

City of Gold Bar

EST. 1910

107 – 5th Street, Gold Bar, WA 98251



Project: Building Variance – Reduction in Setback

Applicant: Phil Peksanli

Site : 41021 SR-2. Gold Bar, WA 98251

Exhibits

- 1) Building Variance Request
- 2) Project Cover Letter
- 3) Certificate of Applicant Status
- 4) Notice of Complete Application
- 5) Notice of Application
- 6) Notice of Application – Comments (Nothing as of 11-14-24)
- 7) Area Site Plan
- 8) SEPA
- 9) Determination of Non-Significance
- 10) Notice of Public Hearing
- 11) Photos
- 12) Staff Report
- 13) Hearing Examiner Decision
- 14) Additional Comments from Applicant
- 15) Revised Site Plan
- 16) Notice of Public Hearing
- 17) Second Staff Report

Exhibit 1

APPLICATION FOR VARIANCE

(FOR OFFICE USE ONLY)

Application No: _____

Name of Applicant: _____

Date of Filing: _____

Date of Scheduled Hearing: _____

(FOR APPLICANT USE ONLY)

Signature of Applicant: _____

Signature of Property Owner: _____

Mailing Address of Applicant: 41021 SR 2 GOLDBAR WA 98251

Mailing Address of Property Owner: 41021 SR 2 GOLDBAR WA 98251

Phone Number of Applicant and/or Contact Person: (425) 4205142

Location of Property: 41021 SR 2 GOLDBAR WA 98251

Legal Description of Property: Section 08 Township 27 Range 09 Quarter NW
O'DONNELL ACRE TRS PLAT of Bk 001 D-02 PARC CITY GFB LA REC
AFN 201908230305 SURVEY REC CTRN 201908235003 BEING PTN
LOT 8 9 & 11 SD PLAT

Area Map/Site Plan (outlined in red): _____

The above signed applicant is the owner of the property described as following reasons. State exactly what is intended to be done on, or with the property which does not conform to existing zoning regulations.

State precisely what adjustment is sought.

- Current Triangular Lot configuration Does not allow space for 25' And 10' Front & Side set back & allow Ingres/Egress to back shop for new proposed business space. Requesting 10' Front set back & 5' Side set back for (2) Conex Box/Storage containers Roofed w/Trusses & METAL Roofing with carport space inbetween. This will act as a NOISE Buffer, Theft deterrent, Keeping Equipment & Tools safe and secure, obscuring street view from Business operations, while creating a beautiful art/sign for New Business Revenue and Improving curb appeal.
- Also I am requesting side yard variance on existing shop East side to extend shop 10' out, 5' off side yard fence for future addition,

Exhibit 2

Denise Beaston

From: Phil Peksanli <phil@woodwardrenovations.com>
Sent: Thursday, October 17, 2024 9:53 AM
To: Denise Beaston
Subject: zoning variance cover letter

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Zoning Variance Approval Cover Letter

I, Phil Peksanli at location; 41021 state route 2 gold bar WA 98251 (parcel# 00534400100802) am requesting permission to install 2 Conex containers with a roof between them as a dry carport for business equipment and tool storage while being a semi-permanent building and not wasting resources.

My current triangle lot configuration does not allow space for a 25' and 10' front and side set back and allow ingress/egress to the back shop for new proposed business space. Requesting 0 front (highway) set back and 5' side setback for (2) Conex box/storage containers roofed w/trusses and a metal roofing with carport space between with 0 roof overhang. This will act as a noise buffer (from highway traffic), fence, theft deterrent, and will keep the headlights out of the main residents from cars/trucks traveling from east to west while keeping equipment and tools safe and secure. All while obscuring street views from business operations, while creating a beautiful art/ business sign on the street side of the container for new business revenue and improving curb appeal.

Requesting permission to please grant this Zoning variance while allowing me to use 2 storage container (that will look clean like a shop building when done) to help my new business which will help bring revenue and a beautiful mural to the City of Gold Bar.

I am also requesting side yard variance on existing shop. i would like to add 10' to the east side of the shop keeping me 5' off the fence line for future construction.

Exhibit 3

City of Gold Bar

EST. 1910

107 - 5th Street, Gold Bar, WA 98251



CERTIFICATE OF APPLICANT STATUS

I/We, Phil L. Peksanli, hereby certify that I am/We are the owner(s) of the property legally described as Parcel #00534400100802

My/Our address is 41021 State Route 2 Gold Bar WA 98251

I/We further certify that I/We authorize: _____ to act as my/our representative and proceed with work on my/our property _____

AND/OR

I/We give permission to Phil Peksanli to act on the behalf of this property

In acquiring permits for the work and designated that Phil Peksanli will work directly with City of Gold Bar for such purposes.

Signed: [Signature] date Oct-16-2024

date _____

State of WA)

SS.

County of Snohomish)

On this day personally appeared before me Phil Peksanli

To me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged to me that He signed the same as free and voluntary act and deed for the purposes therein mentioned.

Given under my hand and official seal this 16 day of October, 2024

NOTARY PUBLIC in and for the State of WA residing in: Monroe WA

Signed Katy Woods
04 8/29/20



Exhibit 4

City of Gold Bar

EST. 1910



107 – 5th Street, Gold Bar, WA 98251

NOTICE OF COMPLETE APPLICATION

October 29, 2024

Owner:

Phil Peksanli
41021 State Route 2
Gold Bar WA 98251

Type of Application: Building Variance Request (Set-Back Reduction) No. LS-002-24

Location of Site: 41021 State Route 2
Gold Bar WA 98251
Tax Parcel No. 00534400100802

Gold Bar Municipal Code Title 19 Sections 19.02.020 and 19.02.030 determine if an application is to be identified as complete or non-complete. City staff reviewed your application for completeness and determined all requirements of Title 19 Section 19.02.030 have been submitted with your application.

The proposed project falls under the State Environmental Protection Act (SEPA) exemptions. (WAC 197-11-800 Categorical Exemptions) The proposed project does not fall under the Gold Bar Municipal Code (GBMC) exemptions. (GBMC 19.04.030 Categorically Exempt and planned Actions) City staff have reviewed the application and no SEPA was required but the applicant completed a SEPA.

City staff has determined that the application for a Building Variance (Set-Back Reduction) is a **complete** application. City staff may request further information during the permit review process and decision making.

If you have questions please contact Rich Norris or Denise Beaston at Gold Bar City Hall, (360)793-1101 or by email shown below.

Respectfully:

Rich Norris
Public Works Director,
r.norris@cityofgoldbar.us

Denise Beaston
d.beaston@cityofgoldbar.us

Exhibit 5

City of Gold Bar

EST. 1910



107 – 5th Street, Gold Bar, WA 98251

NOTICE OF APPLICATION

RE: Building Variance – Application No. LS-002-24
41021 SR-2, Gold Bar, WA 98251
Tax Parcel No.: 00534400100802

The following information is provided in accordance with Gold Bar Municipal Code 19.02.040.

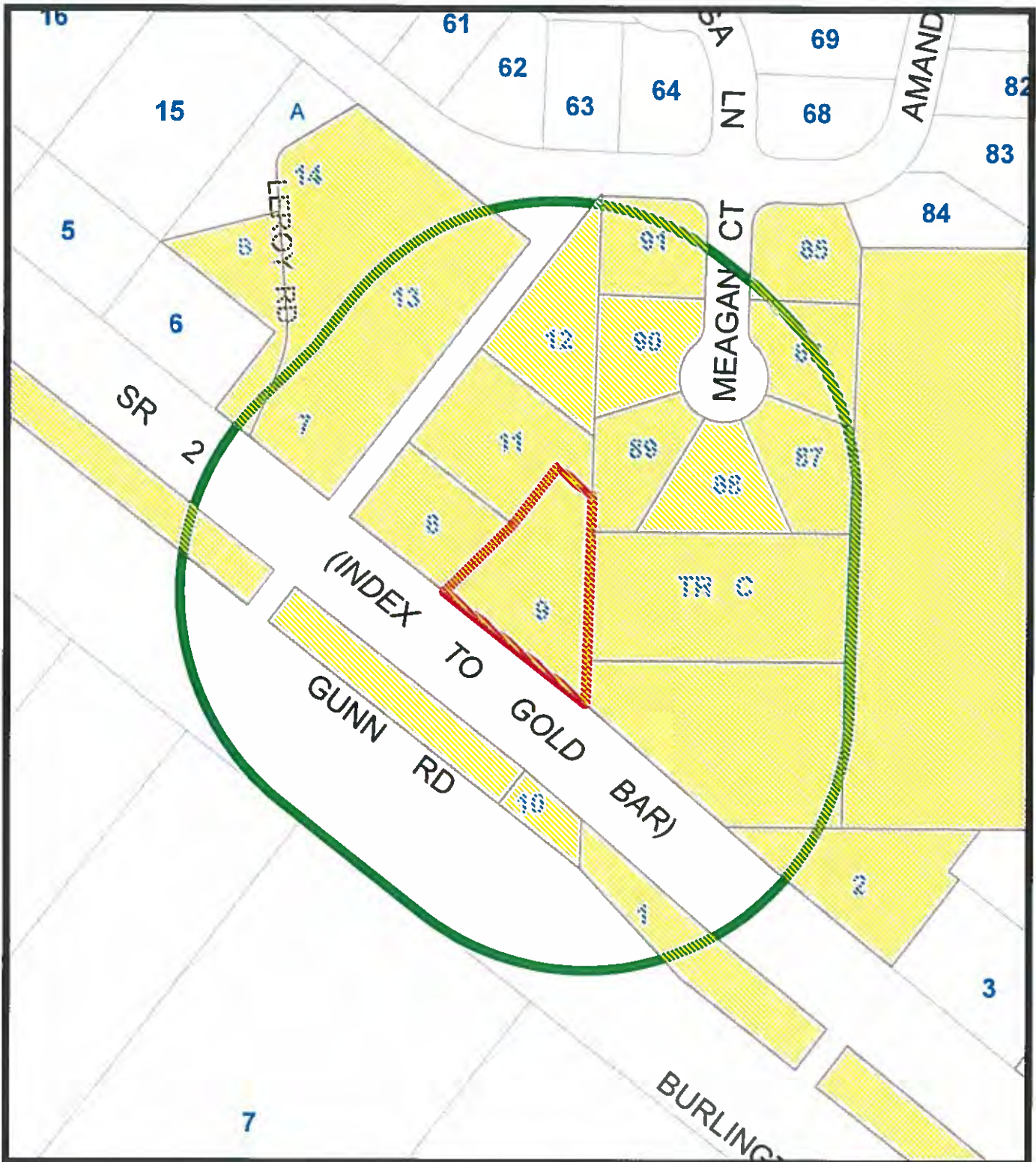
1. Date of Application: October 16, 2024
Date of the Notice of Completeness: October 29, 2024
Date of the Notice of Application: October 30, 2024
2. Project Description: The applicant seeks a building variance to reduce the required front 25' (foot) setback to 0'(foot) and the required side setback from 10'(foot) to 5'(foot). The buffer reduction is required to site a shop and future expansion.
3. No other permits are included in the application.
4. **Public comments will be taken from until November 15, 2024, 5:00PM.** It is the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. Written comments may be mailed to City of Gold Bar, 107-5th Street, Gold Bar, WA 98251.
6. An **Open Record Public Hearing** will be held before the Hearing Examiner on November 21, 2024. Please contact City Hall to participate.
7. A preliminary determination of consistency has been made at the time of this notice. In accordance with GBMC 19.40.010, the determination of consistency shall include the following:
 - a. The type of land use permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;
The proposed action location is designated General Commercial. No Change.
 - b. The level of development, such as units per acre, density in urban growth areas, or other measures of density; **Meets criteria within The 2015 City of Gold Bar Comprehensive Plan.**
 - c. Availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by RCW Chapter 36.70A; **Infrastructure and public facilities are current servicing the property.**
 - d. Character of the development, such as development standards.
The proposed building meets current design requirements and is consistent with existing buildings.
8. City staff have made a **Determination of Non- Significance.**

Please contact Rich Norris or Denise Beaston at (360)793-1101 for more information.






Exhibit 6

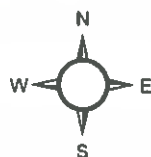
Exhibit 7

41021 SR2 Map



Township: 27 Range: 9 Section: 8

-  Parcels
-  Selected Parcels
-  Parcel(s) of Interest
-  Mailing Radius (300 feet)
-  PLSS Grid

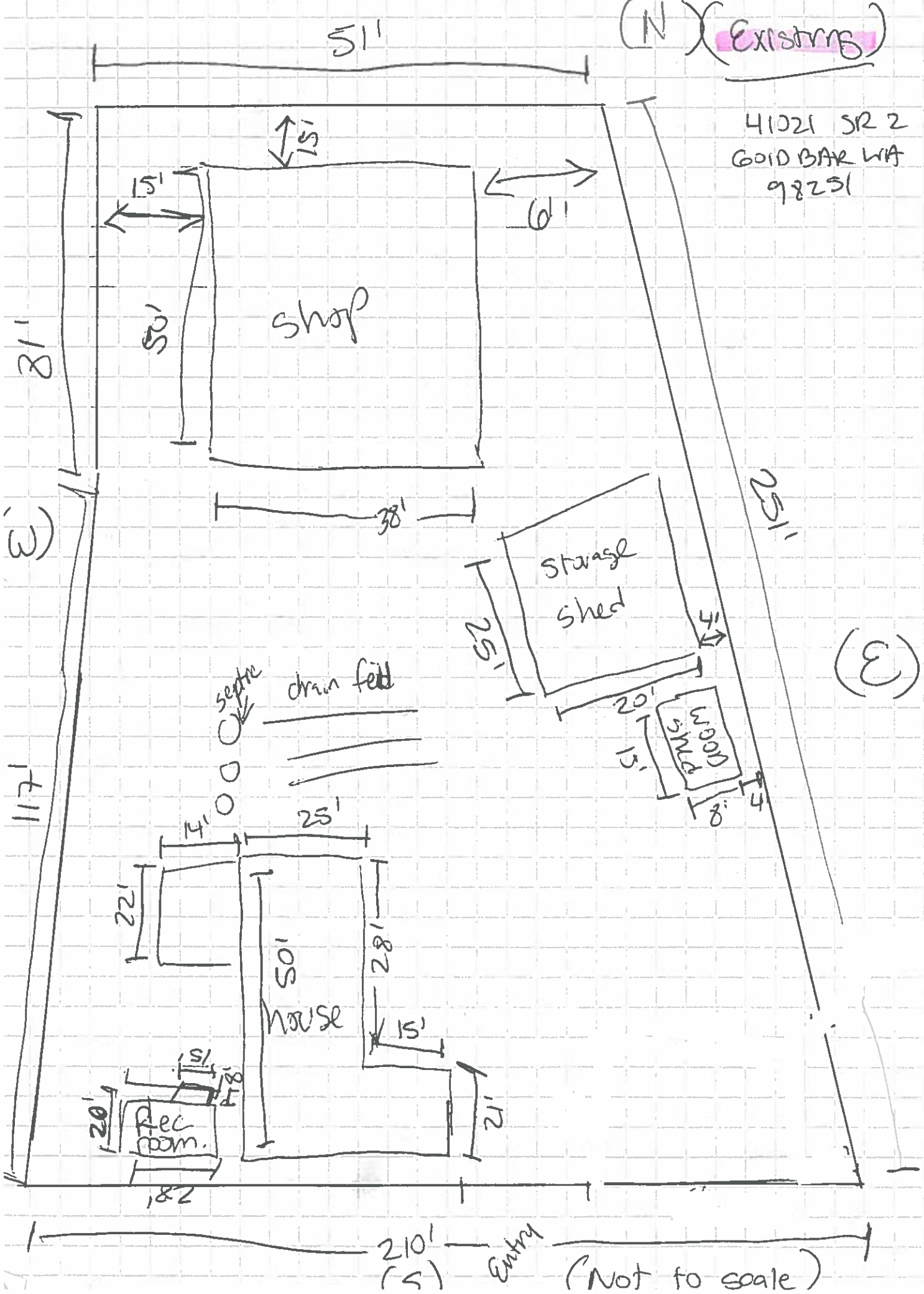


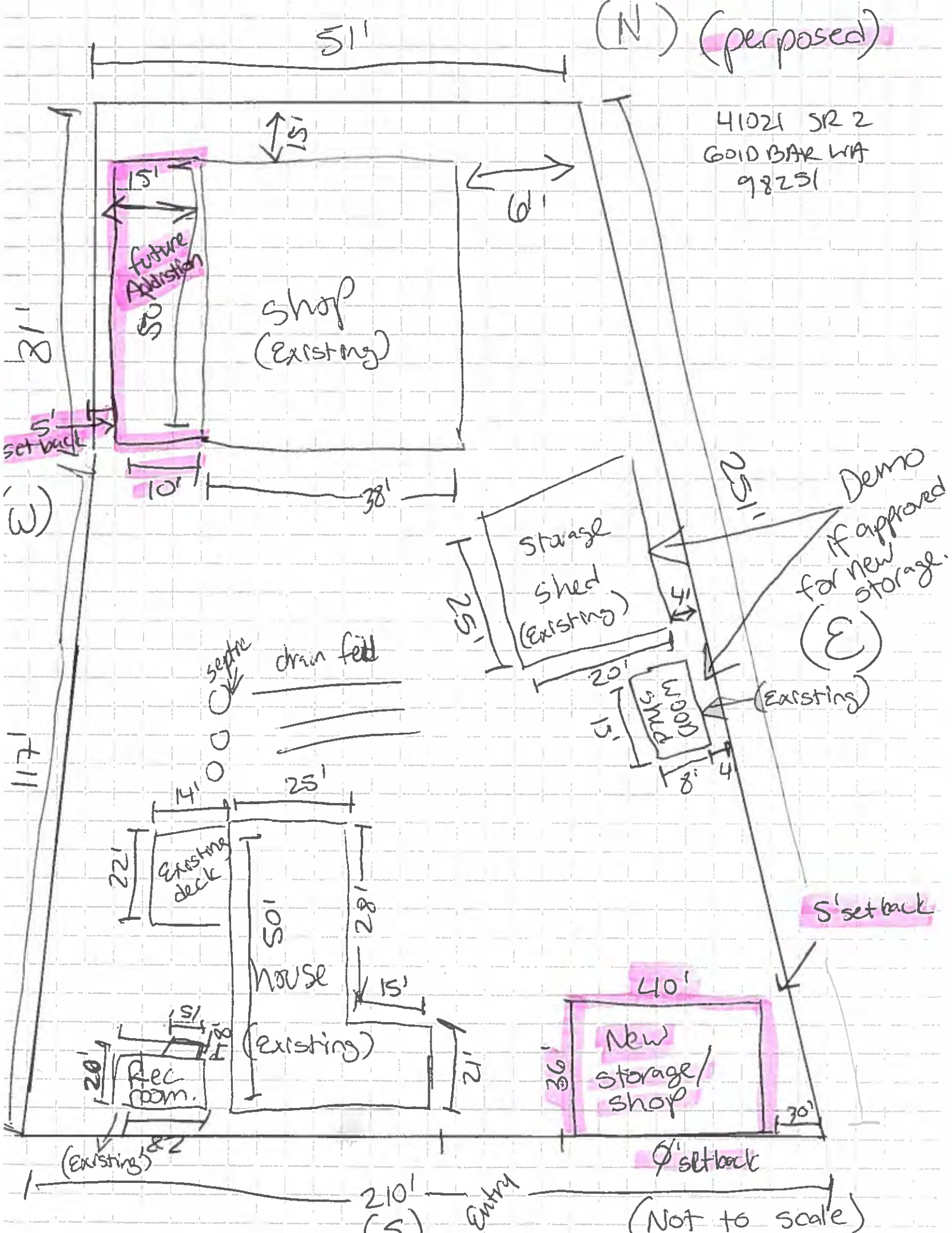
Snohomish County disclaims any warranty of merchantability or warranty of fitness of this data (or map) for any particular purpose either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted. Any user of this data (or map) assumes all responsibility for use thereof, and further agrees to hold Snohomish County harmless from and against any damage, loss, or liability arising from any use of this data (or map).



Snohomish County

Application Provided by
Information Services/GIS
Produced 10/14/2024





(N) (perposed)

41021 SR 2
GOLD BAR WA
98251

5' set back

(W)

17'11"

septic drain field

Demo if approved for new storage.
(E)

S' set back

Ø' set back

(Not to scale)

210' Entry

(Existing) 8'2"

8'1"

51'

15'

6'

15'

Future Addition

Shop (Existing)

10'

38'

Storage shed (Existing)

25'

Wood shed (Existing)

20'

15'

8'

4'

25'

Existing deck

22'

14'00"

25'

House (Existing)

50'

28'

15'

12'

Rec room (Existing)

20'

15'

40'

New storage/shop

30'

Exhibit 8

SEPA¹ Environmental Checklist

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in "Part B: Environmental Elements" that do not contribute meaningfully to the analysis of the proposal.

¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/Checklist-guidance>

A. Background

Find help answering background questions²

1. Name of proposed project, if applicable:

2. Name of applicant: Phil L. Peksanl:

3. Address and phone number of applicant and contact person:

41021 SR 2 GOLD BAR WA 98251 (425)4205142

4. Date checklist prepared:

Oct. 14. 2024

5. Agency requesting checklist:

Gold bar (city of)

6. Proposed timing of schedule (including phasing, if applicable):

Oct 14th - Jan 14th

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None

10. List any government approvals or permits that will be needed for your proposal, if known.

None

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

container storage / shop 36'x40'

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section,

South East corner of 41021 SR 2 GOLD BAR WA 98251

² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

B. Environmental Elements

1. Earth

Find help answering earth questions³

a. General description of the site:

Flat, Triangle lot. Full commercial.

Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:

b. What is the steepest slope on the site (approximate percent slope)?

Flat 0 percent slope.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

gravel & grass. no removal of any soils.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

None

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

36'x40' removal of grass & replace with gravel.

f. Could erosion occur because of clearing, construction, or use? If so, generally describe.

NO

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

1,446 SF

³ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth>

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

None

2. Air

Find help answering air questions⁴

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

None

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

None

3. Water

Find help answering water questions⁵

- a. Surface:

Find help answering surface water questions⁶

1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

None

2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

None

3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

None

⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-Air>

⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water>

⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Surface-water>

4. Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.

None

5. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

None

6. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

None

b. Ground:

Find help answering ground water questions⁷

1. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.

No

2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

None

c. Water Runoff (including stormwater):

1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

the water will go to the same location as before.

2. Could waste materials enter ground or surface waters? If so, generally describe.

No

3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

No

⁷ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater>

- d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

gravel added to site to help disperse water.

4. Plants

Find help answering plants questions

- a. Check the types of vegetation found on the site:

- ☐ deciduous tree: alder, maple, aspen, other
- ☐ evergreen tree: fir, cedar, pine, other
- ☐ shrubs
- ☐ grass
- ☐ pasture
- ☐ crop or grain
- ☐ orchards, vineyards, or other permanent crops.
- ☐ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ water plants: water lily, eelgrass, milfoil, other
- ☐ other types of vegetation

- b. What kind and amount of vegetation will be removed or altered?

1,440 SF of grass

- c. List threatened and endangered species known to be on or near the site.

none

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

Evergreen plants will be added after finished to make it look beautiful.

- e. List all noxious weeds and invasive species known to be on or near the site.

None

5. Animals

Find help answering animal questions⁸

- a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site.

Examples include:

None

⁸ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-5-Animals>

- Birds: hawk, heron, eagle, songbirds, other:
- Mammals: deer, bear, elk, beaver, other:
- Fish: bass, salmon, trout, herring, shellfish, other:

b. List any threatened and endangered species known to be on or near the site.

None

c. Is the site part of a migration route? If so, explain.

No

d. Proposed measures to preserve or enhance wildlife, if any.

evergreen will be added and other beautiful flowers.

e. List any invasive animal species known to be on or near the site.

None

6. Energy and natural resources

Find help answering energy and natural resource questions⁹

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

solar for electricity. mainly lights.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.

solar will be added 1 year after build.

7. Environmental health

Health Find help with answering environmental health questions¹⁰

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.

None

⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-6-Energy-natural-resou>

¹⁰ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health>

1. Describe any known or possible contamination at the site from present or past uses.

None

2. Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

None

3. Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

None

4. Describe special emergency services that might be required.

None

5. Proposed measures to reduce or control environmental health hazards, if any.

None

b. Noise

1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

traffic noise but will not affect the project

2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?

framing of roof. roughly 1 week.

3. Proposed measures to reduce or control noise impacts, if any:

start late morning, finish early evening

8. Land and shoreline use

Find help answering land and shoreline use questions¹¹

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

my property is a metal fab shop. Next door is an R.V. lot. will not affect any one.

- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have

No

¹¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use>

not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

None

1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?

No

- c. Describe any structures on the site.

1 house, 1 shop in the back, 1 storage shed & 1 wood shed. Storage shed & wood shed will be taken down.

- d. Will any structures be demolished? If so, what?

yes 2 old buildings in different locations once the 13 built - (Storage shed & wood shed.)

- e. What is the current zoning classification of the site?

Full commercial

- f. What is the current comprehensive plan designation of the site?

Full commercial

- g. If applicable, what is the current shoreline master program designation of the site?

None

- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

No

- i. Approximately how many people would reside or work in the completed project?

1 or 2

- j. Approximately how many people would the completed project displace?

None

- k. Proposed measures to avoid or reduce displacement impacts, if any.

None

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.

None

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

None

9. Housing

Find help answering housing questions¹²

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
None
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
None
- c. Proposed measures to reduce or control housing impacts, if any:

None

10. Aesthetics

Find help answering aesthetics questions¹³

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
metal & tallest spot might be 16' feet.
- b. What views in the immediate vicinity would be altered or obstructed?

None

- c. Proposed measures to reduce or control aesthetic impacts, if any:

None

11. Light and glare

Find help answering light and glare questions¹⁴

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
None
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
No
- c. What existing off-site sources of light or glare may affect your proposal?

None

- d. Proposed measures to reduce or control light and glare impacts, if any:

None will occur

¹² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-9-Housing>

¹³ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-10-Aesthetics>

¹⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-11-Light-glare>

12. Recreation

Find help answering recreation questions

- a. What designated and informal recreational opportunities are in the immediate vicinity?
None
- b. Would the proposed project displace any existing recreational uses? If so, describe.
No
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:
None

13. Historic and cultural preservation

Find help answering historic and cultural preservation questions¹⁵

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.
No
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.
No
- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.
None
- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.
None

¹⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p>

14. Transportation

Find help with answering transportation questions¹⁶

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

access from highway 2. will not be affected.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

No 1 mile away.

- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

No

- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No

- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

None

- f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No

- g. Proposed measures to reduce or control transportation impacts, if any:

None needed. will not impact transportation.

15. Public services

Find help answering public service questions¹⁷

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

No

- b. Proposed measures to reduce or control direct impacts on public services, if any.

None

¹⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation>

¹⁷ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-15-public-services>

16. Utilities

Find help answering utilities questions¹⁸

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

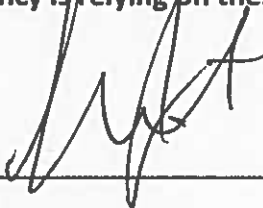
None all solar for storage.

C. Signature

Find help about who should sign¹⁹

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

X



Type name of signee:

Position and agency/organization:

Date submitted:

D. Supplemental sheet for nonproject actions

Find help for the nonproject actions worksheet²⁰

Do not use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

¹⁸ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-16-utilities>

¹⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-C-Signature>

²⁰ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-d-non-project-actions>

Exhibit 9

City of Gold Bar

EST. 1910

107 – 5th Street, Gold Bar, WA 98251



CITY OF GOLD BAR DETERMINATION OF NON-SIGNIFICANCE

PROJECT:	Building Variance (LS-002-24)
THRESHOLD DETERMINATION:	Determination of Non-Significance (DNS)
DATE OF ISSUANCE:	October 29, 2024
APPLICANT:	Phil Peksanli 41021 SR-2 Gold Bar WA 98251
PROPOSAL LOCATION:	41021 SR-2 Gold Bar, WA 98251 Tax Parcel #00534400100802
ZONING:	General Commercial
PROPOSAL DESCRIPTION:	The reduction of front setback along SR-2 from 25' to 0' and side setback from 10' to 5'.
LEAD AGENCY:	City of Gold Bar
CONTACT PERSON:	Rich Norris, Public Works Director

Project Description

The proposed project is for the reduction of the front setback along SR-2 from 25' (foot) to 0' (foot) and a reduction in the setbacks on both the east and west property lines from 10' to 5'.

The proposal is for the consideration of a variance for a building permit for a proposed siting of a shop and future shop expansion on Tax parcel # 00534400100802 within the City of Gold Bar. The building is proposed to be placed in the southeastern portion of the lot.

A future expansion of the existing shop on the northwestern portion of the lot is also proposed.

The variance, if approved, will not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.

Threshold determination:

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c).

Comments and Appeal:

This DNS is issued under WAC 197-11-340(2); the lead agency will not act upon this proposal for 21 days from the signature date below.

Any interested party may submit written comments on this determination. The City of Gold Bar must receive written comments or appeals before 5:00 PM, on November 15, 2024. Additional comment can be made during the public hearing on November 21, 2024. Meeting details are on the city website at www.cityofgoldbar.us Any appeal shall state with specificity the reason why the determination should be revised. Comments should be addressed to the responsible official designated below.

If you have any questions concerning this application, please contact Rich Norris at (360) 793-1101.

RESPONSIBLE OFFICIAL:

Rich Norris

ADDRESS:

City of Gold Bar
107 5TH Street
Gold Bar, WA 98251



10/29/2024

Signature of Responsible Official

Date

Exhibit 10



107 – 5th Street, Gold Bar, WA 98251

CITY OF GOLD BAR
NOTICE OF PUBLIC HEARING
LS-002-24

Building Variance - Setback Reduction. Project: Shop Siting. The Gold Bar Hearing Examiner will hold a Public Hearing on Thursday November 21, 2024, at 6:00 PM via “Zoom” meeting online and in-person at City Hall. Instructions for the meeting are on the city’s website:

www.cityofgoldbar.us

Join Zoom Meeting

<https://us02web.zoom.us/j/81477870564?pwd=wUbfHTRrMqLYawI4gGUHC2Wo5WkDMS.1>

Meeting ID: 814 7787 0564

Passcode: 189588

One tap mobile

+12532050468,,81477870564#,,,,*189588# US

+12532158782,,81477870564#,,,,*189588# US (Tacoma)

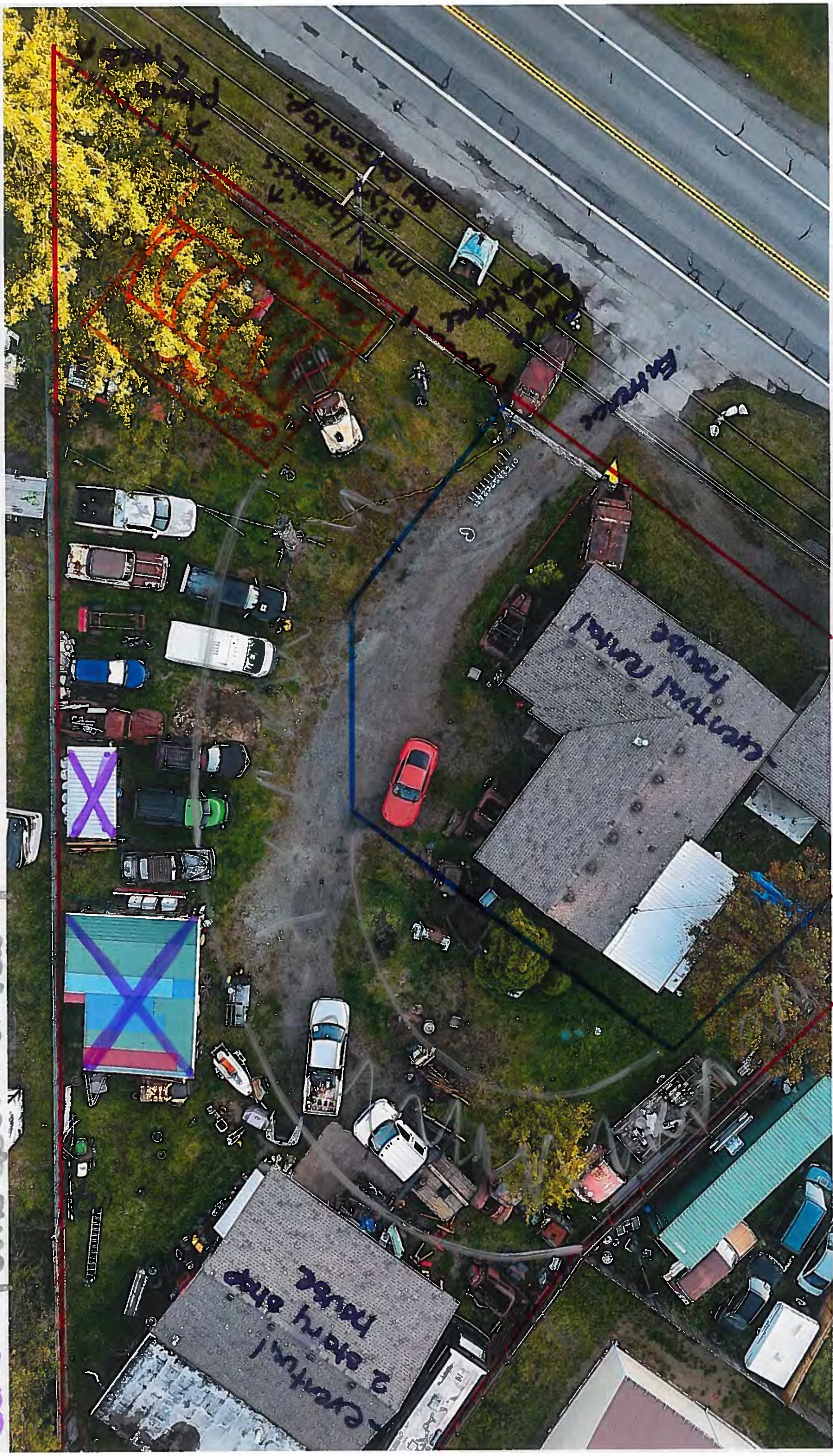
Dial by your location

- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US
- +1 689 278 1000 US

Exhibit 11

- property lines - future fence - perposed container building
- demo - pond about driveway

41021 State Route 2
Gold bar WA 98251



Not to scale but close.



Exhibit 12

City of Gold Bar

EST. 1910



107 – 5th Street, Gold Bar, WA 98251

STAFF REPORT - FINDINGS, FACTS AND CONCLUSIONS November 14, 2024

Type of Application: Type 3 Permit (GBMC 19.01.030)

Owner/Applicant: Phil Peksanli
41021 SR-2
Gold Bar WA 98251

Project: LS-002-24 Building Setback Reduction

Location: 41021 SR-2
Gold Bar WA 98251

Zoning: General Commercial

Tax Lot #: 00534400100802

Proposal: The proposed project is for the reduction of the setback from 25' (foot) to 0' (foot) along SR-2 Street. An additional setback reduction along both the east and west property boundaries from the required 10'(foot) to 5'(foot).

The proposal is for the consideration of the siting of a new shop on a legal lot within the City of Gold Bar. The building is proposed to be placed along the southeastern side of the property.

The triangle shaped lot would have the corner of the new shop 5'(foot) from the east property boundary and 0'(foot) from the southern property boundary along SR-2.

Within the same application, applicant is requesting a reduction in the setback on the western property boundary for a future expansion of the existing shop space.

An existing small building will be removed if the setback reduction for the shop is approved.

The variance, if approved, will not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.

History:

1. Application Submittal: October 16, 2024
2. Notice of Complete Application: October 29, 2024
3. Notice of Application
Comment Period Begins: October 30, 2024
4. Notice of Application
Comment Period Ends: November 15, 2024
5. Notice of Open Record Public Hearing: Mailing: October 28, 2024. Publication: October 30, 2024

6. Findings & Facts/Conclusions: November 14, 2024
7. Open Record Public Hearing: November 21, 2024

Findings & Facts

Gold Bar Municipal Code Title 17 – Zoning

The proposed building is located within the General Commercial Zone. The property one street, SR-2. Current requirement within 17.48.070 require 25 foot setback from the street and 10 foot from the side property boundaries. The reduction to 0 foot along SR-2 Street will not impact pedestrian or vehicle lines of sight.

Gold Bar Municipal Code Title 19-Administration of Development Standards:

GBMC 19.03.010 Required Public Notice of Application;

On October 30, 2024 a Notice of Application for a Building Variance was posted on the subject property and advertised in the Everett Herald newspaper on the same date. The Notice was also mailed to all properties located within 300 feet of the subject property.

Staff Comments and Recommendation:

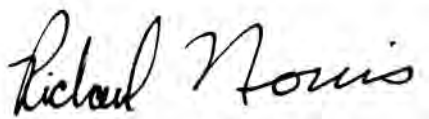
The City staff have reviewed the subject building variance application and all applicable regulations. The subject lot is a legally developed lot located within the city. The setback reduction will allow the applicant to place the new shop with same setback as a few other commercial businesses along SR-2. The proposed location of the shop will provide screening from SR-2 of the various vehicles under-going modification and/or restoration.

City staff recommends approval of the requested building variance for the reduction of the required Set-back of 25' (foot) to 0' (foot) along SR-2 Street and the reduction from 10'(foot) to 5'(foot) on the east and west property boundaries.

Exhibits:

1. Building Variance Request
2. Project Cover Letter
3. Certificate of Applicant Status
4. Notice of Complete Application
5. Notice of Application
6. Notice of Application – Comments (Nothing as of 11-14-24)
7. Area Site Plan
8. SEPA
9. Determination of Non-Significance
10. Notice of Public Hearing
11. Photos
12. Staff Report

Rich Norris



City of Gold Bar
Public Works Director

EXHIBIT

13

**BEFORE the HEARING EXAMINER for the
CITY of GOLD BAR**

DECISION

FILE NUMBER: LS-002-24

APPLICANT: Phil Peksanli
41021 SR-2
Gold Bar, WA 98251

AGENT: N/A

TYPE OF CASE: Zoning Variance to reduce front and side yard setbacks

STAFF RECOMMENDATION: Approve

EXAMINER DECISION: REMAND

DATE OF DECISION: December 2, 2024

INTRODUCTION ¹

Phil Peksanli (“Peksanli”) seeks variances from Gold Bar Municipal Code (“GBMC”) 17.48.070 to reduce the front (SR-2) setback from 25’ to 0’ and side setbacks from 10’ to 5’.

Peksanli filed an application for the variances on October 16, 2024. (Exhibits 1, PDF 5; 5, PDF 21 ²) The Gold Bar Public Works Director (“Director”) deemed the application to be complete on October 29, 2024. ³ (Exhibit 4, PDF 17) The City issued a Notice of Application on October 30, 2024. (Exhibit 5, PDF 21)

The subject property is located at 41021 SR-2. Its Assessor’s Parcel Number is 00534400100802 (“Parcel 0802”). (Exhibit 12, PDF 63)

The Gold Bar Hearing Examiner (“Examiner”) viewed the subject property via Google Earth imagery: Overhead imagery captured July 17, 2023; Street View imagery captured September 2024.

¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

² Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. Citations to exhibits that are available electronically in PDF use PDF page numbers, not source document page numbers. (In this case, all exhibits are contained in one PDF file. The PDF page numbers run sequentially from 1 to 64. Thus, the first page of Exhibit 12 is PDF 63.) While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

³ The Director has the lead City staff responsibility for processing land use applications. [Gold Bar Municipal Code (GBMC) 19.05.020]

The Examiner held a hybrid open record hearing on November 21, 2024: In-person participation was available at the City Hall; remote participation was available through the “Zoom” platform. The Director gave notice of the hearing as required by the GBMC. (Exhibit 10, PDF 55)

The following exhibits were entered into the hearing record during the hearing:

Exhibits 1 – 5 and 7 - 12: As enumerated in Exhibit 12, the Staff Report ⁴

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner’s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. Parcel 0802 is a more-or-less triangular parcel containing 0.453 acres. [Official notice, Snohomish County on-line Interactive Parcel Map, [https://www.snoco.org/proptax/\(S\(4fsw1dhjpt4ut3xj13bjd2fk\)\)/parcelinfo.aspx](https://www.snoco.org/proptax/(S(4fsw1dhjpt4ut3xj13bjd2fk))/parcelinfo.aspx), last visited November 25, 2024] Peksanli desires to install a Conex-based ⁵, covered storage/work facility and, in the future, expand an existing shop to include a new second-story dwelling unit above the shop. Peksanli asserts that the triangular shape of Parcel 0802 creates a hardship justifying reduced setbacks for his proposed improvements. (Exhibits 2; 7, PDF 27, 29, 31)
2. Parcel 0802 is, as noted, a more-or-less triangular parcel. Its base (front lot line in zoning terminology) extends for about 210 feet along the north side of SR-2. ⁶ The southwest corner of Parcel 0802 is the right-angle corner of the triangle. The west base line (west side lot line in zoning terminology) extends north about 200 feet with a slight bend to the west at about the 117-foot mark. The triangle’s hypotenuse (east side lot line in zoning terminology) runs north at an acute angle for about 251 feet. Instead of the west side and east sides meeting at an apex angle as they would in a standard triangle, the northern tip of the triangle is cut off, resulting in a north property line (rear lot line in zoning terminology) that is about 50 feet long and more-or-less parallel with the SR-2 front lot line. (Exhibits 7, PDF 27 & 29)

⁴ Exhibit 6 was a “placeholder” for written public comments. None were received, so the “placeholder” was empty and the exhibit number was not used. (Testimony)

⁵ A Conex is a rectangular metal cargo container commonly seen on truck trailers on the highway, on rail units on railroads, and on container ships on the sea. Conex containers come in various lengths and heights and can be modified to serve as everything from material containers to small offices and dwelling units. The GBMC imposes limitations on placement of Conex containers in the GC zone: “Accessory structures constructed of non-combustible materials such as shipping containers, located in a commercial zone and used for storage ... [m]ust be screened on all sides by a sight-obscuring fence, and ... [a] maximum of three (3) containers shall be allowed per primary business establishment”. [GBMC 17.48.020(CC)]

⁶ To simplify directional references, SR-2 will be assumed to lie on an east-west axis in the vicinity of Parcel 0802.

3. Parcel 0802 is essentially flat without significant overstory vegetation; a few trees are in the southeast corner. Parcel 0802 currently contains several structures. A circa-1957 single family residence occupies the southwest portion of the parcel. That structure has an irregular footprint, but its overall dimensions are about 68 feet (east-west) by 50 feet (north-south). The on-site sewage system's drainfield is located in a grassy area north of the residence; it is unclear from the record whether a reserve drainfield area has been designated and, if one has been, where it is located. A large shop is located in the northwest corner of Parcel 0802. The shop's dimensions are about 38 feet (east-west) by 50 feet (north-south). Two sheds (25' x 25' and 15' x 8') are located adjacent to the midway point of the east property line. (Exhibits 7, PDF 29; 11, PDF 59 & 60; testimony; Google Earth imagery)
4. Parcel 0802 is zoned General Commercial (GC). (Exhibit 12, PDF 64) The GC zone requires a 25-foot front setback, a 15-foot rear setback, and 10-foot side setbacks. [GBMC 17.48.070]

No current front or west side setback information has been provided, but by comparison of Exhibit 7, PDF 29, with Exhibit 11, PDF 60, it appears that the existing residence does not meet the current 25-foot front setback requirement but does meet the 10-foot side setback requirement. (It likely was constructed before adoption of current zoning regulations, but the record contains no evidence to support that supposition.) The shop has a 15-foot west side setback which exceeds the requirement, a 15-foot rear setback which meets the requirement, and a varied east side setback (because of the angle of the east property line) from about 6 feet (less than the requirement) to well over 10 feet (more than meeting the requirement). The two sheds are only about 4 feet from the east property line (not meeting the requirement).

5. Peksanli desires to install a Conex-based storage/work area facility in the southeast corner of Parcel 0802. The proposed Conex containers will each be 8' (W) x 9'6" (H) x 40' (L). Peksanli proposes to place them parallel to the SR-2 property line and to one another, separated by 20 feet. A solid roof will then be constructed to bridge the opening between the containers. The overall dimensions will be 36' x 40'. Peksanli proposes to place the structure such that the south edge of the south Conex be on the south property line and the northeast corner of the north Conex will be 5 feet from the east property line. Thus, Peksanli seeks a variance from 25 to 0 feet front setback and from 10 feet to not less than 5 feet side setback. Once the Conex structure is in place, Peksanli will remove the two sheds along the east property line. (Exhibit 7, PDF 31; testimony)

In the future, Peksanli wants to add a second story to the northern shop and expand it 10 feet to the west. The result would be a 5-foot west side setback. Thus, Peksanli seeks a variance from 10 feet to 5 feet side setback. Peksanli plans to use the second story as his residence. ⁷ (Exhibit 7, PDF 31; testimony)

6. Peksanli desires to rent the existing residence after he has constructed the residence atop the shop. Peksanli proposes to provide a separate driveway entrance for the residence: The existing driveway

⁷ Residences are neither a permitted use nor a conditional use in the GC zone. [GBMC 17.48.020 and .040]

will be for the residence and a new driveway will be created abutting the existing driveway on its east side for the shop business, thus creating two side-by-side driveway entrances onto SR-2. The creation of the second driveway is what forces the Conex structure to be placed as far east as proposed. (Exhibit 11, PDF 59; testimony)

7. Variances are categorically exempt from the threshold determination requirements of the State Environmental Policy Act (“SEPA”). [WAC 197-11-800(6)(e)]⁸
8. No written evidence was entered into the record by the general public either in support of or in opposition to the application.

One City resident testified at the hearing. Charles Lie (“Lie”)⁹ expressed concern about the lack of information in the record regarding the location of the parcel’s on-site sewage system drainfield and reserve drainfield. He questioned the adequacy of emergency access to the several buildings on Parcel 0802. He also felt that the sketched site plans (not drawn to scale) were not adequate. (Testimony) The Director stated that more detailed site plans would be required at time of building permit review. (Testimony)

9. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK¹⁰

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority

A zoning variance is a Type III application which is subject to an open record hearing before the Examiner. The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [GBMC 2.26.120, .125, and .140; GBMC 19.01.030; and GBMC 19.06.060]

The examiner’s decision may

grant, deny, or grant with such conditions, modifications, and restrictions as the examiner finds reasonable to make the application or appeal compatible with its environment, the Gold Bar Municipal Code, the Gold Bar Comprehensive Plan, other official policies and objectives, and land use regulatory enactments. Examples of the kinds of conditions, modifications, and restrictions that may be imposed include, but are not limited to, additional

⁸ Peksanli submitted a SEPA Checklist with his variance application. (Exhibit 8, PDF 35 *et seq.*) “In an abundance of caution,” the City issued a SEPA Determination of Nonsignificance on October 29, 2024. ((Exhibit 9, PDF 51; testimony)

⁹ Lie stated that he was a member of the City Council but was testifying on his own behalf as a City resident. (Testimony)

¹⁰ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

setbacks, screenings in the form of fencing or landscaping, easements, dedications, or additional right-of-way and performance bonds[.]

[GBMC 2.26.120(B)]

Review Criteria

The review criteria for zoning variances are set forth at GBMC 17.72.020:

Before any variance may be granted, it shall be shown that:

A. There are special circumstances applicable to the subject property or to the intended use, such as shape, topography, location or surroundings that do not apply generally to the other property or class of use in the same vicinity and zone;

B. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;

C. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;

D. The granting of such variance will not adversely affect the comprehensive plan.

A “consistency determination” is also required for every project permit application.

During project permit application review, [Gold Bar] shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project. In the absence of applicable development regulations, [Gold Bar] shall determine whether the items listed in this subsection are defined in [Gold Bar’s] adopted comprehensive plan. This determination of consistency shall include the following:

1. The type of land use permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;
2. The level of development, such as units per acre, density of residential development in urban growth areas, or other measures of density; and
3. Availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by RCW Chapter 36.70A; and
4. Character of the development, such as development standards.

[GBMC 19.04.010(B)] The definition of “project permit application” includes variances. [Chapter 19.00 GBMC]

Vested Rights

Gold Bar has no vesting regulations. “Vesting” serves to “fix” the regulations against which a development application is judged. [*Potala Village Kirkland, LLC v. City of Kirkland*, __ Wn. App. __ (Div. I, 2014)]

In the 1950s, the [state] supreme court first adopted the common law vested rights doctrine [for building permit applications]. ... In cases that followed, Washington courts applied the vested rights doctrine to permit applications other than building permit applications. They included conditional use permit applications, grading permit applications, shoreline substantial development permit applications, and septic permit applications.

In 1987, the legislature enacted legislation regarding the vested rights doctrine. The session laws added ... RCW 19.27.095(1) and RCW 58.17.033(1) respectively ... [which] only refer to building permit applications and subdivision applications. ...

Most recently, in *Town of Woodway v. Snohomish County*, the [state] supreme court reiterated that "[w]hile it originated at common law, the vested rights doctrine is now statutory."

[*Potala*, Slip Opinion 6 – 8 and 11] There is no statutory provision in state law providing vested rights to variance applications. Appellate courts never applied the vested rights doctrine to variance applications. The application has no vested rights.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [GBMC 19.05.060]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. Basically, the sole justification for the 25' to 0' front yard setback variance and the 10' to 5' east side setback variance is that the angled east side property line does not provide enough room to locate the proposed 40' by 36' Conex structure while preserving a new, second driveway abutting the existing driveway. The new driveway is desired to separate the residence from the shop activity so that the residence can be rented and Peksanli can live in a new dwelling unit above the shop. If the new driveway were not constructed, it appears that there would be sufficient area to shift the Conex structure north and west to meet both front and east side setback requirements. At the very least, the east side setback could be easily met and the front setback variance, even if required, could be significantly less.
2. The primary problem here is that the GBMC appears on its face to not allow residences to be constructed on property zoned GC. Peksanli's proposed second story dwelling unit above the shop would be a new residence. New residences apparently are not allowed in the GC zone. If the residence is not allowed, there is no need for a new driveway, and the justification for the setback variances disappears.

3. A further problem is that Conex containers come in various lengths. A shorter pair of Conexes could enable the required setbacks to be met even if the second driveway were constructed. One of the principles of zoning variance jurisprudence is that relief granted by a variance must be the minimum necessary to overcome the proven hardship. Lots exist in different sizes. A small lot cannot be expected to house a very large activity.
4. Hardship sufficient to support approval of the west side variance associated with the shop in the northwest corner of Parcel 0802 has not been adequately demonstrated. Why does the addition have to be 10 feet wide? Why couldn't it be 5 feet wide? Why couldn't the additional space be added onto the south side of the shop?
5. None of these concerns were raised or addressed during the hearing. The Examiner believes that it would be inappropriate to deny an application based on an issue or issues not developed during the hearing. The applicant, staff, and public deserve the opportunity to address concerns that could be central to the outcome of a case.
6. Lie's concern about the adequacy and completeness of the proffered site plan is legitimate. A site plan for a variance application need not be prepared by a licensed surveyor. But it should be drawn to scale and accurately depict all relevant features of the site that could affect future development and/or support the requested variances.
7. The Examiner has express authority to approve, approve with conditions, or deny an application. [GBMC 2.26.120(B), quoted in full on page 4, above] The Examiner has only that authority "conferred either expressly or by necessary implication." [*Chaussee v. Snohomish County*, 38 Wn. App. 630, 636, 689 P.2d 1084 (1984)] The authority to approve or deny necessarily implies the authority to remand (return for correction) an application that is not ripe for a final decision. Such is the case here.

A remand should not be open-ended: A reasonable period to make needed corrections should be provided after which the remand would become a denial. The Examiner believes that six months should be sufficient time in which Peksanli can provide the needed information and the case could come on for re-hearing.
8. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, the testimony and evidence submitted at the open record hearing, and the Examiner's site view, the Examiner **REMANDS** the requested zoning variances from GBMC 17.48.070 **FOR A PERIOD NOT TO EXCEED SIX (6) MONTHS**. If the application has not come on for re-hearing by June 3, 2025, then this Decision shall automatically stand as a final **DENIAL** of the application.

Decision issued December 2, 2024.

\s\ *John E. Galt*

John E. Galt
Hearing Examiner

HEARING PARTICIPANTS ¹¹

Phil Peksanli
Charles Lie

Richard Norris

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file a written request for reconsideration within seven (7) calendar days of the date this Decision was mailed to the parties. See GBMC 2.26.125 for additional information and requirements regarding reconsideration.

NOTICE of RIGHT of APPEAL

This Decision is final subject to the right of a party of record with standing, as provided in RCW 36.70C.060, to file a land use petition in Superior Court in accordance with the procedures of GBMC 2.26.140 and 19.06.060. Any appeal must be filed within 21 days following the issuance of this Decision unless reconsideration has been requested. See GBMC 2.26.140 and 19.06.060 for additional information and requirements regarding judicial appeals.

The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.”

¹¹ The official Parties of Record register is maintained by the City’s Hearing Clerk.

EXHIBIT

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Dear John Galt,

I am writing in response to your questions regarding zone variance at 41021 SR 2 in Gold Bar. I would like to paint a picture for you of my overall vision for the property. My objective is to create a space which allows me to achieve all my business and personal goals in one place. I want to be able to generate income through a small fabrication business while amply providing separate personal residential space for myself and my aging father. I will explain how I strategically intend to do this, and hopefully answer all of your questions in the process.

I would now like to map out the existing property and walk you through my proposed changes, along with the coinciding uses of said restructuring. I believe if laid out correctly, the following will achieve the most conducive flow of traffic for the space to meet everyone's needs. Upon entering the existing driveway from highway 2, to the left you will find my and my father's current living space. Along the fence line to the right, you will find two connexes temporarily placed, and to their North, two small storage buildings and multiple vehicles. At the back of the property is my current shop.

One of my first proposed changes would be expanding the size of, or adding a second driveway. This will serve multiple purposes. It will allow for the smooth and uninterrupted flow for all vehicles entering and exiting the property, whether business or personal. This will prevent impeding traffic or causing safety dangers, significant slowdowns or obstructions, that are already a frequent occurrence along the highway. This expansion will allow ease of access for any potential EMS vehicles, and large delivery trucks or equipment, along with residential vehicles. Widening the driveway would allow larger trucks with trailers to enter and exit uninhibited by obstacles like residential vehicles, which would be parked in the existing driveway.

To accommodate an expanded driveway access, I will need to provide myself with ample enclosed storage space for the business. This structure would need to be placed at the SE corner of the property, on or very near the property line. This is necessary, as space is needed between them to roof and house heavy equipment in a dry location, preventing damage to my assets. This structure would replace the small, and moderate sized (20' x 25') storage building to the North, and excess vehicles would be sold or removed entirely to accommodate the new driveway. Clearing these obstacles and expanding the driveway will allow deliveries to be made at the shop in the back, letting large vehicles or trailers to swing wide and/or safely turn around away from the highway. The driveway cannot be expanded to the West, as the current septic and drain field are located behind the residence, and cannot be disturbed. The roundabout already borders this area and cannot be expanded. The space where the current moderate

storage building resides, and to the North of it on the Eastern fence line, will allow space for a reserve drain field if needed, and will remain vacant.

I would like to note the reasoning for 40', vs. a 20' connexes as questioned, is that 20' is not a sufficient length to house some of the materials and equipment I will be using in fabrication, nor a truck and trailer for shipping and receiving. These are all costly and need to stay out of inclement weather to prevent damage and loss. The additional benefits of a 40' connex at the SE corner of the property line could be buffering noise and headlights from the main residence, as well accommodate potential, and highly visible signage for the business on the highway.

Next I would be looking at adding a fourth 10' bay to my existing shop, to fit business model sizes for fabrication. In order for this extra bay to be built, it would need to expand to the West fence line, as the East fence line is at an odd angle and will not accommodate. Nor can the length be expanded. Those spaces are reserved as an alternate drain field and the existing roundabout for delivery access. Lastly I would build a residential space for myself above the shop space, so in time as the inevitable need arises, my father will have his own living space that could be easily made handicap accessible, and accommodate hired live in care if necessary.

I thank you for your time and consideration allowing me to move forward on my business plan. I feel this will not only benefit me, but my community as well, bringing more business and revenue to the local economy. I hope this answers all your questions. Please feel free to let me know if you need any clarification. I'd be happy to answer any others you might have. I look forward to working with you.

Regards,

Phil Peksanli

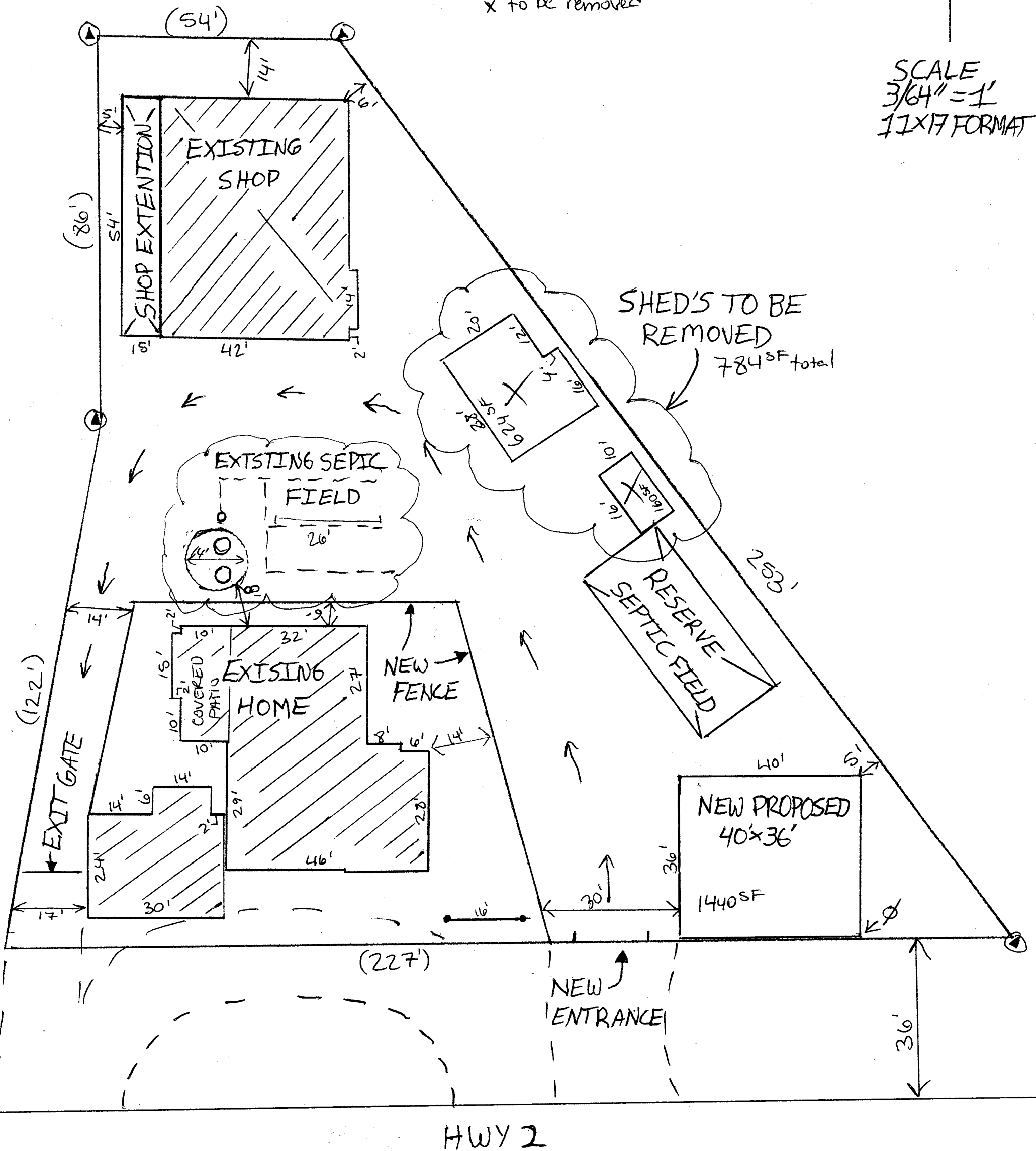
EXHIBIT

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PHIL PEKSANLI
41021 SR2 GOLD BAR WA 98251
PARCEL #00534400700802
FILE # LS-002-24

⊙ property stake
x to be removed

SCALE
3/64" = 1'
11x17 FORMAT



EXHIBIT

16

City of Gold Bar

EST. 1910



107 – 5th Street, Gold Bar, WA 98251

CITY OF GOLD BAR NOTICE OF PUBLIC HEARING LS-002-24

Building Variance - Setback Reduction. Project: Shop Siting. The Gold Bar Hearing Examiner will hold a Public Hearing on Thursday May 29th, 2025, at 6:00 PM via “Zoom” meeting online and in-person at City Hall. Instructions for the meeting are on the city’s website: www.cityofgoldbar.us

Join Zoom Meeting

<https://us02web.zoom.us/j/89155686192?pwd=kplutX1ULwbhNWwpa6mm2swxcu9FNn.1>

Meeting ID: 891 5568 6192

Passcode: 313311

One tap mobile

+12532050468,,89155686192#,,,,*313311# US

+12532158782,,89155686192#,,,,*313311# US (Tacoma)

Dial by your location

- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US
- +1 929 205 6099 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 931 3860 US
- +1 689 278 1000 US

Meeting ID: 891 5568 6192

Passcode: 313311

EXHIBIT

17

City of Gold Bar

EST. 1910



107 – 5th Street, Gold Bar, WA 98251

STAFF REPORT - FINDINGS, FACTS AND CONCLUSIONS May 14, 2025

Note: Highlighted text was added for the second public hearing.

Type of Application: Type 3 Permit (GBMC 19.01.030)

Owner/Applicant: Phil Peksanli
41021 SR-2
Gold Bar WA 98251

Project: LS-002-24 Building Setback Reduction

Location: 41021 SR-2
Gold Bar WA 98251

Zoning: General Commercial

Tax Lot #: 00534400100802

Proposal: The proposed project is for the reduction of the setback from 25' (foot) to 0' (foot) along SR-2 Street. An additional setback reduction along both the east and west property boundaries from the required 10' (foot) to 5' (foot).

The proposal is for the consideration of the siting of a new shop on a legal lot within the City of Gold Bar. The building is proposed to be placed along the southeastern side of the property.

The triangle shaped lot would have the corner of the new shop 5' (foot) from the east property boundary and 0' (foot) from the southern property boundary along SR-2.

Within the same application, applicant is requesting a reduction in the setback on the western property boundary for a future expansion of the existing shop space.

An existing small building will be removed if the setback reduction for the shop is approved.

The variance, if approved, will not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.

History:

- | | |
|--|-------------------|
| 1. Application Submittal: | October 16, 2024 |
| 2. Notice of Complete Application: | October 29, 2024 |
| 3. Notice of Application
Comment Period Begins: | October 30, 2024 |
| 4. Notice of Application
Comment Period Ends: | November 15, 2024 |

5. Notice of Open Record Public Hearing: Mailing: October 28, 2024. Publication: October 30, 2024
6. Findings & Facts/Conclusions: November 14, 2024
7. Open Record Public Hearing: November 21, 2024
8. Hearing Examiner Decision December 2, 2024
9. Second Public Hearing May 29, 2025

Findings & Facts

Gold Bar Municipal Code Title 17 – Zoning

The proposed use of the property (shop and residence) is allowed per GBMC 17.48.020. All residential uses are allowed outright as well as the shop use.

17.48.020 - Permitted uses.

Commercial applications must conform to the requirements of GBMC [Chapter 17.30](#). R, NB, and CB zone uses, including conditional uses, are permitted outright upon the same terms and conditions and in addition, the following uses are permitted:

K. Shops producing merchandise to be sold at the premises or shops for repair, alteration, parking, assembling or fabricating of goods; provided, that the operations are not obnoxious or offensive by reason of the emission or production of odors, fumes, dust, smoke, wastes, noise, vibrations which would extend beyond the boundaries of the premises;

17.10 Accessory Dwelling Units

The code allows for up to two additional dwelling units. Any future addition of a dwelling unit would be required to adhere to GBMC 17.10.

The proposed building is located within the General Commercial Zone. The property one street, SR-2. Current requirement within 17.48.070 require 25 foot setback from the street and 10 foot from the side property boundaries. The reduction to 0 foot along SR-2 Street will not impact pedestrian or vehicle lines of sight.

Gold Bar Municipal Code Title 19-Administration of Development Standards:

GBMC 19.03.010 Required Public Notice of Application;

On October 30, 2024 a Notice of Application for a Building Variance was posted on the subject property and advertised in the Everett Herald newspaper on the same date. The Notice was also mailed to all properties located within 300 feet of the subject property.

On May 10, 2025 and May 17, 2025, the public hearing was advertised in the Everett Herald newspaper. The Public Hearing notice was posted on the city website on May 8, 2025. The Notice was also mailed to all properties located within 300 feet of the subject property. Subject property was also posted.

Staff Comments and Recommendation:

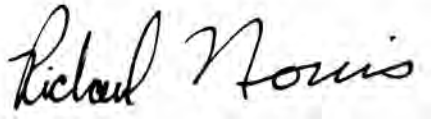
The City staff have reviewed the subject building variance application and all applicable regulations. The subject lot is a legally developed lot located within the city. The setback reduction will allow the applicant to place the new shop with same setback as a few other commercial businesses along SR-2. The proposed location of the shop will provide screening from SR-2 of the various vehicles under-going modification and/or restoration.

City staff recommends approval of the requested building variance for the reduction of the required Set-back of 25' (foot) to 0' (foot) along SR-2 Street and the reduction from 10'(foot) to 5'(foot) on the east and west property boundaries.

Exhibits:

1. Building Variance Request
2. Project Cover Letter
3. Certificate of Applicant Status
4. Notice of Complete Application
5. Notice of Application
6. Notice of Application – Comments (Nothing as of 11-14-24)
7. Area Site Plan
8. SEPA
9. Determination of Non-Significance
10. Notice of Public Hearing
11. Photos
12. Staff Report
13. Hearing Examiner Decision
14. Additional Comments from Applicant
15. Revised Site Plan
16. Notice of Public Hearing
17. Second Staff Report

Rich Norris

A handwritten signature in black ink that reads "Richard Norris". The signature is written in a cursive, flowing style.

City of Gold Bar
Public Works Director

