



**PLANNING DEPARTMENT  
PRELIMINARY STAFF REPORT**

**TO:** Hearing Examiner  
**FROM:** Planning Staff  
**DATE:** November 15, 2016  
**RE:** Permit Application Numbers: PL-CUP-16-0005  
Brix 25 Restaurant Relocation  
Public Hearing Date: November 17, 2016

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**I. GENERAL INFORMATION**

- A. Applicant:** McKenzie River Restaurants, Inc.  
3507 15<sup>th</sup> Ave Ct NW  
Gig Harbor, WA 98335
- B. Owner(s):** Gig Harbor Marina, Inc.  
3323 Harborview Drive  
Gig Harbor, WA 98332

**II. APPLICANT REQUEST**

The applicant has applied for a conditional use permit for the relocation of an existing restaurant known as Brix 25 currently located at 7707 Pioneer Way, Gig Harbor, WA. The proposed location would utilize the entire floor area of the Bayview Building located at 3323 Harborview Drive in the Waterfront Millville zoning district (WM) of downtown Gig Harbor. Retail has been the most recent use.

The new Brix 25 Restaurant is proposed as a 62 seat restaurant spanning two floors and seasonal outdoor seating. The restaurant will operate solely with ovens and grills incorporating commercial grade ventilation equipment. A bar area is proposed on the main floor. The restaurant, would occupy a space of approximately 3,074 square feet including dining

area, bar area, kitchen, office space and storage space. The restaurant would open at 4:00 P.M. with the last seating at 9:00 P.M.

Brix 25 is classified as a Restaurant 3 per Gig Harbor Municipal Code (GHMC); defined as an establishment that prepares and serves food and alcoholic beverages. Per the City's Land Use Matrix, GHMC 17.14.020, a Restaurant 3 use is allowed by a conditional use permit approval on those properties lying adjacent to or southeast of Dorotich Street.

### **III. SITE DESCRIPTION**

- A. Location:** 3323 Harborview Drive; Approximately 225 feet southeast of the intersection of Harborview Drive and Dorotich Street; Sec 05, Tw 21, R 02; Parcel Identification Number: 5970000030.
- B. Site Area/Acreage:** 0.68 acres total
- C. Existing Site Characteristics:**
  - a. Topography:** The topography of the site slopes gradually from the southwest to the northeast towards the harbor.
  - b. Vegetation:** The site is wholly developed with typical landscaping features.
- D. Wetlands and Critical Areas:** None; much if not all of the site is within the 200 foot shoreline designation.
- E. Zoning:**
  - A. Subject parcel:** Waterfront Millville (WM)
  - B. Adjacent zoning and current use:**
    - i. North:** WM – Commercial
    - ii. East:** WM – Commercial/restaurant
    - iii. South:** R-1 – Single-family residential
    - iv. West:** R-1 – Single-family residential
- F. Utilities / Road Access:** The subject site provides direct Pedestrian access from Harborview Drive. Automobile access is from Dorotich Street via an easement crossing three parcels from the northwest. Water and sewer will be provided by the City.

### **IV. APPLICABLE CODES AND POLICIES**

#### **A. Comprehensive Plan**

- a. **Goal 2.2.3(h) Waterfront:** The site is designated as a Waterfront land use in the Comprehensive Plan. This land-use designation is one that “provides for a variety of mixed uses along the waterfront which are allowed under the City of Gig Harbor Shoreline Master Program and as more particularly defined under the zoning code. Generally, the lower intensity waterfront areas would favor residential and marinas while the more intense use waterfront areas would provide for higher density residential and commercial/retail uses.”

**B. Gig Harbor Zoning Code**

- a. **Chapter 17.64 Conditional Uses:** A conditional use permit is required for a restaurant 3 use in the Waterfront Millville Zoning District per GHMC 17.14.020 and can only be considered if the property is adjacent to or southeast of Dorotich Street. Each determination granting or denying a conditional use permit shall be supported by written findings of fact showing specifically wherein all of the conditions of GHMC17.64.040 are met.

- C. **Environmental Regulations:** Environmental review and critical areas are regulated under GHMC 18.04 and 18.08 respectively. These chapters are not applicable to this proposal. The Shoreline Master Program will be applied as necessary under a future permit review.

**V. BACKGROUND INFORMATION**

The site received major site plan approval, substantial site development approval and design review approval in May 2005. The Bayview Building received a certificate of occupancy in April 2012. The building has been used for retail with the most recent tenant a business known as Ship To Shore. The site has received subsequent approvals relative to an alternative landscape plan and administrative height variance.

**VI. ENVIRONMENTAL REVIEW:**

The current proposal is categorically exempt per WAC 197-11-800.

**VII. PUBLIC NOTICE & INPUT:**

Legal notice of the proposed action was published in the Peninsula Gateway, mailed to property owners within 300 feet of the subject site and posted at the site on July 28, 2016. The scheduled public hearing was published in the Peninsula Gateway, mailed to property owners and parties of record, and posted at the site on November 3, 2016. See Exhibit X for the associated declarations.

The City received several comments and inquiries relative to the proposal attached as Exhibit X.

## **VIII. STAFF ANALYSIS AND FINDINGS:**

### **A. Planning Staff**

- a. **Conditional Use Permit:** The WM zone allows a Restaurant 3 as a conditional use if the property is lying adjacent to or southeast of Dorotich Street. Conditional use permits may be granted only if the applicant can successfully demonstrate that all of the criteria contained within Section 17.64.040 GHMC have been satisfied. Each criterion is provided below followed by staff analysis.

- i. *That the use which the conditional use permit is applied for is specified by this title as being conditionally permitted within, and is consistent with the description and purpose of the zone district which the property is located;*

The proposal is consistent with the goals of the Comprehensive Plan and intent of the WM district. The Comprehensive Plan designates the parcel as "Waterfront." The intent of the Waterfront designation is to provide for a variety of mixed uses along the waterfront which are allowed under the City of Gig Harbor Shoreline Master Program and as more particularly defined under the zoning code. Generally, the lower intensity waterfront areas would favor residential and marinas while the more intense use waterfront areas would provide for higher density residential and commercial/retails uses. The intent of the WM zoning district is to provide a wide range of uses and activities. Uses are primarily medium intensity, mixed uses with an emphasis on medium-density residential and marine related and dependent uses. Uses in this district are encouraged to enhance the historic fishing village character and to be harmonious with the surrounding residential areas.

The proposal requests approval of a Restaurant 3, which is conditionally allowed in the WM zoning district. Ordinance 1312, passed by City Council and approved by the Mayor on May 11, 2015, amended GHMC Title 17 to allow for Restaurant 2 and 3 uses, under the conditional use process, in the WM zoning district (Exhibit X). That ordinance considers a Restaurant 2 and 3 a medium-intensity use and provided the following standards to ensure this less intensive use:

- May not open before 7 A.M. and last seating at 9:30 P.M.;
- Bar area may not exceed 40% of the customer seating area;
- Prohibition of deep-fat fryers;
- Equipment shall be installed that will limit food odor emissions.

The applicant has provided information detailing how they propose to meet all of the aforementioned criteria (Exhibits X). The hours proposed will be 4:00 P.M. to last seating at 9:00 P.M. The proposed bar area is approximately 625 square feet, or approximately 31%, of the total 2,044 square feet of customer seating area. The proposal does not include deep-fat fryers or wood burning equipment. The applicant proposes to install commercial grade ventilation equipment to minimize food odor emissions as well as carbon emissions. The system proposed is:

- Type I hood with inline grease fan (Exhibit X)

Based on the above analysis, staff finds that the proposal, if conditioned, could be consistent with the intent of the Waterfront Millville zoning district. The use would add to the already diverse list of uses in the area and the applicant has not indicated any plans to change the character of the existing building. The applicant has explained how the proposal meets many of the standards required for a Restaurant 3 in this zoning district, but the full burden of proof is upon the applicant and any questions should be deferred to the applicant.

- ii. That the granting of such conditional use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or*

*improvements in such vicinity and/or zone in which the property is located;*

The public health, safety, comfort, convenience and general welfare of the surrounding neighborhood has been considered with respect to this proposal through written statements and plans submitted by the applicant and analyzed by city staff for compliance and consistency with applicable City codes and standards.

Staff has received public comments regarding the impacts that a restaurant of this kind might have upon the public health, safety, comfort, convenience and general welfare of the nearby residential neighborhood. Concerns expressed included closing times, noise and odors related to food. Several comments in support of the restaurant relocation were also received.

Staff's analysis finds that the proposal, if conditioned, could mitigate for any potential impacts to the public health, safety, comfort, convenience and general welfare of the surrounding neighborhood. The burden of proof in this instance is upon the applicant, however, and should any question arise as to the process by which this would occur, staff would defer to the applicant. Additionally, it should be noted, the necessary site planning, design review and building permit processes will further address public health and safety concerns.

- iii. *That the proposed use is properly located in relation to the other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;*

The site is located near the City's downtown business center where many like businesses already exist. Harborview Drive is a major throughway providing ample multi-modal transportation options. Across Harborview Drive from the site, single-family residential housing exists.

A traffic analysis, dated October 4, 2015, was conducted for this proposal which concluded that the project would generate 3 new PM peak hour trips (Exhibit X). Transportation Capacity Reservation Certificate is currently under review and in need of further analysis prior to approval.

Sewer and water Capacity Reservation Certificates (CRC) are currently under review and in need of further analysis prior to approval. (Exhibit X).

Staff finds that the proposed restaurant is properly located in relation to other land-uses as many business occupy the water-ward side of Harborview Drive including restaurants. Because staff is still reviewing traffic and utility concurrency, we would recommend that the Hearing Examiner hold the record open in order to ensure it is adequately provided for in the vicinity and will not place an undue burden on street and service capacities.

- iv. *That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and other such features as are required by this title or as needed in the opinion of the examiner.*

The proposal does not seek to change the site, significantly, nor change bulk or dimensional standards of the building itself, development standards or performance standards.

A Restaurant 3 requires that one parking stall is provided for every three seats available. The restaurant proposes a maximum 62 seats, including the bar area, which would require a provision for 21 parking spaces. The site currently provides 30 spaces; 15 covered, 15 uncovered, including 2 accessible stalls.

GHMC 17.72.075 allows existing buildings with existing nonresidential uses in the Waterfront Millville zoning district to change to another nonresidential use without the requirement to provide additional off-street parking spaces; provided that any existing off-street parking spaces allocated to the existing building are not removed or reduced. The building must have existed prior to January 1, 2012 or received its first certificate of occupancy at least three years previously.

City records show that the building received its first certificate of occupancy on April 4, 2012, and therefore must comply with the parking standards of Chapter 17.72.

Staff finds the site is of a sufficient size to accommodate the proposed use, provided the conditional use permit and required subsequent permits are approved.

- b. **Conclusion:** Staff will provide after all analysis has been completed.

The applicant has provided their own analysis of this criteria within a response to a comment letter dated September 20, 2016 and responses provided on October 13, 2016 (Exhibit X).

## **B. Operations and Engineering**

The Public Works Department is still reviewing several aspects of this proposal including transportation concurrency and sewer and water concurrency. Any additional conditions and/or comments are forthcoming.

## **C. Fire Marshal/Building Official**

Paul Rice, Building Official/Fire Marshal provided comments on November 3, 2016 (Exhibit X), recommending approval with the following condition:

1. Building and construction permits are required for this use. Plans will be reviewed for code compliance at the time of permit application. Approval of this conditional use permit should not be construed as approval of any violation of federal, state or local laws.

# **IX. CONCLUSIONS:**

- A. Conditional Use Permit (PL-CUP-16-0005):** Staff finds that the criteria for conditional use permits contained in Section 17.64.040 GHMC could be met, as described in Section VIII, subsection A.a. of this report, provided the proposal meets the City's concurrency standards and if the following conditions are imposed:

- A. Type I hood with suppression system shall be installed prior to certificate of occupancy issuance per International Mechanical Code, Section 509.
- B. The Brix 25 Restaurant shall, at all times, provide the off-street parking necessary, per Gig Harbor Municipal Code, for the current number of seats related to the business; either leased or on-site.
- C. Access to the required Bayview Building Common Area Easement and Viewing Platform shall not be obstructed by seating or otherwise blocked.

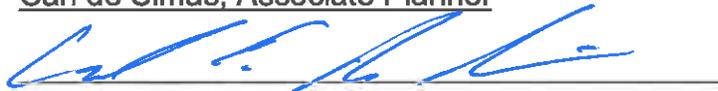
- D. Seasonal seating on the deck shall not increase the number of overall seats available to patrons throughout the restaurant.
- E. If the applicant chooses to expand the hours of operation, an assessment of parking and traffic shall be provided and additional permits may be required.
- F. Additional building and planning permits are required for this use. Plans will be reviewed for code compliance at the time of permit application. Approval of this conditional use permit should not be construed as approval of any violation of federal, state or local laws.

**X. RECOMMENDATIONS:**

If the City of Gig Harbor Hearing Examiner finds that the relative criteria have been met and that the proposed use is approvable, staff recommends the following conditions:

- A. Type I hood with suppression system shall be installed prior to certificate of occupancy issuance per International Mechanical Code, Section 509.
- B. The Brix 25 Restaurant shall, at all times, provide the off-street parking necessary, per Gig Harbor Municipal Code, for the current number of seats related to the business; either leased or on-site.
- C. Access to the required Bayview Building Common Area Easement and Viewing Platform shall not be obstructed by seating or otherwise blocked.
- D. Seasonal seating on the deck shall not increase the number of overall seats available to patrons throughout the restaurant.
- E. If the applicant chooses to expand the hours in operation, an assessment of parking and traffic shall be provided and additional permits may be required.
- F. Additional building and planning permits are required for this use. Plans will be reviewed for code compliance at the time of permit application. Approval of this conditional use permit should not be construed as approval of any violation of federal, state or local laws.

**Project Planner:** Carl de Simas, Associate Planner



**Date:**



cc: Emily Appleton, Senior Engineer  
Paul Rice, Building Official  
Applicant  
Owner  
Parties of Record

The following exhibits are included for your review of the proposed site plan review application:

- X. All attachments to be provided with the final staff report.

Duration of Permit Approval: land use permits which do not require a building or civil permit, the land use permit does not expire if the use allowed by the project permit has been legally established within three (3) years from the date of approval. 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. If the use or activity authorized by the conditional use permit approval is abandoned or discontinued for a continuous period of two (2) years, the conditional use permit shall expire and the use or activity may not be reestablished unless authorized by a new conditional use permit.

Administrative Appeal: There is no administrative appeal for this decision. Any appeal of this decision shall be in accordance with RCW 36.70C.

Property Tax Valuation: Affected property owners may request a change in property tax valuation notwithstanding any program of revaluation by contacting the Pierce County Assessor-Treasurer.

Permit Documents: The complete project permit file, including official decision, 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, during normal business hours, Monday through Friday. Additional permit information can also be found at [permitportal.cityofgigharbor.net](http://permitportal.cityofgigharbor.net) by entering the above permit numbers. Questions regarding the above stated decision should be made to Carl de Simas, Associate Planner at [desimasc@cityofgigharbor.net](mailto:desimasc@cityofgigharbor.net) or 253- 851-6170.