

RESOLUTION NO. R-2255

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING ISSUANCE OF A SUBSTANTIAL DEVELOPMENT PERMIT AND APPROVING AN AMENDMENT TO AN EXISTING UNCLASSIFIED USE PERMIT AS APPLIED FOR IN DEPARTMENT OF COMMUNITY DEVELOPMENT FILE NO. SDP-UUP-74-15(P) SAID PROPOSAL BEING KNOWN AS THE "HADLEY DEVELOPMENT".

WHEREAS, Resolution No. 2163, adopted by the Kirkland City Council on February 5, 1973 and Resolution No. 2206, adopted by the Kirkland City Council on September 4, 1973, the City of Kirkland did approve the issuance of a Substantial Development Permit and Unclassified Use Permit to C.S. Hadley, Sr. for a proposed development commonly known as the "Hadley Development" and assigned by the City of Kirkland file Nos. SDP-72-2 and UUP-72-19, and

WHEREAS, request for review of the Substantial Development Permit was made by the Department of Ecology and others to the Shoreline Hearings Board, and within said proceeding before the Shoreline Hearings Board said Board did enter an Order sustaining the Substantial Development Permit as to the moorage facility and vacating the permit as to the proposed office structure, and

WHEREAS, the review proceedings in regard to said Substantial Development Permit have not yet been terminated in that any party to the Shoreline Hearings Board review proceedings may appeal said Order to the Superior Court and the time for such appeal has not expired, and

WHEREAS, the applicant without prejudice to his right to proceed under the Substantial Development Permit and Unclassified Use Permit issued pursuant to City of Kirkland Resolution No. 2163 and Resolution No. 2206, in the event said review proceedings should terminate with both the moorage facility and office structure portions sustained, has made a new application, and

WHEREAS, said new application to the City of Kirkland is for a Substantial Development Permit and modification of the existing Unclassified Use Permit wherein the proposed office structure design is altered to not exceed 35 feet above average grade, and

WHEREAS, said new application has further, at the request of the City of Kirkland, extended the proposed moorage of the public pier westerly 50 feet in order to allow the moorage of three historic vessels presently owned by Northwest Seaports, Inc., and

WHEREAS, in making such change to the proposed moorage, the applicant has done so without prejudice to his right to withdraw that proposed change, should it become an issue in regard to approval of the new application, and

WHEREAS, the original Environmental Impact Statement and additional Environmental Assessment dated May 30, 1974, have been available to the Planning Commission and the City Council in the course of their consideration of the Hadley Substantial Development Permit Application and the application to amend the original Unclassified Use Permit, and

WHEREAS, during said consideration and reconsideration the Planning Commission did recommend approval of the new Substantial Development Permit and amendment to the formerly approved Unclassified Use Permit, and

WHEREAS, on June 17, 1974, the City Council did in open regular meeting, consider the new Substantial Development Permit application and the application for an amendment to the formerly approved Unclassified Use Permit, including said modifications to his proposal, the Environmental Impact Statement, including comments received thereon, the Environmental Assessment dated May 30, 1974 and the report and recommendation of the Planning Commission,

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

Section 1. Amendment to the former Unclassified Use Permit approved by Resolution No. 2163, adopted February 5, 1973 and Resolution No. 2206, adopted September 4, 1973, is hereby given approval and the new Substantial Development Permit applied for by the above named applicant is hereby granted, 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 the Department of Community Development File No. SDP-UUP-74-15(P), as amended, which Findings, Conclusions and Recommendations are by this reference adopted by the Kirkland City Council as though fully set forth herein. All recommendations adopted by this reference shall be conditions of approval of both of said permits.

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Section 2. The approval for Substantial Development Permit and amendment to Unclassified Use Permit granted in Section 1 hereinabove is granted without prejudice to the right of the permittee to proceed with development as previously approved by Resolution No. 2163 and Resolution No. 2206, in the event that the review proceedings initiated in regard to the Substantial Development Permit therein granted, terminate with said Substantial Development Permit sustained as to both the moorage facility and the office structure.

Section 3. A certified copy of this Resolution and Order shall attach to and become a part of the Substantial Development Permit and the amended Unclassified Use Permit or evidence thereof delivered to the permittee.

Section 4. Nothing in this Resolution, Order or Permit shall be construed as a grant, authorization or issuance of a Street Use Permit, easement, license or lease of any nature as to the Second Avenue South street-end lying westerly of Lake Street South.

Section 5. 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.

Section 6. This permit may be rescinded pursuant to Section 23.30.100 of Kirkland Ordinance No. 2183 and/or Section 14.7 of the Shoreline Management Act of 1971, in the event the permittee fails to comply with any condition hereof.


Section 7. Construction pursuant to the Substantial Development Permit shall not begin or be authorized within 45 days from 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.

Section 8. Pursuant to Shoreline Management Act of 1971 and Section .08 of Ordinance 2165 of the City of Kirkland certified or conformed copies of this Resolution shall be delivered to the following:

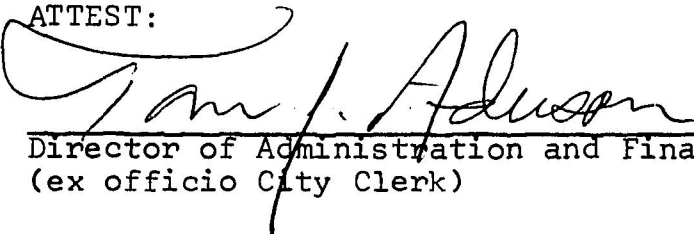
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- A. The applicant.
- B. The Department of Community Development for the City of Kirkland.
- C. The Kirkland Building Official.
- D. The Department of Public Services for the City of Kirkland.
- E. The Department of Fire Services for the City of Kirkland.
- F. The Police Department for the City of Kirkland.
- G. The Office of the Director of Administration and Finance (ex officio City Clerk) for the City of Kirkland.
- H. The Department of Ecology for the State of Washington.
- I. The Office of the Attorney General for the State of Washington.

ADOPTED in regular meeting of the Kirkland City Council on the 17 day of June, 1974.



Mayor

ATTEST:


Director of Administration and Finance
(ex officio City Clerk)

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DEPARTMENT OF COMMUNITY DEVELOPMENT

ADVISORY REPORT
FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

____ PREPARED BY _____ DATE _____
____ RECOMMENDED BY _____ DATE _____
XX ADOPTED BY _____ DATE June 17, 1974

____ STAFF _____
____ BOARD OF ADJUSTMENT _____
____ HOUGHTON COMMUNITY COUNCIL _____
____ PLANNING COMMISSION _____

XX CITY COUNCIL AS INCORPORATED IN
XX RESOLUTION _____ ORDINANCE _____
NUMBER R-2255
DATE June 17, 1974

FILE NUMBER SDP-UUP-74-15(P)

APPLICANT C. S. Hadley, Sr.

PROPERTY LOCATION 135 Lake St. So.
Application for Substantial Development Permit and Renewal of Unclassified Use Permit (Marina and Office Building)

SUBJECT _____

HEARING/MEETING DATE June 17, 1974

BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED (1) Environmental Assessment (May 30, 1974)
(2) Environmental Impact Statement (August 1, 1973), (3) State Attorney
General - Request for Review (4) Shorelines Hearings Board - Proposed
Order.

FINDINGS:

1. The applicant originally applied for a change in the Comprehensive Plan from Single Family to Business and an Unclassified Use Permit in order to locate a motor home sales and display business on the property. These applications were contained in Department of Community Development File No. UUP-CPA-73-7(P). On November 5, 1973, the Kirkland City Council took the following action on the above permits:
 - (a) A change in the Comprehensive Plan to retail business in conjunction with the Freeway Interchange District of Chapter 23.31 of the Kirkland Zoning Ordinance No. 2183 was granted by Ordinance No. 2240.
 - (b) An Unclassified Use Permit for sales and display of motor homes was granted by Resolution No. 2220 subject to the Findings, Conclusions, Conditions and Recommendations of the Kirkland Planning Commission report to the City Council.
2. An Environmental Assessment was submitted on the original application and a Negative Declaration was reached and therefore a full environmental impact statement was not required.
3. On December 13, 1973, the Planning Commission approved the applicant's landscape plan for the original Unclassified Use Permit.
4. On February 15, 1974, Mr. Davis requested the right to handle travel trailers as well as motor homes in a letter addressed to Gerald F. Link, Director of the Department of Community Development. This was later amended in a letter dated March 14, 1974, to request the sale of the following units in addition to motor homes: Slide-in campers, travel trailers, 5th wheel trailers, and van conversions. The Staff did not feel they had the discretion to allow these additional uses and deferred the matter to the Planning Commission.
5. The Kirkland Planning Commission, in their regular meeting of March 14, 1974, determined that "If the applicant wishes additions or changes to the Unclassified Use Permit granted, he must make formal application to modify it."
6. On April 2, 1974, the applicant applied for a new Unclassified Use Permit application to amend the old one for the purpose of allowing the following to be sold on the property in addition to motor homes:
 - (a) Mini-motor homes
 - (b) Van conversions
 - (c) Chassis mounts
 - (d) Slide-in campers
 - (e) 5th wheel trailers
 - (f) Travel trailers
 - (g) Vacation trailers
 - (h) Accessories
 - (i) Parts
 - (j) Supplies

7. No site plan changes are proposed to the original plans approved with the former Unclassified Use Permit.
8. The applicant, in his new Unclassified Use Permit application, makes the following statement in Question No. 12: "The total maximum number of units on the property for resale will remain the same as on the other permit."
9. The Responsible Official has considered the environmental effects of the proposed action and has determined that there will not be any significant environmental effects and therefore a full environmental impact statement will not be required.

CONCLUSIONS:

1. Since the Responsible Official reached a negative declaration, a full environmental impact statement will not be required.
2. The action of the City Council by Ordinance No. 2240 and Resolution No. 2220 establishes that retail uses can be appropriate for this property.
3. One of the conditions of approval of the original Unclassified Use Permit was as follows: "...the number of motor homes allowed on the site will be limited to twenty (plus three in the service bay)." If the total of all units on the property could not exceed twenty plus three in the service bay, the intent of the approval in the original permit would be maintained.
4. Even though the applicant's application states that "The total maximum number of units on the property for re-sale will remain the same as on the other site," it should be emphasized that the original permit stated very clearly that the total number of motor homes allowed on the site will be limited to twenty "plus three in the service bay". There is no mention in the Conditions of approval relating to units for re-sale, and that concept should be discarded.

RECOMMENDATIONS:

Based on the above Findings and Conclusions we hereby recommend that this Unclassified Use Permit application be approved allowing the applicant the right to sell mini-motor homes, van conversions, chassis mounts, slide-in campers, fifth wheel trailers, travel trailers, vacation trailers, accessories, parts and supplies on the subject site in addition to motor homes. This approval shall be conditioned upon the following:

1. The Findings, Conclusions, Conditions and Recommendations of the original permit as contained in Department of Community Development File No. UUP-CPA-73-7(P), and specifically Resolution No. 2220.

2. The total number of units allowed on the site will be limited to twenty (plus three in the service bay). For the purposes of this application, units shall be defined as any one individual motor home, mini-motor home, van conversion, chassis mount, slide-in camper, 5th wheel trailer, travel trailer, or vacation trailer. This condition shall hold to new and used units alike.

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FINDINGS:

1. The applicant is applying for a modification to an approved Unclassified Use Permit to reduce the height of the approved building from a 6-level structure to one that would be 4 levels and 35 feet or less above average grade, as required by the Shoreline Management Act of 1971. An additional proposal is attached to this request for the modification of the Unclassified Use Permit to include an extension of the main pier approximately 50 feet westward in order to allow the location of 3 historic vessels.
2. This also represents an application for a new Substantial Development Permit in conjunction with the above referenced Unclassified Use Permit amendment. The two permits are being handled concurrently and the Findings, Conclusions and Recommendations of one will also hold for the other.
3. As a result of the Shoreline Hearings Board process on the approved Substantial Development Permit issued by the City Council under Resolution No. 2206, the applicant is proposing modifications to the original plan which, in the opinion of the City Attorney, should be processed for consideration before the City as a modification to the Unclassified Use Permit referenced above and the review of an entirely new application for a Substantial Development Permit. It is the City Attorney's opinion that once the Shoreline Hearings Board review process began on the original proposal the City no longer would have jurisdiction to consider modifications to that Substantial Development Permit. The Shorelines Hearings Board has sustained the marina portion of the development. The City of Kirkland is now requesting in conjunction with Northwest Seaports, Inc., that the applicant consider a modification to extend the main pier of the marina approximately 50 feet to the west to provide moorage space for three historic vessels at the west end of the facility. The applicant has concurred with this request by the City and Northwest Seaports for this modification, however, his application has been submitted so as not to prejudice the already approved marina in the event serious objections are raised to the placement of the maritime museum facility as part of the marina complex. (Reference should be made to Attachment #1, the Department of Ecology appeal of the structure and Attachment #2, the proposed final order of the Shorelines Hearings Board).
4. All relevant conditions of approval of the original Unclassified Use Permit and Substantial Development Permit should be continued as conditions of this permit where appropriate. These conditions will be listed separately under the Recommendations in this report so they can be incorporated and adopted by the City Council by Resolution as conditions of approval.

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Findings, cont'd

5. Development specifications - The following offers the differences for comparison purposes of this application as opposed to the last approved application:

	<u>This Application</u>	<u>Last Approved Application</u>
a. Building floor area (gross)	30,700 sq.ft.	34,812 sq.ft.
b. Setbacks in feet		
(1) North property line	Ave. 2-20 ft.	Ave. 120 ft.
(2) South property line	Ave. 25 ft.	0
(3) East property line	± 7 feet	± 5 feet
(4) High water line	23 feet	23 feet
c. Building height (in feet)		
(1) From the curb elevation	25 feet	65 feet
(2) From average grade	35 feet	75 feet
(3) High water line	45 feet	± 85 feet
(The height measurements of the former structure do not include a 12 foot elevator tower on the building.)		
d. Number of off-street parking stalls (Refer to the Environmental Assessment for off-street parking computations.)	92	104
e. Marina specifications	(Number moorages unchanged - western pier extended 50 feet to accommodate historic ships at City's request.)	

6. Resolution No.'s 2163 and 2206 originally granted approval to the former permits and the original Unclassified Use Permit application and contained certain conditions of approval. (Reference Resolution No. 2206, Exhibit No. 2 in the Environmental Impact Statement. Resolution No. 2163 is not attached with the Environmental Impact Statement. The conditions of approval therein are adopted by reference in Resolution No. 2206.)

7. Since this is a new Substantial Development Permit application, and not an amendment to the former one, the application must conform to all relevant policies of the newly adopted Kirkland

Findings, cont'd

Shoreline Master Program. (Reference should be made to Pages 6 through 10 of the environmental assessment dated May 30, 1974, for a discussion on how the project complies with the Kirkland Shoreline Master Program.

8. The proposed private use of the 2nd Ave. So. street-end is discussed on Page 10 of the Environmental Assessment dated May 30, 1974. This discusses the legal issues and the City Council authority to lease street-ends for private use. Further, the matter has been referred to the Park Board for their comments.

CONCLUSIONS:

1. The fact that the proposed structure will be reduced in height to less than 35 feet above average grade does bring it in compliance with the Shoreline Management Act of 1971. The proposed extension of the pier approximately 50 feet westward for the location of the maritime museum also complies with the former requirements for the granting of Unclassified Use Permits prior to the adoption of Waterfront Districts.
2. Since both the new Substantial Development Permit application and the amendment to the former Unclassified Use Permit are being handled concurrently, the Findings, Conclusions and Recommendations in this report are relevant to both applications.
3. If the City originated proposal to extend the pier 50 feet westward for the location of the 3 historic ships becomes controversial and would hold the approval of the applications up, this proposal should be retracted from this application without prejudice and the marina facility would remain unchanged from the original application approved by the City of Kirkland and the Shorelines Hearings Board.
4. The relevant conditions of approval of the original Unclassified Use Permit and Substantial Development Permit should be continued as conditions of approval with these applications.
5. The changes proposed are in proportion with the original Unclassified Use Permit application as granted by Resolution No. 2206. It can be assumed that a share of the visitors coming to the maritime museum will not come by automobile and further that the peak requirement for off-street parking for this facility will be on week-ends when a significant surplus in off-street parking will be available within the office structure.
6. The application does conform to all relevant policies of the newly adopted Kirkland Shoreline Master Program.
7. The applicants do have rights of access on the 2nd Ave. So. right-of-way and the Kirkland City Council is vested with the authority to lease a street-end when the public benefit is a prime mover in the decision which the City Council makes in allowing the private use.

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RECOMMENDATIONS:

Based upon the above Findings and Conclusions we hereby recommend approval of this Substantial Development Permit application and amendment to the former Unclassified Use Permit subject to the following conditions:

1. At the time of application for a building permit, the applicant shall present plans and measures to insure that the overboard discharge of debris and waste from small recreational watercraft which will be used in the marina is minimized.
2. The proposed wave dampener be designed and approved by a recognized authority certifying the performance characteristics thereof, and this is to be submitted to the Planning Commission for their review in conjunction with their review of the final design documents. The designer shall certify that the design has been performed within current standards of professional practice with specific attention given to indicate that:
 - a. The main pier facility will not hold pollutant residuals in the area of the marina for unacceptably long periods of time with special reference to the more quiescent periods of the summer when surface flushing currents are minimal.
 - b. That the energy performance characteristics of the wave dampener with respect to reflected wave energy will not cause an erosive effect on the adjacent shoreline.
 - c. That the wave dampener system will achieve the desired characteristics of energy dissipation without undesirable deflection or amplitude of wave energy aggravating shoreline erosion.
3. The applicant shall propose facilities to be provided by the marina for removing sewage from boat holding tanks. Alternative negotiations with the City may be permitted to discharge this sewage waste to the sewers eliminating the necessity for storage tanks. Satisfactory plans and measures to achieve this requirement shall be presented to the Planning Commission during final design review.
4. The applicant shall be required to provide a street name sign, stop signs, yield right-of-way signs, crosswalks, etc., if deemed necessary by the Public Service Director.
5. The applicant shall incorporate the use of collection manholes as identified in the Final Environmental Impact Statement and as shown by a schematic section also included in the final statement. Such special manholes shall be incorporated into the storm water system to provide settlement of fine materials from

Recommendations, cont'd

- earthwork and trapping of oils and greases from paved parking areas.
6. The applicant shall demonstrate conformance with the Federal Water Pollution Control Act Amendment of 1972 (P)L.92-500).
 7. The applicant shall demonstrate conformance with all self-imposed conditions in applicant's letter to the Department of Community Development dated June 9, 1973, and incorporate it as part of the Final Environmental Impact Statement.
 8. The applicant shall be required to grout all voids above water and ground in rip rap at the site.
 9. The applicant shall submit a lighting plan which exhibits that lighting will be directional in character and be directed away from adjacent residential structures.
 10. A specific plan shall be submitted by a landscape architect demonstrating proposed planting and pedestrian access improvements in the final design stages to be approved by the Planning Commission.
 11. The site and development design as set forth in the revised site plan dated 11 April 1974 includes the use of the 2nd Ave. So. street-end from Lake St. So. westerly into Lake Washington for both public and private purposes, including vehicular and pedestrian access to applicant's proposed development and to Lake Washington, including portions of the total development which have been designated and are to be retained as open and freely available to the general public. The law relating to street vacations does not permit the City to vacate said street-end, nor to convey same to any private party. However, the City Council in its municipal capacity may, upon finding the requisite public benefit resulting therefrom, enter into an agreement for a street use permit permitting the applicant to use all or a portion of said street-end. Nothing in this approval shall be taken as granting such a street use permit.
 12. The proposed office building, including elevator shafts, stair wells, mechanical equipment, air vents, etc., or the proposed roof, whichever is greater, shall not exceed 35 feet above average grade. The development shall conform to the revised site plan dated 11 April 1974 as included in the Department of Community Development File No. SDP-UUP-74-15(P). Such site plan includes:
 - a. The configuration of the parking structure, office building and marina, including setbacks, building and structure heights and uncovered moorage slips.
 - b. Public pier and breakwater to be open for public use at all times, with temporary boat tie-up to be integrated into the southern portion of the main pier design. An arrangement may be made with the City by Northwest Seaports, Inc. to control public access to the westerly breakwater to guarantee security to the historic ships proposed to be tied up in that area.

Recommendations, cont'd

- c. The westerly 23 feet which is the high water line setback area to be designated and available for public use, along with adequate and proper access from public rights-of-way. This is to be designed and developed by the applicant and approved by the Planning Commission in the final design process.
- d. The outside plaza level is to be as close to the elevation of Lake Street as practical, and to be integrated with surrounding pedestrian walkways and systems.
13. The specific number of off-street parking stalls shall be subject to the analysis identified as Exhibit No. 1 to the Hadley Environmental Assessment in the Department of Community Development File No. SDP-UUP-74-15(P). The walls of the parking structure shall be architecturally screened.
14. Prior to issuance of building permits, all final design documents shall be submitted to the Planning Commission for review and approval.
15. The breakwater on the western portion of the marina shall be allowed to be extended approximately 50 feet further westward and the three historic ships owned by Northwest Seaports, Inc. shall be allowed to locate. Since it is anticipated that this will be a benefit to the City of Kirkland and since additional parking demands will be during off-hours, no additional parking will be required for this facility.
16. The applicant shall be required to provide waste receptacles for the marina facility. This is to be included in the final design documents submitted for approval by the Kirkland Planning Commission.
17. The applicant shall demonstrate in the final design documents that public access will be designed for provisions for handicapped and disabled persons, where feasible.
18. The applicant shall not be allowed to charge a fee to those boats tying up to the main pier structure. Any deviation to this requirement must receive approval from the Kirkland City Council. Time limits established for the temporary tie-up of boats on the main pier structure shall be reviewed and approved by the Park Board.
19. All improvements as shown in the revised site plan dated 11 April 1974 must be completed prior to the issuance of an occupancy permit.
20. The high water line setback area shall be clearly marked on the revised site plan dated 11 April 1974 to show that it will be available for public access as well as improved and developed with landscaping for this purpose by the developer.