

January 12, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL
ON A PROPOSED SITE-SPECIFIC LAND USE AMENDMENT APPLICATION**

SUBJECT: Department of Development and Environmental Services File No. **L03LUA02**

DALE FRANK

Site-Specific Land Use Amendment Application

Location: 13250 Northeast 126th Place, Kirkland

Applicant: **Dale Frank**
7825 Southeast 76th Street
Mercer Island, Washington 98040
Telephone: (206) 275-4130

King County: Department of Development and Environmental Services,
represented by Paul Reitenbach
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
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EXAMINER PROCEEDINGS:

Hearing Opened: December 4, 2003
Hearing Closed: December 4, 2003

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. KCC 20.18.050 authorizes the Hearing Examiner to make a legislative recommendation on a site-specific land use map amendment initiated by a property owner application. KCC 20.24.400

requires the Hearing Examiner to issue findings and conclusions regarding the proposed amendment's qualification for annual review consideration and consistency with applicable review criteria. KCC 20.18.055 specifies as review criteria that the application be found consistent with the Comprehensive Plan, the Countywide Planning Policies and the Growth Management Act, and compatible with nearby existing and permitted land uses and the surrounding development pattern.

2. The Applicant, Dale Frank, owns an approximately 6-acre undeveloped hillside parcel located on the north side of Northeast 126th Place, just east of 132nd Avenue Northeast and the Kirkland city limits. The property is within Kirkland's Potential Annexation Area. The property is currently designated Industrial on the Comprehensive Plan map. The Applicant is requesting a redesignation to Urban Residential, 12-18 homes per acre. The staff recommendation is for a redesignation from Industrial to Urban-Residential Medium Density, 4-12 homes per acre, to be implemented by a zoning amendment from Industrial to I, potential R-12-SO.
3. This parcel is a transitional property lying on a hillside between residential properties located on the upland plateau to the north and industrially-zoned properties on the remaining three sides within the Northeast 124th Street corridor east of Totem Lake. Only the properties to the south across Northeast 126th Place are currently developed with industrial uses. Adjacent industrial-zoned properties to the east and west are presently undeveloped. Mr. Frank submitted a building permit application in January 2003 for construction of a self-storage warehouse, but has now concluded that apartment development is more economically viable. The property is characterized by some mature trees and 40 percent slope areas, mapped erosion and landslide hazards, and two onsite drainage courses that have been classified as regulated streams. Utility services are available to the property and transit services exist nearby.
4. Development of the property with either industrial or residential uses will present design challenges. The property currently serves as a buffer between the residential and industrially developed areas, and the conflict between these two disparate uses would be exacerbated by industrial development here. On the other hand, apartment development will need to consider the possibility of noise buffering against industrial uses nearby, and the territorial view from hillside apartments would necessarily be of the industrial area. As pointed out by the owners of the vacant industrially-zoned properties to the east, if such properties were later to develop with intensive industrial uses a conflict with the proposed apartment development may result. In addition, Northeast 126th Place is now exclusively an industrial access roadway. Neighboring property owners to the east suggest, with considerable merit, that the potential use designations for all of the properties north of Northeast 126th Place should be considered collectively in order to reduce the conflict potential.
5. In a letter dated October 17, 2003, the Director of the Kirkland Department of Planning and Community Development summarized the issues affecting this property and offered conditional support for its redesignation:

“Considering the transitional nature of Mr. Frank’s property, between lower-laying industrial uses to the south and higher situated single-family residential developments to the north, it is my opinion that reclassification of Mr. Frank’s property for moderate density multi-family residential would be appropriate. The zoning for the above-mentioned multi-family property in Kirkland

immediately to the west permits a density of up to eight dwellings per acre in recognition of both its proximity to single-family development and severe topographic constraints. Mr. Frank's property is also next to single family and has similar topography, although it appears to be not quite as steep. Consequently a similar density, perhaps somewhat higher, to the Kirkland property may be appropriate. If residential use is allowed on Mr. Frank's property, I recommend that special consideration be given to developing it in a manner that is compatible with the adjacent single family homes and which minimizes conflicts between the new dwellings and the property with adjacent industrial uses. The property also contains quite a number of mature trees. Retaining as many of those as possible would be desirable..."

CONCLUSIONS:

1. As noted in the DDES staff report, the two primary Comprehensive Plan policies bearing on this map redesignation request are U-167 and U-313. Policy U-167 specifies that existing industrial uses shall be protected, while U-313 "supports programs and strategies to preserve and plan for an adequate supply of industrial and commercial land," with subsection f specifically focused on preventing "the encroachment of non-industrial uses on industrially-zoned land and the rezoning of industrial land to other uses." Applicable Countywide Planning Policies support cooperation between King County and local cities with respect to the transfer of potential annexation areas to city jurisdiction. With respect to the Comprehensive Plan policies, DDES staff concluded that the 2002 Buildable Lands Report demonstrates a surplus industrial capacity within the Eastside subarea.
2. The protection of existing industrial uses south of Northeast 126th Place is not the issue with this application so much as the avoidance of future conflict with currently vacant industrially-zoned properties on the hillside to the east. An area study should be conducted for the entire swath of hillside industrially-zoned properties north of Northeast 126th Place in order to avoid haphazard and inconsistent development. Due to Kirkland's primary interest in the future of this area, the City would be the logical agency to perform such a study.
3. As noted above, the Frank parcel is a transitional property that neither fits perfectly into a residential nor an industrial designation. With site design review implemented through the potential zone activation process, use conflict issues such as noise buffering and building orientation can be addressed. On balance, we agree with DDES staff that the County should defer to Kirkland's recommendation that a medium density residential designation should be provided to this parcel. If an area study of the hillside is undertaken, conflicts can be avoided and no adverse impact will occur to either adjacent properties or the industrial land base.
4. The Dale Frank application qualifies for annual review consideration by the Hearing Examiner under authority of KCC Chapter 20.18 because it raises no issues of policy nor does it seek an amendment of the Urban Growth boundary. If appropriate site design review is required through the process of implementing potential zoning, redesignation of the Frank property to multifamily residential use will be consistent with the policies, objectives and goals of the County Comprehensive Plan, the Countywide Planning Policies and the Growth Management Act, and will be compatible with adjacent and nearby existing and permitted land uses and the surrounding development pattern.

RECOMMENDATION:

Amend the King County Comprehensive Plan land use map designation for the subject property from Industrial to Urban Residential Medium Density, 4-12 homes per acre. The area zoning for this property should be amended from I (Industrial) to I with a potential zone of R-12.

ORDERED this 12th day of January, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 12th day of January, 2004, to the parties and interested persons of record:

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MINUTES OF THE DECEMBER 4, 2003, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03LUA02.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Paul Reitenbach, representing the Department; Dale Frank, the Appellant; and Beverly Keffer.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report, dated 11/20/03
- Exhibit No. 2 Application for Site-specific Comprehensive Plan Land Use Map Amendment, received 10/17/03
- Exhibit No. 3 Legal description of subject property
- Exhibit No. 4 SEPA checklist, received 11/17/03
- Exhibit No. 5 Public hearing notice, mailed 11/05/03
- Exhibit No. 6 King County comprehensive land use map
- Exhibit No. 7 Notice of building permit decision, received 10/17/03
- Exhibit No. 8 Photographs (3, color) of area and neighboring property, submitted by Beverly Keffer