



AGENDA

City of Gig Harbor Hearing Examiner Virtual Hearing of Tuesday, March 14, 2023, at 10:00 AM

This hearing will be accessible to listen by using the information below:
Link to join Webinar <https://us06web.zoom.us/j/89687328917>
Call-in: (253) 215-8782 Hearing ID: 896 8732 8917

To speak during the hearing, press the Raise Hand button near the bottom of your Zoom window or press *9 on your phone. Comments are only allowed during designated portions of the hearing. Please refrain from “raising your hand” until the Hearing Examiner has announced that he has opened the public comment portion of the hearing. Your name or the last four digits of your phone number will be called out when it is your turn to speak. When using your phone to call in you may need to press *6 to unmute yourself. All speakers will have up to three minutes to speak.

If you wish to submit written public comment, please provide your comments to the Planning Division by **Monday, March 13, 2023, by 5:00 pm**. All written comments must be able to be read in 3 minutes or less to be included in the record and have the title: **FOR PUBLIC COMMENT** included. Send comments to: mthomas@gigharborwa.gov. Written comments will be read during the appropriate agenda item.

I. Open Public Hearing

II. Public Hearing

Items on this agenda will be reviewed according to the following format:

1. Introduction remarks by the Hearing Examiner
3. Presentation of Appellant witnesses, and cross-examination of those witnesses by the City.
4. Presentation of City witnesses, and cross-examination of those witnesses by the Appellant.
5. Closing arguments, if any, by Appellant and City.

New Business

1. **Thomas Wick., GIG HARBOR, WA 98335: Stormwater Manual Update SEPA Appeal**, (PL-APP-23-0001). Appeal of a Determination of Nonsignificance (DNS, No. PL-SEPA-22-0020) issued by the City of Gig Harbor (City) on January 9, 2023 (and reissued with a revised comment deadline on January 27, 2023) under the State Environmental Policy Act (SEPA). Specifically, the appeal relates to a proposed “nonproject action” by the City: the adoption of the City’s 2023 Stormwater Management and Site Development Manual (“2023 SW Manual”).¹ The appeal alleges that the proposed 2023 SW Manual fails to adequately account for potential environmental impacts that may result from its implementation.

III. Adjournment

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF GIG HARBOR**

In the Matter of the Appeal of)	No. HEA-2023-01
)	No. PL-SEPA-22-0020
)	
)	
Thomas Wick)	2023 Stormwater Management and Site
)	Development Manual Adoption SEPA Appeal
)	
)	
<u>Of a Determination of Nonsignificance</u>)	PREHEARING ORDER

TO: Thomas Wick, Appellant
Via email to: thmpx25@gmail.com

Sara Springer, Attorney for City
Via email to: sspringer@omwlaw.com

Robin Bolster-Grant, City’s SEPA Responsible Official
Via email to: rbolster-grant@gigharborwa.gov

Michelle Thomas, Clerk to the Hearing Examiner
Via email to: mthomas@gigharborwa.gov [For file]

Sound Law Center Clerk
Via email to: soundlawcenter.clerk@gmail.com [For file]

PLEASE TAKE NOTICE that Thomas Wick (Appellant) timely filed an appeal of a Determination of Nonsignificance (DNS, No. PL-SEPA-22-0020) issued by the City of Gig Harbor (City) on January 9, 2023 (and reissued with a revised comment deadline on January 27, 2023) under the State Environmental Policy Act (SEPA). Specifically, the appeal relates to a proposed “nonproject action” by the City: the adoption of the City’s 2023 Stormwater Management and Site Development Manual (“2023 SW Manual”).¹ The appeal alleges that the proposed 2023 SW

¹ Section 197-11-774 of the Washington Administrative Code defines *nonproject actions* as “actions which are different or broader than a single site specific project, such as plans, policies, and programs.” Unlike other types of appeals allowed under the State Environmental Policy Act, appeals of nonproject actions are not associated with (and need not be consolidated with) specific development permits and may relate to proposed legislative actions, such as this proposal.

*Prehearing Order
City of Gig Harbor Hearing Examiner
Wick SEPA Appeal
No. HEA-2023-01; No. PL-SEPA-22-0020*

Manual fails to adequately account for potential environmental impacts that may result from its implementation.

An open record appeal hearing on this matter will be held at **10:00 AM, on March 14, 2023**, using remote access technology.²

APPEAL PROCEDURES

The Hearing Examiner is directed by the City Council to decide this appeal following an open record appeal hearing. *Gig Harbor Municipal Code (GHMC) 18.04.230.J*. In order to facilitate the efficient presentation of issues at the appeal hearing, the following procedures shall be followed:

1. Witness and Document Lists: By **Noon, March 7, 2023**, the parties shall provide to the other party, with a copy to the Clerk of the Hearing Examiner (who will forward a copy to the Hearing Examiner), the following in electronic (PDF or Word) format:
 - a. a witness list
 - b. a documents list
 - c. copies of the documents

The witness list shall include the name, email address, and telephone number of each witness. If the witness will be providing expert testimony, the witness list shall also identify the area of expertise of the witness. Only those witnesses and documents identified shall be considered at the hearing. Objections to admission may be made at the hearing. All parties to the appeal shall have an opportunity to cross-examine witnesses.

The “documents list” should identify the documents that the party will be submitting in relation to the appeal. Copies of documents should be provided in PDF format (unless otherwise requested and approved in advance of their submittal) and designated as follows: Appellant (A-1, A-2, etc.); City (C-1, C-2, etc.). The City shall include the DNS and Appeal as part of its document submittal. The Clerk of the Hearing Examiner shall forward a set of copies to the Hearing Examiner.

2. Briefs: By **Noon, March 10, 2023**, any party may submit electronic copies of a hearing brief, not to exceed 15 double-spaced pages, to the Clerk to the Hearing Examiner (who will forward a copy to the Hearing Examiner), with a copy to the other party, as part of their submitted documents. Briefs may reference the submitted documents but should not separately attach (i.e., resubmit) these documents or attempt to submit new evidence.
3. Hearing: The issues that may be addressed at the appeal hearing are limited to those identified in the appeal statement. The order of presentation shall be:

² The Clerk to the Hearing Examiner will provide virtual access information to the parties prior to the hearing.

- a. Introductory remarks by the Hearing Examiner.
 - b. Presentation of Appellant witnesses, and cross-examination of those witnesses by the City.
 - c. Presentation of City witnesses, and cross-examination of those witnesses by the Appellant.
 - d. Closing arguments, if any, by Appellant and City.
4. Settlement: The parties are encouraged to discuss settlement and to notify the Clerk to the Hearing Examiner of any settlement reached prior to the scheduled hearing.

So ordered this 24th day of February 2023.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center