

ORDINANCE O-4553

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND THE MODIFICATION AND GRANTING OF A PRELIMINARY (AND FINAL) PUD AS APPLIED FOR BY LARRY SCRIVANICH/LITTLE LION LLC IN THE PLANNING AND BUILDING DEPARTMENT FILE NO. SUB15-02157, AND SETTING FORTH CONDITIONS OF SAID APPROVAL.

1 WHEREAS, the Planning and Building Department has received
2 an application, pursuant to Process IIB, for a Preliminary (and Final)
3 Planned Unit Development (PUD) filed by Larry Scrivanich/Little Lion LLC
4 as the Planning and Building Department File No. SUB15-02157 for a 27
5 lot development within a RS 8.5 zone known as Scrivanich PUD; and
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7 WHEREAS, pursuant to the City of Kirkland's Concurrency
8 Management System, KMC Title 25, a concurrency application has been
9 submitted to the City of Kirkland, reviewed by the responsible Public
10 Works official, the concurrency test has been passed, and a concurrency
11 test notice issued; and
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13 WHEREAS, pursuant to the State Environmental Policy Act,
14 RCW 43.21C, and the Administrative Guideline and local ordinance
15 adopted to implement it, an environmental checklist was submitted to
16 the City of Kirkland, reviewed by the responsible official of the City of
17 Kirkland, and a mitigated determination of non-significance was issued;
18 and
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20 WHEREAS, said environmental checklist and determination
21 have been available and accompanied the application through the entire
22 review process; and
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24 WHEREAS, the application was submitted to the Kirkland
25 Hearing Examiner who held a hearing on November 3, 2016; and
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27 WHEREAS, the Kirkland Hearing Examiner after his public
28 hearing and consideration of the recommendations of the Planning and
29 Building Department did adopt certain Findings, Conclusions and
30 Recommendations and did recommend approval of the Process IIB
31 Permit subject to the specific conditions set forth in said
32 recommendations; and
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34 WHEREAS, the City Council, in a closed record public hearing
35 held on December 13, 2016, did consider the environmental documents
36 received from the responsible official, together with the record
37 recommendation of the Hearing Examiner, as well as a timely filed
38 challenge from various neighbors and response thereto from the
39 applicant, and together with oral argument from both the applicant and
40 the challenger; and
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42 WHEREAS, the City Council at the close of such closed record
43 public hearing on December 13, 2016 did take the matter under

44 advisement in order to take action and vote on the application at the
45 next or a subsequent meeting; and

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47 WHEREAS, the City Council at its January 17, 2017 regular
48 meeting did continue the matter under advisement in order to allow the
49 challenger and the applicant the opportunity to continue voluntary
50 discussions with one another related to the challenge; and

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52 WHEREAS, the City Council at its February 7, 2017 regular
53 meeting did reopen the closed record public hearing for the limited
54 purposes of providing the applicant and the challenger the opportunity
55 to advise the Council on the status of any discussions between the
56 parties related to the challenge and to make statements, if any, related
57 to the adequacy of the public benefits conferred by the applicant in
58 connection with the application, which resulted in statements from both
59 the applicant and the challenger to the Council; and

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61 WHEREAS, after such statements the City Council again closed
62 the closed record public hearing and directed City staff to prepare a
63 revised ordinance in order to take action at its regular meeting on
64 February 21, 2017; and

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66 WHEREAS, the City Council finds, based on the record before
67 the Hearing Examiner, including but not limited to the challenge, that
68 absent additional mitigation related to the treatment of the required
69 retaining wall and/or buffering landscaping on the challenger properties
70 alongside the base of such wall and located on immediately contiguous
71 properties owned by the challengers, there would be an undesirable
72 effect on the challenger of granting the application in accordance solely
73 with the Findings, Conclusions and Recommendations of the Hearing
74 Examiner; and

75
76 WHEREAS, the City Council concludes, based on the record
77 before the Hearing Examiner, including but not limited to the challenge,
78 that such undesirable effect can be eliminated or minimized by requiring
79 the applicant to reimburse the challenger in an amount up to \$10,000
80 in documented costs associated with retaining wall treatment and/or
81 buffering landscaping mitigation chosen and installed by the challenger
82 in its discretion; and

83
84 WHEREAS, the Kirkland Zoning Ordinance requires approval of
85 this application for PUD to be made by ordinance.

86
87 NOW, THEREFORE, the City Council of the City of Kirkland do
88 ordain as follows:

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90 Section 1. Subject to Section 2 hereof, the Findings, Conclusions, and
91 Recommendations of the Kirkland Hearing Examiner
92 ("Recommendations") as signed by him and filed in the Planning and
93 Building Department File No. SUB15-02157, a copy of which is attached
94 to this Ordinance as Exhibit A and incorporated herein, are adopted by
95 the Kirkland City Council as though fully set forth herein.

96 Section 2. In addition to adopting the Recommendations set
97 forth in Section 1, the City Council hereby includes the following
98 additional condition as necessary to eliminate or minimize any remaining
99 undesirable effects of the application on the challenger: Prior to
100 issuance of a building permit for the retaining wall on the east side of
101 the Scrivanich development, the applicant shall have posted with the
102 City of Kirkland, by and through its Planning and Building Department,
103 a performance bond pursuant to KMC Section 152.120 and Chapter 175
104 KZC securing the expenditure by the applicant (either directly or as a
105 reimbursement) of \$10,000 in documented costs for retaining wall
106 treatment and/or buffering landscaping alongside the base of such wall
107 and located on immediately contiguous properties owned by the
108 challenger. Such costs may include any combination of documented
109 costs (a) incurred by the applicant in connection with such retaining wall
110 treatment approved in advance by an authorized representative of the
111 challenger and/or (b) incurred by an authorized representative of the
112 challenger in connection with such landscape buffering; provided,
113 however, that such documented reimbursable costs shall be presented
114 to the applicant by the challenger within six (6) months of the
115 substantial completion of the PUD by the applicant; and provided
116 further, however, that landscape maintenance costs may be included if
117 necessary to reach a total expenditure of \$10,000.

118
119 Section 3. In accordance with Sections 1 and 2 hereof, the City
120 Council hereby grants and modifies the application for a preliminary and
121 final PUD and a preliminary subdivision, subject to the conditions set
122 forth in the Recommendations hereinabove adopted by the City Council.

123
124 Section 4. The Process IIB permit shall be issued to the
125 applicant subject to the conditions set forth in Sections 1 and 2 hereof
126 and adopted by the City Council.

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128 Section 5. Nothing in this ordinance shall be construed as
129 excusing the applicant from compliance with any federal, state or local
130 statutes, ordinances or regulations applicable to this project, other than
131 expressly set forth herein.

132
133 Section 6. Failure on the part of the holder of the permit to
134 initially meet or maintain strict compliance with the standards and
135 conditions to which the Process IIB Permit is subject shall be grounds
136 for revocation in accordance with Ordinance No. 3719, as amended, the
137 Kirkland Zoning Ordinance.


138
139 Section 7. This ordinance shall be in full force and effect five
140 (5) days from and after its passage by the City Council and publication
141 pursuant to Kirkland Municipal Code 1.08.017, in the summary form
142 attached to the original of this ordinance and by this reference approved
143 by the City Council.

144
145 Section 8. A complete copy of this ordinance, including
146 Findings, Conclusions and Recommendations adopted by reference,
147 shall be certified by the City Clerk, who shall then forward the certified
148 copy to the King County Department of Assessments.

149 Section 9. A certified copy of this ordinance, together with the
150 Findings, Conclusions, and Recommendations herein adopted shall be
151 attached to and become a part of the Process IIB Permit or evidence
152 thereof delivered to the applicant.
153

154 Passed by majority vote of the Kirkland City Council in open
155 meeting this 21st day of February, 2017.
156

157 Signed in authentication thereof this 21st day of February,
158 2017.


MAYOR

Attest:


City Clerk

Publication Date: February 27, 2017

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4553

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND THE MODIFICATION AND GRANTING OF A PRELIMINARY (AND FINAL) PUD AS APPLIED FOR BY LARRY SCRIVANICH/LITTLE LION LLC IN THE PLANNING AND BUILDING DEPARTMENT FILE NO. SUB15-02157, AND SETTING FORTH CONDITIONS OF SAID APPROVAL.

SECTION 1. Adopts the Findings, Conclusions and Recommendations ("Recommendations") of the Kirkland Hearing Examiner with conditions.

SECTION 2. Approves the application for a preliminary and final PUD and a preliminary subdivision subject to the Recommendations and conditions.

SECTION 3. Grants and modifies the application for a preliminary and final PUD and preliminary subdivision in accordance with the Recommendations and conditions.

SECTION 4. Provides that the Process IIB Permit shall be issued and subject to the Recommendations adopted in Section 1 and Section 2 of the Ordinance.

SECTION 5. The applicant must comply with any federal, state or local statutes, ordinance or regulations applicant to the project.

SECTION 6. Provides that failure to comply with the conditions of approval for the Process IIB permit shall be grounds for revocation in accordance with Kirkland Zoning Ordinance, as amended.

SECTION 7. Provides that the ordinance shall be in full force and effect five (5) days from and after its passage by the City Council and publication.

SECTION 8. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

SECTION 9. A certified copy of this ordinance shall become a part of the Process IIB Permit and will be delivered to the applicant.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 21st day of February, 2017.

I certify that the foregoing is a summary of Ordinance O-4553 approved by the Kirkland City Council for summary publication.



City Clerk