

RESOLUTION NO. - 2710

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PRELIMINARY PLANNED UNIT DEVELOPMENT AS APPLIED FOR IN DEPARTMENT OF COMMUNITY DEVELOPMENT FILE NO. P-PUD-SDP-79-115(H), BY WINMAR COMPANY, INC. TO CONSTRUCT A 48-UNIT CONDOMINIUM STRUCTURE WITH PARKING AND RECREATION BUILDING BEING WITHIN A WATERFRONT DISTRICT I ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PRELIMINARY PLANNED UNIT DEVELOPMENT SHALL BE SUBJECT.

WHEREAS, the Department of Community Development has received an application for a Preliminary Planned Unit Development filed by Winmar Company, Inc., 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 Kirkland Planning Commission and Houghton Community Council who held hearings thereon at their regular meetings of December 4, 1979, December 11, 1979, January 15, 1980, January 17, 1980, January 24, 1980, and February 21, 1980, and

WHEREAS, pursuant to City of Kirkland Ordinance No. 0-2319 concerning environmental policy and 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 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 Preliminary Planned Unit Development 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. P-PUD-SDP-79-115(H) are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Preliminary Planned Unit Development shall be issued to the applicant subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council, with the exception of Condition IB8c and the last paragraph of Condition IB13 which are not adopted; and further conditioned that the conveyance of public access and public use areas shall be by deed or easement to be determined at the time of consideration of the Substantial Development and Final Planned Unit Development Permits.

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 Preliminary Planned Unit Development 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 permit to initially meet or maintain strict compliance with the standards and conditions to which the Preliminary Planned Unit Development is subject shall be grounds for revocation in accordance with Section 23.28 of Ordinance No. 2183, the Kirkland Zoning Ordinance.

Section 6. Notwithstanding any recommendations heretofore given by the Houghton Community Council, the subject matter of this Resolution and the Preliminary Planned Unit Development 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) Fire and Building Departments of the City of Kirkland
- (d) Public Service Department of the City of Kirkland
- (e) 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 3rd day of March, 1980.

SIGNED IN AUTHENTICATION THEREOF on the 3rd day of March,
1980.



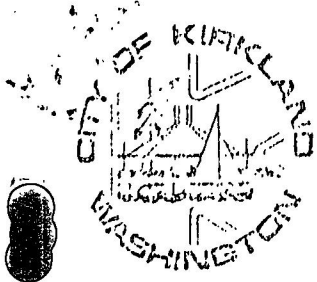
Mayor

ATTEST:



Director of Administration and Finance
(Ex officio City Clerk)

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DEPARTMENT OF COMMUNITY DEVELOPMENT

ADVISORY REPORT
FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

___ PREPARED BY _____ DATE _____
XX RECOMMENDED BY _____ DATE February 21, 1980
___ ADOPTED BY _____ DATE _____

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

Kay Haenggi
Kay Haenggi, Chairwoman

X RESOLUTION _____ ORDINANCE _____
NUMBER B-2710
DATE 3-3-80

FILE NUMBER P-PUD-SDP-79-115(H)
APPLICANT Winmar Corporation

PROPERTY LOCATION N. of 5207 Lake Wa. Blvd.
SUBJECT Preliminary Planned Unit Development and Substantial Development Permits to construct a 48-unit condominium structure with parking and recreation bldg.

HEARING/MEETING DATE _____
BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED See list on reverse.

- "A" Application for Preliminary Planned Unit Development
- "B" App [redacted] for Substantial Development Permit
- "C" Vicinity Map
- "D" Drawings
 - "D1" Boundary and Topographic Survey
 - "D2" Existing Grades/Construction Excavation Required
 - "D3" Finish Grading Plan
 - "D4" Existing Utilities Location Plan/Schematic Storm Drainage Plan
 - "D5" Architectural Site Plan
 - "D6" Garage Plan
 - "D7" Dimensional Regulations Review/Architectural Site Plan
 - "D8" Building Elevations
 - "D9" Building Height Determination
 - "D10" Site Sections
 - "D11" Landscape Plan
 - "D12" Construction Layout Site Plan
- "E" Environmental Information
- "F" Resolution R-2366
- "G" Public pedestrian access linkage between Lake Washington Boulevard and Shoreline
- "H" View Analysis
- "I" Approved Seahawks Site Plan
- "J" Soils Information/Geotechnical Report
- "K" Design Within High Waterline Setback
- "L" Colored Version of "K" Indicating Areas of Public Use and Public Access
- "M" Summary of Costs - J. Perkins 1/17/80
- "N" Memo from J. Perkins 1/17/80
- "O" Excerpt of WD I with Comments by J. Perkins 1/17/80
- "P" Aerial Photo - 1" = 500'
- "Q" Survey with Boom Locations
- "R" Photo Mosaic with Building
- "S" Letter from W. Snell 1/23/80
- "T" Interception of Sight Line - Proposed Structure
- "U" Split Structure Option - Views
- "V" Proposed Option - Views
- "W" High Rise Option - Views
- "X" Comparison of Public Benefits
- "Y1" Letter from J. Perkins 2/19/80
- "Y2" Winmar Company Profile Pamphlet
- "Z" Staff Memos 1/11/80 and 1/16/80

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I. SUMMARY:

A. DESCRIPTION OF THE PROPOSED ACTION:

This is an application by the Winmar Corporation for Preliminary Planned Unit Development and Substantial Development Permits to construct a 48-unit condominium project with associated parking and recreation structures. The 3.97 acre site is located between Lake Washington Boulevard and Lake Washington between the Seahawks offices and the Yarrow Bay Marina.

The residential density of the proposed project is 12 dwelling units per acre, the lot frontage along Lake Washington is approximately 445 linear feet and the impervious coverage of the site is proposed at 53.8 percent (structures plus roadways). The dwelling units will be 2,380 square feet to 2,800 square feet of area. These units will be arranged in a single structure oriented roughly parallel to the shoreline that is 480 feet long, 100 feet wide and 4 stories in height. The maximum building height (63.25 feet) is 30 feet above the average building elevation (33.25 feet). (See Exhibit "D-8" - Building Elevations).

The applicants propose to regrade the site as follows: An excavation would remove from 8 to 10 vertical feet of material on the western half of the site and a fill of from 5 to 8 vertical feet of material would be placed on the eastern half of the site. (See Exhibit "D-3" - Finished Grading Plan).

One hundred and twenty-five parking stalls are proposed to accommodate the residents and their guests. This averages 2.6 parking stalls per unit. These stalls will be located both within and on the roof of a parking structure to be located immediately east of the dwelling units. Access to the property is from a single proposed roadway coming from Lake Washington Boulevard. The roadway would not exceed 12% in slope and would be 24 feet wide. The roadway would cross over the roof of a proposed recreation structure, swing to the north and then switch back to the south to arrive at the parking levels of the garage structure.

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A swimming pool is indicated at the southwest corner of the site situated within the high water line setback. No piers or other structures are proposed over or near the shoreline. Although not shown on the site plans, the applicants acknowledge a "proposed future pedestrian trail" to exist along the water's edge. Applicants have not shown a public pedestrian access to the shoreline due to "difficulty, infeasibility and impracticality". The specific location and nature of any pedestrian access improvements would be determined through the review and public hearing process on the project.

B. RECOMMENDATIONS:

The Substantial Development Permit should be considered for adoption at time of the Final Planned Unit Development.

BASED ON THE STATEMENTS OF FACT, CONCLUSIONS, AND EXHIBITS "A" THROUGH "Z", CONTAINED HEREIN, WE HEREBY RECOMMEND THAT THE PRELIMINARY P.U.D. BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall submit the following materials along with application for Final Planned Unit Development:
 - a. A detailed design indicating how all of the land in the high waterline setback area will be used. This design shall correspond to the concepts, dimensions and features shown on Exhibit "K". The major elements to be located within this setback area are:
 - (1) A hard surfaced pedestrian walking trail which runs parallel to the lake and connects to both the north and south property lines;
 - (2) A 'public use' area which shall envelop and go beyond the aforementioned trail in terms of dimension and which shall include such pedestrian and passive recreational items as identified below at Condition 13.

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- (3) A 'public/private' buffer area to lie immediately easterly of and parallel to the 'public use' area for the purpose of providing a visual and functional transition between the public space along the shoreline and the private space associated with the residential structure. The design elements in this 'public/private' buffer area may include landscaping, fences, gates, trellises, arbors or other materials; and
- (4) Some purely private use in association with the condominium units.

This design shall be reviewed by the Parks, Police and Community Development Departments for comment and refinement prior to presentation and review by the hearing bodies at time of the Final PUD.

- b. A revised landscape plan that reflects meeting with the Parks Department and Parks Board on the subject of insuring adequate public views from the Boulevard. Applicant shall also submit sufficient graphic representations to demonstrate sufficient design treatment to soften the western facade of the residential structure.
- c. The applicant shall provide, at the time of Final Planned Unit Development, a proposed plan to provide a public access path from Lake Washington Boulevard to the shoreline path. If there is no other access provided from adjoining properties by time of the issuance of Certificates of Occupancy, then the applicant shall provide the access as shown in the Final Planned Unit Development drawing. Certificates of Occupancy shall not issue until such access as is required is provided.

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- d. A detailed traffic report dealing with alternative methods of mitigating left-turn traffic disruption in Lake Washington Boulevard. The alternatives to be considered and evaluated shall include a center left turn lane and a centerline barrier. If deemed appropriate, the City may require a similar improvement as a condition of the Final Planned Unit Development. Any traffic study done prior to Final PUD shall concern only that part of Lake Washington Boulevard between the southern property line of the subject property and the intersection of Lakeview and Lake Washington Boulevard.
- e. A statement of the valuation of the subject property pursuant to Section 23.10.110(5) of the Zoning Ordinance (fee-in-lieu).
- f. A detailed sign package indicating the location, size and nature of public pedestrian oriented signs. These signs shall delineate the location and purpose of all "public use" and "public access" features that are required with Final Planned Unit Development. These signs shall be consistent with the symbol/pictograph public signs described in the Land Use Policies Plan (Community Policy 3 on Page 15).
2. Prior to City Council action on the proposed Substantial Development Permit and the Final Planned Unit Development Permit for the subject site, the following must occur:
- a. The appropriate amount of "fee-in-lieu" monies must be deposited pursuant to 23.10.110(5) unless land is dedicated to the City, in which case an appropriate adjustment of this fee shall be made.
- b. If any excavated material is proposed to be located within the City of Kirkland, an application to place such fill must be received and approval granted.

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3. The recommendations contained in the Soils Report dated September 7, 1979 will be adhered to. At the time of Building Permit application, the applicant shall submit a cover letter speaking directly to each of the major points identified in the Soils Report Conclusions and Recommendations. If the City determines that inadequate answers have been submitted with application for Building Permits, the City may refuse to process the permit on the grounds of insufficient information.
4. Prior to issuance of any Certificates of Occupancy for the condominium units the applicant shall:
- a. Install all materials shown in the final landscaping plan approved with Final Planned Unit Development.
- b. Install, improve and record all required legal easements or deeds to implement the public access and public use areas as approved in the final, approved Planned Unit Development. All conveyance instruments for the public shall be in a form and substance acceptable to the City's attorney and the owner's attorney.
5. The applicants shall install fire hydrants and extinguishers per the requirements of the Kirkland Fire Department as well as signs along the access road stating "NO PARKING - FIRE LANE".
6. The applicants shall extend the sewer line to the northern border of the property. The line shall be located westerly of the structures.
7. The water line shall be connected either to the north (and appropriate public easements recorded) or directly into the line in the Boulevard. In either case, the location and specifications of the connection will be approved through the Public Service Department.

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8. The elevator housings indicated in Exhibit D-8 are hereby authorized as to placement and number. However, all other elements to be placed above elevation 63.25 are subject to review and approval by Final PUD as to the location, number, dimensions, design, color, shape and material. Toward this end, applicant shall submit both elevations and at least two (2) accurate constructed perspective renderings of the roof of the proposed residential structure taken from vantage points in the right-of-way of Lake Washington Boulevard. The vantage points to be used in these perspective drawings shall be coordinated with the Department of Community Development. These drawings shall show in detail the nature and quality of the roof design and shall be evaluated by the hearing bodies with particular regard to three criteria:
- (a) minimum blockage of views of the lake; and
 - (b) an unobtrusive aesthetic character that is consistent both with the design of the project and the shoreline setting.
 - (c) The lowering of the residential structure by two (2) feet.
9. Up to 1,000 square feet of swimming pool may be proposed within the required high water line setback area subject to review and approval at Final PUD of the exact location, configuration and design. This pool and its associated hard surface private use spaces shall be illustrated as a part of the total design for the high water-line setback area and it shall be coordinated with landscaping, screening or fencing so as to minimize conflicts with "public access" and "public use" to the west.
10. This application is approved, subject to the various requirements contained in the Kirkland Zoning Ordinance, Shoreline Master Program, Municipal and Building Codes, and Land Use Policies Plan. It is the responsibility of the applicant to assure compliance with the various provisions contained in these ordinances.

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11. A 6 foot wide concrete sidewalk shall be installed along the frontage of the property on Lake Washington Boulevard.
12. At the time of Final Planned Unit Development the applicant shall submit a revised design for what is to occur within the high water line setback area. The following changes shall be made relative to Exhibit "K".
- a. A 6 foot wide concrete sidewalk will be shown where 4 feet is now shown.
 - b. A more substantial rockery or retaining wall shall be shown along the water's edge.
 - c. The two concrete backless benches closest to Section line 3 on Exhibit "K" shall be replaced with wooden benches with backs.
 - d. Some additional fencing shall be placed around the swimming pool but may consist of some plexiglass or other non-opaque material.
 - e. Gravel shall not be placed on either side of the walkway bed. Either groundcover or some other surface shall be shown for those spaces.
 - f. Signs conforming to the standards of the Department of Community Development shall be placed on bollards designating "public access" and "public use".
13. At time of Final PUD applicant shall also submit a detailed design for a public use space to be located at grade in the northwestern corner of the subject property and approximately 30 feet by 60 feet in dimension. This detailed design will be done at a larger scale than Exhibit "K" and will include as a minimum the following features:

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- a. A historical marker noting the past location of the Skinner Shipyard and cross-lake ferry landing and consisting of some combinations of bollards and wood or metal plates. The design of the marker shall be coordinated with the Department of Community Development and its content will be reviewed for comment by the Kirkland Historical Society.
- b. A minimum of two wooden benches with backs.
- c. A revised landscaping plan including several ornamental trees and low maintenance landscaping to help enclose the space and define it.
- d. Small lawn space.
- e. Bollards that demark the space and are mounted with signs indicating that it is available for Public Use.

If No. 13 is required the City should accept a deed to the property in question as well as the public access path. If No. 13 is not required, the deeding of the path is not recommended.

11. MAJOR ISSUES:

The major issues are: (A) Public Access to and along the shoreline; (B) Excavation within the required high water line setback area; (C) Intrusion of structure into the north property line setback/30% frontal openness, and (D) Views/Building Height.

A. PUBLIC ACCESS

1. Statements of Fact.

- a. Access along the water's edge is shown in Exhibit "K". The major features that the Winmar applicants have shown on this design are as follows:

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- 1) They are showing public access along the water's edge with a 4 foot wide concrete sidewalk with gravel on both the west and east sides of that surface.
- 2) Five concrete benches without backs are shown within this public access area.
- 3) A swimming pool and related deck, lawn and stairs are located in the southwest portion of the subject property encroaching up to 40 feet inside the required high water line setback area.
- 4) Except for a single stairway and gate which connects the private property of the lower lawn down to the public access along the shoreline, the applicants have shown a design which provides a functional and physical separation between the public spaces along the sidewalk and the private spaces which lie upland. The applicants' design uses landscaping such as shrubs and groundcovers to create aesthetically pleasing but effective barriers to unwanted movement into the private spaces. Furthermore, the applicants have used the change in elevation between the condominiums (23 feet) and the shoreline (approximately 15 feet) to create a series of spaces and barriers which provide a visual openness in both directions but which effectively limit the public flow and public spaces. The degree to which this is achieved successfully is indicated in the six sections which the applicants have drawn through the site. A review of those sections indicates how the private spaces and public spaces will be separated functionally.

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b. The Department of Community Development reviewed the drawings of Exhibit "K" and discussed them with the members of the various City Departments. Based upon that review of the proposal made by the Winmar Corporation and the technical input from the other Departments, staff prepared supplemental findings of fact, conclusions and recommendations. The specific comments from other Departments was as follows:

- 1) Backless concrete benches were found to be of limited value. The lack of a bench back makes them uninviting to sit on and concrete is cold and rough to the touch. Suggestion was made that wooden benches with backs are more appropriate.
- 2) Some additional ornamental trees should be planted to provide visual accent and spatial definition of certain areas. It was felt that this would be particularly effective in delineating public spaces but should not be placed within the view panorama from the units.
- 3) The City should not accept a deed for the public access but rather should accept an easement.
- 4) Public signs should be installed for any public use area that's required.
- 5) A 4 foot concrete path is not wide enough and gravel on either side will not work since it will wash out. The sidewalk should be a minimum of 6 feet wide, either broom or aggregate finish. Rather than gravel, the applicant should install some impervious surface such as concrete or else plant groundcover.

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- 6) The one-man rocks shown along the water's edge will be inadequate to provide a dry and safe public access and will not provide adequate stabilization for the shoreline. The applicants should design either a retaining wall or more rockery to stabilize the water edge trail or else should move the trail farther east.
- 7) Some weeding or maintenance program should be worked out to insure that the vegetation is maintained in both the private and public spaces.
- 8) Public access should be open at night and lighting should be required.
- 9) At time of Final PUD applicant should indicate how the topography will transition with the property to the north.
- 10) Fishing in this vicinity is probably not good due to the shallow depth of the lake and thus a fishing pier is probably not appropriate.
- 11) Some fence should be placed around the swimming pool area.

c. The Shoreline Master Program and Water-front District Zoning Ordinance deal with two specific access questions: (1) access along the shoreline and (2) access down to the shoreline from the Boulevard. Policies and Use Regulations in the Shoreline Master Program with respect to this development area as follows:

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PUBLIC ACCESS: "Public access should be one element in the consideration of public benefit when certain types of uses, especially non-water-dependent, are proposed for a shoreline location. Public access, in this context, is primarily limited to passive forms of physical access, such as walking...". (Page 12).

GOAL - Increased public access to and along the shoreline areas, provided public safety and unique or fragile areas are not adversely affected. (Page 13).

POLICY 1 - Public access, to and along the water's edge, should be consistent with the public safety, private property rights, and the conservation of unique or fragile areas. (Page 13).

POLICY 4 - Provisions should be made for public access to and along the water's edge in new substantial shoreline developments. (Page 14).

POLICY 4(3) - Planned Unit Development Regulations: The Preliminary and Final PUD site drawings should provide for public access and be so designated in accordance with the appropriate use and activity access regulation (Page 14).

POLICY 7 - Public access should be designed for provisions for handicapped and disabled persons, where feasible. (Page 15).

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RESIDENTIAL:

POLICY 3 - Public access to and along the water's edge should be required in the design and construction of multi-family structures, subdivisions into five or more lots, and Planned Unit Developments occurring on the shoreline and provided for use by the public except where access to or along the water's edge is demonstrably not required. (Page 29).

USE REGULATIONS:

1. Public access to and along the water's edge will be from a public right-of-way or park and appropriately designed.
 3. When structures, Subdivision or Planned Unit Development has developments on both sides that are not physically able to provide access along the water's edge, the water's edge public access may be scheduled for a later date when feasible." (Page 29).
- 1) The Zoning and Land Use Policies. The two major concepts operating with regard to Exhibit "K" are "Public Access" and "Public Use".
- a) Public Access is a high priority public policy that is discussed in great detail in the Shoreline Master Program. A discussion of the relevant policy and regulations are contained in Section II.A.1.c. However, specific reference is here made to the discussion of Public Access on Page 12 which states in part that "public access, in this context, is primarily limited to passive forms of physical access, such as walking...". This reference is here made in order to emphasize that Public Access implies moving along a linear corridor and is thus a separate and distinct concept from "Public Use".

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- b) Public Use is discussed in the Kirkland Zoning Ordinance with regard to Waterfront District I, Section 23.12.058(4). A detailed discussion of this occurs at Section II.B. That section states that a "public use area will be designed on the high water line setback area except for single dwelling units." whenever an applicant proposes "changing the elevation of land adjacent to the high water line". Our finding in this case is that the applicant's proposal to grade considerably within the required high water line setback area triggers the requirement for "Public Use". We further find that this is a provision of the Zoning Code and is not a discretionary policy matter.

2. Conclusions.

a. Public Access

Public access along the shoreline is a policy designed to ensure that the public will not be walled or fenced off from a primary regional resource, Lake Washington, particularly by non-waterfront dependent multi-family uses. The policies and requirements pertaining to such public access have been made conditions of several previous shoreline proposals in Kirkland.

The magnitude and location of the Winmar proposal presents a unique opportunity to continue this City policy in an even more useable and beneficial manner. Public access should be assured by the dedication of a public easement within the high water line setback area and the specific location and nature of the trail should be refined for consideration with Final PUD. The easement should be recorded and the selected trail design constructed, inspected and approved prior to issuance of occupancy permits for the units.

- b. Public Use. The staff in their memo of January 16, 1980 recommended creation of a 30' by 60' public use area in the northwest corner of the subject property in order to meet the code requirements of Section . We conclude that this public use space and the improvements to be located therein are appropriate with the exception of the drinking fountain and anchored game table.

It is our conclusion that the above recommended Public Use space will not constitute a conflict with private use rights and practical functional considerations. This conclusion is based on the fact that this space will be 8 feet below the lowest grade of the condominium units, approximately 60 feet from the corner of the nearest condominium unit, out of the line of sight from the units and further insulated from the upland private spaces by vegetation, fences, and signing.

B. Excavation within the High Water Line Setback.

1. Statements of Fact.

- a. The applicants propose to excavate between 25,000 and 30,000 cubic yards of material, much of it within the required high water line setback (see Exhibits D-2 and D-3 for location of excavation and D-5 for location of setback line). The ostensible reason for this excavation of up to ten (10) vertical feet on the western portion of the site is to enable the lowest floor of the structure to have an open view to the lake.
- b. The Waterfront District Zoning Ordinance states that "changing the elevation of the land adjacent to the high water line" shall be kept to a minimum, subject to a PUD procedure and further subject to specific provisions. Section 23.12.058 reads, in part:

"23.12.058 Alteration of the Existing Shoreline may be permitted subject to the general provisions and part of the Planned Unit Development. b. PUD Provisions: Alteration of the shoreline, that is changing the horizontal configuration of the water line, or changing the elevation of land adjacent to the high water line shall be kept to a minimum and subject to the following provisions:

- (1) The water surface area, as defined by the high water line, is not substantially reduced, and,
- (2) That a plan for fill and the removal of dredged material is approved by the City, and,
- (3) That any unique natural areas of aquatic life or vegetation will not be destroyed, and,
- (4) That a public use area will be designed on the high water line setback area except for single dwelling units, and.
- (5) All the provisions be approved as part of the Planned Unit Development.

2. Conclusions.

The applicants propose extensive excavation. This constitutes "considerably changing the elevation of land adjacent to the high water line.". The proposal as submitted is consistent (or at least not inconsistent with) provisions (1), (2), (3) and (5). Provision (4) concerning the "public use area" to occur in the high water line setback area is not met by the proposal as submitted. The dedication and improvement of a shoreline trail is required by other waterfront policies and regulations and does not rise itself to the status of a "public use area".

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In order to meet provision (4) of 23.12.058 the applicants should be required to provide additional improvements or facilities that will be public in nature and will enhance the high water line setback area for "public use". The site and landscaping plan should be amended to add benches, landscaping, a historical marker, and any other improvements that would constitute "public use". See the staff memorandum of January 16, 1980, and the discussion in the preceding section on public access. Any potential design should be consistent with other policies and regulations of the Shoreline Master Program and Waterfront District Zoning Ordinance and be reviewed prior to approval of either the Substantial Development or Final Planned Unit Development permits.

C. NORTH PROPERTY LINE SETBACK/30% FRONTAL OPENNESS

1. Statements of Fact

- a. Section 23.12.052 of the Waterfront District Zoning Ordinance establishes the requirements for North Property Line setback. The right hand column has application since the requested development permit is a Planned Unit Development (PUD). However, the left hand column (CUP) must also be read to establish the baseline requirement that the PUD asks to vary:

- "(3) North Property Line (CUP Conditions): The north property line setback shall be 1.5 x the building height and may be measured 10 feet into the joining property to the north. The minimum setback distance shall be 30% of the lot frontage.

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- (3) North Property Line (PUD Provisions): The buildings or structures shall be arranged as not to substantially obstruct sunlight from structures on adjacent property and from open spaces at times of peak use. The design shall demonstrate, in any event that the concept for north property line setback, which is described in the CUP conditions, is fulfilled, and that proposed deviations are in harmony with general design objectives of this district. See Figure 1.

This setback is required for the following reasons:

- (a) To permit sunlight to enter rooms in adjacent structures.
- (b) To minimize looking into facing windows in adjacent structures, and; to allow openness between structures for visual access to the water and use as open space. The shadow created by the structure should be a detriment when considering use for this space.

This setback may be reduced under the following conditions:

- (a) A combined plan for the setback areas between the adjacent property owners and executed as one project, or,
- (b) Use of the setback area for a public pedestrian access to the water or other purposes consistent with the district."

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- b. The subject property has a lot frontage of 445 feet. Using the 30% frontal openness criteria, the required north property line setback would be 133.43 feet. Using the building height X 1.5 criteria, the required setback would be 41 feet. The applicants have shown a setback of 35 feet and have submitted argumentation that this setback is reasonable (see Exhibit "E" - Environmental Information, Page A-13 of Environmental Checklist, also see Exhibit D-8 - Building Elevations), in terms of meeting the intent of the north property line setback requirement. They also contend that the 30% setback requirement works an unreasonable hardship on this individual property due to its unusually large frontage. By keeping the elevation of the structure primarily below the eye level on Lake Washington Boulevard it is contended that a greater degree of frontal openness and view to the lake is preserved than would be the case if a structure were erected with 30% horizontal openness but greater height.

2. Conclusions.

The building as proposed would not appear to substantially obstruct sunlight from reaching property to the north. The value to the public of a 100% open view over a 30' high structure is greater than the value of a 30% open view through a 35' high structure. (See Exhibit "R").

However, the specific criteria listed above (23.12.052(a) and (b)) are not addressed by the site plan. The reduction of the setback may only be allowed if (a) a combined plan for the setback area is coordinated with a project to the north or (b) the setback area is used for a "public pedestrian access to the water". In order to approve this proposal, the City should require that, with Final P.U.D., the applicants detail how they are achieving either, or both, of these two purposes. Also, if applicants opt for (b) and access is made available along the shoreline from either the north or south prior to Final PUD, then the requirement for access from the Boulevard to the shoreline across subject property should be waived.

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D. VIEWS/BUILDING HEIGHT

1. Statements of Fact

- a. The relevant sections of the Water-front District Zoning Ordinance reads as follows:

"Building Height. 23.12.056 - The general CUP condition is as follows: Building height shall not exceed 30 feet except under a Planned Unit Development. Section 23.12.056(b)-(2)(a) Building Heights and Shoreline areas. General: Subject to the provisions of paragraph (2) and (b) of this Section, permitted structures on shoreline areas may not exceed the height of 35 feet above the average building elevation. Exception: The building height limitation of paragraph (2)(a) of this Section may be exceeded by a small percentage, not to exceed 6 feet, for spires, belfries, and antennas, ventilators, chimneys, elevator towers, or other appurtenances usually required to be placed above roof level and not intended for human occupancy if: (1) Public access is available at the time of occupancy, and (2) Suitable recreational amenities are provided, and (3) Other relevant factors are considered.

Building height is defined as follows - "The vertical dimension of a structure as measured from the mean elevation of the land (prior to any earth removal or displacements) upon which the structure is to be located to the highest point of the structure."

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- b. The maximum building height of the proposed structures is 30' above the average building elevation (see Exhibits D-8 Building Elevations and D-9-Building Height Determination). The main structure will appear to be three stories when viewed from the east (i.e. Lake Washington Boulevard) but four stories when viewed from the west (i.e. the shoreline). The parking structure will not be generally visible from off-site, while the recreation building will be incorporated into the landform along the Boulevard in such a way as to provide a portion of the support for the access roadway (see Exhibit D-10-Site Sections

2. Conclusions.

The height of all the structures proposed conforms to the requirements of the Zoning Ordinance. The view of people on Lake Washington Boulevard would be impacted somewhat, but the western portion of the Lake, Seattle and the Olympics would remain intact (see Exhibit "H" - View Analysis and Exhibit "R").

The plane of the roof of the main structure will, however, represent a critical design element that should be reviewed with Final P.U.D. The design, dimensions, location, number, color and materials of all roof appurtenances should be reviewed at time of Final PUD. Applicant should submit detailed perspective drawings that will aid the hearing bodies in reviewing the roof design. Criteria used to approve a final roof design should be:

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- (1) to minimize view blockage and.
- (2) to provide an unobtrusive aesthetic character that is consistent both with the project design and the shoreline setting.

III. SUPPORTING FINDINGS AND CONCLUSIONS:

A. HISTORICAL BACKGROUND:

1. Statements of Fact.

- a. The subject property is a portion of a larger land area that in May of 1976 was granted Unclassified and Substantial Development Permits to locate and develop the Seattle Seahawks Football offices and training facilities. The Skinner Corporation was then owner of both the subject property and the property to the north. The approved site plan and City Resolution granting approval (R-2366) are attached as Exhibits "I" and "F", respectively.
- b. The Winmar Corporation subsequently acquired ownership of the subject 3.97 acre subject site, with the Skinner Corporation retaining ownership of the land immediately to the north. Development of the Winmar piece would remove from the Seahawks operation their southernmost practice field as well as parking (just to the south of the remodeled two-story office structure). The Skinner Corporation has been informed that once a new development permit is issued for the subject (Winmar) ownership that the use rights established for the Seahawks by R-2366 will extinguish and the use must cease. They have been advised to initiate the necessary amendment to the Seahawks permits as soon as possible.

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- c. The Winmar Corporation in July of 1979 made application for a Conditional Use Permit and Variances under the Kirkland Zoning Ordinance as well as a Substantial Development Permit to construct the 48 unit condominium project. The proposed project at that time was identical to the current one; the permit procedure was simply a Conditional Use Permit and Variances rather than a Planned Unit Development.

The Kirkland Board of Adjustment at the September 26, 1979 meeting determined that they lacked jurisdiction to consider the requested variances. Without Variances, the project could not proceed as a Conditional Use Permit.

- d. In a letter dated October 11, 1979 the agent for applicant, S. Jay Perkins, requested that previously submitted materials be changed from a CUP application to a PUD application.

2. Conclusions.

The issuance of new use permits for the subject property will extinguish the Seahawks' use rights. The adjacent property owner, Skinner Corporation, has been advised to initiate the necessary amendment to the Seahawks' permits.

Special note should be made that some of the application materials make reference to Conditional Use Permit and Variances; however, the permits currently requested for the proposal are actually a Preliminary PUD and Substantial Development Permits.

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B. NEIGHBORHOOD CHARACTERISTICS:

1. Statements of Fact

- a. Zoning. The zoning of the subject property and properties to the north and south is WD I (Waterfront District I). Properties across Lake Washington Boulevard to the east are zoned RS 12.5(S) - Residential Single Family with a minimum lot size of 12,500 square feet.
- b. Land Use. The subject property is currently in use as a single family dwelling site and a portion of the playfield and parking area for the Seahawks. To the south of the subject property is the Yarrow Bay Marina, while to the north is the Seahawks office building, playing area, and other structures on the Skinner ownership. Across Lake Washington Boulevard to the east are single family dwelling units and some multi-family and common-wall residential structures. (See Figure C - Vicinity Map).

2. Conclusions.

The proposed structure and use would be consistent with existing zoning and land use in the neighborhood.

C. PHYSICAL CHARACTERISTICS:

1. Statements of Fact.

- a. Vegetation. Existing vegetation on the site includes a large weeping willow tree at the shoreline, one cedar tree and approximately six apple and cherry trees, alderwood and cottonwood seedlings, Scotch broom and a blackberry thicket that predominates on the eastern half of the site. The applicants are proposing to remove all of the existing vegetation with the possible exception of the large weeping willow.

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- b. Topography. The subject property slopes down from east to west toward the lake. The first 15-25 feet westerly of the existing rockery along Lake Washington Boulevard is a very steep slope. From that point, it slopes away at a gentler grade down toward the lake. The applicants propose extensive grading on the site including the removal of 25,000 to 30,000 cubic yards of earth. Most of this excavation would be on the western portion of the property and involve vertical cuts of approximately 8 to 10 feet. Some fill would be placed on the easterly portions of the property in order to stabilize the steeper portions near the right-of-way and in order to provide a base for the access road coming down from the Boulevard.
- c. Soils. Soils information has been assembled on the property by the consulting firm of Shannon and Wilson (see Exhibit "J" - Soils Information - Geotechnical Report). They have identified that dense and hard bearing soils are at shallower depths in the southern portion of the site and make it generally more favorable for supporting the proposed structure on shallow foundations than in the northern portion of the site. This is so because these dense and hard bearing soils are at a shallower depth and in most cases lie near the proposed finished floor elevation. The soils report identifies that the parking structures and recreational facility could be supported in either the dense to very dense sand or the hard silt or clay stratum and that these soil units are suitable bearing materials. In the northern portion of the site they point out that the dense and very dense sand or hard silt or clay stratum is deeper and generally covered by unsuitable fill materials and loose or soft sands, silts or clay. The soils report states that this different soil condition may make appropriate driven timber piles or low capacity auger placed piles to provide support for the structure in the northern portion of the site. This is stated as more desirable than over-excavation down to the lake and groundwater levels. The soils report recommends that additional geotechnical studies be done in support of specific foundation proposals.

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d. Groundwater. The soils report identifies groundwater level readings observed during a 1964 investigation as well as 1979 investigations. The conclusion is that groundwater at the site can be expected at random locations and generally as seepage from pervious zones or as water perched upon underlying more impervious layers. The soils report states that de-watering methods may be required in conjunction with proposed excavations depending upon the circumstances.

2. Conclusions.

The physical characteristics of the site do not represent an insurmountable constraint. Appropriate structural engineering and design considerations should address the excavation and fill portions of the project. Supporting information should be submitted with building and grading permit applications.

E. INTERGOVERNMENTAL COORDINATION:

1. Statements of Fact.

Specific comments were made relative to Exhibit "K" and are discussed elsewhere in this report. In addition, the comments have been made by the various City Departments:

a. Building Department. The Building Department has indicated that this project will be located in Fire Zone II. Also, the question was asked if the trees shown along Lake Washington Boulevard would obstruct the view of the lake? During construction, the Building Department feels that dirt on the roadway will be a potential problem. It is suggested that measures be taken to minimize the problem such as asphalt treated base on the construction roadway and the employment of sweepers on a daily basis.

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b. Police Department. The Police Department has requested that lighting be included along the waterside pathway.

c. Fire Department. The Fire Department has indicated that a hydrant will be required on Lake Washington Boulevard at a point approximately 300 feet north of N.E. 52nd Street. Request was made for additional information to be submitted in order to determine fire extinguisher requirements for the parking area, the location of a fire alarm system, and the location and number of dry standpipes. Furthermore, the Fire Department has recommended that signs stating "NO PARKING - FIRE LANE" be posted along the access road to the underbuilding parking areas.

d. Project and Construction Management./Public Service.

1) Sanitary sewer. The line is at the south property line lined up with the east side of the marina building to the south. The sanitary sewer should be extended by an 8" main to the north property line westerly of the proposed structure.

2) Domestic water. A 12" water main is stubbed across to the west side of Lake Washington Boulevard N.E. on the Skinner property immediately to the north. The applicant may extend this line to service their own site or they may propose to connect directly into the 10" line in the right-of-way of Lake Washington Boulevard. In any case, care should be taken to avoid the Water District No. 1 water main now located in the right-of-way.

3) Right-of-way. A left turn lane should be discussed along with a left turn lane for Lake Washington Boulevard south from Lakeview Drive.

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- 4) Storm water. Surface runoff should be collected into a designed system, filtered and then into the lake through a controlled discharge. Underdrains onto the site should be included in the design of an overall drainage collection system.

Construction management practices should be followed pursuant to Ordinance 2430.

e. Parks Department.

The waterfront pedestrian trail should be included by the developer even though it will not tie to anything to the north or south. It will be used by condominium owners immediately and the general public when a path connection is made to the north or south.

The flowering cherry trees shown at 20 foot intervals, behind the existing stone wall are too close together and would tend to block the view of the lake. According to the plan they are not at grade, but appear to be planted 3 to 6 feet below the street which would further block the view. The reviewing bodies may wish to further space the trees at 30 foot intervals on grade of the street or eliminate them. Placement of the trees should be clarified in relationship to the street.

A concrete sidewalk should replace the existing asphalt walk on Lake Washington Boulevard.

The Parks Board offered the additional suggestions that (1) a break in the 472 foot length of the condominium would be desirable and that (2) no roof equipment should be allowed to create an eyesore or view obstruction.

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2. Conclusions.

The site plan should be amended to include fire hydrants and "fire lane" signs per the Fire Departments' recommendations, new concrete sidewalk along the Boulevard and the location of new water and sewer line.

Applicant should demonstrate at Final PUD how the western facade will be "softened". Also, the landscaping along Lake Washington Boulevard should be reviewed with Parks Department to insure that no new view blockage occurs. The pedestrian walkway along the shoreline should be installed as part of this project, regardless of the date for a connection to the east, north or south. The project will be required to comply with "fee-in-lieu of open space" requirements outlined at 23.10.110 of the Zoning Ordinance. A statement of the property's valuation should accompany the Final P.U.D. application.

F. ENVIRONMENTAL INFORMATION:

1. Statements of Fact.

The applicants have filed an Environmental Checklist (see Exhibit "E") with the City. The Responsible Official made a Final Declaration of Non-Significance on November 14, 1979.

2. Conclusions.

The application has complied with all of the requirements of the State Environmental Policy Act (SEPA).

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G. DEVELOPMENT STANDARDS:

1. Statements of Fact:

a. Land Use Policies Plan. Ordinance 2346 which adopted the Land Use Policies Plan also adopted, by reference, the Shoreline Master Program. Therefore, the policies described below have application not only for the Substantial Development Permit but also the Preliminary Planned Unit Development.

b. Shoreline Master Program. The chief provisions of the SMP are discussed in Section II of this report as Major Issues. There are, however, other standards, some of which have been addressed by the applicants in their application for the SDP (see Exhibit "B" - pages A-3, A-4, and A-5).

The portion of the subject property that lies within 200 feet of the lake is classified as Urban Environment. Applicants state that the postponement of the water edge trail is allowed under Residential Policy 3 and that no physical structures are proposed along the shoreline itself. Applicants also state in response to question 19 of the SDP application that "no increase of recreational opportunity for the public in the shoreline is proposed by this development of subject site."

c. Waterfront District Zoning Ordinance. No structures are permitted within the high water line setback area. The proposed swimming pool is defined as a structure. Other zoning standards are discussed in the Major Issues Section II.

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2. Conclusions.

The land use and density of the proposal are consistent with the policies and regulations of the Shoreline Master Program. The postponement of the shoreline public access is allowable, at the City's discretion. However, the conclusion here is that it should be dedicated and improved concurrent with the proposed structures, not at a later date. There would be accountability, logistical and equity problems with attempting to implement the public trail several years hence. By that time, a set of private use expectations would have been established, the City would be dealing with 48 instead of one private entity, and inflation would have greatly diminished the effectiveness of any bond or other arrangement in lieu of a physical improvement. For these reasons, it is undesirable to postpone the dedication and installation of public access improvements.

Also, although the applicant does not foresee any public recreational value accruing from the project, the City should expand on the "public use" aspects of the shoreline. The Master Program clearly establishes such public use as a policy to be included in the design of waterfront uses and this feature is even more appropriate in view of the considerable excavation proposed within the high water line setback area and the requirements of Section 23.12.058 of the Zoning Code. See the discussion at IIB, 1b and 2 of this report under the heading of "Major Issues".

The swimming pool, although a structure, should be permitted, under the PUD authority, to encroach into the required high waterline setback yard.

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IV. ALTERNATIVES TO THE PROPOSED ACTION:

Several development alternatives would be consistent with established policy and regulations of the City and allow the owners a reasonable use of their property. These would all be subject to the policies in the Shoreline Master Program and the dimensional procedural requirements of the Zoning Code. The major alternatives are:

- A. Commercial uses located in structures, such as offices or restaurants could be proposed. Water related commercial uses such as marinas and boating clubs could be proposed and include alterations to the shoreline and the installation of piers or bulkheads.
- B. The applicants could propose a similar residential density but in a different building bulk and form. The major variables could include:
 1. A building 35 feet above average building grade, which would probably create some blockage of views from the Boulevard.
 2. A building 30 feet above average building grade which, if placed further east on the property, could also create substantially more view blockage.
 3. A smaller structure with smaller units or two or more instead of one main structure.
- C. A continuation or expansion of the Seahawks use could be proposed.

V. APPENDICES:

Exhibits "A" through "Z" are attached or on file with the Department of Community Development.

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