

RESOLUTION NO. 2190

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. SDP-CUP-73-20(P) BY R.L. HASS AND DR. BURHEN FOR DEVELOPMENT OF SAILBOATS EAST PROPERTY, 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 R. L. Hass, Dr. Wm. K. Burhen and the City of Kirkland, owners of the property described in said application, and located within the shoreline and/or associated wetlands of Lake Washington for the purpose of developing said property known as Sailboats East, and

WHEREAS, the application has been assigned for identification Department of Community Development File No. SDP-CUP-73-20(P), and submitted to the Kirkland Planning Commission who held public hearing thereon April 12, 1973, and

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

WHEREAS, pursuant to Chapter 23.56 of Ordinance 2183, the Kirkland zoning ordinance, said body has recommended approval of a Conditional Use Permit, and

WHEREAS, the Kirkland Planning Department has concluded that the proposed development meets the requirements for issuance of Conditional Use Permit and Substantial Development Permit, and the Kirkland Planning Commission did adopt certain Findings, Conclusions, Conditions and Recommendations approving issuance of both permits,

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

1. The Substantial Development Permit and the Conditional Use Permit applied for by the above-named applicant under File No. SDP-CUP-73-20(P) shall issue subject to the conditions set forth in the Findings, Conclusions and Recommendations of the Kirkland Planning Commission as signed by the chairman thereof and filed in said file, which said Findings, Conclusions, Recommendations and Conditions are by this reference adopted by the Kirkland City Council as though fully set forth herein.

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 the proposed project other than as expressly set forth herein, or other than the permit requirements of the Shoreline Management Act of 1971.

4. Nothing in this resolution, order or permit shall be construed as a grant or authorization for issuance of a street use or park use permit, easement or license of any nature as to those portions (including submerged shorelands) of South Kirkland Park, Seventh South Street end and the city-owned property within the northerly portion of the proposal known as the "Sands property".

5. 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 Kirkland Zoning Code. 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.

6. 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.

7. 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
- 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.

ADOPTED in regular meeting of the Kirkland City Council on the 4th day of June, 1973.



Mayor

Attest:



Director of Administration and Finance
(ex officio City Clerk)

Mailing Address: Richard Hass
2075 Rose Point Lane
Kirkland, Wa. 98033

TRANSMITTAL REPORT

Report Prepared: May 29, 1973 File No.: SDF-CUP-73-20 (P)
 Name: Richard Hass, Hearing Body: City Council
 Dr. Buhren, and
 City of Kirkland Hearing Date: June 4, 1973
 (Joint Application)
 Property Location: Approx. 534 Lake St.
 So. and Vicinity
 Subject: Conditional Use Permit and Substantial Development
 Permit Applications

BACKGROUND AND ANALYSIS:

This proposal has been before various City groups since prior to October of 1972. It includes several cluster piling breakwaters, sailboat moorings, and an extension of a dinghy float for small sailboats.

At their last regular meeting of May 10, 1973, the Kirkland Planning Commission recommended approval of this application subject to the attached amended Administrative Report as revised on May 21, 1973, the letter from Robert Hass dated November 8, 1972, and the excerpt from the Kirkland Park Board Minutes addressing the prior letter dated November 8, 1972. All three of the above mentioned items have been adopted by reference in the attached Adopting Resolution and therefore would become a part of that Resolution if it is passed by the City Council.

Report Prepared By:

DEPARTMENT OF COMMUNITY DEVELOPMENT

Kira Stokes

KS: bk

- Attachments:
- (1) Amended Administrative Report as revised May 21, 1973.
 - (2) Letter from Robert Hass dated November 8, 1972.
 - (3) Excerpt from Kirkland Park Board Minutes of Nov. 8, 1972.
 - (4) Environmental Impact Assessment prepared by Sailboats East and dated April 27, 1973.
 - (5) Site Plan of Existing Conditions.
 - (6) Site Plan of Final Development Proposal.
 - (7) Adopting Resolution

Mailing Address: Richard Hass
2075 Rose Point Lane
Kirkland, Wash. 98033

AMENDED

A ADMINISTRATIVE REPORT

REPORT PREPARED: April 5, 1973 FILE NO.: SDP-CUP-73-20(P)
REPORT REVISED: May 21, 1973
NAME: Richard Hass and HEARING BODY: Planning Commission
City of Kirkland
(Joint Application) HEARING DATE: April 12, 1973

PROPERTY LOCATION: Approx. 534 Lake St.
So. and vicinity.

SUBJECT: Conditional Use Permit and Substantial Development
Permit Applications

BACKGROUND ANALYSIS:

This application is for a Conditional Use Permit and State required Substantial Development Permit for the moorage of sailboats in the waters of Lake Washington over both public property, specifically South Kirkland Beach Park, and the Sands Lumber Company presently owned by the City of Kirkland; and private property, specifically the Sailboats East property located at 534 Lake Street South and Dr. Buhren's property located at 723 Lake Street South.

FINDINGS:

1. The proposal is to install a breakwater in Lake Washington of cluster logs comprised of 7 logs to the bundle. This would encompass the area between the Harbor Light Apartments on the north and the Lakeside Apartments to the south.
2. The proposal further would increase the size of the existing dinghy float to accommodate 30 boats. The sailboat moorages are designed to accommodate 25 boats from 25 separate mooring buoys.
3. There is no alteration of the shoreline proposed nor any fill in the shoreline areas or into the lake.
4. This proposal has been before the City in preliminary stages since prior to October of 1972. On November 8, 1972, the Park Board recommended the City become co-applicant with Mr. Richard Hass of Sailboats East for this application and that the City be paid a percentage of the moorage fees; that moorages be available to the public; that parking be provided; that the term of the lease be fixed; that no sale of boats be allowed on public property; that working drawings be furnished with the application together with an opinion from an engineer as to the engineering feasibility for buoys, moorage, and breakwater; that a junior zoning process be initiated; and that insurance and maintenance agreements be initiated by the developer as required by the City Attorney.

5. This matter was then brought before the City Council at which time they deferred the matter to the Planning Commission for their recommendation.
6. On February 8, 1973, the matter was before the Planning Commission for their recommendation to City Council. The Planning Commission passed a motion setting a formal hearing before the Planning Commission for this matter on March 8, 1973. They further moved to provide the alternative that the City Council may, however, take necessary action at the present time to become a co-applicant on the necessary permit procedures of the City Ordinance with the specific knowledge on the part of the City and the applicants that this agreement to become a co-applicant in no way pre-determines this issue.
7. The City Council agreed with the option to become a co-applicant as stated above and it is now before the Planning Commission in order to make their recommendation on the proposal.
8. By definition in Waterfront Districts, this is defined as a boat club and each individual anchorage is considered a moorage (open moorage, wet). It is further considered semi-public moorage.
9. The purpose of Waterfront District I, in which this proposal is located, is to protect the features of the Lake Washington Waterfront for the optimum use and enjoyment of present and future generations.
10. The basic development standards for Waterfront District I includes:
 - a. No over-water construction except for moorages and other elements consistent with public enjoyment of the waterfront.
 - b. Provisions for a major pedestrian way along public rights-of-way and a land reservation for a water-edge trail.
 - c. Multi-uses which increase public access to the water are allowed.
 - d. All waterfront developments shall be evaluated in terms of how much visual and physical access to the water is provided for the use and enjoyment of the public.
11. Boating clubs are allowed subject to the granting of a Conditional Use Permit.
12. Waterfront parks and other public lands designated to be public waterfront parks shall afford public access to the water and use of the water for a variety of recreational and leisure time activities. (23.12.041).
13. Areas for parking shall be surfaced with asphalt or other similar material. (Page 17)
14. One parking stall would be provided for each clubhouse plus one parking stall for every 75 square feet of meeting rooms or lounges or other rooms as part of the club plus one paved parking space for every one and one-half moorages. (Page 17)

15. Off-street parking lots may be allowed on the east side of Lake Washington Boulevard, however, this parking may not be further than 300 feet from the waterfront parcel. The impact of the off-site parking lot on adjacent properties must be evaluated. (Page 49 and 45)
16. Perimeter landscaping is required on off-site parking lots. (Page 49)
17. Total signing shall not exceed 20 square feet, shall not be located in the front 10 foot setback area, and is to be approved as a part of the Conditional Use Permit. (Page 18)
18. Dry land setback requirements are not pertinent since no construction is proposed therein. (Page 25)
19. Moorages are considered to be an integral part of a boat club. (Page 31)
20. Any moorage, including piers, adjacent to public waterfront parks, shall not be located within a triangular area which extends outward from the property line of the waterfront park at a 45° angle from an extension of the property line over the water. (See example Page 32, Waterfront Districts)
21. All pier structures shall be either floating or have deck elevations not more than two feet above high water level. These piers are proposed to be floating. (Page 35)
22. Piers or any moorage shall not be closer than 10 feet from any property line. (Piers may be built on or straddling the common property line of the two adjoining owners' property by mutual agreement as denoted in Section 23.12.050(a)(7)(b) of Waterfront Districts, Page 36.)
23. Public restrooms shall be included in every semi-public moorage facility renting moorage to non-waterfront residents. (Page 38).
24. Buildings, structures, or other man-made elements shall not be constructed beyond the high water line with the exception of boat moorages, boat launching ramps, public piers and swimming floats, gas and oil sail structures, covered moorages, and required navigational aids. (Page 55)
25. The construction of any structure shall not extend beyond 250 feet from the high water line.
26. An environmental impact assessment should be made to determine if this is a major project with significant effects upon the environment, and therefore whether an impact statement should be prepared or not prior to approval.
27. The State of Washington Department of Ecology's Final Guidelines of the Shoreline Management Act states that the use of floating docks should be encouraged in those areas where scenic values are high and where conflicts with recreational boaters and fishermen will not be created, and that open pile piers should be encouraged where shore trolling is important, where there is significant littoral drift, and where scenic values will not be impaired.

28. Under the same Final Guidelines as mentioned in Item 27, priority is given to developments which provide recreational uses and other improvements facilitating public access to the shorelines. This same section further encourages that parking areas be located inland away from the immediate edge of the beach and recreational beaches.
29. The Department of Ecology appealed the Charles Hadley Substantial Development Permit for a marina on some basis that have a high parallel with this application. Some of the similarities are as follows:
- a. In providing for a private marina that will occupy approximately three acres of surface water of Lake Washington, the project constitutes a substantial impairment of public rights of navigation. This was the wording on the Charles Hadley appeal. This project proposes to impair approximately 5.2 acres of surface waters of Lake Washington.
 - b. There was no indication in the documents filed by the City of Kirkland with the Department of Ecology on the Hadley proposal that an investigation, determination or consideration of the environmental impact of the proposed project preceded issuance of the permit in question, contrary to the requirements of State Law. On this proposal by Mr. Hass, no environmental assessment has been made to determine if it is a major action with significant effects, and therefore if an environmental impact statement must be prepared.
 - c. The issuance of the permit by the City of Kirkland constitutes a major action significantly affecting the quality of the environment as defined by State Law on the Hadley proposal. A determination has not been made to this point as to whether or not the Hass proposal is a major action significantly effecting the quality of the environment, although there are similarities.
 - d. Another reason for appeal on the Hadley proposal was that the Substantial Development does not protect against adverse effects to the public health, the waters of the State, and their aquatic life. This also has not been assessed on the Hass proposal.
 - e. There is no real indication that issuance of the permit was preceded by an assessment of the effect the proposed Substantial Development would have on the scenic view of Lake Washington enjoyed by a significant number of people. This has also not been reviewed on the Hass proposal.
 - f. It does not recognize and protect the Statewide interest or local interest. This could also apply to the Hass proposal.
 - g. It will not result in long-term over short-term benefit. This could also apply to the Hass development.
 - h. It does not protect the resources and ecology of the shoreline. This also could apply to the Hass proposal.

CONCLUSIONS:

1. Parking criteria pursuant to the Waterfront Districts Ordinance, is satisfactory, providing Dr. Buhren's property to the south and adjacent the South City Beach is included as a party to the application in the official file.
2. The breakwater as proposed is a water-oriented use and not inconsistent with the public's enjoyment of the waterfront.
3. The proposed parking must be subject to the proper ratios as contained in the Zoning Ordinance. The waiver of the paving requirement for the parking lot may be accomplished through a Variance from the Board of Adjustment and is valid for a period of one year. (This will require subsequent action by the Board of Adjustment under separate application.)
4. The Environmental Assessment submitted by Mr. Hass addresses the question of the amount of square footage of meeting rooms, lounges, or other rooms as a part of the club and the number of employees to be on duty in order to determine the required number of parking stalls.
5. No signing has been proposed in conjunction with this application.
6. Any moorage, including piers, adjacent to public waterfront parks shall not be located within a triangular area which extends outward from the property line of the waterfront park at a 45° angle from the extension of the property line over the water. The Planning Commission finds that this provision should be waived inasmuch as this is a joint project (public/private).
7. Lighting of the facility has been adequately addressed in the environmental assessment.
8. The Planning Commission finds that the requirement for public restrooms has been adequately addressed in the Environmental Assessment.
9. Buildings, structures, or other man-made elements shall not be constructed beyond the high-water line with the exceptions as noted earlier in findings. Breakwaters was not one of the items mentioned as an exception to this statement. The Planning Commission finds that the breakwater of the design proposed is a routine water-requiring use and should not be classified as a "structure".
10. The Planning Commission finds that the breakwater which has been proposed is not a permanent structure and it can easily be removed. The Planning Commission finds that this is clearly a floating structure and not permanent in nature and therefore not subject to the limitation of the distance permissible into Lake Washington.
11. The Planning Commission finds that this proposal will materially improve public access to the shoreline, and will improve swimming because of the breakwaters and the fact that they keep boats further from the shoreline area. The Planning Commission further finds there will be greater use of the shoreline and that navigation will not be impaired and this proposal will not interfere with the use of the waters.

RECOMMENDATION OF THE PLANNING COMMISSION


The Planning Commission recommends approval of the application for a Substantial Development Permit and a Conditional Use Permit and adopts, as modified, the Findings and Conclusions as discussed earlier in this report with the following stipulations and conditions:

1. The applicant shall demonstrate engineering assurance of the stability of the breakwater design as proposed.
2. The marina shall be limited to sailboats only.
3. The applicant shall submit independent engineering data to substantiate the design of the anchors as proposed in the development.
4. The development shall insure public access to the public waterfront parks.
5. It is recommended the City Council address the issue of insurance and adequate protection to the City of Kirkland.
6. The applicant shall demonstrate reasonable assurance that the existing use of the City dock for swimming or fishing will not be impaired.
7. The Planning Commission requires that the property owner to the south (Dr. Buhren) shall join in the application.
8. It is recommended to the City Council that there be an inclusion in the lease of the optional proposal of Mr. Hass as contained in Item No. 8 of the Environmental Assessment submitted titled: Possible Purchase of Sailboats East Property by the City.
9. The specific conditions of Mr. Hass' letter to the Kirkland Park Board of November 8, 1972 and the Park Board's additions and/or corrections to that proposal shall be adhered to as a final condition of approval.

The motion was seconded and all members voted yes with the exception of one abstention.



 Chairman



 Director of Department of Community Development

Enclosure