

RESOLUTION NO R- 3691

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A DEVELOPMENT PROPOSAL SUBMITTED UNDER THE QUASI-JUDICIAL PROJECT REZONE PROVISIONS OF CHAPTER 130 OF THE KIRKLAND ZONING CODE, ORDINANCE 2740, AS AMENDED, AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO IIB-91-34 BY ROBERT STERNOFF TO DEVELOP A 4-UNIT CONDOMINIUM PROJECT AND SETTING FORTH CONDITIONS TO WHICH SUCH DEVELOPMENT PROPOSAL SHALL BE SUBJECT AND SETTING FORTH THE INTENTION OF THE CITY COUNCIL TO, UPON APPROVED COMPLETION OF SAID DEVELOPMENT, REZONE THE PROPERTY FROM RS 72 TO RM 3 6

WHEREAS, the Department of Planning and Community Development has received an application filed by Robert Sternoff as owner of the property described in said application requesting a permit to develop said property in accordance with the Quasi-Judicial Project Rezone procedure established in Chapter 130 of Ordinance 2740, as amended, and

WHEREAS, said property is located within a RS 72 zone and the proposed development is a permitted use within the RM 3 6 zone, and

WHEREAS, the application has been submitted to the Hearing Examiner who held a public hearing thereon at his regular meeting of June 13, 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 through the entire review process, and

WHEREAS, the Hearing Examiner, after the 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 to the City Council approval of the proposed development and the Quasi-Judicial Project Rezone pursuant to Chapter 130 of Ordinance 2740, as amended, all subject to the specific conditions set forth in said recommendation, 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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows

Section 1 The Findings, Conclusions, and Recommendations of the Hearing Examiner signed by him thereof and filed in the Department of Planning and Community Development File No IIB-91-34 are hereby adopted by the Kirkland City Council as though fully set forth herein

Section 2 A Development Permit, pursuant to the Quasi-Judicial Project Rezone procedure of Chapter 130 of Ordinance 2740, as amended, shall be issued to the applicant subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council

**Section 3** The City Council approves in principle the request for reclassification from RS 72 to RM 36, pursuant to the provisions of Chapter 23 130 of Ordinance 2740, as amended, and the Council shall, by ordinance, effect such reclassification upon being advised that all of the conditions, stipulations, limitations, and requirements contained in this Resolution, including those adopted by reference, have been met, provided, however, that the applicant must begin the development activity, use of land or other actions approved by this Resolution within one year from the date of enactment of this Resolution, or the decision becomes void

**Section 4** Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state or local statutes, ordinances or regulations applicable to the proposed development project, other than as expressly set forth herein

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

**Section 6** Failure on the part of the holder of the development permit to initially meet or maintain strict compliance with the standards and conditions to which the development permit and the intent to rezone is subject shall be grounds for revocation in accordance with Ordinance 2740, as amended, the Kirkland Zoning Ordinance

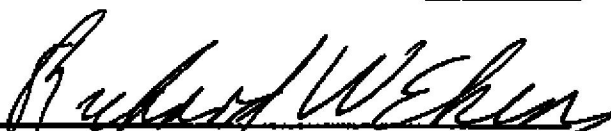
**Section 7** A certified copy of this Resolution together with the Findings, Conclusions, and Recommendations herein adopted shall be attached to and become a part of the development permit or evidence thereof, delivered to the permittee

**Section 8** Certified or conformed copies of this Resolution shall be delivered to the following

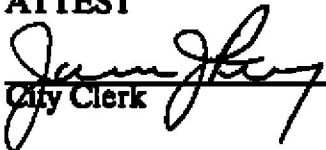
- (a) Department of Planning and Community Development of the City of Kirkland
- (b) Fire and Building Department for the City of Kirkland
- (c) Public Works Department of the City of Kirkland
- (d) City Clerk for the City of Kirkland

**PASSED** by majority vote of the Kirkland City Council in regular, open meeting on the 6th day of August, 1991

**SIGNED IN AUTHENTICATION THEREOF** on the 6th day of August, 1991

  
Mayor Pro Tem

**ATTEST**

  
City Clerk

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

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**APPLICANT:** Robert Sternoff

**FILE NO.** IIB-91-34

**APPLICATION:**

Site Location 6304 Lakeview Drive (see Exhibit A, Attachment 1)

Request To rezone the eastern one-third of the subject property from RS 7 2 to RM 3 6 to conform with the zoning of the west two thirds of the subject property which is presently zoned RM 3 6. The purpose of the rezone is to construct two duplex condominiums (see Exhibit A, Attachment 2)

Major Issues

- 1 Compliance with Zoning Code Section 20 10 a. and b. for the development of attached and stacked dwelling units (see Exhibit A, Attachment 3)
- 2 Compliance with the rezone criteria as set forth in Chapter 130 of the Zoning Code
- 3 Compliance with the decisional criteria as set forth in Chapter 152 of the Zoning Code
- 4 Compliance with Zoning Code Section 90 27 4 for modification of a stream setback

**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 Sternoff application was opened at 9 27 a.m., June 13, 1991, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 9 38 a.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 18 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. A copy of said report is available in the Department of Planning and Community Development.
- B** Staff said at the hearing that the Land Use Policies Plan indicates 12 dwelling units per acre for the subject property. The proposed project would be at a density of approximately 9 dwelling units per acre. Staff also said that if the stream stayed in the culvert, then no setback from the stream would be required. This proposal will open the stream across the subject property.
- C** One letter was received (Exhibit B). Several concerns were expressed about increased density in the area, but the letter did state that the rezone may be allowable if several considerations/concerns are addressed. Those considerations include noise, building heights, landscaping, greenbelt and creek protection, and design revisions. The letter discusses those concerns in detail.
- D** The applicant said he concurred with the conditions recommended by staff. He also said that he has no problem with a covenant which would limit the height of trees on his site, however, he felt it would have little effect since there is a 20-foot-wide strip of property which he does not own between his site and the home to the east.

### **II CONCLUSIONS**

- A** The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 6 to 19 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 available in the Department of Planning and Community Development.
- B** The issues raised by Mr. Bright in Exhibit B were adequately addressed by the staff report and at the hearing. In addition to the landscaping on the subject site, the 20-foot-wide strip of land between the subject site and property with the existing house to the east will continue to provide visual and noise buffering. A covenant which would limit the height of trees on the subject site would be of little value if there is no corresponding covenant on the 20-foot strip of property which the applicant doesn't own.

### **III RECOMMENDATION**

Based upon the foregoing findings of fact and conclusions, approval of this application is recommended 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. Attachment 4, Development Standards, is provided in Exhibit A 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 4, the condition of approval shall be followed.
- 2 The Department of Planning and Community Development shall be authorized to approve modifications to the approved site plan, unless
  - a. There is a change in use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use, or
  - b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change (see Exhibit A, Conclusion II D 10 b ), and
- 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 8 b )
- 4 Recommendations of the soils report by Rittenhouse, Zeman, and Associates, Inc , shall be followed and updated as required (see Exhibit A, Conclusion II D 14 b )
- 5 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. Plans should include a design for grading and finishing the proposed driveway to ensure that storm water is directed away from the stream which exists within a culvert on site and is proposed to be daylighted (see Exhibit A, Conclusion II D 5 b )
  - b. Plans for a streambed, streambanks, protective fencing along the driveway edge, and native Northwest vegetation of the area directly adjacent to the

stream The required plans should be designed by a City-approved professional and subject to review by the Department of Planning and Community Development (see Exhibit A, Conclusions II C 1 b and II D 4 b (1))

- c A revised site plan indicating a ten-foot Natural Protective Greenbelt Easement along both sides of the stream. The easement should be measured from the top of each bank to extend ten feet into the adjacent yard, excluding structures authorized by this permit. The revised plan should be approved by the Department of Planning and Community Development (see Exhibit A, Conclusion II C 1 b)
  - d A signed and notarized Save Harmless Agreement, as set forth in Exhibit A, Attachment 5, indemnifying the City from any loss, including claims made therefore, arising out of maintenance, flooding, damming, or enlargement of the stream existing 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 4 b (2))
  - e A signed and notarized Natural Greenbelt Protective Easement (see Exhibit A, Attachment 6) to ensure protection of the stream and adjacent vegetation. The signed and notarized agreement should 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 C 1 b)
  - f A signed and notarized concomitant agreement, as set forth in Exhibit A, Attachment 7, to underground all existing utility lines within the Lakeview Drive right-of-way bordering the subject property on the west side of Lakeview Drive, 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 b (2))
  - g Sufficient information concerning construction and occupancy of structures to determine fire flow requirements, as well as plans for an interior fire sprinkler system for the east building and other on- or off-site improvements necessary to meet fire flow requirements (see Exhibit A, Conclusion ILE 1 b)
- 6 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 12 b)
  - b Complete construction of streambed and streambanks and protective fencing along the edge of the driveway adjacent to the stream setback. Install appropriate native Northwest vegetation as shown on the required plan. Final approval should be subject to inspection by a qualified professional approved by the City (see Exhibit A, Conclusions II C 1 b and II D 4 b (1))

- c Install a fully-operational permanent storm water control system, including an approved driveway design to direct storm water away from the on-site stream (see Exhibit A, Conclusion II D 5 b )
  - d Complete interior sprinkler system in the east building and other improvements necessary to meet fire flow requirements (see Exhibit A, Conclusion II E 1 b )
  - e Complete clustered mailbox facility in a location approved by the U S Postal Service (see Exhibit A, Conclusion II D 6 B (3)
  - f Submit to the Department of Planning and Community Development a signed and notarized security device to ensure maintenance of landscaping, the permanent storm water retention system, and other site improvements (see Exhibit A, Conclusion II D 13 b )
  - g 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 12 b )
- 7 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, washer, and nuts separated from the sign board (see Exhibit A, Conclusion II D 11 b )

**\* EXHIBITS.**

The following exhibits were offered and entered into the record

- A Department of Planning and Community Development Staff Advisory Report
- B Letter from J Tobias Bright, dated May 19, 1991
- C Houghton Community Council Minutes, May 22, 1991

**PARTIES OF RECORD:**

Robert Sternoff, 10426 NE 53rd Street, Kirkland, WA 98033  
J Tobias Bright, 6225 102nd Place NE, Kirkland, WA 98033  
Department of Planning and Community Development  
Department of Public Works  
Department of Building and Fire Services  
Houghton Community Council

- \* Exhibits and references can be found within File No IIB-91-34 maintained in the Department of Planning and Community Development.

Entered this 27<sup>th</sup> day of June, 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