November 26, 2019

To: City of Kirkland

Re: Appeal of Short Plat Decision for SUB16-01774



We are neighbors writing to appeal the short plat decision issued by Kirkland's Planning and Building Department for the 'K5 Oasis Short Plat' project at 7435 NE 129th Street based on the concerns listed below.

1. Average Building Elevation Affected by Unpermitted Fill on Lots 1 & 2

Shortly after buying the property the developers conducted 2 days of unpermitted soil dumping in lots 1 and 2 for which the City then issued a cease and desist order. This involved dumping 22 loads from a 5-yard dump truck for approximately 110 square yards of soil. The soil was not of the proper type for residential fill, and much of it has enveloped and put at risk existing substantial trees. The plat approval does not mention the impact this fill it will have on average building elevation. KZC 115.59 Height Regulations – Calculating Average Building Elevation says:

For calculation of mid-point elevation, existing predevelopment grades shall be used, unless fill has been placed on the site, whether legally or illegally, within a 10-year period prior to the development application, in which case the grades prior to the placement of the fill shall be used.

Because the fill dumping happened within 10 years of the development application and involves a substantial amount of fill, it will materially affect the mid-point elevation calculation, and therefore allowable building heights.

Taking no action on this matter will in effect reward the developers for their illegal dumping – by enabling them to increase building height above what it otherwise would be, to the detriment of neighbors. To resolve for this, the short plat approval should be conditioned on the removal of the unpermitted fill. Removal will a) restore the health of trees that were put at risk by being enveloped by the soil and b) re-establish the elevation of the ground in lots 1 and 2 to their natural state prior to the unpermitted dumping.

If the City declines to require fill removal, it should at least include as a condition in the short plat approval that the developers lower the average building elevation by 10 feet. Or as an alternative, require them to hire a certified geotechnical engineering company to conduct a report showing the previous ground elevation level, and use that for calculating elevation to determine maximum building height.

2. Insufficient Required Yards on Lots 1-4

Setbacks on lots 1, 2, 3 and 4 are insufficient for the 20-foot required front yards per KZC 15.30.060. The short plat plan approval should be conditioned on plans that call for 20-foot required front yards. This can be achieved by a combination of either moving the buildings back further into their lots and/or removing or making smaller the driveways currently planned for the front yard areas.

3. Wetlands Determination Evaluation for Entire Property

The subject property traverses a ravine that includes a creek with regular flow in fall and winter. It appears in the documents that the City has not conducted a thorough review of the property for the purposes of determining status as wetlands and/or critical areas. We request the City see to it that the property be evaluated for wetlands and/or critical areas status (with evaluation conducted by the City, County and/or any appropriate public organizations) as a condition of approving the plat plan, or as a precondition before building plan review.

Regards,

Charles Coats charles.coats@outlook.com 7428 NE 129th ST Biff Lenihan biff.lenihan@rescuevoice.com 12824 Holiday Drive NE John Giaudrone giaudrone@gmail.com 12825 Holiday Drive NE



ARCHITECTURE, PROGRAMMING, ACCESSIBLE DESIGN, INTERIOR DESIGN

January 2, 2020

Allison Zike Plans Examiner Kirkland Development Services 123 5th Avenue Kirkland, WA 98033

RE: Appeal of Short Plat Decision

Project Address: 7435 NE 129th Street, Kirkland, WA 98034

Application No.: SUB16-01774

Dear Ms. Zike,

We received notice on 12/02/19 that an appeal to the Decision for Approval was submitted for our project, the K5 Oasis Short Plat. The appeal letter, dated November 26th 2019, is composed by neighbors (referred to collectively as the "appellant" hereafter) and raises concerns on three topics: 1) Average Building Elevation, 2) Insufficient Required Yards, and 3) Wetland Determination. To assist in your hearing report preparation, we have provided a response to these concerns hereunder.

1) Average Building Elevation Affected by Unpermitted Fill on Lots 1 & 2.

The appellant describes unpermitted fill being dumped on the property in 2015, raising concerns that the action would increase the project's maximum height, and negatively impact the health of adjacent trees.

- The unpermitted fill was brought to the site on or around 11/23/15 (see Cease and Desist Order). The topographical survey (included for reference) was conducted on 06/24/15, approximately 5 months prior to the fill being brought to the site. This topography mapped in 2015 matches the current survey (also included for reference) for purposes of calculating maximum height. The project resulted in no benefit from the placed fill.
- The total amount of fill brought to the site was no more than 50 yards, brought from an adjacent project (address 6510 NE 129th St, Kirkland, WA 98034), completed by AAA Northwest Construction Company. Upon receiving the notice of violation, no additional fill was brought to the site.
- Arborist observations and reports were conducted at numerous times by two different certified
 arborist companies between 2016 and 2019. Impact to the trees directly related to fill is not apparent
 across the reports, and the condition of those trees on Lots 1 & 2 are equal to or better than trees
 located on Lots 3-5. Common afflictions include Invasive Ivy, broken tops, and trunk wounds, typical of
 the majority of trees found on the site regardless of proximity to the unpermitted fill. Therefore, there
 does not appear to be any measurable negative impact to the trees by this action.



ARCHITECTURE, PROGRAMMING, ACCESSIBLE DESIGN, INTERIOR DESIGN

2) Insufficient Required Yards on Lots 1-4.

The appellant describes insufficient front yard setbacks per KZC 15.30.060. KZC 15.30.060 for RSA 4 zoning requires 20' front yards, except for on corner lots where only one front yard must be a minimum of 20', the remaining front yards may be regulated as a side yard (min. 5').

- The proposed Lot 1 is a corner lot, fronting NE 129th St. and the proposed dedicated site access to the west. The yard to the north fronting NE 129th St. is designed to be a 5' side yard, and the yard fronting the dedication is designed to be a 20' front yard, per code.
- The proposed Lot 2 is an interior lot, with a proposed 20' front yard setback fronting the dedication to the west.
- The proposed Lot 3 is an interior lot, partially fronting the dedication to the west with a 20' front yard setback, and partially fronting a 21' access easement with a 10' rear yard setback, which per KZC 5.720 meets code requirements.
- The proposed Lot 4 is an interior lot, which fully fronts a 21' access easement, resulting in a 10' rear yard setback.

3) Wetlands Determination Evaluation for Entire Property.

The appellant describes a ravine containing a creek that traverses the site, and raises concern that no wetland study was required on the property by the City.

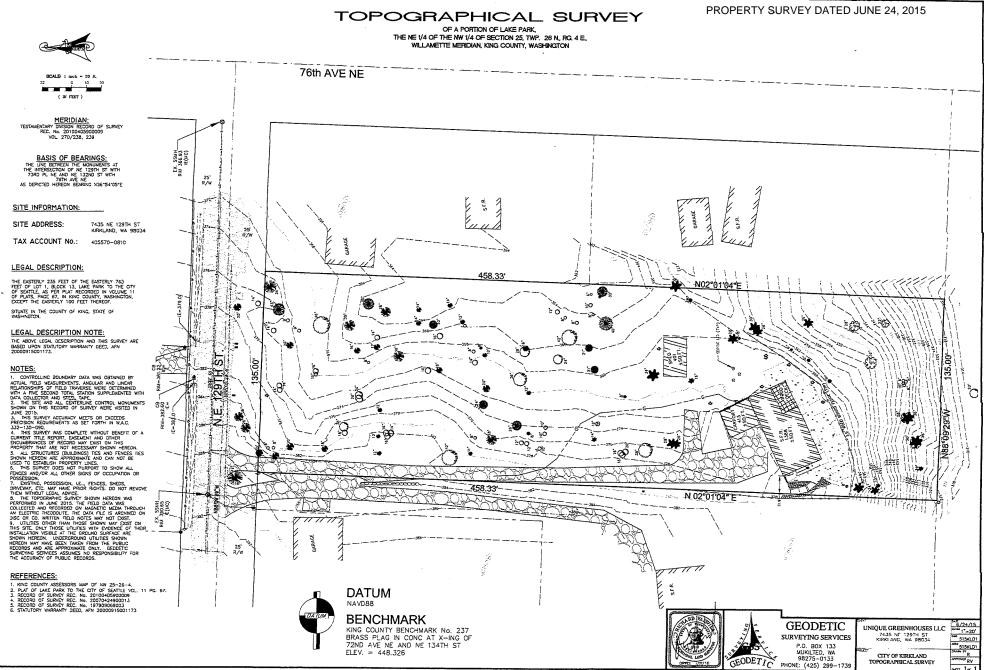
- A precursory review of the site's critical areas began at the pre-submittal level in 2015. GIS maps show steep slope, landslide and liquefaction potential, significant tree cover, and offsite streams to the south and east.
- A geotechnical investigation of the site was conducted by qualified engineers at various times between 2015 and 2019, which includes assessment of stormwater runoff, groundwater, ravines, and streams.
 No stream or evidence thereof, seasonal or otherwise, was noted to be on the subject property.
- The topographical survey also does not note a ravine on site, rather shows gentle slope due east, and a steep slope shedding due south to a large ravine more than 100' from the property boundary line. The geotechnical report supports this mapping.

We believe the site has been appropriately assessed for critical area concerns by qualified consultants, and any potential wetland/stream conditions are located offsite outside of any impact of the proposed development.

We hope this information fully addresses the presented concerns. Please let us know if any additional material can be provided to assist in your appeal response.

Sincerely,

Schuyler Tutt Principal Architect, AIA





TOPOGRAPHICAL SURVEY OF A PORTION OF LAKE PARK, THE NE 1/4 OF THE NW 1/4 OF SECTION 25, TWP. 26 N., RQ. 4 E., WILLAMETTE MERIDIAN, KING COUNTY, WASHINGTON 76th AVE NE MERIDIAN: TESTAMENTARY DIVISION RECORD OF SURVEY REC. No. 20100405900009 VOL. 270/238, 239 BASIS OF BEARINGS: THE LINE BETWEEN THE MONUMENTS AT THE INTERSECTION OF NE 129TH ST WITH 73RD PL NE AND NE 129TH ST WITH 75TH AVE NE AS DEPICTED HEREON BERRING N36*54*05*E 25' R/W SITE INFORMATION: 7435 NE 129TH ST KIRKLAND, WA 98034 SITE ADDRESS: TAX ACCOUNT No.: 405570-0810 LEGAL DESCRIPTION: 458.33' THE EASTERLY 235 FEET OF THE EASTERLY 763 FEET OF LOT I, BLOCK 13, LAKE PARK TO THE CITY OF SEATTLE, AS PER PLAT RECORDED IN VOLUME 11 OF PLATS, PAGE 67, IN KING COUNTY, WASHINGTON, EXCEPT THE EASTERLY 100 FEET THEREOF. þΟ SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON. LEGAL DESCRIPTION NOTE: THE ABOVE LEGAL DESCRIPTION AND THIS SURVEY ARE BASED UPON STATUTORY WARRANTY DEED, AFN 20000915001173. Ø, *O 1. CONTROLLING BOUNDARY DATA WAS OBTAINED BY 1. CONTROLLING BOUNDARY DATA WAS OBTAINED BY ACTUAL FIELD MEASUREMENTS. ANGULAR AND UNEAR RELATIONSHIPS OF FIELD TRAVERSE WERE DETERMINED WITH A FIVE SECOND TOTAL STATION SUPPLEMENTED WITH DATA. COLLECTOR AND STEEL TAPE. 2. THE SITE AND ALL CENTERLINE CONTROL MONUMENTS SHOWN ON THIS RECORD OF SURVEY WERE VISITED IN SHOWN ON THIS RECORD OF SURVEY WERE VISITED IN JUNE 2015. PARK JUNE 2015. SET FORTH IN WAC. 332-130-000. 4. THIS SURVEY WAS COMPLETE WITHOUT BENEFIT OF A CURRENT THIS REPORT, DISSIBUTION AND OTHER THE REPORT, DISSIBUTION AND OTHER PROPERTY THAT ARE NOT NECESSARY SHOWN HEREON. ALL STRUCTURES (BULLIONS) THE SAM OF RICES TES SHOWN HEREON ARE APPROXIMATE AND CAN NOT BE CONTINUED TO SHOW ALL FINCES AND/OR ALL OTHER SIGNS OF OCCUPATION OR DESIGNED TO SHOW ALL FINCES AND/OR ALL OTHER SIGNS OF OCCUPATION OR POSSESSION. 2® FENCES AND/OR ALL OTHER SIGNS OF OCCUPATION OR POSSESSION. 7. EVISTING, POSSESSION, I.E., FENCES, SHEDS, OF OSSESSION OF REMOVE MIXED AND AN HAVE PROPER RIGHTS. DO NOT REMOVE BURNEWAY, EIG., MAY HAVE PROPE RIGHTS. DO NOT REMOVE BURNEY SHOWN HEREON WAS PERFORMED IN JUNE 2015. THE FIELD DATA WAS COLLECTED AND RECORDED ON MAGNETIC MEDIA THROUGH AN ELECTRON THEODOLITE. HE DATA THE IS ARCHYMED ON AN ELECTRON THEODOLITE. HE DATA THE IS ARCHYMED ON HIS SITE, ONLY THEODOLITE HE DATA THE SHOWN HAY EXIST ONLY THEORY OF THE STELLATION VISIBLE AT THE ORGUND SUPPLIES OF THEIR HISTOLATION VISIBLE AT THE ORGUND SUPPLIES AND THE PUBLIC RECORDS AND ARE APPROXIMATE ONLY. GEODETIC SUPPLIES AND RESPONSIBILITY FOR THE ACCURACY OF PUBLIC RECORDS. Z M Clean copy of signed survey on previous REFERENCES: I. KING COUNTY ASSESSORS MAP OF NW 25-26-4. 2. PLAT OF LAKE PARK TO THE CITY OF SEATTLE VOL. 11 PG. 67. 3. RECORD OF SUMPLY REC. No. 20100405900093 5. RECORD OF SURVEY REC. No. 197990699003 5. RECORD OF SURVEY REC. No. 197990699003 6. STATUTORY WARRANTY DEEL, APA 20000919001173 sheet -for clarity (City of Kirkland note) DATUM NAVD88 BENCHMARK **GEODETIC** UNIQUE GREENHOUSES LLC 1"=20"

KING COUNTY BENCHMARK No. 237

72ND AVE NE AND NE 134TH ST

ELEV. = 448.326

BRASS PLAG IN CONC AT X-ING OF

7435 NE 129TH ST KIRKLAND, WA 98034

CITY OF KIRKLAND

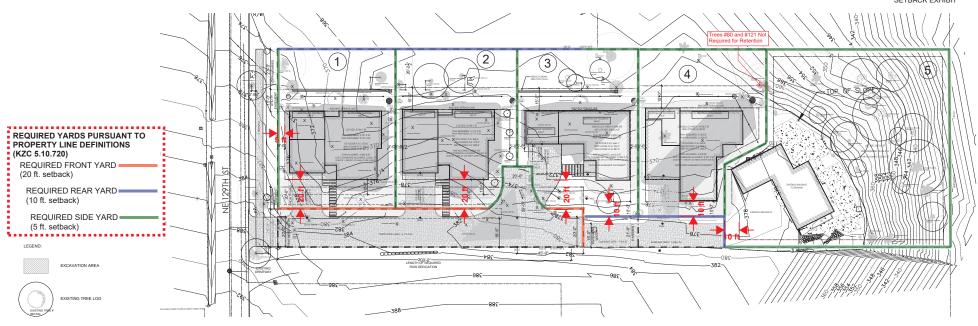
TOPOGRAPHICAL SURVEY

515KLD1

SURVEYING SERVICES

P.O. BOX 133 MUKILTEO, WA 98275-0133

GEODETIC PHONE: (425) 299-1739



7435 NE 129TH ST | TREE RETENTION PLAN AND EXCAVATION DIAGRAM

	TREE RETE	NTION CALC	ULATION LOT	1		
TREE TAG #	SPECIES	LOD	PROPOSAL	DBH	CREDI	
11	Big leaf maple	6	TO BE REMOVED	11	0	
12	Big leaf maple	12	TO BE REMOVED	8	0	
13	Douglas fir	9	TO BE REMOVED	25	0	
14	Big leaf maple	16	TO BE REMOVED	10	0	
15	Big leaf maple	18	TO BE REMOVED	48	0	
16	Big leaf maple	18	TO BE REMOVED	18, 9	0	
17	Big leaf maple	15	TO BE REMOVED	19	0	
20	Big leaf maple	19	TO BE REMOVED	33	0	
21	Western red cedar	9	TO BE REMOVED	19	0	
22	Western red cedar	16	TO BE REMOVED	29	0	
25	Western red cedar	12	TO BE REMOVED	17	0	
26	Big leaf maple	10	TO BE REMOVED	14	0	
33	Western red cedar	6	TO BE REMOVED	9	0	
34	Western red cedar	7	TO BE REMOVED	14	0	
104	Big leaf maple	NON-VIABLE	TO BE REMOVED	16.0	0	
111	Big leaf maple	8	TO BE REMOVED	9.0	0	
112	Big leaf maple	NON-VIABLE	TO BE REMOVED	8.0	0	
TOTAL CREDITS PRO	POSED	•		•	0	
LOT SIZE	8764.7	0.20	X0.75	0.15	ACRES	
TREES PER ACRE		PER KZC 95.33		30.0		
CREDITS REQUIRED				4.5		
		PNA				
9	Western red cedar	16	TO RETAIN	32.0	- 11	
10	Douglas fir	12	TO BE REMOVED	35.0	0	
23	Douglas fir	14	TO RETAIN	34.0	13	
TOTAL CREDITS PRO	TOTAL CREDITS PROPOSED					
LOT SIZE	8764.7	0.20	X0.25	0.05	ACRES	
TREES PER ACRE		PER KZC 70.15.4.A.1		150.0		
CREDITS REQUIRED IN PNA					7.6	
TOTAL CREDITS REQUIRED					12	
TOTAL CREDITS PROPOSED					24	

REE TAG#	SPECIES	LOD	PROPOSAL	DBH	CREDIT
27	Western red cedar	14	TO BE REMOVED	29	0
28	Western red cedar	12	TO BE REMOVED	16	0
30	Douglas fir	16	TO BE REMOVED	26	0
31	Big leaf maple	12	TO BE REMOVED	14	0
32	Big leaf maple	14	TO BE REMOVED	19	0
36	Big leaf maple	20	TO BE REMOVED	21	0
41	Western red cedar	12	TO BE REMOVED	8	0
42	Big leaf maple	7	TO BE REMOVED	10	0
43	Western red cedar	12	TO BE REMOVED	13	0
44	Big leaf maple	8	TO BE REMOVED	15	0
45	Western red cedar	13	TO BE REMOVED	22	0
46	Douglas fir	12	TO BE REMOVED	27	0
47	Big leaf maple	NON-VIABLE	TO BE REMOVED	8	0
SUPP. TREE #1			SUPPLEMENTAL		1
SUPP. TREE #2			SUPPLEMENTAL		1
SUPP. TREE #3			SUPPLEMENTAL		1
SUPP. TREE #4			SUPPLEMENTAL		1
TOTAL CREDITS PRO	POSED	•	•		4
LOT SIZE	8708.7	0.20	X0.75	0.15	ACRES
TREES PER ACRE		PER KZC 95.33		30.0	
CREDITS REQUIRED					4.5
		PNA			
24	Western red cedar	14	TO BE REMOVED	29.0	0
29	Western red cedar	12	TO RETAIN	16.0	4
39	Western red cedar	10	TO BE REMOVED	13.0	0
40	Western red cedar	12	TO RETAIN	17.0	4
112	Big leaf maple	NON-VIABLE	TO BE REMOVED	8.0	0
TOTAL CREDITS PRO	POSED				8
LOT SIZE	8708.7	0.20	X0.25	0.05	ACRES
TREES PER ACRE		PER KZC 70.15.4.A.1		150.0	
CREDITS REQUIRED IN PNA				7.5	
TOTAL CREDITS REQUIRED				12	
TOTAL CREDITS PROPOSED				12	

TREE TAG #	SPECIES	LOD	PROPOSAL	DBH	CREDIT
51	Big leaf maple	NON-VIABLE	TO BE REMOVED	45	0
52	Big leaf maple	12	TO BE REMOVED	29	0
55	Douglas fir	6	TO BE REMOVED	10	0
56	Big leaf maple	7	TO BE REMOVED	10	0
57	Big leaf maple	7	TO BE REMOVED	12	0
59	Western red cedar	10	TO BE REMOVED	12	0
60	Big leaf maple	23	TO BE REMOVED	14	0
61	Black cottonwood	NON-VIABLE	TO BE REMOVED	42	0
66	Douglas fir	16	TO BE REMOVED	27	0
67	Douglas fir	9	TO BE REMOVED	24	0
68	Pacific madrone	10	TO BE REMOVED	13	0
69	Western hemlock	8	TO RETAIN	15	3
70	Big leaf maple	NON-VIABLE	TO BE REMOVED	26	0
114	Western red cedar	12	TO BE REMOVED	17	0
TOTAL CREDITS PRO	OPOSED	•	•		3
LOT SIZE	8820.3	0.20	X0.75	0.15	ACRES
TREES PER ACRE		PER KZC 95.33		30.0	
CREDITS REQUIRED					4.6
		PNA			
62	Big leaf maple	6	TO RETAIN	10	- 1
63	Big leaf maple	6	TO RETAIN	11	- 1
64	Douglas fir	16	TO RETAIN	34	13
65	Douglas fir	17	TO BE REMOVED	42	0
106	Big leaf maple	6	TO BE REMOVED	9.0	0
115	Big leaf maple	15	TO RETAIN	8.0	- 1
TOTAL CREDITS PROPOSED					
LOT SIZE	8820.3	0.20	X0.25	0.05	ACRES
TREES PER ACRE		PER KZC 70.15.4.A.1		150.0	
CREDITS REQUIRED IN PNA					7.6
TOTAL CREDITS REQUIRED				12	
TOTAL CREDITS PROPOSED					19

	DEE DETEN	TION CALCU	LATION LOT 4		
TREE TAG #	SPECIES	LOD	PROPOSAL	рвн	CREDI
72	Big leaf maple	32	TO BE REMOVED	40	0
73	Douglas fir	18	TO BE REMOVED	43	0
75	Atlas cedar	18	TO BE REMOVED	19	0
77	Douglas fir	16	TO BE REMOVED	36	0
78	Douglas fir	19	TO BE REMOVED	32	0
79	Douglas fir	15	TO BE REMOVED	36	0
116	Austrian pine	6	TO BE REMOVED	7	0
117	Scots pine	12	TO BE REMOVED	8	0
120	Douglas fir	6	TO BE REMOVED	9	0
TOTAL CREDITS PROPOSED					0
LOT SIZE	8740	0.20	X0.75	0.15	ACRES
TREES PER ACRE		PER KZC 95.33		30.0	
CREDITS REQUIRED					4.5
		PNA			
80	Douglas fir	15	TO RETAIN	37	14
TOTAL CREDITS PRO	POSED				14
LOT SIZE	8740	0.20	X0.25	0.05	ACRES
TREES PER ACRE		PER KZC 70.15.4.A.1		150.0	
CREDITS REQUIRED IN PNA				7.5	
TOTAL CREDITS REQUIRED				12	
TOTAL CREDITS				14	

TREE RETENTION CALCULATION LOT 5								
TREE TAG #	SPECIES	LOD	PROPOSAL	DBH	CREDIT			
	0							
LOT SIZE	18707	0.43	X0.75	0.32	ACRES			
TREES PER ACRE		PER KZC 95.33		30.0				
CREDITS REQUIRED				9.7				
		PNA						
86	Douglas fir	18	TO RETAIN	43	17			
87	Scots pine	6	TO RETAIN	12	2			
90	Scots pine	6	TO RETAIN	8	1			
93	Magnolla	6	TO RETAIN	8	1			
94	Douglas fir	20	TO RETAIN	45	18			
95	Douglas fir	12	TO RETAIN	25	8			
96	Douglas fir	10	TO RETAIN	19	5			
97	Douglas fir	20	TO RETAIN	42	17			
98					16			
99	Big leaf maple	13	TO RETAIN	11	5			
100	Douglas fir	18	TO RETAIN	43	17			
101	Douglas fir	11	TO RETAIN	31	11			
102								
121	Douglas fir	14	TO RETAIN	34	13			
122	Big leaf maple	6	TO RETAIN	9	1			
123	Pacific madrone	6	TO RETAIN	6	1			
124	Big leaf maple	6	TO RETAIN	9	1			
125	Big leaf maple	6	TO RETAIN	7	1			
126	Scots pine	12	TO RETAIN	- 11	1			
127	Scots pine	13	TO RETAIN	5	1			
128	Douglas fir	14	TO RETAIN	14	3			
TOTAL CREDITS PRO	POSED				150			
LOT SIZE	18707	0.43	X0.25		0.11			
TREES PER ACRE		PER KZC 70.15.4.A.1		150.0				
CREDITS REQUIRED IN PNA					16.1			
TOTAL CREDITS REQUIRED				26				
TOTAL CREDITS PROPOSED				150				
SUPLEMENTAL TREES TO MEET MINIMUM SIZE WORTH ONE TREE CREDIT AS OUTLINED IN KZC 95.33(4)								