

RESOLUTION NO. R-2643

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. SDP-ZCUP-79-40(H), BY FOGHORN ASSOCIATES FOR ADDITIONS TO THE EXISTING FOGHORN RESTAURANT, 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 Azaria Rousso for the Foghorn Associates, the owners of said property described in said application and located within a Waterfront District I zone, and

WHEREAS, the application has been submitted to the Kirkland Planning Commission and Houghton Community Council who held public hearings thereon at their regular meetings of July 3, 1979 and July 12, 1979 respectively, and

WHEREAS, pursuant to City of Kirkland Ordinance No. 2473 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, the Kirkland Planning Commission and Houghton Community Council after their public hearings 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 Chairwoman thereof and filed in the Department of Community Development File No. SDP-ZCUP-79-40(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 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.

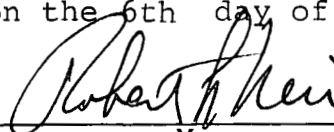
Section 6. Notwithstanding, the recommendations heretofore given by the Houghton Community Council, the subject matter of this Resolution and the Conditional Use Permit herein granted are, pursuant to Ordinance 2001, subject to the disapproval jurisdiction of the Houghton Community Council, and therefore 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 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) Fire and Building 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) 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 6th day of August, 1979.

SIGNED IN AUTHENTICATION THEREOF on the 6th day of August, 1979.

  
\_\_\_\_\_  
Mayor

ATTEST:

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

ADVISORY REPORT  
FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

\_\_\_ PREPARED BY \_\_\_\_\_ DATE \_\_\_\_\_

xx RECOMMENDED BY \_\_\_\_\_ DATE July 3, 1979

\_\_\_ ADOPTED BY \_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_ STAFF \_\_\_\_\_

\_\_\_ BOARD OF ADJUSTMENT \_\_\_\_\_

xx HOUGHTON COMMUNITY COUNCIL Phyllis Needy  
Phyllis Needy, Chairperson

\_\_\_ PLANNING COMMISSION \_\_\_\_\_

\_\_\_ CITY COUNCIL AS INCORPORATED IN \_\_\_\_\_

\_\_\_ RESOLUTION \_\_\_\_\_ ORDINANCE

NUMBER \_\_\_\_\_

DATE \_\_\_\_\_

FILE NUMBER SDP-ZCUP-79-40(H)

APPLICANT FOGHORN RESTAURANT

PROPERTY LOCATION 6023 Lake Washington Boulevard

SUBJECT ZONING CONDITIONAL USE PERMIT AND SUBSTANTIAL DEVELOPMENT PERMIT

HEARING/MEETING DATE July 12, 1979

BEFORE KIRKLAND PLANNING COMMISSION

EXHIBITS ATTACHED "A" Applications "B" Vicinity Map "C" Site Plan "D" Sun  
Angles "E" Letter from Lanes "F" Letter from Mr. Myers "G" Minutes of 5/11/72  
Planning Commission Meeting "H" Environmental Info. "I" Interpretation of  
Moorage as Parking. "J" Letter from E. Seelye

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I. SUMMARY:

A. DESCRIPTION OF PROPOSED ACTION:

This is a request for a Zoning Conditional Use Permit and a Substantial Development Permit submitted by the Foghorn Restaurant to allow for two small additions to the existing restaurant at 6023 Lake Washington Boulevard. The north addition would be a walk-in refrigerator and would be 10 feet wide, 17 feet long, and 11 1/2 feet high. This addition required a Variance from north property line setback. The second addition would be on the south side of the property, extending 8 feet south of the existing structure, with a 31 1/2 foot length and 16 1/2 foot height. The total addition would be 426 square feet. Additional boat moorage will count towards the parking requirement.

B. RECOMMENDATIONS:

Based on the Statements of Fact, Conclusions and Exhibits "A" through "J" included with this report, we hereby recommend approval of this Zoning Conditional Use Permit and Substantial Development Permit subject to the following conditions:

1. Prior to approval of the Building Permit for this addition, the applicant shall submit plans for:
  - a. Cleanup of the rotting pier and debris on the west side of the property, and clean up of the overflow parking lot used by the Foghorn. Such plans shall include removal of debris and weeds as well as the pier. The plans shall be in written form and shall be approved by the Department of Community Development and the Parks Department. Also, make general improvements to the landscaping, with materials and construction consistent with the park to the south.
  - b. A pedestrian walkway along the water from North Houghton Beach Park for review and approval to the Parks Department. They shall record a public pedestrian access easement along the western edge of the lot measuring 15 feet landward from the high water line.
  - c. Review and approval for screening the dumpster and the service area, keeping in mind the possibility of relocating the dumpster and taking steps to reduce the noise at the service entrance. These plans shall be approved by the Department of Community Development.
  - d. Eight moorage slips designated for exclusive use of Foghorn patrons.

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- I. B. 2. Plans submitted for Building Permit must show a one-hour wall with parapet on the north side of the addition and meet the requirements for Fire Zone 2.
3. Prior to physically occupying either addition, the property owner must obtain a Certificate of Occupancy. The items listed under 1, above, must be completed, inspected, and approved prior to the issuance of A Certificate of Occupancy.
4. No free standing signs over 5 feet above grade shall be allowed. Any free standing sign shall not be backlit.
5. Because the dock is to be used exclusively by restaurant patrons, the applicants shall be allowed to place a sign at the entrance indicating that usage of the dock is to be for patrons only.

## II. MAJOR STATEMENTS OF FACT AND CONCLUSIONS:

### A. HISTORICAL BACKGROUND:

#### 1. Statements of Fact.

- a. The Foghorn restaurant received approval for a Conditional Use Permit and Substantial Development Permit on May 11, 1972. Prior to that time, the subject property was developed as a similar use, the Moscow Restaurant. The development proposal included the following items (see Exhibit "G"):
  - (1) The premises will be open to the public.
  - (2) The easterly 10' will be designed as an integral part of the pedestrian way and landscaped.
  - (3) The waterfront will be available for public access.
  - (4) There will be no disturbance to the shoreline.
  - (5) The existing pier will be repaired, not extended.
- b. The applicant received approval of a Variance for north property line setback from 17 feet to 7 feet, granted by the Board of Adjustment at their June 27, 1979 meeting.
- c. In January, 1979, the Department of Community Development issued an interpretation concerning the use of boat moorage to satisfy parking requirements for a water-dependent commercial use (see Exhibit "I"). This interpretation resulted from a letter from Mr. Azaria Rousso dated December 22, 1978, and a motion by the Houghton Community Council to consider 2 moorage slips as one parking stall. The minutes from the January 9, 1979 Houghton Community Council meeting and the letter from Mr. Rousso are included in Exhibit "I".

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II. A. 2. Conclusions.

The original Conditional Use Permit focused attention on public access, landscaping, and a pedestrian way. In light of the recent acquisition of park land adjacent to the south, these issues are even more salient. While the areas mentioned in the original Conditional Use Permit are open to public use, the usability of these areas would be greatly improved by a cleanup and landscape program. This type of program could be required with the permits required for this addition. The Board of Adjustment found that the proposed north property line setback was adequate. This application was made based on the January 9, 1979 decision of the Houghton Community Council and the subsequent administrative decision to allow two moorage slips to count as one vehicular parking stall. Only four required stalls would be covered by moorage; eight moorage slips should be required.

B. GOVERNMENTAL COORDINATION:

1. Statements of Fact.

- a. Public Service Department. Existing facilities are adequate.
- b. Fire Department. Present access, fire hydrants and fire flow are adequate.
- c. Building Department. This is located in Fire Zone 2. One hour wall with parapet required at north wall of addition.

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II. B. 1. d. Police Department. No public safety concerns with this addition.

e. Park Department. The dumpster should be screened. We need landscaping and cleanup plans for the west side. The applicant should work with the Park Department in regard to the pedestrian access area.

2. Conclusions.

The Parks Department is concerned with the areas designated in the original Conditional Use Permit for pedestrian access and public use. The approval of any addition should be conditioned upon a landscaping and clean-up plan for the area along the water, and a pedestrian access plan to the park. A one-hour wall with parapet will be required at the north wall of the addition.

C. EXISTING PHYSICAL CHARACTERISTICS:

1. Statements of Fact.

a. Topography. The property slopes gently toward the water, dropping approximately 10' over a 135' distance.

b. Soils. The soil in this area is indicated as Kitsap silt loam, formed in glacial lake materials and old lake terraces. It is moderately well drained and erosion hazard is slight.

c. Vegetation. The area surrounding the parking lot is heavily vegetated with pine trees and other vegetation. The area near the water is less heavily vegetated.

2. Conclusions.

Neither topography nor soils would constrain the building of the proposed additions. The thick vegetation surrounding the parking area screens the parking from the street.

D. NEIGHBORHOOD CHARACTERISTICS:

1. Statements of Fact.

a. Zoning. This property and properties to the north and south are zoned Waterfront District I. Land to the east of Lake Washington Boulevard is zoned for multi-family use at a density of 3600 square feet per unit.

b. Land Use. The subject property is presently used as a restaurant. Properties to the north are primarily used for multi-family residential, with interspersed single family homes. The land directly to the south has recently been purchased by the City of Kirkland for a public park, and Houghton Beach Park lies just south of the subject property. Land to the east of Lake Washington Boulevard is a mixture of single family and multi-family dwellings.

II. D. 2. Conclusions.

Because restaurants are a permissible use in Waterfront District I, and because this use was granted a Conditional Use Permit, and Substantial Development Permit, this use and the extension of this use is within the scope of the zoning and land use for this area. However, all possible concessions should be made to the residents next to the Foghorn, so that the noise and parking generated by the restaurant have the least possible impact on the neighboring residences.

E. CITIZEN INPUT:

1. Statements of Fact

At this time, three letters have been received concerning this application:

"...We the undersigned, Phyllis Lane, owner of Lot 10 across street from Foghorn Restaurant and Gregory W. Lane, both of 10107 Radford Avenue NW, Seattle, oppose the granting of said permit and Zoning Conditional Use Permit because:

-any building on or up to property lines obscures the public's right to view between buildings along the lake; this has been the view of previous council decisions we have attended.

-said building would obstruct the direct view of the lake from Lot 10 across the street.

-other zoning ordinances relative to height and waterline limits are also established and we feel should not be changed...."

Letter from Mr. J. Myers

"...My residence is next door to the Foghorn. My bedroom is almost on the property line. When the restaurant was built, I was told that a partition or sturdy wall would be build between use, and in addition, the "sore eye" sight which is the old wrecked dock in the rear of the restaurant would be removed. That is provided I didn't fight or petition with the Pebble Beach Condo against. I kept my word. After 6 years they still have not lived up to theirs.

I would be definitely affected by the Foghorn's proposal; therefore, I am in opposition to it....."

Letter from Elinor B. Seelye.

"... This excellent small establishment has developed over the past two years of my observation to the point of having outgrown its location. The traffic and parking problems brought about by the patronage has generated excessive congestion in the midst of already too busy Lake Washington Blvd. Coupled with now enlarged Houghton Beach Park the result is absorption of street parking places with some illegal parking taking place. My own personal experience this past week has been to find a car parked on the striped crosswalk when I returned home by bus."

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II. E. 2. Conclusions.

The Lanes registered concerns about view blockage. Existing vegetation and projecting structures now block most of the view along the north property line setback, and the Board of Adjustment has granted a Variance for north property line setback. The view blocked by the addition to the south would be minimal; Houghton Beach Park and North Houghton Beach Park lie directly south of the Foghorn property.

The property owner directly to the north objects to the noise and the unattractive condition of the subject property. To improve this situation, the applicant should be required with this permit to follow through on a program of fencing, clean-up, and possible re-arrangement of the service area.

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

1. Statements of Fact.

The subject property is located in Waterfront District I. Applicable portions of the Zoning Ordinance are included here:

(Sect. 23.12.010)

Waterfront District I is the highest density waterfront use area. This is primarily due to the precedents set by existing developments. This district can be an active area with a variety of uses. The basic development standards for this District include:

1. No over water construction except for moorages and other elements consistent with public enjoyment of the waterfront.
2. No land fill in submerged land areas except in the public interest.
3. Provisions for a major pedestrian way along public rights-of-way and a land reservation for a water edge trail.
4. No industrial activities are permitted including the manufacturing and fabricating of boats.
5. Multi-uses which increase public access to the water can include waterfront parks, waterfront related retail shops, various types of housing units including single family dwelling units, marinas and moorages, office facilities, and other uses requiring a water edge location which are compatible with the above facilities.

II. F. 1. (Sect. 23.12.010, Cont'd)

6. All waterfront developments shall be evaluated in terms of how much visual and physical access to the water is provided for the use and enjoyment of the public. Structures shall be so located on any waterfront site as to minimize view obstruction from the frontage road to the water. Developments which propose structures, landscape berms, hedges or other view obstructing elements whose greatest length is generally parallel to the frontage road may be required by the Planning Commission to develop additional visual openness to the water from the frontage road.

(Section 23.12.042)

Marinas: (continued)

a. CUP Conditions:

(4) Noise buffering.

The developer or owner shall demonstrate that any noise generated within the development shall be so as not to reduce the livability of any dwelling units. In addition, Section 23.36 of the Zoning Ordinance (performance standards section) shall apply.

2. Conclusions.

This existing restaurant dedicated public access to the water with the original Conditional Use Permit. However, the usability is not great because of the unkempt condition of the waterward area. With the new adjacent usage of the park, public access along the water in the area could be increased. Clean-up of the area and installation of a trail along the water would make the public area usable and it would remove the possibly dangerous situation of a rotting pier on the property. This would increase the physical access to the water discussed in Item 6, above, and help mitigate the effect of building to the north and south of the existing structure. 7/12/79 7/3/79

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II. F. 2. (Cont'd)

Noise is a problem for the residents to the north of the restaurant. Efforts should be made to relocate the dumpster if possible, and a solid fence should be built to improve the noise situation and provide a visual barrier.

III. APPENDICES:

Exhibits "A" through "J" are attached.