

GIG HARBOR CITY COUNCIL MEETING

JANUARY 11, 1993

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

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
JANUARY 11, 1993

PUBLIC COMMENT/DISCUSSION:

CALL TO ORDER:

APPROVAL OF MINUTES:

CORRESPONDENCE:

OLD BUSINESS:

1. Second Reading - 1992 Budget Amendment.

NEW BUSINESS:

1. Sewer Extension Request - William Cuddy.
2. Resolution to Reclassify Existing Sergeant Position and Add Lieutenant Position.
3. Resolution to Add Construction Inspector Position.
4. Contract - City of Gig Harbor Prosecutor.
5. Hazardous Waste Project Interlocal Agreement.
6. Hearing Examiner Recommendation - SDP 92-03 Hugh Magnussen.
7. Hearing Examiner Recommendation - SDP 92-04 Pete Darrah.
8. Appeal of Hearing Examiner Decision - VAR 92-08 Wade Perrow.
9. Hearing Examiner Recommendation - PUD 9101(R-2) Rush Construction.

DEPARTMENT MANAGERS' REPORTS:

1. Ray Gilmore, Planning.
2. Ben Yazici, Public Works.
3. Chief Denny Richards.

MAYOR'S REPORT:

Urban Growth Boundary Update.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Workshop to establish Urban Growth Boundary Utility Extension Policy.
2. Workshop - Vision Survey Report by Tom Beckwith.

APPROVAL OF PAYROLL:

Warrant #7883 used as feeder. Warrants #7884 through #7998, less 7885, 7886, 7888 and 7916 through 7922 which jammed in printer.
Total amount: \$140,527.37.

APPROVAL OF BILLS:

Warrants # through # in the amount of \$

EXECUTIVE SESSION:

1. To discuss personnel issues.

ADJOURN:

REGULAR GIG HARBOR CITY COUNCIL MEETING OF DECEMBER 14, 1992

PRESENT: Councilmembers Frisbie, Stevens-Taylor, Platt, Markovich, and Mayor Wilbert. Councilmember English not present.

PUBLIC COMMENT: None.

CALL TO ORDER: 7:02 p.m.

APPROVAL OF MINUTES:

MOTION: To approve the minutes of the meeting of November 23, 1992.
Markovich/Frisbie - unanimously approved.

CORRESPONDENCE: None scheduled.

OLD BUSINESS:

1. Ordinance Amending Height Overlay District - 2nd Reading.
Planning Director Ray Gilmore gave a brief overview of the second reading. Planning Associate Steve Osguthorpe addressed concerns that arose from the first reading and explained the flexibility of some of the options available. Councilmember Markovich stated he'd like to table this item until after the visioning process was complete. Wayne Tanaka explained that according to Code 12080, if action was not taken to adopt the Ordinance at this meeting, it must be reintroduced.

Jack Bujacich - 3607 Ross Avenue; spoke in favor of postponing action on the ordinance until more study could be done. He felt that the majority of citizens were happy with the way things currently are.

No action taken.

2. Hearing Examiner Recommendations - SDP91-02 (Gig Harbor Marina.
Ray Gilmore explained the proposal and how with information regarding the tidelands, it meet all necessary requirements. Proponent Walt Williamson answered council questions.

MOTION: Move to not approve the 10 foot variance.
No second to the motion.

MOTION: Move we adopt Resolution 365 with the following additions: Under Item 3; there shall be 70 designated parking spaces provided as depicted on the applicant's drawing prepared by SK Engineers, dated November 9, 1992, pages 3 & 4. Add Item 8 -

Landscaping will be provided in accordance to Chapter 17.78 of the Gig Harbor Municipal Code and would be installed in the areas depicted on applicant's sketch dated November 9, 1992, sheets 3 & 4.

Frisbie/Stevens-Taylor - unanimously approved.

NEW BUSINESS:

1. ULID #3 Contract Award.

Ben Yazici presented the bid opening information. He recommended awarding the contract, per schedule #2, to Active Construction, low bidder at \$1,613,720.79. He gave an overview of the project and explained the five schedules.

MOTION: Move to approve the contract for Active Construction for \$1,613,720.79, which includes Washington States Sales Tax.
Frisbie/Stevens-Taylor - unanimously approved.

2. Street Striping Contract Award.

Ben Yazici presented the bid results for this project and recommended that council award the contract to the low bidder, Apply-A-Line, Inc. for \$3,995.00.

MOTION: Move to approve the contract for the street striping project to Apply-A-Line for \$3,995.
Frisbie/Stevens-Taylor - unanimously approved.

3. Grande Bank Subdivision/Reid Road Sewer Extension Request.

Ben Yazici explained the difference between the request denied by council previously and the new request for sewer extension. He recommended that council approve the extension request with three contingencies: 1) That Mr. Edwards build a gravity sewer line along Reid Road from the Hollycroft intersection to the Grand Bank Subdivision; 2) Mr. Edwards must eliminate the lift station at LongAcres and deliver the equipment to the city shop; and 3) The amount of the Latecomer's Agreement will be determined at a later date when the agreement is prepared by the city attorney and public works director for council's approval. Mr. Edwards answered council's questions.

MOTION: Move to approve the Grand Bank Sewer Extension Request.
Frisbie/Stevens-Taylor - four votes in favor,
Councilman Platt abstaining.

4. Burnham Drive Sidewalk Contract.

Ben Yazici presented the project to build 1,400 linear feet of sidewalk along Burnham Drive starting at North Harborview and ending at the Credit Union building, on the east side of the road.

MOTION: To award the contract as recommended by the Public Works Director.
Platt/Steven-Taylor - no action taken.

Councilman Frisbie suggested postponing this project and putting the funds for this project towards construction on North Harborview. It was decided to table this item until after budget discussion.

MOTION: Move to table this item until the end of the council meeting.
Frisbie/Stevens-Taylor - unanimously approved.

5. 1992 Budget Amendment Ordinance - First Reading.
Tom Enlow, Finance Director, explained the technical adjustments to the 1992 budget and answered questions. Wayne Tanaka is going to check on the propriety of changing a budget after year end. Second reading to be held at first council meeting in January of 1993.

PUBLIC HEARINGS:

1. 1993 Budget Ordinance - 2nd Reading.
Mark Hoppen gave a presentation of the second reading of the 1993 Budget Ordinance.

MOTION: To approve the budget as presented.
Frisbie/Markovich - no action taken.

Tom Enlow presented the budget and answered questions. He explained that the county had just let him know that property taxes were going to be \$50,000 less than expected, which resulted in some amended figures. After discussion between staff and council, the attached amended figures for the 1993 budget are attached to these minutes. Ben Yazici will further research options for a street sweeper, and Tom Enlow offered to present council with monthly updates on the budget and expenditure process in the upcoming year.

MOTION: To approve the amended budget as presented in attached sheet.
Frisbie/Platt - unanimously approved.

MOTION: Move to bring back Burnham Drive Sidewalk Project previously tabled from beginning of council meeting.
Frisbie/Markovich - unanimously approved.

Discussion regarding this project led to the following motions.

MOTION: Move to approve contract as recommended by Public Works Director.
Frisbie/Markovich - all opposed.

MOTION: Move to reject all bids and move funds allotted for the Burnham Drive Sidewalk Project to the Harborview North project.
Frisbie/Stevens-Taylor - unanimously approved.

DEPARTMENT MANAGERS' REPORTS:

1. Chief Denny Richards. No report was given.

MAYOR'S REPORT:

1. Funding Allocation for Olympic Interchange. No report given.

ANNOUNCEMENT OF OTHER MEETINGS:

1. No Council Meeting on December 28th.

MOTION: Councilmembers Frisbie and Stevens-Taylor will come to City Hall on the 28th of December to sign warrants.
Markovich/Frisbie - unanimously passed.

APPROVAL OF BILLS:

MOTION: To approve warrants #9779 through #9899, less #9787 thru #9790, due to jams, in the amount of \$79,303.81.
Platt/Stevens-Taylor - unanimously approved.

EXECUTIVE SESSION:

MOTION: To go into executive session at to discuss Labor Contracts at 10:30 p.m.
Frisbie/Steven-Taylor - unanimously approved.

MOTION: To return to regular session at 11:55.
Stevens-Taylor/Platt - unanimously approved.

ADJOURN:

MOTION: To adjourn at 1:00 a.m.
Stevens-Taylor/Platt - unanimously approved.

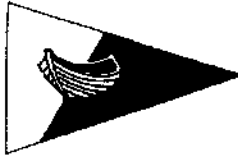
Cassette recorder utilized.
Tape 297 Side B 000 - end.
Tape 298 Side A 000 - end.
Tape 298 Side B 000 - end.
Tape 299 Side A 000 - 430.

Mayor

City Administrator

CITY OF GIG HARBOR
1993 BUDGET APPROPRIATIONS

FUND / DEPARTMENT		AMOUNT
001	GENERAL GOVERNMENT	
01	NON-DEPARTMENTAL	\$449,294
02	LEGISLATIVE	12,620
03	MUNICIPAL COURT	159,946
04	ADMINISTRATIVE/FINANCIAL	237,618
06	POLICE	736,010
14	COMMUNITY DEVELOPMENT	212,642
15	PARKS AND RECREATION	114,766
16	BUILDING	24,900
19	ENDING FUND BALANCE	98,475
001	TOTAL GENERAL FUND	<u>2,046,271</u>
101	STREET FUND	800,464
105	DRUG INVESTIGATION FUND	11,250
107	HOTEL-MOTEL FUND	1,000
200	'78 GO BONDS - FIRE	21,000
201	'75 GO BONDS - SEWER	82,000
202	'85 GO BONDS - PW BLDG	30,700
203	'87 GO BONDS - SEWER CONSTR	588,612
208	91 GO BONDS - SOUNDVIEW DRIVE	100,000
301	GENERAL GOVT CAPITAL ASSETS	218,000
305	GENERAL GOVT CAPITAL IMPROVEMENT	86,000
401	WATER OPERATING	460,008
402	SEWER OPERATING	670,551
407	UTILITY RESERVE	414,000
408	'89 UTILITY BOND REMPTION FUND	416,271
410	SEWER CAPITAL CONSTRUCTION	1,700,000
411	STORM SEWER OPERATING	181,707
413	ADV REFUNDING BOND REDEMPTION	118,895
414	ULID #3 CONSTRUCTION	1,770,000
420	WATER CAPITAL ASSETS	179,588
605	LIGHTHOUSE MAINTENANCE TRUST	4,140
	TOTAL ALL FUNDS	<u><u>\$9,900,457</u></u>



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: Mayor Wilbert and City Council

FROM: Tom Enlow *TE*

DATE: January 8, 1993

SUBJECT: 1992 Budget Amendment

This is the second reading of an ordinance amending the 1992 budget. These are technical adjustments authorizing the close-out of funds, formalizing previous approval of expenditures or authorizing transfers of funds.

An additional \$6000 is appropriated in the Merit Salary fund as approved by Council in August. Of this amount, the remaining cash balance of approximately \$150 will be transferred to the General fund and the fund will be closed.

\$150 is appropriated in the Kimball-Hunt Construction fund and the cash balance is authorized to be transferred to the Street fund in order to close the fund.

\$100 is appropriated in the ULID #2 Construction fund and the cash balance is authorized to be transferred to the Sewer fund in order to close the fund.

\$1,900,000 is appropriated in the ULID #3 Construction fund for design and construction of that project and for the ending cash balance. This was approved when the ULID was created and when the bond anticipation notes were issued.

Finally, a transfer of the Risk Management fund cash balance of approximately \$10,000 to the General fund is authorized in order to close the fund. The fund is no longer necessary as insurance and claims expenses are now budgeted and paid from the appropriate fund and department.

CITY OF GIG HARBOR

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 1992 BUDGET FOR THE CITY OF GIG HARBOR, WASHINGTON.

WHEREAS, adjustments to the 1992 annual appropriations are necessary to conduct city business,

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, ORDAINS as follows:

Section 1.

The annual appropriations in the funds listed below shall be increased to the amounts shown:

<u>Fund</u>	<u>Original Appropriations</u>	<u>Amendment</u>	<u>Amended Appropriations</u>
104-Merit Salary	\$20,670	\$6,000	\$26,670
106-Kimball-Hunt Const.	0	150	150
409-ULID#2 Const.	0	100	100
414-ULID#3 Const.	0	1,900,000	1,900,000

Section 2.

The following interfund transfers are within 1992 appropriations, as amended, and are hereby authorized:

<u>Originating Fund</u>	<u>Receiving Fund</u>	<u>Amount</u>
103-Risk Management	001-General	\$10,000
104-Merit Salary	001-General	150
106-Kimball-Hunt Const.	101-Street	150
409-ULID#2 Const.	402-Sewer	100

Section 3. This ordinance shall be in force and take effect five(5) days after its publication according to law.

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 _____ day of _____, 199_.

Gretchen A. Wilbert, Mayor

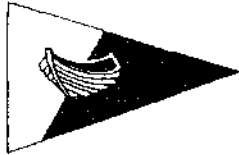
1992 Budget Amendment Ordinance

Page 2

ATTEST:

Mark Hoppen
City Administrator/Clerk

Filed with city clerk:
Passed by the city council:
Date published:
Date effective:



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

To: Mayor Wilbert and City Council Members
From: Mark Hoppen, City Administrator *MH*
Subject: Sanitary Sewer Request
Date: 1/7/93

The attached letter and map was received from Mr. William Cuddy, requesting sanitary sewer extension to property immediately north of Gig Harbor city limits and adjacent to Peacock Hill Road. The property is improved with two single family homes and one duplex. Mr. Cuddy is requesting four ERUs of service.

The property is located within the proposed city urban growth area and is currently within the defined Comprehensive Plan urban area. The property would be served by the ULID #1 system and the rate paid for connection would be at \$1510/ERU, the outside rate for ULID #1. This request is within the current capacity limitations of the system.

Mr. Cuddys's total connection fee would be \$6,040. He requests a Sanitary Sewer Capacity and Commitment Agreement for a two year period, paying a commitment payment of 10%, which would apply during the contract period to the total connection fee.

Recommendation:

The staff recommendation is that Mr. Cuddy be approved for four ERUs of sanitary sewer service and that \$604 be paid to the city within 30 days in order to secure the two year reservation.

WILLIAM T. CUDDY
7804 Stinson Ave
Gig Harbor, WA 98335
(206) 851-5766

November 16, 1992

Gig Harbor City Council
P.O. Box 145
Gig Harbor, WA 98335

RE: Sewer Extension Service for 9909 Peacock Hill Ave
Tax Parcel: 222323123

Dear Chairperson and Members of the Council:

I am making application for an extension of sewer service to accommodate four residential units on the above described property.

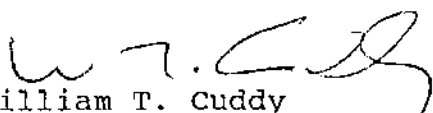
The property is presently improved with two single family houses and one duplex. The improvements are currently serviced by a common septic tank and drain field. Sewer extension and hookup will replace the existing septic system.

While the system can presently accommodate the existing units, there is always the threat of system failure. Additionally, the duplex is serviced by a water utility, but water to the main house is provided by a well located on the property. There is a real environmental concern about dumping waste water into the ground and eventual contamination of the well. Your approval of our request for sewers relieves the threat of system failure, and relieves the concern of contamination of the water supply.

Finally, the property's southern property line is adjacent to the Gig Harbor City limits. Because of the property's proximity to the city limits, it is inevitable that the property will be annexed into the city and that sewer hookups will be available. Because the property will be eventually annexed into the city, your approval will facilitate our timely connection to the city's sewers.

I urge the council to give consideration and approval to this request for sewer extensions because your approval will eliminate the threat of system failure, because your approval will mitigate the concern about contamination of the well, and because your approval will expedite the eventual connection to the city's system.

Respectfully submitted,


William T. Cuddy

C E R T I F I C A T I O N

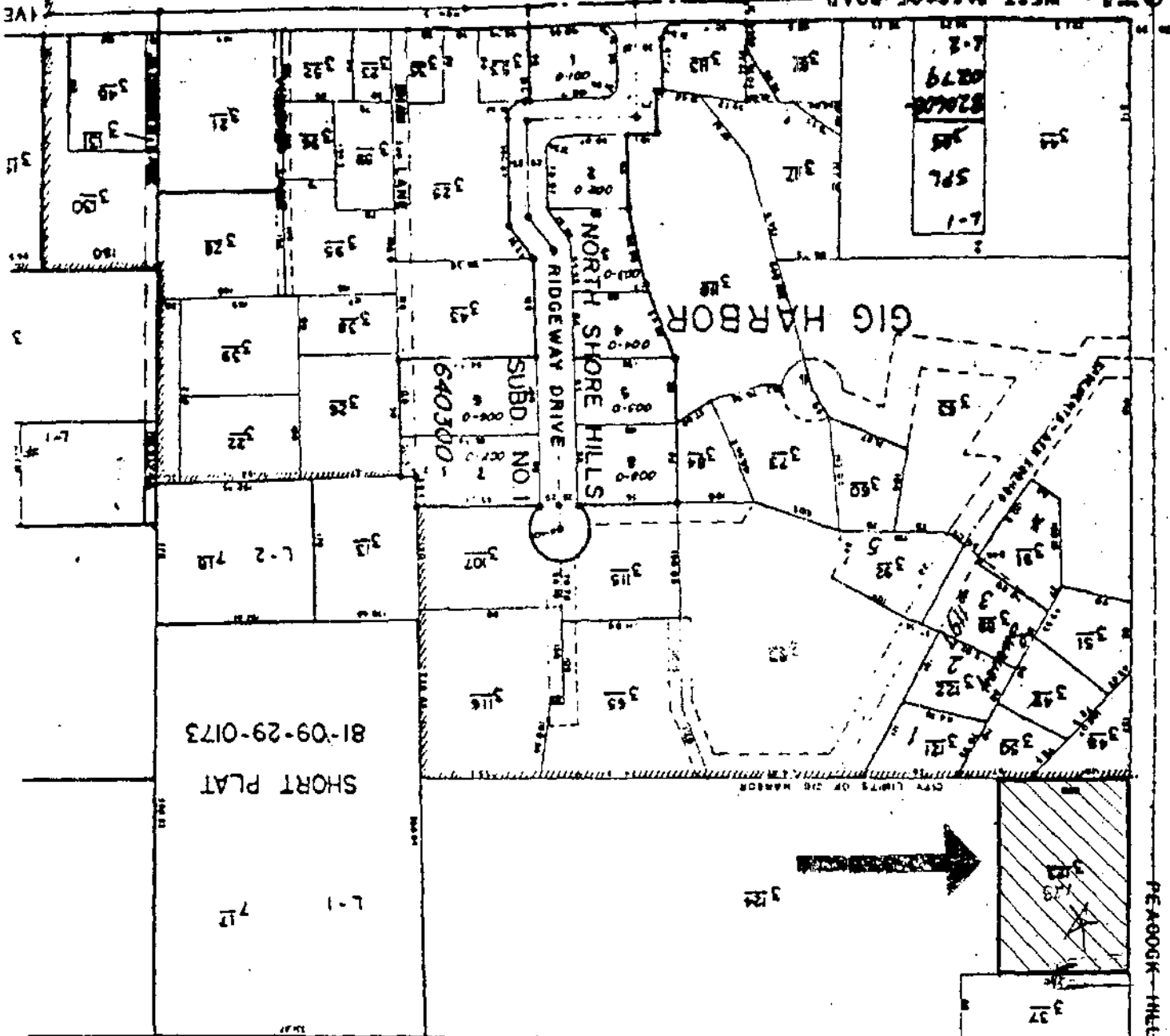
I, William T. Cuddy, provide that I am the owner of that property located at 9909 Peacock Hill Ave, Tax Parcel number 222323123, pursuant to that Option to Purchase Agreement dated October 3, 1992, and exercise of its terms and conditions of contract between myself and Kathleen and Donald Minor, (Sellers), and which provides authority to request and apply for all permits necessary to consummate the contemplated transaction.

W. T. Cuddy
William T. Cuddy

Date: Nov 16, 1992

THIS IS NOT A SURVEY

WEST MESSAGE ROAD



SHORT PLAT 81-09-29-0173

L-1 712

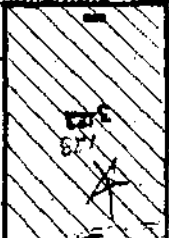
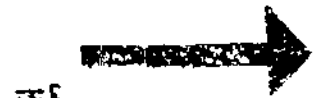
SUBD. NO. 1
640300-

RIDGWAY DRIVE

NORTH SHORE HILLS

GIG HARBOR

L-1
597
52000
0279
L-2



CITY LIMITS OF GIG HARBOR

PEABODI HILLS AVE. N.W.

PURDY GIG HARB

409993

This plat is a subdivision of land owned by the State of Oregon, and is subject to the provisions of the Oregon Land Use Act, Chapter 215, Oregon Revised Statutes, and the Oregon Land Use Rules, Chapter 590, Oregon Administrative Rules. The plat is subject to the provisions of the Oregon Land Use Act, Chapter 215, Oregon Revised Statutes, and the Oregon Land Use Rules, Chapter 590, Oregon Administrative Rules. The plat is subject to the provisions of the Oregon Land Use Act, Chapter 215, Oregon Revised Statutes, and the Oregon Land Use Rules, Chapter 590, Oregon Administrative Rules.

UTILITY EXTENSION, CAPACITY AGREEMENT
AND AGREEMENT WAIVING RIGHT TO PROTEST LID

THIS AGREEMENT is entered into on this 11th day of January, 1993, between the City of Gig Harbor, Washington, hereinafter referred to as the "City", and William Cuddy, hereinafter referred to as "the Owner".

WHEREAS, the Owner is the owner of certain real property located in Pierce County which is legally described as set forth in Exhibit "A" attached hereto and incorporated herein by this reference as though set forth in full, and

WHEREAS, the Owner's property is not currently within the City limits of the City, and

WHEREAS, the Owner desires to connect to the City sewer utility system, hereinafter referred to as "the utility" and is willing to allow connection only upon certain terms and conditions in accordance with Title 13 of the Gig Harbor Municipal code, as now enacted or hereinafter amended, NOW, THEREFORE,

FOR AND IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties agree as follows:

1. Warranty of Title. The Owner warrants that he/she is the Owner of the property described in Exhibit "A" and is authorized to enter into this Agreement.

2. Extension Authorized. The City hereby authorizes the Owner to extend service to Owner's property from the existing utility line on Peacock (street or right-of-way) at the following location:

9909 Peacock Hill Avenue

3. Costs. Owner will pay all costs of designing, engineering and constructing the extension. All construction shall be done to City standards and according to plans approved by the City's Public Works Director. Any and all costs incurred by the City in reviewing plans and inspecting construction shall be paid for by the Owner.

4. Sewer Capacity Commitment. The City agrees to provide to the Owner sewer utility service and hereby reserves to the Owner the right to discharge to the City's sewerage system nine hundred twenty four (924) gallons per day average flow. These capacity rights are allocated

only to the Owner's system as herein described. Any addition to this system must first be approved by the City. Capacity rights acquired by the Owner pursuant to this agreement shall not constitute ownership by the Owner of any facilities comprising the City sewerage system. The City agrees to reserve to the Owner this capacity for a period of 24 months ending on January 11, 1995, provided this agreement is signed and payment for sewer capacity commitment received within 45 days after City Council approval of extending sewer capacity to the Owner's property. Sewer capacity shall not be committed beyond a three year period.

5. Capacity Commitment Payment. The Owner agrees to pay the City the sum of six hundred and four dollars (\$604.00) to reserve the above specified time in accordance with the schedule set forth below.

Commitment period	Percent (%) of Connection Fee
One year	Five percent (5%)
<u>Two years</u>	Ten percent (10%)
Three years	Fifteen percent (15%)

In no event, however, shall the Owner pay the City less than five hundred dollars (\$500) for commitment for sewer reserve capacity. In the event the Owner has not made connection to the City's utility system by the date set forth above, such capacity commitment shall expire and the Owner shall forfeit one hundred percent (100%) of this capacity commitment payment to cover the City's administrative and related expenses.

In the event the Pierce County Boundary Review Board should not approve extension of the City's sewer system prior to the extension of the commitment period, the Owner shall be entitled to a full refund (without interest) from the City of the capacity agreement.

6. Extension of Commitment Period. In the event the Owner chooses to permanently reserve sewer capacity by paying the entire connection fee for the number of equivalent residential units desired to be reserved before the expiration date set forth above, the Owner shall be responsible for paying each year for the sewer utility system's depreciation based on the following formula: (Owner's reserved capacity divided by the total plant capacity times the annual budgeted depreciation of the sewer facilities.)

7. Permits - Easements. Owner shall secure and obtain, at Owner's sole cost and expense any necessary permits, easements and licenses to construct the extension, including, but not limited to, all necessary easements, excavation permits, street use permits, or

other permits required by state, county and city governmental departments including the Pierce County Public Works Department, Pierce County Environmental Health Department, State Department of Ecology, Pierce County Boundary Review Board, and City of Gig Harbor Public Works Department.

8. Turn Over of Capital Facilities. If the extension of utility service to Owner's property involves the construction of water or sewer main lines, pump stations, wells, and/or other city required capital facilities, the Owner agrees to turn over and dedicate such facilities to the City, at no cost, upon the completion of construction and approval and acceptance of the same by the City. As a prerequisite to such turn over and acceptance, the Owner will furnish to the City the following:

- A. As built plans or drawings in a form acceptable to the City Public Works Department;
- B. Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City Attorney;
- C. A bill of sale in a form approved by the City Attorney; and
- D. A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the City Public Works Director, ensuring that the facilities will remain free from defects in workmanship and materials for a period of two (2) year(s).

9. Connection Charges. The Owner agrees to pay the connection charges, in addition to any costs of construction as a condition of connecting to the City utility system at the rate schedules applicable at the time the Owner requests to actually connect his property to the system. Any commitment payment that has not been forfeited shall be applied to the City's connection charges. Should the Owner not initially connect 100% of the Sewer Capacity Commitment, the Capacity Commitment payment shall be credited on a pro-rated percentage basis to the connection charges as they are levied.

10. Service Charges. In addition to the charges for connection, the Owner agrees to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist, which is presently at 150% the rate charged to customers inside city limits, or as they may be hereafter amended or

modified.

11. Annexation. Owner understands that annexation of the property described on Exhibit "A" to the City will result in the following consequences:

- A. Pierce County ordinances, resolutions, rules and regulations will cease to apply to the property upon the effective date of annexation;
- B. City of Gig Harbor ordinances, resolutions, rules and regulations will begin to apply to the property upon the effective date of annexation;
- C. Governmental services, such as police, fire and utility service, will be provided to the property by the City of Gig Harbor upon the effective date of annexation;
- D. The property may be required to assume all or any portion of the existing City of Gig Harbor indebtedness, and property tax rates and assessments applicable to the property may be different from those applicable prior to the effective date of annexation;
- E. Zoning and land use regulations applicable to the property after annexation may be different from those applicable to the property prior to annexation; and
- F. All or any portion of the property may be annexed and the property may be annexed in conjunction with, or at the same time as, other property in the vicinity.

With full knowledge and understanding of these consequences of annexation and with full knowledge and understanding of Owner's right to oppose annexation of the property to the City of Gig Harbor, Owner agrees to sign a petition for annexation to the City of the property described on Exhibit A as provided in RCW 35.14.120, as it now exists or as it may hereafter be amended, at such time as the Owner is requested by the City to do so. The Owner also agrees and appoints the Mayor of the City as Owner's attorney-in-fact to execute an annexation petition on Owner's behalf in the event that Owner shall fail or refuse to do so and agrees that such signature shall constitute full authority from the Owner for annexation as if Owner had signed the petition himself. Owner further agrees not to litigate, challenge or in any manner contest, annexation to the City. This Agreement shall be deemed to be continuing, and if Owner's property is not annexed for whatever reason, including a decision by the

City not to annex, Owner agrees to sign any and all subsequent petitions for annexations. In the event that any property described on Exhibit "A" is subdivided into smaller lots, the purchases of each subdivided lot shall be bound by the provisions of this paragraph.

12. Land Use. The Owner agrees that any development or redevelopment of the property described on Exhibit "A" shall meet the following conditions after execution of Agreement:

- A. The use of the property will be restricted to uses allowed in the following City zoning district at the time of development or redevelopment. (Check One):

Single Family Residential
Commercial
Industrial
Multiple Family Residential

- B. The development or redevelopment shall comply with all requirements of the City Comprehensive Land Use Plan, Zoning Code and Building Regulations for similar zoned development or redevelopment in effect in the City at the time of such development or redevelopment. The intent of this section is that future annexation of the property to the City of Gig Harbor shall result in a development which does conform to City standards.

13. Liens. The Owner understands and agrees that delinquent payments under this agreement shall constitute a lien upon the above described property. If the extension is for sewer service, the lien shall be as provided in RCW 35.67.200, and shall be enforced in accordance with RCW 35.67.220 through RCW 35.67.280, all as now enacted or hereafter amended. If the extension is for water service, the lien shall be as provided in RCW 35.21.290 and enforced as provided in RCW 35.21.300, all as currently enacted or hereafter amended.

14. Termination for Non-Compliance. In the event Owner fails to comply with any term or condition of this Agreement, the City shall have the right to terminate utility service to the Owner's property in addition to any other remedies available to it.

15. Waiver of Right to Protest LID. Owner acknowledges that the entire property legally described in Exhibit "A" would be specially benefited by the following improvements to the utility (specify):

Owner agrees to sign a petition for the formation of an LID or ULID for the specified improvements at such time as one is circulated and Owner hereby appoints the Mayor of the City as his attorney-in-fact to sign such a petition in the event Owner fails or refuses to do so.

With full understanding of Owner's right to protest formation of an LID or ULID to construct such improvements pursuant to RCW 35.43.180, Owner agrees to participate in any such LID or ULID and to waive his right to protest formation of the same. Owner shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court. Notwithstanding any other provisions of this Agreement, this waiver of the right to protest shall only be valid for a period of ten (10) years from the date this Agreement is signed by the Owner.

16. Specific Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

17. Covenant. This agreement shall be recorded with the Pierce County Auditor and shall constitute a covenant running with the land described on Exhibit "A", and shall be binding on the Owner, his/her heirs, successors and assigns. All costs of recording this Agreement with the Pierce County Auditor shall be borne by the Owner.

18. Attorney's Fees. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other remedy provided by law or this agreement.

DATED this _____ day of _____, 1993.

CITY OF GIG HARBOR

Mayor Gretchen Wilbert

OWNER

Name:
Title:

ATTEST/AUTHENTICATED:

City Clerk, Mark Hoppen

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this _____ day of _____, 1993, before me personally appeared _____, to me known to be the individual described in and who executed the foregoing and acknowledged that _____ signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS THEREOF, I have hereto set my hand and affixed by official seal the day and year first above written.

NOTARY PUBLIC for the State
of Washington, residing at

My commission expires _____.

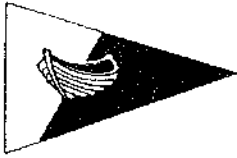
STATE OF WASHINGTON)
)ss:
COUNTY OF PIERCE)

On this _____ day of _____, 1992, before me personally appeared Mayor and City Clerk of the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the day year first above written.

NOTARY PUBLIC for the state
of Washington, residing at

My commission expires _____.



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCILMEMBERS
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
DATE: JANUARY 7, 1992
SUBJ: SERGEANT AND LIEUTENANT JOB DESCRIPTIONS

Attached is a resolution adopting two job descriptions. The first will reclassify the Sergeant's position, and the second is the description for the new Lieutenant's position.

The new position is included in the 1993 budget, and the job description format is consistent with other city employee job descriptions.

Recommendation:

I recommend a council motion to approve the resolution adopting the job descriptions for Sergeant and Lieutenant.

CITY OF GIG HARBOR

RESOLUTION NO.

A RESOLUTION RELATING TO THE CITY'S PERSONNEL REGULATIONS:

RECLASSIFYING AN EXISTING JOB POSITION AND ADOPTING A NEW JOB DESCRIPTION TO THE CITY'S PERSONNEL POLICIES.

WHEREAS, the Gig Harbor City Council has approved the creation of a new position of Police Lieutenant in 1993; and,

WHEREAS, the existing personnel policies for the City of Gig Harbor do not currently have a job description for the "Police Lieutenant" position;

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, hereby RESOLVES that the attached job description of the Police Lieutenant, revised job description for Police Sergeant, and Attachment "A" detailing the salary schedule are hereby adopted as city policy for inclusion in the Personnel Regulations.

PASSED this ____ th day of January, 1993.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Clerk

Filed with city clerk: 1/5/93
Passed by city council:

POLICE SERGEANT

Nature of Work

This is a highly responsible mid-management and human relations position in public safety for the City of Gig Harbor.

The employee is responsible for supervising patrol, traffic, and crime prevention programs. This includes the ~~implementation of policy and procedure~~, scheduling and coordination of personnel and equipment, and the evaluation of personnel performance.

~~The employee assists the Chief of Police in planning and evaluating organizational objectives and the effectiveness of public safety programs. And, the employee acts a management in the absense of the Chief of Police.~~

~~In addition to management responsibilities, the~~
The employee performs all of the functions of a police officer.

The employee establishes effective relationships with the community, supervisors, subordinates, elected City officials, other criminal justice agencies, and City employees.

Controls Over Work

The employee is under the supervision of the Police Lieutenant and Chief of Police, the demands of applicable local, state, and federal laws, and judicial rulings.

The employee exercises considerable latitude in judgement and supervision techniques.

Performance is reviewed for results obtained and conformance with Department policy and procedures, applicable laws, and court decisions.

Representative Examples of Duties and Responsibilities

Supervises and coordinates the performance of personnel assigned to the patrol, traffic, and crime prevention, investigations, drug investigations, records D.A.R.E. and training programs.

~~Acts as a management assistant to the Chief of Police.~~

Implements policies and procedures.

Designs personnel work schedules.

Advises Chief of Police on personnel issues and program effectiveness.

Trains new police officers.

Writes reports on alleged crimes, traffic incidents, crime prevention programs, and administrative issues.

Coordinates in-service training programs.

Makes crime prevention presentations to civic and business groups.

Performs duties of a police officer.

Knowledge, Abilities, and Skills

Thorough knowledge of federal, state, and local laws, and court rulings.

Thorough knowledge of Department policies, procedures, and directives.

Considerable knowledge of the theory, principles, and techniques of management supervision.

Considerable knowledge of behavioral theory and human relations techniques.

Good knowledge of the theory, principles, and practices of delivering police services.

Ability to read and interpret laws and court rulings.

Ability to supervise people.

Ability to make decisions effecting the quality and quantity of police service.

Ability to design personnel schedules to meet Department needs.

Ability to establish and maintain an effective relationship with the community, Department personnel, other criminal justice agencies, and City employees.

Physical Demand and Work Environment

The employee primarily drives a vehicle or walks. But some work is performed in an office setting. There is considerable walking, bending, stooping, reaching, and at times, running.

Since the employee takes physical custody of persons, there is a certain amount of physical contact and confrontation. And, sometimes the employee is vulnerable to personal injury.

The employee rotates in a 24 hour shift schedule.

The work sometimes requires above average physical agility and conditioning.

Qualifications

Minimum three years of experience in a police service and a demonstration of management abilities.

OR

Two years of police experience and two years of management training or experience.

POLICE LIEUTENANT

Nature of Work

This is a highly responsible mid-management and human relations position in public safety for the City of Gig Harbor.

The employee is responsible for supervising the patrol, traffic, investigations, drug enforcement, training, crime prevention, records, and D.A.R.E. programs for the police department. This includes the implementation of police and procedure, scheduling and coordination of personnel and equipment, and the evaluation of personnel performance.

The employee assists the Chief of Police in planning and evaluating organizational objectives and the effectiveness of public safety programs. The employee is management in the absence of the Chief of Police.

In addition to management responsibilities, the employee performs all of the functions of a police officer.

The employee is responsible for establishing effective relationships with the community, supervisors, subordinates, elected officials, other criminal justice agencies, and all city employees.

Controls Over Work

The employee is under the supervision of the Chief of Police, the demands of applicable local, state, and federal laws, and judicial rulings.

The employee exercises considerable latitude in judgement and supervision techniques.

Performance is reviewed for results obtained and in conformance with Department policy and procedures, applicable laws, and court decisions.

Representative Examples of Duties and Responsibilities

Manages and coordinates the performance of personnel assigned to the patrol, traffic, crime prevention, training, investigation, records, drug investigation, and D.A.R.E. programs.

Acts as a management assistant to the Chief of Police.

Advises Chief of Police on personnel issues and program effectiveness.

Writes reports on alleged crimes, traffic incidents, crime prevention programs, and administrative issues.

Performs duties of a police officer.

Knowledge, Abilities, and Skills

Thorough knowledge of federal, state, and local laws, and court rulings.

Considerable knowledge of behavioral theory and human relations techniques.

Knowledge of the theory, principles, and practices of delivering police services.

Ability to read and interpret laws and court rulings.

Ability to manage people.

Ability to make decisions effecting the quality and quantity of police services.

Ability to design personnel schedules to meet Department needs.

Ability to establish and maintain an effective relationship with the community, Department personnel, other criminal justice agencies, and city employees.

Physical Demands and Work Environment

The employee primarily drives a vehicle, walks, or is in an office setting. There is considerable walking, stooping, reaching, and at times, running.

Since the employee takes physical custody of persons, there is a certain amount of physical contact and confrontation. At times the employee is vulnerable to personal injury.

The work sometimes requires above average physical agility and conditioning.

Qualifications

Minimum of four years experience in a police service with at least two years as a first line supervisor and demonstration of management abilities.



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GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCILMEMBERS
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
DATE: JANUARY 7, 1992
SUBJ: CONSTRUCTION INSPECTOR

Attached is a resolution adopting a job description for the city's personnel policies for the one-year construction inspector position.

The position is included in the 1993 budget, and the job description format is consistent with other city employee job descriptions.

Recommendation:

I recommend a council motion to approve the resolution adopting the job description for construction inspector.

CITY OF GIG HARBOR

RESOLUTION NO.

A RESOLUTION RELATING TO THE CITY'S PERSONNEL REGULATIONS:

ADOPTING A NEW JOB DESCRIPTION TO THE CITY'S PERSONNEL POLICIES.

WHEREAS, the Gig Harbor City Council has approved the creation of a new, one-year position of Construction Inspector in 1993; and,

WHEREAS, the existing personnel policies for the City of Gig Harbor do not currently have a job description for the "Construction Inspector" position;

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, hereby RESOLVES that the attached job description of the Construction Inspector for, and Attachment "A" detailing the salary schedule are hereby adopted as city policy for inclusion in the Personnel Regulations.

PASSED this ____ th day of January, 1993.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Clerk

Filed with city clerk: 1/5/93
Passed by city council:

CONSTRUCTION INSPECTOR

Nature of Work

This is skilled technical work in the inspection of various public works and private development projects.

Control Over the Work

Under supervisory control and guidance of the Public Works Director, the employee's work is performed with some latitude for independent judgement and action. This individual is responsible for conducting inspections of a variety of public works, public utilities and private development projects within the City and for performing public contact work. Successful performance requires the application of precise engineering knowledge gained through training and experience. Although technical advice is generally available, employee is expected to exercise independent judgement in solving field and office problems.

Representative Example of Duties and Responsibilities

Inspect a variety of public works, public utilities and private development projects and order corrections or additions where specifications have not been met as to quality, quantity and methods of construction.

Maintain accurate records showing construction progress by writing daily reports which include a variety of information.

Maintain "as-built" information on public improvement plans and private development.

Make field quantity measurement, and prepare monthly quantity tabulations for progress payments.

Knowledge, Abilities and Skills

Requires physical ability and knowledge of the field of assignment sufficient to perform thoroughly and accurately the full scope of responsibility.

Requires thorough knowledge of related codes, including but not limited to the following: Washington State Department of Transportation Standard Specifications for Road, Bridge and Municipal Construction, including the WSDOT Construction Manual.

Requires considerable knowledge of modern engineering methods and techniques as applied to the construction and maintenance of public works, public utilities and private

development.

Thorough knowledge of occupational hazards and safety standards and practices applicable to work being done.

Ability to establish and maintain effective communication and relationship with contractors, City employees and the public.

General knowledge of the principles and practices of land surveying.

Requires possession of, or ability to obtain, a Washington State Driver's License.

Physical Demand and Work Environment

Work is performed primarily out of doors, involving moderate risks, discomfort or unpleasantness, such as high level of noise, dust, grease or mud, moving vehicles or machines, cold and/or wet weather. Work requires some physical exertion, such as long periods of standing, walking over rough, uneven surfaces and recurring bending, crouching, reaching and occasional lifting of moderately heavy items. Work requires average physical agility and dexterity.

Qualifications

Minimum: Graduation from high school, and college level course in mathematics, surveying and engineering, and five (5) years experience in sub-professional engineering work;

OR

Successful completion of a two year course in Engineering Technology at a community college or vocational institute and five (5) years experience in sub-professional engineering work;

OR

Any combination of education and experience to demonstrate competency.



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(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: CITY PROSECUTOR CONTRACT, MR. ANDREW BECKER
DATE: 1/7/93

Mr. Andrew Becker, City Prosecutor, has nearly completed his three year contract with the City, and is currently under contract until January 31, 1993.

He proposes to contract with the city until January 31, 1996, a term which is similar in length to the contract about to be completed.

As compensation for this contract he wishes to be paid \$1200 per month, the same amount as his previous contract.

Two differences from the previous contract stand out. He can pay Rule 9 interns to substitute for his service, and he is responsible for their supervision. Another difference is that he wishes to be compensated at the rate of \$60 per hour instead of \$40 per hour, as in his current contract, for cases outside the regular calendar and for training/consultation of police officers.

The increase in costs per year attendant to these changes should approximately sum up to \$1800.

Considering the length of his proposed contract, his experience with our particular court, and his performance, these contract terms seem reasonable. I recommend approval.

CITY PROSECUTOR

EMPLOYMENT AGREEMENT

THE PARTIES

The parties to this agreement are as follows:
Andrew N. Becker, hereinafter referred to as ATTORNEY; and
THE CITY OF GIG HARBOR, Washington, hereinafter referred to
as the CITY.

PURPOSE

The purpose of this agreement is to set forth the terms of
the agreement between the parties whereby the CITY agrees to
hire ATTORNEY for the City of Gig Harbor and ATTORNEY agrees
to provide legal services for the CITY relative to
prosecution of cases and other related matters.

CONSIDERATION

The consideration for this agreement consists of the mutual
covenants and conditions contained herein and the mutual
legal benefits and detriments arising from this agreement.

THE AGREEMENT

The parties hereto agree as follows;

1. ATTORNEY shall at all times faithfully,
industriously, and to the best of his ability and
experience, perform all of the duties that may be
required of him pursuant the express and implicit
terms of this agreement and pursuant to the rules
of professional conduct.
2. The CITY shall pay ATTORNEY One Thousand Two
Hundred dollars (\$1,200) per month for legal
services rendered as follows:
 - a. Representation of the CITY in all criminal
cases in Municipal Court, including, but not
limited to: arraignments, pretrial conferences,
sentencings, reviews, non-jury trials, and jury
trials. This representation shall normally
include the Municipal Court's regular weekly
afternoon calender.

- b. Meeting and consultation with the police chief and police officers to discuss matters relative to preparation of particular cases and legal procedures, and meeting from time-to-time with administration to discuss city policy.
3. The CITY shall pay ATTORNEY Sixty Dollars (\$60) per hour for the following additional work:
 - a. Preparation and appearances for cases outside the regular weekly afternoon calendar including jury trials, non-jury trials, and in custody matters.
 - b. ATTORNEY shall be entitled to claim a minimum of one (1) hour for any court proceeding at which he is present.
 - c. Consultation and/or training of police officers that is outside the scope of preparation for and prosecution of particular cases.
 - d. The CITY shall pay or reimburse ATTORNEY for all xeroxing costs, long distance telephone charges, and postage. ATTORNEY shall not be paid for travel time or clerical time involved in the performance of his duties.
4. It is agreed and understood that it is the responsibility of the ATTORNEY to be present at all Municipal Court matters for which he has contracted to render services on behalf of the CITY. It is understood that the ATTORNEY has other employment, and that he is not precluded from other employment so long as there is continual coverage for the performance of his duties as set forth herein. ATTORNEY is specifically authorized to obtain the services of other duly licensed attorneys or duly licensed Rule 9 Interns. Any Rule 9 Intern shall serve under the direct weekly supervision of ATTORNEY pursuant to the rules promulgated by the Supreme Court. Further, ATTORNEY'S Rule 9 supervision shall include written authorization of acceptable settlement ranges for all cases on the weekly pre-trial and arraignment calendar and ATTORNEY shall provide personal instruction for the Rule 9 Intern on a weekly basis. Such counsel in such instances shall be compensated by the ATTORNEY.
5. ATTORNEY shall be named insured on the CITY'S policy of errors and omissions insurance, for liability for his acts and omissions when acting within the scope of his duties as City Prosecutor of the CITY.

6. This agreement may be terminated by CITY without cause and without notice. After the expiration of six (6) months, ATTORNEY may, for any reason, terminate this agreement by ninety (90) days written notice to the CITY.
7. This contract contains the complete agreement concerning the employment arrangement between the parties and shall, as of the effective date hereof, supersede all other agreements between the parties.
8. No waiver or modification of this agreement shall be valid unless in writing and duly executed by the party to be charged therewith.

No evidence of any waiver or modification shall be offered or received in evidence of any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing duly executed by the parties. The parties further agree that the provisions of this section may not be waived except as herein set forth.

9. The term of this agreement shall be for three (3) years, commencing on February 1, 1993, and terminating on January 31, 1996, subject, however, to prior termination as provided above.

DATED this _____ day of _____, 1992.

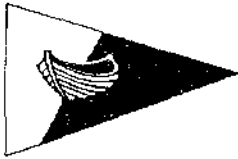
CITY OF GIG HARBOR

Gretchen Wilbert, Mayor

Andrew N. Becker, Attorney

ATTEST:

Mark Hoppen
City Administrator/Clerk



City of Gig Harbor. The "Maritime City."

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GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: INTERLOCAL AGREEMENT - HOUSEHOLD HAZARDOUS
WASTE HOTLINE PILOT PROGRAM
DATE: JANUARY 7, 1993

The City of Gig Harbor is proposing to enter into an interlocal agreement with Pierce County for joint participation in a household hazardous waste hotline pilot program.

This program will provide hazardous waste disposal information via telephone to the citizens of Gig Harbor and the surrounding Gig Harbor Peninsula. The effort will be to re-distribute and use surplus garden chemicals, paint, and other common hazardous household items, so that remanent waste is utilized properly and does not enter the waste stream inappropriately.

Marilyn Owel will be running this program, and her effort will be volunteer in character. Pierce County will pay for the phone line. The City of Gig Harbor (Marilyn) will be responsible for management of the program and for collection of statistical data.

**INTERLOCAL AGREEMENT BETWEEN
PIERCE COUNTY AND THE CITY OF GIG HARBOR
FOR JOINT PARTICIPATION IN THE
HOUSEHOLD WASTE REUSE PILOT PROGRAM**

THIS AGREEMENT is made and entered into between **PIERCE COUNTY**, a political subdivision, herein known as "County, and the **CITY OF GIG HARBOR**, herein known as "City".

W I T N E S S E T H:

WHEREAS, the City of Gig Harbor has established a pilot program known as the Household Waste Reuse Project (Reuse Pilot Program) to facilitate the reuse of those common household items which tend to accumulate in excess; and,

WHEREAS, the Reuse Pilot Program is intended to provide citizens an opportunity to offer items for reuse; and,

WHEREAS, those citizens desiring to participate in the Reuse Program may call a dedicated telephone number to offer their items for reuse and another dedicated telephone to learn which items are offered; and,

WHEREAS, the City shall provide volunteer personnel, facilities, and management for the Reuse Pilot Program; and,

WHEREAS, Pierce County has agreed to participate in sponsoring the Reuse Pilot Program by assisting with publicity and assuming the cost of the Program's telephone services; and,

WHEREAS, the County and the City have determined that it is within the interest of the citizens of both jurisdictions to participate in the sponsoring of this Program; **NOW THEREFORE**

BASED ON THE MUTUAL BENEFITS to be experienced by both parties, the parties agree as follows:

1. **Purpose of Agreement.** The County and The City have agreed to jointly participate in the sponsoring of the program known as the "Household Waste Reuse Line".
2. **Duration of Agreement.** The term of this agreement shall be from January 1, 1993 until January 1, 1994 unless terminated according to the provisions of Section 6.
3. **No Separate Legal Entity.** No separate legal entity is crated by virtue of this agreement.
4. **Pierce County Responsibilities.** The County agrees to be responsible for the cost of the program's telephone services. The designated provider of telephone services shall bill the County directly for services rendered to the Program and the County shall be responsible for timely payment of said bills.
5. **City of Gig Harbor Responsibilities.** The City agrees to perform as follows:
 - a. provide the management, personnel, and necessary facilities for the Program and all associated record keeping; and,

- b. provide statistical information to the County regarding the utilization of the program by City and County residents;
- c. Inform the County prior to initiating any changes to the Program that result in additional telephone services being required.

6. **Termination.** Either party may choose to terminate this agreement upon thirty (30) days written notice to the other party without penalty, provided that each party shall remain liable for fulfillment of the parties obligations incurred prior to termination.

7. **Waiver of Breach.** Any party's failure to insist upon the strict performance of any provision of this agreement or to exercise any right based upon the breach or the acceptance of any performance during such breach shall not constitute a waiver of any right under this contract.

8. **Hold Harmless.** Both parties agree to defend, indemnify and save harmless the other, its appointed and elective officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the other, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of itself, its successor or assigns, its agents, servants, employees, or its appointed or elected officers.

It is further provided that no liability shall attach to the either party by reason of entering into this contract, except as expressly provided herein.

9. **Severability.** If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition, or applicaiton. To this end, the terms and conditions of this contract are declared severable.

DATED THIS ____ DAY OF _____, 19 ____.

PIERCE COUNTY

CITY OF GIG HARBOR

By _____

By _____

Recommended By:

 Director, Pierce County Utilities

Approved as to Form Only

 Deputy Prosecuting Attorney



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

MEMORANDUM

TO: Mayor Wilbert and City Council
FROM: *RG* Ray Gilmore
DATE: January 7, 1992
SUBJ.: Hearing Examiner Recommendation -- SDP 92-03, Hugh Magnussen.

=====

Attached for your consideration is the report of the City Hearing Examiner on an application filed by Mr. Hugh Magnussen. Mr. Magnussen requests a shoreline management conditional use permit to place a "tidal lift" boat cradle for moorage on privately owned tidelands adjacent his residence on Randall Drive.

In his report (Findings and Conclusions), the City of Gig Harbor Hearing Examiner has stated that, based upon the comments received at the public hearing, several issues were raised which were not adequately addressed by the applicant. These are detailed on page 3 of the Examiner's report. The Hearing Examiner has recommended that the application for a shoreline conditional use permit be denied by the City Council. A copy of the Examiner's report of November 16 (Findings and Conclusions) is attached.

Mr. Magnussen requested reconsideration of the decision by the Examiner and the Examiner ruled that his initial recommendation of November 16 stands. This report is also attached along with a resolution in support of the Examiner's findings, conclusions and recommendation and a shoreline permit form.

CITY OF GIG HARBOR
RESOLUTION NO.

WHEREAS, Mr. Hugh Magnussen has requested a Shoreline Management Conditional Use permit to allow the construction of a tidal lift boat cradle to be placed on private tidelands adjacent to a single family residence on Gig Harbor Bay; and,

WHEREAS, the Gig Harbor City Council has adopted Ordinance #489 which establishes guidelines for the reviewing of Shoreline Management Conditional Use permits and other land use issues; and,

WHEREAS, the Planning Department for the City of Gig Harbor has recommended conditional approval of the project, in a staff report dated October 12, 1992; and,

WHEREAS, the City of Gig Harbor Hearing Examiner conducted a public hearing on the application on October 21, 1992 to accept public comment on; and,

WHEREAS, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has recommended denial in his report dated November 16, 1992; and,

WHEREAS, Mr Magnussen requested reconsideration of the Hearing Examiner's decision in a request dated November 28, 1992; and,

WHEREAS, the Hearing Examiner, upon a review of the request and the facts presented by Mr. Magnussen therein, ruled in his findings and conclusions of December 16, 1992 that the original decision of November 16, 1992 stands.

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 are hereby adopted and the application for shoreline Management Conditional Use permit is **DENIED**.

PASSED this 11th day of January, 1993.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator

Filed with City Clerk: 01/08/93
Passed by City Council: 01/11/93

CITY OF GIG HARBOR
SHORELINE MANAGEMENT SUBSTANTIAL DEVELOPMENT
CONDITIONAL USE, VARIANCE PERMIT

- Substantial Development
- Conditional Use
- Variance

Application No.: SDP 92-03

Date Received: 9/10/92

Approved:

Denied: 1/11/93

Date of Issuance: DENIED

Date of Expiration: N/A

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

Mr. Hugh Magnussen/Luise Gottwald
9520 Randall Drive NW
Gig Harbor, WA 98335

To undertake the following development:

Construct/place tidal lift boat cradle on privately owned tidelands adjacent to single family residence at above address, as per attached plans.

Upon the following property:

Located within a portion of the NE qtr of the NW qtr, Section 5, Township 21 North, Range 2 E.WM., assessor's tax parcel number 02-21-05-6-001.

Within Gig Harbor Bay and its associated wetlands. The project will not be within shorelines of Statewide Significance per RCW 90.50.030 and is within a Rural-Residential environment designation, per the Pierce County Shoreline Master Program.

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

Not Applicable

This permit is granted pursuant to the Shoreline Management Act of 1972 and 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: Hugh Magnussen

CASE NO.: SDP 92-03

APPLICATION: Request for a shoreline management conditional use permit to construct moorage which consists of a tidal boat cradle supported on two concrete pads.

SUMMARY OF RECOMMENDATIONS:

Planning Staff Recommendation: Approve with conditions
Hearing Examiner Recommendation: Deny

PUBLIC HEARING:

After reviewing the official file which included the Planning Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Magnussen application was opened at 5:08 p.m., October 21, 1992, in City Hall Gig Harbor, Washington, and closed for oral testimony at 5:25 p.m. The hearing was held open administratively until close of business October 28, 1992 to allow additional material to be submitted. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Planning Department.

FINDINGS CONCLUSIONS AND RECOMMENDATION:

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

I. FINDINGS:

- A. The information contained on pages 1, 2, 3 and 4 of the Planning's 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.
- B. Eric Lindgren spoke at the hearing and submitted a letter on behalf of the east Gig Harbor Shoreline Committee (Exhibit C). He raised several concerns in his letter and through his testimony. He said the applicant's plan did not show the proximity of the culvert/outfall for Crescent Creek to the proposed tidal lift, nor did it show the distance to the other side of the estuary. He cited quotations from the Gig

Harbor Shoreline Master Program which he felt were appropriate. He also noted that the Crescent Creek estuary supports returns of coho salmon in most of its accessible stream area which he felt could be negatively affected by the proposal. Concern was expressed about what size the boat might be that would be supported by the proposed cradle. He felt the public view from Vernhardson would be negatively impacted and finally, he suggested the applicant rent a moorage slip or use a public boat launch rather than build a facility in an environmentally sensitive area.

- C. Hugh Magnussen, the applicant, did not attend the public hearing, however, the Hearing Examiner held the hearing open administratively to allow Mr. Magnussen and staff time to respond in writing to Mr. Lindgren's concerns.
- D. Mr. Magnussen responded to Mr. Lindgren's concerns in Exhibit D. In his response he said he did indicate the culvert for Crescent Creek. He also said in response to the concern over the salmon run that he already had a hydraulic project approval from the Department of Fisheries. With respect to the suggestion that he use a public ramp or moorage he said he was only asking to extend 14 feet into the water and said that Mr. Lindgren had a dock 130 feet long. He also said there would be minimal view impact because cars traveling at normal speeds on Vernhardson would only view the facility for about 5 seconds. Finally, he said they want to enjoy boating from the end of the bay where they live and they want to maintain the safety of wildlife and fish in their migration.
- E. Staff responded to Mr. Lindgren's October 21 letter (Exhibit C) in a memo dated October 27 (Exhibit D). Staff stated he had also indicated in Exhibit A that the application was not subject to review by the Gig Harbor Shoreline Master Program. Rather, since the area was recently annexed, the application was being processed under the Pierce County Shoreline Master Program. With respect to the effect on fish, staff stated that a hydraulic project approval had been previously issued, but that it had expired. He said the applicant would need to reapply for that permit. He also said that if there is a concern over the size of the boat using the facility the permit could be conditioned to limit the size of the boat. Regarding view impact, staff said that the applicant's proposal would be significantly less obtrusive than a pier. He said the proposal would not be constructed on public tidelands, but rather would be constructed on private tidelands. Finally, he took issue with Mr. Lindgren's suggestions that the applicant could find moorage to rent in the harbor. He said the marinas within the harbor are at capacity.

- G. Mr. Lindgren submitted another letter during the time the hearing was held open administrative (Exhibit F). In this letter, he reiterated several of the points raised in Exhibit C and he cited several guidelines from the Pierce County Shorelines Master Program which he said the proposal does not meet.

II. CONCLUSIONS:

- A. The conclusions prepared by the Planning Staff and set forth on pages 4, 5 and 6 of the Planning Staff's Advisory Report accurately set forth a portion of the conclusions of the Hearing Examiner and by this reference are adopted as a portion of the Hearing Examiner's conclusions, except for conclusions 6 and 9 which are not adopted. A copy of said report is available in the Planning Department.
- B. Mr. Lindgren has raised several issues which I do not believe have been adequately addressed by Mr. Magnussen. The locations of the Crescent Creek culvert/outfall and channel were not clearly shown on the application, nor was the distance to the opposite side of the estuary clearly shown. In addition, the application did not clearly show where the proposal would be located relative to the boundaries of the applicant's property. Without knowing precisely where the proposed lift would be located relative to its surroundings, it is impossible to determine what type of impact there may be to the shoreline environment. While it is acknowledged the proposed facility is not large, it is to be located in what is probably the most physically constrained and possibly one of the more environmentally sensitive areas of Gig Harbor.

Before a permit can be granted, the applicant has the burden of proof to show how his application meets the adopted requirements. In this case, I am not convinced the application is consistent with the Pierce County Shoreline Master Program, nor am I convinced that the proposed use will cause no unreasonable adverse effects to the shoreline environment in which it is located and finally, I am not convinced that the public interest will suffer no substantial detrimental effect.

Therefore, the proposal should not be approved until it is clear that the criteria can be complied with.

III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, it is recommended that the request for a Shoreline Management Conditional Use Permit be denied. However, should the Council decide that the application should be approved, then it is recommended that it be approved subject to the following conditions:

1. The applicant shall obtain an HPA from the Department of Fisheries prior to the issuance of a building permit for this proposal.
2. The applicant shall provide authorization from the U.S. Army Corps of Engineers ("Letter of Permission") prior to issuance of a building permit for this project.
3. Applicant shall comply with the requirements of the City of Gig Harbor building code.
4. No boat stored on the tidal lift may exceed 20 feet in length.

Dated this 16th day of November, 1992.



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 this action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance for 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 rejecting a decision of the Examiner, shall be final and conclusive, unless within twenty (20) days from the date of the Council action an aggrieved party or person applies for a writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action.

**MINUTES OF THE OCTOBER 21, 1992
HEARING ON THE MAGNUSSEN
APPLICATION**

Ronald L. McConnell was the Hearing Examiner for this matter. Participating in the hearing was: Steve Osguthorpe, representing the City of Gig Harbor, and Eric Lindgren, a neighbor.

The following exhibits were offered and entered into the record:

- A. Planning Staff's Advisory Report, with attachments, including Code requirements and photographs of the site.
- B. Application
- C. Letter from Eric Lindgren, dated 10/21/92
- D. Letter from Hugh Magnussen, dated 10/27/92
- E. Memo from Ray Gilmore, dated 10/27/92
- F. Letter from Eric Lindgren, dated 10/22/92

PARTIES OF RECORD:

Hugh Magnussen
9520 Randall Drive N.W.
Gig Harbor, WA 98322

Eric Lindgren
7720 Goodman Drive N.W.
Gig Harbor, WA 98335

CITY OF GIG HARBOR
Hearing Examiner Reconsideration
of Recommendation

FILE NO. SDP 92-03
(Magnussen)

I. FINDINGS

- A. Hugh Magnussen requested reconsideration of my recommendation on File No. SDP 92-03. His letter, dated November 24, 1992, stated his reason for his request that issues regarding fisheries and the ecology should be left up to the expert judgment of Washington State officials and not to neighbors who represents themselves as experts on those issues.

He also said in his letter that the Washington State Fisheries Department did not share the view of Mr. Lindgren and his group. He said that all agencies involved made a unanimous decision that his proposal does not have a significant adverse impact on the environment.

- B. Mr. Magnussen did not attend the hearing on this application so I held the record open administratively to allow Mr. Magnussen an opportunity to respond to the issues raised by Mr. Lindgren and his group. He did respond in writing at that time.
- C. My report, dated November 16, 1992, recommended denial of the project, however, it also offered four conditions should the City Council decide to approve the project.

II. CONCLUSIONS

- A. No new information was provided in the request for reconsideration. I did consider the fact that Mr. Magnussen had an expired permit from the Department of Fisheries and I also considered his responses to Mr. Lindgren's submittal before I wrote my November 16, 1992 report. The burden of proof in an application rests with the applicant. In this case, I did not and still do not believe the applicant has met the necessary burden of proof to warrant a recommendation of approval.

Therefore, as I stated in November 16, 1992 report, I do not believe the proposal should be approved until it is clear that the adopted local criteria can be complied with.

III. RECOMMENDATION

After reconsideration and based on the foregoing findings and conclusions, my recommendation dated November 16, 1992, regarding File No. SDP 92-03 remains unchanged.

Dated this 16th day of December, 1992.



Ron McConnell
Hearing Examiner

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 this action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance for 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 rejecting a decision of the Examiner, shall be final and conclusive, unless within twenty (20) days from the date of the Council action an aggrieved party or person applies for a writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action.

RECONSIDERATION EXHIBITS:

- A. Letter from Hugh Magnussen, dated November 24, 1992
- B. Cover memo from Ray Gilmore, dated November 30, 1992

PARTIES OF RECORD:

Hugh Magnussen
9520 Randall Drive N.W.
Gig Harbor, WA 98322

Eric Lindgren
7720 Goodman Drive N.W.
Gig Harbor, WA 98335

10/26/92.

RECEIVED
OCT 27 1992
CITY OF GIG HARBOR

Mr. Ray Gilmore
City of Gig Harbor
3105 Jackson St.
Gig Harbor, Washington

Re: Mr. Lindgren's letter, dated 10/21/92., disapproving my
boat dock

Dear Mr. Gilmore:

1. To refute his letter, I would like to point out that there has been a walkway and floating tee dock on this location since 1978. I did rebuilt it and cleaned it up because some of the boards were damaged and unsightly.
2. The tee is 4 feet and not 8 feet as he claims.
3. On my plan view, I did indicate the culvert for Crescent Creek.
4. Mr. Lindgren addresses the fisheries as the main concern. I have in my possession a hydraulic project approval from the Dept. of Fisheries which makes his comments mute.
5. Attached is a partial list of neighbors who own boat docks which extend into the Gig Harbor bay 130 feet and over. Mr. Lindgren's name appears on this list. I am asking for 14 feet. Mr. Lindgren has his 130 feet. I find his comment self-serving, referring that I should use the public ramp and moorage. We all know moorage is hard to find and most of the time unavailable.
6. As to the serious impairment of public view. The proposed structure is well below the road grade and will not affect the view. Besides, the road is a narrow two-lane road, guard rails on both sides, with an opening of approx. 100 feet that views the end of the mud flat at low tide and the water at high tide. The traffic travels between 25 to 30 MPH. This provides about 5 seconds of view which will not be affected by the proposed structure.
7. And lastly, 9512, 9516, and 9520 Randall Dr. N.W. are not adjacent townhouses; these are single family residences.

In conclusion, our reason for buying and living here is to enjoy and maintain the safety of wildlife and fish in their migration, and boating, from this end of the bay. We are not asking to erect a long dock that contributes nothing to the invironmental safety or aesthetic value to this area.

Please forward this letter to the hearing examiner.

Sincerely,


Hugh Magnussen

Attach.

D.

S.E. Gig Harbor Docks

	Decision	Length	Fetch	%age
Foote	SD13-79	133'	725'	18
Lindgren	SD7-86	130'	712'	18
Sloan	SD -87	130'	712'	18
Parker/Burkhart	SD13-81	134'	700'	19
Taylor	Proposed	141'	738'	19
Lai	Grandfathered T	132+10'	738'	19
Palmer/Haley	SD2-78	147'	738'	20

18-20% fetch variance is not unusual

21 December 1992

City Council
City of Gig Harbor
P.O. Box 145
Gig Harbor, WA 98335

Re: Hearing Examiner Decision and Recommendation to City
Council, SDP 92-03

Dear Council Members,

I am a party of record of the above matter but will be unable to attend your meeting in early January. I am concerned that the following three points be made:

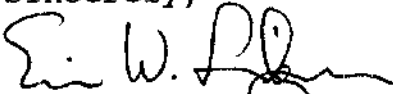
First: the proposed development does not meet the criteria and goals of the *Gig Harbor Shoreline Master Program* as outlined in my letter of 21 October to Mr. Ray Gilmore.

Second: while the Hearing Examiner proposed that the Pierce County regulations may address this residential shoreline development more appropriately, the proposed development does not meet the criteria and goals of the *Shoreline Master Program for Pierce County* and the *Shoreline Management Use Regulations for Pierce County*. This is addressed in my letter of 22 October to Mr. Ron McConnell.

Finally: as I stated in my 21 October talk to the Hearing Examiner (enclosed notes), my credentials as a professional Marine Ecologist (and published expert on the crustacea in this estuary that salmon fingerlings eat) are not the issue and I agree with Mr. Magnussen that evaluation "regarding fisheries and the ecology should be left up to the expert judgment of Washington State officials". However, Mr. Magnussen has not given all the relevant data so that the appropriate agencies can make an intelligent decision. These omissions are misleading and may substantially affect any evaluation.

Thank you for your consideration and careful review of these documents.

Sincerely,



Eric W. Lindgren
East Gig Harbor Shoreline Committee

c: Doug Peterson, President EGHIA

21 Oct 92 Talk to HE re SDP 92-03

My name is Eric Lindgren and I reside on Gig Harbor Bay at 7720 Goodman Dr NW. I am a professional Marine Ecologist and have published papers regarding the small Copepods that salmon fingerlings eat. I appreciate the concern for this critical estuary area in your Shoreline Master Program and more recently in Wetlands designations. I am also here representing the East Gig Harbor Improvement Association shoreline committee.

After careful review of the application and a previous application to Pierce County, we have concluded that no moorage in this area is the preferred decision.

We have two main concerns:

First, the application should be submitted with all relevant data so that appropriate agencies can make an intelligent decision: The very close proximity of the culvert/outfall for Crescent Creek should be readily apparent on the Site Plan view drawing. The lot boundaries should also be depicted. The opposite shoreline should be apparent. A topographical depiction with slope intervals (your permit suggests 5' intervals) should be part of the drawing. Finally the pier has recently been improved to include a substantial T on the terminus and this is not included.

Second, environmentally the project has several potential problems. The X-section indicates that the concrete foundation will act a groin to disrupt natural water and sediment flow. The facility will also impede migrating salmon fingerlings and allow increased predation. Increased boat prop wash is also detrimental to the benthos. The human environment will also be impaired as public view of the estuary from Vernhardson will be impacted.

Thank for your time and consideration.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

October 23, 1992

Mr. Ray Gilmore
City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335

Dear Mr. Gilmore:

We received the adoption notice for the proposed construction of a boat moorage for a single family residence by Mr. Hugh Magnussen. Although there is no comment period, we would like to note the following.

Any work in or adjacent to waterways that will adversely affect water quality must receive specific prior authorization from the Department of Ecology pursuant to WAC 173-201-035(8)(e). A short-term water quality standards modification may be issued if the proponent agrees to a number of specific construction practices and techniques designed to minimize water quality impacts. The construction schedule will be tied to the schedule on the Hydraulic Project Approval (HPA).

If you have any questions, please call Ms. Loree' Randall of the Water Quality Program at (206) 586-5553.

Sincerely,

Barbara J. Ritchie
Environmental Review Section

BJR:bjp
92-6531

cc: Loree' Randall, SWRO
Sarah Barrie, SWRO



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

OCTOBER 12, 1992

PART I: GENERAL INFORMATION

A. APPLICANT:

Hugh Magnussen
9520 Randall Drive
Gig Harbor, WA 98335

B. OWNER:

Same as Above

C. AGENT:

N/A

D. REQUEST:

Construct and operate tidal lift boat hoist for use as moorage for a single family residence. The proposal consists of the placement of 4 galvanized 8' poles on concrete pads at the minus 8-foot tidal level with a maximum width of 14 feet and overall length of 16 feet.

E. PROPERTY DESCRIPTION:

1. Location:

The property is located on the west side of Randall Drive, south of Vernhardson Street. The property is more particularly described as being within a portion of the NW 1/4 of Section 5, Township 21 North, Range 2 E.WM.

2. Site Area/Acreage:

The upland lot is approximately 30,000 square feet and the private tidelands approximately 12,000 square feet. Total tideland coverage would be approximately 225 square feet.

3. Physical Characteristics:

According to the Pierce County Soil Survey, the tidelands are identified as beach substrate, which is also the same classification given in the WDOE Coastal Zone Atlas for Pierce County, Volume 7. There is a large "weir" which is approximately 60 feet northwest of the site that provides drainage to the lagoon north of Vernhardson Street. The lagoon and intertidal area adjacent to the site is identified as a Type I wetland per the City Wetland Management Ordinance.

F. SURROUNDING LAND-USE/ZONING DESIGNATION:

North: City Park
West: Unincorporated, single family residential.
South: Single family residential, zoned R-1.
East: Gig Harbor Bay.

G. UTILITIES/ROAD ACCESS:

Access is provided by way of Randall Drive and Vernhardson Street, immediately north of the site.

H. PUBLIC NOTICE:

Public notice was provided as follows:

- . Published twice in Peninsula Gateway: September 16 and 23
- . Mailed to property owners of record within 300 feet of the site: October 9, 1992.
- . Posted in three conspicuous places in the vicinity of the property: October 9, 1992.

PART II: ANALYSIS

A. AGENCY REVIEW:

1. Building Official/Fire Marshal

A building permit will be required for the project.

2. Department of Public Works

No adverse comments.

3. Department of Fisheries

Hydraulics project approval required. HPA was

issued on October 7, 1991 and expired March 14, 1992. A new HPA is required.

B. APPLICABLE LAND-USE POLICIES/CODES

1. Comprehensive Plan:

The City of Gig Harbor Comprehensive Plan designates this area as low density urban residential. The type of use proposed is considered appropriate for this area as it is associated with a single family residence.

2. Zoning Ordinance:

The property is within an area that was recently annexed to the City. The site is zoned single family residential (R-1) and uses associated with single family residences (such as the moorage of a boat associated with an SFD) is a permitted use.

3. Shoreline Master Program

Although the area has been annexed to the City, the City of Gig Harbor Shoreline Master Program has not been amended to include this area within its environmental designations. Per state administrative guidelines, the existing county designation would prevail until such time that the City Master Program is amended. The Pierce County Shoreline Master Program designates this shoreline as Rural-Residential. Copies of relevant sections, which are attached, include Section 65.10 (Rural-Residential Environment), Section 65.62 (Residential Development) and Section 65.62.050 (Bulk Regulations). In respect to the proposed use, the activity is allowed under both master programs (city and county).

4. Shoreline Management Administrative Guidelines for the Review of Conditional Use Permits.

The proposal is not a classified use per the Pierce County Shoreline Master Program nor the City of Gig Harbor Shoreline Master Program. Conditional uses may be authorized providing that the criteria established under WAC 173-14-140 can be met as follows:

- a) That the proposed use is consistent with the policies of RCW 90.58.020 (Shoreline Management Act) and the master program.
- b) That the proposed use will not interfere with the normal public use of public shorelines.
- c) That the proposed use of the site and the design of the project is compatible with other permitted uses in the area.
- d) That the proposed use will cause no unreasonable adverse effects to the shoreline environment in which it is located.
- e) That the public interest suffers no substantial detrimental effect.

For uses which are not classified as conditional uses (as in this case), the applicant must demonstrate that extraordinary circumstances preclude a reasonable use of the property in a manner consistent with the use regulations of the master program. Also, in the granting of conditional uses, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

5. The City of Gig Harbor Wetland Maps (May 1992), identify this area as an estuarine wetland. However, those wetlands which are regulated by the Shoreline Management Act/Shoreline Master Program are exempt from the requirements of the wetland management ordinance.

PART III: FINDINGS AND CONCLUSIONS

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

1. The proposed use of the site for single family detached dwellings is a permitted use in an R-1 district.

2. The proposal is consistent with the City of Gig Harbor Comprehensive Plan (1986).
3. The Pierce County Shoreline Master Program permits moorage associated with single family residences as a permitted use.
4. The site is identified as "beach substrate" in the WDOE Coastal Zone Atlas for Pierce County, Volume 7. The area to the north (north of Vernhardson Street) is an intertidal lagoon.
5. The site is currently occupied by a small "T" float which provides very limited moorage capability for the property, particularly at low tides.
6. The use of a tidal lift and boat cradle of the design proposed would have less of an impact on the intertidal environment than an extended pier supported and planked pier, which could prove impractical and objectionable in this shallow and restricted area. Although the moorage area could be dredged (subject to SMA/SMP policies) for boat navigation access, the environmental impacts from dredging would be far more significant than the proposed tidal lift.
7. The proposed lift and concrete cradle would have some aesthetic impacts which would change the visual character of the area. Considering that the shoreline is characterized as having various configurations of residential moorage slips and small boats, the addition of this proposal is not considered significant. Staff submits that upland moorage, which could consist of a rail-launch system and a covered structure near the water, would have more significant aesthetic impacts than what is proposed.
8. The proposed use will not interfere with the normal public use of public shorelines.
9. The proposed use will cause no unreasonable adverse effects to the shoreline environment and the public's interest will not suffer any substantial detrimental effect.
10. The proposed site is not a shoreline of statewide significance, per RCW 90.58.030.2(iii).

11. Section 65.56.020 of the Pierce County Shoreline Master Program states: "It is the intent of Pierce County to encourage the construction of joint use or community docks and piers whenever feasible so as to lessen the number of structures projecting into the water..." The subject proposal is not a typical moorage pier and would consume considerably less surface area than the usual pier/dock/float combination.
12. The proposal has been previously evaluated by Pierce County and was issued an environmental determination of non-significance on September 6, 1991. Pursuant to the City of Gig Harbor Environmental Policy Ordinance (Section 18.04) and WAC 197-11-630, the environmental document was adopted by the City of Gig Harbor.

PART IV: RECOMMENDATION

1. The applicant shall obtain an HPA from the Department of Fisheries prior to the issuance of a building permit for this proposal.
2. The applicant shall provide authorization from the U.S. Army Corps of Engineers ("Letter of Permission") prior to issuance of a building permit for this project.
3. Applicant shall comply with the requirements of the City of Gig Harbor building code.

Documents pertinent to your review are attached.

Staff report prepared by  Ray Gilmore, Planning Director

DATE: October 12, 1992

Chapter 65.10

RURAL-RESIDENTIAL ENVIRONMENT

Sections:

- 65.10.010 Definition and Purpose
- 65.10.020 General Regulations and Policies
- 65.10.030 Preferred Uses

65.10.010 DEFINITION AND PURPOSE. The Rural-Residential Environment is an area of medium intensity land use, that is, having use types and densities which do not imply large-scale alterations to the natural environment. It is an area that will serve as a buffer between the highly intensive development of the urban environment and the non-intensive development of rural environment. It is an Environment Designation that will allow medium intensity residential, commercial and agriculture development. The purpose of assigning an area to a Rural-Residential Environment is to allow for a natural transitional area between the sometimes incompatible intensive land uses of urban areas and the agricultural uses, recreational uses, and open space found in the rural environment.

65.10.020 GENERAL REGULATIONS AND POLICIES. The following general regulations and policies should apply to all shoreline areas classified in a Rural-Residential Environment:

1. Existing land use patterns that reflect a suburban environment and also by virtue of existing development do not have the potential for supporting intensive agricultural or recreational activities should be designated as a Rural-Residential Environment if urban expansion is not anticipated.
2. Medium intensity residential uses should be encouraged in the Rural-Residential Environment in order to relieve pressure from urbanized areas and provide living area for those wishing to enjoy a less densely developed shoreline.

65.10.030 PREFERRED USES.

1. Single family residence
2. Neighborhood commercial uses such as small service establishments

Chapter 65.62

RESIDENTIAL DEVELOPMENT

Sections:

- 65.62.010 Definitions
- 65.62.020 Permit Exemptions
- 65.62.030 General Regulations
- 65.62.040 Environment Regulations - Uses Permitted
- 65.62.050 Bulk Regulations

65.62.010. Definitions. Residential development shall mean one or more buildings or structures or portions thereof which are designed for and used to provide a place of abode for human beings, including one and two family detached dwellings, multifamily residences, row houses, townhouses, mobile home parks and other similar group housing, together with accessory uses and structures normally common to residential uses including but not limited to garages, sheds, boat storage facilities, tennis courts, and swimming pools. Residential development shall not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

65.62.020 Permit Exemptions. The Shoreline Management Act exempts from obtaining a Substantial Development Permit the construction of any structure with a fair market value less than \$1,000, and the construction of a single family residence by an owner, lessee, or contract purchaser for his own use or the use of his family, if said residence does not exceed a height of thirty-five (35) feet above average grade level. Although these structures are exempt from obtaining a Substantial Development Permit, compliance with the prohibitions, regulations, and development standards of this Chapter is still required.

65.62.030 General Regulations. Prior to the granting of a Substantial Development Permit, the appropriate County reviewing authority shall make a determination that the proposed project is consistent with the policies of the Master Program and the following regulatory standards:

- A. Prior to the approval of any residential development and associated roads and utilities pursuant to this Chapter, the appropriate reviewing authority shall be satisfied that:
 - 1. The proposed development site is suited for residential use and is not located in areas having significant hazard to life and property and likely to require future public funds to protect and rehabilitate.
 - 2. Adequate methods of erosion control will be utilized during and after project construction.
 - 3. The disturbance of shoreline vegetation will be minimized.

1 4. Solutions will be provided to the problem of contamination
2 of surface waters, depletion and contamination of ground water
3 supplies and generation of increased runoff into water bodies.
4

5 5. All residential structures shall be landward of the extreme high
6 water mark.
7

8 B. Bulkheading, filling, substantial regrading or any other similar
9 structure or activity shall not be permitted when such structures or
0 activities are clearly nonessential for the reasonable use of pro-
1 duction of the lot or tract upon which it is located.
2

3 C. In any development project containing five or more residential sites,
4 a commonly owned natural open space area shall be provided and main-
5 tained between the shoreline and the first tier of lots adjacent to
6 the shoreline for the benefit, use, and enjoyment of all lots with-
7 in said subdivision and for the purpose of maintaining the natural
8 visual appearance of the waterfront. However, if due to topography
9 or other significant site characteristics, another site would be
0 more appropriately used as open space, and it is determined that
1 linear access is not required, the appropriate reviewing authority
2 may allow an equivalent area to be utilized as open space.
3

4 D. All new platting on rivers of statewide significance shall include a
5 pedestrian easement along the stream bank for the use of the public.
6 Said easement shall be a minimum width on a horizontal plane from
7 ordinary high water as necessary for a practical trail which will not
8 damage stream banks.
9

0 E. All new platting on lakes and marine shorelines shall include pedes-
1 trian easements to public waters if the appropriate reviewing author-
2 ity determines that adequate public access does not presently exist
3 in the area.
4

5 65.62.040 Environment Regulations - Uses Permitted. NOTE: The Pierce
6 County Zoning Code and other County regulations also contain density, setback,
7 and lot width requirements which are applicable in shoreline areas. These
8 regulations must also be consulted, when appropriate, when developing on the
9 shoreline. In case of a discrepancy between the requirements of this Code
0 and the Zoning Code, or other regulations, the more restrictive regulation
1 shall prevail.
2

3 A. Urban, Rural-Residential and Rural Environments.- The following
4 specific regulations are applicable to the Urban, Rural-Residential
5 and Rural Environments:
6

7 1. The following uses are permitted outright in the Urban, Rural-
8 Residential, and Rural Environments. The issuance of a building
9 permit may be required:
0

1 a. Construction, within the prescribed setback, bulk and height
2 limitations of a single family residence by an owner, lessee
3 or contract purchaser for his own or the use of his family,
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- b. The construction of single family residences within a subdivision for the purpose of sale where the construction of said residences and the subdivision meet all applicable Master Program requirements. (Amended Res. #22859, April 27, 1981)

 - c. The following uses commonly accessory to single family residences constructed within the prescribed setback and height limitations: (Amended Res. #22859, April 27, 1981)
 - 1. Garages
 - 2. Sheds and storage facilities
 - 3. Bulkheads (see Section 65.28)
 - 4. Piers, docks, buoys and floats (see Section 65.56)

 - d. Residential subdivisions, determined not to be substantial developments.
2. The following uses are permitted upon the issuance of a Substantial Development Permit and a building permit, if appropriate:
- a. The construction of single family residences for the purpose of sale which are not within a subdivision which has received prior approval of a Substantial Development Permit.
 - b. Two family detached dwellings (duplexes).
 - c. Residential subdivisions determined to be substantial developments.
 - d. Structures commonly accessory to dwellings other than those listed in A.l.c. (Amended Res. #22859, April 27, 1981)
3. The following uses are permitted upon the issuance of a Substantial Development Permit as appropriate, and final approval of a development project pursuant to the County PDD ordinances:
- a. Multifamily housing
 - b. Residential subdivisions
 - c. Rowhousing, townhouses, and other similar cluster type development
 - d. Uses commonly accessory to dwellings
4. The following use is permitted upon the issuance of a Shoreline Management Conditional Use Permit and building permits, as appropriate:
- a. Mobile home parks: This use will be allowed only after the appropriate County reviewing authority determines that the proposed structure is compatible with surrounding uses and is consistent with the intent of the Master Program.

Note: When deemed necessary, the County may impose such conditions as may be necessary to assure compatibility with surrounding uses such as, but not limited to, screening, landscaping, and setbacks.

5. Density Requirements:

TYPE	MAXIMUM DWELLING UNITS PER NET ACRE (30,000 sq. ft.) OR PROPORTIONATELY FOR A FRACTION THEREOF*		
	URBAN	RURAL-RESIDENTIAL	RURAL
a. Subdivision, single family detached	3.33	3.1	1.5
b. Duplexes	4.4	4.0	2.0
c. Subdivision, group or cluster, prepared under PDD ordinance	5.5	5.0	5.0
d. Multifamily, prepared under PDD ordinance	15.0	10.0	8.0
e. Mobile home parks	5.5	5.0	5.0

B. Conservancy Environment - The following specific requirements are applicable to the Conservancy Environment:

1. The following uses are permitted outright in the Conservancy Environment. The issuance of a building permit may be required:
 - a. Same as Urban Environment
2. The following uses are permitted upon the issuance of a Substantial Development Permit and a building permit, if appropriate:
 - a. The construction of single family residences for the purpose of sale which are not within a subdivision which has received prior approval of a Substantial Development Permit.
 - b. Subdivision of single family residences determined to be a substantial development.
 - c. Structures commonly accessory to dwellings other than those listed in A.1.c. (Amended Res. #22859, April 27, 1981)
3. Density requirements:

MAXIMUM DWELLING UNITS PER NET ACRE
(30,000 sq. ft.) OR PROPORTIONATELY
FOR A FRACTION THEREOF*

TYPE

- a. Subdivision, single family detached 1.0
- b. Subdivision, group or cluster prepared under PDD ordinance 1.0

C. Natural Environment

1. Residential development is prohibited in the Natural Environment

*NOTE: Residential density is the average waterfront density which is based upon the net acre (e.g., 30,000 sq. ft.) for each lot being located within the two hundred foot horizontal plane distance measured from the ordinary high water mark or lawfully established bulkhead, or upland limit of any associated wetland as defined by Section 90.50.030(2) (f) of the Shoreline Management Act; provided, that residential density may be based on total lot area in any subdivision or portion thereof, if as a condition of plat approval, all principal structures and uses in said subdivision or portion thereof are set back a distance of 125 feet or more from the ordinary high water mark, lawfully established bulkhead, or upland limit of an associated wetland.

65.62.050 Bulk Regulations. The following lot coverage, setback and height limitations shall be applicable to residential development in all shoreline environments. Exceptions may be made to the lot coverage and setback requirements if a project is developed pursuant to the Planned Development Ordinance.

- A. Lot Coverage - Not more than 33 1/3 percent of the gross lot area shall be covered by impervious material including parking areas but excluding driveways.
- B. Setbacks - All setbacks, with the exception of the setbacks from ordinary high water line or lawfully established bulkhead shall be as required by the Pierce County Zoning Code or other County regulations.
- C. Special Setbacks for Shoreline Sites - The required setback for buildings and structures from any lot line or lines abutting the ordinary high water line or lawfully constructed bulkhead shall be 50 feet except that the special shoreline setback shall not apply to docks, floats, buoys, bulkheads, launching ramps, jetties and groins.
- D. Exceptions to the Special Setback for Shoreline Sites.

1. The shoreline setback for any proposed buildings or structures on a vacant lot that has a common property line with one or more lots which is/are developed with a principal use/uses and which abut the ordinary high water line shall be as follows:

- 1 a. Not less than the average of the setbacks of the principal
2 uses on the adjacent properties. (In determining the average
3 a vacant parcel shall be considered a 50 foot setback). How-
4 ever, no building or structure will be required to be set
5 back more than 50 feet from nor allowed closer than 15 feet
6 to ordinary high water or the lawfully established bulkhead.
7
8 2. Any water dependent accessory use may be allowed within the 50
9 foot setback upon the issuance of a Conditional Use Permit. The
0 issuance of a Conditional Use Permit shall be predicated upon a
1 determination that the project will be consistent with the
2 following Conditional Use Criteria, and the Conditional Use
3 criteria listed in WAC 173-14-140, and will cause no reasonable
4 adverse effects on the environment and other uses. (Amended Res.
5 #21328, March 13, 1979)
6

7 Conditional Use Criteria:

- 8 a. Views from surrounding properties will not be unduly impaired.
9 (Added Res. #21328, March 13, 1979)
10
11 b. Adequate separation will be maintained between the structure
12 and adjacent properties and structures. (Added Res. #21328,
13 March 13, 1979)
14
15 c. Screening and/or vegetation will be provided to the extent
16 necessary to insure aesthetic quality. (Added Res. #21328,
17 March 13, 1979)
18
19 d. Design and construction materials shall be chosen so as to
20 blend with the surrounding environment. (Added Res. #21328,
21 March 13, 1979)
22
23 e. No additional harm to the aquatic environment will result
24 from the reduced setback. (Added Res. #21328, March 13,
25 1979)
26
27 3. The shoreline setback for lots of record as of April 4, 1975
28 having a depth of less than 115 feet may be reduced, if approp-
29 riate by one foot for each foot that the lot is less than 115
30 feet deep, but in no case shall such adjustment result in a set-
31 back of less than 15 feet.
32
33 4. Existing buildings and structures in existence on or before the
34 effective date of this Resolution may be remodeled or rebuilt
35 in the same location, provided the ground floor lot area of
36 said building is not increased and further provided that the
37 building or use thereof shall have been and continues to be con-
38 forming to these regulations and shall be for the same use.
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CITY OF GIG HARBOR

851-8136

SHORELINE PERMIT(S) APPLICATION

CITY USE ONLY

Case Number _____
 Date Received _____
 By _____

Please check the Permit(s) you wish to apply for:

- Shoreline Management Substantial Development
- Shoreline Conditional Use **\$250⁰⁰**
- Shoreline Variance

TO THE APPLICANT: This is an application for a Substantial Development Permit and is authorized by the Shoreline Management Act of 1971. It is suggested that you check with the appropriate local, state or federal officials to determine whether your project falls within any other Permit system, since a Permit under the Shoreline Management Act will not excuse the applicant from compliance with any other local, state or federal ordinances, regulations or statutes applicable to the project.

USE BLACK INK ONLY

OWNER(S)

1. NAME LUISE GOTTHALD
 MAILING ADDRESS 9520 RANDALL DR N.W.
 CITY AND STATE GIG HARBOR WA ZIP 98332
 TELEPHONE 206-851-2829
 I (We) (Signature(s)) [Signature] Date 8-17-92

do hereby affirm and certify, under penalty of perjury, that I am one (or more) of the owners or owner under contract of the below described property and that the foregoing statements and answers are in all respects true and correct on my information and belief as to those matters, I believe it to be true.

APPLICANT

2. NAME LUIGI MAGNUSSEN
 MAILING ADDRESS 9520 RANDALL DR N.W.
 CITY AND STATE GIG HARBOR WA ZIP 98332
 TELEPHONE 851-2829
 SIGNATURE [Signature] DATE 8-17-92

3. AUTHORIZED REP.
 NAME LUIGI MAGNUSSEN
 MAILING ADDRESS SAME
 CITY AND STATE _____ ZIP _____
 TELEPHONE _____

4. NAME OF PROJECT Small boat moorage.

5. SUMMARY OF REQUEST (List Type of Uses) _____
BOAT DOCK
BOAT CRADLE WITH TIDAL LIFE SUPPORTS.

6. PROPERTY LOCATION:
 NORTH SOUTH EAST WEST SIDE OF (Circle One)

(Road Name): RANDALL DR. N.W.
 between (road name): CORNER OF 96TH & RANDALL DR.
 and (road name): _____

PROPERTY ADDRESS 9520 RANDALL DR. N.W.

SECTION 5 TOWNSHIP 21 RANGE 2E

ASSESSOR'S PARCEL NUMBER R02-21-05-6001

FULL LEGAL DESCRIPTION OF SUBJECT PROPERTY: (Attach separate sheets if too long) LOT 1 OF PIERCE COUNTY SHORT PLAT No. 74-17 (Volume 2 OF SHORT PLATS PAGE 17 RECORDS OF P.C.)

7. EXISTING ZONE R-1
Rural Residential Shoreline ENVIRONMENT.
 TOTAL SQUARE FOOTAGE OF THE SITE 225⁰⁰

8. UTILITIES:

1. WATER SUPPLY: (Name of Utility, if applicable)

a. EXISTING: N/A

b. PROPOSED: N/A

2. SEWAGE DISPOSAL: (Name of Utility, if applicable)

a. EXISTING: N/A

b. PROPOSED: N/A

ACCESS: (Name of road or street from which access is or will be gained)

1. EXISTING ACCESS: 9520 RANDOLPH DR. NW.

2. PROPOSED ACCESS: SAME

9.

Case No. _____

TOTAL SQUARE FOOTAGE IN PAVED OR COVERED SURFACES _____

NONE

NUMBER OF DWELLING UNITS: PROPOSED N/A PERMITTED N/A

COMMERCIAL USES:

TOTAL GROSS SQUARE FOOTAGE OF COMMERCIAL BUILDINGS _____

NONE

DESCRIPTION OF EACH COMMERCIAL USE N/A

Name of adjacent water area or wetlands: GOLF HARBOR (CRESCENT COVE)

MAPS FOR SHORELINE PERMIT, CONDITIONAL USE, AND VARIANCE APPLICATIONS

Draw all maps to a scale of not more than 50 feet to the inch, clearly indicating scale on lower right corner of the map. Submit 5 copies of all maps with application.

(a) **SITE PLAN MAP.** Include on map:

Show which areas are shorelines and which are shorelines of state-wide significance:

- (1) Site boundary and dimension in vicinity of project.
- (2) Land contours using five-foot intervals or cross sections. If project includes grading, filling, or other alteration of contours, then either:
 - (i) Indicate existing and proposed contours and items (3) through (8) below: OR
 - (ii) Provide two cross sections, one showing existing ground elevations and height of structures, the second showing proposed ground elevations and height of proposed structures, with both showing items (3) through (8) below.
- (3) Size and location of existing improvements which will be retained.
- (4) Ordinary high-water mark.
- (5) Dimensions of proposed structures.
- (6) Maximum height of proposed structures above existing grade level.
- (7) Identify source, composition, and volume of fill materials if applicable.
- (8) Identify composition and volume of any extracted materials and identify proposed disposal area.
- (9) Location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas and electricity.
- (10) If the proposed development includes septic tanks, does proposed development comply with local health and state regulations?
- (11) If applying for variance from setback requirements, indicate on site plan location of structures on adjacent properties.

(b) **VICINITY MAP.**

- (1) Indicate site location using natural points of references (roads, state highways, prominent landmarks, etc.).
- (2) If the development involves the removal of any solids by dredging or otherwise, please identify the proposed development site on the map. If the disposal site is beyond the confines of the vicinity map, provide another vicinity map showing the precise location of the site and its distance to the nearest city or town.

(c) Provide a brief narrative description of the general nature of the improvements and land uses within 1000 feet in all directions from the development site. (i.e., residential to the north, commercial to the south, etc.)

CITY LIMITS OF GIG HARBOR

(WEST PASSAGE CO. RD)

96th ST. N.W.

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20

LOT 8

L-2 SHORT PLAT 6-29 86-08-25-0100

LOT 4

ADDRESS OF PROPOSED BOAT DOCK 9520 RANDALL DR. N.W.

LOT 7A 283

- = PROPOSED DOCK LOCATION
- = PLAT # 74-17
- = PLAT # 76-145
- = PLAT # 76-146

- = WATER / SHORE LINE / ORDINARY HIGH WATER
- = CITY LIMITS

LOT 11 238

(GIG HARBOR ABANDONED MILITARY RESERVE)

LOT 12 286

GIG HARBOR

ST. WHEELER AVE. (CRESCENT)

RANDALL DRIVE N.W.

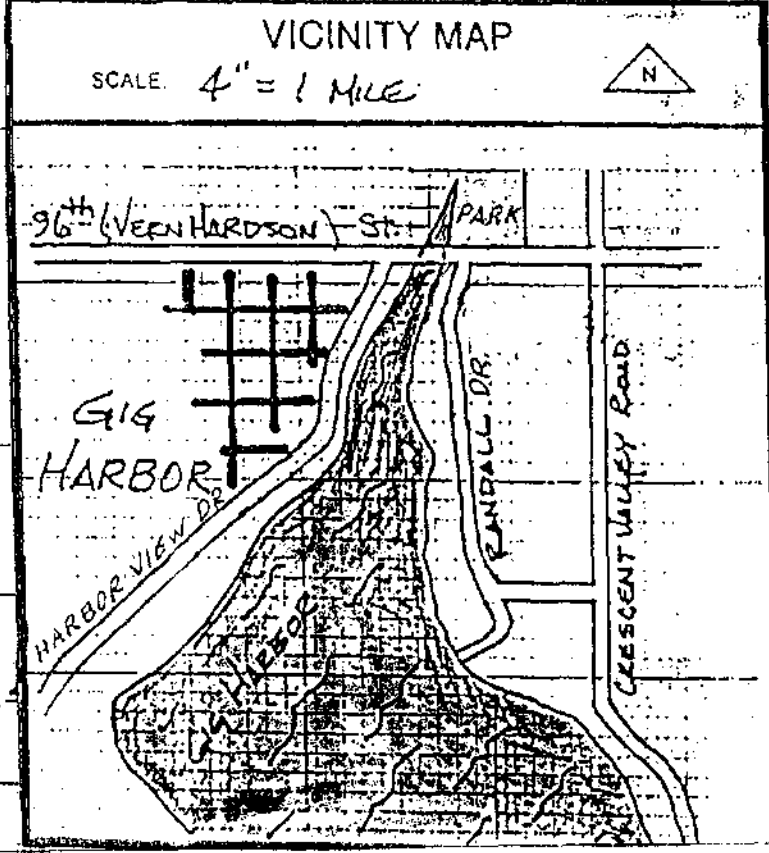
RANDALL RD. REVISION (HALL)

CRESCENT VALLEY ROAD

NW SECTION 5, T21N. R. 2 E. W.M. PIERCE CO. SCALE 1" = 20'

SHORT PLAT 82-12-08-0240 L-2

LOT 18

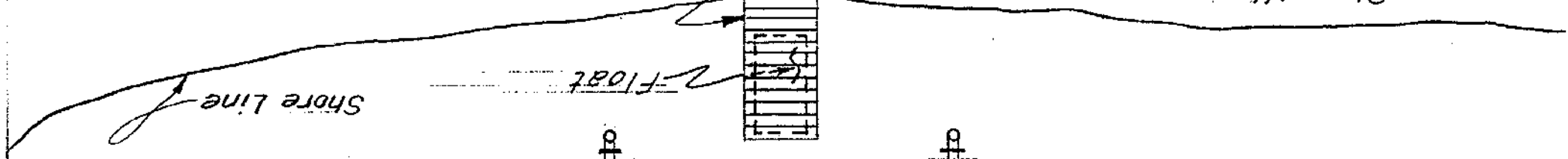
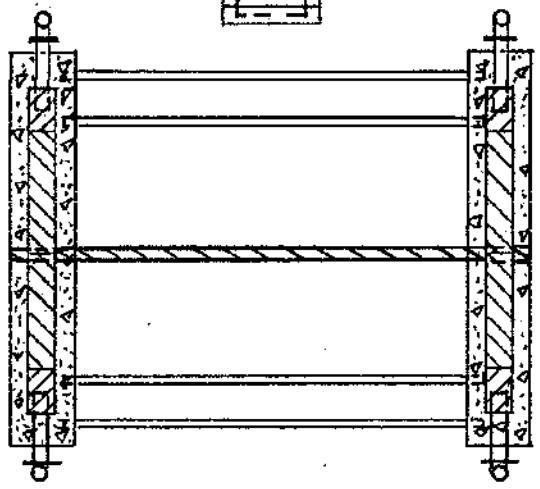


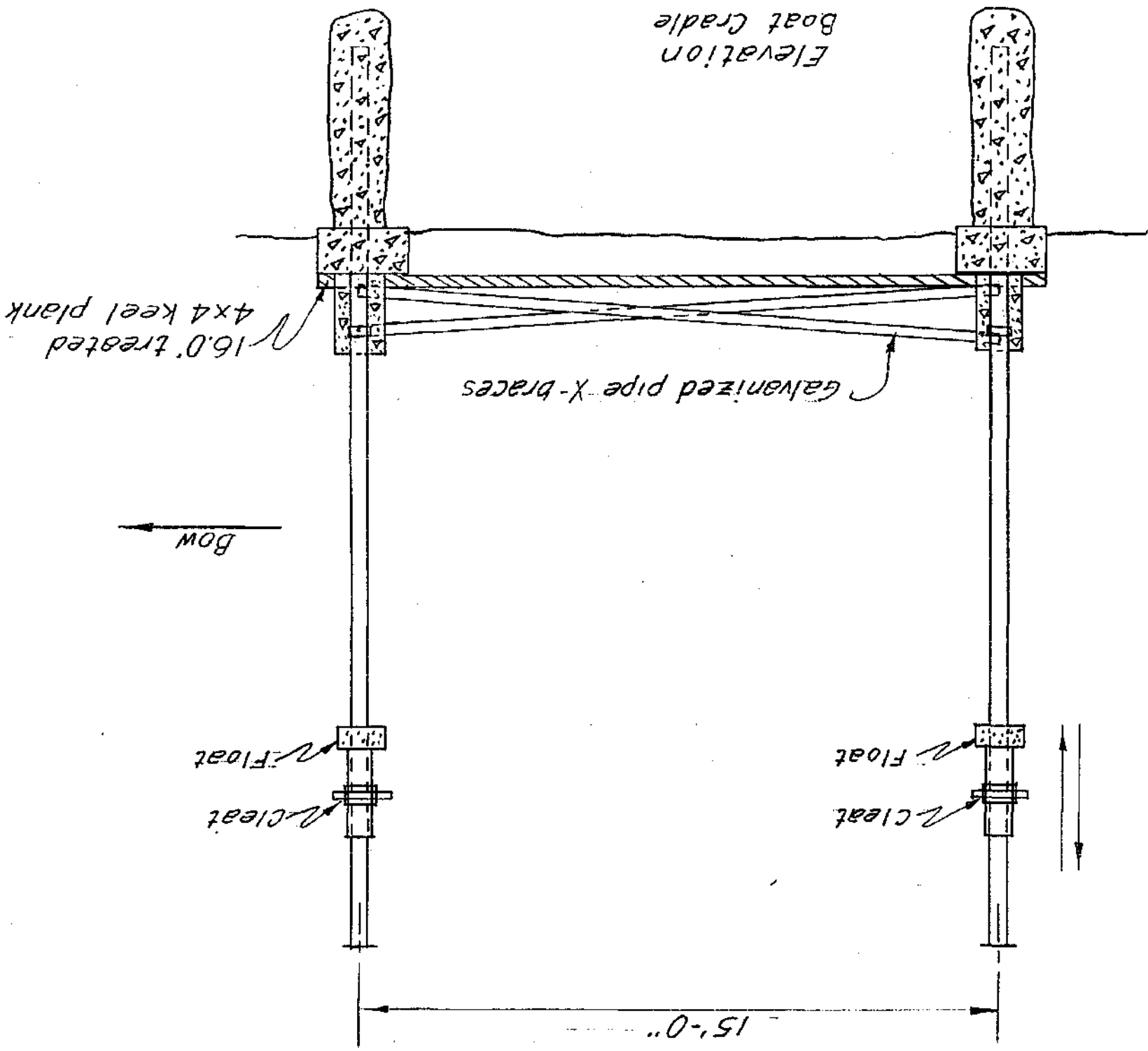
Plan View
Boat Cradle
Scale 60:1

Existing Walkway

Float

Shore Line





Elevation
Boat Cradle

16.0' treated
4x4 keel plank

galvanized pipe X-braces

Bow

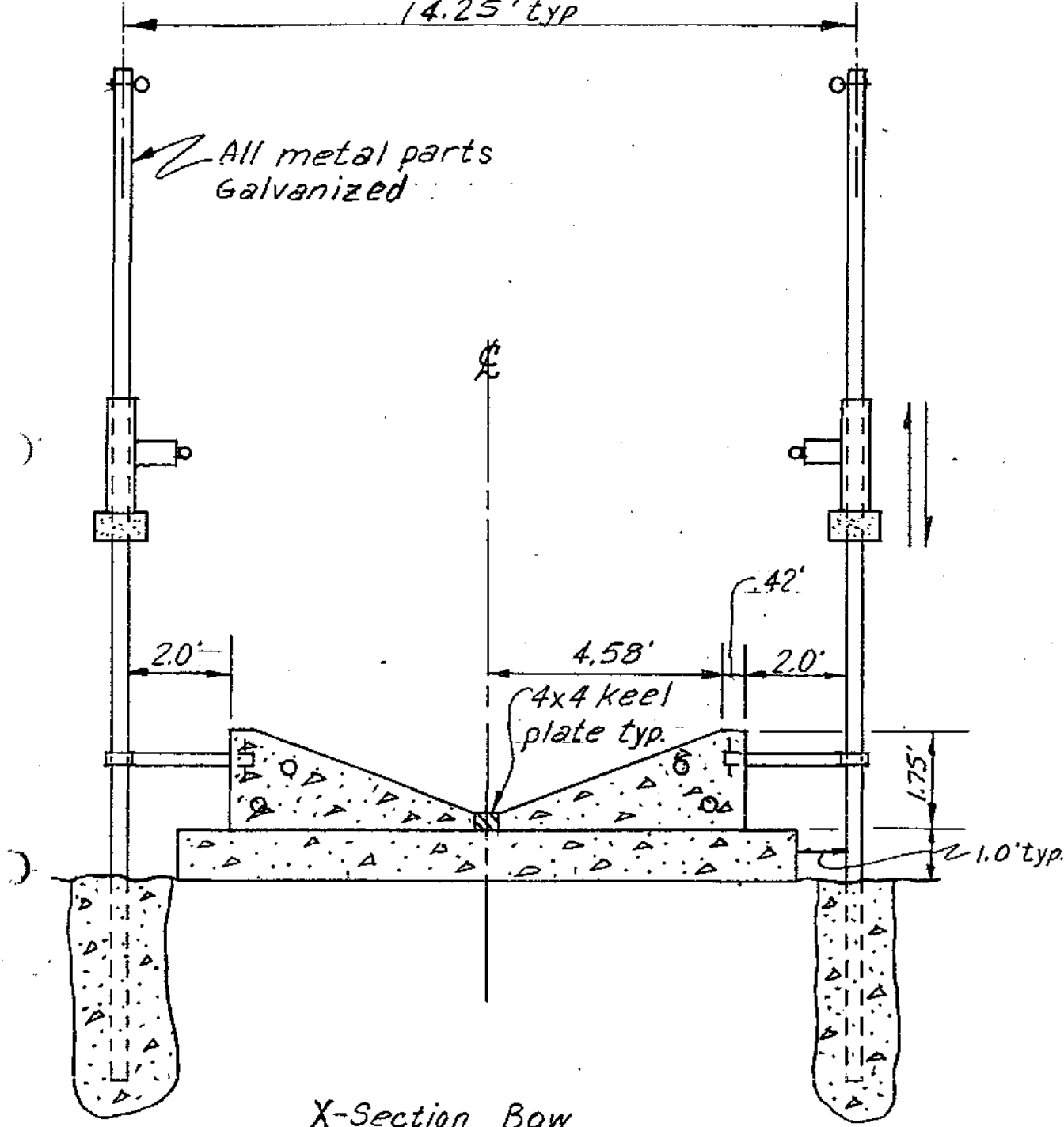
2 floats

2 cleats

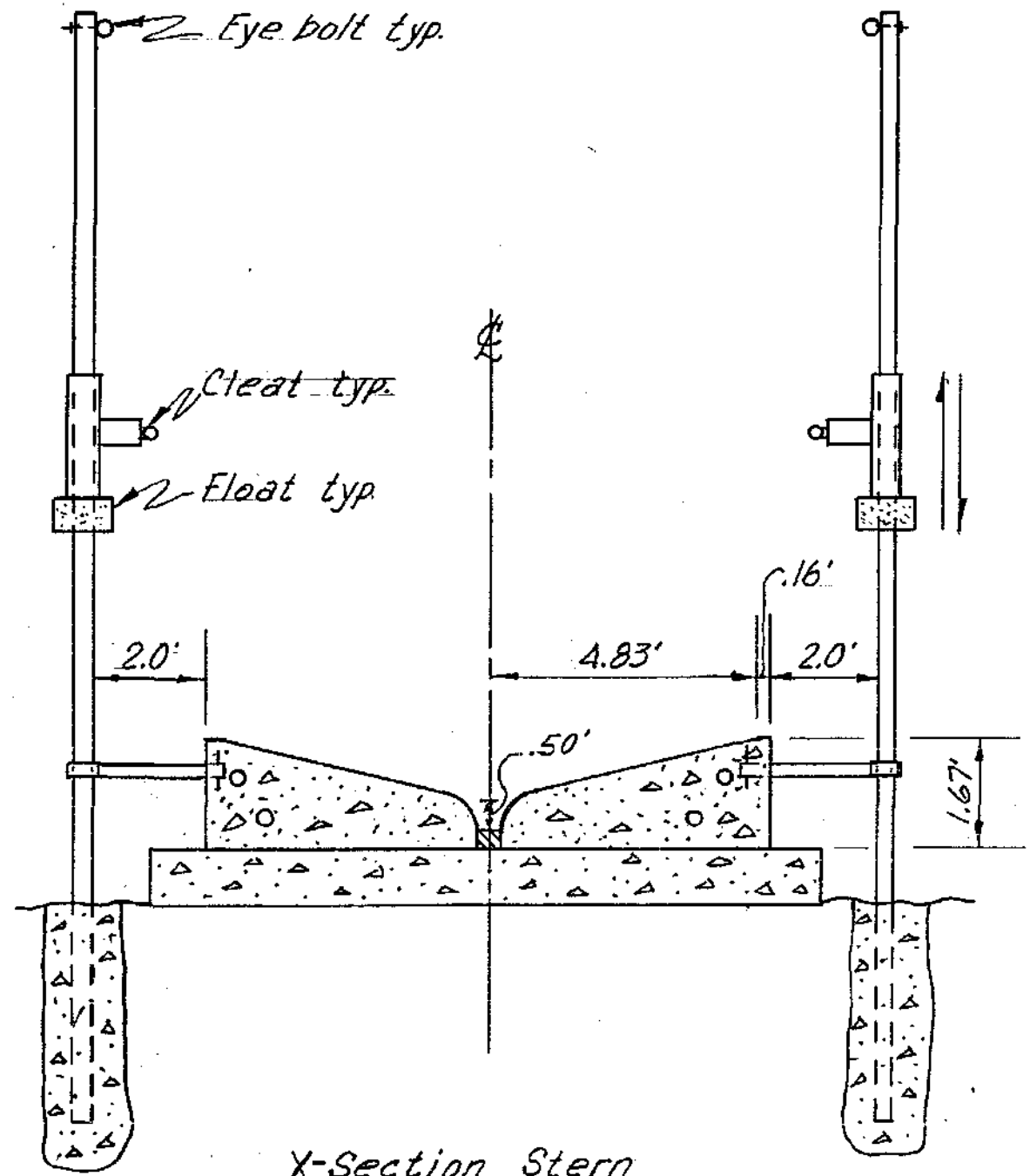
2 floats

2 cleats

15'-0"



X-Section Bow

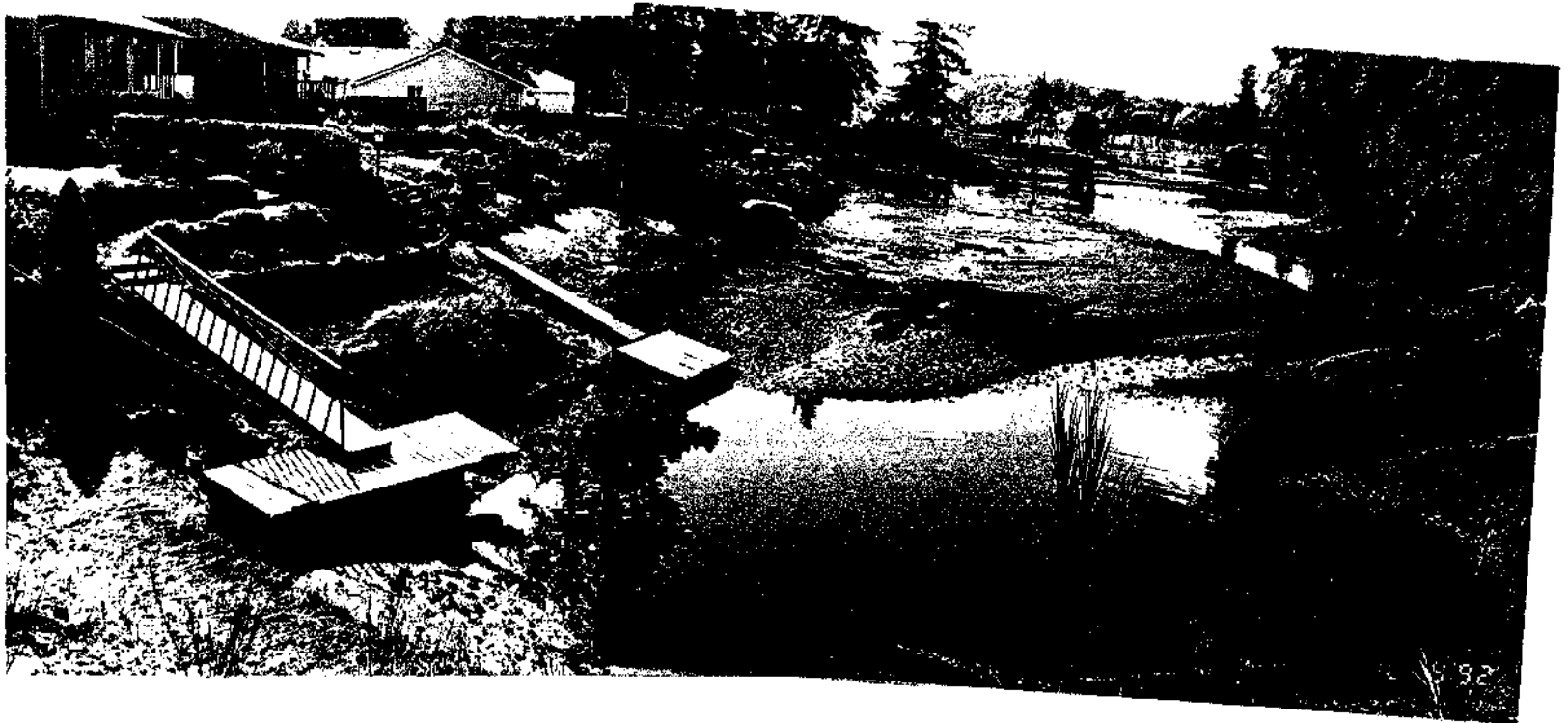


X-Section Stern

TIDE FLAT BOAT CRADLE
Scale 30:1

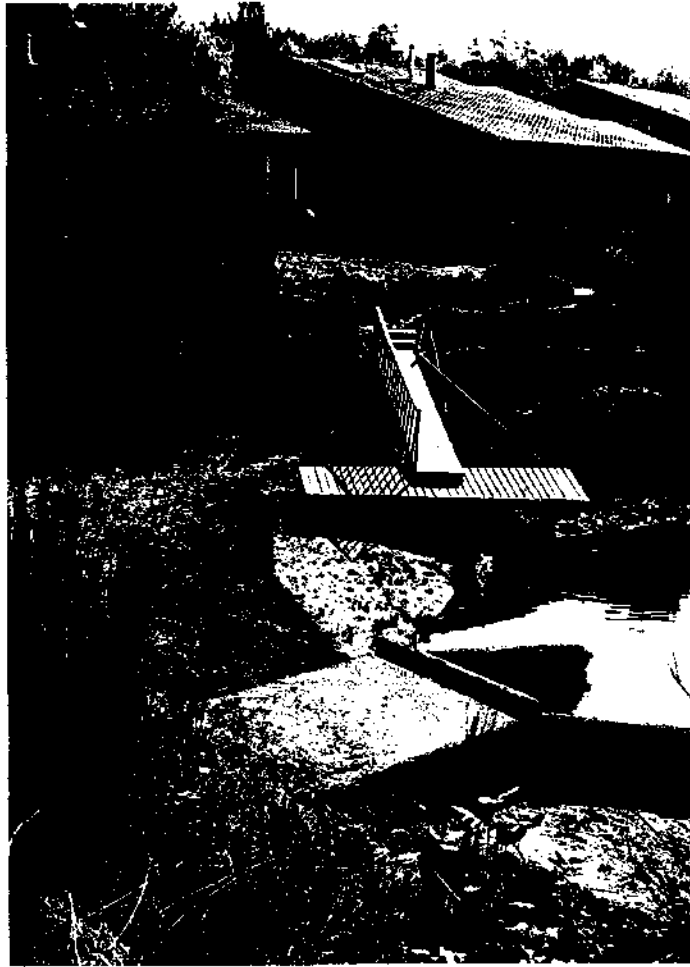
SDP 92-03

HUGH MAGNUSSEN



SDP 92-03


HUGH MAGNUSSEN





City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

MEMORANDUM

TO: Mayor Wilbert and City Council
FROM:  Ray Gilmore
DATE: January 7, 1992
SUBJ.: Hearing Examiner Recommendation -- SDP 92-04, Peter Darrah.

=====
Attached for your consideration is the report of the City Hearing Examiner on an application filed by Mr. Peter Darrah. Mr. Darrah requests a shoreline management substantial development and variance permit consisting of the following:

- * Constructing a new moorage float designed for 12 boats, 2 of which would be greater than 45 feet in length. The new float is proposed to be located adjacent to the float to the northwest and would share the same pilings.
- * Add 1328 square feet of decking to structures, a portion of which is waterward of OHW.
- * Remodel net shed (entry and roof, with no increase in height requested).
- * Addition to house (686 square feet).
- * Partial second story addition to Novak house (no detail provided on elevation).

The applicant also requests a variance from the parking standards of the zoning code and shoreline master program.

In his report (Findings and Conclusions), the City of Gig Harbor Hearing Examiner has recommended that the application for the above stated improvements and construction be denied by the City Council. A copy of the Examiner's report of December 3 (Findings and Conclusions) is attached along with a resolution in support of the Examiner's findings,

Page 2, SDP 92-04
Peter Darrah

conclusions and recommendation and a shoreline permit form.
Documents pertinent for your review are attached.

CITY OF GIG HARBOR
RESOLUTION NO.

WHEREAS, Mr. Peter Darrah, has requested a Shoreline Management Substantial Development permit and variance approval from the parking standards of the Shoreline Master Program and Zoning Code; and,

WHEREAS, the Gig Harbor city Council has adopted Ordinance #489 which establishes guidelines for the reviewing of Shoreline Management Substantial Development permits and variances and other land use issues; and,

WHEREAS, the Planning Department for the City of Gig Harbor has recommended denial of the application in a staff report dated November 12, 1992; and,

WHEREAS, the City of Gig Harbor Hearing Examiner conducted a public hearing on the application on November 18, 1992 to accept public comment on; and,

WHEREAS, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has recommended denial of the application of in his report dated December 3, 1992; and,

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 December 3, 1992 are hereby adopted and the application for Shoreline Management Substantial Development/Variance permit and zoning variance is **DENIED**.

PASSED this 11th day of January, 1993.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator

Filed with City Clerk: 01/08/93
Passed by City Council: 01/11/93

CITY OF GIG HARBOR
SHORELINE MANAGEMENT SUBSTANTIAL DEVELOPMENT
CONDITIONAL USE, VARIANCE PERMIT

- Substantial Development
- Conditional Use
- Variance

Application No.: SDP 92-04

Date Received: 9/26/92

Approved:

Denied: 1/11/93

Date of Issuance: DENIED

Date of Expiration: N/A

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

Mr. Peter M. Darrah
3311 Harborview Drive/P.O. Box 31
Gig Harbor, WA 98335

To undertake the following development:

Constructing a new moorage float designed for 12 boats, 2 of which would be greater than 45 feet in length. New float is proposed to be located adjacent to the float to the northwest and would share the same pilings; Add 328 square feet of decking to structures, a portion of which is waterward of OHW. Remodel net shed (entry and roof, with no increase in height requested). Addition to house (686 square feet). Partial second story addition to Novak house (no detail provided on elevation), all of the above as per attached site plan

Upon the following property:

Located within a portion of the SW 1/4 of Section 5, Township 21 North, Range 2 E.WM, assessor's tax parcel number 597000-002-0.

Within Gig Harbor Bay and its associated wetlands. The project will be within shorelines of Statewide Significance per RCW 90.50.030 and is within an Urban environment designation, per the City of Gig Harbor Shoreline Master Program.

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

Not Applicable

This permit is granted pursuant to the Shoreline Management Act of 1972 and 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: Peter F. Darrah

CASE NO.: SDP 92-04, VAR 92-13

LOCATION: 3311 Harborview Drive

APPLICATION: Shoreline development permit to re-construct moorage float and remodel structures on uplands. Specifically, the project consists of:

- Constructing a new moorage float designed for 12 boats, 2 of which would be greater than 45 feet in length. The new float is proposed to be located adjacent to the float to the northwest and would share the same pilings.
- Add 1328 square feet of decking to structures, a portion of which is waterward of OHW.
- Remodel net shed (entry and roof, with no increase in height requested).
- Addition to house (686 square feet).

The applicant also requests a variance from the parking standards of the zoning code and shoreline master program.

SUMMARY OF RECOMMENDATIONS:

Planning Staff Recommendation: Deny
Hearing Examiner Recommendation: Deny

PUBLIC HEARING:

After reviewing the official file which included the Planning Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Darrah application was opened at 5:02 p.m., November 18, 1992, in City Hall, Gig Harbor, Washington, and closed at 6:19 pm. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Planning Department.

FINDINGS CONCLUSIONS AND RECOMMENDATION:

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

I. FINDINGS:

- A. The information contained on pages 1 through 8 of the Planning's 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.
- B.1. Ray Gilmore reviewed the staff advisory report at the hearing and entered Exhibits E and F into the record. Exhibit E is a notice from the office of the Attorney General, addressed to Mr. Darrah to remove structures from the state-owned harbor area. Exhibit F is a letter from the Department of Natural Resources which denies approval for Mr. Darrah's new moorage float as proposed and which withdraws its offer to renew Mr. Darrah's lease.
- B.2. Bob Felker, an attorney speaking on behalf of Mr. Darrah, responded to the staff findings and conclusions (Part III of Exhibit A).
 1. He concurred that the proposed use is a permitted use.
 2. He submitted Exhibits J and K and said the parking issue had been decided by Judge Ruff in 1972 in Mr. Darrah's favor (Exhibit K). However, he went on to say that Mr. Darrah proposes no long term moorage and would not need any off street parking, yet if the City is insistent on providing off-street parking, the parking can be provided as shown on Exhibit J. He said if parking is provided in accordance with Exhibit J, then a variance would not be needed.
 3. He said Mr. Darrah would not extend any moorage float waterward of the outer harbor line.
 4. He submitted Exhibit I which he said would allow Mr. Darrah to have joint use of the pilings installed by the adjacent neighbor. The letter was written by Mr. Kerr before he sold the property to Mr. Hix. He went on to say, however, that Mr. Darrah would not need to use any of the pilings which belong to Mr. Hix.
 5. He said he didn't understand what the problem is. He suggested that the City condition the approval of the shoreline permit on Mr. Darrah's obtaining a valid lease from the Department of Natural Resources. He said the City should not make decisions for the state.
 6. (Noted above with #2)
 7. He said Mr. Darrah would comply with the Department of Fisheries requirements.

- B.3. Al Perna testified that he lives in the Eugene area and that he has stayed on the Christine and has visited the museum. He said the museum is well-known beyond Gig Harbor and is a positive attribute to the town.
- B.4 John Paglia said he was representing Adam Ross and had several fundamental questions and comments about the application. He said:
- a. The site plan shows no dimensions relating to the Ross property. He asked how the proposal will affect Ross.
 - b. The City Council had determined that certain structures on Darrah's property should be removed. He questioned whether the City staff has the authority to stay that order.
 - c. There are multiple uses on the site. He said that in addition to the marina, there is a bed and breakfast, a residence and a museum. He believed parking should be provided in accordance with Section 17.72.030 of the zoning code. He also said the code requires that regarding the museum there must be an off-load area for one vehicle per section 17.72.050.B of the zoning code.
 - d. The District Court decision regarding parking submitted by Darrah's attorney has no standing. The District Court is not a court of record. He said Darrah is trying to use that decision to expand a non-conforming use.
 - e. It is ridiculous to think people won't come to the site in cars. He said there is already a significant parking problem every time there is a wedding or function on the Christine.
 - f. The museum is not a marine related use and does not need to be located in a shoreline area.
 - g. The plans are crude and not definitive. In addition, Darrah has no DNR lease, no Corps of Engineers permit and he does have an order from the Attorney General to remove his existing improvements from the state-owned Harbor area.
 - h. There has been no showing of hardship that has not been induced by the applicant.
- B.5. Jack Bujacich said he felt the Judge was wrong in his decision regarding off-street parking when he made the decision 20 years ago and feels the decision is still wrong today. He said Mr. Darrah has continued to expand his facility even after earlier hearings when his applications were denied. He said he has never seen a survey provided by Mr. Darrah and questioned whether or not Darrah has the standing to apply for a shoreline permit and variance. He said Darrah has a small lot with a museum, a house, an expanded dock, sheds and more - there is even a Bed and Breakfast advertised in the papers.

He said a 12 foot setback from adjacent properties is needed for ingress and egress of boats at the docks and the application doesn't show that. He also questioned whether Mr. Darrah's application meets the City's requirements.

Finally, he said he felt Mr. Darrah should have a lease from DNR before the City approves any permits. He said he felt Mr. Darrah wants to say to the state, "Look, I have an approval from the City, now I want my lease renewed".

B.6. Adam Ross testified that people who visit the Christine often times park on his property and sometimes will do so even after he asks them not to.

B.7. Marie Lovrovich said she would like to commend Mr. Darrah on the improvements which he has recently made, however, did not believe he should be granted a variance from the parking standards. She said both the museum and the Christine create parking demands.

She also expressed concern that if a fire occurred at the Darrah Marina, boats at the Ross and Hix docks would be in danger because of the narrowness of the property.

B.8. Steven Hix said he had put in 16 parking spaces for his marina and now people who come to Darrah's marina and to the Christine park on his lot. He said his tenants can't even park in the spaces he has provided for them when a wedding takes place on the Christine because those people will take all the parking places.

He also said his attorney has looked at the Kerr letter (Exhibit I) and has said there is no obligation for him (Hix) to provide what Kerr agreed to before the property was sold.

C. Exhibit F is a letter from the Washington State Department of Natural Resources. The letter states that:

"The Department of Natural Resources at this time cannot approve the proposed construction of the new reconfigured moorage float as shown on the Shoreline Management Permit application Site Plan. The moorage float that is shown on this site plan extends beyond the outer harbor line.

Additionally, the department at this time cannot approve the joint use dock between Peter Darrah and Steven Hix also shown on this site plan.

The department has withdrawn its offer to renew Harbor Area Lease 22-002541, and has turned this matter over to the State Attorney General's Office for legal action."

D. Exhibit E is a letter from the Office of the Attorney General of Washington. The letter serves as a notice to Mr. Darrah to remove structures from state-owned Harbor Area.

Included in the letter to Mr. Darrah are the following statements:

"You were notified by certified letter dated October 16, 1992, that this Harbor Area Lease No. 22-002541 would not be renegotiated.

This is formal notice to you that you shall immediately, peaceably surrender the premises to the Department. This requires removal of all improvements, fixtures, trade fixtures, and personal property that occupy the state owned Harbor Area. This does not relieve you of your obligations to pay sums or other damages which may be owed to the State, including use and occupancy fees for any use of state-owned Harbor Area after August 18, 1992."

The letter then specifies which improvements, fixtures, trade fixtures and personal property must be removed and gives Mr. Darrah until February 18, 1993 to remove them."

II. CONCLUSIONS:

- A. The conclusions contained on pages 9 through 11 of the Planning Staff's Advisory Report accurately set forth a portion of the conclusions of the Hearing Examiner and by this reference are adopted as a portion of the Hearing Examiner's conclusions. A copy of said report is available in the Planning Department.
- B. It is clear from the testimony presented at the hearing that a parking problem already exists with respect to Mr. Darrah's business operations. Any new improvements proposed should certainly comply with all of the codes, including the parking requirements. As was noted in the staff report, the staff said 7 spaces were required and Mr. Darrah proposed none. At the hearing, however, his attorney submitted Exhibit J which offered three off-street parking proposals. One proposal offered two spaces, one proposal offered 4 spaces and one proposal offered 6 spaces. Mr. Darrah's attorney also stated that 7 spaces could be provided if necessary and no variance would be needed. None of the proposals were submitted in a timely fashion so they could be reviewed by staff prior to the hearing. It should be noted that none of the proposals show how the landscaping and screening requirements specified in the Sections 17.78.070 and 17.72.020.F of the code would be met.

I concur with the staff analysis of the variance criteria. Mr. Darrah has not met the burden or proof necessary to be granted a variance. As noted above, he may be able to meet the off-street parking requirements, if only 7 parking spaces are required, but a statement by his attorney, without a definite site plan to review is not sufficient.

- C. The site plan submitted indicates on the narrative that there will be 12 moorage spaces which would accommodate 2 vessels over 45 feet in length and 10 vessels under 45 feet in length. However, after scaling the site plan it appears that the proposed moorage would actually accommodate 2 vessels under 45 feet in length and 10 vessels over 45 feet in length. If that is the case, then 11 off-street parking spaces would be required, not 7 spaces as has been discussed. It is difficult to determine how long the moorage spaces are intended to be because a scale of 1 inch equals 33 feet was used on the site plan. That is an

unusual scale, therefore, it is difficult to obtain any accurate measurements from the drawings.

- D. The applicant has noted an Exhibit J that "once the outer harbor line has been positioned, no part of the applicant's project will extend beyond that boundary as ultimately permitted by DNR". The Shoreline Master Program does not permit a moorage to extend beyond the outer harbor line and while the statement would be consistent with the Shoreline Master Program, the site plan drawing is not.
- E. I believe the applicant should have an effective lease from DNR before an application for a shoreline permit is submitted to the City. At this point, it appears Mr. Darrah's application is no different than if he were to apply for a permit to construct something on a neighbor's land. Not only does he not have a lease, but DNR has withdrawn its offer to renew his old lease and has turned the matter over to the Attorney General's office to bring legal action to have Mr. Darrah's existing improvements removed. While that is an issue separate from any City action, I do not believe the City should approve any permit relative to the disputed area until that issue is clearly resolved.
- F. Therefore, unless the lease issue is resolved and off-street parking is provided in accordance with the Zoning Code, I believe the application for a Shoreline permit as requested should be denied. In addition, as noted earlier, I do not believe adequate showing has been made to grant a variance from the parking requirements of the Code.

III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, it is recommended that the requested shoreline permit and zoning variance be denied.

Dated this 3rd day of December, 1992.



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 this action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance for 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 rejecting a decision of the Examiner, shall be final and conclusive, unless within twenty (20) days from the date of the Council action an aggrieved party or person applies for a writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action.

**MINUTES OF THE NOVEMBER 18, 1992
HEARING ON THE DARRAH
APPLICATION**

Ronald L. McConnell was the Hearing Examiner for this matter. Participating in the hearing was: Ray Gilmore, representing the City of Gig Harbor, Bob Felker, representing the applicant, Al Perna, speaking on behalf of the applicant; John Paglia, representing Adam Ross; and neighboring property owners speaking in opposition to the request; Jack Bujacich, Marie Lovrovich, Steven Hix, and Adam Ross.

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Planning Staff's Advisory Report.
- B. Shoreline Permit Application
- C. Variance application
- D. Site Plan
- E. Letter from Paul Silver, senior Assistant Attorney General, dated November 17, 1992.
- F. Letter from Kathy Marschall, Land Manager, Division of Aquatic Lands, DNR, dated November 16, 1992.
- G. Photos of site and surroundings submitted by City staff.
- H. Letter from Steven Hix, dated November 16, 1992.
- I. Letter from John Kerr, dated August 28, 1990.
- J. Parking Plan with cover letter from Peter and Pamela Darrah, dated November 18, 1992.
- K. Pierce County Justice Court Decision, signed by Judge Frank Ruff.

PARTIES OF RECORD:

Peter and Pamela Darrah
3311 Harborview Drive
Gig Harbor, WA 98335

Bob Felker
Attorney at Law
202 E. 34th Street
Tacoma, WA 98404

Al Perna
322 Meadow Lane
Crestwell, OR 97426

John Paglia
Attorney at Law
705 South 9th, Suite 304
Tacoma, WA 98405

Jack Bujacich
3601 Ross
Gig Harbor, WA 98335

Adam Ross
3309 Harborview
Gig Harbor, WA 98335

Marie Lovrovich
3319 Ross
Gig Harbor, WA 98335

Kathy Marshall
Land Manager
Division of Aquatic Lands
Department of Natural Resources
Olympia, WA 98504

Paul Silver
Senior Assistant Attorney General
P.O. Box 40100
Olympia, WA 98504 - 0100

CITY OF GIG HARBOR
SHORELINE MANAGEMENT SUBSTANTIAL DEVELOPMENT
CONDITIONAL USE, VARIANCE PERMIT

- Substantial Development
- Conditional Use
- Variance

Application No.: SDP 92-04

Date Received: 9/26/92

Approved:

Denied: 1/11/93

Date of Issuance: DENIED

Date of Expiration: N/A

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

Mr. Peter M. Darrah
3311 Harborview Drive/P.O. Box 31
Gig Harbor, WA 98335

To undertake the following development:

Constructing a new moorage float designed for 12 boats, 2 of which would be greater than 45 feet in length. New float is proposed to be located adjacent to the float to the northwest and would share the same pilings; Add 328 square feet of decking to structures, a portion of which is waterward of OHW. Remodel net shed (entry and roof, with no increase in height requested). Addition to house (686 square feet). Partial second story addition to Novak house (no detail provided on elevation), all of the above as per attached site plan

Upon the following property:

Located within a portion of the SW 1/4 of Section 5, Township 21 North, Range 2 E.WM, assessor's tax parcel number 597000-002-0.

Within Gig Harbor Bay and its associated wetlands. The project will be within shorelines of Statewide Significance per RCW 90.50.030 and is within an Urban environment designation, per the City of Gig Harbor Shoreline Master Program.

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

Not Applicable

This permit is granted pursuant to the Shoreline Management Act of 1972 and 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

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

MacIntosh Barge and Navigation Company (Peter Darrah)
(SDP 92-04/VAR 92-13)

NOVEMBER 12, 1992

PART I: GENERAL INFORMATION

A. APPLICANT:

Peter Darrah (MacIntosh Barge and Navigation Company)
3311 Harborview Drive, P.O. Box 31
Gig Harbor, WA 98335

B. OWNER:

Same as Above

C. AGENT:

N/A

D. REQUEST:

Shoreline development permit to re-construct moorage float and remodel structures on uplands. Specifically, the project consists of:

- * Constructing a new moorage float designed for 12 boats, 2 of which would be greater than 45 feet in length. The new float is proposed to be located adjacent to the float to the northwest and would share the same pilings.
- * Add 1328 square feet of decking to structures, a portion of which is waterward of OHW.
- * Remodel net shed (entry and roof, with no increase in height requested).
- * Addition to house (686 square feet).

The applicant also requests a variance from the parking standards of the zoning code and shoreline master program.

A civil penalty has been levied on the property owner from a previous action by the City on the denial of shoreline development permit 88-02. The civil penalty has been deferred pending the outcome of this application.

E. PROPERTY DESCRIPTION:

1. Location:

The property is located at 3311 Harborview Drive. The property is more particularly described as being within a portion of the SW 1/4 of Section 5, Township 21 North, Range 2 E.W.M.

2. Site Area/Acreage:

The upland lot is approximately 10,290 square feet and the private tidelands approximately 4,410 square feet. Total impervious coverage, with the proposed additions, would be 2,755 square feet (approx. 20% of total property ownership).

3. Physical Characteristics:

The property currently is developed and has two upland structures and a netshed which extends waterward of OHW. The existing dock is constructed on state tidelands, which are managed by the Washington Department of Natural Resources.

F. SURROUNDING LAND-USE/ZONING DESIGNATION:

North: Marina, Gig Harbor Bay, zoned WR.
West: Commercial (marina parking lot), zoned WR.
South: Single family residential, zoned R-1.
East: Commercial marina, zoned WR.

G. UTILITIES/ROAD ACCESS:

Access is provided by way of Harborview Drive.

H. PUBLIC NOTICE:

Public notice was provided as follows:

- . Published twice in Peninsula Gateway: October 14 and 21
- . Mailed to property owners of record within 300 feet of the site: November 9, 1992.

Posted in three conspicuous places in the vicinity of the property: November 9, 1992.

PART II: ANALYSIS

A. AGENCY REVIEW:

1. Building Official/Fire Marshal

Twenty-four foot wide all-weather access road required. Fire hydrants and an eight inch water main required. Fire hydrants must be located within 150 feet of all portion of the each building. Fire hydrants and water mains must conform to Gig Harbor Public Works Department and Fire Code Standards. Exterior fire wall protection will be required in accordance with section #504 (b), 1988 UBC. Complete fire flow protection system will be required for the marina, per the 1991 Uniform Fire Code. Automatic fire sprinkler system may be required if fire flow and access is not in conformance with the ISO guide of 1991 and UFC. Emergency phone, knox box and gate will be required per 1991 UFC.

2. Department of Public Works

Storm drainage plan must be submitted to the Department of Public Works for review and approval prior to any additional development on the property. A traffic study must be submitted for review and approval by the Department of Public Works.

3. Department of Fisheries (Letter of October 22, 1992, Neil Rickard).

Hydraulics project approval required prior to construction activities waterward of OHW. Letter details HPA project application specifics. Please refer to letter for detail information (attached).

4. Department of Natural Resources (Letter of October 19, 1992, Kathy Marshall)

The Department has notified Mr. Darrah that it is withdrawing its offer to renew Harbor Lease Area No. 22-002541. Mr. Darrah had been previously notified, by certified letter on January 8, 1992 and March 11, 1992, that he needed to provide DNR with a lease renewal application and other materials. These were to be provided no less than 60 days prior to expiration of his former lease, or no later than June 18, 1992. Because Mr. Darrah has not provided any of

the items as requested, the offer is rescinded and the matter has been referred to the State Attorney General's Office for legal action.

B. APPLICABLE LAND-USE POLICIES/CODES

1. Comprehensive Plan:

The City of Gig Harbor Comprehensive Plan designates this area as waterfront. Pertinent goals and policies are as follows:

1. Goal, page 35 -- Protect Natural Quality: Preserve and protect the unique, interdependent relationship between the water, land and cultural heritage.
2. Goal, page 36 -- Mixed Use Waterfront: Retain a mixed-use waterfront including those fishing, boating, tourist and residential uses which provide the shoreline's unique appeal.

2. Zoning Ordinance:

The property is zoned Waterfront Millville (WM, Section 17.48). The following sections are pertinent to this proposal:

17.48.020 Permitted Uses

- (B) Marinas and boat launching facilities.
- (D) Marine-related sales.
- (J) Piers, docks, ...associated buildings.
- (K) Commercial fishing net sheds.

17.48.040 Development Standards

Minimum yards:

20F, 8S, 0R

Max Height:

16 feet/24 conditional (17.48.060)

Max impervious coverage:

70% (non-residential)

Min lot width:

100 feet for non-residential except for legal nonconforming lots of record

17.48.070 Parking and Loading

Defer to Section 17.72, below.

17.72.030 Off-street Parking and Loading Requirements

- Q) One space for every two berths for moorage less than 45 feet; one space per berth for moorage greater than 45 feet. All moorage must provide a minimum of two parking spaces. For combined uses, the use which generates the most parking requirements shall satisfy the requirements of the other usage.

Because the applicant is not proposing to develop off-street parking, a variance from the minimum requirements of the zoning code is required. Criteria for a variance are as follows:

1. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district;
2. That special circumstances and conditions exist which are peculiar to the land such as size, shape, topography or location, not applicable to other land in the same district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other property owners similarly situated in the same district under the same terms of this title;
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That the granting of the variance requested will not confer a special privilege that is denied other lands in the same district;
5. That granting of the variance requested will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;
6. The hearing examiner shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum necessary to make a reasonable use of the land.

The applicants justification for a variance is attached and is summarized as follows:

- A. Proposal will not amount to a rezone.
- B. The size of the property could facilitate off-street parking were it not for the existing buildings that have been on the property for over seventy years. Previous Gig Harbor City Court decision held that the marina/water use of the property were grandfathered. I have owned the property for over twenty five years and have operated a marina-type business for the entire time. The marina facility to the northwest (ed. note: Bayview Marina) has no buildings on the property.
- C. All of the existing buildings have been on the property before I purchased.
- D. No special privilege is at issue. New design will greatly enhance neighbor's access to his docking area. The granting of this variance will only put the stamp of approval on what has historically existed and has been previously dealt with. The public welfare will be dealt with in a positive way.

3. Shoreline Master Program

The following sections of the City of Gig Harbor Shoreline Master Program are applicable to this project:

Marinas

Policies:

2.) Priority for boats should be given to those which are not easily trailered.

4.) Marinas should be designed so that they will have minimum interference with the public use of the surface of the water and access along the water's edge.

Regulations:

3.) All marina development must be consistent with the design criteria adopted by the Washington Department of Fisheries and DSHS.

- 5.) Covered moorage is prohibited.
- 7.) Automobile parking shall be provided by the developer at a ratio of one space per boat, and preferably grouped together on the upland side of Harborview Drive.
- 8.) Marinas shall be designed, built and operated so that no part of a moored watercraft extends waterward of the outer harbor line at any time.
- 10.) Marinas shall adhere to the Policies and Regulations for Commercial Development, Parking, and Piers, Docks and Floats.

Commercial Development

Policies:

- 1.) Commercial users shall be waterdependent or provide an opportunity for a substantial number of the public to enjoy the shoreline location.
- 2.) Commercial users should generally minimize their activities along the water's edge.
- 3.) Commercial developments should locate in areas where similar types of developments exist.
- 4.) All commercial developments should be encouraged to incorporate public access and/or recreational opportunities into the design of their establishments.

Regulations:

- 1.) Commercial developments which are not water dependent shall provide for public access and/or recreational opportunities in conjunction with the commercial use.
- 2.) Length, width, height and bulk of commercial structures shall be limited to the minimum dimensions necessary to conduct the proposed activity.
- 3.) All commercial structures on shorelines within the City shall adhere to the City's zoning and building code.
- 4.) No over water commercial structures shall

be allowed on the shorelines except those uses which necessarily depend upon an over water location.

Parking

Policies:

- 1.) Parking facilities should not extend over the surface of Gig Harbor nor interfere with any views to or from the water's surface.
- 3.) Parking areas should be appropriately screened, landscaped and maintained so as not to have detrimental effects on their surroundings.
- 4.) Surface drainage from parking facilities should not adversely the water quality of the harbor.

Regulations:

- 1.) Upland parking facilities shall be designed, screened and landscaped to minimize adverse effects on the shoreline.
- 2.) Pedestrian access walkways shall be provided between upland parking areas and the site which they serve.
- 5.) Parking over the water surface shall be prohibited.
- 8.) Surface drainage from parking areas shall not directly enter the waters of Gig Harbor unless properly treated or it can be demonstrated that the water quality will not be adversely affected.

4. Shoreline Management Act -- Criteria for a Variance

Although the applicant has requested a variance from the parking requirements of the zoning code, the parking standards in the Shoreline Master Program must also be addressed. The SMP requires one space per vessel. The parking requirements in the SMP have never been updated to conform with the zoning code and the city has been repeatedly advised (unofficially) by the Department of Ecology that a variance from the SMP parking standards should also

be considered. Because the criteria in WAC 173-14-150 essentially address the same criteria in the city zoning code, the staff analysis will consider the criteria under WAC 173-14-150 as applicable. The criteria are as follows:

- A. Extraordinary circumstances shall be shown and that the public interest shall suffer no substantial detrimental effect.
- B. That the strict application of bulk, dimensional or performance standards in the master program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited.
- C. The hardship is specifically related to the property (shape, size, irregular lot, natural features) and not from the applicant's own actions.
- D. The design of the project is compatible with other permitted activities and will not cause adverse effects to adjacent properties or the shoreline environment.
- E. The requested variance does not constitute a grant of special privilege not enjoyed by other property owners in the area.

Consideration shall be given to the cumulative impact of additional actions in the area so that the total of the variances remain consistent with the policies of the shoreline management act and shall not produce substantial adverse effects upon the environment.

PART III: FINDINGS AND CONCLUSIONS

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

1. The applicant proposes a use which is a type of use which is permitted in the WM zoning district and by the City Shoreline Master Program.
2. The applicant requests a variance from the minimum parking standards of the code. The code requires a minimum of 7 off-street parking spaces for the intended moorage. The applicant proposes none.

3. The applicant proposes to construct a moorage float waterward of the outer harbor line. The shoreline master program does not permit moorage extending beyond the outer harbor line.
4. The applicant proposes joint use of the pilings installed by the adjacent property owner to the northwest to secure the new moorage float. A written agreement between the two parties to affect this has not been produced by the applicant.
5. The Department of Natural Resources has informed the City that the applicant does not have a aquatic lands lease and that legal action against the applicant has commenced. All of the applicant's existing structures on DNR lease lands are the subject of this legal action.
6. In respect to the request for variance from the minimum parking standards, staff finds as follows:
 - * The uses is a permitted use in the zoning district and is permitted by the shoreline master program.
 - * The applicant has not shown that an extraordinary circumstance exists to warrant the parking variance. The property to the south shares similar limitations but provides sufficient off-street parking to meet the property owner's moorage needs. As the applicant states, the property to the northwest does not have any structures on the property that limit parking. In fact, the original property owner, in constructing the marina, had to remove storage tanks and existing structures to develop the parking area.
 - * Off-street parking is needed in this area of the city. The applicant's desire to host a variety of uses on a parcel of such limited size, in addition to the marina, appears to be the basis of this request and is not a limitation of the property. In respect to the zoning code, the use which generates the most parking determines the number of parking spaces. In this case, the greatest generator of parking is the marina.

is not a limitation of the property. In respect to the zoning code, the use which generates the most parking determines the number of parking spaces. In this case, the greatest generator of parking is the marina.

- * If sufficient off-street parking were made available, the proposal would be more compatible with adjacent uses.
 - * Granting this parking variance, without any attempt by the applicant to provide any off-street parking on his property or on adjacent property within 200 feet, would constitute a grant of special privilege.
7. The applicant proposes to construct approximately 20 feet (in width) of solid decking over water. The Department of Fisheries has commented that the decking should be limited to eight feet solid and the balance to consist of grating to allow sufficient light penetration to the aquatic habitat.

PART IV: RECOMMENDATION

Based upon the findings presented in Section III, staff recommends that the request for the shoreline permit and zoning variance be **DENIED**. Documents pertinent to the Hearing Examiner's review are attached.

Staff report prepared by: Ray Gilmore, Planning Director

DATE: November 12, 1992

Robert Turner
Acting Director



STATE OF WASHINGTON

DEPARTMENT OF FISHERIES

115 General Administration Building, M.S. AX-11 • Olympia, Washington 98504 • (206) 753-6600 • (SCAN) 234-6600

October 22, 1992

City of Gig Harbor
ATTENTION: Ray Gilmore
Post Office Box 145
Gig Harbor, Washington 98335

SUBJECT: Application for Substantial Development Permit - MacIntosh Marine, Peter Darrah Proponent - Pile Driving, Float Construction, Overwater Deck Construction, and Bulkhead Repair - Gig Harbor, Tributary to The Narrows, Section 05, Township 21 North, Range 02 East, Pierce County, SEPA Log No. 23111, WRIA 15.MARI

Dear Mr. Gilmore:

The Washington Department of Fisheries (WDF) has reviewed the above-referenced application for a substantial development permit for Puget Sound Mariner's Museum and associated structures and offers the following comments at this time. Other comments may be offered as the project progresses.

A Hydraulic Project Approval (HPA), RCW 75.20.100, WAC 220-110 administered by WDF is required prior to the performance of construction activities below the ordinary high water mark.

A complete application for approval, submitted by the applicant to WDF, shall contain complete plans and specifications of the proposed project relative to Mean Higher High Water (MHHW), (Datum, Mean Lower Low Water [MLLW] = 0.0 feet), to facilitate evaluation of impacts to fish resources. The drawings must accurately depict existing conditions, and shall include plan and cross-sectional views of the proposed project, a vicinity map of the project area, and accurate directions to the project site. The location and orientation of all prominent natural features and manmade improvements on the bank and beach in the immediate vicinity of the project area should be accurately represented. A photograph should be included to aid us in locating the project site.

For the protection of food fish and shellfish resources, WDF does not generally allow work below the ordinary high water mark in Gig Harbor to take place from March 15 to June 14 of any year. Project proposals, however, will be evaluated on a case by case basis.

WDF maintains a policy of no net loss of habitat, which includes the upper intertidal zones of Puget Sound. These areas provide critical spawning habitat for important marine fish species. Among these

species are surf smelt which spawn near MHHW on beaches composed of small gravel. In addition, WDF has recently discovered that in some areas of Puget Sound, sandlance (candlefish) spawn at or above MHHW on beaches composed of fine sand and gravel. Upper intertidal areas also provide important habitat for juvenile salmonids during their early life history for feeding, rearing, and refuge from predators.

Construction of bulkheads below ordinary high water (OHW) can therefore result in the direct loss of important habitats for both marine fish and salmonids. These impacts can include the loss of: spawning habitat, shallow water habitat, food production, and riparian vegetative cover.

The natural geohydraulic system (including feeder bluffs, littoral drift corridors, and accretion beaches) provides the spawning substrate for surf smelt and sandlance and the upper intertidal beach topography that comprises the juvenile salmonid migratory corridor. The construction of bulkheads adjacent to feeder bluffs can indirectly impact surf smelt and sandlance by starving the associated accretion beach of substrate resulting in beach erosion and loss of spawning habitat.

In addition, the construction of bulkheads hardens the bank and reduces natural beach roughness. This can result in erosion along the littoral drift corridor by accelerating the rate of drift and by increasing wave energy waterward of the bulkhead. The resultant beach instability can reduce available spawning habitat for surf smelt and sandlance and adversely impact the production of juvenile salmonid food organisms.

The proliferation of bulkheads, many of which are located below OHW and may not be necessary for erosion control, contributes to serious cumulative impacts to fish resources throughout Puget Sound. The most significant of these impacts is the loss of spawning habitat. Modification and loss of rearing habitat are similarly important impacts resulting from bulkhead encroachment below OHW. Cumulatively, these can result in lower survival of juvenile fish and therefore reduced contribution to sport and commercial fisheries and the adult spawning populations.

If a determination is made that it is necessary to repair or replace any existing bank protection, the following information regarding the location of the proposed bulkhead repair or replacement shall be provided. The waterward face of a replacement bulkhead or rockwall shall be placed no further waterward than the face of the existing, functioning bulkhead or rockwall. However, The repaired or replaced bulkhead or rockwall may be placed waterward of and directly abutting the existing structure only in cases where removal would result in

environmental degradation or removal problems due to geological, engineering, or safety considerations. The type of structure and method of construction that allows the least waterward encroachment shall be utilized in these instances.

Information synthesized from recent studies indicates the shadow cast by overwater and floating structures, as narrow as eight feet in width, located in the intertidal and shallow subtidal habitats can result in the loss of important marine vegetation, such as eelgrass. This shadow can also reduce the productivity of food organisms important to juvenile salmonids and marine fish. In addition, this shadow disrupts juvenile salmonid migration along the shoreline. These small fish avoid dark areas under overwater and floating structures, and are forced offshore into deeper waters where they are more susceptible to predation. Finally, fish that prey upon juvenile salmonids are attracted to the habitat provided by overwater and floating structures.

To avoid these adverse impacts, overwater and floating structures shall avoid marine vegetation. If the proposed structures are located on the beach such that a marine vegetation inspection cannot be undertaken by WDF at low tide, the inspection shall be undertaken for the applicant by a qualified biologist approved by WDF using SCUBA.

In addition, structures located between OHW and -10 feet (MLLW = 0.0 feet) shall be constructed so that solid decked areas are limited in width. This can be accomplished by:

1. Restricting the width of the proposed structures to eight feet;
or
2. Covering any additional width of the structure with grating material that will allow light to reach the habitat below. This grated area should therefore not be used for storage purposes;
or
3. Construction of the structure using alternating bands of decking and grating. The alternating bands shall be equal in width and each band of decking and grating shall be a maximum of eight feet in width. As we indicated above, any additional structural width shall be grated to minimize the impact.

Decked surfaces greater than eight feet in width, located in the intertidal and shallow subtidal zones, can result in significant habitat damage and may require mitigation. Mitigation for damage to these habitats is usually difficult and expensive. Therefore, it is generally better to minimize any unavoidable habitat damage.

Ray Gilmore
October 22, 1992
Page 4

One of the major impacts of development adjacent to marine waters, is the introduction of fine grained sediments and pollutants such as oils, heavy metals, phosphates, etc., into marine receiving waters from roadways, parking lots, and other impervious surfaces. This run-off and the pollutants it contains can adversely affect fish life by filling estuarine and nearshore rearing and spawning habitats, by covering up eelgrass beds, by changing invertebrate and vertebrate species diversity and abundance, and by contaminating important sport and commercial shellfish beds. In order to protect water quality affecting these and other fish resources and habitats, stormwater run-off must be treated.

The applicant has not provided sufficient detail on the project design for evaluation of potential impacts to fish resources and their habitat from stormwater. Without additional detail, we cannot determine if the proposal exceeds the 5,000 square foot threshold of impervious surface that would trigger the need for approval from WDF.

WDF has developed stormwater management guidelines for the purpose of protecting fish habitat and aquatic life (enclosed). If the proposal exceeds the impervious surface threshold, the final drainage plan for the proposed development shall conform to the water quality section of these guidelines. A Hydraulic Project Approval shall be required from WDF for the stormwater system.

We appreciate your cooperation in our efforts to protect, perpetuate and manage the fish resources of the state of Washington.

Thank you for the opportunity to provide these comments. If you have any questions please call me at (206) 902-2574.

Sincerely,



Neil Rickard
Regional Habitat Manager
Habitat Management Division

NR:nr:lmh:23

Enclosure: Stormwater Guidelines

cc: R. Timothy Flint, WDF, w/o enclosure
Barbara Ritchie, DOE, w/o enclosure
Jo Sohneronne, DOE, w/o enclosure
Peter F. Darrah, with/enclosure
Post Office Box 31
Gig Harbor, Washington 98335

DRAFT STORMWATER GUIDELINES

November 1, 1990

Application Guidelines

Run-off from a project with more than 5,000 square feet of impervious surface should meet the following guidelines for **water quantity and water quality**. Depending on proximity of downstream fish and shellfish resources, **water quantity** guidelines may not apply to all projects. **Water quality** guidelines will apply to all projects.

Water Quantity

Increased run-off from development should be retained and infiltrated to preserve base stream flows, and/or detained and released in a manner to preserve the receiving stream channels dominant discharge (Bates, 1983). Pre- and post-development run-off rates should be analyzed using a continuous simulation model such as the U.S. Environmental Protection Agency (EPA) HSPF computer program (HSPF, 1988). If such a watershed model is not available, a rainfall event simulation model may be used. If using a rainfall event model, run-off should be computed using a Soil Conservation Service (SCS) based hydrograph method, and the rainfall event should be a Type 1A distribution with a 24-hour duration (USDA, 1986).

For SCS hydrologic soil groups Type A and B (USDA, 1986) use of infiltration basins should be considered. Site investigation and design criteria are essential for successful performance of infiltration basins (Ecology 1990; King County 1990). Infiltration could significantly reduce the volume required for detention. Detention basin performance (Figure 1) shall be such that discharge from the developed area meets the following criteria:

1. Fifty percent of the pre-development, two-year peak release rate for the two-year developed design storm.

The release rate of 50 percent of the two-year pre-development peak accounts for the extended duration of release that occurs as a result of the increase in run-off volume from the developed state (Powers, 1989).

2. The pre-development 25-year peak release rate for the 25-year developed design storm.

If a continuous simulation model is used, flow duration (instead of peak flow criteria) should be used to design detention ponds at the two- and 25-year floods.

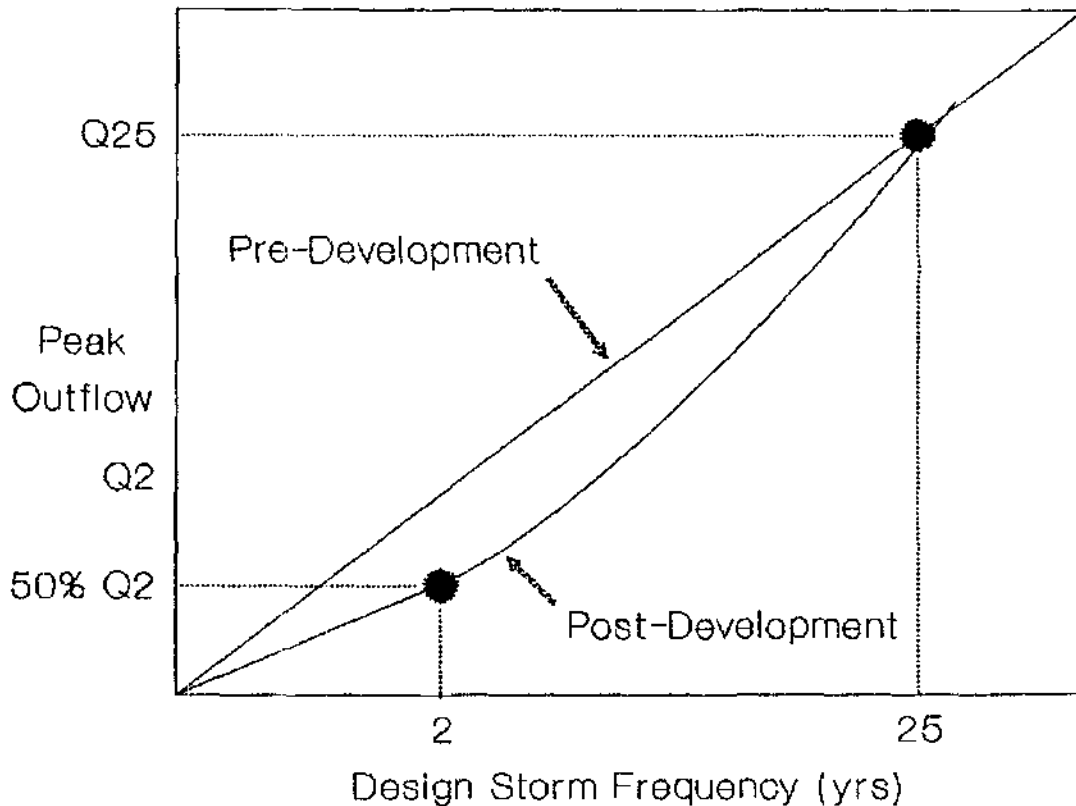


Figure 1 - Detention Basin Performance

WATER QUALITY

Pollutants in stormwater run-off should be treated using best management practices. Treatment of stormwater run-off with a wet detention pond (Kulzer, 1989) and biofiltration channel (Horner, 1988) will provide acceptable water quality control. Where possible, biofiltration channels of any length should be used for pretreatment of stormwater runoff. Sedimentation and erosion control practices should be included in the design to prevent water quality features from becoming silted in. Also, regular maintenance is required to ensure pollutant removal effectiveness. The following are acceptable design standards for wet ponds and biofiltration channels.

Wet Ponds - A pool of water retained in a pond by placing the outlet above the pond bottom.

1. Permanent pond surface area should equal two percent of the catchment area for residential and three percent for commercial. Pond volume should be equal to the volume generated from two-thirds of the two-year, 24-hour storm.
2. The permanent pond water depth should be three to six feet, plus one foot of dead storage for sediment.
3. Ponds shall have a minimum of two cells.
4. Residence time shall be enhanced by configuring the pond to have a length to width ratio greater than 3:1. A 5:1 configuration (or other method of lengthening flow path, such as use of baffles) is preferred.
5. If the wet pond is also used as a detention pond, the permanent wet pond volume should not be part of the detention volume required.

Biofilters - A filter strip or swale used to treat stormwater run-off by interaction with vegetation and soil surfaces.

1. Avoid gravelly and coarse sandy soils in order to maximize water contact with vegetation and soil surface.
2. The biofilter width should be designed based on a two-year, 24-hour peak flow and the following:
 - a. Velocities should be less than 1.5 fps.
 - b. The flow depth should be less than four inches.
 - c. Longitudinal slope should average two to four percent. Rock or log check dams or terraces should be installed as necessary to achieve slopes less than four percent.
3. Biofilters should be located to obtain maximum length. If less than 200 feet, the width should be increased by an amount proportional to the reduction below 200 feet in order to obtain the same area of vegetation contact.
4. Side slopes should be no steeper than three horizontal:one vertical.

REFERENCES

- Department of Ecology. 1990. Stormwater management manual for the Puget Sound basin. Washington State Department of Ecology. Technical Review Draft.
- Bates, K. 1983. Draft guidelines for policy development. Stormwater management in urban areas. Washington Department of Fisheries. Habitat Management Division. Unpublished.
- Horner, Richard R. 1988. Biofiltration systems for storm run-off water quality control. Prepared for Washington State Department of Ecology and others.
- King County surface water design manual. January 1990. King County Department of Public Works.
- Kulzer, Louise. 1989. Considerations for the use of wet ponds for water quality enhancement. Office of Water Quality. Municipality of Metropolitan Seattle.
- Powers, P.D. 1989. Stormwater detention performance based on dominant discharge. Draft. Washington State Department of Fisheries. Habitat Management Division. Unpublished.
- United States Department of Agriculture. 1986. Urban hydrology for small watersheds. Soil Conservation Service. Engineering Division. Technical Release 55.
- U.S. Environmental Protection Agency. 1988. Hydrologic simulation program - FORTRAN (HSPF). USEPA Environmental Research Laboratory. Athens, Georgia.



RECEIVED ^{EXH}

NOV 18 1992

CITY OF GIG HARBOR

Ken Eikenberry

ATTORNEY GENERAL OF WASHINGTON

Highways Licenses Building • PO Box 40100 • Olympia WA 98504-0100

November 17, 1992

Mr. Peter F. Darrah
d/b/a MacIntosh Marine
3311 Harborview Drive
Gig Harbor, Washington 98335

VIA CERTIFIED MAIL

Re: Notice to Remove Structures From State-Owned Harbor
Area - Expired Lease No. 22-002541

Dear Mr. Darrah:

This notice is provided on behalf of the Department of Natural Resources (the "Department") with respect to the written Harbor Area Lease No. 22-002541 (the "Agreement") which expired on August 18, 1992, between the State as lessor and Peter F. Darrah, d/b/a MacIntosh Marine as lessee. The premises, which are the subject of the Agreement, are located at Gig Harbor, Washington and are described as follows:

That portion of the Harbor Area situate in front of Lot 2, and the West 20 feet of Lot 1, Block 1, Town of Millville, and as shown on the Official Maps of the Gig Harbor Tidelands on file in the Office of the Commissioner of Public Lands at Olympia, Washington.

You were notified by certified letter dated October 16, 1992, that this Harbor Area Lease No. 22-002541 would not be renegotiated.

This is formal notice to you that you shall immediately, peaceably surrender the premises to the Department. This requires removal of all improvements, fixtures, trade fixtures and personal property that occupy the state-owned Harbor Area. This does not relieve you of your obligations to pay sums or other damages which may be owed to the State, including use and occupancy fees for any use of state-owned Harbor Area after August 18, 1992.

Section 4, Subsection 4.4 Improvements of your Harbor Area Lease No. 22-002541 states:

E

ATTORNEY GENERAL OF WASHINGTON

Mr. Peter F. Darrah

2

November 17, 1992

Upon the termination or expiration of this lease, the Lessee agrees to sever, remove and dispose of those improvements designated by the Lessor on the premises, within six months from the date of expiration. In those cases where the Lessor requires removal of improvements and such action is not taken by the Lessee, the Lessee agrees that the Lessor may remove such improvements and charge the Lessee for cost of removal and disposal. All improvements allowed to remain on the area herein described, upon termination or expiration of this lease, shall be the property of the Lessor.

The following improvements, fixtures, and trade fixtures, and personal property must be removed from the Harbor Area by February 18, 1993:

- a. All pilings and dolphins.
- b. Approximately 110 lineal feet of 7 foot wide moorage floats.
- c. One covered boathouse, approximately 20 feet x 30 feet.
- d. Three (3) finger piers, each approximately 2 feet x 28 feet.
- e. All boats, vessels, and barges.
- f. All other tools, equipment, trade fixtures and personal property.

Removal of pilings and dolphins must be done so as not to pose any risk to the environment. Upon removal of all improvements, fixtures, trade fixtures and personal property, the Department may require sediment sampling to be conducted at the site. If the results of this sampling indicate that sediments are contaminated above the minimum acceptable Sediments Quality Standards set by Department of Ecology, the Department will require remedial site cleanup action.

The State hereby expressly reserves all rights and remedies regarding any and all other requirements under the law which are not set forth herein.

Continued existence of any of the above improvements in the Harbor Area after February 18, 1993, will be deemed to constitute a trespass. You will be responsible for the costs of removing the same if the Department has to have them removed.

ATTORNEY GENERAL OF WASHINGTON

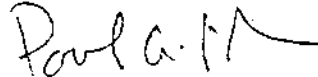
Mr. Peter F. Darrah

3

November 17, 1992

Please provide a satisfactory plan and timetable for the removal of these fixtures within thirty days from the date of service of this notice upon you. You may send this directly to the Department or to me.

Very truly yours,



PAUL A. SILVER
Senior Assistant
Attorney General
(206-586-3692)

PAS:dd

cc: Ann J. Morgan, Manager, Aquatic Lands
Ann C. Essko, Assistant Manager, Aquatic Lands
Daniel F. Barth, Program Section Manager, Aquatic Lands
City of Gig Harbor

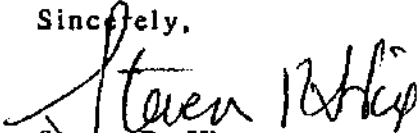
November 16, 1992

Mr. Peter Darrah
3311 Harborview Drive
Gig Harbor, Washington 98335

Dear Mr. Darrah:

In response to your letter of November 6, 1992, I wish to state that I have absolutely no obligation to follow through with any promises or agreements that you may have negotiated with John Kerr for the use of the Bayview Marina pilings to which you wish to attach your floats. I have no plans now or in the future to encumber this land or the docks to allow expansion of your marina.

Sincerely,



Steven R. Hix

SRH:mlr

cc: Ray Gilmore





Monument
Construction
Incorporated

AUGUST 28, 1990

MR. PETE DARRAH
3311 HARBORVIEW DRIVE
GIG HARBOR, WASHINGTON 98335

DEAR PETE,

RE: MEETING AUGUST 10, 1990

IN REFERENCE TO OUR MEETING OF AUGUST 10, 1990, I WOULD LIKE TO REITERATE OUR DISCUSSION ABOUT THE EXTENSION OF THE PIER.

YOUR FIRST IMPRESSION WAS THAT THE PIER WAS GOING TO ENCROACH ON TO YOUR PROPERTY BUT WITH THE AID OF THE SURVEY I WAS ABLE TO SHOW YOU THAT YOUR BOATHOUSE OR MARINA WOULDN'T BE AFFECTED BY THE LENGTHENING OF THE PIER.

I THEN SHOWED YOU THAT RATHER THAN HINDERING YOUR OPERATION OF YOUR MARINA THE LENGTHENING THE PIER WOULD IN FACT PUT YOUR FUTURE FLOATS FURTHER OUT INTO THE BAY IN DEEPER WATER.

I TOLD YOU THAT WHEN YOU INSTALLED YOUR FUTURE FLOATS THAT YOU COULD UTILIZE OUR PILING WHICH HOLD OUR FLOATS IN PLACE, SINCE YOUR FUTURE FLOATS ARE PARALLEL TO OUR FLOATS THE UTILIZATION OF OUR PILING SEEM APPROPRIATE. OF COURSE THERE ARE CERTAIN CRITERIA WHICH WOULD TAKE PRECEDENT OVER THE SITUATION.

- 1.) APPROVAL FROM D.N.R.
- 2.) ENGINEERING DATUM THAT PILING WOULD HOLD BOTH FLOATS
- 3.) INSURANCE FROM EACH PARTY TO COVER THE OTHER PARTY
- 4.) DARRAH FLOATS WOULD BE COMPATIBLE WITH M.C.I.D.
- 5.) ACCESS TO DARRAH FUTURE FLOATS BY WAY OF DARRAH MARINA NOT M.C.I.D. MARINA
- 6.) EACH MARINA SHALL HAVE THEIR OWN UTILITIES

PETE, I HOPE THIS LETTER OF UNDERSTANDING IS SUFFICIENT FOR YOUR PURPOSE.

YOURS TRULY,

I

November 18, 1992

Mr. Ron McConnell
Hearing Examiner
City of Gig Harbor

Dear Mr. McConnell,

Please find attached revision showing:

1. Addition of fire hydrant within 150' of all buildings
2. Notation re: outer harbor lines
3. Utilization of our pilings
4. Providing for parking in the event original variance, or part thereof, be denied

This information is provided in response to city planner's concerns in these areas.

Respectfully submitted,


Peter and Pamela Darrah

Encl: 4 dwgs

J



WASHINGTON STATE DEPARTMENT OF
Natural Resources

RECEIVED
OCT 22 1992
CITY OF GIG HARBOR

BRIAN BOYLE
Commissioner of Public Lands

October 19, 1992

OLYMPIA, WA 98504

Mr. Ray Gilmore, Planning Director
City of Gig Harbor
PO Box 145
Gig Harbor, WA 98335

Subject: Shoreline Substantial Development Permit - SDP 92-04, MacIntosh Marine - Peter Darrah

Dear Mr. Gilmore:

The Department of Natural Resources has sent a letter to Mr. Peter Darrah, dba MacIntosh Marine, dated October 16, 1992. A copy of this letter will be sent to the City of Gig Harbor.

This letter notified Mr. Darrah that the department is withdrawing the offer to renew Harbor Area Lease No. 22-002541.

Mr. Darrah was notified by certified letters dated January 8, 1992 and again on March 11, 1992, that he needed to provide DNR with a lease renewal application and other materials. The application and other materials were to be provided before sixty days of expiration of his prior lease term or no later than June 18, 1992.

To date, Mr. Darrah has not provided any of the items that were requested.

This is notice to the City of Gig Harbor, that DNR has now turned this matter over to the State Attorney General's Office for legal action.

If you have any questions, please call me at (206) 902-1077.

Sincerely,

Kathy Marshall

Kathy Marshall, Land Manager
Division of Aquatic Lands
PO Box 47027
Olympia, WA 98504-7027

c: Paul Silver
Ann Essko
Dan Barth

Reference Code: 22-002541
km/darrah7

SDP 92-04

MACINTOSH NAVIGATION AND BARGE CO.
(PETER DARRAH)



DARRAH PROPERTY

ROSS PROPERTY

SDP 92-04

MACINTOSH NAVIGATION AND BARGE CO.
(PETER DARRAH)



DARRAH PROPERTY



ROSS PROPERTY

LOT AREA

UPLANDS: 10,290 S.F.
 TIDE LANDS: 4,410 S.F.
 TOTAL: 14,700 S.F.

IMPERVIOUS COVERAGE
 EXISTING STRUCTURES
 2062 S.F. / 14%

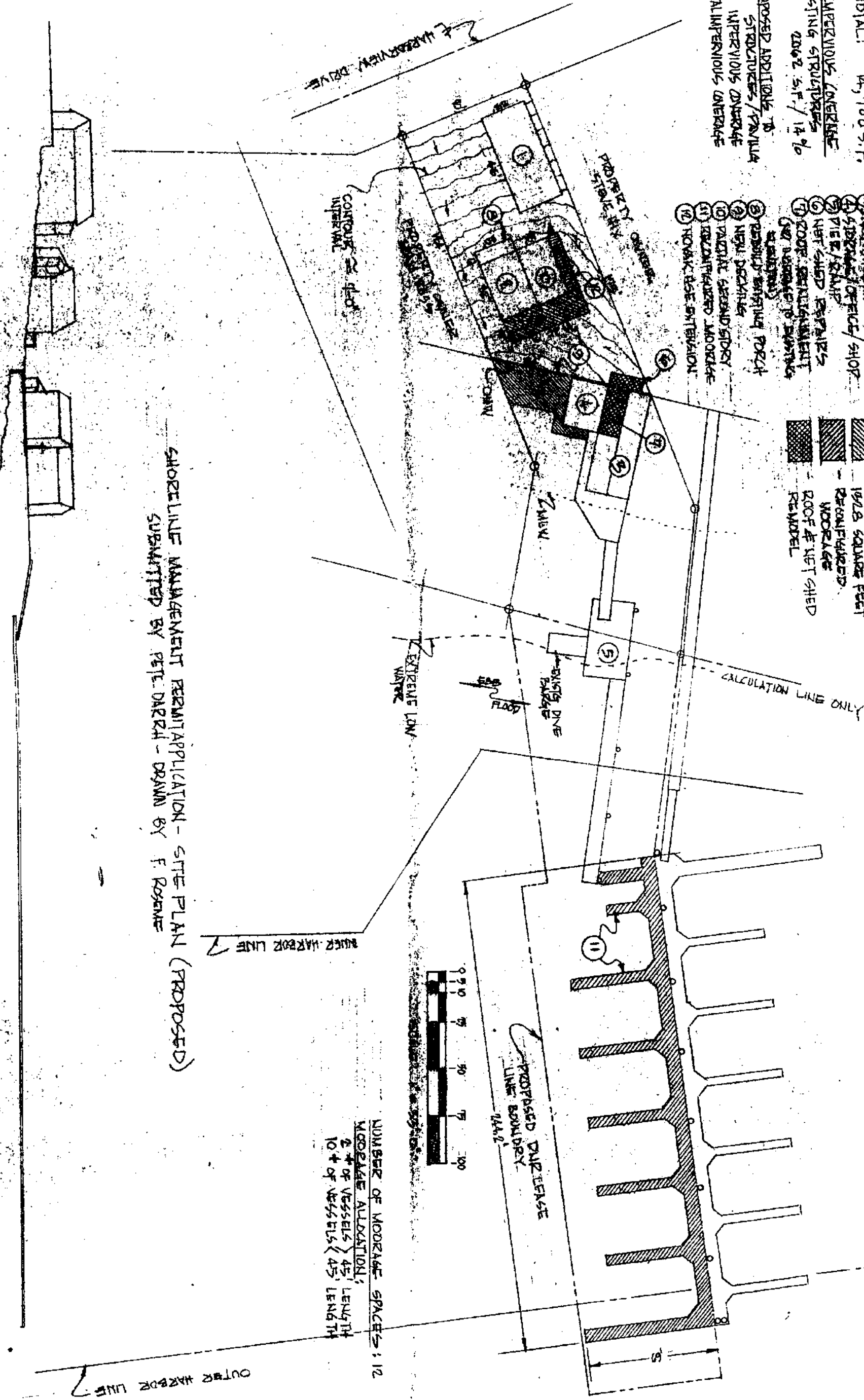
PROPOSED ADDITIONS TO
 STRUCTURES / VILLA
 IMPERVIOUS COVERAGE
 TOTAL IMPERVIOUS COVERAGE

KEY TO STRUCTURES

- 1 MAZENS MUSEUM
- 2 OLD NOVAK HOUSE
- 3 GARAGE/SHOP
- 4 SHED/OFFICE/SHOP
- 5 VIE B./SHOP
- 6 NET SHED
- 7 ROOF REPLACEMENT (SEE APPENDIX TO DRAWING)
- 8 REPAIRS/REPAIRS
- 9 NEW DECKING
- 10 PAINT SECOND STORY
- 11 RECONSTRUCTED MOORAGE
- 12 NOVAK BASE EXTENSION

PROPOSED NEW CONSTRUCTION

- NOVAK HOUSE EXTENSION
- 686 SQUARE FEET
- NEW DECKING
- 1928 SQUARE FEET
- RECONSTRUCTED MOORAGE
- ROOF & NET SHED REMODEL



SHORELINE MANAGEMENT PERMIT APPLICATION - SITE PLAN (PROPOSED)
 SUBMITTED BY PETE DARZI - DRAWN BY F. ROSENFELD

NUMBER OF MOORAGE SPACES: 12
 MOORAGE ALLOCATION:
 2' of vessels / 45' LENGTH
 10' of vessels / 45' LENGTH



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

MEMORANDUM

TO: City Council
FROM: Planning Staff *S. DeClair*
DATE: January 11, 1993
RE: VAR 92-08 - Appeal of Hearing Examiner's Decision to deny a front yard variance at 9119 North Harborview Drive.

=====
In July of last year, Wade Perrow requested approval for an administrative variance allowing a front yard setback reduction at 9119 North Harborview Drive. After careful deliberation, the Staff denied the variance believing that the variance was not necessary for the reasonable development of this parcel. Mr. Perrow appealed the Staff's decision to the Hearing Examiner who then approved the requested variance, but the Hearing Examiner's decision was then appealed to the City Council by Sherry DeClair and John Helget, husband and wife, and John A. Paglia.

After the appeal was filed, the Staff received comments from Mr. James Crotto who mentioned that he received no mailed notice of the Public Hearing before the Hearing Examiner. Upon further research, the Staff determined that Mr. Crotto's property is within the required area of notification and that his name was not on the list of property owners as submitted by Mr. Perrow. The Staff discussed this matter with Wayne Tanaka, who felt that the issue should be remanded back to the Hearing Examiner to assure proper due process.

Another Public Hearing was scheduled for the Hearing Examiner on November 18, 1992. Upon considering testimony from parties not in attendance at the initial Public Hearing, the Hearing Examiner denied the requested variance. Mr. Perrow is now appealing the Examiner's decision to the City Council.

Attached is the initial Staff report for the administrative variance request, the initial and final Hearing Examiner reports, and the letter of appeal from Mr. Perrow. Also attached for the Council's consideration is a resolution in support of the Examiner's decision.

WADE PERROW
P. O. BOX 1728
GIG HARBOR, WA 98335

RECEIVED
DEC 15 1992
CITY OF GIG HARBOR

City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335

December 14, 1992

Att: City Council Members
RE: Hearing Examiner's Decision -- VAR 92-08

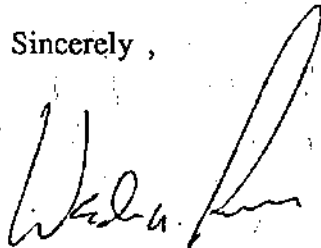
Dear Council Members:

This letter is to serve as an appeal of the Hearing Examiner's decision regarding Variance 92-08 for rear yard setback at 9119 North Harborview, where a request of a two foot setback was denied on reconsideration.

The reasons for appeal have already been outlined in my appeal of the staff recommendations as well as my request for re-hearing before the Hearing Examiner. It is my belief that the Hearing Examiner's decision was incorrect and thereby I request your consideration.

It is my belief that City staff will provide you all pertinent exhibits submitted by me regarding this variance request for consideration before the City Council meeting. If this information is not made available by staff, I would appreciate being informed so I can make arrangements to get this needed information to you.

Sincerely ,



Wade Perrow

CITY OF GIG HARBOR
HEARING EXAMINER
FINDINGS CONCLUSIONS AND DECISION

APPLICANT: Wade Perrow
CASE NO.: 92-08
LOCATION: 9119 North Harborview
APPLICATION: Request for a variance to allow the front yard setback to be reduced from 20 feet to 18 feet.

SUMMARY OF RECOMMENDATION AND DECISION:

Planning Staff Recommendation: Deny
Hearing Examiner Decision: Deny

PUBLIC HEARING:

After reviewing the official file which included the Planning Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Perrow application was opened at 6:20 p.m., November 18, 1992, in City Hall, Gig Harbor, Washington, and closed at 7:15 pm. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Planning Department.

FINDINGS CONCLUSIONS AND DECISION:

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

I. FINDINGS:

- A. The information contained on pages 1 through 3 of the Planning's 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 the Hearing Examiner's findings of fact. A copy of said report is available in the Planning Department.
- B. This case was originally heard on September 29, 1992 and acted on by the Examiner on October 13, 1992 (Exhibit I). A procedural error was made with respect to property owners within 200 feet of the subject property rather than 300 feet as is required by code. Therefore, the case is back before the Examiner for another hearing.

The Examiner's original decision was appealed to the City Council, but the City Attorney determined that it would not be appropriate for the Council to act on the application until the Examiner had heard from all interested parties.

- C. At the beginning of the rehearing on the case, the Examiner entered Exhibits A through E into the record. Those items had originally been submitted at the September 29, 1992 hearing.
- D. Staff reviewed the Staff Advisory Report (Exhibit A) and recommended denial of the variance.
- E. Exhibit F was then entered into the record. Exhibit F appealed the Hearing Examiner's October 13, 1992 decision to the City Council. Included in the appeal were the following arguments:
1. The applicant did not demonstrate that all of the variance criteria had been met.
 2. The applicant's parcel does not present any unusual site restraints.
 3. The fact two variances in the area had been granted is not justification for granting this variance.
 4. Historic architecture is not a statutory reason for the granting of a variance.
 5. Reasonable use of the applicant's lot is possible without a variance.
- F. John Paglia, one of the appellants, said the law is clear regarding the criteria for variance approval. He said the topography can't be taken into account unless reasonable use can't be made of the land. He said the topography of the subject site is common to all properties below Harborview and the slope is not a unique feature. He said the applicant desires and plans and not the topography which creates the need for this variance. He also said this application should be denied unless the code is modified to apply to all properties along Harborview.
- G. Sherry De Caire, an appellant, said the rules seem to be in place to provide for public safety. She said she knows everything is not cut and dried and therefore we have variances. However, when she looks at this application and asks how important is a couple of feet, she feels the cumulative effect of a number of variances do have an effect on the neighborhood. She asked that the variance not be approved.
- H. John Helget, an appellant, said he is concerned about the trend on North Harborview which has led to houses which are too large for the lots they are on. He said variances should only be granted when special needs exist and no special need exists in this case.
- I. Nick Crotto, a neighbor, said he too felt there has been a trend of granting variances.
- J. Wade Perrow responded to the appellants and the neighbor who spoke at the hearing. He said:
1. The structure needs to set back from the bulkhead for structural bearing purposes.
 2. The slope of the property is greater than 20% and meets the City's definition of a steep slope.
 3. The garages will be 36 feet from the fogline of North Harborview.

4. Approval of the variance would be consistent with Section 17.01.020 (purpose) of the Zoning Code, the Urban Form section on page 27 of the Comprehensive Plan, and the regulations on page 37 of the Shoreline Master Program.
 5. The variance is needed to make the buildings look more like the historic houses in Gig Harbor.
 6. The granting of the variance would not give him a special privilege.
 7. The design of the house gives 28% more setback than is required. (He submitted Exhibit H to graphically make his point).
 8. He is not asking this application to be compared to other variances which have been granted. Rather, he wants this to be looked at on its own merits.
 9. The house is not disproportionate to lot size.
- K. Wade Perrow then submitted Exhibit G to respond in writing to Exhibit F which had been submitted by the appellants. The written material was similar to his testimony summarized above.
- L. John Paglia responded to Mr. Perrow. He read the intent of a variance from Section 17.66.010 of the Zoning Code. He emphasized the language which states "variances are not intend to be used as a means of circumventing individually inconvenient regulations." He said one can't go to the Comprehensive Plan to seek relief from the Zoning Code. He said the applicant will be cutting into the hillside anyway and the slope is not so severe that the applicant can't address the problem.
- M. John Helget said the decision to site the house at an angle was Mr. Perrow's decision. He said the house could be placed differently on the lot and meet the setback requirements.

II. CONCLUSIONS:

- A. The conclusions contained on pages 5 and 6 of the Planning Staff's Advisory Report accurately set forth a portion of the conclusions of the Hearing Examiner and by this reference are adopted as a portion of the Hearing Examiner's conclusions. A copy of said report is available in the Planning Department.
- B. A number of issues were raised by both the applicant and by the appellants which are beyond the scope of the adopted variance criteria. The only issues which will be addressed in these conclusions will be how the application meets or fails to meet the variance criteria. All of the variance criteria must be met before a variance can be granted.
- C. The proposed use will not amount to a rezone nor authorize any use not allowed in the district.
- D. The topography of the lot is a special condition applicable to the subject property. However, although it would be difficult to meet the front yard setback provisions of the

code, it would not be impossible, particularly since the entire project will be new construction.

A number of other garages in the vicinity are located within the front yard setback, however, all but a few are older structures which were built before the existing zoning code was adopted. Therefore, the older structures can not be used for comparison. The few cases for which variances have been granted in this area involve more difficult sites than the subject site.

I have reflected upon my original conclusion on this issue and find that while a good case can be made for the grant of a small deviation, an equally good case can be made to have the applicant modify his plans slightly to meet the requirements of the code. While there is a slope present, one of the appellant's is correct in observing that the hillside is not so severe that the problem can't be reasonably addressed.

- E. The topography of the lot does not result from any actions of the applicant, however, the appellants are correct in saying that the special circumstance is as much or more due to the design of the house and garages than it is the topography.
- F. Upon reflection, I concur with the appellants that the grant of a variance in this instance would constitute a grant of special privilege. While other variances have been granted for topographic reasons in the area, the subject lot does not have severe topographic conditions to contend with.
- G. 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 located.

If the entire structure were to be moved 2 feet closer to the water to comply with the code, no one's views would be enhanced. Rather, a slight view impairment may occur.

In any event, the locations of the two single car garages on the site are such that they are below street level and will have not impact whatsoever on traffic on Harborview. There will be ample off-street parking on the property and on the portion of the adjacent right-of-way (which is also below Harborview Drive).

- H. The request for the setback variance would result in a 56 square foot deviation from the code in an area where there will be no impact on the public. However, as noted above, all of the variance criteria must be met before a variance can be granted. Therefore, the variance should be denied.

III. DECISION:

Based upon the foregoing findings of fact and conclusions, the requested variance is DENIED.

Dated this 8th day of December, 1992.



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 fourteen (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.

**MINUTES OF THE NOVEMBER 18, 1992
RE-HEARING ON THE
PERROW APPLICATION**

Ronald L. McConnell was the Hearing Examiner for this matter. Participating in the hearing were: Steve Osguthorpe, representing the City of Gig Harbor, Wade Perrow, the applicant; John Paglia, John Helget and Sherry DeClaire, the appellants; and Nick Crotto, speaking in opposition to the application.

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Planning Staff's Advisory Report with attachments
- B. Photos of the site
- C. Applicant's reasons for allowing the variance with photos showing other reduced setbacks in the area.
- D. Landscape Plan
- E. Elevations
- F. Appeal of the Examiner's Decision received 10/23/92
- G. Response to appeal submitted by Wade Perrow at the 10/18/92 hearing
- H. Setback diagram
- I. Hearing Examiner Report, dated 10/23/92

PARTIES OF RECORD:

Wade and Beth Perrow
P.O. Box 1729
Gig Harbor, WA 98335

John Helget and Sherry DeCaire
9315 N. Harborview
Gig Harbor, WA 98335

John Paglia
705 South 9th, Suite 304
Tacoma, WA

Nick Crotto
9218 Milton Avenue
Gig Harbor, WA 98335

Ed and Nancy Carlson
9211 North Harborview
Gig Harbor, WA 98335

Rich Bittman
3320 N. 35th
Tacoma, WA 98335

WADE & BETH PERROW
P. O. BOX 1728
GIG HARBOR, WA 98335

Summary of facts regarding the appeal by John Paglia on
Case No. Variance 92-08

Demonstration of Criteria Outline

- 1) No rezone, therefore agreement
- 2) Special conditions and circumstances applying to the property such as size, shape and topography
 - a. Size of buildable lot is substandard based on City of Gig Harbor lot size requirements.
 - b. Slope of property greater than 20% which constitutes steep slopes as defined by Gig Harbor critical area study.
 - c. Need to setback building from bulkhead to provide structural bearing for house. Elevation of house was determined by Federal Emergency Management Agency, National Flood Insurance Program requirements dated May, 1990 which would not allow the building to be built at the existing bulkhead level.
 - d. If the variance is granted, the closest the structure would be to the fog line of North Harborview would be 36 feet. This distance is far greater than either Amy Yu's or J. B. Bencher's and Morris Walter's, which are anywhere from 14 feet from the fog line of the road up to 25 feet from the fog line of the road. This increased setback from the developed roadway is not applicable to other land in the same district.
 - e. By installing curbs, gutters and sidewalks in front of the residence, we are providing improvements that are not applicable to lands in the same district.
- 3) Special Circumstances and Conditions were not created by the applicant.
 - a. Topography
 - b. Lot Size
 - c. Setback from North Harborview
 - d. Floodplain requirements

G

- 4) The granting of the variance will not constitute the granting of special privileges given the fact that 70% of the structures along North Harborview are built within 20 feet of the setback. Mr. Paglia's referred case, St. Clair v. Skagit County, 43 Wn. App.122 (1986), he failed to mention that the court relied on the rationale of Ling v. Whatcom Cy Bd. of Adj., 21 Wn.App.497, citing that if the variance were to be granted, it would appear that the Board would have no basis for denying subsequent variance applications by other owners. The single-family zoning benefits enjoyed by the area would be effectively lost. In this case we are not changing the zoning or benefits of the area.

Mr. Paglia also failed to mention the cases of Sherwood v. Grant County, 40 Wn. App.496 (1985), Division III and Martel v. Vancouver, 35 Wn. App.250 (1983) Division II. Regardless of this case precedent, the ordinance only requires that we demonstrate criteria can be met. Regardless of whether other variances have or have not been granted, the fact remains that 70% of the developed property on North Harborview presently are built within the 20 foot setback.

- 5) The granting of this variance is not detrimental of the public welfare or injurious to the property or improvements in the vicinity. It should be pointed out that the total setback is 28% greater than required by code. Since the roadway is only approached from one point on the lot instead of two points, added safety is provided. At the point of entry the setback is in excess of 28 feet, thereby safety is not a matter to be concerned with.
- 6) The reasonable use of the land is also met by the purpose of the zoning ordinance which states in 17.01.020, the purpose of this title is to regulate the use of land and improvements by district in accordance with the City of Gig Harbor Comprehensive Plan. The Gig Harbor Comprehensive Plan does speak in detail about aesthetics in building types and waterfront view corridors and the like.

RECEIVED

CITY OF GIG HARBOR OCT 14 1992

HEARING EXAMINER CITY OF GIG HARBOR

FINDINGS CONCLUSIONS AND DECISION

APPLICANT: Wade Perrow

CASE NO.: VAR-92-05 92-08

LOCATION: 9119 North Harborview Drive

APPLICATION: Request for a variance to allow the front yard setback to be reduced from 20 feet to 13 feet.

SUMMARY OF RECOMMENDATION AND DECISION:

Planning Staff Recommendation: Deny
 Hearing Examiner Decision: Approve

PUBLIC HEARING:

After reviewing the official file which included the Planning Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Perrow application was opened at 5:41 p.m., September 29, 1992, in City Hall, Gig Harbor, Washington, and closed at 6:27 pm. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Planning Department.

FINDINGS CONCLUSIONS AND DECISION:

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

I. FINDINGS:

- A. The information contained on pages 1 through 3 of the Planning's 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 the Hearing Examiner's findings of fact. A copy of said report is available in the Planning Department.
- B. The applicant and his architect testified at the hearing that:
 - Many of the buildings which do not meet the setback requirements in this area are garages. That is all that is being requested in this case; the applicant is not asking for anything which has not been done by others.

- The architect tried to design the house to be in character with Gig Harbor, however, the shallow site, height limit, flood plain and 20% slope on the site left a compact space to put a house in.
 - Curb, gutter and sidewalk is being provided, even though it is not required.
 - The setback reduction would occur at a level below the street so it will not be materially detrimental to the public.
 - The site continues to drop off so it would be difficult to construct the garages in a manner which would also allow an entrance into the house (due to the difference in topography).
 - By not placing the house further towards the water he preserves the view of his neighbors and there will be no difference to the views from the street.
 - The request is for a small variance (less than 50 square feet of total space).
 - Even with the small setback variance, the architect has tried to create an open space on the street side of the house.
- C. Two neighbors testified in favor of the request. They said they had looked at the lot and had no problem, with the design of the house. They also felt the applicant had made every attempt to comply with the codes and had produced a very well-designed product.
- D. One neighbor testified that she felt the rules were put in place to enhance the city. She said many of the building sites along the harbor are not standard and this site has already been completely altered. She supported the staff recommendation to deny the variance.
- E. Staff testified that he had found only 2 variance requests which had been granted in the area. He acknowledged that there are a number of garages in the area which do not meet the setback requirements, but he said they were constructed before the zoning code was changed. He said he felt the variance request was due to the applicant's desire to have a large home on a fairly typical sized lot. He felt the topography was not a factor and recommended reducing the yard on the water side to accommodate the setback requirement.

II. CONCLUSIONS:

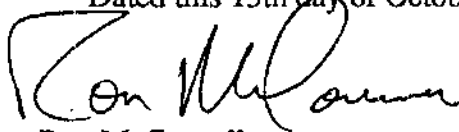
- A. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.
- B. The topography of the lot is a special condition applicable to the subject property, which makes it difficult to meet the literal interpretation of the front yard setback provisions of the zoning ordinance.
- C. The topography of the lot does not result from any actions of the applicant.

- D. The granting of the variance will not constitute a grant of special privilege inconsistent with limitations placed upon other properties in the vicinity and zone. Other similar variances have been granted for topographic reasons on nearby parcels.
- E. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located.
- If the entire structure were to be moved 2 feet closer to the water to comply with the code, no one's views would be enhanced. Rather, a slight view impairment may occur.
- In any event, the locations of the two single car garages on the site are such that they are below street level and will have no impact whatsoever on traffic on Harborview. There will be amply off-street parking on the property and on the portion of the adjacent right-of-way (which is also below Harborview Drive).
- F. The request for the setback variance would result in less than a 60 square foot deviation from the code in an area where there will be no impact on the public.

III. DECISION:

Based upon the foregoing findings of fact and conclusions, the requested variance which would allow the front yard setback to be reduced from 20 feet to 18 feet to allow the placement of two single car garages to be constructed up to 2 feet into the front yard setback is approved, provided that the total square footage of the variance does not exceed 60 square feet.

Dated this 13th day of October, 1992.



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 fourteen (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.

**MINUTES OF THE SEPTEMBER 29, 1992
HEARING ON THE PERROW
APPLICATION**

Ronald L. McConnell was the Hearing Examiner for this matter. Participating in the hearing was: Steve Osguthorpe, representing the City of Gig Harbor; Wade Perrow, the applicant; Rich Bittman, the applicant's architect; Ed and Nancy Carlson, neighbors recommending approval; and Sherry DeCaire, a neighbor recommending denial.

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Planning Staff's Advisory Report with attachments.
- B. Photos of the site
- C. Applicant's reasons for allowing the variance with photos showing other reduced setbacks in the area.
- D. Landscape Plan
- E. Elevations

PARTIES OF RECORD:

Wade Perrow
4012 Benson Road
Gig Harbor, WA 98335

Rich Bittman
3320 N. 35th
Tacoma, WA 98335

Ed and Nancy Carlson
9211 North Harborview
Gig Harbor, WA 98335

Sherry DeCaire
9315 North Harborview
Gig Harbor, WA 98335

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AUG 12 1992

Wade Perrow
P. O. Box 1728
Gig Harbor, WA 98335

CITY OF GIG HARBOR

August 11, 1992

City of Gig Harbor
P. O. Box 145
Gig Harbor, WA 98335

Att: Steve Osguthorpe - Associate Planner
RE: Variance for front yard setback reduction at 9119 North Harborview Dr.
VAR 92-85

Dear Steve: ⁹⁷⁻⁰⁸

This letter is to serve as an appeal of the decision made by you on August 4 regarding our request for a rear yard setback variance. Our request for reconsideration is based on the following:

- 1) Points not raised in the findings and conclusions.
- 2) The buildable portion of the lot is 9,645 sq. ft., which makes it a substandard lot similar to Amy Yu's, which was granted a 12 foot variance. Also similar to Paul Veitenmeyer, whose garage was built prior to this ordinance but is built right on the property line.
- 3) It is staff's determination that there is no limiting special circumstance which would deny the applicant reasonable use of the property. We disagree with this opinion as it is our desire to increase the setback from the waterfront side of the house to improve the appearance from the waterward side thereby developing some balance between the front and rear setbacks.

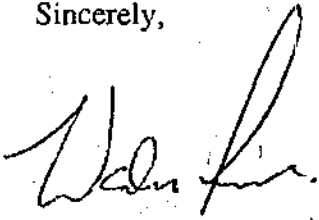
At this time approximately 50% of the buildings along North Harborview have buildings or structures that encroach into this 20 foot setback.

- 4) It states the lot does not exhibit any restraints based upon shape or topography which are not typical of other lots in the area. We agree with this position totally. It is because of the shape and topography of the lot that a setback is necessary. If not for the 20% slope on the property, it would be very easy to accommodate the necessary structures and garages. Since the topography is what it is, a variance is needed to provide an aesthetically pleasing structure that also provides the needed view corridors.

- 5) Most non-conforming structures on North Harborview are detached garages. That is exactly what we are requesting, a variance for two garages. The proposed house is not 4,075 sq. ft. but 3,300 sq. ft.
- 6) It states granting the requested variance would constitute a special privilege to the owner of this lot that does not exhibit similar restraints to other lots for which this variance has been granted, and other non-conforming structures were built prior to the adoption of the current setback requirements. On this point alone I feel we exhibit similar constraints due to the lot size, location setback from the waterfront, etc. As I stated, three existing properties have been developed in the past year and all have been granted this privilege. Also, approximately 50% of the lots on North Harborview are built within this 20 foot setback.
- 7) The statement there are other alternatives to develop the land is correct. The modifications discussed in this paragraph would change the architectural flavor of the home and detached garages in such a way that we would lose much of the historical flavor we are attempting to create in the design. I do not feel that any of the homes that have been constructed in the past or within the last year would have needed a variance if the same thought process was applied to their design as well.

As required in the recommendations, we are hereby requesting an appeal of this decision.

Sincerely,



Wade Perrow

WP:bw



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

August 4, 1992

Mr. Wade Perrow
P.O. Box 1728
Gig Harbor, Washington 98335

Re: VAR ~~92-05~~
92-08

Dear Mr. Perrow:

I have reconsidered your requested front yard variance based upon the information you submitted to me on July 21st, including information on impervious coverage allowances for your parcel. It is was helpful to compare the buildable portion of your lot to other lots along North Harborview Drive which received front yard setback variances. Lots which I have identified as having received variances include the Amy Yu residence under construction at 9119 North Harborview Drive, and the Westshore development house located at 9303 Harborview Drive. The developer of the adjacent house under construction had requested a variance from impervious lot coverage requirements but subsequently revised his plans to conform to code requirements. In short, only two residences have received setback variances along North Harborview Drive. The remaining structures where constructed prior to current setback requirements, most of which are smaller garages serving modest sized homes.

It appears that the Yu parcel presents circumstances more similar to yours than the Westshore parcel. Based upon the information you submitted, the Yu's lot includes 7,361 square feet of buildable area, (our records indicate 6,984 square feet) compared to 9645 square feet on your lot. The buildable area of the Westshore lot is considerably less, having only 3,100 square feet of buildable area.

The 2,281 square foot difference between your lot and Amy Yu's is significant, making it difficult to apply the same findings of hardship to both lots. While it is recognized that a 9,645 square foot lot does not conform to minimum lot standards, it must be emphasized that your actual lot size of 25,300 square feet does conform to current standards and allows you significantly more impervious coverage on the developable portion of your lot than would a 12,000 square foot lot without tidelands. From this standpoint, what might otherwise be a hardship may work to your advantage.

(According to the County Assessor's records, your upland lot and your tideland lots are under a single deed).

The difference in sizes between your lot, Amy Yu's lot, and the Westshore lot indicates the diversity of lots sizes in this area. With this in mind, it would not be realistic to consider the inability to build anything less than a four or five thousand square foot house as the standard for a hardship along North Harborview Drive. Lots smaller than yours have been developed under current standards with proportionately smaller houses, and without the need for a variance.

I recognize that you have not taken full advantage of your lot's potential, particularly regarding the proposed design of your house. You could, for example, gain significantly more floor space with a flat roof rather than the pitched roof you have proposed. I think we both agree that this would be undesirable and I applaud your efforts to incorporate design elements characteristic of Gig Harbor's historical architecture. I think your proposed design is superior. I only wish that this could satisfy the criteria for variance approval. Unfortunately, there is no provision for architectural consideration where variances are concerned.

Variances are typically based upon site specific hardships and can only be granted if it can be determined that the variance is the minimum variance that will make possible the reasonable use of the land. It appears that there are other alternatives which would not require a variance. For example, with some minor modifications to your floor plan, the garages could be tucked back into the main area of the house and not significantly change the design of the house. This approach may require that you re-think the location of the walk-thru door into the garage and also the arrangement of your kitchen and/or dining room layout.

It has proven difficult to compare the development potential among the diverse sizes and conditions of lots along North Harborview Drive. However, the Staff has determined that your lot does not pose any undue restraints on development under current setback requirements. Your variance request is therefore denied. The staff's decision is final unless appealed to the Hearing Examiner within 10 days from the date of this notice. Please contact me if you have questions or if you would like to pursue this issue.

I think we all agree with your basic premise that our current regulations have and will continue to result in

Page 3

development which is out of character in Gig Harbor. You have clearly been sensitive to preserving that character. I hope that your efforts will cause us to re-evaluate our development standards and bring about positive changes to development patterns in Gig Harbor.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Osguthorpe". The signature is written in dark ink and is positioned above the typed name.

Steve Osguthorpe
Associate Planner

CC: Ray Gilmore, Planning Director
File - included as part of Staff Report



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

GIG HARBOR COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TO: Mr. Wade Perrow
FROM: Planning Staff
DATE: August 4, 1992

RE: Staff reconsideration of variance request for
front yard setback reduction at 9119 North
Harborview Drive - VAR ~~92-05~~ 92-08

I. GENERAL INFORMATION

APPLICANT: Wade Perrow
P.O. Box 1728
Gig Harbor, Washington 98335

OWNER: (Same)

AGENT: N/A

II. PROPERTY DESCRIPTION

1. Location: 9119 North Harborview
2. Site Area/Acreage: 12,300 square feet plus
tidelands (total - 25,300 square feet).
Upland area - approx. 9,645 square feet.
3. Natural Site Characteristics:
 - i. Soil Type: Harstine
 - ii. Slope: approximately 15 - 20 percent
 - iii. Drainage: northerly toward bay
 - iv. Vegetation: Perimeter of popular trees
and untended domestic landscaping

4. Zoning:

- i. Subject parcel: WR - Waterfront Residential
 - ii. Adjacent zoning and land use:
 - North: R-1 (Single Family)
 - South: Gig Harbor Bay, designated Urban, Shoreline Master Program
 - East: WR
 - West: WR
5. Utilities/Road Access: Access off of Harborview Drive

III. APPLICABLE LAND-USE POLICIES/CODES

1. Comprehensive Plan: Area is designated as low urban residential
2. Zoning Ordinance: The zoning ordinance requires a 20 foot front yard setback in the WM zone. Section 17.66.020 permits administrative variances of up to 20 percent of the maximum allowable yard. This would permit a maximum encroachment of up to four feet into the front yard 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 limitations 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.

IV. BACKGROUND INFORMATION: The subject site currently has a small house which will be demolished to accommodate the proposed new development. Adjacent parcels are also developed and include detached garages placed on or near the front property line. However, the garages do not appear to be the primary structure on these lots and serve relatively small houses.

A variance was granted for a reduced setback at 9109 Harborview Drive for Amy Yu due to unusual site restraints including a small buildable lot area of 6984 square feet (total lot of 17,040 less tidelands up to high water mark). A variance was also granted for a reduced front yard setback at 9303 Harborview Drive due to a buildable lot size of 3100 square feet and a shallow depth of approximately 35 feet. No other variances have been granted in this area. All other non-conforming structures (mostly garages) were built prior to current code requirements.

V REQUEST/PROJECT DESCRIPTION: The applicant, Mr. Wade Perrow, is requesting a front yard variance of 2 feet in order to gain more useable open area behind the house. Mr. Perrow states that this would also allow him to build a single level house which would allow better views from North Harborview Drive. Mr. Perrow believes that a two foot variance is necessary to enable him to build a one level house which provides view corridors from the street and which will enable him to keep the design of the house more in keeping with the character of Gig Harbor's historic designs as seen from the water. He states that most houses in Gig Harbor are set back from the bulk head and without a variance, he will have to place his house up to the bulk head.

VI. PUBLIC NOTICE: Notice of the Staff's findings and decision will be sent to properties on both sides of Mr. Perrow's property including D.L. Coulter, 9123 Harborview Drive, and Paul & Irmegard Vermette, 9113 Harborview Drive, only if approved as per Section 17.66.020 (c). Public notice is not required.

VII. ANALYSIS

The Staff does not believe that this parcel poses any unusual site restraints for development that are not also common to other lots in this zone, nor does the staff agree with Mr. Perrow's suggestion that the variance will accommodate better view potential from Harborview Drive.

Keeping the house on one level will indeed keep the house lower than a two story house and may improve views from select houses above Harborview Drive, but the public at large does not benefit from additional views because the ridge will still be higher than pedestrians or motorists can see above. The Staff believes that the public may be better served by taller structures which do not cover such a wide area and which allow intermittent view corridors at the pedestrian level, rather than low slung structures which essentially span the entire width of the parcel.

It appears that there are other alternatives to developing this parcel without the need for a variance and which would not be substantially different than what the applicant is proposing. One alternative would be to simply place the structure closer to the harbor. If Mr. Perrow's interest in keeping the location of the house close to North Harborview Drive so as to keep a larger lawn area in the back, this could be accomplished by tucking the garages two feet back into the house by modifying the location of the walk-thru entrance into the garage and by modifying the layout of the kitchen and/or dining room.

Additional Staff and/or agency comments are as follows:

1. Building Official: (no comments)
2. Public Works: (no comments)
3. SEPA Responsible Official: The SEPA responsible official has determined that this proposal is

exempt from SEPA review requirements as per WAC 197-11-800-6 (b).

VIII. FINDINGS AND CONCLUSIONS

Based upon a site inspection and the analysis contained in Part VII of this report, and also as stated in a letter to Mr. Perrow dated August 4, 1992, being made a part of this report, the staff finds as follows:

1. The applicant seeks to build a house on a platted lot of 25,300 square feet and which is substantially covered by tidelands.
2. The buildable portion of the lot is 9,645 square feet.
3. The applicant proposes to place the house to conform to the City's side and rear yard requirements but wishes to encroach 2 feet into the front yard setback.
4. The applicant's proposed variance does not constitute a rezone nor consist of a use not allowed in an WM zoning district, however, it is the Staff's determination that there are no limiting special circumstances which would deny the applicant reasonable use of the property without the granting of the variance. Specifically, the lot does provide opportunity for a reasonable size home in relation to the lot's size.
5. The lot does not exhibit any restraints based upon its shape or topography which are not typical of other lots in this area.
6. Most non-conforming structures along North Harborview Drive are detached garages serving modest sized houses further back from the road. The applicant's proposed house size of 4,075 square feet exceeds the typical house size in this area and the buildable portion of the lot is typical of other lots in this area.
7. The granting of the requested variance would constitute a special privilege to the owner as the lot does not exhibit restraints similar to other lots for which variances have been granted, and other non-conforming structures were built prior to the adoption of current setback requirements.

8. The requested variance is not the minimum variance that will make possible the reasonable use of the land. There are other alternatives to developing the land not substantially different than what the applicant is proposing including the potential to tuck the garages back into the house by modifying the location of the garage's walk-thru entrance and modifying the layout of the kitchen and/or dining room. Another alternative would be to simply place the house closer to the harbor.

IX. RECOMMENDATION

Based upon the facts presented and the preceding analysis, the Planning Staff hereby denies the administrative variance.

The decision of the Planning Staff is final unless within fifteen days of the decision date of this application an appeal is filed with the City Planning Department.

Project Planner: Steve Osguthorpe, Associate Planner

Date: _____

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

Whereas, Wade Perrow had requested an administrative variance for a reduced front yard setback at 9119 North Harborview Drive (VAR 92-08); and

Whereas, the Planning Staff denied the administrative variance request based upon findings that the request was not based upon site specific hardships as required by section 17.66 of the Gig Harbor Zoning Code; and

Whereas, the Staff's decision was appealed to the Hearing Examiner, who ultimately denied the variance based upon findings that the requested variance was not based upon site specific hardships; and

Whereas, the Gig Harbor City Council has adopted Ordinance #489 which establishes guidelines for the reviewing of appeals of decisions of the Hearing Examiner; and

Whereas, the applicant has filed a timely appeal in a letter to the City Council dated December 14, 1992; and

Whereas, the Gig Harbor City Council has reviewed the record of the Staff determination, the appeal to the Hearing Examiner, the record of the Hearing Examiner's initial and final decision, the appeal filed by the applicant and the applicant's presentation at its regular session of January 11, 1993.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor, Washington, that the findings, conclusions, and decisions of the Staff and (upon appeal and reconsideration) the Hearing Examiner are found to be correct and are hereby upheld by the City Council and the application for a front yard setback variance is denied.

PASSED this 11th day of January, 1993.

GRETCHEN S. WILBERT, MAYOR

ATTEST:

Mark E. Hoppen
City Administrator

Filed with City Clerk:
Passed by City Council:



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

MEMORANDUM

TO: Mayor Wilbert and City Council

FROM: *(Signature)* Ray Gilmore

DATE: January 7, 1992

SUBJ.: Hearing Examiner Recommendation -- PUD 91-01(Rev. 2), Rush Construction.

=====
Attached for your consideration is the report of the City Hearing Examiner on an application filed by Mr. Jim Cooper of Rush Construction. Mr. Cooper requests a revision to the preliminary plat of PUD 91-01 to permit RV storage and parking on a portion of the site of Harbor Summit planned unit development located south of Hunt Street.

Following a public hearing on November 18, the Hearing Examiner, in his report of December 7, 1992, has recommended denial of the request. A copy of the Examiner's report (Findings and Conclusions) is attached.

In a letter dated December 11, 1992, Mr. Cooper requested reconsideration of the decision by the Examiner. Upon consideration of the points raised in Mr. Cooper's request, the Examiner entered his findings and conclusion in a report dated December 28, 1992 and has ruled that his initial recommendation of December 7 stands. This report is also attached along with a resolution in support of the Examiner's findings, conclusions and recommendation.

CITY OF GIG HARBOR
RESOLUTION No.

WHEREAS, Gordon Rush (Rush Construction) was granted preliminary plat approval for a forty-three (43) lot single family residential subdivision as a planned unit development, per City of Gig Harbor City Council Resolution 346; and,

WHEREAS, the applicant desires to amend a portion of the planned unit development to provide off-street parking of residents' recreational vehicles, boats/trailers, and automobiles in an area previously reserved for above ground stormwater retention in the north west corner of the property; and,

WHEREAS, the Gig Harbor City Council has adopted Ordinance #489 which establishes guidelines for the reviewing of subdivisions and planned unit developments, including revisions; and,

WHEREAS, the Planning Department for the City of Gig Harbor has recommended denial of the project, in a staff report dated November 12, 1992; and,

WHEREAS, the City of Gig Harbor Hearing Examiner conducted a public hearing on the application on November 18, 1992 to accept public comment on; and,

WHEREAS, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has recommended denial of the application in his report dated December 7, 1992; and,

WHEREAS, the applicant in a letter dated December 11, 1992 to the Hearing Examiner, requested reconsideration of the decision; and,

WHEREAS, the Hearing Examiner, having considered the applicants request for reconsideration, has ruled that the original decision of December 7, 1992 stands.

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 reports dated December 7, 1992 and December 28, 1992 are adopted and the request for revision to the preliminary plat of the planned unit development is hereby DENIED.

CITY OF GIG HARBOR
Hearing Examiner Reconsideration
of Recommendation

FILE NO. PUD 91-01/SUB 91-03, Rev. No. 2
(Rush Construction)

I. FINDINGS

- A. Jim Cooper requested reconsideration of my recommendation on File No. PUD 91-01/SUB 91-03, Rev. No. 2. His letter, dated December 11, 1992, stated that at a minimum, more specific reasons for denial should be given. He disagreed with the reasons given for my recommendation of denial in my report dated December 7, 1992. He then presented several points to support his argument (Reconsideration Exhibit A).
- B. Chapter 17.90 of the Gig Harbor Zoning Code provides requirements for Planned Unit Developments. Specifically, Section 17.90.040.D provides requirements for common open space.
- C. The original proposal for the subject development was to offer six open space tracts which would essentially provide a storm retention area, buffers and visual amenities. The two open spaces which would provide landscaping at the entrance (Tracts A and E) and the two areas within the interior of the development (Tracts B and F) range in size from under 1,000 square feet to just over 2,500 square feet. None of these spaces would be suitable for recreation uses, but rather would provide visual amenities for the development.. The two perimeter buffers (Tracts C and D) are buffer areas except that Tract C also includes a triangular area of approximately 6,500 square feet which was originally intended to serve as a storm retention area.
- D. Backyard open spaces for individual units within the complex typically range in size from about 650 square feet to 850 square feet.
- E. Tom Morfee's comments at the hearing which were noted by Jim Cooper in his request for reconsideration were considered by me prior to my original decision.
- F. The letter submitted by Karin McGuire was entered into the record at the November 18, 1992 public hearing on this issue. Mr. Cooper was at the public hearing and had an opportunity to respond to the letter at that time.
- G. This project was proposed to be an "affordable project at the outset and now according to the applicant, in order to be marketable, R.V. parking must be provided.

II. CONCLUSIONS

- A. The typical open space tracts within the development are clearly intended to be used as buffers or visual amenities except for the area which was originally intended to be used for storm water retention. None of the tracts are large enough to be usable for recreation purposes except for the stormwater retention area. Now that the City has determined that storm water can be retained underground, the designated storm water retention area is available for another use. Staff has suggested that the area be made available for a recreation area for the residents of the PUD. That area, while not centrally located in the development, is still the only space which could be utilized as a community picnic area, or as an activity area which might include a tennis court, a sports court, or a swimming pool.
- B. The applicant argues that the project meets the density requirements and that is the only relevant factor. He also notes that the project will have at least two tracts for common use. The usability of the two open spaces he refers to (Tracts B and F) are questionable since they are both only about 2,000 square feet in size. A visual amenity can be provided, but the spaces are not large enough to provide any kind of suitable recreation space for the development.

Considering the fact that the typical floor plans shown on the applicant's plans are for three bedroom units, a re-reading of Section 17.90.040 D would indicate a need for some type of common open space that extends beyond fountains and benches. If the units are to be three bedroom, two bath units as are shown, then the units are clearly large enough to accommodate families. The small size of the backyards for the individual units also encourages the development of a larger common area which could be used by the residents.


The intent of a PUD is to make possible a greater variety and diversification in the relationships between buildings, open spaces and uses. However, open spaces, which are suitable to the development, should be provided. I do not believe the original proposal made adequate provisions for open space.

Upon reconsideration and further review, I believe the previously designated storm water retention area should be set aside for common open space/recreation purposes.

III. RECOMMENDATION

After reconsideration of the issues in this case and based on the foregoing findings and conclusions, my recommendation of denial, dated December 7, 1992, regarding File No. PUD 91-01/SUB 91-03, Revision No. 2, remains unchanged.

Dated this 28th day of December, 1992.


Ron McConnell
Hearing Examiner

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 this action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance for 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 rejecting a decision of the Examiner, shall be final and conclusive, unless within twenty (20) days from the date of the Council action an aggrieved party or person applies for a writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action.

RECONSIDERATION EXHIBITS:

- A. Letter from Jim Cooper, dated December 11, 1992

PARTIES OF RECORD:

Jim Cooper
Rush Construction Company
5715 Wollochet Drive N.W.
Gig Harbor, WA 98335

Tom Morfee
7903 26th Ave. N.W.
Gig Harbor, WA 98335

Karin McGuire
6363 Harbor Sunset #C-4
Gig Harbor, WA 98335

RECEIVED

DEC 11 1992

CITY OF GIG HARBOR

Rush Construction Company
5715 Wollochet Dr NW
Gig Harbor Washington 98335

11 December 1992

Ronald McConnell
Hearing Examiner
City of Gig Harbor
3105 Judson
Gig Harbor, WA 98335

Forwarded to
11000 NE 33rd Pl
Suite 101
Bellevue, WA 98004

12/11/92
MB

Re: Reconsideration of Case PUD 91-01/SUB 91-03, Rev No. 2

I believe that the decision to deny Rush Construction a Parking Area at Harbor Summit is not in the best interest of anyone involved and that it should be reconsidered.

At the minimum, I believe that you have an obligation to cite more specific reasons for your denial than those stated in your report. The reasons that you gave were as follows:

1. The development barely meets the requirements for maximum density.

The fact that our development *meets* the density requirements is the *only* relevant factor, it seems to me. We are not asking for more units or for more clearing or for anything else that would impact our status with regard to meeting density requirements.

2. Our request, you said, would eliminate the only opportunity for useable open space in the development.

I simply don't understand this comment. Our development has at least two other tracks for common use. Each is planned to have a park-like atmosphere with fountains, benches and walks. The area in question, in our opinion, continues to be best suited as an area to remove vehicles from view.

You presented no additional arguments against our request other than citing Mr. Gilmore's staff report by reference. With regard to this report, I believe I presented effective testimony countering his objections during our meeting on 18 November. If you believe that my testimony was not an effective counter to Mr. Gilmore's objections, then I believe that you have an obligation to state why.

Finally, a letter from Karin McGuire of 6363 Harbor Sunset was used as evidence against our request. No one at Rush Construction was aware that this letter existed until I received a copy of your recommendation to deny our request from Mr. Gilmore on 9 December 1992.

It is obvious from Ms. McGuire's letter that she does *not* understand that our request for a Parking Area does not include more clearing. It is also obvious that neither you nor anyone from the city explained this fact to her when she called to complain.

I am certain that, when we explain to Ms. McGuire that this proposal *does not* include more clearing; that it *does* mean vehicles will be removed from her view; that an alternative is to let residence keep vehicles at their homes; and that the Parking Area we proposed *will be invisible* from all angles, she will reverse her position on this issue. I intend to ask her to help us with our request for reconsideration once she has all the facts.

The facts are:

- 1) We are requesting Parking in an area that has already been cleared (as required by the City of Gig Harbor for temporary drainage). The permanent drainage system is now installed and this area is available with no additional clearing.
- 2) The area that we have proposed, when lasdscaping is completed, will be *completely invisible* to anyone passing by from *any* street or highway.
- 3) We have agreed to meet all applicable city, county and state codes regarding fire access, safety issues, buffer zones, etc.
- 4) Mr. Tom Morfee, the head of one of the most conservative organizations in our area, after listening to our proposal, understood that this is in everyone's best interest and *supports* the request provided we carried it out as proposed.
- 5) Other than Ms. McGuire, who did not have all the facts, *not one* citizen objected to our request.
- 6) Our request does not violate or ask exception to any city, county or state code, rule or ordinance that I am aware of, or that has been presented by you or Mr. Gilmore.

In summary, I believe that the decision to deny our request needs to be reconsidered. We have asked for something that breaks no laws or rules; that is invisible from any roadway; that presents no significant hazards; that requires no additional clearing; that has been objected to by only one, uniformed citizen; and that will have the very positive effect of removing large vehicles from one of the streets in Gig Harbor.

It is neither reasonable nor logical to deny this request. If you still believe that it is, after reconsidering the facts, then I believe you are obligated to provide a more detailed explanation of the facts that support your opinion.

Thank you for your attention to this matter.



Jim Cooper

cc: Ray Gilmore

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

APPLICANT: Gordon Rush (Rush Construction)
CASE NO.: PUD 91-01/SUB 91-03, Revision No. 2
LOCATION: The property is located on the south side of Hunt Street, east of SR-16 and west of the Harbor Village apartments.

APPLICATION: Request for approval to provide a gravelled surface to be used as a R.V. parking area for residents of the PUD. The R.V. parking area is proposed to be located in the same area originally designated as the storm water retention area. It is located in the north west corner of the plat (south of Stroh's). The applicant proposes to provide security fencing and screening around the perimeter of the R.V. parking area.

SUMMARY OF RECOMMENDATIONS:

Planning Staff Recommendation: Deny
Hearing Examiner Recommendation: Deny

PUBLIC HEARING:

After reviewing the official file which included the Planning Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Rush application was opened at 7:18 p.m., November 18, 1992, in City Hall Gig Harbor, Washington, and closed at 7:50 pm. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Planning Department.

FINDINGS CONCLUSIONS AND RECOMMENDATION:

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

I. FINDINGS:

- A. The information contained on pages 1 through 5 of the Planning's 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.

- B. Ray Gilmore reviewed the staff report at the hearing and recommended that the request to allow R.V. parking not be approved since it would result in the reduction of an already small amount of open space in the development. He felt that even with the proposed landscaping, the R.V.'s would be visible.
- C. Jim Cooper, speaking on behalf of Rush Construction, testified at the hearing that the subject area was required to be cleared in order to install the underground stormwater retention system. He said the area would need to be replanted in any event. It could be screened so the R.V.'s would not be visible. The area is large enough to accommodate 6 to 8 R.V.'s which means they would be kept off the streets in the development. He said a condition of approval could limit R.V.'s to be 11 feet or less in height. He said he would screen the R.V. area with an 8 foot tall fence and trees. He also said he intends to reforest the 30 foot wide buffer area, and meet the requirements of the fire code.
- D. Tom Morfee said he represented the adjacent condominium complex and said that a number of the residents have complained about the clearing of the property. However, he also said that if the R.V. parking area is well screened he saw no problem with it.
- E. Jim Cooper responded and said he was willing to propose that in addition to the 8 foot high fence he would plant 10 to 12 foot high trees and would space them so they would screen the site entirely. He did say, however, that the underground water retention facility would be located on the north side of the site near the property line.
- F. In Exhibit D, Jim Cooper explained his rationale for the proposal. He said its approval will tend to attract higher caliber homeowners and will reduce potential problems with exposed R.V.'s in the neighborhood.
- G. Karin McGuire, in Exhibit B, expressed concern about the "excessive clearing and logging of trees at Harbor Summit" and strongly recommended that the R.V. parking /storage area not be approved.

II. CONCLUSIONS:

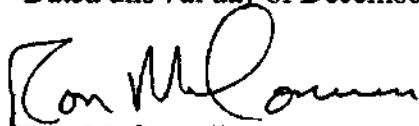
- A. The conclusions prepared by the Planning Staff and set forth on pages 5, 6, and 7 of the Planning Staff's Advisory Report accurately set forth a portion of the conclusions of the Hearing Examiner and by this reference are adopted as a portion of the Hearing Examiner's conclusions. A copy of said report is available in the Planning Department.
- B. This development has been designed to maximize density on the subject site and it barely meets the requirements for approval as it stands. This request, while it would allow 6 or 7 R.V.'s to be kept out of public view, would also eliminate the only opportunity for useable open space in the development.

I concur with the staff analysis of this request and believe the request should be denied.

III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, it is recommended that the request to develop an RV parking area in Tract C of Harbor Summit be denied.

Dated this 7th day of December, 1992.



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 this action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance for 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 rejecting a decision of the Examiner, shall be final and conclusive, unless within twenty (20) days from the date of the Council action an aggrieved party or person applies for a writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action.

**MINUTES OF THE NOVEMBER 18, 1992
HEARING ON THE RUSH
APPLICATION**

Ronald L. McConnell was the Hearing Examiner for this matter. Participating in the hearing were: Ray Gilmore, representing the City of Gig Harbor; Jim Cooper representing the applicant and Tom Morfee, a neighbor.

The following exhibits were offered and entered into the record:

- A. Planning Staff's Advisory Report.
- B. Letter from Karin McGuire dated 11/9/92
- C. Photos of the area
- D. Letter from Jim Cooper, with attachments, dated 10/10/92
- E. Landscape Plan and elevations

PARTIES OF RECORD:

Jim Cooper
Rush Construction Company
5715 Wollochet Drive N.W.
Gig Harbor, WA 98335

Tom Morfee
7903 26th Ave. N.W.
Gig Harbor, WA 98335

Karin McGuire
6363 Harbor Sunset #C-4
Gig Harbor, WA 98335

Rush Construction Company
5715 Wollochet Dr NW
Gig Harbor Washington 98335
858-3636

10 October 1992

Mr. Ray Gilmore
City of Gig Harbor
3105 Judson
Gig Harbor, WA 98335

Dear Ray,

Thank you for providing a copy of Mr. Bowman's comments to me regarding our request for RV parking in Harbor Summit.

It is our intention to address Mr. Bowman's comments as follows:

Supervision: The Harbor Summit CC&Rs will require that homeowners provide supervision and maintenance for the RV parking area. In addition, security fencing will be installed for safety.

Fire Flow: A hydrant is currently located within 300 feet of the parking area.

Fire Access: An entrance and a separate exit will be provided with roads that are a minimum of 15 feet wide. Minimum turn radius' will also be provided.

Home Proximity: No home will be located within 50 feet of an RV vehicle.

I have discussed these design features with Mr. Bowman and he has indicated that, with these considerations, our plan meets his requirements and he can recommend approval of the request.

Thank you again.

Regards



Jim Cooper

Rush Construction Company
5715 Wollochet Dr NW
Gig Harbor Washington 98335
858-3636

10 October 1992

Hearing Examiner
City of Gig Harbor
3105 Judson
Gig Harbor, WA 98335

Re: Revision Request to PUD 91-01 (Harbor Summit)

As market additional information regarding prospective buyers for the homes to be built in Harbor Summit is gathered, potential improvements to the development present themselves.

Recent feedback from future homeowners indicates that it is appropriate to consider an RV parking area for the development.

Currently, the area in the Northwest corner of the plat is approved to provide a temporary water runoff holding and sedimentation pond during construction and then, to become the area where the underground storm water detention system will be located. It has been necessary to clear this corner to meet these development requirements. I have attached the engineering drawing which shows the pond and underground system locations.

After completion of the underground storm water detention system, a flat, clear area will remain. This area is well screened due to its location, the terrain elevations present, and the 30 foot greenbelt between it and SR 16. With the addition of screening and security fencing, shrubs, and trees, the area would offer an ideal area to provide limited RV parking for residences of Harbor Summit.

Several drawings have been prepared to show our landscaping plan for the RV area and to indicate how effective this screening will be. These drawings are also attached.

In addition to screening the area, we will include a strong statement in the Harbor Summit CC&Rs requiring supervision and maintenance by the homeowners. Also, all safety and fire considerations will be met according to the direction of the Gig Harbor Fire Marshall.

In summary, we believe that this change will be a positive improvement to the development. It will present better value to buyers, will tend to attract higher caliber homeowners, and will reduce potential problems with exposed RVs in the neighborhood. No additional clearing will be required and additional landscaping and buffering will be provided. This revision introduces no known negative issues and provides Harbor Summit homeowners, surrounding neighbors and the City of Gig Harbor with a higher quality final product.

We respectfully request your approval of this change for Harbor Summit. If any additional information is required, please contact me at 549-6119.

Thank you for your consideration,

A handwritten signature in black ink that reads "Jim Cooper". The signature is written in a cursive style with a large, looped initial "J".

Jim Cooper

CITY OF GIG HARBOR

851-8136

- | | |
|---|--|
| <input type="checkbox"/> Conditional Use Permit | <input checked="" type="checkbox"/> Planned Unit Development |
| <input type="checkbox"/> Variance | <input type="checkbox"/> Rezone |
| <input type="checkbox"/> Administrative Appeal | <input type="checkbox"/> Site Plan Review |

APPLICATION

CITY USE ONLY

Case Number POD 91-01R

Date Received _____

By _____

Related Case Numbers _____

OWNER(S)

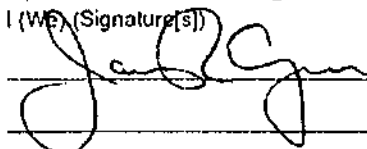
1. NAME RUSH CONSTRUCTION Co

MAILING ADDRESS 5715 WOLLOCHET DR

CITY AND STATE GIG HARBOR ZIP 98335

TELEPHONE 858-3636

I (WE) (Signature(s)) _____ Date 10/9/92



do hereby affirm and certify, under penalty of perjury, that I am one (or more) of the owners or owner under contract of the below described property and that the foregoing statements and answers are in all respects true and correct on my information and belief as to those matters, I believe it to be true.

APPLICANT

2. NAME SAME

MAILING ADDRESS _____

CITY AND STATE _____ ZIP _____

TELEPHONE _____

SIGNATURE _____ DATE _____

3. AUTHORIZED REP. NAME SAME

MAILING ADDRESS _____

CITY AND STATE _____ ZIP _____

TELEPHONE _____

4. NAME OF PROJECT HARBOR SUMMIT
(FORMILY HARBOR SUNSET)

5. SUMMARY OF REQUEST (List Type of Uses)

APPROVAL OF RV PARKING AREA

6. UTILITIES:

1. WATER SUPPLY: (Name of Utility, if applicable)

a. EXISTING: _____

b. PROPOSED: GIG HARBOR

2. SEWAGE DISPOSAL: (Name of Utility, if applicable)

a. EXISTING: _____

b. PROPOSED: GIG HARBOR

ACCESS: (Name of road or street from which access is or will be gained)

1. EXISTING ACCESS: _____

2. PROPOSED ACCESS: HUNT ST

7. PROPERTY LOCATION:

NORTH SOUTH EAST WEST SIDE OF (Circle One)

(Road Name): HUNT

between (road name): SR16

and (road name): SOUNDVIEW

PROPERTY ADDRESS _____

SECTION _____ TOWNSHIP _____ RANGE _____

ASSESSOR'S PARCEL NUMBER _____

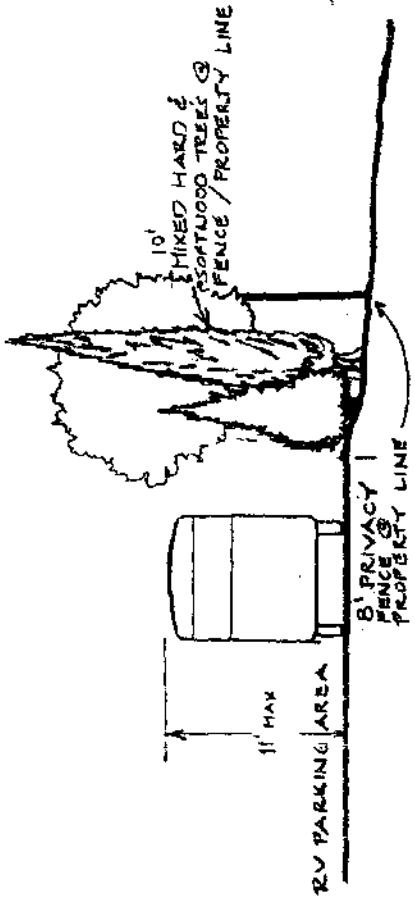
FULL LEGAL DESCRIPTION OF SUBJECT PROPERTY: (Attach separate sheets if too long)

ON FILE W/CITY

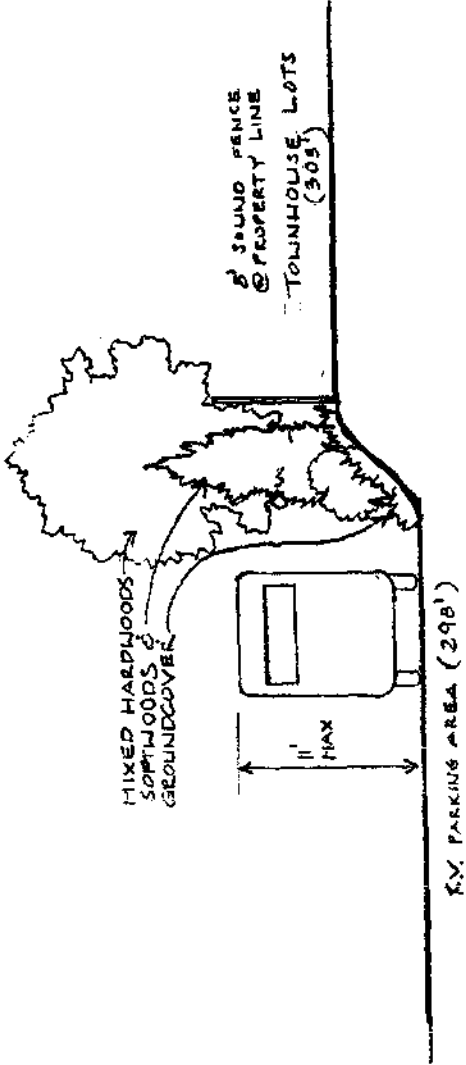
8.

EXISTING ZONING R-2

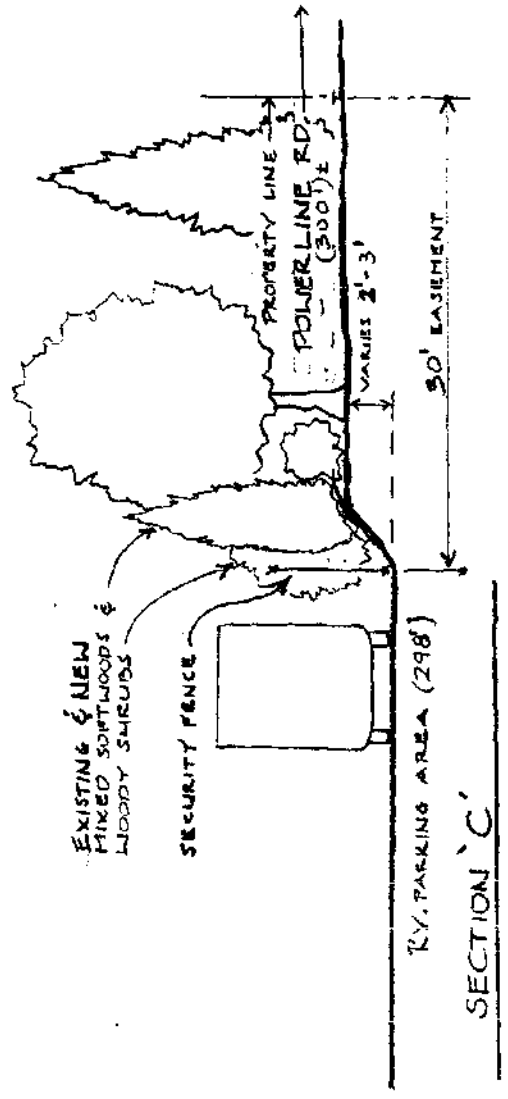
TOTAL SQUARE FOOTAGE OF SITE 5 ACRES



SITE SECTION 'A'



SECTION 'B'



SECTION 'C'



From northwest corner of property,
view toward the south.

HARBOR SUMMIT PUD

From northwest corner, view toward
the east. Stroh's Feed Store to the
right.



HARBOR SUMMIT PUD.



From northwest corner, view toward the
southeast (interior).

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

**HARBOR SUMMIT PLANNED UNIT DEVELOPMENT
(PUD 91-01/SUB 91-03)
Revision No.2**

NOVEMBER 12, 1992

PART I: GENERAL INFORMATION

A. APPLICANT:

Gordon Rush (Rush Construction)
5155 Wollochet Drive NW
Gig Harbor, WA 98335

B. OWNER:

Same as above

C. AGENT:

Same as above

D. REQUEST:

Provide graveled surface RV parking area for tenants of the PUD. RV parking is proposed to be in the same area originally designated as storm retention area, in the north west corner of the plat (south of Stroh's). Applicant proposes to provide security fencing and screening.

E. PROPERTY DESCRIPTION:

1. Location:

The property is located on the south side of Hunt Street, east of SR-16 and west of the Harbor Village apartments. The property is more particularly described as a portion of the NW 1/4 of Section 17, Township 21N, Range 2E, assessor's tax parcel number 02-21-17-2-070.

2. Site Area/Acreage:

The site is 5.39 acres/ 234,760 square feet.

3. Physical Characteristics: According to the Pierce County Soil Survey, the site is underlain by Harstene gravelly-sandy loam with 0 to 15% slope.

Drainage on the property is toward the north (Hunt Street), with an average gradient of 6%.

F. SURROUNDING LAND-USE/ZONING DESIGNATION:

North: Commercial feed store, nursery and landscape supplies (Stroh's), designated as Urban Environment in the Gig Harbor Peninsula Comprehensive Plan (1975).
West: SR-16, Residential Environment (west of SR-16), Gig Harbor Peninsula Comprehensive Plan (1975).
South: Multi-family residential (Harbor Village Apartments), zoned R-3.
East: Multi-family residential (Harborwood West Apartments), zoned R-3.

G. UTILITIES/ROAD ACCESS:

Access is provided by way of Hunt Street. Sewer and water is provided by the City of Gig Harbor.

H. PUBLIC NOTICE:

Public notice was provided as follows:

Published in Peninsula Gateway: November 4, 1992.
Mailed to property owners of record within 300 feet of the site: November 6, 1992.
Posted in three conspicuous places in the vicinity of the property: November 9, 1992.

PART II: ANALYSIS

A. AGENCY REVIEW:

1. Building Official/Fire Marshal

Memo of November 9, 1992. Roadway proposed to serve the RV lot is not shown to be improved to the minimum 15 feet, with a minimum inside curve of 20 feet and outside curve radius of 45 feet. The emergency access road must be identified with approved fire lane signage. All gates installed across the access road must have plan review and approval of the Gig Harbor Fire Marshal. The RV parking lot must have parking areas and roadways identified to require parking over fifty feet away from the buildings and to keep vehicles out of the roadway. Recommend submission of complete plans showing compliance with above plans prior to construction.

2. Department of Public Works

No comments received.

B. APPLICABLE LAND-USE POLICIES/CODES

1. Comprehensive Plan:

The City of Gig Harbor Comprehensive Plan designates this area as medium density urban residential. The type of use and density proposed is considered appropriate for this area and there are not any identified environmental capability limitations for this area. Relevant sections of the Plan are as follows:

- A. Land use -- Site area is designated as medium density urban residential, with a maximum density of 8.0 dwelling units per acre.
- B. Land use, Goal #9 -- Expand housing district and code definitions to allow a broad choice of housing types, locations and tenures.

2. Zoning Ordinance:

The proposed subdivision site is designated as R-2 (medium density residential) per the City of Gig Harbor zoning map.

Section 17.20.010 (Intent) states that an R-2 district is intended to provide for a moderate density of land use than is permitted in the R-21 district but which is less than permitted in the R-3 district. An R-2 district provides a transition between a higher density residential district in order to preserve the primarily residential character of existing residential areas.

Section 17.20.020 (Permitted Uses) establishes single family detached dwellings and duplexes as permitted uses in this district.

Section 17.20.040 establishes a minimum lot size of 7,000 square feet, excluding road right-of-way (public or private) and a maximum density of 6.0 dwelling units per acre.

Section 17.28.050 (Minimum Development Standards) establishes minimum development standards for uses

in respect to yards (F 25', S 7', R 25'), impervious coverage (40%), and minimum street frontage (20'). The project site is within a height overlay district which permits a maximum height of 28 feet for single family dwellings.

Section 17.90 addresses minimum requirements for consideration of planned unit developments.

Section 17.90.010 states that the intent of a planned unit development (PUD) is to allow and make possible greater variety and diversity in the relationships between buildings, open spaces and uses and historical and natural features while meeting the purposes and objectives of the Comprehensive Plan. To accomplish this purpose, the underlying district regulations such as, but not limited to, setbacks, density, uses and height and bulk of buildings may be varied, provided such variance shall not conflict with the comprehensive plan and existing uses nor create adverse environmental effects. A PUD may be allowed in any district.

Section 17.90.030 (Parcel Characteristics) provides for special consideration of three criteria if a PUD site is less than two acres (not applicable).

Section 17.90.040 (Requirements) provides minimum requirements for private roads, parking, open space and landscaping.

Section 17.90.050 (Findings) provides that the hearing examiner shall find that all of the following conditions exist for the approval or conditional approval of a PUD:

1. That the site of the proposed use is adequate in space and size to accommodate such use and that all yards, spaces, walls and fences, parking and loading, landscaping and other features necessary to insure compatibility with the underlying district.
2. That the site for the proposed use relates to streets, adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed uses and that adequate public utilities are available to serve the proposal.

3. That the proposed use will have no significant adverse effect on existing uses or permitted uses.
4. That the establishment, maintenance and/or conducting of the uses for which the development plan review is sought will not be detrimental to the public welfare, injurious to the environment, nor shall the use be inconsistent with or injurious to the character of the neighborhood or contrary to its orderly development.

Section 17.90.060 (Approval) requires that a final plan of a PUD must be filed with the City Council within three years of the preliminary approval date and authorizes the City to seek adequate guarantees of compliance with the final plan through the acquisition of a bond or other form of security.

Section 17.90.080 (Duration of Approval) requires that construction on a project must commence within one year of final approval or the final approval becomes void.

3. Subdivision Ordinance:

The City of Gig Harbor subdivision ordinance, Section 16.04, establishes minimum standards for the development of residential subdivisions. The proposed preliminary plat conforms to the general requirements of Section 16.20 in respect to street layout, grades, provision of utilities including water, sewer and underground power. Prior to final approval of the subdivision, all improvements as required by the subdivision ordinance, Section 16.20 and 16.24 must be constructed and installed.

PART III: FINDINGS AND CONCLUSIONS

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

1. The proposed PUD originally set aside approximately 18% of land as useable open space, which included this area. The removal of this area as open space will further reduce the amount of "green" within the development.

2. The applicant proposes to screen this area from view, using a combination of fencing and landscaping. Staff estimates that a fence of at least eight feet in height would be required to completely screen the RV's within the storage area.

3. The current buffer along SR-16 has been greatly reduced from what was originally proposed and approved along SR-16. Additionally, a new "cut" in the buffer would be required to provide the fire lane access to the RV parking area. This portion could not be re-planted. A significant replanting effort will be required to restore the remainder of the buffer to its proposed density and width.

4. The proposed location of the access road on the north side of lot 28 was initially proposed as landscaping. This would be eliminated in favor of the access road.

5. As an RV storage area for the subdivision, the limited area and triangular configuration of the would provide limited storage area.

6. The proposed driveway along lots 27 and 28 is only 11 feet wide in places. A minimum of 15 feet is required per the fire code.

7. Providing an area for RV parking has the potential for improving the aesthetics within the subdivision if all tenants were required to use this area for RV's and boats. However, it is doubtful that the RV storage area could be completely screened from view without having to install a significant solid barrier fence, which would produce more of an adverse impacts to the aesthetics from SR-16 and Kimball Drive.

8. The reduction of open space (or greenbelt) to accommodate tenants' RV parking is a substantial concession which would not be in the public's interest, nor does it seem warranted given the very limited amount of open space provided.

9. The preliminary approval of this project was based upon the type of housing proposed and the benefit which would accrue in providing additional affordable housing in the city. Providing RV parking within the plat, given the location and limited area available for storage,

the trade-off to reduce open space to accommodate RV parking and the potential impacts to the aesthetics of the area, on and off-site, would not be in the public's best interest.

10. Because the area will not be used for above ground storm water retention, the site is available for additional buffering and landscaping. Replanting the area would improve the aesthetics in this area and would be beneficial to the tenants as well as the general public.

PART IV: RECOMMENDATION

Based upon the findings established in Section III of this report, staff recommends **DENIAL** of this request. Documents pertinent to your review are attached.

Staff report prepared by: Ray Gilmore, Planning Director

Date: Ray Gilmore



DENNIS RICHARDS
Chief of Police

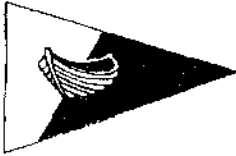
City of Gig Harbor Police Dept.
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-2236

MONTHLY POLICE ACTIVITY REPORT

DECEMBER

DATE: 01-01-93

	<u>DEC</u> <u>1992</u>	<u>YTD</u> <u>1992</u>	<u>YTD</u> <u>1991</u>	<u>%CHG TO</u> <u>1991</u>
CALLS FOR SERVICE	<u>230</u>	<u>2963</u>	<u>2528</u>	<u>+ 17</u>
CRIMINAL TRAFFIC	<u>35</u>	<u>405</u>	<u>262</u>	<u>+ 55</u>
TRAFFIC INFRACTIONS	<u>53</u>	<u>906</u>	<u>1042</u>	<u>- 13</u>
DWI ARRESTS	<u>5</u>	<u>60</u>	<u>73</u>	<u>- 17</u>
FELONY ARRESTS	<u>11</u>	<u>80</u>	<u>65</u>	<u>+ 23</u>
MISDEMEANOR ARRESTS	<u>16</u>	<u>200</u>	<u>132</u>	<u>+ 51</u>
WARRANT ARRESTS	<u>10</u>	<u>108</u>	<u>79</u>	<u>+ 37</u>



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

TO: COUNCILMEMBERS AND MARK HOPPEN
FROM: MAYOR GRETCHEN WILBERT *GW*
DATE: January 8, 1993
SUBJ: URBAN GROWTH BOUNDARY UPDATE

It's time to review and refine our policy regarding the extension of Gig Harbor's sewer and water resources as they relate to the Growth Management Act, the Pierce County Urban Growth Policies, and our proposed Urban Growth Boundary. I'm requesting the Council to address the following question:

Should the City of Gig Harbor extend sewer and/or water utility service outside the proposed Urban Growth Boundary Area?

A little history may be helpful. Prior to Council's update of the proposed Urban Growth Boundary Map in 1992, Council granted, and the city contracted for the capacity of 60 ERU's to the Horizon West Development in January of 1992. Most of the proposed development lies outside the Urban Growth Boundary on both the 1986 Comprehensive Plan, as well as the updated 1992 proposed Urban Growth Boundary. The line is the same on both maps.

The Horizon West subdivision proposal is now before the Pierce County Hearings Examiner. The decision made by the Examiner will have a direct effect upon the expectations of many other property owners whose property may also be bisected by the Urban Growth Boundary Line.

I am aware of several owners of large pieces of land waiting in the wings to see the results of the precedent setting decision by the Examiner.

The determination needs to be made, and an understanding clearly articulated by Council, as to what areas will be served by our utilities, just where the Urban Growth Boundary should be, and how the boundary should be determined. This will enable property owners to become informed and able to foresee the use of their land in the future.

Gig Harbor's Comprehensive Sewer Plan does not capture the portion of the Horizon West subdivision that lies outside the proposed Urban Growth Boundary.

Mr. Chuck Gordon, Pierce County's Growth Management Act

coordinator, would be happy to bring us up to date on the County's plans for the Peninsula, and let us know how we can best facilitate a joint planning effort to realistically meet the needs of the citizens through the policies of the Growth Management Act.

In the meantime, the original question remains to be answered as soon as possible. Should the City of Gig Harbor extend sewer and/or water service outside the Proposed Urban Growth Boundary area? We need to formulate a policy.