

ORDINANCE NO. 3259

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-90-149).

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 March 21, 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 the chairperson thereof and filed in Department of Planning and Community Development File No. IIB-90-149 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 RS 7.2:

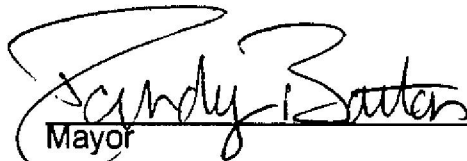
Lots 11, 12, and 13, Block 1, Crane and Dickey's Addition to Kirkland, according to the plat thereof recorded in Volume 3 of Plats, page 98, in King County, Washington.

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 7th day of May, 1991.

SIGNED IN AUTHENTICATION thereof on the 7th day of May, 1991.




Mayor

Attest:



City Clerk

Approved as to form:



City Attorney

OR90-149.APR/JM:rk

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

APPLICANT: Klaus Sundin

FILE NO. IIB-90-149

APPLICATION:

Site Location: - 250 Seventh Avenue South.

Request: To rezone an approximate 15,000 square foot parcel of land from one single-family zone with a minimum lot size of 8,500 square feet to another single-family zone with a minimum lot size of 7,200 square feet. This rezone would allow a subsequent lot line alteration to establish two conforming lots for single-family homes. (See Exhibit A, Attachment 2)

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

SUMMARY OF RECOMMENDATION AND DECISION:

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 Sundin application was opened at 9 a.m., March 21, 1991, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and the oral portion was closed at 9:25 a.m. The file was kept open administratively until April 1, 1991, to clarify the applicability of the City's Development Standards to the existing structure. 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 DECISION:

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 9 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.
- B. The applicant's representative indicated that if the City's Development Standards are required for the existing structure, that it will be a hardship for the applicant and will require the disruption of a number of existing on-site improvements. The applicant does not disagree with this being required for the newly-created lot or at the time improvements are made on the lot with the existing house.
- C. The staff's letter dated March 25, 1991, (Exhibit C) clarified that the City's Development Standards would not apply to the existing house until such time as a development permit is necessary.

II. CONCLUSIONS:

- A. The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 3 to 9 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 attached hereto as Exhibit A.
- B. The staff's letter dated March 25, 1991, clarifies that the Development Standards listed in Exhibit A, Attachment 5, do not apply to the existing house and are advisory in nature. Those requirements specifically identified by the applicant related to the existing house are:

B3(a) Storm Water
B5(a) Transmission Lines

Improvements related to the existing structure would not apply until a building permit is requested for new construction or for substantial improvement to the existing structure (per Section 110.10 of the Zoning Code).

III. DECISION:

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, Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 5, 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 Attachment 5, the condition of approval shall be followed.

- B. As part of the application for a Building Permit, the applicant shall submit:
1. A soils report for the subject property addressing issues of slope stability, proposed soils retention methods, construction storm water control, erosion, and revegetation of disturbed slopes (see Exhibit A, Conclusion II.C.1.b).
 2. A signed and notarized covenant, as set forth in Attachment 6, indemnifying the City from any loss, including claims made therefore, resulting from soils disturbance on the subject 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.5.b).
- C. 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. The signs shall be disassembled with the posts, bolts, washers and nuts separated from the sign board (see Exhibit A, Conclusion II.D.4.b).

***EXHIBITS:**

The following exhibits were offered and entered into the record:

- A. Department of Planning and Community Development Staff Advisory Report
- B. Map of Parcel Sizes in the Immediate Zone
- C. Staff Letter, March 25, 1991

PARTIES OF RECORD:

Applicant: Klaus Sundin, 250 Seventh Avenue South, Kirkland, WA 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

*Exhibits and references can be found within File No. IIB-90-149 maintained in the Department of Planning and Community Development.

Entered this 15th 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.



Robert G. Burke
Hearing Examiner, Pro Tem

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 April 23, 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 April 30, 1991, ten (10) working days following the postmarked date of distribution of the Hearing Examiner's written recommendation on the application.