## To: City of Kirkland <br> 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 $\mathbf{1}$ \& 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,

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## ARCHITECTURE, PROGRAMMING, ACCESSIBLE DESIGN, INTERIOR DESIGN

January 2, 2020

Allison Zike<br>Plans Examiner<br>Kirkland Development Services<br>$1235^{\text {th }}$ Avenue<br>Kirkland, WA 98033<br>RE: Appeal of Short Plat Decision<br>Project Address: 7435 NE 129th Street, Kirkland, WA 98034<br>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 $26^{\text {th }} 2019$, 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 $\mathbf{1}$ \& 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 $129^{\text {th }}$ 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 $20^{\prime}$ front yards, except for on corner lots where only one front yard must be a minimum of $20^{\prime}$, the remaining front yards may be regulated as a side yard (min. 5').

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


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[^0]:    Schuyler Tutt
    Principal Architect, AIA

