

RESOLUTION NO. R - 2273

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE ISSUANCE OF A STREET USE PERMIT TO C.S. HADLEY, SR. FOR A PORTION OF THE 2ND AVENUE SOUTH STREET END.

WHEREAS, C.S. Hadley, Sr. has proposed developed of a moorage, office building and parking facility complex to be constructed in the vicinity of 2nd Avenue South and Lake Street South in the City of Kirkland, all as set forth in Exhibits A and B appearing in City of Kirkland, Department of Community Development File No. SBD-72-2 and UUP-72-19 and approved by City of Kirkland Resolution No. R 2255 adopted June 17, 1974, and

WHEREAS, said development includes a substantial portion of 2nd Avenue South as it extends westerly from Lake Street South out into Lake Washington, and

WHEREAS, it appears from said Exhibits A and B that such development proposes for and preserves freedom of access to Lake Washington, together with use of certain portions of said development, both within and without said street end, all to the benefit and use of members of the general public, and

WHEREAS, the City Council finds that use or development of said street end by the City of Kirkland is neither contemplated nor provided for within the immediate foreseeable future and that use and development as requested by said applicant would provide a substantial public benefit,

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

Section 1. The City Council finds that the granting of a Street Use Permit for that portion of 2nd Avenue South lying westerly of Lake Street South as said street end extends into Lake Washington, in accordance with the provisions, terms and conditions of the Street Use Permit attached hereto as Exhibit

A and by this reference incorporated herein, is in the public benefit.

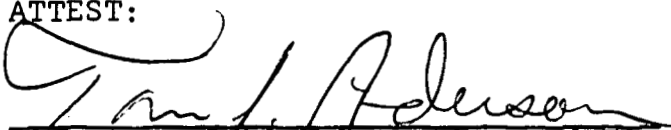
Section 2. The mayor is hereby authorized and directed to sign on behalf of the City of Kirkland said Street Use Permit.

ADOPTED by a majority vote of the Kirkland City Council in regular meeting on the 21st day of October, 1974.



Mayor

ATTEST:



Director of Administration and Finance
(ex officio City Clerk)

CITY OF KIRKLAND
2nd AVENUE SOUTH STREET END USE PERMIT

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WHEREAS, C.S. Hadley, Sr. has heretofore proposed development of a marina, office building and parking facilities complex, including therein, space for the moorage of historical ships and a maritime museum, all to be constructed along the shores of Lake Washington, westerly of Lake Street in the vicinity of 2nd Avenue South and the 2nd Avenue South street end, all as specifically set forth in Exhibits A and B, appearing in City of Kirkland Department of Community Development File No. SBD-72-2 and UUP-72-19 and approved by City of Kirkland Resolution No. R2255 adopted June 17th, 1974, and which exhibits by this reference are incorporated into this permit as though fully set forth, and

WHEREAS, said development contemplates and includes use of a substantial portion of 2nd Avenue South as it extends westerly from Lake Street South out into Lake Washington, and

WHEREAS, it appears from said Exhibits A and B such development provides for and preserves freedom of access to Lake Washington, together with full public use of certain portions of said development, both within said street end and upon private property, and

WHEREAS, the City Council finds that use or development of said street end by the City of Kirkland is not practical within the immediate foreseeable future and that the uses of said street end as requested by applicants will provide and preserve a public benefit,

NOW, THEREFORE, IT IS AGREED, as follows:

1. The City of Kirkland hereby grants to C.S. Hadley, Sr., right to use and place encroachments in 2nd Avenue South as it lies westerly of Lake Street South and extends into Lake Washington, subject to the terms and conditions hereinafter set forth, and for a period not to exceed 15 years, provided however, that said permit may be renewed for additional periods of 15 years.

2. Use of the 2nd Avenue South street end, including the placement of encroachments therein, shall be restricted to the development and uses as set forth in Exhibits A and B, as approved by Resolution No. R-2255 of the City of Kirkland

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adopted June 17, 1974 and subject to all conditions therein imposed. Any other development or use or any modification of such development and use failing to meet the unclassified use and substantial development permit conditions, or which any way restricts or limits the public access and the public use as set forth in said Exhibits A and B, shall cause an immediate revocation of this permit.

3. Upon either revocation or termination of this permit, all improvements and encroachments placed within said street end shall forthwith be removed and the costs of such removal, including any action required to enforce same, shall be solely that of the permittee, provided that the City may, at the time of such revocation or termination, determine that the public interest would be better served by retaining said improvements and encroachments, in which case ownership of same shall revert to the City.

4. In addition to all other terms and conditions of this permit set forth or by reference incorporated herein:

A. The City shall have within the permit area, the right to construct additional "finger" or "moorage" piers extending southerly from and connecting to the permittee's pier which gives public access to the maritime museum area as designated on Exhibits A and B.

B. At the time of initial construction, permittee shall, at his expense, grade the southerly ten feet of the 2nd Avenue South street end to an elevation satisfactory to the City Manager as being compatible with permittee's development and to the property to the south of said street end and to landscape said southerly ten feet.

C. Permittee shall, at his sole expense, maintain the area described in paragraph 6, including all encroachments and improvements placed therein, the maritime museum area and all areas of public access.

D. The permittee shall hold and save harmless the City of Kirkland, its officers, agents and employees from any and all claim or claims, real or imaginary of whatsoever nature, made or asserted against the City of Kirkland, its officers, agents or employees growing out of the construction, development, use, maintenance or occupancy of said street end, or any encroachment placed within said street end by permittee. The permittee shall obtain, at his expense, comprehensive liability insurance in limits at least equal to those carried by the City of Kirkland under its own liability insurance policy and shall provide the City with satisfactory proof of the continued

insurance coverage during the life of this permit, or any renewal thereof. Such insurance shall include the City of Kirkland as an additional insured or beneficiary.

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5. Permittee shall pay for the use of said street end and the placement therein of said improvements and encroachments a permit fee annually on the 31st day of December, (or such other date as may be mutually agreed upon in writing) in an amount equal to 7% of the gross receipts received by permittee from all moorage piers within or which extend into said street end pursuant to Exhibits A and B; provided however, that pursuant to RCW 35.23.410 the amount of said rental shall be reviewed and following such review may be adjusted every five years during the life of the permit term and any renewals thereof. And further provided that said rental permit fee shall be waived during such time or times as there is maintained within the area so indicated on Exhibits A and B, space for a maritime museum, including moorage space for historical ships. In the event such maritime museum is maintained and operated by any person other than permittee, such space shall be made available to such operator without charge. (It is presently contemplated to be maintained and operated by Northwest Seaports, including the Wawona, Light Ship Relief and Arthur Foss.)

6. The portion of the 2nd Avenue South street end for which this permit is issued is limited to 2nd Avenue South lying westerly of Lake Street South within the City of Kirkland and easterly of the inner harbor line in Lake Washington, less the southerly 10 feet thereof.

7. This street use permit shall not be transferable by permittee for any reason whatsoever without the prior consent of the Kirkland City Council expressed by Resolution.

8. No waiver by either party of any term or condition of this agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or a different provision of this agreement and permit.

9. This agreement and permit merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement and permit between the City of Kirkland and C.S. Hadley, Sr. concerning the right to use and to place encroachments within the portion of the street end hereinabove described.

Second Draft

9/23/74

As amended by Council 10/21/74

10. In addition to the remedies provided in this permit, and otherwise by law, this agreement and permit shall be specifically enforceable by either party.

DATED at Kirkland, Washington, this 21st day of October, 1974.

CITY OF KIRKLAND

Robert R. New
by: Mayor

ATTEST:

Tom J. Aduson
Director of Administration and Finance
(ex officio City Clerk)

C.S. Hadley, Sr.
C.S. Hadley, Sr., Permittee

This permit authorized by Resolution No. R-2273, adopted by the Kirkland City Council on the 21st day of October, 1974.

Robert R. New
Mayor

ATTEST:

Tom J. Aduson
Director of Administration and Finance
(ex officio City Clerk)

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RECORDED

OF
REQUEST OF

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DIRECTOR
RECORDS & ELECTIONS
KING COUNTY, WASH.

FILED for Record at Request of

City of Kirkland

210 Main St.

Kirkland, Wa. 98033