RESOLUTION NO. R-3389

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS III PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. SD-III-86-75, BY SKINNER DEVELOPMENT COMPANY FOR A PRELIMINARY AND FINAL MASTER PLAN TO CONSTRUCT A MULTIUSE PROJECT KNOWN AS THE SHIPYARD BEING WITHIN A PLA 15A ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS III PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Planning and Community Development has received an application for a Process III Permit filed by Skinner Development Company, the owner of said property described in said application and located within a PLA 15A zone.

WHEREAS, the application has been submitted to the Kirkland Planning Commission which held hearings thereon at its meetings of December 2, 3, 4, 9 and 11, 1986 and January 27 and 29, 1987 jointly with the Houghton Community Council; and February 18 and 19, March 10, 11, 18, 25 and 30, and April 7 and 16, 1987 alone, and

WHEREAS, the application has been reviewed by the Houghton Community Council at courtesy hearings during its meetings of December 2, 3, 4, 9 and 11, 1986, January 27 and 29, February 4, 5, 11, 12, 24 and 26, and March 5, 1987, and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C and the Administrative Guideline and local ordinance adopted to implement it, Draft and Final Environmental Impact Statement have been prepared and signed by the responsible official of the City of Kirkland; and

WHEREAS, said Draft and Final Environmental Impact Statement have been available and accompanied the application through the entire review process, and

WHEREAS, the Kirkland Planning Commission after its public hearing and consideration of the recommendations of the Department of Planning and Community Development did adopt certain Findings, Conclusions and Recommendations and did recommend approval of the Process III Permit subject to the specific conditions set forth in said recommendations, and

WHEREAS, the City Council, in regular meeting and in special meetings held June 22, 24, 30, July 13, 15, and 21, and August 4, 1987, did consider the environ- mental documents received from the responsible official, together with the recommendation of the Planning Commission, as well as timely filed written challenges of said recommendation and written responses to such challenges.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The Findings, Conclusions and Recommendations (including conditions of approval) of the Kirkland Planning Commission as signed by the Chairperson thereof and filed in the Department of Planning and Community Development File No. SD-III-86-75 are adopted by the Kirkland City Council as though fully set forth herein, except those findings of fact, conclusions, and conditions which are modified by the City Council in Section 3 of this resolution.

Section 2. Action on Challenges:

(a) City of Bellevue Challenge:

The City of Bellevue has challenged the Planning Commission recommended condition number 66, relating to mitigation of traffic impacts within the City of Bellevue. The Council has considered the challenge, the written response to the challenge filed by Skinner Development Company, the conditional withdrawal of the challenge, and the record; the Council concludes that, in view of Save v. Bothell, the Bellevue modified challenge has merit and condition number 66, modified as requested by the City of Bellevue, should be adopted by the City Council.

(b) Northstream/Sequoia Building Challenge:

A challenge was filed on behalf of the owners of the adjacent Northstream and Sequoia Buildings. Subsequently, applicant and those challengers jointly submitted a proposed settlement of their differences, as identified in the challenge letter, with respect to Building 7 and its impact upon views from the Northstream and Sequoia Buildings. Included in the settlement document is withdrawal of this challenge, should the City Council approve the changes in configuration for Building 7 proposed by the settlement. The Council has reviewed the proposed settlement, finds the proposed settlement modifications, including the building envelope for Building 7 as it relates to building height and view impact upon the Northstream and Sequioa Buildings, are within the parameters originally proposed by the applicant and discussed in the EIS; City Council concludes that the settlement proposed changes, including changes to the building envelope for Building 7, are not inconsistent with the applicable regulations for Planned Area 15A, nor the applicable regulations of the Shoreline Master Program and should be approved by the City Council. Such approval results in modifying Conditions 15, 16, 18, 46, and 50(3) recommended by the Planning Commission as set forth in Section 3 below.

(c) Skinner Development Company Challenge:

Skinner Development Company, the applicant, has challenged Condition 49. As recommended by the Planning Commission, this condition requires that the Hotel in Building 1 shall be built as part of Phase I and before any further construction activities for Phase II commence. Skinner contends that, as worded, Condition 49 results in the Hotel use as a required or mandatory use within Planned Area 15A, whereas, the Zoning Code regulations for mixed use developments within Planned Area 15A permit, but do not require, Hotel use; and that timing of this requirement unfairly penalizes the later phases of the project. Skinner recommends the wording for Condition 49 as initially recommended by the Department of Planning and Community Development in its report to the Planning Commission. After considering the challenge and the record in light of the challenge, the

City Council concurs with the challenge to the extent of the timing requirement. Condition 49, recommended by the Planning Commission, therefore, is modified as set forth in Section 3 below. The Skinner challenge also addressed the limit to the size of the hotel which was, as referred to in Condition 50(3), 54,000 square feet. The City Council concurs with the applicant that the number of rooms and the established building envelope provide adequate size limitations.

(d) Yarrow Bay Conservancy Council Challenge:

A document identified as a notice of challenge was filed with the City, on behalf of Sanford Sage, Al Erickson, the Yarrow Bay Conservancy Council, et al. A written response to this challenge document was filed by the Skinner Development Company. Subsequently, Skinner Development Company and the challengers submitted a proposed settlement and withdrawal of challenge for consideration and approval by the City Council. The Council, having considered all of the foregoing in the light of the record, finds that the provisions of this settlement proposal are reasonable, within the Planned Area 15A and Shoreline Master Program policies and regulations, and within the scope of the EIS discussion as to the pertinent parts of the project, including the marina, and is acceptable to the City Council. Such approval modifies Conditions 9, 10, 11, 12, 13, 14, 14.2, 14.3, 43, and 44 recommended by the Planning Commission as set forth in Section 3 below.

Section 3. Findings of fact, conclusions, and conditions of approval of the Planning Commission are modified by the City Council as follows:

(a) Marina:

(1) Findings of Fact - Section V.A.1.d., Special Regulation 9 and 10 of Exhibit JJJJ, page 29 (adopted by the Planning Commission). Due to the settlement of the Yarrow Bay Conservancy Council challenge, the size of the marina has been reduced from 397 slips to between 220 and 242 slips; the number of holding tanks for used engine oil, public toilets, pump-out facilities, and places to post educational information have been reduced from two to one; the marina staffing has been proportionately reduced; and the aspects of the water quality monitoring program related to phased construction of the marina have been deleted since the smaller marina will be built in one phase.

(2) Conclusion - Section V.B.1.b., Special Regulations 9 and 10 of Exhibit JJJJ, page 37 (adopted by the Planning Commission). As a result of the settlement of the Yarrow Bay Conservancy Council challenge, the applicant should be allowed to build a marina with 220 to 242 slips and should not include in the water quality monitoring plan the provisions relating to phased construction of the marina.

(3) Conditions - Section I.C. of Planning Commission Report (pages 4 to 6).

9. Prior to issuance of the ~~first~~ building permit for the marina, the applicant shall submit to the Department of Planning and Community Development a spill contingency plan for review and approval by the Fire Department, Department of Ecology, and other appropraite agencies. The plan shall include a public information signing system listing the names of spill contractors and location of containment equipment on-site, and a description of the containment equipment to be located on-site. Prior to occupancy of ~~the first phase of~~ the marina, the applicant shall demonstrate to the satisfaction of the Department of Planning and Community Development its ability to implement the plan (see Conclusion IV.B.1 of Exhibit JJJJ and response to DOE 6/20/86 letter in the FEIS).

10. Prior to issuance of the ~~first~~ building permit for the marina, the applicant shall submit to the Department of Planning and Community Development construction plans which include wave deflectors along the outside edge of all breakwaters (see Conclusion IV.B.1 of Exhibit JJJJ and response to Town of Yarrow Point letter to the FEIS).

11. Prior to occupancy of ~~each phase of~~ the marina, the applicant shall post near the marina entrances educational information about petroleum and other pollutants. ~~At full build out,~~ This information shall be posted in ~~at least two~~ a prominent locations (see Conclusion IV.B.1 of Exhibit JJJJ and page 84 of the DEIS).

12. Prior to occupancy of ~~each phase of~~ the marina, the applicant shall post near the marina entrances educational information about the Muckleshoot Tribe fishing in the lake with nets at night and warning boaters to be aware of the danger to both boats and tribal nets. ~~At full build out, This information shall be posted in at least 2 locations~~ (See Conclusion IV.B.1 of Exhibit JJJJ and page 84 of the DEIS).

13. ~~During operation of the marina, the shallowest berths shall be reserved for small sailboats or small boats of shallow draft that use small engines/motors to limit the disturbance of sediments (see Conclusion IV.B.1 of Exhibit JJJJ and page 84 of the DEIS).~~ Condition 13 has been deleted by the City Council.

14. Prior to issuance of the ~~first~~ building permit for the marina, the applicant shall submit for approval by the Department of Planning and Community Development plans showing a disposal facility~~ies~~ for contaminated bilge water and used motor oil. ~~Prior to occupancy of each phase of~~

~~the marina, the disposal facilityies for that phase shall be installed.~~ The disposal facility shall be installed prior to the occupancy of the marina. (See Conclusion IV.B.1 of Exhibit JJJJ and page 84 of the DEIS).

14.2 Prior to occupancy of any portion of the marina, the applicant shall submit for approval by the Department of Planning and Community Development a Marina Operating Plan. The following guidelines ~~established in Exhibit 666.6, pages 45 to 47, as well as the following~~ shall provide the basis for the Marina Operating Plan:

- Y valves in all vessels shall be wired shut during occupancy in the marina.

- The Y valves for all vessels shall be inspected by the Harbormaster at the time they initially occupy the marina. The Harbormaster shall also make unannounced inspections of each boat periodically during occupancy. ~~at least two times a year.~~ If unannounced inspections prove to be unworkable or are held to be unlawful, steps shall be taken to assure an alternate method of inspections to fulfill the intent of this condition.

- The Harbormaster shall keep records of all enforcement actions including the Y valve inspections. These records shall be made available for inspection by the City upon request.

- The lease or berthing agreement for all vessels shall stipulate that any vessel ~~having two offenses in a 24 month period relating to its Y valve~~ with repeated offenses shall have its lease terminated.

- The marina will be staffed to provide appropriate maintenance and security support for prudent marina operation.

- A holding tank is available for disposing of used engine oil. This tank is located directly next to the trash containers.

- Trash containers of 5-yard capacity are located ashore at each gangway to allow for ease in trash disposal by boaters.

- Public toilets in floating structures (connected to upland sewer lines) are provided in the marina, close to the boats so as to encourage their use.

- A holding tank pump-out facility is available in the marina. Y valves will be wired shut, subject to inspection, and repeated offenses will lead to lease termination.

- In addition to individual antisiphon hose bibs, there will be positive pressure principal back flow preventers at each water meter source to prevent accidental contamination of public water supplies.

- Locked gatehouses will control access to the docks; no barbed wire is used.

- Locker boxes are positioned adjacent to each slip to eliminate clutter on the floating docks.

- Flotsam and jetsam within the marina and along the shoreline will be removed on a regular basis.

- No grills or open fires will be allowed on the docks or on boats berthed in the marina.

- No open cans of gasoline, diesel fuel, or other hydrocarbons will be permitted on the docks.

- No electric power cords will be allowed to interfere by crossing headwalks or fingers.

- No dinghy storage will be allowed on the fingers.

- No painting, woodworking, or other boat construction or repair will be allowed to take place on the floating docks.

- The marina lighting will be low level, low intensity and pointed toward the land side, away from inbound boats at night.

- A buoyed navigational route will be established for leaving and entering the marina. This route will direct boat traffic away from the Muckleshoot Indian fishing nets and the Points. Following this route will be a requirement of the berthing lease.

- The berthing lease agreement shall also identify that a tenant is responsible to the full extent provided by the law for damage caused by tenant in regard to commercial fishing equipment, loss of profits, and other losses incurred by the Muckleshoot tribe.

- A no-wake speed limit will be enforced by the Harbormaster within 300 feet of the marina. Within the confines of the marina, steerageway speed only will be allowed.

- Noise on individual boats, including halyards, loose canvas, or mooring devices will be controlled by the Harbormaster.

- Individual boisterousness, loud radios, and loud machine use will not be allowed in the marina. Repeated offenses will lead to lease termination.

- The operation of power and hand tools, etc., will be restricted to reasonable hours.

- Rules regarding conduct in relation to the Muckleshoot Indians will be posted on bulletin boards throughout the marina. (See Conclusion V.B.1.b of Exhibit JJJJ.)

14.3 Prior to the first building permit for the marina, the applicant shall submit for approval by the Department of Planning and Community Development a water quality monitoring plan for pollutants, including fecal coliform, prepared b a qualified professional. This plan shall specify the exact timing, rate, and duration of all required monitoring and shall include the following:

a. Provisions for the monitoring of pollutants prior to and after construction of the marina and for the results of the monitoring to be reported to the Department of Planning and Community Development.

~~b. Provisions which give the Planning Director the authority to deny construction of the north half of the marina if:~~

~~1) After occupancy of the south half (percentage of occupancy to be determined by the plan) monitoring results show that tere are unacceptable levels of pollutants resulting from the construction or occupancy of the south half of the marina; or~~

~~2) the applicant is not complying with any aspect of the Marina Operation Plan.~~

~~However, if acceptable levels of pollutants are maintained based on monitoring, then the Planning Director may authorize construction of the north half.~~

c~~.~~b. Provisions which give the Planning Director the authority to require increased inspection and enforcement of the Marina Operating Plan with respect to marine sanitation device operation and control if at any time the marina is causing unacceptable levels of pollutants. In addition, the Department of Planning and Community Development shall refer all suspected water quality violations to the Department of Ecology and other appropriate agencies for enforcement (see Conclusion V.B.1.b. of Exhibit JJJJ).

The monitoring plan shall be reviewed by the Seattle-King County Health Department, Department of Ecology, and other agencies with jurisdiction prior to approval of the plan by the Department of Planning and Community Development.

(b) Aesthetics

(1) Findings of Fact, Section V.A.1.c., Special Regulation 7 of Exhibit JJJJ, page 27 (adopted by the Planning Commission). Due to the settlement of the Northstream/Sequoia Building challenge, the height of Building 7 has increased to 71 feet above sea level, and the landscape treatment near the north side of the parking structure and on the top level of the parking garage has been specified.

(2) Conclusions - Section V.B.1.a., Special Regulation 7 of Exhibit JJJJ, page 34 to 35; and Section V.B. of Exhibit QQQQ, page 22 (adopted by the Planning Commission). As a result of the Northstream/Sequoia Building challenge settlement, the applicant should install landscaping shown in Subarea 4 of Attachment 15 according to the settlement. Also, Building 7 should not exceed elevation 71 and the appurtenances for Building 7 should be installed according to the settlement.

(3) Conditions - Section I.C of Planning Commission Report (page 8 to 9).

15. The roof, parapet or any architectural feature except mechanical appurtenances for each building in PLA 15A shall not exceed the following elevations above sea level:

Building 1: 72 feet, Buiding 2: 80 feet, Building 3: 124 feet, Building 4: 131 feet, Building 5: 79.1 feet, Building 6: 63 feet, Building 7: ~~61~~ 71 feet, PSN: 40 feet, PSS: 68 feet.

However, Building 1 shall be permitted to have a galleria not to exceed 83 feet above sea level (see Conclusion V.B.1.a. of Exhibit JJJJ).

16. Mechanical appurtenances shall be permitted above the elevations cited in Condition 15 for the buildings in PLA 15A. However, the number, configuration and dimension of the appurtenances shall be approved by the Planning Director. Appurtenances shall be grouped and turned perpendicular to the shoreline when practicable and screened with materials which are tied architecturally with the rest of the building. The appurtenances for Buildings 1, 2, 5, 6, and 7 shall not cover more than 10 percent of the area of the footprint of each building. Appurtenances on Buildings 3 and 4 shall cover no more than 15 percent of their footprint. The appurtenances for Building 6 shall go no higher than 68.0 feet above sea level. The appurtenances for Building 7 shall only be on the 4-story sections of that building. Only elevator overruns and vents shall be allowed on the portions of Building 7 which are three stories or fewer (see Conclusion V.B. of Exhibit QQQQ).

18. Prior to issuance of each building permit in PLA 15A, the applicant shall submit for approval by the Department of Planning and Community Development landscaping plans that are consistent with the Subarea Site and Building Guidelines shown in Attachment 15 of Exhibit A. Subarea 4 in Attachment 15, however, shall be modified to provide that landscape plans include small trees and/or shrubs near the north side of the northern parking structure and landscape elements, such as planter boxes or low-height trellises, on the top level of the parking garage. In addition, these plans shall detail the treatment of the areas where the shoreline trail runs by the north wall of the parking structure. The landscaping and site amenitities shall work to invite pedestrians onto the trail and create a comfortable, pedestrian-scaled space (see Conclusion V.B.1.a. of Exhibit JJJJ).

(c) Public Amenities

(1) Finding of Fact - Section V.A.1.c., Special Regulation 5 of Exhibit JJJJ, page 25 (adopted by the Planning Commission). The proposed public fishing pier includes a fishermen's shelter at the end. The reconfigured pier, as a result of the Yarrow Bay Conservancy Council challenge settlement, could also include a shelter.

(2) Conclusion - Section V.B.1.a., Special Regulation 5 of Exhibit JJJJ, page 33 (adopted by the Planning Commission). The Council has concluded that the fishermen's shelter should not be part of the public fishing pier as there are concerns about encouraging buildings constructed over the water, and it is not a critical design element.

The scheduling of the construction of the waterfront parks should be consistent with the Yarrow Bay Conservancy Council challenge settlement.

(3) Conditions - Section I.C. of Planning Commission Report (pages 13 and 15).

37. Prior to issuance of the first marina building permit for the marina, the applicant shall submit, for approval by the Department of Planning and Community Development, plans for the public fishing pier showing light standards, temporary moorage tie-ups (overnight moorage not allowed), ~~fishermen's shelter~~ and benches (see Conclusion V.B.1.a.2. of Exhibit JJJJ).

43. Prior to occupancy of the ~~south half of the~~ marina or Building 2, the south park shall be constructed (see Conclusion V.B.1.a. of Exhibit JJJJ).

44. Prior to occupancy of ~~the north half of the marina or~~ Building 2, the south park shall be constructed (see Conclusion V.B.1.a. of Exhibit JJJJ).

(d) Public Services and Utilities.

(1) Conclusion - Section V.B. of the Planning Commission Report (page 26). The City Council concurs with the Houghton Community Council, but not with the Planning Commission, that street trees should not be planted in view corridors. Also, street tree planting should be consistent with the Northstream/Sequoia Building challenge settlement.

(2) Conditions - Section I.C. of Planning Commission Report (page 16).

46. The applicant shall install a sidewalk, street trees, and bike lane along the west side of Lake Washington Boulevard abutting the entire length of the subject property. Right-of-way shall be dedicated as necessary to make these improvements. The dimensions and design of these improvements shall be specified in the pending Lake Washington Boulevard improvement plan to be prepared under the auspices of the Department of Planning and Community Development. If this plan is not complete at the time the abutting portion of Lake Washington Boulevard is rebuilt and the improvements are to be made (see Conditions 69 and 70), then the applicant shall install the improvements as described below.

The applicant shall install a ten-foot wide sidewalk, three to four foot wide bike lane, and plant street trees, which are at least two inches in diameter measured one foot above the root ball and have a canopy starting at least eight feet above the root ball, in tree grates in the sidewalk along Lake Washington Boulevard. Prior to building permit, the design of the tree grates and planting of the street trees, including species selected, shall be reviewed by the Parks Department. The species shall be selected with consideration to maintaining views and view corridors. The trees shall be spaced 40 feet on center and planted ~~along the entire length of the project~~ only in front of Buildings 3 and 4, so as to preserve view corridors, and shall be planted when the sidewalk is installed, except that from a point 20 feet south of the northern property line for a distance of 300 feet, the street trees shall be deciduous, spaced 50 feet on-center, and permanently maintained at no more than 12 feet high (see Conclusion V.B of ~~this~~ the Planning Commission report).

(e) Use

(1) Conclusion - Section V.B. of Planning Commission Report, page 25 to 26. Due to the results of the Skinner Development Company challenge, the Council has determined that the hotel is an important component of the project but does not agree with the Planning Commission that development of Phase II of the project should hinge on its development.

(2) Condition - Section I.C. of Planning Commission Report, page 17.

49. ~~Prior to the issuance of the first building permit in Phase 2 of the project as defined in Attachment 26, page 5 of Exhibit A, the applicant shall begin construction of a hotel in Building 1.~~ A hotel, containing between 80 and 100 rooms with multipurpose (meeting) rooms, shall be included or space reserved therefor, in Building 1 or Building 2. (See Conclusion V.B. of ~~this~~ the Planning Commission report.)

(f) Flexibility

(1) Findings of Fact - Section V.A.1.c., Special Regulation 7 of Exhibit JJJJ, page 27 (adopted by the Planning Commission). The Northstream/Sequoia Building challenge settlement modifies the north property line setback shown in Attachment 25 of Exhibit A from 30 feet to 15 feet. The Skinner Development Company challenge approval limits the hotel size by number of rooms and building envelope rather than by square feet.

(2) Conclusion - Section V.B.1.a., Special Regulation 7 of Exhibit JJJJ, page 34 to 35 (adopted by the Planning Commission). The north property line yard should be modified to be consistent with the challenge settlement. Also, hotel should not be limited to 54,000 square feet as noted on page 1 of the Planning Commission report.

(3) Condition - Section I.C. of Planning Commission Report, page 17.

50. The Planning Director shall have the authority to approve requests for modification to the final master plan for PLA 15A according to items 1-6 on page 2 of Attachment 27 of Exhibit A (except item 6 should allow for relocation not reallocation of uses within the proposed buildings...) provided that he/she determines that the requested modification: (1) meets the intent and purpose of the master plan; (2) will not have more than a nominal additional or different impact on the surrounding area than does the present development; (3) does not violate the view corridor and/or setback areas established in Attachment 25 of Exhibit A; except that the setback along the north property line shall be 15 feet rather than 30 feet; (4) does not alter the overall perception of openness on the site; (5) does not cause the total square footage of uses to exceed those described on page 1 of ~~this~~ the Planning Commission report; except that the hotel use shall not be limited to a maximum of 54,000 square feet, and (6) is not contrary to any other condition of this permit (see Conclusion V.B.1.a. of Exhibit JJJJ).

(g) Transportation

(1) Conclusion - Section V.B.1.a., Special Regulation 12 of Exhibit JJJJ, page 36 (adopted by the Planning Commission), and Section IV.B. of Planning Commission Report, page 25. In addition to contributing to the Lake Washington Boulevard Improvement Plan, the Council had determined that it is in the City's best interest for most of the transportation improvements to be consistent with the outcome of that plan.

As a result of the settlement of the City of Bellevue challenge, the applicant's contribution toward the Bellevue intersections should not be contingent on a signed interlocal agreement between the two cities as recommended by the Houghton Community Council and the Planning Commission.

The City Council does not concur with the Planning Commission that the details of the TMP should be determined prior to occupancy. Rather, the Council supports the idea of establishing a realistic goal, developer incentive, and tools and techniques with the master plan permit.

(2) Condition - Section I.C. of Planning Commission Report, pages 20 to 23.

64. Prior to issuance of the first building permit in PLA 15A (including the marina), the applicant shall submit for approval by the Department of Public Works detailed plans for installation of the signal and improvements at the intersection of Lakeview Drive and Lake Washington Boulevard. Preparation of these plans shall be deferred until the Lake Washington Boulevard Improvement Plan is available, so long as that deference does not impede or delay the project schedule. If the Lake Washington Boulevard Improvement Plan is completed and available prior to preparation of the plan for such installation, then those plans shall be consistent with the Plan. During construction of the marina and buildings, the applicant shall manage construction traffic on the Boulevard. The Department of Public Works shall have the authority to stop work requiring construction traffic ~~and have the applicant install the signal~~ if the applicant does not manage the traffic to the Department's satisfaction. ~~In any event,~~ The applicant shall install the signal and complete all improvements at the intersection prior to occupancy of the first building (see Conclusion V.b.1.a of Exhibit JJJJ).

64.1 Prior to issuance of the first building permit in PLA 15A (including the marina), the applicant shall submit for approval by the Department of Public Works the plans for the improvements which would allow the intersection of Lake Washington Boulevard and the project's south entrance to be used solely for right turning traffic entering or leaving the site. Preparation of these plans shall be deferred until the Lake Washington Boulevard Improvement Plan is available, so long as that deference does not impede or delay the project schedule. If the Lake Washington Boulevard Improvement Plan is completed and available prior to preparation of the plans for such installation, then those plans shall be consistent with the Plan. If construction vehicles will use the intersection, then the improvements shall also be installed ~~at this time~~ prior to the first building permit. Otherwise, these improvements shall be installed prior to occupancy of the first building other than the Skinner Development Company offices (see Conclusion V.B.1.a. of Exhibit JJJJ).

65. Prior to occupancy of the marina or any building that is forecasted to cause the intersection of NE 68th and 103rd Avenue NE (State Street) to operate at LOS D or worse, the applicant shall install the signal and complete all improvements. Preparation of plans for installation shall be

deferred until the Lake Washington Boulevard Improvement Plan is available, so long as that deference does not impede or delay the project schedule. If the Lake Washington Boulevard Improvement Plan is completed and available prior to preparation of the plans for such installation, then those plans shall be consistent with the Plan. (See Conclusion IV.B.1, page 60 of the Traffic Study in the FEIS and Conclusion V.B of ~~this~~ the Planning Commission report.)

66. The applicant shall make cash contributions to the Lake Street/ Second Avenue South, Lake Washington Boulevard/N.E. 38th Place, and Bellevue intersections according to the applicable scenario:

a. If the intersection improvement is installed prior to final City approval of the Final Master Plan for PLA 15A and Preliminary Master Plan for PLA 15B: No contribution shall be required.

b. If the intersection improvement is installed after final City approval of the Final Master Plan for PLA 15A and Preliminary Master Plan for PLA 15B: At such time as either the City of Kirkland or City of Bellevue (whichever is applicable to the intersection in question) determines that the funds are necessary to complete the intersection improvement, the amount of contribution shall be based on the percentage of the traffic signal warrant for the intersection which is represented by the number of p.m. peak hour trips generated by the project at that point in time. If the project is not fully occupied, additional contributions, determined on the same basis, shall be made prior to each subsequent occupancy, so that at such time as the project is fully occupied, the entire contribution specified in Condition 63 will have been paid. Contributions for any intersection improvements which are made after the improvements are complete, shall be reimbursed to the party(ies) which funded the applicant's share of the improvement cost. ~~However, the applicant shall not be required to contribute to the Bellevue intersections until such time as the Cities of Bellevue and Kirkland sign an interlocal agreement establishing reciprocal mitigation payments~~ (see Conclusion IV.B.1 of Exhibit JJJJ, pages 55 - 59 of the Traffic Study in the FEIS, and Conclusion V.B.1.a. of Exhibit JJJJ and Conclusion V.B. of Exhibit QQQQ).

68. Prior to occupancy of the marina or any building that is forecasted to cause the NE 70th/I-405 southbound ramp to operate at LOS E or worse, the applicant shall coordinate with the Department of Transportation ~~and~~ to fund and reconfigure the intersection within rights-of-way and viaducts to accomodate traffic generated by the project (see Conclusion V.B.1.a of Exhibit JJJJ).

69. The applicant shall widen and improve Lake Washington Boulevard 600 feet north of the project entrance or as specified in the pending Lake Washington Boulevard Improvement Plan prior to occupancy of any building (marina included) that is forecasted to cause a total of 742 p.m. peak hour trips to be generated to and from the subject property. Preparation of plans for such improvements shall be deferred until the Lake Washington Boulevard Improvement Plan is available, so long as that deference does not impede or delay the project schedule. If the Lake Washington Boulevard Improvement Plan is completed and available prior to preparation of the plans for such improvements, then those plans shall be consistent with the Plan (see Conclusion V.B.1.a. of Exhibit JJJJ).

70. The applicant shall widen and improve Lake Washington Boulevard 600 feet south of the project entrance or as specified in the pending Lake Washington Boulevard Improvement Plan prior to occupancy of any building (marina included) that is forecasted to cause a total of 1175 p.m. peak hour trips to be generated to and from the subject property. Preparation of plans for such improvements shall be deferred until the Lake Washington Boulevard Improvement Plan is available, so long as that deference does not impede or delay the project schedule. If the Lake Washington Boulevard Improvement Plan is completed and available prior to preparation of the plans for such improvements, then those plans shall be consistent with the Plan (see Conclusion V.B.1.a. see Exhibit JJJJ).

71. ~~Prior to occupancy of the first building, the applicant shall develop a Transportation Management Plan (TMP) for approval by the City which includes provisions to reduce the number of single occupant vehicle trips in and out of the project. The TMP shall include a desired goal for reduction, a monitoring program, incentives or any other provisions which work toward the objective of reducing single occupant vehicle trips.~~ Prior to the occupancy of the first building, the applicant shall develop a Tranportation Management Program (TMP) for approval by the Planning Director and Director of Public

Works. The TMP shall include the following: (a) A goal of a 75 percent to 25 percent mode split between single-occupancy vehicles and other transportation alternatives. (b) A reduction of no more than 240 on-site structured parking spaces as the developer's incentive to reach the goal. The actual reduction number would be determined in proportion to the type of transportation alternative selected by the employee. (c) A monitoring program to demonstrate the extent to which the goal is reached and the developer's incentive has been earned. (d) A variety of tools and techniques and the flexibility to the developer to choose among those tools over time to develop the most effective TMP (see Conclusion IV.B. of ~~this~~ the Planning Commission report).

72. The applicant shall construct bus shelters adjacent to Lake Washington Boulevard or as specified in the pending Lake Washington Boulevard Improvement Plan at the time that Lake Washington Boulevard is widened and sidewalks are installed. ~~Plans for the shelters should be formulated in conjunction with the Public Works Department and METRO~~ Preparation of plans for such improvements shall be deferred until the Lake Washington Boulevard Improvement Plan is available, so long as that deference does not impede or delay the project schedule. If the Lake Washington Boulevard Improvement Plan is completed and available prior to preparation of the plans for such improvements, then those plans shall be consistent with the Plan (see Conclusion IV.B.1. of Exhibit JJJJ and page 61 of the Traffic Study in the FEIS).

Section 4. The Process III Permit shall be issued to the applicant subject to the conditions set forth in the Recommendations hereinabove adopted by the City Council.

Section 5. 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.

Section 6. 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 Process III Permit is subject shall be grounds for revocation in accordance with Ordinance No. 2740, as amended, the Kirkland Zoning Ordinance.

Section 7. Notwithstanding any recommendations heretofore given by the Houghton Community Council, the subject matter of this resolution and the Permit herein granted are, pursuant to Ordinance 2001, subject to the disapproval jurisdiction of the Houghton Community Council, and therefore, this resolution shall become effective only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this resolution within 60 days of the date of the passage of this resolution.

Section 8. A certified copy of this Resolution, together with the Findings, Conclusions and Recommendations herein adopted shall be attached to and become a part of the Process III Permit or evidence thereof delivered to the permittee.

Section 9. Certified or conformed copies of this Resolution shall be delivered to the following:

(a) Department of Planning and Community Development of the City of Kirkland
(b) Fire and Building Departments of the City of Kirkland
(c) Public Works Department of the City of Kirkland
(d) The City Clerk for the City of Kirkland.

Passed by majority vote of the Kirkland City Council on the 17th day of August, 1987.

SIGNED IN AUTHENTICATION THEREOF on the 17th day of August, 1987.

Doris Cooper
Mayor

ATTEST:

City Clerk

7702C/352A/NC:br