



Kitsap County Hearing Examiner

Stephen K. Causseaux, Jr.

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36
http://www.kitsapgov.com

PORT ORCHARD WASHINGTON 98366-4682
(360) 337-7181 FAX (360) 337-4925
kashcraf@co.kitsap.wa.us

NOTICE OF HEARING EXAMINER DECISION

September 26, 2008

To: Interested Parties and Parties of Record

RE: Project Name: **First & National Mixed Use Building**
Applicant: **North Kitsap investment Group**
Behzad & Pamela J. Mostofi
P.O. Box 3095
Silverdale, WA 98383
Application: **South Kitsap County, Commissioner District #2**
Conditional Use Permit
Case Number: **080612-044 (222401-2-010-2005) LIS#07 46628**

Enclosed is the Decision issued by the Kitsap County Hearing Examiner in the above-referenced matter.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS APPEALED TO THE KITSAP COUNTY BOARD OF COMMISSIONERS, AS PROVIDED BY SECTION 120 OF THE KITSAP COUNTY LAND USE AND DEVELOPMENT PROCEDURES. ANY APPEAL MUST BE FILED ON OR BEFORE THE CLOSE OF BUSINESS ON OCTOBER 10, 2008.

Pursuant to the Kitsap County Land Use and Development Procedures, (KCC 21.04.120) an appeal may be filed objecting to the Hearing Examiner's Decision. An appeal must be made in writing, and filed with both the Department of Community Development (DCD) and the Board of County Commissioners (BCC) offices. At the time of filing the appeal, the appellant shall pay the sum of **five hundred dollars (\$500.00)**. This fee is non-refundable and subject to change. Make check payable to Kitsap County Department of Community Development (DCD).

The written appeal shall be made on or attached to an appeal form provided by DCD, and shall contain the following information.

1. The project name, project applicant, application type, and case number designated by the County:
2. The name, address, and signature of each appellant. If multiple parties file a single appeal, the appeal document shall designate, in writing, one party as the contract representative for all contact with the DCD Director and BCC. All

**NOTICE OF HEARING EXAMINER DECISION – FIRST & NATIONAL MIXED USE
BUILDING – CONDITIONAL USE PERMIT**

September 26, 2008

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contact between the County and the appellants regarding the appeal, including notices, shall be through this contact representative; and

3. A written statement of the specific aspects(s) of the Decision and/or SEPA determination being appealed, the reasons why each is in error as a matter of fact or law, and the evidence relied upon to prove the error.

The complete case file will be available for review at the Department of Community Development, Monday through Friday, except holidays, 8:15 a.m. to 4:00 p.m.

If you have questions, please contact me at (360) 337-4487. If you have procedural questions regarding the appeal hearing before the Board of County Commissioners, please contact the Clerk of the Board at (360) 337-7146.

Sincerely,



Karen Ashcraft
Clerk of the Examiner

Enclosure

See attached transmittal

RECEIVED

SEP 25 2008

KITSAP COUNTY DEPT. OF
COMMUNITY DEVELOPMENT



Kitsap County Hearing Examiner

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<http://www.kitsapgov.com/dcd>

(360) 337-7181 FAX (360) 337-4925
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OFFICE OF THE HEARING EXAMINER

KITSAP COUNTY

REPORT AND DECISION

CASE NO.:

FIRST NATIONAL MIXED USE BUILDING
CONDITIONAL USE PERMIT
080612-044

**APPLICANT/
OWNER:**

North Kitsap Investment Group
Behzad and Pamela J. Mostofi
P.O. Box 3095
Silverdale, WA 98383

ENGINEER:

Mark Kuhlman, P.E.
5819 NE Minder Road, Suite A, Box 2
Poulsbo, WA 98370

SUMMARY OF REQUEST:

The applicant proposes to develop a mixed use commercial and residential building on 1.1 acres. The structure would provide 11 residential units and 20,436 square feet of commercial office space. The proposed development includes parking, stormwater management, landscaping, sidewalks and a pedestrian path. The development would be served by City of Bremerton for wastewater treatment and domestic water supply

PROJECT LOCATION:

The subject parcel is located at 102 National Avenue in unincorporated Kitsap County between National Ave and Dora Street at First Street. It is situated in Section 22, Township 24N, Range 1E, of Willamette Meridian, in Commissioner District No. 2.

SUMMARY OF DECISION:

Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Department of Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was conducted in the chambers of the Kitsap County Board of Commissioners on June 12, 2008.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
1	Site Plan	12/2/05	9/6/07
2	Site Plan	4/17/07	4/18/07
3	Pre-Application Meeting Request	No Date	4/18/07
4	Pre-Application Conference Confirmation Letter	4/23/07	N/A
5	KC Assessor's Parcel Details	4/23/07	N/A
6	KC Assessor's Map	No Date	N/A
7	GIS Critical Areas Topo Map	4/23/07	N/A
8	GIS Building Limitations Map	4/23/07	N/A
9	GIS Critical Aquifer Recharge Areas	4/23/07	N/A
10	GIS Critical Areas Aerial Map	4/23/07	N/A
11	KC Assessor's Property Report	4/23/07	N/A
12	GIS Comprehensive Plan Map	4/30/07	N/A
13	Pre-Application Meeting Written Summary	5/24/07	N/A
14	Site Plan	8/7/07	9/6/07
15	Landscaping Plan	8/9/07	9/6/07
16	KCPW Wastewater Division Building Site Application for Sewer	8/13/07	9/6/07
17	Letter from Paul Wandling City Of Bremerton PW	8/21/07	9/6/07
18	Preliminary Storm Drainage Report Team4 Engineering	8/31/07	9/6/07
19	KC Environmental (SEPA) Checklist	9/3/07	9/6/07
20	Conditional Use Permit Application	9/5/07	9/6/07
21	Project Narrative	No Date	9/6/07
22	Land Use Application Counter Complete	9/6/07	9/6/07

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
23	Notice of Complete Application	10/11/07	N/A
24	Notice of Application	2/7/08	N/A
25	Affidavit of Mailing – NOA	2/7/08	N/A
26	Letter from Florence Cowdery, Bremerton Odd Fellow Temple Corporation	2/11/08	2/13/08
27	Technical Review Meeting Attendance Sheet	2/27/08	N/A
28	Revised Downstream Storm Alternatives	No Date	5/13/08
29	E-mail from Rick McNicholas, etc.	5/5/08	5/5/08
30	Determination of Non-Significance	5/23/08	N/A
31	Notice of Public Hearing	5/27/08	N/A
32	Affidavit of Mailing – NPH	5/27/08	N/A
33	Affidavit of Posting	5/28/08	N/A
34	GIS Zoning Map	5/29/08	N/A
35	Memo from Tim Quayle KCHD	11/1/07	N/A
36	E-mail from Paul Wandling	6/2/08	6/2/08
37	Staff Report	6/2/08	N/A
38	Memo from Doug Frick	6/4/08	N/A
39	Plant Schedule & Details Map	8/9/07	No Rec'd Date
40	Power Point Presentation	6/12/08	6/12/08

RICK McNICHOLAS appeared, presented the Department of Community Development Staff Report, and introduced Exhibits "1" through "40" which included his powerpoint presentation. The project proposes 20,450 square feet of commercial area and he corrected the staff report. The site is located in an island of Kitsap County surrounded by Bremerton. The site consists of 1.1 acres and measures 269 feet by 182 feet. Surrounding uses include single family and multi-family development in unincorporated Kitsap County to the north, the Odd Fellows Meeting Hall to the east, single family dwelling to the south, and farther to the south business uses. To the west is a glass company and a two-way radio repair shop, to the north is the West Sound Technical Training Center. The site is improved with an abandoned home and has unmanaged vegetation. The topography consists of the crest of a ridge which drops to the east and west from elevations 240 to 220. The site drains to the south overall and has no streams or wetlands, but is within a Category II recharge area. Zoning includes UL to the north and HTC to the east and south. To the west is industrial and parcels to the northwest are within the City. The code allows the use as an administrative conditional use permit. However, if the site involves the conversion of a single family dwelling or abuts a Residential zone, it needs a Hearing Examiner's conditional use permit. The site plan shows nine residential units, but the applicant needs 11. The code requires a minimum of 10 dwelling units per acre in the HTC. They will need

to perform an additional parking analysis. The site will have two access points: a commercial access from National, and a second access from Dora for residential purposes. They will need a common access for all residents from Dora. Parking will occur beneath the structure and not underground. The County wants 22 spaces to accommodate overflow parking which could be located on Dora. The applicant will make road improvements on National to include curb, planting strip, sidewalks, and streetlights per City standards. They are trying to cooperate with the City as the comprehensive plan talks about coordination. The City will provide both water and sewer to the site. The applicant will install curb and sidewalks on Dora, and staff wants a pedestrian path between National and Dora. The 15.5% landscaping exceeds the minimum 15% requirement. Staff also wants trees in the parking areas. The landscaping shows a nice mix. The architect will provide a residential scale appearance and a look of attached single family dwellings from Dora. The project will have a flat roof and will extend 35 feet above grade. The environmental official issued a DNS and received no appeals.

DOUG FRICK, development engineer, appeared and testified that the project meets all code requirements and that he recommends approval with conditions. The stormwater system has complications in that the applicant cannot infiltrate the stormwater so the applicant will detain the water but can only have a limited downstream release due to critical areas. The applicant now proposes to pipe the water to "L" Street to the County system. Concerning the City comments, they did provide a specific set of conditions for the road, which the applicant will meet. However, the applicant cannot meet the requested stormwater conditions. The City wants a wider right-of-way for future upgrades to the arterial.

MARK KUHLMAN, professional engineer, appeared and testified that they do have an architect involved. They propose 20, 436 square feet of commercial property and nine residential units. Since they now have to dedicate property, the true size of the property is less than 1.1 acres. They will probably need ten units, but will meet the minimum density after the right-of-way is provided. The building and the site plan will remain the same and they will rework the inside to get one additional dwelling unit. They are only 16 feet wide. They will reduce the number of dwellings to eight facing Dora, and the third story of the office building will accommodate two to four dwelling units. They will address easements, access, and other issues at the building permit stage. They need Hearing Examiner direction. Concerning parking, they need a total of 51 spaces and the site plan shows 53. However, the tree islands will eliminate two spaces so they will have 51, which meets the code. When they reduce the residential units, the amount of parking will reduce and they can meet the criteria of the ordinance. Concerning Conditions 1 and 4, a binder and revised application are not necessarily required. When they apply for an SDAP they will incorporate the path and dedication, and all commercial and residential areas are shown. The Examiner can delete the word "binder". This type of specificity is always done at the SDAP. They intend to provide parking along Dora and have sufficient room. The code requires 1.5 spaces per unit, but does not require an additional .5 per unit. They will provide the parking per the application. The County can't and shouldn't require additional parking. They will meet Condition No. 5. The stormwater is interesting and thorny. Other

sites have utilized infiltration, but they have no soils. He requested that the record remain open for further discussion on Condition 34D. They want to discuss the stormwater with the City and he requested the record remain open for one week. The balance of the conditions are acceptable.

CHERYL SELGREN appeared and testified that the first access shown is her driveway and she has concerns about her access. She wants the access to her site blocked. People can now go straight through to her home.

MR. McNICHOLAS reappeared and testified that the binder is a notice to title. They put the conditions of approval within the binder. Some purchasers can't find the conditions or a decision and they are on the title. His concern is for another purchaser. They have been asked by the Auditor to call it a "Notice to Title". Concerning parking, the Fire Marshal has requested additional parking in accordance with the code for overflow and guest spaces. Parking on the street creates congestion.

No one spoke further in this matter and the Examiner left the record open for further discussions.

NOTE: A complete record of this hearing is available in the office of Kitsap County Department of Community Development.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. Appropriate notice was provided pursuant to the Kitsap County Code.
3. Pursuant to WAC 197-11-355, the Responsible Official signed a Determination of Nonsignificance (DNS) on May 23, 2008. The deadline for an appeal of the DNS was noted as June 6, 2008. No appeals were filed.
4. The applicant has a possessory ownership interest in a 1.1 acre parcel of property located between the east side of National Avenue and the west side of Dora Avenue within the Bremerton area of unincorporated Kitsap County. The unopened First Street extends along the north property line. The applicant requests a conditional use permit to allow construction of a two section, building providing 20,450 square feet of commercial area and a minimum of eleven residential dwelling units.
5. The parcel abuts Dora Avenue for 182 feet and measures 269 feet in depth. Because of a difference in the width of right-of-way of First Avenue along the north

property line, the parcel abuts National Avenue for 142 feet. Improvements on the site include a single family residential home which the applicant will remove prior to development of the project.

6. The site plan shows the rectangular buildings located in the east portion of the site and oriented in a north/south direction. One access from Dora Avenue located near the center of the east property line will provide access to parking spaces located beneath the eastern building. A second access into the site will extend east from National Avenue along the First Street right-of-way and will turn south into the site to access the parking area on the west side of the building. The east section of the building will consist of residential dwellings above the parking spaces. The west section of the building will consist of three stories which will contain the commercial uses and the balance of the residential dwellings.
7. The topography of the site consists of a flat ridge oriented in a north/south direction in the center of the parcel. The ridge falls off to both the east and west by approximately ten vertical feet. Abutting uses to both the north and south are limited to single family residential homes. The parcel to the east across Dora Avenue is improved with the Bremerton Odd Fellows Meeting Hall, and parcels to the west across National Avenue are improved with commercial uses.
8. The site and parcels to the south and east are located within the Highway Tourist Commercial (HTC) zone classification, while parcels to the west are located within the Industrial zone classification. Parcels to the north across First Street are located within the Urban Low Residential classification. The Bremerton City Limits are located northwest of the intersection of First Street and National Avenue. The site plan shows that the east section of the building will have a setback of 20 feet from the Dora Avenue right-of-way and that both the east and west sections will have a 20 foot wide setback from the First Street right-of-way. The west section of the building will extend to within ten feet of the south property line. The building satisfies all setback requirements of the HTC classification.
9. The neighbor to the north, Cheryl Selgren, appeared and testified that the access to her house from National Avenue is along First Street. She expressed concern that the new commercial road access would adversely impact her privacy, and requested that the applicant block her present access and reestablish a previous access from Dora Avenue along First Street. The applicant and Ms. Selgren entered into an agreement (Exhibit "42") which the Department of Community Development (DCD) approved. A condition of approval hereinafter requires the applicant to block the existing access to Ms. Selgren's home, and to reopen an access from Dora Avenue to her home.
10. Issues also arose with the City of Bremerton which requested a condition that the applicant dedicate ten feet of right-of-way for National Avenue. Such dedication would not create a setback problem for the parking lot because the City's setback