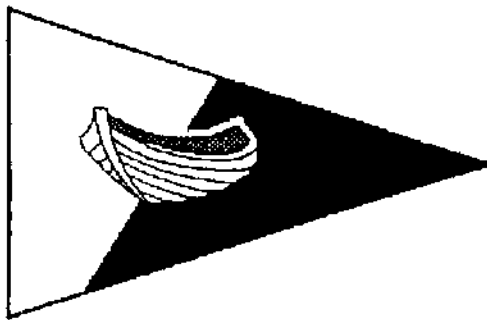


GIG HARBOR CITY COUNCIL MEETING



October 9, 1995

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

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING

October 9, 1995 - 7:00 p.m.

PUBLIC COMMENT/DISCUSSION:

CALL TO ORDER:

APPROVAL OF MINUTES:

CORRESPONDENCE: None scheduled.

OLD BUSINESS: None scheduled.

NEW BUSINESS:

1. Viacom Cable TV Franchise "Change of Ownership" - First Reading of Ordinance.
2. Legal Rate Increase Agreement for 1995.
3. SDP95-02 - Pleasurecraft Marina.
4. Ordinance Amending GHMC 13.34 Relating to Water & Sewer Extension.
5. Fire District #5 Emergency Operation Center - Request for Water.

MAYOR'S REPORT:

COUNCIL COMMENTS:

STAFF REPORTS:

ANNOUNCEMENT OF OTHER MEETINGS:

APPROVAL OF BILLS:

APPROVAL OF PAYROLL:

EXECUTIVE SESSION: Claims and Property Acquisition.

ADJOURN:

REGULAR GIG HARBOR CITY COUNCIL MEETING OF SEPTEMBER 25, 1995

PRESENT: Councilmembers Picinich, Owel, and Ekberg. Councilmember Platt acted as Mayor Pro Tem in Mayor Wilbert's absence.

PUBLIC COMMENT / DISCUSSION: None.

CALL TO ORDER: 7:10 p.m.

APPROVAL OF MINUTES:

MOTION: Move approval of the minutes of the September 11, 1995 meeting as presented.
Picinich/Ekberg - unanimously approved.

CORRESPONDENCE:

1. Pierce County - District #7 Meeting on December 12, 1995.
2. State Representative Mike Carrell - Property Taxes Working Group.
3. Peninsula High School Student - Jennifer Bisenius.

OLD BUSINESS:

1. Second Reading - Ordinance for 1995 Budget Amendment for Debt Redemption. Tom Enlow introduced the second reading of this ordinance.

MOTION: Move for adoption of Ordinance No. 696 authorizing the transfer of funds and redemption of the remaining 1985 Water/Sewer Advance Refunding Bonds and adopting Attachment 'A', the updated 1995 salary schedule.
Picinich/Owel - unanimously approved.

2. Resolution - Chapel Hill Presbyterian Church. Ray Gilmore presented the ordinance with findings and conclusions reflecting Council's action on this application, following the September 13, 1995 public hearing. Ray Gilmore pointed out a grammatical error in the Resolution to be corrected.

MOTION: Move adoption of Resolution 455 approving the site plan for Chapel Hill Church as corrected by legal staff.
Picinich/Owel - unanimously approved.

NEW BUSINESS:

1. Hearing Examiner Recommendation for Approval - SP95-04, Gig Harbor Motel. Mayor Pro Tem Platt asked if any Councilmembers wished to reveal any ex parte oral or written communications on this matter, or to disclose any potential appearance of fairness issues, or if any member of the audience had any appearance of fairness challenges to any of the Councilmembers or Mayor. There was no response to this query. He then asked the

representative for the project to take an oath of honesty in any testimony that may be given. No representative for the project was present to reply. Ray Gilmore then introduced this Shoreline Permit for the construction of a 15-unit motel on Harborview Drive. He added that because a portion of the project falls within 200 feet of Gig Harbor Bay, a shoreline permit must be granted before issuance of a building permit. He added that the Hearing Examiner recommended approval of the Shoreline Permit with conditions.

MOTION: Move we approve Shoreline Permit 95-04.
Ekberg/Picinich - unanimously approved.

2. Liquor License Renewal - Hy-Ui-Hee-Hee. No action taken.

MAYOR'S REPORT: Art for the City Hall Foyer.

STAFF REPORT:

Interim Chief of Police, Lt. Colberg, GHPD. Lt. Colberg gave a short report on the pursuit over the weekend that resulted in the apprehension of a male escaped from the Department of Corrections in Shelton, and his female driver for possession of drugs.

Tom Enlow, Finance Director. Tom distributed a printout of budgeted and actual revenues and expenditures for 1993 through 1995 to date, and estimated for the 1996 Budget as required by RCW 35A.33.135.

ANNOUNCEMENT OF OTHER MEETINGS: None.

APPROVAL OF BILLS:

MOTION: Move approval of warrants #14723 through #14812 in the amount of \$243,220.28.
Picinich/Ekberg - unanimously approved.

EXECUTIVE SESSION:

MOTION: Move to adjourn to Executive Session at 7:36 p.m. to discuss property acquisition possibilities for approximately five minutes.
Picinich/Owel - two voting in favor. Councilmember Ekberg voting against.

MOTION: Move to return to regular session at 7:41
Picinich/Owel - unanimously approved.

MOTION: Move we make an offer to purchase the property adjacent to the City Park for \$75,000 in the next budgetary year.
Picinich/Ekberg - unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 7:42 p.m.
Picinich/Ekberg - unanimously approved.

Cassette recorder utilized.
Tape 400 Side B 370 - end.
Tape 401 Side A 000 - 228.

Mayor Pro Tem

City Administrator



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

TO: MAYOR WILBERT, CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR
SUBJECT: VIACOM CABLE TV FRANCHISE "CHANGE OF CONTROL"
DATE: OCTOBER 2, 1995

INFORMATION/BACKGROUND

In March of this year, I asked Counsel to review the City's existing franchise with Viacom to determine whether or not a proposed change in ownership would affect the terms of that franchise. This was prompted by a proposed change in ownership of Viacom to a minority-owned company, RCS Pacific. On March 30, 1995 the Senate passed a bill eliminating the minority tax certificate program; the proposed sale subsequently did not take place; and no further action was necessary.

On August 4, 1995, Viacom wrote to the Mayor, providing official notice of Viacom's withdrawal of the Form 394 connected with the RCS Pacific transaction. In that letter, Viacom also stated its intent to transfer all of its non-cable assets to a new corporation, which "does not provide for a sale of assets, but is instead structured as a change of control of Viacom." (Emphasis added.) A new Form 394 was enclosed with that letter, because the "spin off and recapitalization may require [the City's] approval."

POLICY CONSIDERATIONS

After reviewing the current franchise and newly enacted Section 617 of the Cable Television Consumer Protection and Competition Act of 1992, Counsel has the following comments on the proposed "change of control":

1. The City's existing franchise does not prohibit transfer of the franchise from Viacom to another franchisee. In fact, the only language which addresses this situation merely requires the new franchisee to comply with the same terms as the previous franchisee:

All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors and assigns of the franchisee and all privileges, as well as all obligations and liabilities of the franchisee, shall insure [sic] to its successors and assigns equally as if they were specifically mentioned wherever the franchisee is mentioned.

Section 22, p. 13 of Viacom franchise, dated 12.11.89.

2. As a result of the above, the City is not a local franchise authority that has imposed a requirement for transfer approval. However, Viacom is treating the City as if it were, and has submitted Form 394, as required by 42 USC Section 617.
3. Form 394 was designed to provide the City with information reasonably needed to make an informed decision whether or not approve the transfer. However, under the federal regulations, the City may make reasonable follow-up requests for clarification or ask for additional related information during the 120 day period which begins when the Form 394 is submitted to the City. Such requests do not toll the 120 day period.
4. The City may therefore request additional information or approve the transfer. Approval of the transfer must be done in the 120 day period or the City's approval will be "deemed" to have occurred.

FISCAL CONSIDERATIONS

There is no fiscal consequence to the City as a result of this transaction.

RECOMMENDATION

In sum, the City's existing franchise does not allow for any "reopener" of the terms of the franchise at the time of a transfer. No additional information is necessary for the City Council to make its decision on the franchise at the time of a transfer and the Council should pass an ordinance approving the proposed transfer. This is the first reading of the ordinance attached.

ORDINANCE NO. _____

**ORDINANCE OF THE CITY OF GIG HARBOR APPROVING THE
CHANGE OF CONTROL OF FRANCHISEE**

WHEREAS, Cable TV Puget Sound, Inc. d/b/a Viacom Cablevision ("Franchisee") is the duly authorized holder of a franchise (as amended to date, the "Franchise") authorizing the operation and maintenance of a cable television system (the "System") and authorizing Franchisee to serve The City of Gig Harbor (the "Franchise Authority") with cable television services; and

WHEREAS, Viacom International Inc., a Delaware corporation ("Viacom"), a wholly-owned subsidiary of Viacom Inc., ("VI") is an indirect parent of Franchisee; and

WHEREAS, VI, Viacom, Tele-Communications, Inc., a Delaware corporation ("TCI"), and TCI Communications, Inc., a Delaware corporation and wholly owned subsidiary of TCI ("TCIC"), are parties to some or all of the following: A Parents Agreement, an Implementation Agreement and a Subscription Agreement (the "Agreements"); and

WHEREAS, upon the consummation of the transactions contemplated by the Agreements (the "Transactions"), TCIC will acquire all of the outstanding common stock of Viacom and become the indirect parent of Franchisee; and

WHEREAS, upon the consummation of the Transactions, the Franchisee will continue to directly own and operate the System; and

WHEREAS, Franchisee and TCIC have requested consent by the Franchise Authority to the Transactions; and

WHEREAS, the Transactions are deemed to be in the best interests of the residents of the City of Gig Harbor.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF GIG HARBOR AS
FOLLOWS:**

SECTION 1. The Franchise Authority hereby consents to and approves the Transactions, all in accordance with the requirements of the Franchise.

SECTION 2. Any interest in Franchisee, or control related thereto, may be transferred to any entity controlled by, controlling or under common control with the current holder of such interest upon notice to the Franchise Authority of any such transfer.

SECTION 3. The Franchise Authority hereby consents to and approves the assignment, mortgage, pledge or other encumbrance, if any, of the Franchise, System or assets relating thereto, or of the interests in Franchisee, as collateral for a loan.

SECTION 4. The Franchise Authority confirms that, as of the date of this Resolution: (a) the Franchise was properly granted to Franchisee, is valid, remains in full force and effect and expires on December 11, 2004, subject to options, if any, to extend such term; (b) the Franchise supersedes all other agreements between Franchisee and the Franchise Authority and represents the entire understanding of the parties; and (c) Franchisee is materially in compliance with the provisions of the Franchise and there are no material unfulfilled commitments of Franchisee under the Franchise.

SECTION 5. This Ordinance shall be deemed effective as of the closing date of the Transactions.

PASSED, ADOPTED AND APPROVED by the City of Gig Harbor this _____ day of _____, 1995.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark Hoppen
City Administrator/Clerk

APPROVED AS TO FORM:

City Attorney

Filed with city clerk: 10/2/95
Passed by the city council:
Date published:
Date effective:

I, the undersigned, being the duly appointed, qualified and acting City Clerk of THE CITY OF GIG HARBOR hereby certify that the foregoing Ordinance No. _____ is a true, correct and accurate copy as duly and lawfully passed and adopted by THE CITY OF GIG HARBOR on the _____ day of _____, 1995.

City Clerk



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

TO: MAYOR WILBERT, CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: LEGAL SERVICES AGREEMENT FOR 1995
DATE: October 2, 1995

INFORMATION/BACKGROUND

Staff is submitting the proposal for legal services with Ogden, Murphy and Wallace for Council approval. This agreement is identical with the city's previous agreement with the law firm, except that the rates for Partners are proposed at a \$3.50 per hour increase, Associates are proposed at a \$2.00 per hour increase, Law Clerks are proposed at a \$2.00 per hour increase, and Paralegal at a \$2.00 per hour increase. The percentage increase in the respective rates are Partners 3.14%, Associates 3.31%, Law Clerks 2.9%, and Paralegal 3.7%. The monthly retainer is submitted for an increase of \$48 for 4.04% increase.

John Wallace proposes the possibility of recovering review costs from applicants.

RECOMMENDATION

To approve the proposed rate adjustments for legal services for 1996.



P.L.L.C. ATTORNEYS AT LAW

2100 Westlake Center Tower • 1601 Fifth Avenue • Seattle, WA 98101-1686 • (206) 447-7000 • Fax (206) 447-0215

RECEIVED
OCT 2 - 1995
CITY OF GIG HARBOR

John D. Wallace

September 29, 1995

Mayor Gretchen Wilbert and
Mr. Mark Hoppen
City Administrator
City of Gig Harbor
M/A: P.O. Box 145
Gig Harbor, Washington 98335

Re: Proposed Rates for 1996

Dear Mayor Wilbert and Mark:

We would propose the following cost of living increases to the hourly rates and retainer to be effective January 1, 1996:

	<u>Current Rate</u>	<u>Proposed Rate</u>	<u>Percent of Increase</u>
Partners	\$111.50/hr	\$115.00/hr	3.14%
Associates	\$ 90.50/hr	\$ 93.50/hr	3.31%
Law Clerks	\$ 69.00/hr	\$ 71.00/hr	2.90%
Paralegals	\$ 54.00/hr	\$ 56.00/hr	3.70%
Retainer (13 hours)	\$1,187/mo	\$1,235.00/mo	4.04%

A number of jurisdictions are moving towards recapturing attorneys' fees as a part of the recoverable costs in a permitting review process. This would of course require an amendment to the fee resolution for the City. It is my recommendation that the review time that we incur reviewing plats, PUDs, site specific rezones, etc., should and can properly be recovered from the applicant. However, it is felt that such applicants should not necessarily be entitled to the same reduced rate the City receives, in essence, in the nature of a quantity discount. Rates that

City of Gig Harbor
September 29, 1995
Page 2

I have seen for other cities when the attorneys' fees are to be reimbursed and the rates that I would propose if the City adopts such an approach would be as follows:

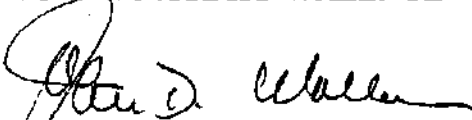
Proposed Reimbursable Fee Rate

Sr. Partners	\$175.00/hr
Partners	\$150.00/hr
Sr. Associates	\$130.00/hr
Associates	\$110.00/hr

I would appreciate your confirming the approval of these increases by providing your signature on both copies this letter, keeping one for your files and returning the other for our files.

Very truly yours,

OGDEN MURPHY WALLACE



John D. Wallace

JDW/lfs
Enclosure

APPROVED BY THE CITY COUNCIL AND ACCEPTED BY THE MAYOR this
_____ day of _____, 199__.

CITY OF GIG HARBOR

Gretchen Wilbert, Mayor

ATTEST:

Mark Hoppen, City Administrator



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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: Planning, Staff, Ray Gilmore
DATE: October 4, 1995
SUBJ.: Hearing Examiner Recommendation for Approval - Shoreline Permit 95-02
(Pleasurecraft Marina, Richard Williams)

Attached for your review is the Gig Harbor Hearing Examiner's findings, conclusions and recommendation on the above referenced shoreline permit application. The project consists of the addition of five uncovered moorage slips and the removal of underground fuel tanks at Pleasurecraft Marina. The marina is located at 3215 Harboview Drive. The Hearing Examiner's decision is a recommendation to the City Council.

The City Council may accept the Hearing Examiner's decision, modify the Hearing Examiner's decision or reject the Hearing Examiner's decision. If the Council rejects the Hearing Examiner's recommendation, it may conduct its own *de novo* public hearing or, in the alternative, remand it to the Hearing Examiner for a public hearing in consideration of the Council's findings and conclusions on modification. The Council's decision on the application shall be based upon:

- a. The City of Gig Harbor Shoreline Master Program
- b. Policies of Chapter 90.58 RCW
- c. Written and oral comment from interested persons
- d. Findings and conclusions of the Hearing Examiner

Documents pertinent to your review are attached.

**CITY OF GIG HARBOR
SHORELINE MANAGEMENT
SUBSTANTIAL DEVELOPMENT PERMIT**

- Substantial Development
- Conditional Use
- Variance

Application No: SDP 95-02

Date Received: June 16, 1995

Approved:

Denied:

Date of Issuance: October 9, 1995

Date of Expiration: October 9, 2000

Pursuant to RCW 90.58, a permit is hereby granted/denied to:

Richard O. Williams
3215 Harborview Drive
Gig Harbor, WA 98332

To undertake the following development:

Add five uncovered moorage slips to existing marina per site plan dated December 27, 1994 and as modified by applicant September 18, 1995; remove fueling facility and fuel storage tanks.

Upon the following property:

3215 Harborview Drive, Assessor's parcel 7650000020

On the Gig Harbor Bay Shoreline and/or its associated wetlands. The project will not be within shorelines of Statewide Significance per RCW 90.58.030 and is within an Urban Environment designation.

Development pursuant to this permit shall be undertaken subject to the following terms and conditions:

1. Except for the moorage indicated on the submitted site plan, no other moorage is permitted. Moorage at the easterly outer float is limited to a maximum vessel length of 30 feet and this shall be so signed at this moorage slip.
2. The new slips shall not be covered.
3. Prior to permit issuance, a pump-out facility plan shall be submitted to and approved by the Gig Harbor Public Works and Planning Departments. The pump-out shall be conveniently accessible to all boats. The pump-out facility shall be installed and operational prior to issuance of an occupancy permit.
4. The project shall comply with all HPA requirements as determined by the Department of Fisheries.
5. Fire hydrants and water mains must be extended to within 150 feet of all portions of each building and the marina facilities. Marina hose racks and fire lines must conform to the present Gig Harbor Fire Code.
6. Fire flow volume will be required dependant upon the site use. See Appendix Table No. A-III-A-1, 1991 UBC.
7. City of Gig Harbor Fire Flow is presently available on Harborview Drive.
8. Knox Box will be required for access to the marina if access is restricted. The exitway from the marina and buildings must be openable from the inside without use of key or special knowledge.
9. Roadways and fire lanes must be reviewed (Submit a parking plan that show the fire lane and parking stall dimensions to scale).
10. 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. State existing and proposed use of each building.
11. Fire protection and access is limited due to existing structures and marina facilities. Provide setup areas and fire lanes around the buildings in accordance with PC Fire District No. 5 requirements.
12. The applicant shall comply with all applicable provisions of the City of Gig Harbor Fire Code. Required improvements shall be subject to review and approval of the Gig Harbor Fire Marshal in consultation with Fire District #5, as appropriate. Required improvements shall be installed prior to issuance of the certificate of occupancy.

Findings for Approval:

The application is consistent with the following policies and regulations:

Gig Harbor Shoreline Master Program:

Section 3.11 - MARINAS, MOORAGE FACILITIES, PIERS, DOCKS AND FLOATS includes, in part, the following policies and regulations:

POLICIES:

1. Marina developments should be designed and constructed to minimize interference with views.
2. Marinas should be designed so that they will have minimum interference with public use of the surface of the water and should not extend beyond the Outer Harbor Line.
3. Marinas should be designed to provide vessel access consistent with the established private property and state lease land boundaries.
4. Marinas should be located and constructed so that they minimize harmful effects to the water quality or the aquatic life and habitat.
5. Piers and floats should be designed so that they will have minimum interference with the public use of the water's surface and access along the water's edge.
6. Piers and floats should be designed to accommodate a wide range of uses wherever feasible.
7. Adjoining waterfront property owners should be encouraged to share a common pier or float.
8. Where liveaboard vessels are moored, provisions would be made to transfer waste discharges from vessels to a permitted or approved waste water treatment facility.

REGULATIONS:

3. Automobile parking shall be provided by the marina developer at the following ratios: (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.
4. Marinas shall be designed, built, and operated so that no part of a pier or float or moored watercraft extends waterward of the outer harbor line at any time.
7. All moorage, wharves, piers floats and vessels moored at marina facilities shall be located no closer than twelve feet from the property line, either private property or state lease land. Location 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. All space greater than twenty-four feet in width is intended to be provided by the applicant or through an agreement with the adjacent property owner/lessee.

9. Where moorage is offered in new, expanded or renovated existing marinas, pump-out, holding and/or treatment facilities shall be provided for sewage contained on boats and/or vessels. Such facilities shall be located so as to be conveniently accessible to all boats. The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste and petroleum waste lies with the marina operator.

City of Gig Harbor Zoning Ordinance:

The existing facility is located within the WM (Waterfront Millville, Section 17.46). Moorage facilities are permitted in this zone.

The proposal complies with the minimum parking standards of the City of Gig Harbor Zoning Code.

Shoreline Management Act (RCW 90.58)

The Shoreline Management Act provides the legal basis of the goals and objectives of all local shoreline master programs. The Shoreline Management Act finds that:

"In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible, consistent with the overall best interest of the state and people generally...

"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers and other improvements facilitating public access to shoreline of the state..."

The expanded moorage would be located on a Shoreline of Statewide Significance (RCW 90.58.030(2)(e)(ii)E(iii)) and the following general guidelines (RCW 90.58.020), in order of preference, are stated:

- A. Preserve and protect the state-wide interest over local interest.
- B. Preserve the natural character of the shoreline.
- C. Result in long-term over short-term benefit.
- D. Protect the resources and ecology of the shorelines.
- E. Increase public access to publicly owned areas of the shorelines.
- F. Increase recreational opportunities for the public in the shoreline.
- G. Provide for any other development as defined in RCW 90.58.100 deemed appropriate or necessary.

The proposal provides increased recreational opportunities for the public and is an acceptable use for a Shoreline of Statewide Significance.

This permit is granted pursuant to the Shoreline Management Act of 1972 and the City of Gig Harbor 1994 Shoreline Master Program. Nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with the Shoreline Management Act, RCW 90.58.

This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms or conditions hereof.

Construction pursuant to this permit will not begin and is not authorized until thirty (30) days from the date of filing with the Department of Ecology as defined under RCW 90.58.140(6) or until all review proceedings initiated within thirty (30) days from the date of such filing have terminated, except as provided in RCW 90.58.140 (5)(a-c).

(Date)

Mayor, City of Gig Harbor

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE OR VARIANCE PERMIT.**

Date received: _____

Approved _____

Denied _____

Development shall be undertaken pursuant to the following additional terms and conditions:

Date

Signature of Authorized Department Official

CITY OF GIG HARBOR
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION

APPLICANT: Richard O. Williams
CASE NO.: SDP 95-02
LOCATION: 3215 Harborview Drive

APPLICATION: Request for approval of a Shoreline Substantial Development permit to add five uncovered slips for vessels greater than 45 feet in length. The slips would be added to the end of the existing dock. Also included in the proposal is a request to remove the existing fueling facilities at the end of the float and to remove the existing fuel tanks. The existing service float is proposed to be retained.

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 Williams application was opened at 5:46 p.m., September 13, 1995, in the City Hall, Gig Harbor, Washington, and closed at 6:04 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:

Ray Gilmore, Planning Director, reviewed the staff report and the supplemental staff report (Exhibits A and C).

From the Applicant:

Wendell Stroud, Agent for the Applicant, reviewed the application and said there would be no change of use to the structures. He said the applicant would like to have a total of two liveboards at the marina. He noted that one is there now. He said no moorage is proposed on the north side of the addition and he said there are not plans to cross the outer harbor line. He submitted revised plans (Exhibit F) which showed a reduced length of one of the mooring slips.

Case No. SDP 95-02

Page 2

From the Community:

No one from the general public spoke at the hearing.

WRITTEN COMMENTS:

Three letters were submitted by D.O.E. Those letters resulted in staff preparing a supplemental staff report (Exhibit C with attachments). The applicant responded in writing to the issues raised in the supplemental staff report (see Exhibit D).

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 information contained in Sections I through VII of the Planning Staff Advisory Report (Hearing Examiner Exhibit A) is found by the Hearing Examiner to be supported by the evidence presented during the hearing and by this reference is adopted as a part of the Hearing Examiner's findings of fact. A copy of said report is available in the Planning Department.
2. No grading is to take place on site.

B. CONCLUSIONS:

1. If approved subject to the conditions listed below, the application will comply with the goals and policies for development of the shoreline found in parts 2 and 3 of the City's Shoreline Master Program.

C. RECOMMENDATION:

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

1. Except for the moorage indicated on the revised site plan, no other moorage is permitted. Moorage at the easterly outer float is limited to a maximum vessel length of 30 feet and this shall be so signed at this moorage slip.
2. The new slips shall not be covered.
3. Prior to permit issuance, a pump-out facility plan shall be submitted to and approved by the Gig Harbor Public Works and Planning Departments. The pump-out shall be conveniently accessible to all boats. The pump-out facility shall be installed and operational prior to issuance of an occupancy permit.
4. The project shall comply with all HPA requirements as determined by the Department of Fisheries.

Case No. SDP 95-02

Page 3

5. Fire hydrants and water mains must be extended to within 150 feet of all portions of each building and marina facilities. Marina hose racks and fire lines must conform to the present Gig Harbor Fire Code.
6. Fire flow volume will be required dependent upon the site use. See Appendix Table No. A-III-A-1, 1991 UBC.
7. City of Gig Harbor Fire Flow is presently available on Harborview Drive.
8. Knox Box will be required for access to the marina if access is restricted. The exitway from the marina and buildings must be openable from the inside without use of key or special knowledge.
9. Roadways and fire lanes must be reviewed (Submit a parking plan that shows the fire lane and parking stall dimensions to scale).
10. 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. State existing and proposed use of each building.
11. Fire protection and access is limited due to existing structures and marina facilities. Provide setup areas and fire lanes around the buildings in accordance with PC Fire District No. 5 requirements.
12. The applicant shall comply with all applicable provisions of the City of Gig Harbor Fire Code. Required improvements shall be subject to review and approval of the Gig Harbor Fire Marshall in consultation with Fire District #5, as appropriate. Required improvements shall be installed prior to issuance of the certificate of occupancy.

Dated this 22nd day of September, 1995.


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.

Case No. SDP 95-02

Page 4

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:

The following exhibits were offered and entered into the record:

- A. Staff report, with attachments
- B. Photo of existing marina
- C. Supplemental Staff report, with three attached letters from D.O.E.
- D. Letter from Richard Williams, dated 9/12/95
- E. Project Description
- F. Revised Plans
- G. Revised Condition #12

PARTIES OF RECORD:

Richard Williams
3215 Harborview Drive
Gig Harbor, WA 98335

Elizabeth Phinney
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

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



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

**STAFF REPORT AND
ENVIRONMENTAL EVALUATION
TO THE HEARING EXAMINER**

Pleasurecraft Marina (Richard Williams)
Addition of Five Moorage Slips/Removal of Fueling Facilities
August 30, 1995

I. GENERAL INFORMATION

APPLICANT: Richard O. Williams
3215 Harborview Drive
Gig Harbor, WA 98332
Phone: 858-2350

OWNER: Richard O. Williams
3215 Harborview Drive
Gig Harbor, WA 98332
Phone: 858-2350

AGENT: Wendell Stroud
P.O. Box
Tacoma, WA
Phone: 383-2740

II. PROPERTY DESCRIPTION

1. **Location:** 3215 Harborview Drive
Tax assessor's parcel #7650000020
2. **Site Area/Acreage:** 1.28 acres
3. **Natural Site Characteristics:**
 - i. **Soil Type:** (Gig Harbor Bay)
 - ii. **Slope:** 2-3% (bottom of bay)
 - iii. **Drainage:** n/a

iv. **Vegetation:** none - upland portion of site 100% developed

4. **Zoning:**

- i. **Subject parcel:** WM (Waterfront Millville)
- ii. **Adjacent zoning and land use:**
 - North:** WM
 - South:** WM
 - East:** Gig Harbor Bay
 - West:** DB (Downtown Business)

5. **Utilities/road access:** The parcel is served by City sewer and water and is accessed off Harborview Drive.

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

1. **Comprehensive Plan:** The Comprehensive Plan designates this area as waterfront.

Pg. 71 - **GOAL - Protect Natural Quality.** Preserve and protect the unique, interdependent relationship between the water, land and cultural heritage.

Pg. 72, #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.

Pg. 72, #2 - **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 to the outer harbor line.

2. **Gig Harbor Shoreline Master Program:**

Section 3.11 - **MARINAS, MOORAGE FACILITIES, PIERS, DOCKS AND FLOATS** includes, in part, the following policies and regulations:

POLICIES:

- 1. Marina developments should be designed and constructed to minimize interference with views.
- 2. Marinas should be designed so that they will have minimum interference with public use of the surface of the water and should not extend beyond the Outer Harbor Line.
- 3. Marinas should be designed to provide vessel access consistent with the established

private property and state lease land boundaries.

4. Marinas should be located and constructed so that they minimize harmful effects to the water quality or the aquatic life and habitat.
5. Piers and floats should be designed so that they will have minimum interference with the public use of the water's surface and access along the water's edge.
6. Piers and floats should be designed to accommodate a wide range of uses wherever feasible.
7. Adjoining waterfront property owners should be encouraged to share a common pier or float.
8. Where liveaboard vessels are moored, provisions would be made to transfer waste discharges from vessels to a permitted or approved waste water treatment facility.

REGULATIONS:

3. Automobile parking shall be provided by the marina developer at the following ratios: (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.
4. Marinas shall be designed, built, and operated so that no part of a pier or float or moored watercraft extends waterward of the outer harbor line at any time.
7. All moorage, wharves, piers floats and vessels moored at marina facilities shall be located no closer than twelve feet from the property line, either private property or state lease land. Location 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. All space greater than twenty-four feet in width is intended to be provided by the applicant or through an agreement with the adjacent property owner/lessee.
9. Where moorage is offered in new, expanded or renovated existing marinas, pump-out, holding and/or treatment facilities shall be provided for sewage contained on boats and/or vessels. Such facilities shall be located so as to be conveniently accessible to all boats. The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste and petroleum waste lies with the marina operator.

3. Zoning Ordinance:

The existing facility is located within the WM (Waterfront Millville, Section 17.46).

Moorage facilities are permitted in this zone.

Respective to boat moorage, Section 17.76 requires the following:

- A. The approval of the City Engineer as to structural integrity and safety.
- B. Moorage must be at least 12 feet from a side property line.
- C. Fences or other obstruction to the view from adjacent properties or the street shall not be permitted.
- D. Parking for activities related to watercraft shall be provided with the following ration of off-street automobile parking spaces to moorage:
 - 1. Moorage/slip less than 45 feet, one space for every two berths.
 - 2. Moorage/slip 45 feet or longer, one space for every berth.
 - 3. All moorage facilities shall provide a minimum of two parking spaces.

Shoreline Management Act (RCW 90.58)

The Shoreline Management Act provides the legal basis of the goals and objectives of all local shoreline master programs. The Shoreline Management Act finds that:

"In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible, consistent with the overall best interest of the state and people generally...

"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers and other improvements facilitating public access to shoreline of the state..."

The expanded moorage would be located on a Shoreline of Statewide Significance (RCW 90.58.030(2)(e)(ii)E(iii)) and the following general guidelines (RCW 90.58.020), in order of preference, are stated:

- A. Preserve and protect the state-wide interest over local interest.
- B. Preserve the natural character of the shoreline.
- C. Result in long-term over short-term benefit.
- D. Protect the resources and ecology of the shorelines.
- E. Increase public access to publicly owned areas of the shorelines.
- F. Increase recreational opportunities for the public in the shoreline.
- G. Provide for any other development as defined in RCW 90.58.100 deemed appropriate or necessary.

The proposal provides increased recreational opportunities for the public and is an acceptable use for a Shoreline of Statewide Significance.