

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

APPLICANT: John Parsaie of Morgan Design Group on behalf of Northwest Townhomes, LLC (Owners/Sellers) and Oskoui Family Limited Partnership (Owners/Purchasers as of 12/15/09)

FILE NO: PSB09-00001

APPLICATION:

Site Location: 11425 through 11445 99th Place NE

Request: To vacate the approved and recorded Juanita Bay Park Townhomes Final Subdivision (PCD File No. FSB08-00001) and a portion of the 99th Place NE right-of-way that was dedicated to the City when the subdivision was recorded. The plat vacation would result in the existing 11 lots and access tract reverting to one lot.

Review Process: Process IIB, the Hearing Examiner conducts a public hearing and makes a recommendation to the City Council, which makes a final decision.

Key Issues: Compliance with criteria for Plat Vacation and Process IIB zoning permit approval.

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Community Development	Approve
Hearing Examiner:	Approve

PUBLIC HEARING:

The Hearing Examiner held a public hearing on the applications at 9:00 a.m. on January 21, 2010, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington. 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. The Examiner visited the site in advance of the hearing.

PUBLIC COMMENT:

Neither the Department nor the Hearing Examiner received public comment on the plat vacation, and no members of the public attended the hearing.

FINDINGS, CONCLUSIONS AND RECOMMENDATION:

A. Findings of Fact and Conclusions:

After considering the evidence in the record and inspecting the site, the Examiner enters the following findings of fact and conclusions:

1. The Findings of Fact and Conclusions set forth at pages 2 through 5 of the Department's Advisory Report, Exhibit A, are accurate and are adopted by reference.
2. An additional Finding of Fact is added as II.F.2(5) as follows: Public Works Department Staff advises that the new owner of the property has applied for a permit to install a parking lot on the property, and that a new right-of-way dedication will be completed with the permit to accommodate required street improvements to 99th Place NE.

B. Recommendation:

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner recommends that the Council approve the plat vacation.

Entered this 21st day of January, 2010.

Sue A. Tanner
Hearing Examiner

CHALLENGES AND JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for challenges. Any person wishing to file or respond to a challenge should contact the Planning Department for further procedural information.

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 comments or testimony to the Hearing Examiner. A party who signed a petition may not challenge unless such party also submitted independent written comments or information. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., _____, seven (7) calendar days following 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

comments or 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 seven (7) calendar 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 comments or 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.

JUDICIAL REVIEW

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 twenty-one (21) calendar days of the issuance of the final land use decision by the City.

LAPSE OF APPROVAL

KMC Section 22.26.670 requires that the owner submit a plat vacation document to the planning department, meeting the requirements of this chapter and the conditions of approval within one year following the date the plat vacation was approved or the plat vacation approval becomes void.

EXHIBIT:

The following exhibit was entered into the record:

- A. Department of Planning and Community Development Staff Advisory Report dated January 12, 2010, with 5 attachments

PARTIES OF RECORD

Applicant: John Parsaie, Morgan Design Group, 11207 Fremont Avenue North, Seattle, WA 98133

Previous Property Owner: Gordon Stephenson, Northwest Townhomes LLC, 8001 14TH Avenue NE, Seattle, WA 98115

Current Property Owner: Oskoui Family Limited Partnership, 11400 98th Avenue NE, Suite 300, Kirkland, WA 98033

Department of Planning and Community Development

Department of Public Works

Department of Building and Fire Services