CITY OF KIRKLAND
PLANNING & COMMUNITY DEVELOPMENT
123 5th Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

KIRKLAND HEARING EXAMINER

A G E N D A

Council Chamber

123 5th Avenue

Date: November 19, 2009

Time: 9:00 A.M.

This meeting packet is also available online at the City of Kirkland Planning Department web page at http://www.ci.kirkland.wa.us/depart/Planning/Hearing_Examiner_Meeting_Information.htm

1. **CALL TO ORDER**

2. **PUBLIC HEARINGS**

   A. Broad Wetland Buffer Modification

   FILE NO.: ZON08-00004

   ADDRESS: A vacant property called Lot 2, directly south of 10404 NE 53rd Street

   STAFF CONTACT: Susan Greene, Planner, 425-587-3252 or **sgreene@ci.kirkland.wa.us**

3. **ADJOURNMENT**

Note: If you would like more information on an item on this agenda, please call the Planning Department at 425.587.3225. Please refer to the file number and the planner listed for that item. This meeting packet is also available online at the City of Kirkland Planning Department web page at http://www.ci.kirkland.wa.us/depart/Planning.htm.

The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's office at 425.587.3190, or for TTY service, call 425.587.3111 (by noon the working day prior to the meeting) if we can be of assistance. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Chair by raising your hand.

CITY OF KIRKLAND
123 FIFTH AVENUE ● KIRKLAND, WASHINGTON 98033-6189 ● (425) 587-3225

Rules of Procedure for Applications Before the City of Kirkland Hearing Examiner

1. Authority
Kirkland Municipal Code (Code) Section 3.34.050 requires that the Hearing Examiner adopt rules of procedure to govern hearings conducted by the Hearing Examiner pursuant to the Code.

2. Applicability
Unless otherwise provided by Code, these Rules apply to all matters for which the Code requires the Hearing Examiner to hold a public hearing on an application. (Appeals to the Hearing Examiner from City decisions are covered by a different set of rules.) These Rules do not include all ordinance or Code requirements. Parties are responsible for familiarizing themselves with those requirements.

3. Nature of the Hearing
Applications are considered by the Hearing Examiner at a public hearing held for the purpose of gathering evidence from which the Hearing Examiner will prepare a decision, or a recommendation to the City Council, on an application.

4. Presiding Official
The Hearing Examiner conducting the hearing has the duty to ensure a fair and impartial hearing, to take all necessary action to avoid delay in the proceedings, to gather facts necessary for making the decision or recommendation, and to regulate the course of the hearing and the conduct of the parties and others so as to maintain order.

5. Public Participation
Unless otherwise provided by Code, any person may participate in the hearing by submitting written testimony to the Department processing the application, or by appearing at the hearing, in person or through a representative, and providing oral testimony.

6. Burden of Proof
Under the Kirkland Zoning Code, the applicant has the burden of demonstrating that the applicant is entitled to the requested decision.

7. Expected Conduct
A. Persons appearing before the Hearing Examiner shall conduct themselves with civility and courtesy to everyone involved in the hearing.
B. No one shall communicate with the Hearing Examiner outside the hearing in an attempt to discuss the merits of, or influence the decision or recommendation on, an application.

8. Site Inspection
The Hearing Examiner will inspect the property that is the subject of an application prior to the close of the record. Failure to conduct a site inspection shall not affect the validity of the Hearing Examiner's decision.

9. Testimony and Written Materials at Hearing

A. All witnesses testifying at hearing must take an oath or affirmation to be truthful in their testimony.

B. Testimony and written materials offered at the hearing should be relevant, reliable and non-repetitious.

C. The Hearing Examiner may impose reasonable limits on the number of witnesses testifying at the hearing, and the nature and length of the testimony. However, written testimony and other written materials may also be submitted.

10. Continuing the Hearing

If the Hearing Examiner determines at hearing that there is good cause to continue the hearing, and then and there specifies the date, time and place of the continued hearing, no further notice of the hearing is required.

11. Hearing Format

The order of presentation at hearings on applications is generally as follows:

A. Examiner's introductory remarks;

B. Report and recommendation by the Department

C. Testimony from the Applicant;

D. Testimony and/or questions from members of the public;

E. Opportunity for presentation of additional information from the Department and Applicant;

The opportunity for cross-examination of witnesses may be provided at the discretion of the Hearing Examiner. The Hearing Examiner may also modify the order of hearing to promote the clear and fair presentation of evidence.

12. Leaving the Record Open

At the conclusion of the hearing, the Hearing Examiner may close the hearing, but leave the record open to receive additional written materials or for other good purpose.

13. Hearing Examiner Decision

A. Issuance. The Hearing Examiner shall issue a written decision or recommendation on the application within the time required by the applicable Code provision.

B. Contents. A decision of the Hearing Examiner on an application shall include, but not be limited to, a statement regarding the following:

1. Background. The nature and background of the proceedings.

2. Findings. The individual facts that the Hearing Examiner finds relevant, credible, and requisite to the decision, based on the evidence presented at hearing and matters officially noticed.

3. Conclusions. Legal and factual conclusions based upon specific legal criteria and the findings of fact.

4. Recommendation or Decision. The Hearing Examiner's recommendation or decision, as applicable, on whether the application should be granted, modified, or denied, and any conditions or restrictions that are recommended or imposed.

5. Information regarding any subsequent procedural steps for appealing the Hearing Examiner's decision or challenging the Hearing Examiner's recommendation.

14. Notice of Decision

The Hearing Examiner's decision shall be provided to the parties in accordance with the requirements of the Code.

(Adopted June 6, 2007 pursuant to KMC 3.34.050)