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ORDINANCE NO. 4003

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE, APPROVAL OF A PRELIMINARY PUD AS APPLIED FOR BY CHAFFEY HOMES IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. PSB04-00002 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 Planned Unit Development (PUD) filed by Chaffey Homes as Department of Planning and Community Development File No. PSB04-00002 to construct an eleven lot planned unit development and preliminary subdivision within a RS 12.5 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, reviewed by the responsible Public Works official, the concurrency test has been passed, and a concurrency test notice 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, reviewed by the responsible official of the City of Kirkland, and a negative determination was issued; and

WHEREAS, said 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 held hearing thereon at a regular meeting on July 6, 2005; and

WHEREAS, the Kirkland Hearing Examiner after a 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 City Council, in regular meeting, determined that as designed the proposed handrail located on the side of the staircase running between Forbes Creek Drive and 20th Avenue could result in inappropriate use by skate boarders, that the landscaping between the rockery and fence needed to include a greenery fence along the north side of Lots 1 and 11 and that the required Natural Greenbelt Protective Easement should include an obligation to remove invasive species of

vegetation harmful to trees and further require that the NGPE would be superseded by any future laws more protective of such greenbelts; and

WHEREAS, the Kirkland Zoning Code 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. PSB04-00002 are adopted by the Kirkland City Council as though fully set forth herein. The City Council further finds that as designed the proposed handrail located on the side of the staircase running between Forbes Creek Drive and 20th Avenue could result in inappropriate use by skate boarders, that the landscaping between the rockery and fence along the north side of Lots 1 and 11 needs to include a greenery fence that will provide 50% coverage of the fence within 2 years and that the required Natural Greenbelt Protective Easement should be modified to include a continuing obligation to remove invasive species of vegetation harmful to trees.

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, 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, and to address the Councils' further findings, subject to the additional conditions that the applicant (Chaffey Homes): incorporate some form of design element that will prevent skateboarders inappropriate use of the handrail along the side of the staircase running between Forbes Creek Drive and 20th Avenue; install greenery between the fence and the rockery on the north side of Lots 1 and 11 that will provide plants of varying heights and density; sign a modified Natural Greenbelt Protective Easement requiring continuing removal of invasive species that may be detrimental to the long term wellbeing of the trees protected by the easement; and require removal of ivy from all healthy trees located within the area covered by the NGPE prior to release of the two year maintenance security for plat improvements.

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 as 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 of the permit.

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 6. 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.

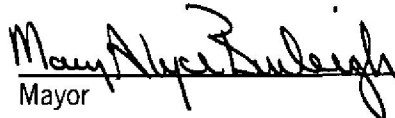
Section 7. A certified copy of this ordinance, together with the Findings, Conclusions, and Recommendations herein adopted shall be attached to and become a part of the Process IIB Permit.

Section 8. 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 open meeting this 20th day of September, 2005.

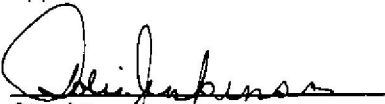
SIGNED IN AUTHENTICATION THEREOF on this 20th day of September, 2005.


Mayor

Attest:


City Clerk

Approved as to Form:


City Attorney