

ORDINANCE NO. 3257\*

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE, APPROVAL OF A PRELIMINARY AND FINAL PUD AND VARIANCE AS APPLIED FOR BY SCOTT RENFROE AND JACK PRUSS IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. IIB-90-164 AND SETTING FORTH CONDITIONS OF SAID APPROVAL.

WHEREAS, the Department of Planning and Community Development has received an application, pursuant to Process IIB, for a Preliminary and Final Planned Unit Development (PUD) filed by Scott Renfro and Jack Pruss to reconfigure two legally nonconforming lots within a WDII zone, as well as an application for a Variance filed by Scott Renfro to allow minor encroachment of a new home into the 45-degree sun angle setback, as Department of Planning and Community Development File No. IIB-90-164; and

WHEREAS, the application was submitted to the Kirkland Hearing Examiner who held hearing thereon at his regular meeting of April 11, 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 was 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 through the entire review process; and

WHEREAS, the Kirkland Hearing Examiner after his 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 Process IIB Permit subject to the specific conditions set forth in said recommendations; and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner; and

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

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 the Department of Planning and Community Development File No. IIB-90-164 are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Preliminary and Final Planned Unit Development and Variance are approved subject to the said recommendations set forth by the Kirkland Hearing Examiner.

Section 3. Nothing in this ordinance shall be construed as excusing the applicant from compliance with any federal, state or local statutes, ordinances or regulations applicable to this project, other than expressly set forth herein.

Section 4. Failure on the part of the holder of the permit to initially meet or maintain strict compliance with the standards and conditions to which the Process IIB Permit is subject shall be grounds for revocation in accordance with Ordinance No. 2740, as amended, the Kirkland Zoning Ordinance.

Section 5. This ordinance shall be in full force and effect five (5) days from and after its passage by the Kirkland City Council and publication, pursuant to Section 1.08.010.

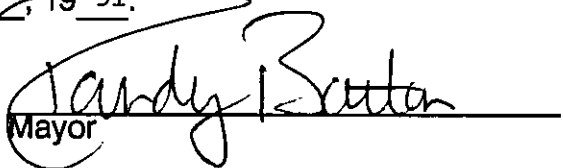
Section 6. A certified copy of this ordinance, together with the Findings, Conclusions, and Recommendations herein adopted shall be attached to and become a part of the Process IIB Permit or evidence thereof delivered to the permittee.

Section 7. Certified or conformed copies of this ordinance shall be delivered to the following:

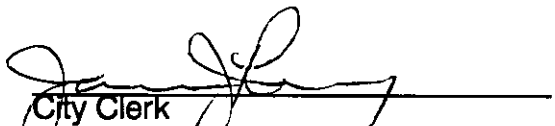
- (a) Department of Planning and Community Development of the City of Kirkland
- (b) Fire and Building Departments of the City of Kirkland
- (c) Public Works Department of the City of Kirkland
- (d) The City Clerk for the City of Kirkland.

PASSED by majority vote of the Kirkland City Council in regular, open meeting this 7th day of May, 1991.

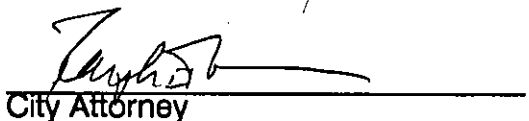
SIGNED IN AUTHENTICATION THEREOF on this 7th day of May, 1991.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

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

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**APPLICANT:** Scott Renfroe & John Pruss

**FILE NO.** IIB-90-164

**APPLICATION:**

Site Location: 759 Waverly Way and 545 5th Avenue West (see Exhibit A, Attachment 1).

Request: Application for a preliminary and final planned unit development to reconfigure two legally non-conforming lots of 6,136 square feet and 8,530 square feet in a WDII zone. A PUD is necessary to allow a subsequent lot line alteration to add a 10 by 118 foot piece of property to the existing 52 by 188 foot property at 759 Waverly Way and remove it from the property at 545 5th Avenue West because both properties are less than the minimum lot size of 12,500 square feet required in the WDII zone (see Exhibit A, Attachment 2).

Application for a variance at 759 Waverly Way to allow minor encroachment of a new single-family residence into the required 45-degree sun angle created by the north property line setback requirement (see Exhibit A, Attachments 3a-3g).

Review Process: Process IIB, Hearing Examiner conducts public hearing and makes recommendation; City Council makes final decision.

**SUMMARY OF RECOMMENDATION:**

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 Renfroe/Pruss application was opened at 9:06 a.m., April 11, 1991, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 9:20 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 4 to 14 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. Two letters of support were received (Exhibit A, Attachments 18 and 20). Reasons given for support of the proposal included:
  - 1. Views will not be materially changed and may even be improved.
  - 2. The project is for a single-family house which qualifies for deferment of right-of-way improvements.

### **II. CONCLUSIONS:**

- A. The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 4 to 14 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. A copy of said report is available in the Department of Planning and Community Development.

### **III. RECOMMENDATION:**

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

- 1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, 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 4, Development Standards, is provided 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 4, the condition of approval shall be followed.

2. The Department of Planning and Community Development shall be authorized to approve modifications to the approved site plan, unless:
  - a. There is a change in use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use; or
  - b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change (see Exhibit A, Conclusion II.D.12); and
  - c. The change will not have the effect of reducing the landscaped area, buffering areas, or the amount of open space in the PUD; and
  - d. The change will not have the effect of increasing the residential density of the PUD; and
  - e. The change will not have the effect of increasing the area devoted to non-residential uses in the PUD; and
  - f. The change will not result in any increase in height of any structure; and
  - g. The City determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project (see Exhibit A, Conclusion II.D.5).
3. Prior to submittal of an application for a Building Permit, the applicant shall apply for and finalize a Lot Line Alteration to reconfigure the existing lots (see Exhibit A, Conclusion II.A.1.b(1)).
4. Prior to issuance of a Demolition Permit to remove the existing house at 759 Waverly Way, the applicant shall submit a signed and notarized covenant, as set forth in Exhibit A, Attachment 5, indemnifying the City from any loss, including claims made therefore, resulting from soils disturbance on the property, to be approved by the Department of Planning and Community Development and recorded with the King County Records and Elections Division (see Exhibit A, Conclusion II.D.7).
5. As part of the application for a Building Permit, the applicant shall submit:
  - a. Plans for a permanent and construction phase storm water control system to be approved by the Department of Public Works (see Exhibit A, Conclusion II.D.8).

- b. A signed and notarized concomitant agreement, as set forth in Exhibit A, Attachment 6, to underground all existing transmission (power, telephone, etc.) lines bordering the subject property within the Waverly Way right-of-way and to install the following half-street improvements within the Waverly Way right-of-way bordering the subject property: a 4-1/2 foot wide landscape strip adjacent to the existing curb, street trees planted approximately 30 feet on center in the landscape strip, a 5 foot wide concrete sidewalk adjacent to the landscape strip, and a utility strip adjacent to the property line. Underground all on-site transmission lines. (see Exhibit A, Conclusions II.D.9.b(2) and (4)).
  - c. Information demonstrating that the proposed development is consistent with the recommendations of the November 30, 1990 Geotechnical Engineering Report prepared by Associated Earth Sciences, Inc. (see Exhibit A, Attachment 7) (see Exhibit A, Conclusions II.E.2).
  - d. Plans that have been prepared and stamped by a State of Washington licensed architect or engineer. Permit submittal shall include design calculations (see Exhibit A, Conclusion II.E.2).
6. Prior to beginning work on any combustible element of a structure, the applicant shall verify that the fire flow is at least 1,000 GPM (see Exhibit A, Conclusion II.E.2).
  7. Prior to occupancy of any new structure, the applicant shall:
    - a. Complete all site improvements indicated on the site plan approved by the Department of Planning and Community Development as part of the application for a Building Permit (see Exhibit A, Conclusion II.D.14).
    - b. Submit to the Building Department a final report prepared by a professional geotechnical engineer verifying that the recommendations of the Associated Earth Sciences Geotechnical Engineering Report were complied with (see Exhibit A, Conclusion II.E.2).
    - c. Sign and submit to the Department of Planning and Community Development for recording with the King County Records and Elections Division an agreement, as set forth in Attachment 8, to continually maintain the landscaping within the Waverly Way right-of-way (see Exhibit A, Conclusion II.D.9.b(2)).
    - d. Install a fully-operational permanent storm water control system (see Exhibit A, Conclusion II.D.14).

- e. In lieu of completing any required improvements, a security device to cover the cost of installing the improvements may be submitted if the criteria in Zoning Code Section 175.10.2 are met (see Exhibit A, Conclusion II.D.14).
8. Within seven (7) calendar days after the final public hearing, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development (see Exhibit A, Conclusion II.D.13).

**\*EXHIBITS:**

The following exhibits were offered and entered into the record:

- A. Department of Planning and Community Development Staff Advisory Report
- B. Survey

**PARTIES OF RECORD:**

Scott and Ellen Renfroe, 1933 NW 95th Street, Seattle, WA 98117  
Jack Pruss, 545 5th Avenue West, Kirkland, WA 98033  
William Hofius, 12356 Northup Way, Bellevue, WA 98005  
Robert and Gertrude Schroeder, 919 6th Street West, Kirkland, WA 98033  
Department of Planning and Community Development  
Department of Public Works  
Department of Building and Fire Services

Entered this 25<sup>th</sup> day of April, 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.

\*Exhibits and references can be found with File No. IIB-90-164 maintained in the Department of Planning and Community Development.