

**CITY OF KIRKLAND
HEARING EXAMINER FINDINGS,
CONCLUSIONS AND DECISION**

APPLICANT: Steve and Kristal Wallstrom

FILE NO: SUB16-01624 & SAR16-01623

APPLICATION:

1. Site Location: 10841 NE 108th Street
2. Requests: The applicant requests approval of a wetland buffer reduction and a short plat as follows:
 - a. Subdivide a 54,694 square foot parcel into two lots in an RS 8.5 Zone.
 - b. Reduce an existing 75 foot wide wetland buffer to 50 feet across the entire site for a Type II wetland.
 - c. An existing house will be retained, and moved to one of the future lots, and a new home is planned for the remaining lot.
 - d. A stream buffer for a Class A stream is enclosed within the proposed modified wetland buffer, and no modification is proposed for the stream buffer.
3. Review Process: Process IIA, the Hearing Examiner conducts a public hearing and makes a final decision.
4. Key Issues:
 - Compliance with development regulations
 - Compliance with short plat requirements
 - Compliance with Wetland Buffer Modification criteria

SUMMARY OF RECOMMENDATIONS:

Department of Planning and Development

Approve with conditions

PUBLIC HEARING:

The Hearing Examiner held a public hearing on the applications on January 5, 2017, at 9:00 a.m. in the City Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington. A verbatim recording of the hearing is available at the City Clerk's office. The minutes of the hearing and the exhibits are available for public inspection in the Planning and Building Department. The Hearing Examiner visited the site following the hearing.

TESTIMONY:

Susan Lauinger, Project Planner, and the applicant Steve Wallstrom testified at the public hearing. A list of the exhibits offered at the hearing is included at the end of this Decision. There was no testimony offered by members of the public. The testimony is summarized in the hearing minutes.

An e-mail comment from neighbors to the proposal, Keith and Heather Maehlum, in support of the project, was submitted at the hearing, and is included in the record as Exhibit B.

FINDINGS, CONCLUSIONS AND DECISION:

After considering the evidence in the record and inspecting the site, the Hearing Examiner adopts the Findings of Fact and Conclusions set forth in Section II of the Planning Department's Advisory Report (Exhibit A) as the Findings and Conclusions of the Hearing Examiner on this matter.

Based on the foregoing Findings and Conclusions, the applications to reduce the wetland buffer and to subdivide the subject property into two lots as described above is **APPROVED**, subject to the conditions set forth in Exhibit A, Section II.C.3.b, and the following revision thereof:

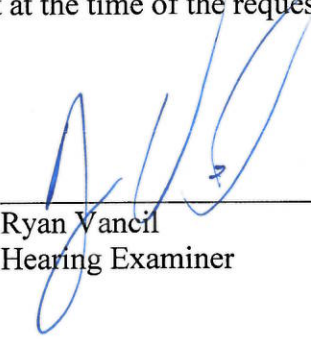
The second bullet point in Condition (1) at page eight should be amended to read as follows:

Add a note to the mitigation plan that mowing is not allowed in the modified buffer. Remove from the mitigation plan the proposed groundcover/native seed mix area to be seeded with Washington perennial/annual grasses and native flower and bunchgrass blend, which would require annual mowing to maintain. Change the mitigation plan to include shrubs and plants in the modified buffer that would not require any mowing and would allow natural succession of plants and trees in the buffer.

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.

Entered this 13th day of January, 2017.



Ryan Vancil
Hearing Examiner

EXHIBITS:

The following exhibits were entered into the record:

- | | |
|-----------|--|
| Exhibit A | Department's Advisory Report with Attachments 1 through 13 |
| Exhibit B | Comments from Keith and Heather Maehlum |

PARTIES OF RECORD:

Steve and Kristal Wallstrom, applicant
Persons submitting public comment
Keith and Heather Maehlum
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

APPEALS AND JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for appeals. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

APPEALS

Section 150.80 of the Zoning Code allows the Hearing Examiner's decision to be appealed to the City Council by the applicant and any person who submitted written or oral testimony or comments to the Hearing Examiner. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., _____, fourteen (14) calendar days following the postmarked date of distribution of the Hearing Examiner's decision on the application.

JUDICIAL REVIEW

Section 150.130 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

LAPSE OF APPROVAL

SHORT PLAT

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.

BUFFER MODIFICATIONS

The applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within five

(5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 145.110, KZC 150.130, KZC 152.110, 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 required development activity, use of land, or other actions.

The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void.