

Gig Harbor City Council Meeting



**December 10, 2001
7:00 p.m.**

**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
December 10, 2001 - 7:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

PUBLIC HEARING:

1. Official Zoning Map Change - Peninsula School District Rezone on Rosedale Street.
2. Official Zoning Map Change - Peninsula School District Rezone on Prentice Avenue.

CONSENT AGENDA:

These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.

1. Approval of the Minutes of City Council Meetings of November 26, 2001.
2. Proclamations/Correspondence: a) Update from AWC.
3. Tourism Marketing Director Contract.
4. Purchase Authorization - Fencing Materials.
5. Interlocal Agreement - Law Enforcement Support Agency.
6. Interlocal/Mutual Aid Agreement - Traffic Safety Emphasis Control.
7. Consultant Services Contract - Archaeological Services Donkey Creek Park - LAAS Ltd.
8. Consultant Services Contract - Appraisal of Scofield Property - Strickland Heischman & Hoss Inc.
9. Consultant Services Contract - Environmental Assessment Level I Survey - Nowicki and Assoc.
10. Liquor License Renewals: The Green Turtle, Marco's Restaurant.
11. Approval of Payment of Bills for December 10, 2001.
Checks #34634 through #34764 in the amount of \$239,708.98.
12. Approval of Payroll for the month of November.
Checks #1127 through #1183 in the amount of \$184,672.55.

OLD BUSINESS:

1. Second Reading of Ordinance - Vacation of a Portion of Erickson Street.
2. Closed Record Appeal of Hearing Examiner's Decision - Denton Bed & Breakfast.
3. Second Reading of Ordinance - Official Zoning Map Change - Peninsula School District Rezone, Rosedale Street.
4. Second Reading of Ordinance - Providing for Extension of LID No. 99-1 Bond Anticipation Note.

NEW BUSINESS:

1. First Reading of Ordinance - Annexing Property Adjacent to Public Works Shop.
2. First Reading of Ordinance - Official Zoning Map Change - Peninsula School District Rezone, Prentice Avenue.
3. Resolution Authorizing Amendments to the Pierce County Countywide Planning Policies.
4. New Street Name Request - Magnolia Lane.

STAFF REPORTS:

John Vodopich, Planning Director - Update on NuHealth Compressor and Gig Harbor Sportsman Club.

PUBLIC COMMENT:

COUNCIL COMMENTS / MAYOR'S REPORT: Pierce Transit Services.

EXECUTIVE SESSION: For the purpose of discussing pending & potential litigation per RCW 42.3 1.110(i), and real estate sale per RCW 42.30.110(c).

ADJOURN:

DRAFT

GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 26, 2001

PRESENT: Councilmembers Ekberg, Young, Owel, Dick, Picinich, Ruffo and Mayor Wilbert.

CALL TO ORDER: 7:02 p.m.

PLEDGE OF ALLEGIANCE

SWEARING IN CEREMONY: Mayor Wilbert performed the ceremony to instate new Councilmember, Jim Franich.

PUBLIC HEARINGS:

1. **2002 Budget.** Mayor Wilbert opened the second public hearing on the 2002 Budget at 7:07 p.m. David Rodenbach, Finance Director, reported that the only change in the proposed budget since the last public hearing was a personnel reorganization. He gave an overview of the reorganization and explained that the changes would save the city approximately \$100,000 in the next budget cycle. He offered to answer questions. As there were none, the Mayor closed this public hearing at 7:08 p.m.

CONSENT AGENDA:

These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.

1. Approval of the Minutes of City Council Meetings of November 13, 2001.
2. Proclamations/Correspondence: Letter to Eagle Scout, Jacob Moore.
3. Appointment to Gig Harbor Arts Commission.
4. Liquor License Renewals: Jekyll and Hydes Pub, Inc.; JT's Original BBQ; Harborview Grocery; Wasabi Restaurant.
5. Approval of Payment of Bills for November 13, 2001.
Checks #34527 through #34633 in the amount of \$387,652.92.

MOTION: Move to approve the Consent Agenda as presented.
Picinich/Ruffo - unanimously approved.

Councilmember Ruffo suggested an amendment to the agenda to move the Staff Reports to this point in the meeting to facilitate members of the audience.

MOTION: Move to amend the Agenda to move the Staff Reports before Old Business.
Ruffo/Owel - unanimously approved

STAFF REPORT:

1. Chief Barker, GHPD - October Stats. Chief Barker said that he had nothing to add to the report in the packet and offered to answer questions.

2. Carol Morris, Legal Counsel - Recommendation for Sportsmans Club. Carol Morris explained that there were many missing facts related to the configuration of the club and the noise. She said that ordinances from other cities had very detailed standards for shooting clubs, adding that it would be beneficial to know whether or not such standards were being met here before considering an ordinance. She also said that an action to abate a nuisance would be benefited by additional information on whether current standards were met. She recommended an expert evaluation of the gun club to determine compliance with NRA Standards and a professional evaluation of the noise levels emitting from the gun club. She continued to discuss land-use regulations for the gun club, using her experience with a club in San Juan County as an example.

After further discussion, Councilmembers agreed that this was the direction to proceed. They stressed that when the information is obtained, that members from the Sportsmen's Club and Avalon Woods be included in discussions to determine the best method to address concerns.

MOTION: Move to direct staff to explore the availability and cost of experts to perform the recommended evaluations and return with Consultant Services Contracts for consideration.
Young/Owel - unanimously approved.

Dan Cook - Mr. Cook explained that he lives in the SeaCliff area, and has been a member of the Sportsmen's Club since 1973. He said that the club had spent a great deal of money on sound engineers when Harborcrest Development was constructed, adding that these records are still available. He explained the process in which they had 25 members fire simultaneously to illustrate the worst-case scenario, and at that level, the measurement did not exceed any permitted noise regulations. He then said that he had spoken with the local NRA Range Expert, who told him that he would be available to come and do a safety evaluation as well as a sound evaluation. This would be a less expensive alternative than hiring independent evaluators. Mr. Cook was asked to forward this information to the city attorney.

OLD BUSINESS:

1. Second Reading of Ordinance - Vacation of a Portion of Erickson Street. Carol Morris explained that the condition to add the gate after vacation had been added to the ordinance. She added that she had received information about an easement abutting Erickson Street, and recommended that Council table this ordinance until the easement issue is addressed.

MOTION: Move to table this ordinance until the next meeting.
Owel/Picinich - unanimously approved.

2. Second Reading of Ordinance - 2002 Budget. David Rodenbach explained that the organizational changes that were made since the last reading of the ordinance were identified on page two of the ordinance and the salary changes were identified on page four. Councilmembers were complimentary of the organizational changes.

MOTION: Move to approve Ordinance No. 891 adopting the 2002 Budget.
Picinich/Ruffo - unanimously approved.

3. Second Reading of Ordinance - School Impact Fees. Mark Hoppen explained that the ordinance had been forwarded to the School District for review, and introduced Marcia Harris.

Marcia Harris, Deputy Superintendent - Peninsula School District. Ms. Harris thanked Council for undertaking this ordinance on behalf of the schools and addressing mitigation fees. She requested an extension in time to review and comment on the ordinance and to present the information to School Board members at their upcoming December 12th meeting.

Councilmembers discussed the request for a time extension.

MOTION: Move to table the second reading of this ordinance until the January 14th
City Council meeting.
Picinich/Owel -

A member of the audience began to speak and was asked to hold his comments. Councilmembers agreed that they would like to hear from the audience and made the following motion.

MOTION: Move to suspend the rules to allow comments after the motion.
Young/Owel - unanimously approved.

Carol Morris clarified that because this ordinance would be included in the development code, it would require a public hearing. She said that any recommendations by the School District for amendments could be presented as an alternate ordinance.

Jack Darragh - 3620 40th St. Ct. Mr. Darragh spoke on the equity of collecting fees under SEPA regulations verses Impact Fees. He read an editorial from *The News Tribune* comparing the two. He said that he had picked up a copy of the ordinance this evening and scanned it, and wondered why the School District would need a time extension. He pointed out an error in references to appendixes contained in the ordinance. He then recommended that the reference to impact fees imposed on "development" should also include a reference to "single family residence" to further clarify the intent.

Mr. Darragh then addressed his prior reprimand by the Mayor. He became increasingly agitated, and the Mayor called for a short recess. When the meeting reconvened, the motion was restated and voted upon.

MOTION: Move to table the second reading of this ordinance until the January 14th City Council meeting.
Picinich/Owel - unanimously approved.

4. Second Reading of Ordinance - SEPA Authorization Amendment. Mark Hoppen explained that this was largely a housekeeping ordinance to enable the city to implement SEPA in our local jurisdiction.

MOTION: Move to approve Ordinance No. 892.
Young/Ekberg - unanimously approved.

5. Second Reading of Ordinance - 57th St. Ct. NW Annexation. John Vodopich introduced this ordinance annexing three lots along 57th Street Court NW and recommended adoption.

MOTION: Move to approve Ordinance No. 893 as presented.
Picinich/Ruffo - unanimously approved.

6. Second Reading of Ordinance - 62nd St. Ct. NW Annexation. John Vodopich then introduced this ordinance annexing four residential lots along 62nd Street Court NW and recommended adoption.

MOTION: Move to approve Ordinance No. 894 as presented.
Picinich/Ruffo - unanimously approved.

NEW BUSINESS:

1. Recommendation for Art - Gig Harbor Civic Center. Mark Hoppen explained that the Arts Commission had gone through an extensive process to choose functional art to be incorporated into the newly constructed Civic Center. He introduced Dawn Stanton, Chairperson for the Gig Harbor Arts Commission.

Lita Dawn Stanton - 111 Raft Island. Ms. Stanton described the three projects chosen, answered questions and asked for approval of the recommendation.

MOTION: Move to approve the artwork and budgets proposed by Gary Jackson, Doug Fillbach and the Hoiviks in the total amount of \$63,200, which included installation and tax.
Owel/Ekberg - unanimously approved.

2. Appeal of Hearing Examiner's Decision - Denton Bed & Breakfast. John Vodopich explained that they had received a fax request from the appellant, Greg Hoeksema, asking that this appeal be continued until the next meeting, as he would be out of town, and expressing concerns over the notice requirements. John read the notification requirements in the Municipal Code, and explained that these requirements had been met. He said that due to the Thanksgiving Holiday, the notices had been hand-delivered rather than mailed so that all parties of record

would have them at the earliest opportunity. He explained the confusion surrounding filing of the appeal, and concurred with the request to continue this until the next meeting.

Steve Denton - 9017 No. Harborview Drive. Mr. Denton, the applicant, explained that the appellant waited until the last minute to file, and that a delay is not timely for their project. He explained that they obtained a building permit, then found out three weeks later about the pending appeal. He recommended that the Council not delay their decision until the 10th.

Councilmembers asked questions regarding any hardship that may occur due to the delay, timeliness of the appeal, concerns about the method of filing the appeal, and noticing requirements.

Janice Denton - Ms. Denton said that they had asked Mr. Vodopich to place a time limit for Mr. Hoeksema to provide evidence that he had filed an appeal, as Mr. Hoeksema had delayed this effort for more than ten days. She explained that they would have been happy to meet regarding this issue two weeks ago if the information had been submitted. She said that the request for additional time would result in a delay of four weeks. She added that she did not understand Mr. Hoeksema's claim that he did not have time to prepare.

Councilmember Young commented that because this was a closed record appeal and no new testimony could be introduced, it would be fair not to allow any testimony and to rule on the information contained in the record. Councilmember Ekberg voiced concerns about the notice that went to the parties of record. Carol Morris pointed out that this is a closed record public hearing with different noticing requirements, adding that she felt that adequate public notice had been given. Councilmember Dick said that all legal requirements had been met, but if it would not cause any harm, an appeal hearing should be continued to allow all parties to speak at the same time. Councilmember Owel said that if the appellant wished to be present, the hearing should be continued to the next meeting.

MOTION: Move to continue this closed record hearing until the next meeting of December 10th to allow the appellant to be present.
Owel/Picinich - six voted in favor. Councilmember Young voted no.

3. Shoreline Master Program Update & Revision - Consultant Services Contract Amendment. John Vodopich gave an overview of the recent split decision by the Shorelines Hearings Board invalidating the DOE guidelines for developing local shoreline master programs. He explained that this amendment to the contract with Madrona Planning and Development would allow for the required preparation of a shoreline characterization and assessment. He explained that the Coastal Zone Management Grant would cover approximately 41% of the cost of the total contract.

MOTION: Move to authorize the Mayor to sign the amended Consultant Services Contract with Madrona Planning and Development Services, Inc., in an amount not to exceed \$64,082.00.
Ruffo/Picinich - unanimously approved.

4. First Reading of Ordinance - Official Zoning Map Change - Peninsula School District Rezone. John Vodopich presented this ordinance approving a site-specific rezone of the Gig Harbor High School property from R-1 zoning to Public Institutional designation. He said that this had been approved by the Hearing Examiner and will return for a second reading at the next meeting.

5. Amendments to Interlocal Agreement - Fire Inspection Services. John Vodopich explained that this was a renewal of the interlocal agreement for the conduction of annual fire inspections. He said that the amendments to the agreement were a result of evaluating the program over the past year. He gave an overview of the changes, including that cost of the inspection that would now be borne by the city as a public service to increase public health, safety and welfare. Additionally, the interlocal asks the city to reimburse the district for 50% for other costs associated with conduction of the program. He gave an overview of the costs, which have been incorporated into the 2002 Budget.

MOTION: Move to approve the interlocal agreement with Pierce County Fire District #5 for fire inspection services for 2002 and further authorize the Mayor's signature on said agreement.
Ruffo/Franich - unanimously approved.

6. Storm Water Facilities Maintenance Agreement and Restrictive Covenant. David Brereton, Interim Public Works Director, explained that a maintenance covenant is required for all privately maintained drainage facilities which is recorded against the property. He gave an overview of the conditions of the covenant for the Beardsley Short Plat and offered to answer questions.

MOTION: Move to approve the Storm Water Facilities Maintenance Agreement and Restrictive Covenant.
Dick/Picinich - unanimously approved.

7. New Street Name Request - SunVista Lane. John Vodopich presented this request by Mr. Beardsley to name the new private lane SunVista Lane. He added that although this property is located within the historical name area, the request is consistent with other street names in that location. Councilmembers discussed the spelling of the name and the use of more historical names. Councilmember Young suggested that more names be added if owners of private lanes were to be required to choose from the list. Councilmember Ruffo suggested that staff contact Mr. Beardsley to clarify the correct spelling of SunVista.

MOTION: Move that we contact Mr. Beardsley to clarify the intended spelling of SunVista Lane.
Ruffo/Owel - roll call vote results:

Ekberg, no. Young, no. Franich, no. Owel, yes, Dick, no. Picinich, yes. Ruffo, yes.
The motion failed, four to three.

John Vodopich read the portion of the code governing street names. Another motion followed.

MOTION: Move that we follow the policy of choosing the street names in the historical name area from the historical list.
Ekberg/Young - unanimously approved.

8. First Reading of Ordinance - Providing for Extension of LID No. 99-1 Bond Anticipation Note. David Rodenbach presented this ordinance that will extend the terms of the bond anticipation note, as the money was not used until mid-summer. He said that the 12-month extension will allow for the completion of the project. This will come back at the next meeting for a second reading.

PUBLIC COMMENT:

Councilmember Owel said that she wanted to address Council not as a Councilmember, but as a citizen. She explained that the Washington State Gambling policies have been one of her concerns, particularly SB6193. She gave an overview of the proposal, adding that municipalities must be aware of the impact of this bill, especially the removal of the term "commercial stimulant" from the language, allowing for gambling activity any place where any type of food might be served. She announced that she was sponsoring a roundtable forum on Washington State Gambling issues on December 11th at SeaTac Marriott at 9:00 a.m. until 12:00 p.m. She said that invitations had been sent to several cities, government officials, other interested parties and Indian Tribes. She then invited Councilmembers to attend if interested.

COUNCIL COMMENTS / MAYOR'S REPORT:

Mayor Wilbert said that she had received an invitation from the Lt. General Hill to attend a concert at the main post on December 11th. She asked if Councilmembers had received the invitation, and to let her know if they planned on attending. She then announced that the Gig Harbor Meistersingers were the guest performers for the 70th birthday party for the Gig Harbor Lions Club. The Meistersingers have also be invited to sing at the opening of the Legislative Session in Olympia on January 14th.

ANNOUNCEMENT OF OTHER MEETINGS:

EXECUTIVE SESSION: For the purpose of discussing pending and potential litigation per RCW 42.3 1.110(I).

MOTION: Move to adjourn at p.m. to Executive Session at 9:05 p.m. for approximately fifteen minutes to discuss potential litigation.
Picinich/Ruffo - unanimously approved.

MOTION: Move to return to regular session at 9:20 p.m.

Ruffo/Young - unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 9:20 p.m.
Ruffo/Young - unanimously approved.

Cassette recorder utilized
Tape 635 - Side B 000 - end.
Tape 636 - Both Sides.
Tape 637 - Side A 000

Gretchen A. Wilbert, Mayor

City Clerk



ASSOCIATION OF
WASHINGTON CITIES

1076 Franklin St. SE
Olympia, WA 98501-1346

Phone: 360-753-4137
Toll Free: 1-800-562-8981

Fax: 360-753-0149

Website: www.awcnet.org

November 9, 2001

Mayor Gretchen Wilbert
City of Gig Harbor
3105 Judson St
Gig Harbor, WA 98335

Dear Mayor ~~Wilbert~~ and Councilmembers:

Your Association remains active serving cities during these difficult times. Here is a brief update on significant events since I last wrote you.

City Financial Health

The AWC Board last met on October 5. We spent nearly two hours reviewing information presented to us by our Executive Director and discussing the fiscal health of cities across the state. Clearly, there are significant discrepancies between our members. The Board intends to spend a great deal of time and effort over the next year studying this issue and formulating proposals that will ensure the fiscal health of every city and town in the state.

This task will be very difficult and I would appreciate any guidance you may provide us in terms of what you believe would be beneficial to your city or town.

Initiative Impact

As you know, the voters approved Initiative 747 regarding Property Taxes. The impact on local governments is approximately \$56 million in calendar year 2002 and significantly more in future years. For cities the loss will be nearly \$20 million in 2002, growing to \$136 million in 2007. This is a significant hit on local government revenues and comes at a time when State financial assistance is unlikely.

You may have read recent news articles outlining the tough budget times for state government. This will have an immediate and direct impact on cities. We have already been told by a number of legislative leaders that Initiative 695 backfill funding for the second year of the current biennium is in jeopardy. The Governor has asked his largest state agencies to provide him 15% reduction plans. Given this fiscal hit, our 695 monies are clearly in doubt. The likelihood of future funding is essentially non-existent.

Please take a minute to remind your legislator before they head to Olympia of your need for public safety funds. The events of September 11 have led to the need for additional public safety services throughout the state. This is not the time to cut funds for these vital programs.

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CITY OF GIG HARBOR

Mayor Gretchen Wilbert
Page 2
November 9, 2001

AWC's Regional Roundtables

I hope you had the opportunity to attend the recent AWC Regional Roundtable. These roundtables provide myself as well as the AWC staff greater insights in terms of our local needs. Please feel free to follow up with me or the AWC staff if you would like to discuss a particular issue in further detail. If you were unable to attend the roundtable please contact me if you have any issues you would like your Association to address.

AWC's Technology Grant Program

AWC has recently announced the distribution of approximately \$200,000 to 52 cities and towns for your technology needs. The intent of this program is to ensure every city and town has the basic tools to communicate electronically with your citizens. A by-product of these grants will allow AWC to better communicate with you and you with us. I'm hopeful we will be able to continue this program next year. We received 147 applications so there remains a significant need.

Thanks for taking the time to review this letter. Please make a call to your legislators and remind them of the importance of I-695 backfill assistance. We will continue to study city finances and develop recommendations for tools that may assist you with your financial burdens.

As always, please feel free to contact me at (253) 589-2489, Lakewood City Hall, or the AWC staff at (360) 753-4137 or toll free 1-800-562-8981 if you have any questions regarding these issues or other issues of interest.

Sincerely,



Bill Harrison
Mayor, City of Lakewood
AWC Board Member – District #6

BH/JJ:jb



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR DR
DATE: NOVEMBER 28, 2001
SUBJECT: TOURISM MARKETING DIRECTOR CONTRACT

INTRODUCTION

This is a contract for a Tourism Marketing Director and related services. It fulfills the first 2002 budgetary objective in the Hotel/Motel Fund. Last year Laureen Lund performed these services on a part-time basis (approximately 25 hours per week). In 2002, the services are expanding to 40 hours per week.

The Tourism Marketing Director will coordinate advertising expenditures in 2002 as approved in the budget; and will serve as the lead for tourism-related media coordination and liaison with the Chamber of Commerce, local accommodations and other tourism-related organizations in the community. The position is designed to provide a cohesive tourism voice throughout the community through a comprehensive image development plan, and based on the newly created Tourism Strategic Plan.

FINANCIAL

The total contract for the Tourism Marketing Director is \$45,000.

RECOMMENDATION

Staff recommends approval of this contract.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
LAUREEN LUND, TOURISM MARKETING DIRECTOR**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Laureen Lund, a sole proprietor organized under the laws of the State of Washington, located and doing business at 13422 83rd Avenue NW, Gig Harbor, Washington 98329 (hereinafter the "Consultant").

RECITALS

WHEREAS, the Lodging Tax Advisory Committee and City Council have approved a Tourism Specialist function to be funded with Hotel-Motel Tax monies.

WHEREAS, the Tourism Marketing Director will be the lead for media coordination and serve as liaison with accommodations and other tourism-related organizations.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Services, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A - Scope of Services**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed forty five thousand dollars and no cents (\$45,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's billing rates shall be as described in **Exhibit B - Schedule of Rates and Estimated Hours**. The Consultant shall not bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section XVII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within thirty (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15)

days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade that encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

The Consultant acknowledges that she is entitled only to the compensation expressly stated in this Agreement. The Consultant is not entitled to any City benefits. The Consultant will defend, indemnify and hold harmless the City from any loss or expense including but not limited to judgement, set-offs, attorney's fees or costs incurred by reason of claims or demands arising in connection with the provisions of this paragraph.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** January 1, 2002 and work will be complete December 31, 2002.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If notice is delivered to the consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same

to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its sub-contractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors. The Consultant acknowledges that the performance of work under this agreement may require that she visit or work in non-city offices, and that if the Consultant desires to be covered under an insurance policy for her work in these locations, that she is required to obtain her own policy. The Consultant acknowledges that she is not covered under any City insurance policy for any loss, damage or injury to herself, third parties, or her own property or the property of any third parties

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of personal auto coverage with no less than a \$350,000 each accident limit.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall immediately reimburse the City the full amount of the deductible.

D. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City.

F. The Consultant shall request from her insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Ownership and Use of Records and Documents

Original documents, drawings, designs, photos and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

X. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XI. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

All work to be performed under this agreement shall either be performed by the Consultant at her own home or in city offices, the Consultant acknowledges that she shall be responsible for obtaining any insurance to cover her losses, damages or injuries to herself or any third parties associated with the performance of work in these locations.

XIII. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XIV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Finance Director and the City shall determine the term or provision's true intent or meaning. The City Finance Director shall also decide all questions that may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement that cannot be resolved by the City Finance Director's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, then appeal of this determination shall be made to the City Administrator. If the dispute is not resolved after appeal to the City Administrator, then jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in

accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XV. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

Event-it!
Laureen Lund
13422 83rd Avenue NW
Gig Harbor, Washington 98329
(253) 857-6617

David Rodenbach
Finance Director
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335
(253) 851-8136

XVI. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XVIII. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this Dec day of _____, 2001.

CONSULTANT
By: 
Its Principal

CITY OF GIG HARBOR

By: _____
Mayor

Notices to be sent to:
CONSULTANT
Laureen Lund
13422 83rd Avenue NW
Gig Harbor, Washington 98329
(253) 857-6617

David Rodenbach
Finance Director
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335
(253) 851-8145

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Laureen Lund is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12/3/01



Molly M Towsee

Molly M. Towsee

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: 12/2/03

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Gretchen A. Wilbert is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

Exhibit A

SCOPE OF SERVICES

This position serves as the lead for media coordination and as liaison with the Chamber of Commerce, local accommodations and other tourism-related organizations in the community. The position is designed to provide a cohesive tourism voice throughout the community through a comprehensive image development plan, and based on the newly created Tourism Strategic Plan.

The following tourism promotion projects will be funded and managed through the Tourism Marketing Director, with each outside group submitting invoices for reimbursement through the Tourism Marketing Director and the City of Gig Harbor Finance Department:

- **Tourism office administration.** To adequately fund the administrative needs of the Tourism Marketing Director and office. This fund will provide the necessary funds for postage, attending conventions and joining pertinent tourism associations, letterhead, envelopes, business cards, and other related administrative expenses. In addition this fund fulfills the objectives and goals laid out in the Gig Harbor Tourism Strategic Plan by marketing and promoting Gig Harbor as a destination. Funds will be spent on marketing and advertising to include but not limited to development of tradeshow exhibit, continued development of the photography library, design, printing and distribution of a new Gig Harbor brochure and visitor survey as well as ad placement in such publications as Sunset, AAA, NW Travel, Washington Visitors Guide, Pierce County Visitors Guide, Washington CEO and others including radio. The budget for these activities is \$66,600.
- **Tacoma Pierce County Convention & Visitors Bureau.** This fund will contribute Gig Harbor's share of a co-op plan funded through all Pierce County partners, to create two activities. The first will be an updated and very useful Website with specific information on Gig Harbor, our accommodations and tourism programs. The second will be a Corporate Meeting Planners Familiarization Tour of Pierce County, including Gig Harbor's properties that serve conventions and corporate meetings. The budget for this activity is \$12,000.
- **Gig Harbor Key Peninsula Cultural Arts Commission.** To assist the Gig Harbor Key Peninsula Cultural Arts Commission in the maintenance of their Website Marketing Program. The budget for this activity is \$1,200.
- **Gig Harbor Peninsula Historical Society and Museum.** To assist the Historical Society in their marketing efforts, specifically purchase and maintenance of banners and other marketing needs as necessary. The budget for this activity is \$1,200.
- **Gig Harbor Peninsula Area Chamber of Commerce.** To assist the Chamber in upgrading their website to specifically enhance the tourism aspect of the site and adding a Welcome Center Manager (see job description). Both activities will be co-funded through a grant from Pierce County as well as Chamber and City funding. The budget for this activity is \$5,500.

EXHIBIT B

CHARGES FOR SERVICES

In exchange for the services listed in Exhibit A, the contractor, Laureen Lund will be paid twenty-one dollars and sixty-four cents (\$21.64) per hour not to exceed 2,080 hours for a total not-to-exceed contract amount of \$45,000.

Laureen Lund
13422 83rd Avenue NW
Gig Harbor, Washington 98329
(253) 857-6617

Finance Director
City of Gig Harbor
3105 Judson Street



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: DAVID BRERETON INTERIM, PUBLIC WORKS DIRECTOR *Dave*
SUBJECT: PURCHASE AUTHORIZATION – FENCING MATERIALS
DATE: NOVEMBER 30, 2001

INTRODUCTION/BACKGROUND

Purchase of fencing materials to be installed around the recently acquired city shop property adjacent to the city shop was budgeted for in the year 2001. Price quotations for the fencing materials were obtained from three vendors in accordance with the City's Small Works Roster process for the purchase of materials (Resolution 411). The price quotations are summarized below:

<u>Respondent</u>	<u>Unit Price</u>	<u>Sales Tax</u>	<u>Total</u>
Viking Fence Co.	\$ 9,960.78	\$806.82	\$ 10,767.60
Riteway Fence & Gate Inc.	\$ 11,600.00	\$986.00	\$ 12,586.00
Fence Specialists Inc.	\$ 12,472.85	\$1060.19	\$ 13,533.04

The lowest price quotation received was from Viking Fence Company in the amount of \$10,767.60, including state sales tax.

FISCAL CONSIDERATIONS

Budgeted funds are available for this project in the Street Fund.

RECOMMENDATION

Staff recommends that Council authorize purchase of the fencing materials from Viking Fence Company as the lowest responsible respondent, for their price quotation proposal amount of ten thousand seven hundred sixty-seven dollars and sixty cents (\$10,767.60), including state sales tax.



City of Gig Harbor Police Dept.
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-2236

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MITCH BARKER *MB*
SUBJECT: INTERLOCAL AGREEMENT WITH LAW ENFORCEMENT SUPPORT
AGENCY (LESA)
DATE: DECEMBER 4, 2001

INFORMATION/BACKGROUND

We currently have an agreement to receive dispatching and emergency call receiving services from the Law Enforcement Support Agency (LESA). We are now desirous of making a transition to the countywide Law Enforcement Activity and Data System (LEADS) records management system (RMS). This system will provide a number of immediate benefits as well as the ability to add other technological improvements over the coming years. This would complete our anticipated move to a total in-car data system.

The attached agreement allows us to add the information technology (IT) services and RMS to our existing dispatch contract. It also replaces the existing dispatch agreement with revised language.

Carol Morris has reviewed and provided her comments during the crafting of the agreement.

FISCAL IMPACTS

The portion of the agreement related to dispatching services requires an annual fee of \$91,235.11. This is unchanged from the current pricing schedule. The portion of the agreement related to IT services requires an approximate annual fee of \$29,234.19. The portion of the agreement related to RMS services requires an approximate annual fee of \$13,491.37. There is also a one time "buy-in" cost of \$7,144.20. The IT and RMS costs are listed as approximate because they will vary through the year based on the number of commissioned officers and total users we have on the system during any given quarter. The total approximate cost of the services as listed is \$141,104.87.

RECOMMENDATION

I recommend that the Council authorize the Mayor to approve the attached agreement.

Law Enforcement Support Agency

THIS AGREEMENT is entered between the City of Tacoma and Pierce County, through Interlocal Agreement acting as the LAW ENFORCEMENT SUPPORT AGENCY (hereinafter "LESA") and "USER" to delineate the terms and conditions upon which "USER" will be allowed access to the information, data bases and/or computer systems controlled, operated or accessed by LESA.

A. The following definitions shall apply:

Agency: Means the Pierce County Sheriff's Department (PCSD), Tacoma Police Department (TPD), and the Law Enforcement Support Agency (LESA).

User: Means a criminal justice agency as defined in RCW 10.97, and who is a signatory to this Agreement.

Information: Means any data maintained by LESA (Law Enforcement Support Agency) in manual or automated files, and data obtained through LESA from other agency files or systems such as ACCESS (Washington Central Computerized Enforcement Service System).

Office of Record: LESA is the office of record for the incident data (CAD system - Computer Aided Dispatch, the historical CLEAR system - Consolidated Law Enforcement Automated Records), NetRMS, and Criminal History. Pierce County Corrections is the office of record for JMS (Jail Management System). The Washington State Patrol controls the ACCESS/WACIC (Washington Crime Information Center)/NCIC (National Crime Information Center) systems. Pierce County Juvenile Courts is the office of record for JUDI (Juvenile Detention Information).

Records Custodian: LESA is the records custodian for the Local Warrants data, applications residing on the LESA servers, and data residing in the data warehouse.

- B. It is understood and agreed that LESA has sole authority to determine which of its information, databases and/or computer systems will be subject to access by USER.
- C. It is understood and agreed that the information maintained or obtained by LESA is solely for its Agency purposes and that USER shall have no right to require or request modifications to the method of retrieval of information. LESA will forward all suggestions for changes and revisions to the LESA Director or designee for review.
- D. It is understood and agreed that LESA reserves the right to impose reasonable charges to USER for the use of and/or connection to the Agency's system as now constituted or as it may be modified, and USER agrees to pay such reasonable charges
- E. It is understood and agreed that USER shall at all times act in strict accordance with the provisions of the Criminal History Privacy Act, RCW 10.97 and Public Disclosure Law, RCW 42.17, and further, to ensure security and privacy, USER agrees that:
1. All users shall treat information as confidential;
 2. Dissemination of information shall be pursuant to established Agency Policy and Procedures;
 3. Requesters for Agency Criminal History Information or copies of agency documents shall be directed to LESA Records for processing and dissemination, unless authorized by established Agency Policy and Procedures;

4. Secondary dissemination of information shall not be made except:
 - a. As required by Agency Policy and Procedures;
 - b. To an authorized criminal justice agency as defined in RCW 10.97 upon request.
 5. Reproduction of information contained in computerized and manual files shall not be made except:
 - a. As required for investigative files;
 - b. To a prosecuting attorney upon request;
 - c. To Agencies/individuals pursuant to Agency Policy and Procedures;
 - d. To another law enforcement agency participating in a joint investigation with user agency.
 6. Disposal of printed information shall be by destruction;
 7. USER shall insure that physical security measures are present to prevent loss, modification, and unauthorized access to information;
 8. It is further understood and agreed that USER shall abide by LESA Information Services Policy, which is attached hereto as "Attachment A" and made a part hereof by this reference [Where this may apply].
 9. It is further understood and agreed that USER acknowledges all specific agreement clauses which are attached hereto as "Attachment B" and made a part hereof by this reference [Where this may apply].
 10. USER further agrees that it has executed and is bound by and shall abide by the ACCESS/WACIC/NCIC User Acknowledgment, attached hereto as "Attachment C" and made a part of hereof by this reference [Where this may apply].
 11. It is further understood and agreed that USER acknowledges all clauses in the Dispatch Services Agreement, attached hereto as "Attachment D" and made a part of by this reference [Where this may apply].
 12. It is further understood and agreed that USER acknowledges all clauses in the Records Management Services Agreement, attached hereto as "Attachment E" and made a part of by this reference [Where this may apply].
- F. It is further understood and agreed that USER shall limit access to criminal justice employees who are authorized to access such information, and further, ensure that the use of such information is limited to the purposes of criminal justice, as set forth in RCW 10.97. Further, USER agrees that the placement of the computer shall be in a secure location, with access limited to the aforementioned criminal justice employees whom shall have individually identified user accounts.
- G. It is further agreed between the parties that LESA is authorized to audit the use of the system by USER, and further, is authorized to immediately disconnect USER in the event of any perceived violation of the conditions of this Agreement herein.
- H. The annual charges will be calculated and delivered, per the current cost allocation model, to the USER on or before June 30th for the up-coming year of service.
- I. The USER agrees to defend, indemnify and hold harmless the Agency, including PCSD, TPD and LESA and its officers, agents and employees from and against any and all loss, damage, injury,

Law Enforcement Support Agency

liability suits and proceeding however caused, arising directly from, or indirectly out of, any action or conduct of the USER in the exercise or enjoyment of this Agreement.

- J. Either party may request changes in this Agreement. Any and all modifications shall be mutually agreed upon and incorporated by written amendment to this Agreement and executed by the parties hereto.
- K. This agreement will be effective on the effective date listed below and will remain in effect until canceled. Either the USER or LESA may terminate this Agreement at any time, with or without cause, by notice in writing to the other. This notice is to be given a minimum of four (4) weeks prior to the termination date, except as provided in paragraph G of this Agreement. Written notices shall be provided, in the case of LESA, to:

Director
 Law Enforcement Support Agency
 930 Tacoma Av S., Room 239
 Tacoma, Washington 98402

- L. This agreement represents the entire agreement between these parties and supersedes any prior oral agreements, discussions, or understandings between the parties.

DATED this ___ day of _____, _____.

EFFECTIVE the ___ day of _____, _____.

Law Enforcement Support Agency

By: _____

Print Name: _____

USER

Provide written notices to:

By: _____

Print Name: _____

User Agency: _____

Approved as to Form:

 Assistant City Attorney

Attachment A
Information Services Policy

Purpose: The purpose of this policy is to delineate the responsibilities of LESA and user agencies in regard to Information Technology activities such as Internet access, security, acquisition and maintenance of applications, work stations, and printers, and to establish a protocol for connecting to the LESA network and computer systems.

1. Acquisition and Maintenance:

- A. Work stations, and printers presently in use by user agencies that have been supplied by LESA may continue in use. When such units need to be replaced, it is the responsibility of the user agency to provide the replacement. The unit supplied by LESA shall be returned to LESA for disposal and removal from inventory.
- B. Additional work stations, printers, and connectivity devices shall be the responsibility of the user agency. Any wiring, modems, phone lines, etc. required to connect the devices to the computer is the responsibility of the user agency, unless, specifically covered by this Agreement in "Attachment B". Any such items that relate to the LESA system shall be approved by LESA to insure that it is compatible with the system, will not degrade other users and that LESA's systems have the capacity to accept the device.
- C. Maintenance of both existing and additional user related equipment is the responsibility of the user unless specifically covered by Agreement in "Attachment B". User related equipment is defined as all items from the port on the computer to the particular device.
- D. Any user-supplied software that has the capability of impacting the LESA Systems shall be approved by LESA prior to installation.
- E. LESA will provide technical assistance through LESA Information Technology Staff, per the hourly cost set by the LESA Executive Board
- F. LESA is responsible for maintaining the LESA system, including the connectivity devices, work stations, monitors, and printers used solely in LESA. LESA is also responsible for CADwork stations and monitors that are owned by LESA.

2. Internet Access:

- A. Internet access will be for business purposes only. Entertainment or convenience use is not acceptable.
- B. Access to the Internet from any PC connected to the LESA's wide area network is only allowed via the LESA's centralized Internet connection. Alternate methods of Internet access, such as using a modem to access America On-Line, compromise the LESA's network security exposing it to potential harm from computer hackers. Alternate methods further violate access rights to other systems connected to LESA's wide area network. Requests for exceptions to this rule must be reviewed and approved by the LESA Information Technology Assistant Director.

3. Internet and Intranet Use:

- A. All USER employees are responsible for using computer resources in an ethical, responsible and legal manner.
- B. Use of the Internet, including e-mail to and from the Internet, through USER or LESA equipment will only be for USER employees, and/or only for USER business related purposes.
- C. USER Management is responsible for managing use of the Internet by their staff, restricting use or limiting time as they see appropriate.
- D. USER employees should consider their Internet activity as public information and manage their activity accordingly. All Internet traffic goes out beyond the protected LESA network into a wide reaching network that is not secured.
- E. LESA Information Technology monitors and reports on the Internet activity on the LESA's network.
- F. The viewing and downloading of offensive material from the Internet or any non-official (non-LESA) use is not allowed.
- G. All copyrighted information and software found on the Internet must be respected.
- H. Virus checks must be completed on all files and e-mail attachments downloaded from the Internet.
- I. When using the Internet through USER or the LESA resources, USER employees are representing the USER and the LESA, thus all communications across the Internet shall be professional and appropriate. USER employees are not allowed to discuss confidential information, express personal opinions on political, social or volatile subjects, or use taunting, sarcastic, racist, sexist, or hostile language. USER employees also need to be sensitive to the different backgrounds, cultures and countries you may communicate with while on the Internet.
- J. Software packages, including screen savers, should not be configured to automatically retrieve updated information from the Internet during normal LESA business hours (7:30am to 5:00pm). Request for exceptions to this can be directed to the Information Technology Assistant Director for analysis of impact on LESA resources.

4. Electronic Mail:

- A. The LESA Electronic Mail system is to be used only for the LESA and USER business. As such, the LESA officials may inspect messages at any time.
- B. While in the office, all employees have the responsibility to check their mailbox once per day and to delete all old E-Mail envelopes in a timely manner.
- C. Do not send junk mail or other non-business mail. The E-mail system will not be used as a method of communicating non-essential, non-official or non-LESA information to other system users.
- D. System-wide messages will only be used by the E-Mail administrator.
- E. A username unique throughout LESA will be assigned to each LESA E-Mail user. This allows the LESA E-Mail system to work properly when sharing messages with other organizations and the Internet.

- F. Each message you receive and each message you send is stored on your server until you delete the envelope. Over time the accumulation of all these messages for all the users takes up quite a bit of disk space.
- G. All E-Mail messages can be requested from the system under legal actions and by the LESA system Administrators or as authorized by LESA Administration.
- H. Generic names for E-Mail users will not be allowed except as authorized by the Information Technology Assistant Director.

5. General Use:

- A. USER will establish a central point of contact for the LESA so that USER can be notified of impending changes, system non-availability and other technical issues.
- B. USER is responsible for ensuring USER employees understand how to get assistance from the LESA should problems occur.
- C. The LESA will provide support in accordance with terms outlined above or as modified in Appendix B.

Attachment B
Specific Agreement Clauses

1. It is further understood and agreed that USER acknowledges all clauses in the Dispatch Services Agreement which are attached hereto as "Attachment D" and/or the Records Management Services Agreement which are attached hereto as "Attachment E" and made a part of by this reference. [Where this may apply].
2. It is further understood and agreed that USER desires LESA maintenance, repair and installation services of USER owned terminals, work stations, printers and communication devices connected to the LESA systems.
 - a. The LESA and its agents and representatives shall at all reasonable times be given access to the units connected to the LESA systems for the purpose of inspecting, altering, repairing, improving or removing the same.
 - b. The described work will be done on site, unless it can be more expediently done in the shop or at a vendor depot.
 - c. USER shall reimburse the LESA for these services at the current rate set forth in the LESA fee schedule as well as all materials, parts and vendor charges provided at the LESA cost. Payment shall be due within thirty (30) days of presentation of invoice, listing time, parts, materials and vendor charges.
 - d. The LESA fee schedule is available upon request and if changed by the LESA Executive Board action will be distributed to USER.
3. [Specific items that are particular to an agreement]



ACCESS/WACIC/NCIC USER ACKNOWLEDGMENT

I. Introduction

Since its inception, the National Crime Information Center (NCIC) has operated under a shared management concept between the FBI and state users. The NCIC Advisory Policy Board established a goal of having a single state agency in each state assume responsibility as the NCIC Control Terminal Agency (CTA) for the state, through and by which NCIC users in that state would access NCIC. The CTA is responsible for the planning of necessary hardware, software, funding, and training all authorized agencies within the state for complete access to NCIC data services.

The Board approved the CTA concept in order to unify responsibility for system user discipline, and adherence to system procedures and policies within each state. The CTA also serves as a central point in its state for handling record validations, quality control matters, dissemination of manuals and other publications, security matters, user training, audits, and any other problems concerning system use that may arise.

The responsibilities of the Control Terminal Officer (CTO) are detailed in several documents related to the ACCESS/WACIC/NCIC system. This agreement outlines the varied responsibilities of a CTO as they pertain to the NCIC system.

FBI NCIC responsibilities under this shared management concept includes provision of:

- Operational, technical, and investigative assistance to NCIC users;
- Telecommunications lines to a state interface;
- Legal and Legislative review of matters pertaining to NCIC;
- Timely information on all NCIC aspects of system usage by means of the NCIC Operating Manual, Technical and Operational Updates, and related documents;
- Staff research assistance;

- Training and training materials to the control terminal agencies.

The following documents are incorporated by reference and made part of this user acknowledgment: WACIC Manual; ACCESS Manual; NCIC Computerized Criminal History (CCH) Program Background, Concept and Policy, as amended or superseded by implementation of the Interstate Identification Index (111) Program; code of Federal Regulations, Title 28, Part 20; NCIC Standards as recommended by the NCIC Advisory Policy board and approved by the FBI Director, applicable federal and state laws and regulations: ACCESS/WACIC rules, regulation, and policies as recommend by the Advisory Council on Criminal Justice Services.

II. DEFINITIONS

"Control Terminal Agency (CTA)"

In Washington, the CTA is the Washington State Patrol IINCIC Control

Terminal Officer (CTO)"

The NCIC CTO is the Commander of the Washington State Patrol's Criminal Records Division.

The CTO and his agency will be responsible for monitoring system use, enforcing system discipline, and assuring ACCESS, WACIC, and NCIC operating procedures are followed by all users of the respective telecommunications lines, as well as other related duties as outlined by this document.

"Terminal Agency Coordinator (TAC)"

A TAC shall be appointed at each terminal location and be Level 11 certified. The TAC shall be responsible for ensuring his/her agency is in compliance with state and NCIC policies and regulations, including validation requirements.

"Timeliness"

WACIC/NCIC records must be entered promptly to ensure maximum system effectiveness.

A timely entry in the Wanted Person File is made immediately once:

1. The decision to arrest or authorize arrest has been made: and
2. The terms of extradition have been established.

The date of want or warrant must be the date on which all those decisions were made.

A timely removal from the file means an immediate clearing of the record once the originating agency has documentation the fugitive has been arrested or is no longer wanted.

Timely system inquiry means initiation of the transaction before an officer releases a subject or begins writing an arrest or citation document of any kind; inquiry prior to the release of a person who has been incarcerated; or inquiry upon those who appear at a custodial facility to visit inmates.

Timeliness of entry/modification in the Missing Person File is generally the same as in the Wanted Person File.

Timely entry/modification of vehicle, license plate, and vehicle part data matches the wanted person standard, less the extradition considerations. Entry should be made as soon as a cross-check of the Department of Licensing's Registration File has been completed.

Timely entry of gun, article, and securities information means within a few hours of the time complete information is available.

"Validation"

Validation (vehicles, plates, fugitives, missing person entries) obliges the ORI to confirm the record is complete, accurate, and still outstanding or active. Validation procedures are defined in Section IV-C of this agreement.

"Completeness"

Complete records of any kind include all information available on the person or property at the time of entry. The validation process should include a review of whether additional information has become available (missing from original entry) that could be added.

Complete inquiries on persons include numbers that could be indexed in the record (i.e., Social Security, passport, VIN, license plates, driver's license, etc.). Inquiries should be made on all names/aliases used by the suspect. Complete vehicle inquiries include VIN and license plate numbers.

"Accuracy"

The accuracy of WACIC/NCIC data must be double-checked by a second party. The verification should include assuring the data in the WACIC/NCIC record matches the data in the investigative report and that other checks (VIN/license numbers) were made. Agencies lacking support staff for this cross-checking should require the case officer to check the record, as he/she carries primary responsibility for seeking the fugitive or the stolen property.

III. OPERATIONAL RESPONSIBILITIES

To ensure the proper operation of WACIC/NCIC, the standards, procedures, formats, and criteria, as contained in ACCESS/WACIC operating manuals, will be followed. A specific operational situation is:

Hit Confirmation Policy

The agency that obtains a hit has the ability to designate to the entering agency one of two priorities for confirmation.

PRIORITY 1: URGENT

Confirm the hit within 10 minutes. In those instances where the hit is the only basis for detaining a suspect or the nature of a case requires urgent confirmation of a hit, the highest level of priority should be specified.

Each agency must, within 10 minutes, furnish to an agency requesting a record confirmation, a response indicating a positive or negative confirmation or a notice of a specific amount of time necessary to provide a response to the request for record confirmation.

PRIORITY 2: ROUTINE

Confirm the hit within one hour. Generally, this priority will be used when the person is being held on local charges, property has been located under circumstances where immediate action is not necessary, or an urgent confirmation is not required.

Each agency must within one hour, furnish to an agency requesting a record confirmation, a response indicating a positive or negative confirmation or a notice of a specific amount of time necessary to provide a response to the request for record confirmation.

An agency requesting confirmation which fails to receive a response to the first request shall generate a second request with a copy to the CTO. The CTO will institute appropriate action to ensure proper response to a hit confirmation request

and to comply to system standards. This appropriate action may include canceling the record by the CTA.

IV. QUALITY ASSURANCE RESPONSIBILITIES

A. Introduction

Criminal justice agencies have a specific duty to maintain records that are accurate, complete, and up-to-date. The CTA will ensure there are standards for security, audits, and personnel training; which would allow the dissemination of accurate and up-to-date records.

B. Record Quality

Errors discovered in WACIC/NCIC records are classified as serious errors, form errors, or an error trend.

- (1) Serious errors: WACIC/NCIC will advise the ORI via teletype message of an apparently erroneous record and request it be verified, changed, or canceled within 24 hours. The record will be canceled if neither a response is received nor corrective action has been taken during the allotted time.
- (2) Form errors or error trends: the CTA will notify the ORI by letter of the corrective action to be taken. No further notification or action will be taken by the CTA.

C. Record Validation

WACIC/NCIC periodically prepares listings of records on file for validation purposes. Validation listings are prepared pursuant to a schedule, as published in the WACIC Operating Manual. These listings are mailed to the originating agency.

Validation obliges the ORI to confirm the record is complete, accurate, and still outstanding or active. Validation is accomplished by reviewing the original entry and current supporting documents, and by recent consultation with any appropriate complainant, victim, prosecutor, court, motor vehicle registry files, or other appropriate source or individual. In the event the ORI is unsuccessful in its attempts to contact the victim, complainant, etc., the entering authority must make a determination based on the best information and knowledge available whether or not to retain the original entry in the file. Validation procedures must be formalized and copies of these procedures must be on file for review during an NCIC/ACCESS audit.

Each agency will receive a letter explaining what records are contained in the validation and general procedures for validating the records. A "REPLY REQUIRED" letter is included for the agency to certify the records have been validated.

Validation certification means: (1) the records contained on the validation listing have been reviewed by the originating agencies; (2) the records which are no longer current have been removed from WACIC/NCIC and all records remaining in the system are valid and active; (3) all records contain all available information; and (4) the information contained in each of the records is current and accurate, including appropriate extradition information.

If the CTA has not received a certification response from an agency within the specified period of time, the CTA will purge from WACIC/NCIC all records which are the subject of that agency's validation listings. (NOTE: If a CTA fails to certify any validation listing to the NCIC within the specified time, all invalidated records from that state will be purged by the NCIC.)

V. SECURITY RESPONSIBILITIES

A. General

Security guidelines, relating to WASIS and NCIC III criminal history record information, are set forth in the NCIC Computerized Criminal History Program Background's Concept and Policy as superseded by the III program, in Title 28; Code of Federal Regulation, Part 20, Subparts A and C; and by state statute in RCW 10.97 and Washington's Administrative Code, chapter 446-20.

All agencies participating in the ACCESS system must comply with and enforce system security.

B. Originating Agency Identifier (ORI)

The assignment of an ORI to an agency is not a guarantee of access to the systems. The ultimate decision regarding who may access WACIC/NCIC lies with the CTA.

The CTO will coordinate the assignment of new ORI numbers, the change in ORI location or address, any other changes, cancellations, or retirements of ORIs accessing WACIC/NCIC. The agency shall notify the CTO of any such changes.

Application for assignment of new ORIs shall be made directly to the CTO. Such application shall contain documentation of the agency's statutory authority as a criminal justice agency and a statement that indicates the agency allocates more than 50 percent of its annual budget to the administration of criminal justice. Non-criminal justice agencies will be denied an ORI, unless under management control of

a criminal justice agency, a copy of the management control agreement must be submitted to the CTO.

VI. COMPUTERIZED CRIMINAL HISTORY RECORD INFORMATION RESPONSIBILITIES

- A. Each agency shall conform with system policies, as established by the ACCESS/WACIC manuals, before access to criminal history record information is permitted. This will allow for control over the data and give assurance of system security.
- B. The CTA is responsible for the security throughout the system it services, including all places where terminal devices are located. Upon determination that a terminal is in non-conformance with system management or security policy, the CTA has the authority to impose sanctions, including termination of service.
- C. The rules and procedures governing direct terminal access to criminal history record information shall apply equally to all participants in the system.
- D. All criminal justice agencies having direct access to computerized CHRI data from the system shall permit an NCIC or WACIC audit team to conduct appropriate inquiries with regard to any allegations of security violations. Agencies must cooperate with these audits and respond promptly.
- E. All computers and manual terminals interfaced directly with the ACCESS/WACIC/NCIC systems for the exchange of criminal history record information must be under the management control of a criminal justice agency, as defined by the NCIC CCH background and policy document.
- F. Each agency shall have in place a system for logging all inquiries of the 111, which log shall include the name of the individual within the criminal justice agency to whom the response is given. These logs shall be maintained for at least 12 months from the date of inquiry and must be available to assist in the State or National audit program.
- G. Each agency receiving an III response shall record any secondary dissemination. These logs shall be maintained for at least 12 months from the date of inquiry.

Agencies must institute a program of systematic self-audits as a means of guaranteeing the completeness and accuracy of the information in the system. These self-audits should be on a continual basis to ensure both quality assurance and compliance with standards.

Compliance audits will cover the following areas of the 111, WACIC/NCIC stolen property, and person records:

Accuracy

All WACIC/NCIC entries shall contain no erroneous data.

Completeness

All information contained in a WACIC/NCIC entry or in a criminal history record shall contain the most pertinent information available.

Timeliness

All entries, modifications, updates, and removals of information shall be completed, processed, and transmitted as soon as possible, in accordance with established standards.

Locates

All wanted/missing persons, and property records, which are apprehended or recovered, shall be promptly placed in 'located' status, except those located outside of the stated area of extradition or return.

Security

It is the responsibility of an agency to protect its information against unauthorized access, ensuring confidentiality of the information in accordance with laws, policies, regulations, and established standards.

Dissemination

All information released shall be in accordance with applicable laws and regulations, and a record of dissemination of criminal history records shall be maintained for one year and made available for NCIC/VACIC audit review.

VII. ADMINISTRATIVE RESPONSIBILITIES

- A. The agency shall respond to requests for information by the FBI NCIC of WACIC in the form of questionnaires, surveys, or similar methods, to the maximum extent possible, consistent with any fiscal, time, or personnel constraints of that agency.

- B. The CTO shall offer system training to agencies accessing WACIC/NCIC through the state computer. Agencies shall assign appropriate employees to attend classes when offered. If employees are using inquiry only functions, they must attend Level I certification training. Employees entering information into the NCICNVACIC system and Terminal Agency Coordinators (TAC) must attend Level 11 certification training. All certifications must be renewed biennially.
- C. The CTO will distribute, within the state criminal justice community, the ACCESS/WACIC manuals, NCIC Code Manuals, and as requested, miscellaneous publications in order to enhance effective use of the WACIC/NCIC system. The agency shall incorporate such changes upon receipt.

ACKNOWLEDGMENT

As an agency head/director serving in the ACCESS/WACIC/NCIC system, I hereby acknowledge the duties and responsibilities as set out in this document, as well as those documents incorporated by reference. I acknowledge that these duties and responsibilities have been developed to ensure the reliability, confidentiality, completeness, and accuracy of all records contained in or obtained by means of the WACIC/NCIC system. I also acknowledge that a failure to comply with these duties and responsibilities will subject my agency to various sanctions. These sanctions may include the termination of ACCESS/WACIC/NCIC services to my agency.

Mitch Barker
Agency Head (Please Print)


Agency Head signature

Gig Harbor Police Department
Agency Name

11-29-01
Date

Attachment D
Dispatch Services Agreement

Purpose: The purpose of this attachment is to delineate the responsibilities of LESA and USER in regard to police dispatch services and fees associated therewith.

1. Charges shall be based on cost allocations determined by the LESA Executive board.
2. LESA will receive and dispatch calls for police service on behalf of the USER. LESA will monitor the status of the assigned police units.
3. Each party is responsible for maintaining its own radio and communication equipment. Any phone line or device charges for LESA to receive calls shall be the responsibility of USER.
4. Neither party shall be liable to the other or to any third party for any damage, loss, or costs whatsoever resulting from the performance of, or failure to perform, this agreement.

Attachment E
Records Management Services Agreement

Purpose: The purpose of this attachment is to delineate the responsibilities of LESA and USER in regard to RMS records management services and fees associated therewith.

1. Charges shall be based on cost allocations determined by the LESA Executive board.
2. LESA will provide to the USER records management support for RMS data entry and approvals using UCR/WIBR/NIBR standards in the form of training, problem solving, auditing and statistical gathering.
3. Each party is responsible for maintaining its own equipment. Any phone line or device charges for LESA to share data shall be the responsibility of USER.



City of Gig Harbor
 Chief Mitch Barker
 3105 Judson Street
 Gig Harbor WA 98335

Law Enforcement Support Agency

Explanation of Cost	Costing Method	Unit	Amount
COMMUNICATIONS Calls for Service	1.34% of \$6,808,590.57	1.34%	\$ 91,235.11
Subtotal Communications			\$ 91,235.11
RECORDS	Cost Per Commissioned Ofcr		
Expungements	17	\$ 5.28	\$ 89.76
Training	17	\$ 151.82	\$ 2,580.94
UCR/IBR Reporting	17	\$ 29.23	\$ 496.91
RMS/OA Auditing	17	\$ 455.48	\$ 7,742.82
Operational Support	17	\$ 151.82	\$ 2,580.94
Subtotal Records			\$ 13,491.37
INFORMATION TECHNOLOGY	Cost Per User		
APS2000			\$ -
Audit Letter			\$ -
Background Investigations			\$ -
Booking Identification System			\$ -
Booking Photo Inquiry	\$ 6.94	12	\$ 83.28
C2MS			\$ -
CAD Data Transfer	\$ 1,102.60	1	\$ 1,102.60
CFS Report	\$ 80.28	1	\$ 80.28
CLEAR	\$ 5.97	2	\$ 11.94
CPL Inquiry			\$ -
Criminal History Inquiry	\$ 59.80	14	\$ 837.20
Daily CAD Incident Sheet			\$ -
Data Warehouse	\$ 488.69	1	\$ 488.69
DTM	\$ 100.36	1	\$ 100.36
Email access	\$ 40.00	15	\$ 600.00
Global Name Inquiry	\$ 8.99	14	\$ 125.86
HotSheet			\$ -
Internet access	\$ 950.00	1	\$ 950.00
LeCATS			\$ -
LESA CAD Call Incidents	\$ 2.96	14	\$ 41.44
Licenses			\$ -
LORS			\$ -
MVTR			\$ -
NetMENU	\$ 3.60	15	\$ 54.00
NetRMS	\$ 306.56	14	\$ 4,291.84
NetRMS Incident Inquiry	\$ 7.59	14	\$ 106.26
Pawn/Secondhand Record Inquiry	\$ 13.65	1	\$ 13.65
Pierce County Jail/JMS Inquiry	\$ 5.65	3	\$ 16.95
Puyallup Jail/CJM Inquiry			\$ -
Q File			\$ -
Sex Offender Registration Inquiry			\$ -
State Interface			\$ -
TPD Forensics System			\$ -
Warrants	\$ 10.51	12	\$ 126.12
Web page services			\$ -
WITS			\$ -
CAD Hardware and Software (Office, ExceedW, Julian Box, and Mail)		4	\$ 390.72
Annual LESA IT Infrastructure charge	% of Total Use		\$ 19,813.00
Subtotal Information Technology			\$ 29,234.19
NetRMS Initial Costs			\$ 7,144.20
Communications Subtotal			\$ 91,235.11
Records Subtotal			\$ 13,491.37
Information Technology Subtotal			\$ 29,234.19
Grand Total 2002 Costs			\$ 141,104.87



City of Gig Harbor Police Dept.
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-2236

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MITCH BARKER *MB*
SUBJECT: INTERLOCAL/MUTUAL AID AGREEMENT FOR PIERCE COUNTY
TRAFFIC SAFETY EMPHASIS PATROLS
DATE: DECEMBER 4, 2001

INFORMATION/BACKGROUND

In the past we have been a member of the Pierce County Traffic Emphasis Patrol. This group meets in a specified location once per month. The group receives a briefing about the geographic boundaries of the night's emphasis patrol and then patrols that area with a focus on unsafe driving behaviors, including DUI. Our current agreement expired at the end of its two-year duration and we need to renew the agreement if we wish to continue as a member of this group. I have attached a copy of the agreement, which has been signed by all the member cities with the exception of Orting and Edgewood, who have not participated in the past, and Gig Harbor.

FISCAL IMPACTS

Officers participating in the emphasis patrols work on an overtime basis. This overtime has been reimbursed from State Traffic Commission grant funds in the past and that funding is available this year as well.

RECOMMENDATION

I recommend that the Council authorize the Mayor to approve the attached agreement.

COPY

Pierce County Traffic Safety Emphasis Interlocal Agreement and Mutual Aid Agreement

WHEREAS, an entity known as the Tacoma/Pierce County Task Force on Alcohol/Driving (DUI Task Force) has been created for the purpose of promoting the targeting, apprehending and successfully prosecuting individuals guilty of traffic infractions and offenses in general, and DUI's in particular; and

WHEREAS, it is the desire of various law enforcement agencies within Pierce County to participate in such Task Force; and

WHEREAS, multi-agency participation in such a Task Force is possible by virtue of the Washington Mutual Aid Peace Officer Powers Act set forth in Chapter 10.93 R.C.W. and the Interlocal Cooperation Act set forth in Chapter 39.34 R.C.W.;

NOW, THEREFORE, it is mutually agreed as follows:

Section 1: Duration. This Agreement shall be in effect for a period of two years from its effective date of January 1, 2002.

Section 2: Scope. Parties to this Agreement will each provide law enforcement personnel for the apprehension of traffic offenders, and the enforcement of traffic laws within targeted areas as set forth in Attachment 1. The targeted areas at any particular time during the term of the agreement shall be determined by the joint administrative board.

Section 3: Purpose. The purpose of this Agreement shall be the apprehension and successful prosecution of individuals guilty of traffic violations and offenses in general, within specifically targeted areas of Pierce County.

Section 4: Financing. Each participating agency shall bear the financial responsibility and liability for such of its employees as participate in the Task Force, including but not limited to salary, benefits and worker's compensation insurance.

Section 5: Termination. This Agreement shall automatically terminate two (2) years from its effective date unless an earlier termination date is agreed upon in writing by all parties.

Section 6: Administration. This Agreement shall be administered by a joint board comprised of the Pierce County Sheriff and the Chiefs of Police for the cities and towns listed in Attachment 2, or their respective delegates.

Section 7: Operations. Task Force operations, in connection with the emphasis patrols operating under this agreement, shall be coordinated by hosting agency's employee holding a rank of sergeant or higher. Provided that the coordination provided by Pierce County shall not be considered an allocation of liability under R.C.W. 10.93.040, nor that the Task Force is acting under the direction and control of Pierce County.

Section 8: Use of Property. Each agency shall be responsible for its own property used during the term of this Agreement and any property acquired by an agency during the term of this Agreement shall remain with the agency upon termination of the Agreement.

Section 9: Coordination. The Task Force Coordinator shall be responsible for coordinating the Task Force related communications between participating agencies.

Section 10: Participating Agencies. A list of the agencies which will be participating in the Tacoma/Pierce County Task Force is attached hereto as Attachment 2. Such List of Authorized Agencies may be modified from time to time to add or delete agencies. Each participating agency shall maintain a current List of Authorized Agencies on file together with a copy of this Agreement.

Section 11: Filing. A copy of this Agreement shall be filed with the Pierce County Auditor.

Section 12: Consent. The undersigned hereby individually consent to the full exercise of peace officer powers within their respective jurisdictions by any and all properly certified or exempted officers engaged in any operations of the Tacoma/Pierce County Task Force. Each consent shall be valid during the tenure of the responsive undersigned individuals.

Section 13: Responsibility. The consents given in Section 12 above are not intended to reallocate, under R.C.W. 10.93.040, the responsibility of the participating agencies for the acts or omissions of their officers.

Pierce County

Dated this 15 day of November, 2001.

Paul A. Pastor
Sheriff Paul Pastor
Pierce County Sheriff=s Department

Approved this 15th day of November, 2001.

John Ladenburg
Executive John Ladenburg
Pierce County, Washington

ATTEST:


Robert S. Sauer
County Clerk

City of Puyallup

Dated this 7 day of September, 2001.


Chief Rodger Cool
Puyallup Police Department


Approved this 4th day of September, 2001.


Mayor Don Malloy
Puyallup, Washington

Approved by City Council 9/4/01

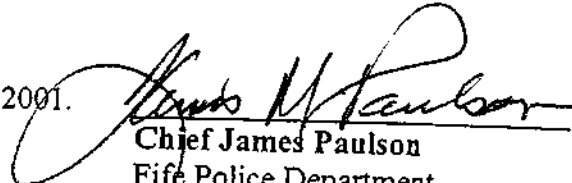
ATTEST:


Judy G. Thomas, Deputy City Clerk
City Clerk


Approved as to Form

City Attorney

City of Fife

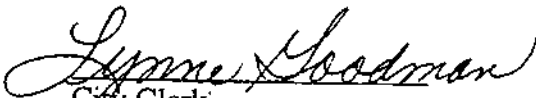
Dated this 16th day of August, 2001.


Chief James Paulson
Fife Police Department

Approved this 11th day of September, 2001.


~~Joe Hannan, City Manager~~
Fife, Washington *Steve Washington*

ATTEST:


City Clerk

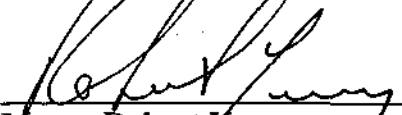
City of Bonney Lake

Dated this 25th day of SEPTEMBER, 2001.



Chief Bryan Jeter
Bonney Lake Police Department

Approved this 25th day of SEPTEMBER, 2001.



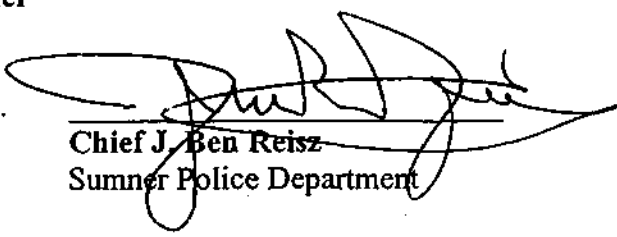
Mayor Robert Young
Bonney Lake, Washington
Resolution No. 913
9-25-01

ATTEST:

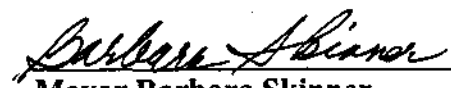
City Clerk

City of Sumner

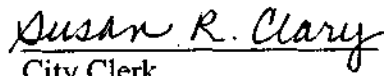
Dated this 25th day of September, 2001.


Chief J. Ben Reisz
Sumner Police Department

Approved this 25th day of Sept., 2001.

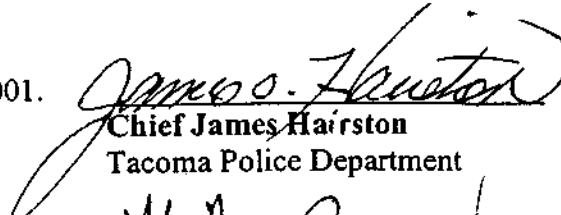

Mayor Barbara Skinner
Sumner, Washington

ATTEST:

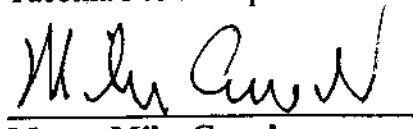

City Clerk

City of Tacoma

Dated this 7th day of September, 2001.


Chief James Hairston
Tacoma Police Department

Approved this 19 day of September, 2001.



Mayor Mike Crowley
Tacoma, Washington

ATTEST:

Doris Sorum 9-19-01
City Clerk


City of Buckley

Dated this 29 day of AUGUST, 2001.



Chief Art McGehee
Buckley Police Department

Approved this 29 day of AUGUST, 2001.



Mayor John Blanus
Buckley, Washington

ATTEST:

City Clerk

City of Gig Harbor

Dated this _____ day of _____, 2001

Chief Mitch Barker
Gig Harbor Police Department

Approved this _____ day of _____, 2001

Mayor Gretchen Wilbert
Gig Harbor, Washington

ATTEST:

City Clerk

City of Fircrest

Dated this 27th day of September, 2001

John Cheesman
Chief John Cheesman
Fircrest Police Department

Approved this 27th day of September, 2001

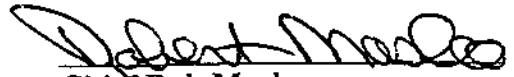
Susan Clough
Susan Clough, City Manager
Fircrest, Washington

ATTEST:

Rick Rosenblatt
City Clerk

City of University Place

Dated this 4th day of September, 2001



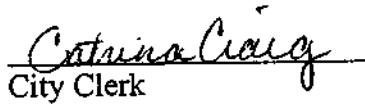
Chief Rob Masko
University Place Police Department

Approved this 4th day of September, 2001



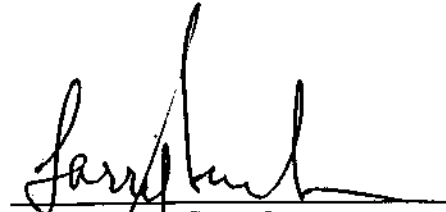
Mayor Lorna Smith
University Place, Washington

ATTEST:

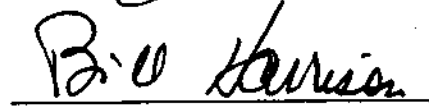

City Clerk

City of Lakewood

Dated this 16 day of August, 2001


Chief Larry Saunders
Lakewood Police Department

Approved this 17 day of August, 2001



Mayor Bill Harrison
Lakewood, Washington

ATTEST:

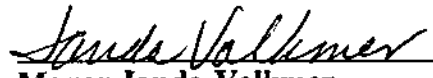
City Clerk

Town of Steilacoom

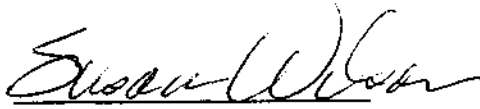
Dated this 2 day of OCT, 2001


Chief Cynthia Fajardo
Steilacoom Dept. of Public Safety

Approved this 2nd day of October, 2001

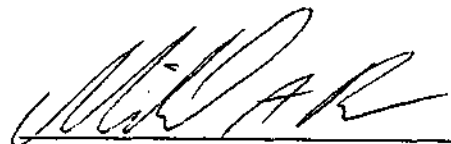

Mayor Janda Volkmer
Steilacoom, Washington

ATTEST:


City Clerk

City of DuPont

Dated this 25 day of October, 2001




Chief Michael Pohl
DuPont Police Department

Approved this 9th day of November 2001



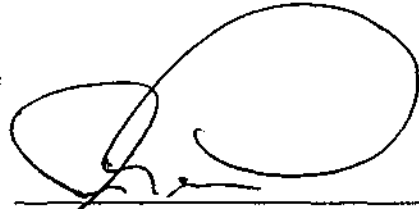
Mayer Judy Krith
DuPont, Washington

ATTEST:


City Clerk

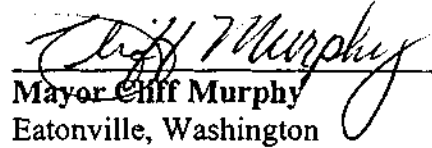
Town of Eatonville

Dated this 17th day of August, 2001



Chief Jim Lewis
Eatonville Police Department

Approved this 17 day of August, 2001



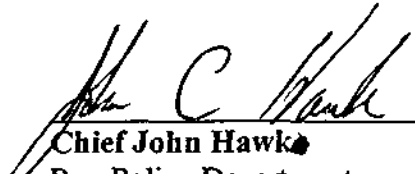
Mayor Cliff Murphy
Eatonville, Washington

ATTEST:


City Clerk

CITY
Town of Roy

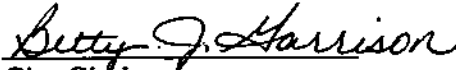
Dated this 27th day of August, 2001


Chief John Hawk
Roy Police Department

Approved this 27th day of August, 2001



Mayor Joel Derefield
Roy, Washington

ATTEST:


City Clerk

Town of Ruston

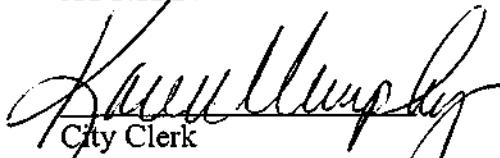
Dated this 21 day of August, 2001


Chief Russ Ellis
Ruston Police Department

Approved this 21 day of August, 2001


Mayor Michael Transue
Ruston, Washington

ATTEST:


City Clerk

City of Edgewood

Dated this _____ day of _____, 2001

Chief Larry Bauer
Edgewood Police Department

Approved this _____ day of _____, 2001

Mayor Rose Hill
Edgewood, Washington

ATTEST:

City Clerk

Town of Orting

Dated this _____ day of _____, 2001

Chief Ron Emmons
Orting Police Department

Approved this _____ day of _____, 2001

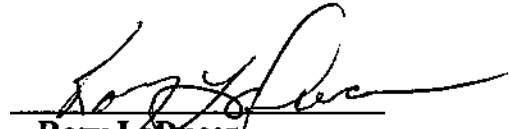
Mayor Guy Colorossi
Orting, Washington

ATTEST:

City Clerk

Puyallup Tribe

Dated this 30 day of August, 2001


Rory LaDucer
Director of Law Enforcement

Approved this 30 day of August, 2001


Chair Herman Dillon, Sr.
Tribal Council

ATTEST:

Attachment 1

Traffic Safety Emphasis Patrol Operational Guidelines

Purpose: The Traffic Safety Emphasis Patrol is committed to the prevention of traffic related violations, including alcohol and other drug impaired driving, through coordinated, multi-agency deterrence.

A. Objectives

1. To reduce the incidence and prevalence of traffic related violations, including alcohol and other drug impaired driving, in Pierce County.
2. To increase law enforcement manpower to maximum levels in high-traffic, high collision areas.
3. To increase public attention to the risks of traffic violations and increase public perception of risk for traffic arrest.
4. To focus media attention on the prevalence of traffic violations and the coordinated efforts to encourage traffic safety.
5. To enhance communication and cooperation among law enforcement agencies in Pierce County.

B. Selection of Officers

1. Each participating agency will be asked to provide at least one officer for each Emphasis Patrol. Agencies with restricted jurisdiction will be asked to offer an equivalent, alternative level of participation.
2. All participating officers must have completed the basic state academy.
3. Participating agencies will be encouraged to assign highly-motivated officers who have experience in criminal traffic offenses.

C. Supervision

1. A first level supervisor will be required from agencies where major emphasis occurs.
2. The supervisor(s) will work the entire Emphasis patrol shift and will have overall responsibility for the assigned officer.
3. The supervisor(s) will field all questions and complaints concerning the Emphasis Patrol. All citizen complaints will be forwarded to the parent agency of any officer involved in the complaint.

4. The supervisor(s) will have the sole authority to return an officer to his/her agency as a result of inappropriate behavior.
5. Officers assigned to the Emphasis Patrol will be expected to follow their parent agency's policies with regard to pursuit and arrest procedures and all other matters of professional conduct. However, officers will also be expected to follow the direction of the Emphasis Patrol supervisor(s).

D. Officer Responsibility

1. Officers will work their assigned areas according to the guidelines provided by the supervisor(s), focusing on detection and apprehension of impaired drivers.
2. When an arrest is made, the arrestee will be taken to the nearest participating BAC verifier facility for processing or the Pierce County jail.
3. Officers will follow their parent agency guidelines for report writing. Unless otherwise required by an officer's parent agency, each citation will be filed in the jurisdiction of the arrest.
4. At the end of each Emphasis Patrol shift, each officer will provide the supervisor(s) with an account of their activity for that shift using the activity log form provided.
5. Emphasis Patrol officers will be responsible for one another's safety and will be expected to provide back-up and cover for one another.
6. Officers will respond to traffic accidents to provide assistance and traffic control. If an accident is alcohol or drug-related, the Emphasis Patrol officer will investigate and make any arrests or citations as necessary. If alcohol or drugs are not involved, investigation will be left to the appropriate regular duty officer(s).
7. Coffee and lunch breaks will be provided, however, these breaks will be restricted to no more than three marked units together at one time.
8. If citizens inquire as to the presence of an outside agency officer in the emphasis area, officers will explain their role in the Traffic Safety Emphasis Patrol.

E. Target Areas and Deployment

1. The Emphasis Patrol will be assigned to target areas based on intelligence information from participating agencies, traffic citation and collision data, and discussions of the DUI Task Force.
2. The target areas will be assigned by rotation so that each participating agency's jurisdiction is included, unless a higher priority target is identified by the DUI Task Force.
3. Deployment of officers will be the responsibility of supervisor(s). Each officer will be provided with a map of the target area and briefing information.

F. Communications

1. All Emphasis Patrol communications will be on the LERN (Law Enforcement Radio Network) frequency.
2. Requests for data or impound will be made through the appropriate dispatch agency.

G. General Policies

1. No arrestee will be released to their own custody. Unless booked into jail, arrestees will only be released to a responsible, sober person or transported home.
2. Every lawful option will be made to have vehicles removed from the roadway. If there is concern that the vehicle may be a hazard, the supervisor(s) will make an impound order, if necessary.

Attachment 2

List of Agencies Authorized to Exercise Police Officer Powers When Participating in the Traffic Safety Emphasis Patrol:

Bonney Lake Police Department
Buckley Police Department
DuPont Police Department
Eatonville Police Department
Edgewood Police Department
Fife Police Department
Fircrest Police Department
Gig Harbor Police Department
Lakewood Police Department
Pierce County Sheriffs Department
Puyallup Police Department
Puyallup Tribal Police
Roy Police Department
Ruston Police Department
Steilacoom Police Department
Sumner Police Department
Tacoma Police Department
University Place Police Department
Washington State Patrol
Washington State Liquor Control Board



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP *J.P. Vodopich*
DIRECTOR, PLANNING AND BUILDING SERVICES
SUBJECT: CONSULTANT SERVICES CONTRACT - ARCHAEOLOGICAL
SERVICES - DONKEY CREEK PARK - LAAS, LTD.
DATE: DECEMBER 10, 2001

INFORMATION/BACKGROUND

During the design development process associated with the Donkey Creek Park, it has been discovered that the Corner of the Bay Activity Center is the site of a former Native American settlement. In order to avoid unnecessary disruption of archaeological and cultural resources, untimely delays in construction, and to fulfill federal and state requirements during permitting, planning staff has prepared a contract with Larson Anthropological and Archaeological Services, Ltd.

FISCAL CONSIDERATIONS

Sufficient funds are budgeted in the approved 2001 Budget for the provision of these services. These costs will not exceed \$7,955.98.

RECOMMENDATION

Planning Department staff recommends approval of the contract with Larson Anthropological and Archaeological Services, Ltd., to provide professional archaeological services, at a cost of \$7,955.98 as detailed in the attached contract.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
LARSON ANTHROPOLOGICAL ARCHAEOLOGICAL SERVICES, LTD.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Larson Anthropological Archaeological Services, Ltd., a corporation organized under the laws of the State of Washington, located and doing business at 7700 Pioneer Way, Suite 101, Gig Harbor, WA 98335 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the design of Donkey Creek Park, and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated November 28, 2001, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A - Scope of Services**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed seven thousand nine hundred fifty-five dollars and ninety-eight cents (\$7955.98) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B- Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen

(15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. . The parties agree that the work described in **Exhibit A** shall be completed within 45 days of execution of this contract; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to one consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as

modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, ~~products and completed operations~~, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Director of Planning and Building Services and the City shall determine the term or provision's true intent or meaning. The Director of Planning and Building Services shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Director of Planning and Building Services' determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT
Lynn L. Larson
Larson Anthropological Archaeological Services
7700 Pioneer Way, Suite 101
Gig Harbor, WA 98335
(253) 858-1411

John P. Vodopich, AICP
Director of Planning and Building Svcs.
City of Gig Harbor
3125 Judson Street
Gig Harbor, Washington 98335
(253) 851-4278

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2001.

CONSULTANT

CITY OF GIG HARBOR

By: *Syren J. Jordan*
Its Principal

By: _____
Mayor

Notices to be sent to:
CONSULTANT
Lynn L. Larson
Larson Anthropological Archaeological Services
7700 Pioneer Way, Suite 101
Gig Harbor, WA 98335
(253) 858-1411

John P. Vodopich, AICP
Director of Planning and Building Svcs.
City of Gig Harbor
3125 Judson Street
Gig Harbor, Washington 98335
(253) 851-4278

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Lynn Larson is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the President of Larson Anthropological Archaeological Services, Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

STATE OF WASHINGTON)
) ss.
 COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Gretchen A. Wilbert is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
 NOTARY PUBLIC in and for the
 State of Washington, residing at:

My Commission expires: _____

L A A S



EXHIBIT "A"

LARSON
ANTHROPOLOGICAL
ARCHAEOLOGICAL
SERVICES
LIMITED

City of Gig Harbor Public Works
Donkey Creek Park Overview and
Archaeological Resources and
Traditional Cultural Places Assessment

Scope of Work
November 28, 2001

The City of Gig Harbor Public Works proposes to conduct modifications to the Donkey Creek area using one of several alternatives. The City owns a triangle piece of property on the west portion of the project area. The City does not yet own the piece of the project area on the west portion of the project area, which has been identified as Areas 1, 2, and 3. Archaeological resources and traditional cultural places assessments typically consist of three tasks: archival review, field reconnaissance, and technical report preparation. Larson Anthropological Archaeological Services Limited (LAAS) proposes to conduct the archival review to provide background information and to develop probabilities for archaeological resources on the entire project, including parcels not yet owned by the City of Gig Harbor. The background sections of the technical report would address the entire project area. LAAS proposes to conduct an entire assessment, including field reconnaissance, for the western portion, or triangle portion of the project area.

This phase is an identification effort only; any cultural resources that are identified that may be significant would need to be evaluated in a second phase if they could not be avoided. If a significant cultural resource cannot be avoided, mitigation would need to be developed by a professional archaeologist in consultation with the State Office of Archaeology and Historic Preservation (OAHP), the City of Gig Harbor, and the Puyallup and Suquamish Tribes. The assessment would comply with state and federal standards for a cultural resources assessment and reporting.

Task 1. Archival and literature review. Pertinent literature on the archaeology, ethnography, and history of the project area would be reviewed to determine the existence of recorded historic structures, archaeological sites, and traditional cultural properties and to determine the probability for cultural resources in the project area. Previous cultural resources studies, ethnographies, local histories, historic maps, as well as records held by the Office of Archaeology and Historic Preservation, Pierce County, and the Puyallup Tribe would be consulted.

1100 PIONEER WAY
SUITE 101
GIG HARBOR
WASHINGTON
98335-1144
PH (253) 858-1411
FAX (253) 858-1410

Task 2. Tribal and Agency Consultation. The Puyallup and Suquamish Tribes have cultural ties to the project area. Both Tribes would be contacted for information they may have on traditional cultural use and historic Indian use of the project area. The Tribes would be contacted through letter and telephone. The City of Gig Harbor may choose to send correspondence that LAAS has prepared on the City's letterhead to satisfy Tribal requirements for government-to-government relations. LAAS would consult with the OAHF regarding significance if archaeological resources are identified that may be significant.

Task 3. Field Reconnaissance. A systematic field reconnaissance would be conducted in the "Triangle" to identify previously recorded and/or unrecorded archaeological sites in the proposed project area. Field reconnaissance would consist of the traverse of pedestrian transects at varying intervals, depending on terrain throughout the proposed project area. Limited shovel probes (digging a hole with a shovel) would be conducted in areas with no surface exposure and/or areas with a high probability for archaeological resources.

All new sites would be mapped, photographed, and recorded on Washington State Archaeological Inventory forms and submitted to the OAHF for Smithsonian numbers. Rights of entry would be provided by the City of Gig Harbor and a letter of authorization provided to the field archaeologist prior to field reconnaissance. If project site boundaries are not readily identifiable, knowledgeable personnel will meet with the LAAS archaeologist on-site to clarify project boundaries.

Task 4. Technical Report Preparation. A technical report would be prepared, describing cultural resources identified in the project area, which adheres to the standards for reporting suggested by the State Office of Archaeology and Historic Preservation. The report would include summary background information appropriate to a cultural resources assessment of the project area, including a discussion of tribal and agency consultation, environment, previous cultural resources studies, ethnography/ ethnohistory, and history; methodology and results of the investigation, and a map of located archaeological sites located in the literature.

Recommendations would be extended for any archaeological sites that may be eligible for listing on the National Register of Historic Places. Recommendations may also be included for monitoring excavation. Recommendations would also be extended for Areas 1, 2, and 3, if the overview indicates field reconnaissance should be conducted.

Schedule: The technical report will be submitted to the City of Gig Harbor Public Works forty-five days from notice to proceed provided rights of entry are in place within 15 days of notice to proceed.

Larson Anthropological Archaeological Services Limited						
1-November-2001						
Donkey Creek Park Archaeological Overview and Assessment-City of Gig Harbor Public Works						
LABOR TASKS	PERSONNEL				Total Hours	COSTS
	Principal	Proj. Director	Research Archaeologist	Graphics/WP		
Task 1: Archival and literature review	2	8	24	0	34	
Task 2: Tribal and Agency Consultation	2	0	4	0	6	
Task 3: Field Reconnaissance	2	8	0	0	10	
Task 4: Technical Report Preparation	12	56	32	32	132	
Total Hours	18	72	60	32	182	
Billing Rate	\$84.68	\$37.08	\$41.19	\$31.44		
Total Labor Costs	\$1,524.24	\$2,669.76	\$2,471.40	\$1,006.08		\$7,671.48
Expenses Billed To Cost						
Mileage, 100 miles @ \$.345/mile	\$34.50					
Correspondence	\$25.00					
Photocopy	\$50.00					
Maps	\$25.00					
Film; processing	\$50.00					
Supplies	\$25.00					
Report Production	\$75.00					
Total Expenses	\$284.50					
TOTAL COSTS						\$7,955.98



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP,
DIRECTOR, PLANNING AND BUILDING SERVICES
SUBJECT: CONSULTANT SERVICES CONTRACT - APPRAISAL OF SCOFIELD
PROPERTY - STRICKLAND HEISCHMAN & HOSS, INC.
DATE: DECEMBER 10, 2001

INFORMATION/BACKGROUND

In preparation for purchase of the Scofield Tidelands, the City of Gig Harbor is contracting with Strickland, Heischman & Hoss, Inc. for an independent appraisal of the property.

POLICY CONSIDERATIONS

An independent appraisal is standard procedure for purchases of property.

FISCAL CONSIDERATIONS

Sufficient funds are budgeted in the approved 2002 Budget for the provision of these services. These costs will not exceed \$6,500.00

RECOMMENDATION

Planning Department staff recommends approval of the contract with Strickland, Heischman Hoss, Inc., to provide professional appraisal services, at a cost of \$6,500.00 as detailed in the attached contract.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
STRICKLAND HEISCHMAN & HOSS INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Strickland Heischman & Hoss Inc., a corporation organized under the laws of the State of Washington, located and doing business at 3551 Bridgeport Way West, Tacoma, Washington (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently planning the purchase of the "Scofield Tidelands" for the purposes of creating a public park, and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated November 29, 2001, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Six thousand five hundred dollars (\$6,500.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant shall not bill at a rate that exceeds the amount stated above, unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit an invoice to the City after such services have been performed, and upon completion of the services described in this Agreement. The City shall pay the

full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed within 45 days of execution of this contract; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to one consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been

terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in

connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in

the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Director of Planning and Building Services and the City shall determine the term or provision's true intent or meaning. The City Director of Planning and Building Services shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Director of Planning and Building Services's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT
Fred Strickland
Strickland Heischman & Hoss Inc.
3551 Bridgeport Way West
Tacoma, Washington 98466
(253) 564-3230

John P. Vodopich, AICP
Director of Planning and Building Svcs.
City of Gig Harbor
3125 Judson Street
Gig Harbor, Washington 98335
(253) 851-4278

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 4th day of December, 2001.

By: [Signature]
CONSULTANT
Its Principal

CITY OF GIG HARBOR
By: _____
Mayor

Notices to be sent to:
CONSULTANT
Fred Strickland
Strickland Heischman & Hoss Inc.
3551 Bridgeport Way West
Tacoma, Washington 98466
(253) 564-3230

John P. Vodopich, AICP
Director of Planning and Building Svcs.
City of Gig Harbor
3125 Judson Street
Gig Harbor, Washington 98335
(253) 851-4278

APPROVED AS TO FORM:

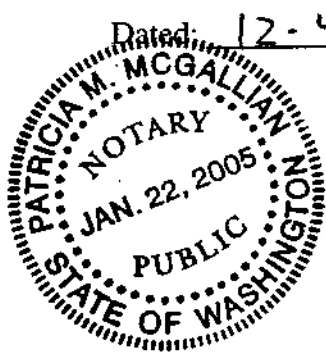
City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Fred Strickland is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the President of Strickland Heischman & Hoss Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Patricia M. McGallian
Patricia M. McGallian

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:
Olalla, WA

My Commission expires: 1-22-2005

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Gretchen A. Wilbert is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

Exhibit 'A'

Scope of Work

A complete, summary, MAI Certified appraisal of tax parcels 0221064043 and 0221064039, know as the "Scofield Property", located next to 4021 Harborview Dr, providing market value of this land.

Three sets of said appraisal will be provided to the City of Gig Harbor.



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING AND BUILDING SERVICES
SUBJECT: CONSULTANT SERVICES CONTRACT - ENVIRONMENTAL
ASSESSMENT LEVEL 1 SURVEY - NOWICKI AND ASSOCIATES
DATE: DECEMBER 10, 2001

INFORMATION/BACKGROUND

Prior to purchase of the Scofield Tideland property, an independent environmental analysis must be conducted to provide the appraiser with sufficient information for his work. As part of the contract, Nowicki and Associates will make a recommendation as to whether or not a Level II analysis must be undertaken. If that is necessary, it will be under separate contract, and would provide a set of clean up alternatives.

FISCAL CONSIDERATIONS

Sufficient funds are budgeted in the approved 2002 Budget for the provision of these services. These costs will not exceed \$2,010.00.

RECOMMENDATION

Planning Department staff recommends approval of the contract with Nowicki and Associates, Energy and Environmental Management, to provide professional environmental review services, at a cost of \$2,010.00 as detailed in the attached contract.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
NOWICKI & ASSOCIATES, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Nowicki & Associates, a corporation organized under the laws of the State of Washington, located and doing business at 33516 9th Avenue South, Building #6, Federal Way, Washington, 98003 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the purchase of property known as the "Scofield Tidelands", and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated November 26, 2001, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A - Scope of Services**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed two thousand ten dollars and no cents (\$2010.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit A - Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill at rates in excess of the hourly rates shown in **Exhibit A**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen

(15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. . The parties agree that the work described in **Exhibit A** shall be completed within 45 days of execution of this contract; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to one consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as

modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II (A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Director of Planning and Building Services and the City shall determine the term or provision's true intent or meaning. The City Director of Planning and Building Services shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Director of Planning and Building Services' determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT
Walt Pich
Nowicki & Associates
3316 9th Avenue S., Bldg. 8
Federal Way, WA 98003
(253) 924-0323

John P. Vodopich, AICP
Director of Planning and Building Svcs.
City of Gig Harbor
3125 Judson Street
Gig Harbor, Washington 98335
(253) 851-4278

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

Dec-03-01 03:15P

P. 08

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2001.

By: CONSULTANT
WCP
~~Principal~~ **PROJECT MANAGER**

Notices to be sent to:
CONSULTANT
Wait Pich
Nowicki & Associates
3316 9th Avenue S., Bldg. 8
Federal Way, WA 98003
(253) 924-0323

By: CITY OF GIG HARBOR
Mayor

John P. Vodopich, AICP
Director of Planning and Building Svcs.
City of Gig Harbor
3125 Judson Street
Gig Harbor, Washington 98335
(253) 851-4278

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Walt Pich is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Project Manager of Nowicki & Associates, Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Gretchen A. Wilbert is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

EXHIBIT "A"



November 26th, 2001

Patricia Iolavera (Senior Planner)
 The City of Gig Harbor
 3105 Judson Street
 Gig Harbor, WA 98335
 (253) 851-4278 - phone (253) 851-8563 - fax

NOV 27 2001
 City of Gig Harbor

re: Level I Environmental Site Assessment
 Scofield Tidelands
 Parcel ID # 0221064043 = approximately 7 acres of tidelands
 Parcel ID # 0221064039 = approximately 0.81 acres of uplands
 Adjacent to 4021 Harborview Drive
 T21N, R2E, S6 NEQ SEQ Gig Harbor, WA, Pierce County

LEVEL I ENVIRONMENTAL SITE ASSESSMENT

-intransit and inspection time, 6 hours @ \$70/hour =	\$420
-interviews, research and analysis, 10 hours =	\$700
-Vista, Starview government database scan including UST, LUST, Haz Mat, SWLF, CERCLIS, RCRIS, ERNS, SCL, and NPL (13 total files) + individual analyses of each site as it relates to the subject property, including Conan site, 8 hours =	\$560
-miscellaneous materials and supplies including topo- graphic quadrangles, plat maps, assessor maps, his- toric aerial photos & photo site documentation =	\$120
-report preparation, 3 hours =	<u>\$210</u>
ESA Total	\$2010

The project should be completed approximately 10 working days after receipt of written authorization.

Walt Pich
 Project Manager

The undersigned authorizes Nowicki & Associates Inc to complete this project.

endorsement

date

33516 9th Avenue South
 Building #6
 Federal Way, Washington 98003
 Phone: (253) 927-5211
 Fax: (253) 924-0323

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE:12/03/01

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 20020228

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 GLENN JR, NOLAN F GLENN, KYONG SUE	THE GREEN TURTLE 2905 HARBORVIEW DR GIG HARBOR WA 98335 0000	078190	BEER/WINE REST - BEER/WINE
2 WAMBOLD, MARK HENRY WAMBOLD, KYONG MI	MARCO'S RESTAURANT 7707 PIONEER WAY GIG HARBOR WA 98335 1132	074950	BEER/WINE REST - BEER/WINE OFF PREMISES

RECEIVED
DEC - 2001
CITY OF GIG HARBOR



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: DAVID BRERETON, INTERIM PUBLIC WORKS DIRECTOR *Dave*
MARK HOPPEN, CITY ADMINSTRATOR
SUBJECT: ORDINANCE FOR ERICKSON STREET VACATION
- SECOND READING
DATE: DECEMBER 6, 2001

INTRODUCTION/BACKGROUND

A second reading was held on November 26, 2001 for the proposed vacation of the public vehicular easement for Erickson Street, which lies between McDonald Avenue and Soundview Drive. The decision was tabled because an easement issue had not been resolved. City Attorney Carol Morris advised the Council that this street vacation ordinance should not be adopted until the property owners in Spinnaker Ride have granted an easement to the abutting property owner who will be without access if Erickson Street is vacated.

The Spinnaker Ridge Homeowners Association wishes to table the decision on this ordinance until January 14, 2001.

FISCAL CONSIDERATIONS

Because the City currently has no plans for improvements to Erickson Street, this vacation will have no fiscal impact on the City's future budgets. However, the City will not need to include Erickson Street in its general maintenance and street operation activities, so the City's costs will be reduced accordingly.

RECOMMENDATIONS

Staff recommends the existing ordinance, as presented or as amended, be approved by the City Council at the second reading.



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND GIG HARBOR CITY COUNCIL
FROM: PATRICIA IOLAVERA, SENIOR PLANNER
SUBJECT: CLOSED RECORD APPEAL – DENTON BED AND BREAKFAST
CONDITIONAL USE PERMIT AND FRONT SETBACK
VARIANCE (CUP 01-05 AND VAR 01-07)
DATE: DECEMBER 10, 2001

INTRODUCTION

A timely appeal has been received of the Hearing Examiner's decision on a conditional use permit to operate a bed and breakfast in a single-family home, and a front setback variance to allow construction of a garage and front entrance. The applicants will continue to reside at this address. Such appeals are handled through the closed record appeal process outlined in Gig Harbor Municipal Code chapter 19.06.

BACKGROUND

On May 29, 2001, Steve and Janis Denton submitted an application for a Conditional Use Permit for a bed and breakfast located at 9017 N. Harborview (near Peacock Hill) on the waterside of the street, just north of Anthony's Shorline Restaurant and across from a hair salon. The home is a craftsman style house on a shallow lot that sits substantially below the street. The traditional porch of the home faces the water. Currently, parking is provided between the street and the house, is accessed via a drive that curves down off the street. The Dentons are proposing to construct a two story addition including a lower story garage in the location of their existing parking area, which will require a front setback variance. The upper story will be a few steps down from the street and create a new entrance to the home, which currently turns its back to the street. The conditional use permit is for the operation of a bed and breakfast, and the variance is for the required front yard setback.

The GHDM has certain requirements for height that exceed the normal zoning performance standards. The Dentons wanted to raise their house to replace the foundation and create a usable basement, and in doing so a single wall plane would reach 30 feet, although the overall structure did not exceed the height limit. The GHDM requires structures to "Incorporate characteristic roof lines and massing into residential structures" on page 85. This requirement forbids any part of the structure from exceeding 27 feet in height. The DRB approved the portion of the submitted design on August 20, 2001 (DRB 01-09), that would allow the existing structure to be raised on its foundation creating one wall plane of 30 feet. There was no appeal of the DRB decision. This decision was independent of the application for a conditional use permit or variance.

GHMC section 17.98.020 states "In those cases where the design manual is found to be in conflict with performance standards of the zoning code, the standards in the design manual shall prevail".

Staff determined that only the request to exceed the 27' limitation for a single plane would be decided by the DRB, since the code in question was exclusively regulated in the GHDM. Initially it was determined that the DRB might also decide the front setback variance, but that issue was later withdrawn from the DRB and reassigned to the hearing examiner since the zoning code sets limitations for setbacks (see GHMC 17.98.060(A) above). The issue had briefly come before the DRB who requested the Dentons erect a "shadow structure" so that they could see how the building would appear in the setback. The issue was withdrawn from the DRB prior to their next meeting, but not before the Dentons had erected the "shadow structure".

The reasoning for moving the decision to the hearing examiner is as follows. GHMC section 17.98.060(A) (regarding design variances) states "Variances from the requirements of the design manual may be granted by the DRB as a Type II application, except that variances affecting height and setbacks which exceed the limitations established in GHMC 17.66.020(A) must be reviewed by the hearing examiner as per the Type III general variance procedures established in GHMC 17.66.030." Under the zoning code for Waterfront Residential (WR) the front setback is 20 feet. The GHDM establishes a setback for garages at 26 feet. Since the request was to place the structure inside the 20 foot limitation under the zoning code, we deferred to the higher decision making authority. However, the hearing examiner did consider the requirements of the GHDM in making his determination on the setback variance.

The Hearing Examiner held a public hearing on the CUP and Variance applications on September 11, 2001, utilizing the criteria for approval of conditional use permits at GHMC 17.64 and variance criteria at GHMC 17.66, and issued a final decision granting the CUP and variance with certain conditions, on October 3, 2001. Planning staff recommended approval of the Conditional Use Permit (CUP 01-05) for the Bed and Breakfast, and of the front setback variance (VAR 01-07). On October 17, 2001, the City received a timely appeal of the Conditional Use Permit from Greg Hoeksema, a resident of the neighborhood.

Mr. Hoeksema's appeal is enclosed. His appeals details how the proposal by the Denton's exceeds the requirements of the City of Gig Harbor Design Manual. The Denton's have requested a variance from the setback requirements precisely because their proposal does exceed the requirements of the manual. However, staff, the hearing examiner, and now the council must consider what the specific criteria for a conditional use permit is, what the specific criteria for a front set back variance is, and how this application meets those criteria.

Note: An error on the zoning map led to misidentification of the triangular property across the street from the Dentons, on the northwest corner of the intersection of Peacock Hill and North Harborview, as Low Density Residential (R-1) instead of the correct zoning of Residential Business 1 (RB-1).

ADMINISTRATIVE RECORD

The entire administrative record is available for review by the Council at the Planning and

Building Department Office. The following documents have been attached to the Council packet for your convenience: (1) the Staff Report (September 11, 2001); (2) Hearing Examiner's decision (October 3, 2001); (3) A letter from the Dentons (August 27, 2001); (4) Appeal Statement from Greg Hoeksema (October 17, 2001); and (5) Response from Dentons is expected to be included on in your packet, but was not yet received at this writing (November 20, 2001).

APPEAL ISSUES

The appellant has identified the following appeal issues, which were raised at the Hearing Examiner's open record hearing and addressed in the Hearing Examiner's decision. (Note: In interpreting the City of Gig Harbor Design Manual, the **bold and underlined** portions are specific requirements that allow for administrative review by staff, the normal text following bold and underlined portions, are the general requirements which the DRB uses as guidance, though they may waive specific requirements if a superior design is offered).

Appeal Issue 1. Page 90 of the City of Gig Harbor Design Manual (GHDM) indicates that garages should not exceed 24x24 feet. The proposed Denton Plan exceeds this limitation.

Staff Response:

Applicable Zoning Code provision: the GHDM states the following at page 90:

6. **Consider incentives to locate residential garages behind the house.** *To encourage garages in back yards, garages may be located in the defined side and rear yards provided they meet the following criteria for special exceptions.*
 - a. *The garage is placed at least 6 feet behind the house (a breezeway may connect the garage to the house).*
 - b. *The garage is at least three feet from the side and rear property lines.*
 - c. *The size of the garage does not exceed 24X24 feet.*
 - d. *The height of the garage is limited to 12 feet above the highest point of natural grade along the front (vehicular entrance) wall of the garage.*

General Response: Section 6 above states that applicants should "Consider" these incentives to locate the garage behind the house. This is not a GHDM requirement, but part of an incentive program and the Dentons have no backyard in which to place their garage. The design manual does not otherwise regulate the size of garages. Page 91 of the GHDM states the following:

1. **De-emphasize garage.** *Where it is not possible to located garages behind the main structure, it is possible to de-emphasize the garage by giving visual emphasis to design elements which reflect human activity and enclosure. Choose one of the following options.*
 - a. **Recess garage entrances** – *Recess garage doors at least 6 feet back of the front façade of the main structure.*
 - b. **Emphasize windows and porches** – *Provide windows in gables or dormers above the garage doors along with front porches, which emphasize the front entries.*
2. **Emphasize front Entry.** *Front porches can be used to emphasize the front entry. When there is no front porch or when a front porch is not an obvious or prominent feature of the house design, the front door must be oriented so that is directly faces*

the street and must be of a color which contrasts the building's field color.

The Dentons design places the garage at the front of the house, and creates a second story gabled entrance, subject to the variance, which creates a front entrance to the house. The garage is entered at a side entrance, below grade, and via the existing driveway. The Denton design improves de-emphasizes the garage by place the entrance on the side and below grade, and emphasizes the front entry by placing the second story entrance just off the street, thus turning the house back to the street.

Reference in Record: This specific GHDM reference was not addressed during the open record hearing before the HEX, and is not addressed in his decision.

Appeal Issue 2. Page 85 of the GHDM states "One of the most characteristic design features of Gig Harbor's historic area is the small scale and simple mass of the older houses... Garages are set back of the main structure so that the emphasis is on human habitation rather than vehicular enclosure. These elements of design have been reversed on newer homes ... The front porch has largely been replaced by front garages, with the garage often appearing larger than the house. These trends have significantly altered the visual charater of the view basin and have decreased the width of view corridors between homes". Further, page 98 of GHDM states "Historic structures in the Historic District of Gig Harbor make a significant and important contribution to the visual character of the harbor basin...(to) preserve integrity of original stucture's form, historic structures may not be 'buried' behind additions and alterations." Clearly, the Denton's plan requiring the variance is in direct conflict with all of these very specific unambiguous design restrictions.

Staff Response:

Applicable Zoning Code provision: The applicant has not quoted the full text of these sections of the design manual which lend clarity and context to the manual's intent.

Pg. 85

Massing and Setbacks: (intent)

One of the most characteristic design features of Gig Harbor's historic area is the small scale and simple mass of the older houses. These homes are of modest widths, being deeper than they are wide, and include steep pitched roofs with the narrow ends of the roofs facing the street. Historic homes are also characterized by front porches placed near the street. Garages are set back of the main structures so that the emphasis from the street is on human habitation rather than vehicular enclosure.

These elements of design have been reversed on newer homes. Most homes built since the 1950's are characterized by horizontal dimensions with low slung roof planes oriented to the road. The front porch has largely been replaced by front garages, with the garage often appearing larger than the house. These trends have significantly altered the visual character of the view basin and have decreased the width of view corridors between homes. To preserve views and

also to allow structures with basic historic proportions, the following standards shall be observed.

The massing and design of this addition complement the craftsman style of the architecture. The Denton's home is more than 50 years old and as such is "historic" under the GHDM. The Denton's home is not the salt box of the Millville district described above, it has a roofline characteristic of a craftsman home, both in pitch, and in the direction of the run, which is parallel to the road. The proposed addition will provide a gabled intersecting roofline, will siding and details that match the original materials, and whose architecture is of distinctly craftsman styling. The addition is centered at the front, and does not encroach into the side yard setbacks, thus preserving the majority of the views. Again, the rooms above, provide a new front entrance to the house and the garage is recessed below the street grade and in no way dominate the front entrance. Cars have traditionally been parked in this area as it is the only available area to park in on this lot.

The appellant also quotes from page 98 of the GHDM, again, dropping informative text.

Historic structures in the Historic District of Gig Harbor make a significant and important contribution to the visual character of the harbor basin. The City encourages the retention, preservation and where necessary, the restoration of it (sic) existing historic structures. The following standards shall apply to all structures 50 years or older.

1. Preserve integrity of original structure's form. *Historic structures may not be 'buried' behind additions and alterations. Additions to historic buildings must be stepped from the original structure so that the original design remains prominent and discernable.*

This section of the manual does not forbid additions. There are four additional specific requirements described on page 98 of the GHDM that speak to maintaining original window pattern and design, maintaining prominent and characteristic design features of (the) original building, continuing the siding and trim onto additions, and considering the DRB review for historic remodels. Staff believes that the addition offers a design solution that complements the original craftsman design in these ways, and offers features that increase the structures compliance with other design manual goals.

Reference in Record: This argument was addressed in the Hearing Examiner's decision at page 5.

Appeal Issue 3. The proposed design does not respect the natural topography of the lot.

Staff Response:

Applicable Code Provisions. Page 62 of the Design Manual under general regulations –

4. Respect natural topography. *Buildings shall be designed to fit natural slopes rather*

than forcing the slope to fit a particular building design. Avoid cuts and fills by developing designs which compliment (sic) and take advantage of natural topography. Sloped lots may require terraced parking lots and multi-level buildings designed to follow the slope. Sloped lots can be particularly well-suited for lower level parking garages.

General Staff Response. This requirement applies only to commercial and multifamily development (see page 61 where this section begins). Nonetheless, the Dentons design has done exactly what is described in the remaining text under this requirement. They are avoiding cut and fill, proposing terraced parking with a lower level garage, and they are following the slope of their lot.

References in Administrative Record:

Appeal Issue 4. The planning department required the Dentons to place sticks and strings to permit an accurate assessment of the impact of the proposed garage. However, at no time while they were erected was there any public notification posted regarding the dated of the hearing for the variance request, which is inconsistent with the usual requirements for public notification. Furthermore, as indicated by Ms. Linda Gair in enclosure (1), "the view corridors are completely blocked off. One of the goals of the Design Review is to prevent this from happening. Views are public assets and should not be traded or replaced by 'better design' ideas... As I see it the goal of requested variances has to do with maximizing the commercial potential of this residence – not better design".

Applicable Code Provision. GHDM Pages 85-86

- b) *Maximum height. Each residential lot is allowed a building height of up to 18 feet from any point at the setback line, provided that no portion of the structure exceeds 27 feet above natural grade. Notwithstanding, the DRB may approve one BASIC STRUCTURE measuring 25 X 40 X 27 feet high to be incorporated into the building design DRB approval shall be based upon the following criteria:*
- i. *The height of the basic structure shall be measured from the lowest elevation point at the setback lines. Height shall be measured from natural grade.*
 - ii. *The ridge of basic structure shall be perpendicular to the shoreline or "point" to a significant view.*
 - iii. *No structures other than chimney shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge unless it is with in the underlying 18-foot height envelope.*
 - iv. *The minimum roof pitch is 8/12. Equal pitches are used on the remaining portion of the house.*
 - v. *The basic structure shall be located to provide maximum view corridors between structures and shall be demarcated on site with string, balloons, rods or similar items which can physically show the location and height of the Basic Structure. This demarcation shall remain on the site for at least*

two weeks beyond the date of mailed notice to abutting property owners to allow them to inspect said demarcation.

vi. *All other setback and height requirements are complied with*

General Staff Response The proposed project **does not exceed the actual height limits** in this district. The design went before the board because an existing wall plane exceeded the 27 foot limit for a single wall plane. The DRB was then asked to review the structure for the setback variance. At that time, the DRB asked the Dentons to go home, and put up a framework to demarcate where the addition would be within the setback, so they could look at that issue. There is no specific requirement to use demarcation and a mailing for setback variances. While this structure was in place, a staff reviewed the code regarding design variances and determined that the variance would have to go before the Hearing Examiner instead of the Design Review Board. At that time the entire issue was aborted. Staff feels that procedures were adequately followed under the circumstances, in that there was no requirement to demarcate on a variance, and further that the hearing body that required the procedure withdrew as the hearing body.

References in Administrative Record:

Appeal Issue 5. The Hearing examiner acknowledged on page four of his decision that “The established character of the surrounding neighborhood is an important asset to the City and its waterfront districts: However, I aver that he erroneously concluded that “the applicants plans... will serve to ensure that the proposed addition maintains the character of the surrounding neighborhood.” As outlined in 1 through 4 above (the first four appeal issues), the plan is not consistent with either the specifics or spirit of the comprehensive plan and absolutely will change the character of one of the most beautiful blocks of water view corridors surrounding the harbor. In this regard, the Dentons did not meet the requirements of section 17.66.020 of the GHMC that states, “the variance will not compromise the intent of the comprehensive plan nor be inconsistent with the goals, policies and objectives of the comprehensive plan.” The hearing examiner stated on page 6 that I “correctly noted that other properties in the WR District are burdened by the same ‘special conditions and circumstances’ as the Denton’s property.” A specific requirement to be met for a variance to be granted is for the Denton’s to have such limitations “not applicable to other land in the same district...” Furthermore, he agreed with my “eloquent” argument against setting a modern precedent allowing agarages within the front setback in the WR district...”. He erroneously concluded without fact that “on this record, however, the modern precedent had already been set prior to submission of this application” and that “the applicants have satisfied this review criterion”. There was no evidence presented at the hearing to support this conclusion, and in fact, I am not aware that any variance has been granted for an obtrusive, oversized garage structure that encroaches 17 feet into the required setback in the immediate area since the adoption of the City of Gig Harbor Design Manual on August 6, 1996.

Applicable Code Provision. Staff believes that the appellant intended to reference GHMC 17.66.030 (general variances), rather than 17.66.020 (administrative variances).

General Staff Response.

The appellant references his prior arguments (Appeal Issues 1 – 4) as evidence of not addressing the Comprehensive Plan, however, those arguments cite the Design Manual, not the Comprehensive Plan. The Hearing Examiner has addressed the criteria for a general variance under 17.66.030 and has made his findings and approved this variance request. I refer Council to his decision, and the original staff report for our respective findings in support of approval of the variance.

Additionally, in reviewing the GHDM for this appeal, staff would add the following code in order further substantiate the requested variance. On page 12 of the GHDM, North Harborview/Verhardson (All of North Harborview Drive and extending to City Park along Verhardson Street) is identified as a Parkway. The Denton's property is located on this Parkway. On page 13 the following requirement is set.

Parkway Standards – Parcel development: The following standards apply to all parcels having frontage on designated parkways.

1. Maintain established parkway setbacks.

Parkway setbacks shall be within 20% of the average of established setbacks on both sides of the subject parcel. Where there is no existing development, the code-required setback shall be considered the established setback.

References in Administrative Record: Letter from Steve and Janis Denton dated August 27, 2001 detailing neighboring setbacks, Hearing Examiner's Decision dated October, 3, 2001 detailing compliance with variance criteria.

Appeal Issue 6. The Dentons purchased their property in June 2001. They testified at the hearing that they should have done more research about their plans prior to their purchase. Again, GHMC 17.66.020 states "the need for the variance is not the result of the deliberate actions of the applicant or property owner." The lack of due diligence on the part of the Dentons is a result of their own action vis-à-vis the need for a variance to support their request for a conditional use permit to use their property for a bed and breakfast. GHMC requires that granting of a variance "is the minimum variance that will make possible the reasonable use of the land". Without the conditional use permit or the variance, the Dentons already have reasonable use of the land as a single family home, and may have room for an unobtrusive single car garage built to scale of the home and not in violation of the GHDM and not requiring a variance. The hearing examiner erroneously concluded that this criterion had been met.

Applicable Code Provision. Again, staff believes that the appellant intended to reference GHMC 17.66.030 (general variances), rather than 17.66.020 (administrative variances), however the criterion is similar.

General Staff Response

Staff continues to maintain that the steep slope of this parcel, coupled with the shallow depth, bordering on the tide lands, constrain the opportunities for a garage. The proposed garage offers what staff believes are design improvements in accordance with the design manual.

RECOMMENDATION:

Staff recommends affirmation of the Hearing Examiner's October 3, 2001 decision granting CUP (01-01) and VAE (01-07).

**STAFF REPORT AND RECOMMENDATION
TO THE CITY OF GIG HARBOR HEARING EXAMINER**

CONDITIONAL USE PERMIT CUP 01-05 AND VARIANCE VAR 01-07
September 11, 2001

PART 1 – GENERAL INFORMATION

- A. **APPLICANT:** Janis and Steve Denton,
9017 N. Harborview
Gig Harbor, WA 98332
- B. **OWNER** Janis and Steve Denton,
9017 N. Harborview
Gig Harbor, WA 98332
- C. **AGENT** Janis and Steve Denton,
9017 N. Harborview
Gig Harbor, WA 98332
- D. **PROJECT DESCRIPTION/BACKGROUND INFORMATION**
Application for a Conditional Use Permit (CUP 01-05) to
allow a Bed and Breakfast in a single family home in the
Waterfront Residential District at 9017 N. Harborview.
- E. **PROPERTY DESCRIPTION**
- 1) **Location**
- a) **Address:** 9017 N. Harborview, Gig Harbor, WA
- b) **Legal:**
- c) **Tax Parcel Number:** 2260000731
- 2) **Site Area/Acreage** Parcel size .21 acres
- 3) **General Physical Characteristics:**
- i. **Soil Type:** Harstine gravelly sandy loam
- ii. **Slope:** 5 – 20%

- iii. Drainage: toward bay.
- iv. Vegetation: domestic vegetation

F. SURROUNDING LAND USE/ZONING:

- i. Site: WR – Waterfront Residential
- ii. West: WR – Waterfront Residential
- iii. East: DB – WR – Waterfront Residential
- iv. North: R-1 Residential (Hair Salon)
- v. South: Gig Harbor Bay

G. UTILITIES/STREET ACCESS: The parcel is served by City sewer and water and is accessed from North Harborview Drive – a public street.

H. PUBLIC NOTICE

Public notice was provided as required pursuant to Section 19.03.003 as follows:

- Publication of legal notice in the Peninsula Gateway newspaper on July 27, 2001
- Continued to time and place specific by Hearing Examiner Wednesday, August 15.
- Mailed to property owners of record within three hundred feet of the site on August 24, 2001.
- Posted on site by the applicant.

PART II: PROJECT ANALYSIS

A. AGENCY REVIEW /COMMENTS

1) Public Comments Received:

No written comments were received. Mr. And Mrs. Sherman, 9021 N. Harborview Dr., and Mr. Greg Hoeksema, 9105 Peacock Hill Avenue, have requested to be listed as parties of record.

B. CONSISTENCY WITH APPLICABLE LAND USE POLICIES AND CODES

1) City of Gig Harbor Comprehensive Plan:

Goal: Increase local economic opportunities.

- 10) Provide reasonable guidelines and standards for the siting of home-based businesses (home occupations) in residential neighborhoods. Insure that home-based businesses do not alter or impact the residential character of neighborhoods.

Goal: Identify, preserve, and develop appropriate waterfront architecture.

2) City of Gig Harbor Zoning Code (Title 17 GHMC)

The City of Gig Harbor Zoning Code includes the following relevant sections.

A. 17.04 Definitions:

17.04.103 – "Bed and Breakfast" means a single-family residence which provides overnight lodging for guests and which is limited to five guest rooms.

B. 17.46 Waterfront Residential (WR)

17.46.010 – Intent

This district recognizes those areas of the shoreline that are characterized by single-family residences. It is intended that development occur that is respectful of the shoreline and surrounding properties while permitting a limited mix of residential structure types.

17.46.030 – Conditional Uses

Subject to the requirements, standards and procedures for conditional uses set forth in Chapter 17.64 GHMC, the following uses may be permitted in a waterfront residential district:

...C. Bed and breakfast establishments.

17.46.040 Development standards

A minimum lot area for new subdivisions is not specified. The minimum lot requirements are as follows:

...C. Minimum Front Yard	20'
D. Minimum Side Yard	10'

17.46.070 – Parking and loading facilities

In a waterfront residential district, parking and loading facilities on private property shall be provided in connection with any permitted or conditional use as specified in Chapter 17.72 GHMC.

C. 17.64 – Conditional Uses

17.64.040 – Review Criteria

Each determination granting or denying a conditional use permit shall be supported by written findings of fact showing specifically wherein all of the following conditions are met:

- A. That the use which the conditional use permit is applied for is specified by this title as being conditionally permitted within, and is consistent with the description and purpose of the zone district in which the property is located;
- B. That the granting of such conditional use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and/or zone in which the property is located;
- C. That the proposed use is properly located in relation to the other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;
- D. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, landscaping and other such features as are required by this title or as needed in the opinion of the examiner.

D. 17.66 – Variances, Interpretations, Appeals

17.66.010 Intent. This chapter is intended to provide review procedures and criteria for those special situations where the dimensional, bulk or spacing provisions of this title may be relaxed. Variances are not intended to be used as a means of circumventing individually inconvenient regulations.

17.66.030 General Variances.

B. Before any variance can be granted the, the examiner shall make findings of fact setting forth and showing that the following circumstances exist:

1. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district;
2. Special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other land in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title;

3. The special conditions and circumstances do not result from the actions of the applicant;
4. Granting of the variance requested will not confer a special privilege that is denied other lands in the same district;
5. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
6. The hearing examiner shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land;
7. The decision of the hearing examiner shall be final. Appeals of the examiner's decision may be made to the city council in accordance with the appeal procedures established under GHMC 17.10.160.

E. 17.72 – Off-Street Parking and Loading Requirements

17.72.030 – Number of off-street parking spaces required.

- N. For hotels and motels, one and one-quarter off-street parking spaces for each room to rent.
- S. For any other use not specifically mentioned or provided for, the planning director shall determine the standards to be applied for parking using as a guide the uses listed above that most closely resemble the uses proposed;

3) City of Gig Harbor Shoreline Master Plan

3.13 Parking

Policies:

- 1) Parking facilities should not extend over the surface of Gig Harbor, nor interfere with any views to or from the water's surface.
- 2) ...
- 3) Parking facilities should be appropriately screened, landscaped, and maintained so as not to have detrimental aesthetic effects on their surroundings.
- 4) Surface drainage from parking facilities should not adversely affect the water quality of Gig Harbor.
- 5) Parking lot surfaces should be constructed to minimize erosion and siltation of materials into Gig Harbor Bay.
- 6) Common parking areas are encouraged between uses.

Regulations:

- 1) Parking facilities shall be designed, screened, and landscaped in accordance with the landscaping standards for the underlying zoning district to minimize adverse effects on the shoreline area of the City of Gig Harbor.
- 2) Pedestrian access walkways shall be provided between upland parking areas and the site which they serve.

3.15 – Residential Development

Residential Development consists of the construction of single and multiple-family residences, including the act of subdividing property. Single-family residences on individual lots are exempt from obtaining a Shoreline Substantial Development Permit, but are nonetheless required to meet the following policies and regulations.

7) City of Gig Harbor Design Manual

PART III: FINDINGS AND CONCLUSIONS

1. The Denton's have a single family, craftsman style home in the Waterfront Residential (WR) district. They have applied for a conditional use permit (CUP) for a bed and breakfast, and a variance (VAR) to allow them to construct a garage that extends 11' into the required 20' setback from the road that will allow them to construct a 3-car garage with rooms above. Those rooms include a B&B room, a family guest room, and a bonus room nearest the street. An entrance is proposed from the bonus room, into the house.
2. The project is within the allowed 40% impervious surfaces.
3. A **Shoreline Substantial Development Permit Exemption** has been issued by the Director of Planning and Building Services.
4. **Conditional Use Permits** must meet the following requirements:
 - A. That the use which the conditional use permit is applied for is specified by this title as being conditionally permitted within, and is consistent with the description and purpose of the zone district in which the property is located;

A Bed and Breakfast is a conditional use in the WR zoning district.

- B. That the granting of such conditional use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare,

will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and/or zone in which the property is located;

This use will not be detrimental to the public health, safety, comfort, convenience and general welfare and will have no impact on the established character of the surrounding neighborhood. The proposed use will have the effect of preserving an existing craftsman style home along the waterfront, which is part of the historic district as defined in the City of Gig Harbor Design Manual.

- C. That the proposed use is properly located in relation to the other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;

The proposed use is separated from on of the main commercial districts by two houses and a condominium complex. There is a hair salon in the R-1 zoned house across the street. This is an excellent location for a Bed and Breakfast as it is on the water and will increase public enjoyment of our shorelines, and provide tourists with accommodations from which they may walk to the attractions along the Gig Harbor Waterfron.

- D. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, landscaping and other such features as are required by this title or as needed in the opinion of the examiner.

The proposal is for a 4-unit B&B in a single family home. Assuming two parking places for the home and five for the B&B at $1.25 \times 4 = 5$, total parking requirements are 7 spaces. The proponents plans show 8 parking spaces. However, the space labled "Parking 4" is only 72 SF which does not meet the requirements of the Gig Harbor Municipal Code (8x18' per 17.72.020) and therefore cannot be permitted. A landscaping plan must be provided showing that the parking will be properly landscaped, and the parking spots are properly lined and of sufficient size

- 4) The applicants have requested an 11 foot variance on the 20' required front yard setback to accommodate a three car garage with rooms above. Their proposal meets the requirements for a variance in the following ways:

- a. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district;

Though this application involves a conditional use permit for a use conditionally allowed in the zone, the variance has little to do with that issue. Staff believes it does not amount to a rezone nor will the setback variance authorize any use not allowed in the district.

- b. Special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other land in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title;

The lot slopes steeply toward the waterfront. While the Design Review Manual requires garages to be in the rear of the house, it is not appropriate, nor is there room to place a house, on the waterfront side of this property. A garage is a commonly enjoyed use in almost all contemporary residential developments, and one enjoyed by many neighbors in the area.

- c. The special conditions and circumstances do not result from the actions of the applicant;

The slope, the waterfront location, and the size of the parcel are not conditions or circumstances resulting from the actions of the applicant.

- d. Granting of the variance requested will not confer a special privilege that is denied other lands in the same district;

Other properties along North Harborview share some of the same constraints. Some have lots that can accommodate a garage 20 feet from the street, others are non-conforming and have built in the 20' setback, most have garages.

- e. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;

The view of the water will not be obstructed by this garage. It is not over the height restriction for the area. The character of the community will be largely maintained, if they can provide landscape screening of the parking on the street. The Denton's are currently utilizing the area to be constructed upon as parking, and a retaining wall exists in the approximate location of the outer wall of the

proposed addition. There is sufficient visual clearance for all parking stalls approved except " Parking 4" which is also inadequate in size. However, there are 7 other parking places being provided that will adequately serve the project.


PART IV: STAFF RECOMMENDATION

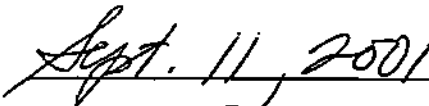
Based upon the findings and conclusions in Part III of this report, staff recommends that application for **CONDITIONAL USE PERMIT CUP 01-05** be Approved subject to the following condition:

1. That the Hearing Examiner approves the variance for parking associated with the applicants building permit so that adequate parking may be provided.

Based upon the findings and conclusions in Part III of this report, staff recommends that application for **VARIANCE VAR 01-07** be Approved subject to the following conditions:

1. A Landscaping plan be submitted for all areas adjacent to parking, and that provides screening for the parking along the sidewalk.
2. That Parking 4 is eliminated from the drawings.
3. That no additional parking will be provided in the current concrete right-of-way adjacent to the side walk.
4. That pedestrian access be provide through the parking areas to the street on both the drive way and upper parking areas in colored and textured concrete.
5. That the storm water/drainage be designed to protect the water quality of Gig Harbor Bay, and reviewed and approved by public works.
6. That erosion control per the City of Gig Harbor Public Works Standards will be in place during construction and a plan to that effect be submitted in writing and approved by staff.


Patricia lolavera
Senior Planner


Date

Attachments: Zoning Map of area
 Aerial Photo of area

May 29, 2001 letter from Denton
July 13, 2001 letter from Denton
August 27, 2001 letter from Denton
Sheet of 4 photos provided by Denton
Six 11x17 photos of neighborhood provided by Denton

May 29, 2001 letter from Denton
July 13, 2001 letter from Denton
August 27, 2001 letter from Denton
Sheet of 4 photos provided by Denton
Six 11x17 photos of neighborhood provided by Denton
Site Map

May 29, 2001

Department of Planning and Building
City of Gig Harbor
3125 Judson Street
Gig Harbor, WA 98335

Please review this application for a conditional use permit for a 4 bedroom Bed and Breakfast establishment at 9017 North Harborview Drive, Gig Harbor.

1) Zoning for the location is W-R and allows a Bed and Breakfast of up to 5 rooms.

2) A Bed and Breakfast establishment would be in keeping with the neighborhood since it is across the street from a Hair Salon and very close to shops and restaurants. The character and charm of this old fisherman's home will be enhanced with the addition of a garage and an attractive entry.

3) This location is within walking distance to existing shops and restaurants and would be a lovely place for visitors to come and enjoy Gig Harbor. With 5 guest parking spots onsite, as well as 3 for the owners, it would not place any strain on public facilities or streets.

4) The site plan shows parking with extensive use of grass blocks to minimize the use of concrete and maintain the pervious/impervious land standards. There is attractive landscaping around the house to enhance the street appeal, and around the yard to maintain privacy for the neighbors.

Thank you for your consideration of this request.

Janis and Steve Denton
9017 North Harborview Drive
Gig Harbor, WA 98332
Phone 226-4248

July 13, 2001

City of Gig Harbor
Planning and Building Services
3125 Judson Street
Gig Harbor, WA 98335

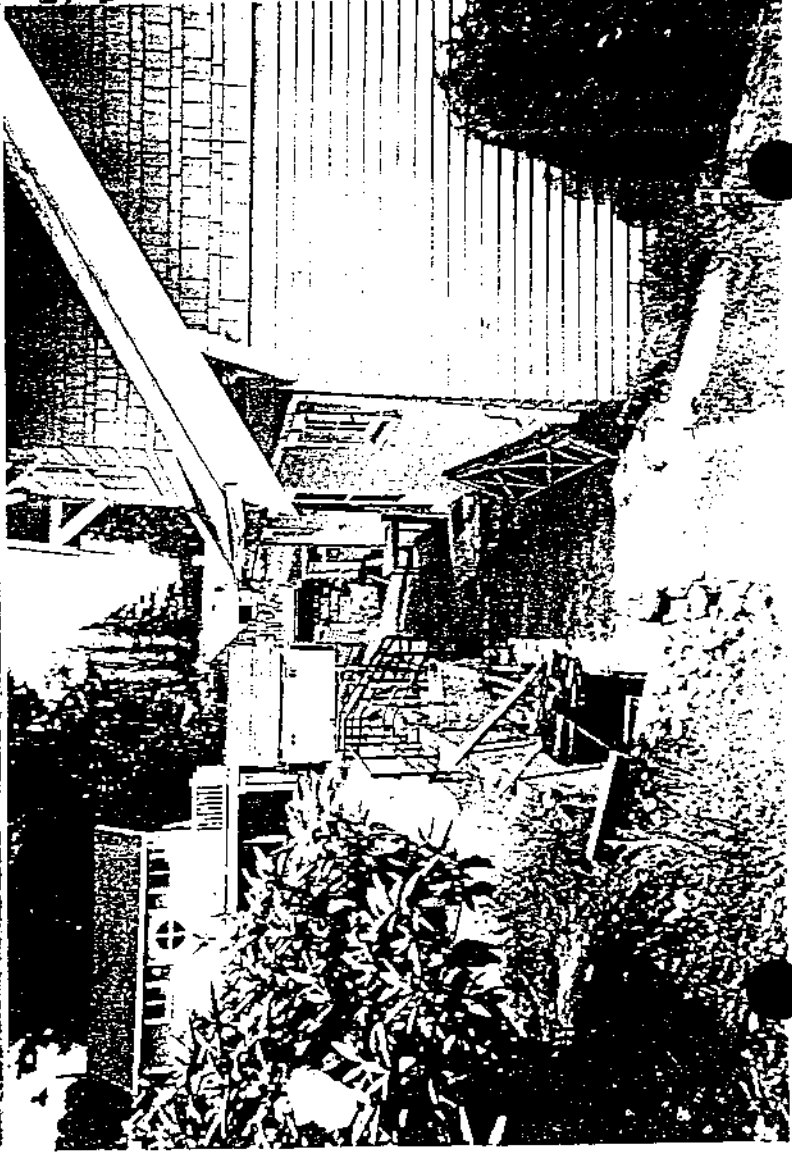
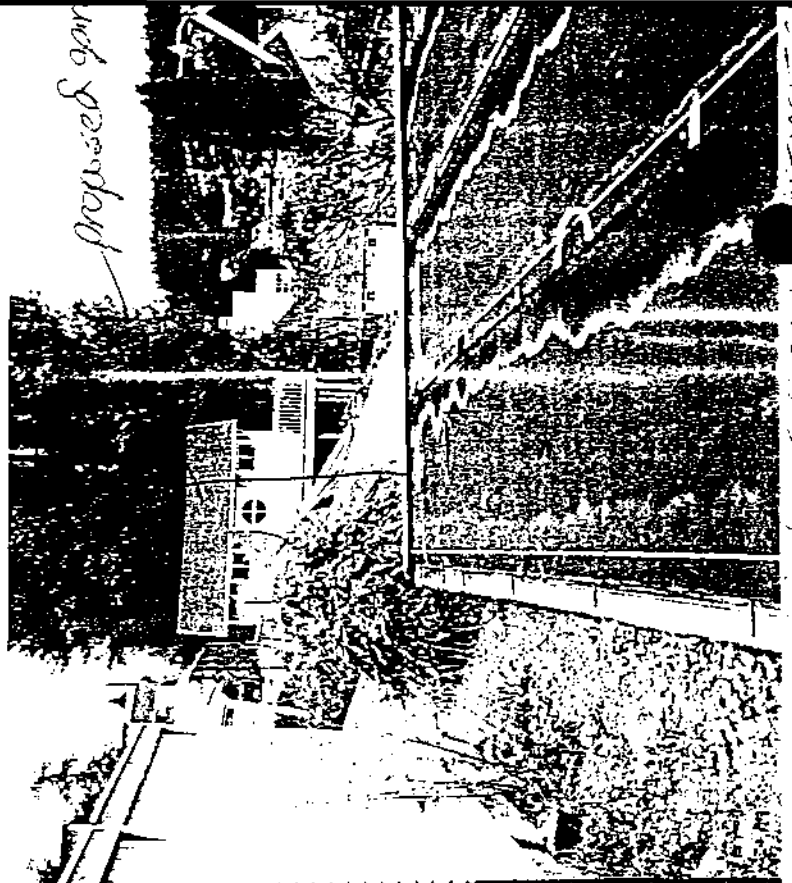
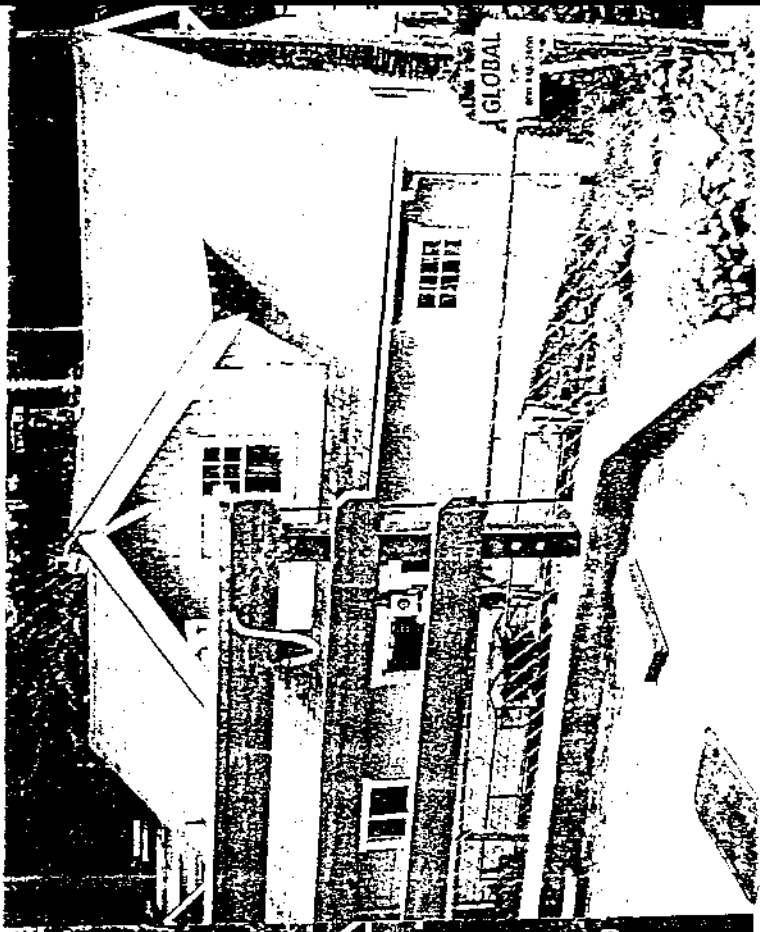
Re: Variance Request for;

1) Garage to be situated in front of house.
2) Height above the overall 27' allowance but within the height allowance determined by setbacks and Historic district standards of 18'.

1. This variance complies with existing use and zoning.
2. The property does not allow for the garage to be located behind the house because of the waterfront location.
3. Both adjacent neighbors have garages in front of their houses and close to the road. (see attached photos)
4. Same as above.
5. The garage will be below street level with a second story in keeping with the character of the house. This is what will be most visible to the public.

Thank you for your consideration of this variance request.

Janis and Steve Denton
9017 N. Harborview Drive
Gig Harbor, WA 98332
Phone: 226-4248



proposed gar

Steve & Janis Denton

9017 North Harborview Drive
Gig Harbor, WA 98332

Date: August 27, 2001
To: City of Gig Harbor
From: Steve Denton, homeowner
Subject: Setbacks of neighbors

The following is a list of neighbors on our street with homes or garages that appear to be within the required twenty foot setback from the property line on the street. I have identified the properties by house number and estimated the distance that the structures are from the property line.

In our case, we are requesting to increase the height of our existing retaining wall that now defines our parking area. When back filled, this wall will provide three additional parking spots on the street and make up one wall of our garage. It currently stands about eleven feet from the property line. Because this wall and parking area are already existing and well below street level, we feel that the impact on the street and neighborhood will be minimal.

<u>House number</u>	<u>Approximate set back*</u>
9009	3'
9017 (our house)	11' requested
9021	2' over the property line
9109	12' to garage and 5' to wall of garage
9113	1'
9125	12' to carport
9301	10'
9303	5'
9307	5'
9315	3'

* These dimensions were estimated from the sidewalk and were not done with a tape measure.

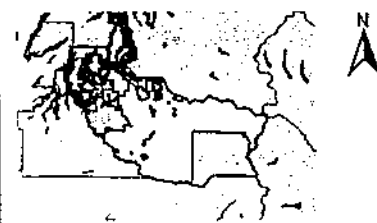
Steve Denton

Denton House

MAP LEGEND

~ Roads - All*

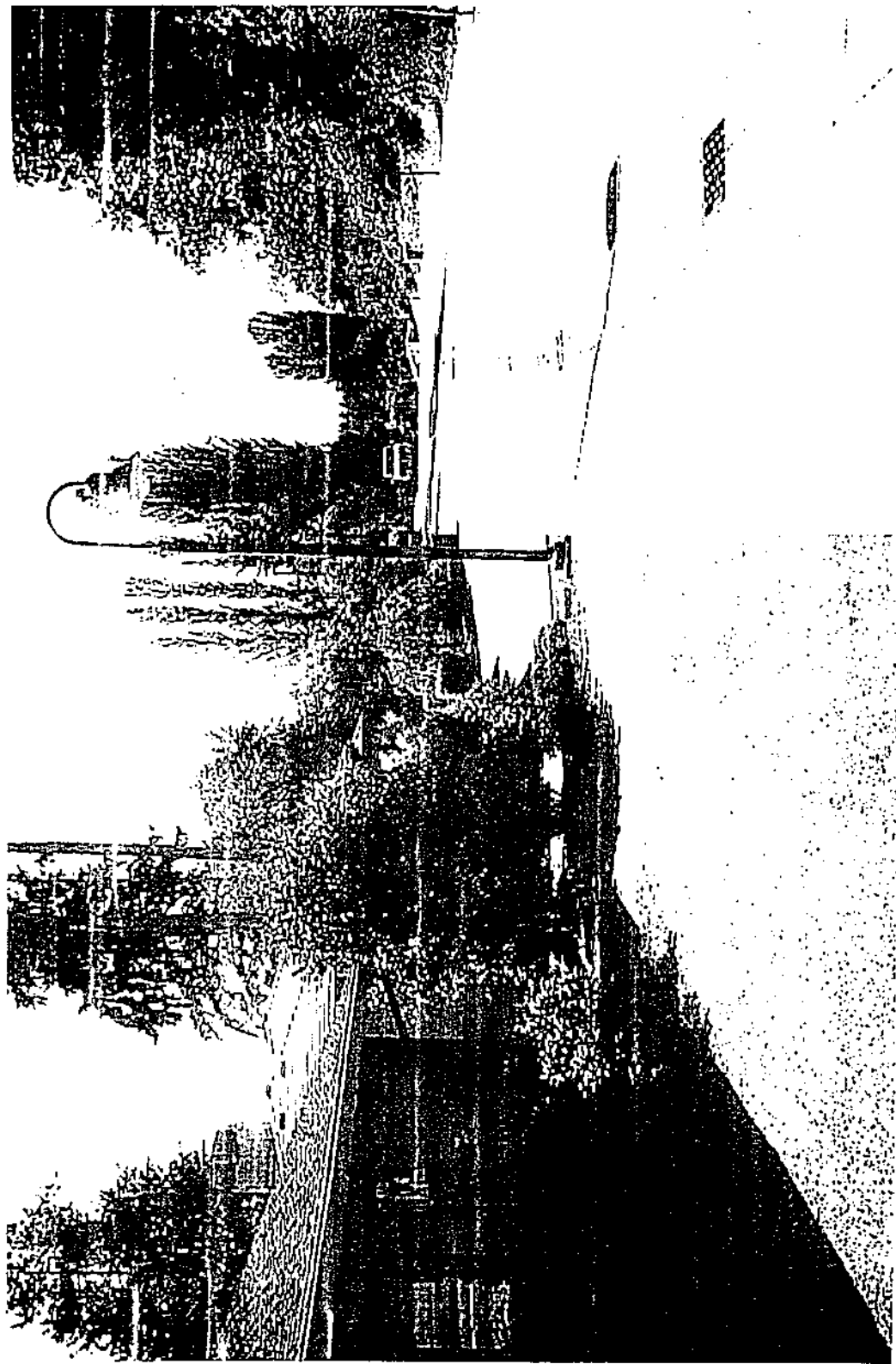
Scale 1:564

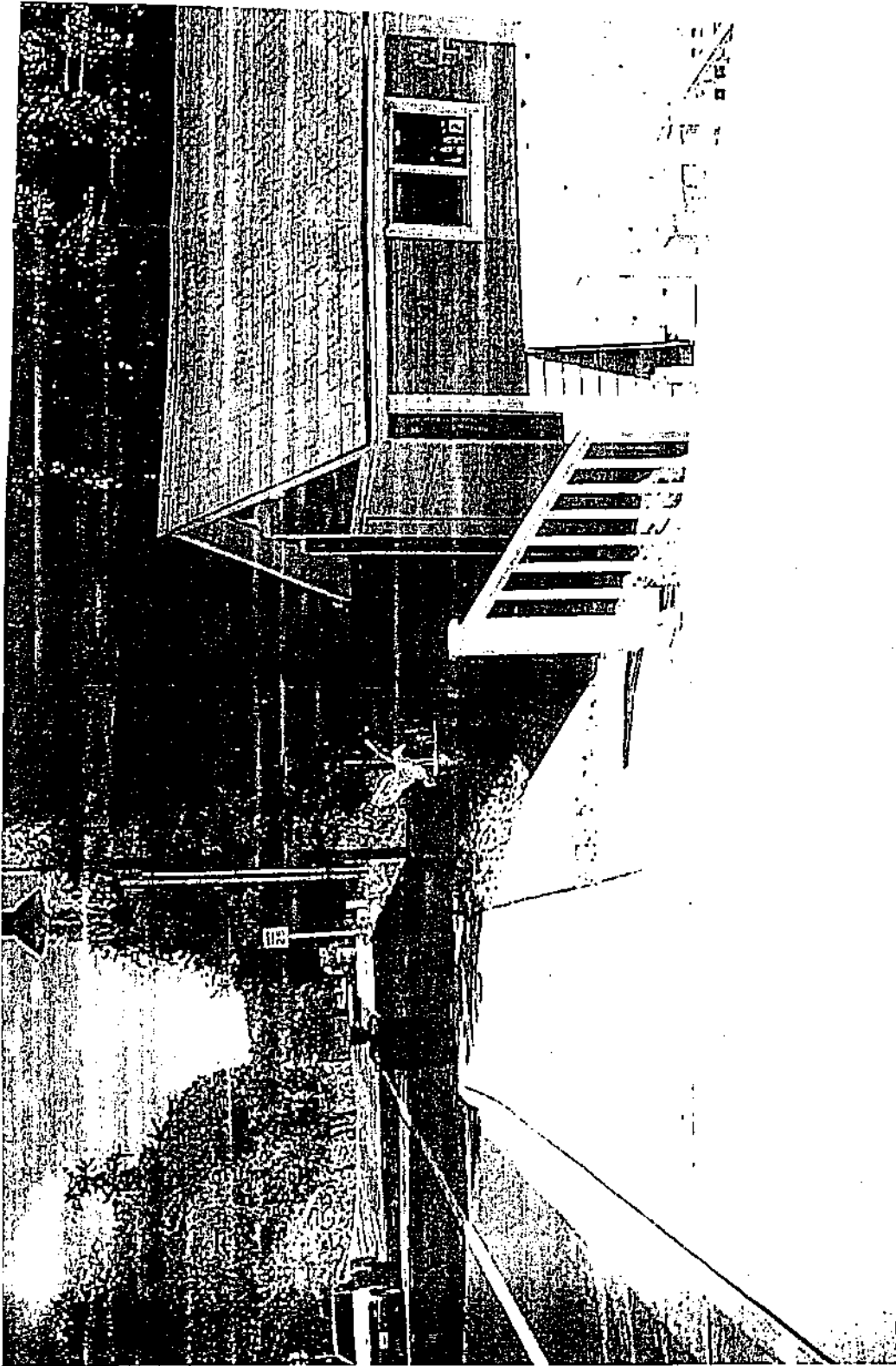


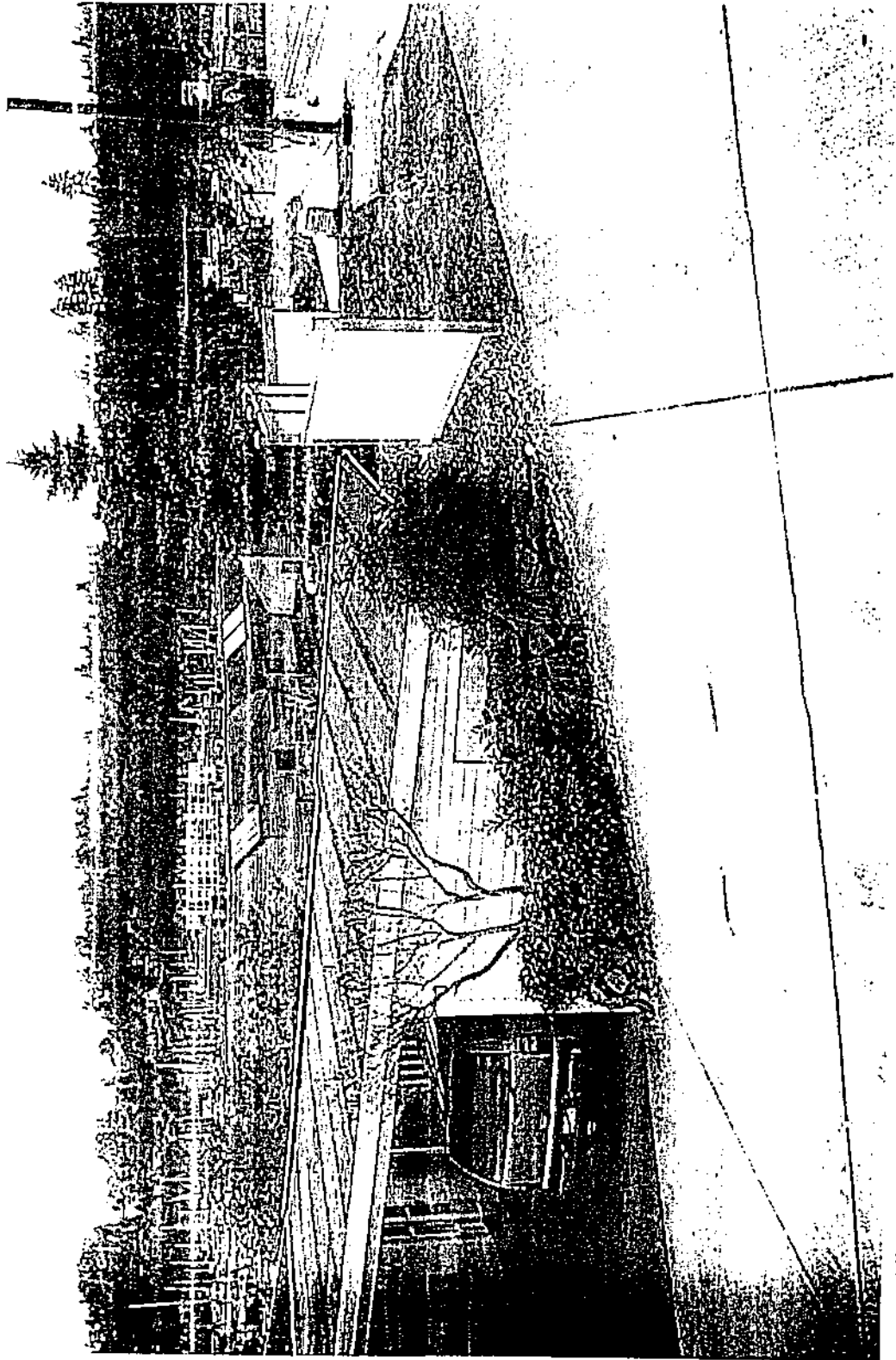
11:06 Sep 12, 2001

 **Pierce County**
Geographic Information Services



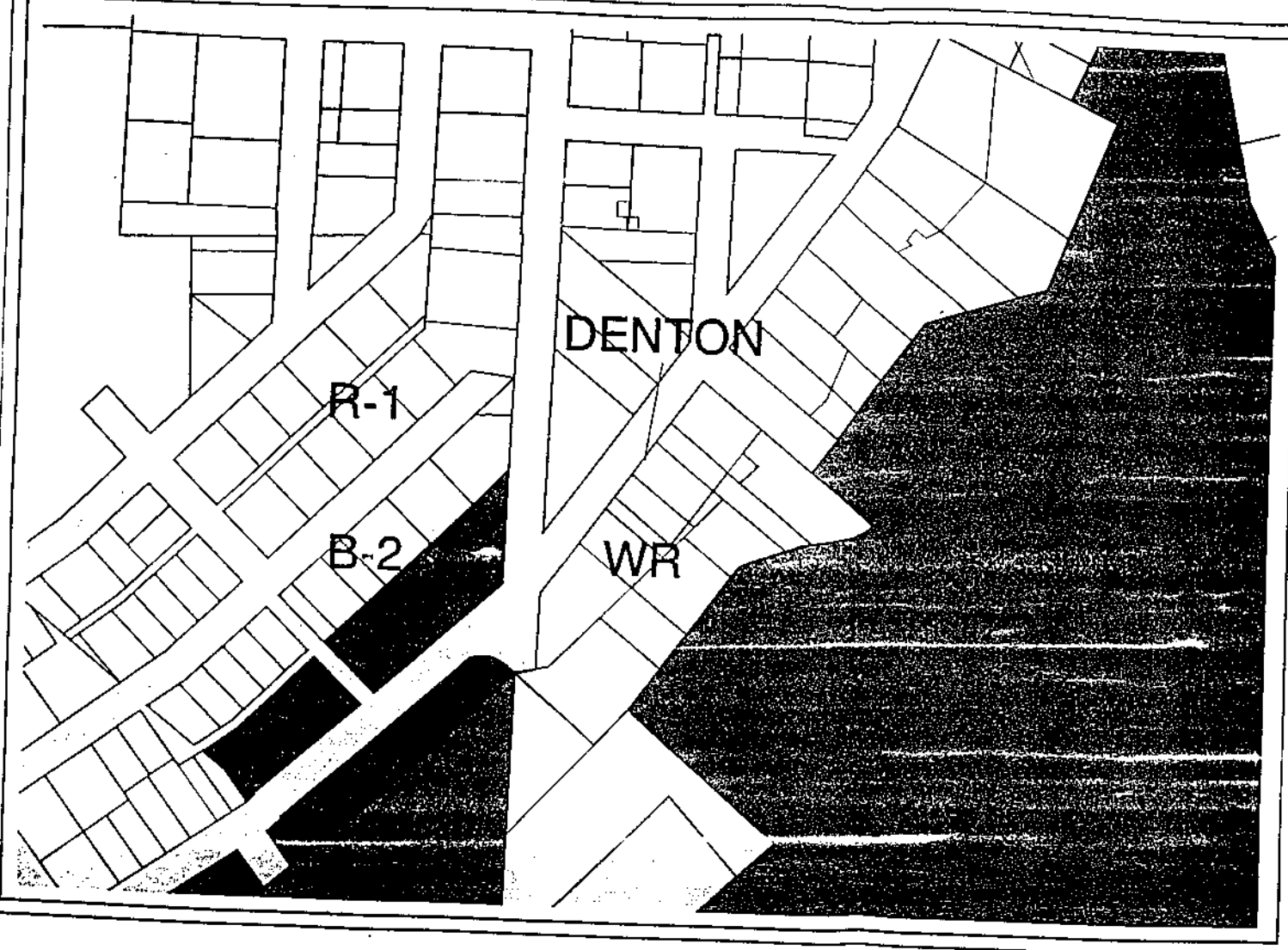






NEIGHBOR TO EAST

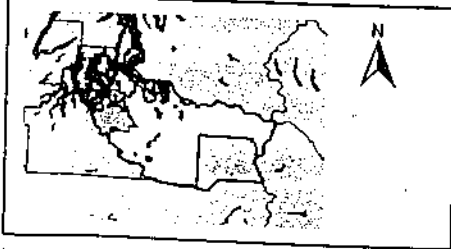
Denton Zoning



MAP LEGEND

- Tax Parcels*
- Zoning.shp
- B1
- B2
- C1
- R1
- R2
- R3
- RB1
- RB2
- WC
- WM
- WR
- PI
- DB
- PCD-RLD
- PCD-BP
- PCD-C
- PCD-RMD
- NB
- Split Zone

Scale 1:2277



9:51 Sep 13, 2001



Pierce County
Geographic Information Services

LPL PLANNING

Phone 265-8551

Total lot
70x122 = 8540
% coverage = 3416

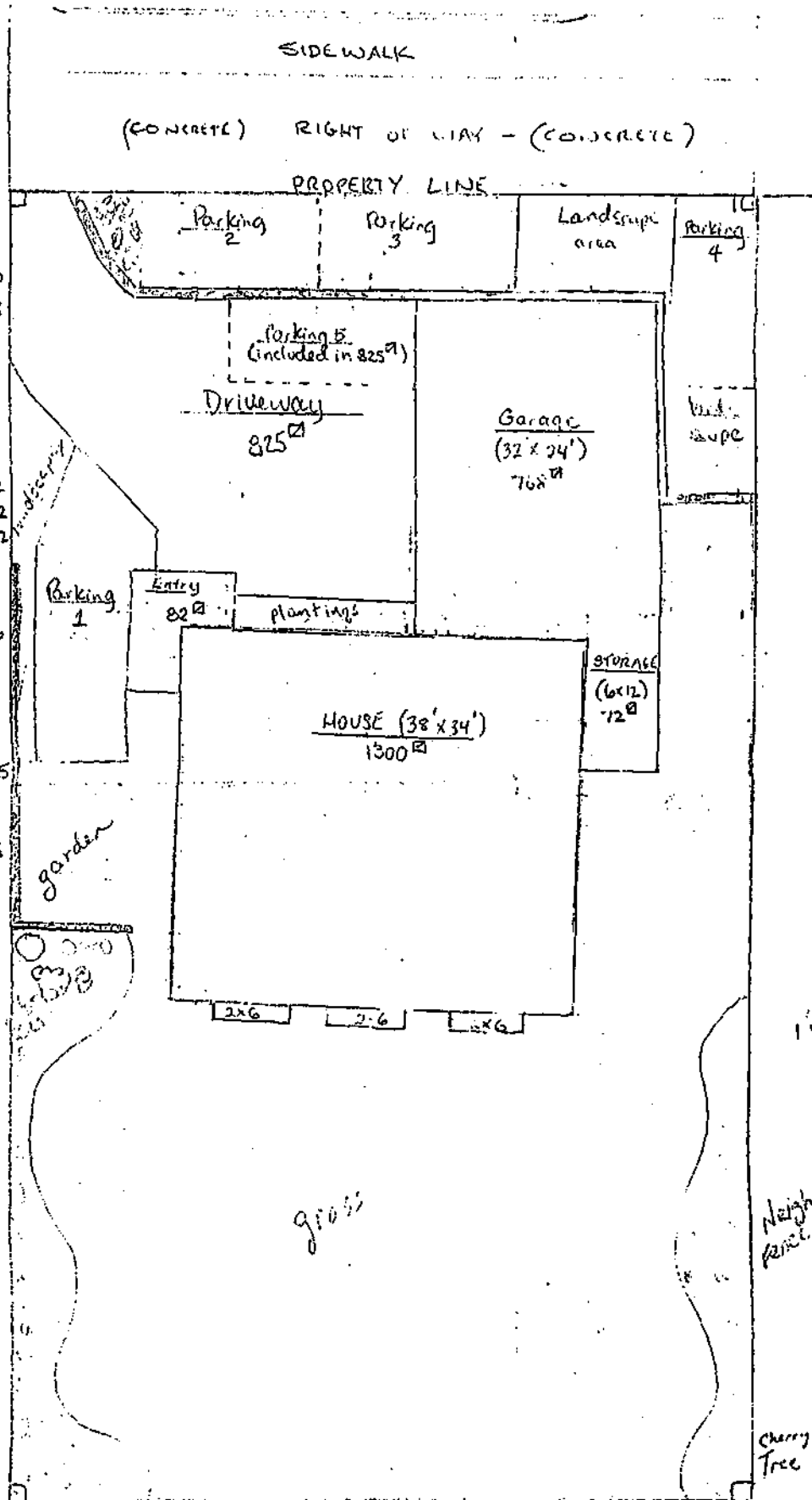
Structures:

House 1300
Garage 768
Storage 72
Entries - Front 82
- Basement 36

Grass blocks @ 50%
Parking 1 = 244 ÷ 2 = 122
Parking 2 = 144 ÷ 2 = 72
Parking 3 = 144 ÷ 2 = 72
Parking 4
Grass strip 4x18
2 Grass black strips
2x18x2 = 72 ÷ 2 = 36
Parking 5
concrete included
in driveway

Driveway 825

Total coverage 5385



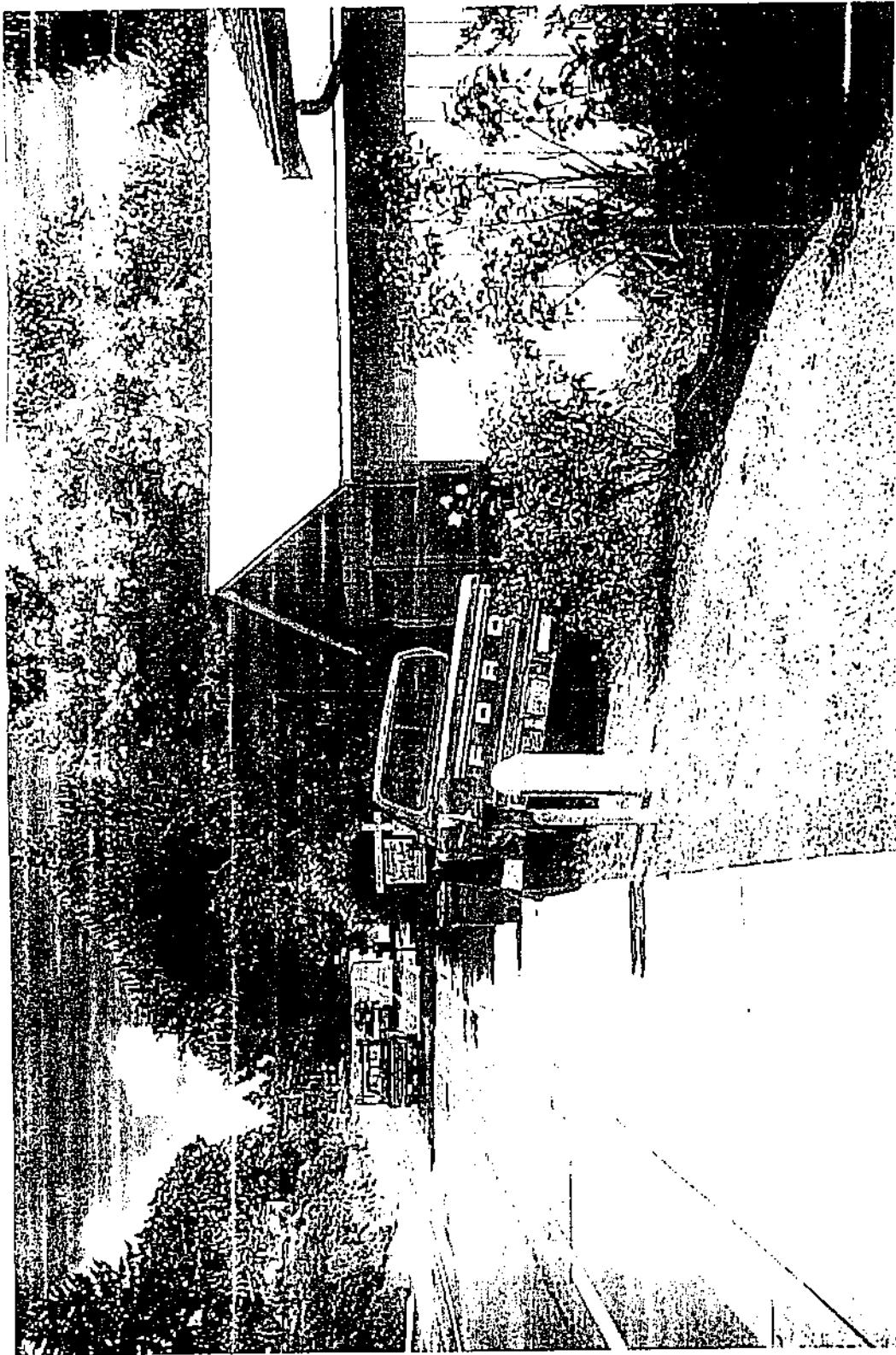
Neighbors fence

Cherry Tree



DENTON RESIDENCE





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BEFORE THE HEARING EXAMINER
FOR THE CITY OF GIG HARBOR

In Re: the Application of Janis and Steve
Denton,

CUP 01-05 & VAR 01-07

FINDINGS, CONCLUSIONS
AND DECISION

I. SUMMARY OF DECISION

The applications for a conditional use permit to allow a Bed and Breakfast in a single family home in the Waterfront Residential District, and for a setback variance to construct a garage, at 9017 N. Harborview Drive within Gig Harbor, are GRANTED, subject to conditions.

II. SUMMARY OF PROCEDURE

A. Hearing. An open record hearing was held in the City of Gig Harbor on September 19, 2001.

B. Exhibits.

The City of Gig Harbor submitted the following exhibits:

1. Staff Report dated September 11, 2001 (including a last page which is a hand-drawn "plot plan"), which included:

- a. A zoning map of the area;
- b. An aerial photo of the area;
- c. A letter dated May 29, 2001 from the Dentons to the City regarding a request for a conditional use permit;
- d. A letter dated July 13, 2001 from the Dentons to the City regarding a request for a variance;

- 1 e. A letter dated August 27, 2001 from the Dentons to the City
2 regarding setbacks of neighboring properties;
3 f. One page of four color copied photographs of the subject site
4 provided by the Dentons;
5 g. Six 11 x 17 photographs of the neighborhood provided by the
6 Dentons; and
7 h. A copy of the City's determination of non-significance under
8 SEPA, dated September 14, 2001, regarding the conditional use permit application.

9 The Applicants submitted the following exhibits:

- 10 2. A front elevation of the proposed garage structure with landscaping; and
11 3. A larger version of Exhibit 1.b., with handwritten notations depicting
12 the locations of the sites depicted in Exhibit 1.g.

13 C. Pleadings. In addition, the Hearing Examiner considered the following:

- 14 1. None.

15 D. Testimony. The following individuals provided testimony under oath:

- 16 1. The Staff Report was presented by Pat Iolavera, Senior Planner;
17 2. Steve and Janis Denton spoke on behalf of the applicant; and
18 3. Dr. Greg Hoeksema spoke in opposition to the variance application.

19 III. FINDINGS

20 1. In general, this matter involves applications submitted by Steve and Janis
21 Denton for both a conditional use permit to locate a four unit Bed and Breakfast in an
22 existing single family home within the Waterfront Residential ("WR") District, and for
23 a variance to allow the construction of a garage seventeen feet into the required 26 foot
24 front yard setback¹ from the road. The garage is proposed to sit below street level, and

25 ¹During the hearing, the parties discussed the garage in terms of an eleven foot
encroachment into a twenty foot setback. Although a 20 foot front yard setback does
exist in the WR District under GHMC 17.46.040, the Design Manual imposes a 26 foot
front yard setback for garages in the WR District. See, Design Manual at 82, 89. In the
event of conflict between the zoning code and the Design Manual, the Manual controls.
GHMC 17.98.020. The extent of the encroachment, however, is immaterial to the

1 will include an upper story featuring "a Bed and Breakfast room, a family guest room,
2 and a bonus room nearest the street." Ex. 1, at 6. An entrance to the existing house is
3 proposed from the bonus room. Id.

4 2. Notice of these applications was published in the Peninsula Gateway on July
5 27, 2001, was mailed to property owners within 300 feet of the site on August 24, 2001,
6 and was posted on the site by the applicant.

7 3. The City's SEPA Responsible Official issued a determination of non-
8 significance on September 14, 2001. No SEPA appeals were filed.

9 4. The Dentons own the waterfront home located at 9017 N. Harborview Drive
10 within the City of Gig Harbor. Their property is zoned WR, and is approximately .21
11 acres in size. The properties to the east and west of their property are also zoned WR,
12 while the property to the north across N. Harborview Drive is zoned R-1 Residential, and
13 includes on that site a commercial hair salon. Gig Harbor Bay lies immediately to the
14 south of the Dentons' property.

15 5. According to the Dentons, nine other homes along N. Harborview Drive have
16 either houses or garages that are set back from the front property line between one and
17 twelve feet. Exs. 1.e., 1.g., and 3.

18 6. Turning first to the application for a conditional use permit, GHMC 17.64.040
19 requires the examiner to consider and to make written findings on the following criteria:

20 a. That the use for which the conditional use permit is applied for is
21 specified by this title as being conditionally permitted within, and is consistent with the
22 description and purpose of the zoning district in which the property is located.

23 • A Bed and Breakfast is a conditional use in the WR zoning district.
24 GHMC 17.46.030.

25 b. That the granting of such conditional use permit will not be detrimental
to the public health, safety, comfort, convenience and general welfare, will not adversely
affect the established character of the surrounding neighborhood, and will not be injurious
to the property or improvements in such vicinity and/or zone in which the property is
located.

• There is no evidence in this record to suggest that a bed and breakfast
establishment at this location would be detrimental to the public health, safety, comfort,

examiner's decision on the variance application.

1 convenience or general welfare. Given its proximity to the waterfront tourist attractions
2 and the adjoining Waterfront Commercial District, this site is well suited for such an
3 establishment.

4 The established character of the surrounding neighborhood is an important
5 asset to the City and its waterfront districts. The proposed use will have the effect of
6 preserving an existing craftsman style home along the waterfront, which is part of the
7 Historic District as defined in the City of Gig Harbor Design Manual. Id., at 85; Ex. 1
8 at 7. Although the proposed garage/bed and breakfast will also have the effect of
9 expanding the existing historic structure, the applicants' plans (and the City's applicable
10 development regulations) will serve to ensure that the proposed addition maintains the
11 character of the surrounding neighborhood.

12 c. That the proposed use is properly located in relation to the other land
13 uses and to transportation and service facilities in the vicinity; and further, that the use
14 can be adequately served by such public facilities and street capacities without placing an
15 undue burden on such facilities and streets.

16 • The proposed use is separated from one of the main commercial districts
17 by two houses and a condominium complex. A hair salon operates in the R-1 zoned
18 house almost directly across the street. This location is on the waterfront, is within
19 walking distance of shops, restaurants, and other downtown attractions, and will increase
20 public enjoyment of the Gig Harbor waterfront. Guests who drive personal vehicles to
21 this location will increase the strain on City streets, but the impact will be small and the
22 proposal provides for off-street parking in excess of that required by applicable regulation.
23 See, (d), below.

24 d. That the site is of sufficient size to accommodate the proposed use and
25 all yards, open spaces, walls and fences, parking, landscaping and other such features as
are required by this title or as needed in the opinion of the examiner.

• The proposal is for a 4-unit B&B in a single family home. Under
GHMC 17.46.070, in the WR District, parking and loading facilities must be provided as
set forth in GHMC 17.72. Under GHMC 17.72.030(S), the planning director considered
GHMC 17.72.030(A) and (B) regarding parking requirements for single family and
multiple family dwellings, and then required 1.25 off-street parking spaces for each of the
four rooms of the proposed bed and breakfast, and two more parking spaces for the
existing single family residence.

The examiner adopts the planning director's decision on parking, and finds
that a total of 7 off-street parking spaces are required. The Dentons' plans show a total
of eight parking spaces. Ex. 1, last page. Initially, Staff believed that the space labeled
"Parking 4" was only 72 square feet which would not meet the requirements of the

1 GHMC 17.72.020(C) (8' x 18'). At the hearing, Ms. Iolavera testified that the square
2 footage requirement was in fact satisfied, but also indicated that Public Works approval
3 would be necessary for appropriate entry and exit sight distances and other safety issues.

4 Other than the front yard (which is the subject of the variance application,
5 discussed below), no other setback nor other development regulation issues are apparent.
6 The Dentons submitted a proposed landscaping drawing, which is to be distinguished from
7 a landscaping plan subject to City review and approval, which indicates that landscaping
8 concerns and code requirements can be satisfied. See, e.g., Design Manual, at 43.

9 7. As set forth above, the examiner finds that the application for a conditional use
10 permit to build the proposed garage and four unit bed and breakfast satisfies all of the
11 review criteria required by GHMC 17.64.040.

12 8. Turning next to the issue of the front yard setback variance application, the
13 examiner reviewed and considered numerous sections of the Gig Harbor Municipal Code
14 in reaching this decision. Under GHMC 17.98.030, the City's Design Manual applies to
15 these applications as they involve defined "outdoor proposals." As previously mentioned,
16 the Dentons' property lies in the WR District. Accordingly, it is also within the Historic
17 District, since the Historic District includes "all Waterfront Districts." Design Manual,
18 at 85.

19 9. Under the performance standards of the zoning code for the WR District, the
20 minimum front yard setback is 20 feet. GHMC 17.46.040. Under the Design Manual,
21 however, the front yard setback for a garage is 26 feet, under both single family housing
22 design standards and the Historic District design standards. Design Manual, at 82, 89.
23 Admittedly, the top story of the proposed garage has the trappings of a house, which
24 would require only a 20 foot setback even under the Design Manual. The primary
25 structure, however, is clearly a garage. Although both single family and duplex dwellings
are allowed in the WR District (GHMC 17.46.020(A)), the proposed bed and breakfast
establishment is reviewed under the single family guidelines. Under the code, a "bed and
breakfast" is a "single family residence" which provides overnight lodging for guests.
GHMC 17.04.103.

10. In case of conflict between the performance standards of the zoning code and
the Design Manual, the Design Manual controls. GHMC 17.98.020. Here, then, the
examiner is considering a variance application to permit the garage structure to intrude
seventeen feet into the otherwise required 26 foot front yard setback.

11. In considering the variance application, GHMC 17.66.030 requires the
examiner to consider and make written findings on the following criteria:

- a. The proposed variance will not amount to a rezone nor authorize any

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use not allowed in the district.

• The variance application clearly does not amount to a rezone, nor will a front yard setback variance authorize any use not allowed in the district. As discussed above, a bed and breakfast establishment is allowed as a conditional use in the WR District. The applicants have satisfied this review criterion.

b. Special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other land in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.

• Like some, but not all, other lots along N. Harborview Drive in the WR District, the Dentons' lot slopes toward the waterfront. The lots in the WR District are of many different shapes and sizes. Ex. 1.a. Some have front garages, others do not. Some have no garages. Many other similar properties in the WR District, however, also have front garages within the setback. Ex. 1.g.

While the Design Manual indicates a preference to locate garages in the rear of the house (Id., at 82), no room exists to place a garage (and associated sideyard driveway) between the existing house and the waterfront. Equally obvious, a garage near the water would run contrary to many other provisions of the Design Manual, comprehensive plan, and other development regulations.

The Design Manual also provides for situations, like this one, "where it is not possible to locate garages behind the house." Id., at 83. In those cases, the Design Manual requires that the garage be "de-emphasized" and that preference be given to "design elements." Id.

A garage is a commonly enjoyed use in almost all contemporary residential developments, specifically including many other residential uses within the WR District. Exs. 1.e., 1.g.

Although Dr. Hoeksema correctly notes that other properties in the WR District are burdened by the same "special conditions and circumstances" as the Dentons' property, those other properties have virtually all been developed within the front setback as well. Dr. Hoeksema eloquently urges against the creation of a "modern precedent" allowing garages and other structures within the front yard setback in the WR District. On this record, however, the modern precedent had already been set prior to submission of this application, consistent with applicable development regulations, to allow front yard structures in certain cases. The applicants have satisfied this review criterion.

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c. The special conditions and circumstances do not result from the actions of the applicant.

• Mr. Denton candidly testified that he was unaware of the front yard setback requirement and that he "didn't do enough research" when he and Mrs. Denton purchased the property in June 2001. This criterion, however, refers to "special conditions and circumstances . . . such as size, shape, and topography," and not to a buyer's due diligence prior to closing a purchase. The slope, the waterfront location, the size and other topographical features of the parcel are not conditions or circumstances resulting from the actions of the applicant. Rather, they are conditions applicable to other lots in the area, many of which have been developed similarly to that proposed by the Dentons. The applicants have satisfied this review criterion.

d. Granting of the variance requested will not confer a special privilege that is denied other lands in the same district.

• As discussed under sub-section (b), above, granting this variance will serve to treat the Dentons' property in much the same manner as other, similarly situated property in the WR District has been treated. Granting of the variance will not confer a special privilege denied to other lands. The applicants have satisfied this review criterion.

e. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

• As proposed, the garage itself will be substantially, if not entirely, below street grade. The top floor which will house the bed and breakfast room and other rooms, however, will be above street grade. Admittedly, if approved, this top floor will impact the view of the water in some respects and from some angles. The structure will not eliminate the water view in any permanent sense and, as proposed, the structure complies with the height restriction for the WR District.²

The character of the community will be largely maintained, especially given the condition to provide landscape screening of the parking to the City's satisfaction. The Dentons currently use much of the area proposed to be constructed upon as parking. Ex. I.g., second sheet. A retaining wall currently exists in the approximate location of the outer wall of the proposed garage structure. Id.; Testimony of Mr. Denton. As proposed, that existing wall will be built up vertically and will serve as the outer wall for the proposed garage structure. The area between that wall and the existing right of way will

²The Design Review Board allowed a minor height variance by decision dated August 20, 2001.

1 then be backfilled, resulting in additional off-street parking and landscaping at street level.
2 Ex. 1, last sheet; Testimony of Mr. Denton.

3 Although Dr. Hoeksema argues that the granting of this variance will result
4 in a decrease in his property value, there is no evidence in this record to support a finding
5 that construction of the proposed bed and breakfast within the confines of applicable City
6 development regulations would lead to such a result. The applicants have satisfied this
7 review criterion.

8 f. The hearing examiner shall further make a finding that the reasons set
9 forth in the application justify the granting of the variance, and that the variance is the
10 minimum variance that will make possible the reasonable use of the land.

11 • As set forth above, the examiner finds that the reasons set forth in the
12 application, taken together with the testimony and exhibits received at the public hearing,
13 justify granting the variance request. The first clause of this final review criterion is
14 accordingly satisfied.

15 The second clause of this final review criterion requires the examiner to
16 make a finding that the variance requested is the "minimum" necessary to make possible
17 the reasonable use of the land. In this regard, Dr. Hoeksema offers cogent testimony that
18 the ownership of a "beautiful home, at the head of the bay, even without a variance and
19 a conditional use permit" constitutes "reasonable use" of the land. Mr. Denton responds
20 that it should be considered reasonable to have a garage and parking on this property,
21 similar to that afforded to other nearby properties, especially when no on-street parking
22 exists on N. Harborview Drive in that area.

23 Dr. Hoeksema makes a compelling argument, but the examiner is required
24 to give meaning to every pronouncement of the City Council. Reduced to basics, Dr.
25 Hoeksema argues that, under this provision, the variance should be denied because the
Dentons are able to make "reasonable use" of their property even without the requested
variance and conditional use permit. If that were the case, then a variance would be a
virtual impossibility. The City Council, however, has specifically authorized a bed and
breakfast as a conditional use in the WR District, and has specifically authorized the use
of the variance procedure for conditional uses within that zone. If the City Council had
intended the interpretation urged by Dr. Hoeksema, it easily could have said so.

26 Finally, regardless of whether the front yard setback is 20 feet or 26 feet,
27 the Dentons clearly propose to build within about nine feet of the property line. From
28 the record, it is clear that the owner of at least one similar lot in the WR District has built
29 within one foot of the property line, and several others have built within three to five feet
30 of the property line. Ex. 1.e. The Dentons do not propose to build that close to the
31 property line, and no other evidence exists in the record to indicate that nine feet from the

1 property line fails to satisfy this criterion.

2 Accordingly, and on this record, the examiner will also find that the
3 variance requested is the minimum variance that will make possible the reasonable use of
4 the land in question, thereby satisfying the second clause of this final review criterion.

5 IV. CONCLUSIONS

6 A. Jurisdiction. The examiner has jurisdiction to rule on variance applications
7 pursuant to GHMC 17.66.030 and to rule on conditional use permit applications pursuant
8 to GHMC 17.64.040. See, GHMC 19.01.003.

9 B. Criteria for Review. The criteria for the examiner to consider in deciding on
10 a variance application are set forth at GHMC 17.66.030(B). The review criteria for a
11 conditional use permit are set forth at GHMC 17.64.040.

12 C. Conclusions Based on Findings. The examiner adopts and incorporates the
13 findings set forth above, and accordingly concludes that all of the criteria necessary to
14 grant the requested variance and conditional use permit, as set forth in GHMC
15 17.66.030(B) and GHMC 17.64.040, respectively, have been satisfied.

16 V. DECISION

17 Based on the above findings and conclusions, Conditional Use Permit Application
18 CUP 01-05 relating to a conditional use permit for a bed and breakfast establishment at
19 9017 N. Harborview Drive within Gig Harbor, is GRANTED, subject to the following
20 conditions:

21 1. The bed and breakfast establishment shall be limited to not more than four
22 units;

23 2. At least 7 off-street parking spaces shall be provided, including two within the
24 garage, as shown on the "plot plan" attached as the last page of Ex. 1. If the applicants
25 provide "Parking 4," as shown on the "plot plan" attached as the last page of Exhibit 1,
use of that space for parking shall be subject to the prior review and approval of the City
for appropriate sight distances and other traffic safety features;

3. A landscaping plan shall be submitted, subject to the review and approval of
the City, showing that the parking will be properly landscaped, and the parking spots are
properly lined and of sufficient size. The landscaping plan shall include, but not be
limited to, appropriate screening for the street level parking along the sidewalk;

4. Pedestrian access shall be provided through the parking areas to the street on

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both the driveway and upper parking areas, with such pedestrian access delineated in colored and textured concrete (or substitute material acceptable to the City), subject to the review and approval of the City;

5. Any construction activity shall comply with all other applicable Gig Harbor development regulations, including but not limited to erosion control and storm water runoff and detention. No construction activity shall commence prior to the City's review and approval of an erosion control plan; and

6. All conditions of approval for the associated variance shall also be considered conditions of approval for this conditional use permit.

Based on the above findings and conclusions, Variance Application VAR 01-07 relating to a front yard setback variance for the proposed garage structure at 9017 N. Harborview Drive within Gig Harbor, is GRANTED, subject to the following conditions:

1. No part of the garage structure may encroach closer than nine feet from the front property line; and

2. All conditions of approval for the associated conditional use permit shall also be considered conditions of approval for this variance.

VI. PARTIES OF RECORD

- 1. Greg Hoeksema
9105 Peacock Hill Avenue
Gig Harbor, Washington 98332
- 2. Mike and Beverly Sherman
9021 N. Harborview Drive
Gig Harbor, Washington 98332

VII. APPEAL OF EXAMINER'S DECISION

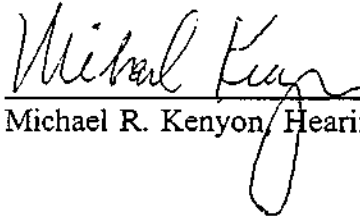
Any party of record desiring to appeal the examiner's decision may do so within 10 working days of the issuance of the decision (excluding the date of the decision), by filing an appeal with the Director of Planning and Building Services. Any such appeal

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must comply with the provisions of GHMC 19.06.

DATED this 3 day of October, 2001.

KENYON DORNAY MARSHALL, PLLC



Michael R. Kenyon, Hearing Examiner

Steve & Janis Denton

9017 North Harborview Drive
Gig Harbor, WA 98332

Date: August 27, 2001
To: City of Gig Harbor
From: Steve Denton, homeowner
Subject: Setbacks of neighbors

The following is a list of neighbors on our street with homes or garages that appear to be within the required twenty foot setback from the property line on the street. I have identified the properties by house number and estimated the distance that the structures are from the property line.

In our case, we are requesting to increase the height of our existing retaining wall that now defines our parking area. When back filled, this wall will provide three additional parking spots on the street and make up one wall of our garage. It currently stands about eleven feet from the property line. Because this wall and parking area are already existing and well below street level, we feel that the impact on the street and neighborhood will be minimal.

<u>House number</u>	<u>Approximate set back*</u>
9009	3'
9017 (our house)	11' requested
9021	2' over the property line
9109	12' to garage and 5' to wall of garage
9113	1'
9125	12' to carport
9301	10'
9303	5'
9307	5'
9315	3'

* These dimensions were estimated from the sidewalk and were not done with a tape measure.

Steve Denton

Appeal of Hearing Examiner's ruling re: **Janis and Steve Denton CUP 01-05
& VAR 01-07**

Appellant: Greg W Hoeksema
9105 Peacock Hill Ave
Gig Harbor, WA 98332

Standing: Appealed as Party of Record at the Public Hearing

Statement of Appeal:

1. Page 90 of the GHDM indicates that garages should not exceed 24X24 feet. The proposed Denton plan exceeds this limitation.
2. Page 85 of the GHDM states "One of the most characteristic design features of Gig Harbor's historic area is the small scale and simple mass of the older houses... Garages are set back of the main structure so that the emphasis is on human habitation rather than vehicular enclosure. These elements of design have been reversed on newer homes... The front porch has largely been replaced by front garages, with the garage often appearing larger than the house. These trends have significantly altered the visual character of the view basin and have decreased the width of view corridors between homes." Further, page 98 of GHDM states "Historic structures in the Historic District of Gig Harbor make a significant and important contribution to the visual character of the harbor basin...(to) preserve integrity of original structure's form, historic structures may not be 'buried' behind additions and alterations." Clearly, the Denton's plan requiring the variance is in direct conflict with all of these very specific, unambiguous design restrictions.
3. The proposed design does not respect the natural topography of the lot.
4. The planning department required the Denton's to place sticks and strings to permit an accurate assessment of the impact of the proposed garage. However, at no time while they were erected was there any public notification posted regarding the date of the hearing for the variance request, which is inconsistent with the usual requirements for public notification. Furthermore, as indicated by Ms Linda Gair in enclosure (1), "the view corridors are completely blocked off. One of the goals of the Design Review is to prevent this from happening. Views are public assets and should not be traded or replaced by 'better design' ideas... As I see it the goal of requested variances has to do with maximizing the commercial potential of this residence—not better design."
5. The hearing examiner acknowledged on page four of his decision that "The established character of the surrounding neighborhood is an important asset to the City and its waterfront districts." However, I aver that he erroneously concluded that "the applicant's plans... will serve to ensure that the proposed addition maintains the character of the surrounding neighborhood." As outlined in 1 through 4 above, the plan is not consistent with either the specifics or spirit of the comprehensive plan and absolutely will change the character of one of the most beautiful blocks of water view corridors surrounding the harbor. In this regard,

the Dentons did not meet the requirements of section 17.66.020 of the GHMC that states "the variance will not compromise the intent of the comprehensive plan nor be inconsistent with goals, policies and objectives of the comprehensive plan." The hearing examiner stated on page 6 that I "correctly noted that other properties in the WR District are burdened by the same 'special conditions and circumstances' as the Dentons' property." A specific requirement to be met for a variance to be granted is for the Denton's to have such limitations "not applicable to other land in the same district..." Furthermore, he agreed with my "eloquent" argument against setting a modern precedent allowing garages within the front setback in the WR district. He erroneously concluded without fact that "on this record, however, the modern precedent had already been set prior to submission of this application" and that "the applicants have satisfied this review criterion." There was no evidence presented at the hearing to support this conclusion, and in fact, I am not aware that any variance has been granted for an obtrusive, oversized garage structure that encroaches 17 feet into the required setback in the immediate area since the adoption of the City of Gig Harbor Design Manual on August 26, 1996.

6. The Dentons purchased their property in June 2001. They testified at the hearing that they should have done more research about their plans prior to their purchase. Again, GHMC 17.66.020 states "the need for the variance is not the result of the deliberate actions of the applicant or property owner." The lack of due diligence on the part of the Dentons is a result of their own action vis-à-vis the need for a variance to support their request for a conditional use permit to use their property as a bed and breakfast. GHMC requires that granting of a variance "is the minimum variance that will make possible the reasonable use of the land." Without the conditional use permit or the variance, the Dentons already have reasonable use of the land as a single family home, and may have room for an unobtrusive single car garage built to scale of the home and not in violation of the GHDM and not requiring a variance. The hearing examiner erroneously concluded that this criterion had been met.

Relief Sought: Overturn the decision of the hearing examiner that granted approval of CUP 01-05 and VAR 01-07 and specifically disallow any encroachment of a garage structure into the setback.

I have read the above appeal and believe its contents to be true.


Greg Hoeksema

10/17/01

Nov-20-01 10:41 AM

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
Carol Morris	OK	02	Sent	Nov-20	10:39A	00:01:29	0024c6030022



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: OFFICIAL ZONING MAP CHANGE
PENINSULA SCHOOL DISTRICT REZONE (REZ 01-02)
DATE: DECEMBER 10, 2001

INFORMATION/BACKGROUND

The Peninsula School District #401 submitted a site-specific rezone request for approximately forty (40) acres located at 5101 Rosedale Street (Gig Harbor High School) from Single-Family Residential (R-1) to Public Institutional (PI) (REZ 01-02). The City Hearing Examiner held a public hearing on October 17, 2001 and issued a written decision approving the rezone as requested on October 30, 2001. This decision was not appealed to the City Council and is therefore considered to be final pursuant to Title 19 of the Gig Harbor Municipal Code. The first reading of this Ordinance was held on November 26, 2001.

POLICY ISSUES

Title 19 of the Gig Harbor Municipal Code indicates that site-specific rezones requests are to be processed as Type III permit application, reviewed by the Hearing Examiner whose decision is final unless appealed to Council. Given that the October 30, 2001 Hearing Examiner decision was not appealed, it is now appropriate for Council to consider an Ordinance directing that the official zoning map be amended to reflect this approval.

FISCAL IMPACT

None.

RECOMMENDATION

I recommend the adoption of this Ordinance by the City Council.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, REZONING CERTAIN REAL PROPERTY
LOCATED AT 5101 ROSEDALE STREET (GIG HARBOR
HIGH SCHOOL) FROM THE PRESENT SINGLE-FAMILY
RESIDENTIAL (R-1) ZONING DESIGNATION TO A PUBLIC-
INSTITUTIONAL (PI) ZONING DESIGNATION.**

WHEREAS, the Peninsula School District #401 submitted a site specific rezone request for approximately forty (40) acres located at 5101 Rosedale Street (Gig Harbor High School) from Single-Family Residential (R-1) to Public Institutional (PI) (REZ 01-02); and

WHEREAS; Title 19 of the Gig Harbor Municipal Code indicates that site specific rezones requests are to be processed as Type III permit applications; and

WHEREAS, the City Hearing Examiner held a public hearing on this site specific rezone request on October 17, 2001; and

WHEREAS, the City Hearing Examiner issued a written decision approving the requested site specific rezone of this property from Single-Family Residential (R-1) to Public Institutional (PI) on October 30, 2001; and

WHEREAS, The October 30, 2001 Hearing Examiner decision was not appealed to the City Council and is therefore considered to be final pursuant to Title 19 of the Gig Harbor Municipal Code; and

WHEREAS, The City of Gig Harbor responsible SEPA Official has reviewed the rezone request and issued a determination of non-significance (DNS) on September 14, 2001. The issuance of a DNS for this project was not appealed; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of November 26, 2001;

WHEREAS, the City Council held a public hearing on this Ordinance during its regular City Council meeting of December 10, 2001; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
ORDAINS AS FOLLOWS:

Section 1. The real property located at 5101 Rosedale Street (Gig Harbor High School), consisting of one (1) tax parcel zoned Single Family Residential (R1) (Tax Parcel ID number 0221063043) owned by the Peninsula School District #410, and legally described in Exhibit A, attached hereto and fully incorporated herein by this reference, shall be rezoned to the zoning classification of Public Institutional (PI). The Director of Planning and Building Services is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established by this section.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor
this ___th day of _____, 2001.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: //01
PASSED BY THE CITY COUNCIL: //01
PUBLISHED: //01
EFFECTIVE DATE: //01
ORDINANCE NO.

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY REFERENCED IN SECTION 1 CONSISTING
OF ONE (1) PARCEL OWNED BY THE PENINSULA SCHOOL DISTRICT #401.

1. Tax Parcel ID number 0221063043

Commencing at the Southwest corner of the Southwest quarter of Section 6, Township 21 North, Range 2 East of the Willamette Meridian; thence North 85 degrees 36' 40" East, along the South line of said subdivision, 670.00 feet to the point of beginning; thence North 02 degrees 34' 33" West 1530.77 feet to intersect the North lone of the South 1530 feet of the Southwest quarter of said Section 6, at a point 605 feet East of the West line of said subdivision; thence North 85 degrees 36' 40" East parallel with the South line of said subdivision, 1092.01 feet to the Southwesterly line of Property conveyed to the State of Washington by Deed recorded May 4, 1972 under Pierce County Auditor's File No. 2443865; thence Southeasterly along said Southwesterly line 366.14 feet, thence continuing along said line South 31 degrees 39' 28" East 609.31 feet to intersect a line parallel with and 660 feet North of the South line of said subdivision; thence South 85 degrees 36' 40" West along said parallel line 240.00 feet; thence South 07 degrees 42' 34" West 674.99 feet to intersect the South line of said subdivision; thence South 85 degrees 36' 40" West along said South line 1200 feet to the point of beginning.

EXCEPT the South 30 feet for Rosedale Street (Carr's Inlet-Gig Harbor County Road).

Situate in the City of Gig Harbor, County of Pierce and State of Washington.

SUMMARY OF ORDINANCE NO.
of the City of Gig Harbor, Washington

On _____, 2001, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____ the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REZONING CERTAIN REAL PROPERTY LOCATED AT 5101 ROSEDALE STREET (GIG HARBOR HIGH SCHOOL) FROM THE PRESENT SINGLE-FAMILY RESIDENTIAL (R-1) ZONING DESIGNATION TO A PUBLIC INSTITUTIONAL (PI) ZONING DESIGNATION.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of _____, 2001.

MOLLY TOWSLEE, CITY CLERK



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR DR
DATE: NOVEMBER 20, 2001
**SUBJECT: SECOND READING - ORDINANCE PROVIDING FOR EXTENSION OF
THE LOCAL IMPROVEMENT DISTRICT NO. 99-1 BOND
ANTICIPATION NOTE.**

BACKGROUND

Ordinance No. 850 authorized issuance of a Local Improvement District No. 99-1 Bond Anticipation Note in the amount of \$1,200,000. The Note had a 15-month maturity and carried an interest rate of 4.93%. The note is due December 19, 2001.

FISCAL CONSIDERATIONS

The note will be refunded with LID special assessments to benefited property and subsequent LID bonds, however, due to the length of the project, we will not be able to complete the LID process before the due date of the note. At this time, we expect the project to be complete by the end of 2001.

The total amount of the bond anticipation note is \$1,200,000. The note carries a fixed interest rate of 2.20% and is due in 12 months. This interest rate is guaranteed through December 19.

RECOMMENDATION

Staff recommends adoption of the ordinance.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON
AMENDING ORDINANCE NO. 850 TO REFLECT THE EXTENSION
OF THE MATURITY AND THE CHANGE IN INTEREST RATE OF
THE CITY'S LIMITED GENERAL OBLIGATION BOND
ANTICIPATION NOTE, 2000.**

WHEREAS, the City Council of the City of Gig Harbor, Washington (the "City") adopted Ordinance No. 850 on September 11, 2000 providing for the issuance of the City's Limited General Obligation Bond Anticipation Note, 2001 in the aggregate principal amount of not to exceed \$1,200,000 (the "Note") to finance the commencement of certain improvements in Local Improvement District No. 99-1 of the City; and

WHEREAS, the City issued the Note to KeyBank National Association (the "Bank") having a maturity date of December 19, 2001; and

WHEREAS, the City has received an offer from the Bank extending the maturity date and changing the interest rate of the Note; and

WHEREAS, it is in the best interest of the City to accept the Bank's offer of extension and change in interest rate;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN as follows:

Section 1. Change in Note Terms. The maturity of the Note shall be extended from December 19, 2001 to December 19, 2002. The interest rate on the Note from December 19, 2001 through December 19, 2002 shall be ____%, in accordance with the offer of the Bank. All other provisions of Ordinance No. 850 shall remain unchanged.

Section 2. Authorization of City Officials. The City Administrator and Finance Director are authorized to take any action necessary to implement this ordinance.

Section 3. Effective Date. This ordinance shall be in effect five days after its publication as provided by law.

PASSED by the City Council of the City of Gig Harbor, Washington, at a regular meeting held this 10th day of December.

CITY OF GIG HARBOR, WASHINGTON

Mayor

ATTEST:

City Clerk

First Reading: November 26, 2001

Dated Passed: December 10, 2001

Date of Publication: December ____, 2001

Effective Date: December ____, 2001



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: FIRST READING OF AN ORDINANCE ANNEXING PROPERTY
OWNED BY THE CITY LOCATED IMMEDIATELY ADJACENT TO
AND SOUTH OF THE EXISTING CITY OF GIG HARBOR PUBLIC
WORKS SHOP
DATE: DECEMBER 10, 2001

INFORMATION/BACKGROUND

The City of Gig Harbor is the owner of real property consisting of approximately 5.34 acres that is immediately adjacent to and south of the existing City of Gig Harbor Public Works Shop located at 5118 89th Street. The City fully intends to utilize this property for municipal purposes associated with the Public Works Shop. The Revised Code of Washington allows a City to annex territory outside of its limits for any municipal purpose, by a majority vote of the Council provided that the territory is owned by the City (R.C.W. 35A.14.300). An Ordinance annexing the subject property is necessary to complete the annexation process.

POLICY CONSIDERATIONS

None.

FISCAL IMPACT

None.

RECOMMENDATION

I recommend that the Council approve the Ordinance annexing approximately 5.34 acres that is immediately adjacent to and south of the existing City of Gig Harbor Public Works Shop located at 5118 89th Street following the second reading.

CITY OF GIG HARBOR
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, PROVIDING THE CITY COUNCIL'S ANNEXATION OF ONE PARCEL OF PROPERTY LOCATED IMMEDIATELY ADJACENT TO AND SOUTH OF THE EXISTING CITY OF GIG HARBOR PUBLIC WORKS SHOP LOCATED AT 5118 89th STREET AND ADOPTION OF ZONING REGULATIONS FOR THE ANNEXATION AREA.

WHEREAS, the City of Gig Harbor is the owner of real property consisting of approximately 5.34 acres described in Exhibit A and further identified in Exhibit B, which is immediately adjacent to and south of the existing City of Gig Harbor Public Works Shop located at 5118 89th Street; and

WHEREAS, it is the intent of the City of Gig Harbor that this property, as described in Exhibit A, will be used for municipal purposes; and

WHEREAS, the Revised Code of Washington provides for the annexation of territory outside of its limits for any municipal purpose, by a majority vote of the Council if the territory is owned by the City (R.C.W. 35A.14.300); and

WHEREAS, the property described in Exhibit A to be annexed is within the Urban Growth Area as established by Pierce County and included in the Comprehensive Plans of both the County and the City of Gig Harbor; and

WHEREAS, the City of Gig Harbor Comprehensive Plan, adopted in November, 1994, established a land use map designation for this area as Public/Institutional, along with pertinent goals and objectives, to guide the development of the annexation area over the next twenty years; and

✓

WHEREAS, the proposed Public-Institutional (PI) zoning of the property described in Exhibit A is consistent with the City of Gig Harbor Comprehensive Land Use Plan designation as Public/Institutional; and

WHEREAS, review of property being annexed for municipal purposes which is contiguous to the City by the Boundary Review Board is not necessary pursuant to R.C.W. 35A.14.220 and R.C.W. 36.93.090; now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
HEREBY RESOLVES AS FOLLOWS:

Section 1. The Gig Harbor City Council hereby approves the annexation of one parcel of real property consisting of approximately 5.34 acres described in Exhibit A and further identified in Exhibit B, attached hereto, which is immediately adjacent to and south of the existing City of Gig Harbor Public Works Shop located at 5118 89th Street, as part of the City of Gig Harbor. All property within the area described in Exhibit A shall be zoned as Public Institutional (PI) in accordance with the Gig Harbor Municipal Code, Title 17.

Section 2. The Gig Harbor City Clerk hereby declares the property described in Exhibit A, which is the subject of the annexation petition, to be contiguous with the boundaries of the City of Gig Harbor.

Section 3. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

ORDAINED by the City Council this ____ day of ____ 2001.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____

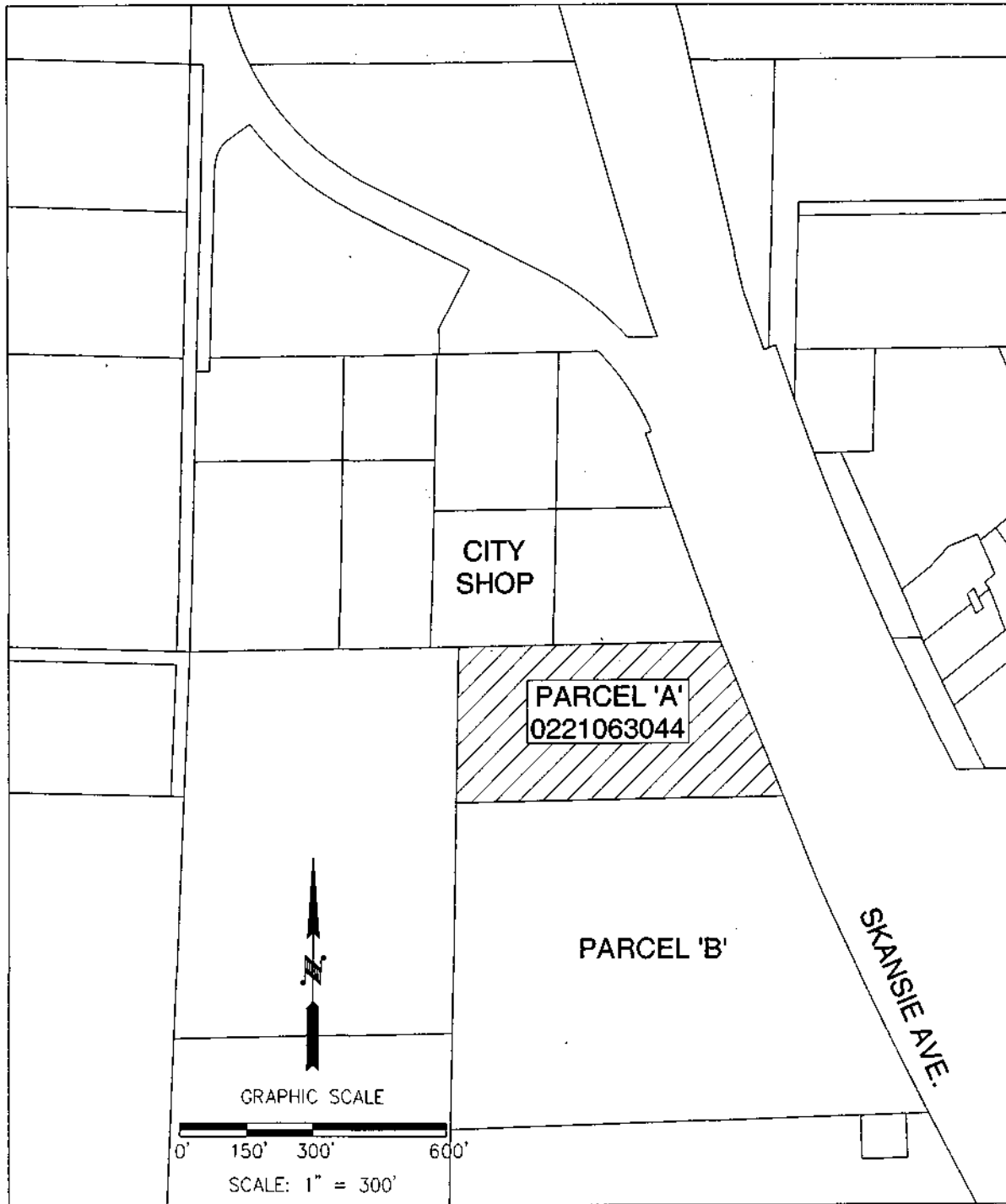
FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
ORDINANCE NO.

Exhibit A
Property Legal Description
Parcel 'A' No. 0221063044

LEGAL DESCRIPTION PARCEL 'A'

THE NORTH 350.55 FEET OF THE FOLLOWING PARCEL COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, PIERCE COUNTY, WASHINGTON; THENCE SOUTH 89 DEGREES 59 MINUTES 30 SECONDS EAST, ON THE SOUTH LINE OF SAID SUBDIVISION 670.00 FEET; THENCE NORTH 01 DEGREES 49 MINUTES 17 SECONDS EAST, 1530.77 FEET TO A POINT 605 FEET EAST OF THE WEST LINE OF SAID SUBDIVISION, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 04 DEGREES 11 MINUTES 25 SECONDS EAST PARALLEL WITH THE WEST LINE OF SAID SUBDIVISION TO THE INTERSECTION WITH THE WEST LINE OF SAID SUBDIVISION TO THE INTERSECTION WITH THE NORTH LINE OF SAID SUBDIVISION; THENCE NORTH 89 DEGREES 00 MINUTES '30 SECONDS WEST ON THE NORTH LINE OF SAID SUBDIVISION TO THE WESTERLY RIGHT OF WAY OF SKANSIE STREET; THENCE SOUTHEASTERLY ON SAID WESTERLY RIGHT OF WAY LINE TO THE INTERSECTION WITH A LINE PARALLEL WITH AND 1530.00 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVISION; THENCE NORTH 89 DEGREES 59 MINUTES 30 SECONDS WEST ON DAID PARALLEL LINE 1092.01 FEET TO THE POINT OF BEGINNING.

**Exhibit B
Vicinity Map**



**PARCEL 'A' LOCATION MAP
EXHIBIT "B"**

FILE: EXHIBIT B-CITY SHOP

**SUMMARY OF ORDINANCE NO.
of the City of Gig Harbor, Washington**

On ____, 2001, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, PROVIDING THE CITY COUNCIL'S ANNEXATION OF ONE PARCEL OF PROPERTY LOCATED IMMEDIATELY ADJACENT TO AND SOUTH OF THE EXISTING CITY OF GIG HARBOR PUBLIC WORKS SHOP LOCATED AT 5118 89th STREET AND ADOPTION OF ZONING REGULATIONS FOR THE ANNEXATION AREA.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of _____, 2001.

MOLLY TOWSLEE, CITY CLERK



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: OFFICIAL ZONING MAP CHANGE
PENINSULA SCHOOL DISTRICT REZONE (REZ 01-03)
DATE: DECEMBER 10, 2001

INFORMATION/BACKGROUND

The Peninsula School District #401 submitted a site-specific rezone request for approximately twelve (12) acres located at 9010 Prentice Avenue (Harbor Ridge Middle School) from Single-Family Residential (R-1) to Public Institutional (PI) (REZ 01-03). The City Hearing Examiner held a public hearing on November 14, 2001 and issued a written decision approving the rezone as requested on November 20, 2001. This decision was not appealed to the City Council and is therefore considered to be final pursuant to Title 19 of the Gig Harbor Municipal Code.

POLICY ISSUES

Title 19 of the Gig Harbor Municipal Code indicates that site-specific rezones requests are to be processed as Type III permit application, reviewed by the Hearing Examiner whose decision is final unless appealed to Council. Given that the November 20, 2001 Hearing Examiner decision was not appealed, it is now appropriate for Council to consider an Ordinance directing that the official zoning map be amended to reflect this approval.

FISCAL IMPACT

None.

RECOMMENDATION

I recommend the adoption of this Ordinance by the City Council following the second reading.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, REZONING CERTAIN REAL PROPERTY
LOCATED AT 9010 PRENTICE AVENUE (HARBOR RIDGE
MIDDLE SCHOOL) FROM THE PRESENT SINGLE-FAMILY
RESIDENTIAL (R-1) ZONING DESIGNATION TO A PUBLIC-
INSTITUTIONAL (PI) ZONING DESIGNATION.**

WHEREAS, the Peninsula School District #401 submitted a site specific rezone request for approximately twelve (12) acres located at 9010 Prentice Avenue (Harbor Ridge Middle School) from Single-Family Residential (R-1) to Public Institutional (PI) (REZ 01-03); and

WHEREAS; Title 19 of the Gig Harbor Municipal Code indicates that site specific rezones requests are to be processed as Type III permit applications; and

WHEREAS, the City Hearing Examiner held a public hearing on this site specific rezone request on November 14, 2001; and

WHEREAS, the City Hearing Examiner issued a written decision approving the requested site specific rezone of this property from Single-Family Residential (R-1) to Public Institutional (PI) on November 20, 2001; and

WHEREAS, The November 20, 2001 Hearing Examiner decision was not appealed to the City Council and is therefore considered to be final pursuant to Title 19 of the Gig Harbor Municipal Code; and

WHEREAS, The City of Gig Harbor responsible SEPA Official has reviewed the rezone request and issued a determination of non-significance (DNS) on September 14, 2001. The issuance of a DNS for this project was not appealed; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of ___, 2001; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
ORDAINS AS FOLLOWS:

Section 1. The real property located at 9010 Prentice Avenue (Harbor Ridge Middle School), consisting of one (1) tax parcel zoned Single Family Residential (R1) (Tax Parcel ID number 0221061100) owned by the Peninsula School District #410, and legally described in Exhibit A, attached hereto and fully incorporated herein by this reference, shall be rezoned to the zoning classification of Public Institutional (PI). The Director of Planning and Building Services is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established by this section.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor
this Xth day of X, 2001.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: //01
PASSED BY THE CITY COUNCIL: //01
PUBLISHED: //01
EFFECTIVE DATE: //01
ORDINANCE NO.

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY REFERENCED IN SECTION 1 CONSISTING
OF ONE (1) PARCEL OWNED BY THE PENINSULA SCHOOL DISTRICT #401.

1. Tax Parcel ID number 0221061100

Beginning at the Northwest corner of Government Lot 1 in Section 6, Township 21 North, Range 2 East of the Willamette Meridian; thence South 00 degrees 43 minutes, East 220.36 feet; thence North 82 degrees 41 minutes, East 60.4 feet; thence South 52 degrees 54 minutes, East 300.61 feet; thence South 52 degrees 16 minutes, East 102.33 feet; thence North 45 degrees 06 minutes, East 324.64 feet; thence South 46 degrees 17 minutes, East 112.72 feet; thence North 43 degrees 43 minutes, East 95.46 feet; thence North 03 degrees 18 minutes, West 279.08 feet to the North line of said subdivision; thence South 86 degrees 42 minutes, West 745.1 feet to the point of beginning; except the West 60 feet for the road;

Also the South half of the Southwest quarter of the Northeast quarter of the Northeast quarter of Section 6, Township 21 North, Range 2 East of the Willamette Meridian;

Also Tract 'A' of Fullers Addition, according to plat recorded in Volume 11 of Plats at page 60, records of the Pierce County Auditor

SUMMARY OF ORDINANCE NO.
of the City of Gig Harbor, Washington

On ____, 2001, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REZONING CERTAIN REAL PROPERTY LOCATED AT 9010 PRENTICE AVENUE (HARBOR RIDGE MIDDLE SCHOOL) FROM THE PRESENT SINGLE-FAMILY RESIDENTIAL (R-1) ZONING DESIGNATION TO A PUBLIC INSTITUTIONAL (PI) ZONING DESIGNATION.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of ____, 2001.

MOLLY TOWSLEE, CITY CLERK



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP *JW*
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: RESOLUTION AUTHORIZING AMENDMENTS TO THE PIERCE COUNTY
COUNTYWIDE PLANNING POLICIES
DATE: DECEMBER 10, 2001

BACKGROUND

The proposed amendments to the Pierce County Countywide Planning Policies include such item including policies addressing the endangered species act and amending joint planning policy language. The Pierce County Regional Council is recommending these amendments on which the Mayor represents the City. These proposed amendments were reviewed and recommended for approval by the Pierce County Growth Management Coordinating Committee, a committee on which I sit.

POLICY ISSUES

None.

FISCAL IMPACT

None.

RECOMMENDATION

I would recommend that the City Council move approval of the Resolution Authorizing Amendments to the Pierce County Countywide Planning Policies.

**CITY OF GIG HARBOR
RESOLUTION NO.**

**A RESOLUTION OF THE CITY OF GIG HARBOR,
WASHINGTON, AUTHORIZING AMENDMENTS TO THE
PIERCE COUNTY COUNTY-WIDE PLANNING POLICIES.**

**BE IT RESOLVED THE CITY COUNCIL OF THE CITY OF GIG
HARBOR, WASHINGTON, AS FOLLOWS:**

Section 1. Authorization. The Mayor is authorized and directed to execute on behalf of the City amendments to the three attached interlocal agreements with Pierce County for County-wide Planning Policies attached as Exhibits A - Endangered Species Act, and B - Joint Planning.

Section 2. Ratification and Confirmation. Any acts made consistent with the authority and prior to the effective date of this resolution are ratified and confirmed.

Section 3. Effective Date. This resolution shall take effect immediately upon adoption.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR
this 10th day of December, 2001.**

APPROVED:

GRETCHEN A. WILBERT, MAYOR

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 12/3/01
PASSED BY THE CITY COUNCIL: 12/10/01
RESOLUTION NO.

Exhibit 'A'
INTERLOCAL AGREEMENT

AMENDMENTS TO THE PIERCE COUNTY
COUNTYWIDE PLANNING POLICIES

Endangered Species Act

This agreement is entered into by and among the cities and towns of Pierce County and Pierce County. This agreement is made pursuant to the provisions of the Interlocal Cooperation Act of 1967, Chapter 39.34 RCW. This agreement has been authorized by the legislative body of each jurisdiction pursuant to formal action and evidenced by execution of the signature page of this agreement.

BACKGROUND:

- A. The Pierce County Regional Council (PCRC) was created in 1992 by interlocal agreement among the cities and towns of Pierce County and Pierce County. The organization is charged with responsibilities, including: serving as a local link to the Puget Sound Regional Council, promoting intergovernmental cooperation, facilitating compliance with the coordination and consistency requirements of the Growth Management Act (Chapter 36.70A RCW) and the Regional Transportation Planning Organization (Chapter 47.80 RCW), and developing a consensus among jurisdictions regarding the development and modification of the Countywide Planning Policies.
- B. The Pierce County Countywide Planning Policies provide for amendments to be adopted through amendment of the original interlocal agreement or by a new interlocal agreement. The Pierce County Countywide Planning Policies may be amended upon the adoption of amendments by the Pierce County Council and ratification by 60 percent of the jurisdictions in Pierce County (13 of 20) representing 75 percent of the total population on June 28, 1991;
- C. The Pierce County Regional Council adopted a work program for 2001 which included the development of new policies to address the Endangered Species Act.
- D. The Pierce County Regional Council conducted discussions in open public meetings in October and November of 2001 to address the amendments. The Pierce County Regional Council subsequently recommended adoption of the proposed amendments related to the Endangered Species Act to the Countywide Planning Policies on November 15, 2001.

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PURPOSE:

This agreement is entered into by the cities and towns of Pierce County and Pierce County for the purpose of ratifying and approving the attached amendments to the Pierce County Countywide Planning Policies (Attachment).

DURATION:

This agreement shall become effective upon execution by 60 percent of the jurisdictions in Pierce County, representing 75 percent of the total population on June 28, 1991. This agreement will remain in effect until subsequently amended or repealed as provided by the Pierce County Countywide Planning Policies.

SEVERABILITY:

If any of the provisions of this agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

FILING:

A copy of this agreement shall be filed with the Secretary of State, Washington Department of Community, Trade and Economic Development, the Pierce County Auditor and each city and town clerk.

IN WITNESS WHEREOF, this agreement has been executed by each member jurisdiction as evidenced by the signature page affixed to this agreement.

1 INTERLOCAL AGREEMENT

2 AMENDMENTS TO THE PIERCE COUNTY
3 COUNTYWIDE PLANNING POLICIES

4 Signature Page

5 The legislative body of the undersigned jurisdiction has
6 authorized execution of the Interlocal Agreement, Amendments to the
7 Pierce County Countywide Planning Policies.

8 IN WITNESS WHEREOF

9 This agreement has been executed _____
(Name of City/Town/County)

10 BY: _____
(Mayor/Executive)

11 DATE: _____

12 Approved:

13 BY: _____
(Director/Manager/Chair of the Council)

14 Approved as to Form:

15 BY: _____
(City Attorney/Prosecutor)

16 Approved:

17 By: _____
18 (Pierce County Executive)

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25 Exhibit "A"

Exhibit 'B'

INTERLOCAL AGREEMENT

AMENDMENTS TO THE PIERCE COUNTY
COUNTYWIDE PLANNING POLICIES

Joint Planning

This agreement is entered into by and among the cities and towns of Pierce County and Pierce County. This agreement is made pursuant to the provisions of the Interlocal Cooperation Act of 1967, Chapter 39.34 RCW. This agreement has been authorized by the legislative body of each jurisdiction pursuant to formal action and evidenced by execution of the signature page of this agreement.

BACKGROUND:

- A. The Pierce County Regional Council (PCRC) was created in 1992 by interlocal agreement among the cities and towns of Pierce County and Pierce County. The organization is charged with responsibilities, including: serving as a local link to the Puget Sound Regional Council, promoting intergovernmental cooperation, facilitating compliance with the coordination and consistency requirements of the Growth Management Act (Chapter 36.70A RCW) and the Regional Transportation Planning Organization (Chapter 47.80 RCW), and developing a consensus among jurisdictions regarding the development and modification of the Countywide Planning Policies.
- B. The Pierce County Countywide Planning Policies provide for amendments to be adopted through amendment of the original interlocal agreement or by a new interlocal agreement. The Pierce County Countywide Planning Policies may be amended upon the adoption of amendments by the Pierce County Council and ratification by 60 percent of the jurisdictions in Pierce County (13 of 20) representing 75 percent of the total population on June 28, 1991;
- C. The Pierce County Regional Council adopted a work program for 2001 which included the development of new policies to address Joint Planning.
- D. The Pierce County Regional Council conducted discussions in open public meetings in October and November of 2001 to address the amendments. The Pierce County Regional Council subsequently recommended adoption of the proposed amendments related to the **Joint Planning Policies** to the Countywide Planning Policies on November 15, 2001.

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PURPOSE:

This agreement is entered into by the cities and towns of Pierce County and Pierce County for the purpose of ratifying and approving the attached amendments to the Pierce County Countywide Planning Policies (Attachment).

DURATION:

This agreement shall become effective upon execution by 60 percent of the jurisdictions in Pierce County, representing 75 percent of the total population on June 28, 1991. This agreement will remain in effect until subsequently amended or repealed as provided by the Pierce County Countywide Planning Policies.

SEVERABILITY:

If any of the provisions of this agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

FILING:

A copy of this agreement shall be filed with the Secretary of State, Washington Department of Community, Trade and Economic Development, the Pierce County Auditor and each city and town clerk.

IN WITNESS WHEREOF, this agreement has been executed by each member jurisdiction as evidenced by the signature page affixed to this agreement.

1 INTERLOCAL AGREEMENT

2 AMENDMENTS TO THE PIERCE COUNTY
3 COUNTYWIDE PLANNING POLICIES

4 Signature Page

5 The legislative body of the undersigned jurisdiction has
6 authorized execution of the Interlocal Agreement, Amendments to the
7 Pierce County Countywide Planning Policies.

8 IN WITNESS WHEREOF

9 This agreement has been executed _____
(Name of City/Town/County)

10 BY: _____
(Mayor/Executive)

11 DATE: _____

12 Approved:

13 BY: _____
(Director/Manager/Chair of the Council)

14 Approved as to Form:

15 BY: _____
(City Attorney/Prosecutor)

16 Approved:

17 By: _____
18 (Pierce County Executive)



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
**FROM: KIM E. LYONNAIS, BUILDING OFFICIAL/
FIRE MARSHAL**
SUBJECT: NEW STREET NAME- MAGNOLIA LANE
DATE: DECEMBER 10, 2001

INFORMATION/BACKGROUND

The City has received a request for the naming of a private lane off of Soundview Drive. Notification of the proposed street name has been sent to city, county and public agencies for comments. Please find attached: copies of the letters of request for comment and location maps. No comments have been received to date.

Mr. Beardsley requests the following:

1. The new lane, developed by Mr. Beardsley as a result of his short plat, be named "Magnolia Lane".

POLICY

The new street is located in the "Historical Name Area" and Mr. Beardsley has resubmitted a name from the Historic Names List. Additionally, the name chosen by Mr. Beardsley is consistent with many of the street names on Harborview, ie; Snug Harbor Lane, Soundview Court, Island View Court, and Anne Marie Court.

The city recognizes the need to use more significant historic names, but feels those names should be reserved for more prominent streets and not private lanes.

FISCAL IMPACTS

None

RECOMMENDATION

Staff recommends approval of the street name as requested by Mr. Beardsley.

December 3, 2001

Kim E. Lyonnais
Fire Marshall
City of Gig Harbor
3125 Judson St.
Gig Harbor, WA 98335

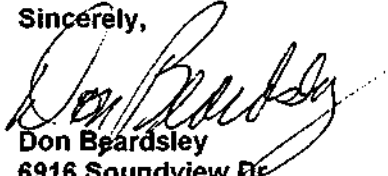
RE: the naming of the street in the Beardsley Short Plat

Mr. Lyonnais,

I wish to re-submit a street name for your approval, which is located in the Beardsley Shortplat adjacent to 6916 Soundview Dr. The street name selected is Magnolia Lane. The name was taken from the Historical Names List and represents one of the steamboats owned and operated by the Hunt brother's steamboat company.

Your prompt submittal to the city council would be appreciated.

Sincerely,



Don Beardsley
6916 Soundview Dr
Gig Harbor, WA 98335

253-752-0008

CITY OF GIG HARBOR
DEC 05 2001
PLA
SEE
2118



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: CITY COUNCIL MEMBERS
FROM: MAYOR GRETCHEN WILBERT
DATE: DECEMBER 10, 2001
SUBJECT: SMALL TOWN TRANSPORTATION ALTERNATIVES

BACKGROUND

On November 20, 2001, I represented Gig Harbor citizens at a Pierce Transit public hearing at Gig Harbor City Hall. The main points of my comments suggested Pierce Transit consider moving toward a smaller ADA-approved bus with more frequent bus service within the cities and towns in Pierce County outside of Tacoma.

On Monday, December 3rd, I attended the Tacoma Pierce County Visitor and Convention Bureau luncheon aboard the cruise boat Windstar. The 50 attendees representing business, tourism and special event opportunities within the area were asked to introduce themselves. As I introduced myself, I mentioned that I thought recognition should be given to Puget Sound waterways as a transportation alternative for tourists and commuters. My comment was the only one to receive applause from the entire group.

Now is the time to carry forth discussion on a Town Around small bus service in response to Pierce Transit's to request a tax increase from the voters in February. This discussion may shed light on the need for the continuance of the Pierce Transit Shuttle service.

Enclosed you will find the latest communiqué on the issues of enhanced service to the citizens.



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: Pierce Transit
FROM: Mayor Gretchen Wilbert *gw*
DATE: November 20, 2001
SUBJECT: Public Hearing
Shuttle and Town Around Bus Service for the Greater Gig Harbor Area

I bring greetings from the councilmembers and staff of the City of Gig Harbor. They send a hearty thank you and congratulations on the completion of the newly expanded Park & Ride on Kimball Avenue in Gig Harbor. Congratulations also on the success of your express bus routes to Seattle.

We in Gig Harbor pledge to work with Pierce Transit to create more successes in public transportation alternatives. Times are changing and we need to move quickly to meet the public's expectations of public transportation service. We need to work together to make changes in our transportation goals to meet the coming transportation needs of our growing disabled and elderly population who look for an alternative to the automobile.

The small bus shuttle has worked in the past. The dollar cost has been high. The larger public bus transportation system on the Peninsula appears to have very few riders for the size of the buses. We wonder when the public transportation system could find effective, smaller, ADA-accessible vehicles to provide a more frequent pick up schedule.

Would Pierce Transit work with the car dealers to find an appropriate vehicle to provide a small Town Around? Would Pierce Transit consider obtaining a business sponsor for each smaller bus (i.e. "This bus sponsored by XYZ Publishing" tastefully lettered on the side of the bus)? Would Pierce Transit give franchise cooperation to private enterprise, if one could be found to provide the Town Around bus service within the city or the county?

Conversations are beginning to focus on the transportation alternative of increasing the use of water taxis on Puget Sound. Water taxis would need landings with bus connections.

I'm convinced if Pierce Transit can continue to come forth with plans to meet these changing times, the public will be willing to pay for these alternative transportation choices. Without alternatives, the public will be stuck in increasing automobile gridlock and public transportation will lose their credibility. We cannot let that happen.

Town Arounds could work for every small city and town in Pierce County. It could be fun for young and old to ride the bus to the skate park or grocery store.

I'm ready to sit down with the planners to make some changes – change will take place, for better or for worse. Our world never stays the same. Let's make changes for the better. Listen to the needs and gather the ideas tonight.

Thank you.



TO: Mayor Bob Young, City of Bonney Lake
Mayor John Blanus, City of Buckley
Mayor Rose Hill, City of Edgewood
Mayor Joe Rozenski, City of Fife
Mayor David Viafore, City of Fircrest
Mayor Gretchen Wilbert, City of Gig Harbor
Mayor John Williams, City of Milton
Mayor Guy Colorossi, City of Orting
Mayor Michael Transue, Town of Ruston
Mayor Janda Volkmer, Town of Steilacoom
Mayor Barbara Skinner, City of Sumner

December 4, 2001

RECEIVED

DEC 5 - 2001

CITY OF GIG HARBOR

FROM: Dave Enslow, Pierce Transit Board of Commissioners

I'm writing to bring you up to date on the Pierce Transit Board decision to bring a sales tax increase of 0.3% to the voters February 5, 2002. As you may know, Pierce Transit received approximately 40% of their budget from the state Motor Vehicle Excise Tax. Following the passage of Initiative 695, Pierce Transit had all that money taken away. The Board, two years ago, anticipating that the legislators would restore that money, chose to continue with the normal level of service rather than do massive cuts in service. They had sufficient reserves to draw on for three years. Unfortunately, like most savings accounts, Pierce Transit is now running dry. Hoping for legislative action has not worked. The savings are running out and if there is not a new tax source to replace the MVET, drastic cuts in service must happen starting 2003. Our choice is clear. Either there is more revenue or there is dramatically less service.

I voted yes to bring this increase before the voters. Personally, I don't like more taxes and would rather have taken any other course. The hard truth is that either Pierce Transit gets more income or service must be cut. The books have to balance. The cuts will fall rather heavily on low income and disabled folks who often rely the most on bus and SHUTTLE service for their essential transportation. It will also have its greatest impact on small cities and rural areas, the areas I represent. Tacoma's relatively dense population makes for much more productive bus routes that will be much more easily protected from budget cuts. I supported this increase because I believe that Pierce Transit is a fundamental part of our life in Pierce County.

There is happier news:

- Tim Strege, Pierce Transit's first Board chairman has volunteered to head up a citizen's committee that will aggressively promote the passage of this levy.
- Pierce Transit is looking into adding some smaller buses to serve our communities. I have heard plenty about the big empty buses. While that objection is not always valid, some smaller buses will be a welcome addition. As an aside, the larger buses are operating on inexpensive, environmentally friendly compressed natural gas. Only recently have smaller buses become available that run on compressed natural gas. The large buses may be big but they don't have the diesel smell.

I am available to meet with you or any interested group who would like to discuss this critical issue. Pierce Transit staff is also available to make presentations that would be much more technically correct.

Email: daveenslow@msn.com / Phone: (253) 863-8115
Address: 15919 Main Street, Sumner, WA 98390

Dave Enslow
Pierce Transit Commissioner

Memo To: 11/6/01

Mike Bennett, Mosquito Fleet

Lyn McClelland, MARAD

Ross McDonald, Port of Seattle

Jack Case, Cell, Inc.

Art Harnisch, C. of E. Ret.

Don Meyer, FWDA, Exec. Director

Dick Hayes, Kitsap Transit

Gretchen Wilbert, Mayor, Gig Harbor.

Julie Collins, Port of Tacoma

Bob McChesney, Port of Everett

Subject: Where we are at the moment.

Folks, I have sent the attached package to:

- 1. The Bill and Melinda Gates Foundation. (A slightly different version)**
- 2. Senator Patty Murray**
- 3. Representative Norm Dicks**
- 4. Representative Jennifer Dunn**

You are all welcome to call or contact any of the above and be prepared to answer questions regarding our proposal, or refer them to me or Mike Bennett.


Ray Dinsmore

3608 Lovejoy Ct. NE.

Olympia, WA. 98506-9619

FAX 360-705-2747

e-mail dinsoliver@AOL.com

Senator Patty Murray November 5, 2001
2988 Jackson Federal Building
915 Second Ave.
Seattle, WA. 98174

Dear Senator Murray,

I am writing to you regarding a matter of great importance to Central Puget Sound citizens. The I-5 traffic corridor problems are affecting all of us, commuters as well as those of us using this transportation corridor on a daily or random basis for business and pleasure. Many studies have been performed looking at possible solutions. Most of which concern more highway lanes or building rail facilities. None have really looked at the use of our extensive Puget Sound waterways to assist in solving the problem. A number of us have been studying this possibility for several years and feel that the time has come to seriously consider the use of high speed passenger-only ferries to move people and light freight (UPS type) between ports and cities from Bellingham and Olympia. Passenger and freight vessels were originally used in the development of the region and were still in use in the 1920's. With the recent population increases and industrial growth in central Puget Sound, the elimination of light rail lines and the construction of the I-5 highway system, with it's restrictions on growth, especially through the central Seattle area; we have become gridlocked, resulting in millions of hours of lost personal and business time on an almost daily basis.

I am sending this letter to you as I believe some relief from this situation is of great importance to our region and our economic welfare is suffering because of the problems this traffic bottleneck is causing.

I was an elected Port Commissioner at the Port of Olympia during the years 1981-1994. Previous to that time I had worked in the Department of Highways for 6 years and had become interested in the State Ferry System and it's difficulties in providing timely and regular scheduled service across Puget Sound as an extension of the highway system. Many people were bringing their cars across on the ferries in order to get to their destinations in the Seattle area. Why was this necessary when a transit system, METRO, was available to move people to their destinations from the

ferry terminals? This problem of coordination between two government agencies still has not been solved. In the morning the transit system busses are bringing passengers into the downtown area, then returning empty to the transit parks to await the afternoon commuter runs, these empty buses could meet the scheduled ferries at the dock to provide express service to local passenger destinations: University of Washington, Bellevue, Seattle Center, medical facilities, etc.

In 1990, through efforts of several Port Commissioners, the Washington Public Ports Association sponsored a study of the feasibility of high-speed passenger only vessels to assist in alleviating the highway congestion which was rapidly developing in the I-5 corridor between Bellingham and Olympia. The Ports were also very interested in continued highway access to their facilities. All of the Ports on Puget Sound participated in the financing of the study which was conducted by Mr. Jack Case, Cell Inc. Mr. Case, a graduate of the University of Michigan and a registered Professional Naval Architect and Marine Engineer in Washington and British Columbia, has been involved in developing several ferry systems, particularly in the design and construction of the "SeaBus" system in Vancouver, B.C. This system has been in operation since 1977 and has carried over 98 million passengers, operating two vessels, seven days a week with no back-up boat. In 1,035,000 sailings only 22 were missed because of mechanical reasons. Development of the SeaBus removed the necessity for construction of an additional very high cost (\$440+ million) bridge between Vancouver and North Vancouver. The total cost of the "Seabus system" was \$32 million.

The study proposal was presented to the Port Association members and received their approval. The study assumed that the terminals would be located on Port property and the passengers would reach the terminals by use of local transit, kiss and ride drop-off, and extensive use of shuttle busses from park and ride lots located some distance away from the floating terminals. The results of the study recommended a private vessel operation, which would allow the system operator flexibility in operation of the vessels during the off-peak commuter hours and result in increased efficiency and economy of operations. I have included a copy of the Executive Summary for your information.

Upon completion of the study Mr. Case and I made presentations to the Legislative Transportation Committee, the Transportation Commission, and the various transit operators in Thurston, Pierce, Kitsap, Snohomish, and King counties, who would be supporting the system. The land-side of the operation will be the most difficult because no central agency now exists to coordinate vessel arrivals and bus schedules. All we got from the Legislative and State officials was, "If more ferry service is required, then the State Ferry System can handle it." We all know the problems which have occurred with the State-operated system. It has been expensive to operate in spite of the subsidy it receives and poorly operated over the years. These problems are well documented. The existing ferry system of cross-sound routes does very little to reduce the I-5 traffic situation.

We also briefed the so-called "Blue Ribbon" Transportation Commission appointed by the Governor and the "Cascadia" group. The Sound Transportation Study group was also contacted. None of these has expressed any interest in the use of our natural North-South water corridor.

As previously indicated, the major problem with the proposed concept lies with the land-side of the operation which requires fast, efficient movement of people to and from their residences or places of business to and from the ferry terminals. This can be solved by use of well organized and operated local transit systems coordinated by a central dispatch organization. With computerized control of the ferries and the transit vehicles, turn around times for the vessels can be minimized, to provide a highly efficient system. Fast vessels like aircraft must be kept moving to provide revenue to the system operator. People will use such a system if it will provide them with a relaxing and timely service almost as good as their private automobiles. An early morning and after work boat ride is a nice way to begin and end the work day.

Recently we have had discussions with an operator in Everett: Mosquito Fleet, who currently operate a 150 passenger high-speed catamaran vessel for use in the summer on whale watching trips in the San Juan Islands. They recently have operated the vessel on demonstration passenger-only commuter runs between Everett and Seattle and Tacoma and Seattle. Mosquito Fleet is in partnership with

Allen Marine, Inc. of Sitka, Alaska who builds the vessels. Allen Marine operates a number of these vessels in Alaska during the summer months. We have had discussions with the Federal Maritime Administration and Federal Transit Administration officials in Seattle and Washington D.C. and the Ports of Everett, Seattle, and Tacoma regarding a possible 6 month demonstration program using four 150 passenger vessels to determine how ridership will develop by using such a system permanently on Puget Sound. Currently there is no federal or state funding available for such a demonstration, which could be started this fall if funds were available. The vessels are available within a few weeks.

The program planned would operate two vessels between Everett and Seattle with stops at Clinton and Kingston in the morning and evening and two Boats between Tacoma and Seattle with stops at Gig Harbor, and Des Moines in the morning and afternoon. If we can tie this service to the Navy requirement to move people between Everett and Bremerton we will do that also.

The estimated cost of the demonstration using a worst case 50% ridership and a \$10 round trip fare is estimated to be approximately \$60,000 per vessel per month reduced by approximately \$30,000 collected from fares.

We feel that everyone using the I-5 corridor would benefit from such a service and we are asking for your assistance in setting up the demonstration.

Please look over our proposal and let me know if you can assist with the proposed program. We have set up a tentative alliance between the Ports of Seattle, Everett, and Tacoma to form an organization which would be eligible to participate in Federal grant or demonstration Programs.

I am sending a copy of our Proposal to Representatives Jennifer Dunn and Norm Dicks for their assistance.

Very Sincerely,


Oliver Ray Dinsmore, P.E.

3608 Lovejoy Ct. NE.
Olympia, WA. 98506-9619
FAX 360-705-2747

News Release

Contact: Lind Simonsen, Public Relations Officer, Pierce Transit (253) 581-8034

For Immediate Use

December 4, 2001

Pierce Transit Board Approves Three-Tenths of One Percent Sales Tax Proposal for Public Vote on February 5, 2002

TACOMA - The Pierce Transit Board of Commissioners has approved a resolution to be placed before the voters on February 5, 2002. This is a request for an additional three-tenths of one percent (0.3%) in local sales taxing authority.

If approved, the measure will increase the sales tax by 0.3%, which amounts to 3 cents on a ten-dollar purchase. This additional tax revenue will replace funding that was lost when the state Motor Vehicle Excise Tax was eliminated and will allow Pierce Transit to provide increasing levels of local bus service, SHUTTLE transportation for people with disabilities, vanpool services, and additional Park & Ride lots, at a rate that will keep pace with Pierce County population growth.

If rejected, the measure will leave the sales tax at the present rate. With no additional funding Pierce Transit, beginning in 2003, will be forced to cut local bus service by 40 to 45%, cut SHUTTLE transportation for people with disabilities by 20 to 25%, stop the growth of vanpool services and Park & Ride lots. In order to achieve this magnitude of service reduction Pierce Transit will have to consider elimination of Saturday and Sunday service, elimination of many bus routes, and less frequent service. Should these service reductions become necessary, options would be explored in-depth with the community prior to implementation.

This situation came about following the passage of I-695 when the state legislature voted to eliminate the Motor Vehicle Excise Tax which provided approximately 38% of

- MORE -

Pierce Transit's operating budget. In February 2000, the Pierce Transit Board implemented a service reduction of 14%, made administrative cuts and service efficiency improvements. The Board also adopted a three-year financial plan that would maintain the reduced service level by using available financial reserves to fund the revenue shortfall. Pierce Transit recently announced a fare increase of 25% effective January 1, 2002. This increase will help Pierce Transit keep pace with inflation, maintain a reasonable farebox recovery rate, and generate modest new revenue. However, it will not make up for the magnitude of lost revenue.

Now, with the available reserve funds set to run out at the end of 2002, the Board has elected to ask the voters of Pierce County to consider an increase in sales taxing authority.

"Sales tax revenue is the only means available for additional funding," states Don S. Monroe, Chief Executive Officer of Pierce Transit. "This will be the first time since its inception, more than 21 years ago, that Pierce Transit will ask for additional funding from the public." He said eight transit systems across the state have already been successful with similar ballot measures to replace funding lost by the repeal of the Motor Vehicle Excise Tax.

At the Board meeting on November 26, Tim Strege, former commissioner and the first Pierce Transit Chairman of the Board stated, "This is the single most important transportation decision facing the community since the formation of Pierce Transit more than 21 years ago."

Pierce Transit is the public transportation agency for Pierce County, providing the community with local and express bus routes, vanpools, rideshare services, and SHUTTLE transportation for people with disabilities. Last year, the agency provided more than 14 million passenger trips.

For more information on transit services/schedules in Pierce County, call Pierce Transit Customer Service at (253) 581-8000 or visit our web site www.piercetransit.org.



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: UPDATE - COMPRESSOR NOISE & GIG HARBOR SPORTSMANS CLUB
DATE: DECEMBER 10, 2001

BACKGROUND - COMPRESSOR

On December 3, 2001 I received a telephone call from the plant manager at Nu Health medical indicating that he has approval to enclose the compressor located on the back of the building and will do so within the next couple of weeks. I will continue to keep you updated as this issue progresses.

BACKGROUND - HIRING OF EXPERTS

At the November 26, 2001 Council meeting, I was directed to pursue the hiring of two experts to evaluate noise and safety issues related to the shooting activities at the Gig Harbor Sportsman's Club. With regards to evaluating the configuration, use and operation of the range, I contacted Mr. Gerald Graham who is the National Rifle Associations (NRA) Range Technical Advisor. To the best of my knowledge, Mr. Graham is the only local person qualified to evaluate the Club's facilities based upon the nationally accepted NRA Range standards. Mr. Graham indicated that an evaluation of the range would cost approximately \$200.00 - \$300.00. Mr. Graham's services must be coordinated through the NRA and their Range Technical Team. I have attached a copy of the NRA flyer describing the services that are available to us.

Following the meeting on November 26th, I also contacted two acoustical engineering firms who are familiar with the Gig Harbor Sportsman's Club and have done work in the Gig Harbor area. The firm of Michael R. Yantis Associates, Inc. conducted an acoustical study in conjunction with the development of the Northharbor Business Campus in May of 1991. The firm of BRC Acoustics is presently working with Mr. Phil Cantor regarding the possible relocation of the Club to Kitsap County and is familiar with the area. Both firms have prepared preliminary cost estimates, which I have attached for your review. Mr. Yantis outlines a basic evaluation of noise levels, preparation of a report and attendance at meetings as needed at cost of approximately \$3,550.00 to \$4,300.00. BRC Acoustics proposes a more detailed analysis, which includes noise modeling at a cost of approximately \$9,950.00 plus expenses. Both firms are qualified to conduct the type of analysis that we desire.

RECOMMENDATION

I recommend that we pursue the evaluation of the Gig Harbor Sportsman's Club shooting range by the NRA Range Technical Team. If agreeable to Council, I will pursue the initiation of such an evaluation.

I recommend that the Council determine a maximum amount that would be acceptable to expend on a noise evaluation of the Gig Harbor Sportsman's Club. Once an acceptable amount is set, I can then direct each of the firms to prepare a more detailed step-by-step scope of work and cost estimate for Council review.

RTIA Cost Recovery Profile



NRA Affiliated Club/Organization
\$100 Case Origination Fee: includes one day on-site assistance.
\$100 for each additional day of service.
Also, recovery for all actual expenses incurred relative to transportation, lodging, meals, telephone, etc., for initial visit and for all follow up visits.

Non-NRA Affiliated Club/Organization
\$150 Case Origination Fee: includes one day on-site assistance.
\$100 for each additional day of service.
Also, recovery for all actual expenses incurred relative to transportation, lodging, meals, telephone, etc., for initial visit and all follow up visits.

For more information on the benefits of becoming an NRA Affiliated Club, please call NRA Clubs & Associations toll free number, (800) NRA-CLUB.

To join NRA today, or for additional information about membership, call (800) NRA-3888. Your membership dues can be charged to VISA, MasterCard, American Express, or Discover

NRA Range Department
11250 Waples Mill Road
Fairfax, VA 22030
(800) NRA-3888, ext. 1278
Fax: (703) 267-1011



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RD-002
05/00

NRA'S Range Technical Team

Providing on-site assistance to shooting range facilities



A publication of the National Rifle Association



To initiate RTTA assistance, please send a request to the Range Department on official club/range letterhead. Be sure that the letter is signed by appropriate range personnel (president, owner, CEO, etc.) and provides the information listed below:

1. Range information
 - Mailing address
 - Day & evening phone numbers
 - Fax number
 - Physical location of range facility
 - NRA club affiliation number
2. Contact person:
 - Name
 - Mailing address
 - Day & evening phone numbers
 - Fax number
3. Paragraph describing specific type of assistance required.
4. Does range have a copy of the *NRA Range Source Book*?
5. Does range have bylaws, range rules, and regulations? If an outdoor range, do you have a topographic map, tax map, and aerial photographs of the range property and the surrounding area?
6. Statement attesting range understands the cost recovery and expense reimbursement policy.

Mail or fax your letter of request to the address shown on the back of this brochure.



The NRA Range Technical Team is a nationwide network of volunteers trained in the field of shooting range development, design, and operations. The Range Technical Team was developed to provide an extension of NRA Headquarters to range owners and operators at a local level. The goal of the Range Technical Team is to provide every shooting community with the necessary assistance and support to help keep our nation's ranges operating well into the 21st Century.

Services provided by Range Technical Team Advisors (RTTAs) include: range planning assistance, range use and procedural evaluations, range safety, and design evaluations.

Ranges requesting on-site RTTA services will be responsible for cost recovery and expense reimbursement as outlined on the back of this brochure.

Upon receipt of the letter of request, NRA will prepare a consultant agreement that must be signed by NRA and the requesting range prior to a Range Technical Team Advisor visiting your site. Please allow 14-21 days for the completion of this process.

Range survival depends on range managers taking an active role and planning for the future. One way to begin is by having an outside advisor take an honest look at your shooting range facility and its operations. This advisor will be able to discuss your strong points and the possible areas for improvement. Shooting range safety is not a function of sound engineering and design principles alone, but a commitment from every manager, member, and user involved in the proper handling of firearms and the proper use of the shooting range.

Vodopich, John (Gig Harbor)

From: Michael Yantis [michaely@yantis.com]
Sent: Monday, December 03, 2001 9:45 PM
To: 'Vodopich, John (Gig Harbor)'
Cc: Tracie Ferguson
Subject: RE: Acoustical Study

Importance: High

Mr. Vodopich, we would be glad to help. Previously, we conducted measurements of noise levels produced by the gun club and received by residential properties in the neighborhood. I doubt that we still have our files from the previous work - we normally keep files for about 7 years. If we need the data, hopefully we can use the report information. I don't think we even have a copy of the previous report.

Assuming we would take new measurements, our estimated fees would be as follows:

Measurements - \$1200 for first measurement, \$750 for each additional.

(One measurement consists of potentially several measurement locations, but measured during the same trip to the site.)

Reporting and telephone coordination - \$1500.

Attendance at meetings with you or your staff - \$350 per meeting.

Attendance at public meetings - \$500 per meeting.

± 3,550 - 4,20

I hope this helps. I am calculating our fees based on one of our acoustician's rate with significant experience regarding environmental noise issues. Tracie Ferguson is the acoustician I would recommend - her rate is \$85/hr. I would help only in quality control reviews in our office. If I need to be present during meetings, etc., our fees would increase by the number of my hours at \$150/hr. If my time is desired, we should work out how much time to allow in the initial contracting.

Please call if you have any questions or if we can provide additional information.

Best regards,
Michael
Michael R. Yantis Associates, Inc.
michaely@yantis.com
(206) 583-0465 x22

-----Original Message-----

From: Vodopich, John (Gig Harbor) [mailto:VodopichJ@LESA.NET]
Sent: Monday, December 03, 2001 2:00 PM
To: 'michaely@yantis.com'
Subject: Acoustical Study

Mr. Yantis,

The City of Gig Harbor is in the process of evaluating the noise impacts of the Gig Harbor Sportsman's Club (shooting range) upon adjacent

residential
developments. I have recently found a May 1991 study that you did for
the
Northharbor Business Campus which is located between the residences and
the
Sportsman's club. The City is interested in conducting a new acoustical
study at the property line of the residential plat. I would be
interested
in hearing from you if you are interested in such a study and what a
ball
park cost would be. I look forward to hearing from you.

John P. Vodopich, AICP
Director, Planning & Building Services
City of Gig Harbor
3125 Judson Street
Gig Harbor, WA 98335
(253) 851-4278
(253) 858-6408 Fax
vodopichj@lesa.net



BRUCK RICHARDS CHAUDIERE INC.

December 5, 2001

Mr. John P. Vodopich, AICP
City of Gig Harbor Planning and Building Services
3125 Judson Street
Gig Harbor, Washington 98335

Regarding: Gig Harbor Sportsman's Club
Proposal for Noise Study

Dear Mr. Vodopich:

In response to your request, we are pleased to submit this proposal to prepare a noise study pertaining to the Gig Harbor Sportsman's Club. The scope of acoustical services has been prepared in response to the Gig Harbor City Attorney's recommendations. Furthermore, this proposal has been informed by BRC's familiarity with the Club layout from previous site visits.

We propose to conduct the following tasks:

1. Measure sound levels at a minimum of two noise-sensitive properties in the vicinity of the site during shooting activities at the Sportsman's Club. Simultaneously measure sound levels at a reference distance from the shooter in order to correlate the sound levels received at neighboring properties with the characteristics of firearm noise sources. This task will require coordination with members of the Sportsman's Club.
2. Monitor existing sound levels continuously for at least 24 hours at the two noise-sensitive properties in the vicinity of the site in order to characterize the environment during hours without Club activities.
3. Establish criteria for appropriate sound levels at the nearest noise-sensitive receivers in order to meet applicable noise regulations and to minimize environmental noise impacts. The criteria will be based on Pierce County noise limits and on Environmental Protection Agency (EPA) guidelines for evaluating noise impacts.

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4. Evaluate the sound levels produced by current activities at the Sportsman's Club with respect to applicable noise criteria. The evaluation will take into consideration the measured sound levels and a description of current Club activities, to the extent that it is provided by the Club.
5. Model the propagation of shooting range sound to the nearest noise-sensitive receivers taking into account sound attenuation by distance, noise barrier effects caused by natural topography or by man-made barriers, sound absorption by intervening ground and atmosphere, and other atmospheric effects. In order to conduct the modeling, we will require topographical maps for the site showing features of the facility, nearby noise-sensitive receivers, and intervening terrain.

The purpose of the noise modeling will be to quantify the effect of existing and potential future noise mitigation measures such as berms, enclosures, or baffling affecting individual firing ranges.

6. Submit a report of our findings and recommendations.

Our proposed fee for the tasks outlined above will be \$9,950.00 plus associated expenses. It is anticipated that project expenses will include mileage to the site, meals during trips to the site, and costs of maps and photographs. Expenses will be charged at cost plus 10 percent.

We will be available to participate at design meetings, informational meetings with the public, and public hearings as requested. These services will be billed at current hourly rates plus expenses.

We consider the contents of this proposal to be privileged information, and therefore not to be disclosed outside of your office (with the exception of the Owner/Client).

Please call if you have any questions or if there are other issues you wish to discuss. We look forward to working with you.

Sincerely yours,

Ioana Park, P.E.
Senior Acoustical Consultant