0812-ORD
09/15/05

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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5624

AN ORDINANCE granting a Planned Unit Development and Preliminary Short Plat with conditions, on the Application of BJ Properties to create four lots on 2.29 acres to be used for single-family detached residences, known as the Kirkwood Gardens, at the corner of 148th Avenue NE and NE 6th Street, Application File No. 04-135472-LK.

WHEREAS, BJ Properties submitted an application for a Planned Unit Development and Preliminary Short Plat to create four lots on 2.29 acres to be used for single-family detached residences to be known as the Kirkwood Gardens at the corner of 148th Avenue NE and NE 6th Street, in Bellevue, King County, Washington; and

WHEREAS, a Notice of Application and Public Meeting was published in the Land Use Bulletin on February 17, 2004 and said public meeting was held on February 24, 2005; and

WHEREAS, the Notice of Application was republished on March 10, 2005 and a second public meeting was held on March 17, 2005; and

WHEREAS, a courtesy public hearing was held on the application on May 3, 2005 before the East Bellevue Community Council; and

WHEREAS, on July 7, 2005, the Bellevue Hearing Examiner conducted a hearing on the application of BJ Properties for a Planned Unit Development and Preliminary Short Plat, Application File No.04-135472-LK, pursuant to notice as required by law; and

WHEREAS, on July 22, 2005, the Hearing Examiner issued Findings of Fact, Conclusions of Law and Recommendation, recommending approval of the Planned Unit Development and Preliminary Short Plat with conditions; and

WHEREAS, the City has complied with the State Environmental Policy Act and the City Environmental Procedures Code, now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the Findings of Fact and Conclusions of Law of the Hearing Examiner as set forth in "Findings of Fact, Conclusions of Law and Recommendation" on Planned Unit Development and Preliminary Short Plat Application File No. 04-135472-LK, issued on July 22, 2005.

Section 2. Based on the foregoing Findings of Fact and Conclusions, the City Council enters the following Decision:

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Planned Unit Development and Preliminary Short Plat Application File No. 04-135472-LK is hereby approved, subject to the following conditions:

CONDITIONS OF APPROVAL
The following conditions are imposed by referenced Permit Authorities to ensure compliance with the Planned Unit Development criteria, with provisions of Code as cited, or to mitigate adverse impacts that are otherwise not addressed through an applicable Code provision.

COMPLIANCE WITH BELLEVUE CITY CODES AND ORDINANCES
The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances
Clearing & Grading Code – BCC 23.76
Construction Codes – BCC Title 23
Fire Code – BCC 23.11
Land Use Code – BCC Title 20
Noise Control – BCC 9.18
Sign Code – BCC Title 22
Transportation Code – BCC14.60
Right of Way Use Code – BCC14.30
Utility Code – BCC Title 24

A. <u>GENERAL CONDITIONS</u>

1. **UTILITIES DEPARTMENT APPROVAL:** Utilities Department approval is based on the preliminary utility design. Final civil engineering of the utility design may require changes to the site layout to accommodate the utilities. (BCC Title 24.02, 24.04, 24.06)

2. **DEVELOPERS EXTENSION AGREEMENT:** The water, sewer, and storm drainage systems shall be designed per the current City of Bellevue Utility Codes and Utility Engineering Standards. Utilities Department design review, plan approval, and field inspection is performed under the Developer Extension Agreement and/or side sewer permits and water service applications. (BCC Title 24.02, 24.04, 24.06)

3. **CONSTRUCTION HOURS:** Noise related to construction is allowed from 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday. Exceptions to the construction noise hours limitation contained in the Noise Control Code MAY be granted pursuant to BCC 9.18.020C.1 when necessary to accommodate construction that cannot be undertaken during exempt hours. Prolonged exposure to noise created by extended hour construction activity is likely to have a significant impact on inhabitants of surrounding residential properties during construction. In order to minimize detrimental effects on residential uses in the immediate vicinity of The Belvedere Plat, allowances for short term work outside of normal construction hours shall be limited and will be reviewed on a case by case basis to verify necessity and ensure appropriate noise mitigation is utilized to protect surrounding uses and properties. If expanded hours are necessary to accommodate a specific component of

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construction, a written request for exemption from the Noise Control Code must be submitted two weeks prior to the scheduled onset of extended hour construction activity. (BCC 9.18)

B. PRIOR TO ISSUANCE OF ANY CLEAR AND GRADE PERMIT

4. RIGHT-OF-WAY USE PERMIT: The applicant is required to secure a right of way use permit from the City of Bellevue Transportation Department before the issuance of any clearing and grading or demolition permit. In some cases, more than one right of way use permit may be required, such as one for hauling and one for construction work within the right of way. A right of way use permit regulates activity within the city right of way, including but not limited to the following:

a) Designated truck hauling routes.
b) Truck loading and unloading activities.
c) Hours of construction and hauling.
d) Continuity of pedestrian facilities.
e) Temporary traffic control and pedestrian detour routing for construction activities.
f) Street sweeping and maintenance during excavation and construction.
g) Location of construction fences.
h) Parking for construction workers.
i) Construction vehicles, equipment, and materials in the right of way.
j) All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval a plan for providing pedestrian access during construction of this project. Access shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access. (Bellevue City Code 14.30)

5. SITE (CIVIL ENGINEERING) PLANS: A site (civil engineering) plan produced by a qualified engineer must be approved by the City prior to clear and grading permit approval. The design of all street frontage improvements must be in conformance with the requirements of the Americans with Disabilities Act and the Transportation Development Code, and the provisions of the Transportation Department Design Manual. (Bellevue City Code 14.60; Transportation Department Design Manual)

6. TREE PROTECTION: To mitigate adverse impacts to non-disturbed areas and trees to be retained during construction:

a) Clearing limits shall be established at the limit of non-disturbed areas and for retained trees within the developed portion of the site, outside of drip lines. Six-foot chain link fencing with driven posts, or an approved alternative, shall be installed at the clearing limits prior to initiation of clearing and grading.

b) No excavation or clearing should be performed within drip lines of retained trees except as specifically approved on plans. All such work shall be done by

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hand to avoid damage to roots and shall be done under the supervision of an arborist approved by the city.

(PUD Criteria A, Land Use Code 20.20.520, Bellevue City Code 23.76.060)

7. **RAINY SEASON RESTRICTIONS:** Because of the proximity to Kelsey Creek and associated wetlands and the presence of threatened Puget Sound Chinook in Kelsey Creek, this site is subject to rainy season restrictions. No clearing and grading activity may occur during the rainy season, which is defined as November 1 through April 30 without written authorization of the Department of Planning and Community Development. Should approval be granted to work during the rainy season , increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work. (BCC 23.76.093.A, SEPA, Comprehensive Plan Policies EN-23 and EN-26)

C. PRIOR TO FINAL PLAT/PUD APPROVAL

8. **STREET FRONTAGE IMPROVEMENTS:** All street frontage improvements shown in the final engineering plans required for the Plat Infrastructure (GE) permit must be completed by the developer prior to approval of the final short plat. Alternatively, Land Use Code Section 20.40.490 allows a developer to obtain final short plat approval prior to finishing frontage improvements in some cases, with provision of an acceptable financial assurance device equivalent to 150% of the cost of unfinished frontage improvements. Provision of such an assurance device would require completion of frontage improvements by the developer within two years of final short plat approval. Frontage improvements that would negatively affect safety if left unfinished may not be delayed through use of a financial assurance device. Frontage improvements must be approved by the Transportation Department inspector before they are deemed complete. (BCC 14.60.110 and LUC 20.40.490)

All street frontage improvements and other required transportation elements must be constructed and installed by the applicant and accepted by the City Inspector prior to final plat approval. Specific requirements are detailed below:

a. Site Specific Items:

1. Landings on sloping approaches are not to exceed a 10% slope for a distance of 20 feet approaching the back edge of sidewalks. Driveway grades must be designed to prevent vehicles from bottoming out due to abrupt changes in grade.

2. The maximum longitudinal and cross-sectionals grades shall not exceed 8%.

3. Vehicle and pedestrian sight distance must be provided per BCC 14.60.240 and 14.60.241.

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4. The joint-use driveway shall not be gated or obstructed and must remain open at all times for emergency and public service vehicles. A note to this effect shall be placed on the face of the final Subdivision map.

5. The driveway width will be 16 feet and will be built per the City's Transportation Department Design Manual Standard Drawing DEV-7. The joint-use driveway must be placed in a 20-foot wide easement and paved full width for the entire length.

6. The maintenance responsibility for the joint-use driveway shall be the shared responsibility of lots owners served by the joint-use driveway. A note to this effect must be indicated on the face of the final Subdivision map.

7. Type "A" curb and gutter, storm drainage, six feet of concrete sidewalk on NE 6th and 30-foot curb return with Type 2 Sidewalk Ramp at the intersection of 148th NE/ NE 6th.

(BCC 14.60.100, 110, 130, 150, 170, 190, 210, 240, 241; Transportation Design Manual Sections 3, 4, 5, 7, 11, 14, 19)

9. PAVEMENT RESTORATION: Pavement restoration associated with street frontage improvements or to repair damaged street surfaces shall be provided as follows:

a) NE 6th is currently classified as "Standard Trench Restoration", which requires trench restoration per the City's Design Manual Drawing ROW-3.

b) 148th NE is classified as "Overlay Required" . In this case, street cutting is permitted only with extraordinary pavement restoration. (BCC 14.60.250; Design Manual Design Standard #21)

10. NATIVE GROWTH PROTECTION AREA (NGPA): Tract A containing the Type A streamside wetland shall be designated as Native Growth Protection Area (NGPA) on the face of the final plat with a note restricting its use. The designation shall include the following restrictions:

a) An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat; and

b) The right of the City of Bellevue to enforce the terms of the restriction.

The NGPA shall be marked with permanent information signs at the property line and at each angle point not on a property line. This area must be set off with a split rail fence or equivalent to clearly demark the location of the tract. (Land Use Code 20.25H.070 & 120)

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11. VEGETATION MANAGEMENT: A Vegetation Management Plan is needed to assess the condition of the vegetation within the NGPA tract. The report shall inventory all resources within the tract to ensure the maintenance of a viable community of native vegetation. This report shall be prepared by a qualified wetland biologist, forester or certified arborist. (Land Use Code 20.25H.120.C)

12 VARIANCE/MODIFICATION RESTRICTION: Approval by the City of this short plat is a determination that each lot in the short plat can be reasonably developed in conformance with the Land Use Code requirements in effect at the time of preliminary plat short plat approval without requiring a variance. (Land Use Code 20.45A.130A.6)

D. PRIOR TO BUILDING PERMIT ISSUANCE

13. IMPACT FEE: Payment of the traffic impact fee will be required at the time of building permit issuance for individual lots. The impact fee for impact fee area 9 is currently $464.71 per dwelling units. This fee is subject to change and the current fee schedule in effect at the time of building permit issuance will apply. (BCC 22.16)

Section 3. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 19th day of September, 2005, and signed in authentication of its passage this 19th day of September, 2005.

(SEAL)

Connie B. Marshall, Mayor

Approved as to form:

Office of the City Attorney

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published September 23, 2005