

RESOLUTION NO. R-4148

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-97-76 BY RETAIL PETROLEUM MARKETING (HAMID NOURI) BEING WITHIN A BC 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 Retail Petroleum Marketing (Hamid Nouri), representing the owner of the property described in the application and located within a BC zone; and

WHEREAS, pursuant to the City of Kirkland's Concurrency Management System, KMC Title 25, a concurrency application was reviewed by the responsible Public Works official, the concurrency test was passed, and a concurrency test notice was issued; and

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

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

WHEREAS, the application was submitted to the Hearing Examiner who held hearing thereon at his regular meeting of May 15, 1998; 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 Decision and did approve the Process IIA permit subject to the specific conditions set forth in the decision; and

Whereas, the Hearing Examiner's Decision was appealed to the City Council (Department of Planning and Community Development File No. A-98-45); and

WHEREAS, the City Council, in its regular meetings of August 11, 1998, and September 1, 1998, held an appeal hearing and reviewed the decision of the Hearing Examiner, the record for the decision and the appeal, and considered the arguments of the applicant, the appellants and the staff report on the appeal.

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

Section 1. The findings, conclusions, and decision of the Hearing Examiner, as filed in the Department of Planning and Community Development File No. IIA-97-76, is adopted by the Kirkland City Council as though fully set forth herein, except as follows:

Conditions No. 2, 3, 7 and 8 of the Hearing Examiner decision of File IIA-97-76 shall be modified and replaced with the following conditions:

2. Hours of Operation -
Gas station and snack shop - 6 a. m. to 11 p. m. daily
Car Wash - 8 a. m. to 8 p. m. Mondays through Saturdays
9 a. m. to 8 p. m. Sundays

If the zoning classification directly to the north changes in the future to commercial or office use, the applicant can request in writing a modification to the hours of operation through the Planning Department.

In the case where operating hours are proposed to be changed, the owner will provide written notice 30 days prior to applying to the City about the change to the North Rose Hill Neighborhood Association and the neighbors whose dwellings have direct access to 126th Avenue NE between NE 85th Street and NE 90th Street.

3. Parking - The parking stall located immediately in front of the snack shop must have a sign noting customer parking. The car wash must be self-operated car wash with no employees prewashing or drying the cars. As approved, only two employees can be on site at the same time (except for temporary periods during shift changes). The location of any additional parking must be off-site and reviewed and approved by the Planning Department before any additional employees can be added to the facility. No required landscaping or buffers can be eliminated for additional parking. One additional parking space on the southwest corner of the property may be added for the exclusive use of the owner of the property. A permanent sign shall be placed in front of this stall noting that the parking stall is only for the owner's use.

7. Landscaping and Fencing –
 - a. With the building permit submittal, the applicant shall show on the landscape and site plans the following (see Attachment A, revised site plan):
 - 1) A continuous 15 foot wide landscape buffer along the entire north property line, including north of the driveway on the east side of the site, shall be installed.
 - 2) A six foot high decorative, concrete sound fence wall shall be installed on top of the retaining wall from the west side of Fred Naslund's house to the southern end of the vacuuming area on the west side of the site. Between 126th Ave NE and the west side of Mr. Naslund's house where there is no proposed retaining wall, the top of the six foot high concrete fence shall be at an elevation of 367 feet. The retaining wall shall be extended to the east, if necessary, with the concrete fence on top of the extended retaining wall to achieve a top of fence elevation of 367 feet.
 - 3) Plantings of evergreen vines shall be planted on the base of the outside of the retaining wall or fence. The evergreen vines shall cover 90% of the retaining wall and fence within three years.
 - 4) Evergreen shrubs, 18 inches high at the time of planting shall be planted and spaced three feet on center on the outside of the fence and retaining wall if requested by Fred Naslund and Neil Johnson, the property owners to the north.
 - 5) Two rows of evergreen trees shall be planted eight feet on center in the entire buffer.

- 6) For the portion of the buffer adjacent to Mr. Naslund's property directly to the north, all newly planted trees shall be 12 feet in height at the time of planting and of a type of evergreen tree that shall not exceed 30 feet in height at maturity so as to maintain solar access to the lots to the north. The applicant shall submit to the Planning Department written information from a landscaping company or nursery that the trees will not exceed 30 feet in height at maturity.
 - 7) For the portion of the buffer adjacent to Mr. Johnson's property to the north, all newly planted trees on top of the retaining wall shall be 15 feet in height at the time of planting. In the northwest corner where there is no retaining wall, the trees shall be 18 to 20 feet at the time of planting. There is no limit on how tall these trees may reach at maturity.
 - 8) A solid wood fence shall be erected along the west curb of the driveway entrance into the car wash. The finished side of the fence shall face towards Mr. Johnson's property. The applicant shall state on the site plan for the building permit submittal that "the final height and length of the fence shall be determined in the field at a meeting with the applicant, Neil Johnson and the Planning Department prior to occupancy. The required height and length of the fence shall be based on the needed height and length to block Mr. Johnson's view of the car wash entrance on the west side from his second floor living room."
- b. Prior to occupancy of the building, the applicant shall submit a three year Landscape Maintenance Agreement, in a form acceptable to the City Attorney, for all trees in the landscape buffer. The agreement shall state that the applicant guarantees the viability of these trees for three years or three years after replacement, whichever is longer.

8. Additional Traffic Improvements -

- a. Prior to issuance of an occupancy permit, traffic control improvements shall be installed at both the east and south curb cuts on the site as outlined in the Public Works' memo. These improvements shall include triangular center curbs at the east driveway entrance to prohibit northbound left turns exiting the site onto 126th Ave NE and at the south driveway entrance to prohibit eastbound left turns directly from NE 85th Street into the site. The design and location of the curbs shall be submitted with the Building Permit for Public Works approval. Signs, approved by the Public Works Department, shall be installed at both curbs stating "left turn only."
- b. To prevent exiting customers from turning northbound onto 126th Ave NE around the triangular curb, the eastern triangular curb shall have a south curb extension and the exiting lane shall be narrowed to sharpen the turning radii.
- c. Six months from the date of the occupancy permit, the Public Works Department shall evaluate the curb cut on 126th Ave NE to determine if the triangular curb is successful in preventing exiting customers from turning left and northbound onto 126th Ave NE. If the Public Works Department determines that the triangular curb is failing to prevent left turns exiting the site, the Department shall require the applicant to

implement additional measures at the applicant's expense, including, but are not limited to, a center curb on 126th Avenue NE that will prevent exiting traffic from turning left when leaving from the property and passing the triangular curb. However, a center curb can only be required if approved by the Public Works Department and if the curb does not block access to the site and to and from the property directly east of 126th Avenue NE. The Public Works Department shall contact the North Rose Hill Association to receive any comments from nearby neighbors about their observations of how the triangular curb is functioning, as part of the Department's evaluation and decision if any additional measures are needed. The Public Works Department shall notify the North Rose Hill Association of its findings and decision.

The following new Conditions No. 11-15 shall be required:

11. The existing locust tree on the east side of the property and the maple tree on the south side of the property located in the future landscape strip shall be preserved. The applicant shall erect a six foot high cyclone fence installed in the ground around the dripline of each of these trees prior to grading on the site. The applicant shall follow the requirements of Chapter 95 of the Zoning Code for tree protection. Signs shall be placed on the cyclone fencing stating that these trees are not to be disturbed.
12. Two 10 foot high evergreen trees with evergreen shrubs 18 inches at the time of planting shall be planted in the area at the southeast corner of the property and north of the proposed monument sign to replace the existing trees that are to be removed. The type of trees installed shall not exceed a mature height of 30 feet. The number of shrubs shall be determined by the Planning Department and the landscape architect for the project based on the number needed to provide a dense cover within three years.
13. An additional noise study of the car wash operation shall be conducted and completed one year from the date of the occupancy permit. The noise study shall be conducted by a certified sound engineer other than JGL and paid for by the applicant. The noise study report shall be submitted to the City within 30 days of completion of the study. If the car wash facility does not pass the State Noise Standards, the applicant must immediately cease operation until measures are taken to meet the State Noise Standards, and another noise study must be done at the applicant's cost and expense and submitted to the City after the additional measures have been installed. The facility cannot resume operations until the State Noise Standards have been met.
14. There shall be no customer or employee parking (from the gas station/car wash facility) on 126th Avenue NE at any time.
15. Vehicles making deliveries of any kind shall use roads other than 126th Avenue NE north of the site. Delivery trucks greater than 50 feet in length shall not use the east curb cut on 126th Ave NE, but rather only the NE 85th Street curb cut. All contracts with vendors shall include these restriction and copies of the applicable portion of the contracts shall be provided to the Planning Department within three months after issuance of the occupancy permit.

Section 2. The Process IIA permit shall be issued to the applicant subject to the conditions set forth in the decision adopted above and modified 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 as 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, the Kirkland Zoning Code.

Section 5. A complete copy of this resolution, including Findings, Conclusions and Decision adopted by reference (and modified herein), shall be certified by the City Clerk who shall then forward the certified copy to the King County Department of Assessments.

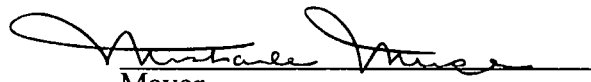
Section 6. A certified copy of this resolution, together with the Findings, Conclusions, and Decision adopted by reference (and modified herein) shall be attached to and become a part of the Process IIA permit or evidence thereof delivered to the permittee.

Section 7. Certified or conformed copies of this resolution shall be delivered to the following:

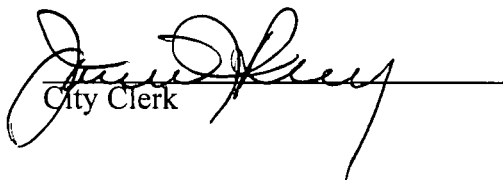
- (a) Department of Planning and Community Development of the City of Kirkland
- (b) Fire and Building Departments of the City of Kirkland
- (c) Public Works Department of the City of Kirkland
- (d) City Clerk for the City of Kirkland.

PASSED by majority vote of the Kirkland City Council on the 1st day of September, 1998.

SIGNED IN AUTHENTICATION thereof on the 1st day of September, 1998.


Mayor

Attest:


City Clerk

