

**PROPOSED TOPICS FOR  
GIG HARBOR CITY COUNCIL RETREAT  
September 13, 2004 - 1:00 p.m.**

**Mayor Wilbert:**

Partnerships are a Priority of the Mayor

The Russell Family Foundation is interested in partnering in Environmental Education. They indicated an interest in partnering with the community in saving the history and the waterfront environment at the Eddon Boat site property.

The city will continue to partner with the County, the School District, and the Boys & Girls Club to bring forth a Community Center to serve the social service needs of our seniors, our youth, and the Gig Harbor citizens.

1. Alternative Transportation

The Mayor and City Administrator will work with a citizens group and Pierce Transit to bring about a potential plan for a small and frequent, ADA-approved, town-around bus system to serve all ages and all neighborhoods.

The Mayor will continue to communicate with Mayors from Eugene, Oregon to Bellingham, Washington to enhance all forms of alternative transportation. Mayor Wilbert has accepted the assignment on the Board of Discovery Institute Cascade Project to focus on Puget Sound public/private partnerships within South Puget Sound and the waterfront jurisdictions in Pierce and Thurston Counties to provide water taxi/bus service and on land connections for commuters and tourists.

2. Safe Neighborhoods

- Encourage businesses to partner with Pierce County Emergency Management to form a PC-NAT, P.C. Neighborhood Action Team within their business neighborhood.
- Continue to encourage residential neighborhoods to call Barbara Nelson at PCDEM to form a PC-NET within their neighborhood.

3. Funding rehabilitation of the Skansie House:

- Provide living quarters within the house for a security trained renter who would sleep upstairs dusk to dawn.
- Retain renter in the Wilkinson home to continue "eyes and ears" after dark.
- Encourage GH Peninsula Historical Society to provide the history of boat building and fishing on the main floor of the Skansie house and history of agriculture, holly and brush picking within the living room of the Wilkinson home. Docents would welcome visitors during the day providing the "eyes and ears" for these parks 24 hours a day.

4. Listen to the neighborhood residents and business before we spend money for costly engineering studies at:

- Dorotich and Harborview

- Vernhardson and North Harborview
- Stinson and Harborview
- Harborview and North Harborview
- No. Harborview, Harborview and Soundview
- Harborview and Rosedale
- Rosedale and Stinson
- Pt. Fosdick and Olympic Drive
- Pt. Fosdick and 36<sup>th</sup> Street
- Pt. Fosdick & 45<sup>th</sup>
- Pioneer and Judson
- Every other intersection

5. Roundabout or Traffic Light at 36<sup>th</sup> and Pt. Fosdick?

Traffic light would provide pedestrian crossing. How do pedestrians cross the street at a Roundabout?

6. Sidewalk on 38<sup>th</sup> Ave. from Hunt to Briarwood Lane

7. Traffic Light at 45<sup>th</sup> and Pt. Fosdick

8. Yellow Slash Striping the inside lane of SR16 Roundabout at Borgen Blvd.

9. Signage in City Parks to discourage transients

- Discuss options.

10. Project Consideration

- Invite yourself to go sit at the picnic table at Harborview Street end Viewpoint. You will note the wooden top railing blocks the entire view of the Bay, the lighthouse and Mount Rainier. I suggest a see-through top railing to also eliminate the graffiti wood carvings.
- Consider a trail to the beach on the city-owned property adjacent to the Harborview Viewpoint. An ADA platform and proper signage on the beach should meet requirements and protect the adjacent property owners.
- Every project, in the planning stage, when requested by neighbors, should go before the Design Review Board.
- Continue to partner with Peninsula Light Company and others to underground utility lines on our major arterials to eliminate the wooden poles.
- Take a look at the view at the Wheeler Street End and Doug Sorenson's waterfront property offer.
- Historical Preservation options.
- Permit coordinators assigned within the Community Development Department.
- 20 M.P.H. on Harborview Drive and North Harborview Drive.
- Suggest to W.R.R. Association painting a portion of the curb parking BLUE and say 2-hr parking between hours of 10 a.m. and 5 p.m. The green curb 15 minute parking is working.

**Councilmember Ekberg:**

1. Roundabout Education
  - Speed and Signaling.
  - How to get the information to the public.
2. 4-Way Stop at Hunt / Soundview Dr.
3. Russell Building – Plaza Hours
4. Environmental Signage Around Town
5. Priority Bond Issues - Property Purchase / Park Development
  - Westside
  - Gig Harbor North
  - Municipal Dock
  - Museum Property
  - Improvements to Existing Parks
6. Cross-Training of City Employees on GHMC
7. Common Sense in Customer Service

**Councilmember Young:**

1. I-864
  - Should the Council adopt a position for this or any initiative that affects local government?
2. Potential areas for cooperation with new Metro Parks District
  - How to integrate and retain local control.
3. Park Programming Update
  - Specifically, what changes can we expect with the new District replacing the County, and new facilities available?
4. Sidewalk Program
  - Develop a timeline for all city streets to have sidewalks and a system for property owners to speed up the process through LID, etc.
5. New Community Development Two Track System – Performance Based Planning
  - Explore ideas on creating a voluntary system for development applications with few set restrictions that involve the community and DRB in the total site design.
6. Council Retreat Changes
  - Consider moving the City Council retreat back to the beginning of the year so we can set the Council's agenda for the year.

7. Contact Management/Community Involvement System
  - Consider purchasing or developing a system for automatic contacts with the community on given topics and a system to manage developments in process.
8. Annexation – A More Proactive Approach
  - Explore ways to encourage areas already served by the City but outside our boundaries in already developed areas to annex.
9. Government Relations Agenda
  - Set goals and expectations for the City's contract lobbyist as well as set up a system to react quickly when issues come up that are of interest to the City
10. Student City Council
  - Revisit setting up a mock Council made up of students from the three high schools to discuss issues important to them as well as to teach them the process of government and how we operate.
11. Low Impact Development
  - Develop a toolbox for developers to select LID techniques that could benefit their site in lieu of traditional stormwater retention.
12. Council Meeting Process Improvements
  - Set definitive rules for meeting process for Councilmembers and the public that will be followed and enforced consistently to make our meetings run more smoothly.

**Councilmember Franich:**

1. Shared Parking
2. Moorage Fees
3. Crosswalks
4. Street Lights

**Councilmember Conan:**

1. Traffic Enforcement Within the City Limits
  - Speeding and other driving infractions are growing and don't seem to be as enforced as they once were.
  - This will discourage traffic unrelated to downtown "cutting thru" the City.
2. Sewer Treatment Plant Upgrades
  - Smell continues to be a complaint again and again on that side of the harbor.
3. Update stripping of Roundabout similar to Federal Way & Weyerhauser
4. Historic Preservation Ordinance

**Councilmember Dick:**

1. Protection of View for Public - Keep the harbor for which we are named integrated into the community.
  - Complete before expiration of moratorium
  - Complete building size and other devices to preserve the look and feel of view basin.
  - Complete similar processes for other zones, but with less urgency.
2. Historic Preservation Ordinance – What needs protection and how much do we intrude?
3. Processing of variances
  - Particularly under the Shorelines Management Act.
4. Review City Prosecutor's Contract
5. Design Review Process
  - Try to improve early BRB give and take possible for those who waive statutory rights limiting times and meetings.
6. Alternatives Routes to Hwy 16 from Unincorporated Areas
  - Status of efforts to get County (and State) to develop
  - To minimize or mitigate 56/Olympic overuse.
7. Find ways to devote more revenue to reduction of capital deficiencies which cannot be paid by development or impact fees - Decrease the Concurrency Gap.
8. Speed sewage treatment plant improvements.
9. Preserve intergovernmental agreements with County for sharing recreational programs on Peninsula parks.

**Councilmember Picinich:**

1. Stinson Avenue Improvements
  - Lighting.
  - Sidewalks.
2. Rosedale Street Improvements
  - Sidewalks.
  - Lighting.
3. Parking Issues
4. Property Purchase

# **Gig Harbor City Council Meeting**

**September 13, 2004  
7:00 p.m.**



**"THE MARITIME CITY"**

**AGENDA FOR  
GIG HARBOR CITY COUNCIL MEETING  
September 13, 2004 - 7:00 p.m.**

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**CONSENT AGENDA:**

*These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.*

1. Approval of the Minutes of City Council Meeting of August 23, 2004, Worksession on Building Height of July 19, 2004, and the Design Review Manual Worksession of August 30, 2004.
2. Correspondence / Proclamations: a) Constitution Week b) Letter from Pierce County Housing Authority.
3. Renewal of Copier Maintenance Agreements.
4. Renewal of Laundry Services Agreement.
5. Crosswalk Lighting System – Existing Crosswalk at Discovery Elementary on Rosedale.
6. Resolution No. 628 – Establishing a Work Program for the Review and Revision of the Comprehensive Plan.
7. Civic Center Landscaping Design Improvements.
8. Liquor License Assumption: Quality Food Center #886
9. Approval of Payment of Bills for September 13, 2004:  
Checks #44936 through #45086 in the amount of \$333,822.64.
10. Approval of Payroll for the Month of August:  
Checks #3378 through #3430 and direct deposits in the amount of: \$277,150.24.

**OLD BUSINESS:**

1. Third Reading of Ordinance – Amending the Setback Standards in the PCD-BP District.
2. Second Reading of Ordinance Supporting a Continuance of a Moratorium on the Acceptance of Applications for Development in the Height Restriction Area for a Period of Six Months.
3. Second Reading of Ordinance – Traffic Concurrency Management Update.
4. Second Reading of Ordinance - Northarbor Rezone.
5. Second Reading of Ordinance - Burnham Drive Rezone.

**NEW BUSINESS:**

1. First Reading of Ordinance – Providing for the Issuance and Sale of Unlimited Tax General Obligation Bonds for the Purpose of Financing the Acquisition of Real Estate.
2. Cushman Trailhead Park Asphalt Pathway.

**STAFF REPORT:**

1. John Vodopich, Community Development Director – Fire Inspection Program Analysis.
2. Chief Mike Davis – GHPD August Stats.

**PUBLIC COMMENT:**

**COUNCIL COMMENTS / MAYOR'S REPORT:**

**ANNOUNCEMENT OF OTHER MEETINGS:**

Council Worksession on the Design Review Manual – September 20, 2004 at 6:00 p.m. in the Civic Center Community Rooms.

**EXECUTIVE SESSION:** For the purpose of discussing pending litigation per RCW 42.30.110(1)(i).

**ADJOURN:**

## GIG HARBOR CITY COUNCIL MEETING OF AUGUST 23, 2004

**PRESENT:** Councilmembers Ekberg, Young, Franich, Conan, Dick, Picinich, and Mayor Wilbert. Councilmember Ruffo was absent.

**CALL TO ORDER:** 7:02 p.m.

**PLEDGE OF ALLEGIANCE:**

### **PUBLIC HEARINGS:**

1. Continuation of Public Hearing – Moratorium on Development within the Height Restriction Area for a Period of Six Months. Mayor Wilbert opened the public hearing at 7:05 p.m. Steve Osguthorpe, Planning / Building Manager, presented this continued public hearing for a proposed six-month moratorium on acceptance of development permits in the height restriction area.

Mr. Osguthorpe outlined the staff recommendation to exempt certain development permits. He then passed out an e-mail submitted from Mr. Jim Sullivan, regarding the Stutz Fuel Property, expressing concern that demolition of structures is not included in the proposed exemptions. Mr. Osguthorpe explained that due to concerns expressed since the last public hearing, these have been eliminated.

Mr. Osguthorpe then read the proposed Findings of Facts supporting the continuation of the moratorium prepared by the City Attorney at Council's direction. He explained that if Council believes the continuation of the moratorium is justified, the Findings of Facts must be adopted.

Dawn Sadler – 7508 Pioneer Way. Ms. Sadler said that she agreed with the intent of the moratorium, but voiced concern that she would not be allowed to remodel her home, which is badly need of repair. She asked for clarification on the role of the city attorney. Mayor Wilbert explained that the city attorney provides answers to the Council regarding ordinances and resolutions, and then asked Mr. Osguthorpe to address Ms. Sadler's concerns.

Ms. Sadler clarified her desire to fix up an existing home by adding a second story which would be under the 16' height restriction and less than 3000 s.f. She was told that due to the moratorium, she would not be able to submit permits. She asked if there would be a way for a private residence to be exempted if it meets the terms and conditions set forth in the moratorium. Mr. Osguthorpe explained that she would be able to maintain and repair the structure, but would not be able to enlarge the structure under the terms of the moratorium. He said that she could begin working with staff on the design process, but the city could not accept an application during this period.

Carol Morris, City Attorney, explained that the Council could tailor the moratorium to the size of structures that would be exempted.



Doug Sorensen – 9409 Harborview Drive. Mr. Sorenson said that Council needed to consider the purpose of this moratorium. He said that moratoriums usually come about as the result of poor planning. He asked Council to consider the impact of a moratorium on single family residential, if the project doesn't go beyond the present height or scope of construction. He said he would like to build on his property, and asked consideration for the suggestion to exempt some properties.

There were no further comments and the public hearing was closed at 7:25 p.m. and the next public hearing opened.

2. Traffic Concurrency Management Update. Carol Morris explained that she is recommending an amendment to the traffic concurrency ordinance to reflect a recent court decision that there are no permissible exemptions for traffic concurrency requirements. The city ordinance has exemptions for public facilities, and the court ruling has rendered those unacceptable. She continued to explain that there is an exception for a requirement of a traffic analysis for owners of a single family residence.

Dawn Sadler – 7508 Pioneer Way. Ms. Sadler asked Council to think about adding decorative street lighting fixtures on Pioneer, as it is one of the main traffic streets.

There were no further comments and the Mayor closed the public hearing at 7:30 p.m.

#### **CONSENT AGENDA:**

*These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.*

1. Approval of the Minutes of City Council Meeting of August 9, 2004.
2. Correspondence / Proclamations: a) Payroll Week b) Letter from WFOA  
c) Letter from Mayor Baarsma
3. Agreement for Collection of Storm Drainage Infrastructure Data.
4. Liquor License Renewals: Hy-Ui-Hee-Hee; Olympic Village 76
5. Liquor License Assumption: Shell Food Mart
6. Approval of Payment of Bills for August 23, 2004:  
Checks #44828 through #44935 in the amount of \$254,451.70.

**MOTION:** Move to approve the consent agenda as presented.  
Ekberg / Franich – unanimously approved.

#### **OLD BUSINESS:**

1. Second Reading of Ordinance – Amending Setback Standards in the PCD-BP District. Steve Osguthorpe gave an overview on this proposal to reduce the setbacks for certain categories of use in the PCD-BP zone. There was discussion regarding the term ancillary and how it would be applied.

Mark Hoppen, City Administrator, asked Council to consider amendments to Category 2 uses to increase the 40' setback requirement due to the affect to adjacent properties by

the height of some structures, and to change the word "or" to "and" in the second line so that the project would have to comply with both requirements.

There was further discussion on which sites would be affected by the change in setbacks and ancillary uses. Mr. Osguthorpe offered a solution to amend the language to state that ancillary uses would only apply in the same category. He asked for direction for Mr. Hoppen's recommendation. Council directed staff to make the change from "or" to "and" to reflect what was intended.

**MOTION:** Move to direct staff to bring this agenda item back for a third reading with the recommended amendments.  
Franich / Conan – unanimously approved.

**NEW BUSINESS:**

1. First Reading of Ordinance Supporting a Continuance of a Moratorium on the Acceptance of Applications for Development in the Height Restriction Area for a Period of Six Months. There was further discussion on the exclusion of demolition permits. Councilmember Ekberg said that there should be a provision for life safety issues. Ms. Morris explained that if demolitions are to be included in the ordinance, Findings of Facts should be adopted to support this inclusion.

Councilmember Dick mentioned that the demolition application for the Eddon Boat Building is vested, but it raises a concern that until some parameters for other historic structures could be decided, that demolitions of such should be addressed.

Councilmembers discussed the exemption of smaller structures. Councilmember Franich mentioned the difficulty in coming up with a number, as this moratorium has to be applied even-handedly.

Councilmember Dick voiced concern that until setbacks can be addressed, allowing residential construction might result in a loss of visual space. He said that the moratorium allows the time to explore options.

Ms. Morris recommended a looking at the size of structures that would not be regulated, and allow exemption for anything under that size. Councilmembers discussed an appropriate minimum exemption and directed staff to come back with draft language at the second reading for consideration. At that time, an appropriate number can be chosen.

Councilmember Young asked that language regarding the exemption of demolition permits be included. Mr. Osguthorpe asked if Council was in support of the other staff recommended exemptions identified during the public hearing. Council responded affirmatively.

2. First Reading of Ordinance – Traffic Concurrency Management Update. Ms. Morris explained that this is the first reading of an ordinance eliminating the exemptions

in the Traffic Concurrency ordinance. This will return for a second reading at the next meeting.

3. First Reading of Ordinance - Northharbor Rezone. Steve Osguthorpe explained that in when the Comprehensive Plan was amended last year, there was a request to change two properties to an Employment Center land use designation. To finalize that change and make the zoning consistent with that new land-use designation, Mr. Perrow applied for a rezone for both properties. The Hearing Examiner approved the application and this ordinance will ratify the decision. This will return for a second reading at the next meeting.

Carol Morris explained that one motion per ordinance is required.

4. First Reading of Ordinance - Burnham Drive Rezone. Steve Osguthorpe explained that the conditions and circumstances of this are identical to the previous agenda item. This will return for a second reading at the next meeting.

**STAFF REPORTS:**

1. David Rodenbach, Finance Director - Voted Bond Levy Amounts. Mr. Rodenbach presented information on estimated annual levy amounts on various bond issues. Mr. Hoppen commented that if a bond issue would be placed on the November ballot, committees must be appointed soon to prepare a pro and con statement for the *Voters' Pamphlet*. Councilmember Franich offered to head up the committee for the statement against the bond issue.

**PUBLIC COMMENT:**

Chuck Hunter – 8829 Franklin Avenue. Mr. Hunter requested that Council direct the City Attorney and the staff to make an outline of the legal issues that may be applied to the appeal of the Harbor Cove / Eddon Boat Project to formulate what issues could be appealed to the Hearing Examiner. He said that the developer falls under the umbrella of the city and the taxpaying citizens are pitted against the city and its resources. He added that he did not believe that this would be unethical, adding that Council has a duty to both sides.

Carol Morris said that she had already formulated an issues statement and given it to Council, a copy of which is in the file. Mr. Hunter responded that the problem is that the city wants to charge fifteen cents a page to copy. Carol stressed that there is no charge for viewing the documents.

John McMillan – 9816 Jacobsen Lane. Mr. McMillan said that he had been told that there making the copies wouldn't cost anything, so he came and selected several pages. When he came to pick them up, he was told that the charge would be \$97.87.

Councilmembers and staff further discussed the issue of charging for copies of public records. It was determined that there is a resolution in place that adopts the fifteen cents per copy fee.

**COUNCIL COMMENTS / MAYOR'S REPORT:**

Mayor Wilbert asked Council to submit a list of their concerns to be included in the agenda for the upcoming Council Retreat. Mayor Wilbert said that she is in the process of preparing a notebook of information that she would like Council to review, add comments, and pass it on.

Mayor Wilbert then said that she would like staff to begin coordinating a Town-Around Bus System with Pierce Transit to address the aging population. She said that she is looking for an interested Councilmember and suggested membership for a review committee to work toward this goal.

Mayor Wilbert briefly talked about the article in the Gateway, and shared photos of the WCI Exchange Student program.

**ANNOUNCEMENT OF OTHER MEETINGS:**

Council Retreat – Monday, September 13<sup>th</sup>, 1:00 p.m. – 5:30 p.m. Gig Harbor Civic Center Community Rooms A & B.

**EXECUTIVE SESSION:** For the purpose of discussing property acquisition per RCW 42.30.110(1)(b).

- MOTION:** Move to adjourn to Executive Session at 8:40 p.m. for approximately sixty minutes for the purpose of discussing property acquisition.  
Franich / Ekberg - unanimously approved.
  
- MOTION:** Move to return to regular session at 9:40 p.m.  
Franich / Young – unanimously approved.
  
- MOTION:** Move to return to Executive Session for another fifteen minutes.  
Franich / Conan – unanimously approved.
  
- MOTION:** Move to return to regular session at 9:55 p.m.  
Dick / Franich – unanimously approved.
  
- MOTION:** Move to adjourn at 9:55 p.m.  
Franich / Young – unanimously approved.

CD recorder utilized:  
Disc #1 Tracks 1 – 21.  
Disc #2 Tracks 1 – 6.

---

Gretchen A. Wilbert, Mayor

---

Molly Towslee, City Clerk

**GIG HARBOR CITY COUNCIL**  
**BUILDING SIZE ANALYSIS WORKSESSION**  
July 19, 2004 6:00 p.m. – Civic Center Community Rooms

**PRESENT:**

Councilmembers: Steve Ekberg, Derek Young, Bob Dick, John Picinich, and Frank Ruffo. Mayor Wilbert presided over the meeting. Councilmembers Franich and Conan were absent.

Staff: Mark Hoppen, John Vodopich, Steve Osguthorpe, Maureen Whitaker and Molly Towslee.

Mayor Wilbert opened the worksession at 6:07 and thanked everyone for coming. John Vodopich, Community Development Director, explained that this fifth worksession was to address building size limitations in the all zones outside of the view basin, which currently have limits. He summarized the recommendations on the comparison chart and other handouts prepared for the meeting. The Mayor then began calling on members of the audience to speak.

Walt Smith. Mr. Smith discussed the B2 zoning outside the city limits, which was recommended in the June meeting to increase to 65,000 square feet in the Point Fosdick area. All other areas outside the city would have a 35,000 square foot limitation. He gave a brief history of when the building size changed to 35,000 square feet. He spoke about the importance of having an anchor tenant that will allow enough volume in business for the other feeder businesses to come in. He added that the Planning Department and Council agreed that it was vital to the area to support the local people. He asked for parity, so that the B2 zones outside the city limits would be allowed to compete with the other B2 areas that are already designated at 65,000 square feet.

Carl Halsan. Mr. Halsan explained that he too wished to discuss the other B2 zones in the Purdy area. Dave Morris and Walt Smith both have property in this area. He stated that Council has heard over the past several years the importance of having an anchor tenant in a commercial development that is zoned B2. Mr. Halsan emphasized that for the same reasons that the West Side limit is 65,000 sq. ft., all of these same reasons should apply to the Purdy area as well. He spoke about the triangle property between Highway 16 and Purdy Drive that is an 8-acre parcel and has an approved site plan for the construction of a 55,000 square foot mini storage vested through Pierce County. It hasn't been built yet but it has been approved for about ten years. Mr. Halsan explained that property owner Dave Morris is trying to get another user to go on this site, as he would rather not build a mini storage there. He further explained that there were currently two interested parties, one commercial and one recreational, both who have made offers on the property if it has the same 65,000 limits as the West Side. He summarized by asking for fairness to provide the properties in the Purdy area the same building size as on the West Side and Olympic Village.

Roseanne Sachson. Ms. Sachson thanked the Council and staff for the progress made in these meetings and for the upcoming series of workshops. She shared an article published in the Seattle Times on July 18, 2004 that talked about new views on Bainbridge Island. She suggested that the city contact Bainbridge as they have been working on these issues since 1990. She further stated that this article spoke of mixed use, which should be a future issue discussion. She also suggested that Council and the Mayor might wish to do a pilgrimage and contact the city's counterparts.

Chuck Hunter. Mr. Hunter requested clarification on the Head of the Bay and Corner of the Bay areas which were being discussed at this meeting. Councilmember Picinich asked Mr. Hunter if he was a proponent of the 65,000 square foot limit for the West Side/ Olympic Village areas and the B2 zone outside city limits. Mr. Hunter stated that he didn't have any strong feelings one way or the other. He further stated that his interest was mainly the view basin.

Councilmember Young discussed the B2 zone along Burnham Drive and felt that the B2 zoning seems to be a little out of sync there. He asked staff if this was the same area that had the mixed-use district. Mr. Osguthorpe responded that this B2 was not within the mixed-use district and confirmed that this B2 area was the same as any other B2 district.

Chuck Hunter asked if there was an employment district on Burnham Drive and referenced the Perrow property. Mr. Osguthorpe stated that the zoning change for Mr. Perrow had not yet been finalized.

Linda Gair. Ms. Gair spoke about the comprehensive plan update that she worked on several years ago. She stated that considerable time was spent discussing the Purdy area as wonderfully interesting and livable waterfront area. She stated that there were a few paragraphs in the comp plan that addressed strip centers and asked Council to not consider this area a throwaway as it could be a future jewel.

Councilmember Ekberg stated that he didn't believe that anyone was proposing to change any zoning at this meeting, and said that the purpose was to look at the existing B2 zones and see if they should be treated the same as the West Side and Olympic Village.

Councilmember Young suggested the idea of a unique zoning for the Purdy area and stated that it is the only intense commercial activity center that is adjacent to waterfront. He explained that the Gig Harbor waterfront is commercial development and it is different from the Purdy area. Mr. Young hoped there was a way to encourage quality waterfront development in Purdy but at the same time allow it to remain an intense commercial area. He was interested in further discussion at a later date.

Councilmember Dick inquired about the Stroh's property on the west side of Highway 16 regarding the little triangle shaped parcel next to it that is zoned B2. His concern was that there was not much infrastructure leading to these parcels and asked if they

were a part of the West Side zoning change. Mr. Vodopich confirmed that these parcels were not part of this zoning change. Councilmember Young further clarified why these parcels were zoned B2 instead of B1. He stated that B1 was too restrictive and therefore the B2 zoning designation seemed to work best with the similar activities there. He agreed with Councilmember Dick that these if these properties were developed at 65,000 square feet, it could pose a problem. Councilmember Dick suggested maybe more than one type of B2 zone might be necessary.

Kit Kuhn. Mr. Kuhn spoke about the uniqueness of the Purdy area. He asked Council if they had thought about bringing in someone from another city that has a good character description, that is seen as favorable to the Council, who could work with the Council, staff and the community to come up with a plan. He stated that he didn't think that we have a good vision for the downtown area. He asked each councilmember for their input.

Councilmember Ekberg responded to Mr. Kuhn's question and stated that the purpose of this meeting was to discuss building size in three zones mainly outside of the downtown area. Mr. Ekberg further stated that when this meeting is finished, then we have finished our fifth of five meetings. He said that he is assuming then Council will sit down and come up with a process to move forward. He said that it is very apparent that the community wants broader input and a facilitator would be necessary. Mr. Ekberg also said that he wasn't sure that putting numbers on certain zones would facilitate the results that we are looking for. .

Councilmember Dick stated that he echoed much of what Councilmember Ekberg had said. He said that he wanted to know what was wrong with the building size proposals that have been submitted and how building sizes might make things better, as well as when they wouldn't. He said that the next stage is to broaden the review with a facilitator.

Mayor Wilbert stated that this is the time to ask the questions that need clarification and when the plan is put together, the process should come together quite well.

Councilmember Picinich stated that he felt that a great deal had come out of these worksessions. He said that hopefully the staff would present the input from all of the five sessions for Council to look at in order to make a decision about a facilitator.

Councilmember Young responded that a motion was made by the Council to bring in a facilitator at the June 21<sup>st</sup> meeting. He added that he thought that we might need some further assistance in this area.

Mr. Kuhn thanked Council for involving the community and asked that a facilitator be chosen that best represents the City of Gig Harbor.

Roseanne Sachson. Ms. Sachson spoke as a proponent of multi-use and said that she didn't hear it touted in Gig Harbor. She stated that the B2 zone in Purdy was a fabulous



location for a developer to build condominiums on the second level of buildings with mom and pop shops on the lower level. She also spoke of her past experiences in other jurisdictions that had used a facilitator. Ms. Sachson gave an example of how this process worked whereby public meetings were held prior to bringing the facilitator on board and using large white tear sheets to gather public input. She explained that the areas and issues that were most important were placed as headings on each tear sheet, providing something visual and a direction to go in. She offered to give some examples of questions that had been used in the past for this process.

Walt Smith asked for clarification of the meeting agenda. He asked that his previous comments be withdrawn because he felt that he broad-stroked the B2 zone outside of the city limits and did not wish these areas that he spoke about to include the Purdy Shopping Center.

Chuck Hunter stated that consideration should be given to the area by the Puerto Vallarta Restaurant on Burnham Drive. He added that this area which is designated as a parkway should be reviewed as a separate area since the properties to the north butted-up to a residential area.

Councilmember Young stated that he didn't think that there were enough zones. Mayor Wilbert agreed with Councilmember Young.

Jim Pasin. Mr. Pasin stated the area on Burnham Drive should be a uniform B2 strip rather than a hodge-podge of different uses.

Scott Wagner. Mr. Wagner supported the RB-1 5,000 sq. ft. per structure recommendation that would amend the current zoning of is 5,000 sq. ft. per lot.

Mr. Halsan pointed out that the one item that had not been discussed is the idea of a structure per parcel. He stated that we shouldn't allow parcel size to dictate zones.

Ms. Stanton stated that the city needs to develop a system where you can respond to each site. She stated that the City of Seattle has design standards for each of their districts, which is working well. There was discussion about what other cities do in regards to design standards.

Ms. Sachson stated that there are attorneys that write this type of legislation and suggested that Council look into it.

Mr. Wagner explained that two types of attorneys are needed. He stated that one is needed to ensure that the codes all line up and the second one could be used for writing the design manual. Councilmember Young responded that this is difficult because you are trying to objectify a subjective topic. Mr. Hunter stated that there are two sides and suggested that Council have someone who understands design review come before them. Councilmember Dick stated that the city needs to capitalize more on having stricter requirements that don't allow bad things to happen, in the case where

someone doesn't bother going through the training process on design review. He explained that maybe we have smaller limitations that can work most anywhere and suggested that we employ more incentives that make "waiver" economical.

Mr. Hunter spoke of attending a City of Seattle meeting where they try to get the public and developer involved early on in the process. He stated that the City of Gig Harbor doesn't do this until the project is completely designed which creates distrust and frustration. He further discussed the importance of neighborhood and community involvement. Mr. Hunter stated that the City of Seattle holds their meetings whereby the developer is given twenty minutes to speak and the public is given this same amount of time early on in the design process.

Mr. Hoppen stated that the city currently posts development projects on the internet. Mr. Kuhn replied this was not adequate and gave an example of the one-way proposal on Harborview Drive. He stated that if the city involves the neighborhoods early on then the developers and the city would not be forced to back track. Ms. Stanton suggested a city database that would assist in the notification process for upcoming projects.

Jeannie Derby. Ms. Derby commented on the RB1 zone and complimented staff on the post cards that were mailed to all city residents. Ms. Derby also spoke about the design manual.

Carl Halsan stated that he too preferred the idea of early involvement with the public in regards to a project under development. He stated that it is difficult to make changes after a project has already been designed, but said early in the process is workable.

Councilmember Dick stated that one of the difficulties with the current process is that the Hearing Examiner must make all the unusual decisions. He stated that there must be better methods to get the word out and if people could understand what kind of trade-offs are being wrestled with, then maybe they can make their views known before it is finalized. He was not sure that this could be accomplished by a public meeting until a building is actually constructed, as many people are unable to visualize an offensive building on paper. Ms. Sachson suggested that requiring the developer to provide a mockette on buildings of substance should remedy this problem. Mr. Hunter stated that this could be accomplished by setting thresholds of sizes, adding that this is what Seattle requires.

Mayor Wilbert stated that the "concrete sequential" and "abstract random" personalities need to come together early on in the process. She thanked the audience for their time and attendance. Mr. Kuhn also thanked the Council and staff.

Ms. Stanton asked what the next step was. The Mayor responded that staff will review what was said and then Mark and she will make a decision. Councilmember Ekberg stated that Council wants to move forward in this process and said that staff should furnish Council with a list of facilitators to select from with set parameters, a quick

assessment of a comprehensive overhaul of design review and then decide which way to proceed, whether the decision is to have one or not [design process]. Councilmember Ekberg asked for this to occur as quickly as possible.

There was further discussion about email notification for the public. Mr. Kuhn suggested that the city contact Lita Dawn Stanton, Roseanne Sachson or Chuck Hunter to assist in the facilitator selection.

Mr. Hoppen stated that staff will suggest to Council a methodology to gather a broad spectrum of public opinion both inside and outside the city from a very large number of people as well as a statistically valid and reliable sample of people.

Councilmember Dick asked the audience to suggest some names of facilitators. Ms. Stanton asked if individuals could be invited that had expertise in design review and an attorney whose has land use experience. She said that this way the community could ask questions from these people.

**MOTION:** Move to adjourn at 8:15 p.m.  
Ekberg / Young – unanimously approved.

Respectfully submitted:

---

Maureen Whitaker, Assistant City Clerk  
and Molly Towslee, City Clerk

**GIG HARBOR CITY COUNCIL  
DESIGN REVIEW MANUAL WORKSESSION**

August 30, 2004, 6:00 p.m. – Civic Center Community Rooms

**PRESENT:**

Councilmembers: Steve Ekberg, Derek Young, Paul Conan, Jim Franich, Bob Dick, John Picinich, and Frank Ruffo. Mayor Wilbert presided over the meeting.  
Staff: Mark Hoppen, John Vodopich, Steve Osguthorpe, Carol Morris, and Molly Towslee.

Mayor Wilbert opened the work-study session at 6:08. Steve Osguthorpe, Planning & Building Manager, explained the agenda. He said that he would give a brief introduction and history of Design Review in Gig Harbor, and then there would be a brief discussion on the effectiveness of design review before moving into review of the draft document.

Mr. Osguthorpe then presented a history of the adoption of the Design Manual, first adopted in 1996. He further explained that recently, the Design Review Board had been changed from a decision-making body to a recommending-body.

Mr. Osguthorpe described the two main proposals before Council. The first is to update the manual to fix inconsistencies in the manual and the second, to codify the manual to add a new Chapter 17.99 to the zoning code. He gave an overview of some of the more significant amendments to the document to address the inclusion of industrial building exemptions, zone transition standards, height allowance issues, and the issue of buffering standards in the view basin.

Mr. Osguthorpe then moved into the second agenda item, Effectiveness of Design Review. He addressed questions regarding recent projects that have chosen to build according to the administrative code rather than choosing to utilize the Design Review Board. Discussion ensued over the Luengen Building and the fact that the applicant chose to withdraw from the DRB process and instead utilize the administrative process. Carol Morris, City Attorney, explained that the apparent frustration with the Design Review Board process led the developers to transition back to using the administrative process. Mr. Osguthorpe added that many of the issues regarding specificity and vagueness had been addressed in the manual updates.

Councilmembers requested that as staff moved through each section of the draft manual, that the updates be identified with a description of what brought about the changes. Mr. Osguthorpe agreed, and asked that because of the amount of concern with the Design Review process, that Council first go through the updates to the manual, and then go back and review the Design Review process to see if there is a better way to incorporate input at the start of the design process.

Mr. Osguthorpe then proceeded to review updates to the manual by section. He said that he would give a brief overview of changes to each section and then open it up for discussion.

## Section 1 – Neighborhood Context

1.1 Activity Centers – Mr. Osguthorpe explained that the primary changes to this section are to:

- Rename and amend boundaries of activity centers
- Eliminate requirement to cluster development around outdoor space in activities centers
- Eliminate requirement for pedestrian paths in activity centers to connect to out-lying development.
- Eliminate requirement to buffer pedestrian areas from the street.
- Eliminate transit stop language from activity center standards.
- Identify new parkways and eliminate portions of Rosedale Street parkway and extend Peacock Hill Ave parkway.
- Eliminate setback averaging requirement from parkway standards.
- Revise Zone Transition standards:
  - to include more definitive description of “substantial buffering”
  - to require conformance to architectural standards in abutting zones
  - to apply zone transition standards only if proposed use is not allowed in opposing zone
  - to redefine structures in opposing zones used to determine average footprint size and height
  - to define zoning categories that zone transition standards apply to
  - to eliminate vegetative buffering as an option for meeting zone transition standards within the height restriction area
  - to provide an alternative method for addressing zone transition standards before the DRB based on site specific evaluations

The Mayor asked for comments from the audience.

Dale Pinney asked for clarification on whether staff was obligated to take the recommendation from the DRB into consideration and what recourse the application would have if the recommendation was not considered. Mr. Osguthorpe explained that the recommendation from the DRB would go to the Hearing Examiner, where he expects it would be considered, unless there were obvious deficiencies. He further described the application process.

Mr. Pinney recommended a flow-chart to illustrate where design review falls in the site-plan approval process. He further recommended a preliminary public works oversight function at the onset of a project to help to identify problems that may arise before the DRB spends time reviewing a project. Mr. Osguthorpe asked if a pre-application process would address his concerns.

Mr. Pinney's final comment addressed the section 1.1.04.4 in the Activity Center Section. He asked if the common design requirement meant to match exactly or if similar materials could be used.

This issued was discussed at length, and staff was directed to insert the language "substantially similar" to allow more flexibility in areas already developed.

Jim Pasin stressed that the Public Works Department must be required to follow the Design Guidelines during city projects.

This was discussed, and Mr. Osguthorpe explained that the staff recommendation is to take section 4 out of the Design Manual and insert it into the Public Works Standards, but to direct staff to explore a way for more public input for public projects. In addition to compliance, this would allow the City Engineer to make a determination in terms of safety.

### 1.2 Parkways

Mr. Osguthorpe discussed changes to Parkways:

- Added Borgen Boulevard
- Added Purdy Drive
- Added North/South Connector at Gig Harbor North
- Eliminated a portion of Rosedale Street
- Extended Peacock Hill Avenue to Borgen Blvd.
- Eliminate the setback averaging requirement

There was discussion on the inclusion of Purdy Drive and whether that stretch was capable of being developed as a parkway. There was further discussion on the use of chain link fencing along parkways as an aesthetic issue verses the blocking of views. Mr. Osguthorpe explained that chain link is addressed in several sections. No recommendations for change were made and the discussion moved on to the next section.

### 1.3 Enhancement Corridor

Mr. Osguthorpe said that there were no substantive changes in this section. He explained that graphics in the document will be move to more appropriate spots in the final document as well as corrected language regarding the defined Burnham Drive Enhancement Corridor.

There was a great deal of discussion regarding the screening requirements along SR-16 and the existing properties that have no vegetative screening and use chain link fencing. Mr. Osguthorpe explained that these sites were all developed prior to the existence of the design guidelines.

Wade Perrow asked for clarification in Section 1.3.03 (2d) that requires full screening along property lines perpendicular to the Enhancement Corridor whenever the adjoining property has been cleared enough to allow a structure to be visible. He said that he was hoping that the manual updates would simplify the explanation.

There was a great deal of discussion about the screening requirements along the Enhancement Corridor and how to address issues such as the clearing of adjacent property and the various changes in topography.

Councilmember Dick made a suggestion to amend the requirements so that a property owner would have the right to have less than full screening conditioned upon not exposing an adjacent property. There was discussion on whether the requirement to keep adjacent property screened would constitute a taking of property.

Mayor Wilbert commented on the protection afforded by the green-belt requirements that were imposed by Pierce County on neighborhoods that are now annexed into the city. She asked that these same requirements be imposed on new development. Mr. Pasin mentioned how these greenbelts can be taken away by such projects as the proposed roundabout on Point Fosdick. Councilmember Dick said that the alternative is to never modernize to accommodate increased traffic.

Kit Kuhn said that it was important to protect the gateway to the peninsula by screening development from Highway 16. There was further discussion on visibility for such uses as car dealerships.

Mr. Perrow suggested that the city identify an area that could be zoned for these types of uses. He reiterated that the screening requirements within 300 feet of Highway 16 are not feasible in many areas due to the topographical challenges.

Randy Boss pointed out that the whole screening discussion is only for the area 30 feet from the corridor. Steve Osguthorpe clarified that the requirement for 30 feet screening is along the right of way line to retain the significant vegetation. In addition, it does require any properties that are within 300 feet of the Enhancement Corridor to provide full or partial screening, and although it doesn't state that it has to be 30 feet depth screening once you are beyond the right of way line, it does require some sort of screening, which could be a line of trees. If the structure isn't visible, then the screening requirement would not be triggered.

The concern that you could be relying upon your neighbor for screening was brought up again. After further discussion, Steve Osguthorpe said that he doesn't have a good solution for the topographical challenges, and asked if it would be more appropriate to just require the properties abutting Highway 16 to screen. It was agreed that there are many variables, and Mr. Osguthorpe offered to bring back revised language to try and meet the intent.

Jill Guernsey suggested that rather than having an arbitrary 300 feet edge from the right of way, why not take and draw the visual corridor in relation to the topography so that in some places it is significantly less than 300 feet, and in other places, it would be significantly bigger.

The Mayor thanked everyone for coming. The next worksession is scheduled for Monday, September 20, 2004 at 6:00 p.m. Councilmember Ekberg requested that members of the audience review the draft Design Manual and to submit comments ahead of time in writing to allow staff and Council to review and address the issues. There were no further comments and the worksession ended at 8:00 p.m.

Respectfully submitted:

---

Molly Towslee, City Clerk



August 5, 2004

Ms. Molly Towslee  
City Clerk  
Gig Harbor, WA 98335

Dear Ms. Towslee,

In previous years our chapter of The National Society Daughters of the American Revolution has requested the Mayor to honor the signing of the U. S. Constitution. Constitution Week is proclaimed every year from September 17<sup>th</sup> through the 23<sup>rd</sup> by Governors and Mayors throughout our country.

I ask that Mayor Gretchen Wilbert consider honoring this two hundred and seventeenth anniversary signing of the Constitution by again making this Proclamation. If she is willing, would you please contact me when the Proclamation is ready, or if I, or a representative, might be able to pick it up at the September City Council meeting?

I will send Mayor Wilbert a letter with our request following your reply.

Thank you for your assistance.

Sincerely,



Barbara L. Waid, Regent  
Elizabeth Forey Chapter, NSDAR  
21015 Springhaven Way E.  
Bonney Lake, WA 98390

Phone: 1-253-862-6557  
e-mail: [cbwaid@comcast.net](mailto:cbwaid@comcast.net)

# PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

*WHEREAS, the Constitution of the United States of America, the guardian of our liberties, is a product of reflection and choice, embodying the principles of limited government in a Republic dedicated to rule by law, not by men; and*

*WHEREAS, September 17, 2004 marks the two hundred seventeenth anniversary of the drafting of the Constitution of the United States of America by the 1787 Constitutional Convention; and*

*WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate this grand occasion; and*

*WHEREAS, Public Law 915 guarantees the insuring of a proclamation each year by the President of this great country designating September 17 through 23 as Constitution Week,*

*NOW, THEREFORE, I, Gretchen A. Wilbert, Mayor of the City of Gig Harbor, hereby declare the week of September 17 through September 23 as*

## CONSTITUTION WEEK

*and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.*

*In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 13th day of September, 2004.*

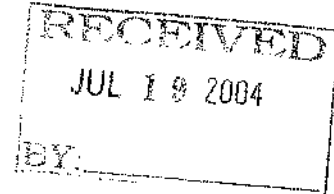
Gretchen A. Wilbert, Mayor

Date



Pierce  
County  
Housing  
Authority

July 15, 2004



Mark Hoppen  
City Administrator  
3510 Grandview Street  
Gig Harbor WA 98335

Dear Mr. Hoppen

I know you are aware of the lack of funding provided by HUD for the Section 8 voucher participants for 2004.

Pierce County Housing Authority has made many changes to their programs over the past two months in order to reduce overall program costs. Unfortunately, many of the changes that are allowed by law will not provide sufficient reductions in costs promptly enough to avoid the necessity of termination families.

We recently notified 229 families that they are at risk of losing their assistance effective September 1, 2004.

We have filed appeals with HUD, but have no knowledge as to the potential success of the appeals at this time.

The cost to sustain the vouchers for the 2 families in the City of Gig Harbor through the balance of 2004 amounts to \$4,212.00. Our agency lacks the necessary reserves to fund this amount.

We are respectfully requesting that the City of Gig Harbor provide some measure of assistance to these families who are at serious risk of becoming homeless. The average income for this group of families is only \$11,000 per year.

We would appreciate any assistance the City of Gig Harbor is able to provide in this regard.

We look forward to hearing from you as soon as possible.

Sincerely

Karen Hull  
Executive Director



**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MOLLY TOWSLEE, CITY CLERK** *MT*  
**SUBJECT: RENEWAL OF COPIER MAINTENANCE AGREEMENT**  
**DATE: SEPTEMBER 13, 2004**

**INFORMATION/BACKGROUND**

Attached are the Supply / Service Contract for the Minolta copiers located at the Public Works Shop and Wastewater Treatment Plant. These contracts cover copies, toner, parts and service for a one-year term.

These contracts have remained at the same price since 2002. Due to the increase in the cost of parts, toner, and labor, the current contracts are increased by approximately 10%.

**RECOMMENDATION**

Move to authorize the Mayor to sign the attached copier maintenance contracts.



**KONICA MINOLTA**

KONICA MINOLTA BUSINESS SOLUTIONS U.S.A., INC.  
12674 GATEWAY DR  
BLDG 2  
SEATTLE WA 98168

\*Place your service calls, meter reads and order supplies on line with MyKMBS.com.  
Ask your Sales or Service representative for more details.\*

GIG HARBOR CITY OF  
ATTN ACCT PAY  
3510 GRANDVIEW ST  
GIG HARBOR WA 98335

Ship-to address  
GIG HARBOR CITY OF  
4216 N HARBORVIEW DR  
GIG HARBOR WA 98332

**MAINTENANCE AGREEMENT**  
Number/Date : 41160735 / 08/12/2004  
Reference number/Date :  
Commencement Meter :  
M/A Meter Expiration :  
Sales Location : **KMBS SEATTLE**  
Partner number : 227196  
Validity period : 10/04/2004 to 10/03/2005  
Volume: 9,000

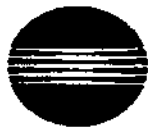
Item	Material	Description	Qty	Price	Price unit	Value
	Serial no.:	3113093		1075311	EP6000 CS PRO SERIES COPIER	
000001	7670999302	Service Supply Contract - PPC				
			1 EA	432.00	USD	432.00
NOTE: ONE COPY IS COUNTED FOR EACH 8.5 X 11 INCH IMAGE						
Under the items of this program, customers purchasing this agreement will be entitled to labor, transportation costs, all replacement parts, black starter, imaging units as required, and black toner based on 6% toner usage ratio and number of copies purchased, excluding paper and staples. Customer may renew agreement when the copies purchased are used within the agreement period. Customer also may need to purchase additional toner based on customers application .						

Items total	432.00
Tax Total	36.29
<b>FINAL AMOUNT</b>	<b>468.29</b>

When this Agreement is signed by the Customer and the Branch Service Manager, it shall constitute a Binding Agreement.  
PLEASE READ REVERSE SIDE OF AGREEMENT FOR ADDITIONAL TERMS AND CONDITIONS.  
MBS, a KONICA MINOLTA BUSINESS SOLUTIONS U.S.A., INC. company

by \_\_\_\_\_ Date \_\_\_\_\_ by \_\_\_\_\_ Date \_\_\_\_\_  
Customer Signature KMBS Service Rep  
Title KMBS Service Manager

This AGREEMENT MUST BE RETURNED ALONG WITH PAYMENT to the Service Location listed above. Please be sure to enter the COMMENCEMENT METER READING and add STATE and LOCAL TAXES to payment. AUTHORIZED SIGNATURE is required to process this Agreement.



# KONICA MINOLTA

\*Place your service calls, meter reads and order supplies on line with MyKMBS.com. Ask your Sales or Service representative for more details.\*

KONICA MINOLTA BUSINESS SOLUTIONS U.S.A., INC.  
12674 GATEWAY DR  
BLDG 2  
SEATTLE WA 98168

GIG HARBOR CITY OF  
ATTN ACCT PAY  
3510 GRANDVIEW ST  
GIG HARBOR WA 98335

Ship-to address  
GIG HARBOR CITY OF  
5118 89TH ST NW  
CITY SHOP  
GIG HARBOR WA 98332

**MAINTENANCE AGREEMENT**  
Number/Date : 41160734 / 08/12/2004  
Reference number/Date :  
Commencement Meter :  
M/A Meter Expiration :  
Sales Location : **KMBS SEATTLE**  
Partner number : 227196  
Validity period : 10/04/2004 to 10/03/2005  
Volume: 9,000

Item	Material	Qty	Description	Price	Price unit	Value
	Serial no.:	3112948		1075311	EP6000 CS PRO SERIES COPIER	
000001	7670999302		Service Supply Contract - PPC			
		1 EA		432.00	USD	432.00
NOTE: ONE COPY IS COUNTED FOR EACH 8.5 X 11 INCH IMAGE						
Under the items of this program, customers purchasing this agreement will be entitled to labor, transportation costs, all replacement parts, black starter, imaging units as required, and black toner based on 6% toner usage ratio and number of copies purchased, excluding paper and staples. Customer may renew agreement when the copies purchased are used within the agreement period. Customer also may need to purchase additional toner based on customers application .						
Items total						432.00
Tax Total						36.29
<b>FINAL AMOUNT</b>						<b>468.29</b>

When this Agreement is signed by the Customer and the Branch Service Manager, it shall constitute a Binding Agreement. PLEASE READ REVERSE SIDE OF AGREEMENT FOR ADDITIONAL TERMS AND CONDITIONS. MBS, a KONICA MINOLTA BUSINESS SOLUTIONS U.S.A., INC. company

by \_\_\_\_\_ Date \_\_\_\_\_ by \_\_\_\_\_ Date \_\_\_\_\_  
Customer Signature KMBS Service Rep  
Title KMBS Service Manager

This AGREEMENT MUST BE RETURNED ALONG WITH PAYMENT to the Service Location listed above. Please be sure to enter the COMMENCEMENT METER READING and add STATE and LOCAL TAXES to payment. AUTHORIZED SIGNATURE is required to process this Agreement.



ADMINISTRATION

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MOLLY TOWSLEE, CITY CLERK**  
**SUBJECT: RENEWAL OF AGREEMENT WITH OVERALL LAUNDRY SERVICES**  
**DATE: SEPTEMBER 13, 2004**

**INFORMATION/BACKGROUND**

The City has had an agreement with Overall Laundry Services to supply the Public Works Crew with coveralls, uniforms, shop towels and other cleaning supplies since 1992. In addition, they supply the Civic Center with floor mats.

Two years ago, several bids were obtained to see if the cost of this service could be lowered. Overall came in with competitive prices and a preferred product line.

This agreement is an update to the agreement with no increase in cost. The prices will be in effect for two years, with a guaranteed increase of no more than 5% after the two-year period.

I have made alterations to the agreement per recommendation of the City Attorney.

**RECOMMENDATION**

Move to authorize the Mayor to sign the attached two-year agreement with Overall Laundry Services Inc.



# SERVICE AGREEMENT Group Code 571

## RENTAL & TEXTILE SERVICES

No. **10610**

Customer No	
<input type="checkbox"/> NEW:	Previous Vendor
<input checked="" type="checkbox"/> EXISTING: <u>Resign</u>	Reason
MERCHANDISE	
<input type="checkbox"/> STANDARD	<input type="checkbox"/> REGULAR
<input type="checkbox"/> SPECIALTY	<input type="checkbox"/> CUSTOM
<input type="checkbox"/> DEDICATED	<input type="checkbox"/> PO

CUSTOMER NAME <u>City of Gig Harbor</u>		PHONE <u>253-851 8136</u>
ADDRESS <u>3500 Grandview St</u>	CITY <u>Gig Harbor</u>	STATE <u>WA</u>
		ZIP <u>98335</u>

Overall Laundry Services, Inc. and Customer agree Overall shall be the exclusive supplier of all garments and laundry products and services used by Customer in all current and future locations, including Articles and additions and modifications noted below or in Overall's records.

Code	Article	Inventory	Changes	Unit Price	Charges
08038	Bath Tow	45	23	.32	
	SYN. COVERALS	108	42	1.10	
	SYN. JACKETS	23	7	1.10	
	Cotton Pants	97	39	1.10	
27319	SYN Pullover	5	2	.74	
	SYN. SHIRTS	29	12	.50	
28010	SHOP TOW	220	110	.075	
53499	48" mop	2	1	2.38	
53662	24" mop	2	1	1.61	
	3X5 Mat all	4	2	2.29	
	EOW	4	2	1.76	
	Monthly	4	2	1.23	

Code	Article	Inventory	Changes	Unit Price	Charges
	4x6 Mat all			3.72	
	EOW			2.86	
	Monthly			2.00	
	3x10 all			5.15	
	EOW			3.96	
	Monthly			2.77	
55541	Rubber Tread Mat 10			1.76	
55599	Scrapper Mat 3			2.86	
55581	F10 Thru Mat 3			3.00	
	Linen Bag / RAG			46.22	
	ENVIRO SERVICE CHARGE			5.99	

**1. GUARANTEED SERVICE:** Overall shall pickup, clean, and deliver the Articles referred to hereby. Overall shall replace any standard rental Articles that require replacement due to normal wear and tear at no charge to the Customer. Overall guarantees the highest comparable quality of service available. Customer will detail all complaints of continuing material nonperformance in a written notice to Overall (see paragraph 9). If Overall fails to correct the problem after 30 working days, Customer may terminate this Agreement. Overall may assign or terminate Agreement.

**2. TERM:** This Agreement is effective upon signing for a term of 24 mo. full calendar months from the first date of Article installation. The Agreement and the term thereof shall automatically renew for successive 24 mo. months unless Customer sends a written notice of termination to Overall at least 60 days prior to the end of the then current term. Invoicing for services will occur weekly unless otherwise noted. BA

**3. PAYMENT:** Charges shall be paid on the tenth of the month following invoicing unless account is cash on delivery. Customer shall pay a late payment charge per month equal to 1.5% of any unpaid balance. Unit Prices may be changed by Overall according to its Annual Price Increase (API) each year. In addition, Customer shall pay price adjustments made from time to time by Overall if cost of business fluctuates. Notification of price increases will be by indication on Customer's invoice. An Environmental/Services charge will be applied to each invoice.

**4. OWNERSHIP OF ARTICLES:** All supplied Articles shall remain the property of Overall and shall be returned to Overall upon termination of this Agreement. Customer shall pay for all lost or aged Articles according to the price stated in Overall's then current replacement schedule. The billing for Articles attributed to any of Customer's individuals removed from the garment program shall not be discontinued until all Articles on Overall's records attributed to that individual, or the value thereof, have been returned or paid to Overall. Full inventory is billed upon installation. A single change of garments is subject to a premium.

**5. SPECIALTY AND DEDICATED ARTICLES:** Specialty Articles are standard Articles of exceptional size or modified style and those Articles identified in Overall's records as Specialty or Program Articles. Customer shall pay Overall's restocking charge for Specialty Articles upon removal from service. Dedicated Articles are Articles supplied by Overall for Customer's exclusive use. If Customer cancels any Dedicated Article(s) from service, if this Agreement is terminated for any reason, or if the Agreement is not renewed, Customer shall reimburse Overall for every such new and used Dedicated Article, in service or held as stock, at the value stated in Overall's then current replacement schedule.

**6. GENERAL PURPOSE ARTICLES; INDEMNIFICATION:** Unless otherwise specifically stated hereon, CUSTOMER ACKNOWLEDGES AND UNDERSTANDS NO ARTICLE IS FLAME OR HAZARDOUS MATERIAL RESISTANT AND SHALL BE USED ONLY FOR GENERAL PURPOSES AND NOT WHEN FLAMMABILITY OR HAZARDOUS MATERIAL CONDITIONS EXIST. Customer agrees to defend, indemnify and hold Overall harmless from all claims, losses and expenses arising out of or relating to Customer's acknowledgements and representations herein and for the use and for the storage of any Article. BA OVERALL ASSUMES NO RESPONSIBILITY FOR THIS CONDITION, SAFENESS, USABILITY, REPAIR, FITNESS OR MERCHANTABILITY OF ANY ARTICLE OR ITS COMPLIANCE WITH ANY LAW, AND MAKES NO WARRANTIES, EXPRESS OR IMPLIED. Overall assumes no responsibility for the condition and/or repair of any item if services that is owned by Customer. BA

**7. DEFAULT:** If Customer fails to pay timely or if this Agreement is terminated without cause, Customer understands actual damages sustained by Overall shall be substantial and difficult to prove. Accordingly, Customer shall pay the greater of: 1) 50% of Customer's average weekly charges incurred during the four weeks preceding termination multiplied by the number of weeks remaining in the term of the Agreement, or 2) the replacement value, based on Overall's then current replacement schedule, of every new and used Article allocated to Customer on Overall records. Jurisdiction and venue of any legal action, at Overall's option, may be laid in King County, Washington or Multnomah County, Oregon, and Customer shall pay all costs and expenses of enforcing this Agreement, including without limitation reasonable attorney's and collection agency's fees and costs incurred in collection efforts, including but not limited to those incurred for pre-litigation collection efforts, incurred at trial, arbitration, mediation, appeals, and bankruptcies; and incurred for all post judgment collections. BA / prevailing party

**8. CUSTOMER REPRESENTATIONS:** Customer and the individual signing below each separately warrants: Customer has no outstanding contract for similar services; Customer has read this Agreement in its entirety and understands all terms and conditions; the person signing has authority to execute this Agreement on behalf of Customer. If any Customer check is returned unpaid to Overall, Overall is authorized to electronically debit Customer's account for the face amount, all applicable check fees and all charges provided for herein. If Customer transfers ownership of Customer's business, Customer shall continue to be liable under this Agreement to pay for all services rendered by Overall to Customer's transferee, and shall pay to and indemnify Overall for any and all charges incurred by Customer's transferee until Customer delivers to Overall written notice of the transfer. This Agreement shall be binding on successors and assigns.

**9. NOTICES:** All notices to Overall shall be delivered to Overall in person; or by facsimile with proof of delivery; or by postpaid certified mail receipt requested to Overall at P.O. Box 9040, Everett, WA 98206-9040.

**PRICES GUARANTEED TO 8-17-06**

**Maximum Price Increase Year 3 & 4 15.5%**

DATED Aug 17 2004  
 OVERALL LAUNDRY SERVICES, INC.  
 BY: Bruce Fearing  
 AUTHORIZED SIGNATURE  
 PRINT: Bruce Fearing  
 NAME AND TITLE

MASTER AGREEMENT  
 CUSTOMER FULL LEGAL NAME  
 BY: \_\_\_\_\_  
 AUTHORIZED SIGNATURE  
 PRINT: \_\_\_\_\_  
 NAME AND TITLE





COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: PURCHASE AUTHORIZATION – CROSSWALK LIGHTING SYSTEM**  
**- EXISTING CROSSWALK AT DISCOVERY ELEMENTARY SCHOOL**  
**ON ROSEDALE STREET**  
**DATE: SEPTEMBER 13, 2004**

**INTRODUCTION/BACKGROUND**

An identified Street Objective in the 2004 Budget was the purchase and installation of a crosswalk lighting system.

Price quotations for the lighting system were obtained from three vendors in accordance with the City's Small Works Roster process for the purchase of materials (Resolution 593). The price quotations are summarized below:

<u>Vendors</u>	<u>Total</u>
Advanced Traffic Products, Inc.	\$ 10,262.00
Traffic Safety Corp.	\$ 10,516.00
F.M.A. Marketing	\$11,034.00

The lowest price quotation received was from Advanced Traffic Products, Inc. in the amount of \$10,262.00, not including Washington state sales tax.

**ISSUES/FISCAL IMPACT**

This work was anticipated in the adopted 2004 Budget, identified under the Street Operating Fund, objective #5, and is within the allocated amount of \$17,000.00. City crews will install the crosswalk lighting system. Work is expected to begin following delivery of the material in mid-October.

**RECOMMENDATION**

I recommend that Council authorize the purchase of the crosswalk lighting system from Advanced Traffic Products, Inc. as the lowest vendor, for their price quotation proposal amount of Ten thousand Two hundred Sixty-two dollars and zero cents (\$10,262.00).



**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: RESOLUTION ESTABLISHING A WORK PROGRAM FOR THE**  
**REVIEW AND REVISION OF THE COMPREHENSIVE PLAN AS**  
**REQUIRED BY STATE STATUTE (RCW 36.70A.130)**  
**DATE: SEPTEMBER 13, 2004**

**INFORMATION/BACKGROUND**

The City is required to take action to review and, if needed, revise the Comprehensive Plan and development regulations to ensure the plan and regulations comply with the requirements of the Growth Management Act (GMA) on or before December 1, 2004 (RCW 36.70A.130 (4)(a)). This requirement was anticipated and included as an objective in the 2004 Annual Budget. The consulting firm of AHBL, Inc. was hired to provide the services necessary to assist the City in the review and update as required by State statute. The consultant has reviewed the Comprehensive Plan and development regulations and identified a list of recommended updates consistent with the State mandate. In order to ensure that the review and update of the Comprehensive Plan is completed in a timely fashion consistent with State law it is necessary to establish a timeline and work program.

Staff has prepared a draft resolution establishing a work program for the review and revision of the comprehensive plan as required by state statute. The City Attorney has reviewed and approved the draft resolution.

**RECOMMENDATION**

I recommend that the City Council adopt the resolution as presented.

**RESOLUTION NO. 629**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ESTABLISHING A WORK PROGRAM FOR THE REVIEW AND REVISION OF THE COMPREHENSIVE PLAN AS REQUIRED BY STATE STATUTE (RCW 36.70A.130)**

---

WHEREAS, the City is required to take action to review and, if needed, revise the comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of the Growth management Act (GMA) on or before December 1, 2004 (RCW 36.70A.130 (4)(a));

WHEREAS, the City anticipated this requirement and included an objective in the 2004 Annual Budget for the update of the Comprehensive Plan;

WHEREAS, on April 12, 2004 the City Council approved a consultant services contract with AHBL, Inc. for the services necessary to assist the City in the review and update of the Comprehensive Plan and development regulations;

WHEREAS, AHBL, Inc. has reviewed the City Comprehensive Plan and development regulations and identified a list of recommended updates consistent with the mandate of RCW 36.70A.130;

WHEREAS, in order to ensure that the review and update of the Comprehensive Plan is completed in a timely fashion consistent with State law it is necessary to establish a timeline and work program;

NOW THEREFORE BE IT RESOLVED that:

1. The City Planning Commission is directed to review and update the Comprehensive Plan and development regulations consistent with the recommendation of AHBL, Inc. as outlined in the attached scope of work (Exhibit A) and proposed citizen/staff initiated amendments (Exhibit B).
2. The schedule for the 2004 review and update of the Comprehensive Plan is as follows:

Planning Commission

September 16, 2004 - Work-study session

October 7, 2004 - Work-study session

October 21, 2004 - Work-study session

November 4, 2004 - Public Hearing & formulation of recommended action

City Council

November 22, 2004 – Public Hearing and First Reading of an Ordinance implementing the recommendations of the Planning Commission amending the Comprehensive Plan and development regulations

December 13, 2004 - Second reading of an Ordinance implementing the recommendations of the Planning Commission amending the Comprehensive Plan and development regulations

RESOLVED by the City Council this 13th day of September, 2004.

APPROVED:

\_\_\_\_\_  
MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
MOLLY M. TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
CAROL A. MORRIS, CITY ATTORNEY

FILED WITH THE CITY CLERK: 9/7/04  
PASSED BY THE CITY COUNCIL: 9/13/04  
RESOLUTION NO. 628

## Exhibit A

### AHBL, Inc. Gig Harbor Comprehensive Plan Update Scope of Services – Phase II

AHBL is pleased to submit this scope of services for the final phase of the required update to the City of Gig Harbor Comprehensive Plan and related development regulations. This scope describes the tasks to be carried out by AHBL staff and our subconsultants, Adolfson and Associates, Inc. and Associated Earth Sciences, Inc. (AES). The scope is based on the results of the analysis conducted in the first phase of the project and discussions with City staff.

Our scope of services is as follows:

1. Revise and update background information, goals, and policies of the various elements of the Comprehensive Plan to meet the current requirements of the Growth Management Act. Specific tasks are listed below for each element. AHBL has primary responsibility for all tasks not identified with a specific subconsultant.

#### Land Use Element

- Evaluate capacity to determine whether increased residential densities are necessary to accommodate revised population targets

#### Housing Element

- Disaggregate projected housing need by unit type per the County-Wide Planning Policies

#### Capital Facilities Element

- Update capital improvement program project lists with the most current information available from the City
- Revise policies to state that reassessment of the Land Use Element is an option for funding shortfalls in Capital Facilities Program growth-related facilities projects

#### Transportation Element

- Adopt LOS for transit, either Pierce Transit's LOS or local standard
- Evaluate growth assumptions against assumptions in the transportation model to ensure consistency
- Revise the Transportation/Circulation LOS standard in the CFP to reflect the downtown strategy area's LOS F (from 2002 Transportation Plan Update)

- Review the existing conditions data for intersection LOS in the 2002 Transportation Plan Update to ensure that LOS is currently met or a strategy identified to bring facilities into compliance with the adopted LOS
- Revise the Financial Reassessment Strategy to include an option for reassessing the land use assumptions if funding falls short of meeting identified need

#### Essential Public Facilities

- Add process for siting essential public facilities in compliance with GMA
  - Add policy language stating that the City will not preclude the siting of an essential public facility
2. Draft specific amendments to the City's development regulations and policies, as necessary, to meet the current requirements of the Growth Management Act. This work will be performed by AHBL based on information provided by the City. Specific tasks are listed below.
- Specify, in the Code or Comprehensive Plan, zoning consistent with each land use designation
  - Revise the R-1 and RB-1 zones to allow a minimum of 4 units per acre
3. Draft specific amendments to the City's Comprehensive Plan and development regulations to meet the current requirements of the Growth Management Act for critical and resource areas not requiring BAS expertise. This work will be performed by AHBL. Specific tasks are listed below.
- Add aquifer protection policies per BAS analysis
  - Add policies to identify corrective actions for discharges that pollute waters of the state
  - Review County resource land designations to determine if consistent with City's designations (currently none) and revise policies as necessary to protect such areas
  - Include criteria for designating mineral resource lands
  - If mineral lands of long-term commercial significance are identified, draft development regulation amendments to preserve the future resource use from incompatible development within and surrounding such designated areas
  - Amend the development code to include a provision for notification of natural resource activities within 500 feet (as necessary based on natural resource area research)

- Add policy stating that BAS will be used in developing policies and development regulations to protect the functions and values of critical areas
  - Include reference to BAS in critical areas regulations
  - Develop a consistent convention for numbering or otherwise discretely identifying goals and policies throughout the document for ease of reference
4. This scope allows for up to 8 AHBL meetings, which may be with staff, Planning Commission or City Council at the discretion of the City. The scope anticipates limited preparation for meetings and minor follow-up. Additional meetings will be on a time and expense basis with prior approval of staff.
  5. Review available critical areas information and draft specific amendments to the City's Comprehensive Plan and development regulations to meet the best available science (BAS) requirements of the Growth Management Act for geologic hazard areas and aquifer protection. This work will be performed by Associated Earth Sciences, Inc. (AES). Specific tasks are listed below.
    - Review published geologic maps to determine if areas in addition to wellhead protection zones should be protected based on geologic and hydrogeologic factors
    - Revise Section 18.12.100 GHMC to redefine aquifer protection areas pursuant to the geologic and hydrogeologic analysis
    - Revise Section 18.12.050 GHMC to require greater buffers for ravine sidewalls and bluffs greater than 50 feet in height
    - Confirm flood hazard boundaries from the recent FEMA database
  6. This scope allows for up to 2 AES meetings, which may be with staff, Planning Commission or City Council at the discretion of the City. The scope anticipates limited preparation for meetings and minor follow-up. Additional meetings will be on a time and expense basis with prior approval of staff.
  7. Review available critical areas information and draft specific amendments to the City's Comprehensive Plan and development regulations to meet the current requirements of the Growth Management Act for wetlands, streams, and fish and wildlife habitat conservation areas relative to best available science. This work will be performed by Adolfsen and Associates, Inc. This scope recognizes that code amendments will be made to wetland regulations without the benefit of information from the City's most current wetland inventory, which is unavailable at this time.

Specific tasks are listed below.

- Develop policies that more specifically direct protection of anadromous fisheries

- Stream definition should be developed that separates these aquatic areas from wetlands. Define streams according to state guidelines
  - State that wetlands will be delineated using the Department of Ecology Wetland Identification and Delineation Manual (1997), which is consistent with the 1987 Federal Manual used by the US Army Corps of Engineers
  - Develop wetland rating system that eliminates streams and ranks wetlands according to function and value
  - Evaluate wetland buffers relative to City environment and buffer function and determine appropriate widths based upon the BAS. Larger buffers are likely needed to protect wildlife habitat functions on higher quality wetlands
  - Increase mitigation ratios for certain types of wetlands and types of wetland mitigation (i.e., enhancement)
  - Clarify permitted alterations in wetlands and wetland buffers
  - Evaluate whether or not qualitative alteration of buffers should be allowed
  - Amend the regulations to include stream buffers based upon BAS and specific protection measures for salmonid-bearing streams
  - Develop a list of permitted alterations specific to streams
8. This scope allows for up to 3 Adolfsen meetings, which may be with staff, Planning Commission or City Council at the discretion of the City. The scope anticipates limited preparation for meetings and minor follow-up. Additional meetings will be on a time and expense basis with prior approval of staff.
9. Provide a draft SEPA checklist for use by the City in conducting environmental review on the amendments.



## **Exhibit B**

### **Comprehensive Plan Amendments**

#### **COMP 04-01**

Proposed land use map amendment to redesignate approximately 20 acres of land in the Gig Harbor North Planned Community Development district from residential low to residential medium.

#### **COMP 04-02**

Application returned to applicant, no action needed.

#### **COMP 04-03**

Proposed map and text amendment to add a new land use designation – Master Planned Community (MPC) for the Canterwood planned residential golf course community consistent with the designation in the December 2002 Pierce County Gig Harbor Peninsula Community Plan.

### **Waste Water Comprehensive Plan Amendment**

The City Engineering Department is proposing an amendment to the current Waste Water Comprehensive plan at the request of the property owner to provide sewer service for a proposed single family development, described as parcel numbers 0221172115 and 0221172076. The referenced document shows that the property is designated in C-7 Basin. Mr. Talman representatives have approached the City about amending the ULID #2 Basin line to include the above described properties. Hammond Collier Consulting Engineers will prepare a scope and fee to review the proposal. The basic parameters of the review will include:

- Amending the current ULID #2 Boundary line to include the above parcels.
- Capacity study of the existing sewer line in 34<sup>th</sup> and adjoining sewer infrastructure.
- Generation of the sewerage flow calculations of the additional parcels
- Analysis of the proposed conveyance system.
- Preparation of a written report with supporting technical data and recommendations.



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: CIVIC CENTER LANDSCAPE DESIGN IMPROVEMENTS**  
**- CONSULTANT SERVICES CONTRACT**  
**DATE: SEPTEMBER 13, 2004**

**INTRODUCTION/BACKGROUND**

A budgeted objective for 2004 includes the revisions to the landscaping the Gig Harbor Civic Center. Gig Harbor Municipal Code 17.78.070 requires commercial landscape be covered with live plant materials which will ultimately cover 75 percent of the ground area within 3 years of installation. Additional landscape improvements are needed to meet this requirement in the landscaped areas at the Civic Center.

After reviewing the Consultant Services Roster, the landscape architecture firm of Bradley Design Group was selected as the most qualified to perform the work. Their selection was based on their past conceptual design work, understanding of the project and familiarity with the area.

**POLICY CONSIDERATIONS**

Bradley Design Group is able to meet all of the City's standard insurance provisions for professional services contracts.

**FISCAL CONSIDERATIONS**

This work was anticipated in the adopted 2004 Budget and is within the 2004 Parks budgeted allocation of \$10,000, objective #13.

**RECOMMENDATION**

I recommend that the Council authorize the execution of the consultant services contract with Bradley Design Group for the landscape design work in the amount not to exceed One Thousand Eight Hundred Forty Dollars and zero cents (\$1,840.00).

**CONSULTANT SERVICES CONTRACT  
BETWEEN THE CITY OF GIG HARBOR AND  
BRADLEY DESIGN GROUP**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Bradley Design Group, a corporation organized under the laws of the State of Washington, located and doing business at 4330 N. Lexington Street, Tacoma, Washington 98407, (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in the landscape design improvements for the Gig Harbor Civic Center and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated August 31, 2004, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

**TERMS**

**I. Description of Work**

The Consultant shall perform all work as described in **Exhibit A**.

**II. Payment**

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Thousand Eight Hundred Forty Dollars and zero cents (\$1,840.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

### III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

### IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by September 13, 2005; provided however, that additional time shall be granted by the City for excusable days or extra work.

### V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records

and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as Exhibit A and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

## **VI. Discrimination**

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

## **VII. Indemnification**

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

**IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.**

The provisions of this section shall survive the expiration or termination of this Agreement.

## VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

## IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

#### **X. Ownership and Use of Records and Documents**

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

#### **XI. City's Right of Inspection**

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

#### **XII. Consultant to Maintain Records to Support Independent Contractor Status**

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

#### **XIII. Work Performed at the Consultant's Risk**

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or

damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

#### **XIV. Non-Waiver of Breach**

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

#### **XV. Resolution of Disputes and Governing Law**

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer or Director of Operations and the City shall determine the term or provision's true intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer or Director of Operations determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

#### **XVI. Written Notice**

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:



CONSULTANT  
Kathleen Bradley Reader  
Bradley Design Group  
4330 N. Lexington Street  
Tacoma, Washington 98407  
(253) 756-7906

David Brereton  
Director of Operations  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, Washington 98335  
(253) 851-6170

**XVII. Assignment**

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

**XVIII. Modification**

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

**XIX. Entire Agreement**

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

CONSULTANT  
By:   
Its Principal

CITY OF GIG HARBOR  
By: \_\_\_\_\_  
Mayor

**Notices to be sent to:**

Kathleen Bradley Reader  
Principal  
Bradley Design Group  
4330 N. Lexington  
Tacoma, Washington 98407  
(253) 756-7906

David Brereton  
Director of Operations  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, Washington 98335  
(253) 851-6170

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(print or type name)  
NOTARY PUBLIC in and for the  
State of Washington, residing at:

\_\_\_\_\_  
My Commission expires: \_\_\_\_\_

STATE OF WASHINGTON        )  
                                          ) ss.  
COUNTY OF PIERCE         )

I certify that I know or have satisfactory evidence that Gretchen A. Wilbert is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(print or type name)  
NOTARY PUBLIC in and for the  
State of Washington, residing at:

\_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES**

**David Brereton**  
*Director of Operations, City of Gig Harbor*  
3510 Grandview Street  
Gig Harbor, WA 98335

31 August 2004

Fax: (253) 853-7597 – 3 pages total

Dear David,

Per our discussion and my review of the original landscape plan prepared by Lynn Horn, I have determined Bradley Design Group's scope of services to be as follows for review and revisions to the landscape at the Gig Harbor Civic Center:

**Project Location:**

Gig Harbor Civic Center located at 3510 Grandview Street in Gig Harbor, WA

**Scope of Services:**

- Provide design review of the plans and existing plantings at the Civic Center.
- Review condition of plantings, identify where deficiencies exist or plantings are not thriving, propose additional plantings, and provide quantity take-offs and cost estimating for budgeting.
- Assist Staff with locating additional plant material through wholesale suppliers.
- Work with City Staff to revise irrigation layout if needed.
- Coordination and design meetings with City of Gig Harbor staff for grading, location of utilities, lot line locations and any other site related elements that may be affected by revisions to the existing landscape.
- Provide on-site construction coordination throughout the process.
- Assist with phasing of future improvements as funds become available.

**Notes:**

1. This proposal does not include hours for significant re-design once the work is substantially complete.
2. Fees indicated are not to exceed and based on the above outlined scope of services. Modifications to the project scope or schedule may require a revision to this scope. Additional services, if required, will be billed at the standard hourly rates only after approval by the City.
3. Terms are monthly invoicing with net due in 30 days.

**Fees:**

- The estimated fee for design review, planting design, construction assistance and project coordination is \$1,840.00.
- Reimbursable expenses will be billed as actuals. Plotting on bond for client review, submittals and construction sets will be billed at \$7.00 per sheet.



If you have any questions regarding this proposal, please do not hesitate to call. Otherwise, please sign below and fax (253-276-0132) or mail a copy to our office. We look forward to working again with you and your wonderful staff on this project!

Kind regards,

**Kathleen Bradley Reader**  
*Principal*

Bradley Design Group  
**EXHIBIT B**  
**SCHEDULE OF RATES AND**  
**ESTIMATED HOURS**

# Fee Proposal

Date

9/1/2004

Name / Address

David Brereton  
 Director of Operations  
 City of Gig Harbor  
 3510 Grandview Street  
 Gig Harbor, WA 98335

Description	Project	
	04## Gig harbor Civic Center	
	Qty.	Total
Landscape Architecture services to review and revise planting layout for the Gig Harbor Civic Center		
Principal Meeting Attendance	4	440.00
Principal Design Fee	4	440.00
Associate Design Fee	12	960.00
<b>Total</b>		<b>\$1,840.00</b>

4330 North Lexington Street  
 Tacoma, WA 98407



NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov
DATE: 9/01/04

TO: CITY OF GIG HARBOR

RE: ASSUMPTION
From QUALITY FOOD CENTERS, INC. DBA QUALITY FOOD C
Dba QUALITY FOOD CENTERS / QFC #886

APPLICANTS:

FRED MEYER STORES, INC.

AALBERG, JAMES C
1949-11-21

DEATHERAGE, DAVID W
1959-08-10

HELDMAN, PAUL W
1951-08-11

WEBB, DARRELL D
1958-02-19

License: 362719 - 1J County: 27
UBI: 602-342-738-001-0088
Tradename: QUALITY FOOD CENTER / QFC #886
Loc Addr: 3110 JUDSON AVE
GIG HARBOR WA 98335-1254
Mail Addr: PO BOX 42121
PORTLAND OR 97242-0121

Phone No.: 503-797-7134 GINNY ANDERSON

Privileges Applied For:
GROCERY STORE - BEER/WINE

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- 1. Do you approve of applicant? YES NO
2. Do you approve of location? YES NO
3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken? YES NO
4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based.

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE





COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: THIRD READING OF ORDINANCE AMENDING THE SETBACK**  
**STANDARDS IN THE PCD/BP DISTRICT**  
**DATE: SEPTEMBER 13, 2004**

**INFORMATION/BACKGROUND**

Attached for the Council's action is an ordinance amending the PCD-BP standards to define two categories of uses in the Planned Community Development – Business Park district, and to prescribe more restrictive setbacks for Category I uses, and less restrictive setbacks for Category II uses.

This item was presented for second reading at the August 23, 2004 Council meeting, at which time the Council requested two minor changes, including (1) defining ancillary retail uses as applying to Category II uses only, and (2) changing the word "or" to "and" in the section defining setbacks. The purpose of the latter change was to make it clear that development must comply with the more restrictive setback standards specified in the code. The requested changes are reflected in the attached ordinance.

**RECOMMENDATION**

I recommend that the City Council adopt the proposed changes as reflected in the attached draft ordinance at this third reading.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, CHANGING THE SETBACK REQUIREMENTS IN THE PCD-PB DISTRICT AS DEFINED IN GHMC SECTION 17.54.030 TO REFLECT TYPES OF USES PERMITTED OR CONDITIONALLY PERMITTED IN THE DISTRICT, AND ESTABLISHING CATEGORIES OF USES FOR PURPOSES OF DEFINING SETBACK REQUIREMENTS.**

---

WHEREAS, the City of Gig Harbor has adopted setback standards in the PCD-BP zone that require a greater setback for structures than for parking lots; and

WHEREAS, the setbacks in the PCD-BP district are intended to provide adequate separation between abutting residential development or districts and uses allowed in the PCD-BP district that have a high nuisance factor potential; and

WHEREAS, some permitted uses in the PCD-BP district have less potential to negatively impact abutting residential uses than other permitted or conditionally permitted uses allowed in the district; and

WHEREAS, a proposed text amendment has been submitted by Dale Pinney of First Western Development that places permitted uses having more potential for negatively impacting residential development in one category, and those with less potential for impacting residential development in a second category, and which provides a reduced setback for the uses in the second category of uses; and

WHEREAS, the proposed setbacks for those uses in the second category of uses are similar to setbacks adopted for the same or similar types of uses allowed in other zoning districts in the City, and

WHEREAS, the Council finds that the proposed setbacks provide adequate separation between the various types of uses allowed in the PCD-BP zone and abutting residential development, and

WHEREAS, the City's SEPA Responsible Official issued a determination of Non-significance for the proposed parking amendments on June 4, 2004 pursuant to WAC 197-11-350; and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on June 7, 2004, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on July 1, 2004, and made a recommendation of approval to the City Council; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of July 26, 2004; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. Section 17.54.02 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.54.020 Permitted uses.** ~~The following uses are permitted in the planned community development business park district:~~

- ~~A. Research and development facilities.~~
  - ~~B. Light assembly and warehousing.~~
  - ~~C. Light manufacturing.~~
  - ~~D. Service and retail uses which support and are ancillary to the primary uses allowed in the business park district.~~
  - ~~E. Professional offices and corporate headquarters.~~
  - ~~F. Distribution facilities.~~
  - ~~G. Vocational, trade and business schools.~~
  - ~~H. Book and magazine publishing and printing.~~
  - ~~I. Financial and investment institutions.~~
  - ~~J. Commercial photography, cinematography and video productions facilities.~~
  - ~~K. Reprographic, computer, courier services, mail and packaging facilities.~~
  - ~~L. Trails, open space, community centers.~~
  - ~~M. Schools, public and private.~~
  - ~~N. Public facilities.~~
  - ~~O. Adult family homes and family day care.~~
- ~~(Ord. 747 § 4, 1997).~~

The following uses are permitted in the planned community development business park district:

Category I uses:

- A. Research and development facilities.
- B. Light assembly and warehousing.
- C. Light Manufacturing.
- D. Distribution facilities.
- E. Vocational, trade, and business schools.
- F. Book and magazine publishing and printing.

G. Commercial photography, cinematography and video production facilities.

H. Reprographic, computer, courier services, mail and packaging facilities.

I. Trails, open space, community centers.

J. Schools, public and private.

K. Public facilities.

Category II uses:

A. Service and retail uses which support and are ancillary to Category II uses in the business park district.

B. Professional offices and corporate headquarters.

C. Financial and investment institutions.

D. Adult family homes and family day care.

Section 2. Section 17.54.025 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.54.025 Conditional Uses.**

Subject to the requirements of Chapter 17.64 GHMC and the procedures for conditional uses as set forth in this title, the following uses may be permitted in a PCD-BP district:

Category I uses:

A. Hospitals. (Ord. 958 § 1, 2004).

Section 3. Section 17.54.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.54.030 Performance standards.**

All uses in the business park zone shall be regulated by the following performance standards:

A. General. Uses which create a risk of hazardous waste spills must provide hazardous waste containment provisions that meet building code, fire code and health and environmental regulations to prevent air, ground and surface water contamination.

~~B. Setbacks. No structure shall be closer than 150 feet to any residential zone or development or closer than 50 feet to any street or property line. Parking shall not be located any closer than 30 feet to a property line.~~

B. Setbacks.

1. Category I uses: No structure shall be closer than 150 feet to any residential zone or residential development and closer than 50 feet to any street or property line. Parking shall not be located any closer than 40 feet to any residential zone or residential development, and closer than 30 feet to any street or property line.

2. Category II uses: No structure shall be closer than 40 feet to any residential zone or residential development and closer than 30 feet to any street or property line. Parking shall not be any closer than 40 feet to any residential zone or residential development and closer than 30 feet to any street or property line.

C. Open Space. A minimum of 20 percent of the site, excluding setbacks, shall remain in open space, with either retained natural vegetation or new landscaping.

. . . .

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent

jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

Section 5. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this \_\_\_ day of \_\_\_\_\_, 2004.

CITY OF GIG HARBOR

\_\_\_\_\_  
GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: \_\_\_\_\_  
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
CAROL A. MORRIS

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO:



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: SECOND READING OF AN ORDINANCE SUPPORTING A**  
**CONTINUATION OF A MORATORIUM ON THE ACCEPTANCE OF**  
**APPLICATIONS FOR DEVELOPMENT IN THE HEIGHT RESTRICTION**  
**AREA FOR A PERIOD OF SIX MONTHS**  
**DATE: SEPTEMBER 13, 2004**

**INFORMATION/BACKGROUND**

The City Council adopted Ordinance No. 965 which imposed an immediate moratorium for a period of up to six months on the acceptance of applications for new development or re-development within the height restriction area on July 12, 2004. Adoption of this Ordinance was predicated on the City Council holding a public hearing on the proposed moratorium within sixty (60) days after adoption (RCW 35A.63.220, RCW 36.70A.390).

The City Council held a public hearing on this moratorium on August 9, 2004 at which time no public testimony was received. At that time, Council directed staff to prepare draft proposed findings of fact supporting the continuation of the moratorium for a period of six-months and further directed that the public hearing be continued to August 23, 2004. The City Attorney has prepared proposed findings of fact for Council's consideration. At the conclusion of the August 23, 2004 continued public hearing, Council directed staff to include demolition permits and building additions under a certain size to the list of exempt development permits.

**RECOMMENDATION**

If the Council believes the continuation of the moratorium is justified, findings of fact supporting such a continuation must be adopted.

Additionally, if it is determined that the continuation is justified, staff would recommend that the following amendment be made to Section A:

A. "**Exempt Development Permits**" shall include all of the following permit applications for "development" or "development activity" defined in GHMC Section 19.14.010(24) and 19.14.010(26), a copy of which is attached to this Ordinance as Exhibit B, which:

1. are not subject to any other moratorium in the City;
2. were determined complete by City staff and submitted to the City on or before the effective date of this Ordinance;
3. propose development or a development activity on property located outside the City height restriction area (*see*, Subsection B below); and

4. are project(s) located on publicly owned property and which building(s) do not exceed one thousand (1,000) square feet in size;

5. include demolition permits, sign permits and marinas without upland buildings;

6. are building permits associated with development applications which were determined complete by City staff before the effective date of this Ordinance; and

7. are project(s) which buildings do not exceed [INSERT SIZE] square feet in size.

“Exempt development permits” shall also include any permits meeting all of the above criteria and which involve interior remodeling of existing structures anywhere in the City, as long as the remodeling will not increase the size of the existing structure in footprint, height, bulk and scale.

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE ADOPTION OF FINDINGS AND CONCLUSIONS TO SUPPORT AN EMERGENCY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW DEVELOPMENT OR CERTAIN TYPES OF RE-DEVELOPMENT WITHIN THE HEIGHT RESTRICTION AREA AS SHOWN ON THE OFFICIAL HEIGHT RESTRICTION MAP, UNTIL THE CITY FINISHES THE PROCESS OF CODE REVIEW AND AMENDMENT RELATING TO BUILDING SIZE LIMITATIONS, DEFINING THE APPLICATIONS SUBJECT TO THE MORATORIUM, AND CONFIRMING THE MAINTENANCE OF THE MORATORIUM FOR SIX MONTHS AFTER INITIAL IMPOSITION AS THE EFFECTIVE PERIOD.**

---

WHEREAS, the City Council of the City of Gig Harbor may adopt an immediate moratorium for a period of up to six months on the acceptance of certain development permit applications and utility extension agreements, as long as the City Council holds a public hearing on the proposed moratorium within sixty (60) days after adoption (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, on July 12, 2004, the Gig Harbor City Council passed Ordinance No. 965 imposing an immediate moratorium on the acceptance of acceptance of applications for new development or certain types of re-development within the height restriction area as shown on the official height restriction map; and

WHEREAS, the City held a public hearing on the moratorium on August 9, 2004, which was continued until August 23, 2004; and

WHEREAS, the City Council desires to enter findings and conclusions in support of the continued maintenance of the moratorium for a period of six months after the



adoption of the moratorium (which would be on or about January 12, 2005); Now,  
Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

A. **“Exempt Development Permits”** shall include all of the following permit applications for “development” or “development activity” defined in GHMC Section 19.14.010(24) and 19.14.010(26), a copy of which is attached to this Ordinance as Exhibit B, which:

1. are not subject to any other moratorium in the City;
2. were determined complete by City staff and submitted to the City on or before the effective date of this Ordinance;
3. propose development or a development activity on property located outside the City height restriction area (see, Subsection B below); and
4. are project(s) located on publicly owned property and which building(s) do not exceed one thousand (1,000) square feet in size.

“Exempt development permits” shall also include any permits meeting all of the above criteria and which involve interior remodeling of existing structures anywhere in the City, as long as the remodeling will not increase the size of the existing structure in footprint, height, bulk and scale.

B. **“Non-Exempt Development Permits”** shall include any permits or permit applications for any “development activity” as defined in GHMC Section 19.14.010(24) and 19.14.010(26) proposed to take place on property located within the City’s height restriction area, submitted after the effective date of this Ordinance. Any permits

meeting this description that were submitted to the City but not determined complete by City staff on or before the effective date of this Ordinance, are also "non-exempt development permits." The "height restriction area" is that area shown on the City's official height restriction area map, as adopted in GHMC Section 17.62.020, a copy of which is attached to this Ordinance as Exhibit A.

Section 2. Purpose. The purpose of this moratorium is to allow the City adequate time to hold additional workshops, public hearings and meetings on the possibility of adopting regulations which limit building size in the Height Restriction Zone (attached as Exhibit A hereto, and incorporated herein by this reference).

Section 3. Findings and Conclusions in Support of Moratorium. On August 9 and August 23, 2004, the City Council held a public hearing on the moratorium imposed on July 12, 2004.

A. John P. Vodopich, AICP, City of Gig Harbor Community Development Director, provided the chronology of events and background for the Council's consideration of building size limitations. Mr. Vodopich explained that the Council has been interested in this issue since April 2001, and that there have been at least ten related meetings and hearings. On August 11, 2003, the City commissioned a consultant to prepare a report on whether the City should adopt limitations on building size. This report issued on January 12, 2004, and was considered in three Planning Commission/City Council meetings/hearings. After a review of the report, the City Council decided to hold work-study sessions to determine whether building sizes should be limited in the City, and if so, where. These work-study sessions were held on June 1, June 7, June 21, July 6, and July 19, 2004. On June 21, 2004, the City Council

decided that the height restriction area was the most vulnerable to new development that would be incompatible with the type of regulations considered during the work-study sessions, and directed the City staff to draft a moratorium ordinance.

On July 12, 2004, the ordinance was presented to the City Council as an emergency measure, and the Council passed it as Ordinance No. 965, to be effective immediately. A hearing was scheduled on Ordinance No. 965, to take place on August 9, 2004.

On August 9, 2004, the Council held the public hearing. No members of the public asked to speak on the issue. A letter was received from an attorney, Traci Shallbetter, dated August 4, 2004, stating that there were "serious concerns" with Ordinance 965. Ms. Shallbetter would not identify her clients.

The City Council decided to continue the public hearing until August 23, 2004, and directed the City staff to draft findings and conclusions to support the maintenance of the moratorium, consistent with the Council's comments at the last workshop session.

B. [ reserved for public hearing testimony]

C. [ reserved for public hearing testimony]

D. [ reserved for public hearing testimony]

E. After this testimony and staff reports, the City Council discussed the need for the moratorium. First, the Council stated that the workshop sessions on the subject of building size had confirmed their belief that many residents were concerned about the size of structures that could be built under the City's existing regulations. Residents are concerned because of recent development that was permitted under the existing regulations, including the City's Design Review Manual. Many were under the

impression that the City's Design Review Manual would have more of an impact in the regulation of height, bulk and scale with regard to new development, but were unhappy with certain new structures. The Council identified the height restriction zone as an area that is vulnerable to massively-sized structures because the height of structures is limited there. It is important to ensure that these low structures are proportionately constructed, which is a difficult task, given that the value of property in the area has increased, and property owners would like to ensure that they can develop their properties to the fullest extent possible.

The City is currently updating the Design Review Manual, and it may be that some of the concerns can be addressed in the amendments to the Manual. However, there is no way to know until the City performs the full analysis, which involves two Council work-study sessions on the subject of the Design Review Manual.

The City Council determined to maintain the moratorium imposed by Ordinance No. 965 for the six-month period allowed by state law, based on the above facts. The Council noted that there was no testimony or evidence introduced in opposition of the moratorium. The Council concluded that maintenance of the moratorium was required for the public health, safety and welfare, given that the majority of the persons testifying at the Building Size Analysis work-study sessions were in favor of building size limitations, and without a moratorium, there was a risk that development applications for the type of development not favored by the public could become vested under the existing codes and constructed, thereby thwarting the efforts of the Council.

Section 4. Moratorium Maintained. A moratorium shall be maintained on the acceptance of all non-exempt development permit applications for property inside and

outside the City limits for six months, which began on the date of adoption of Ordinance No. 965. The City Council hereby directs the City Clerk to schedule a public hearing on the extension of the moratorium, to be held before expiration of this moratorium on or about January 12, 2005. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor, this \_\_\_th day of September, 2004.

\_\_\_\_\_  
MAYOR Gretchen Wilbert

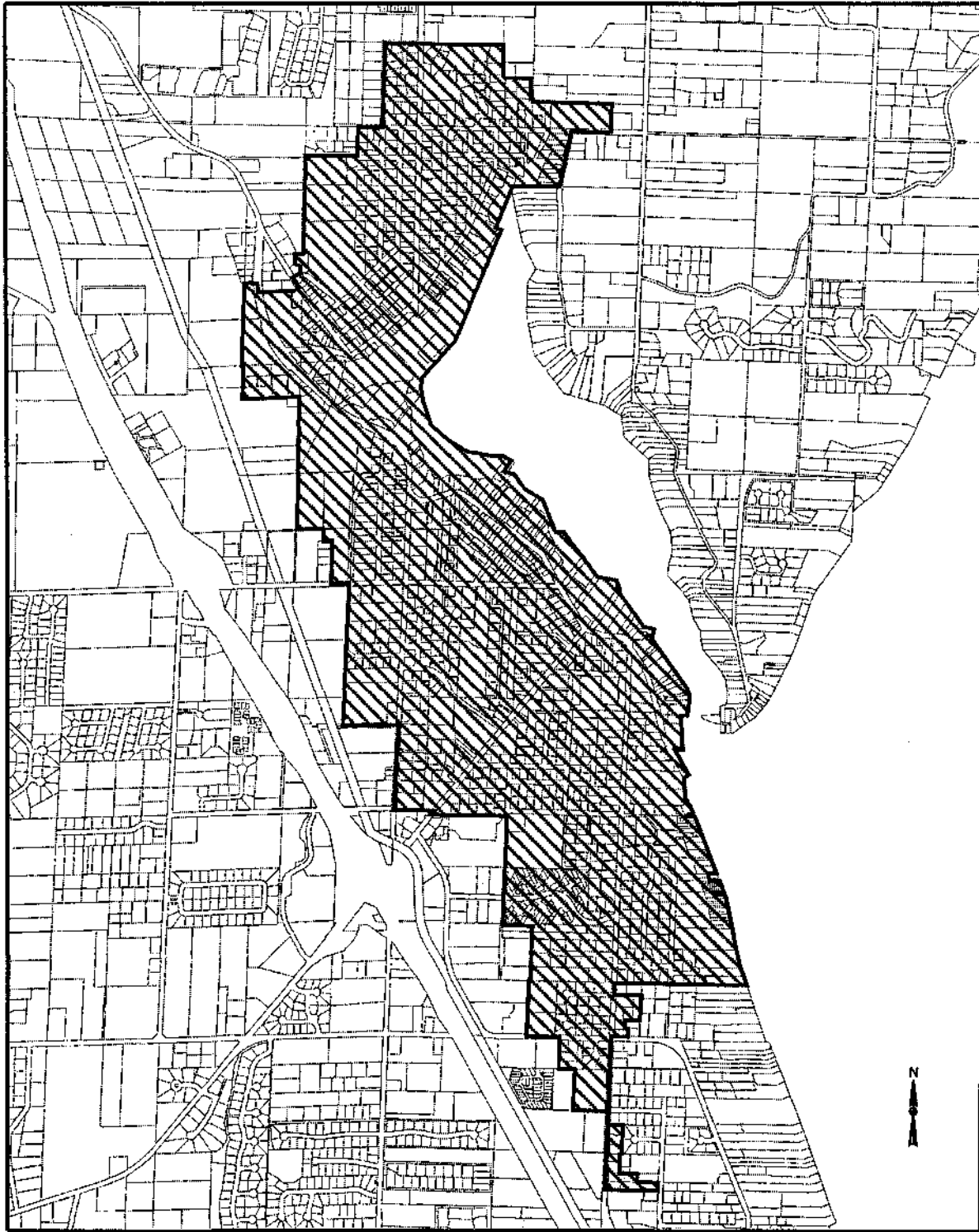
ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Molly Towslee, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Carol A. Morris, City Attorney

# Exhibit "A"



Height Restriction Area

# Exhibit "B"

## Gig Harbor Municipal Code

### Chapter 19.14

#### CONCURRENCY AND IMPACT FEE PROGRAM DEFINITIONS

##### 19.14.010 Definitions.

24. "Development activity" or "development" means any construction or expansion of a building, structure, or use; any change in the use of a building or structure; or any changes in the use of the land that creates additional demand for public facilities (such as a change which results in an increase in the number of vehicle trips to and from the property, building or structure) and requires a development permit from the city.

26. "Development permit" or "project permit" means any land use permit required by the city for a project action, including but not limited to building permits, subdivisions, short plats, binding site plans, planned unit developments, conditional uses, shoreline substantial developments, site plan reviews, or site specific rezones, and, for purposes of the city's concurrency ordinance, shall include applications for amendments to the city's comprehensive plan which request an increase in the extent or density of development on the subject property.



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: SECOND READING OF ORDINANCE**  
**TRAFFIC CONCURRENCY MANAGEMENT UPDATE**  
**DATE: SEPTEMBER 13, 2004**

**INFORMATION/BACKGROUND**

The Growth Management Act, (Chapter 36.70A RCW) requires the City to adopt a concurrency ordinance for transportation facilities "which prohibits development approval if the development causes the level of service on a locally-owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of the development are made concurrent with the development" (RCW 36.70A.060(6)(b)). The City has adopted traffic and water concurrency regulations (Chapter 19.10 GHMC). The traffic concurrency regulations exempt public transportation facilities, public libraries, public parks and recreational facilities (GHMC Section 19.10.003(C)).

The Washington Court of Appeals recently invalidated an exemption created by the City of Bellevue in its traffic concurrency regulations. *Bellevue v. East Bellevue Community Municipal Corporation*, 119 Wn. App. 405, 81 P.3d 148 (2003). The court held that: "under the clear and plain language of RCW 36.70A(6)(b), the City cannot create exemptions to its concurrency ordinance." Bellevue petitioned the Washington Supreme Court for review of this decision, but the Court has not yet issued a decision.

A public hearing and first reading of this ordinance was held on August 23, 2004.

**ANALYSIS**

The City Attorney has recommended that the City eliminate the traffic concurrency exemptions in GHMC Section 19.10.003(C). Adoption of this ordinance will not mean that property owners submitting development applications for single family residential structures will be required to perform full-blown traffic analyses. A traffic report will only be required for development that will generate more than 15 new p.m. peak hour trips. For the single family residential structure, 1.02 peak p.m. trips are generated.

**FISCAL IMPACTS**

There will be no fiscal impacts as a result of this ordinance.

**RECOMMENDATION**

Staff recommends that the Council adopt this ordinance as presented at this second reading.



ORDINANCE NO. \_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO CONCURRENCY MANAGEMENT, ELIMINATING CERTAIN EXEMPTIONS FROM WATER AND TRAFFIC CONCURRENCY MANAGEMENT RELATING TO PUBLIC TRANSPORTATION FACILITIES, PUBLIC PARKS AND RECREATIONAL FACILITIES AND PUBLIC LIBRARIES, IN ACCORDANCE WITH RECENT CASE LAW; ELIMINATING THE EXEMPTION FOR DEVELOPMENT OR CHANGES IN USE INITIATED PRIOR TO OR DURING 1999, ALL OF WHICH HAVE NOW BEEN COMPLETED; ELIMINATING THE 15 NEW P.M. PEAK HOUR TRIP THRESHOLD FOR TRANSPORTATION FACILITIES; AMENDING GIG HARBOR MUNICIPAL CODE SECTION 19.10.003.**

---

WHEREAS, the Growth Management Act requires that the City of Gig Harbor adopt a concurrency ordinance for transportation facilities "which prohibits development approval if the development causes the level of service on a locally-owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of the development are made concurrent with the development" (RCW 36.70A.070(6)(b)); and

WHEREAS, the City has adopted concurrency regulations for water and transportation (chapter 19.10 of the Gig Harbor Municipal Code); and

WHEREAS, the City's code currently exempts public transportation facilities, public parks and recreational facilities and public libraries from the concurrency requirements (GHMC Section 19.10.003(C)); and

WHEREAS, the Washington Court of Appeals recently determined that "under the clear and plain language of RCW 36.70A.070(6)(b), the City cannot create

exemptions to its concurrency ordinance." *Bellevue v. East Bellevue Community Municipal Corporation*, 119 Wn. App. 405, 81 P.3d 148 (2003); and

WHEREAS, although the parties in this case have petitioned the Washington Supreme Court for review, the Supreme Court has not yet determined whether it will accept review; and

WHEREAS, even if the Washington Supreme Court accepts review, a final decision will not likely be immediately forthcoming; and

WHEREAS, in Section 19.10.003(A), there is an exemption for construction or change in use initiated pursuant to a development permit issued prior to the effective date of Ordinance 818, which was the Concurrency Ordinance, adopted in 1999; and

WHEREAS, all construction or changes in use initiated pursuant to a development permit issued prior to 1999 has long since been complete, and this exemption is no longer required; and

WHEREAS, the City Council desires to conform its concurrency requirements to this recent decision; Now, Therefore:

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. Section 19.10.003 of the Gig Harbor Municipal Code is hereby amended to read as follows:

Section 2. Section 13.02.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.10.003 Exempt development.**

~~A. Development Permit Issued Prior to Effective Date of this Chapter. All construction or change in use initiated pursuant to a development permit issued prior to the effective date of the ordinance~~

~~codified in this chapter shall be exempt from the requirements of this chapter; provided however, that no development permit shall be extended except in conformance with this chapter. If the city determines that a previously issued development permit has lapsed or expired, pursuant to the applicable development regulations, then no subsequent development permit shall be issued except in accordance with this chapter.~~

~~A. DeMinimis Development. After the effective date of the ordinance codified in this chapter, No development activity (as defined in Chapter 19.14 GHMC) shall be exempt from the requirements of this chapter unless specifically exempted in subsection C of this section. the permit is listed below. C. Exempt permits. The following types of permits are not subject to exempt from the capacity reservation certificate (CRC) process because they do not create additional long-term impacts on road facilities or water capacity in the City's water system:~~

- ~~1. Administrative interpretations;~~
- ~~2. Sign permit;~~
- ~~3. Street vacation;~~
- ~~4. Demolition permit;~~
- ~~5. Street Use permit;~~
- ~~6. Interior alterations with no change of use;~~
- ~~7. Excavation/clearing permit;~~
- ~~8. Hydrant use permit;~~
- ~~9. Right-of-way permit;~~
- ~~10. Single-family remodeling with no change of use;~~
- ~~11. Plumbing permit;~~
- ~~12. Electrical permit;~~
- ~~13. Mechanical permit;~~
- ~~14. Excavation permit;~~
- ~~15. Sewer connection permit;~~
- ~~16. Driveway or street access permit;~~
- ~~17. Grading permit;~~
- ~~18. Tenant improvement permit;~~
- ~~19. Fire Code permit;~~
- ~~20. Design Review approval.~~

Notwithstanding the above, if any of the above permit applications will generate ~~15~~ any new p.m. peak hour trips or increase water consumption, such application shall not be exempt from the requirements of this chapter.

- ~~2. The portion of any project used for any of the following purposes is exempt from the requirements of this chapter:~~
  - ~~a. Public transportation facilities;~~
  - ~~b. Public parks and recreational facilities;~~
  - ~~c. Public libraries.~~

Notwithstanding the exemptions hereunder provided, the traffic resulting from an exempt use shall nonetheless be included in computing background traffic for any nonexempt project. In addition, the water capacity used by an exempt project shall be included in the computations for the capacity remaining in the city's water system.

B. D. Threshold for Other Exempt Permits.

1. Traffic. This chapter shall apply to all development applications for development or redevelopment if the proposal or use will generate any more than 15 new p.m. peak hour trips.
2. Water. This chapter shall apply to all development applications for development or redevelopment if the proposal or use requires water from the city's water system. In addition, this chapter shall apply to existing developments to the extent that the property owner requires water for a use not disclosed on a previously submitted water service application under GHMC 13.02.030 or a previously submitted application for a capacity reservation certificate.

3. If the permit application will generate more than 15 new p.m. peak hour trips, a transportation capacity evaluation application and report shall be required in conformance with Chapter 19.10 of the Gig Harbor Municipal Code.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4 Effective Date. This Ordinance shall take effect and be in full force after publication of the approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this \_\_\_ day of \_\_\_\_\_, 2004.

CITY OF GIG HARBOR

\_\_\_\_\_  
GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: \_\_\_\_\_  
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

By: \_\_\_\_\_  
CAROL A. MORRIS

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO.



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: SECOND READING OF ORDINANCE – NORTHARBOR**  
**BUSINESS CAMPUS REZONE - REZ 03- 02**  
**DATE: SEPTEMBER 13, 2004**

**INTRODUCTION/BACKGROUND**

On October 29, 2003, Michael Perrow of Donkey Creek Holdings submitted a request to the City of Gig Harbor to rezone property located at 9700 Burnham Drive from Mixed Use District Overlay (MUD) to Employment District (ED).

A public hearing on the proposed rezone was held before the Hearing Examiner on April 21, 2004. The written decision to approve the rezone was issued by the Hearing Examiner on April 30, 2004. To effectuate the rezone, it must now be adopted by ordinance. A map and legal description, (exhibit A), draft ordinance approving the rezone, and a copy of the Hearing Examiner's decision, are all attached for the Council's consideration.

**POLICY CONSIDERATIONS**

**1. APPLICABLE LAND-USE POLICIES/CODES**

**a. Comprehensive Plan:**

The City of Gig Harbor Comprehensive Plan Land Use Map designates the site as MUD – Mixed Use District Overlay. Page 10 of the Land Use Element of the Comp Plan states that the mixed use designation is an area of commercial/employment, office, and multifamily uses which link the downtown area with SR-16.

**b. Zoning Code:**

Allowable uses in the proposed ED designation are defined in Section 17.45.020 of the Gig Harbor Municipal Code.

The Gig Harbor Municipal Code specifies general criteria for the approval of zoning district map amendments, including, but not limited to site specific rezones (17.100.035). These criteria include the following:

- A. The application for the Zoning District Map amendment must be consistent with and further the goals, policies and objectives of the comprehensive plan;
- B. The application for the Zoning District amendment must further or bear a substantial relationship to the public health, safety and general welfare;
- C. No substantial detrimental effect will be caused by the granting of the application for amendment; and
- D. The proponents of the application have the burden of proof in demonstrating that the conditions have changed since the original zoning or original designation for the property on the Zoning District Map.

## **2. REZONE APPROVAL POLICIES/CODES**

Site-specific rezones are considered a Type III application, which are approvable by the Hearing Examiner as per GHMC 19.01.003(A). Rezones must be adopted by ordinance as per GHMC 17.100.070 under the provisions of Chapter 1.08 GHMC.

## **FISCAL IMPACTS**

There are no adverse fiscal impacts associated with this rezone. It is expected that development allowed by the rezone would generate additional jobs within the City.

## **RECOMMENDATION**

I recommend that the Council adopt the ordinance as presented.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REZONING 12 ACRES FROM AN RB-2 (RESIDENTIAL AND BUSINESS) DISTRICT WITH A MUD (MIXED USE DISTRICT) OVERLAY TO AN ED (EMPLOYMENT DISTRICT) ZONING DISTRICT, LOCATED AT 9700 BURNHAM DRIVE, ASSESSOR'S PARCEL NUMBERS 4001020010, 4001020020, 4001020030, 4001020040, 4001020050, 4001020060, 4001020100, 4001020110, 4001020120, 4001020130, 4001020140, 4001020161, 4001020190, & 4001020200.

**WHEREAS**, Mr. Michael Perrow of Donkey Creek Holdings, represents the owner of contiguous parcels located at 9700 Burnham Drive, Assessor's Parcel Numbers 4001020010, 4001020020, 4001020030, 4001020040, 4001020050, 4001020060, 4001020100, 4001020110, 4001020120, 4001020130, 4001020140, 4001020161, 4001020190, & 4001020200; and

**WHEREAS**, RCW 36.70.545 requires consistency between comprehensive plans and development regulations; and

**WHEREAS**, Mr. Perrow has requested that the property be rezoned from RB-2 (residential and business) with a MUD (Mixed Use District Overlay) to ED (employment district); and

**WHEREAS**, a SEPA threshold mitigated determination of non-significance (DNS) for the proposed rezone was issued on February 16, 2004; and

**WHEREAS**, the SEPA threshold decision was not appealed; and

**WHEREAS**, the proposed rezone is a Type III action as defined in GHMC 19.01.003(B) for site-specific rezones; and

**WHEREAS**, A final decision for a Type III application shall be rendered by the Hearing Examiner as per GHMC 19.01.003(A); and

**WHEREAS**, a public hearing on the proposed rezone was held before the Hearing Examiner on April 21, 2004, at which time no public input was received except from the applicant; and



**WHEREAS**, the Hearing Examiner approved the proposed rezone in his decision dated April 30, 2004; and

**WHEREAS**, rezones must be adopted by ordinance as per GHMC 17.100.070 under the provisions of Chapter 1.08 GHMC; and

**WHEREAS**, the City Council considered this Ordinance during its regular City Council meeting of September 13, 2004;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:**

Section 1. The real property located at 9700 Burnham Drive, Assessor's Parcel Numbers 4001020010, 4001020020, 4001020030, 4001020040, 4001020050, 4001020060, 4001020100, 4001020110, 4001020120, 4001020130, 4001020140, 4001020161, 4001020190, & 4001020200 and as shown on attached Exhibit "A", is hereby rezoned from RB-2 (residential and business) with MUD (Mixed Use District Overlay) to ED (employment district).

Section 2. The Community Development Director is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established by this section.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this \_\_\_\_ day of \_\_\_\_\_, 2004.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

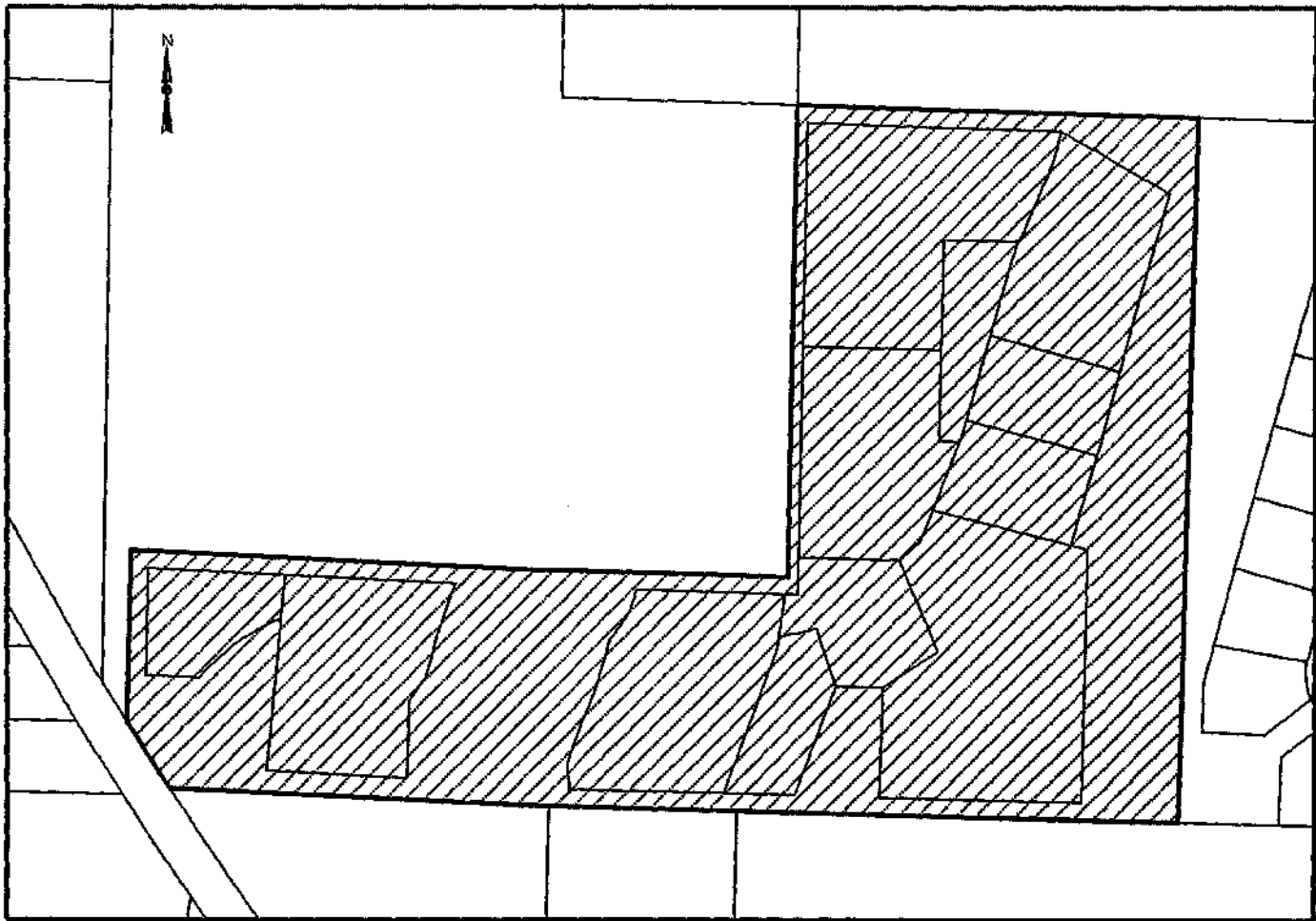
By: \_\_\_\_\_  
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
CAROL A. MORRIS

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO: \_\_\_\_\_

# Exhibit "A"



ATR Parcels: 4001020141, 4001020200, 4001020121, 4001020110, 4001020100, 4001020161, 4001020190, 4001020010, 4001020051, 4001020061, 4001020020, 4001020030, and 4001020040,

## Northharbor Business Campus Legal Description

BEGINNING AT THE MOST WESTERLY NORTHWESTERLY CORNER OF TRACT "A" OF NORTHARBOR BUSINESS CAMPUS BINDING SITE PLAN AS RECORDED UNDER AUDITOR'S FILE NUMBER 9403090799 RECORDS OF SAID COUNTY; THENCE SOUTH  $01^{\circ}00'37''$  WEST ALONG THE WEST LINE OF SAID TRACT "A" 290.03 FEET TO THE NORTHEASTERLY MARGIN OF BURNHAM DRIVE N.W. AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1880.00 FEET (THE RADIUS CENTER BEARS NORTH  $58^{\circ}13'58''$  EAST); THENCE SOUTHEASTERLY ALONG SAID MARGIN AND SAID CURVE 48.33 FEET THROUGH A CENTRAL ANGLE OF  $01^{\circ}28'24''$ ; THENCE LEAVING SAID MARGIN AND CONTINUING ALONG THE SOUTHERLY LINE OF SAID TRACT "A" OF SAID BINDING SITE PLAN SOUTH  $88^{\circ}19'50''$  EAST 585.17 FEET; THENCE CONTINUING ALONG SAID SOUTH LINE SOUTH  $88^{\circ}17'13''$  EAST 886.08 FEET TO THE MOST SOUTHEASTERLY CORNER OF SAID TRACT "A"; THENCE NORTH  $01^{\circ}11'48''$  EAST ALONG THE EASTERLY LINE OF SAID TRACT "A"; 997.91 FEET TO THE MOST NORTHEASTERLY CORNER OF SAID TRACT "A" AND SAID BINDING SITE PLAN; THENCE NORTH  $88^{\circ}17'14''$  WEST ALONG THE NORTHERLY LINE OF SAID TRACT "A" 553.51 FEET TO THE MOST NORTHERLY NORTHWEST CORNER OF SAID TRACT "A" AND SAID BINDING SITE PLAN; THENCE SOUTH  $01^{\circ}11'48''$  WEST ALONG THE WESTERLY LINE OF SAID TRACT "A" 667.90 FEET TO AN ANGLE POINT IN SAID TRACT "A" AND SAID BINDING SITE PLAN; THENCE NORTH  $88^{\circ}17'13''$  WEST ALONG THE NORTH LINE OF SAID TRACT "A" 332.87 FEET; THENCE CONTINUING ALONG SAID NORTH LINE NORTH  $88^{\circ}19'50''$  WEST 612.64 FEET TO THE TRUE POINT OF BEGINNING

SUBJECT TO EASEMENTS, RESTRICTIONS AND CONDITION AS OF RECORD OR UNWRITTEN.



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: SECOND READING OF ORDINANCE – BURNHAM DRIVE**  
**COMMERCIAL PARK REZONE - REZ 03- 03**  
**DATE: SEPTEMBER 13, 2004**

**INTRODUCTION/BACKGROUND**

On October 29, 2003, Michael Perrow of Donkey Creek Holdings submitted a request to the City of Gig Harbor to rezone property located at 10421 Burnham Drive from Mixed Use District Overlay (MUD) to Employment District (ED).

A public hearing on the proposed rezone was held before the Hearing Examiner on April 21, 2004. The written decision to approve the rezone was issued by the Hearing Examiner on April 30, 2004. To effectuate the rezone, it must now be adopted by ordinance. A map and legal description, (exhibit A), draft ordinance approving the rezone, and a copy of the Hearing Examiner's decision, are all attached for the Council's consideration.

**POLICY CONSIDERATIONS**

**1. APPLICABLE LAND-USE POLICIES/CODES**

**a. Comprehensive plan:**

The City of Gig Harbor Comprehensive Plan Land Use Map designates the site as MUD – Mixed Use District Overlay. Page 10 of the Land Use Element of the Comp Plan states that the mixed use designation is an area of commercial/employment, office, and multifamily uses which link the downtown area with SR-16.

**b. Zoning Code:**

Allowable uses in the proposed ED designation are defined in Section 17.45.020 of the Gig Harbor Municipal Code.

The Gig Harbor Municipal Code specifies general criteria for the approval of zoning district map amendments, including, but not limited to site specific rezones (17.100.035). These criteria include the following:

- A. The application for the Zoning District Map amendment must be consistent with and further the goals, policies and objectives of the comprehensive plan;
- B. The application for the Zoning District amendment must further or bear a substantial relationship to the public health, safety and general welfare;
- C. No substantial detrimental effect will be caused by the granting of the application for amendment; and
- D. The proponents of the application have the burden of proof in demonstrating that the conditions have changed since the original zoning or original designation for the property on the Zoning District Map.

## **2. REZONE APPROVAL POLICIES/CODES**

Site-specific rezones are considered a Type III application, which are approvable by the Hearing Examiner as per GHMC 19.01.003(A). Rezones must be adopted by ordinance as per GHMC 17.100.070 under the provisions of Chapter 1.08 GHMC.

## **FISCAL IMPACTS**

There are no adverse fiscal impacts associated with this rezone. It is expected that development allowed by the rezone would generate additional jobs within the City.

## **RECOMMENDATION**

I recommend that the Council adopt the ordinance as presented.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REZONING 12 ACRES FROM AN RB-2 (RESIDENTIAL AND BUSINESS) DISTRICT WITH A MUD (MIXED USE DISTRICT) OVERLAY TO AN ED (EMPLOYMENT DISTRICT) ZONING DISTRICT, LOCATED AT 10421 BURNHAM DRIVE, ASSESSOR'S PARCEL NUMBERS 0222312034, 0222312033, & 0222312035.

**WHEREAS**, Mr. Michael Perrow of Donkey Creek Holdings, represents the owner of contiguous parcels located at 10421 Burnham Drive, Assessor's Parcel Numbers 0222312034, 0222312033, & 0222312035.; and

**WHEREAS**, RCW 36.70.545 requires consistency between comprehensive plans and development regulations; and

**WHEREAS**, Mr. Perrow has requested that the property be rezoned from RB-2 (residential and business) with a MUD (Mixed Use District Overlay) to ED (employment district); and

**WHEREAS**, a SEPA threshold mitigated determination of non-significance (DNS) for the proposed rezone was issued on February 16, 2004; and

**WHEREAS**, the SEPA threshold decision was not appealed; and

**WHEREAS**, the proposed rezone is a Type III action as defined in GHMC 19.01.003(B) for site-specific rezones; and

**WHEREAS**, A final decision for a Type III application shall be rendered by the Hearing Examiner as per GHMC 19.01.003(A); and

**WHEREAS**, a public hearing on the proposed rezone was held before the Hearing Examiner on April 21, 2004, at which time no public input was received except from the applicant; and

**WHEREAS**, the Hearing Examiner approved the proposed rezone in his decision dated April 30, 2004; and

**WHEREAS**, rezones must be adopted by ordinance as per GHMC 17.100.070 under the provisions of Chapter 1.08 GHMC; and

**WHEREAS**, the City Council considered this Ordinance during its regular City Council meeting of September 13, 2004;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:**

Section 1. The real property located at 10421 Burnham Drive, Assessor's Parcel Numbers 0222312034, 0222312033, & 0222312035 and as shown on attached Exhibit "A", is hereby rezoned from RB-2 (residential and business) with MUD (Mixed Use District Overlay) to ED (employment district).

Section 2. The Community Development Director is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established by this section.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this \_\_\_\_ day of \_\_\_\_\_, 2004.

CITY OF GIG HARBOR

\_\_\_\_\_  
GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: \_\_\_\_\_  
MOLLY TOWSLEE, City Clerk

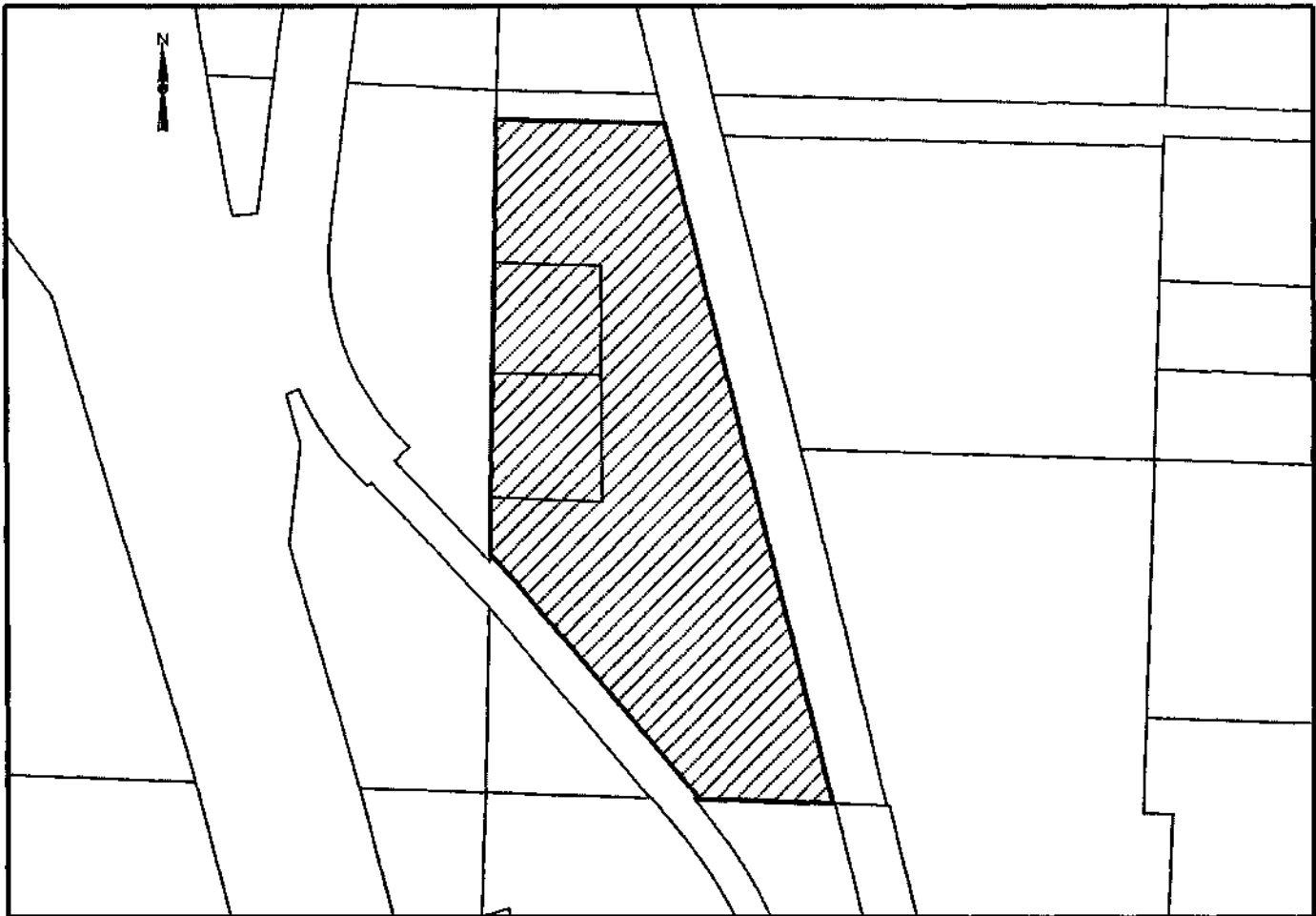
APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
CAROL A. MORRIS

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO: \_\_\_\_\_



# Exhibit "A"



ATR Parcels: 0222312034, 0222312033, 0222312035

## Burnham Drive Commercial Park Legal Description:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF GIG HARBOR, PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE SOUTH  $01^{\circ}51'38''$  WEST ALONG THE WEST LINE OF SAID SUBDIVISION TO A POINT WHICH LIES 60.00 FEET SOUTH OF SAID NORTHWEST CORNER AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH  $01^{\circ}51'38''$  WEST A DISTANCE OF 834.86 FEET TO THE NORTHEASTERLY MARGIN OF BURNHAM DRIVE NW; THENCE SOUTH  $43^{\circ}24'59''$  EAST ALONG SAID MARGIN 513.83 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1025.00 FEET; THENCE SOUTHEASTERLY 87.29 FEET ALONG SAID CURVE AND SAID MARGIN THROUGH A CENTRAL ANGLE OF  $04^{\circ}52'46''$  TO THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH  $88^{\circ}17'08''$  EAST ALONG SAID SOUTH LINE 239.92 FEET TO THE WESTERLY MARGIN OF TACOMA LAKE CUSHMAN POWER LINE RIGHT-OF-WAY; THENCE NORTH  $13^{\circ}21'49''$  WEST A DISTANCE OF 1307.11 FEET TO A POINT WHICH LIES 60.00 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE NORTH  $88^{\circ}23'41''$  WEST PARALLEL WITH SAID NORTH LINE 321.11 FEET TO THE TRUE POINT OF BEGINNING.

SUBJECT TO EASEMENTS, RESTRICTIONS AND CONDITIONS UNWRITTEN OR OF RECORD.

FILED  
CITY OF GIG HARBOR  
MAY 04 2004  
COMMUNITY  
DEVELOPMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE HEARING EXAMINER  
FOR THE CITY OF GIG HARBOR

IN RE: the Application of Michael Perrow  
for Donkey Creek Holdings,

REZ 03-03

FINDINGS, CONCLUSIONS AND  
DECISION

**I. SUMMARY OF DECISION**

The application for a rezone from an RB-2 (Residential and Business) zoning district with a Mixed-Use district (MUD) overlay to an ED (Employment District) of approximately 12 acres located at 10421 Burnham Drive, within the City of Gig Harbor, is hereby approved.

**II. SUMMARY OF PROCEDURE**

A. Hearing. An open record hearing was held in the City of Gig Harbor on April 21, 2004.

B. Exhibits. The examiner admitted the following exhibits:

1. Staff Report to the Hearing Examiner for REZ 03-03, dated April 15, 2004;
2. Donkey Creek Holdings, LLC's Rezone Application for Burnham Drive Commercial Park, 10421 Burnham Drive;
3. Zoning map; and
4. Gig Harbor Ordinance No. 921 and related Staff Report.

ORIGINAL

1 C. Pleadings. In addition, the hearing examiner considered the following:

2 1. City's Brief on Rezone Process, dated April 10, 2004.

3 D. Testimony. The following individuals provided testimony under oath:

4 1. The Staff Report was presented by Rob White, Senior Planner.

5 **III. FINDINGS**

6 1. The applicant is requesting the rezone of approximately 12 acres located at 10421  
7 Burnham Drive (Assessor's Parcel Nos. 0222312034, 0222312033, and 0222312035). The  
8 rezone would change the existing RB-2 (Residential and Business) zoning district with a  
9 Mixed-Use district (MUD) overlay to ED (Employment District). The site is adjacent to a  
single-family development on the south and east. The proposed rezone is in follow-up to an  
amendment to the land use designation on the site that was approved in 2001. Ex. 1.

10 2. The land use designation of the subject site was changed in 2001 from Mixed Use  
11 to Employment District at the request of the applicant, who wishes to expand the types of  
uses allowed within their current facility. Ex. 1.

12 3. The subject site totals 12 acres. The subject parcel is zoned RB-2 with MUD  
13 overlay. Current land use is Warehouse Condo according to the Pierce County Tax  
Assessor. Adjacent zoning and land use is as follows:

14 North: PCD-BP, Planned Community Development – Business Park  
15 West: RB-2 Zone, Residential and Business  
16 South: MSF – Moderate Density Single Family (Pierce County)  
East: R-1 Zone, Residential Low

17 Ex. 1.

18 4. The City of Gig Harbor Comprehensive Plan Land Use Map designates the site  
19 as Mixed Use. Page 10 of the Land Use Element of the Comp Plan states that mixed use is  
20 an area of commercial/employment, office and multi-family located along principle  
21 collector routes which link the downtown area with SR-16. Commercial/Employment  
22 activity with a Mixed Use caters to a customer base beyond the immediately surrounding  
23 neighborhoods due to its location along the collector routes. The individual  
commercial/employment activities or developments in these areas are not of a size or  
24 character to be considered "major" activity or traffic generating uses. Multifamily and  
office uses are allowed within the Mixed Use area to provide economic diversity and  
25 housing opportunities near transit routes and business activities. The proposal is consistent  
with the comprehensive plan land use designation. Ex. 1.

5. Allowable uses in the proposed ED designation are defined in Section 17.45.020  
of the Gig Harbor Municipal Code. Light manufacturing, light assembly and warehousing

1 are among the more intensive permitted uses in the zone. In general, the ED zone allows  
2 more intense uses than the RB-2 zone.

3 6. Gig Harbor Municipal Code Section 17.100.035 specifies general criteria for the  
4 approval of zoning district map amendments, including, but not limited to, site specific  
5 rezones. The examiner addresses these criteria as follows:

6 A. The application for the Zoning District Map amendment must be consistent  
7 with and further the goals, policies and objectives of the comprehensive plan;

8 • The Washington State Growth Management Act (GMA) requires  
9 consistency between the adopted Comprehensive Plan and the adopted development  
10 regulations. RCW 36.70A.040(4)(d). The proposed zoning district map amendment is  
11 consistent with and furthers the goals, policies, and objectives of the comprehensive plan, as  
12 the plan was last amended. This review criterion is satisfied.

13 B. The application for the Zoning District amendment must further or bear a  
14 substantial relationship to the public health, safety and general welfare;

15 • The proposed zoning district map amendment furthers or bears a  
16 substantial relationship to the public health, safety, and general welfare by providing an  
17 appropriate location for employment opportunities within an existing facility, and by  
18 bringing site zoning into conformity with the comp plan. This review criterion is satisfied.

19 C. No substantial detrimental effect will be caused by the granting of the  
20 application for amendment; and

21 • No substantial detrimental effect will be caused by the granting of the  
22 application for amendment. Consistency between the zoning code and the comp plan is a  
23 positive effect. No evidence of detrimental effect exists in this record. This review criterion  
24 is satisfied.

25 D. The proponents of the application have the burden of proof in demonstrating  
that the conditions have changed since the original zoning or original designation for the  
property on the Zoning District Map.

• Conditions have changed since the original zoning or original  
designation for the property on the Zoning District Map. Specifically, the passing of the  
comprehensive plan amendment (Ex. 4) allowing the proposed level of activity that the ED  
zone permits requires a rezone to implement the Comprehensive Plan change. This review  
criterion is satisfied.

7. The City of Gig Harbor SEPA Responsible Official has reviewed the request and  
issued a Determination of Non-significance (DNS) for this request on December 17, 2003.  
The appeal period for this SEPA determination ended on March 1, 2004. No comments or  
appeals have been submitted.

1 8. The legal notice of the proposed action and scheduled hearing was published in  
2 the Peninsula Gateway on March 3, 2004, and again on April 7, 2004. Notice was also  
3 posted on the subject site on March 1, 2004. Finally, notice was mailed to property owners  
4 within 300 feet of the subject property on March 1, 2004. No public comments have been  
5 submitted. Ex. 1.

#### 4 IV. CONCLUSIONS

5 A. Jurisdiction. The examiner has jurisdiction to rule on the rezone pursuant to  
6 GHMC 17.96.030. See, Ordinance No. 903.

7 B. Criteria for Review. The criteria for the examiner to consider in deciding on a  
8 rezone application are set forth at GHMC 17.100.035.

9 C. Conclusions Based on Findings. The examiner adopts the findings set forth  
10 above, and accordingly concludes that all of the criteria necessary to grant the requested  
11 application have been satisfied.

#### 11 V. DECISION

12 Based on the above findings and conclusions, Rezone Application REZ 03-03,  
13 relating to the rezone from a RB-2 zoning district with a MUD overlay to an Employment  
14 District of approximately 12 acres located at 10421 Burnham Drive within Gig Harbor, is  
15 APPROVED.

#### 14 VI. PARTIES OF RECORD

- 15 1. Rob White, Senior Planner  
16 City of Gig Harbor  
17 3510 Grandview Street  
18 Gig Harbor, WA 98335
- 19 2. Michael Perrow  
20 Donkey Creek Holdings  
21 P.O. Box 245  
22 Gig Harbor, WA 98335

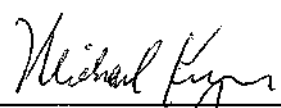
#### 21 VII. APPEAL OF EXAMINER'S DECISION

22 Pursuant to GHMC 19.01.003 as amended by Ordinance No. 903, any party of  
23 record with standing to file a land use petition and desiring to appeal the examiner's decision  
24 may do so within 10 working days of the issuance of this decision by filing an appeal with  
25 the City, as specified in GHMC 19.06.004.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DATED this 30 day of April, 2004.

KENYON DISEND, PLLC

  
\_\_\_\_\_  
Michael R. Kenyon, Hearing Examiner

BEFORE THE HEARING EXAMINER  
FOR THE CITY OF GIG HARBOR

In Re: the Application of Michael Perrow  
for Donkey Creek Holdings

REZ 03-03

DECLARATION OF MAILING

I, Margaret Starkey, declare and state:

1. I am a citizen of the State of Washington, over the age of 18 years, not a party to this action, and competent to testify as a witness herein.

2. On April 30, 2004, I mailed by regular mail, postage prepaid, a copy of the Findings, Conclusions and Decision in this matter, and this Declaration of Mailing, to:

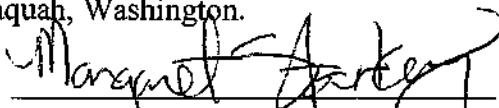
Michael Perrow  
Donkey Creek Holdings  
P.O. Box 245  
Gig Harbor, WA 98335

3. On April 30, 2004, I mailed by regular mail, postage prepaid, the *original* Findings, Conclusions and Decision in this matter, and this Declaration of Mailing, to:

Rob White, Senior Planner  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 30th day of April, 2004, at Issaquah, Washington.

  
Margaret Starkey

ORIGINAL



"THE MARITIME CITY"

ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCIL  
 FROM: DAVID RODENBACH, FINANCE DIRECTOR *DR*  
 DATE: SEPTEMBER 7, 2004  
 SUBJECT: FIRST READING OF ORDINANCE – PROVIDING FOR THE ISSUANCE AND SALE OF UNLIMITED TAX GENERAL OBLIGATION (UTGO) BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION OF REAL ESTATE

**BACKGROUND**

This is the first reading of an ordinance providing for a ballot proposition and special election to be held November 2, 2004. The ordinance provides authorization for issuance and sale of general obligation bonds not to exceed the aggregate principal amount of \$2,500,000 for the purpose of providing funds for the acquisition, initial clean-up and restoration of the Eddon boatyard and dock.

In order to qualify for the November 2 election this ordinance must be passed and submitted to the Pierce County Auditor by September 17, 2004.

**FISCAL CONSIDERATIONS**

The proposed bonds will have a 20-year term. The annual debt service is approximately \$81,500 per \$1 million borrowed; therefore, the average annual debt service for a \$2.5 million bond issue would be approximately \$203,000.

		Annual Assessment -		Annual Assessment -	
		\$2,500,000 Bond		\$2,500,000 Bond	
Property Value		Property Value		Property Value	
\$ 300,000	\$ 66.47	\$ 700,000	\$ 155.09		
400,000	88.62	800,000	177.24		
500,000	110.78	900,000	199.40		
\$ 600,000	\$ 132.93	\$ 1,000,000	\$ 221.55		

**RECOMMENDATION**

Staff recommends adoption of the ordinance, pursuant to GHMC section 1.08.020, which allows for passage of an ordinance on the day of its introduction, upon the affirmative vote of a majority plus one of the whole membership of the Council.



CITY OF GIG HARBOR, WASHINGTON

GENERAL OBLIGATION BONDS

---

ORDINANCE NO. ###

AN ORDINANCE of the City Council of the City of Gig Harbor, Washington, providing for a form of the ballot proposition and specifying certain other details concerning submission to the qualified electors of the city at a special election to be held therein on November 2, 2004 for the issuance of its general obligation bonds in the aggregate principal amount of \$2,500,000, or so much thereof as may be issued under the laws governing the indebtedness of cities, for the purpose of providing funds for the acquisition of waterfront open space and land and restoration of the Eddon boatyard and dock.

ADOPTED:SEPTEMBER 13, 2004

Prepared by:

PRESTON GATES & ELLIS LLP  
Seattle, WASHINGTON

ORDINANCE NO. ###

A ORDINANCE of the City Council of the City of Gig Harbor, Washington, providing for a form of the ballot proposition and specifying certain other details concerning submission to the qualified electors of the city at a special election to be held therein on November 2, 2004 for the issuance of its general obligation bonds in the aggregate principal amount of \$2,500,000, or so much thereof as may be issued under the laws governing the indebtedness of cities, for the purpose of providing funds for the acquisition of waterfront open space and land for the City.

WHEREAS, the City of Gig Harbor, Washington (the "City") has a need to acquire waterfront open space and land and undertake a restoration of the Eddon boatyard and dock for historical, cultural and recreational purposes (the "Projects"); and

WHEREAS, in order to provide all or a part of the funds to enable the City to undertake the Projects, it is deemed necessary and advisable that the City issue and sell its unlimited tax general obligation bonds to provide funds for such purposes; and

WHEREAS, the Constitution and laws of the State of Washington provide that the question of whether or not such bonds may be issued and sold for such purposes must be submitted to the qualified electors of the City for their ratification or rejection;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR DOES ORDAIN, as follows:

Section 1.     Findings. This City Council (the "Council") hereby finds and declares that the best interest of the residents and property owners of the City require the City to carry out the plans hereinafter provided at the time or times and in the order deemed most necessary and advisable by the Council.

Section 2.     Capital Improvements. The City shall purchase waterfront open space property and shall initiate restoration of the Eddon boatyard and dock for historical, cultural and

recreational purposes (the "Project"). The estimated cost of the waterfront property acquisition is \$2,000,000, and the estimated cost of the initiation of the restoration project is \$500,000.

The cost of all necessary consulting services, inspection and testing, administrative and relocation expenses, on and off-site utilities, related improvements and other costs incurred in connection with the Projects shall be deemed a part of the costs of the Projects.

If available funds are sufficient from the proceeds of bonds authorized for the above purposes, and state or local circumstances require, the City shall acquire, construct, equip and make other capital improvements, all as the Council may determine.

Section 3. Authorization of Bonds. For the purpose of providing all or a part of the funds necessary to pay the cost of the Projects, together with incidental costs and costs related to the sale and issuance of the bonds, the City shall issue and sell its unlimited tax general obligation bonds in the principal amount of not to exceed \$2,500,000. The balance of the cost of the Projects shall be paid out of any money which the City now has or may later have on hand which are legally available for such purposes. None of said bond proceeds shall be used for the replacement of equipment or for any other than a capital purpose. Such bonds shall be issued in an amount not exceeding the amount approved by the qualified electors of the City as required by the Constitution and laws of the State of Washington or exceeding the amount permitted by the Constitution and laws of the State of Washington. After voter approval of the bond proposition and in anticipation of the issuance of such bonds, the City may issue short term obligations as authorized and provided by Chapter 39.50 RCW.

Section 4. Details of Bonds. The bonds provided for in Section 3 hereof shall be sold in such amounts and at such time or times as deemed necessary and advisable by this Council and as permitted by law, shall bear interest at a rate or rates not to exceed the maximum rate

permitted by law at the time the bonds are sold, and shall mature in such amounts and at such times within a maximum term of twenty (20) years from date of issue, but may mature at an earlier date or dates, as authorized by this Council and as provided by law. Said bonds shall be general obligations of the City and, unless paid from other sources, both principal thereof and interest thereon (including original issue discount) shall be payable out of annual tax levies to be made upon all the taxable property within the City without limitation as to rate or amount and in excess of any constitutional or statutory tax limitations. The exact date, form, terms and maturities of said bonds shall be as hereafter fixed by ordinance of the Council. After voter approval of the bond proposition and in anticipation of the issuance of such bonds, the City may issue short term obligations as authorized and provided by Chapter 39.50 RCW.

Section 5.     Bond Election. It is hereby found and declared that an emergency exists requiring the City to submit to the qualified electors of the City the proposition of whether or not the City shall issue such bonds for the Projects, at a special election to be held therein on the 2nd day of November, 2004.

The Pierce County Auditor as ex officio supervisor of elections is hereby requested also to find the existence of such emergency and to call and conduct said special election within the City on said date. The Clerk of the City is hereby authorized and directed to certify said proposition to said official in the following form:

PROPOSITION NO. 1

CITY OF GIG HARBOR, WASHINGTON

LAND ACQUISITION AND DEVELOPMENT

GENERAL OBLIGATION BONDS - \$2,500,000

The City Council of the City of Gig Harbor adopted Ordinance No. ### concerning a proposition for bonds. This proposition authorizes the City to acquire waterfront space and land and initiate restoration of the Eddon boatyard for historical, cultural and recreational purposes, to issue \$2,500,000 of general obligation bonds maturing within a maximum term of 20 years to finance such acquisitions, and to levy property taxes annually in excess of regular property tax levies to repay such bonds, all as provided in Ordinance No. ###. Should this proposition be:

APPROVED ?

REJECTED ?

Section 6.    Effective Date.    This ordinance shall be effective from and after its passage and publication as required by law.

APPROVED by the City Council of the City of Gig Harbor, Washington, at a regular meeting thereof held the 13th day of September, 2004.

CITY OF GIG HARBOR, WASHINGTON

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CERTIFICATE

I, the undersigned, City Clerk of the City of Gig Harbor, Washington (the "City"), and keeper of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. ### of the Council (herein called the "Ordinance"), duly approved at a regular meeting thereof held on the 13th day of September, 2004.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the adoption of said Ordinance; that all other requirements and proceedings incident to the proper adoption of said Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of September, 2004.

---

City Clerk

OFFICIAL BALLOT  
CITY OF GIG HARBOR, WASHINGTON  
November 2, 2004

---

INSTRUCTIONS TO VOTERS: To vote in favor of the following proposition, place a cross (X) in the square opposite the word "APPROVED"; to vote against the following proposition, place a cross (X) in the square opposite the word "REJECTED."

---

PROPOSITION NO. 1

CITY OF GIG HARBOR, WASHINGTON

LAND ACQUISITION AND DEVELOPMENT

GENERAL OBLIGATION BONDS - \$2,500,000

The City Council of the City of Gig Harbor adopted Ordinance No. ### concerning a proposition for bonds. This proposition authorizes the City to acquire waterfront space and land and initiate restoration of the Eddon boatyard for historical, cultural and recreational purposes, to issue \$2,500,000 of general obligation bonds maturing within a maximum term of 20 years to finance such acquisitions, and to levy property taxes annually in excess of regular property tax levies to repay such bonds, all as provided in Ordinance No. ###. Should this proposition be:

APPROVED ?

REJECTED ?

OFFICE OF THE PIERCE COUNTY AUDITOR

WHEREAS, the undersigned, as the duly elected, qualified and acting Auditor of Pierce County, Washington, has jurisdiction of and is required by law to conduct all special elections for cities within the County; and

WHEREAS, the City of Gig Harbor, Washington, lies entirely within the boundaries of Pierce County; and

WHEREAS, the City Council of said City by ordinance adopted September 13, 2004, a certified copy of which has been delivered to the undersigned, has found that an emergency exists requiring the holding of a special election on November 2, 2004; and

WHEREAS, said City by said ordinance has authorized and directed the undersigned to assume jurisdiction of and conduct said special election within Pierce County;

NOW, THEREFORE, it is hereby authorized and ordered as follows:

The undersigned concurs in the finding of an emergency and does hereby assume jurisdiction within Pierce County of the above-mentioned special election of the City of Gig Harbor, Washington, authorized and ordered by ordinance of its City Council adopted September 13, 2004, and will conduct said special election to be held November 2, 2004.

DATED at Tacoma, Washington, this \_\_\_\_ day of \_\_\_\_\_, 2004.

---

Pierce County Auditor



NOTICE  
CITY OF GIG HARBOR, WASHINGTON

November 2, 2004

---

---

NOTICE IS HEREBY GIVEN that on November 2, 2004, a special election will be held in the above-named city for the submission to the qualified electors of said city of the following proposition:

PROPOSITION NO. 1

CITY OF GIG HARBOR, WASHINGTON

LAND ACQUISITION AND DEVELOPMENT

GENERAL OBLIGATION BONDS - \$2,500,000

The City Council of the City of Gig Harbor adopted Ordinance No. ### concerning a proposition for bonds. This proposition authorizes the City to acquire waterfront space and land and initiate restoration of the Eddon boatyard for historical, cultural and recreational purposes, to issue \$2,500,000 of general obligation bonds maturing within a maximum term of 20 years to finance such acquisitions, and to levy property taxes annually in excess of regular property tax levies to repay such bonds, all as provided in Ordinance No. ###. Should this proposition be:

APPROVED ?

REJECTED ?

---

Pierce County Auditor



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: CUSHMAN TRAILHEAD PARK ASPHALT PATHWAY PROJECT**  
**- CONTRACT AUTHORIZATION**  
**DATE: SEPTEMBER 13, 2004**

**INTRODUCTION/BACKGROUND**

An identified Park Objective in the 2003 Budget provided for the construction of a park at the intersection of Hollycroft and Olympic Drive. Due to lengthy negotiations in securing the right-of-way permit from Tacoma Public Utilities, this work was delayed until this year. A portion of the project includes removing a portion of the existing Cushman Trail and adding an asphalt pathway that has been redesigned to flow through the new plaza area and reconnecting with the existing trail. Potential contractors were contacted in accordance with the City's Small Works Roster Process (Resolution No. 592). Three contractors responded with the following price quotations, not including Washington state sales tax:

Lakeridge Paving Company	\$ 9,400.00
Asphalt Patch Systems	\$ 9,474.00
Puget Paving Company	\$ 11,250.00

Based on the price quotations received, the lowest price quotation was from Lakeridge Paving Company in the amount of Nine Thousand Four Hundred dollars and zero cents, (\$9,400.00).

It is anticipated that the work will be completed within four weeks after contract award, weather permitting. If weather does not allow, then this work will be budgeted for in 2005.

**FISCAL CONSIDERATIONS**

The 2004 Park and Recreation Fund 001 will accommodate the expenditure within the existing budget.

**RECOMMENDATION**

I recommend the Council authorize the award and execution of the contract for Cushman Trailhead Park Asphalt Pathway to Lakeridge Paving Company as the lowest responsible respondent, for their price quotation amount of Nine Thousand Four hundred dollars and zero cents, (\$9,400.00).

**AGREEMENT FOR CONSTRUCTION SERVICES  
BETWEEN GIG HARBOR AND LAKERIDGE PAVING COMPANY**

THIS AGREEMENT, is made this \_\_\_\_\_ day of September, 2004, by and between the City of Gig Harbor (hereinafter the "City"), and Lakeridge Paving Company, a Washington corporation, located and doing business at 19606 S.E. 252<sup>nd</sup> Street, Covington, Washington 98042, whose mailing address is P.O. Box 5430, Kent, Washington 98064-5430, (hereinafter "Contractor").

WHEREAS, the City desires to hire the Contractor to perform the work and agrees to perform such work under the terms set forth in this Agreement; and

WHEREAS, in the process of selection of the Contractor and award of this contract, the City has utilized the procedures in RCW 39.04.155(3);

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

**I. Description of Work.** The Contractor shall perform all work as described below, which is attached hereto and incorporated herein by this reference, in a workman-like manner according to standard construction practices. The work shall generally include the furnishing of all materials and labor necessary to place and compact 3,285 s.f. of 4-inch Class B asphalt paving, tack seal edges for a pedestrian trail at Cushman Trailhead Park, as shown on Exhibit A. The Contractor shall not perform any additional services without the express permission of the City.

**II. Payment.**

A. The City shall pay the Contractor the total sum of Nine Thousand Four Hundred dollars and Fifteen cents (\$9,400.15), not including Washington State sales tax, for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for these tasks, and shall not be exceeded without prior written authorization from the City in the form of a negotiated and executed change order.

B. After completion of the work, the City shall pay the full amount of an invoice within thirty (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Contractor of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

**III. Relationship of Parties.** The parties intend that an independent contractor - owner relationship will be created by this Agreement. As the Contractor is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or subcontractor of the Contractor shall be, or shall be deemed to be the employee, agent, representative or subcontractor of the City. In the performance of the work, the Contractor is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance and unemployment insurance, are available from the City to the employees, agents,

representatives or subcontractors of the Contractor. The Contractor will be solely and entirely responsible for its acts and for the acts of the Contractor's agents, employees, representatives and subcontractors during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Contractor performs hereunder.

**IV. Duration of Work.** The City and the Contractor agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement by both parties. The Contractor shall perform all work required by the Agreement on or before October 13, 2004. The indemnification provisions of Section IX shall survive expiration of this Agreement.

**V. Prevailing Wages.** Wages paid by the Contractor shall be not less than the prevailing rate of wage in the same trade or occupation in Pierce County as determined by the industrial statistician of the State Department of Labor and Industries and effective as of the date of this contract.

Before any payment can be made, the Contractor and each subcontractor shall submit a "Statement of Intent to Pay Prevailing Wages" to the City, which has been approved by the State Department of Labor and Industries. Each voucher claim (invoice) submitted by the Contractor for payment of work shall have an "Affidavit of Wages Paid", which states that the prevailing wages have been paid in accordance with the pre-filed "Statement(s) of Intent to Pay Prevailing Wages".

**VI. Termination.**

A. Termination Upon City's Option. The City shall have the option to terminate this Agreement at any time. Termination shall be effective upon five (5) days written notice to the Contractor.

B. Termination for Cause. If the Contractor refuses or fails to complete the tasks described in Exhibit A, to complete such work by the deadline established in Section IV, or to complete such work in a manner satisfactory to the City, then the City may, by written notice to the Contractor, give notice of its intention to terminate this Agreement. On such notice, the Contractor shall have five (5) days to cure to the satisfaction of the City or its representative. If the Contractor fails to cure to the satisfaction of the City, the City shall send the Contractor a written termination letter which shall be effective upon deposit in the United States mail to the Contractor's address as stated below.

C. Excusable Delays. This Agreement shall not be terminated for the Contractor's inability to perform the work due to adverse weather conditions, holidays or mechanical failures which affect routine scheduling of work. The Contractor shall otherwise perform the work at appropriately spaced intervals on an as-needed basis.

D. Rights upon Termination. In the event of termination, the City shall only be responsible to pay for services satisfactorily performed by the Contractor to the effective date of termination, as described in a final invoice to the City.

**VII. Discrimination.** In the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, the Contractor, its subcontractors or any person acting on behalf of the Contractor shall not, by reason of race, religion, color, sex, national origin or the presence of any sensory, mental, or physical handicap, discriminate against

any person who is qualified and available to perform the work to which the employment relates.

**VIII. Indemnification.** The Contractor shall indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, and shall pay for all costs, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, agents and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Agreement.

**IX. Insurance.**

A. The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Contractor's own work including the work of the Contractor's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Contractor shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

C. The Contractor is responsible for the payment of any deductible or self-insured retention that is required by any of the Contractor's insurance. If the City is required to contribute to the deductible under any of the Contractor's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.

D. The City of Gig Harbor shall be named as an additional insured on the Contractor's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City

reserves the right to receive a certified and complete copy of all of the Contractor's insurance policies.

- E. It is the intent of this contract for the Contractor's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Contractor's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.
- F. The Contractor shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Contractor's coverage.

The Contractor shall procure and maintain for the duration of this Agreement, comprehensive general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its employees, agents or subcontractors. The cost of such insurance shall be borne by the Contractor. The Contractor shall maintain limits on such insurance in the above specified amounts: The coverage shall contain no special limitations on the scope of protection afforded the City, its officials, officers, employees, agents, volunteers or representatives.

The Contractor agrees to provide the City with certificates of insurance evidencing the required coverage before the Contractor begins work under this Agreement. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The City reserves the right to require complete, certified copies of all required insurance policies at all times.

**X. Entire Agreement.** The written provisions and terms of this Agreement, together with all exhibits attached hereto, all bids specifications and bid documents shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement.

**XI. City's Right of Supervision.** Even though the Contractor is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Contractor agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the terms of this Agreement to the Contractor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

**XII. Work Performed at the Contractor's Risk.** The Contractor shall take all precautions necessary and shall be responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall utilize all protection

necessary for that purpose. All work shall be done at the Contractor's own risk, and the Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Contractor for use in connection with the work.

**XIII. Warranties.** The Contractor hereby warrants that it is fully licensed, bonded and insured to do business in the State of Washington as a general contractor. Lakeridge Paving Company will warranty the labor and installation of materials for a one (1) year warranty period.

**XIV. Modification.** No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Contractor.

**XV. Assignment.** Any assignment of this Agreement by the Contractor without the written consent of the City shall be void.

**XVI. Written Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

**XVII. Non-Waiver of Breach.** The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements or options, and the same shall be and remain in full force and effect.

**XIII. Resolution of Disputes.** Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City, and the City shall determine the term or provisions' true intent or meaning. The City shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Contractor under any of the provisions of this Agreement which cannot be resolved by the City's determination in a reasonable time, or if the Contractor does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be with the Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party shall be reimbursed by the other party for its costs, expenses, and reasonable attorney's fees incurred in any litigation arising out of the enforcement of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year above written.

LAKERIDGE PAVING COMPANY *LLC*

THE CITY OF GIG HARBOR

By: [Signature]  
Its Managing Member

By: \_\_\_\_\_  
Its Mayor

**Notices should be sent to:**

Lakeridge Paving Company <i>LLC</i> Attn: Gary Berntsen Project Manager PO Box 5430 Kent, Washington 98064-5430 (253) 535-6305	City of Gig Harbor Attn: David Brereton Director of Operations 3510 Grandview Street Gig Harbor, Washington 98335 (253) 851-6170
-----------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------

**Approved as to form:**

By: \_\_\_\_\_  
City Attorney

**Attest:**

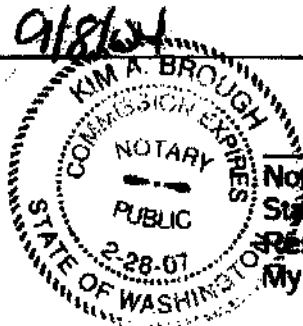
By: \_\_\_\_\_  
Molly M. Towslee, City Clerk



STATE OF WASHINGTON )  
 )  
COUNTY OF King ) ss.

I certify that I know or have satisfactory evidence that Dr. Chathan is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the member of LPC LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 9/8/04



Kim A. Brough  
Notary Public in and for the  
State of Washington  
Residing at Kenston  
My appointment expires: 2/28/07

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF P I E R C E )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **Mayor of the City of Gig Harbor**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the  
State of Washington,  
Residing at: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_



EXHIBIT A

Complete Site Development Contracts - Commercial - Residential

TO: City of Gig Harbor Public works Dept
3510 Grandview St.
Gig Harbor, Wa 98335

DATE: 09/07/04
TELEPHONE: 253-851-6170
FAX: 253-853-7597
JOB SITE: Glg Harbor

ATTENTION: Sonia

TERMS: Net upon completion

\*\* Cushman Trailhead Park \*\*
Gig Harbor

Job Includes:

- 1 All labor & materials
2 Apply weed killer
3 Place & Compact 4" C.I.B asphalt paving
4 Tack seal edges
5 One mobilization
6 3,285 s.f.

Lump sum=\$9,400.00

Job Excludes:

- 1 Sales tax/Permits & Fees / Material testing / Traffic control
2 Any utility adjustments / Curbing / Striping / Layout
3 Subgrade prep by others +/- .05 of foot to balance
4 All items not specifically listed as included above

PLUS WASHINGTON STATE SALES TAX OR RESALE CERTIFICATE

WE CANNOT BE RESPONSIBLE FOR SUBGRADE FAILURE

\* No Work Started Until Signed Contract Received

\* Price Void after 90 days

The undersigned agrees to pay Lakeridge Paving Company L.L.C., interest of 1.5% per month or at maximum rate allowed by law; if less, on any past due accounts, plus reasonable attorney's fees and costs incurred in collection of said account.

By:
Date:

LAKERIDGE PAVING COMPANY L.L.C.

By: Gary Bernsten / Project Manager

P.O. Box 5430, Kent, Washington 98064-5430 Phone: (253) 831-8290
Bellevue Phone: (425) 453-0073 Tacoma Phone: (253) 535-6305
Contractor's License # LAKERPC050JM



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: FIRE INSPECTION PROGRAM ANALYSIS**  
**DATE: SEPTEMBER 13, 2004**

**BACKGROUND**

Over the past several years annual fire inspections have been conducted in the City through an Interlocal Agreement with Pierce Co. Fire District #5. For the year 2003, the City reimbursed the Fire District a total of \$94,662.00 for these inspections. In 2003, 800 initial inspections and 550 re-inspections were performed.

Recognizing the increasing cost of the inspection program to the City and Fire District, earlier this year staff recommended that the Council consider termination of the agreement at the end of 2004 and implementation of an in-house inspection program. The Council agreed and forwarded a letter to the Fire District notifying them of the City's intent to terminate the agreement at the end of 2004.

Subsequently, the Fire District requested that the City reconsider termination of the agreement and offered a reduction in the fee from the \$94,662.00 paid in 2004 to \$58,100 for 2005. The following information is intended to provide an analysis of the fiscal and intrinsic costs and benefits of an inspection program.

**FISCAL IMPACT**

The Fire District calculates the adjusted annual cost of the inspection program for 2005 to be \$58,100.00 as follows:

Prevention Specialist - 1/2 FTE	\$42,800.00
Secretarial Support - 1/2 FTE	\$26,400.00
<u>Program Supervision - 1/10<sup>th</sup> FTE</u>	<u>\$ 9,400.00</u>
Total Adjusted Fire District Program Costs for 2005	\$78,600.00

Pursuant to the existing contract, the City pays \$47.00 per each initial inspection and 1/2 of the remaining cost of Inspection Program (800 inspections at \$47.00 per inspection = \$37,600; & \$78,600 - \$37,600 = \$41,000 divided by 2 = \$20,500). The City portion (as proposed by the Fire District) would therefore be \$58,100.00 for 2005.

The cost of a similar in-house City program is projected to cost \$65,500.00

Planning & Building Inspector (assuming mid-range) - 1/2 FTE	\$32,000.00
Community Development Assistant (administrative support) - 1/2 FTE	\$26,000.00
Building Official/Fire Marshal (program supervision) - 1/10 <sup>th</sup> FTE	\$ 7,500.00

Renegotiation of the contract with the Fire District for 2005 as compared to creating a similar program utilizing City staff would result in a slight cost savings to the City.

### **POLICY ANALYSIS**

Currently, the District provides annual inspections of most commercial occupancies in the City with a follow-up reinspection within 30 days to verify completion of corrections noted in the initial inspection. When inspections are refused by the property owner, or corrections are not completed within the 30 day time frame, the Fire District refers the situation to the City as the legal authority having jurisdiction for enforcement action.

Because fire code violations constitute misdemeanor criminal violations under City code, the City Fire Marshal conducts an independent inspection to verify and document the validity of the violation and attempt to resolve the situation outside of legal proceedings. Based on the findings of that inspection and the initial interaction with the property/business owner, a schedule for gaining compliance may be established, a notice of violation may be issued, or a citation requiring a court appearance may be issued and the situation referred to the City Prosecutor for further action.

Finally, the Fire District provides the City Fire Marshal with a quarterly report listing the inspections performed and their disposition, a quarterly invoice for services, and a final annual report.

At times there has been confusion over where the authority for fire code compliance lies, which has led to frustration as citizens' attempt to access code information and interpretations necessary to achieve compliance. Because the City must independently inspect referred violations, the time frame is lengthened and citizens are subjected to what appears to be duplicative efforts. The City becomes involved only when the violations have reached the point of probable legal action. Because inspection personnel are not City employees, our ability to assure the quality of the inspections; to present a consistent philosophy toward inspections; and to call on inspection personnel during enforcement action or for other code related activities is limited.

Nonetheless, the Interlocal Agreement between the Fire District and the City has led to greater cooperation on inspections, project reviews, code amendments, prevention programs, and other issues of mutual concern. The inspection program provides the district with the opportunity to review and update their pre-incident planning efforts for individual businesses and properties. The Interlocal limits the expense of the program to partial personnel costs and overhead related the limited inspection services included in the agreement.

The Fire District #5 Chief and Fire Commissioners have noted several reasons for wanting to continue the fire code inspection program. These include increasing the frequency of commercial occupancy inspections; a strong belief that prevention is beneficial; a provision for Fire District familiarization allowing for pre-incident planning program; firefighter safety; and as a means to reduce public confusion. Over the past four years the Fire District has had a 99% compliance record. Of the 800 initial inspections and the 550 re-inspections performed each year, less than one percent are

refused or referred back to the City for further action. In 2003 referrals amounted to only 12 buildings, (40 occupancies) and refusals amounted to 9 occupancies. The Fire District believes that they are providing a valuable service by providing annual fire code inspections and are willing to take on even more of the costs of the program in 2005 to continue this partnership with the City.

**RECOMMENDATION**

I recommend that the Council agree to the proposal as outlined by the Fire District to continue the annual fire inspection program in 2005 at a cost to the City of \$58,100.00. A revised agreement for 2005 will then be brought back to Council at a later date for consideration.



**POLICE**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: CHIEF OF POLICE MIKE DAVIS**  
**SUBJECT: GHPD AUGUST 2004 ACTIVITY REPORT**  
**DATE: SEPTEMBER 13, 2004**

**DEPARTMENTAL ACTIVITIES**

Activity statistics for the month of August 2004 as compared to July 2004 show decreases in calls for service and case reports written (see attached monthly stats 2004). Felony arrests also showed a decrease from ten in July to four in August. Most of these variances can be attributed to normal patterns in law enforcement activity.

The Marine Services Unit (MSU) had 62 hours of patrol time in July, down from 72 hours in July. The MSU enforcement activity included 18 written warnings and one citation.

The Bike Patrol Unit logged 21 hours of patrol duty. Bike officers conducted an emphasis patrol at the city skate park that resulted in one drug arrest and several verbal warnings on other potential violations.

The Reserve Unit supplied 118.5 hours of volunteer time assisting our officers for the month of August. One of our reserves has submitted her resignation effectively immediately. This brings our staffing down to three active members. Our reserve coordinator, Officer Dan Welch, has schedule oral interviews with two lateral reserves during the later part of September. One of our objectives next year is to increase the unit by three reserves.

Some of the more interesting calls during the month of August included:

- Officer Gary Dahm arrested a marijuana dealer near the police station on Shyleen.
- Sgt. Matt Dougil was dispatched to the Park and Ride to investigate a suspicious vehicle. The investigation led to a vehicle of interest for the Kitsap County Sheriff's Office in reference to the disappearance/homicide of a female subject. One of the three subjects inside was a Level I sex offender that had a felony escape warrant. The subject was arrested and transported to jail.
- Officer Mike Cabacungan arrested a male juvenile that had burglarized two Gig Harbor homes from Stinson Avenue to Soundview Drive. Stolen property was recovered.

- A suspect was arrested by Sgt. Scott Emmett for attempting to steal a case of beer from Safeway and assaulting a store employee while attempting to flee.
- A Crescent Valley resident was cited for allowing a 10-year old Rottweiler to run loose. The Rottweiler went into the city park and attacked a smaller dog resulting in injuries that required hospitalization.
- A 2004 Chevy Tahoe was stolen from the parking lot of the Ace Hardware on Judson St. The owner had left the Tahoe unlocked and the keys in the ignition. The Tahoe was equipped with On Star and was recovered an hour after the theft in Tacoma.
- Officer Mike Allen arrested a male subject for destroying city plants on the island of the roundabout on Borgen Boulevard. Interestingly enough the intoxicated subject was a landscaper by trade!
- Officer Gary Dahm located a local missing 62-year old female at the Kimball Park and Ride.
- A male subject was arrested by Officer Gary Dahm, Sgt. Emmett and Officer Cabacungan after committing a hit and run accident at 56<sup>th</sup> Street and 33<sup>rd</sup> Avenue. The subject was also charged with DUI.
- Sgt. Emmett and Officer Cabacungan assisted Pierce County Sheriff's Office (PCSO) with the arrest of an intoxicated male that was firing several different guns in his driveway located at 3108 14<sup>th</sup> Avenue NW. The male was taken into custody without incident and booked on several charges including being a convicted felon in possession of handguns.
- Sgt. Emmett arrested two subjects from Auburn at the local Target Store for vehicle prowling, possession of pseudo ephedrine w/intent to manufacture meth, and possession of stolen property (PSP). A third suspect fled on foot. Sgt. Dougil interviewed one suspect who stated that the ephedrine and other meth making supplies were destined for a lab in Auburn. This information was turned over to Auburn who subsequently located the lab and made three arrests for manufacturing.
- Sgt. Dougil and Officers Douglas and Allen were dispatched to Target Store in reference to a theft in progress. Two arrests were eventually made on the case where the suspects attempted to purchase over \$2000 worth of merchandise. At least two of the three suspects had already obtained approximately \$10,000 worth of merchandise at the Tacoma and Lakewood Targets without being detected using the same stolen account numbers. Detective Busey assisted with follow-up on this case. This is a great example of teamwork by the guys on a very complex case. The case is continuing to grow into a very large ID theft ring.
- Officer Mike Allen was instrumental in the arrest of a subject suspected of attacking a homeowner with a knife. This incident occurred at approximately 0515 hours on the 20<sup>th</sup> of August in the area of 11000 41<sup>st</sup> Avenue NW. This was a county case with Pierce County deputies responding from University Place due to the lack of 24-hour coverage on the Peninsula. Officer Allen was the first officer on the scene and subsequently located the suspect hiding in the woods nearby.
- Arabella's Landing Marina office was burglarized over the weekend of August 27-28 and several items belonging to employees were stolen. Some of the items



were later recovered. It seems the culprit entered the business during normal hours and searched through purses in the office area.

### **TRAVEL/TRAINING**

Officer Dan Welch, who is our defensive tactics instructor and SWAT team member, attended a 40-hour instructors training in Less Lethal tactics.

We are planning on participating with the Kitsap County Regional Emergency Vehicle Operator's Course (EVOC) in October. This is a training consortium made up of numerous law enforcement agencies from within the Kitsap Peninsula area. This concept of training is based on the philosophy that we can provide higher quality and more cost effective training by pooling mutual resources than we can by providing it ourselves.

### **SPECIAL PROJECTS**

We are continuing to work with the Department of Community Development (DCD) and their Global Information System (GIS) experts in developing a way to plot individual types of crimes on a city map. Willy Hendrickson has been imputing traffic accident data into the GIS system. I will forward a copy of the GIS map of accidents to the council when it is complete. The Gateway contacted us recently to learn more about the technology and what Gig Harbor is doing to use this information.

We were unable to develop an acceptable indemnification clause with the Interlocal Agreement between other cooperative cities in Pierce County to jointly participate in a regional SWAT team, Meth Lab Response Team and a major Crime Response Unit (CRU). Our Association of Washington Cities (AWC) insurer would not agree with the current language in the agreement. Our next move will be to determine whether either Pierce County or Kitsap County will approve the participation of a GHPD officer with their SWAT teams. If approved, we will then attempt to develop an indemnification clause that follows the statute covering mutual aid within the State of Washington.

Our recruitment for the new Community Services Officer (CSO) has been narrowed down to two qualified candidates who are currently undergoing background investigations. We plan to have this position filled by the middle of October.

Our recruitment for a lateral officer to replace recently retired Officer Mark Galligan has been narrowed down to one candidate. Garrett Chapman is currently employed with the New Mexico State Police. Garrett has been offered a conditional offer of employment and has a tentative start date of October 15, 2004.

### **PUBLIC CONCERNS**

We have been receiving numerous reports from citizens expressing concern about transients living in the woods at Harborview and Soundview Drives and in the

Grandview Forest Park. One of the individuals was transported by a GHPD officer to the men's mission in Tacoma and we haven't seen him since. The other was contacted and advised against setting up a camp in the Grandview Forest. He was cooperative and subsequently cleaned up his mess and moved on. We are looking at what other jurisdictions have created in the form of ordinances to address these sorts of programs.

We recently seized a derelict sailboat at the city Dock. This boat had been previously anchored on the Pierce County side of the harbor. During the past six months the boat has drifted around the harbor. The boat registration has been expired for several years and it is apparently abandoned. The registered owner information could not be found. Action via the public auction process on the sailboat is pending.

### **FIELD CONTACTS**

Community contacts during the month included:

- Met with the governing board of the Sportsman Shooting Club and toured their facility. We have proposed GHPD officers returning to use the facility for weapons training and qualification
- Met with the downtown merchants and discussed concerns they have about burglaries, parking and traffic enforcement
- Attended the open house at CenturyTel
- Coordinated a meeting with Eugene Brame and the detectives involved in the investigation. Attorney Pat Buchanan was present on behalf of AWC and the city of Gig Harbor.
- We met with Caroline Curis from the Peninsula School District to finalize plans for our school outreach program
- Cooperative Cities Meeting in Bonney Lake

### **OTHER COMMENTS**

Nothing further

## GIG HARBOR POLICE DEPARTMENT

### MONTHLY ACTIVITY REPORT

Aug 2004

	<u>Aug 2004</u>	<u>YTD 2004</u>	<u>YTD 2003</u>	<u>% chg</u>
CALLS FOR SERVICE	511	3714	3965	-06%
CRIMINAL TRAFFIC	2	59	79	-25%
TRAFFIC INFRACTIONS	72	696	635	10%
DUI ARRESTS	1	26	38	-32%
FELONY ARRESTS	4	99	46	115%
MISDEMEANOR ARRESTS	17	174	166	5%
WARRANT ARRESTS	8	62	48	29%
CASE REPORTS	115	895	896	0%
REPORTABLE VEHICLE ACCIDENTS	13	150	112	34%
SECONDARY OFFICER ASSIST	74	473	575	-18%



Year to Date Stats

August 2004 - Call Types by Officer

Category	H-3	H-4	H-7	H-8	H-9	H-10	H-11	H-12	H-13	H-14	H-15	H-16	Reserves	Totals
Dispatched Calls	69	43	0	0	56	0	53	56	13	47	100	66	8	611
F.I.R.S	1	0	0	0	1	0	0	0	0	1	0	0	0	3
General Reports	12	7	4	1	19	0	8	12	1	7	11	10	23	115
Supplemental Report	1	2	0	13	0	0	1	0	0	2	1	1	0	21
Traffic Reports	1	0	0	0	2	0	1	1	0	4	2	2	0	13
Criminal Traffic	0	0	0	B	1	0	0	0	0	0	0	1	0	2
N.O.I. Traffic	8	3	0	A	8	0	3	4	1	11	7	24	3	72
Verbal Warnings	19	0	0	C	17	0	1	15	1	18	19	33	3	126
Parking Violations	1	0	0	K	0	0	0	0	0	1	0	0	0	2
DUI Arrests	0	0	0	G	0	0	0	1	0	0	0	0	0	1
Felony Arrests	2	2	0	R	0	0	0	0	0	0	0	0	0	4
Misdemeanor Arrests	2	2	0	O	2	0	0	3	1	2	1	4	0	17
Warrant/Other Arrest	0	1	0	U	0	0	0	2	0	0	2	3	0	8
Criminal Citations	3	1	0	N	0	0	0	0	0	0	1	1	0	6
Assists	10	9	0	D	2	0	3	2	4	10	25	8	1	74

**GOODSTEIN  
LAW GROUP**  
PLLC

---

1001 Pacific Avenue Suite 400  
Tacoma, WA 98402  
Fax: (253) 779-4411  
Tel: (253) 779-4000

Carolyn A. Lake  
Attorney at Law  
clake@goodsteinlaw.com

September 13, 2004

**VIA FACSIMILE & U.S. MAIL**  
Mayor Wilbert and City Council  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor WA 98335.

**Re: Comments to Ordinance Continuing the City's Moratorium On The Acceptance Of Applications For Development In The Height Restriction Area For A Period Of Six Months**

Dear Mayor Wilbert and City Council:

Thank you for this opportunity to comment on the City's proposed moratorium on the acceptance of applications for new development or re-development within the City's height restriction area. We write in support of Staff September 13, 2004 recommendation to amend that ordinance to exempt "project(s) which buildings do not exceed [INSERT SIZE] square feet in size."

We further suggest that the appropriate square footage exemption level should be *not less* than 3500 square feet. This exemption level is warranted based on the Council's record, the public hearing comments, Council's purported rationale for the moratorium, and the apparent lack of findings or facts in the record to support a moratorium on buildings (especially residential) which are 3500 or smaller.

***Moratorium Background***

On July 12, 2004, the City Council adopted Ordinance No. 965 which imposed an immediate moratorium for a period of up to six months on the acceptance of applications for new development or re-development within the height restriction area. Applicable law (RCW 35A.63.220, RCW 36.70A.390) require the City Council hold a public hearing within sixty (60) days after adoption of the proposed moratorium.

We understand that the City Council held a public hearing on August 9, 2004. Perhaps because of confusion over the current moratorium and the Council's recent water moratorium, the public did not comment on August 9<sup>th</sup>.

Council made the prudent decision to continue the public hearing until August 23<sup>rd</sup>. As a result of testimony presented and council discussion, Council directed staff to prepare an ordinance containing the necessary findings of fact to extend the moratorium, but also to include additional categories of permits which would be exempt from the moratorium. The additional exemption included demolition permits, pending applications which were complete and thus vested, and building additions under a certain size.

Mayor Wilbert and City Council  
Proposed Moratorium  
13 September 2004

- 2 -

A City Staff memo to Council dated September 13<sup>th</sup> reflects that direction and further refines the exemption scope. We support Staff's recommendation and urge the City Council to adopt an exemption for single family residences which do not exceed 3500 square feet.

***Analysis in Support of Exemption for S/F Residences Up to 3500 Square Feet.***

A moratorium may be promulgated pursuant to RCW 35A.63.220 only under limited circumstances for limited purposes. The reasonableness of a moratorium is judged by its purpose and duration.

Because a moratorium has highly disruptive and devastating economic consequences, a local entity is authorized to impose a moratorium only under the clearest showing of a public emergency. To support the imposition of a moratorium, the City must show that the ordinance serves a legitimate public purpose by preventing a demonstrable harm to the public. Support for the moratorium is to be memorialized through findings of fact adopted by the City Council.

The Council was correctly reminded of this standard by its City Attorney at various city meetings during council discussion. "The city council cannot impose building size limitations without a legitimate public purpose to impose building size limitations. She suggested that the city council look at why the city would want to impose building size limitations in any particular zone. . . Ms Morris continued that we should determine why we are regulating and then narrowly tailor that regulation to each particular zone." *June 1, 2004 Council meeting minutes.*

We have carefully reviewed all the information available to us which the City relies upon to support the moratorium. This includes the moratorium Ordinance 965, and all the city minutes and agendas from the council meetings and work shops referenced in Ordinance 965, and the January 12, 2004 City commissioned consultant report, also referenced in Ordinance 965.

A fair reading of all the information reveals that the Council's announced rationale for a moratorium in the height restricted area was to preclude building that were (a) very large, out of scale with their locations, and (b) predominantly non-residential.

The Staff's proposed findings of fact also support this revised scope for the moratorium: "The Council identified the height restriction zone as an area that is vulnerable to ***massively-sized structures*** because the height of structures is limited there." *Proposed Finding of Fact* at page 5. Emphasis added.

Even more significantly, the testimony to and statements of Council, upon which the finding of fact are based, also focus on concern for large, predominantly non-residential buildings. Concerns expressed were to "not create strip malls," to "regulate non-profits," traffic concerns where "Building size is an important element because larger buildings make larger demands," and "He went down the list and asked about the R-3, non-residential and asked if we wanted to start limiting building size to 5,000". All testimony from *June 1, 2004 Council minutes*. And for example, Rockport Massachusetts was mentioned as a place which had "big buildings," which still preserved waterfront access. *Id.*

Mayor Wilbert and City Council  
Proposed Moratorium  
13 September 2004  
- 3 -

In their discussion, Council members also have stated, "Without limits, you end up with a 65,000 square foot building in places where that you do not want, which has happened in the past with buildings that the public is unhappy with," and "the building is too big for that area and the two buildings are an example of how the Design Review Manuals and the Municipal Code can be manipulated to end up with a bigger building". All testimony from *July 6, 2004 Council minutes*. The July 6<sup>th</sup> minutes also referenced that the Planning Commission's recommendation for building size limits was confined solely to non-residential uses.

The record before the Council demonstrates that the focus of concern is on predominately non-residential and definitely "large" buildings. The proper scope of the moratorium should match this stated concern.

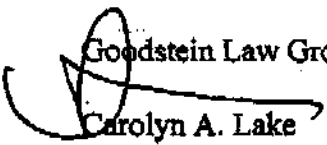
### *Conclusion*

In-summary, to best survive a legal challenge, the moratorium is best defensible if it is narrowly carved to prevent the actual harm envisioned by the Council, and supported in the record. Thus, when viewed with the eye of surviving legal challenges, the record supports adding an exemption for residential buildings which do not exceed a stated square foot size limit. The threshold most often mentioned as a "safe harbor" of acceptable size is 3500. See testimony at numerous locations from Council's July 6, 2004 minutes.

For all the above reasons, we support City Staff's recommendation to add an additional category of exemption to the City's moratorium in the height restricted area, and urge the Council's adoption of a moratorium exemption for 3500 square foot or less single family residences. Thank you for your consideration of this information.

Sincerely,

Goodstein Law Group PLLC

  
Carolyn A. Lake

cc Dawn Saddler  
John P. Vodopich, AICP, Gig Harbor Community Development Director  
Robert Battles, Goodstein Law Group PLLC