

**ORIGINAL**

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6001

AN ORDINANCE approving the conditional use permit application of Group Mackenzie to locate a health club in the Kelsey Creek Center, 15015 Main Street; File No. 11-103765-LB.

Whereas, Group Mackenzie, has applied to the City for a conditional use permit to locate a health club in the Kelsey Creek Center, located at 15015 Main Street; and

Whereas, on April 7, 2011 a public hearing was held thereon by the Hearing Examiner pursuant to notice required by law; and

Whereas, on April 20, 2011, the Hearing Examiner recommended approval, subject to conditions, of said application and made and entered findings of fact and conclusions based thereon in support of his recommendation; and

Whereas, the City Council concurs in the findings of fact and conclusions of the Hearing Examiner; and

Whereas, the City of Bellevue has complied with the State Environmental Policy Act and the Bellevue Procedures Code; now; therefore

**THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. The City Council Adopts the findings of fact and conclusions made and entered by the Hearing Examiner in support of his recommendation to the City Council in this matter as set forth in "Findings of Fact, Conclusions of Law and Recommendation of the Hearing Examiner for the City of Bellevue, in the Matter of the Application of Group Mackenzie for a Conditional Use Permit to Allow the Operation of a Health Club in the Kelsey Creek Center, FILE NO. 11-103765-LB."

Section 2. The City Council hereby approves, subject to conditions, the conditional use application to locate a health club in the Kelsey Creek Center, on property legally described as:

Lots 1, 2, and 3 of City of Bellevue Short Plat No. 96-8900, as filed under Recording No. 9803099020, in King County, Washington.

Section 3. The application approval shall be subject to the following conditions:

A. General Conditions: The following conditions apply to all phases of development

1. Compliance with Bellevue City Codes and Ordinances  
The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Clearing and Grading Code - BCC 23.76  
Transportation Development Code - BCC 14.60  
Traffic Standards Code – BCC 14.10  
Trans. Impact Fee Program – BCC 22.16  
Transportation Development Standards  
Right-of-Way Use Permit - BCC 14.30  
Land Use Code - BCC Title 20  
Sign Code - BCC Title 22B  
Noise Control - BCC 9.18  
Utilities Code - BCC Title 24  
Construction Codes - BCC Title 23  
Uniform Fire Code - BCC 23.11

2. CONSTRUCTION HOURS

Noise related to construction is allowed from 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday. Exceptions to the construction noise hours limitation contained in the Noise Control Code MAY be granted pursuant to 9.18.020C.1 when necessary to accommodate construction which cannot be undertaken during exempt hours. Allowances for short term work outside of normal construction hours shall be limited and will be reviewed on a case by case basis to verify necessity and ensure appropriate noise mitigation is utilized to protect surrounding uses and properties. Written requests for exemption from the Noise Control Code must be submitted two weeks prior to the scheduled onset of extended hour construction activity. Such request shall include a noise analysis prepared by a noise consultant, including recommendations for achieving the noise limitations of the Noise Ordinance for new residential construction.

BCC 9.18.040

3. ON-STREET LOADING & UNLOADING

The property owner shall provide off-street loading spaces which can access a public street, and which will be accessible by large trucks without using Main Street to and from the east. On-street loading and unloading will not be permitted.

LUC 20.20.590.K.4

4. PARKING

The property owner shall submit to the Land Use Division an updated parking calculation for Kelsey Creek Center whenever the tenant size and/or mix changes significantly to ensure that on-site parking supply will continue to meet current parking requirements of the Land Use Code. In addition, the City maintains the authority to require additional mitigation if the parking proves to be more significant than the projections contained in the parking demand analysis provided by the applicant.

LUC 20.20.590.F, LUC 20.30B.165, LUC 20.30B.170.A

5. TRANSPORTATION MANAGEMENT PROGRAM

To the extent required by BCC 14.60.070, the operator of the proposed health club is required to participate in any Transportation Management Program established for the Kelsey Creek Center, as described in the Design Review 1 Staff Report, 10-121806-LD.

BCC 14.60.070

6. HEALTH CLUB OCCUPANCY MAY BE AFFECTED BY PHASING OF KELSEY CREEK CENTER DEVELOPMENT

The proposed health club is subject to the required relationship between phasing of the overall site development and phasing of street frontage improvements as described in the Design Review staff report for the Kelsey Creek Center, 10 121806 LD. Per those requirements, the health club cannot receive a Certificate of Occupancy until all street frontage improvements that the developer of the Kelsey Creek Center is required to construct on Main Street and on 148<sup>th</sup> Avenue north of Main Street are complete and accepted by the City of Bellevue Transportation Department.

BCC 14.60.060

B. PRIOR TO BUILDING PERMIT: The following conditions are required by City Code. Unless specified otherwise below, these conditions must be complied with on plans submitted with the Building permit application:

1. RECYCLING & SOLID WASTE COLLECTION

A letter from Allied Waste shall be submitted to the Land Use reviewer confirming their endorsement of the proposed size and function of the recycling & solid waste collection areas, and that garbage containers will be kept out of view.

BCC 22B.025

## 2. ROOF-TOP MECHANICAL EQUIPMENT SCREENING

Since mechanical equipment screening is not addressed, a Land Use Exemption from Design Review (file number 10-121806-LD) will be required prior to the tenant improvement permit approval for this use. The drawings shall show the location of each piece of mechanical equipment (including communication equipment such as satellite dishes) and demonstrate that the equipment is not visible from adjacent streets, public sidewalks, or from the tops of surrounding buildings.

LUC 20.20.525, 20.20.650, 20.20.730, 20.25B, 20.25I

## 3. RIGHT-OF-WAY USE PERMIT

Prior to issuance of any construction permit, the applicant shall secure applicable right-of-way use permits from the City's Transportation Department, which may include:

- Designated truck hauling routes.
- Truck loading/unloading activities.
- Location of construction fences.
- Hours of construction and hauling.
- Requirements for leasing of right of way or pedestrian easements.
- Provisions for street sweeping, excavation and construction.
- Location of construction signing and pedestrian detour routes.
- All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval a plan for providing pedestrian access during construction. Access shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access.

The applicant shall secure sufficient off-street parking for construction workers before the issuance of a clearing and grading, building, a foundation or demolition permit.

BCC 11.70 & 14.30

## 4. TRANSPORTATION IMPACT FEE

Payment of a transportation impact fee will be required at building permit issuance, per BCC 22.16. The proposed health club will require calculation of a unique impact fee rate, using the method described in the Transportation Impact Fee Program 2009 Update. Impact fee rates are subject to change and the most current fee schedule in effect at the time of permit issuance will apply, unless a Development Agreement for the Kelsey Creek Center modifies this requirement.

Tenant improvement permits within the Kmart building that will generate one or more net new trips will be classified as "developments" for impact fee

purposes under BCC 22.16.020.C, because SEPA review is required for the entire site and because trip generation for each tenant is part of the site's cumulative total, which exceeds the 11-trip threshold stated in BCC 22.16.020C. Removal of the previous Kmart use will not be eligible for credit against the transportation impact fee because that the Kmart has been out of usage for more than two years.  
BCC 22.16

Section 4. This ordinance shall be recorded with the King County Department of Records and Elections.

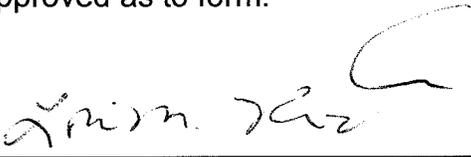
Section 5. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 16<sup>th</sup> day of May, 2011  
and signed in authentication of its passage this 16<sup>th</sup> day of May, 2011.

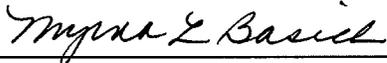
(SEAL)

  
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Don Davidson, DDS  
Mayor

Approved as to form:

  
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Lori M. Riordan, City Attorney

Attest:

  
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Myrna L. Basich, City Clerk

Published May 19, 2011