

RESOLUTION NO. R-3612

A RESOLUTION 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. III-89-84 BY THE KIRKLAND PARKS AND RECREATION DEPARTMENT BEING WITHIN A P 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 Kirkland Parks and Recreation Department, representing the owner of said property described in said application and located within a P zone.

WHEREAS, the application has been submitted to the Hearing Examiner who held a hearing thereon at his regular meeting of May 17, 1990; and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 4321C, and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a negative determination reached; and

WHEREAS, said environmental checklist and determination have been available and accompanied the application through the entire review process; and

WHEREAS, the Hearing Examiner after his 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 recommendation; and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner, as well as three timely filed challenges of said recommendation.

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

Section 1. The findings, conclusion, and recommendation of the Hearing Examiner as signed by him thereof and filed in the Department of Planning and Community Development File No. III-89-84 are adopted by the Kirkland City Council as though fully set forth herein, except Conclusion IIB and Recommendations III.3.b., III.3.c., III.3.g., III.4.b., III.4.c., and III.4.d., which are not adopted. Recommendations III.3.f. and III.4.a. are adopted, except as to the opening and improvements of Fifth Avenue South; Fifth

Avenue South shall not be opened or improved as a part of this Park project. In lieu of Recommendation III.3.b., the Council adopts the following: The Applicant shall sign a commitment agreement for improvements to Tenth South as itemized in Hearing Examiner Recommendation III.3.b., and shall install a hard surfaced pedestrian walkway from Tenth Street at Park entry north to the north boundary of the Park abutting on Tenth South.

Section 2. The Process III Master Plan permit shall be issued to the applicant subject to the conditions set forth in the recommendations hereinabove adopted by the City Council.

Section 3. Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinance, or regulations applicable to this project, other than expressly set forth herein.

Section 4. 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 Master Plan permit is subject shall be grounds for revocation in accordance with Ordinance 2740, as amended, the Kirkland Zoning Ordinance.

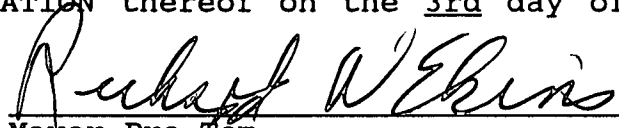
Section 5. A certified copy of this resolution, together with the findings, conclusions, and recommendations herein adopted shall be attached to and become a part of the Process III permit or evidence thereof delivered to the permittee.

Section 6. 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.

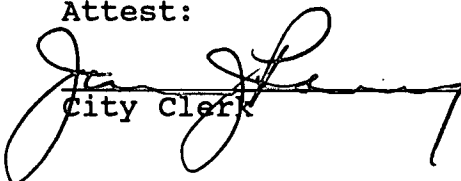
PASSED by majority vote of the Kirkland City Council on the 3rd day of July, 1990.

SIGNED IN AUTHENTICATION thereof on the 3rd day of July, 1990.



Mayor Pro Tem

Attest:



City Clerk

**CITY OF KIRKLAND
HEARING EXAMINER FINDINGS,
CONCLUSIONS, AND RECOMMENDATION**

APPLICANT: City of Kirkland
Dept. of Parks and Recreation

FILE NO. III-89-84

APPLICATION:

1. Applicant: City of Kirkland Department of Parks and Recreation.
2. Site Location: Everest Park is located between Eighth Street South and Tenth Street South, south of Kirkland Avenue and north of Eighth Avenue South.
3. Request: The applicant requests approval of a Master Plan for the 15-acre Everest Park site. The Master Plan would allow further development of the park, to be completed in two phases.

The first phase would include virtually all of the proposed improvements: the renovation of the existing little league field (Field A) in the southern half of the site, the conversion of an existing adult softball field (Field C) to two little league fields (Fields C and D), the location of a new parking lot at the north end of the site to include 92 parking stalls, the expansion of the parking area at the southwest corner of the site to include 110 stalls, the addition of a children's playground and picnic facilities, one tennis court, one basketball court, stream enhancement, public trails, new landscaping, and half-street improvements within the Eighth Street South right-of-way.

The second phase of development would involve the renovation of the little league field in the northwest corner of the site (Field B). The Parks Department expects to pursue this renovation in August of 1991. The future tennis court, indicated in Attachment 3, would be installed at some point in the future, when the demand for additional tennis facilities in the area is indicated.

Hearing Examiner Report
City of Kirkland, Department of Parks and Recreation, File No. III-89-84
Page 2

The application is proposed as a Master Plan for the site due to the requirement that any proposed park development which will involve the construction of more than 20 parking stalls or the development of any structured sports or activity areas be approved as part of a Master Plan.

SUMMARY OF RECOMMENDATION AND DECISION:

Department of Planning and Community Development: Approve with conditions.

Hearing Examiner: Approve with conditions.

PUBLIC HEARING:

After reviewing the official file which included the Department of Planning and Community Development Advisory Report and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Kirkland Department of Parks and Recreation application was opened at 7:00 p.m., May 17, 1990, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 8:10 p.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the City Clerk's office.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

I. FINDINGS:

The findings of fact recommended on pages 5 to 21 of the Department of Planning and Community Development Advisory Report (Hearing Examiner Exhibit A) are found by the Hearing Examiner to be supported by the evidence presented during the hearing and, by this reference, are adopted as the Hearing Examiner's findings of fact. A copy of said report is attached hereto as Exhibit A.

II. CONCLUSIONS:

A. The conclusions recommended by the Department of Planning and Community Development, as set forth on pages 5 to 21 of the Department's Advisory Report, accurately set forth the conclusions of the Hearing Examiner and, by this reference, are adopted as part of the Hearing Examiner's conclusions. A copy of said report is attached hereto as Exhibit A.

Hearing Examiner Report

City of Kirkland, Department of Parks and Recreation, File No. III-89-84

Page 3

- B. In addition, based on testimony of residents, the Hearing Examiner concludes that the significant amount of truck traffic travelling along Eighth Street South to and from the light industrial area on the north is not consistent with the residential neighborhood or the expanded park use.
- C. The Hearing Examiner also concludes that the Master Plan should include provisions for phased replacement of cottonwood trees and other non-native species with native species benefitting the neighborhood and park amenities and consistent with the wetland/wildlife habitat.

III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, approval of this application is recommended subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 5, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 5, the condition of approval shall be followed.
2. The Department of Planning and Community Development shall be authorized to approve modifications to the approved site plan, unless:
 - a. There is a change in use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use; or
 - b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change (see Conclusion II.D.8.b); and

Hearing Examiner Report

City of Kirkland, Department of Parks and Recreation, File No. III-89-84

Page 4

3. As part of the application for a Building Permit, the applicant shall submit:
 - a. Plans for a permanent and construction phase storm water control system to be approved by the Department of Public Works (see Conclusion II.D.3.b).
 - b. Plans for installing the following half-street improvements in the Tenth Street South right-of-way bordering the subject property north of Alexander Avenue: 14 feet of pavement, curb and gutter, and a 4½-foot-wide landscape strip with street trees planted 30 feet on center, a 5-foot sidewalk adjacent to the curb, and a utility strip. A minimum pavement width of 20 feet must be installed where improvements do not exist within the eastern half of the right-of-way. The plans should also indicate the installation of a paved connection, at least 20 feet in width, if the access point to the right-of-way abutting the park property is not connected to a hard driving surface to the north (see Conclusion II.D.4.b.(1)).
 - c. An analysis acceptable to the Department of Planning and Community Development, of the means of diverting truck traffic from using Eighth Street South as an access to or egress from the light industrial area. Means to be analyzed include education, signing, enforcement or physical improvements.
 - d. Add to the master plan provisions for the phased replacement of cottonwood trees and other non-native species with native species benefitting the neighborhood and park amenities and consistent with the wetland/wildlife habitat.
 - e. A signed and notarized concomitant agreement, as set forth in Attachment 14, to underground all existing utility lines bordering the subject property within the Tenth Street South right-of-way to be approved by the Department of Planning and Community Development and recorded with the King County Records and Elections Division (see Conclusion II.D.4.b.(3)).

Hearing Examiner Report

City of Kirkland, Department of Parks and Recreation, File No. III-89-84
Page 5

- f. Submit all revisions agreed to through the SEPA process, as set forth in Attachment 9 and agreed to in Attachment 12 (see Conclusion II.C.4.1.b).
 - g. A revised plan, indicating the location of a pedestrian trail entering the site in the vicinity of Alexander Avenue. The plan should indicate the planting of natural barriers to control visitor access in this area. The revised plan should also indicate the installation of bicycle racks on site, to contain at least 12 bicycles (see Conclusion II.D.2.a.(1)(a2)).
4. Prior to the use of any new improvements, the applicant shall:
- a. Complete all site improvements indicated on the site plan approved by the Department of Planning and Community Development at the time of application for a Building Permit (see Conclusion II.D.10.b).
 - b. Complete the installation of the half-street improvements within the Tenth Street South right-of-way bordering the subject property as stated in I.B.3.b, above (See Conclusion II.D.4.b.(1)).
 - c. Complete all improvements recommended to divert trucks from utilizing Eighth Street South.
 - d. Submit for approval by the Department of Planning and Community Development a signed and notarized agreement, as set forth in Attachment 13, to maintain the landscaping within the Tenth Street South right-of-way to be recorded with the King County Records and Elections Division (see Conclusions II.D.4.b.(2)).
 - e. Install a fully operational permanent storm water control system (see Conclusion II.D.3.b).

Hearing Examiner Report

City of Kirkland, Department of Parks and Recreation, File No. III-89-84
Page 6

- f. In lieu of completing any required improvements, a security device to cover the cost of installing the improvements may be submitted if the criteria in Zoning Code Section 175.10.2 are met (see Conclusion II.D.10.b).
5. Within seven (7) calendar days after the final public hearing, the applicant shall remove all public notice signs and return them to the Department of Planning and Community Development. The signs shall be disassembled with the posts, bolts, washer and nuts separated from the sign board (see Conclusion II.D.9.b).

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Department of Planning and Community Development Staff Advisory Report
- B. Letter from James D. Meniketti, 1820 Ninth St. W., Kirkland, Washington 98033, dated February 18, 1990
- C. Letter from Department of Fisheries, dated April 30, 1990
- D. Letter from Lee E. Pedersen, 329 Eighth St. S., Kirkland, Washington 98033, dated May 15, 1990
- E. Letter from Arvid Glover, 737 Eighth St. S., Kirkland, Washington 98033, dated May 16, 1990
- F. Letter from Christopher Frost and Mary K. Frost, 120 Slater St. S., Kirkland, Washington 98033, dated May 17, 1990
- G. Letter from Todd Dermody, 818 Sixth Place S., Kirkland, Washington 98033, dated May 17, 1990

PARTIES OF RECORD:

Applicant, City of Kirkland, Department of Parks and Recreation
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

James D. Meniketti, 1820 Ninth St. West, Kirkland, WA 98033
Gayle Kreitman, Regional Habitat Manager, Department of Fisheries, 115 General Administration Building, Olympia, Washington 98504

John Martin, President, Kirkland American Little League, 11317 - 127th Place, Kirkland, Washington 98033

David Aubry, 341 Eighth St. S., Kirkland, Washington 98033

Thomas Lynn, 501 Eighth Street South, Kirkland, Washington 98033

Dick Nova, 1205 Kirkland Avenue, Kirkland, Washington 98033

Lee E. Pedersen, 329 8th St. S., Kirkland 98033

Arvid Glover, 737 8th St. S., Kirkland, WA 98033

Christopher & Mary K. Frost, 120 Slater St. S., Kirkland 98033

Todd Dermody, 818 6th Pl. S., Kirkland, WA 98033

Hearing Examiner Report
City of Kirkland, Department of Parks and Recreation, File No. III-89-84
Page 7

Entered this 4th day of June, 1990, per authority granted by Section 152.70, Ordinance 2740 of the Zoning Code. This recommendation is final unless a request for reconsideration is filed within five (5) working days as specified below. A final decision on this application will be made by the City Council. My recommendation may be challenged to the City Council within ten (10) working days as specified below.



Robert G. Burke
Hearing Examiner

RECONSIDERATIONS, APPEALS, CHALLENGES AND JUDICIAL REVIEW

The following is a summary of the deadline and procedures for filing reconsiderations and challenges. Any person wishing to file or respond to a recommendation or challenge should contact the Planning Department for further procedural information.

A. REQUEST FOR RECONSIDERATION

Section 152.80 of the Zoning Code allows the applicant or any person who submitted written or oral testimony to the Hearing Examiner to request that the Hearing Examiner reconsider his/her recommendation. The request must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department within five (5) working days following the postmarked date when the Hearing Examiner's written recommendation was distributed (by June 12, 1990). Within this same time period, the person making the request for reconsideration must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the request letter together with notice of the deadline and procedures for responding to the request.

Any response to the request for reconsideration must be delivered to the Planning Department within five (5) working days after the request letter was filed with the Planning Department. Within the same time period, the person making the response must also mail or personally deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Hearing Examiner Report
City of Kirkland, Department of Parks and Recreation, File No. III-89-84
Page 8

Proof of such mail or personal delivery must be made by affidavit, attached to the request and response letters, and delivered to the Planning Department. The affidavit form is available from the Planning Department.

B. CHALLENGE

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted written or oral testimony to the Hearing Examiner. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by JUNE 19, 1990, ten (10) working days following the postmarked date of distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted testimony to the Hearing Examiner a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

Any response to the challenge must be delivered to the Planning Department within five (5) working days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must deliver a copy of the response to the applicant and all other people who submitted testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, available from the Planning Department. The affidavit must be attached to the challenge and response letters, and delivered to the Planning Department.

The challenge will be considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

C. JUDICIAL REVIEW

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 30 days following the postmarked date when the City's final decision was distributed.

Hearing Examiner Report

City of Kirkland, Department of Parks and Recreation, File No. III-89-84
Page 9

If issues under RCW 43.21C (the State Environmental Policy Act--SEPA) are to be raised in the judicial appeal, the "SEPA" appeal must be filed with the King County Superior Court within 30 days following the postmarked date when the City's final decision was distributed.

IV. LAPSE OF APPROVAL

Under Section 152.115.1 of the Zoning Code, the applicant must submit to the City a complete building permit application approved under Chapter 152, within one year after the final decision on the matter, or the decision becomes void. Furthermore, the applicant must substantially complete the development activity approved under Chapter 152 and complete the applicable conditions listed on the Notice of Approval within five (5) years after the final decision on the matter, or the decision becomes void. Application and appeal procedures for the time extension are described in Section 152.115.2 and 152.115.3.

"Final Decision" means the final decision of the City of Kirkland, or the termination of judicial review proceedings if such proceedings were initiated pursuant to Section 152.110.

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