City of Kirkland
Planning and Building Department
123 Fifth Avenue, Kirkland, WA 98033
425-587-3600

City of Kirkland
Notice of Decision

JUNE 3, 2022

Project Name:	7002 NE 134th St Short Plat
File No.:	SUB21-00511
Location:	7002 NE 134th St (see Attachment 1)
Applicant:	Schuyler Tutt with Medici Architects
Project Description:	Subdivide a 28,641 square foot parcel into three single-family lots in the RSA 4 zone (see Attachment 2)
Decisions Included:	Short Plat (Process I)
Project Planner:	Kaylie Duffy, Planner
SEPA Determination:	Exempt from SEPA pursuant to WAC 197-11-800(6)(d)
Department Decision:	**Approval with Conditions**

Adam Weinstein, Director
Planning and Building Department

Decision Date:	May 27, 2022
Appeal Deadline:	June 17, 2022

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

How to Appeal: *Only the applicant or those persons who previously submitted written comments or information to the Planning Director are entitled to appeal this decision.* A party who signed a petition may not appeal unless such a party also submitted independent written comments or information. An appeal must be in writing and delivered, along with fees set by ordinance, to the Planning Department by 5:00 p.m., June 17, 2022. For information about how to appeal, contact the Planning Department at (425) 587-3600. An appeal of this project decision would be heard by the Hearing Examiner.

Comment to City Council: If you do not file an appeal, but would like to express concerns about policies or regulations used in making this decision or about the decision making process, you may submit comments to citycouncil@kirklandwa.gov. Expressing your concerns in this way will not affect the decision on this application, but will enable the City Council to consider changes to policies, regulations or procedures that could affect future applications.

I. Conditions of Approval

A. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of these development regulations. This attachment references current regulations and does not include all of the additional regulations. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed.

B. Prior to recording the short plat, the applicant shall:

1. Obtain a demolition permit and remove the existing single-family home and two detached garages (see Section II – Land Use).
2. Show on the face of the plat Protected Natural Areas on each lot as shown in Attachment 4 (see Conclusion V.C.2.a.1).
3. Place a note on the face of the short plat document that references the Protected Natural Areas and states that the trees and associated vegetation located within them shall be maintained in perpetuity (see Attachment 4 and Conclusion V.C.2.a(2)).

C. As part of the application for a Land Surface Modification Permit and subsequent Building Permits, the applicant shall:

1. Incorporate the recommendations of the geotechnical report prepared by Nelson Geotechnical Associates, Inc. dated February 4, 2021 (see Attachment 5) and subsequent memo, dated March 18, 2022 (see Attachment 6) (see Conclusion V.B.2.a).
2. Follow the standard conditions regarding geologically hazardous areas as described in Attachment 3 (see Conclusion V.B.2.b).
3. Submit plans consistent with the approved Integrated Development Plans shown in Attachment 4 and the Development Standards in Attachment 3 (see Conclusion V.C.2.b(1) and Conclusion V.D.2).
4. Submit plans demonstrating compliance with the minimum vegetation standards within the Protected Natural Areas per KZC 70.15.4 (see Conclusion V.C.2.b(2)).

D. Prior to final occupancy, the applicant shall submit:

1. An as-built landscape plan showing all vegetation required to be planted or preserved within the designated Protected Natural Areas on each lot (see Conclusion V.C.2.c).

II. Site and Neighborhood Context

Zoning District	Finn Hill
Comprehensive Plan Designation	LDR, Low Density Residential 4 units per acre
Property Size	28,641 square feet

Current Land Use	There is a centrally located existing single-family home and two detached garages located in the northwest corner and eastern side of the property (see Attachment 2). Staff Analysis: Retention of the existing residence would not fully comply with the proposed short plat lot line configuration. It currently straddles the shared property line between Lots 2 and 3. Therefore, the applicant should demolish the existing structure prior to recording the short plat. The detached garage on Lot 1 does not comply with the required 10-ft rear yard setback and is located in the proposed Protected Natural Area (PNA) location. The other existing detached garage located on the proposed Lot 3 complies with the proposed setbacks, but the applicant plans to demolish it to make room for a new single-family home.
Proposed Lot Sizes (net)	Lot 1: 11,841 square feet Lot 2: 8,400 square feet Lot 3: 8,400 square feet
Lot Size Compliance	The RSA 4 zone requires a minimum lot size of 7,600 square feet. All lots meet the minimum lot size requirements for the zone. See Section V.A below for a compliance analysis.
Density Compliance for RSA Zones	The RSA 4 zone allows four units per acre. Where the density calculation results in a fraction of 0.50 or greater, the result shall be rounded up to the next whole number. Road dedication and vehicular access easements or tracts may be included in the density calculation. The subject property contains 0.66 acres, therefore a maximum of three units are allowed. The applicant is proposing three units which complies with the density limitation.
Terrain	The property descends approximately 6-ft from the northeast corner to the southwest corner (see Attachment 2).
Geologically Hazardous Areas	The City of Kirkland Sensitive Areas Map identifies a moderate landslide hazard on the northwest half of subject the subject property (see Attachment 7). See Section V.B for further analysis.

Trees	There are 39 significant trees on the site and 3 offsite significant trees located that may be affected by the proposed development. Attachment 4 shows the location, tree number, and general health of the trees, as assessed by the applicant's arborist. The applicant is proposing an Integrated Development Plan (IDP) pursuant to KZC Section 95.30.4 & 95.30.5. See Attachment 3, Development Standards, for information on the City's review of the arborist report as well as tree preservation requirements. See Section V.C for an analysis of the IDP on the subject property.
Access	All three parcels will take access off of NE 134th St via separate driveways.
Neighboring Zoning and Development	
North	RSA 4, Low Density Residential
South	RSA 4, Low Density Residential
East	RSA 4, Low Density Residential
West	RSA 4, Low Density Residential

III. Public Notice and Comment

The public comment period for this application ran from September 23, 2021 to October 11, 2021. Attachment 8 contains all of the public comments received during the public comment period. Below is a summary of public comments followed by a brief staff response.

A. Comment: A neighbor is concerned that the proposal for three lots does not meet the maximum density allowed in the RSA 4 zone.

Staff Response: While the minimum lot size in the RSA 4 zone is 7,600 sq. ft., the maximum units per acre is four dwelling units. Footnote DD-17 in Kirkland Zoning Code 15.30 governing residential development in the RSA zone explains that, when calculating maximum density, "where the maximum number of units results in a fraction, the number shall be rounded up if the fraction is 0.50 or greater." In this case, 28,641 sq. ft. / 43,560 sq. ft. = 0.658 * 4 = 2.63 (rounded up to 3). Therefore, 3 lots are permitted.

B. Comment: A neighbor is concerned about how adding three new homes to the neighborhood will impact the safety of pedestrians and cyclists on 72nd Ave NE. They are also concerned about how three new homes will strain what they believe is already inadequate road infrastructure, alter neighborhood character, and overcrowd schools.

Staff Response: Most new developments come with a suite of frontage improvements, including sidewalks, planter strips, and curb installation. In addition, each new single-family building permit is required to pay a road impact fee that generates funds for Capital Improvement projects in the vicinity of the development. Currently, the neighborhood lacks extensive sidewalk infrastructure, and the City uses developments like this to make the neighborhood more walkable over time. The City is currently conducting a Holmes Point Street Design Standards and Corridor Study to evaluate how increased development will impact traffic, and future improvements may be altered based on the findings of this study. However, a single short plat likely won't substantially impact traffic in the neighborhood, and since 72nd Ave NE is a low speed, low volume street, this development likely won't cause any significant increase in safety risk for bicyclists in the neighborhood. Furthermore, the addition of three single-family homes in a low-density residential home will not alter the character of the neighborhood since single-family housing is the primary housing stock. It is likely that the three new houses would incrementally increase enrollment within the Lake Washington School District, and the District is statutorily required to accommodate these students. However, each additional home that is constructed is required to pay a school impact fee to the Lake Washington School District for capital projects to accommodate future school enrollment.

C. Comment: The neighbor to the east of the subject property hopes that the homes will not be built close to the property lines to preserve a sense of privacy for adjacent neighbors.

Staff Response: All structures on the proposed three properties must abide by the City's setback requirements. The proposed home footprint on Lot 3, closest to the commentor, will be 5-feet away from the property line shared with 7012 NE 134th Street. The proposed house footprint on Lot 3 will extend to about 115 feet north of the front property line, to the midpoint of the existing garage structure. The northern 90 feet of the parcel will be back yard and Protected Natural Area. The required Protected Natural Area will occupy 2,100 square feet in the northern rear yard of the property (see Attachment 4).

IV. Criteria for Short Plat Approval

A. Facts: Municipal Code Section 22.20.140 states that the Planning Director may approve a short subdivision only if:

1. There are adequate provisions for open spaces, drainage ways, rights-of-way, easements, transit stops, water supplies, sanitary waste, power service, parks, playgrounds, and schools, including sidewalks and other planning features that assure safe walking routes to and from schools; and
2. It will serve the public use and interest and is consistent with the public health, safety, and welfare. The Planning Director shall be guided by the policy and standards and may exercise the powers and authority set forth in RCW 58.17.

Zoning Code Section 145.45 states that the Planning Director may approve a short subdivision only if:

3. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
4. It is consistent with the public health, safety, and welfare.

B. Conclusions: The proposal complies with Municipal Code Section 22.20.140 and Zoning Code Section 145.45. With the recommended conditions of approval, it is consistent with the Zoning Code and Subdivision regulations and there are adequate provisions for open spaces, drainage ways, rights-of-way, easements, transit stops, water supplies, sanitary waste, power service, parks, playgrounds, and schools, including sidewalks and other planning features that assure safe walking routes to and from schools. It will serve the public use and interest and is consistent with the public health, safety, and welfare because it will add housing stock to the City of Kirkland in a manner that is consistent with applicable development regulations.

V. Development Regulations

A. Lot Size and Dimension Compliance

The following is a review, in a checklist format, of compliance with the design requirements for subdivisions found in KMC 22.28. All lots comply with the minimum lot size requirements for the zone as proposed or conditioned below.

Complies as proposed	Complies as conditioned	Code Section
KMC 22.28.050 – Lots - Dimensions		
☒	☐	Lots are shaped for reasonable use and development
☒	☐	Minimum lot width is 15' where abutting right-of-way, access easement, or tract

B. Geologically Hazardous Areas

1. Facts:

   a. Municipal Code Section 22.28.180 states that the applicant has the responsibility in proposing a plat to be sensitive with respect to the natural features, including topography, streams, lakes, wetlands, habitat, geologic features and vegetation, of the property. The plat must be designed to preserve and enhance as many of these valuable features as possible.

   b. Zoning Code regulations regarding geologically hazardous areas address slope stability, run-off, structural concerns, and liability issues. The Planning Department evaluates proposals located on hazardous slopes based on the criteria in KZC Chapter 85. The evaluation is based on a geotechnical report prepared by a qualified geotechnical engineer.

   c. The City of Kirkland Geologically Hazardous Areas Map identifies a moderate landslide hazard on the subject property (see Attachment 7). The City's GIS map shows that the subject property is located approximately 135 feet from the top of the steep west-facing slopes located to the west of the subject property.

   d. The applicant has submitted a geotechnical report prepared by Nelson Geotechnical Associates, Inc. dated February 4, 2021 (see

Attachment 5) and a subsequent memo dated March 18, 2022 (see Attachment 6).

e. The property is currently occupied with a single-family residence within the central portion of the site and two detached garage structures located on the northwestern and east-central portions of the site. The ground surface within the site generally The property descends approximately 6-ft from the northeast corner to the southwest corner.

f. The City's geotechnical consultant, GeoEngineers, has reviewed the applicant's geotechnical report and has provided a report dated January 26, 2022 (see Attachment 9). The City's consultant recommends the following items:

(1) Nelson Geotechnical Associates, Inc. (NGA) did not provide a quantitative slope stability analysis in accordance with KZC 85.15(3)i. The topography of the site is gently sloping (less than 10 percent), the subsurface soils consist of competent glacial till, and the nearest proposed residential structure appears to be located more than 50 feet from the mapped High Susceptibility Landslide Hazard area located on adjacent property. Based on our review, we concur with NGA that the project will have little to no adverse impacts to the existing stability conditions of the slopes within the vicinity of the project. A quantitative slope stability analysis is not necessary for this project, in our opinion.

(2) In accordance with KZC 85.25(2), NGA shall provide a statement that they have reviewed the project plans and the plans conform to their geotechnical recommendations.

(3) In accordance with KZC 85.25(3), the geotechnical engineer should be present on site during land surface modification and foundation installation activities and should submit a final report certifying substantial compliance with the geotechnical recommendations and geotechnical-related permit requirements. Please confirm that NGA will provide construction monitoring for this project.

g. Attachment 3 contains the applicable development standards.

2. Conclusions: To ensure protection of the steep slope, the applicant should:

a. Incorporate the recommendations of the geotechnical report prepared by Nelson Geotechnical Associates, Inc. dated February 4, 2021 (see Attachment 5) and the subsequent memo, dated March 18, 2022 (see Attachment 6), with the Land Surface Modification and/or Building Permit (see Condition I.C.1).

b. Follow the standard conditions regarding geologically hazardous areas as described in Attachment 3 (see Condition I.C.2).

C. Holmes Point Overlay

1. Facts: The subject property is located within the Holmes Point Overlay (HPO). Therefore, new development must comply with additional development standards specific to this overlay. Each lot within the subdivision must comply with the development standards in KZC 70.15.2-

4, and KZC 70.15.5.a-c. These standards limit impervious surfaces, require retention of significant trees, limit the total site alteration to 75% of each lot area, require retention of at least 25% of the lot as a Protected Natural Area (PNA), relate to the review of an Integrated Development Plan, and require the minimum amount of road improvements necessary to serve the proposed development.

The HPO regulations required to be reviewed with the short plat application are analyzed below, organized by their respective categories.

a. General

The applicant has submitted project plans based on the HPO development standards (see Attachment 4).

b. Lot Coverage

(1) KZC 70.15.2 limits the lot coverage for each lot to:

(a) Lot 1: 3,584.1 sq. ft.

(b) Lot 2: 3,132 sq. ft.

(c) Lot 3: 3,132 sq. ft.

(2) The applicant has provided lot coverage information for each lot in Attachment 4, Sheet C04.

(3) The proposed lot coverage for each lot complies with the limits established in KZC 70.15.2.

c. Protected Natural Areas (PNAs)

(1) KZC 70.15.3.b states that total site alteration, including impervious surfaces and other alterations shall not exceed 75% of the total lot area.

(2) KZC 70.15.3.c requires that at least 25% of each lot's total site area to be designated as a PNA, in a location that requires the least alteration of existing vegetation.

In general, the PNA shall be located in one (1) contiguous area on each lot unless the City determines that designation of more than one (1) area results in superior protection of existing vegetation. The PNA shall be designated to encompass any critical areas on the lot and, to the maximum extent possible, consist of existing viable trees and native vegetation that meet the minimum vegetation condition standards set forth in KZC 70.15.4.a.

(3) The applicant has submitted plans that show the site alteration areas (includes building footprints, driveways, utilities, and associated areas of site disturbance) and PNA for each lot (see Attachment 4, Sheet C04).

(4) The site alteration and PNA areas comply with the standards in KZC 70.15.3.b and c.

d. Minimum Vegetation Standards in the PNAs

(1) KZC 70.15.4 establishes the minimum vegetation and supplemental planting standards within a PNA.

(2) The City's Development Review Arborist has evaluated all existing trees and understory vegetation on site. The City's determination of viability and health of all significant trees impacted by development and understory conditions within the PNAs can be found in Attachment 3.

e. Subdivisions and Short Subdivisions

(1) KZC 70.15.5.a prohibits phased review of Tree Retention Plans for subdivisions in the HPO. Therefore, the applicant's Tree Retention Plan has been reviewed pursuant to KZC 95.30.2 to 5, which requires a complete tree retention review with the short plat. This is also known as an Integrated Development Plan (IDP) review. See Section V.C.1.a-d above for an analysis of the proposed IDP.

(2) KZC 70.15.5.b requires that new public or private road improvements be the minimum necessary to serve the development. The City is required to consider granting modifications to the road standards to further minimize site disturbance, consistent with pedestrian and traffic safety, and the other purposes of the road standards.

(3) The applicant has worked with the Public Works Department to establish the minimum public and/or private road improvements necessary to serve the development on site.

(4) KZC 70.15.5.c requires compliance with lot coverage and site alteration limitations established in KZC 70.15.2 and 3. See Subsections 1.b and c above for an analysis of these requirements.

2. Conclusion: The applicant's proposal complies with the HPO regulations in KZC Chapter 70 provided that:

a. Prior to recording the short plat, the applicant should:

(1) Show on the face of the plat PNAs on each lot as shown in Attachment 4 (see Condition I.B.2).

(2) Place a note on the face of the short plat document that references the PNAs and states that the trees and associated vegetation within them shall be maintained in perpetuity (see Attachment 4 and Condition I.B.3).

b. As part of the land surface modification and building permits for each lot, the applicant should submit plans

(1) Consistent with the approved IDP plan shown in Attachment 4 and the Development Standards in Attachment 3 (see Condition I.C.3); and

(2) Demonstrating compliance with the minimum vegetation standards within the PNAs per KZC 70.15.4 (see Condition I.C.4).

c. Prior to the final inspections for each building permit, the applicant should submit an as-built landscape plan showing all vegetation required to be planted or preserved within the designated PNA's on each lot (see Condition I.D.1).

D. Tree Retention

1. Facts:

   a. Municipal Code Section 22.28.180 states that the applicant has the responsibility in proposing a plat to be sensitive with respect to the natural features, including topography, streams, lakes, wetlands, habitat, geologic features and vegetation, of the property. The plat must be designed to preserve and enhance as many of these valuable features as possible.

   b. KMC 22.28.210 states that the applicant shall design the plat so as to comply with the tree management requirements set forth in KZC Chapters 90 and 95 to maximize the chances of survival of trees and associated vegetation designated for retention and minimize potential hazards to life or property.

   c. KZC 95.30.5 requires that with a short plat application, high retention value trees (includes groves) should be retained and protected to the maximum extent possible. Moderate retention value trees should be retained and protected if feasible.

   d. Integrated Development Plan

      (1) The applicant has submitted an arborist report prepared by Favero Greenforest, dated March 11, 2022 (Attachment 10). An IDP allows the City to consider all tree retention and removals at the time of plat approval, rather than at the subsequent grading and building permit stages.

      (2) The City's Development Review Arborist has reviewed the IDP and determined that the specific standards concerning tree retention, removals and site modification have been met, provided that the tree retention standards found in Attachment 3 are met.

2. Conclusion: The proposed Tree Retention Plan complies with the applicable City tree retention requirements provided that as part of the grading and building permit applications, the applicant should submit a Tree Retention Plan consistent with the approved IDP in Attachment 3 (see Condition I.C.5).

VI. 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.

VII. Short Plat Documents – Recordation – Time Limit (KMC 22.20.370)

The short plat must be recorded with King County within five (5) years of the date of approval or the decision becomes void; provided, however, that in the event judicial review is initiated, the running of the five (5) 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.

VIII. Appendices

Attachments 1 through 11 are attached.

1. Vicinity Map
2. Short Plat Map
3. Development Standards
4. Plan Set
5. Geotechnical Report prepared by Nelson Geotechnical Associates, Inc., dated February 4, 2021
6. Geotechnical Memo prepared by Nelson Geotechnical Associates, Inc., dated May 18, 2022
7. Sensitive Areas Map
8. Public Comments
9. Geotechnical Report Peer Review, prepared by GeoEngineers, dated January 26, 2022
10. Arborist Report prepared by Favero Greenforest, dated March 11, 2022

IX. Parties of Record

Applicant: Schuyler Tutt, Medici Architects
Parties of Record
Planning and Building Department
Department of Public Works
Fire Department