



**HEARING EXAMINER – JOINT HEARING WITH HOUGHTON
COMMUNITY COUNCIL
MEETING MINUTES – March 27, 2006**

1. Call to Order and Roll Call 7:00 p.m.

- Members Present: Chair Rick Whitney, Hugh Givens, David Hess, James Nickle, and Elsie Weber
- Absent/Excused: Betsy Pringle, Bill Goggins
- Staff present: Dawn Nelson, Nancy Cox, Desiree Goble
- Hearing Examiner Pro Tem: Anne Watanabe
- Hugh Mortensen, Watershed Company

2. Announcement of Agenda

Council Chair announced the agenda

3. PUBLIC HEARING: Hindle-Rohde Reasonable Use Exception Application, 96XX 38th Avenue NE, File No. ZON05-00011

Chair read a statement regarding the Fairness Doctrine. There were no objections to participation of members of Houghton Community Council in this hearing. He then turned the meeting over to the Hearing Examiner.

Ms. Watanabe announced that, following the close of the record in this matter her written recommendation will be submitted to City Council. She administered an oath to all testifying, that testimony each one is to give is true.

Desiree Goble, Planner for City of Kirkland, 123 Fifth Avenue, Kirkland, represented the Department of Planning and Community Development. She advised that public notices were provided in this matter. Ms. Goble submitted the Staff report which included a thorough review of her and Eric Shields' March 17, 2006 Advisory Report to the Kirkland Hearing Examiner and Houghton Community Council. She provided an errata sheet regarding two items on Page 6 of the Report. Planning Staff recommends approval, with inclusion of conditions stated in the Report.

Ms. Goble answered questions by members of the Council and Hearing Examiner concerning adjoining properties, wetlands, seismic hazard, floodplains, and liquefaction and the City's potential liability. Ms. Goble assured the Council that it is her understanding that, the City will follow the geo-technical engineer recommendations stating that a site is buildable. The City then ensures that the applicant abides by the geotechnical recommendations in that report so that the City would not be liable [should something untoward occur]. Ms. Goble highlighted the changes that have taken place in the proposal over time, subsequent to the original proposal. She referred to Attachment 2 that shows the current proposal that shows the proposed building moved as far to the North as possible, outside of the wetland.

Ms. Watanabe asked that the applicant sign in.

Applicants **Jeff and Barbara Hindle**, 220 First Street #402, Kirkland thanked everyone for their time. They introduced various specialists accompanying them. They gave the project history, description of the property, and comparison to the neighborhood. They said they are

amenable with all conditions that the City outlined in the Staff report and that their application meets criteria set forth by the Planning Department in previous meetings with them. They are applying for a variance of the 20' setback so that the house can be situated 5' from the property line, to move it farther from the wetland; and setback variance from the City right-of-way on the eastern property line. They cited variance precedents.

Donna Frostholm, Adolphson & Associates, wetlands consultant, 5309 Shilshole Avenue NW, Seattle presented a wetlands enhancement plan.

Rick Jones, Architect from Nash Jones Anderson Architects, 11644 NE 80th Street, Kirkland spoke to floor elevations and topography.

Diana Kirchheim, Bellevue land use attorney, discussed the legal precedence of the project and the reasonable use law. She said her clients have agreed to the conditions that the City has imposed and they will be enhancing wetland area that is 1.7 times the size of the wetland buffer impact area.

Ms. Hindle outlined reasons why alternate locations for the building would not work, i.e., North is the roadway, South is the wetlands, farther East or West would be over the property line, and height restrictions preclude going up. They feel reducing the size of the home would devalue other properties in the neighborhood. Council asked questions of Mr. and Ms. Hindle regarding neighboring properties at The Reserve at Yarrow Bay. Additional questions were addressed to Ms. Kirchheim who said that the City would have to compensate the Hindle's for loss of use of their property if they weren't permitted to build their house, and that it would constitute a "take and possess" issue.

Philip Irvin, 7704 Mary Avenue NW, Seattle, spoke. He owns property adjoining the subject property (four lots directly to the East) and had written a letter to the City regarding this project. He voiced a concern regarding the potential of any future building on his lot blocking the Hindles' view, and the Hindles' potential objections to that scenario.

Staff fielded questions from the Council concerning the wetland buffer width. Ms. Watanabe invited comments from the audience.

Ted Barr, 9610 NE 38th St., Kirkland, president of The Reserve at Yarrow Bay properties homeowners association, spoke. He opposes the proposed setback variance, as he feels it would negatively impact the aesthetic and actual resale value of surrounding homes and the integrity of the neighborhood. He said that, in order to avoid setting precedence Council needs to deny the five-foot setback. He answered questions from the Council.

Krista Rave-Perkins, 12403 NE 28th Street, Bellevue is in opposition to placing the house into the wetlands or the wetland buffer. She cited studies and reports regarding wetlands and wetland buffers and the benefits they provide.

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Ms. Kirchheim emphasized that the proposed house is not being built in the wetland area and denial of the setback variance would constitute denial of all reasonable use. She also wanted to state that the current proposal does not block any views.

Ms. Watanabe said the testimony portion of the hearing is closed. The hearing record remains open for her receipt of Council's recommendation on the application. Mr. Jones provided information regarding the proposed house's elevation, referencing national geographical vertical data.

ADJOURNMENT: 8:46 p.m.

Hearing no further testimony, the Hearing Examiner declared the hearing closed at 8:46 p.m.

Nancy Cox, Development Review Manager
Department of Planning and Community Development

RECORDING SECRETARY: Marlene Eisele
City of Kirkland