

RESOLUTION NO. R-2425

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF AN INTENT TO REZONE AND CONDITIONAL USE PERMIT AS APPLIED FOR IN DEPARTMENT OF COMMUNITY DEVELOPMENT FILE NO. R-CUP-77-9 (P), BY TOTEM SHOPPING CENTER ASSOCIATES TO CONSTRUCT A PROFESSIONAL OFFICE BUILDING AND RESTAURANT BEING WITHIN A RM 900 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH AN INTENT TO REZONE AND CONDITIONAL USE PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Community Development has received an application for an Intent To Rezone and Conditional Use Permit filed by Totem Shopping Center Associates, the owner of said property described in said application and located within a RM 900 zone.

WHEREAS, the application has been submitted to the Kirkland Planning Commission who held public hearing thereon at their regular meeting of March 10, 1977, and

WHEREAS, pursuant to City of Kirkland Ordinance No. 0-2319 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 Kirkland Planning Commission after their public hearing and consideration of the recommendations of the Department of Community Development and negative declaration did adopt certain Findings, Conclusions and Recommendations and did recommend approval of the Intent To Rezone and Conditional Use 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. R-CUP-77-9 (P) are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Intent To Rezone and 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. The City Council further approves in principal, the request for reclassification from RM 900 to PR and

pursuant to Chapter 23.62 of Ordinance 2183, the Council shall by Ordinance, effect such reclassification upon being advised that all of the conditions, stipulations, limitations and requirements contained in this Resolution, including those adopted by reference, have been met within six months of the date of enactment of this Resolution.

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 Intent to Rezone and 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 Intent To Rezone and Conditional Use Permit to initially meet or maintain strict compliance with the standards and conditions to which the Intent To Rezone and Conditional Use Permit is subject shall be grounds for revocation in accordance with Section 23.54.090 of Ordinance No. 2183, the Kirkland Zoning Ordinance.

Section 6. 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 21st day of March, 1977.



Mayor Pro tem

ATTEST:



Director of Administration and Finance
(ex officio City Clerk)

Findings, Cont'd

D. 6. Cont'd

includes some recommendations concerning design of foundations for the proposed building, which would reduce settlement problems.

7. Vegetation. The majority of the property is void of substantial vegetation. However, on the West side of the property, and along the Northwest and North property lines, there are a substantial number of large fir, cedar, maple and various other trees. The proposed development of this project would necessitate removal of a number of these trees, however, the majority of the materials would remain.

E. PUBLIC UTILITIES:

8. Streets. The subject property fronts on 120th Avenue N.E., which is developed to approximately 36 feet of the total 50 foot city right-of-way. The intersection of 120th Avenue N.E. and N.E. 128th Street is approximately 350 feet North of the proposed access to the subject property.

9. Access. The applicant has proposed 1 access point, that being located on 120th Avenue N.E. The Public Service Department has indicated that traffic visibility from this access point would be adequate.

10. Water. The proposed development would be served by King County Water District No. 79. Water District 79 officials have indicated that there is a 10 inch waterline located along the East side of 120th Avenue N.E. The flow of this waterline is 6,000 gals. per minute, and water district officials have indicated that there would be no problem with serving the proposed development from this line.

11. Sewer. The proposed development would be served by North East Lake Washington Sewer District. Sewer district officials have informed the City of Kirkland that there is a 12 inch sewer line located along the West side of 120th Avenue N.E. Sewer district officials have indicated that there would be no problem with the proposed development utilizing this sewer line.

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Findings, Cont'd

F. NEIGHBORHOOD CHARACTERISTICS:

12. Zoning. The subject property is currently zoned Residential Multi-Family (RM 900), as are properties to North and East of the site. To the West of the site is a large parcel of property zoned Public Use. To the South and Southeast of the subject property is the Totem Lake Shopping Center, which is zoned Community Business (BC).

13. Land Use. The subject property is currently undeveloped, as are the properties to the West and East of the site. Directly North of the proposed office building is the Evergreen Medical Eye Clinic. Further North, across N.E. 128th Street, is the Evergreen Medical Dental Center. On the Northeast corner of 120th Avenue N.E. and N.E. 128th Street is the Evergreen Hospital. To the South and Southeast of the site is the Totem Lake Shopping Center.

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

14. Landscaping. The applicant has submitted a landscape plan, in conformance with the provisions of the Kirkland Zoning Ordinance. The applicant has proposed to retain as much of the existing vegetation as possible. In addition, the applicant has proposed additional materials along the North and Northwest edge of the property where existing vegetation may not be adequate. (Refer to Exhibit F Landscape Plan.)

15. Parking. The Kirkland Zoning Ordinance requires a parking ratio of 1 stall per 300 square feet of office space, and 1 stall per 100 sq. ft. of restaurant space. The applicant proposes to provide 32 of these stalls on site and use an additional 37 stalls which are located on the property immediately to the south of the site.

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DEPARTMENT OF COMMUNITY DEVELOPMENT
ADVISORY REPORT
 FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

PREPARED BY _____ DATE _____
 RECOMMENDED BY _____ DATE March 10, 1977
 ADOPTED BY _____ DATE _____
 STAFF _____
 BOARD OF ADJUSTMENT _____
 HOUGHTON COMMUNITY COUNCIL _____
 PLANNING COMMISSION _____
 CITY COUNCIL AS INCORPORATED IN _____
 _____ RESOLUTION _____ ORDINANCE
 NUMBER _____
 DATE _____

John Bruss
 John Bruss, Vice Chairperson

FILE NUMBER R-CUP-77-9(P)
 APPLICANT TOTEM SHOPPING CENTER ASSOCIATES
 PROPERTY LOCATION 120th Ave. N.E., so. of N.E. 128th St.
Application for Rezone and Conditional Use Permit
(Rezone from RM-900 to PR for office space and restaurant)
 SUBJECT _____
 HEARING/MEETING DATE March 21, 1977
 BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED "A" Rezone Application "B" Conditional Use Permit Applic. "C" Vicinity

Map "D" Vicinity Map #2 "E" Site Plan "F" Landscape Plan "G" Letter "H" Totem Lake Ctr Site Plan "I" Upper Floor Plan "J" Lower Floor Plan "K" Environ. Info. "L" Survey "M" Legal Descr.

FINDINGS:

A. SUMMARY OF THE PROPOSED ACTION:

1. This is an application for a rezone and a conditional use permit to allow a professional office building with a restaurant to be located on 120th Avenue N.E., south of N.E. 128th Street. (Refer to Exhibits C & D Vicinity Maps.)
2. The applicant is requesting a change in zone classification from Residential Multi-family (RM 900) to Professional Residential (PR) to allow a 15,200 Sq.Ft. office building. In addition, the applicant is applying for a Conditional Use Permit to use approximately 2,800 Sq.Ft. of the office building for a restaurant.
3. In addition to this application, the applicant had submitted application for an Informal Subdivision to legally segregate this building site from a larger parcel of property. The Informal Subdivision application has been scheduled for hearing by the Kirkland Planning Commission for May 12, 1977.

B. HISTORICAL BACKGROUND: (Not applicable)

C. GOVERNMENTAL COORDINATION:

4. The Kirkland Public Service Department has indicated that a sidewalk may be desirable along the subject property where it fronts on 120th Avenue N.E.

D. EXISTING PHYSICAL CHARACTERISTICS:

5. Topography. The topography of the site varies from a gentle slope (5 to 10%) to a steep slope (approximately 25%) on the northern portion. The applicant's proposal would not disturb the steep portion of the site.
6. Soil-Geology. The applicant has submitted a soils report completed by Roger Lowe Associates, which indicates sandy gravels and gravelly sands covered with a fill material. This fill material is a mixture of sand, gravel and silt. The results of the study indicate that the original sandy gravels and gravelly sands would provide excellent foundation for the office building, but the artificial fill may cause excessive settlement. The text of the soils report

Findings, Cont'd

G. 17. c. Cont'd

the basis of a site plan showing proposed landscaping, building renovation, and other site improvements. If the improvements are to be made over a period greater than 2 years, the time of improvement shall be indicated."

Applicant's response: "No. Property adjoins existing shopping center and by general topography is a natural extension of the shopping center site."

18. The following natural elements discussion from the Totem Lake neighborhood of the preliminary land use policy's plan is relevant to this application: (report dated Sept 3, 1976)

"Land surrounding the 5 acre Totem Lake may be subject to uneven settlement... In this area, developments must include methods to handle drainage, prevent methane intrapment, and prevent the settlement of structures and utility systems. In all areas subject to uneven settlement, a soils analysis is required prior to development in order to identify and mitigate possible problems." (Page 348, Preliminary Land Use Policies Plan)

19. The following economic activities discussion from the Totem Lake area of the Preliminary Land Use Policies Plan is relevant to this application: (Report dated Sept 3, 1976)

"The area between N.E. 128th Street and the Totem Lake Shopping Center to the south has been designated as professional office use. This designation reflects existing offices uses and the topographic break between this area and the Totem Lake Center. Permitted uses for this area would include large as well as small scale offices. High density residential development may be permitted subject to certain limitations and standards." (Page 356, Preliminary Land Use Policies Plan)

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CONCLUSIONS:

A. SUMMARY OF THE PROPOSED ACTION:

1. The application which has been submitted to the Department of Community Development for review is consistent with the requirements of the "Intent to Rezone" and Conditional Use Permit provisions of the Kirkland Zoning Ordinance No. 2183.

B. HISTORICAL BACKGROUND: No relevant Conclusions

C. GOVERNMENTAL COORDINATION: No relevant Conclusions

D. EXISTING PHYSICAL CHARACTERISTICS:

2. Topography/Soils/Geology.

The soils report submitted by the applicant indicates that if certain precautions are taken concerning foundation design, the site should support the proposed development. The applicant should be required to develop the project in accordance with the recommendations included by the soils report completed by Roger Lowe Associates.

3. Vegetation. As indicated by the applicant, as much existing vegetation as possible should be maintained, due to the age and maturity of existing materials. Where existing materials do not provide an adequate site screen, the applicant should be required to install additional materials.

E. PUBLIC UTILITIES:

4. Streets/Access: The Department of Community Development and the Public Service Department foresees no problem with the proposed access onto 120th Avenue N.E.

This avenue currently has no sidewalk improvements. The Department of Community Development staff feels that a sidewalk is warranted with the development of this project, and would recommend that the applicant be required to install a 5 foot wide concrete sidewalk along the east property line of the subject property. The southern termination point should be located in the parking area of the property immediately south of the site.

5. Sewer/Water. These factors would not constrain the Kirkland Planning Commission from making either a positive or negative decision on this application.

6. Storm Drainage. At the time of Building Permit application, the applicant should submit a design and calculation for storm water retention system so that the water leaving the site after development is substantially the same as that which is leaving the existing site for a 10-year storm.

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Findings, Cont'd

G. 16. c. Cont'd

Applicant's response: None.

d. "The applicant shall further provide evidence to the Planning Commission's satisfaction that there is an additional need for the type of land classification for which he is applying."

Applicant's response: None.

17. Pursuant to the Kirkland Planning Commission and City Council review of request for a Conditional Use Permit, the following criteria shall be used for the review of such permit application:

a. "Does the use for modification requested by the conditional use fit within the intent of the Kirkland zoning ordinance, and in the public interest?"

Applicant's response: "To permit the operation of a 2,800 Sq.Ft. restaurant within a 15,200 Sq.Ft. office building. The restaurant would serve the offices, shopping center and medical services which make up the Totem Lake Center community."

b. Indicate why the use or modification requested by this application for the operation of a permitted business in a residential zone will not do damage to adjacent residential property values, creating excessive noises, or creating other nuisances; the applicant for a Conditional Use Permit in any zone, for any business use, shall also provide the Planning Commission with an economic feasibility study to show the soundness of his business venture. The Planning Commission and City Council shall evaluate this study as consideration for approval or denial.

Applicant's response: "Subject property is not in a residential zone nor is there likely to be any future residential use within 800 feet of this site."

c. "Is the use for modification requested by this application for the continuation or enlargement of a non-conforming use? If so, it shall be made on

G: 16. Pursuant to the Kirkland Planning Commission and the City Council review of the request for an amendment to the zoning map, the following criteria shall be used for the review of such an intent to rezone application: (Section 23.62.050)

a. "The use or change in zoning requested shall be in conformity with the adopted comprehensive plan, the provisions of this ordinance, and the public interest."

Applicant's response: "Yes. The proposed use is for a 15,200 Sq.Ft. office building of which 2,800 Sq.Ft. (approximately 18%) of the area is to be occupied by a restaurant. At the present all available office space in Totem Lake Center is occupied."

b. "The use or change in zoning requested in the zoning map of the zoning ordinance, for the establishment of commercial, industrial or residential use shall be supported by an architectural site plan showing the proposed development and its relationship to surrounding area as set forth in the application form and further described under Section 23.62.050."

Applicant's response: "Yes."

c. "An analysis of physiographic elements, existing in planned municipal services including water supply (domestic and emergency demand), sewage collection or treatment, and storm water control shall be prepared by the City Planning staff in conjunction with related city departments as an element of the administrative report."

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Conclusions, Cont'd

G. 12. Cont'd

- a. This application is consistent with the provisions of the Kirkland Zoning Ordinance regarding Conditional Use Permit applications. It is the opinion of the Department of Community Development that this application is in the public interest, and that it would be consistent with surrounding land uses, as discussed in other conclusions of this advisory report.
- b. Should the applicant be granted an Intent To Rezone for this property, the Conditional Use Permit would not be for the operation of a business in a residential zone. There are no residences in the immediate vicinity of the subject property, and it is unlikely that any will be constructed in the foreseeable future.
- c. This application is not a request for the continuation or enlargement of a non-conforming use.

RECOMMENDATIONS:

Based upon the foregoing Findings and Conclusions, and as identified in Exhibits A through M, we hereby recommend approval for this application for an Intent To Rezone and Conditional Use Permit subject to the following conditions:

- 1. The applicant should be required to install a 5 foot concrete sidewalk along the left side of 120th Avenue N.E., for the full length of the east property line of the subject property. The southern termination point of the sidewalk should be located in the parking lot of the property to the south of the site.
- 2. At the time of Building Permit application, the applicant should submit a design and calculation for storm water retention system so that the water leaving the site after development is substantially the same as that which is leaving the existing site for a 10-year storm.
- 3. The applicant shall delete proposed parking stalls 24-27 and shall utilize an additional 4 parking stalls located on the Totem Lake Shopping Center premises.

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Recommendations, Cont'd

- 4. The applicant shall be required to provide one 12 foot 6 inch wide handicap-sized parking stall and associated curb cuts with convenient access to the building.
- 5. Landscape Plan Exhibit "F" shall be modified to include two vine maples 6 feet in height, to the south of deleted stalls #24 through #27. In addition, the proposed Japanese plum along the east property line shall extend to the north property line. This entire row of Japanese plums shall be placed on a 2 to 3 foot earth berm.
- 6. The proposed dumpster shall be screened with a 6 foot, site-obscuring fence.
- 7. The construction of the proposed building shall conform to the recommendations included in the soils investigation completed by Roger Lowe Associates for this proposal.
- 8. This approval shall be conditioned upon approval of the forthcoming informal subdivision for this same property.
- 9. Prior to the issuance of a Building Permit for this application, the applicant shall submit to the City of Kirkland a Reciprocal Easement granting continued use by the proposed development of 41 stalls located on Totem Lake Shopping Center premises.

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Conclusions, Cont'd

Conclusions, Cont'd

F. NEIGHBORHOOD CHARACTERISTICS:

7. Zoning/Land Use. Development of this site as a professional office building and a restaurant would not be inconsistent with the surrounding land uses. The proposed development would serve somewhat as a transition between the commercial activities of Totem Lake Shopping Center to the south, and the professional service oriented activities to the north.

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

8. Landscaping. The applicant has submitted a landscaping plan which is generally consistent with the requirements of the Kirkland Zoning Ordinance. Two modifications are recommended to the landscape plan, as follows:

- a. The area directly south of the proposed parking stalls 24 through 27 is proposed to be landscaped with three 5 foot tall Photinia Fraseri. Staff would recommend that two vine maples, 6 feet tall, be placed between the three Photinia Fraseri.
- b. The row of Japanese plum proposed upon the west side of 120th Avenue N.E. should continue up to the north property line. This entire row of Japanese plums should be placed upon a 2 to 3 foot high earth berm if feasible.

9. Parking. The number of stalls proposed by the applicant satisfies the requirements of the Kirkland Zoning Ordinance. However, we feel that the internal circulation of the site would be much improved if proposed stalls 24-27 were deleted, and the applicant would be allowed to use 4 additional stalls which are now located on the Totem Lake Shopping Center site. The applicant would thereby provide 28 stalls on site, and use a total of 41 stalls on the Shopping Center grounds, and would thus comply with the requirements of the Kirkland Zoning Ordinance.

The applicant will also be required to provide 1 handi-cap-sized stall with convenient access to the building. We would recommend that one of the proposed stalls be widened to 12 feet 6 inches with a wheelchair-ramp from the proposed stall onto the building's patio.

G. Cont'd

10. The following discussion is applicable to the criteria to be used in review of an Intent To Rezone Application (Section 23.62.050)

- a. This application is generally consistent with existing and proposed comprehensive plans. The Emerging Land Use Policies Plan has designated this area for professional office use. In addition, as recommended by the Emerging Land Use Policies Plan, the applicant has submitted a soils analysis and should be required to develop in accordance with the results of that study.
- b. The applicant has submitted an architectural plan of the proposed development including a survey, floor plan, and landscape plan supporting this application. The relationships of those plans to the surrounding area are discussed in detail in other conclusions.
- c. The Department of Community Development has discussed the proposed application with King County Water District No. 79, and North East Lake Washington Sewer District, and has determined that the existing water and sewer lines would be adequate to serve the proposed development. In addition, we would recommend the following:
 1. The applicant should be required to submit designs of a storm water retention facility for a 10 year storm at the time of the building permit application.
 2. The applicant should be required to screen the proposed dumpster with a 6 foot, site obscuring fence.
11. The following discussion is applicable to the three criteria for review of an application for a Conditional Use Permit: