ORDINANCE NO. 2670

AN ORDINANCE of the City of Kent, Washington, regarding planning and properties; Rezoning, with conditions, 2.6 acres designated as Tax Lot 77 located along the east side of Lake Fenwick Road at approximately 256th Street, from MR-M, a Medium-Density, Multifamily Residential, to MR-A, Garden-Density Multifamily Residential (Site No. 10, CPZ-86-10); Rezoning, with conditions, approximately 8.5 acres, located at the southeast corner of South 264th Street and Military Road South from NCC, Neighborhood Convenience Commercial, to Rl-7.2, Single Family Residential (Site 3G, No. CPC-86-3G); Rezoning with conditions, approximately 5.2 acres located between Interstate 5 and unimproved 32nd Avenue South from GC, General Commercial, to MRH, High-Density Multifamily Residential (Site 4; No. CPZ-86-4); Rezoning with conditions, approximately 7.2 acres of property bounded by 30th Avenue South to the west, I-5 to the east, and South 240th to the south (Site 5; No. CPZ-86-5); and rezoning with conditions, approximately 11.6 acres of property located east of the Cambridge East subdivision and west of Lake Fenwick Road (Site 11; No. CPZ-86-11).

WHEREAS, the West Hill SubArea Plan was adopted on May 21, 1984 by Resolution No. 1016; and

WHEREAS, the Kent City Council directed that the West Hill Subarea Plan be implemented through zoning actions by its adoption of Resolution No. 1087 on December 16, 1985; and

WHEREAS, pursuant to Resolution No. 1087, the Kent Planning Department prepared a report in March, 1986 entitled "West Hill Plan Implementation: Area Zoning" which analyzed 19 sites totalling over 200 acres for their compliance with the subarea land use plan; and

WHEREAS, a declaration of nonsignificance (DNS) was issued on the proposed zoning actions on March 13, 1986; and
WHEREAS, the Hearing Examiner for the City of Kent commenced public hearings on the proposed zoning sites on March 19, 1986; and

WHEREAS, additional hearings were held before the Hearing Examiner on April 2, April 16, May 21, June 4, and June 18, 1986; and

WHEREAS, two sites (Sites No. 1 and No. 2) were withdrawn from consideration due to a mapping error; and

WHEREAS, three sites (3G, 8, and 9) were withdrawn from consideration on the advice of the City Attorney for the City of Kent; and

WHEREAS, following said public hearings and consideration of the reports and testimony submitted into the record on the proposed rezoning, the Hearing Examiner for the City of Kent rendered her findings and recommendation for the remaining 14 sites on July 14, 1986. These recommendations are contained in an official document titled "West Hill Plan Implementation: Recommendations of the Hearing Examiner to the Kent City Council"; and

WHEREAS, a Request for Reconsideration was filed on July 28, 1986 by the owners of Site 3G, and their representative; and

WHEREAS, a Request for Reconsideration was duly reviewed by the Hearing Examiner and the same was denied on August 13, 1986; and

WHEREAS, appeals were received by the City of Kent from landowners or their representatives on Sites No. 3G and No. 10; and

WHEREAS, the Kent City Council considered the findings and recommendations of the Hearing Examiner on September 2, 1986 on 12 zoning sites which were not the subject of appeals; and
WHEREAS, the public hearing on the appeal on a portion of Zoning Site No. 10 was conducted by the Kent City Council on September 2, 1986; and

WHEREAS, the public hearing on the appeal of Zoning Site No. 3G and the remainder of Site No. 10 was conducted by the Kent City Council on September 15, 1986;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The findings and recommendations of the Hearing Examiner as set forth in the document titled, West Hill Zoning Implementation: Recommendations of the Hearing Examiner to the City Council, which is on file with the Kent City Clerk, are hereby adopted and concurred with for Sites 3A, 3B, 3C, 3D, 3F, 3H, 3I, 4, 5, 6, 7 and 11. The findings and recommendations of the Hearing Examiner for Sites 3G and 10 are hereby modified as provided for in Sections 2, 5 and 7 of this Ordinance.

Section 2. The zoning for Site No. 3G, located generally in the southeast corner of the intersection of Military Road South and South 264th Street and legally described in Attachment A to this Ordinance, is hereby changed from NCC (Neighborhood Convenience commercial) to R1-7.2 (Single Family Residential - 7200 sq. ft. minimum lot area).

Section 3. The zoning for Site No. 4, located generally between Interstate 5 and 32nd Avenue South and legally described in Attachment A of this Ordinance, is hereby changed from GC (General Commercial) to MR-H (High Density Multifamily Residential).

Section 4. The zoning for portions of Site No. 5, located generally between 30th Avenue South and 32nd Avenue South north of South 240th Street and legally described in Attachment A to this Ordinance, is hereby changed from GC (General Commercial) to MR-H (High Density Multifamily Residential).
Section 5. The City Council hereby modifies the Hearing Examiners report to the Council and finds that Site No. 10 is suitable for multifamily development consistent with the West Hill Plan map designation of MR-G (Garden Density Multifamily Residential). Said site is located adjacent to developed multifamily properties and, through proper site planning and environmental design, may be appropriate for the expansion of multifamily residential development. Furthermore, the Planning Department is hereby directed to initiate a plan map amendment to effectuate this finding. The zoning for a portion of Site No. 10, located generally along Lake Fenwick Road near South 256th Street (if extended) and legally described in Attachment A to this Ordinance, is hereby rezoned from MR-M (Medium Density Multifamily Residential) to MR-G (Garden Density Multifamily Residential); and, furthermore, development of said site is specifically limited to a maximum of 22 units.

Section 6. The zoning for Site No. 11, located generally along Lake Fenwick Road near its intersection with 51st Place South and legally described in Attachment A to this Ordinance and legally described in Attachment A, is hereby rezoned from MR-G (Garden Density Multifamily Residential) to RL-20 (Single Family Residential - 20,000 sq. ft. minimum lot size).

Section 7. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the Ordinance, or the validity of its application to other persons or circumstances.

Section 8. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

DAN KELLEHER, MAYOR
I hereby certify that this is a true copy of Ordinance No. 2670, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, CITY CLERK
Attachment A

LEGAL DESCRIPTIONS

Site No. 3G (as referred to in Section 2)
Tax lots 14 and 157 in Section 27-22-4.

Site No. 4 (as referred to in Section 3)
Tax lot 18 in Section 15-22-4, less the northerly 300 feet and the southerly 500 feet of said tax lot.

Site No. 5 (as referred to in Section 4)
Tax lot 18 in Section 15-55-4, less the northerly 740 feet of said tax lot; and, lot 12 in Block 4 of the Federal Highway Addition situated in the southeast 1/4 of Section 16-22-4 less the easterly 401.07 feet thereof.

Site No. 10 (as referred to in Section 5)
Tax lot 77 in Section 22-22-4.

Site No. 11 (as referred to in Section 6)
Tax lot 29 in Section 27-22-4; and, the north 450 feet of tax lot 149 in Section 27-22-4.

ALL SITUATE IN THE CITY OF KENT, COUNTY OF KING, STATE OF WASHINGTON.
WEST HILL PLAN IMPLEMENTATION:

RECOMMENDATION OF THE HEARING EXAMINER TO THE KENT CITY COUNCIL
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WEST HILL ZONING IMPLEMENTATION

EXHIBITS

1. Exhibit 1 - West Hill Plan - dated 1984
2. Exhibit 2 - West Hill Draft Environmental Impact Statement dated April 1983
3. Exhibit 3 - Resolution 1087 adopted December 1985
4. Exhibit 4 - Bound copy of staff reports for entire West Hill Zoning Implementation sites
5. Exhibit 5 - Section 15.08.030 of the Kent Zoning Code, General Conditional Use section
6. Exhibit 6A - Planning Commission minutes of September 13, 1961
   Exhibit 6B - City Council minutes of November 16, 1961
   Exhibit 6C - Rezone Ordinance
   Exhibit 6D - Ordinance 1078
   Exhibit 6E - Ordinance 1095
7. Exhibit 7A - Planning Commission minutes of June 14, 1983
   Exhibit 7B - Planning Commission minutes of July 12, 1983
   Exhibit 7C - Planning Commission Minutes of July 26, 1983
8. Exhibit 8A - City Council minutes of February 8, 1984
   Exhibit 8B - City Council minutes of March 19, 1984
9. Exhibit 9 - letter to Hal Pettijohn
10. Exhibit 10 - Slides for Site 3G
11. Exhibit 11 - Article from Kent News Journal
12. Exhibit 12 - Hearing Examiner minutes of February 5, 1986
13. Exhibit 13 - Hearing Examiner Findings for file #AP-86-1
14. Exhibit 14 - Memo from Hearing Examiner to City Attorney DiJulio
15. Exhibit 14B - Slides for #CPZ-86-3A
   Exhibit 14C - View foils for #CPZ-86-3A
16. Exhibit 15A - Slides for #CPZ-86-3B
   Exhibit 15B - View foils for #CPZ-86-3B
17. Exhibit 16A - Slides for #CPZ-86-3C
   Exhibit 16B - View foils for #CPZ-86-3C
18. Exhibit 17A - Slides for #CPZ-86-3D
   Exhibit 17B - View foils on #CPZ-86-3D
19. Exhibit 18A - Slides for #CPZ-86-3F
   Exhibit 18B - View foils for #CPZ-86-3

20. Exhibit 19A - Slides for #CPZ-86-3H
    Exhibit 19B - View foils for #CPZ-86-3H

21. Exhibit 20A - Slides for #CPZ-86-3I
    Exhibit 20B - View foils for #CPZ-86-3I

22. Exhibit 21 - Letter from Washington State Department of Transportation
    Exhibit 21A - Response from Jim Harris to Department of Transportation

23. Exhibit 22 - Letter from Jeffrey Mann

24. Exhibit 23 - Letter from Enrichment Living Seminar

25. Exhibit 24 - Petition from 62 people

26. Exhibit 25 - Letter from Felix and Patricia Porter

27. Exhibit 26 - Letter from Anne Biteman

28. Exhibit 27 - Letter from Victor and Chris Case/Mark and Cathy Laird

29. Exhibit 28 - City Council Minutes

30. Exhibit 29 - Letter showing rentals on units

31. Exhibit 30 - Packet from John Crull
    Exhibit 30A - Large rendering from John Crull
    Exhibit 30B - Large rendering from John Crull

32. Exhibit 31 - Letter from Michael Olver
IN RE THE MATTER OF
WEST HILL ZONING IMPLEMENTATION
SITES #3A-3I, 4, 5, 6, 7, 10 and 11
#CPZ-86-3A-3I, #CPZ-86-4, #CPZ-86-5, #CPZ-86-6, #CPZ-86-7, #CPZ-86-10 and #CPZ-86-11

WEST HILL ZONING IMPLEMENTATION
SITES 1, 2, 3E, 8 and 9
WITHDRAWN
#CPZ-86-1, #CPZ-86-2, #CPZ-86-3E, #CPZ-86-8 and #CPZ-86-9

NOTICE IS HEREBY GIVEN that the below signed Hearing Examiner on this 4th day of June, 1986, having heard the above noted items before her in public hearings, the last hearing having taken place on June 18, 1986, does hereby state that the Findings and Recommendation on the West Hill Zoning Implementation Hearings will be completed and signed by the 14 day of July, 1986, and all parties of record will receive a copy by mail. Further, no Findings and Recommendations shall be issued for those items withdrawn as above listed.

Dated this 18 day of June, 1986:

DIANE L. VANDERBEEK, HEARING EXAMINER
LAND USE HEARING EXAMINER
CITY OF KENT

IN RE THE MATTER OF
WEST HILL ZONING IMPLEMENTATION SITES 1, 2, 3E, 8 and 9 WITHDRAWN

ORDER WITHDRAWING SITES FROM HEARING EXAMINER'S CONSIDERATION
#CPZ-86-1, #CPZ-86-2, #CPZ-86-3E, #CPZ-86-8 and #CPZ-86-9

NOTICE IS HEREBY GIVEN that the below signed Hearing Examiner upon request of the City of Kent Planning Department staff withdrew the above listed sites from consideration in the West Hill Zoning Implementation hearings.

Dated this 14th day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER
WEST HILL PLAN IMPLEMENTATION
PROPOSED REZONING SITES
MAP A
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3A WEST HILL ZONING IMPLEMENTATION SITE #3A

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned RA, Residential Agricultural. The site is designated P, Park, on the West Hill Plan. The staff recommendation is to retain the current RA, Residential Agricultural, zoning.

LOCATION: Cooper Donation Claim, Lots 5 and 22, Section 15-22-4

APPLICATION FILED: March 13, 1986

DEC. OF NONSIGNIFICANCE: March 13, 1986

PUBLIC HEARING: April 2, 1986

RECOMMENDATION ISSUED: July 14, 1986

RECOMMENDATION: NO ACTION, retain the RA, Residential Agricultural, zoning

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department

PUBLIC TESTIMONY: None

WRITTEN TESTIMONY: None

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject property is located on the north side of Kent-Des Moines Road at approximately 43rd Avenue S. (extended). The property is in an L-shaped formation with 800 feet of frontage on the Kent-Des Moines Road and is approximately 9.35 acres in size.

2. The site is currently zoned RA, Residential Agricultural, and is currently part of the Kent-Highlands sanitary landfill.
Findings and Recommendation
West Hill Zoning Implementation Site #3A
#CPZ-86-3A

3. The staff report, with its recommendation of No Action, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The West Hill Plan seeks to eliminate land uses that constitute a health hazard or a public nuisance. While the Kent Highlands landfill has not yet been identified as creating any methane gas or other health hazards which are now prevalent from the Midway landfill, there is a potential problem on this site as well. Odor from this site and other impacts do create problems for adjacent land uses.

2. There are no significant disadvantages to the retention of the current RA zoning. While the West Hill Plan designates the subject site as P, Park, there is currently no zoning designation for parks in the City of Kent. The objectives of the West Hill Plan would be met by retaining the current zoning on the site since the property is currently unsuited for any type of formal development or use. Accordingly, the lower density residential zoning is appropriate.

RECOMMENDATION

For each of the above reasons, the recommendation of the Hearing Examiner through the Kent City Council on Site #3A is NO ACTION, retain the current RA, Residential Agricultural, zoning.

Dated this 14 day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

The decision of the Hearing Examiner is final unless a written appeal to Council is filed by a party of record within 14 days of the decision. The appeal must be filed with the City Clerk and state the basis of appeal which may be errors of fact, procedural errors, omissions from the record, errors in interpretations of the Comprehensive Plan or new evidence. See Ordinance #2233 and Resolution #896 for specific information.
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3B WEST HILL ZONING IMPLEMENTATION SITE #3B
APPLICANT: CITY OF KENT
REQUEST: To consider the implementing of zoning to bring land into con­formance with the West Hill Comprehensive Plan. The subject property is zoned RA, Residential Agricultural. The site is designated P, Park, on the West Hill Plan. The staff recommendation is to retain the current RA, Residential Agricultural, zoning.
LOCATION: Approximately the east 275 feet of Tax Lot 17, Section 15-22-4
APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: April 2, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: NO ACTION, Remain RA, Residential Agricultural
STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department
PUBLIC TESTIMONY: None
WRITTEN TESTIMONY: None

INTRODUCTION
After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject site is located immediately to the east of the soccer fields at Grandfield Park and is approximately 275 feet by 900 feet and of an irregular shape.
Findings and Recommendation
West Hill Zoning Implementation Site #3B
#CPZ-86-3B

2. The entire parcel is currently zoned RA, Residential Agricultural, and is vacant and undeveloped with the exception with several picnic tables located in the southwest corner.

3. Surrounding land uses and zoning include the Kent Highlands landfill to the south of the site and two soccer fields at Grandview Park site to the west. Currently, properties to the east are undeveloped while the Jolly Roger Motorcycle track is located to the north. Properties on all sides of the site within the City of Kent are zoned RA, Residential Agricultural, while the Grandview school site to the west, located in unincorporated King County, is zoned SR-9600, Single Family Residential.

4. There's current no formal vehicular access to the site although it can be accessed on foot from the Grandview school soccer fields.

5. The West Hill Plan designates the subject site as P, Park.

6. The staff report, with its recommendation of No Action, retain current RA, Residential Agricultural, zoning is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The West Hill Plan seeks to preserve and enhance the natural qualities that make the West Hill area an attractive place to live. There is currently no park zoning designation within the Kent Zoning Code. As a result of the topography of the site and its immediate proximity to Grandview school and Grandview site, the RA, Residential Agricultural, zoning alternative provides the best likelihood for maintenance of the park nature of the site.

2. In addition, there are no significant disadvantages to the retention of the current zoning.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #3B is NO ACTION, retain the current RA, Residential Agricultural, zoning.

Dated this 14 day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER
Findings and Recommendation
West Hill Zoning Implementation Site #3B
#CPZ-86-3B

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to:
Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

The decision of the Hearing Examiner is final unless a written appeal to Council is filed by a party of record within 14 days of the decision. The appeal must be filed with the City Clerk and state the basis of appeal which may be errors of fact, procedural errors, omissions from the record, errors in interpretations of the Comprehensive Plan or new evidence. See Ordinance #2233 and Resolution #896 for specific information.
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3C  WEST HILL ZONING IMPLEMENTATION SITE #3C

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned R1-72, Single Family Residential, minimum lot size 7,200 square feet. The site is designated P, Park, on the West Hill Plan. The staff recommendation is to retain the current R1-7.2, Single Family Residential, zoning.

LOCATION: The site is located at the north end of the Sunnycrest Elementary School site on 42nd Avenue S.

APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: April 2, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: NO ACTION, Remain R1-7.2, Single Family Residential
STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department
PUBLIC TESTIMONY: None
WRITTEN TESTIMONY: None

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The site is located at the north end of the Sunnycrest Elementary School site on 42nd Avenue S. The site is 2.5 acres in size.

2. The site is currently used as a fenced, playground area for the Sunnycrest Elementary School and is zoned R1-7.2, Single Family Residential.
Findings and Recommendation  
West Hill Zoning Implementation Site #3C  
#CPZ-86-3C

3. Surrounding land uses in the vicinity include the Washington National Guard complex to the west, Sunnycrest Elementary School buildings to the south, a large open space ravine to the north, and single family residential development to the east. All surrounding properties in the vicinity are zoned R1-7.2, Single Family Residential.

4. The site is accessed through the Sunnycrest Elementary School parking lot on 42nd Avenue S.

5. The West Hill Plan designates the subject site as P, Park.

6. The staff report, with its recommendation of retaining the current zoning, R1-7.2, Single Family Residential, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. There is no zoning designation for the Kent Zoning Code for "Park".

2. The West Hill Plan seeks to encourage the retention of recreational facilities in conjunction with existing and potential school facilities. The Plan notes that recreational and school facilities complement each other by their functions.

3. There is no apparent disadvantage to retaining the existing zoning.

4. The other alternative is to rezone the area to RA, Residential Agricultural, a lower density zoning which would permit only one unit per acre. However, the retention of the existing zoning would make the subject site consistent with the zoning in the immediate vicinity, while ensuring the continuation of the recreational type use on the subject site.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #3C is NO ACTION, retain the current R1-7.2, Single Family Residential, zoning.

Dated this 14 day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER
Findings and Recommendation
West Hill Zoning Implementation Site #3C
#CPZ-86-3C

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

The decision of the Hearing Examiner is final unless a written appeal to Council is filed by a party of record within 14 days of the decision. The appeal must be filed with the City Clerk and state the basis of appeal which may be errors of fact, procedural errors, omissions from the record, errors in interpretations of the Comprehensive Plan or new evidence. See Ordinance #2233 and Resolution #896 for specific information.
WEST HILL PLAN IMPLEMENTATION

SITE NO. 3 C.

HEARING EXAMINER RECOMMENDATION

RETAIN R-1 7.2 ZONE

LEGEND:

application site
zoning boundary
city limits

SCALE

0 100 200
FINDINGS AND RECOMMENDATION

OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3D WEST HILL ZONING IMPLEMENTATION SITE #3D

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned Rl-7.2, Single Family Residential. The site is designated P, Park, on the West Hill Plan. The staff recommendation is to retain the current Rl-7.2, Single Family Residential, zoning.

LOCATION: The subject property is located north of S. 248th Street at 35th Avenue S.

APPLICATION FILED: March 13, 1986

DEC. OF NONSIGNIFICANCE: March 13, 1986

PUBLIC HEARING: April 2, 1986

RECOMMENDATION ISSUED: July 14, 1986

RECOMMENDATION: NO ACTION, retain Rl-7.2, Single Family Residential

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department

PUBLIC TESTIMONY: None

WRITTEN TESTIMONY: None

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject property is located north of S. 248th Street at 35th Avenue S. and is approximately one acre in size.

2. The site is currently developed as a small neighborhood type park known as Linda Heights Park and contains playground equipment as well as a basketball court. In addition, the site contains a small sanitary sewer pump station.
3. The site is currently zoned Rl-7.2, Single Family Residential.

4. Surrounding land uses and zoning in the vicinity include I-5 to the west; Linda Heights residential subdivision to the north and east; and the Cherry Park Estates subdivision to the south. All surrounding uses are single family residential and the zoning is consistent with that on the subject site; namely, Rl-7.2, Single Family Residential.

5. The site contains irregular topography and has a variety of plateaus for the placement of playground equipment.

6. Access to the site is via a gravel roadway at S. 248th Street and 35th Avenue S. Both of the aforementioned streets are classified as residential collectors.

7. The staff report, with its recommendation of retention of the current zoning, No Action alternative, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The West Hill Plan seeks to insure adequate land and facilities for recreational opportunities to those living and working in the West Hill area. In addition, Policy 1 of Goal 4 in the Public Facilities and Services Element seeks to integrate neighborhood parks as part of residential development.

2. The site is currently solely developed as a residential park and serves as outstanding example of the achievement of the goals sought in the West Hill Plan with respect to parks. There is no disadvantage to maintaining the currently existing zoning.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the City Council on Site #30 is the retention of Rl-7.2, Single Family Residential, zoning, the No Action alternative.

Dated this 14 day of July, 1986.

[Signature]
Diane L. Vanderbeek, Hearing Examiner
Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

The decision of the Hearing Examiner is final unless a written appeal to Council is filed by a party of record within 14 days of the decision. The appeal must be filed with the City Clerk and state the basis of appeal which may be errors of fact, procedural errors, omissions from the record, errors in interpretations of the Comprehensive Plan or new evidence. See Ordinance #2233 and Resolution #896 for specific information.
WEST HILL PLAN IMPLEMENTATION

SITE NO. 3, D.

HEARING EXAMINER RECOMMENDATION

RETAIN R-1 7.2 ZONE

LEGEND:

- application site
- zoning boundary
- city limits

SCALE

0 100 200
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3F WEST HILL ZONING IMPLEMENTATION SITE #3F

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned R1-7.2, Single Family Residential. The site is designated P, Park, on the West Hill Plan. The staff recommendation is to retain the current R1-7.2, Single Family Residential, zoning.

LOCATION: The subject site is located between 38th Avenue S. on the west and Lake Fenwick on the east. It is irregular in shape and extends as far south as S. 262nd Street and as far north as S. 256th Street.

APPLICATION FILED: March 13, 1986

DEC. OF NONSIGNIFICANCE: March 13, 1986

PUBLIC HEARING: April 2, 1986

RECOMMENDATION ISSUED: July 14, 1986

RECOMMENDATION: NO ACTION, retain R1-7.2, Single Family Residential

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department

PUBLIC TESTIMONY: None

WRITTEN TESTIMONY: None

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject site is located between 38th Avenue S. on the west and Lake Fenwick on the east. The site is irregular in shape and extends as far south as S. 262nd and as far north as S. 256th Street.
Findings and Recommendation
West Hill Zoning Implementation Site #3F
#CPZ-86-3F

2. The site is approximately 83.7 acres in size and is currently zoned R1-7.2, Single Family Residential.

3. Currently, large portions of the site are undeveloped open space or passive park areas. In addition, the site contains two developed park areas. These parks are Lake Fenwick Park and West Fenwick Park.

4. The site is surrounded by single family residential development occurring many within formal subdivisions. All properties abutting the site are zoned R1-7.2, Single Family Residential.

5. The staff report, with its recommendation of retention of the current R1-7.2, Single Family Residential, zoning, the No Action alternative, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The evidence establishes no disadvantage to the retention of the current R1-7.2, Single Family Residential, zoning. Specifically, since the property is developed under the City of Kent ownership with portions developed as active recreational park sites. These uses accompany the surrounding residential uses.

2. Further, the current uses help to achieve the goals, objectives, and policies of the Natural Environment Element of the West Hill Plan. The Natural Environment Element seeks to retain and enhance the natural and physical assets of the West Hill area including this site.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site 3F is to retain the existing R1-7.2, Single Family Residential, zoning, the No Action alternative.

Dated this 14 day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.
Findings and Recommendation
West Hill Zoning Implementation Site #3F
#CPZ-86-3F

Notice of Right to Appeal

The decision of the Hearing Examiner is final unless a written appeal to Council is filed by a party of record within 14 days of the decision. The appeal must be filed with the City Clerk and state the basis of appeal which may be errors of fact, procedural errors, omissions from the record, errors in interpretations of the Comprehensive Plan or new evidence. See Ordinance #2233 and Resolution #896 for specific information.
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3G WEST HILL ZONING IMPLEMENTATION SITE #3G

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned NCC, Neighborhood Convenience Commercial. The site is designated P, Park, on the West Hill Plan. The staff recommendation is to rezone the site to R1-7.2, Single Family Residential.

LOCATION: The subject property is located at the southeast corner of S. 264th Street and Military Road S.

APPLICATION FILED: March 13, 1986

DEC. OF NONSIGNIFICANCE: March 13, 1986

PUBLIC HEARING: April 2, 1986

RECOMMENDATION ISSUED: July 14, 1986

RECOMMENDATION: Rezone to R1-7.2, Single Family Residential, zoning

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department
Fred Satterstrom, Planning Department

PUBLIC TESTIMONY: Michael Rodgers David Cronish
Steven Martinez Thomas Connelly
Katherine Alleson Jeff Mann
Richard Mobley

WRITTEN TESTIMONY: None

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject property is located at the southeast corner of S. 264th Street and Military Road S. and consists of two lots. The smaller of the two lots is an irregular shaped parcel of approximately 50,000 square feet and is currently owned by the City of Kent. The larger parcel is privately owned and is seven acres in size and generally surrounds the smaller parcel.
Findings and Recommendation
West Hill Zoning Implementation Site #3G
#CPZ-86-3G

2. The site is currently NCC, Neighborhood Convenience Commercial.

3. The site is currently undeveloped with the exception of development on the City owned portion of the site which consists of a fence, elevated water tower.

4. Surrounding land uses and zoning in the vicinity include single family residential development to the east, west, and north; and Glen Nelson Park to the south.
Adjacent properties on all sides inside the City of Kent are zoned R1-7.2, Single Family Residential, while properties located to the west, across Military Road S., are in unincorporated King County and are zoned SR, Suburban Residential.

5. The site is currently heavily wooded except for that area occupied by the elevated water tank. The evidence establishes that there is a slope of approximately ten percent on the western half of the property. In order to develop the site as a commercial use pursuant to the currently existing zoning, the evidence establishes that there would have to be removal of the majority of the existing trees, and significant alteration of the land elevations. As a result, the grade problem would restrict ingress and egress to Military Road S. and require access to S. 264th and Hampton Way as an alternative.

6. Both S. 264th Street and Hampton Way are residential collectors and front on fully developed and zoned single family residential neighborhoods.

7. At the time of the public hearing, there was substantial support for the staff recommendation of a rezone from NCC, Neighborhood Convenience Commercial, to R1-7.2, Single Family Residential. Further, the owners of the seven acre parcel, Hal Pettijohn and Bob Pike, through counsel, strongly objected to the proposed rezone.

8. At the time of the public hearing, counsel for the property owners, R. Michael Rodgers, objected to the hearing of the West Hill zoning implementation on this site by the undersigned as the result of the fact that the undersigned heard the public hearing in File #AP-86-1, an appeal before the undersigned of the Planning Director's decision to issue a Determination of Significance pursuant to the State Environmental Policy Act for development on this site.

9. The evidence establishes that the site has been zoned NCC, Neighborhood Community Commercial, with the adoption of the present Zoning Code in 1973, however, previously this site was zoned C-1, Neighborhood Business between 1961 and 1973.

10. At the time the subject site first was assigned a commercial type zoning designation in 1961, the population of the entire West Hill area was approximately 3,600. In 1981, the population had increased to over 11,000 persons, many of whom reside in the surrounding fully developed single family residential subdivisions.
Findings and Recommendation
West Hill Zoning Implementation Site #3G
#CPZ-86-3G

11. In addition, at the time the subject site was originally given a commercial zoning designation in 1961, Military Road was the primary north/south arterial, due to the fact that I-5 had not yet been developed.

12. There is now commercial development at 260th and Highway 99 and at 248th and Military Road, areas about one mile north and south of this site.

13. At the time of the public hearing, the property owners objections to the staff recommendation of a rezone from NCC to Rl-7.2 were described as being primarily economic. Specifically, the property owner, through counsel, testified that the value of the property zoned for commercial uses is approximately a million-and-a-half-dollars. The testimony of the applicant's counsel indicated that if the property were rezoned to Rl-7.2, the total value of the larger parcel would be only $250,000. However, no written appraisals were offered as exhibits at the time of the hearing.

14. The West Hill Plan designates the subject site as P, Parks.

15. There is no zoning designation in the City of Kent Zoning Code for parks.

16. The City of Kent Zoning Code contains no standard by which rezones are to be judged.

17. The staff report, with its recommendation that the site be rezoned to Rl-7.2, Single Family Residential, Alternative B, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The property owners Motion requesting that the undersigned decline to hear this case pursuant to the Appearance of Fairness Doctrine is denied.

2. Because the Kent Zoning Code contains no specific standards by which to judge rezone applications, the decision maker must consider Washington case law. Case law is clear that there is no presumption of validity favoring the rezone and that the proponents of the rezone have the burden of proving that conditions have substantially changed since the original zoning was placed on the site. See: Woodcrest Investments' vs. Skagit County, 39 Wa.App. 622 (1985). Further, Washington case law requires general conformance between zoning designations and the enacted Plan but not strict fidelity. See Cathcart vs. Snohomish County, 96 Wa.2nd 201, 634 P.2d 853 (1981).

3. The evidence establishes that a zoning designation which would require residential uses, such as Rl-7.2, Single Family Residential, as recommended by staff, is in general conformance with the West Hill Plan's designation for the site of Park. Certainly a residential zoning designation is much closer to a park type use than a commercial use such as those uses allowed under NCC, Neighborhood Community Commercial, zoning.
4. The Housing Element of the West Hill Plan seeks to assure present and future residents of the West Hill housing that is safe, offers a desirable living environment, and is supported by adequate community facilities and services. Objective 1 of Goal 1 requires that when decisions are made concerning land use, the adequacy of an impact upon roads and other public facilities and services must be considered. In the event that the subject site would be allowed to develop as a commercial use, there would be a drastic impact upon S. 264th Street and Hampton Way. This impact would be even greater when the difficulty of providing access to Military Road S. is considered as a result of the topography of the subject site. Goal 2 of the Housing Element of the West Hill Plan seeks to promote residential quality and provide diverse housing opportunity. If the subject site were developed as a commercial use, residential quality would be diminished as a result of the lack of buffering between the commercial use and single family residential uses.

5. Policy 1 of Objective 2, Goal 2, Housing Element of the West Hill Plan seeks to require separation between residential and nonresidential areas and between adjacent lower and higher density neighborhood settings. As indicated if the site were developed as a commercial use, this separation would not exist.

6. While the West Hill Plan seeks to expand Glen Nelson Park to the north, it also seeks to establish a commercial area in the Cambridge-Kentwood area.

7. Because the Land Use Map designates the site as Parks, it may be concluded that the Plan does not encourage commercial use on this location.

8. Of the three alternatives for the subject site, the staff recommendation of R1-7.2, Single Family Residential, most closely complies with the West Hill Plan. Further, the R1-7.2, Single Family Residential, zoning would be in compliance with the surrounding zoning on literally all sides of the subject site.

9. There is no authority given by any ordinance passed by the City of Kent, nor any State law, nor any case law for the economic circumstances of the property owner to be considered in making land use decisions. Accordingly, the evidence in support of the property owners' position with respect to the alleged loss in value of the property in the event the rezone is granted has not been considered, as it is not permitted to be considered under existing law.

10. The evidence establishes, as do the facts found thereon, that conditions have substantially changed since the original zoning was placed on the site.

11. Specifically, the City of Kent has established, by a preponderance of the evidence, numerous changes with respect to the West Hill area since the commercial zoning designation was first placed on the site in 1961.

12. As indicated, a large single family residential population now resides in the vicinity and has increased by approximately 7,500 since the time the site was originally given a commercial zoning designation. The health, safety, and welfare of these 7,500 persons must be considered.
Findings and Recommendation
West Hill Zoning Implementation Site #3G
#CPZ-86-3G

13. Further, at the time the site was originally zoned commercial, Military Road was the primary north/south route. Since that time, I-5 has developed as the primary north/south route through the area. As a result, the importance of Military Road has significantly decreased. Even given the significantly decreased usage of Military Road S. as a north/south route, the topography of the site which would result in difficult, if not impossible, ingress/egress off of Military Road clearly establishes that commercial zoning would have much too great of a traffic impact on the surrounding neighborhoods.

14. The goals and policies of the West Hill Plan are promoted by the rezone of the site from NCC, Neighborhood Convenience Commercial, to R1-7.2, Single Family Residential.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #3G is to rezone from NCC, Neighborhood Convenience Commercial, to R1-7.2, Single Family Residential.

Dated this 14th day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

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WEST HILL PLAN IMPLEMENTATION

SITE NO. 3.G.

HEARING EXAMINER RECOMMENDATION REZONE TO R-1 7.2

LEGEND:
- application site
- zoning boundary
- city limits

SCALE: 0 100 200
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3H WEST HILL ZONING IMPLEMENTATION SITE #3H

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned R1-7.2, Single Family Residential. The site is designed P, Park, on the West Hill Plan. The staff recommendation is to retain the current R1-7.2, Single Family Residential, zoning.

LOCATION: The property is located on the east side of Military Road S. at the northeast corner of S. 268th and Military Road.

APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: April 2, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: NO ACTION, retain the R1-7.2, Single Family Residential, zoning
STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department
PUBLIC TESTIMONY: None
WRITTEN TESTIMONY: None

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject property is located on the east side of Military Road S. at the northeast corner of S. 268th and Military Road S.
Findings and Recommendation
West Hill Zoning Implementation Site #3H
#CPZ-86-3H

2. The subject site is approximately 9.5 acres in size and is developed as a community park, Glen Nelson Park.

3. The current zoning of the property is R1-7.2, Single Family Residential, and the site is designated P, Park, in the West Hill Plan.

4. Surrounding land uses and zoning in the vicinity include single family residential development on three sides. The surrounding property to the south and west are outside of the Kent city limits and the Cambridge subdivision is located to the east. Currently, the property to the north is zoned NCC, Neighborhood Convenience Commercial. However, this site is also under consideration for a rezone. SEE: CPZ-86-3G.

5. The site is now developed as Glen Nelson Park including baseball and softball field, soccer field, and lighted tennis courts. Further, the park has a children's play equipment, a picnic area with tables, shelters, barbeques and restrooms. Portions of the site not used as active recreation areas are left in a wooded state and the site is now fenced around the active area.

6. Access to the park is from S. 268th Street which is a residential collector street within a 60 foot right of way.

7. There is no Park zoning designation within the Kent Zoning Code.

8. The staff report, with its recommendation of retention of the existing R1-7.2, Single Family Residential, zoning, No Action Alternative, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. There is no disadvantage to the retention of the presently existing R1-7.2, Single Family Residential, zoning. The advantage of this alternative is the maintenance of consistent and compatible zoning with development of properties in the surrounding vicinity. Single family residential zoning is also compatible with park development on this site.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #3H is retention of the current R1-7.2, Single Family Residential, zoning, the No Action Alternative.

Dated this 14 day of July, 1986.

DIANE L. VANDERBEERK, HEARING EXAMINER
Findings and Recommendations
West Hill Zoning Implementation Site #3H
#CPZ-86-3H

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

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WEST HILL PLAN IMPLEMENTATION

SITE NO. 3

HEARING EXAMINER RECOMMENDATION
RETAI R-1 7.2 ZONE

LEGEND:
application site
zoning boundary
city limits

SCALE:
0 100 200
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-3I WEST HILL ZONING IMPLEMENTATION SITE #3I
APPLICANT: CITY OF KENT
REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned R1-9.6, Single Family Residential. The site is designated P, Park, on the West Hill Plan. The staff recommendation is to retain the current R1-9.6, Single Family Residential, zoning.
LOCATION: The site is located in the southeast quadrant of the intersection of 40th Avenue S. and S. 268th Street extended.
APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: April 2, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: NO ACTION, retain the R1-9.6, Single Family Residential, zoning
STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Will Wolfert, Planning Department
PUBLIC TESTIMONY: None
WRITTEN TESTIMONY: None

INTRODUCTION
After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDING OF FACTS
1. The subject site is located on the southeast quadrant of the intersection of 40th Avenue S. and S. 268th Street extended.
2. The site is 4.13 acres in size and is currently zoned R1-9.6, Single Family Residential.
Findings and Recommendation  
West Hill Zoning Implementation Site #31  
#CPZ-86-31

3. The site is designated P, Park, on the West Hill Plan.

4. There is no zoning designation for parks in the Kent Zoning Code.

5. The site is the northern portion of the Star Lake Elementary School site and it is used as a school play area with minimal site or recreation development. The site is primarily open space.

6. Surrounding land uses and zoning in the vicinity include the Totem Junior High School site to the north; single family residential development to the east and west; and the Star Lake Elementary School building to the south.

7. The site is generally flat and has no significant environmental constraints to development.

8. The evidence establishes that access to the site is from 40th Avenue S. which is a residential collector with a 60 foot right of way.


CONCLUSIONS

1. The West Hill Plan seeks to develop existing and potential school facilities to complement the function of each. The site is ideally located to fulfill the intent of this policy since the Star Lake Elementary School is immediately adjacent to Totem Junior High School.

2. There is no disadvantage to the maintenance of the current R1-9.6, Single Family Residential, zoning.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #3I is that the existing R1-9.6, Single Family Residential, zoning, No Action Alternative, be retained.

Dated this 14 day of July, 1986.

Diane L. Vanderbeek, Hearing Examiner
Findings and Recommendation
West Hill Zoning Implementation Site #31
#CPZ-86-31

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

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CITY OF KENT

HAMP'TON WAY

R-1 7.2

TOTEM JR. HIGH SCHOOL

R-1 9.6

STAR LAKE SCHOOL

WEST HILL PLAN IMPLEMENTATION

SITE NO. 3.1

HEARING EXAMINER RECOMMENDATION

RETAIN R-1 9.6 ZONE
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-4 WEST HILL ZONING IMPLEMENTATION SITE #4

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned GC, General Commercial. The site is designated MHP, Mobile Home Park, on the West Hill Plan. The staff recommendation is to rezone the property to MRH, High Density Multifamily Residential.

LOCATION: The site lies between Interstate 5 and unimproved 32nd Avenue S.

APPLICATION FILED: March 13, 1986

DEC. OF NONSIGNIFICANCE: March 13, 1986

PUBLIC HEARING: April 16, 1986

RECOMMENDATION ISSUED: July 14, 1986

RECOMMENDATION: Rezone to MRH, High Density Multifamily Residential

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
                        Libby Hudson, Planning Department

PUBLIC TESTIMONY: Donald M. Barnes
                  Christine Houser

WRITTEN TESTIMONY: Richard F. Johnson, Washington State Department of Transportation

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject site is located between Interstate 5 and unimproved 32nd Avenue S. The site is 5.2 acres in size and is one lot. It begins 300 feet from the north property line.
Findings and Recommendation
West Hill Zoning Implementation Site #4
#CPZ-86-4

2. The site measures 165 feet at the north boundary and 210 feet at the south boundary, at a length of 440 feet.

3. The site is currently undeveloped and zoned GC, General Commercial.

4. Surrounding zoning and land uses in the vicinity include the Park of Pines Church to the north of Site 4 on the same parcel (Lot 18). The Church is currently zoned GC. Site 5 is located to the southern portion of Lot 18. This area is undeveloped and currently zoned GC. To the west of the site the Green Acres and Del Mar mobile home parks are located and are currently zoned MHP, Mobile Home Park. To the east is Interstate 5. To the west of the site, at a distance of approximately 1,000 feet is Pacific Highway S. Currently, a variety of commercial establishments front along the Highway including the Midway Drive-In Theater. In addition, Highline Community College is located approximately one-quarter mile west of the subject site.

5. The site experiences high noise levels from the adjacent I-5 freeway and it is level and vegetation with several large firs and maples.

6. Water service is available from King County Water District #75 and current access to the site is located off of 30th Avenue S. by way of an easement. In addition, future access is possible from 32nd Avenue S. after the street is improved.

7. The West Hill Plan designates the subject site is MHP, Mobile Home Park. The staff recommendation is that Alternative B, a rezone to MRH, High Density Multifamily Residential, be adopted.

8. The staff report, with its recommendation of the adoption of Alternative B, rezone to MRH, High Density Multifamily Residential, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The Natural Environment Element of the West Hill Plan seeks to encourage the preservation of significant, existing trees to satisfy a portion of required landscaping.

2. The Housing Element of the West Hill Plan seeks to separate residential and nonresidential areas between adjacent lower and higher density residential neighborhoods settings.

3. Further, the Human Environment Resources Element of the West Hill Plan seeks to encourage higher density residential development close to employment and recreational centers.

4. The multifamily zoning proposed by staff, 24-40 dwelling units per acre is the highest density residential. One suggestion for this type of housing
Findings and Recommendation
West Hill Zoning Implementation Site #4
#CPZ-86-4

density is lower priced rental housing for students which is located in close proximity to Highline Community College and the freeway.

5. Mobile home parks are allowed only in residential zones with the exception of R1, Single Family Residential, districts. Mobile homes and accessory uses are permitted in the Mobile Home Park Combining District, CD-MHP.

6. The disadvantage of retaining the current GC, General Commercial, zoning on the site is that potential incompatible commercial development could locate adjacent to the existing mobile home parks.

7. On the other hand, the advantage to the rezone to MRH, High Density Multifamily Residential, is that it would bring the zoning into compliance with the West Hill Plan. Further, the MRH zoning as proposed by staff would prevent the possibility of the site being commercial developed, thus creating an incompatible land use on the subject site when compared with the mobile home parks to the west of the subject site.

RECOMMENDATION

For each of the reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council is that Site #4 be rezoned from GC, General Commercial, to MRH, High Density Multifamily Residential.

Dated this 14 day of July, 1986.

DIANE L. VANDERBECK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

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WEST HILL PLAN IMPLEMENTATION

SITE NO. 4

HEARING EXAMINER REZON TO MRH
RECOMMENDATION

LEGEND:
application site
zoning boundary
city limits

SCALE
0 100 200
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-5 WEST HILL ZONING IMPLEMENTATION SITE #5
APPLICANT: CITY OF KENT
REQUEST: To consider the implementing of zoning to bring land into con­formance with the West Hill Comprehensive Plan. The subject property is zoned GC, General Commercial. The site is designated MF 40, Multifamily (24-40 du/ac) on the West Hill Plan. The staff recommendation is to rezone portions of the site to MRH, High Density Multifamily Residential and retain portions of the site GC, General Commercial.
LOCATION: The site is bounded by 30th Avenue S. to the west, I-5 to the east and S. 240th to the south.

APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: April 16, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: Rezone portions of the site to MRH, High Density Multifamily Residential and retain portions of the site GC, General Commercial.

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Libby Hudson, Planning Department
Lin Ball, Planning Department

PUBLIC TESTIMONY: Jeff Mann
Aaron Veederoff
Bob Feller

WRITTEN TESTIMONY: The Enrichment Living Seminar

INTRODUCTION
After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT
1. West Hill Zoning Implementation Site #5 is located just south of Kent-Des Moines Road and west of I-5, east of Pacific Highway S., north of 240th Street and to the east of 30th Avenue S.
Findings and Recommendation
West Hill Zoning Implementation Site #5
#CPZ-86-5

2. The West Hill Plan designates the site as Multifamily (MF), 40 units per acre and Multifamily (MF), 24-40 units per acre.

3. The site is currently zoned GC, General Commercial.

4. The staff is recommending that portions of the site be rezoned to MRH, High Density Multifamily and portions retain the currently existing GC zoning.

5. The subject site is 7.2 acres in size. The site consists of five individual properties. The south half of Lot 11 is excluded from Site #5 because the zoning is currently no in conflict with the West Hill Plan. The portions of the site which are undeveloped are in the area of Lot 18, to the eastern portion of the site. The western 400 feet is occupied by the Enriched Living Seminar Workshop, an office and lecture center. The remaining 200 feet of the Parcel #0440 is undeveloped. A single family residence is on Lot 12, the Terry Villa Apartments are on Parcel #0446, and Parcel #0445 is the Sea-Tac Pet Lodge. A conditional use permit was recently approved with conditions to allow a mini-warehouse on the Sea-Tac Pet Lodge site.

6. The south one-half of Lot 11 is developed with a vacant single family house and otherwise undeveloped on property zoned MRH, High Density Multifamily Residential. To the north of the subject site is the Ala Maria Apartments, zoned MRH, High Density Multifamily Residential. To the west of the site, along S. 240th Street in an MHP, Mobile Home Park, zone is the Tip Top Trailer Court, mobile home park. Other properties to the west include the Briarwood Apartments and a parking lot which are zoned GC, General Commercial. Further to the south, the Midway Drive-In Theater is located in a GC zone.

7. The site is level and all lots are developed with the exception of a portion of Lot 18 which is forested. The Enrichment Living property is developed and has perimeter landscaping in the western 400 feet while the 200 foot eastern portion is vegetated with some large firs and maple trees.

8. Current access to the Enrichment Living property, the single family residence and the Terry Villa Apartments is off of 30th Avenue S., which is classified as a local access street with a 60 foot right of way.

9. In addition, there is access to the Terry Villa Apartments from S. 240th Street and access to the Pet Lodge from this location. Currently, 30th Avenue S. serves as the access to Lot 18 to the Park of Pine Church located on the north-end of Lot 18, on Site #4.

10. At the time of the public hearing, Jeff Mann, a planning consultant, represented the owners of the Pet Lodge with the approved mini-warehouse on the site. The owners are in agreement with staff recommendation that that portion of Site #5 retain its GC zoning. Further, Mr. Mann inquired with respect
Findings and Recommendation
West Hill Zoning Implementation Site #5
#CPZ-86-5

to a piece of property owned by Mr. Tom Tate which is bounded on three sides by Site #5, and is the MRH site in middle of Site #5. The parcel owned by Tom Tate referenced is not within the boundaries of Site #5 and Mr. Mann inquired with respect to whether or not it could be included in a discussion of Site #5.

11. The legal notice for the hearings with respect to Site #5 did not include the MRH site referenced.

12. A representative of the Enriched Living property, Aaron Veederoff, offered additional information with respect to the type of use occurring on the Enriched Living Seminar property, and testified in support of the staff's recommendation.

13. The staff report, with its recommendation of Alternative C, rezone portions of the site to MRH, High Density Multifamily Residential, and retain portions of the site GC, General Commercial, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The legal notice requirements for any rezone under the City of Kent Ordinances and Washington State law require that every property owner be legally notified and that the entire parcel included in the legal notice. Accordingly, Mr. Mann's request on behalf of property owner, Tom Tate, with respect to the MRH site in the middle of Site #5 is denied. While staff might have considered adding a discussion of this site with consideration of the entire Site #5, at this late stage, the notice requirements are legally insufficient and accordingly, the request must be denied.

2. The Natural Environment Element of the West Hill Plan seeks to maintain and restore the natural character of the West Hill community through the retention and introduction of native plants in existing and planned developments and changes to existing development.

3. Further, the Housing Element of the West Hill Plan seeks to provide a variety of neighborhood settings such that a wide variety of housing types, densities, and prices are available.

4. Further, the Human Environment Services Element of the West Hill Plan seeks to encourage higher density residential development close to employment and recreational centers.

5. The staff recommendation on Site #5 conflicts with the staff's recommendation on Site #4. In this instance, the staff is recommending high density multifamily residential development next to a GC zone. This analysis is in direct conflict with the staff rationale with respect to Site #4.
Findings and Recommendation
West Hill Zoning Implementation Site #5
#CPZ-86-5

6. However, consideration must be given to problems associated with the creation of nonconforming uses, and the overall appropriateness for the proposed zoning when considering the zoning in the entire area.

7. Further, Alternative C is in compliance with the West Hill Plan.

8. Following a careful weighing of all appropriate factors, the undersigned concludes that the staff has established, by a preponderance of the evidence, good rationale for the adoption of Alternative C, re zoning portions of the site to MRH, High Density Multifamily Residential, and retaining portions of the GC, General Commercial, zoning.

9. Not only is the recommending zoning in compliance with the West Hill Plan, it is compatible with adjacent land uses. Further, the GC, General Commercial, zoning on the southern portion of the site will be compatible with GC zoning further to the south, while avoiding the creation of a nonconforming use currently on the site.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #5 is Alternative C, rezone portions of the site to MRH, High Density Multifamily Residential, and retain portions of the GC, General Commercial, zoning.

Dated this 14th day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

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CITY OF KENT

WEST HILL PLAN IMPLEMENTATION

SITE NO. 5

HEARING EXAMINER RECOMMENDATION
REZONE PART TO MRH-2
RETAIN PART AS GC

LEGEND:

- APPLICATION SITE
- ZONING BOUNDARY
- CITY LIMITS

SCALE
0 100 200

-42-
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-6 WEST HILL ZONING IMPLEMENTATION SITE #6

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned R1-9.6 and R1-7.2, Single Family Residential. The site is designated as Limited Commercial/Office on the West Hill Plan. The staff recommendation is to adopt Alternative B, rezoning the site to "O", Professional and Office.

LOCATION: The property lies along the east side of Military Road South, running from South 240th Street (extended) at its northern boundary, to a point approximately 260 feet north of South 244th Street.

APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: April 16, 1986
RECOMMENDATION ISSUED: July 14, 1986

RECOMMENDATION: NO ACTION, retain the existing R1, Single Family Residential, zoning

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Lin Ball, Planning Department

PUBLIC TESTIMONY: Anne Biteman
Debbit Ladenburg
Ben Toland
Kristine Case
Chauncey Deschenes
Jo Deschenes
Chuck Burns

MARK LAIRD
Harold Schwanke
Felix Porter
Al Goerke
Barbara Brumbach
Don Knapp

WASHINGTON DEPARTMENT OF TRANSPORTATION - RICHARD JOHNSON

-43-
INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject site is approximately six acres in size and is located along the east side of Military Road South, running from South 240th Street (extended) at its northern boundary, to a point at its northern boundary, to a point approximately 260 feet north of South 244th Street. The subject property consists of 19 lots. All of the lots are currently developed and zoned for single family residential uses, with the exception of Tax Lot 147 which is vacant. Lots located in the Valley Vista Subdivision are zoned Rl-9.6, Single Family Residential, while remaining lots are zoned Rl-7.2, Single Family Residential.

2. Adjacent properties on all sides are currently zoned single family residential while properties abutting the site on the east and west across Military Road are also developed as single family dwellings. Property adjacent to the site to the south is vacant and is owned by the City of Seattle and proposed as a future water reservoir site. Approximately 500 feet to the south of the site along Military Road is a small neighborhood shopping center. The City limit line runs along the northern boundary of the subject site.

3. The Planning Commission originally recommended that the site retain its single family residential zoning. However, for reasons not entirely clear from the record, the City Council changed the Planning Commission's recommendation and designated the subject site as O, Professional and Office, at the time of the adoption of the West Hill Plan in December of 1984.

4. The properties which abut Military Road are flat, and properties to the east of Military Road drop to the east with a slope of five to ten percent. Many of the properties have valley views.

5. There are four streets which serve the subject site including Military Road, South 241st Street, South 242nd Street, and South 243rd Street.

6. The staff recommendation for Alternative B, rezone the site to O, Professional and Office zoning, is as the result of the West Hill Plan zoning designation. Given the total incompatibility of an O zoning designation with the currently existing uses on the subject site, and land uses in the surrounding vicinity, the undersigned inquired at the time of the public hearing of staff as to the reason for the staff recommendation. The response to the inquiry by Jim Hanson, Planning Department, was "No, I don't think that we could come up with any other direct justification for the recommendation other than planned designation within the last two years designated and officially made by our Council."
Findings and Recommendation
West Hill Zoning Implementation Site #6
CPZ-86-6

7. There was intense public opposition to staff recommendation at the time of the public hearing. The opposition was based upon several factors. The primary factor was the conflict which an office use would create on the site with the surrounding single family residential on virtually all sides. As illustrative of this conflict, the children who walk to Sunnymcrest Elementary School in the vicinity and their safety was given as an example. Witnesses who testified lived in the vicinity and bought their property with the expectation it would remain, zoned for single family uses. Persons who do not generally get involved in the political process felt so strongly about the staff recommendation in this particular instance that they gave public testimony. Specifically, one witness testified "...I am not one for politics and that stuff but I am totally against it." (referencing the staff recommendation)

8. It was further pointed out that the plan was some two years old and that part of the reason for additional public hearings on the plan of implementation is to provide additional input in the decision-making process.

9. The staff report, with its staff recommendation of the adoption of Alternative B, rezone the site to O, Professional and Office zoning, is incorporated herein by references so fully set forth.

CONCLUSIONS

1. The Kent Zoning Code contains no standards by which to judge a rezone.

2. Given the lack of standards, the decision maker must rely on state law which indicates that the proponent of a rezone has the burden of proof. While zoning designations are required to be in "general compliance" with the Comprehensive Plan, a long-standing series of cases establish that a Comprehensive Plan designation alone, without more, is an insufficient legal justification for a rezone.

3. The conclusion to be drawn from the facts above is that the West Hill Plan designation on the site is inappropriate.

4. The surrounding zoning in the vicinity, as well as existing land use, is solely single family residential. While Military Road South is a primary arterial with a large number of vehicle trips per day, that fact alone is insufficient justification to destroy a fully developed residential neighborhood by allowing office uses to develop in the vicinity. The housing element of the West Hill Plan supports the retention of Site 6 as a single family residential zone. Specifically, goal 2 seeks to promote development patterns which insure residential quality and provide diverse housing opportunity. Residential quality is greatly reduced by allowing office uses to locate immediately adjacent to single family uses.

5. The goals, policies and objectives of the West Hill Plan, as well as the desires of the citizens in the neighborhood and the Kent Planning Commission fully support retaining the existing R1, Single Family Residential zoning on the subject property.
Findings and Recommendation
West Hill Zoning Implementation Site #6
CPZ-86-6

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #6 is Alternative A, no action, retain the existing R1, Single Family Residential, zoning.

Dated this 14th day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 South Fourth Avenue, Kent, WA 98032.

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WEST HILL PLAN IMPLEMENTATION

SITE NO. 6.
HEARING EXAMINER RECOMMENDATION
RETAIN R-1 9.6 and R-1 7.2

LEGEND:
- application site
- zoning boundary
- city limits

SCALE

0 100 200
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-7 WEST HILL ZONING IMPLEMENTATION SITE #7
APPLICANT: CITY OF KENT
REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned GC, General Commercial. The West Hill Plan designates the property as Mobile Home Park. The staff recommends that Alternative B, rezoning the site to MRG, Garden Density Multifamily Residential, be adopted for Site #7.
LOCATION: The property is located at 24426 Pacific Highway South, at the western end of the Mobile Mansions Mobile Home Park.

APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: May 7, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: NO ACTION, Alternative A. Retain the existing GC, General Commercial, zoning.

STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Fred Satterstrom, Planning Department

PUBLIC TESTIMONY: Herbert Johnson
Betty Lou Cappella

WRITTEN TESTIMONY: Richard Johnson, Washington State Department of Transportation

INTRODUCTION
After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendations of the Hearing Examiner on this application.

FINDINGS OF FACT
1. The subject site, Site 7 of the West Hill Zoning Implementation, is approximately .74 acres in size and is located at 24426 Pacific Highway South at the western end of Mobile Mansions Mobile Home Park.
Findings and Recommendation
West Hill Zoning Implementation Site #7
#CPZ-86-7

2. The property is rectangular in shape with 100 feet of frontage on Pacific Highway South and a depth of approximately 330 feet on the south and 315 feet on the northern boundary.

3. Currently the property is occupied by three residential structures each of which has two units for a total of six apartments on the site.

4. The subject property serves as the entry to the Mobile Mansions Mobile Home Park and the apartment units are managed in conjunction with the mobile home park. The site also contains some gravel pads for travel trailer hookups for persons travelling in the vicinity.

5. The subject site is currently zoned GC, General Commercial, and has been zoned for general commercial uses since its annexation into the City of Kent in 1962.

6. Surrounding land uses and zoning to the north, south and west across Pacific Highway South are zoned GC, while the abutting property to east is zoned MHP, Mobile Home Park.

7. The property to the east is developed with the Mobile Mansions Mobile Home Park which contains 38 mobile homes all currently occupied by approximately two persons per unit. The site of the mobile home park is approximately four acres.

8. At the time of the public hearing Betty Lou Cappella, one of the owners of the subject site, testified with respect to the difficulty in keeping the four units rented as a result of the traffic patterns on Pacific Highway South.

9. Concern was also expressed with respect to the appropriateness of the site for residential uses as a result of the potential problems from the Midway and Kent Highlands Landfills with respect to odor and potentially unsafe methane levels.

10. The staff report, with its recommendation that the site be rezoned to MRG, Garden Density Multifamily Residential, is incorporated herein by references fully set forth.

CONCLUSIONS

1. There are no specific criteria for judging rezone applications in the Kent Zoning Code. However, under Washington State Law, the proponent of the rezone has the burden of proof. While zoning is required to be "in general conformance" with the Comprehensive Plan, case law clearly establishes that a comprehensive plan designation standing alone is an insufficient rationale for a rezone.

2. In this instance, the site is not appropriate for use as a multifamily residential development. Specifically, the site fronts upon Pacific Highway South and is surrounded on all sides with the exception of the east side by GC uses.
Findings and Recommendation
West Hill Zoning Implementation Site #7
#CPZ-86-7

3. While the four residential dwelling units on the site are legal nonconforming uses, the fact that retaining the currently existing zoning retains a nonconforming use is insignificant compared to the inconsistency with surrounding zoning that the proposed rezone to MRG would create.

4. The housing element of the West Hill Plan seeks to assure present and future housing that is safe, offers a desirable living environment, and is supported by adequate community facilities and services. While it is not stated in the housing element of the West Hill Plan, it can be assumed that the housing element applies to all types of housing, both single family residential and multifamily residential. It is inappropriate, in the opinion of the undersigned, to allow a multifamily residential use to be virtually surrounded on three of four sides by general commercial uses.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #7, West Hill Zoning Implementation, is Alternative A, no action, retain the existing GC, General Commercial, zoning.

Dated this 14th day of July, 1986.

DIANE L. VANDERBEKK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 South Fourth Avenue, Kent, WA 98032.

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FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86-10 WEST HILL ZONING IMPLEMENTATION

APPLICANT: CITY OF KENT

REQUEST: To consider the implementing of zoning to bring land into conformance with the West Hill Comprehensive Plan. The subject property is zoned MRM, Medium Density Multifamily Residential. The West Hill Plan designates the western portion of the property from Lake Fenwick Road to the top of the slope as Single Family Residential, 2-3 Units/Acre, the east is designated as Single Family One Unit/Acre. The staff recommends that Alternative C, rezoning the entire site to R1-20, Single Family Residential.

LOCATION: The property is irregular in shape and is located along the east side of Lake Fenwick Road at approximately South 256th Street (extended).

APPLICATION FILED: March 13, 1986
DEC, OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: May 21, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: Rezone the entire site to R1-20, Single Family Residential
STAFF REPRESENTATIVES: Jim Hansen, Planning Department
Bruce Creager, Planning Department
PUBLIC TESTIMONY: John Crull Charles Reasay
Bob Del Bianco
Michael Olver
WRITTEN TESTIMONY: James Eaton
John Crull -- Exhibits
Michael Olver

INTRODUCTION

After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject site, Site 10 of the West Hill Zoning Implementation, consists of three separate tax lots and is an irregularly-shaped parcel located on the east
Findings and Recommendation
West Hill Zoning Implementation Site #10
#CPZ-86-10

side of Lake Fenwick Road at approximately South 256th Street. The property has 200 feet of frontage on Lake Fenwick Road and extends approximately 1,300 feet to the east on the southern boundary. On the north, the property extends approximately 330 feet east from Lake Fenwick Road then runs north approximately 430 feet prior to heading east. The property consists of a plateau area on the west, a steep slope to the east, and a valley area located at the toe of the slope.

2. All three of the lots contained in the subject site are currently undeveloped.

3. The property was annexed to the City of Kent in 1958 and zoned R3, Low Density Multifamily Residential. In 1973 when the new Zoning Code was adopted, the property was redesignated MRM, Medium Density Multifamily Residential. The property remains zoned MRM, Medium Density Multifamily Residential. The West Hill Plan designates the western portion of the property from Lake Fenwick Road to the top of the slope as Single Family Residential, two to three units per acre, with the remainder of the property, including the slope and the valley to the east, designated as Single Family Residential, one unit per acre.

4. Adjacent land uses in the vicinity include a mixture of single family and multifamily residential uses. To the north, the Swiss Gables apartment development and Woodland Estates apartments abut the property. These properties have the same zoning designations as the subject site. Properties located to the west across Lake Fenwick Road are zoned and developed as single family residential, while property to the east is undeveloped and zoned A, Agriculture, in unincorporated King County. The property located to the south along the ridge of the hillside is zoned Single Family Residential and is developed with single family residential homes located upon large lots.

5. There is a plateau area on the top of the slope in the western portion of the site which is located between a sloped area arising from Lake Fenwick Road at slopes of approximately 45 percent and a steep hillside falling to the east with slopes which range from 10 to 75 percent.

6. The property has been left in its natural state and is covered with native grasses and heavily wooded with evergreen and deciduous trees.

7. The slope area between the 100 and 200-foot contour rising from the valley area is designated as "constrained area" on the West Hill Plan Map. As a result of this constrained area classification, the designation contained in the West Hill Plan is Single Family Residential. While the staff report indicates that these are environmentally sensitive lands which are subject to land slides, erosion, and seismic hazards, information submitted by Mr. Charles Reasey, the owner of Tax Lot 77 contained in Exhibit #30, a report from James Eaton of Earth Sciences, a registered professional engineer, is used by the property owner's representative to establish the alleged proposition that the site is developable.

8. The staff report, with its recommendation of Alternative C, rezone the entire site to R1-20, Single Family Residential, is incorporated herein by reference as fully set forth.
Findings and Recommendation
West Hill Zoning Implementation Site #10
#CPZ-86-10

CONCLUSIONS

1. The City of Kent Zoning Code contains no standards by which to judge rezones.

2. Accordingly, state law assists in the determination of when rezones are appropriate. Case law establishes that the proponent of the rezone has the burden of proof, and zoning should be "general compliance" with the Comprehensive Plan. In this instance, a zoning designation contained in the West Hill Plan standing alone is an insufficient rationale for a rezone.

3. The record establishes numerous other significant factors which result in the conclusion that the proponent of the rezone has established their burden of proof. Specifically, a large majority of the property is considered to be environmentally sensitive as a result of severe slope on the site.

4. The Natural Environment Element of the West Hill Plan seeks to assure orderly development patterns which recognize and respond to the natural environment and the functioning of natural systems. Further, the aforementioned element of the West Hill Plan seeks to protect West Hill residents and property from risks associated with development in areas subject to landslide, slippage, erosion, and seismic hazard.

5. While the owner of tax lot 77 argues in a letter dated June 19, 1986, submitted following the public hearing on Site #10 that geotechnical engineer's report contained in Exhibit 30 establishes the possibility of multifamily development on portions of tax lot 77, the undersigned does not read that report to arrive at such conclusions.

6. Zoning for protection of environmentally sensitive areas is appropriate. The impact to the environmentally sensitive areas are lessened by lower density residential development.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on Site #10, West Hill Zoning Implementation, is Alternative 3, rezone the entire site from MRM, Medium Density Multifamily Residential, to RI-20 Single Family Residential.

Dated this 14 day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER
Findings and Recommendation
West Hill Zoning Implementation Site #10
#CPZ-86-10

Request for Reconsideration

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WEST HILL PLAN IMPLEMENTATION

SITE NO. 10.

HEARING EXAMINER RECOMMENDATION: REZONE TO R-1 20
FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF KENT

FILE NO: #CPZ-86 -11 WEST HILL ZONING IMPLEMENTATION SITE #11
APPLICANT: CITY OF KENT
REQUEST: To consider the implementing of zoning to bring land into con­formance with the West Hill Comprehensive Plan. The subject property is zoned MRG, Garden Density Multifamily Residential. The West Hill Plan designates this site as OS, Open Space, and SF 3, Single Family Residential, 3-4 units per acre. The Planning Department recommends rezoning this property Rl-20, Single Family Residential.
LOCATION: The subject site is located east of the Cambridge East Subdivision and west of Lake Fenwick Road.

APPLICATION FILED: March 13, 1986
DEC. OF NONSIGNIFICANCE: March 13, 1986
PUBLIC HEARING: May 21, 1986
RECOMMENDATION ISSUED: July 14, 1986
RECOMMENDATION: Rezone the property to Rl-20, Single Family Residential, minimum lot size is 20,000 square feet.
STAFF REPRESENTATIVES: Jim Hansen, Planning Department Will Wolfert, Planning Department
PUBLIC TESTIMONY: None
WRITTEN TESTIMONY: None

INTRODUCTION
After due consideration of the evidence presented by the applicant, all evidence elicited during the public hearing, and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

FINDINGS OF FACT

1. The subject property, Site #11 of the West Hill Zoning Implementation, is located east of the Cambridge East Subdivision and west of Lake Fenwick Road. The subject site is an L-shaped parcel of approximately 11.6 acres, is currently vacant and is heavily wooded.
Findings and Recommendation
West Hill Zoning Implementation Site #11
#CPZ-86-11

2. The site is currently zoned MRG, Garden Density Multifamily Residential, and it is designated on the West Hill Plan as OS, Open Space, and SF, Single Family Residential, 3-4 units per acre.

3. The staff recommendation is that the site be rezoned to R1-20, Single Family Residential, minimum lot size of 20,000 square feet.

4. Surrounding land uses and zoning in the vicinity include the Cambridge East Residential Subdivision to the west which is zoned R1-7.2, Single Family Residential; a proposed development known as Victoria Ridge to the south on property zoned MRG, Garden Density Multifamily Residential; and the Carriage Row condominiums located to the southwest. Properties located to the east of the subject site are zoned R1-7.2, Single Family Residential and are undeveloped. Further, lots to the north are undeveloped with the exception of a few summer type cabins on small lots.

5. The subject site is heavily wooded and has a steep slope to the east which generally exceeds 40 percent.

6. There is currently no developed vehicular access to the site although potential access is available from Lake Fenwick Road and S. 272nd Street.

7. The staff report, with its recommendation of the adoption of Alternative C, rezone the property to R1-20, Single Family Residential, is incorporated herein by reference as though fully set forth.

CONCLUSIONS

1. The Kent Zoning Code contains no standards by which to determine rezones. However, State law requires that the proponent of the rezone establishes its appropriateness, by a preponderance of the evidence. While zoning should be in "general compliance" with the Comprehensive Plan, the Plan designation standing alone is an insufficient rationale for a rezone.

2. In this particular instance, the severe slopes on the site limit its suitability for multifamily uses.

3. Further, the Natural Environment Element of the West Hill Plan seeks to protect West Hill residents and property from risk associated with development in areas subject to landslides, slippage, erosion, and seismic hazards. Recognizing the possibility that multifamily development on the site would detract from instead of promote this goal, the rezone of the site to R1-20, Single Family Residential, is appropriate.

3. Higher density single family residential zoning is inappropriate given the large number of units which would result if R1-7.2, Single Family Residential, zoning were adopted.
Findings and Recommendation
West Hill Zoning Implementation Site #11
#CPZ-86-11

4. The advantage of an Rl-20, Single Family Residential, zoning designation is that this designation bests recognizes the "constrained" limitations of the site. Further, this zoning provides the greatest probability of maintenance of the open space qualities as designated in the West Hill Plan.

RECOMMENDATION

For each of the above reasons, the recommendation of the Kent Hearing Examiner to the Kent City Council on West Hill Zoning Implementation Site #11 is that the site be rezoned from MRG, Garden Density Multifamily Residential, to Rl-20, Single Family Residential, minimum lot size of 20,000 square feet.

Dated this 14 day of July, 1986.

DIANE L. VANDERBEEK, HEARING EXAMINER

Request for Reconsideration

Any party of record who feels the decision of the Examiner is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written request for reconsideration with the Hearing Examiner no later than 14 days of the date of the decision. Reconsideration requests should be addressed to: Hearing Examiner, 220 S. Fourth Avenue, Kent, WA 98032.

Notice of Right to Appeal

The decision of the Hearing Examiner is final unless a written appeal to Council is filed by a party of record within 14 days of the decision. The appeal must be filed with the City Clerk and state the basis of appeal which may be errors of fact, procedural errors, omissions from the record, errors in interpretations of the Comprehensive Plan or new evidence. See Ordinance #2233 and Resolution #896 for specific information.
WEST HILL PLAN IMPLEMENTATION

SITE NO. 11

HEARING EXAMINER RECOMMENDATION REZONE TO R-1 20

LEGEND:
- application site
- zoning boundary
- city limits

SCALE 0 100 200