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CITY OF GIG HARBOR

DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

May 18, 2017

Katrina Knutson  
City of Gig Harbor Public Works  
3510 Grandview Street  
Gig Harbor, WA 98335

Re: City of Gig Harbor Local Permit #SVAR-16-0001  
Katrina Knutson - Applicant  
Approved Shoreline Conditional Use and Shoreline Variance Permits

Dear Ms. Knutson:

On April 20, 2017, the Department of Ecology (Ecology) received the City of Gig Harbor decision on your Shoreline Conditional Use and Shoreline Variance Permits for development of a public park and upland, one-story, 3,000 square foot, storage building for non-motorized watercraft, including a public restroom facility that would be located within the building and a roof-top viewing area at the Harborview Drive street level of the proposed structure. Approximately 936 cubic yards of fill would be placed landward of the site's ordinary high water mark (OHWM) and 175 cubic yards would be placed below or water ward of the OHWM. Two wetlands on the site would be filled and eliminated under the proposal. Improvements to the Harborview Drive right-of-way, utilities, lighting, and landscaping are also proposed in conjunction with the project.

Also proposed is the development of a new marine bulkhead along the length of the site's shoreline frontage; the restoration and improvement of two existing marine stormwater outfalls; the demolition, reconstruction, and expansion of the Ancich overwater pier, the restoration and improvement of the Ancich net shed; and, the restoration of the Jerkovich overwater pier.

By law, Ecology must review Conditional Use and Variance Permits for compliance with:

- The Shoreline Management Act (Chapter 90.58 RCW)
- Ecology's Conditional Use Permit approval criteria (Chapter 173-27-160 WAC)
- Ecology's Variance Permit approval criteria (Chapter 173-27-170 WAC)
- The City of Gig Harbor Local Shoreline Master Program

After reviewing Conditional Use and Variance Permits for compliance, Ecology must decide whether to approve, approve with conditions, or disapprove them.





DEVELOPMENT SERVICES

## MEMORANDUM

**To:** Mayor Guernsey & City Council Members

**From:** Cindy Andrews  
Planning Technician

**Subject:** Hearing Examiner Decision – PL-SPR-16-0006/PL-SDP-16-0005/PL-SVAR-16-0001/PL-SCUP-16-0002/PL-DR-16-0159/PL-ALP-16-0004

### ANCICH PARK IMPROVEMENTS & NET SHED RESTORATION

**Date:** April 12<sup>th</sup>, 2017

The City of Gig Harbor Hearing Examiner on April 4<sup>th</sup>, 2017, granted, subject to conditions, Site Plan Review, (PL-SPR-16-0006), Shoreline Substantial Development Permit, (PL-SDP-16-0005), Shoreline Variance, (PL-SVAR-16-0001), Shoreline Conditional Use Permit (PL-SCUP-16-0002), Design Review, (PL-DR-16-0159) and Alternate Landscape Plan, (PL-ALP-16-0004) for the Ancich Park Improvements and Net Shed Restoration project. The applicant proposes the development of a public park and upland, one-story, 3000 sf, storage building for non-motorized watercraft. The building would also provide a public restroom facility and a roof-top public viewing area and would be accessed from Harborview Drive. Additional details include new marine bulkhead along the length of the shoreline frontage; restoration and improvement of one, existing, marine, stormwater outfall; demolition, reconstruction and expansion of the Ancich overwater pier; restoration and improvement the Ancich Net Shed; and restoration of the Jerkovich overwater pier. The proposed project is located at 3525 Harborview Dr. Pursuant to the Gig Harbor Municipal Code, the Appeal Period for the decision is 10 days from the date of issuance of this decision. If you have any questions please contact **Senior Planner, Peter Katich at [katichp@cityofgigharbor.net](mailto:katichp@cityofgigharbor.net)**.

C: City Administrator, Ron Williams

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April 4, 2017

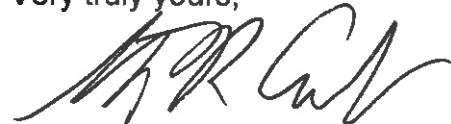
City of Gig Harbor Public Works Department  
Attn: Katrina Knutson, Parks Project Administrator  
3510 Grandview Street  
Gig Harbor, WA 98335

**RE: SPR-16-0006, SDP-16-0005, SVAR-16-0001,  
SCUP-16-0002, DR-16-0159 and ALP-16-0004  
Ancich Park Improvements & Net Shed Restoration**

Dear Applicant:

Transmitted herewith is the Report and Decision of the City of Gig Harbor Hearing Examiner regarding your request for the above-entitled matter.

Very truly yours,



**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner

SKC/jjp

cc: Parties of Record

**OFFICE OF THE HEARING EXAMINER**

**CITY OF GIG HARBOR**

**REPORT AND DECISION**

**CASE NO.:**                   **SPR-16-0006, SDP-16-0005, SVAR-16-0001,  
SCUP-16-0002, DR-16-0159 and ALP-16-0004  
Ancich Park Improvements & Net Shed Restoration**

**APPLICANT:**               City of Gig Harbor Public Works Department  
Attn: Katrina Knutson, Parks Project Administrator  
3510 Grandview Street  
Gig Harbor, WA 98335

**OWNER:**                    City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

**AGENT:**                    PND Engineers, Inc.  
Attn: Steven Robert  
1736 Fourth Avenue South  
Seattle, WA 98134

**PLANNER:**                 Peter Katich, Senior Planner

**SUMMARY OF REQUEST:**

Approval of various permits and a shoreline critical areas variance to allow development of a public park and upland, one-story, 3,000 square foot, storage building for non-motorized watercraft. The building would also provide a public restroom facility and a roof-top public viewing area and would be accessed from Harborview Drive. The project also includes a new, marine bulkhead along the length of the shoreline frontage; restoration and improvement of one, existing, marine, stormwater outfall; demolition, reconstruction and expansion of the Ancich overwater pier; restoration and improvement of the Ancich Net Shed; and restoration of the Jerkovich overwater pier. The parcel is located at 3525 Harborview Drive within the City of Gig Harbor.

**SUMMARY OF DECISION:**                   Request granted, subject to conditions.

**DATE OF DECISION:**                   April 4, 2017

## **PUBLIC HEARING:**

After reviewing the Planning Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on March 16, 2017, at 1:30 p.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "A" - Community Development Department Staff Report**
- EXHIBIT "B" - Plan Set**
- EXHIBIT "C" - Mitigated Determination of Non-significance**
- EXHIBIT "D" - DRB Notice of Recommendation**
- EXHIBIT "E" - Ecology Letters**
- EXHIBIT "F" - Ecology Letter**
- EXHIBIT "G" - DNR Letters**
- EXHIBIT "H" - Public Comments**
- EXHIBIT "I" - Pubic Notice for Hearing and Application**
- EXHIBIT "J" - Landscape Plan**
- EXHIBIT "K" - Shoreline Variance**
- EXHIBIT "L" - Shoreline Conditional Use Permit**
- EXHIBIT "M" - Power Point Presentation**
- EXHIBIT "N" - Full Size Site Plan**
- EXHIBIT "O" - Additional Condition**

**The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.**

PETER KATICH appeared, presented the Community Development Department Staff Report, and testified that the project includes a 3,000 square foot, non-motorized boat storage building with rooftop viewing area and restrooms. An existing bulkhead will be demolished, and two pier restorations and the restoration of the Ancich Net Shed will also occur. The project will also include improvements to Harborview Drive, and a second phase will provide a moorage facility on the Ancich Pier for the commercial fishing fleet. The parcel is located within the Waterfront Millville zone and is also subject to an Historic Working Waterfront Overlay. Restoration of the piers will further policies of the Comprehensive Plan and zoning code. A 2008 Examiner's decision approved a 25 slip marina, two single-family dwellings, and off-street parking for the site. Restoration of the net shed requires a Certification of Appropriateness pursuant to the GHMC. The Design Board held three meetings and obtained public comments. He has included their notice of

recommendation as an exhibit. The City responsible official issued a SEPA MDNS on December 22, 2016, and received no appeals. The City provided proper public notice. He analyzed the project for consistency with shoreline conditional use permit, site plan review, and other permit criteria. Page 31 of his Staff Report sets forth conditions of approval to include the MDNS mitigating measures. He then requested inclusion of an additional condition that addresses approval of users of the storage building, once they are identified. Part of the storage building will consist of boat storage. The City will further examine parking requirements upon determination of the users. They will address parking once tenants are chosen, and only then will the applicant submit a lease to the planning director for approval. The applicant must show that proposed uses can meet parking requirements. According to GHMC 17.72.030 no parking spaces are required for the net shed, and the code requires no off-street parking for commercial fishing moorage provided the boats have an active commercial fishing license. The City contemplates a portion of the structure for non-motorized boat storage, and the closest classified use thereto is mini-storage. Two parking stalls are required for a mini-storage facility. The applicant must show the stalls on the site plan. According to the code, off-street parking can be provided within 500 feet of the site. Also, the planning director has the authority to determine necessary parking. He referred to Exhibit C-10 and an email dated December 21, 2016, from Emily Appleton evaluating the applicant's analysis and agreeing therewith. The project does provide adequate parking. The public will have no access to the commercial fishing pier portion of the Jerkovich Dock.

KATRINA KNUTSON appeared and testified that the site is one of the last undeveloped, waterfront parcels. It is very small and was purchased by the City in 2012. In 2013 the Planning Department conducted a number of meetings and public forums to determine an appropriate use. A City Council Resolution agreed with the proposed use of non-motorized boat storage for the building. The City then submitted four grant applications to develop the park and secured funding therefor. They anticipated one year from concept to design, and have provided significant opportunities for public comment. They refined the project after receiving objections from two City Council members and a citizen. The Design Review Board held three meetings to consider the design of the building. She then reviewed the net shed and testified that only the City-owned net shed will be used for commercial fishing. Fishermen can store nets and equipment in the structure. The DRB issued its approval on April 13 for the net shed design. The Jerkovich Pier is owned by the City and an easement exists to the float system. She met with the Jerkovich family and they are very involved in the project and gracious to work with. They will now finalize a lease. The City wants to provide access to the water for the public. Residents indicated that they cannot see the water enough, and this project will enhance the view shed. The project will open views to the water from existing conditions. Concerning the 3,000 square foot storage building, they worked with the City Council to determine an appropriate size. They will provide public restrooms and anticipate use of the building by nonprofit organizations. The project will meet all applicable plans to include policies addressing open space and the waterfront. The view platform will consist of 2,300 square feet and pedestrians can walk onto the platform, and an ADA lift provides access to the shoreline. The parcel consists of .72 acres.

STEVE ROBERT, PND Engineers, appeared and testified that the project consists of three major components: the park, the Ancich Pier, and the Jerkovich Pier. Other portions of the project include road and stormwater improvements and mitigation for culverts. The site is small and complicated. A considerable, 23 foot topographic difference exists between the road and the ordinary high watermark. However, the grade allows construction of the building below the road. A failing timber bulkhead extends across the shoreline, and the failure allowed the creation of a wetland behind the said bulkhead. A wetland also exists adjacent to Harborview Drive. The wetlands and buffer impact about 25 percent of the site.

A variance is required to use the site. The retaining wall along the road is not adequate. The pier beneath the net shed is in poor condition. They will rehabilitate the shed and retain as much of the original material as possible while still meeting applicable codes. They will utilize a 30 year design criteria. The present bulkhead structure is at the high tide level. They wanted to involve the community as much as possible, and along with the architect came up with the strategies for development. They will provide a vegetative buffer along the shoreline. They held an open house on May 16, 2016, and considered two, alternative concepts. The public voted on the concepts, and they tried to find a middle ground for the two opposing views. Their proposal is for a 3,000 square foot building beneath the road grade, and driveway access to both piers. An ADA ramp could not be constructed due to the grade, and so they provided a lift. They will install a retaining wall to support the road and a new bulkhead. They will provide a support bulkhead around the piers and a smaller bulkhead along the balance of the shoreline. The plaza will include green spaces and a hard surface, and they will also provide a boat loading, parking stall. They will include a rain garden that a timber pedestrian bridge will cross. The Council wanted to push the building toward the road and away from the shoreline. The front of the building will have three large doors to accommodate boats. The DRB carefully considered and reviewed the façade. They also reviewed the light pole and power pole locations. The light pole will be replaced by onsite lighting. The utility poles will be relocated to the property lines, one at each end of the property line. They need to expand the footprint of the pier around the net shed for vehicles. They will utilize steel grating and Douglas fir. They will locate a crane on the east side of the pier for use by the fishing fleet and will provide power to the shed. They will use the original material as much as possible and will waterproof the building. They will use the original windows now boarded up. A door on the upland side of the shed will provide through access. The DAHP will approve the design. Concerning the Jerkovich Pier, they will reduce the footprint of the pier and will provide a vehicle turn-around and pedestrian access. They will also have a 30 year design so that they will need no retrofit for the pilings. They will install pole lights on the piers and lights within the railings as well. The turn-around accommodates only the Jerkovich family. They will widen the Harborview sidewalk to eight feet as it extends to the Eddon Boat Park. They will provide two, eight foot, parking lanes, and will need to excavate significantly to place the storage building under the sidewalk.

MS. KNUTSON reappeared and testified that parking is an important mitigation, and the project also promotes walkability. The expansion of the sidewalk will allow much better pedestrian access.

MR. ROBERT reappeared and testified that the outfall improvements will address the erosion of the beach at the Eddon Boat Park. They will provide a rock splash facility at the outfall and will place gravel and woody debris on the beach.

NICOLE WHITE appeared and testified that the woody debris will also provide habitat.

MR. KATICH reappeared and testified that the mitigation for the outfall is a different project and not part of the present application.

KAREN McDONELL appeared in opposition and testified that she grew up across the street from the project. She comes from a commercial fishing family and noted that the Waterfront Millville zone is restrictive in the development it allows. Here, proposing a recreational center in a residential neighborhood is not appropriate. The City proposes a recreational center, not a net shed or other fishing facilities. A kayak club will move into the facility and will run a camp six days a week, and members will train six days a week. There will be a dynamic use of site. Also, young people will carry kayaks down a long corridor and will cross the Jerkovich Pier. The parking spot on the Jerkovich Pier will be lost. It will serve as a turn-around for boaters. Vehicles utilizing the turn-around will have conflicts with kayakers, and it will create a dangerous situation. The fishing boats are gone for substantial periods of time and fishermen need to haul gear to their boats. She objects to the design of the building as it looks modern. It consists of a cement box on a cement slab and is not in keeping with the waterfront. It could look much more historic. She questioned the MDNS as it does not address improvements to the Ancich Pier that includes removal of an asphalt surface. What impact will removal have on the environment? The storage building should not be used as a recreational center, and should be used primarily for storage. The plans show no facilities for launching kayaks.

LITA DAWN STANTON appeared and testified that she supports improvement of views and the additional use of the shoreline, but opposes the size of the building. It is too big for the Waterfront Millville area, and the voting was mainly by children attending the meeting with their parents. A majority of residents in the area opposed the plan. The building will help a water sports club in an area of permanent, public open space. The boat storage is supposed to be for the public benefit and not for a private club. The parking space sizes are inadequate. Shoreline Master Plan setbacks intrude into the site, but even so, the building got larger. She is opposed to the project without use limits. The project should not go forward without knowing of the tenants.

MARY ELLEN GILMOUR appeared and testified that the City was great in working with them. She has concerns regarding the turn-around, as the easement mentions a truck and trailer. They will need a larger area to handle such a large vehicle.

MR. KATICH reappeared and referred to the site plan and its provision of adequate off-street loading. He has never seen a permit proposed that provides such vision of the shoreline and the opportunities for marine activities. Such furthers the intent of the WM



zone.

The Examiner then left the record open until the close of business on March 17, 2017, for receipt of an additional condition regarding future tenants of the building. Mr. Katich submitted the proposed condition by email dated March 16, 2017. No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 2:30 p.m.

**NOTE:** A complete record of this hearing is available in the office of the City of Gig Harbor Planning Department.

### **FINDINGS, CONCLUSIONS, AND DECISION:**

#### **FINDINGS:**

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. Pursuant to Chapter 197-11 of the Washington Administrative Code (WAC) and GHMC Chapter 18.04, on December 22, 2016, the City of Gig Harbor issued a Mitigated Determination of Non-significance (MDNS) for the proposed action following review pursuant to the State Environmental Policy Act (SEPA). The appeal period for the MDNS expired on January 12, 2017, and no appeals were filed. The MDNS is attached to the Staff Report as Exhibit "C."
3. Notice of application was provided twice for the project; first on September 22, 2016 and again on October 27, 2016 (File #'s SCUP-16-0002 & ALP-16-0004 only). Letters dated September 28 and December 28, 2016 from the Washington Department of Natural Resources (DNR) were received by the city and are attached to the staff report as Exhibit "G." The legal notice of the proposed action and scheduled hearing was published in the Peninsula Gateway on March 2, 2017. In addition, notice was mailed to all property owners within 300 feet of the subject site on March 2, 2017. Notice was also posted on the subject site on March 2, 2017. The certification of public notice for the hearing and the certification of Notice of Application for the request are attached to the staff report as Exhibit "I."
4. The City of Gig Harbor Parks Project Administrator, Katrina Knutson, on behalf of the City of Gig Harbor Public Works Department (applicant) proposes to develop an unimproved, .72 acre parcel of property owned by the City of Gig Harbor into a waterfront park. The irregularly shaped parcel abuts Harborview Drive on the south and extends to Gig Harbor Bay on the north. The parcel is framed by the Ancich Pier and net shed on the west and the Jerkovich Pier on the east. To accomplish the improvements the applicant must obtain the following approvals:

Site Plan Review (SPR),  
Shoreline Substantial Development Permit (SDP),  
Shoreline Variance (SVAR),  
Shoreline Conditional Use Permit (SCUP),  
Design Review (DR), and  
Alternative Landscape Plan (ALP).

5. The City previously approved the site for development with the Rainer Yacht Harbor that included a 25 slip marina for moorage of recreational vessels, two single-family residential dwellings with two parking garages, replacement of a bulkhead, and removal of a portion of an overwater pier. The project was never commenced and the City acquired the parcel in 2012. In 2013 the City began to explore methods of developing the site into a public park. The City provided significant opportunities for public involvement on the proposed design. In addition, the City Design Review Board (DRB) conducted three public meetings to consider the design of the proposed boat storage building and restoration of the historic Ancich Net Shed located on the Ancich Pier. City and DRB efforts resulted in the present proposal.
6. The applicant proposes numerous improvements to the site both waterward and landward of the ordinary high watermark as shown on Exhibit B to the Staff Report and the power point presentation. In addition, the project is completely described in the attachments to the SEPA MDNS (Exhibit C).
7. Major facets of the upland improvements to the site include a new, one-story, 3,000 square foot, single level, storage building that will extend from beneath the sidewalk adjacent to Harborview Drive a distance of approximately 45 feet waterward. The front, external wall will consist of large doors that will allow convenient storage access for kayaks and other non-motorized vessels. The roof of the building will include a flat, 2,300 square foot, viewing platform that will have ADA access, landscaped areas, benches, and picnic tables. A "grand staircase" descends along the west side of said structure from Harborview Drive to a lower patio that extends across the width of the parcel and includes picnic tables. Stairs and a pathway extend from the center of the lower patio to the bulkhead, and recessed stairs therein provide access to the beach. A landscape area extends across the full width of the parcel between the two piers. Two parking spaces designated for "loading" are provided onsite (one for each pier) as well as one loading/parking space on Harborview Drive for the boat storage facility and a second space for handicapped usage. The applicant proposes to repave the driveway access to the Jerkovich Pier and provide a vehicle turn-around immediately waterward of the bulkhead. A new, widened sidewalk will extend from the proposed park along the north side of Harborview Drive to the Eddon Boat Park. The boat storage building will also provide public restroom facilities. The above described improvements will also require the filling of two, onsite wetlands.

8. Waterward improvements include the demolition, reconstruction, and expansion of the Ancich Pier, restoration and improvement of the Ancich Net Shed, and restoration of the Jerkovich Pier. Furthermore, the applicant will improve one, existing, stormwater outfall off-site on property located to the north of Eddon Boat Park, but such improvements will be separately considered. The plans also show replacement of a failing bulkhead that extends across the entire shoreline.
9. The parcel is located within the "Waterfront" designation of the City of Gig Harbor Comprehensive Plan and the "Waterfront Millville" (WM) zone classification of the Gig Harbor Municipal Code (GHMC). The site is also located within the Historic Working Waterfront Shoreline Environment of the City of Gig Harbor Shoreline Master Program (SMP). The parcel is also covered by an Historic District Overlay. Zoning on the north side of Harborview Drive is limited to WM, and improvements include a single-family residential dwelling and boat moorage/marina. Parcels to the south of Harborview Drive are located in the Single-Family Residential (R-1) and improved with single-family residential homes. Gig Harbor Bay is to the north.
10. The proposed use of the site is consist with applicable goals and policies of the Comprehensive Plan as set forth and analyzed by staff on pages 8-14 of the Staff Report. The Examiner hereby accepts staff's analysis as his own and incorporates by this reference all of staff's analysis of applicable Comprehensive Plan goals and policies as if set forth in full.
11. The parcel is located within the WM zone classification of the GHMC. Section 17.14.010 GHMC sets forth a Land Use Matrix that authorizes "Public Parks" within the WM classification as an outright permitted use. The project satisfies all development standards for the WM zone set forth in GHMC 17.48.040. The parcel exceeds 15,000 square feet in size and 100 feet in width; the maximum hard surface coverage will not exceed 70 percent; and the maximum gross floor area of the proposed storage structure will not exceed 3,500 square feet. All improvements on the site will satisfy the 18 foot height limit as allowed by the Historic Overlay District. The park also satisfies the intent of the WM classification set forth in GHMC 17.48.010 as it contributes to the wide range of uses and activities contemplated for the Gig Harbor shoreline between Rosedale Street and Stinson Avenue. The intent of the WM classification also includes enhancement of the historic fishing village atmosphere in a manner harmonious with surrounding residential areas. In the present case the park proposes improvements to two, commercial, fishing piers and restoration of an historic net shed.
12. The proposed park satisfies all "performance standards" set forth in GHMC 17.48.090 as all exterior mechanical devices are screened, and the project includes a significant, landscaped area. The project proposes no outdoor storage of materials as all boats will be stored within the enclosed building. Design review will ensure that the outdoor lighting meets the standards set forth in GHMC 17.99.350 and 460. The project significantly improves water view opportunities by providing a

plaza on top of the boat storage structure and a second plaza below such structure. The project also provides pedestrian access to the beach. The parcel extends significantly more than 20 frontage feet along Harborview Drive (20 percent of the total waterfront frontage of the parcel). A minimum, five foot wide, public stairway and ADA compliant lift provide access to the lower patio. The viewing platform is substantially greater than the minimum required 50 square feet. Trash receptacles will be screened from view and no restaurants are proposed.

13. Section 17.48.050 GHMC requires all proposed uses and development within the WM classification to obtain site plan review approval in accordance with Chapter 17.96 GHMC. To obtain such approval the applicant must show that the proposed site plan is compatible with surrounding uses, and that it complies with all relevant, statutory code regulations and ordinances. The applicant's proposal for the site is substantially less intense than the previously approved 25 slip marina and two single-family dwellings with parking garages. Furthermore, the previous approval did not include either restoration of an historic net shed or improvement of two commercial fishing piers. The present proposal of a public park benefits the entire City and is compatible with adjoining uses that include moorage piers and upland improvements.
14. The project also complies with all relevant, statutory codes, regulations, and ordinances with the exception of landscaping requirements. The applicant has proposed an alternative landscaping plan that meets all requirements for such as found hereinafter. The City conducted a thorough review of the off street parking requirements set forth in Chapter 17.72 GHMC. The applicant demonstrated that the 47 on street parking stalls located within 500 feet of the site along Harborview Drive, Stinson Avenue, and Novak Street will provide adequate parking to serve the park. The City traffic engineer supports use of on street parking in an attachment to the MDNS. As previously found, no appeals of the MDNS were submitted. The City appropriately utilized the mini-storage facility use parking requirements to determine the number of parking spaces needed by the boat storage building.
15. The applicant requests approval of an ALP that will modify two of the landscape requirements set forth in GHMC 17.78.070 as follows:
  - A. Section 17.78.070(A)(2) GHMC requires that a minimum of 40 percent of all required plantings be evergreen trees a minimum of six feet in height. The applicant correctly asserts that evergreen trees will significantly obstruct views to Gig Harbor Bay. As an alternative, the ALP proposes a substantial number of low growing plants that will maintain views of Gig Harbor Bay.
  - B. Section 17.78.070(C)(1) GHMC provides that where no front yard setback is required or where buildings are constructed to the property line, an applicant must provide either street trees at an interval of one every 20 feet, or planter boxes at the same interval. Again, the applicant correctly asserts that street

trees will impede views of Gig Harbor Bay. The ALP proposes a street level, rooftop plaza with lawn and low growing plants that will maintain views of the water. Therefore, the applicant has shown that the proposed ALP obtains a superior result than following the landscaping requirements of the GHMC in accordance with GHMC 17.78.100(A). The proposed landscaping also provides water view opportunities in accordance with GHMC 17.78.100(D).

16. Prior to obtaining a shoreline substantial development permit the applicant must show that the project is consistent with the goals and policies of the SMP. Pages 17-24 of the Staff Report set forth applicable goals and policies of the SMP and staff's analysis thereof. Said goals and policies as well as staff's analysis are hereby adopted by this reference as if fully set forth herein. The applicant has therefore satisfied all criteria for a substantial development permit.
17. The applicant requests a shoreline variance to eliminate two wetlands and their buffers in order to develop the project. A Category II Estuarine Wetland (Wetland 1) is located behind the failed bulkhead and extends in a linear manner between the bulkhead and the mainland. Wetland 2 consists of a 1,810 square foot, Category IV Palustrine Emergent Wetland that is located adjacent to Harborview Drive. Both wetlands and buffers are degraded and consist of mowed lawn and invasive plant species. The applicant proposes mitigation for the loss of the wetlands and buffers by removing 189 creosote pilings and 67 cubic yards of fill from the shoreline. In addition, the applicant proposes 4,000 square feet of vegetation within the shoreline buffer to include native grasses, shrubs, and trees. Such will increase water quality and provide habitat. The applicant will also restore and enhance one, existing outfall located to the north of the project site below the ordinary high watermark in an eroding shoreline. The applicant will recontour the outfall, and possibly install large, woody debris. The mitigation measures will provide a net benefit to shoreline ecological functions.
18. Prior to obtaining a shoreline variance the applicant must show that the request satisfies the criteria set forth in SMP Section 8.2.5. Findings on each criterion are hereby made as follows:

8.2.5(E)(1) In the present case failure to grant the shoreline variance would thwart policies of the State Shoreline Management Act (SMA) that strongly encourage public views of and access to the shoreline. In addition, the applicant must show that extraordinary circumstances exist and that the public interest will suffer no substantial detrimental effect. The applicant has made such showings as the intent of the project is to create a waterfront park that will provide both views of and access to Gig Harbor Bay. The project includes non-motorized boat storage for those wishing to utilize Gig Harbor Bay and other shoreline areas. The project also promotes the public interest by supporting the Gig Harbor commercial fishing fleet and restoring a commercial fishing net shed. As previously found, development of the park is

consistent with the City's Comprehensive Plan and with the goals and policies of the SMP. Without the variance, the two, low value wetlands and buffers will prevent development of the public park.

8.2.5(E)(2)(a) Strict application of the bulk, dimensional, or performance standards (the wetland and buffer requirements) precludes all reasonable use of the property not otherwise prohibited. Retention of the wetlands and buffers precludes all reasonable use of this publicly owned, waterfront parcel to include a public park.

(2)(b) The hardship described above (wetlands and buffers) are specifically related to the property and the result of unique conditions such as natural features and the requirements of the SMP, and not from deed restrictions or the applicant's own actions. In the present case the hardship consists of the existence of two, low value wetlands and buffers.

(2)(c) Design of the project is compatible with other authorized uses within the area and uses planned for the area under both the Comprehensive Plan and the SMP. Furthermore, the project will not cause adverse impacts to the shoreline environment. As previously found the project is compatible with applicable goals and policies of both the Comprehensive Plan and SMP, and implementation of the mitigating measures will result in a net benefit to the shoreline environment.

(2)(d) The variance will not constitute a grant of special privilege not enjoyed by other properties in the area. The applicant proposes a significant, public benefit, namely, a waterfront park.

(2)(e) The variance is the minimum necessary to afford relief. The project may not proceed without approval of the entire variance request (elimination of the wetlands and buffers).

(2)(f) For the reasons set forth above, the public interest will suffer no substantial, detrimental effect.

E(3)(c) The project will not affect public rights of navigation or use of the shorelines. To the contrary, the project will ensure a greater use of the shoreline and Gig Harbor Bay by the public.

(E)(4) The project will not establish a precedent for future actions along the shoreline and therefore will create no adverse cumulative impacts due to additional requests for like actions. To the contrary, similar variances that would authorize a significant, public park amenity while promoting and furthering the City's historic commercial fishing fleet would benefit the City and the public.

(E)(5) The request proposes no variance from the use regulations of the SMP.

19. Pursuant to Table 7-1 in Subsection 1.1 of the SMP, the applicant must acquire a shoreline conditional use permit to provide hard armoring type bulkheads for a site within the Historic Working Waterfront Environment. Prior to obtaining such permit the applicant must show that the request satisfies the criteria set forth in Subsection 8.2.4 of the SMP. Findings on each criterion are hereby made as follows:
- A. The proposed bulkhead is consistent with the policies of RCW 90.58.020 (the SMA) and with the SMP. The applicant proposes to construct the new bulkhead landward of the existing bulkhead that has failed. Furthermore, a new, 25 foot wide, native vegetation buffer will extend the length of the bulkhead, and stairs through the bulkhead will provide access to the beach. Finally, as set forth hereinabove, the applicant proposes additional mitigation for the loss of the wetlands north of the Eddon Boat Park parcel.
  - B. The bulkhead will not interfere with normal public use of public shorelines. The public currently has no access to the shoreline from the site. The bulkhead will protect the upland area that the applicant will develop into a park and other water oriented uses. A recessed stairway through the bulkhead will provide a new access to the beach. Portions of the bulkhead will also serve as abutments to support the two, overwater piers located on the site. Thus, the bulkhead will enhance public use of the proposed park to include access to the water.
  - C. The proposed bulkhead is compatible with other authorized uses within the area and with uses planned for the area pursuant to the Comprehensive Plan and SMP as found above.
  - D. The bulkhead will cause no significant adverse impacts to the shoreline environment. The applicant prepared a Critical Areas Report and Biological Evaluation that address impacts to the shoreline environment to include ecological functions. The conceptual mitigation plan represents a net overall benefit to the shoreline environment.
  - E. Construction of the bulkhead will benefit the public interest, and therefore the public will suffer no substantial detrimental effect.
  - F. The final criterion requires consideration of cumulative impacts of additional requests for like actions in the area. In the present case, if additional public parks were proposed and needed a bulkhead for protection of park amenities, such would benefit the overall use of the shoreline and provide additional public access to the water.

20. The City of Gig Harbor Design Review Board (DRB) considered the 3,000 square foot storage building and related Ancich Park improvements to include the historic net shed. The DRB conducted public meetings on October 13, November 3, and December 8, 2016, and issued a recommendation to approve the project on January 17, 2017. The Examiner hereby adopts the DRB recommendation by this reference as if set forth in full.
  
21. Residents wrote letters and testified of concerns regarding the size of the storage building, believing it too large and disproportionate to the public park area. Residents also expressed disagreement with the design of the doors on the building; skewing of the voting results by having children vote; determining parking and other impacts prior to knowing the tenants; disagreement with the DRBs recommendation that did not include softening lines of the building, placing white trim around the windows, using light colored concrete on the plazas, and other design/architectural items; and that the park will become a "recreational center" in a residential neighborhood. As previously found the DRB held three public meetings to consider various development ideas, the design and size of the new storage facility, and the net shed restoration. It is assumed that those disagreeing with the DRBs recommendation spoke at the meetings and members considered their concerns. The Examiner finds the DRB's recommendation and reasons therefor very convincing and has adopted them as his own. While not everyone agrees with the DRB's recommendations, they are well-founded and appropriate. Furthermore, the 3,000 square foot building will also include restroom facilities, and the doors will face the net shed and the commercial fishing piers, and will be consistent with said uses. Concerning the appropriateness of the project at its proposed location, the WM zone classification authorizes public parks as an outright permitted use. A condition of approval requires review and approval of tenant leases by the Planning Director prior to execution.

### **CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
  
2. The applicant has shown that the request for approval of site plan review, design review, an alternative landscape plan, shoreline substantial development permit, shoreline conditional use permit, and shoreline variance satisfy all criteria set forth in the GHMC and SMP and therefore should be approved subject to the following conditions:
  1. The applicant shall develop the site consistent with the permit recommendations and plans previously approved by the city's DRB which are set forth in Exhibits "B" and "D" to this report.



2. Prior to commencing any development activity waterward of the site's Mean Higher High Water or Ordinary High Water Marks, the applicant shall obtain all necessary permit approvals from the Washington Department of Fish & Wildlife and the U.S. Army Corps of Engineers.

Mitigation Measures-Mitigated Determination of Nonsignificance-File No. SEPA-16-0014:

The applicant shall comply with all mitigation measures set forth in the SEPA MDNS issued for the project, including the following:

3. The applicant shall comply with all representations and mitigation measures set forth in its Critical Area Study dated July 21, 2016, including the Conceptual Mitigation Plan (see Exhibit "C").
4. The applicant shall comply with all requirements set forth in the Public Works Department, Engineering Division memorandum dated December 12, 2016, from Emily Appleton, P.E., Senior Engineer.
5. Once the tenants have been identified for the storage building and the terms of the associated leases finalized, the applicant shall submit to the Planning Director the lease(s) for review. The Director shall then determine if the approved site plan adequately provides for parking to serve the storage building and if additional site plan review is required.
6. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
7. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**DECISION:**

The request for site plan review approval, a shoreline substantial development permit, shoreline variance, shoreline conditional use permit, design review, and alternative landscape plan for the Ancich Park and Net Shed improvements at a site located at 3525 Harborview Drive, is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 4th day of April, 2017.



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**STEPHEN K. CAUSSEAUX, JR.**  
Hearing Examiner

TRANSMITTED this 4th day of April, 2017, to the following:

**APPLICANT:** City of Gig Harbor Public Works Department  
Attn: Katrina Knutson, Parks Project Administrator  
3510 Grandview Street  
Gig Harbor, WA 98335

**OWNER:** City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

**AGENT:** PND Engineers, Inc.  
Attn: Steven Robert  
1736 Fourth Avenue South  
Seattle, WA 98134

**OTHERS:**

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3107 North 22<sup>nd</sup> Street  
Tacoma, WA

Peter Ivanovich                      [pivan@northwestern.edu](mailto:pivan@northwestern.edu)

CITY OF GIG HARBOR

**Duration of Permit Approval:**

The shoreline substantial development permit, shoreline variances and shoreline conditional use permit addressed by this decision shall expire two (2) years from the effective date of the decision, unless construction activities commence or, if no construction is proposed, the use or activity is commenced. If substantial progress is made within two years, the permit shall remain valid for five (5) years. If construction is not completed within 5 years, the administrator may grant an extension of time up to but not exceeding one (1) year for substantial progress and for completion of the project pursuant to section 4.08 E of the Gig Harbor Shoreline Master Program and WAC 173-27-090. The remaining land use permits addressed by this decision, shall expire three (3) years from the date of the decision, unless a complete application for subsequent building permit or civil permit has been submitted and remained active, pursuant to GHMC 19.02.008. Upon written request by the property owner, prior to the date of land use permit expiration, the director may grant an extension of time up to but not exceeding one (1) year pursuant to GHMC 19.02.008(F). See GHMC 19.02.008 for complete regulations on the duration of permit approvals and expiration of permits.

**Availability of Complete Project Permit File for Review:**

The complete project permit file, including findings, conclusions and conditions of approval, if any, is available for review at the city of Gig Harbor Planning Department, 3510 Grandview Street, Gig Harbor, WA 98335. Please contact Peter Katich, Senior Planner, at 253-851-6170 should you desire to review the file.

**Concerning Further Review**

There is no administrative appeal of the hearing examiner's decision. A request for reconsideration may be filed according to the procedures set forth in Ordinance No. 1073. If a request for reconsideration is filed, this may affect the deadline for filing judicial appeal (Chapter 36.70c RCW) (see Ord. 1073, Ch. 36.70C RCW and RCW 90.58.180). Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.