposed Lodge at St. Edward conflicts significantly with the St. Edward State Park Management Plan (Oct. 20, 2008), including provisions of the management plan concerning future uses of the seminary building. The SEPA responsible official failed to adequately identify, analyze, or mitigate significant impacts flowing from the proposal's many conflicts with the management plan.

Findings of Fact

20. Issue as Presented. The SEPA Appellant is specifically concerned that the proposal fails to comply with Management Plan policies that require the use of the seminary be subordinate to and complimentary to the primary attraction and use of St. Edward Park as a place of outdoor recreation. The Appellant believes that the priority use for the seminary building should be outdoor recreation and traditional park activities. Tr. 312:15-25. These concerns were raised by Rebecca Hirt, one of the stakeholders who for two years served on the advisory committee that worked the Management Plan. Tr. 311:14-25. Ms. Hirt testified that she was concerned that the seminary would only be welcoming to paying lodge guests. Tr. 314:1-14. She was also concerned that the volleyball court, listed on the national historical register, was proposed for removal. Tr. 314:15-23. Ms. Hirt believed that the proposed use of the seminary grounds would overtake park use. Tr. 315: 23-25.

- A. St. Edward State Park Management Plan. The St. Edward State Park Management Plan, also known as the St. Edward CAMP (classification and management planning project), was adopted by the Washington State Parks Commission on October 20 2008. As testified by the Washington State Parks Environmental Program Manager, Jessica Logan, the CAMP serves as the zoning code for St. Edward State Park. Tr. 397-98.
- B. Seminary Ground Use Will Remain Subordinate and Complimentary to Recreational Use. The seminary grounds will remain subordinate and complimentary to the recreational use of St. Edward Park. This determination is based upon the size of the project area, the intensity of use and the modest degree of exterior alterations. St. Edward Park is 316 acres in size. See Figure 2-2, FEIS. The seminary grounds only take up 5.5 acres of the park and part of the proposal involves the addition of the 9.9-acre private parcel. Exterior alterations to the building are modest and are limited to restriped parking to the north of the seminary building, the addition of a multi-level structured parking garage in the center of the seminary grounds, modifications to an access road, landscaping improvements and the replacement of a volleyball court area with an organic garden. Tr. 76:14-25; 77:1-8; FEIS Figure 2-3 and 2-4. Modifications would be subject to the design standards of the Secretary of Interior's Standards for Treatment of Historic Preservation. The overall impact on intensity of use is also modest. As noted in other parts of this decision, all project impacts (which are all related to intensity) are nonsignificant.
- C. Priority Use of Seminary Remains Parks and Recreation. It is determined that the proposal is consistent with the priority use policy of the St. Edward CAMP. P. 17 of the St. Edward CAMP requires that "[p]riority should be given to uses of the Seminary Building which support outdoor recreation and traditional park activities." Except for the removal of the volleyball court, the proposal doesn't affect any recreational activities outside of the facility and will increase public access to the seminary building overall. As testified by Ms. Wang, the basement and first floor of the seminary building will still be open to the public, including the restrooms. Tr. 445:23-447:14. This public access, in addition to access to the outdoor seminary grounds, is required by Section 2.4 of the lease. See Ex. P7. This represents an increase in public access over the currently closed condition. As testified by

Ms. Logan, Washington Parks environmental program manager, the building is currently only available by appointment only and the Applicant's proposal to make the building accessible to the public is more public access than was provided by Washington Parks in the 40 years it has owned the seminary grounds. Tr. 403:1-16. The organic garden will be fenced, but that will be to keep dogs out and the public will still be able to go in. Tr. 448:15-18, 449:2-11. The gymnasium at the proposal site is under a ten-year lease for youth basketball camps and the pool has remained closed since 2009. See FEIS, p. 1-7.

Perhaps the greatest shortcoming of the proposal from the standpoint of the priority CAMP policy is the loss of the volleyball court. The volleyball court is listed in the National Register of Historic Places, as documented in Ex A19, Section 7, p. 4 and App. C of DEIS, 9/22/17 minutes, p. 1. The applicant will be replacing the volleyball court with an organic garden. Given the National Register designation of the project, there's no question that removal of the volleyball courts represents both a loss of a recreational facility and a historical resource. However, as testified by Ms. Logan, removal of the volleyball court must be done in conformance with Secretary of the Interior regulations, which will probably entail the addition of signage identifying the former location of the volleyball courts. Given that the removal and alteration of registered historical sites is regulated by the federal government, those standards are compelling as to what constitutes an acceptable level of alteration/removal to a historical resource. Tr. 404:1-19. The loss of the volleyball courts as a recreational resource is also of arguably limited significance, given the relatively limited size of the facility and its limited seasonal use. No witnesses testified about current usage of the volleyball court, though Mr. Hirt noted that the area around the court is now used for the Friends of St. Edward State Park kids' day. Tr. 338:4-12.

The SEPA Appellant testified that it would like to see the seminary building used for an environmental learning center. Such a use may be more consistent with "outdoor recreation and traditional park activities," but the Washington State Parks has no plans to use the entire facility for that purpose. As noted in FOF No. 6, Washington State Parks has made multiple attempts to find a feasible use for the proposal and after a rigorous selection process, has come upon the subject proposal as the only feasible means of continued use of the site. If the proposal doesn't go through, Washington Parks staff have been directed to vacate the site. Tr. 408. In its own right, the proposed use goes far in making itself a historical and recreational resource to Park users in conformance with the objective to make outdoor recreation and traditional park activities a priority use. When compared to the only alternative, vacation of the premises, see FOF No. 6, the proposed use is clearly the superior alternative given the recreational and park use priorities assigned by the St. Edward CAMP. Finally, the priority policy is a "should" policy, not a mandatory "shall" policy, evidencing that the priority is only a preference and that practical considerations, such as those faced by Washington State Parks in the absence of other feasible use alternatives, may have to be determinative.

Conclusions of Law

24. CAMP Subject to Examiner Jurisdiction. Washington State Parks and the Applicant have both objected to the Hearing Examiner's application of the St. Edward Park CAMP on the basis of lack of jurisdiction. The CAMP is not a policy adopted by the City of Kenmore. However, WAC 197-11-444(b)(i) recognizes as an element of the environment, the "*relationship to existing land use plans...*" WAC 977-11-400(6) requires an environmental impact statement "... describe the existing environment that will be affected by the proposal." Consequently, conformance to applicable land use plans is a relevant consideration in an EIS, which in turn is subject to the jurisdiction of the hearing examiner. If Washington State Parks had made any formal express determination on the conformance of the proposal to the St. Edward CAMP, that determination would certainly have been dispositive. However, no such formal and express Washington State Parks application of the CAMP is in evidence. The applicability of the St. Edward CAMP policies raised by the SEPA Appellant are particularly germane to this FEIS challenge, because they concern environmental impacts related to park and historical resources. In the absence of any directly applicable standards, assessment of impacts to park and historical resources becomes a highly subjective inquiry. The St. Edward CAMP provides some well-balanced objectivity to the measurement of those impacts, based upon the input of a citizen's advisory committee composed of a diverse group of stake holders and approved under the expertise of the Washington State Parks Commission. See Ex. A26, p. 2-3.

25. FEIS Adequately Addresses Impacts Related to Conformance to CAMP. As determined in FOF No. 20, the proposal is consistent with the St. Edward CAMP in regards to the policies raised by the SEPA Appellant. As concluded in COL No. 5, an FEIS is only required to consider "*the significant aspects of the probable environmental consequences' of the agency's decision.*" Since there are no significant impacts resulting from CAMP conformance, there are no significant aspects of probable environmental consequences of the conformance issue and no FEIS evaluation of CAMP conformance is therefore required.

Appeal Issue No. 18

The various mitigation measures identified in the FEIS (including "alternative mitigation measures") are not sufficient to reduce the proposal's adverse impacts to nonsignificant levels. As such, the FEIS has failed to disclose the project's many significant adverse environmental impacts, which, in almost all instances, are reported to be insignificant solely by virtue of the inadequate mitigation measures.

Findings of Fact

21. Issue as Presented. The only mitigation measure specifically identified by the SEPA Appellant was the mitigation measures for parking identified at p. 1-21 of the FEIS, where mitigation measures for insufficient parking are identified as valet parking and a potential agreement with Bastyr University. As noted at page 3.12-11 of the DEIS, parking at Bastyr is located more than a half mile from the project site, so any shared parking arrangement would necessitate a shuttle. The Appellant asserts in Ex. S13, p. 3 that the Bastyr parking mitigation measure is insufficient because it doesn't identify where the parking will be located, whether it will be available when it's needed and whether proposal patrons will use the shuttle.

Conclusion of Law

26. **Parking Mitigation Compliant with SEPA Rules.** It is determined that the FEIS adequately addresses parking mitigation. The SEPA rules are not very stringent as to what is required for mitigation. WAC 197-11-440(6) simply requires that the EIS “...discuss reasonable mitigation measures that would significantly mitigate..” impacts that must be addressed in the EIS. WAC 197-11-440(6)(c)(iv) states that “[t]he EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA.” These SEPA rules define the level of mitigation analysis that qualifies as “reasonable” under the Rule of Reason. As is clear from the SEPA rules, the EIS need not provide for mitigation measures that eliminate all adverse impacts, it need only identify mitigation that significantly mitigates impacts. This is consistent with case law that provides that an FEIS does not require inclusion of specific remedies of each environmental impact. *See Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council*, 165 Wn.2d 275, 312 (2008). The FEIS offers little assurance that the Bastyr mitigation will work, much less how it will work, but that level of detail isn’t required for an EIS. It is reasonable to conclude, especially with the deference due the SEPA responsible official’s determination of adequacy, that (1) an implementation of the recommended mitigation will “significantly” reduce parking impacts as required by WAC 197-11-440(6) and (2) the level of detail is commensurate with that required by WAC 197-11-440(6)(c)(iv). Further, the FEIS provided a reasonably thorough discussion of environmental impacts such that it provided the examiner with enough information to recommend more stringent mitigation that should serve to mitigate parking impacts to nonsignificant levels. Given these factors, it is concluded that the parking mitigation recommended in the FEIS meets applicable SEPA requirements.

Appeal Issue No. 19

The SEPA responsible official did not respond to comments as required by WAC 197-11-560. In many instances, the SEPA responsible official did not address individual issues, facts, and argument raised in public comments, or, where a response was provided, the response was not substantive or meaningful. This fell below the standard required by SEPA and SEPA’s implementing regulations.

Findings of Fact

22. **Issue as Presented.** The Examiner’s February 23, 2017 Order on Applicant’s First Motion to Dismiss, Ex. 22(C) directed the Appellant to rewrite Issue No. 19 “...to specifically identify which responses to public were inadequate and why they were inadequate.” The SEPA Appellant responded in Ex. A15 that responses to a letter from Rebecca Hirt were not adequate. Comments and responses identified in Ex. A15 are individually assessed as follows:

- A. **Mitigation.** Ms. Hirt expressed concern that mitigation was only recommended as something that could be done as opposed to something that should be done. The response was that the FEIS identified mitigation measures. This response is adequate because it

identifies that the FEIS complies with the SEPA requirements for mitigation, i.e. identify mitigation. There is no SEPA requirement mandating a mitigation plan that eliminates all impacts, as discussed in COL No. 26. As noted in the *Kittitas* case when it disposed of the notion that an FEIS must remedy all environmental impacts, “[t]he basic purpose for requiring a FEIS is to require local governments to consider total environmental and ecological factors to the fullest extent when taking major actions significantly affecting the quality of the environment.” 165 Wn.2d at 312 (inner quotations omitted). As noted in the Applicant’s prehearing brief, Ex. A47:

The procedural obligation to include mitigation measures is sometimes confused with a substantive obligation to mitigate adverse environmental impacts. The purpose of the EIS is to disclose, not dispose.

Richard L. Settle, *The Washington State Environmental Policy Act: A legal and Policy Analysis*, Cha. 14 Section 14.01.

In responding that the FEIS identified mitigation measures, the SEPA responsible official was merely stating that the FEIS did what was required by SEPA. It certainly would have been helpful to be more direct in this conclusion, but from a reasonableness standpoint the failure to identify the legal basis for not providing more does not meaningfully deprive the decision with environmental information necessary to make an informed decision. In this regard the response must be considered adequate.

- B. CAMP Noncompliance. Issues of noncompliance addressed under Appeal Issue No. 18 were also addressed in Ms. Hirt’s letter. The response was an overview of the decision-making process employed by Washington State Parks in choosing the proposal for use of the seminary. Although the examiner ultimately determined that compliance issues with the CAMP are relevant to the environmental impacts of the proposal, see COL No. 24, it was reasonable to conclude that Washington State Parks implicitly considered CAMP policies in its decision-making process and that Parks was in the best position to evaluate compliance since the CAMP is a Parks adopted document. The fact that the seminary grounds and the first floor and basement of the seminary building will be open to the public would have been useful information to add to the response, see FOF No. 20(C). This information is apparently not anywhere in the FEIS or DEIS. However, finding the EIS inadequate because of some missing pieces of potentially useful information in the comment responses would be considered “fly specking” the document, which as noted in FOF No. 10 is not grounds for a finding of inadequacy. Overall, given that the CAMP document is a Parks document and there are no environmental impacts associated with the application of the document, the response was adequate.
- C. Steep Slopes. Ms. Hirt commented that the 9.9 acre McDonald property has steep slopes so its benefits as park property cannot be adequately assessed without noting the grade of the slope. The response did not identify the grade of the slope, but did note that the property could be developed under the City’s development standards and that transferring it to St. Edward Park would enable Washington State Parks to maintain its natural state for wildlife

and recreational use. The response was adequate. There is nothing in the record to suggest that the grade of the slopes would provide any more useful information than what was already disclosed in the response. The information provided by the SEPA responsible official provided enough information to assess the environmental benefits of annexing the McDonald property into St Edward Park.

- D. Lighting. Ms. Hirt noted that there was insufficient information on how lighting would be mitigated. The SEPA responsible official responded that lighting would have to comply with City lighting standards. The response was adequate. The City's lighting standards, KMC 18.30.070, identify the design standards that will mitigate against light impacts. The recommended conditions of approval for the site plan also contain additional lighting mitigation.

Conclusions of Law

27. Responses to DEIS Comments Consistent with SEPA Rules. WAC 197-11-560 governs how to respond to DEIS comments. This rule generally requires the SEPA responsible official to make changes to the DEIS in response to the comments or explain why no further response is necessary. In the examples raised by the SEPA Appellant, supra, the SEPA responsible official chose to explain why further response wasn't necessary. For the reasons identified in Finding of Fact No. 23, these responses were adequate as none of the comments warranted any revision or addendum to the FEIS.

Appeal Issue No. 20

Dismissed as abandoned during the appeal hearing.

Appeal Issue No. 21 and 22

Dismissed for lack of jurisdiction in the Examiner's February 27, 2017 Order on Washington State Parks Commission Request for Reconsideration, Ex. 22(E), and the Examiner's February 23, 2017 Rulings on Applicant's First Motion to Dismiss, Ex. 22(C).

Appeal Issue No. 23

In review the Lodge project's probable environmental impacts, the SEPA responsible official failed to: (a) consider the environmental context of the project, in violation of WAC 197-22-330(3)(a)[sic]; (b) consider the environmental effect of the projects many smaller impacts, in violation of WAC 197-11-330(3)(c) and (c) failed to consider the project's catalytic and precedential impacts, in violation of WAC 197-11-330(3)(iv).

Conclusion of Law

28. Appeal Issue No. 23 Dismissed as Based on Inapplicable Threshold SEPA Rules. The Appeal issue is beyond the scope of this appeal and is dismissed. Appeal Issue No. 23 addresses compliance

with WAC 197-11-330, which is limited to the environmental factors the SEPA responsible official must consider in determining whether an EIS is required for a proposal. This appeal addresses the adequacy of the FEIS, not the threshold decision of whether an EIS should have been required in the first place.

Appeal Issue No. 24

Dismissed for lack of jurisdiction in the Examiner's February 23, 2017 Rulings on Applicant's First Motion to Dismiss, Ex. 22(C).

Appeal Issue No. 25

Appellants reserve the right to amend this notice of appeal as necessary to add additional assignments of error.

Conclusion of Law

29. Appeal Issue No 25 Dismissed as Violation of KMC 19.30.080. KMC 19.30.080(B) provides that "[t]he scope of an appeal shall be based principally on matters or issues raised in the statement of appeal." Pursuant to this provision, no appeal issues outside those raised in the Appellant's Appeal are authorized and Appeal Issue No. 25 is dismissed.

DECISION

Based upon the Findings of Fact and Conclusions of Law determined and concluded in this decision and recommendation, it is concluded that the FEIS is adequate under the "Rule of Reason" and applicable EIS SEPA rules and that the site plan application meets all applicable review criteria. Based upon this conclusion, it is decided that the appeal on FEIS adequacy is denied and it is recommended that the City Council approve the site plan application. The site plan application is recommended for approval provided that the following conditions are imposed:

1. All subsequent permit applications and plans shall comply with the approved site plan (Exhibit 13), conditions of approval provided herein, applicable zoning regulations of the Parks (P) zone, general development standards in KMC 18.30, development standards in KMC 18.50, and shall incorporate all required features and elements associated with compliance with the Parks Development Standards in KMC 18.28, or specifically conditioned otherwise. Any modifications to design features shall require City approval.
2. Site Plan approval shall be subject to the time limitations stated in KMC 18.105.060.
3. Site Plan approval does not limit the applicant's responsibility to obtain required permits or licenses from the State or other regulatory body. Subsequent permits shall generally comply with exhibits unless otherwise approved by the City.
4. An engineering permit shall be obtained for construction of all required site improvements.

Engineering plans for all improvements shall be submitted for review and approval by the City prior to engineering permit issuance. The improvements shown on the approved plans shall be constructed and approved by the City of Kenmore prior to issuance of a certificate of occupancy for the building.

5. Separate permits are required for building improvements and fire sprinkler/alarm improvements and modifications as identified by the City of Kenmore and Northshore Fire Marshal.
6. A final landscape plan complying with KMC 18.35 shall be filed for review as part of permit review.
7. Construction permits shall be reviewed for compliance with applicable wildlife habitat protection standards in KMC 18.55.530.
8. Compliance with the design requirements for historic uses as specified in KMC 18.50 shall be verified as part of engineering and building permit reviews. The City shall review the engineering and building permit plans consistent with its code for treatment of historic resources, including considering whether the building permit plans meet the Secretary of Interior's Standards for the Treatment of Historic Properties for Rehabilitation (Exhibit 18)."
9. Prior to engineering permit issuance, the project shall be reviewed for compliance with KMC 13.35 and 2009 KCSWDM as adopted. Required drainage improvements shall be installed and fully functional prior to certificate of occupancy for the building. Any required easements or covenants for future inspection and maintenance of the proposed storm drain system shall be recorded on title prior to issuance of a final certificate of occupancy for the building. Any required easements or covenants for future inspection and maintenance of the proposed storm drain system shall be negotiated between the tenant and the property owner
10. Prior to engineering permit issuance, the project shall be reviewed for compliance with adequate pedestrian and bicycle facilities consistent with KMC 18.40.100. Walkway facilities shall be compliant with current ADA requirements to the maximum extent feasible, while preserving the historic nature of the roadway and park trail system.
11. Prior to engineering permit issuance, if there are changes to the scope of the project, the project shall be re-reviewed for compliance with adequate parking per KMC 18.40.030 and the applicant's traffic and parking analysis.
12. Prior to engineering permit issuance, the project shall be reviewed for compliance with the bike parking provisions in KMC 18.45.030.E.
13. The project will be required to pay traffic impact fees for 120 mobility units at the time of building permit application, consistent with KMC 20.47, at the rates in affect at that time. The number of mobility units generated by the project and the required traffic impact fee is subject to change if the project scope, and/or proposed uses, change.
14. The existing dead-end water lines within the project will require looping per Northshore Utility District (NUD) requirements. A Developer Extension Agreement with NUD will be required. Applicant shall coordinate with NUD to obtain the necessary permits and system design requirements.
15. The existing sewer system on the project site will require improvements per NUD requirements. The applicant shall coordinate directly with the Northshore Utility District for applicable water/sewer permits and system design requirements.

16. The structure is constructed of primarily noncombustible materials. Interior renovation plans include a new fire alarm and fire sprinkler system as a part of this renovation project, and will be reviewed as part of the engineering/building permit process, and by the Northshore Fire District (NFD).
17. Adequate fire flow shall be provided for the building in accordance with City of Kenmore and NFD requirements.
18. The project will require a life safety plan as required by the City of Kenmore and Northshore Fire District.
19. The results of the research and field examination of the water supply conducted by NUD will be provided to NFD.
20. A road monitoring plan shall be provided and implemented prior to completion of the project, to maintain continuous emergency access along NE 145th Street.
21. An approved method of ensuring that the existing access road is kept clear of obstructions at all times will be required.
22. An emergency access key box ("Knox box") will be required to be installed on the building and inspected by NFD.
23. All fire department conditions shall be inspected and approved prior to final certificate of occupancy for the site.
24. Approved walkways are required outside of each exit. The walkways shall extend from the exit door to an approved yard, court, or public way, as determined and inspected by NFD.
25. If irrigation is provided, a separate meter and backflow assembly is required.
26. A Double Check Valve Assembly (DCVA) is required directly behind the domestic water meter.
27. Prior to issuance of certificate of occupancy, the applicant shall provide an ADA compliant walkway adjacent to the existing parking lot entrance near the building public access entrance. The new sidewalk shall connect with the existing walkways between the building and Juanita Drive NE, be ADA compliant and inspected by the City.
28. The proposal is considered to include meeting room sizes as depicted in Figures 2-5 through 2-7 of the FEIS. The size of the meeting rooms was used to assess parking for the proposal as outlined in FOF No. 7. Any material increase in individual sizes of the meeting rooms will need to be reviewed as an amendment to the site plan.
29. Alterations to Nun's Garden are prohibited except to the extent done to improve the site as a historical resource in conformance with applicable historical preservation regulations.

Recommended Mitigation as Exercise of SEPA Substantive Authority

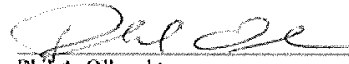
S1: The Applicant shall prepare a parking monitoring plan, subject to approval by staff prior to issuance of any certificate of occupancy, that monitors the adequacy of parking over a three-year period commencing from the date that the proposal is fully operational. The monitoring plan shall be targeted at the three largest conference/meeting room events held at the proposal each year. The results of the monitoring shall be submitted to City staff at the end of each of the three years subsequent to full proposal operations. To the extent reasonably practicable, the monitoring reports shall identify how much parking was used for the proposal and how many proposal patrons park off-site. If the reports reveal that parking is inadequate, the Applicant shall implement remedial measures to assure adequate parking. These measures may include a shared off-site parking agreement, valet parking, an approve

site plan amendment for additional parking or limitations on conference center use. The remediation measures shall be subject to staff approval and staff may order peer review at the expense of the Applicant to verify that the proposed remedies will effectively address parking deficiencies. If remediation measures are found necessary, the Applicant shall submit another three-year monitoring plan subject to the same terms and conditions applicable to the first monitoring plan. See COL No. 8.

S2: The applicant shall prepare a lighting plan subject to approval by City staff that demonstrates that lighting intensity will be held to the minimum necessary for functionality and safety and that lighting shall be directed away from the adjoining undeveloped areas to the maximum extent practicable. See COL No. 12.

S3: To the extent allowed and encouraged by Washington State Parks, the Applicant shall post trail heads and trail access points within a quarter of a mile of the project grounds with notice of park hours. Written information shall also be provided to all lodge guests regarding park hours. See COL No. 14.

Dated this 24th day of March, 2017.


Phil A. Olbrechts

City of Kenmore Hearing Examiner

Right of Reconsideration

Hearing parties may seek reconsideration of this decision pursuant to Kenmore Hearing Examiner 23. Requests for reconsideration must be filed with the City Clerk five days from the date of issuance of this Recommendation and Final Decision.

APPENDIX A

BEFORE THE HEARING EXAMINER FOR THE CITY OF KENMORE

In the Matter of the SEPA Appeal of:

THE LODGE AT ST. EDWARD

FINAL SITE PLAN RECOMMENDATION
AND DECISION ON FEIS APPEAL
NO. CSP16-0077

APPENDIX A: SUMMARY OF ORAL TESTIMONY

This summary will cite to the transcript about every five pages. Testimony begins at Tr. 27. This summary should not be considered a part of the Examiner's Recommendation and Decision. It is solely provided for the convenience of the reader, for an overview of testimony and easy access to needed transcript comments. Nothing in this summary should be construed as a Finding of Fact or Conclusion of Law, or signifying any priority or importance to the comments of any individual. No representations are made as to warranty. For an accurate rendition of the testimony, the reader is referred to the recording of the hearings, available at City Hall, or the transcripts of the proceeding.

Site Plan

Mr. Bryan Hampson, Development Services Director and SEPA Officer, City of Kenmore

Mr. Hampson summarized the proposed project, noting that Daniels Real Estate filed a Type 4 Site Application on June 30, 2016 to establish a hotel with accessory uses in the St. Edward seminary building located at St. Edward State Park. The site and the park, which lie between Juanita Drive and Lake Washington, are State Park property and are owned by the State Parks and Recreation Commission.

Mr. Hampson reported that the proposed application would rehabilitate the historic St. Edward seminary building to provide up to 100 guest rooms as well as meeting and conference rooms (a portion of which could be used by a nonprofit or public organization), administrative spaces, an exercise facility, a wellness spa, a restaurant, and a café.

Mr. Hampson stated that after a unanimous vote on January 9, 2017, the Washington State Parks and Recreation Commission approved and executed a 62-year lease with Daniels Real Estate. In exchange for the Commission allowing adaptive reuse of the seminary, Daniels agreed to purchase a 9.7-acre private property adjacent to the park along Lake Washington and transfer that property to the State Parks.

Mr. Hampson described the lease area and its proposed use. The lease area is a pentagonal 5.5-acre area in the central portion of St. Edward State Park. This area contains the seminary building (approximately 80,000 square feet), a swimming pool building (14,000 square feet), gymnasium (10,000 square feet), volleyball court, and surface parking. The lease area is bounded on all sides by park property including forest, streams, and wetlands, as well as a ballfield and ballfield parking just east of the site. The Lake Washington shoreline is about 1500 feet west of the site. Access to the site is by private drive off Juanita Drive. The area surrounding the park is primarily residential. Tr. 30.

Mr. Hampson noted that the project would provide on-site parking in a below-ground structure as well as in an existing surface lot. Existing surface parking would be improved, including resurfacing and restriping a lot east of the seminary and expanding a parking area northeast of the gymnasium. There would be no net loss of parking for the general public and that there would be no changes to site access.

Mr. Hampson noted that the site is zoned “parks.” The proposed hotel use is not a designated, permitted, conditionally permitted, or prohibited use in the city’s Parks Zone Use Allowance Table, so the proposal had to undergo a site plan review. The City of Kenmore was designated nominal lead agency for purposes of a State Environmental Policy Act (SEPA) review. A draft Environmental Impact Statement (EIS) was issued for review and comment on October 14, 2016. A Final EIS was issued on December 16, 2016, with an addendum issued on December 30, 2016. The City extended the appeal deadline 14 days, from January 6 to January 20, 2017. He averred that the EIS documents were all prepared using appropriate methodology and that they “adequately analyzed the probably significant adverse environmental impacts of the project.” Tr. 33:9-11.

Ms. Eilean Davis, City Planner, City of Kenmore

Ms. Davis recounted the milestones for the project so far. The Land Use Application was submitted on June 31, 2016, and the application was determined to be complete on July 6, 2016. She listed, with reference to Mr. Hampson’s testimony, several milestone dates for the EIS process. Tr. 35.

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Ms. Davis argued that the project complied with several objectives of the city's comprehensive plan, which she quoted and discussed in turn:

- Land Use Policy 1.1.1: Ms. Davis argued that the project will further this policy by providing jobs, preserving the historic seminary building, and protecting the natural environment through repurposing an existing structure.
- Land Use Objective 1.4: Ms. Davis argued that the plan will contribute to the city's quality of life by bringing a new business to Kenmore and providing a restaurant and social opportunities for residents.
- Land Use Policy 1.4.2: Ms. Davis noted that the park zone provides the "Type 4" site review process to establish classified land uses not otherwise permitted in the park zone. This process meets the policy by ensuring a wide range of appropriate uses can be considered.
- Land Use Objective 2.5: Ms. Davis noted that the existing seminary building has service and utility connections, which the project would upgrade as necessary.
- Land Use Policy 2.5.1: Ms. Davis testified that the project is a "quality redevelopment" for a building with significant deferred maintenance needs.
- Land Use Objective 3.2: Ms. Davis testified that this project preserves and adaptively reuses the historic seminary building
- Land Use Policy 3.2.2: Ms. Davis notes that the historic fabric of the seminary will be retained to the extent possible, and that the use of the building will be enhanced since the building will be open to the public for the first time in years.
- Land Use Policy 12.1.3: Ms. Davis testified that the proposal here is one example of private reinvestment in a historic site.
- Natural Environment Subelement (LU 13.3.2): Ms. Davis noted that the project provides "careful" and "appropriate" lighting designs for its location.
- Economic Development Subelement (LU 25.2): Ms. Davis testified that, as a historic rehabilitation, the construction phase will employ more local labor than a new structure. And the project will bring a new business to Kenmore.

With respect to environmentally critical areas, Ms. Davis testified that the city reviewed watershed reports and concluded the project complies with the Kenmore Municipal Code. Because there are no listed species or critical areas, there are no impacts. The city reviewed geotechnical reports and found that the project would have no impact on the nearest geological hazard, located 500 feet offsite.

Ms. Davis reiterated Mr. Hampson's testimony that the park is zoned as a park, and the proposed lodge is classified as a hotel under the city's zoning code (definition 18.20). Allowed uses under the hotel classification include, among other facilities: a central kitchen, dining room, and accessory shops and services (such as meeting rooms, exercise facilities, and spas). Use of building space for a nonprofit organization is an allowed accessory use. Allowed accessory uses to an established park use may also be permitted.

Ms. Davis testified that the application meets the design standards based on Kenmore Municipal Code 18.50.01. The application complies with design requirements for specific uses set out in Kenmore Municipal Code (KMC) 18.51.80 and 18.50.20. Tr. 40.

Mr. Zack Richardson, Civil Engineer, City of Kenmore

Mr. Richardson testified that he is a Professional Engineer with ten years' experience in development in the City of Kenmore.

Mr. Richardson stated that the City has recommended site plan approval with a condition that the project must comply with KMC 13.35 before the engineering permit would be issued. Consistent with the NPDES (National Pollutant Discharge Elimination System) permit the City has with the Department of Ecology, KMC 13.35 requires that the project comply with the 2009 King County Surface Water Design Manual. The project will need to use flow control or detention to mitigate for additional runoff from new roads or parking lots. The final mitigation requirements will depend on the final site design, but he opined that the project will be able to comply with KMC 13.35 as conditioned.

Mr. Richardson then took up the transportation issue. He noted that the project must comply with KMC 12.50 (road standards), 12.80 (transportation impacts), and 18.40 (parking impacts). He testified that the project qualifies as an adaptive reuse site under KMC 12.50 so it is exempt from frontage and access road improvements as long as the project can show safe site access.

Mr. Richardson referred to the Heffron traffic report (Ex. 14). He testified that the Heffron report shows that project complies with KMC 12.50, because the traffic light at Juanita Drive and NE 145th Street will still meet city level-of-service standards and the project provides safe site access. The report includes an independent fee assessment per KMC 12.47, and the project is conditioned to pay traffic impact fees for any mobility units it creates. But because the projected traffic will not exceed the city's available mobility units, the project satisfies KMC 12.80 without further mitigation.

Mr. Richardson then addressed the parking analysis contained in the report. He testified that KMC 18.40.030 typically requires one parking stall per bedroom for hotels—so with 100 rooms, 100 stalls would be required. He stated that the report found the project should have more parking than the minimum, and that the 153 stalls provided are anticipated to meet full capacity parking demands. The project is conditioned on providing these 153 stalls as well as maintaining the total number of stalls available for park users. The developer's lease with State Parks also requires this. Two other conditions require the project to provide bicycle parking (KMC 18.40.030.E) and to upgrade a pedestrian trail to ADA standards. With all these conditions, the project will meet the transportation requirements.

Ms. Eilean Davis

Ms. Davis called attention to Exhibits 15 and 16 (the Certificates of Availability from Northshore Utility District for water and sewer service) and Exhibit 17 (a Northshore Utility District letter containing the fire department recommendation)

Ms. Davis then testified about the project proposal's compliance with code requirements. She noted that the proposed use is as a hotel (temporary lodging) with accessory uses, in conformity with city and state rules and regulations as well as park standards. The project site is located in St. Edward State Park, so the project will only move forward with the Washington State Parks and Recreation Commission's authorization after considering the input of interested parties. Tr. 45.

Ms. Davis testified that the project is compatible with the character and appearance of development in the vicinity. The project is to be located in a building listed on the Washington Historic Register and the National Register of Historic Places. The temporary lodging use is generally consistent with the building's historic use as lodging for seminary students, and that the project will maintain the historic character of the seminary while making necessary updates and alterations. Ms. Davis denied the project would intrude into the public open space, trails, or park areas beyond the site. The project is expected to be compatible with the nearby Bastyr University campus, which is also surrounded by St. Edward State Park. Ms. Davis noted that the university could collaborate with the proposed project restaurant. The two sites share an access road but there are expected to be no traffic impacts to Bastyr. The environmental impact review will study this issue further.

Ms. Davis also noted that the city has proposed expanding the ballpark facilities near the site, and that the city expects the projects will be compatible and will not share parking facilities.

In response to questioning from Mr. Kaseguma, Ms. Davis agreed that the latter part of her comments on the record were summarizing the aspects of the application that meet Kenmore Municipal Code 18.105.050. At the request of Mr. Kaseguma and the hearing examiner, Ms. Davis read aloud KMC 18.105.050A. She stated that in her opinion the application meets the five requirements of 18.105.050A.

Ms. Davis stated that the application is for a hotel classified use consistent with the definition of "hotel" in KMC 18.20.1335. She also read aloud KMC 18.28.030, which allows for parks zone accessory uses consistent with definitions in 18.10 and 18.20 as determined by the city manager. She agreed that the proposed uses are consistent with those definitions, and should be determined by the city manager to be accessory uses. Tr. 51.

Mr. Kaseguma then asked Ms. Davis to consider a comment letter (part of Exhibit 45) that argued the application use should be a conference center use under KMC 18.25.60, not a hotel use. Ms. Davis read KMC 18.25.060 aloud. Based on the Draft EIS, Ms. Davis concluded that the third and fourth floor are primarily sleeping quarters. She reported that the first floor would contain about 4,400 square feet of meeting space, with the largest room being 1,357 square feet. Mr. Hampson chimed in that the largest room was approximately 20 by 50 feet. Ms. Davis stated

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that she believes the meeting rooms are too small for a large conference and would primarily be used for smaller meetings by hotel guests or daytime users who stay offsite. Tr. 55.

Mr. Bryan Hampson

Mr. Hampson concluded the city's presentation by noting his recommendation, in his capacity as designee of the city manager, that the application be approved.

On cross-examination by Ms. DeWeese, Mr. Hampson agreed that KMC 18.100.60 and 18.100.070, which allow for existing building nonconformities to continue and expand, could apply to this project if there were an existing nonconformity such as a height nonconformity.

Mr. Zack Richardson

On cross-examination by Ms. DeWeese, Mr. Richardson elaborated on the city's use of mobility units for traffic impacts. Kenmore has looked at how development will affect its whole transportation network over time and assessed a cost for those impacts. The city can handle development up to a certain limit using just these impact fees—this is what the city calls its bank of mobility units. Because the project won't exceed the available units, the project meets concurrency requirements by paying the impact fees. No physical improvements (such as lane widenings) to increase the city's bank of mobility units will be required.

Regarding parking, Mr. Richardson stated that he did not believe it would be appropriate under the city's code to calculate minimum parking requirements based on both primary and accessory uses. Typically, parking minimums are based on the primary use only. In addition, the ITE Manual that the city uses for calculating these minimums defines a hotel as including all the proposed secondary uses as well. Mr. Richardson reported that though areas surrounding the state park have neighborhood transportation programs, there is no city program for the park or for 145th Street. Tr. 60.

Ms. Abby DeWeese, Attorney for the Applicant

Ms. DeWeese, on behalf of the developer, enumerated the criteria in KMC 18.105.050 that they seek to satisfy: 1) conformity with city and state codes; 2) consideration of the recommendations and comments of interested parties and agencies; 3) compatibility with character and appearance of existing or proposed development; 4) compatibility with plans for existing or proposed pedestrian and traffic corridors; and 5) conformity with the comprehensive plan.

Mr. Kevin Daniels, President, Daniels Real Estate

Mr. Daniels is the founder, majority owner, and president of Daniels Real Estate. The firm focuses on adaptive reuse of landmark structures as well as related community development projects. Mr. Daniels listed a number of previous Daniels projects including the Starbucks Center, Union Station, and a number of other projects in Seattle, including one project involving collaboration with the National Park Service. He has a personal interest in historic preservation.

He is currently a trustee emeritus for the National Trust for Historic Preservation and sits on the boards of directors of the National Trust Community Development Corporation and the National Main Street Center. He recently founded and cochairs the Alliance for Pioneer Square. He has a personal connection to the St. Edward Seminary project; he was married in a chapel at what is now Bastyr University. Tr. 65.

Bastyr hired Daniels in 2014 to look at expanding the university into the St. Edward seminary building. After they chose not to move ahead, his team explored other options for the building, and have proposed what they feel is the most appropriate and cost-justified use. Daniels Real Estate intends to obtain all the legally required permits and entitlements for the proposed project.

Daniels Real Estate signed a lease with State Parks that allows operation of the lodge facility within an area of about five and a half acres. It covers the seminary, gymnasium, and pool buildings, and permits a new garden and a parking structure. Mr. Daniels testified that as partial compensation, a 9.9-acre parcel of undeveloped lakefront property (the McDonald property) would be transferred to State Parks. Mr. Daniels testified that the McDonald property was about to be sold for residential development when his firm contacted the owners. If this project does not go through, the McDonald property may be sold and developed.

Mr. Daniels testified that the lease requires that the property be publicly-owned and that all public areas (including the lobby, food service, and spa) will be publicly-accessible. Access would be restricted for the upstairs lodging areas. Mr. Daniels denied that the project would put up fences around the leased area.

At the insistence of the Parks Commission, a public use area ranging from 250 to 2,000 square foot will be set aside for a use (such as an education facility) determined by State Parks. They have not decided what to use the space for, and Daniels Real Estate has no say in their decision. Tr. 70.

Mr. Daniels testified that there are no current plans for the gymnasium and pool buildings, and that the gymnasium will not be included in the project lease until an existing lease expires in 2021. He acknowledged the public comments about what they would like to see in those buildings, but their hands are full right now with the seminary building.

Aside from access and utility easements, the developer will have no authority over parts of the park outside the leased area. The project will be required to advise guests that they must comply with park rules both within and beyond the leased area.

Mr. Daniels said he believes the project will be compatible with Bastyr University based on his understanding of their goals from when they brought him in to look at the seminary. There may also be opportunities for spa education, herbal medicine and farming, and work study. They have voiced support for the project. He also believes the project will be compatible with the surrounding public and that the park and the lodge will enhance each other. This project is an ideal example of protecting the cultural landscape of a historic building and letting more people

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use it. There is great interest in using state parks, and this project would let people stay overnight, hike trails, and provide jobs and a place to go on weekends.

Ms. Trevina Wang, Vice President and Project Manager, Daniels Real Estate

Ms. Wang is a vice president at Daniels Real Estate and is the project manager for this project. She has worked at Daniels for 2 ½ years. She submitted the site plan application for this project. Tr. 75.

Ms. Wang stated that the site plan application originally was for temporary lodging use, but the city believes that a hotel use is more appropriate, and Daniels Real Estate agrees.

Looking at the site plan document (Exhibit 13), Ms. Wang described the proposed parking element. Alternative One proposes two levels of parking: one in a restriped triangular parking lot north of the gymnasium, and the other a covered parking garage in the middle of the lease area. The covered parking garage is a structured parking garage. The seminary sits higher than the proposed structure, though Ms. Wang did not describe it as an underground structure.

Ms. Wang testified that the park currently has 220 stalls for parking (including the two parking areas that are part of the lease), and the project is required to ensure there is no net loss in the number of parking spaces available to the general public. The State Parks lease also requires that the project charge for parking in the garage available to lodge guests. The project will provide 13 stalls for bike parking and two loading spaces, as required in the Kenmore code.

Regarding emergency safety precautions, Ms. Wang testified that Northshore Fire Department has participated in all meetings with the City. They recommended that the access road from Juanita Drive to the seminary property stay open, and that a monitoring plan be used to ensure the road stays open. The monitoring plan will be similar to Bastyr's but with the latest technology. With respect to light and glare, Ms. Wang stated that the project will comply with city codes requiring downward shields and other standards. Tr. 80.

Ms. Wang then addressed the comments heard at public meetings before the State Parks Commission on January 5 and 9, 2017 (Exhibits 25 through 27). She testified that all seven park commissioners were very supportive of the project. The minutes of the meeting also contain a letter from the National Park Service stating that the proposed uses are compatible and are in compliance with the Land and Water Conversion Fund Deed requirement of the original property sale from the NPS to State Parks.

Ms. Wang believes that the site plan as recommended by the City complies with all Kenmore code requirements. She has no objection to the conditions the City has placed on the project.

Mr. Rod Wright, Principal, Rod Wright & Associates/Architects

Mr. Wright's firm has worked for 25 years on historic preservation and special-needs projects such as the Pioneer Square pergola and Washington Hall in Seattle. Mr. Wright is the consultant providing architectural design services for the project. Tr. 85.

He believes that the lodge design complies with the standards set for buildings on the National Register of Historic Places. Complying with these standards helps ensure that the adaptive reuse is consistent with the historic use. Adaptive reuse is encouraged to maintain usage of historic buildings that can no longer be used for its original purpose.

Mr. Tim Brockway, Project Manager, Coughlin Porter Laudeen Civil Engineering Group

Mr. Brockway has been a project manager for 23 years. He works at Coughlin Porter Laudeen (CPL), which was involved in upfront planning of the site plan application documents.

Regarding water and sewer availability, Mr. Brockway testified that the water pipeline that comes down to the development area will probably need extension and upgrades. Those designs have not been officially presented, but the Water Availability Certificate indicates that the system can be made to support necessary fire flows. There is a joint sewer system that also serves Bastyr, and the specifics of complying with the sewer district requirements will be assessed.

Construction of the structured parking garage and reconfiguration of existing lots will increase the impervious surface on the site by approximately 2.3 percent. This will trigger drainage requirements to prevent harm to the site and areas downstream, and CPL will work with the city on the specific requirements of city and state code for the site. Mr. Brockway agreed with Mr. Richardson that the project will be able to comply with the 2009 King County Stormwater Design Manual. The project would also be able to comply with the 2016 version of the manual. Tr. 90.

Ms. Jennifer Barnes, Civil Engineer, Heffron Transportation.

Ms. Barnes is a licensed civil engineer specializing in transportation. She was worked in transportation for over 20 years, has worked in environmental impact analysis for about 14 years, and has worked at Heffron Transportation for about 6 ½ years.

Ms. Barnes led the transportation and parking analysis for the project. The traffic analysis followed standard best practice methods established by the Institute of Transportation Engineering (ITE). The analysis used traffic rates based on data collected a few years ago at Cedarbrook Lodge in SeaTac, Washington. Cedarbrook Lodge was used because at the time of collection it was very similar in size and type to the proposed lodge, had about the same number of rooms, had meeting and banquet rooms, and included a restaurant and ancillary uses onsite.

The analysis looked at future conditions for when the project would be complete and occupied, in the year 2020. It included cumulative background growth from regional development, Bastyr University, and the ballfield expansion. After the background growth was analyzed, the added

trips from the lodge project were added in and analyzed. The analysis assumed full hotel occupancy with a conference occurring. The City's standard requires Level of Service (LOS) D (meaning 35 to 55 seconds of average delay) based on Highway Capacity Manual methods. Under the conservative assumption of full hotel occupancy, the peak hour traffic operations would not exceed LOS C, which is within the city's standard. Juanita Way is a designated arterial in the City's comprehensive plan. Tr. 94.

For the parking analysis, Ms. Barnes' study looked at rates established by ITE and at Cedarbrook Lodge. The rates were a little different but of similar magnitude, so the analysis used the higher rate from each analysis to be more conservative. For instance, the ITE rate for overnight parking was higher, and overnight is expected to be the period of peak parking demand. The study projects demand well below the number of spaces proposed, so it identified no parking impacts for overnight parking. For peak midday parking demand with a conference, Ms. Barnes' study used the Cedarbrook data because it was detailed enough to analyze both conference and no-conference midday demands. The study assumed full hotel occupancy plus a conference (with nobody from the conference also staying at the hotel). Under these conditions, the study projected that the onsite parking could accommodate a "midsized" conference with about 120 participants.

But for a larger event, parking demand could exceed supply. In that case, the analysis proposes mitigation measures such as valet parking (to stack cars more tightly) or working with Bastyr to arrange for overflow parking. Shuttling may be required. Ms. Barnes believes that Daniels Real Estate is committed to fulfilling these mitigation measures.

In response to questioning from Ms. Mooney, Ms. Barnes stated that she is aware of some large events that happen in St. Edward Park. Though she knows events can fill the park's parking, she does not believe that issue is related to this project because this project is responsible for avoiding overspill. If the project cannot accommodate parking onsite, then the hotel will mitigate the issue by finding parking offsite, at Bastyr or elsewhere. Tr. 101.

Though Cedarbrook is in an urban environment and not a parklike setting, Ms. Barnes testified that the traffic analysis is intended to create a rate of trips per occupied room for a similar hotel and then apply that rate to this project. The potential environmental learning center was not analyzed specifically, but the trip rates capture the ancillary hotel uses including restaurants, meeting and banquet rooms, and other supporting services.

Mr. Zack Richardson

In response to questioning from Ms. Anderson regarding child safety, Ms. Barnes did not know how the proposed parking configuration would relate to the park's castle playground. Mr. Richardson stepped in to answer, stating that the new parking will not be by the playground, though the existing lot by the lower access road would be rehabbed and remain public parking. He was not sure if any trees would be removed near that lot. Tr. 105.

Ms. Jennifer Barnes

On questioning by Ms. DeWeese, Ms. Barnes noted that she does not understand a specific environmental learning center to be part of this project. The traffic and parking analysis was not required to use the Cedarbrook data, and could have proceeded on ITE data alone. The Cedarbrook data was used to create a more conservative analysis.

Ms. Abby DeWeese

Synopsizing the testimony so far presented, Ms. DeWeese stated that the city and developer's witnesses have testified that there is adequate water and sewer capacity; that all drainage improvements will comply with the King County design manual; that the development will meet park zone standards; that the increased traffic impacts will meet city standards; and that more than the minimum parking will be provided. The City has also made a determination of adequacy under SEPA.

Ms. DeWeese pointed out the support the project has received from the State Parks Commission, historic preservation groups, and Bastyr University. The rehabilitation will comply with the Secretary of the Interior's historic preservation standards, which will ensure the lodge is consistent with the existing development, with the building's historic nature, and with the cultural landscape surrounding it. The project will be compatible with existing and proposed vehicular patterns, as it will use an existing access road and will not alter the circulation patterns. The project will also provide increased ADA trail access. No other pedestrian plans or the like are applicable to this site. The project is consistent with the city's comprehensive plan. Tr. 110.

Ms. Ann Aagard

Ms. Aagard argued that the lodge proposal should be denied for failure to meet the criteria of KMC 18.105.050. She noted that the State Parks lease is granted under RCW 79A.050.025, which states that "the associated property immediately adjacent to the area is covered by the lease." She stated that there the site plan includes a half-acre organic farm that is not immediately adjacent to the areas under lease. The area was associated with a picnic area and volleyball court that are culturally significant. The lease also includes expanding parking and the pedestrian path, which also are not immediately adjacent to the building. Kaleen Cottingham's November 2016 letter (part of her Exhibit 46) uses the same language. Tr. 120.

Ms. Aagard referred to a statement from the Department of Archaeology and Historic Preservation (DAHP) that recommended the parking structure be constructed to minimize cultural and historical impacts. She then noted the National Park Service's 2008 St. Edward Seminary and Cultural Landscape Inventory (included as an addendum to the Final EIS), as well as a color map, "The Great Lawn and Contemplative Garden," compiled by Ms. Aagard and a group of citizens. She testified that these documents show a Nun's Garden on or next to the site proposed for the 53-stall parking lot. The site was a contemplative retreat for nuns when the seminary was in operation. The parking use is not compatible with the site features present there today, with the guidelines for preservation, or with the cultural landscape inventory. In addition, the cultural inventory recommended that a certain view, marked with a red dashed arrow on the

map, should be closed. The proposed structured garage entrance would conflict with this recommendation.

Referring back to the November 2016 DAHP letter, the agency recommended that the mitigation, impacts, and affected resources should be more clearly defined. The site plan now shows that the Nuns' Garden will be covered or obliterated. She believes the site plan shows they are probably removing ten large cedar trees there, contrary to the DAHP letter and cultural inventory. The Final EIS notes but does not address the content of the DAHP letter.

Ms. Aagard believes the underground parking is not compatible with the cultural landscape. In addition, the access road from the parking for the lodge (shown on her map of the site plan) is out of character and should not be allowed. The new public parking on top of the Nuns' Garden would also make people who park there cross the access road twice as well as the landscaped top of the parking structure to get to the main part of the park. Tr. 125.

Ms. Aagard's supporting documents, including the map she and other members of the Friends of St. Edward State Park created for a park sign, were admitted as Exhibit 46.

Ms. Susan Gardner

Ms. Gardner is thrilled that State Parks leased the property to Daniels, and that people will be able to make this a destination. Ms. Gardner lives in the Arrowhead neighborhood, which has road access via Juanita Drive. The small traffic impacts from the lodge will be nothing compared to the traffic created by diversion from toll roads, from Bastyr University, and from park events. Arrowhead residents just have to account for the time it takes to get out of the neighborhood. The beer festival is no longer held in St. Edward State Park, so there is no concern there.

Regarding wildlife, Ms. Gardner stated that she frequently sees deer in the neighborhood, in yards and on decks. They have figured out how to live in the areas between the golf course and the park, and the hotel won't make any difference. Other animals, like owls, have also already adapted to human habitation in the Arrowhead neighborhood. Tr. 130.

Ms. Elizabeth Mooney

Ms. Mooney, along with Macy Ratliff, prepared a petition regarding the project that was submitted as part of Exhibit 45. Ms. Mooney believes the project would be more consistent if the City were not "piggy-backing" an artificially-lighted turf ballfield into the standalone Daniels seminary project. It is hard to discuss the site plan and make comments about the seminary building and its impacts without knowing about the ballfield controversy. A confidentiality agreement between the City, State Parks, and Daniels will decrease public transparency. Ms. Mooney also believes that the project should adopt a leave-no-trace policy for its use of the project site.

Ms. Mooney feels that the biological assessment is consistent with the site's peacefulness and sanctity. Maintaining the seminary building's cultural significance includes everything around it.

If Daniels is not responsible for protecting that, then he needs to hire someone to do so. Ms. Mooney referred to a presentation by Ms. Susan Carlson to the State Parks Commission regarding an environmental learning center. The 2,000 square feet allotted for that use is insufficient to protect the peacefulness or the wildlife of the site. Even assuming Daniels fulfills its proposals for water and drainage mitigation, the project won't be sustainable unless it partners with an environmental steward who teaches from the facility and maintains a leave-no-trace mission. Eventually there won't be any more of the animals on site because the city is going to take away the darkness with the lighted ballfield. Though the lodge project assumed the ballfield would mostly operate during daylight hours, the city is actually proposing lighting that will extend hours to at least 10:00PM. This will kill any bird or amphibian that relies on circadian and seasonal daylight rhythms to breed. This effect is not consistent with site plan criteria regarding spirituality of the park. Tr. 134.

Ms. Mooney met a former seminary student who studied there in 1947 and recalled the site as a peaceful, spiritual place of learning. Even if Daniels can keep that ambience, what the City is adding won't work with that, which makes her not support the Daniels project. The City said Mr. Daniels supports the ballfield lights, but park staff said he is neutral. And his own staff said he supports whatever the city wants. She believes the City has a conflict of interest and that the confidentiality agreement between the City, State Parks, and Daniels Real Estate (approved at a February 27, 2017 meeting) will keep people from knowing what's going on.

Ms. Mooney pointed to a presentation made to park commissioners exploring options for the site's environmental program. An effective environmental program will need more than 2,000 square feet. Promoting ecotourism would be an alternative to "profit-making hotel guests" and would be compatible with a leave-no-trace mission. Ms. Mooney read from the habitat conservation element of the City's comprehensive plan. The element describes three major habitat areas, and also mentions that St. Edward Park is the largest publicly-owned natural area in Kenmore.

Ms. Mooney believes that State Parks staff and the City have worked out a deal that the grant to protect the shoreline will only be pursued if the City gets the artificially lighted ballfield. There are already sixty-plus ballfields within five miles of Kenmore City Center, so they don't need an artificially-lighted ballfield. It was disappointing to read correspondence to the mayor and city council that Mr. Daniels expects the ballfield to be woven into the development and zoning agreements for the lodge. Ms. Mooney read from the correspondence to which she referred. Mr. Daniels and the City have been public about approving whatever the City wants, including a noisy, artificially lighted ballfield that will replace a naturally dark, grassy bird habitat. Mr. Daniels refuses to take leadership on environmental protection and, instead of working with Ms. Mooney, has only looked forward to the renovation and its unsustainable impact on the environment. Tr. 140.

The EIS addressed cumulative impact but ignored the environmental impacts, only addressing parking impacts. It is abuse of nature, a special-interest, profit-making venture in a public park. Ms. Mooney is optimistic, but she hates the tit-for-tat trade of the zoning change for support for

the ballfield. The evidence for that is sketchy, but an email from Doug Levy suggests it might be a factor.

Ms. Mooney wants to preserve the bird habitat, wetland, and stream, as well as the seminary's cultural flavor. To do that, the site must not allow so much car access. Unless the new use is environmentally friendly, natural habitat will dwindle exponentially due to noise, traffic, artificial light, and people eating, drinking, and reveling. Ms. Mooney is not against alcohol per se, but she is against losing the natural atmosphere, against letting profit trump environmental protection. Mr. Daniels must make it his duty to protect the park's nature. Ms. Mooney would like to increase the 2,000 square foot proposed for public use (such as an environmental education program). Tr. 143.

On questioning from Mr. Kaseguma, Ms. Mooney stated that she has a B.S. in zoology and a master's degree in fisheries from the University of Washington. She is an at-home mom and a volunteer who does grant writing. She is president of People for an Environmentally Responsible Kenmore (PERK), which has received a grant for an interactive map of Lake Washington. She had paid work performing ecosystem modeling for fisheries and marine mammals in the Bering Sea in 1982, but has not prepared a habitat assessment or wildlife assessment for an agency or for pay in the past ten years.

Ms. Mooney's written documents were later admitted as Exhibit 47.

Ms. Ann Anderson

Ms. Anderson heard during the parking testimony that there was a tree plan for the site. In her opinion and experience working with the City of Kenmore, tree plans are often an afterthought. Kenmore does not have regulations to save old-growth trees. Ms. Anderson would like to see the tree plan because it's all tied together in one project inside a state park. After Ms. DeWeese noted that the "tree plan" may be the arborist's report (Exhibit 40), Ms. Anderson asked that the hearing examiner review that report.

Mr. Carl Michelman

Mr. Michelman is a resident and local businessman who chairs the Kenmore Business Alliance, affiliated with the Greater Bothell Chamber of Commerce. The park system wants people to come to the park, and this landmark project will bring more people in from locally and across the country. Tr. 150.

When the archdiocese gave the park, they wanted all people to enjoy the building. The state doesn't have the money to restore the building or tear it down. Mr. Daniels has come to the table to make this project happen. It's a win-win for the community and the state. The Business Alliance and the Chamber of Commerce endorse this project.

Mr. Bryan Hampson

At the request of Mr. Kaseguma, Mr. Hampson discussed the email to which Ms. Mooney earlier referred. He stated that the email from Doug Levy was prior to the current application. The previous developer was thinking about putting in some ballfields as a public benefit.

Ms. Abby DeWeese

Ms. DeWeese objected to the allegation raised that the State Parks regulations are inconsistent with the lease approval. The applicant believes the State Parks process was proper. Ms. DeWeese pointed to the testimony of Mr. Daniels and Ms. Wang that the ballfield proposal is not part of this project and has no relevance; their only commonality is their adjacency to each other.

With respect to the environmental learning center, Ms. DeWeese stated that the proposal is for a hotel and accessory uses. There is space reserved for parks programming, but the applicant doesn't know what State Parks will program there so the programming is not part of the proposal.

Regarding salmon impacts, the EIS discloses impacts and identifies mitigation measures. One of those measures is compliance with the stormwater design manual, which as Mr. Brockway testified is intended to improve runoff conditions.

As for contentions that removing elements of the cultural landscape would violate the Secretary of the Interior's historic preservation standards, those standards are flexible guidelines, and the project architect will address the issue further during the second appeal hearing. Tr. 160.

Ms. Jessica Logan, Environmental Program Manager, Washington State Parks

On examination by Ms. Wehling, Ms. Logan stated that she is an environmental program manager and the SEPA-responsible official for Washington State Parks. Looking at the State Parks lease (Exhibit 43), Ms. Logan notes that tree removal must be consistent with State Parks policy. There is no current proposal for the ballfields before the Parks Commission.

With respect to parking and the Nuns' Garden, Ms. Logan pointed out the Nuns' Garden and proposed parking on a map from the Draft EIS (Exhibit 19, Appendix G, page 3, figure 1-2). She testified that the final parking plan has not been cemented, but there are no planned impacts to the Nuns' Garden. There is a good deal of space between the Nuns' Garden and the existing parking that will be improved.

Turning to the Cultural Landscape Inventory to which Ms. Aagard referred, Ms. Logan stated that State Parks sought that report from the National Park Service so they would better understand what they were working with. The report includes treatment recommendations, but there is nothing binding.

SEPA Appeal (Tr. 163)

Ms. Rebecca Hirt, for SEPA Appellant

Ms. Hirt has lived in the area for almost 44 years. She went to public meetings back when the state park was being discussed, so she knows the park and its history. She and her family have a park pass and use the park often. She is an elected hospital commissioner at Evergreen Health, which helped keep the pool open for about three years as a community benefit.

Ms. Tracy Hendershott

Ms. Hendershott lives in Kirkland and has hiked the trails at St. Edward State Park for 19 years. She sometimes photographs the wildlife and has included some of the photos in her prehearing brief. She feels that many of her comments regarding the project's wildlife impacts were unsatisfactorily addressed in the Final EIS.

In particular, the Final EIS did not really address the effects of night trail use at all. Currently the park is closed at dusk, giving wildlife a rest from human activity. This lodge would lead to trail use by walkers and bicyclists. The resulting noise, lighting, and human presence can result in animals being displaced and their natural eating, sleep, and breeding behaviors disturbed. Circadian rhythms are also a concern. Tr. 170.

Ms. Hendershott stated that great blue herons are highly vulnerable to human activity; though she has photographed these birds in the park, they are not assessed in the Final EIS. As a keystone species, pileated woodpeckers' habitat also deserves special attention. The watershed company's January 2016 report found no active bald eagle nests in the park and one past nest outside the construction zone. Ms. Hendershott has seen bald eagles on trees in the park on multiple occasions; with other habitats disappearing, the bald eagle could nest in St. Edward State Park again.

Ms. Hendershott is also concerned that the park now only has one part-time park ranger, with no onsite ranger at night. If this continues and the lodge is built, there will be less enforcement of illegal trail use or activities harmful to wildlife. The EIS should protect these animals and their environment; they should not have to adapt to an unnecessary nighttime invasion, just as we would not want more visitation, lights, and noise in our own neighborhoods at night. As a frequent trail walker, Ms. Hendershott feels it is her duty to speak for the wildlife. This development will have effects on wildlife even experts don't know about. She hopes the EIS will cover this more.

Ms. Hendershott objected to trees being cut for parking. The Douglas firs and cedars are wildlife habitat and include heritage trees and trees in good shape. She would like to see a tree ordinance in the state park like the one in Kirkland. She reminded Daniels Real Estate of the Migratory Bird Act's requirements regarding tree removal. Tr. 174.

Under examination by Ms. Hirt, Ms. Hendershott testified that many answers in the Final EIS were vague. She has been to the park two or three times a week for many years. She does not have photos of the bald eagles because she sees them while swimming. She is aware that the

hotel would have to give its patrons the park rules, but she is concerned about how the rules would be enforced.

Under cross-examination by Mr. Murphy, Ms. Hendershott stated that she is not an expert on trees. She was a general science major, which included courses on plants and wildlife. She has not issued or contributed to a formal report on these issues. Mr. Murphy directed Ms. Hendershott's attention to her letter and the response as contained in the Final EIS, as well as passages from the Draft EIS regarding the use of recreational amenities, impacts to animals by noise and light. Tr. 180.

Ms. Hendershott is concerned about all illegal trail use, including the creation of social trails off the formal trail as well as nighttime use. She does not know whether State Parks will change its enforcement practices. Tr. 185.

Mr. Murphy drew Ms. Hendershott's attention to a letter from the Audubon Society and to passages of the Draft EIS relating to light pollution mitigation. Ms. Hendershott does not have information about how the proposed project will affect night lighting outside the leased area; she has read what was written but there did not seem to be any details. She does not have her own evidence about how much light pollution the project will create, as she lacks the relevant lighting design information.

On cross-examination by Ms. Wehling, Ms. Hendershott testified that none of her wildlife photographs were taken inside the seminary building, and none of the wildlife have habitat inside the seminary building (though she cannot vouch for the butterflies and bugs).

On cross-examination by Mr. Kaseguma, Ms. Hendershott stated that she lived in the Norkirk neighborhood of Kirkland, about seven miles away from the park. She does not believe light and noise from this project will invade her own neighborhood. She has seen bald eagles while swimming at Lake Washington two or three times in the last five years. She could not see the seminary or the construction zone from the water, but she has seen them land on trees at the water's edge. Tr. 192.

On redirect by Ms. Hirt, Ms. Hendershott clarified that the wildlife she has seen are on the trails, as that is where she generally walks. She has not necessarily seen wildlife in the construction zone. She agreed with Ms. Hirt that her concern is not about the people in the hotel building but people on the trails at night and at other times. With the building there comes the activity around it extending all the way to the water and disturbing wildlife. Wildlife are already disturbed here during the day and we should not add to it. Tr. 195.

Dr. David Bain

Dr. Bain obtained his Ph.D. in biology from the University of California, Santa Cruz in 1989. He has done over 10,000 hours of fieldwork in marbled murrelet habitat. He has not published his own work on the marbled murrelet but has assisted in a publication on reducing marbled murrelet entanglement in gill nets. He is one of about 70 certified marbled murrelet observers.

This certification requires field experience and identification skills as well as annual training, including information on the effects of disturbance. Dr. Bain has also attended Forest Management Plan meetings addressing marbled murrelet concerns. He has previously been qualified as an expert witness for habitat disturbance of marine mammals, and has worked on that issue for both the United States and Canada. He has spent 34 years studying marine life disturbance. He submitted declarations on the Maury Island gravel mining expansion proposal. He has also been involved in grant writing for proposals to protect the marbled murrelet.

The Draft EIS for this project has the same flaws as the Maury Island project, as it fails to consider disturbance to species listed under the Endangered Species Act. The marbled murrelet is listed as threatened, and it is a priority species in Washington. The greatest threat to the species is loss of nesting habitat. They breed in stands of trees greater than 60 acres in size, in trees greater than 100 years old that are less than 15 miles from running water. The trees at St. Edward State Park are currently too young to be nesting habitat, but they will be good breeding habitat for the species before the expiration of the Daniels lease. And because the St. Edward site is much closer to their feeding waters in Puget Sound than other known nesting sites, so birds will save energy nesting there. Marbled murrelet reproductive success is an order of magnitude lower than before due to the loss of coastal breeding habitat. Tr. 200.

Dr. Bain testified that the U.S. Fish and Wildlife Service is updating its marbled murrelet recovery plan, and they, the state Department of Natural Resources, and State Parks should consult with each other. Given the nexus with the Land & Water Conservation Fund, Mr. Bain believes Fish and Wildlife should perform a Section 7 consultation before the EIS is completed.

Dr. Bain stated that there are a number of threats to marbled murrelets. Food scraps attract predators such as crows, so any increasing use poses a threat. Murrelets spend their day out at sea, leaving and returning to their nests in low light so they are not observed. Increased light levels might allow owls to observe these movements and predate upon the chicks in the unprotected nests. Vehicle collisions are another concern.

Dr. Bain believes that consulting with DNR is important because they are considering a range of forest plan alternatives and have not picked a preferred solution. The planned alternatives for the nesting area that includes St. Edward State Park range from a 1,000-acre reduction to a 21,000-acre increase in the breeding habitat. If this project exacerbates a planned loss of habitat, that would be a big deal. State Parks and DNR need to decide if State Parks is going to share in the responsibility of recovering the species. State Parks' actions have a predictable effect on what will happen with marbled murrelets in this area. The plans of Fish and Wildlife, DNR, and State Parks all should be considered before the EIS can be considered complete.

Protecting forests includes speeding up the creation of new habitat and improving the distribution of nesting habitats. Essentially all the coastal breeding habitat has been lost, but patches of forest logged in the 20th century (such as St. Edward State Park) are close to becoming new habitat. Having new habitats will protect the species and allow it to recover if its current breeding habitat in the foothills were destroyed by wildfire. In the shorter term, objectives include maintaining potential and suitable habitat in large, contiguous blocks and enhancing

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buffer habitat. Nest disturbance should be minimized. For noise, yelling is a concern, but normal conversations would not be an issue. For visual disturbance, it is a concern if people are close enough for murrelets to see them. Currently a 300-foot buffer is recommended, though the science is not necessarily adequate to support that. Tr. 205.

With respect to bald eagles, Dr. Bain testified that a 660-foot buffer is required around eagle nests. The seminary is further away than that, but the impacts of hikers passing within 660 feet of the nest is something that the Washington Department of Fish and Wildlife should be consulted about. Great blue herons are also a priority species for the state but were not considered in the EIS. The shoreline along the park is a foraging area that needs to be protected; the possibility of hikers going down to the water and disturbing herons should have been considered in the EIS.

Under examination by Ms. Hirt, Dr. Bain discussed the levels of concern and protection for endangered and priority species. Salmon are potentially a concern; there is a strong suspicion that excess lighting contributes to predation on juvenile salmon, but that research is not complete. If the seminary itself, or visitors with flashlights at the beach, adds to the light levels across the lake then it could increase salmon mortality. Without enough salmon to eat, killer whale populations would decline as well.

Dr. Bain testified that a species can be dying a death of a thousand cuts by many small but cumulative impacts. Where many small impacts are threatening a species, then each of those impacts has to be dealt with even if each one on its own would not result in extinction. Tr. 209.

On cross-examination by Mr. Ranade, Dr. Bain testified that he did not submit written comments on the EIS and did not speak at the Draft EIS hearing, though he did speak at the January public hearing. Dr. Bain is primarily a marine mammal biologist. Killer whales and murrelets share the same habitat, so he collects data on both species and their interactions. He takes data on their locations, usually just noting their presence rather than the number. He did more detailed fieldwork on their presence in Prince William Sound, and in the last couple years he has done monitoring for Fish & Wildlife, including noting their behavior, their location, and human activities in the vicinity.

Dr. Bain repeated that he has not published on the marbled murrelet. He stated he is not a lobbyist. He does not have a forest practices management degree. He agrees that marbled murrelets and killer whales are not the same species. Dr. Bain played a small role in a study of using noisemaking painters to cause murrelets to avoid gill nets when diving for fish. He has not personally done studies on the effect of building construction or operation on murrelets, but he has reviewed the studies of others. His work in opposition to the Maury project focused on the impact on Chinook salmon and killer whale habitat. Tr. 215.

Mr. Ranade directed Dr. Bain's attention to an aerial site map from Exhibit 19. Dr. Bain does not believe any of the construction projects would have a direct effect on murrelets. The concern is the increased number of people going to and from the site. He understands that the site is not currently murrelet habitat and the project would likely be complete long before the site would be habitat. Like the Maury Island project, a small project area here can have effects on a wide-

ranging population. Though there are no tugs or barges or gravel shipping docks in this project, there are people with flashlights and screaming kids. Dr. Bain assumes that people will be able to leave the lodge at night and go outside. He is aware that some night events are now held in the park.

Dr. Bain has not seen any marbled murrelets in St. Edward Park. He reiterated that marbled murrelets do not currently nest at St. Edward State Park because they have specific nesting requirements that St. Edward will not meet for a couple decades. If DNR goes all out protecting murrelet habitat on DNR's land, then impacts to St. Edward Park are not a worry. But if DNR decides it can rely on future habitat in state parks, then the impacts to this park will be important. This discussion should have happened as part of the EIS process. Dr. Bain has not personally conducted a marbled murrelet nesting habitat study, and he has not geotagged any birds. Dr. Bain believes that DNR will be changing policy with its Draft EIS out for comment now. Tr. 220.

Asked to consult another aerial map from Exhibit 19, Dr. Bain testified that the McDonald property is wooded. He is not aware of any difference between the trees on that property and those in the park. Kenmore's grant application to purchase that property was very highly rated. Returning to the other map, Dr. Bain testified that he does not believe any of the trees within the project area could one day support a marbled murrelet nest. He does not know the closest old-growth tree to the seminary. The park was logged in the 1920s.

Dr. Bain agreed with Mr. Ranade and the Draft EIS that development of the lodge would not increase habitat fragmentation, because the area is already built on. Regarding the EIS' comments on construction noise and wildlife, Dr. Bain said he could not argue that construction noise would be a problem. He agreed with statements in the EIS that increased nighttime traffic may reduce the abundance and diversity of reptiles and amphibians within in next to the project site. These animals do not have the same legal protections that marbled murrelets do. Tr. 225.

Dr. Bain agreed that the land-based project area did not include fish habitat, and his concerns focused on the traffic to and from the project area and between the project area and the water. He agreed that the EIS notes that people visiting the lodge will use the trails. He believes that however the lodge is ultimately lit, that light will spill onto Lake Washington. The trees in the park are over 100 feet tall, taller than the lodge, but light will be reflected off of clouds and snow at night. He suspects the light from the lodge will not be materially different from the light of the surrounding development, but somebody should measure that.

Dr. Bain stated that because the EIS fails to consider marbled murrelets, it also fails to consider the effects of noise on them. They are more easily disturbed than many other birds. Because impacts to future marbled murrelet populations are a reasonably foreseeable cumulative effect of this project, those impacts should have been studied. The same logic applies to any other threatened or endangered animal that could set foot in the park in the next 20 years or longer. Tr. 229.

In response to questioning from Ms. Wehling, Dr. Bain stated that the project would modify the presence of humans on the shoreline, which would affect great blue herons. With respect to

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eagles, the impacts would be increased use of existing trails; Dr. Bain understands that about 200 people would stay at the lodge, though he does not know the average daily number of park users. Dr. Bain did not put together a list of scientific literature on which he relied to form his opinions.

In response to Mr. Kaseguma, Dr. Bain agreed that the park is heavily used and said he would not disagree with Mr. Kaseguma's assertion that the park has about 865,000 visitors a year. He did not know how many visitors park in the parking areas, park at Bastyr, or walk in to the park. There are likely many visitors who park there. Marbled murrelets do not like to nest where there are human visual or noise disturbances, so the project site itself is not a potential nesting site. But it is reasonably foreseeable that the traffic the project site creates in the park and on the surrounding trails will affect potential murrelet habitat in the park. Stormwater and lighting must be done properly. Tr. 236.

Dr. Bain agreed with Mr. Kaseguma that 100 extra trail users a day would be about a 4.2% increase over 850,000 visitors a year. But the timing is important; trail users at night or within two hours of dawn or dusk would have more impacts than people using the trails at lunch.

On redirect examination by Ms. Hirt, Dr. Bain testified that he has read more about marbled murrelets than most students would be assigned in a course. He has done research on them equivalent to a master's level thesis, and he has talked with colleagues who study marbled murrelets full-time. There are noise standards based on Navy studies, but the painter study suggests a much lower level of noise would affect murrelet behavior. Maybe studies on their sensitivity should be done. Dr. Bain would consider himself one of the best in the world on killer whales. He is not there for marbled murrelets, but he believes his knowledge meets the threshold for an expert. There are no quick fixes for the species; you have to think 50 or 100 years ahead to recover them. There won't be impacts to them during construction, but the future impact on them needs to be weighed. Tr. 240.

Mr. Peter Lance (Tr. 248)

Mr. Lance has been a resident of Bothell and Kenmore for 64 years. There seems to be a source of contention about whether this is a conference center or a hotel with meeting rooms. Under KMC 18.040.030, parking is required for a conference center at the rate of "one per three fixed seats plus one per 50 square feet used for assembly." The Heffron report says there is 16,600 square feet of conference space, so that would come to about 333 parking stalls required under Kenmore code. Tr. 250.

Mr. Lance believes the SEPA official exceeded his authority by defining this project as a hotel rather than a conference center. It seems clear to him that for a big hotel with a small conference center you count the bedrooms, while for a big conference center you count the square feet, and you take the higher of the two. The citizens' concern is really that the traditional park user will be pushed out when the lodge and conference areas are running fully. If you compare this project with the Cedarbrook Lodge, there could be over 1,000 visitors in the park. Daniels' own numbers in the Final EIS anticipate 550 people at conferences on a busy day and 240 people in the

restaurant at full capacity—a total of 790 people. Using the 0.9 cars-per-person multiplier, there are still hundreds of cars left to park.

Mr. Lance obtained a graduate economics degree in 1974 with an emphasis on statistics, and a graduate degree from the University of Denver in market research, real estate, and construction management. There are a lot of cars Daniels is going to need to park, and there's no evidence that Bastyr can accommodate these cars. Daniels has not said where offsite cars will be parked. And hotel users using public parking is a concern; the SEPA official acknowledged they cannot prevent people who are visiting the hotel from using public parking, though he noted some options to discourage that behavior. People are going to find a shuttle inconvenient and can just use their Discover pass instead. This was acknowledged but not studied. There's no parking plan except a shuttle to a nonexistent lot. Cedarbrook has a lot within 2,000 feet that people can use; it doesn't have to compete with a public parking lot. Tr. 255.

He wants to ask the person who prepared the Heffron report how the numbers would have been different if Cedarbrook was more or less busy. And the Cedarbrook study was in January so it does not address seasonality.

In response to Ms. Hirt, Mr. Lance stated that the park is quiet in the winter, especially on rainy and cloudy days, and it is quite busy from late spring to fall. He does not believe Cedarbrook and St. Edward are very comparable properties. Though the meeting room capacities are similar, there are market differences given Cedarbrook's proximity to SeaTac. Tr. 260.

Mr. Lance wondered who was expected to come and attend the conferences. They could be Eastside high-tech people coming in and tying up parking during the day. The SEPA official should have asked about the different sort of people going to Cedarbrook versus St. Edward. People can walk to Cedarbrook from the SeaTac lots or can take the airport shuttle, invalidating the numbers here.

Under cross-examination by Mr. Ranade, Mr. Lance stated that he is not a traffic expert. He has not conducted an independent traffic-flow study around the park. He has not spoken to anyone from Daniels Real Estate about the project. He has no information on whether the hotel will allow people to stay there only if they are renting the conference facilities as well. He agreed that there is overlap between the different uses. Tr. 265.

Mr. Lance would like to see the SEPA official investigate this issue in greater depth. He did not come with specific solutions, and it is a hard problem to figure out. The SEPA official should have required more information on the plan for offsite parking. He agreed that ITE is the industry standard for analyzing traffic and parking, but there would still be problems with the Heffron analysis even if Cedarbrook were not mentioned at all. He did not speculate how the SEPA official would have worked with just the ITE data and not the Cedarbrook data. He does not know how often a full-capacity scenario would occur. He calculated the results in his figures himself. The Cedarbrook building is similar to St. Edward, but the location is different. Tr. 271.

Mr. Ranade drew Mr. Lance's attention to the EIS statements regarding steps to mitigate overflow parking. Mr. Lance stated that Bastyr's parking is often full, so they will not always be the go-to overflow opportunity. If Bastyr's lot is full, then relying on Bastyr is not a reliable, practicable solution, it's just a dream. Mr. Lance has read the comment letter by Phyllis Finley and the SEPA official's response, including the part about cost-of-convenience incentives for guests to use lodge parking instead of public parking. He agrees that 220 public parking spaces will be available both before and after the project is built. Tr. 275.

In response to Mr. Kaseguma, Mr. Lance testified that his visual review of the floor plans shows about the same square footage of lodging as of meeting rooms. The meeting rooms will have more people going in and out at full use—200 in the hotel rooms and 800 in the meeting rooms and restaurants. ITE probably has a standard for daily operational use of these facilities, and he would refer to that for a basic usage percentage. The Kenmore code spells out when to use the square footage metric and when to use the number of rooms metric. This project seems to fall under the conference center category. They're trying to do the right thing for the park and have a solid traffic and parking solution, but this proposed solution hasn't been thought through. Tr. 286.

After reviewing the floorplans, Mr. Lance did not dispute Mr. Kaseguma's statement that the square footage for lodging was half again that of the meeting area. He is not in a position to tell the project how to run the tests, he's pointing out things that were not investigated, a lack of numbers about the day-to-day, season-to-season, year-to-year usage. Mr. Kaseguma directed Mr. Lance's attention to the Heffron report; Mr. Lance noted that Cedarbrook Lodge reported its daily hotel occupancy rate and the average number of conference attendees per day, but not the percentage conference occupancy. The numbers on their website they could have 1,000 people at capacity, so according to the Heffron report they were only averaging 15% conference capacity during the study period. Tr. 290.

The use of the higher ITE rates in the Heffron report does not satisfy Mr. Lance's objections to the projection. St. Edward does not have nearby large parking lots like Cedarbrook does. He has been to St. Edward for concerts when people are parking all over the place, on the lawns and the grass ballfield. The park opens these grass areas for parking in these overflow situations, but that is public parking. Tr. 294.

On questioning from Ms. Hirt, Mr. Lance noted 6,000 square feet of meeting rooms and 3,200 square feet of dining room on the first floor. The basement is all meeting rooms, offices, and mechanical. Most of the meeting space is on the first floor and basement levels. The meeting rooms are the dominant use; you see them as you enter. He does not know whether people will have to stay at the hotel to rent meeting space. He does not know what the standard conference space at a 100-room hotel would be. In the summer, the park sometimes doesn't have any parking spaces free, and people are hovering and waiting for others to leave. On most nice Saturdays and Sundays the parking lot is at capacity.

Mr. Lance believes the parking and traffic analysis should be based on the truly anticipated needs for the hotel and conference center. It should look at both disparate and overlapping activities

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throughout the seasons. With 550 people showing up to conferences and 240 to the restaurant, the conference room daytime impacts will be greater than those of the hotel in the evening or whenever there is not demand for public parking. Tr. 301.

Ms. Hirt

At the end of the first day, Ms. Hirt summarized that the project includes 16,000 square feet of conference space and 100 beds. The parking is inadequate for the size of the building and for keeping the promise that there would be no net parking loss.

At the start of the second day, Ms. Hirt stated she has long been involved with the park, including spending two years on the advisory committee of CAMP. Any use of the seminary building must be subordinate and complementary to the park as a natural sanctuary and outdoor recreation area. Instead of supporting outdoor recreation and traditional park activities, the project brings in new activities. And facilities in the building have great public value but this project doesn't really open them up to the public, just to paying customers. The project should not alter the seminary grounds or remove the historic volleyball court. There is no indication if fees charged will be reasonable; the project seems like it is aimed at high-income people, not the general public. This building will overtake the park, even with the additional 9.9 acres. Tr. 316.

Ms. Hirt referred to standards from a market feasibility study regarding meeting space in a hotel that she believes suggest this project has more meeting space than that standard. Tr. 320.

Referring to the arborist's report (Exhibit 40), she noted that 11 trees would need to be removed for the proposed parking garage, and two other trees to be removed for poor structure. These trees are a beautiful part of the park, so the project should look at how to accommodate the parking needs without removing trees.

On questioning from Mr. Ranade, Ms. Hirt testified that currently access to the seminary is by appointment only. After the project was completed she could walk in and get coffee, but the hotel would be welcoming to paying customers. Tr. 325.

Ms. Hirt stated she does not personally play volleyball. She has not done an independent study or traffic analysis. She has not personally stood at the park entrance and counted the visitors, though she has seen data from 2016 counting the number of cars coming in. She is concerned about the cultural change of the lodge overtaking the park. She agreed that Alternative 2 of the plants element of the EIS contemplates protecting trees from removal for parking. Tr. 332.

On cross-examination by Ms. Wehling, Ms. Hirt clarified that while she spoke at the hearing on behalf of Citizens for St. Edward State Park, she is also a founding member of a separate State Parks-sponsored group called Friends of St. Edward State Park. Citizens for St. Edward State Park has not presented a funded proposal for use of the seminary building. Currently, the public has to pay a parking fee at the park, and the dining hall also charges a fee. Tr. 335.

On redirect of herself, Ms. Hirt stated that Citizens for St. Edward State Park has come up with ideas for using the seminary for a long time, but State Parks has resisted. Funds cannot be raised if nobody knows whether the project will go through, and none of us get paid to do this on our own. The group would have sought donor funding if State Parks had shown any kind of encouragement for their ideas. She further discussed the differences between Citizens for St. Edward State Park and Friends of St. Edward State Park.

Ms. Hirt's concern for the volleyball court stems not from personal interest in volleyball but from its recognized historical character. The area around the court that will be replaced with a garden is where Friends of St. Edward State Park holds their kids' day in the park. Mobility is also a concern, as many people use the park core for exercise, and the hotel might discourage that. Tr. 339.

Ms. Elizabeth Mooney

Ms. Mooney views the EIS as a sort of parenting plan between Daniels, State Parks, and the City. The wildlife are the children of the park. The confusion between the seminary project and the ballfield project has confused the issue of protecting the metaphorical children. The proposed seminary building will cause a significant adverse environmental impact to wildlife, plants, and lichens because, due to the confusing nature of these projects, the EIS was not done properly. Tr. 345.

Ms. Mooney is concerned that the cumulative impacts of the seminary project and the ballfields were not evaluated in the EIS. The wildlife are not being protected because of confusion between the parties about the impacts of the ballfield project and whether the ballfield project is even a project at all.

On cross-examination by Mr. Murphy, Ms. Mooney stated that the ballfields were the straw that broke the camel's back. She has not pursued fisheries as a profession since she received her master's degree in fisheries. Lichen is a symbiotic relationship between algae and fungus with grows on trees; air quality is a factor in whether and what kind of lichens grow. She did not study lichen as part of her fisheries degree. She has noticed that there are lichens in the park and has suggested that a study be conducted on them with the University of Washington. She did not remember looking for or finding lichen growths within the project site itself. Tr. 351.

Ms. Mooney agreed that the Draft EIS does note that this project plus other projects in the vicinity (such as the ballfields or Bastyr) may have cumulative impacts on light, noise, and vegetation removal. But the treatment is not specific and does not address other sorts of population impacts, such as those from car traffic, though car traffic is mentioned elsewhere. Tr. 355.

On cross-examination by Ms. Wehling, Ms. Mooney stated she had spent a few hours reviewing the Draft EIS, but not many.

In elaboration of her earlier statements, Ms. Mooney stated that she was not the expert who went through the Draft EIS. She relied on State Parks staff (specifically Michael Hankinson) to provide what she believed was neutral information about how to approach a baseline study of the wildlife at the park. She later learned that the proposed grant to mitigate impacts to wildlife in the park would only be pursued if the ballfields get lighting and turf. She relied on her state and city to do the right thing, and they have failed miserably in protecting the animals that are the treasure of the park. If Mr. Daniels can create a project with minimal impact that does not harm the park, that would be better. Tr. 360.

Mr. Ron Wright

Mr. Wright reiterated that he is the principal of his own architectural practice, focusing on historic restorations, housing, restaurants, and other specialized projects. Some of his projects have won national awards. His firm designed the plans for the seminary in accordance with Department of the Interior standards, which he has also used in several previous projects since 1996. These standards outline a methodology for restoring buildings, districts, and historic elements are viable for the next century. The rules do not require strict compliance.

Turning to the Nuns' Garden, Mr. Wright testified that it was identified as overgrown and virtually nonexistent. He did not notice the garden in his walk around the site. In his opinion, the Nuns' Garden is not so critical to the site that the Interior standards would strictly apply to it. The project as proposed therefore complies with the standards with respect to the Nuns' Garden. Tr. 375.

Mr. Wright testified that the parking structure would replace the paved parking with a vegetated green top that would be at grade, so people would be able to walk across that instead of a lot.

Mr. Wright explained the difference between fire code capacity and general facility operation capacity. Under the international building code, which Washington has adopted, the size of the room and its proposed use are used to calculate a capacity (for instance, 15 square feet per person for a meeting space); this number is used to determine the life safety requirements for that space. Fire code capacity would be higher than the actual capacity. The code calculates each room separately, and does not consider whether rooms are being used at the same time or not. Mr. Lance's testimony referred to the fire code capacity; it is highly unlikely that the lodge would be at fire code capacity when operating a conference. Tr. 380.

According to Mr. Wright's calculations, approximately 35,000 square feet of the seminary building is lodging space, and 16,000 square feet is meeting room and conference space.

On cross-examination by Mr. Lance, Mr. Wright consulted the seating charts for the Cedarbrook Lodge (part of Exhibit 23). He did not know whether Cedarbrook's listed capacities were fire code or functional capacities. The 550-person capacity proposed by Daniels for this project is most likely a functional capacity. Tr. 385.

On cross-examination by Ms. Hirt, Mr. Wright stated that the 16,000 square feet of conference space does not include mechanical, support, restaurant or kitchen space. This project does not have an unusually large amount of conference space; the standard for conference space to hotel rooms is entirely based on the client's functional requirements and what they would like to have. A determination of how much conference space would be needed for a specific project would be based on a feasibility report for the specific project, not an industry standard that applies to all projects. He is not aware of such an industry standard. Decisions about whether to provide conference space are made before beginning a design. Tr. 390.

Mr. Wright has walked the site, including around the buildings and through the trails. The last time he was on site was three months ago; the last time he was outside walking was six months ago. He was not aware of any recent volunteer efforts to clean up the Nuns' Garden and remove overgrowth. Theoretically, there is enough conference space provided to have both a local conference and a hotel-guest conference at the same time, but that is a functional decision made by the operator.

Under questioning from Mr. Murphy, Mr. Wright stated that it would be highly unlikely for there to be 100% occupancy of the space with no guest overlap, as that would tax the restrooms and support space. Even if the Nuns' Garden has been rehabilitated, the Interior standards still allow for a historic aspect to be removed for the good of the whole. Sometimes things have to be sacrificed to get the project through. This also applies to life safety requirements and code updates. The Interior standards are just guidelines. Tr. 395.

Ms. Jessica Logan

On examination by Ms. Wehling, Ms. Logan reiterated that she is the environmental program manager and SEPA-responsible official for State Parks. The state's efforts to repair and maintain the park since its acquisition in 1977 are described in Exhibit 13. Ms. Logan also read out the estimated costs for the various management options for the site. These costs are significant impacts to the State Parks budget.

Turning to Exhibit 26, Ms. Logan explained that a classification and land management plan (CAMP) is a long-term State Parks plan that includes a park's internal zoning and management plans. St. Edward Park's CAMP was adopted in 2008 after gathering input from an advisory committee of stakeholder representatives. The CAMP classifies the seminary as a heritage area, with other areas of the park having different classifications (such as resource recreation and natural forest). These are defined in the document. Tr. 400.

Ms. Logan would not describe the seminary as the dominant use of the property. Even with the seminary were operating at full capacity, those users would not exceed the number of users of the rest of the park. The Daniels project would add space in the seminary dedicated to outdoor recreation; that space is not designated now. The project will not decrease outdoor recreation. State Parks had no viable way to dedicate the building to outdoor recreation uses. She believes the lodging use on the upper floors is consistent with the building's historical use as dorm rooms. The building is now only open by appointment; there is no fee for tours but there is a fee to rent

the dining hall. There is a fee to park at the park. She agreed that this project would increase public access to the building beyond what State Parks has provided.

The volleyball courts will be turned in part into a culinary interpretive garden. There will likely be mitigation in the form of interpretive signs to document the volleyball court site. The Interior standards do not prohibit removal of the courts. The CAMP anticipated parking development concurrently with development of the seminary. The Parks Commission can change a CAMP if it wants to. Tr. 405.

Ms. Logan affirmed that this is not the first use or proposed use of the seminary in its history with State Parks. None of these earlier proposals were self-sustaining, and the rehabilitation costs are a limiting factor. State Parks determines viability based on the agency mission, city zoning, feasibility studies, and other factors. The Parks Commission directed staff to seek out public or private partnerships to rehabilitate the seminary, and later ordered that the building be vacated at the end of 2014 if a partnership was not found. The Daniels proposal was the only viable proposal even after the consideration period was extended.

Turning to Exhibit 3, Ms. Logan described the nature of legislation permitting the Parks Commission to offer a lease of up to 62 years, contingent upon a commerce study and Commission vote finding no economically viable nonprofit uses for the building. The baseline cost to restore the building was identified as \$23.4 million. Those conditions were met. Tr. 410.

Ms. Logan testified that State Parks relied on the EIS for its decision to lease to Daniels. The EIS was completed by the time the Commission made its decision on January 9, 2017, after public comment on January 5th. The EIS included all the potential impacts for the lease decision. No other viable proposals were before the Commission on January 9th. Per Exhibit 25, the Commission took all the actions requested or required of it to complete the lease by January 9th. Now that the Daniels lease is signed, the Commission will not consider other options for the building.

With respect to nighttime trail use, Ms. Logan agreed that hours of trail use in state parks are governed by WAC 352-32-050. State Parks is not likely to change its rules to encourage nighttime trail use. State Parks will not reduce the current level of trail maintenance as a result of this project, and the acquisition of the McDonald property will allow users to continue to use those trails. The Nuns' Garden cleanup had nothing to do with the Daniels project.

In response to the hearing examiner, Ms. Logan testified that State Parks does manage endangered species. State Parks relies on the Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to identify endangered species habitat in state parks. There is no marbled murrelet habitat identified at St. Edward State Park.

In response to Mr. Murphy, Ms. Logan reiterated that she is the SEPA-responsible official for State Parks, and that she concluded the EIS adequately disclosed all likely environmental impacts. Tr. 415.

APPENDIX A - SITE PLAN AND FEIS APPEAL - 28

In response to Ms. Hirt, Ms. Logan testified that she cannot speak to past programming use of the park. State Parks has historically only allowed the dining hall area to be used because they were sure of its safety for public use. Much of the building is considered safe for public use, including the dining hall, office space, and some lodging that has been used by State Parks. She did not know the status of the first floor classrooms or whether they are usable or could have been used by the public. She is personally aware of the building being used for weddings, ranger lodging, and office space. She has read that it was used as an environmental school. Tr. 420

Ms. Logan identified where the Nuns' Garden was located on the aerial photograph of the site. Shedd did not know where the proposed parking depicted in the site plan would sit on the aerial photograph.

Asked about the limitations of the Department of Commerce study for the site, Ms. Logan noted that time was one constraint, and other parameters for the study. State Parks has not received an application for a ballfield project. There is not yet an agreement as to who will monitor and enforce nighttime trail use rules; the only agreement right now is to give hotel guests the park rules. Tr. 426.

On further questioning by Mr. Murphy, Ms. Logan testified that the trees within the yellow box on a map of the site (part of Exhibit 19) were the trees, and only trees, that may be removed. The Legislature was responsible for placing any restrictions that existed on the Commerce study. If State Parks had an unlimited budget, it would rehabilitate and use the building by itself, but it does not have the money to do that, and the Daniels proposal is the only funded proposal. Tr. 428.

Ms. Trevina Wang

Ms. Wang reiterated that she is Daniels' project manager for this project. Daniels is neutral on the ballfield project and believes the seminary project should be considered independently on its merits. She repeated the proposed programming for the lodge. The developer tried to figure out a way to use the spaces with as few alterations as possible, so the existing layout and doors inform the allocation of space among the different uses. Ms. Wang is aware of but has not fully read the JLL feasibility study. The study is intended to ensure certain assumptions will pencil out economically. The proposed space allocations do pencil out and are economically feasible. The project is not changing the trails or other facilities outside the lease area. Tr. 435.

The estimated cost of rehabilitating the building will be \$40 to \$45 million. The project is funded. In Ms. Wang's opinion, the conference rooms are an accessory use to the primary lodging function. The developer has no plans to exclude the public going into the building, and Ms. Wang pointed to other projects where Daniels has invited the public to use its facilities. She was not aware there was a Nuns' Garden onsite and does not know who would use it. The proposed organic garden would produce ingredients for the restaurant and café, possibly in partnership with Bastyr to provide maintenance and public tours. Daniels has no objection to documenting the existence of the volleyball site. Tr. 439.

If the McDonald property could be developed into many building lots. If this project does not go through, the McDonalds will retain the property. When Ms. Wang first contacted the McDonalds about the property, they were preparing to sell it for development. Whether State Parks uses its space for an environmental learning center use is completely up to State Parks.

On cross-examination by Ms. Wehling, Ms. Wang stated she does not know where the Nun's Garden is, but it lies outside the leased area. Directed to Exhibits 1 and 19, Ms. Wang agreed that the Nuns' Garden is a resource listed in Exhibit 19. Tr. 444.

On questioning by Ms. Hirt, Ms. Wang noted that the volleyball court is listed as a resource as well. Members of the public will be able to use the first floor and basement of the seminary. In the basement, that will include the restrooms and restored interior spaces. In her experience, the public is interested in looking at historic buildings. Ms. Wang described her experience with restoring and allowing public viewing of Union Station. The current upstairs rooms are not big enough to be a reasonable hotel room, so they and the architect will consider merging rooms. They have not decided how many suites to create, and suites would have a larger configuration, which is why the proposal is for 80 to 100 rooms.

There are no fences in the park except for the playground barrier. The developer is planning to fence the garden to keep dogs out, while providing gates the public can open. The project could have an education component that would show how the upper-floor rooms were used historically, and the developer would love to work with the appellants to figure out a way to share the history of the building with the public. Tr. 451.

Ms. Nel Lund

Ms. Lund has a bachelor of science in biology, a professional wetland management certificate from UW in 2006, and is a certified professional wetland scientist with the Society for Wetland Scientists. She worked in the biomedical field before earning her wetland management certificate. She has worked at the Watershed Company as an ecologist for ten years doing wetland and stream studies and peer review for public and private clients. Ms. Lund works routinely with staff who have a wildlife background, and they incorporate wildlife habitat observations and priority species screening. Wildlife staff participated in Watershed's work on the proposed project. Watershed mostly provides technical reports for EIS documentation, but they are sometimes involved with EIS studies. Ms. Lund has participated in a handful of these. The level of analysis employed is beyond the expertise of somebody with a bachelor's degree in general science. Tr. 455.

Watershed was retained to look at the wetlands and study the impacts of the project on plants and animals. The Draft EIS discussion on these issues is consistent with Watershed's conclusions, and Ms. Lund and Watershed were involved in preparing responses to the comments received.

Ms. Lund discussed the methodology of the Watershed study. The existing conditions study used different study areas for different study elements. For wetlands and streams, the study area extended 300 feet beyond the lease area to take in any potential buffers required under city code. For wildlife, the study used WDFW recommendations to select a 900-foot buffer, to address

priority species mapped in the area as well as other species, such as herons, that require higher buffers. Before conducting field work, they consult public domain information (including the priority species habitat mapping from WDFW, the U.S. Fish and Wildlife national inventory, and the Natural Resources Conservation Service (NRCS) soil maps) to identify areas that might need further scrutiny in the field. Ms. Lund and Jasmine Palmer (one of the wildlife staff) walked the site and evaluated the forest from a habitat perspective, but Watershed did not do an arborist assessment.

The Watershed study was focused on the area around the leased area (and not the entire 316-acre park), which Ms. Lund judged to be thorough and appropriated. Some research information, including an identified bald eagle nest outside the buffered study area, was also noted in the report and in the Draft EIS. Fieldwork was limited to the within 900-foot buffer area. Tr. 460.

On the outer fringe of the 300-foot buffer, the study identified three wetland areas and two streams. No wetlands or streams are located inside the project area. The intact forested portion of the park is mixed conifers, with patches of invasive species. There are snags and woody debris present. The lawn area and lease area are well-maintained mowed lawns with some landscape-style trees. She agreed that there are two or three large trees, but the rest is shrubs, lawn, pavement, and building. No endangered or threatened animal or plant species were mapped or encountered in the study area. The pileated woodpecker, which WDFW has management recommendations for, is present but outside the lease area. No bald eagles were observed during the fieldwork, and the study team assumed they stick to the shoreline, though they may fly over periodically. There was no sign of marbled murrelets in the study area.

The study found no impact to the wetlands. The identified stream segments do not bear fish. The impact areas are mostly mowed lawns at present, so those impacts would remain intact. Ms. Lund took into account the trees that might be removed in Parking Alternative One. Vegetation would remain as is under Alternative Two. Since the forested part of the study area will remain intact, there will not be significant impacts to wildlife. The EIS reflects Watershed's findings that construction noise, operational noise and light, and increased nighttime car traffic could affect the wildlife near the site. Tr. 466.

Ms. Lund agrees with the EIS' statements regarding cumulative effects of the seminary project, Bastyr, and ballfield project. If the EIS' policy to avoid or limit construction from February to July is followed, there should not be a significant impact to breeding birds.

In response to the hearing examiner, Ms. Lund explained that she does not have hard data on how far out into the forest there would be nighttime impacts from noise and light. Based on a preliminary overview, ambient noise would have to increase 20 to 25 decibels to disturb species such as the marbled murrelet. It's unlikely there would be an impact at the shoreline. She speculated that, were marbled murrelets to nest at the park, they would likely prefer areas nearer the shore and away from frequently-used trails. The arborist would be better able to answer whether marbled murrelet might nest at the park in the future. Ms. Lund stated they need trees at least 150 to 200 years old meeting specific criteria. It's a big question if those conditions develop. Tr. 470.

In response to Ms. Hirt, Ms. Lund testified that car headlight movement is likely to cause wildlife to avoid the corridor, though she does not have hard data on the effects of extra light in the park aside from around the building. The light impacts around the building are to be mitigated with downcast lighting to the extent feasible, which Ms. Lund assumes would incorporate public safety considerations.

On cross-examination by Dr. Bain, Ms. Lund agreed that it would be logical for birds trying to avoid developed areas to nest in the northwest corner or south-central portion of the park. The eagle nest the study noted was in the northwest corner, a quarter mile from the project site, and the south-central part of the park is even further than that. Tr. 475.

In response to Ms. Hirt, Ms. Lund testified she would expect some animals, primarily nocturnal ones, would avoid the area and move further into the forest because the increased use and light could affect foraging and production, communication, and other behaviors.

On redirect examination by Mr. Ranade, Ms. Lund testified that maintaining the McDonald property (adjacent to the northwest corner of the park) as intact forest would be better for wildlife than developing it.

On cross-examination by Mr. Kaseguma, Ms. Lund testified that identified light mitigation measures, including turning off lights as feasible and after the first hours of the evening, would make a difference in the impacts on wildlife. Tr. 479.

Mr. Scott Baker

Mr. Baker has 40 years' experience in arboriculture, with a specialty in urban forest issues. He is the founder and a principal consultant at Tree Solutions, Inc. in Seattle. He obtained his bachelor of arts from the Evergreen State College. He started out as a commercial arborist in college. He is a registered consultant arborist through the American Society of Consulting Arborists, which required proving education equivalent to a master's degree. He is a board-certified Master Arborist, which is the International Society of Arboriculture's highest credential. He is a qualified tree risk assessor and is an instructor for the international qualification in tree risk assessment. He holds a Washington pesticides consultant permit. Mr. Baker's firm prides itself on being neutral, strict science-based consultants.

Tree Solutions, Inc. created the arborist's report (Exhibit 34). Mr. Baker testified that the methods used in the report are typical methods used and accepted by arborists, except that some portions used high-level technology most arborists do not have access to. The report concluded that even with the ten trees removed for parking, the project would still exceed Kenmore requirements for tree density. Mr. Baker visited the site personally several times. He did not find any threatened or endangered species in the study area. The statements in the EIS regarding tree impacts are consistent with his firm's report. Tr. 486.

Mr. Baker is familiar with the marbled murrelet from his background in forest management and preservation in the Northwest. He was fascinated to have the issue come up in this project. They require old-growth forests with trees “hundred plus, 250 years old” to nest. He is a user of the park and also has Bastyr as a client. There are no trees in the lease area that could become old-growth in the next 50 years, and probably none ever will unless the landscaped leased area reverts to forest. It would probably be a little bit more than 30 years before any trees in St. Edward State Park could be murrelet habitat. The forest has issues with surrounding development and invasive species. Invasive species such as English ivy outcompete other vegetation; though he cannot be sure, these species may make the forest a less attractive habitat for the marbled murrelet. Without management, the forest will still lack features that would be normal in an older forest. Old growth refers more to the broader forest than to a single tree. If the forest does eventually support murrelet habitat, they would avoid the lodge area and nest in the peripheral areas or along the water. Mr. Baker does not have other projects concerning the marbled murrelet, but he does have projects that require determining whether or not a forest is old-growth. Tr. 490.

Mr. Baker agreed that mitigation measures listed in the EIS that suggest installation of native vegetation and other features to encourage wildlife use would mitigate the loss of the trees. Mr. Baker referred to other mitigation measures listed in the EIS that would effectively protect critical root zones and preserve trees. The biggest issue in sites like this is grading or disturbance of nearby surface soils.

Under cross-examination by Ms. Wehling, Mr. Baker testified that he believes that the St. Edward State Park forest naturally regenerated after logging in the 1920s, as replanting was uncommon at that time. One of the key components of old-growth forests is that there has been no logging, so no biomass has been removed from the forest. Biomass from trees that have grown and fallen over is key. So it might take a little longer for St. Edward State Park to get back to old-growth; the logs were removed, and he would bet they burned the debris.

In response to Mr. Kaseguma, Mr. Baker testified that from his reading on the subject, murrelets like a lot of privacy when they nest, and the trail use probably has an impact on wildlife in the park. This is an urban park due to its surroundings, but it doesn't feel urban inside. If the birds do show, they will nest as far from humans as they can get. Tr. 495.

On questioning by Ms. Hirt, Mr. Baker testified that of the trees that would be cut down for parking in Alternative One, two have high structural risks and the others are in good condition. The cedars could be up to 90 years old; the hemlock trees are the shortest lived native conifer. A cedar would be appraised as worth more than a hemlock, for no real good reason, but both trees' contributions would be as a component of the forest system and as eventual habitat for epiphytic plants like lichens. Taking down these trees does disturb some habitat; there is always impact when trees are removed. The team makes sure to remove trees carefully to prevent damage to nearby trees. The removal of these trees may have some effect on the Nuns' Garden outside the project site, but Mr. Baker doesn't think it will negatively affect the garden's growth.

In response to Dr. Bain, Mr. Baker identified other patches of older trees in Denny Park and Seward Park. Seward Park is starting to have the necessary characteristics for murrelet habitat, but it is heavily used and smaller than St. Edward so there is nowhere to hide. Mr. Baker stated that if the park is managed to minimize use (particularly off-trail use) and keep out invasive species, eventually marbled murrelets and other wildlife may return. The renovation of the leased area would probably have no impact on that, except impacts from people going to and from the site. Tr. 500.

In response to Mr. Murphy, Mr. Baker testified that his concern about minimizing use is not necessarily related to this project; he expects higher population in the area will lead to greater use of the park. He did not know if the current number of park visitors would be minimized use that would support the marbled murrelet.

Ms. Jennifer Barnes

Ms. Barnes is a Washington-licensed civil engineer specializing in transportation. She received her bachelor's degree from Iowa State University and a master's degree in civil engineering from the University of Washington. Tr. 506.

She has done environmental analysis projects for about 14 years, including about 100 projects. Her firm wrote the Heffron Report. Her job is not to calculate code requirements for parking spaces but to evaluate potential parking demand and assess adequacy of the parking. When assessing how many parking spots a project needs, she begins by asking how many can be built and assessing code requirements. Heffron evaluates the demand and the adequacy for the proposed parking. Ms. Barnes wrote the transportation section of the Draft EIS and prepared responses to many transportation and parking comments. Tr. 509.

Reviewing the transportation alternatives in the Draft EIS, she explained that the level of service analysis is based on peak hours to evaluate the worst-case condition. The current LOS is B, and in 2020 with no action on the seminary (but assuming other growth) it will be LOS C. The level of service analysis was conducted in September 2016 based on vehicle counts taken by Heffron in January 2016 (for morning peak) and by Kenmore in May 2016 (for evening peak). The Kenmore count was done on a nice day with a lot of activity in the park and at the ballfields. The 2020 area growth was based on Kenmore's comprehensive plan and Bastyr's master plan. It also took into account a traffic study for the potential ballfield project. This establishes a baseline from which to view the alternatives. Tr. 515.

Looking at Alternative One, Ms. Barnes stated that the trips generated by the project would add delay, but the intersection would still operate at LOS C so no mitigation is required for traffic impacts. The study methodology used ITE rates to calculate trip generation, except for the peak hour in which the Cedarbrook rates were higher. The ITE rates are based on counts of driveway trips at similar facilities for hundreds of categories of land use; thus, the ITE rate for hotels is based on hotels (defined as have sleeping accommodation and supporting facilities like meeting rooms, restaurants, and a pool). Any two hotels will have different allocations of these different uses. The study was looking for the high end of the reasonable range. The Cedarbrook data

allowed them to drill down and look at traffic for conference and non-conference days, whereas conferences are implicit in the ITE figures. Even if the report had just relied on ITE rates, it would have been a very solid analysis. Generally Ms. Barnes looks first to the ITE when conducting a traffic analysis. The ITE and Cedarbrook rates are calculated as cars per room, so they can be scaled to different hotel sizes. Seasonality does not affect these rates because the analysis assumes a fully occupied hotel. Tr. 520.

Ms. Barnes stated that the number of rooms is the best measure for the size of a hotel for traffic analysis. Since the trips counted are driveway trips, they reflect not just those guests but also any other conference guests, restaurant patrons, and the like. She recognized that Cedarbrook was in a different environment close to SeaTac, but she testified that the increased use of taxis and shuttles probably results in a higher trip rate, since their departures and arrivals are each counted as a trip. Ms. Barnes discussed the trip rates her analysis used: 8.92 cars daily per occupied room, with an AM peak hour rate of 0.67 (based on ITE), and a PM peak hour with (0.83) or without (0.70) a conference. Applying that to a high-end estimate of 100 rooms at the seminary, that is 892 cars per day. Ultimately the additional traffic will cause some delay but not enough to change the level of service from the no-action alternative. Ms. Barnes testified that Alternatives One and Two are the same from a traffic standpoint, as the facility would be the same either way. Tr. 525.

She concluded that there are enough parking spaces in this project to accommodate daytime and overnight parking in most situations for a fully occupied hotel. If the parking is a little over capacity, valet parking can be used, as Cedarbrook did on one day of the data collection. For a large overspill offsite parking would be needed. The analysis discloses the possibility of the 1,000-person scenario. The ITE rates reflect a suburban hotel setting, and the Cedarbrook rates reflect a setting that had more stuff around it. For parking analysis, the ITE rates were higher (since Cedarbrook had more use of taxis and shuttles), so the ITE rates were used to be more conservative. The Cedarbrook rate was 0.74 vehicles per room. The Cedarbrook data allowed the team to estimate a vehicle-per-conference-attendee rate. The study assumed a fully occupied room and then, looking at the spaces remaining, tried to calculate how many additional conference attendees could be supported with the rest of the spaces. That was how the study concluded that the hotel could support 120 conference attendees on top of full hotel occupancy with no overlap. It is likely that parking mitigation will be needed far short of the 1,000-person scenario, so the analysis would not change. Tr. 531.

Reviewing the statements in her report, Ms. Barnes provided some additional information regarding them. Currently there are 220 public parking stalls in the park. The project ensures no net change in public parking, so there will still be 220 parking stalls. Alternatives One and Two are the same in this respect; the only difference is the configuration of parking. The traffic report expects that lodge guests will take advantage of the recreational trails at the park, but they will generate very little motorized demand on the surrounding street system. The report assumes all generated trips would be by car, except for the trail use. Offsite parking could include not just at Bastyr but also on the ballfields, if there is an agreement. A lot of the larger events like weddings would happen on weekends when parking demand at Bastyr is lower. The mitigation is a

condition of the State Parks lease, so if Bastyr is not practical then the applicant would have to find an equivalent. Tr. 536.

In response to the hearing examiner, Ms. Barnes testified that there is not an ITE parking generation category for conference centers or convention centers. When evaluating something that doesn't fit an ITE category, they need to look for a something similar. Here, Ms. Barnes felt she had no need to look beyond the ITE hotel category because this proposal fits the textbook definition.

On cross-examination by Mr. Kaseguma, Ms. Barnes testified that she had not evaluated where people currently park for events in the seminary dining hall, but she assumes it would be in available public parking. After the project is completed, activities there would have to be accommodated by the lodge parking. Tr. 539.

On cross-examination by Mr. Lance, Ms. Barnes explained that even if visitation had been double at Cedarbrook it would not have changed the numbers of trips per conference attendee. She repeated that they used ITE rates or Cedarbrook rates, whichever was more conservative. The report could only calculate against what it observed, so Ms. Barnes could not say what the numbers would have looked like with different conference attendance at Cedarbrook. If attendance doubles, trips would also double, so the rate remains the same. She could not say whether her recommendations for St. Edward parking would be the same if Cedarbrook had had twice as many attendees during the study period. The study identified a conference guest parking rate of 0.9 per attendee. ITE does not provide standards for what percentage of the time a facility should be able to accommodate all visitors with parking. She does not know how often the lodge will have a spillover event, and the market research for that is outside her purview. She would consider it atypical to have the facility filled shoulder to shoulder with no overlap of hotel, conference, and restaurant guests. But you can't predict who will book a hotel that doesn't exist yet. Tr. 546.

It's in everybody's best interest to have adequate parking for the demand, which is why mitigation has been identified.

On questioning by Ms. Hirt, Ms. Barnes stated that though the Kenmore-Kirkland city line is at the edge of the park on NE 145th, Kenmore's comprehensive plan accounts for future traffic growth not only in Kenmore but regionally as well. The City took into account the traffic coming to the Juanita/NE 145th intersection from the south (outside of Kenmore), so the traffic report used Kenmore data. The study measures midday peak (worst-case) demand from 11:45AM to 3:45PM, though some conferences may start earlier or run later past this peak. Tr. 550.

Ms. Barnes further described how she employed both ITE and Cedarbrook data. She believes the hotel will know when big events are coming, and it will be their responsibility to mitigate any overflow. Valet parking can increase lot capacity by 40 to 70 percent. The trip rates include people coming just for the restaurant; the trip counts cannot tell whether a car is there for a hotel room or the restaurant. Tr. 557.

In response to Mr. Lance, Ms. Barnes stated that if there were less parking, the tipping point to an overflow would be lower.

In response to the hearing examiner, Ms. Barnes stated that she concluded the parking will be sufficient under typical conference conditions (without yet knowing how many people will actually attend conferences at St. Edward) based on conference attendance at Cedarbrook, which ranged from 100 to 200 and had an average attendance of about 150. In her view, this isn't the sort of large hotel that will hold 500-person conferences. Tr. 560.

In response to Mr. Lance, Ms. Barnes stated that they did not take seasonality into account because the analysis always assumed the hotel rooms would be fully occupied. Typical attendance was not used in the calculations; the conclusion was that 120 guests was a conservative scenario. And for the purpose of the EIS, Ms. Barnes' report identified the potential impact and the potential mitigation. The lodge guests have no reason to park in the public spaces, and it's bad business if somebody using the lodge can't park there. Tr. 565.

On redirect by Mr. Ranade, Ms. Barnes repeated that the data is expressed as a rate of parking or trips per room. If attendance increases, the number of trips would be expected to increase, but the rate of increase will be basically the same. She believes that the eight days of data consistent with the nationally recognized rate indicates the reliability of the data. For overnight parking, the rates indicate 89 cars would be parked, so there is enough space. Ms. Barnes agreed that to calculate the 120-person conference tipping point, the analysis took the 153 spaces, removed those for the 89 guest cars and any employee cars, and then divided the difference by the conference rate. This represents the conservative scenario where the hotel is fully booked and the conference is unrelated. The possibility of lodge guests using public parking has been proposed and mitigation strategies have been identified, but the lodge cannot prohibit guests from parking in the public spaces. Tr. 571.

Mr. Jeff Ding

Mr. Ding has a bachelor's degree in geography from the University of Washington. He has been doing land-use planning for about 16 years, mostly doing environmental review for EA Engineering. He has done about 60 EIS statements for EA. Along with another colleague, he was the project manager for this EIS.

When beginning the EIS, Mr. Ding started with a scoping process to determine what elements would be in the document. As part of the process, the team identified air quality in response to scoping comments, and they added Parking Alternative Two to provide comparison for Alternative One in terms of environmental impact. He and his colleagues have never had child safety as an EIS element. The data collection for this EIS, like his others, involved a site visit and gathering technical expertise for various elements of the environment. When looking at cumulative impacts, the EIS is looking for impacts most proximate to the site that are likely to occur. The most proximate uses are most likely to have cumulative impact. For transportation, cumulative impacts look at a wider range. Tr. 574.

Mr. Ding stated that mitigation is identified to address the impacts identified in the EIS. They usually become binding as part of conditions of approval or the like. When responding to comments, the typical process is to go through and read each one, and then divide up each discrete comment in each letter for the most appropriate person to answer. One comment letter was inadvertently omitted from this Final EIS and thus an addendum was produced to ensure a response was given.

Mr. Ding performed a qualitative evaluation light and glare impacts from the project. This evaluation looks at the existing light conditions on site. For this project there is vehicle lighting, but after dusk the park is closed so there is minimal light currently on site. Then he identified what types of new light sources could be generated. This process is typical to his other projects. Mr. Ding read from the EIS disclosures for construction light spillage and operational light and glare, and their impacts on wildlife. The lighting and glare under Alternative Two would be the same or slightly less than that for Alternative One. He reviewed EIS statements for the cumulative light and glare impacts of the project plus the ballfield and Bastyr. The mitigation identified is sufficient to mitigate the impacts of light and glare. Tr. 580.

On cross-examination by Ms. Hirt, Mr. Ding testified that though the EIS acknowledges potential for light spillage, it is not classified as a significant impact because of the mitigation measures identified. These are mitigation measures typical for parking lots to limit light spillage to forests or residential areas.

Mr. Bryan Hampson

Mr. Hampson testified that he was the SEPA-responsible official for Kenmore on the EIS. He concluded from the EIS that they adequately disclosed the environmental impacts and responded to comments received. He notified the public and federal and state agencies of the issuance of the documents. He did not hear anything from the U.S. Fish and Wildlife Service; he is not obligated to contact them if they do not respond to the notice.

There is no requirement to maintain a passive park use in the seminary area. The City will insist on code compliance before issuing approvals or permits. The hotel designation was appropriate for the project. The ballfield is entirely separate and if necessary will be subject to its own SEPA process. Tr. 586.

In response to Ms. Hirt, Mr. Hampson stated that there is nothing in the city code requiring the site to be a passive park, an active park, or a community park.

Mr. Zack Richardson

Mr. Richardson graduated from the University of Washington with a bachelor's degree in civil and environmental engineering. He is a licensed professional engineer with ten years' practice experience, six of them doing development work with the City of Kenmore. Mr. Richardson observed Ms. Barnes' testimony and generally concurs; the industry standard was well-followed

and her level of care was above what he typically observes (by using Cedarbrook as well as ITE). Tr. 590.

Mr. Richardson stated that parking design does not assume peak times always, but balances the environmental impact. Parking lots are viewed as unaesthetic and invasive on the environment, so the goal is not to create the largest parking lot possible. The hearing room at City Hall is one example of parking mitigation, as it can hold 550 people (the exact number being discussed for the lodge) and is set up for 100, but there aren't that many parking stalls available at City Hall so they have taken mitigation measures such as shared parking agreements on other city-owned land, emails to get staff to park offsite, and scheduling to avoid times when employees fill the lots. This is similar to what is proposed with Bastyr. The parking mitigation is not a condition of approval for the examples Mr. Richardson cited; they manage it like a business would.

In response to Ms. Hirt, Mr. Richardson stated that conferences will not want to book somewhere they can't park guests. Tr. 594.

Mr. Rod Kaseguma

In closing, Mr. Kaseguma reviewed the standards that apply to the appeal as set out in the prehearing order. Put another way, the question is whether the environmental impacts sufficiently disclose and substantiate (with support of opinion and data) what is in the EIS itself. The EIS must provide the city council with enough information to allow it to make an informed decision. Referring to Exhibit 14, he stated the City's position that every allegation made by the appellants with respect to the environment has been adequately addressed and discussed in the EIS. The exhibit shows that for every single allegation made by the appellants, the mitigation identified or the significant adverse environmental impacts have been identified.

Mr. Kaseguma argued that the EIS meets the requirement of providing the city council with enough information to make an informed decision. He asked the hearing examiner to deny the appeal and let the EIS move on to the city council.

In his view, the appellants are making three essential arguments. The first is that the mitigation identified is not complete or enforceable because the descriptions use words like "could" and "would." They misunderstand that the nature of the identified mitigation is to allow the city council to take the suggested mitigation and apply it if they decide to do so. The city can expand or change the mitigation. Mitigation subject to a future agreement does not mean the EIS is inadequate.

The second argument is that the information in the EIS analysis is wrong, which he takes to mean that they are admitting the information and discussion is adequate. The appellants have not produced a single report, technical memo, or expert opinion, except for Dr. Bain. Dr. Bain's testimony was speculative and remote, such as his estimate of 100 users per day. This is typical of the arguments made by appellants Tr. 600.

The third argument or arguments they have made are misunderstandings or wrong conclusions drawn from the EIS or report.

In response to the hearing examiner, Mr. Kaseguma stated that a parking monitoring plan to assess whether parking is adequate on the project's biggest conference days could work. But if it was not addressed in the EIS, it does not mean the EIS is inadequate, but is something the City could consider when presenting the hearing examiner's recommendation to the city council.

Ms. Martha Wehling

In closing, Ms. Wehling stated that the appellants failed to testify to any undisclosed impacts. The only issue left is issue 17, regarding the consistency with CAMP. Ms. Logan addressed these concerns and explained why the project is consistent with the 2008 CAMP. The hearing examiner should defer to the agency interpretation.

Citizens' concerns about nighttime trail use and marbled murrelet are speculative, and an EIS need not include speculative or remote impacts. Where there is insufficient casual relation, likelihood, or reliability to influence decision-makers, the impacts are remote and speculative. The City and Parks did not err by declining to include every conceivable future impact. Citizens have not identified an element of the natural environment that was not adequately addressed in the cumulative effect analysis. Ms. Wehling requested that the hearing examiner recommend to the city council that the EIS be upheld.

Mr. Amit Ranade

Mr. Ranade heard a lot of concerns over the last two days, but it's not anybody at the hearing's job to decide what to do about this concerns. Ultimately it is the city council's job. The role of the EIS is to disclose, not dispose of, issues. He methodically took witnesses through each concern and took them to the relevant disclosure in the EIS. And the witnesses agreed that the statement in the EIS reflects that concern.

The burden here is on the appellant. Mr. Richardson testified that the City already found the EIS to be adequate. That finding is entitled to substantial weight under RCW 43.21C.090, and there was nothing in the evidence to tip that scale. Tr. 605.

Mr. Ranade noted that Mr. Lance was concerned that the project should be designated a conference center rather than a hotel. This issue is relevant both for applying Kenmore land use code and for performing the parking analysis. Referring to KMC 18.20.375 (defining hotel) and KMC 18.20.560 (defining conference center), Mr. Ranade argued that the hotel definition matched this project. It is a hotel with an accessory conference use because 35,000 square foot will be hotel space and 16,600 square feet will be conference space. Renting a hotel room is not conditioned on going to a conference; the conference rooms are just another amenity like the restaurant or spa. Mr. Lance had no information on such a condition. The appellants' analysis ignored all the floors with the rooms on them.

For the traffic and parking analysis, everybody who talked about the issue acknowledged that the ITE standards are the industry standard. The ITE's definition of hotel was appropriate for this project, as Ms. Wang testified. Though Mr. Lance was concerned about data not collected at Cedarbrook and about the amount of analysis of off-site parking options, the EIS does not have to address every possible scenario. And it is not uncommon in Kenmore to find off-site parking to deal with this situation, as Mr. Lance testified about the ballfield. Tr. 610.

Mr. Ranade echoed Mr. Kaseguma that there is no competing traffic report. Mr. Lance is a layperson. The Cedarbrook data was not necessary to perform an appropriate traffic study, and not using it would not have changed the conclusion. The City found the study analysis and conclusion to be adequate, and that finding is entitled to substantial weight. The data is expressed in rates that don't change substantially with the seasons. The EIS asks how many extra people the hotel could accommodate on top of full guestroom occupancy. That is adequate information the city council can take into account. The 1,000-person scenario is a very remote one, as Mr. Lance and the experts testified. But the EIS still provides for mitigation such a scenario by using offsite parking. There will be no net loss of public parking. Nobody is saying that no lodge guests will use public parking, but it's only required that we disclose the possibility so the city council and State Parks have that information.

With respect to Ms. Hendershott's testimony, Mr. Ranade argued that her chief concern is trail use at night. Her arguments rest on the unfounded assumption that there's no nighttime use now. She mentioned social trails that might indicate nighttime use from the neighbors. Assuming lodge guests are using the trails at night requires an assumption that lodge users alone will break the rules and Parks will do nothing about it or change its rules. The assumption that only lodge guests will break the rules is unreasonable. Increased use of the trails from lodge guests is disclosed. And if Dr. Bain's estimate of 100 new users per day holds, that is only 36,500 more users a year over an existing 865,000 users a year now—a 4.2% increase. These new users are also members of the public at a public park. Having more users is not a bad thing. Tr. 615.

Regarding lights at night, Mr. Ranade pointed to the Draft EIS disclosures as all that is required. For noise impacts, the Final EIS states the noise analysis used Washington state standards. Nobody alleged those standards were inappropriate. Ms. Hendershott didn't dispute that the impacts were disclosed, she just doesn't like the impacts. That's fair, but it's not the issue here.

With respect to Dr. Bain, Mr. Ranade noted he is a killer whale expert. The hearing officer need not make a determination of his expert status on marbled murrelets because the scenario of marbled murrelets nesting in the park in the future is remote and speculative. Fish are the same, and Dr. Bain admits that if the project complies with stormwater requirements that will resolve issues affecting fish outside the project area. The scenario he mentioned of people shining a flashlight on the water and exposing fish to predators is remote and speculative. He acknowledged he would like to see the project brainstorm the impacts on every possible endangered or threatened species, but that is not the standard here. Ms. Lund used state standards to determine a study area, and used data to identify the eagle nest outside the study area. So her study meets and even exceeds the state standards. The study does not need to assess the entire

park, just the project area. The issue is not if the impacts are valid but if they were disclosed, and they were. Tr. 619.

Mr. Ranade reviewed in sequence the 24 issues presented in the appellants' initial appeal statement, and provided arguments for each:

- For issues 1 and 2, the appellants listed a long list of elements, some (but not all) of which are consistent with WAC 197-14-44. But the evidence was focused mostly on parking. The child safety issue was only raised by Ms. Anderson, who withdrew it when she learned the new parking area was on the other side of the building from the playground. And parking is addressed more elsewhere.
- For issue 3, the testimony from Ms. Hendershott and Dr. Bain was speculative, and the impacts to wildlife aside from the marbled murrelet were disclosed.
- For issue 4, no evidence was presented on trail erosion.
- For issue 5, concerning competition for public parking, a lot of people who use public parking for the existing rental dining hall will be able to use the new lodge space instead, freeing up space. The same number of public parking spaces will remain. The impacts are not understated in the EIS.
- For issues 6 and 7, the Heffron study was appropriate and was accepted by the City. Nothing heard indicates an undisclosed impact. The appellants don't like the impacts disclosed, but they are disclosed.
- For issue 8, the discussion of parking mitigation feasibility is optional. There is testimony that offsite parking already occurs in Kenmore.
- For issue 9, there is no evidence the city council will not require the mitigation condition to provide offsite parking.
- Issue 10 was dismissed.
- For issue 11, the EIS covers even the 1,000-person occupancy scenario
- For issue 12, Mr. Lance conceded this point.
- For issue 13, the potential cumulative impacts of the ballfield were disclosed, and the ballfield is a separate project.
- Issues 14, 15, and 16 were dismissed.
- For issue 17, Mr. Ranade relied on Ms. Wehling's arguments.
- For issue 18, the law does not require that impacts be mitigated to nonsignificant levels. Testimony that the proposed parking mitigation would be ineffective is speculative.
- For issue 19, Ms. Hendershott was the only witness to argue she received an inadequate response from the SEPA-responsible official, but her attention was directed to where they were actually addressed in the comments and in the EIS.
- Issues 20, 21, and 22 were dismissed.
- Issue 23 could be read to go to adequacy, but it is broad and should be dismissed because the rest of the appeal ought to be dismissed.
- Issue 24 was withdrawn.

Mr. Ranade concluded that almost all of the appellants' evidence is based on speculation. There is no disagreement that the EIS discloses the impacts. The disagreement is that they don't like the impacts, and that is not the issue here, so the appeal should be dismissed. Tr. 626.

Ms. Rebecca Hirt

In closing, Ms. Hirt stated that the real issue for public parking is the loss of access for park users whose spots may be taken up by people using the lodge. There is no way to keep lodge users from using the parking spaces. And with just 220 spots for 865,000 people a year, this is already a very tight parking situation. When people are now circling the lot looking for spaces, there are concerns about the additional impact of the lodge. Even though the parking report was conservative, there are weaknesses in it. She does not trust that the mitigations will happen, aside from valet parking. Bastyr has its own weekend events to accommodate. The applicants argued that it was speculation people would be walking in the parks, but they too are speculating that neighbors walk in the park at night.

There have not been very many lights in the area for 40 years, and she doubts there were many in the seminary years, so this is a new thing. Ms. Hirt is not the one to determine if it is completely covered in the EIS. The response that something "is duly noted" means nothing; it's a nonresponse to the public. It should be written so a layperson can understand it. Tr. 630.

Dr. Bain testified that he has previously testified as an expert on marbled murrelets. He has qualifications, to the level that he'd be writing a master's thesis on the bird. You don't have to be a professional expert to know and learn things. Ms. Hirt read a statement from Dr. Bain arguing that the project should look out for the future and should discuss murrelets with the U.S. Fish and Wildlife Service during the SEPA process while design changes can prevent future mitigation costs. When Ms. Hirt worked on the CAMP, they were looking at the park's future for 10 or 20 years. The project will be there a long time and will change the character of the park. If we do all this development today, what quiet place will be left for future generations?

Where the lease requires compliance with mitigation in the EIS, it is essential that the EIS is comprehensive. The parking mitigation could happen but we don't know it's going to happen, so that issue should not be dismissed. This should be solved to give more direction to what will happen. Laypeople should be able to pick up the EIS and understand what's behind it. This one is not understandable in some aspects, and that is why the appellants are here.

As far as the management plan and the CAMP, the Parks Commission can do what they want to, but until the rescind the plan, that is what is in use. So concerns about the project overtaking the park and not complying with the management plan are valid.

Conclusion

After the hearing examiner made preliminary statements and the parties addressed scheduling issues, the hearing was adjourned.

APPENDIX B

BEFORE THE HEARING EXAMINER FOR
THE CITY OF KENMORE

In the Matter of the SEPA Appeal of:

THE LODGE AT ST. EDWARD

FINAL SITE PLAN RECOMMENDATION
AND DECISION ON FEIS APPEAL
NO. CSP16-0077

APPENDIX B: MASTER EXHIBIT LIST

Core Documents

- Exhibit 1: Application
- Exhibit 2: Complete Application Letter
- Exhibit 3: SEPA DS and Scoping Notice
- Exhibit 4: Combined Notice
- Exhibit 5: Notice of Availability of DEIS
- Exhibit 6: Notice of Availability of DEIS and Comment Period Extension
- Exhibit 7: Notice of Final EIS
- Exhibit 8: Vicinity Aerial Photo
- Exhibit 9: DAHP Support Letter

APPENDIX B - SITE PLAN AND FEIS APPEAL - 1

- Exhibit 10: Legislative Support Letter
- Exhibit 11: Final Environmental Impact Statement
- Exhibit 12: Geological Hazards Area Map
- Exhibit 13: Site Plans
- Exhibit 14: Heffron Transportation Analysis
- Exhibit 15: Certificate of Water Availability
- Exhibit 16: Certificate of Sewer Availability
- Exhibit 17: Northshore Utility District Review Letter
- Exhibit 18: Secretary of the Interior
- Exhibit 19: Draft Environmental Impact Statement
- Exhibit 20: Addendum to Final Environmental Impact Statement
- Exhibit 21: February 8, 2017 Revised Staff Report
- Exhibit 22: Hearing Examiner SEPA Orders
 - A. February 11, 2017 Pre-Hearing Order
 - B. February 15, 2017 Supplemented Pre-Hearing Order
 - C. February 23, 2017 Order on Applicant's First Motion to Dismiss
 - D. February 25, 2017 Order on Applicant's Second Motion to Dismiss
 - E. February 27, 2017 Order on State Parks Request for Reconsideration
 - F. February 28, 2017 Rulings on Pre-Hearing Brief Objections
- Exhibit 23: Undated Notice of Statement of Appeal with Appendix
- Exhibit 24: Procedural Email correspondence between SEPA Appeal parties and Hearing Examiner
- Exhibit 25: Audio Recording of the January 5, 2017 Parks Commission meeting
- Exhibit 26: Transcript of the January 9, 2017 Parks Commission meeting
- Exhibit 27: Parks Commission Special Meeting Agenda

APPENDIX B - SITE PLAN AND FEIS APPEAL - 2

Exhibit 28:	National Register Nomination
Exhibit 29:	Notice of Availability of EIS Addendum
Exhibit 30:	Type 4 Information Sheet
Exhibit 31:	Architectural Site Plan
Exhibit 32:	Preliminary Civil Plan
Exhibit 33:	Title Report
Exhibit 34:	Lease Boundary
Exhibit 35:	Washington State Parks Notice of Adoption
Exhibit 36:	Drainage Report prepared by Coughlin Porter Lundeen (June 29, 2016)
Exhibit 37:	Geotechnical Report prepared by PanGEO Incorporated (June 29, 2016)
Exhibit 38:	Stream and Wetland Delineation Report by The Watershed Company (June 2016)
Exhibit 39:	Habitat Assessment prepared by The Watershed Company (June 27, 2016)
Exhibit 40:	Tree Inventory and Arborist Report prepared by Tree Solutions, Inc. (June 27, 2016)
Exhibit 41:	SEPA Lead Agency Agreement
Exhibit 42:	Notice of Rescheduled Hearing Date
Exhibit 43:	Lease of the Park
Exhibit 44:	Site Plan EIS Appeal Table
Exhibit 45:	Letters and Communications from the Public
Exhibit 46:	Anne Aagard Exhibits A. 11/17/16 Letter from Ramsay to Cunningham B. "Appendix 3" C. St. Edward Seminary Cultural Landscape Inventory Cover Sheet D. Civil site plan – parking expansion E. Saint Edward Seminary Cultural Landscape Site Plan F. Seminary Grounds Interpretive Sign

APPENDIX B - SITE PLAN AND FEIS APPEAL - 3

G. Second page of letter from Gregory Griffith, Deputy State Historic Preservation Officer

City Documents

- C1: Type 4 Site Plan Narrative (States “Type 4 Site Plan Application” at the top)
- C2: Architecture Site Plan prepared by Ron Wright & Associates Architects, PS
- C3: Preliminary Civil Plan prepared by Coughlin Porter Lundeen (October 8, 2015)
- C4: Drainage Report prepared by Coughlin Porter Lundeen (June 29, 2016)
- C5: Geotechnical Report prepared by PanGEO Incorporated (June 29, 2016)
- C6: Stream and Wetland Delineation Report prepared by The Watershed Company (June 2016)
- C7: Habitat Assessment prepared by The Watershed Company (June 27, 2016)
- C8: Tree Inventory and Arborist Report prepared by Tree Solutions, Inc. (June 27, 2016)
- C9: Lease Boundary
- C10: SEPA Lead Agency Agreement
- C11: Washington State Parks Notice of Adoption
- C12: Notice of Rescheduled Public Hearing Date
- C13: Site Plan Revised Recommendation (February 8, 2017)
- C14: St. Edward EIS Appeal Table
- C15: City of Kenmore’s Lists of Witnesses and Exhibits
- C16: City of Kenmore’s Hearing Brief

Appellant Documents

- S1: Website of Daniels Real Estate (Current Projects, St. Edward State Park)
- S2: Cedarbrook Lodge Floorplans and Capacities Charts

- S3: Aerial picture (via Google Earth) of Cedarbrook Lodge and nearby parking lots
- S4: Witness List and CVs
- S5: Calculation of Cedarbrook Lodge and Lodge at St. Edward occupancies and parking demand
- S6: Email from Doug Levy
- S7: Applicant's [sic] Exhibit List
- S8: Appellant's Response to Motion to Dismiss with three exhibits
- S9: Appellant's Response to Applicant's Second Motion to Dismiss
- S10: Speakers
- S11: Marbled Murrelet with CV and Papers
- S12: Hendershott Statement with two exhibits
- S13: Appellant's Traffic and Parking Brief
- S14: "Susan Carlson" Brief
- S15: Appeal Issue Re-Write

Applicant Documents

- A1: 2007 National Register of Historic Places Nomination
- A2: 1978 Terms and Conditions for Grant of Outdoor Recreation Account Funds
- A3: 2016 Department of Commerce Study
- A4: State Parks Website on Visiting St. Edward State Park
- A5: January 16, 1978 Commission Meeting Minutes Excerpt
- A6: March 20, 1978 Commission Meeting Minutes Excerpt
- A7: September 10, 2015 Requested Action to Washington State Parks and Recreation Commission

APPENDIX B - SITE PLAN AND FEIS APPEAL - 5

- A8: December 1, 1982 Letter from Governor Spellman
- A9: 1981 Memorandum from Jan Tveten to Washington State Parks and Recreation Commission
- A10: February 10, 2007 Seattle Times Article: "Plan for Pub Stirs Debate on Saint Edward Park"
- A11: April 28, 2007 Seattle Times Article: "Brewery Says it is Dropping Plan for Pub in St. Edward State Park"
- A12: February 3, 2015 Woodinville Weekly Article "Plans to Renovate Seminary at Saint Edward State Park Fall Through"
- A13: September 18, 2014 Requested Action: "Saint Edward Seminary Management Options"
- A14: November 14, 2013 Parks Commission Resolution
- A15: September 19, 2014 Parks Commission Meeting Minutes
- A16: August 25, 2014 Determination of Nonsignificance
- A17: September 10, 2015 Parks Commission Meeting Minutes
- A18: September 22, 2016 Parks Commission Meeting Minutes
- A19: Kenmore and State Parks Lead Agency Agreement
- A20: Addendum to Final Environmental Impact Statement
- A21: Notice of Addendum Issuance
- A22: State Notice of Adoption for FEIS
- A23: State Notice of Adoption for Addendum
- A24: Notice of January 5, 2017 meeting
- A25: January 9, 2017 Parks Commission Meeting Minutes
- A26: Saint Edward Management Plan
- A27: Project Narrative

APPENDIX B - SITE PLAN AND FEIS APPEAL - 6

- A28: Architecture Site Plan prepared by Ron Wright & Associates Architects, PS
- A29: Preliminary Civil Plan prepared by Coughlin Porter Lundeen (October 8, 2015)
- A30: Drainage Report prepared by Coughlin Porter Lundeen (June 29, 2016)
- A31: Geotechnical Report prepared by PanGEO Incorporated (June 29, 2016)
- A32: Stream and Wetland Delineation Report prepared by The Watershed Company (June 2016)
- A33: Habitat Assessment prepared by The Watershed Company (June 27, 2016)
- A34: Tree Inventory and Arborist Report prepared by Tree Solutions, Inc. (June 27, 2016)
- A35: Title Report issued by First American Title Insurance Company
- A36: Lease Boundary
- A37: February 8, 2017 Staff Recommendation
- A38: Lease by and between State of Washington and the Lodge at Saint Edward Park, LLC dated January 9, 2017
- A39: Transcript of Washington Parks Special Commission Meeting held on January 9, 2017
- A40: Determination of Non-Significance dated September 6, 2016
- A41: Environmental Impact Statement (EIS) Scoping Info Session Presentation
- A42: Exhibit and Witness List
- A43: Supplemental Exhibit and Witness List
- A44: Proposed Pre-Hearing Scheduling Order
- A45: Applicant's Motion to Dismiss
- A46: Applicant's Second Motion to Dismiss
- A47: Applicant's Pre-Hearing Brief
- A48: Applicant's Reply in Support of Motion to Dismiss

APPENDIX B - SITE PLAN AND FEIS APPEAL - 7

A49: Applicant's Reply in Support of Second Motion to Dismiss

A50: Applicant's Response to Appellant's Hearing Briefs

State Park Documents

P1: Parks' Support for Daniels' Motion to Dismiss

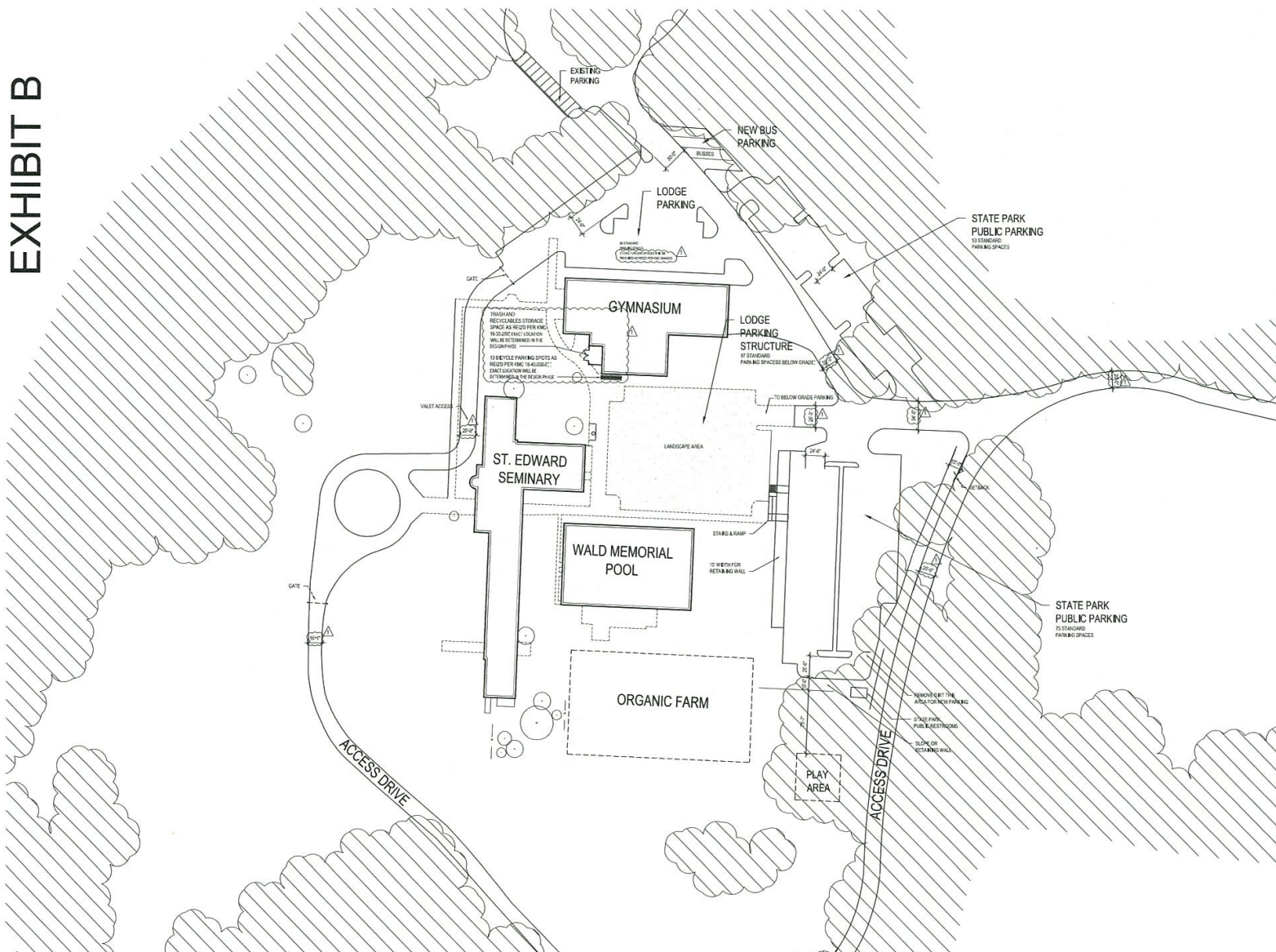
P2: State Parks' Witness and Exhibits Disclosure

P3: State Parks' Prehearing Brief

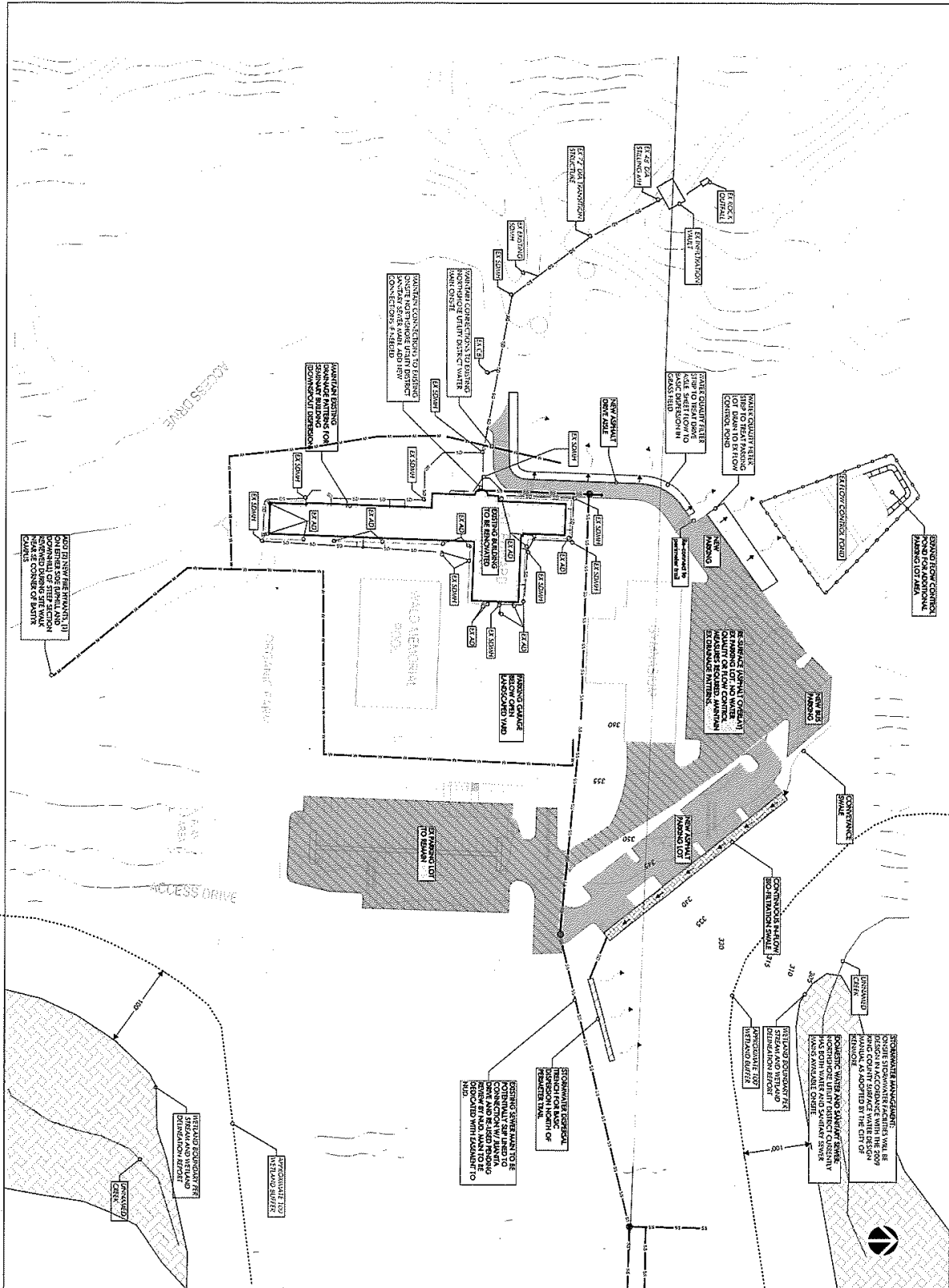
P4: State Parks' Motion for Reconsideration

P5: State Parks' Response to Citizens' Prehearing Briefs

P6: St. Edwards Lease

[illegible]

A0.2



C-1

PRELIMINARY CIVIL SITE PLAN

PROJECT NO. 14445 JUANITA DRIVE NE
 DESIGNER: [Name]
 CHECKED BY: [Name]

PARKING LOT EXPANSION

14445 Juanita Drive NE
 Kenmore, WA 98028

COUGHLIN PORTER LUNDEN

REGISTERED PROFESSIONAL ENGINEER
 NO. 14445 JUANITA DRIVE NE
 KENMORE, WA 98028
 P: 206.461.1445
 F: 206.461.1446
 A: COUGHLIN@CPLUNDEN.COM
 W: WWW.CPLUNDEN.COM

Subject/Topic: 2016 Development Services Year-End-Report Presentation Proposed Council Action/Motion: No Action needed. Receive 2016 Development Services Year End Report	For Council Meeting Agenda of: <u>April 17, 2017</u> Department: <u>Development Services</u> Prepared by: <u>Bryan Hampson</u> Initial & Date Approved by Department Head: <u>BA 3/29/17</u> Approved by City Attorney: <u>D.A.</u> Approved by Finance Director: <u>mg 4/4/17</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: Development Services Report - 2016 Year End Report	
Expenditure Required N/A	Amount Budgeted N/A	Appropriation Required N/A
<u>INFORMATION/BACKGROUND:</u> This report provides the Council and the community the opportunity to receive information on the City's 2016 development activities in comparison with previous years.		
<u>FISCAL CONSIDERATION:</u> Development revenues overall are higher than 2015. Comparing 2016 to 2015, revenue experienced a 7% increase.		
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Council Goal #2: To continue to implement the Economic Development Plan.		



City of Kenmore, Washington

Memorandum

Date: March 29, 2017

To: Rob Karlinsey, City Manager

From: Bryan Hampson, Development Services Director 

Re: **Development Services Report – 2016 Year-End-Report**

Executive Summary:

2016 continued to be a transformative year, especially with the ongoing redevelopment of Kenmore Village and our downtown. The MainStreet Property Group's Spencer68 and Spencer Square projects, as well as, the Lodge at Saint Edward State Park, used a considerable amount of resources in 2016 and will continue through 2017.

Development Services showed a modest increase in development activity in 2016 compared to previous years. For example, major land-use applications (commercial site developments, new multi-family, and plats) were up 3% and building permits overall were up 3%. Overall revenues increased in 2016 compared to 2015 and were higher than previously forecasted (roughly 13% higher than forecasted).

Kenmore continues to be a market of interest for developers. Development activity and applications for new or re-development projects remain constant. Developers and homeowners alike, appreciate the opportunity to meet with staff as part of a pre-application meeting to discuss project feasibility, code requirements and procedural expectations (all at no cost). Short subdivisions, new single-family residences, single-family additions and alterations continue to lead the development activity.

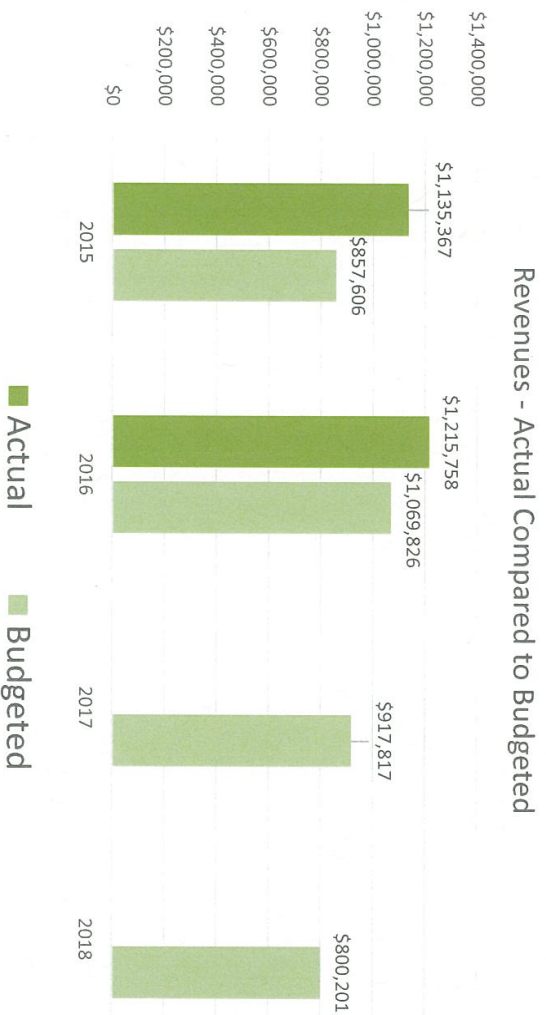
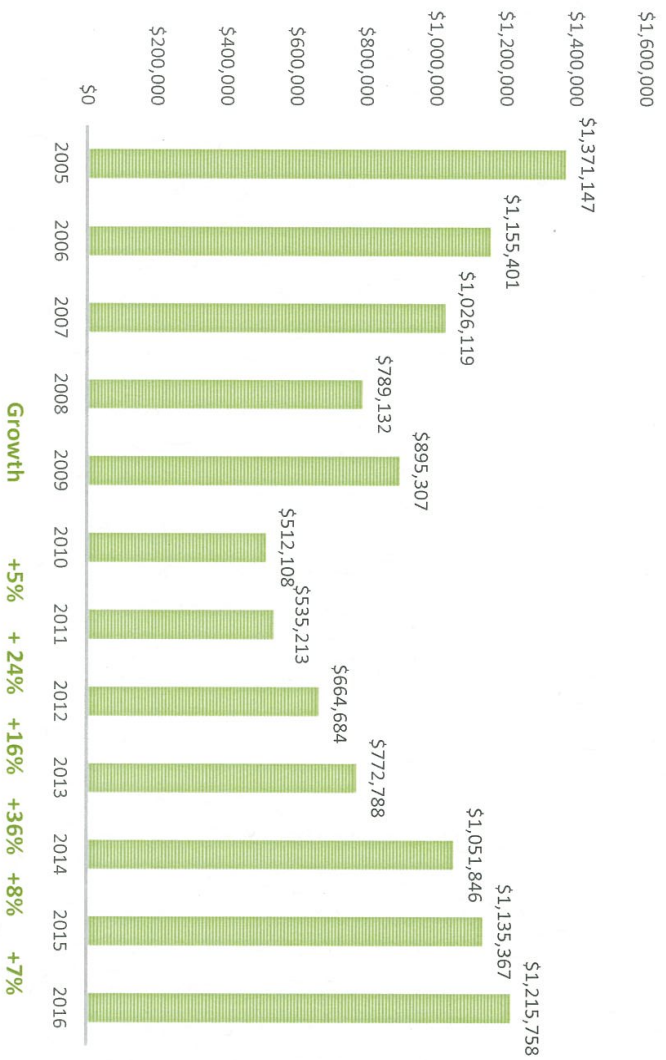
Lakepointe continued to gain traction through 2016; the Commercial Site Development Permit was extended again through 2020 with new milestones. While the developer hasn't given us a comprehensive project to review, we continue to spend a lot of time working with the developer to explain the City's processes and codes and what impacts may be anticipated with traffic, environmentally critical areas, and comprehensive plan conformance. The timing of this project will play a key role in the level of staffing required in Development Services to successfully support a major project like this.

2016 Highlights and Achievements:

- **Implemented a Process for Home Owner's to Obtain Construction Plans.** As a Development Services "love note," the department offers building plans to home owners before they are destroyed. Staff have worked together with the City Clerk and Washington State Archives to ensure that proper records retention standards have been met while providing a valuable (and much appreciated!) service to the public.
- **Updated Various Code Sections.** Participated in the update of the following code regulations: integrated transportation system (concurrency); Traffic Impact fees; 2016 Road Standards; Wireless communication facilities; Massage practitioner's business license; Alcohol in parks; Heavy manufacturing; and Micro-housing.
- **Updated Departments Informational Handouts and Maps.** The department continues to update informational handouts and maps with the most up to date information, including some forms in other languages.
- **Updated Department's Website.** The department updated its website to provide as much information as possible in as few clicks as possible.
- **Adopted the 2015 Editions of the Washington State Building Code.** This effort included working together with Northshore Fire District, Northshore Utility District and other building departments to draft local amendments to the State Building Code. The State Building Code consists of the International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing Code, International Energy Efficiency Code, International Fuel Gas Code, and International Fire Code.
- **The following is a highlight of the projects the team worked on during 2016:**
 - **The Lodge at Saint Edward** – The City received and is in the process of reviewing a Site Plan permit application and Environmental Impact Statement for the rehabilitation of the existing Saint Edward Seminary building for use as a lodge-type hotel with up to 100 guest rooms, meeting/conference rooms, an exercise facility/wellness spa, restaurant, and a café.
 - **Lakepointe** – City staff participated in a transportation charrette involving traffic circulation and connections. They participated in discussions regarding P-Suffixes, environmental implications, traffic mitigation, comprehensive plan and zoning codes.
 - **Kerala "Basalt" Townhomes** - This project began in 2007 and was delayed multiple times by the developer due to economic constraints. The project includes 6 separate townhouse buildings with a total of 26 residential units and is located at 18244 73rd Ave NE.
 - **Spencer68 Phase 2** – Consisting of four new buildings and 85 dwelling units.

- **Spencer Square LINQ Building** – A new mixed use building with structured parking and a medical office at ground level with residential units above.
- **Jimmy Johns** – Tenant improvement project at the old Tully's building located at 6702 NE Bothell Way.
- **Domino's Pizza** – Tenant improvement project in the old Jet City Pizza space located at 6830 NE Bothell Way.
- **Cairn Brewing**- Processed a building permit for the new brewery and taproom located at 7204 NE 175th St.
- **Guesthouse Restaurant** - A new restaurant located at 6810 NE 153rd PL (the old "Hoagy's Corner" sandwich shop), the "Guest House Restaurant" has applied for a tenant improvement permit.
- **The Hangar (previously "Town Green")** – Community building and exterior space located at 6728 NE 181st ST.
- **Capps Club** – Tenant improvement for a new restaurant and night club in the old Mia Roma building located at 7620 NE Bothell Way.
- **Northshore Ridge** – Land development for a 12 lot plat located at 84th Ave Ne and 166th ST.
- **Emerald Vue** – Land development for a 14 lot plat located at 88th and 145th Ave NE.
- **Northlake Landing** – Land development for an 11 lot plat located at 16707 74th Ave NE.
- **Vista Lago Townhomes** – 17 unit townhome development located at 65th Ave NE and NE 181st St.
- **Heron's Landing Townhomes** – 3 unit townhomes located at 6440 NE 181st St.
- **Kiddie Academy** – New daycare facility located at 7760 NE Bothell Way.
- **Red Hawk** - Land development for a 7 lot plat located at 8243 NE 196th St.
- **Simonds Court** - Land development for a 7 lot plat located at 16044 Simonds Road NE.
- **Glenbrook** - Land development for a 9 lot plat located at 8421 NE 146th St.
- **The Arbors at Wallace Creek** – Land development for an 18 lot plat located at 20116 73rd Ave NE.
- **Somerton** – Land development for a 6 lot plat located at 20317 58th LN NE.
- **Oasis** – Land development for an 8 lot plat located at 7342 NE 150th St.

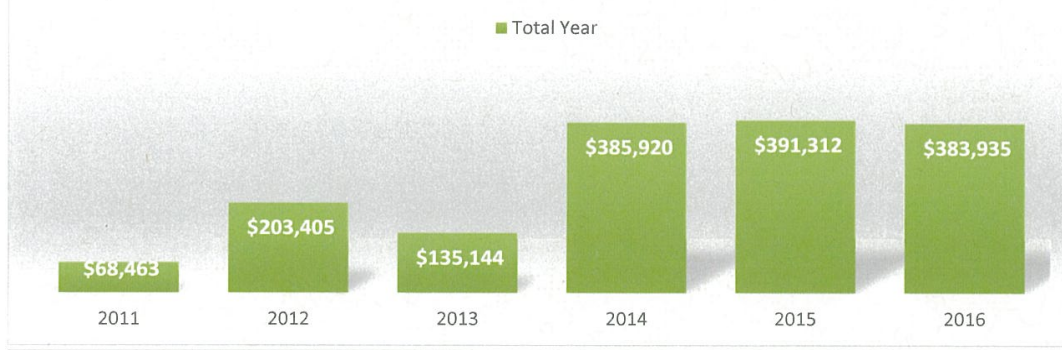
Summary of Total Revenues (Not Including Impact Fees)



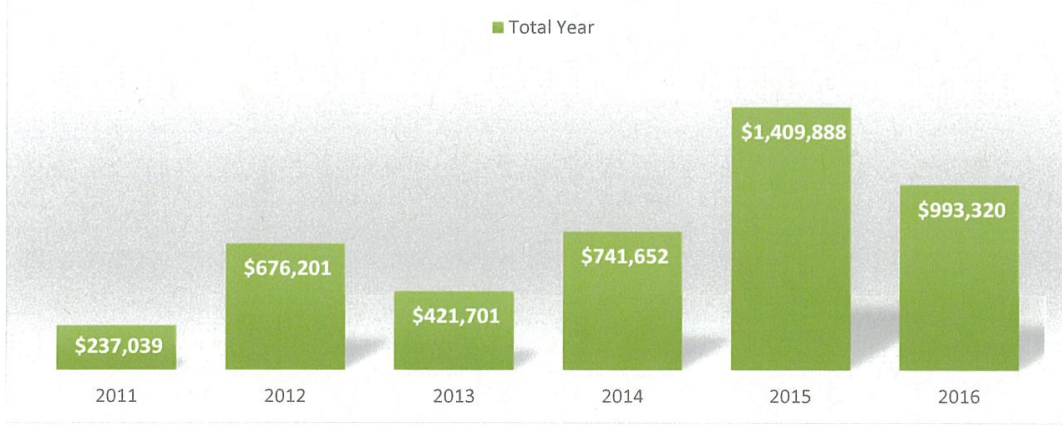
Impact Fees

“Impact fee” means a payment of money imposed by the City of Kenmore on development activity as a condition of granting development approval to pay for the public facilities needed to serve new growth and development. “Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, or the cost of reviewing independent fee calculations.

Park Impact Fee Revenues



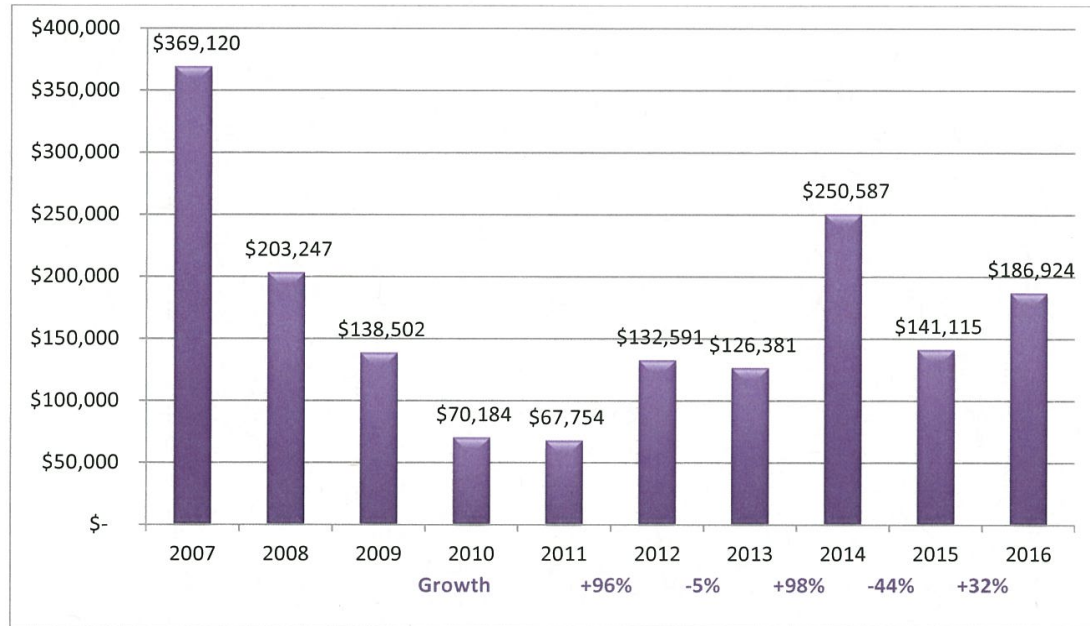
Transportation Impact Fee Revenues



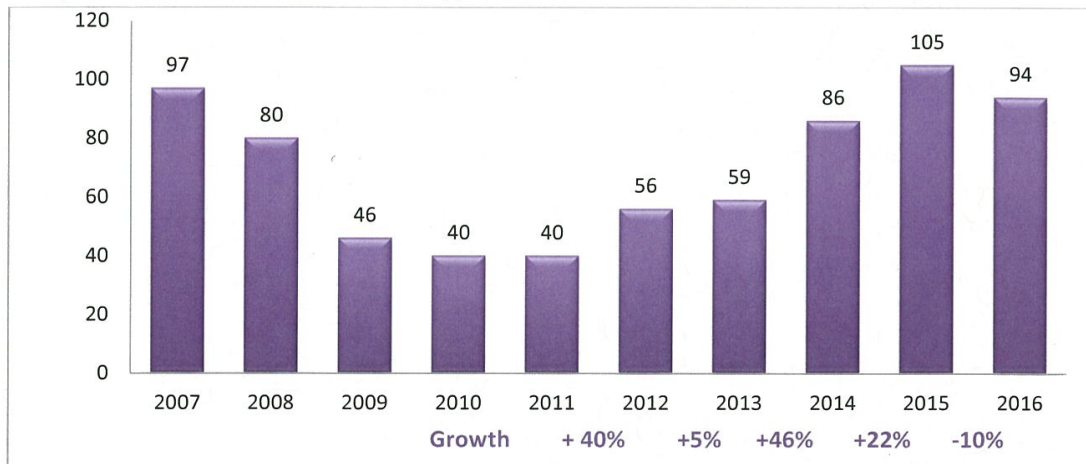
Land-Use Applications

Land-Use applications are used to review and determine if the proposed uses and redevelopment of the land are consistent with the Comprehensive Plan codes and regulations. Plats are subdivisions to create new single-family parcels.

Land-Use Revenue



Comparison of Total New Land-Use Applications to Prior Years



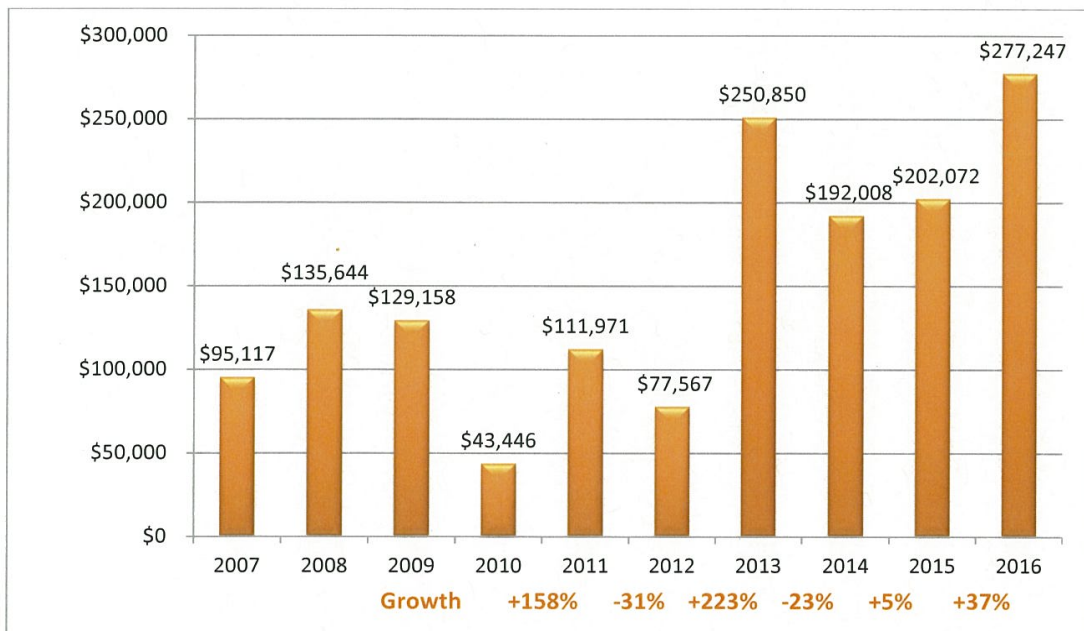
City of Kenmore, WA
Development Services 2016 Year-End Report cont.

New Land-Use Applications per Year:

	Total '07	Total '08	Total '09	Total '10	Total '11	Total '12	Total '13	Total '14	Total '15	Total '16
Accessory Dwelling Unit	4	2	5	8	4	7	8	10	7	9
Binding Site Plan	0	0	0	0	0	0	0	0	2	2
Boundary Line Adjustment	5	6	3	4	2	7	5	4	5	3
Commercial Site Development	4	7	1	1	2	0	3	0	4	5
Communications Facilities	0	0	0	0	4	6	4	9	7	1
New Multi-Family Development	6	1	1	0	0	0	0	1	3	6
Long Plat	4	3	1	0	0	1	0	0	3	5
Short Plat	12	9	3	1	1	3	3	10	21	16
Shoreline Substantial Development	9	5	12	10	6	9	10	18	9	18
Variance/Modification	10	3	2	1	1	4	5	5	2	7
Notices of Applications Published	28	28	10	7	9	15	13	20	22	3
SEPA	15	16	8	8	15	10	8	9	20	19
Total	97	80	46	40	44	56	59	86	105	94

Engineering Permits

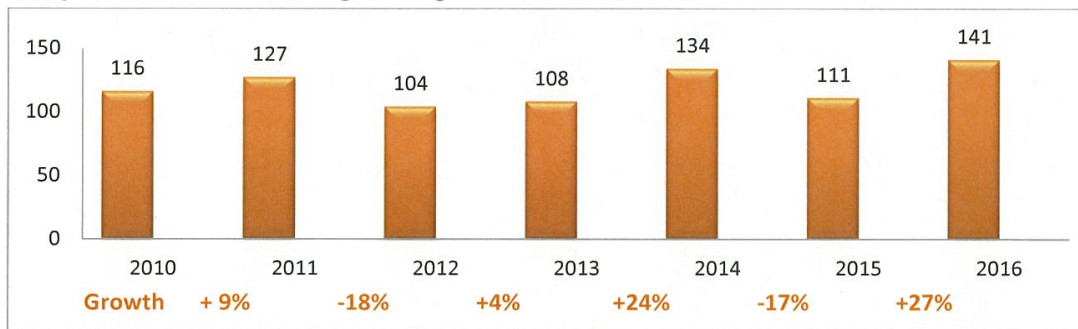
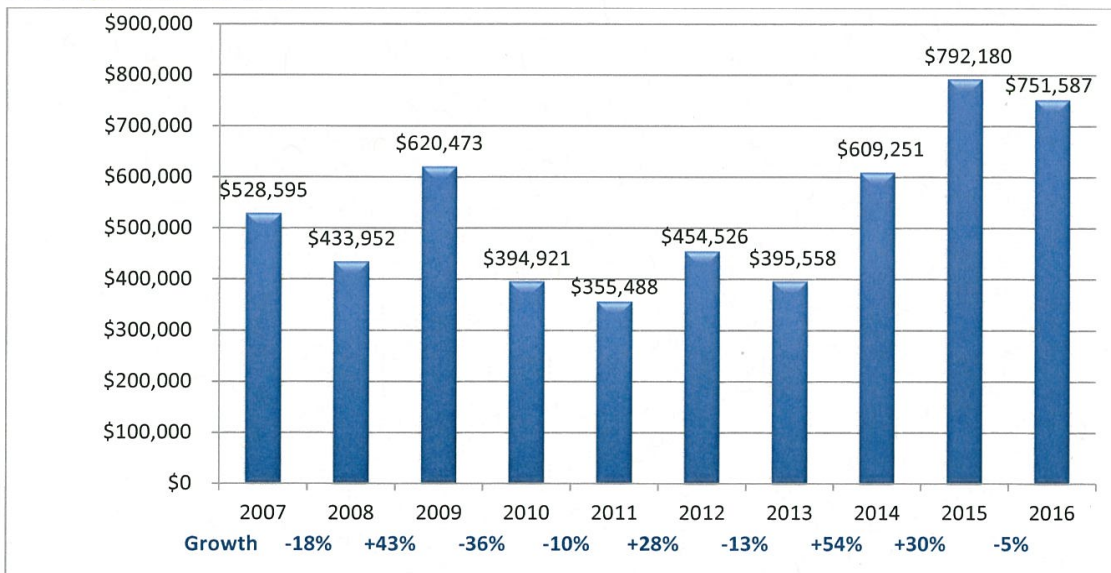
Engineering and Right-of-way permits are site improvements and infrastructure construction associated with a redevelopment.

Engineering and Right-of-way Revenue

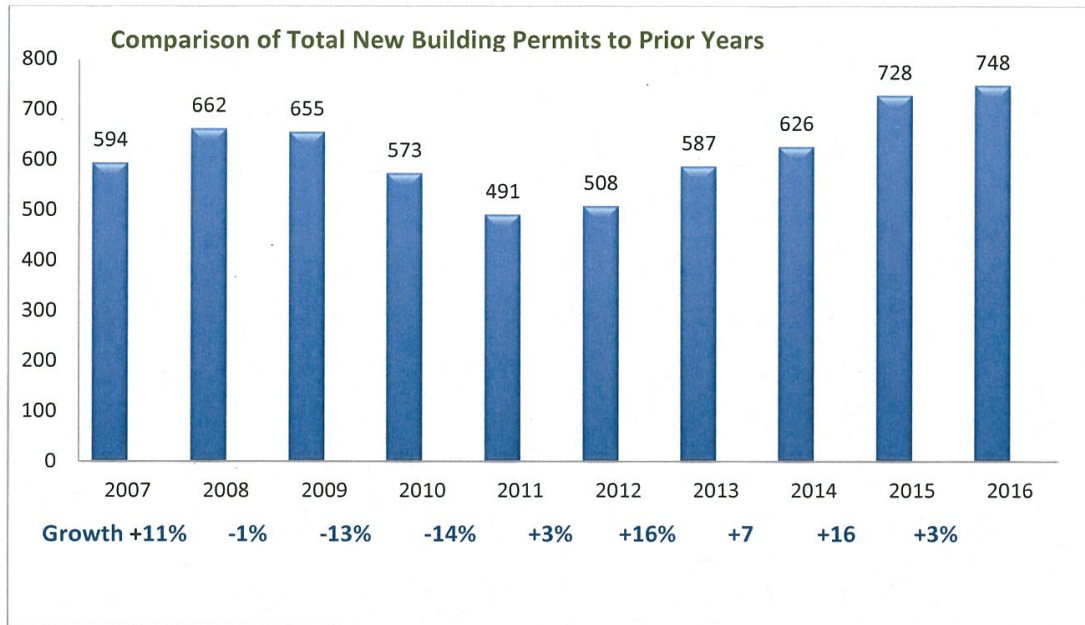
City of Kenmore, WA
Development Services 2016 Year-End Report cont.

Engineering and Right-of-way Permits Applications per Year:

	Total '10	Total '11	Total '12	Total '13	Total '14	Total '15	Total '16
Engineering	1	13	9	19	26	14	12
Grading	27	10	4	1	4	1	2
Tree Removal	85	72	56	39	52	51	82
Right-of-Way	3	24	21	40	36	25	26
Special Events	0	8	14	9	16	20	20
Total	116	127	104	108	134	111	141

Comparison of Total New Engineering and ROW to Prior Years**Building Permits****Building Permit Revenue**

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Development Services 2016 Year-End Report cont.



Building Permit Applications Per Year:

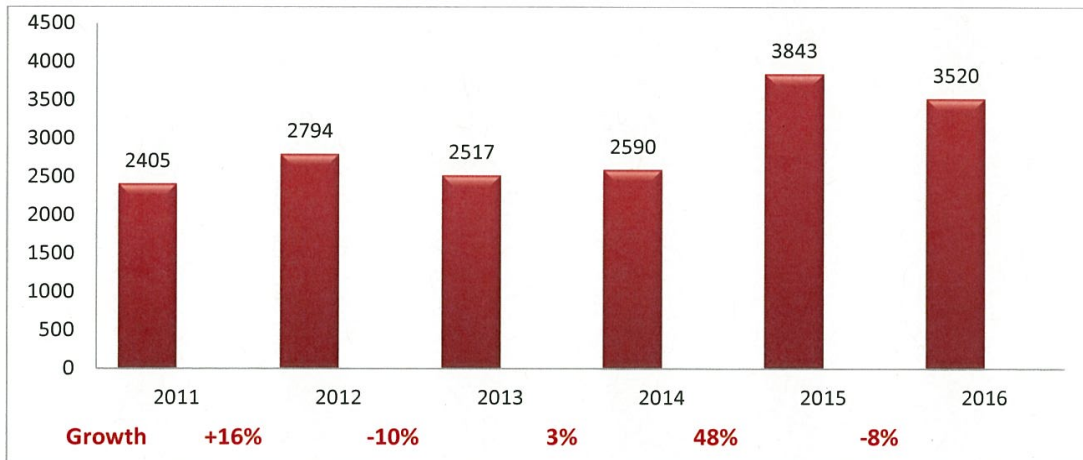
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
New Single-family Residence	76	69	67	79	46	71	58	93	97	93
Single-family addition	57	43	28	36	21	22	14	24	28	40
Single-family remodel	39	36	41	47	33	23	35	40	50	38
Single-family reroof	42	60	49	30	31	18	12	18	30	32
Mechanical	168	227	269	243	179	205	244	272	322	379
Plumbing	72	93	84	60	66	64	71	77	75	84
New Multi-family	5	12	0	0	0	0	8	11	8	6
Multi-family alteration	16	11	0	2	2	8	4	1	3	4
New Commercial	2	2	2	1	13	5	5	3	5	8
Commercial Tenant Imp	12	14	15	16	16	16	12	23	14	14
Comms Facility	1	3	2	1	5	4	1	5	8	3
Demolition	17	13	10	8	9	9	26	17	19	15
Sign	25	22	20	22	16	12	15	12	13	16
Other	62	57	68	28	54	51	82	30	56	20
Total	594	662	655	573	491	508	587	626	728	748

Inspections

The inspections include all inspections performed by the building inspector, planning inspector, engineering inspector, and code enforcement officer.

Inspections Performed per year:	2011	2012	2013	2014	2015	2016
Building	1233	1740	1458	1711	2446	2182
Plumbing	361	394	416	314	623	586
Mechanical	536	465	542	398	681	716
Sign	16	11	10	2	20	6
Re-roof	63	47	40	36	24	30
Engineering	176	122	50	128	37	
Grading	20	15	1	1	12	
Total	2405	2794	2517	2590	3843	3520

Comparison of Inspections Performed

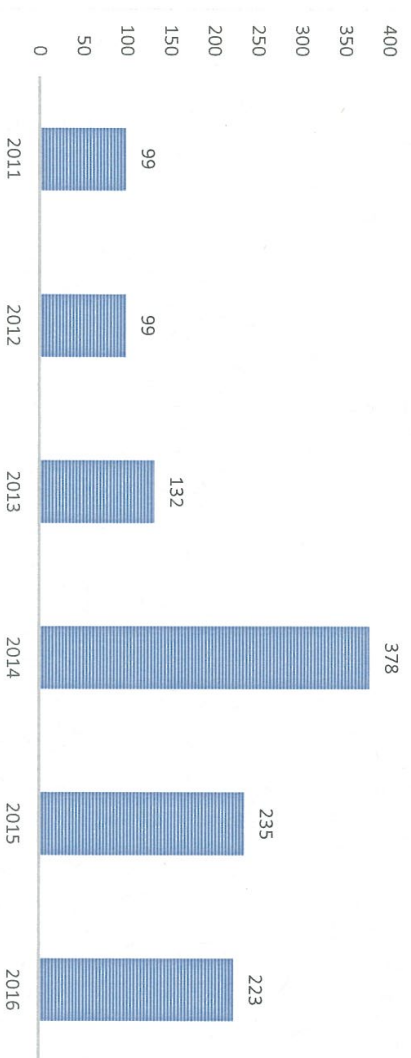


Projects don't always end when the permit is issued. There are inspections that occur throughout the building process as well as a monitoring period for improvements that the City will inherit, or associated with mitigation for a critical area other site improvement activities as required. This is to ensure that improvements perform or work as they were designed to. Examples of improvements that require monitoring include: roads, stormwater facilities, street trees, and wetland restoration. Monitoring periods, including financial guarantees, can vary from 2 to 5 years and need to be managed regularly throughout the monitoring period.

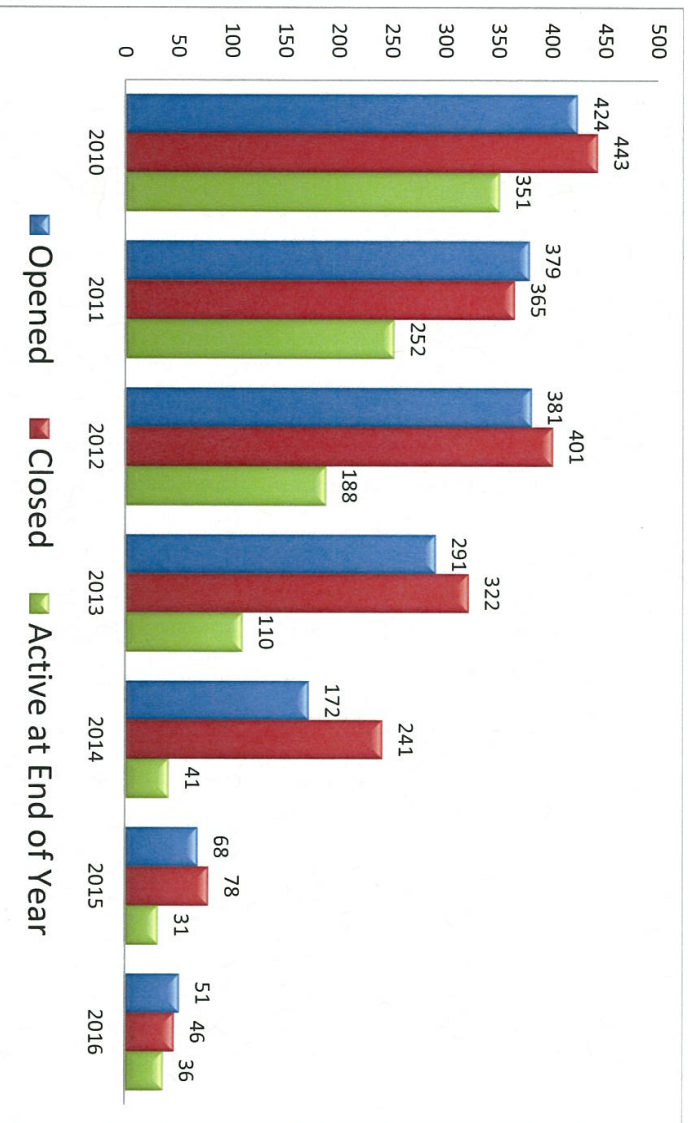
City of Kenmore, WA
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Service Requests or CARS (Citizen Action Requests)

Comparison of number of CARS assigned to Development Services per year.

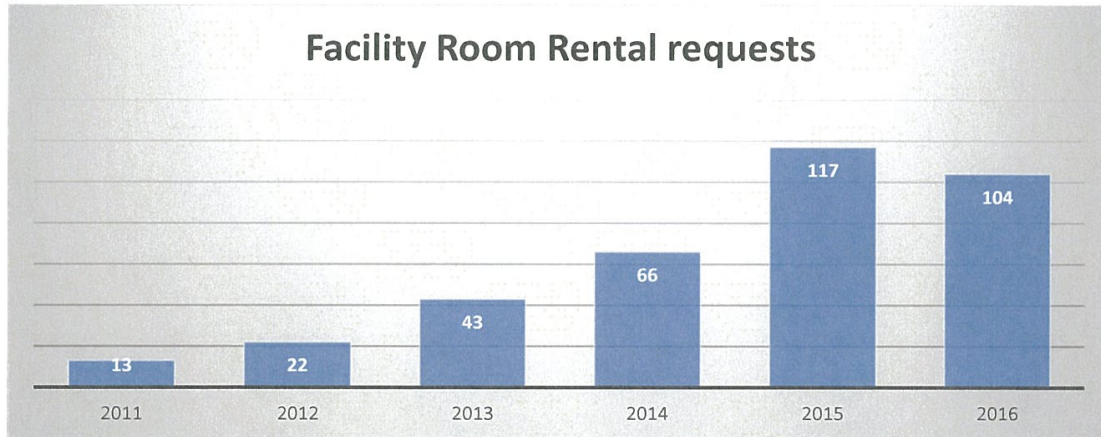


Code Compliance



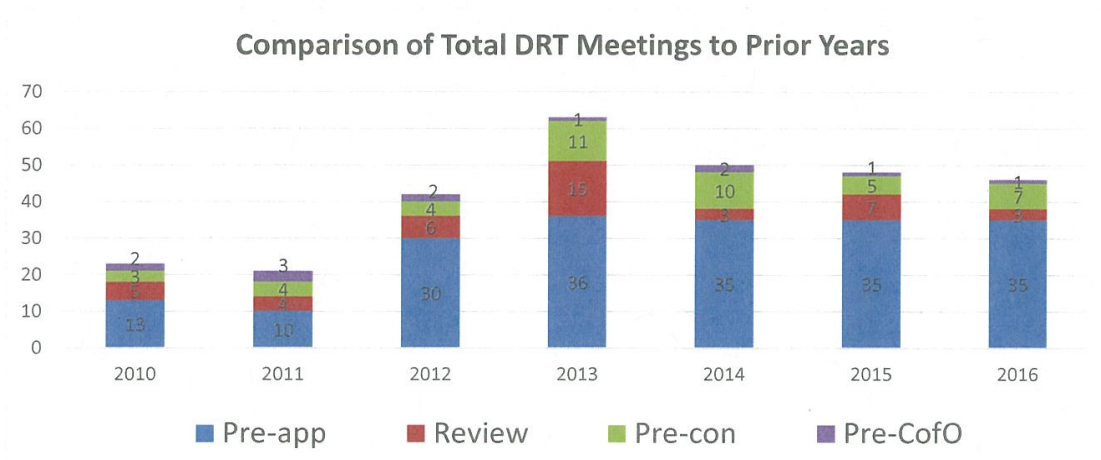
Facility Room Rentals Processed

These are requests to use a meeting room at City Hall. On average, staff spends 30 minutes per application.



Development Review Team (DRT) Meetings

The development review meeting process includes development review team meetings and an open and effective line of communication. The structure that we have adopted includes meetings that occur at pivotal points throughout the project, including: pre-application, review pre-construction and pre-occupancy phases. These meetings are designed to provide opportunities for two-way communication between the City's Development Services team and the applicant's design and construction team to resolve complex issues that may occur with development; with the goal of making the City's permitting and review process more expeditious and user friendly.





City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Introduction to the Land Use Streamlining project. Proposed Council Action/Motion: Review the proposed changes to the land use descriptions used in the Zoning Code. Identify issues and questions.	For Council Meeting Agenda of: April 17, 2017 Department: <u>Community Development</u> Prepared by: <u>Debbie Bent, Community Development Director and Lauri Anderson, Senior Planner</u> Initial & Date Approved by Department Head: <u>DA 3/21/17</u> Approved by City Attorney: Approved by Finance Director: <u>[Signature] 4/4/17</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: 1. Revised Use Allowance Charts 2. Existing Use Allowance Charts 3. New land use definitions 4. Policy summary 5. Full set of proposed code amendments
Expenditure Required \$0 Amount Budgeted: \$0 Appropriation Required \$0	
<u>INFORMATION/BACKGROUND:</u> At your meeting on April 17, staff will introduce the land use streamlining project. In 2014, as part of the Regional Business zoning review, the Planning Commission recommended and the City Council adopted a new set of standard land use definitions—consolidating existing use definitions from more than 200 uses down to about 50. For example, “florist shops,” “drug stores,” and “book, stationery, video and art supply shops” all were incorporated into “retail sales.” The new use descriptions were incorporated into the zoning charts for the Urban Corridor, Waterfront Commercial and Regional Business zoning districts. The goal of the changes was to provide more flexibility in use interpretations and also to simplify the code for applicants and permit review staff. Staff now is recommending that the new definitions replace the existing definitions in all of the City’s remaining zoning districts and throughout the Zoning Code. To explain how the staff’s recommended translation from old uses to new uses occurred, we propose to review with you on April 17 the proposed changes for three zoning districts: R1-R6, Single Family Residential; CB, Community Business; and PSP, Public/Semi-Public (see Attachment 1). Attachment 2 contains the existing use allowance charts for these three zoning districts. The new set of land use definitions being used for the project is provided in Attachment 3. Although the goal of this project is to translate the old uses into the new uses with as little change to the policy direction or intent of each zone as possible, the conversion of old uses to new uses did result in the need to make some policy choices. The most significant of these policy recommendations are presented in Attachment 4. Attachment 5, which we do not propose to review on April 17th, includes all of the proposed chart revisions, as well as changes proposed for other Zoning Code sections to maintain consistency. We are providing these for your review in case you have questions that could be addressed at your next meeting on this topic (tentatively scheduled for May 8). Following completion of City Council review, a public hearing will be scheduled before ordinance adoption.	
<u>FISCAL CONSIDERATION:</u> None at this time.	

I:/City Clerk/Agenda Items/Templates

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

- Comprehensive Plan Objective 2.2: “Prepare clear development regulations consistent with the Comprehensive Plan.”
- Policy LU-2.2.3: “Kenmore’s regulation of land use should...be expeditious, predictable, clear, straightforward, and internally consistent...”

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18.21.020 Residential zones R-1, R-4 and R-6 – Use allowances.

The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited uses* in residential zones R-1, R-4 and R-6:

Table A. R-1, R-4 and R-6 Zones Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Air transportation service¹</i>	<i>Ambulatory surgery center²⁵</i>	<i>Adult entertainment business</i>
<i>Arts, entertainment, indoor^{2,3}</i>	<i>Arts, entertainment, outdoor²⁶</i>	<i>Animal kennel/shelter</i>
<i>Day-care⁴</i>	<i>Cemetery, columbarium or mausoleum²⁷</i>	<i>Auction house</i>
<i>Educational service⁵</i>	<i>College/university²⁵</i>	<i>Automotive sales and service, marine</i>
<i>Family child-care home⁶</i>	<i>Community residential facility²⁸</i>	<i>Automotive sales and service, non-marine</i>
<i>Fire or police facility^{7,8}</i>	<i>Eating and drinking place^{3,29}</i>	<i>Business service, intensive</i>
<i>Health care and social assistance^{9,10}</i>	<i>Hospital²⁵</i>	<i>Business service, standard</i>
<i>Multiple family dwelling¹¹</i>	<i>Mobile home park³⁰</i>	<i>Construction and trade</i>
<i>Office¹²</i>	<i>Personal service³¹</i>	<i>Funeral home/crematory</i>
<i>Park¹³</i>	<i>Recreational facility, indoor^{3,16,32}</i>	<i>Laboratory</i>
<i>Recreational facility, outdoor^{14,15,16}</i>	<i>Regional land use^{33, 34,35}</i>	<i>Manufacturing, heavy</i>
<i>Religious institution¹⁷</i>	<i>Retail sales^{31, 36}</i>	<i>Manufacturing, light</i>
<i>Resource land use¹⁸</i>	<i>Temporary lodging³⁷</i>	<i>Marijuana business</i>
<i>Single detached dwelling unit^{19,20}</i>		<i>Marijuana cooperative</i>
<i>Standalone parking²¹</i>		<i>Mobile food service</i>
<i>Supportive living facility²²</i>		<i>Retail sales, bulk</i>
<i>Utility facility^{23,24}</i>		<i>Secure facility</i>
		<i>Transportation</i>
		<i>Vehicle or equipment rental</i>
		<i>Vehicle refueling station</i>
		<i>Warehousing</i>
		<i>Wholesale trade</i>

1. One single engine, noncommercial seaplane shall be permitted only on lots that abut a waterbody, provided there are 1) no aircraft sales, service, repair, charter, or rental; and 2) no storage of aviation fuel except that contained in the tank or tanks of the aircraft. A *helistop* at an *emergency medical*

Attachment 1

evacuation site in conjunction with a police, fire or health service facility is a conditional use. All other *air transportation service uses* are prohibited.

2. Only (1) in a *building* listed on the National register as a historic site or designated as a *City* landmark; (2) as a re-use of a surplus non-residential facility; or (3) as a joint use of an existing public school facility. All subject to Chapter 18.50 KMC. Otherwise, a conditional use.

3. *Social card games* are prohibited.

4. Permitted only as a re-use of a public school facility subject to Chapter 18.50 KMC, or an *accessory use* to a school, *religious institution, park, sports club* or public housing administered by a *public agency*, and:

- a. Outdoor play areas shall be completely enclosed by a solid wall or *fence*, with no openings except for gates and have a minimum height of six feet;
- b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
- c. Direct access to a developed arterial *street* shall be required in any residential zone; and
- d. Hours of operation may be restricted to assure compatibility with surrounding development.

All other *day-care uses* require a conditional use permit.

5. K-12 facilities only. All other *educational service uses* require a conditional use permit.

6. A *family child-care home* is subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

- a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
- b. A safe passenger loading area shall be provided;
- c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
- d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
- e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC;
- f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility; and
- g. Prior to receiving State licensing, the family child-care provider shall provide the *City* with proof of written notification informing immediately adjoining property owners of the intent to locate and maintain the *family child-care home*. The notification shall inform the notified parties that comments may be submitted to the DEL and provide contact information for submitting such comments to the DEL. The proof of notification shall be in the form of a written affidavit containing (1) the date and means of notification; (2) a copy of the notification; and (3) a list of the parties to whom the notification was distributed.

7. Limited to "storefront" police offices. Such offices shall not have:

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- a. Holding cells;
- b. Suspect interview rooms; or
- c. Long-term storage of stolen properties

All other *fire or police facility uses* require a *conditional use permit*, except police or fire training facilities, such as shooting ranges, auto test tracks, and fire suppression simulations, which are prohibited.

8. For conditionally permitted fire facilities:
 - a. All *buildings* and *structures* shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
 - b. Any *buildings* from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such *street*; and
 - c. No *outdoor storage*.
9. Only as a re-use of a public school facility. May be permitted as a *conditional use* if proposed as re-use of a surplus non-residential facility. All subject to Chapter 18.50 KMC.
10. Veterinary clinics are prohibited.
11. *Townhouse* units only permitted and only on *lots* in a subdivision or short subdivision designed for *townhouse* units. Other *townhouse* units require a *conditional use permit*. *Apartments* are prohibited.
12. *Public agency or utility office* permitted only as a re-use of a public school facility or a surplus nonresidential facility subject to the provisions of Chapter 18.50 KMC. Otherwise, *public agency or utility office* is a *conditional use*. All other office *uses* are prohibited.
13. The following conditions and limitations shall apply, where appropriate:
 - a. Lighting for *structures* and fields shall be directed away from residential areas;
 - b. *Structures* or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones, except for *structures* in on-site recreation areas required in KMC 18.30.130 and 20.47.155. Setback requirements for *structures* in these on-site required recreation areas shall be maintained in accordance with the zoning standards for the underlying residential zone.
14. Limited to *stable* and covered riding arena. All other *outdoor recreational facility uses* require a *conditional use permit* except campground, RV park, and shooting range which are prohibited.
15. Covered riding arenas are subject to KMC 18.70.030 and shall not exceed 20,000 square feet unless a *conditional use permit* is obtained. Stabling areas, whether attached or detached, shall not be counted in this calculation.
16. Conditionally permitted recreational facilities are subject to the following conditions and limitations:
 - a. The bulk and scale shall be compatible with residential character of the area;
 - b. The gross floor area shall not exceed 10,000 square feet unless the *building* is on the same *site* or adjacent to a *site* where a public facility is located or unless the *building* is a nonprofit facility; and

Attachment 1

- c. Use is limited to residents of a specified residential *development* or to *sports clubs* providing supervised instructional or athletic programs.

17. Only as a re-use of a public school facility subject to Chapter 18.50 KMC. Otherwise, a *conditional use permit* is required.

18. Farming is permitted. All other *resource land uses* require a *conditional use permit*, except mineral extraction, which is prohibited.

19. More than one *single detached dwelling unit* may be allowed on an individual *lot* through the *conditional use permit* process. A *conditional use permit* is not required for *lots* in subdivisions, short subdivisions or binding site plans approved as multiple unit *lots* or for *accessory dwelling units*.

20. *Manufactured homes* and *mobile homes* are allowed only in *mobile home parks*. *Designated manufactured homes* are not restricted to *mobile home parks*.

21. Limited to *commuter parking lots* for users of transit, carpools or ride-share programs, provided:
- a. They are located on existing parking lots for *religious institutions*, schools, or other permitted nonresidential *uses* which have excess capacity available during commuting hours; and
 - b. The *site* is adjacent to a designated arterial that has been improved to a standard acceptable to the *department*.

Other *commuter parking lots* require a *conditional use permit*. All other *standalone parking uses* are prohibited.

22. Only in a *building* listed on the National Register as an historic site or designated as a King County landmark subject to the provisions of Chapter 2.20 KMC. Otherwise, a *conditional use permit* is required.

23. Excluding utilities using *bulk gas storage tanks*, which are a *conditional use*. Liquefied natural gas storage tanks are prohibited.

24. *Private stormwater management facilities* permitted except when participating in an approved shared facility drainage plan. *Private stormwater management facilities* shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. For shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.

25. Only as a re-use of a public school facility or a surplus nonresidential facility subject to Chapter 18.50 KMC.

26. Outdoor performance center and drive-in theater are prohibited.

27. *Structures* shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

28. *Community residential facility I* only. *Community residential facility II* is prohibited.

Attachment 1

29. Not permitted in R-1 and excluding drinking places, and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.
30. *Mobile home parks* are not permitted in the R-1 zone.
31. Not permitted in R-1 and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.
32. Bowling center and shooting range are prohibited.
33. *Hydroelectric generation facilities* limited to those that comply with the following:
- a. Any new diversion structure shall not: (1) Exceed a height of eight feet as measured from the streambed; or (2) Impound more than three surface acres of water at the normal maximum surface level;
 - b. There shall be no active storage;
 - c. The maximum water surface area at any existing dam or diversion shall not be increased;
 - d. An exceedance flow of no greater than 50 percent in mainstream reach shall be maintained;
 - e. Any transmission line shall be limited to a: (1) Right-of-way of five miles or less; and (2) Capacity of 230 kV or less;
 - f. Any new, permanent access road shall be limited to five miles or less; and
 - g. The facility shall only be located above any portion of the *stream* used by *anadromous fish*.
34. *Nonhydroelectric generation facilities* limited to *cogeneration* facilities for on-site use only.
35. Fairground, amusement park, and stadium/arena are prohibited.
36. Pet shops and auto supply stores are prohibited.
37. Bed and breakfast guesthouse only, subject to the following conditions:
- a. The guesthouse shall be owner-occupied;
 - b. Meals shall be served to paying guests only (no restaurant *use* permitted);
 - c. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;
 - d. Parking shall be provided as required by this title; and
 - e. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

Attachment 1

18.23.020 Community business zone – Use allowances.

The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited uses* in the community business zone:

Table A. Community Business Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor¹</i>	<i>Ambulatory surgery center</i>	<i>Adult entertainment business</i>
<i>Business service, standard</i>	<i>College/university</i>	<i>Air transportation service</i>
<i>Day-care</i>	<i>Community residential facility</i>	<i>Animal kennel/shelter</i>
<i>Eating and drinking place²</i>	<i>Fire or police facility</i>	<i>Arts, entertainment, outdoor</i>
<i>Educational service³</i>	<i>Laboratory</i>	<i>Auction house</i>
<i>Family child-care home⁴</i>	<i>Recreational facility, indoor</i>	<i>Automotive sales and service, marine</i>
<i>Health care and social assistance⁵</i>	<i>Regional land use</i>	<i>Automotive sales and service, non-marine</i>
<i>Multiple family dwelling</i>	<i>Religious institution</i>	<i>Business service, intensive</i>
<i>Office</i>	<i>Supportive living facility</i>	<i>Cemetery, columbarium, or mausoleum</i>
<i>Park</i>		<i>Construction and trade</i>
<i>Personal service²</i>		<i>Funeral home/crematory</i>
<i>Retail sales^{2,6}</i>		<i>Hospital</i>
<i>Single detached dwelling unit, existing legal⁷</i>		<i>Manufacturing, heavy</i>
<i>Standalone parking¹⁰</i>		<i>Manufacturing, light</i>
<i>Temporary lodging⁸</i>		<i>Marijuana business</i>
<i>Utility facility⁹</i>		<i>Marijuana cooperative</i>
		<i>Mobile food service</i>
		<i>Mobile home park</i>
		<i>Recreational facility, outdoor</i>
		<i>Resource land use</i>
		<i>Retail sales, bulk</i>
		<i>Secure facility</i>
		<i>Transportation</i>
		<i>Vehicle or equipment rental</i>
		<i>Vehicle refueling station</i>
		<i>Warehousing</i>
		<i>Wholesale trade</i>

1. Artist studios permitted. All other *indoor arts, entertainment uses* require a *conditional use permit*, except theaters which are prohibited.

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2. Permitted only as part of a *mixed use development* and must occupy 50 percent of the *ground floor at street frontage*. Each *use* is limited to maximum 5,000 square feet per *use* and 15,000 square feet total contiguous.
3. Arts and craft schools are a permitted use; all other *educational service uses* require a *conditional use permit*.
4. A *family child-care home* is permitted in an *existing legal single detached dwelling unit* subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:
 - a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
 - b. A safe passenger loading area shall be provided;
 - c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
 - d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
 - e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC; and
 - f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility.
5. Social assistance *uses* and veterinary offices/clinics are conditionally permitted.
6. *Outdoor retail display/sidewalk sales* and auto supply stores are prohibited.
7. Other *single detached dwelling units* are prohibited.
8. Bed and breakfast guesthouse only. Hotels and motels are prohibited.
9. *Private stormwater management facility* is a *permitted use*. Sewer lift stations and pipes/electrical wires and associated structure supports may be conditionally permitted. All other *utility facility uses* are prohibited.
10. Limited to *commuter parking lots* for users of transit, carpools or ride-share programs, provided the facilities are located on existing parking lots for *religious institutions*, schools, or other permitted nonresidential *uses* which have excess capacity available during commuting hours. All other *standalone parking uses* require a *conditional use permit*.

Attachment 1

18.27.020 Public and semi-public zone – Use allowances.

A. The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited* uses in the public and semi-public zone.

Table A. Public and Semi-Public Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor</i>	<i>College/university</i>	<i>Marijuana business</i>
<i>Arts, entertainment, outdoor¹</i>	<i>Construction and trade⁴</i>	<i>Marijuana cooperative</i>
<i>Educational service</i>		<i>Regional land use⁵</i>
<i>Fire or police facility</i>		<i>Secure facility</i>
<i>Office²</i>		
<i>Park</i>		
<i>Recreational facility, indoor</i>		
<i>Recreational facility, outdoor</i>		
<i>Standalone parking³</i>		
<i>Utility facility</i>		

1. Except outdoor performance center which is conditionally permitted.
2. Limited to *public agency offices*.
3. Limited to commuter parking facilities for users of transit, carpools or ride-share programs.
4. Limited to *public agency* maintenance yards or facilities.
5. Landfill and transfer station are specifically prohibited. Consideration of all other *regional land uses* shall follow the process outlined in KMC Section 18.27.060.

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18.21.020 Residential zones R-1, R-4 and R-6 – Use allowances.

The following uses in Table A are permitted, conditionally permitted, special uses, or *prohibited uses* in residential zones R-1, R-4 and R-6.

Table A. Residential Zones R-1, R-4 and R-6 Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
<i>Single Detached Dwelling Unit¹</i>	<i>Single Detached Dwelling Unit¹</i>	<i>Jail</i>	<i>Community Residential Facility II</i>
<i>Townhouse²</i>	<i>Townhouse²</i>	<i>Work Release Facility</i>	<i>Hotel/Motel⁹</i>
<i>Designated Manufactured Home¹</i>	<i>Designated Manufactured Home¹</i>	<i>Hydroelectric</i>	<i>Organization Hotel/Lodging Houses</i>
<i>Mobile Home and Manufactured Home⁵</i>	<i>Mobile Home Park⁶</i>	<i>Generation Facility</i>	<i>Campgrounds</i>
<i>Senior Citizen Assisted Living⁴</i>	<i>Community Residential Facility I</i>	<i>Nonhydroelectric</i>	<i>Destination Resorts</i>
<i>Residential Accessory Uses³</i>	<i>Dormitory⁷</i>	<i>Generation Facility</i>	<i>Recreational Vehicle Park</i>
<i>Home Occupation</i>	<i>Home Industry</i>	<i>Oil and Gas Extraction</i>	<i>Adult Entertainment Business</i>
<i>Park¹²</i>	<i>Bed and Breakfast</i>	<i>Energy Resource</i>	<i>Theater</i>
<i>Trails</i>	<i>Guesthouse¹⁰</i>	<i>Recovery Facility</i>	<i>Theater, Drive-in</i>
<i>Golf Course Facility¹⁵</i>	<i>Marina¹³</i>	<i>Landfill</i>	<i>Bowling Center</i>
<i>Amusement and Recreation Services^{16 17 18}</i>	<i>Sports Club^{13, 14}</i>	<i>Transfer Station</i>	<i>Shooting Range</i>
<i>Library²⁰</i>	<i>Amusement and Recreation Services^{16 17, 19}</i>	<i>Wastewater Treatment Facility</i>	<i>Amusement Arcades</i>
<i>Museum²⁰</i>	<i>Library</i>	<i>Municipal Water Production</i>	<i>Amusement Park</i>
<i>Arboretum</i>	<i>Museum</i>	<i>Airport/Heliport</i>	<i>Outdoor Performance Center</i>
<i>Conference Center²⁰</i>	<i>Conference Center</i>	<i>Transit Bus Base</i>	<i>Drycleaning Plants</i>
	<i>General Personal Service²¹</i>	<i>School Bus Base</i>	<i>Industrial Launderers</i>
		<i>Racetrack⁶²</i>	<i>Veterinary Clinic</i>
		<i>Zoo/Wildlife Exhibit⁶³</i>	

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Table A. Residential Zones R-1, R-4 and R-6 Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
<i>Cemetery, Columbarium or Mausoleum</i> ²³ <i>Family Child-Care Home</i> ²⁵ <i>Day Care I</i> ²⁶ <i>Day Care II</i> ²⁶ <i>Church, Synagogue, Mosque, Temple</i> ²⁷ <i>Social Services</i> ^{27,28} <i>Stable</i> ³⁰	<i>Funeral Home/Crematory</i> ²² <i>Cemetery, Columbarium or Mausoleum</i> ²⁴ <i>Day Care I</i> <i>Day Care II</i> <i>Church, Synagogue, Mosque, Temple</i> <i>Social Services</i> ^{28,29} <i>Stable</i>	<i>College/University</i> ⁶⁴	<i>Automotive Repair</i> <i>Automotive Service</i> <i>Miscellaneous Repair</i> <i> kennel or Cattery</i> <i>Theatrical Production Services</i> <i>Nursing and Personal Care Facilities</i> <i>Medical/Dental Lab</i> <i>Miscellaneous Health Services</i> <i>Public Agency Archives</i> <i>Court</i> <i>Construction and Trade</i>
<i>Artist Studios</i> ³¹ <i>Interim Recycling Facility</i> ³² <i>Medical/Dental Office/Outpatient Clinic</i> ²⁷ <i>Elementary School</i> <i>Middle/Junior High School</i> <i>Secondary or High School</i> ³³ <i>Vocational School</i> ³⁵	<i>Medical/Dental Office/Outpatient Clinic</i> ²⁰ <i>Hospital</i> ²⁹ <i>Secondary or High School</i> ³³ <i>Vocational School</i> <i>Specialized Instruction School</i> ³⁵ <i>School District Support Facility</i>		<i>Individual Transportation and Taxi</i> <i>Trucking and Courier Service</i> <i>Warehousing and Wholesale Trade</i> ⁴⁶ <i>Self-Service Storage</i> <i>Farm Product Warehousing, Refrigeration and Storage</i> <i>Log Storage</i> <i>Transportation Service</i>

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Table A. Residential Zones R-1, R-4 and R-6 Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
<i>Specialized Instruction School³⁴</i>	<i>Public Agency or Utility Office</i>		Freight and Cargo Service
<i>School District Support Facility³⁶</i>	<i>Fire Facility⁴⁰</i>		Passenger Transportation Service
<i>Public Agency or Utility Office³⁷</i>	<i>Utility Facility⁴²</i>		Communication Offices
<i>Public Agency or Utility Yard³⁸</i>	<i>Commuter Parking Lot</i>		Telegraph and Other Communications
<i>Police Facility³⁹</i>	<i>Helistop⁴⁷</i>		<i>General Business Service</i>
<i>Utility Facility⁴¹</i>	<i>Department and Variety Stores⁴⁸</i>		<i>Professional Office</i>
<i>Commuter Parking Lot⁴³</i>	<i>Food Stores⁴⁹</i>		Outdoor Advertising Service
<i>Private Stormwater Management Facility⁴⁴</i>	<i>Eating and Drinking Places^{51, 52}</i>		Miscellaneous Equipment Rental
<i>Vector Waste Receiving Facility⁴⁵</i>	<i>Drug Stores⁴⁹</i>		Automotive Rental and Leasing
<i>Automotive Parking⁴³</i>	<i>Book, Stationery, Video and Art Supply Stores⁴⁹</i>		Professional Sports Teams/Promoters
<i>Agricultural Product Sales⁵⁰</i>	<i>Florist Shops⁴⁹</i>		Research, Development and Testing
<i>Livestock Sales^{53, 54}</i>	<i>Hatchery/Fish Preserve⁵⁰</i>		<i>Heavy Equipment and Truck Repair</i>
<i>Growing and Harvesting Crops</i>	<i>Aquaculture⁵⁶</i>		<i>Commercial/Industrial Accessory Uses</i>
<i>Raising Livestock and Small Animals⁵⁵</i>	<i>Hydroelectric Generation Facility⁵⁷</i>		<i>Building, Hardware and Garden Materials Stores</i>
<i>Growing and Harvesting Forest Products</i>	<i>Nonhydroelectric Generation Facility⁵⁸</i>		<i>Forest Product Sales</i>
	<i>School Bus Base</i>		
	<i>College/University^{54, 66}</i>		

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Table A. Residential Zones R-1, R-4 and R-6 Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
<i>School Bus Base</i> ⁶¹ <i>College/University</i> ^{64, 65}			<i>Motor Vehicle and Boat Dealers</i> <i>Auto Supply Stores</i> <i>Gasoline Service Stations</i> <i>Apparel and Accessory Stores</i> <i>Furniture and Home Furnishings Stores</i> <i>Liquor Stores</i> <i>Used Goods: Antiques/Secondhand Shops</i>
			<i>Sporting Goods and Related Stores</i> <i>Jewelry Stores</i> <i>Monuments, Tombstones and Gravestones Sales</i> <i>Hobby, Toy, Game Shops</i> <i>Photographic and Electronic Shops</i> <i>Fabric Shops</i> <i>Fuel Dealers</i> <i>Personal Medical Supply Stores</i> <i>Pet Shops</i> <i>Bulk Retail</i>

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Table A. Residential Zones R-1, R-4 and R-6 Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
			<i>Auction Houses</i> <i>Manufacturing Land Uses</i> <i>Forest Research</i> <i>Wildlife Shelters</i> Mineral Extraction and Processing Asphalt/Concrete Mixtures and Block Manufacture <i>Resource Accessory Uses</i> <i>Jail Farm/Camp</i> <i>Public Agency Animal Control Facility</i> <i>Public Agency Training Facility</i> <i>Soil Recycling Facility</i> <i>Fairground</i> Stadium/Arena <i>Secure Community Transition Facilities</i> <i>Marijuana Business</i> <i>Marijuana Cooperative</i>

¹ *Conditional use permit* required before approving more than one dwelling on individual *lots*, except on *lots* in subdivisions, short subdivisions or binding site plans approved for multiple unit *lots*, and except as provided for *accessory dwelling units* in subsection 8 of this section.

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² A *conditional use permit* is not required for *townhouse* units on *lots* in a subdivision or short subdivision designed for *townhouse* units.

³ Reserved.

⁴ Only in a *building* listed on the National Register as an historic site or designated as a King County landmark subject to the provisions of Chapter 2.20 KMC.¹

⁵ *Manufactured homes* and *mobile homes* are only allowed in *mobile home parks*.

⁶ *Mobile home parks* shall not be permitted in the R-1 zones.

⁷ Only as an accessory to a school, college, university or church.

⁸ a. See KMC 18.73.100 regarding *accessory dwelling units*.

b. One single or twin engine, noncommercial aircraft shall be permitted only on *lots* that abut, or have a legal access that is not a *City* right-of-way to, a waterbody or landing field, provided there is:

(1) No aircraft sales, service, repair, charter or rental; and

(2) No storage of aviation fuel except that contained in the tank or tanks of the aircraft.

⁹ Except *bed and breakfast guesthouses*.

¹⁰ *Bed and breakfast guesthouses* shall be authorized after issuance of a *conditional use permit*, subject to the following conditions:

a. The guesthouse shall be owner-occupied;

b. Meals shall be served to paying guests only (no restaurant *use* permitted);

c. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;

d. Parking shall be provided as required by this title; and

e. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

¹¹ Reserved.

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¹² The following conditions and limitations shall apply, where appropriate:

- a. No stadiums on *sites* less than 10 acres;
- b. Lighting for *structures* and fields shall be directed away from residential areas;
- c. *Structures* or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones, except for *structures* in on-site recreation areas required in KMC 18.30.130 and 20.47.155. *Setback* requirements for *structures* in these on-site required recreation areas shall be maintained in accordance with the zoning standards for the underlying residential zone;
- d. Overnight camping is allowed only in an approved *campground*.

¹³ Limited to recreation facilities subject to the following conditions and limitations:

- a. The bulk and scale shall be compatible with residential character of the area;
- b. For *sports clubs*, the gross floor area shall not exceed 10,000 square feet unless the *building* is on the same *site* or adjacent to a *site* where a public facility is located or unless the *building* is a nonprofit facility; and
- c. Use is limited to residents of a specified residential *development* or to *sports clubs* providing supervised instructional or athletic programs.

¹⁴ Only for stand-alone *sports clubs* that are not part of a *park*.

¹⁵ Clubhouses, maintenance buildings, equipment storage areas and driving range tees shall be at least 50 feet from residential property lines. Lighting for practice greens and driving range ball impact areas shall be directed away from adjoining residential zones. Applications shall comply with adopted *best management practices* for golf course *development*.

¹⁶ Excluding amusement and recreational *uses* classified elsewhere in this chapter.

¹⁷ *Social card games*, as defined by this title, are prohibited.

¹⁸ Limited to a golf driving range as an accessory to golf courses.

¹⁹ Limited to golf driving ranges and subject to subsection 15 of this section.

²⁰ Only as accessory to a *park* or in a *building* listed on the National Register as an historic site or designated as a *City* landmark subject to Chapter 18.50 KMC.

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- ²¹ Not permitted in R-1 and limited to a maximum of 5,000 square feet per establishment and subject to the additional requirements in KMC 18.21.070.
- ²² Only as an accessory to a cemetery.
- ²³ Limited to columbariums accessory to a church, but required *landscaping* and parking shall not be reduced.
- ²⁴ *Structures* shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
- ²⁵ A *family child-care home* is subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:
- a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
 - b. A safe passenger loading area as certified by the DEL licensor shall be provided;
 - c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
 - d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
 - e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC;
 - f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility; and
 - g. Prior to receiving State licensing, the family child-care provider shall provide the *City* with proof of written notification informing immediately adjoining property owners of the intent to locate and maintain the *family child-care home*. The notification shall inform the notified parties that comments may be submitted to the DEL and provide contact information for submitting such comments to the DEL. The proof of notification shall be in the form of a written affidavit containing (1) the date and means of notification; (2) a copy of the notification; and (3) a list of the parties to whom the notification was distributed.
- ²⁶ Only as a re-use of a public school facility subject to Chapter 18.50 KMC, or an *accessory use* to a school, church, *park*, *sport club* or public housing administered by a *public agency*, and:
- a. Outdoor play areas shall be completely enclosed by a solid wall or *fence*, with no openings except for gates, and have a minimum height of six feet;

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b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

c. Direct access to a developed arterial *street* shall be required in any residential zone; and

d. Hours of operation may be restricted to assure compatibility with surrounding *development*.

²⁷ Only as a re-use of a public school facility subject to Chapter [18.50](#) KMC.

²⁸ Except day care services and residential care.

²⁹ Only as a re-use of a surplus nonresidential facility subject to Chapter [18.50](#) KMC.

³⁰ Covered riding arenas are subject to KMC [18.70.030](#) and shall not exceed 20,000 square feet, but stabling areas, whether attached or detached, shall not be counted in this calculation.

³¹ Only as a re-use of a surplus nonresidential facility subject to Chapter [18.50](#) KMC or as a joint use of an existing public school facility.

³² Limited to *drop box facilities* accessory to a public or community *use* such as a school, fire station or community center.

³³ Renovation, expansion, modernization, or reconstruction of a school, or the addition of *relocatable facilities*, is permitted.

³⁴ Only as an accessory to residential *use*, and:

a. Students shall be limited to 12 per one-hour session;

b. All instruction must be within an enclosed *structure*; and

c. *Structures* used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.

³⁵ Subject to the following:

a. *Structures* used for the school and *accessory uses* shall maintain a minimum distance of 25 feet from property lines adjoining residential zones;

b. On *lots* over two and one-half acres:

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- (1) *Retail sales* of items related to the instructional courses are permitted, if total floor area for *retail sales* is limited to 2,000 square feet;
- (2) Sales of food prepared in the instructional courses are permitted with Seattle/King County public health and *City* approval, if total floor area for food sales is limited to 1,000 square feet and is located in the same *structure* as the school; and
- (3) Other incidental student-supporting *uses* are allowed, if such *uses* are found to be both compatible with and incidental to the principal *use*; and

c. On *sites* over 10 acres zoned R-1 and/or R-4:

- (1) *Retail sales* of items related to the instructional courses are permitted, provided total floor area for *retail sales* is limited to 2,000 square feet;
- (2) Sales of food prepared in the instructional courses are permitted with Seattle/King County public health and *City* approval, if total floor area for food sales is limited to 1,750 square feet and is located in the same *structure* as the school;
- (3) Other incidental student-supporting *uses* are allowed, if the *uses* are found to be functionally related, subordinate, compatible with and incidental to the principal *use*;
- (4) The *use* shall be integrated with allowable agricultural *uses* on the *site*;
- (5) Advertised special events shall comply with the temporary use requirements of this title; and
- (6) Existing *structures* that are damaged or destroyed by fire or natural event, if damaged by more than 50 percent of their prior value, may reconstruct and expand an additional 65 percent of the original floor area but need not be approved as a conditional use if their *use* otherwise complies with the development conditions in this subsection (35)(c) and this title.

³⁶ Only if adjacent to an existing or proposed school.

³⁷ a. Only as a re-use of a public school facility or a surplus nonresidential facility subject to the provisions of Chapter 18.50 KMC; or

b. Only when accessory to a fire facility and the office is no greater than 1,500 square feet of floor area.

³⁸ a. Utility yards only on *sites* with utility district offices; or

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b. *Public agency* yards are limited to material storage for road maintenance facilities.

³⁹ Limited to "storefront" police offices. Such offices shall not have:

- a. Holding cells;
- b. Suspect interview rooms; or
- c. Long-term storage of stolen properties.

⁴⁰ a. All *buildings* and *structures* shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

b. Any *buildings* from which fire-fighting equipment emerges onto a *street* shall maintain a distance of 35 feet from such *street*; and

c. No *outdoor storage*.

⁴¹ Excluding *bulk gas storage tanks*.

⁴² Limited to *bulk gas storage tanks* which pipe to individual residences but excluding liquefied natural gas storage tanks.

⁴³ Limited to commuter parking facilities for users of transit, carpools or ride-share programs, provided:

- a. They are located on existing parking lots for churches, schools, or other permitted nonresidential *uses* which have excess capacity available during commuting hours; and
- b. The *site* is adjacent to a designated arterial that has been improved to a standard acceptable to the *department*.

⁴⁴ Except when participating in an approved shared facility drainage plan; such facilities shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. For shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.

⁴⁵ Only as an *accessory use* to a *public agency* or *utility yard*, or to a *transfer station*.

⁴⁶ Except *self-service storage*.

⁴⁷ Limited to *emergency* medical evacuation sites in conjunction with police, fire or health service facility.

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- ⁴⁸ Not in R-1 and limited to *variety stores*, with a maximum of 5,000 square feet of gross floor area, and subject to KMC [18.21.070](#).
- ⁴⁹ Not permitted in R-1 and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC [18.21.070](#).
- ⁵⁰ a. Limited to products produced on site.
- b. Covered sales areas shall not exceed a total area of 500 square feet.
- ⁵¹ Not permitted in R-1 and excluding drinking places, and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC [18.21.070](#).
- ⁵² *Social card games*, as defined by this title, are prohibited.
- ⁵³ Retail sale of *livestock* is permitted only as accessory to raising *livestock*.
- ⁵⁴ Limited to the R-1 zone.
- ⁵⁵ *Large livestock* allowed in accordance with Chapter [18.70](#) KMC.
- ⁵⁶ May be further subject to KMC Title [16](#), Division I, Shoreline Management.
- ⁵⁷ Limited to facilities that comply with the following:
- a. Any new diversion *structure* shall not:
- (1) Exceed a height of eight feet as measured from the streambed; or
- (2) Impound more than three surface acres of water at the normal maximum surface level;
- b. There shall be no active storage;
- c. The maximum water surface area at any existing dam or diversion shall not be increased;
- d. An exceedance flow of no greater than 50 percent in mainstream reach shall be maintained;
- e. Any transmission line shall be limited to a:
- (1) Right-of-way of five miles or less; and
- (2) Capacity of 230 kV or less;

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f. Any new, permanent access road shall be limited to five miles or less; and

g. The facility shall only be located above any portion of the *stream* used by *anadromous fish*.

⁵⁸ Limited to *cogeneration* facilities for on-site use only.

⁵⁹ Reserved.

⁶⁰ Reserved.

⁶¹ Only in conjunction with an existing or proposed school.

⁶² Except racing of motorized vehicles.

⁶³ Except arboretum.

⁶⁴ Except technical institutions. See *vocational schools*.

⁶⁵ Only as a re-use of a public school facility subject to Chapter 18.50 KMC.

⁶⁶ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.

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18.23.020 Use allowances.

The following uses listed in Table A are identified as permitted, conditionally permitted, or *prohibited uses* in the community business zone:

Table A. Community Business Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Artist Studios</i>	<i>City Government Facilities and Offices</i>	<i>Adult Entertainment Business</i>
<i>Arts and Crafts Schools/Studios</i>	<i>College/University</i>	<i>Auto Supply Stores</i>
<i>Bed and Breakfast Guesthouses</i>	<i>Community Residential Facility I or II</i>	<i>Automotive Rental and Leasing</i>
<i>Family Child-Care Home²</i>	<i>Conference Centers</i>	<i>Automotive Repair</i>
<i>Day Care Centers I and II</i>	<i>Cultural Facilities</i>	<i>Automotive Service</i>
<i>Eating and Drinking Places¹</i>	<i>Fire Facility</i>	<i>Bulk Retail</i>
<i>General Business Services</i>	<i>K – 12 Educational Institution (Public or Private)</i>	<i>Car Wash</i>
<i>Home Occupation</i>	<i>Medical/Dental Labs</i>	<i>Construction and Trade</i>
<i>Medical/Dental Office/Outpatient Clinic</i>	<i>Nursing and Personal Care Facilities</i>	<i>Drive-Through Service</i>
<i>Multiple-Family Dwelling</i>	<i>Police Facility</i>	<i>Helistop</i>
<i>Professional Offices</i>	<i>Public Agency or Utility Office: Non-City</i>	<i>Hospitals</i>
<i>Parks</i>	<i>Recreational Facilities, Indoor</i>	<i>Hotel</i>
<i>Private Stormwater Management Facility</i>	<i>Religious Institutions: Church, Synagogue, Mosque, Temple</i>	<i>Indoor Storage</i>
<i>Rental Services, No Outside Storage</i>	<i>Services, Off-Site</i>	<i>Interim Recycling Facility</i>
<i>Retail Sales, Indoor¹</i>	<i>Social Services, Noncorrectional</i>	<i>Manufacturing</i>
<i>Services, On-Site¹</i>	<i>Specialized Instruction School</i>	<i>Marijuana Business</i>
	<i>Utility Facility: Limited to Sewer Lift Stations and Pipes/Electrical Wires and Associated Structure Supports</i>	<i>Marijuana Cooperative</i>
		<i>Mobile Food Vendor</i>

Attachment 2

Table A. Community Business Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Single Detached Dwelling Unit, Existing Legal Trails</i>	Veterinary Offices/Clinics Vocational Schools	<i>Mobile Home Parks Motel Motor Vehicle and Boat Dealers Outdoor Performance Center Outdoor Retail Display/Sidewalk Sale Outdoor Storage Recreational Facilities, Outdoor Rental Services with Outside Storage Retail Sales, Outdoor Self-Service Storage Single Detached Dwelling Unit, New Social Services, Correctional Taxi Stand Theater Theatrical Production Services</i>

Attachment 2

Table A. Community Business Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
		Tow Truck Operation/Auto Yard <i>Transit Center</i> Trucking and Courier Service <i>Warehousing and Wholesale Trade</i>

¹ Permitted only as part of a *mixed use development* and must occupy 50 percent of the *ground floor at street frontage*. Each *use* is limited to maximum 5,000 square feet per *use* and 15,000 square feet total contiguous.

² A *family child-care home* is permitted in an existing legal *single detached dwelling unit* subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

- a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
- b. A safe passenger loading area as certified by the DEL licensor shall be provided;
- c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
- d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
- e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC; and
- f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility.

Attachment 2

18.27.020 Public and semi-public zone – Use allowances.

A. The following *uses* in Table A are permitted, conditionally permitted, or prohibited in the public and semi-public zone.

Table A. Public and Semi-Public Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED (OR EXCLUDED IN DEFINITIONS)
Arboretum	Maintenance Yards or Facilities, Accessory	<i>Jail</i>
Caretaker Residence, Accessory		<i>Work Release Facility</i>
<i>City Government Facilities and Offices</i>	<i>Outdoor Performance Center</i>	<i>Landfill</i>
<i>Commuter Parking Lot</i>	Colleges/Universities	<i>Transfer Station</i>
<i>Conference Center</i>		<i>Marijuana Business</i>
<i>Cultural Facilities</i>		<i>Marijuana Cooperative</i>
Fire Facility		
<i>Indoor Recreational Facilities; Excluding Sports Clubs</i>		
<i>K – 12 Educational Institutions (Public or Private)</i>		
<i>Open Space</i>		
<i>Outdoor Recreational Facilities</i>		
<i>Parks</i>		
Police Facility		
<i>Private Stormwater Management Facility</i>		
<i>Public Agency or Utility Office: Non-City</i>		
<i>Trails</i>		
<i>Utility Facility</i>		

Attachment 2

B. Classified land *uses* not listed or prohibited in Table A may be allowed through completion of a site plan review process pursuant to KMC 18.27.060 and Chapter 18.105 KMC.

C. *Uses* Established by *Master Plan*. Adopted *master plans* that specify *uses* include the following:

1. Bastyr University Master Plan, December 2009, approved by *City Ordinance* 09-0304. [Ord. 16-0426 § 5 (Att. C); Ord. 16-0421 § 2 (Att. A); Ord. 14-0384 § 5; Ord. 11-0329 § 3 (Exh. 1).]

ATTACHMENT 3

List of Land Uses and Definitions

Adult entertainment business

"Adult entertainment business" means a sexually oriented business engaging in adult entertainment, such as an adult cabaret, adult retail business or an adult panoram, as those terms are defined in KMC Title 5.

Air transportation service

"Air transportation service" means a helipad, private landing field, or other similar facility for personal or business-related air transportation. Air transportation service does not include an airport, which is classified as a regional land use.

May include NAICS 481 (Air Transportation) and 4881 (Support Activities for Transportation).

Ambulatory surgery center

"Ambulatory surgery center" means an establishment with medical staff primarily engaged in providing outpatient medical, diagnostic and surgical treatment services.

May include NAICS 621493 (Freestanding Ambulatory Surgical and Emergency Centers).

Animal kennel/shelter

"Animal kennel/shelter" means any outdoor or indoor facility which houses four or more small domestic animals (that number not including one unweaned litter) for periods longer than 24 hours as a commercial venture, as a nonprofit organization, or for a governmental purpose. The facility may either be a separate business or an accessory use.

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Arts, entertainment, indoor

"Indoor arts, entertainment" means an establishment that provides facilities or services for cultural and entertainment uses inside a building. Indoor arts, entertainment includes such uses as performing arts establishments, artist studios, theaters, museums, libraries, fraternal lodges, tour operators, and arcades, but specifically excludes adult entertainment facilities.

May include NAICS 512 (Motion Picture and Sound Recording Industries), 515 (Broadcasting), and 51912 (Libraries and Archives). May include 56152 (Tour Operators) and 56159 (Other Travel Arrangement and Reservation Services). May include Sector 71 (Arts, Entertainment, and Recreation), except the following: 711211 (Sports Teams and Clubs), 711212 (Racetracks), 713110 (Amusement and Theme Parks), 7132 (Gambling Industries), and 7139 (Other Amusement and Recreation Industries). May include 8134 (Civic and Social Organizations).

Arts, entertainment, outdoor

"Outdoor arts, entertainment" means an establishment that provides facilities or services for cultural and entertainment uses outside of a building. Outdoor arts, entertainment includes such uses as outdoor performance facilities, public gardens, and arboretums.

May include NAICS 512 (Motion Picture and Sound Recording Industries) and 515 (Broadcasting). May include 56152 (Tour Operators). May include Sector 71 (Arts, Entertainment, and Recreation), except the following: 711211 (Sports Teams and Clubs), 711212 (Racetracks), 713110 (Amusement and Theme Parks), 7132 (Gambling Industries), and 7139 (Other Amusement and Recreation Industries).

Auction house

"Auction house" means an establishment where the property of others is sold by a broker or auctioneer to persons who attend scheduled sales periods or events.

Automotive sales and service, marine

"Automotive sales and service, marine" means an establishment engaged in the retail sale of new or used boats, jet skis, boat trailers, or similar vehicles, or an establishment primarily engaged in repair or

ATTACHMENT 3

service of these vehicles, including washing and the sale and installation of lubricants, tires, batteries, mufflers, and similar accessories.

May include NAICS 4412 (Other Motor Vehicle Dealers), 44132 (Tire Dealers), and 8111 (Automotive Repair and Maintenance).

Automotive sales and service, non- marine

"Automotive sales and service, nonmarine" means an establishment engaged in the retail sale of new or used cars, trucks, truck tractors, semi-trailers, buses, mobile homes, utility trailers, RVs, motorcycles, ATVs, or similar vehicles, or an establishment primarily engaged in automotive repair or service of these vehicles, including washing and the sale and installation of lubricants, tires, batteries, mufflers, and similar accessories. Automotive sales and service, nonmarine does not include tire retreading, which is classified as a manufacturing land use.

May include NAICS 4411 (Auto Dealers), 4412 (Other Motor Vehicle Dealers), 44132 (Tire Dealers), 45393 (Manufactured/Mobile Home Dealers), and 8111 (Automotive Repair and Maintenance).

Business service, intensive

"Intensive business service" means an establishment primarily engaged in providing supporting services to business that is likely to generate levels of truck traffic, noise, pollution, vibration, dust, fumes, odors, hazardous materials, or other undesirable conditions that would be injurious to health or offensive to the senses, or would be an obstruction to the free use of surrounding property and essentially interfere with the comfortable enjoyment of life and property. Examples include industrial launderers, dry cleaning plants, and fuel dealers.

May include NAICS 45431 (Fuel Dealers). May include Sector 56 (Administrative and Support and Waste Management and Remediation Services), except the following: 561210 (Facilities Support Services for private correctional facilities), 5615 (Travel Arrangement and Reservation Services), 56171 (Exterminating and Pest Control Services), 56173 (Landscaping Services), 56179 (Other Services to Buildings/Dwellings) and 562 (Waste Management and Remediation). May include 8113 (Commercial and Industrial Machinery and Equipment Repair and Maintenance) and 812332 (Industrial Launderers).

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Business service, standard

"Standard business service" means an establishment primarily engaged in providing supporting services to business that is lower in intensity and cleaner than an intensive business service, and that does not generate noise, particulate matter, vibration, smoke, dust, fumes, odors, or other nuisances that would be injurious to health or offensive to the senses, or would be an obstruction to the free use of surrounding property and essentially interfere with the comfortable enjoyment of life and property. Examples include telephone call centers, private mail services, copy centers, business incubators, and data centers.

May include NAICS 491 (Postal Service), 492 (Couriers and Messengers), 518 (Data Processing, Hosting, and Related Services), 53242 (Office Machinery and Equipment Rental and Leasing), 54186 (Direct Mail Advertising), and 541922 (Commercial Photography).

May include Sector 56 (Administrative and Support and Waste Management and Remediation Services), except the following: 561210 (Facilities Support Services for private correctional facilities), 5615 (Travel Arrangement and Reservation Services), 56171 (Exterminating and Pest Control Services), 56173 (Landscaping Services), 56179 (Other Services to Buildings/Dwellings) and 562 (Waste Management and Remediation). May include 8112 (Electronic and Precision Equipment Repair and Maintenance).

Cemetery, columbarium or mausoleum

"Cemetery, columbarium or mausoleum" means land or *structures* used for interment of the dead or their remains. For purposes of this code, pet cemeteries are considered a subclassification of this *use*.

May include NAICS 81222 (Cemeteries and Crematories).

College/university

"College/university" means an establishment primarily engaged in providing academic courses and granting degrees above the high school diploma, such as the associate, baccalaureate or graduate degree. College/university generally means the college/university campus. Off-site auxiliary facilities associated with a college or university are addressed under the appropriate land use listing for their individual operation. For example, an off-site affiliated bookstore would be considered retail sales. An off-site medical clinic would be considered health care and social assistance.

May include NAICS 6112 (Junior Colleges) and 6113 (Colleges, Universities, and Professional Schools).

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Community residential facility

"Community residential facility (CRF)" means living quarters meeting applicable federal and State standards that function as a single housekeeping unit and provide supportive services, including but not limited to counseling, rehabilitation and medical supervision, excluding drug and alcohol detoxification, which is classified as health services, a hospital or an ambulatory surgery center. CRFs are further classified as follows:

A. CRF-I means nine to 10 residents and staff;

B. CRF-II means 11 or more residents and staff. If staffed by nonresident staff, each 24 staff hours per day equals one full-time residing staff member for purposes of subclassifying CRFs.

Provided, however, that this definition shall not apply to *secure community transition facilities* as defined in KMC 18.20.2465 or to *adult family homes* as defined in KMC 18.20.095.

May include NAICS 623210 (Residential Intellectual and Developmental Disability Facilities) and 623220 (Residential Mental Health and Substance Abuse Facilities).

Construction and trade

"Construction and trade" means an establishment that provides services related to construction and maintenance of *buildings* and infrastructure and improvements to property. Such establishments include landscape and horticultural services. This definition excludes construction and trade establishments that qualify as an *office* by virtue of having only a business office without outside storage or fabrication.

May include NAICS Sector 23 (Construction), 54135 (Building Inspection Services), 56171 (Exterminating and Pest Control Services), 56173 (Landscaping Services), 56179 (Other Services to Buildings and Dwellings), and 56299 (All Other Waste Management Services).

Day-care

"Day care" means an establishment for group care of nonresident adults or children.

A. Day care shall include only child day care services, adult day care centers and the following:

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1. Adult day care, such as adult day health centers or social day care as defined by the Washington State Department of Social and Health Services;
2. Nursery schools for children under minimum age for education in public schools;
3. Privately conducted kindergartens or prekindergartens when not a part of a public or parochial school; and
4. Programs covering after-school care for school children.

B. Day care establishments are subclassified as follows:

1. Day care I – A maximum of 12 adults or children in any 24-hour period; and
2. Day care II – Over 12 adults or children in any 24-hour period.

Day care does not include *family child-care home*.

May include NAICS 6244 (Child Day Care Services).

Eating and drinking place

"Eating and drinking place" means an establishment that prepares meals, snacks and beverages to customer order for immediate on-premises or off-premises consumption from a fixed location.

May include NAICS 722 (Food Services and Drinking Places), except 72233 (Mobile Food Services).

Educational service

Educational service" means an institution that offers academic education, career and technical instruction as well as schools or programs that offer tutoring or nonacademic or self-enrichment classes, such as automobile driving and cooking instruction.

May include NAICS Sector 61 (Educational Services), except 6112 (Junior Colleges) and 6113 (Colleges, Universities, and Professional Schools).

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Family child-care home

"Family child-care home" means a child day care provider who regularly provides child day care and early learning services for not more than 12 children in the provider's home in the family living quarters, or as otherwise defined in RCW 43.215.010.

Fire or police facility

"Fire or police facility" means a government establishment engaged in law enforcement or fire protection activities.

May include NAICS 92212 (Police Protection), 92215 (Parole Offices and Probation Offices), and 92216 (Fire Protection).

Funeral home/crematory

"Funeral home/crematory" means an establishment engaged in preparing the dead for burial or interment and conducting funerals.

May include NAICS 8122 (Death Care Services).

Health care and social assistance

"Health care and social assistance" means an establishment or agency providing health care or social assistance. For purposes of this code, veterinary offices are considered a subclassification of this use.

May include NAICS 62 (Health Care and Social Assistance), except the following: 621493 (Freestanding Ambulatory Surgical and Emergency Centers), 621511 (Medical Laboratories), 621910 (Ambulance Services), 622 (Hospitals), 623 (Nursing and Residential Care Facilities), and 6244 (Child Day Care Services). May include 54194 (Veterinary Services).

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Hospital

"Hospital" means an establishment with medical staff primarily engaged in providing inpatient medical, diagnostic and treatment services and/or emergency care services. Hospitals may also provide outpatient services as a secondary activity.

May include NAICS 622 (Hospitals), including 622210 (Psychiatric and Substance Abuse Hospitals).

Laboratory

"Laboratory" means a standalone facility subject to biosafety or hazardous materials containment procedures in which research and experiments leading to the development of new products are conducted. This use may be associated with an institutional, clinical or commercial use.

May include NAICS 54138 (Testing Laboratories) and 621511 (Medical Laboratories).

Manufacturing, heavy

"Heavy manufacturing" means an establishment engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products that is likely to generate levels of truck traffic, noise, pollution, vibration, dust, fumes, odors, radiation, poisons, pesticides, or other hazardous materials, fire or explosion hazards, or other undesirable conditions that would be injurious to health or offensive to the senses, or would be an obstruction to the free use of surrounding property and essentially interfere with the comfortable enjoyment of life and property. Heavy manufacturing facilities use larger quantities of raw materials and may require significant outdoor storage. Examples include concrete manufacture, asphalt batch plants, mass production of commercial or recreational vehicles or large machinery, production of industrial organic and inorganic chemicals, animal slaughtering, and refining, extruding, rolling, or drawing of ferrous or nonferrous metals.

May include NAICS Sectors 31 – 33 (Manufacturing). Also may include NAICS 54171 (Research and Development in the Physical, Engineering and Life Sciences).

Manufacturing, light

"Light manufacturing" means an establishment engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products that is of a lower intensity and

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cleaner than heavy manufacturing establishments. Light manufacturing facilities do not generate noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances that would be injurious to health or offensive to the senses, or would be an obstruction to the free use of surrounding property and essentially interfere with the comfortable enjoyment of life and property. Light manufacturing facilities require only a small amount of raw materials, area and power to produce items of relatively high value per unit weight. Examples include manufacture of clothes, jewelry, food, blown glass, furniture, computer hardware and software, medical instrumentation, consumer electronics, and winery/brewery, as well as research and development facilities and biotechnology.

May include NAICS Sectors 31 – 33 (Manufacturing). Also may include NAICS 54171 (Research and Development in the Physical, Engineering and Life Sciences).

Marijuana business

"Marijuana business" means a marijuana producer, marijuana processor or marijuana retailer. Marijuana business does not include a medical marijuana collective garden as defined in Chapter 69.51A RCW.

Marijuana cooperative

"Marijuana cooperative" means a cooperative of no more than four qualifying patients or designated providers sharing responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative, as described under Chapter 69.51A RCW.

Mobile food service

"Mobile food service" means an establishment engaged in preparing and serving meals and snacks for immediate consumption from motorized vehicles or nonmotorized carts.

May include NAICS Sector 72233 (Mobile Food Services).

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Mobile home park

"Mobile home park" means a *development* with two or more improved pads or spaces designed to accommodate *mobile homes, manufactured homes, or designated manufactured homes*.

Multiple family dwelling

"Multiple-family dwelling" means a one-family dwelling attached to one or more one-family dwellings by common roofs, walls, or floors. Also includes one or more dwellings attached to nonresidential *uses*. This definition does not include *accessory dwelling units, community residential facilities*, supportive living facilities, or nursing and personal care facilities.

A. Apartment. A residential *building* containing two or more *dwelling units* or a single dwelling unit and a nonresidential use, which are attached at one or more common roofs, walls, or floors. Typically, the unit's habitable area is provided on a single level. Unit entrances may or may not be provided from a common corridor.

B. Townhouse. A one-family, ground-related dwelling attached to one or more such units or to a nonresidential use in which each unit has its own exterior, ground-level access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls. Typically the units are multi-story.

Office

"Office" means a place of employment for professional or administrative staff which does not include outside storage, or fabrication or on-site sale or transfer of commodities. Types of offices include, but are not limited to, accounting; architectural; engineering; banking; consulting; management; administrative; secretarial; marketing or advertising; personnel; sales offices where no inventories or goods are available on the premises; real estate; insurance; travel agent; brokerage; computer programming; or other similar services. Office does not include medical offices which are classified as a health care and social assistance land use.

May include NAICS Sector 51 (Information), except the following: 512 (Motion Picture and Sound Recording Industries), 515 (Broadcasting), 517 (Telecommunications), 518 (Data Processing, Hosting and Related Services), and 51912 (Libraries and Archives). May include Sectors 52 (Finance and Insurance) and 53 (Real Estate Rental and Leasing), except the following: 53113 (Lessors of

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Miniwarehouses and Self-Storage Units), 5321 (Automotive Equipment Rental and Leasing), 5322 (Consumer Goods Rental), 5323 (General Rental Centers), and 5324 (Commercial and Industrial Machinery and Equipment Rental and Leasing). May include Sector 54 (Professional, Scientific and Technical Services), except the following: 54135 (Building Inspection Services), 54138 (Testing Laboratories), 54171 (Research and Development in the Physical, Engineering and Life Sciences), 54186 (Direct Mail Advertising), 54192 (Photographic Services), and 54194 (Veterinary Services). May include Sector 55 (Management of Companies and Enterprises) and 56151 (Travel Agencies). May include 8132 (Grantmaking and Giving Services), 8133 (Social Advocacy Organizations), 8139 (Business, Professional, Labor, Political, and Similar Organizations), and Sector 92 (Public Administration), except the following: 92212 (Police Protection), 92214 (Correctional Institutions), 92215 (Parole Offices and Probation Offices), and 92216 (Fire Protection).

Park

"Park" means a *site* designed or developed for recreational use by the public including, but not limited to:

A. Indoor facilities, such as:

1. Gymnasiums;
2. Swimming pools; or
3. Activity centers;

B. Outdoor facilities, such as:

1. Playfields;
2. Fishing areas;
3. Picnic and related outdoor activity areas;

C. Areas and *trails* for:

1. Hikers;
2. Equestrians;
3. Bicyclists;

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D. Areas provided under KMC 18.30.130 or 20.47.155;

E. Facilities for on-site maintenance.

Personal service

"Personal service" means an establishment primarily engaged in providing services to individuals, such as beauty and barber shops, retail laundry and drycleaning including coin-operated, clothing alterations and repair, diaper services, carpet and upholstery cleaning services, photo studios, shoe repair, pet grooming, and repair of personal or household items. This definition excludes automotive repair and service.

May include NAICS 5322 (Consumer Goods Rental), 5323 (General Rental Center), 541921 (Photo Studios), 811211 (Consumer Electronics Repair and Maintenance), and 8114 (Personal and Household Goods Repair and Maintenance). May include 812 (Personal and Laundry Services) except the following: 8122 (Death Care Services), 812332 (Industrial Launderers), and 81293 (Parking Lots and Garages).

Recreational facility, indoor

"Indoor recreational facility" means an establishment that provides facilities or services for recreational uses inside a building. Indoor recreational facility includes such uses as clubhouses, gyms, indoor swimming pools, and fitness and bowling centers.

May include NAICS 61162 (Sports and Recreation Instruction), 711211 (Sports Teams and Clubs), 71312 (Amusement Arcades), and 7139 (Other Amusement and Recreation Industries).

Recreational facility, outdoor

"Outdoor recreational facility" means an establishment that provides facilities or services for recreational uses outside a building. Outdoor recreational facility includes such uses as outdoor tennis courts, outdoor swimming pools, batting cages, miniature golf courses, golf driving ranges, marinas, boat launches, campgrounds, and RV parks.

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May include NAICS 61162 (Sports and Recreation Instruction), 711211 (Sports Teams and Clubs), 7139 (Other Amusement and Recreation Industries), and 7212 (RV/Recreational Vehicle Parks and Recreational Camps).

Regional land use

"Regional land use" means an airport, ferry terminal, park and ride lot, transfer station, racetrack, stadium/arena, or other land use of a regional nature that may be difficult to site. Regional land use includes essential public facilities, as defined in RCW 36.70A.200, if not otherwise defined in this title.

May include NAICS Sector 22 (Utilities), 411 (Air Transportation), and 4881 (Support Activities for Air Transportation). May include 562 (Waste Management Remediation Service) except 56299 (All Other Waste Management Services). May include 7112 (Spectator Sports) except 711211 (Sports Teams and Clubs). May include 713110 (Amusement and Theme Parks) and 71391 (Golf Courses and Country Clubs).

Religious institution

"Religious institution" means a place where religious services are conducted, including *accessory uses* in the primary or accessory buildings such as religious education, reading rooms, assembly rooms, and residences for nuns and clergy. This definition does not include facilities for training of religious orders.

May include NAICS 8131 (Religious Organizations).

Resource land use

"Resource land use" means a production use on agricultural, forest, aquatic, or mineral lands, including farming, timber production, and mining.

May include NAICS Sectors 11 (Agriculture, Forestry, Fishing and Hunting) and 21 (Mining).

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Retail sales

"Retail sales" means an establishment within a permanent *structure* of less than 65,000 square feet engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. This definition excludes *auction houses*, sales of automotive parts if service, repair or installation are provided on site, *bulk retail sales*, *motor vehicle and boat dealers*, and eating and drinking places.

May include NAICS Sectors 44 – 45 (Retail Trade), except the following: 4411 (Automobile Dealers), 4412 (Other Motor Vehicle Dealers), 44132 (Tire Dealers), 447 (Gasoline Stations), 45291 (Warehouse Clubs and Superstores), 45393 (Manufactured/Mobile Home Dealers), and 45431 (Fuel Dealers).

Retail sales, bulk

"Bulk retail sales" means a singular indoor "big box" retail business that occupies more than 65,000 square feet of gross floor area, typically requires high parking to building area ratios, and has a regional sales market. Bulk retail sales can include, but is not limited to, membership warehouse clubs that emphasize bulk sales, discount stores and department stores.

May include NAICS 45291 (Warehouse Clubs and Superstores).

Secure facility

"Secure facility" means a jail, prison, secure community transition facility, or other similar facility for the confinement, correction, and rehabilitation of offenders. This definition includes facilities managed and operated by the government as well as those operated by nongovernmental entities under contract with the government.

May include NAICS 92214 (Correctional Institutions).

Single detached dwelling unit

"Single detached dwelling unit" means a detached *building* containing one *dwelling unit* or an *adult family home*.

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Standalone parking

"Standalone parking" means an establishment engaged in providing parking space for motor vehicles or boats, usually on an hourly, daily or monthly basis. Parking may be provided on a surface lot, in a garage or, in the case of boats, on a storage rack. Standalone parking does not include required parking associated with a use, authorized through a development application.

May include NAICS 81293 (Parking Lots and Garages).

Supportive living facility

"Supportive living facility" means an assisted living facility, continuing care facility, convalescent center, or nursing home. Supportive living facility does not include an adult family home, community residential facility, hospital, or secure facility.

May include NAICS 6231 (Nursing Care Facilities) and 6233 (Community Care Facilities for the Elderly).

Temporary lodging

"Temporary lodging" means a hotel, motel, bed and breakfast guesthouse, or other facility providing temporary accommodations for travelers for compensation.

May include NAICS 721 (Accommodation), except 72112 (Casino Hotels) and 7212 (RV/Recreational Vehicle Parks and Recreational Camps).

Transportation

"Transportation" means establishments providing transportation of passengers or cargo, such as taxi and limousine services, scenic and sightseeing transportation businesses, motor vehicle towing, trucking, shipping, or freight hauling businesses. This use includes related support activities, such as cargo handling and packing and crating of cargo. Transportation does not include airport/heliport, air transportation service, or airport (classified as a regional land use).

May include NAICS Sector 48 (Transportation and Warehousing), except the following: 481 (Air Transportation), 486 (Pipeline Transportation), 4881 (Support Activities for Air Transportation), and 493 (Warehousing and Storage). May include 62191 (Ambulance Services).

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Utility facility

“Utility facility” means a smaller-scale facility for the distribution or transmission of services to a limited area, including, but not limited to:

- A. Telephone exchanges (not including communication facilities);
- B. Water pumping or treatment stations or distribution systems;
- C. *Electrical substations*;
- D. Water storage reservoirs or tanks;
- E. Stormwater management facilities;
- F. *Repealed by Ord. 14-0391.*
- G. Natural gas gate stations and limiting stations;
- H. Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple *lots or uses* from which fuel is distributed directly to individual users;
- I. Sewer lift stations and wastewater treatment or distribution systems; and
- J. Pipes, electrical wires and associated structural supports.

Utility facility does not include larger-scale regional facilities that are classified as a regional land use.

May include NAICS Sector 22 (Utilities).

Vehicle or equipment rental

“Vehicle or equipment rental” means an establishment that provides vehicles, machinery or equipment to customers in return for a rental payment.

May include NAICS Sectors 5321 (Automotive Equipment Rental and Leasing), 5323 (General Rental Centers), and 5324 (Commercial and Industrial Machinery and Equipment Rental and Leasing).

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Vehicle refueling station

"Vehicle refueling station" means an establishment retailing automotive fuels, sometimes in combination with convenience store items.

May include NAICS 447 (Gasoline Stations).

Warehousing

"Warehousing" means establishments providing warehousing and storage of goods, including standalone outdoor storage. Warehouses are distinguished from wholesale trade as warehouses do not sell goods.

May include NAICS Sector 49 (Transportation and Warehousing), except 491 (Postal Service) and 492 (Couriers and Messengers). May include 53113 (Lessors of Miniwarehouses and Self-Storage Units).

Wholesale trade

"Wholesale trade" means an establishment that sell goods for resale by other wholesalers or retailers, capital or durable nonconsumer goods, or raw and intermediate material and supplies used in production. Wholesalers normally operate from a warehouse characterized by little or no display of merchandise. Neither the design nor the location of the premises is intended to solicit walk-in traffic.

May include NAICS Sector 42 (Wholesale Trade).

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Policy Summary**1. Intent**

The intent of the land use streamlining project is to make land use definitions consistent between all zoning districts. A new, more streamlined, set of Zoning Code land use definitions was adopted by the City Council in 2014 for three of the City's twelve zoning districts. The land use definitions were reduced from more than 200 to about 50. For example, the terms "department and variety store," "drug store," "book, stationery, video and art supply store," "hobby, toy, game shop," "photographic and electronic shop," "fabric shop," "florist shop," "jewelry store," "sporting goods store," and "pet shop" were eliminated and replaced with a single new term, "retail sales." The purpose of the change was to provide more flexibility to applicants and permit review staff. Using the "retail sales" example above, under the old, highly specific definitions, a standalone shoe retailer would not be a permitted use in Kenmore, even though the land use impacts of that use would be identical to those of the other retailers.

Staff now is recommending that the abbreviated list of land use definitions be adopted for the remaining nine zoning districts. The changes are not meant to change the intent of each zone, but to provide consistency between all zones. Staff has tried to translate the old terms as closely as possible into the new terms. Given that this translation required some code interpretation, staff has outlined below some of the more significant policy changes that are proposed. Section 3 addresses changes to land use review processes; Section 4 addresses changes applicable to more than one zoning district; and Section 5 addresses the most significant changes for individual zoning districts.

2. Land Use Terminology

The new land use terms (adopted in 2014 with the Commercial Zoning project) are:

- | | |
|--|---------------------------------------|
| ○ "Adult entertainment business" | ○ "Educational service" |
| ○ "Air transportation service" | ○ "Family child-care home" |
| ○ "Ambulatory surgery center" | ○ "Fire or police facility" |
| ○ "Animal kennel/shelter" | ○ "Funeral home/crematory" |
| ○ "Arts, entertainment, indoor" | ○ "Health care and social assistance" |
| ○ "Arts, entertainment, outdoor" | ○ "Hospital" |
| ○ "Auction house" | ○ "Laboratory" |
| ○ "Automotive sales and service, marine" | ○ "Manufacturing, heavy" |
| ○ "Automotive sales and service, non-marine" | ○ "Manufacturing, light" |
| ○ "Business service, intensive" | ○ "Marijuana business" |
| ○ "Business service, standard" | ○ "Marijuana cooperative" |
| ○ "Cemetery, columbarium or mausoleum" | ○ "Mobile food service" |
| ○ "College/university" | ○ "Mobile home park" |
| ○ "Community residential facility" | ○ "Multiple family dwelling" |
| ○ "Construction and trade" | ○ "Office" |
| ○ "Day-care" | ○ "Park" |
| ○ "Eating and drinking place" | ○ "Personal service" |
| | ○ "Recreational facility, indoor" |
| | ○ "Recreational facility, outdoor" |

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- *"Regional land use"*
- *"Religious institution"*
- *"Resource land use"*
- *"Retail sales"*
- *"Retail sales, bulk"*
- *"Secure facility"*
- *"Single detached dwelling unit"*
- *"Standalone parking"*
- *"Supportive living facility"*
- *"Temporary lodging"*
- *"Transportation"*
- *"Utility facility"*
- *"Vehicle or equipment rental"*
- *"Vehicle refueling station"*
- *"Warehousing"*
- *"Wholesale trade"*

All of these terms are defined in Chapter 18.20 of the Municipal Code and there is a reference provided for each to the NAICS (North American Industry Classification System) to provide additional guidance.

3. Review Process

The Residential and Neighborhood Business zones have been updated to classify land uses within three categories (permitted, conditionally permitted and prohibited) rather than four. This change already has been completed for all other zones. With the change, the "special use" process has been eliminated and those uses have been moved to "conditional use." A conditional use permit is a Type 2 permit (decision by the Development Services Director; appealable to the Hearing Examiner). A special use permit is a Type 3 decision (hearing and decision by the Hearing Examiner; appealable to court). The criteria are very similar:

Conditional Use Criteria	Special Use Criteria
The conditional use is designed in a manner which is compatible with the character and appearance of an existing or proposed development in the vicinity of the subject property;	The characteristics of the special use will not be unreasonably incompatible with the types of uses permitted in surrounding areas;
The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;	The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties; and
The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;	
Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;	
The conditional use is not in conflict with the health and safety of the community;	The special use will not materially endanger the health, safety and welfare of the community;
The conditional use is such that pedestrian and vehicular traffic associated with the use will not	The special use is such that pedestrian and vehicular traffic associated with the use will not

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be hazardous or conflict with existing and anticipated traffic in the neighborhood; and The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.	be hazardous or conflict with existing and anticipated traffic in the neighborhood; The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;
	The special use is not in conflict with the policies of the comprehensive plan or the basic purposes of this title.

4. Specific issues (applicable to more than one zoning district)

Accessory uses

References to accessory uses have been eliminated from the charts, although they are found in some footnotes. This allows accessory uses to be assessed consistently between all zones, using the following existing definition:

18.20.035 "Accessory use" means a *use* typically subordinate in size to the principal *use*; that would not contribute significantly to traffic generation, noise, or nuisance; and that supports the primary *use* operation without displacing it. An accessory use may appear as an otherwise permitted, conditional or prohibited use in the use allowances for a given zone. Accessory uses are typically located upon the same *lot* occupied by a principal *use*. Examples of accessory uses include: equipment rental (bikes or skis) at a retail bike and ski shop, a secure facility required at an airport, and boat parking at a marina.

A new code section for each zoning district will further define accessory use treatment:

18.____ Accessory uses.

Accessory uses, when consistent with the definition in Chapter 18.20 KMC, are allowed as determined by the *city manager*.

Drive-through service

In the Neighborhood Business zone where the Code is silent on the topic, a new code section has been added to permit drive-through service as follows:

18.____ Drive-through service. *Drive-through service* is permitted as an *accessory use*. *Drive-through service* shall be oriented to the side and/or rear of the *building*, and integrated into the exterior wall. Drive-through lanes shall not be located between the *street* and the main pedestrian access to the *buildings*. Modifications to these requirements may be reviewed through the site plan or building permit review process when meeting the intent of pedestrian orientation pursuant to Chapter 18.52 KMC, Downtown Design Standards.

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Where drive-through service is either explicitly prohibited (Community Business zone) or proposed to be prohibited (Residential and Downtown Residential zones), a new code section so states:

18.____ Drive through service. *Drive-through service* is prohibited in this zoning district.

In the Downtown Commercial zone, the following special standard related to drive-through service is taken from an existing footnote:

18.____ Drive through service. Properties having frontage on SR-522 and taking primary access from SR-522 as of May 8, 2003 shall be permitted *drive-through service*. Where allowed, *drive-through service* is permitted as an *accessory use*. *Drive-through service* shall be oriented to the side and/or rear of the *building*, and integrated into the exterior wall. Drive-through lanes shall not be located between the *street* and the main pedestrian access to the *buildings*. Modifications to these requirements may be reviewed through the site plan or building permit review process when meeting the intent of pedestrian orientation pursuant to Chapter 18.52 KMC, Downtown Design Standards.

Outdoor storage

Outdoor storage is defined as:

18.20.2887 Storage, outdoor.

“Outdoor storage” means the storage of materials outside of a completely enclosed building for more than 24 hours, including items for sale, lease, shipment, processing, maintenance or repair (including vehicles and equipment), and items used in business operations.

In several zones (Community Business, Neighborhood Business, Downtown Residential, and Downtown Commercial zones), outdoor storage specifically is prohibited. Staff recommends that it also be prohibited in the Residential zone. To address this issue, the following code section would be added to those zones:

18.____ *Outdoor storage* is prohibited in this zoning district.

Specialized instruction school

Under the current code, specialized instruction school is defined as:

18.20.2820 Specialized instruction school.

“Specialized instruction school” means establishments engaged in providing specialized instruction in a designated field of study, rather than a full range of courses in unrelated areas; including, but not limited to:

- A. Art;
- B. Dance;
- C. Music;
- D. Cooking;
- E. Driving; and

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F. Pet obedience training.

With the amendments, specialized instruction school now is considered an “educational service” and is grouped with such uses as public/private schools, arts and crafts schools, etc. However, the residential zones contain standards specifically relating to specialized instruction schools as accessory to residential uses. These standards address the maximum number of students, location of the instruction (inside an enclosed structure) and distance from property lines adjoining residential zones. These standards have been relocated to the code section addressing home occupations.

Health care and social assistance

The definition of “health care and social assistance” includes veterinary services, and several footnotes address this topic. Social assistance includes both *social services, correctional* and *social services, noncorrectional*, terms also used in footnotes.

Home industry

The current standards for home industry are found in KMC 18.73.120. Although the review process chart in Chapter 19 of the Municipal Code states that a home industry approval is a Type 2 permit (decision by the Development Services Director, appealable to the Hearing Examiner), this is not clear in KMC 18.73.120. Previously, the home industry permit requirement was part of the use charts. Now, a cross-reference to the permit requirement will be added to the home industry code section.

Too, in some zones (Residential, R-12 through R-24) home industry is prohibited. This, too, will be noted in the home industry code section.

Existing legal uses

Existing legal uses are defined as follows:

18.20.965 Existing legal uses. Where the term “existing” or “existing legal” follows a listed use type, then those uses that can document their legal conforming status prior to April 28, 2003, are considered to be permitted uses and given all the rights of other permitted uses within the district, until such time as there is a change of use or abandonment as set forth in KMC 18.100.085. In addition, these uses may be rebuilt within the same footprint and floor area should they suffer damage; provided, that no new nonconformances with standards are created (e.g., setbacks), if any. These uses may be remodeled without limitation on value and may be enlarged subject to current code requirements (e.g., height limits, lot coverage, density limits, setbacks, parking, etc.), unless otherwise specifically conditioned.

In some cases, “existing legal” continues to be identified in the charts. In other cases, references to specific “existing legal” uses have been moved into the footnotes.

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5. Specific issues (from individual zoning districts)R-1 through R-6, Single-Family Residential zone significant changes

- *Some uses are now prohibited:*
Noncommercial aircraft on individual lots, except seaplanes (formerly permitted)
Golf course facility (formerly permitted)
Secure facility (formerly special use)
- *Some uses are now conditionally permitted:*
Arboretum (formerly permitted; now same as other arts, entertainment, outdoor)
Ambulatory surgery center in surplus nonresidential facility or former school facility (not formerly addressed; now same as hospital)
All retail sales, with existing limitations (formerly some retail uses such as jewelry sales, fabric shops, etc., were prohibited)
Vocational school (educational service) and college/university (formerly allowed only in reuse of a surplus nonresidential facility or reuse of a school)
- *Some uses have become permitted outright:*
Theater in an historic building, as a re-use of a surplus non-residential facility, or as a joint use of an existing public school facility (formerly prohibited; now same as other arts, entertainment, indoor)
Supportive living facility permitted in National Register building; otherwise conditionally permitted (formerly senior citizen assisted living was permitted, but nursing and personal care facility was prohibited)

R-12 through R-24, Multifamily Residential zone significant changes

- *Some uses are now prohibited:*
Noncommercial aircraft on individual lots, except seaplanes (formerly permitted)
Secure facility (formerly special use)
- *Some uses are now conditionally permitted:*
Ambulatory surgery center (previously unaddressed; now same as hospital)
Arboretum (formerly permitted; all other arts, entertainment outdoor uses are prohibited)
All retail sales, with existing limitations (formerly some retail uses such as jewelry sales, fabric shops, etc., were prohibited)
- *Some uses have become permitted outright:*
Supportive living facility (currently nursing and personal care facility is a conditional use, but senior citizen assisted living is permitted outright)

DR, Downtown Residential zone significant changes

- *Some uses are now prohibited:*
Social card game (previously unaddressed)
Adult entertainment business (previously unaddressed)
Air transportation service (previously unaddressed)
Ambulatory surgery center (previously unaddressed)
Animal kennel/shelter (previously unaddressed)
Arts, entertainment, outdoor (previously unaddressed)

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- Automotive sales and service, marine and non-marine (previously addressed as an accessory use)
- Business service, intensive (previously unaddressed)
- Cemetery, columbarium or mausoleum (previously unaddressed)
- College/university (previously unaddressed)
- Construction and trade (previously unaddressed)
- Fire or police facility (previously unaddressed)
- Funeral home/crematory (previously unaddressed)
- Hospital (previously unaddressed)
- Laboratory (previously unaddressed)
- Manufacturing, heavy and light (previously unaddressed)
- Mobile food service (previously unaddressed)
- Recreational facility, outdoor (previously unaddressed)
- Regional land use (previously unaddressed)
- Resource land use (previously unaddressed)
- Retail sales, bulk (previously unaddressed)
- Secure facility (previously unaddressed)
- Standalone parking (previously unaddressed)
- Transportation (previously unaddressed)
- Vehicle or equipment rental (previously unaddressed)
- Vehicle refueling station (previously unaddressed)
- Warehousing (previously unaddressed)
- Wholesale trade (previously unaddressed)
- *Some uses are now conditionally permitted:*
 - Educational service, with size limitations (previously unaddressed)
- *Some uses are now permitted outright:*
 - Public agency or utility office, non-city (formerly prohibited; now the same as other offices)
 - Recreational facility, indoor (expanded to include more than sports club)

CB, Community Business zone significant changes

- *Some uses are now prohibited:*
 - Air transportation service (previously only helistop prohibited)
 - Animal kennel/shelter (previously unaddressed)
 - Auction house (previously unaddressed)
 - Business service, intensive (previously unaddressed)
 - Cemetery, columbarium, or mausoleum (previously unaddressed)
 - Funeral home/crematory (previously unaddressed)
 - Resource land use (previously unaddressed)
 - Vehicle refueling station (previously unaddressed)
- *Some uses are now conditionally permitted:*
 - Ambulatory surgery center (previously unaddressed; hospital is prohibited)
 - Regional land use (previously unaddressed)
- *Some uses are now permitted outright:*
 - Arts, entertainment, indoor, except theater (previously unaddressed; although theater was prohibited)
 - All offices (including public agency or utility offices that formerly were conditionally permitted)
 - Standalone parking for commuters (previously unaddressed)

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NB, Neighborhood Business zone significant changes

- *Some uses are now prohibited:*
Noncommercial aircraft on individual lots (formerly permitted)
Oil and gas extraction (formerly a conditional use; now joins other resource land uses)
- *Some uses are now conditionally permitted:*
Mobile food service (previously unaddressed)
College/university (previously permitted as reuse of a public school facility, although there are no public school facilities in this area). Eliminated reuse of surplus nonresidential facility requirement.
Regional land use (formerly special use)
Secure facility (formerly special use)
Bowling center, amusement arcade (formerly prohibited; now with other recreational facility, indoor uses)
- *Some uses are now permitted outright:*
Department/variety stores not limited in size (currently limited to 2000 sq.ft. although other retail sales uses are not size-limited)
Supportive living facility (formerly senior citizen assisted living was permitted while nursing and personal care facility was prohibited)
All retail sales, with existing limitations (formerly some retail uses such as jewelry sales, fabric shops, etc., were prohibited)

DC, Downtown Commercial zone significant changes

- *Some uses are now prohibited:*
Animal kennel/shelter (previously unaddressed)
Business service, intensive (previously unaddressed)
Cemetery, columbarium, or mausoleum (previously unaddressed)
Family child care home (previously unaddressed)
Funeral home/crematory (previously unaddressed)
Mobile home park (previously unaddressed)
Single detached dwelling unit (previously unaddressed)
Regional land use, except transit center (previously unaddressed)
Resource land use (previously unaddressed)
Secure facility (previously unaddressed)
- *Some uses are now permitted outright:*
Personal service and business service are no longer prohibited on the ground floor on certain streets (formerly off-site services had this requirement)
Motel (formerly prohibited; now same as hotel)

Removed automotive sales and services accessory use language

PSP, Public/Semi-Public zone significant changes

- *Some uses are now permitted outright:*
Arts, entertainment, outdoor (broader than current arboretum listing)

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Removed prohibition on sports clubs

Took different approach to uses (not all listed) because of exception process in this zone.

P, Parks zone significant changes

- *Some uses are now permitted outright:*
Mobile food service now a standalone use (not just accessory)
Arts, entertainment, outdoor (broader than current arboretum listing)

Removed prohibition on sports clubs

Took different approach to uses (not all listed) because of exception process in this zone.

GC, Golf Course zone significant changes

- *Some uses are now conditionally permitted:*
Arts, entertainment, outdoor (broader than current outdoor performance center listing)

Took different approach to uses (not all listed) because of exception process in this zone

Removed all accessory use references because now addressed elsewhere

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REVISED USE ALLOWANCE CHARTS

18.21.020 Residential zones R-1, R-4 and R-6 – Use allowances.

The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited uses* in residential zones R-1, R-4 and R-6:

Table A. R-1, R-4 and R-6 Zones Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Air transportation service</i> ¹	<i>Ambulatory surgery center</i> ²⁵	<i>Adult entertainment business</i>
<i>Arts, entertainment, indoor</i> ^{2,3}	<i>Arts, entertainment, outdoor</i> ²⁶	<i>Animal kennel/shelter</i>
<i>Day-care</i> ⁴	<i>Cemetery, columbarium or mausoleum</i> ²⁷	<i>Auction house</i>
<i>Educational service</i> ⁵	<i>College/university</i> ²⁵	<i>Automotive sales and service, marine</i>
<i>Family child-care home</i> ⁶	<i>Community residential facility</i> ²⁸	<i>Automotive sales and service, non-marine</i>
<i>Fire or police facility</i> ^{7,8}	<i>Eating and drinking place</i> ^{3,29}	<i>Business service, intensive</i>
<i>Health care and social assistance</i> ^{9,10}	<i>Hospital</i> ²⁵	<i>Business service, standard</i>
<i>Multiple family dwelling</i> ¹¹	<i>Mobile home park</i> ³⁰	<i>Construction and trade</i>
<i>Office</i> ¹²	<i>Personal service</i> ³¹	<i>Funeral home/crematory</i>
<i>Park</i> ¹³	<i>Recreational facility, indoor</i> ^{3,16,32}	<i>Laboratory</i>
<i>Recreational facility, outdoor</i> ^{14,15,16}	<i>Regional land use</i> ^{33, 34,35}	<i>Manufacturing, heavy</i>
<i>Religious institution</i> ¹⁷	<i>Retail sales</i> ^{31, 36}	<i>Manufacturing, light</i>
<i>Resource land use</i> ¹⁸	<i>Temporary lodging</i> ³⁷	<i>Marijuana business</i>
<i>Single detached dwelling unit</i> ^{19,20}		<i>Marijuana cooperative</i>
<i>Standalone parking</i> ²¹		<i>Mobile food service</i>
<i>Supportive living facility</i> ²²		<i>Retail sales, bulk</i>
<i>Utility facility</i> ^{23,24}		<i>Secure facility</i>
		<i>Transportation</i>
		<i>Vehicle or equipment rental</i>
		<i>Vehicle refueling station</i>
		<i>Warehousing</i>
		<i>Wholesale trade</i>

1. One single engine, noncommercial seaplane shall be permitted only on *lots* that abut a waterbody, provided there are 1) no aircraft sales, service, repair, charter, or rental; and 2) no storage of aviation

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fuel except that contained in the tank or tanks of the aircraft. A *helistop* at an *emergency* medical evacuation site in conjunction with a police, fire or health service facility is a *conditional use*. All other *air transportation service uses* are prohibited.

2. Only (1) in a *building* listed on the National register as a historic site or designated as a *City* landmark; (2) as a re-use of a surplus non-residential facility; or (3) as a joint use of an existing public school facility. All subject to Chapter 18.50 KMC. Otherwise, a *conditional use*.

3. *Social card games* are prohibited.

4. Permitted only as a re-use of a public school facility subject to Chapter 18.50 KMC, or an *accessory use* to a school, *religious institution*, *park*, *sports club* or public housing administered by a *public agency*, and:

- a. Outdoor play areas shall be completely enclosed by a solid wall or *fence*, with no openings except for gates and have a minimum height of six feet;
- b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
- c. Direct access to a developed arterial *street* shall be required in any residential zone; and
- d. Hours of operation may be restricted to assure compatibility with surrounding development.

All other *day-care uses* require a *conditional use permit*.

5. K-12 facilities only. All other *educational service uses* require a *conditional use permit*.

6. A *family child-care home* is subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

- a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
- b. A safe passenger loading area shall be provided;
- c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
- d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
- e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC;
- f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility; and
- g. Prior to receiving State licensing, the family child-care provider shall provide the *City* with proof of written notification informing immediately adjoining property owners of the intent to locate and maintain the *family child-care home*. The notification shall inform the notified parties that comments may be submitted to the DEL and provide contact information for submitting such comments to the DEL. The proof of notification shall be in the form of a written affidavit containing (1) the date and means of notification; (2) a copy of the notification; and (3) a list of the parties to whom the notification was distributed.

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7. Limited to “storefront” police offices. Such offices shall not have:

- a. Holding cells;
- b. Suspect interview rooms; or
- c. Long-term storage of stolen properties

All other *fire or police facility uses* require a *conditional use permit*, except police or fire training facilities, such as shooting ranges, auto test tracks, and fire suppression simulations, which are prohibited.

8. For conditionally permitted fire facilities:

- a. All *buildings* and *structures* shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
- b. Any *buildings* from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such *street*; and
- c. No *outdoor storage*.

9. Only as a re-use of a public school facility. May be permitted as a *conditional use* if proposed as re-use of a surplus non-residential facility. All subject to Chapter 18.50 KMC.

10. Veterinary clinics are prohibited.

11. *Townhouse* units only permitted and only on *lots* in a subdivision or short subdivision designed for *townhouse* units. Other *townhouse* units require a *conditional use permit*. *Apartments* are prohibited.

12. *Public agency or utility office* permitted only as a re-use of a public school facility or a surplus nonresidential facility subject to the provisions of Chapter 18.50 KMC. Otherwise, *public agency or utility office* is a *conditional use*. All other office *uses* are prohibited.

13. The following conditions and limitations shall apply, where appropriate:

- a. Lighting for *structures* and fields shall be directed away from residential areas;
- b. *Structures* or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones, except for *structures* in on-site recreation areas required in KMC 18.30.130 and 20.47.155. Setback requirements for *structures* in these on-site required recreation areas shall be maintained in accordance with the zoning standards for the underlying residential zone.

14. Limited to *stable* and covered riding arena. All other *outdoor recreational facility uses* require a *conditional use permit* except campground, RV park, and shooting range which are prohibited.

15. Covered riding arenas are subject to KMC 18.70.030 and shall not exceed 20,000 square feet unless a *conditional use permit* is obtained. Stabling areas, whether attached or detached, shall not be counted in this calculation.

16. Conditionally permitted recreational facilities are subject to the following conditions and limitations:

- a. The bulk and scale shall be compatible with residential character of the area;
- b. The gross floor area shall not exceed 10,000 square feet unless the *building* is on the same *site* or adjacent to a *site* where a public facility is located or unless the *building* is a nonprofit facility; and

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- c. Use is limited to residents of a specified residential *development* or to *sports clubs* providing supervised instructional or athletic programs.

17. Only as a re-use of a public school facility subject to Chapter 18.50 KMC. Otherwise, a *conditional use permit* is required.

18. Farming is permitted. All other *resource land uses* require a *conditional use permit*, except mineral extraction, which is prohibited.

19. More than one *single detached dwelling unit* may be allowed on an individual *lot* through the *conditional use permit* process. A *conditional use permit* is not required for *lots* in subdivisions, short subdivisions or binding site plans approved as multiple unit *lots* or for *accessory dwelling units*.

20. *Manufactured homes* and *mobile homes* are allowed only in *mobile home parks*. *Designated manufactured homes* are not restricted to *mobile home parks*.

21. Limited to *commuter parking lots* for users of transit, carpools or ride-share programs, provided:
- a. They are located on existing parking lots for *religious institutions*, schools, or other permitted nonresidential *uses* which have excess capacity available during commuting hours; and
 - b. The *site* is adjacent to a designated arterial that has been improved to a standard acceptable to the *department*.

Other *commuter parking lots* require a *conditional use permit*. All other *standalone parking uses* are prohibited.

22. Only in a *building* listed on the National Register as an historic site or designated as a King County landmark subject to the provisions of Chapter 2.20 KMC. Otherwise, a *conditional use permit* is required.

23. Excluding utilities using *bulk gas storage tanks*, which are a *conditional use*. Liquefied natural gas storage tanks are prohibited.

24. *Private stormwater management facilities* permitted except when participating in an approved shared facility drainage plan. *Private stormwater management facilities* shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. For shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.

25. Only as a re-use of a public school facility or a surplus nonresidential facility subject to Chapter 18.50 KMC.

26. Outdoor performance center and drive-in theater are prohibited.

27. *Structures* shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

28. *Community residential facility I* only. *Community residential facility II* is prohibited.

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29. Not permitted in R-1 and excluding drinking places, and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.
30. *Mobile home parks* are not permitted in the R-1 zone.
31. Not permitted in R-1 and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.
32. Bowling center and shooting range are prohibited.
33. *Hydroelectric generation facilities* limited to those that comply with the following:
- a. Any new diversion structure shall not: (1) Exceed a height of eight feet as measured from the streambed; or (2) Impound more than three surface acres of water at the normal maximum surface level;
 - b. There shall be no active storage;
 - c. The maximum water surface area at any existing dam or diversion shall not be increased;
 - d. An exceedance flow of no greater than 50 percent in mainstream reach shall be maintained;
 - e. Any transmission line shall be limited to a: (1) Right-of-way of five miles or less; and (2) Capacity of 230 kV or less;
 - f. Any new, permanent access road shall be limited to five miles or less; and
 - g. The facility shall only be located above any portion of the *stream* used by *anadromous fish*.
34. *Nonhydroelectric generation facilities* limited to *cogeneration* facilities for on-site use only.
35. Fairground, amusement park, and stadium/arena are prohibited.
36. Pet shops and auto supply stores are prohibited.
37. Bed and breakfast guesthouse only, subject to the following conditions:
- a. The guesthouse shall be owner-occupied;
 - b. Meals shall be served to paying guests only (no restaurant *use* permitted);
 - c. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;
 - d. Parking shall be provided as required by this title; and
 - e. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

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18.21.040 Residential zones R-12, R-18 and R-24 – Use allowances.

The following *uses* listed in Table C are identified as *permitted*, conditionally permitted, or *prohibited uses* in residential zones R-12, R-18 and R-24:

Table C. R-12, R-18, and R-24 Zones Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Air transportation service</i> ¹	<i>Ambulatory surgery center</i> ²⁵	<i>Adult entertainment business</i>
<i>Arts, entertainment, indoor</i> ^{2,3}	<i>Arts, entertainment, outdoor</i> ²⁶	<i>Animal kennel/shelter</i>
<i>College/university</i> ^{4,5}	<i>Cemetery, columbarium or mausoleum</i> ²⁷	<i>Auction house</i>
<i>Community residential facility</i>	<i>Eating and drinking place</i> ^{3,28}	<i>Automotive sales and service, marine</i>
<i>Construction and trade</i> ⁶	<i>Hospital</i> ⁵	<i>Automotive sales and service, non-marine</i>
<i>Day-care</i> ⁷	<i>Personal service</i> ²⁹	<i>Business service, intensive</i>
<i>Educational service</i> ⁸	<i>Recreational facility, indoor</i> ^{3,30,31}	<i>Business service, standard</i>
<i>Family child-care home</i> ⁹	<i>Regional land use</i> ³²	<i>Funeral home/crematory</i>
<i>Fire or police facility</i> ^{10,11,12}	<i>Retail sales</i> ^{29,33}	<i>Laboratory</i>
<i>Health care and social assistance</i> ^{4,5,13}	<i>Temporary lodging</i> ³⁴	<i>Manufacturing, heavy</i>
<i>Mobile home park</i>	<i>Warehousing</i> ³⁵	<i>Manufacturing, light</i>
<i>Multiple family dwelling</i>		<i>Marijuana business</i>
<i>Office</i> ¹⁴		<i>Marijuana cooperative</i>
<i>Park</i> ¹⁵		<i>Mobile food service</i>
<i>Recreational facility, outdoor</i> ^{16,17}		<i>Resource land use</i>
<i>Religious institution</i> ¹⁸		<i>Retail sales, bulk</i>
<i>Single detached dwelling unit</i> ^{19,20}		<i>Secure facility</i>
<i>Standalone parking</i> ²¹		<i>Transportation</i>
<i>Supportive living facility</i>		<i>Vehicle or equipment rental</i>
<i>Utility facility</i> ^{22,23,24}		<i>Vehicle refueling station</i>
		<i>Wholesale trade</i>

1. One single engine, noncommercial seaplane shall be permitted only on *lots* that abut a waterbody, provided there are 1) no aircraft sales, service, repair, charter, or rental; and 2) no storage of aviation fuel except that contained in the tank or tanks of the aircraft. A *helistop* at an *emergency* medical evacuation site in conjunction with a police, fire or health service facility is a conditional use. All other *air transportation service uses* are prohibited.

2. Museums and libraries permitted only as accessory to a *park* or in a *building* listed on the National Register as an historic site or designated as a *City* landmark subject to Chapter 18.50 KMC; otherwise a

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conditional use permit is required. Artist studios permitted only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC or as a joint use of an existing public school facility; otherwise a *conditional use permit* is required. For all other *arts, entertainment, indoor uses*, a *conditional use permit* is required, except theater, which is prohibited.

3. *Social card games* are prohibited.
4. Permitted only as a re-use of a public school facility subject to Chapter 18.50 KMC.
5. Conditionally permitted only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.
6. Permitted when:
 - a. Located in the R-24 zone; and
 - b. On a *site in office or construction and trade office uses* as of May 8, 2003; and
 - c. Part of a *mixed use development*; and
 - d. Limited to 15,000 square feet; and
 - e. No *outdoor storage* of equipment occurs.

Otherwise, prohibited.

7. *Day-care II* permitted only as a re-use of a public school facility subject to Chapter 18.50 KMC, or an *accessory use* to a school, *religious institution, park, sports club* or public housing administered by a *public agency*, and:
 - a. Outdoor play areas shall be completely enclosed by a solid wall or *fence*, with no openings except for gates and have a minimum height of six feet;
 - b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
 - c. Direct access to a developed arterial *street* shall be required in any residential zone; and
 - d. Hours of operation may be restricted to assure compatibility with surrounding development.

Otherwise, *day-care II* requires a *conditional use permit*.

8. K-12 facilities only, except vocational school which is permitted only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC unless a *conditional use permit* is obtained. All other *educational service uses* require a *conditional use permit*.

9. A *family child-care home* is subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:
 - a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
 - b. A safe passenger loading area shall be provided;
 - c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
 - d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
 - e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC; and

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- f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility.

- 10. Limited to "storefront" police offices. Such offices shall not have:
 - a. Holding cells;
 - b. Suspect interview rooms; or
 - c. Long-term storage of stolen properties.

All other police facilities require a *conditional use permit*.

- 11. Fire facilities require a *conditional use permit*, subject to the following:
 - a. All *buildings* and *structures* shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
 - b. Any *buildings* from which fire-fighting equipment emerges onto a *street* shall maintain a distance of 35 feet from such *street*; and
 - c. No *outdoor storage*.

12. Fire or police training facilities such as shooting ranges, auto test tracks, and fire suppression simulations are prohibited.

13. Veterinary clinics are prohibited.

14. *Public agency or utility office* is permitted only as a re-use of a public school facility or a surplus nonresidential facility subject to the provisions of Chapter 18.50 KMC. All other *office uses* require a *conditional use permit*.

- 15. The following conditions and limitations shall apply, where appropriate:
 - a. Lighting for *structures* and fields shall be directed away from residential areas;
 - b. *Structures* or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones, except for *structures* in on-site recreation areas required in KMC 18.30.130 and 20.47.155. Setback requirements for *structures* in these on-site required recreation areas shall be maintained in accordance with the zoning standards for the underlying residential zone.

16. Golf course facility only permitted. Clubhouses, maintenance *buildings*, equipment storage areas and driving range tees shall be at least 50 feet from residential property lines. Lighting for practice greens and driving range ball impact areas shall be directed away from adjoining residential zones. Applications shall comply with adopted best management practices for golf course development. All other *outdoor recreational facility uses* are conditional *uses*, except *stable*, RV park, and shooting range, which are prohibited.

- 17. Conditional *uses* are subject to the following conditions and limitations:
 - a. The bulk and scale shall be compatible with residential character of the area;
 - b. Use is limited to residents of a specified residential *development* or to *sports clubs* providing supervised instructional or athletic programs.

18. Permitted only as a re-use of a public school facility subject to Chapter 18.50 KMC. Other *religious institutions* require a *conditional use permit*.

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19. More than one *single detached dwelling unit* may be allowed on an individual *lot* through the *conditional use permit* process. A *conditional use permit* is not required for *lots* in subdivisions, short subdivisions or binding site plans approved as multiple unit *lots* or for *accessory dwelling units*.
20. *Manufactured homes* and *mobile homes* are allowed only in *mobile home parks*. *Designated manufactured homes* are not restricted to *mobile home parks*.
21. Limited to commuter parking facilities for users of transit, carpools or ride-share programs, provided:
- They are located on existing parking lots for *religious institutions*, schools, or other permitted nonresidential *uses* which have excess capacity available during commuting hours; and
 - The *site* is adjacent to a designated arterial that has been improved to a standard acceptable to the *department*.
- Otherwise a *conditional use permit* is required.
22. *Bulk gas storage tanks* which pipe to individual residences require a *conditional use permit*. All other *bulk gas storage tanks*, including liquefied natural gas storage tanks, are prohibited.
23. *Private stormwater management facilities* permitted except when participating in an approved shared facility drainage plan. *Private stormwater management facilities* shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. For shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.
24. *Hydroelectric generation facilities* are prohibited. A *nonhydroelectric generation facility* may be conditionally permitted as a *cogeneration* facility for on-site use only.
25. Conditionally permitted only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.
26. Arboretum only.
27. *Structures* shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
28. Excluding drinking places, and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.
29. Limited to a maximum of 5,000 square feet of gross floor area and subject to the additional requirements in KMC 18.21.070.
30. Conditional *uses* are subject to the following conditions and limitations:
- The bulk and scale shall be compatible with residential character of the area;
 - For *sports clubs*, the gross floor area shall not exceed 10,000 square feet unless the *building* is on the same *site* or adjacent to a *site* where a public facility is located or unless the *building* is a nonprofit facility; and

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- c. Use is limited to residents of a specified residential *development* or to *sports clubs* providing supervised instructional or athletic programs.
- 31. Bowling center and shooting range are prohibited.
- 32. Amusement park, fairground, and stadium/arena are prohibited.
- 33. Auto supply stores and pet shops are prohibited.
- 34. Bed and breakfast guesthouse only, subject to the following conditions:
 - a. The guesthouse shall be owner-occupied;
 - b. Meals shall be served to paying guests only (no restaurant *use* permitted);
 - c. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;
 - d. Parking shall be provided as required by this title; and
 - e. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.
- 35. *Self-service storage* only permitted and only if accessory to an *apartment development* of at least 12 units, provided:
 - a. The gross floor area in *self-service storage* shall not exceed the total gross floor area of the *apartment* dwellings on the *site*;
 - b. All outdoor lights shall be deflected, shaded and focused away from all adjoining property;
 - c. The use of the facility shall be limited to dead storage of household goods;
 - d. No servicing or repair of motor vehicles, boats, trailers, lawn mowers or similar equipment;
 - e. No *outdoor storage* or storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals;
 - f. No residential occupancy of the storage units;
 - g. No business activity other than the rental of storage units; and
 - h. A resident director shall be required on the *site* and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.

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18.22.010 Neighborhood business zone – Use allowances.

The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited uses* in the neighborhood business zone:

Table A. Neighborhood Business Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor^{1,2}</i>	<i>Air transportation service²¹</i>	<i>Adult entertainment business</i>
<i>Arts, entertainment, outdoor³</i>	<i>College/university</i>	<i>Ambulatory surgery center</i>
<i>Automotive sales and service, marine^{4,5}</i>	<i>Mobile food service</i>	<i>Animal kennel/shelter</i>
<i>Automotive sales and service, non-marine^{4,5,6,7}</i>	<i>Recreational facility, indoor^{2,22}</i>	<i>Auction house</i>
<i>Business service, standard</i>	<i>Regional land use^{23,24}</i>	<i>Business service, intensive</i>
<i>Cemetery, columbarium or mausoleum⁸</i>	<i>Secure facility²⁵</i>	<i>Construction and trade</i>
<i>Community residential facility⁹</i>	<i>Transportation²⁶</i>	<i>Family child-care home</i>
<i>Day-care</i>		<i>Funeral home/crematory</i>
<i>Eating and drinking place^{2,10}</i>		<i>Hospital</i>
<i>Educational service¹¹</i>		<i>Laboratory</i>
<i>Fire or police facility¹²</i>		<i>Manufacturing, heavy</i>
<i>Health care and social assistance^{13,14}</i>		<i>Manufacturing, light</i>
<i>Multiple family dwelling¹⁵</i>		<i>Marijuana business</i>
<i>Office</i>		<i>Marijuana cooperative</i>
<i>Park</i>		<i>Mobile home park</i>
<i>Personal service</i>		<i>Recreational facility, outdoor</i>
<i>Religious institution</i>		<i>Resource land use</i>
<i>Retail sales¹⁶</i>		<i>Retail sales, bulk</i>
<i>Standalone parking¹⁷</i>		<i>Single detached dwelling unit</i>
<i>Supportive living facility⁹</i>		<i>Vehicle or equipment rental</i>
<i>Temporary lodging^{18,19}</i>		<i>Warehousing</i>
<i>Utility facility²⁰</i>		<i>Wholesale trade</i>
<i>Vehicle refueling station</i>		

1. Theaters are prohibited.
2. *Social card games* are prohibited.
3. Outdoor performance facilities and drive-in theaters are prohibited.

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4. Repair or service shall only be performed in an enclosed *building*, with no outdoor storage of materials. Top, body, and upholstery repair shops and paint shops are prohibited.
5. Automotive sales are prohibited.
6. *Heavy equipment and truck repair* is prohibited.
7. Tire retreading is prohibited.
8. Limited to columbariums accessory to a *religious institution*, but required *landscaping* and parking shall not be reduced.
9. Only as part of a *mixed use development* subject to the conditions of Chapter 18.50 KMC.
10. Drinking places are prohibited.
11. Educational institutions (public or private), K – 12, are prohibited.
12. *Police facility* limited to “storefront” police offices. Such offices shall not have:
 - a. Holding cells; or
 - b. Long-term storage of stolen properties.
13. Veterinary clinics permitted subject to the following:
 - a. No burning of refuse or dead animals is allowed;
 - b. The portion of the *building* or *structure* in which animals are kept or treated shall be soundproofed. All run areas, excluding *confinement areas* for *livestock*, shall be surrounded by an eight-foot solid wall and surfaced with concrete or other impervious material; and
 - c. The provisions of Chapter 18.70 KMC relative to animal keeping are met.
14. Social assistance permitted only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.
15. Only as part of a *mixed use development* subject to the conditions of Chapter 18.50 KMC, except that stand-alone *townhouse developments* are permitted subject to KMC 17.20.125, 18.22.020, 18.30.130 and 18.50.050.
16. Building material stores, auto supply stores and used goods shops are prohibited.
17. Tow-in lots for damaged, abandoned or otherwise impounded vehicles are prohibited.
18. Bed and breakfast guesthouse only. All other *temporary lodging* is prohibited.
19. Bed and breakfast guesthouse shall be subject to the following conditions:
 - a. The guesthouse shall be owner-occupied;
 - b. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;
 - c. Parking shall be provided as required by this title; and

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d. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

20. *Nonhydroelectric generation facility* requires a *conditional use permit*. *Hydroelectric generation facilities* are prohibited.

21. *Helistops* limited to *emergency* medical evacuation sites in conjunction with police, fire or health service facility.

22. Shooting ranges are prohibited.

23. Racetracks for motorized vehicles are prohibited.

24. Fairgrounds and stadiums/arenas are prohibited.

25. *SCTF Siting*. *Secure community transition facilities* as defined in RCW 71.09.020 are permitted by *conditional use permit* in the neighborhood business zone, subject to the following restrictions:

- a. Maximum Number of Residents. No *SCTF* shall house more than three persons, excluding resident staff.
- b. Siting Criteria.
 - (1) *SCTFs* should be located in relationship to transportation facilities in a manner appropriate to their transportation needs.
 - (2) No *SCTF* shall be allowed within the following distances from the following specified *uses*, areas or zones, whether such *uses*, areas or zones are located within or outside the *City* limits:
 - A. In or within 250 feet of any residential zone district, or any residentially zoned property;
 - B. Adjacent to, immediately across a *street* or parking lot from, or within the line of sight of a "risk potential activity" as defined in RCW 71.09.020, as amended, including, but not limited to, public and private schools; school bus stops; licensed *day care* and licensed preschool facilities; public *parks*, publicly dedicated *trails* and sports fields; recreational and community centers; playgrounds; *religious institutions*; and public libraries;
 - C. One mile from any existing *SCTF*, work release, prerelease, or similar facility.
 - (3) The distances specified in footnote 24(b)(2) of this section shall be measured by following a straight line from the nearest point of the property parcel upon which the *SCTF* is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.
- c. On-Site Facilities Required. Each *SCTF* shall provide on-site dining, on-site laundry or laundry service, and on-site recreational facilities to serve the residents.
- d. *Conditional Use Permit* Application Process. A *conditional use permit* application for an *SCTF* shall be accompanied by the following:
 - (1) The siting process used for the *SCTF*, including alternative locations considered. At least three alternative locations must be considered.

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- (2) An analysis showing that utmost consideration was given to potential *sites* such that siting of the facility will have no unreasonable impact on any one racial, cultural, or socio-economic group, and that there will not be a resulting concentration of similar facilities in a particular neighborhood, community, jurisdiction or region.
- (3) Proposed mitigation measures including the use of extensive buffering from adjacent *uses*.
- (4) A detailed security plan for the facility and the residents.
- (5) Proposed operating rules for the facility.
- (6) A schedule and analysis of all public input solicited or to be solicited during the siting process.

26. Taxi, trucking, courier service, and freight and cargo service are prohibited.

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18.23.020 Community business zone – Use allowances.

The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited uses* in the community business zone:

Table A. Community Business Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor¹</i>	<i>Ambulatory surgery center</i>	<i>Adult entertainment business</i>
<i>Business service, standard</i>	<i>College/university</i>	<i>Air transportation service</i>
<i>Day-care</i>	<i>Community residential facility</i>	<i>Animal kennel/shelter</i>
<i>Eating and drinking place²</i>	<i>Fire or police facility</i>	<i>Arts, entertainment, outdoor</i>
<i>Educational service³</i>	<i>Laboratory</i>	<i>Auction house</i>
<i>Family child-care home⁴</i>	<i>Recreational facility, indoor</i>	<i>Automotive sales and service, marine</i>
<i>Health care and social assistance⁵</i>	<i>Regional land use</i>	<i>Automotive sales and service, non-marine</i>
<i>Multiple family dwelling</i>	<i>Religious institution</i>	<i>Business service, intensive</i>
<i>Office</i>	<i>Supportive living facility</i>	<i>Cemetery, columbarium, or mausoleum</i>
<i>Park</i>		<i>Construction and trade</i>
<i>Personal service²</i>		<i>Funeral home/crematory</i>
<i>Retail sales^{2,6}</i>		<i>Hospital</i>
<i>Single detached dwelling unit, existing legal⁷</i>		<i>Manufacturing, heavy</i>
<i>Standalone parking¹⁰</i>		<i>Manufacturing, light</i>
<i>Temporary lodging⁸</i>		<i>Marijuana business</i>
<i>Utility facility⁹</i>		<i>Marijuana cooperative</i>
		<i>Mobile food service</i>
		<i>Mobile home park</i>
		<i>Recreational facility, outdoor</i>
		<i>Resource land use</i>
		<i>Retail sales, bulk</i>
		<i>Secure facility</i>
		<i>Transportation</i>
		<i>Vehicle or equipment rental</i>
		<i>Vehicle refueling station</i>
		<i>Warehousing</i>
		<i>Wholesale trade</i>

1. Artist studios permitted. All other *indoor arts, entertainment uses* require a *conditional use permit*, except theaters which are prohibited.

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2. Permitted only as part of a *mixed use development* and must occupy 50 percent of the *ground floor at street frontage*. Each *use* is limited to maximum 5,000 square feet per *use* and 15,000 square feet total contiguous.
3. Arts and craft schools are a permitted use; all other *educational service uses* require a *conditional use permit*.
4. A *family child-care home* is permitted in an *existing legal single detached dwelling unit* subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:
 - a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
 - b. A safe passenger loading area shall be provided;
 - c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
 - d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
 - e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC; and
 - f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility.
5. Social assistance *uses* and veterinary offices/clinics are conditionally permitted.
6. *Outdoor retail display/sidewalk sales* and auto supply stores are prohibited.
7. Other *single detached dwelling units* are prohibited.
8. Bed and breakfast guesthouse only. Hotels and motels are prohibited.
9. *Private stormwater management facility* is a *permitted use*. Sewer lift stations and pipes/electrical wires and associated structure supports may be conditionally permitted. All other *utility facility uses* are prohibited.
10. Limited to *commuter parking lots* for users of transit, carpools or ride-share programs, provided the facilities are located on existing parking lots for *religious institutions*, schools, or other permitted nonresidential *uses* which have excess capacity available during commuting hours. All other *standalone parking uses* require a *conditional use permit*.

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18.24.020 Downtown residential zone - Use allowances.

The following *uses* listed in Table A are identified as permitted, conditionally permitted, or *prohibited uses* in the downtown residential zone:

Table A. Downtown Residential Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor¹</i>	<i>Eating and drinking place¹</i>	<i>Adult entertainment business</i>
<i>Auction house, existing²</i>	<i>Educational service³</i>	<i>Air transportation service</i>
<i>Business service, standard³</i>	<i>Health care and social assistance¹⁰</i>	<i>Ambulatory surgery center</i>
<i>Community residential facility</i>	<i>Religious institution</i>	<i>Animal kennel/shelter</i>
<i>Day-care⁴</i>	<i>Supportive living facility</i>	<i>Arts, entertainment, outdoor</i>
<i>Family child-care home⁵</i>	<i>Utility facility¹¹</i>	<i>Automotive sales and service, marine</i>
<i>Multiple family dwelling⁶</i>		<i>Automotive sales and service, non-marine</i>
<i>Office³</i>		<i>Business service, intensive</i>
<i>Park</i>		<i>Cemetery, columbarium or mausoleum</i>
<i>Personal service³</i>		<i>College/university</i>
<i>Recreational facility, indoor</i>		<i>Construction and trade</i>
<i>Retail sales^{3,7}</i>		<i>Fire or police facility</i>
<i>Single detached dwelling unit, existing legal⁸</i>		<i>Funeral home/crematory</i>
<i>Temporary lodging⁹</i>		<i>Hospital</i>
		<i>Laboratory</i>
		<i>Manufacturing, heavy</i>
		<i>Manufacturing, light</i>
		<i>Marijuana business</i>
		<i>Marijuana cooperative</i>
		<i>Mobile food service</i>
		<i>Mobile home park</i>
		<i>Recreational facility, outdoor</i>
		<i>Regional land use</i>
		<i>Resource land use</i>
		<i>Retail sales, bulk</i>
		<i>Secure facility</i>
		<i>Standalone parking</i>
		<i>Transportation</i>
		<i>Vehicle or equipment rental</i>
		<i>Vehicle refueling station</i>

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		Warehousing
		Wholesale trade

1. *Social card games* are prohibited.
2. Except for animal auction *uses* which are prohibited. Existing *auction houses*, excluding vehicle auctions, are permitted on properties currently used for *auction house* activity as of January 12, 2007. This *use* may be continued and may be re-established for purposes of rebuilding upon unintentional destruction of the property. The *auction house use* may not expand *buildings* or storage beyond the *use's* existing footprint. The *auction house* may expand accessory on-site parking associated with existing *auction house use* to adjoining or nearby parcels of land, subject to the *City's* approval of a site improvement plan that addresses the following issues:
 - a. Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
 - b. Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
 - c. Screening of *outdoor storage* and parking areas consistent with Kenmore downtown design standard parking lot screening requirements, KMC 18.52.180;
 - d. Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *City* to adequately protect pedestrians traveling along property frontages; and
 - e. Ensures that expanded accessory parking area is not used for storage.

Vehicle auctions in existence as of January 12, 2007, are permitted on site area and within *buildings* in the downtown residential zone located east of 68th Avenue NE and north of NE 182nd Street that are being used as a vehicle auction *use* as of that date. This *use* may be continued and may be re-established for purposes of rebuilding upon unintentional destruction of property. With the exception of accessory parking as outlined below, existing vehicle auction *uses* may not expand beyond their existing building footprint plus abutting easements, loading, or parking areas used for vehicle auction as of January 12, 2007. Renovations or alterations within the existing building footprint are permitted. However, expansion of existing *buildings* for vehicle auction *use* is prohibited. Expansion of accessory on-site parking associated with existing vehicle auction *use* to adjoining or nearby parcels of land is allowed, subject to the *City's* approval of a site improvement plan that addresses the following issues:

- a. Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
 - b. Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
 - c. Screening of *outdoor storage* and parking areas consistent with Kenmore downtown design standard parking lot screening requirements, KMC 18.52.180;
 - d. Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *City* to adequately protect pedestrians traveling along property frontages; and
 - e. Ensures that expanded accessory parking area is not used for storage.
3. Permitted only as part of a *mixed use development*, and must occupy 50 percent of the *ground floor* at *street frontage*. Each *use* is limited to maximum 5,000 square feet per *use* and 15,000 square feet total contiguous. These standards do not apply to city government *offices*.

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4. *Day care* is permitted only when accessory to a school, *religious institution, park, sports club* or public housing administered by a *public agency*.
5. A *family child-care home* is permitted in an existing legal *single detached dwelling unit* subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:
 - a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
 - b. A safe passenger loading area shall be provided;
 - c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;
 - d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;
 - e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC; and
 - f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility.
6. *Townhouses* are required to have four units minimum in a cluster. Enclosed under building parking is required per Chapter 18.52 KMC, Downtown Design Standards.
7. Except outdoor *retail sales* which is prohibited.
8. Other *single detached dwelling units* are prohibited.
9. Bed and breakfast guesthouse only. All other *temporary lodging uses* are prohibited.
10. Except *social services, correctional* which is prohibited.
11. Limited to sewer lift stations and pipes/electrical wires and associated structural supports.

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18.25.020 Downtown commercial zone - Use allowances.

The following *uses* listed in Table A are identified as permitted, conditionally permitted, or *prohibited uses* in the downtown commercial zone:

Table A. Downtown Commercial Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Adult entertainment business</i> ¹	<i>Air transportation service</i>	<i>Animal kennel/shelter</i>
<i>Arts, entertainment, indoor</i>	<i>Ambulatory surgery center</i>	<i>Business service, intensive</i>
<i>Arts, entertainment, outdoor</i> ²	<i>College/university</i>	<i>Cemetery, columbarium or mausoleum</i>
<i>Auction house, existing</i> ³	<i>Community residential facility</i>	<i>Construction and trade</i>
<i>Automotive sales and service, marine, existing legal</i> ⁴	<i>Fire or police facility</i>	<i>Family child-care home</i>
<i>Automotive sales and service, non-marine, existing legal</i> ⁴	<i>Hospital</i>	<i>Funeral home/crematory</i>
<i>Business service, standard</i>	<i>Laboratory</i>	<i>Manufacturing, heavy</i>
<i>Day-care</i>	<i>Religious institution</i>	<i>Manufacturing, light</i>
<i>Eating and drinking place</i>	<i>Utility facility</i> ¹⁶	<i>Marijuana business</i>
<i>Educational service</i> ⁵		<i>Marijuana cooperative</i>
<i>Health care and social assistance</i> ^{6,7}		<i>Mobile home park</i>
<i>Mobile food service</i> ⁸		<i>Recreational facility, outdoor</i>
<i>Multiple family dwelling</i> ⁹		<i>Resource land use</i>
<i>Office</i>		<i>Retail sales, bulk</i>
<i>Park</i>		<i>Secure facility</i>
<i>Personal service</i>		<i>Single detached dwelling unit</i>
<i>Recreational facility, indoor</i>		<i>Supportive living facility</i>
<i>Regional land use</i> ¹⁰		<i>Transportation</i>
<i>Retail sales</i> ¹¹		<i>Warehousing</i>
<i>Standalone parking</i> ¹²		<i>Wholesale trade</i>
<i>Temporary lodging</i> ¹³		
<i>Vehicle or equipment rental</i> ¹⁴		
<i>Vehicle refueling station</i> ¹⁵		

1. It shall be unlawful for any person to establish an *adult entertainment business* or to relocate an *adult entertainment business* within 330 feet, measured from the property line of the parcel or

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parcels proposed to contain the *adult entertainment business* to the property line of the parcels containing the *uses* in this section, without regard to intervening *structures* or objects, if any:

- a. Residentially zoned property;
- b. Public or private school for general education of any grade K through 12;
- c. School bus stop;
- d. Licensed *day care* or licensed preschool facility;
- e. Public *park*;
- f. Publicly dedicated *trail*; provided, however, that the setback distance shall apply only on the south side of the Burke-Gilman Trail, and that there shall be no setback on the north side of that trail due to the separation provided by SR-522;
- g. Sports fields or playgrounds;
- h. Recreation or community center;
- i. *Religious institution*;
- j. Public library.

It shall be unlawful for any person to establish an *adult entertainment business* or to relocate an *adult entertainment business* within 500 feet of another *adult entertainment business*, measured from the property line of the parcel or parcels containing the *adult entertainment business* and the proposed *adult entertainment business*.

2. Outdoor performance center permitted when located west of 68th Avenue NE and associated with a plaza open to the public, and space is made available for general public passive or active use during non-performance hours.
3. Except for animal auction *uses* which are prohibited. Existing *auction houses*, excluding vehicle auctions, are permitted on properties currently used for *auction house* activity as of January 12, 2007. This *use* may be continued and may be re-established for purposes of rebuilding upon unintentional destruction of the property. The *auction house use* may not expand *buildings* or storage beyond the *use's* existing footprint. The *auction house* may expand accessory on-site parking associated with existing *auction house use* to adjoining or nearby parcels of land, subject to the *City's* approval of a site improvement plan that addresses the following issues:
 - a. Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
 - b. Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
 - c. Screening of *outdoor storage* and parking areas consistent with Kenmore downtown design standard parking lot screening requirements, KMC 18.52.180;
 - d. Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *City* to adequately protect pedestrians traveling along property frontages; and
 - e. Ensures that expanded accessory parking area is not used for storage.

Vehicle auctions in existence as of January 12, 2007, are permitted on site area and within *buildings* in the downtown commercial zone located east of 68th Avenue NE and north of NE 182nd Street that are being used as a vehicle auction *use* as of that date. This *use* may be

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continued and may be re-established for purposes of rebuilding upon unintentional destruction of property. With the exception of accessory parking as outlined below, existing vehicle auction *uses* may not expand beyond their existing building footprint plus abutting easements, loading, or parking areas used for vehicle auction as of January 12, 2007. Renovations or alterations within the existing building footprint are permitted. However, expansion of existing *buildings* for vehicle auction *use* is prohibited. Expansion of accessory on-site parking associated with existing vehicle auction *use* to adjoining or nearby parcels of land is allowed, subject to the *City's* approval of a site improvement plan that addresses the following issues:

- a. Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
 - b. Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
 - c. Screening of *outdoor storage* and parking areas consistent with Kenmore downtown design standard parking lot screening requirements, KMC 18.52.180;
 - d. Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *City* to adequately protect pedestrians traveling along property frontages; and
 - e. Ensures that expanded accessory parking area is not used for storage.
4. In the downtown commercial zone, properties (a) fronting SR-522 or taking primary access from SR-522, and (b) located on a property where the extent of use is no deeper than 260 feet from SR-522, and (c) containing automotive repair or automotive service *uses* as of April 28, 2003, shall be considered *existing legal uses*. Otherwise, automotive service *uses* are prohibited unless accessory to and contained within a structured parking garage.

Automotive sales are prohibited unless accessory to an *existing legal* automotive repair or service *use* and consistent with the following: (a) motor vehicles for sale or lease shall not be arranged in a display lot fashion along the primary *street frontage*, and (b) shall be a subordinate and incidental part of the automotive repair or service *use*, and (c) shall be subject to Chapter 18.52 KMC, Downtown Design Standards, regarding screening, location and other relevant standards.

5. Arts and crafts schools permitted. All other *educational service uses* are conditionally permitted.
6. Veterinary clinics subject to the following:
- a. No outdoor kennels or facilities;
 - b. No burning of refuse or dead animals is allowed;
 - c. The portion of the *building or structure* in which animals are kept or treated shall be soundproofed. All run areas, excluding *confinement areas for livestock*, shall be surrounded by an eight-foot solid wall and surfaced with concrete or other impervious material; and
 - d. The provisions of Chapter 18.70 KMC relative to animal keeping are met.
7. *Social services, noncorrectional* is a permitted *use*. *Social services, correctional* is a conditionally permitted *use*.

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8. *Mobile food service* is permitted subject to the following requirements:
 - a. No permanent fencing, walls, or other *structures* shall be installed which hinder removal of the *structure* from the *site*;
 - b. No required parking stall shall be blocked or rendered unusable as a result of the mobile vendor;
 - c. Safe ingress and egress shall be maintained. Visibility for transportation and pedestrian access shall be maintained;
 - d. The limited duration of the mobile vendor shall be established as a condition of approval of any applicable permits;
 - e. A sign permit is required for exterior signage in accordance with the sign code, Chapter 18.42 KMC.
 - f. If a stand:
 - 1) The stand shall be located on a sidewalk or near a storefront consistent with barrier-free regulations;
 - 2) The stand location on the sidewalk or near a storefront shall provide for at least four feet of unobstructed sidewalk between the stand and the sidewalk edge for pedestrian movement.

9. When located on property fronting on SR-522, 73rd Avenue NE, NE 181st Street west of 68th Avenue NE, 65th Avenue NE, 67th Avenue NE, or 68th Avenue NE, such *uses* shall be subject to the following conditions:
 - a. A minimum of 80 percent of a *structure's* street front facade at street level shall be occupied by nonresidential (e.g., retail, office or service) *uses*. If the nonresidential and residential *uses* are located in separate structures, the 80 percent requirement shall apply to the lot's lineal *street frontage* at street level. Where the *lot* fronts on two or more *streets* and abuts a *lot* which is not zoned commercial, the street front facade requirement shall apply to the *structure's* facade along the *street* with the greatest continuous lineal feet of commercially zoned frontage.
 - b. The required nonresidential *use* shall extend at least 30 feet in depth at street level from the street front facade of the *structure*; provided, that the minimum required depth may be averaged, with no depth less than 15 feet.
 - c. Where a *lot* fronts on two or more *streets* and only abuts *lots* which are zoned commercial, the street front facade requirement shall be calculated by totaling the combined street front facades of the *structure* containing the required nonresidential *use*.

10. *Transit center* only permitted. All other *regional land uses* are prohibited. *Transit centers* shall be located a maximum distance of 1200 lineal feet measured from the center line of SR-522 to the furthestmost point of the *transit center*.

11. *Outdoor retail displays/sidewalk sales* also are permitted subject to:
 - a. The *outdoor retail display/sidewalk sale* shall be accessory to a permitted permanent commercial *use*;
 - b. Fire lanes shall remain fully open and accessible at all times;
 - c. The location on sidewalk or near storefront is barrier-free;

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- d. No required parking stall shall be blocked or unusable as a result of the *outdoor retail display/sidewalk sale*;
 - e. Safe ingress and egress to the *site* shall be maintained. Visibility for transportation and pedestrian access shall be maintained;
 - f. Such display and activity is removed daily at the time of or prior to the close of business hours;
 - g. A sign permit is required for exterior signage in accordance with the sign code, Chapter 18.42 KMC.
- 12.
- a. Within the zone north of SR-522 and west of 68th Avenue NE, commuter parking facilities shall be in structured *buildings* when the number of stalls exceeds 20. *Commuter parking lots* shall be located a maximum distance of 1,200 lineal feet measured from the center line of SR-522 to the furthestmost point of the *commuter parking lot*.
 - b. All parking structures shall provide retail usages for at least 50% of the *ground floor street frontages*, consistent with Chapter 18.52 KMC, Downtown Design Standards.
 - c. All parking structures shall be designed consistent with Chapter 18.52 KMC, Downtown Design Standards; interior design considerations shall include integration of parking with any transit bays, provision of indoor access to shops, and covered walkways to adjacent shopping, civic, residential, or other *developments* that patrons will access. Crime prevention through environmental design (CPTED) principles shall be integrated, such as, but not limited to, full spectrum lighting and maximization of visibility in publicly used areas.
13. Bed and breakfast guesthouse permitted only if part of a *mixed use development*.
14. Equipment rental is prohibited. Vehicle rental is permitted only when accessory to and contained within a structured parking garage. Automotive rental and leasing *uses* may also be permitted when accessory to an *existing legal* automotive service or *existing legal* automotive repair *use* and consistent with the following:
- a. Motor vehicles for lease or rental shall not be arranged in a display lot fashion along the *primary street frontage*, and
 - b. Shall be a subordinate and incidental part of the automotive repair or automotive service business, and
 - c. Shall be subject to Chapter 18.52 KMC, Downtown Design Standards, regarding screening, location and other relevant standards. Otherwise prohibited.
15. *Existing legal* gasoline service stations are permitted. Other gasoline service stations are prohibited.
16. Limited to sewer lift stations and pipes/electrical wires and associated structural supports.

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18.27.020 Public and semi-public zone – Use allowances.

A. The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited* uses in the public and semi-public zone.

Table A. Public and Semi-Public Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor</i>	<i>College/university</i>	<i>Marijuana business</i>
<i>Arts, entertainment, outdoor¹</i>	<i>Construction and trade⁴</i>	<i>Marijuana cooperative</i>
<i>Educational service</i>		<i>Regional land use⁵</i>
<i>Fire or police facility</i>		<i>Secure facility</i>
<i>Office²</i>		
<i>Park</i>		
<i>Recreational facility, indoor</i>		
<i>Recreational facility, outdoor</i>		
<i>Standalone parking³</i>		
<i>Utility facility</i>		

1. Except outdoor performance center which is conditionally permitted.
2. Limited to *public agency offices*.
3. Limited to commuter parking facilities for users of transit, carpools or ride-share programs.
4. Limited to *public agency* maintenance yards or facilities.
5. Landfill and transfer station are specifically prohibited. Consideration of all other *regional land uses* shall follow the process outlined in KMC Section 18.27.060.

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18.28.020 Parks zone – Use allowances.

A. The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited* uses in the parks zone:

Table A. Parks Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor</i>		<i>Marijuana business</i>
<i>Arts, entertainment, outdoor</i>		<i>Marijuana cooperative</i>
<i>Construction and trade</i> ¹		
<i>Mobile food service</i> ²		
<i>Office</i> ³		
<i>Park</i>		
<i>Recreational facility, indoor</i>		
<i>Recreational facility, outdoor</i>		
<i>Single detached dwelling unit</i> ⁴		
<i>Utility facility</i>		

1. *City maintenance facility only.*

2. *Mobile food service* requirements:

- a. No permanent fencing, walls, or other *structures* are installed which hinder removal of the *mobile food service* from the *site*;
- b. No required parking stall shall be blocked or rendered unusable as a result of the *mobile food service*;
- c. Safe ingress and egress shall be maintained. Visibility for transportation and pedestrian access shall be maintained;
- d. The duration of the *mobile food service* shall be established as a condition of approval of any applicable permits;
- e. A sign permit is required for exterior signage in accordance with the sign code, Chapter 18.42 KMC.

3. *City office only.*

4. One *dwelling unit* allowed per existing legal *lot* as of December 11, 2006.

B. Classified land *uses* not listed or prohibited in Table A may be allowed through completion of a site plan review process pursuant to KMC 18.28A.060 and Chapter 18.105 KMC.

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18.28A.020 Golf course zone – Use allowances.

A. The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited* uses in the golf course zone:

Table A. Golf Course Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Arts, entertainment, indoor</i>	<i>Arts, entertainment, outdoor</i>	<i>Marijuana business</i>
<i>Park</i>		<i>Marijuana cooperative</i>
<i>Recreational facility, indoor</i>		<i>Multiple family dwelling</i>
<i>Recreational facility, outdoor</i>		<i>Single detached dwelling unit</i>
<i>Utility Facility</i>		

B. Classified land *uses* not listed or prohibited in Table A may be allowed through completion of a site plan review process pursuant to KMC 18.28A.060 and Chapter 18.105 KMC.

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LANDSCAPING AND PARKING CHANGES

New definitions for land use groupings**18.10.078 Interpretation of land use groupings.**

Several land use groupings have been devised for purposes of KMC Chapters 18.35 and 18.40: KMC 18.20.1203, General services land uses; 18.20.1233 Government/business services land uses; 18.20.1678, Manufacturing land uses; 18.20.2232, Recreational/cultural land uses; 18.20.2275, Regional land uses; 18.20.2325 Residential land uses; 18.20.2327, Resource land uses; and 18.20.2362 Retail land uses. Within these groupings, both the general classified land use terms and more specific terms for uses that fall under the general classified land use terms may appear. For example, the general classified land use term *recreational facility, outdoor* is included in the *recreational/cultural land uses* land use grouping, but *stable*, which is a more specific type of outdoor recreational facility, is included in the *general services land uses* land use grouping. In cases where both the general classified land use term and a more specific term are used in the land use groupings, the general classified land use term should be assumed to not include the more specific term.

18.20.1203 General services land uses.

For purposes of KMC Chapters 18.35 and 18.40, "General services land uses" means *ambulatory surgery center; animal kennel/shelter; automotive service (except tire retreading); business service, intensive; cemetery, columbarium or mausoleum; day care; educational service; funeral home/crematory; health care and social assistance; hospital; laboratory; personal service; religious institution; and stable.*

18.20.1233 Government/business services land uses.

For purposes of KMC Chapters 18.35 and 18.40, "Government/business services land uses" means *air transportation service; business service, standard; construction and trade; fire or police facility; heavy equipment and truck repair; office; private stormwater management facility; public agency archive; public agency or utility yard; standalone parking; transportation; utility facility; vehicle or equipment rental; warehousing; and wholesale trade.*

18.20.1678 Manufacturing land uses.

For purposes of KMC Chapters 18.35 and 18.40, "Manufacturing land uses" means *manufacturing, heavy; manufacturing, light; marijuana processor; and tire retreading.*

18.20.2232 Recreational/cultural land uses.

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For purposes of KMC Chapters 18.35 and 18.40, "Recreational/cultural land uses" means *adult entertainment business; arts, entertainment, indoor; arts, entertainment, outdoor; park; recreational facility, indoor; recreational facility, outdoor; and trail.*

18.20.2275 Regional land uses.

For purposes of KMC Chapter 18.40, "Regional land uses" means *college/university; conference center; hydroelectric generation facility; nonhydroelectric generation facility; regional land use; resource land use; secure facility; transit bus base; school bus base; and wireless communication facility.*

18.20.2325 Residential land uses.

For purposes of KMC Chapters 18.35 and 18.40, "Residential land uses" means *community residential facility; family child-care home; manufactured home, mobile home; mobile home park; multiple family dwelling; single detached dwelling unit; supportive living facility; and temporary lodging.*

18.20.2327 Resource land uses.

For purposes of KMC Chapter 18.40, "Resource land uses" means *resource land use and marijuana producer.*

18.20.2362 Retail land uses.

For purposes of KMC Chapters 18.35 and 18.40, "Retail land uses" means *auction house; automotive sales; eating and drinking place; marijuana retailer; mobile food service; retail sales; retail sales, bulk; and vehicle refueling station.*

Code sections to be changed

18.35.030 Land use grouping.

To facilitate the application of this chapter, land uses have been grouped in the following manner:

A. "Residential development" refers to *residential land uses (except residential accessory uses, home occupation, and home industry), multiple-family dwelling, supportive living facility, and temporary lodging.*

B. "Attached/group residences" refers to:

1. *Multiple-family dwellings, including:*

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a. ~~Townhouses~~, except as provided in subsection (C)(1) of this section;

b. ~~Apartments~~;

2. ~~Single D~~ detached dwelling units developed on common property at a density of 12 or more units per acre;

3. ~~Senior citizen assisted living and supportive living facilities~~;

4. Temporary lodging;

5. ~~Group residences other than Type I community residential facilities~~ Adult family homes; and

6. Mobile home parks.

C. "Single-family development" refers to:

1. Residential subdivisions and short subdivisions, including attached and detached *dwelling units* on individually platted or short platted *lots*;

2. Any detached *dwelling units* located on a *lot*;

3. Family child-care homes; and

4. Type I *community residential facilities*.

D. "Commercial development" refers to:

1. ~~Adult entertainment business; theater; theater, drive-in; bowling center; amusement and recreation services; shooting range; amusement arcades; amusement park; outdoor performance center; arts, entertainment; and recreational facility~~ Recreational/cultural land uses, except library, museum, park and trail;

2. "General services land uses", (except recycling centers, health care and social assistance, hospital, laboratory, and educational services, day care I, and church, synagogue, mosque, temple religious institution), personal service, and animal kennel/shelter; and

3. "Retail land uses" and retail sales (except forest product sales and agricultural crop sales); automotive sales, and vehicle refueling stations; and

4. Car washes.

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E. "Industrial development" refers to:

1. ~~Interim recycling facility;~~
2. ~~"Government/business services land uses" (, except public agency or utility office; public agency or utility yard; public agency archives; court; fire or police facility; fire facility; utility facility; commuter parking lot; private stormwater management facility; and vector waste receiving facility), standard business service, office, warehousing, wholesale trade, and air transportation service;~~
32. ~~"Manufacturing land uses";~~ and
43. Mineral extraction and processing.

F. "Institutional development" refers to:

1. Library, museum and conference center;
2. Religious institution; ~~medical/dental office/outpatient clinics, nursing facilities, hospital, medical/dental lab, miscellaneous health services, health care and social assistance, ambulatory surgery center, and laboratory;~~ and educational service, ~~elementary schools, middle/junior high schools, secondary or high schools, vocational schools, school district support facilities, and specialized instruction schools except specialized instruction schools permitted as an accessory use;~~ and
3. Public agency or utility office; public agency or utility yard; public agency archives; court; ~~fire or police facility; fire facility; utility facility;~~ commuter parking lot; ~~standalone parking;~~ private stormwater management facility; and vector waste receiving facility.

G. "Utility development" refers to ~~utility facilities,~~ except private stormwater management facility and vector waste receiving facility.

H. Uses that are not listed in this section shall not be subject to *landscaping* requirements except as specified in any applicable review of a *conditional use* or *special use permit*.

18.40.030 Computation of required off-street parking spaces.

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A. Except as modified in KMC [18.40.040](#), [18.40.050](#) or [18.40.090](#), off-street parking areas shall contain at a minimum the number of *parking spaces* as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square foot means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include but are not limited to building maintenance areas, storage areas, closets, restrooms and exterior walls. If the formula for determining the number of off-street *parking spaces* results in a fraction, the number of off-street *parking spaces* shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down.

LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
RESIDENTIAL: (removed italics)		
Single detached dwelling unit (added italics)	2.0 per dwelling unit	2.0 per dwelling unit; tandem stalls permitted
Townhouse	2.0 per dwelling unit	1.5 per dwelling unit; tandem stalls permitted
Guest parking	1 space for every 5 units	1 space for every 5 units
Apartment:		
Microhousing dwelling units (added italics)	Within 1/4 mile of SR-522: 0.75 per dwelling unit. Otherwise, 1.2 per dwelling unit	Within 1/4 mile of SR-522: 0.75:du. Otherwise, 1.0:du. Tandem stalls permitted
Studio units	1.2 per dwelling unit	1.0:du; tandem stalls permitted
One bedroom units	1.5 per dwelling unit	1.0:du; tandem stalls permitted
Two bedroom units	1.7 per dwelling unit	1.5:du; tandem stalls permitted
Three bedroom units or larger	2.0 per dwelling unit	1.7:du; tandem stalls permitted
Guest parking	1 space for every 5 units	1 space for every 5 units
Mobile home park	2.0 per dwelling unit	2.0 per dwelling unit

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LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
<i>Senior citizen assisted living</i>	1 per 2 dwelling or sleeping units	1 per 2 dwelling or sleeping units
<i>Community residential facilities</i>	1 per 2 bedrooms	1 per 2 bedrooms
Dormitory (removed italics), including religious	1 per 2 bedrooms	1 per 2 bedrooms
Hotel/motel including organizational hotel/lodging	1 per bedroom	1 per bedroom
Bed and breakfast guesthouse (removed italics)	1 per guest room, plus 2 per facility	1 per guest room, plus 2 per facility
Other residential land use	(city manager)	(city manager)
RECREATIONAL/CULTURAL: (removed italics)		
Recreational/cultural land uses, arts/entertainment and recreational facility:	1 per 300 square feet	1 per 300 square feet
Exceptions:		
Bowling center	5 per lane	5 per lane
Golf course	3 per hole, plus 1 per 300 square feet of clubhouse facilities	—
Tennis club	4 per tennis court, plus 1 per 300 square feet of clubhouse facility	—
Golf driving range	1 per tee	—
Park/playfield	(city manager)	(city manager)
Theater (remove italics)	1 per 3 fixed seats	1 per 3 fixed seats

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LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
<i>Conference center</i>	1 per 3 fixed seats, plus 1 per 50 square feet used for assembly purposes without fixed seats, or 1 per bedroom, whichever results in the greater number of spaces	1 per 3 fixed seats, plus 1 per 50 square feet used for assembly purposes without fixed seats, or 1 per bedroom, whichever results in the greater number of spaces
Artist studios (moved from General Services and removed italics)	0.9 per 1,000 square feet of area used for studios	0.9 per 1,000 square feet of area used for studios
GENERAL SERVICES: (removed italics)		
<i>General services land uses, personal service, and animal kennel/shelter:</i>	1 per 300 square feet	1 per 300 square feet
Exceptions:		
<i>Funeral home/crematory</i> (added italics)	1 per 50 square feet of chapel area	–
<i>Day care I</i>	2 per facility	2 per facility
<i>Day care II</i>	2 per facility, plus 1 space for each 20 children	2 per facility, plus 1 space for each 20 children
<i>Church, synagogue, mosque, temple</i> Religious institution	1 per 5 fixed seats, plus 1 per 50 square feet of gross floor area without fixed seats used for assembly purposes	1 per 5 fixed seats, plus 1 per 50 square feet of gross floor area without fixed seats used for assembly purposes
Outpatient and veterinary clinic offices	1 per 300 square feet of office, labs and examination rooms	1 per 300 square feet of office, labs and examination rooms
Nursing and personal care facilities	1 per 4 beds	–
<i>Hospital</i> (added italics)	1 per bed	1 per bed

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LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
Elementary schools (removed italics)	1 per <i>school classroom</i> , plus 1 per 50 students	1 per <i>school classroom</i> , plus 1 per 50 students
Secondary schools: (removed italics)		
Middle/junior high schools (removed italics)	1 per <i>school classroom</i> , plus 1 per 50 students	1 per <i>school classroom</i> , plus 1 per 50 students
High schools (removed italics)	1 per <i>school classroom</i> , plus 1 per 10 students	1 per <i>school classroom</i> , plus 1 per 10 students
High schools with stadiums (removed italics)	Greater of 1 per <i>school classroom</i> , plus 1 per 10 students, or 1 per 3 fixed seats in stadium	Greater of 1 per <i>school classroom</i> , plus 1 per 10 students, or 1 per 3 fixed seats in stadium
Vocational schools	1 per <i>school classroom</i> , plus 1 per 5 students	1 per <i>school classroom</i> , plus 1 per 5 students
Specialized instruction schools	1 per <i>school classroom</i> , plus 1 per 2 students	1 per <i>school classroom</i> , plus 1 per 2 students
Colleges/universities (added italics)	1 per 2 commuting students, faculty and staff	–
GOVERNMENT/BUSINESS SERVICES: (removed italics)		
Government/business services land uses; standard business service, office, warehousing, and air transportation service;	1 per 300 square feet	1 per 300 square feet
Exceptions:		

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LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
<i>Public agency yard</i> (added italics)	1 per 300 square feet of offices, plus 0.9 per 1,000 square feet of indoor storage (remove italics) or repair areas	—
<i>Public agency archives</i>	0.9 per 1,000 square feet of storage area, plus 1 per 50 square feet of waiting/reviewing areas	—
Courts	3 per courtroom, plus 1 per 50 square feet of fixed seat or assembly areas	3 per courtroom, plus 1 per 50 square feet of fixed seat or assembly areas
<i>Fire or pPolice facility</i>	(city manager)	(city manager)
<i>Fire facility</i>	(city manager)	(city manager)
<i>Construction and trade</i>	1 per 300 square feet of office, plus 1 per 3,000 square feet of storage area	1 per 300 square feet of office, plus 1 per 3,000 square feet of storage area
<i>Warehousing</i> (added italics) and storage	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of storage area	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of storage area
<i>Self-service storage</i>	1 per 3,500 square feet of storage area, plus 2 for any resident director's unit	1 per 3,500 square feet of storage area, plus 2 for any resident director's unit
Outdoor advertising services	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of storage area	—

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LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
<i>Heavy equipment repair</i>	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of indoor repair areas	—
Office	1 per 300 square feet	1 per 300 square feet
RETAIL/WHOLESALE: (removed italics)		
<i>Retail land uses, retail sales, automotive sales, and vehicle refueling stations:</i>	1 per 300 square feet	1 per 300 square feet
Exceptions:		
Food stores, less than 15,000 square feet	3 plus 1 per 350 square feet	3 plus 1 per 350 square feet
Gasoline service stations and vehicle refueling stations w/o grocery	3 per facility, plus 1 per service bay	3 per facility, plus 1 per service bay
Gasoline service stations and vehicle refueling stations w/grocery, no service bays	1 per facility, plus 1 per 300 square feet of store	1 per facility, plus 1 per 300 square feet of store
Restaurants	1 per 75 square feet in dining or lounge areas	1 per 75 square feet in dining or lounge areas
<i>Wholesale trade (added italics) uses</i>	0.9 per 1,000 square feet	0.9 per 1,000 square feet
<i>Retail sales and wholesale trade (added italics) mixed use</i>	1 per 300 square feet	1 per 300 square feet
MANUFACTURING: (removed italics)		
<i>Manufacturing land uses</i>	0.9 per 1,000 square feet	—

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LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
Exceptions:	-	-
Winery/brewery	0.9 per 1,000 square feet, plus 1 per 50 square feet of tasting area	—
RESOURCES:		
Resource land uses	(city manager)	—
REGIONAL:		
Regional land uses	(city manager)	(city manager)

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18.40.090 Transit and rideshare provisions.

A. Government/business services *land uses* and manufacturing land uses, *standard business service, office, warehousing, wholesale trade, air transportation service, ambulatory surgery center, hospitals, high schools, vocational schools, educational service and college/universities and specialized instruction schools* shall be required to reserve one *parking space* of every 20 required spaces for rideshare parking as follows:

1. The *parking spaces* shall be located closer to the primary employee entrance than any other employee parking except disabled;
2. Reserved areas shall have markings and *signs* indicating that the space is reserved; and
3. Parking in reserved areas shall be limited to vanpools and carpools established through rideshare programs by public agencies and to vehicles meeting minimum rideshare qualifications set by the employer;

B. The *city manager* may reduce the number of required off-street *parking spaces* when one or more scheduled transit routes provide service within one-quarter mile (1,320 feet) of the *site* as measured linearly along *streets* or other pedestrian pathways. The amount of reduction shall be based on the

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number of scheduled transit runs between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. each business day up to a maximum reduction as follows:

1. Four percent for each run serving *government/business service* ~~land uses, standard business service, office, warehousing, wholesale trade, air transportation service,~~ and *manufacturing land uses*, up to a maximum of 40 percent; and
2. Two percent for each run serving *recreational/cultural* ~~land uses, arts, entertainment, recreational facility, general services, land uses, personal services, animal kennel/shelter, educational service, ambulatory surgery center, health care and social assistance, and retail/retail sales/wholesale land uses, and wholesale trade~~ *automotive sales, and vehicle refueling station*, up to a maximum of 20 percent; and

C. All *uses* which are located on an existing transit route and are required under the computation for required off-street *parking spaces* in KMC [18.40.030](#)(A) to provide more than 200 *parking spaces* may be required to provide transit shelters, bus turnout lanes or other transit improvements as a condition of permit approval. *Uses* which reduce required parking under subsection B of this section shall provide transit shelters if transit routes adjoin the *site*.

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OTHER AMENDED CODE SECTIONS

18.21.073 Accessory uses.

Accessory uses, when consistent with the definition in Chapter 18.20 KMC, are allowed as determined by the city manager.

18.22.015 Accessory uses.

Accessory uses, when consistent with the definition in Chapter 18.20 KMC, are allowed as determined by the city manager.

18.23.030 Accessory uses.

Accessory uses, when consistent with the definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the city manager.

18.24.030 Accessory uses.

Accessory uses, when consistent with the definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the city manager.

18.25.030 Accessory uses.

Accessory uses, when consistent with the definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the city manager.

18.27.030 ~~Public and semi-public zone~~ Accessory uses.

Accessory uses, when consistent with the definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the city manager.

18.28.030 ~~Parks zone~~ Accessory uses.

Accessory uses, when consistent with the definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the city manager.

18.28A.030 ~~Golf course zone~~ Accessory uses.

Accessory uses, when consistent with the definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the city manager.

18.22.025 Drive-through service.

Drive-through service is permitted as an accessory use. Drive-through service shall be oriented to the side and/or rear of the building, and integrated into the exterior wall. Drive-through lanes shall not be located between the street and the main pedestrian access to the buildings. Modifications to these requirements may be reviewed through the site plan or building permit review process

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when meeting the intent of pedestrian orientation pursuant to Chapter 18.52 KMC, Downtown Design Standards.

18.21.075 Drive-through service.

Drive-through service is prohibited in this zoning district.

18.23.045 Drive-through service.

Drive-through service is prohibited in this zoning district.

18.24.042 Drive-through service.

Drive-through service is prohibited in this zoning district.

18.25.042 Drive-through service.

Properties having frontage on SR-522 and taking primary access from SR-522 as of May 8, 2003 shall be permitted *drive-through service*. Where allowed, *drive-through service* is permitted as an *accessory use*. *Drive-through service* shall be oriented to the side and/or rear of the *building*, and integrated into the exterior wall. Drive-through lanes shall not be located between the *street* and the main pedestrian access to the *buildings*. Modifications to these requirements may be reviewed through the site plan or building permit review process when meeting the intent of pedestrian orientation pursuant to Chapter 18.52 KMC, Downtown Design Standards.

18.21.078 Outdoor storage.

Outdoor storage is prohibited in this zoning district.

18.22.028 Outdoor storage.

Outdoor storage is prohibited in this zoning district.

18.23.048 Outdoor storage.

Outdoor storage is prohibited in this zoning district.

18.24.044 Outdoor storage.

Outdoor storage is prohibited in this zoning district.

18.25.044 Outdoor storage.

Outdoor storage is prohibited in this zoning district.

18.26.040 Use allowances – Regional business east subarea.

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¹⁷ Jails and jail farm/camp are prohibited. *Secure community transition facilities* as defined in RCW 71.09.020 are subject to the following restrictions:

- a. Maximum Number of Residents. No SCTF shall house more than three persons, excluding resident staff.
- b. Siting Criteria.
 - (1) SCTFs should be located in relationship to transportation facilities in a manner appropriate to their transportation needs.
 - (2) No SCTF shall be allowed within the following distances from the following specified uses, areas or zones, whether such uses, areas or zones are located within or outside the City limits:
 - (A) In or within 250 feet of any residential zone district, or any residentially zoned property.
 - (B) Adjacent to, immediately across a street or parking lot from, or within the line of sight of a "risk potential activity" as defined in RCW 71.09.020, as amended, including, but not limited to, public and private schools; school bus stops; licensed *day care* (*italics added*) and licensed preschool facilities; public *parks* (*italics added*), publicly dedicated *trails* (*italics added*) and sports fields; recreational and community centers; playgrounds; ~~church, synagogue, mosque, temple~~ *religious institutions*; and public libraries.
 - (C) One mile from any existing SCTF, work release, prerelease, or similar facility.
 - (3) The distances specified in footnote (17)(b)(2) of this section shall be measured by following a straight line from the nearest point of the property parcel upon which the SCTF is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.
- c. On-Site Facilities Required. Each SCTF shall provide on-site dining, on-site laundry or laundry service, and on-site recreational facilities to serve the residents.
- d. Conditional Use Permit Application Process. A *conditional use permit* application for an SCTF shall be accompanied by the following:
 - (1) The siting process used for the SCTF, including alternative locations considered. At least three alternative locations must be considered.

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- (2) An analysis showing that utmost consideration was given to potential sites such that siting of the facility will have no unreasonable impact on any one racial, cultural, or socio-economic group, and that there will not be a resulting concentration of similar facilities in a particular neighborhood, community, jurisdiction or region.
- (3) Proposed mitigation measures including the use of extensive buffering from adjacent uses.
- (4) A detailed security plan for the facility and the residents.
- (5) Proposed operating rules for the facility.
- (6) A schedule and analysis of all public input solicited or to be solicited during the siting process.

18.29.040 Use allowances.

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⁴ Mobile food vendors are service is permitted subject to the following requirements:

- a. For a stand, location shall be on a sidewalk or near a storefront consistent with barrier-free regulations;
- b. For a stand, location on the sidewalk or near a storefront shall provide for at least four feet of unobstructed sidewalk between the stand and the sidewalk edge for pedestrian movement;
- c. No permanent fencing, walls, or other structures are installed which hinder removal of the structure from the site;
- d. No required parking stall shall be blocked or rendered unusable as a result of the mobile vendor food service;
- e. Safe ingress and egress to the site shall be maintained. Visibility for transportation and pedestrian access shall be maintained;
- f. The limited duration of the mobile vendor food service shall be established as a condition of approval of any applicable permits; if accessory to a use, such operation is removed daily at the time of or prior to the close of business hours;

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- g. A sign permit is required for exterior signage in accordance with the sign code, Chapter [18.42](#) KMC.

⁵ No *outdoor storage* (*italics added*) of materials shall be permitted.

18.30.230 Setbacks – Projections and structures allowed.

Provided that the required *setbacks* from *regional utility corridors* of KMC [18.30.200](#), the adjoining half-street or designated arterial *setbacks* of KMC [18.30.220](#) and the sight distance requirements of KMC [18.30.240](#) are maintained, *structures* may extend into or be located in required *setbacks*, including *setbacks* as required by KMC [18.21.060](#)(B), as follows:

A. Fireplace *structures*, bay or garden windows, enclosed stair landings, closets, or similar *structures* may project into any *setback*, provided such projections are:

1. Limited to two per facade;
2. Not wider than 10 feet; and
3. Not more than 24 inches into an interior *setback* or 30 inches into a *street setback*;

B. Uncovered porches and decks which exceed 18 inches above the finished grade may project:

1. Eighteen inches into interior *setbacks* in the NB, CB, DR, DC, UC, [DWWC](#), RB, PSP, P, and GC zones;
2. Eighteen inches into side *setbacks* in the R zones;
3. Eighteen inches into rear *setbacks* in the R-12 through R-48 zones;
4. Five feet into rear *setbacks* in the R-1 through R-6 zones; and
5. Five feet into *street setbacks*;

...

18.73.110 Home occupation.

Residents of a *dwelling unit* may conduct one or more *home occupations* as accessory activities, provided:

A. The total area devoted to all *home occupation(s)* shall not exceed 20 percent of the floor area of the *dwelling unit*. Areas with attached garages and storage *buildings* shall not be considered part of the

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dwelling unit for purposes of calculating allowable *home occupation* area but may be used for storage of goods associated with the *home occupation*;

B. In residential zones, all the activities of the *home occupation(s)* shall be conducted indoors, except for those related to growing or storing of plants used by the *home occupation(s)*;

C. No more than one nonresident shall be employed by the *home occupation(s)*;

D. The following activities shall be prohibited in residential zones only:

1. Automobile, truck and *heavy equipment* repair;
2. Autobody work or painting;
3. Parking and storage of *heavy equipment*; and
4. Storage of building materials for use on other properties;

E. In addition to required parking for the *dwelling unit*, on-site parking shall be provided as follows:

1. One stall for a nonresident employed by the *home occupation(s)*; and
2. One stall for patrons when services are rendered on-site;

3. For *specialized instruction schools*, the number of stalls shall be as required by Chapter 18.40 KMC.

F. Sales shall be limited to:

1. Mail order sales; and
2. Telephone sales with off-site delivery;

G. *Specialized instruction schools* shall be limited to:

a. 12 students per one-hour session;

b. *Structures* used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.

GH. Services to patrons shall be arranged by appointment or provided off-site;

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HI. The *home occupation(s)* may use or store a vehicle for pickup of materials used by the *home occupation(s)* or the distribution of products from the *site*, provided:

1. No more than one such vehicle shall be allowed;
2. Such vehicle shall not park within any required *setback* areas of the *lot* or on adjacent *streets*; and
3. Such vehicle shall not exceed a weight capacity of one ton;

IJ. The *home occupation(s)* shall not use electrical or mechanical equipment that results in:

1. A change to the occupancy type of the *structure(s)* used for the *home occupation(s)*;
2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
3. Fluctuations in line voltage off-premises; and

JK. *Uses* not allowed as *home occupations* may be allowed as a *home industry* pursuant to this chapter.

18.73.120 Home industry.

In all zones except R-12, R-18, R-24, R-48, and NB, **Aa** resident may establish a *home industry* as an accessory activity, provided:

A. In the R-1, R-4 and R-6 zones, a *conditional use permit* is obtained.

AB. The *site area* shall be no less than one acre;

BC. The area of the *home industry* shall not exceed 50 percent of the floor area of the *dwelling unit*. Areas within attached garages and storage *buildings* shall not be considered part of the *dwelling unit* for purposes of calculating allowable *home industry* area but may be used for storage of goods associated with the *home occupation*;

CD. No more than four nonresidents shall be employed in a *home industry*;

DE. In addition to required parking for the *dwelling unit*, on-site parking shall be provided as follows:

1. One stall for each nonresident employee of the *home industry*; and

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2. One stall for customer parking;

EF. Additional customer parking shall be calculated for areas devoted to the *home industry* at the rate of one stall per:

1. One thousand square feet of *building* floor area; and
2. Two thousand square feet of outdoor work or storage area;

FG. Sales shall be limited to items produced on-site, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps, and antiques;

GH. Ten feet of Type I *landscaping* shall be provided around portions of parking and outside storage areas which are otherwise visible from adjacent properties or public rights-of-way; and

HI. The *city manager* shall ensure compatibility of the *home industry* by:

1. Limiting the type and size of equipment used by the *home industry* to those which are compatible with the surrounding neighborhood;
2. Providing for *setbacks* or screening as needed to protect adjacent residential properties;
3. Specifying hours of operation;
4. Determining acceptable levels of outdoor lighting; and
5. Requiring sound level tests for activities determined to produce sound levels which may be excessive.

18.21.070 Personal services, eating and drinking place, and retail sales uses in R-4 through R-48 zones.

General ~~p~~Personal service uses, eating and drinking place uses except drycleaning plants other than rug cleaning and industrial launderers, and retail sales land uses, except agricultural crop sales, which are located in the R-4 through R-48 zones shall be subject to the following requirements:

- A. Each individual establishment shall not exceed 5,000 square feet of gross floor area and the combined total of all contiguous commercial establishments shall not exceed 15,000 square feet of gross floor area;

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- B. Establishments shall not be located less than one mile from another commercial establishment, unless located with other establishments meeting the criteria in subsection A of this section;
- C. Establishment *sites* shall abut an intersection of two public *streets*, each of which is designated as a neighborhood collector or arterial and which has improved pedestrian facilities for at least one-fourth mile from the *site*;
- D. The maximum on-site parking ratios for establishments and *sites* shall be two per 1,000 square feet and required parking shall not be located between the *building(s)* and the *street*; and
- E. *Buildings* shall comply with the *building facade modulation* and roofline variation requirements in KMC [18.50.080](#) and at least one facade of the *building* shall be located within five feet of the sidewalk;
- F. If the *personal service*, *eating and drinking place*, or retail *(added italics)* *sales* use is located in a *building* with multifamily *uses*, then the commercial *use* shall be on the *ground floor* and shall not exceed 25 percent of the total floor area of the *building*;
- G. *Sign* and *landscaping* standards for the *use* apply.

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CHANGES TO LAND USE DEFINITIONS

Existing Land Use Definitions to be Eliminated

18.20.040 Accessory use, commercial/industrial.

"Commercial/industrial accessory use" means:

A. A use that is subordinate and incidental to a commercial or industrial use, including but not limited to the following uses:

1. Administrative offices;
2. Employee exercise facilities;
3. Employee food service facilities;
4. Incidental storage of raw materials and finished products sold or manufactured on-site;
5. Business owner or caretaker residence;
6. Cogeneration facilities; and
7. Ground maintenance facilities.

B. Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.045 Accessory use, parks.

"Parks accessory use" means a use or activity which is subordinate and incidental to a park including, but not limited to, the following uses:

A. Environmental education, arts, dance, music, and other community-based and limited-term instruction.

B. Recreational and social activities, such as hiking, biking, boating and other similar recreational activities.

C. Meetings of nonprofit, social, community, and/or volunteer organizations. [Ord. 11-0329 § 3 (Exh. 1).]

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18.20.050 Accessory use, residential.

"Residential accessory use" means:

A. A use, structure, or activity which is subordinate and incidental to a residence including, but not limited to, the following uses:

1. Accessory living quarters and dwellings;
2. Fallout/bomb shelters;
3. Keeping household pets;
4. On-site rental office;
5. Pools, private docks, piers;
6. Antennas for private telecommunication services;
7. Storage of yard maintenance equipment;
8. Storage of private vehicles, e.g., motor vehicles, boats, trailers or planes; or
9. Greenhouses.

B. Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.060 Accessory use, resource.

"Resource accessory use" means:

A. A use, structure, or part of a structure which is customarily subordinate and incidental to a resource use including, but not limited to, the following uses:

1. Housing of agricultural workers; or
2. Storage of agricultural products or equipment used on-site.

B. Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.100 Agricultural product sales.

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"Agricultural product sales" means the retail sale of items resulting from the practice of agriculture, including crops such as fruits, vegetables, grains, seed, feed, and plants, or animal products such as eggs, milk, and meat. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.120 Aircraft, ship and boat building.

"Aircraft, ship and boat building" means the fabrication and/or assembling of aircraft, ships or boats. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.130 Airport/heliport.

"Airport/heliport" means any runway, landing area or other facility, excluding facilities for the primary use of the individual property owner which are classified as helistops, designed or used by public carriers or private aircraft for the landing and taking off of aircraft, including the following associated facilities:

- A. Taxiways;
- B. Aircraft storage and tie-down areas;
- C. Hangars;
- D. Servicing; and
- E. Passenger and air freight terminals. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.155 Amusement and recreation services.

"Amusement and recreation services" includes ticket agencies, travel arrangement and reservation services, scenic and sightseeing transportation services, performing arts companies, sports instruction, nonathletic recreational instruction, and sports equipment rental. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.160 Amusement arcade.

"Amusement arcade" means a building or part of a building in which five or more pinball machines, video games, or other such player-operator amusement devices (excluding jukeboxes or gambling-related machines) are operated. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.210 Artist studio.

"Artist studio" means an establishment providing a place solely for the practice or rehearsal of various performing or creative arts, including, but not limited to, acting, dancing, singing, drawing, painting and sculpting. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.212 Arts and crafts schools/studios.

"Arts and crafts schools/studios" means schools and studios for education in various arts and crafts, including, but not limited to, photography, dance, music, and language skills. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.250 Bed and breakfast guesthouse.

"Bed and breakfast guesthouse" means a dwelling unit or accessory building within which bedrooms are available for paying guests. [Ord. 11-0329 § 3 (Exh. 1).]

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18.20.305 Boat launch.

"Boat launch" is an area where ramps continue down into bodies of water so that boats on trailers can be backed into the water and launched, or where operators of hand-carried watercraft may enter the water. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.310 Book, stationery, video and art supply store.

"Book, stationery, video and art supply store" means an establishment engaged in the retail sale of books and magazines, stationery, records, tapes and CDs, videos and DVDs, architectural and art supplies, and musical instruments. This use also includes DVD rental establishments. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.370 Building, hardware and garden materials store.

"Building, hardware and garden materials store" means an establishment engaged in selling lumber and other building materials, feed, or lawn and garden supplies. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.400 Campground.

"Campground" means an area of land developed for recreational use in temporary occupancy, such as tents or recreational vehicles without hookup facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.422 Car wash.

"Car wash" means a structure with machine-operated or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.460 Church, synagogue, mosque, temple.

"Church, synagogue, mosque, temple" means a place where religious services are conducted, including accessory uses in the primary or accessory buildings such as religious education, reading rooms, assembly rooms, and residences for nuns and clergy. This definition does not include facilities for training of religious orders. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.500 Communication facility, major.

"Major communication facility" means a communication facility for transmission and reception of:

- A. UHF and VHF television signals; or
- B. FM or AM radio signals. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.510 Communication facility, minor.

"Minor communication facility" means a communication facility for transmission and reception of:

- A. Two-way and/or citizen band (CB) radio signals;
- B. Point-to-point microwave signals;
- C. Cellular radio signals;
- D. Signals through FM radio translators; or

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E. Signals through FM radio boosters under 10 watts *effective radiated power* (ERP). [Ord. 11-0329 § 3 (Exh. 1).]

18.20.635 Cultural facilities.

"Cultural facilities" means facilities which offer passive entertainment and enjoyment activities to the general public. This definition includes, but is not limited to, museums and libraries. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.690 Department and variety store.

"Department and variety store" means an establishment engaged in the retail sale of a variety of lines of merchandise, such as dry goods, apparel and accessories, gifts, novelties and souvenirs, luggage and leather goods, home furnishings, and housewares. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.700 Destination resort.

"Destination resort" means an establishment for resource-based recreation and intended to utilize outdoor recreational opportunities, including related services, such as food, overnight lodging, equipment rentals, entertainment and other conveniences for guests of the resort. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.772 Dock.

A "dock" is a platform built out from the shore into the water providing access to boats or other watercraft or for public viewing of the water. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.780 Dormitory.

"Dormitory" means a residential *building* that provides sleeping quarters, but not separate *dwelling units*, and may include common dining, cooking and recreation or bathing facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.790 Drop box facility.

"Drop box facility" means a facility used for receiving solid waste and recyclables from off-site sources into detachable solid waste containers, including the adjacent areas necessary for entrance and exit roads, unloading and vehicle turnaround areas. Drop box facilities normally service the general public with loose loads and may also include containers for separated recyclables. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.800 Drug store.

"Drug store" means an establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics and related supplies, and tobacco stores and stands. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.865 Educational institutions (public or private), K – 12.

"Educational institutions (public or private), K – 12" means a public or private school encompassing grades K through 12. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.900 Energy resource recovery facility.

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"Energy resource recovery facility" means an establishment for recovery of energy in a usable form from mass burning or refuse-derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.970 Fabric shop.

"Fabric shop" means an establishment engaged in the retail sale of sewing or needlework supplies and accessories, or awnings, banners or flags. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1000 Fairground.

"Fairground" means a site permanently designated and improved for holding a fair, as provided in Chapters 15.76 and 36.37 RCW, or for holding similar events, including, but not limited to:

A. Carnivals;

B. Circuses;

C. Expositions;

D. Animal shows; and

E. Exhibitions and/or demonstrations of farm and home products with accompanying entertainment and amusements. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1140 Florist shop.

"Florist shop" means an establishment engaged in the retail sale of flowers and plants. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1160 Forest product sales.

"Forest product sales" means the sale of goods produced, extracted, consumed, gathered or harvested from a forest including, but not limited to:

A. Trees;

B. Wood chips;

C. Logs;

D. Fuelwood;

E. Cones;

F. Christmas trees;

G. Berries;

H. Herbs; or

I. Mushrooms. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1170 Forest research.

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"Forest research" means the performance of scientific studies relating to botany, hydrology, silviculture, biology and other branches of science in relation to management of forest lands. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1190 Furniture and home furnishings store.

"Furniture and home furnishings store" means an establishment engaged in the retail sale of household furniture and furnishings for the home. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1200 General business service.

"General business service" means an establishment engaged in providing services to businesses or individuals, with no outdoor storage or fabrication, including banks, brokerages, insurance offices, real estate offices, and membership organizations. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1202 General personal service use.

"General personal service use" means drycleaning and laundry services, linen suppliers, diaper services, carpet and upholstery cleaning services, portrait studios, clothing alteration and repair services, beauty and barber shops, shoe repair shops, tax return preparation services, and other miscellaneous personal services. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1230 Golf course facility.

"Golf course facility" means a recreational facility, under public or private ownership, designed and developed for golf activities with accessory uses including, but not limited to:

- A. A driving range;
- B. Miniature golf;
- C. Pro shops;
- D. Caddyshack buildings;
- E. Swimming pools, tennis courts and other related recreational facilities;
- F. Restaurants;
- G. Office and meeting rooms; and
- H. Related storage facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1235 Government facilities, City.

"Government facilities, City" means facilities of any unit of City government. Types of facilities include municipal offices, community centers, courts of law, public works maintenance facilities, and other types of municipal facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1305 Health services, miscellaneous.

"Health services, miscellaneous" includes home health care services, kidney dialysis centers, special outpatient facilities, such as family planning centers and outpatient mental health facilities, blood and

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organ banks, medical photography, and childbirth preparation classes, as well as other miscellaneous ambulatory health care services. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1350 Hobby, toy, game shop.

"Hobby, toy, game shop" means an establishment engaged in the retail sale of toys, games, hobby and craft kits, including coin shops and stamp sales. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1420 Individual transportation and taxi.

"Individual transportation and taxi" means an establishment engaged in furnishing individual or small group transportation by motor vehicle. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1440 Interim recycling facility.

"Interim recycling facility" means a site or establishment engaged in collection or treatment of recyclable materials, which is not the final disposal site, and including:

A. Drop boxes;

B. Source-separated, organic waste processing facilities; and

C. Collection, separation and shipment of glass, metal, paper or other recyclables. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1470 Jail.

"Jail" means a facility operated by a governmental agency, designed, staffed and used for the incarceration of persons for the purposes of punishment, correction and rehabilitation following conviction of an offense. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1480 Jail farm.

"Jail farm" means a farm or camp on which persons convicted of minor law violations are confined and participate in agriculture and other work activities of the facility. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1490 Jewelry store.

"Jewelry store" means an establishment engaged in the retail sale of a variety of jewelry products, including gemstones and rock specimens. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1530 Landfill.

"Landfill" means a disposal site or part of a site at which refuse is deposited. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1630 Livestock sales.

"Livestock sales" means the sale of livestock but not including auctions. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1650 Log storage.

"Log storage" means a facility for the open or enclosed storage of logs which may include repair facilities for equipment used on-site or operations offices. [Ord. 11-0329 § 3 (Exh. 1).]

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18.20.1695 Medical/dental office/outpatient clinic.

"Medical/dental office/outpatient clinic" means establishments of licensed practitioners having the appropriate degree to practice medicine, dentistry, osteopathy, chiropractics, podiatry, optometry, and other health practitioners. This definition also includes the indoor retail sale of personal medical supplies as an ancillary operation. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1705 Miscellaneous repair.

"Miscellaneous repair" means repair of nonpersonal/nonhousehold items, except nonmotorized vehicle repair. This definition excludes on-site services. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1745 Mobile food vendor.

"Mobile food vendor" means retail sale of food or beverages from a cart on a nonfixed foundation which is typically removed daily at the close of business, and is located on a sidewalk or near a storefront. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1790 Motor vehicle and boat dealers.

"Motor vehicle and boat dealers" means establishments engaged in the retail sale of new and/or used automobiles, motor homes, motorcycles, trailers, or boats. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1800 Motor vehicle and bicycle manufacturing.

"Motor vehicle and bicycle manufacturing" means fabricating or assembling complete passenger automobiles, trucks, commercial cars and buses, motorcycles, and bicycles. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1820 Municipal water production.

"Municipal water production" means the collection and processing of surface water through means of dams or other methods of impoundment for municipal water systems. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1900 Off-street required parking lot.

"Off-street required parking lot" means parking facilities constructed to meet the off-street parking requirements of Chapter 18.40 KMC for land uses located on a lot separate from the parking facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.1940 Outdoor performance center.

"Outdoor performance center" means an establishment for the performing arts with open-air seating for audiences. Such establishments may include related services such as food and beverage sales and other concessions. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2050 Personal medical supply store.

"Personal medical supply store" means an establishment engaged in the retail sale of eyeglasses, contact lenses, hearing aids, and artificial limbs. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2060 Pet shop.

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"Pet shop" means an establishment engaged in the retail sale of household pets, small animals, or their supplies or grooming. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2070 Photographic and electronic shop.

"Photographic and electronic shop" means an establishment engaged in the retail sale of cameras and photographic supplies, and a variety of household electronic equipment, including radio, television and consumer electronic stores, and computer and computer software stores. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2135 Pro shop.

"pro shop" is a building or room where the retail operation of a golf course takes place. The functions of a pro shop may include, but are not limited to, tee time reservations, club fitting, handicap posting area, and sales of golf equipment, clothing, accessories, and similar items. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2150 Public agency animal control facility.

"Public agency animal control facility" means a facility for the impoundment and disposal of stray or abandoned household pets or small animals. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2190 Public agency training facility.

"Public agency training facility" means an establishment or school for training State and local law enforcement, fire safety, national guard or transit personnel and facilities including but not limited to:

- A. Dining and overnight accommodations;
- B. Classrooms;
- C. Shooting ranges;
- D. Auto test tracks; and
- E. Fire suppression simulations. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2250 Recreational vehicle parks.

"Recreational vehicle parks" means the use of land upon which two or more recreational vehicle sites, including hook up facilities, are located for occupancy by the general public of recreational vehicles as temporary living quarters for recreation or vacation purposes. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2280 Regional stormwater management facility.

"Regional stormwater management facility" means a surface water control structure installed in or adjacent to a stream or wetland of a basin or sub-basin by the department or a project proponent. Such facilities protect downstream areas identified by the department as having previously existing or predicted significant regional basin flooding or erosion problems. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2367 Retail sales, outdoor.

"Retail sales, outdoor" means the display and sale of products and services primarily outside of a building or structure, including but not limited to garden supplies, tires and motor oil, manufactured homes, burial monuments, building and landscape materials, and lumber yards. This definition excludes

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motor vehicle and boat dealers, outdoor retail display/sidewalk sales, mobile food vendors, City-authorized temporary uses, or City-authorized uses allowed in public plazas or outdoor performance spaces on a temporary but regular basis. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2440 School district support facility.

"School district support facility" means uses (excluding schools and bus bases) that are required for the operation of a school district. This term includes school district administrative offices, centralized kitchens, and maintenance or storage facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2450 Schools, elementary and middle/junior high.

"Schools, elementary and middle/junior high" means institutions of learning offering instruction in the several branches of learning and study required by the Education Code of the State of Washington in grades kindergarten through nine, including associated meeting rooms, auditoriums and athletic facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2460 Schools, secondary or high school.

"Schools, secondary or high school" means institutions of learning offering instruction in the several branches of learning and study required by the Education Code of the State of Washington in grades nine through 12, including associated meeting rooms, auditoriums and athletic facilities. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2524 Services, off-site.

"Services, off-site" means establishments primarily engaged in providing individual or professional services at the customer's home or place of business. Examples of off-site services include but are not limited to temporary employment services, janitorial services, and professional maid services. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2527 Services, on-site.

"Services, on-site" means establishments primarily engaged in providing individual or professional services within the place of business, such as beauty and barber shops, retail laundry and drycleaning including coin-operated, garment alterations and repair, photo studios, shoe repair, pet grooming, photography and photo reproduction, personal accountants, entertainment media rental or other indoor rental services, repair of personal items or household items, and nonmotorized vehicle repair. This definition excludes automotive repair or automotive service and miscellaneous repair. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2550 Shooting range.

"Shooting range" means a facility designed to provide a confined space for safe target practice with firearms, archery equipment, or other weapons. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2790 Soil recycling facility.

"Soil recycling facility" means an establishment engaged in the collection, storage and treatment of contaminated soils to remove and re-use organic contaminants. [Ord. 11-0329 § 3 (Exh. 1).]

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18.20.2840 Sporting goods store.

"Sporting goods store" means an establishment engaged in the retail sale of sporting goods and equipment. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2884 Storage, indoor.

"Storage, indoor" means a use engaged in the storage of goods and/or materials characterized by infrequent pick-up and delivery, and located within a building. Indoor storage uses typically are enclosed and provide supervised access to the storage areas within the building. The definition excludes self-service storage, warehousing and distribution. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2965 Taxi stand.

"Taxi stand" means a facility for pick-up and drop-off of taxi patrons, typically characterized by an area for queuing passengers and taxis. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2970 Theater.

"Theater" means an establishment primarily engaged in the indoor exhibition of motion pictures or of live theatrical presentations. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.2980 Theatrical production services.

"Theatrical production services" means an establishment engaged in theatrical production (except motion picture), bands, orchestras, and entertainers, except establishments primarily engaged in providing live theatrical presentations, such as road companies and summer theaters. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.3010 Transfer station.

"Transfer station" means a staffed collection and transportation facility used by private individuals and route collection vehicles to deposit solid waste collected off-site into larger transfer vehicles for transport to permanent disposal sites, and may also include recycling facilities involving collection or processing for shipment. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.3155 Variety store.

"Variety store" means an establishment engaged in retailing a variety of new general merchandise goods. Variety store does not include department store, but is a subcategory of "department and variety store." [Ord. 11-0329 § 3 (Exh. 1).]

18.20.3190 Warehousing and wholesale trade.

"Warehousing and wholesale trade" means establishments involved in the storage and/or sale of bulk goods for resale or assembly, excluding establishments offering the sale of bulk goods to the general public which are classified as a retail land use. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.3200 Wastewater treatment facility.

"Wastewater treatment facility" means a plant for collection, decontamination and disposal of sewage, including residential, industrial and agricultural liquid wastes, and including any physical improvement

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within the scope of the definition of "water pollution control facility" set forth in WAC 173-90-015(4) as amended. [Ord. 11-0329 § 3 (Exh. 1).]

~~18.20.3300 Wildlife shelter.~~

~~"Wildlife shelter" means a facility for the temporary housing of sick, wounded or displaced wildlife. [Ord. 11-0329 § 3 (Exh. 1).]~~

~~18.20.3310 Work release facility.~~

~~"Work release facility" means a facility which allows the opportunity for convicted persons to be employed outside of the facility, but requires confinement within the facility when not in the place of employment. [Ord. 11-0329 § 3 (Exh. 1).]~~

~~18.20.3330 Yard or organic waste processing.~~

~~"Yard or organic waste processing" means processing yard and garden wastes, including wood and land-clearing debris, into new products such as soil amendments and wood chips. [Ord. 11-0329 § 3 (Exh. 1).]~~

Existing land use definitions to be modified

18.20.168 Animal kennel/shelter.

"Animal kennel/shelter" means any outdoor or indoor facility which houses four or more ~~small domestic~~ animals (that number not including one unweaned litter) for periods longer than 24 hours as a commercial venture, as a nonprofit organization, or for a governmental purpose. The facility may either be a separate business or an accessory use. [Ord. 14-0391 § 2 (Exh. 1).]

18.20.520 Community residential facility (CRF).

"Community residential facility (CRF)" means living quarters meeting applicable federal and State standards that function as a single housekeeping unit and provide supportive services, including but not limited to counseling, rehabilitation and medical supervision, excluding drug and alcohol detoxification, which is classified as ~~health services~~, a *hospital* (added italics) ~~or an ambulatory surgery center~~. CRFs are further classified as follows:

A. CRF-I means nine to 10 residents and staff;

B. CRF-II means 11 or more residents and staff. If staffed by nonresident staff, each 24 staff hours per day equals one full-time residing staff member for purposes of subclassifying CRFs.

Provided, however, that this definition shall not apply to *secure community transition facilities* as defined in KMC [18.20.2465](#) or to *adult family homes* as defined in KMC [18.20.095](#).

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May include NAICS 623210 (Residential Intellectual and Developmental Disability Facilities) and 623220 (Residential Mental Health and Substance Abuse Facilities). [Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.20.2364 Retail sales.

"Retail sales" means an establishment within a permanent *structure* of less than 65,000 square feet engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. This definition excludes *auction houses*, *automotive sales and service*, sales of automotive parts if service, repair or installation are provided on site, *bulk retail sales*, *motor vehicle and boat dealers*, and *eating and drinking places*. (added italics)

May include NAICS Sectors 44 – 45 (Retail Trade), except the following: 4411 (Automobile Dealers), 4412 (Other Motor Vehicle Dealers), 44132 (Tire Dealers), 447 (Gasoline Stations), 45291 (Warehouse Clubs and Superstores), 45393 (Manufactured/Mobile Home Dealers), and 45431 (Fuel Dealers). [Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.20.3075 Transportation.

"Transportation" means establishments providing transportation of passengers or cargo, such as taxi and limousine services, scenic and sightseeing transportation businesses, motor vehicle towing, trucking, shipping, or freight hauling businesses. This use includes related support activities, such as cargo handling and packing and crating of cargo. Transportation does not include *airport/heliport*, *air transportation service*, (added italics) or *airport (classified as a regional land use (added italics))*.

May include NAICS Sector 48 (Transportation and Warehousing), except the following: 481 (Air Transportation), 486 (Pipeline Transportation), 4881 (Support Activities for Air Transportation), and 493 (Warehousing and Storage). May include 62191 (Ambulance Services). [Ord. 14-0391 § 2 (Exh. 1).]



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Discussion and direction regarding scope for Twin Springs Interim Plan Proposed Council Action/Motion: Council motion to bring forward a contract with the Berger Partnership for development of an interim plan	For Council Meeting Agenda of: April 17, 2017 Department: <u>Community Development</u> Prepared by: <u>Debbie Bent</u> <u>Initial & Date</u> Approved by Department Head: <u>DA 4/7/17</u> Approved by City Attorney: _____ Approved by Finance Director: <u>[Signature] 4/7/17</u> Approved by City Manager: <u>Niko 4/7/17</u> <u>7 APR 2017</u> Exhibits/Attachments: 1. 2008 Pre-Master Plan 2. 2012 site grading illustration 3. Parks Capital Improvement Project, Project P-1 Twin Springs Park Interim Plan.
Expenditure Required: \$40,000 Amount Budgeted: \$40,000 Appropriation Required: \$0	
<u>INFORMATION/BACKGROUND:</u> In 2008 the Berger Partnership prepared a Pre-Master Plan Site Assessment for potential park opportunities (see Attachment #1). In 2012 King County prepared an illustration showing a potential developable area for park use following final site grading (see Attachment #2). Staff recommends contracting with the Berger Partnership to develop a near-term interim plan. At the 4/17/17 Council meeting staff requests Council input to ensure there is consensus regarding the scope for developing an interim plan and expectations regarding interim park facilities and public use. If Council reaches consensus on 4/17/17 then staff would bring forward a contract for Council authorization at the 4/24/17 Council meeting. Developing an interim plan for the Twin Springs property is identified as a project in the adopted Parks Capital Improvement Program (see Attachment #3). Interim uses are temporary and would remain until the City can fund improvements consistent with the adopted Park Recreation and Open Space (PROS) Plan. Potential scope/timing for development of an interim plan: 1. <u>Inventory and Analysis (two months, April/June):</u> Data gathering and review of existing documents to understand the sites physical assets and limits as well as regulatory realities. Development of a high-level inventory and analysis graphic that includes the physical limits of opportunity zones for development of park elements. This phase would also include public outreach including one public community meeting to explain the assets and limits of the site, build support based on realistic expectations and focus on honing a near-term program of modest investment improvements. Public feedback/ideas through an on-line survey could also be obtained. A meeting to update council would also be anticipated. 2. <u>Site Program Development (one month, July):</u> Development of 1-2 scenarios for how various near-term opportunities can exist on the site and document higher investment longer-term ideas generated from the first public outreach effort. Second public outreach effort to obtain feedback on the near-term scenarios (comparable to the inventory and analysis public outreach phase).	

3. Interim Plan Documentation (one month, August): Develop a narrative and graphic package and a high-level cost assumption document. The plan would also address parking, access and pedestrian routes along 80th Ave NE. This package would also be a tool to help forward funding of future park improvements through grants and other opportunities.

Background: The Twin Springs 25-acre property was transferred to the City from King County on May 18, 2016 by Quit Claim Deed. The property must be used for public park, recreation or open space. The Interagency Agreement (Contract 16-C1509) and Surface Access Easement Agreement (Contract 16-C1509) between King County and the City (approved by Council 2/8/16) outline conditions of property transfer. Although the property now belongs to the City, King County continues to have certain maintenance responsibilities on the City property for several years. On 7/25/16 Council direction was to keep Twin Springs park closed to the public pending: 1. Development of an interim use plan; 2. Resources are allocated for implementation of the plan; 3. The recommendations of the Public Works Service Analysis in relation to bringing on a new park facility are available to consider in developing a maintenance plan for Twin Springs.

FISCAL CONSIDERATION: \$40,000 of King County Levy funds are included in the Park Capital Improvement Program for development of an interim plan in 2017 for Twin Springs Park. No funds are currently allocated for funding implementation of interim plan improvements.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED: Consistent with the adopted Park, Recreation and Open Space (PROS) plan. Consistent with Council Goal #5, to continue to implement a Parks Improvement and Financial Plan.





VII. D. Discussion of Twin Springs Preliminary Master Plan A...



City of Kenmore Capital Improvement Program

Twin Springs Park – Interim Use

Project P-1

Project Location: Brightwater Portal site east of 80th Ave NE just north of NE 192nd Street. 19228 80th Ave NE, Kenmore, WA.

Project Manager: Community Development Director/Parks Project Manager

Project Description: In 2017 prepare and implement an interim park use plan. Interim park uses are temporary uses that would remain until the City can fund a master plan to identify long-term park improvements in accordance with the adopted Park Recreation and Open Space (PROS) Plan. Interim use would allow public use of the site but the intent is to minimize the cost of improvements and maintenance.

Background: King County completed the Brightwater Portal 44 project year end 2015. On 5/23/16 the Twin Springs property (approx. 25 acres) was transferred to the City from King County. On 6/27/16 Council direction was to keep the park closed to the public pending development and implementation of an interim use plan. The 2013 adopted Park and Recreation Open Space (PROS) plan identified the site as a future Neighborhood Park which could include for example, parking, sports court, play equipment, open lawn area, trails, restroom, and site furniture. The PROS plan also identified this site as a potential Community Park (if feasible given site environmental constraints) which could include for example, a multi-purpose sports field, picnic shelter, or off-leash dog area. The site could also include Nature Park improvements, for example, interpretive trails, education, and habitat restoration. The PROS plan estimated \$165,000 to complete a master plan and design for a Neighborhood Park with an additional \$1.1m for permitting and construction. The PROS plan estimated \$330,000 to complete a master plan and design for a Community Park with an additional \$2.1 million for permitting and construction.

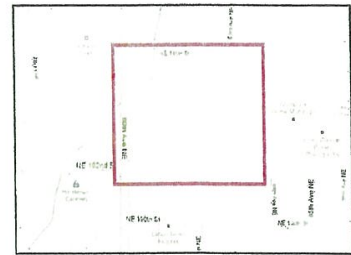
	Exempt	DNS	EIS
Environmental Review Status:	☐	☒	☐

If impacts to wetlands or buffers can be avoided than the project could be exempt under SEPA depending on the quantity of grading work and/or drainage improvements.

Potential Project Issues: Site constrained by critical areas, providing parking on-site.

Operations: Addition of interim use in fall 2017 will require ongoing maintenance. Depending on the type of interim use improvements, maintenance costs could include: maintenance of a parking area, park access, trash collection, fencing, mowing and other landscape costs. Annual maintenance cost estimate of \$15,000.

Attachment 3





City of Kenmore Capital Improvement Program
Twin Springs Park – Interim
Project P-1

CURRENT DOLLARS

Year	Prior Years	2017	2018	2019	2020	2021	2022	Total 2017-2022
Expenses								
Interim Use Plan		\$40,000						\$40,000
Design								
Construction								
Total		\$ 40,000						\$ 40,000
Revenue								
Park Impact Fees								
KC levy		\$ 40,000						\$ 40,000
Total		\$40,000						\$40,000

SCHEDULE

	2017				2018				2019				2020				2021				2022			
Project Timeline	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Interim Plan																								
Permitting																								
Final Design																								
Construction																								
Closeout																								