

Gig Harbor City Council Meeting



April 12, 1999

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
April 12, 1999 - 7:00 p.m.

CALL TO ORDER:

CONSENT AGENDA:

These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.

1. Approval of the Minutes of the March 22, 1999, City Council meeting.
2. Correspondence / Proclamations:
 - a) Award of Certificate for Water Distribution Manger 2 to Anthony Poling.
 - b) Roundtable Discussion on State and Local Year 2000 Issues.
 - c) Building Cities of Green.
 - d) Pierce County Library Accomplishments.
 - e) Thank you letter to Patsy Irwin for donation.
 - f) Thank you letter to Travis Leland for service project.
3. Approval of Payment of Bills for April 12,1999:
Checks #22250 through #22374in the amount of \$101,026.37.
4. Approval of Payroll for the month of March:
Checks # 17938 through #18075 in the amount of \$272,936.69.
5. Liquor License Renewals:
Harvester Restaurant

OLD BUSINESS:

1. Second Reading – Formation of a LID for Construction of the East-West Road.

NEW BUSINESS:

1. Economic Development Preparation.
2. Consultant Services Agreement – Materials Testing.
3. Consultant Services Agreement – Pt. Fosdick Drive Improvement Project.
4. Award of Contract – Street Pavement Marking.
5. First Reading of Ordinance – Amendments to Chapter 18.04, City Environmental Policy.
6. Closed Record Hearing – Appeal of Hearing Examiner Decision, SDP 97-03, Ross Dock.

PUBLIC COMMENT/DISCUSSION:

COUNCIL COMMENTS:

STAFF REPORTS:

ANNOUNCEMENT OF OTHER MEETINGS:

Council Workshop to continue discussion of the Concurrency and Definitions Ordinances:
Tuesday, May 4, 1999, 6:00 p.m. in the Council Chambers at City Hall.

EXECUTIVE SESSION: For the purpose of discussing pending and prospective litigation per RCW 42.30.110(i) and to discuss personnel issues per RCW 42.30.110(g).

ADJOURN:

DRAFT

REGULAR GIG HARBOR CITY COUNCIL MEETING OF MARCH 22, 1999

PRESENT: Councilmembers Young, Owel, Dick, Picinich, Markovich and Mayor Wilbert. Councilmembers Ekberg and Platt were absent.

CALL TO ORDER: 7:10 p.m.

PUBLIC HEARING: Forming a Local Improvement District for Construction of the East-West Road.

Mayor Wilbert opened the public hearing on this item at 7:10. Dave Rodenbach, Finance Director, introduced the ordinance and explained that language which refers to a Phase II of the project, would be deleted in any subsequent readings to avoid confusion. He introduced Cynthia Weed, Bond Counsel from Preston Gates & Ellis.

Ms. Weed described the process involved in the formation of a Local Improvement District and explained that by forming this LID, the city would make a preliminary determination of what properties would increase in value due to the construction of the road, and to determine a fair method of imposing costs of the improvements through assessments. She added that the public hearing process was to receive comments from the affected property owners and any others that may be affected by the formation of the LID. She added that this was the first of two formal hearings to decide whether to proceed with the formation of a LID, and to determine the correct boundaries for inclusion. She advised property owners that if they wished to lodge a formal objection, it should be also be filed in written form.

Wes Hill, Public Works Director, briefly described the East-West Road project. Mayor Wilbert opened the hearing to the public.

John Rose – Project Manager for Olympic Resource Management, representing Pope Resources. Mr. Rose explained that part of his testimony may be in writing and asked if the public hearing would be continued to a later date to submit this. Council assured him that the hearing would be continued. He continued to say that his organization will continue working with all parties to negotiate a mutually acceptable cost-sharing arrangement. He added that the owners have requested clarification of capacity and impact fee waiver issues relative to the pre-annexation agreement, and are awaiting a response from the city. He added that this response will affect future testimony on the LID. He then shared that the legal description that was introduced with the Resolution was different than the one he received in the mailed notice. He said that he hoped that the hearing would be continued to include the results of the special benefits study being done to determine assessments, boundaries and other funding options.

Dave Rodenbach answered Council questions regarding the discrepancy in legal descriptions and added that he would make any corrections needed.

Greg Elderkin – Pacific West Financial Group, PO Box 860, Renton, Washington. Mr. Elderkin explained that he represented Logan International, who owns approximately 200 acres in the Gig Harbor North area. He said that they are working together with the city to find equitable solutions to the funding shortfall. He said that he also felt that the public hearing should be held over until the benefits study was completed.

Scott Miller – 16924 SE 47th St. NE, Bellevue, Washington. Mr. Miller explained that his family owns approximately 20 acres along the East-West road. He asked that any mailings be sent to his office address, as he had not received the legal notice. He had two concerns, specifically being involved with the assessment for the LID, then also having to pay impact fees to develop the property. His second concern was that the hearing should be continued until information on grant money and the results of the benefits study could be obtained.

Mayor Wilbert asked if there were any further comments. No one asked to speak and the following motion was made.

MOTION: Move to recess this public hearing until April 12th.
Markovich/Picinich – unanimously approved.

Councilmember Dick asked when a preliminary report would be forthcoming from the consultant performing the benefit study. Mr. Rodenbach said that he would contact the consultant to obtain information.

Cynthia Weed said that because information may be forthcoming, staff could potentially request a further delay. She also said that additional published and mailed notice of the second hearing would be given in compliance with state law.

PUBLIC HEARING: Concurrency Ordinance; Transportation and Parks Impact Fees Ordinance; and Definitions Ordinance.

Mayor Wilbert opened the Public Hearing on these ordinances at 7:35 p.m. and introduced Wes Hill, Public Works Director, to present information. Mr. Hill explained that at Council's request, two consultants were present to address questions on the concurrency, impact fees, and definitions ordinances. He introduced Randy Young, from Henderson, Young & Associates, and Joe Savage, from KJS Associates. Mayor Wilbert explained that the consultants would wait until after public testimony was presented, and then responds to questions at that time.

John Rose – Olympic Property Group, Pope Resources – PO Box 1780, Poulsbo, Washington 98370. Mr. Rose directed three questions to the consultants. First, he asked if they had considered alternative funding sources such as increased property taxes and real estate excise taxes or if the impact fees were the only method considered. The second question was to ask why the single zone method was utilized and how it would affect the distribution of fees. His final question addressed the GMA provision for collection of fees and the requirement to show reasonable benefit to the development. He asked if there was a traffic model to show how this was considered.

Scott Miller - 16924 SE 47th St. NE, Bellevue, Washington. Mr. Miller said that his only question was if a percentage of the impact fees had been compared to the average lot price.

Walt Smith - 11302 Burnham Drive. Mr. Smith thanked Council for allowing workshops to address concerns. He then said that there is an alternative to the parks impact fees, using the Key Peninsula Park and Gig Harbor Little League parks as examples of two major facilities that have been built utilizing volunteer support. He said that the city's survey showed that people support parks, but he was unaware of any that had been voted in by the community in the last 20 years. He added that when government plans things, it is not always supported, but when volunteers are gathered, there is support. He talked about the struggle to maintain existing facilities.

Marie Sullivan - - 3706 135th St. NW. Ms. Sullivan, Executive Director of the Chamber of Commerce, thanked Council for bringing in the Consultants to answer questions. She gave Councilmembers a handout of data gathered from smaller communities regarding impact fees. She asked if transportation fees had been considered for all citizens who are users of the roads, and if a cost benefit analysis had been done on the impact fee, i.e. the impact on economic development in this particular municipality. She also asked if transportation impact fees have been applied elsewhere in the State of Washington in municipalities with a population of 8,000 or less.

Wade Perrow - 9119 North Harborview Drive. Mr. Perrow mentioned his letter on March 2nd outlining his concerns. He thanked Council for scheduling workshops to address concerns. He said he didn't think many people are against development fees, but they are concerned with the appropriateness of the fees. He referred to Appendix 'A', TIP #1, East-West Road Construction. He asked if the developer fees were to supplement monies that were being collected through the LID, from Pierce County, and the City of Gig Harbor. He said that all the fees together exceed the total amount of the project construction. He then said he was confused about the benefit of TIP #26, Hunt Street crossing because it is a substantial project. He asked what determines what puts a project on the list as it relates to level of service.

Jerry Dindorf, Master Builders Association - 3925 So. Orchard, Tacoma. Mr. Dindorf referred to the concurrency ordinance and asked what level of service would be used and how it would be applied. He also asked how existing deficiencies would be determined, what the threshold of the number of peak hour trips would be used before a traffic evaluation would be required, how large an area must be included in that traffic analysis, and what mechanism would be used to keep track of reserve capacity. In respect to the impact fee ordinance, he said they are interested in the methodology in the way Appendix 'A' and 'D' was developed. He added that he realized some of these questions were too detailed to be answered this evening and that he looked forward to the workshop to have the information provided.

Tom Morfee - PNA, 3803 Harborview Drive. Mr. Morfee said he had studied this process and read every letter submitted from the development community. He said that that the concerns are valid, and added that they would be participating throughout the process. He said that the random survey done by the city was well conceived and had interesting results. He referred to

the fact that 79% favored collecting a growth impact fee from new housing projects to pay for park improvements within residential neighborhoods. He urged that the fees be collected early in the process and cited Pierce County's significant default rate, specifically the 18% parks default rate.

Dale Pinney – First Western Development, 120 West Dayton Suite D-9, Tacoma. Mr. Pinney said he had two comments; first, their concern of the level of the rates and apparent inconsistency with other cities in western Washington; and second, how the rate schedule would be used. He talked about the trip rates that are attached to specific uses, and asked for interpretation of the retail category.

Scott Wagner – 6507 27th Ave. NW. Mr. Wagner said he had one specific question to which he had not yet received an accurate answer. He asked if SEPA required, site specific road improvements will get a credit against traffic impact fees, and if state law would preclude that from happening.

Mayor Wilbert asked if there was any further testimony from the audience. She then introduced the consultants Joe Savage and Randy Young and asked them to address the questions from the audience.

Mr. Young, Henderson, Young and Company, introduced himself and said that he and Mr. Savage would do their best to answer the questions in the order that they were presented and that another opportunity for clarification would be given. Mr. Young said that they were not present to speak as advocates or to debate the merits of impact fees, but as technicians to assure that if the community chooses to utilize impact fees, that it is done carefully, properly and legally. He explained that both he and Mr. Savage have a great deal of experience with impact fees and that they would make that experience available to the Council and the citizens. He again stressed that they were neutral providers of technical information and that it was up to the Council to decide how to pay for things they want in their community. He said that impact fees are only one way of funding these improvements.

He continued by addressing the questions that came forward during the public testimony portion of the meeting.

They were asked when they formulated the rate schedule if they had taken into account other moneys paid by the developer. Mr. Young said that new development pays a variety of fees in the form of fees, permits and taxes, and added that, yes, these other costs were taken into account in two ways. He said that Washington law states that when impact fees are charged, you have to be careful not to double-charge. He mentioned again that he and Mr. Savage were only involved with the road impact fees, and would not feel comfortable addressing the parks portion of the ordinance. He continued to say that in the road impact fee, a procedure was identified where the total cost of the project was reduced by other monies that are available, including those paid by the developer. In addition, money generated by new development as gas taxes was considered. He said all other funding sources were considered in their calculations. He referred to one very important limitation in Washington Law that states that you are required to give the developer a

credit for the money that is earmarked for the same capital project that is the basis for the impact fee. He added that many developers want credit toward the impact fees for the taxes they pay on new development, but state law only provides credit for the portion of those taxes to be used for the road project. He added that the solution for the way that the tax structure is built must come from Olympia, not individual City Councils.

Mr. Young addressed the next question on the use of a single zone system. He said that a conscious effort was made in the decision to recommend that the city not use zones, and that Gig Harbor is not a good application for use of multiple zones. He explained that roads are measured in terms of the trips that occur on them and that existing data is used to determine trip origin, destination, length and other pertinent information. He talked about "carving" the city into zones and the difficulty in assigning trips to different zones in such a small geographical area. He said that from a technical viewpoint, it doesn't make sense to create zones and that there are also practical reasons that led them not to recommend multiple zones. He said that each zone creates a separate account, and into that account goes the money paid from that particular zone and which, presumably, is to be spent in that zone. But if that zone is small and only a few are developing within that zone, enough money may never be obtained to complete an improvement. Then if the funds are not used within six years, the money must be refunded to the developer and the city would not get mitigation of the impact fees. He added that there were also administrative fees associated with maintaining multiple zones. He said that the most important problem is that if you create zones, you have two choices about the impact fees in each of the zones. If you create a high and low zone, there is the chance that the difference would drive development towards the lower fee zone, creating unintended consequences. The alternative would be that everybody pays the same fee in different zones resulting in the question of the proportionality of the spending of funds and who is subsidizing whom.

The third question raised was whether or not the consultants have conformed to the Growth Management Act requirement to "reasonably benefit." He explained that is a different concept of "benefits" used with impact fees than with a LID, and both are different than used for taxation. He said that there are two extremes: one is where you derive no benefit from tax dollars, and the other is similar to an LID where there is an absolute requirement that the property making the payment receive a direct and proportionate benefit. He said that the impact fees lie somewhere between those two extremes, and the benefits must be "reasonable" or "rough" in proportionality. He said that they did that with the development of impact fee calculations. The technique they use to identify the impacts created and the benefits received from the expenditures is based on trip rates. He pointed out that the *ITE Trip Generation Report* is the authoritative statement on which kinds of property generates how many trips and how much should be paid. This book is the source showing what the nature of vehicular impacts, so that the properties will benefit in the proper proportion.

The fourth question was if whether they took a percentage of the lot price into consideration in the fees, and how it would compare with lot pricing in other parts of the state. Mr. Young answered that impact fees cannot be based upon lot values due to the need to be reasonably beneficial and roughly proportional. He added that if fees were based upon lot value, they would be a tax, and as a consequence would fail. He said that comparing Gig Harbor to other areas has

little use in this decision for two reasons. First, results show that after years of research at the national level, impact fees don't fundamentally change development decisions, but they do change the price of the product. He said that what does affect impact fees is not the relative amount from one city to the next, but the specific facts of how much the roads cost and who is going to pay for them if impact fees don't. The lower the cost of the road system the less you would need to turn to impact fees and no matter how high the cost of the road system, the more money you collect from everyone else, the less you need to ask for impact fees. The other communities you have heard about tonight had to go through a unique calculation, not a market calculation of what the neighboring cities pay. He said it comes down to how much your roads cost, and who are you going to charge for those roads. He said that his answer to the question is "No, we did not take into account what percentage of lot value the impact fees are, because we feel it is not the point here." He added that they understand the people who deal with this as a part of their living, and perceive a loss of a portion of their profit margin as a vital concern, but it comes back to the issue that Council has to decide "who pays." It is not the technician's decision of how the calculation is done.

The fifth questions had to do with whether impact fees are being used in other small towns and other options. Mr. Young referred to the AWC annual survey on specific communities that charge impact fees and added that he had not checked populations, so some may be more than 8,000. He read the list for road impact fees for single-family house (parks not included) from the high fee to the low fee and said that yes, the list shows that several smaller cities use impact fees.

The next question was whether they had taken into account how road taxes would benefit all the citizens. He said he would refer this question to Mr. Savage, as it was part of the complicated modeling and traffic analysis. He continued to address whether they had done a cost/benefit analysis, or rather, what would be the impact of the impact fee. He referred to his remarks previously addressing the fact that the ultimate accounting is with City Council, which decides who pays for the public facilities.

He said there was a question about a specific road project, and added that they began this project in 1995, and have not been actively involved in it since then. He said that staff has properly updated the original model that was given them, but he couldn't answer to why a specific project was added to the list. He advised that staff would be the ones to answer this question.

He then addressed the broader question of how the six-year road list deals with levels of service. He said that it is their job as technicians to look at the list of all the road projects that the city needs and find the ones that create more capacity in the system. He said the projects that are for safety improvements or maintenance have nothing to do with level of service, and do not qualify for impact fees. Once the projects that add capacity are identified, then only a piece of the cost of these projects is eligible for impact fees. Additional funds for the road comes from other sources, and this factor also has been taken into consideration.

He said that the gentleman from Master Builders had a number of questions regarding the concurrency ordinance and stressed that although he and Mr. Savage are experts in the State of Washington on concurrency, they have not participated in the development of the city's

concurrency ordinance. He suggested that he move onto the rest of the questions on impact fees, and then if the audience would like to ask them about concurrency and what they would recommend in certain areas, they would take the questions again.

The next question on impact fees was how Appendix 'A' and Appendix 'D' was developed and it was also suggested that due to the complexity of this issue, a worksession may be in order. He said that because Appendix 'D' was about parks, they would not be well positioned to answer those questions, but added they could talk at length on the road projects. He said he would give a "short" version of how they arrived at the list in appendix 'A'. He said that they took the whole roads list and picked the ones that added capacity. They then took those projects and deducted the portion that would be paid for by somebody else, then took the remaining unfunded cost and eliminated the portion related to deficiencies. He said that this is how they derived the list that was presented in the appendix.

He then addressed the concern about the level of the rates and how they seem to be inconsistent with other jurisdictions. He said that other communities fees range anywhere from \$2,700 down to \$400, and all are inconsistent with each other. He said it not a market decision, but comes back to what the roads cost and who pays for it.

Mr. Young said that the question about retail and shopping centers would also be deferred to Mr. Savage. He said that as he understands it, they use the word "retail", but are quoting the category from the *ITE* called shopping centers. He also pointed out that the ordinance allows the developer or staff to determine whether a project is mixed use, to open it to negotiation and insure a fair and even handed application of the fees.

Mr. Young said the last question was about SEPA improvements and credit for these payments. Washington law says that the improvements made to infrastructure fall in one of two categories: either system improvements or project improvements. He explained that a system improvement benefits a large part of the community where a project improvement is beneficial only to the project itself and used the example of a subdivision, where the internal street is only beneficial to the homeowners within, whereas the main street outside the subdivision benefits the whole community. He said that impact fees are not allowed to be charged for the project improvement, but are limited to the system improvements, which makes them fundamentally different from SEPA. He explained that some local governments have stretched SEPA to cover impacts surrounding the development in an attempt to "back-door" impact fees, because there were no provisions before the Growth Management Act to make a developer pay for impacts on the system as a whole. He said that SEPA doesn't give that authority in his opinion. SEPA is supposed to be for project improvements only, and impact fees are supposed to be the mechanism to take care of the system improvements. He said that if Gig Harbor does this right and limits their SEPA improvements to the project improvements and limits impact fees to system improvements, there won't be a credit from one to the other, because they are two different requirements.

He then introduced Joe Savage, who continued to address questions. Mr. Savage explained that he would start from the bottom of the list of questions and work towards the top so he could address the last questions regarding SEPA credit.

Mr. Savage said that there is an exception which falls in the gray area of systems and project, which is that if you are required by SEPA to make an improvement to an intersection or system due to level of service or safety, and the impact to the system is only 15%, 100% of the improvement must still be constructed. He said that the project should only be charged for their proportional share of the improvement. It would be reasonable to give credit in this instance, but those are limited exceptions. He said that a project generally falls into project improvements or system improvements, so, he joked, the answer to the question of credits is "Yes, no, and maybe."

He continued to say that Mr. Young had done a good job of addressing the rates for retail or shopping center, which can be an aggregation of mixed uses utilizing one common area or parking lot. He said that you use a trip rate or assessment that lumps all those uses together.

He addressed the relationship of the six-year Transportation Improvement Program and level of service. He said that the TIP contains a variety of improvements for maintenance, overlays, and safety issues. He said those things that are placed on the TIP to increase capacity of the system are only put there when there is an expectation that the future traffic levels are going to rise and cause congestion levels over and above the city's level of service standards. He added that those capacity related improvements are on the TIP because a forecast has been made that within the next six to ten years, a capacity deficiency will occur. He said the reason that the Hunt Street project was on the list to relieve congestion on the two other interchanges, and for those who want to get from one side of the freeway to the other without having to interface with freeway traffic. He said that it's not due to a capacity deficiency on the Hunt Street corridor, but the other two interchanges.

The next question he addressed was if they had considered impact fees for all citizens using the roads and how "through-trips" are considered. He said that unfortunately, the people outside the city get to use the city roads and unless you have an agreement with the jurisdiction that they came from, you cannot collect money for these trips. These trips add to the congestion and create the need for road improvements, but only indirectly are they going to contribute to the funds through gas taxes paid to the state. He said it was considered in the increase of capacity, but there is no way to collect funds.

He concluded his presentation and offered to answer any other questions. Mayor Wilbert asked if Council had any questions of the consultants.

Councilmember Dick asked if he was correct in that neither of them had dealt with the concurrency ordinance. Both answered that they had not been involved in the concurrency ordinance, and Mr. Young said he had read the ordinance and would be happy to give general answers. Councilmember Dick asked Mr. Young about the commonality of the reservation of capacity provision and how to measure capacity and knowing if it is available to reserve.

Mr. Young said that accounting for reserved capacity is not a common practice, but that doesn't mean that other jurisdictions don't track their capacity in some ways. He said that those that don't do it may make it easier on themselves and the development community, but it is more difficult on the other end, when it comes time to deliver a guaranteed level of service, as you cannot foresee impact from outside sources.

Councilmember Dick then asked how valid it is to reserve capacity if you do not control the whole system or who is causing the impacts. Mr. Savage answered that just because you can't control the outside impact, it doesn't mean you can't forecast them. The way to deal with it, as is included in the ordinance, is that every year you look at how much traffic has occurred, you update your six-year traffic forecast, the six-year transportation program, your costs and expectations of growth and update the fees. Part of the update process is to place traffic counters on roads in and out of the city and see how much growth from outside is impacting your community and how much reserve capacity has been used by external growth. He said that cities in King County have tried to control the amount of growth from the adjacent county by challenging the issuance of development permits in the county using SEPA. This results in delays to the developer, who in lieu of going through the SEPA process, will come to an agreement to the jurisdiction to pay a sudo impact fee. He said the King County and some of the cities have initiated a process where they have reciprocal impact fees through an interlocal agreement. He said that the annual report is an import part of the concurrency management system to deal with updating the traffic base and the relationship to capacities, which will give a good indication of the impact by development in the county and guide you in dealing with other jurisdictions.

Councilmember Dick asked if there were other ways to deal with reserve capacity and the impact from other jurisdictions. Mr. Young said that the approach to reserve capacity is a protective and defensive mechanism for development as it occurs and would allow the city to act in good faith.

Councilmember Young asked about speculative reservation of capacity. Mr. Young said that they have routinely advised other jurisdictions that a free market will do whatever the rules allow and to be aware of the outcome. He suggested that there are a number of strategies available to local governments. The first, which is contained the City of Gig Harbor's ordinance, is the fee structure, where earnest money at stake. The second is a quota system which decides that certain areas, certain markets or developers are entitled to a piece of the action. The third strategy, which is also included in the proposed ordinance, is term limits on rights that are issued. He said the two strategies, fees and term limits will seriously minimize monopolistic behavior. He added that King County, who has the term limits but no fees, wound up with a land office rush in a part of the county and all the capacity for 20 years of growth was consumed within the first 18 months. Mr. Savage added that not only did they reserve the capacity, but they built all those homes, which created a tremendous growth problem within that area instead of spreading it out over time.

Councilmember Young addressed the impact fee ordinance. He said that it appears that outside traffic had been excluded from the reducing the cost of fees, and assumes that 100% of trips

being generated by new construction originates within city limits. Mr. Savage explained they are only predicating on half the trips so you aren't double collecting. He said that they are charging the trip that leaves home and charging the trip that goes to the restaurant, but they don't care where the trip from home goes to or where the trip to the restaurant comes from.

Councilmember Young then asked them to explain how they arrived at the impact fee per unit fee in the formula in appendix 'A2'. Mr. Young explained that the twelve and one-half million dollar figure represents the list of projects that have gone through the eligibility process that determines if they are a true capacity project that will serve growth and aren't funded. He continued to explained that the 27,000 trips per day are based on the traffic model. You divide the twelve and one-half million by the 27,000 trips and determine that each trip cost approximately \$450. Then gas tax contributions are taken into consideration and credited against the impact fee at a rate of \$19.48 per trip. Finally, take the total cost of \$452.37, subtract the gas tax of \$19.48, and you arrive at the final net capacity cost per trip of \$432.89. The *ITE* Book determines who generates those trips and you multiply this number by the cost per trip to arrive at your impact fee.

Councilmember Markovich asked if the consultants assisted communities in determining priority for listing projects on the six-year plan, in assuring concurrency of the projects, and then recommending a practical approach to building what is needed to reduce the level of service. He wondered why certain projects had made their way onto the city's list. Mr. Young replied that the persons who developed the six-year plan should be asked to describe how they derived at the list and if they followed the prescribed recommendations of the Growth Management Act to balance the budget of the capital facilities plan and to assure that the projects are not just a "wish list." He said that the city's plan should describe how the projects are to be funded and whether or not these projects relate to the level of service adopted by the city. Then the Council can make a decision, with and on behalf of the community. He said that Washington law requires that local capital facilities plan should be balanced with real money, and that impact fees are one method of obtaining that balance. Councilmember Markovich followed up with a question on the relative proportion that impact fees weigh against other funding methods. Mr. Young answered that - in the whole state - only a tiny piece. He added that development is paying its legal share in other ways, such as SEPA. He added that only 30 to 40% of projects are paid by impact fees in communities that have them.

Councilmember Markovich then addressed the concern that the city would be required to return impact fees to the developer that are not used within a specific period of time, and asked if this had occurred elsewhere and if so, why. Mr. Young said that he was aware of only one occurrence in the United States that this had happened. He added that these lists of projects needing to be built are sincere and legitimate. The ability of the government to get the projects designed and out to bid may take a few years, but six years is a reasonable time period. Mr. Savage added that the city should only place projects on its six-year transportation improvement plan that it knows it really need and have a chance of funding.

Mayor Wilbert asked if anyone in the audience wanted to ask any further questions.

Walt Smith stood and asked if the Hunt Street Improvement project took into consideration the improvement to the Gig Harbor interchange as well as the new 36th Street interchange. Wes Hill answered that the 36th Street interchange was not contemplated at the time of the 1993 Comprehensive Plan. Mr. Savage answered that he didn't believe that the Hunt-Wollochet interchange was considered as a full interchange at the time the plan was developed. Mr. Smith said that this needed to be taken into consideration and that there are a lot better places to spend twelve million of the city's money than on Hunt Street.

Marie Sullivan commented on the statement that the impact fees don't change the development decision and that it is only 1 to 2% of developmental price. She said that the Chamber had looked at impact fees and it is substantially more than 1 or 2% in many of the cases, which is a significant impact. She urged Council to find out how many are building in areas with high impact fees or if they are building in the county outside the city. Mr. Savage said that his personal experience with King County shows that the areas where the impact fees are the highest are by-in-large where the most homes are being built. He added that he had not seen any long-term structural changes in the market as a result of impact fees and added that he was unaware of any studies done by the U.S. Chamber of Commerce. Ms. Sullivan asked to evaluate how long the fees have been in place in those areas and find out if there is a body of data that is useful.

Mr. Young added that there is one carefully structured multi-variant, academic study of the impact of impact fees based on longitudinal analysis in areas where fees were placed for five years or longer, in five different markets. The variables in the study were the amount of the fees, population growth, interest rates for borrowing, and cost of construction supplies. He added that it was a very thorough study done by a graduate student from the University of Florida and validated by a National Growth Management expert, who was his advisor. The study documented that there was zero correlation between the amount of fees and the amount of development in any of those communities attributable to any of the variables. He added that in the five-market study, the one with the highest growth rate was also the one with the highest fee. He said that high fees do not cause growth, but they do not stop growth. He continued to say that any impact fee will be more than a tiny fee on a product at the lower end and used low-income housing as an example. He said that the law allows two legal exemptions to the impact fee system; other public agencies or low-income housing. He warned that when you exempt, Washington law says that the taxpayer pays the fee in order to implement that policy. He said that many cities on the list he read have these exemptions, and that is one of the reasons that development doesn't stop.

Scott Wagner said that he was hoping to better understand the process, but he found himself more uncomfortable than before. He said that the gentlemen who came to speak were supposed to present an unbiased case, but he felt like they were selling this process. He added that he didn't think it was right to put an extra burden on certain developers to control reservation or to request someone to go through a whole environmental impact statement to force them to give funds. He said that impact fees of 1-2% have an impact, but that fees in the 20% range would definitely have an impact on development. The impact to the city when you don't have development is that there is no new tax base, no sales tax, and no long-term income to be placed in the coffers. He then addressed zones, referring to the development in which he is currently

involved. He said the owner is going to have to pay \$500,000 in impact fees and the statement that it is too difficult to account for two zones is not a good argument. He said for that amount, the city should be able to assure the money would go to the area where the project is located. He said that using one zone is taking the easy way out. He then referred to the discussion about averages and said that the *ITE Manual* is an average and not based on Gig Harbor, and said that he wanted a better answer. He said that several projects that he had worked on used the manual and the numbers weren't specific enough and that the *ITE Manual* should be used as a basis, but it is not gospel and isn't 100% correct. He said that he had asked for a simple answer to what makes a project or a system improvement and didn't feel he got one. He said that an answer of "yes, no or maybe" isn't a valid answer. He deferred to Councilmember Picinich's comment in the paper that no one is opposed to traffic impact fees, adding that he had said all along that he supports park impact fees, but he is definitely against traffic impact fees. He said that he thinks they are a scary thing and would take more to govern and to implement than our current staff can handle. He then concluded that he hopes to be a participant and is not trying to disrupt this process to decide what is best for the city.

Mayor Wilbert asked presenters to come to the microphone to be heard better, and to limit comments to questions of the consultants and staff.

Scott Miller asked if any studies of impact fees in a decreasing economy had been done. Mr. Young responded that impact fees are designed for growth, and communities that are stable or in a decline wouldn't consider these fees. He said that there are no studies that he is aware of to answer that question. He said that common sense dictates that if an area has chosen to charge an impact fee, and if the economy declines and development stops, the community may feel it beneficial to remove the impact fees to get development started again. Impact fees are a local ordinance that can be removed.

Walt Smith referred to Appendix 'A-2' and the formula. He wanted to know how the 27,000 trips are divided into the twelve million dollars of projects. Mr. Savage explained that the 27,000 trips came from the traffic that was generated by the anticipated growth in the 1993 Comprehensive Plan. He added that those trips impact road throughout the city, plus the growth from outside the city, and anticipated commercial development.

Jim Pasin – 3208 50th St. Ct. NW. Mr. Pasin had a series of questions. He asked that because the city has a 8 to 1 population ratio outside verses inside Gig Harbor, what would be the consultant's recommendation to the Council to deal with outside users. His second question was during the six-year period, at what point does an existing situation become a deficiency and an improvement. He asked if it is legal to provide a reserve for all existing undeveloped property under this type of ordinance so that the property can have some assurance it can be developed in the future and will not lose economic value due to lack of reserve. He then asked if there were any cases where property has been devalued because of impact fees, in particular reserves, and if the owner was able to collect damages. He then talked about the rate schedule. He said it was his understanding that this was something currently developed because it has the twelve million dollars based on Schedule 'B', yet the consultant alluded to the fact that he is aware of the past schedule with his past work with the city, and therefore, were they familiar with that twelve

million dollars, or has staff used the consultant's formulas and plugged the figure in. He asked if this existing model use the 1998 or 1999 gas tax revenues or they revenues from 1993. He said that the consultant indicated that land values are not impacted by impact fees, reserves in particular. He asked for an explanation on how you would value adjacent pieces of undeveloped property where one has reserved capacity and the other has no chance of reserves. He finalized by saying that it would be possible that over a six year period, by not having more than one zone, that a project on the list could not be completed, and therefore the city would have to return the impact fees and asked for comment on this observation. He thanked the consultants for coming and showing patience with all the questions.

Mr. Young said thank you to everyone for their politeness and good humor. He apologized to those who felt that he and Mr. Savage were present in an advocate role, adding that it was not their intention. He began to address Mr. Pasin's questions.

Regarding their recommendation to address the 8 to 1 population ratio, he said that the other funds such as grants and gas taxes are paid by other taxpayers. He added that the ultimate solution is to negotiate with the neighboring jurisdictions utilizing intergovernmental arrangements. He said there is no good answer to how to get all the external users to pay their fair share of the consumption of roads.

He answered at what point a project is serving an existing deficiency rather than new growth. He said that Washington Growth Management law anticipates this and says that all development that comes in after the project is added to the list is still considered growth even before the road is built. He added that there are two provisions that allow that one, you are allowed six years to build a road to serve that growth, and two, you are allowed to charge because the law specifically allows something called a recoupment fee, which is similar to a latecomer fee. He added that the six-year plan is updated, so there is a new six-year horizon.

He then addressed the question on whether it is legal to reserve capacity for all undeveloped property. He said that he interpreted the question to mean that someone who has owned property in the city for a long time may ask for reservation or protection to their right to develop. He added that Washington law acknowledges that notion of vested rights weighed against specific benchmarks, people who "get to play by the old rules" versus those who "have to play by the new." He said that impact fees do not provide a mechanism where you can generally vest a whole group. It would be the same as exempting them, and the city would have to pay the fees on their behalf. He mentioned the fact that there are only two kinds of exemptions allowed. He said that what could be done is a delayed implementation of the fees, almost every community who has adopted the fees has done this, placing the effective date anywhere from 90 to 180 days from the adoption of the ordinance to protect those who have already begun the process. The idea is not to catch or surprise someone and deprive them of their livelihood or depreciable profit, but to give plenty of warning that if you do development after a new date, there will be a new price tag associated.

He talked about examples of property being devalued by impact fees. He said that he was not aware of anyone collecting for damages in this case, and in fact, there were extraordinary cases in

the opposite extreme in other states. He used an example in Florida where a project was completed, and at the time of obtaining occupancy permits, the developer was told he would have to pay newly adopted impact fees. He said that the Supreme Court upheld that decision. He disagreed with the notion that fees diminish the value or property rights. He continued to say the Supreme Court and the Washington state Court says that the government has a reasonable right to regulate behavior and that if there are some changes in value, even some diminution of value, it cannot be considered a taking. He said that there is no example where someone has been able to collect for damages.

Mr. Young said that he and Mr. Savage made out the model for the calculations and used that model for the list of projects for the 1993 Capital Facilities Plan, and staff has adhered to the model using their understanding of the ground rules laid out as to which projects are growth and which are deficiencies, which are funded, which are unfunded, which are capacity and which are non-capacity. He said that Council and the public are entitled to have staff explain how they derived at the current list. He said that no, he and Mr. Savage are not party to the twelve million dollar figure.

He continued to say that the model was developed with the 1993-94 gas tax, and he did not know if staff had adapted the numbers to the 1998-99 figures.

He explained that he did not intend to imply that land value is not affected by impact fees. He said that quite to the contrary, he agrees that land values and the price of the overall development are directly affected by impact fees. What he intended to say was that the amount of development in a community is not affected by impact fees. He added that the price does go up, and the value of the piece of property with impact fees will increase, and it may be less affordable to certain people, but it will still be built, according to the study.

What happens if the twelve million-dollar list doesn't get built? That is the ultimate accountability question to this government as represented by elected officials and senior staff. He says that there is an obligation under the law to do an annual report showing the money that has been received and where the money has been spent. There is a public disclosure whether you are keeping pace with your plan. There is also the notion that if development occurs faster than you thought, you are going to get more impact fees but you're probably going to have a bigger list of roads and vice versa. You may not build the twelve million-dollar list because you might have less development, and therefore you don't need the big list. It is somewhat self-balancing. Is it technically possible that the government could collect all these fees and not build the projects? Only until the citizens see the audit reports, demand their fees to be returned and place a judgement against the city. He added that there has never been a case of this. He says he knows of no instance where a government launched into their plan and even attempted to collect the money and not build the projects.

Dale Pinney said he would like to ask the consultant their position in regards to the statement that was made that impact fees don't have any affect on the market place in regard to development, and in the same breath saying that an economy that is depressed would not install impact fees, and where impact fees are highest is where the most growth occurs. He said that impact fees are

directly related to the growth in an area. He said that the two most expensive places to develop in the U.S. are Washington and Florida, even before impact fees. He added that Gig Harbor is not Redmond, or Bellevue, and not a huge community, and you can only pay so much to go into this community. If impact fees are too high, this will directly affect developing community and market. If the fees are left where they are, Gig Harbor North will not happen. The 2.9 million dollar fee doesn't work. A great analogy was made early on with the girl scout cookies: you can sell forty boxes at \$1, but you aren't going to sell any at \$40. You can get some money and begin gathering fees, but you can't get them all on the first day. He added that the study that was completed in Florida was done by someone who had never built a center, and when you tack on these kinds of fees, nothing is going to be built.

Mr. Young said that the report was done on five markets over a ten year period and covered every developer; and it didn't matter whether or not the student built an individual project that reported a profit or loss. The student reported on profit and loss for every single development in those markets over a prolonged period of time. He added that the study shows that the market as a "whole" is not affected by impact fees. He said that he has acknowledged repeatedly that the price of individual products is affected and you have limited choices on exemptions. He said that he agreed that Washington is an expensive place to develop as compared to the rest of the world, but it is not true that Florida is expensive. The highest place markets are Boston, San Francisco, and Connecticut, and not all of them have impact fees.

John Rose said that the bane for most developers is uncertainty and that comes up in two ways. One has to do with certainty in regards of the vesting of impact fees, which the current ordinance does not allow. He asked if there are cases where vesting at the time of application takes place. His second question is how do you balance a 20 year project and how does a developer handle the impact fee issue. He asked about development agreements to give certainty to a developer.

Mr. Young said that the city government has wide latitude in deciding what the effective date is and who is covered by the effectiveness of the ordinance. He said the implementation date could be delayed to any particular date in time as a way of providing certainty to people who are in the pipeline. He said that such an ordinance states that anyone who has completed application by the effective date of the ordinance is vested. You could add this to the ordinance if it does not already exist. He then addressed the issue of the term build-out and reservation fees. He said that the way the city has their reservation fee structured is to serve as a down payment against the actual impact fee when it comes due. That leaves the developer as the risk-taker and increases their uncertainty, but gives the government certainty. This certainty could be shifted back to the developer by saying that the reservation payment will be considered as payment in full of all obligations, and when you come back in ten years or so, you don't owe any more. He said you have to be careful utilizing development agreements related to impact fees to not create the appearance of things that are not otherwise allowed under the GMA impact fee law. He used the example that you couldn't say that the rate structure issue was \$2000 for every house, but we are writing a development agreement for you that says that because you are a 20 year deal, you only owe us \$1500 a house. This would be considered a form of exemption. He addressed the last comment about uncertainty saying that one reason that some communities find impact fees

Councilmember Young suggested going through the document line by line for consensus among Council and staff. Councilmember Dick said he understood the process to include a spokesperson from various groups to synthesize comments to be included in the workshops. Councilmember Markovich said that he had anticipated it to take the same format as the sign code ordinance and that staff would facilitate the meetings, discuss the various concerns to interested parties, and bring back a refined document for consideration. He added that he has no desire to hear comments that have been previously heard, and that Council shouldn't be involved with the drafting of the document. Councilmember Young said that there were only four or five significant changes to be made, and it shouldn't be as involved as the changes to the sign code. Councilmember Markovich said that a vehicle should be developed where staff can understand what the community sees as problems and if they can't be worked out at that level, then a determination could be made on what should be done. Councilmember Picinich asked that staff take the input and have something ready for Council to review on April 5th showing the changes as redlines.

Councilmember Owel said she would review all the correspondence and listen to the recorded tapes of the meetings and develop a concordance of the comments that have been received. She added that there are fewer options with the concurrency ordinance than with the transportation impact fee. She said that she would like staff to present their version, and that she would check it against what she has been able to do on her own to make sure most of the comments and concerns had been addressed.

Mayor Wilbert agreed that she would like these workshops to be a form of study session to review changes, and said that at the last meeting she asked people to sign up who would be willing to act as citizen consultants to review the document.

Councilmember Young said that certain people have a natural spokesperson, but it would be difficult to limit who was able to contribute. Councilmember Picinich asked that the interested parties be given a draft, and meet on the 5th. Mr. Hoppen reiterated that the workshop format would consist of staff and Council meeting and analyzing the document, and that the public would attend but would not speak except as invited by the Council. Carol Morris, City Attorney, was asked to compile a list of concerns and possible changes to the document, showing the language and insertion points in the ordinance for the April 5th meeting.

NEW BUSINESS:

1. Ordinance Forming a Local Improvement District for Construction of the East-West Road – First Reading. Dave Rodenbach explained that listed in the memo accompanying the draft ordinance are the eleven proposed parcels for the preliminary LID. He gave a quick overview of the finances of the project and answered Council's questions. Councilmember Dick asked for an update from the Consultant on what properties need to be involved and if the boundaries need to be modified. Dave explained that the contract gave them 90 days to respond, and that he would continue to attempt to obtain information. He added that action could be delayed as information regarding grants is obtained.

2. Communications Maintenance Contract. Chief Mitch Barker presented this renewal of two contracts that have been in effect for a number of years to provide communications maintenance for the Police Department and Public Works for the radio systems. He said that there is an attempt to consolidate the two contracts into one, but at this time two separate motions were required for approval.

MOTION: Move to authorize the Mayor to renew the contract for communications maintenance service for the Public Works Department.
Picinich/Owel – four voted in favor. Councilmember Dick abstained as an employee of Pierce County.

MOTION: Move to authorize the Mayor to renew the contract for communications maintenance service for the Police Department.
Picinich/Owel – four voted in favor. Councilmember Dick abstained as an employee of Pierce County.

3. Engineering Study – Consultant Services Contracts. Wes Hill briefly presented and recommended approval for this contract with Cosmopolitan Engineering Group for the Wastewater Outfall Studies and the 1999 NPDES Permit Water Quality Studies. He then recommended approval of a separate contract with Jones and Stokes Associates, Inc., for the Outfall Engineering Report.

MOTION: Move to authorize execution of the Consultant Services Contract with Cosmopolitan Engineering Group for the Wastewater Outfall Study and the 1999 NPDES Permit Water Quality Studies in an amount not to exceed sixty-nine thousand five-hundred seventy-five dollars and no cents (\$69,575.00).
Young/Picinich – unanimously approved.

MOTION: Move to authorize execution of the Consultant Services Contract with Jones and Stokes Associates, Inc., for the Gig Harbor Outfall Engineering Report, in an amount not to exceed twenty-five thousand one-hundred fifty-eight dollars and no cents (\$25,158.00).
Owel/Picinich – unanimously approved.

4. WWTP Process Control System – Consultant Services Contract. Wes Hill presented this request for approval for a contract with Casne Engineering, Inc. for the update of the process control system at the Wastewater Treatment Plant.

MOTION: Move to authorize execution of the Consultant Services Contract with Casne Engineering, Inc., in an amount not to exceed sixty-two thousand six hundred fourteen dollars (\$62,614.00).
Picinich/Owel – unanimously approved.

5. Wells 5 & 6 – Consultant Services Contract. Wes Hill explained that one of this years objectives was the completion of Well No. 6 and modification to the facilities for Well No. 5 and recommended approval of this contract with Gray & Osborne, Inc., for engineering services.

MOTION: Move to authorize execution of the Consultant Services Contract with Gray and Osborne, Inc., for engineering services for Wells 5 and 6 in an amount not to exceed twenty-seven thousand eighteen dollars and no cents (\$27,018.00).
Owel/Picinich – unanimously approved.

6. Rosedale Street Right-of-Way Dedication. Wes Hill in order to complete construction of the Rosedale project, a twelve-foot right-of-way is needed at the corner of Stinson and Rosedale, which has been donated by Spadoni Brothers. He recommended approval of the dedication of the right-of-way and that the level one assessment be waived.

MOTION: Move to accept the attached right-of-way dedication agreement.
Dick/Owel – unanimously approved.

PUBLIC COMMENT/DISCUSSION:

Darrell Rodman – 10511 Bliss Cochran Road, KPN. Mr. Rodman explained that he was the owner of the Wilkinson property at 4118 Rosedale Street. He said that he was present at the recommendation of Judge Tollefson because of the public use and necessity hearing that took place March 19th. The Judge recommended that Mr. Rodman continue discussion regarding the future of the property. He said it was the desire of his Aunt Helen that he retain and develop the property, and that the plan he had passed out shows that the property would be used to enhance the city, involving senior housing, a bed and breakfast facility, a park and both cultural and performance arts programs. He said this plan would not be a burden to the taxpayers. He added that in the spirit of Judge Tollefson's request, he was before Council to present his preliminary plan and requested that Council review this plan and contact him with any questions or alternative proposals by Thursday, March 26, 1999.

COUNCIL COMMENTS:

STAFF REPORTS:

Wes Hill mentioned two upcoming meetings:

Parks Committee.....3:00 p.m. Thursday, March 25th at City Hall,

Harborview Drive Street End Project - 6:00 p.m., Thursday, March 25th at City Hall.

EXECUTIVE SESSION: For the purpose of discussing property acquisition as per RCW 42.30.110 (b), personnel as per RCW 42.30.110(g), pending litigation and possible claim per 42.30.110(i).

MOTION: Move to adjourn to Executive Session at 10:48 p.m. for approximately 20 minutes.

Picinich/Owel – unanimously approved.

MOTION: Move to return to regular session at 11:08.

Picinich/Young - unanimously approved.

MOTION: Move to pay Matthew Robert O'Brien the total sum of \$219.06 for potholes damage to his car.

Picinich/Young – unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 11:10 p.m.

Owel/Young – unanimously approved.

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Tape 524 Both Sides.
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Mayor

City Clerk



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
DIVISION OF DRINKING WATER
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March 8, 1999

RECEIVED
MAR 31 1999
CITY OF GIG HARBOR

The Honorable Mayor and Members
of the City Council
City of Gig Harbor
3105 Judson Street
Gig Harbor WA 98335

Dear Mayor and Council:

It is with pleasure that the Washington State Water Works Operator Certification Program announces that a Certificate of Competency is being issued to Anthony G. Poling as a Water Distribution Manager 2.

The purpose of this program is to aid in the improvement of the ability of persons employed in water works operation, thereby promoting efficient operation and reduction of hazards to public health incident to furnishing water to the public. It provides a system whereby persons in the water works profession may be examined and rated by qualified individuals in their own field; and it establishes a standard of proficiency for those occupying the position of public trust involved in the operation of public water supplies.

This gentleman has successfully passed the examination which, together with his experience and education, has qualified him for this rating. He should be congratulated for his interest in the program and for his service to your community.

Sincerely,

Cheryl L. Bergener
Program Manager
Water Works Certification Program

cc: Anthony G. Poling



STATE OF WASHINGTON
STATE YEAR 2000 OFFICE

1063 Capitol Way, Suite 219, PO Box 41002 • Olympia, Washington 98504-1002

RECEIVED
APR 6 1999
CITY OF GIG HARBOR

April 5, 1999

Mayor Gretchen Wilbert
City of Gig Harbor
3105 Judson St
Gig Harbor, WA 98335

Dear Mayor Wilbert:

This is an invitation for you to join other elected officials, and State Year 2000 Office staff in a "Breakfast Roundtable Discussion on State and Local Year 2000 Issues". We will have an opportunity to discuss the latest information on the readiness status of service sectors such as financial institutions and utilities, and discuss ways that we can jointly share consistent, reliable information with the public. In addition, we will share information about current best practices in government and private sector compliance efforts, relevant legal and legislative issues, and other topics of interest to the participants. Five Roundtables are scheduled for western Washington and four for eastern Washington. The western Washington dates and locations are: Lynnwood, April 27; Tacoma, April 29; Port Townsend, May 4; Longview, May 6; and Bellingham, June 2. You should feel free to select the one most convenient for you to attend. See detailed addresses and directions on the enclosed flyer.

Following each of the Roundtable Discussions, there will be four concurrent workshops open to all interested parties including small businesses, local government employees, private non-profit service providers, tribal officials, school officials, and citizens. The workshops will cover Contingency Planning; Embedded Chips; Individual, Family and Community Emergency Preparedness; and Desktop Computer Compliance for Year 2000. These workshops will be repeated in the afternoon for those wishing to attend more than one session. There is no charge for the workshops but participants are asked to pre-register.

These Roundtable Discussions and Community Workshops are co-hosted by the State Year 2000 Office, the Association of Washington Cities and the host city. The workshop sessions were developed in response to a survey conducted in January in which representatives from local government identified these topics as the most critical in assisting in their preparation for the Year 2000 transition.

We are pleased that the Association of Washington Cities and local communities have joined us in hosting these important events.

I hope you will be able to join us at the Breakfast Roundtable. Please respond at least one week in advance of the location you have selected so that we can plan for the light breakfast. You may respond by phone at 360-664-2195 or by e-mail to y2kg@y2kg.wa.gov.

Sincerely,

Chris Hedrick
Governor's Technology Policy Advisor
Director, State Year 2000 Office



Building Cities of Green

1999 National Urban Forest Conference

RECEIVED
MAR 28 1999
CITY OF BELLEVUE

March 24, 1999


As elected officials, and as fellow citizens who care about issues affecting the environment, we invite you to join us in welcoming people from around the world to the Puget Sound this summer for AMERICAN FORESTS 9th National Urban Forest Conference. Washington State and the Seattle Metropolitan region are proud to host this prestigious conference in the Pacific Northwest. The conference theme, "Building Cities of Green," is a perfect fit our regional goals: to promote both education and stewardship of the environment. From the opening festivities at the Pacific Science Center, tours of the Mountains to Sound Greenway, to field trips which showcase cooperative efforts to preserve and restore our natural environment, AMERICAN FORESTS promises a program that will cover it all.

We have long known that building the balanced urban ecosystem we envision will not happen by accident. As political leaders we must work together with policy makers, developers, builders, environmental specialists, and citizens concerned about their neighborhoods. We need education and tools to do our jobs more efficiently and to help us work as a team toward shared goals. Like the building industry, we need a "blueprint" to assist us in creating communities that have solid environmental foundations.

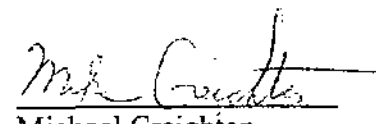
The Pacific Northwest provides a unique set of environmental challenges and opportunities of interest to the entire nation. Projects designed and constructed to restore salmon habitat in urban settings and projects that have successfully implemented growth management goals will be proudly presented.

The 9th National Urban Forest Conference is from August 31, to September 3, 1999 at the Seattle Westin Hotel. Your participation and involvement with the conference will demonstrate the commitment we share to improve the environment at the national, state, regional and local level. Please consider the contribution that you can make as a member of our team of conference participants learning and collaborating to develop a "blueprint for the future."

Sincerely,


Paul Schell
Mayor, City of Seattle


Ron Sims
King County Executive


Michael Creighton
Mayor, City of Bellevue



BUILDING CITIES GREEN

1999 *National Urban
Forest Conference*

AUGUST 31ST to
SEPTEMBER 3RD

Seattle,
WASHINGTON



SPONSORED BY
Eddie Bauer • USDA Forest Service
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LOCAL COMMITTEE

Cities of Bellevue, Seattle, Mercer Island, and Issaquah • Davey Resource Group • King County DNR • Mountains to Sound Greenway
Mt. Baker-Snoqualmie National Forest • University of Washington • Urban Forestry Services, Inc. • Urban Resource Partnership
Washington Association of Landscape Professionals • Washington State DNR

FOR MORE INFORMATION

Contact AMERICAN FORESTS, (202) 955-4500 x202; call Dan DeWald, Local Arrangements Committee Chair,
(425) 452-6048; or visit our website at www.americanforests.org.

CONFERENCE AT A GLANCE

Day 1: Tuesday, August 31

All Day Workshops:

- CITYgreen Training
- Chicago Wilderness Biodiversity Council
- Solving Issues, Disputes, and Conflicts
- Getting the Word Out: Effective Public Relations
- A Blueprint for Landscape Management
- Trees Are Good for Business
- Protecting Our Climate with Shade Trees

All Day Educational Tours:

- The Forest in the City: Bellevue's Open Spaces
- Building With Trees in Mind
- Formal Gardens
- Restoring the Path of the Salmon
- Mountains to Sound Greenway: 100 Miles of Tre

Evening Opening Reception: "A Taste of the Northwest" at the Pacific Science Center

Day 2: Wednesday, September 1

Morning Opening General Session: "Building a Foundation," Keynote by Al Gore (invited), Michael Dombeck and more

Afternoon Concurrent Sessions: "Reviewing the Plans"

- General Session continued
- Urban Ecology
- Decision Support Technologies
- Design and Planning
- Social
- Urban-Rural Connections

Day 3: Thursday, September 2

Morning Concurrent Sessions:

- Public Policy
- Citizen Action
- Urban Forest Management
- Research Applications in Urban Ecology
- Design and Planning
- Social

Afternoon Tours:

- Woodland Park Zoological Gardens
- The Olmsted Legacy
- Hiding the Doo Doo: Creating Parklands from a Sewage Treatment Facility
- Downtown "Walkabout"
- Balancing Multiple Uses on Tiger Mountain State Forest
- Softening the Hard Edges - A Bike and Motor Tour
- Youth Volunteers as a Community Forest Resource
- Bloedel Reserve: Bainbridge Island's Garden

Day 4: Friday, September 3

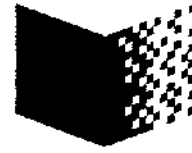
Morning Closing Session:

- "Designing the Blueprint," Closing General Session
- Integrated Concurrent Sessions

Afternoon Technical Meetings:

- CITYgreen Users Group
- State Urban Forest Council Meeting

Evening Banquet: Global ReLeaf Banquet



Pierce County
Library System

INFORMATION • IMAGINATION

April 2, 1999

Gretchen Wilbert, Mayor
City of Gig Harbor
3105 Judson St.
Gig Harbor, WA 98335

Dear Ms. Wilbert:

After we published our Strategic Plan, the Oceanside (California) Library Director called, impressed with the plan. He later sent me a copy of his strategic plan. Their Vision Statement is almost word for word the same as the Pierce County Library System Vision Statement, and their Mission and Values statements are also quite similar to ours.

I continue to be very proud of our strategic plan. Three years later, the plan is still vibrant and meaningful. A key strategy of the plan was to effectively take advantage of the capabilities offered through technology. This year, we completed projects to significantly increase public access to online resources.

At the beginning of 1998, we launched the library system's Homepage, which is your local connection to credible, timely and relevant resources on the World Wide Web. This website has received rave reviews from *The News Tribune*, Yahoo and others. I hope you have had the opportunity to visit it at <http://www.pcl.lib.wa.us>. We were awarded a \$215,000 federal grant for a major computer network upgrade, which expanded access to online databases and bring the user-friendly World Wide Web to all our sixteen sites. 91% of library patrons surveyed found significantly improved access to resources and information. Patron comments include enthusiasm about the ease of use and enhanced access: "It makes it easier for me to look up things and it just helps really." "Makes it hard to go home, it is really good." "It's easier to find what I'm looking for with less hassle and time." "Web access is awesome." We're on our way to reaching our vision of unlimited access!

There have been other significant accomplishments to achieving our vision. In 1999, we added Mondays at Parkland/Spanaway and Peninsula branches. Over the past few years we have enhanced materials collection purchases by 60%. The library has developed a teen poetry contest in collaboration with Pierce Transit, Tacoma Public Library, the Pierce County Library Foundation and the Puget Sound Poetry Connection. The Pierce County Library System Bookcart Drill Team has blazed a trail at parades across Pierce County. Four communities are interested in joining the Pierce County Library System; another sign of our success.

Thank you for your contributions to help us realize our vision for Pierce County Library System.

Sincerely,

Neel Parikh
Library Director

Neel Parikh, Director ■ 3005 112th Street East ■ Tacoma, Washington 98446-2215 ■ (253) 536-6500 ■ FAX (253) 537-4600



City of Gig Harbor. The "Maritime City"

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

April 8, 1999

Ms. Patsy Irwin
8305 Goodman Drive NW
Gig Harbor, WA 98332

Dear Ms. Irwin:

Dave Brereton, our Public Works Supervisor, has mentioned that you donated the lumber to construct the new bench at Jerisich Park.

I would like to thank you on behalf of the City of Gig Harbor and its citizens for your generosity. Kindness such as this is what makes our community such a wonderful place to live. Your donation of bench materials will only enhance our wonderful park.

Again, thank you for your thoughtful donation.

Sincerely,

Gretchen A. Wilbert
Mayor, City of Gig Harbor

C: City Councilmembers



City of Gig Harbor. The "Maritime City"

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

April 8, 1999

Travis Leland
4701 Willow
Gig Harbor, WA 98335

Re: Eagle Scout Project

Dear Travis:

Dave Brereton, our Public Works Supervisor, has advised us that you have completed your Eagle Scout project to create a sitting area at the intersection of Soundview Drive and Harborview Drive. I understand that the project included cleaning, weeding, grading and landscaping this area. With the concrete bench provided by the city, you have created a wonderful spot for pedestrians to take time to rest and enjoy the area.

I would like to thank you on behalf of the City of Gig Harbor and its citizens for your generosity and energy. Kindness such as this is what makes our community such a wonderful place to live. Your donation of time and materials has made an attractive oasis in a busy world.

Again, thank you.

Sincerely,

Gretchen A. Wilbert
Mayor, City of Gig Harbor

C: City Councilmembers

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 4/05/99

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 19990630

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 HARVESTER GIG HARBOR, INC.	HARVESTER RESTAURANT 5601 SOUNDVIEW DR GIG HARBOR WA 98335 0000	366707	SPIRITS/BR/WN REST LOUNGE +

RECEIVED

APR 7 1999

CITY OF GIG HARBOR



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH
DATE: APRIL 5, 1999
SUBJECT: SECOND READING - ORDINANCE FORMING A LOCAL IMPROVEMENT DISTRICT FOR THE CONSTRUCTION OF THE EAST-WEST ROAD

INTRODUCTION

This ordinance establishes a local improvement district (LID) for construction of the East-West Road.

FINANCIAL

The estimated funding provided by the LID is approximately \$1.7 million. The proposed, preliminary distribution of these costs among participants is presented below.

Number	Property Owner	Parcel Number	75% Acreage + 25% Frontage	Allocated Cost
1	Ballinger Corp.	122361069	5.35%	\$ 90,226.25
2	Ballinger Corp.	222303001	10.38%	174,902.40
3	Bingham, Quinby R.	222303002	7.08%	119,231.76
4	Ballinger Corp.	222303004	3.56%	60,062.93
5	Ballinger Corp.	222303006	3.58%	60,290.26
6	Olympic Resource Mgt.	222304000	14.50%	244,316.86
7	Olympic Resource Mgt.	222311000	16.38%	275,963.26
8	Olympic Resource Mgt.	222311001	14.64%	246,645.75
9	Olympic Resource Mgt.	222312000	14.68%	247,306.39
10	Ballinger Corp.	222312002	7.72%	130,102.30
11	Ballinger Corp.	222312003	2.13%	35,951.83
		TOTALS	100.00%	1,685,000.00
Property Owner				
		Ballinger Corp.		551,535.97
		Bingham, Quinby R.		119,231.76
		Olympic Res. Mgt.		1,014,232.27
		TOTAL		\$ 1,685,000.00

RECOMMENDATION

Staff recommends passage of this ordinance.

CITY OF GIG HARBOR

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, ORDERING CERTAIN LOCAL IMPROVEMENTS AND CREATING A LOCAL IMPROVEMENT DISTRICT; PROVIDING FOR THE PAYMENT OF THE COST OF SUCH IMPROVEMENTS BY SPECIAL ASSESSMENTS; AND PROVIDING FOR THE ISSUANCE AND SALE OF LOCAL IMPROVEMENT DISTRICT BONDS AND INTERIM FINANCING WARRANTS OR NOTES.

WHEREAS, on February 22, 1999, the City Council of the City of Gig Harbor, Washington (the "City") adopted resolution No. 528 declaring its intention to order certain local improvements within the City and to create a local improvement district; and

WHEREAS, the proposed improvements are within the transportation element of the comprehensive plan of the City, as amended; and

WHEREAS, an environmental review of the proposed improvements has been undertaken; and

WHEREAS, a hearing was held on March 22, 1999, after notice as provided by law, and after discussion of the proposed improvements and due consideration thereof and of all objections thereto, the Council has determined to order the local improvements described below and to create a local improvement district; and

WHEREAS, estimates of the costs and expenses of the proposed improvements, a description of the boundaries of the district, a statement of what portion of the costs and expenses of the improvements would be borne by the property within the proposed district, and a diagram showing the lots, tracts and parcels to be benefited and other information pertaining to the proposed district, have been filed with the City Clerk and certified to the City Council;

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington **ORDAINS** as follows:

Section 1. The City shall acquire, construct and install the following improvements within the following described areas of the City:

Phase 1 will construct a single lane roundabout intersection connecting the proposed East – West Road, Canterwood Boulevard, Burnham Drive, the northbound ramps to and from State Route 16. The remainder of the Phase 1 project will provide two travel lanes, storm drainage improvements (incl. Storm water detention and water quality facilities), and curb, gutter, planter strips, and a sidewalk on the south side extending east from the roundabout to Peacock Hill Avenue. Additional improvements include wetland mitigation, and provisions for lighting and underground utilities. ~~Anticipated features for the Phase 2 fully developed street section include a landscaped median with left turn pockets, architectural lighting, water, sanitary sewer, storm sewer, and a bicycle lane, curb, gutter and sidewalk on each side.~~

The foregoing improvements are hereafter referred to as the “Improvements.”

Section 2. The plans and specifications, which are 65% complete, for the Improvements, as prepared by the Public Works Department, and now on file in the City Clerk’s office, are hereby adopted and approved. The Improvements, when completed, shall be in accordance with said plans, the provisions of this ordinance and any other ordinances as hereafter may be adopted in connection herewith; provided, however, that changes in detail of such plans that do not significantly alter the scope or costs of the Improvements will not require further approval.

Section 3. There is hereby established a local improvement district of the City to be known as “Local Improvement District No. 1” (herein referred to as “LID No. 1”). The boundaries of LID No. 1 shall be as described in Exhibit A attached hereto and incorporated by this reference.

It is hereby found that the above-described boundaries embrace as nearly as practicable all the property specially benefited by the Improvements.

Section 4. The total cost and expense of the Improvements thereto is estimated to be \$2,800,000, of which 60% shall be borne by and assessed against the property within LID No. 1 specially benefited by the Improvements. Assessments shall be made against the property within LID No. 1 in accordance with the special benefits accruing to such property.

Section 5. Upon completion of the Improvements, an assessment roll shall be prepared and, after notice and hearing in the manner provided by law, an assessment roll shall be confirmed. Assessments not paid within the 30-day prepayment period provided by law shall be payable in installments and the City shall issue improvement district bonds payable from such unpaid installments. The number of years said installments shall run, the dates of payment of the same and the rate of interest that the unpaid installments shall bear shall be as hereafter fixed by ordinance.

Section 6. There is hereby created a fund of the City to be known as the “Local Improvement District No. 1 Fund” for the purpose of paying the cost of the

Improvements provided for in this ordinance and into which there shall be paid all of the assessments collected in LID No. 1 as and when directed by the ordinance confirming the assessment roll. All moneys received from the sale of bonds, notes and warrants drawn on the LID No. 1 Fund shall be deposited into said Fund, and applied solely in payment of the costs and expenses of the improvements.

Section 7. Pending the issuance of local improvement district bonds, the City may, for the purpose of meeting any and all costs and expenses of constructing the Improvements for which funds are not otherwise available, as the same are installed prior to the sale of the bonds, issue interim financing warrants against the LID No. 1 Fund, or issue local improvement district bond anticipation notes pursuant to RCW 39.50, bearing interest at such rate or rates and with such terms as may hereafter be established by the Council by ordinance. Such interim warrants or notes, together with the interest due thereon to the date of delivery of the bonds, shall be redeemed and retired from the proceeds of the sale of local improvement district bonds or prepayments of assessments. Such warrants or notes shall be issued in an aggregate principal amount not in excess of the cost and expense of the improvements.

Section 8. This ordinance shall be published in the official newspaper of the city, and shall take effect and be in full force five(5) days after the date of its publication.

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 22 day of March, 1999.

Gretchen A. Wilbert, Mayor

ATTEST:

Molly Towslee
City Clerk

Filed with city clerk:
Passed by the city council:
Date published:
Date effective:

EXHIBIT A

LEGAL DESCRIPTION FOR PROPOSED LID:

The North half of the Northeast quarter, the Northeast quarter of the Northwest quarter, and the North half of the Northwest quarter of the Northwest quarter, of Section 31, Township 22 North, Range 2 East, W.M., Pierce County, Washington.

EXCEPT a tract of land bounded and described as follows:

Beginning at the Northwest corner of Section 31, Township 22 North, Range 2 East of the W.M.; running thence East 54 feet; thence South 14 degrees 49 feet East 679 feet to the South line of the North half of the Northwest quarter of the Northwest quarter of said Section 31; thence West 238 feet to the Section line; thence North along the same 666 feet to the beginning containing 2.23 acres.

The Southwest quarter of the Southeast quarter; the South half of the Southwest quarter of Section 30, Township 22 North, Range 2 East, W.M., Pierce County, Washington.

EXCEPT the following described property:

Beginning at the Southwest corner of Section 30, Township 22 North, Range 2 East of the W.M., run, thence North on Section line 7792 feet; thence South 14 degrees 49 minutes East 819 feet to the South line of the Southwest quarter of the Southwest quarter of the Southwest quarter of said Section 30; thence West along the same, 209 feet to the beginning, conveyed to the City of Tacoma by Deed recorded under Recording No. 675729, records of Pierce County, Washington.

The East half of the Northeast quarter of the Northeast quarter of Section 36 within Township 22 North, Range 1 East, W.M., Pierce County, Washington. EXCEPT that portion conveyed to the State of Washington for State Road No. 16 MP 8.34 to MP 18.87 Narrows Bridge to Olympic Drive, as described in Deed recorded under Recording No. 2397369. Also EXCEPT Canterwood Boulevard – Burnham Drive City Streets.

TWP 22.N

100

RGE 1 E

RGE 2 E

BALLINGER CORP.

0222303001

0222303006

BALLINGER CORP.

0222303004

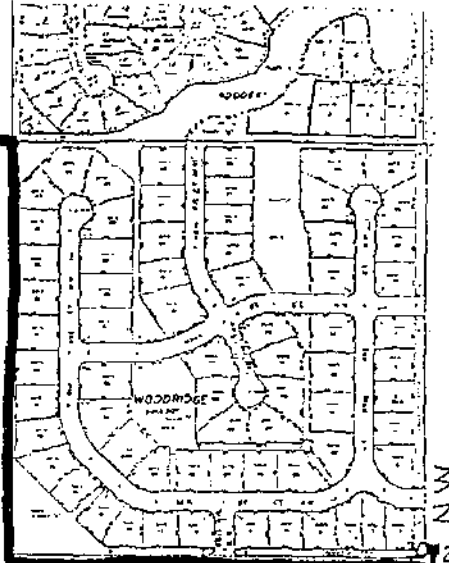
BALLINGER CORP.

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BINGHAM

POPE RESOURCES

0222304000



PEACOCK HILL AVE N.W.

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0222312002
BALLINGER CORP.

0222312004
TAKOMA CITY LIGHT

0222312003
BALLINGER CORP.

0222312000

POPE RESOURCES

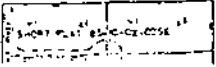
"F" ALIGNMENT

0222311001

POPE RESOURCES

0222311000

POPE RESOURCES





City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR
SUBJECT: ECONOMIC DEVELOPMENT PREPARATION
DATE: APRIL 6, 1999

INFORMATION/BACKGROUND

One Administrative objective for 1999 is as follows:

Assist council members on the Mayor's Economic Development Advisory Committee to assess potential moderate to high-salaried jobs-producing businesses that would be suitable for the areas designated and zoned for professional employment. Involve local businesses and residents in this assessment activity. Develop a strategy for attracting these businesses to Gig Harbor.

This objective is to be accomplished by December. \$2000 has been budgeted. Thus far, the mayoral committee, as represented by Council members Owel and Young, met with Mr. Ben Frerichs of Huckell/Weinman Associates, Inc., in conjunction with Mr. Dave Morris of the Chamber of Commerce and City Administrator Mark Hoppen. Subsequent to this meeting, Mr. Frerichs has suggested a strategy to advance the city's economic development interests. Initially, Mr. Frerichs suggests a long, half-day economic development meeting for community leaders, with breakfast and lunch, with costs shared/subsidized, for a select group of 20-30 attendees. The product of the meeting would be a process/schedule and activities for the near future.

POLICY CONSIDERATIONS

The 1999 objective that resulted in this proposal extends from the Economic Development Element of the current City of Gig Harbor Comprehensive Plan. The text of that element is attached.

FISCAL CONSIDERATIONS

The consultant's fee would be \$2000 for 16-18 hours of time. The half-day event would be fee-paid per attendee.

RECOMMENDATION

Mr. Frerichs has extensive experience and expertise in economic development (see attached). Additionally, he is a former City of Gig Harbor resident. If the City Council finds the suggested proposed activity appropriate, then Mr. Frerichs is an excellent choice. Staff requests Council direction either to return a contract to Council for the identified activity or to reconfigure the activity.

Huckell / Weinman Associates, Inc.

Land Use
Environmental and
Regulatory Analysis
Economics
Legislative Research
and Drafting

205 Lake Street South, Suite
Kirkland, Washington 98033

(425) 828-
Fax (425) 828-

E-Mail: hwa@mail.haicor.com

March 11, 1999

Mayor and City Council
Via Mark Hoppen - City Administrator
City of Gig Harbor
310-5 Judson Street
Gig Harbor, WA 98335

Dear Mr. Hoppen:

RE: Economic Development Initiatives

I appreciated the opportunity to meet with Councilpersons Owel and Yong, David Morris (representing the Chamber of Commerce) and yourself. It was very interesting to be brought up to date on the situation of Gig Harbor, also the Council and Chamber's concerns about the pace and patterns of community growth and hearing the Councilpersons objectives.

The purpose of this letter is to provide the City with a proposal for providing economic consulting services along the lines we discussed that day. These ideas are based on our understanding of the economic role of the City, potential future issues and the need to influence those issues by the City on behalf of the community. As you are aware, we have had the opportunity to work with an interesting variety of small and large communities. Some of those communities wanted to control and shape their economic future; yet others wanted to stimulate or revitalize the current state of affairs. Attachments to this letter describe our recommendations on how to proceed and the qualifications of our firm.

After many years of planning for future growth, the City is now positioned to participate in the region's forecasted economic growth. As a former resident of Gig Harbor, I can also appreciate the community's values for preserving and protecting those aspects of the community that makes it the special place that it is. There are a number of communities in Western Washington, the Pacific Northwest and the nation that find themselves in similar situations.

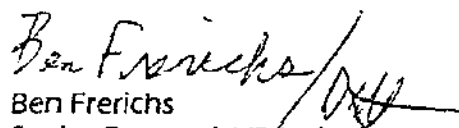
These communities are based on the quality of their amenities, but don't want to lose them. Setting strategies, forming public-private partnerships, and investing in the future are necessary actions in those areas that want to influence their future, rather than letting the market's impersonal forces make those decisions. These tasks are easier now. Not only can the state's growth management process be used to enforce regulations about a community's future, but the private real estate market forces are increasingly recognizing the need to preserve and protect the quality of life in our communities because residential and non-residential buyer/users are demanding high quality settings in which to live and work.

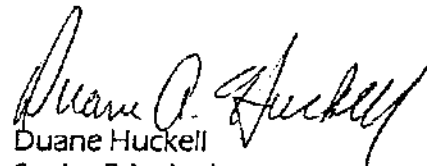
Attached to this letter are ideas about how Gig Harbor may choose to proceed with formulating an economic "development", an economic "vitality", and/or an economic "enrichment" strategy. A basic assumption of these approaches is that this will be a joint effort between the business and development communities and the City of Gig Harbor. As was related at the meeting, the budget for the initial step is modest. We have recognized that condition, but have also suggested some follow-up steps that over a year or more would result in a strategy based on realistic action steps. We also understand that participation and involvement with the Chamber and/or other groups that represent a spectrum of positions in the community are appropriate.

After the Mayor and City Council have had an opportunity to consider these ideas, we would welcome the opportunity to discuss these matters further and/or provide a specific contract to provide these services. I will reserve the evening of March 22, the fourth Monday, should you think that it would be helpful to attend a Council meeting.

Thank you for considering these ideas. We look forward to hearing from you. I will be out of town from March 6th to March 17th. Please contact Duane Huckell if you have any questions.

Sincerely,


Ben Frerichs
Senior Economist/Principal


Duane Huckell
Senior Principal

Attachment

**Proposal
to the
CITY OF GIG HARBOR, WA
for
ECONOMIC CONSULTING SERVICES**

March 8, 1999

INTRODUCTION

The following ideas are advanced for the City of Gig Harbor's consideration. What is suggested here is a set of phased activities that would result in an action strategy for economic development in the community. This strategy would be determined by a series of activities jointly sponsored by the City of Gig Harbor and the business community. The strategy would have to have wide spread support in the City so that it not only enhances the City as a place to do business and develop, but also to live and work. The approach is to have a three phased process that occurs over 12 to 18 months. A side benefit of this approach is that the resulting strategy could be tied to the millennium, e.g., "Gig Harbor 2000 and Onward."

STEPS TO A STRATEGY

I. Economic Development Summit

In the late spring or early summer, the City of Gig Harbor and the business community sponsors would convene a meeting of community leaders. The purposes of the meeting would be:

- To signal the City's interest and commitment to economic development;
- To raise the level of mutual understanding between the businesses, development interests, and general community leadership, i.e., to establish a basis and a process for identifying mutual interests in a viable future for the City;
- To raise the awareness among community leadership for what can be done and what has been done in communities with similar challenges to Gig Harbor;

- To begin a process for arriving at an action strategy to move the City of Gig Harbor toward the vision established in the comprehensive plan, assuring that there will be adequate resources for implementation.

The program would be developed by a committee of the sponsors with the help of Huckell/Weinman Associates senior staff. There would be several elements of the program:

- A presentation about what economic development is, and can be, what tools and resources are available for a city the size and circumstances of Gig Harbor, and what has worked in similar settings;
- Presentations by the various main "players" in the field of economic development in Pierce County and/or the region as appropriate for Gig Harbor such as Tacoma-Pierce County Economic Development Board, a Chamber that has been aggressive or had to deal with complex community objectives, a representative from the State's Community Trade, and Economic Development agency, private businesses or real estate professionals who have established public-private partnerships, or other resource persons who would represent a spectrum of ideas about what to do, how to do it and answer questions the attendees may have;
- Presentations by several local businesses or managers of major potential local projects (e.g., Pope Resources, etc.) that have located here and why; this is the business development perspective on what they have planned.

The final format and specifics would be worked out by the sponsors, but it might be a "long" half day with a breakfast and lunch. The costs would be shared and/or subsidized, not necessarily free for a select group of 20-30 attendees. A lunch speaker who has had direct experience uniting or working effectively in an amenity-based or environmentally special community would be a good way to finish the meeting. The product of the meeting should be a process/schedule and activities for the near future. *The consulting fee would be \$2,000, using 16-18 hours of the Senior Economist's time and expenses, mostly mileage.* The time used by the consultant would be to help structure the program, make suggestions for presenters, and identify topics and resources.

II. Identification of Development Opportunities

This phase in the set of activities would be a report to essentially the same group of persons who attended the economic development summit meeting. It would be held in the fall. The purpose of the meeting would be twofold: hearing the results of an objective assessment about the types of economic activity, real estate projects, and types of businesses that are likely to be attracted to, interested in, or would tend to locate in an area like Gig Harbor. The role of the consultant would be to summarize the characteristics of the local area based on how firms and the real estate industry locate in an area, examine recent data on local economic activity, and make some comparisons with other areas with similar characteristics competitive to Gig Harbor. This information would be developed from interviews with local business and development interests as well as regional professionals in the field.

Besides the presentation of the results of the identification of opportunities by the consultant, there would be presentations by persons identified in the interviews from the industry, and also reactions/questions from a panel of local participants in this process. The emphasis would be on specific challenges that exist in the short term and long term in the local area for attracting/retaining the types of activity that is consistent with the community's vision and comprehensive plan.

The outcomes of this meeting are to provide realistic expectations for what the City of Gig Harbor can base its future on, and to identify any obstacles that need to be addressed. This stage also lays a basis of information for the next step, which is to formulate an action strategy. The role of our consulting services in this phase is to do the research and interviewing for the locational assessment, and to identify and "pre-screen" the industry representatives. This latter step is not to convince or shape the message, only to make sure that the presenters can give a broad perspective, not a defense, of only one position in the community. The consultant may also be asked to moderate the discussion. Again, the planning and arrangements would be handled by the sponsors. *The consulting fee would be \$5,000. The fee would cover 24 hours each for the Senior Economist's time and a staff economist to do research and support the interviews and presentation, plus incidental expenses.*

III. Action Strategy

To some extent this phase would be shaped by the previous steps, depending on how the group reacts to the information and as the issues evolve. Each phase would be evaluated before deciding on the format and content of the next. The outcome of this phase would be a written statement that answers the following questions for the community. This statement becomes the economic development element of the City's comprehensive plan so that it is considered along with the other elements and it has the same force in community decisions. These questions are:

- What will be done?
- Who will do it?
- Why is this set of actions appropriate?
- How will these actions be taken?
- Are there any locational aspects, e.g., will one area be emphasized or prioritized?
- What is the critical path and priority for actions; e.g., short term vs. long term, easy vs. difficult, less expensive vs. very expensive?

The issues and challenges may dictate that the questions are framed differently, but these are the basics. The role of the consultant is to be staff to the committee or group formed to make recommendations to the Planning Commission and City Council, by structuring activities, information, alternative approaches and drafting language that reflects the sense or decisions of the committee. *The consulting fee estimate for this phase is \$5,000, but this could vary with the detail and length that the process for formulating a strategy follows or is determined by the sponsors.*

BEN FRERICHS

PRINCIPAL

EXPERTISE

Fiscal and Economic Impact Analysis
Real Estate Analysis
Municipal Finance
Strategic and Economic Development Planning and Research
Public Facility Feasibility Studies

EDUCATION

Ph.D., M.A., Economics, Washington State University, 1969, 1973
Master of Arts, Economics, St. Louis University, 1965
Bachelor of Arts, Economics, Benedictine College, 1962

EXPERIENCE

29 years of experience in application of economics and finance to real estate, land use, economic development, strategic planning and public facilities projects, programs and policies.

Market and financial feasibility analysis for private real estate and public facilities, including retail, convention centers, residential, industrial, transportation-related and tourism projects. Economic and fiscal analysis for large and small public and private real estate projects; proposed changes in land use, environmental, and urban design regulations; and large public works projects, including highways, airports, transit centers, hydroelectric power facilities and tourism/gaming projects. Examples include:

- Economic and fiscal impact analysis of the 1.2 million square foot Union Station office project in Seattle
- Economic and fiscal impact analysis of a 253-acre industrial park for the Port of Longview
- Property value impact analysis for alternative SR-509 cross-port routes through the Port of Tacoma
- Real-estate development impact assessment for "big box" retail store in Bellevue
- Market and Financial analysis of proposed annexation of a large area to the City of Snohomish
- Socioeconomic impact analysis of a gaming facility near Pendleton, Oregon for the Bureau of Indian Affairs

Strategic planning research for public agency licenses and policies for economic development, land use, capital facilities, and community and business district revitalization. Clients have included the cities of Seattle, Edmonds, Mill Creek, Lakewood, Tukwila, Centralia, Mountlake Terrace, Everett, Bellevue, and Olympia in Washington State, as well as projects in Alaska, Vermont, Idaho, Oregon, and New Mexico.

Assisted local governments in the preparation of comprehensive, subarea and business district plans by providing demographic, economic and real-estate analysis.

BEN FRERICHS

PRINCIPAL

EXPERIENCE (CON'T)

Public finance and investment feasibility analysis for capital facility projects.

Market and financial feasibility, attendance projections, and organization and management evaluation for 300, aquariums, conference centers, performing arts centers, arenas and stadium, gaming facilities and schools.

PRIOR EXPERIENCE

Economic Consulting Services, Principal
Apogee Research, Inc., Regional Director
Property Counselors, Principal
Economics Research Associates, Senior Economist
City of Tacoma, Economic Development Manager

PROFESSIONAL ACTIVITIES

Dean's Advisory Council, School of Architecture, University of Washington
Professional Council, University of Washington, Department of Urban Design and Planning
Part-time Instructor, University of Washington, Urban Development and Real Estate Program,
Evergreen State College, University of Puget Sound and Pacific Lutheran University
Past President, Lambda Alpha, Land Economics Honorary
Advisory Panel Services of Urban Land Institute
Seattle Economists Club

HUCKELL/WEINMAN ASSOCIATES, INC.

Huckell/Weinman Associates, Inc. is a professional services firm providing land use, environmental and economic consulting services to both the public and private sectors. Our primary areas of expertise include:

- ◆ environmental assessments, EIS preparation (both NEPA and SEPA), and SEPA counseling;
- ◆ land use and regulatory analysis;
- ◆ economic, fiscal impact and market studies;
- ◆ legislative research, analysis and drafting;
- ◆ project planning, permitting and feasibility;
- ◆ project management; and

Our general approach to projects and to serving our clients emphasizes thoroughness, objectivity, responsiveness, collaboration and clear communication. The firm's work is evenly balanced between public and private sector clients. Our staff includes land use and environmental planners, lawyers and economists. Staff are also involved in a wide variety of professional activities, including active participation in associations, public commissions, taskforces and workgroups on land use, planning and regulatory issues (e.g., SEPA, regulatory reform).

EISs, CHECKLISTS, ASSESSMENTS & SEPA CONSULTING

The firm's EIS and environmental experience includes a broad range of project and non-project environmental documents, prepared pursuant to SEPA and NEPA. Representative projects include: shopping centers and retail stores; master planned communities, mixed-use developments and residential projects; destination resorts and golf course projects; comprehensive and community plans, zoning codes and transportation plans; transportation and utility projects; and institutional and industrial facilities.

Huckell/Weinman Associates typically serves as lead consultant and/or project manager for EISs. Our role includes participating in scoping and public hearings, helping to define EIS alternatives, conducting analysis for numerous elements of the environment, coordinating with involved agencies, negotiating mitigating conditions, and writing/editing environmental documents. Our work emphasizes thorough and objective analysis, close coordination with the client and affected agencies, clear and concise documentation, and careful management of project budgets and schedules. We typically work with other technical experts to provide engineering and scientific research and evaluations.

The firm also advises local agencies and private clients on compliance with the substantive and procedural requirements of SEPA. This has included developing SEPA integration strategies for local government planning under the Growth Management Act. We have also conducted educational workshops on the SEPA process for agency staff and planning commissions, and have served in a staff function to manage the local environmental review process and conduct third-party review of environmental documents.

LAND USE & REGULATORY CONSULTING

Huckell/Weinman Associates has diverse expertise and experience in the land use and regulatory fields. This includes:

- ◆ Land use and regulatory analysis, development feasibility studies, and permitting assistance;
- ◆ Area-wide land use, transportation and capital facility planning;
- ◆ Socioeconomic impact analysis and land capacity studies;
- ◆ Infrastructure needs studies and development of alternative financing strategies, including traffic impact fee mitigation programs, and evaluation of public services and facilities adequacy/capacity;
- ◆ Sub-area and community profiles, dealing with land use and regulatory frameworks; population and housing; market and economic conditions, and environmental constraints;
- ◆ Evaluations of zoning regulations, comprehensive plans, shoreline master programs, floodplain regulations, and similar plans, policies and regulations for development proposals and programmatic actions; and
- ◆ Research, analysis and drafting of land use and environmental statutes and codes, local zoning and land use regulations, sensitive area ordinances, shoreline master programs, and private protective covenants.

ECONOMIC CONSULTING & FISCAL IMPACT ANALYSIS

The economic consulting experience of our firm and its senior staff includes extensive background in:

- ◆ Recreation, cultural, tourism, lodging and public assembly projects that include market and financial feasibility, concept development, attendance and tax revenue projections, site evaluation and selection studies, organization and management analyzes for facilities such as zoos, aquariums, athletic stadiums, arenas, convention, conference and community centers, golf courses, lodging facilities, performing arts venues, gaming facilities, parks and recreation plans, school facilities, correctional institutions, and waterfront and resort projects.

- ◆ Siting studies for institutions, transportation and utility facilities, retail, commercial, residential, restaurant, and educational projects.
- ◆ Municipal finance projects including population, enrollment, employment, attendance, demographic and residential unit projections; evaluation of financial strategies for general government or specific public projects; academic research and teaching related to public finance, and assistance to elucidate the economic return to jurisdictions from large projects.
- ◆ Real estate analysis for public and private projects (from small sites to large master planned communities) including residential and mixed-use, commercial/office, retail, industrial, waterfront, transportation-related, tourism and visitor industry projects.
- ◆ Strategic planning research for public agency policies for economic development, land use, capital facilities, community and business district revitalization, and protection of environmentally sensitive areas.
- ◆ Impact analyses to analyze the economic, fiscal, development and real estate (land use) effects of public and private real estate projects; proposed changes in land use, environmental, building code, and urban design regulations; and large public works projects including highways, marine terminals, airports, transit centers, waste-to energy, hydroelectric power, tourism and gambling facilities.

Ben Frerichs, who would be Huckell/Weinman Associates' Principal-in-Charge and Project Manager, has more than twenty-five years of experience helping communities assess and develop strategies for economic improvement.

Mr. Frerichs lived in the City of Gig Harbor from 1986 until 1995. In 1991 he provided consulting services for enrollment forecasts for the Peninsula School District. These were based in large part on real estate and local economic research, as well as more typical school population demographic methods. He has had a long association with the Pierce County community: as Economic Development Manager for the City of Tacoma from 1976-81; in recent real estate and economic/fiscal impact assignments; and participation in a current project that examines the feasibility of expanding and/or relocating the library branch in northeast Tacoma.

Other consulting work that Mr. Frerichs completed in the Pierce County area during the past few years includes: market analysis and economic development analysis in the South Canyon Road area for a major set of transportation improvements; analysis of the comparative growth of industries and relative attractiveness of the County for "hi-tech" industries for the Economic Development Board and County government in 1996 (with Dr. Bruce Mann of the University of Puget Sound); economic analysis and economic development strategy for the City of Lakewood WA as an element of its comprehensive plan (1997-98); market analysis for the redevelopment areas on the Foss Waterway in Tacoma and estimation of the economic and fiscal impacts from the proposed international museum of modern glass (1996-97); benefit-cost analysis for allowing Tacoma Police patrol officers to take their vehicles home (1997-99); market analysis for a residential development project in the Hilltop area of Tacoma (1998); market analysis for residential uses at the ASARCO redevelopment site on the waterfront; and feasibility and business location analysis using the Hilltop area as a prototypical case. In addition, consulting assignments during 1996-98 that were related to economic development included neighborhoods in the City of Seattle (Ballard/Interbay industrial area, University District, South Park, Delridge and Fremont), as well as sub-area market and financial feasibility and/or development strategies in

Olympia, Mill Creek, Tukwila, and an analysis of the impact (now and in the future) of "globalization" on the City of Bellevue.

Other recent assignments that involved economic development, analyses and strategies have ranged from Burlington, Vermont to New Orleans, Louisiana. The latter assignment was as a member of a Visiting Advisory Services Panel that used experienced members of the Urban Land Institute from around the country to formulate a redevelopment strategy for the Algiers area of that city.

The following two charts summarize Ben Frerichs experience under the Growth Management Act, and providing assistance with economic and community development research, analysis and strategic planning. The materials attached provide information on our firm, project experience, resumes and references.

ECONOMIC DEVELOPMENT ELEMENT

The State Growth Management Act identifies as a planning goal to guide the development and adoption of comprehensive plans that encourage economic development throughout the state. Also, the Growth Management Act requires the County adopt a planning policy on county-wide economic development and employment.

The City of Gig Harbor Comprehensive Plan of 1986 recognized the importance of economic development in achieving the goals of the Comprehensive Plan. The following goals and objectives are based on the 1986 Comprehensive Plan, an analysis of existing conditions, the County-wide Planning Policies of 1992 and the results of workshop planning sessions.

Current Employment Conditions and Trends

Traditionally, the City's economic base centered around resource extraction industries, chiefly fishing and forestry. Over the past 20-25 years, there has been a marked shift away from the traditional "founding" industries toward a local service economy of retail facilities and small, specialty businesses. However, the primary source of income which drives the local economy is off the Peninsula where most of the employment base is located. The Puget Sound Regional Council (PSRC) developed estimates of jobs within various subareas (FAZ). According to the PSRC data, a total of 5,346 jobs were on the Gig Harbor Peninsula in 1990. Comparing jobs to population (31,636), the ratio obtained is 5.92 : 1. This compares with a ratio of 2.58 : 1 for Pierce County overall, which is indicative that a significant number of Peninsula residents are employed "out of the area" and most likely east of the Narrows Bridge.

The City of Gig Harbor Comprehensive Plan Final Environmental Impact Statement (1986) stated that the 1980 population-to-employment ratio for the City of Gig Harbor was 2.59:1, based upon data from the 1980 U.S. Census count. The following chart shows the statewide, county and local jobs per population ratio for the 1980 census:

Area	Employed Labor Force	Resident Population	Population/Jobs Ratio
State wide	1,794,354	4,132,156	2.30:1
Pierce County	181,909	485,643	2.76:1
Gig Harbor Pen.	9,322	22,042	2.36:1
City of Gig Harbor	937	2,429	2.59:1

The Puget Sound Regional Council's (PSRC) jobs forecast for the years 2000 and 2010 for the Gig Harbor Peninsula are shown in the following table and are based upon existing (1992)

Comprehensive Plans for the area:

Year	1990	2000	2010
Population	31,636	42,154	51,400
Jobs	5,346	7,245	8,829
Ratio	5.92 : 1	5.82 : 1	5.82 : 1

SOURCE: Final Environmental Impact Statement, Gig Harbor North Annexation, Waddell and Associates, Feb. 1993

Based upon the PSRC data, the ratio of jobs-to-population would essentially remain the same at 2.5 : 1 for Pierce County, based upon Comprehensive Plan in effect in 1992. Comparing the 1980 data to the 1990 data, the jobs-to-population ratio for the Gig Harbor Peninsula has more than doubled, indicating that the increasing population continues to be employed out of the area at a higher rate.

The continued "export" of jobs to other areas off of the Peninsula plays a significant role in traffic patterns and volumes, particularly as it relates to the Narrows Bridge during peak commute hours. Reversing this trend, even slightly, to a higher (lower number) jobs to population ratio could have some reduction effect on the peak hour commute congestion and could contribute to a more localized jobs and tax base economy and increased overall economic well being. This, in turn, could provide increased opportunities for funding and developing more public services such as parks and recreation and police and fire protection.

As more companies, state and nationwide, seek to "downsize" for economic efficiency in an increasingly competitive world market, the employed find themselves - many for the first time in their careers - unemployed. Many professional and technical workers are increasingly relying upon their homes as either a supplement or primary component of their economic livelihood. The American Planning Association Magazine stated in a June 1993 article that, "According to a national survey of home based businesses conducted annually by Link Resources, 39 million Americans worked out of their residences in 1992, a nine percent increase over the previous year. Of those, 12.1 million were 'primary, self-employed home-workers...'"¹. Providing for home based businesses which are compatible with residential neighborhoods is becoming increasingly important is maintaining and promoting the economic health of small communities statewide.

Requirements of the Growth Management Act

The State Growth Management Act identifies, as a planning goal, to guide the development and adoption of comprehensive plans and development regulations, that counties and cities encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of the state, especially for unemployed and

¹ Frank, Michael, Homework (American Planning Association Magazine, June 1993. Volume 59, No. 6)

disadvantaged persons, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the states natural resources, public services and public facilities [RCW 36.70A.020(5)]. The Growth Management Act also requires that the County adopt a planning policy on county-wide economic development and employment [RCW 36.70A.210 (3)(g)].

County-Wide Planning Policy

The County-wide Planning Policies, adopted in June of 1992, identify several goals of which were already incorporated into the City of Gig Harbor Comprehensive Plan of 1986. These policies are intended to:

1. Assure consistency between economic development policies and adopted comprehensive plans.
2. Promote diverse economic opportunities for all citizens, especially the unemployed, the disadvantaged, minorities and small businesses.
3. Encourage economic development in areas in which there is an imbalance between available employment opportunities and the local population base.
4. Ensure that economic growth remains within the capacities of the state's natural resources, public services and public facilities.
5. Plan for sufficient economic growth and development to ensure an appropriate balance of land uses which will produce a sound financial posture given the fiscal/economic costs and benefits derived from different land uses.
6. Strengthen existing businesses and industries to add to the diversity of economic opportunity and employment.
7. Provide both the private and public sector with information necessary to support and promote economic development.

GOAL: DEVELOP A SOUND FISCAL BASE

Help market local socio-economic resources to increase employment opportunities, develop office and industrial park properties, and provide the City with a sound tax base.

1. Job creation

- Help create employment opportunities within the local economy, particularly for residents who now commute across the Tacoma Narrows Bridge to work. Participate with other public agencies and private interests in marketing projects, labor force training programs, and other efforts to attract new businesses to Pierce

County and Gig Harbor Peninsula area.

- Determine a reasonable jobs-to-housing balance by coordinating land use and development policies to help achieve the designated balance of adequate affordable housing near employment centers.
- Encourage the redevelopment of declining commercial areas through a variety of incentives such as reduced fees for permits or utility connections and the consideration of waivers from land use performance standards, as appropriate.
- Establish a "target" population-to-jobs ratio of 2.5:1 as an appropriate, reasonable and attainable balance for the projected population to the year 2014.

2. Site identification

Work with other public agencies and private interests to identify and promote sites which can be suitably developed for a variety of local employment opportunities.

3. Site efficiencies

Work with property owners to determine the effective development capacity of sites having employment center possibilities. Determine the costs involved with providing sewer, fire and police protection, access roads, recreational areas and other public services and amenities versus the public benefits which may be realized by the creation of local jobs and tax potentials. Negotiate equitable cost/benefit trade-offs between public and private sector interests.

4. Site priorities

Rank possible sites using a priority system which reflects the possible cost/benefits associated with providing public services. Allocate public services, sewer in particular, to sites which provide the greatest possible returns, unless private property owners can assist with the costs involved in extending or providing service.

5. Capture revenues

Withhold public services, sewer in particular, unless potential property developments within the urban growth area will agree to annexation and the payment of local property or other revenue taxes.

GOAL: INCREASE LOCAL ECONOMIC OPPORTUNITIES

Support local business development efforts and property investment projects and programs, and protect local economic opportunities. Provide for an increasing home-based business sector as more citizens rely upon this manner of livelihood as either their supplemental or primary

economic means.

6. Small business development

Encourage local business development opportunities, particularly for small start-up business concerns which may be owned by or employ local residents. Promote the local use of special small business financing and management assistance programs. Help identify facilities which may be used for small business start-ups including older structures which may be suitably reused for business purposes.

7. Property revitalization

Assist with special planning and development efforts to reuse older buildings, redevelop vacant properties, and revitalize older commercial and business districts within the city. Help structure local marketing efforts, physical improvements programs, parking and building improvements and special management organizations.

8. Financial programs

Help local private groups structure special improvement districts including parking and business improvement authorities, local improvement districts, or other programs necessary to the effective revitalization of older business and commercial areas of the city. Participate in special public/private ventures when such ventures provide public benefits and are appropriate to the long-range goals of the city.

9. Future development opportunities

Monitor proposed urban zoning designations and developments elsewhere on the Peninsula. Determine market requirements and potentials for commercial, office and industrial uses and protect Gig Harbor's interests in the allocation of future development opportunities. Protect existing commercial and business developments within the Gig Harbor area from overzoning.

10. Home Based Occupations and Businesses

Provide reasonable guidelines and standards for the siting of home-based businesses (home occupations) in residential neighborhoods. Insure that home-based businesses do not alter or impact the residential character of neighborhoods.



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: WES HILL, P.E., PUBLIC WORKS DIRECTOR *Wes Hill*
SUBJECT: MATERIALS TESTING - CONSULTANT SERVICES CONTRACT
DATE: APRIL 5, 1999

INTRODUCTION/BACKGROUND

Materials testing assistance is necessary for the Rosedale Street Improvement Project to ensure that materials used in the project meet the requirements of the plans and specifications. As a federally funded project, all materials testing must be performed in accordance with the requirements and procedures of the Washington State Department of Transportation (WSDOT). WSDOT staff are unavailable to perform the necessary materials testing for the Rosedale Street Improvement Project.

The Consultant Services Roster was reviewed for firms qualified to perform materials testing services. These firms were further screened to confirm their certification to perform testing in accordance with WSDOT standards. Three firms were interviewed, and the geotechnical engineering and materials testing firm of AGRA Earth and Environmental, Inc., was selected as the most qualified to perform the work. Their selection was based on their considerable project experience, including work under federal-aid projects with WSDOT specifications, and their proximity and availability.

Council approval of the Consultant Services Contract is being requested.

POLICY CONSIDERATIONS

AGRA Earth and Environmental, Inc., Inc. is able to meet all of the City's standard insurance provisions for professional services contracts.

FISCAL CONSIDERATIONS

Sufficient funds are available for this work in the Street fund.

RECOMMENDATION

I recommend that the Council authorize execution of the Consultant Services Contract with AGRA Earth and Environmental, Inc., for materials testing services for the Rosedale Street Improvement Project in an amount not to exceed twenty thousand dollars and no cents (\$20,000.00).

objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed by December 31, 1999; provided however, that additional time shall be granted by the City for excusable delays or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to one consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs

incurred by the City in the completion of the Scope of Work referenced as Exhibit A and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that notification will be given to the City of Gig Harbor for any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Public Works Director and the City shall determine the term or provision's true intent or meaning. The City Public Works Director shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Public Works Director's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT
Tim Hyden
AGRA Earth & Environmental, Inc.
11335 NE 122nd Way, Suite 100
Kirkland, Washington 98034

Wes Hill, P.E.
Director of Public Works
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 07th day of April, 19 99

By: [Signature] By: _____
Its Principal

The City of Gig Harbor

Mayor

Notices to be sent to:
CONSULTANT
Tim Hyden
AGRA Earth & Environmental, Inc.
11335 NE 122nd Way, Suite 100
Kirkland, Washington 98034

Wes Hill, P.E.
Director of Public Works
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

Exhibit A
Scope of Services
April 2, 1999

AGRA Earth & Environmental, Inc. (AEE) respectfully submits this proposal to provide construction inspection and materials testing services during construction of the Rosedale Street Improvement Project.

Services for this project will be provided by AEE out of our Tacoma, Washington office on an as-needed basis. It is anticipated that field and laboratory services will be required for earthwork, asphalt and concrete related construction activities. Our field personnel will provide verbal results following completion of field sampling and testing, and will submit written daily reports prior to leaving the site. All field and laboratory reports will be reviewed by our project manager and distributed as directed.

Proposed unit rates for the services most likely to be required are summarized below. Our 1999 *Schedule of Charges* and rates for other laboratory tests (Schedule A) are proposed for any additional services requested and as the terms of our agreement. We wish to note that there will be *no charge* for general project management and clerical services associated with report review and distribution. If specifically requested by the City of Gig Harbor, AEE can also provide registered engineers for consultation on an as-needed basis. Typically, AEE requests a four-hour minimum charge for field inspection and testing services. However, there will be *no minimum charge* for this project.

**Exhibit B
Schedule of Rates
April 2, 1999**

AGRA Earth & Environmental, Inc. (AEE)
Proposed unit rates are as follows:

Personnel and Equipment

Project Manager (QA/QC)	\$77/hour
Engineering Technician (soils, asphalt or concrete)	\$45/hour
Vehicle Use	\$0.35/mile
Engineering Review of Reports	No Charge
Clerical for Report Distribution/photocopying	No Charge
Nuclear Density Gauge	No Charge
Concrete Equipment (slump, air content, cylinders, unit weight, temperature)	No Charge

Laboratory Testing

Soil

Moisture/Density Relationship	\$150.00/each
Sieve Analysis	\$75.00/each
Plasticity Index	\$75.00/each

Concrete

Compressive Strength — Standard Cylinder	\$15.00/each
Compressive Strength — Cored Sample	\$25.00/each
Flexural Strength — Standard Beam	\$30.00/each

Asphalt

Extraction	\$75.00/each
Gradation	\$75.00/each
Marshall Density, Stability and Flow	\$100.00/each
Density of Cores	\$25.00/each
Maximum Theoretical Specific Gravity	\$75.00/each

EXHIBIT B
UNIT PRICE SCHEDULE
SOILS/MATERIALS/LABORATORY TESTS

Soil

Moisture/Density Relationship	\$150.00/each
Sieve Analysis	\$75.00/each
Plasticity Index	\$75.00/each
#200 Wash	\$35.00/each
Consolidation (time/rate, 8 increments)	\$360.00/each
Consolidation (additional load increments)	\$50.00/each
Specific Gravity	\$50.00/each
In-situ Density (ring sample)	\$17.00/each
Hydrometer	\$160.00/each
Moisture Content	\$8.00/each

Reinforced Concrete Testing

Mix Design	Rates Upon Request
Compressive Strength — Standard Cylinder	\$15.00/each
Compressive Strength — Cored Sample	\$25.00/each
Flexural Strength — Standard Beam	\$30.00/each
Unit Weight	\$25.00/each
Shotcrete Panels — Three Cores/Panel	\$120.00/each

Aggregate Evaluation

Rock Core Compressive Strength	\$75.00/each
Mechanical Sieve Analysis	\$75.00 each
#200 Wash	\$35.00/each
Specific Gravity — Coarse	\$45.00/each
Specific Gravity — Fine	\$75.00/each
Soundness — Sodium or Magnesium Sulfate per Fraction (three fractions minimum)	\$60.00/each
Sand Equivalent	\$60.00/each
Fractured Face	\$65.00/each
Flat and Elongated Particles (per screen)	\$30.00/each
Clay Lumps and Friable Particles	\$80.00/each
Alkali Reactivity (chemical method)	\$350.00/each
Lightweight Pieces (< 2.0 specific gravity, coal and lignite)	\$165.00/each
Organic Impurities	\$50.00/each
MOH's Hardness	\$40.00/each
Unit Weight (dry-rodded)	\$60.00/each
Los Angeles Abrasion — ASTM C131	\$125.00/each
Los Angeles Abrasion — ASTM C535	\$150.00/each

NOTE: This schedule includes AEE's unit rates for laboratory testing requested most frequently. Our laboratories are equipped to perform a variety of other tests for soils, aggregates, concrete, masonry, asphalt, steel, fireproofing, roofing and painting. Should you desire unit rates for other testing, require results on a rush basis or wish to discuss quantity discounts, please contact Mark Liebman, Ken Sahi, or Tim Hyden at (425) 820-4669. Unit prices include standard sample preparation, internal quality control review and preparation of computer-generated reports. A Laboratory Technician Rate of \$50 per hour will apply for specialty testing or samples that require preparation in addition to that specified by the designated test standard.

**EXHIBIT B
UNIT PRICE SCHEDULE
SOILS/MATERIALS/LABORATORY TESTS**

Structural Reinforced Masonry, Grout, and Mortar Testing

Mix Design — Grout and Mortar (three points)	Rates Upon Request
Mix Design — Confirmation	\$200.00/each
Compressive Strength — 2x2 cubes	\$15.00/each
Compressive Strength — 2x4 Grout and Mortar Cylinders	\$15.00/each
Compressive Strength — 4x8 Grout Cylinder	\$15.00/each
Compressive Strength — 4x8 Grout Prism UBC 24-28	\$15.00/each
Compressive Strength — Grouted Masonry Prism UBC 24-28	\$75.00/each
Compressive Strength — Hollow Masonry Prism UBC 24-26	\$60.00/each
Compressive Strength — CMU	\$40.00/each
Compressive Strength — Structural Brick	\$30.00/each
Moisture Content, Absorption and Unit Weight of CMU	\$50.00/each

Asphalt Evaluation

Mix Design — Three Oil Contents (excluding aggregate testing)	Rates Upon Request
Mix Design — One Point Confirmation	\$400.00
Extraction	\$75.00/each
Gradation	\$75.00/each
Marshall Density	\$75.00
Marshall Density, Stability and Flow	\$100.00
Density of Cores	\$25.00
Thickness of Cores	\$15.00
Maximum Theoretical Specific Gravity	\$75.00
Strip Test	\$75.00
Compressive Strength of Bituminous Mixtures	\$45.00
Retained Stability of Bituminous Mixtures	\$250.00
Index of Retained Strength	\$300.00

Soil-Cement Testing

Mix Design	Rates Upon Request
Freeze — Thaw (three briquettes)	\$275.00/set
Wet/Dry (three briquettes)	\$250.00/set
Unit Weight (three briquettes)	\$140.00/set
Compressive Strength (three briquettes)	\$200.00/set

Equipment

	<u>Half/Full Day</u>
Coring Machine	\$45.00/\$75.00
Generator	\$25.00/\$40.00
Nuclear Density Gauge	\$13.00/\$25.00
Pachometer (R-meter)	\$45.00/\$75.00
Schmidt Hammer	\$25.00/\$40.00
Windsor Probe	\$25.00/\$40.00
Paint Thickness Gauge	\$15.00/\$25.00
Skidmore	\$25.00/\$40.00
NDT Equipment (ultrasonic, magnetic particle, dye-penetrant, includes operator)	\$48.00/hour
Profilograph (floor flatness/levelness, includes operator)	\$60.00/hour
Ground Penetrating Radar (includes operator)	\$97.00/hour
Expendable Items/Expenses	Cost plus 15%



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: WES HILL, P.E., PUBLIC WORKS DIRECTOR
SUBJECT: POINT FOSDICK DRIVE IMPROVEMENT PROJECT - CONSULTANT SERVICES CONTRACT
DATE: APRIL 5, 1999

INTRODUCTION/BACKGROUND

The Point Fosdick Drive Improvement Project, Phase 2, will provide for a five-lane section extending south from the recently completed five-lane section (approximately 1,000-ft. south of Olympic Drive) to 44th Street. On January 18, 1999, the Transportation Improvement Board (TIB) authorized \$57,600 of UATA funds for the design phase for this project retroactive to December 17, 1998. On January 11, 1999 Council authorized execution of a Consultant Services Contract with the consulting engineering and surveying firm Skillings-Connolly, Inc., to perform a base map survey for this and the Harborview Drive Street End projects. This work has been completed.

At this time, consultant services are needed to complete the design, prepare the plans, specification and estimates, and perform other related services for the construction of the Point Fosdick Drive Improvement Project (Phase 2).

After reviewing the Consultant Services Roster, Skillings-Connolly, Inc., was selected as the most qualified to perform the work. Their selection was based on their work on the project, extensive municipal experience including use of the Washington State Department of Transportation plans and specifications, and ability to meet the project schedule.

Council approval of the Consultant Services Contract is being requested.

POLICY CONSIDERATIONS

Skillings-Connolly, Inc. is able to meet all of the City's standard insurance provisions for professional services contracts.

FISCAL CONSIDERATIONS

Funds are available for this work in the Street Fund.

RECOMMENDATION

I recommend that the Council authorize execution of the Consultant Services Contract with Skillings-Connolly, Inc., for engineering services for the Point Fosdick Drive Improvement Project, Phase 2, in an amount not to exceed fifty-six thousand five hundred ninety-five dollars and seventy-three cents (\$56,595.73).

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
SKILLINGS – CONNOLLY INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and **Skillings - Connolly Inc.** organized under the laws of the State of Washington, located and doing business at **PO Box 5080, Lacey, Washington 98503** (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the **design of the Point Fosdick Drive Improvement Project**, and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated **April 6, 1999**, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed **fifty-six thousand five hundred ninety-five dollars and seventy-three cents (\$56,595.73)** for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. **PROVIDED, HOWEVER**, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement.

The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed by December 31, 1999; provided however, that additional time shall be granted by the City for excusable delays or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to one consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same

to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that notification will be given to the City of Gig Harbor for any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will

notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Public Works Director and the City shall determine the term or provision's true intent or meaning. The City Public Works Director shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Public Works Director's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

Steve Thomas, P.E.
Skillings-Connolly Inc.
PO Box 5080
Lacey, WA 98503

Wes Hill, P.E.
Director of Public Works
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 19__.

By: Thomas R. McChie
Its Principal

The City of Gig Harbor
By: _____
Mayor

Notices to be sent to:
CONSULTANT
Steve Thomas, P.E.
Skillings-Connolly Inc.
PO Box 5080
Lacey, Washington 98503

Wes Hill, P.E.
Director of Public Works
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

EXHIBIT A

SCOPE OF SERVICES

Project No. 9806

PROJECT TITLE: Point Fosdick Drive Northwest Improvement Project.

LOCATION OF PROJECT: This project is located in Section 17, 20, and 28, T 21 N., R2 E, W.M. in Gig Harbor, Washington, and is Point Fosdick Drive Northwest from 1000 ft. south of Olympic Drive to 300 ft. south of 44th Street NW.

DESCRIPTION OF PROJECT: The Point Fosdick Drive Northwest Improvement Project will improve approximately 0.27 miles of Minor Arterial roadway. The proposed work will widen the existing three lane roadway to a five lane facility with a width of 65 ft.(curb to curb). The new roadway section will include four 11-ft. wide through lanes, one 11-ft. wide turn lane, curbs and gutters, two 5-ft. bike lanes, two 5 ½-ft. wide sidewalks, and landscaped planter strips where right-of-way is available. The project will include storm drainage collection, conveyance and treatment facilities, landscaped median with left-turn pockets where feasible, and street lighting. Point Fosdick Drive was originally a two lane facility paved with PCCP. The pavement has since been widened with ACP to accommodate a two-way left turn lane and shoulders. This entire structural section will be removed and replaced with a new section similar to that used by the WSDOT to the north. The terrain is generally flat throughout the project length and there are no changes anticipated to the existing profile grade. There are no horizontal curves within the project limits. The ADT on Point Fosdick Drive Northwest is currently 13,500.

This project will upgrade Point Fosdick Drive Northwest to current design and safety standards including the City's Design Manual and Public Works Standards. Safety considerations for motorists, bicyclists and pedestrians will all be aspects of this project.

SECTION 100 PRELIMINARY STUDIES

Task 101 -- Soils Investigation. Skillings-Connolly, Inc. (S-C) will not conduct soils exploration for this project. The structural section used by WSDOT in their abutting project (to the north) will be used for this project.

Task 102 -- Collect Available Data From CITY Sources. Information needed will include traffic counts, accident records, as-built documentation for the existing road, existing utilities, and sensitive area boundaries. Work under this item includes requesting and receiving information, review of information, classifying and filing the information into project files.

Task 103 -- Clear Zone Inventory.. NOT REQUIRED SINCE POSTED SPEED IS 30MPH (Clear Zone = 2ft beyond curb)

Task 104 -- Sensitive Areas. At the conclusion of the preliminary design S-C will review the project with the CITY to determine if anticipated work to be done falls within areas thought to be sensitive areas. Wetland studies, wildlife studies, classification and the design of mitigation are not included in this scope of work. If it appears that significant sensitive area impacts are unavoidable, all work necessary to delineate and classify those affected areas, calculate the extent of the encroachment and design mitigation measures will be considered extra work and the cost to perform such services will be negotiated with the CITY.

Task 105 -- Base Maps. S-C has produced, under separate contract, an AutoCAD file of the base mapping with the following information:

**EXHIBIT A
SCOPE OF SERVICES**

- **Roadway alignment** for Point Fosdick Dr. NW and all intersecting roads between MP 0.00 and 2.92.
- **Existing Right-of-Way** for Point Fosdick Dr. NW and all intersecting roads with ties to street control.
- **All existing utilities**, including power, telephone cable storm drainage, water, and on site systems within 25' of the Right-of-Way.
- **All relevant topographic features** including existing pavement, pavement markings, drive signs, significant trees within 10 feet of edge of existing pavement and all fences, building landscaping within 25' of the Right-of-Way.
- Sufficient **3 dimensional survey points** to allow S-C to generate an accurate contour map and accurate profiles for:
 - 1) Painted centerline of Point Fosdick Dr. NW and all intersection roads and driveways within project limits.
 - 2) Edges of pavement for Point Fosdick Dr. NW and all intersection roads within the project limits.
 - 3) All road approaches within the project limits.
 - 4) All drainage features, man-made and natural, within the project limits.

S-C will extend this topo to the south for approximately 500 feet to allow for lane tapers and for potential stormwater treatment swales. Topo may also be extended to the east in existing public right-of-way immediately south of 44th Street.

SECTION 110 PRELIMINARY DESIGN

Task 111 -- Channelization. S-C will develop channelization plans for the project. These plans will show all intersecting roadways and driveways, and will depict the size and type of all road approaches.

Task 112 -- Earthwork. S-C will calculate earthwork quantities and locate catch points for grading. In the event the catch points generated with the preferred cut or fill slopes fall outside of the existing right-of-way, the slopes will be adjusted. If steeper slopes are not sufficient to bring the catch points within the right-of-way, S-C will design minor gravity type retaining walls with handrails where needed. Handrails will be incorporated where needed per City and AASHTO requirements. Final catch points will be added to the base maps. Earthwork quantities will be shown on the plan-profile sheets.

Task 113 -- Drainage Design. S-C will assemble quad maps and other resources necessary to determine drainage basin areas and flow patterns affecting drainage within the project limits. Precipitation runoff from the roadway will be assessed, along with flow patterns. It is assumed all rain water falling on the paved surface will be collected, detained, and treated. It is anticipated that treatment can be accomplished by grading flat bottomed swales along the roadway south of the widening or immediately east of Pt. Fosdick Drive and south of 44th Street. In the event that insufficient space is available a biofiltration device will be designed for installation on the south portion of the project. S-C will design retention and detention facilities as necessary for the project. Erosion control measures will be designed as required for the facility.

DELIVERABLE ITEM: Runoff Calculations. A formal hydraulic report will not be provided.

Task 114 -- Street Lighting. S-C will design street lighting for the project. Lighting will conform with City requirements.

CAPTION A
SCOPE OF SERVICES

Task 115 -- 50% Review. S-C will furnish plan profile sheets and the hydraulic calculations to the CITY and schedule a 50% review. The purpose of this review will be to discuss final design and receive comments on the proposed design prior to final plan production.

DELIVERABLE ITEM: 50% review meeting notes..

Task 116 -- Pavement Design. Pavement design will not be a part of this project. The structural section used by WSDOT in their abutting project (to the north) will be used for this project.

SECTION 130 PLAN PRODUCTION

All plan production shall be consistent with the standards followed by The CITY. The plan set will be drafted in AutoCAD v-14 using the linetypes, line weights, text styles, text heights, symbols, scales and methodology which will give them the "look and feel" of plans prepared by the CITY.

Task 131 -- Draft Plan Sheets. The following plan sheets, are anticipated:

- 1 Cover sheet w/ Vicinity Map and Legend
- 1 Summary of Quantities
- 1 Structure Notes Sheet
- 1 Typical Roadway Sections
- 3 Plan-Profile sheets at 1" = 20'
- 2 sheets of intersection/road approach details
- 2 sheets of drainage and erosion control details
- 1 Temporary Traffic Control Plan
- 1 Misc. Details Sheet
- 1 Lighting / Electrical
- 3 Channelization Sheets
- 2 Landscaping Plan Sheets

Task 132 -- Environmental Documentation. It is anticipated that an expanded SEPA checklist will be required. S-C will provide grading quantities and grading locations for submittal to the CITY project coordinator. S-C will prepare the expanded SEPA checklist and application forms.

DELIVERABLE ITEM: Information for the expanded SEPA check list.

Task 133 -- Landscape Design. S-C will retain a licensed landscape architect for the project. Landscaping is expected to include street trees, a planter strip between the curb and the sidewalk and may include a landscaped median where feasible. Design of irrigation facilities, if required, will be negotiated as extra work.

Task 134 -- 90% Plan Review. S-C will furnish plan sheets showing grading, paving, drainage, signing, striping, and lighting, details of intersections, details of driveways and quantity computations to the CITY, then schedule and attend a review session to coordinate details and discuss project direction.

DELIVERABLE ITEM: Meeting notes documenting decisions made and direction given.

SECTION 140 FINAL PS&E

Task 141 -- Revisions to Plan Sheets. The CITY will give direction for plan revisions that may be warranted. It is estimated that this item will entail relatively minor revisions to the plan sheets prior to calculation of final quantities and production of final details.

DELIVERABLE ITEM: Final plan set and copy of all design calculations including design criteria and references.

**EXHIBIT A
SCOPE OF SERVICES**

Task 142 -- Traffic Control Plan. The Special Provisions will require the contractor to submit, for approval, Work Zone Traffic Control Plans for each anticipated work zone and/or stage. S-C will provide sample traffic control plan for Pt. Fosdick Drive. This plan will depict the level of detail required for the contractors submittal.

Task 143 -- Permit assistance. S-C will assist the CITY with, and provide information necessary to complete permit applications. A SEPA Permit is the only permit anticipated at this time.

Task 144 -- Calculate Final Plan Quantities. S-C will identify bid items and calculate quantities for each item. Quantities will be summarized on the summary of quantity sheets, and calculations will be kept in a quantity calculation book, item by item. A copy of all quantity calculations will be furnished to the CITY for final plans review.

DELIVERABLE ITEM: *Quantity calculations sheets, presented in item by item form, for review of final plan set.*

Task 145 -- Bid Packet. S-C will incorporate Ammendments and prepare Special Provisions based on WSDOT Standard Specifications. S-C will also produce a photo ready copy of the complete bid packet in a format consistent with a WSDOT funded project.

Task 146 -- Engineers Estimate of Probable Cost. S-C will produce an estimate of probable construction cost for the project, including engineering, contingencies, and other "below the line" items using bid items and quantities.

SECTION 150 PROJECT MANAGEMENT COMMUNICATION

Task 151 -- Quality Assurance and Quality Control. S-C will provide project management, quality assurance and quality control throughout the life of the project. The hours estimated for the individual task elements includes time for on-going QA/QC reviews and principal involvement. This task element provides for the final review of the project by the project manager and principal in charge prior to project sign-off.

Task 152 -- Clerical and Managerial Time for Billing and Accounting. It is assumed that monthly bills will be submitted, with an explanatory report from the project manager.

DELIVERABLE ITEM: *Monthly billings with letter format explanation of work accomplished and unusual situations encountered.*

SECTION 160 CONSTRUCTION ENGINEERING

Task 161 -- Construction Contract Administration and Inspection. Construction inspection services are not included in this scope of work. If the CITY elects to have S-C provide these services, they will be negotiated as extra work.

Task 162 -- Construction Engineering. S-C will provide assistance with issues which arise during construction. No specific issues are foreseen at this time but it is assumed that there will be occasion for the CITY to request assistance with contract document interpretation, changes in the work, or unforeseen conditions. The estimated amount of periodic services is shown on the attached spread sheet. Should situations arise which result in a work effort that exceeds the hours shown, the extra effort will be considered extra work. No "extra" work shall be performed except through a contract change order, except as provided for supplemental services.

**EXHIBIT A
SCOPE OF SERVICES**

SECTION 170 SUPPLEMENTAL SERVICES
--

Task 171 -- Supplemental Services (Optional On-Call). S-C shall perform supplemental tasks as requested by, and agreed to in writing by the City. Scope and budget will be prepared and agreed to on an individual task assignment basis. If a task order is not awarded to S-C, S-C will not be compensated for preparation of its scope and budget proposal for that task order.

An allowance of \$ 5,147.51 (10% of contract amount) has been incorporated into the budget for "on-call" services.

-- End of Scope of Work --

All documents will be prepared in MS Word '97 format. Copies of all submitted work products will be submitted in electronic file format on compact disk / computer disk.

EXHIBIT B – SCHEDULE OF RATES AND ESTIMATED HOURS

PROJECT NAME: Point Fosdick Drive Improvement Project		PRINCIPAL	R-O-W NEGOTIATOR	PROJ. ENGINEER/MGR.	ENGINEER	TECHNICIAN	INSPECTOR	PROF. SURVEYOR	2 MAN SURVEY CREW	3 MAN SURVEY CREW	CLERICAL
TASK #	TASK DESCRIPTION										
100	PRELIMINARY STUDIES										
101	Soils Investigation			1							
102	Collect Data			2	4						
103	Clear Zone Inventory										
104	Sensitive Areas				1						
105	Base Maps				1	4		2	8		
110	PRELIMINARY DESIGN										
111	Channelization			4	16	16					
112	Earthwork			4	24	8					
113	Drainage Design			8	40	16					
114	Street Lighting			4	4	4					
115	50% Review w/ City	1		4	4	4					
116	Pavement Design			1							
130	PLAN PRODUCTION										
131	Draft Plan Sheets (19 ea.)			40	80	120					
132	Environmental Document			2	4						4
133	Landscape Design				4	8					
134	90% Review w/ City	1		4	4	4					
140	FINAL PS&E										
141	Revisions to Plans			8	16	16					
142	Traffic Control Plan			8	8						
143	Permit Assistance			4	4						
144	Calculate final Plan Quantities			4	8	8					
145	Bid Packet			8	32						24
146	Engineers Estimate			2	8						
150	PROJECT MANAGEMENT										
151	Quality Assurance and Control	2		8		8					
152	Billing and Accounting	2									8
160	CONSTRUCTION SERVICES										
161	Const. Contract Administration										
162	Construction Engineering	2		4	4	4					

EXHIBIT B-1

CONSULTANT FEE DETERMINATION -- SUMMARY SHEET

PROJECT NAME: Point Fosdick Drive Improvement Project

DIRECT SALARY COST (DSC):

Classification	Man Hours	x	Rate	=	Cost
PRINCIPAL	8	x	\$44.54	=	\$356.32
R-O-W NEGOTIATOR	0	x	\$25.72	=	\$0.00
PROJ. ENGINEER/MGR.	120	x	\$34.00	=	\$4,080.00
ENGINEER	262	x	\$25.17	=	\$6,594.28
TECHNICIAN	220	x	\$20.14	=	\$4,429.70
INSPECTOR	0	x	\$30.00	=	\$0.00
PROF. SURVEYOR	2	x	\$30.00	=	\$60.00
2 MAN SURVEY CREW	8	x	\$36.67	=	\$293.33
3 MAN SURVEY CREW	0	x	\$55.00	=	\$0.00
CLERICAL	34	x	\$14.00	=	\$476.00
Total Hours =	654				Total Cost = \$16,289.63

OVERHEAD Including Salary Additives (OH):

OH Rate X DSC	159.00%	x	\$16,289.63	=	\$25,900.51
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FIXED FEE (FF):

FF Rate X (DHC+OH)	15%	x	\$42,190.15	=	\$6,328.52
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REIMBURSABLES:

MILEAGE @	200	x	0.31	=	\$62.00
MISC. EXPENCE				=	\$120.00
			SUB TOTAL		\$182.00

SUBCONSULTANT COST (See Exhibit G):

GEOTECHNICAL @	0.00	x	1.15	=	\$0.00
Landscape Architect	2500.00	x	1.10	=	\$2,750.00
SUBCONSULTANTS @	0.00	x	1.10	=	\$0.00
SUBCONSULTANTS @	0.00	x	1.10	=	\$0.00
			SUB TOTAL		\$2,750.00

TASK 171 - SUPPLEMENTAL SERVICES (On Call):

SUB TOTAL	\$51,450.67	x	10%	=	\$5,145.07
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GRAND TOTAL = \$56,595.73

PREPARED BY: *Stephen Thomas*

DATE: 7-5-1999



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: WES HILL, P.E., PUBLIC WORKS DIRECTOR
SUBJECT: STREET PAVEMENT MARKING - CONTRACT AWARD
DATE: APRIL 7, 1999

INTRODUCTION/BACKGROUND

The 1999 budget provides for two separate application of pavement marking to the City's arterial streets.

Potential contractors capable of performing pavement marking were contacted in accordance with the City's Small Works Roster Process (Resolution No. 411). Two contractors responded with the following price quotation proposals:

Apply-A-Line, Inc.	\$ 19,535.30
Stripe Rite, Inc.	\$ 18,154.84

Based on the price quotation proposals received, the apparent lowest price quotation received was from Stripe Rite, Inc. in the amount of eighteen thousand one hundred fifty-four dollars and eighty-four cents (\$18,154.84). They have previously performed pavement marking for the City and their work was satisfactory.

This memorandum requests Council authorization to award and execute the contract for the work. It is anticipated that the work will be completed within four weeks after contract award, weather permitting.

FISCAL CONSIDERATIONS

The amount budgeted for this work is \$40,000. Funds are available for this work.

RECOMMENDATION

Staff recommends the Council authorize award and execution of the contract for Pavement Marking on City Streets, Project No. 99-01 to Stripe Rite Inc., as the lowest responsible respondent, for their price quotation proposal amount of eighteen thousand one hundred fifty-four dollars and eighty-four cents (\$18,154.84).



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: *78* MAYOR WILBERT AND CITY COUNCIL
FROM: PLANNING-BUILDING DEPT., RAY GILMORE
SUBJECT: FIRST READING OF ORDINANCE - AMENDMENT TO SECTION
18.04.230, ESTABLISHING SEPARATE COMMENT AND APPEAL
PERIOD UNDER SEPA
DATE: APRIL 7, 1999

BACKGROUND/INTRODUCTION

The City currently consolidates the required 14-day SEPA comment period with the 14-day appeal period (Section 18.04.230 GHMC). An additional 7 days is allowed beyond the comment period for the filing of an appeal.

POLICY ISSUES

There have been concerns raised by the general public that the concurrent running of the SEPA comment period with the SEPA appeal period does not provide an adequate opportunity to comment on a proposal prior to considering the filing of an appeal. Staff agrees that the current requirement almost forces the filing of an appeal, as there is limited opportunity for staff review of comments prior to the expiration of an appeal period. Consequently, staff believes that this section of the City's SEPA ordinance should be revised to allow a separate comment and appeal period.

FISCAL IMPACT

There would not be a fiscal impact to the city from the adoption of this amendment.

RECOMMENDATION

This is first reading of the ordinance. Staff recommends adoption of the ordinance following the second reading.

ORDINANCE NO. _____

**AN ORDINANCE OF THE GIG HARBOR CITY COUNCIL
ADOPTING AN AMENDMENT TO TITLE 18 OF THE GIG
HARBOR MUNICIPAL CODE PERTAINING TO THE
CITY'S ENVIRONMENTAL POLICY ORDINANCE;
AMENDING SECTION 18.04.230(B) TO PROVIDE FOR
THE FILING OF AN APPEAL OF A SEPA THRESHOLD
DETERMINATION AFTER THE COMMENT DUE DATE**

WHEREAS, the City of Gig Harbor Environmental Policy Ordinance currently provides an appeal period for a SEPA threshold determination concurrent with the public comment period on a SEPA threshold determination; and,

WHEREAS, the current process for SEPA comment and appeal of a threshold determination does not provide adequate time for interested parties to consider an appeal of a SEPA threshold determination prior to filing an appeal; and,

WHEREAS, the public's interest is better served by providing for a separate SEPA comment period, followed by a SEPA threshold determination appeal period.

**THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR DO
ORDAIN AS FOLLOWS:**

Section 1. Section 18.04.230 (B) of the Gig Harbor Municipal Code is hereby amended to read as follows:

18.04.230 Appeals.

* * *

B. All SEPA appeals must be filed in writing with the responsible official within 14 calendar days after notice of a ~~final decision is issued pursuant to GHMC 19.05.009 or after other notice that the decision has been made and is appealable~~ the final comment due date on a SEPA threshold determination, pursuant to GHMC Section 19.05.009; ~~provided, that in order to allow public comment on a DNS prior to requiring an appeal to be filed, this appeal period shall be extended for an additional seven days.~~ The hearing date for appeals of declarations of significance issued before a decision on the permit shall be not more than 45 days from the date the appeal is filed.

* * *

Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. This ordinance shall be in full force and effect five days after its passage and publication as required by law.

APPROVED:

MAYOR, GRETCHEN A. WILBERT

MOLLY TOWSLEE, CITY CLERK

SUMMARY OF ORDINANCE NO. _____
of the City of Gig Harbor, Washington

On the _____ day of _____, 1999, the City Council of the City of Gig Harbor, passed ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE GIG HARBOR CITY COUNCIL ADOPTING AN AMENDMENT TO TITLE 18 OF THE GIG HARBOR MUNICIPAL CODE PERTAINING TO THE CITY'S ENVIRONMENTAL POLICY ORDINANCE; AMENDING SECTION 18.04.230(B) TO PROVIDE FOR THE FILING OF AN APPEAL OF A SEPA THRESHOLD DETERMINATION AFTER THE COMMENT DUE DATE

The full text of this Ordinance will be mailed upon request.

DATED this _____ day of _____, 1999.

MOLLY TOWSLEE, CITY CLERK



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: PLANNING STAFF *SO*
DATE: APRIL 7, 1999
SUBJECT: APPEAL BY IVAN AND AURORA MATLOCK AND THE HARBOVIEW CONDOMINIUM HOMEOWNER'S ASSOCIATION OF HEARING EXAMINER'S DECISION ON SDP-97-03 – ADAM ROSS - SUBSTANTIAL DEVELOPMENT PERMIT FOR DOCK EXTENSION.

INTRODUCTION/BACKGROUND

Mr. Adam Ross applied for a substantial development shoreline permit in April 1997 to extend his existing dock an additional 110 feet. The extension would involve installation on one more floats, 8 foot wide. The proposed lease area would extend out to a previously established non-leasable area just west of the outer harbor line. The Examiner approved the requested permit on March 30, 1998. Notice of the Hearing Examiner's decision was sent to all parties of 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. The City Council subsequently remanded the item back to the Hearing Examiner to conduct another public hearing, which was held on December 16, 1998. After hearing additional testimony, the Hearing Examiner rendered a decision on the proposed dock extension on January 4, 1999 and approved the permit application, subject to conditions.

An appeal of the Hearing Examiner's decision was again submitted by Ivan and Aurora Matlock, both individually and in behalf of the Harborview Condominium Homeowner's Association on January 19, 1999. The appeal, prepared by the appellant's attorney Stephanie A. Arend, challenges several of the Hearing Examiner's findings. A copy of the appellant's letter is attached for the Council's consideration. Also attached is a copy of the staff report, the hearing examiner's decision, and the site plan as shown on the Bolton Survey (Exhibit B) and on the Ross Dock Float Extension drawing (Exhibit C). Other exhibits will be available at the meeting.

POLICY

GHMC Section 19.06.005(A) states that the closed record appeal hearing shall be on the record before the hearing body and no new evidence may be presented. This is not a public

hearing. The Council may accept oral argument by the appellant and the applicant. The Council must review the information submitted in the appeal statement and determine if there is cause to uphold the examiner's decision, modify the hearing examiner's decision or to deny the requested shoreline permit.

ANALYSIS

The staff has reviewed the appeal statement submitted by the appellants and makes the following observations (corresponding to the numbered findings/conclusions addressed in the appeal statement and as stated in the Hearing Examiner's decision dated December 31, 1998):

Finding of Fact/Conclusion of Law No. 3

The appellants state that there is no evidence in the record to support the Hearing Examiner's statement on page 7 of his decision that the Harborview Marina property had been altered with fill. The staff disagrees. The aerial photograph reviewed by the Hearing Examiner reveals a protruding, nearly square shoreline around the edge of the upland parking lot which is substantial evidence that the Harborview Marina property was at some point altered with fill. The Examiner mentioned this to show that the Harborview Marina was not built perpendicular to the *natural* shoreline while the Ross dock was built perpendicular to the shoreline. The purpose of this finding was to respond to the appellants' attorney's claim that the Ross dock converged into the Harborview Marina. It was the Examiner's position that it was the Harborview Marina that converged into the Ross dock since the Ross dock was built first.

The appellants also claim that the Examiner's statement at the bottom of page 7 of his decision concerning the convergence of the Harborview Marina into the Ross dock is irrelevant. While the staff agrees that the issue is irrelevant, the Examiner's response was not irrelevant because he was responding to the appellant's attorney, Ms. Arend, who raised the issue of convergence at the public hearing and who claimed that it was the Ross float that converged toward the Harborview Marina (See transcript pg. 42). In her statement concerning the convergence, Ms. Arend said, "We urge that you take this into your serious consideration and deny their application for a shoreline development permit." The staff believes that the Examiner's findings show that he did indeed take this issue into his "serious consideration". It is clear from the appeal statement that the appellants wish the City Council to also take the issue of convergence into consideration. (see page 3 of appeal statement). However, there is nothing the Shoreline Master Program (SMP) which addresses convergence or which regulates the angle of piers, floats and docks.

The appellants claim that the convergence results in a separation (at its narrowest point) of only 30 feet which they say will "preclude or significantly impair access to virtually every one of the western Harborview slips." This was the same claim made at the hearing by Ms. Arend. After carefully questioning an owner of a slip on the western side, the Examiner concluded that there are only 5 slips that the Ross extension will have some impact upon.

The staff agrees with the Examiner and believes that Ms. Arend's comment is exaggerated. It is difficult to see how access to any of the western slips will be precluded when there is 30 feet of room between lease areas at the narrowest point (plus additional room between lease lines and moored vessels). There was no evidence presented at the hearing to support the appellant's claim. The Examiner considered this claim "spurious".

Finally, the appellant's reliance upon the testimony of Adam Ross to support her statement that the space between the Ross Float and the Harborview Marina will only be 30 feet is without merit. Mr. Ross did not state that there will only be 30 feet between the Ross float and the Harborview Marina; he stated that "30 feet is what I drew up" and that "I thought the 30 feet was more than reasonable since the City asked for 24." The only 30-foot width identified on any of Mr. Ross's submitted drawings is the 30 feet shown between the proposed Ross lease area and the Harborview Marina lease area. It is reasonable to assume that this is the 30 feet Mr. Ross was referring to in his comments cited by the appellants. Since Mr. Ross has indicated a 22-foot setback between his proposed dock and the edge of his proposed lease area (see Exhibit B), it is clear that that he expects his float to be at least 52 feet from the Harborview Marina lease area; not 30 feet as alleged by the appellants.

Finding of Fact/Conclusion of Law No. 5

The appellants state the Mr. McConnell's Finding #5 on page 8 of his decision is in direct conflict with his previous decision regarding setback requirements for commercial fishing moorage. This apparent conflict likely results from the confusing language of the Shoreline Master Program Section 3.11.7 concerning setbacks, which states:

"All moorage, wharves, piers, floats and vessels moored at marina facilities shall be located no closer than twelve feet from the property line. . ."

It was initially determined by the staff at the time of the first hearing that the 12-foot setback stated in SMP Section 3.11.7 applies to all moored vessels because the above-stated requirement says "All moorage . . . shall be no closer than twelve feet from the property line.". However, Mr. Ross' attorney, Mary K. High, challenged this interpretation in her appeal of the Examiner's initial decision, stating that it is only piers, floats and vessels moored at marinas that must conform to the twelve-foot setback requirement. The Examiner's most recent decision therefore favors Ms. High's interpretation where moored boats are concerned. However, the staff believes that Mr. McConnell erred when he stated that, "There is no similar setback requirement in the Shoreline Master program for commercial fishing moorage facilities . . ." His statement would have been consistent with Ms. High's interpretation had he mentioned commercial fishing *vessels* as opposed to commercial fishing *moorage facilities*. The staff believes that this may have been his intent.

Ms. Arend correctly states that the Shoreline Master Program has not been amended recently and that the Shoreline Master Program requires a minimum setback of 12 feet from state lease land boundaries. It appears that Mr. Ross' proposal exceeds the minimum

requirements because his Ross Dock Float Extension drawing (Exhibit B) states a 22-foot setback.

The appellants object to the statement in Finding #5, page 8 of the Examiner's decision which says "the minimum clearance between the proposed Ross float extension, with a 17 foot wide fishing boat alongside, and the Harborview Marina exceeds even the requirement for two side by side marinas." They state that the SMP requires that setbacks be measured from float to the lease line and not from the float to the next abutting structure. The staff disagrees in principle. First, the Examiner made no mention of the "abutting structure" in the disputed finding. Second, Section 13.11.7 of the SMP states that setbacks from property lines or lease lines may be reduced upon submission of a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines. The SMP states that the purpose of this agreement is to provide a minimum ingress/egress of twenty-four feet. Even if the Ross dock were considered a "marina" which has setbacks measured from vessels rather than floats and piers only, the required ingress/egress between the Ross dock and the Harborview Marina would be exceeded with the 30-foot space between the proposed Ross lease area and the Harborview Marina lease area. This would require, of course, a joint access agreement between adjacent property owners. Yet because the Ross dock is not a marina, there is no 12-foot setback requirement for moored vessels and therefore no requirement for a joint access agreement.

The Examiner's statement in his Finding #5 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" is incorrect. A correct 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."

Finding of Fact/Conclusion of Law No. 6

The appellants state that the survey map submitted by Mr. Ross was Exhibit C; not B. The appellants are correct. The Examiner incorrectly transposed the titles of Exhibits B & C on page 8, Finding #6 of his written decision. However, it appears that his conclusions referenced the titles of the exhibits correctly.

The appellants state that the distances cited by the Examiner in his Finding #6 are incorrect because there is not 62 feet between the proposed float and the Harborview slips at their nearest points. The staff disagrees. The Examiner did not state a specific dimension of 62 feet; he stated in his Finding #6 an approximate dimension of 45 feet between a 17-foot fishing vessel moored on the Ross dock and the Harborview Marina.

The appellants state that the Jack Bolton survey (Exhibit C) is unreliable because it was not signed, dated, recorded or sealed with the surveyor's seal. Moreover, the appellants state that the drawing is not to scale. The appellants are correct. The drawing is not signed or stamped by Mr. Bolton. This is not a problem as far as Mr. Ross' application is concerned because a survey is not a shoreline permit application requirement. However, a *scaled* drawing is required and both the Bolton Survey (Exhibit C) and the Ross Dock Extension drawing (Exhibit B) were submitted as scaled drawings. As stated by the appellants, the Bolton Survey does not scale correctly. Moreover, there is a 6-foot discrepancy between the stated dimension on the Bolton Survey and the cumulative dimensions shown on the Ross Dock Float Extension drawing. Nonetheless, the errors are of a minor nature which do not hinder a determination that setback requirements can be reasonably and fully complied met. The proposed setback of 22 feet on the east side of the proposed dock is 10-feet more than required by code. This will easily accommodate the 6-foot discrepancy if necessary. In addition, the applicant could choose to reduce the width of the float to five feet as scaled on the drawing. Setback compliance could then be verified by submittal of an accurately scaled and dimensioned drawing at the time of building permit application.

Finding of Fact/Conclusion of Law No. 7

The appellants disagree with the Examiner's statement in Finding #6, page 7 of his decision that Exhibit M was "acknowledged to not be based on a survey." The appellants argue that this statement is in direct conflict with the testimony of Mr. Davies who prepared the exhibit. The staff believes that the Examiner was essentially correct. Mr. Davies acknowledged that he used a survey as a basis for his drawing, but he further testified that the drawing is based on "natural field measurements" that he personally took to determine the location of the Ross dock. Therefore, an important part of the drawing – i.e., the Ross dock – was *not* based upon a survey. Moreover, upon being questioned by Mr. Ross' attorney, Mary K. High, Mr. Davies acknowledged that he was not a registered surveyor and that he simply did his best using his own measurements.

The distinction here is critical, for while Mr. Davies may have accurately measured the *distance* between the surveyed points on the Harborview Marina site and the existing piling on the Ross float, Mr. Davies could not assure the proper *angle* in his measurements without proper surveying techniques. If the angles of his measurements were off even slightly, his drawing would show an incorrect angle of the Ross float. This appears to be the case, for a careful review of the aerial photograph reveals that the angle of convergence is actually less than the angle indicated on Mr. Davies drawing (Exhibit M). If one were to extend the line of Mr. Ross' existing dock out the proposed distance on the aerial photograph, the distance between the extended line and the existing Harborview Marina would be approximately 52 feet, which is the same dimension that can be deducted from Mr. Ross' drawings. The staff therefore concludes that Exhibit M is not reliable for determining distances between the two facilities.

Finding of Fact/Conclusion of Law No. 8

The appellants again draw attention to the inconsistencies between Exhibits B and C and states that the Examiner cannot rely on information that he does not find credible. The staff responded to this issue above.

Finding of Fact/Conclusion of Law No. 9

The appellants state that “the overwhelming and undisputed evidence in the record is that at least four of the 38 foot long slips on the western side of the Harborview marina will lose access.” The staff disagrees. It was acknowledged during the hearing that these four slips will have limited access, but it was not suggested that they will have no access. The slips that the Examiner concluded “will not be greatly affected” (Finding 9, page 9) are those slips on the west side of the marina that are already constrained by the *existing* Ross dock. The proposed extension will not bring the Ross dock any closer to these slips. Again, the staff believes that this issue is exaggerated.

Finding of Fact/Conclusion of Law No. 10

The appellants disagree with the Examiner’s conclusion #9 on page 9, wherein he states that approval of the Ross dock will achieve a “balance” between uses. This conclusion was based upon the Shoreline Master Program’s (SMP’s) goal to retain a “balance” between a variety of uses, and to not emphasize one use at the expense of others. The appellants argue that the appropriate balance is already in place without the Ross dock because the strict language in the SMP states that the City of Gig Harbor “has achieved” this balance and that it is the goal to “retain this balance”.

The staff disagrees with the appellants’ application of this language. By strict application of their reasoning, one would have to conclude that the stated balance was in effect the day the SMP was adopted and that it has remained in balance up to the time the Ross dock application was submitted. There is no evidence of this. In fact, there have been several projects developed since the current SMP was adopted with the bulk of development being unrelated to the commercial fishing industry. Therefore, if a balance was indeed in place at the time of the SMP adoption, subsequent marina development has skewed that balance. The staff suggested to the Hearing Examiner that the balancing issue might be addressed by considering the number of boats that could be moored within equivalent areas between these two uses (i.e., marinas and commercial fishing boats). It is clear that Harborview Marina has far more moorage spaces per square foot than the Ross dock and that the ratio of marina-type moorage to commercial fishing vessel moorage within the harbor has increased significantly since adoption of the SMP.

STAFF CONCLUSIONS

The staff concludes that the Examiner's findings accurately describe and/or address the issues that were reviewed and discussed during the public hearing, and were based upon correct information, except for the following:

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

RECOMMENDATION

The staff recommends that the City Council uphold the Hearing Examiners decision based upon his findings with the following corrections:

1. The second paragraph of Findings and Conclusions No. 5 should read: "There is no 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 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 should read: "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."

The staff further recommends that an additional condition of approval be added to the conditions specified in the Hearing Examiner's December 31, 1998 decision, as follows:

8. 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.

A draft resolution which upholds the Hearing Examiners decision except as modified with the above recommended changes is attached for the Council's consideration.

CITY OF GIG HARBOR
RESOLUTION # _____

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, 1998 - 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 on 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 ___ day of ____, 1999.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator/Clerk

Filed with City Clerk: April 7, 1999
Passed by City Council:

LAW OFFICES

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January 19, 1999

HAND DELIVERED

City of Gig Harbor
Planning & Building Services
3125 Judson Street
Gig Harbor, WA 98335

*For
April 12th*

Re: **NOTICE OF AP** *Council* **ED 1/4/99**
Application for *Packet*
Substantial Development *(Needs staff report)* **(17-03)**
Adam J. Ross Sr., Applicant
Parcel No. 597000-001-0

To Whom it May Concern:

Ivan and Aurora Matlock, individually and on behalf of the Harborview Condominium Homeowners Association, hereby appeal Hearing Examiner Ron McConnell's Decision dated January 4, 1999 approving Adam J. Ross Sr.'s Application for Shoreline Management Substantial Development permit (SDP 97-03) for a float extension 8 feet wide by 105 feet long. Enclosed with this appeal is the appeal fee of \$120. Please advise the undersigned immediately if anything further is required to perfect this appeal.

A. Appellant's name, address and phone number.

Ivan and Aurora Matlock
10809 Moller Dr. NW
Gig Harbor, WA 98332
(253) 858-8123

Harborview Condominium Homeowner's Association
3219 Harborview Drive
Gig Harbor, WA 98335

RECEIVED
CITY OF GIG HARBOR

JAN 19 1999

PLANNING AND BUILDING
SERVICES

*Receipt #
39705
\$120.00*

January 19, 1999
Page 2

All owners of slips within Harborview Condominium Marina, listed on Exhibit G, a copy of which is attached hereto.

B. Appellant's statement describing his or her standing to appeal.

The Harborview Condominium slips are within 300 feet of the subject property. Mr. and Mrs. Matlock, and other Condominium owners, testified at the hearing and submitted letters to the Hearing Examiner in opposition to the application. Stephanie Arend appeared on behalf of Mr. and Mrs. Matlock, the Harborview Condominium Homeowner's Association, and the owners within the Marina.

C. Identification of the application which is the subject of the appeal.

Adam Ross's application for Shoreline Management Substantial Development permit (SDP 97-03) for a float extension 8 feet wide by 105 feet long, and the Hearing Examiner's Decision dated January 4, 1999, are the subject of this appeal.

D. Appellant's statement of grounds for appeal and the facts upon which the appeal is based.

The appellants assign error to the following findings of fact and conclusions of law: Nos. 3, 5, 6, 7, 8, 9, 10 and the decision approving the Shoreline Substantial Development permit and ask the City Council to overturn the Examiner's decision. In addition, Exhibit H included a letter from Ivan and Aurora Matlock, that is not listed in the Examiner's list of Exhibits.

Finding of Fact/Conclusion of Law No. 3

In Finding of Fact/Conclusion of Law No. 3, the Examiner claims that the Harborview Marina property had been altered with fill. There is no evidence in the record to support this statement. It is impossible to reach that conclusion by looking at an enlargement of an aerial photograph taken at 20,000 feet in the air. [See Exhibit J] Therefore, this finding should be overturned.

Even if the finding is not overturned, whether the Harborview property has been altered is irrelevant to whether Mr. Ross should be granted a Shoreline Substantial Development permit to extend his float.

January 19, 1999
Page 3

The Hearing Examiner also claims that the Harborview Marina was constructed in a manner which converges on the Ross float. This statement is also irrelevant. Nothing in state law or Gig Harbor code supports the proposition that the right to extend the Ross float depends upon which facility was built first. Instead, it depends upon Mr. Ross' ability to demonstrate compliance with all of the Gig Harbor Shoreline Management Program policies and goals. As set forth more fully below, Mr. Ross has failed to meet his burden of proof.

Moreover, the current relationships of the properties are undisputed. Harborview Marina Condominium is one of the few covered marinas in Gig Harbor. It contains 50 slips, which vary in length. To the east of and parallel to Harborview is the Pleasurecraft Marina. These two marinas are separated by over 60 feet. Ingress and egress to Harborview slips on the Pleasurecraft side is relatively easy. [See Exhibit N]

To the west of Harborview is the Adam Ross fishing dock and float. It is not parallel to Harborview. Instead, it angles from the shoreline toward Harborview, creating a narrow access to the slips on the west side of Harborview. [See Exhibit J] Currently, there is only about 40 feet between a vessel docked at the Ross float and the western most end of a finger in the Harborview Marina. [See Exhibit N] This makes ingress and egress to Harborview slips on the Ross side difficult at best.

Adam Ross is requesting a shoreline development permit to extend his float, by adding a new section 8 feet wide by 105 feet long. The extension continues at an angle, closing the space between the Ross float and the Harborview Marina to only 30 feet. [See Transcript, testimony of Adam Ross, pages 5, 6] The proposed float will preclude or significantly impair access to virtually every one of the western Harborview slips.

Finding of Fact/Conclusion of Law No. 5

Finding of Fact/Conclusion of Law No. 5 concludes that there is no setback requirement in the Shoreline Master Program for commercial fishing moorage facilities. This conclusion is in direct conflict to the Hearing Examiner's previous decision on the same application. Conclusion of Law No. 5 in the Hearing Examiner's decision dated March 30, 1998 states in relevant part:

[T]he amount of separation between the proposed Ross float and the Harborview Condominium Marina slips (30 feet) exceeds the amount of separation

January 19, 1999
Page 4

between floats which is required by the City. **The applicant will also need to meet setback requirements for any vessel tied to the proposed float.** (emphasis added).

The City's Shoreline Master Program has not been amended since the Hearing Examiner issued his decision in March. The Gig Harbor Shoreline Master Program requires a minimum setback of 12 feet from state lease land boundaries.

The Examiner also incorrectly concludes 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 an error of law because the measurement required by the Shoreline Master Program is from the float to the lease line and not from the float to the next abutting structure, i.e., the Harborview Marina. In this regard, regulation 3.11.7 of the existing Shoreline Master Program states in relevant part:

All moorages, wharves, piers, floats and vessels moored at marina facilities shall be located no closer than 12 feet from the property line, either private property or state lease land.

This language applies to "all" moorages, wharves, piers, floats and moored vessels. There is nothing in this language, or indeed anywhere in the Shoreline Master Program, that exempts commercial fishing floats from this setback requirement. In contrast, an exemption is provided in the Commercial Fishing section of the SMP from parking requirements. See, SMP, Section 3.06, Regulation 1.

In addition, there is no evidence to support the finding that the measurement between the float and the lease line is in compliance with this setback requirement. In fact, Adam Ross' own testimony was that boats tied to the existing float extend beyond the lease line:

We have my boat and my father's boat at times tied up there and we actually were over our lease area by a few feet. . . . You know, they were already at times with my boat and my dad's boat . . . We were actually over the lines.

January 19, 1999
Page 5

[See Transcript, testimony of Adam Ross, page 5] And the proposed float extends beyond the lease line, requiring a new lease from DNR. [See Transcript, page 37]

Finding of Fact/Conclusion of Law No. 6

Finding of Fact/Conclusion of Law No. 6 is not supported by evidence and is contrary to law. First, it refers to a survey map as Exhibit B. The survey map submitted by Mr. Ross was Exhibit C, not B.

Moreover, the distances articulated are incorrect. There is not 62 feet between the proposed float and the Harborview slips at its nearest point.

The Examiner seems to have relied on an unsigned survey, apparently prepared by Jack Bolton. Nothing about this survey is reliable, however. First, it is not signed, dated, or recorded and does not bear the surveyor's seal. Under these circumstances, it does not bear any indicia of reliability. Cf. RCW 18.43.070; ch. 58.09 RCW.

Even if the drawing were signed, however, it is clearly not to scale. The scale indicates that 1 inch equals 40 feet. That means that 1/4 of an inch equals ten feet. The proposed float extension is drawn to only 1/8 of an inch, ie 5 feet wide. Mr. Ross testified that the proposal is to build a float 8 feet wide. Clearly, the proposed float is not drawn to scale. This also renders the drawing suspect.

The drawing is also suspect in the amount of additional lease area that is required from DNR. According to the live testimony, the DNR lease will only have to be extended a maximum of two feet. [See Transcript, page 37] Yet the drawing shows a proposed lease area that appears to be 5 times as wide as the proposed 8 foot wide float, just on the Harborview Marina side. Either the testimony was wrong, or the drawing is wrong, or both.

Finally, the drawing shows a separation between the Harborview DNR lease line and the roof line of the Harborview Marina. The testimony at the hearing, and the DNR lease all state that the lease line and the roof line are the same.

Moreover, even Adam Ross testified that it would only be 30 feet from the float to the Harborview slip. [See Transcript, pages 5, 6] Mr. Ross's testimony is consistent with Exhibit M.

January 19, 1999
Page 6

There being no evidence to support this finding, it must be set aside.

Finding of Fact/Conclusion of Law No. 7

The Hearing Examiner's statement that Exhibit M was "acknowledged to not be based on a survey" is in direct conflict with the testimony of Mr. Davies. Mr. Davies testified that he was formerly employed by the Port of Tacoma in the engineering department as a technician and photographer for 26 - 1/2 years. [See Transcript, page 22] During that time, he prepared numerous exhibits and drawings like that admitted into the record in this case as Exhibit M. Mr. Davies testified that the basis of Exhibit M is Exhibit K, the survey prepared by Sitts & Hill President and licensed surveyor Tom Semon.

Davies: As a basis for this drawing, I used the drawing that was just entered as an Exhibit.

McConnell: Exhibit K, I believe. Yes. That's . . .

Davies: Prepared by Sitts & Hill. Tom Semon. The drawing, the scale of the drawing is one inch equals 20 feet. . . .

Unlike the Ross survey, Exhibit K is signed, dated, recorded, and bears the surveyor's seal. Therefore, there is no evidence to support finding of fact number 7, and it must be set aside.

Finding of Fact/Conclusion of Law No. 8

In finding of fact/conclusion of law no. 8, the Hearing Examiner acknowledges that he is not convinced Exhibit C is accurate.

depending upon which, if either, of the Exhibits is actually accurate.

This finding cannot be used to support a conclusion of law to approve the permit. The Examiner cannot rely on the information in an exhibit that the Examiner does not find credible. Therefore, finding of fact number 8 must be set aside.

January 19, 1999

Page 7

Finding of Fact/Conclusion of Law No. 9

The overwhelming and undisputed evidence in the record is that *at least* four of the 38 foot long slips on the western side of the Harborview Marina will lose access. If even one slip owner lost all access to his or her slip, that would be a significant adverse effect that would require denial of the permit. To conclude that these slips "will not be greatly affected" is to ignore the overwhelming evidence in the record. It is not within the City's authority to take property rights away from one citizen and give them to another citizen. Finding of fact/conclusion of law number 9 is not supported by the evidence in the record and must be set aside.

Finding of Fact/Conclusion of Law No. 10

The Examiner concludes that the proposed float complies with the Shoreline Master Program. There are no findings to support this conclusion and the conclusion is contrary to law.

The Gig Harbor Shoreline Master Program recognizes that there are a variety of water-dependent uses already in existence in Gig Harbor. The goals and policies of the Program support maintaining a balance of these uses and precludes emphasizing one use at the expense of others.

The City of Gig Harbor has achieved its distinctive quality through a beneficial relationship between a variety of uses. It shall be the goal of this Master Program to retain this balance and new development should not emphasize one use at the expense of others.

SMP, Part 2, Goal 2. The Ross float extension will violate these goals by elevating commercial fishing at the expense of recreational boating. The Examiner's conclusion that the proposal achieves a balance between these two uses is directly contradicted by this goal statement, which acknowledges that Gig Harbor *has achieved* a balance of uses and should retain the balance. By approving the Ross proposal, the balance Gig Harbor has achieved will be lost.

Similarly, the Ross proposal will violate applicable policies.

All developments should be designed to minimize their adverse effect on surrounding areas.

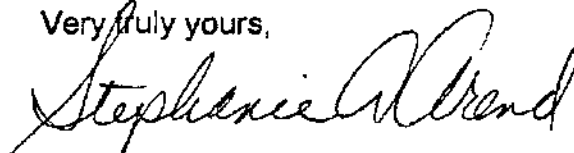
January 19, 1999
Page 8

SMP, Part 3, § 3.01, Policy 4. The record is replete with evidence on the adverse impact the Ross float will have on the Harborview Marina, not the least of which is the inability to use at least four of the 38 foot slips. There are no conditions of approval that can be or are imposed on the Ross permit that will minimize this effect.

Finally, the Examiner compares a loss of value of a Marina slip to the loss of a view by a homeowner. This analogy is like comparing apples with oranges. A better comparison would be whether one property owner has a right to block vehicular access to an adjacent property owner's property, leaving only pedestrian access. Clearly the answer is no.

The Examiner's decision is not supported by the evidence and is contrary to the Gig Harbor Shoreline Master Program. For these reasons, the appeal should be granted and the Examiner's decision reversed.

Very truly yours,



Stephanie A. Arend

SAA:lt
Enclosures

cc: Harborview Condominium Association
Ivan and Aurora Matlock
Mary Kay High, atty for Mr. Ross

JAN - 4 1999

PLANNING AND BUILDING
SERVICES

**CITY OF GIG HARBOR
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND DECISION**

APPLICANT: Adam J. Ross
CASE NO.: SDP 97-03
LOCATION: 3309 Harborview Drive
APPLICATION: Application for a Shoreline Management Substantial Development Permit for a float extension 8 feet wide by 105 feet long.

SUMMARY OF RECOMMENDATION AND DECISION:

Staff Recommendation: Approve with conditions

Hearing Examiner Decision: Approve with conditions

PUBLIC HEARING:

After reviewing the official file which included the Community Development Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Ross application was opened at 5:51 p.m., December 16, 1998, in the City Hall, Gig Harbor, Washington, and closed at 8:08 p.m. The applicants' attorney said at the end of the hearing that the applicant would waive the requirement to have a Hearing Examiner decision issued within ten days due to the complexity of the case and the Christmas holidays. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the Planning Department.

HEARING TESTIMONY:

The following is a summary of the testimony and legal argument offered at the public hearing:

From the City:

Steve Osguthorpe, Associate Planner, reviewed the history of the proposal and the staff report (Exhibit A).

From the Applicant:

Mary Kay High, Attorney for the Applicant, said:

- The applicants are asking for a shoreline permit for a float extension to provide for fishing boat storage.
- The proposal meets the Gig Harbor Shoreline Master Program.
- The DNR letter in the file should not influence the Examiners' decision.

- Fishing vessels are not in and out often, but they are gone for long periods of time during the fishing season.

Adam Ross, Jr., Applicant, referred to a folder which he had prepared for the previous hearing on this issue (entered into this record as Exhibit D) and said:

- They go fishing during the summer so there will be more maneuvering space available in the summer.
- There is a need for more commercial fishing space in Gig Harbor.
- The Shoreline Master Program says fishing boats are desired and encouraged.
- The proposed dock is not intended to go up to the lease line, except at the very end.
- He feels this is a good use for all concerned.

From the Community:

Stephanie Arend, Attorney for Harborview Marina Condo Owners Assoc. introduced a number of speakers.

William Culver entered a copy of his resume and Coast Guard License into the record (Exhibits E & F), indicated he was familiar with boats between 18' and 57' in length, and spoke about boat maneuvering. He said:

- He was part owner of a yachting school until recently.
- When a boat turns it slides through the water instead of following a straight course as a car would. Boat steering is analogous to a car on ice. Wind and current also affect the maneuverability of a boat and, therefore, the more room you have the easier it is to get a boat into the slip.
- The easiest way to get a boat into a slip is to go straight in

Ivan Matlock indicated he owns slip #31 in the Harborview Marina and is Secretary of the Condo Association and said:

- The Harborview Marina was built in 1971 and was sold to boaters as condos in 1985.
- There are 50 slips in the marina and 25 of the slips face west towards the Ross dock.
- He already has a difficult time getting in and out of slip #31 with his 41' boat.
- All of the slips pay the same monthly fees and special assessments.
- If this application is approved the slips on the west side will be adversely affected and will lose a substantial amount of their value.

Tom Semon owns slip #28 in the Harborview Marina. He is the Civil Engineer who prepared Harborview Marina drawing and calculations (Exhibit K) and he said:

- The angles of the Harborview Marina and the Ross Dock converge.
- Slips vary in length, but are typically 38' in length on the Ross side. The tabulations for the length of each slip are shown on Exhibit K.

- Page 2 of Exhibit L (*Military Handbook Ferry Terminals and Small Craft Berthing Facilities*) recommends that there should be space twice the length of a slip for maneuvering. In this case that would be 76'.
- Now there is approximately 60' between slips and when a vessel is moored at the Ross dock there is approximately 40' between the moored vessel and the roof of the Harborview Marina.
- When asked by the applicant's attorney he estimated the existing Ross dock extends about 7/8 of the way to the end of the existing Harborview Marina (about to slip #43).

Gerald Davies indicated he owns slip #2 and his wife owns slip #39 of Harborview Marina.

He submitted Exhibit M and said:

- He prepared the scale drawing (Exhibit M) which showed the Ross Dock and the Harborview Marina with small cut outs of existing boats and possible fishing boats.
- He felt boats entering and leaving the west side of Harborview Marina would have difficulty maneuvering safely if the Ross dock extension is approved.
- He also felt the existing boats opposite the proposed Ross extension would not be able to get in or out at all if a fishing boat were to be moored at the Ross dock.
- When asked by the applicant's attorney he indicated he was not a surveyor.

Jim Eva submitted a video (Exhibit N) which shows a boat backing out of slip #35. He said:

- He was standing on the back of the boat when the video was taken and was holding a 4' long measuring tape to show how little maneuvering room there is when a fishing boat is moored at the Ross dock.
- The video also shows that when the Ross fishing boat is being worked on and a work float is alongside, a boat in the Harborview Marina opposite the Ross boat can't get in or out.
- The Ross dock converges to the right and the further it goes out, the more narrow it gets relative to the Harborview Marina.

Dary Alfred indicated he owns slip #38 and rents #35 because it is wider than the slip that he owns. He said:

- He has had trouble with the Ross raft being left unattended which means he can't get in or out of his slip.
- Slip #35 is the only slip available that his boat will fit in.
- Upon questioning he indicated he could get in or out of slip #35 if the Ross extension were approved and indicated the extension would not impact him that much.

Stan Sterns indicated he owns Arabella's Landing nearby and said:

- He has no direct tie with the proposed dock extension.

- Some of the slips he has have about the same space as what would be left here if the request is approved.
- He has a few slips which can't accommodate large boats and he feels you shouldn't expect to be able to cram a 40' boat into a 38' slip.
- He felt smaller boats should be moored on the west side of the Harborview Marina.
- Fishing boats are typically out in the summer when most of the boating activity takes place and so they shouldn't impact the Marina too much.

Chuck Peterson indicated he owns slip #41 of Harborview Marina and said:

- The Ross DNR lease will need to get wider to allow him to go further out which will make it even more difficult for Harborview Marina boaters.
- If this extension is approved, he will only be able to get a 30' boat in his slip.

Joe Davis indicated he owns a slip in Harborview Marina and that he lives across the street. He said:

- The fuel dock will be extended and soon all three docks will converge and will leave little room for maneuvering.
- He asked how that would be allowed to happen?

Dick Allen said:

- The Harborview DNR lease barely exceeds the end of the marina.
- Generally DNR requires you to lease adequate maneuvering room. Will DNR lease additional room?

Aurora Matlock responded to Mr. Allen and said:

- Harborview has approached DNR to lease up to the Ross lease line, but were denied. Then they requested a lease for an additional 10', but were still denied.

Response from the Applicant:

Adam Ross responded to concerns expressed and said:

- A lot of the complaints are about existing problems. What is existing is a problem and he tries to work with his neighbors.
- The last four stalls in the Harborview Marina will be affected, but 30' will be left open and will not be leased because of the convergence.
- The Harborview Marina was built with plenty of space on the other side and came close to the lease line on the Ross side.
- Harborview did this at the expense of Ross.
- He is a master and mate of steam vessels up to 500 tons and he felt he could maneuver boats in and out of tight situations.

Mary Kay High said:

- We have had a presentation showing concerns with existing floats.
- What we have are oversized boats in a poorly designed marina. It's like trying to park a Cadillac in a space for a VW bug.
- When the Harborview Marina was developed it was crowded in on its neighbors.
- You can't shift the burden for a poorly designed marina onto the Ross family.
- The value of slips in the marina is not an issue of the Shoreline Master Program.
- The Ross proposal meets or exceeds the requirements of the Shoreline Master Program of Gig Harbor.
- Gig Harbor is trying to protect its fishing tradition.
- About four existing slips in the Harborview Marina will be affected by the Ross proposal.
- All of the water uses are on leased land and Ross will need to get a DNR lease to move forward with this proposal.
- The one issue cited regarding an unattended raft is not an issue for consideration before the Examiner at this time.
- Any future moorage would have to be within the lease area.
- The maximum extension of the width of the DNR lease would be 2 feet.

Response by the Community:

Stephanie Arend said:

- The Harborview Marina owners can maneuver now - barely, but the extension will further impact their ability to maneuver.
- The extension will affect all owners of the marina.
- A boat which could be moored at the slips most affected would not be of sufficient size to be used by someone who would be willing to pay for the slip.
- The Ross application does not comply with the Shoreline Master Program. There should be a balance, not an approval of something at the expense of others.
- Shoreline Policy 3.01.4 says all developments should be designed to minimize their adverse effect on surrounding areas.
- There is a confusion over setbacks and she disagrees with Ross' interpretation of setback.
- The setback should be from the state lease lands not from structure to structure.
- Since the Ross application has been filed the value of slips in the Harborview Marina has depreciated and that is inconsistent with the goals of the Shoreline Master Program. That is elevating one use over another.

Further Response from the Applicant:

Mary Kay High responded:

- There will be 30 feet from the Ross float extension to the lease line and about 50 feet from the Ross dock to the marina slips.
- There has been no evidence submitted that the affected slips can't be used by substantial boats such as 30, 32, 34 or 36 foot long boats.
- There is no question that the Ross dock predates the Harborview Marina.
- One of the shoreline goals is to preserve Gig Harbor's fishing fleet as a significant cultural and economic activity.
- The four slips at the end of the Harborview Marina are now not across from anything and they will have something across from them, but there will be no substantial detriment to the Harborview Marina.

Response from the City:

Steve Osguthorpe responded that:

- The Shoreline Master Program requires that marinas must be setback 12 feet from the property line to the moorage slip. However, the Ross float is not a marina and, therefore, that requirement does not apply.
- One way to look at balance is to look at how many boats can be moored in one versus the other.

CORRESPONDENCE:

Correspondence was received from the following:

Seven members of the Harborview Condo Owners Association (Exhibit H)

Stephanie Arend (Exhibit O).

Issues raised by the members of the Harborview Condo Owners Association included the following:

- 38' slips on the west side of Harborview Marina have already lost value with the application for the Ross dock extension and will lose more value if it is approved.
- Only 28 feet of open water will remain at the closest point between the Ross dock extension and the Harborview Marina which means a boat no longer than 24' or 25' in length could use a 38' slip at the end of the Harborview Marina.
- The current situation makes it difficult to safely navigate boats in and out of the west side of Harborview Marina, and if the Ross dock extension is approved it will make it impossible to get in and out of some of the slips with the boats which are now moored there.

Arguments in opposition to the Ross proposal which were made by Ms. Arend included the following (See Exhibit O)

- The Ross proposal is inconsistent with the Goals and Policies of the Gig Harbor Shoreline Master Program.
- The Gig Harbor Shoreline Master Program requires a vessel to be setback a minimum of twelve feet from the State Lease Land.
- The Ross' extension will preclude any economical use of the Harborview Marina slips.

FINDINGS, CONCLUSIONS AND DECISION:

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

A. FINDINGS AND CONCLUSIONS:

1. The information contained in Sections I through VIII of the Planning Staff Advisory Report (Hearing Examiner Exhibit A, Attachment 1) is found by the Hearing Examiner to be supported by the evidence presented during the hearing and by this reference is adopted as a part of the Hearing Examiner's findings and conclusions, except as modified by this report. A copy of said report is available in the Planning Department.
2. Adam Ross is requesting a shoreline substantial development permit to extend his existing float, by adding a new section 8 feet wide and 105 long. Boats moor parallel to the Ross float.
3. The aerial photograph (Exhibit J) clearly shows the existing Ross float, the neighboring moorage facilities including the Philpott float to the northwest and the Harborview Marina to the southeast. Due to the nature of the shoreline all three of those facilities would converge upon one another if they were to be extended far enough. The Philpott float is generally perpendicular to the shoreline. The Harborview Marina is perpendicular to what appears to be a shoreline which has been altered with fill and the Ross dock has been developed at an oblique angle to the shoreline. All three of these moorage facilities were constructed prior to the adoption of the Shoreline Master Program. However, what is apparent from a close look at Exhibit J is that because the Harborview Marina was constructed after the Ross float was constructed and was constructed perpendicular to the property which had been altered with fill, it is the Harborview Marina which was constructed in a manner which converges on the Ross float, rather the Ross float which

converges on the Harborview Marina as alleged by the attorney for the Harborview Marina Condo Owners Association.

4. Slips at the Harborview Marina range in length from 18 feet to 38 feet and are at right angles to the main float. The slips at the Harborview Marina were constructed approximately 30 feet from the DNR lease line for the majority of the slips on the southeast side of the marina and approximately 12 to 14 feet from the DNR lease line for the majority of the slips on the northwest side of the marina.
5. Regulation 3.11.7 of the existing Shoreline Master Program states that:
All moorages, wharves, piers, floats and vessels moored at marina facilities shall be located no closer than twelve feet from the property line, either private property or state lease land. Location closer than twelve feet from the property line may be permitted upon submission to the City of a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines, which covenant shall run with the land and be filed with the Pierce County Auditor as a covenant with the land. The intent of this regulation is to provide a minimum ingress/egress of twenty-four (24) feet. All space greater than twenty-four feet in width is intended to be provided by the applicant or through an agreement with the adjacent property owner/lessee.
There is no similar setback requirement in the Shoreline Master Program for commercial fishing moorage facilities, 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.
6. According to the survey map submitted by the applicant (Exhibit B), the proposed Ross float will be located approximately 20 feet from the proposed lease line at its nearest point to the Harborview Marina. The proposed lease line is 30 feet from the Harborview Marina lease line which in turn is approximately 12 feet from the slip. Therefore, if 17 foot wide fishing vessels are tied up at the proposed Ross float then the minimum clearance between a fishing vessel and the Harborview Marina would be approximately 45 feet.
7. Exhibit M (a drawing submitted by an owner of a slip in the Harborview Marina and acknowledged to not be based on a survey) indicates that there will be a minimum clearance of 28 feet between a 17 foot wide fishing vessel tied up at the proposed Ross float and the end of the Harborview Marina.
8. There is obviously a discrepancy between the survey (Exhibit B) which indicates there will be a minimum clearance of approximately 45 feet and the non surveyed drawing

(Exhibit M) which indicates there will be a minimum clearance of approximately 28 feet. Both of those clearances assume a 17 foot wide fishing vessel would be moored at the proposed Ross float and if there is no fishing vessel moored at the float (as will occur during much of the summer fishing season) the minimum clearance between the extended Ross float and the Harborview Marina would be approximately 45 to 62 feet depending on which, if either, of the Exhibits is actually accurate.

9. The existing Ross float extends to approximately the halfway point of slip 41 of Harborview Marina. Therefore, it is acknowledged that if the Ross float extension is approved, it will have some impact on slips 41, 43, 45, 47, & 49. However, the owner of the boat in slip 35, responded under questioning at the hearing that he could get his 40 foot long boat in and out of the marina if the Ross extension is allowed. He also testified that the extension wouldn't affect him that much. Based upon that testimony and after reviewing the file it is concluded that other slips on the northwest side of the Harborview Marina will not be greatly affected if the application is approved. Therefore, the following allegations by the attorney for the Harborview Marina Condo Owners Association (found in Exhibit O) are seen as spurious comments and should be ignored.

"If this permit is granted, it will preclude access to virtually every one of the western Harborview slips." and, "If the extension is approved, virtually all of the current occupants of slips on the west side of the Harborview Marina will have no access to their slips. As a result, the slips will become worthless"

10. If approved as conditioned below, the proposed Ross dock extension will comply with the provisions of the Gig Harbor Shoreline Master Program. It will allow an expansion of a commercial fishing moorage, and the adverse impact of the moorage will be minimized. It is also concluded that if approved, subject to the conditions listed below, a balance will be achieved between the two uses (commercial fishing and pleasure boating). It is unfortunate that there may be a loss of value to some of the owners of slips in the Harborview Marina, but the fact that some of the Harborview Marina slips may lose value if the Ross dock extension is permitted is analogous to a situation where someone has enjoyed a view over a vacant piece of property for a number of years and then a person builds a house on the vacant property in conformance with the adopted city codes. In so doing it is acknowledged the new house would diminish the view of the person who had been enjoying it. The resultant diminution of value to the house which lost its view is similar to the situation here where a few of the slips in the Harborview Marina may lose their value.

11. The applicant must still obtain a DNR lease before his dock can be extended. But, that is beyond the scope of this report. This report must deal only with the facts as they relate to the adopted City of Gig Harbor goals, policies and regulations.

B. DECISION:

Based upon the foregoing findings of fact and conclusions, the requested Shoreline Substantial Development permit is approved, subject to the following conditions:

1. Prior to permit issuance, the applicant shall submit to the City evidence of a lease from the Department of Natural Resources of the lease land area indicated in Mr. Ross' Shoreline Permit application.
2. One parking space for loading/unloading shall be reserved on site in the location indicated on the approved site plan.
3. Only those vessels which are licensed for commercial fishing vessels or which are part of an active contract for commercial fishing boat tenders may be moored at the dock.
4. No moorage shall be allowed on the northeast side of the dock.
5. If the dock is converted to use as moorage for pleasure craft, details of a plan for a pump-out, holding, and/or treatment facility shall be submitted to the Public Works Department for review and approval. The approved facility must be installed before the moorage facility may be used for the moorage of pleasure craft. In addition, all shoreline regulations for marinas and moorage facilities must be met, including setback regulations.
6. Prior to occupancy of the dock, the applicant shall post:
 - a. Operational procedures for fuel and sewage handling and storage.
 - b. Operational procedures for containment or mitigation of spills.
 - c. The following rules and regulations in clear sight of moorage users:
 - 1) Regulations pertaining to handling and disposal of waste, including gray water, sewage and toxic materials;
 - 2) Regulations prohibiting the use of marine toilets while moored unless these toilets are self-contained or have an approved treatment device;
 - 3) Regulations prohibiting the disposal of fish and shellfish cleaning wastes, scrap fish, viscera or unused bait in or near the marina waters;
 - 4) Rules and BMP's for boat maintenance and repairs in the marina.
7. The project shall conform to all fire and building code requirements as determined by the City's Fire Marshal and Building Official.

Dated this 31st day of December, 1998.



Ron McConnell
Hearing Examiner

APPEAL OF EXAMINER'S DECISION:

Any party of record who feels aggrieved by the Examiner's decision may submit an appeal in writing to the Gig Harbor Planning Department within (14) calendar days from the date the final decision of the Examiner is rendered.

Such appeal shall be submitted in accordance with Chapter 19.06 GHMC.

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Staff memo from Steve Osguthorpe, dated December 4, 1998, with attachments
 - 1. Staff Report, dated August 20, 1998.
 - 2. Hearing Examiner Report, dated February 24, 1998.
 - 3. Reissued Hearing Examiner Report, dated March 30, 1998.
 - 4. Plan and elevation of Ross dock float extension.
 - 5. Letter from Stephanie Arend, dated April 13, 1998.
 - 6. Letter from DNR, dated April 9, 1998.
- B. Plans for Ross Dock Float Extension, dated April 23, 1997.
- C. Survey, by Jack Bolton, PLS.
- D. Ross Dock Extension folder.
- E. Boating Resume for William V. Culver.
- F. Coast Guard license for William V. Culver.
- G. HCOA Marina List - Updated 11/7/98.
- H. Testimony to Hearing Examiner, City of Gig Harbor, submitted by Ivan H. Matlock, with attachments:
 - 1. Memo from Harlan and Denise Schmidt, dated June 12, 1998.
 - 2. Memo from Chuck Peterson, dated June 22, 1998.
 - 3. Memo from Esther Heather Davies, dated June 15, 1998.
 - 4. Letter from R. B. Andrews, dated August 1, 1998.
 - 5. Memo from William A. and Margaret A. Schlemmer, dated July 15, 1998.
 - 6. Letter from Sally A. Harkness, dated November 21, 1998.
- I. RBAW members bulletin, June 1998.
- J. Aerial photo of subject area.
- K. Harborview Marina Condominium drawing and calculations.
- L. Section from *Military Handbook, Ferry Terminals and Small Craft Berthing Facilities*.
- M. Ross Dock extension and Harborview Marina, with boats drawn in.
- N. Video
- O. Letter from Stephanie Arénd, dated December 16, 1998.

PARTIES OF RECORD:

Adam Ross, Jr.
3309 Harborview Drive
Gig Harbor, WA 98335

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1201 Pacific Avenue #2200
Tacoma, WA 98401

William Culver
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Jim Eva
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Gig Harbor, WA 98335

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Gig Harbor, WA 98335

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Planning Department

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Ivan & Aurora Matlock
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Gig Harbor, WA 98335

Tom Semon
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Gig Harbor, WA 98332

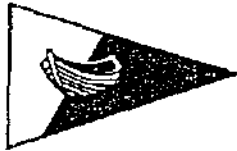
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R. B. Andrews
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Sally Harkness
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Tacoma, WA 98406



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

MEMORANDUM

TO: Hearing Examiner
FROM: Steve Osguthorpe, Associate Planner *S.O.*
DATE: December 4, 1998

SUBJECT: SDP 97-03 --Adam Ross -- Shoreline Development Permit for Dock Float Extension.

Background Information:

Mr. Adam Ross Sr. submitted a shoreline application for an extension of his dock at 3309 Harborview Drive. The shoreline permit was approved by the Hearing Examiner, but the decision was appealed to the City Council by Ivan and Aurora Matlock and the Harborview Condominium Homeowner's Association. The City Council has remanded this item back to the Hearing Examiner for another hearing. Mr. Ross recently passed away. The staff assumes that his son, Adam Ross Jr. and his attorney, Mary Kay High, will serve as representatives for this proposal.

The following describes the events that have occurred to date on Mr. Ross' application:

April 23, 1998 - 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 Matlocks 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 Matlocks 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. A copy of the appeal letter is attached for the Examiner's consideration. Also attached is the staff's initial report to the Hearing Examiner dated July 30, 1997, the Examiner's decision dated February 24, 1998, and a reissued decision dated March 30, 1998.

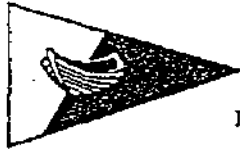
Upon considering the Matlock's statement, the City Council moved to remand this item back to the Hearing Examiner for another hearing.

Staff Analysis:

The Matlock's appeal of the Examiner's decision was based upon two ground: First, the appellants claimed that they were not given proper notice or the ability to be heard. Remanding this back to the Hearing Examiner therefore addresses this concern. Second, the Matlock's stated that thirty feet is not adequate separation between the subject property and the Harborview slips. However, the Shoreline Master Program requires only 24 feet of separation. The Proposed development therefore exceeds SMP standards. It should be noted, however, the Department of Natural Resources denied Mr. Ross's dock extension due to the restricted nature of the area between the proposed dock and the Harborview Condominium development. A copy of the DNR's letter to Mr. Ross (dated April 9, 1998) is attached.

Recommendation:

The staff finds that the proposed dock extension conforms to the City's development standards as conditioned in the Hearing Examiner's decision of March 30, 1998. The staff recommends approval of the proposed dock extension, subject to the same conditions stated in the Examiner's decision of March 30, 1998.



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
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(253) 851-4278

**GIG HARBOR COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TO: Hearing Examiner
FROM: Planning Staff
DATE: July 30, 1997 **HEARING DATE:** August 20, 1997
RE: SDP 97-03 --Adam Ross -- Shoreline Development Permit for Dock Float Extension.

I. GENERAL INFORMATION

APPLICANT: Adam J. Ross, Sr.
3309 Harborview Drive
Gig Harbor, WA 98332
Telephone: 851-2717 or 858-6615

OWNER: (same)

AGENT: (same)

II. PROPERTY DESCRIPTION

1. **Location:** 3309 Harborview Drive

2. **Site Area/Acreage:** 21,600 sq.ft.

3. **Natural Site Characteristics:**

- i. **Soil Type:** Hydraquents
- ii. **Slope:** 8 - 10 percent slope
- iii. **Drainage:** Easterly toward bay
- iv. **Vegetation:** Primarily domestic

4. Zoning:

- i. Subject parcel: WM (Waterfront Millville)
- ii. Adjacent zoning and land use:
 - North: WM (Vacant)
 - South: WM (Philpott dock (proposed fuel dock))
 - East: Gig Harbor Bay
 - West: DB (Downtown business)

5. Utilities/road access: The property is accessed by Harborview Drive and is served by City sewer.

III. APPLICABLE LAND-USE POLICIES/CODES

1. **Comprehensive Plan:** The Comprehensive Plan designates this area as waterfront.

Pg. 71 - GOAL - PROTECT NATURAL QUALITY. Preserve and protect the unique, interdependent relationship between the water, land and cultural heritage.

Pg. 72 - GOAL - MIXED USE WATERFRONT. Retain a mixed use waterfront including those fishing, boating, tourist and residential uses which provide the shoreline unique appeal.

Pg. 72, #5 - Fishing - Preserve the commercial fishing fleet as a significant cultural and economic resource. Retain important fleet supporting services and promote development of additional moorage and docking facilities consistent with the fleet's needs.

Pg. 73 - GOAL - QUALITY URBAN DEVELOPMENT. Define and enforce the highest quality standards concerning present and future land use developments within the waterfront areas.

Pg. 73, #11 - Access and visibility - Create an accessible and visible waterfront and shoreline including the development of public beaches, fishing and boating docks, picnic and passive overlooks and viewpoints. Require private developments to provide equivalent access and visibility to the tenants and users of new private developments, to users of the waterway and to the public at large.

2. **Gig Harbor Shoreline Master Program:**

Section 3.06 - COMMERCIAL FISHING INDUSTRY. Includes, in part, the following policies and regulations:

POLICIES:

1. Moorage facilities and marinas which provide moorage space for active commercial fishing or support vessels should be allocated an upland parking ratio which does not impose a hardship on the commercial fishing industry or the respective moorage facility. Active fishing vessels are those which have a current commercial license issued by the appropriate state or regional authority.

REGULATIONS:

1. New or existing marinas or moorage facilities which provide moorage and support facilities for active commercial fishing vessels shall be exempt from the parking requirements of Section 3.13 for those active commercial vessels which have active license or a contract from the previous fishing season or the next fishing season, provided the following requirements are met:

- a) One load/unloading parking space on the applicant's property is continuously provided.
- b) Proof of active license for commercial fishing vessels or an active contract for commercial fishing boat tenders shall be provided to the City to qualify for this exemption initially. The City may request from the applicant or subsequent assignee in future years that the applicant affirm within thirty (30) calendar days of written request by the City the status of each active commercial fishing vessel on the site by providing copies of the appropriate license or contract.
- c) Development activities associated with pleasure craft or other non-active commercial fishing vessels shall comply with the other relevant sections of this Shoreline Master Program including but not limited to Section 3.13, Parking.

Section 3.11 - MARINAS, MOORAGE FACILITIES, PIERS, DOCKS AND FLOATS.
Includes, in part, the following policies and regulations:

POLICIES:

2. Marinas should be designed so that they will have minimum interference with public use of the surface of the water and should not extend beyond the Outer Harbor Line.
5. Piers and floats should be designed so that they will have minimum interference with the public use of the water's surface and access along the water's edge.

REGULATIONS:

4. Marinas shall be designed, built, and operated so that no part of a pier or float or moorage watercraft extends waterward of the outer harbor line at any time.
7. All moorages, wharves, piers, floats and vessels moored at marina facilities shall be located no closer than twelve feet from the property line, either private property or state lease land. Location closer than twelve feet from the property line may be permitted upon the submission to the City of a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines, which covenant shall run with the land and be filed with the Pierce County Auditor as a covenant with the land. The intent of this regulation is to provide a minimum ingress/egress of twenty-four (24) feet. All space greater than twenty-four feet in width is intended to be provided by the applicant or through an agreement with the adjacent property owner/lessee.
9. Where moorage is offered in a new, expanded or renovated existing marinas, pump-out, holding and/or treatment facilities shall be provided for sewage contained on boats and/or vessels. Such facilities shall be located so as to be conveniently accessible to all boats, The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste and petroleum waste lies with the marina operator.
10. Marinas shall have adequate facilities and establish posted operational procedures for fuel and sewage handling and storage in order to prevent and minimize accidental spillage.
11. Marinas shall have facilities, equipment and established, posted procedures for the containment, recovery and mitigation for spilled petroleum, sewage and toxic products and debris from maintenance and repair.
12. Marina operators shall post the following signs where they are readily visible to all marina users;
 - a. Regulations pertaining to handling and disposal of waste including gray water, sewage and toxic materials;
 - b. Regulations prohibiting the use of marine toilets while moored unless these toilets are self-contained or have an approved treatment device;
 - c. Regulations prohibiting the disposal of fish and shellfish cleaning wastes, scrap fish, viscera or unused bait in or near the marina waters;
 - d. Rules and BMP's for boat maintenance and repairs in the marina.

2. **Zoning Ordinance:**

GHMC Section 17.50.020 states that piers, docks wharfs and associated buildings are permitted uses

IV. **BACKGROUND INFORMATION:** The subject parcel is the site of the Ross residence, net shed and dock. The dock currently consists of two floats which extend approximately 180 feet from the mean low water mark. According to Mr. Ross, the dock is used for the family commercial fishing operation.

The site abuts the property of Mr. Robert Philpott, who recently applied for a Shoreline Substantial Development and Conditional Use permit to construct a fueling dock. Mr. Philpott proposed to revise his DNR lease line which would shift the outer edge of the lease line 5 feet into Mr. Ross's proposed lease land. Mr. Philpott's application for a fuel dock was denied by the City, but is currently in litigation.

V. **REQUEST/PROJECT DESCRIPTION:** Mr. Ross wishes to extend his existing dock an additional 110 feet. This will involve installation on one more float, 8 feet wide. The proposed lease area would extend out as far as Mr. Philpott's lease area, reaching a previously established non-leasable area just west of the outer harbor line.

The applicant has submitted the following statement (shown in *italics*) which in part describes his proposal:

The Ross family for our commercial fishing operation uses the Ross Dock, there is four members of the family that is directly involved in the fishing business.

The size of watercraft that uses and will use the dock ranges in length from 8 feet to fifty-eight feet.

There are no liveaboard vessels nor are there slips allocated for such.

There are no plans for water supply lines, pump-out facilities, solid waste collection points, and outdoor lighting.

VI. **PUBLIC NOTICE:** legal notice was sent to property owners within 300 feet and was published in the Peninsula Gateway on July 23, 1997. No public input has been received.

VII. ANALYSIS:

1. Planning Staff:

- a) As stated in the Shoreline Master program, parking is not required for commercial fishing vessels, provided that there is at least one load/unload parking space maintained on-site. While the upland portion of the includes a large asphalt area, no parking spaces have been delineated, nor has any parking locations been identified on the submitted site plan.
- b) The staff has noticed what appear to be non-commercial vessels moored at the Ross site. Proof of active license for commercial fishing vessels or an active contract for commercial fishing boat tenders will be required.
- c) To conform to the 12-foot setback requirements for either structures or moored vessels, no moorage would be allowed on the north (Philpott) side of the Ross dock. No vessels wider than 10 feet in width would be allowed on the south side of the dock, unless a covenant is executed between the two property owners as per SMP Section 3.11.7 which assures a minimum ingress/egress of 24 feet.
- d) While the Shoreline Master Program (SMP) requires pump-out, holding, and/or treatment facilities for expanded or renovated existing marinas, Mr. Ross has stated that no pump-out facilities are proposed. The facility would therefore not be in compliance with the SMP.
- e) No operational procedures have been discussed or submitted with this application.
- f) No containment or mitigation of spills procedures have been discussed or submitted with this application.
- g) Additional signage and regulation procedures as required have not been discussed or submitted with this application.

2. Building Official: Please consider the following as my comments to the application project stated above:

- a) Fire hydrants and water mains must be extended to within 150 feet of all portions of each building and the marina facilities. Marina hose racks and fire lines must conform to the present Gig Harbor Fire Code.
- b) Fire flow volume will be required dependant upon the site use. See Appendix Table No. A-III-A-1, 1991 UBC. City of Gig Harbor Fire Flow is

presently available on Harborview Drive. State locations of fire department connections and fire hydrants.

- c) Fire protection and access is limited due to existing structures and marina facilities. Provide setup areas and fire lanes to within 150 feet of all portions of each building in accordance with the 1994 Uniform Fire Code.
- d) Knox Box will be required for access to the marina if access is restricted. The exitway from the marina and buildings must be openable from the inside without use of key or special knowledge.
- e) A change of use for the existing buildings will require the buildings to be made to conform to codes which are current at the time of permit application. State existing and proposed use of each building. State type and quantities of flammable and combustible liquids that are stored at the site. State if welding and the use of open flame will be proposed and locations on the site.

A complete plan review will be completed upon submittal of plans for a building permit.

- 3. Public Works: No comments received.
- 4. SEPA Responsible Official: On July 21, 1997, the SEPA Responsible Official issued a determination of non-significance (DNS) under WAC 197-11-340(2).
- 5. Washington State Department of Natural Resources: Mr. David Palazzi from the DNR sent notice on July 25, 1997 (received July 29) identifying inconsistencies in the answers to questions 4.a and 4.b in the environmental checklist. In answer to question 4.a, Mr. Ross identified marine algae at the site. However, in responding to question 4.b, Mr. Ross stated that there would be no alteration of the aquatic vegetation. Mr. Palazzi stated that a float's shade would alter or destroy a portion of the aquatic vegetation and that this inconsistency should be corrected or clarified in the environmental checklist.

VIII. FINDINGS AND CONCLUSIONS:

Based upon a site inspection and the analysis contained in Part VII of this report, the Staff finds as follows:

- 1. The proposal does not conform to the loading/unloading parking space requirements for commercial fishing vessels.

2. Use of the float for commercial fishing vessels is allowed provided that proof of active license for commercial fishing vessels or an active contract for commercial fishing boat tenders is submitted to the City.
3. To conform to the 12-foot setback requirements for either structures or moored vessels, no moorage would be allowed on the north (Philpott) side of the Ross dock. No vessels wider than 10 feet in width would be allowed on the south side of the dock, unless a covenant is executed between the two property owners as per SMP Section 3.11.7 which assures a minimum ingress/egress of 24 feet.
4. While the Shoreline Master Program (SMP) requires pump-out, holding, and/or treatment facilities for expanded or renovated existing marinas, Mr. Ross has stated that no pump-out facilities are proposed. The facility would therefore not be in compliance with the SMP.
5. No operational procedures have been discussed or submitted with this application.
6. No containment or mitigation of spills procedures have been discussed or submitted with this application.
7. Additional signage and regulation procedures as required have not been discussed or submitted with this application.

IX. RECOMMENDATION:

The staff recommends that this item be continued to the next Hearing Examiner meeting to allow time to correct or clarify the inconsistency in the environmental checklist identified by the DNR; and to also allow the applicant time to submit a revised site plan indicating the location of the required loading/unloading parking space, as well as a sewerage disposal plan which shall include a pump-out, holding and/or treatment facility.

Pending review of these items, the staff will be recommending, at a minimum, the following conditions of approval:

1. Prior to permit issuance, the applicant shall submit to the City evidence of a lease from the Department of Natural Resources of the lease land area indicated in Mr. Ross' Shoreline Permit application.
2. One parking space for loading/unloading shall be reserved on site in the location indicated on the approved site plan.
3. Only those vessels which are licensed for commercial fishing vessels or which are part of an active contract for commercial fishing boat tenders may be moored at the dock.

4. No moorage shall be allowed on the north side of the dock. No vessels wider than 10 feet in width shall be allowed on the south side of the dock, unless a covenant is executed between the two property owners as per SMP Section 3.11.7 which assures a minimum ingress/egress of 24 feet.

5. Prior to permit issuance, details of a pump-out, holding, and/or treatment facility shall be submitted to and approved by the Public Works Department. The approved facility shall be installed prior to issuance of a certificate of occupancy.

6. Prior to occupancy of the marina, operational procedures for fuel and sewage handling and storage shall be posted.

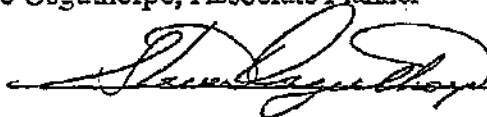
7. Prior to occupancy of the marina, containment or mitigation of spills procedures shall be posted.

8. Prior to occupancy of the marina, the following rules and regulations shall be posted in clear site of the marina users:

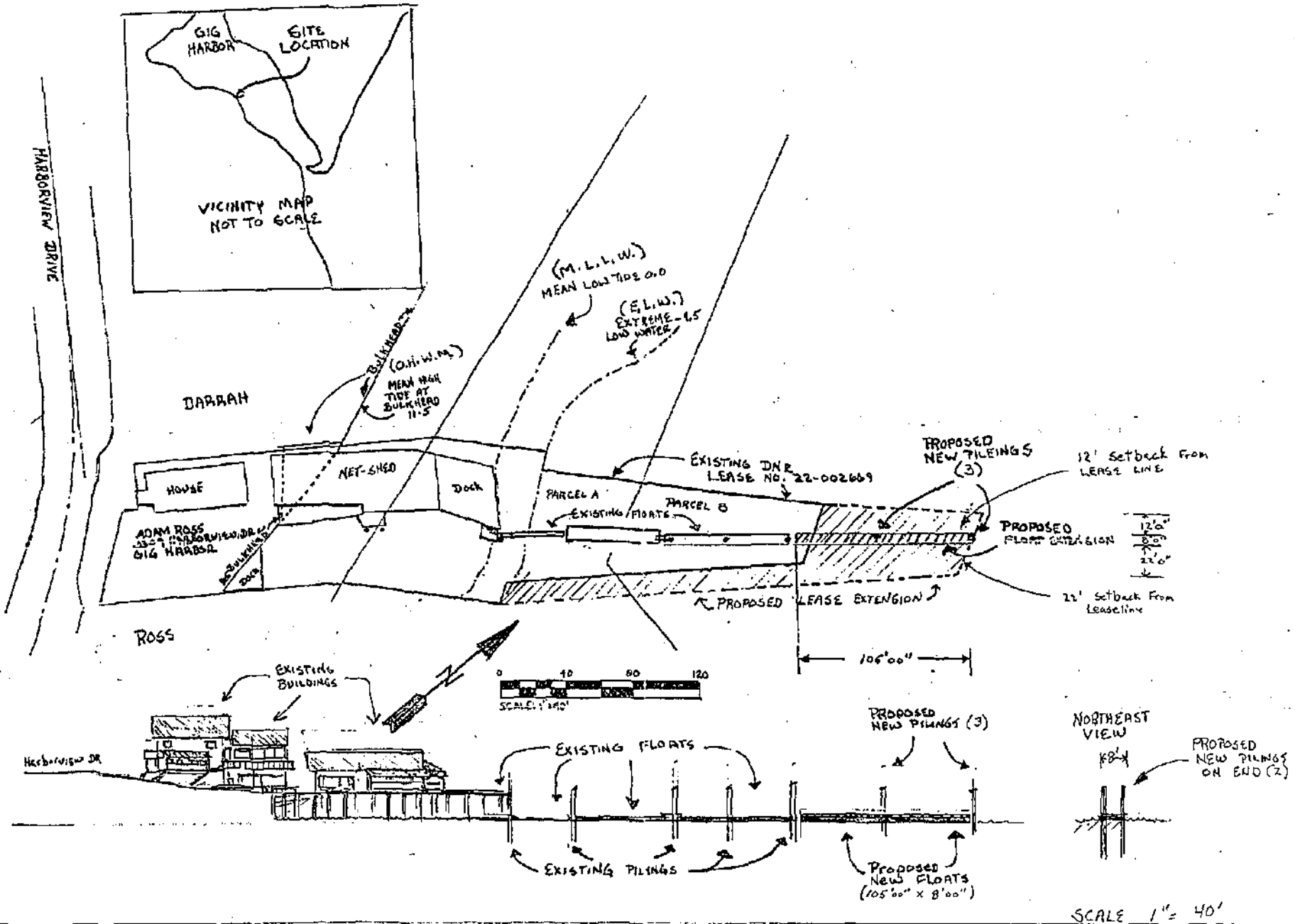
- a. Regulations pertaining to handling and disposal of waste including gray water, sewage and toxic materials;
- b. Regulations prohibiting the use of marine toilets while moored unless these toilets are self-contained or have an approved treatment device;
- c. Regulations prohibiting the disposal of fish and shellfish cleaning wastes, scrap fish, viscera or unused bait in or near the marina waters;
- d. Rules and BMP's for boat maintenance and repairs in the marina.

9. The project shall conform to all fire and building code requirements as determined by the City's Fire Marshal and Building Official.

Project Planner: Steve Osguthorpe, Associate Planner



Date: 7-30-97



Ross Dock Float Extension

Adam J. Ross, Sr.
3309 Harborview Dr.
Gig Harbor, WA 98332

Drawn by Adam J. Ross, Jr.

April 23, 1997

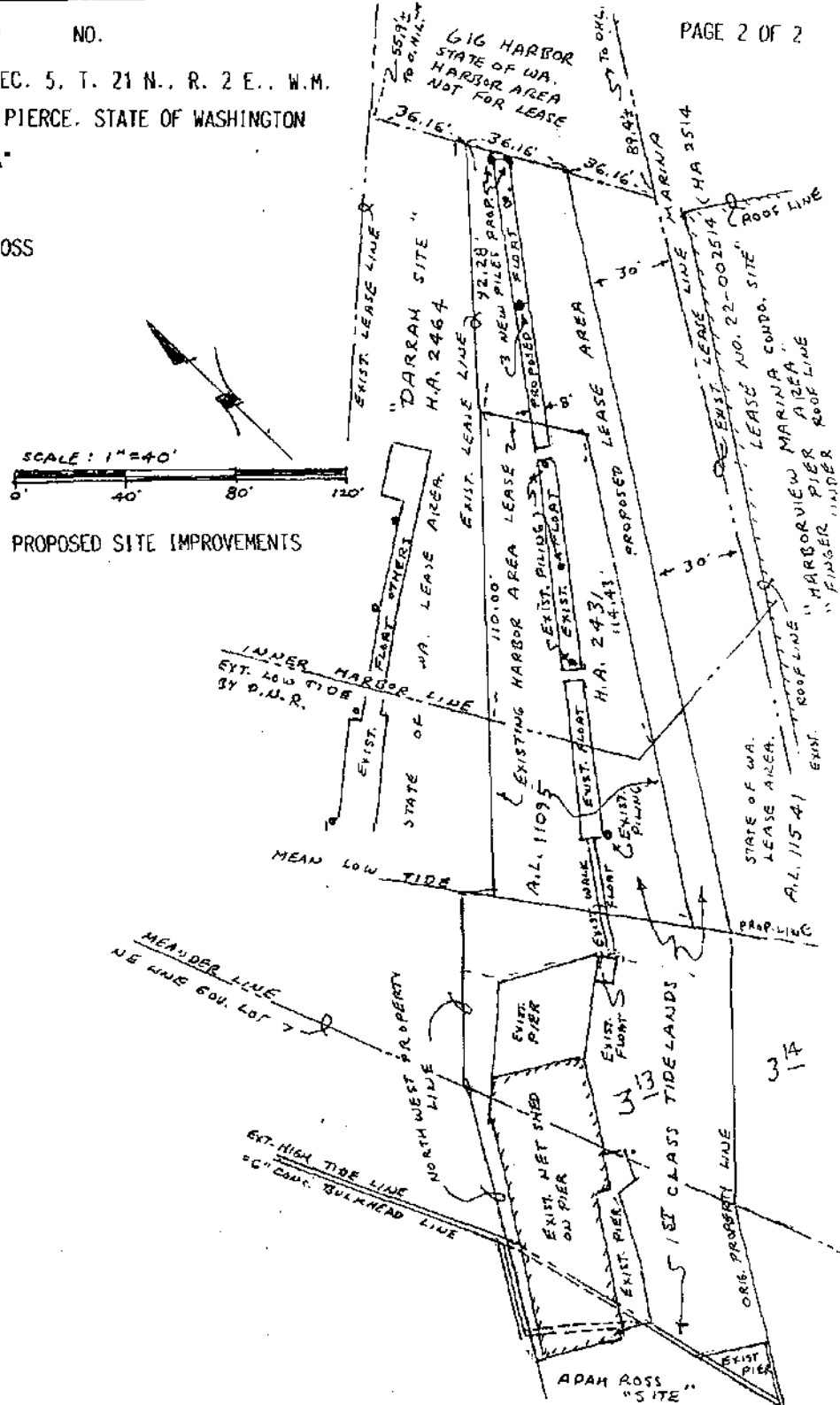
Scale 1" = 40'

EX T B

RECORD OF SURVEY NO.
 PORTION OF: THE S.E. 1/4, S.W. 1/4, SEC. 5, T. 21 N., R. 2 E., W.M.
 IN CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF WASHINGTON
 AQUATIC LAND LEASE EXHIBIT "A"

FOR PROPOSED LEASE AREAS:
 STATE OF WASHINGTON TO ADAM ROSS

SURVEY REQUESTED BY:
 ADAM J. ROSS
 3309 HARBORVIEW DR.
 GIG HARBOR WA 98335
 858-6615



PROPOSED SITE IMPROVEMENTS

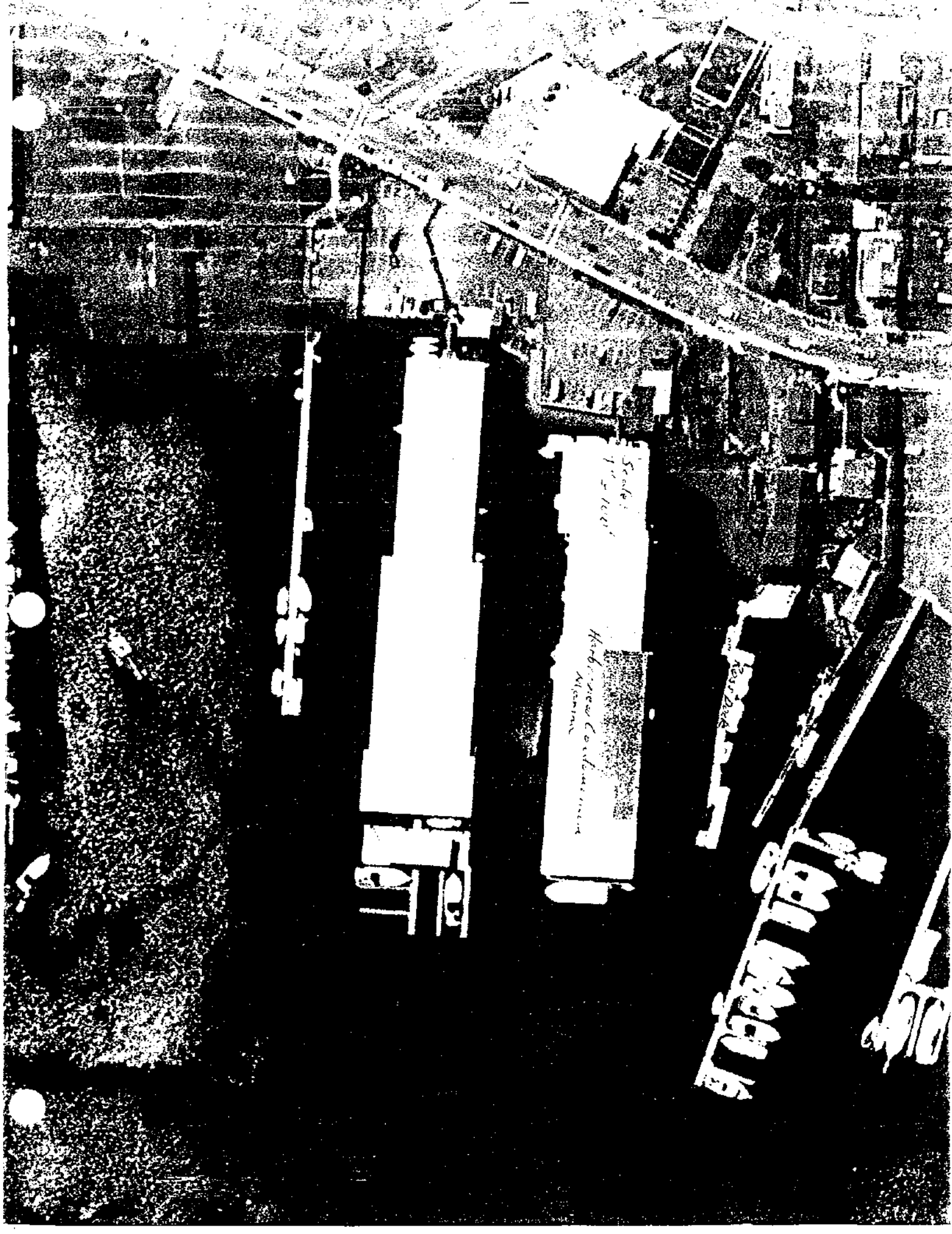
SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF ADAM ROSS IN JUNE, 1997

JACK BOLTON, PLS 11286

DATE

SURVEY BY:
 JACK BOLTON PLS
 8805 S. HOSMER ST.
 TACOMA, WA. 98444
 (253) 535-2100



Sector 1
Koblenz Condenser

Koblenz
Koblenz