



Kitsap County Hearing Examiner

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NOTICE OF HEARING EXAMINER RECOMMENDATION

June 24, 2016

To: Interested Parties and Parties of Record

RE: Project Name: Harrison Hospital
Applicant: Harrison Memorial Hospital
2520 Cherry Avenue
Bremerton, WA 98310
Application: Development Agreement
Permit Number: 16 02286

Enclosed is the Recommendation to the Board of County Commissioners issued by the Kitsap County Hearing Examiner in the above-referenced matter.

The complete case file will be available for review at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:30 PM and Friday 9:00 AM to 1:00 PM, except holidays.

Please call Constance Blackburn at (360) 337-4487 if there are any questions or for an appointment to review the case file.

Cc Applicant and/or Rep:

Harrison Hospital: johnelswick@fhshealth.org

NL Olson & Associates, Inc.: mzawlocki@nlolson.com

Chuck Kolb: ckolb@nbbj.com

Interested Parties:

None

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 16 02286
)	
Chuck Kolb, on behalf of)	Harrison Medical Center
Harrison Medical Center)	Development Agreement
)	
For Approval of a Traffic Mitigation)	FINDINGS, CONCLUSIONS,
<u>Development Agreement</u>)	AND RECOMMENDATION

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the proposed Development Agreement between Kitsap County and Harrison Medical Center be **APPROVED** by resolution of the Kitsap County Board of Commissioners. The proposed Agreement addresses coordination of the construction and financial contributions for traffic mitigation related to the phased expansion of the Harrison Medical Center in Silverdale.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request for approval of the proposed Development Agreement on June 9, 2016.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Jeff Smith, County Senior Planner
Norm Olson, Applicant Representative

Exhibits:

The following exhibits were admitted into the record at the open record hearing:

1. Notice of Application for Conditional Use Permit (No. 14 03073) and Performance Based Development (No. 14 02962) applications, dated September 12, 2014
2. Staff Report for Conditional Use Permit and Performance Based Development, dated July 2, 2015
3. Notice of Hearing Examiner Decision, dated July 25, 2015, with attached decision, *In re Chuck Kolb, on behalf of Harrison Medical Center*, dated July 23, 2015.

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4. Notice of Application and Public Hearing for Development Agreement (No. 16 02286), dated May 26, 2016
5. Resolution Delegating Authority to the Hearing Examiner, dated May 23, 2016
6. Draft Development Agreement, undated
7. Certification of Public Notice, dated May 26, 2016
8. Staff Report for Development Agreement (No. 16 02286) application, dated May 27, 2016
9. Staff PowerPoint Presentation (4 slides), dated June 9, 2016

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Background

1. Chuck Kolb, on behalf of Harrison Medical Center (Applicant), requests that the Hearing Examiner recommend approval of a proposed Development Agreement between Kitsap County (County) and Harrison Medical Center addressing the construction and financial contributions for traffic mitigation related to the phased expansion of the Harrison Medical Center in Silverdale.¹ *Exhibit 8, Staff Report, pages 1 and 3.*
2. In 2015, the Hearing Examiner considered the phased expansion of Harrison Medical Center.² On July 23, 2015, the Hearing Examiner approved the underlying Conditional Use Permit (CUP) and Performance Based Development (PBD) applications related to the expansion, with 49 conditions. The 2015 CUP/PBD decision describes how the Applicant would expand its facilities in three phases:
 - Part 1 –the construction of a four-story, 80,000 square foot medical office building, with a two-floor parking garage and a new entryway into the Campus from Ridgetop Boulevard NW.
 - Part 2 – the expansion of the existing hospital from 94 beds to 240 beds, relocation of an approved helicopter pad, the addition of a new diagnostic and testing section, new patient floors, and two additional floors to the parking garage.
 - Part 3 – the addition of a multi-story tower, with a maximum height of 180 feet, for a total of 350 beds, with approximately 840,000 square feet of gross floor area and 1,322 parking spaces.

¹ The property is identified by Assessor's Tax Account Nos. 162501-4-102-2007, 162501-4-102-2106, 162501-4-102-2205, 162501-4-102-2304, and 162501-4-102-2403. *Exhibit 8, Staff Report, page 2.* A legal description is attached to the draft Development Agreement. *Exhibit 6.*

² The County deemed the CUP and PUD applications complete on August 29, 2014. *Exhibit 3.*

Parts 1 and 2 would be completed by 2018 in either order, with Part 3 to be completed by 2030. *Exhibit 3.*

3. The Hearing Examiner's 2015 decision references the need for a Development Agreement addressing traffic mitigation. The decision notes that the Applicant and County, with input from the Washington State Department of Transportation, had "developed a strategic plan [for traffic mitigation] to be implemented through a Development Agreement." The 2015 decision requires the Applicant to execute a Development Agreement with the County prior to issuance of any building permits (Condition 39). *Exhibit 3.*
4. The proposed Development Agreement addresses the strategic plan for construction and financing of traffic mitigation required by the Hearing Examiner's 2015 decision. The Agreement addresses the realignment of NW Sid Uhinck Drive, the addition of a lane to Ridgetop Boulevard, and improvements to the SR 303 interchange (discussed in more detail below). *Exhibit 6.*

Notice and Environmental Review

5. On May 23, 2016, the Board of County Commissioners passed Resolution No. 088-2016, delegating to the Hearing Examiner authority to hold a public hearing on the proposed Development Agreement. Development agreements are authorized by the Revised Code of Washington (RCW) 36.70B.170 through .210 and the Kitsap County Code (KCC) 21.04.220, and are intended to establish development standards and other provisions for the implementation of complex and long-range development projects. The proposed Development Agreement is premised upon implementation and full compliance with the 2015 CUP/PBD permit approval (and any future amendments to it), the Hearing Examiner's required 49 mitigation conditions, the Agreement itself, and all applicable federal, state, and local laws, regulations, and required permits. *Exhibit 5; Exhibit 6; Exhibit 8, Staff Report, page 4.*
6. On May 26, 2016, the County mailed notice of the Development Agreement application and the associated public hearing to the Applicant, Applicant Representative, interested parties, and owners of property within 400 feet of the property. The same day, the County published notice of the open record hearing in the County's newspaper of record and posted notice at the site address. The County received no public comments related to the application. *Exhibit 4; Exhibit 7.*
7. In 2014, when addressing the underlying CUP and PBD, the County acted as lead agency and analyzed the environmental impacts of the expansion proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. After reviewing the Applicant's environmental checklist and other available information, the County

determined that -- with three conditions and three mitigation measures -- the expansion would not have a probable significant adverse impact on the environment. A Mitigated Determination of Nonsignificance (MDNS) was issued on June 24, 2015. The MDNS conditions require the Applicant to follow the recommendations of a geotechnical report, ensure consistency with the Comprehensive Plan, and require additional SEPA mitigation if the project scope changes. The MDNS mitigation measures require the Applicant to design stormwater controls consistent with regulations in effect at the time of complete applications (August 29, 2014), mitigate traffic impacts, and mitigate the visual impacts of the proposed 180-foot, multi-story tower. The MDNS was not appealed. *Exhibit 1; Exhibit 3.*

8. The proposed Development Agreement does not change the scope of the previously approved project. The proposed Agreement satisfies the MDNS requirement addressing traffic mitigation. Accordingly, further environmental review under SEPA is not required. *Exhibit 8, Staff Report, page 3.*

Development Agreement

9. As previously discussed, the proposed Development Agreement addresses the strategic plan for construction and financing of traffic mitigation required by the Hearing Examiner's 2015 decision. The Agreement provides for the following actions:
 - The project would realign NW Sid Uhinck Drive to intersect with Ridgetop Boulevard across from Harrison Medical Center's existing entrance on Ridgetop Boulevard. With this realignment, a concrete sidewalk would be installed on the west side of the new section of NW Sid Uhinck Drive. In place of installing a sidewalk on the east side, the Applicant would construct a connection between NW Sid Uhinck Drive and Ridgetop Boulevard in the vicinity of the original roadway alignment. The Agreement anticipates that this mitigation measure would be completed by 2018. The estimated cost of this project is approximately \$1,500,000, and the Applicant's proportionate share would be \$1,000,000.
 - The project would add a new eastbound lane on Ridgetop Boulevard from east of Myhre Road to the SR 303 southbound ramp intersection. The Agreement anticipates that this mitigation measure would be completed by 2018. The estimated cost of this project is approximately \$1,000,000, and the Applicant's proportionate share would be \$800,000.
 - The project would widen Ridgetop Boulevard under SR 303 to accommodate additional turning lanes at the westbound SR 303 ramp terminal. The Agreement anticipates that this mitigation measure would be completed as state and local funding and scheduling would allow. The estimated cost for this project is approximately \$3,000,000, and the Applicant's proportionate share would be

\$321,000. The County would waive the Applicant's proportionate share in exchange for the Applicant managing the construction of the other two projects described above.

- The Applicant would manage and construct the first two transportation mitigation projects and be responsible for all costs except for the County's proportionate share, which would not exceed \$700,000 for both projects. The third project would be managed and constructed by the County when warranted.
- The proposed secondary, more easterly, access to the Medical Center from Ridgetop Boulevard would be limited to emergency vehicles unless, following submittal of a supplemental traffic impact analysis demonstrating an acceptable level of service, the County approves additional movements and traffic at the access point.

Exhibit 6; Exhibit 8, Staff Report, pages 1 through 6; Exhibit 9.

10. In addition to addressing the specific timing and financial details of the proposed traffic mitigation projects, the proposed Development Agreement addresses the bidding process for public works projects, prevailing wage requirements, performance and payment bonds, and additional requirements of contractors and subcontractors. It also acknowledges that all components of the traffic mitigation proposals "shall meet the requirements in the Kitsap County Road Standards and the Standard Specifications for Road, Bridge, and Municipal Construction." *Exhibit 6.*
11. The proposed Development Agreement includes a reservation of authority protecting the County's right under RCW 36.70B.170(4) to impose new or different regulation to the extent required by the federal or state government, or by a serious threat to public health and safety. *Exhibit 6.*

Comprehensive Plan

12. The property is designated Urban High-Density Residential under the County Comprehensive Plan. This designation primarily focuses on multifamily residential units and innovative housing types, but may also include single-family housing. This designation encourages development at densities that make efficient use of public investments in infrastructure, facilitate public transit, and promote pedestrian and other non-motorized transportation. *County Comprehensive Plan (August 2012), page 2-20.* Comprehensive Plan policies relevant to the proposal allow for increased heights to accommodate higher density construction, allow for urban residential development in areas near commercial development and public open space, and encourage coordination

with the Washington State Department of Transportation (WSDOT) to maintain efficient traffic control operations.³ *Exhibit 3.*

13. The proposed expansion would be located within the Silverdale Sub-Area Plan (originally adopted 2006, Chapter 14, Comprehensive Plan, and amended August 2012). When considering the initial CUP/PBD application, County staff identified the following policies as relevant to the proposal: Policy Sil-27, to encourage attractive site and building design that is compatible in scale and character with existing or planned development; Policy Sil-31, to enhance and improve the visual quality and amenities as much as possible with new development or redevelopment; and Policy Sil-58, where Bucklin Hill Road, Ridgetop Boulevard, and Silverdale Way are identified as high-priority locations for capacity/mobility improvement, and Silverdale Way/SR3 is identified as a high-priority location for access improvement. *Exhibit 3.*
14. The Hearing Examiner considered the consistency of the proposal with the Comprehensive Plan during the CUP/PBD review process. Specifically, the Hearing Examiner's 2015 decision states,

The design of the proposed use would be consistent with the existing hospital facility, with the Silverdale Sub-Area Plan, and with the County Comprehensive Plan. The design allows for retention of existing trees and use of the site topography, which would help buffer the proposed use and 180-foot tower from surrounding property. The Applicant would enter into a Development Agreement with the County to provide traffic mitigation.

Exhibit 3.

15. County staff determined that the proposed Development Agreement is generally consistent with local development regulations, especially because the Agreement would not change or alter the scope of the previously approved proposal. *Exhibit 8, Staff Report, pages 3 through 9.*

Public Hearing

16. At the public hearing, County Senior Planner Jeff Smith testified that he reviewed the proposed Development Agreement and believes that it complies with all of the requirements of RCW 36.70B.170 through .210 and with the development agreement criteria of Chapter 21.04 KCC. He noted that Harrison Medical Center is enthusiastic about moving forward immediately with the proposal and that the Development

³ County staff identified the following Comprehensive Plan policies as relevant to the proposal: Policy LU-50; Policy LU-62; and Policy T-96. *Exhibit 3.*

Agreement would not alter or amend the underlying CUP/PBD applications previously approved by the Hearing Examiner. Mr. Smith stressed that all 49 approval conditions from the Hearing Examiner's 2015 decision would remain in effect moving forward. *Testimony of Mr. Smith.*

17. Applicant Representative Norm Olson testified that the Applicant is ready to proceed with the project and acknowledged that the proposed Development Agreement would not impact the conditions of approval related to the underlying permits. *Testimony of Mr. Olson.*

CONCLUSIONS

Jurisdiction

The Kitsap County Hearing Examiner is authorized to recommend approval, approval with conditions, or disapproval of a proposed development agreement when the Kitsap County Board of County Commissioners delegates the public hearing process under KCC 21.04.220.C, as it did for this application. *KCC 2.10.070; Exhibit 5.*

Criteria for Review

RCW 36.70B.170 authorizes local governments to enter into development agreements with a person having ownership or control of real property within its jurisdiction. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. *RCW 36.70B.170(1).*

In recommending approval of a development agreement, the Hearing Examiner shall first make a finding that all of the following conditions exist:

1. The proposed agreement is consistent with the goals and policies of the Comprehensive Plan;
2. The proposed agreement is consistent with the local development regulations; provided, that standards may be modified only if the board makes further findings that:
 - a. Variation of the standard provides a public benefit; and
 - b. The proposal subject to the modified standard remains consistent with the Comprehensive Plan; and
 - c. All adverse impacts are mitigated;
3. The proposed agreement provides for adequate mitigation of adverse environmental impacts; provided, that if the development is not defined at the project level, the agreement shall provide a process for evaluating and

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appropriately mitigating such impacts at the time of project development;
and

4. The proposed agreement reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.
KCC 21.04.220.D.

Conclusions Based on Findings

1. **The proposed Development Agreement is consistent with the goals and policies of the Comprehensive Plan.** The Hearing Examiner's CUP/PBD decision extensively addressed the consistency of the proposal with the goals and policies of the Comprehensive Plan. The proposed Development Agreement does not alter the CUP/PBD proposal and, accordingly, remains consistent with the goals and policies of the Comprehensive Plan. Additionally, all CUP/PBD mitigation measures remain in force through the proposed Development Agreement, further ensuring consistency with Comprehensive Plan goals and policies. *Findings 1 – 4, 8 – 17.*
2. **The proposed Development Agreement is generally consistent with local development regulations; modifications to such standards provide a public benefit, remain consistent with the Comprehensive Plan, and mitigate for adverse impacts.** County staff determined that the proposed Development Agreement is generally consistent with local development regulations, and the Applicant has not requested specific modifications to applicable roadway or right-of-way standards. *Findings 1 – 17.*
3. **The proposed Development Agreement provides for adequate mitigation of adverse environmental impacts.** The Development Agreement requires compliance with the approved CUP/PBD and mitigation conditions, including traffic mitigation conditions required by the MDNS. The proposed Development Agreement would enable the Applicant to implement the traffic mitigation required by the MDNS and the Hearing Examiner's 2015 decision. *Findings 1, 7 – 17.*
4. **The proposed Development Agreement reserves County authority to impose new or different regulations to the extent required by a serious threat to public health and safety.** The Development Agreement explicitly includes a reservation of authority retaining the County's right, under RCW 36.70B.170(4), to impose new or different regulations to the extent required by serious threats to public health and safety. *Finding 11.*

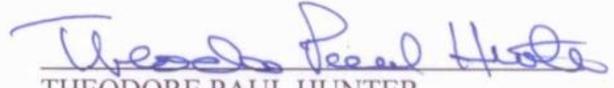
RECOMMENDATION

Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that the proposed Development Agreement between Kitsap County and the Harrison Medical Center,

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addressing the coordination of the construction and financial contributions for traffic mitigation related to the phased expansion of the Harrison Medical Center, be **APPROVED** by the Kitsap County Board of Commissioners. The Development Agreement requires compliance with all previously established SEPA, CUP, and PBD conditions.

Recommended this 23rd day of June 2016.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center