

RESOLUTION NO. 590

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, APPROVING THE FINAL PLAT AND FINAL PUD (SUB 94-02 AND SUB 01-03) OF THE MEADOWS AT 4410 ALASTRA LANE IN GIG HARBOR, SUBMITTED BY APPLICANT RUSH CONSTRUCTION.

WHEREAS, in 1994, applicant Rush Construction submitted applications for a preliminary plat and preliminary planned unit development (PUD) for a 28 lot subdivision on approximately five acres; and

WHEREAS, the preliminary plat was conditionally approved by Resolution No. 468 on April 8, 1996; and

WHEREAS, and preliminary PUD was conditionally approved in Resolution No. 440 on March 13, 1995; and

WHEREAS, after approval of the preliminary plat and preliminary PUD, the City amended the deadline for submission of applications for final plat and final PUD (GHMC Section 16.06.003); and

WHEREAS, after approval of the preliminary PUD, the City amended the procedures for approval of PUD's, and the code provisions applicable to residential PUD's are now included in chapter 17.89 of the Gig Harbor Municipal Code; and

WHEREAS, in 2001, Rush Construction sought to make application for final plat and final PUD, but also sought to modify some of the conditions of the preliminary approvals; and

WHEREAS, Rush Construction made application to the City for five amendments to the preliminary plat and preliminary PUD approval (SUB 01-04); and

WHEREAS, the Hearing Examiner granted preliminary plat and preliminary PUD amendment approval by decision dated November 1, 2001; and

WHEREAS, the City subsequently processed the application for final plat; and

WHEREAS, on June 10, 2002, the City Council considered the final plat application during its regular Council meeting without a hearing and heard the recommendation of City Staff; Now, Therefore,

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

Section 1. Appearance of Fairness. The Mayor asked the City Council whether any Council member had any conflicts of interest, ex parte contacts or appearance of fairness issues to disclose. Councilmember Young stated that in his work involving real estate sales, he had been contacted by people interested in purchasing property in the Meadows subdivision. None of these communications involved the plat approval itself, or the conditions of approval. When asked by the Mayor, Councilmember Young stated that he could render an impartial decision on the final plat. The Mayor then asked whether any member of the public had any objection to the participation of the Mayor or any City Council member in the final plat and final PUD meeting on these grounds. There was no response from any member of the public.

Section 2. Administrative Record. The administrative record consists of the Planning Department files on the preliminary plat, preliminary PUD, amendment to the preliminary plat and preliminary PUD and the final plat application. The documents relevant to the final plat application are Resolution No. 440, Resolution 468, the Findings, Conclusions and Decision of the Hearing Examiner, dated November 1, 2001, the plat map, and the Staff Report on the final plat and final PUD applications, dated June 6, 2002.

Section 3. Standard of Review.

A. **Final plat.** In order for the City Council to approve the final plat, it must make the following findings during its public meeting: (1) that the subdivision meets the requirements of chapter 58.17 RCW and the Gig Harbor Municipal Code Title 16; (2) that the subdivision meets the requirements of other applicable state laws; and (3) the subdivision satisfies all of the conditions of

preliminary plat. GHMC Section 16.06.005.

B. Final PUD. In order for the City Council to approve the final PUD, it must make the following findings during its public meeting: (1) all features and amenities of the PUD have been constructed and/or are bonded for; (2) the public works director has documented that all conditions imposed on the PUD requiring public works approval have been constructed or improved to the satisfaction of the director; (3) the fire marshal has documented that all conditions imposed on the preliminary PUD requiring fire code approval have been constructed (or per the fire marshal's discretion will be constructed pursuant to a subsequent permit) to the satisfaction of the fire marshal; (4) the planning director has documented that all conditions imposed on the preliminary PUD requiring planning department approval have been constructed to the satisfaction of the director; (5) that the preliminary PUD conforms to all terms of preliminary PUD approval and that the PUD meets the requirements of Chapter 17.89 and all other applicable codes and laws. GHMC Section 17.89.080.

Section 4. Findings.

A. Final Plat.

1. The City Council has reviewed the Staff Memo dated June 6, 2002 from Patricia Iolavera, Senior Planner. In this Staff Memo, the manner in which the application satisfies each preliminary plat condition has been described. The City Council hereby adopts the Staff Memo by reference as Exhibit A to this resolution, and finds that the final plat satisfies all preliminary plat conditions. At the time of preliminary plat, the application was found to conform to all applicable regulations of Title 16, the City's Subdivision Code, and Chapter 58.17 RCW, the State Subdivision Act. The Council finds that the applicant's compliance with conditions imposed pursuant to these laws demonstrates compliance with all applicable laws.

2. The City is specifically authorized to accept a bond or other method of security in lieu of actual improvements, pursuant to RCW 58.17.130. The City Council recognizes the applicant's bonding or use of a cash set aside agreement as compliance with the actual conditions.

3. The final plat is not subject to any public dedications of property for streets. The plat has private streets. The final plat dedicates easements to the City of Gig Harbor for the certain utilities, and the City Council accepts such easements as shown on the plat map.

B. Final PUD.

1. From the Staff Memo adopted by reference above, the City Council finds that the final PUD satisfies all preliminary PUD conditions. At the time of preliminary PUD, the application was found to conform to all applicable regulations of the City's existing PUD ordinance. Since that time, the City has changed its regulations, and approval of the final plat is governed by Chapter

17.89 GHMC. The City Council finds that the applicant's compliance with conditions imposed pursuant to the prior PUD ordinance constitutes compliance with the applicable laws.

2. The City Public Works Director and Planning Director, who is now John Vodopich, the Director of the Department of Community Development, has documented, through the Staff Memo, that all conditions imposed on the PUD have been constructed or bonded for to his satisfaction.

3. The City Fire Marshal has documented, through the Staff Memo, that all conditions imposed on the preliminary PUD have been constructed or bonded for to his satisfaction.

Section 5. Mayor Authorized to Sign Plat. The City Council hereby authorizes the Mayor to sign the face of the final plat. The original of the plat, after execution of all required certifications and the Mayor, shall be filed for record with the Pierce County Auditor. One reproducible copy shall be furnished to the City.

RESOLVED by the City Council this 10th day of June, 2002.

APPROVED:


MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:


CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 6/6/02
PASSED BY THE CITY COUNCIL: 6/11/02
RESOLUTION NO.590

APPEALS: This final plat and final PUD approval is the final decision of the City of Gig Harbor and is not administratively appealable. Judicial appeals may be filed as set forth in chapter 36.70C RCW.



Exhibit 'A'
City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: PATRICIA IOLAVERA, SENIOR PLANNER *PI*
SUBJECT: FINAL PLAT FOR 'ALASTRA LANE'
DATE: JUNE 5, 2002

INFORMATION/BACKGROUND

This is the final plat application for Alastra Court PUD/Preliminary Plat (originally SUB 94-02, amended as SUB 01-03 in October of 2001). The applicants are Rush Construction and the project has been renamed "The Meadows" on the final plat. The original preliminary plat and PUD was approved in 1994 as "Alastra Lane", for a 28 lot subdivision (SUB 94-02) on approximately 5 acres. The applicants then applied for the final plat on April 6, 2001, but staff found that several conditions of the original preliminary plat approvals had been modified, or not met, and the applicants filed for amendments to the original August 21, 2001, so that the final could be approved. (Note: in 1994, they applied under an older PUD ordinance, the existing PUD ordinance does not address residential subdivisions, so the current PRD ordinance is now being referred to for procedures¹).

Resolution 440 had 24 conditions of approval, some superceded by Resolution 468 or the November 2002 Hearing Examiner's Decision. These resolutions and the hearing examiner's decision combine the conditions of the Preliminary Plat and the Preliminary PUD. Staff has reviewed the conditions of the preliminary plat and preliminary PUD and subsequent decisions and has determined that the applicant has met the conditions of the preliminary plat and preliminary PUD as follows:

COUNCIL ACTION:

After a final plat application is submitted, the City Council must hold a public meeting and make the following findings related to the application: (1) that the subdivision meets the requirements of chapter 58.17 and the Gig Harbor Municipal Code Title 16; (2) that the subdivision meets the requirements of other applicable state laws; and that the subdivision satisfies all of the conditions of preliminary plat. GHMC Sec. 16.06.005.

¹ Under the former PUD and subdivision ordinances, the hearing examiner made a recommendation to council, who then passed a resolution approving the preliminary plat and preliminary PUD. The original approval was by Resolution 440. The applicants returned for amendments, and a new resolution was issued. Resolution 468 addressed the applicant's request for amendments to the buffer requirements, and a one-year extension of the requirement to begin construction within a year of the approval of the preliminary plat. The amendments made last year under the current PRD codes did not require a resolution, only a determination by the Hearing Examiner.

After a final PUD application has been submitted, the City Council must make the following findings relating to the application: (1) all features and amenities in the PUD have been constructed and/or bonded for; (2) the public works director has documented that all conditions imposed on the PUD requiring public works approval have been constructed or improved to the satisfaction of the director; (3) the fire marshal has documented that all conditions imposed on the preliminary PUD requiring fire code approval have been constructed (or per the fire marshal's discretion will be constructed pursuant to a subsequent permit) to the satisfaction of the fire marshal; (4) the planning director has documented that all conditions imposed on the preliminary PUD requiring planning department approval have been constructed to the satisfaction of the director; (5) that the preliminary PUD conforms to all terms of preliminary PUD approval, and that the PUD meets the requirements of Chapter 17.89 and all other applicable codes and laws. Keep in mind that with regard to the PUD, the City has changed its ordinance since the preliminary PUD received PUD approval. Therefore, the PUD may or may not meet all of the requirements in Chapter 17.89. The preliminary PUD vested to the regulations in place prior to Chapter 17.89.

To assist the City Council in making these findings, the following is the Staff's response to each of the preliminary PUD and preliminary plat conditions:

CONDITION 1: *Fire flow must be provided to within 300 FT of each entrance to each parcel in accordance with the Section 10.401, 1991 Uniform Building Code. (sic)*

STAFF ANALYSIS CONDITION 1: Staff has interpreted this condition to require the placement of *fire hydrants with code required fireflow* within 300 feet of the entrance to each parcel, and that the code referenced would have been the Uniform Fire Code, not the Uniform Building Code. Fire hydrants have been determined to be appropriately located in the drawings submitted to and reviewed by Mr. Kim Lyonnais. Actually, *fire flow* will be tested prior to building permit issuance, after the installation of the infrastructure. Modeling on the City of Gig Harbor Public Works system indicates that fire flow will be present on the site and the Hearing Examiner's decision of November 1, 2001 amends condition five of this resolution to discuss looping the water lines, if needed, to provide additional fire flow.

CONDITION 2: *Required fire hydrants and access must be provided as per the Uniform Fire Code and as approved by the Fire Marshall.*

STAFF ANALYSIS CONDITION 2: Per an analysis conducted by Fire Marshal Kim Lyonnais on December 6, 2001, fire hydrants are located not to exceed more than 300 feet from any portion of the proposed buildings, and thus received his recommendation for approval.

CONDITION 3: *The hammerhead turn-a-rounds which are at the ends of roadways over 150 FT from public roadways must remain accessible. The roadways and turn-a-rounds must be identified as fire lanes.*

STAFF ANALYSIS CONDITION 3: Per an analysis conducted by the City of Gig Harbor Fire Marshal, Kim Lyonnais on December 6, 2001, "hammer heads" do meet and exceed the current adopted regulations, and thus received his recommendation for approval.

CONDITION 4: *The project shall conform to section 2B.070 of the Public Works Standards referring to private streets, including the provision of a 24 foot roadway and curbs gutters and sidewalks on one side of the street as approved by the Public Works Department.*

STAFF ANALYSIS CONDITION 4: The project complies with this condition per City approved Construction drawings dated March 3, 2001.

CONDITION 5: *Water and sewer must come from Skansie. Minimum grade from 76th Street must be maintained for the sewer line. No inside or outside drops will be allowed. Water might be looped with the PTI Waterline, depending upon the fire flow requirements. The adjacent duplexes may hook into the proposed sewer line subject to approval by the Director of Public Works and subject to a connection fee in an amount to be approved by the Director of Public Works.*

STAFF ANALYSIS CONDITION 5: The project complies with this condition, which was amended to Amendment 2 per the Hearing Examiners Decision dated November 1, 2001. Approved City construction drawings dated March 3, 2001, reflect this Amendment. (See discussion of hearing examiner's amendments at the end of this report).

CONDITION 6: *The entire roadway must be overlaid along Skansie and 76th Street wherever the sewer line is installed.*

STAFF ANALYSIS CONDITION 6: The project complies with this condition per City approved Construction drawings dated March 3, 2001, and as amended by the Hearing Examiner's decision of November 1, 2001.

CONDITION 7: *Maintenance of all privately owned PUD common areas and the landscaping and/or plantings contained therein, shall be permanently 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 lots 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.*

STAFF ANALYSIS CONDITION 7: The applicants have submitted a copy of their Declaration of Covenants Conditions and Restrictions (and Bylaws, didn't you tell me over the phone) and the City Attorney is reviewing them for compliance with this condition. She will provide her report on Monday, June 10, 2002.

CONDITION 8: *A final landscaping plan for the common areas within the plat shall be submitted to and approved by the Planning Department prior to permit issuance. The plan shall include, (a) provisions for a mechanical irrigation system in the central common green area, and (b) the plant size and species used to re-vegetate the disturbed portion of the perimeter buffer. Landscaping shall be consistent with all zoning code requirements and shall be installed prior to occupancy of the last 6 units.*

STAFF ANALYSIS CONDITION 8: The applicants have submitted a landscaping plan that conforms to the requirements of this condition.

CONDITION 9: *(c) All trees within 10 feet of the rear property lines and which have a trunk diameter of 6 inches or more shall be surveyed, flagged, and recorded with the Planning Department prior to commencement of major excavation. Each tree lost due to disturbance or root damage during construction shall be replaced with two fir trees, minimum 6 foot tall. Existing trees will be considered lost or damaged if excavation occurs within the drip line of the tree's canopy. This will result in significant root damage, thereby threatening the health of the tree over the long term.*

STAFF ANALYSIS CONDITION 9: Site visits were conducted to confirm that the trees were flagged and fenced prior to construction. A site visit following the clearing and grading showed that some damage had occurred to the vegetation. Also the site was saturated and drainage problems necessitated the installation of erosion control through a portion of the buffer. The bond that is on file with the Public Works Department covers the replacement vegetation and staff is working with the applicants to ensure that replacement vegetation is installed according to the drawings and the agreement.

CONDITION 10: *Strict limits of disturbance shall be complied with on this project, this will require preliminary identification of the proposed area of disturbance for staff inspection and approval, and then installation of a protective barricade before major excavation begins. The*

barricade should be visually and functionally significant (e.g. a fence made of plywood or construction safety fencing attached to steel T-posts or heavy lumber).

STAFF ANALYSIS CONDITION 10: The applicants have conformed to this condition as confirmed by pre-disturbance site visits by staff. Damage to roots and the subsequent replanting continues to be inspected by staff in the field and is ensured through the bond that has been placed on file with the Public Works Department.

CONDITION 11: *In lieu of construction of required improvements prior to final plat approval, a bond equal to an amount of 120% of the contractors bid for all improvements required under the preliminary plat and PUD approval shall be posted with the City. If accepted by the City, the bond shall have a term not to exceed eighteen (18) months from the filing of the plat with the Pierce County auditor. Required improvements shall be installed within twelve months of the date of the filing of the plat. Failure to construct or install the required improvements to City standards within the time specified 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.*

STAFF ANALYSIS CONDITION 11: The project complies with this condition, which was deleted and replaced by Amendment 2 (Resolution 468), and which was then amended by Amendment 3 per the hearing examiners decision dated November 1, 2001. The posting of a performance bond dated 8/28/01 and approved City construction drawings dated March 3, 2001 satisfies this condition.

CONDITION 12: *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.*

STAFF ANALYSIS CONDITION 12: The project complies with this condition per City approved Construction drawings dated March 3, 2001.

CONDITION 13: *Construction on the project must commence within 12 months from the date of Council Action on the PUD; otherwise, the approval of the application becomes null and void (GHMC Section 17.90.080). Prior to the 12-month construction commencement deadline, and prior to permit issuance, the applicant shall apply for preliminary plat approval. The preliminary plat shall conform to the design and layout of the approved PUD and shall be consistent with GHMC Section 16.16.*

STAFF ANALYSIS CONDITION 13: The applicants applied for and were granted (by the Hearing Examiner's Decision) the request to **delete** condition 13 of resolution 440, and condition 6 of resolution 468, both relating to the commencement of construction of the PUD with "12 months from the date of Council Action on the PUD" and by "April 8, 1997" and

substituted the following condition:

Building Construction on the project must commence within 12 months from the date of the Final PUD and Final Plat approvals by the City Council.

Prior to Final PUD approval, all features and amenities approved in the Preliminary PUD shall have been constructed, or a bond or other approved financial guarantee for 120% of the estimated cost of such construction approved by the Public Works Director shall be posed with the City of Gig Harbor.

The amendments were approved in the Hearing Examiner's decision of November 1, 2001 and the cash set aside has been filed with the City Engineer, therefore complying with the new condition.

CONDITION 14: *The design of structures and landscaping on the property shall be consistent with the approved PUD and architectural designs. These shall be recorded with the Pierce County Auditor's office either as an attachment to the plat or as a separate recording. If recorded separately, the plat shall reference the recording number. Minor design and dimension alterations which do not alter the general scale, character, or intensity of development as shown on the recorded documents 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 PUD's and the joint approval of all owners of the property.*

STAFF ANALYSIS CONDITION 14: The Planning and Building Assistant, Diane Gagnon, reviewed and approved the building permit drawings for the three building models submitted on February 7, 2001. The landscape plans were reviewed and approved by the Senior Planner, and will continue to be reviewed in the field during construction. The landscaping plans include the 'Sewer Easement Revegetation Plan' received October 16, 2001 and referenced in the Hearing Examiner's decision of November 1, 2001. The drawings have not been recorded as part of the plat at this time but the applicants have committed to having this item resolved prior to the Council Meeting of Monday, June 10, 2002.

CONDITION 15: *In conjunction with preliminary plat approval by the City Council, drawings of utilities and roadway details shall be submitted to and approved by the Public Works Department.*

STAFF ANALYSIS CONDITION 15: The project complies with this condition per City approved utility and roadway drawings dated March 3, 2001.

CONDITION 16: *Prior to or in conjunction with the preliminary plat approval, the PUD portion of the site (as illustrated) and the single family residence portion of the site shall be formally platted as separate parcels.*

STAFF ANALYSIS CONDITION 16: This condition has been met.

CONDITION 17: *The PUD shall include a 30-foot fire access easement across the parcel proposed for the existing house and which is to be platted as a separate parcel from the PUD. The easement shall be improved with a minimum 24-foot traversable surface wherever two-way traffic is involved, and a minimum 15-foot wide traversable surface for one-way traffic. Condition 14: One-way traffic shall be established beyond the point of driveway access to the existing residence, i.e., if the easement is used for normal residential purposes, it shall be considered two-way. Any portion of the fire access which is 15% or greater slope shall be paved with asphalt.*

STAFF ANALYSIS CONDITION 17: The project complies with this condition per City approved Construction drawings dated March 3, 2001 and a recorded easement dated April 20, 1995.

CONDITION 18: *Prior to final plat approval, a six foot high solid wood fence shall be constructed along the west property line and along the westernmost 280 feet of the south property line.*

STAFF ANALYSIS CONDITION 18: This condition was amended in the Hearing Examiner's decision of November 1, 2001. Further, field conditions prevented the installation of the fence prior to any grading (extreme hydric conditions). With the agreement of the neighboring residences, the applicants delayed installation till dryer weather. The fence is currently under construction and the cash set aside ensures completion of this condition.

CONDITION 19: *Pursuant to GHMC section 17.90.060.C, within three (3) years of PUD approval, the applicant shall file with the City Council a final subdivision plat for the PUD.*

STAFF ANALYSIS CONDITION 19: The project complies with this condition through the posting of a cash set aside agreement dated April 6, 2001 and a performance bond dated 8/28/01.

CONDITION 20: *The landscaping plan submitted as required in Condition 8 of the January 5, 1995 Hearing Examiner's decision shall also maximize the amount of landscaping placed adjacent to the water line located in the buffer area.*

STAFF ANALYSIS CONDITION 20: The project complies with this condition through the posting of a cash set aside agreement dated April 6, 2001 and a performance bond dated 8/28/01. (Please also refer to the March 23, 2001 drawing and the supplemental drawing for the "Sewer Easement Revegetation Plan").

CONDITION 21: *Sidewalks shall be located on the east (uphill) side of the roadway only.*

STAFF ANALYSIS CONDITION 21: The project complies with this condition per City approved Construction drawings dated March 23, 2001.

CONDITION 22: *Units 22 and 23 shall be located far enough back from the sidewalk to accommodate a 20-foot distance between the garage and the street pavement.*

STAFF ANALYSIS CONDITION 22: The project complies with this condition per the drawings received March 23, 2001.

CONDITION 23: *Units 8 - 10 and 19 - 20 shall be located far enough back from the sidewalk to accommodate a 20 foot distance between the garage and the inside edge of the sidewalk.*

STAFF ANALYSIS CONDITION 23: The project complies with this condition per the drawings received March 23, 2001.

CONDITION 24: *To avoid a decrease in the minimum of 50% open space, the number of parking spaces in the community parking lots shall be reduced an equivalent amount.*

STAFF ANALYSIS CONDITION 24: The project complies with this condition per the drawings received March 23, 2001.

RESOLUTION 468 (R-468)

CONDITION 1: *The final plat shall substantially conform to the approved Alastra Court PUD (Resolution #440 as amended hereby) and with GHMC Section 17.28.*

STAFF ANALYSIS CONDITION 1 (R-468): The project complies with this condition per the drawings received March 23, 2001.

CONDITION 2: *All utility easements as indicated on the plat shall be extended through the interior portion of the parcel. Utility easements shall not be extended through perimeter area buffers.*

STAFF ANALYSIS CONDITION 2 (R-468): This condition was amended by the Hearing Examiner in his decision of November 1, 2001. (Please see the analysis under the respective heading).

CONDITION 3: *The applicant shall work with the staff in identifying which of the larger significant trees may be saved by designing the detention pond around the trees (e.g. using "bottlenecks") and as recommended by a certified arborist.*

STAFF ANALYSIS CONDITION 3 (R-468): Staff met with the applicants on site on several occasions, and a report was generated by a certified arborist. Certain changes were implemented in response to the arborists comments. The drawings submitted to the City on March 23, 2001, reflect an effort to preserve as many trees as possible. This condition has been met.

CONDITION 4: *A solid vegetative screen shall be provided along the west side of the project in all locations where the buffer area is disturbed. Additional trees and bushes shall be dispersed throughout the disturbed portion of the buffer area to assimilate natural growth patterns of trees and under story and to soften the rigid line of trees along the property line. Alternatively, the applicant may stagger the trees and bushes at the property line to assimilate a more natural growth pattern, provided that effective screening is maintained. Prior to permit issuance, a final landscape plan of the disturbed portion of the buffer area shall be submitted to and approved by the planning staff.*

STAFF ANALYSIS CONDITION 4 (R-468): This condition was met in the landscape drawings submitted to staff from the Bradley design group and as amended in the 'Sewer Easement Revegetation Plan'.

CONDITION 5: *All original conditions of approval shall apply, except for allowances to encroach into the buffer for detention pond purposes only.*

STAFF ANALYSIS CONDITION 5 (R-468): This condition was met in the landscape drawings submitted to staff from the Bradley design group and as amended in the 'Sewer Easement Revegetation Plan'.

CONDITION 6: *Construction on the PUD shall commence by no later than April 8, 1997. Otherwise approval for the project will become null and void.*

STAFF ANALYSIS CONDITION 6 (R-468): This condition was amended in the Hearing Examiner's Decision dated November 1, 2001.

HEARING EXAMINER'S DECISION OF NOVEMBER 1, 2002 (HEX 11/1/2002)

CONDITION 1 (HEX 11/1/2002): *Amendment No. 1 is approved. Condition No. 13 of*

Resolution No. 440 and Condition No. 6 of Resolution No. 468 are each amended to read:

Building Construction on the project must commence within 12 months from the date of the Final PUD and Final Plat approvals by the City Council.

Prior to Final PUD approval all features and amenities approved in the Preliminary PUD shall have been constructed, or a bond or other approved financial guarantee for 120% of the estimated cost of such construction approved by the Public Works Director shall be posted with the City of Gig Harbor.

STAFF ANALYSIS CONDITION 1 (HEX 11/1/2002). The project complies with this condition through the posting of a cash set aside agreement dated April 6, 2001 and a performance bond dated 8/28/01.

CONDITION 2 (HEX 11/1/2002): *Amendment No. 2 is approved. Condition No. 5 of Resolution No. 440 is amended to read as follows:*

Water and sewer service shall be from the City of Gig Harbor Public Works Department. No inside or outside drops for the sewer line will be allowed. Water may be looped with the Century Tel Waterline, depending upon fire flow requirements. Adjacent properties may hook into the proposed sewer line subject to approval by the Director of Public Works and subject to a connection fee in an amount to be approved by the Director of Public Works. In any locations where the proposed sewer or water alignment crosses through a perimeter buffer area, the buffer area shall be landscaped to meet the requirements of GHMC 17.78.060 in accordance with a landscape plan approved by the Gig Harbor Planning Department.

STAFF ANALYSIS CONDITION 2 (HEX 11/1/2002): The project complies with this condition per City approved Construction drawings dated March 3, 2001.

CONDITION 3 (HEX 11/1/2002): *Amendment No. 3 is approved. Condition No. 2 of Resolution No. 468 is amended to read as follows:*

All utility easements except for water and sewer as indicated on the plat shall be extended through the interior portion of the parcel. Sewer and water easements may be extended through the perimeter area buffers at a single location with a width not to exceed 25 feet or as required by the City Public Works Department. Other utility easements shall not be extended through perimeter area buffers. Landscaping of the sewer and/or water easement where it crosses the buffer shall be provided to enhance screening of the development from adjacent properties. Landscaping proposed for the easement shall meet the requirements of GHMC 17.78.060 and be included in the Final Landscaping Plan and approved by the Planning Director as required under other conditions of the PUD approval.

STAFF ANALYSIS CONDITION 3 (HEX 11/1/2002): The project complies with the public works elements of this condition per City approved Construction drawings dated March 3, 2001. The final landscape drawing substantially conforms to the preliminary drawing presented at hearing.

CONDITION 4 (HEX 11/1/2002): Amend Condition No. 18 of Resolution No. 440 relating to the requirement that a six-foot high solid wood fence be constructed prior to final plat approval, and substitute the following language:

A six-foot high solid wood fence shall be constructed along the west property line and along the westernmost 280 feet of the south property line. The fence shall be constructed prior to commencing major excavation and clearing.

STAFF ANALYSIS CONDITION 4(HEX 11/1/2002): The project applicants have constructed 50 percent of the fence and while it will be completed prior to final plat approval, it was not constructed prior to clearing and grading. As clearing and construction was undertaken this winter, severe hydric conditions were encountered on site, and erosion control was installed. In collaboration with the neighbors and the City Planning Staff, erosion control fencing was installed, and the wood fencing and the associated clearing was deferred until water on the site could be controlled and erosion minimized. The fence is now largely constructed and will be completed shortly, and a bond is in place to ensure the completion of the fence. This condition has been substantively met.

CONDITION 5 (HEX 11/1/2002): Amendment No. 4 of Resolution No. 468, relating to the requirement that a solid vegetative screen shall be provided along the west side of the project in all locations, and substitute the following language:

*A solid vegetative screen shall be provided along the west side of the project in all locations where the buffer area is disturbed except for a 10-ft width through which the sanitary sewer easement access road passes. Additional trees and bushes shall be dispersed throughout the disturbed portion of the buffer area to assimilate natural growth patterns of trees and under story and to soften the rigid line of trees along the property line. Alternatively, the applicant may stagger the trees and bushes at the property line to assimilate a more natural growth pattern, provided that effective screening is maintained. Prior to permit issuance, a final landscape plan of the disturbed portion of the buffer area, including the 10 foot wide sanitary sewer easement, shall be submitted to and approved by the planning staff, **consistent with GHMC 17.78.070 and any other applicable city code section**. The final landscape plan shall incorporate the landscaping and fencing shown in the "Sewer Easement Revegetation Plan" previously submitted by the applicant to the City.*

STAFF ANALYSIS CONDITION 5 (HEX 11/1/2002): The project complies with this condition per City approved Construction drawings dated March 3, 2001, the "Sewer Easement Revegetation Plan" and other correspondence and drawings.

RECOMMENDATION

The staff recommends that the City council make the findings described on the first page of this memo and approve the final plat and final PUD, by authorizing the Mayor to execute the face of the final plat. In addition, the Council should enter the proposed Resolution approving the final plat and final PUD.

D