



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 4162
March 5, 2007
Public Hearing**

**AMENDMENT TO DEVELOPMENT
AGREEMENT COVERING PARKING FOR PEAK
PROJECT ON SCHOOL DISTRICT PROPERTY**

Proposed Council Action:

Conduct Second Reading and Authorize City Manager to enter into Amendment to Development Agreement

DEPARTMENT OF

City Manager, (Rich Conrad, Londi Lindell, Glenn Boettcher, Patrick Yamashita)

COUNCIL LIAISON

Bryan Cairns Dan Grausz El Jahncke (PEAK Subcommittee)

EXHIBITS

1. Clean Amendment to Development Agreement.
2. Amendment to Development Agreement with tracked changes showing differences between first and second reading.
3. Resolution No. 1385 approving the Amendment.
4. Letter dated November 27, 2006 from Liz Dodd to Rich Conrad requesting revisions to Amendment.
5. Parking and Impervious Surface Chart requested by City Council at 2007 Planning Session.
6. Transpo Group traffic information including Memorandum dated November 22, 2006 from Transpo Group to City Engineer responding to citizen's concerns and usage charts.
7. AB 4138 First Reading of Amendment (11/6/2006).
8. December 11, 2006 Letter from City to residents living outside the limits of high school neighborhood with restricted parking and map showing mailing limits.
9. Timeline for PEAK Project reviews.
10. SEPA Addendum in connection with District 1996 SEPA Decision.

APPROVED BY CITY MANAGER

Rich Conrad

3-1-07

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

History

At its January, 2006 Planning Session, the City Council arrived at the following consensus and gave the City staff the following guidance:

- *"Most Councilmembers support the proposed PEAK project.*

- *Council recommends staff be proactive and help the School District and the Boys and Girls Club problem solve ways to deal with traffic and parking issues.*
- *Now and through the first quarter of 2006:*
 - *The Council will actively engage in the process.*
 - *The PEAK Subcommittee will be the Council's representative.*
 - *The Council's role is primarily, although not exclusively, regulatory (the City is not the project lead but will be involved in problem solving and some partnering activities).*
 - *\$1 million earmarked by the City will be invested in a legal manner to support the project.*
 - *The Subcommittee will generate and analyze options to do so and will recommend how to invest the \$1 million to the full Council (this will include appropriate public involvement).*
 - *Solutions to address both parking and traffic issues (including the existing parking deficit) will be sought."*

Based on this direction, City staff met on numerous occasions with School District and Boys & Girls Club staff and consultants to identify issues (and potential solutions) created by the PEAK proposal. Those issues primarily centered on impervious surface regulations, traffic impacts and parking demands of school campus and PEAK users. Ultimately, the City Council dealt with impervious surface requirements and traffic needs in and around school campus during the first half of 2006. Parking issues have been under discussion throughout 2006 and into early 2007. Throughout this "problem-solving" time period, City staff made clear to School District and B&G Club officials that once formal SEPA and Conditional Use Permits processes were commenced, City staff would cease to work in problem-solving mode. Instead, staff would perform their traditional regulatory roles of development application review, recommendation and approval. That time regulatory period will commence very soon – after Council's decision on the proposed shared parking agreement.

On November 6, 2006, Council completed a first reading of a proposed Amendment (Amendment) to the June 5, 2006 Development Agreement (Agreement) to be entered into among the City of Mercer Island (City), Mercer Island School District (District) and Boys & Girls Club of King County (Club) setting forth the required parking for the PEAK project (Project) to be constructed on the School District property. See Exhibit 7 for a full discussion of background and history.

At the November 6, 2006 meeting, Council directed staff to revise the Amendment as follows:

- Demand Management. Work with the District to create a Demand Management Agreement with the intent of setting goals for reducing student parking demand.
- Increase Penalties. Increase the proposed penalties and consider a higher penalty for scheduling simultaneous PEAK high activity events (e.g. dances or concerts at teen center and use of all three gyms in field house) and District Special Events (e.g. football games).
- School Hour Restriction. Prohibit high activity events and the Boys & Girls Club annual breakfast from being scheduled during school hours (7:00 am until 4:00 pm on school days).
- Public Facility. Include City's code interpretation that PEAK constitutes a "public facility" under MICC 19.02.010(C)(1) and thus, is required to have 1 parking space for every 200 square feet of gross floor area.
- Relocation of School Buses. Request District reconsider relocating school buses to provide additional PEAK parking.
- Elimination of Restricted Parking District. At first reading, the Amendment contained a contingency requiring the adoption of a High School Restricted Parking District (RPD). Based upon neighbor comments opposed to creation of an RPD, Council directed staff to delete this as a contingency to the Amendment but to reconsider this option once additional information and impacts have occurred around the PEAK Project.
- Addition of No Parking Signs. Consider posting "No Parking 7 am to 4 pm School Days" signs further into the neighborhood surrounding the High School property. Staff sent letters on December 11, 2006 to the property owners residing within the boundary shown on Exhibit 8. The letter provided an update on the current parking restrictions in the high school neighborhood and explained how parking restrictions can be added to their street if they wish. Staff believes this effort will be ongoing and notes

that spillover parking appears to increase in the Spring when Sophomores obtain their driver's licenses. Staff will monitor these seasonal changes and continue to ask the impacted neighbors whether or not they wish to have signs posted in their neighborhoods.

Following Council's direction to staff at its November 6, 2006 Council meeting, the City received a letter dated November 27, 2006 from Liz Dodd, District Associate Superintendent, Business Services, identifying a number of provisions in the Amendment that were objectionable to the District. See Exhibit 4 to the Agenda Bill. The City convened the City Council PEAK Subcommittee comprised of Mayor Cairns and Councilmembers Grausz and Jahncke (Subcommittee). The Subcommittee directed staff to further revise the Amendment as follows:

- Delete References to the School District's SEPA Addendum. The District is required to construct 35 additional parking spaces on the High School site under its 2006 State Environmental Policy Act (SEPA) Addendum (attached as Exhibit 10). The District requested deletion of this SEPA obligation from the Amendment because it is legally distinct from the issues addressed in the Amendment. The City Attorney advised the Subcommittee it will not change the District's legal obligation to construct the 35 new parking spaces. The Subcommittee recommends deleting this section.
- Reduce Notice Period from 15 Days to 5 Days. The District requested a reduction in the time period for written notice of District Special Events to surrounding residents because some District Special Events are planned less than 15 days in advance. The Subcommittee recommends reducing the notice period from 15 days to 5 days.
- Delete Reference to Parking Management Plan. The District requested eliminating references to the District's Traffic Management Programs. The District has agreed to enter into a separate Interlocal Agreement with the City covering parking and traffic demand management. The Subcommittee recommends deleting this section.
- Delete Penalty Against District. The District requested deleting the penalty provision. The Subcommittee recommends amending the penalty provision in the Amendment to be applicable to Club actions only. However, the Subcommittee directed the City Attorney to prepare a code text amendment to authorize monetary penalties when an applicant violates a SEPA parking condition. This code text amendment will be required to be processed through the Planning Commission before Council conducts a first reading.

At the City Council 2007 Planning Session, Council requested that staff complete a chart showing the required and existing parking and impervious surfaces for both the High School and PEAK Project. This chart is attached as Exhibit 5 to this Agenda Bill. A citizen raised concerns regarding the parking and traffic impact analysis prepared by the Transpo Group (TIA) on behalf of the Club. See Exhibit 6 for Transpo's responses to such comments and charts showing Project usage.

The Subcommittee met with City staff on February 9, 2006 and was briefed by the B& Club Executive Director, Transpo traffic engineer, the City Engineer and City attorney on parking issues raised by Council during its 2007 Planning Session. Following the staff briefing, the Subcommittee provided the following further direction regarding the Amendment:

- District to construct 35 new spaces in order to be in compliance with the City's 1996 SEPA condition. This requirement is contained in the SEPA Addendum (attached as Exhibit 10), but will not be included in the Amendment.
- Club to provide the following parking stalls: (i) 99 new stalls; (ii) 156 shared stalls signed for exclusive PEAK use after 3:30 pm.
- City will sign east side of 86th Ave. SE between SE 40th and 42nd St. for short term parking (not to exceed 2 hours) to provide an additional 20+ parking for PEAK users. These spaces are currently being filled all day by students.

- District and City will agree to enter into Interlocal Agreement separate from the Amendment that will set the baseline for parking demand for the High School and contain goals to reduce the parking demand over a 10 year period.
- District, City and the Club to implement unified activity scheduling before commencement of PEAK operations in order to avoid overlapping events among District, District tenants, pool, Club and City with inconsistent parking demands.
- Amendment to contain representations that PEAK is intended to be a local club and not a regional facility; that PEAK will have an employee responsible for scheduling events and will not schedule an event when there is not sufficient parking shown on the unified scheduling system.

Amendment

Based upon all of the foregoing direction, the Amendment has been revised since first reading on November 6, 2006 to contain the following significant provisions (See Exhibit 1 for clean copy of Amendment and Exhibit 2 for “marked” copy of Amendment showing changes made since first reading):

- Number of Parking Spaces Required. The MICC requires 1 parking space for every 200 feet of gross floor area. Under the Amendment, the maximum allowed gross floor area for the Project is 45,000 square feet. Thus, the MICC requires 225 parking spaces. The Club initially proposed 99 new parking spaces and 80 shared parking spaces for a total of 179 parking spaces.

The Club will now be required to construct 99 new parking spaces and will be required to enter into a shared parking agreement with the District to provide an additional 156 shared parking spaces. These shared parking spaces will be signed for exclusive PEAK use after 3:30 pm except when the District has a special event such as a football game. In addition to these 255 required new and shared spaces, the City commits to signing the east side of 86th Ave. SE between SE 40th and 42nd St. for short term parking (not to exceed 2 hours) to provide an additional 20+ parking for short-term PEAK users. Although the MICC only requires the Club to provide 225 parking spaces, the TIA indicates that PEAK users will require spaces in excess of 225 spaces during certain high activity events. Accordingly, the Amendment requires a total of 255 new and shared parking spaces and creates an opportunity for approximately 20 additional on-street parking spaces available for PEAK users.

The City Engineer, Patrick Yamashita, has thoroughly reviewed the TIA and concluded that the proposed parking supply of 99 dedicated parking lot spaces and 156 shared parking spaces will be sufficient to accommodate the parking demand generated by programs at PEAK *if* the Club continues to appropriately estimate parking demand for existing/future programs; proactively schedules activities and programs based upon parking availability; and implements an aggressive parking monitoring and enforcement program. The Amendment includes the Club’s contractual obligation to perform such a parking monitoring and enforcement program. (See Operation Restrictions below.)

City staff again raised the issue of relocating school buses to provide additional PEAK parking. A variety of strategies for moving the District’s bus facility have been examined over the past few years, including sharing the City’s Maintenance facility. This strategy, like some of the others looked at, is workable – but at a prohibitive cost. Others are less costly but not workable due to conflicts with other uses. The District is not willing to reconsider this option.

- Operation Restrictions. The Amendment places the following programming and operation restrictions on the PEAK Project and District operations:
 - (i) High Activity Events (dances or concerts at teen center and use of all three gyms in field house) may not be scheduled on school days between the hours of 7:00 am and 4:00 pm when only 99 parking spaces are available for PEAK users. The Boys and Girls Club Breakfast may only occur once a calendar year. District Special Events are limited to 30 a school year.

- (ii) High Activity Events, the Boys and Girls Club Breakfast and District Special Events may not be scheduled so they overlap.
 - (iii) The Club is obligated to assign an employee to event scheduling and parking enforcement and to aggressively enforce all signed parking restrictions to insure parking stalls are available for PEAK users and not being used by high school students or other non PEAK users.
 - (iv) A minimum of 5 days written notice will be provided to all property owners residing on a street having a “no parking during school days” sign posted, to advise them when a District Special Event has been scheduled and spillover parking will be allowed to occur on their street.
- Unified Scheduling System. The Amendment continues to require a unified scheduling system among the City, District, Club and District tenants be implemented prior to commencement of the PEAK Project operation in order to coordinate events. The Club has agreed not to schedule activities or programs unless there are sufficient parking spaces available. Prior to 4:00 pm on school days, the Club may not schedule any program that requires more than 99 parking spaces.
 - Public Facility. Staff added a recital and a stipulation in the Amendment setting forth the City’s prior code interpretation that the Project constitutes a “public facility” under MICC 19.02.010(C)(1) and accordingly, is required to have 1 parking space for every 200 square feet of gross floor area.
 - Penalty. This provision has been revised to only apply to violations of the Amendment by the Club and not by the District. The penalty has been increased to \$500 a day for scheduling overlapping events among District, District tenants, pool, City and the Club. Other violations of the Amendment will result in a penalty of \$250 a day.
 - Effective Date/SEPA. The Amendment does not go into effect until following issuance of the SEPA threshold determination on the Amendment. The Amendment further incorporates by reference any SEPA conditions included in such threshold determination. The SEPA review of the Amendment is required by state law. The SEPA review is an administrative action and not a legislative action. The City Council has no role in this administrative action.

Other Land Use Actions

Staff has attached a revised timeline for the PEAK Project (See Exhibit 9) describing the following other land use actions and reviews that must occur in connection with the PEAK Project:

- SEPA Addendum. A SEPA Addendum was issued by the City on February 28, 2007 in connection with a 1996 SEPA Notice of Decision requiring the District to provide a total of 534 parking spaces on the High School property (1996 SEPA Decision). The SEPA Addendum is an administrative decision under state law requiring the City’s responsible SEPA Official to review and approve the Addendum. A copy of the Addendum is attached as Exhibit 10 and requires the District to add 35 new parking spaces to its existing 499 spaces. The construction of these 35 spaces will bring the District into compliance with the 1996 SEPA Decision requirement of 534 parking spaces. The Addendum also requires the District to designate 27 parking spaces for carpool use only. The City Council has no role in this state statutory administrative decision.
- Conditional Use Permit. Under the Mercer Island City Code (MICC), the Club will be required to apply for a Conditional Use Permit (CUP) because the PEAK Project will be developed in a residential zone. A conditional use is a use allowed by the MICC in a residential zone but only after a CUP has been issued. The CUP is granted if the project is consistent with development regulations, the use is acceptable in terms of size and location of site, character of surrounding development, traffic capacities of adjacent streets, environmental factors, size of proposed buildings and density and the use is consistent with the comprehensive plan. See MICC 19.15.020(G)(3). The CUP will be

reviewed by City staff and staff will prepare a report to the Planning Commission. The Planning Commission may attach conditions to the permit in order to insure compliance with the above criteria. The MICC designates the Planning Commission as the decision authority for a CUP. Any appeal of the Planning Commission's CUP decision will be made to the City Hearing Examiner. See MICC 19.15.010. The City Council has no role in these administrative, Planning Commission and/or Hearing Examiner decisions.

- Design Review for PEAK Project. Under Chapter 19.12 MICC, the PEAK Project must comply with certain design standards. The Design Commission is designated as the decision authority for this decision. City staff will prepare a report and recommendation to the Design Commission regarding whether or not the PEAK Project has complied with the design standards set forth in Chapter 19.12 MICC. Any appeal of the Design Commission's decision will be made to the City Hearing Examiner. See MICC 19.15.010. The City Council has no role in these administrative, Design Commission and/or Hearing Examiner actions or decisions.
- SEPA Review for PEAK Project. The Club will also be required to complete a SEPA Checklist in connection with the PEAK Project, to be reviewed administratively by DSG staff. A 14 day public comment period is provided on the City SEPA threshold determination and an appeal of this decision may be filed within 21 days. Any appeal of a SEPA threshold determination will be made to the Planning Commission. See MICC 19.15.010. The City Council has no role in these administrative and Planning Commission decisions.

RECOMMENDATION

Deputy City Manager & City Attorney Londi K. Lindell

- MOVE TO: Move to approve Resolution No. 1385 authorizing the City Manager to enter into an Amendment to the June 5, 2006 Development Agreement covering the required parking at the High School site for the PEAK Project, in the form of Exhibit 1 to Agenda Bill 4162.
- Alternative: Direct additional revisions to Amendment; move to third reading for possible adoption
- Alternative: Do not authorize the City Manager to enter into the Amendment.