

## RESOLUTION NO. R-2306

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN AMENDMENT TO AN UNCLASSIFIED USE PERMIT AND SUBSTANTIAL DEVELOPMENT PERMIT AS APPROVED IN R-2255, AS APPLIED FOR BY MOSS BAY JOINT VENTURE, BEING DEPARTMENT OF COMMUNITY DEVELOPMENT FILE NO. UJP-SDP-75-17(P), IN REGARD TO CONVERTING APPROXIMATELY 6,000 SQUARE FEET OF OFFICE SPACE TO 5,000 SQUARE FEET OF RESTAURANT SPACE, ENCLOSE AN ADDITION 3,700 SQUARE FEET OF FLOOR SPACE WITHIN THE ORIGINAL BUILDING LINES, PERMIT USE OF THE FUELING FACILITIES, AND CONSTRUCTION OF A PIER FUEL DISPENSING OFFICE, AND SETTING FORTH CONDITIONS TO WHICH SUCH UNCLASSIFIED USE PERMIT AND SUBSTANTIAL DEVELOPMENT PERMIT AMENDMENTS SHALL BE SUBJECT.

WHEREAS, the Kirkland Department of Community Development has received an application for an amendment to an Unclassified Use Permit and Substantial Development Permit as approved in R-2255, said application having been made by Moss Bay Joint Venture, and said property as legally described in said application is zoned Waterfront District I, and

WHEREAS, such uses as described above are allowed within a Waterfront District I zone upon issuance of an Unclassified Use Permit and Substantial Development Permit amendment, and

WHEREAS, the application has been submitted to the Kirkland Planning Commission who held public hearing thereon at their regular meeting of May 8, 1975, and

WHEREAS, pursuant to City of Kirkland Resolution No. 2181 concerning environmental policy and the State Environmental Policy Act, an environmental worksheet has been submitted to the City, reviewed by the responsible official of the City of Kirkland and a negative declaration reached, and

WHEREAS, said environmental worksheet and declaration has been available and accompanied the application through the entire review process, and

WHEREAS, the Kirkland Planning Commission, after their public hearing and consideration of the recommendations of the Department of Community Development and having available to them the environmental worksheet and negative declaration did adopt certain Findings, Conclusions and Recommendations and did recommend approval of Amendment subject to the specific conditions set forth in said recommendations.

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

Section 1. The Unclassified Use Permit and Substantial Development Permit Amendment is hereby given approval, subject to the conditions set forth in the Findings, Conclusions and Recommendations and are by this reference adopted by the Kirkland City Council as though fully set forth herein and subject further to:

a. Permanent Occupancy Permit for moorage shall not be issued until the outer pier occupied by Seaports Northwest has been stablized, and

b. The fuel dock structure has been redesigned to have an area of not to exceed 100 square feet and a height dimension not to exceed the minimum allowable height under the Building Code for structures occupied by human beings.

Section 2. A certified copy of this resolution, together with the Findings, Conclusions and Recommendations herein adopted shall attach to and become a part of the Unclassified Use Permit and Substantial Development Permit Amendment and approval, or evidence thereof delivered to the permittee.

Section 3. Nothing in this resolution 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 expressly set forth herein.

Section 4. The Unclassified Use Permit, Substantial Development Permit Amendment applied for by Moss Bay Joint Venture shall be issued subject to the performance standards and other conditions of approval set forth herein above and included by reference in the foregoing Findings. Failure on the part of the holder of an Unclassified Use Permit-Substantial Development Permit to initially meet or maintain strict compliance with said standards and conditions shall be grounds for revocation in accordance with Section 23.30.100 of Ordinance 2183.

Section 5. Certified or conformed copies of this Resolution shall be delivered to the following:

Resolution No. R-2306

- (a) Applicant
- (b) Department of Community Development of the City of Kirkland
- (c) Building Department of the City of Kirkland
- (d) Fire Department of the City of Kirkland
- (e) Police Department of the City of Kirkland
- (f) Public Service Department of the City of Kirkland
- (g) The Office of the Director of Administration and Finance (ex officio City Clerk) for the City of Kirkland.

ADOPTED in the regular meeting of the City Council on the 19th day of May, 1975.

*Robert Rhein*

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Mayor

ATTEST:

*Janet Adams*

\_\_\_\_\_  
Director of Administration & Finance  
(ex officio City Clerk)



DEPARTMENT OF COMMUNITY DEVELOPMENT  
**ADVISORY REPORT**  
FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

PREPARED BY \_\_\_\_\_ DATE \_\_\_\_\_  
RECOMMENDED BY \_\_\_\_\_ DATE May 8, 1975  
ADOPTED BY \_\_\_\_\_ DATE \_\_\_\_\_

STAFF \_\_\_\_\_  
BOARD OF ADJUSTMENT \_\_\_\_\_  
HOUGHTON COMMUNITY COUNCIL \_\_\_\_\_  
PLANNING COMMISSION \_\_\_\_\_  
CITY COUNCIL AS INCORPORATED IN \_\_\_\_\_

*John Cushing*  
John Cushing, Chairman

RESOLUTION \_\_\_\_\_ ORDINANCE \_\_\_\_\_  
NUMBER \_\_\_\_\_  
DATE \_\_\_\_\_

FILE NUMBER UUP-SDP-75-17(P)  
APPLICANT MOSS BAY MARINA JOINT VENTURE  
PROPERTY LOCATION 135 Lake St. So.

SUBJECT Application for an Unclassified Use Permit and Substantial Development Permit (Amendment to an approved SDP as granted in R-2255)  
HEARING/MEETING DATE MAY 19, 1975  
BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED (A) Site Plan (B) Bldg. Plans (C) Elevations (D) Fuel Dispensing Ofc. (E) Area & Parking Analysis (F) Prel. Proj. Site Plan (G) Environmental Assessment (H) Application for UUP (I) Applic. for SDP

(J) Zoning Map

FINDINGS:

A. SUMMARY OF THE PROPOSED ACTION

1. This is an application by Moss Bay Joint Venture for an amendment to an Unclassified Use Permit and a Substantial Development Permit as approved in Resolution R-2255 by the Kirkland City Council. The amendment would consist of the following:
  - a. Conversion of approximately 6,200 square feet of office space to approximately 5,000 square feet of restaurant space. This will include the installation of additional elevator which will displace two previously planned parking spaces.
  - b. Enclosure of an additional 3,700 square feet of office space and stairway within the previously approved building lines. This will include extension of the stairway through the two lower parking levels which will displace two previously planned parking spaces.
  - c. Completion of the proposed fueling facilities and use of these facilities as provided for the previous application. This use would include connection of dispensing equipment, piping systems, pumps, storage tanks, and a fueling pier dispensing office.
2. Justification. Moss Bay Joint Venture has indicated that they presently have a restaurant client who wishes to locate within the building, and would require 3,043 square feet. A freight elevator is being requested for the restaurant, which will not be used for the general public use.
 

Through extending the north stairwell down through the two lower parking levels, this would provide access from parking levels to the office space, and the applicant has indicated that it is a major structural component of the added office space.

"The displacement of office space by the restaurant significantly reduces the parking need during the day, thereby reducing the efficiency of the office parking facilities. Addition of the proposed parking space will provide more optimum daytime use of the space which are required for off-hour Marina and Restaurant Use. Additional office space can be provided within the building lines and the height of the original approved project and still maintain the essential exterior characteristics of the project. The economic base of the total project will be enhanced by the additional lease area in proportion to parking and site development costs, with improvement to the economic climate and tax base of the City anticipated as a result."

"The fueling dock has been planned and proposed as an integral part of the marina from the beginning of the project. Completion of fueling system was withdrawn from the final application, pending final engineering design and fueling allotment. The fueling dock and piping systems on the

marina portion of the project have been engineered and constructed as a required integral part of the approved marina project, and fuel allocations have now been obtained. As stipulated prior to the original approval, application is now being made to complete the installation. The need for fueling in this location has been established; such a facility enhances the operation of the City daytime moorage facilities nearby and is required to complete the planned marina portion of the project. The proposal for fueling has been reviewed by all applicable government agencies, and addressed in original Environmental Impact Statement."

Under final design review of the subject property on September 16, 1974, the construction of a fuel pier dispensing office was indicated on those design documents, however, said fueling pier dispensing office was not reviewed in depth at that time.

3. HISTORICAL BACKGROUND

3. Legal. Since the subject property and a similar proposal to that of Resolution 2255 was approved by the Kirkland City Council on June 17, 1974, said approval was reviewed by the Shorelines Hearing Board, and the applicant then agreed to re-submit the application with a substantial reduction in height and no covered moorages. Resolution No. R-2255 was an amendment to the original Unclassified Use Permit and Substantial Development Permit approved in Resolution 2206.

C. GOVERNMENTAL COORDINATION

4. The following agencies were contacted and the following is a summary of the comments.

a. Kirkland Public Service Department. Memo from Art Knutson, Public Service Director dated 4/29/75: "There are signatures required on an easement between Hadley and Mr. Flowers for the relocation of the sanitary sewer. Building Permits should not be issued until this important easement is properly signed and recorded. Further, I understand there is another document whereby the City of Kirkland agrees to maintain the relocated sewers. I do not know the status of this last document."

b. Kirkland Department of Fire Services. Verbal communication: Any restaurant within the City of Kirkland will need to adhere to Operating Policy No. 1, Part 4 as follows: "All hood and duct systems over cooking surfaces in restaurants, taverns, etc. must be equipped with an automatic fire extinguishing system. This system to be approved by the City Fire Marshall."

Verbal communications on previous questions with regard to the fuel facilities and the use of these facilities have been reviewed under the previous application (Resolution R-2255).

c. Kirkland Building Department. Verbal communication: At this time the Kirkland Building Department would appreciate the applicant locating the following:

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4/25/75

- C. 4. c. (1) An exit off the second floor of the restaurant,
- (2) Locating refuse containers into design plans,
- (3) Removing the storage room enclosure underneath the north stairwell, and
- (4) The possibility of relocating the exit door from the north stairwell so as to not conflict with the condenser unit.

d. Kirkland Park Department. No comment.  
e. Kirkland Police Department. No comment.

D. EXISTING PHYSICAL CHARACTERISTICS

(Continued on next page)

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Findings, Cont'd

- are to be derived. Public benefits must at least include public access to and along the water's edge. These regulations, if public benefit is demonstrated, on the following commercial non-water-dependent uses (water related) may be permitted: Restaurants especially designed for shoreline location (not drive-in or take-out facilities).
18. Policy 3, Economic Activity, Master Program; Permitted shoreline commercial uses and activities should be located where commercial uses presently exist.
19. Policy 5. Economic Activity, Master Program. Marinas and other boating facilities should be limited to designated commercial areas. Day moorage may be permitted in recreational areas, except in conservancy environments. USE REGULATIONS: (1) Marinas and other boating facilities should be equipped to contain and clean up spills or discharge of pollutants associated with boating activities. (2) Gasoline and oil sales on the shoreline should be located in marinas and should be limited to the servicing of pleasure craft. Safety devices should be included to prevent and minimize spills or other accidental discharges into the Lake. (3) The location of new marinas, boating clubs or other boating facilities are: (a) limited to the Central Business District, adjacent to existing marinas or in other areas in Waterfront District I after full evaluation of all environmental impacts. All adverse impacts are to be mitigated including considerations of water quality, public use of surface waters, nearby shoreline areas, parking and other such factors deemed appropriate.
20. Section 23.34.060 of Kirkland Zoning Ordinance Parking Section allows for the mixed use of off-street parking facility provided that the total number of required parking stalls shall be the sum of the requirements of the various uses computed separately.
21. Further, Section 23.34.070 of the Kirkland Zoning Ordinance allows that a reduction of 10% of the total combined required parking shall be permitted when parking facilities for two or more buildings or uses are provided and which parking area is not less than 10,000 square feet.

CONCLUSIONS:

- A. SUMMARY OF THE PROPOSED ACTION
1. All relevant conditions of approval of the Unclassified Use Permit and Substantial Development Permit found in Resolution No. 2255, and not expressly mentioned herewith should be continued as conditions of that permit in full force. Therefore, only the conditions listed under this amendment, are proposed to be modified.

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Conclusions, Cont'd

- A. 2. The applicant has indicated that the fueling dispensing office placed on the fueling pier, would be a pre-fabricated item, which would not exceed 12 feet in length, 10 feet in width or 9 feet in height with a flat roof. A color has not been selected for the building to date. Further, the building would be finished with wood trim at the base and the top of the structure. The applicant has indicated a sign on the building which would not exceed 20 square feet, however, it should be noted that Section 23.12.042.3(b) would allow a separate sign for the gasoline or oil sales structure, not to exceed 10 square feet and may be illuminated. As a general performance standard, the fueling pier dispensing office should generally conform to the design of the primary office structure.
- B. HISTORICAL BACKGROUND
- C. GOVERNMENTAL COORDINATION
3. Public Service Department: No building permit should be issued on these proposed amendments until such time as the easement is properly signed and recorded.
4. Kirkland Department of Fire Services. This Department's recommendation shall be carried forth as a requirement of final approval.
5. Kirkland Building Department. This Department's recommendations shall be carried forth as requirement for final approval.
- D. EXISTING PHYSICAL CHARACTERISTICS
6. Vegetation. The loss of the interior plaza may result in a subsequent loss of interior visual identification to this plaza, with the only remaining landscaping being 5 London Plain trees between the Moss Bay Joint Venture building on the west and the Flowers Building to the east.
- E. PUBLIC UTILITIES
- F. NEIGHBORHOOD CHARACTERISTICS
- G. LOCAL ZONING AND/OR LAND USE POLICIES AND PLANS
7. Pursuant to the requirements of an amendment to an Unclassified Use Permit as found in Section 23.30.080 of the Kirkland Zoning Ordinance:
- a. This amendment appears to be within the spirit and intent of the Kirkland Shoreline Master Program (Comprehensive Plan), intent of the Kirkland Waterfront District Zoning Ordinance, and within the public interest, due to the offsetting public benefits which were previously approved under Resolution No. 2255.

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Findings, Cont'd

D. EXISTING PHYSICAL CHARACTERISTICS

5. Slope, soils, geology, and surface water. There should be no change in these existing conditions with respect to this proposed amendment.
6. Vegetation. A small plaza including park benches and some landscaping, being 1600 square feet, is proposed to be deleted in this application. The additional office space is proposed to be placed in this physical area.

E. PUBLIC UTILITIES

7. Streets; paths and trails; water supply; sanitary sewer; storm sewer; and/or public transportation. There should be no change in the existing public utilities under this amendment.

F. NEIGHBORHOOD CHARACTERISTICS

8. Zoning. The basic characteristics of the surrounding zoning are indicated on Exhibit "J". The subject property is located within Waterfront District I zone, within the Central Business District Waterfront Area. (Section 23.12.045, Waterfront Districts).
9. Adjacent Land Use. The general land use pattern surrounding the subject property is that of commercial shops, offices, and eating establishments along Lake Street, and within the CBD zone.
10. Population/Density. The general area surrounding the subject property is that of a residential character (commercial), however there are two major apartment units (Mariner, Sunset East with 42 and 47 units respectively), and gives within 500 feet of the project a gross density of approximately 3 to 4 dwelling units per acre.

G. LOCAL ZONING AND/OR LAND USE POLICIES AND PLANS

11. Consideration of amendment to Unclassified Use Permit and/or Substantial Development Permit should include the following criteria pursuant to Section 23.30.080 of the Kirkland Zoning Ordinance:
  - a. The use requested by the Unclassified Use Permit shall be within the intent of this Ordinance, the comprehensive plan, and the public interest.
  - b. The use requested by the Unclassified Use Permit shall demonstrate that it is consistent with the performance standards, Chapter 23.36 of this Ordinance.

Findings, Cont'd

11. c. The use requested by the Unclassified Use Permit shall be made on the basis of the site plan submitted pursuant to Section 23.62.030 of this Ordinance. If improvements are to be over a greater period than two years, time improvements shall be indicated.
12. Regarding the subject property, the development must be subject to the dimensional regulations and performance standards of the Kirkland Zoning Ordinance, particularly Section 23.12 if approved (Waterfront Districts).
13. Pursuant to Section 23.12.045 - Waterfront Districts - Waterfront Commercial, Definition (23.04) - "Retail and service use, which require and depend upon a waterfront location and/or which primarily sells goods to provide services related to waterfront activities, especially those providing for public to enjoy the use of the waterfront, such as:
  - (1) Commercial activities as described in Section 23.12.045 of the CBD District, Waterfront Area.
  - (2) Commercial Activities which fulfill the criteria as defined in Section 23.12.055 of the General Conditions.
  - (3) Restaurants other than automobile oriented take-out facilities, and designed especially for waterfront location.
14. Again, pursuant to Section 23.12.045 (Waterfront Commercial - Central Business District), Section 23.20.020 of the Kirkland Zoning Ordinance, the following is permitted uses:
  - (1) Any retail enterprise dispersing food or commodities, where there is no outside storage, assembly or fabrication involved.
  - (2) Business office of any kind of use rendering professional service or professional service to individuals.
15. Waterfront Commercial - Central Business District (Section 23.12.045), CUP Conditions for allowable floor area: "Allowable floor area shall not exceed a one to one ratio of floor area to dryland area."
16. Policy 2.c. Urban Environment, Urban Waterfront Districts, Master Program: "Multiple use of shoreline should be planned when the location of integration of compatible uses or activities are feasible."
17. Policy 2, Economic Activities, Master Program: "Economic uses and activities which do not depend upon Lake Washington should be discouraged from locating on the shoreline. In those limited instances where such uses or activities are permitted, the applicant must demonstrate what public benefits

Conclusions, Cont'd

6. 7. b. This request for an amendment to an Unclassified Use Permit is consistent with the performance standards found in Chapter 23.36 of the Kirkland Zoning Ordinance.
- c. The applicant has submitted site plans and architectural plans, which indicate the extent of the modifications pursuant to the originally approved Unclassified Use Permit and Substantial Development Permit in Resolution R-2255. (See Exhibits "A", "B" and "C".)

8. Pursuant to the requirements of the Waterfront Districts Waterfront Commercial Activities, and Waterfront Commercial-Central Business District, it appears that a retail establishment dispersing food, such as a non-automobile oriented facility, designed within an approved waterfront located building, would be an acceptable use within the structure, pursuant to Waterfront Districts. Office space within this structure was deemed an appropriate activity by Resolution No. 2255.

9. With regards to the one to one floor area ratio to dryland area of the Central Business District - Waterfront Commercial Section of the Kirkland Waterfront Districts (23.12.045), the size of the building with the addition of the proposed office space and the restaurant would be 33,857 square feet, whereas the area of dryland totals approximately 35,000 square feet.

10. Multiple use of this building with regards to its shoreline location, would appear to be a compatible and desirable integration of activities within Waterfront District I.

11. In receiving approval for Resolution 2255, the applicant did demonstrate offsetting public benefits to be derived through that approval, and it does not appear that modification from a commercial non-water dependent use (office space) to a restaurant use (not drive-in or take-out facility) would substantially modify those public benefits which were received in the original approval. It should be noted, however, that there will be a loss of the 1600 square feet of interior plaza, with the approval of the additional 3,722 square feet of office space.

12. With regard to the Kirkland Shoreline Master Program, Economic Activities Section, Policy 5, it appears that the applicant has made sufficient investigations into the safety precautions with regard to the fueling facility within this type marina, and might be acceptable due to its Central Business District orientation, along with being located in an area of high commercial activity use.

13. The applicant has indicated that parking averaging will be used as provided in Section 23.34.070 of the Kirkland Zoning Ordinance and that applicant will be reducing the total required number of parking stalls by 10% through the mixed use facilities. (Please see Exhibit "E").

RECOMMENDATIONS:

Based upon the foregoing Findings and Conclusions we hereby recommend that this application for an amendment to an Unclassified Use Permit and Substantial Development Permit as approved in Resolution No. 2255 be approved as located in Exhibits "A", "B", "C" and "D", and subject to the following conditions:

1. That a building permit for these amendments shall not be issued until the property easement between Mr. Hadley and Mr. Flowers has been properly signed and recorded.
2. The applicant will be required to install an automatic fire extinguishing system in all hood and duct systems over cooking surfaces within the restaurant, this system to be approved by the City of Kirkland Fire Marshall, pursuant to Operating Policy No. 1, Part 4.
3. The fuel dispensing office as proposed shall be of a similar appearance to the primary structure, and said signing on this building will not exceed 10 square feet and shall be face mounted.
4. The applicant will modify the building plans to include the following: (a) second exit off the second floor of the restaurant, (b) Locatc refuse containers into the building plans. (c) remove the storage room enclosure under the north stairwell, and (d) explore the possibilities of relocating the exit door from the north stairway to possibly the east instead of the north.
5. Restaurant hours shall be subject to the restrictions of Exhibit "E", which restricts operation to times other than normal working hours (8 A.M. to 5 P.M.) Monday through Friday, however not to include holidays.



INNER HARBOR LINE

MARINA PARK

Moss Bay Joint Venture  
UUP-SDP-75-17(P)  
Applic. for SDP & UUP  
Exhibit "A" - ZONING MAP  
5/1/75

