

ORDINANCE NO. 3246

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND AMENDING THE ZONING MAP OF THE CITY OF KIRKLAND AS ADOPTED BY ORDINANCE NO. 2740 (FILE NO. IIB-90-91).

WHEREAS, there has heretofore been filed with the City of Kirkland an application for amendment to the official Zoning Map of the City of Kirkland as adopted by Ordinance No. 2740; and

WHEREAS, the application has been submitted to the Kirkland Hearing Examiner who held public hearing thereon at his regular meeting on January 24, 1991; and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a negative determination reached; and

WHEREAS, said environmental checklist and determination have been available and accompanied the application throughout the entire review process; and

WHEREAS, the Kirkland Hearing Examiner, after public hearing and consideration of the recommendations of the Department of Planning and Community Development, did adopt certain Findings, Conclusions and Recommendations, and did recommend approval of the proposed rezone; and

WHEREAS, thereafter the Kirkland City Council, in regular public meeting, did consider the environmental documents received from the responsible official, together with the report and recommendations of the Hearing Examiner.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. The Findings, Conclusions and Recommendations of the Kirkland Hearing Examiner as signed by him and filed in Department of Planning and Community Development File No. IIB-90-91 are hereby adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The real property within the City of Kirkland described as follows is hereby reclassified (rezoned) from RS 8.5 to RM 3.6:

Lots 11, 11a, 12, and 12a of the Court Commissioner's Plat, King County, Washington, lying east of relocated 98th Avenue NE.

Section 3. The Director of the Department of Planning and Community Development is directed to amend the official Kirkland Zoning Map to conform with this Ordinance, indicating thereon the date of the adoption of this Ordinance and its identifying number. Copies of this Ordinance shall be filed with the Department of Planning and Community Development and City Clerk.

Section 4. This Ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.


PASSED by the Kirkland City Council in regular meeting on the 5th day of March, 19 91.

SIGNED IN AUTHENTICATION thereof on the 5th day of March, 19 91.



Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

ORD90-91.FEB/AR:rk

**CITY OF KIRKLAND
HEARING EXAMINER FINDINGS,
CONCLUSIONS, AND RECOMMENDATION**

APPLICANT: City of Kirkland

FILE NO. IIB-90-91

APPLICATION:

1. Site Location: 11400 block of 98th Avenue (see Attachment 1).
2. Request: To rezone 39,772 sq. ft. from RS 8.5 (single-family residential minimum lot size 8,500 sq. ft.) to RM 3.6 (multifamily residential, minimum lot size 3,600 sq. ft.). This rezone would return the property to what it was zoned when it was part of King County. Zoning was inadvertently changed when property was annexed to Kirkland in 1985.
3. Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.
4. Major Issues:
 - a. Compliance with the rezone criteria as set forth in Chapter 130 of the Zoning Code.
 - b. Compliance with the decisional criteria as set forth in Chapter 152 of the Zoning Code.
 - c. Compliance with the Comprehensive Plan designation for the shoreline area south of Juanita (Forbes Valley Neighborhood) described in pages 355, 407C, and 407D (see Exhibit A, Attachments 7, 8, and 9).

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Community Development: Approve with conditions.

Hearing Examiner: Approve with conditions.

PUBLIC HEARING:

After reviewing the official file which included the Department of Planning and Community Development Advisory Report and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the City of

Kirkland/Brand application was opened at 9:19 a.m., January 21, 1991, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 9:50 a.m. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the City Clerk's office. The minutes of the hearing and the exhibits are available for public inspection in the Department of Planning and Community Development.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

I. FINDINGS:

- A. The findings of fact recommended on pages 3 to 6 of the Department of Planning and Community Development Advisory Report (Hearing Examiner Exhibit A) are found by the Hearing Examiner to be supported by the evidence presented during the hearing and, by this reference, are adopted as part of the Hearing Examiner's findings of fact. A copy of said report is available in the Department of Planning and Community Development.
- B. City Planning staff and the property owners' attorney reviewed the history of the zoning on the subject property. The minutes of the hearing outline the principle issues involved. The attorney submitted Exhibit C which specified that when the property is developed, the owners will ask for access from 98th Avenue NE and the City agreed it will apply normal development standards to such request for street access.
- C. Two neighboring property owners spoke in favor of the rezone, although one said he would like the height of any buildings on the site to be limited to 25 feet to protect views.
- D. One other neighboring property owner expressed concern about view obstruction.
- E. Staff explained that the height of the buildings would not be allowed to exceed 25 feet if they were adjoining a low-density zone. In this case, the adjoining property to the east and south is zoned RS 8.5, single-family, and would therefore mean that most of the subject property would be affected by the height limitation.
- F. Three neighboring property owners wrote letters expressing concerns about the application (Exhibits B1, B2 and B3). They expressed concerns about additional traffic on 100th N.E., the potential loss of vegetation if the site is developed at a higher density, the increase in population, and the impact on and undermining of the adjacent single-family neighborhood.

II. CONCLUSIONS:

- A. The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 3 to 6 of the Department's Advisory Report (Exhibit A), accurately set forth the conclusions of the Hearing Examiner and, by this reference, are adopted as part of the Hearing Examiner's conclusions, except Conclusion IIE.2, which the does not reflect the conclusions of the Examiner. A copy of said report is available in the Department of Planning and Community Development.
- B. The Examiner concurs with the attorney for the property owners that access to 98th Avenue NE should be addressed at the time the property is to be developed. This is in keeping with the conditional Agreement for Settlement of Condemnation Action (Exhibit C) and it allows the City to apply normal development standards to a request at that time. It also allows the City the opportunity to address the concerns expressed by citizens who believe development of the property would increase traffic on 100th Avenue NE.

III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, approval of this application is recommended subject to the following conditions:

- A. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Exhibit A, Attachment 2, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Exhibit A, Attachment 2, the condition of approval shall be followed.
- B. As part of any application for a Building Permit at this site, the applicant shall submit a site plan which does not include excessive filling or grading activity (see Exhibit A, Conclusion II.F.2).

EXHIBITS:

The following exhibits were offered and entered into the record:


- A. Department of Planning and Community Development Staff Advisory Report
- B1. Letter from Lionnell Covert, dated 1/10/91
- B2. Letter from Mrs. Reid Bettinger, received 1/16/91
- B3. Letter from Robert Adams, dated 1/23/91
- C. Conditional Agreement for Settlement of Condemnation Action

Exhibits and references can be found within File IIB-90-91 maintained in the Department of Planning and Community Development.

PARTIES OF RECORD:

Mr. and Mrs. S. A. Brand, 3020 Tenth Ave. W, Seattle, WA 98119
Richard Evans, Evans & McCarthy, 11410 98th Ave. NE, Kirkland, WA 98033
Peter Acceturro, 1408 West Horizon Dr., Mukilteo, WA
Marshall Blakemore, 11410 100th Ave. NE, Kirkland, WA 98033
Fred Hall, 100th Ave. NE, Kirkland, WA 98033
Lionnell Covert, 10437 NE 113th Pl, Kirkland, WA 98033
Mrs. Reid Bettinger, 10105 NE 113th Pl., Kirkland, WA 98033
Robert Adams, 11419 99th Pl. NE, Kirkland, W 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Entered this 8th day of February, 1991, per authority granted by Section 152.70, Ordinance 2740 of the Zoning Code. This recommendation is final unless a request for reconsideration is filed within five (5) working days as specified below. A final decision on this application will be made by the City Council. My recommendation may be challenged to the City Council within ten (10) working days as specified below.


Ronald L. McConnell
Hearing Examiner

RECONSIDERATIONS, APPEALS, CHALLENGES AND JUDICIAL REVIEW

The following is a summary of the deadline and procedures for filing reconsiderations and challenges. Any person wishing to file or respond to a recommendation or challenge should contact the Planning Department for further procedural information.

A. REQUEST FOR RECONSIDERATION

Section 152.80 of the Zoning Code allows the applicant or any person who submitted written or oral testimony to the Hearing Examiner to request that the Hearing Examiner reconsider his/her recommendation. The request must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department within five (5) working days following the postmarked date when the Hearing Examiner's written recommendation was distributed (by February 11, 1991). Within this same time period, the person making the request for reconsideration must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the request letter together with notice of the deadline and procedures for responding to the request.

Any response to the request for reconsideration must be delivered to the Planning Department within five (5) working days after the request letter was filed with the Planning Department. Within the same time period, the person making the response must also mail or personally deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, attached to the request and response letters, and delivered to the Planning Department. The affidavit form is available from the Planning Department.

B. CHALLENGE

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted written or oral testimony to the Hearing Examiner. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by February 26, 1991, ten (10) working days following the postmarked date of distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

Any response to the challenge must be delivered to the Planning Department within five (5) working days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, available from the Planning Department. The affidavit must be attached to the challenge and response letters, and delivered to the Planning Department.

The challenge will be considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

C. JUDICIAL REVIEW (FOR ZONING PERMIT ONLY)

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 30 days following the postmarked date when the City's final decision was distributed.

If issues under RCW 43.21C (the State Environmental Policy Act--SEPA) are to be raised in the judicial appeal, the "SEPA" appeal must be filed with the King County Superior Court within 30 days following the postmarked date when the City's final decision was distributed.

SR\HE90-91/RM:cc