

**CITY OF GIG HARBOR
RESOLUTION NO. 531**

WHEREAS, Adam Ross Sr. has requested approval of a shoreline substantial development permit to construct an extension on his dock at 3309 Harborview Drive; and,

WHEREAS, GHMC Section 19.01 specifies procedures for reviewing shoreline substantial development permits; and,

WHEREAS, the following events occurred in processing Mr. Ross's application:

April 23, 1997 - Mr. Ross submitted an application for a shoreline substantial development permit.

August 20, 1997 - Scheduled hearing date. Notice of this hearing was provided to all property owners within 300 feet of the site. The applicant requested that the item be continued in order to allow the applicant time to address certain issues in the staff report. There was therefore no hearing on August 20th. Written testimony was received on that date including a letter from Ivan and Aurora Matlock and the Harborview Condominium Homeowner's Association.

September 10, 1997 - Continued hearing date. The appellants were not at the September 10th meeting because they were informed that the applicant intended to ask for a continuation. The applicant did request that the hearing be continued. The hearing was therefore continued indefinitely to either December or January. The appellants were not personally notified of the rescheduled hearing date.

January 21, 1998 - Rescheduled hearing date. The public hearing was held and left open until February 6, 1998.

March 30, 1998 - Decision rendered. The Hearing Examiner issued his decision to approve the requested permit subject, in part, to the condition that the applicant submit to the City evidence of a lease from the Department of Natural Resources of the lease land area indicated in the Shoreline Permit application.

Notice of the Hearing Examiner's decision was sent to all parties or record, including the Matlocks. The Matlocks and the Harborview Condominium Homeowner's Association submitted a timely appeal of Examiner's decision, claiming that they did not receive proper notification of the last rescheduled hearing.

December 16, 1998 – Second hearing. A second public hearing was heard on December 16, 1998, at which time public testimony was received; and

WHEREAS, the Planning Department for the City of Gig Harbor has recommended approval of the requested shoreline substantial development permit in a staff report dated July 30, 1997 (prepared for the first hearing) and a follow-up report dated December 4, 1998 (prepared for the second hearing); and

WHEREAS, the Hearing Examiner issued a written decision dated December 31, 1998 approving the requested shoreline substantial development permit; and

WHEREAS, a timely appeal of the Hearing Examiner's decision was submitted by Ivan and Aurora Matlock individually and on behalf of the Harborview Condominium Homeowners Association, in an appeal statement dated January 19, 1999 and prepared by Stephanie A. Arend, Attorney for the appellants; and

WHEREAS, the City Planning Staff submitted a memorandum dated April 7, 1999 to the City Council addressing the issues identified by the Matlocks in their appeal letter of January 19, 1999; and

WHEREAS, the City Council considered the input of the appellants at its regularly scheduled meeting of April 12, 1999; and

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

Section 1. Appeal

Findings. The City Council considered the record in this matter, the appeal submitted by the appellants Ivan and Aurora Matlock and the Harborview Condominium Homeowners Association and also the recommendations of staff. The appellant argues that the proposed dock will preclude or significantly limit access to all of the western slips of the Harborview Condominium marina and further argues that the Hearing Examiner made numerous errors in his findings and conclusions in his decision dated December 31, 1998. The Council makes the following findings:

1. In his Finding No. 5, the Examiner stated, "There is no similar setback requirement in the Shoreline Master program for commercial fishing moorage facilities. . ." This statement is inaccurate. An accurate statement would be, "there is no setback requirement in the Shoreline Master Program for commercial fishing vessels."

2. In his Finding No. 5, the Examiner's stated that ". . . the minimum clearance between the proposed Ross float extension, with a 17-foot wide fishing boat alongside, and the Harborview Marina exceeds even the requirements for two side by side marinas" This is inaccurate. An accurate statement would be, ". . . the minimum clearance between the proposed Ross float extension, with a 17-foot wide fishing boat alongside, and the Harborview Marina exceeds even the requirements for two side by side marinas developed under a joint agreement to provide at least 24 feet of space for ingress/egress."

3. In his Finding No. 6, the Examiner incorrectly identified Exhibit C as Exhibit B. The exhibit title (i.e., the survey) was stated correctly in the Examiner's findings.

4. The two site plans reviewed by the Examiner (Exhibit B and Exhibit C) are contradictory and do not scale precisely, but the errors are minor and do not hinder a reasonable determination of full code compliance. Full code compliance may be verified at the time of building permit application by submittal of an accurate and dimensioned drawing of the site.

Section 2.

A. Shoreline Substantial Development Permit. The City Council hereby adopts by reference the findings and conclusions of the Hearing Examiner on the proposed Ross dock extension as contained in his decision dated December 31, 1998, and adopts all findings and conclusions **except** as follows:

1. The second paragraph of Findings and Conclusions No. 5, page 8, is not adopted. The City Council finds that there is no specified setback requirement in the Shoreline Master Program for commercial fishing vessels, but the minimum clearance between the proposed Ross float extension, with a 17-foot wide fishing boat alongside, and the Harborview Marina exceeds even the requirements for two side by side marinas developed under a joint agreement to provide at least 24 feet of space for ingress/egress, because there is a proposed 30-foot separation between the proposed Ross lease area and the Harborview Condominium lease area.”

2. The first sentence of Findings and Conclusions No. 6, page 8 is not adopted. The City Council finds that, according to the survey map submitted by the applicant (Exhibit C), the proposed Ross float will be located approximately 20 feet from the proposed lease line at its nearest point to the Harborview Marina.

B. Conclusions. The City Council concludes that the project will conform to all code requirements as conditioned by the Hearing Examiner in his December 31, 1998 decision, provided that the dock maintains a twelve-foot setback from the northwest and southeast lease lines.

C. Decision. The Hearing Examiner's decision dated December 31, 1998 shall be amended to include a new condition of approval #8 which shall read as follows:

The proposed float shall be no closer than 12 feet to the northwest or southeast lease lines. If setbacks cannot be achieved with the proposed 8-foot wide float, the width of the float shall be reduced. An accurately scaled site plan shall be submitted with the building permit application that indicates, (1) the width of the proposed dock, (2) the distance between the proposed dock and the applicant's lease lines, and (3) the dimensions of all lease lines.

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 12th day of April, 1999.

Nicholas Markovich, Mayor Pro-tem

ATTEST:

Molly M. Towslee, City Clerk

Filed with City Clerk: April 7, 1999

Passed by City Council: April 12, 1999