

RESOLUTION NO. 2742

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PRELIMINARY AND FINAL PLANNED UNIT DEVELOPMENT AS APPLIED FOR IN DEPARTMENT OF COMMUNITY DEVELOPMENT FILE NO. PP-PF-80-23, BY DENNIS BAERWALD TO CONSTRUCT A SINGLE FAMILY RESIDENCE WITH LESS THAN THE REQUIRED NORTH PROPERTY LINE SETBACK BEING WITHIN A WATERFRONT DISTRICT II ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PRELIMINARY AND FINAL PLANNED UNIT DEVELOPMENT SHALL BE SUBJECT.

WHEREAS, the Department of Community Development has received an application for a Preliminary and Final Planned Unit Development filed by Dennis Baerwald, the owner of said property described in said application and located within a Waterfront District II zone.

WHEREAS, the application has been submitted to the Kirkland Planning Commission who held hearing thereon at their regular meeting of June 19, 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 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 Preliminary and Final Planned Unit Development subject to the specific conditions set forth in said recommendations, and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Planning Commission.

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. PP-PF-80-23 are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Preliminary and Final Planned Unit Development 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 Preliminary and Final 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.

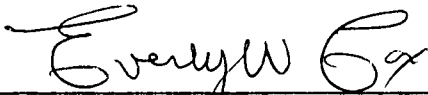
Section 5. Failure on the part of the holder of the permit to initially meet or maintain strict compliance with the standards and conditions to which the Preliminary and Final Planned Unit Development is subject shall be grounds for revocation in accordance with Section 23.28 of Ordinance No. 2183, the Kirkland Zoning Ordinance.

Section 6 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 7th day of July, 1980.

SIGNED IN AUTHENTICATION THEREOF on the 7th day of July, 1980.



Mayor pro tem

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 June 19, 1980
____ ADOPTED BY _____ DATE _____

____ STAFF _____
____ BOARD OF ADJUSTMENT _____
____ HOUGHTON COMMUNITY COUNCIL _____
XX PLANNING COMMISSION Kay Haenggi
____ CITY COUNCIL AS INCORPORATED IN Kay Haenggi, Chairperson

____ RESOLUTION _____ ORDINANCE
NUMBER R-2742
DATE _____

FILE NUMBER PP-PF-80-23
APPLICANT DENNIS BAERWALD

PROPERTY LOCATION W. of 1675 10th St. W., & S. of 1687 10th St. W.

SUBJECT PRELIMINARY & FINAL PLANNED UNIT DEVELOPMENT FOR SINGLE FAMILY RESIDENCE

HEARING/MEETING DATE _____
BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED (See list on reverse side)

LIST OF EXHIBITS

- "A" - Applications
- "A1" - Statement by Applicant
- "B" - Vicinity Map
- "C" - Existing Site Plan
- "D" - Proposed Site Plan
- "E" - Storm Drainage Plan
- "F" - North and South Elevations
- "G" - East and West Elevations
- "H" - Proposed Landscaping
- "I" - Section
- "J" - North Property Line Setback
- "K" - SEPA Information
- "L" - Short Subdivision Notice of Approval
- "M" - Photos (to be shown at hearing)
- "N" - Hold Harmless Agreement
- "O" - Soils Report

- "P" - Citizen Input (Petitions)
- "Q" - Viewfoil submitted by applicant (in file)
- "R" - Viewfoil submitted by applicant (in file)

I. SUMMARY

A. DESCRIPTION

Dennis Baerwald has applied for a Preliminary and Final Planned Unit Development to construct a single family residence with less than the required north property line setback in Waterfront District II. The property is located in the northwestern portion of Kirkland and is west of 1675 10th St. W. and south of 1687 10th Street West. The property is Parcel B of a two-lot short plat approved by the Planning Commission in August of 1978. The site is served by a 15 foot wide easement (13 feet of pavement) approved as part of the short plat. Presently this easement contains only 10 feet of paving.

Section 23.13.030 of the Kirkland Zoning Ordinance requires that in Waterfront District II "Waterfront development shall require a Conditional Use Permit or be a Planned Unit Development". Section 23.13.051.a.(4) requires a north property line setback which is equal to the height of the structure measured from a point 5 feet into the adjoining property to the north. Since the highest point of the structure is at a height of 24' 3", the required north property line setback is 19' 3" along the entire northern property line. Under a Planned Unit Development, the north property line setback may be reduced. Mr. Baerwald is proposing a north property line setback ranging from a minimum of 7 feet to a maximum of 25 feet. All other zoning requirements including minimum lot size, height, and other setbacks, have been met.

The major issues with this application are: Compliance with PUD criteria for reducing north property line setback, view blockage, and compliance with the land use policies plan.

B. RECOMMENDATIONS

Based on Statements of Fact, Conclusions, and Exhibits "A" through "R" contained in this report, we hereby recommend approval of this application for Preliminary and Final Planned Unit Development to construct a single family home with a minimum seven foot north property line setback, subject to the following conditions:

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1. Prior to issuance of a Building Permit, the applicant shall sign and record a hold harmless agreement as shown in Exhibit "N".
2. Prior to issuance of a Building Permit, the landscaping plan shall be revised to conform with Section 23.13.051 of the Kirkland Zoning Ordinance, which limits vegetation to a three foot height in north property setback.
3. Prior to issuance of a Building Permit, a building setback line eight feet from the southern property line of Parcel "A" shall be approved by the Department of Community Development and recorded, with a copy sent to the Department of Community Development.

II. MAJOR ISSUES

A. Compliance with PUD Criteria for Reducing North Property Line Setback.

1. Statements of Fact

- a. Section 23.13.051.b.(4) PUD Provisions - Setbacks - North Property Line: "The setback distance shall generally conform to the CUP conditions (setback shall be equal to the height of the structure measured from a point 5 feet into the adjoining property to the north). The buildings or structures shall be arranged as not to obstruct sunlight from habitable structures on adjacent properties. The design shall demonstrate, in any event, that the concept for a north setback is fulfilled in order to: (a) permit sunlight during the year to enter habitable rooms in adjacent structures, and, (b) allow openness between buildings for maximizing visual access to the water."

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- b. Compliance with the north property line setback requirement under CUP conditions assumes that sunlight will not be obstructed on adjacent properties. The north property line setback requirement can also be thought of as a plane defined as a plane along a 45 angle pointing southward along a line which is 5 feet into the adjoining property to the north. (See Exhibit "J").
 - c. The proposed structure falls entirely within the 45 plane referred to above.
 - d. There is a minimum of 12 feet between the existing building setback line on the adjoining property to the north, and the proposed structure on the subject property (which is part of the proposed structure). To insure that there is openness between buildings on the subject property and the adjoining property to the north in the future, the applicant has stipulated that he will require an 8 foot setback from the southern property line of the adjoining property to the north with an earnest money agreement to sell the property. The City requires a 5 foot setback. The 8 foot setback increases the open space to 15 feet. Mr. Baerwald presently owns the subject property and the adjoining property to the north.
 - e. The landscaping plan, Exhibit "H" indicates some plant species which are likely to grow to a height which exceeds three feet.
 - f. The north property line setback shall generally conform to the CUP conditions (23.30.051(4)). One CUP condition restricts fences, hedges and other devices to a 3 foot height.

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2. Conclusions

- a. The design of the proposed structure which is contained entirely within the 45 plane defined above should not obstruct sunlight from habitable structures on adjacent properties.
- b. To insure that the building setback between Parcels A and B retains an "open" character, the applicant shall reduce the height of his landscaping and has stated he will write a stipulation to record a building setback of 8 feet from the southern property line of Parcel A, short plat 78-8-10 (DCD number), also known by King County Recording No. 7901:70838 (Exhibit "A").

B. VIEW BLOCKAGE

1. Statements of Fact

- a. The O'Connell residence directly to the east of the subject property has a main floor elevation of approximately 62.9 feet. Exhibit "I" shows that views from the O'Connell residence will not be blocked.
- b. The highest point of the proposed structure on the subject property is at elevation 60.25.
- c. Views will still be available directly to the west from structures presently located on lots adjacent to the north and south of the subject property. Views to the southwest from the existing structure on the adjacent property to the north will be blocked by construction of the proposed home. Views to the northwest from the Sheldrup single story wood frame office and guest house will be blocked. However, views to the west and northwest from the Sheldrup residence along 10th Street West will not be blocked, as the elevation of the Sheldrup residence lies above the maximum elevation of the proposed home (similar to the O'Connell residence).

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2. Conclusions

- a. Views from the O'Connell and Sheldrup homes on the bluff along 10th Street West will not be blocked with construction of the proposed residence.
- b. Although some views will be impaired from the existing structure on the adjacent property to the north and the Sheldrup single story wood frame office and guest house, direct views to the west from these two structures will not be affected by construction of the proposed home. (See Exhibit "M").

C. COMPLIANCE WITH LAND USE POLICIES PLAN

1. Statements of Fact

- a. Natural Elements Policy 3c: Indemnify the City from damages due to alterations in physical conditions resulting from development in natural constraint areas.
- b. Natural Elements Policy 5a: Limit land surface modifications in natural constraint areas to the smallest extent needed for development.
- c. Natural Elements Policy 5b: Maintain existing vegetative cover to the greatest extent feasible.
- d. Living Environment Policy 5a: Encourage new development to locate on vacant land in developed areas, subject to land use regulations in that area.
- e. Living Environment Policy 5e: Require the provision of access for emergency vehicles.

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2. Conclusions

- a. The subject property is located on a Naturally Stable Slope - a natural constraint area. Therefore, it is necessary for the applicant to indemnify the City from damages due to alterations and physical conditions resulting from development on the Naturally Stable Slope. Prior to issuance of a Building Permit, the applicant should sign and record the hold harmless agreement (Exhibit "N") which will indemnify the City from damages due to alteration on the Naturally Stable Slope.
- b. Proposed development limits land surface modification to the smallest extent needed for development.
- c. The only major vegetation on the site is a series of small alder trees along the southern property line. These trees may be removed if desired by the applicant.
- d. The subject property is located in a developed area of the City and the proposal complies with all land use regulations for the area, with the exception of north property line setback.
- e. Emergency access will be available to the subject property, as required in the Notice of Approval for Short Subdivision on the site. (Exhibit "L").

III. BACKGROUND

A. HISTORY

The Kirkland Planning Commission approved a two-lot short plat (the subject property and the adjoining property to the north) in August of 1978. The Notice of Approval for this Short Subdivision is shown as Exhibit "L". The Short Subdivision application included two requests for modification: A 15 foot access easement rather than the normally required 20 feet; and a modification to allow the square footage of the access easement within the subject property to be included in lot area for the subject property. Due to this latter modification, the subject property has 12,508 square feet of land area (WD II zoning requires 12,500 square feet).

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B. NEIGHBORHOOD DESCRIPTION

The subject property as well as properties to the north, east, and south are zoned Waterfront District II. The adjacent property to the north contains a single family residence. Other properties to the north, east and south of the subject property currently contain single family residences. The adjoining property to the south also contains a guest house and office. The subject property and property immediately to the north are presently served by a 15 foot wide easement, containing approximately 10 feet of paving and some patches of gravel. This will be improved as part of the short subdivision to a 12 foot wide asphalt lane.

IV. ALTERNATIVES

The proposed dwelling unit is one of many alternatives for design of a single family dwelling on the subject property. A single family dwelling could be constructed with the required north property line setback.

The alternative use in Waterfront District II zone is a public park.

V. DEVELOPMENT STANDARDS

A. KIRKLAND ZONING ORDINANCE.

Section 23.13.010(5). Purpose: All waterfront developments shall be evaluated in terms of how much visual access to the water is provided for the enjoyment of the public. Structures shall be 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.

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Section 23.13.042. Single Family Dwelling Units:

Density: Each dwelling unit shall have a minimum of 12,500 square feet of dry land except for pre-existing lots.

Parking: Two parking spaces at least one of which is to be covered, shall be provided for each dwelling unit.

Building Height: Permitted structures shall not exceed a height of 25 feet, and in no event shall a permitted structure exceed a height of 25 feet above the average elevation of the curbline or the average centerline elevation of the frontage road, if no curb exists. The Planning Commission shall require that views from adjacent properties will not be substantially impaired.

Section 23.13.051. Setbacks:

High Water Line: The high water line setback shall be 15 feet or 15% of the average parcel depth, whichever is greater. This setback may be slightly modified by the Planning Commission due to topographic conditions, such as a steep bank.

South Property Line and Other Setbacks: These setbacks shall be at least 5 feet.

North Property Line Setback: North property line setback shall be equal to the height of the structure measured from a point 5 feet into the adjoining property to the north. Fences, hedges or other devices may not be permitted in the setback area if the height exceeds 3 feet above the centerline of the frontage road or 3 feet above the existing grade whichever offers the greatest view potential of the lake. The buildings or structures shall be arranged as not to obstruct sunlight from habitable structures on adjacent properties. The design shall demonstrate, in any event, that the concept for a north setback is fulfilled in order to:

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- a. permit sunlight during the year to enter habitable rooms in adjacent structures, and
- b. allow openness between buildings for maximizing visual access to the water.

Parking Setbacks: Automobile or other vehicle storage shall not be permitted over submerged lands, within the high water line setback area, in the frontage road setback area or closer than 5 feet to other property lines, and shall be visually buffered from the water, frontage road and adjacent properties in accordance with Section 23.40.061(1) and (2) of the Zoning Ordinance. This Section will be modified to conform to the setback height limitations. Under the PUD, any feasible means of minimizing visual impacts of automobiles in the waterfront area will be considered.

Section 23.13.055(d) - Natural Elements - Soils and Geologic Analysis: Evidence shall be provided that a soils and geologic analysis has been completed by a soils engineer and/or an engineering geologist, and that any limitations can be overcome to insure user safety of the structure(s), buildings or other manmade additions in areas classified as moderately or severely limited or potentially hazardous.

VI. APPENDICES:

Exhibits "A" through "R" are attached.

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