ORDINANCE NO. O-3271

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE, APPROVAL OF A PRELIMINARY AND FINAL PUD AS APPLIED FOR BY GSL PROPERTIES INC. IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. IIB-89-153, 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 GSL Properties Inc. as Department of Planning and Community Development File No. IIB-89-153 to construct 158 multifamily dwelling units known as Kirkland Close within a RM 3.6 zone; and

WHEREAS, the application was submitted to the Kirkland Hearing Examiner who held hearing thereon at his regular meeting of April 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 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, as well as a timely filed challenge of said recommendations; 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-89-153 are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. After completion of final review of the PUD, as established in Sections 125.50 through 125.75 (inclusive) of the Kirkland Zoning Code, Ordinance 2740, as amended, the Process IIB Permit shall be issued to the applicant subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council, provided that no grading or building permit shall issue before City receipt of a title report showing vesting in the City of clear title to substitute right-of-way as required in VC-90-53.

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 2nd day of July, 1991.

SIGNED IN AUTHENTICATION THEREOF on this 2nd day of July, 1991.

R W Ekins

Mayor pro tem

Attest:

DEPUTY CLERK

City Clerk

Approved as to Form:

City Attorney

OR89-153.JUN/JLB:rk

CITY OF KIRKLAND
HEARING EXAMINER FINDINGS, CONCLUSIONS, AND RECOMMENDATION

APPLICANT: GSL Properties, Inc./Kirkland Close PUD

FILE NO. IIB-89-153

APPLICATION:

Site Location: Between Slater Avenue and 124th Avenue NE, south of NE 115th Street and north of about NE 109th, if extended (see Exhibit A, Attachment 1).

Request: The application is for a quasi-judicial project rezone from RSX 7.2 to RM 3.6 and a preliminary and final Planned Unit Development to enable construction of 158 apartment units and 332 parking stalls. Since the density desired exceeds that which is allowed in both the RSX 7.2 or RM 3.6 zones, and since the applicant is asking for a reduction in the number of parking stalls and an increase of building height for the recreation building tower and Building H, both a PUD and rezone are required.

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

Major Issues:

A. Compliance with preliminary and final Planned Unit Development criteria of Zoning Code Chapter 125.

B. Compliance with Quasi-Judicial Project Rezone criteria of Zoning Code Chapter 130.

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 GSL Properties Inc. application was opened at 8:29 p.m., April 24, 1991, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 11:35 p.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 6 to 27 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, except as modified at 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. Department of Planning and Community Development staff gave a thorough review of the staff report at the public hearing.

C. The applicant, his planner, and his attorney explained the proposal. Their review of the project included the following:

1. The majority of the wetland will be protected even though it is not a regulated wetland.

2. There will be 158 dwelling units in 17 buildings and all of the buildings with dwelling units will be 2 stories in height.

3. Building A and Building T have been switched on the plan to reduce the number of units on the northern portion of the site down to 18.

4. There will be 5.89 acres of open space on the site.

5. The rezone, the increase in density, the reduction in the number of parking stalls, the increase in building height for the recreation building tower and Building H all comply with applicable Kirkland codes. They submitted Exhibit C to support their statements.

6. Added amenities to be constructed by the applicant include a pedestrian trail, a bike trail to 124th Avenue NE, and frontage improvements in front of an adjacent property.

7. Improvements on 124th Avenue NE will be bonded since the City has not yet determined the width of 124th, nor has it been designed.

D. An attorney for an adjacent property owner entered Exhibit F into the file. In that exhibit, it was explained that the proposed development surrounded his client's property on three sides. His client is very concerned about the impact the proposed multifamily development would have on his single-family home. His concerns include the following:

1. The increase in density proposed through the PUD will exacerbate the impact the project will have on the surrounding neighborhood.

2. The applicant has not met the requirements for a rezone.

3. The density proposed exceeds those contemplated in the Comprehensive Plan and are double those allowed under existing zoning.

4. A rezone of this property would create a pocket of single-family surrounded on three sides by multifamily zoning. In addition, the proposal would include buildings along the south property line which are in excess of permitted height and width requirements. The proposal also would include a building directly over what is identified as a riparian corridor and wetlands located in the southerly portion of the property. The lack of building elevations for some of the buildings makes it impossible to determine if Kirkland Zoning Code Section 20.10a, Special Regulation 4, would be violated.

5. The proposed project does not meet the best interests of the residents of Kirkland. Rather, this is another attempt by a developer to maximize the profit from a development of property while disregarding the impact of that development on the neighborhood.

6. The proposal does not provide enough usable open space to meet the requirements of the Code.

7. The small triangular parcel of property across Slater Avenue should not be used for the purpose of calculating density because it supplies no benefit to the proposed development. The City's request to landscape that property is inappropriate.

8. The reduction in parking in the project will likely result in guests parking along surrounding public streets.

9. The developer has failed to meet the requirements of Section 130.60(4) which requires that the rezone is necessary because of markedly changed circumstances in the immediate vicinity.

10. The developer has offered nothing which is of a unique or special benefit to the City as required by Section 125.35. There is nothing unique about this development other than it is seeking to place too many units on too small a parcel of property.

11. None of the tests required for approval of a PUD have been met by the developer.

12. The proposed development is in contravention of Resolution 3655, which requires the City, amongst other conditions, to reserve an easement across the vacated 112th Street (assuming the same is vacated).

13. Furthermore, the adoption of Resolution 3663 modifying Resolution 3655 is illegal and unenforceable.

14. In the Environmental Checklist on page 17 the applicant defines the project as 158 middle to high income units; yet in Attachment 17, the units are described as affordable housing.

15. The recommendations provided by Earth Consultants, Inc., have not been incorporated into the project.

Finally, he submitted that the application should be denied and the developer should be requested to resubmit a project which is less dense.

E. Eight residents who live near the proposed project testified at the hearing. In addition, six letters were received from residents nearby (Exhibits B1 through B5, and G). Two of the letters were submitted by persons who also testified at the hearing. Collectively, they expressed many concerns and requests regarding the project, and the concerns and requests expressed included the following:

1. Additional significant trees should be saved within the project site, especially fronting 124th Avenue NE.

2. The trees planned for preservation should be adequately protected from damage so that they will be alive and thriving in the future.

3. A specific phased grading and construction program should be required in order to assure quality control field inspection of tree preservation and construction techniques. The hallmark of this project should be an emphasis on tree preservation rather than building and parking lot coverage.

4. There seems to be no attempt to design a sidewalk on 124th Avenue NE which would preserve major trees. A meandering sidewalk which would save major trees should be required.

5. The proposed retaining walls or rockeries along portions of 124th Avenue NE will cause the loss of significant trees.

6. Significant tree buffers along 124th Avenue NE and along Slater Way are of critical importance in weighing the benefits resulting from this PUD.

7. The number of dwelling units and parking spaces should be reduced in order that more significant trees can be saved.

8. While the wetlands are designated as nonregulated wetlands by the City, they are important to the neighborhood and they should be protected.

9. Building H will look like a barn to the residents in the single-family home to the south. It should be reduced in height.

10. There are thoroughbred horses and a dog kennel on the property to the south. Therefore, the developer should be required to place a fence along the south property line to mitigate the potential impact on those existing uses.

11. The buffer along residential properties should be as wide as the buffer proposed on 124th Avenue NE.

12. At peak hour, the traffic on 124th Avenue NE is now jammed, and this project will only add to it.

    Also, if this project has access to Slater Avenue, there will be a significant traffic impact on Slater. That will increase the risk to pedestrians who now use Slater.

13. Based on the North Rose Hill Plan, nothing in the record of this hearing should reflect anything more than a 3-lane road on 124th Avenue NE.

14. Improvements to 124th Avenue NE should be deferred until the design of 124th is developed through a public process.

15. The proposed tower on the recreation building will serve no utilitarian purpose and should not be allowed. The visual impact of this development should be minimized.

16. One neighboring property owner wanted the developer to extend sewers to her property if her septic tank began to have problems after the project is completed.

17. Exhibit I was submitted which offered recommended conditions to help preserve additional significant trees along 124th Avenue NE.

F. Staff responded to some of the issues raised in the hearing. They said that:

1. Kirkland gives full benefit for wetlands when density is calculated, but does delete land which is dedicated for right-of-way.

2. The developer could extend an easement and sewer to the edge of his property.

3. Right-of-way improvements along 124th Avenue NE should be deferred at this time since 124th will be improved beyond this property and those improvements have yet to be designed.

4. The City will try to retain as many of the significant trees along 124th Avenue NE as is possible.

5. The proposed tower on the recreation building is seen as a design element which will provide some character in the man-made environment.

G. Staff then offered an additional recommended condition (Exhibit J). The recommended condition was intended to help preserve trees along 124th Avenue NE.

H. Representatives of the applicant also responded to concerns raised at the hearing. They said:

1. The wetlands program is intended to improve drainage in the area.

2. More landscaping has been proposed than is required by Code.

3. The topography of the site makes both Building H and the tower look shorter.

4. The vacation of the 112th Street right-of-way is a closed issue. The new road to the north will replace 112th Street.

5. The proposal is in compliance with the Land Use Policies Plan and meets all of the requirements for approval of a rezone and PUD.

6. The wetlands on the site are nonregulated wetlands, but the developer chose to protect them anyway.

7. The separated parcel of land across Slater Avenue is part of the development and will be improved with landscaping.

I. The applicant's attorney stated the applicant felt the proposed requirement for a 5-foot-wide paved bike trail along Slater from the south property boundary of the project north to 124th Avenue NE was excessive, but stated he would be willing to do it.

He did object to the request by staff for dedication of a 10-foot-wide strip along 124th Avenue NE for right-of-way purposes. He said if there is a need at the present time and if this project causes the need for the dedication, then the applicant would agree to do it. However, if it was for a future need, the applicant did not want to dedicate the land.

II. CONCLUSIONS:

A. The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 7 to 27 of the Department's Advisory Report (Exhibit A), accurately set forth the conclusions of the Hearing Examiner, except as modified at the hearing or as modified below, 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.

B. The wetlands on the site have been designated nonregulated wetlands by the City. Even though they are nonregulated wetlands, they will be substantially protected if the proposed PUD is approved.

C. The Department of Planning and Community Development staff is believed to be correct in its calculation that up to 158 units can be allowed on this site through a PUD.

D. This proposed rezone will leave a single-family zoned parcel of land surrounded on three sides by RM 3.6-zoned property. The North Rose Hill Plan designates that parcel of property for medium density residential development at 12

dwelling units per acre also. That property is large enough to accommodate approximately four dwelling units when and if the owner chooses to rezone it.

E. The PUD as proposed would provide more usable open space than is required by approximately 3,050 square feet.

F. The small triangular parcel of land across Slater Avenue is a piece of land which is historically part of the subject property. The fact that Slater Avenue bisects the subject property should not disallow that property from being used to calculate density for the project. However, the triangular property should be landscaped and maintained as part of the PUD if it is to be used for density calculations.

G. In order to help protect as many significant trees as possible along 124th Avenue NE, a rockery and a meandering sidewalk should be installed.

H. Proposed buffers meet or exceed City requirements. However, in order to help mitigate the impact the project will have on adjacent properties to the south, a solid six-foot-high fence should be installed in addition to the proposed landscaping. The fence will also help mitigate any impact caused by the construction of Building H. The width of the landscape strip and the wetlands will serve as an adequate buffer between the subject project and the single-family house located adjacent to the wetlands on the west side of the site.

I. The scale and open design of the proposed tower will not have a visual impact on the surrounding neighborhood; however, it will serve as a design feature for the project. Therefore, it should be approved as proposed.

J. The challenge to Resolution 3663, which modifies Resolution 3655, is beyond the scope of this hearing.

K. Dedication of right-of-way and slope easements, as well as half-street improvements including rockery and sidewalk installation, should be deferred until the City determines the basic design of the 124th Avenue NE improvements.

III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, approval of the rezone application and approval of the PUD application for 158 dwelling units is recommended if the applicant:

A. Provides two parking stalls for each unit within the northern portion of the development by reducing the number of dwelling units north of NE 112th Street.

B. Provides the following tangible benefits:

1. A five-foot-wide buffer strip adjoining the west property line planted to the specifications listed on the landscape plans.

2. An internal pedestrian trail connecting the project with Slater Avenue NE.

3. Half-street improvements along the east side of Slater Avenue NE, adjoining the single-family home which is not included in the subject property (11210 Slater Avenue NE). The standards of Section 110.40 of the Zoning Code are to be followed.

4. Continuation of the five-foot-wide paved bike trail and signage northward along Slater to connect to 124th Avenue NE.

5. A rockery installed along the entire frontage of 124th Avenue NE. Said rockery shall be continuous except for access points to the project and shall be installed in accordance with the final design of 124th Avenue NE (Hearing Examiner Conclusion G).

6. A sidewalk along 124th Avenue NE, located and aligned to maximize preservation of significant trees, and installed in accordance with the final design of 124th Avenue NE (Hearing Examiner Conclusion G).

If the applicant agrees to provide these benefits, plans should be submitted as part of the application for a building permit to be approved by the Department of Public Works and Planning Department (see Exhibit A, Conclusion II.D.16.b).

C. In addition, the approval is subject to the following conditions:

1. 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 3, Development Standards, is available 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 3, the condition of approval shall be followed.

2. Prior to adoption of the ordinance that makes the change to the zone classification on the Zoning Map, occupancy must be approved by the City (see Exhibit A, Conclusion II.D.14)

3. The Department of Planning and Community Development shall be authorized to approve minor modifications to the approved site plan, provided that:

   a. The change will not result in reducing the landscaped area, buffering areas, or the amount of open space on the project;

   b. The change will not result in increasing the residential density or gross floor area of the project;

c. The change will not result in any structure, or vehicular circulation, or parking area being moved more than 10 feet in any direction and will not reduce any required yard;

d. The change will not result in any increase in height of any structure; and

e. The City determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project (see Exhibit A, Conclusion II.D.13).

4. 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.9).

b. A revised site plan indicating:

(1) Reduction of the number of units north of NE 112th Street so that two parking stalls/unit are provided, to be approved by the Department of Planning and Community Development (see Exhibit A, Conclusion II.D.16).

(2) Reduction of the amount of common recreation open space in the vicinity of Building F by about 3,000 square feet (see Exhibit A, Conclusions II.D.5 and II.D.16).

c. A revised landscape plan indicating:

(1) That the 2,172-square-foot parcel west of Slater Avenue is landscaped to the standards of Section 95.20 (see Exhibit A, Conclusion II.D.8).

(2) That all trees in parking lot islands are at least two inches in caliper at planting pursuant to Section 105.75 (see Exhibit A, Conclusion II.D.20)

(3) That a six-foot-high solid wood fence will be installed on the property line between the properties to the south and the subject property. Said fence shall be in addition to the landscaping proposed (Hearing Examiner Conclusion H).

d. A signed and notarized covenant, as set forth in Attachment 8, indemnifying the City from any loss, including claims made therefore, resulting from development activity on the subject property which is related to the physical condition of the stream 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.6).

e. Plans for installing the following half-street improvements in the following rights-of-way adjoining the subject property to be approved by the Department of Public Works:

(1) 124th Avenue NE

A signed and notarized concomitant agreement, as set forth in Exhibit A, Attachment 6, to install half-street improvements in the 124th Avenue NE right-of-way bordering the subject property. Said improvements shall be constructed to the specifications set forth by the Director of Public Works. The agreement shall be reviewed for approval by the Department of Planning and Community Development and shall be recorded with the King County Records and Elections Division (Hearing Examiner Conclusion K).

(2) Slater Avenue NE

Eighteen feet of pavement width as measured from the centerline of a 60-foot-wide right-of-way, curb, underground storm sewer and bicycle grates, 4½-foot-wide landscape strip adjacent to the curb, street trees planted 25 feet on center within the landscape strip, a 5-foot-wide meandering sidewalk between the landscape and utility strip, and a minimum 2-foot-wide utility strip adjacent to the property line (see Exhibit A, Conclusion II.D.11.b.5).

f. NE 112th Street, between Slater and 124th

Plans for installing the following full street improvements within the newly dedicated NE 112th Street right-of-way to be approved by the Department of Public Works: except for that portion of right-of-way that abuts the south property line of 11244 Slater Avenue NE, 36 feet of pavement width within a 60-foot-wide right-of-way, curb and underground storm sewer with through curb inlets and bicycle grates, a 4½-foot-wide landscape strip adjacent to the curb, street trees planted 25 feet on center within the strip, and a minimum 2-foot-wide utility strip adjacent to the property line. Where it adjoins 11244 Slater Avenue NE, no sidewalk is required (see Exhibit A, Conclusion II.D.11.b.7).

g. NE 112th Street, west of Slater

A signed and notarized concomitant agreement, as set forth in Exhibit A, Attachment 6, to install half-street improvements to the specifications of Section 110.40 in the NE 112th Street right-of-way bordering 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.11.b.1).

h. A signed and notarized concomitant agreement, in a form acceptable to the Department of Planning and Community Development, to dedicate to the City for right-of-way, a 10-foot-wide strip along the entire frontage of 124th Avenue NE, abutting the existing right-of-way. Said dedication will only be required if the Director of Public Works determines the dedication is necessary to accommodate the scheduled improvements to 124th Avenue NE. The concomitant agreement shall be recorded with the King County Records and Elections Division (Hearing Examiner Conclusion K).

i. A signed and notarized concomitant agreement, in a form acceptable to the Department of Planning and Community Development, to grant to the City for right-of-way slope and utility purposes a 10-foot-wide slope/utility easement along the entire 124th Avenue NE right-of-way. Said agreement shall be recorded with the King County Records and Elections Division (Hearing Examiner Conclusion K).

j. A signed and notarized concomitant agreement, as set forth in Exhibit A, Attachment 5, to underground all existing utility lines bordering the subject property within the Slater Avenue and 124th Avenue NE right-of-way 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.11.b.9).

5. Prior to occupancy, the applicant shall:

a. Complete all site improvements indicated on the site plan approved by the Department of Planning and Community Development at the time of application for a Building Permit (see Exhibit A, Conclusion II.D.18).

b. Complete the installation of half-street improvements within the Slater Avenue right-of-way bordering the subject property as referenced in 5.f. (see Exhibit A, Conclusion II.D.18).

c. Submit for approval by the Department of Planning and Community Development a signed and notarized agreement, as set forth in Exhibit A, Attachment 4, to maintain the landscaping within the Slater Avenue, 124th Avenue NE, and NE 112th Street rights-of-way to be recorded with the King County Records and Elections Division (see Exhibit A, Conclusion II.D.11.b(8)).

d. Install a fully-operational permanent storm water control system (see Exhibit A, Conclusion II.D.9).

e. Install clustered mailbox structures for units in a location approved by the U.S. Postal Service (see Exhibit A, Conclusion II.D.11.b(10)).

f. Submit for approval by the Department of Planning and Community Development a signed and notarized easement, as set forth in Exhibit A, Attachment 7, to maintain landscaping within the required buffers along all boundaries of the site to be recorded with the King County Records and Elections Division (see Exhibit A, Conclusion II.D.7).

g. Submit to the Department of Planning and Community Development a security device to ensure maintenance of landscaping, the permanent storm water retention system, and other site improvements (see Exhibit A, Conclusion II.D.19).

h. 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.18).

6. 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.17).

* EXHIBITS:

The following exhibits were offered and entered into the record:

A. Department of Planning and Community Development Staff Advisory Report
B.1. Letter from Andy Padvorac, dated 4/17/91
B.2. Letter from Gayle Padvorac, received 4/17/91
B.3. Letter from Tom Russell, received 4/17/91
B.4. Letter from Sandra and Gary Eschen, dated 4/17/91
B.5. Letter from Mrs. E. Carpenter, dated 4/19/91
C. Memorandum in Support
D. Slides of Similar Projects
E. Display Board
F. Letter from Philip Carter, dated 4/24/91
G. Letter from Milton and Carole Olson, dated 4/24/91
H. Article from Puget Sound Business Journal, dated 4/15/91
I. Recommended Condition Submitted by Andy Padvorac
J. Additional Condition Recommended by Staff

PARTIES OF RECORD:

David Bell, GSL Properties, Inc., 2164 SW Parkplace, Portland, OR 98105
Richard McCann, Perkins Coie, 1201 Third Avenue, Seattle, WA 98101
Charles Wittenberg, OTAK, 620 Kirkland Way, Kirkland, WA 98033
Gayle & Andy Padvorac, 12835 NE 107th Place, Kirkland, WA 98033
Tom Russell, 12835 NE 108th Place, Kirkland, WA 98033
Sandra & Gary Eschen, 13057 NE 95th, Kirkland, WA 98033
Mrs. E. Carpenter, 10415 Slater Avenue NE, Kirkland, WA 98033

* Exhibits and references can be found within File No. IIB-89-153 maintained in the Department of Planning and Community Development.

Milton & Carole Olson, 12822 NE 107th Place, Kirkland, WA 98033
Philip Carter, Livengood, Carter, Tjossem & Fitzgerald, 1313 Market Street, Kirkland, WA 98033
Barbara Prentis, 10850 Slater Avenue NE, Kirkland, WA 98033
April Naversem, 10856 Slater Avenue NE, Kirkland, WA 98033
Jeff Smith, 10046 Slater Avenue NE, Kirkland, WA 98033
Mary Alyce Burleigh, 12416 NE 112th Street, Kirkland, WA 98033
Margaret Nollette, 10855 124th Avenue NE, Kirkland, WA 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Entered this 14th day of May, 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 May 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 May 31 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.

IV. LAPSE OF APPROVAL

A. ZONING PERMIT

Under Section 152.115.1 of the Zoning Code, the applicant must submit to the City a complete building permit application within one year after the final decision on the matter, or the decision becomes void. In the event that judicial review proceedings are initiated pursuant to Section 152.110, the decision would be void one year after the termination of