ORDINANCE NO. 2172

AN ORDINANCE of the City of Kent, Washington, approving application CD-SU-79-2, an application of Kent Highlands, Inc., for a Special Use Combining District for purposes of mineral extraction in an area zoned R-A (Residential Agricultural District) and imposing conditions upon said approval and upon the extraction operations.

WHEREAS Kent Highlands, Inc., has made application to the City of Kent under application No. CD-SU-79-2 for the imposition of a Special Use Combining District in an area of the City zoned R-A (Residential Agricultural Zoning District) an area containing 83.7 acres, more or less, and

WHEREAS the purpose of said application is to allow Kent Highlands, Inc. to extract approximately six hundred thousand cubic yards of materials from the area for the purpose of providing fill for building sites within the City of Kent, and

WHEREAS the Kent City Council has previously determined that the interests of the citizens of the City of Kent would best be served by committing a substantial portion of that area known as the Green River Valley within the City to industrial development, and

WHEREAS due to soil and other conditions in the area it is generally necessary to fill property prior to any substantial construction thereon, and

WHEREAS considerable savings in time and money can be realized by property developers if there are local sources for fill material, and

WHEREAS it has been determined that there is a substantial current and future need for fill material in the City, and

WHEREAS application CD-SU-79-2 was heard before the Planning Commission and City Council in public hearings, and all persons who attended said public hearings were given the opportunity to be heard, and all correspondence which was received prior to closure of the public hearings was read and considered, and
WHEREAS the City Council has determined that it would be in the best interests of the citizens of the City of Kent to approve the application, and FURTHER that all of the conditions set forth in Section 3.20.4 of the Kent Zoning Code have been or can be satisfied by the imposition of certain conditions and controls upon the extraction operation contemplated by the application, NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Application CD-SU-79-2, an application by Kent Highlands, Inc. for the imposition of a Special Use Combining District for the purpose of extracting minerals from an area of the City of Kent hereinafter described, be and the same hereby is granted.

Section 2. The property upon which said District is imposed, currently zoned R-A, Residential Agricultural Zoning District, is described as follows:

That portion of the south 1/2 of Section 10 and the northeast quarter of Section 15, Township 22 North, Range 4 East, W.M., King County Washington described as follows:

Beginning at the west quarter corner of said Section 10; thence south 0°56'50" west along the west line thereof a distance of 2,645.03 feet to the southwest corner thereof; thence north 87°51'12" east a distance of 2,131.63 feet; thence north 89°44'00" east a distance of 1,050.00 feet; thence south 0°16'00" east a distance of 825.00 feet to the True Point of Beginning of the herein described tract; thence north 0°16'00" west a distance of 825.00 feet; thence south 89°44'00" west a distance of 1,050.00 feet; thence north 0°16'00" west a distance of 1,500 feet; thence north 89°44'00" east a distance of 1,050.00 feet; thence south 0°16'00" east a distance of 270.00 feet; thence south 77°00'00" east a distance of 1,210.00 feet, more or less, to the westerly bank of the Green River; thence southerly along said westerly bank of the Green River to a point which bears north 89°44'00" east from the True Point of Beginning; thence south 89°44'00" west a distance of 780.00 feet, more or less, to the True Point of Beginning.

Except that portion thereof if any lying within Frager Road.

Section 3. The approval of the application and the grant of authority to Kent Highlands, Inc. to conduct mineral ex-
traction operations on the above described property is conditioned upon the following terms and conditions:

1) Actual removal operations shall be permitted only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday; no removal shall be permitted on Saturdays, Sundays, or National Holidays.

2) Kent Highlands, Inc. shall be responsible for keeping all public roadways utilized by vehicles removing material from the site free and clear of debris by cleaning and periodically removing any spillage as may be required by the City.

3) Removal shall commence on the westerly margin of the property and be conducted easterly through the full north-south axis of the property until the removal is completed. Where unstable slope conditions occur, the operation will be under the advisement of a soils engineer.

4) All material removed from the site shall be used within the City of Kent.

5) All uncontaminated storm water shall be diverted around the stippled area of the site to natural down stream water courses, provided that no such storm waters shall be diverted into Drainage District #2's channel.

6) Contaminated storm waters shall be ponded so as to allow percolation and prevent discharge to the receiving surface waters of the turbidity measurement exceeding 5 j.t.u. over and above the natural condition in the receiving waters.

7) No petroleum products shall be disposed of in storm water or allowed to flow in any manner to storm water lagoons or to receiving natural flow water courses.

8) To minimize dust potential or particulate problems which could be created by natural removal and traffic flow, applicant shall pave the haul route from the area of removal over private property owned by applicant or others, and provide a completely paved route therefrom to South 216th Street. All trucks proceeding on the public right-of-way shall proceed via South 216th Street from the private roadway to 42nd Avenue South via 42nd Avenue South to South 212th. Kent Highlands, Inc. shall provide satisfactory documentary proof to the City of its legal right to cross private property to reach the above referenced public streets.

9) Maintenance of the private paved roadway from the property to the public right-of-way shall be the responsibility of Kent Highlands, Inc. during the term of the removal.
10) Any breakdown of paving on South 216th and
42nd Avenue South or other maintenance arising as a result of such truck use shall be
the responsibility of Kent Highlands, Inc.
and periodic repair and maintenance shall be provided as required by the City of Kent during
the period of removal. Review of the
condition of such roadways utilized by truck traffic shall be done by Kent Highlands, Inc.
and the City of Kent at the completion of the
removal and any final repair or maintenance required shall be completed prior to the re-
lease of any bond required of Kent Highlands, Inc.

11) No removal of material shall be permitted
below the final contour lines as provided
and described on the application for grading permit and detailed on the plan filed entitled
"Proposed Special Use Combining District - SU for Kent Highlands, Inc., Kent, Washington"
prepared by Hugh G. Goldsmith, Professional Engineer and Land Surveyor, dated November
19, 1973; and revised on April 4, 1974, to change the permit and grading area and detail of weir.

12) The slopes therein established, entitled
"Proposed Finished Grade Contour" shall also
be established as the final slopes to remain
on the site upon completion of removal.

13) All top soil removed shall be stockpiled by
Kent Highlands, Inc. for a later use in re-
habilitation and revegetation of the property.

14) During the initial operation and as long as
possible, Kent Highlands, Inc. will maintain
the natural vegetation on the peak of the
knoll easterly over the remainder of the site
to screen the exposed area as much as possible
from public view.

15) Vegetative reclamation shall be provided by
applicant concurrent with excavation leaving
only sufficient space at the slope toe for
removal equipment to operate. The reseeding
operation shall involve a combination of clo-
ver, grass and alder seed. Evergreen trees
shall be planted on the site concurrent with
revegetation. The numbers of evergreen trees
to be planted and their locations on the site
shall be determined by the Board of Natural
Resources of the State of Washington. Prior
to commencement of removal of material, ap-
plicant shall submit a restoration, vegetation
and landscaping plan to the City Planning De-
partment for approval.

16) The lowland portion of the property devoted to
a settling lagoon shall be restored to permit
agricultural use upon completion of the need
for a settling lagoon unless prior to the ex-
piration of the permit, other use is approved

- 4 -
by the City, which would negate the need for restoration for agricultural use.

17) Water shall be provided at the excavation site to control dust when necessary during periods of excavation. Such water control shall be utilized on all unpaved portions of the site including roadways and excavation areas, so that dust and other particulates shall not enter the atmosphere in excess of any amounts permitted by Puget Sound Air Pollution Control Commission. In no case shall dust cause the ambient air to exceed the standard of 60 as established by such agency.

18) The term of this permit shall be for a period of five (5) years from and after August 1, 1979 with semiannual review by the Planning Commission. At the time of each review, the Planning Commission may impose additional conditions or modifications to the permit if prior operating conditions require said changes.

19) Kent Highlands, Inc. shall furnish to the City a performance bond which shall be in an amount equal to a $100,000 bond purchased in 1974 and increased in an amount equal to the current construction cost index, using 1974 as the base year to assure street maintenance as well as to assure performance of all other conditions of this permit, including the landscaping and revegetation of the property during the period of removal as well as upon final completion of removal of materials. In addition, Kent Highlands shall furnish to the City Engineer and maintain with the City Engineer at all times during the life of this permit, a $1,000 cash bond which shall be used as a fund to permit the City to make immediate repairs to public rights-of-way in the event applicant shall fail or refuse for any reason to initiate repairs required by the City.

20) The bonds required by this permit shall be subject to forfeiture by the City in full amount, should applicant fail to comply with terms of this Ordinance and perform conditions established herein promptly and as herein required. FURTHER, in the event a right of forfeiture of bonds arises because of substantial failure of performance by Kent Highlands, or in the event of substantial non-compliance with any of the terms and conditions as outlined in this Ordinance, then, upon hearing by the City Council the permit may be revoked prior to expiration of the period herein authorized.

21) The grant of this permit is subject to approval by appropriate agencies of the State of Washington. A condition of the grant of this permit by the City is that any bond required by the City be in addition to any bond required by the State, and FURTHER, that in the event the City may have more stringent landscaping and
restoration requirements than those approved by the State, then in that event Kent Highlands, Inc. will adhere to the City's requirements. Kent Highlands, Inc. shall conduct its operation on the site in such a manner that the nesting areas of blue herons on the site shall not be disturbed during the current nesting season, and FURTHER shall take whatever measures are necessary to discourage the herons from returning to the site at the next nesting season if operations are being conducted on the site at that time.

22) Kent Highlands shall provide to the City on January 1 and July 1 of each year commencing January 1, 1975, a report in writing stating the approximate amount of material removed during the preceding six (6) month period together with engineering data including but not limited to field survey notes, sufficient to enable the City to determine whether the terms and conditions of the permit are being met. The information shall be certified as accurate by a Licensed Professional Civil Engineer or Land Surveyor and shall be provided at Kent Highland's expense.

If Kent Highlands fails to provide the necessary report, all operations shall immediately cease and shall not be resumed until receipt of the information and review by the City. The City shall not unreasonably delay review of any report submitted.

Section 4. This Ordinance shall take effect five (5) days after the passage, approval and publication as provided by law and upon receipt in writing by the City Clerk of Kent Highlands Inc.'s acknowledgment of receipt of a certified copy of this Ordinance together with Kent Highlands Inc.'s written acceptance of all the terms and conditions contained herein.

ISABEL HOGAN, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

DONALD E. MIRK, CITY ATTORNEY
PASSED the 6th day of May, 1979.
APPROVED the 7th day of May, 1979.
PUBLISHED the 10th day of May, 1979.

I hereby certify that this is a true copy of Ordinance No. 2177, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Seal]

MARIE JENSEN, CITY CLERK