

**Work Study Session  
Gig Harbor Planning Commission  
April 15, 2010  
Community Rooms A & B  
4:00 pm**

**PRESENT:**

Commission members: Jim Pasin, Joyce Ninen, Jill Guernsey, Michael Fisher, and Harris Atkins. Bill Coughlin was absent  
Staff Present: Pete Katich, Diane Gagnon, Tom Dolan and Kim Van Zwalenburg from the Department of Ecology.

**APPROVAL OF MINUTES**

Approval of minutes of April 1<sup>st</sup>, 2010. Mr. Atkins stated that on page 4 second paragraph in the 3<sup>rd</sup> sentence it should be reworded to say Mr. Frisbie stated. Mr. Fisher said that on page 7 it should say do include rather than do not include.

**MOTION:** Move to adopt the minutes of April 1<sup>st</sup>, 2010 as amended. Atkins/Guernsey – Motion carried.

Mr. Katich distributed the "Gig Harbor Marinas & Moorage Facilities-Existing Conditions Summary, Staff Observations and Recommendation Report". Mr. Katich said that he had asked a series of questions of each of the marina operators. He went over the information in the survey explaining the current condition and use of each of the marinas on the map. He noted that most of the marinas are built out and have no plans for expansion and that two sites have approved permits. He stated the city does not currently have any new permit applications in process for new marinas. He stated that it would be staff's recommendation to take testimony on the regulations that address marinas and then if additional research is necessary we could conduct it. He felt that this information told him was that there are a number of marinas but they do provide access to the waters of the state and we are not seeing some kind of trend towards redevelopment of the marinas. Mr. Katich felt that the reason behind more recreational marinas is economically driven. Mr. Pasin said that he felt there were three components; private, public and then commercial fishing. He suggested looking at those three categories. He noted that the city's public dock was not included and it should be.

Ms. Guernsey asked why they needed a priority and noted that the market will dictate what happens. Mr. Fisher asked what does the priority mean in practical terms when the market will drive the priority. He continued by asking if it meant that there is a set aside of the available square footage for marinas of a certain percentage to be given to commercial fishing. Mr. Fisher agreed with Ms. Guernsey. Mr. Atkins also pointed out that there were conflicts in the wording. Ms. Ninen asked if we knew how many marinas

have live aboards. Mr. Katich pointed out where the information regarding live aboards was in the report.

Mr. Atkins asked about the marinas near Anthony's and Mr. Katich went over the information on those marinas. Ms. Ninen asked about the proposed fuel dock and Mr. Katich went over the review criteria.

Mr. Katich asked if the commission was taking staff's recommendation to take public testimony and then see if there is additional research necessary. Mr. Pasin said we are supposed to be working on this plan. The public hearing is for comments on this document not specifically on marinas. **Everyone agreed that there was no additional research necessary.**

7.4.2 and .3 was the next section the commission had agreed to revisit at this meeting . Mr. Fisher asked if the commission was satisfied with the language. Mr. Pasin said that he felt there were some changes necessary. Ms. Ninen noted that Mr. Atkins had pointed out that there is a lot of data from the old SMP that does not appear in the new document. He wondered why these things were removed. Ms. Guernsey pointed out that one of the items states that you can't utilize land that is beyond the outer harbor line so why have a regulation stating that. Mr. Dolan asked if the policies in the new draft were a result of the stakeholders group. Mr. Katich said that it was a combination of things. They were developed by the consultant and then the stakeholders reviewed them. Mr. Atkins pointed out another policy from the old plan that stated marinas should be developed to protect views and another that said they should be developed to protect aquatic life and habitat and wondered where these had gone. Mr. Fisher said that he felt that the statement on the views should be removed as we don't allow covered moorage so we were just talking about boats. Mr. Pasin said that Westshore Marina was going to build a club house and that might impede the water view. Mr. Fisher pointed out that there are other regulations that address that. Mr. Fisher asked weren't we just talking about waterward development and it was stated that a marina includes the upland portion. Mr. Fisher cautioned the commission about bringing language back into the new document when it is nebulous. Mr. Atkins pointed **out** that people are held to the regulations not the policy. Mr. Katich said that the current master program is very bare bones and yet the development that has occurred here is quality. Mr. Katich said that policy #1 does not appear to be anywhere in the new draft. He said that the consultants had attempted to improve the policy language. He pointed out where there was language about protecting the aquatic environment. Mr. Atkins said that it appeared the consultant had to have updated the document to more reflect more of a concern with the environment rather than the development of Gig Harbor. Mr. Katich agreed and said that is easy for it to happen when a consultant up in Ballard is writing these policies and perhaps they miss what is important in this community.

Mr. Dolan said he was reluctant to figure out which ones should go back in and Ms. Guernsey suggested that they take a break and copy the pages from the old master program.

Chairman Ninen called a recess at 5:20 p.m. She reconvened the meeting at 5:30 p.m.

Mr. Atkins said that he would have included 1, 2, 3 and 4 from the previous master program. He also said that the portion of number 2 that addresses beyond the outer harbor line could be removed. Ms. Guernsey said that she felt that number 2 was covered elsewhere in the document. She felt that 3 was covered by e on page 7-13. Ms. Guernsey said that she did not want to add number 1 in the new draft. She suggested perhaps rewording it by saying avoid adverse impacts. Mr. Pasin asked if they were talking about a view from a property or seeing the water from the sidewalk. Ms. Ninen felt that 3 and 4 should stay. Mr. Pasin said he could go either way. **Ms. Guernsey said that 4 was already in the draft document, so let's just add three. Everyone agreed. Mr. Katich asked if there were any in the new draft that should be deleted. Mr. Atkins suggested removing A. Ms. Guernsey said remove the first sentence of 7.4.2a. Mr. Pasin suggested that 7.4.2a read, Marinas are water dependent uses and should contribute to public access and waters of the state and remove the words "Priority for marinas" from the 7.4.2a title, and change to "Public access and enjoyment". Everyone agreed.**

**Mr. Atkins said that if 7.4.2b remains then we need to change the zoning code. Mr. Pasin suggested deleting it.** Mr. Katich said that it is probably there because the guidelines encourage lessening impacts on aquatic habitat. We don't have the topography or land to provide upland boat storage. **Everyone agreed to delete 7.4.2b Marina Boat Storage.**

Mr. Atkins said that the statement in 7.4.2c regarding limit upland uses would rule out having offices associated with a marina. Mr. Pasin asked if it made some existing properties non conforming such as some of the condos that have marinas.

Ms. Guernsey said that she had to leave for another meeting and wanted to point out that in the definition sections on page 2-27 could we use the word "use" consistently. Ms. Guernsey left at 5:45.

Mr. Katich said that our master program and the zoning code allow for residential uses and he thought that if we specified that this applied to only commercial uses or even state that residential uses are allowed since he didn't believe that was the intent. Mr. Pasin said that he also did not want to limit the upland use too narrowly. Mr. Katich said that we are following the shoreline management act by limiting the uses within 200 feet of the shoreline. Mr. Pasin suggested that the commission read the definition of water related uses. Mr. Katich said that use is promoted by policy 7.4.2c on page 7-14. Mr. Pasin asked does this allow for what we envision on the water and it was pointed out that water enjoyment is also included. Mr. Katich said that restaurants are a water enjoyment use. Ms. Ninen said that perhaps under water enjoyment there should be examples. Mr. Atkins pointed out that in the regulations there are examples.

Page 7-15, 7.4.2d Launch ramps. Mr. Atkins said that he didn't have a problem with it but didn't see where it would occur in the harbor. Mr. Pasin said he would delete it. He

stated that he felt there was a disconnect as it is written for a small boat use area and that is not what we have in this harbor. Mr. Katich said that there is not that kind of drift in the harbor, there would be in Henderson Bay but there are no marinas there. Mr. Katich said that this is about the design of the facility and if this isn't an issue within our jurisdiction. **Everyone agreed that 7.4.2d Launch ramps should be deleted.**

Mr. Pasin asked if under 7.4.2f the live-aboard requirement would be to have a pump out at the facility. Mr. Katich said that yes, in the regulations there would be a requirement for that. Ms. Ninen reiterated that we had removed b and d. **So, 7.4.2b is now Upland marina uses, 7.4.2c is now Other water-dependent uses and 7.4.2d is Live-aboard vessels.**

**7.4.3 a. Ms. Guernsey said to remove the first sentence of 7.4.3a. Mr. Fisher suggested that they remove the priority for commercial fishing moorage. Everyone agreed.** Mr. Fisher asked if there was an introductory policy in the old master program. Mr. Katich read the intent statement and stated that he felt that they needed a policy that recognizes commercial fishing and the importance of it in this community. Mr. Fisher said that he agreed but what does priority mean. Mr. Katich agreed that he didn't think establishing a priority was appropriate but rather some kind of intent statement. Ms. Ninen said that perhaps it should be removed from moorage and that commercial fishing should have it's own chapter. Mr. Katich noted that it does. He read the intent statement from that chapter. Mr. Pasin said that he still felt there needed to be more said to encourage development of commercial fishing facilities. Mr. Atkins said that there is a similar statement further along and perhaps it could be combined. **Mr. Pasin suggested it say, "Commercial fishing is an important water dependent use and facilities that support the commercial fishing industry should be allowed". Everyone agreed to modify 7.4.3a. Ms. Ninen asked if they wanted to remove section 7.4.3 entirely and everyone said no.**

**Page 7-15 Everyone agreed that policy 7.4.3b, Overwater parking and c, Joint moorage facilities were okay.**

**Page 7-19, 7.4.8 #2 and #3, remove "if allowed under this program." 7.4.8 #7, should say "Single-user docks/piers/floats shall meet sideyard setbacks for residential development (both onshore and offshore); however, a shared dock/pier may be located adjacent to or upon a shared side property line upon filing of an agreement by the affected property owners."** Mr. Fisher asked if an existing dock doesn't meet the sideyard setback then you can't expand and Mr. Katich said yes you would need a variance. Mr. Fisher asked if there is an existing dock within the setback standard they are allowed to expand but if someone doesn't meet the setbacks what would they have to go through. Mr. Katich explained the process. Mr. Pasin asked if the setback was the same on the land as on the water. Mr. Katich said that he wasn't sure if they were the same. He said he would do some research and report back to the commission. Mr. Dolan asked if it was a bad thing to have setbacks and Mr. Fisher said no. Mr. Katich explained the standards for obtaining a variance.

Mr. Atkins said that in 3 we didn't specify a width or other requirements. Ms. VanZwalenburg said that she had sent an e-mail that you can't just reference something because it may not exist. Mr. Fisher said why not use the language that we had created before. Mr. Atkins said that one of our policies is to promote shared docks and perhaps we should offer an incentive by allowing them to be bigger. Mr. Katich said that when the state looks at these it doesn't matter whether it's residential or not. He said he would look at this general permit number 6 and see what it says. Mr. Fisher said that **reference to using non-toxic construction materials such as .....** was on page 10 of the last meeting minutes where we wrote that new language. He suggested putting that in. Mr. Atkins said that a, b and c from the other section (**7.4.7 new #6**) should be brought forward **to become part of 7.4.8 #3 a,b, and c on page 7-18. Also include in #3 as d** the statement that Mr. Fisher wrote regarding the use of non toxic materials: **Use of non-toxic materials, including but not limited to steel, concrete and non-toxic wood, approved by applicable state agencies"**, Mr. Katich suggested adding lower case d addressing materials including the portion of policy k. **Consensus was reached.**

Ms. Ninen said that 7.4.8 #9 on page 7-20 should say "Storage of fuel, oils and other toxic materials is prohibited on residential docks, piers and floats."; and, it is a prohibited statement and we had decided to put prohibited statements at the beginning of the section so it would now be number 3. There are three prohibited statements at the very beginning. **Everyone agreed.**

Mr. Pasin asked about 8 and did they want to use the word residence. Wouldn't that be a live-aboard? Ms. Ninen said that she didn't think they were talking about live-aboards. Mr. Katich said that a live-aboard is not someone who lives on a boat moored at a residential dock pier or float, that is not allowed.

#### 7.4.9 Regulations - Marinas

Ms. Ninen noted that in number five on page 7-22 there is a prohibition regarding disposal of fish wastes that should be moved up to the top. Ms. Ninen asked if this prohibition was something that marina owners could post. On **page 7-22, 7.4.9 #5 i , should be stricken and everyone agreed.**

Mr. Fisher said that #3 e "Marina development shall be required to provide public access amenities" where it talks about appropriate needs and desires, this is supposed to be a regulation and doesn't seem appropriate. **"Public access siting and design shall be determined based on what is appropriate to a given location and the needs/desires of the surrounding community" should be removed.** Mr. Katich agreed that it was not an appropriate standard. **Mr. Atkins also suggested removing it but keep the part about it being environmentally sound. Everyone agreed.**

**On #3f,** Mr. Atkins said it seemed like the number of live-aboard vessels should be limited by other factors rather than 20%. Ms. Ninen suggested rewording it to say

**“Live-aboard vessels are allowed at marinas provided that adequate facilities and programs to address waste disposal and sanitary disposal are in place.”** Everyone agreed. Mr. Katich read the section from the guidelines on live-aboards.

Mr. Atkins voiced his concern with the parking issue relative to live-aboards. Mr. Katich noted that there are not that many live-aboards in Gig Harbor. He suggested that perhaps there should be a maximum number of live-aboards allowed in order to prevent a parking problem. Ms. Ninen noted that there is a section that talks about parking policies and perhaps that would be a good place to put parking restrictions for live-aboards (page 7-59 and 7-61). **It was decided to put a note there for when they get to that part they can address that.** Mr. Dolan reminded everyone that the parking matrix in the zoning code would have to be changed as well. Mr. Atkins noted that the parking requirement may limit the number of live-aboards. Mr. Katich felt that the intent of the transportation facility policies were more general and wasn't designed to address use specific requirements like live-aboards. He suggested putting a reference in #3f that references back to the zoning code matrix. **Mr. Katich suggested that a sentence be added stating, required off street parking shall be required in accordance with (reference zoning code).** Everyone agreed.

Mr. Katich said that he still wanted to go over the items from the last meeting. Aquatic lands and the extent of private ownership, where does it end. He had sent an e-mail with a map addressing this situation. Mr. Katich stated he had spoken with Wynnae Wright of the Washington State Department of Natural Resources and the state sold private tidelands to private property owners under a couple of different regulations. In some cases, private property extends down to the +2.2 Mean Lower Low Water Mark (MLLW). In other cases, the private ownership extends down to -4.5 MLLW which is also the Extreme Low Tide Line and the location of the Inner Harbor Line. In cases where the private property extends to +2.2 MLLW, the area between that line and -4.5 MLLW is designated either platted or un-platted tidelands. That's a vertical distance of approximately 6.7 feet and the DNR will lease this area to an adjacent property owner as well as the state owned aquatic lands located between -4.5 and the Outer Harbor Line. Further, on Henderson Bay property owners can own out to the outer edge of “oyster lands” which are the cultivated oyster beds located on aquatic lands. Recorder failed at 7:10 p.m.

The next meeting is next Thursday at 4 p.m.

Mr. Dolan said that he would work with Mr. Katich and Ms. VanZwalenburg and see if we can revise the schedule as it seems clear that we are not going to meet the deadline. Ms. Ninen asked if everyone could review the chapter ahead of time and identify issues. Mr. Dolan also emphasized that if you have questions to contact staff before the meeting. Mr. Dolan said that he didn't want to force the commission to make a recommendation if they didn't feel ready. Ms. Ninen said maybe we do need to have an all day session. Mr. Fisher said that he has notes on all of Chapter 7 but realized what he misses when he hears other people bring things up. He emphasized how important this work is and didn't want to see an arbitrary timeline placed on it. He also

said that he felt that there should be a way to provide an update to the city council. He volunteered to do an executive summary of the shoreline inventory and designations as an introduction to what is being proposed.

Mr. Katich said that was a good idea but it might take too many meetings to craft a document and perhaps we should have a meeting with the council. He stated that the consultant is starting to make the changes to the document. Mr. Dolan said that he felt it was critical to have a joint meeting with the City Council but he wasn't sure when that was most appropriate. He went over the upcoming schedule. Mr. Dolan suggested that some of each meeting could be devoted to the shoreline master program while we are looking at zoning code changes. Mr. Atkins said that he felt it was helpful if the person who is suggesting a change also comes with proposed wording rather than trying to write language as a commission.

Move to adjourn at 7:30 p.m. Atkins/Pasin, motion carried.

### **3/18/10 Meeting Outcomes:**

1. Revise matrix/associated regulations in Chapter 7 of draft SMP to allow dredging as a "permitted" use in low intensity and natural environment designations at the mouth of Gig Harbor Bay to maintain the navigational channel.
2. Per Commissioner Guernsey's request, boat launch ramp use category set forth in Modification and Use Matrix, Chapter 7, added to the "holding pen."
3. Remove "prohibited" modifications and uses from Chapter 7, subsection 7.2.1 that are not applicable to city of Gig Harbor shoreline planning area. Only address those modifications and uses that exist or could exist.
4. Revise regulation #1, Chapter 7, subsection 7.3.2 to reflect two separate regulations; note that the current, proposed prohibition on commercial shellfish aquaculture in all shoreline environments could change based on further review of the issue.
5. Revise regulation #5, Chapter 7, subsection 7.3.2 to indicate that it doesn't apply to spawned-out salmon carcasses.
6. Revise policy J, Chapter 7, subsection 7.4.1 to address "piers and docks" and revise the last sentence of the policy to state, "minimize adverse effects on "ecological functions" rather than nearshore resources.

### **Additional 3/18/10 Meeting Outcomes-per Approval of Minutes @ 4/1/10 Meeting:**

1. Revise Section 7.1 Permitted Use Table "introductory paragraph" by deleting the second and fourth sentences.
2. Revise Subsection 7.4.1, Policy D (water-dependent uses) to state: "Locate, design, and operate boating facilities so that **new development is located in a manner compatible with other lawfully existing** water-dependent uses, such as commercial fishing operations, boatyards, and other publicly accessible over-water facilities, are not adversely impacted."

3. Revise the “heading” for Subsection 7.4.1, Policy H, to state: “Preferred types of moorage and **boat launch ramps.**”

### Summary of 4/1/10 Meeting Outcomes:\*\*

1. Revise Subsection 7.4.1, Policy K (replacement of piling) to state: “**Replace existing piling with non-toxic materials, including but not limited to steel, concrete and non-toxic wood. The replacement of piling that support historic structures listed on the city’s Register of Historic Places should be exempt from this provision. New piling should be made of non-toxic material approved by applicable state agencies.**” (Note: The policy is titled “replacement of pilings.” Should the heading be revised to “New and replacement of pilings?”)
2. Revise Subsection 7.4.1, Policy L (Moorage design elements) to state: “Encourage design elements that increase light penetration to the water below an existing or new boating facility, such as increasing the structure’s height **above the water**; modifying orientation and size; **and using** grating as a surface material. No new covered moorage facilities should be allowed on or over the surface waters within the city of Gig Harbor **or its UGA.**”
3. Discussion on Subsection 7.4.2 (Policies for marinas) and 7.4.3 (Policies for commercial fishing moorage) tabled until meeting of 4/15/10 to allow for completion of marina survey.
4. Revise Subsection 7.4.4.1.a & b (Regulations-General) to state:
  - a. **Critical saltwater habitats**
  - b. **Marshes, estuaries and other wetlands**And delete original b & c (both are included in definition for critical saltwater habitats.)
5. Revise Subsection 7.4.5.1.a (Regulations-Mooring Buoys) to state:
  - a). Avoid **critical saltwater** habitat areas; and,
6. Revise Subsection 7.4.5.4 into two regulations 4 & 5 that state:
  - 4. Single-family residences may be allowed no more than one mooring buoy per residential lot and only where existing piers, docks, floats or other moorage facilities do not exist.**
  - 5. Mooring buoys shall be clearly marked and labeled with the owner’s name, contact information and permit number(s).**
7. Revise Subsection 7.4.7 (Regulations-Piers, Docks and Floats-Non-Residential), existing regulation #1 to state: **Piers, docks** and floats associated with commercial, industrial, or public recreational developments **are allowed only** when ecological impacts are mitigated in accordance with the program, and:
8. Revise Subsection 7.4.7 to make existing regulation #1 the new #2.
9. Revise and re-order Subsection 7.4.7 by moving existing regulation #6 to #1.
10. Revise language in Subsections 7.4.7.4) & 7.4.8.3) (Regulations-Piers, Docks, and Floats Non-Residential and Residential) to be consistent with each other.
11. Separate the last sentence in existing subsection 7.4.7.4 to create a new regulation #5 that states: **To minimize adverse effects on nearshore habitats and species caused by overwater structures that reduce ambient light**



12. Revise Subsection 7.4.8 (Regulations-Piers, Docks, Floats, and Lifts-Accessory to Residential Use) by deleting existing regulation #1).c).
13. Revise Subsection 7.4.8, Regulation #6 to state: "**Covered moorages are prohibited.**" Move and reorder existing regulation #6 to become regulation #1 (Note: the Planning Commission's preference is for all "prohibitions" to be listed as the first regulation under any subsection heading for regulations.

Summary of 4/15/10 meeting outcomes:

1. It was the consensus of Planning Commission that the marina survey was adequate to address the status of marinas in Gig Harbor Bay and that additional research is not required pending public testimony on the issue at the Commission's public hearing scheduled for the shoreline master program update.
2. Revise subsection 7.4.2.A (Policies for Marinas) to state: "Marinas are water dependent uses and should contribute to public access and enjoyment of the waters of the state." The "heading" for the subsection section should be revised from "Priority for marinas" to "Public Access and Enjoyment."
3. Delete subsection 7.4.2.B (Marina boat storage)
4. Per Jill G, revise "Water-dependent, Water-enjoyment & water-oriented" on page #2-27 to include the word use at the end (example: water-dependent "use") to be consistent with the definition provided for each of the 3 words.
5. Delete subsection 7.4.2 D (Launch Ramps)
6. Revise subsection 7.4.3.A (Policies for commercial fishing moorage) to state: "Commercial fishing is an important water dependent use and facilities that support the commercial fishing industry should be allowed."
7. Revise subsection 7.4.8.7 (Regulations-Piers, Docks, Floats and Lifts-Accessory to Residential use) to state: "Single-user docks/piers/floats shall meet side yard setbacks for residential development (both onshore and offshore); However, a shared dock/pier may be located adjacent to or upon a shared side property line upon the filing of an agreement by the affected property owners."
8. Revise original draft subsection 7.4.8.3) as follows:

"3. To minimize adverse effects on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the following shall apply:

  - a. The width of docks, piers and floats shall be the minimum necessary , and in no case shall be wider than eight (8) feet unless authorized by state resource agencies.
  - b. Materials that will allow light to pass through the deck may be required where the width exceeds 8 feet.
  - c. Grating to allow light passage or reflective panels to increase light refraction into the water shall be used on piers, docks, floats and gangways in nearshore areas."
  - d. Use of non-toxic materials, including but not limited to steel, concrete and non-toxic wood, approved by applicable state agencies.

9. Revise and re-order 7.4.8.9) (prohibition on storage of fuel, oil, etc on residential floats etc.) to become new 7.4.8.3
10. Delete subsection 7.4.9.5.i
11. Revise subsection 7.4.9.3.e to state: "Marina development shall be required to include public access amenities consistent with Section 6.4 (Public Access) of the Program. Public access shall be designed to be environmentally sound, aesthetically compatible with adjacent uses, and safe for users."
12. Revise subsection 7.4.9.3.f to state: "Live-aboard vessels are allowed in marinas provided that adequate facilities and programs to address waste and sanitary disposal are in place. Off-street parking for live aboards shall be provided consistent with the requirements of GHMC 17.72."

\*\* Note: additional minor "wording" revisions to existing policies and regulations that are not reflected by the meeting minutes are being tracked by staff and will be addressed by the next draft that reflects the Planning Commission's review and comment.

### **Holding Pen Status:**

1. Shoreline Stabilization-Modification/Use Matrix, Chapter 7, Pg. 7-3 (3/4/10 meeting)
2. Moorage-Chapter 7 (3/18/10 meeting)
3. Private/Public Boat Launch Ramps (3/18/10 meeting)
4. Aquaculture in Henderson Bay/Burley Lagoon, Modification/Use Matrix, Chapter 7, & subsection 7.3.2, regulations 3, 4 & 5 (3/18/10 meeting)
5. Low Intensity Designation for Purdy Commercial Area-determine correct designation-(4/1/10 meeting)  
Note: No issues added to pen @ 4/15/10 meeting