



February 4, 1999

To: Ted Hunter  
Mike Kenyon  
Jack McCullough  
Jennifer Dold  
Dennis McMahon  
Bob Derrick

From: Gregg Dohrn

Subject: LakePointe Appeal

Attached is a copy of the appeal filed by Dan Olsen regarding the information prepared by King County in response to the City of Kenmore Hearing Examiner's decision on the LakePointe project dated December 11, 1998. As previously discussed, the City of Kenmore will now schedule an open record hearing limited to the parties of record on the unfunded "critical link" and the "exception" issues addressed in Mr. Olsen's appeal.

I have discussed the scheduling of the hearing with both Jennifer and Jack. At issue is the need to reconcile the desire to provide adequate opportunity to prepare for the hearing with the desire to provide for a timely hearing. To help resolve this matter we are asking the County's full cooperation in responding to the Freedom of Information Act request previously filed with the County by Jennifer. In addition, I would like several dates from each of the key parties, targeting late February, when we can schedule the appeal hearing.

If you have any questions on this or related issues please don't hesitate to let me know.  
Thanks.

*PS. He just spoke with Ted Hunter & he will be contacting the principal parties to determine what documents & witnesses will be required as well as the necessity of having a hearing*

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CITY OF KENMORE

Hearing Examiner  
City of Kenmore  
P. O. Box 82607  
Kenmore, WA 98028-0607

Re: Statement of Appeal: Lakepointe Commercial Site Development Permit  
(B96CS005) Reaffirmation by the City of Kenmore

Dear Hearing Examiner:

In accordance with the City of Kenmore Rules for Open Record Appeals of Administrative Decisions, with this statement, I appeal the City's reaffirmation of the permit approval for the Lakepointe Commercial Site Development Permit for reasons listed below. Appellant will be represented in the appeal by Jennifer Dold, Bricklin & Gendler, LLP.

#### I. SIGNIFICANT EFFECTS ON APPELLANT

I am a resident of Kenmore who will be significantly affected by the impacts, including traffic impacts, of the Lakepointe project as approved by King County and now by the City of Kenmore. I filed an earlier appeal of the County's approval of the Lakepointe development.

#### II. APPELLANT'S ISSUES

The City of Kenmore erred in reaffirming King County's permit approval for the Lakepointe Commercial Site Development. The County issued two decisions on January 13, 1999 which the City reaffirmed on January 19, 1999. The errors in the reaffirmation by the City include, but are not limited to, the following:

A. Affirming the determination by the County that the intersection at 68th Avenue NE/Lakepointe Way NE was "excepted" from complying with the County Intersection Standards. The King County Code does not allow for any exception to the Intersection Standards. Thus, use of an exception was improper. Furthermore, Public Rule 6.3.3 provides for exceptions under "extraordinary conditions", but does not provide sufficient guidelines or criteria to measure the conditions that warrant such an exception. In addition, the use of the exception for the 68th Avenue NE/Lakepointe Way NE intersection was arbitrary and/or capricious, was not based on objective criteria, was not based on sufficient evidence, and was based upon erroneous information.

B. Affirming errors in the County's treatment of 68th Avenue NE in the County's critical link analysis. For example, the project trip generation of 6 percent referenced by King County in its decision does not match the 31 percent calculated by the use of available data. In addition, the County's analysis related to 68th Avenue NE was based on erroneous funding identification.

C. Affirming the two County decisions although the two decisions did not comply with the Examiner's mandate to fully explain the decisions in writing. The County's decisions did not provide the necessary data, information, or analysis to support the decisions, so that members of the public, including the appellant, could understand the decisions. As of the filing of this appeal statement, King County has not supplied documents requested by the appellant in December, 1998 and January 1999 to verify and/or understand the County's work in response to the Hearing Examiner's December 11, 1998 decision.

### III. RELIEF REQUESTED

A. Sufficient time and opportunity to review requested information about the Lakepointe traffic studies and/or analyses once King County provides the documents and/or information to appellant. In addition, sufficient opportunity to supplement issues on appeal once a full and adequate response from King County is received.

B. Opportunity to present issues on appeal in a hearing before the Examiner. Opportunity to participate in a pre-hearing conference, if necessary.

C. Reversal of the concurrency and permit approvals based upon erroneous analyses of 68th Avenue NE in the concurrency analysis.

D. Reversal of the permit approval based upon unlawful and erroneous application of County Intersection standards.

E. In alternative, if approval is not reversed, proper conditioning of the permit upon resolution of issues in this case.

F. Any other relief that is just or necessary.

Sincerely,



Dan Olsen