

RESOLUTION NO. R- 2570

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-78-61(P), BY SEATTLE EYE BUILDING CORPORATION TO CONSTRUCT A RETAIL FACILITY FOR THE WASHINGTON STATE LIQUOR CONTROL BOARD, A "SHAKEY'S" RESTAURANT, AND A "TREBOR'S DELI-MARKET" ON THE SOUTHEAST CORNER OF THE INTERSECTION OF 120th AVENUE N.E. AND TOTEM LAKE WAY, BEING WITHIN A PLANNED AREA 8 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 Seattle Eye Building Corporation, the owner of said property described in said application and located within a Planned Area 8 zone, and

WHEREAS, the application has been submitted to the Kirkland Planning Commission who held public hearing thereon at their regular meetings of October 26, 1978, and November 16, 1978, and

WHEREAS, pursuant to City of Kirkland Ordinance No. 0-2319 concerning environmental policy of the State Environmental Policy Act, an environmental checklist 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 checklist 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 having available to them the environmental checklist and negative declaration did adopt certain Findings, Conclusions and Recommendations and did recommend approval of the 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 Chairperson thereof and filed in the Department of Community Development File No. CUP-78-61(P) 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 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.

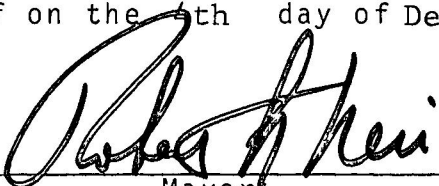
Section 5. Failure on the part of the holder of the Conditional Use Permit to initially meet or maintain strict compliance with the standards and conditions to which the Conditional Use Permit is subject shall be grounds for revocation in accordance with Section 23.56.110 of Ordinance No. 2183, the Kirkland Zoning Ordinance.

Section 6. 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 and Fire Department of the City of Kirkland
- (d) Parks 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

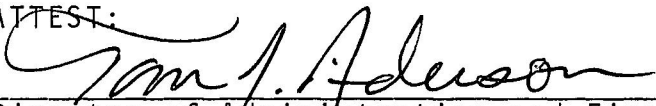
ADOPTED in regular meeting of the City Council on the 4th day of December, 1978.

SIGNED IN AUTHENTICATION thereof on the 5th day of December 1978.



Mayor

ATTEST:



Director of Administration and Finance
(ex officio City Clerk)



DEPARTMENT OF COMMUNITY DEVELOPMENT

ADVISORY REPORT
FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

____ PREPARED BY _____ DATE _____

xxx. RECOMMENDED BY _____ DATE November 16, 1978

____ ADOPTED BY _____ DATE _____

____ STAFF _____

____ BOARD OF ADJUSTMENT _____

____ HOUGHTON COMMUNITY COUNCIL _____

xxx. PLANNING COMMISSION _____

David Russell
David Russell, Chairperson

____ CITY COUNCIL AS INCORPORATED IN _____

____ RESOLUTION _____ ORDINANCE

NUMBER _____

DATE _____

FILE NUMBER CUP-78-61(P)

APPLICANT Seattle Eye Building Corporation

PROPERTY LOCATION 120th Ave. N.E. and Totem Lake Way

SUBJECT CONDITIONAL USE PERMIT for Washington State Liquor Store, a restaurant and a deli-market.

HEARING/MEETING DATE December 4, 1978

BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED "A" Application "B" Vicinity Map "C" Site Plan "D" Recommendations of Totem Lake South Informal Subdivision "E" Soils Report "F" Environmental Information "G" Sketch of west facade of deli.

I. SUMMARY

A. DESCRIPTION OF THE PROPOSED ACTION

This is an application for a Conditional Use Permit submitted by the Seattle Eye Building Corporation (SEBCO). The applicants propose the construction of a retail facility for the Washington State Liquor Control Board, a "Shakey's" restaurant, and a "Trebtor's Deli-Market". Also included are fifty-nine parking stalls and landscaping along the perimeter of the property.

The parcel of land is located on the southeast corner of the intersection of 120th Ave. N.E. and Totem Lake Way. Totem Lake lies immediately to the east of the subject property. (See Exhibit "B" - Vicinity Map).

The lot is 45,657 square feet in area, and was designated as "Lot B" by the Totem Lake South Subdivision.

B. RECOMMENDATIONS

This application is consistent with the applicable policies and recommendations of the City of Kirkland. Subject to the Statements of Fact and Conclusions and as identified in Exhibits "A" through "G", we hereby recommend approval with the following conditions:

1. No fill will be permitted below the 120 foot contour line.
2. Together with application for Building Permit, the applicant shall indicate the manner in which the structural recommendations of the soils engineers have been incorporated.
3. Prior to issuance of Building Permits for the subject property, the applicant shall:
 - a. Submit for review and approval to the Department of Community Development and Parks Department a detailed landscaping plan. Said plan shall indicate a 3 to 4 foot high earthen berm to be constructed along the western and northern perimeter of the project. Said berm shall be contoured so as to provide site screening along 120th Ave. N.E. and Totem Lake Way and shall be planted with ivy or similar erosion-reducing ground cover. The use of "beauty bark" is explicitly prohibited except where reasonably used as mulch. In addition, street trees and shrubs will be indicated along the landscaped berm, the former to occur at a maximum of 30 feet on center and both plant materials to be consistent with plantings on adjacent properties.
 - b. Submit for review and approval to the Public Service Department the following items:

- I. B. 3. b. (i) A storm retention system designed for 10-year storm, including methods or techniques for handling storm water runoff during construction, as well as after. The retention system shall include oil/grit separators and these shall be indicated on the plans submitted for review.
- (ii) A detailed utility improvement plan indicating the location, specifications and nature of the systems including water, sewer, power and communications. Applicant shall contact the N.E. Lake Washington Sewer District and then meet with the Kirkland Public Service Department. It shall be the purpose of said meeting to review the utility plan for conformance with Sections 4 and 5 of Resolution 2240 (minimizing hazard of flood damage or infiltration of flood waters into the sanitary sewer system).
- c. Contact the Department of Fire Services for the purpose of reviewing the detailed improvements so that fire flow, hydrant, water line location, and other relevant requirements are adequately addressed.

4. Prior to the issuance of Certificates of Occupancy, the following shall be accomplished:

- a. A five foot wide concrete sidewalk section shall be installed where the subject property abuts public right-of-way.
- b. The earthen berm and plant materials described in the approved landscape plan shall be installed and ready for final inspection by the Department of Community Development.
- c. A Conditional Use Permit shall have been processed and approved for any signs that are not face mounted on buildings.

5. Prior to the issuance of grading or building permits the applicant shall submit a temporary erosion-sedimentation control plan (TESCP) for review and approval to the King County Conservation District. Said plan shall meet the best management practices as recommended and approved by the District, including the prevention of the entrance of sediment laden water into the natural drainage system. These practices and facilities shall be in operation prior to clearing and building construction, and satisfactorily maintained until construction and landscaping are completed and the potential for on-site erosion has passed. The Conservation District shall transmit a letter to the Kirkland Department of Community Development stating that an adequate TESCP has been submitted by the applicants before any permits issue.

II. MAJOR STATEMENTS OF FACT AND CONCLUSIONS:

A. Historical Background

1. Statements of Fact

a. The subject property is identified as Lot B of the short plat of Totem Lake South. This short plat was approved by the City of Kirkland on April 14, 1977. (See Exhibit "D" - Short Plat of Totem Lake South).

II. A. 1. a. (Cont'd)

This application was subject to specific recommendations found in Resolution No. R-2402, and these recommendations are included for reference in Exhibit "D".

- b. Conclusions. The recommendations accompanying the short plat of this property should be incorporated into the Recommendations for approval of this Conditional Use Permit.

B. GOVERNMENTAL COORDINATION

1. Statements of Fact.

- a. Fire Department. Adequacy of Emergency Access: Until more detailed drawings of the subject complex are submitted we are unable to determine the adequacy for emergency access. Fire Hydrants. Until drawings are submitted that show the location of the existing hydrants we are unable to determine if the existing hydrants meet the minimum height requirements. Adequacy of Fire Flow. We will be able to determine minimum fire flow requirements when more detailed drawings of the subject buildings are submitted to the Fire Department. Other. The plans when submitted will be required to meet all the requirements of the Building Department and the Fire Department.
- b. Building Department. Relevant Building Code Requirements. Project will be constructed in Fire Zone 2. A parapet will be required on the south end of the building since it is located within 10 feet of the property line. Other. This new arrangement will make exiting provisions easier to achieve.
- c. Police Department. Emergency access appears to be adequate.
- d. Parks Department. Pedestrian Improvements. Sidewalks on Totem Lake Way. Landscaping. To be approved by Parks Department. General plan to match the street planting of adjacent properties. Street trees 30 feet on center.
- e. Public Service Department. Sanitary Sewer: N.E. Lake Washington Sewer District. Domestic Water: King Co. Water District No. 79. Storm Water. Retention plan and construction drainage plan required prior to any construction. Right-of-way Improvements: Sidewalks adjacent to existing curb.

II. B. 2. Conclusions.

- a. The applicant must satisfy all requirements of the Kirkland Fire Department, with the location of the fire hydrant to be determined at the time of Building Permit application, if such hydrant is necessary.
- b. Sidewalks should be required along Totem Lake Way and 120th Ave. N.E.
- c. Landscaping to be approved by Parks Department. The general plan along Totem Lake Way and 120th Ave. N.E. should match the street plantings of adjacent properties. Street trees 30 feet on center.
- d. A parapet and any other applicable Building Code requirements must be met at the time of Building Permit.

C. EXISTING PHYSICAL CHARACTERISTICS:

1. Statements of Fact

- a. Topography. The site has undergone grading and filling since about 1972. This has left the surface relatively flat with the exception of the easternmost portion of the site which slopes off toward the water.
- b. Vegetation. Grass and weeds cover most of the site. The eastern, marshy portion of the property is covered with reeds and grasses and small willows, alder and cottonwood.
- c. Soils. The underlying soil in the Totem Lake area is Vashon-Age Glacial Outwash Till. This area was once a meltwater channel of the Vashon Glaciation, and contains large amounts of soft sediments and peat. In 1972, during the excavation and grading for the present Totem Lake Shopping Center, this area was filled with excavated till and outwash of variable density. This fill apparently displaced much of the soft sediments and peat into Totem Lake.

II. C. 1. c. (Cont'd)

A soils report from Golder Associates was submitted with this application. This report found that a very dense layer of material lies under the soft materials and slopes upward to the north with an elevation varying from about 60 feet to 90 feet above sea level. Totem Lake itself is at an elevation of approximately 118 feet above sea level.

The soils report contains detailed engineering design criteria.

- d. Hydrology. Runoff from this site would drain into Totem Lake. Totem Lake was formed during the retreat of the Vashon Glacier approximately 11,500 years ago and has been filling with organic debris and silt in a natural process of eutrophication for the past 8 to 9 thousand years. The maximum depth of the lake is less than 14 feet, and has a very low oxygen level and a high concentration of nutrients.

2. Conclusions.

- a. Topography. The portion of the site to be built on is already level. The restrictions of the plat of this property do not allow fill below the 120 foot contour line.
- b. Soils. The design guidelines set out in the soils report should be followed by the applicants.
- c. Hydrology. Because the existing water quality in Totem Lake is poor, it is especially important that the runoff from adjoining properties does not further degrade the water quality. The storm sewer plans should include oil/grit separators and meet the approval of the Department of Public Service.

D. PUBLIC UTILITIES

1. Statements of Fact

- a. Streets. The subject property fronts on Totem Lake Way and 120th Ave. N.E. Both streets have been improved with asphalt, curbs, and gutter.

- II. D. 1. b. Pedestrian Ways. There are no existing sidewalks on Totem Lake Way or 120th Ave. N.E. The applicant has proposed a 5 foot sidewalk along 20th Ave. N.E. and Totem Lake Way.
- c. Sanitary Sewer. There is an existing 10" sanitary sewer line along 120th Ave. N.E. which could serve the subject property. This area is served by the Northeast Lake Washington Sewer District.
- d. Storm Sewer. Storm sewer would be discharged into Totem Lake and the associated wetlands.
- e. Domestic Water. There is an existing water main in 120th Ave. N.E. which could serve the subject property. This area is served by Water District No. 79.

2. Conclusions.

- a. Streets-Pedestrian Ways. The only right-of-way improvements necessary with this application would be the installation of five foot concrete sidewalks along both 120th Ave. N.E. and Totem Lake Way.
- b. Water/Sewer. Special precautions must be taken in regard to water quality of the runoff into Totem Lake.

E. NEIGHBORHOOD CHARACTERISTICS:

1. Statements of Fact.

- a. Zoning. The subject property is zoned Planned Area 8. Professional office, restaurant, multi-family dwelling units, or limited commercial uses are allowed in Planned Area 8. Restaurants in this Planned Area are subject to Chapter 23.14 of the Zoning Ordinance, Professional Office Zone. Limited commercial uses are subject to Chapter 23.16, Neighborhood Business Zone, except that any one use permitted in this zone may be processed separately and the dimensional requirements of Chapter 23.14 apply.
- b. Land Use. The subject property is presently undeveloped. The property surrounding the site is varied and includes the Totem Lake Shopping Center, and presently vacant land. The owner of the property to the east of the subject parcel has applied for a Conditional Use Permit for a "sit-down" type restaurant, and the property further to the east is the subject of an application for 119 residential units. The land directly to the south is presently vacant and no plans for development have been received by the City.

II. E. 2. Conclusions.

This proposal is consistent with the allowable uses for Planned Area 8 and would not be out of character with the existing development.

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

1. Statements of Fact.

- a. Kirkland Zoning Ordinance. This proposed action would be subject to the requirements of Section 23.14 and Chapter 23.16 of the Zoning Ordinance, and the applicable regulations found in Section 23.32, Signs, and 23.34, Parking and Loading.
- b. Land Use Policies Plan. The applicable sections of the Land Use Policies Plan are noted as follows:

Totem Lake is also an important element in the drainage system. This small lake provides storage for urban runoff; acts to some extent as a trap for sediment carried by surface runoff; and provides open space amenities in an area undergoing intense development. Totem Lake should be maintained in a natural condition and should not be diminished in size by filling or other land modifications (see Natural Elements Policy 2 and Policy 4). (p. 392 and 393)

Lands surrounding the five-acre Totem Lake may be subject to uneven settlement (see Figure 41). In this area, developments must include methods to handle drainage; prevent methane entrapment; and prevent the settlement of structures and utility systems (see Natural Elements Policy 1.b.). In all areas subject to uneven settlement, a soils analysis is required prior to development in order to identify and mitigate possible problems. Further discussion of potential development around the Lake may be found in the Planned Areas section. (p. 393 and 394)

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II. F. 1. (Cont'd)

Portions of the Totem Lake area have been designated as flood hazard zones as illustrated in Figure 41. These designations have been made by the Federal Insurance Administration of Department of Housing and Urban Development. Federal law requires that flood insurance be obtained before any federally insured lending institution may approve a loan for development within an identified flood hazard zone. (P. 394)

Totem Lake and the surrounding wetlands have been identified as a natural constraint area. These lands have been noted as being subject to possible uneven settlement and have been designated by the Federal government as a flood hazard zone. Additionally, the lake and wetlands area are to be maintained as functioning elements of the natural drainage system (see Natural Elements Policy 4 and Public Services/Facilities: Drainage Policy 1). To protect the lake, to provide visual open space, because most of the land is in a single ownership and considering the natural constraints, the area has been designated a Planned Area. Possible uses would include limited commercial and small office uses. Also permitted would be medium density residential use at 10 to 14 dwelling units per acre. All developments will be subject to the following conditions:

- (1) Developments are to be part of a plan encompassing all of the Planned Area.
- (2) The assured maintenance of the lake and wetlands as a natural water retention and cleansing system will be required (see Natural Elements Policy 4 and Public Services/Facilities: Drainage Policy 1).
- (3) The lake is to remain as a visual focal point for the area.

II. F. 1. (Cont'd)

- (4) No construction over the lake will be permitted.
- (5) No fill for structures or parking will be permitted within a reasonable distance from the lake.
- (6) The water surface area of the lake is not to be reduced.
- (7) Lands which have been encumbered with a dedication of open space or development rights to the City may not be included in residential density computations.

(p. 396 & 397)

Totem Lake has been designated as a flood hazard area by the Federal Insurance Administration (under HUD) and therefore is subject to the following sections of Resolution 2240.

"Section 4: The Building Official acting in cooperation with the Director of Public Services shall review subdivision proposals and other proposed new developments to assure that

(i) All such proposals are consistent with the need to minimize flood damage;

(ii) All public utilities and facilities such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and

(iii) Adequate drainage is provided so as to reduce exposure to flood hazards.

Section 5: The Building Official acting in cooperation with the Director of Public Services shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding."

II. F. 2. Conclusions.

- a. Totem Lake will be retained in its present condition below the 120 foot contour level. This will preserve the open space amenity and the hydrological value of the lake.
- b. Construction designs must take into account the problems associated with uncompacted fill. The plans will require approval from the Building Department and the Department of Public Service. The recommendations of the Soils Engineer should alleviate the problems associated with the soils for the area. The review of these plans should observe the policies embodied in the Comprehensive Plan.
- c. This development proposal generally meets the seven policy guidelines found on pages 396 to 397 which apply to the subject property.
- d. The utilities improvements must conform with Sections 4 and 5 of Resolution No. R-2240 in order to minimize any flood damage or infiltration of flood waters into the sanitary sewer system.

III. APPENDICES

Exhibits "A" through "E" are attached.