

**BEFORE the HEARING EXAMINER for the
CITY of LYNNWOOD**

DECISION

FILE NUMBER: PUD-009959-2022

APPLICANT: ¹ Alphabetz RE Corporation
4420 220th Street SE
Bothell, WA 98021

TYPE OF CASE: Preliminary Planned Unit Development to allow a Goddard preschool with a footprint larger than 7,500 square feet on a parcel zoned Neighborhood Commercial

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: CONTINGENTLY APPROVE subject to conditions

DATE OF DECISION: August 18, 2022

INTRODUCTION ²

Alphabetz RE Corporation (“Alphabetz”) seeks approval of a Preliminary Planned Unit Development (“PUD”) to allow a Goddard preschool with a footprint larger than 7,500 square feet (“SF”) on a parcel zoned Neighborhood Commercial (NC).

Alphabetz filed the Preliminary PUD application on March 21, 2022. (Exhibits 2; 18 ³) The Lynnwood Development and Business Services Department (“Planning”) deemed the application complete on April 22, 2022. (Exhibit 17) Planning issued a Notice of Application on May 26, 2022. (Exhibit 18)

The subject property is located on the south side of 188th Street SW between SR-99 (“Hwy 99”) and 55th Avenue W. Its Assessor’s Parcel Number is 27041600300100 (“Parcel 001”). (Exhibits 1; 4)

The Lynnwood Hearing Examiner (“Examiner”) viewed the subject property via Google Earth: Aerial imagery dated August 31, 2020; Street view imagery dated July 2022.

¹ The Applicant’s address on Exhibit 1 contains a scrivener’s error which is corrected here.

² Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

³ Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. Citations to exhibits that are available electronically in PDF use PDF page numbers, not source document page numbers. In this case, the Exhibits are in one single PDF document with page numbering from 1 to 306. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

The Examiner held a hybrid open record hearing on August 17, 2022: In-person participation was available at Development and Business Services office; remote participation was available through the “Zoom” platform. Planning gave notice of the hearing as required by the Lynnwood Municipal Code (“LMC”). (Exhibit 19)

The following exhibits were entered into the hearing record during the hearing:

- Exhibits 1 - 20: As enumerated in the Exhibit List in Exhibit 1 at PDF 6⁴
- Exhibit 21: Email, Teresa Pascale, August 17, 2022

Section 1.35.025 LMC requires that decisions on project permit applications be issued within 120 calendar days after the application is found to be complete; subsection 1.35.025(A) LMC lists four exclusions from the 120-day count, one of which is an extension mutually agreed upon by Planning and the applicant. The open record hearing was held within the 120-day review period.

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner’s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. Alphabetz proposes to construct and operate a Goddard Preschool on Parcel 001. Goddard Systems, Inc, the franchisor of the Goddard School, has over 570 locations in 37 states and has been in business since 1988. There are currently 11 Goddard School centers in the greater Seattle area that are either open or in development. Alphabetz is owned by Kalis Sathappan who currently operates a Goddard School in Redmond, WA. Goddard Systems has developed strict design and operational standards/requirements for its franchisees. Alphabetz seeks to meet Goddard Systems standards and City of Lynnwood code requirements with its proposed preschool. (Exhibit 3)
2. The proposed school will be a single-story, approximately 12,000 SF building with eleven classrooms, a multipurpose room, kitchen (for warming lunches), restrooms, staff rooms, and a secure front entrance with access control system. Three exterior playground areas, one for toddlers, one for preschoolers, and a common area will cover approximately 5,500 SF on the west side of the building. The building will be clad in sturdy, low-maintenance materials such as Hardie panel, wood, and stone siding, aluminum storefront windows and doors, metal canopies and TPO⁵ roofing in muted tan and brown colors. Plenty of windows will provide ample natural light into the classrooms. (Exhibit 4)

⁴ The hearing participants discovered that a May 13, 2022, letter from Christopher & Callie Dixon (“Dixon”) had been inadvertently left out of Exhibit 11, the compiled written public comments. The Examiner entered the Dixon letter into the hearing record. Planning added the Dixon letter to the end of Exhibit 11 (at PDF 247) after the hearing closed.

⁵ Thermoplastic Polyolefin membrane.

Site improvements will include a 36-stall parking lot east of the building with ingress/egress curb cuts on 188th Street SW and 55th Avenue W, frontage improvements (including sidewalks) along 188th Street SW and 55th Avenue W, a trash enclosure, and landscaping throughout the site, including on the western slope. (Exhibit 4)

3. Parcel 001 is an approximate 135 foot (north-south dimension) by 400 foot (west -east dimension) rectangle which contains 1.22 acres. Parcel 001 is bordered on the west by the triangular tip of a larger commercial property located to the south along Hwy 99, on the north by 188th Street SW, and on the east by 55th Avenue W. A sidewalk exists from Hwy 99 to 55th Avenue W; the residential streets in the surrounding area do not have sidewalks. Parcel 001 drops about 30 feet in elevation from west to east with the steeper slope on the west half of the property. Mature evergreens line the north edge of Parcel 001; a stand of deciduous trees is located near the east end of the parcel; the center of the site is primarily scrub vegetation. Several mature evergreens are along the north edge of the residential lots to the south. (Exhibit 4)
4. Parcel 001 is zoned NC. The northeast corner of the Hwy 99/188th Street SW intersection (where a 7-11 is located) is zoned General Commercial (CG) as is the triangular area and the property to the south of the west edge of Parcel 001. The remainder of the area to the north is zoned P-1, a public use zone and reportedly contains a wetland. The area to the south and southeast of Parcel 001 is zoned RS-8 (single-family residential) while the row of lots to the east between 55th and 52nd Avenues W is zoned Multiple Residential Low Density (RML). (Exhibit 20, PDF 304)
5. The NC zone allows a wide range of permitted uses, mostly commercial in nature, by right:⁶ Auto parts stores, business services, adult and child day care, eat-in restaurants, houses of worship, municipal services, medical/dental clinics, banks, locksmiths, bakeries, convenience stores, most retail stores, etc. [LMC 21.46.100] Also listed as permitted uses are higher education institutions and “Primary and Specialty Education: Preschools, Elementary, Secondary, Dance, Music, Art and similar schools”. [LMC 21.46.100]

A number of “bulk regulations” apply within the NC zone: 15-foot front and side setback abutting a street; 10-foot side setback abutting RS-zoned property; 25-foot rear setback abutting RS-zoned property; 35-foot maximum building height; and 35% lot coverage.⁷ [LMC 21.46.200(A), Table 21.46.14]

The NC zone has a use size limitation: “No use of property in the NC zone shall occupy any floor area or portion of the floor area of a structure that is greater than 7,500 square feet in size”. [LMC 21.46.110(D)] Thus, a building or buildings on a parcel zoned NC may cover as much as 35% of the parcel’s lot area, but no single business may occupy more than 7,500 SF of the building. In the

⁶ “By right” means that a use is allowed without any further land use entitlement process. Only building or other construction-type permits are required.

⁷ “‘Lot coverage’ means that portion of a lot occupied by the principal building and its accessory buildings, expressed as a percentage of the total lot area. ...” [LMC 21.02.490]

present case, Parcel 001 contains 1.22 acres or about 53,143 SF; maximum lot coverage would be about 18,600 SF.

6. At about 12,000 SF, Alphabetz’s proposed preschool exceeds the 7,500 SF single-use limitation but is well less than the allowed lot coverage. Alphabetz has chosen to use the PUD provisions of the LMC to seek relief from the 7,500 SF single use limitation.
7. The purpose of a PUD is explained in LMC 21.30.100:

A planned unit development is a mechanism by which the city may permit a variety in type, design, and arrangement of structures; and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety, and welfare. A planned unit development allows for innovations and special features in site development, including the location of structures, conservation of natural land features, conservation of energy, and efficient utilization of open space.

[LMC 21.30.100] A PUD may be located in any zone. [LMC 21.30.600] A PUD may contain “any use not a direct contradiction to the objectives of the comprehensive plan” (subject to a limitation on the number of dwelling units in a residential PUD). [LMC 21.30.800]

PUD provisions allow “permissive variations in requirements.”

In considering a proposed planned unit development project, the approval thereof may involve modifications in the regulations, requirements, and standards of the zone in which the project is located so as to appropriately apply such regulations, requirements, and standards to the larger site.

[LMC 21.30.950] Limitations apply to certain types of permissive variations, none of which apply to the present application.

PUD approval is a two-step process: Approval of a preliminary development plan establishes “the general intent and apportionment of land for buildings, stipulated use and circulation pattern, but shall not be construed to render inflexible the ultimate design, specific uses or final plan of the project.” [LMC 21.30.300, ¶ 1] Preliminary approval is valid for one year. Before the expiration of the one-year period, the applicant must submit a final plan for approval. [LMC 21.30.320] Once the final plan is approved, the PUD “shall be made a part of the zoning map”. [LMC 21.30.340]

8. Alphabetz’s proposed use is categorically exempt from the State Environmental Policy Act (“SEPA”) threshold determination process pursuant to WAC 197-11-800. (Exhibit 1, PDF 13)
9. Project Design Review (“PDR”) approval is required to be obtained before approval of “commercial, industrial, and multiple-family [PUDs] and PUDs within nonresidential development”. [LMC 21.30.300, ¶ 2] Alphabetz did not request consolidated review of the PUD and PDR applications.

Planning intends to issue its PDR decision “contingent on and after the decision of the Hearing Examiner on this PUD.” (Exhibit 1, PDF 5)

10. A number of neighborhood residents have expressed concerns about the impacts of the proposed preschool on their neighborhood. (Exhibits 11; 21; and testimony) Planning has summarized the neighborhood concerns as follows:

- Light and noise from site will disturb residents.
- Safety of children due to traffic and air pollution.
- Site will no longer have green space and act as a buffer.
- Claim that River Otters are on site.
- Claim that there is a wetland on-site.
- Flooding concerns.
- Traffic and congestions on 55th and 189th St SW.
- Request for additional streetlights on 55th and 188th.

(Exhibit 1, PDF 12) Alphabetz has responded to the neighbors’ concerns. (Exhibit 12)

The proposed site plan devotes the sloping westerly 50 feet of Parcel 001 to a landscaped buffer. Some 13 Douglas fir, 10 Western red cedar, 5 Maple, and 6 Beech trees will be planted in that area along with numerous shrubs and grasses. 80 Arborvitae will be planted in a line along the south property line. 11 Ash and 6 Maple will be planted along the north property line and in the parking area. (Exhibit 4, PDF 58 – 63)

There is a ditch that collects water in the southeast corner of Parcel 001. No wetland is present on Parcel 001. Stormwater will be collected and routed through an underground detention vault (located beneath the parking lot) before being released from the site. The stormwater control system will comply with current City standards. The City will be shortly undertaking a stormwater improvement project in the vicinity of the 55th Avenue W/188th Street SW intersection. That project is expected to alleviate urban flooding experienced in the area. (Exhibits 1; 4, PDF 56; 7; and testimony)

The City’s Traffic Engineer and Planning both recommend that Alphabetz be required to install two speed bumps in the neighborhood to reduce/deter cut-through traffic on 55th Avenue W and 189th Street SW and install a “STOP” sign to create a two-way stop at the 55th Avenue W/189th Street SW intersection (location to be determined after a City study). (Exhibits 1; 13, PDF 265 – 268; and testimony) Those items have been embodied in the recommended conditions of approval. (Exhibit 1, PDF 14 & 15)

11. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK ⁸

⁸ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority

Both Preliminary and Final PUDs are Process I applications which require an open record hearing before the Examiner. The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [LMC 1.35.100, .168, and .175 and 21.30.300 and .320]

Review Criteria

The review criteria for PUDs are set forth at LMC 21.30.300, ¶ 1:

Before approval of any plan, the hearing examiner shall determine that such plans comply with the development policies of the comprehensive plan, the purpose of this title, and provisions of this chapter.

A “consistency determination” is also required for every project application. A consistency determination follows four steps set forth at LMC 1.35.070. Consistency criteria are:

1. Type of land use permitted at the site, including uses that may be allowed under certain circumstances if decision criteria are met;
2. Density of residential development (if applicable); and,
3. Availability and adequacy of public facilities (for those facilities identified in the Comprehensive Plan, if the Plan or the City’s development regulations provide for funding of these facilities).

[LMC 1.35.070(A)]

Vested Rights

The City has no vesting regulations for land development applications. “Vesting” serves to “fix” the regulations against which a development application is judged. [*Potala Village Kirkland, LLC v. City of Kirkland*, __ Wn. App. __ (Div. I, 2014)]

In the 1950s, the [state] supreme court first adopted the common law vested rights doctrine [for building permit applications]. ... In cases that followed, Washington courts applied the vested rights doctrine to permit applications other than building permit applications. They included conditional use permit applications, grading permit applications, shoreline substantial development permit applications, and septic permit applications.

In 1987, the legislature enacted legislation regarding the vested rights doctrine. The session laws added ... RCW 19.27.095(1) and RCW 58.17.033(1) respectively ... [which] only refer to building permit applications and subdivision applications. ...

Most recently, in *Town of Woodway v. Snohomish County*, the [state] supreme court reiterated that "[w]hile it originated at common law, the vested rights doctrine is now statutory."

[*Potala*, Slip Opinion 6 – 8 and 11] “With these points in mind, [the *Potala* court held] that the filing of [an] application for [a] shoreline substantial development permit, without filing an application for a building permit, [does] not vest rights to zoning or other land use control ordinances.” [*Potala*, Slip Opinion at 12] The *Potala* court “express[ed] no opinion on whether or to what extent the vested rights doctrine applies to permits other than shoreline substantial development permits. These questions [were] not before [it].” [*Potala*, Slip Opinion at 25] Therefore, whether the vested rights doctrine applies to Alphabetz is debatable. Historically, appellate courts have not applied the vested rights doctrine to rezone applications.

Vesting is not particularly important in this case as the City has made no development regulations changes between the time the application was filed and this date.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [LMC 1.35.155]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. This application has been presented as a PUD solely to allow a single use (Goddard Preschool) to operate with more than a 7,500 SF footprint. But as a PUD application it must meet all PUD requirements. Notwithstanding Planning’s indication that it proposes to rule on the associated PDR application after the Examiner has acted on this PUD application, the LMC mandates exactly the opposite sequence of events: a PUD application “shall ... receive project design review approval pursuant to Chapter 21.25 LMC prior to approval of the PUD.” That is not an optional requirement. The Examiner cannot legally approve a PUD application for which PDR is required before the associated PDR application has been approved. Therefore, the Examiner’s decision in this case must be a contingent one.
2. The Examiner must conclude that the proposal “compl[ies] with the development policies of the comprehensive plan, the purpose of this title, and provisions of [Chapter 14.30 LMC].” [LMC 21.30.300, ¶ 1]

Planning has evaluated compliance with comprehensive plan policies. (Exhibit 1, PDF 7 – 9) The record contains no challenge to that analysis. The Examiner concurs with that analysis. The proposal meets this portion of the criterion.

3. The Examiner must conclude that the proposal “compl[ies] with ... the purpose of this title, and provisions of [Chapter 14.30 LMC].” [LMC 21.30.300, ¶ 1]

The purpose of Title 21 LMC is to

avoid[] or abat[e] public nuisances. This title also intends to promote the protection and promotion of the quality of the natural environment and the health, safety, morals, and other aspects of the general welfare of present and future inhabitants of the city of Lynnwood in accordance with the comprehensive plan and state law, judicial decisions, and Central Puget Sound Growth Management Hearings Board decisions regarding land use regulations. To these ends, it is the intent of these regulations to implement the city of Lynnwood comprehensive plan and the future land use plan map.

[LMC 21.04.015] The proposed use (preschool) is a listed permitted use in the NC zone. That means that the City’s legislative officials have determined that a preschool is an appropriate use for NC-zoned properties. This PUD will allow a reasonably sized preschool to be located on an NC-zoned parcel as envisioned by the LMC. The proposal meets this portion of the criterion.

4. The Examiner must conclude that the proposal “compl[ies] with ... provisions of [Chapter 14.30 LMC].” [LMC 21.30.300, ¶ 1]

The proposal does not conflict with any provision of Chapter 21.30 LMC. It does conflict with the use size limitation of LMC 21.46.110(D). In evaluating that conflict, one must remember that two separate 6,000 SF preschools could be legally established in one building under the NC zone regulations. In fact, three separate 6,000 SF preschools could be established in one building and still meet the lot coverage limitation. Further, there are numerous permitted uses in the NC zone for which a 7,500 SF lot coverage limit is meaningless: Higher education facilities, schools, etc. This proposal will have no greater impact on the neighborhood than would a collection of permitted uses covering 18,600 SF of Parcel 001. In fact, it will likely have a lesser impact as it will have less traffic and operate for less of each day than would a collection of typical NC permitted uses. The proposal meets this portion of the criterion.

5. Alphabets’s proposal complies with the PUD approval criteria of LMC 14.30.300.
6. Most of the neighbors concerns would also apply to any permitted use seeking to locate on Parcel 001: Traffic, noise, construction traffic, etc. are all impacts that would occur with virtually any permitted NC use that chose to locate on Parcel 001. The proposed plan actually minimizes those impacts in a way that might well not happen with a permitted use which did not have to undergo quasi-judicial review. A significant number of mostly coniferous trees will be planted on the western

slope to provide screening from Hwy 99.⁹ A dense row of Arborvitae will provide screening along virtually the entire south property line. The outdoor play areas will be cut into the western slope and surrounded with retaining walls, thus tending to capture the noise of playing children. (And as Alphabetz testified, only two classes at a time will be outside in the play areas in the first place. The entire student enrollment will not be outside at one time.

The Examiner understands the neighbors' traffic concerns. Under the recommended conditions they will get two speed bumps and STOP-sign control at the 55th Avenue W/189th Street SW intersection – something they might or might not get with an outright permitted NC-zone use.

The proposed development, like any development in this day and age, is required to capture, detain, treat, and release in a controlled manner its stormwater runoff. If anything, the rate of runoff from Parcel 001 will be less than it currently is. To the extent that the site currently contributes to urban flooding in the area, the evidence indicates that such contribution should be less after development than it currently is.¹⁰

7. Alphabetz's proposal passes the "consistency" test: A preschool is an outright permitted use in the NC zone; density is not an issue as this is not a residential project; and all evidence shows that adequate public facilities are available to serve the proposed preschool.
8. The recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
 - A. Recommended Condition 4. Testimony at hearing demonstrates that a scrivener's error exists in this recommended condition. In (a), the domestic service line is to be 2.0" in diameter, not 6" in diameter. (Exhibit 4, PDF 57) That change will be made.
 - B. Recommended Condition 7. The reference to 189th as an "Ave W" is another scrivener's error: 189th is a "Street SW." That change will be made.
 - C. Recommended Condition 9. This recommended condition ends without a conclusion: "... location or dimensions of buildings per LMC ". Planning testified that the sentence should end "... location or dimensions of buildings per LMC 21.30.970." That change will be made.
 - D. A land use entitlement, such as a PUD approval, "runs with the land." Simply put, that means that the permit is for the land, not for the applicant. If the applicant sells the land and development rights to another, the permit goes with the land. Therefore, the Examiner does not like to use the word "applicant" in conditions as some may interpret that word as referring only to the original applicant for the permit/approval. The Examiner prefers to use a

⁹ It should be noted that Parcel 001 has but a very short frontage on Hwy 99: Most of its western property line abuts the triangular extension of the CG-zoned property to the south. Alphabetz cannot provide buffer along the edge of Hwy 99 because it does not abut the edge of Hwy 99 for any appreciable distance.

¹⁰ This conclusion would hold true for any use of the property.

word such as “developer” or “permittee.” That change will be made in Recommended Conditions 7 and 8.

- E. A few minor, non-substantive structure, grammar, and/or punctuation revisions to Recommended Conditions 1, 4, and 7 - 9 will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.
- 9. As noted previously, the Examiner is not legally allowed to approve a PUD before the associated PDR has been approved. The easiest way to resolve this “chicken-and-the-egg” problem is by conditioning PUD approval upon PDR approval. The Examiner will add a condition to do just that.
- 10. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, the testimony and evidence submitted at the open record hearing, and the Examiner’s site view, the Examiner **CONTINGENTLY GRANTS** the requested Preliminary Planned Unit Development **SUBJECT TO THE ATTACHED CONDITIONS**.

Decision issued August 18, 2022.

/s/ John E. Galt

John E. Galt
Hearing Examiner

HEARING PARTICIPANTS ¹¹

Andrew Hinman
Amani Loutfy
Nora Chin
Chris Dixon
Douglas Smith

Kirk Rappe
Daniel Grabstein
Zaid Woldemicael
Matthew Palmer
Paul Coffelt

¹¹ The official Parties of Record register is maintained by the City’s Hearing Clerk.

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Lynnwood Development and Business Services Department a written request for reconsideration within seven calendar days following the issuance of this Decision in accordance with the procedures of LMC 1.35.168. Any request shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the hearing conducted by the Examiner which forms the basis of the request. See LMC 1.35.168 for additional information and requirements regarding reconsideration.

NOTICE of RIGHT of APPEAL

This Decision is final subject to the right of a party of record (See LMC 1.35.148.) with standing, as provided in RCW 36.70C.060, to file a land use petition in Superior Court in accordance with the procedures of LMC 1.35.175 and the Land Use Petition Act [Chapter 36.70C RCW]. See LMC 1.35.175 for additional information and requirements regarding judicial appeals.

| |
|---|
| <p>The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.”</p> |
|---|

**CONDITIONS OF APPROVAL
GODDARD SCHOOL LYNNWOOD
PUD-009959-2022**

This Preliminary Planned Unit Development is subject to compliance with all applicable provisions, requirements, and standards of the Lynnwood Municipal Code, standards adopted pursuant thereto, and the following special conditions:

1. This approval is contingent upon administrative approval by the City of the associated Project Design Review application. This contingent approval will automatically become null and void if the associated Project Design Review application is not approved by February 20, 2023.
2. Exhibit 4 is the contingently approved plan set (including preliminary civil plans and landscaping plans). (See Condition 1 for explanation of contingency.)
3. Stormwater quality facilities (swales, vaults, and ponds) shall be provided as required by the City of Lynnwood. The stormwater detention system for the proposed plat shall be designed to meet the requirements of the 2019 Washington State Department of Ecology Puget Sound Basin Stormwater Manual.
4. All structures connected to the sanitary sewer shall be fitted with backwater check valves.
5. Provide two connections to the City water main in 188th Street SW: a) One 2” domestic service and meter as indicated; b) One 6” Fire service as indicated (the fire hydrant may be tapped into this service); c) New irrigation service may be tapped off fire service or domestic service on site.
6. Side Sewer Cleanout (SSCO) at the property line is required. Refer to City of Lynnwood Standard Plans Index.
7. A Class II tree permit calculation sheet shall be completed and submitted with grading and construction permits. Trees shall be replaced or a fee paid in accordance with the requirements of LMC 17.15.090. The Lynnwood *Tree Preservation and Protection Guidelines* shall be observed during all construction phases.
8. The permittee shall work with the Traffic Engineer to provide two asphalt speed humps (one on each road segment: 55th Avenue W between 188th Street SW and 189th Street SW and 189th Street SW between 55th Avenue W and 52nd Avenue W) and the intersection of 55th Avenue W and 189th Street SW shall be converted into a two-way stop-controlled intersection with painted stop installed at locations to be determined.
9. A Planned Unit Development expires after three years from final approval if the project has not been completed and the applicant has not requested an extension of time or if the permittee abandons the project pursuant to LMC 21.30.400. When PUD authorization expires, the land and structures

HEARING EXAMINER DECISION

RE: PUD-009959-2022 (Goddard Preschool)

August 18, 2022

Page 13 of 13

thereon may be used only for a lawful purpose permissible within the zone in which the project is located.

10. In issuing building permits in connection with the construction of a planned unit development, the building department may make minor adjustments involving the location or dimensions of buildings pursuant to LMC 21.30.900.
11. An approved Planned Unit Development may be amended pursuant to the requirements of LMC 1.35.180 – Amendment of an approved project or permit.