

RESOLUTION NO. R-2841

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A SUBSTANTIAL DEVELOPMENT PERMIT AS APPLIED FOR IN DEPARTMENT OF COMMUNITY DEVELOPMENT FILE NO. SD-81-40, BY WESLEY ROUNDS TO DREDGE IMMEDIATELY NORTH OF THE YARROW BAY SAILING AND TENNIS CLUB, BEING WITHIN A WATERFRONT DISTRICT I ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH SUBSTANTIAL DEVELOPMENT PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Community Development has received an application for a Substantial Development Permit filed by Wesley Rounds, 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 who held public hearing thereon at their regular meeting of June 18, 1981, and

WHEREAS, pursuant to City of Kirkland Ordinance No. 2473 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 Substantial Development Permit 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 Chairperson thereof and filed in the Department of Community Development File No. SD-81-40 are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Substantial Development 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 Substantial Development Permit or evidence thereof delivered to the permittee.

Section 4. Nothing in this resolution 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, or other than the permit requirements of the Shoreline Management Act of 1971. Construction pursuant to the Substantial Development Permit shall not begin or be authorized within 30 days of the date of its final approval by the local government or until all review proceedings initiated within said 30 days from the date of final approval by local government have been terminated.

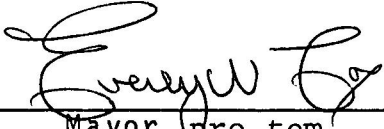
Section 5. Failure on the part of the holder of the Substantial Development Permit to initially meet or maintain strict compliance with the standards and conditions to which the permit is subject shall be grounds for revocation in accordance with RCW 90.58.140(8). The local procedure for revocation shall substantially follow the procedure set forth in Section 23.56.110 of Ordinance 2183.

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 Department of the City of Kirkland.
- (d) Project and Construction Management Department of the City of Kirkland
- (e) Public Services Department of the City of Kirkland
- (f) The Office of the Director of Administration and Finance (ex officio City Clerk) for the City of Kirkland
- (g) The Department of Ecology for the State of Washington
- (h) The Office of the Attorney General for the State of Washington

ADOPTED in regular meeting of the City Council on the 6th day of July, 1981.

SIGNED IN AUTHENTICATION THEREOF on the 6th day of July, 1981.



Mayor pro tem

ATTEST:



Director of Administration and Finance
(ex officio City Clerk)

5583A



DEPARTMENT OF COMMUNITY DEVELOPMENT

ADVISORY REPORT
FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

PREPARED BY _____ DATE _____

XX RECOMMENDED BY _____ DATE June 18, 1981

ADOPTED BY _____ DATE _____

STAFF _____

BOARD OF ADJUSTMENT _____

HOUGHTON COMMUNITY COUNCIL _____

XX PLANNING COMMISSION Carol Goddard

Carol Goddard, Chairperson

CITY COUNCIL AS INCORPORATED IN _____

RESOLUTION _____ ORDINANCE _____

NUMBER _____

DATE _____

FILE NUMBER SD-81-40

APPLICANT Wesley Rounds

PROPERTY LOCATION North of Yarrow Bay Sailing and Tennis Club

SUBJECT Substantial Development Permit for Dredging

HEARING/MEETING DATE July 6, 1981

BEFORE KIRKLAND CITY COUNCIL

EXHIBITS ATTACHED "1" Seawall Cap less than \$1,000 "2" Substantial
Development Permit application "3" Shoreline Master Program Policies

I. PROJECT SUMMARY

A. DESCRIPTION OF PROPOSED ACTION

Wesley Rounds has submitted an application for a Conditional Use Permit to dredge up to 4,800 cubic yards from a site located in Yarrow Bay, Lake Washington. The site is north of Yarrow Bay Sailing and Tennis Club and waterward of Lake Washington Boulevard. Mr. Rounds states that the water depth is presently inadequate to moor and navigate boats, and that a depth of 7' at low water is required. The dredging area covers roughly 33,900 square feet. As a part of this dredging application, Mr. Rounds proposes to remove 2' of dirt along the exposed low water lake bottom, which will be 150' long, 30' wide and to replace this dirt with pea-sized gravel.

In addition, Mr. Rounds proposes to repair an existing rock bulkhead and construct on top of the bulkhead a 3' wide sea wall cap. These actions are exempt from the Substantial Development Permit according to State Law, WAC 173-14-040 (2) normal repair and maintenance and (1) if the total cost does not exceed \$1,000.00. A letter included as Exhibit "1" establishes the sea wall cap as costing \$750.00.

Major issues in this report include compliance with the State Environmental Policy Act (SEPA) and the Shoreline Master Program.

B. RECOMMENDATIONS

Based on the Statements of Fact, Conclusions and Exhibits in this report, we hereby recommend approval of the Conditional Use Permit to dredge with specific conditions:

1. The dredging action must obtain the necessary approvals from the Army Corps of Engineers, the Washington State Department of Ecology, and other agencies having jurisdiction.
2. The dredging shall result in a low-water depth not exceeding 3-1/2 feet.

6/18/81 (P.C.)

6/11/81-5520A/sm

R-284

3. The applicant may dredge only in the area shown in Exhibits "E" and "F" of the Conditional Use Permit report. A detailed grading plan showing existing and finished contour lines and other necessary information shall be submitted to the Building Department for approval prior to any dredging work. Dredge materials shall not be deposited within the City of Kirkland without proper approval and proper permits obtained from City Council.

II. SITE DESCRIPTION AND BACKGROUND

1. The site is located west of Lake Washington Boulevard and north of Yarrow Bay Sailing and Tennis Club and is designated as an Urban Shoreline. The area is marginal for salmon spawning and beach spawning was observed in 1969-1972. A rock bulk-head separates the high water level of the lake from the dry land. The lake bottom is fairly level with a gradual fall to the west. At low water, water depths begin at zero feet (the portion of the lake bottom is exposed at low water) and drops in depth in the following manner:

<u>Linear Feet From Rock Bulk-Head</u>	<u>Water Depth</u>
83	1'6"
130	1'6"
175	1'10"
225	3'10"
375	3'10"
425	4'1"

2. Present improvements include a recently constructed dock 250' in length with 6 finger piers 50 feet in length. The City storm drain is immediately south of the property line.

The City of Kirkland estimates that the storm drain is responsible for an average of 6" of sedimentation in the immediate dock area (Exhibit "H" of the Conditional Use Permit report), which the City has submitted applications to dredge.

3. Several permits have been received in the past for this site.

<u>Permits</u>	<u>Description</u>	<u>Date</u>
SDP	Six unit condominium	Approved 7/79
PUD/SDP	450' long pier	Denied
CUP/SDP	250' long pier	Approved 7/7/80

III. MAJOR ISSUES

A. COMPLIANCE WITH THE STATE ENVIRONMENTAL POLICY ACT

1. Statements of Fact

The applicants submitted a checklist on March 30, 1981. After review, the responsible official issued a Proposed Declaration of Nonsignificance on May 4, 1981 and a final Declaration of Non-significance on May 22, 1981. The Proposed Declaration of Non-Significance was issued only after Metro Water Quality had reviewed the application and stated that there were no significant impacts on the environment relating to water quality (see Exhibit "B" of the Conditional Use Permit report).

2. Conclusions

The applicant has met the requirements of the State Environmental Policy Act and no significant impact will occur. The dredging will not affect any underwater habitat as the silting nature of the lake bottom prohibits the successful habitation.

B. SHORELINE MASTER PROGRAM POLICIES AND REGULATIONS

1. Statements of Fact.

- a. The Shoreline Master Program lists several policies which would apply to dredging on page 40 of the document. The Master Program states that "Landfill or dredging should generally not be permitted." "Landfill or dredging should not be permitted except in the following cases, and even then should generally be discouraged."

Several of the criteria listed bear directly on this application. A full listing is found in Exhibit "2." The applicable criteria are listed and discussed below.

- b. Use Regulation 2 -- "Replenishing sand on public and private community beaches may be permitted."

The Rounds beach does not have sand, and due to the absence of sand in the community, does not appear to have previously had sand.

- c. Use Regulation 5 -- "When dredging is permitted, the dredging spoils should be deposited on approved dumping sites. Dumping sites should not be allowed in the lake or in unique or fragile areas."

Mr. Rounds has applied to the Department of Ecology to deposit dredge materials on Four Mile rock deep water disposal site, outside of Lake Washington.

- d. Use Regulation 6 -- "Dredging could be permitted to maintain water flow and maintain navigability."

The key phrase here is "maintain navigability". The overriding policy is that dredging should generally not be permitted. A lake bottom elevation must be established as a base elevation. Dredging up to this lake bottom elevation could fall under maintenance, dredging deeper would go beyond maintenance into creating new lake depths.

- e. No public agency contacted to date has charted the bottom of Lake Washington in Yarrow Bay. The site is located at the mouth of Yarrow Bay and is experiencing a natural process of sedimentation. Neighboring docks all have shallow water depths, evidencing a leveling and sedimentation build-up of the lake bottom. At low water, neighboring docks to the north generally have about 2'2" of water (see Exhibit J of the Conditional Use Permit Application). Mr. Rounds has a water depth of 1 1/2' at a comparable dock length. In addition to the natural sedimentation process, Mr. Rounds site is also exposed to an unnatural fill to the south and a storm drain outfall, both of which increases the sedimentation process. The City estimates that the storm drain is responsible for about 6" of sedimentation.
- f. The Army Corps of Engineers estimates that maintenance dredging would occur every 5 to 10 years.
- g. Exhibit I is a partial transcript of the public hearing before Planning Commission for the dock permit. Mr. Rounds stated at that time: "A 40 foot boat will swing propellers, 'shirline' and all that stuff; it will swing in probably 3 1/2 feet of water.".
- h. Planning Commission found that "... an adequate number of smaller boats could be accommodated with something in the range of 3'4" to 3'7" of depth at low water at that 250 foot (dock) length". (Exhibit "I" in Conditional Use Permit report minutes of May 15, 1980).

2. Conclusions

- a. The Shoreline Master Program identifies the site as a potential salmon spawning area. The pebble beach will enhance the possibility of salmon again spawn-

6/18/81 (P.C.)

6/11/81-5520A/sm

R-2841

ing in this area, as they were sighted doing so in 1976. Therefore, removing the silt and placing a pebble stretch along the beach is in the overall public interest, even though Mr. Rounds cannot meet the criteria found under Policy 2. That is, he is not replenishing sand on the beach.

- b. Dredging spoils should not be deposited within the City of Kirkland without proper approval and proper permits obtained from City Council.
- c. To "maintain navigability" and to be in general conformance with the lake bottom found in the neighborhood, Mr. Rounds should not dredge beyond 3 1/2'. This water depth of 3 1/2' is substantiated in the following way: Neighboring docks have a water depth of 2'2". This fact would indicate that Mr. Rounds should also have a water depth of 2'2", but does not because of the storm drain and because of the Yarrow Bay Sailing and Tennis Club fill which has altered the shoreline. These two factors having increased the amount of sedimentation in Mr. Rounds' area.

An additional 16" of dredging should be allowed as the entire Yarrow Bay has a natural sedimentation process occurring. The request to dredge to 7' is not justified, as the applicant has not established that the 7' water depth is necessary to "maintain navigability". The applicant has himself stated that 3-1/2 feet is adequate for boat navigation, and that the water depth of Yarrow Bay does not exceed 5' at its deepest. The request for 7' then, bears no relationship to the natural lake bottom and is not necessary according to the applicant in prior testimony (see Exhibit I, Conditional Use Permit report).

C. Shoreline Master Program Policies

1. Statement of Fact - There are other policies found in the Master Program which also bear upon the dredging application.

a. Page 6 -- One of the three highest planning priorities for Lake Washington according to the Shoreline Management Act is to preserve the natural character of the shoreline.

-- "Aquatic habitats, particularly significant spawning grounds, should be protected, improved and, if feasible, increased. Shallow water areas, both marshed and the littoral zone are important fish habitats for the following reasons: 1) Provide shelter for young fish; 2) Rooted plants add needed nutrients; 3) Provides a habitat for insect larvae which are significant sources of food; 4) Enhance oxygenation of water. More specifically, some shoreline areas can be identified as significant aquatic habitats, especially marshy and some identified salmon spawning areas.

b. Page 10 -- One goal is "the resources and amenities of a lake are to be protected and preserved for the continual use and enjoyment of our present and future generations". Policy 1. c. under this goal states that "wildlife habitat should be protected, improved, and, if feasible, increased". Policy 1. d. states that "water quality should be maintained at a level to permit recreational use (especially swimming), provide a suitable habitat for desirable forms of aquatic life and to satisfy other required human needs".

c. Page 17 -- "The City of Kirkland is responsible for developing local policies and regulations with other affected governmental agencies in order to protect the public interest associated with the shoreline or recognizing and protecting private property rights consistent with the public interest".

- d. Page 21 -- Policy 2. b. states that "Planning, zoning, capital improvements and other policy and regulatory standards should not increase the density or intensity of shoreline uses and activities except when a demonstrated need considering the entire lake shoreline." This policy is intended to be a base that minimizes up-zoning or other actions that would increase the intensity or density of uses for shoreline areas not in conformance with these policies.

2. Conclusions

- a. Dredging to remove the silt along the low water beach area and to replace the materials with small pebble gravel will enhance the possibility of salmon spawning and increase beach swimming activities.
- b. In the interest of preserving the natural character of the shoreline and acknowledging the need to protect the public interest and long term impacts. Dredging should be minimum and should relate to the natural lake bottom contours.

IV. PUBLIC INPUT

A letter in opposition has been received from the Town of Yarrow Point.

V. APPENDICES

Exhibits 1 through 3 are attached.