

RESOLUTION NO. 2168

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A SUBSTANTIAL DEVELOPMENT PERMIT AND A CONDITIONAL USE PERMIT AS APPLIED FOR IN PLANNING DEPARTMENT FILE NO. (CUP)-(SDP)-73-4(H), BY CHARLES WESCOTT, 4511 LAKE WASHINGTON BOULEVARD, AND SETTING FORTH CONDITIONS TO WHICH CONDITIONAL USE AND SUBSTANTIAL DEVELOPMENT PERMITS SHALL BE SUBJECT.

WHEREAS, the Kirkland Department of Community Development has received an application for Conditional Use Permit and for Substantial Development Permit filed by Charles Wescott, owner of the property described in said application and located within the shoreline and/or associated wetlands of Lake Washington, seeking to extend his property into the shoreline of Lake Washington to prevent erosion and to increase the yard area and including a proposed new bulkhead, and

WHEREAS, the application has been submitted to the Houghton Community Council and to the Kirkland Planning Commission, who held public hearing thereon on February 6, 1973 and February 8, 1973 respectively, and

WHEREAS, pursuant to Section .01(1) of Ordinance No. 2165 relating to the issuance of Substantial Development Permits said bodies have recommended approval of the request for a Substantial Development Permit, and

WHEREAS, pursuant to Chapter 23.56 of Ordinance 2183, the Kirkland Zoning Ordinance, both bodies have recommended approval of a Conditional Use Permit, and

WHEREAS, both bodies have concluded that the requirements for issuance of Conditional Use Permit and Substantial Development Permit pertaining to this application have been met, provided the following conditions are maintained, all as set forth in their findings, conclusions and recommendations as follows:

1. The applicant is proposing to extend his property into Lake Washington to prevent erosion and to increase the yard area in back of his home. He is proposing a new bulkhead that will consist of approximately 100 cubic yards of quarry rock, plus approximately 300 yards pit run. The fill area will encompass an area of approximately 1,950 square feet (25' by 78').

2. The existing pier will be preserved and maintained; however, two new cedar pilings are proposed to be driven for moorage ties north of the existing pier, all as set forth on the site plan attached to the application.

3. The property subject to the application having a common address of 4511 Lake Washington Boulevard is a single family residence and is within Waterfront District I.

4. Land fills are not allowed for single family homes in Waterfront District I except under certain conditions and with a Conditional Use Permit.

5. The conditions required are:

(a) Emergency construction to protect property from damage by the elements.

(b) The water surface area as defined by the high water line is not substantially reduced.

(c) That a plan for fill material is approved by the City.

(d) That any unique natural areas or aquatic life or vegetation will not be destroyed.

(e) That a public use area will be designed on the high water line setback area, except for single family homes.

6. Land fill and excavation shall not be permitted beyond the existing high water line or within the high water line setback area, except for the following:

(a) Emergency construction necessary to protect property from damage by the elements.

(b) Public waterfront parks or other uses for the benefit of the general public.

(c) Approval alteration of the existing shoreline as described in Section 23.12.058 (alteration of the existing shoreline) of Ordinance No. 2183.

7. The Department of Ecology has adopted final guidelines for the use and activities proposed for shorelines under the Shoreline Management Act:

(a) "The construction of bulkheads should be permitted only where they provide protection to upland areas or facilities, not for the indirect purpose of creating land by filling behind the bulkheads." (Final Guidelines, p. 14).

(b) "Bulkheads should be located and constructed in such a manner which will not result in adverse effects on nearby beaches and will minimize alterations of the natural shoreline." (Final Guidelines, p. 14).

(c) "Priority should be given to landfills for water dependent uses and for public uses. In evaluating fill projects and in designating areas appropriate for fill such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, reduction of water quality and destruction of habitat should be considered." (Final Guidelines, p. 15).

8. Two cedar pilings are proposed which are not spoken to as either allowed or not allowed in Waterfront District II.

9. The property is located in Yarrow Bay and protected from the southwesterly winds that prevail for about 8 months of the year. (Waterfront Plans and Programs, p. 8, Ordinance No. 2160).

CONCLUSIONS:

1. The property is located in Yarrow Bay, which is sheltered from the stronger southwesterly winds, thereby minimizing erosion potential. The shorelines in bays are generally accretive (added onto naturally) rather than eroding, and the surface area defined by the high water mark would be substantially reduced. Nevertheless, certain unnatural conditions appear to have resulted from the development of the Lake East Apartments, with the result that sand shifts to the south and a need to protect the beach area from the natural elements in this specific situation has been demonstrated.

2. It is difficult to evaluate whether unique natural areas, aquatic life or vegetation would be destroyed if the entire fill were imposed, due to lack of available knowledge in this area.

3. This is a single family home and the high water line setback would not be required for use as a public area with proper access.

4. The water level of Lake Washington at the existing bulkhead is 21.85 feet. The water level at low level (20 feet) is as shown on the dotted line on the existing site plan in the file.

5. The Department of Community Development (Planning) report states:

"The interpretation of the Department of Community Development is that to grant this application would be contrary to the recently adopted waterfront districts. That the intent of those districts is to allow minor fills only to maintain a smooth flowing shoreline."

6. The proposed fill should be modified so as to maintain a smooth flowing shoreline and still allow protection from the natural elements, and to eliminate the southward shifting of sand apparently caused by the Lake East Apartment development. The fill material should be approved by the City, and such a fill would not substantially reduce the surface area of Lake Washington.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

1. The Substantial Development Permit applied for by the above-named applicant, being Substantial Development Permit No. 10, and a Conditional Use Permit applied for by the same applicant, being Conditional Use Permit No. CUP - 73 - 4 (H) shall issue subject to the conditions set forth or included by reference in the foregoing Findings, Conclusions, Recommendations and Conditions submitted to the City Council by the Houghton Community Council and the Kirkland Planning Commission, which by this reference are hereby adopted by the Kirkland City Council.

2. A certified copy of this Resolution and Order shall attach to and become a part of the Substantial Development Permit and of the Conditional Use Permit or evidence thereof delivered to the permittee.

3. Nothing in this permit shall be construed as excusing the applicant from compliance with any federal, state or local statutes, ordinances or regulations applicable to this project, other than as expressly set forth herein, or other than the permit requirements of the Shoreline Management Act of 1971.

4. Failure on the part of the holder of the Conditional Use Permit to initially meet or to maintain strict compliance with said standards and conditions shall be grounds for revocation in accordance with Section 23.56.110 of Ordinance 2183. The Substantial Development Permit may be rescinded pursuant to Section 14.(7) of the Shoreline Management Act of 1971, in the event the permittee fails to comply with any condition hereof.

5. Construction pursuant to this permit shall not begin or be authorized within 45 days of the date of its final approval by the local government, or until all review proceedings initiated within said 45 days from the date of final approval by local government have been terminated.

6. Pursuant to the Shoreline Management Act of 1971 and Section 8 of Ordinance 2165 of the City of Kirkland, certified or conformed copies of this Resolution shall be delivered to the following:

- (a) The applicant
- (b) The Kirkland Department of Community Development (Planning Department)
- (c) The Kirkland Building Official
- (d) The Department of Public Services for the City of Kirkland
- (e) The Department of Fire Services for the City of Kirkland
- (f) The Police Department of the City of Kirkland
- (g) The Department of Ecology for the State of Washington
- (h) The Office of Attorney General for the State of Washington

7. Notwithstanding the recommendation heretofore given by the Houghton Community Council, the subject matter of this Resolution and the Conditional Use Permit herein granted are, pursuant to Ordinance No. 2001, subject to the disapproval jurisdiction of the Houghton Community Council, and therefore, this Resolution shall become effective only upon approval of the Houghton Community Council, or the failure of said Community Council to disapprove this Resolution within 60 days from the date of the passage of this Resolution.

ADOPTED in regular meeting of the Kirkland City Council on the 20th day of February, 1973.

William C. Woods
Mayor

Attest:
Tom J. Aderson
Director of Administration and Finance
(ex officio City Clerk)