

RESOLUTION NO. R- 2348

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT AS APPLIED FOR IN DEPARTMENT OF COMMUNITY DEVELOPMENT FILE NO. CUP-76-01(H), BY TERENCE V. WALLACE TO CONSTRUCT A 60 FOOT PIER ON LAKE WASHINGTON, BEING WITHIN A WATERFRONT DISTRICT I ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH CONDITIONAL USE PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Community Development has received an application for a Conditional Use Permit filed by Terence V. Wallace, the owner of said property described in said application and located within a Waterfront District I zone.

WHEREAS, the application has been submitted to the Houghton Community Council and Kirkland Planning Commission who held public hearings thereon at their regular meetings of February 3, 1976 and February 12, 1976 respectively, and

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

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

WHEREAS, the Houghton Community Council and Kirkland Planning Commission after their public hearings 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 the Substantial Development Permit 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 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. CUP-76-01(H) are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Conditional Use Permit shall be issued to the applicant subject to the conditions set forth in the Findings, Conclusions and Recommendations hereinabove adopted by the City Council.

Section 3. A certified copy of this Resolution, together with the Findings, Conclusions and Recommendations therein adopted shall be attached to and become a part of the Conditional Use Permit or evidence thereof delivered to the permittee.

Section 4. Nothing in this section 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 5. Failure on the part of the holder of the Conditional Use Permit to initially meet or maintain strict compliance with the standards and conditions to which the Conditional Use Permit is subject shall be grounds for revocation in accordance with Section 23.56.110 of Ordinance No. 2183, the Kirkland Zoning Ordinance.

Section 6. Notwithstanding, the recommendations heretofore given by the Houghton Community Council, the subject matter of this Resolution and the Conditional Use Permit herein granted are, pursuant to Ordinance 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 of the date of the passage of this Resolution.


Section 7. Certified or conformed copies of this Resolution shall be delivered to the following:

- 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 regular meeting of the City Council on the 1st day of March, 1976.



Mayor pro tem

ATTEST:


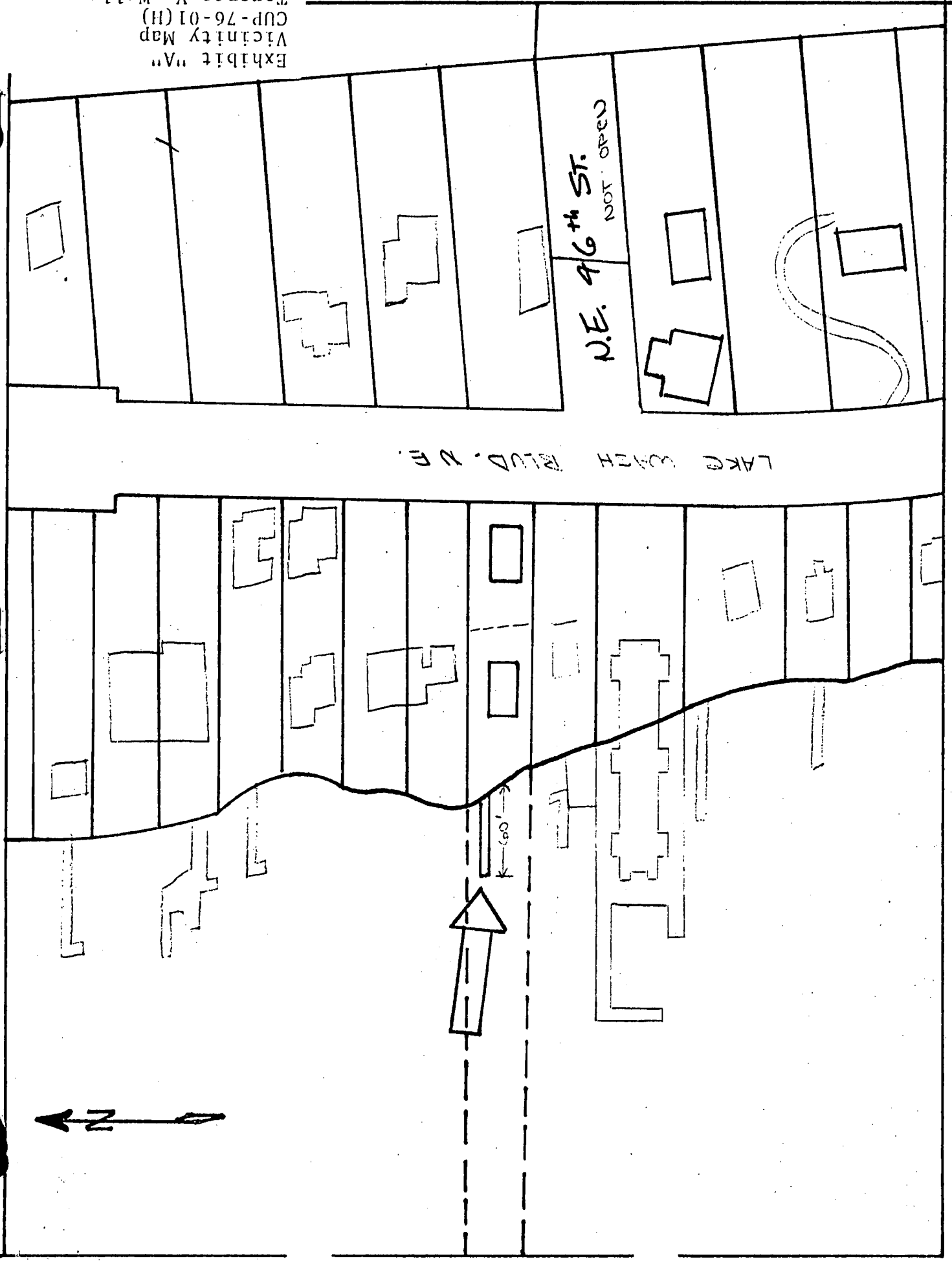
Director of Administration and Finance
(ex officio City Clerk)

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Exhibit "A"
Vicinity Map
CUP-76-01(H)
Terence V. Wallace

N.E. 96th ST.
NOT OPEN

LAKE WASH BLVD. N.E.



Recommendations, Cont'd

2. The following requirement of the Washington Department of Fisheries shall be followed:
 - a. Time Limitation: Construction may be started June 1, 1976 and shall be completed by September 15, 1976 or as set by the Washington State Department of Fisheries.
 - b. No deleterious materials shall be allowed to enter state waters as a result of this project.
 - c. Any debris resulting from this construction project shall be removed from the lake and disposed of or placed in such a manner to prevent its being washed back into the lake by high water or wave action.
 - d. Water quality is not to be degraded to the detriment of fish life as a result of this project. Compliance with the quality limits set forth in the Washington State Water Quality Regulations shall be maintained throughout the life of the project.
 - e. These provisions shall be closely followed by the contractor(s) and the equipment operator(s) and shall be on the job site at all times.
3. The approval of the application shall not obviate the requirement of the applicant to obtain approval from all other applicable state and federal agencies for construction of the proposed pier. The Department of the Army, Corps of Engineers is the state and federal clearinghouse for applications for piers and moorages.
4. The existing dock shall be removed at the same time as construction of proposed pier, with proper construction procedures (Reference R-2).



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

FINDINGS:

A. SUMMARY OF THE PROPOSED ACTION:

1. This is an application for a Conditional Use Permit to construct a dock extending 60 feet into Lake Washington, located at 4607 Lake Washington Blvd. N.E. (Exhibit "A" - Vicinity Map).
2. The applicant proposes a 10 foot setback from the north property line, a 35 foot setback from the south property line, and proposes to extend 60 feet into Lake Washington from the subject property. The dock decking is proposed to be 1.5 feet above the high water line. (Exhibit "B" - Site Plan and Cross Sections of Proposed Project).
3. The proposed dock is to replace an existing 30 foot pier structure located along the north property line. This existing pier is proposed to be removed pursuant to the proposed pier being approved and constructed.

4. Justification. This request is justified by the applicant in the following: "The proposed use is 60 foot pier for private boat moorage and not for commercial use. This fits with the intent of the Kirkland Zoning Ordinance." "The new pier is a greater distance from the property line. The adjacent residences will not be adversely affected by the proposed pier." (Exhibit "C" - Application for Conditional Use Permit). "My present boat has an overall length of 24 feet and a draft of 2 feet 3 inches. Using the outer 25 feet of the proposed 60 foot pier places the closest point of the boat 35 feet from the bulkhead. During the period of low water the depth at this location is approximately 3 feet, leaving a 9 inch clearance to allow for wave action." Regarding the possibility of joint use and construction by adjoining property owners: "My neighbor to the south, Mr. Roessler, has a substantial pier and boathouse on his property. My neighbors to the north also have a small pier and are leasing their property from a partnership of owners. The owners have no interest in making property improvements." (Exhibit "D").

B. HISTORICAL BACKGROUND: (Not Applicable)

C. GOVERNMENTAL COORDINATION:

5. Kirkland Building Department. Plans for dock construction must be prepared and submitted by a registered engineer.
6. Washington Dept. of Fisheries: The following requirements were received by the applicant and the provisions listed were established for the protection of Sockeye spawning in the area:

"a. Time Limitation: Construction may be started June 1, 1976 and shall be completed by September 15, 1976

PREPARED BY _____ DATE _____
 xx RECOMMENDED BY February 12, 1976
 ADOPTED BY _____ DATE _____

STAFF _____
 BOARD OF ADJUSTMENT _____
 HOUGHTON COMMUNITY COUNCIL _____
 xx PLANNING COMMISSION _____
 CITY COUNCIL AS INCORPORATED IN _____

John Cushing
 John Cushing, Chairman

RESOLUTION _____ ORDINANCE _____

NUMBER _____
 DATE _____

FILE NUMBER CUP-76-01(H)
 APPLICANT Terence V. Wallace

PROPERTY LOCATION 4607 Lake Washington Boulevard N.E.

SUBJECT Applic. for Conditional Use Permit to construct a dock extending 60 feet into Lake Washington.

HEARING/MEETING DATE _____
 BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED "A" Vicinity Map "B" Site Plan "C" Application
 "D" Letter from Applicant "E" Dept. of Fisheries Letter "F" Bid "G"
 Environmental Information Worksheet.

Findings, Cont'd

Findings, Cont'd

C. 6. b. No deleterious materials shall be allowed to enter state waters as a result of this project.

c. Any debris resulting from this construction project shall be removed from the lake and disposed of or placed in such a manner to prevent its being washed back into the lake by high water or wave action.

d. Water quality is not to be degraded to the detriment of fish life as a result of this project. Compliance with the quality limits set forth in the Washington State Water Quality Regulations shall be maintained throughout the life of the project.

e. These provisions shall be closely followed by the contractor(s) and the equipment operator(s) and shall be on the job site at all times." (Exhibit "E", letter to applicant from Washington State Dept. of Fisheries, 12/9/75).

7. The approval of this application does not obviate the requirement of the applicant to obtain approval from all other applicable state and federal agencies for construction of the proposed pier.

D. EXISTING PHYSICAL CHARACTERISTICS:

8. Geology. Local geologic mapping indicates the subject property to be located within a Vashon Till (Vt) unit.

9. Soils. Local soils mapping indicates the subject property to be located within an Urban (Ur) classification. These soils are manmade (fill) and are too variable for general analysis.

10. Topography. The subject property over which the pier would be constructed has approximately a 10% slope.

11. Hydrology. The proposed pier is to be constructed over Lake Washington.

12. Flora/Fauna. The applicant has indicated that no aquatic life has been observed. This particular area is not used for nesting by waterfowl. The Kirkland Shoreline Master Program indicates this particular area to have a marginal rating for Sockeye Salmon beach spawning area, however, beach spawning has been observed in this area.

E. PUBLIC UTILITIES: (Not applicable)

F. NEIGHBORHOOD CHARACTERISTICS:

14. Zoning. The subject property is zoned Waterfront District 1, as are properties to the north and south of the subject property to the west of Lake Washington Boulevard. Properties to the east of Lake Washington Boulevard are zoned Residential Single Family 12,500.

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F. 15. Land Use. Land use to the north of the subject property is single family, to the east is single family and vacant property, and to the south is single family and the Yarrow Bay Condominium.

16. Commercial Moorage Facilities. The Yarrow Bay Marina is located approximately 800 feet to the north of the subject property. The Moss Bay Marina is located approximately 1.5 miles to the north of the subject property.

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

17. The Kirkland Shoreline Master Program.

CONSERVATION ELEMENT

a. Policy 2 - "Existing and future activities on Lake Washington or its shoreline should be designed to minimize adverse effects on the natural systems."

PUBLIC ACCESS

b. "The physical access requirements of this Section are applicable to all uses and activities, except for single family residences."

COMPONENTS

c. Policy 1 - "Components in or near the water should not be constructed from materials which have significant adverse physical or chemical effects on water quality, vegetation, fish and/or wildlife."

d. Policy 3 - "Permitted components should be designed to permit normal circulation of water, sediments, fish and other aquatic life in and along the water's edge."

PIERS AND MOORAGES

e. Policy 1 - "Construction of new or expanded piers may be permitted under the following criteria:

(1) Piers should be allowed only for moorage of pleasure craft, for water-dependent recreation, marinas, boating clubs, or for required public health or safety vessels.

(3) Adjoining waterfront property owners should be encouraged to share a common pier.

(4) The size and extent of the pier should not exceed that which is required for the water dependent purposes for which it was constructed."

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Findings, Cont'd

G. 18. Waterfront District Zoning Ordinance No. 2206

- a. Section 23.12.010. Purpose. No overwater construction except for moorages and other elements consistent with public enjoyment of the waterfront.
 - b. Section 23.12.053(7). Piers.
 - (a) Pier Dimensions. All pier structures shall be either floating or have depth elevations not more than two feet above high water level. Cresote treatment of any pier component shall not be permitted.
 - (b) Pier Setbacks. Piers or any moorage shall not be closer than ten feet from any property line. Piers may be built on or straddling the common side property line of the two adjoining owners' property by the mutual agreement of the adjoining owners acknowledged as a deed and recorded with the King County Auditor.
 - (e) Lighting. All piers shall be adequately lighted. Light sources shall be directed away and shielded from adjoining properties. The lighting plan shall be approved as part of the Conditional Use Permit.
 - c. Section 23.12.062. Overwater Construction. Buildings, structures, or any other manmade element shall not be constructed beyond the high water line with the exception of (1) boat moorages.
 - (b) Construction limit. The construction of any structure, except where further restricted in other section, shall not extend beyond two hundred fifty (250) feet from the high water line.
19. Washington Administrative Code, Chapter 173-14 (Amendments effective January 2, 1976): WAC 173-14-040 Exemptions from permit system: (k) "Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single family residence, the cost or fair market value, whichever is lower, does not exceed two thousand five hundred dollars."

CONCLUSIONS:

A. SUMMARY OF THE PROPOSED ACTION:

1. This application for a Conditional Use Permit is generally consistent with the requirements of the Kirkland Zoning Ordinance and the Shoreline Master Program as specified below.

Conclusions, Cont'd

B. HISTORICAL BACKGROUND: (Not applicable)

C. GOVERNMENTAL COORDINATION:

2. Kirkland Building Department. Plans for dock construction must be prepared and submitted by a registered engineer.
 3. Washington Dept. of Fisheries. The following requirements should be followed by the applicant.
 - a. Time Limitation: Construction may be started June 1, 1976 and shall be completed by September 15, 1976.
 - b. No deleterious materials shall be allowed to enter state waters as a result of this project.
 - c. Any debris resulting from this construction project shall be removed from the lake and disposed of or placed in such a manner to prevent its being washed back into the lake by high water or wave action.
 - d. Water quality is not to be degraded to the detriment of fish life as a result of this project. Compliance with the quality limits set forth in the Washington State Water Quality Regulations shall be maintained throughout the life of the project.
 - e. These provisions shall be closely followed by the contractor(s) and the equipment operator(s) and shall be on the job site at all times.
 4. The applicant should be required to obtain approval from all applicable state and federal agencies for construction of the proposed pier.
- D. EXISTING PHYSICAL CHARACTERISTICS:
5. Geology/Soils/Hydrology/Flora and Fauna. The above considerations would not impose a constraint upon reaching a positive or negative decision on this proposal.
 6. Topography. The existence of the relatively slight slope leading along the shoreline bottom and the expected water depth at the end of the 60 foot pier of 6.5 feet is the main reason for requiring a 60 foot pier.
- E. PUBLIC UTILITIES: (Not Applicable)
- F. NEIGHBORHOOD CHARACTERISTICS:
7. Zoning. The development of this pier would be consistent with the zoning rights on the subject property and it appears that it would not interfere with development and usage of adjacent properties.

Conclusions, Cont'd

- F. 8. Land Use. The development of this pier would be consistent with the adjacent pier development along this portion of Lake Washington.
- 9. Commercial Moorage within Kirkland. The existing commercial moorage facilities within Kirkland are presently filled to capacity. (Per official communication with existing commercial moorage facilities.)

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

- 10. This application is consistent with the following sections of the Kirkland Shoreline Master Program:
CONSERVATION

- a. Policy 2 - The proposed pier is designed to minimize adverse effects on the natural system by not interfering with water or aquatic circulation and not being coated with harmful chemicals.

PUBLIC ACCESS

- b. Public access is not required for this proposal due to its exception for single family residences and their components.

COMPONENTS

- c. Policy 1 - The proposed pier would not be constructed from materials which have significant adverse physical or chemical effects on water quality, vegetation, fish and/or wildlife.

- d. Policy 3 - This pier would permit normal circulation of water, sediments, fish and other aquatic life by only introducing piling into the water, which would not affect the above.

PIERS AND MOORAGES

- e. Policy 1 - (1) This pier would be for the moorage of pleasurecraft.

- (4) The size and extent of this proposed pier would not exceed that which is required for the moorage purposes for which it is to be constructed due to the fact that the draft of the applicant's boat will have only a 9 inch clearance to the lake bottom during low water.

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- G. 11. This application is consistent with the following sections of the Kirkland Waterfront District Zoning Ordinance No. 2206:
a. Section 23.12.010(1) . The overwater construction of piers is allowed.

- b. Section 23.12.053(7)(a). Pier Dimensions. The proposed pier will have a deck elevation of 1.5 feet above high water level. The applicant has stated that he will not creosote treat the proposed pier.

- (b) Pier Setbacks. The proposed pier will not be closer than 10 feet from any property line.

- (e) Lighting. The applicant is proposing to adequately light the pier; and said lighting shall be directed away and shielded from adjoining properties and utility wiring to said light should be routed under the main deck of the proposed dock.

- c. Section 23.12.062. The overwater construction of boat moorages is allowed. (b) The proposed pier will not extend more than 60 feet into Lake Washington.

- 12. This application will not be subject to the Shoreline Management, Substantial Development Permit process due to the fact that the bid cost to construct the proposed pier will not exceed two thousand five hundred dollars. (Exhibit "f" - Copy of bid for proposed pier.)

- 13. This application is inconsistent with the following sections of the Kirkland Shoreline Master Program:
Piers and Moorages

- a. Policy 1 - (3) Sharing of common pier is not proposed due to the reasons set forth by the applicant in Finding "4".

RECOMMENDATIONS:

Based upon the foregoing Findings and Conclusions and as identified in Exhibits "A" through "G", we hereby recommend that this application for a Conditional Use Permit be approved subject to the following:

- 1. Plans for dock construction must be prepared and submitted by a registered engineer.

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