

**BEFORE THE HEARING EXAMINER
for the
CITY of LAKE FOREST PARK**

**ORDER ACCEPTING A REQUEST FOR RECONSIDERATION
and
INVITING COMMENTS**

FILE NUMBERS: CU07-01, SA07-162, and SSD07-04

APPLICANT: King County, through its Facilities Management Division and its Parks and Recreation Division

TYPE OF CASE: Consolidated Conditional Use Permit, Environmentally Sensitive Areas Public Agency and Utility Exception, and Shoreline Management Act of 1971 Substantial Development Permit, all for redevelopment of the 2.3 mile segment of the Burke-Gilman Trail which passes through Lake Forest Park

WHEREAS, the City of Lake Forest Park Hearing Examiner (Examiner) issued a Decision in the above-entitled matter on February 24, 2009, which was mailed by the City on February 27, 2009; and

WHEREAS, two parties of record filed timely Requests for Reconsideration: Bob Wagar (Wagar), filed March 2, 2009, five pages plus 10 pages of attachments; and King County, filed March 6, 2009, 20 pages plus 18 pages of attachments (including titling pages); and

WHEREAS, both Wagar and King County point out an error in the Examiner's statement of bicycle stopping distance; and

WHEREAS, Wagar also asks for reconsideration of: The 10 mph speed limit for a portion of the Burke-Gilman Trail; the hours of operation (not addressed in the Decision); the grammar of Footnote 24; the terminology used to describe the traffic control proposal at the NE 165th Street crossing; and the content of Conclusion of Law K.5.I; and

WHEREAS, King County also asks for reconsideration of Conditions 4 (the "trench drain" condition), 10 (the "YIELD traffic control" condition), and 11 (the "second rumble strip" condition) and Findings of Fact and Conclusions of Law associated therewith; and

WHEREAS, the Examiner has considered the Requests and concludes that they may have merit; and

WHEREAS, the Examiner desires to allow parties of record to present written comments in response to the Requests. Specifically, the Examiner very much desires to receive comments from the

City Engineer and/or City consulting traffic engineer before deciding whether and to what extent to revise the decision as requested; and

WHEREAS, the only way the Examiner can receive comments from the City Engineer is to allow all parties of record an opportunity to comment on the Requests (Hearing Examiner Rule of Procedure (RoP) 504(e)(3)); and

WHEREAS, RoP 504(e)(3) requires that when comments are sought, a copy of the requests for reconsideration must be mailed by the City to all parties of record. Having read both Requests and the attachments thereto, the Examiner believes that each request is fully understandable without its attachments. Further, the City has the attachments and could E-mail them (in Word and/or PDF format) to any person specifically interested in seeing them. Given the bulk of the requests, the Examiner concludes that the spirit of RoP 504(e)(3) will be fulfilled if the City mails out copies of only the Requests; and

WHEREAS, in order to facilitate referencing and to maintain hearing record integrity, the Examiner believes it necessary to assign "Exhibit" numbers to documents generated during the reconsideration process.

NOW, THEREFORE, the Examiner issues the following:

ORDER

1. City Staff shall mail a copy of each Request (exclusive of the attachments) and of this Order to all parties of record. Parties of record may view the attachments to the Requests during normal business hours at City Hall or may ask the City Planning Department to provide them via E-mail.
2. The City Engineer and/or City consulting traffic engineer is specifically and respectfully requested to provide a written response to each issue raised in each of the requests for reconsideration. Wagar and King County are encouraged to submit comments on the points in the other's Request.
3. All parties of record may submit written comment in response to the Requests on or before March 24, 2009 (which is the 10th working day after the date of this Order). Comments shall be submitted to the City which will catalogue them (See paragraph 4, below.) and forward them to the Examiner after the end of the comment period. Comments or portions of comments which address matters beyond the scope of the Requests will not be considered.
4. Documents generated during the reconsideration process shall be assigned exhibit numbers to facilitate referencing and to maintain hearing record integrity. Exhibit numbers for documents presently added are:

Exhibit 133: Decision, February 24, 2009

Exhibit 134: Wagar Request for Reconsideration, filed March 2, 2009

Exhibit 135: King County Request for Reconsideration, filed March 6, 2009

Exhibit 136: Order Accepting A Request For Reconsideration And Inviting Comments, March 10, 2009 (This document)

The Planning Department shall assign successive exhibit numbers as documents responding to this request for comments are received.

5. The Examiner will issue a final Order on the merits of the Petition within 14 days after the close of the comment period.

ORDER issued March 10, 2009.

\s\ John E. Galt (Signed original in official file)

John E. Galt
Hearing Examiner

Attachments:

Wagar Request for Reconsideration (exclusive of attachments)

King County Request for Reconsideration (exclusive of attachments)