

RESOLUTION NO R- 3676

A RESOLUTION OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS IIA PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO IIA-90-73 BY THE ROSE HILL WATER DISTRICT BEING WITHIN AN RSX 7 2 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS IIA PERMIT SHALL BE SUBJECT

WHEREAS, the Department of Planning and Community Development has received an application for a Process IIA permit, filed by Rose Hill Water District, representing the owner of said property described in said application and located within an RSX 7 2 zone

WHEREAS, the application has been submitted to the Hearing Examiner who held hearings thereon at his regular meetings of November 8, 1990 and January 10, 1991, 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 and an Environmental Impact Statement have been submitted to the City of Kirkland and reviewed by the responsible official of the City of Kirkland, and

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

WHEREAS, the Hearing Examiner, after his public hearings 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 IIA permit subject to the specific conditions set forth in said recommendation, and

WHEREAS, the City Council, in regular meeting on April 16, 1991 and in public hearing on June 17, 1991, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner, as well as a timely filed appeal (File No A-91-21) of said recommendation, a timely filed response to the appeal

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 and filed in the Department of Planning and Community Development File No IIA-90-73 are adopted by the Kirkland City Council as though fully set forth herein, except as modified below

Hearing Examiner Finding I B 2 shall be modified to replace the phrase, " considering that the 1 5 million gallon standpipe emptied into the park " with " considering that approximately 260,000 gallons overflowed into the park "

Conclusions II A 1 b, II A 2 b, II D 7 b, II D 16 b, II F 2 a of the staff as signed by the Project Planner and Planning Director and filed in the Department of Planning and Community Development File No IIA-90-73 are hereby adopted by the Kirkland City Council as though fully set forth herein Conclusions II A 1 b, II A 2 b, II D 7 b, II D 16 b, and II F 2 a of the Hearing Examiner as signed by him are not adopted by the City Council

Conclusion II D 14 b of the Hearing Examiner is not adopted by the City Council
Conclusion II D 14 b of the City Council is as follows

A Visual impacts can be adequately mitigated through vegetative screening combined with judicious painting of the facility

1 Adequate visual mitigation of a 14 3 million gallon tank would require substantial vegetative screening The new plantings proposed by the applicant in Appeal Exhibit H in combination with the retention of the existing significant trees as indicated in Appeal Exhibit H, will provide adequate vegetative screening Therefore, prior to final inspection, the applicant should retain existing vegetation and install new vegetation as indicated in Appeal Exhibit H

In addition, a fund of ten thousand dollars (\$10,000) should be established by the applicant, as proposed, to provide supplementary plantings during the first year as needed The Departments of Parks and Planning should work in cooperation with the community to determine appropriate use of the fund Also, the applicant should provide the hookup for the irrigation system in Mark Twain Park at the time of application for a building permit at no cost to the City

2 The color(s) and design used in painting the tank will greatly influence the degree and nature of its visual impact In order to blend with the environment to the maximum extent possible, prior to final inspection, the tank should be painted, as proposed (and as depicted in Attachment 16 to the Staff Report) with trees of varying muted shades of green against a subtle sky hue Along with a building permit, the applicant should submit a color rendering with paint samples for consideration and approval by the neighborhood

3 Additional improvements in the immediate vicinity of the replacement tank are appropriate to compensate the neighborhood for the impacts of the 14 3mg facility Substantial improvements to Mark Twain Park should include enlargement and enhancement of the existing playground on the order of \$52,000 and the replacement of 2 park benches and 2 picnic tables Such improvements should be installed no later than two years after tank completion The design, location and nature of such improvements should be evaluated specifically through site plan review by the Park Board and then by the Hearing Examiner following a public hearing under Process IIA The City has suggested to the applicant that these improvements be incorporated into the proposal, and the applicant has declined We conclude that the installation of the 14 3mg tank should include the park improvements specified above and further conclude that the City should commit funds for those improvements to be installed no later than two years following tank completion

B Reduction of tank width will not significantly reduce potential shadow impacts on neighboring properties (see Appeal Exhibit F)

Conclusion II D 15 b of the staff as signed by the Project Planner and the Planning Director and filed in the Department of Planning and Community Development File No IIA-90-73 is hereby adopted by the Kirkland City Council as though fully set forth herein In addition, based on Appeal Exhibit I, on Exhibit I to the Staff Report, and on the Environmental Impact Statement, the City Council hereby concludes that the potential economic and environmental costs of locating smaller tanks on multiple sites are significantly greater than those associated with the proposal

Conclusion B of the Hearing Examiner as signed by him and filed in the Department of Planning and Community Development File No IIA-90-73 is hereby adopted by the Kirkland City Council as though fully set forth herein. In addition, the City Council hereby concludes that safety issues have been addressed at length in the Environmental Impact Statement and in Exhibit I to the Staff Report, and have been resolved in Condition A of the Hearing Examiner Report.

Conclusions C and D of the Hearing Examiner are not adopted by the Kirkland City Council.

Condition III A of the Hearing Examiner as signed by him and filed in the Department of Planning and Community Development File No IIA-90-73 is hereby adopted by the Kirkland City Council as though fully set forth herein with the exception of the first sentence.

Additional conditions shall include the following:

The applicant shall retain existing vegetation and install new vegetation as indicated in Appeal Exhibit H prior to final inspection.

Prior to occupancy, the applicant shall submit to the Department of Planning and Community Development the amount of ten thousand dollars (\$10,000) to cover the cost of installation of any supplemental plantings deemed necessary by the City within the first year of project completion, with any surplus to be returned thereafter. The Planning and Parks Departments shall work in cooperation with the community to determine appropriate use of the fund.

At the time of submittal for a Building Permit Application, the applicant shall install a water meter for Mark Twain Park in order to render the park's irrigation system operational at no cost to the City.

Prior to final inspection, the tank shall be painted, as proposed (and as depicted in Attachment 16 to the Staff Report), with trees of varying muted shades of green against a subtle sky hue. Along with a building permit, the applicant shall submit a color rendering with paint samples to the City for consideration and approval by the neighborhood.

City Council Conclusion II D 14 b shall be considered in reviewing proposals concerning Mark Twain Park.

Section 2 The Process IIA 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 IIA 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 IIA 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 2nd day of July, 1991

SIGNED IN AUTHENTICATION thereof on the 2nd day of July, 1991

R. W. Ehlers
Mayor pro tem

Attest

J. Cloney DEPUTY
City Clerk CLERK

RES90 73 AUG/91 cw

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

APPLICANT: Rose Hill Water District

FILE NO. IIA-90-73

APPLICATION: This is a Process IIA permit to replace the existing 1.4 million-gallon standpipe (approximately 110 feet in height) with a 14.3-million-gallon water storage reservoir (not to exceed 127 feet above average building elevation) in order to meet the potable water storage needs of Rose Hill Water District customers. On-site relocation of the existing control and pump station and a covered storage structure would be necessary. The application includes variance requests to allow the reservoir to exceed the 30-foot height limit and the 50-foot maximum horizontal facade limitation in an RSX 7.2 zone (see Attachment 2).

The site is located 162 feet west of 132nd Avenue NE at NE 108th Street.

The major issues in this report are:

- a Compliance with Zoning Code Section 17.10.d, Development Standards for a Public Utility within an RSX 7.2 Zone (see Attachment 3)
- b Compliance with Zoning Code Chapter 150, Process IIA.
- c Compliance with Zoning Code Chapter 120, Variances

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 Rose Hill Water District application was opened at 7 p.m., November 8, 1990, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 9:30 p.m.

On November 28, 1990, the Hearing Examiner, after consultation with the City Attorney, requested that the hearing be reopened. The Hearing Examiner conducted the reopened public hearing on the application on January 10, 1991. The reopened hearing on the Rose Hill Water District application was opened at 7 p.m., January 10, 1991, in the Peter Kirk Room, City Hall, 123 Fifth Avenue, Kirkland, Washington, and was closed at 8:30 p.m.

ATTACHMENT _____

FILE NO

A-91-21

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/DECISION:

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

I FINDINGS

A The findings of fact recommended on pages 5 to 14 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 part of the Hearing Examiner's findings of fact with the following additions:

A.1 a (2) Land Use Add - The standpipe is approximately 45 feet in diameter.

A.14 a (3) - Revise as follows: The proposal would not impact views from adjacent properties since they are generally oriented away from this site. The character of long-range views are limited due to topographic and vegetative characteristics, however, where they do exist, the character of a "landmark" will be changed significantly.

A.14 a (4) - Change "somewhat" to "significantly."

A.15 a - Add - In the applicant's letter of January 2, 1991, it was noted that "Comprehensive Water Plans do not contain detailed, project-specific alternative site evaluations but, rather, concentrate on more general quantitative needs throughout the entire water system." It also notes that two alternative sites were evaluated.

F.1 b - Delete the last sentence that the increased bulk would increase the facility's prominence as a neighborhood landmark. This is not only a conclusion, but is also questionable.

B At the hearings, ten persons testified, and four letters (Exhibits B1, B2, B3, B4) were submitted which expressed opposition and concern regarding the project. The main issues raised by those opposed to the application included the following:

1. Size of the proposed storage reservoir (127 feet high by 154 feet in diameter) in a residential neighborhood adjacent to a neighborhood park.

2. Safety of the tank and its overflow system, considering that the 1.5 million gallon standpipe emptied into the park due to valve failures.

- 3 Necessity of one large tank on this site as opposed to a smaller tank or tanks on this site and/or on multiple sites
 - 4 Potential that improved roadway and turnaround will induce non-neighborhood persons to park adjacent to the facility
- C One person testifying on behalf of U S West noted that they have a 150-foot tall tower adjacent to the site and would like to request that
- 1 Cranes used in the construction not be placed in the path of their transmissions, and
 - 2 That provisions be made to build a second tower or include smaller units on brackets on the proposed reservoir
- D The applicant in response to public concern and the Hearing Examiner's letter responded that
- 1 The foundation of the reservoir would be built to Seismic Zone 4 standards although we are in a Seismic Zone 3
 - 2 The tank will meet or exceed all engineering requirements for this zone and that no known cases of steel tank rupture had been found in catastrophic conditions
 - 3 Improvements in the alarm system will include a double alarm system and increasing the height of the overflow (also with an alarm) will provide a two and one-half hour response time to Water District personnel to correct any problem

II CONCLUSIONS

- A Many of the conclusions recommended by the Department of Planning and Community Development, as set forth on pages 5 to 16 of the Department's Advisory Report (Exhibit A), accurately set forth the conclusions of the Hearing Examiner. However, the Hearing Examiner does not concur with several of these conclusions specifically related to the bulk of the structure as proposed. Comments on specific conclusions are as follows
- 1 II A.1 b - The application, as proposed, is not consistent with the Zoning (see II D 1 b (1), (2), and (3))
 - 2 II A.2 b - The application is consistent with uses allowed in the zoning, but exceeds height and width criteria. The storage needs not only include the Rose Hill Water District but also future requirements of the City of Kirkland and City of Redmond
 - 3 II D 7 b - The Hearing Examiner concludes that the proposal, as proposed, is not consistent with the intent of the goals and policies of the applicable neighborhood plan provisions of the Comprehensive Plan

- 4 II D 14 b Conclusions (Variance Criterion 1)
 - a Visual impacts cannot be adequately mitigated through vegetative screening combined with judicious painting of the facility
 - b Reduction of the bulk of the tank and careful siting will reduce potential shadow impacts for certain residences during some months
 - 5 II D 15 b Conclusions (Variance Criterion 2) A proposed water storage facility must exceed the height and horizontal facade requirements in order to serve the present and future needs of the Rose Hill Water District. It is understood that due to the area topography, the subject property is well suited for a water storage and distribution system that operates on the basis of static hydraulic pressures and gravity flow, however, the Hearing Examiner is not convinced, based on the information provided that all of the need must be satisfied at this height on this site
 - 6 II D 16 b Conclusions (Variance Criterion 3)
 - a Although there are no precedents for reference in this case for a water reservoir, the criterion refer to general rights that the Code allows for other properties in the same area and zone. In general, this proposal is equivalent to a 10-12 story building in a single-family residential neighborhood
 - b The Hearing Examiner concurs in the second conclusion as presented
 - 7 II F 2 a
 - a The proposal is consistent with the land use specified in the Comprehensive Plan, however, it is not a typical use necessary to meet the needs of a residential neighborhood. It is designed to serve a much larger geographic area
- B The testimony of the neighbors raises numerous questions about the perception of safety as well as the negative impact that a facility of this scale (height and bulk) will have on the surrounding neighborhood and park
- C The Hearing Examiner believes that the proposed facility would have a detrimental effect on the neighborhood largely due to the bulk of the proposed water reservoir. The applicant has not shown that a multiple site solution is not feasible, although cost may be increased
- D The Hearing Examiner concludes that the 7 0mg reservoir alternative discussed in the Environmental Impact Statement, although not meeting all future water needs, is more consistent with the neighborhood and substantially reduces identified visual, bulk, shade, and shadow impacts

III DECISION

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

- A The size of the water storage reservoir is reduced to 70 million gallons with a height not to exceed 127 feet. The foundation of the reservoir will be designed to Seismic Zone 4 standards, and the steel tank will meet the pseudodynamic standards for Seismic Zone 3, as presented in Exhibit F. All additional provisions for a double alarm system and at least a 3-inch extension of the overflow outlet, with an alarm on the outflow junction box.
- B This application is subject to the applicable requirements contained in the Kirkland Municipal Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 4, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations. When a condition of approval conflicts with a development regulation in Attachment 4, the condition of approval shall be followed.
- C The Department of Planning and Community Development shall be authorized to approve modifications to the approved site plan, unless
 - 1 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
 - 2 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)
- D As part of the application for a Building Permit, the applicant shall submit
 - 1 Plans for a permanent and construction-phase storm water control system to be approved by the Department of Public Works (see Conclusion II D 5 b)
 - 2 A revised site plan to be approved by the Department of Planning and Community Development and indicating
 - a Dedication of 30 feet of right-of-way along the north property line (see Conclusion II D 6 b (1)),
 - b A 20-foot-wide paved road within the dedicated right-of-way (see Conclusion II D 6 b (1)),
 - c A 20-foot-wide paved road within the 30-foot-wide easement to the east connecting the new, improved right-of-way to 132nd Avenue NE (see Conclusion II D 6 b (1)),

- d 20-foot minimum driveway width and 25-foot minimum turning radius at driveway apron (see Conclusion II E b),
 - e Asphalt or concrete surface on the driveway and parking area (see Conclusion II D 4 b),
 - f Revised location of covered storage structure to be outside of the 20-foot setback area (see Conclusion II D 1 b(1)),
 - g Landscape buffers in conformance with Section 95 25 1 a adjacent to the west property line (see Conclusion II D 3 b), and
 - h Revised location of the proposed landscape buffer along the north property line to be south of the dedicated right-of-way and extending eastward an additional 30 feet minimum (see Conclusion II D 3 b), and
 - i The addition of at least two conifers, 12 to 15 feet in height between the playground/basketball area and the reservoir (see Conclusion II D 3 b)
 - j Showing buffer adjacent to the proposed fence built around the tank
- 3 A signed and notarized concomitant agreement, as set forth in Attachment 5, to install half-street improvements in the newly dedicated NE 108th Street right-of-way bordering the subject property (see Conclusion II D 6 b (1))
- 4 A signed and notarized concomitant agreement, as set forth in Attachment 5, to underground all existing utility lines bordering the subject property within the newly dedicated and improved right-of-way along the north property line, 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 6 b (2))
- 5 Sufficient information concerning construction and use of structures to determine fire flow requirements, as well as plans for any on- or off-site improvements necessary to meet fire flow requirements (see Conclusion II E 2)
- 6 Submit a copy of the as-built topographic survey of the site The as-built shall be tied to an existing datum point in an adjacent public right-of-way (see Conclusion II D 2 b)
- 7 Submit a signed and notarized letter from the property owner to the south agreeing to a modification of the landscape buffering requirement along the south property line (see Conclusion II D 3 b)

- 8 Submit a color rendering of the proposed paint scheme along with paint samples for approval by the Planning Director (see Conclusion II F 2 b)
- 9 Submit information regarding the energy efficiency of pumping facility selected (see Conclusion II C 1 b)
- 10 Submit an analysis of various roof designs considered, including alternatives that would lower overall structure height (see Conclusion II C 1 b)
- 11 Submit a Statutory Warranty Deed to dedicate the north 30 feet of the subject property as public right-of-way

E During construction, the following considerations shall be observed

- 1 Trucks hauling excavated materials from the site shall be covered (see Conclusion II C 1 b)
- 2 Noisy construction equipment shall either be screened or located as far from adjoining residences as possible (see Conclusion II C 1 b)
- 3 If parking spills over from the site onto the NE 108th Street right-of-way during construction, the City may require the contractor to make alternative parking arrangements (see Conclusion II C 1 b)
- 4 Travel to and from the site by trucks during construction shall be limited to the hours between 8 30 a m and 4 30 p m (see Conclusion II C 1 b)
- 5 The City may stop work on the site if Condition E 1, 2, 3, or 4 is violated

F Prior to occupancy, the applicant shall

- 1 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
- 2 Complete the installation of 20 feet of pavement width within the NE 108th Street right-of-way bordering the subject property, and continue eastward within the 30-foot-wide easement to provide a 20-foot-wide paved connection to 132nd Avenue NE (see Conclusion II D 6 b (1))
- 3 Install a fully operational permanent storm water control system (see Conclusion II D 5 b)
- 4 Complete improvements necessary to meet fireflow requirements (see Conclusion II E 2)

- 5 Submit for approval by the Department of Planning and Community Development a signed and notarized easement, as set forth in Attachment 10, to maintain landscaping within the required buffers along all the boundaries of the site to be recorded with the King County Records and Elections Division (see Conclusion II D 3 b)
 - 6 Submit to the Department of Planning and Community Development a security device to ensure maintenance of landscaping, the permanent storm water retention system, and other site improvements (see Conclusion II D 11 b)
 - 7 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)
 - 8 Execute a new recreation agreement with the City to replace the one which has lapsed
- G Within seven (7) calendar days after the final public hearing, the applicant shall remove the public notice sign and return it to the Department of Planning and Community Development. The sign 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 Letters B1 through B5
- C Model (in City Hall)
- D Air-Brushed Photos (in file)
- E Engineering Sketch to explain Water System needs
- F AWWA Standard for Welded Steel Tanks for Water Storage
- G Kats Tanino Drawing of Elevations and Pressure
- H Hearing Examiner Letter requesting Hearing dated November 28, 1990
- I Letter, St Engineering Inc, dated January 2, 1991 with Rose Hill Water District System Plan and Draft and Final EIS

PARTIES OF RECORD

Applicant and Representative
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services
Darwin and Malinda Walls, 2051 South Dobson Road, Mesa, AZ 85202
Jeffrey C Wilkes, 12850 NE 107th Place, Kirkland, WA 98033
Alan E Ballou, 12855 NE 107th Place, Kirkland, WA 98033
Thomas Howe, 12849 NE 108th Street, Kirkland, WA 98033

* Exhibits and references can be found within File No IIA-90-73 maintained in the Department of Planning and Community Development

Michael Radcliff, 13018 NE 111th Place, Kirkland, WA 98033
Charles Ahlquist, 10624 129th Place NE, Kirkland, WA 98033
John W Hunt, 5916 108th Avenue NE, Kirkland, WA 98033
Tim Nyergrs, 12845 NE 108th Place NE, Kirkland, WA 98033
Don Wicklund, 12849 NE 108th Place NE, Kirkland, WA 98033
Linot Howe
Marcia E Danne, 13410 NE 108th Street, Kirkland, WA 98052
Robin B Stulge, 4900 260th Avenue NE, Redmond, WA 98053
Ann Wilkes, 12850 NE 107th Place, Kirkland, WA 98033
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services

Entered this 30th day of January, 1991, per authority granted by Section 150 65, Ordinance 2740, Zoning Code This decision constitutes the final decision of the City of Kirkland unless a request for reconsideration is filed within five (5) working days or an appeal is filed within ten (10) working days as specified below



Robert G Burke
Hearing Examiner Pro Tem