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WSS/gjz  
12/10/09

**ORDINANCE NO. 3784**

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, REZONING CERTAIN REAL PROPERTY KNOWN AS "FIRDALE VILLAGE" FROM NEIGHBORHOOD BUSINESS (BN) TO "FIRDALE VILLAGE MIXED USE" (FVMU) ZONE, ESTABLISHING AS A CONDITION THEREFOR THE EXECUTION AND RECORDING OF A DEVELOPMENT AGREEMENT, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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WHEREAS, the applicant A. D. Shapiro Architects, PS, submitted an application to rezone certain real property located 9617 Firdale Avenue, commonly known as "Firdale Village"; and

WHEREAS, the application was accompanied by an application for a development agreement which was intended to provide assurance that a vegetative buffer of old growth trees would be preserved; and

WHEREAS, on December 9, 2009, the Edmonds Planning Board reviewed the rezone application and development agreement and recommended adoption of the ordinance subject to approval of the development agreement; and

WHEREAS, by contemporaneous action, the City Council has approved the development agreement; and

WHEREAS, said development agreement is effective only if a native growth protection easement protecting the buffer is recorded within sixty (60) days of its approval; and

WHEREAS, the City Council approves this rezone conditional upon confirmation that the applicant has met its obligations under this Development Agreement; and

WHEREAS, the City Clerk has advised the City Council that the Native Growth Protection Easement has been filed in an approved format; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. The City Council finds that the criteria of ECDC 20.40.010 has been met and for their findings adopt by reference in pages 6 through 10 of the staff report presented to the Planning Board on December 9, 2009 and incorporated in the record of this proceeding, as fully as if herein set forth.

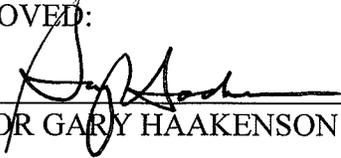
Section 2. This ordinance has been placed upon the Council's consent agenda for approval based upon notification by the City Clerk of the Native Growth Protection Easement required by the Development Agreement, and has been filed of record with Snohomish County.

Section 3. Certain real property located at 9617 Firdale Avenue legally described as shown on Exhibit A of the Development Agreement, and described in Planning File PLN-2009-0020 and consisting of approximately 3.2 acres is hereby approved for rezone from "Neighborhood Business" (BN) to "Firdale Village Mixed Use" (FVMU).

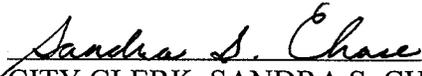
Section 4. The Planning Manager and staff are hereby authorized to effectuate appropriate changes in the zoning map to show the subject site to be zoned as Firdale Village Mixed Use.

Section 5. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

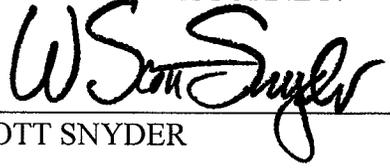
APPROVED:

  
MAYOR GARY HAAKENSON

ATTEST/AUTHENTICATED:

  
CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	02-12-2010
PASSED BY THE CITY COUNCIL:	02-16-2010
PUBLISHED:	02-21-2010
EFFECTIVE DATE:	02-26-2010
ORDINANCE NO. <u>3784</u>	

**SUMMARY OF ORDINANCE NO. 3784**

of the City of Edmonds, Washington

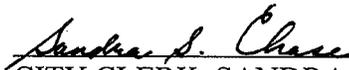
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On the 16th day of February, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3784. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, REZONING CERTAIN REAL PROPERTY KNOWN AS "FIRDALE VILLAGE" FROM NEIGHBORHOOD BUSINESS (BN) TO "FIRDALE VILLAGE MIXED USE" (FVMU) ZONE, ESTABLISHING AS A CONDITION THEREFOR THE EXECUTION AND RECORDING OF A DEVELOPMENT AGREEMENT, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 17th day of February, 2010.

  
CITY CLERK, SANDRA S. CHASE

**RECEIVED**  
FEB 05 2010  
DEVELOPMENT SERVICES

Return Name & Address

George Stapp  
14502 Edgewater Lane NE  
Lak Forest Park, WA 98155

  
201002050283 4 PGS  
02/05/2010 1:19pm \$65.00  
SNOHOMISH COUNTY, WASHINGTON

Document Title(s)

Easement

Reference Number(s) of Related Document(s)

\_\_\_\_\_

Additional Reference #'s on Page \_\_\_\_\_

Grantor(s)

WNS Property Investment Inc

Additional Grantors on Page \_\_\_\_\_

Grantee(s)

City of Edmonds

Additional Grantees on Page \_\_\_\_\_

Legal Description (abbreviated form: ie Lot/Block/Plat or Section/Township/Range)

p/Lts 1-5, 12-14 Forshee's Firdale Village

Complete Legal on Page \_\_\_\_\_

Assessor's Property Tax Parcel/Account Number

00449900000100

Additional Parcel #'s on Page \_\_\_\_\_

The Auditor/Recorder will rely on the information provided on this form. The responsibility for the accuracy of the indexing information is that of the document preparer.

## NATIVE GROWTH PROTECTION EASEMENT

THE GRANTOR, WNS Property Investment, Inc., a Washington Corporation, for and in consideration of the adoption of a Development Agreement approved by the Edmonds City Council, hereby grants and conveys to the Grantee, the City of Edmonds, a Washington municipal corporation, its successors and assigns, a perpetual native growth protection easement in, on, upon, over, under, across, along and through the real property legally described on Exhibit A attached hereto and incorporated herein by this reference as if set forth in full ("NGPE Area" herein).

This easement is established in order to preserve native vegetation within the NGPE Area for all purposes that benefit the public health, safety and welfare, including controlled surface water erosion, visual and aural buffering, protection of plant and animal habitat, replanting and restocking of plants or animal habitat, and any other actions deemed necessary by the Grantee to preserve and protect the native vegetation within the NGPE Area.

Grantor shall maintain the NGPE Area in a substantially natural state. With the exception of the removal of vegetation that is dead, diseased or hazardous, as determined by a licensed or certified arborist in a report to be submitted to and, except in an emergency, approved by Grantee, no clearing, grading, filling, building, fence construction, or road construction of any kind shall occur within the NGPE Area.

This easement and the conditions thereof shall be a covenant running with the land and shall be binding on the successors, heirs and assigns of the owners of the land. The Grantee, its successors and assigns, shall have the right but not the obligation without prior institution of any suits or proceeding of law, at any time as may be deemed necessary by the Grantee, to enter upon said easement for the purpose of protecting and preserving the NGPE Area.

Nothing in this easement shall obligate the City of Edmonds to perform any activity or to utilize the easement for any purpose.

Grantor hereby warrants that it is the owner of the above-described property and has the authority to convey such easement.

[Signatures on Following Page]

**NO EXCISE TAX  
REQUIRED**

FEB 05 2010

KIRKE SIEVERS, Snohomish County Treasurer

By KIRKE SIEVERS

Dated this 5 day of February, 2010.

GRANTOR

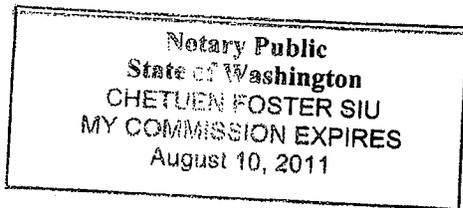
WNS Property Investment, Inc.

By: George P. Stapp  
Its: owner

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that George Stapp is the person who appeared before me, and said person acknowledged that he/she was authorized to execute the instrument and acknowledged it as owner of \_\_\_\_\_ to be the free and voluntary act and deed of such party for the uses and purposes mentioned in this instrument.

DATED: Feb 5, 2010



Chetuen Foster Siu  
(Signature)  
CHETUEN FOSTER SIU  
(Print Name)  
NOTARY PUBLIC  
My appointment expires: 8/10/2011

Exhibit A

Legal Description of Native Growth Protection Easement Area

THAT PORTION OF LOTS 1, 2, 3, 4, 5, 12, 13 AND 14, FORSHEE'S FIRDALE VILLAGE AS PER PLAT RECORDED IN VOLUME 14, PAGE 27, SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 , FIRDALE VILLAGE NO.5 AS PER PLAT RECORDED IN VOLUME 20 OF PLATS, PAGE 45 RECORDS OF KING COUNTY, WASHINGTON: THENCE N88°26'52"W ALONG THE SOUTH LINE THEREOF A DISTANCE OF 75.19 FEET TO THE SOUTHEAST CORNER OF LOT 7 SAID FIRDALE VILLAGE NO.5: THENCE S01°33'10"W A DISTANCE OF 30.00 FEET: THENCE N72°21'54"W A DISTANCE OF 108.30 FEET TO THE SOUTH LINE OF SAID FIRDALE VILLAGE NO.5: THENCE N88°26'50"W A DISTANCE OF 226.56 FEET TO THE SOUTH WESTERLY LINE OF SAID PLAT: THENCE S44°12'30"E A DISTANCE OF 28.67 FEET TO A POINT ON A LINE THAT IS 20.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID PLAT: THENCE S88°26'50"E ALONG SAID LINE A DISTANCE OF 203.20 FEET: THENCE S72°21'54"E A DISTANCE OF 132.06 FEET: THENCE N01°33'10"E A DISTANCE OF 24.58 FEET TO A POINT ON A LINE THAT IS 32.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID PLAT: THENCE S88°26'52"E ALONG SAID LINE TO THE EAST LINE OF LOT 2 FIRDALE VILLAGE AS PER PLAT RECORDED IN VOLUME 14 OF PLATS, PAGE 27 RECORDS OF SAID COUNTY: THENCE N01°43'07"E ALONG SAID LINE A DISTANCE OF 32.00 FEET TO THE POINT OF BEGINNING.

# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH

} S.S.



**SUMMARY OF ORDINANCE NO. 3784**  
of the City of Edmonds, Washington

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The full text of this Ordinance will be mailed upon request.

DATED this 17th day of February, 2010.

CITY CLERK, SANDRA S. CHASE

Published: February 21, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3784

Rezoning Certain Real Property

a printed copy of which is herunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

February 21, 2010

and that said newspaper was regularly distributed to its subscribers during all of said period.

*Jody Grohl*

Principal Clerk

Subscribed and sworn to before me this

22nd

day of February, 2010

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

