

## **RESOLUTION NO. 453**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, GRANTING A STREET USE PERMIT TO DOUG AND JEANETTE SORENSEN TO PLACE A FENCE IN THE RIGHT-OF-WAY ALONG NORTH HARBORVIEW DRIVE IN GIG HARBOR.**

WHEREAS, Doug and Jeanette Sorensen (the "Sorensens") of 9409 N. Harborview Drive, constructed a fifty foot long fence in the City right-of-way along North Harborview Drive; and

WHEREAS, the City's construction of certain improvements along North Harborview Drive necessitated the removal of the Sorensens' fence, as well as vegetation which provided visual screening of the Sorensen's house from the street; and

WHEREAS, the Sorensens desire to replace the fifty foot fence along Harborview Drive, to add another fifty feet of fencing, and to construct the entire fence to a height of six feet; and

WHEREAS, because the Sorensen's previous fence was located in City right-of-way, the Sorensens had no vested right to replace the fence and were required to obtain a right-of-way use permit under Gig Harbor Municipal Code chapter 12.02; and

WHEREAS, GHMC Section 12.02.020 requires that the applicant for a right-of-way use permit present evidence to the City that the applicant is either the owner or entitled to possession of the property adjoining the public right-of-way or place sought to be used; and

WHEREAS, GHMC Section 12.02.030(C) requires that the requested use meet all other applicable requirements of the Gig Harbor Code, including, but not limited to, the underlying zoning regulations applicable to the adjacent property upon which the use will be conducted;

WHEREAS, GHMC Section 17.08.010(C) prohibits the installation of a fence in the front yard which exceeds three feet in height; and

WHEREAS, on July 17, 1995, the Public Works Director denied the Sorensen's application for a right-of-way use permit as inconsistent with the underlying zoning regulations; and

WHEREAS, on July 25, 1995, the Sorensens timely appealed the Public Works Director's decision and paid the required appeal fee pursuant to GHMC Section 12.02.060; and

WHEREAS, on July 31, 1995, the City Council considered the application and related materials, and heard testimony by the City Staff and the applicant on the permit denial; now, therefore,

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

Section 1. The City Council makes the following findings of fact with regard to the Sorensen application for a right-of-way permit:

1. The City right-of-way directly abutting the Sorensen's property is steeply sloped, and placement of a fence in front of the Sorensen residence on the City right-of-way is necessary for safety reasons;
2. The City has constructed a three foot high fence on the City right-of-way, but this fence does not provide adequate privacy to the Sorensens, due to the steepness of the property's slope;
3. The steep slope further prevents the Sorensens from installing a fence on their own property which would provide the necessary protection and maintain privacy;
4. Although the maintenance of public view corridors are an important objective of the City, the objective must be balanced against a property owner's reasonable expectation of privacy; and furthermore, the placement of the desired fence in the City right-of-way would not block the view corridor at the driveway entrance;
5. The applicants' need for a fence is not at issue, but rather its height;
6. The Public Works Director has not expressed any concerns related to sight distance or safety with the fence proposed by the Sorensens, either in the planned location or to a height of six feet; and
7. The public safety interests can be served and the privacy concerns of the applicant can be satisfied by the granting of the street use permit to the height requested by the applicant.

Section 2. Based upon the above findings of fact, the City Council hereby reverses the decision of the Public Works Director and grants the Sorensens' application for a right-of-way use permit for a fence six feet in height, to be placed along North Harborview Drive adjacent to the Sorensen's property frontage and/or adjacent to the parcel immediately to the north of the Sorensen property, for a length of up to one hundred feet. This grant is contingent upon the Sorensen's compliance with all requirements of chapter 12.02 GHMC for issuance of a street use permit. Construction of the fence up to a length of one hundred feet along North Harborview Drive requires the submission of an application by the owners of the property adjacent to the area where the fence will be placed, or the holders of a possessory interest in such property. In addition, the Sorensens will be responsible for removing the existing fence and transport of the existing fence materials to the City Public Works Shop. All costs relating to installation, repair, maintenance and removal of the fence installed by the Sorensens shall be the responsibility of the Sorensens.

Section 3. This Resolution shall be incorporated by reference and become a part of the street right-of-way use permit. All other conditions of chapter 12.02 GHMC shall apply to such permit including Section 12.02.050 pertaining to revocation.

RESOLVED by the City Council this 11th day of September, 1995.

APPROVED:

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MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM;  
OFFICE OF THE CITY ATTORNEY:

BY: \_\_\_\_\_

FILED WITH THE CITY CLERK: 8/23/95  
PASSED BY THE CITY COUNCIL: 9/11/95  
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