

GIG HARBOR CITY COUNCIL MEETING



May 13, 1996

7:00 P.M., CITY HALL COUNCIL CHAMBERS

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
May 13, 1996 - 7:00 p.m.

PUBLIC COMMENT/DISCUSSION:

PUBLIC HEARINGS:

1. Preannexation Zoning for the UGA (first of two required hearings)
2. Amendments to City Environmental Policy Ordinance (Chapter 18.04 GHMC)

CALL TO ORDER:

APPROVAL OF MINUTES:

CORRESPONDENCE / PROCLAMATIONS:

1. Letter from Chief of Community Relations - Dept. of the Air Force.
2. Proclamation - National Nursing Home Week.
3. Proclamation - Buddy Poppy Week, Veterans of Foreign Wars.
4. Proclamation - Grandparents Raising Grandchildren Day.

OLD BUSINESS:

1. Letter from Jim Richardson.

NEW BUSINESS:

1. First Reading of Ordinance - Preannexation Zoning for the UGA.
2. First Reading of Ordinance - Amendments to City Environmental Policy Ordinance.
3. Hearing Examiner Recommendation/Resolution for Approval - Soundview Office Park, SPR 95-05.
4. Appeal of Hearing Examiner's Decision - SDP 95-06/VAR 95-11, Robert Philpott, Multipurpose Marine Fueling Facility.
5. Appeal of Hearing Examiner Decision - SPR 95-12, Arabella's Landing, Office Building.
6. Award of Contract for Harborview/Stinson Repair.
7. Resolution - Sale of Surplus Equipment.
8. Liquor License Renewal - WB Scott's Restaurant.

MAYOR'S REPORT: Parking Issues.

COUNCIL COMMENTS:

STAFF REPORTS:

Chief Barker - Gig Harbor Police Department.

ANNOUNCEMENTS OF OTHER MEETINGS:

Second City Council Meeting in May - Tuesday the 28th at 7:00 p.m.

APPROVAL OF BILLS:

APPROVAL OF PAYROLL:

EXECUTIVE SESSION: For the purpose of discussing claims.

ADJOURN:

REGULAR GIG HARBOR CITY COUNCIL MEETING OF APRIL 22, 1996

PRESENT: Councilmembers Owel, Ekberg, and Platt. Councilmember Picinich acted as Mayor Pro Tem. Mayor Wilbert and Councilmember Markovich were absent.

PUBLIC COMMENT / DISCUSSION: None.

CALL TO ORDER: 7:04 p.m.

APPROVAL OF MINUTES:

MOTION: Move approval of the minutes of the April 8, 1996 meeting as presented.
Owel/Ekberg - unanimously approved.

CORRESPONDENCE:

1. Letter from Elanore Long regarding naming a street for her father, Homer Howe. Mayor Pro Tem Picinich said he could remember when Mr. Howe was the Superintendent for Peninsula School District. He asked if anyone in the audience was present to speak about Mr. Howe. No one was present.
2. Letter from Lindberg Architects - Native vegetative restoration. No report given.
3. P.C. Public Works - Bag Hunger Campaign/Environmental Education Exhibit. Mayor Pro Tem Picinich gave a brief explanation of this food drive to been held April 15 - 26.

SPECIAL PRESENTATION:

Mayor Pro Tem Picinich asked Rachael Ashabraner, a student at Gig Harbor High School, to come up and receive a letter from the Mayor and signed by staff and Councilmembers congratulating her for being chosen to carry the Olympic Torch during a portion of the upcoming Torch run on May 7th.

OLD BUSINESS:

1. Proposed Sale of Bogue Building - Purchase and Sale Agreement. Mark Hoppen presented this contract and explained that the contract included covenant language that would ensure that the Chamber's meeting room would be available to the public, or the City would have the option of re-purchasing the building. He added that inclusion of this language was to help the Chamber obtain commercial financing to purchase the building at the proposed price. Councilmember Ekberg thanked Mark for explaining the terms of the contract, as he had concerns about buying back the building as opposed to the Chamber paying the difference in price if the community room was no longer utilized. Councilmember Owel asked who was responsible for paying the excise tax. Mark explained that it was generally the seller's responsibility to pay.

MOTION: Move we authorize the staff to submit this agreement to the Chamber of Commerce.
Ekberg/Platt - unanimously approved.

NEW BUSINESS:

1. Proclamation - Washington State Federation of Women's Clubs Days. Mayor Pro Tem Picinich read the proclamation and introduced Kate Reardon. Ms. Reardon gave information and statistics for the organization. She said that the local club, established in 1907, currently had 14 members who donate scholarships to the local high schools, contribute to the Flower Basket project, do plantings around the city, help with the food bank, among other civic projects. She was presented with the proclamation.
2. Proclamation - National Community Theater Week. Mayor Pro Tem Picinich asked if anyone was present representing the Performance Circle. No one was present, and he read the proclamation.
3. Resolution Authorizing Funding Assistance for Jerisich Park Dock Improvement Project(s). Wes Hill introduced the resolution authorizing the Mayor to submit a grant application to the Interagency Committee for Outdoor Recreation to secure funds to assist in the dock improvements. He answered Council's questions regarding the scope of improvements and the amount of grant funding being sought.

MOTION: Move we adopt Resolution No. 469 authorizing the Mayor to sign a grant application for the Jerisich Park Dock Improvements Project.
Ekberg/Owel - unanimously approved.

4. Special Occasion Liquor License - G.H. Chamber of Commerce. No action taken.
5. Liquor License Renewals: Down East Restaurant; Thriftway; and Stockmarket Foods. No action taken.
6. Special Occasion Liquor License - Eagles. No action taken.

MAYOR'S REPORT: Emergency Preparedness/Management within the City. Mayor Pro Tem Picinich asked Councilmembers to review their report in the packet. He announced the meeting to be held for Emergency Preparedness, Thursday, April 25th at 6:00 p.m. at City Hall.

COUNCIL COMMENTS: None.

STAFF REPORT:

Tom Enlow, Finance Director, gave a summary of the quarterly report. He explained that the City was ahead of budget for revenues, and behind on sales tax, due to anticipation of the Westside Annexation, but 27% ahead of the usual sales tax from existing payers, which is good for this slow time of year. He added that water, sewer and storm revenues are at budget and expenditures are doing well. He said that no budget amendments are anticipated at this time.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Council worksession - Court consolidation: Monday, April 29th at 6:00 p.m. at City Hall.

2. Council worksession - Utility extensions and park use policy: Monday, May 6th at 5:00 p.m. at City Hall.
3. Emergency Preparedness, Thursday, April 25th at 6:00 p.m. at City Hall.

APPROVAL OF BILLS:

MOTION: Move approval of checks #15822 through #15878 in the amount of \$55,001.16.
Owel/Ekberg - unanimously approved.

EXECUTIVE SESSION: None scheduled.

ADJOURN:

MOTION: Move to adjourn at 7:27 p.m.
Platt/Ekberg - unanimously approved.

Cassette recorder utilized.
Tape 421 Side B 308 - end.
Tape 422 Side A 000 - 225.

Mayor

City Administrator



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 62D AIRLIFT WING (AMC)

6 May 1996

62 AW/PA
100 Main St. Suite 1050
McChord AFB, WA 98438-1109

Dr. William Wilbert
3105 Judson
Gig Harbor, WA 98335

Dear Doctor Wilbert

Now that you have had time to recover and reflect on our trip, I wanted to tell you we really appreciated your taking the time to travel with us on the Civic Leader Tour to March Air Force Base and the C-17 Plant at Long Beach.

To close the loop on our effort to continually improve our process, I'm enclosing a brief tour critique. Please take a moment and tell us what worked well and what we need to pay more attention too for future trips.

We don't do these trips very often, so all the feedback we get from them is valuable.

We enjoyed having you and hope you came away with a better understanding of the Global Reach facet of the Air Force mission. If you have any questions beyond the scope of what you saw during the trip, please give us a call at 984-5637.

Sincerely

A handwritten signature in black ink, appearing to read "David E. Smith".

DAVID E. SMITH
Chief of Community Relations

Attachment
Trip Critique

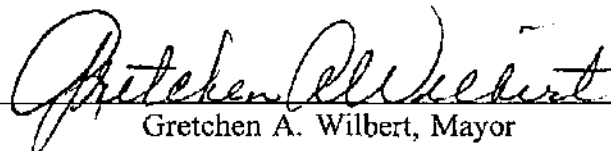
PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, our community's citizens now residing in nursing homes have contributed immeasurably to Gig Harbor's heritage over the years; and

WHEREAS, our community's nursing home residents are themselves living history; and
and

WHEREAS, member facilities of the American Health Care Association are sponsoring many activities in observance of **National Nursing Home Week** beginning Mother's Day, May 12, 1996.

THEREFORE, I, Gretchen Wilbert, Mayor of the City of Gig Harbor, urge all members of this community to join in this year's Nursing Home Week observance by visiting our town's nursing home residents and by recognizing the high quality of care that our long term care facilities are providing.


Gretchen A. Wilbert, Mayor


Date

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, the annual sale of **Buddy Poppies** by the **Veterans of Foreign Wars** of the United States has been officially recognized and endorsed by governmental leaders since 1922; and

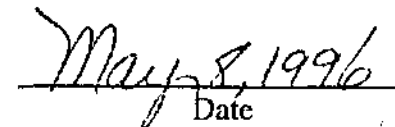
WHEREAS, V. F. W. Buddy Poppies are assembled by disabled veterans, and the proceeds of this worthy fundraising campaign are used exclusively for the benefit of disabled and needy veterans, and the widows and orphans of deceased veterans; and

WHEREAS, the basic purpose of the annual sale of Buddy Poppies by the Veterans of Foreign Wars is eloquently reflected in the desire to "Honor the Dead by Helping the Living."

THEREFORE, I, Gretchen Wilbert, Mayor of the City of Gig Harbor, do hereby urge the citizens of this community to recognize the merits of this cause by contributing generously to its support through the purchase of Buddy Poppies on the day set for the distribution of these symbols of appreciation for the sacrifices of our honored dead; **May 17 and May 18, 1996.**

I urge all patriotic citizens to wear a Buddy Poppy as mute evidence of our gratitude to the men of this country who have risked their lives in defense of the freedoms which we continue to enjoy as American Citizens.


Gretchen A. Wilbert, Mayor


Date

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, the family is the cornerstone of our nation, state and city, and children are the future of society; and

WHEREAS, the care and nurturing of children has traditionally been the responsibility of the biological parents with support of the neighborhood and community; and

WHEREAS, changes in social behavior have resulted in some biological parents being unable to appropriately parent their children; and

WHEREAS, more single grandparents and grandparent couples are stepping forward to assume full, daily, parental responsibility for these children; and

WHEREAS, these grandparents face many emotional, financial and legal challenges, often at the expense of their own physical and mental health needs in their efforts to provide safety and normalcy for their grandchildren; and

WHEREAS, the significance of the care and nurturing role these grandparents play in the lives of the children of our city deserves to be recognized;

NOW, THEREFORE; I, Gretchen S. Wilbert, Mayor, City of Gig Harbor and members of the City Council do hereby proclaim May 22, 1996 as

GRANDPARENTS RAISING GRANDCHILDREN DAY

in the City of Gig Harbor and we urge all citizens to join us in observing this day to recognize the contributions of these caregiving grandparents to the children of our city.



Gretchen A. Wilbert, Mayor



Date

April 22, 1996

James Richardson
3505 Grandview Street
Gig Harbor, WA 98335
(851-6451)

Mark Hoppen, City Administrator
City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335

This letter is made to request your assistance regarding the settlement of the judgment and lien held by the City of Gig Harbor and related to the addition to my home at 3505 Grandview Street.

As you are aware, I have been trying to refinance the house and complete the construction as permitted by the City. The primary obstacle to obtaining the necessary financing has been the unwillingness of the Council to release or subordinate their penalty judgement against the property. After several attempts, I have been able to secure the financing to pay off the judgement, provided that the City will accept the amount which is actually owed.

The fines calculated in the outstanding judgement are incorrectly assessed. According to the GHMC (17.102.010), fines are calculated "... from the date set for correction thereof ...", which in this case was decreed to be August 26, 1993. Although the City Attorney had recited this provision in all of her pleadings, she calculated the fines commencing from the date of the Councils' decision to uphold the hearing Examiner (April 26, 1993), resulting in a total judgement of \$30,110.00 dated February 18, 1994. In actuality, 176 days had elapsed "... from the date set for correction thereof ..." until the date the judgement was entered, resulting in a total penalty of \$17,600.00 which was reduced by a payment of \$550.00 on April 18, 1994. This provides an actual amount of ~~\$17,050.00~~ currently owed to the City.

This is the amount that is truly owed to the City and the absolute limit of what I am able to borrow to satisfy this judgement. Provided that the City is willing to accept this amount as settlement the monies can be paid to the City within 30-60 days.

If the City is unwilling to settle for this amount, the foreclosure process which has already begun will be completed on July 7, 1996. Considering that KeyBank is in first position (\$40,827.00), the County Assessor is in second position (\$6,047.00), Par 5 Partnership is in third position (\$424,000.00), and the City is in fourth position, it is certain that neither I nor the City would receive a single penny as the result of a completed foreclosure. As you are aware, Par 5 is ready to settle as soon as the City releases its lien on the Minter Creek property and the others can be paid out of the loan closing.

I am convinced that you and Carol Morris have the authority to accept this settlement offer or some variation of it under the GHMC:

"15.18.080 Compromise, settlement and disposition of suits. The City administrator and the City attorney are authorized to enter into negotiations with the parties or their legal representatives named in a lawsuit for the collection of civil penalties to negotiate a settlement, compromise or otherwise dispose of a lawsuit when to do so will be in the best interest of the city. (Ord. 488 §8, 1986)."

Under the present circumstances, it would definitely be "... in the best interest of the city ..." to accept my offer to settle. If you require the extra security of consulting with the council members on this matter, please do so as soon as practicable, since we do not have the luxury of playing around with this issue for 9 months as we did last year.

I cannot believe that you, or Carol, or the majority of the Council would decree that my family should lose our home of 12 years over a temporary encroachment into the City's airspace which had no impact whatsoever on the public health, safety or welfare which the "violated" codes are designed to protect. Please do your best to provide me with some sort of answer that indicates that the City of Gig Harbor has some compassion for its citizens.

Sincerely,



James Richardson



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: Ray Gilmore, Director, Planning-Building Department
DATE: May 8, 1996
SUBJECT: Planning Commission Resolution No. 1 of 1996 - Proposed Zoning Map/Preannexation Zoning Map for the Urban Growth Area; Amendments to zoning code text and proposed Gig Harbor North zoning map; first reading of draft ordinance on preannexation zoning map.

INTRODUCTION

The Planning Commission submits to the Gig Harbor City Council for its consideration a proposed zoning map for the City's urban growth area and proposed changes to the zoning code text. The Planning Commission's recommendation would also require adjustments to the proposed zoning standards for the Gig Harbor North Annexation for the mixed use district and the proposed zoning district map for Gig Harbor North. The proposed UGA zoning map and draft ordinance are attached.

POLICY ISSUES

The proposed zoning map for the UGA addresses several policy areas:

1. It establishes a zoning plan consistent with the City's Comprehensive Land Use Plan for annexations as they occur and eliminates the requirements that each annexation prepare it's own zoning plan.
2. It implements city zoning standards, Title 17 of the GHMC, concurrently with annexation for those areas in the UGA.
3. It serves to articulate the city's contractual requirements for utility service extension agreements outside the city limits by providing a basis (through the respective zoning designation) for contract performance. It does not automatically rezone any property in the UGA that receives city utility services by contract.
4. Through the application of No. 1 and 2, it consolidates the annexation and preannexation zoning process more efficiently.
5. With adjustments to the code and the Gig Harbor North annexation area, it serves to "fine-tune" land use performance standards.

Because the Gig Harbor North annexation is still in progress and is not effective until the Council adopts an ordinance, proposed map changes to this area must be deferred until the appropriate time after the annexation is approved by the Pierce County Boundary Review Board. Nonetheless, the report to the B.R.B. will include the City's intention to adopt the proposed adjustments.

The Planning Commission has recommended, in addition to the UGA map, that the following revisions be incorporated in the respective Gig Harbor North annexation documents:

1. Amend Mixed Use Overlay district to include "Warehousing and storage" as a permitted use.
2. Amend the zoning designation for the property owned by Performance Circle (formerly North-by Northwest) from the current proposed R-1 to RB-1.
3. Amend the Avalon Woods "zero lot-line" development at the entrance to Avalon Woods from the current proposed R-1 to R-2.

FISCAL IMPACT

By adoption of the UGA zoning map, the potential fiscal impact to the city is reduced by eliminating the need for future administrative processes which are duplicative.

RECOMMENDATION

This is the first reading of the ordinance for the adoption of the UGA zoning map. As this would potentially affect future annexations, the procedural requirements in RCW 35A.14.330 and .340 are applicable. Consequently this is the first of two required public hearings on the preannexation zoning for the UGA, excluding the Gig Harbor North annexation area map. The second public hearing is scheduled for the next Council meeting not less than thirty days from the first public hearing, which would be June 24, 1996.

City of Gig Harbor Planning Commission
Resolution # 1 of 1996

A RESOLUTION OF THE CITY OF GIG HARBOR PLANNING COMMISSION
RECOMMENDING ADOPTION BY THE GIG HARBOR CITY COUNCIL OF A
ZONING MAP FOR THE URBAN GROWTH AREA OF THE CITY

WHEREAS, the recently updated City of Gig Harbor Comprehensive Plan (November 1994) provides several policy amendments respective to land use, inclusive of a land use map for the city and its urban growth area; and,

WHEREAS, the proposed zoning map for the urban growth area serves to articulate and implement the policies and goals of the City of Gig Harbor Comprehensive Plan; and,

WHEREAS, the zoning districts are based upon the city of Gig Harbor Zoning Code, Title 17 of the Gig Harbor Municipal Code; and,

WHEREAS, the Planning Commission conducted a public hearing on February 15, 1996, to accept public comment and testimony on the proposed zoning district map for the UGA and a worksession on February 29 to consider the comments received; and,

WHEREAS, most of the comments received were requests to alter the zoning for certain properties from that originally proposed by the Planning Commission; and,

WHEREAS, the Planning Commission finds that, where reasonable, appropriate and consistent with the City of Gig Harbor Comprehensive Plan Land Use Map, adjustments have been made to the proposed zoning map for the UGA; and,

WHEREAS, comments received relevant to lands within the proposed Gig Harbor North Annexation area were considered by the Planning Commission and, where reasonable and appropriate, recommendations for amending the map or text are forwarded to the City Council for consideration; and,

WHEREAS, the proposed city zoning standards for the urban growth area shall become effective upon the annexation of an area to the city or upon the execution of a contract for city utility services for property within the UGA; and,

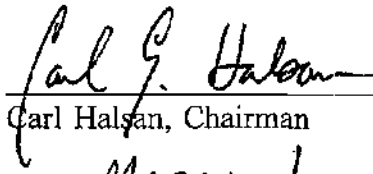
WHEREAS, the Planning Commission recommends that the Gig Harbor City Council adopt a policy which clearly articulates the procedures, requirements and standards for obtaining City utility services within the UGA, in lieu of annexation, and that this

policy be adopted concurrent with the ordinance adopting zoning for the UGA; and,

WHEREAS, the Planning Commission finds that the public welfare and interest is served by the adoption of a city zoning map for the urban growth area.

NOW, THEREFORE BE IT RESOLVED by the City of Gig Harbor Planning Commission that the Gig Harbor City Council adopt the proposed zoning map for the urban growth area of the City of Gig Harbor, hereby referenced as EXHIBIT "A", attached.

PASSED this 29th day of February, 1996, by the City of Gig Harbor Planning Commission of those present at its regular meeting.



Carl Halsan, Chairman

Date MARCH 1, 1996.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, RELATING TO LAND USE AND ZONING,
ADOPTING A CITY PREANNEXATION ZONING MAP FOR
THE CITY OF GIG HARBOR URBAN GROWTH AREA AND
APPLYING CITY ZONING DESIGNATIONS ON PROPERTY
SO AFFECTED UPON THE ANNEXATION OF THE AREA .

WHEREAS, the City of Gig Harbor considers it to be in the public's interest to apply city zoning designations to the Urban Growth Area (UGA) outside of the city boundary which are consistent with the City of Gig Harbor Comprehensive Plan of 1994; and,

WHEREAS, the City of Gig Harbor zoning map for the UGA establishes a zoning plan for annexations as they occur and eliminates the requirements that each annexation be subject to a separate preannexation zoning procedure; and,

WHEREAS, the City of Gig Harbor preannexation zoning district map for the UGA does not automatically rezone any property in the UGA that receives city utility services by contract and that this can only occur as part of an annexation in accordance with the procedures established in RCW 35A.14; and,

WHEREAS, pursuant to RCW 35A.14.330 and 340, the City Council held two public hearings, not less than 30 days apart, on proposed preannexation zoning designations for the area; and,

WHEREAS, after taking public testimony during the two required public hearings, the City Council decided to adopt pre-annexation zoning designations established by this ordinance.

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Pre-Annexation Zoning Established. Pursuant to RCW35A.14.330 and .340, the following pre-annexation zoning designations are hereby established as provided as follows:

Residential

R-1 (Chapter 17.16) Single family
Map areas 1, 10, 15, 16, 17, 19, 21, 23, 27, 33, 34.

R-2 (Chapter 17.20) Single family/duplex
Map areas 3, 26, 28, 29, 32.

R-3 (Chapter 17.24) Multifamily
Map areas 6

Residential Business

RB-1 (Chapter 17.28) Low density residential with low intensity
business uses
Map areas 9, 11, 22, 30.

RB-2 (Chapter 17.30) Medium density residential with moderate
intensity business uses
Map areas 2, 5, 7, 12, 14, 24, 31.

Commercial Business

B-2 (Chapter 17.36) General retail and wholesale sales and
service.
Map areas 4, 13.

C-1 (Chapter 17.40) Retail, wholesale, light manufacturing
Map area 8.

Employment ED (Chapter 17.45) Map areas 18 and 25	Processing and manufacturing; limited retail
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Public Institutional PI (Chapter 17.15) Map area 20	Public facilities
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Section 2. Preannexation Zoning Map Adopted. A zoning map for the City of Gig Harbor Urban Growth Area, hereby referenced as Exhibit "A", attached, is hereby adopted.

Section 3. 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 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

MAYOR, GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____

FILED WITH THE CITY CLERK: PASSED BY THE CITY COUNCIL: PUBLISHED: EFFECTIVE DATE: ORDINANCE NO: ___	May 13, 1996
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SUMMARY OF ORDINANCE NO. _____

of the City of Gig Harbor, Washington

On the _____ day of _____, 1996, the City Council of the City of Gig Harbor, passed Ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING A CITY PREANNEXATION ZONING MAP FOR THE CITY OF GIG HARBOR URBAN GROWTH AREA AND APPLYING CITY ZONING DESIGNATIONS ON PROPERTY SO AFFECTED UPON THE ANNEXATION OF THE AREA.

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

DATED this _____ day of _____, 1996.

CITY ADMINISTRATOR, MARK HOPPEN

**GENERAL DESCRIPTION OF THE AREAS SUBJECT TO THE PROPOSED
CITY OF GIG HARBOR PREANNEXATION (UGA) ZONING**

Area	Zoning	Description
1	R-1	Quail Run, Quail Park, Quail Estates, subdivisions east of and adjacent to 38th Avenue NW
2	RB-2	Harbor Country Estates Apartments
3	R-2	Quiet Forest Park Condos/Peninsula Christian/PC Library
4	B-2	Harbor Plaza/Point Fosdick Square/Gas Stn/Movie Theater
5	RB-2	Point Fosdick Medical Center
6	R-3	Retirement Village
7	RB-2	Hific Center/Forest Grove Apts/Olympic Prof. Park/Vet
8	C-1	Automobile dealerships/Lumbermen's/Cimmaron, et.al.
9	RB-1	Intersection of 38th Ave. and 56th St; Daycare/Medical Office
10	R-1	Britanny Place/Woodlane/Mobile Home Park/Church.
11	RB-1	Vacant parcel east of Peninsula Baptist Church
12	RB-2	Tacoma Community College area, soccer field, mini-storage complex, "Scrubbles" business.
13	B-2	Stroh's Feed Store and adjacent property, south of Hunt St.
14	RB-2	Stroh's Property, north of Hunt St.
15	R-1	Sunnybrae Subdivision
16	R-1	Between Hunt Street NW and North Creek estates, including Norwegian Woods subdivision
17	R-1	Rosewood subdivision, north to Employment District
18	ED	City shop north to Corrections Center (excludes City Shop)
19	R-1	Pierce County addition to the UGA (Nov 1994)
20	PI	Purdy Corrections Facility
21	R-1	Northwest of Corrections Center
22	RB-1	Garrison/Torrens Ownerships south of Sehmel Road

**GENERAL DESCRIPTION OF THE AREAS SUBJECT TO THE PROPOSED
CITY OF GIG HARBOR PREANNEXATION (UGA) ZONING**

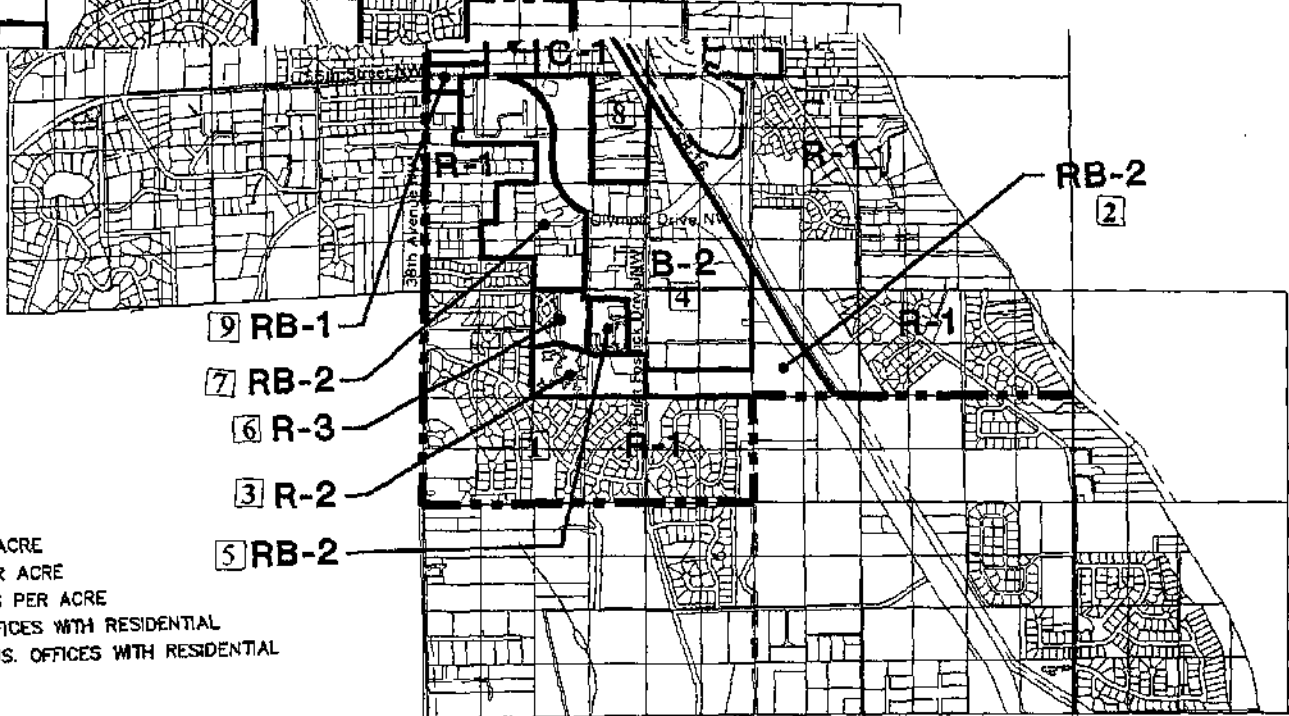
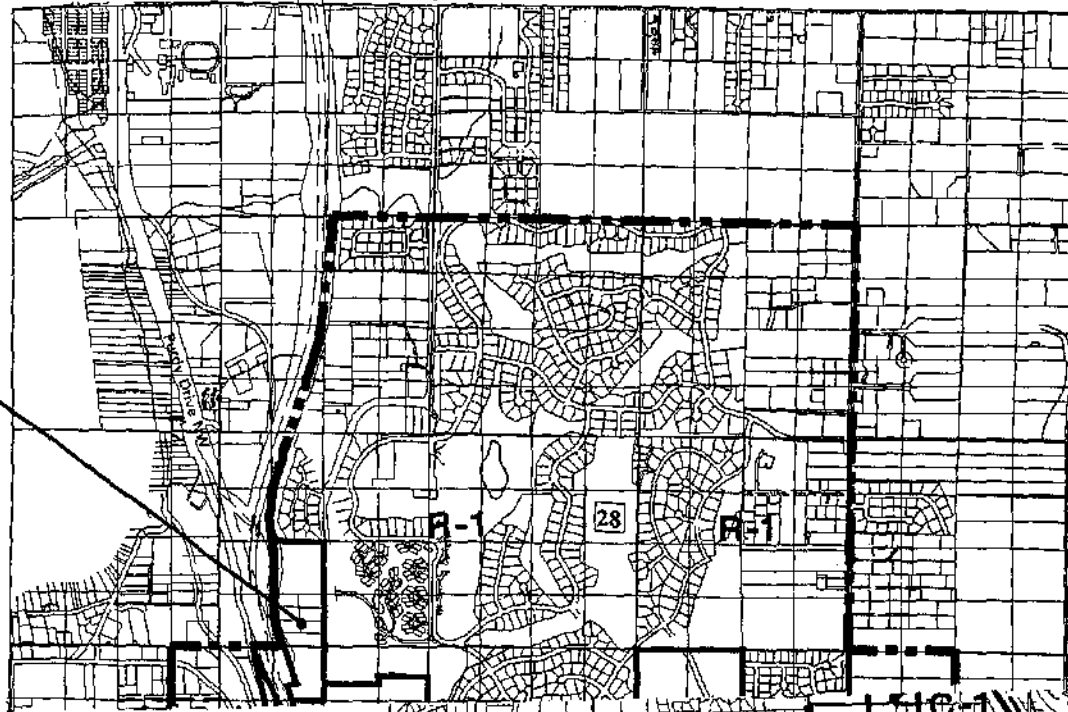
23	R-1	Residential area north of Sehmel Road, west of SR-16
24	RB-2	Garrison/Torrens property, Swede Hill Interchange
25	ED	Walt Smith property/Active Construction site
26	B-2	Realty One, et.al, between Burnham Drive NW and SR-16
27	R-2	East of Canterwood Blvd, west of Canterwood development.
28	R-1	Canterwood and subdivisions along Peacock Hill Ave.
29	R-2	Harborcrest Duplexes and Avalon Woods Condos
30	RB-1	Performance Circle Outdoor Theater/Restaurant
31	RB-2	Conan Fuel/Cardlock Station
32	R-2	Between SR-16 and Burnham
33	R-1	East Gig Harbor
34	R-1	Shore Acres/Reid Road/Rushmore

R 1 E

2 E

PLANNING COMMISSION RECOMMENDATIONS
 PROPOSED BY THE
 CITY OF GIG HARBOR
 URBAN GROWTH AREA ZONING MAP
 MARCH, 1986

R-2
 27



- 9 RB-1
- 7 RB-2
- 6 R-3
- 3 R-2
- 5 RB-2

RB-2
 2



LEGEND:

- R-1 SINGLE FAMILY RESIDENTIAL - 3 DWELLING UNITS PER ACRE
- R-2 MEDIUM-DENSITY RESIDENTIAL - 6 DWELLING UNITS PER ACRE
- R-3 MULTI-FAMILY RESIDENTIAL - UP TO 8 DWELLING UNITS PER ACRE
- RB-1 RESIDENTIAL AND BUSINESS - LOW INTENSITY BUS. OFFICES WITH RESIDENTIAL
- RB-2 RESIDENTIAL AND BUSINESS - MODERATE INTENSITY BUS. OFFICES WITH RESIDENTIAL
- B-1 NEIGHBORHOOD BUSINESS - LIMITED RETAIL
- B-2 GENERAL BUSINESS - RETAIL / WHOLESALE SALES
- C-1 GENERAL COMMERCIAL - LIGHT MANUFACTURING
- ED EMPLOYMENT DISTRICT - MANUFACTURING AND PROCESSING
- PI PUBLIC-INSTITUTIONAL - PUBLIC FACILITIES AND USES

Comments Received
Planning Commission Hearing
Proposed Zoning for the Urban Growth Area
(Staff comments in bold type)

Joe Loya, representing Performance Circle on Peacock Hill Ave. Their intent is to develop a performing arts center. The R-1 designation proposed does *not provide for a performing arts center*. They have 4.6 acres and a restaurant is located on the site. Request a designation that permits performing arts. R-2 permits outdoor recreation - is that the same? They have protective covenants on the land that strictly limit the use to a performing arts center.

Several options are available for the planning commission to consider.

1. **Leave as is. The owner could apply for a PUD to develop the site for a performing arts center. There is no assurance that the PUD process would result in the outright approval of the entire project. The advantage of a PUD is that it promotes more flexibility in the site design process.**
 2. **Allow performing arts in an R-1 district as a conditional use. This may require the development of some performance standards for the siting and operation of these types of facilities.**
 3. **Designate the property as a commercial zone to permit the performing arts center outright. This would require a comprehensive plan amendment.**
 4. **Protective covenants are only enforceable by a private party. Covenants can also be amended by mutual agreement between parties.**
-

Paul Cyr -

Submitted a letter which details comments. A summary is as follows:

- A. Both sides along Peacock Hill to the end of the UGA should be designated R-2.
 - B. Change westside of Burnham drive to R-2 or R-3, and the east side to RB-2.
 - C. Change the property on the SE side of Sehmel and SR-16 to Bujacich to RB-2.
 - D. Change Westside Business Park to C-1 to reflect uses recently permitted by the County.
 - E. Change the property in the medical center on Hunt Street from the proposed RB-2 to B-2.
-
- A. **Changing the entire zoning along Peacock Hill up to the limit of the UGA could effectively double the density originally considered for this area under the City's comprehensive plan. With the exception of the duplex developments in the south portion of this area, there is little justification for designating the entire Peacock Hill corridor as R-2.**

- B. There is no justification for applying a multifamily designation for property shown on the comp plan as low density residential. This would require adjusting the comprehensive plan map and developing a revised residential capacity analysis for the additional higher density areas. Increasing the density allotment within the UGA without considering a revised capacity analysis is not prudent or warranted.
 - C. RB-1 may be considered for this area. See comments below respective to the Garrison/Torrens ownerships.
 - D. The area may be considered for a C-1 designation, given the current uses on the site and the comprehensive plan designation of commercial-business.
 - E. An RB-2 designation is an appropriate transition zoning from the B-2 to the west. The property to the east and north is currently zoned R-1. Property to the west is zoned B-2 and to the south R-2.
-

Dave Morris -

Comments on the Burnham Drive corridor. The Burton Park area (where FISH is located) should be B-2, not RB-2.

The Burton Park area is shown as commercial-business on the comprehensive plan map. A B-2 designation could be applied to this area. However, this property is within the city and is not a part of this UGA project. The property owner may request a rezone through the procedures established under Title 17 of the GHMC.

Matt Sweeney -

Submitted detailed comments. Represents the Garrisons and Torrens. Property of Garrisons is designated in the County as CC, which permits a large variety of commercial and industrial uses. Request that an Employment District designation be applied.

If an ED designation is to be accorded these properties, a comprehensive plan map amendment is necessary as this area is currently shown as low density residential. It is reasonable to designate these properties as something other than residential, considering the uses previously approved by Pierce County and the location of the site in respect to surrounding properties and uses. However, an ED is not a commercial district and staff does not recommend a designation which provides the range of uses allowed in the County's Community Commercial (CC). An issue that was discussed at length by the Commission during the development of the comp plan map in 1994 was the allocation of commercial land in the Swede Hill interchange area. It was agreed that the majority of commercial land would be located east of the interchange, within the GH North annexation area, with some commercial along Burnham Drive and

SR-16.

Scott McKellips - Haven of Rest

Have 75 acres under their ownership. The proposed zoning of R-2 does not provide for cemeteries and related uses.

Cemeteries and related uses (mausoleums, crematories, funeral homes) are not specifically addressed in the code. In this respect, these would not be permitted. Considering the reality that the Haven of Rest property may someday be within the city limits, it is reasonable to provide for these types of facilities. Staff suggests that they be permitted (outright or conditionally) provided that the site is a minimum of fifty acres, of which no more than 10% of the site is covered with structures. We would also need to amend the definitions section.

John Holmaas

Residential development along Peacock Hill should be R-2. Several duplex developments are in this area.

Along Burnham Drive corridor, they are developing Northharbor Business Park. Have concerns about allowability of uses under the proposed zoning of RB-2. The property owner feels that a commercial designation would be more appropriate.

In the Westside area, there is property which has auto repair. It is proposed as B-2. Requests that it be designated as C-1.

Also expressed concern about the rezoning of property next to Avalon Woods to commercial (see comments from Joe Loya). Suggested that it remain as residential or that a performing arts center be conditionally allowed.

The duplex developments along Peacock Hill should be designated as R-2. This should also include the Village at Avalon Woods. This would require amending the zoning plan map for the Gig Harbor North annexation.

Regarding Northharbor Business Park, the project has been approved by final site plan approval by Pierce County (SPR20-90) and has been granted a utility extension request by the city. The uses approved by Pierce County would be vested, as per the Comprehensive Plan, Page 10, Mixed Use areas. However, in order to amend the zoning map to a C-1 designation, it would be necessary to forward a recommendation to the Gig Harbor City Council to amend the proposed zoning for the Gig Harbor North Annexation area.

Regarding Westside Business Park, a zoning designation of C-1 would be appropriate for the property identified. See comment from Paul Cyr (D) and response.

Roger Mossiman

Does RB-2 permit nursing homes?

Yes, as a conditional use.

Catherine Dobler -

General comments respective to affordable housing. The RB-2 district conditionally allows density up to 12 du/acre. Why not make that an allowable density? There is a real need for affordable housing, but its difficult to get the density needed on the Gig Harbor Peninsula to make it affordable.

Comment noted. The commission may consider amending the RB-2 district to permit 12 du/acre outright and eliminating the conditional requirement. For the most part, RB-2 districts have not been used as residential, even though that allowance is provided. Allowing 12du/acre outright would have little, if any, effect on the city's capacity analysis.



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: Ray Gilmore, Director, Planning-Building Department
DATE: May 8, 1996
SUBJECT: Proposed Amendments to City Environmental Policy Ordinance

INTRODUCTION

In 1995 the state adopted the Regulatory Reform Act. Several changes were also made to the State Environmental Policy Act which integrate with the Regulatory Reform Act. The City adopted Title 19, which is a new administrative procedures for permit processing and which reflects the requirements of the Regulatory Reform Act. The proposed changes to the City's SEPA ordinance implement the required changes for consistency with state law.

POLICY ISSUES

The proposed changes do not amend current policy by serve to update the City's codes in compliance with state requirements.

FISCAL IMPACT

There will not be any fiscal impact from the adoption of the proposed ordinance

RECOMMENDATION

This is the first reading of the ordinance. The second reading and adoption is proposed for the May 28th meeting.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO THE CITY'S ENVIRONMENTAL POLICY ORDINANCE AND ADMINISTRATIVE PROCEDURES UNDER THE STATE ENVIRONMENTAL POLICY ACT (SEPA); AMENDING SECTIONS 18.04.020; 18.04.070; 18.04.090; 18.04.115; 18.04.120; 18.04.140; 18.04.160; 18.04.230; 18.04.240; 18.04.250; 18.04.260; 18.04.270; 18.04.280 AND 18.04.290; AND REPEALING SECTION 18.04.220 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, Title 19 of the GHMC was adopted in January of 1996 in compliance with the regulatory reform act of 1995; and,

WHEREAS, Title 18 of the Gig Harbor Municipal Code requires updating for compliance with Title 19 GHMC, Chapter 43.21C and WAC 197-11; and,

WHEREAS, Title 18 requires updating as several comprehensive plan and City code revisions have been adopted since the last major update of Title 18.

THE CITY COUNCIL OF THE CITY OF GIG HARBOR DO ORDAIN AS FOLLOWS

Section 1. Section 18.04.020 is amended as follows:

The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-225 Purpose, policy applicability and definitions
- 197-11-228 Overall Integration Procedures
- 197-11-230 Timing of an integrated GMA/SEPA process
- 197-11-232 Integration procedures for preliminary planning, environmental analysis and expanded scoping
- 197-11-235 Integrating documents

Section 2. Section 18.04.070 is amended as follows:

* * *

1. The city will normally complete threshold determinations for proposals that can be based solely upon review of the environmental checklist for the proposal within ~~15~~ fourteen (14) days of the determination of a complete application, in accordance with Title 19 of the GHMC, ~~date an applicant's adequate application and completed checklist are submitted.~~

2. When the responsible official requires further information from the applicant or consults with other agencies with jurisdiction:

a. The city will normally request such further information within twenty-eight ~~28~~ days of receiving an adequate application, and completed environmental checklist;

b. The city will ~~normally~~ wait no longer than 15 days for a consulted agency to respond;

c. The responsible official ~~will normally complete the~~ shall issue a threshold determination within at least 15 days of receiving the requested information from the applicant or the consulted agency prior to a public hearing on a proposal, if a public hearing is required. If a public hearing is not required, a threshold determination shall not issue until the public comment period on a notice of application has expired.

3. When the city must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the city will normally complete the studies within 30 days of receiving ~~an adequate complete application and a completed checklist.~~

~~4. The city will normally complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impacts described in the application, within 15 days of receiving an adequate complete application, and completed checklist.~~

4.5. The responsible official will normally respond to a request for early notice within 10 days. The threshold determination will normally be made within 15 days of receipt of the changed or clarified proposal, environmental checklist and/or permit application.

Section 3. Section 18.04.090 is amended as follows:

Categorical exemptions - Determination.

A. When the city receives an application for a license, permit, or, in the case of governmental proposals, a department initiates a proposal, the responsible official shall determine whether the license and/or the proposal is exempt from environmental review under this chapter. The determination that a proposal is exempt shall be final and not subject to ~~administrative review appeal~~. If a proposal is exempt, none of the procedural requirements of this chapter shall apply to the proposal.

B. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental license or permit required. If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency even if the license application that triggers the consideration is exempt.

* * *

4. A planned action as defined in RCW 43.21C.031(2) does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.

Section 4. Section 18.04.115 is amended as follows:

Completed environmental checklist defined.

A. An environmental checklist is deemed completed when the following information is provided:

1. All information as requested in the checklist is provided, including complete responses to all questions in the checklist.
2. All plans and illustrations as required per the applicable city code are submitted with the environmental checklist.
3. The required number of copies of the checklist and associated plans and illustrations are submitted, as per the applicable city code.
4. Checklist is properly signed and dated.
5. All applicable fees as established in the City's fee schedule are paid.

B. Incomplete or inaccurate responses to the questions within the checklist shall be grounds for reserving a threshold determination on a proposal, including the scheduling of any public hearings as may be required, until such time as the information is provided by the applicant. Any period during which an applicant has been requested by the city to correct plans, perform required studies or provide additional required information shall not be included in the 120 day project permit processing time.

Section 5. Section 18.04.120 is amended as follows:

* * *

F. Any non-exempt permit or proposal may be conditioned or denied under SEPA, subject to the limitations in WAC 197-11-660 and GHMC 18.04.210.

G.F. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the licensing decision and may be enforced in the same manner as any term or condition of the permit or enforced in any matter specifically prescribed by the city. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any license issued.

H.G. If the city's tentative decision on a permit or approval does not include mitigation measures that were incorporated in mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) relating to the withdrawal of a DNS.

I.H. The city's written response under subsection (C) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination.

* * *

Section 6. Section 18.04.140 is amended as follows:

* * *

B. The draft and final EIS and SEIS shall be prepared, at the city's option by the city staff, the applicant or by a consultant approved by the city. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution. The fee for the preparation of a draft and final EIS shall be as established under Chapter 3.30 of the GHMC.

* * *

Section 7. Section 18.04.160 is amended as follows:

* * *

B. Type of Notice. Under subsection (A) of this section, notice will be given as follows:

1. Posting the site of the proposed action ~~and at Gig Harbor City Hall;~~
2. SEPA register;
3. Publication in the official newspaper for the city of Gig Harbor.

C. Public Hearing. Whenever a public hearing is held notice shall be given. Such notice shall precede the hearing by at least ~~10~~ 15 days.

D. Type of Notice. Under subsection (C) of this section, notice will be given as follows:

1. Posting on or near the property for site specific proposals or publication in the official newspaper of the city of Gig Harbor for site specific proposals;
2. Mailing to property owners within 300 feet for site specific proposals;
3. ~~Publication in the official newspaper of the city of Gig Harbor;~~
4. ~~Other methods as deemed necessary and appropriate by the responsible official, provided that a public hearing on a nonproject proposal must be preceded by written, published notice in accordance with WAC 197-11-592(6)(b) at least 10 days prior to the hearing.~~

* * *

Section 8. Section 18.04.220 is amended as follows:

* * *

B. The city adopts by reference the policies in the following city codes, ordinances, resolutions and plans, as now existing or hereinafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals.

1. Chapter 43.21C RCW - State Environmental Policy Act.
2. Title 5 - Business Licenses and Regulations.
3. Title 6 - Animals.
4. Title 8 - Health and Safety.
5. Title 10 - Vehicles and Traffic.

6. Title 12 - Streets and Sidewalks.
7. Title 13 - Water and Sewers.
8. Title 15 - Buildings and Construction.
9. Title 16 - Subdivision.
10. Title 17 - Zoning.
11. The City of Gig Harbor Comprehensive Plan, 1986
12. The City of Gig Harbor Shoreline Master Program.
13. Six-Year Street Program.
14. Comprehensive Water Plan (1986)
15. Comprehensive Sewer Plan
16. Traffic Impact Resolution, Council Resolution No. 311
17. Chapter 18.08 - Wetlands Management Ordinance
18. Chapter 18.12 - Critical Areas Ordinance.
19. City of Gig Harbor Public Works Standards

Section 9. Section 18.04.230 is amended as follows:

18.04.230 Appeals.

A. ~~Any interested person may appeal the adequacy of a final threshold determination, final EIS and the conditioning or denial of a requested action made by a non-elected city official pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed.~~ Appeal on SEPA procedures shall be limited to review of a final threshold determination and final EIS. The appeal on a final threshold determination may occur prior to an agency's final decision on a proposed action.

B. All appeals filed pursuant to this section must be filed in writing with the planning director within 10 calendar days of the date of the decision appealed from.

C. On receipt of a timely written notice of appeal, the planning director shall transmit said appeal to the appropriate hearing examiner or city council body, and request that a date for considering the appeal be established. Appeals shall be considered as follows:

1. Procedural Determinations. Appeals of the final threshold determination and a final environmental impact statement shall be made to the city hearing examiner pursuant to the provisions of Chapter 17.10 GHMC. The date of the hearing on the appeal shall be the same as that date established for any underlying Type III permit application. For a determination of significance (DS), the date of the hearing shall be as established by the planning director but in no case shall be more than forty-five (45) days from the date of filing of the appeal. The hearing examiner's decision on these matters is final unless an appeal is filed with the superior court pursuant to subsection H of this section section 19.06.006.

* * *

H. The time limitations and procedures for judicial appeals of administrative decisions shall be as set forth in WAC 197-11-680(4) and Title 19 of the GHMC, which is adopted by reference in this section. Only an aggrieved party may file an appeal in accordance with the procedures established under Title 19 of the GHMC.

Section 10. Section 18.04.240 is amended as follows:

18.04.240 Notice/statute of limitations.

A. The city, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

~~B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk, applicant or proponent pursuant to RCW 43.21C.080.~~

Section 11. Section 18.04.250 is amended as follows:

18.04.250 Definitions - Adoption by reference.

The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, by reference, as supplemented in this chapter:

- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.
- 197-11-718 Built environment.
- 197-11-720 Categorical exemption.
- 197-11-722 Consolidated appeal.
- 197-11-724 Consulted agency.
- 197-11-726 Cost-benefit analysis.
- 197-11-728 County/city.
- 197-11-730 Decision maker.
- 197-11-732 Department.
- 197-11-734 Determination of nonsignificance (DNS).
- 197-11-736 Determination of significance (DS).
- 197-11-738 EIS.
- 197-11-740 Environment.
- 197-11-742 Environmental checklist.
- 197-11-744 Environmental document.
- 197-11-746 Environmental review.
- ~~197-11-748 Environmentally sensitive areas~~
- 197-11-750 Expanded scoping.
- 197-11-752 Impacts.
- 197-11-754 Incorporation by reference.
- 197-11-756 Lands covered by water
- 197-11-758 Lead agency.

197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.

Section 12. Section 18.04.260 is amended as follows:

Compliance with SEPA - Adoption by reference.

The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
<u>197-11-908</u>	<u>Critical areas</u>
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determination the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.

- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

Section 13. Section 18.04.270 is amended as follows:

~~Environmentally sensitive~~ Critical areas.

The following are adopted as ~~environmentally sensitive~~ critical areas, in accordance with WAC 197-11-908:

A. Wetlands identified and defined pursuant to the City of Gig Harbor Wetland Management Ordinance, Chapter 18.08 of the GHMC.

- ~~1. The Pierce County wetland atlas, 1990;~~
- ~~2. The United States Fish and Wildlife Wetland Inventory Maps for the Gig Harbor Peninsula, 1987;~~
- ~~3. The United States Department of Agriculture Soil Survey for Pierce County (1982);~~
- ~~4. The criteria for wetlands delineation as established pursuant to Chapter 18.08 GHMC.~~

Section 14. Section 18.04.280 is amended as follows:

Fees.

The city shall require ~~the following fees as provided for under Chapter 3.30 of the GHMC~~ for its activities in accordance with the provisions of this chapter.:

~~A. Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee of \$40.00 from the proponent of the proposal prior to undertaking the threshold determination. This fee shall not apply if the checklist is required only as a result of GHMC 18.04.040. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of fees. When the city assists the applicant or completes the environmental checklist at the applicant's request or under GHMC 18.04.110(E) an additional fee equal to the estimated actual cost of providing the assistance shall be collected.~~

~~B. Environmental Impact Statement:~~

~~1. When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred, including overhead, by the city in preparing the EIS. The responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation.~~

~~2. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city and may bill such costs and expenses directly to the~~

applicant. Such consultants shall be selected by the city.

~~3. The applicant shall pay the projected amount to the city prior to commencing work. The city will refund the excess, if any, at the completion of the EIS. If the city's costs exceed the projected costs, the applicant shall immediately pay the excess. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subparagraphs (1) or (2) of this subsection which remain after incurred costs, including overhead, are paid.~~

~~C. The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.~~

~~D. The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW.~~

~~E. If review of the application involves scientific, technical or specialized knowledge beyond the capabilities of city staff, the city may hire experts to review the application and shall charge the applicant for such expense.~~

Section 15. Section 18.04.290 is amended as follows:

Forms - Adoption by reference.

The city adopts the following forms and sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- ~~197-11-990 Notice of action.~~

Section 16. Section 18.04.210 is hereby repealed.

Section 17. 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 18. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

MAYOR GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:

SUMMARY OF ORDINANCE NO.

of the City of Gig Harbor, Washington

On the _____, 1996, the City Council of the City of Gig Harbor, passed Ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO THE CITY'S ENVIRONMENTAL POLICY ORDINANCE AND ADMINISTRATIVE PROCEDURES UNDER THE STATE ENVIRONMENTAL POLICY ACT (SEPA); AMENDING SECTIONS 18.04.020; 18.04.070; 18.04.090; 18.04.115; 18.04.120; 18.04.140; 18.04.160; 18.04.230; 18.04.240; 18.04.250; 18.04.260; 18.04.270; 18.04.280 AND 18.04.290; AND REPEALING SECTION 18.04.220 OF THE GIG HARBOR MUNICIPAL CODE.

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

DATED this ____ day of _____, 1996.

CITY ADMINISTRATOR, MARK HOPPEN



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: PLANNING STAFF *A.O.*
DATE: MAY 13, 1996
**SUBJECT: SPR 95-05 - RUSH CONSTRUCTION OFFICE BUILDING AT 5801
SOUNDVIEW DRIVE**

INTRODUCTION/BACKGROUND

The subject site is at 5801 Soundview Drive and lies between the existing Soundview Office Park on the south and a small duplex on the north. The site is partially developed, having a small office building near Soundview Drive and is heavily wooded on the back half.

The parcel is zoned RB-1 which has a maximum building size of 5,000 square feet per lot. However, a complete building permit application was submitted prior to adoption of current building size limits. The current proposal is therefore vested under, and complies with, codes in effect at the time the building permit application was submitted.

REQUEST/PROJECT DESCRIPTION:

The current request is to remove the existing office building and construct a larger office building of 37,860 square feet. The project will include 130 parking stalls which exceeds the required parking of one stall per 300 square feet. As required by code, the project will include a 30 foot landscaped buffer along the north property and east property lines abutting residential zones.

RECOMMENDATION

The Hearing Examiner is recommending approval of the site plan subject to the same conditions recommended by the Planning/Building Department and, after request for Hearing Examiner reconsideration, the conditions recommended by the Public Works Department. A copy of the Hearing Examiner's report, along with a copy of the staff report to the Hearing Examiner and a draft resolution approving the site plan, are attached for the Council's consideration.

**CITY OF GIG HARBOR
RESOLUTION NO. ____**

WHEREAS, David Fisher has requested site plan approval for the construction of a professional office building at 5801 Soundview Drive; and,

WHEREAS, the Gig Harbor City Council has adopted Ordinance #489 which establishes guidelines for the reviewing of site plans; and,

WHEREAS, the Planning Department for the City of Gig Harbor has recommended conditional approval of the project, in a staff report dated February 21, 1996; and

WHEREAS, the City of Gig Harbor Hearing Examiner conducted a public hearing on the application on February 21, 1996 to accept public comment on; and,

WHEREAS, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has recommended conditional approval of said site plan in his report dated March 6, 1996; and,

WHEREAS, the Hearing Examiner received a timely request for reconsideration from the City's Public Works Department to address health/safety issues related to the use of the right-of-way; and,

WHEREAS, the Hearing Examiner considered the issues identified by the Public Works Department and made specific findings and conclusions in his reconsideration report dated April 10, 1996 and has revised his recommendation for approval to incorporate the conditions of approval as recommended by the Public Works Department; and

WHEREAS, the City Council, during its regular meeting of May 13, 1996 reviewed the proposed site plan and the findings and recommendation of the Hearing Examiner; and,

WHEREAS, current codes limit buildings to 5,000 square feet maximum per parcel; and,

WHEREAS, the applicant submitted a complete building permit application on November 17, 1995 which was prior to adoption of current building size limitations and is therefore vested under codes in effect on November 17, 1995; and,

WHEREAS, the City Council has determined the site plan and the recommendation of the Hearing Examiner to be consistent with City codes and policies regulating site plan development at the time the building permit was applied for,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor, Washington, as follows:

That the findings, conclusions and recommendations of the hearing Examiner in his report dated March 6, 1996 and his reconsideration report dated April 10, 1996, are hereby adopted and the site plan is approved subject to the following conditions:

1. Prior to permit issuance, the applicant shall submit to the planning staff for review and approval a master sign plan which includes specifications on signage allocation among tenants, specific locations of signage, and which provides details on how each sign will be designed so as to provide unity to the project design as per GHMC Section 17.80.031(K).
2. Prior to installation of outdoor lighting, a lighting plan must be submitted to and approved by the Planning Staff consistent with GHMC Section 17.36.120.
3. Fire flow must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-A-1, 1994 Uniform Fire Code. The building design must be modified to reflect the required auto-fire sprinkler system, One Hour Fire Resistive Construction and a 2 Hour Area Separation Wall with Protected Openings.
4. Fire hydrants must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-B-1, 1994 Uniform Fire Code. The fire hydrant locations on the site plan do not reflect the requirement that a fire hydrant be located on the right side of the entrance to the site. The design must be revised to show the required fire hydrant on the right side of the entrance and within 150 feet of all portions of the building.
5. The building must be made accessible to the handicapped ;in accordance with the WA State Regulations for Making Buildings Accessible (Chapter 11, 1994 UBC as amended by the WA State Building Code Council). Van accessible parking stalls will be required with an 18-foot stall width. An accessible walkway will be required from the public sidewalk to the entrance of the building.
6. A Knox Box must be installed to provide access to each building. Knox Box(s) must be ordered from Pierce Co. Fire District No. 5.
7. Additional pedestrian walks will be required to accommodate emergency egress from the building. The walkways may no be blocked by parking stalls.
8. Prior to permit issuance, an erosion and sediment control plan shall be submitted to and approved by the City's Public Works Department. The Public Works Department shall identify those items outlined in the comments from Rebecca Inman, State Department

of Ecology, regarding erosion control and drainage which are pertinent to this project, and may impose requirements as necessary to address the DOE's concerns.

9. Prior to permit issuance, significant trees within the proposed buffer and perimeter landscape areas (both front and back) shall be retained. This will require preliminary identification of the building and parking pavement edge and installation of a protective barricade before major excavation begins. The barricade shall be retained and maintained in good condition during the entire construction phase, including major excavation and clearing, and shall not be removed until the parking area has been paved or until approved by the Planning Staff.
10. Prior to permit issuance, a final grading and utility plan shall be submitted to and approved by both the Planning Department and the Public Works Department. The plan shall specify how utilities will be extended through the driveways serving the site so as not to encroach into the perimeter landscaping areas, and shall verify that perimeter area landscaping can be retained as proposed and as required by code. To account for unforeseen topographic difficulties, the staff may administratively approve encroachments into the setback areas for required fill and retention, provided that encroachments do not exceed 20 percent of the proposed landscaped setback areas and do not involve loss of more than 20 percent of existing trees within the setback areas which are 6 inches in diameter or greater.
11. To assure minimal encroachment into the required perimeter landscaped area by driveways, two way driveways shall be limited to no more than 24 feet in width and one-way driveways shall be limited to no more than 15 feet in width.
12. The applicant shall construct half street improvements along the entire Soundview frontage of the subject property. Said half street improvements shall include a left turn lane, through lane, bike lane, transit pull-out, curb and gutter, sidewalks and transitions in accordance with the City's Public Works Standards and Pierce Transit requirements.
13. The proposed site plan shall be amended to eliminate dual driveway approach to Soundview Drive to ensure maximum available sight distance for entering traffic, and minimizing the grade change from the sidewalk to the parking area to facilitate ingress and egress.
14. The plan shall be modified to reduce or eliminate the excavation for the driveway approach to Soundview Drive to ensure maximum available sight distance for entering traffic, and minimizing the grade change from the sidewalk to the parking area to facilitate ingress and egress.
15. The applicant shall submit a storm drainage report prepared by a professional engineer for review and approval by the Department of Public Works.

16. Sewer and water services shall be installed in accordance with the City's Public Works standards.

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the Council held on this 13th day of May, 1996.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator/Clerk

Filed with City Clerk: 5/6/96
Passed by City Council: 5/13/96

CITY OF GIG HARBOR
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION

APPLICANT: David Fisher

CASE NO.: SPR 95-05

LOCATION: 5801 Soundview Drive

APPLICATION: Request for site plan approval to remove the existing office building and construct a larger office building 37,860 square feet in size. The project will include 130 parking stalls which exceeds the parking requirements of one stall per 300 square feet of floor area. As required by code, the project will include a 30 foot landscaped buffer along the north property lines abutting residential zones.

SUMMARY OF RECOMMENDATIONS:

Staff Recommendation: Approve with conditions

Hearing Examiner Recommendation: Approve with conditions

PUBLIC HEARING:

After reviewing the official file which included the Community Development Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Fisher application was opened at 5:28 p.m., February 21, 1996, in the City Hall, Gig Harbor, Washington, and closed at 5:32 pm. Participants at the public hearing and the exhibits offered and entered are listed in the minutes of the meeting. A verbatim recording of the hearing is available in the Planning Department.

HEARING COMMENTS:

The following is a summary of the comments offered at the public hearing:

From the City:

Steve Osguthorpe entered the staff report as corrected in tot he record. He recommended approval of the project, subject to conditions.

From the Applicant:

David Fisher asked some questions of staff and said he concurred with the staff recommendations.

From the Community:

None.

WRITTEN COMMENTS:

None.

FINDINGS, CONCLUSIONS AND DECISION:

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

A. FINDINGS:

1. The applicant has requested approval of a site plan to allow the removal of a small existing office building and the subsequent construction of a 37,860 square foot office building with 130 parking stalls and a 30 foot wide landscape buffer along the north and east property lines which abut residential zones.
2. The subject property is approximately 2.46 acres in size.
3. Section 17.96.030.B of the Gig Harbor Municipal Code (GHMC) indicates the hearing examiner shall consider the approval of site plans with specific attention to the following:
 - a. Compatibility with the city's comprehensive plan;
 - b. Compatibility with the surrounding buildings occupancy and use factors; and
 - c. All relevant statutory codes, regulations, ordinances and compliance with the same.
4. The comprehensive plan designates the area as commercial business. This designation is for areas which are intended provide primarily retail and wholesale facilities, including service and sales. Commercial business activities include business and professional offices. Page 9 of the plan includes the following guidance:
 - Commercial areas which border residential designations or uses should use available natural features as boundaries.
 - Natural features should serve as buffers, which may consist of standing timber, streams or drainage swales.
 - A minimum buffer width should be 30 feet.
 - The density and depth of the buffer should be proportional to the intensity of the use.

5. Surrounding buildings' occupancy and use factors include the following:
 - North: Duplexes on R-2 zoned property
 - South: General Business on B-2 zoned property
 - East: Residential uses in Pierce County
 - West: Residential uses across Soundview Drive R-2 zoned property
6. Relevant codes, regulations and ordinances include the following:
 - a. The site is designated as RB-1 (Residential Business District) per the City of Gig Harbor zoning map.
 - b. Section 17.28.010 (Intent) states that an RB-1 district is intended to provide a mix of residential uses with certain specified business, personal and professional services. It is also intended to serve as a buffer between high intensity commercial and lower density residential uses. The regulations and restrictions in a RB-1 district are intended to protect and preserve residential uses while permitting business uses characterized principally by professional and consultative services or executive and administrative offices, compatible with single family residential development.
 - c. Section 17.28.020 permits business and professional offices.
 - d. Section 17.28.050 (minimum Development Standards) establishes minimum development standards for uses in respect to yards (F 20', S10', R 15', 30' abutting R-1/R-2 districts - 30 feet with dense vegetative screen), maximum impervious coverage (60%). The project site is within a height overlay district which permits a maximum height of 35 feet for non-residential structures.
 - e. Section 17.36.120 provides performance standards for exterior mechanical devices, outdoor storage of materials, outdoor lighting and the placement and screening of trash receptacles.
 - f. Section 17.72 provides the requirements for off-street parking. The proposal would require a minimum of one parking space for each 300 square feet of retail/office floor space.
 - g. Section 17.78.020 (Applicability of landscape requirements) applies to this development. A preliminary landscape plan and site topographic survey has been submitted with the application.
 - h. Section 17.78.050 (preservation of significant trees) states that in the required perimeter areas, applicants shall retain all significant trees. Significant trees are defined as those which contribute to the character of the area and which form a continuous canopy or dense buffer.

- i. Section 17.80/031(K) (Signage). A master sign plan shall be approved through the site plan review process. The signage plan must be designed so that it establishes a common theme or design, uses similar construction methods, has compatible colors, lettering, lettering style, symbols, scale and size of signs and/or identical background. Sign plans are intended to unify the design of a project.
 - j. Section 19.96 (Site Plan Review). The stated purpose of site plan review is to ensure that development projects carried out in a govern zoning district are executed in a manner consistent with existing ordinances concerning public utilities, traffic, facilities and services and provide unified site design, access, landscaping, screening, building placement and parking lot layout. Site plan review is not intended to review and determine the appropriateness of a given use on a given site. It is intended to insure that the development of a site will provide the features necessary to protect the health, safety and general welfare of the citizens of the city.
7. The applicant submitted a preliminary site plan, schematic design plans, and a preliminary planting plan for review by the city. Those plans are attachments to Exhibit A.
 8. Review comments by the Building Official/Fire Marshal, SEPA Responsible Official (including State Department of Ecology) and the Planning Department are found in Section VII of Exhibit A.
 9. No one from the general public spoke or wrote either in favor of or in opposition to the subject request.

B. CONCLUSIONS:

1. The proposed office use on the subject site is compatible with the comprehensive plan.
2. The proposal will be compatible with the surrounding buildings' occupancy and use factors. The proposed office building will have a significant landscape buffer adjacent to the lower density residential uses and its design will be compatible with nearby higher density residential and business uses.
3. If approved subject to the conditions listed below, the proposal will comply with relevant codes and ordinances. For example:
 - a. The proposal meets all setback, height and coverage requirements as established in Section 17.28.050 including a front yard of 20', a south side of 10 and a north side and rear yard of 30' abutting R-1/R-2 districts, with dense vegetative screen, maximum impervious coverage (60%). The project site is within a height overlay district which permits a maximum height of 35 feet for non-residential structures.

b. Per Section 17.36.120:

- 1) Screening for exterior mechanical devices has not been specified, but will need to be specified by the applicant and approved by the City prior to issuance of a building permit;
 - 2) No outdoor storage of materials is proposed;
 - 3) Outdoor lighting has not been specified, but will need to be specified by the applicant and approved by the City prior to installation of any outdoor lighting; and
 - 4) The placement and screening of trash receptacles has been identified.
- c. The proposal exceeds the parking requirements of Section 17.72 which requires a minimum of one parking space for each 300 square feet of office floor space.
- d. Consistent with Section 17.78.020 (Applicability of landscape requirements) a preliminary landscape plan and site topographic survey has been submitted with the application.
- e. the require perimeter areas includes significant trees which contribute to the character of the area and which form a continuous canopy or dense buffer.
- f. A preliminary master sign plan has been submitted. Additional details must be submitted which address specific locations for each tenant space and which addresses common design elements for the signage.


C. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, it is recommended that the SPR 95-05 be approved, subject to the following conditions:

1. Prior to permit issuance, the applicant shall submit to the planning staff for review and approval a master sign plan which includes specifications on signage allocation among tenants, specific locations of signage and which provides details on how each sign will be designed so as to provide unity to the project design as per GHMC Section 17.80.031 (K).
2. Prior to installation of outdoor lighting, a lighting plan must be submitted to and approved by the Planning Staff consistent with GHMC Section 17.36.120.
3. Fire flow must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-A1, 1994 Uniform Fire Code. The building design must be modified to reflect the required auto fire sprinkler system, One Hour Fire Resistive Construction and a 2 hour Area Separation Wall with Protected Openings.

4. Fire hydrants must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-B-1, 1994 Uniform Building Code. The fire hydrant locations on the site plan do not reflect the requirement that a fire hydrant be located on the right side of the entrance to the site. The design must be revised to show the required fire hydrant on the right side of the entrance and within 150 feet of all portions of the building.
5. The building must be made accessible to the handicapped; in accordance with the WA State Regulations for Making buildings Accessible (Chapter 11, 1994 UBC as amended by the WA State Building Code Council). Van accessible parking stall will be required with an 18 foot stall width. An accessible walkway will be required from the public sidewalk to the entrance of the building.
6. A Knox Box must be installed to provide access to each building. Knox Box(es) must be ordered from Pierce County Fire District No. 5.
7. Additional pedestrian walks will be required to accommodate emergency egress from the building. The walkways may not be blocked by parking stalls.
8. Prior to permit issuance, an erosion and sediment control plan shall be submitted to and approved by the City's Public Works Department. The Public Works Department shall identify those items outlined in the comments from Rebecca Inman, State Department of Ecology, regarding erosion control and drainage which are pertinent to this project, and may impose requirements as necessary to address the DOE's concerns.
9. Prior to permit issuance, significant trees within the proposed buffer and perimeter landscape areas (both front and back) shall be retained. This will require preliminary identification of the building and parking pavement edge and installation of a protective barricade before a major excavation begins. The barricade shall be retained and maintained in good condition during the entire construction phase, including major excavation and clearing, and shall not be removed until the parking area has been paved or until approved by the Planning Staff.
10. Prior to permit issuance, a final grading and utility plan shall be submitted to and approved by both the Planning Department and the Public Works Department. The plan shall specify how utilities will be extended through the driveways serving the site so as not to encroach into the perimeter landscaping areas, and shall verify that perimeter area landscaping can be retained as proposed, and as required by code. To account for unforeseen topographic difficulties, the staff may administratively approve encroachments into the setback areas for required fill and retention, provided that encroachments do not exceed 20 percent of the proposed landscaped setback areas and do not involve loss of more than 20 percent of existing trees within the setback areas which are 6 inches in diameter or greater.
11. To assure minimal encroachment into the required perimeter landscaped area by driveways, two way driveways shall be limited to no more than 24 feet in width and one-way driveways shall be limited to no more than 15 feet in width.

Dated this 6th day of March, 1996.


Ron McConnell
Hearing Examiner

RECONSIDERATION:

Any aggrieved person feeling that the decision of the Examiner is based on erroneous procedures, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the Examiner within ten (10) days of the date the decision is rendered. This request shall set forth the specific errors of new information relied upon by such appellant, and the Examiner may, after review of the record, take further action as he or she deems proper.

COUNCIL ACTION:

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applies for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.

EXHIBIT:

The following exhibit was offered and entered into the record:

- A. Staff Report, as corrected at the hearing, with attached site plan and landscape plan.

PARTIES OF RECORD:

David Fisher
5715 Wollochet Drive
Gig Harbor, WA 98335

Gordon Rush
Rush Construction
5715 Wollochet Drive
Gig Harbor, WA 98335

City of Gig Harbor
Hearing Examiner Reconsideration
of SPR 95-05
(Fisher)

RECEIVED
APR 11 1996
CITY OF GIG HARBOR

I. FINDINGS AND CONCLUSIONS:

- A. Wes Hill, Public Works Director, requested reconsideration of the Hearing Examiner recommendation on this file dated March 6, 1996 (Reconsideration Exhibit A). His request is summarized below:
1. Finding A3c: The proposal does not conform with the provisions of Section 2B.140-B2 of the City's Public Works Standards.
 2. Findings A.3.a and c: The proposal appears to have traffic impacts that would support construction of a left turn lane.
 3. Findings A.3.a and c. and A6j: The site plan is not consistent with the 1994 Transportation Plan and the City's Public Works Standards regarding frontage improvements for vehicles, bicycles, transit and pedestrians.
 4. Finding A.3.a and c and A6j: Entering site distance from the southern driveway at its present location, onto Soundivew Drive may be impaired due to the proposed lowering of the approach below grade.
 5. Findings A.3a. and c. and A6j: The development needs to conform to Public Works standards pertaining to sanitary sewer, water and stormwater.
- B. Steve Osguthorpe, Associate Planner, submitted Reconsideration Exhibit B which stated that: "Mr. Fisher (the applicant) agrees to comply with conditions stipulated by the Public Works Department and has submitted to the City a revised site plan which relocates the driveway to the center of the parcel's frontage. The planning staff is agreeable to this provided that the driveway widths be no wider than required for fire access as determined by the City's Fire Marshal. This will assure maximum widths of all landscaped areas for tree retention/protection as discussed in the staff report to the Hearing Examiner."
- C. Public Works comments were not available at the hearing and therefore were not considered by the Examiner in the March 6, 1996 report on this file.
- D. A general condition which would require the applicant to comply with all relevant statutory codes, regulations and ordinances would address the conditions recommended by the Public Works Director in Reconsideration Exhibit A and would meet the intent of Section 17.96.030.B.3 GHMC. Historically, in Gig Harbor, site plan approvals have included specific conditions which addressed codes relevant to each site plan. The original

Hearing Examiner report in this case dated March 6, 1996 included specific conditions which addressed codes such as fire codes which must be met before the proposed development is completed, but are somewhat tangential to the site plan review process. Some of the conditions recommended by the Public Works Director are also believed to be somewhat tangential to the site plan review process but as an acknowledgment that the conditions will need to be met they will be listed here. This is intended to provide the applicant with a checklist of conditions which must be met as part of the development process.

The listing of these conditions, however, does not absolve the applicant of complying with any relevant requirements which are not listed in this report.

II. RECOMMENDATION

Based upon the foregoing findings and conclusions, the Hearing Examiner report dated March 6, 1996 on file number SPR 95-05 is amended to include the following additional conditions:

12. The applicant shall construct half street improvements along the entire Soundview frontage of the subject property. Said half street improvements shall include a left turn lane, through land, bike land, transit pull-out, curb and gutter, sidewalks, and transitions in accordance with the City's Public Works Standards and Pierce Transit requirements.
13. The proposed site plan shall be amended to eliminate dual driveway entrances and align the driveway with the opposing driveway across Soundview Drive.
14. The plan shall be modified to reduce or eliminate the excavation for the driveway approach to Soundview Drive to ensure maximum available sight distance for entering traffic, and minimizing the grade change from the sidewalk to the parking area to facilitate ingress and egress.
15. The applicant shall submit a storm drainage report prepared by a professional engineer for review and approval by the Department of Public Works.
16. Sewer and water services shall be installed in accordance with the City's Public Works standards.

III. RECONSIDERATION EXHIBITS

- A. Request for Reconsideration from Wes Hill, Public Works Director, dated March 15, 1996
- B. Memo from Steve Osguthorpe, Associate Planner, dated April 9, 1996

Dated this 10th day of April, 1996



Ron McConnell
Hearing Examiner

IV. COUNCIL ACTION ON THE EXAMINER'S RECOMMENDATION ON THE SITE PLAN:

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applied for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.

V. PARTIES OF RECORD

David Fisher
5715 Wollochet Drive
Gig Harbor, WA 98335

Gordon Rush
Rush Construction
5715 Wollochet Drive
Gig Harbor, WA 98335

Public Works Department
Planning Department



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

**GIG HARBOR COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TO: Hearing Examiner
FROM: Planning Staff
DATE: February 21, 1996

RE: SPR 95-05 - Rush Construction Office Building at 5801 Soundview Drive

I. GENERAL INFORMATION

APPLICANT: David Fisher
5715 Wollochet Drive
Gig Harbor, WA 98335

Telephone: 858-8204

OWNER: Rush Construction - Gordon Rush
5715 Wollochet Drive
Gig Harbor, WA 98335

Telephone: 858-3636

AGENT: None

II. PROPERTY DESCRIPTION

1. **Location:** 5801 Soundview Drive
Tax Assessor's Parcel Numbers 758000-099-3 & 099-4
2. **Site Area/Acreage:** 2.46 Acres
3. **Natural Site Characteristics:**
 - i. **Soil Type:** Harstine Gravelly Sandy Loam.
 - ii. **Slope:** Approx. 5 percent.
 - iii. **Drainage:** Easterly toward drainage pond.
 - iv. **Vegetation:** Significant coverage of Douglas fir.

4. Zoning:

- i. **Subject parcel:** RB-1 -- Residential Business
- ii. **Adjacent zoning and land use:**
 - North:** R-2 - Duplex
 - South:** B-2 - General Business
 - East:** Residential - County
 - West:** R-2

5. Utilities/road access: The parcel is served by City sewer and water and is accessed off of Soundview Drive - a public street.

III. APPLICABLE LAND-USE POLICIES/CODES

1. Comprehensive Plan: The comprehensive plan designates the area as commercial business. This designation is for areas which provide primarily retail and wholesale facilities, including service and sales. Commercial-business activities include business and professional offices

Commercial areas which border residential designations or uses should use available natural features as boundaries.

Natural features should serve as buffers, which may consist of standing timber, streams or drainage swales.

A minimum buffer width should be 30 feet.

The density and depth of the buffer should be proportional to the intensity of the use. (see Comp. Plan pg. 9)

2. Zoning Ordinance:

The site is designated as RB-1 (Residential Business District) per the City of Gig Harbor zoning map.

Section 17.28.010 (Intent) states that an RB-2 district is intended to provide a mix of residential uses with certain specified business, personal and professional services. It is also intended to serve as a buffer between high intensity commercial and lower density residential uses. The regulations and restrictions in an RB-1 district are intended to protect and preserve residential uses while permitting business uses characterized principally by professional and consultive services or executive and administrative offices, compatible with single-family residential development.

Section 17.28.020 permits business and professional offices.

Section 17.28.050 (minimum Development Standards) establishes minimum development standards for uses in respect to yards (F 20', S 10, R 15', 30' abutting R-1/R-2 districts - 30 feet with dense vegetative screen), maximum impervious coverage (60%). The project site is within a height overlay district which permits a maximum height of 35 feet for non-residential structures.

Section 17.36.120 provides performance standards for exterior mechanical devices, outdoor storage of materials, outdoor lighting and the placement and screening of trash receptacles.

Section 17.72 provides the requirements for off-street parking. The proposal would require a minimum of one parking space for each 300 square feet of retail/office floor space.

Section 17.78.020 (Applicability of landscape Requirements) applies to this development. A preliminary landscape plan and site topographic survey has been submitted with the application.

Section 17.78.050 (Preservation of significant trees) states that in the required perimeter areas, applicants shall retain all significant trees. Significant trees are defined as those which contribute to the character of the area and which form a continuous canopy or dense buffer.

Section 17.80/031(K) (signage). A master sign plan shall be approved through the site plan review process. The signage plan must be designed so that it establishes a common theme or design, uses similar construction methods, has compatible colors, lettering, lettering style, symbols, scale and size of signs and/or identical background. Sign plans are intended to unify the design of a project.

(Section 19.96 (Site Plan Review)). The stated purpose of site plan review is to ensure that development projects carried out in a given zoning district are executed in a manner consistent with existing ordinances concerning public utilities, traffic, facilities and services and provide unified site design, access, landscaping, screening, building placement and parking lot layout. Site plan review is not intended to review and determine the appropriateness of a given use on a given site. It is intended to insure that the development of a site will provide the features necessary to protect the health, safety and general welfare of the citizens of the city.

IV. BACKGROUND INFORMATION: The proposed site is partially developed site which currently has a small office building near Soundview Drive and is heavily wooded on the back half. The parcel lies between the existing Soundview Office Park on the south and a small duplex on the north.

V. REQUEST/PROJECT DESCRIPTION: The current request is to remove the existing office building and construct a larger office building of 37,860 square feet. The project will include 130 parking stalls which exceeds the required parking of one stall per 300 square feet. As required by code, the project will include a 30 foot landscaped buffer along the north property and east property lines abutting residential zones.

VI. PUBLIC NOTICE:

The property was posted and legal notice sent to property owners within 300 feet of the parcel and was published in the Peninsula Gateway on February 7, 1996. To date, no public input has been received.

VII. ANALYSIS:

1. Building Official/Fire Marshal - The following comments were submitted by Mr. Steve Bowman, Building Official/Fire Marshal:
 - a. Fire flow must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-A-1, 1994 Uniform Fire Code. The building design must be modified to reflect the required auto-fire sprinkler system, One Hour Fire Resistive Construction and a 2 Hour Area Separation Wall with Protected Openings.
 - b. Fire hydrants must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-B-1, 1994 Uniform Fire Code. The fire hydrant locations on the site plan do not reflect the requirement that a fire hydrant be located on the right side of the entrance to the site. The design must be revised to show the required fire hydrant on the right side of the entrance and within 150 feet of all portions of the building.
 - c. The building must be made accessible to the handicapped in accordance with the WA State Regulations for Making Buildings Accessible (Chapter 11, 1994 UBC as amended by the WA State Building Code Council). Van accessible parking stalls will be required with an 18-foot stall width. An

accessible walkway will be required from the public sidewalk to the entrance of the building.

- d. A Knox Box must be installed to provide access to each building. Knox Box(s) must be ordered from Pierce Co. Fire District No. 5.
- e. Additional pedestrian walks will be required to accommodate emergency egress from the building. The walkways may not be blocked by parking stalls.

2. Public Works Department -

3. SEPA Responsible Official: The SEPA Responsible Official issued a DNS on May 8, 1995. State comments regarding the DNS are as follows:

Department of Ecology (DOE) - Rebecca Inman from the DOE made specific recommendations on erosion control, both during and after construction, as follows:

Stockpiles should be stabilized or protected with sediment trapping measures to prevent soil loss. All exposed areas at final grade, or areas that are not scheduled for work for more than 30 days should be stabilized within 10 days during the period from April 1, to October 31. A permanent vegetative cover should be established on denuded areas at final grade if they are not otherwise permanently stabilized.

Properties adjacent to the site of a land disturbance should be protected from sediment deposition through the use of buffers or other perimeter controls, such as filter fence or sediment basins. Clearing limits and/or clearing easements or required buffers should be staked and flagged in the field.

All temporary erosion control systems should be designed to contain the runoff from the developed 2-year, 24-hour design storm without eroding.

Provision should be made to minimize the tracking of sediment by construction vehicles onto paved public roads. If sediment is deposited, it should be cleaned every day by shoveling or sweeping. Water cleaning should only be done after the area has been shoveled out or swept.

Source control best management practices such as plastic covering, mulch, temporary seeding, and phased clearing should be used to control erosion during construction.

Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent soil from

being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.

Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 8\90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

All storm drains within the development area should be stenciled "Dump No Waste, Drains to Stream" (or Groundwater, Lakes, etc., as appropriate).

The proponent should pretreat storm water runoff through the use of such best management practices as biofilter, API or CPS-type oil/water separator prior to off-site discharge.

Planning Department - The project appears to meet all zoning code requirements for coverage, setback, height, and parking, but the site plan is tight. It allows no room for grade transitions at the edge of the parking pavement without encroaching into areas of significant vegetation within required setbacks. Prior to permit issuance, a final grading and utility plan shall be submitted which specifies how utilities will be extended through the driveways serving the site and which verifies that perimeter area landscaping can be retained as proposed and as required by code. In conjunction with landscaping requirements, the proposed detention pond must be located beneath the rear parking lot in order to preserve significant vegetation on the back side of the property. Prior to permit issuance, significant trees within the proposed buffer and perimeter landscape areas (both front and back) shall be retained. This will require preliminary identification of the building and parking pavement edge and installation of a protective barricade before major excavation begins. The barricade should be visually and functionally significant (e.g. a fence made of plywood or construction safety fencing attached to steel T-posts or heavy lumber). The barricade shall be retained and maintained in good condition during the entire construction phase, including major excavation and clearing, and shall not be removed until the parking area has been paved or until approved by the Planning Staff. To assure minimal encroachment into the required perimeter landscaped area by driveways, two way driveways should be limited to no more than 24 feet wide and one-way driveways should be limited to no more than 15 feet wide.

A master sign plan must be submitted which specifies exactly how signage will be allocated among tenants, where they may be located and how the signs will be designed.

A lighting plan must be submitted to and approved by the staff prior to installation of any outdoor lighting, consistent with Section 17.28.090.

VIII. FINDINGS AND CONCLUSIONS:

Based upon a site inspection and the analysis contained in Part VII of this report, the Staff finds as follows:

1. The site is designated as RB-1 (Residential Business).
2. As per Section 17.28.020, business and professional offices are permitted.
3. The proposal meets all setback, height and coverage requirements as established in Section 17.28.050 including a front yard of 20', a south side yard of 10 and a north side and rear yard of 30' abutting R-1/R-2 districts, with dense vegetative screen, maximum impervious coverage (60%). The project site is within a height overlay district which permits a maximum height of 35 feet for non-residential structures.
4. As per Section 17.36.120 performance standards, screening for exterior mechanical devices has not been specified; outdoor storage of materials is not proposed; outdoor lighting has not been specified; and the placement and screening of trash receptacles has been identified.
5. The proposal exceeds the parking requirements of Section 17.72 which requires a minimum of one parking space for each 300 square feet of office floor space.
6. Consistent with Section 17.78.020 (Applicability of landscape Requirements) a preliminary landscape plan and site topographic survey has been submitted with the application.
7. The required perimeter areas includes significant trees which contribute to the character of the area and which form a continuous canopy or dense buffer.
8. A preliminary master sign plan has been submitted. Additional details must be submitted which address specific locations for each tenant space and which addresses common design elements for the signage.

IX. RECOMMENDATION:

The staff recommends approval of SPR 95-05 subject to the following conditions:

1. Prior to permit issuance, the applicant shall submit to the planning staff for

review and approval a master sign plan which includes specifications on signage allocation among tenants, specific locations of signage, and which provides details on how each sign will be designed so as to provide unity to the project design as per GHMC Section 17.80.031(K).

2. Prior to installation of outdoor lighting, a lighting plan must be submitted to and approved by the Planning Staff consistent with GHMC Section 17.36.120.
3. Fire flow must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-A-1, 1994 Uniform Fire Code. The building design must be modified to reflect the required auto-fire sprinkler system, One Hour Fire Resistive Construction and a 2 Hour Area Separation Wall with Protected Openings.
4. Fire hydrants must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-B-1, 1994 Uniform Fire Code. The fire hydrant locations on the site plan do not reflect the requirement that a fire hydrant be located on the right side of the entrance to the site. The design must be revised to show the required fire hydrant on the right side of the entrance and within 150 feet of all portions of the building.
5. The building must be made accessible to the handicapped ;in accordance with the WA State Regulations for Making Buildings Accessible (Chapter 11, 1994 UBC as amended by the WA State Building Code Council). Van accessible parking stalls will be required with an 18-foot stall width. An accessible walkway will be required from the public sidewalk to the entrance of the building.
6. A Knox Box must be installed to provide access to each building. Knox Box(s) must be ordered from Pierce Co. Fire District No. 5.
7. Additional pedestrian walks will be required to accommodate emergency egress from the building. The walkways may no be blocked by parking stalls.
8. Prior to permit issuance, an erosion and sediment control plan shall be submitted to and approved by the City's Public Works Department. The Public Works Department shall identify those items outlined in the comments from Rebecca Inman, State Department of Ecology, regarding erosion control and drainage which are pertinent to this project, and may impose requirements as necessary to address the DOE's concerns.
9. Prior to permit issuance, significant trees within the proposed buffer and perimeter landscape areas (both front and back) shall be retained. This will require preliminary identification of the building and parking pavement edge

and installation of a protective barricade before major excavation begins. The barricade should be visually and functionally significant (e.g. a fence made of plywood or construction safety fencing attached to steel T-posts or heavy lumber). The barricade shall be retained and maintained in good condition during the entire construction phase, including major excavation and clearing, and shall not be removed until the parking area has been paved or until approved by the Planning Staff.

10. Prior to permit issuance, a final grading and utility plan shall be submitted to and approved by both the Planning Department and the Public Works Department. The plan shall specify how utilities will be extended through the driveways serving the site so as not to encroach into the perimeter landscaping areas, and shall verify that perimeter area landscaping can be retained as proposed and as required by code. To account for unforeseen topographic difficulties, the staff may administratively approve encroachments into the setback areas for required fill and retention, provided that encroachments do not exceed 20 percent of the proposed landscaped setback areas and do not involve loss of more than 20 percent of existing trees within the setback areas which are 6 inches in diameter or greater.
11. To assure minimal encroachment into the required perimeter landscaped area by driveways, two way driveways shall be limited to no more than 24 feet in width and one-way driveways shall be limited to no more than 15 feet in width.

Project Planner: Steve Osguthorpe, AICP
Associate Planner



Date: Feb 16, 1994



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

RECEIVED
MAR 18 1996
CITY OF GIG HARBOR

DATE: March 15, 1996
TO: Ray Gilmore, Planning Director
FROM: Wes Hill, Public Works Director *Wes Hill*
RE: Soundview Office Court - Request for Reconsideration

Based on review of the Hearing Examiner's March 6, 1996 Findings, Conclusions and Decision regarding the subject development proposal, this Department requests reconsideration based on the following considerations:

1. Finding A.3.c.: The proposal does not conform with the provisions of Section 2B.140-B.2 of the City's Public Works Standards, as otherwise cited under Item '2' in our February 28, 1996 correspondence on this project. Essentially this section requires that driveways on arterial streets be offset a minimum of 75-feet from opposing driveways or be aligned. Unfortunately, there is not sufficient information to evaluate the offset from the driveway for the business park on the west side of Soundview Drive across from the current proposal. However, the driveways shown in the April 1995 traffic study prepared by Heath and Associates nominally provide more offset than that shown on the November 1995 site plan prepared by North Pacific Design. Based on the predicted traffic volumes in this area, we are concerned about the potential for conflicting turning traffic movements at the three driveways with what this Department perceives to be an existing and future capacity problem in this area.
2. Finding A.3.a and c: The proposal appears to have traffic impacts that would support construction of a left turn lane (See also '1' above).

It should be noted that the City-WSDOT's 1994 mechanical traffic counts north of the Hunt Street-Soundview Drive intersection indicated a seasonally adjusted PM peak hour southbound traffic volume of 374, not the 273 shown on Figure 4 of the cited traffic study. (See '2' below) (It should also be noted that contrary to the information on page 7 of the traffic study, the proposed development fronts Soundview Drive on the west, not Soundview Drive Northwest, that the former is a minor arterial city street, not a county major arterial, and that Hunt Street within the City limits is identified as a minor arterial in the City's '94 Transportation Plan.)

Based on the intersection traffic volumes provided in the traffic study, it is assumed that the baseline traffic volume along the proposal's frontage should also be increased accordingly. This is indirectly confirmed by a single day and hour traffic count conducted by the proponent's engineer on March 5, 1996, and received in our office March 11, 1996. The one hour count from 7 AM to 8 AM reported, and presumably unadjusted, counts were taken from 7 AM to 8 AM and of 535 vehicles southbound. It should be noted that the City-WSDOT counts suggested that the peak southbound hours typically are between 11 AM and 2 PM.

Using the information furnished, and assuming the 3% growth rate cited in the study, the actual 2001 southbound flow between 7 AM and 8 AM would be 620 vph not 602 vph, and the northbound flow would nominally increase to 118 vph from the 115 vph value indicated. However, and possibly of more concern, is the assumed growth rate. While the study's rate is apparently comparable with the 3.5% high rate for the PSRC and the 2.9% moderate density, "preferred," GMA growth rates used in the '94 Transportation Plan; the one day count suggests that this segment of Soundview Drive has experienced an annual increase in excess of 43-percent (374 vph vs. 535 vph). This percentage could be higher depending on whether the current count was seasonally adjusted, and if the comparison was between the true peak hour later in the day as opposed to comparing the lower value AM peak ('95) with the typical daily peak hour ('94).

Using the corrected YR. 2001 predicted AM peak traffic volumes with the estimated turning information from the study in the left turn warrant analysis (as furnished by the proponent's engineer) reduces the difference between the left turn pocket warrant threshold and predicted values from 56 to 21, or a margin of approximately 3 percent. This is a small margin even recognizing that the table used assumed a 40-mph operating speed and 5% (vs. 4.4% calculated) left turn movements. This is of special concern based on a current Level of Service (LOS) D, and maximum lane capacity of 705 vph (based on peak hour to daily traffic ratio of 0.10) for this section of Soundview Drive as identified in the '94 Transportation Plan. Using the latter number, assuming a constant peak hour to daily traffic ratio, and applying what now appears to be a conservative 3% growth rate to the current count for an AM peak (rather than an actual peak) indicates that full lane capacity will occur by 2006, at the latest. Viewed alternatively, lane capacity would be exceeded in 6-years at an annual 4.8% traffic increase. This, and other factors, would lower the LOS from D to E, which is below the City's adopted standard.

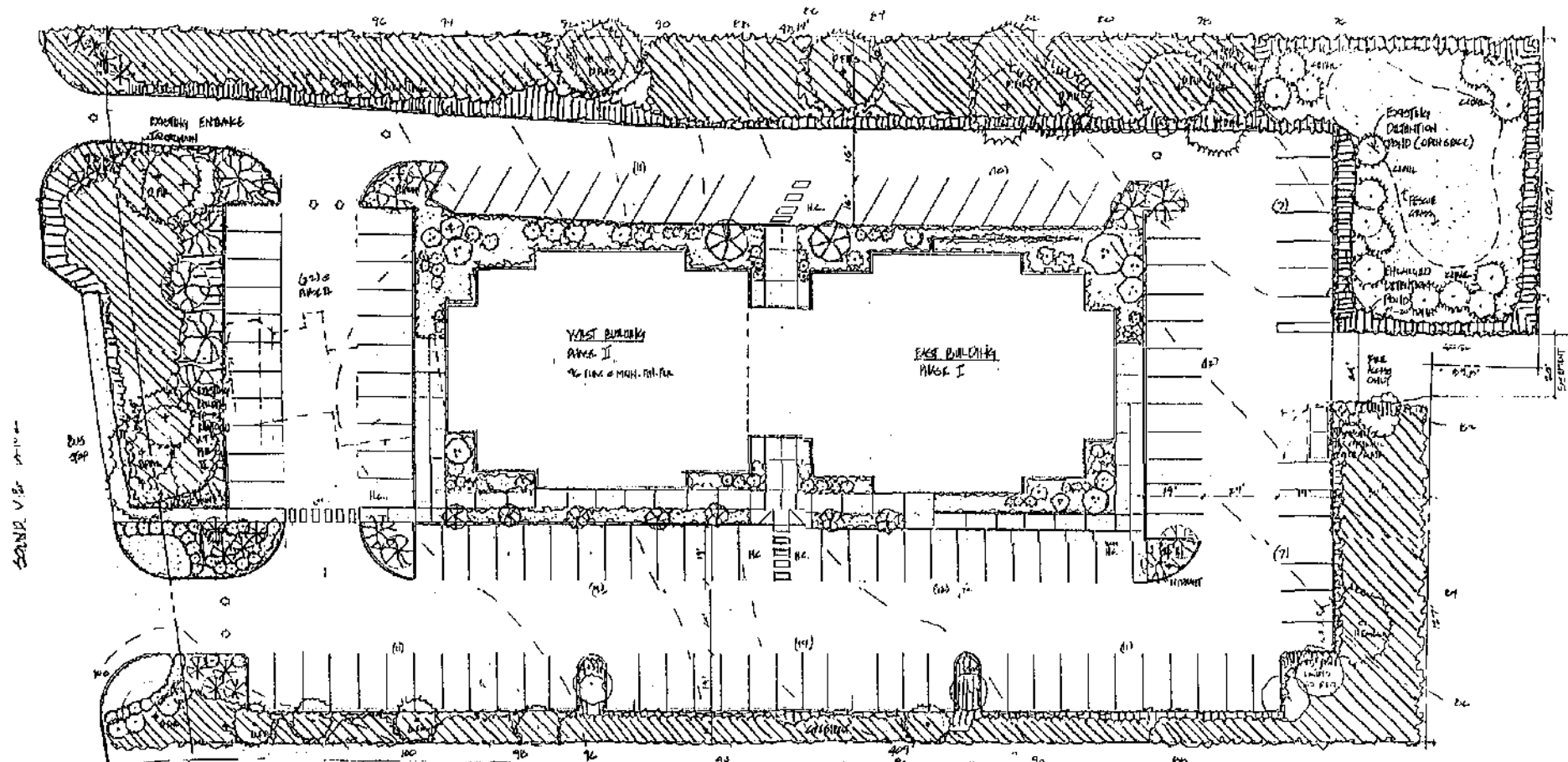
3. Finding A.3.a and c, and A.6.j: The site plan is not consistent with the 1994 Transportation Plan and the City's Public Works Standards regarding frontage improvements for vehicles, bicycles, transit and pedestrians (See also '1' and '2' above). Figure 2-3 of the Transportation Plan identifies Soundview Drive as a designated bicycle path which requires a separate bicycle lane. The standard for this section of Soundview Drive includes a sidewalk on both sides for pedestrian access. Pierce Transit presently has a bus stop along the parcel frontage which would need to be restored in accordance with their standards following widening of Soundview Drive to accommodate the left turn and bicycle lanes.
4. Finding A.3.a and c, and A.6.j: Entering sight distance from the southern driveway, at its present location, onto Soundview Drive may be impaired due to the proposed lowering of the approach below grade.
5. Finding A.3.a and c, and A.6.j: The development needs to conform with Public Works Standards pertaining to sanitary sewer, water, and stormwater.

In summary, this Department recommends that the approval conditions be modified to provide for the following:

- Construction of half-width improvements along the entire Soundview Drive frontage including left turn lane, through lane, bike lane, transit pull-out, curb and gutter, sidewalks, and transitions in accordance with the City's Public Works Standards and Pierce Transit requirements.
- Eliminate dual driveway entrances and align the driveway with the opposing driveway across Soundview Drive.
- Reduce or eliminate the excavation for the driveway approach to Soundview Drive to ensure maximum available sight distance for entering traffic, and minimizing the grade change from the sidewalk to the parking area to facilitate ingress and egress.
- Preparation of a storm drainage report prepared by a Professional Engineer for review by this Department, and construction of storm drainage improvements consistent with the reviewed document and the City's Public Works Standards. Please note that plans submitted for subsequent review should clearly show connection of the footing and roof drains to the on-site detention system.
- Installation of sewer and water services in accordance with the City's Public Works Standards including a water meter at the property line, and a clean-out at the property line for the sanitary sewer.

Thank you for considering this additional information. I would be pleased to review this Department's concerns with the proponent and/or their engineer. Please advise if additional information is needed.

Proposed Site Plan - see revision to front portion of site abutting Soundview Drive



PLANT LIST:

- NATIVE TREES AND SHRUBS**
(SEE VEGETATION OR ESTABLISHMENT INFORMATION ONLY)
EXISTING NATIVE TREES TO REMAIN
 - NEW NATIVE CONIFEROUS TREES:
 - PSEUDOTSUGA MENTZERI (DOUGLASS PINE)
 - TAUUS HETEROPHYLLA (WEIGELA HENRICI)
 - NEW NATIVE DECIDUOUS TREES:
 - ACEF CICHARIUM (VINO NAME)
 - CORALUS NUTALLII (FRANCIS REDWOOD)
- EXISTING NATIVE SHRUBS AND GROUND COVER TO REMAIN
- SUPPLEMENTAL NATIVE SHRUBS AND GROUND COVER:
 - YACONTHIA QUATUM (EVERGREEN WINDMILL TREE)
 - GALLIHERIA CHAMON (CASHAL)
 - NARODIA NIBROGA (LONGLEAF NARODIA)
 - POLYTRICHUM MOUNTAIN (SUNSHINE PINE)
- ORNAMENTAL TREES**
(PROPAGATION REQUIRED)
 - COURTYARD TREES:
 - TILIA CORDATA (LITTLE-LEAF LINDEN)
 - CANOPY TREES:
 - ACER SPA (NATIVE)
 - QUERCUS SPA (OAK)
 - FLOWERING TREES:
 - PRUNUS SPA (PL. CHERRY)
 - MALUS SPA (APPLE)
 - PEARUS SPA (OAK PEAR)
- ORNAMENTAL AND NATIVE SHRUBS AND GROUND COVER**
(PROPAGATION REQUIRED)
 - PRUNUS SPA (NATIVE CHERRY)
 - PRUNUS LINDENIA (PINKBLOSSOM)
 - NARODIA AQUICUM (OAK LEAF)
 - ILEX SPA (HOLLY)
 - NARODIA COMARCA (NATIVE BERRY)
 - RHODODENDRON SPA
 - AZALEA SPA
 - CORALUS GILGIBERNA (FRANCIS REDWOOD)
 - COTONEASTER SPA
 - BUCKINGHAM ALATA (SHRUB)
 - PRUNUS TRINCA (LILY)
 - ORNAMENTAL GRAPES
 - NARODIA BELLATA SPA (OAK)
 - CHAMELIS SPA
 - TILIA SPA (LINDEN)
 - JUNIPERUS SPA (JUNIPER)
 - RUSCUS SPA (RUSCUS)
 - GROUND COVERS:
 - HEDERA HELIX (ENGLISH IVY)
 - HYPERICUM EMPETRICUM (ST. JOHN'S WORT)
 - PACHYSTACHYA TROPICALIS (LIP PLANT)

PRELIMINARY PLANTING PLAN

SOUNDVIEW OFFICE COURT

REVISED 04/30/95 D.K.F.

SCALE: 1/4" = 1'-0"

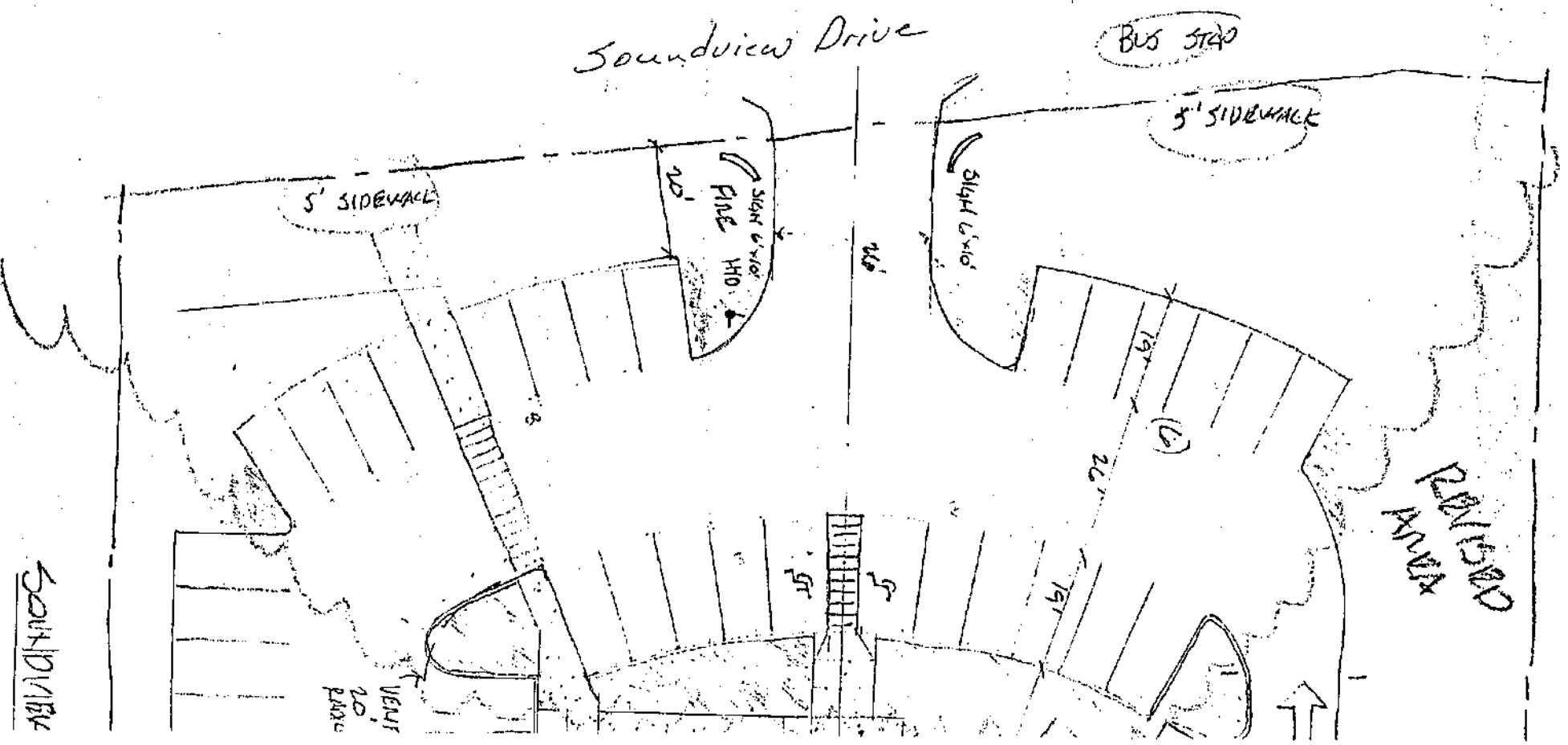
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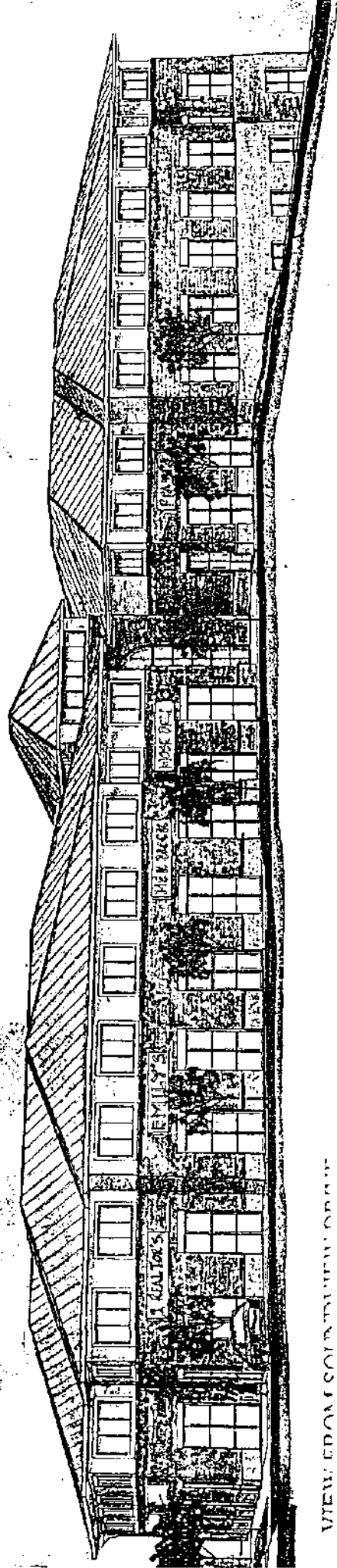
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RECEIVED
NOV 03 1996

Revised Site Plan Incorporating Public Works Comments

1/2 STREET IMPROVEMENTS
NOT SHOWN





VIEW FROM SOUTH SIDE



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: PLANNING STAFF *A.O.*
DATE: MAY 13, 1996
SUBJECT: APPEAL BY ADAM AND MAXINE ROSS OF HEARING EXAMINER'S RECOMMENDATION ON SDP95-06/SPR95-10 -- ROBERT PHILPOTT - SUBSTANTIAL DEVELOPMENT PERMIT AND SHORELINE CONDITIONAL USE PERMIT FOR FUELING DOCK, MOORAGE AND BUSINESS OFFICES; SITE PLAN REVIEW FOR OFFICES AND PARKING.

INTRODUCTION/BACKGROUND

Mr. Robert Philpott proposed to remove the existing dock on Pete Darrah's property and replace it with a fueling dock. The new dock would extend out 360 feet from the bulkhead and would include fueling equipment and sanitary pump-out facilities along the last 80 feet of the dock. Also proposed are underground fuel storage tanks, demolition of one structure (the Novak house) renovation of two existing structure over the water, one for an office and the other for a marine related use. Two areas of transient moorage are proposed including a 40-foot area and an 85-foot area.

The upland portion of the site would be renovated to expand the existing commercial floor area and to provide a 14-car parking lot. The parking lot would require removal of the existing Novak house.

The Hearing Examiner recommended approval of the site plan and shoreline conditional use permit subject to conditions. A request for reconsideration of the Hearing Examiner's decision was submitted by Adam and Maxine Ross which outline numerous issues pertaining to traffic laws, Uniform Fire Code regulations, taking issues and general and land use regulation. Upon further consideration, the Examiner continued to recommend approval with one additional condition pertaining to hours of operation.

The Ross' were notified of the Examiner's action and submitted a timely appeal to the City Council requesting the Council to "deny said application as not being authorized but being contravened by applicable Gig Harbor laws."

POLICY

As this project was submitted prior to adoption of Chapter 19 regulations on application processing, the application shall be processed in accordance with procedures established at the time the application was deemed complete, including appeal procedures. GHMC Section 17.10.160 (as stated prior to 3/96 updates) outlines the process for appeals which stipulates that appeals shall be considered based upon the record established and made at the hearing held by the hearing examiner.

Parties of record may submit written comments in support of their position and, in addition, the council shall allow each side no more than 15 minutes of oral testimony. No new evidence or testimony shall be presented to the council during the oral testimony. The city council shall accept, modify or reject any findings or conclusions, or remand the decisions of the examiner for further hearing; provided, that any decision of the city council shall be based on the record of the hearing conducted by the examiner; however, the council may publicly request additional information of the appellant and the examiner at its discretion.

RECOMMENDATION

As stated in all reports and correspondences to the Hearing Examiner, the staff maintains that the project conforms to all zoning and shoreline regulations as conditioned by the Hearing Examiner. A draft resolution approving the proposed development is attached should the Council choose to grant approval. The resolution includes all conditions of approval as recommended by the Hearing Examiner. Also attached is the staff report to the Examiner, the Examiner's initial report, the Ross' request for Hearing Examiner reconsideration, the Examiner's response to the request for reconsideration, the Ross' appeal letter and illustrations of the proposed development.

**CITY OF GIG HARBOR
RESOLUTION #___**

WHEREAS, Robert Philpott has requested site plan and shoreline substantial development permit approval to construct a fuel dock and develop a parking lot on the upland portion of the site; and,

WHEREAS, Robert Philpott has requested a variance allowing a two foot parking encroachment into the side yard setback; and

WHEREAS, GHMC Section 17.10 specifies procedures for reviewing variances, site plans and shoreline permits; and,

WHEREAS, the Planning Department for the City of Gig Harbor has recommended denial of the requested variance, and conditional approval of the requested site plan and shoreline permit in a staff report dated February 7, 1996; and

WHEREAS, the City of Gig Harbor Hearing Examiner conducted a public hearing on the applications on December 20, 1995 to accept public comment on the site plan, variance and shoreline permit requests; and,

WHEREAS, the City of Gig Harbor Hearing Examiner conducted another public hearing on the applications on February 7, 1996 because a recorded transcript of the December 20, 1996 meeting was not available due to failure of recording equipment; and,

WHEREAS, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has denied the requested variance, and has recommended conditional approval of said site plan and shoreline permit in his report dated February 21, 1996; and,

WHEREAS, Adam and Maxine Ross requested that the Hearing Examiner reconsider his recommendation on the site plan and shoreline permit due to the Ross' claim that:

1. The city of Gig Harbor Hearing Examiner's Findings, Conclusions, and Decision/Recommendation dated February 21, 1996, was not available, notwithstanding a copy was requested by Requestors' attorney, John A. Paglia; The Hearing Examiner ignored applicable Gig Harbor Code provisions, including, but not limited to Traffic Code, 1994 Uniform Fire Code, which became effective in Gig Harbor June 30, 1995 by State of Washington mandate, so that it was effective on February 7, 1996, the date of the hearing; Public Works Code Transportation Standards, pages 2-31 through 2-34, Exhibit F, Transportation Standards, pages 2-9 through 2-14, Gig Harbor Traffic Code Sections 10.04.005, and its State of Washington statutes incorporated by reference thereon with specific reference to the State Statutes, including, but not limited to RCW 46.61.605(1), Gig Harbor Department of Public Works Details for Rock Retaining Walls, Striping, Street Turn Radius, Dead End Hammerhead and Minimum Turning Radius for Dead End Cul-de-Sac.

2. The hearing Examiner ignored Gig Harbor Zoning Section 17.04.770, which defines "structure".
3. The Project Description stating the proposed new dock would extend out 316 feet from the bulkhead ignores the testimony of Adam Ross that the same scales out from the bulkhead on the drawing at 360 feet.
4. The Project is not harmonious with surrounding residential areas as 17.48.010 of the Zoning Code encourages. Nor are the Development Standards of 17.48.040 of the Waterfront Millville District met or in any way adjustable, because these structures -- tanks, floats and pumps -- are in addition to what already existing on the site. This is not a virgin piece of unimproved property to which Subparagraph (b) of 17.48.040 may be applied.
5. Section 17.48.090 of the Zoning Code requires exterior mechanical devices, including pumps and all other mechanical devices, to be screened. This includes tanks and their filler systems, which was ignored by the Hearings Examiner. Said tanks are machinery which is outside storage under 17.48.090(c), which requires screening also.
6. The Hearing Examiner Decision did not require adherence to the City's Zoning and Building Ordinances.
7. The allowance of a public transient moorage for up to two vessels a maximum of 30 feet in length as compliance with public viewing and/or access to the shoreline -- Section 3.05 SMP -- ignores and violates the 1994 Uniform Fire Code effective 6/30/95 in Gig Harbor, which provides for fuel docks being exclusively used for fueling, no portion of said dock being usable for any other purpose.
8. Any fuel dock closer than 50 feet from an adjoining property line, as would be the case here, is an unconstitutional taking of private property of the adjoining landowner, which is prohibited by the Washington Constitution. Article 1, Section 16, entitled "Eminent Domain", and the Washington Supreme Court cases recited thereunder, which were cited to the Hearing Examiner.
9. The Hearing Examiner also fails to require a vehicle loading dock, notwithstanding the Project entails hazardous delivery of fuel from large tanker trucks and trailers backing from and/or on the private driveway, which backing was ignored by the Hearing Examiner, notwithstanding the Gig Harbor Public Works Code interdicts the same.
10. Fuel deliveries are sales, and the Hearing Examiner's allowing it between the hours of 7:00 a.m. to 9:00 p.m. violates 17.48.035, which is beyond his power.
11. The fueling grade requirement of the 1994 Fire Code as I recall is seven percent, not 15 percent, as contended for by the Hearing Examiner.

12. Chapter 17.68, Nonconformities, is applicable, and under 17.68.010, its intent was violated by the Hearing Examiner's in effect allowing the enlargement, expanding or extending or used as grounds for additional other structures. These fuel tanks are structures under 17.04.770, so loading docks are required.
13. Zoning Code setbacks and setbacks required by the 1994 Uniform Fire Code of Gig Harbor do apply on leased lands.
14. The tanks and their pump are mechanical equipment and require screening. This screening with the loading dock and dumpster screening required by the Code makes the site not meet the parking lot requirements.
15. The City's present Fire Code requires the City of Gig Harbor to be solely responsible for Fire Code compliance, not the State of Washington, as the Hearing Examiner contends.
16. The fuel dock is not compatible with the Requestors' residential use of their land and is unreasonable and adversely affects their land, to their substantial detrimental injury.
17. Fuel deliveries cannot be lawfully accommodated on the site at any time. The Hearing Examiner's Finding that the Proposal conforms to all Fire Code requirements is false, a lie, untrue and erroneous, and appears to be based solely upon a MAI.
18. The Hearing Examiner's preoccupation with some screening requirements, lighting, landscaping, and the like is at variance with his blatant disregard of the 1994 Uniform Fire Code provisions of Gig Harbor, and its Public Works Code designed to protect Gig Harbor and its residents and property owners with safety from hazardous materials.
19. Requestors' attorney, John A. Paglia, only received and read his copy of the February 26, 1996 Gig Harbor letter to Robert Philpott on Saturday, March 2, 1996, while in the process of moving his office. Said letter did not contain a copy of the 25-page Hearing Examiner Decision.
20. This Request for Reconsideration is submitted notwithstanding requestors were in no wise provided with a 10-day window in which to effect the same. Whether this was by design of the City is a matter which will not be left to be unanswered.

WHEREAS, the Planning Staff responded to Adam and Maxine Ross' statements in a memo to the Hearing Examiner dated March 18, 1996 which addressed the above statements of the Ross' in numerical order as follows:

1. Mr. Paglia (the applicant's attorney) requested a copy of the Examiner's report at approximately 6:00 p.m. on February 21, 1996. He was informed that a copy of the

report would be available at the Planning Department during normal business hours on the following day. A copy was prepared and waiting for Mr. Paglia, but he never came by to pick it up.

Regarding traffic codes, the Ross letter does not specify which traffic codes are at issue. Typically, traffic codes are not under consideration with site plan review because they are not enforceable under zoning regulations.

Regarding the Ross' statement that the Examiner has ignored the Uniform Fire Code (UFC), the staff report to the Examiner clearly stipulated that approval should be based upon conformance to the UFC.

Except for page references, the Ross' have not specified which sections of the Public Works Transportation Standards have not been addressed. One possible concern of the Ross' might be Section 2B.140(A)6 which states that "No commercial driveway shall be approved where backing onto the sidewalk or street will occur." It is the staff's understanding that fuel trucks will be backing onto the site from the public street which means that trucks will not be backing onto the street or sidewalk. The Hearing Examiner may wish to stipulate this in the conditions of approval for this project.

Regarding RCW 46.61.605(1), this section of the RCW simply adopts by reference the Model Traffic Ordinance. Again, the Ross' have not specified which section of the Model Traffic Ordinance the project is not in compliance with. It is an irrelevant point, however, because, again, traffic regulation is not addressed under zoning regulations.

Regarding RCW 46.61.605(1), this section merely states that "The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic" (emphasis added). The staff assumes that this applies to drivers of all vehicles and has no direct reference to commercial vehicles only. Safety is the issue here. There is no absolute prohibition on backing either stated or implied here.

The Ross' reference to "Gig Harbor Department of Public Works Details for Rock Retaining Walls, Striping, Street Turn Radius, Dead End Hammerhead and Minimum Turning Radius for Dead End Cul-de-Sac" is irrelevant to this application. These are addressed under Roadside Features in the Public Works Transportation Standards and in other section which regulate right-of-way development. No roadside (right-of-way) work is proposed with this application.

2. This comment does not stipulate in what manner the definition of structure should be applied or how it was ignored.
3. The submitted plan includes both a meander line and a bulkhead line. The staff had mistakenly measure the length of the dock from the meander line rather than the bulk

head. This issue was clarified at the public hearing, at which Mr. Ross was present.

4. To say that this project is not harmonious with residential uses raises the question as to whether other stated permitted uses within the zone are harmonious with residential uses. This may not be determined with Mr. Philpott's application. If Mr. Ross believes that the stated permitted uses are not compatible with residential uses (e.g., Marine-related sales, piers, docks, wharfs and associated buildings), then a proposal for a text amendment might be in order. It would be difficult to argue that a fueling dock does not constitute marine related sales.

If the Ross' statement pertaining to the addition of tanks, floats and pumps is in reference to an expansion of a non-conformity, the staff agrees that the commercial use of the lot does not conform to commercial lot width requirements. However, Section 17.68.070 stipulates that "Any change which decreases the nonconformity to the requirements of this title shall be permitted". The Philpott proposal cleans up all of the site's non-conformities relating to moorage setbacks and parking. A more clear statement of this in the Examiner's findings and conclusions would be appropriate.

5. Section 17.48.090 addresses "Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and other mechanical devices . . ." (emphasis added). Because the emphasis is on air conditioning and heating equipment, the staff interprets the word pump to mean heat pump. This is subject to interpretation. As stated in the staff report to the Hearing Examiner, the code's requirement for screening of mechanical equipment has never been applied to gas pumps. The very nature of a fuel dispensing business requires that gas pumps be visible to customers. It is doubtful that the pumps would be visible from Harborview Drive due to their distance from the street and the screening effect of other structures in the immediate area.
6. This statement is too general. The staff cannot respond without more specificity as to which zoning and building ordinances are not being adhered to with this proposal.
7. Section 5202.11.5.4, 1994 UFC states "Vessels or craft shall not be made fast to or berthed at fuel docks serving a marine motor vehicle fuel-dispensing station, except during fueling operations, and craft shall not be made fast to other vessels or craft occupying a berth at a marine motor vehicle fuel-dispensing station." As with all projects, prior to permit issuance, the Building Official/Fire Marshal shall determine if the project conforms to all fire code requirements. It may be that the above stated requirement cannot be met, in which case a permit would not be issued. There may, however, be alternative methods of construction which the Building Official/Fire Marshal can explore which would not change the site plan. The bottom line here is that it is up to the Fire Marshal to determine if the project meets UFC requirements and he is certainly aware of the requirements cited by the Ross'.
8. (no staff response)

9. The backing issue has already been addressed in the staff comments under paragraph #1.

GHMC Section 17.72.040(A-H) specifies design standards for both loading berths and required loading berths, and also for loading docks. GHMC Section 17.72.050 stipulates when loading berths are required. Because a loading berth is not a code requirement for the proposed development, and because no loading dock is proposed, Sections 17.72.040(D) & (G) do not apply to this proposal. (The Examiner will notice the (D) addresses "Each required loading berth . . .", and (E) specifies loading docks. A dock is defined by Webster as a wharf or platform for loading or unloading (The New Merriam-Webster Dictionary)).

10. If the Examiner concludes that fuel deliveries are an activity or use which is part of the normal business operation, the code would restrict such use to the hours of 7:00 a.m. to 7:00 p.m. The Examiner's report stipulated 9:00 p.m.
11. Section 902.2.2.6, 1994 Uniform Fire Code states: "The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief." The GHMC has amended any reference to "chief" to mean the "Gig Harbor Fire Marshal". The standard maximum grade for fire fighting equipment is 15 percent.
12. The non-conformity issues was address in the staff comments under paragraph #4. The staff disagrees that underground fuel tanks are considered structures. Section 17.04.770 of the GHMC states: "Structure means a combination of materials that is constructed or erected, either on or under the ground, excluding residential fences, retaining walls, rockeries and similar improvements of a minor character the construction of which is not regulated by the building code of the city." The below ground tank is regulated by the fire code of the city; it is not regulated by the building code of the city.
13. Setbacks for both private and leased lands have been addressed in the staff report to the Hearing Examiner. Subject to the conditions of approval as recommended by the staff and the Hearing Examiner, the project conforms to all zoning and shoreline setback requirements and must also conform to all fire code requirements.
14. The screening issue was addressed in the staff comments under paragraph #5. Subject to all recommended conditions of approval, the project conforms to all parking lot requirements.
15. If the Ross' are referring to the requirement for posted operation procedures for fuel and sewage handling which the staff and Hearing Examiner found would be regulated by the State, this is not a fire code requirement; it is a Shoreline Master Program requirement.

16. This issue has been addressed in the staff comments under paragraph #4.
17. The staff believes that fuel deliveries can be lawfully accommodated on the site, subject to conformance to all conditions of approval recommended by the staff and the Hearing Examiner. The staff is not familiar with the term "MAI".
18. (no staff comments)
19. Notice of the Hearing Examiner's action was sent to all parties of record on February 26, 1996. However, because no party of record except for Mr. Paglia requested a copy of the Examiner's report, the full 25 page report was sent to the applicant only. While Mr. Paglia did indeed request a copy, he stated that he would pick it up at City Hall. As mention in the staff comments under paragraph #1, a copy of the Examiner's report was left for Mr. Paglia at the Planning Department counter, but he never came by to pick it up.
20. The code does not mandate that parties of record have a 10-day window for reviewing the Hearing Examiner's decision. It allows 10 days beyond the date of the Examiner's decision to request reconsideration. Notice of the Hearing Examiner's decision was sent to all parties of record as timely as possible but, again, Mr. Paglia (who represents the Ross') was verbally informed of the Examiner's decision the very day it was rendered. He was informed that a copy of the Examiner's report would be available at the Planning Department the following day.

WHEREAS, the Hearing Examiner, having considered the entire record in this matter, made specific findings and conclusions which adopted the planning staff response to the above paragraphs 1 - 3, 5, 7, 9, 11 - 17, 19 and 20, and also the following responses to the above paragraphs 4, 6, 8, 10, and 18, as follows:

4. The Examiner concurs with the staff response (to paragraph 3). However, that response is augmented as follows:

GHMC Sections 17.48.020.D and 17.48.020J list marine related sales; and piers, docks wharves and associated buildings as permitted uses in the Waterfront Millville zone. Therefore, the proposed fueling dock is a permitted use in the Waterfront Millville zone.

GHMC Section 17.48.040 provides development standards for the Waterfront Millville zone. One of the standards is a minimum lot width of 100 feet for non-residential uses. The subject property is just over 70 feet in width, however, it was an undersized lot of record when the code was adopted. Footnote 1 to Section 17.48.040.C. states that "An undersized lot or parcel shall qualify as a building site if such lot is a lot of record." It is believed by the Examiner that this statement was

intended to apply to all undersized lots in Waterfront Millville and that its inclusion in this footnote was a scrivener's error. Therefore, the lot should be considered to be a legal non-conforming lot.

The proposal will remove some of the existing improvements on the subject property and if approved as conditioned by the Examiner, will meet the requirements of Gig Harbor Municipal Code. For example, the proposed improvements will meet setback, landscaping and impervious coverage requirements. No variances from those standards have been approved. Therefore, it is believed the project is harmonious with surrounding residential uses.

6. The Examiner's Decision/Recommendation began with the following condition:

"This application is subject to the applicable requirements contained in the Gig Harbor Municipal Code, Zoning Ordinance, Shoreline Master Program, Building Code and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. The conditions listed below are additional regulations specific to the subject proposal."

8. The two Washington State Supreme Court cases which were cited at the hearing to the Hearing Examiner by Mr. Paglia, Mr. Ross's attorney, (Read v. Seattle, 213 P.923 {Washington 1923} and Tyree v. Gosa, 119P {2d} 926 {Washington 1941} both held that private property cannot be taken for private use through the exercise of eminent domain.

The Examiner does not believe those two cases are applicable to this case. This is a situation where an applicant has applied for permits to develop his own property in accordance with City requirements.

10. After further reviewing the record, the Examiner now believes that fuel delivery is an activity which is part of a normal business operation. The code restricts such activities to the hours of 7:00 a.m. to 7:00 p.m. and therefore, the Examiner's Condition D.2 should be modified to reflect the code restrictions.
18. Again the first condition in the Examiner's Decision/Recommendation clearly states that the application is subject to the applicable requirements of Gig Harbor Codes.

The review by the Examiner was to determine if the application met the requirements for approval of a requested Substantial Development Permit, a Shoreline Conditional Use Permit, Site Plan and a Variance from landscape standards.

Detailed issues related to the Uniform Fire Code, applicable Public Works standards and other city requirements will be reviewed by the appropriate staff members as part of the permit review process.

WHEREAS, the Examiner's recommendation, as stated in his reconsideration report dated March 27, 1996, remains as stated in the Hearing Examiner report dated February 21, 1996, based upon the his findings and conclusions upon reconsideration, except that Substantial Development Permit and Shoreline Conditional Use Permit Recommendation #D2 is modified as follows:

All fuel deliveries shall be conducted entirely on-site. Fuel trucks may not park in the City right-of-way or on adjacent properties when delivering fuel. Rather, when delivering fuel, the fuel trucks shall back onto the site from Harborview Drive. All fuel deliveries shall occur between the hours of 7:00 a.m. and 7:00 p.m.

WHEREAS, notice of the Hearing Examiner's response to the request for reconsideration was mailed to the Ross' on March 27, 1996 in a letter dated the same; and,

WHEREAS, a timely appeal of the Examiner's recommendation on the site plan and shoreline/conditional use permit request was file by Adam and Maxine Ross on April 10, 1996 requesting that the Council deny the application, claiming it as "not being authorized but being contravened by applicable Gig Harbor laws"; and,

WHEREAS, Ordinance 711 established review procedures for applications submitted after April 1, 1996; and the application for the proposed development was submitted prior to April 1, 1996; and,

WHEREAS, Section 17.10.160 of the pre-March 1996 Gig Harbor Municipal Code establishes procedures for hearing appeals of the Hearing Examiner's decision, and

WHEREAS, the City Council, during its regular meeting of May 13, 1996 reviewed the proposed site plan and shoreline/conditional use permit request and the findings and recommendation of the Hearing Examiner; and also heard the appeal Adam and Maxine Ross; and,

WHEREAS, the City Council has determined that the Hearing Examiner's recommendation to approve the proposed site plan and shoreline/conditional use permit is consistent with City codes and policies regulating the same;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor, Washington, as follows:

That the findings, conclusions, decisions and recommendations of the hearing Examiner in his report dated February 21, 1996 and as modified in his reconsideration report dated March 27, 1996, are hereby adopted and the site plan (SDP 95-06) and shoreline conditional use permit (SDP95-06) is approved subject to the conditions stipulated in the Examiner's report which are as follows:

Site Plan Conditions of Approval:

1. Prior to permit issuance, a final landscape and irrigation plan shall be submitted to and approved by the City Planning Staff which is consistent with all zoning code requirements for landscaping. Landscaping shall be installed as approved prior to issuance of the occupancy permit. In lieu of the required landscape improvements, a bond or cash assignment in the amount equal to 110% of a contractor's bid shall be posted with the city. If landscaping is not installed within 18 months from the date of posting of the bond or cash assignment, the city will foreclose on the bond or cash assignment and install the landscaping as per the approved plan.
2. Prior to permit issuance, a master sign plan shall be submitted to and approved by the planning staff which meets the requirements of all sign code requirements including Section 17.80.031(K).
3. Prior to permit issuance, details of the dumpster screen shall be submitted to and approved by the Planning Staff.
4. Prior to permit issuance, a lighting plan must be submitted to and approved by the planning staff which is consistent with GHMC Section 17.48.090(D).
5. The project shall comply with the requirements of the city building code.
6. All off-street parking for the businesses shall be clearly indicated on site and must be striped. "Parking Only" shall be clearly displayed for the following:
 - A. for commercial tenants
 - B. for shoreline public access
 - C. for moorage patrons
7. Any future tenancy of all of the commercial/office buildings shall meet permitted or conditional use requirements of the zoning code, per section 17.48.020 and .030.

Shoreline Management Permit Conditions of Approval:

1. The applicant shall submit to the City a covenant executed between the property owner/applicant and the adjacent property owner (DNR) covering the agreement for the joint use of common lot lines and which establishes by covenant minimum ingress/egress requirements.
2. All fuel deliveries shall be conducted entirely on-site. Fuel trucks may not park in the City Right-of-way or on adjacent properties when delivering fuel. Rather, when

delivering fuel, the fuel trucks shall back onto the site from Harborview Drive. All fuel deliveries shall occur between the hours of 7:00 a.m. and 7:00 p.m.

3. The project shall conform to all City of Gig Harbor fire code requirements as approved by the City's Fire Marshal.
4. Only water-dependent, water-oriented or water-enjoyment uses shall be allowed in the existing building over the water.
5. Prior to permit issuance, a lighting plan shall be submitted which is consistent with SMP Section 3.05.
6. Prior to permit issuance, a public access agreement against the property must be filed with Pierce County Auditor's office which allows the public to use the transient moorage on the site and to have access to the right-of-way across the site.
7. All upland fill required to bring the parking lot into compliance with the maximum grade requirements of the city shall be engineered by a licensed professional engineer and shall be retained by suitable retention devices, as per the engineers recommendation. Fill shall not be permitted waterward of the existing bulkhead.
8. All on-site construction shall provide adequate temporary storm water- retention and shall include provisions for temporary erosion and sediment control as per requirements of the City of Gig Harbor Public Works Construction Standards.
9. The parking lot must provide suitable on-site detention and release of storm water control meeting the requirements of the City of Gig Harbor Public Works Construction Standards and shall include provisions for an oil-water separator.
10. The applicant shall provide two transient moorage slips as a public access amenity pursuant to Section 3.05, Regulation 3. Said shoreline public access shall be clearly indicated on-site by the posting of an appropriate "shore access" signage near Harborview Drive.
11. The fueling dock must have fuel spillage containment systems in place prior to operation. Such facilities shall be subject to the authorization and approval of the appropriate state and or federal agency.
12. All sales shall be limited to the hours of 7:00 a.m. and 7:00 p.m.
13. Prior to permit issuance, the applicant shall submit to the planning staff for review and approval a moorage plan which indicates the number and size of moorage slips, which shall in no case exceed 6 slips for boats less than 45 feet or 3 slips for boats

45 feet or greater. The moorage plan shall indicate how moorage slips will be permanently demarcated on the dock.

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the Council held on this 13th day of May, 1996

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator/Clerk

Filed with City Clerk: 5/6/96
Passed by City Council: 5/13/96

Adam J. Ross and Maxine Ross
3309 Harborview Drive
Gig Harbor, WA 98335
April 9, 1996

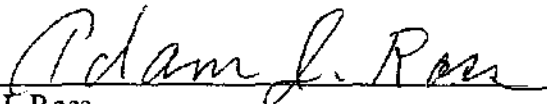
To: Gig Harbor City Council
And to: Gig Harbor Planning Director
Gig Harbor City Hall
Gig Harbor, WA 98335

Re: Resident/Adjacent Property Owner's Appeal of Examiner's Decision/
Recommendation Approving SPD 95-06 and SPR 95-10 - Philpott


Adam J. Ross and Maxine Ross, residents and owners of adjacent real property (to subject property) commonly known as 3309 Harborview Drive, Gig Harbor, Washington, 98335, feeling themselves aggrieved by the Hearing Examiner's Findings, Conclusions and Decision/ Recommendation of February 21, 1996 and his March 27, 1996 Findings, Conclusions and Decision/Recommendation on the Ross's Motion for Reconsideration, respectfully hereby appeal on the record to the Gig Harbor City Council from said recommendation and request said City Council to deny said applications as not being authorized but being contravened by applicable Gig Harbor laws.

Wherefore, Adam J. Ross and Maxine Ross, husband and wife, respectfully ask that the permits applied for by the captioned cause be denied by the Gig Harbor City Council, after hearing.

DATED this 10 day of April, 1996.

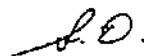


Adam J. Ross



Maxine Ross

RECEIVED
APR 10 1996
CITY OF GIG HARBOR



CITY OF GIG HARBOR
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND DECISION/RECOMMENDATION

APPLICANT: Robert Philpott

CASE NO.: SDP 95-06/SPR 95-10/VAR 95-11

LOCATION: 3311 Harborview Drive

APPLICATION: Request for a Substantial Development Permit and Shoreline Conditional Use Permit for fueling docks, moorage and business offices; site plan review for offices and parking; variance request from landscape standards.

SUMMARY OF RECOMMENDATION AND DECISION/RECOMMENDATION:

Staff Recommendation: Deny variance. Recommend approval other requests with conditions.

Hearing Examiner Decision: Deny variance. Recommend approval of other requests with conditions.

PUBLIC HEARING:

After reviewing the official file which included the Community Development Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Philpott application was opened at 6:02 p.m., February 7, 1996, in the City Hall, Gig Harbor, Washington, and closed at 7:51 pm. Participants at the public hearing and the exhibits offered and entered are listed in the minutes of the meeting. A verbatim recording of the hearing is available in the Planning Department.

HEARING TESTIMONY:

The following is a summary of the testimony offered at the public hearing:

From the City:

Steve Osguthorpe, Associate planner, reviewed the staff report. He recommended denial of the parking setback variance request and said a recent change to the zoning code would allow 18 foot long parking spaces which meant the required parking could be installed without the need for variance from the landscape standards. He recommended approval of the substantial development permit, the shoreline conditional use permit and the site plan with a number of conditions.

From the Applicant:

Gary Kucinski, applicant's representative, said:

- Two transient slips will be provided to comply with the requirement for a public access amenity.

Robert Philpott, applicant, said:

- He intended to move the float to the north and said only one side of the dock will be used in order to comply with the 12 foot setback requirement.
- City code allows for a delay of up to 5 vehicles without the need for a flagger. He will comply with that requirement.
- Sale of fuel will occur from 7 a.m. to 7 p.m.
- He would like fuel deliveries to occur at off hours. He said the only noise from the fuel trucks is engine noise when the truck engine is running.
- He plans to mark the dock for 6 slips.
- He now only needs 18 foot long parking stalls so no setback variance is needed.

Tom Carroll, applicant's representative, said:

- The proposal meets all of the 1998 State of Washington requirements for a fuel facility.
- In his 27 years in this industry, he has seen nothing which surpasses what is proposed here.

From the Community:

Wendall Stroud speaking on behalf of the Fox Island Yacht Club and on his own behalf, said:

- The proposal will be beneficial to the area.
- Additional fuel supply is needed in Gig Harbor.
- There are only 3 fuel facilities in the area other than the Stutz facility and they either have limited space or do not serve large boats.

John Paglia, attorney, spoke on behalf of Maxine and Adam Ross who live next door to the subject property. He said:

- He had read the analysis by the staff and found it to be inadequate.
- The property does not meet the width requirements for a nonresidential use. It is only 70 feet wide and it needs to be 100 feet wide. Therefore, it needs a variance for the proposed use.
- The property has a grade of 18% and a grade of 7% is all that is allowed for a loading berth which he feels is required.
- The proposal doesn't meet the requirements of the Fire Code. He cited several reasons why the proposal doesn't meet the fire code.
- The proposed dock is supposed to be 316 feet long, but it scales out at 360 feet long on the plans.

- Parking should be required for the fuel stops. Also, transient moorage will beget visitors in cars and additional parking should be required.
- There are several state and local laws which preclude vehicles (i.e. fuel trucks) from backing up on the streets and interfering with other traffic.

Adam Ross, neighbor, said:

- He was born on the adjacent property and still lives there.
- A fuel station is needed in Gig Harbor, but not a 24,000 gallon facility next to his house. The Philpott property is too small.
- He is concerned how fuel fumes will be vented because he cuts and grinds on boats with torches at his dock which is just a short distance away from the proposed fuel dock.
- He is concerned about surface water and how his property will be affected. He noted the Philpott property is very wet.

Gene Gazavet, resident and Realtor, said:

- He felt this proposal would unfairly impact the value and will affect the quiet enjoyment of the Ross property.
- He talked with an insurance broker who said it would be hard to bind insurance for the Ross property.
- At the previous fuel dock (Pleasurecraft) tankers pulled in, could turnaround, and did not have to back up on Harborview.

Dave Tagert, neighbor, said:

- He wants to have an attendant at the pump at all times when fueling is taking place.
- Even if this is "state of the art" it will soon be outdated and there is no long term guarantee that problems won't occur.
- He felt another fuel dock is needed in Gig Harbor, but he was concerned about oil spills in the harbor and asked if there would be an oil boom on the site and asked what kind of training the operators would have.
- He felt even the noise from the truck engines would wake the Ross family if fuel deliveries took place at night.
- He was also concerned about the potential for fire and said there is no fire main on the property.

Dick Allen, neighbor, said:

- He was distressed that there is nothing advocating for residential use of properties in that area.

Response from the Applicant:

Gary Kucinski, applicant's representative, said:

- The proposed action is a land use request which meets the requirements of Gig Harbor Municipal Code.
- It is a workable proposal and a workable design.
- It will have to meet all applicable codes including the Fire Code.

Robert Philpott, applicant, said:

- A number of the comments made at the hearing were related to specific design issues which are not pertinent to the hearing.
- He realizes that all building and fire codes must be met.
- He would extend an offer to have Adam Ross state when fuel deliveries should occur.
- The new Chevron station on Stinson is on a parcel of land smaller than this one and is only 16 feet from the adjacent office building.

WRITTEN COMMENTS:

Written comments which were submitted are summarized below:

Drew Wigard, Commodore of the Gig Harbor Yacht Club, wrote in Exhibit B that:

- The Board of Directors of the Gig Harbor Yacht Club unanimously and fully supports the proposal for a fuel dock, pump out facilities and transient moorage.
- The Board of Directors represents 186 members and are in favor of this safe boating project.

Richard O. "Skip" Williams, Pleasurecraft Marina owner, wrote in Exhibit C that:

- He is concerned that an attendant will not be on the fuel dock to monitor the ongoing fueling of boats. He is concerned about the potential of fuel spills.
- Adequate distance should be maintained between Harborview and Bayview in case of an emergency requiring a fire boat.
- Nearby styrofoam docks would be impact from normal fuel spills which occur.
- There will e very few fuel docks in the area due to great liability burdens on the owners so something needs to be done, but it has to be done responsibly.

PROPERTY DESCRIPTION

1. Location: 3311 Harborview Drive
Tax Assessor's Parcel #597000-002-0
2. Site Area/Acreage: 14,700 square feet

3. Natural Site Characteristics:
 - i. Soil Type: Harstine gravelly sandy loam
 - ii. Slope: Up to 18 percent
 - iii. Drainage: northeasterly toward bay
 - iv. Vegetation: limited domestic vegetation; marine related vegetation at and waterward of ordinary high water mark (OHWM).

4. Zoning:
 - i. Subject parcel: WM - Waterfront Millville
 - ii. Adjacent zoning and land use:
 - Northwest: WM
 - Southwest: R-1 - single family
 - Northeast: Gig Harbor Bay
 - Southeast: WM

5. Utilities/road access: The parcel is served by City sewer and water and is access off of Harborview Drive - a public street.

REQUEST/PROJECT DESCRIPTION:

The current request is to remove the existing dock and replace it with a fueling dock. The new dock would extend out 316 feet from the bulkhead and would include fueling equipment and sanitary pump-out facilities along the last 80 feet of the dock. Also proposed are underground fuel storage tanks, demolition of one structure (the Novak house) renovation of two existing structure over the water, one for an office and the other for a marine related use (Dive Shop). Two areas of transient moorage are proposed including a 40-foot area and an 85-foot area.

The upland portion of the site would be renovated to expand the existing commercial floor area and to provide a 14-car parking lot. The parking lot would require removal of the existing Novak house. In order to provide the required parking stall lengths and minimum driveway width, the applicant is requesting a 2-foot sideyard setback variance on the southeast property line. This will place the parking lot within 3 feet of the side property line.

Gary Kucinski who represents the applicant submitted the following statement (shown in *italics*) which describes the request.

The entire project area encompasses approximately 14,760 sq.ft. Existing impervious coverage is approximately 3,315 sq.ft. or 22 percent of the site. Proposed impervious coverage is approximately 7,443 sq.ft. or 51 percent of the site.

Vehicle parking is allotted on the following basis: The development will contain 3,150 sq.ft. of office and/or retail sales space. The required ratio is one parking space per 300 sq.ft. of officel or retail space. This translates to 10-1/2 parking spaces. No permanent or long-term moorage will be allowed at the facility. Even though no moorage related parking may be

required, two additional spaces are provided in compliance with the minimum moorage provision of Chapter 17.72.030 - Subsection Q-3 of the City of Gig Harbor Zoning Code. The total number of spaces is now up to 12. Finally, an additional two spaces are provided simply as a good measure, making for a total of 14.

As noted above, no permanent or long-term (that is, more than a few hours) moorage is allowed. The maximum size of any vessel using the fuel dock will be limited by maneuvering space and tie-up space at the dock.

The existing house (proposed for demolition) has been shown on the site plan.

No fill material will be imported to the site other than that necessary for tank bedding. Excavation for fuel tank storage will occur. On-site earth moving will be done to adjust the entrance grade from Harborview Drive. Total earth movement will be held to a minimum. On-site grading will only use material excavated for tank placement. Elevations and contours have been added to the site plan.

Variance Criteria

A Request for Variance is made in order to reduce a portion of the required perimeter landscaped area for private parking lots. Applicable responses are listed below:

- 1. The requested variance is not to alter the use of the site in any manner. It is solely for the purpose of widening the parking lot area to allow for greater maneuverability.*
- 2. Many of the waterfront parcels in the Millville section of the City were originally developed as residential property. Consequently, these parcels are rather narrow by commercial standards. The subject lot has sufficient width to accommodate a parking lot. However, a more workable arrangement can be made if the reduction of 2 feet in perimeter landscaped area is granted.*
- 3. The Applicant has not altered the size or shape of the subject parcel in any manner (i.e. there has been no attempt to deliberately make the lot more narrow, necessitating a variance).*
- 4. No special privilege is requested. The total landscaped area to be provided will exceed that which would result if the variance were not granted.*
- 5. The granting of the variance will in no way jeopardize the public health or welfare of the citizens of Gig Harbor or be detrimental to area properties or improvements.*

The entire project area encompasses approximately 14,760 sq.ft. Existing impervious coverage is unknown. The Gig Harbor Municipal Code allows the inclusion of privately owned tidelands as part of the lot area calculations.

BACKGROUND INFORMATION:

A public hearing was held on the proposal on December 20, 1995. However, failure of recording equipment resulted in an incomplete recorded transcript of the meeting. It is therefore necessary to hold a hearing on the proposal again so that a complete record can be established.

The subject site includes several existing structures which have historically been used for various purposes. There is a commercial building near the street, a house (significantly deteriorated), a netshed, and a storage/office building adjacent to the netshed. There is an existing dock on the site which extends out approximately 250 feet from the bulkhead. A shoreline permit for the site (SDP92-04) was issued by the city on May 24, 1993. Following review by the Washington State Shoreline Hearings Board, the effective date of the permit was established as May 17, 1994. The approved permit was for a new pier and float, off-street parking and moorage. The project approved under SDP 92-04 must be in full compliance with the terms of SDP 92-04 by no later than May 17, 1996.

PUBLIC NOTICE:

- Published in the Peninsula Gateway on November 15 and 22, 1995 (Shoreline Permit Notice).
- Published in the Peninsula Gateway on December 6, 1995 (Site Plan and Variance).
- Mailed to property owners of record within 300 feet of the site on December 7, 1995.
- Posted in 3 conspicuous places in the vicinity of the project site on December 8, 1995.

APPLICABLE LAND-USE POLICIES/CODES

1. Comprehensive Plan: Pertinent section of the Comprehensive Plan are as follows:
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GOAL: Protect Natural Quality

Preserve and protect the unique, interdependent relationship between the water, land and cultural heritage.

1: Waterway

Define and regulate the design and operation of water-oriented activities including aquaculture and fish farming, and over-water-structures or water-borne improvements including piers, floats, barges and the like to protect the navigational capabilities of the harbor. Define and regulate activities which may occur within or affect the natural tides, currents, flows and even floodway to protect the functional integrity of the harbor.

3: Water and shoreline quality

Define and regulate activities which can possibly contaminate or pollute the harbor and shorelines including the use or storage of chemicals, pesticides, fertilizers, fuels and lubricants, animal and human wastes, erosion and other potentially polluting practices or conditions.

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Goal: Mixed Use Waterfront

Retain a mixed use waterfront including those fishing, boating, tourist and residential uses which provide the shoreline unique appeal.

6. Pleasure boating and marinas

Permit uncovered moorage and encourage the development of temporary docking facilities for visiting boats. Retain the maximum open surface water area possible to facilitate safe and convenient watercraft circulation.

8. Commercial uses

Encourage development of water-oriented commercial uses in waterfront locations which can be provided adequate and unobtrusive supporting services and improvements, including parking. Require commercial developments to provide public facilities and access to shoreline beaches, docks, walkways, and other facilities including views and vistas.

2. Zoning Ordinance: The following sections of the Gig Harbor Municipal code are pertinent to this proposal:

17.48.010 Intent.

It is the intent of this district to provide a wide range of uses and activities on the shoreline of Gig Harbor located within the area between Rosedale Street and Stinson Avenue. This district serves primarily as a medium intensity, mixed use waterfront district with an emphasis on medium-density residential, marine-dependent and marine-related uses. Uses which enhance the historic fishing village atmosphere and which are harmonious with surrounding residential areas are encouraged.

17.48.020 Permitted uses.

The following uses shall be permitted in the WM district:

- A. Single-family and two-family (duplex) structures;
- B. Marinas and boat launch facilities;
- C. Boat repair and sales facilities;
- D. Marine-related sales;
- E. Boat construction, not to exceed one boat per calendar year;

- F. Public park and access facilities;
- G. Professional offices;
- H. Wholesale and retail sales of fisheries products for human consumption;
- I. Live bait sales;
- J. Piers, docks, wharfs and associated buildings;
- K. Commercial fishing net sheds.

17.48.040 Development standards.

A. Development standards in the WM district are as follows:

	Single Multi-family	Family(duplex-fourplex)	Nonresidential
Min. lot area	12,000	15,000/duplex 18,000/triplex 21,000/fourplex	12,000
Min. lot width	70'	100'	100'
Min. front setback	20'	20'	20'
min. rear and/or side yard abutting Tidelands	0	0	0
Min. int. side setback	8'	8'	10'
Min. street side setback	10'	10'	10'
Max. Impervious coverage	50%	55%	70%

B. An undersized lot shall qualify as a building site if such lot is a lot of record at the time this chapter became effective. Recognizing the existence of such parcels, the development standards are adjusted to grant relief as to minimum lot size and minimum lot width only.

17.48.050 Site plans.

Before a building permit will be issued in a WM zone, the site plan review process specified in Chapter 17.96 GHMC shall be followed. Residential projects containing three or fewer dwelling units are exempt from this provision, except for increased height as per GHMC 17.48.060.

17.48.060 Height.

A. The maximum building height is 16 feet, except as provided for under Chapter 17.62 GHMC.

17.48.070 Parking and loading facilities.

Parking and loading facilities on private property shall be provided in accordance with the requirements of Chapter 17.72 GHMC, except that where there are properties serving multiple uses, parking shall be provided for the combined total of the individual uses.

17.48.080 Signs.

All signs shall comply with the provisions of Chapter 17.80 GHMC include the requirement for a master sign plan to be submitted for multi-tenant buildings (17.80.031(K)).

17.48.090 Performance standards.

- A. Exterior Mechanical Devices. Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and all other mechanical devices shall be screened.
- B. Landscaping is required and shall be installed in conformance with Chapter 17.78 GHMC by this title and/or by conditions of approval of discretionary applications required by this title, such landscaping shall be maintained in a neat manner. In no event shall such landscaped areas be used for storage of materials or parking of vehicles.
- C. Outdoor Storage of Materials. The outdoor storage of materials, including but not limited to lumber, auto parts, household appliances, pipe, drums, machinery or furniture is permitted as an incidental or accessory activity of a permitted use or the principal feature of a conditional use. Such storage shall be screened by a wall, fence, landscaping or structure from surrounding properties and streets. Fishing-related equipment is exempt from this standard.
- D. Outdoor Lighting. Within 100 feet of any residential zone or use, outdoor lighting and aerial-mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Said lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground-mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. (Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.)

GHMC Section 17.72 provides the parking standards for various uses within the zoning districts. The following standards are pertinent to this proposal:

- E. For business, professional and governmental offices, one off-street parking space for every 300 square feet of floor area;
- M. For retail sales, stores, personal service establishments, shoe repair establishments, barber and beauty shops, etc., one off-street parking space for every 300 square feet of floor area;
- Q. For marinas, moorages, and docks:
 - 1. Moorages/slips less than 45 feet, one space for every two berths,
 - 2. Moorages/slips 45 feet or longer, one space for every berth,
 - 3. All moorage facilities shall provide a minimum of two parking spaces,

4. If commercial or residential development is to be combined with a watercraft usage requiring parking, the usage which generates the larger number of spaces shall satisfy the requirements of the other usage; (NOTE: see section 17.48.070, above for proposals serving multiple uses).

GHMC Section 17.78.080 stipulates the landscaping requirements for parking lots including the requirement for perimeter area landscaping which must be at least 5 feet deep.

Section 17.66.030. Variances may be granted only if the applicant can successfully demonstrate that all of the following criteria can be met:

- A) The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.
- B) There are special conditions and circumstances applicable to the property such as size, shape, topography or location, not applicable to land in the same district and that literal interpretation of the provisions of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance.
- C) That the special circumstances and conditions do not result from the actions of the applicant.
- D) The granting of the variance will not constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and zone.
- E) That 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 property is situated.
- F) The variance is the minimum variance that will make possible the reasonable use of the land.

3. City of Gig Harbor Shoreline Master Program:

The following sections of the City of Gig Harbor Shoreline Master Program apply:

Section 3.05 - Commercial Development

Chapter 3.05, Pg. 16 - 18 of the Shoreline Master Program (SMP), defines regulations for commercial development along the shoreline including standards for public viewing and/or access to the shoreline, alternatives for access, and criteria for waiving the public access requirement. It also states that overwater commercial development must obtain a shoreline conditional use permit. Pertinent sections of 3.05 are as follows:

POLICIES:

1. All commercial developments should incorporate visual or public access or public recreational opportunities into the design of their establishments and shall consider the public's health and safety, as appropriate.
2. Commercial users should maintain their non-water oriented activities landward of Ordinary High Water or the existing bulkhead.
3. Commercial developments should provide adequate parking.
4. Within each group of commercial activity, diverse types of uses should be encouraged.

REGULATIONS:

1. Commercial developments within the shoreline area shall provide, at a minimum, visual access to the water. Visual access shall consist of one of the following:
 - a. A public view corridor measuring twenty frontage feet along the street or twenty percent of the total waterfront footage of the parcel, whichever is the greater. View corridors shall be from public rights-of-way. Parking shall not be allowed in view corridors. Fences or railings shall only be permitted where required by the City Building Code.
 - b. A six-foot wide public pathway along the property perimeter down one side line of the property to the ordinary high water mark or bulkhead or to the waterside face of the structure, whichever is further waterward, thence across the waterside face of the property or structure and back to the street along the other side property line. Landscaping may be interplanted along the pathway.
 - c. A public viewing platform at the highest level of any structure on the property, with the platform having a minimum area of fifty square feet. Railings around the platform, consistent with the Uniform Building Code, may extend the maximum allowable height.

If visual access cannot or is not provided to the water, public access or recreational opportunities shall be provided as per Regulation #3 of this section.

2. All commercial structures on the shorelines within the City of Gig Harbor shall adhere to the City's zoning and building ordinances.
3. Over-water commercial developments which provide shoreline access opportunities to the general public and which are either water-dependent, water-oriented or water-enjoyment shall be allowed on the shorelines within the City of Gig Harbor.

Such uses shall be required to obtain a Conditional Use Permit. Access opportunities may consist of one of the following:

- a. A public fishing pier extending out to mean lower low water and connected by a minimum six foot wide public pathway which connects to the frontage street. A minimum of ten feet of open water shall surround the pier.
 - b. A small vessel landing available for transient use by rowboats, canoes, dinghies, or other type of non-motorized watercraft less than 18 feet in length, and extending out to mean lower low water or beyond and connected by a six foot wide public pathway to the frontage street. A minimum of ten feet of open water shall surround the small boat landing.
 - c. A public transient moorage for up to two (2) vessels a maximum of thirty (30) feet in length, and which moorage must have a minimum water depth of minus eight feet (reference MLLW). The facility must be easily accessible to visiting vessels and posted with signage which is legible to a distance of one hundred feet.
4. An applicant need not provide public access where one or more of the following conditions apply.
- a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
 - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
 - d. Unacceptable environmental harm will result from the public access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
 - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
5. In order to meet any of the conditions "a" through "e" above, the applicant must first demonstrate and the finding must show that all reasonable alternatives have been exhausted, including but not limited to:
- a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - b. Designing separation of uses and activities (e.g. fences, terracing, use of one-way glazing, landscaping, etc.); and

- c. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
6. Six (6) foot wide concrete sidewalks with curbs and gutters shall be constructed at the City's right-of-way edge fronting the Commercial Development.
7. Lighting levels shall not exceed fifteen (15) foot candles when measured at a point twenty (20) feet from the base of a light fixture. Light shall be diverted downward. Direct lamp light from the light fixture shall not be visible from any point which lies one hundred feet or greater from the light fixture base as measured five feet above the fixture base's ground elevation.
8. All public access on or to the property shall be recorded against the property with the Pierce County Auditor.

Section 3.11. Marinas, Moorage Facilities, Piers, Docks and Floats

Pg. 32 of the SMP states that all marine fueling stations on docks, floats and/or shore shall be considered on an individual basis and shall require a shoreline management conditional use permit. It also states that piers, floats, etc. shall be located no closer than twelve feet from the property line, either private or state lease land. Locations closer than twelve feet from the property line may be permitted upon the submission to the City of a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines, which covenant shall run with the land and be filed with the Pierce County Auditor as a covenant with the land. The intent of this regulation is to provide a minimum ingress/egress of twenty-four (24) feet.

Pg. 33, regulation 10 of the SMP states that Marinas shall have adequate facilities and establish posted operation procedures for fuel and sewage handling and storage in order to prevent and minimize accidental spillage.

Regulation 11 states that marinas shall have facilities, equipment and established, posted procedures for the containment, recovery and mitigation for spilled petroleum, sewage and toxic products and debris from maintenance and repair.

Section 3.13 Parking

The following regulations are pertinent:

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.
4. Parking over the water surface shall be prohibited.
5. Primary purpose commercial parking lots shall be prohibited from the shoreline areas.

6. Parking areas shall be surfaced with asphalt or concrete. Grasscrete or other similar hard surface may be utilized for a portion of the parking area as determined by the Public Works Director.
7. Parking shall not be located any further than four hundred feet from the activity and should preferably be located on the upland side of Harborview Drive.

Section 4.12, Pg. 63 of the Shoreline Master Program, stipulates the criteria which must be met before a conditional use permit can be authorized. The criteria are as follows:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program.
2. That the proposed use will not interfere with the normal public use of public shorelines.
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
4. That the proposed use will cause no unreasonably adverse effects to the Shoreline Environment designation in which it is to be located.
5. That the public interest suffers no substantial detrimental effect.

ANALYSIS:

Variance: The site is small for a commercial site and the parcels' limited width makes it difficult to provide the required driveway and previously required parking stall dimensions and also provide required landscaping. However, landscaping is important in this case because it serves as a buffer between the parking lot and the adjacent Ross residence. The zoning code was amended effective February 5, 1996, to allow parking stalls of 8 x 18 feet. Stalls of that size can be accommodated on the site without the need for a landscape variance.

Site Plan: The site plan provides the required parking for the proposed uses including 11 spaces for the retail/office space, and 3 spaces for moorage. The proposed dock would include two foot transient moorage slips. To be consistent with available parking, the length of the moorage dock could be divided into no more than six slips less than 45 feet in length and no more than 3 slips greater than 45 feet in length (or some combination of the two). The site plan does not indicate the length of the moorage slips. This information must be submitted prior to permit issuance to assure compliance with parking requirements. No parking is proposed for the fuel dock as it is intended for fueling stops only.

A final landscape plan must be submitted which identifies the size and species of all plantings and which includes an irrigation plan. Additionally, details for a dumpster screen must be submitted for planning staff approval.

The Public Works Department has indicated that the fueling truck for the facility may not unload fuel in the public right-of-way. The site must therefore accommodate the fueling truck. This will require that a fueling truck back into the driveway from off of Harborview Drive. Backing maneuvers may or may not involve both traffic lanes. The Police Department has indicated that it is illegal to delay 5 vehicles or more. Testimony from Mr. Paglia indicates it is illegal to delay any vehicles. The code will need to be reviewed and the proposal will need to comply with the code.

The site plan indicates that the driveway will not exceed the maximum 15% slope allowed for emergency vehicles. The 15% slope must be shown on all illustrations including elevation drawings.

The zoning code was amended effective February 5, 1996 to allow parking stalls of 8 x 18 feet. Stalls of that size can be accommodated on the site without the need for a landscape variance.

Shoreline Permit: The SMP requires that a view corridor and/or harbor access opportunity be provided for overwater commercial development. The proposed transient moorage meets the requirements for public view/access opportunities as per SMP Section 3.05, Regulation 3(c).

The proposed dock configuration does not meet the requirement for 12-foot setbacks from lease lines. The dock must be shifted to meet the setback requirement unless the applicant submits to the City a covenant executed between the applicant and the adjacent property owner covering an agreement for the joint use of common lot lines, and that the covenant is filed with the Pierce County Auditor and runs with the land. The intent of this regulation is to provide a minimum ingress/egress of twenty-four (24) feet.

The SMP requires that fuel handling procedures and procedures for containing or mitigating spilled fuel be posted. Procedures and a plan showing where the procedures will be posted have not been submitted. Nonetheless, these would normally be approved by the Department of Ecology as staff has no enforcement authority in this area.

Regarding the conditional use permit, the Examiner believes that the proposal meets the conditional use criteria (addressed in the findings below) provided that (a) agreements for joint use of property lines are agreed upon between the DNR and the applicant, and (b) provided that all fuel deliveries be handled on-site, (c) that fuel sales be limited to the hours of 7:00 a.m. to 7:00 p.m., and (d) that fuel deliveries be limited to the hours of 7:00 a.m. to 9:00 p.m.

Additional Staff and/or agency comments are as follows:

1. Building Official:

- A. Fire hydrants and water mains must be extended to within 150 feet of all portions of each building.
- B. Fire flow volume will be required dependent upon the site use. See appendix Table No. A-111-A-1, 1991 UBC.

- C. City of Gig Harbor Fire Flow is presently available on Harborview Drive.
 - D. Knox Box will be required for access to the marina if access is restricted. The exitway from the marina and buildings may not be constructed by locks which are not openable from the inside without use of key or special knowledge.
 - E. Roadways and fire lands must be reviewed.
 - F. A change of use for the existing buildings will require the buildings to be made to conform to codes which are current at the time of permit application. Application will not be accepted for uses requiring Planning review and approval prior to issuing a building permit. New Washington State building and fire codes will be adopted by WA State after June 29, 1995.
 - G. The driveway access to the site is indicated to be directly off of Harborview Drive. The existing grades must be modified and retaining walls constructed to enable access for fire fighting equipment (max. slope 15%).
2. Public Works:
The Public Works Department has indicated that this proposal generates less than 10 peak hour trips and did not require a detailed traffic study.
3. SEPA Responsible Official:
The SEPA Responsible Official issued a DNS on this proposal on November 20, 1995. No appeal was filed.
4. State Agencies. In response to the DNS, the City has received comments from Elizabeth J. Phinney, Department of Ecology Environmental Review, and Neil Rickard, Area Habitat Biologist, Department of Fish and Wildlife. Ms. Phinney states that she does not believe that the proposal is inconsistent with various policies of the Shoreline Management Act, and suggests that revisions would be in order. Mr. Rickard referenced general policies of WDFW.
5. Fire District No. 5. Glen Stenbeck, Assistant Chief, has submitted the following comments:
- 1. Require 24' access from Harborview
 - 2. Applicant must paint curbs red with "Fire Lane Do Not Park" from Harborview to parking lot.
 - 3. Per UFC 901.2.2.2, plans for fire hydrant systems shall be submitted prior to construction.
 - 4. Per UFC 5202.11, "All fuel spills shall be reported to the Fire Department" signage must be posted.
 - 5. Per UFC 5202.11.6.1, standpipes and suitable flows with Fire Department connection required on Harborview Drive.

6. Applicant shall maintain a fire extinguisher of 50 pounds or greater A.B.C. dry chemical, cart type.
7. Applicant shall maintain a fire alarm manual pull station, accessible and suitably marked, that is monitored by an alarm company.
8. Knox access required if gated or restricted entry.
9. No fuel off-loading on public right-of-way (i.e., Harborview Drive).
10. Fifty gallon maximum fuel dispense limit per reset of pump.
11. Emergency fuel cut-off switch to be located in two locations.
12. Telephone with unrestricted 911 access.

Upon compliance of the above mentioned items, District #5 will inspect site prior to issuance of Certificate of Occupancy.

FINDINGS AND CONCLUSIONS:

Based upon a site inspection and the analysis contained above in this report, the Examiner finds as follows:

VARIANCE:

The site has constraints for providing parking which are not common to most parcels in the WM zone. These include its narrow width and limited upland area. However, three feet of landscaping is not a sufficient area for the plantings required by code. Because most vehicles are shorter than the required 19-foot parking stall, a variance to allow reduction of the parking stall lengths to 18 feet was applied for.

Effective February 5, 1996, however, the zoning code was revised to allow stalls of 8 x 18 feet. A parking variance will therefore not be required to reduce the size of the parking stalls down to 18 feet.

SITE PLAN:

The site plan is consistent with zoning code provisions for uses within the WM zone which include marinas and boat launch facilities; boat repair and sales facilities; marine-related sales; professional offices; piers, docks, wharfs and associated buildings.

The proposal is consistent with site development standards as stated in Section III(2) above including:

- a. Minimum lot size - the site is greater than 12, 000 square feet.
- b. Minimum lot width - the lot is 70 feet wide and Section 17.48.040A requires a minimum width of 100 feet for nonresidential uses. However, Section 17.48.040B allows undersized lots such as this to qualify as a building site if it was a lot of record at the time this chapter of the code became effective. The subject lot is an historic lot and was a lot of record when this chapter of the code became effective.
- c. Minimum setbacks - no new structures are proposed on the upland portion, and zoning code setbacks do not apply on lease lands.
- d. Maximum impervious coverage - the applicant may include private tidelands in calculations
- e. Site plan review process - the current application is intended to meet this process.
- f. Height - no new structures are proposed. Height is as per existing structures.
- g. Parking and Loading - the site includes 14 parking spaces which meets the code requirements. No new structures are proposed and therefore no loading docks are required.
- h. Signs - the proposal conforms to sign code requirements provided that a master sign plan is submitted to and approved by the City planning staff prior to permit issuance.
- i. Exterior Mechanical Devices - no exterior mechanical devices are proposed except for gas pumps. The section requiring screening of mechanical equipment has never been interpreted to include gas pumps
- j. Landscaping - the proposal conforms to landscape setback requirements provided that a final landscape plan is submitted which identifies plant sizes and species and is approved by the City Planning Department as per code requirements.
- k. Outdoor storage of materials - no outdoor storage is proposed.
- l. Outdoor lighting - no outdoor lights have been proposed. A lighting plan must be submitted to and approved by the planning staff which is consistent with GHMC Section 17.48.090(D).

SHORELINE MASTER PROGRAM:

The proposal is consistent with shoreline master program requirements as stated in Section III(3) above including the following:

- a. View/Access opportunities - the proposal includes transient moorage which meets minimum location and water depth standards as defined in Section 3.05c.
- b. Allowed overwater commercial development - the requested conditional use permit allows consideration of overwater commercial development which must otherwise be maintained landward of Ordinary High Water or the existing bulkhead.
- c. Parking - the 14 parking stalls proposed provide parking for all commercial and moorage activities which meets the code requirements.
- d. Lighting - no lighting is proposed. A lighting plan must be submitted to and approved by the planning staff which is consistent with SMP Section 3.05.
- e. Sidewalks - there are currently curbs gutters and sidewalks along the R.O.W. as required by code.
- f. Public access - prior to permit issuance, a public access agreement against the property must be filed with Pierce County Auditor's office

- g. Conditional allowances for fueling stations - Section 3.11 of the SMP allows fueling stations as a conditional use.
- h. Setbacks - the proposed dock must be relocated to provide at least 12 feet of clearance or a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines must be filed with the Pierce County Auditor, as per SMP Section 3.11.
- I. Posted operation procedures - no procedures for posting have been submitted, but these would be regulated by the State and not the City.
- j. Parking lot landscaping - prior to permit issuance a final landscape plan must be submitted to and approved by the planning staff which is consistent with standards for the underlying zone.
- k. Pedestrian access - pedestrian access is provided between the parking lot and the fueling dock.
- l. Parking over the water - no over-water parking is proposed.
- m. Primary purpose parking lots - no primary purpose parking lots are proposed.
- n. Parking lot surfacing standards - the lot will be surfaced with asphalt which is an approved surface material.
- o. Off-site parking restrictions - no off-site parking is proposed.

Regarding the requested shoreline conditional use permit, the Examiner finds as follows:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program.
2. That the proposed use will not interfere with the normal public use of public shorelines, provided that an agreement can be reached between the applicant and the property owner to the southeast on the joint use of common lot lines and provided that at least 24 feet of maneuvering room is provided between developments (this will require some adjustment on the location of the proposed dock. The proposed location places it within 20 feet of the Ross dock).
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area. It is consistent with the comprehensive plan's goal to encourage the development of temporary docking facilities for visiting boats.
4. That the proposed use will cause no unreasonably adverse effects to the Shoreline Environment designation in which it is to be located, provided that the applicant has can satisfy the Department of Ecology and the Department of Fisheries that concerns over environmental hazards and wildlife protection will be met.
5. That the public interest suffers no substantial detrimental effect, provided that all fuel truck deliveries can be accommodated on-site during reasonable , and that the proposal conforms to all fire code requirements.

DECISION/RECOMMENDATION:

A. General:

This application is subject to the applicable requirements contained in the Gig Harbor Municipal Code, Zoning Ordinance Shoreline Master Program, Building Code and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. The conditions listed below are additional regulations specific to the subject proposal.

B. Variance Decision:

Based upon the foregoing findings of fact and conclusions, the requested variance is denied. The parking stalls can be reduced in length to 18 feet consistent with the newly adopted parking stall requirements (GHMC Section 17.72.020(c)).

C. Site Plan Recommendation:

Based upon the foregoing findings of fact and conclusions, it is recommended that site plan be approved, subject to the following conditions:

1. Prior to permit issuance, a final landscape and irrigation plan shall be submitted to and approved by the City Planning Staff which is consistent with all zoning code requirements for landscaping. Landscaping shall be installed as approved prior to issuance of the occupancy permit. In lieu of the required landscape improvements, a bond or cash assignment in the amount equal to 110% of a contractor's bid shall be posted with the city. If landscaping is not installed within 18 months from the date of posting of the bond or cash assignment, the city will foreclose on the bond or cash assignment and install the landscaping as per the approved plan.
2. Prior to permit issuance, a master sign plan shall be submitted to and approved by the planning staff which meets the requirements of all sign code requirements including Section 17.80.031(K).
3. Prior to permit issuance, details of the dumpster screen shall be submitted to and approved by the Planning Staff.
4. Prior to permit issuance, a lighting plan must be submitted to and approved by the planning staff which is consistent with GHMC Section 17.48.090(D).
5. The project shall comply with the requirements of the city building code.
6. All off-street parking for the businesses shall be clearly indicated on site and must be striped. "Parking Only" shall be clearly displayed for the following:
 - A. for commercial tenants
 - B. for shoreline public access
 - C. for moorage patrons

7. Any future tenancy of all of the commercial/office buildings shall meet permitted or conditional use requirements of the zoning code, per section 17.48.020 and .030.

D. Shoreline Substantial Development Permit and Shoreline Conditional Use Permit Recommendation:

Based upon the foregoing findings of fact and conclusions, it is recommended that the substantial development permit and shoreline conditional use permit be approved, subject to the following conditions:

1. The applicant shall submit to the City a covenant executed between the property owner/applicant and the adjacent property owner (DNR) covering the agreement for the joint use of common lot lines and which establishes by covenant minimum ingress/egress requirements.
2. All fuel deliveries shall be conducted entirely on-site. Fuel trucks may not park in the City Right-of-way or on adjacent properties when delivering fuel. All fuel deliveries shall occur between the hours of 7:00 a.m. and 9:00 p.m.
3. The project shall conform to all fire code requirements as approved by the City's Fire Marshal.
4. Only water-dependent, water-oriented or water-enjoyment uses shall be allowed in the existing building over the water.
5. Prior to permit issuance, a lighting plan shall be submitted which is consistent with SMP Section 3.05.
6. Prior to permit issuance, a public access agreement against the property must be filed with Pierce County Auditor's office which allows the public to use the transient moorage on the site and to have access to the right-of-way across the site.
7. All upland fill required to bring the parking lot into compliance with the maximum grade requirements of the city shall be engineered by a licensed professional engineer and shall be retained by suitable retention devices, as per the engineers recommendation. Fill shall not be permitted waterward of the existing bulkhead.
8. All on-site construction shall provide adequate temporary storm water- retention and shall include provisions for temporary erosion and sediment control as per requirements of the City of Gig Harbor Public Works Construction Standards.
9. The parking lot must provide suitable on-site detention and release of storm water control meeting the requirements of the City of Gig Harbor Public Works Construction Standards and shall include provisions for an oil-water separator.

10. The applicant shall provide two transient moorage slips as a public access amenity pursuant to Section 3.05, Regulation 3.c. Said shoreline public access shall be clearly indicated on-site by the posting of an appropriate "shore access" signage near Harborview Drive.
11. The fueling dock must have fuel spillage containment systems in place prior to operation. Such facilities shall be subject to the authorization and approval of the appropriate state and or federal agency.
12. All sales shall be limited to the hours between 7:00 a.m and 7:00 p.m.
13. Prior to permit issuance, the applicant shall submit to the planning staff for review and approval a moorage plan which indicates the number of size of moorage slips, which shall in no case exceed 6 slips for boats less than 45 feet or 3 slips for boats 45 feet or greater. The moorage plan shall indicate how moorage slips will be permanently demarcated on the dock.

Dated this day 21st of February, 1996.



Ron McConnell
Hearing Examiner

RECONSIDERATION:

Any aggrieved person feeling that the decision of the Examiner is based on erroneous procedures, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the Examiner within ten (10) days of the date the decision is rendered. This request shall set forth the specific errors of new information relied upon by such appellant, and the Examiner may, after review of the record, take further action as he or she deems proper.

APPEAL OF EXAMINER'S DECISION:

Any party who feels aggrieved by the Examiner's decision may submit an appeal in writing to the Gig Harbor Planning Director within (14) days from the date the final decision of the Examiner is rendered, requesting a review of such decision.

Such appeal shall be upon the record, established and made at the hearing held by the Examiner. Whenever a decision of the Examiner is reviewed by the City Council pursuant to this section, other parties of record may submit written memoranda in support of their position. In addition,

the Council shall allow each side no more than fifteen minutes of oral presentation. However, no new evidence or testimony shall be presented to the Council during such oral presentation. The City Council shall accept, modify or reject any findings or conclusions, or remand the decisions of the Examiner for conclusions, or remand the decisions of the Examiner for further hearing; provided that any decision of the City Council shall be based on the record of the hearing conducted by the Examiner; however, the Council may publicly request additional information of the appellant and the Examiner at its discretion.

Upon such written appeal being filed within the time period allotted and upon payment of fees as required, a review shall be held by the City Council. Such review shall be held in accordance with appeal procedures adopted by the City Council by resolution. If the Examiner has recommended approval of the proposal, such recommendation shall be considered by the City Council at the same time as the consideration of the appeal.

Further action by the Examiner shall be within thirty (30) days of the reconsideration request.

COUNCIL ACTION ON THE EXAMINER'S RECOMMENDATION:

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applies for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Staff report with 9/27/95 site plan
- B. Letter from Drew Wingard, dated 1/20/96
- C. Letter from Richard Williams, dated 12/19/95
- D. Section of Proposed Fueling Hose
- E. Insurance Form Application
- F. Transportation Standards, pages 2-31 through 2-34
- G. Transportation Standards, pages 2-9 through 2-14
- H. Gig Harbor Traffic Code Section 10.04.005

I. Gig Harbor Department of Public Works Details for Rock Reforming Walls, Striping, Street Turn Radius, Dead End Hammerhead, and Minimum Turning Radius for Dead End cul-de-sac

PARTIES OF RECORD:

Robert Philpott
6653 Kimball Drive Building E
Gig Harbor, WA 98335

Gary Kucinski
2901 So. 40th Street
Tacoma, WA 98405

Tom Carroll
8585 Highway 20
Tacoma, WA 98868

Wendell Stroud
P.O. Box 336
Tacoma, WA 98401

John Paglia
705 So. 9th St., #304
Tacoma, WA 98405

Adam Ross
3709 Harborview Drive
Gig Harbor, WA 98335

Gene Gazavet
3101 Judson
Gig Harbor, WA 98335

Dave Tagert
3226 Harborview
Gig Harbor, WA 98335

Dick Allen
3603 Ross Avenue
Gig Harbor, WA 98335

Drew Wingard
P.O. Box 22
Gig Harbor, WA 98335

Richard O. Williams
3215 Harborview Drive
Gig Harbor, WA 98335



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

MEMORANDUM

TO: Hearing Examiner
FROM: Planning Staff *J.O.*
DATE: March 18, 1996

SUBJECT: SDP95-06/SPR95-10/VAR95-11 - Staff response to request for reconsideration

The following is the staff's response to Adam and Maxine Ross' request for reconsideration. The *italicized* portion represents the text of the Ross letter; the **bold** text represents the staff's response to the immediately preceding paragraph(s). Paragraph numbers have been added for reference.

REQUEST FOR RECONSIDERATION

1.

Adam J. Ross and Maxine Ross, being aggrieved by the city of Gig Harbor Hearing Examiner's Findings, Conclusions, and Decision/Recommendation dated February 21, 1996, a date it was not available, notwithstanding a copy was requested by Requestors' attorney, John A. Paglia, hereby request an entire reconsideration by the Hearing Examiner, who has ignored applicable Gig Harbor Code provisions, including, but not limited to Traffic Code, 1994 Uniform Fire Code, which became effective in Gig Harbor June 30, 1995 by State of Washington mandate, so that it was effective on February 7, 1996, the date of the hearing; Public Works Code Transportation Standards, pages 2-31 through 2-34, Exhibit F, Transportation Standards, pages 2-9 through 2-14, Exhibit G; Gig Harbor Traffic Code Sections 10.04.005, and its State of Washington statutes incorporated by reference thereon and pointed out at the hearing to the Hearing Examiner by specific reference to the State Statutes, including, but not limited to RCW 46.61.605(1),

Gig Harbor Department of Public Works Details for Rock Retaining Walls, Striping, Street Turn Radius, Dead End Hammerhead and Minimum Turning Radius for Dead End Cul de Sac, Exhibit I.

Mr. Paglia requested a copy of the Examiner's report at approximately 6:00 p.m. on February 21, 1996. He was informed that a copy of the report would be available at the Planning Department during normal business hours on the following day. A copy was prepared and waiting for Mr. Paglia, but he never came by to pick it up.

Regarding traffic codes, the Ross letter does not specify which traffic codes are at issue. Typically, traffic codes are not under consideration with site plan review because they are not enforceable under zoning regulations.

Regarding the Ross' statement that the Examiner has ignored the Uniform Fire Code (UFC), the staff report to the Examiner clearly stipulated that approval should be based upon conformance to the UFC.

Except for page references, the Ross' have not specified which sections of the Public Works Transportation Standards have not been addressed. One possible concern of the Ross' might be Section 2B.140(A)6 which states that "No commercial driveway shall be approved where backing onto the sidewalk or street will occur." It is the staff's understanding that fuel trucks will be backing onto the site from the public street which means that trucks will not be backing onto the street or sidewalk. The Hearing Examiner may wish to stipulate this in the conditions of approval for this project.

Regarding RCW 46.61.605(1), this section of the RCW simply adopts by reference the Model Traffic Ordinance. Again, the Ross' have not specified which section of the Model Traffic Ordinance the project is not in compliance with. It is an irrelevant point, however, because, again, traffic regulation is not addressed under zoning regulations.

Regarding RCW 46.61.605(1), this section merely states that "The driver of a vehicle shall not back the same *unless such movement can be made with safety and without interfering with other traffic*" (emphasis added). The staff assumes that this applies to drivers of all vehicles and has no direct reference to commercial vehicles only. Safety is the issue here. There is no absolute prohibition on backing either stated or implied here.

The Ross' reference to "Gig Harbor Department of Public Works Details for Rock Retaining Walls, Striping, Street Turn Radius, Dead End Hammerhead and Minimum Turning Radius for Dead End Cul de Sac" is irrelevant to this application. These are addressed under Roadside Features in the Public Works Transportation Standards and in other section which regulate right-of-way development. No roadside (right-of-way) work is proposed with this application.

2.

The Gig Harbor Zoning Section 17.04.770, defines "structure", which definition was ignored by the Hearing Examiner.

This comment does not stipulate in what manner the definition of structure should be applied or how it was ignored.

3.

The Project Description stating the proposed new dock would extend out 316 feet from the bulkhead ignores the testimony of Adam Ross that the same scales out from the bulkhead on the drawing at 360 feet.

The submitted plan includes both a meander line and a bulkhead line. The staff had mistakenly measure the length of the dock from the meander line rather than the bulk head. This issue was clarified at the public hearing, at which Mr. Ross was present.

4.

The Project is not harmonious with surrounding residential areas as 17.48.010 of the Zoning Code encourages. Nor are the Development Standards of 17.48.040 of the Waterfront Millville District met or in any way adjustable, because these structures -- tanks, floats and pumps -- are in addition to what already existing on the site. This is not a virgin piece of unimproved property to which Subparagraph (b) of 17.48.040 may be applied.

To say that this project is not harmonious with residential uses raises the question as to whether other stated permitted uses within the zone are harmonious with residential uses. This may not be determined with Mr. Philpott's application. If Mr. Ross believes that the stated permitted uses are not compatible with residential uses (e.g., Marine-related sales, piers, docks, wharfs and associated buildings), then a proposal for a text amendment might be in order. It would be difficult to argue that a fueling dock does not constitute *marine related sales*.

If the Ross' statement pertaining to the addition of tanks, floats and pumps is in reference to an expansion of a non-conformity, the staff agrees that the commercial use of the lot does not conform to commercial lot width requirements. However, Section 17.68.070 stipulates that "Any change which decreases the nonconformity to the requirements of this title shall be permitted". The Philpott proposal cleans up all of the site's non-conformities relating to moorage setbacks and parking. A more clear statement of this in the Examiner's findings and conclusions would be appropriate.

5.

Section 17.48.090 of the Zoning Code requires exterior mechanical devices, including pumps and all other mechanical devices, to be screened. This includes tanks and their filler systems, which was ignored by the Hearings Examiner. Said tanks are machinery which is outside storage under 17.48.090(c), which requires screening also.

Section 17.48.090 addresses "Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and other mechanical devices . . ." (emphasis added). Because the emphasis is on air conditioning and heating equipment, the staff interprets the word pump to mean *heat* pump. This is subject to interpretation. As stated in the staff report to the Hearing Examiner, the code's requirement for screening of mechanical equipment has never been applied to gas pumps. The very nature of a fuel dispensing business requires that gas pumps be visible to customers. It is doubtful that the pumps would be visible from Harborview Drive due to their distance from the street and the screening effect of other structures in the immediate area.

6.

The Hearing Examiner Decision did not require adherence to the City's Zoning and Building Ordinances.

This statement is too general. The staff cannot respond without more specificity as to which zoning and building ordinances are not being adhered to with this proposal.

7.

The allowance of a public transient moorage for up to two vessels a maximum of 30 feet in length as compliance with public viewing and/or access to the shoreline -- Section 3.05 SMP -- ignores and violates the 1994 Uniform Fire Code effective 6/30/95 in Gig Harbor, which provides for fuel docks being exclusively used for fueling, no portion of said dock being usable for any other purpose.

Section 5202.11.5.4, 1994 UFC states "Vessels or craft shall not be made fast to or berthed at fuel docks serving a marine motor vehicle fuel-dispensing station, except during fueling operations, and craft shall not be made fast to other vessels or craft occupying a berth at a marine motor vehicle fuel-dispensing station." As with all projects, prior to permit issuance, the Building Official/Fire Marshal shall determine if the project conforms to all fire code requirements. It may be that the above stated requirement cannot be met, in which case a permit would not be issued. There may, however, be alternative methods of construction which the Building Official/Fire Marshal can explore which would not change the site plan. The bottom line here is that it is up to the Fire Marshal to determine if the project meets UFC requirements and he is certainly aware of the requirements cited by the Ross'.

8.

Any fuel dock closer than 50 feet from an adjoining property line, as would be the case here, is an unconstitutional taking of private property of the adjoining landowner, which is prohibited by the Washington Constitution. Article 1, Section 16, entitled "Eminent Domain", and the Washington Supreme Court cases recited thereunder, which were cited to the Hearing Examiner.

9.

The Hearing Examiner also fails to require a vehicle loading dock, notwithstanding the Project entails hazardous delivery of fuel from large tanker trucks and trailers backing from and/or on the private driveway, which backing was ignored by the Hearing Examiner, notwithstanding the Gig Harbor Public Works Code interdicts the same.

The backing issue has already been addressed in the staff comments under paragraph #1.

GHMC Section 17.72.040(A-H) specifies design standards for both loading berths and required loading berths, and also for loading docks. GHMC Section 17.72.050 stipulates when loading berths are required. Because a loading berth is not a code requirement for the proposed development, and because no loading *dock* is proposed, Sections 17.72.040(D) & (G) do not apply to this proposal. (The Examiner will notice the (D) addresses "Each *required* loading berth . . .", and (E) specifies loading *docks*. A dock is defined by Webster as a wharf or platform for loading or unloading (The New Merriam-Webster Dictionary)).

10.

Fuel deliveries are sales, and the Hearing Examiner's allowing it between the hours of 7:00 a.m. to 9:00 p.m. violates 17.48.035, which is beyond his power.

If the Examiner concludes that fuel deliveries are an activity or use which is part of the normal business operation, the code would restrict such use to the hours of 7:00 a.m. to 7:00 p.m. The Examiner's report stipulated 9:00 p.m.

11.

The fueling grade requirement of the 1994 Fire Code as I recall is seven percent, not 15 percent, as contended for by the Hearing Examiner.

Section 902.2.2.6, 1994 Uniform Fire Code states: "The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief." The GHMC has amended any reference to "chief" to mean the "Gig Harbor Fire Marshal". The standard maximum grade for fire fighting equipment is 15 percent.

12.

Chapter 17.68, Nonconformities, is applicable, and under 17.68.010, its intent was violated by the Hearing Examiner's in effect allowing the enlargement, expanding or extending or used as grounds for additional other structures. These fuel tanks are structures under 17.04.770, so loading docks are required.

The non-conformity issues was address in the staff comments under paragraph #4. The staff disagrees that underground fuel tanks are considered structures. Section 17.04.770 of the GHMC states: "Structure means a combination of materials that is constructed or erected, either on or under the ground, excluding residential fences, retaining walls, rockeries and similar improvements of a minor character the construction of which is not regulated by the building code of the city." The below ground tank is regulated by the fire code of the city; it is not regulated by the building code of the city.

13.

Zoning Code setbacks and setbacks required by the 1994 Uniform Fire Code of Gig Harbor do apply on leased lands.

Setbacks for both private and leased lands have been addressed in the staff report to the Hearing Examiner. Subject to the conditions of approval as recommended by the staff and the Hearing Examiner, the project conforms to all zoning and shoreline setback requirements and must also conform to all fire code requirements.

14.

The tanks and their pump are mechanical equipment and require screening. This screening with the loading dock and dumpster screening required by the Code makes the site not meet the parking lot requirements.

The screening issue was addressed in the staff comments under paragraph #5. Subject to all recommended conditions of approval, the project conforms to all parking lot requirements.

15.

The City's present Fire Code requires the City of Gig Harbor to be solely responsible for Fire Code compliance, not the State of Washington, as the Hearing Examiner contends.

If the Ross' are referring to the requirement for posted operation procedures for fuel and sewage handling which the staff and Hearing Examiner found would be regulated

by the State, this is not a fire code requirement; it is a Shoreline Master Program requirement.

16.

The fuel dock is not compatible with the Requestors' residential use of their land and is unreasonable and adversely affects their land, to their substantial detrimental injury.

This issue has been addressed in the staff comments under paragraph #4.

17.

Fuel deliveries cannot be lawfully accommodated on the site at any time. The Hearing Examiner's Finding that the Proposal conforms to all Fire Code requirements is false, a lie, untrue and erroneous, and appears to be based solely upon a MAI.

The staff believes that fuel deliveries can be lawfully accommodated on the site, subject to conformance to all conditions of approval recommended by the staff and the Hearing Examiner. The staff is not familiar with a "MAI".

18.

The Hearing Examiner's preoccupation with some screening requirements, lighting, landscaping, and the like is at variance with his blatant disregard of the 1994 Uniform Fire Code provisions of Gig Harbor, and its Public Works Code designed to protect Gig Harbor and its residents and property owners with safety from hazardous materials.

19.

Requestors' attorney, John A. Paglia, only received and read his copy of the February 26, 1996 Gig Harbor letter to Robert Philpott on Saturday, March 2, 1996, while in the process of moving his office. Said letter did not contain a copy of the 25-page Hearing Examiner Decision.

Notice of the Hearing Examiner's action was sent to all parties of record on February 26, 1996. However, because no party of record except for Mr. Paglia requested a copy of the Examiner's report, the full 25 page report was sent to the applicant only. While Mr. Paglia did indeed request a copy, he stated that he would pick it up at City Hall. As mention in the staff comments under paragraph #1, a copy of the Examiner's report was left for Mr. Paglia at the Planning Department counter, but he never came by to pick it up.

20.

This Request for Reconsideration is submitted notwithstanding. Requestors were in no wise provided with a 10-day window in which to effect the same. Whether this was by design of the City is a matter which will not be left to be unanswered.

The code does not mandate that parties of record have a 10-day window for reviewing the Hearing Examiner's decision. It allows 10 days beyond the date of the Examiner's decision to request reconsideration. Notice of the Hearing Examiner's decision was sent to all parties of record as timely as possible but, again, Mr. Paglia (who represents the Ross') was verbally informed of the Examiner's decision the very day it was rendered. He was informed that a copy of the Examiner's report would be available at the Planning Department the following day.

Respectfully submitted,

Adam J. Ross

Maxine Ross

City of Gig Harbor
Hearing Examiner Reconsideration

of SDP 95-06/SPR 95-10/VAR 95-11

Philpott

FINDINGS, CONCLUSIONS AND DECISION/RECOMMENDATION

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

I. FINDINGS AND CONCLUSIONS:

- A. Adam J. and Maxine Ross requested reconsideration of Hearing Examiner decision/recommendation dated February 21, 1996 on File No. SDP 95-06/SPR 95-10/VAR 95-11. (See Reconsideration Exhibit A).
- B. City of Gig Harbor Planning Staff responded to the request for reconsideration in Reconsideration Exhibit B.
- C. After reviewing and considering the record, the Examiner concurs with the Planning Staff response to paragraphs 1 - 3, 5, 7, 9, 11 - 17, 19 and 20 which are included in Reconsideration Exhibit B.
- D. The following represents the Examiner's responses to paragraphs 4, 6, 8, 10, and 18. The Examiner will use the same system developed by staff in Reconsideration Exhibit B. The italicized portion represents the text in the Ross letter and the bold text represents the Examiner's response.

Paragraph 4: *The Project is not harmonious with surrounding residential areas as 17.48.010 of the Zoning Code encourages. Nor are the Development Standards of 17.48.040 of the Waterfront Millville District met or in any way adjustable, because these structures -- tanks, floats and pumps -- are in addition to what already existing (sic) on the site. This is not a virgin piece of unimproved property to which Subparagraph (b) of 17.48.040 may be applied.*

The Examiner concurs with the staff response on page 3 of Reconsideration Exhibit B. However, that response is augmented as follows:

GHMC Sections 17.48.020.D and 17.48.020J list marine related sales; and piers, docks, wharves and associated buildings as permitted uses in the Waterfront Millville zone. Therefore, the proposed fueling dock is a permitted use in the Waterfront Millville zone.

GHMC Section 17.48.040 provides development standards for the Waterfront Millville zone. One of the standards is a minimum lot width of 100 feet for non-residential uses. The subject property is just over 70 feet in width, however, it was an undersized lot of record when the code was adopted. Footnote 1 to Section 17.48.040.C. states that "An undersized lot or parcel shall qualify as a building site if such lot is a lot of record." It is believed by the Examiner that this statement was intended to apply to all undersized lots in Waterfront Millville and that its inclusion in this footnote was a scrivener's error. Therefore, the lot should be considered to be a legal non-conforming lot.

The proposal will remove some of the existing improvements on the subject property and if approved as conditioned by the Examiner, will meet the requirements of Gig Harbor Municipal Code. For example, the proposed improvements will meet setback, landscaping and impervious coverage requirements. No variances from those standards have been approved. Therefore, it is believed the project is harmonious with surrounding residential uses.

Paragraph 6: The Hearing Examiner Decision did not require adherence to the City's Zoning and Building Ordinances.

The Examiner's Decision/Recommendation began with the following condition:

"This application is subject to the applicable requirements contained in the Gig Harbor Municipal Code, Zoning Ordinance, Shoreline Master Program, Building Code and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. The conditions listed below are additional regulations specific to the subject proposal."

Paragraph 8: Any fuel dock closer than 50 feet from an adjoining property line, as would be the case here, is an unconstitutional taking of private property of the adjoining landowner, which is prohibited by the Washington Constitution. Article I, Section 16, entitled "Eminent Domain", and the Washington Supreme Court cases cited thereunder, which were cited to the Hearing Examiner.

The two Washington State Supreme Court cases which were cited at the hearing to the Hearing Examiner by Mr. Paglia, Mr. Ross's attorney, (Read v. Seattle, 213 P. 923 {Washington 1923} and Tyree v. Gosa, 119 P {2d} 926 {Washington 1941}) both held that private property cannot be taken for private use through the exercise of eminent domain.

The Examiner does not believe those two cases are applicable to this case. This is a situation where an applicant has applied for permits to develop his own property in accordance with City requirements.

Paragraph 10: *Fuel deliveries are sales, and the Hearing Examiner's allowing it between the hours of 7:00 a.m. to 9:00 p.m. violates 17.48.035, which is beyond his power.*

After further reviewing the record, the Examiner now believes that fuel delivery is an activity which is part of a normal business operation. The code restricts such activities to the hours of 7:00 a.m. to 7:00 p.m. and therefore, the Examiner's Condition D.2. should be modified to reflect the code restrictions.

Paragraph 18: *The Hearing Examiner's preoccupation with some screening requirements, lighting, landscaping, and the like is at variance with his blatant disregard of the 1994 Uniform Fire Code provisions of Gig Harbor, and its Public Works Code designed to protect Gig Harbor and its residents and property owners with safety from hazardous materials.*

Again, the first condition in the Examiner's Decision/Recommendation clearly states that the application is subject to the applicable requirements of Gig Harbor Codes.

The review by the Examiner was to determine if the application met the requirements for approval of a requested Substantial Development Permit, a Shoreline Conditional Use Permit, Site Plan and a Variance from landscape standards.

Detailed issues related to the Uniform Fire Code, applicable Public Works standards and other city requirements will be reviewed by the appropriate staff members as part of the permit review process.

II. RECONSIDERATION DECISION/RECOMMENDATIONS:

Based upon the foregoing findings and conclusions, the Hearing Examiner Decision/Recommendation on File Nos. SDP 95-06/SPR 95-1-/VAR 95-11 remains as stated in the Hearing Examiner report dated February 21, 1996, except that Shoreline Substantial Development Permit and Shoreline Conditional Use Permit Recommendation #D2 is modified as follows:

All fuel deliveries shall be conducted entirely on-site. Fuel trucks may not park in the City right-of-way or on adjacent properties when delivering fuel. Rather, when delivering fuel, the fuel trucks shall back onto the site from Harborview Drive. All fuel deliveries shall occur between the hours of 7:00 a.m. and 7:00 p.m.

III. RECONSIDERATION EXHIBITS:

- A. Request for Reconsideration from Adam and Maxine Ross, dated March 4, 1996
- B. Memo from Planning Staff dated March 18, 1996

Dated this 27th day of March 1996.



Ron McConnell
Hearing Examiner

IV. APPEAL OF EXAMINER DECISION ON THE VARIANCE:

Any party who feels aggrieved by the Examiner's decision may submit an appeal in writing to the Gig Harbor Planning Director within (14) days from the date the final decision of the Examiner is rendered, requesting a review of such decision.

Such appeal shall be upon the record, established and made at the hearing held by the Examiner. Whenever a decision of the Examiner is reviewed by the City Council pursuant to this section, other parties of record may submit written memoranda in support of their position. In addition, the Council shall allow each side no more than fifteen minutes of oral presentation. However, no new evidence or testimony shall be presented to the Council during such oral presentation. The City Council shall accept, modify or reject any findings or conclusions, or remand the decisions of the Examiner for conclusions, or remand the decisions of the Examiner for further hearing; provided that any decision of the City Council shall be based on the record of the hearing conducted by the Examiner; however, the Council may publicly request additional information of the appellant and the Examiner at its discretion.

Upon such written appeal being filed within the time period allotted and upon payment of fees as required, a review shall be held by the City Council. Such review shall be held in accordance with appeal procedures adopted by the City Council by resolution. If the Examiner has recommended approval of the proposal, such recommendation shall be considered by the City Council at the same time as the consideration of the appeal.

Further action by the Examiner shall be within thirty (30) days of the reconsideration request.

V. COUNCIL ACTION ON THE EXAMINER'S RECOMMENDATION ON THE SHORELINE PERMITS AND SITE PLAN:

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applies for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

**GIG HARBOR COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TO: Hearing Examiner
FROM: Planning Staff
DATE: December 21, 1995

RE: SDP 95-06/SPR95-10/VAR95-11 -- Substantial Development Permit and Shoreline Conditional Use Permit for fueling dock, moorage and business offices; site plan review for offices and parking; variance request from landscape standards.

I. GENERAL INFORMATION

APPLICANT: Robert Philpott
6653 Kimball Drive
Bldg. "E"
Gig Harbor, WA 98335

OWNER: (same)

AGENT: (none)

II. PROPERTY DESCRIPTION

1. **Location:** 3311 Harborview Drive
Tax Assessor's Parcel #597000-002-0

2. **Site Area/Acreage:** 14,700 square feet

3. **Natural Site Characteristics:**

- i. **Soil Type:** Harstine gravelly sandy loam
- ii. **Slope:** Up to 18 percent
- iii. **Drainage:** northeasterly toward bay
- iv. **Vegetation:** limited domestic vegetation; marine related vegetation at and waterward of ordinary high water mark (OHWM).

4. **Zoning:**

i. **Subject parcel:** WM - Waterfront Millville

ii. **Adjacent zoning and land use:**

Northwest: WM

Southwest: R-1 - single family

Northeast: Gig Harbor Bay

Southeast: WM

5. **Utilities/road access:** The parcel is served by City sewer and water and is access off of Harborview Drive - a public street.

III. **APPLICABLE LAND-USE POLICIES/CODES**

1. **Comprehensive Plan:** Pertinent section of the Comprehensive Plan are as follows:

Pg. 71

GOAL: Protect Natural Quality

Preserve and protect the unique, interdependent relationship between the water, land and cultural heritage.

1: Waterway

Define and regulate the design and operation of water-oriented activities including aquaculture and fish farming, and over-water-structures or water-borne improvements including piers, floats, barges and the like to protect the navigational capabilities of the harbor. Define and regulate activities which may occur within or affect the natural tides, currents, flows and even floodway to protect the functional integrity of the harbor.

3: Water and shoreline quality

Define and regulate activities which can possibly contaminate or pollute the harbor and shorelines including the use or storage of chemicals, pesticides, fertilizers, fuels and lubricants, animal and human wastes, erosion and other potentially polluting practices or conditions.

Goal: Mixed Use Waterfront

Retain a mixed use waterfront including those fishing, boating, tourist and residential uses which provide the shoreline unique appeal.

6. Pleasure boating and marinas

Permit uncovered moorage and encourage the development of temporary docking facilities for visiting boats, Retain the maximum open surface water area possible to facilitate safe and convenient watercraft circulation.

8. Commercial uses

Encourage development of water-oriented commercial uses in waterfront locations which can be provided adequate and unobtrusive supporting services and improvements, including parking. Require commercial developments to provide public facilities and access to shoreline beaches, docks, walkways, and other facilities including views and vistas.

2. **Zoning Ordinance:** The following sections of the Gig Harbor Municipal code are pertinent to this proposal:

17.48.010 Intent.

It is the intent of this district to provide a wide range of uses and activities on the shoreline of Gig Harbor located within the area between Rosedale Street and Stinson Avenue. This district serves primarily as a medium intensity, mixed use waterfront district with an emphasis on medium-density residential, marine-dependent and marine-related uses. Uses which enhance the historic fishing village atmosphere and which are harmonious with surrounding residential areas are encouraged.

17.48.020 Permitted uses.

The following uses shall be permitted in the WM district:

- A. Single-family and two-family (duplex) structures;
- B. Marinas and boat launch facilities;**
- C. Boat repair and sales facilities;**
- D. Marine-related sales;**
- E. Boat construction, not to exceed one boat per calendar year;
- F. Public park and access facilities;
- G. Professional offices;**
- H. Wholesale and retail sales of fisheries products for human consumption;
- I. Live bait sales;

**J. Piers, docks, wharfs and associated buildings;
K. Commercial fishing net sheds.**

17.48.040 Development standards.

A. Development standards in the WM district are as follows:

	Single Family	Multi-family (duplex-fourplex)	Nonresi- dential
Min. lot area (sq. ft.)	12,000	15,000/duplex 18,000/triplex 21,000/fourplex	12,000
Min. lot width	70'	100'	100'
Min. front setback	20'	20'	20'
Min. rear and/or side yard abutting Tidelands	0	0	0
Min. int. side setback	8'	8'	10'
Min. street side setback	10'	10'	10'
Max. Impervious coverage	50%	55%	70%

B. An undersized lot shall qualify as a building site if such lot is a lot of record at the time this chapter became effective. Recognizing the existence of such parcels, the development standards are adjusted to grant relief as to minimum lot size and minimum lot width only.

17.48.050 Site plans.

Before a building permit will be issued in a WM zone, the site plan review process specified in Chapter 17.96 GHMC shall be followed. Residential projects containing three or fewer dwelling units are exempt from this provision, except for increased height as per GHMC 17.48.060.

17.48.060 Height.

A. The maximum building height is 16 feet, except as provided for under Chapter 17.62 GHMC.

17.48.070 Parking and loading facilities.

Parking and loading facilities on private property shall be provided in accordance with the requirements of Chapter 17.72 GHMC, except that where there are properties serving multiple uses, parking shall be provided for the combined total of the individual uses.

17.48.080 Signs.

All signs shall comply with the provisions of Chapter 17.80 GHMC include the requirement for a master sign plan to be submitted for multi-tenant buildings (17.80.031(K)).

17.48.090 Performance standards.

A. Exterior Mechanical Devices. Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and all other mechanical devices shall be screened.

B. Landscaping is required and shall be installed in conformance with Chapter 17.78 GHMC by this title and/or by conditions of approval of discretionary applications required by this title, such landscaping shall be maintained in a neat manner. In no event shall such landscaped areas be used for storage of materials or parking of vehicles.

C. Outdoor Storage of Materials. The outdoor storage of materials, including but not limited to lumber, auto parts, household appliances, pipe, drums, machinery or furniture is permitted as an incidental or accessory activity of a permitted use or the principal feature of a conditional use. Such storage shall be screened by a wall, fence, landscaping or structure from surrounding properties and streets. Fishing-related equipment is exempt from this standard.

D. Outdoor Lighting. Within 100 feet of any residential zone or use, outdoor lighting and aerial-mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Said lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground-mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. (Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.)

GHMC Section 17.72 provides the parking standards for various uses within the zoning districts. The following standards are pertinent to this proposal:

E. For business, professional and governmental offices, one off-street parking space for every 300 square feet of floor area;

M. For retail sales, stores, personal service establishments, shoe repair establishments, barber and beauty shops, etc., one off-street parking space for every 300 square feet of floor area;

Q. For marinas, moorages, and docks:

1. Moorages/slips less than 45 feet, one space for every two berths,
2. Moorages/slips 45 feet or longer, one space for every berth,
3. All moorage facilities shall provide a minimum of two parking spaces,
4. If commercial or residential development is to be combined with a watercraft usage requiring parking, the usage which generates the larger number of spaces shall satisfy the requirements of the other usage; (NOTE: see section 17.48.070, above for proposals serving multiple uses).

GHMC Section 17.78.080 stipulations the landscaping requirements for parking lots including the requirement for perimeter area landscaping at least 5 feet deep.

Section 17.66.030. Variances may be granted only if the applicant can successfully demonstrate that all of the following criteria can be met:

- A) The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.
- B) There are special conditions and circumstances applicable to the property such as size, shape, topography or location, not applicable to land in the same district and that literal interpretation of the provisions of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance.
- C) That the special circumstances and conditions do not result from the actions of the applicant.
- D) The granting of the variance will not constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and zone.
- E) That 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 property is situated.
- F) The variance is the minimum variance that will make possible the reasonable use of the land.

3. **City of Gig Harbor Shoreline Master Program:**

The following sections of the City of Gig Harbor Shoreline Master Program apply:

Section 3.05 - Commercial Development

Chapter 3.05, Pg. 16 - 18 of the Shoreline Master Program (SMP), defines regulations for commercial development along the shoreline including standards for public viewing and/or access to the shoreline, alternatives for access, and criteria for waiving the public access requirement. It also states that overwater commercial development must obtain a shoreline conditional use permit. Pertinent sections of 3.05 are as follows:

POLICIES:

1. All commercial developments should incorporate visual or public access or public recreational opportunities into the design of their establishments and shall consider the public's health and safety, as appropriate.
2. Commercial users should maintain their non-water oriented activities landward of Ordinary High Water or the existing bulkhead.
3. Commercial developments should provide adequate parking.
4. Within each group of commercial activity, diverse types of uses should be encouraged.

REGULATIONS:

1. **Commercial developments within the shoreline area shall provide, at a minimum, visual access to the water.** Visual access shall consist of one of the following:
 - a. A public view corridor measuring twenty frontage feet along the street or twenty percent of the total waterfront footage of the parcel, whichever is the greater. View corridors shall be from public rights-of-way. Parking shall not be allowed in view corridors. Fences or railings shall only be permitted where required by the City Building Code.
 - b. A six-foot wide public pathway along the property perimeter down one side line of the property to the ordinary high water mark or bulkhead or to the waterside face of the structure, whichever is further waterward, thence across the waterside face of the property or structure and back to the street along the other side property line. Landscaping may be interplanted along the pathway.
 - c. A public viewing platform at the highest level of any structure on

the property, with the platform having a minimum area of fifty square feet. Railings around the platform, consistent with the Uniform Building Code, may extend the maximum allowable height.

If visual access cannot or is not provided to the water, public access or recreational opportunities shall be provided as per Regulation #3 of this section.

2. **All commercial structures on the shorelines within the City of Gig Harbor shall adhere to the City's zoning and building ordinances.**
3. **Over-water commercial developments which provide shoreline access opportunities to the general public and which are either water-dependent, water-oriented or water-enjoyment shall be allowed on the shorelines within the City of Gig Harbor.** Such uses shall be required to obtain a Conditional Use Permit. Access opportunities may consist of one of the following:
 - a. A public fishing pier extending out to mean lower low water and connected by a minimum six foot wide public pathway which connects to the frontage street. A minimum of ten feet of open water shall surround the pier.
 - b. A small vessel landing available for transient use by rowboats, canoes, dinghies, or other type of non-motorized watercraft less than 18 feet in length, and extending out to mean lower low water or beyond and connected by a six foot wide public pathway to the frontage street. A minimum of ten feet of open water shall surround the small boat landing.
 - c. A public transient moorage for up to two (2) vessels a maximum of thirty (30) feet in length, and which moorage must have a minimum water depth of minus eight feet (reference MLLW). The facility must be easily accessible to visiting vessels and posted with signage which is legible to a distance of one hundred feet.
4. **An applicant need not provide public access where one or more of the following conditions apply.**
 - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
 - b. Inherent security requirements of the use cannot be satisfied

- through the application of alternative design features or other solutions;
- c. The cost of providing the access, easement or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
 - d. Unacceptable environmental harm will result from the public access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
 - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
5. In order to meet any of the conditions "a" through "e" above, the applicant must first demonstrate and the finding must show that all reasonable alternatives have been exhausted, including but not limited to:
 - a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
 - b. Designing separation of uses and activities (e.g. fences, terracing, use of one-way glazing, landscaping, etc.); and
 - c. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
 6. Six (6) foot wide concrete sidewalks with curbs and gutters shall be constructed at the City's right-of-way edge fronting the Commercial Development.
 7. Lighting levels shall not exceed fifteen (15) foot candles when measured at a point twenty (20) feet from the base of a light fixture. Light shall be diverted downward. Direct lamp light from the light fixture shall not be visible from any point which lies one hundred feet or greater from the light fixture base as measured five feet above the fixture base's ground elevation.
 8. All public access on or to the property shall be recorded against the property with the Pierce County Auditor.

Section 3.11, Marinas , Moorage Facilities, Piers, Docks and Floats

Pg. 32 of the SMP states that all marine fueling stations on docks, floats and/or

shore shall be considered on an individual basis and shall require a shoreline management conditional use permit. It also states that piers, floats, etc. shall be located no closer than twelve feet from the property line, either private or state lease land. Locations closer than twelve feet from the property line may be permitted upon the submission to the City of a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines, which covenant shall run with the land and be filed with the Pierce County Auditor as a covenant with the land. The intent of this regulation is to provide a minimum ingress/egress of twenty-four (24) feet.

Pg. 33, regulation 10 of the SMP states that Marinas shall have adequate facilities and establish posted operation procedures for fuel and sewage handling and storage in order to prevent and minimize accidental spillage.

Regulation 11 states that marinas shall have facilities, equipment and established, posted procedures for the containment, recovery and mitigation for spilled petroleum, sewage and toxic products and debris from maintenance and repair.

Section 3.13 Parking

The following regulations are pertinent:

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.
4. Parking over the water surface shall be prohibited.
5. Primary purpose commercial parking lots shall be prohibited from the shoreline areas.
6. Parking areas shall be surfaced with asphalt or concrete. Grasscrete or other similar hard surface may be utilized for a portion of the parking area as determined by the Public Works Director.
7. Parking shall not be located any further than four hundred feet from the activity and should preferably be located on the upland side of Harborview Drive.

Section 4.12, Pg. 63 of the Shoreline Master Program, stipulates the criteria which must be met before a conditional use permit can be authorized. The criteria are

as follows:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program.
2. That the proposed use will not interfere with the normal public use of public shorelines.
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
4. That the proposed use will cause no unreasonably adverse effects to the Shoreline Environment designation in which it is to be located.
5. That the public interest suffers no substantial detrimental effect.

IV. BACKGROUND INFORMATION:

The subject site includes several existing structures which have historically been used for various purposes. There is a commercial building near the street, a house (significantly deteriorated), a netshed, and a storage/office building adjacent to the netshed. There is an existing dock on the site which extends out approximately 250 feet from the bulkhead. A shoreline permit for the site (SDP92-04) was issued by the city on May 24, 1993. Following review by the Washington State Shoreline Hearings Board, the effective date of the permit was established as May 17, 1994. The approved permit was for a new pier and float, off-street parking and moorage. The project approved under SDP 92-04 must be in full compliance with the terms of SDP 92-04 by no later than May 17, 1996.

V. REQUEST/PROJECT DESCRIPTION:

The current request is to remove the existing dock and replace it with a fueling dock. The new dock would extend out 316 feet from the bulkhead and would include fueling equipment and sanitary pump-out facilities along the last 80 feet of the dock. Also proposed are underground fuel storage tanks, demolition of one structure (the Novak house) renovation of two existing structure over the water, one for an office and the other for a marine related use (Dive Shop). Two areas of transient moorage are proposed including a 40-foot area and an 85-foot area.

The upland portion of the site would be renovated to expand the existing commercial floor area and to provide a 14-car parking lot. The parking lot would require removal of the existing Novak house. In order to provide the required parking stall lengths and minimum driveway

width, the applicant is requesting a 2-foot sideyard setback variance on the southeast property line. This will place the parking lot within 3 feet of the side property line.

Gary Kucinski who represents the applicant has submitted the following statement (shown in *italics*) which describes the request.

The entire project area encompasses approximately 14,760 sq.ft. Existing impervious coverage is approximately 3,315 sq.ft. or 22 percent of the site. Proposed impervious coverage is approximately 7,443 sq.ft. or 51 percent of the site.

Vehicle parking is allotted on the following basis: The development will contain 3,150 sq.ft. of office and/or retail sales space. The required ratio is one parking space per 300 sq.ft. of office/or retail space. This translates to 10-1/2 parking spaces. No permanent or long-term moorage will be allowed at the facility. Even though no moorage related parking may be required, two additional spaces are provided in compliance with the minimum moorage provision of Chapter 17.72.030 - Subsection Q-3 of the City of Gig Harbor Zoning Code. The total number of spaces is now up to 12. Finally, an additional two spaces are provided simply as a good measure, making for a total of 14.

As noted above, no permanent or long-term (that is, more than a few hours) moorage is allowed. The maximum size of any vessel using the fuel dock will be limited by maneuvering space and tie-up space at the dock.

The existing house (proposed for demolition) has been shown on the site plan.

No fill material will be imported to the site other than that necessary for tank bedding. Excavation for fuel tank storage will occur. On-site earth moving will be done to adjust the entrance grade from Harborview Drive. Total earth movement will be held to a minimum. On-site grading will only use material excavated for tank placement. Elevations and contours have been added to the site plan.

Variance Criteria

A Request for Variance is made in order to reduce a portion of the required perimeter landscaped area for private parking lots. Applicable responses are listed below:

- 1. The requested variance is not to alter the use of the site in any manner. It is solely for the purpose of widening the parking lot area to allow for greater maneuverability.*
- 2. Many of the waterfront parcels in the Millville section of the City were originally developed as residential property. Consequently, these parcels are rather narrow by commercial standards. The subject lot has sufficient width to accommodate a parking lot. However, a more workable arrangement can be made if the reduction of 2 feet in*

perimeter landscaped area is granted.

3. *The Applicant has not altered the size or shape of the subject parcel in any manner (i.e. there has been no attempt to deliberately make the lot more narrow, necessitating a variance).*
4. *No special privilege is requested. The total landscaped area to be provided will exceed that which would result if the variance were not granted.*
5. *The granting of the variance will in no way jeopardize the public health or welfare of the citizens of Gig Harbor or be detrimental to area properties or improvements.*

The entire project area encompasses approximately 14,760 sq.ft. Existing impervious coverage is approximately....The Gig Harbor Municipal Code allows the inclusion of privately owned tidelands as part of the lot area calculations.

VI. PUBLIC NOTICE:

Published in the Peninsula Gateway on November 15 and 22, 1995 (Shoreline Permit Notice).

Published in the Peninsula Gateway on December 6, 1995 (Site Plan and Variance).

Mailed to property owners of record within 300 feet of the site on December 7, 1995.

Posted in 3 conspicuous places in the vicinity of the project site on December 8, 1995.

VII. ANALYSIS:

Variance: The staff agrees that the site is small for a commercial site and that the parcels limited width makes it difficult to provide the required driveway and parking stall dimension and also provide required landscaping. However, the staff believes that the landscaping is important in this case because it serves as a buffer between the parking lot and the adjacent Ross residence. The staff will therefore be recommending that the landscaping not be reduced, but that a variance be approved to reduce the required parking stall dimension from 19 feet to 18 feet on both sides. This will provide the needed room with minimal adverse effects.

Site Plan: The site plan provides the required parking for the proposed uses including 11 spaces for the retail/office space, and 3 spaces for moorage. The proposed moorage includes an 85 foot transient moorage area requiring one parking space, and a 40-foot transient moorage area requiring one parking stall. This leaves a surplus of one parking stall. No parking is proposed for the fuel dock as it is intended for fueling stops only.

A final landscape plan must be submitted which identifies the size and species of all plantings and which includes an irrigation plan. Additionally, details for a dumpster screen must be submitted for planning staff approval.

The Public Works Department has indicated that the fueling truck for the facility may not unload fuel in the public right-of-way. The site must therefore accommodate the fueling truck.

The site plan indicates that the driveway will not exceed the maximum 15% slope allowed for emergency vehicles. The 15% slope must be shown on all illustrations including elevation drawings.

Shoreline Permit: The SMP requires that a view corridor and/or harbor access opportunity be provided for overwater commercial development. The proposed transient moorage meets the requirements for public view/access opportunities as per SMP Section 3.05, Regulation 3(c).

The proposed dock configuration does not meet the requirement for 12-foot setbacks from lease lines. The dock must be shifted to meet the setback requirement unless the applicant submits to the City a covenant executed between the applicant and the adjacent property owner covering an agreement for the joint use of common lot lines, and that the covenant is filed with the Pierce County Auditor and runs with the land. The intent of this regulation is to provide a minimum ingress/egress of twenty-four (24)feet.

The SMP requires that fuel handling procedures and procedures for containing or mitigating spilled fuel be posted. Procedures and a plan showing where the procedures will be posted have not been submitted. Nonetheless, these would normally be approved by the Department of Ecology as staff has no enforcement authority in this area.

Regarding the conditional use permit, the staff believes that the proposal meets the conditional use criteria (addressed below) provided that agreements for joint use of property lines are agreed upon between Mr. Ross and the applicant, and provided that all fuel deliveries be handled on-site.

Additional Staff and/or agency comments are as follows:

1. Building Official:
 - A. Fire hydrants and water mains must be extended to within 150 feet of all portions of each building.
 - B. Fire flow volume will be required dependant upon the site use. See appendix Table No. A-111-A-1, 1991 UBC.
 - C. City of Gig Harbor Fire Flow is presently available on Harborview Drive.
 - D. Knox Box will be required for access to the marina if access is restricted. The

exitway from the marina and buildings may not be constructed by locks which are not openable from the inside without use of key or special knowledge.

E. Roadways and fire lands must be reviewed.

F. A change of use for the existing buildings will require the buildings to be made to conform to codes which are current at the time of permit application. Application will not be accepted for uses requiring Planning review and approval prior to issuing a building permit. New Washington State building and fire codes will be adopted by WA State after June 29, 1995.

G. The driveway access to the site is indicated to be directly off of Harborview Drive. The existing grades must be modified and retaining walls constructed to enable access for fire fighting equipment (max. slope 15%).

2. Public Works:

The Public Works Department has indicated that this proposal generates less than 10 peak hour trips. We can not ask for a detailed traffic study as the traffic impact would be minimal. Therefore, we do not have any concern related to the traffic issues on this proposal.

3. SEPA Responsible Official:

The SEPA Responsible Official issued a DNS on this proposal on November 20, 1995.

4. State Agencies. In response to the DNS, the City has received comments from Elizabeth J. Phinney, Department of Ecology Environmental Review, and Niel Rickard, Area Habitat Biologist, Department of Fish and Wildlife. Ms. Phinney states that she does not believe that the proposal is inconsistent with various policies of the Shoreline Management Act, and suggests that revisions would be in order. Mr. Rickard referenced general policies of WDFW.

5. Fire District No. 5. Glen Stenbeck, Assistant Chief, has submitted the following comments:

1. Require 24' access from Harborview
2. Applicant must paint curbs red with "Fire Lane Do Not Park" from Harborview to parking lot.
3. Per UFC 901.2.2.2, plans for fire hydrant systems shall be submitted prior to construction.

4. Per UFC 5202.11, "All fuel spills shall be reported to the Fire Department" signage must be posted.
5. Per UFC 5202.11.6.1, standpipes and suitable flows with Fire Department connection required on Harborview Drive.
6. Applicant shall maintain a fire extinguisher of 50 pounds or greater A.B.C. dry chemical, cart type.
7. Applicant shall maintain a fire alarm manual pull station, accessible and suitably marked, that is monitored by an alarm company.
8. Knox access required if gated or restricted entry.
9. No fuel off-loading on public right-of-way (i.e., Harborview Drive).
10. Fifty gallon maximum fuel dispense limit per reset of pump.
11. Emergency fuel cut-off switch to be located in two locations.
12. Telephone with unrestricted 911 access.

Upon compliance of the above mentioned items, District #5 will inspect site prior to issuance of Certificate of Occupancy.

VIII. FINDINGS AND CONCLUSIONS:

Based upon a site inspection and the analysis contained in Part VII of this report, the Staff finds as follows:

VARIANCE:

The site has constraints for providing parking which are not common to most parcels in the WM zone. These include its narrow width and limited upland area. Some relief from the zoning code standards to accommodate the proposed parking lot is therefore reasonable. However, the staff believes that three feet of landscaping is not a sufficient area for the plantings required by code. Because most vehicles are shorter than the required 19-foot parking stall, a variance to allow reduction of the parking stall lengths to 18 feet would better meet the intent of both the parking lot and landscaping standards. The applicant has verbally agreed to this option. The staff will be recommending a variance to reduce the parking stall lengths based upon the following findings.

1. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.
2. There are special conditions and circumstances applicable to the property including its limited width and upland area which are, not applicable to land in the same district and that literal interpretation of the provisions of this ordinance would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this ordinance.
3. That the special circumstances and conditions do not result from the actions of the applicant, but are the result of historical platting of the lot combined with the natural location of the shoreline.
4. The granting of the variance will not constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and zone as most other WM parcels have a deeper or wider area for upland development.
5. That 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 property is situated provided that the parking stall lengths are no less than 18 feet in depth on both sides of the lot.
6. The variance is the minimum variance that will make possible the reasonable use of the land.

SITE PLAN:

The site plan is consistent with zoning code provisions for uses within the WM zone which include marinas and boat launch facilities; boat repair and sales facilities; marine-related sales; professional offices; piers, docks, wharfs and associated buildings.

The proposal is consistent with site development standards as stated in Section III(2) above including:

- a. Minimum lot size - the site is greater than 12, 000 square feet.
- b. Minimum lot width - the lot is 70 feet wide.
- c. Minimum setbacks - no new structures are proposed on the upland portion, and zoning code setbacks do not apply on lease lands.
- d. Maximum impervious coverage - the applicant may include private tidelands in calculations
- e. Site plan review process - the current application is intended to meet this process.
- f. Height - no new structures are proposed. Height is as per existing structures.
- g. Parking and Loading - the site includes 14 parking spaces which is one more than required by code.

- h. Signs - the proposal conforms to sign code requirements provided that a master sign plan is submitted to and approved by the City planning staff prior to permit issuance.
- i. Exterior Mechanical Devices - no exterior mechanical devices are proposed except for gas pumps. The section requiring screening of mechanical equipment has never been interpreted to include gas pumps
- j. Landscaping - the proposal conforms to landscape setback requirements provided that a final landscape plan is submitted which identifies plant sizes and species and is approved by the City Planning Department as per code requirements.
- k. Outdoor storage of materials - no outdoor storage is proposed.
- l. Outdoor lighting - no outdoor lights have been proposed. A lighting plan must be submitted to and approved by the planning staff which is consistent with GHMC Section 17.48.090(D).

SHORELINE MASTER PROGRAM:

The proposal is consistent with shoreline master program requirements as stated in Section III(3) above including the following:

- a. View/Access opportunities - the proposal includes transient moorage which meets minimum location and water depth standards as defined in Section 3.05.
- b. Allowed overwater commercial development - the requested conditional use permit allows consideration of overwater commercial development which must otherwise be maintained landward of Ordinary High Water or the existing bulkhead.
- c. Parking - the 14 parking stalls proposed provide parking for all commercial and moorage activities and leaves one surplus stall.
- d. Lighting - no lighting is proposed. A lighting plan must be submitted to and approved by the planning staff which is consistent with SMP Section 3.05.
- e. Sidewalks - there are currently curbs gutters and sidewalks along the R.O.W. as required by code.
- f. Public access - prior to permit issuance, a public access agreement against the property must be filed with Pierce County Auditor's office
- g. Conditional allowances for fueling stations - Section 3.11 of the SMP allows fueling stations as a conditional use.
- h. Setbacks - the proposed dock must be relocated to provide at least 12 feet of clearance or a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines must be filed with the Pierce County Auditor, as per SMP Section 3.11.
- i. Posted operation procedures - no procedures for posting have been submitted, but these would be regulated by the State and not the City.
- j. Parking lot landscaping - prior to permit issuance a final landscape plan must be submitted to and approved by the planning staff which is consistent with standards for the underlying zone.

- k. Pedestrian access - pedestrian access is provided between the parking lot and the fueling dock.
- l. Parking over the water - no over-water parking is proposed.
- m. Primary purpose parking lots - no primary purpose parking lots are proposed.
- n. Parking lot surfacing standards - the lot will be surfaced with asphalt which is an approved surface material.
- o. Off-site parking restrictions - no off-site parking is proposed.

Regarding the requested shoreline conditional use permit, the staff finds as follows:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program.
2. That the proposed use will not interfere with the normal public use of public shorelines, provided that an agreement can be reached between the applicant and the property owner to the southeast on the joint use of common lot lines and provided that at least 24 feet of maneuvering room is provided between developments (this will require some adjustment on the location of the proposed dock. The proposed location places it within 20 feet of the Ross dock).
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area. It is consistent with the comprehensive plan's goal to encourage the development of temporary docking facilities for visiting boats.
4. That the proposed use will cause no unreasonably adverse effects to the Shoreline Environment designation in which it is to be located, provided that the applicant has can satisfy the Department of Ecology and the Department of Fisheries that concerns over environmental hazards and wildlife protection will be met.
5. That the public interest suffers no substantial detrimental effect, provided that all fuel truck deliveries can be accommodated on-site and that it conform to all fire code requirements.

IX. RECOMMENDATION:

Variance:

The staff recommends approval of a variance to allow parking stalls to be reduce in length from the required 19 feet to 18 feet on both sides of the parking lot.

Site Plan:

The staff recommends that the Hearing Examiner forward a positive recommendation to the City Council on the proposed site plan subject to the following conditions:

1. Prior to permit issuance, a final landscape and irrigation plan shall be submitted to and approved by the City Planning Staff which is consistent with all zoning code requirements for landscaping. Landscaping shall be installed as approved prior to issuance of the occupancy permit. In lieu of the required landscape improvements, a bond or cash assignment in the amount equal to 110% of a contractor's bid shall be posted with the city. If landscaping is not installed within 18 months from the date of posting of the bond or cash assignment, the city will foreclose on the bond or cash assignment and install the landscaping as per the approved plan.
2. Prior to permit issuance, a master sign plan shall be submitted to and approved by the planning staff which meets the requirements of all sign code requirements including Section 17.80.031(K).
3. Prior to permit issuance, details of the dumpster screen shall be submitted to and approved by the Planning Staff.
4. Prior to permit issuance, a lighting plan must be submitted to and approved by the planning staff which is consistent with GHMC Section 17.48.090(D).
5. The project shall comply with the requirements of the city building code.
6. All off-street parking for the businesses shall be clearly indicated on site and must be striped. "Parking Only" shall be clearly displayed for the following:
 - A. for commercial tenants
 - B. for shoreline public access
 - C. for moorage patrons
7. Any future tenancy of all of the commercial/office buildings shall meet permitted or conditional use requirements of the zoning code, per section 17.48.020 and .030.

Shoreline Management Permit:

The staff recommends that the Hearing Examiner forward a positive recommendation to the City Council on the requested shoreline substantial development permit and shoreline conditional use permit subject to the following conditions:

1. The Dock shall be shifted to the southeast to provide the required 12-foot setback from the property/lease line, or the applicant shall submit to the City a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines and which establishes by covenant a

minimum ingress/egress of twenty-four (24) feet, which covenant shall run with the land and be filed with the Pierce County Auditor as a covenant with the land.

2. All fuel deliveries shall be conducted entirely on-site. Fuel trucks may not park in the City Right-of-way or on adjacent properties when delivering fuel.
3. The project shall conform to all fire code requirements as approved by the City's Fire Marshal.
4. Only water-dependent, water-oriented or water-enjoyment uses shall be allowed in the existing building over the water.
5. Prior to permit issuance, a lighting plan shall be submitted which is consistent with SMP Section 3.05.
6. Prior to permit issuance, a public access agreement against the property must be filed with Pierce County Auditor's office which allows the public to use the transient moorage on the site and to have access to the right-of-way across the site.
7. All upland fill required to bring the parking lot into compliance with the maximum grade requirements of the city shall be engineered by a licensed professional engineer and shall be retained by suitable retention devices, as per the engineers recommendation. Fill shall not be permitted waterward of the existing bulkhead.
8. All on-site construction shall provide adequate temporary storm water- retention and shall include provisions for temporary erosion and sediment control as per requirements of the City of Gig Harbor Public Works Construction Standards.
9. The parking lot must provide suitable on-site detention and release of storm water control meeting the requirements of the City of Gig Harbor Public Works Construction Standards and shall include provisions for an oil-water separator.
10. The applicant shall provide one shore public access amenity as required pursuant to Section 3.05, Regulation 3. The applicant shall indicate to the Hearing Examiner which shoreline public access provision will be provided. Such shoreline public access shall be clearly indicated on-site by the posting of an appropriate "shore access" signage near Harborview Drive.
11. The fueling dock must have fuel spillage containment systems in place prior to operation. Such facilities shall be subject to the authorization and approval of the appropriate state and or federal agency.

Documents pertinent to the Hearing Examiner's review are attached.

Project Planner: Steve Osguthorpe Associate Planner

Date: Dec. 14, 1995





City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: PLANNING STAFF *J.C.*
DATE: May 13, 1996
SUBJECT: Appeal by Stan Stearns of Hearing Examiner's Recommendation on SPR 95-12 -- Gig Harbor Marina Inc. (Arabella's Landing) - Site Plan Review for commercial retail/office space.

INTRODUCTION/BACKGROUND

The proposal is to build a structure housing 12,050 square feet of office/retail space with associated public access and restrooms. The structure is almost identical to the structure proposed under SPR 94-05 which was denied by Council due (in part) to lack of adequate parking for a proposed yacht club. A yacht club is not proposed with the current application which significantly reduces the required parking for the project. With some minor modifications to the parking configuration, the current proposal would meet current parking requirements.

There were a number of issues raised in the staff report to the Examiner concerning this proposal. However, there were two main issues which resulted in Staff and Hearing Examiner recommendations for denial. These included the question of vesting under codes in place at the time the site plan application was submitted, and also the definition of a lot. These issues are summarized as follows:

1. Vesting

The current proposal was submitted prior to the City's adoption of codes limiting building sizes in the WM zone to 3,500 square feet. Codes were also changed to water view/access opportunity requirements. The current Arabella's Landing proposal exceeds current limits on building sizes and does not conform to current view/access opportunity requirements. The applicant's attorney argued that the project is vested, claiming that it is analogous to West Main Associates v. Bellevue, which found that Bellevue's process was complex and through it, many substantive issues must be addressed before a building permit could be applied for. However, the hearing examiner cited the Erickson and Associates v. McLerran case which clarifies the circumstances under which a city can legislatively delay the point of vesting for development permits. The Examiner concluded from Erickson and Associates that "Vesting can be delayed to a time after the filing of a complete permit application for certain types of permits if vesting is triggered by another event within the developer's or landowner's control that provides certainty, such as the filing of a complete building permit application". Unlike Bellevue, the City of Gig Harbor does not prohibit the filing of a complete building permit prior to site plan application or approval.

2. "Lot" Definition

The applicant's attorney argued that even if the project is not vested, the project conforms to current codes because the site includes 4.5 lots and therefore should be allowed a 15,750 square-

foot structure (4.5 X 3,500 sq.ft.). He further stated that it would be inconsistent with common sense if the city doesn't allow the use of the total number of lots just because they are owned by one owner. However, the Examiner concluded that if there are 4.5 lots, there should be four structures and each must meet the setbacks requirements on each lot. The applicant's attorney argued that the definition of "lot" in the subdivision Code (Section 16.01.040 GHMC) is different from the definition of "lot" in the Zoning Code (Section 17.04.450 GHMC). The staff reviewed the definition of "lot" in both the subdivision and zoning code and found that while the definitions were different, there was no inconsistency between them.

After considering all input, the Examiner concluded in his report dated April 5, 1996 that the project does not conform to all code requirements and has recommended denial of the site plan. The applicant was notified of the Examiner's action and submitted a timely appeal of the Examiner's recommendation to the City Council stating that ". . . the hearing examiner interpreted applicable provisions of the Gig Harbor Municipal Code incorrectly, and failed to apply that code properly to material facts."

POLICY

As this project was submitted prior to adoption of Chapter 19 regulations on application processing, the application shall be processed in accordance with procedures established at the time the application was deemed complete, including appeal procedures. GHMC Section 17.10.160 (as stated prior to 3/96 updates) outlines the process for appeals which stipulates that appeals shall be considered based upon the record established and made at the hearing held by the hearing examiner. Parties of record may submit written comments in support of their position and, in addition, the council shall allow each side no more than 15 minutes of oral testimony. No new evidence or testimony shall be presented to the council during the oral testimony. The city council shall accept, modify or reject any findings or conclusions, or remand the decisions of the examiner for further hearing; provided, that any decision of the city council shall be based on the record of the hearing conducted by the examiner; however, the council may publicly request additional information of the appellant and the examiner at its discretion.

RECOMMENDATION

As stated in the staff report to the Hearing Examiner, the staff maintains that the project does not conform to all zoning code requirements and recommends that the Council adopt the Examiner's recommendation to deny the project as proposed. A draft resolution denying the proposed development is attached for the Council's consideration. Also attached is the staff report to the Examiner, the Examiner's findings, conclusions and recommendation, Mr. Stearns' appeal letter and illustrations of the proposed development.

CITY OF GIG HARBOR
RESOLUTION #___

A Resolution denying SPR 95-12 - A request for site plan approval for an office/retail building at 8215 Dorotich Street - Arabella's Landing

WHEREAS, Gig Harbor Marina Inc. has requested site plan approval to construct a retail/office building at 8215 Dorotich Street; and,

WHEREAS, GHMC Section 17.10 specifies procedures for reviewing site plans; and,

WHEREAS, the application for site plan approval was submitted on November 13, 1996 and deemed complete on February 9, 1996; and,

WHEREAS, GHMC Section 17.48.060 was revised in March 1996 to require one waterfront *and* one water view opportunity per structure; and,

WHEREAS, the proposed development does not include one view opportunity for the proposed new structure; and,

WHEREAS, GHMC Section 17.48.040 was revised in March 1996 to limit maximum gross floor area to 3,500 sq.ft. per lot; and,

WHEREAS, the proposed development includes a structure having 7,210 sq.ft. of office/retail space, 540 sq.ft. of restroom space, 4,300 sq.ft. of open public access; and,

WHEREAS, the proposed development exceeds the maximum gross floor area of 3,500 sq.ft.; and

WHEREAS, projects are vested in Gig Harbor only with a complete building permit application; and,

WHEREAS, a complete building permit application has not been submitted for the proposed development, rendering the proposed development (SPR 95-12) non-vested; and

WHEREAS, the Planning Department for the City of Gig Harbor has recommended denial of the requested site plan in a staff report dated March 20, 1996; and

WHEREAS, the City of Gig Harbor Hearing Examiner conducted a public hearing on the applications on March 20, 1996 to accept public comment on the site plan; and,

WHEREAS, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has recommended denial of said site plan in his report dated April 5, 1996; and,

WHEREAS, notice of the Hearing Examiner's action was mailed to the applicant on April 8, 1996 in a letter dated the same; and,

WHEREAS, a timely appeal of the Examiner's recommendation on the site plan was filed by Stanley D. Stearns on April 12, 1996 stating that ". . . the hearing examiner interpreted applicable provisions of the Gig Harbor Municipal Code incorrectly, and failed to apply that code properly to material facts."; and,

WHEREAS, Ordinance 711 established review procedures for applications submitted after April 1, 1996; and the application for the proposed development was submitted prior to April 1, 1996; and,

WHEREAS, Section 17.10.160 of the pre-March 1996 Gig Harbor Municipal Code establishes procedures for hearing appeals of the Hearing Examiner's decision, and

WHEREAS, the City Council, during its regular meeting of May 13, 1996 reviewed the proposed site plan and the findings and recommendation of the Hearing Examiner; and also heard the appeal of Stanley D. Stearns; and,

WHEREAS, the City Council agrees with the findings and conclusions of the Hearing Examiner in his report dated April 5, 1996 and has determined that the site plan is not vested and the Hearing Examiner's recommendation to deny the proposed site plan is consistent with City codes and policies regulating the same;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor, Washington, as follows:

That the findings, conclusions, and recommendations of the hearing Examiner in his report dated April 5, 1996 are hereby adopted and the site plan (SDP 95-12) is denied.

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the Council held on this 13th day of May, 1996

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator/Clerk

Filed with City Clerk: 5/6/96
Passed by City Council: 5/13/96

**NOTICE OF APPEAL OF
HEARING EXAMINER DECISION**

TO: City of Gig Harbor
3105 Judson Street
P.O. Box 145
Gig Harbor, WA 98335

Re: SPR 95-12; Hearing Examiner Recommendation
on Request for Site Plan Approval for
Arabella's Landing

Gentlemen:

Gig Harbor Marina, Inc., applicant in the above-referenced Request for Site Plan Approval, feeling aggrieved by the recommendation of the Hearing Examiner, hereby appeals that recommendation to the Gig Harbor City Council. This appeal is on the basis that the hearing examiner interpreted applicable provisions of the Gig Harbor Municipal Code incorrectly, and failed to apply that code properly to material facts.

The filing fee for such appeal, in the amount of \$100.00, is tendered herewith.

DATED this 12th day of April, 1996.

Gig Harbor Marina, Inc.,
d/b/a Arabella's Landing

By: Stanley D. Stearns
Stanley D. Stearns

**CITY OF GIG HARBOR
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION**

**RECEIVED
APR 09 1996
CITY OF GIG HARBOR**

APPLICANT: Gig Harbor Marina, Inc.
CASE NO.: SPR 95-12
LOCATION: 8215 Dorotich Street
APPLICATION: Request for site plan approval

SUMMARY OF RECOMMENDATIONS:

Staff Recommendation: Deny
Hearing Examiner Recommendation: Deny

PUBLIC HEARING:

After reviewing the official file which included the Community Development Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Gig Harbor Marina application was opened at 5:11 p.m., March 20, 1996, in the City Hall, Gig Harbor, Washington, and closed for oral testimony at 6:42 p.m. The hearing was held open administratively to the close of business on March 24, 1996 to allow the applicant's attorney time to submit a plat map of the property. Participants at the public hearing and the exhibits offered and entered are listed in the minutes of the meeting. A verbatim recording of the hearing is available in the Planning Department.

HEARING TESTIMONY:

The following is a summary of the testimony offered at the public hearing:

From the City:

Steve Osguthorpe, Associate Planner: Reviewed the staff report which recommended denial of the application (Exhibit A). He noted that:

- Since the time of the subject site plan application was submitted, the City adopted zoning code changes which significantly affect development of this and other parcels in the Waterfront Millville zone.
- There is no provision for vesting a project within the City of Gig Harbor until a complete building permit application has been filed.
- No building permit was applied for when the request for a site plan approval was submitted so the application is not vested.

From the Applicant:

Thomas Oldfield, co-counsel for the applicant, said:

- The proposed project was submitted previously with the inclusion of a yacht club.
- This application has been revised to eliminate the yacht club.
- This project was carefully designed to meet the zoning requirements.
- The proposed project will have 73 parking spaces which meets the zoning code requirements.
- The project was also designed so blockage of views will be minimized.
- The project design is consistent with older buildings in the area.
- The uses in the project will be marina related uses which are allowed in the Waterfront Millville zone.
- The entire site is more open than any other site along the waterfront, except for the City park.
- He believes the project is vested, but even if it isn't, the proposal still complies with the newly adopted code.
- The new code changes in Section 17.48.040.1 of the GHMC only addresses maximum gross floor area for non-residential structures and does not address residential structures. That means you could build a fourplex nearly two acres in size on the site, but could only build a 3,500 square foot maximum non-residential building on each lot.
- The subject property has been platted and there are 4 1/2 building lots on the site. Therefore, 15,750 square feet of non-residential space should be allowed on the site. He submitted a copy of a plat map at the request of the Examiner during the administrative continuance (See Exhibit H).
- The existing residential structures on site shouldn't be counted and the marina services building and meeting room approximate 2,000 square feet in size. Therefore, a non-residential building approximately 13,750 square feet in size can still be on the site under the new code.
- The proposal is for 7,750 square feet of building space for offices, etc. If decks and stairs are counted, then just over 13,000 square feet of space is proposed, well under the 13,750 square feet of additional non-residential gross floor area allowed.
- The parking under the building is just paving so it shouldn't be included in the gross floor area allowed.

- It would be inconsistent with common sense if the city doesn't allow the use of the total number of lots just because they are owned by one owner.
- The proposal is consistent with the purpose of the Subdivision Code (Section 16.02.002 GHMC).
- The definition of "lot" in the Subdivision Code (Section 16.01.040 GHMC) is different from the definition of "lot" in the Zoning Code (Section 17.04.450 GHMC).
- Overall, what the applicant has tried to do is develop a project which makes commercial sense, and which still leaves a large open area for parking and landscaping.
- Much of the parking area is grasscrete and not intrusive on the neighborhood.
- The applicant believes he has already provided enough amenities to qualify for the increased height requested, but in order to expedite the approval of this development, without waiving any claims that the requirements are an unconstitutional taking, he will dedicate four additional 30 foot transient moorage slips in the marina.

John Groen, co-counsel for the applicant, submitted a copy of West Main Associates v. Bellevue, 106 Wn. 2d 47, 720 P. 2d 782 (1986) (Exhibit D) and a letter (Exhibit E), and argued that:

- The proposal is vested under Washington law.
- The applicant is precluded from apply for a building permit until after the provisions of Sections 17.96.020 and 17.48.050 GHMC have been met. This situation is analogous to West Main Associates v. Bellevue.
- The site plan requirement asks for a very extensive process. The process that has been established is complex and through it, many substantive issues must be addressed.
- Apart from Washington vested rights law, several distinct constitutional issues are raised if the new zoning is applied to the Stearns' site plan application. Although the examiner does not have jurisdiction over constitutional matters, the Stearns nevertheless maintain that application of the zoning changes amounts to unconstitutional spot zoning, violation of procedural and substantive due process rights, and an unconstitutional taking of property without just compensation.

From the Community:

Tomi Kent Smith, neighbor, read and submitted a letter (Exhibit C) which said in part:

- This site plan overpowers the existing structures and visually dominates the Millville area.
- This site plan threatens significant natural views.

- Section 17.48.040.I GHMC limits non-residential structures to 3,500 square feet of gross floor area per lot or parcel. This is a single parcel and the proposed structures exceeds this size limitation by 8,550 square feet.
- Section 17.62 GHMC Height Overlay District retains the maximum 16 foot height in the harbor view basin. And, Section 17.48.060 GHMC clearly states regarding height: "The maximum building height is 16 feet. Addition height of up to 24 feet maximum may be permitted for each structure if 2 additional waterfront/access opportunities are provided per structure.
- The covenant granted by the City of Gig Harbor and recorded by Pierce County Auditor on 1/6/94 does not eliminate the compliance with this section of the GHMC 17.48.060. The covenant states clearly...; provided that further structures proposed for the marina property shall be subject to site plan review and shall meet the criteria set forth in Section 17.48.060. Therefore, the existing waterfront/access opportunities can't be used again for this proposal.
- It is in the best interest of the City of Gig Harbor that the Hearing Examiner deny the site plan proposed.

Carol Davis, neighbor, responded to Mr. Oldfield's comments and submitted two letters (Exhibits F and G). Her testimony and letters included the following:

- The proposal is not consistent with the provisions of the City's Comprehensive Plan and the Municipal Code and it should be denied.
- Approval of this site plan would set a dangerous precedent for other developers to buy up huge plots of land, demolish existing structures, and build huge structures which would change forever the quality of life and visual beauty that make Gig Harbor such a unique, tranquil place to live.
- The applicant must comply with the provisions of GHMC 17.48.060 and provide one additional water view and one additional water access amenity for the increased height he is requesting.
- The unassigned transient moorage slips provided by the applicant as a public access opportunity in no way guarantees the availability or even the existence of transient moorage.
- The applicant has not applied for a building permit and therefore, his plans are not vested in the old zoning code.
- The size of the building would be required to be smaller in square footage in order to fit in more harmoniously with the other historic buildings in Millville.
- The applicant cannot switch amenities.
- The 4 1/2 lots have been combined into one parcel so only one 3,500 square foot structure should be allowed.

Douglas McQuade, Attorney for Mr. and Mrs. Bez, who own four residential lots across Harborview from the proposed project, said:

- His clients' property has always had a view of the water and this proposal will totally block those views of the water.
- The maximum gross floor area for this project should be 3,500 square feet and this proposal exceeds those square footage requirements.
- All improved areas should be included when calculating the square footage including sidewalks and stairways.
- The project can't exceed 16 feet in height unless a water view and a water access opportunity are both provided. No water view is provided with this proposal.
- The proposed views through two stairwells do not provide adequate water views.
- The four proposed transient slips don't adequately address view requirements.
- Adding transient slips won't provide amelioration for loss of views.
- Section 17.48.010 GHMC encourages uses which are harmonious with the surrounding residential areas in the Millville area. This proposal is not harmonious. Rather, it blocks views and destroys the value of his client's property.
- No physical break is even proposed between the existing duplex and the proposed development.
- The proposal not only blocks view of the water, but also blocks views of open space.

Response from the Applicant:

John Groen, Co-Counsel for the applicant, reiterated many of his arguments regarding the vesting rights doctrine and gave another West Main Associates analogy.

Thomas Oldfield, Co-Counsel for the Applicant, said:

- That with respect to fixed versus flexible moorage slips, the marine operator keeps records of the availability of slips and the flexibility of the existing system is actually a benefit to the public as the slip sizes can be modified to meet transient moorage demands.
- Most of the uses on the east side of Harborview are business uses and this proposal is consistent with those uses.
- The purpose of zoning is not to protect individual interests and individual property values, but rather to protect the overall value for the community. This proposal will increase property values in the community.

- If this proposal is expected to meet sideyard setbacks on individual lots then those requirements should also be applied to other properties in Gig Harbor.

Response from the City:

Steve Osguthorpe, Associate Planner, reviewed the definitions of the term "lot" in the Subdivision Code and Zoning Code and said that while the definitions were different, there was no inconsistency between them.

CORRESPONDENCE:

In addition to the correspondence noted above (Exhibits C, E, F and G), the following correspondence was received:

Exhibit B was submitted by Linda and Bruce Dishman. That letter said in part:

- A building of this size will take away the character of the Millville area.
- We are not opposed to Mr. Stern's developing his property, we only wish it were on a smaller scale and in keeping with the character of the surrounding structures.

Exhibit H was submitted by Thomas Oldfield in response to a request from the Examiner to submit a copy of a plat map. Mr. Oldfield also included a photograph and discussed the photograph in the letter. The photograph was submitted in response to objections to the proposal which were voiced at the hearing.

(Note: The hearing was held open administratively specifically to receive a copy of the plat map. Therefore, the photograph submitted by Mr. Oldfield and his discussion of that photograph in his cover letter is an inappropriate attempt to submit additional material into the record after it has been closed except for the one specified item. The photograph and Mr. Oldfield's discussion of the photograph will not be considered further in this report.)

BACKGROUND INFORMATION:

Arabella's Landing was originally approved in 1985 (SPR 85-12/SDP 85-02) as the Dorotich Marina and the shoreline permit was reapplied for and approved as SDP 92-02 in 1992. A revised plan was approved on December 11, 1989. The revision included an expansion of the approved marina service building. The project was initially approved for 48 slips and 51 parking spaces. However, the staff has counted 48 moorage slips on the existing site plan for the marina. According to the size of the existing slips, 43 parking stalls are required for the existing moorage.

Arabella's Landing is required, as per a recorded Harbor Access Opportunities Covenant, to provide two view/access opportunities for its existing development including the provision of a public fishing pier and two transient moorage slips. These opportunities were utilized to allow increased height to a recently renovated house on the site.

FINDINGS, CONCLUSIONS AND DECISION:

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

A. FINDINGS:**1. Proposal:**

The applicant has requested approval of a site plan to allow construction of a 12,050 square foot structure which will house 7,210 square feet of office/retail space with associated public access and restrooms.

The current proposal is a revision to Site Plan 85-12 and will involve a minor modification of the existing parking lot within the shoreline jurisdiction.

Parking requirements for the proposed uses are:

<u>Site</u>	<u># Parking Spaces</u>
Retail/Office space	24
Moorage	43
Existing duplex	4
<u>Existing single family</u>	<u>2</u>
TOTAL	73

The proposed new structure will be more than 200 feet of the Ordinary High Water Mark and therefore will be outside the Shoreline Master Program's jurisdiction. A portion of the project site is within 200 of OHWM. This includes approximately a 4 foot encroachment of the area occupied by the garage (which is to be demolished) and portions of the parking lot and landscaping which will be revised. That portion of the project within 200 feet of OHWM may be processed administratively as a revision to SDP 92-02. The new building will be located on the northwest corner of the property. This corner has the highest natural grade on the site, which provides a greater advantage in building height. The structure is proposed to be 23 feet to the top of the ridge, or 24 feet above the main plaza level. The main plaza level will be approximately the same grade as the Harborview Drive sidewalk level.

A parking garage is proposed below the plaza level which will be accessed from the back (east) side of the structure, via the existing surface parking lot. The applicant has indicated that the parking garage will have 20 spaces, but the floor plan indicates that it will have 19 stalls. It may be possible, however, to reduce the stall widths to 8 feet to gain additional parking spaces. This would require shifting the location of the support pillars.

The surface parking was originally approved with 69 spaces. The parking garage will result in a new loss of 2 spaces. An additional 2 spaces were recently lost due to a driveway approach into the Bayview Parcel from Arabella's parking lot. Total on-site parking for this proposal (both surface and garage parking) will therefore be 73 spaces (assuming that the grass-crete area on the existing lot will be utilized for parking and that at least one additional parking stall is gained in the garage by reducing the stall widths).

2. Section 17.96.030.B of the Gig Harbor Municipal Code (GHMC) indicates the hearing examiner shall consider the approval of site plans with specific attention to the following:
 - a. Compatibility with the city's comprehensive plan;
 - b. Compatibility with the surrounding buildings occupancy and use factors; and
 - c. All relevant statutory codes, regulations, ordinances and compliance with the same.
3. The parcel is designated as Waterfront on the City's Comprehensive Plan Land Use Map. Page 9 of the plan states that waterfront areas are intended to provide for "a variety of mixed uses along the waterfront which are allowed under the City of Gig Harbor Shoreline Master Program and as more particularly defined under the zoning code. Generally, the lower intensity waterfront areas would favor residential marinas while the more intense use waterfront areas would provide for higher density residential and commercial/retail uses". Additional sections of the comprehensive plan which are pertinent to the project are found on pages 2 and 3 of Exhibit A.
4. Pages 4, 5 and 6 of Exhibit A list some of the pertinent sections of the City of Gig Harbor Zoning Ordinance and Shoreline Master Program.
5. Review comments and analysis by the Building Official/Fire Marshal, Public Works Department and Planning Department are found on pages 12 to 15 of Exhibit A.
6. Surrounding building's occupancy and use factors include the following:
 - Northwest: WM - Residential and commercial
 - Southeast: WM - Marina
 - Northeast: Gig Harbor Bay
 - Southwest: R-1 - Single Family Residential
7. A written description of the applicant's proposal is found on pages 8 through 11 of Exhibit A.
8. Since the time this application was submitted, the City has adopted zoning code changes which will significantly affect development of this and other parcels in the Waterfront Millville zone. Specifically, the previous height increase provisions have been changed to require one access opportunity and (emphasis added) one viewing opportunity per lot per building. Previously, the code required two viewing and/or access opportunities, but did not require one of each. Additionally, the code now limits non-residential buildings to 3,500 square feet of gross floor area per building per lot. The current proposal does not meet either of these requirements (see zoning ordinance provision beginning on page

- 4 of Exhibit A). Because the city has no provisions for vesting a project with just the submission of a site plan application, and because a building permit application has not been submitted, the project is not considered vested under the codes in place at the time the site plan application was submitted.
9. Substantial attention during the hearing was directed to the question whether the application for site plan approval was vested under the previous zoning code provisions related to Waterfront Millville. The applicant contended the application was vested and cited West Main Associates to support his argument.
 10. Another case which needs to be considered in this matter relative to vested rights is Erickson and Associates v. McLerran, 123 Wn. 2d 864 (1994). In this case, Erickson filed a Master Use Permit (MUP) application. MUPs are similar to site plan approval permits employed by Seattle to streamline the regulatory review process. The Seattle MUP ordinance provides that vesting only occurs at the time a completed building permit application is filed or a MUP is issued. Three months after Erickson's application the City passed an Interim Critical Areas Ordinance (ICAO) and applied it to Erickson's MUP application. Erickson challenged the application of the ICAO, claiming that under the vested rights doctrine, the ICAO could not be applied to his project because it had not been adopted at the time his MUP application was filed.
 16. The subject property was divided at an unknown date in the past and the subject property apparently includes 4 1/2 lots of record (see Exhibit H).
 17. The proposed site plan which was attached to Exhibit A does not show any of the existing lots on the proposed plan. In addition, the existing plan is for one structure which straddles two of the existing "lot" lines.
 18. The principal issues to be addressed in this report are:
 - a. Is the subject application vested under the provision of the zoning code in effect at the time the site plan application was deemed to be complete by the City (February 9, 1996)? or
 - b. If the application is not vested, does it meet the provisions of the recently adopted amendments to the code (Ordinance No. 716) which became effective on March 11, 1996?

B. CONCLUSIONS:

1. Vesting

- a. Under the vested rights doctrine, the filing of certain types of complete development permit applications, such as building, shoreline, grading and septic tank permit applications, vests a developer's right to have the application processed according to the zoning and building ordinances in effect at the time of filing. The purpose of the vested rights doctrine is to permit landowners or developers to plan their conduct with reasonable certainty of the legal consequences. Consequently, a permit ordinance that provides a framework for this "reasonable certainty" will be upheld

even if it doesn't vest the developers rights at the time of filing. Since the Seattle MUP ordinance allows a developer to control the time of vesting by submitting a completed building permit application, the Supreme Court affirmed the decision of the Court of Appeals and held that under a MUP process a developer is given sufficient certainty to satisfy the requisites of the vested rights doctrine and thus the MUP ordinance is valid.

- b. The Erickson and Associates case clarifies the circumstances under which a city can legislatively delay the point of vesting for development permits. The prudent strategy in drafting most development permit ordinances has been to assume that vesting must occur at permit filing, since the courts have typically held that vesting occurs at filing. However, as demonstrated in this case, vesting can be delayed to a time after the filing of a complete permit application for certain types of permits if vesting is triggered by another event within the developer's or landowner's control that provides certainty, such as the filing of a complete building permit application.
- c. An important distinction needs to be made between Erickson and Associates and West Main Associates. The West Main court ruled that a city could not require a developer to acquire preliminary permit approval before filing a building permit application and that no vested rights were created until a complete building permit application was filed. The court ruled that this vesting scheme was unconstitutional since the developer had no control over the time of vesting since the City retained control over if and when the preliminary permits were to be issued. By contrast, the permitting scheme in the Erickson and Associates was held constitutional since an applicant has complete control over vesting, being able to file a building permit hence vest at the same time it files a MUP application.
- d. It is believed the Erickson and Associates case is more analogous to the subject application than the West Main Associates case. Section 17.96.020.A. GHMC states:

"Site plan review and approval shall be required prior to issuance (emphasis added) of a building permit..." In other words the applicant could have submitted a complete building permit application when he applied for site plan approval if he was concerned about being vested under the code in effect at that time.

Therefore, it is believed the subject application is not vested under the provisions of the zoning code in effect at the time a complete site plan application was submitted, since it was not accompanied by a building permit application.

2. Site Plans and Review (Section 17.96.030 GHMC)

- a. The proposal development is consistent with allowed uses in the zone including professional office and marine retail sales (to be verified at time of business license approval);
- b. The proposal is inconsistent with goals and policies stated in the city's comprehensive plan related to building design as defined in recent amendments to the Gig Harbor Municipal Code pertaining to building mass, scale and view/access

requirements, including goals to limit mass and scale of new structures to historic forms and proportions.

- (1) The proposed structure is substantially larger than the 3,500 square foot maximum gross floor area structure allowed under Section 17.48.040.I GHMC.
 - (2) The proposal does not conform with the optional height/view opportunity provisions of GHMC Section 17.48.060 and as defined in Section 17.48.090(E)2. The applicant has proposed more water access opportunities than is required, but has provided no waterview opportunity which is also required.
- c. The proposal does not comply with all of the relevant statutory codes, regulations and ordinances.

For example:

The structure does not conform with the provisions of Section 17.48.040.D GHMC. If the size of the structure meets the maximum size requirements of Section 17.48040.I. GHMC as purported by one of the applicant's attorney's since the subject property is comprised of 4 1/2 lots of record, then it also must meet all setback requirements. If there are four lots, then there should be four structures which each meet the setback requirements for each lot. This means that a 10 foot side yard setback must be met on each side of each structure on each lot. This requirement is clearly not met with the subject proposal where the one structure straddles two lot lines. If the applicant wants only one structure on the 4 1/2 lot site he could apply for approval of a Planned Unit Development in accordance with Chapter 17.90 GHMC.

C. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, it is recommended that the application be denied.

Dated this 5th day of April, 1996.



Ron McConnell
Hearing Examiner

RECONSIDERATION:

Any aggrieved person feeling that the decision of the Examiner is based on erroneous procedures, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the Examiner within ten (10) days of the date the decision is rendered. This request shall set forth the specific errors of new information relied upon by such appellant, and the Examiner may, after review of the record, take further action as he or she deems proper.

COUNCIL ACTION:

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applies for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.

EXHIBITS:

- A. Staff report with attached site plan and elevation.
- B. Letter from Linda and Bruce Dishman, dated 3/20/96
- C. Letter from Tomi Kent Smith dated 3/20/96
- D. West Main Associates v. Bellevue 106 Wn. 2d. 47, 720 P. 2d 782
- E. Letter from John M. Groen, dated 3/20/96
- F. Letter from Carol Davis, et. al., dated 3/19/96
- G. Letter from Carol Davis, dated 3/19/96
- H. Letter from Thomas Oldfield, dated 3/22/96, with attached plat map

PARTIES OF RECORD:

Gig Harbor Marina, Inc.
P.O. Box 55603
Houston, TX 77255

Thomas Oldfield
P.O. box 7127
Tacoma, WA 98407-0127

Linda and Bruce Dishman
3404 Harborview Drive
Gig Harbor, WA 98332

Tomi Kent Smith
3414 Harborview Drive
Gig Harbor, WA 98332

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Bellevue, WA 98006

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4102 52nd Avenue S.W.
Seattle, WA 98116



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

file

**GIG HARBOR COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TO: Hearing Examiner
FROM: Planning Staff
DATE: March 20, 1996
RE: SPR 95-12 - Arabella's Landing commercial/retail office space

I. GENERAL INFORMATION

APPLICANT: Gig Harbor Marina, Inc.
A Texas Corporation
c/o Sloan Bobrick & Oldfield, Inc.
P.O. Box 7127
Tacoma, WA 98407-0127

OWNER: Gig Harbor Marina, Inc.
P.O. Box 55603
Houston, TX 77255

AGENT: Mr. Tom Oldfield, Sloan Bobrick & Oldfield, Inc.

II. PROPERTY DESCRIPTION

1. **Location:** 8215 Dorotich Street - Tax assessor's parcel # 597000-004-0 thru 007-0
2. **Site Area/Acreage:** (unknown)
3. **Natural Site Characteristics:**
 - i. **Soil Type:** Harstine Gravelly sandy loam
 - ii. **Slope:** Average 10% slope
 - iii. **Drainage:** Easterly toward water
 - iv. **Vegetation:** Nursery-stock landscaping in uplands; marine aquatic vegetation within and along the shoreline frontage.

4. Zoning:

- i. Subject parcel: WM - Waterfront Millville
- ii. Adjacent zoning and land use:
 - Northwest: WM - Residential and commercial
 - Southeast: WM - Marina
 - Northeast: Gig Harbor Bay
 - Southwest: R-1 - Single family residential

5. Utilities/road access: The parcel abuts both Harborview and Dorotich Street and is accessed off of Dorotich Street. The parcel is served by City sewer and water.

III. APPLICABLE LAND-USE POLICIES/CODES

1. **Comprehensive Plan:** The parcel is designated as Waterfront on the City's Comprehensive Plan Land Use Map. Waterfront areas are intended to provided for "a variety of mixed uses along the waterfront which are allowed under the City of Gig Harbor Shoreline Master Program and as more particularly defined under the zoning code. Generally, the lower intensity waterfront areas would favor residential marinas while the more intense use waterfront areas would provide for higher density residential and commercial/retail uses" (pg. 9). Sections of the Comprehensive Plan which are pertinent to the project are as follows:

Waterfront Design is addressed in the design element of the comprehensive plan (pages 24 - 25) and states the following goals.

Goal: Preserve Visual Points of Interest.

1. Identity visual points of interest and their point of reference from prominent public places and from individual parcels.
2. Incorporate points of interest into building and landscape design
 - (a) Where possible, shift location of buildings to maintain points of interest from the street.
 - (b) Encourage designs which frame points of interest between architectural forms, e.g., archways, corridors, and building masses.
 - (c) Assure that landscaping complements points of interest without obscuring their view from prominent points of reference.

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

1. Respect established waterfront architecture. Gig Harbor's waterfront architecture should reflect the following components of the waterfront area:
 - (a) Historic structures in the Millville and Donkey Creek areas.
 - (b) Traditional fishing industry structures such as net sheds and boat houses.
2. Allow modern interpretations of historic structure designs.
3. Limit mass and scale of new structures to historic forms and proportions.
4. Limit building materials to those characteristic of Gig Harbor's historic structures.

Goal: Develop the waterfront as a place of outdoor people activity.

Landscape Design is addressed in the design element of the comprehensive plan (pages 28 - 30).

Goal: Preserve the natural ambiance of the Harbor area.

Goal: Enhance the building environment with formal landscaping and consistent street furnishing.

Goal: Control vegetation to preserve significant views.

Goal: Preserve significant vegetation while maintaining significant views.

Shoreline Management is addressed on pages 71 - 73 and includes the following goals:

Goal: Preserve and protect the unique, interdependent relationship between the water, land and cultural heritage.

Goal: Retain a mixed use waterfront including those fishing, boating, tourist and residential uses which provide the shoreline unique appeal.

Goal: Define and enforce the highest quality standards concerning present and future land use developments within the waterfront areas.

2. Zoning Ordinance:

INTENT: Section 17.48.010 states that the intent of the Waterfront Millville district is to "provide a wide range of uses and activities on the shoreline of Gig Harbor located within the area between Rosedale Street and Stinson Avenue. This district serves primarily as a medium intensity, mixed use waterfront district with an emphasis on medium-density residential, marine-dependent and marine-related uses. Uses which enhance the historic fishing village atmosphere and which are harmonious with surrounding residential areas are encouraged."

USES: Section 17.48.020 states that Marinas and boat launch facilities, professional offices, marine-related sales, and wholesale and retail sales of fisheries products for human consumption are permitted uses.

DEVELOPMENT STANDARDS:

	Single Family Dwelling	Attached up to 4 unit	Non-Residential
A. Minimum lot area (square feet):	6,000	14,000	12,000
B. Minimum lot width	50 feet	50 feet	50 feet
C. Minimum front yard:	20 feet	20 feet	20 feet
D. Minimum side yard:	8 feet	10 feet	10 feet
E. Minimum rear yard:	25 feet	25 feet	25 feet
F. Minimum Yard Abutting Tidelands:	0 feet	0 feet	0 feet
G. Maximum site impervious coverage:	50%	55%	70%
H. Maximum Density:	3.5 dwelling units per acre		
I. Maximum Gross Floor Area	N/A	N/A	3,500 sq.ft. per lot

In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors. An undersized lot or parcel shall qualify as a building site if such lot is of a lot of record.

MAXIMUM HEIGHT OF STRUCTURES: Section 17.48.060 states that structures may not exceed 16 feet in height. Additional height increase of up to 8 feet may be permitted for each structure if one additional water view and one access opportunity are provided per structure, per lot and the following criteria are met:

1. the structure shall not exceed two stories or floors in height.
2. Each story or floor shall be less than or equal to 10 feet in height as measured from the top of the first floor to the top of the second floor.
3. There shall be no occupancy of the attic space.

4. The pitch of the roof shall have a minimum slope of 2:1 (6:12 pitch) and a maximum slope of 1:1 (12:12 pitch).
5. The proposal is reviewed in accordance with the site plan review criteria and procedure as established in Chapter 17.96 GHMC.

PERFORMANCE STANDARDS: Section 17.48.090(E)2 defines water view and harbor access opportunities as follows:

Water view/Harbor Access Opportunities

- a. Water view opportunity by means of public view corridors measuring 20 frontage feet along the street or 20 percent of the total waterfront frontage of the parcel, whichever is greater. View corridors shall be from public rights-of-way. Parking shall not be allowed in view corridors. Fences or railings shall not be allowed in view corridors except where required by the city building code.
- b. Water view opportunity, by means of a five-foot-wide public pathway along the property perimeter down one side line of the property to mean higher high water or a bulkhead or to the waterside face of structure, whichever is further waterward, then across the waterside face of the property or structure and back to the street along the other side line.
- c. Water view opportunity, by means of a public viewing platform at the highest level of any structure on the property. Minimum area of the platform shall be 50 square feet. Railings around the platform may exceed the maximum height permitted from the structure. The platform shall be open to the public.
- d. Harbor access opportunity, by means of a public fishing pier extending out to the mean lower low water and connected by a minimum five-foot-wide public pathway to the frontage street. A minimum of 10 feet of open water shall surround the fishing pier.
- e. Harbor access opportunity, by means of a public small boat landing available for transient use by rowboats, canoes, dinghies, etc., extending out to mean lower low water and connected by a five-foot-wide public pathway to the frontage street. A minimum of 10 feet of open water shall surround the small boat landing.
- f. Harbor access opportunity, by means of a public transient moorage for up to two 30-foot boats and which must have a minimum water depth of eight feet and which must be easily accessible to visiting boats and posted with signage which can be read at a distance of 100 feet.

PARKING REQUIREMENTS: Section 17.72.030(O) outlines parking requirements for moorage, stating that, "If commercial or residential development is to be combined with a watercraft usage requiring parking, the usage which generates the larger number of spaces shall satisfy the requirements of the other usage.

However, Section 17.48.070 regulates parking in the waterfront Millville area as follows:

"Parking and loading facilities on private property shall be provided in accordance with the requirements of Chapter 17.72 GHMC, except that where there are properties serving multiple uses, parking shall be provided for the combined total of the individual uses."

The statement pertaining to the parking in the Waterfront Millville (WM) area was a revision to the zoning code and was added after the statement in the general parking standards, which suggests that the general parking standards were not intended to supersede the WM parking standards. This is documented by referring to the City's pre-1990 zoning code. The general parking standards in the old zoning code allowed for a combined use in determining parking requirements for moorage and other uses on the same site. The statement in the current WM section did not exist in what was then referred to as the W-1 zone (now referred to as WM).

3. Shoreline Master Program

The shoreline Master program regulates all commercial development within 200 feet landward of the Ordinary High Water Mark (SMP pg. 4).

The Shoreline Master Program regulates parking for moorage as follows:

- A. One space for every two berths of moorage less than forty-five feet in length.
- B. One space for every berth of moorage forty-five feet or greater.

IV. BACKGROUND INFORMATION:

Arabella's Landing was originally approved in 1985 (SPR85-12/SDP85-02) as the Dorotich Marina and the shoreline permit was reapplied for and approved as SDP92-02 in 1992. A revised plan was approved on December 11, 1989. The revision included an expansion of the approved marina service building. The project was initially approved for 48 slips and 51 parking spaces. However, the staff has counted 48 moorage slips on the existing site plan for the marina. According to the size of the existing slips, 43 parking stalls are required for the existing moorage.

Arabella's Landing is required, as per a recorded Harbor Access Opportunities Covenant, to provide two view/access opportunities for its existing development including the provision of a public fishing pier and two transient moorage slips. These were utilized to allow increased height to a recently renovated house on the site.

V. REQUEST/PROJECT DESCRIPTION:

The current proposal is a revision to Site Plan 85-12 and will involve a minor modification of the existing parking lot within the shoreline jurisdiction.

The proposal is to build a structure housing 12,050 square feet of office/retail space with associated public access and restrooms. Actual retail/office space will be 7,210 square feet. This will require 24 parking spaces for the retail/office space, 43 spaces for moorage, 4 parking spaces for the existing duplex on the property, and 2 parking spaces for the existing single family residence on the parcel. The combined parking requirement is 73 parking spaces.

The proposed new structure will be more than 200 feet of the Ordinary High Water Mark and therefore outside the Shoreline Master Program's jurisdiction. A portion of the project site is within 200 of OHWM. This includes approximately a 4 foot encroachment of the area occupied by the garage (which is to be demolished) and portions of the parking lot and landscaping which will be revised. That portion of the project within 200 feet of OHWM may be processed administratively as a revision to SDP92-02. The new building will be located on the northwest corner of the property. This corner has the highest natural grade on the site, which provides a greater advantage in building height. The structure is proposed to be 23 feet to the top of the ridge, or 24 feet above the main plaza level. The main plaza level will be approximately the same grade as the Harborview Drive sidewalk level.

A parking garage is proposed below the plaza level which will be accessed from the back (east) side of the structure, via the existing surface parking lot. The applicant has indicated that the parking garage will have 20 spaces, but the floor plan indicates that it will have 19 stalls. It may be possible, however, to reduce the stall widths to 8 feet to gain additional parking spaces. This would require shifting the location of the support pillars.

The surface parking was originally approved with 69 spaces. The parking garage will result in a net loss of 2 spaces. An additional 2 spaces were recently lost due to a driveway approach into the Bayview Parcel from Arabella's parking lot. Total on-site parking for this proposal (both surface and garage parking) will therefore be 73 spaces (assuming that the grass-crete area on the existing lot will be utilized for parking and that at least one additional parking stall is gained in the garage by reducing the stall widths).

The applicant has submitted the following statement describing the project (shown in italics):

*DECLARATION OF INTENT
SPR-94-05
ARABELLA'S LANDING MARINA*

PROJECT SCOPE

Arabella's Landing Marina has established itself as a destination marina. No other Marina in Gig Harbor provides the quality and quantity of transient moorage. Arabella's Marina provides Showers, Restrooms, Meeting facilities, Pump-out station, Storage lockers and Garbage disposal. The proposed structure which is the subject of this site plan review is a building which will house professional offices, marine related sales, and other uses specifically allowed by GHMC 17.48.020. This structure will allow a reasonable commercial use of the uplands of the site, and will provide an attractive, modern environment for its occupants which is harmonious with the architecture and character of the surrounding neighborhood.

ZONING

Arabella's Landing Marina was established under the Gig Harbor Zone of Waterfront Millville (WM) Chapter 17.48., This site plan, SPR 95-12, is an amendment to SDP-92-02 (Dorotich Marina). The footprint of the proposed structure is outside of the 200 foot set back of the shoreline, and therefore will not require approval under the Shoreline Master Plan. A small portion of the corner the existing metal shed on the property, which is to be demolished, is within 200' of the shoreline, but the cost and impact of such demolition within the shoreline area is inconsequential, and may be approved administratively. Shoreline approval is not required.

IMPERVIOUS COVER

The foot print of the proposed building is within the site plan of SDP-92-02, the footprint is covered by a metal garage and asphalt parking lot, there will be approximately a net increase of impervious cover of 860 square feet.

HEIGHT

The height of the proposed building is 23 feet to the top of the ridge. The increased building height is pursuant to section (17.48.060) of Chapter 17.48 (WM), as previously authorized by the Gig Harbor City Council. The applicant has previously provided two Water view/Access opportunities as required by GHMC 17.48.060, and has recorded a covenant with regard to those amenities with the Pierce County Auditor. City staff has concurred with the Applicant that the amenities provided with regard to the prior increased height allowance are with respect to the site.

PARKING

Parking will be provided as required under GHMC 17.48.070 and 17.72.030(E) and (M). the site will have a total of 64 parking spaces. This includes 4 handicapped parking spaces. This parking calculation does not include the 2 spaces in the existing garage related to the residence on the site. Two additional parking spaces can be accommodated by striping two spaces in the existing paved portion of the parking area south of the existing garage on the site. This would bring the total spaces to 66, plus the enclosed garage. (Note: A later parking plan submitted by the applicant on January 12, 1995 indicates that 73 parking spaces will be provided). The total parking spaces required fro the proposed building is 24. The parking required for the marina is 41, according to the City. Thus, there is adequate parking on site.

SECURITY GATES

All of the on-site parking will be accessible during normal business hours, and will be accessible during non-business hours to those persons who are moorage customers of the marina or tenants of the building.

A later correspondence from Mr. Oldfield, dated January 11, 1996, was submitted. Pertinent sections of the correspondence relating to this application are as follows:

...
2. Parking. I will address the parking calculation based on the maximum possible requirement, and the manner in which this maximum requirement will be met. I will then discuss why the applicant believes the parking substantially exceeds the required parking.

Calculation Maximum Requirement:

<i>Marina parking, based upon berth lengths and number stated in Dorotich Marina revised site plan dated July 28, 1988, prepared by Layton & Sell:</i>	<i>43 spaces</i>
<i>Proposed New Building:</i>	<i>24 spaces</i>
<i>Existing house (utilizing garage):</i>	<i>2 spaces</i>
<i>Duplex:</i>	<i><u>4 spaces</u></i>
<i>TOTAL:</i>	<i>73 spaces</i>

The applicants believe that the number shown above exceeds the actual requirement for two reasons. First, the end slips on the northerly end of one of the two piers in the marina cannot be utilized for boats over 44 feet. A resurvey after the marina was constructed indicates that the distance from the end of the pier to the side lot line is too narrow for anything more than a small boat. One is presently rented for a 19 foot boat, and the other is useful only for a small boat. I have requested a copy of the survey drawing prepared by ACE, Inc. showing the actual dimensions of those slips. I expect to receive it on Tuesday, January 16, and I will get it to you immediately. Those two slips, therefore, should require a total of only one, rather than two, parking stalls.

Second, in connection with this application, the applicant intends to dedicate an additional four slips for transient moorage. That will total six slips dedicated for transient moorage. The City now appears to have adopted the position that parking stalls are not required for transient moorage, based upon the City dock and the new application which has been submitted from the Darrah property. That would eliminate three additional parking spaces. These two items, taken together, reduce the required parking for the marina from 43 to 39 stalls.

I enclose a drawing showing 73 parking spaces, number in red. This configuration utilizes three parking stalls not presently lined off directly behind the existing garage. Lines will be marked for these spaces. An engineer has been hired to do a drawing showing the dimensions of this parking, to supplement the existing site plan. Additionally, this configuration includes three for and aft parking stalls behind the duplex. The planting bed shown on the site plan was never installed, and that area is presently grasscreted for parking purposes.

Based on the foregoing, there is sufficient parking on site for the proposed development.

In addition, pending proposed changes to the zoning code will reduce the required width for parking from 9 feet to 8 feet. As soon as that occurs at least three more parking stalls will be available on site.

3. *Amenities for increased height.* *The applicant continues to disagree strenuously with your attorney's current interpretation of the harbor access opportunities covenant. This matter was discussed extensively when the covenant was recorded. In the staff reports and before the City Council, the City took the position that the recorded covenants satisfied the amenities for increased height for this site. This change of legal position, based upon apparent political opposition to development in downtown Gig Harbor, is a further example of the efforts made by the City and its official to deprive the applicants of due process and equal protection.*

However, to expedite the approval of this development, and without waiving any claims that these requirements are an unconstitutional taking, the applicant will dedicate four additional 30 foot transient moorage slips in the marina, which will be located along the "bull rail" on the south side of the marina.

4. *Environmental checklist.* *Work within 200 feet of the shoreline is specifically addressed in the declaration of intent, where it is noted that this is an amendment to SDP 92-02 (Dorotich Marina). This was also addressed in a letter to Mr. Gilmore dated July 18, 1995, in connection with the prior application. At that time, Mr. Gilmore indicated that this minor reconfiguration could be handled administratively. To the extent that a specific request for such administrative handling is required, please consider this letter that request.*

A final correspondence from Mr. Oldfield, dated February 22, 1996, was submitted which addresses the location of transient moorage as follows:

I have discussed the issue of the location of the transient moorage slips with the owner, and I have reviewed how this was handled in the prior Harbor Access Opportunities covenant. The owner wants to maintain the flexibility to assign boats to various slips, depending upon demand within the marina for various size boats. In the prior covenant, the requirement is that "Public transient moorage shall be provided and maintained by the marina at its own cost on the marina property, for up to two 30 foot boats which will have a minimum water depth of 8 feet. The public transient moorage shall be easily assessable to visiting boats and shall be posted by the marina with signage to identify availability as public transient moorage. Such signage shall be readable at a distance of 100 feet." I would proposed that the same language be utilized for the additional 4 slips. If this is not acceptable, please let me know right away.

VI. PUBLIC NOTICE:

The property was posted and legal notice was sent to property owners within 300 feet and published in the Peninsula Gateway on March 6, 1996. To date, no public input has been received.

VII. ANALYSIS:

Since the time this application was submitted, the City has adopted zoning code changes which will significantly affect development of this and other parcels in the Waterfront Millville zone. Specifically, the previous height increase provisions have been changed to require one access opportunity *and* one viewing opportunity per lot per building. Previously, the code required two viewing and/or access opportunities, but did not require one of each. Additionally, the code now limits non-residential buildings to 3,500 square feet per building per lot. The current proposal does not meet either of these requirements (see zoning ordinance provision beginning on pg. 4 above). Because the city has no provisions for vesting a project with a site plan application, and because a building permit application has not been submitted, the project is not considered vested under the codes in place at the time the site plan application was submitted.

The applicant's statement that "City staff has concurred with the Applicant that the amenities provided with regard to the prior increased height allowance are with respect to the site" is not correct regarding the current application. In a previous application (SPR 95-04) The planning staff misinterpreted the recorded Harbor Access Opportunities Covenant, assuming that the covenant allowed increased height for additional structures. However, the City's legal counsel has advised the staff that according to the recorded Harbor Access Opportunities Covenant between Mr. Stearns and the City of Gig Harbor (AFN# 9401060377), the increased height was applied to a specific structure and that increased height of additional structures may only be allowed by providing two additional height amenities as defined in GHMC Section 17.48.060. The planning staff informed the applicant of the City's position on this matter in a correspondence to Mr. Oldfield dated November 30, 1995.

The applicant's statement that The parking required for the marina is 41, according to the City, is not correct for this application. The staff noted in a correspondence to Mr. Oldfield dated November 30, 1995 that he had relied upon staff's previous calculation of 41 spaces for moorage requirements, but that the calculation was in error. The staff further explained to Mr. Oldfield that a photo he had submitted with the current application was compared with the approved site plan for the marina and that a parking requirement of 43 spaces for the marina was determined.

The applicant's statement that "The increased building height is pursuant to section (17.48.060) of Chapter 17.48 (WM), as previously authorized by the Gig Harbor City Council", is not entirely correct. While the applicant may believe that the height conforms to the provisions of Chapter 17.48, the City Council has never authorized the height of the proposed building under this application.

Regarding the applicants statement that parking requirements for moorage should be reduced due to the close proximity of two moorage slips and the property line, a survey showing the location of the northerly piers in relation to the property lines has not been submitted. The staff is therefore unable to verify the applicant's claim that the moorage slips on the end of these piers are limited to boats less than 44 feet in length. Also, the applicant's statement that the City has "adopted the position that parking stalls are not required for transient moorage, based upon the City dock and the new application which has been submitted for the Darrah property.", is not correct. The current application for the Darrah property proposes full parking for all uses including transient moorage. As the Staff explained to the applicant in the staff report for the previous Arabella's Landing proposal, code parking requirements for moorage are not based upon whether the moorage is transient or not. The City requested a variance from the parking standards for the Jerisich Park Dock to allow for *public* transient moorage which is located on public property, the parking of which is provided for on public right-of-ways. Technically, the park does provide on-site parking because the park is on the same parcel as the public street. This was clearly stated in the City's variance application. It was not clear if a variance was even necessary. However, it was determined that because the proposal provided no off-street parking (which on-site parking typically implies) a variance should be applied for to meet the normal expectation of the parking requirements.

Regarding Mr. Oldfield's request to have transient moorage slips be assignable to various slips as demand dictates, the staff explained to Mr. Oldfield in a correspondence dated March 7, 1996 that regularly changing the location of transient moorage eliminates any degree of predictability by the public or the City as to the availability of (or even the existence of) public transient moorage. The staff believes that the code intends for transient moorage to be maintained in a fixed location.

The site plan indicates vehicular access across the Arabella's parcel to the Bayview Marina parcel to the south. To avoid misunderstandings, it should be noted that the proposed access does not conform to fire code access requirements. Approval of the proposed access would not constitute legal fire access to the Bayview site.

Additional Staff and/or agency comments are as follows:

Building Official: Please consider the following as my comments to the application for the project stated above:

1. Fire flow must be provided to within 150 FT of all portions of the building in accordance with the Section 10.401, and Table A-III-A-1, 1991 Uniform Fire Code
2. REQUIRED NUMBER OF HYDRANTS (Table A-III-B-1):

A fire hydrant will be required within 150 FT of all portions of the building, a new fire hydrant must be located on Harborview Drive to accommodate this requirement. In lieu of installing a street hydrant an auto-fire sprinkler system

may be used to provide the required protection if first approved as an alternate method of protection (Building Code Advisory Board approval required) and not first required for compliance with other building and/or fire codes.

3. Access around the building must be provided to within 150 FT of all portions of the building in accordance with Chapter 10, 1991 Uniform Fire Code. The building may not encroach into the required (15 FT clear width) marina parking lot fire lanes.
4. The marina parking lot must remain accessible. The existing gate must be modified to provide the required opticom controls for fire equipment access. Modify the main entrance to provide a 24 ft wide access. The 24 ft wide access must be continuous through the Arabella and Bayview Marina parking lots. A recorded easement will be required for the entire length of the 24 ft wide fire lane.
5. One hour construction or an auto-fire sprinkler system will be required in accordance with Chp. 5, 1991 UBC. One hour occupancy separation will be required between the first floor parking garage and the upper floors.
6. Make the entire building accessible to the handicapped.
7. Openings parallel to and within 23 FT of the residence must be protected in accordance with Chapter 5, 1991 UBC.
8. A ladder/snorkel truck setup area will be required on the east side of the building (show setup area on site plan).
9. A Knox Box must be installed to provide access to the building.
10. A complete plan review will be completed upon submittal of plans for a building permit.

Public Works: The Public Works Department has stated that existing sidewalks do not conform to the current Pubic Works standard of 5 1/2 feet plus six inch curb.

SEPA Responsible Official: A Determination of Non-significance was issued on February 28, 1995 for SPR 95-04. The current project is essentially the same as SPR 95-04 except that the proposed use of the building has been changed from a yacht club to office/retail, thereby reducing the required parking for the project. Because the current project is of a similar or less intense use, the February 28, 1995 DNS is being applied to the current application and a revised threshold determination is not required..

Although a portion of the project is within 200 feet of OHWM which was not initially identified in the original SEPA document, the scope and intensity of the development

proposed within that portion of the SMA jurisdiction would have little impact upon the quality of the shoreline environment. Additional SEPA review is not warranted.

VIII. FINDINGS AND CONCLUSIONS:

Based upon the analysis contained in Part VII of this report, the Staff finds as follows:

- A. That the proposal development is consistent with allowed uses in the zone including professional office and marine retail sales (to be verified at time of business license approval);
- B. The proposal is inconsistent with goals and policies stated in the city's comprehensive plan related to building design as defined in recent amendments to the Gig Harbor Municipal Code pertaining to building mass, scale and view/access requirements, including goals to limit mass and scale of new structures to historic forms and proportions.
- C. The proposed development is generally more than 200 feet from the shoreline and therefore does not require a shoreline substantial development permit. Limited development within 200 feet of the shoreline includes minor revisions to the parking lot layout which may be processed administratively as a revision to SDP92-02.
- D. The proposed site plan does not conform with maximum building size as defined in GHMC Section 17.48.040(I).
- E. The proposal does not conform with the optional height/view opportunity provisions of GHMC Section 17.48.060 and as defined in Section 17.48.090(E)2.
- F. The proposal conforms to required parking provided that a sufficient number of contiguous parking stalls are reduced to an 8-foot width so as to provide one additional parking stall, for a total of 73 on-site parking stalls.
- G. The site plan is not vested under zoning codes in place at the time the site plan application was submitted because a complete building permit application was not submitted prior to recent zoning code amendments.
- H. The proposed vehicular access between Arabella's Landing and the Bayview Parcel is consistent with site plan requirements but does not constitute legal fire access to the Bayview Site. If the owner of the Bayview site wishes to negotiate with the owner of the Arabella's site (currently one and the same) for fire access, a legal access easement will be required and the driveway width may require modification, subject to Fire Marshal review and approval.

proposed within that portion of the SMA jurisdiction would have little impact upon the quality of the shoreline environment. Additional SEPA review is not warranted.

VIII. FINDINGS AND CONCLUSIONS:

Based upon the analysis contained in Part VII of this report, the Staff finds as follows:


- A. That the proposal development is consistent with allowed uses in the zone including professional office and marine retail sales (to be verified at time of business license approval);
- B. The proposal is inconsistent with goals and policies stated in the city's comprehensive plan related to building design as defined in recent amendments to the Gig Harbor Municipal Code pertaining to building mass, scale and view/access requirements, including goals to limit mass and scale of new structures to historic forms and proportions.
- C. The proposed development is generally more than 200 feet from the shoreline and therefore does not require a shoreline substantial development permit. Limited development within 200 feet of the shoreline includes minor revisions to the parking lot layout which may be processed administratively as a revision to SDP92-02.
- D. The proposed site plan does not conform with maximum building size as defined in GHMC Section 17.48.040(I).
- E. The proposal does not conform with the optional height/view opportunity provisions of GHMC Section 17.48.060 and as defined in Section 17.48.090(E)2.
- F. The proposal conforms to required parking provided that a sufficient number of contiguous parking stalls are reduced to an 8-foot width so as to provide one additional parking stall, for a total of 73 on-site parking stalls.
- G. The site plan is not vested under zoning codes in place at the time the site plan application was submitted because a complete building permit application was not submitted prior to recent zoning code amendments.
- H. The proposed vehicular access between Arabella's Landing and the Bayview Parcel is consistent with site plan requirements but does not constitute legal fire access to the Bayview Site. If the owner of the Bayview site wishes to negotiate with the owner of the Arabella's site (currently one and the same) for fire access, a legal access easement will be required and the driveway width may require modification, subject to Fire Marshal review and approval.

The staff concludes that the requested site plan does not conform to minimum code criteria pertaining to maximum height and building size.

IX. RECOMMENDATION:

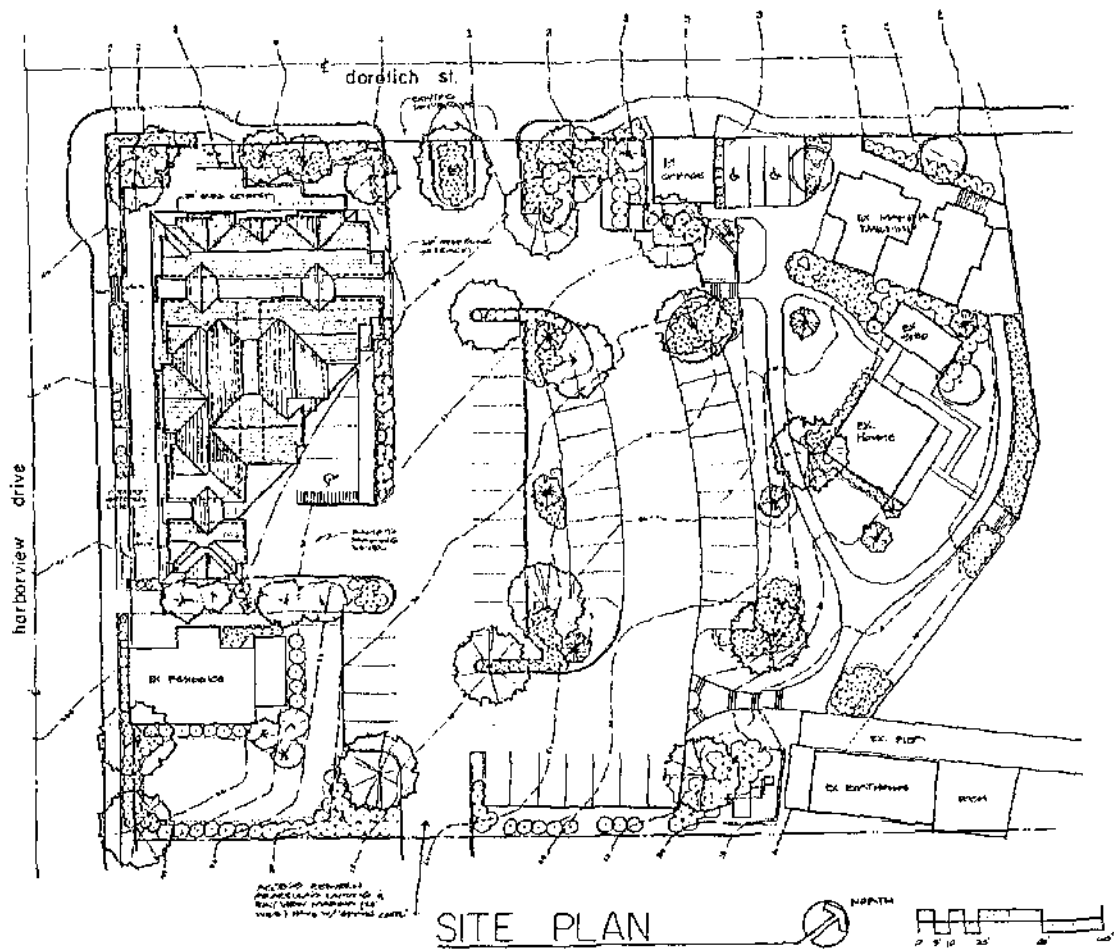
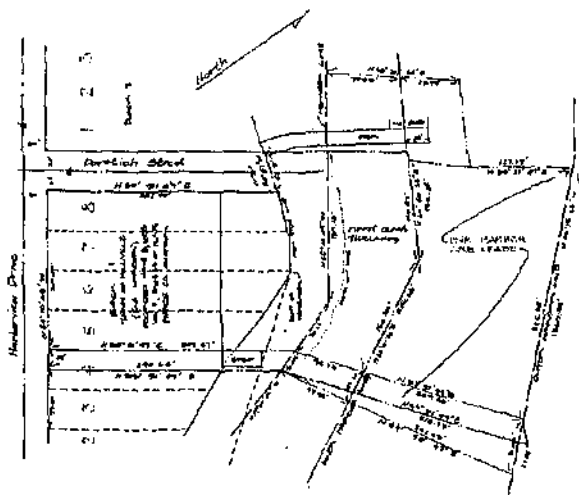
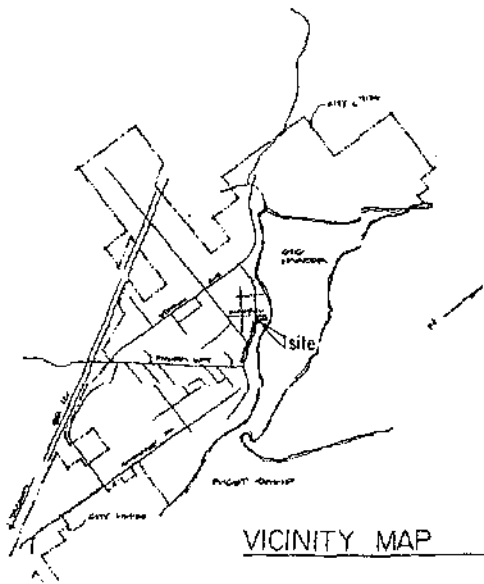
Based upon the above findings and conclusions, the staff recommends the Hearing Examiner forward a recommendation to the City Council to deny the requested site plan #95-12.

Project Planner: Steve Osguthorpe, AICP
Associate Planner

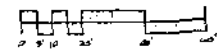


Date: 3-17-96

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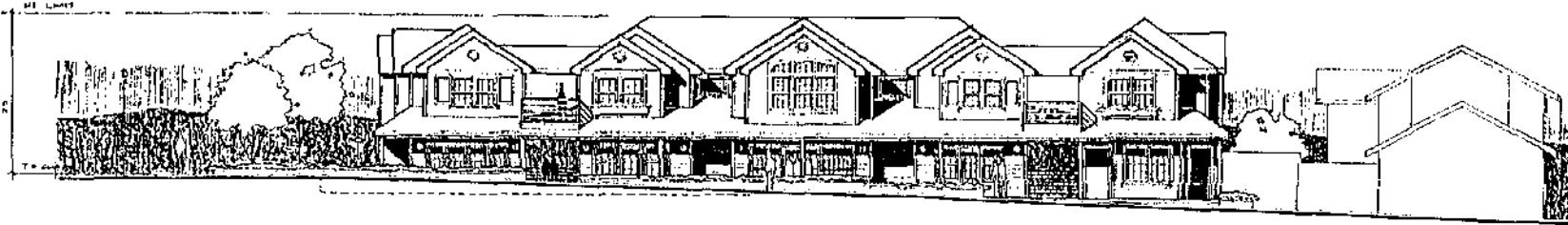


SITE PLAN



NOTES:
 DEVELOPMENT OF THIS SITE IS SUBJECT TO THE CITY OF GANNETT'S
 ZONING ORDINANCES AND THE CITY OF GANNETT'S SUBDIVISION MAP ACT.

RECEIVED
 NOV 13 1995
 CITY OF GANNETT



HARBORVIEW DRIVE ELEV.



HARBOR ELEVATION



RECEIVED
MAY 1 1995

RESIDENT 1007 G, MHC
the
 THE HOME ASSOCIATION
 431700

Arabella's Landing

in harbor wa



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: WES HILL, PUBLIC WORKS DIRECTOR *Wes Hill*
DATE: MAY 10, 1996
SUBJECT: PAVEMENT REPLACEMENT AT HARBORVIEW DRIVE AND STINSON AVENUE

BACKGROUND

In the early evening of February 21, 1996, an 8-ft. section of old asbestos cement water line ruptured under the south bound leg of Stinson Avenue at the intersection with Harborview Drive. Approximately 500-square yards of the roadway were damaged by the resulting high pressure discharge of water. While temporary repairs were made at the time, the nature and extent of the pavement damage exceeds what our Department is able to pursue under routine maintenance activities. Presently, due to displacement of the subgrade and settlement, several pavement sections have an uneven surface creating substandard driving conditions.

On March 11, 1996, the City Council authorized the Public Works Department to solicit price quotations in accordance with State and City small works procedures. In accordance with the City's Small Works Roster Process (Resolution 411) price quotation proposals were requested from five firms. The Engineer's Estimate was \$27,125.00. The lowest price quotation received was from Tucci and Sons, Inc. in the amount of \$24,963.75.

This memorandum requests your authorization to award and execute the contract. It is anticipated that the work will be completed within four weeks after contract award, weather permitting.

ISSUES/FISCAL IMPACT

As an unanticipated repair, this project was not included in the Department's annual budget. However, due to deferral of several projects to the 1997 construction season, funds are available for the pavement replacement.

RECOMMENDATION

This Department recommends that the Council move and approve award and execution of the contract for Pavement Replacement at Harborview Drive and Stinson Avenue to Tucci and Sons, Inc., the lowest responsible respondent, for their price quotation proposal amount of \$24,963.75, subject to their compliance with the contract provisions.



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: TOM ENLOW
DATE: May 10, 1996
SUBJECT: RESOLUTION FOR SALE OF SURPLUS EQUIPMENT

INTRODUCTION

The Police, Administrative/Finance and Public Works Departments have determined that the equipment listed on the attached resolution are no longer of use to the City and should be sold. The equipment will be sold at auction by Stokes Auction, Inc. unless another method of disposal, permitted by State law, is determined to be more beneficial to the City.

RECOMMENDATION

Staff recommends adoption of the resolution.

**CITY OF GIG HARBOR
RESOLUTION NO. ____**

A RESOLUTION OF THE CITY OF GIG HARBOR DECLARING CITY EQUIPMENT SURPLUS AND ELIGIBLE FOR SALE.

WHEREAS, the Gig Harbor City Council has determined that city-owned equipment is surplus to the City's equipment needs and has been or is in need of being replaced with new equipment; and

WHEREAS, the City may declare such equipment surplus and eligible for sale;

NOW, THEREFORE, the City Council of the City of Gig Harbor hereby resolves as follows.

To declare as surplus:

Police car: 1987 Chev. Caprice 4-door Sedan approximately 122,000 miles
VIN 1G1BL5476LR132161

The following computers, complete with monitors and keyboards:

AT Jet 286-12, s/n ME3-4004495
AT Jet 286-12, s/n ME 3-4005020
AT Jet 286-12, s/n ME 3-4004471
AT Jet 286-12, s/n ME 3-4004472
ATT 6300 (8088), s/n 154858
Genesis BTC 24241, s/n 010891
No brand name 286-12, s/n 90866
No brand name 286-12, s/n 90868
AGI 1800A 286-10, s/n 8AX12614
Packard Bell, s/n 06825495

Modem, Hayes Smartmodem, 1200 baud, s/n 1202124470

Modem, Packard Bell, 1200 baud, s/n 70902120

Printer, IBM Personal 2381, s/n 11-89041

Printer, Star NX-1000II, s/n 350090607655

Printer, Star NX-1000, s/n 310071024912

Copier, Ricoh PS100, s/n 9851203861

Fax, Canon Faxphone 40, s/n 4984376A

Tape Backup Drive, Colorado 120, s/n 0126851L

Brake lathe, s/n 79593a s/n 6900

Cement mixer model 231

Lincoln arc welder s/n 70500309

Sandblaster s/n 1440

Airless paintstripper set s/n 1234 model 98-346

Two-piece barretrack

Graderblade attachment for three-point hitch s/n 15175 - 60"

Milwaukee skill saw s/n 620-48521 Model #6377

Ricoh copy machine model #FT5010 s/n 9550713530

Royal typewriter model #SE5011

Royal typewriter model - Academy

Three-point hitch sickel bar s/n 43592

Motorola radio s/n 6490481

Motorola radio s/n 2382259

Canon fax phone 40 s/n 18743

Pitney Bowes postage machine model 5830 s/n E214480

Motorola radio s/n 203CC00453

Sony 4-speed reel to reel recorder

Marantz PMD 221 Recorder

Texas Instrument Calculator TI-5045

RESOLVED this _____ day of May, 1996.

APPROVED:

Gretchen A. Wilbert, Mayor

ATTEST / AUTHENTICATED:

Mark Hoppen, City Administrator

Filed with the City Administrator: 5/1/96

Passed by the City Council:

Attention:

Enclosed is a listing of liquor licensees presently operating establishments in your jurisdiction whose licenses expire on JULY 31, 1996. Applications for renewal of these licenses for the upcoming year are at this time being forwarded to the current operators.

As provided in law, before the Washington State Liquor Control Board shall issue a license, notice regarding the application must be provided the chief executive officer of the incorporated city or town or the board of county commissioners if the location is outside the boundaries of an incorporated city or town.

Your comments and recommendations regarding the approval or disapproval for the enclosed listed licensees would be appreciated. If no response is received, it will be assumed that you have no objection to the reissuance of the license to the applicants and locations listed. In the event of disapproval of the applicant or the location or both, please identify by location and file number and submit a statement of all facts upon which such objections are based (please see RCW 66.24.010(8)). If you disapprove then the Board shall contemplate issuing said license, let us know if you desire a hearing before final action is taken.

In the event of an administrative hearing, you or your representative will be expected to present evidence in support of your objections to the renewal of the liquor license. The applicant would presumably want to present evidence in opposition to the objections and in support of the application. The final determination whether to grant or deny the license would be made by the Board after reviewing the record of the administrative hearing.

If applications for new licenses are received for persons other than those specified on the enclosed notices, or applications for transfer of licenses are received by the Board between now and JULY 31, 1996, your office will be notified on an individual case basis.

Your continued assistance and cooperation in these licensing matters is greatly appreciated by the Liquor Control Board.

LESTER C. DALRYMPLE, Supervisor
License Division
Enclosures

MAYOR OF GIG HARBOR
3105 JUDSON ST
GIG HARBOR

WA 983350000

RECEIVED
MAY - 8 1996
CITY OF GIG HARBOR

C090080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 5/03/96

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
FOR EXPIRATION DATE OF 7/31/96

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	CLASSES
1 W.B. SCOTTS RESTAURANTS, INC.	W. B. SCOTT'S RESTAURANT 3108 HARBORVIEW DR GIG HARBOR WA 98335 0000	363055	H

MAYOR'S REPORT
May 13, 1996



PARKING ISSUES

Parking issues, concerns, problems and suggested solutions have been coming my way off and on for the past five years.

The city has tried to respond on a one-by-one basis over the years but many of the issues need to be considered by the entire community affected. In particular, the downtown and North Harborview business districts.

Many ideas have been expressed to solve the problems, but never have they been shared with the community as a whole.

Therefore, I recommend we provide the opportunity for a town meeting on Monday, June 3rd, at 7:00 p.m. to hear from our constituents. The information we receive should give direction for the staff and City Council.

DATE: May 7, 1996
TO: City Council
FROM: Mitch Barker
SUBJECT: April Information from PD

Attached are the activity statistics for April 1996. Thefts from, and damage to, vehicles continued in the first part of the month. These generally continue to be thefts of stereo equipment and CDs/tapes. We have placed officers on foot and in unmarked vehicles at late hours in hopes of deterring this trend. Lt. Colberg arrested two people siphoning gas and prowling vehicles and GHHS security caught six Tacoma area youths breaking into cars on HS property. We don't believe any of these people were responsible for the other thefts we have experienced.

Most department members completed Bloodborne pathogens training in April. The rest will attend an upcoming training session.

Five Reserve Officers contributed a total of 158 hours of service during the month. One Reserve has requested a leave of absence for the next 90 days. We have scheduled interviews for new reserves for May. This should allow us to add the new Reserve Officers sometime in June.

The Explorers had an exceptional April. Twelve Explorers contributed approximately 494 hours to the City last month. The group distinguished themselves at the Blue Mountain Challenge competition which was held in Richland April 12-14. I have attached a summary of their achievements at this event. The results are truly noteworthy and Off. Busey and the Explorers deserve our congratulations. In their spare time, the post members distributed informational flyers about a rash of thefts from vehicles and included loss prevention tips to the neighborhood which was hit the hardest. They assisted with parking direction at the new Harbor Fields, held a regular business meeting, and participated in 8 ride-alongs with full time officers.



MITCH BARKER
Chief of Police

City of Gig Harbor Police Dept.
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-2236

GIG HARBOR POLICE DEPARTMENT

MONTHLY ACTIVITY REPORT

APRIL 1996

	<u>APR</u> <u>1996</u>	<u>YTD</u> <u>1996</u>	<u>YTD</u> <u>1995</u>	<u>%chg to</u> <u>1995</u>
CALLS FOR SERVICE	<u>221</u>	<u>946</u>	<u>1029</u>	<u>- 8</u>
CRIMINAL TRAFFIC	<u>12</u>	<u>60</u>	<u>100</u>	<u>- 40</u>
TRAFFIC INFRACTIONS	<u>59</u>	<u>210</u>	<u>311</u>	<u>- 32</u>
DUI ARRESTS	<u>2</u>	<u>12</u>	<u>37</u>	<u>- 67</u>
FELONY ARRESTS	<u>1</u>	<u>9</u>	<u>12</u>	<u>- 25</u>
MISDEMEANOR ARRESTS	<u>20</u>	<u>57</u>	<u>90</u>	<u>- 36</u>
WARRANT ARRESTS	<u>3</u>	<u>19</u>	<u>34</u>	<u>- 44</u>
CASE REPORTS	<u>70</u>	<u>278</u>	<u>270</u>	<u>+ 2</u>
REPORTABLE VEHICLE ACCIDENTS	<u>6</u>	<u>36</u>	<u>30</u>	<u>+ 20</u>

MEMORANDUM

DATE: May 7, 1996
TO: All GHPD Personnel
FROM: Kelly

GHPD EXPLORERS BLOW AWAY THE COMPETITION!!!

As you know, our Explorer post competed in the recent Blue Mountain Explorer Challenge held in Richland, Washington last weekend. 221 Explorers representing 31 of the top Explorer posts from Washington, Oregon, and Idaho participated in the event. The Gig Harbor Police Department has *much* to be proud of in our Explorers.

1st Place OVERALL for two man team* (Jake Collen/Jason Learned)
All events combined

3rd Place OVERALL for two man team (Tim Walker/Todd Walker)
All events combined

1st Place OVERALL - Domestic Violence (Jake Collen/Jason Learned)

1st Place OVERALL - Firearms (Jason Learned 402 of 420 possible)

1st Place OVERALL - F.A.T.S. (Jason Learned)

(* - by a HUGE margin)

Other VERY notable finishes include

3rd Place OVERALL - Firearms (tentative) (Tim Walker)

3rd Place OVERALL (Tie) - Traffic Stops (Mike Treit/Kevin Marshbank)

4th Place OVERALL - Physical Agility (Jake Collen)

6th Place OVERALL - Physical Agility (Todd Walker)

7th Place OVERALL - Physical Agility (Kevin Marshbank)

7th Place OVERALL - Firearms (Mike Treit)

8th Place OVERALL - Physical Agility (Tim Walker)

9th Place OVERALL - Firearms (Jake Collen)

This competition calculates overall post averages on Saturday PRIOR to the Firearms, F.A.T.S., and Physical Agility which is held on Sunday. Even without these events figured in, **our post placed 4th OVERALL** (out of 31 posts behind Spokane, Edmonds, and LaGrande Oregon). Congratulations are in order for our Explorers!!!

CRIME ALERT!!

In recent weeks, there have been numerous thefts from vehicles parked in this area.

The Gig Harbor Police Department would like to remind you of the following steps you can take to reduce the chances of becoming a victim of similar thefts:

Lock all vehicle doors.
Remove all valuables from your car.
Park in a well lit area.
Leave on an outside light.
Report all suspicious persons and vehicles.

Car stereos, Compact Discs, and Cassette Tapes are especially desirable targets for thieves. Do not leave these items in view.

CONTACT THE GIG HARBOR POLICE DEPARTMENT FOR INFORMATION ON SETTING UP A BLOCK WATCH PROGRAM IN YOUR AREA.

GHPD 851-2236