

ORDINANCE NO. 3520

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE, APPROVAL OF A PRELIMINARY AND FINAL PUD AS APPLIED FOR BY CONTINENTAL PACIFIC, INC. IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. IIB-95-73 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 Continental Pacific, Inc. as Department of Planning and Community Development File No. IIB-95-73 to construct 248 apartment units within an RM 2.4 zone; and

WHEREAS, the application was submitted to the Kirkland Hearing Examiner, who held hearing thereon at his regular meeting of January 29, 1996; 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-95-73 are adopted by the Kirkland City Council as though fully set forth herein, except for:

- 1) Conclusion D.13.b.(3) which shall be amended to read as follows:

With the recommended conditions of approval, the proposal will provide public benefits to the City as part of the PUD, and will be superior to the design that would result from development of the site without a PUD. It will disturb less of the site, and therefore sensitive slopes and wooded areas, than would a development spread throughout the site. It will provide a range of recreation amenities and activities greater than that which is typically provided or could be required without a PUD.

However, the degree to which the PUD preserves sensitive slopes and wooded areas above and beyond what would be preserved without a PUD is difficult to quantify. As stated in Section II.D.13.a(1)(c) above, in order for preservation, enhancement, or rehabilitation of natural features to be considered a PUD benefit, it must be of a nature which could not be required by the City without a PUD. The Comprehensive Plan establishes development standards for this site, which include the clustering of structures to preserve significant grouping of trees, the retention of maximum vegetative cover, and the protection of sensitive slopes through natural greenbelt easements (see Section II.F). Similarly, the Zoning Code contains regulations governing development in geologically hazardous areas. Therefore, a certain amount of slope and vegetation protection would likely occur with any development of this site, even without a PUD.

As discussed in Section II.D.13.a(1)(b) above, Section 125.35.2 of the Zoning Code requires that adverse impacts or undesirable effects of the PUD be "clearly outweighed" by public benefits. The benefits resulting from the clustered nature of the project do not clearly outweigh the impacts of the increased building scale, particularly with respect to Buildings S and T. Even with the recommended conditions of approval, those buildings would be allowed to exceed the height and facade limitations of Section 20.10.a.2, Special Regulation No. 4, of the Zoning Code. Some degree of the project benefits described above could be achieved through application of Comprehensive Plan development standards and Zoning Code regulations. Therefore, in order to conclude that the adverse impacts and undesirable effects of the PUD are clearly outweighed by its benefits, additional benefit should be provided.

The Department of Planning and Community Development recommends that such additional benefit be provided by making the pedestrian path connection from NE 120th Street to Slater Avenue NE which was required through the SEPA review process (see Attachment 9) available to the general public during daylight hours. Because of the unusual block length (over 2,000 feet from 132nd Avenue NE to Slater Avenue NE), direct vehicular and pedestrian access from NE 120th Street to the commercial area to the north is not available. To travel from NE 120th Street to the commercial area, a circuitous route must be followed, along 132nd Avenue NE westward to Slater Avenue

NE, and then northeasterly along Slater Avenue NE. Sidewalks are available along this route in some areas, but not in others, making this route hazardous to pedestrians.

Prior to the submittal of this application, the Public Works Department examined ways by which a full street could be extended through this site, to connect NE 120th Street with Slater Avenue NE. Such a roadway connection could provide better access between the commercial areas to the north and the residential areas and Lake Washington Technical College to the south. The Public Works Department determined that the topography of the site precluded such a street. However, the possibility of a pedestrian path through the site remains. Such a path would benefit the general public by providing a safer and more direct route from NE 120th Street to the neighboring commercial areas.

This public benefit could be provided by encompassing the path which was required through the SEPA review process in a 10' wide easement within the developed portion of the site and a 20' wide easement in the undeveloped portion, and by providing standard City signage at the trail entrances. The public portion of the trail system would not need to include that portion which links the recreation activity areas on the wooded slope.

- 2) Recommendation C.4.a. which shall be amended to read as follows:

Complete construction of the pedestrian path connection from NE 120th Street to Slater Avenue NE, and submit an as-built plan of that path and any related improvements, as well as a public easement encompassing the path. The portion of the path encompassed by the easement is not required to include the portion of the path which links the on-site recreational activity areas in the wooded portion of the site. The easement shall be 10' wide within the developed portion of the site and 20' wide within the undeveloped portion. Signage, after review and approval by the Department of Planning and Community Development, shall be installed at both entrances to the path which identify it as open to the public during daylight hours (see Conclusion II.D.13.b(3)).

Section 2. The Preliminary and Final Planned Unit Development are approved subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council.

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, as required by law.

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 19th day of March, 1996.

SIGNED IN AUTHENTICATION THEREOF on this 19th day of March, 1996.




Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

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