

**CITY OF GIG HARBOR  
RESOLUTION NO. 433**

**A RESOLUTION GIVING CONDITIONAL APPROVAL OF A CONDOMINIUM SITE PLAN CONTINGENT UPON A REZONE FROM R-1 & B-2 TO R-3 CONTRACT, FOR A PARCEL LOCATED AT 9005 FRANKLIN AVENUE.**

**WHEREAS, Esther Coulter has requested a rezone from R-1 and B-2 to R-3 contract at 9009 Franklin Avenue (REZ 94-01/SPR 94-04); and**

**WHEREAS, a public hearing was held on October 19, 1994 at which time public input was received from numerous property owners within the vicinity of the subject site expressing support of the proposed rezone/site plan; and**

**WHEREAS, the Hearing Examiner recommended approval of the requested rezone/site plan as stated in his report dated October 27, 1994; and**

**WHEREAS, the Gig Harbor City Council has reviewed the record of the Hearing Examiner's decision at its regular session of November 14, 1994; and**

**WHEREAS, the Council agrees with the findings and conclusions of the Hearing Examiner as stated in his report for REZ 94-01/SPR 94-04 dated October 27, 1994 which refers to the staff report dated October 19, 1994 and which are stated as follows:**

1. The proposed contract rezone would provide more surety in building and landscape design than the strict application of the R-1/B-2 zoning designation.
2. The proposed four-plex on the upper portion of the lot would be consistent with contiguous development in terms of use and scale.
3. The proposed rezone would resolve problems associated with two zones on one lot.
4. The proposed site plan would permanently retain some of the parking already used by off-site businesses.
5. The proposed rezone and site plan would preserve the public health, safety and general welfare, and would be in keeping with the spirit and intent of the comprehensive plan;

and

**WHEREAS, the Hearing Examiner has recommended conditions of approval for the proposed contract rezone subject to the condition that a formal legal contract be submitted to the City's legal counsel for review and approval and which contains the following additional conditions and restrictions:**

1. Except for the parking lot and four-plex as shown on the approved site plan and landscape plan, no other uses or structures shall be allowed on the subject site.
2. All structures on the site shall conform to the following regulations:
  - (a) Fire flow must be provided in accordance with Uniform Fire Codes applicable at the time of building permit issuance.
  - (b) Access must be provided to all areas of both floors in accordance with the Washington State Standards for Access applicable at the time of building permit issuance. Access must also be provided in accordance with the Federal ADA Standards applicable at the time of building permit issuance.
  - (c) Emergency exiting must be provided in accordance with Uniform Building Codes applicable at the time of building permit issuance.
  - (d) Fire rated separation walls and floor/ceiling assemblies will be required between each living unit in accordance with Uniform Building Codes applicable at the time of building permit issuance.
  - (e) A complete plan review will be done upon submittal of plans for building permit.
3. The lower parking lot will be at a level approximately 4 feet below natural grade (as existing prior to excavation) concealed behind berms around the perimeter of the premises, the berms being approximately 4 feet above the parking lot level. The perimeter berm and landscaping shall be designed to preserve sight lines from Peacock Hill Ave. entering N. Harborview Dr. as approved by the Public Works Department.
4. Use, development and design of structures and landscaping on the property shall be consistent with the approved site plan and architectural designs ( to be included as labeled exhibits in the contract), provided that minor design and dimension alterations which do not alter the general scale, character, or intensity of development may be approved jointly by the Planning Director and owner or homeowner's association. Major amendments shall be approved only through City-adopted amendment processes for zoning designation and the joint approval of all owners of the property.
5. In exchange for installation of curbs, gutters and sidewalks normally required as part of site plan approval, the owner of the subject parcel shall include on the recorded plat an easement to the City allowing curbs, gutters, sidewalks and roadways (which have historically existed on the site) across an area of a triangle measuring 30 feet up Peacock Hill Avenue and 60 feet along North

Harborview Drive, with the apex of the triangle being on the property corner nearest the street

intersection (as illustrated in Section VII.2 of the staff report dated October 19, 1994).

6. Normal half street improvements shall be installed in accordance with code requirements along the property frontage on Franklin Avenue.
7. An ordinance amending the official zoning map shall not be approved until the property owner shall file with the City Council for approval and record with the Pierce County auditor's office a final condominium plat for the parcel which reflects the approved site plan and which contains or references the information required as part of the site plan approval and this contract. All referenced information not contained directly on the plat shall be recorded with the Pierce County auditor's office.
8. Maintenance of all privately owned common facilities on the site shall be the responsibility of the developer, owner or a home owners association. If common facilities are to be maintained by a home owners association, the association shall be established and incorporated prior to final plat approval. A copy of the association's bylaws shall be submitted with the final plat and shall include, at a minimum, the following authorities and responsibilities:
  - A. The enforcement of covenants imposed by the landowner or developer.
  - B. The levying and collection of assessments against all units to accomplish the association's responsibilities.
  - C. The collection of delinquent assessments through the courts.
  - D. The letting of contracts to build, maintain and manage common facilities.
9. Prior to finalization of the plat, a final landscape plan shall be submitted to and approved by the planning staff which specifies plant species and which conforms to all landscaping requirements of the zoning code.
10. All landscaped areas shall include a mechanical irrigation system.
11. The landscape plan shall include specifications on the berm design. The berm shall be a sloped berm on the street side and shall include sufficient ground cover to prevent erosion from water run-off onto the sidewalk.
12. Prior to issuance of final occupancy, all required improvements and landscaping shall be constructed and installed. In lieu of construction or

installation of required improvements, a bond equal to an amount of 120% of the contractors bid for all required improvements shall be posted with the City. If accepted by the City, the bond shall have a term not to exceed eighteen (18) months. Required improvements shall be installed within twelve months of final occupancy permit issuance. Failure to construct or install the required improvements within the time specified to City standards shall result in the City's foreclosure of the bond. Upon foreclosure, the City shall construct, or may contract to construct and complete, the installation of the required improvements.

13. Prior to building permit issuance a grading and drainage plan, including provisions for storm water collection and retention, shall be submitted to the Public Works Department for review and approval; and,

**WHEREAS**, condition number 7 above states (in part) that the official zoning map shall not be approved until the property owner shall file with the City Council for approval and record with the Pierce County auditor's office a final condominium plat for the parcel which reflects the approved site plan and which contains or references the information required as part of the site plan approval and this contract.

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

**Section 1. That the site plan for the proposed condominium and parking lot located at 9505 Franklin Avenue is approved subject to the following conditions:**

1. **Building permits for development pertaining to this site plan shall not be issued until the City Council adopts by ordinance a rezone of the property from R-1 & B-2 to the proposed R-3 contract zone.**
2. **Prior to approval of the rezone by ordinance**, a formal legal contract shall be submitted to the City's legal counsel for review and approval which contains the additional conditions and restrictions stated in the Hearing Examiner's report dated October 27, 1994 and as stated above.
3. **Prior to approval of the rezone by ordinance**, the property owner shall file with the City Council for approval and record with the Pierce County auditor's office a final condominium plat for the parcel which reflects the approved site plan and which contains or references the information required as part of the site plan approval and the proposed contract. All referenced information not contained directly on the plat shall be recorded with the Pierce County auditor's office.
4. Pursuant to GHMC Section 17.96.070, site plan approval is valid for a period of two years unless an extension of approval, not to exceed two years, is granted by the City Council. A request for extension must be submitted to the City prior to expiration of site plan approval. **Failure to meet site plan deadlines will resolve the City from complying with the terms of the proposed contract rezone and the parcel's**

**current zoning designation will remain unchanged.**

**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 14th day of November, 1994.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen  
City Administrator/Clerk

Filed with City Clerk: 11/09/94  
Ordinance Adopted: 11/14/94