

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

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**APPLICANT:** Ken Davidson, DCK Property LLC

**FILE NO:** SPL07-00034

**APPLICATION:**

**Site Location:** 10405 111<sup>th</sup> Avenue NE

**Request:** To subdivide one parcel into six lots with wetland and wetland/stream buffer modifications and a variance to reduce required front yards on all lots from 20 feet to 10 feet. An existing single family house on the southeast part of the property will be demolished. (See Attachments 2 and 3 to Exhibit A.)

**Review Process:** Process IIA, Hearing Examiner conducts public hearing and makes a final decision.

**Summary of Key Issues:** Compliance with criteria for short subdivisions and variances and standards for wetland and buffer modifications, and treatment of steep slopes.

**SUMMARY OF RECOMMENDATION/DECISION:**

Department of Planning and Development  
Hearing Examiner:

Approve with conditions  
Approve with conditions

**PUBLIC HEARING:**

The Hearing Examiner visited the site and held a public hearing on the application on June 19, 2008, in the Council Chambers, City Hall, 123 Fifth Avenue, Kirkland, Washington. A verbatim recording of the hearing is available at the City Clerk's office. The minutes of the hearing are available for public inspection in the Department of Community Development.

**TESTIMONY**

Lauri Anderson, Project Planner, and Ken Davidson, the Applicant, testified at the public hearing. Their testimony is summarized in the hearing minutes.

**FINDINGS, CONCLUSIONS AND DECISION:**

After considering the evidence in the record and inspecting the site, the Examiner adopts the Findings of Fact and Conclusions set forth in Section II of the Planning Department's Advisory Report (Exhibit A) as the Findings and Conclusions of the Hearing Examiner on this matter, with the following revisions:

**Hearing Examiner Recommendation**

**File No. SPL07-00034**

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Finding D.2.a(2) is revised to read, "As mitigation for the paper fill, the applicant is proposing 3,944 sq. ft. of wetland creation in three locations on the site and 4,304 sq. ft. of wetland enhancement."

Finding E.1.a(3) is revised to read, "NE 104<sup>th</sup> Street should be improved as follows: Complete installation of a vertical curb and gutter along the north side of the street where there is no curb currently; where feasible plant street trees. Due to the steep topography in the area, the Public Works Department is recommending that no additional street improvements be required."

Finding E.2.a(1) is revised to read, "The site is mapped as a high landslide hazard area. Zoning Code Section 85.15 establishes that the City may require mitigation based on recommendations in a geotechnical report provided for proposed development in a high landslide hazard area."

Based on the foregoing Findings and Conclusions, the application to subdivide the subject property into six lots with wetland and wetland/stream buffer modifications, and for a variance to reduce required front yards on all lots from 20 feet to 10 feet, is approved, subject to the conditions set forth in the Department's Advisory Report, Section I.B.

**SUBSEQUENT MODIFICATIONS**

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

Entered this 24th day of June, 2008.

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Sue A. Tanner  
Hearing Examiner

**APPEALS AND JUDICIAL REVIEW**

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

**APPEALS**

Section 150.80 of the Zoning Code allows the Hearing Examiner's decision to be appealed to the City Council by the applicant and any person who submitted written or oral testimony or comments to the Hearing Examiner. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., \_\_\_\_\_, fourteen (14) calendar days following the postmarked date of distribution of the Hearing Examiner's decision on the application.

## **JUDICIAL REVIEW**

Section 150.130 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 21 calendar days of the issuance of the final land use decision by the City.

## **LAPSE OF APPROVAL**

Under Section 150.135 of the Zoning Code, the applicant must submit to the City a complete building permit application approved under Chapter 150, within four (4) years after the final approval on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 150.130, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. Furthermore, the applicant must substantially complete construction approved under Chapter 150 and complete the applicable conditions listed on the Notice of Approval within six (6) years after the final approval on the matter, or the decision becomes void.

Under Section 22.20.370 of the Subdivision Ordinance, the short plat must be recorded with King County within four (4) years following the date of approval, or the decision becomes void; provided, however, that in the event judicial review is initiated, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the short plat.

## **EXHIBITS:**

The following exhibits were entered into the record:

- A. Department of Planning and Community Development Staff Advisory Report dated June 10, 2008, with 13 attachments
- B. Preliminary Short Plat of Highland Glen dated 10/29/07
- C. Web comment from Julia Hungerford dated June 10, 2008

## **PARTIES OF RECORD:**

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Department of Public Works  
Department of Building and Fire Services