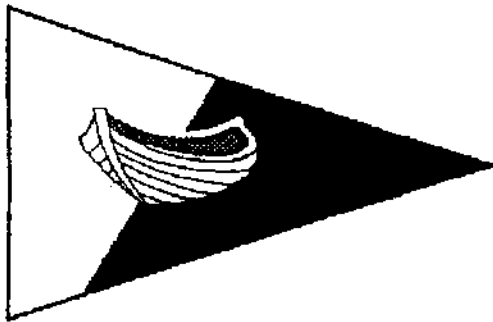


**GIG HARBOR  
CITY COUNCIL MEETING**



**MARCH 27, 1995**

**7:00 P.M., CITY HALL COUNCIL CHAMBERS**



**AGENDA FOR GIG HARBOR CITY COUNCIL MEETING**  
**March 27, 1995 - 7:00 p.m.**

**PUBLIC COMMENT/DISCUSSION:**

**CALL TO ORDER:**

**APPROVAL OF MINUTES:**

**CORRESPONDENCE:**

**OLD BUSINESS:**

1. Shoreline Permit 94-05 - Harborview Condo Marina.

**NEW BUSINESS:**

1. Utility Request - Hific Center.
2. Liquor License - Change of Ownership, Hunan Gardens.
3. Liquor License - Request to Add Class, Captain's Terrace.

**MAYOR'S REPORT:**

Annexations.

**COUNCIL COMMENTS:**

**STAFF REPORTS:**

Ray Gilmore - Planning/Building.

**ANNOUNCEMENT OF OTHER MEETINGS:**

**APPROVAL OF BILLS:**

**EXECUTIVE SESSION:** To discuss litigation and property acquisition.

**ADJOURN:**



## REGULAR GIG HARBOR CITY COUNCIL MEETING OF MARCH 13, 1995

**PRESENT:** Councilmembers Picinich, Ekberg, Stevens Taylor, Platt, Markovich, and Mayor Wilbert.

### **PUBLIC COMMENT / DISCUSSION:**

**Bruce Rogers - 2804 Harborview Drive.** Mr. Rogers introduced himself as the Manager at Murphy's Landing. He said he wanted to publicly thank Chief Richards and Officer Busey for their timely response to the boat fire at Murphy's Landing. He also thanked Council for their insight for authorizing the purchase of the Marine Patrol boat.

### **PUBLIC HEARING:** Shoreline Permit 95-05, Harborview Condo Marina.

Mayor Gretchen Wilbert turned over the Public Hearing to Mayor Pro Tem Councilman Platt, and recused herself from this hearing. Mayor Pro Tem Platt announced to the audience that due to the amount of people who has signed up to testify, there would be a five minute limit to each person's testimony. He then asked if anyone present challenged his presiding over the hearing, or over any other Councilmembers presence on the panel. There was no response to his query. He then asked if any Councilmember had any exparte communication on this item. There was no response. He opened the Public Hearing on this item at 7:06.

Steve Osguthorpe, Associate Planner, gave a history of the marina extension and answered questions.

**Tom Semon - 13029 Pt. Richmond Beach Road.** Mr. Semon introduced himself as a member of the Board of Directors at Harborview Condo Marina. He stated he felt the Hearing Examiner's recommendation that no vessels be tied to the end of the dock unless it could be shown that there would be at least 18 feet between the outer harbor line and the dock, was unfair. He said the condo owners had paid to be able to use that area, and they had already agreed to give up moorage on the northwest side as a courtesy to the neighbors. He added that they did not want to give up the end moorage space. He stated the condo owners agreed with all the other Hearing Examiner's recommendations.

**Bob Frisbie - 9720 Woodworth.** Mr. Frisbie passed out a sheet listing his concerns, then stated he was in favor of what was proposed. He itemized the concerns and said he wanted Council to be aware of these concerns before making any decisions concerning this extension. He said that written agreements between the neighboring marinas should be required before any approvals were made.

**Richard "Skip" Williams.** Mr. Williams introduced himself as the owner of the neighboring Pleasurecraft Marina. He stated he was in favor of the project and doesn't see any problem with the ingress/egress. He added he didn't see the need for any agreements.

**John Paglia - 12924 Purdy Drive NW.** Mr. Paglia stated he was representing the neighboring marina owners, Adam and Maxine Ross. He said there was no clear for or against this project. He listed

the non-conforming issues on the existing structure, set-backs, visual access, and covered moorage. He said the Shoreline Master Plan required a commercial structure to conform to the zoning code unless there was a recorded, written agreement. He said that the existing moorage must be brought into conformance.

Carol Morris, legal counsel, read a passage from the Shoreline Master Program that states that marinas are not considered commercial. She added that the Shoreline Master Program is a state document that prevails over local codes.

Paul Gustufson - 8215 Dorotich. Mr. Gustufson said he knew the history of the marina and said that it had been built closer than the 12 foot set-backs. He added that the way it was built also diminished from the value of the Ross property by not allowing sufficient turning area. He asked Council to be careful in their consideration because this extension could further affect the surrounding property owners.

Councilmembers asked several questions and decided to close the public hearing, review the information and bring this item back at the next council meeting.

**MOTION:** Move to continue the Hearing to the March 27th Council Meeting.  
Stevens Taylor / Ekberg - Stevens Taylor and Ekberg voted in favor.  
Councilmembers Picinich and Markovich voting against continuing. Mayor  
Pro Tem Platt voted in favor of continuing the hearing, breaking the tie.

The Public Hearing on this item was closed at 7:47 p.m.

*Mayor Wilbert returned to the Council Chambers at this time.*

**CALL TO ORDER:** 7:48 p.m.

**APPROVAL OF MINUTES:**

**MOTION:** Move approval of the minutes of the February 27, 1995 meeting as presented.  
Platt/Picinich - Four voted in favor. Councilmember Markovich abstained.

**CORRESPONDENCE:**

1. Request for Nomination for Board of Commissioners for Pierce Transit. Mayor Wilbert presented this request from Pierce Transit to nominate someone to serve on the Board of Commissioners. Mary K. Joyce, who was elected to the position eighteen months ago, submitted a letter of interest to continue in the position.

**MOTION:** Move we submit the name of Mary K. Joyce as our representative to the Board of Commissioners for Pierce Transit.  
Picinich/Markovich - unanimously approved.

**OLD BUSINESS:**

1. Selection of Additional Member to the Design Guidelines Technical Committee. Mayor Wilbert submitted her recommendation for the eighth member of the committee.

**MOTION:** Move we appoint Lita Dawn Stanton to the Design Guidelines Technical Committee.  
Picinich/Ekberg - unanimously approved. Councilmember Markovich abstained.

**NEW BUSINESS:**

1. Hearing Examiner Recommendation - Alastra Lane Planned Unit Development. Steve Osguthorpe explained the changes in the PUD after it came before Council several weeks ago per Council's concerns regarding parking and density. The applicant, David Fisher, was available to answer questions. Ray Gilmore itemized several changes in the resolution that were suggested by legal counsel.

**MOTION:** Move to approve Resolution No. 440, as written except that at the top of page two we add the words "and the hearing Examiners's report dated March 2, 1994" after the date of January 5, 1995; on page 3, under Section 13, forth line, after shall apply for, delete "and receive"; on page 4, Section 17, the preliminary plat deleted to read PUD; and last sentence of that section, we delete 12% and add 15% in slope; in the Section 20, after Condition 8, add "of the January 5, 1995 Hearing Examiner's decision"; and change the word form to from in Section 23.  
Markovich/Stevens Taylor - unanimously approved.

2. Police Guild Contract. Mark Hoppen presented this contract for approval. Councilmember Stevens Taylor thanked all the parties who participated in working on this contract.

**MOTION:** Move approval of this contract as presented.  
Stevens Taylor/Picinich - unanimously approved.

3. Personnel Regulations. Mark Hoppen presented the updated personnel regulations and gave a brief overview of the changes. Councilman Markovich said there were several substantive issues he wasn't pleased with and suggested a worksession to rework the policy.

**MOTION:** Move to adopt Resolution No. 441 adopting the updated version of the personnel regulations and revisit them within six months.  
Markovich/Stevens Taylor - unanimously approved.

4. 1995 Job Descriptions. Mark Hoppen recommended that changes in city job descriptions due to the addition of the Public Works Assistant, the changes in job descriptions for the Municipal Court Clerk, Court Clerk, Assistant Court Clerk, and Police Services Specialist be adopted by motion.

**MOTION:** Move we approved the additions and changes to the City of Gig Harbor job descriptions.  
Picinich/Stevens Taylor - unanimously approved.

5. Liquor License Renewals - Eagles, Rib Ticklers, and Tides Tavern. No action taken.

**MAYOR'S REPORT:**

Duties, Responsibilities, and Obligations of a Mayor. Mayor Wilbert gave a brief overview of the activities she is involved in, the new Vision 2020 update, and domestic violence issues.

**COUNCIL COMMENTS:**

Councilman Platt mentioned that the bill to make the Growth Management Act optional had passed the House of Representatives, and was now in the Senate.

Councilman Picinich gave a report on the meeting he and Mayor Wilbert attended regarding the 22 acres on Bujacich Drive by the Women's Correction Center. He announced that a letter of interest must be submitted within 60 days to be part of the project to purchase the property to keep as open area. He added there were several interest groups involved willing to write the grants to obtain funding. He said there was another meeting with Karen Biskey, the Land Trust Heritage Group, and Save Open Space.

Council directed Mark Hoppen to get procedural information and parcel maps to bring this issue back to council at the next meeting.

**STAFF REPORT:**

1. Public Works Department. Ben Yazici gave an update on the Harborview Drive / North Harborview Drive. He said the contractors had run into concrete from the old highway, slowing the project down some. He said the material being excavated was good and would be able to be used again rather than having to haul in new dirt, and the conflict between the contractor and Washington Natural Gas had been resolved.
2. Police Department. Chief Richards announced that Charlene Hoch, who started as an Explorer here in Gig Harbor, worked her way into the Reserve Program, and graduated from Western Washington University, was currently was number six in line for the officer's position in Auburn. He added how proud the staff was of her efforts.

Mayor Wilbert and Mark Hoppen announced that Chief Richards, along with the Spadoni Family, had recently been awarded the prestigious Paul Harris Foundation Award from the Rotary Club.

3. Finance Department. Tom Enlow reported that the City had finally received the Annual Report from the State Auditor's Office for the year ending 1993. He added that for the second year in a row the city received no findings.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Harbor Green Park Meeting - Tuesday, March 14, 1995 - 7:00 p.m.



2. Traffic Controls Concerns Meeting for the Harbor/North Harborview Drive Project - Tuesday, March 21st, at 6:00 p.m.- Shoreline Restaurant.

**APPROVAL OF BILLS:**

**MOTION:** Move approval of warrants #13762 through #13869 in the amount of \$168,156.05.  
Platt/Stevens Taylor - unanimously approved.

**APPROVAL OF PAYROLL:**

**MOTION:** Move approval of warrants #10849 through #10961 in the amount of \$175,183.32.  
Platt/Stevens Taylor - unanimously approved.

**EXECUTIVE SESSION:**

**MOTION:** Move to go into Executive Session at 8:54 p.m. for the purpose of litigation, and property acquisition for approximately 30 minutes.  
Picinich/Markovich- unanimously approved.

**MOTION:** Move to return to regular session.  
Picinich/Stevens Taylor - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 10:02 p.m.  
Platt/Picinich - unanimously approved.

Cassette recorder utilized.  
Tape 380 Side B 127 - end.  
Tape 381 Side A 000 - end.  
Tape 381 Side B 000 - end.  
Tape 382 Side A 000 - 385.

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Mayor

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City Administrator





*City of Gig Harbor. The "Maritime City."*  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: Planning Staff**  
**DATE: March 27, 1995**  
**SUBJECT: SDP 94-05 - Charles L. Hunter -- Request for substantial development shoreline permit allowing expansion of existing Harborview Marina.**

### **INTRODUCTION/BACKGROUND**

This item was considered by the City Council at its March 13, 1995 meeting, at which time the Council moved to continue this to the next meeting to allow time to consider the input received. Mr. Bob Frisbie has submitted a letter to the City Council dated March 13, 1995 with specific questions pertaining to this proposal.

### **POLICY**

The questions raised by Mr. Frisbie must be considered in light of the Shoreline Master Program's regulations of non-conforming structures. The SMP states that "Nonconforming development may be continued provided that it is not enlarge, intensified, increased, or altered in any way which increases its nonconformity" (SMP Section 4.14(A)). This was discussed in the staff's memo to the City Council dated February 12, 1995 and was the basis for the staff's and the Hearing Examiner's recommendation to conditionally approve the proposed project. It was also the basis of the legal opinion submitted by Carol Morris regarding non-conforming structures on the shoreline (i.e., that the Shoreline Master Program's regulation of non-conforming structures prevails over local zoning codes).

### **STAFF ANALYSIS**

Referencing the SMP's regulation of non-conforming structures, Mr. Frisbee's questions are addressed as follows:

**QUESTION #1:** Are the Harborview Condo's required to landscape their parking area?

**RESPONSE:** No. While landscaping is required for parking lots and while the Harborview Condominium parking lot is nonconforming with landscaping requirements, there is no proposal to expand the existing parking lot. The lot already has enough parking to accommodate existing uses and the proposed expansion. Because there is no proposal to expand the existing lot, the nonconforming status may be maintained.

QUESTION #2: Is the Hearings Examiner right in his interruption (interpretation??) of the applicant not being required to provide waterview and/or waterfront access opportunities?

RESPONSE: Yes. It is the existing development which does not provide for the required waterview/access opportunities, i.e., the existing development is non-conforming because there is parking in front of the existing view corridor (the existing structure does provide the required 20% view corridor). The proposed expansion does not increase this non-conformity.

QUESTION#3: Is there any valid reason to not require the pump-out facility?

RESPONSE: No. The Hearing Examiner's recommended condition of approval #3 states that "Prior to permit issuance, a pump-out facility plan shall be submitted to and approved by the Gig Harbor Public Works and Planning Departments. The pump-out shall be conveniently accessible to all boats. The pump-out facility shall be installed and operational prior to issuance of an occupancy permit.

QUESTION#4: Under Regulations item 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.**" A covenant with the adjacent property owner is required if an exception is made to this provision. Does this provision apply to an existing marina?

RESPONSE: No. This provision was added to the 1994 Shoreline Master Program. The existing marina was built prior to this provision and is therefore legally non-conforming. Any expansion of the marina would be required to meet the 12 foot setback requirement. The proposed expansion indicates a setback of 16 feet on the northwest (Ross side) property line and 45 feet on the southeast property line, both far in excess of required setbacks. In addition, the Hearing Examiner's recommended condition of approval #9 stipulates that "Signs shall be placed on the northwest side of the expanded moorage facility stating "no moorage allowed".

#### **RECOMMENDATION**

Enclosed is a copy of the Hearing Examiner's reports, the shoreline permit form and a draft resolution approving the marina expansion for your consideration.

**CITY OF GIG HARBOR  
RESOLUTION NO. \_\_\_\_**

**WHEREAS**, Charles Hunter, representing Harborview Condominium Homeowners Association, has requested approval of a shoreline substantial development permit to allow an expansion of the existing moorage facility at 3219 Harborview Drive; and,

**WHEREAS**, the Gig Harbor City Council has adopted Ordinance #489 which establishes guidelines for the reviewing of Shoreline Management permits; and,

**WHEREAS**, the Planning Department for the City of Gig Harbor has recommended approval of the shoreline permit in a staff report dated November 16, 1994; and,

**WHEREAS**, a public hearing was held on November 16, 1994 with the Hearing examiner to accept public input relating to this request; and,

**WHEREAS**, a revised site plan was submitted the day of the public hearing, resulting in a two week extension of the Hearing Examiner's deadline for making a decision; and,

**WHEREAS**, the City of Gig Harbor Hearing Examiner has made specific findings and conclusions based upon the staff report and upon input received at the public hearing and has recommended approval of the application in his report dated December 19, 1994; and,

**WHEREAS**, a request for reconsideration of the Hearing Examiner's decision was submitted asking that the hearing examiner reconsider a limitation on a moorage slip; and,

**WHEREAS**, a second request for reconsideration of the Hearing Examiner's decision was submitted based upon allegations that the proposed use did not conform to code regulations for non-conforming development; and,

**WHEREAS**, the hearing examiner denied the requests for reconsideration based upon findings and conclusions in his reconsideration report dated January 26, 1995; and,

**WHEREAS**, the City Council held its own de novo public hearing on March 13, 1995; and,

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

Section 1. The Gig Harbor City Council enters the following Findings of Fact relating to the shoreline substantial development permit SDP 94-05 for Charles L. Hunter.

## FINDINGS OF FACT

A. The Harborview Condominium Marina is a covered marina which consists of 51 slips. Only one of these slips is greater than 45 feet in length. Under the City's code, 26 parking stalls are required for the Marina, but there are now 31 stalls on site. Two of these parking stalls do not meet the minimum stall size of 9 X 19 feet and the parking lot does not conform to current landscaping requirements under the City's zoning code. The parking lot was constructed prior to the City's adoption of landscaping requirements. Because the Shoreline Master Program now prohibits covered moorage and requires public access and/or view corridors, the Marina is legally non-conforming with respect to the covered moorage and the non-landscaped parking lot which lies in the view corridor.

B. This application involves a substantial development permit application for the addition of three new uncovered boat slips of 19 X 60 feet to the marina, and also a slip on the end of the dock to replace the existing end slip. GHMC Section 17.76.020 requires that 4 parking stalls be provided for these new slips for a total on-site parking requirement of 29 spaces.

C. The information contained in Sections I through VII of the Planning Staff Advisory Report, dated November 16, 1994 is found by the City Council to be supported by the evidence presented during the hearing except that Section V in the Staff Report indicates that there will be a net increase of 2 slips, when there would actually be a net increase of 3 slips if the end slip is included. The Council hereby adopts these portions of this report, attached hereto as Exhibit A, and incorporates it by reference as the Councils' findings of fact for this application, noting that Section V of the staff report does not include the end slip in the stated number of new slips.

D. Testimony was presented at the hearing by the staff that the proposed development meets the general goals and policies for development of the shoreline as stated in Part 2 of the City's Shoreline Master Program, and also the specific goals and policies for marina development stated in Part 3.11 of the Shoreline Master Program, with the exception of the requirement for a pump-out facility. The requirement for a pump-out facility was therefore included in the staff report as a recommended condition of approval.

E. Testimony was presented by John Paglia, attorney for neighboring property owner Adam Ross, that the existing marina structure does not meet setback requirements, visual access requirements and does not comply with the zoning code requirements for non-conforming structures.

F. Testimony was presented by Tom Semon, who claimed that the restrictions on moorage suggested by the Hearing Examiner would take a way the rightful use of their leased land. The Hearing Examiner had recommended that no vessels be tied to the end of the dock after construction of the slips unless the applicant could demonstrate that there will be at least 18 feet between the outer harbor line and any portion of the dock (based upon a pending survey of the outer harbor line by the state).

G. Testimony was presented by Bob Frisbie, who submitted a letter to the City Council and Mayor, outlining certain issues to be determined with regard to this application. In particular, Mr. Frisbie's March 13, 1995 letter asked (1) whether the Harborview Condominium is required to landscape their parking area; (2) should the applicant be required to provide water view and/or waterfront access opportunities; (3) should the pump-out facility be required; and (4) does Regulation 7, in Chapter 3.11 of the Shoreline Master Program apply to an existing marina?

H. Carol Morris, assistant city attorney, opined that the SMP nonconforming development provisions apply to this application, not the zoning code nonconforming development provisions. This is because the Council must base its decisions on shoreline permit appeals on the criteria in the SMP (SMP Sec. 4.03(B)(3)). These criteria are contained in SMP 4.03(A)(4) and Sec. 4.08(C)(2), and none reference the City's zoning code. Furthermore, the SMP (Sec. 4.14) adopts the same nonconforming development definitions and regulations as contained in WAC 173-14-055, and this WAC requires these regulations to apply where there are no nonconforming standards in a local government's shoreline master program. The logical inference to be made from this language is that the legislature did not intend to allow zoning code nonconforming development standards to apply to shoreline development.

In response to the issue whether the City could permit development before a determination of the exact location of the Harbor Line, Ms. Morris stated that the City's approval of this application would only authorize the construction to proceed, and not ensure that all provisions of applicable codes, regulations, and other laws had been complied with. The duty to ensure compliance rests with individual permit applicants, builders and developers. As a result, the approval of construction plans which are dependent upon accurate surveys, and the City's satisfactory inspections, do not absolve a builder from the legal obligation to comply with applicable laws, such as the SMP and Harbor Line restrictions.

I. Testimony was presented by Richard Williams who introduced himself as the owner of the neighboring Pleasurecraft Marina. He stated he was in favor of the project and doesn't see any problem with the ingress/egress. He added he didn't see the need for any agreements.

J. Testimony was presented by Paul Gustafson who said he knew the history of the marina and said that it had been built closer than the 12 foot set-backs. He added that the way it was built also diminished from the value of the Ross property by not allowing sufficient turning area. He requested the Council's careful consideration of this project to avoid further effects on the surrounding property owners.

## CONCLUSIONS

K. Based upon the above findings, the City Council makes the following conclusions:

1. Parking. Because the Harborview Marina currently has a surplus of 3 conforming parking stalls on site, and the proposed development requires a net increase of 3

parking stalls (with one existing stall being retained for the relocated end moorage slip), no new parking stalls are required under this application.

## 2. Landscaping.

a. The parking lot was constructed for the Harborview Marina before new parking lot landscaping requirements (GHMC Section 17.78.080) were adopted. There, the parking lot is legally nonconforming with regard to the issue of landscaping. There are no SMP regulations which require a legally nonconforming development to be brought into compliance with the existing SMP when the development is expanded in a manner which does not increase its nonconformity.

b. Although this application requires a net increase of 3 new parking stalls, these stalls currently exist at the Harborview Marina parking lot. No new parking stalls will be constructed.

c. Under GHMC Section 17.78.080, parking lot landscaping and screening requirements are applicable to parking lot areas providing spaces "for more than 10 cars and all nonresidential uses of land and development". (Emphasis added.) Although this application contemplates nonresidential use of land and development, it does not also involve parking for more than 10 cars. No requirement for landscaping is therefore imposed upon this application.

3. Although SMP Sec. 3.05(1)(a) requires a view corridor for all commercial development and restricts parking from being located in required view corridors, there was no requirement for view corridors and restrictions of parking within view corridors at the time the Harborview Marina parking lot was originally approved. The parking within Harborview Marina's view corridor is therefore legally non-conforming.

## 4. Expansion of Nonconforming Use.

a. The SMP prohibits any additional covered moorage, but this application proposed three new uncovered slips to a legally nonconforming marina.

b. The Council concludes that the SMP provisions relating to nonconforming development apply here, not the zoning code provisions. SMP Sec. 4.14(A) allows nonconforming development to continue "provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity". (Emphasis added.)

c. The addition of these three new uncovered slips do not enlarge, intensify, increase or alter the nonconforming development in any way which increases its nonconformity.



5. Harbor Line.

a. SMP Section 3.11(7) and GHMC Section 17.76.020(B) require that any moorage on private property must be at least 12 feet from a side property line unless there is evidence of an agreement among property owners for joint use of common side lot lines.

b. The applicant does not have an agreement with other property owners for joint use of common side lot lines.

c. The applicant's ability to construct two or three slips is also contingent upon the determination of the Harbor Line for Gig Harbor Bay. As a result, the Council concludes that no construction shall take place until the Harbor Line has been finally established, to ensure that such proposed development is in compliance with the determination of the Harbor Commission, and all related state regulations.

d. In addition, the proposed development shall conform to the requirements of SMP 3.311(7) and GHMC Section 17.76.020(B). Any construction of the proposed development must be at least 12 feet from a side property line, notwithstanding that the construction may otherwise be in compliance with the submitted plans, drawings and elevations submitted with the shoreline substantial development application.

6. Pump Out Station. SMP Sec. 3.112(9) requires all new, expanded or renovated existing marinas to have pump out facilities. A pump out facility is therefore required for this permit application because it adds three slips to an existing marina.

**DECISION**

Based upon these findings and conclusions, review of the exhibits and public testimony, the Gig Harbor City Council hereby approves the shoreline development permit for application No. 94-05, by applicant Charles L. Hunter, subject to the following conditions:

1. Except for the moorage indicated on the submitted site plan, no other moorage is permitted, e.g., no vessels shall be tied to the side of the dock in the required side yard setback and no vessels shall be tied to the end of the dock unless the applicants can document that at least 18 feet exists between the outer harbor line and any portion of the dock.
2. The new slips shall not be covered.
3. Prior to permit issuance, a pump-out facility plan shall be submitted to and approved by the Gig Harbor Public Works and Planning Departments. The pump-out shall be conveniently accessible to all boats. The pump-out facility shall be installed and operational prior to issuance of an occupancy permit.

4. The project shall comply with all HPA (hydraulics permit) requirements as determined by the Department of Fisheries.
5. The marina fire flow system must be upgraded to provide the protection required under section (6), Appendix II-C, 1991 Uniform Fire Code. Hose stations, fire lines, cross connection control and fire department connections must be provided.
6. A street fire hydrant must be made available within 150 feet of the Marina and fire department connection.
7. A Knox box will be required for the gate key if one is not already provided.
8. A complete plan review will be completed upon submittal of plans for a building permit.
9. Signs shall be placed on the northwest side of the expanded moorage facility stating "no moorage allowed".
10. No construction shall take place until the Harbor Line has been finally established.
11. Any construction of the proposed development must be at least 12 feet from a side property line, notwithstanding that the construction may otherwise be in compliance with the submitted plans, drawings and elevations submitted with the shoreline substantial development application.

**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 27th day of March, 1995.

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Gretchen A. Wilbert, Mayor

ATTEST:

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Mark E. Hoppen  
City Administrator/Clerk



*City of Gig Harbor. The "Maritime City."*

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**CITY OF GIG HARBOR  
SHORELINE MANAGEMENT  
SUBSTANTIAL DEVELOPMENT PERMIT**

- Substantial Development
- Conditional Use
- Variance

Application No: SDP 94-05

Date Received: September 19, 1994

Approved: XXX

Denied:

Date of Issuance: March 27, 1995

Date of Expiration: March 27, 2000

Pursuant to RCW 90.58, a permit is hereby granted/denied to:

Charles L. Hunter  
P.O. Box 410  
Gig Harbor, WA 98335

To undertake the following development:

Add three new uncovered slips to existing Harborview Marina.

Upon the following property:

3219 Harborview Drive, Assessor's parcel number's 02-21-05-3-034 & 056

On the Gig Harbor Bay Shoreline and/or its associated wetlands. The project will not be within shorelines of Statewide Significance per RCW 90.58.030 and is within an Urban Environment designation.

Development pursuant to this permit shall be undertaken subject to the following terms and conditions:

1. Except for the moorage indicated on the submitted site plan, no other moorage is permitted, e.g., no vessels shall be tied to the side of the dock in the required side yard setback and no vessels shall be tied to the end of the dock unless the applicants can document that at least 18 feet exists between the outer harbor line and any portion of the dock.
2. The new slips shall not be covered.
3. Prior to permit issuance, a pump-out facility plan shall be submitted to and approved by the Gig Harbor Public Works and Planning Departments. The pump-out shall be conveniently accessible to all boats. The pump-out facility shall be installed and operational prior to issuance of an occupancy permit.
4. The project shall comply with all HPA (hydraulics permit) requirements as determined by the Department of Fisheries.
5. The marina fire flow system must be upgraded to provide the protection required under section (6), Appendix II-C, 1991 Uniform Fire Code. Hose stations, fire lines, cross connection control and fire department connections must be provided.
6. A street fire hydrant must be made available within 150 feet of the Marina and fire department connection.
7. A knox box will be required for the gate key if one is not already provided.
8. A complete plan review will be completed upon submittal of plans for a building permit.
9. Signs shall be placed on the northwest side of the expanded moorage facility stating "no moorage allowed".

This permit is granted pursuant to the Shoreline Management Act of 1972 and the City of Gig Harbor 1994 Shoreline Master Program. Nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with the Shoreline Management Act, RCW 90.58.

This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms or conditions hereof.

Construction pursuant to this permit will not begin and is not authorized until thirty (30) days from the date of filing with the Department of Ecology as defined under RCW 90.58.140(6) or until all

review proceedings initiated within thirty (30) days from the date of such filing have terminated, except as provided in RCW 90.58.140 (5)(a-c).

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor, City of Gig Harbor

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**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A  
CONDITIONAL USE OR VARIANCE PERMIT.**

Date received: \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

Development shall be undertaken pursuant to the following additional terms and conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Department Official

**CITY OF GIG HARBOR  
HEARING EXAMINER  
FINDINGS CONCLUSIONS AND RECOMMENDATION**

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**APPLICANT:** Charles L. Hunter  
**CASE NO.:** SDP 94-05  
**LOCATION:** 3219 Harborview Drive  
**APPLICATION:** Request for approval of a substantial development shoreline permit to allow the expansion of Harborview Marina.

**SUMMARY OF RECOMMENDATIONS:**

Planning Staff Recommendation: Approve with conditions  
Hearing Examiner Recommendation: Approve with conditions

**PUBLIC HEARING:**

After reviewing the official file which included the Planning Staff Advisory Report; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Hunter application was opened at 5:00 p.m. November 16, 1994, in City Hall, Gig Harbor, Washington, and closed for oral testimony at 5:22 pm. The hearing was held open administratively until 5:00 p.m. on November 30, 1994. Participants at the public hearing and the exhibits offered and entered are listed in the minutes of the hearing. A verbatim recording of the hearing is available in the Planning Department.

**COMMENTS**

The following is a summary of comments offered at the public hearing:

**From the City:**

Steve Osguthorpe, Associate Planner, reviewed the staff report and entered it into the record, along with a letter submitted by Robert Frisbie. He also entered into the record a revised plan submitted by the applicant and said he had just received it and has not had an opportunity to review it. He asked that the hearing be continued administratively so he could review it and submit an addendum to the staff report.

**From the Applicant:**

Charles Hunter, Applicant, said he prepared the revised drawing and said there is 60 feet between the existing Harborview dock and the Ross dock and the proposal would have a minimum of a 56 feet between the two docks. He noted that the revised plans resulted in a slightly reduced size of dock from the original plan which was submitted earlier. He said the owners of the Harborview Marina had no objections to a requirement which would prohibit any moorage on the northwest side (Ross side) of the new dock.

Tom Semon, one of the owners of the Harborview Marina, said the owners want to be able to moor a boat on the end of the new dock, but planned to stay within the harbor line. He said that the owners wanted to be able to complete the permit review process now, but said they did not plan to construct the addition to the dock until after the harbor line is clearly established in early 1995.

From the Community:

Adam Ross, Jr. said he had no objections if conditions are met to preserve the open area so he can maneuver his boat into his dock.

**WRITTEN COMMENTS:**

Written comments were submitted by two members of the community and submitted into the record at the public hearing. During the administrative continuance, staff prepared a memorandum on 11/22/94 which was given to the applicant for a response. The written response from the applicant was due on 11/30/94, but was not prepared and submitted until 12/2/94 (after the administrative continuance had ended).

Robert Frisbie submitted a letter in which he said he wanted to insure that the review process for this application (which is the first application under the revised Shoreline Master Program) is complete. He also requested that this application be tabled until the Department of Natural Resources produces a recorded survey locating the outer harbor line which will not be available until December 1994 or January 1995 (see Exhibit B)

Adam Ross expressed concern that if boats were to be moored on the western side of the marina extension it could restrict access to his moorage. He requested that a condition of approval for the expansion be that no vessels be allowed to moor on the western side of the floats (see Exhibit D).

**FINDINGS CONCLUSIONS AND RECOMMENDATION:**

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

**I. FINDINGS:**

A. The information contained in sections I through VII of the Planning Staff Advisory Report (Hearing Examiner Exhibit A) 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 of fact. A copy of said report is available in the Planning Department.

- B. Staff recommended approval of the original request, subject to conditions (Exhibit A).

After review of the revised plan, staff recommendd that the conditions of approval be modified because staff believed the revised proposal does not meet the requirements of the Gig Harbor Shoreline Master Program. The principal issue focused on the proposed moorage at the end of the dock and its proximity to the outer harbor line (Exhibit E). The memo stated that staff is not support of a moorage arrangement which depends upon a vessel's size, shape and position in the slip to conform to code requirements as it would result in an enforcement problem.

## II. CONCLUSIONS:

- A. The information prepared by the Planning Staff and contained in Section VII of the Planning Staff's Advisory Report accurately set forth a portion of the conclusions of the Hearing Examiner and by this reference is adopted as a portion of the Hearing Examiner's conclusions. A copy of said report is available in the Planning Department.
- B. The proposal is a minor modification and expansion of an existing marina and therefore should not trigger all of the requirements of the revised Shoreline Master Program (i.e. landscaping, etc.)

The location of the outer harbor line will determine whether the expansion will be for two or three slips. The proposed expansion would provide only minimal width for the 60 foot long slips and finger piers and based upon the revised plan (Exhibit C) would provide inadequate width for a typical 60 foot long vessel at the end of the dock unless that vessel was positioned just right. Staff is correct that approval of the moorage as proposed would in all likelihood result in enforcement problems.

Therefore, I concur with staff that any moorage on the end of the proposed dock expansion should be allowed only if a typical 60 foot long vessel can be moored in either direction oat the end of the dock with no portion of the vessel extending beyond the outer harbor line.

- C. The request from Adam Ross and the agreement from the applicants that no moorage should be allowed on the northwest side (Ross side) of the dock is reasonable and should be made a condition of approval.



### III. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, it is recommended that the substantial development permit to allow up to three new 20 x 60 foot slips be approved, subject to the following conditions:

1. Except for the moorage indicated on the submitted site plan, no other moorage is permitted, e.g. no vessels shall be tied to the side of the dock in the required side yard setback and no vessels shall be tied to the end of the dock unless the applicants can document that at least 18 feet exists between the outer harbor line and any portion of the dock.
2. The new slips shall not be covered.
3. Prior to permit issuance, a pump-out facility plan shall be submitted to and approved by the Gig Harbor Public Works and Planning Departments. The pump-out shall be conveniently accessible to all boats. The pump-out facility shall be installed and operational prior to issuance of an occupancy permit.
4. The project shall comply with all HPA requirements as determined by the Department of Fisheries.
5. The marina fire flow system must be upgraded to provide the protection required under section (G), Appendix II-C, 1001 Uniform Fire Code. Hose stations, fire lines, cross connection control and fire department connections must be provided.
6. A street fire hydrant must be made available within 150 feet of the Marina and fire department connection.
7. A Knox box will be required for the gate key if one is not already provided.
8. A complete plan review will be completed upon submittal of plans for building permit.
9. Signs shall be placed on the northwest side of the expanded moorage facility stating "no moorage allowed".

Dated this 14th day of December, 1994.



Ron McConnell  
Hearing Examiner

### RECOMMENDATION:

Any aggrieved person feeling that the decision of the Examiner is based on erroneous procedures, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the Examiner within ten (10) days of the date the decision is rendered. This request shall set forth the specific errors of new information relied upon by such appellant, and the Examiner may, after review of the record, take further action as he or she deems proper.

**COUNCIL ACTION:**

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applies for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.

**MINUTES OF THE NOVEMBER 16, 1994  
HEARING OF THE HUNTER  
APPLICATION**

Ronald L. McConnell was the Hearing Examiner for this matter. Participating in the hearing were: Steve Osguthorpe, representing the City of Gig Harbor, Charles Hunter, the applicant; Tom Semon, on of the owners of the subject dock; and Adam Ross, Jr., a neighbor.

**EXHIBITS:**

The following exhibits were offered and entered into the record:

- A. Planning Staff's Advisory Report, with attachments.
- B. Letter from Robert Frisbie, dated 11/15/94
- C. Revised Plans
- D. Letter from Adam Ross, Jr., dated 11/16/94
- E. Memo from Steve Osguthorpe, dated 11/22/94

**PARTIES OF RECORD:**

Charles Hunter  
P.O. Box 410  
Gig Harbor, WA 98335

Robert Frisbie  
9720 Woodworth Avenue  
Gig Harbor, WA 98332

Harborview Condominium Owners  
Association  
3219 Harborview Drive  
Gig Harbor, WA 98332

Tom Semon  
13029 Pt. Richmond Beach Road  
Gig Harbor, WA 98335

Adam Ross Jr.  
P.O. Box 638  
Gig Harbor, WA 98335

RECEIVED

JAN 30 1995

CITY OF GIG HARBOR  
HEARING EXAMINER RECONSIDERATION OF RECOMMENDATION  
FILE NO. SDP 94-05  
(HUNTER)

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I. FINDINGS:

- A. John Paglia, Attorney for Adam and Maxine Ross, aggrieved adjacent property owners; and Gregory Clark, secretary of the Harborview Condominium Owners Association both requested reconsideration of my recommendation on File No. SDP 94-05.
- B. Mr. Paglia seeks reconsideration because he contends the existing Harborview Marina is a non-conforming structure because it fails to meet the City's setback requirements and therefore cannot be increased in size unless it is brought into conformance with the regulations.

Additionally, he contends, the marina is in conflict with Shoreline policy 3.01.2 which states:

Shoreline developments should provide visual access to the water. (See Reconsideration Exhibit A).

- C. Gregory Clark contends the amended site plan more than satisfies all setback and other regulations and therefore should be approved as submitted and he stated the Harborview Condominium Owners Association would go on record that they will not moor any vessels outside their designated lease area.

He requested that the Shoreline Permit be issued as depicted on their amended site plan. See Reconsideration Exhibit B.

- D. No information was submitted at the hearing which suggested that the Harborview Marina structure itself was non-conforming and did not meet the setback requirements. In fact, the first paragraph of Section VII of the staff report dated November 16, 1994, stated:

"The proposed development meets all zoning requirements pertaining to parking and setbacks and is consistent with the stated goals and policies in the Shoreline Master Program with the exception of the required pump-out facility. A pump-out will be required as part of this development. The planning staff has no other concerns with the proposal.

II. CONCLUSIONS:

- A. Mr. Paglia, in his request for reconsideration, has contended that the existing marina does not meet the setback requirements, but he did not offer any substantive information which would indicate that the existing marina structure is in fact a non-conforming structure. If the existing structure does not meet the setback requirements, it is difficult to believe that information could not be reasonably available at the hearing, which has been held on this case.

In his notation of Shoreline Policy 3.01.2, he fails to acknowledge that the marina is already in existence and the request is merely to extend the marina a short distance and that the extension will have little or no impact on visual access to the water from the shoreline in front of the Harborview Marina.

- B. In his letter, Mr. Clark basically restated arguments which were made at the hearing by the Harborview Marina representative Mr. Charles Hunter.

- C. Neither request for reconsideration provided any information which showed that the decision of the Examiner was based on erroneous procedures, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonable available at the hearing. Therefore, both of the requests for reconsideration should be denied.

### III. DECISION:

Based upon the foregoing findings and conclusions, both of the requests for reconsideration are denied.

Dated this 26th day of January, 1995.



Ron McConnell  
Hearing Examiner

### COUNCIL ACTION:

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

In the Case of an ordinance or rezone of property, the ordinance shall not be placed on the council's agenda until all conditions, restrictions, or modifications which may have been stipulated by the Council have been accomplished or provisions for compliance made to the satisfaction of the Council.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be final and conclusive, unless within twenty (20) business days from the date of the Council action an aggrieved party of record applies for a Writ of certiorari to the Superior Court of Washington for Pierce County, for the purpose of review of the action taken.

### RECONSIDERATION EXHIBITS:

- A. Request for reconsideration from John Paglia, Attorney for Adam and Maxine Ross, dated December 23, 1994
- B. Request for reconsideration from Gregory Clark, received December 27, 1994.

Charles Hunter  
P.O. Box 410  
Gig Harbor, WA 98335

Robert Frisbie  
9720 Woodworth Avenue  
Gig Harbor, WA 98332

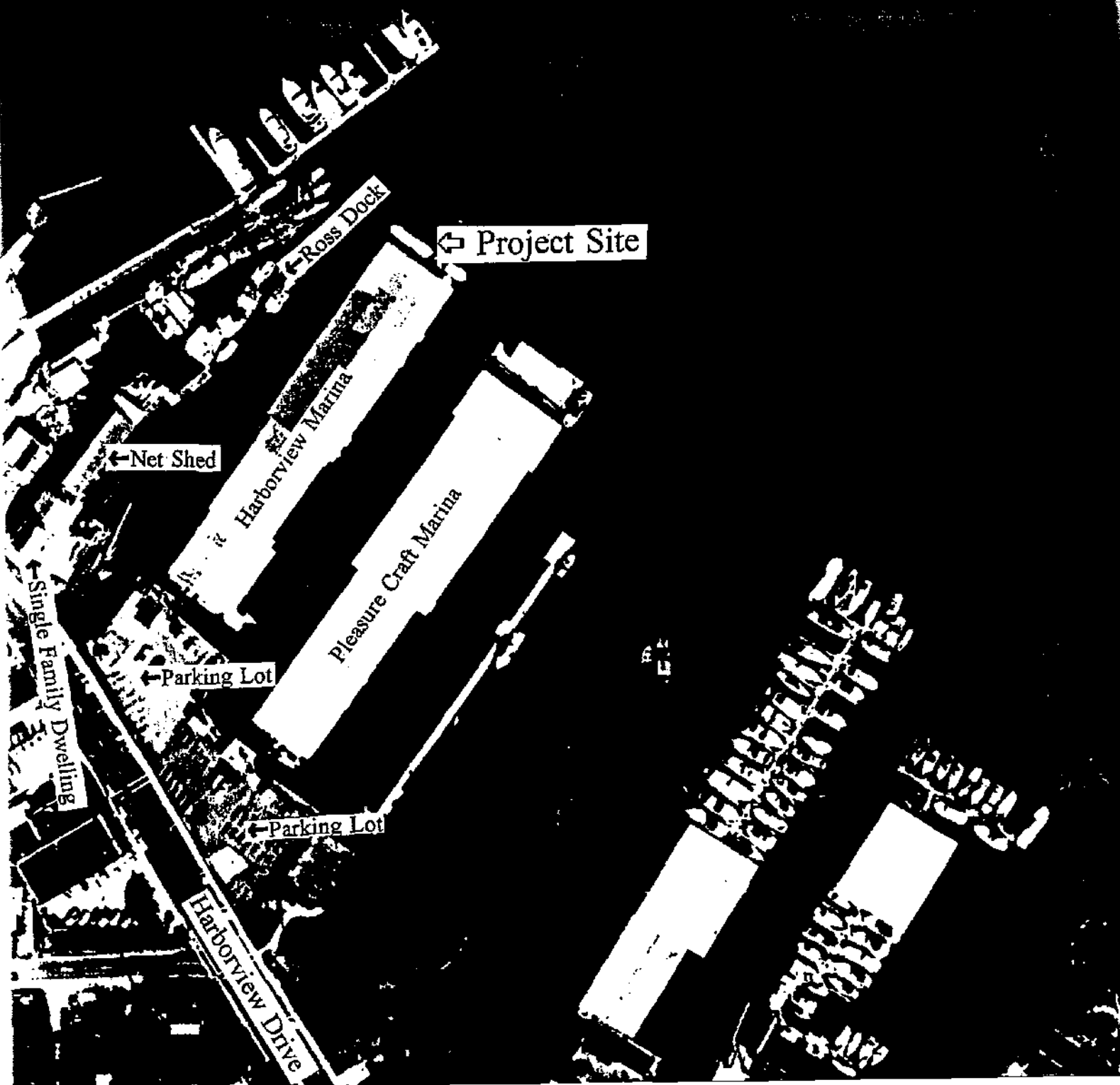
Harborview Condominium Owners  
Association  
3219 Harborview Drive  
Gig Harbor, WA 98332

Tom Semon  
13029 Pt. Richmond Beach Road  
Gig Harbor, WA 98335

Adam Ross Jr.  
P.O. Box 638  
Gig Harbor, WA 98335

John Paglia  
Suite 304 Professional Building  
705 South 9th Street  
Tacoma, WA 98405

Harbor View Marina Expansion  
Adjacent Structures  
Scale: 1" = 150 feet



↔ Project Site

← Net Shed

← Ross Dock

Harborview Marina

Pleasure Craft Marina

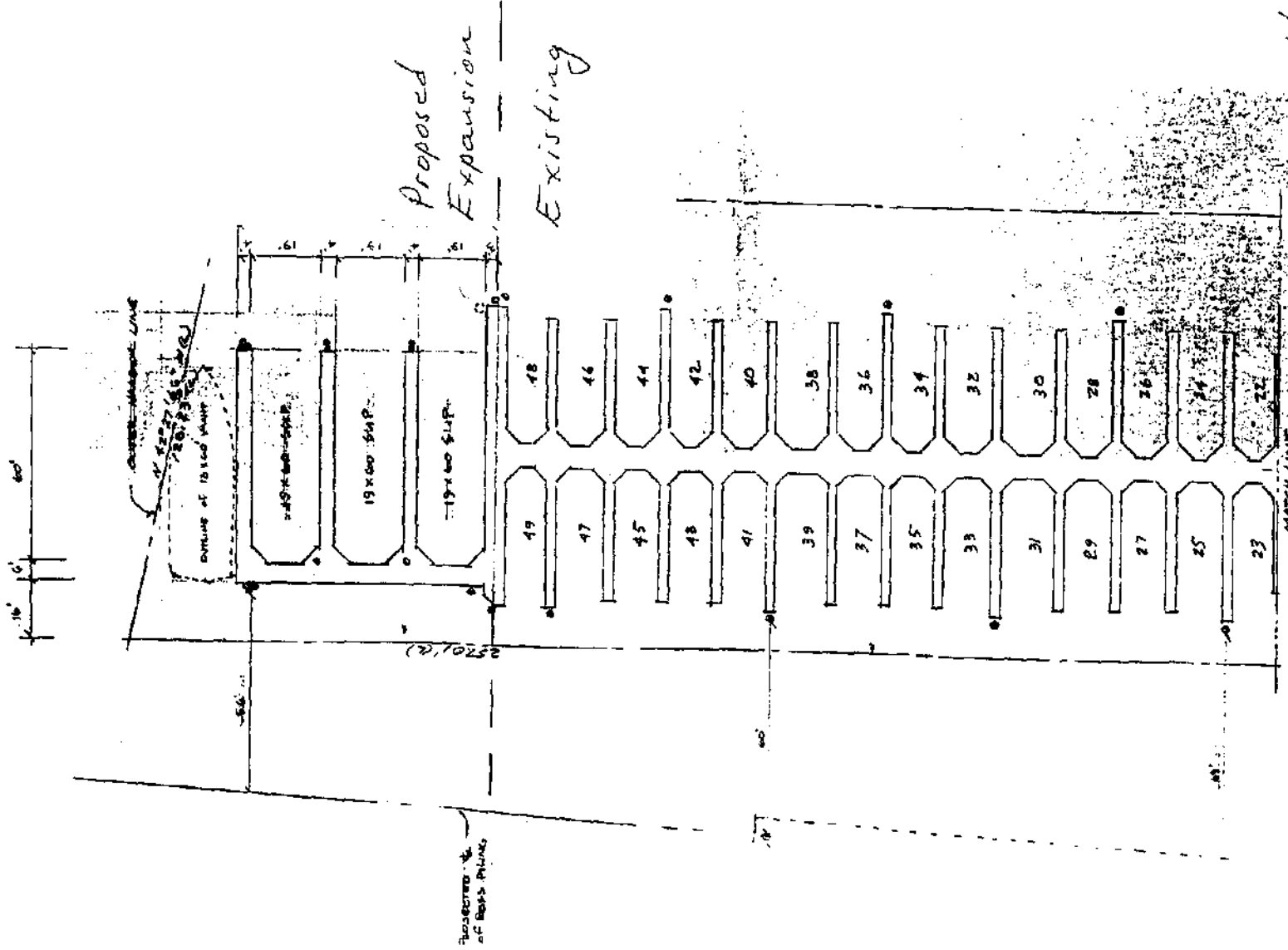
← Parking Lot

← Single Family Dwelling

← Parking Lot

Harborview Drive

Proposed  
Expansion  
Existing



Harborview Marina  
Covered Moorage  
SDP 94-05

PLAN



*City of Gig Harbor. The "Maritime City."*

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(206) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR** *MH*  
**SUBJECT: PASIN/ULID #2 SEWER CONNECTION**  
**DATE: MARCH 24, 1995**

### **INTRODUCTION**

Mr. James Pasin, who was previously granted sewer capacity for the Hific Center, and Mr. Terry Wambaugh are now requesting an additional 9.62 ERUs for four additional buildings on the site. Each building is 13,496 interior square feet. The estimated consumption rate based on existing data, as approved by the City Engineer, is 5,610 gallons per month. The resulting ERUs requested for the buildings are estimated at 9.62 ERUs. A three year commitment of sewer capacity at 15% results in a capacity commitment payment \$2432.17. This property has been assessed for ULID #2.

### **BACKGROUND/ISSUES**

This sewer extension, while outside city limits, is within the previously assessed improvement district boundaries of ULID #2. This property has been paying assessments for the ULID since October, 1989. As per city ordinance, the attached contract reflects the various land use stipulations, public works standards, and annexation provisions which the city has indicated should apply to all utility extensions outside the city limits. The area is already served by the Olympic Mall water company with whom the city participates in a joint urban area service agreement under the authority of the State Department of Health. (If this sewer extension was within the city's agreed water service area, then we would require water extension as well as sewer).

### **POLICY ISSUES**

Continued extensions of sewer into this service area (and any areas outside city limits but within the Urban Growth Area) should be predicated on the conclusion of a satisfactory joint planning agreement between Pierce County and the City of Gig Harbor. This agreement should preserve the on-going integrity of utility extension agreements and protect the purposes for which these extensions have been made. The city staff is making progress with Pierce County staff toward the presentation to the County Council and to the City Council of such an agreement.

### **FISCAL IMPACT**

Extensions from the ULID #2 service area, fiscally speaking, have the same effect on the city as any outside extension which connects into ULID #1. The 1.5 outside multiplier on the rate is in effect.

### **RECOMMENDATION**

Staffs recommends approval of the contract as presented for 9.62 ERUs.





WHEN RECORDED RETURN TO:  
City of Gig Harbor  
Administrative Assistant  
P.O. Box 145  
Gig Harbor, WA 98335

UTILITY EXTENSION, CAPACITY AGREEMENT  
AND AGREEMENT WAIVING RIGHT TO PROTEST LID

THIS AGREEMENT is entered into on this \_\_\_\_ day of April, 1995, between the City of Gig Harbor, Washington, hereinafter referred to as the "City", and James Pasin and Terry Wambaugh, hereinafter referred to as "the Owner".

WHEREAS, the Owner is the owner of certain real property located in Pierce County which is legally described as set forth in Exhibit "A" attached hereto and incorporated herein by this reference as though set forth in full, and

WHEREAS, the Owner's property is not currently within the City limits of the City, and

WHEREAS, the Owner desires to connect to the City water and sewer utility system, hereinafter referred to as "the utility," and is willing to allow connection only upon certain terms and conditions in accordance with Title 13 of the Gig Harbor Municipal code, as now enacted or hereinafter amended, NOW, THEREFORE,

FOR AND IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties agree as follows:

1. Warranty of Title. The Owner warrants that he/she is the Owner of the property described in Exhibit "A" and is authorized to enter into this Agreement.

2. Extension Authorized. The City hereby authorizes the Owner to extend service to Owner's property from the existing utility line on 50th Street Court N.W. (street or right-of-way) at the following location:

3206 50th St. Court N.W., Gig Harbor, Washington

3. Costs. Owner will pay all costs of designing, engineering and constructing the extension. All construction shall be done to City standards and according to plans approved by the City's Public Works Director. Any and all costs incurred by the City in reviewing plans and inspecting construction shall be paid for by the Owner.

4. Sewer Capacity Commitment. The City agrees to provide to the Owner sewer utility service and hereby reserves to the Owner the right to discharge to the City's sewerage system (9.62 ERUs) gallons per day average flow. These capacity rights are allocated only to the Owner's system as herein described. Any addition to this system must first be approved by the City. Capacity rights acquired by the Owner pursuant to this agreement shall not constitute ownership by the Owner of any facilities comprising the City sewerage system. The City agrees

to reserve to the Owner this capacity for a period of 36 months ending on April 10, 1998, provided this agreement is signed and payment for sewer capacity is commitment received within 45 days after City Council approval of extending sewer capacity to the Owner's property. Sewer capacity shall not be committed beyond a three year period.

5. Capacity Commitment Payment. The Owner agrees to pay the City the sum of \$2,431.45 to reserve the above specified time in accordance with the schedule set forth below.

Commitment period	Percent (%) of Connection Fee
One year	Five percent ( 5%)
Two years	Ten percent (10%)
Three years	Fifteen percent (15%)

In no event, however, shall the Owner pay the City less than five hundred dollars (\$500) for commitment for sewer reserve capacity. In the event the Owner has not made connection to the City's utility system by the date set forth above, such capacity commitment shall expire and the Owner shall forfeit one hundred percent (100%) of this capacity commitment payment to cover the City's administrative and related expenses.

In the event the Pierce County Boundary Review Board should not approve extension of the City's sewer system prior to the extension of the commitment period, the Owner shall be entitled to a full refund (without interest) from the City of the capacity agreement.

6. Extension of Commitment Period. In the event the Owner chooses to permanently reserve sewer capacity by paying the entire connection fee for the number of equivalent residential units desired to be reserved before the expiration date set forth above, the Owner shall be responsible for paying each year for the sewer utility system's depreciation based on the following formula: (Owner's reserved capacity divided by the total plant capacity times the annual budgeted depreciation of the sewer facilities.)

7. Permits - Easements. Owner shall secure and obtain, at Owner's sole cost and expense any necessary permits, easements and licenses to construct the extension, including, but not limited to, all necessary easements, excavation permits, street use permits, or other permits required by state, county and city governmental departments including the Pierce County Public Works Department, Pierce County Environmental Health Department, State Department of Ecology, Pierce County Boundary Review Board, and City of Gig Harbor Public Works Department.

8. Turn Over of Capital Facilities. If the extension of utility service to Owner's property involves the construction of water or sewer main lines, pump stations, wells, and/or other city required capital facilities, the Owner agrees to turn over and dedicate such facilities to the City, at no cost, upon the completion of construction and approval and acceptance of the same by the City. As a prerequisite to such turn over and acceptance, the Owner will furnish to the City the following:

- A. As built plans or drawings in a form acceptable to the City Public Works Department;
- B. Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City Attorney;
- C. A bill of sale in a form approved by the City Attorney; and
- D. A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the City Public Works Director, ensuring that the facilities will remain free from defects in workmanship and materials for a period of 2 year(s).

9. **Connection Charges.** The Owner agrees to pay the connection charges, in addition to any costs of construction as a condition of connecting to the City utility system at the rate schedules applicable at the time the Owner requests to actually connect his property to the system. Any commitment payment that has not been forfeited shall be applied to the City's connection charges. Should the Owner not initially connect 100% of the Sewer Capacity Commitment, the Capacity Commitment payment shall be credited on a pro-rated percentage basis to the connection charges as they are levied.

10. **Service Charges.** In addition to the charges for connection, the Owner agrees to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist, which is presently at 150% the rate charged to customers inside city limits, or as they may be hereafter amended or modified.

11. **Annexation.** Owner understands that annexation of the property described on Exhibit "A" to the City will result in the following consequences:

- A. Pierce County ordinances, resolutions, rules and regulations will cease to apply to the property upon the effective date of annexation;
- B. City of Gig Harbor ordinances, resolutions, rules and regulations will begin to apply to the property upon the effective date of annexation;
- C. Governmental services, such as police, fire and utility service, will be provided to the property by the City of Gig Harbor upon the effective date of annexation;
- D. The property may be required to assume all or any portion of the existing City of Gig Harbor indebtedness, and property tax rates and assessments applicable to the property may be different from those applicable prior to the effective date of annexation;
- E. Zoning and land use regulations applicable to the property after annexation may be different from those applicable to the property prior to annexation; and

15. Waiver of Right to Protest LID. Owner acknowledges that the entire property legally described in Exhibit "A" would be specially benefited by the following improvements to the utility (specify): None.

Owner agrees to sign a petition for the formation of an LID or ULID for the specified improvements at such time as one is circulated and Owner hereby appoints the Mayor of the City as his attorney-in-fact to sign such a petition in the event Owner fails or refuses to do so.

With full understanding of Owner's right to protest formation of an LID or ULID to construct such improvements pursuant to RCW 35.43.180, Owner agrees to participate in any such LID or ULID and to waive his right to protest formation of the same. Owner shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court. Notwithstanding any other provisions of this Agreement, this waiver of the right to protest shall only be valid for a period of ten (10) years from the date this Agreement is signed by the Owner.

16. Specific Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

17. Covenant. This agreement shall be recorded with the Pierce County Auditor and shall constitute a covenant running with the land described on Exhibit "A", and shall be binding on the Owner, his/her heirs, successors and assigns. All costs of recording this Agreement with the Pierce County Auditor shall be borne by the Owner.

18. Attorney's Fees. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other remedy provided by law or this agreement.

DATED this 24 day of MARCH, 1995.

CITY OF GIG HARBOR

\_\_\_\_\_  
Mayor Gretchen Wilbert

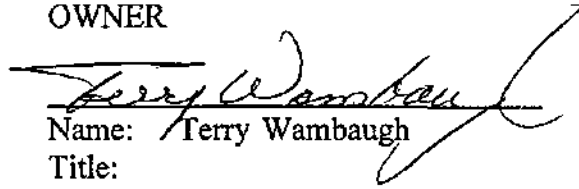
OWNER

James A. Pasin

Name: James Pasin

Title:

OWNER

  
Name: Terry Wambaugh  
Title:

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
City Clerk, Mark Hoppen

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF PIERCE         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1995, before me personally appeared James Pasin, to me known to be the individual described in and who executed the foregoing and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposed therein mentioned.

IN WITNESS THEREOF, I have hereto set my hand and affixed by official seal the day and year first above written.

\_\_\_\_\_  
\_\_\_\_\_  
*print name*  
NOTARY PUBLIC for the State  
of Washington, residing at  
\_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF PIERCE         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1995, before me personally appeared Terry Wambaugh, to me known to be the individual described in and who executed the foregoing and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposed therein mentioned.

IN WITNESS THEREOF, I have hereto set my hand and affixed by official seal the day and year first above written.

\_\_\_\_\_  
\_\_\_\_\_  
*print name*  
NOTARY PUBLIC for the State  
of Washington, residing at  
\_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF WASHINGTON        )  
  )ss:  
COUNTY OF PIERCE         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1995, before me personally appeared Mayor and City Clerk of the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument.

IN WITNESS THEREOF, I have hereto set my hand and affixed by official seal the day and year first above written.

\_\_\_\_\_  
\_\_\_\_\_

*print name*

NOTARY PUBLIC for the State  
of Washington, residing at

\_\_\_\_\_  
My commission expires \_\_\_\_\_

RECEIVED

MAR 20 1995

CITY OF GIG HARBOR

March 20, 1995

SNODGRASS FREEMAN ASSOCIATES, AIA 

City of Gig Harbor  
3105 Judson St.  
Gig Harbor, WA 98335

Attn: Mr. Mark Hoppen  
City Manager

Re: Westside Business Park  
Utilities Extension Request No. 2

Dear Mark:

I am requesting an additional utilities extension be granted to accommodate the developing properties known as Westside Business Center, formerly the HiFic Center.

The requested utilities extension will provide sanitary sewer service for four additional office buildings. Each new building is planned to be 16,548 sf and has an equivalent of (3.6) Residential Equivalency Units and a proposed total of (14.4) R.E.U.'s when or if all buildings are connected to the city 10" sanitary sewer line.

It is my understanding that based on these numbers, the recent permit issued for (6) six R.E.U.'s covering the existing building will also cover the addition of Building B planned for construction this summer.

This additional request would accommodate building F using a connection provided on the recently issued 8" utilities extension. The remaining three buildings C, D and E could be connected to the 10" line through an existing 'T', provided at the time the sewer line was constructed.

Included per your request, are site plans, vicinity maps, engineer calculations, and a copy of the recently issued sewer extension. I will wait to hear back from you regarding the scheduled date of review and approval before the City Council.

Please call me at 851-8383 if you have any questions.

Sincerely,



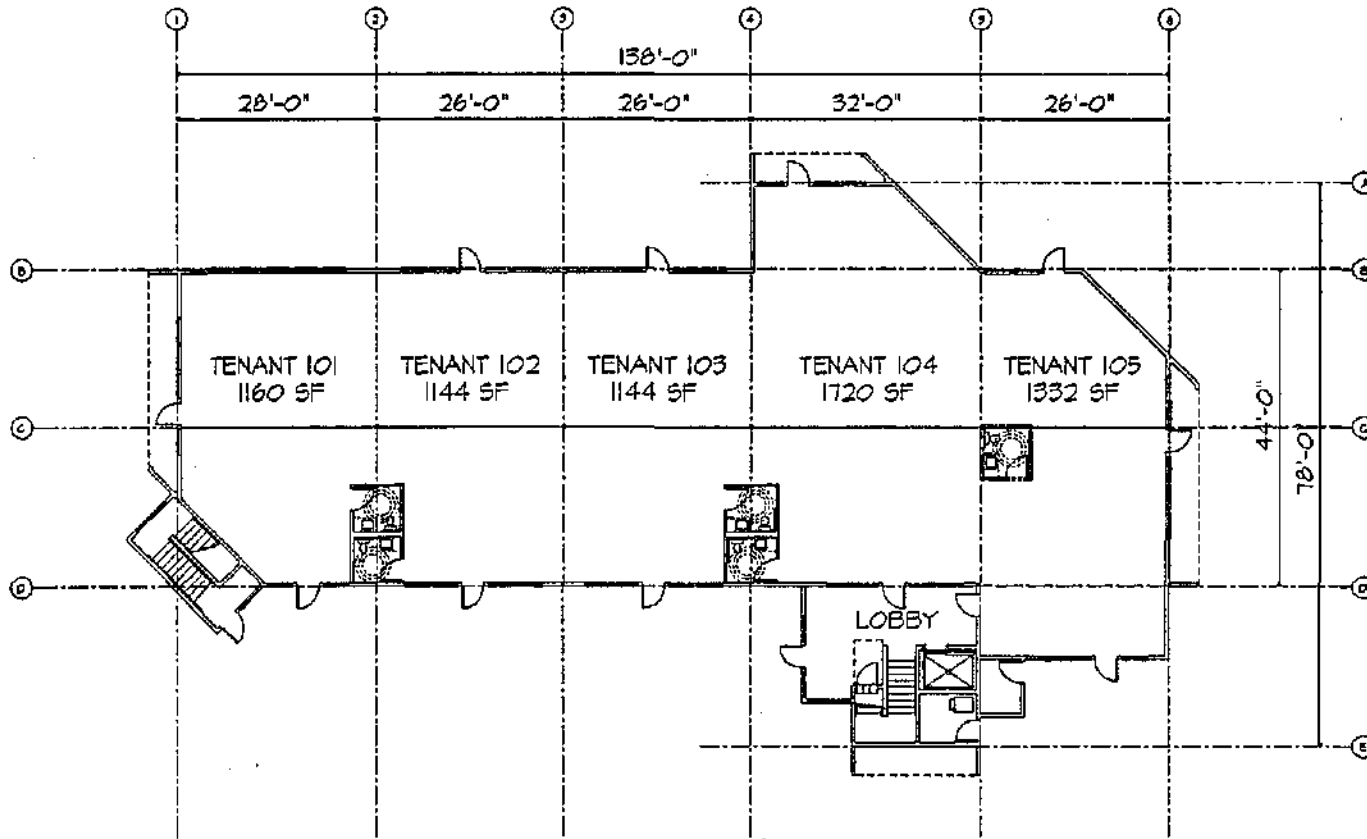
David J. Freeman

cc: Reality Management - Jim Pasin  
Northwest Investments - Terry Wambaugh  
Baseline Engineering



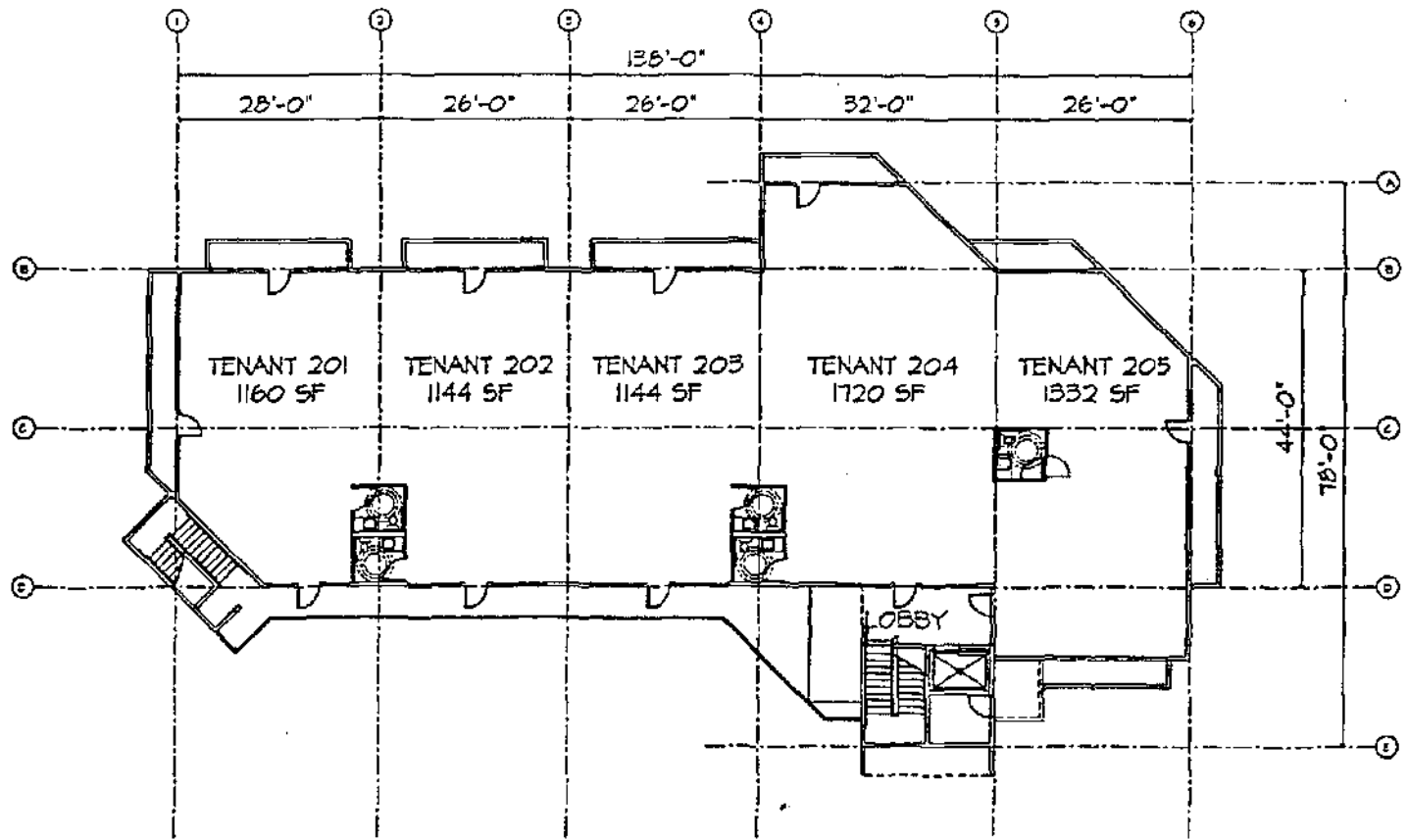
**BUILDING DATA:**

FIRST FLOOR TENANT SPACES:	6500	SF
SECOND FLOOR TENANT SPACES:	6500	SF
LOBBY:	250	SF
ELEVATOR:	198	SF
STORAGE:	48	SF
<b>TOTAL:</b>	<b>13,496</b>	<b>SF</b>



**FIRST FLOOR PLAN**

PROJECT NO. \_\_\_\_\_  
 SHEET NO. \_\_\_\_\_  
 DATE \_\_\_\_\_  
 WESTSIDE BUSINESS CENTER  
 BUILDING "B"  
 SIG HARBOR, WASHINGTON  
 SFA  
 ARCHITECTS  
 1000 10TH AVENUE, S.W.  
 SEASIDE, WA 98148  
 TEL: (206) 465-1100  
 FAX: (206) 465-1101



SECOND FLOOR PLAN

DATE	
BY	
CHECKED	
APPROVED	
PROJECT NO.	
CLIENT	
LOCATION	
SCALE	



WESTSIDE BUSINESS CENTER  
 BUILDING "B"  
 616 HARBOUR WASHINGTON

ARCHITECT: [Firm Name]  
 ENGINEER: [Firm Name]





**RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD**  
 License Division - 1025 E. Union, P.O. Box 43075  
 Olympia, WA 98504-3075  
 (360) 664-0012

TO: MAYOR OF GIG HARBOR

DATE: 3/17/95

RE: CHANGE OF CORPORATE OFFICERS/STOCKHOLDERS APPLICATION

License: 076567 - 2A County: 27  
 Tradename: HUNAN GARDEN RESTAURANT  
 Loc Addr: 5500 OLYMPIC DR  
 GIG HARBOR WA 98335

Mail Addr: 9801 S SHERIDAN  
 TACOMA WA 98444

Phone No.: 206-537-0966

APPLICANTS:

PANDA INC.  
 LEE, KERMIN 05-04-56 532-96-7869  
 BRICE, MING CHU 12-15-51 182-56-0907  
 CHENG, CASEY WING 12-09-63 461-57-7792  
 LEE, KUO CHIAO 01-15-63 537-19-3811  
 LEE, SHWU CHYUN 11-22-49 534-23-4061  
 LEE, WANG CHIAO 12-26-53 538-27-4672

Classes Applied For:

H Spirituous liquor by individual glass and/or beer and wine on premises

As required by RCW 66.24.010(8), you are notified that application has been made to the Washington State Liquor Control Board for a license to conduct business. If return of this notice is not received in this office within **20 DAYS** from the date above, it will be assumed that you have no objection to the issuance of the license. **If additional time is required you must submit a written request for an extension of up to 20 days.** An extension of more than 20 days will be approved only under extraordinary circumstances.

- |  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 1. Do you approve of applicant ? .....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you approve of location ? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license. do you want a hearing before final action is taken? ..... | <input type="checkbox"/> | <input type="checkbox"/> |

If you have indicated disapproval of the applicant, location or both, please submit a statement of all facts upon which such objections are based.

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE



**RETURN TO:** WASHINGTON STATE LIQUOR CONTROL BOARD  
 License Division - 1025 E. Union, P.O. Box 43075  
 Olympia, WA 98504-3075  
 (360) 664-0012

TO: MAYOR OF GIG HARBOR

DATE: 3/18/95

RE: APPLICATION TO ADD CLASS(ES) C  
 TO CURRENT CLASS(ES) A E

License: 078469 - 2A County: 27  
 Tradename: CAPTAIN'S TERRACE  
 Loc Addr: 4116 HARBORVIEW DR  
 GIG HARBOR WA 98332  
 Mail Addr: 4116 HARBORVIEW DR  
 GIG HARBOR WA 98332-1080  
 Phone No.: 206-851-5222

APPLICANTS:

R & M LUSTIG, INC.  
 LUSTIG, MARGUERITE  
 03-18-46 549-68-9705  
 LUSTIG, ROBERT J  
 10-01-40 572-54-8598

Classes Applied For:

- A Restaurant or dining place - Beer on premises
- C Wine on premises
- E Beer by bottle or package - off premises

As required by RCW 66.24.010(8), you are notified that application has been made to the Washington State Liquor Control Board for a license to conduct business. If return of this notice is not received in this office within 20 DAYS from the date above, it will be assumed that you have no objection to the issuance of the license. If additional time is required you must submit a written request for an extension of up to 20 days. An extension of more than 20 days will be approved only under extraordinary circumstances.

- |  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 1. Do you approve of applicant ? .....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you approve of location ? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
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If you have indicated disapproval of the applicant, location or both, please submit a statement of all facts upon which such objections are based.

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE



