



**ADVISORY REPORT
 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS**

To: Kirkland Hearing Examiner

From: *Désirée Goble* Désirée Goble, AICP, Project Planner
Dawn Nelson Dawn Nelson, AICP, Planning Supervisor
Eric R. Shields Eric R. Shields, AICP, Planning Director

Date: April 24, 2009

File: KEESLING WETLAND BUFFER MODIFICATION, ZON08-00022

Hearing Date and Place: May 7, 2009 @ 9:00 a.m.
 City Hall Council Chamber
 123 Fifth Avenue, Kirkland

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I. **INTRODUCTION**

A. **APPLICATION**

1. Applicant: Maxine Keesling
2. Site Location: 95xx Slater Avenue Northeast (see Attachment 1)
3. Request: Reduce a required Type 1 wetland buffer from 100 feet by the maximum one-third allowed to 67 feet in order construct a single family residence on the subject property. The property is located within the PLA 17 zone. The area of the lot not covered by Forbes Lake is 16,227 square feet. The wetland abuts Forbes Lake and is located in the eastern portion of the site (see Attachment 2).
4. Review Process: Process IIA, Hearing Examiner conducts public hearing and makes final decision.
5. Summary of Key Issues and Conclusions: In addition to the wetland buffer modification the applicant is proposing to connect the buildable area of the property to Forbes Lake with a four foot wide path (see Attachment 2). This path will need to comply with the Zoning Code criteria that allows minor improvements (pathway) within the outer half of the wetland buffer. Staff is recommending that the applicant modify their proposal to limit the path to the outer half of the wetland buffer as allowed in the Zoning Code. This issue is fully discussed in section II.D.2 of this report.

B. **RECOMMENDATIONS**

1. Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, we recommend approval of this application subject to the following conditions:
2. 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 3, Development Standards, is provided in this report 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 Attachment 3, the condition of -approval shall be followed (see Conclusion 3).
3. As part of the application for a Building Permit or Land Surface Modification the applicant shall submit:
 - a. A geotechnical report to address development activity. The report must be prepared by a Washington State licensed Professional Engineer. Recommendations contained within the report shall be incorporated into the design of the subsequent structures. (see Conclusion II.A.1.b and Attachment 3, Building Department Condition #5).
 - b. Amend the mitigation plan to incorporate:
 - (1) Preservation of the hazelnut (tree) at the southwest corner of the planted area (see Conclusion II.D.1.b).
 - (2) A note stating that any other native plants identified by the on-site biologist be protected and preserved, where possible (see Conclusion II.D.1.b).
 - (3) Add a modest number of sword ferns and/or other suitable

- ground cover species (see Conclusion II.D.1.b).
- (4) Revise the bond quantity worksheet to cover the additional sword ferns or/or other suitable ground cover species (see Conclusion II.D.1.b).
 - (5) Eliminate the portion of the pathway that extends beyond the outer half of the wetland buffer (see Conclusion IID.2.b).
- c. A site plan showing compliance with the 10 foot building setback from the modified wetland buffer (see Conclusion II.D.3.b).
 - d. A site plan clearly identifying trees to be retained and removed. The applicant shall retain all viable trees during the construction and comply with the specific recommendations of the City's arborist (see Conclusion II.E.2).
4. Prior to issuance of a land surface modification or building permit the applicant shall:
- a. Install a six-foot high construction phase fence along the upland boundary of the entire wetland buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities (see Conclusion II.D.4.b)
 - b. Submit a financial security device to the Planning Department to cover the cost of completing the wetland buffer improvements. The security shall be consistent with the standards outlined in Zoning code Section 90.145 (see Conclusion II.D.5.b).
 - c. Dedicate a Natural Greenbelt Protection Easement encompassing the wetland and its buffer on the site (see Attachment 9). Boundaries of the Natural Greenbelt Protection Easement shall correspond with the modified wetland buffer and shall be established by survey. All surveys shall be located on KCAS or plat bearing system and tied to known monuments (see Conclusion II.D.6.b).
 - d. Sign and notarize a covenant (see Attachment 10) that holds the City harmless against any future claims that may arise as a result of the development of the property (see Conclusion II.D.7.b).
5. Prior to final inspection the applicant shall:
- a. Install between the upland boundary of the wetland buffer and the development portion of the site either 1) A permanent three to four foot tall split rail fence, or 2) permanent planting of equal barrier value (see Conclusion II.D.4.b).
 - b. Submit a financial security device to cover all wetland monitoring and maintenance activities that will need to be done including consultant site visits, reports to the Planning Department, and vegetation costs. The security shall be consistent with the standards outlined in Zoning Code section 90.145 (see Conclusion II.D.5.b).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:
 - a. Facts:
 - (1) Size: 16,227 square feet according to a survey by Harstad

Consultants last updated February 6, 2008.

- (2) Land Use: Unimproved
- (3) Zoning: Planned Area 17 (PLA 17) allows a detached dwelling unit on a lot with a minimum size of 7,200 square feet. Attached and stacked dwelling units are allowed within the same zone if the subject property has a minimum lot size of 2 acres.
- (4) Terrain: The topography decreases from a high of 258 feet on the western portion of the site to a low of 247 at the western most edge of the wetland, a distance of 245 feet for an overall grade of approximately four percent.

A seismic hazard area has been identified over the eastern portion of the site. The Building Department has determined that a geotechnical report will be required with submission of a building permit application (see Attachment 3, Building Department Condition #5).

- (5) Vegetation: There are six significant trees located on the western portion of the site. The wetland contains Douglas' spiraea, Nootka Rose and willows and the wetland buffer is dominated by Himalayan blackberry and ivy.
- (6) Wetland: The wetland located on the property has been classified as a Type 1 wetland. Forbes Lake and the area around it is located within a primary basin. Type 1 wetlands within a primary basin have a required 100 foot buffer from the edge of the wetland and a 10 foot building setback from the edge of the wetland buffer. The approximate buildable area on this lot without a wetland buffer modification is pie shaped with a maximum width of approximately 15 feet (see Attachment 4). The applicant is proposing to modify the required buffer through buffer reduction and enhancement of the remaining buffer (see Section II.D.1).

- b. Conclusions: Size, land use, zoning, terrain and vegetation are not constraining factors in the consideration of this application. The applicant should submit a Geotechnical Report with their building permit application. The location of the wetland and its associated buffer constrain the site. This issue is discussed in Section II.D.1 of this report.

2. Neighboring Development and Zoning:

- a. Facts: The subject property is surrounded by the following uses and zones.
 - (1) North and South: are both zoned Planned Area 17 (PLA 17) with a minimum lot size of 7,200 square feet. The applicant owns the two lots directly to the north and both are unimproved. The next adjoining lot to the north that isn't owned by the applicant is developed with a single family residence as is the property to the south.
 - (2) West: properties located on the west side of Slater Avenue Northeast are zoned Multi-family residential with a minimum lot size of 3,600 square feet (RM 3.6). These lots are developed with detached duplexes.

(3) East: directly east of the subject property is Forbes Lake. Properties surrounding Forbes Lake are zoned PLA 17 and Parks/Public Use (P) and the uses include single and multi-family, churches, park land.

b. Conclusion: Surrounding development is not a constraining factor in the consideration of this application.

B. PUBLIC COMMENT

1. The public comment period for the wetland buffer modification extended from January 29, 2009 until May 7, 2009. To date, April 20, 2009 the Planning Department received three e-mails and one web comment. Below is a summary of the issues raised during the public comment period.

a. Setbacks: A number of comments have been made regarding setbacks including front yard and wetland buffer setbacks. One commenter felt that setbacks around Forbes Lake should only be reduced when public safety is enhanced (see Attachment 5.a). Another commenter felt that prior to considering a wetland buffer modification the front yard setback should be reduced especially if the end result is construction of a large house (see Attachment 5.b). Another commenter noted that Mr. Rosinski was required to keep the buffer at 100 feet on both of the Forbes Lake sites that he developed (see Attachment 5.c).

b. Vegetation: The commenter questions the point of having wetlands and wetland buffers if continual disturbances are allowed in these areas. Also, they questioned the difference between this proposal and Mr. Rosinski's since they thought that he had to maintain a 100 foot wetland buffer when he developed his property (see Attachment 5.c).

c. Sidewalks: Much of Slater Ave. NE does not have sidewalks. Loss of trees and shrubs has reduced the sound barriers and a person walking can't hear approaching cars (see Attachment 5.c).

2. Response:

a. Setbacks: The buildable area of the subject property is pie shaped and at the widest point (along the north property line) is 15 feet in width. Reduction of the front yard setback would provide at the most an additional 20 feet of buildable area and result in a house constructed on the property line (see Attachment 4). Assuming that the applicant was granted a zero front yard setback, the buildable area of the lot still would not support a house given the shape of the buildable area.

Mr. Rosinski developed two properties bordering Forbes Lake. Due to the location of the wetland on the first property, Mr. Rosinski applied for a reasonable use permit to develop his property. An applicant can only submit a reasonable use permit when there are no other alternatives available. A reasonable use permit also indicates that an applicant is either partially or totally within the inner two-thirds of the wetland buffer or within the wetland itself. Mr. Rosinski's proposal was located within the inner two-thirds of the wetland buffer but did not encroach into the wetland.

Due to the location of the wetland, wetland buffer, and all required setbacks on the second property Mr. Rosinski was able to construct a new single family residence without requesting any modifications or variances.

- b. Vegetation: During many conversations with Mrs. Keesling she has expressed a desire to preserve as many trees on the south side of the lot as possible and has worked diligently to keep the house as far to the north on the lot as possible. The City's arborist has reviewed the applicant's Arborist report and determined that there are no Type 1 trees located on the property. Type 1 trees provide the applicant and City additional flexibility to allow encroachments into the setback yards in order to preserve these trees.

The wetland buffer is currently dominated by Himalayan blackberries and ivy. Both are non-native, invasive species. The buffer reduction plan will remove all non-native, invasive species and install native plants resulting in an improved wetland buffer, as is required by the code. A wetland buffer modification, if properly implemented and maintained should result in buffer that has a higher ecological function than current conditions (see Section II.D and II.E of this report).

- c. Sidewalks: Approval and implementation of this request will result in the addition of sidewalks along the frontage of Lot 3, the subject property (see Attachments 2 and 3). This addition should increase the ability of the public to walk safely on sidewalks although the adjoining property to the north and south do not currently have sidewalks.

C. STATE ENVIRONMENTAL POLICY ACT (SEPA)

1. Facts: Pursuant to WAC 197-11-800, the proposed wetland buffer modification is categorically exempt from SEPA requirements.
2. Conclusion: The applicant and the City have satisfied the requirements of SEPA.

D. APPROVAL CRITERIA

1. WETLAND BUFFER MODIFICATION FOR A TYPE 1 WETLAND

a. Facts:

- (1) The subject property is located within Forbes Creek Basin, a Primary Basin. The wetland on this property has been classified as a Type 1 Wetland with a required 100 foot buffer from the wetland edge. In addition to the wetland, part of the property is covered by Forbes Lake.
- (2) Zoning Code section 90.60 allows wetland buffers to be reduced through either buffer averaging or buffer reduction with enhancement of the remaining buffer. A combination of these two methods cannot be used. Buffers cannot be reduced by at any point by more than one-third of the required buffer.
- (3) The applicant is requesting approval of a buffer modification to reduce the required 100 foot buffer to 67 feet. The Zoning Code requires that the reduced buffer be enhanced to function at a higher level than the existing standard buffer.
- (4) At the widest point, the triangular shaped buildable area on the subject property is approximately 15 feet wide tapering to zero south of the mid-point of the property (see Attachment 4). The applicant is proposing to construct a single-family residence that would have three floors of living area with an approximate foot print of 40 by 34. From the right-of-way the house will appear to be two stories. The total square footage of the house,

including a two stall carport and the basement, is approximately 3,900 square feet.

- (5) Zoning Code section 90.60.2.b establishes nine decisional criteria for reducing a wetland buffer. A wetland buffer modification may only be granted when the proposed development is consistent with all of the following criteria:
- (a) It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc. 1998).
 - (b) It will not adversely affect water quality.
 - (c) It will not adversely affect fish, wildlife, or their habitat.
 - (d) It will not have an adverse effect on drainage and/or storm water detention capabilities.
 - (e) It will not lead to unstable earth conditions or create erosion hazards.
 - (f) It will not be materially detrimental to any other property or to the City as a whole.
 - (g) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat.
 - (h) All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate.
 - (i) There is no practicable or feasible alternative development proposal that results in less impact to the buffer.
- (6) The City's Wetland Consultant, The Watershed Company, has reviewed the applicant's Wetland Buffer Mitigation Plan prepared by Aquatica Environmental Consulting, LLC (see Attachment 6). The Watershed Company has confirmed the reports findings and has determined that the proposal will meet the buffering standards with two additions (see Attachment 7). First, the plans should require preservation of the hazelnut (tree) at the southwest corner of the planted area. Also, the plans should note that any other native plants identified by the on-site biologist be protected and preserved, where possible. Second, add a modest number of sword ferns and or other suitable ground cover species. These changes will necessitate a revision to the bond quantity worksheet.

b. Conclusions:

- (1) Pursuant to the attachments included with this report, including: the applicant's proposed site plan (see Attachment 2), the buffer mitigation plan (see Attachment 6), and The Watershed Company review letter (see Attachment 7); the proposed buffer modification is consistent with the above criteria subject to the following conditions:
- (a) The plans should be amended to preserve of the hazelnut (tree) at the southwest corner of the planted area.

- (b) The plans should be amended to note that any other native plants identified by the on-site biologist be protected and preserved, where possible.
- (c) Amend the plans by adding a modest number of sword ferns and/or other suitable ground cover species.
- (d) Revise the bond quantity worksheet to cover the additional sword ferns or/or other suitable ground cover species.

2. MINOR IMPROVEMENTS

a. Facts:

- (1) Zoning Code section 90.30.9 defines minor improvements as "Walkways, pedestrian bridges, benches, and similar features, as determined by the Planning Official, pursuant to KZC [90.45\(5\)](#) and [90.90\(5\)](#)."
- (2) Zoning Code section 90.45.5 allows minor improvements, including trails, to be located within the outer half of the wetland buffer provided that they meet the following criteria:
 - (a) It will not adversely affect water quality;
 - (b) It will not adversely affect fish, wildlife, or their habitat;
 - (c) It will not adversely affect drainage or storm water detention capabilities;
 - (d) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and
 - (e) It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.
- (3) The applicant has proposed to create a four foot wide pathway connecting the buildable area to the wetland buffer and wetland to the shoreline of Forbes Lake. Currently, there is no trail located on the subject property. Attachment 6, Figure 2, indicates that southern edge of the property is currently a maintained lawn. Aerial photographs from 2002, 2005, and 2007 suggest that the neighbor to the south created and maintained a lawn that has encroached onto Mrs. Keesling's property (see Attachment 8).
- (4) Creation of the proposed trail transects the entire wetland buffer and wetland to connect the buildable area of the lot to Forbes Lake. This would result in a narrow strip of wetland and wetland buffer between the path and the mowed area of the neighboring property.

- b. Conclusion: The proposed path does not comply with Zoning Code section 90.45.5 since it is proposed to go beyond the outer half of the wetland buffer. Furthermore the path will result in the isolation of the wetland and wetland buffer between the trail and south property line. The applicant should modify the proposal to eliminate the portion of the pathway that extends beyond the outer half of the wetland buffer.

3. WETLAND BUFFER SETBACK

- a. Fact: Zoning Code Section 90.45.2 requires structures to be set back at least 10 feet from the designated or modified wetland buffer. The Planning Official may allow within this setback minor improvements which would clearly have no adverse effect during their construction, installation, use, or maintenance, on fish, wildlife, or their habitat or any vegetation in the buffer or adjacent wetland.
- b. Conclusion: The application for a building permit should comply with the 10 foot building setback from the modified wetland buffer.

4. WETLAND BUFFER FENCE OR BARRIER

- a. Facts: Zoning Code Section 90.50 requires that prior to beginning development activities, the applicant shall install a six-foot-high construction-phase chain link fence or equivalent fence, as approved by the Planning Official along the upland boundary of the entire wetland buffer with silt screen fabric installed per City standard.

Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either (1) a permanent three- to four-foot-tall split rail fence; or (2) permanent planting of equal barrier value; or (3) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or planted barrier must be done by hand where necessary to prevent machinery from entering the wetland or its buffer

- b. Conclusion: Prior to development, the applicant should install a six-foot high construction phase fence along the upland boundary of the entire wetland buffer with silt screen fabric installed per City standard. The fence should remain upright in the approved location for the duration of development activities. Upon project completion the applicant should install between the upland boundary of the wetland buffer and the development portion of the site either 1) A permanent three to four foot tall split rail fence, or 2) permanent planting of equal barrier value.

5. BONDS AND SECURITIES

- a. Fact: Zoning Code Section 90.145 established the requirement for the applicant to submit a performance or maintenance bond to ensure compliance with any aspect of the Drainage Basin regulations contained in Chapter 90 of the Kirkland Zoning Code or any decision to determination made pursuant to the chapter.

b. Conclusions:

(1) In order to ensure that the wetland buffer enhancement work is completed in compliance with the approved plans, prior to issuance of any permits for development activity on the site the applicant should submit a financial security device to the Planning Department to cover the cost of completing the improvements. The security shall be consistent with the standards outlined in Zoning code Section 90.145.

(2) In order to ensure continued compliance with the wetland buffer enhancement plan, prior to final inspection of any permits, the applicant should submit to the Planning Department a financial security device to cover all monitoring and maintenance activities that will need to be done including consultant site visits, report

to the Planning Department, and vegetation costs. The security shall be consistent with the standards out lined in Zoning Code section 90.145.

6. NATURAL GREENBELT PROTECTION EASEMENT

- a. Fact: Zoning Code Section 90.150 requires the applicant to grant a greenbelt protection easement to the City to protect sensitive areas and their buffers. Land survey information shall be provided by the applicant for this purpose.
- b. Conclusion: Prior to issuance of any permits, the applicant should dedicate a Natural Greenbelt Protection Easement encompassing the wetland and its buffer on the site (see Attachment 9). Boundaries of the Natural Greenbelt Protection Easement should correspond with the modified wetland buffer and should be established by survey. All surveys shall be located on KCAS or plat bearing system and tied to known monuments.

7. SAVE HARMLESS AGREEMENT

- a. Fact: Zoning Code Section 90.155 establishes that prior to issuance of a land surface modification permit or a building permit, whichever is issued first, the applicant shall enter into an agreement with the City that runs with the property, in a form acceptable to the City Attorney, indemnifying the City from any claims, actions, liability and damages to sensitive areas arising out of development activity on the subject property. This agreement shall be recorded with King County.
- b. Conclusion: Prior to issuance of a permit the applicant should sign and notarize a covenant (see Attachment 10) that holds the City harmless against any future claims that may arise as a result of the development of the property.

8. GENERAL ZONING CODE CRITERIA

- a. Fact: Zoning Code section 150.65.3 states that a Process IIA application may be approved if:
 - (1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - (2) It is consistent with the public health, safety, and welfare.
- b. Conclusion: The proposal complies with the criteria in section 150.65.3. It is consistent with all applicable development regulations (see Sections II.D, IIE, and Attachment 3) and the Comprehensive Plan (see Section II.F). In addition, it is consistent with the public health, safety, and welfare because the proposal as conditioned is consistent with the Comprehensive Plan, will satisfy the regulations for a wetland buffer modification, and will add to the housing stock of the City.

E. DEVELOPMENT REGULATIONS:

NATURAL FEATURES - SIGNIFICANT VEGETATION

1. Facts:

- a. Regulations regarding the retention of trees can be found in Chapter 95 of the Kirkland Zoning Code. The applicant is required to retain all viable trees on the site following the short plat approval. Tree removal will be

considered at the land surface modification and building permit stages of development.

- b. The applicant has submitted an Arborist Report prepared by a certified arborist (see Attachment 11).
 - c. The City's Arborist has reviewed this plan and determined that there are no Type 1 trees within the buildable area of the site. She recommends that trees remaining in the critical area would benefit from ivy removal, pruning and monitoring (Trees 4-6).
2. Conclusion: The applicant has provided an Arborist Report and this plan has been reviewed by the City's Arborist. The applicant should retain all viable trees during the construction and comply with the specific recommendations of the City's arborist.

F. COMPREHENSIVE PLAN

1. Facts: The subject property is located within the North Rose Hill neighborhood. Figure NRH-4 on page XV.F-11 designates the subject property for Medium Density Residential at six to 12 units per acre (see Attachment 12). In order to develop at a density of 12 dwelling units per acre, as allowed by the Comprehensive Plan, the property owner must have a minimum of two acres.
2. Conclusion: Construction of one-single family residence on the property calculates to an overall density of 3.5 dwelling units per acre. Due to the location and size of the wetlands on the subject property the applicant cannot achieve a higher density.

G. DEVELOPMENT STANDARDS

1. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 3.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 3.

III. 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.

IV. 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.

A. APPEALS TO CITY COUNCIL

Section 150.80 of the Zoning Code allows the Hearing Examiner's decision to be appealed 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.

B. 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.

V. LAPSE OF APPROVAL

Under Section 150.135 of the Zoning Code, the applicant must begin the development activity 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 the development activity 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.

VI. APPENDICES

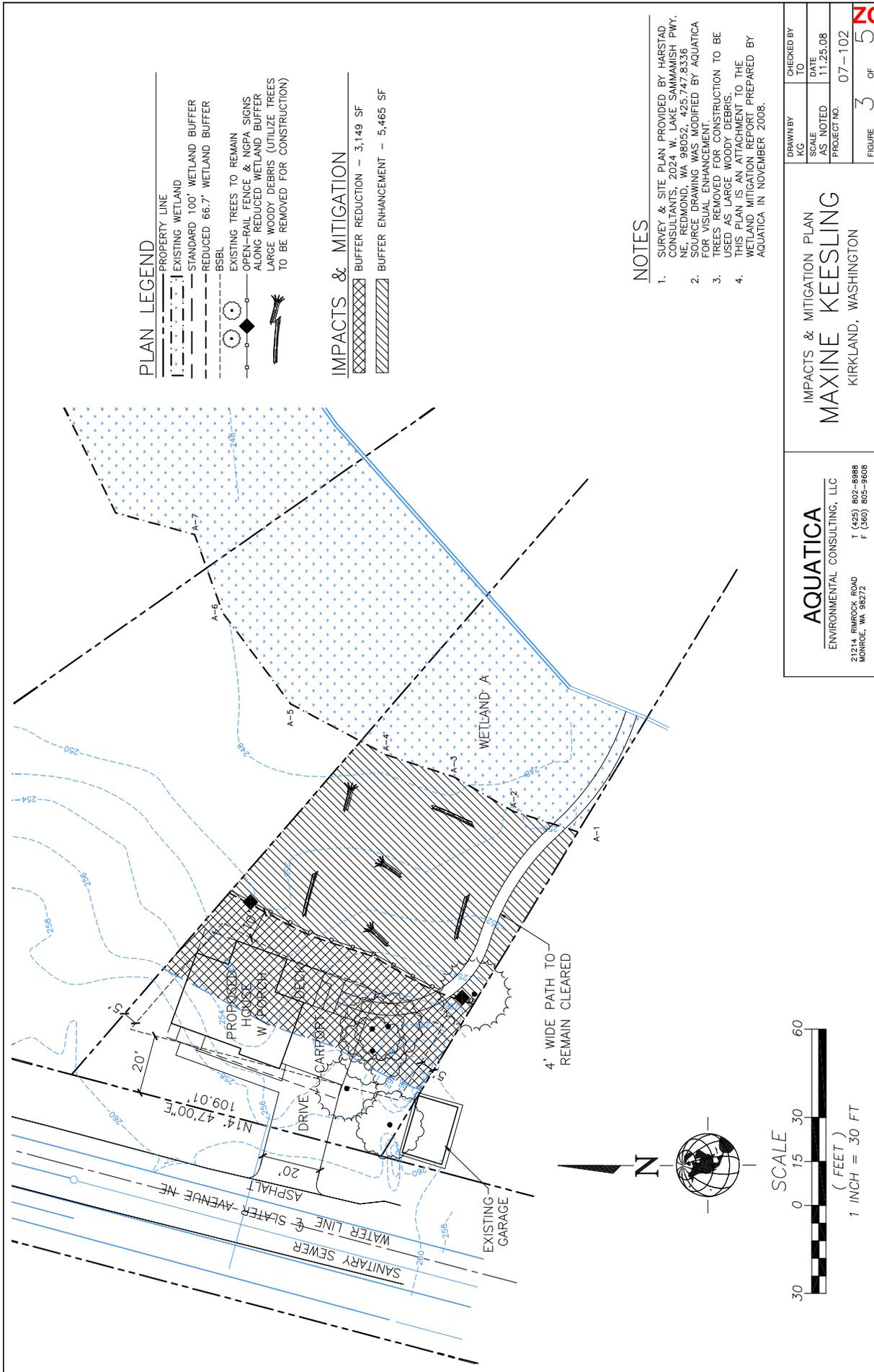
Attachments 1 through 12 are attached

1. Vicinity Map
2. Site Plan
3. Development Standards
4. Buildable Area Highlighting Wetland, Wetland Buffers, Setbacks, and Buildable Area
5. Public Comment
 - a. Steve Burr (web comment)
 - b. Kathryn Grey (e-mail comment)
 - c. Maureen Harris (e-mail comment)
 - d. Terry Lentz (e-mail comment)
6. Wetland Buffer Mitigation Plan from Aquatica Environmental Consulting
7. The Watershed Company Review Letter
8. Aerial Photos from 2002, 2005, and 2007
9. Natural Greenbelt Protection Easement
10. Hold Harmless
11. Arborist Report
12. North Rose Hill Land Use Map

VII. PARTIES OF RECORD

Maxine Keesling, Applicant
Parties of Record
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

A written decision will be issued by the Hearing Examiner within eight calendar days of the date of the open record hearing.



07-102-11-25-08.DWG

ATTIC VENTILATION

484 + 1139 + 50 = 1673 SQ. FT.
1673 / 300 = 5.6 SQ. FT. VENTL. REQ'D.

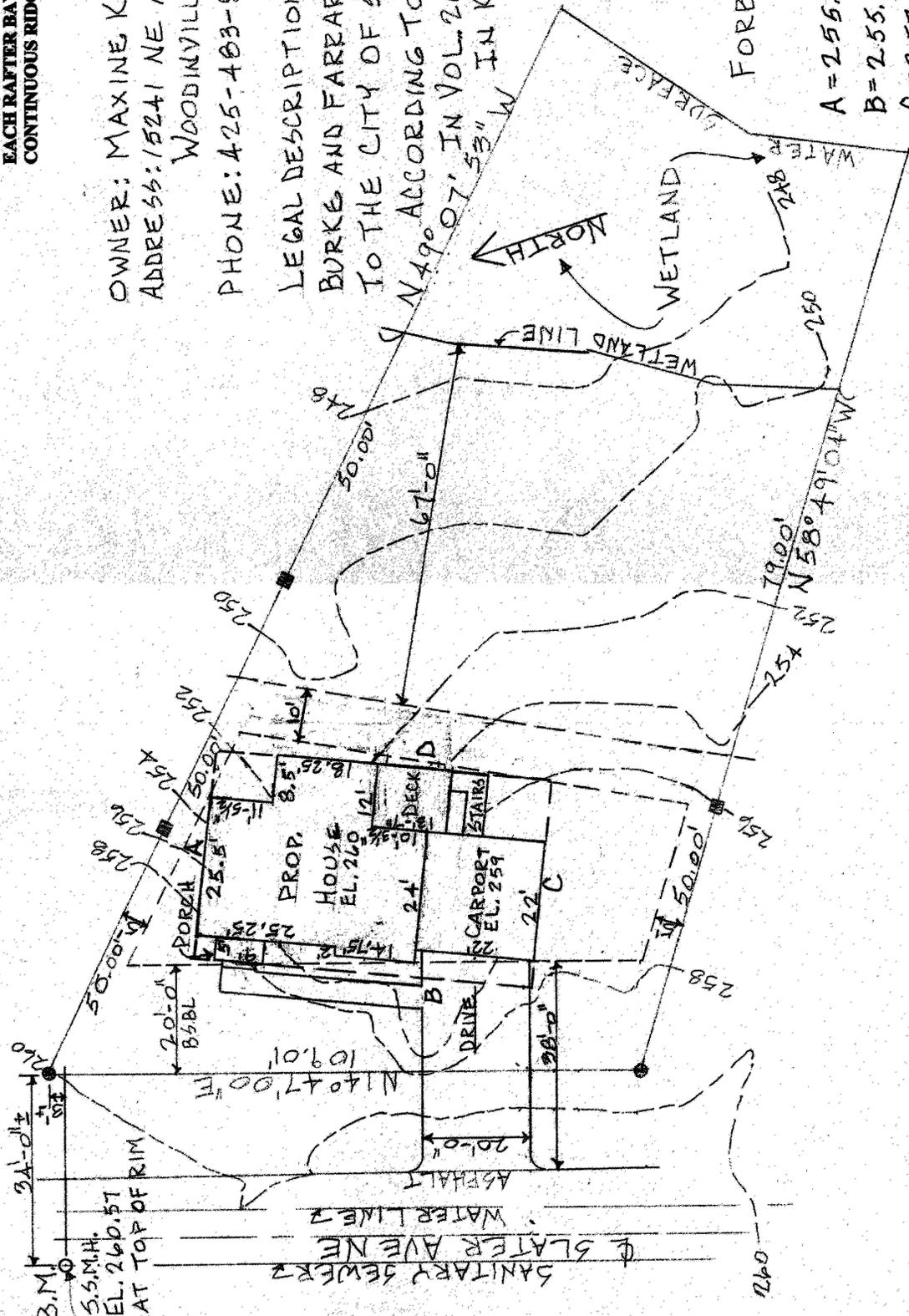
PROVIDE VENTED RAFTER BLOCKING
EACH RAFTER BAY AND PROVIDE
CONTINUOUS RIDGE VENT.

OWNER: MAXINE KEEGLING
ADDRESS: 15241 NE 153RD ST.

WOODINVILLE, WA 98072

PHONE: 425-483-8523

LEGAL DESCRIPTION: LOT 3, BLOCK 43,
BURKE AND FARRAR'S KIRKLAND ADDITION
TO THE CITY OF SEATTLE DIV. NO. 14,
N 49° 07' IN VOL. 20 OF PLATS AT PAGE 14,
IN KING COUNTY, WASHINGTON.



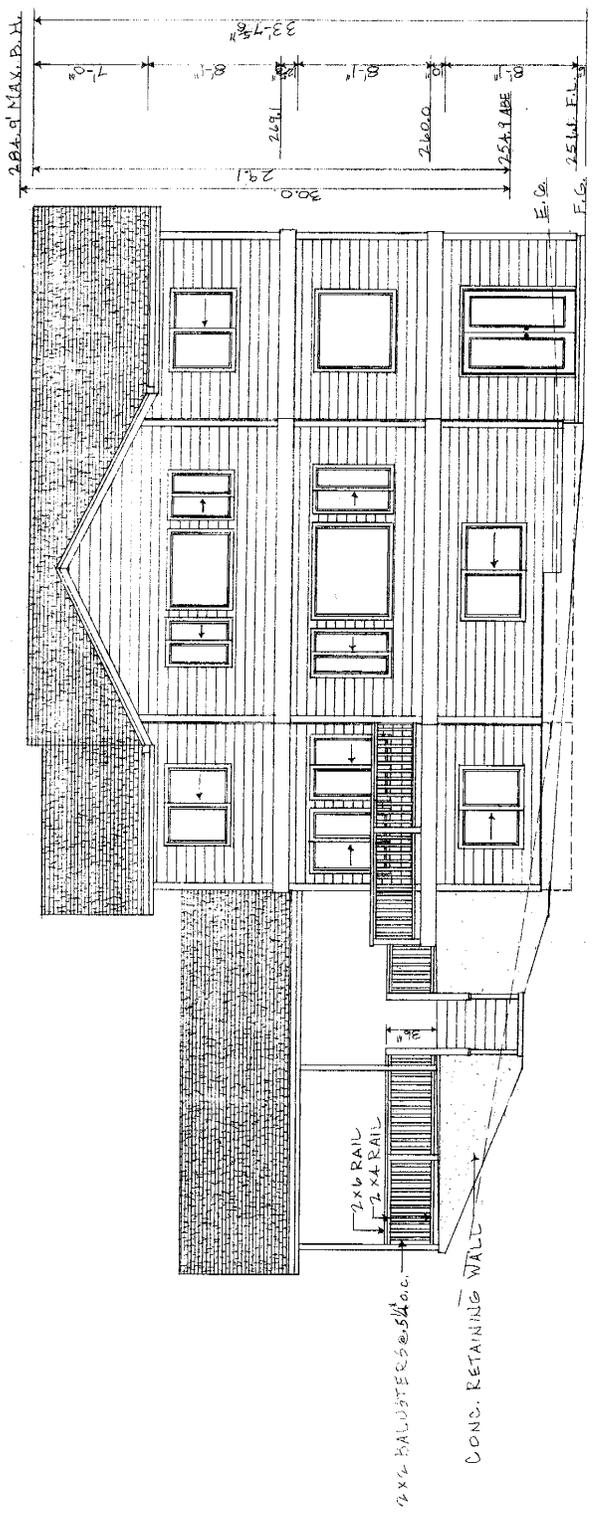
$A = 255.9 \times 39 = 9980.1$
 $B = 255.6 \times 62 = 15847.2$
 $C = 257.1 \times 39 = 10026.9$
 $D = 252.3 \times 62 = 15642.6$
 $51496.8 / 202 = 254.9 \text{ OK}$

SITE PLAN 1" = 20'-0"

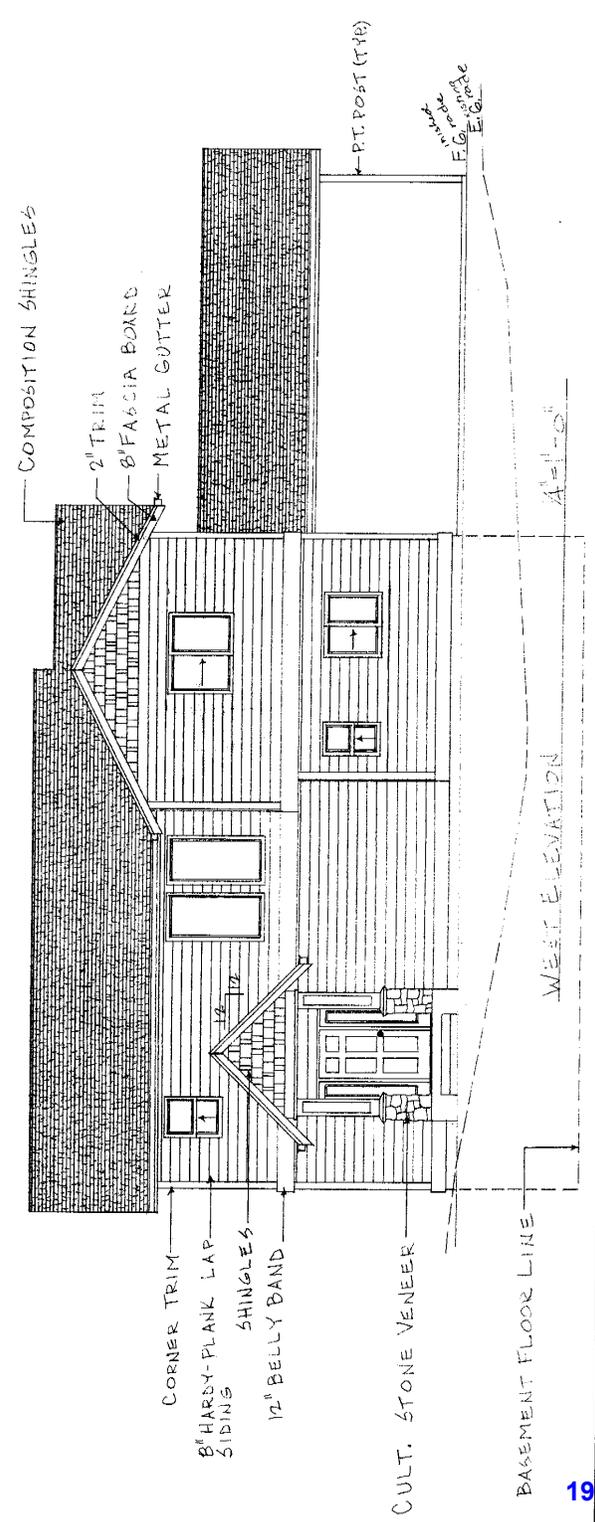
Date: 11-1-08
 Drawn: DJW
 Designed: DJW
 Maxine Keesling
 96XX Slater Ave. NE
 Kirkland, WA 98033
 425-483-8523

Denbe Design, Inc.
 Drafting & Design
 2819B - 120th St. SE, Monroe, WA 98272
 Phone: (360) 793-3929 Fax: (360) 793-2198

REVISIONS



EAST ELEVATION
 $\frac{1}{4}'' = 1'-0''$



WEST ELEVATION
 $\frac{1}{4}'' = 1'-0''$



CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225

www.ci.kirkland.wa.us

DEVELOPMENT STANDARDS LIST

File: Keesling Wetland Buffer Modification, ZON08-00022

Planning Department Development Standards

ZONING CODE STANDARDS

85.25.1 Geotechnical Report Recommendations. The geotechnical recommendations contained in the report shall be implemented.

90.45 Wetlands and Wetland Buffers. No land surface modification may take place and no improvement may be located in a wetland or within the environmentally sensitive area buffers for a wetland, except as specifically provided in this Section.

90.50 Wetland Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the wetland buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities. Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either 1) a permanent 3 to 4 foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.55 Monitoring and Maintenance of Wetland Buffer Modifications: Modification of a wetland buffer will require that the applicant submit a 5-year monitoring and maintenance plan consistent with the criteria found in 95.55 and which is prepared by a qualified professional and reviewed by the City's wetland consultant. The cost of the plan and the City's review shall be borne by the applicant.

95.45 Tree Installation Standards. All supplemental trees to be planted shall conform to the Kirkland Plant List. All installation standards shall conform to Kirkland Zoning Code Section 95.45.

95.52 Prohibited Vegetation. Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

105.20 Required Parking. Two parking spaces are required for a detached dwelling unit.

105.47 Required Parking Pad. Except for garages accessed from an alley, garages serving detached dwelling units in low density zones shall provide a minimum 20-foot by 20-foot parking pad between the garage and the access easement, tract, or right-of-way providing access to the garage.

110.60.5 Street Trees. All trees planted in the right-of-way must be approved as to species by the City. All trees must be two inches in diameter at the time of planting as measured using the standards of the American Association of Nurserymen with a canopy that starts at least six feet above finished grade and does not obstruct any adjoining sidewalks or driving lanes.

115.25 Work Hours. It is a violation of this Code to engage in any development activity or to operate any heavy equipment before 7:00 am. or after 8:00 pm Monday through Friday, or before 9:00 am or after 6:00 pm Saturday. No development activity or use of heavy equipment may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor

Day, Thanksgiving, and Christmas Day. The applicant will be required to comply with these regulations and any violation of this section will result in enforcement action, unless written permission is obtained from the Planning official.

115.40 Fence Location. Fences over 6 feet in height may not be located in a required setback yard. A detached dwelling unit abutting a neighborhood access or collector street may not have a fence over 3.5 feet in height within the required front yard. No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard, which is coincident with the high waterline setback yard.

115.42 Floor Area Ratio (F.A.R.) Limits. Floor area for detached dwelling units is limited to a maximum floor area ratio in low density residential zones. See Use Zone charts for the maximum percentages allowed. This regulation does not apply within the disapproval jurisdiction of the Houghton Community Council.

115.43 Garage Requirements for Detached Dwelling Units in Low Density Zones.

Detached dwelling units served by an open public alley, or an easement or tract serving as an alley, shall enter all garages from that alley. Whenever practicable, garage doors shall not be placed on the front façade of the house. Side-entry garages shall minimize blank walls. For garages with garage doors on the front façade, increased setbacks apply, and the garage width shall not exceed 50% of the total width of the front façade. These regulations do not apply within the disapproval jurisdiction of the Houghton Community Council. Section 115.43 lists other exceptions to these requirements.

115.75.2 Fill Material. All materials used as fill must be non-dissolving and non-decomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.

115.90 Calculating Lot Coverage. The total area of all structures and pavement and any other impervious surface on the subject property is limited to a maximum percentage of total lot area. See the Use Zone charts for maximum lot coverage percentages allowed. Section 115.90 lists exceptions to total lot coverage calculations. See Section 115.90 for a more detailed explanation of these exceptions.

115.95 Noise Standards. The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC. Any noise, which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

115.115 Required Setback Yards. This section establishes what structures, improvements and activities may be within required setback yards as established for each use in each zone.

115.115.3.g Rockeries and Retaining Walls. Rockeries and retaining walls are limited to a maximum height of four feet in a required yard unless certain modification criteria in this section are met. The combined height of fences and retaining walls within five feet of each other in a required yard is limited to a maximum height of 6 feet, unless certain modification criteria in this section are met.

115.115.3.n Covered Entry Porches. In residential zones, covered entry porches on dwelling units may be located within 13 feet of the front property line if certain criteria in this section are met. This incentive is not effective within the disapproval jurisdiction of the Houghton Community Council.

115.115.3.p HVAC and Similar Equipment: These may be placed no closer than five feet of a side or rear property line, and shall not be located within a required front yard; provided, that HVAC equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

115.115.5.a Driveway Width and Setbacks. For a detached dwelling unit, a driveway and/or parking area shall not exceed 20 feet in width in any required front yard, and shall be separated from

other hard surfaced areas located in the front yard by a 5-foot wide landscape strip. Driveways shall not be closer than 5 feet to any side property line unless certain standards are met.

115.135 Sight Distance at Intersection. Areas around all intersections, including the entrance of driveways onto streets, must be kept clear of sight obstruction as described in this section.

150.22.2 Public Notice Signs. Within seven (7) calendar days after the end of the 21-day period following the City's final decision on the permit, the applicant shall remove all public notice signs.

Prior to issuance of a grading or building permit:

90.50 Wetland Buffer Fence. Prior to development, the applicant shall install a six-foot high construction phase fence along the upland boundary of the wetland buffer with silt screen fabric installed per City standard. The fence shall remain upright in the approved location for the duration of development activities. Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either 1) a permanent 3 to 4 foot tall split rail fence, or 2) permanent planting of equal barrier value.

90.145 Bonds. The City may require a bond and/or a perpetual landscape maintenance agreement to ensure compliance with any aspect of the Drainage Basins chapter or any decision or determination made under this chapter.

90.150 Natural Greenbelt Protective Easement. The applicant shall submit for recording a natural greenbelt protective easement, in a form acceptable to the City Attorney, for recording with King County (see Attachment 9).

90.155 Liability. The applicant shall enter into an agreement with the City which runs with the property, in a form acceptable to the City Attorney, indemnifying the City for any damage resulting from development activity on the subject property which is related to the physical condition of the stream, minor lake, or wetland (see Attachment 10).

95.35.2.b.(3)(b)i Tree Protection Techniques. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans.

95.35.6 Tree Protection. Prior to development activity or initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities. Protection measures for trees to be retained shall include (1) placing no construction material or equipment within the protected area of any tree to be retained; (2) providing a visible temporary protective chain link fence at least 4 feet in height around the protected area of retained trees or groups of trees until the Planning Official authorizes their removal; (3) installing visible signs spaced no further apart than 15 feet along the protective fence stating "Tree Protection Area, Entrance Prohibited" with the City code enforcement phone number; (4) prohibiting excavation or compaction of earth or other damaging activities within the barriers unless approved by the Planning Official and supervised by a qualified professional; and (5) ensuring that approved landscaping in a protected zone shall be done with light machinery or by hand.

27.06.030 Park Impact Fees. New residential units are required to pay park impact fees prior to issuance of a building permit. Please see KMC 27.06 for the current rate. Exemptions and/or credits may apply pursuant to KMC 27.06.050 and KMC 27.06.060. If a property contains an existing unit to be removed, a "credit" for that unit shall apply to the first building permit of the subdivision.

Fire Department Conditions

- 1) The fire department has no specific requirements for this project.

- 2) Existing hydrants in the area are adequate to provide coverage. The hydrant next to 9520 Slater is already equipped with a 5" Stortz fitting.
- 3) Fire flow in the area is adequate for the project.
- 4) You can review your permit status and conditions at www.kirklandpermits.net.

BUILDING DEPARTMENT CONDITIONS

- 1) Buildings must comply with current editions of the International Building, Residential, Mechanical and Fire Codes and the Uniform Plumbing Code as adopted and amended by the State of Washington and the City of Kirkland.
- 2) Structure must comply with Washington State Energy Code (WAC 51-11) and the Washington State Ventilation and Indoor Air Quality Code (WAC 51-13).
- 3) Structures must be designed for seismic design category D, wind speed of 85 miles per hour and exposure B.
- 4) Plumbing meter and service line shall be sized in accordance with the UPC.
- 5) Geotechnical report required to address development activity. Report must be prepared by a Washington State licensed Professional Engineer. Recommendations contained within the report shall be incorporated into the design of the subsequent structures.
- 6) Prior to issuance of Building, Demolition or Landsurface Modification permit applicant must submit a proposed rat baiting program for review and approval. Kirkland Municipal Ordinance 9.04.040

PUBLIC WORKS CONDITIONS

Special Note: This Zoning Permit is for a wetland buffer modification. The buffer modification does not trigger Public Works required street and utility improvements, but the forthcoming Building Permit will trigger the improvements. Because we want the applicant to be prepared for these improvements, they will be included in the staff report for the buffer modification

GENERAL CONDITIONS:

- 1) All public improvements associated with this project including street and utility improvements, must meet the City of Kirkland Public Works Pre-Approved Plans and Policies Manual. A Public Works Pre-Approved Plans and Policies manual can be purchased from the Public Works Department, or it may be retrieved from the Public Works Department's page at the City of Kirkland's web site at www.ci.kirkland.wa.us.
- 2) This project will be subject to Public Works Permit and Connection Fees. At the pre-application stage, the fees can only be estimated. It is the applicant's responsibility to contact the Public Works Department by phone or in person to determine the fees. The fees can also be review the City of Kirkland web site at www.ci.kirkland.wa.us. The applicant should anticipate the following fees:
 - Water and Sewer connection Fees (paid with the issuance of a Building Permit)
 - Side Sewer Inspection Fee (paid with the issuance of a Building Permit)
 - Water Meter Fee (paid with the issuance of a Building Permit)

- Right-of-way Fee
 - Review and Inspection Fee (for utilities and street improvements).
 - Traffic Impact Fee (paid with the issuance of Building Permit). For additional information, see notes below.
- 3) This project is exempt from transportation concurrency review.
 - 4) Building Permits associated with this proposed project will be subject to the traffic impact fees per Chapter 27.04 of the Kirkland Municipal Code. The impact fees shall be paid prior to issuance of the Building Permit(s).
 - 5) All civil engineering plans which are submitted in conjunction with a building, grading, or right-of-way permit must conform to the Public Works Policy titled ENGINEERING PLAN REQUIREMENTS. This policy is contained in the Public Works Pre-Approved Plans and Policies manual.
 - 6) All street improvements and underground utility improvements (storm, sewer, and water) must be designed by a Washington State Licensed Engineer; all drawings shall bear the engineers stamp.
 - 7) All plans submitted in conjunction with a building, grading or right-of-way permit must have elevations which are based on the King County datum only (NAVD 88).
 - 8) A completeness check meeting is required prior to submittal of any Building Permit applications.

SANITARY SEWER CONDITIONS:

- 1) The existing sanitary sewer main within the public right-of-way along the front of the property is adequate to serve all the lots within the proposed project.
- 2) Under a Sanitary Sewer Latecomers Agreement recorded with the sewer extension in Slater Ave NE, this parcel has been assessed a Latecomers Fee. The fee must be paid prior to the issuance of the building permit.
- 3) Provide a 6-inch minimum side sewer stub to the lot.

WATER SYSTEM CONDITIONS:

- 1) The existing water main in the public right-of-way along the front of the subject property is adequate to serve this proposed development.
- 2) Provide a separate 1" minimum water service from the water main to the meter for the lot; City of Kirkland will set the water meter.
- 3) Provide fire hydrants per the Fire Departments requirements.

SURFACE WATER CONDITIONS:

- 1) Provide temporary and permanent storm water control per the 1998 King County Surface Water Design Manual.

Small Site Drainage Review

The drainage design for short plats that create less than 5,000 square feet of new impervious surface area and clear less than 2 acres or 35% of the site, whichever is greater, should follow Policy D-3 of the Department of Public Works Pre-Approved Plans. Projects this size may require Targeted Drainage Review per Section 1.1.2 of the 1998 King County Surface Water Design Manual, depending on site conditions

- 2) A 10 foot wide public storm sewer line easement for drainage conveyance ditch through the property must be recorded with the property.
- 3) Provide collection and conveyance of the street improvement storm drainage.
- 4) Provide an erosion control plan with Building or Land Surface Modification Permit application. The plan shall be in accordance with the 1998 King County Surface Water Design Manual.
- 5) Construction drainage control shall be maintained by the developer and will be subject to periodic inspections. During the period from April 1 to October 31, all denuded soils must be covered within 15 days; between November 1 and March 31, all denuded soils must be covered within 12 hours. If an erosion problem already exists on the site, other cover protection and erosion control will be required.
- 6) The applicant has discussed the possibility of relocating the conveyance ditch from the center of the property to the north side of the proper to aide in the location of the new house. This relocation may be approved by the Public Works Department after the design has been reviewed. If the conveyance ditch is relocated, it shall be encompassed in a 10 ft wide drainage easement as discussed in #2 above.
- 7) The Army Corps of Engineers (COE) has asserted jurisdiction over upland ditches draining to streams. By issuance of this permit, the property owner has been given notice that either an existing Nationwide COE permit or an Individual COE permit may be necessary for work within ditches or streams, depending on the project activities. Applicants should obtain the applicable COE permit; information about COE permits can be found at: U.S. Army Corps of Engineers, Seattle District Regulatory Branch
http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_NWPs Specific questions can be directed to: Seattle District, Corps of Engineers, Regulatory Branch, CENWS-OD-RG, Post Office Box 3755, Seattle, WA 98124-3755, Phone: (206) 764-3495

STREET AND PEDESTRIAN IMPROVEMENT CONDITIONS:

- 1) The subject property abuts Slater Ave NE. This street is a Neighborhood Access type street. Zoning Code sections 110.10 and 110.25 require the applicant to make half-street improvements in rights-of-way abutting the subject property. Section 110.30-110.50 establishes that this street must be improved with the following:
 - a. Widen the street to 18 ft. from centerline to face of curb.
 - b. Install storm drainage, curb and gutter, a 4.5 ft. planter strip with street trees 30 ft. on-center, and a 5 ft. wide sidewalk.
- 2) A 2-inch asphalt street overlay will be required where more than three utility trench crossings occur with 150 lineal ft. of street length or where utility trenches parallel the street centerline. Grinding of the existing asphalt to blend in the overlay will be required along all match lines.

- 3) The driveway for each lot shall be long enough so that parked cars do not extend over the sidewalk; 20 ft. min. driveway length.
- 4) It shall be the responsibility of the applicant to relocate any above-ground or below-ground utilities which conflict with the project associated street or utility improvements.
- 5) Underground any new off-site transmission lines.
- 6) Zoning Code Section 110.60.9 establishes the requirement that existing utility and transmission (power, telephone, etc.) lines on-site and in rights-of-way adjacent to the site must be underground. The Public Works Director may determine if undergrounding transmission lines in the adjacent right-of-way is not feasible and defer the undergrounding by signing an agreement to participate in an undergrounding project, if one is ever proposed. In this case, the Public Works Director has determined that undergrounding of existing overhead utility on Slater Ave NE is not feasible at this time and the undergrounding of off-site/frontage transmission lines should be deferred with a concomitant agreement or LID No Protest Agreement.

Web Case Comments

Permit Number: ZON08-00022

Permit Status: OPC

Project Name: WETLAND BUFFER MODIFICATION

Comments on this Case: 1

Opened for Comment: 01/27/2009 03:01PM

Closed for Comment:

Permit Details: The applicant has applied for a wetland buffer modification to reduce the buffer from 100 to 67 feet in order to build a new single family residence. The property is located within the PLA 17 zone, the portion of the lot not covered by Forbes Lake is 16,227 square feet, a wetland and its associated buffer are located on the eastern portion of the site.

Web Comments...

Steve Burr, , 9221 - 124th Ave NE, Unit L-605 Lochshire	February 02, 2009	Comment 1 of 1
Condomini Kirkland 98033 I am opposed to this permit because all homes should follow the setback rule around Forbes Lake. There should not be exceptions made except where public safety is enhanced by such a change.		

Desiree Goble

From: Kathryn Grey [kathryn.grey@verizon.net]
Sent: Saturday, February 07, 2009 10:51 AM
To: Desiree Goble
Cc: derekmoo@yahoo.com; Rekha Nair; maur99@gmail.com
Subject: Comment regarding File Number ZONO8-00022

Categories: Public Comment

Hearing Examiner:

Let it be known that I, and my many neighbors, are vehemently opposed to the above referenced notice of application that would reduce the wetland buffer almost by half, from 100 to 67 feet, to accommodate a single family residence. If the applicant wants to build a monster size house then she should build it closer to the road. No more trees and greenery should be sacrificed for the sake of new construction. What is the point of having wetlands and buffers if continual allowances are made to scour them?

Please deny aforementioned Notice of Application.

Thank You!

Kathryn Grey
12307 NE 97th Street
Kirkland

Desiree Goble

From: Maureen Harris [maur99@gmail.com]
Sent: Wednesday, February 11, 2009 7:44 PM
To: Desiree Goble
Subject: Comment on File Number ZON08-00022

Categories: Public Comment

To The Hearing Examiner,

Please don't allow the buffer to be reduced nearly a third on this property. Mr. Rosinski had to keep the buffer at 100 feet on both Forbes lake sites that he developed in the last 2 years. Why should Ms. Keesling be an exception? Have the house built close to the road like the other ones

Just for the record Vista Forbers across the street on Slater Ave was developed this past year. The developer said his trees were diseased. They were not!!!! But the ENTIRE site was scoured and developed. Two years before the freeway was expanded closer to Forbes Lake. Then with absolutely no notice that the two sites on Forbes lake were to be completely scoured to create "new wetland." A process that went on from 7am to 6pm Monday through Saturday for two months. Oh and the property on the east side of the lake was rescoured a year later because it wasn't supposedly done right the first time.

Also so much of the Slater Ave NE does not have sidewalks. With all the trees and shrubs gone that acted as sound barriers a person walking can't even hear a car approaching. And thanks to all the development especially the senior apartment complex traffic has increase Enormously !!!! It is just not safe to walk anymore on Slater Ave.

Once trees and buffers are ripped out they are gone forever!!!! And it will be decades before all the new plantings will be buffers again. So please do the right thing and not allow irresponsible development. Enough!

Sincerely,

Mauree Harris
12307 NE 97th St # A
Kirkland, WA 98033

425/889-8848

Desiree Goble

From: Terry D Lentz [tlnlmp@comcast.net]
Sent: Thursday, February 19, 2009 3:52 PM
To: Desiree Goble
Subject: Wetland Buffer Sale

Categories: Public Comment

Ms. Goble,

Re:Wetland Buffer Modification File No ZONO8-00022

It may be to late to express concern or inquire, but I would like to know how much of the wetland will be given to this property if it this goes through?

The lake is already crowded, cheek to jowl with residences. I have seen children running and playing in the wetlands and people walking their dogs through what I thought was to be a "protected" area for wildlife. The city plans to build several walkways and observation decks that will also increase the human impact on this wetland. During the past two years I have seen coyotes and raccoons and eagles and numerous birds in this recovering area. I fear these gains will be lost. Surely the buffer was part of the environmental impact statement and included in the planning for the walkways and observation decks. Taking that buffer away seems very bad.

Do you have any information that would help me understand why the buffer should even be considered as negotiable? I have already had concerns about the impact of the walkways and decks increasing the traffic and impact on the birds. I also think there should be signs that warn about the coyotes that typically come out at night, but I have seen one during the day. I realize they are not a danger to humans, but people still foolishly leave pets out at night and I hear them being attacked and eaten at night. These are sounds one never forgets.

Thank you,

Terry Lentz
9224 Slater Ave NE, #109
Kirkland, WA 98033
425/869-8033

Wetland Buffer Mitigation Plan

***Slater Street Keesling Lot 3
Kirkland, Washington***

Prepared For:

Maxine Keesling
15241 NE 153rd Street
Woodinville, Washington 98072

Prepared By:

Aquatica Environmental Consulting, LLC
21214 Rimrock Road
Monroe, Washington 98272

November 24, 2008