

ORDINANCE NO. 3888

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE; APPROVING A PRELIMINARY PUD AS APPLIED FOR BY GERRY GERRON AND STEPHEN YETT IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. IIB-01-15; AND SETTING FORTH CONDITIONS OF THE APPROVAL.

WHEREAS, the Department of Planning and Community Development has received an application, pursuant to Process IIB, for a Preliminary Planned Unit Development (PUD) filed by Gerry Geron and Stephen Yett as Department of Planning and Community Development File No. IIB-01-15 to reduce the required stream buffer from 75' to 50', increase the lapse of approval date from 4 years to 5 years with the ability to extend the lapse of approval date an additional 2 years for a total of 7 years if the proposed stream buffer enhancement is completed within 5 years of the preliminary PUD approval, and construct 2 three-story buildings that exceed the allowable height limit where Building 1 (northwest building) is proposed with a height of 57' or 27' above the height limit, Building 2 (southeast building) is proposed with a height of 55.75' or 25.75' above the height limit within a FC III zone; and

WHEREAS, pursuant to the City of Kirkland's Concurrency Management System, KMC Title 25, a concurrency application has been submitted to the City of Kirkland and reviewed by the responsible Public Works official, and the concurrency test has been passed and a concurrency test notice has been issued; 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 and reviewed by the responsible official of the City of Kirkland, who issued a negative determination for this action ; and

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

WHEREAS, the application was submitted to the Kirkland Hearing Examiner who conducted a joint public hearing with the Houghton Community Council on February 3, 2003 and on November 5, 2003 pursuant to City Council remand; and

WHEREAS, the Kirkland Hearing Examiner after his public hearing and consideration of the recommendations of the Department of Planning and Community Development and the Houghton Community Council did adopt certain Findings, Conclusions and Recommendations and did recommend approval of the Process IIB Permit subject to the specific conditions set forth in the 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 the recommendation of the Houghton Community Council; and

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

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. The City Council finds and concludes that the adverse impacts or undesirable effects of the proposed PUD are not clearly outweighed by the benefits identified in the Recommendations, but will be clearly outweighed by such benefits, together with the additional benefit of an easement from the owner of the subject property to the City and other governmental entities to construct, install, maintain and operate improvements in the stream and its buffers for fish habitat and fish movement. Therefore, the Recommendations are amended by the addition of a new condition 4(f) as follows:

4f. An easement from the owner of the subject property to the City and other governmental entities, in a form approved by the City Attorney, to construct, install, maintain and operate improvements in the stream and its buffers for fish habitat and movement.

Section 2. After completion of final review of the PUD, as established in Sections 125.50 through 125.75 of the Kirkland Zoning Code, Ordinance 3719, 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.

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. 3719, as amended, the Kirkland Zoning Ordinance.

Section 5. Notwithstanding any recommendations heretofore given by the Houghton Community Council, the subject matter of this ordinance and the Permit herein granted are, pursuant to Ordinance 2001, subject to the disapproval jurisdiction of the Houghton Community Council, and therefore, this ordinance shall become effective only upon approval of the Houghton Community Council or the failure of the Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 6. Except as provided in 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 1.09.010.

Section 7. A complete copy of this ordinance, including Findings, Conclusions and Recommendations adopted by reference, shall

be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Section 8. 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 9. 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; and
- (d) The City Clerk for the City of Kirkland.

PASSED by majority vote of the Kirkland City Council in open meeting this 8th day of January, 2004.

SIGNED IN AUTHENTICATION THEREOF on this 8th day of January, 2004.

Mary Alice Buehler Mayor

Attest:

Kathie Anderson
Deputy City Clerk

Approved as to Form:

Paul Howard
City Attorney