

Gig Harbor City Council Meeting

**May 12, 2008
6:00 p.m.**



**AMENDED AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
May 12, 2008 - 6:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of April 28, 2008;
2. Receive and File / Council Committee Minutes: a) Operations & Public Projects Committee 4/17/08; b) Lodging Tax Advisory Committee 4/10/08 c) Building and Fire Safety April Activity Report; d) Mainstreet Program Worksession 4/28/08; e) Intergovernmental Affairs Committee 4/14/08; f) BB16 Worksession 4/28/08; g) Joint City Council / Planning Commission Worksession 4/21/08;
3. Correspondence / Proclamations: Kinship Caregiver Day.
4. Sanitary Sewer and Stormwater Facilities Easement and Maintenance Agreements – Gig Harbor Senior Estates.
5. Shoreline Master Program Update Contract.
6. Acquisition of Uddenberg Lane.
7. Resolution No. 751 – 2008 Comprehensive Plan Amendments.
8. Purchase Authorization for Speed Monitoring Devices.
9. Eddon Boat Sediment and Mediation Project Bid Award.
10. Reclassify Associate Planner Position to Senior Planner.
11. Senior Planner - Above Mid-range Hire.
12. Approval of Payment of Bills for May 12, 2008:
Checks #57573 through #57686 in the amount of \$959,370.76.
13. Approval of Payroll for month of April, 2008:
Checks #5086 through #5109 in the amount of \$330,802.73.

PRESENTATIONS:

1. KGI Watershed Presentation.

OLD BUSINESS:

1. Second Reading of Ordinance – Update of Building Codes.
2. Tides Tavern Lease Agreement.

NEW BUSINESS:

1. First Reading of Ordinance – Heritage Point Map Amendment.
2. Downtown Business Plan – Consultant Services Contract.
3. Public Hearing and First Reading of Ordinance – R-2 Zoning District Amendment (ZONE 08-0002).
4. Resolution No. 752 – Support of Mainstreet Program.
5. Mainstreet Program Agreement.

STAFF REPORT:

1. Gig Harbor Police Department – Monthly Report.
2. Pierce County District Court – Toll Violation Hearings.

PUBLIC COMMENT:

MAYOR’S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. GH North Traffic Options Committee – Wednesday, June 11, 2008 at 9:00 a.m.
in Community Rooms A & B.

EXECUTIVE SESSION: For the purposes of discussing potential litigation per RCW 42.30.110(1)(i).and personnel issues per RCW 42.30.110(1)(f).

ADJOURN:

GIG HARBOR CITY COUNCIL MEETING OF APRIL 28, 2008

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Malich, Payne, Kadzik and Mayor Hunter.

CALL TO ORDER: 6:00 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of April 14, 2008.
2. Council Committee Reports: a) Finance Committee
3. Proclamations / Correspondence: Building Safety Week.
4. Resolution – Surplus Vehicle.
5. Resolution – Support Healthy Communities.
6. Tourism Website - Amendment to Contract.
7. Purchase Authorization for Deck Materials for Eddon Boat Brick House.
8. Onshore Sewer Outfall Project - Change Order No. 1.
9. 2008 Street Rehabilitation and Resurfacing Materials Testing Contract.
10. 2008 Street Rehabilitation and Resurfacing Contract.
11. Approval of Payment of Bills for April 28, 2008:
Checks #57438 through #57572 in the amount of \$1,285,187.46.

MOTION: Move to adopt the Consent Agenda as presented.
Franich / Ekberg – unanimously approved.

PRESENTATIONS:

1. Officer of the Year and Support Staff of the Year Awards. Chief Davis announced that the Officer of the Year was being awarded to Officer Chet Dennis. He highlighted several of Officer Dennis's accomplishments during the year. Officer Dennis said a few words of gratitude for the recognition.

Chief Davis then presented the Support Staff of the Year Award to Debra Yerry, Police Services Specialist. He praised Debra's willingness to serve both the staff and community.

2. Support Healthy Communities. Frank Ruffo introduced members participating in the Healthy Communities Program present in the audience: Dr. Jane Moore, Executive Director; Rick Porso, Senior Public Health Department, Dr. Joseph Lamb, Director of Intramural Clinical Research at Metagenics, Dr. Patrick Hogan, Neurologist, Dr. Pat Kulpa – OB/GYN, and Joan Hogan, Dietician.

Rick Porso narrated a PowerPoint presentation on Promotion a Healthy Gig Harbor. He discussed the trend of increasing obesity since 1987 and the health risks attached. Mr. Porso stressed the importance of addressing obesity through increased education for the benefits of healthy eating and active living.

Dr. Lamb presented a second PowerPoint program that outlined more of the negative effects of obesity. He said that lifestyle modification is an integral approach to dealing with the epidemic of chronic disease, both for prevention and preservation of wellness. This will require the support of peers, employers, churches, and any other group that they belong, including the City of Gig Harbor to be successful.

Dr. Hogan discussed the aspect of the quality of life and why they are working to improve the health of Pierce County. He listed health-related diseases linked to inactivity which are now surpassing the effects of tobacco. He stated that the goal is for Gig Harbor to be a model for the United States, and the "Most Fit City in the Northwest." This will benefit those living here as well as those looking for a Mecca of fitness to vacation or hold fitness events such as triathlons and runs.

Dr. Kulpa focused on the subject of busy women trying to balance their lives. She said that the community can help to make physical activity choices more readily available so that women can make a lifestyle change to stay fit.

Mr. Ruffo recognized Laurelyn Lund, Marketing Director, who talked about her involvement with the Healthy Harbor program that speaks to the "nature-deficit" syndrome brought about by modern electronics. She handed out the latest pamphlet produced for the program to help get people more physically active

Mr. Ruffo finalized by thanking Council for passing a resolution in support of the program and listening to the presentation. He stressed the need for continued support of the program for long-term solutions.

OLD BUSINESS:

1. Second Reading of Ordinance – LOCAL State Treasurer Financing. David Rodenbach, Finance Director, presented this ordinance approving the city participating in a borrowing from the State Treasurer.

MOTION: Move to adopt Ordinance No. 1127 authorizing execution of a financing contract and related documentation.
Payne / Malich – unanimously approved.

NEW BUSINESS:

1. Public Hearing – 2008 Comprehensive Plan Amendments to Docket. Tom Dolan, Planning Director, presented nine proposed amendments to the city's comprehensive plan. He said staff is recommending that all nine go forward to the Planning Commission for review as they are all complete. Three are private and six are city-generated.

Mayor Hunter opened the public hearing on the amendments at 6:40 p.m. and explained that each amendment would be introduced and discussion held.

1. **Application COMP 07-0005: Gig Harbor Wastewater Comprehensive Plan Amendment to Sewer Basin C14.** Requested by Harbor Reach Estates LLC and amends text and maps to the sewer basin in the Wastewater Comp Plan. No discussion on this amendment.
2. **Application COMP 08-0001: 3700 Grandview Street Comprehensive Land Use Map Amendment.** Requested by MP8 LLC and Pioneer & Stinson LLC, to change the land use designation for 4.27 acres of property at 3700 Grandview Street from RL to RM designation.

Bill Fogerty – 3614 Butler Drive. Mr. Fogerty spoke against allowing this application to move forward. He said he also spoke for two other homeowners, Mardell Ellston, 3602 Butler Drive and Jean Johnson, 3622 Butler Drive who also wish to retain the residential flavor of the neighborhood.

Mayor Hunter explained there would be opportunity for public input if this is forwarded to the Planning Commission for review.

Carl Halsen – agent for the property owner. He said that they are just asking that this be sent forward to the Planning Commission to start the process. He said a draft development agreement has been prepared outlining how the site will be used. He responded to questions on the project by Council explaining that the proposed development agreement will most probably change.

Councilmember Malich asked clarification for when this property changed from R-1 to RB-1. Tom Dolan said he would get back with that information. He then addressed the question on buffering by saying the requirements are the same for both R-1 and RB-1 zones; 20% retention of trees, which could be in the setbacks.

3. **Application COMP 08-0002: Parks, Recreation and Open Space Element Update.** Requested by the city to update inconsistencies, revise and add to the list and descriptions for current and planned parks, recreation and open space projects. Will also allow the city to update park impact fees.

Rob Karlinsey clarified that this would reconcile the Parks, Recreation and Open Space Plan with the Capital Facilities Plan. Mayor Hunter suggested that additional time be spent with staff to make sure that everything meshes.

Councilmember Young commented that the document still has confusing and inconsistent language in the document. One confusing item is the way the years of spending are called out.

4. **Application COMP 08-0003: 3720 Harborview Drive Land Use Map Amendment.** Requested by Michael Averill of Lighthouse Square LLC to change the land use designation for one parcel at 3720 Harborview Drive from RL to RM.

Nick Jerkovich – 3710 Harborview Drive. Mr. Jerkovich read a letter into the record that listed several concerns with the current property usage. Lighthouse Square uses the city sidewalk and roadway to conduct business which has resulted in congestion and dangerous conditions. In addition, there are noise and pollution issues. Mr. Jerkovich asked Council to consider this as an opportunity to clean up this corner lot and to retain the R-L designation in order to preserve his neighborhood.

- 5. Application COMP 08-0004: Area-Wide Land Use Map Amendment.** Requested by the city to correct inconsistencies between the Land Use Map and the Zoning Map.

Tom Dolan clarified that the Planning Commission forwarded this recommendation in order to hold public hearings to determine whether to change the comp plan designation or the zoning for consistency in certain areas of town. He responded to Council concerns by explaining that the Planning Commission does not have any pre-conceived notions on which way to go with the changes.

- 6. Application COMP 08-0005: Gig Harbor Wastewater Comprehensive Plan Amendments to Sewer Basins C1, C5 and C8.** Requested by the city as a housekeeping item to amend the sewer basin boundaries to reflect actual conditions contained in the Gig Harbor Wastewater Comprehensive Plan.

Steve Misiurak, City Engineer, responded to questions by Councilmembers by explaining that this amendment clarifies what is currently served by city sewer and which is not, and would not affect development in any way.

- 7. Application COMP 08-0006: Utilities Element Update.** Requested by the city and would add a goal to the Utilities Element to allow for the potential creation and utilization of reclaimed Class A water at the Wastewater Treatment Plant.

Steve Misiurak responded that this only sets the goal; no analysis of cost or feasibility has been done. A recently enacted state statute requires this action. The second phase of the Wastewater Treatment Plant expansion has components that could facilitate reclaimed water use during the third phase of the project.

- 8. Application COMP 08-0007: Capital Facilities Plan Update.** Requested by the city to update the stormwater, wastewater, water system, parks, recreations and open space, and transportation improvements projects included in the six-year and twenty-year project lists.

No discussion on this amendment.

- 9. Application COMP 08-0008: Transportation Element Update.** Requested by the city to correct inconsistencies and incorporate new information resulting from work in progress to identify key transportation capacity improvement projects.

No discussion on this amendment. The Mayor closed the public hearing at 7:18 p.m.

Councilmember Young reminded everyone that the Council's primary role is to determine whether the applications are complete and whether they can be passed this year. He said that he has reservations on some of these, but he is included to forward all the amendments to the Planning Commission to go through the process and to allow public input. Councilmember Kadzik agreed that although he has reservations on some of the applications, he would like to see them forwarded for further input.

Councilmember Ekberg said that if there are applications that shouldn't go forward, the Planning Commission doesn't need the additional workload.

MOTION: Move to approve all nine Comprehensive Plan Amendments as presented.
Ekberg / Young –

AMENDMENT: Move to exclude item 2, Application COMP 08-0001: 3700 Grandview Street Comprehensive Land Use Map Amendment.
Ekberg / Malich –

Councilmember Ekberg stated that there have been comments from the affected residents. The current zone of RB-1 is designed to be a buffer between more intense use and it's not appropriate to change this to RB-2 and have increased density into a existing single-family residential area.

Councilmember Young said he is willing to let the proponent address the issues and so he would like it to go forward.

Councilmember Franich said he can see anything that could come from the Planning Commission that would change his opinion that this should remain Residential Low.

Carol Morris explained that there are selection criteria for comp plan amendments. She asked that Council come up with findings to incorporate into a resolution if a recommendation is made not to forward one of the applications.

Councilmember Franich said that no changes in circumstances have occurred since the adoption of the present Comprehensive Plan that would validate this amendment moving forward.

Councilmember Conan said that due to the development agreement he would like to see this forwarded to the Planning Commission to be fleshed out further.

Ms. Morris validated a comment that the burden of proof lies with the applicant to demonstrate that there have been significant changes in the original conditions.

A roll call vote was taken with the following results:

Ekberg – yes; Young – no; Franich – yes; Conan – no; Malich – yes; Payne – no; Kadzik – no.

The amendment to the motion to exclude item number 2 failed four to three.

SECOND AMENDMENT: Move to exclude item 4, Application COMP 08-003: 3720 Harborview Drive Land Use Map Amendment.
Franich / Conan –

Councilmember Franich said that there haven't been substantial changes in conditions that would show a need for this amendment. The R-L designation fits the neighborhood.

Councilmember Young said that the public process would open the door for an opportunity to find a better use for the property as no residential will be built any time soon. Councilmember Ekberg agreed that it should go forward.

After further discussion on the merits of forwarding this to the Planning Commission for the public process the following roll call vote was taken:

Ekberg – no; Young – no; Franich – yes; Conan – yes; Malich – yes; Payne – no; Kadzik – no.

The amendment to the motion to exclude item number 4 failed four to three.

Councilmember Payne said he wanted to make it clear to the public that by forwarding these applications to the Planning Commission, it is not accepting the project. It allows both the developer and the citizens an opportunity to comment on the proposed amendments and allows the Planning Commission to determine if they are worthy of bringing back to Council for final adoption.

MAIN MOTION: Move to approve all nine Comprehensive Plan Amendments as presented.
Ekberg / Young – six voted in favor. Councilmember Franich voted no.

2. Public Hearing – 96th Street Annexation. Matthew Keough, Associate Planner, presented the background for this proposed annexation of 216 acres located along and to the east of Highway 16.

Mayor Hunter opened the public hearing at 7:42 p.m. No one came forward to speak and so the hearing closed.

Mr. Keough explained that there was a correction to the resolution to delete language regarding a reference to pre-annexation zoning that may be changed with the amendments to the comprehensive plan.

MOTION: Move to adopt Resolution No. 749, proceeding with the Notice of Intention to annex the area known as the 96th Street Annexation as amended by staff.
Young / Payne – unanimously approved.

Mr. Keough announced that this is his last meeting as he had taken another job, and passed out brochures on annexation that he had been working on. The Mayor and Councilmembers thanked him for his service.

3. First Reading of Ordinance – Updates to the Building Code. Dick Bower, Building and Fire Safety Director, presented the background on this ordinance that adopts new codes accordance with state law. He said that the Building Code Advisory Board met and voted unanimously to forward to Council for adoption. This will return for a second reading at the next meeting.

4. Resolution – New Process for Small Public Works and Consultant Roster. Carol Morris, City Attorney, explained that Municipal Research and Service Center would like to contract with the city to do the advertisement for the Small Works Roster process. The first of two items is a resolution that amends the current process to update it with state law, and the second is a contract with MRSC to allow a broader range of consultants and contractors. This will result in less staff time to administer the roster process.

MOTION: Move to adopt Resolution No. 750, repealing Resolution 592 to establish a new Small Public Works and Consultant Roster Process.
Kadzik / Payne – unanimously approved.

5. Contract Agreement for Small Works Roster Membership – Municipal Research Service Center. This was discussed previously.

MOTION: Move to authorize the contract agreement with Municipal Research Service Center to establish a membership in a new Small Public Works and Consultant Roster Program.
Kadzik / Payne – unanimously approved.

6. Temporary Underground Septic Storage Tanks. Rob Karlinsey explained that due to the lack of sewer capacity, a proposal is being made to allow temporary storage tanks until sewer capacity becomes available. This has been before the Operations Committee and staff has presented requirements and restrictions for consideration if this is adopted. He introduced David Freeman, the proponent.

David Freeman, Snodgrass Freeman Associates – 7282 Stinson Avenue, Ste. B. Mr. Freeman presented his proposal for an ordinance to allow temporary pumpable septic tanks for new development. He gave a history of the events leading up to this request and said two options for commercial development would correct the problem: 1) to allow a sanitary drain field with more than one building per parcel of record prior to 1992; and 2) to allow sewage holding tanks per this proposed ordinance. He said that projects submitted today must either gain an exemption for a drain-field or waive the right to the 120 day processing window and have their project held until sewer concurrency is available. He passed out a graph illustrating a project timeline if this is not implemented and described how this would play out. Mr. Freeman finalized by saying the city could resolve the problem if they would draft a new ordinance that would allow sewage storage tanks; bond applications for the cost of the sewer hook-ups; and process the application under the new GMA guidelines of 120 days. He said that the city shouldn't incur additional costs because the Pierce County Health Department will monitor drainfields and private developers will pump the tanks. Upon sewer concurrency, the building owner will be required to hook up to city sewer. He said that this will clear the way for a project to go through the process so that SEPA can be completed. This process may coincide with sewer concurrency which may eliminate the need for these tanks. Mr. Freeman answered questions.

Councilmember Ekberg and Franich said that this had been discussed at the committee level several times and they had no recommendation. After further discussion by the full Council, the following motion was made.

MOTION: Move to direct staff to draft an ordinance that would allow temporary on-site sewage storage and disposal systems and to bring back information on time and cost to administer.
Young / Conan – roll call results:

Ekberg – yes; Young – yes; Franich – yes; Conan – yes; Malich – no; Payne – no; Kadzik – yes.

The amendment to the motion to bring back a draft ordinance passed five to two.

7. Recommendation to Name the Park at Eddon Boat - Maritime Heritage Park. Rob Karlinsey said that this had been discussed by the Parks Commission who voted to recommend this change. They reasoned that the public may not make the connection that Eddon Boat is a park, but they would like retain that name for the building.

Councilmembers discussed whether this was premature. They suggested that this wait until after a final design and concept could be implemented to decide if it should be renamed.

Gretchen Wilbert – 8825 North Harborview Drive. The former Mayor spoke against the name change. She said that all the other city parks are named for people or areas, adding that the name Maritime Heritage doesn't mean anything to her.

Guy Hoppen – 8402 Goodman Drive. Mr. Hoppen agreed with this. He said that there are relevant names for parks, and there has always been a boat-building business at this site...so if you choose to remove Eddon Boat, at least retain a name with something about boats that would speak to Gig Harbor.

Mayor Hunter clarified that the intent wasn't to change the name of the building, but the next-door park. Councilmember Franich said that if the name is changed in the future, Maritime Heritage speaks to it being one of the last remaining commercial fishing areas.

MOTION: Move to table this indefinitely.
Ekberg / Young – unanimously approved.

8. Design and Engineering Services: BB16 Level III Screening. Rob Karlinsey gave an overview of the process to find solutions for the interchange at Burnham / Borgen / SR16 which has led to the need for a Level III screening analysis to identify the preferred alternative.

Councilmembers asked about the money spent to date, the amount over budget and what would be the product as a result of this contract. Mr. Karlinsey responded that with the preferred alternative, the process will then be able to move to the environmental permitting process and the interchange justification report to allow the move towards construction. He said that without an engineer's scope of work we didn't know how much it would cost.

MOTION: Move to authorize the Mayor to execute the Local Agency Standard Consultant Agreement with H.W. Lochner, Inc. in the not-to-exceed amount of one hundred seventy-two thousand fourteen dollars and no cents.
Young / Conan – unanimously approved.

STAFF REPORT:

1. Quarterly Report and Performance Measures Report – David Rodenbach. Mr. Rodenbach announced that a new element had been added to the Quarterly Report to include performance and workload measures. He answered questions about the sales revenue. Tom Dolan and Rob Karlinsey responded to questions about the performance / workload measures by explaining that in the 2008 budget process, departments were asked to identify meaningful things to measure.

2. Comparison of Enforcement Measures – Nuisance Ordinance. Carol Morris handed out an outline of procedures available through state law for criminal and civil prosecution of nuisances. Also included was an option for Council to adopt city code regarding nuisances. She concluded that there is substantial advantage to having an ordinance including lower cost and less delay. She answered questions.

Councilmembers discussed the benefit of adopting a nuisance ordinance and directed staff to draft an ordinance.

Ms. Morris responded that the things that could be addressed in an ordinance are litter, weeds and vegetation, trash, and unsightly buildings. Council will decide what a nuisance is.

3. Boys & Girls Club Agreement Update. Rob Karlinsey said that he included additional supporting documentation from the new Lakewood Center to the proposed agreement. He asked Council to keep in mind that the Lakewood Center shows an operating deficit which is not atypical for an individual Boys & Girls Club. The general donations from the South Puget Sound Center make up the difference. He said there is no distinction between city and county residents in the report. He asked to bring the draft agreement to the Boys & Girls Club for negotiation.

Councilmember Ekberg commented on several points about the report and contract.

- The report was Lakewood specific; there is no feasibility study on Gig Harbor.
- Lakewood is paying the same amount as Gig Harbor even though they are ten times larger.
- Is the language “the remaining contributions will be provided in quarterly installments” legally correct when in fact it is spread over four years?
- Exhibit A – does this refer to “City of Gig Harbor Youth” or “Gig Harbor Youth” in general?
- Exhibit C – Terms of Lease, this should be paid only upon completion of the building, not signing of the agreement.

Mr. Karlinsey clarified that the lease payments are zero, but the \$150,000 contributions do not begin until Certificate of Occupancy.

Councilmember Franich again voiced his disappointment that there is no programming for Seniors. When discussed years ago, this went forward based on an Interlocal with Pierce County with the idea that programming would be provided. It will be hard for him to support spending \$750,000 without knowing the benefit to the city residents.

Councilmember Franich asked what happens after the five year agreement. Mr. Karlinsey responded that the city is no longer a tenant when the contribution stops.

Councilmember Young said that is not what was negotiated and it needs to be clarified. The reason for the five-year payment is to ease the burden on the budget. These are not lease payments and the city was promised space for helping to build it. The agreement needs to state that the City will retain the space for social services in perpetuity.

Council directed Mr. Karlinsey to forward the agreement after these concerns are addressed.

PUBLIC COMMENT: None.

MAYOR’S REPORT / COUNCIL COMMENTS:

Mayor Hunter announced that the state budgeted one million dollars for the city’s Wastewater Treatment Plant Expansion Project to help bridge the gap between the time it is completed and the time revenue is collected. The paperwork for the grant will be submitted soon.

Councilmember Franich asked if anyone had reviewed the Hearing Examiner’s decision on the Hunt Highlands project. He voiced concern that problems in the city code that allows such high density; an issue that he will bring up during the Council Retreat.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Judson / Harborview Improvement Project – Stakeholders Workgroup: Tuesday April 29th walking tour begins at 6:00 p.m. at the corner of Judson/Pioneer. The meeting continues at 7:00 p.m. in Community Rooms A&B.

ADJOURN TO WORKSTUDY SESSIONS:

1. Mainstreet Program.
2. BB16.

MOTION: Move to adjourn at 8:56 p.m.
Conan / Malich – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1- 18
Disk #2 Tracks 1- 19

Charles L. Hunter, Mayor

Molly Towslee, City Clerk

CITY OF GIG HARBOR COMMITTEE OUTLINE MINUTES

City of Gig Harbor Operations & Public Projects

(Council Committee Ekberg, Franich, and Payne)


Date: April 17, 2008 Time: 3:00 p.m. Location: Public Works Conf Rm Scribe: Melanie Fleites

Commission Members and Staff Present: Councilmembers Steve Ekberg, Jim Franich, and Tim Payne. Jeff Langhelm, Marco Malich, Emily Appleton, Marcos McGraw, Darrell Winans, George Flanigan, Perry Fegley, and Melanie Fleites.

Others Present: John Chadwell, OPG

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
<p>1. Sewer Backflow Prevention – Darrell Winans</p>	<p>Back water valves help prevent sewer back-ups and blow-outs which cause damage to private property. Winans recommends updating ordinances in order to require back water valves for all existing and new sewer connections.</p> <ul style="list-style-type: none"> ▪ Owners, not City, maintain back water valves on their own property. ▪ Potential costs are \$35 per valve plus installation would be around \$1000 each. ▪ Back water valves could help protect the City from liability for damages resulting from sewer backflows on private property. ▪ Public education and awareness would be a necessary component. ▪ Regular maintenance would need to be tracked by the City Operations department. 	<p>Check into how other Cities have implemented this.</p> <p>Investigate manholes that need work.</p> <p>Check with Carol on immunity.</p> <p>Conduct a survey to provide base numbers and costs.</p> <p>Darrell--Talk to Rob & Laureen to determine how to proceed from a Marketing standpoint.</p>

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
<p>2. Water Rights Update and Strategy— Jeff Langhelm</p>	<p>Langhelm reports that it is estimated that by 2010 the City may be out of available water ERU's.</p> <ul style="list-style-type: none"> ▪ Current rate of usage is calculated at 314 gallons per day per ERU. Actual estimates are 200 gallons per day per ERU. One solution may be to adjust ERU's to reflect this. ▪ Water Rights Transfers may be necessary in the future. The City has already procured a Water Rights attorney to assist with this process. 	<p>City should investigate potential for water reuse of reclaimed water through purple pipes.</p>
<p>3. Point Fosdick Sidewalk Connection— Emily Appleton, Marcos McGraw</p>	<p>City plans to install 1000 feet of 6 ft wide sidewalk along Point Fosdick.</p> <ul style="list-style-type: none"> ▪ Made of pervious concrete. ▪ Designed to have a natural look rather than traditional curb & gutter. ▪ Preliminary cost estimate \$100,000 to \$115,000. ▪ Sidewalk on west side of road would connect to existing sidewalks. ▪ 300 feet of utilities would go underground. ▪ May include design for pedestrian crossing. ▪ Gravel path may be possible as a temporary measure. 	<p>Compare to other Cities to determine level of maintenance required.</p> <p>Committee favors proceeding with design.</p>

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
<p>4. Shorecrest Sewer System—George Flanigan</p>	<p>The Shorecrest Sewer System was acquired from Pierce County in 1981/82 and consists of a 20 parcel development with a shared septic system in the Rosedale/Ray Nash area.</p> <ul style="list-style-type: none"> ▪ There is currently no franchise agreement in place. ▪ 17 homes are currently hooked up to the septic system which is designed for up to 20 hook-ups. Two neighboring home owners want to hook-up to the system but the Shorecrest community does not want to allow this. ▪ Outside City limits but when the septic fails it will need to be connected to City sewer in the future. 	<p>Dept of Health may require that the Shorecrest Sewer System remain under City jurisdiction.</p> <p>Need to determine size of existing drainfield.</p> <p>Can the City create a special utility district?</p>
<p>5. Harborview Watermain Break—Marco Malich</p>	<p>Contractor hit a water line on Soundview and as a result Highlands at the Harbor may contribute to the replacement of part of the water main.</p>	
<p>Meeting adjourned at 5:05 p.m.</p>	<p>Respectfully submitted:  _____ Melanie Fleites</p>	

OUTLINE MINUTES

Lodging Tax Advisory Committee

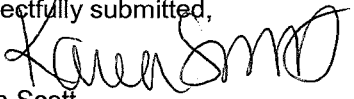
(Name of Committee, Board, Task Force, Commission)

Date: April 10th, 2008 Time: 8:00 am Location: Exec. Conf Room, Civic Ctr.
 Scribe: Karen Scott

Members Present: Sue Braaten, Laureen Lund, John Moist, Wade Perrow, Warren Zimmerman
 Members Absent: Randy Fortier, Kathy Franklin, Cheri Johnson, Derek Young
 Staff Present: Karen Scott
 Guests: Tammy Blount, Executive Director of Tacoma Regional CVB

Topic	Recommendation/Action	Follow-up (if needed)
Introduction of Tammy Blount	<p>Introduction and review of strategic planning progress from the TRCVB Executive Director- LTAC members where asked by Tammy Blount to provide input for their strategic plan anytime. LTAC requested TRCVB facilitate full regional meetings throughout all the communities. Tammy stated their plan is a much more cooperative, collaborative, and encourages inclusive approach for the entire region. Sue Braaten suggested incorporating the off season businesses, bus tours etc. TRCVB is expanding their sales force and hoping to bring more tour operators to town to host them for a night. They will contact with Laureen when appropriate. TRCVB is working closely with the international association of visitor bureaus. Sue Braaten reiterates the importance of bus tours to our area especially in the off season.</p> <p>Review of the contract agreement with TRCVB, \$7000- 2009 will see a review and realignment of expectations for the contract. Wade Perrow expressed concern regarding representation of Gig Harbor in the visitor guide and TRCVB's effort to include Gig</p>	

Topic	Recommendation/Action	Follow-up (if needed)
	<p>Harbor as a whole. Tammy reiterates that the TRCVB should be able to deliver measurable value- we need to find the right combination to see the added value, they are on that track and progress is being made as they reinvent their approach.</p> <p>Redesign of meeting planners guide and visitor info guide is in progress. TRCVB has hired a new marketing director as well as hiring several additional employees.</p> <p>Wade Perrow and Tammy Blount stated the importance of groups between 15-50. Tammy repeated goal to even 15 - 100 in the shoulder season.</p>	
Update of Skansie Ad Hoc Committee review by John Moist	<p>Will meet five more times, and more citizens attended this last meeting. The citizens invited to second meeting provided input to the committee and illustrated the residents passion for what is going on. Much historical perspective was given by residents. At the last meeting the mission statement was voted on. John added the aspect of economic development to the mission from downtown businesses perspective which was accepted. Next week the committee will meet and tackle the possibility of Maritime Pier- a presentation will be given by G Hoppen and J McMillan. The timeline is very short and John feels will need to be extended to provide full public input.</p> <p>LTAC asked to attend April 22nd 6:00 presentation.</p> <p>Port of Tacoma could be interested in funding- although that will put restrictions on the use of the dock.</p>	Attend the Maritime Pier presentation on April 22, at 6 pm in Council Chambers
Update on Main Street by John Moist	<p>John Moist was on the developmental committee and is now on the board of directors for Main Street, all documents are filed with state, it is incorporated, organization developments are taking place at this time. They are looking at a 4 pronged committee-</p>	

Topic	Recommendation/Action	Follow-up (if needed)
	John heading up promotion committee. Economic Development committee working on parking survey and will take results to the city. Main Street is starting membership drive, working towards state certification. Benefits to this include tax benefits for contributors, property owners in state designated area get no/low interest loan for façade upgrades.	
Update on Museum Progress by Laureen Lund	Pouring foundations, walls going up soon, Jan Feb 2009 possible opening date.	
Update on marketing efforts and upcoming events by Laureen Lund	Working on visitor guide for May publication, working with garden tour committee, Street Scramble kick off of Healthy Harbor, passport soon to be at printer and concerts and cinema all ready out	
Issue with website by Laureen Lund	Previous web designer is no longer in business. Working on sending maintenance and any design work needed to the new city designer SiteCrafting. This would enable us to bundle our fees.	Move to new web design and maintenance firm Sitecrafting
Budget for 2009 talk	Possible PR changes, possible trolley. LTAC requested no funding to Port Orchard group or Maritime Pier.	Laureen will continue to explore possibility of trolley purchase. LTAC will draft budget at July meeting.
Tourism Strategic Plan	The committee is asked to spend time revisiting strategic plan, revise the current strategic plan will be the starting point.	Karen will distribute the Strategic Plan along with the minutes from this meeting
Judson/ Harborview Stakeholders participation		John Moist has offered to serve on this committee
Next Meeting		July 10 th , 2008
Meeting adjourned 9:20 am Respectfully submitted,  Karen Scott		

City of Gig Harbor
Community Development Dept.
3510 Grandview St.
Gig Harbor, WA 98335

Memo

To: Mayor Hunter and City Council Members
From: Dick J. Bower, CBO – Building/Fire Safety Director
CC: Rob Karlinsey
Date: 5/5/2008
Re: Building and Fire Safety Report for the Month of April 2008

The following report is being provided in an effort to keep you informed of the myriad activities of the building and fire safety department over the past month. If you have any questions please give me a call, e-mail or visit and I'll get you the answers.

Departmental Activities:

During the month building and fire safety staff took part in the following activities:

- Attended MyBuildingPermit.com committee meetings on green building, structural codes, electronic plan review programs, and inspection services
- Attended Western WA Chapter of International Code Council meeting
- Participated in permit coordinator, code enforcement, and permit process meetings with Latimore and City staff
- Attended pre-application conferences for 4 proposed projects
- Participated in const. coord. meeting re: Mallards Landing and Reikow/Towne Plaza projects
- Participated in application coordination meeting for Boys and Girls Club
- Participated in pre-const. meeting for Gig Harbor Retirement Estates, and Quadrant/The Ridge project
- Attended council Public Works Committee meeting for discussion on backwater valves
- Participated in Web development meeting with department staff and special projects coordinator
- Attended Partners in Emergency Preparedness conference in Tacoma
- Participated in Planning/Building Committee meeting with update on permit coordinator and code enforcement process work
- Participated in Governors Office on Regulatory Assistance Best Permitting Practices forum
- Hosted monthly regional emergency management coordination meeting
- Hired new receptionist to fill position left open by Myrna's retirement
- Attended archive meeting with Clerk and rep. from State archive office
- Participated in ICS Instructors meeting
- Presented session on "How Land Use and Building Codes Work Together to Guide Community Development" for WA Assn. of Permit Technicians spring conference
- Attended Skansie net shed RFP meeting
- Participated in WABO officers teleconference
- Participated in Chamber of Commerce Community Affairs Forum
- Presented ICS 100/IS 700 training to City of University Place administrative staff
- Presented building code update ordinance for first reading at Council meeting
- Provided comments on 8 planning and 8 engineering permits

New Permit Applications

New Commercial -	1
New Residential -	10
Remodel / Tenant Improvement -	5
Other (Includes plumbing, mechanical, fire system, fuel gas, etc.) -	51
<u>Total -</u>	<u>67</u>

Total valuation - \$ 8,040,157.00
Fee revenues - \$ 64,277.00

Large Projects Reviewed and Awaiting Revisions:

Madison Shores Marina	Bask Bldg. 2 Revisions
Madison Shores upland development	Panda Express
Northwood Medical Office Building	Qdoba Mexican Grill
Mallards Landing buildings 7A-7F	Reikow Office Building
14 Quadrant Base Plans	

Major Plan Reviews Completed:

Mallard’s Landing 2B & 2C	Bask fire sprinklers
Hospital and MOB underground fire lines	Isa Mira remodel
Gig Harbor Retirement Estates	Reviewed 24 OTC permits
12 Quadrant base plans	

Permits Issued:

Commercial –	0
Residential -	3
Remodel/TI -	6
Other -	59
<u>Total Issued -</u>	<u>68</u>

Total Valuation - \$ 2,289,589.00
Fee Revenues - \$ 45,577.00

Inspections:

The following inspections were performed:
Periodic inspections - 252
Final Inspections - 45
Certificate of Occupancy - 24
Total - 321

Enforcement:

The following enforcement actions were taken:
Investigations - 4
Stop work orders issued - 1
Citations issued -
Civil NOV's issued - 1
Total - 6

Fire Inspection Referral /Refusal Follow-ups:

1

Business License Inspections:

Training:

Attended Fire Damper Installation and Inspection seminar

Attended permit technician training at WSAPT spring conference
Attended historic preservation/green building seminar

**COUNCIL WORK STUDY SESSION
MAINSTREET PROGRAM**

April 28, 2007 9:00 p.m.
Community Rooms A & B

Present: Mayor Hunter, Councilmembers Ekberg, Young, Franich, Conan, Malich, and Kadzik, Payne.

Mainstreet Program: Steve Lynn, John Moist, Paul Kadzik, Julie Tappero, and Jack Sutton.

Staff Present: Rob Karlinsey, Laureen Lund, Carol Morris and Molly Towslee.

Call to Order: 9:02

Councilman Kadzik introduced Steve Lynn from the Main Street Program who began the group's presentation. Mr. Lynn began by giving background information on the Main Street approach nationwide and an overview of the work undertaken by the recently created Main Street Organization in Gig Harbor. He went into further detail outlining the group's mission statement and vision for the downtown Main Street area from Tides Tavern to Peacock Hill. Mr. Lynn also gave a brief overview of Main Street's first year work plan which was established in order to apply for funding. The group is currently working towards full Main Street status.

Steve Lynn further outlined and explained the benefits that will be available for property and business owners within the Mainstreet District including grant and loan opportunities. Mr. Lynn then went on to introduce the Main Street Board of Directors; Steve Lynn, John Moist, Paul Kadzik, Julie Tappero, Jack Sutton, Guy Hoppen, Joyce Taylor, Rob Karlinsey and Bob Ryan. He also explained the position and role of Main Street Executive Director which is a full time paid position. The board hopes to fill the position by July.

Mr. Lynn went on to list various organizations which have expressed support of this organization including the City of Gig Harbor, Chamber of Commerce, Harbor History Museum, Gallery Association, Retail Organization, Gig Harbor Boat Shop and Rotary. He then went on to explain how the organization plans to gain further support and active membership in an effort to expand and build the organization.

He then transitioned into a discussion of economic development and how the organization plans to assess the amount of available private and public parking and how parking is utilized. Councilman Franich expressed concern as to the possible validity of a parking count conducted by the group in a volunteer fashion. Mr. Lynn stated that the Main Street National Organization has guidelines and a manual to follow. He also stressed that this would be a data collecting operation rather than an interpretive one and mentioned that someone would have to be brought in to analyze the collected data after the completion of the data collection process.

Mr. Lynn then moved on to discuss the various downtown events put on by the City and how the organization would help to further promote such events in an effort to stimulate economic growth within the Main Street District. He stated that the organization would be orchestrating three events which annually take place downtown, specifically Chalk the Walk, Halloween in the Harbor and Candlelight Open House.

Mr. Lynn then went on to discuss the organization's funding and operations budget and the desired \$35,000 from the City to help with the startup budget. He stated that the organizations current status is an Affiliate Level but that they are optimistic about moving towards Full Main Street status and that they will be applying for this status. He stressed that the organizations acceptance to 501 (c)(3) status by the state and federal government is crucial to the success of the organization moving forward. He stated that there are two things that the Main Street Organization is asking for from the city:

1. City Council to pass a resolution of support for the Main Street Approach for Gig Harbor.
2. Mayor Hunter to provide a letter supportive of the Main Street Approach for Gig Harbor.

Mayor Hunter stated that he can write a letter of support and that he does support the Main Street Organization, but that the city can not pledge \$35,000 per year for the foreseeable future without seeing the results of the organizations work. There was further discussion as to the funding requirements for full Main Street status and whether or not the council was comfortable or could pledge future revenue towards the funding of the organization beyond one fiscal year at a time.

Mr. Lynn stated that the important aspect of the City's support is that they are supportive and committed to working with the Main Street Organization for the next three years, but that funding could be on a single year basis for which Main Street would approach the city each year and illustrate progress.

Rob Karlinsey asked Council to take a close look at the contract, specifically on the deliverables.

Councilman Franich expressed his concern with the district turning more tourism oriented rather than services oriented for the residents. Several Main Street representatives discussed and attempted to address the councilman's concerns. They stressed that the organization's goal is to develop a unique experience that will attract residents downtown and that the mission of the organization does not revolve around tourism.

Rob Karlinsey and councilmembers thanked the Main Street representatives for their presentation.

Adjourned: 9:50

Scribe: Ian Ward



**Meeting Minutes
Intergovernmental Affairs Committee
April 14, 2008**

In attendance:

Councilmember Conan
Councilmember Ekberg
Councilmember Payne
City Administrator Karlinsey
Consultant, Tim Schellberg

The meeting convened at 4:35 p.m.

Karlinsey gave an update on the Greater Peninsula Partnership. The goal is to put the finishing touches on a document that outlines the main state highway problems and priorities for the Gig Harbor/Key Peninsulas as well as Kitsap County, then present that document to our state legislators.

The committee discussed the legislative strategy for 2009, including requesting additional funding for the wastewater treatment plant expansion. Consultant Tim Schellberg agreed to research past history of similar legislative requests. Karlinsey will research the potential for applying for a federal STAG grant to help pay for treatment plant improvements.

The shoreline moratoria and outside-city utility extension bills were also discussed, and the consensus was to re-introduce both bills in the 2009 session.

The committee also discussed the City's water right application, and the need to request the assistance of Gig Harbor's state legislative delegation when appropriate.

The meeting adjourned at 5:25 p.m.

**GIG HARBOR CITY COUNCIL / PLANNING COMMISSION
JOINT WORKSESSION
April 21, 2008 6:00 p.m. – Council Chambers**

PRESENT:

Councilmembers: Steve Ekberg, Derek Young, Ken Malich, Paul Kadzik and Mayor Hunter. Councilmembers Franich, Conan and Payne were absent.

Planning Commission Members: Jeane Derebey, Jim Pasin, Chairperson Theresa Malich, Harris Atkins, and Joyce Ninen.

Staff: Tom Dolan, Jenn Kester and Molly Towslee.

Mayor Hunter opened the meeting at 6:03 p.m. and welcomed the members of the City Council and Planning Commission and asked each person to introduce themselves.

1. Planning Commission Work Program Update. Tom Dolan briefly described the projects that the Commission had completed work on during the first quarter of 2008, several which will be coming before Council for review.

He announced several upcoming projects: the Shoreline Master Plan Update, the Update to the Parks Recreation and Open Space Plan, and the View Basis Sub-Area Plan. He added that all three projects will require substantial work by the Planning Commission in 2009. He then turned it over to Jenn Kester, Senior Planner, to give a synopsis of what the Planning Commission would be working on during the second quarter.

Ms. Kester briefly described the items being carried over into the second quarter. She then discussed the rest of the work program items for the second quarter:

- Height Restriction Area Special Exception
- Public Hearing on Changes to Gross Floor Area Definition.
- Review of Design Manual standards for Bujacich Road / NW Industrial neighborhood design area.
- ED and PCD –BP Intent and Allowed Uses / Suggested changes from Land Use Matrix.
- Residential developments design performance standards – significant vegetation.

Ms. Kester explained that the third quarter of the year would most likely be spent on Comprehensive Plan Amendments and gave an overview of the nine applications that have been submitted.

2. Commission Appointment / Re-Appointment Process. Planning Commission members asked City Council for clarification on the process for appointments to open positions.

The Mayor and Councilmembers explained the move towards a process to advertise all open positions on the city's boards and commissions to solicit interest of both existing members who wish to be reappointed and to open it up to new volunteers in the community.

It was agreed that when a member's position was due to expire, the commission and the member would be notified before the notice was placed in the newspaper.

Planning Commission members asked if the Mayor and Council would consider including the Chair of the group and the city contact to be included in the review process.

Another request was made to consider maintaining the continuity of a group to complete a task when appointments are made.

3. Development of a Vision / Charter for Planning Commission. Jenn Kester explained that the Planning Commission doesn't have a code-adopted vision or charter that would define its purpose or authority. After discussion, staff was asked to work with the commission and city attorney to draft a document for Council to review and adopt.

Ms. Kester then asked if the city would be interested in hosting a session put on by Community Trade and Economic Development on current and long-range planning. This would benefit the City Council, the Planning Commission and the Design Review Board. She was asked to schedule the training and send an invitation to the groups.

4. Annexations. Tom Dolan explained that the Planning Commission would be interested in knowing the city's philosophy on annexations. Because they would be dealing with zoning issues for newly annexed areas, it would be helpful to know which direction the city was headed.

The group discussed the mandates from the Growth Management Act and the current Urban Growth Boundaries.

It was explained that as a policy, the city doesn't solicit annexations, but because development in the UGA needs to meet city standards, annexation makes sense in many instances. Several issues are taken into consideration before annexations are considered. Single lots not contiguous to city boundaries are frowned upon.

The subject of affordable housing was raised and discussed. It was agreed that this is a difficult problem that needs to be addressed. The 2008 Budget approved the hiring of a consultant to do an affordable housing needs assessment study that will result in recommendations for the Council to consider.

The group discussed high-density development in other jurisdictions and how it would work here in the city. The issue of single-family residences constructed in zones

designed for multi-family dwellings was brought up and discussed. A comment was made about on the fire and safety hazard of houses built so closely together.

Tom Dolan talked about the upcoming large annexations of approximately 800 acres to including the “donut hole” and up the Burnham / Sehmel annexation. He explained that pre-annexation zoning was already in place for both. The zoning designations assigned to these areas were described.

Future of annexations and whether the city wanted to attempt to reduce the size of the Urban Growth Boundary was discussed. Jenn Kester explained that this is a very lengthy process that considers population allocation and the creation of more rural land.

The topic of traffic congestion was raised and Councilmember Ekberg responded that a monthly meeting is held with WSDOT to address these concerns.

Councilmember Malich then mentioned the importance of the following issues: Global warming; Solar energy; and Building Green. He said that a resolution had been adopted supporting the Building Green program, adding that there are standards that the Planning Commission could address. He talked about developing policies to allow things like solar panels and other energy efficiencies.

Councilmember Young added that climate changes, the reduction of carbon emissions by 2050 and transportation are issues that can be addressed when we consider density.

Rick Gagliano said that some ground work has been laid with the Comprehensive Plan.

Joyce Ninen mentioned the lack of recycling bins for plastic at the Civic Center and that the lights should be traded out for CFL's.

Jenn Kester addressed a comment by Teresa Malich regarding the new mixed use (MX) zone. She explained that one option for density in that new zone would to allow 4 to 8 dwelling units per acre. This would balance out or harmonize the allowed densities of the current R-1, MUD Overlay and RB-2 zones. R-1 and MUD overlay allows 4 dwelling units per acre and RB-2 allows a maximum of 12 dwelling units per acre. At the public hearing on the proposal, a property owner expressed a desire to retain their RB-2 zoning, instead of changing to MX, to retain the 12 dwelling unit per acre maximum. Based on that request, the Planning Commission is looking at a third option – “Option C” which would retain the RB-2 zoning of the southern half of the MUD Overlay area and only rezone the northern part to the new MX zone. Option C would also include reducing the originally proposed 4 to 8 dwelling units per acre to something closer to 4 to 6 dwelling units per acre.

Tom Dolan added that the area is RB-2 with a Mixed-Use Overlay. He said a recommendation could be made to the Planning Commission to look at abolishing the MUD Overlay because it is so difficult to administer, but wondered if it goes away and the zone reverts back to R-1, if there is an issue of taking away property rights.

Jeane Derebey said that most people were in favor of the Mixed Use zone.

Harris Atkins voiced a concern about what type of road solutions are coming forward. Councilmember Ekberg responded that when he was on the Council in 1973, the Chair of the Planning Commission, Cecil Root, always said "Roads, roads...we need more roads!" and he was right.

Teresa Malich agreed and mentioned that in 1980 an East/West Connector was asked for.

There were no further comments and the meeting adjourned at 7:34 p.m.

**GIG HARBOR CITY COUNCIL
BB16 Wordstudy Session
April 29, 2008 – Community Rooms A&B**

PRESENT:

Councilmembers: Steve Ekberg, Derek Young, Ken Malich, Paul Kadzik and Mayor Hunter. Councilmembers Franich was absent.

Staff: Rob Karlinsey, Carol Morris and Molly Towslee.

Rob Karlinsey asked Council to review the project timeline chart for the BB-16 project and said that there may be an argument to do interim improvements. He explained that he had no faith in getting the long term improvements constructed by 2017, and the city could get six years of use from the interim improvements and we would not have to amend the CERB Grant.

Mr. Karlinsey then discussed the possible need to close Canterwood Boulevard for a month or so during construction. He said that if left open, there would be significant back-up along the roundabout. He described the reason for closing the roadway due to the need for a massive culvert and re-grading the terrain. He talked about the cost savings and length of construction if they are able to work round-the-clock.

There was discussion on the public outreach aspect of this decision to close Canterwood Boulevard. Informational public meetings will be held and notices sent to the surrounding businesses and residential areas. Council suggested involving public agencies such as the Pierce County Fire Department, Peninsula School District and Pierce Transit as well to inform and educate everyone affected.

Mayor Hunter discussed the Army Corp of Engineers Permits and how the project hinges on obtaining these.

Staff was directed to not move forward with the amendment to the CERB and to begin the process for public noticing for the interim improvements.

There were no further comments and the meeting adjourned at 10:13 p.m.

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, the family is the cornerstone of our communities, state and nation and children are the future of society; and

WHEREAS, the care, protection and nurturing of children has traditionally been the responsibility of biological parents with support from the community; and

WHEREAS, kin are stepping forward in ever-increasing numbers to assume full, daily parental responsibilities for children whose parents are unable or unwilling to appropriately parent their children; and

WHEREAS, these kin face day-to-day living challenges as well as emotional, financial and legal obstacles, often alone and without support; and

WHEREAS, their commitment to these children is to provide a healthy, safe and happy childhood; and

WHEREAS, the number of children being cared for by kin is increasing daily and the length of time they remain with kin has gone from months to years, and these children often view their caregiving kin as their 'Mom and Dad;' and

WHEREAS, the significance of the care and nurturing of these children by their kin deserves to be recognized;

NOW, THEREFORE, I, Charles L. Hunter, Mayor of the City of Gig Harbor, do proclaim May 21, 2008, as

KINSHIP CAREGIVER DAY

And invite all citizens of Gig Harbor to join me in the special observance being celebrated across our Country.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 12th day of May, 2008.

Charles L. Hunter, Mayor

Date

CHILD & FAMILY GUIDANCE CENTER

We strengthen families...

April 4, 2008

RECEIVED

APR 07 2008

CITY OF GIG HARBOR

Mayor Charles Hunter
City of Gig Harbor
13510 Grandview St
Gig Harbor, WA 98335

Dear Mayor Hunter:

I am writing this letter on behalf of the relative headed households in your community, requesting **Wednesday, May 21, 2008** is proclaimed as **Relatives Raising Children Day** in your city. Governor Gregoire has issued a state proclamation and I am enclosing a copy for your use. If you would like, I can arrange a representative to attend your council meeting and receive the proclamation. Please call me at 253-565-4484 ext 105 or e-mail me at edith@cfgcpc.org with the time, date, and location. Otherwise please return the signed proclamation to me and it will be displayed at our annual conference.

Coincidentally, the Fifth Annual **WHO CARES? RELATIVES DO!** Conference will be held on **May 21** at the First Christian Church, 602 N Orchard, Tacoma from 9 am to 3 pm. Please consider this your personal invitation to attend.

In 2008, Pierce County Relatives Raising Children program has been strengthened with the addition of Rosalyn Alber, Kinship Navigator. Rosalyn's specific skills include: the ability to listen, problem solve complicated situations, offer encouragement, support and utilize existing community resources to help relatives continue the day-to-day caring of children. Rosalyn may be reached at 253-565-4484 ext 104 or by e-mail at ralber@cfgcpc.org. Information about other programs that are available to Pierce County relatives raising children is available at our website: cfgcpc.org.

Thank you for supporting the relative headed families in your community

Sincerely,

Edith Owen, Coordinator
Pierce County Relatives Raising Children





Subject: Sanitary Sewer and Stormwater Facilities Easement and Maintenance Agreements for Gig Harbor Senior Estates (project no. EN-07-0036)

Proposed Council Action: Approval of the Sanitary Sewer and Stormwater Agreements as presented.

Dept. Origin: Engineering Department

Prepared by: Willy Hendrickson
Engineering Technician

For Agenda of: May 12, 2008

Exhibits: Two Sanitary Sewer and two Storm Water Maintenance Agreements

Initial & Date

Concurred by Mayor:

CLH 5/5/08

Approved by City Administrator:

POK 5/2/08

Approved as to form by City Atty:

CPM 5/2/08

Approved by Finance Director:

NA

Approved by Department Head:

[Signature]

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

As a condition of project approval of the Gig Harbor Senior Estates located at 7083 Wagner Way, Gig Harbor, and owned by Gig Harbor Senior Living LLC, Sanitary Sewer and Storm Water Facilities Maintenance Agreement(s) are required. This will ensure that the sanitary sewer system and storm water system will be constructed, operated and maintained in accordance with all applicable rules and regulations. The sanitary sewer system and storm water system is located on private property and will be privately owned. The City will not be responsible for the operation and maintenance of these systems. These agreements allow the City a nonexclusive right-of-entry onto those portions of the property in order to access the sanitary sewer system for inspection and monitoring of the system.

FISCAL CONSIDERATION

No funds will be expended for the acquisition of the described agreements.

RECOMMENDATION / MOTION

Move to: Approval of the Sanitary Sewer and Stormwater Agreements as presented.

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Sanitary Sewer Facilities Easement and Maintenance Agreement

Grantor(s) (Last name first, then first name and initials)

Gig Harbor Senior Living LLC

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

A portion of the NE ¼ of the SE ¼ of Section 7, TWP. 21 N, RGE. 2 E, W.M.

Assessor's Property Tax Parcel or Account number:

4002010080 and 4002010060

Reference number(s) of documents assigned or released: _____

**SANITARY SEWER FACILITIES EASEMENT
AND MAINTENANCE AGREEMENT**

This Sanitary Sewer Facilities Easement and Maintenance Agreement is made this 24th day of April, 2008, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Gig Harbor Senior Living LLC, a Limited Liability Corporation, organized under the laws of the State of Oregon, located and doing business at 3723 Fairview Industrial Drive SE, Salem, Oregon 97320 (hereinafter the "Owner").

RECITALS

WHEREAS, Owner is the owner of fee title or a substantial beneficial interest in certain real property located in Gig Harbor, Washington, commonly described as Gig Harbor Senior Estates located at 7083 Wagner Way, Gig Harbor, WA 98335 (hereinafter the "Property") and legally described in **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, in connection with the Owner's proposed development of the Property, the City has required and the Owner has constructed a private sanitary sewer system on the Property; and

WHEREAS, such sanitary sewer system is described and shown on a construction drawing(s) prepared by the engineering firm of PACE Engineers, Inc., dated August 2007 (hereinafter the "Plans"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, as a condition of project approval, and/or due to the nature of the development, the sanitary sewer system on the Property is private, and will not be the responsibility of and/or owned, operated and maintained by the City; and

WHEREAS, the private sanitary sewer will eventually be connected to the City's sanitary sewer system and the City desires an easement to definitively establish the permissible location of the City's access on the Property described in **Exhibit A**, for the purposes described in this Agreement; and

WHEREAS, as a result of said private ownership and responsibility for operation and maintenance, including repair, rehabilitation, replacement, alterations and/or modifications, the parties have entered in to this Easement and Maintenance Agreement, in order to ensure that the sanitary sewer system will be constructed, operated and maintained in accordance with the approved Plans and all applicable rules and regulations;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the City hereby agree as follows:

TERMS

Section 1. Affected Property. The real property subject to this Agreement is legally described in **Exhibit A**.

Section 2. Definitions. As used in this instrument:

A. The word "plat" refers to the Mallard's Landing, and any other plat or plats, including short plats, covering all real property which may hereafter be made subject to the provisions of this instrument by a written instrument signed by the Owner, its successors and assigns, in accordance with this Agreement.

B. The word "lot" refers to a lot shown on any plat defined herein, but shall not include any parcel designated as a "tract" on a plat. "Lot" shall include any parcel of land that is separately subjected to this instrument without having been subdivided into two or more parcels by a plat recorded subsequent to the recording of this instrument.

C. The word "Owner" or "Owners" refers to the entity, whether an individual, corporation, joint venture or partnership which is an owner in fee simple or of a substantial beneficial interest (except for mineral estate) in all or any portion of the property in the Plat or the Property. A "substantial beneficial interest" shall include both legal and equitable interests in the Property.

D. The words "Owners' Association" refer to a nonprofit corporation which may be formed for the purpose of operating and maintaining the facilities described in **Exhibit B** on the Property, which may be independently conveyed by the Owner or its successors and assigns to an Owners' Association, and to which the Owners' Association may provide other services in order to benefit the owners of property within the plat or the Property.

Section 3. Maintenance Obligations. The Owner, its successors, assigns and/or owners of an after-acquired interest in the Property, hereby covenant and agree that they are jointly and severally responsible for the installation, operation, perpetual maintenance, of a sanitary sewer system on the Property, as shown on the Plans attached hereto as **Exhibit B**. The sanitary sewer system shall be operated, maintained and preserved by the Owner in accordance with the Plans and all applicable ordinances, codes, rules and regulations. The sanitary sewer system shall be preserved in conformance with the Plans until such time as all parties to this Agreement, including the City, agree in writing that the sanitary sewer system should be altered in some manner or eliminated. In the event the sanitary sewer system is eliminated as provided hereinabove, the Owner shall be relieved of operation and maintenance responsibilities. No such elimination of the sanitary sewer system will be allowed prior to the Community Development Director's written approval.

Section 4. Notice to City. The Owner shall obtain written approval from the Director prior to performing any alterations or modifications to the sanitary sewer system located on the Property described in Exhibit A. No part of the sanitary sewer system shall be dismantled, revised, altered or removed, except as provided hereinabove, and except as necessary for maintenance, including repair, rehabilitation, replacement, alterations, and/or other modifications.

Section 5. Easement for Access. The Owner hereby grants and conveys to the City a perpetual, non-exclusive easement, under, over, along, through and in the Property, as such

Easement is legally described in **Exhibit C**, attached hereto and incorporated herein by this reference. This Easement is granted to the City for the purpose of providing the City with ingress and egress in order to access the sanitary sewer system on the Property for inspection, and to reasonably monitor the system for performance, operational flows, defects, and/or conformance with applicable rules and regulations. In addition, the City may use this Easement to exercise its rights as described in Section 8 herein.

Section 6. Assignment to an Owners' Association. In the event that an Owners' Association is formed under a Declaration of Covenants, Conditions and Restrictions which includes all of the Property in **Exhibit A**, the Owner may assign responsibility for installation and perpetual maintenance of the sanitary sewer system to such Owners' Association for so long as the Owners' Association remains in existence and upon the conditions that the Owners' Association assumes all of the obligations, liabilities, covenants and agreements of the Owner under this Agreement. Such assignment of the Owner's obligations shall be in a duly executed instrument in recordable form, and for so long as such assignment remains effective, the Owner shall have no further responsibility or liability under this Agreement.

Section 7. Conveyances. In the event the Owner shall convey its substantial beneficial or fee interest in any property in the Plat, any lot, or the Property, the conveying Owner shall be free from all liabilities respecting the performance of the restrictions, covenants and conditions in this Agreement; PROVIDED, HOWEVER, that the conveying Owner shall remain liable for any acts or omissions during such Owner's period of ownership of such Property.

Section 8. Rights of the City of Gig Harbor.

A. Execution of this Agreement shall not affect the City of Gig Harbor's present or future interest or use of any public or private sanitary sewer system. If the City determines that maintenance is required for the sanitary sewer system, and/or there is/are illegal connection(s) to or discharges into the sanitary sewer system, the Community Development Director or his/her designee shall give notice to the Owner(s) of the specific maintenance and/or changes required, and the basis for said required maintenance and/or changes. The Director shall also set a reasonable time in which the Owner(s) shall perform such work. If the maintenance required by the Director is not completed within the time set by the Director, the City may perform the required maintenance. Written notice will be sent to the Owner(s), stating the City's intention to perform such maintenance, and such work will not commence until at least five (5) days after such notice is mailed, except in situations of emergency. If, at the sole discretion of the Director, there exists an imminent or present danger to the sanitary sewer system, the City's facilities or the public health and safety, such five (5) day period will be waived, and the necessary maintenance will begin immediately.

B. In order to assure the proper maintenance of the Owner's sanitary sewer system, and to ensure there will be no damage to the City's sanitary sewer system, the City of Gig Harbor shall have the right as provided below, but not the obligation, to maintain the system, if the Owner(s) fail to do so, and such failure continues for more than five (5)-days after written notice of the failure is sent to the responsible parties. However, no notice shall be required in the event that the City of Gig Harbor determines that an emergency situation exists in which damage to person or property may result if the situation is not remedied prior to the time required for notice.

C. If the City provides notice in writing, but the Owner or Owners' Association fails or refuses to perform any maintenance or operational duties as requested by the City, the City's employees, officials, agents or representatives may enter the Property and undertake the necessary maintenance, repair or operational duties to the City's satisfaction. The City's ability to enforce this provision is subject further to the City's right to impose materialmen's and/or laborer's liens and to foreclose upon any and all properties owned by the Owner(s).

D. If the City exercises its rights under this Section, then the Owner(s) or Owners' Association shall reimburse the City on demand for all reasonable and necessary expenses incurred incident thereto. In addition, the City is hereby given the right, power and authority acting in the name of the Owner's Association to exercise and enforce on behalf of the Association and at the Association's cost, the assessment of dues and charges for such costs and to enforce the Association's lien right for any assessments, dues and charges as herein specified. The City shall also be permitted to collect the costs of administration and enforcement through the lien attachment and collection process as is permitted under chapter 35.67 RCW, or any other applicable law.

E. In addition to or in lieu of the remedies listed in this Section, if the Owners or Owner's Association, after the written notice described in Section 8A above, fails or refuses to perform the necessary maintenance, repair, replacement or modifications, the City may enjoin, abate or remedy such breach or continuation of such breach by appropriate proceedings, and may bring an action against the violator for penalties under the Gig Harbor Municipal Code.

Section 9. Indemnification of City. The Owner(s) agree to defend, indemnify and hold harmless the City of Gig Harbor, its officials, officers, employees and agents, for any and all claims, demands, actions, injuries, losses, damages, costs or liabilities of any kind or amount whatsoever, whether known or unknown, foreseen or unforeseen, fixed or contingent, liquidated or unliquidated, arising from an alleged defect in the design of the sanitary sewer system as installed by the Owner(s), or arising by reason of any omission or performance under this Agreement by the Owner(s), its successors and assigns, and/or Owners' Association, of any of the obligations hereunder.

Section 10. Rights Subject to Permits and Approvals. The rights granted herein are subject to permits and approvals granted by the City affecting the Property subject to this Easement and Maintenance Agreement.

Section 11. Terms Run with the Property. The promises, conditions, covenants and restrictions contained herein shall constitute a covenant or equitable servitude, the burden and benefit of which shall run with the land and bind successive owners with equitable or legal interests in the Property. Accordingly, by its acceptance of a deed or other instrument vesting a substantial beneficial interest in all or any lot, or other portion of the Property or the Plat in such Owner, each Owner shall covenant to be bound by all the obligations incumbent upon an Owner as set forth herein, and shall be entitled to all rights and benefits accruing to an Owner hereunder. This Agreement shall be recorded in the Pierce County Assessor's Office, and shall serve as notice to holders of after-acquired interests in the Property.

Section 12. Notice. All notices require or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified U.S. Mail, return-receipt requested, and

shall be deemed delivered on the sooner of actual receipt on three (3) days after deposit in the mail, postage prepaid, addressed to the City or the Owner at the addresses set forth below:

To the City:

City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

To the Owner:

Gig Harbor Senior Living LLC
3723 Fairview Industrial Drive SE
Salem, Oregon 97320

Section 13. Severability. Any invalidity, in whole or in part, of any provision of this Easement and Maintenance Agreement shall not affect the validity of any other provision.

Section 14. Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

Section 15. Governing Law, Disputes. Jurisdiction of any dispute over this Easement and Maintenance Agreement shall be solely with Pierce county Superior Court, Pierce County, Washington. This Easement and Maintenance Agreement shall be interpreted under the laws of the State of Washington. The prevailing party in any litigation arising out of this Easement and Maintenance Agreement shall be entitled to its reasonable attorneys' fees, costs, expenses and expert witness fees.

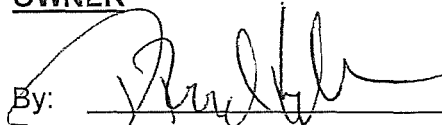
Section 16. Integration. This Easement and Maintenance Agreement constitutes the entire agreement between the parties on this subject matter, and supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Easement and Maintenance Agreement be executed this 24th day of April, 2008.

THE CITY OF GIG HARBOR

By: _____
Its Mayor

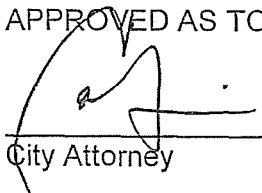
OWNER

By:  _____

Its: MANAGING MEMBER

Print Name: David Paul Miller

APPROVED AS TO FORM:



City Attorney

ATTEST:

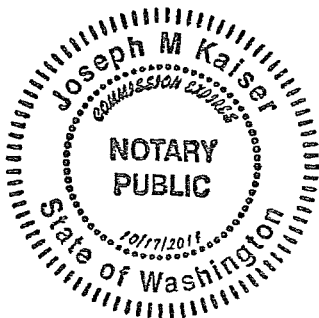
City Clerk

NOTARY BLOCK FOR A CORPORATION/PARTNERSHIP

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that David Reed Kelley 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 Managing Member of Gig Harbor Senior Living, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 4/24/08



[Signature]
Notary Public in and for the
State of Washington,
Title: General Manager
My appointment expires: 10/17/2011

CITY OF GIG HARBOR NOTARY BLOCK

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

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he 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: _____

Notary Public in and for the
State of Washington,
Title: _____
My appointment expires: _____

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

LOT 6 AND 8 MALLARDS' LANDING, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 26, 2001, UNDER AUDITOR'S FILE NUMBER 200103265002, RECORDS OF PIERCE COUNTY AUDITOR MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 IN THE PLAT OF MALLARDS' LANDING AS RECORDED UNDER PIERCE COUNTY AUDITOR'S FILE NUMBER 200103265002;

THENCE NORTH 02°17'22" EAST ALONG THE EAST LINE OF SAID LOT 6 AND THE EAST LINE OF LOT 8 IN SAID PLAT FOR A DISTANCE OF 641.70 FEET;

THENCE CONTINUING ALONG THE EAST LINE OF SAID LOT 8 AT NORTH 10°25'27" WEST FOR A DISTANCE OF 234.25 FEET TO THE NORTHEAST CORNER OF SAID LOT 8;

THENCE SOUTH 88°13'17" WEST ALONG THE NORTH LINE OF SAID LOT 8 FOR A DISTANCE OF 232.77 FEET TO THE EAST MARGIN OF WAGNER WAY AS SHOWN IN SAID PLAT OF MALLARDS' LANDING;

THENCE SOUTHERLY ALONG SAID EAST MARGIN THROUGH THE FOLLOWING COURSES;

SOUTH 07°48'06" EAST FOR A DISTANCE OF 59.37 FEET TO A POINT OF TANGENCY WITH A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 177.50 FEET;

THENCE SOUTHERLY AND WESTERLY ALONG SAID CURVE FOR AN ARC LENGTH DISTANCE OF 211.89 FEET THROUGH A CENTRAL ANGLE OF 68°23'44";

THENCE SOUTH 60°35'38" WEST FOR A DISTANCE OF 188.19 FEET;

THENCE SOUTH 02°24'32" WEST FOR A DISTANCE OF 231.79 FEET;

THENCE SOUTH 71°31'23" WEST FOR A DISTANCE OF 65.29 FEET;

THENCE SOUTH 02°24'32" WEST FOR A DISTANCE OF 110.46 FEET TO A POINT OF TANGENCY WITH A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 460.00 FEET;

THENCE SOUTHERLY AND EASTERLY ALONG SAID CURVE FOR AN ARC LENGTH DISTANCE OF 192.96 FEET THROUGH A CENTRAL ANGLE OF 24°02'02" TO THE SOUTHWEST CORNER OF LOT 6 IN SAID PLAT OF MALLARDS' LANDING;

THENCE LEAVING SAID EAST MARGIN OF WAGNER WAY AT NORTH 88°10'53" EAST ALONG THE SOUTH LINE OF SAID LOT 6 FOR A DISTANCE OF 538.60 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF LOT 8 IN SAID PLAT OF MALLARDS' LANDING LYING WESTERLY OF SAID WAGNER WAY AND DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 8;

THENCE NORTH 88°13'17" EAST ALONG THE NORTH LINE OF SAID LOT 8 FOR A DISTANCE OF 33.23 FEET TO THE WEST MARGIN OF WAGNER WAY AS SHOWN IN SAID PLAT OF MALLARDS' LANDING;

THENCE SOUTHERLY ALONG SAID WEST MARGIN THROUGH THE FOLLOWING COURSES;

SOUTH 07°48'06" EAST FOR A DISTANCE OF 65.17 FEET TO A POINT OF TANGENCY WITH A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 122.50 FEET;

THENCE SOUTHERLY AND WESTERLY ALONG SAID CURVE FOR AN ARC LENGTH DISTANCE OF 146.23 FEET THROUGH A CENTRAL ANGLE OF 68°23'44";

THENCE SOUTH 60°35'38" WEST FOR A DISTANCE OF 105.56 FEET TO THE WESTERLY LINE OF SAID LOT 8;

PROPERTY LEGAL DESCRIPTION CONTINUED

THENCE NORTHERLY ALONG SAID WESTERLY LINE THROUGH THE FOLLOWING COURSES;

NORTH 05°00'29" WEST FOR A DISTANCE OF 7.96 FEET;
NORTH 11°19'38" WEST FOR A DISTANCE OF 17.71 FEET;
NORTH 01°34'26" EAST FOR A DISTANCE OF 26.11 FEET;
NORTH 26°29'42" EAST FOR A DISTANCE OF 15.71 FEET;
NORTH 78°55'17" EAST FOR A DISTANCE OF 28.89 FEET;
SOUTH 89°54'27" EAST FOR A DISTANCE OF 11.35 FEET;
NORTH 75°22'31" EAST FOR A DISTANCE OF 24.60 FEET;
NORTH 62°52'58" EAST FOR A DISTANCE OF 19.26 FEET;
NORTH 59°39'40" EAST FOR A DISTANCE OF 25.86 FEET;
NORTH 31°46'38" EAST FOR A DISTANCE OF 13.45 FEET;
NORTH 00°00'01" EAST FOR A DISTANCE OF 23.73 FEET;
NORTH 05°54'07" WEST FOR A DISTANCE OF 22.03 FEET;
NORTH 06°27'51" EAST FOR A DISTANCE OF 18.55 FEET;
NORTH 18°04'42" EAST FOR A DISTANCE OF 11.39 FEET;
NORTH 10°52'43" EAST FOR A DISTANCE OF 19.76 FEET;
NORTH 16°20'51" WEST FOR A DISTANCE OF 31.18 FEET;
NORTH 11°15'42" WEST FOR A DISTANCE OF 4.09 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

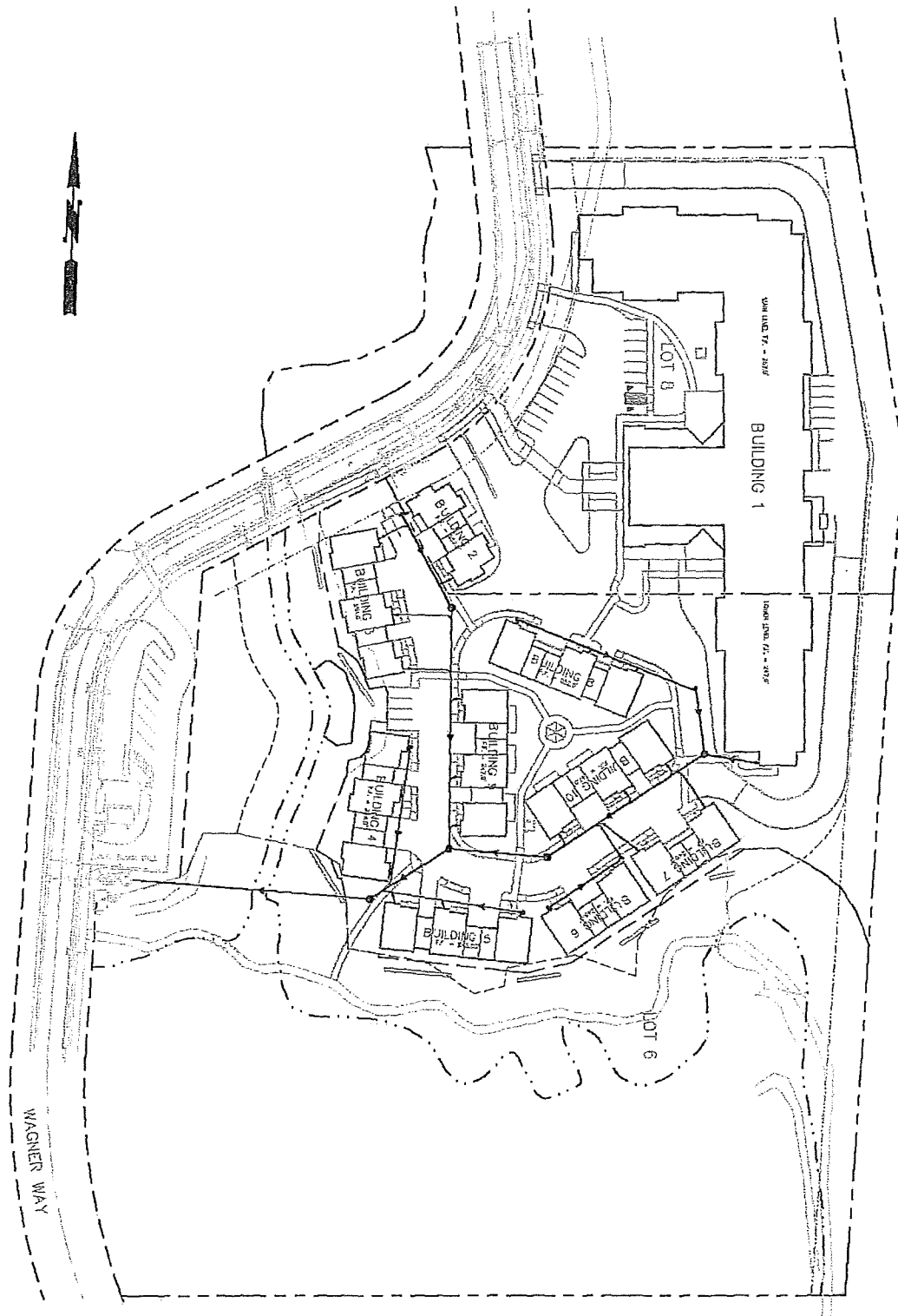


EXHIBIT C
EASEMENT LEGAL DESCRIPTION

LOT 6 AND 8 MALLARDS' LANDING, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 26, 2001, UNDER AUDITOR'S FILE NUMBER 200103265002, RECORDS OF PIERCE COUNTY AUDITOR MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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EASEMENT LEGAL DESCRIPTION CONTINUED

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NORTH 16°20'51" WEST FOR A DISTANCE OF 31.18 FEET;
NORTH 11°15'42" WEST FOR A DISTANCE OF 4.09 FEET TO THE POINT OF BEGINNING.

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Storm Water Facilities Maintenance Agreement and Restrictive Covenant

Grantor(s) (Last name first, then first name and initials)

Gig Harbor Senior Living LLC

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

A portion of the NE ¼ of the SE ¼ of Section 7, TWP. 21 N, RGE. 2 E, W.M.

Assessor's Property Tax Parcel or Account Number:

4002010080 and 4002010060

Reference Number(s) of Documents assigned or released:

STORM WATER FACILITIES MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANT

This Storm Water Facilities Maintenance Agreement and Restrictive Covenant is made this 24 day of April, 2008, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Gig Harbor Senior Living LLC, a Limited Liability Corporation, organized under the laws of the State of Oregon, located and doing business at 3723 Fairview Industrial Drive SE, Salem, Oregon 97320 (hereinafter the "Owner").

RECITALS

WHEREAS, Owner is the owner of fee title or a substantial beneficial interest in certain real property located in Gig Harbor, Washington, commonly described as Gig Harbor Senior Estates located at 7083 Wagner Way, Gig Harbor, WA 98335 (hereinafter the "Property") and legally described in **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, in connection with the Owner's proposed development of the Property, the City has required and the Owner has agreed to construct a storm water collection and detention system; and

WHEREAS, such drainage system is described and shown on a construction drawing prepared by the engineering firm of PACE Engineers Inc. dated August, 2007 (hereinafter the "Drainage System Drawing"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, as a condition of project approval and/or as a condition of the City's utilization of the Owner's storm drainage system, the parties have entered into this Maintenance Agreement and Restrictive Covenant, in order to ensure that the drainage system will be constructed and maintained in accordance with the approved plans and the City's development standards;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the City hereby agree as follows:

TERMS

Section 1. Construction and Maintenance. Owner agrees to construct and maintain a drainage system on its Property, as shown on the Drainage System Drawing, **Exhibit B**. The drainage system shall be maintained and preserved by the Owner until such time as the City, its successors or assigns, agree that the system should be altered in some manner or eliminated.

Section 2. No Removal. No part of the drainage system shall be dismantled, revised, altered or removed, except as necessary for maintenance, repair or replacement.

Section 3. Access. The City shall have the right to ingress and egress over those portions of the Property described in **Exhibit A** in order to access the drainage system for inspection and to reasonably monitor the system for performance, operational flows or defects.

Section 4. Repairs, Failure of Owner to Maintain. If the City determines that maintenance or repair work is required to be performed on the system, the City Engineer or his/her designee shall give notice to the Owner of the noted deficiency. The Engineer shall also set a reasonable time in which the Owner shall perform such work. If the repair or maintenance required by the Engineer is not completed within the time set by the Engineer, the City may perform the required maintenance and/or repair. Written notice will be sent to the Owner, stating the City's intention to perform such repair or maintenance, and such work will not commence until at least 15 days after such notice is mailed, except in situations of emergency. If, within the sole discretion of the Engineer, there exists an imminent or present danger to the system, the City's facilities or the public health and safety, such 15 day period will be waived and maintenance and/or repair work will begin immediately.

Section 5. Cost of Repairs and/or Maintenance. The Owner shall assume all responsibility for the cost of any maintenance and for repairs to the drainage system. Such responsibility shall include reimbursement to the City within 30 days after the City mails an invoice to the Owner for any work performed by the City. Overdue payments will require payment of interest by the Owner at the current legal rate as liquidated damages.

Section 6. Notice to City of Repairs and/or Maintenance. The Owner is hereby required to obtain written approval from the City Engineer prior to filling, piping, cutting or removing vegetation (except in routine landscape maintenance) in open vegetated drainage facilities (such as swales, channels, ditches, ponds, etc.), or performing any alterations or modifications to the drainage system.

Section 7. Rights Subject to Permits and Approvals. The rights granted herein are subject to permits and approvals granted by the City affecting the Property subject to this Maintenance Agreement and Covenant.

Section 8. Terms Run with the Property. The terms of this Maintenance Agreement and Covenant are intended to be and shall constitute a covenant running with the Property and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

Section 9. Notice. All notices required or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified U.S. Mail, return-receipt requested, and shall be deemed delivered on the sooner of actual receipt of three (3) days after deposit in the mail, postage prepaid, addressed to the City or the Owner at the addresses set forth below:

To the City:
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

To the Owner:
Gig Harbor Senior Living LLC
3723 Fairview Industrial Drive SE
Salem, Oregon 97320

Section 10. Severability. Any invalidity, in whole or in part, of any provision of this Maintenance Agreement and Covenant shall not affect the validity of any other provision.

Section 11. Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

Section 12. Governing Law, Disputes. Jurisdiction of any dispute over this Maintenance Agreement and Covenant shall be solely with Pierce County Superior Court, Pierce County, Washington. This Maintenance Agreement and Covenant shall be interpreted under the laws of the State of Washington. The prevailing party in any litigation arising out of this Maintenance Agreement and Covenant shall be entitled to its reasonable attorneys' fees, costs, expenses and expert witness fees.

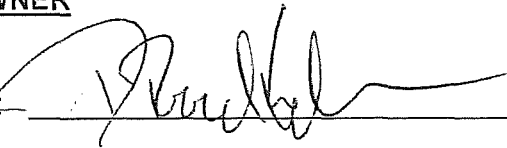
Section 13. Integration. This Maintenance Agreement and Covenant constitutes the entire agreement between the parties on this subject matter, and supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Maintenance Agreement and Covenant to be executed this 24th day of April, 2008.

THE CITY OF GIG HARBOR

By: _____
Its Mayor

OWNER

By:  _____

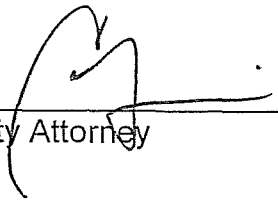
Its: MANAGING MEMBER

Print Name: David Paul Kelly

ATTEST:

City Clerk

APPROVED AS TO FORM:



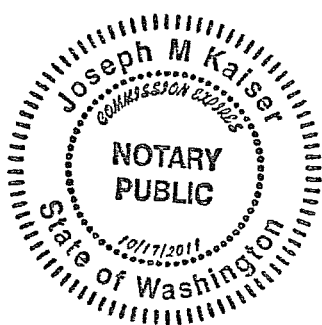
City Attorney

NOTARY BLOCK FOR A CORPORATION/PARTNERSHIP

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that David Reed Kelley 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 Managing Member of Gig Harbor Senior Living, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 4/24/08



[Signature]
Notary Public in and for the
State of Washington,
Title: General Manager
My appointment expires: 10/17/2011

CITY OF GIG HARBOR NOTARY BLOCK

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

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he 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: _____

Notary Public in and for the
State of Washington,
Title: _____
My appointment expires: _____

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

LOT 6 AND 8 MALLARDS' LANDING, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 26, 2001, UNDER AUDITOR'S FILE NUMBER 200103265002, RECORDS OF PIERCE COUNTY AUDITOR MORE PARTICULARLY DESCRIBED AS FOLLOWS:

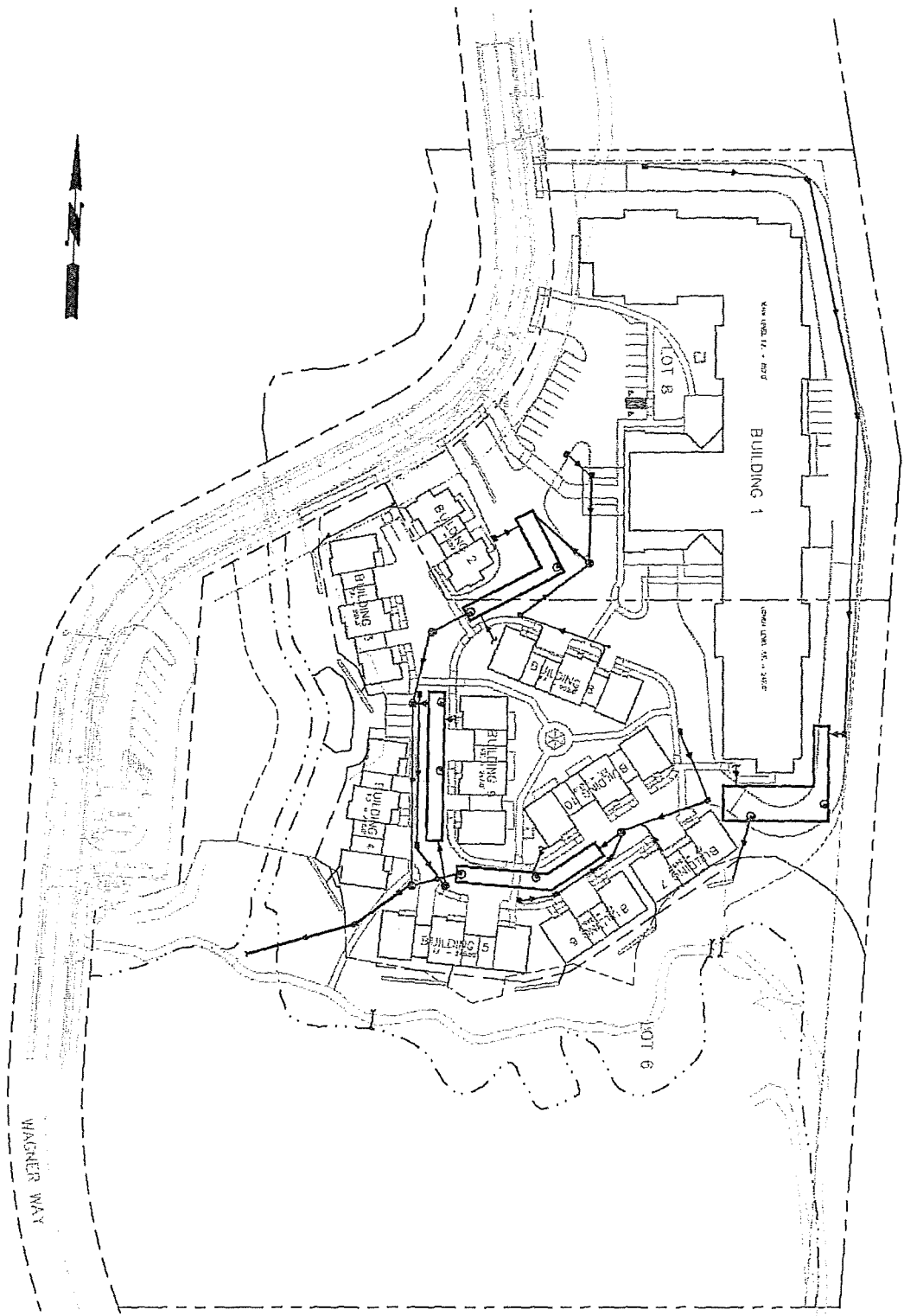
BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 IN THE PLAT OF MALLARDS' LANDING AS RECORDED UNDER PIERCE COUNTY AUDITOR'S FILE NUMBER 200103265002;
THENCE NORTH 02°17'22" EAST ALONG THE EAST LINE OF SAID LOT 6 AND THE EAST LINE OF LOT 8 IN SAID PLAT FOR A DISTANCE OF 641.70 FEET;
THENCE CONTINUING ALONG THE EAST LINE OF SAID LOT 8 AT NORTH 10°25'27" WEST FOR A DISTANCE OF 234.25 FEET TO THE NORTHEAST CORNER OF SAID LOT 8;
THENCE SOUTH 88°13'17" WEST ALONG THE NORTH LINE OF SAID LOT 8 FOR A DISTANCE OF 232.77 FEET TO THE EAST MARGIN OF WAGNER WAY AS SHOWN IN SAID PLAT OF MALLARDS' LANDING;
THENCE SOUTHERLY ALONG SAID EAST MARGIN THROUGH THE FOLLOWING COURSES;
SOUTH 07°48'06" EAST FOR A DISTANCE OF 59.37 FEET TO A POINT OF TANGENCY WITH A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 177.50 FEET;
THENCE SOUTHERLY AND WESTERLY ALONG SAID CURVE FOR AN ARC LENGTH DISTANCE OF 211.89 FEET THROUGH A CENTRAL ANGLE OF 68°23'44";
THENCE SOUTH 60°35'38" WEST FOR A DISTANCE OF 188.19 FEET;
THENCE SOUTH 02°24'32" WEST FOR A DISTANCE OF 231.79 FEET;
THENCE SOUTH 71°31'23" WEST FOR A DISTANCE OF 65.29 FEET;
THENCE SOUTH 02°24'32" WEST FOR A DISTANCE OF 110.46 FEET TO A POINT OF TANGENCY WITH A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 460.00 FEET;
THENCE SOUTHERLY AND EASTERLY ALONG SAID CURVE FOR AN ARC LENGTH DISTANCE OF 192.96 FEET THROUGH A CENTRAL ANGLE OF 24°02'02" TO THE SOUTHWEST CORNER OF LOT 6 IN SAID PLAT OF MALLARDS' LANDING;
THENCE LEAVING SAID EAST MARGIN OF WAGNER WAY AT NORTH 88°10'53" EAST ALONG THE SOUTH LINE OF SAID LOT 6 FOR A DISTANCE OF 538.60 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF LOT 8 IN SAID PLAT OF MALLARDS' LANDING LYING WESTERLY OF SAID WAGNER WAY AND DESCRIBED AS FOLLOWS;
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 8;
THENCE NORTH 88°13'17" EAST ALONG THE NORTH LINE OF SAID LOT 8 FOR A DISTANCE OF 33.23 FEET TO THE WEST MARGIN OF WAGNER WAY AS SHOWN IN SAID PLAT OF MALLARDS' LANDING;
THENCE SOUTHERLY ALONG SAID WEST MARGIN THROUGH THE FOLLOWING COURSES;
SOUTH 07°48'06" EAST FOR A DISTANCE OF 65.17 FEET TO A POINT OF TANGENCY WITH A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 122.50 FEET;
THENCE SOUTHERLY AND WESTERLY ALONG SAID CURVE FOR AN ARC LENGTH DISTANCE OF 146.23 FEET THROUGH A CENTRAL ANGLE OF 68°23'44";
THENCE SOUTH 60°35'38" WEST FOR A DISTANCE OF 105.56 FEET TO THE WESTERLY LINE OF SAID LOT 8;
THENCE NORTHERLY ALONG SAID WESTERLY LINE THROUGH THE FOLLOWING COURSES;

PROPERTY LEGAL DESCRIPTION CONTINUED

NORTH 05°00'29" WEST FOR A DISTANCE OF 7.96 FEET;
NORTH 11°19'38" WEST FOR A DISTANCE OF 17.71 FEET;
NORTH 01°34'26" EAST FOR A DISTANCE OF 26.11 FEET;
NORTH 26°29'42" EAST FOR A DISTANCE OF 15.71 FEET;
NORTH 78°55'17" EAST FOR A DISTANCE OF 28.89 FEET;
SOUTH 89°54'27" EAST FOR A DISTANCE OF 11.35 FEET;
NORTH 75°22'31" EAST FOR A DISTANCE OF 24.60 FEET;
NORTH 62°52'58" EAST FOR A DISTANCE OF 19.26 FEET;
NORTH 59°39'40" EAST FOR A DISTANCE OF 25.86 FEET;
NORTH 31°46'38" EAST FOR A DISTANCE OF 13.45 FEET;
NORTH 00°00'01" EAST FOR A DISTANCE OF 23.73 FEET;
NORTH 05°54'07" WEST FOR A DISTANCE OF 22.03 FEET;
NORTH 06°27'51" EAST FOR A DISTANCE OF 18.55 FEET;
NORTH 18°04'42" EAST FOR A DISTANCE OF 11.39 FEET;
NORTH 10°52'43" EAST FOR A DISTANCE OF 19.76 FEET;
NORTH 16°20'51" WEST FOR A DISTANCE OF 31.18 FEET;
NORTH 11°15'42" WEST FOR A DISTANCE OF 4.09 FEET TO THE POINT OF BEGINNING.

EXHIBIT B





**Subject: Shoreline Master Program Update
Consultant Services Contract**

Dept. Origin: Planning

Prepared by: Tom Dolan 

**Proposed Council Action:
Approve contract with ESA Adolfson**

For Agenda of: May 12, 2008

Exhibits: Contract

Initial & Date

Concurred by Mayor:

CLH 4/29/08

Approved by City Administrator:

RJK 4/28/08

Approved as to form by City Atty:

CAM 4/28/08

Approved by Finance Director:

CP 4/29/08

Approved by Department Head:

TD 4/28/08

Expenditure		Amount		Appropriation	
Required	\$86,592	Budgeted	\$175,000	Required	0

INFORMATION / BACKGROUND

As part of the adopted budget for 2008 a provision was made for consultant services to assist the City with the updating of the Shoreline Master Program and the development of a View Basin Sub-Area Plan. The total amount budgeted for these two work items was \$175,000. The State of Washington is requiring that Gig Harbor update our Shoreline Master Program by 2011. The City's existing shoreline regulations haven't been substantially revised since 1973 and are out of date. The City issued a Request for Proposal (RFP) in March of 2008. Two firms submitted proposals to provide consultant services for the update. Staff recommends the proposal from ESA Adolfson (ESA). The proposal from ESA was superior in two respects. First, the ESA budget was approximately \$40,000 less than the other consultant. Second, the ESA proposal included more services including more public meetings with the Planning Commission and a stakeholders committee. It should be noted that ESA completed a shoreline characterization and inventory plan for the City of Gig Harbor in 2003. ESA will only have to update that document. In addition, ESA is the consultant being used by the County in their Master Program update. ESA will be able to utilize the data from the County for the inventory and characterization for shorelines with Gig Harbor's UGA area.

ESA is a large planning and environmental consulting firm with an office in Seattle. In anticipation of the shoreline master program update, City staff has been attending meetings with the group of jurisdictions currently updating their shoreline master programs. ESA is the consulting firm that most local jurisdictions have been working with in this effort. Kent Hale, ESA's project manager for the Gig Harbor update has worked on 8 other master program updates. Mr. Hale was the project manager in the updates for Puyallup, Des Moines and

Federal Way. Staff has contacted those jurisdictions and they all indicated that ESA was very responsive and worked well their City's to complete the updates. Mr. Hale was specifically identified as being a problem solver and easy to work with. The overall project is estimated to take approximately 2 years to complete. A large portion of that time will be due to the required review by the Department of Ecology.

FISCAL CONSIDERATION

The price for doing the Shoreline Master Program Update identified in the attached contract is \$86,592. The total budgeted for the Master Program Update and the View Basin Sub-Area Plan is \$175,000. It is anticipated that the amount of money remaining (\$88,408) will be enough complete the View Basin Sub-Area Plan.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Approve contract with ESA Adolfson for consulting services associated with the State mandated update to the City of Gig Harbor's Shoreline Master Program.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ESA ADOLFSON**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and ESA Adolfsen, a corporation organized under the laws of the State of Washington located and doing business at 5309 Shilshole Avenue NW, Seattle, Washington (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the updating of its Shoreline Master Program and desires that the Consultant perform services necessary to provide a Shoreline Master Program to submit to the Department of Ecology by November of 2009.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated March, 2008, 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 \$86,592.00 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 – Schedule of Rates and Estimated Hours**. 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 November of 2009; 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:
ESA Adofson
ATTN: Kent Hale
5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
(206)789-9658

City of Gig Harbor
ATTN: Tom Dolan
Planning Director
3510 Grandview Street
Gig Harbor, WA 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

CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

Notices to be sent to:
ESA Adolfson
ATTN: Kent Hale
5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107

City of Gig Harbor
ATTN: Tom Dolan
Planning Director
3510 Grandview Street
Gig Harbor, WA 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 Charles L. Hunter 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

ESA Adolfson, Inc.

Project Title: City of Gig Harbor Shoreline Master Program Update

Description: The City of Gig Harbor (City) is conducting a comprehensive update of its 1994 Shoreline Master Program (SMP) and associated development regulations. The updated SMP will be consistent with the State Shoreline Management Act (Chapter 90.58 RCW) and adopted guidelines by the Department of Ecology (Chapter 173-26 WAC). The City plans to complete the comprehensive update, through local adoption, by the end of 2009.

Scope of Services

While the hours within the tasks identified on Exhibit B (Schedule of Rates and Estimated Hours) may fluctuate, ESA Adolfson's level of effort will be limited to the hours and budget specified in the contract, unless otherwise amended by the City. Schedule for deliverables under each task assumes the contract will be approved no later than May 12, 2008. Deliverable dates shall adjust accordingly if approval occurs later than May 12. See Table A-1., Schedule of Deliverables.

Phase 1. Inventory and Public Outreach Plan

Task 1.1 Assess SMA Jurisdiction and Inventory Data Acquisition.

ESA Adolfson will use GIS to depict the lateral extent of marine shoreline jurisdiction in the City and its UGA. ESA Adolfson will document, based on the best available information, that no freshwater resources in the City or UGA meet SMA jurisdiction criteria. ESA Adolfson will work with city staff to identify and collect relevant city-owned plans, studies, and GIS data. This task includes one meeting with city staff to accomplish Tasks 1.1 and 1.2.

Assumptions: City will be responsible for collecting and transmitting City-owned copies of GIS data, comprehensive plans, studies, etc.

Deliverables: Working bibliography (data inventory) and list of GIS mapping layers, delivered in electronic (.pdf and word) format and three (3) copies in hard copy format.

Task 1.2 Public Participation Plan

ESA Adolfson will work with City staff to develop a Public Participation Plan, identifying stakeholders, technical reviewers, techniques for public outreach, and schedule of public meetings and milestones. This task includes one meeting with City staff to accomplish Tasks 1.1 and 1.2.

Assumptions: City will identify potential stakeholder committee members. This task does not include the production or mailing of any informational brochures or notifications to citizens.

Deliverables: Public Participation Plan delivered in electronic (.pdf and word) format.

Phase 2. Analysis, Characterization & Restoration Planning

Task 2.1 Update Shoreline Inventory and Characterization Report and Map Folio

ESA Adolfsen will revise the December 2003 draft report to incorporate new information gathered in Task 1.1. The revised report will include updated text and maps addressing:

- Analysis and characterize ecosystem-wide processes that affect the City's shorelines;
- Analysis and characterization of shoreline functions;
- Opportunities for protection, restoration, public access and shoreline use; and
- Shoreline management recommendations and policy options for consideration in subsequent phases of the SMP update.

A draft revised report will be delivered for city staff review. A revised draft will be delivered to Ecology and other technical reviewers identified in the Public Participation Plan. The final report will be prepared once all technical review comments are received.

Assumptions: City will be responsible for printing copies for wider public distribution.

Deliverables: Draft, Revised Draft, and Final Shoreline Inventory and Characterization Report and Map Folio, delivered in electronic (.pdf and word) format and three (3) copies in hard copy format. Electronic maps delivered in .pdf format. Any new GIS data created delivered in ESRI shapefile format.

Task 2.2 Restoration Planning

ESA Adolfsen will assist the City develop a restoration plan element of its SMP, consistent with (WAC 173-26-201(2)(f)). This task will identify a programmatic approach, and include the following elements:

- Goals and policies to promote restoration of impaired ecological functions;
- Identify grant opportunities;
- Identify voluntary programs and other non-regulatory tools to implement restoration goals;
- Identify and examine planned capital improvement projects that will benefit shoreline resources and contribute to restoration of impaired ecological functions in the shoreline;

- Further address “opportunity areas” identified in the inventory and characterization report and map folio for protection, enhancement, and potential restoration to establish priorities and benchmarks.

Assumptions: City Planning staff will work with other staff from various departments (e.g., public works) to identify and make available the existing CIP and other programs relevant to shoreline restoration planning.

Deliverables: The Restoration Plan Element of the SMP will be developed as a Technical Memorandum, delivered in electronic and camera ready hard copy format. A total of two review drafts (City staff review and Ecology review) and one final draft Technical Memorandum are scoped for deliverables in this task.

Phase 3. Policy, Regulations, & Public Outreach

Task 3.1 Update General Goals & Policies

ESA Adolfson will assist City staff in augmenting or developing goals and policies intended to ensure or address the objective of no net loss of shoreline ecological functions. SMP goals and policies will be formatted as the Shoreline Element (Chapter 9) of the City’s GMA Comprehensive Plan.

Assumptions: The 1994 SMP will be used as a background document. New draft goals and policies will not be formatted as strike-through revisions to the 1994 SMP.

Deliverables: Draft delivered in electronic (MS word) format for City staff review.

Task 3.2 Shoreline Environment Designations

ESA Adolfson will analyze the City’s existing shoreline environment designations for the various shoreline segments, examine Ecology’s new recommended designations (WAC 173-26-211), and recommend any changes, providing a brief justification for those changes based on findings of the Shoreline Inventory and Characterization Report and draft Restoration Plan Element. This information will be documented in a brief technical memo and proposed environment designation map and presented to staff for final recommendation. Following discussion and coordination with City staff, the recommendations will be refined and provided for presentation to the Stakeholder Committee. Management policies for each designation will be addressed in the technical memo. Environment specific use regulations will be developed as part of Task 3.3.

Deliverables: One draft (for City staff review) and one finalized Technical Memorandum in electronic format to accompany the Proposed Shoreline Environment Designation Map and GIS data layer depicting the City-endorsed shoreline environment designations.

Task 3.3 Use Regulations, Development Standards, and Administrative Procedures

ESA Adolfson will draft SMP use regulations for shoreline uses, shoreline modifications, shoreline environment specific regulations, and permitting administrative procedures. Regulations will be informed by and intended to implement the SMP goals and policies.

Assumptions: The 1994 SMP will be used as a background document. New draft regulations and administrative procedures will not be formatted as strike-through revisions to the 1994 SMP.

Deliverables: Draft elements of the SMP will be delivered for City staff review, then revised and delivered for Stakeholder Committee review. Following Stakeholder Committee work, one consolidated draft will be prepared under Task 5.1 below.

Task 3.4 Stakeholder Meetings / Open Houses

ESA Adolfson will lead up to five (5) meetings with the Stakeholder Committee identified in the Public Participation Plan. ESA Adolfson will present summaries of technical background materials. ESA Adolfson will prepare a Stakeholder Committee "Roles and Responsibilities" memo establishing the role of committee members in the SMP update process. Following each meeting, ESA Adolfson will draft brief meeting summary memos (not complete meeting minutes) to document stakeholder input, decisions, and feedback. Stakeholder committee work will focus on general goals and policies, environment designations, and development of a permitted use table (showing allowed and prohibited uses and shoreline modifications for each shoreline environment).

ESA Adolfson will lead up to two (2) public open houses. The purpose of the open houses will be to inform the general public of the SMP update process and schedule. ESA Adolfson will provide electronic (.pdf format) maps and/or posters for open houses.

Assumptions: City staff will print and distribute materials (draft SMP elements or other deliverables) for Stakeholder Committee members. City staff will act as primary contact for stakeholders. Committee meetings will be held at City Hall. City staff will be responsible for all public meeting advertisements and mailings. City staff will print maps and/or posters for use at open houses.

Deliverables: Stakeholder Committee "Roles and Responsibilities" memo. Stakeholder meeting summaries. Draft elements of the SMP prepared under Tasks 3.1, 3.2, and 3.3 above will be provided for Stakeholder Committee review and discussion. Maps or posters in electronic (.pdf) format.

Phase 4. Cumulative Impacts and Restoration Planning

Task 4.1 Cumulative Impacts Analysis

ESA Adolfson will prepare a cumulative impact analysis of the proposed SMP, once draft goals, policies, and regulations have been developed. This analysis will:

- Consider existing conditions, future development, and beneficial effects of the proposed changes to the existing shoreline regulations;

- Consider other regulatory and non-regulatory programs including the restoration plan element and applicable CIP projects in the effort to achieve no net loss of ecological functions while accommodating reasonably foreseeable future development;
- Identify planning and engineering solutions to address impacts identified; and
- Be documented in the form of a Technical Memorandum for inclusion in a SEPA Non-Project Review Environmental Checklist, to be submitted to Ecology under Task 5.1 with the draft SMP for their review.

Deliverables: One draft (for City staff review) and one final Technical Memorandum in electronic format.

Task 4.2 Reevaluate Phase 3 Elements

Following the cumulative impacts analysis and restoration planning tasks, ESA Adolfson will reevaluate the important components of the SMP, including the environment designations, policies, and regulations, to determine if the draft program will meet the test of “no net loss” of shoreline functions.

Deliverables: If necessary to revise draft SMP elements as a result of the Task 4.3 reevaluation, revised sections will be delivered as part of the Task 5.1 assembled draft for Ecology review.

Phase 5. Local SMP Adoption Process

Task 5.1 Assemble Draft SMP

ESA Adolfson will assemble a complete Draft SMP (including all elements previously developed and reviewed by city staff and the Stakeholder Committee) for submittal to Ecology for review prior to local adoption. ESA Adolfson will complete the SMP Submittal Checklist.

Deliverables: The Draft SMP, delivered in electronic (.pdf and word) format and 3 hard copies for submittal to Ecology. The SMP submittal checklist, delivered in electronic (.pdf and word) format and 2 hard copies.

Task 5.2 Ecology Review and Coordination

ESA Adolfson will review all comments on the Draft SMP once delivered by Ecology. ESA Adolfson will attend one (1) meeting with City staff and Ecology staff to discuss comments and strategies for revisions.

Task 5.3 SEPA Documentation

ESA Adolfson will lead development of a SEPA Non-Project Review Environmental Checklist to support the City's SEPA action and facilitate the local adoption process.

Deliverables: Draft SEPA Checklist, delivered in electronic (.pdf and word) format. Final checklist, revised per City staff review comment, delivered in electronic (.pdf and word) format.

Task 5.4 Planning Commission and City Council Meetings

ESA Adolfsen will support city staff through attendance at up to three (3) Planning Commission meetings and up to two (2) City Council meetings. ESA Adolfsen will attend Planning Commission meetings to present the draft SMP following Stakeholder Committee work and Ecology review. Material presented to the Planning Commission will include findings of the inventory and characterization, the restoration plan element, general goals and policies, and proposed regulations and administrative procedures. ESA Adolfsen will revise elements of the SMP based on Planning Commission review and prepare a "Planning Commission Recommended Draft SMP" for City Council review. ESA Adolfsen will revise elements of the SMP based on City Council review and prepare a "Planning Commission Recommended Draft SMP" for City Council review.

Assumptions: City staff will advertise meetings and prepare copies of packet materials or other handouts. This scope assumes 7 hours per meeting per staff (including 2.5 hours of travel and 2.5 hours preparation). City staff will provide summaries of Planning Commission meetings. City staff will print and copy graphics, maps, and other materials for distribution at Planning Commission meetings. ESA Adolfsen will assist City staff develop presentations and other materials for distribution, as defined in previous tasks. Adolfsen will increase level of effort for this task upon written authorization by the City to adjust level of effort in other tasks, unless otherwise amended.

Deliverables: Camera-ready draft and final memos and materials for City printing and distribution to Planning Commission/City Council, as outlined in previous tasks. Planning Commission Recommended Draft in electronic (.pdf and word) format. Locally adopted or approved Draft SMP in electronic (.pdf and word) format and 3 hard copies for submittal to Ecology.

Schedule

Schedule for deliverables under each task assumes the contract will be approved no later than May 12, 2008. Deliverable dates shall adjust accordingly if approval occurs later than May 12. Duration is shown in calendar days.

Table A-1. Schedule of Deliverables

Task	Deliverable	Duration	Anticipated Date
1.1	Inventory Data List	30-days	June 11, 2008
1.2	Public Participation Plan	30-days	June 11, 2008
2.1	Draft Shoreline Inventory & Characterization & Map Folio (city staff review)	60-days	July 11, 2008
	Revised Draft (Ecology / Technical Review draft)	30-days (assumes city staff review comments within 2 weeks)	August 11, 2008
	Final Report	30-days from receipt of comments (assumes	November 11, 2008

		Ecology and technical review comments within 60-days) (90-day total)	
2.2	Draft Restoration Planning Technical Memo (city staff review)	30-days (from delivery of 2.1 to Ecology)	September 11, 2008
	Revised Draft Restoration TM (Ecology / Technical Review draft)	30-days (assumes city staff review comments within 2 weeks)	October 13, 2008
	Final Restoration TM	30-days from receipt of comments (assumes Ecology and technical review comments within 60-days) (90-day total)	January 16, 2009
3.1	Revised Chapter 9 of Comprehensive Plan (Shoreline General Goals and Policies)	30-days (from delivery of 2.1 to Ecology)	September 11, 2008
3.2	Environment Designations Technical Memo	60-days from delivery of 2.1 to Ecology	October 13, 2008
3.3	Revised Regulations and Admin Procedures	Elements developed piecemeal for stakeholder committee meetings	October, 2008 through February, 2009
3.4	Stakeholder Committee "Roles and Responsibilities" memo	30-days (from delivery of 2.1 to Ecology)	September 11, 2008
4.1	Cumulative Impacts Technical Memo	30-days from last stakeholder meeting	April 15, 2009
5.1	Assembled SMP (Ecology submittal)	30-days from last stakeholder meeting	April 15, 2009
5.3	SEPA Checklist	Developed during Planning Commission review	August 17, 2009
5.4	Planning Commission Recommended Draft SMP	15-days following PC action	August 31, 2009
	Locally Approved/Adopted Draft SMP (Ecology submittal)	15-days following City Council action	November 20, 2009

EXHIBIT B

Schedule of Rates and Estimated Hours

ESA Adolfson, Inc.

Schedule of Rates

Agency will be billed using actual direct labor rate for assigned individual

Job Classification	Hourly Pay Range			Hourly Billing Range		
Principal Scientist/Planner/Engineer	\$49.14	to	\$81.90	\$ 167.50	to	\$ 279.00
Senior Project Manager	\$36.04	to	\$60.06	\$ 123.00	to	\$ 204.50
Project Manager	\$30.58	to	\$49.14	\$ 104.50	to	\$ 167.50
Senior Engineer	\$37.13	to	\$56.78	\$ 126.50	to	\$ 193.50
Project Engineer	\$29.48	to	\$43.68	\$ 100.50	to	\$ 149.00
Staff Engineer	\$22.93	to	\$36.04	\$ 78.50	to	\$ 123.00
Landscape Architect	\$34.94	to	\$45.86	\$ 119.00	to	\$ 156.50
Senior Scientist	\$29.48	to	\$41.50	\$ 100.50	to	\$ 141.50
Project Scientist	\$20.75	to	\$34.94	\$ 71.00	to	\$ 119.00
Staff Scientist	\$16.38	to	\$26.21	\$ 56.00	to	\$ 89.50
Senior Planner	\$30.58	to	\$44.77	\$ 104.50	to	\$ 152.50
Project Planner	\$22.93	to	\$36.04	\$ 78.50	to	\$ 123.00
Staff Planner	\$17.47	to	\$30.58	\$ 59.50	to	\$ 104.50
Technical Editor	\$24.02	to	\$33.85	\$ 82.00	to	\$ 115.50
Senior Graphics/GIS Specialist	\$21.84	to	\$46.96	\$ 74.50	to	\$ 160.00
Graphics/GIS Specialist	\$17.47	to	\$38.22	\$ 59.50	to	\$ 130.50
Sr. Project Administrator	\$22.93	to	\$34.94	\$ 78.50	to	\$ 119.00
Project Administrator	\$17.47	to	\$27.30	\$ 59.50	to	\$ 93.00
Office/Project Assistant	\$16.38	to	\$22.93	\$ 56.00	to	\$ 78.50

Cost Estimate

Phase 1 - Inventory and Public Outreach Plan	
1.1 - Jurisdiction and Inventory	\$3,654.00
1.2 - Public Participation Plan	\$3,420.75
Subtotal	\$7,074.75
Phase 2 - Analysis, Characterization & Restoration	
2.1- Analysis, Characterization, & Recommendations Report and Map Folio (Draft and Final)	\$9,384.00
2.1 - Restoration Plan	\$6,836.50
Subtotal	\$16,220.50
Phase 3 - Policies, Regulations, and Public Involvement	
3.1 through 3.3 - Goals, Policies, Regulations, Environment Designations, Admin Procedures	\$24,367.00
3.4 - Stakeholder Meetings (5) & Open Houses (2)	\$10,031.00
Subtotal	\$34,398.00
Phase 4 - Cumulative Impacts	
4.1 - Cumulative Impact Analysis	\$6,484.50
4.2 - Reevaluate Phase 3 SMP elements	\$1,172.00
Subtotal	\$7,656.50
Phase 5 - Local Adoption Process	
5.1 - Assemble Draft SMP	\$3,452.00
5.2 - Ecology Review and Coordination	\$4,130.00
5.3 - SEPA Documentation	\$6,065.50
5.4 - Planning Commission meetings (3); City Council meetings (2)	\$6,845.00
Subtotal	\$20,492.50
Total Miscellaneous Expenses (mileage/copies/etc.)	\$750.00
TOTAL PROJECT COST	\$86,592.25



Subject: Acquisition of Uddenberg Lane

Proposed Council Action: Authorize the Mayor on behalf of Council to accept the Quit Claim Deed of 2 parcels known as Uddenberg Lane from Lori Uddenberg.

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton
Special Projects

For Agenda of: May 12, 2008

Exhibits: Quit Claim Deed

Initial & Date

Concurred by Mayor:

CLH 5/6/08

Approved by City Administrator:

PK 5/6

Approved as to form by City Atty:

CAM 5/6/08

Approved by Finance Director:

DP 5/6/08

Approved by Department Head: _____

Expenditure		Amount		Appropriation	
Required	-0-	Budgeted	-0-	Required	-0-

INFORMATION / BACKGROUND

The site is currently under the ownership of the estate of Eugenia Uddenberg, which is being executed by Lori Uddenberg. It was purchased from Peter Skansie in 1957. The 2 parcels represent a small connecting street between Pioneer Way and Stanich Lane (aka View Street). A Phase I by Robinson Noble Saltbush Inc. indicates that there are no records or environmental conditions associated with these 2 parcels.

FISCAL CONSIDERATION

none

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Move to: Authorize the Mayor on behalf of Council to accept the Quit Claim Deed from Lori Uddenberg for the 2 parcels known as Uddenberg Lane.

AFTER RECORDING MAIL TO:

K. Michael Jennings
1102 Broadway, Suite 500
Tacoma, WA 98402

QUIT CLAIM DEED OF PERSONAL REPRESENTATIVE

The Grantor, Lori Dee Uddenberg, as Personal Representative of the Estate of Eugenia M. Uddenberg, deceased, under authority vested in me as the nonintervention Personal Representative of the Estate of Eugenia M. Uddenberg, deceased, Pierce County, Washington, Probate No. 07-4-00203-3, for and in consideration of gift, does hereby convey and quit-claim unto the Grantee, City of Gig Harbor, all the right, title, claim and interest of said estate to the following described real property situate in Pierce County, Washington, to-wit:

The North 30 feet of Lots 10 and 19, Peter Skansi Addition, according to plat recorded in Book 13 of Plats at Page 56, in Pierce County, WA. TOGETHER with vacated portion of 3rd Street, a/k/a Cosulich Street, lying between said lots heretofore vacated by Order of the Council of the Town of Gig Harbor.
Pierce County Tax Parcel Numbers: 765500-021-0 and 765500-014-0

DATED this 21st day of March, 2008.

ESTATE OF EUGENIA M. UDDENBERG

By *Lori Dee Uddenberg*
Lori Dee Uddenberg
Personal Representative

STATE OF WASHINGTON)
) ss.
County of Pierce)

This is to certify that on this 21st day of March, 2008, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Lori Dee Uddenberg, to me known to be the individual named in and executing the within and foregoing Quit Claim Deed of Personal Representative, and she acknowledged to me that she had executed the same in her capacity as Personal Representative of the Estate of Eugenia M. Uddenberg, deceased, whose estate is undergoing Probate in Pierce County Superior Court, Cause No. 07-4-00203-3, and as the free and voluntary act and deed of said estate, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal hereunto affixed the day and year first above written.



Joyce E. Thomas
NOTARY PUBLIC
Print Name: Joyce E. Thomas
My appointment expires: 8-30-08



Subject: Resolution – Accepting all 2008 Comprehensive Plan amendment applications

Proposed Council Action:

Approve resolution forwarding all applications for Comprehensive Plan amendments in the 2008 cycle to the Planning Commission for a hearing and further processing.

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner

For Agenda of: May 12, 2008

Exhibits: Resolution; Council Bill on applications from April 28, 2008 meeting without exhibits

Initial & Date

Concurred by Mayor:

Approved by City Administrator: [Signature] 5/5/08
Approved as to form by City Atty: [Signature] 5/5/08
Approved by Finance Director: [Signature] 5/5/08
Approved by Department Head: [Signature] 5/5/08

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values are 0, 0, 0.

INFORMATION / BACKGROUND

On April 28, 2008, the City Council evaluated the comprehensive plan amendment applications submitted for the 2008 annual cycle, and held a public hearing on such applications. As allowed by GHMC 19.09.130 and GHMC 19.09.140, the Council selected which applications would be forwarded to the Planning Commission to be processed and which applications would not be processed during this cycle.

The 2008 Comprehensive Plan amendment cycle had nine (9) applications on the docket. Six (6) were requested by the City and three (3) are from private-party applicants. After the public hearing, the Council decided to accept all nine applications for Comprehensive Plan amendments in the 2008 cycle and to forward them to the Planning Commission for hearing and further processing.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

None solicited.

RECOMMENDATION / MOTION

Approve resolution forwarding all applications for Comprehensive Plan amendments in the 2008 cycle to the Planning Commission for a hearing and further processing.

**CITY OF GIG HARBOR
RESOLUTION NO.**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY 'S LAND USE COMPREHENSIVE PLAN, FORWARDING ALL APPLICATIONS FOR COMPREHENSIVE PLAN AMENDMENTS IN THE 2008 CYCLE TO THE PLANNING COMMISSION FOR A HEARING AND FURTHER PROCESSING.

WHEREAS, the Growth Management Act prevents the City from processing comprehensive plan amendments more than once per year; and

WHEREAS, the City of Gig Harbor has adopted regulations for the processing of comprehensive plan amendments in chapter 19.09 GHMC; and

WHEREAS, under GHMC 19.09.130 and GHMC 19.09.140, the City Council evaluates the submitted comprehensive plan amendment applications and determines which applications will be processed further during the annual cycle; and

WHEREAS, on April 28, 2008, the City Council evaluated the comprehensive plan amendment applications submitted for the 2008 annual cycle, and held a public hearing on the applications; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council determined, after a public hearing, to forward all comprehensive plan amendment applications to the Planning Commission for further processing. This includes all applications described in the City Council Agenda Bill for the City Council meeting of April 28, 2008, which is hereby incorporated by reference.

RESOLVED by the City Council this ___th day of May, 2008.

APPROVED:

Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____

Filed with the City Clerk:
Passed by the City Council:
Resolution No.



Subject: Public Hearing on 2008
Comprehensive Plan Amendment Docket

Proposed Council Action: Review and consider the proposed 2008 Comprehensive Plan amendments and separate the applications as to which applications will be forwarded to the Planning Commission to be processed from those applications that will not be processed at this time

Dept. Origin: Planning

Prepared by: Jennifer Kester *JK*
Senior Planner

For Agenda of: April 28, 2008

Exhibits: Application materials for comprehensive plan amendments, Resolution 726

Initial & Date

Concurred by Mayor: _____

Approved by City Administrator: *POK 4/23/08*

Approved as to form by City Atty: _____

Approved by Finance Director: _____

Approved by Department Head: *ID 4/23/08*

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

The Planning Department has docketed the proposed Comprehensive Plan amendments submitted for the 2008 review cycle. The submittal deadline for the 2008 review cycle was February 29, 2008. As required by Chapter 19.09, the Planning Department has reviewed each application and has determined that each application is complete. The City Council should now hold a public hearing and make a final decision on which amendments will proceed through the annual amendment process. The Council should separate the applications as to which applications will be forwarded to the Planning Commission to be processed from those applications that will not be processed at this time. The Council's findings and conclusions on any applications that will not be processed during this annual amendment cycle will be incorporated into a resolution to be presented in a subsequent council meeting.

The 2008 Comprehensive Plan amendment cycle has nine (9) applications on the docket. Six (6) are requested by the City and three (3) are from private-party applicants. Below is a brief description of each application on the docket. The basic application materials for each amendment are attached.

1. APPLICATION COMP 07-0005: Gig Harbor Wastewater Comprehensive Plan Amendment to Sewer Basin C14

The proposed Comprehensive Plan amendment, requested by Harbor Reach Estates LLC, would amend text and maps related to the Sewer Basin C14 in the Gig Harbor Wastewater Comprehensive Plan.

2. Application COMP 08-0001: 3700 Grandview Street Comprehensive Land Use Map Amendment

The proposed Comprehensive Plan amendment, requested by MP8 LLC and Pioneer & Stinson LLC, would change the land use designation for 4.27 acres of property located at 3700 Grandview Street from a Residential Low (RL) designation to a Residential Medium (RM) designation.

3. Application COMP 08-0002: Parks, Recreation and Open Space Element Update

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would update, revise and add to the list and descriptions for current and planned parks, recreation and open space projects. The amendment will allow the City to update its park impact fees.

4. Application COMP 08-0003: 3720 Harborview Drive Land Use Map Amendment

The proposed Comprehensive Plan amendment, requested by Michael Averill of Lighthouse Square LLC, would change the land use designation for one parcel of property (approximately ¼ acre) located at 3720 Harborview Drive, currently occupied by Lighthouse Marine and Speedy Auto Glass, from a Residential Low (RL) designation to a Residential Medium (RM) designation.

5. Application COMP 08-0004: Area-Wide Land Use Map Amendment

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor Planning Commission, would correct inconsistencies between the Land Use Map and the Zoning Map. The three amendments include:

1. A land use designation change from Residential Medium (RM) to Residential Low (RL) of approximately 38 acres along the west side of Soundview Drive zoned R-1;
2. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 16.5 acres between Soundview Drive and Harborview Drive near the old ferry landing zoned R-2; and,
3. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 250 acres between Burnham Drive and State Route 16 in the Urban Growth Area with pre-annexation zoning of R-2.

6. Application COMP 08-0005: Gig Harbor Wastewater Comprehensive Plan Amendments to Sewer Basins C1, C5 and C8

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend sewer basin boundaries to reflect actual conditions for Sewer Basins C1, C5 and C8 contained in the Gig Harbor Wastewater Comprehensive Plan.

7. Application COMP 08-0006: Utilities Element Update

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would add a goal to the Utilities Element to allow for the potential creation and utilization of reclaimed (Class A) water at the City's Wastewater Treatment Plant.

8. Application COMP 08-0007: Capital Facilities Plan Update

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Capital Facilities Plan to update the stormwater, wastewater, water system, parks, recreations and open space, and transportation improvement projects included in the six-year and twenty-year improvement project lists. The City currently has a

consultant under contract to assist with the development of the City's Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models. The models will then be used to test and finalize the six-year and long range transportation improvement project list included in the Capital Facilities Plan. This work is currently in progress and is scheduled to be completed in draft form by May 23rd with a final report due June 16th. This will allow staff the time to incorporate changes into the proposed amendments sent to the Planning Commission.

9. Application COMP 08-0008: Transportation Element Update

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Transportation Element, correcting inconsistencies and incorporating new information resulting from work in progress to identify key transportation capacity improvement projects using updated growth and traffic modeling information. As discussed above, the staff will update this amendment, as appropriate, based on the information garnered from the Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models which are currently being developed.

POLICY ANALYSIS

A. Selection Criteria. Before rendering a decision whether the individual comprehensive plan amendment proposal may be processed during any year, the city council shall consider all relevant facts, including the application materials, as well as the following items:

1. Whether circumstances related to the proposed amendment and/or the area in which it is located have substantially changed since the adoption of the comprehensive plan; and
2. Whether the assumptions upon which the comprehensive plan is based are no longer valid, or whether new information is available which was not considered during the initial comprehensive plan adoption process or during previous annual amendments. (GHMC 19.09.130)

B. Staff Recommendations.

Staff believes that all nine (9) amendments should be forwarded onto the Planning Commission for processing in the 2008 cycle. The City sponsored amendments will bring further consistency between our development regulations and the Comprehensive Plan. In addition, several of the proposed revisions are necessary for the city to continue to provide infrastructure for current citizens and future growth. Below is a brief analysis of the private party sponsored amendments:

1. In the case of COMP-07-0005 (for the **Gig Harbor Wastewater Comprehensive Plan Amendment to Sewer Basin C14**), the initial application was submitted on July 18, 2007, but was not complete by 2007 Comprehensive Plan Amendment Docket Hearing. Therefore, the Council rejected the proposal in Resolution 726. The resolution indicated that if the application became complete, the amendment could be reviewed in a later cycle. Additional materials were submitted by the applicant, and the application was deemed complete on October 2, 2007. It should be noted that the City had intended to propose a comprehensive update to the Wastewater Comprehensive Plan for the 2008 review cycle which would have included the review of the amendments proposed in this application (COMP 07-0005). While the City has

contracted with HDR to update the Wastewater Comprehensive Plan, the work has not yet begun. The City anticipates the update to be ready for review during the 2009 comprehensive plan review cycle. Engineering staff believes that the comprehensive wastewater plan update and analysis that will be conducted by HDR is not required to process and review this application and the similar application proposed by the City (COMP 08-0005: Gig Harbor Wastewater Comprehensive Plan Amendments to Sewer Basins C1, C5 and C8). For the C14 sewer basin comprehensive plan, the applicant's engineers will be asked to provide the necessary analysis. For the C1, C5 and C8 changes, no specific engineering analysis is needed as those changes reflect actual conditions. Therefore, in order to limit application delays, the City is recommending this amendment (COMP 07-0005) be reviewed during the 2008 cycle.

2. In the case of COMP 08-0001 (for the **3700 Grandview Street Comprehensive Land Use Map Amendment**), a very similar application by the same applicant was rejected for the 2007 Comprehensive Plan review cycle (Application COMP 07-0006, Resolution 726). The application was rejected due to the lack of capacity at the Wastewater Treatment Plant (WWTP) and the lack of consistency with the City's Comprehensive Plan and Capital Facilities Plan. At the time of the 2007 cycle review, the City had just been informed that the WWTP had no remaining capacity to allocate to new development. The capacity evaluation done for the proposed application (COMP 07-0006) indicated that additional capacity in the WWTP was needed to develop the property as proposed by the application. The Comprehensive Plan at the time indicated that capacity was available at the sewer treatment plant. The Growth Management Act requires that for approval, a comprehensive plan amendment must be consistent with the comprehensive plan existing at the time. Therefore, the comprehensive plan had to be updated before the application (COMP 07-0006) could be processed.

The City now has updated the Comprehensive Plan: The 2007 update to the Capital Facilities Plan, adopted on December 10, 2007, acknowledged the current lack of capacity in the WWTP and included the required WWTP and outfall upgrades in the Six Year Capital Improvement Program to gain additional capacity. Work has now begun on the upland portion of the sewer outfall upgrade/expansion and the upgrade to the sewer treatment plant is in the permitting process. Construction on the plant upgrades is expected to begin in the winter of 2008.

In addition, the applicant has changed the application from the original by proposing to limit the scope of their comprehensive plan amendment through a development agreement. The enclosed development agreement specifically acknowledges the current lack of sewer capacity (Section 13.C) and acknowledges that if the Comprehensive Plan amendment is approved, any subsequent site-specific project applications would be subject to the "Alternative project permit processing without concurrency" process (GHMC 19.02.035). While the City staff has yet to review this development agreement for form or consistency with law, the agreement is attached to demonstrate the change from the original application. The staff recommends this amendment be forwarded onto the Planning Commission for processing in the 2008 cycle.

3. In the case of COMP 08-0003 (for the **3720 Harborview Drive Land Use Map Amendment**), the applicant has requested an up-designation from Residential Low (RL) to Residential Medium (RM) land use designation. As indicated in the application materials, the applicant plans to request a site-specific rezone of this quarter-acre property from R-1 to RB-1 if the land use designation change is approved. As the parcel is less than two acres in size, the applicant is limited to the RB-1 zone if the RM designation is approved (GHMC 17.100.020(C)) and the applicant could not propose a PUD or PRD on the property. It should be noted that the current use of the site as a glass business and a marine sales and repair business is not permitted in the R-1 zone. Those current uses are classified as marine sales and service, marine boat sales, sales level 1 and product services level 2 in our land use matrix (GHMC 17.14). Those use classifications, as performed on the site, are not permitted in the RB-1 either. Based on the application materials, the property owner intends to modify and improve the current business uses if the property is ultimately rezoned.

As with all land use designation change requests, the engineering staff will perform a capacity evaluation to see if the proposed land use change will increase the intensity of the permitted development. If an increase in intensity is found, the City has mechanisms in place to process the concurrency issues related to this application, as stated above in item B.2. The staff recommends this amendment be forwarded onto the Planning Commission for processing in the 2008 cycle where the use and concurrency issues can be thoroughly reviewed and addressed.

ENVIRONMENTAL ANALYSIS

SEPA review will occur after the Council decides which comprehensive plan amendment applications will be forwarded to the Planning Commission.

FISCAL CONSIDERATION

None.

BOARD OR COMMITTEE RECOMMENDATION

None solicited. The Planning Commission will make a recommendation on those comprehensive plan amendment applications which the Council accepts and forwards to the Planning Commission for further processing.

RECOMMENDATION / MOTION

Motion: Move that all of the 2008 Comprehensive Plan Amendment Applications be forwarded to the Planning Commission for further processing, according to code. Staff is directed to prepare a resolution reflecting this motion for the Council at the next Council meeting.

Or,;

Motion: Move that the following 2008 Comprehensive Plan Amendment Applications be forwarded to the Planning Commission for further processing, according to the code: 1. ____;
2. _____ . . . and

Move that the following 2008 Comprehensive Plan Amendment Applications be rejected for further processing, for the following reasons: 1. (identify amendment application) because ____ (identify reason for rejection); 2. (identify amendment application) because ____ (identify reason for rejection); . . . Staff is directed to prepare a resolution reflecting this motion to the Council at the next meeting.



Subject: Purchase Authorization for Speed Monitoring Devices

Dept. Origin: Public Works - Operations

Prepared by: Marco Malich
Interim Director of Operations

Proposed Council Action: Authorize the Purchase of Two (2) Speed Monitoring Devices from Cascade Signal Corporation for their Price Quotation of Ten Thousand Four Hundred Twenty-Five Dollars and Twelve Cents (\$10,425.12), including tax and shipping.

For Agenda of: May 12, 2008

Exhibits: Price Quotation

Concurred by Mayor: [Signature]
Approved by City Administrator: [Signature]
Approved as to form by City Atty: [Signature]
Approved by Finance Director: [Signature]
Approved by Department Head: [Signature]

Initial & Date
CUH 4/30/08
RDK 4/29/08
DL 4/29/08
MM

Table with 3 columns: Expenditure, Amount, Appropriation. Row 1: Expenditure Required \$10,425.12, Amount Budgeted \$12,000, Appropriation Required \$0.

INFORMATION / BACKGROUND

An identified Street Objective in the 2008 Budget is for the purchase and installation of two portable speed monitoring units to be located at several locations throughout the City. Multiple bases will be installed throughout the City so that the signs can be rotated every 4-6 months.

Three price quotations were obtained following the process outlined in RCW 35.23.352 for the purchase of materials. The following quotes were received:

- Cascade Signal Corporation \$10,425.12 (including sales tax)
Western Systems \$12,172.87 (including sales tax)
TESCO Controls, Inc. \$13,028.80 (including sales tax)

FISCAL CONSIDERATION

The material cost is within the \$12,000 that was anticipated in the adopted 2008 budget and as identified under Streets Operating Fund, Objective No. 6. The installation will be provided by City Maintenance Staff.

BOARD OR COMMITTEE RECOMMENDATION

On 1/17/08, the Operations and Public Projects Committee was in favor of the signs and prioritized installing the bases in the following locations:

- 1) Stinson at Foster (sign to go both ways)
2) Soundview below Grandview
3) Burnham near the Hy-lu-Hee-Hee
4) Peacock at the top of the hill

5) 38th – would need to think about at a later date due to utilities.

RECOMMENDATION / MOTION

Move to: : Authorize the Purchase of Two (2) Speed Monitoring Devices from Cascade Signal Corporation for their Price Quotation of Ten Thousand Four Hundred Twenty-Five Dollars and Twelve Cents (\$10,425.12), including tax and shipping.

PMB #172 I7719 PACIFIC Ave S.
 Spanaway WA 98387-8334
 Phone: 253-535-1995; Fax 253-535-1895

Qty	Description	Each	Extended
2	SpeedCheck Fixed-mount VSC-1520 15" Display, AC power ready includes: MUTCD-compliant "YOUR SPEED" sign with diamond grade white with black lettering, approach only radar, amber LED's and mounting brackets (speed can be reprogrammed with palm- gig harbor has one already)	4,095.00	8,190.00
6	SpeedCheck Quick change brackets - Lockable 1 for each display and 1 for each (4) pole. Total of 5	50.00	300.00
2	SpeedCheck "SLOW DOWN" *	500.00	1,000.00
		Sub Total	9,490.00
		Sales Tax 8.8%	835.12
		Shipping and Handling	100.00
		Total Price	10,425.12

SpeedCheck Timekeeper* 375.00

FOB: Origin
 TERMS: Net 30 Days, On approved credit accounts
 Interest applied to past due invoices
 All merchandise sold is subject to lien laws



FEATURES

Fluorescent Yellow-Green (MUTCD Pedestrian, Bicycle, School) or **Standard Yellow** sign colors.

Violation Alert - Display flashes when a pre-set speed is exceeded. To convey increased urgency, the display flashes more rapidly as speed increases.

Controlled viewing area prevents distracted driving - Our exclusive SafetyMask™ technology allows display viewing *only* when within a driver's normal field of view. Prevents viewing from acute angles to avoid distracting a driver's attention to the side of the road at a time when it is critical that their attention is on the road *ahead*.

UltraClear™ contrast enhancement technology provides the ultimate in display visibility.

100% solid-state - no moving parts to wear, stick or break.

AC and Solar power options

Unbreakable 1/4" Polycarbonate window

Full 2 year warranty - 8 year warranty on LEDs

Speed-CHECK

VSC - 1520F

**Voluntary Speed Compliance
Display system**

GENERAL SPECIFICATIONS

Dimensions:

Display Housing: 26 1/2" x 20" x 6"
(67 x 51 x 15 cm)

Sign Dimensions: 30" x 42"
(76 x 107 cm)

Weight: 31 Lbs. (15.5 kg.)

Numeral Height: 15" (38 cm)

Construction:

Heavy (11 Gauge) Welded Aluminum
11 Gauge Aluminum Sign
Stainless Steel & Brass hardware

Display Type: AllnGaP LED

ELECTRONIC DATA

Power:

110 / 220 VAC or
10 - 16 volts DC (Solar Panel)

RADAR type:

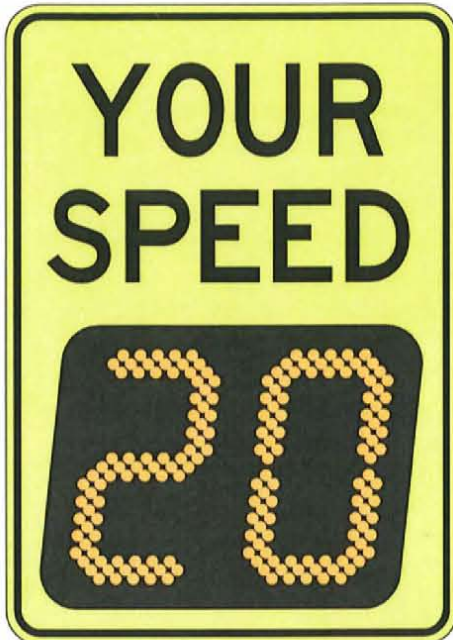
Low power - 24.150 Ghz (K-band)

FCC approval:

Part 15 Certified
No operating license required

INFORMATION DISPLAY COMPANY

Box 19640 - Portland, Oregon 97280 - USA (800) 421-8325 / (503) 678-2861 fax: (503) 678-2863
sales@informationdisplay.com



Voluntary Speed Compliance Display

- **NEW** 3rd generation (*Gen III*) technology incorporates all of the best features of our second generation systems along with further improvements in the areas of Viewability, Vandal Resistance, and ease of field repair.
- Our latest UltraClear II™ extremely high contrast display technology provides the highest visibility and clarity ever!
- Our SafetyMask™ technology allows display viewing only when within a driver's normal field of view. By Preventing viewing from acute angles, the SafetyMask™ avoids distracting a drivers attention to the side of the road at a time when their attention needs to be on the road ahead.
- Highest technology electronics provides independent control of each segment of the display, providing added assurance of long term display life
- With the Violation Alert option, even the *most* inattentive motorists can't help but notice the display as it flashes their speed to further attract attention. The *Gen III* Violation Alert conveys increased urgency by flashing more and more rapidly as speed increases beyond the set threshold.
- The 30" x 42" sign size with 15" high speed display is appropriate for lower speed areas such as School Zones and Neighborhoods. Recommended for areas with posted speeds of up to 35 MPH. (For higher speed areas, consider our VSC-1820 systems)
- 100% electronic LED display has *no moving parts* to wear out, stick, or break, and carries an 8 year warranty.
- Simple troubleshooting & repair - can be done by un-trained personnel with standard hand tools.

VSC -1520F GEN III

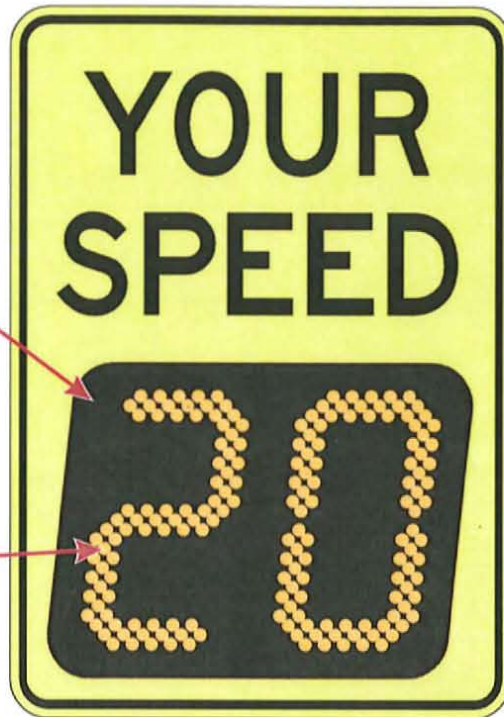
The most highly advanced display we've ever created

UltraClear™ display

Extremely high contrast display technology creates an ultra black background to provide outstanding display visibility.

SafetyMask™ technology

allows viewing only when within a drivers' normal field of view. Display cannot be viewed from acute angle . . . prevents 'rubbernecking'.

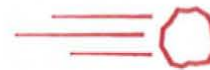


100% Naturally Corrosion Resistant Materials

Housing and hardware are 100% Aluminum and Stainless Steel construction throughout.

Highly Vandal Resistant display

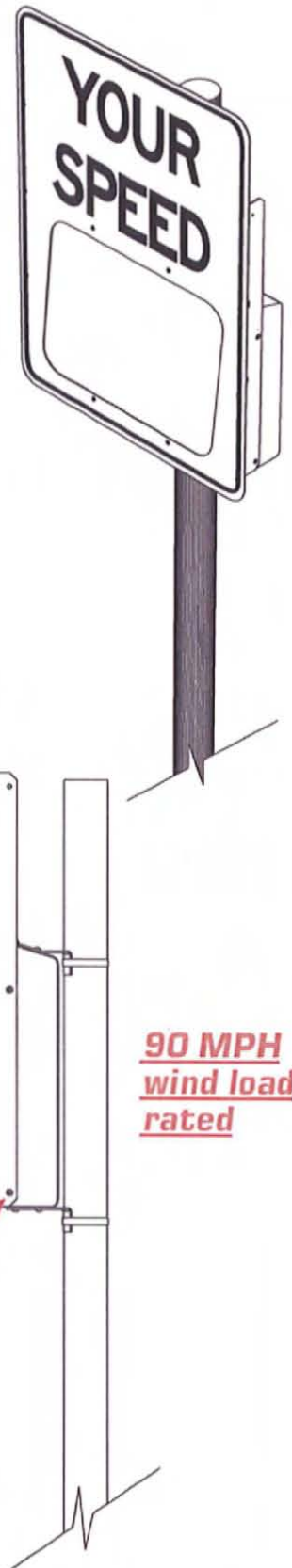
If struck by a projectile, the *shatter proof* window and internal display actually *absorb the shock* by deflecting together up to 2 1/2 inches without damage!



High Contrast Anti-glare Display Window

To improve contrast even further, the display window is angled downward to *completely eliminate* glare producing reflections from the Sun and Sky.

Quick repair / upgrade - Remove 2 vandal-resistant fasteners to gain access to all internal components. Self test functionality and a troubleshooting card inside the display housing allow un-trained personnel to quickly troubleshoot any problem. All components are easily replaced in just a few minutes.





Subject: Eddon Boat Sediment Remediation Project CPP-0801 -- Construction Contract Authorization

Proposed Council Action: Authorize the award and execution of a construction contract for the Eddon Boat Sediment Remediation Project to American Civil Constructors for their bid in the amount of One million, forty thousand, ninety-eight Dollars and zero cents (\$1,040,098.00).

Dept. Origin: Engineering Division
Prepared by: Stephen Misiurak, P.E. *SM*
 City Engineer
For Agenda of: May 12, 2008
Exhibits: Contract, Bid Summary Sheet

Initial & Date

Concurred by Mayor: *CLH 5/6/08*
Approved by City Administrator: *POK 5/6*
Approved as to form by City Atty: *CAM 5/6/08*
Approved by Finance Director: *CR 5/6/08*
Approved by Department Head: *SM 5/6/08*

Expenditure Required	\$1,040,098.00	Amount Budgeted	\$1,500,000	Appropriation Required	\$ 0
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INFORMATION / BACKGROUND

This project provides for the Eddon Boat Sediment Remediation Project (CPP-0801). The work to be completed under this contract generally consists of the demolition and removal of existing marine and shoreline structures, dredging of contaminated marine sediments, excavation and removal of near shore soils, placement of sand and gravel materials in intertidal and sub-tidal areas, as well as other site work including environmental protection and traffic control.

In accordance with the competitive bid process, the City prepared engineered plans and specifications and issued a call for bids in November 2007. Two contractors submitted sealed bids on April 30, 2008. The results are shown in the attached Exhibit A, Bid Summary Sheet. American Civil Constructors was determined to be the lowest responsible bidder, with a bid in the amount of \$1,040,098.00.

In determining "lowest responsible bidder", in addition to price, the following elements were given consideration by the City:

- a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- c) Whether the bidder can perform the contract within the time specified;
- d) The quality of performance of previous contracts or services;
- e) The previous and existing compliance by the bidder with laws relating to the contract or services.

City staff conducted a subsequent interview with American Civil Constructors to discuss the above elements and it is the conclusion of staff that American Civil Constructors satisfy all the above criteria.

FISCAL CONSIDERATION

The 2008 Parks Development Fund has allocated \$1,500,000 for this project under Objective No. 8. The cumulative encumbrances for this project including all engineering and design contracts equals \$1,857,354.00, accounted for as follows:

<u>Uses</u>	
Construction Contract Total	\$1,040,098
Permitting Assistance	\$ 482,195
Final Plan & Specification Update	\$ 103,027
Construction Management Services	\$ 166,134
Grant Assistance	\$ 47,900
DOE Review	\$ 18,000
TOTAL COST	<u>\$1,857,354</u>

FUNDING SOURCES:

Other*	\$ 581,354
Two EPA Brownsfield Cleanup Grants	\$ 400,000
Dept of Natural Resources Grant	\$ 126,000
Seller Remediation Deposit	\$ 750,000
TOTAL FUNDS	<u>\$1,857,354</u>

*Note: The "other" funding sources are anticipated to be comprised of funds from an additional Department of Ecology grant, City Funds, and additional Seller/Harbor Cove monies.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the award and execution of the contract for the Eddon Boat Sediment Remediation Project to American Civil Constructors in the amount of One million, Forty thousand ninety-eight dollars and zero cents (\$1,040,098.00), including retail sales tax.

CITY OF GIG HARBOR
EDDON BOATYARD SEDIMENT REMEDIATION PROJECT CPP-0801

Bid Date: April 30, 2008, Wednesday, 10:00 AM

ITEM	DESCRIPTION	UNIT	BID QUANTITY	Engineer's Unit Price	Engineer's Totals	ACC Unit Prices	ACC Totals	AEC Unit Prices	AEC Totals
1	MOBILIZATION	LS	1	\$105,000.00	\$105,000.00	\$70,000.00	\$70,000.00	\$109,272.90	\$109,272.90
2	SITE PREPARATION	LS	1	\$50,000.00	\$50,000.00	\$9,500.00	\$9,500.00	\$21,810.50	\$21,810.50
3	TRAFFIC CONTROL SUPERVISOR	LS	1	\$10,000.00	\$10,000.00	\$5,000.00	\$5,000.00	\$31,425.30	\$31,425.30
4	FLAGGERS AND SPOTTERS	HR	1,000	\$35.00	\$35,000.00	\$60.00	\$60,000.00	\$106.60	\$106,600.00
5	CONSTRUCTION SIGNS CLASS A	SF	64	\$25.00	\$1,600.00	\$34.00	\$2,176.00	\$74.00	\$4,736.00
6	PORTABLE CHANGEABLE MESSAGE SIGN	EA	2	\$2,000.00	\$4,000.00	\$3,000.00	\$6,000.00	\$7,107.00	\$14,214.00
7	OPERATION OF PORTABLE CHANGEABLE MESSAGE SIGN	HR	120	\$20.00	\$2,400.00	\$10.00	\$1,200.00	\$24.70	\$2,964.00
8	OTHER TEMPORARY TRAFFIC CONTROL	LS	1	\$3,000.00	\$3,000.00	\$2,500.00	\$2,500.00	\$13,192.70	\$13,192.70
9	ENVIRONMENTAL PROTECTION	LS	1	\$20,000.00	\$20,000.00	\$30,000.00	\$30,000.00	\$111,968.70	\$111,968.70
10	DEMOLITION AND DISPOSAL OF TIMBER PIER AND BOAT HAUL-OUT RAILS	LS	1	\$70,800.00	\$70,800.00	\$146,000.00	\$146,000.00	\$55,376.90	\$55,376.90
11	DREDGING AND DISPOSAL OF CONTAMINATED SEDIMENT	LS	1	\$297,455.00	\$297,455.00	\$270,000.00	\$270,000.00	\$313,719.40	\$313,719.40
12	FURNISH AND PLACE SAND	LS	1	\$65,500.00	\$65,500.00	\$110,024.00	\$110,024.00	\$174,356.30	\$174,356.30
13	FURNISH AND PLACE SURFACE GRAVEL	LS	1	\$52,788.00	\$52,788.00	\$80,000.00	\$80,000.00	\$139,971.20	\$139,971.20
14	FURNISH AND PLACE BULKHEAD HABITAT MIX	LS	1	\$12,492.00	\$12,492.00	\$60,000.00	\$60,000.00	\$79,964.50	\$79,964.50
15	DEMOLITION AND DISPOSAL OF TIMBER BULKHEAD	LS	1	\$20,000.00	\$20,000.00	\$36,000.00	\$36,000.00	\$54,493.90	\$54,493.90
16	EXCAVATION AND DISPOSAL OF UPLAND SOILS	LS	1	\$89,366.00	\$89,366.00	\$37,000.00	\$37,000.00	\$164,539.50	\$164,539.50
17	HYDROSEED DISTURBED AREAS	LS	1	\$10,000.00	\$10,000.00	\$1,850.00	\$1,850.00	\$8,770.40	\$8,770.40
18	FORCE ACCOUNT	LS	1	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
19	ADDITIONAL DREDGING (IF REQUIRED)	CY	50	\$135.00	\$6,750.00	\$145.00	\$7,250.00	\$454.60	\$22,730.00
	SUBTOTAL				\$881,151.00		\$959,500.00		\$1,455,106.20
	TAX AT 8.4%				\$74,016.68		\$80,598.00		\$122,228.92
	TOTAL				\$955,167.68		\$1,040,098.00		\$1,577,335.12

**CITY OF GIG HARBOR CONTRACT
FOR
EDDON BOATYARD SEDIMENT REMEDIATION PROJECT
CPP-0801**

THIS AGREEMENT, made and entered into, this ____ day of _____, 2008, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called "City", and American Civil Constructors West Coast Inc., hereinafter called the "Contractor."

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Contract, the parties hereto covenant and agree as follows:

1. The Contractor, shall do all of the work and furnish all of the labor, materials, tools and equipment necessary for the "Eddon Boatyard Sediment Remediation Project", all in accordance with the special provisions and standard specifications, and shall perform any changes in the work, all in full compliance with the Contract Documents entitled "Eddon Boatyard Sediment Remediation Project, CPP-0801," which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said contract documents, including the schedule of prices in the "Proposal," the sum of One Million Forty Thousand Ninety Eight Dollars and No Cents (\$1,040,098.00), including state sales tax, subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.
2. Work shall commence and contract time shall begin on the first working day following the tenth (10th) calendar day after the date the City executes the Contract, or the date specified in the Notice to Proceed, issued by the City Engineer, whichever is later. All physical contract work shall be completed within ninety (90) working days after the Notice to Proceed. In-water work at the site cannot commence any sooner than June 15, 2008.
3. The Contractor agrees to pay the City the sum of \$1,733.50 per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
4. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
5. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Bid Proposal," "Addendums," if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Technical Specifications.
6. The City agrees to pay the Contractor for materials furnished and work performed in the manner and at such times as set forth in the Contract Documents.

CONTRACT: Eddon Boatyard Sediment Remediation Contract (CPP-0801)

- 7. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, assigns, agents, subcontractors, and employees, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.
- 8. It is further provided that no liability shall attach to the City by reason of entering into this Contract, except as expressly provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first hereinabove written:

CITY OF GIG HARBOR:

CONTRACTOR:

Charles L. Hunter, Mayor
City of Gig Harbor
Date: _____

Print Name: _____
Print Title: _____
Date: _____

ATTEST:

American Civil Constructors West Coast Inc.
700 South Riverside Drive
Seattle, Washington 98108
(206) 763-1230

City Clerk

APPROVED FOR FORM:

City Attorney



Subject: Reclassifying an Associate Planner position to a Senior Planner position

Proposed Council Action: Approve reclassification

Dept. Origin: Planning

Prepared by: Tom Dolan *T.D.*

For Agenda of: May 12, 2008

Exhibits: N/A

Initial & Date

Concurred by Mayor: *CLH 5/9/08*

Approved by City Administrator: *PAK 5/9/08*

Approved as to form by City Atty: _____

Approved by Finance Director: *QR 5/9/08*

Approved by Department Head: *T.D. 5/9/08*

Expenditure	Amount	Appropriation
Required 0	Budgeted 0	Required 0

INFORMATION / BACKGROUND

Recently, one of the Associate Planners within the Planning Department resigned to take a managerial position with the Kitsap County Parks Department. After discussions with the Mayor and City Administrator, it was decided to look at filling the open position at a Senior Planner level. The purpose of doing so was to recruit a planner with substantial experience in land use permitting with an emphasis on shorelines. The cost difference between a senior planner and an associate planner for the remainder of 2008 is approximately \$6,000. The City (planning salary budget) will save over \$7,500 this year in that the position will be open for over 6 weeks during the recruitment effort. Therefore, no additional expenditure will be required for the 2008 budget cycle. The 2009 difference is approximately \$10,000.

The City is in the beginning stages of the State mandated update to our Shoreline Master Program. The current Gig Harbor planning staff has limited shoreline permitting experience. An ideal candidate with substantial shoreline experience has agreed to accept a position as a Senior Planner with the City subject to your approval of the position upgrade. The candidate will be the overall project manager for the Shoreline update. It is anticipated that having an experienced Shoreline Planner will reduce the overall cost of the update and will greatly increase the quality of the final document.

FISCAL CONSIDERATION

2008 - \$0, 2009 – approximately \$10,000

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Recommend approval of reclassification.



Subject: Senior Planner Offer of Employment

Proposed Council Action: Authorize above Mid-range Hire

Dept. Origin: Planning

Prepared by: Tom Dolan *TD*

For Agenda of: May 12, 2008

Exhibits: N/A

Initial & Date

Concurred by Mayor: *CLH 5/9/08*

Approved by City Administrator: *RJK 5/9/08*

Approved as to form by City Atty: _____

Approved by Finance Director: *DR 5/9/08*

Approved by Department Head: *TD 5/9/08*

Expenditure	Amount	Appropriation
Required 0	Budgeted 0	Required 0

INFORMATION / BACKGROUND

The Planning Department has conducted a job search for a Senior Planner to fill a current vacancy. A very well qualified candidate has been identified. The candidate is a planner with over 30 years of land use experience. His particular specialty is shoreline planning. The candidate routinely teaches classes in shoreline permitting on a statewide basis. In addition, the candidate has experience processing nearly every type of land use permit including rezones, conditional use permits, variances, special use permits, plats, short plats and zoning text amendments. It is anticipated that the candidate will be the City's lead in the updating of our Shoreline Master Program.

Currently, the candidate has a managerial position with the City of Tacoma. His current salary is actually higher than the top step of the Senior Planner position. Given the candidate's qualifications and relevant experience, hiring at the top step is warranted.

FISCAL CONSIDERATION

2008 - \$0, 2009 – approximately \$10,000

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Authorize above mid-range hire.



Subject: Second reading of ordinance updating City building construction and fire safety codes.

Proposed Council Action:

Approve Ordinance 1128, adopting updated Building construction and fire safety codes in accordance with State law (RCW 19.27.031)

Dept. Origin: Building/Fire Safety

Prepared by: D. Bower

For Agenda of: May 12, 2008

Exhibits:

Initial & Date

Concurred by Mayor:

CLH 5/6

Approved by City Administrator:

RBK 5/6

Approved as to form by City Atty:

LAM 5/6/08

Approved by Finance Director:

[Signature]

Approved by Department Head:

[Signature]

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INFORMATION / BACKGROUND

On July 1, 2007 the State of Washington put into effect the new State Building Code pursuant to 19.27 and 70.92 RCW. This included the adoption of the 2006 editions of the International Building, Fire, Mechanical, and Fuel Gas Codes as well as the 2006 ed. of the Uniform Plumbing Code, and the 2006 ed. of the WA. St. Energy Code and Ventilation and Indoor Air Quality Code. State law requires that local jurisdictions charged with administration of building code programs enforce, at a minimum, the State Building Code.

The ordinance before the Council proposes to adopt the codes specified in the State Building Code as amended by the State, with certain local amendments to the administrative chapters, and the addition of selected appendix chapters considered relevant to building construction and development in the City. In addition, the International Existing Building Code is proposed to provide desired clarification and guidance on the application of the International Codes to existing buildings; and the Uniform Code for the Abatement of Dangerous Buildings is proposed to provide guidance in the abatement of buildings and structures presenting a fire, life or safety hazard to the public due to structural failure or dilapidation.

FISCAL CONSIDERATION

Adoption of the State Building Code has required the purchase of code and reference books and other publications necessary for the effective application and enforcement of the new codes. In addition, staff training is being provided on an ongoing basis to educate staff in the intent, interpretation and application of the new codes. Funding for the necessary training and publications was included in both the 2007 and 2008 budgets.

BOARD OR COMMITTEE RECOMMENDATION

The Building Code Advisory Board met to consider the ordinance on Nov. 6, 2007 and unanimously endorsed the ordinance's adoption.

RECOMMENDATION / MOTION

Move to: Approve Ordinance 1128 adopting the 2006 editions of the International Building, Residential, Mechanical, Fuel Gas, Fire, and Existing Building Codes, the 2006 edition of the Uniform Plumbing Code, the 1997 ed. of the Uniform Code for the Abatement of Dangerous Buildings, the 2006 Washington State Energy Code, the 2006 Washington State Ventilation and Indoor Air Quality Code, and Washington State Historic Building Code as compiled and amended by the State of Washington by reference, as well as certain local amendments to the Gig Harbor Municipal Code.

ORDINANCE NO. 1128

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO BUILDING AND CONSTRUCTION, ADOPTING THE 2006 EDITIONS OF THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL RESIDENTIAL CODE, THE INTERNATIONAL MECHANICAL CODE, THE INTERNATIONAL FIRE CODE, THE INTERNATIONAL EXISTING BUILDING CODE AND THE UNIFORM PLUMBING CODE BY REFERENCE, ADOPTING THE WASHINGTON ENERGY CODE, THE WASHINGTON STATE VENTILATION AND INDOOR AIR QUALITY CODE AND HISTORIC BUILDING CODE BY REFERENCE, AS WELL AS MAKING CERTAIN CLEAN-UP AMENDMENTS TO CHANGE THE TITLE OF THE CODE ENFORCEMENT OFFICER, ELIMINATE EXCEPTIONS TO EXIT SIGN REQUIREMENTS IN CERTAIN CIRCUMSTANCES, ELIMINATE THE BUILDING PERMIT EXEMPTION FOR OIL DERRICKS, TEMPORARY STAGE SETS, CERTAIN POOLS, SHADE CLOTH STRUCTURES AND PARTITIONS, REQUIRING SLIP IDENTIFICATION IN MARINAS, AMENDING GIG HARBOR MUNICIPAL CODE SECTIONS 15.06.020, 15.06.060, 15.08.021, 15.08.090, 15.10.020, 15.16.162, 15.16.180, 15.16.190, 15.18.110, 15.18.120, AND REPEALING SECTION 15.18.100.

WHEREAS, the Washington State Legislature adopted the state building code, to be effective in all counties and cities in Washington (RCW 19.27.031); and

WHEREAS, the state building code is comprised of a number of published codes, which are adopted by reference in the 2006 editions; and

WHEREAS, the City needs to adopt the 2006 editions locally, for enforcement purposes; and

WHEREAS, the City of Gig Harbor may adopt local amendments to the building code, consistent with chapter 19.27 RCW; and

Whereas, the City finds that the local amendments contained herein are desirable to protect the public;

Now, therefore:

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

Section 1. Section 15.06.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.06.020 State building code adoption.

The following codes, together with the specifically identified appendices and the amendments in the Washington Administrative Code (WAC), Second Edition (dated July 1, 2005) and as further amended in this title, are hereby adopted by reference:

A. The International Building Code, 2003 6 Edition, as published by the International Code Council, Inc., including Appendix J, and as amended pursuant to Chapter 51-50 WAC;

B. The International Residential Code, 2003 6 Edition, as published by the International Code Council, Inc., including Appendix Chapter G, as amended pursuant to Chapter 51-51 WAC;

C. The International Mechanical Code, 2003 6 Edition, as published by the International Code Council, Inc., including Appendix A, as amended pursuant to Chapter 51-52 WAC;

D. The International Fire Code, 2003 6 Edition, as published by the International Code Council, Inc., including Chapter 46 and Appendix Chapters B and C, as amended pursuant to Chapter 51-54 WAC;

E. The Uniform Plumbing Code, 2003 6 Edition, published by the International Association of Plumbing and Mechanical Officials, as amended pursuant to Chapter 51-56 WAC and the Uniform Plumbing Code Standards (Appendices A, B and H I to the Uniform Plumbing Code), as amended pursuant to Chapter 51-57 WAC;

F. The International Existing Building Code, 2003 6 Edition, as published by the International Code Council, Inc.;

G. The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, published by the International Conference of Building Officials;

H. The Washington State Energy Code as published by the Washington State Building Code Council, pursuant to Chapter 51-11 WAC;

I. The Washington State Ventilation and Indoor Air Quality Code as published by the Washington State Building Code Council, pursuant to Chapter 51-13 WAC; and

J. The Historic Building Code, as written by the Washington State Building Code Council, pursuant to Chapter 51-19 WAC.

Section 2. Section 15.06.060 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.06.060 Definitions. The following definitions shall apply when used in this title:

~~Building Official/Fire Marshal.~~ Building and Fire Safety Director. Wherever the terms “building official,” “code official,” “fire code official,” “authority having jurisdiction,” or other reference to the chief code enforcement official is used in this title, it shall mean the “building official/fire marshal building and fire safety director” of the city of Gig Harbor. (Ord. 983 § 2, 2005).

Building and Fire Safety Department. Wherever the terms “Building Department”, “authority having jurisdiction”, “Department of Building Safety”, “Department of Mechanical Inspection”, “Department of Fire Prevention”, “Department of Inspection” or other reference to the department responsible for enforcement of the City building code is used in this title it shall mean the Building and Fire Safety Department of the City of Gig Harbor.

Section 3. Section 15.08.021 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.08.021 Amendment to IBC Section 106.

Section 106 of the IBC is amended to read as follows:

106.1 Submittal documents. Construction documents, ~~special inspection and structural observation programs,~~ statement of special inspections and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction where the project is to be constructed. Where special conditions exist, the

building official is authorized to require additional construction documents to be prepared by a registered design professional.

Multiunit residential structures and rehabilitative construction. Any person applying for a building permit for construction of a multiunit residential building or rehabilitative construction shall submit building enclosure design documents to the appropriate building department prior to the start of construction or rehabilitative construction of the building enclosure. If construction work on a building enclosure is not rehabilitative construction because the cost thereof is not more than five percent of the assessed value of the building, then the person applying for the building permit shall submit to the building department a letter so certifying. Any changes to the building enclosure design documents that alter the manner in which the building or its components is waterproofed, weatherproofed, and otherwise protected from water or moisture intrusion shall be stamped by an architect or engineer and shall be provided to the building department and to the person conducting the course of construction inspection in a timely manner to permit such person to inspect for compliance therewith, and may be provided through individual updates, cumulative updates, or as-built updates.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

Section 4. Section 15.08.090 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

15.08.090 Amendment to IBC Section 1011.1

Section 1011.1 of the IBC is hereby amended to read as follows:

1011.1 Where required. Exit and exit access doors shall be marked by an approved exit sign readily visible from any direction of egress travel. Access to exits shall be marked by readily visible exit signs in cases where the exit or the path of egress travel is not immediately visible to the occupants. Exit sign placement shall be such that no point in a corridor is more than 100 feet (30480 mm) or the listed viewing distance for the sign, whichever is less, from the nearest visible exit sign.

Exceptions:

~~1. Exit signs are not required in rooms or areas that require only one exit or exit access.~~

2 1. Main exterior exit doors or gates that are obviously and clearly identifiable as exits need not have exit signs where approved by the building official.

~~3~~ 2. Exit signs are not required in occupancies in Group U and individual sleeping units or dwelling units in Group R-1, R-2 and R-3.

4 3. Exit signs are not required in sleeping areas in occupancies in Group I-3.

5 4. In occupancies in Groups A-4 and A-5, exit signs are not required on the seating side of vomitories or openings into seating areas where exit signs are provided in the concourse that are readily apparent from the vomitories. Egress lighting is provided to identify each vomitory or opening within the seating area in an emergency.

Section 5. Section 15.10.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.10.020 Amendment to IRC Section R105.2.

Section R105.2 is amended to read as follows:

105.2 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or cause such work to be done, shall first make application to the building official and obtain the required permit.

105.2.1 Work exempt from permit: Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, play houses and similar uses, provided the floor area does not exceed 200 square feet (18.58 m²).

2. Fences not over 6 feet (1,829 mm) high.

3. ~~Oil derricks.~~ Retaining walls which are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

~~4. Retaining walls which are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.~~

5 4. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2 to 1.

~~6 5.~~ Sidewalks, driveways and platforms not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.

~~7 6.~~ Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

~~8.~~ Temporary motion picture, television and theater stage sets and scenery.

~~9 7.~~ Prefabricated swimming pools accessory to a Group R-3 occupancy, as applicable in Section 101.2, which that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.

~~10.~~ Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

~~14 8.~~ Swings and other playground equipment accessory to detached one and two family dwellings.

~~12 9.~~ Window awnings supported by an exterior wall which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support of Group R-3, as applicable in Section 101.2 and Group U occupancies.

~~13.~~ Movable cases, counters and partitions not over 5 feet 9 inches (1,753 mm) in height.

Electrical:

Electrical permits, inspections and approvals shall be under the jurisdiction of the Washington State Department of Labor and Industries, Electrical Section.

Gas:

1. Portable heating appliance.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.

8. Portable ventilation equipment.

9. Portable cooling unit.

10. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

11. Replacement of any part which does not alter its approval or make it unsafe.

12. Portable evaporative cooler.

13. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

Plumbing:

3. The stopping of leaks in drains, water, soil, waste or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

4. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require replacement or rearrangement of valves, pipes or fixtures.

Section 6. Section 15.16.162 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.16.162 Amendment to IFC Section 903.3.7

Section 903.3.7 of the IFC is amended to read as follows:

903.3.7 Fire department connections. The location of fire department connections shall be approved by the fire code official.

903.3.7.1 Positive connection. Inlet connection fittings shall be positively secured to the fire department connection piping in an approved manner to deter theft.

Section 7. Section 15.16.180 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.16.180 Amendment to IFC Section 1011.1

Section 1011.1 is amended to read as follows:

1011.1 Where required. Exits and exit access doors shall be marked by an approved exit sign readily visible from any direction of egress travel. Access to exits shall be marked by readily visible

exit signs in cases where the exit or path of egress travel is not immediately visible to the occupants. Exit sign placement shall be such that no point in a corridor is more than 100 feet (30480 mm) or the listed viewing distance for the sign, whichever is less, from the nearest visible exit sign.

Exceptions:

1. ~~Exit signs are not required in rooms or areas that require only one exit or exit access.~~
2. 1. Main exterior exit doors or gates that are obviously and clearly identifiable as exits need not have exit signs where approved by the fire code official.
3. 2. Exit signs are not required in occupancies in Group U and individual sleeping units or dwelling units in Group R-1, R-2 or R-3.
4. 3. Exit signs are not required in sleeping areas in occupancies in Group I-3
5. 4. In occupancies in Groups A-4 and A-5, exit signs are not required on the seating side of vomitories or openings into seating areas where exit signs are provided in the concourse that are readily apparent from the vomitories. Egress lighting is provided to identify each vomitory or opening within the seating area in an emergency.

Section 8. Section 15.16.190 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.16.190 Amendment to IFC Chapter 46.

IFC Chapter 46 is amended to read:

Chapter 46

MARINAS

Section 4601

Section 4601.1 Scope. Marina facilities shall be in accordance with this chapter.

4601.1.1 Plans and approvals. Plans for marina fire-protection facilities shall be approved prior to installation. The work shall be subject to final inspection and approval after installation.

4601.1.2 Permits. Permits are required to use open flame devices for maintenance or repair on vessels, floats, piers or wharves.

Section 4602
Definitions

Section 4602.1 Definitions. The following words and terms shall, for the purpose of this chapter and as used elsewhere in this code, have the meanings shown herein.

COVERED BOAT MOORAGE is a pier or system of floating or fixed access ways to which vessels on water may be secured and any portion of which are covered by a roof.

DRAFT CURTAIN is a structure arranged to limit the spread of smoke and heat along the underside of the ceiling or roof.

FLOAT is a floating structure normally used as a point of transfer for passengers and goods, or both, for mooring purposes.

GRAVITY-OPERATED DROP OUT VENTS are automatic smoke and heat vents containing heat-sensitive glazing designed to shrink and drop out of the vent openings when exposed to fire.

MARINA is any portion of the ocean or inland water, either naturally or artificially protected, for the mooring, servicing or safety of vessels and shall include artificially protected works, the public or private lands ashore, and structures or facilities provided within the enclosed body of water and ashore for the mooring or servicing of vessels or the servicing of their crews or passengers.

PIER is a structure built over the water, supported by pillars or piles, and used as a landing place, pleasure pavilion or similar purpose.

VESSEL is watercraft of any type, other than seaplanes on the water, used or capable of being used as a means of transportation. Included in this definition are non-transportation vessels such as houseboats and boathouses.

WHARF is a structure or bulkhead constructed of wood, stone, concrete or similar material built at the shore of a harbor, lake or river for vessels to lie alongside of, and piers or floats to be anchored to.

Section 4603
General Precautions

4603.1 Combustible Debris. Combustible debris and rubbish shall not be deposited or accumulated on land beneath marina structures, piers or wharves.

4603.2 Sources of Ignition. The use of open flame devices for lighting or decoration on the exterior of a vessel, float, pier or wharf shall have the prior approval of the building official/fire marshal.

4603.3 Flammable or Combustible Liquid Spills. Spills of flammable or combustible liquids at or upon the water shall be reported immediately to the fire department or jurisdictional authorities.

4603.4 Rubbish Containers. Containers with tight-fitting or self-closing lids shall be provided for the temporary storage of combustible trash or rubbish.

4603.5 Electrical Equipment. Electrical equipment shall be installed and used in accordance with its listing and Section 605 of the IFC as required for wet, damp and hazardous locations.

4603.6 Slip Identification. Slips and mooring spaces shall be individually identified by an approved numeric or alphabetic designator. Space designators shall be posted at the space. Signs indicating the space designators located on finger piers and floats shall be posted at the base of all piers, finger piers, floats, and finger floats.

Section 4604 FIRE-PROTECTION

4604.1 General. Marinas, piers, wharves, floats with facilities for mooring or servicing five or more vessels, and marine motor vehicle fuel-dispensing stations shall be equipped with fire-protection equipment in accordance with Section 4604.

4604.2 Standpipes. Marinas shall be equipped throughout with Class I manual, dry standpipe systems in accordance with NFPA 303. Systems shall be provided with outlets located such that no point on the marina pier or float system exceeds 150 feet from a standpipe outlet.

4604.2.1 Identification of standpipe outlets. Standpipe outlet locations shall be clearly identified by a flag or other approved means designed to be readily visible from the pier accessing the float system.

4604.3 Access and Water Supply. Piers and wharves shall be provided with fire apparatus access roads and water-supply systems with on-site fire hydrants when required by the fire code official. At least one fire hydrant capable of providing the required fire flow shall be provided within an approved distance of standpipe supply connections.

4604.4 Portable Fire Extinguishers. One 4A:40BC fire extinguisher shall be provided at each standpipe outlet. Additional fire extinguishers, suitable for the hazards involved, shall be provided and maintained in accordance with Section 906.

4604.5 Communications. A telephone not requiring a coin to operate or other approved, clearly identified means to notify the fire department shall be provided on the site in a location approved by the code official.

4604.6 Equipment staging areas. Space shall be provided on all float systems for the staging of emergency equipment. Staging areas shall provide a minimum of 4 feet wide by 10 feet long clear area exclusive of walkways and shall be located at each standpipe outlet. Staging areas shall be provided with barriers having a minimum height of 4 inches and a maximum space between the bottom barrier edge and surface of the staging area of 2 inches on the outboard sides to prevent loss of equipment overboard. A sign reading "Fire Equipment Staging Area-Keep Clear" shall be provided at each staging area to prevent obstruction.

4604.7 Smoke and heat vents. Approved automatic smoke and heat vents shall be provided in covered boat moorage areas exceeding 2,500 sq. ft. (232 m²) in area, excluding roof overhangs.

Exception: Smoke and heat vents are not required in areas protected by automatic sprinklers.

4604.7.1 Design and installation. Where smoke and heat vents are required they shall be installed near the roof peak, evenly distributed and arranged so that at least one vent is over each covered berth. The effective vent area shall be calculated using a ratio of one square foot of vent to every fifteen square feet of covered berth area (1:15). Each vent shall provide a minimum opening size of 4 ft. x 4 ft.

4604.7.1.1 Smoke and heat vents. Smoke and heat vents shall operate automatically by actuation of a heat-responsive device rated at-between 100°F (56°C) above ambient.

Exception: Gravity-operated drip out vents.

4604.7.1.2 Gravity-operated drop out vents. Gravity-operated drop out vents shall fully open within 5 minutes after the vent cavity is exposed to a simulated fire represented by a time-temperature gradient that reaches an air temperature of 500°F (260°C) within 5 minutes.

4604.8 Draft curtains. Draft curtains shall be provided in covered boat moorage areas exceeding 2,500 sq. ft. (232 m²) in area excluding roof overhangs.

Exception: Draft curtains are not required in areas protected by automatic sprinklers.

4604.8.1 Draft curtain construction. Draft curtains shall be constructed of sheet metal, gypsum board or other approved materials that provide equivalent performance to resist the passage of smoke. Joints and connections shall be smoke tight.

4604.8.2 Draft curtain location and depth. The maximum area protected by draft curtains shall not exceed 2,000 square feet (186 m²) or two slips or berths, whichever is smaller. Draft curtains shall not extend past the

piling line. Draft curtains shall have a minimum depth of 4 feet and shall not extend closer than 8 feet (2438 mm) to the walking surface of the pier

Section 4607

MARINE MOTOR VEHICLE FUEL-DISPENSING STATIONS

4607.1 Fuel-Dispensing. Marine motor vehicle fuel-dispensing stations shall be in accordance with IFC Chapter 22.

Section 8. Section 15.18.100 of the Gig Harbor Municipal Code is hereby repealed.

Section 9. Section 15.18.110 of the Gig Harbor Municipal Code is hereby amended to read as follows:

Section 309.2 of the IEBC is amended as follows:

15.18.110 Amendment to IEBC Section ~~408.4~~ 507.

Section ~~408.4~~ 507 of the IEBC is amended as follows:

~~408.4~~507 Scope. Existing electrical wiring and equipment undergoing repair shall be allowed to be repaired or replaced with like material as approved by the State of Washington, Department of Labor and Industries, Electrical Section.

Section 10. Section 15.18.120 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.18.120 Amendment to IEBC Section ~~12~~ 301.2.

Section ~~12~~ 301.2 of the IEBC is amended as follows:

~~12~~ 301.2 Applicability. Structures existing prior to the date of adoption of this code, in which there is work involving additions, alterations, or changes of occupancy shall be made to conform with the requirements of this chapter or the provisions of Chapters 4 through 10 ~~2~~. The provisions of Sections ~~12~~ 301.2.1 through ~~12~~ 301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, and S. These provisions shall not apply to buildings with occupancies in Group H or Group I.

Section 11. 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 12. Copies of Codes Filed with City Clerk. Pursuant to RCW 35A.12.140, copies of all of the codes adopted by reference in this Ordinance have been filed with the City Clerk for use and examination by the public prior to adoption.

Section 13. 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 12th day of May, 2008.

CITY OF GIG HARBOR

CHARLES L. HUNTER, 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: 04/23/08
PASSED BY THE CITY COUNCIL: 5/12/08
PUBLISHED: 5/14/08
EFFECTIVE DATE: 5/19/08
ORDINANCE NO: 1128



Subject: Tides Tavern Tideland Lease

Dept. Origin: Administration

Proposed Council Action:

Prepared by: Rob Karlinsey

Consider Mr. Stanley's proposal

For Agenda of: May 12, 2008

Exhibits: A & B

Initial & Date

Concurred by Mayor:

CUH 5/7/08

Approved by City Administrator:

PK 5/7

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Expenditure	Amount	Appropriation
Required \$0	Budgeted \$0	Required \$0

INFORMATION / BACKGROUND

Earlier this year, the City Council approved a lease for a small area of City-owned tidelands with the Tides Tavern. Peter Stanley, owner of the Tides Tavern, has not signed this lease and wishes to propose different language regarding the length of the lease.

Exhibit A attached is a copy of the lease approved by the City Council on December 10, 2007. Exhibit B is alternate language proposed by the attorney for Mr. Stanley.

FISCAL CONSIDERATION

N/A

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Consider Mr. Stanley's proposal

**CITY OF GIG HARBOR
AND
PETER STANLEY
LEASE AGREEMENT**

SECTION I - PARTIES TO THE LEASE AGREEMENT

The parties to this lease agreement are the City of Gig Harbor, a municipal corporation of the State of Washington, (hereinafter referred to as "Lessor" or "City"), and PHILIP T STANLEY, 602 North C Street, Tacoma, WA 98403, (hereinafter referred to as "Lessee").

SECTION II - PURPOSE

2.1. Purpose. The purpose of this Agreement is to lease a portion of the City's tidelands as depicted on a survey marked Exhibit A attached (hereinafter the "Property"), to allow private and public access activities, so that the public may arrive by boat and patronize the Tides Tavern and other merchants and amenities of Gig Harbor, upon the terms and conditions set forth herein.

2.2. Legal Description. The Property ~~are~~ is legally described on the document identified as Exhibit A attached hereto and made a part of hereof by reference. In executing this Lease, the City is relying on the surveys, diagrams and legal descriptions provided by the Lessee.

2.3. Inspection. The City makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Lessee's permitted use, compliance with governmental laws and regulations, availability of utility rights, access to the Property or the existence of hazardous substances on the Property. Lessee has inspected the Property and accepts it "as is."

SECTION III -THE USE

3.1. Permitted Use. Lessee shall use the Property for private access, limited public access activities, private storage and for no other purpose.

3.2. Restrictions on Use. Lessee shall not cause or permit any damage to natural resources on the Property. Lessee shall also not cause or permit any filling activity to occur on the Property. This prohibition includes any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter in or on the Property, except as approved in writing by the City.

The prohibitions in this Section against damage to natural resources, filling, deposition of any unapproved materials, and waste, shall also apply to protect

any City or state-owned aquatic lands adjacent to the Property from any of Lessee's activities related to Lessee's occupation of the Property. All obligations imposed by this Section on Lessee to cure any violation of the prohibited activities in this Section shall also extend to City or state-owned aquatic lands adjacent to the Property when the violation arose from the Lessee's activities related to Lessee's occupation of the Property.

Lessee shall use the Premises only for the purposes and activities identified herein. The use of the Property by the Lessee shall not be of a religious or partisan political nature. Such use shall be made in a responsible and prudent manner continuously during the terms of the Lease. Lessee shall not use or permit the Property, or any part thereof, to be used for any purposes other than those set forth herein. Lessee shall neither permit on the Property any act or storage that may be prohibited under standard forms or fire insurance policies, nor use the Property for any such purpose.

Lessee shall not permit any waste, damage or injury to the Property, use the Property for anything that will increase the rate of insurance, maintain anything on the Property that may be hazardous to life or limb, permit any objectionable odor, permit anything to be done on the Property or use the Property in any way tend to create a public or private nuisance, or use or permit the Property to be used for lodging or sleeping purposes.

3.3. Conformance with Laws. The Lessee shall, at all times, keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes and other government rules and regulations regarding its use or occupancy of the Property.

3.4. Terms of Lease and Options to Renew. This lease shall be for a term of five (5) years after the date this Lease is signed by both parties, with three (3) five (5) year options to renew. Ninety (90) days prior to the expiration date of this Lease or any renewal, the Lessee may furnish a written notice of intent to renew this Lease to the Lessor. If the Lessor receives a timely written notice of intent to renew this Lease, the parties may enter into a new Lease for another five (5) years, the terms of which shall be renegotiated by the parties. ~~the terms of which may be adjusted with respect to the rent not to exceed three (3%) pre annum.~~ If the Lessor does not receive a timely written notice of intent to renew, this Lease shall expire. Lessee shall not be entitled to renew this Lease if it is in default under the terms of this Lease at the time the option to renew is exercised. Upon the expiration or termination of this Lease (or any extended term), the Lessee shall surrender the Property to the City.

3.5. Hold Over. If the Lessee remains in possession of the Property after the Termination Date, the occupancy shall not be an extension or renewal of the Term. The occupancy shall be a month-to-month tenancy, on terms identical to the terms of this Lease, which may be terminated by either party on thirty (30)

days' notice. The monthly rent during the holdover shall be the same rent which would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms. If the City provides notice to vacate the Property in anticipation of the termination of this Lease or at any time after the Termination Date and Lessee fails to do so within the time set forth in the notice, then the Lessee shall be a trespasser and shall owe the City all amounts due under RCW 79.01.760 and all other applicable law.

3.6. Lease Payments/Considerations. Lessee shall pay Lessor the amount of \$14.00 per year by the 20th day of January of each year for the lease of the Premises, without demand or billing. Payment is to be made to the City of Gig Harbor, Finance Director, 3510 Grandview Street, Gig Harbor, WA 98335.

3.7. Improvements. On the Commencement Date, the following improvements are located on the Property: a thirty-five square foot portion of the floating dock extending from the tidelands of the Department of Natural Resources onto the tidelands of the City of Gig Harbor. These improvements are not owned by the City and are maintained by the Lessee. So long as this Lease remains in effect, the Lessee shall retain ownership of all existing improvements identified in this paragraph (the "Lessee-Owned Improvements"). No Lessee-Owned improvements shall be placed on the Property without the City's written consent.

3.8. Services in Addition to Lessee Payment. The Lessee shall maintain all privately owned improvements on the Property in safe and clutter-free manner.

3.9. Signs. All signs or symbols currently placed by Lessee upon the Property are acceptable but any new signs or symbols placed by Lessee on part of the structures or Property shall be subject to Lessor's prior written approval. Lessor may demand the removal of signs which are not so approved, and Lessee's failure to comply with said request within forty-eight (48) hours after such demand will constitute a breach of this paragraph and will entitle Lessor to terminate this Lease or, in lieu thereof, to cause the sign to be removed and the building repaired at the sole expense of the Lessee. At the termination of this Lease, Lessee shall remove all signs placed by it upon the Property, and shall repair any damages caused by such removal. All signs must comply with applicable sign ordinances and be placed in accordance with required permits.

3.10. Alterations. Prior to any construction, alteration, replacement, removal or major repair of any improvements, the Lessee shall submit to the City plans and specifications which describe the proposed activity. Construction shall not commence until City has approved those plans and specifications in writing. The plans and specifications shall be deemed approved and the requirement for the City's written consent shall be treated as waived, unless the City notifies the Lessee otherwise within sixty (60) days. Upon completion of construction, the Lessee shall promptly provide the City with as-built plans and specifications. Lessee agrees to comply with all laws, ordinances, rules and regulations of any

proper public authority in the construction of any improvements or repair, and to save the Lessor harmless from damage, loss or expense. After notice of termination of this Lease, and upon Lessor's request or Lessor's approval, the Lessee shall remove such improvements and restore the Property to its original condition not later than the termination date, at Lessee's sole cost and expense. Any improvements not so removed may be removed by the Lessor at Lessee's expense. If the Lessee-Owned improvements remain on the Property after the termination date without the City's consent, they will become the property of the City, but the City may remove them and the Lessee shall pay the cost of removal and disposal upon the City's demand.

3.11. Inspection by Lessor. The Lessor may enter upon the Premises at any reasonable time during normal business hours or after hours with reasonable notice for the purpose of inspecting the same for compliance with the terms of this Lease.

3.12. Contractor's Bonds and Liens -

A. Lessee shall not suffer or permit any lien to be filed against the Premises or any part thereof or the Lessee's leasehold interest, by reason of work labor, services or materials performed or supplied to Lessee or anyone holding the Premises or any part thereof under the Lessee. If any such lien is filed against the Premises, Lessee shall hold the Lessor harmless from any loss by reason of the lien and shall cause the same to be discharged of record within thirty (30) days after the date of filing of same.

B. At the Lessor's option, Lessee shall require each contractor used by Lessee to perform any demolition or construction work in connection with any improvement, alteration, or addition to be made to the Premises, to secure and maintain, at no cost to the City, a contract or performance bond, payable to Lessee and the City, in the full amount of the contract, conditioned that all the provisions of the contract shall be faithfully performed by the contractor, or the surety if so required, and indemnifying the Lessee and the City against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the carrying out of the work of the contract, and conditioned as required by law for the payment of all laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such persons or subcontractors with provisions and supplies for the carrying on of such work.

3.13. Indemnification and Waiver. Lessee agrees to defend, indemnify, and hold harmless the Lessor, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including costs and attorney's fees, arising out of or in connection with the performance of this Lease

or Lessee's enjoyment of the Property, except for injuries or damages caused solely by the negligence of the Lessor, its officers, officials, employees and volunteers. In the event of liability for injuries or damages which are the result of the concurrent negligence of the Lessee and Lessor, each party shall be responsible only to the extent of their own negligence. Lessee agrees to defend, indemnify and hold harmless the Lessor, its officials, officers, employees and volunteers from any and all claims, injuries, damages, losses or suits, including costs and attorneys' fees, which are caused by or arise out of any condition of the Premises arising after execution of this Lease. Lessee further agrees that in the event that any conditions affect its quiet enjoyment of the Property to such a degree that the Lessee no longer wishes to occupy the Property, then the Lessor shall not be required to reimburse the Lessee for any amounts relating to the Lease term. In addition to the above, Lessee shall provide a waiver of right of subrogation releasing and relieving the Lessor from responsibility and waiving the entire claim or right of recovery for any loss or damages to the Property, any of Lessee's improvements placed on the Property, any personal property located anywhere on the Property, or any other loss sustained by the Lessee, including earlier termination of this Lease by destruction of the Property through natural causes or reasons not the fault of Lessor, and whether any such loss is insured or not and irrespective of the cause of such loss.

Lessee's liability to the City for hazardous substances, and its obligation to defend and hold the City harmless for hazardous substances, shall be governed exclusively by Section 4.2. The provisions of this Indemnification Section shall survive the termination or expiration of this Lease Agreement.

3.14. Insurance.

At its own expense, the Lessee shall procure and maintain during the Term of this Lease, the insurance coverages and limits described in this Section. This insurance shall be issued by an insurance company or companies admitted and licensed by the Insurance Commissioner to do business in the State of Washington. Insurers must have a rating of B+ or better by "Best's Insurance Reports," or a comparable rating by another rating company acceptable to the City. If non-admitted or non-rated carriers are used, the policies must comply with chapter 48.15 RCW.

A. Types of Required Insurance.

1. Commercial General Liability Insurance. The Lessee shall procure and maintain Commercial General Liability Insurance and if applicable, Marina Operator's Legal Liability Insurance covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of the Lessee's operations. If necessary, commercial umbrella insurance covering claims for these risks shall be procured and

maintained. Insurance must include liability coverage with limits not less than those specified below:

Description	
Each Occurrence	\$1,000,000
General Aggregate Limit	\$2,000,000

The City may impose changes in the limits of liability:

- (i) As a condition of approval of assignment or sublease of this Lease;
- (ii) Upon a material change in the condition of the Property or any improvements;
- (iii) Upon any breach of the Sections in this Lease relating to Hazardous Substances;
- (iv) Upon a change in the Permitted Use.

New or modified insurance coverage shall be in place within thirty (30) days after changes in the limits of liability are required by the City.

2. Property Insurance. The Lessee shall procure and maintain property insurance covering all real property located on or constituting a part of the Property in an amount equal to the replacement value of all improvements on the Property. Such insurance may have commercially reasonable deductibles.

3. Builder's Risk Insurance. As applicable, the Lessee shall procure and maintain builder's risk insurance in an amount reasonably satisfactory to the City during construction, replacement, or material alteration of the Property or improvements on the Property. Coverage shall be in place until such work is completed and evidence of completion is provided to the City.

B. Terms of Insurance. The policies required under Subsection A shall name the City of Gig Harbor as an additional insured. Furthermore, all policies of insurance described in this Section shall meet the following requirements:

1. Policies shall be written as primary policies not contributing with and not in excess of coverage that the City may carry;

2. Policies shall expressly provide that such insurance may not be canceled or non-renewed with respect to the City except upon forty-five (45) days prior written notice from the insurance company to the City;

3. To the extent of the City's insurable interest, property coverage shall expressly provide that all proceeds shall be paid jointly to the City and the Lessee;

4. All liability policies must provide coverage on an occurrence basis; and

5. Liability policies shall not include exclusions for cross liability,

C. Proof of Insurance. The Lessee shall furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the City accompanied by a checklist of coverages provided by the city: executed by a duly authorized representative of each insurer showing compliance with the insurance requirements described in this Section, and, if requested, copies of policies to the City. The Certificate of Insurance shall reference the City of Gig Harbor and this lease. Receipt of such certificates or policies by the City does not constitute approval by the City of the terms of such policies. The Lessee acknowledges that the coverage requirements set forth herein are the minimum limits of insurance the Lessee must purchase to enter into this Lease Agreement. These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these limits of coverage does not relieve the Lessee from liability for losses and settlement expenses greater than these amounts.

3.15. Condemnation. If during the Term of this Lease there shall be a condemnation or a taking of all or a portion of the Property and/or any improvements thereon under the power of eminent domain (either by judgment or settlement in lieu of judgment), the leasehold estate of the Lessee in the Property shall terminate as of the date of the taking. If this Lease is terminated, in whole or in part, all rentals and other charges payable by the Lessee to the City and attributable to the Property taken shall be paid by the Lessee up to the date of the taking. If Lessee has pre-paid rent, then Lessee shall be entitled to a refund of the pro rata share of the pre-paid rent attributable to the period after the date of taking.

3.16. Assumption of Risk. The placement and storage of personal property or other improvements on the Premises by Lessee shall be the responsibility, and at the sole risk of the Lessee.

3.17. Leasehold Taxes. Lessee shall pay promptly, and before they become delinquent, all taxes on this Lease, merchandise, personal property or improvements on the Premises, whether existing on the Property at the time of execution of this Lease or at any time during the term of this Lease. This includes leasehold excise taxes, assessments, governmental charges, of any kind whatsoever, applicable or attributable to the Property, Lessee's leasehold

interest, the improvements or Lessee's use and enjoyment of the Property. Lessee may contest any tax or assessment at its sole cost and expense. At the request of the City, Lessee shall furnish reasonable protection in the form of a bond or other security, satisfactory to the City, against any loss or liability by reason of such contest.

3.18. Default and Remedies.

A. The Lessee shall be in default of this Lease upon the occurrence of any of the following:

1. Failure to pay annual rent or expenses when due;
2. Failure to comply with any law, regulation, policy or order of any lawful governmental authority;
3. Failure to comply with any other provision of this Lease;
4. Two or more defaults over a period of time, or a single serious default, that demonstrates a reasonable likelihood of future defaults in the absence of corrective action by the Lessee; or
5. Proceedings are commenced by or against the Lessee under any bankruptcy act or for the appointment of a trustee or receiver of the Lessee's property.

B. A default shall become an Event of Default if the Lessee fails to cure the default within thirty (30) days after the City provides the Lessee with written notice of default, which specifies the nature of the default.

C. Upon an Event of Default, the City may terminate this Lease and remove the Lessee by summary proceedings or otherwise. The City may also, without terminating this Lease, relet the Property on any terms and conditions as the City in its sole discretion may decide are appropriate. If the City elects to relet, rent received by it shall be applied: (i) to the payment of any indebtedness other than rent due from the Lessee to the City; (ii) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and (4) to the payment of rent and leasehold excise tax due and unpaid under this Lease. Any balance shall be held by the City and applied to the Lessee's future rent as it becomes due. The Lessee shall be responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly. The City's reentry or repossession of the Property under this subsection shall not be construed as an election to terminate this Lease or cause a forfeiture of rents or other charges to be paid during the balance of the Term, unless the City gives a written notice of termination to the Lessee or termination is decreed by legal proceedings.

The City may, at any time after reletting, elect to terminate this Lease for the previous Event of Default.

3.19. Disclaimer of Quiet Enjoyment. This Lease is subject to all valid recorded interests of third parties, as well as the rights of the public under the Public Trust Doctrine or federal navigation servitude, and treaty rights of Indian Tribes. The City believes that its grant of this Lease is consistent with the Public Trust Doctrine and that none of the identified interests of third parties will materially and adversely affect the Lessee's right of possession and use of the Property as set forth herein, but makes no guaranty or warranty to that effect. The Lessee and City expressly agree that the Lessee shall be responsible for determining the extent of its right to possession and for defending its leasehold interest. Consequently, the City expressly disclaims and the Lessee expressly releases the City from any claim for breach of any implied covenant of quiet enjoyment with respect to the possession of the Property. This disclaimer includes, but is not limited to, interference arising from or in connection with access or other use rights of adjacent property owners or the public over the water surface or in or under the water column, including rights under the Public Trust Doctrine; rights held by Indian Tribes; and the general power and authority of the City and the United States with respect to aquatic lands, navigable waters, bedlands, tidelands and shorelands. In the event that the Lessee is evicted from the Property by reason of successful assertion of any of these rights, this Lease shall terminate as of the date of the eviction. In the event of a partial eviction, the Lessee's rent obligations shall abate as of the date of the partial eviction, in direct proportion to the extent of the eviction, but in all other respects, this Lease shall remain in full force and effect.

3.20. Termination. In the event Lessee defaults in the performance of any of the terms, provisions, covenants and conditions to be kept, observed or performed by Lessee, and such default is not corrected within thirty (30) days after receipt of notice thereof from Lessor, or such shorter period as may be reasonable under the circumstances; or if Lessee shall abandon, desert, vacate or otherwise leave the Premises; then, in such event, Lessor, at its option, may terminate this Lease together with all of the estate, right, title or interest thereby granted to or vested in Lessee, by giving notice of such election at least twenty (20) days prior to the effective date thereof, and as of such effective date, this Lease and all of the estate, right, title and interest thereby granted to or vested in the Lessee shall then cease and terminate, and Lessor may re-enter the Premises using such force as may be required.

Lessor shall not be in breach of any obligation to perform under this Lease unless Lessor fails to perform an obligation within a reasonable time, which time shall not extend more than thirty (30) days after notice by the Lessee to Lessor specifying the particular obligation that Lessor has failed to perform; PROVIDED, HOWEVER, that if the Lessor is informed by the Lessee in advance that the nature of the remedial action requires more than thirty (30) days for performance,

the Lessor agrees to the additional time and the Lessee performs within the additional time specifically granted by the City, then the Lessee shall not be in default.

If this Lease shall be terminated as herein provided, the Lessor may immediately or at any time thereafter reenter the Premises and remove any and all persons and property there from, by any suitable proceeding at law or otherwise, without liability therefore, and reenter the Premises, without such reentry diminishing Lessee's obligation to pay rental for the full term hereof, and Lessee agrees to pay Lessor any deficiency arising from reentry and reletting of the Premises at a lesser rental than provided herein. Lessor shall apply the proceedings of any reletting first to the payment of such reasonable expenses as Lessor may have incurred in recovering possession of the Premises, and removing persons and property there from, and in putting the same in good order or condition or preparing or altering the same for reletting, and all other expense incurred by Lessor for reletting the Premises; and then to Lessee's obligation to pay rental.

3.21. Notices. All notices required or desired to be given under this lease shall be personally served or given by mail. If mailed, they may be sent by certified mail to the following respective address:

To the City: City of Gig Harbor
 3510 Grandview Street
 Gig Harbor, WA 98335

To the Lessee: Philip T. Stanley
 602 North C Street
 Tacoma, Washington 98403

3.22. Assignment and/or Subletting. Lessee shall not, under any circumstances whatsoever, assign or sublet this Lease or any part of the Premises, unless the Lessee has obtained the Lessor's prior written agreement to such assignment or subletting. The Lessor's agreement to such assignment or subletting shall be at the Lessor's sole discretion. In determining whether to consent, the City may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge or otherwise affect the liability of the Lessee. If Lessee is a corporation, dissolution of the corporation or a transfer (by one or more transactions) of a majority of the voting stock of Lessee shall be deemed to be an assignment of this Lease. If the Lessee is a partnership, a dissolution of the partnership or a transfer (by one or more transactions) of the controlling interest in the Lessee shall be deemed an assignment of this Lease. The acceptance by

the City of the payment of rent following assignment or transfer shall not constitute any assignment or transfer.

3.23. Terms of Subleases. All subleases shall be submitted to the City for approval and shall meet the following requirements:

A. The sublease shall be consistent with and be subject to all the terms and conditions of this Lease;

B. The sublease shall confirm that if the terms of the sublease conflict with the terms of this Lease, this Lease shall control;

C. The term of the sublease (including any period of time covered by a renewal option) shall end before the Termination Date of the initial Term or any renewal term;

D. The sublease shall terminate if this Lease terminates, whether upon expiration of the Term, failure to exercise an option to renew, cancellation by the City, surrender or for any other reason;

E. The subtenant shall receive and acknowledge receipt of a copy of this Lease;

F. The sublease shall prohibit prepayment to the Lessee by the subtenant of more than one month's rent;

G. The sublease shall identify the rental amount to be paid to the Lessee by the subtenant;

H. The sublease shall confirm that there is no privity of contract between the subtenant and the City;

I. The sublease shall require removal of the subtenant's improvements and trade fixtures upon termination of the sublease; and

J. The subtenant's permitted use shall be within the Permitted Use authorized by this Lease.

3.24. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their heirs and assigns.

3.25. Employees and/or Agents. The employees or agents of the Lessee shall not be considered employees or agents of the Lessor.

3.26. Entire Agreement. This document contains the entire and integrated agreement of the parties and may not be modified except in writing signed and acknowledged by both parties.

3.27. Dispute Resolution, Legal Fees and Costs. Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Lease which cannot be resolved between the parties within a reasonable period of time, 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 party's expenses and reasonable attorney's fees.

In addition, the Lessee agrees to pay all of the Lessor's attorneys' fees and costs necessitated by the Lessee's failure to comply with any of the provisions of this Agreement, including but not limited to notices, legal fees and costs arising from third party actions against the Lessor arising from acts or omissions of the Lessee related to this Agreement. The rights and remedies of the City under this Lease are cumulative and in addition to all other rights and remedies afforded to the City by law or equity or otherwise.

3.28. Time is of the Essence. Time is of the essence as to each and every provision of this Lease.

3.29. Discrimination Prohibited. The Lessee agrees not to discriminate based upon race, color, religion, creed, national origin, sex, age, handicap, membership in a class (such as unmarried mothers or recipients of public assistance), in all activities relating to the Lessee's use of the Premises.

3.30. No Relationship. In no event shall the Lessor be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of Lessee or any party associated with Lessee in the conduct of Lessee's business or otherwise. This Lease does not make Lessee the agent or representative of the City for any purpose whatsoever.

3.31. Non-Waiver of Breach. The failure of either party to insist on 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.

3.32. Severability. If any section or provision of this Lease shall be held by a court of competent jurisdiction to be unenforceable, this Lease shall be construed as though such section or provision had not been included in it, and the remainder of the Lease shall be enforced as the expression of the parties' intentions. If any section or provision of this Lease is found to be subject to two

constructions, one of which would render such section or provision invalid and one of which would render such section or provision valid, then the latter construction shall prevail.

3.33. Recordation. The City shall record this Lease at the Lessee's cost, with the Pierce County Auditor.

3.34. Modification. Any modification of this Lease must be in writing and signed by the parties. The City shall not be bound by any oral representations or statements.

SECTION IV - ENVIRONMENTAL LIABILITY/RISK ALLOCATION

4.1. Environmental Liability/Risk Allocation.

A. Definition. "Hazardous Substance" means any substance which now or in the future becomes regulated or defined under any federal, state or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination or cleanup, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.* and Washington's Model Toxic Control Act ("MTCA), RCW 70.105D.010 *et seq.*

B. Use of Hazardous Substances. Lessee covenants and agrees that Hazardous Substances will not be used, stored, generated, processed, transported, handled, released or disposed of in, on, under or above the Property, except in accordance with applicable laws.

C. Current Conditions, Duty of Utmost Care and Duty to Investigate. The City makes no representation about the condition of the Property. Hazardous Substances may exist in, on, under or above the Property. With regard to any Hazardous Substances that may exist in, on, under or above the Property, the City disclaims any and all responsibility to perform investigations, or to review any City records, documents or files, or to obtain or supply any information to the Lessee.

The Lessee shall use the utmost care with respect to both Hazardous Substances in, on under or above the Property, and any Hazardous Substances that come to be located in, on, under or above the Property during the term of this Agreement, along with the foreseeable acts or omissions of third parties affecting those Hazardous Substances, and the foreseeable consequences of those acts or omissions. The obligation to exercise utmost care under this subsection includes, but is not limited to:

1. Lessee shall not undertake any activities that will cause, contribute to or exacerbate contamination on the Property;
2. Lessee shall not undertake any activities that damage or interfere with the operation of remedial or restoration activities on the Property or undertake activities that result in human or environmental exposure to contaminated sediments on the Property;
3. Lessee shall not undertake any activities that result in the mechanical or chemical disturbance of on-site habitat mitigation;
4. If requested, the Lessee shall allow reasonable access to the Property by employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, or other similar environmental agencies; and
5. If requested, the Lessee shall allow reasonable access to potentially liable or responsible parties who are the subject of an order or consent decree which requires access to the Property. The Lessee's obligation to provide access to potentially liable or responsible parties may be conditioned upon the negotiation of an access agreement with such parties, provided that such agreement shall not be unreasonably withheld.

It shall be the Lessee's obligation to gather sufficient information concerning the Property and the existence, scope and location of Hazardous Substances on the Property, or adjoining Property, that allows the Lessee to effectively meet its obligations under this lease.

D. Notification and Reporting. The Lessee shall immediately notify the City if the Lessee becomes aware of any of the following:

1. A release or threatened release of Hazardous Substances in, on, under or above the Property, any adjoining property, or any other property subject to use by the Lessee in conjunction with its use of the Property;
2. Any problem or liability related to, or derived from, the presence of any Hazardous Substance in, on, under or above the Property, any adjoining property subject to use by the Lessee in conjunction with its use of the Property;
3. Any actual or alleged violation of any federal, state or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances with respect to the Property, any adjoining property or any other property subject to use by the Lessee in conjunction with its use of the Property;

4. Any lien or action with respect to any of the foregoing; or

5. Any notification from the U.S. Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property. Upon request, the Lessee shall provide the City with copies of any and all reports, studies, or audits which pertain to environmental issues or concerns associated with the Property, and which were prepared for the Lessee and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System Permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development Permit.

4.2. Indemnification - Hazardous Substances.

A. The Lessee shall fully indemnify, defend and hold the City harmless from and against any and all claims, demands, damages, natural resource damages, response costs, remedial costs, clean-up costs, losses, liens, liabilities, penalties, fines, lawsuits, other proceedings, costs and expenses (including attorney's fees and disbursements), that arise out of or are in any way related to:

1. The use, storage, generation, processing, transportation, handling or disposal of any Hazardous Substance by the Lessee, its subtenants, contractors, agents, employees, guests, invitees or affiliates in, on, under or above the Property, any adjoining property, or any other property subject to use by the Lessee in conjunction with its use of the Property, during the Term of this Lease or during any time when the Lessee occupies or occupied the Property or any such other property;

2. The release or threatened release of any Hazardous Substance, or the exacerbation of any Hazardous Substance contamination, in, on, under or above the Property, any adjoining property, or any other property subject to use by the Lessee in conjunction with its use of the Property, which release, threatened release, or exacerbation occurs or occurred during the Term of this Lease or during any time when the Lessee occupies or occupied the Property or any such other property, and as a result of:

- (i) Any act or omission of the Lessee, its subtenants, contractors, agents, employees, guests, invitees or affiliates; or,
- (ii) Any foreseeable act or omission of a third party unless the Lessee exercised the utmost care with respect to the foreseeable acts or omissions of the third party and the foreseeable consequences of those acts or omissions.

3. In addition to the indemnifications provided in this Section, the Lessee shall a fully indemnify the City for any and all damages, liabilities, costs or expenses (including attorney's fees and disbursements) that arise out of or are in any way related to the Lessee's breach of the obligations of this Section. This obligation is not intended to duplicate the indemnity provided within this Section, and applies only to damages, liabilities, costs or expenses that are associated with a breach of this Section and which are not characterized as a release, threatened release, or exacerbation of Hazardous Substances. This Indemnification Section shall survive termination or expiration of this Lease Agreement.

4.3 Cleanup. If a release of Hazardous Substances occurs in, on, under or above the Property, or any other City-owned property, arising out of any action, inaction, or event described or referred to in Section 3.14 above, the Lessee shall, at its sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances. Cleanup actions shall include, without limitation, removal, containment and remedial actions and shall be performed in accordance with all applicable laws, rules, ordinances, and permits. The Lessee's obligation to undertake a cleanup under this Section 3.15 shall be limited to those instances where the Hazardous Substances exist in amounts that exceed the threshold limits of any applicable regulatory cleanup standards. The Lessee shall also be solely responsible for all cleanup, administrative and enforcement costs of governmental agencies, including natural resource damage claims, arising out of any action, inaction, or event described or referred to in Subsection 3.14 above. The Lessee may undertake a cleanup pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that: (1) any cleanup plans shall be submitted to the City for review and comment at least thirty (30) days prior to implementation (except in emergency situations), and the Lessee must not be in breach of this lease. Nothing in the operation of this provision shall be construed as an agreement by the City that the voluntary cleanup complies with any laws or with the provisions of this Lease.

4.4. Sampling by City. Reimbursement and Split Samples.

A. The City may conduct sampling, tests, audits, surveys or investigations ("Tests") of the Property at any time to determine the existence, scope or effects of Hazardous Substances on the Property, any adjoining property, any other property subject to use by Lessee in conjunction with its use of the Property, or any natural resources. If such tests, along with any other information, demonstrates the existence, release, or threatened release of Hazardous Substances arising out of any action, inaction, or event described to referred to in Section 3.14 or 3.15 above, the Lessee shall promptly reimburse the City for all costs associated with such tests.

B. The City's ability to seek reimbursement for any tests under this Section shall be conditioned on the City providing the Lessee with written notice of

its intent to conduct any tests at least thirty (30) calendar days prior to undertaking such tests, unless such tests are performed in response to an emergency situation in which case the City shall only be required to give such notice as is reasonably practical.

C. The Lessee shall be entitled to obtain split samples of any test samples obtained by the City, but only if the Lessee provides the City with written notice requesting such samples within twenty (20) calendar days of the date the Lessee is deemed to have received notice of the City's intent to conduct any nonemergency tests. The additional cost, if any, of split samples shall be borne solely by the Lessee. Any additional costs incurred by the City by virtue of the Lessee's split sampling shall be reimbursed to the City within thirty (30) calendar days after a bill with documentation for such costs is sent to the Lessee.

D. Within thirty (30) calendar days of a written request (unless otherwise required pursuant to Subsection 4.4(B) above, either party to this Lease shall provide the other party with validated final data, quality assurance¹ quality control information, chain of custody information, associated with any tests of the Property performed by or on behalf of the City or the Lessee. There is no obligation to provide any analytical summaries of expert opinion work product.

4.5. Reservation of Rights. The parties have agreed to allocate certain environmental risks, liabilities, and responsibilities by the terms of Sections 3.13, 3.14, 3.15 and 3.16. With respect to those environmental liabilities covered by the indemnification provisions of Section 3.14, the parties expressly reserve and do not waive or relinquish any rights, claims, immunities, causes of action, or defenses relating to the presence, release, or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by the Lessee in conjunction with its use of the Property, that either party may have against the other under federal, state or local laws, including but not limited to, CERCLA, MTCA, and the common law. No right, claim, immunity or defense either party may have against third parties is affected by this Lease and the parties expressly reserve all such rights, claims, immunities and defenses. The allocations of risks, liabilities and responsibilities set forth above do not release either party fro, or affect either party's liability for, claims or actions by federal, state, or local regulatory agencies concerning Hazardous Substances.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the day and year below written.

DATED this _____ day of _____, 20078.

LESSOR:
CITY OF GIG HARBOR

LESSEE:

BY _____
CHARLES L. HUNTER, Mayor

PHILIP T. STANLEY

ATTEST:

MOLLY M. TOWSLEE, City Clerk

APPROVED AS TO FORM:

CAROL A. MORRIS, City Attorney

owned aquatic lands adjacent to the Property from any of Lessee's activities related to Lessee's occupation of the Property. All obligations imposed by this Section on Lessee to cure any violation of the prohibited activities in this Section shall also extend to City or state-owned aquatic lands adjacent to the Property when the violation arose from the Lessee's activities related to Lessee's occupation of the Property.

Lessee shall use the Premises only for the purposes and activities identified herein. The use of the Property by the Lessee shall not be of a religious or partisan political nature. Such use shall be made in a responsible and prudent manner continuously during the terms of the Lease. Lessee shall not use or permit the Property, or any part thereof, to be used for any purposes other than those set forth herein. Lessee shall neither permit on the Property any act or storage that may be prohibited under standard forms or fire insurance policies, nor use the Property for any such purpose.

Lessee shall not permit any waste, damage or injury to the Property, use the Property for anything that will increase the rate of insurance, maintain anything on the Property that may be hazardous to life or limb, permit any objectionable odor, permit anything to be done on the Property or use the Property in any way tend to create a public or private nuisance, or use or permit the Property to be used for lodging or sleeping purposes.

3.3. Conformance with Laws. The Lessee shall, at all times, keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes and other government rules and regulations regarding its use or occupancy of the Property.

3.4. Terms of Lease and Options to Renew. This lease shall be for a term of five (5) years after the date this Lease is signed by both parties, with three (3) five (5) year options to renew. Ninety (90) days prior to the expiration date of this Lease or any renewal, the Lessee may furnish a written notice of intent to renew this Lease to the Lessor. If the Lessor receives a timely written notice of intent to renew this Lease, the parties may enter into a new Lease for another five (5) years, the terms of which may be adjusted with respect to the rent not to exceed three (3%) pre annum. If the Lessor does not receive a timely written notice of intent to renew, this Lease shall expire. Lessee shall not be entitled to renew this Lease if it is in default under the terms of this Lease at the time the option to renew is exercised. Upon the expiration or termination of this Lease (or any extended term), the Lessee shall surrender the Property to the City.

3.5. Hold Over. If the Lessee remains in possession of the Property after the Termination Date, the occupancy shall not be an extension or renewal of the Term. The occupancy shall be a month-to-month tenancy, on terms identical to the terms of this Lease, which may be terminated by either party on thirty (30) days' notice. The monthly rent during the holdover shall be the same rent which would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms. If the City provides notice to vacate the Property in anticipation of the termination of this



Subject: First Reading of Ordinance
Heritage Point Height Restricted Area Map
Amendment (REZ 07-0005)

Proposed Council Action: Adopt ordinance
at this first reading, as allowed by Ordinance
1088.

Dept. Origin: Planning Department

Prepared by: Kristin Moerler, Associate Planner

For Agenda of: May 12, 2008

Exhibits: Ordinance
Hearing Examiner's Decision

Initial & Date

Concurred by Mayor:

CLH 4/29/08

Approved by City Administrator:

PK 4/28/08

Approved as to form by City Atty:

CAm 4/28/08

Approved by Finance Director:

CF 4/29/08

Approved by Department Head:

TD 4/28/08

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION/BACKGROUND

Bennett/SFS LLC and the Gig Harbor Peninsula Historical Society, requested a Height Restriction Area (HRA) Map Amendment to exclude the parcel located at 4129 Harborview Drive (Assessor's parcel number 0221061060) from the height restriction area. The subject parcel is located at the edge of the HRA on Harborview Drive just north of the intersection with Austin Street. This amendment is related to the Heritage Point Plat proposal.

The City issued a Mitigated Determination of Nonsignificance on February 8, 2008 for the Heritage Point project, including this amendment. No appeals were filed and the MDNS is final.

The Hearing Examiner (HE) held a public hearing on the site-specific HRA map amendment application on March 5, 2008 (the proposed plat and rezone of the property will be processed separately as requested by the applicant). The HE approved the site-specific amendment with conditions on March 18, 2008. The appeal period for this amendment expired on April 11, 2008. As there were no appeals filed, the decision is final. An ordinance is required to change the official height restriction area map to reflect the approved site-specific amendment.

POLICY CONSIDERATIONS

The ordinance is needed to officially amend the City's Height Restriction Area Map consistent with the HE decision on the site specific amendment. As HRA Map amendments are required to be processed in the same manner as rezone applications (GHMC 17.62.040), the ordinance may be adopted at first reading as allowed by Ordinance 1088.

FISCAL CONSIDERATION

There are no adverse fiscal impacts associated with this map amendment.

BOARD OR COMMITTEE RECOMMENDATION

No board or committee was required to review this application.

RECOMMENDATION / MOTION

Move to: Adopt ordinance at this first reading.

CITY OF GIG HARBOR
MAR 19 2008
COMMUNITY DEVELOPMENT DEPARTMENT

**DECISION
OF THE HEARING EXAMINER
City of Gig Harbor**

In the Matter of the Application of

**Bennett/SFS LLC and
Gig Harbor Peninsula Historical Society**

File No. REZ-07-0005

For an Amendment to the Height Restriction Area Map

Background

Bennett/SFS, LLC and the Gig Harbor Peninsula Historical Society applied for an amendment to remove certain property from the Height Restriction Area map. The requested amendment relates to 4.23 acres of land at 4129 Harborview Drive.

An open record hearing was held on March 5, 2008. Nancy Rogers, Cairncross & Hempelmann, P.S., represented Bennett/SFS, William Lynn represented the Gig Harbor Peninsula Historical Society, and Kristin Moerler, Associate Planner, represented the Community Development Department. The record consists of the testimony at the hearing and exhibits listed at the end of this decision.

For the purposes of this decision, all section numbers refer to the Gig Harbor Municipal Code (hereafter GHMC or Code) unless otherwise indicated.

After due consideration of all the information in the record, including that presented at the public hearing, the following shall constitute the findings, conclusions, and decision of the Hearing Examiner in this matter.

Findings

1. Bennett/SFS, LLC and Gig Harbor Peninsula Historical Society (“Applicants”) applied for an amendment to the Height Restriction Area (HRA) map to exclude property at 4129 Harborview Drive from the restricted area. The Gig Harbor Peninsula Historical Society (“Historical Society”) owns the property. The subject area includes 4.23 acres located on the east side of Harborview Drive just north of Donkey Creek Park. The parcel includes land lying south of Austin Street, adjacent to the Park, that is to be sold to the City. A boundary line adjustment has been processed to consolidate that property with park property, so that portion of the site is not included in the subject application.
2. The subject site is designated RL (Residential Low Density) on the City’s Comprehensive Plan land use map. It is zoned PI, Public-Institutional, and is vacant except for a tall shed housing a boat on the northernmost part of the site that is scheduled to be removed. Land to the north, east and west is zoned R-1, Single-family Residential,

and is either vacant or developed with single-family residences. Parkland to the south is zoned PI.

3. The zoning of the subject site reflects the use that the Historical Society had intended to make of the property. Now that a new maritime museum facility is being developed at another site, the Historical Society proposes to sell the property to the co-applicant. An application is pending for a rezone of the property to R-1 for a proposed subdivision and preliminary plat for development of the site with single-family houses.

4. The subject site is within the HRA. The purpose of the HRA is described in Section 17.62.010:

The purpose of this height restriction area is to establish standards for those properties located inside the Gig Harbor view basin where decreased building height shall be required. This is intended to be a limitation on height so as not to restrict views from adjacent properties.

Section 17.62.030 establishes 16 ft. as the maximum structure height. Maximum height outside the HRA is generally 35 ft.

5. The northerly and central portions of the site have been graded and are generally rolling and covered with shrub-type vegetation. The southerly portion slopes to the south/southeast with slopes of 20-40 percent. The southerly area is forested. Photos show largely evergreen, but some deciduous, trees. A 1:1 slope has been cut adjacent to Harborview Drive on the west side.

6. A Mitigated Determination of Non-Significance (MDNS) pursuant to SEPA was issued on February 8, 2008, and became final February 27, 2008, with conditions unrelated to the current application. The MDNS was not appealed.

7. Notice of the proposed HRA map amendment was published, mailed and posted on February 20, 2008.

8. Review criteria for proposed amendment to the HRA map are provided at Section 17.62.040. They are:

- A. That the request to amend the height restriction area map furthers the goals, policies and objectives of the comprehensive plan;
- B. The property or area proposed for exclusion from the height restriction area map does not currently possess a view of Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows;
- C. The gradient of the land within 100 feet of the property or area does not have a slope of five percent or greater toward Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows;
- D. That views from adjacent properties will not be adversely affected.

9. The Comprehensive Plan does not specifically address view protection or height restrictions, except for the identification and mapping of significant vistas, view corridors and view termination points, and designation of visually sensitive areas under Goal 3.4,

Policies 3.4.1 and 3.4.3. A 2007 revision added neighborhood design areas and identified the view basin as one of them.

10. Exhibit 5 catalogs other policies that have potential relevance to the proposal. It suggests that Goal 3.1, Assure that new commercial and residential projects include an active interface between the public and private realms, and its policy 3.1.4, Encourage houses which engage the neighborhood, would be furthered by allowing greater height for flexibility in design. Exhibit 5 also discusses Goal 3.4, Enhance the city's sense of place by preserving prominently visible parcels for aesthetically pleasing development noting that the site is not a prominently visible property but that Harborview Drive is within the Enhancement Corridor where a 30 ft. setback and landscaping is required. The HRA map amendment, itself, would not result in any effect on the enhancement corridor and future development would be required to observe the setback and landscaping. Goal 3.6, Articulate an architectural style which reflects Gig Harbor's built and natural environment and which appeals to the human spirit. Policy 3.6.1 and Policy 3.6.2 to maintain a small town scale and identify an appropriate form for the structures were also listed as potentially relevant. The hearing examiner agrees that the increase in maximum height that would result from the amendment would allow for a greater range in the form of structures to be considered by the City in design review. Goal 8.4, Upgrade and maintain a municipal water supply system which provides a high quality and quantity of potable water was suggested to be relevant because development of the site will involve a new water line, and that no substantial development of the site would be likely to occur under the current height restriction.

11. As to Criterion B regarding existing views, the photographs in the record clearly demonstrate that most of the site does not have views of Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows. Department staff also confirmed that there are currently no views of those features across the site from surrounding properties. Staff photos taken in winter from the top of the steeper part of the slope in the forested southern portion of the site showed glimpses of water in the bay described as "heavily filtered" views.

12. No slopes of five percent or greater toward Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows lie on property within 100 ft. of the subject property on the north side where the slope is predominantly to the north, on the west side where the slopes, when averaged, are five percent or less and are to the west away from the specified views, or on the east where the slopes are steeper but are not toward the views. There are slopes toward the specified views that exceed five percent on properties within 100 feet to the south and southeast.

13. As to criterion C, the department staff surveyed views from properties surrounding the site, including from the second story of the office building to the north. No adjacent properties have views across the subject site that would be affected by development utilizing the higher height allowed with the proposed amendment. Development on the site would change the appearance of the site and would be visible from some of the adjacent properties. The development would be subject to Design Manual regulations.

14. The department recommended that the HRA be amended, but that the properties that are shown in the application materials for preliminary plat approval as the storm water

tract and Lot 11, the area where staff found the heavily filtered views of the water, be excluded from the amendment.

Conclusions

1. The Hearing Examiner has authority to approve amendments to the Height Restricted Area Map pursuant to Section 19.01.003.
2. The public notice provided met the requirements of Section 19.03.003.
3. As to the first review criterion for amendment of the HRA map, it would be difficult for a proposed amendment to further goals, policies or objectives about height restrictions as it does not appear that there are any goals, policies or objectives in the Comprehensive Plan that speak directly to height restrictions, except in very specific circumstances that do not apply. However, as discussed in Exhibit 5, there are other policies that would be furthered such as allowing greater flexibility in design. In a more general sense, because the Code is required to implement the Comprehensive Plan's goals, RCW 36.70A.040(4), and the Code states that the height restriction area is intended to govern height "so as not to restrict views", the removal of an area that does not provide views, and on which development would not obstruct views, would be consistent with the Comprehensive Plan.
4. The second criterion allows amendment of the map if the subject site does not have a view of Gig Harbor Bay, Mount Rainier or Puget Sound Narrows. This criterion is clearly satisfied for most of the site. The difficulty is whether wintertime "glimpses" of the water in the bay is a view that requires maintaining the height limitation, at least for that portion of the site. The purpose of the criterion is hard to discern because the intent of the height restriction area is to prevent restricting views from adjacent properties, yet this criterion looks for views from the subject property without regard to whether views from adjacent properties, and even from other property within the site, would be affected by development to the new height maximum. The hearing examiner concludes that, recognizing the intent, the criterion does not require retention of the height limit on properties where the "views" are so attenuated. Therefore, this criterion is satisfied.
5. The third criterion seems straightforward but the language is ambiguous in that it fails in its attempt to carry out the stated purpose. To relate to the intent of the HRA, the criterion must be read to apply to those slopes where the subject site intervenes between the slope and the designated views. So, while there are slopes exceeding the five percent gradient sloping toward the designated scenic views within 100 feet of the property on the south and southeast sides, restricting the height of development on the subject property bears no relation to the effectuation of the intent of the height restriction. The proposed amendment would be consistent with the intent of the criterion to protect views from adjacent properties.
6. The intent of the height restriction area may also be taken into account in construing the final criterion, that "views" from adjacent properties will not be adversely affected, because there is ambiguity about what views are to be considered, as evidenced by public comment. The purpose of the HRA is to protect views of the specified sights, so those


are the views that should be considered in assessing consistency with this criterion. Views of the site from neighboring properties will change, and for those who appreciate the lack of development on the site, the change will be adverse. But the criterion must be read to address effect on the specified views, and because allowing higher structures would not adversely affect those views, that criterion is satisfied.

Decision

The application for amendment of the Height Restricted Area Map is APPROVED, subject to the following conditions:

1. The portion of the subject parcel lying south of Austin Street, i.e., that being sold to the City of Gig Harbor, shall remain within the height restriction area.
2. The legal description and an exhibit of the area to be excluded from the height- restricted area on the map shall be provided to the City for the implementing ordinance.

Dated this 18th day of March 2008.


Margaret Klockars
Hearing Examiner

Concerning Further Review

The hearing examiner's decision is final unless a request for reconsideration is filed according to the procedures set forth in Ordinance No. 1073. If a request for reconsideration is filed, this may affect the deadline for filing judicial appeal. See Chapter 36.70C, RCW. Affected property owners may request change in valuation for property tax purposes notwithstanding any program of revaluation.

Parties of Record

Nancy Bainbridge Rogers
Cairncross & Hempelmann, P.S.
524 Second Avenue, Suite 500
Seattle, WA 98104

Beth Perrow
9119 North Harborview Drive
Gig Harbor, WA 98332

William Lynn
P.O. Box 1157
Tacoma, WA 98401

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PO Box 744
Gig Harbor, WA 98335

Glen Stenbak
8817 Prentice Avenue
Gig Harbor, WA 98332

Walter Smith
PO Box 526
Vaughn, WA 98394

Michael J. Campbell
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Gig Harbor, WA 98332

Robert Gillanders
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Gig Harbor, WA 98332

Carl Halsan
PO Box 1447
Gig Harbor, WA 98335

Kristin Moerler, Associate Planner
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Keith and Karen Lauritzen
8826 Prentice Ave.
Gig Harbor, WA 98332

Exhibits in the Record

- 1-Staff report dated 3/5/08
- 2-Rezone application dated 7/10/07
- 3-Bennett letter 7/8/07
- 4-HRA map amendment application dated 12/4/07
- 5-Rogers' letter dated 12/3/07 re Analysis of Code criteria
- 6-Photos of site and surrounding area
- 7-Revised MDNS
- 8a-Rogers' SEPA comments
- 8b-Stanbak's SEPA comments
- 8c-Campbell SEPA comments
- 8d-Lauritzen's comments
- 8e-DOE SEPA comments
- 8f-DOE SEPA comments
- 8g-DCTED SEPA comments
- 9-Ordinance 873
- 10-Declaration of Boundary Line Adjustment
- 11-Land Use Map
- 12-Zoning Map
- 13-Heritage Point Vicinity Topography (map)
- 14-Staff photos 2/27/08
- 15-Withdrawn
- 16-HRA Amendment Plans, stamped received 12/4/08
- 17-Photos taken by staff 2/29/08

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REMOVING PROPERTY AT 4129 HARBORVIEW DRIVE, ASSESSOR'S PARCEL NUMBER 0221061060, FROM THE CITY'S HEIGHT RESTRICTION AREA AND AMENDING THE OFFICIAL HEIGHT RESTRICTION AREA MAP TO BE CONSISTENT THEREWITH,

WHEREAS, Bennett/SFS LLC and the Gig Harbor Peninsula Historical Society, requested a Height Restricted Area Map Amendment to exclude the parcel located at 4129 Harborview Drive in Gig Harbor, Washington, Assessor's parcel number 0221061060 from the Height Restricted Area; and

WHEREAS, the subject site is presently included in the City's Height Restricted Area as shown on attached Exhibit "A", the City's Official Height Restricted Area Map; and

WHEREAS, a SEPA threshold determination of Mitigated Determination of Nonsignificance was issued on February 8, 2008; and

WHEREAS, the SEPA threshold decision was not appealed; and

WHEREAS, the proposed amendment is a Type III action as defined in GHMC 19.01.003(B) for amendments to the height restriction area map; 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 March 5, 2008, at which time the Hearing Examiner heard public testimony on the amendment; and

WHEREAS, the Hearing Examiner approved the proposed amendment in her decision dated March 18, 2008; and

WHEREAS, the appeal period expired on April 11, 2008; and

WHEREAS, Amendments to the height restriction area map are required to be processed in the same manner as amendments to the zoning district map as per GHMC 17.62.040, and

WHEREAS, amendments to the zoning district map must be adopted by ordinance as per GHMC 17.100.070 under the provisions of Chapter 1.08 GHMC; and

WHEREAS, the City Community Development Director forwarded the site-specific rezone proposal to the Washington State Department of Community Development on December 5, 2007 pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading on _____; and

WHEREAS, the Gig Harbor City Council voted to _____ this Ordinance during the first reading on _____; and

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

Section 1. The real property located at 4129 Harborview Drive in Gig Harbor, Washington, Assessor's parcel number 0221061060 and legally described in Exhibit "B", is hereby removed from the Height Restriction Area Map.

Section 2. The Community Development Director is hereby instructed to effectuate the necessary changes to the Official Height Restricted Area Map of the City in accordance with the designation established by Section 1.

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 _____, 2008.

CITY OF GIG HARBOR

CHARLES L. HUNTER, 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: _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, REMOVING PROPERTY AT 4129
HARBORVIEW DRIVE, ASSESSOR'S PARCEL NUMBER
0221061060, FROM THE CITY'S HEIGHT RESTRICTION AREA
AND AMENDING THE OFFICIAL HEIGHT RESTRICTION AREA
MAP TO BE CONSISTENT THEREWITH**

WHEREAS, Bennett/SFS LLC and the Gig Harbor Peninsula Historical Society, requested a Height Restriction Area Map Amendment to exclude the parcel located at 4129 Harborview Drive in Gig Harbor, Washington, Assessor's parcel number 0221061060 from the Height Restricted Area; and

WHEREAS, the subject site is presently included in the City's Height Restricted Area as shown on attached Exhibit "A", the City's Official Height Restriction Area Map; and

WHEREAS, a SEPA threshold determination of Mitigated Determination of Nonsignificance was issued on February 8, 2008; and

WHEREAS, the SEPA threshold decision was not appealed; and

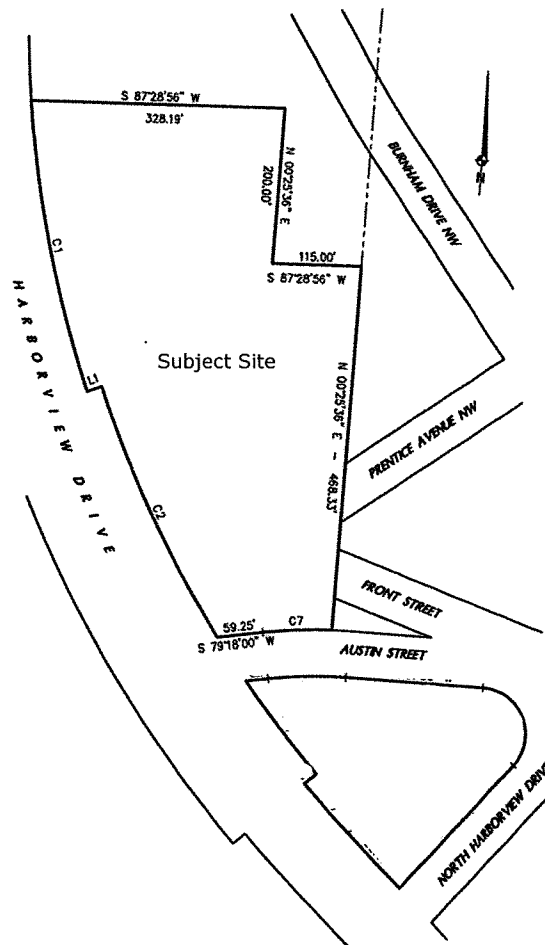
WHEREAS, the proposed amendment is a Type III action as defined in GHMC 19.01.003(B) for amendments to the height restriction area map; and

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 March 5, 2008, at which time the Hearing Examiner heard public testimony on the amendment; and

Exhibit B —Subject Site Legal Description

Beginning at a point 633 feet south of the Northeast Corner of the Southwest Quarter of the Northeast Quarter of Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington; thence west, parallel with the north line of said subdivision, 115 feet; thence north 200 feet; thence west, parallel with the north line of said subdivision, 300 feet, more or less, to the easterly boundary of State Road No. 14; thence southeasterly along said easterly boundary of said state road, 800 feet, more or less, to a point where boundary line intersects the east line of said southwest quarter of the northeast quarter; thence north along the east line of said southwest quarter of the northeast quarter to the point of Beginning. EXCEPT that portion thereof lying south of Austin Street.





**Subject: Downtown Business Plan
Consultant Services Agreement**

Dept. Origin: Administration

Prepared by: Rob Karlinsey

Proposed Council Action:

For Agenda of: **May 12, 2008**

Exhibits: Agreement & Scope of Work

Authorize the Downtown Business Plan Consultant Services Agreement with Spinnaker Strategies.

Initial & Date

Concurred by Mayor:

CLH 4/30/08

Approved by City Administrator:

RJK 4/29/08

Approved as to form by City Atty:

Cam 4/29/08

Approved by Finance Director:

DR 4/30/08

Approved by Department Head: _____

Expenditure	Amount	Appropriation
Required \$30,000	Budgeted \$30,000	Required \$0

INFORMATION / BACKGROUND

As discussed during the 2008 budget process, a downtown business plan is needed to set in motion an action plan for enhancing downtown economic activity.

Work Product

Rod Stevens of Spinnaker Strategies will produce a concise report recommending a business strategy aimed at leveraging our existing strengths and niches, as well as drawing compatible and complimentary new investment and use to downtown Gig Harbor. Maintaining the downtown's existing character, recognizing and capitalizing on 100 years of historic capital, and identifying new market opportunities for existing businesses will also be a part of this scope. While the primary focus will be on the portion of the downtown closer to the mouth of the Harbor, this strategy will look at this area in the context of businesses at both ends of the harbor, including the Finholm District to the north.

The strategy will include a business positioning statement describing how the downtown can compete with other areas of the city and comparable destinations in Puget Sound. The report will discuss specific ways to strengthen the downtown's existing economic base while finding ways to expand it and introduce compatible new uses that build on the downtown's historic assets. This discussion will revolve around identifying and taking advantage of key strengths and how to overcome key weaknesses and challenges.

The report will focus on specific actions that the City can take in the next one to five years that will leverage private investment and generate more immediate use of the area. These actions

will be presented as a menu of options, keyed to a map or photo of the area, and ranked in terms of importance and immediate benefit. The list will include a rough estimate of the cost and difficulty of each action. Rather than being a definitive "to do" list, these recommendations should serve as a starting point for a broader public discussion of the role and future of the downtown, and the City's priorities facilitating economic prosperity downtown.

Work Process

Mr. Stevens will jointly develop these recommendations with a steering committee selected by the Mayor. Mr. Stevens will meet with this committee at least four times in the evening or afternoon. In addition, he will lead one full-day tour of comparable destinations in other parts of Puget Sound. These meetings will be aimed at developing a joint understanding of how the area now works, of what residents city-wide need and want, of what lessons and ideas can be gathered from other places, and of what ideas for economic prosperity are likely to capture the imagination and attention of the community. Mr. Stevens will present the recommendations at a City Council meeting.

Schedule

Rod Stevens will carry this work out during the months of June and July, with delivery of the work product in early to mid August. It is important that this strategy work be carried out in concert with any downtown street designs, and that this business strategy work be completed before and in conjunction with conceptual plans for downtown street designs.

FISCAL CONSIDERATION

This fulfills the "Downtown Business Plan" objective in the adopted 2008 Administration budget.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to: Authorize the downtown business plan consultant services agreement with Spinnaker Strategies.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
SPINNAKER STRATEGIES**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Spinnaker Strategies, a corporation organized under the laws of the State of Washington located and doing business at 8700 Oddfellows Road, Bainbridge Island, WA (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in facilitating the economic vitality of the downtown business districts 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 April 29, 2008, 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 Thirty Thousand Dollars (\$30,000.00) 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.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, based on percentage of contract completed to date, and the consultant shall submit 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 15, 2008; 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:
Spinnaker Strategies
ATTN: Rod Stevens
8700 Oddfellows Road
Bainbridge Island, WA 98110

City of Gig Harbor
ATTN: Rob Karlinsey
3510 Grandview Street
Gig Harbor, WA 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

CITY OF GIG HARBOR

By: _____
Its President

By: _____
Mayor

Notices to be sent to:
Spinnaker Strategies
ATTN:
Rod Stevens
8700 Oddfellows Road
Bainbridge Island, WA 98110

City of Gig Harbor
ATTN: Rob Karlinsey,
City Administrator
3510 Grandview Street
Gig Harbor, WA 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 Charles L. Hunter 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 Work

Work Product

Consultant will produce a concise report recommending a business strategy aimed at leveraging our existing strengths and niches, as well as drawing compatible and complimentary new investment and use to downtown Gig Harbor. Maintaining the downtown's existing character, recognizing and capitalizing on 100 years of historic capital, and identifying new market opportunities for existing businesses will also be a part of this scope. While the primary focus will be on the portion of the downtown closer to the mouth of the Harbor, this strategy will look at this area in the context of businesses at both ends of the harbor, including the Finholm District to the north.

The strategy will include a business positioning statement describing how the downtown can compete with other areas of the city and comparable destinations in Puget Sound. The report will discuss specific ways to strengthen the downtown's existing economic base while finding ways to expand it and introduce compatible new uses that build on the downtown's historic assets. This discussion will revolve around identifying and taking advantage of key strengths and how to overcome key weaknesses and challenges.

The report will focus on specific actions that the City can take in the next one to five years that will leverage private investment and generate more immediate use of the area. These actions will be presented as a menu of options, keyed to a map or photo of the area, and ranked in terms of importance and immediate benefit. The list will include a rough estimate of the cost and difficulty of each action. Rather than being a definitive "to do" list, these recommendations should serve as a starting point for a broader public discussion of the role and future of the downtown, and the City's priorities facilitating economic prosperity downtown.

Work Process

Consultant will jointly develop these recommendations with a steering committee selected by the Mayor. Consultant will meet with this committee at least four times in the evening or afternoon. In addition, Consultant will lead one full-day tour of comparable destinations in other parts of Puget Sound. These meetings will be aimed at developing a joint understanding of how the area now works, of what residents city-wide need and want, of what lessons and ideas can be gathered from other places, and of what ideas for economic prosperity are likely to capture the imagination and attention of the community. Consultant will present the recommendations at a City Council meeting.

Schedule

Consultant will carry this work out during the months of June and July, with delivery of the work product in early to mid August. It is important that this strategy work be carried out in concert with any downtown street designs, and that this business strategy work be completed before and in conjunction with conceptual plans for downtown street designs.

Mutual Responsibilities

The City will be responsible for selecting the steering committee, logistics, publicly noticing the meetings, and record keeping. City and Consultant shall jointly prepare a schedule of meeting dates, times and places in advance of the first meeting, which shall be held by early June. The City will also provide consultant with copies of previous reports, plans and studies carried out on this area, such as the "Forward Together" and

the 2002 Downtown Building Size Limit documents, along with medium-scale maps and aerial photographs of the area.



Subject: Public Hearing and First Reading of Ordinance - R-2 Zoning District Amendment (ZONE 08-0002)

Proposed Council Action: Review ordinance and approve at second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester *JK*
Senior Planner

For Agenda of: May 12, 2008

Exhibits: Draft Ordinance; Planning Commission Minutes

Initial & Date

Concurred by Mayor:

Approved by City Administrator: *RJK 5/6*

Approved as to form by City Atty: *CAm 5/6/08*

Approved by Finance Director: *DF 5/6/08*

Approved by Department Head: *TD 5/6/08*

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

Attached for the Council's consideration are proposed amendments to the Medium – Density Residential (R-2) zone. If adopted the amendments would:

- 1) Add triplexes and fourplexes as conditional uses in the R-2 zoning district.
- 2) Set a minimum density of 4 dwelling units per net acre for the R-2 zoning district.
- 3) Increase the allowance for impervious coverage in the R-2 zoning district from 40% to 60% of the total lot area.
- 4) Amend the Density in Residential Zones chapter (GHMC 17.05) to state that the allowed density in each zone is the minimum and/or maximum density as specified in each zoning district chapter.

The Planning Commission held work study sessions on this text amendment on January 3rd and January 17th, 2008 and February 21st, 2008. A public hearing before the Planning Commission was held on March 6, 2008. There was no testimony at the public hearing. The Planning Commission voted unanimously to recommend approval of the text amendment. Copies of the minutes for the Planning Commission meetings which these amendments were discussed are attached.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and

welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). Zoning text amendments are considered a Type V legislative action (GHMC 19.01.003).

GHMC 17.20 Medium-Density Residential (R-2)

Chapter 17.20 GHMC contains the uses, performance standards and site development standards for the R-2 zone.

From GHMC 17.20.010:

An R-2 district is intended to allow for a moderate density of land use that is greater than is permitted in an R-1 district but less than is permitted in an R-3 district, where suitable facilities such as streets, water, sewer and storm drainage are available. An R-2 district provides a transition between a higher density residential district in order to preserve the primarily residential character of existing lower density residential areas.

Staff/Planning Commission Analysis:

The Planning and Building Committee first discussed this text amendment in the fall of 2007 after several citizens expressed concern that their triplexes were nonconforming uses in the R-2 zone. Upon research of the R-2 zone, it was found that approximately 27 percent of the residential units in the R-2 zone are contained in triplexes or fourplexes. With the proposed amendment only approximately 6 percent of the residential units in the R-2 would be considered nonconforming uses.

The following is a synopsis of the issues discussed and reviewed by the Planning Commission:

The Planning Commission expressed concern with the percentage of triplex and fourplex units in the R-2 zone and how those uses were nonconforming uses. The Planning Commission felt that triplex and fourplex uses were consistent with the intent of the Medium-Density Residential (R-2) zone to provide a transition between single-family and multiple-family housing typologies. In addition, conditionally allowing triplexes and fourplexes will greatly reduce the number of nonconforming residential uses in the zone.

The addition of triplexes and fourplexes has the potential to allow more affordable housing choices in the R-2 zone and still transition between a single-family zone (R-1) and a multi-family zone (R-3/RB-2). However, given the potential size and bulk of triplexes and fourplexes, the Planning Commission felt the uses should be conditionally allowed in the zone. The conditional use process would be appropriate to evaluate the impacts associated with triplexes and fourplexes, because the conditional use procedure would assure that the public would have an opportunity to comment on the development during a public hearing, and the hearing examiner could evaluate the use under the conditional use permit criteria to determine whether the triplex or fourplex would be detrimental to the existing neighborhood.

The Planning Commission then discussed the issue of density and felt that the maximum allowed density should not increase but that a minimum density of 4 dwelling units per acre would be appropriate for full utilization of the transitional nature of the R-2 zone and meet urban densities required by the Growth Management Act. The Planning Commission proposes increasing the impervious surface allowance to 60% to accommodate 6 dwelling

units per acre and the duplexes, triplex and fourplex buildings and associated driveways allowed in the proposed amendments.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on March 5, 2008 as per WAC 197-11-340(2).

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The Planning Commission is recommending approval of the proposed text amendments.

RECOMMENDATION / MOTION

Move to: Staff recommends Council review the ordinance and approve at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADDING TRIPLEXES AND FOURPLEXES AS CONDITIONAL USES IN THE R-2 ZONING DISTRICT; ESTABLISHING A MINIMUM DENSITY OF FOUR (4) DWELLING UNITS PER NET ACRES FOR THE R-2 ZONING DISTRICT; INCREASING THE ALLOWANCE FOR IMPERVIOUS LOT COVERAGE FROM 40 PERCENT TO 60 PERCENT IN THE R-2 ZONING DISTRICT; AND AMENDING THE DENSITY IN RESIDENTIAL ZONES CHAPTER (GHMC 17.05) TO STATE THAT THE ALLOWED DENSITY IN EACH ZONE IS THE MINIMUM AND/OR MAXIMUM DENSITY AS SPECIFIED IN THE ZONING DISTRICT CHAPTER; AMENDING GHMC SECTION 17.14.020, 17.20.040, 17.20.070 AND 17.05.020 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, approximately 27 percent of the existing residential units in the R-2 zoning district are contained in triplexes or fourplexes but triplexes and fourplexes are prohibited uses in the R-2 zoning district; and

WHEREAS, the R-2 zoning district is intended to allow for a moderate density of land use that is greater than is permitted in an R-1 zoning district but less than is permitted in an R-3 zoning district and to provide a transition between a higher density residential district in order to preserve the primarily residential character of existing lower density residential areas; and

WHEREAS, allowing triplexes and fourplexes in the R-2 zoning district would be consistent with one aspect of the intent of that zone's stated intent, which is to provide a transition between single-family and multiple-family housing typologies; and

WHEREAS, the City desires to require conditional use permits for triplexes and fourplexes rather than allow them outright in the R-2 zoning district given the potential size and bulk of triplexes and fourplexes; and

WHEREAS, the conditional use process would be appropriate to evaluate the impacts associated with triplexes and fourplexes, because the conditional use procedure would assure that the public would have an opportunity to comment on the development during a public hearing, and the hearing examiner could evaluate the use under the conditional use permit criteria to determine whether the triplex or fourplex would be detrimental to the existing neighborhood; and

WHEREAS, the City desires to establish a minimum density of four (4) dwelling units per acre in the R-2 zoning district to assure full utilization of the transitional nature of the R-2 zoning district and meet urban densities required by the Growth Management Act; and

WHEREAS, the City desires to increase to allowed impervious lot coverage in the R-2 zoning district from 40 percent to 60 percent to allow for the maximum density of 6 dwelling units per acre and the duplexes, triplexes and fourplexes and associated driveways permitted outright or conditionally allowed in the zoning district; and

WHEREAS, GHMC Section 17.05.020 currently states that all densities listed in the zoning code are maximum densities which would not be true with the adoption of this ordinance and needs to be corrected; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on March 5, 2008; and

WHEREAS, on March 5, 2008, a copy of this Ordinance was sent to the Washington Department of Community, Trade and Economic Development, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on March 6, 2008 and made a recommendation of approval to the City Council; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____, 2008; and

WHEREAS, on _____, 2008, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore;

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

Section 1. Section 17.14.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.14.020 Land use matrix

	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD
Uses																				
Dwelling, single-family	-	P	P	P	P	C	P	P	C	P ¹⁴	C	C	P ¹⁴	-	P	P	P	-	P ¹⁴	P
Dwelling, duplex	-	-	-	P	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	P	P	P	-	P ¹⁴	P
Dwelling, triplex	-	-	-	C	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	C ¹⁷	P	-	P ¹⁴	P
Dwelling, fourplex	-	-	-	C	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	C ¹⁷	P	-	P ¹⁴	P
Dwelling, multiple-family	-	-	-	-	P	P ⁶	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	-	-	-	P ¹⁴	P
Accessory apartment ¹	-	C	P	-	P	-	C	C	C	P ¹⁴	C	C	P ¹⁴	-	-	-	P	-	P ¹⁴	P
Family day care provider	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	P	P	P
Home occupation ²	-	P	P	P	P	P	P	P	C	P	-	C	-	-	P	P	P	-	-	-
Adult family home	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	P	P	P
Living facility, independent	-	-	-	C	-	P	C	C	C	P	C	C	P	C	-	-	-	-	-	P
Living facility, assisted	-	-	-	C	-	P	C	C	C	P	-	C	P	C	-	-	-	-	-	P
Nursing facility, skilled	-	-	-	C	-	P	C	C	C	P	C	C	P	C	-	-	-	-	-	P
Hospital	-	-	-	-	-	-	-	-	C	-	C	C	-	C	-	-	-	C	-	-
School, primary	P	C	P	C	P	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
School, secondary	P	C	P	C	P	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
School, higher educational	P	C	-	C	-	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
School, vocational/trade	P	C	-	C	-	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
Government administrative office	P	C	P	C	P	C	C	P	P	P	P	P	P	P	C	P	P	P	P	P
Public/private services	P	C	-	C	-	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P
Religious worship, house of	-	C	P ⁵	C	P ⁵	C	C	C	C	P	-	C	P	C	-	-	-	-	-	P/C ¹⁵
Museum	P	-	-	-	-	-	-	-	-	-	C	C	P	-	-	-	-	-	-	-
Community recreation hall	P	-	P	C	P	C	C	C	C	P	C	C	P	P	-	-	-	P	P	-
Clubs	-	-	C	C	C	C	C	C	P	P	P	P	P	P	-	C ²¹	P	P	C	-
Parks	P	P	P	P	P	P	P	P	P	P	C	C	P	P	P	P	P	P	P	P

	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD
Uses																				
Essential public facilities	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utilities	P	C	P	C	P	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P
Lodging, level 1	-	C	-	C	-	P	P	P	P	P	C	C	-	-	C	C	C	-	-	P
Lodging, level 2	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	-	-	P
Lodging, level 3	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	-	-	P
Personal services	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Professional services	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	P	P	P	P	P
Product services, level 1	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Product services, level 2	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P ¹⁶
Sales, level 1	-	-	-	-	-	-	C ^{7,8}	-	P	P	P	P	P	-	-	-	P	-	P ¹³	P
Sales, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, level 3	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, ancillary	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	-	P	P	-	-
Commercial child care	-	-	C	-	C	-	C	C	C	-	-	P	-	C	-	-	-	-	-	-
Recreation, indoor commercial	-	-	-	-	-	-	C	C	P	-	P	P	P	C	-	-	-	-	-	P
Recreation, outdoor commercial	-	-	-	-	-	-	C	C	C	-	P ¹⁰	P	P	C	-	-	-	-	-	P
Entertainment, commercial	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	-	-	-	P
Automotive fuel-dispensing facility	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	-	-	P	-
Vehicle wash	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-	-
Parking lot, commercial	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	C ¹⁹	-	-	-
Animal clinic	-	-	-	-	-	-	-	-	P ⁹	-	P	P	-	P	-	-	-	P	-	P
Kennel	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-
Adult entertainment facility ³	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-
Restaurant 1	-	-	-	-	-	-	C ⁸	P	P	P	P	P	P	-	-	C ¹²	P	-	P	P
Restaurant 2	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	P	-	P	P
Restaurant 3	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	P	-	P	P
Tavern	-	-	-	-	-	-	-	-	C	-	P	P	P	-	-	-	P	-	-	-
Drive-through facility	-	-	-	-	-	-	-	-	C	-	C	C	P	-	-	-	-	-	-	-
Marina	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-
Marine sales and service	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-

	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD
Uses																				
Marine boat sales, level 1	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	P	P	-	-	-
Marine boat sales, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-
Ministorage	-	-	-	-	-	-	-	C	-	-	C	C	P	C	-	-	-	-	-	P
Industrial, level 1	-	-	-	-	-	-	-	C	C	-	C	P	-	P	-	-	-	P	-	P
Industrial, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	P	-	-
Marine industrial	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P ¹¹	C	-	-	-
Wireless communication facility ⁴	C	C	C	C	C	C	P	P	C	P	C	P	P	P	C	C	C	P	P	-
Accessory uses and structures	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

¹ Accessory apartments requiring conditional use permits are subject to the criteria in GHMC Section 17.64.045.

² Home occupations are subject to Chapter 17.84 GHMC.

³ Adult entertainment facilities are subject to Chapter 17.58 GHMC.

⁴ Wireless communication facilities are subject to Chapter 17.61 GHMC.

⁵ Houses of religious worship shall be limited to parcels not greater than 5 acres.

⁶ Multiple-family dwellings shall be limited to no more than eight attached dwellings per structure in the R-3 district.

⁷ Sales, level 1 uses shall be limited to food stores in the RB-1 district.

⁸ See GHMC Section 17.28.090(G) for specific performance standards of restaurant 1 and food store uses in the RB-1 zone.

⁹ Animal clinics shall have all activities conducted indoors in the DB district.

¹⁰ Drive-in theaters are not permitted in the B-2 district.

¹¹ Marine industrial uses in the WM district shall be limited to commercial fishing operations and boat construction shall not exceed one boat per calendar year.

¹² Coffeehouse-type restaurant 1 uses shall not exceed 1,000 square feet in total size in the WM district.

¹³ Sales, level 1 uses shall be limited to less than 7,500 square feet per business in the PCD-NB district.

¹⁴ Residential uses shall be located above a permitted business or commercial use.

¹⁵ Houses of religious worship on parcels not greater than 10 acres are permitted uses in the MUD district; houses of religious worship on parcels greater than 10 acres are conditionally permitted uses in the MUD district.

¹⁶ Auto repair and boat repair uses shall be conducted within an enclosed building or shall be in a location not visible from public right-of-way and adjacent properties.

¹⁷ Only one triplex dwelling or one fourplex dwelling is conditionally permitted per lot in the WM district.

¹⁸ Planned unit developments (PUDs) are conditionally permitted in the ED district.

¹⁹ Commercial parking lots in the WC district shall be related to shoreline uses.

²⁰ Junkyards, auto wrecking yards and garbage dumps are not allowed in the C-1 district.

²¹ Clubs in the WM zone shall not serve alcoholic beverages and shall not operate a grill or deep-fat fryer.

Section 2. Section 17.20.040 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.20.040 Development Standards

In an R-2 district, the minimum requirements are as follows:

	Single-family and duplex dwellings	Other residential and nonresidential
A. Minimum lot area for short plats ¹	7,000 sq.ft./dwelling unit	
B. Minimum lot width ¹	50'	50'
C. Minimum front yard ^{2, 4-3}	House: 20' Porch: 12' Garage: 26'	25'
D. Minimum side yard ^{4, 5-3, 4}	8'	7'
E. Minimum rear yard ^{4, 5-3, 4}	30'	25'
F. Maximum site <u>impervious lot coverage</u>	40% <u>60%</u> of the total lot area	
G. Minimum density	4 dwelling units/acre	
G H. Maximum density ³	6 dwelling units/acre	

¹ A minimum lot area is not specified for subdivisions of five or more lots. The minimum lot width shall be 0.7 percent of the lot area, in lineal feet.

² In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors. The other property line abutting a street shall be deemed the side property line. An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

³ ~~A maximum density of up to 7.8 dwelling units per acre may be permitted within a planned residential development, pursuant to Chapter 17.89 GHMC.~~

^{4, 3} Development in the historic district shall comply with the setbacks defined in GHMC 17.99.310 and 17.99.320.

^{5, 4} Garages accessory to single-family and duplex dwellings may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

Section 3. Section 17.20.070 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.20.070 Design.

All structures development shall conform to the design standards contained defined for single-family dwellings as provided in GHMC 17.99.490. Nonresidential development shall conform to all nonresidential design standards defined in Chapter 17.99 GHMC. Duplex dwellings shall conform to the design standards for single-family dwelling as provided in GHMC 17.99.490 and 17.99.510.

Section 4. Section 17.05.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.05.020 Requirements Allowed density.

The allowed density, as shown for each residential zone in this title allowing residential uses, represents the minimum and/or the maximum number of dwelling units that may occupy an acre of land, as stated in each zoning district chapter. ~~This maximum number of units may be exceeded only through participation in the planned residential development process (PRD, Chapter 17.89 GHMC).~~ Where the allowed density of a zone does not state a minimum or maximum density, the stated density shall represent both the minimum and maximum number of dwelling units that may occupy an acre of land. Density may also be increased under the procedures identified in an individual chapter for developments conforming to the standards in an individual chapter, but such procedures are not applicable to a PRD, which includes a separate process to increase density within a PRD.

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 Council and approved by the Mayor of the City of Gig Harbor, this ___ day of ____, 2008.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Carol A. Morris, City Attorney

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

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
January 3, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Jeane Derebey, Joyce Ninen and Dick Allen. Commissioners Theresa Malich and Jill Guernsey were absent. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

It was decided to reference the waterfront zones specifically on page 2 2nd paragraph and to remove the phrase "if they meet that definition" as it was redundant. Commissioner Pasin asked for clarification of a sentence in the first paragraph on page 3 and it was decided to remove the second half of the sentence which said "and Ms. Kester added that we could add a specific definition" and replace it with "in the waterfront zones". Mr. Pasin also pointed out that he meant to express his disapproval of the 65,000 square foot limitation rather than 35,000 as stated on page 4.

MOTION: Move to approve minutes of December 20th, 2007 as amended. Ninen/Pasin – Motion passed unanimously.

OLD BUSINESS

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 –**
Proposal by the City Council to amend the definition of gross floor area; create definitions for underground parking, basement, finished grade, and original grade; amend parking requirements to include maximum number of parking spaces for uses; and reconsider the maximum building sizes for WC, WM and WR zones.

Senior Planner Jennifer Kester went over her memo on underground structures and an e-mail from Randy Boss. She stated that she hoped to have them review the memo and then develop a memo to the City Council at the next meeting.

2. **Introduction of the first quarter work program:**
 - Implementation of Neighborhood Design Areas in Design Manual
 - Grandfathering Nonconforming Structures Inside and Outside the Waterfront Zones/ Triplexes in R-2 zone
 - Removal of Mixed Use District Overlay and determination of appropriate underlying zoning
 - Limiting Office Uses in Waterfront Millville
 - Appropriateness of RB-1 zoning district locations and allowed uses

Ms. Kester went over the first quarter work program, explaining that the work program won't get final approval until the City Council meeting of January 14th. She then gave a brief overview of each item in the first quarter, noting that the proposals do not have to be done in any specific order and that there will be one public hearing for all of them.

Implementation of Neighborhood Design Areas in the Design Manual

Ms. Kester talked about some of the proposals included in this amendment and that one of the issues were what do we do where neighborhood design areas meet.

Commissioner Jeane Derebey said that she thought that this would be difficult without knowing exactly what the design criteria would be in each area. Ms. Kester stated that she thought the opposite was true as the criteria would be difficult to develop if we're unsure how they would be implemented. She went on to say that the goal within this quarter was to talk about what the intent was and how neighborhood design areas should be implemented. Commissioner Harris Atkins asked if we would try to identify criteria and who would review them and Ms. Kester said yes; however, it could be a very simple approach. Ms. Derebey supported approaching it from a simplified standpoint. Mr. Atkins noted that they would get to those specifics at a later date. Ms. Kester pointed out where there are commercial areas that are not necessarily abutting parcels but could be addressed with some kind of hatched area on the map. Planning Manager Tom Dolan suggested that staff could look over the map and come up with some real life examples and case studies to help the discussion. Mr. Pasin said that he thought that the other area where there will be a problem is when someone owns three parcels and maybe one is in one design area and two are in another. Ms. Kester agreed that that would have to be addressed as well, pointing out that it would additionally complicate the situation if someone did a Boundary Line Adjustment and now their parcel is in two different neighborhood design areas. Mr. Atkins expressed that they may not understand the transition areas between these areas enough to come up with a fool proof solution.

Ms. Kester noted that they could discuss this after completing the other four items in this quarter since they will result in a public hearing and text amendment; whereas, this is merely a discussion.

Commissioner Joyce Ninen asked if the neighborhood design areas will have its own section in the design manual and Ms. Kester said that yes it will probably be its own chapter. Mr. Pasin pointed out that if you read the residential section, historic district section and the zone transition section it will become apparent what some of the issues may be. Mr. Atkins suggested that they devote an entire meeting with some DRB members to discuss this issue. Ms. Kester also stated that it may need to be discussed with a sub group.

Mr. Pasin said that he felt that how the design manual gets organized relative to this issue will become very important. Ms. Kester agreed that it will be important to look at how it is organized and integrated.

Ms. Ninen stated that she thought it would be helpful to have a refresher course on the design manual. She asked which area Ms. Kester felt would be good to start with and Ms. Kester answered that she had thought northwest industrial would be a good one to start with. Mr. Atkins asked if that was an area of great demand and Ms. Kester said that it was the area that our design manual does the worst job being specific. Mr. Pasin said that he felt the standards were restricting development from the intent of the zone. Ms. Derebey asked if this item was something that should be dealt with in the first quarter and Ms. Kester explained the thought process behind the items in this quarter and that it would have to be brought before the Planning and Building Committee if they wanted to change it. Ms. Kester reiterated that in order to continue the discussion on Neighborhood Design Areas, the Planning Commission wanted examples of transition areas, a refresher on the design manual and to get Design Review Board members involved. Mr. Pasin pointed out that maybe the Planning Commission needed new design manuals. Ms. Kester said that when the new comp plan is printed staff will also get them new design manuals.

Ms. Derebey asked about the comp plan amendment for 2008 that Mr. Atkins had asked about, pointing out that the land use map does not really reflect to goals of the city. Mr. Dolan said that he felt that it was important that our land use map and zoning map are consistent. Ms. Kester noted that the hurdle will be concurrency because if we up the designation to something that increases the intensity it will require concurrency which we do not have. She noted that if we are lowering the designation it will not be an issue. Additionally, she stated that the 2008 comp plan amendments will be looked at in the third quarter. Mr. Atkins noted that the impact of these two documents being incompatible is that we are encouraging development that is inconsistent with current policies and goals.

Grandfathering Non-conforming Structures Inside and Outside the Waterfront Zones/Triplexes in R-2 zone.

Ms. Kester went over the proposal and reminded the commission of a previous discussion on this topic. Mr. Dolan noted that on January 28th the Council will be considering the draft ordinance on an interim solution and that they are expecting a recommendation from the Planning Commission on a permanent solution. She explained that currently (except in the shoreline area) if a structure is damaged beyond 50% then it can't be replaced. She further stated that there had been some discussion of whether or not people should be able to rebuild. She noted the information that she had provided outlining how many triplexes and fourplexes were in the R-2 zone, 33% of the dwelling units in that zone are nonconforming. Mr. Pasin stated that they had had some discussions during the formation of the matrix and asked that perhaps they could look at some of those notes. Mr. Dolan pointed out that there were some other items within the proposed ordinance that dealt with process changes.

Removal of the Mixed Use District Overlay and determination of appropriate underlying zoning

Ms. Kester stated that this item had been on the work program for a couple of years. She noted that the City Attorney and the Planning and Building Committee had expressed the overlay should probably be removed. She further explained that if the overlay is removed it will effectively down zone some of the properties; therefore, we need to look at what the properties should be zoned. She stated that the MUD could become a zone; they could just leave the zones as they are or they could come with entirely different zones. Mr. Pasin said that what had always bothered him with this is that they don't seem to know what they really want in this area. Ms. Kester said there was a Mixed Use District land use designation in the Comprehensive Plan which might help. Mr. Pasin stated that with the advent of Harbor Hill Drive the vision for that area may not be the same. Mr. Atkins asked what the original intent was and Ms. Kester said that at that time there was a big push for mixed use types of development and for some flexibility. Mr. Dolan said that it isn't necessarily the uses that are allowed there that is the problem, but rather the process. Ms. Ninen said that mixed use zones are very popular and Ms. Kester said that the issue is just that people need to know what could be built next to them. Mr. Pasin said that the mixed use zones were really for more of an urban setting. Ms. Kester said she would bring the policies out of the comp plan to the next meeting to help with the discussion. She also noted that there had been a rezone to ED in the area. Ms. Ninen also noted that there is a proposed connection road and that it would make sense to have more retail development. Mr. Atkins said that once Harbor Hill Drive connects to Burnham it could really be a traffic issue if we add more retail uses here. Ms. Kester stated that traffic models that have been run have always assumed that this area is mixed use.

Limiting Office Uses in Waterfront Millville

Ms. Kester said that this item had been around the longest, proposed in 2005. She noted that it had been proposed prior to the land use matrix and the applicant was proposing the office uses only be allowed as incidental uses in existing buildings. She noted that this had come about as a result of an approved 3500 sq ft office building that has yet to be built. Additionally, Ms. Kester noted that they would have to think about what is incidental. She noted that office uses also have different impacts than some of the other uses already allowed in this zone. Mr. Allen said that he thought that the 3500 sq ft limit solved the applicant's concerns. Ms. Kester stated that it had been pointed out to the applicant and they still wanted to move forward with this amendment. Ms. Kester then pointed out that this would make a couple of buildings nonconforming.

Acting Chair Harris Atkins called a five minutes recess at 7:25 pm. The meeting was reconvened at 7:30.

Appropriateness of RB-1 zoning district locations and allowed uses

Ms. Kester stated that the Planning Commission had requested this back in 2006. She pointed out that she had provided the minutes and power point presentation that went to the Council on the RB-1 zones. Ms. Ninen noted that there were 12 RB-1 areas. Ms. Kester said that a lot of these items in this quarter will have heavy public involvement.

Ms. Kester then asked the Planning Commission which of the items they wanted to tackle at the next work study session.

Ms. Derebey stated that she would like to look at the RB-1 zoning, the mixed use overlay and nonconforming structures. Ms. Ninen agreed as she felt they should be able to get those done. Mr. Pasin said that he would like to look at nonconforming structures, the mixed use overlay and office uses in Waterfront Millville at the next meeting and leave the RB-1 issue until the meeting after that. Ms. Derebey said that she felt that there was more information for the three she had proposed. Mr. Atkins said that he felt the RB-1 issue was large. Ms. Kester stated that she felt that the nonconforming structures, mixed use overlay and office uses in Waterfront Millville could be covered at the next meeting. Ms. Derebey suggested working on just nonconforming structures and the mixed use overlay since everyone agreed on those. Ms. Kester agreed that working on those at the next meeting and then work on the other two at the February meeting was a good approach. Mr. Atkins agreed. Ms. Kester stated that she was shooting for either February 21st or March 6th for a public hearing. Mr. Dolan assured the commission that staff will make sure and get ample notice out for the public hearing.

UPCOMING MEETINGS

January 17th, 2008 – Work Study Session

Ms. Kester said that at the next meeting she will have a finalized memo for the City Council. She went through the memo she had provided and pointed out what she had changed. Ms. Ninen asked about Mr. Boss's e-mail regarding the 24' entrance and Ms. Kester said that she was thinking they could still forward their recommendation to the City Council and see if they agree with the Planning Commission approach and then we will discuss the specifics such as Mr. Boss's concerns, when we have a public hearing.

Mr. Atkins noted for the record that at the next meeting they will hold election of officers, finalize the memo to the City Council and then move on to a work study session on the two proposed amendments.

ADJOURNMENT

MOTION: Move to adjourn at 7:45 p.m. Derebey/Pasin – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
January 17, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Theresa Malich, Jill Guernsey, Joyce Ninen and Dick Allen. Commissioner Jeane Derebey was absent. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

ELECTION OF OFFICERS

Commissioner Harris Atkins nominated Theresa Malich to serve another term as Chair and Commissioner Jill Guernsey seconded the nomination.

Commissioner Joyce Ninen nominated Harris Atkins to serve another term as Vice Chair and Theresa Malich seconded the nomination.

MOTION: Move to elect Theresa Malich as Chair and Harris Atkins as Vice Chair. Ninen/Guernsey – Motion passed unanimously.

APPROVAL OF MINUTES

It was noted that at the bottom of page two it should say Mr. Pasin rather than Ms. Pasin, at the top of page two change the word “their” to “the” and spell out Boundary Line Adjustment.

MOTION: Move to approve the minutes for January 3rd, 2008 as amended. Ninen/Atkins – Motion passed unanimously.

Senior Planner Jennifer Kester noted that the second item on the agenda; Nonconforming Uses in the R-2 zone and nonconforming structures regulations, may have some conflict of interest issues since a Planning Commission member may have a chance to benefit and may need to recuse themselves. Ms. Kester suggested that the commission may want to move this to the last item on the agenda or limit the discussion to the nonconforming uses. It was decided that this item would be moved to the end of the agenda and Theresa Malich and Dick Allen would recuse themselves at that time since they own property in an R-2 zone.

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335** – To finalize a memo to City Council for further direction on the topic of underground structures. Memo includes new definitions for gross floor area, underground building and attic.

Ms. Kester pointed out the memo that she had drafted on the proposed amendments related to underground structures and asked that the commission look it over to assure that it conveyed their thoughts on the issue. She then talked about the draft definitions.

Planning Commissioner Joyce Ninen mentioned that she was unsure if underground building was the appropriate term and suggested perhaps space or area. Discussion followed on perhaps using underground floor area. Everyone agreed to change the term to floor area and Ms. Kester said that she would change the text and any references.

Planning Commissioner Jill Guernsey brought up an issue with the definition of gross floor area, to perhaps remove the word several and change floor to floor(s). Planning Commissioner Pasin asked why it states "or buildings" and Ms. Kester said that the issue is that by code a building that appears to be one can be separated by firewalls and technically be made into several buildings. Ms. Kester explained the performance standards. Planning Commissioner Harris Atkins said that the sentence implies that several buildings might be on one lot. He asked if it was still covered in the performance standards if we removed buildings. Mr. Pasin asked why someone couldn't have several buildings together under separate ownership. Ms. Kester explained that the exterior mass of the building is what is calculated. Mr. Dolan stated that this language will allow us to administer the code better. Ms. Guernsey suggested that it say "of each floor" rather than "at each floor". Everyone thought that "at each floor" was the appropriate phrase. Mr. Pasin suggested that they remove the phrase entirely and Ms. Guernsey agreed. Ms. Kester asked what would be calculated, the floor area or the entire area and explained that was why "at each floor" was necessary.

Mr. Pasin asked about interior balconies and mezzanines and how they are calculated. Ms. Kester explained how they were calculated and defined. Ms. Ninen asked about the mechanical equipment room and how it is calculated. Ms. Kester explained that the units that are not in a room would not be counted. Ms. Ninen clarified that gross floor area for the waterfront will be discussed at another time.

It was asked by Mr. Pasin if in Item B, it was referencing attached and detached and Ms. Kester replied that yes that was in the performance standards. Mr. Pasin then asked about underground floor area where it says 24 linear feet of access. He asked how that would work and Ms. Kester said that she believed that the decision was that this issue would be discussed after hearing the public input. They referenced an e-mail from Randy Boss and Ms. Kester further explained that they will decide on what that exact number is after the public hearing, this memo is just to let the council know that the commission wants to make a provision for access. Mr. Pasin asked why they would want to limit the access point so that someone would instead have acres of parking. Mr. Atkins reminded him that the Planning Commission is trying to allow underground parking in a reasonable way. Mr. Dolan suggested that it could say as required by the building code. Ms. Kester said that she would clarify in the council memo that these issues were not firm.

Ms. Kester then asked if they were done with the definitions and if everyone was okay with the memo. Ms. Ninen felt that the memo was very concise. Ms. Kester asked for a motion to approve the memo and direct Chairman Malich to sign it.

MOTION: Move to authorize the Chair to send this memo to council as amended. Atkins/Ninen - Motion passed with Mr. Pasin opposed.

Chairman Malich called a short recess at 7:00 p.m. The meeting was reconvened at 7:05 p.m.

2. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.**

Ms. Kester displayed a map of the overlay area. She stated that the consensus among staff, the City Attorney and the City Council is that the overlay needs to be removed. She explained how overlays usually work, adding restrictions and that this one allows additional uses. Ms. Kester explained what would happen if the overlay were removed and the underlying zones were left, stating that some of the properties would be effectively down zoned. She stated that the comprehensive plan has designated this area as a mixed use area. Mr. Pasin said that if we remove the overlay and the road gets developed then there is an opportunity to rezone around it to something more appropriate. Ms. Kester pointed out 96th street and explained the proposed split diamond approach and how the new interchange may affect this area. She stated that this area will change so the question is whether we want to change it now or wait for when the interchange is put in and examine it then. Mr. Atkins said that it seemed like the Mixed Use District was a good idea and asked why it failed. Ms. Kester answered that some of the property owners have taken advantage of the zoning or are anticipating taking advantage of the Mixed Use District but first there was a transportation issue and then a sewer issue. Mr. Atkins said that the underlying zoning doesn't seem to make sense, but rezoning is a large project. Ms. Kester suggested that the Mixed Use District could become its own zone they could just rezone everything in the overlay. She said that there will be some property owners who won't like that. Mr. Atkins said that he had driven the area and it was quite amazing all the stuff that was in there. Mr. Pasin stated that he thought that some of the area actually didn't reflect the area where the uses would probably grow once the interchange is in place.

Ms. Guernsey asked about the effects of removing the overlay and just having the underlying zoning. Ms. Kester explained how the overlay is applied. Ms. Ninen suggested changing the Mixed Use District to include the uses currently in the underlying zone. Ms. Kester agreed that the Mixed Use District could be tweaked to include some of the uses and standards from the other zones. She said that she would most closely liken the Mixed Use District to the B-2 zone with a density calculation that is much lower. Additionally, she noted that the traffic studies that were done assumed highest and best use. Ms. Kester then explained how it would need to happen if they

were to create a mixed use zone stating that it would not be that difficult but would have to add some impervious surface limitations and some rewording.

Ms. Kester said that she could work on a proposal to make the mixed use overlay a zone. Mr. Pasin said that he was concerned about the section that distinguishes between different size parcels and Ms. Kester said that section may have to go away. Mr. Pasin said that he also had a concern with zone transition. Mr. Atkins agreed that was something to be considered, but suggested they pick an approach and then look at those issues. Ms. Kester then highlighted the land use designation. Everyone agreed that Ms. Kester would work on a mixed use district zone and then they could discuss the boundaries, etc. Mr. Pasin stated that he was concerned that some of the area needed to be another zone and everyone agreed that that may be true but that right now they just needed to figure out what a mixed use zone is and then decide what area will be within it and what some of the other properties might be zoned. Ms. Guernsey suggested that at the next meeting they have an aerial photo so that they can see what is there now.

3. Direct Council consideration of an ordinance that would standardize how residential heights are measured in Historic Districts.

Planning Director Tom Dolan explained that this was the result of the height issue with the two new homes being constructed along Harborview. He noted that there is a provision in the Historic District that is not in any other zone that says height is measured from natural grade for residential. He continued by saying that staff is proposing a small change that will make how you determine height consistent throughout the height restriction area. He explained that the change would be to change the wording to say “natural and finished grade” so that it would be the same for residential or commercial. Mr. Dolan stated that the City Council was asking for direct consideration on this item.

Mr. Pasin said that he thought it needed further discussion. Ms. Malich suggested that this might be a good subject for a combined meeting of the DRB and Planning Commission. Ms. Kester said that it is a larger question as to whether the height allowed is even correct. Mr. Dolan said he recommended that the larger discussion happen in the examination of the view basin plan. Ms. Kester explained how this will be more restrictive. Discussion followed on how structures are measured.

MOTION: Move to recommend the Council enter into direct consideration of this item. Ninen/Atkins – Motion passed unanimously.

Theresa Malich and Dick Allen recused themselves for the next item.

4. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0031 – Nonconforming Uses in R-2 zone and nonconforming structures regulations.

Ms. Kester referred everyone to the ordinance that the City Council is considering. Mr. Pasin asked about the section on non conformities and that he thought that it applied across the board. Ms. Kester explained that the change to all the other zones had never been passed by Council and now they are asking if this new language for R-2 should apply to the whole city. She pointed out that the new 17.68.035 is to replace 17.68.030. She went over other new sections and what sections they replaced and how they could be rewritten for all zones within the city rather than just R-2. Ms. Ninen asked if these code changes will solve the problem for the people who can't get insurance or financing. Ms. Kester said that yes, this should solve their problem. Ms. Ninen if R-2 usually only allowed up to a duplex and Ms. Kester said that cities are different so there is really no standard. Mr. Atkins asked if they were to make the uses conditional in R-2 would that have the same effect. Ms. Kester said that the triplex or fourplex might still be a nonconforming structure not just a nonconforming use. Ms. Ninen agreed that in addition to the nonconforming change the uses should be conditional. Ms. Kester said that they may also have to change the impervious surface standards. She also cautioned them that it may not result in many fourplexes due to the density standards. Mr. Pasin said that he felt it helped in affordable housing and density requirements. Ms. Kester also suggested that they may want to look at a minimum density and noted that minimum residential densities have been an issue. Mr. Atkins reiterated their desire to proceed with this ordinance revised to apply to the entire city and look at the R-2 standards with another text amendment to modify the uses and standards in the R-2 zone. Everyone agreed.

Ms. Kester clarified that the nonconforming allowance would apply to commercial and residential. Discussion followed on the ramifications of the continuation of nonconforming commercial uses. Ms. Ninen said that she felt that maybe commercial should not be allowed. Mr. Pasin said that he felt that it should apply to both. Ms. Guernsey went over the sections to clarify what issue each applied to. Ms. Kester explained and also gave examples of some nonconforming uses and structures. Mr. Atkins said that this issue is much larger than he originally thought. Ms. Guernsey said that right now she would like to limit it to residential. Ms. Kester said that they could have another work study session and staff could draft two different ordinances for consideration. Mr. Pasin reminded everyone that the commercial structures make up our community. Mr. Atkins agreed that there are many structures that are worth saving but that he just wanted to look at the issue further. Mr. Dolan suggested that staff could come with some examples of nonconforming structures and uses. Mr. Atkins said that he felt that the purpose is to address the problem raised and he thought they should look at it further. Ms. Guernsey clarified the language and its meaning and that the issue with respect to uses is do they allow any nonconforming use to rebuild if it's destroyed by an act of God. Mr. Atkins said that the other section that concerned him was the section about vacancy. Mr. Dolan reminded the commission that by State law nonconforming uses are designed to go away because if you don't want them to go away, you should rezone it.

UPCOMING MEETINGS

Ms. Kester reminded everyone that the next meeting is on February 7th and that two items will be coming back from this meeting and they also needed to tackle the other two items for this quarter. She suggested adding the item on office uses in the Waterfront Millville zone. Mr. Pasin suggested that for the Mixed Use subject they know what applications are currently in the system.

Ms. Kester then let the commission know that the Council had approved the work program and there was discussion that the Planning Commission might need more time and staff agreed that they would facilitate a modification to the work program if more time was needed rather than rush items through. Mr. Dolan said that probably in April they will have another joint meeting with the City Council. Mr. Atkins asked that they know about possible dates and Assistant Planner Diane Gagnon agreed to contact the City Clerk to coordinate possible dates.

ADJOURNMENT

MOTION: Move to adjourn at 8:38 p.m. Guernsey/Ninen – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
February 21st, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Harris Atkins, Theresa Malich, Joyce Ninen, Dick Allen, Jill Guernsey and Jeane Derebey. Staff Present: Tom Dolan and Cindy Andrews.
Commission member Jim Pasin arrived at 7:05 pm

CALL TO ORDER: 6:10 pm

APPROVAL OF MINUTES:

MOTION: Move to table the minutes from February 7th, 2008 until meeting of March 6th, 2008. Atkins/ Ninen – Motion passed unanimously

NEW BUSINESS

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335-**
ZONE 08-0003 – Appropriateness of RB-1 zoning district locations and allowed uses in the RB-1 zone.

Purdy Dr. and 144th St NW

Ms. Guernsey asked what currently occupied the site. Mr. Dolan replied an auto repair business and a single family residence. Mr. Atkins stated that RB-1 would be an appropriate use. Ms. Ninen felt that RB-2 would be a more appropriate use. Ms. Derebey asked if there had been any single family residences in the affected area. Ms. Ninen and Ms. Guernsey pointed out the residential homes in the area. Mr. Allen asked if the auto repair shop would be non-conforming. Mr. Dolan replied yes.

Purdy Drive

Mr. Dolan pointed out the site on Purdy Dr. noting that Aspen Land Surveying Company currently occupied the site and that the use would continue to be a permitted use. Mr. Atkins asked if it would be an appropriate use.

Sehmel Drive

Mr. Dolan described the Sehmel Drive piece. Ms. Ninen asked if it had been included in the Burnham / Sehmel Annexation. Mr. Dolan replied yes. Mr. Dolan stated the annexation area included approximately 380 acres incorporating all of the UGA area in to Purdy extending over to the Women's Prison. Mr. Allen asked what the zoning designation would be. Mr. Dolan replied predominantly R-1 with some ED zoning. Mr. Atkins asked if the applicant had been willing to zone to current zoning.

Peacock Hill Ave and Ringold Ave

Ms. Derebey and Ms. Malich felt the property should be zoned R-1. Mr. Atkins suggested R-2 multi-family would be a more appropriate use. Ms. Ninen and Ms. Derebey agreed residential with a higher density would be appropriate. Mr. Dolan suggested other uses such as nursing homes or assisted living would also be allowed. Mr. Atkins agreed it should be changed to R-1 or R-2.

Burnham Dr.

Mr. Dolan noted the property included 3 lots situated between Burnham Dr. and Harborview Dr., next to the Puerto Vallarta Restaurant explaining that the zoning to the north would be B-2. Ms. Malich felt that RB-1 would be a nice transition zone. Ms. Guernsey discussed rezoning the lots to different designations. Mr. Atkins asked if the lots would be conforming uses. Ms Malich preferred RB-1 suggesting that the lot abutting Burnham Dr. be a higher use than the lots fronting Harborview Dr.

Peacock Hill Ave and North Harborview

Mr. Dolan noted the areas surrounding the site as single family residential. Ms. Malich noted single family would be an appropriate use. Mr. Atkins and Ms. Ninen agreed that RB-1 was appropriate. Ms. Malich would like to keep it as is.

Stinson Ave – (Spadoni Corner)

Ms. Ninen explained her concern that the site currently operated as a non-conforming site suggesting a zoning of R-2 or R-3 would be more appropriate. Mr. Allen suggested commercial zoning. Ms. Ninen disagreed noting traffic concerns suggesting a higher density residential would be the most appropriate. Ms. Malich agreed asking if other sites in the vicinity would also have to be rezoned. Mr. Dolan responded no. Ms. Derebey and Ms. Ninen had concerns with rezoning to R-2. Ms. Malich suggested mixed use buildings. Ms. Ninen agreed. Ms. Derebey explained the location would be good for new restaurants. Ms. Malich asked if the property were to be changed to mixed use would another dirt place be allowed. Mr. Dolan replied no.

Soundview and Harborview – (Haub property)

Ms. Ninen asked if the property would be impacted by the shoreline master program also asking if there had been any plans for development. Mr. Dolan replied no suggesting that RB-1 could be a good use. Ms. Ninen and Ms. Derebey agreed. Mr. Atkins asked if the designation in the comprehensive plan would be single family residential. Mr. Dolan replied yes. Mr. Atkins suggested leaving the property zoned as is.

Grandview and Stinson

Ms. Ninen asked if the property close to the freeway had been included. Ms. Malich suggested a more intense residential zoning. Ms. Malich would like to see what the public has to say about the area. Mr. Atkins discussed the property to the east of Stinson Ave explaining that it would make more sense for those properties to be included in an RB-1 zone however the other properties closer to the freeway would be better zoned for restaurants and service stations. Ms. Ninen agreed.

West Side of the Highway - Near Stroh's Field

Mr. Dolan noted that the property bordered the proposed Pierce Transit Park-n-Ride facility to the north and single family residential to the south. Ms. Ninen suggested that RB-2 would be an appropriate zone. Mr. Allen agreed stating as long as there would be sufficient buffering. Ms. Derebey agreed

Top of Soundview

Ms. Ninen stated that the zoning appeared appropriate. Ms. Malich agreed and suggested that they move on to the next item.

56th St and 38th Ave

Mr. Dolan discussed the business in the vicinity, a gas station, veterinarian clinic and a daycare on one side a chiropractic clinic and office across the street and SFR north of 38th. Ms. Guernsey suggested commercial. Mr. Pasin explained that attempts had been made in the past to use some of the property as commercial for development of a mini-storage facility. Mr. Dolan suggested that the uses be looked at again for appropriateness and gave staffs recommendation that the commission go ahead with the public hearing giving the public the opportunity to comment.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335-

ZONE 08-0001 (Previously ZONE 07-0031) – Nonconforming use and structure amendments.

Talking Point #1: Should the provision for reconstruction of nonconforming uses in the event of an act of nature be extended to only residential nonconforming use or all nonconforming uses?

Mr. Pasin felt that the concern should be the use in a residential district not the structure. Mr. Dolan explained it may not be a residential zone it could be an RB-2 use in a C-1 zone. Ms. Derebey felt that if the structure had been destroyed then the nonconforming use should not be allowed to return. Mr. Dolan explained that the concern had been prompted by a tri-plex in a nonconforming zone. Mr. Atkins asked if structure should be damaged at 50%, no matter what the use, could they be rebuilt within 1 year. Mr. Dolan noted that the rule had been changed to 100% asking should the rule apply to residential and commercial. Ms. Derebey stated that she did not remember the issue of use as being a part of the conversation. Ms. Malich asked what the point would be in rebuilding if you could not have the same use. Ms. Derebey felt that if it is a non-conforming use the nonconforming use should not be allowed to return. Mr. Dolan explained that if the uses in some zones could be changed the use could then become conforming. Ms. Derebey suggested that the tri-plex issue should be reviewed. Mr. Atkins stated that by making the use a conforming use the issue would go away but not the problem of rebuilding them. Mr. Allen felt that losing the nonconforming use would be too severe. Ms. Guernsey felt that someone who had already built there should be allowed to rebuild both residential and commercial in the event of destruction by nature. Ms. Derebey agreed that due to an act of fire they should be allowed to rebuild the structure. Ms. Malich and Mr. Allen agreed. Ms. Ninen disagreed and would be opposed. Ms. Derebey, Mr. Atkins, Mr. Pasin, Ms. Guernsey and Mr. Allen agreed. Ms Ninen disagreed.

Talking Point #2: In the event of a nonconforming use reconstructing after an act of nature, should the structure / premise containing the use have to comply with only the current building/fire codes or should we ask that the structure comply with any many (Design Manual, Critical Area, Performance Standards) as possible while still maintaining the use.

Ms. Guernsey felt that the nonconforming uses should be brought up to conformity to the extent possible asking for clarification regarding the building size limits. Ms. Malich explained that would be one of the requirements. Mr. Pasin had been concerned with the downtown historic district front setback requirements. All members agreed that nonconforming structures should comply with as many applicable codes as possible when rebuilt.

Talking Point #3: If we allow a nonconforming structure (with a conforming use) to rebuild after an act of nature, should it only comply with building and fire codes, or should we try to get compliance with the Design Manual or other performance standards, to the extent possible.

Commission members discussed talking point #3. Mr. Pasin stated his concern that it could make rebuilding impossible for the property owners. Mr. Dolan explained the property owner would be asked to become compliant only if it would be possible if not they would still be able to rebuild. Ms. Malich felt that the structures should fit in with other structures in the area. Mr. Atkins asked how the regulations would be negotiated. Mr. Dolan stated that in Tacoma anything rebuilt had to meet the current code requirements. Ms. Malich agreed that redevelopment should comply with the same design guidelines as new development. Mr. Pasin had been concerned that matching some of the older buildings would be difficult pointing out that a structure should be able to be rebuilt to the standards that it was previously. Ms. Guernsey asked how that would be stated. Mr. Dolan explained that two alternatives could be drafted for commission member's review and suggestions could be made prior to the public hearing. Ms. Guernsey asked if a list could be generated of the codes that should be considered. Mr. Atkins suggested the board could agree on an opinion but not commit until after public comment has been received at the public hearing. Mr. Allen also would like the public's opinion. Mr. Dolan asked for suggestions for language. Ms. Malich suggested that all structures come into compliance to the extent possible. Mr. Atkins, Ms. Ninen and Ms. Derebey agreed. Mr. Allen and Mr. Pasin disagreed. Ms. Guernsey agreed to the extent that there should be no loss of square footage emphasizing that the language should be clear. Mr. Dolan explained that if a structure had been destroyed and could not meet the design requirements the Design Review Board could use their discretion for approval.

Mr. Atkins left at 8:00 pm.

Talking Point #4: Should an allowance be given to a property owner who intentionally alters or damages a nonconforming structure (such as a remodel).

Mr. Pasin asked regarding larger structures what would be wrong with remodeling 1/3rd at a time. Ms. Guernsey asked if the structures would be required to stay within the building footprint. Ms. Malich commented that intentionally altered or damaged nonconforming structures should not be allowed to rebuild as non-conforming. Mr. Allen asked if the structure had been a SFR and replaced by a new and better designed SFR would that not serve the community better than what had been there before. Mr. Dolan explained that a SFR can be repaired or remodeled but could not be completely torn down and rebuilt to the pre-existing nonconformity. Mr. Pasin agreed with the remodel situation but if the home is intentionally damaged he would not agree. Mr. Dolan suggested that staff could draft the ordinance and present it at the public hearing for discussion. Ms. Ninen discussed the percentage of structure that would be allowed to be replaced. Mr. Dolan clarified that percentage of allowable replacement for remodels at 50 % over a lifetime of the structure. Mr. Allen asked if there would be time limits. Ms. Guernsey responded yes 1 year. Mr. Pasin asked if the would be based on the application submittal or the complete application. Mr. Dolan responded a complete application. Mr. Allen asked if provisions had been provided for extensions. Mr. Dolan responded no.

Ms. Malich and Mr. Allen leave at 8:15 pm

ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district

Mr. Dolan discussed the number of nonconforming tri-plex and four-plex units inside city limits asking if commission members would like to change the code to allow them as conditional uses explaining that the density would also need to be changed. Ms. Ninen discussed the minimum density requirements. Mr. Dolan explained that minimum density had to meet the growth management goals noting that it could be a discussion for city council and planning commission to discuss later, noting that they should not be penalized for not meeting density. Mr. Pasin asked if a minimum had been stated in R-1. Ms. Guernsey stated we are talking about adding the minimum explaining that it would be urban density so it should be 4 units per acre and only for new structures. Ms. Derebey asked how that would be applied to existing uses. Ms. Guernsey suggested allowing them in R-2 zones. Ms. Derebey asked how that would apply to existing properties. Mr. Pasin asked if they would be permitted out right in R-2 Ms. Derebey stated that R-2 seemed to be the proper place for them. Ms. Guernsey agreed but as a conditional use. Ms. Derebey asked why a conditional use rather than permitted use. Ms. Guernsey explained that a conditional would provide the public an opportunity to comment. Mr. Dolan summarized the conditional use criteria. Ms. Derebey and Ms. Ninen agreed that it should be a conditional use. Mr. Pasin disagreed.

ADJOURNMENT

MOTION: Move to adjourn. Derebey / Ninen – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session and Public Hearing
March 6, 2008
Gig Harbor Civic Center**

PRESENT: Commissioners Jim Pasin, Harris Atkins, Theresa Malich, Jill Guernsey, Joyce Ninen, Jeane Derebey and Dick Allen. Staff present: Jennifer Kester, Tom Dolan and Diane Gagnon.

CALL TO ORDER: 6:00 p.m.

APPROVAL OF MINUTES

MOTION: Move to approve the minutes of February 7th, 2008. Ninen/Allen – Motion passed unanimously.

Discussion followed on the minutes of February 21, 2008. The following changes were suggested by Ms. Ninen and agreed to by the commission.

On page 1 change Mr. Atkins *asked* to Mr. Atkins *stated*.

Page 2 add *that RB-1 was appropriate*.

Typo on page 2 *Soundview*.

Page 3 change *than* to *then*.

Page 3 remove second that

Talking point 2 – replace *with talking point #2* with *that non conforming structures comply with as many applicable codes as possible*.

Page 3, add *the structure*.

Remove *Ms. Malich agreed suggesting that there would be no need to further discuss this item*.

MOTION: Move to approve the minutes with the changes discussed. Ninen/Guernsey – Motion passed unanimously.

WORK-STUDY SESSION

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments.

Senior Planner Jennifer Kester went over the proposed changes to the ordinance as a result of the previous meeting. She noted that the council has passed ordinance 1122 which allows for reconstruction of non conforming structures due to acts of nature. Ms. Kester stated that due to the extent of the requirements in this section it should probably say that there is a specific permit necessary for a non conforming use and/or structure. She then went over the section on nonconforming uses of land. She stated that the commission had been interested in what codes would have to be met in order to rebuild

and Ms. Kester referred them to her staff report where it listed the codes that may be used for review.

Mr. Pasin asked about the eight codes and would there be a problem with concurrency. Ms. Kester explained that there is an engineering clause that allows for use of their previous concurrency for five years. Mr. Atkins clarified that if the city was under a moratorium and the use was completely destroyed it would not affect their ability to rebuild. Ms. Kester confirmed that was correct. Ms. Guernsey asked about the sign ordinance and it was clarified that they may need to bring the sign into compliance. She then asked about the reference to Chapter 17.01 and asked if it should be Title 17 and Ms. Kester said she would check the reference.

Mr. Pasin asked about page 1 where it talks about a replacement value, and asked why use replacement value instead of the square footage of the structure? Ms. Kester said that in the past this was how we measured non conformity. He asked how the replacement value is determined and Ms. Kester explained how it is determined in the building code. Mr. Pasin thought the replacement value was subjective. Ms. Kester explained that she thought that it was replacement value because it could be just a wall that does not involve any square footage. Mr. Pasin then asked about the term "lifetime". Mr. Dolan stated that that section is only for when an owner wants to voluntarily demolish his structure. Mr. Pasin stated that he was concerned about using both terms "use" and "structure" and Mr. Dolan explained that it is done intentionally as they are two very different things. Mr. Pasin then asked what does "otherwise lawful" mean in 17.68.040 and Ms. Kester explained that it may be in violation of fire codes. Mr. Pasin asked if .040 (a) should say "currently" in effect. Everyone thought it was fine as it was.

Ms. Derebey thought maybe there should be a reference to "for the purpose of remodeling" and Ms. Kester said that it would be difficult to determine their intent in demolishing a structure. It was decided to perhaps change intentional destruction to intentional alteration. Ms. Kester then went over the proposed order of the sections.

Ms. Derebey suggested that the discontinuance of nonconforming structures and uses be changed to uses and structures and Ms. Kester agreed.

Ms. Kester pointed out the statement that nonconformities shall comply with all other applicable codes to the extent possible. Mr. Pasin asked about the requirement to comply with applicable codes and gave an example that if part of the building is destroyed and you have to have it meet design (i.e., historic windows) and then the rest of the building does not have those types of windows. Ms. Kester went over various scenarios and that it may be difficult to determine what is the extent possible in a theoretical manner without an actual application to review. Mr. Dolan addressed the historic window solution and stated he couldn't imagine requiring three windows to look different from the rest of the building. Ms. Guernsey thought that the previous discussion was that they had to make application within one year not that it had to be

completed. Ms. Kester referred her to ordinance 1122 on page four where it states that the application had to be made within a year.

Chairman Malich called a 5 minute recess at 6:56. The meeting was reconvened at 7:04 p.m.

PUBLIC HEARING

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

Ms. Kester went over the request by City Council for removal of the Mixed Use District overlay. She explained the two options; Option A, removal of the overlay entirely and Option B, to implement a new mixed use zone which would be a harmonization of the uses allowed in the MUD overlay and underlying zones. Ms. Kester highlighted the changes. She stated that staff is also recommending a new definition of townhouse in order to implement the standards in the MUD zone.

Chairman Malich opened the public hearing at 7:10 p.m.

Don Wilcox, Burnham Drive, presently zoned B-2 with the MUD overlay. Mr. Wilcox asked how this would affect his property. Ms. Kester pointed out his parcel and explained that if the MUD overlay was removed his property was B-2, if it was the new mixed use zone, the uses would be the same but some of the performance standards may change.

Mark Shoens, 2002 Sullivan Drive NW – Mr. Shoens stated that he owns property on Burnham Drive NW and have been waiting for water, sewer and traffic concurrency. He said he was trying to figure out if he was going to lose some ability to develop his property. Ms. Kester said that he was zoned R-1 with an MUD overlay, she explained the current standards and the two options being presented tonight. He asked why they wanted to remove the overlay and Ms. Kester explained. Mr. Shoen expressed that he would prefer Option B.

Jerry Larimore, 4710 Gay Rd. Tacoma WA – Mr. Larimore stated that he owns property along Burnham Drive and that it sounds like taking something if Option A were implemented so he would prefer Option B. He asked about the tax implications. Ms. Kester explained that without knowing how Pierce County assesses the property now, she couldn't answer. She continued by saying it would depend on if the assessor treasurer currently takes the overlay into consideration.

Chairman Malich closed the public hearing at 7:20 p.m.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Chairman Malich opened the public hearing at 7:21 p.m.

Senior Planner Jennifer Kester explained that the proposal is to change the nonconforming use and structures section of code. Ms. Kester explained what this section of code pertains to. She stated that the council recently passed an ordinance that nonconforming residential uses in the R-2 zone and that use burned down or was destroyed by some other act of nature, 100% of it can be rebuilt. She explained what the previous code had stated. She continued by explaining that the City Council asked that the Planning Commission examine whether that should apply to all zones rather than just R-2. She went over some of the changes that would be implemented with this ordinance.

George Pollock, 2808 Harborview Drive – Mr. Pollock said he was very thankful for the passage of Ordinance 1122 and was concerned by the remodel portion of the ordinance. Ms. Kester explained that replacement value only applied to things that would require a building permit, not carpets, lighting, etc. Ms. Kester stated that there were no provisions in today's codes for remodel of nonconforming structures and that this proposal would at least allow for it.

Due to the arrival of additional interested citizens, Chairman Malich re-opened the public hearing on Item 1, Removal of Mixed Use District overlay and determination of appropriate underlying zoning, at 7:25 p.m.

Wade Perrow, 9119 N Harborview Drive – Mr. Perrow stated that he agreed with the idea of removing the MUD overlay. He continued by saying that there are certain elements that can't just be removed.

Jill Guernsey explained the options in the proposal. Mr. Perrow said that he wasn't sure we needed another zone in the city. He asked that the Planning Commission make sure that the city has an adequate employment base.

Ms. Kester assured Mr. Perrow that the uses currently allowed in the overlay would be allowed in the mixed use zone. He stated he didn't think it was the best zoning for the city. He said that he had marked up the matrix to try to illustrate what he felt the zone should be for the area. Ms. Guernsey asked which of the current zoning districts he would suggest for the area. He explained why he thought it should be zoned differently and that this was an opportunity to really examine what should happen in this area. Harris Atkins asked if anyone had further comments after hearing Mr. Perrow's comments.

Mr. Larimore said that he thought that in a mixed use zone you could accomplish what Mr. Perrow was talking about but he also felt that transitioning between zones sounded nice as long as you do not down zone someone's property. Mr. Pasin asked how he envisioned his property being used and he said he didn't know.

Chairman Malich closed the first and second hearing at 7:40 p.m.

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Dick Allen and Theresa Malich recused themselves from this item.

Ms. Kester went over the proposal and the proposed changes within it.

Vice Chairman Harris Atkins opened the public hearing at 7:45 p.m.

There being no one wishing to testify Mr. Atkins closed the public hearing at 7:47.

Mr. Atkins called a short recess at 7:48 p.m. The meeting reconvened at 7:50 p.m.

WORK-STUDY SESSION

3. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0002 – Adding triplexes and fourplexes as conditional uses in the R-2 zoning district.

Ms. Kester noted that there is a technical amendment to go along with this amendment that addresses how we calculate density since we are putting a minimum density in. Mr. Atkins asked if anyone had any reason for not proceeding with asking staff to develop the ordinance. Ms. Guernsey asked if the changing of the density was also part of that and everyone agreed. Ms. Ninen and Ms. Guernsey said they were in favor. Ms. Derebey asked about how density worked and Ms. Kester explained. Ms. Derebey agreed with the proposal. Mr. Pasin said that during previous discussion he had felt that triplexes and fourplexes should just be permitted outright and others had felt differently but he would like to see if anyone had changed their opinion. Ms. Ninen said that they had discussed this at the last meeting and she felt it had to be conditional. Ms. Derebey agreed.

MOTION: Move to forward a recommendation to the City Council to add triplexes and fourplexes as conditional uses in the R-2 zone, set a minimum density of 4 dwelling units per net acre and increase the allowance for impervious coverage from 40% to 60% of the total lot area. Guernsey/Ninen – Motion carried unanimously.

2. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 08-0001 – Nonconforming use and structure amendments

Ms. Kester went over the items that they had discussed at the work study session. She asked if 50% replacement value was the right trigger. Mr. Atkins brought up the testimony of the gentleman who was thinking about remodeling his unit interior. Ms. Kester stated that replacement costs are only those things necessary to build the building, not cosmetic things. Mr. Dolan suggested that they make interior remodels exempt. Mr. Atkins stated that he knew of a case where a family moved into a home

where there was no basement so they excavated so they had a full basement and had to put in a new foundation, this would have exceeded the 50%. He added that someone should not be penalized for remodeling their home. Mr. Atkins asked Ms. Malich if she could have done what she did to her home. Ms. Derebey said that she didn't really do any demolition because she didn't really tear anything down. Ms. Kester said that perhaps siding would be part of a replacement cost. Mr. Pasin said that if someone wants to put in new windows, roof, etc they could exceed 50%. Ms. Kester pointed out the section on repair and maintenance. Mr. Pasin said that maybe the question is what is remodel. Ms. Kester gave an example. Mr. Dolan stated that we had a customer with a nonconforming structure that they were going to tear down two walls in 2007 and replace them and then tear down two more in 2008 and replace them. Ms. Malich explained her situation when she tore down her garage that was nonconforming. Ms. Kester said that she really felt that there should be an interior remodel exemption, but the question remains as to how much exterior work is okay.

Mr. Pasin felt that they were trying to put together something that deals with the ugly and have lost sight of the people trying to maintain and update their properties. Mr. Dolan stated that every change here actually makes the code more liberal not more difficult. Discussion followed on the difference between remodel and repair and maintenance. Mr. Atkins said you might have a facility that was nonconforming because it didn't meet setbacks and this might prevent someone from remodeling their home. Ms. Kester explained that if you had a structure that met the front and side but not the rear, then just the portion of the house that is in the setbacks would be nonconforming. Ms. Ninen asked about solar panels and skylights would that be considered a structural change. Mr. Dolan pointed out the provision that nonconforming structures can be remodeled as long as it doesn't increase the nonconformity. Ms. Kester explained it further. Mr. Dolan pointed out that the rebuild provision, if it's damaged by an act of God, is extremely liberal. Mr. Atkins asked what percentage of homes within the historic district were nonconforming and Ms. Kester said that perhaps 75%. She noted that we have approved lots of remodels for nonconforming structures because it doesn't expand the nonconformity. Ms. Guernsey asked if there was a variance provision with this and Ms. Kester went over some variance scenarios. Mr. Pasin said that he felt that the ordinance needed to be broader. Ms. Derebey felt that with the interior remodel exemption this had been hammered out. Mr. Allen asked what if someone has a rundown house and they want to build something new. Mr. Dolan said that they could rebuild but they would have to meet the code or get a variance. Mr. Allen felt that we should appreciate that someone wants to build something new. Ms. Ninen stated that if someone had an old house maybe someone should get it listed as a historic structure. Ms. Guernsey said that she would like to see additional language including what they had discussed.

Ms. Kester said that she would come back at the next meeting with actual code language.

MOTION: Move to direct staff to prepare an ordinance incorporating the changes discussed tonight for our final consideration at the next feasible meeting. Atkins/Derebey –

Mr. Atkins stated that his intent was to include an exemption of interior remodeling and the other items that Ms. Kester had noted within the text. He stated that it is difficult to legislate common sense and asked the commission members to give this issue some thought for further discussion at the next meeting. Mr. Pasin felt that they should be cautious and that just because something gets put within the setbacks it doesn't necessarily improve views. Mr. Allen said that views are not really a consideration.

Motion passed unanimously.

1. City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 – ZONE 07-0006 – Removal of Mixed Use District overlay and determination of appropriate underlying zoning.

MOTION: Move to defer this item to the next meeting. Ninen/

Ms. Kester went over the things that were still left to discuss within this quarter. Mr. Atkins went over what the options were and what some of the public had said tonight. He asked what everyone else thought and if they wanted to examine other zones. Ms. Derebey, Ms. Malich and Ms. Ninen stated they liked the new Mixed Use zone. Mr. Pasin said he wanted to discuss it further. Ms. Guernsey thought that Mr. Perrow had a good idea to reexamine the entire area but the City Council really doesn't want the commission to take the time to do that right now. She stated that she prefers Option B assuming that we need to do something now. Mr. Allen said that if it's just a fix then he would prefer Option B unless we want to take on a larger task. Mr. Atkins said he would go with the mixed use Option B, he didn't think that the area was big enough to warrant several different zones.

Ms. Ninen's motion died for lack of a second.

MOTION: Move to forward a recommendation to the City Council for the text amendment as written on the condition that the ordinance is brought back for review.

Ms. Kester pointed out that it is really an area-wide rezone and Mr. Atkins withdrew his motion.

MOTION: Move to have staff prepare an area wide rezone for the mixed use district with the currently configured boundaries. Atkins/Ninen – Motion passed unanimously.

ADJOURNMENT

MOTION: Move to adjourn at 8:50 p.m. Ninen/Derebey – Motion passed.



Subject: Main Street™ Resolution

Proposed Council Action:

Pass the attached resolution.

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: May 12, 2008

Exhibits:

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

CLH 5/5/08
ROK 5/3/08
CAM 5/6/08
DR 5/5/08

Expenditure	Amount	Appropriation
Required \$0	Budgeted \$0	Required \$0

INFORMATION / BACKGROUND

The attached resolution affirms the City's support for and endorsement of the Gig Harbor Historic Waterfront Association (GHHWA) and its use of the Main Street™ program.

On a separate but related track, an agreement between the City and GHHWA will also come forward for consideration at the May 12, City Council meeting.

FISCAL CONSIDERATION

N/A

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Pass the resolution

RESOLUTION NO. 752

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING THE MISSION OF THE MAIN STREET™ APPROACH AND OFFERING SUPPORT OF THE EFFORTS OF THE GIG HARBOR WATERFRONT ASSOCIATION AND CITIZENS TO PROMOTE AND REVITALIZE THE DOWNTOWN AREA OF GIG HARBOR

WHEREAS, THE City of Gig Harbor recognizes the importance of our historic waterfront district as it relates to the economic health and quality of life of the community; and

WHEREAS, THE continued improvement, economic vitality, and development of the historic waterfront district of Gig Harbor is a City goal; and

WHEREAS, THE Gig Harbor Historic Waterfront Association has been formed to enhance economic vitality and preservation of the historic waterfront district of Gig Harbor; and

WHEREAS, THE Main Street™ Approach to downtown economic development and historic preservation has generated community-wide interest and support; and

WHEREAS, THE Gig Harbor City Council recognizes its commitment to provide support to the Gig Harbor Historic Waterfront Association

NOW, THEREFORE BE IT RESOLVED THAT THE City Council of the City of Gig Harbor does hereby endorse the concept of a local Main Street™ program and the submittal of an application to the State of Washington to become a designated Main Street™ community and participate as such in the Washington State Downtown Revitalization Tier System network.

PASSED by the City Council this 12th day of May, 2008.

APPROVED:

MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 04/30/08
PASSED BY THE CITY COUNCIL: 05/12/08
RESOLUTION NO. 752



Subject: Main Street™ Agreement

Proposed Council Action:

Approve the agreement between the City and the Gig Harbor Historic Waterfront Association (GHHWA).

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: **May 12, 2008**

Exhibits: Agreement

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

CLH 5/8/08
ROK 5/8/08
CAM 5/9/08
DR 5/8/08

Expenditure	Amount	Appropriation	
Required \$70,000	Budgeted \$70,000	Required	\$0

INFORMATION / BACKGROUND

Last year the Gig Harbor Waterfront Restaurant & Retailers Association (GHWRRRA) disbanded. Former members of GHWRRRA formed a new organization called the Gig Harbor Historic Waterfront Association (GHHWA). This new organization, now registered as a non-profit entity with the State and with an established board of directors, has formed using the Mainstreet™ approach as approved and administered by the State of Washington. By adopting the Mainstreet™ approach, members can access state programs, grants, and tax credits that were otherwise unavailable.

The GHHWA, under the Mainstreet™ approach, will also run and promote community events, business retention programs, and other strategies to preserve the historic character of the downtown while improving the economic vitality of the downtown.

In the first year of its existence, the GHHWA requests a contribution from the City in 2008. This proposed contribution will be up to \$70,000, \$35,000 of which will be a dollar-for-dollar match of contributions from other sources.

In return for its contribution, the GHHWA will specific deliverables as stated in section three of the attached agreement (starting on page 2).

FISCAL CONSIDERATION

The City's 2008 adopted budget includes \$70,000 for this purpose, which is described on page 58 of the published budget.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Approve the agreement.

**AGREEMENT
BETWEEN THE CITY OF GIG HARBOR AND
THE GIG HARBOR HISTORIC WATERFRONT ASSOCIATION**

THIS AGREEMENT is entered into this ____ day of _____ 2008, by and between the City of Gig Harbor, Washington, an optional code municipal corporation organized under the laws of the state of Washington, hereinafter referred to as the “City” and the Gig Harbor Historic Waterfront Association, a nonprofit corporation organized under the laws of the State of Washington, hereinafter referred to as “GHHWA.”

WHEREAS, the City is governed by Title 35A RCW, but the City also has “all of the powers which any city of any class may have and shall be governed in matters of state concern by statutes applicable to such cities in connection with such powers to the extent to which such laws are appropriate . . .” (RCW 35A.21.160); and

WHEREAS, RCW 35.21.703 provides that “it shall be a public purpose for all cities to engage in economic development programs,” and “cities may contract with nonprofit corporations in furtherance of this and other acts relating to economic development”; and

WHEREAS, GHHWA has submitted a proposal to the City to encourage and support historic preservation and economic vitality of the historic Gig Harbor waterfront district; and

WHEREAS, the City Council is interested in contracting with the GHHWA for the activities and services described herein, in order to promote and encourage historic preservation and economic vitality in historic waterfront district of Gig Harbor; and

WHEREAS, the City Council values the concepts embodied in the Main Street™ Approach and recognizes the ability to increase local investment through access to Washington State B & O tax credit incentives, access to Washington State CTED staff resources and grant opportunities afforded by Main Street Program; and,

WHEREAS, the City Council recognizes that it is not the sole financial contributor to the work of GHHWA;

NOW THEREFORE, in consideration of the mutual off-setting benefits and conditions hereinafter contained, the parties hereto agree as follows:

TERMS

1. Purpose of the Agreement. In the execution of this Agreement, the City and GHHWA seek to:

A. Describe the conditions which must occur in order for the city to provide "in-kind" support for the use and maintenance of office and conference space at the Bogue Building at 3125 Judson Street, Gig Harbor, WA 98335, until December 31, 2008;

B. Clarify the term and nature of the City's support in order to assist the GHHWA in the initial start-up and development of their programs;

C. Describe the programs that will be implemented by the GHHWA for the benefit of City citizens, which shall serve as consideration for this Agreement;

D. Identify the procedures and methods to be utilized by the GHHWA in order to promote the activities and services of the GHHWA that are sponsored by the City;

E. Describe the procedures under which the GHHWA shall request monetary contributions from the City, and the manner in which the City shall respond;

F. Describe the procedures to be used by the GHHWA in order to report the outcomes of the programs to the City and the manner in which all records shall be maintained by GHHWA.

2. General Provisions of the Agreement. The City and the GHHWA acknowledge that:

A. The programs authorized and/or funded by this Agreement are municipal, educational and community purposes, designed to foster historic preservation and economic vitality development in the historic waterfront district.

B. Although this agreement is intended to provide to GHHWA "in-kind" lease of office and conference space in the Bogue Building.

C. Any funding provided by the City under this Agreement will be derived from the City's General Fund, and not from lodging tax dollars.

3. Organization and Responsibilities of GHHWA. GHHWA shall organize a thriving association of stakeholders, as defined in GHHWA Bylaws with an interest in preservation and economic stability of the Gig Harbor historic waterfront district. In furtherance of the City of Gig Harbor's economic development GHHWA shall implement the following:

A. Become a member of the Washington State Main Street Tier System;

B. File for 501(c)(3) designation with the Internal Revenue Service and a Washington state domestic non-profit organization with UBI #602 799 246;

- C. Facilitate the retention and reinvestment of tax monies within the local community by making available a mechanism for local businesses to obtain Washington State B&O Tax credits available through the Washington State Main Street program;
- D. Provide access to Washington State CTED staff resources and grant opportunities afforded by the Main Street program;
- E. Create a funding plan for the GHHWA to obtain funding from various sources other than the City to establish and maintain a viable organization and to implement all of the activities contained in this document;
- F. Demonstrate local support by obtaining significant funding from community sources including individuals, businesses, and organizations;
- G. Manage, promote and conduct at least three events in the historic waterfront district which will attract members of the public to the historic waterfront district, thereby stimulating economic vitality;
- H. Hire an executive director;
- I. Develop and coordinate marketing efforts with the City in keeping with the existing brand and theme of the City of Gig Harbor;
- J. Develop a communications strategy for informing GHHWA's membership about GHHWA's activities and priorities;
- K. Produce at least a quarterly newsletter for the membership;
- L. Develop a webpage with a link to City's marketing website gigharborguide.com, using a separate domain name for GHHWA;
- M. Hold at least quarterly meetings for waterfront district stakeholders to promote improved business vitality as a whole; which could include;
 - 1. Enhanced economic pull through from City sponsored events
 - 2. Historic preservation
 - 3. City code and design standards
 - 4. Window display design
 - 5. Business marketing
 - 6. Parking
- N. Work with City leaders and staff, business and property owners to enhance the attractiveness and maintain the historic character of the

historic waterfront business district, in keeping with city codes and design standards.

O. Develop data and trend information useful in development of long term solutions to economic and business issues in the historic waterfront area. Use this information to assist City leaders and staff in preservation and development topics for the historic waterfront area in Gig Harbor, such as:

- 1) Produce retail market position analysis of the historic waterfront district;
- 2) Develop a business inventory of the historic waterfront district;
- 3) Produce a parking inventory of the historic waterfront district;

P. Work with the City Historic Preservation Coordinator to define grant opportunities and other opportunities for each party to pursue in furtherance of their mutual goals (the City maintains discretion over the types of grants it chooses to pursue);

Q. Meet at least twice a year with the City's Historic Preservation Coordinator to discuss grant opportunities.

R. Submit quarterly progress reports due on May 13, 2008, June 30, 2008, September 30, 2008, and December 31, 2008 to the City regarding activities conducted by GHHWA and proposed activities for the remainder of the term of the contract.

S. Provide a royalty-free fully paid license to the City for use of any logo or information provided by GHHWA. The use of the GHHWA logo requires approval of GHHWA, whose approval shall not be unreasonably withheld.

T. Provide a fully paid annual GHHWA membership to the City of Gig Harbor.

U. Provide as requested qualified members for City sponsored ad hoc committees.

4. City's Responsibilities.

A. Funding to GHHWA for Services Described in this Agreement: The City will pay \$35,000, in three installments due May 13, 2008, July 1, 2008, and Oct 1, 2008 of \$17,500, \$8750, and \$8750, respectively.

Payment will be made within 30 days of receipt of an invoice and progress reports from GHHWA.

B. **GHHWA Funding Match by the City:** In addition to the above funds and in consideration of the benefits to the City of having established a Main Street Approach based organization dedicated to historic preservation and economic development; and in consideration of GHHWA demonstrating an ability to achieve community support by obtaining significant funding from community resources the City shall match dollar for dollar contributions made to GHHWA up to \$35,000 (The Matching Funds). GHHWA will submit on the last day of each month the level of contributions for the matching funds until the threshold of \$35,000 is met. The value of the annualized in-kind services provided by the City (as described in Section C below) will be deducted from the matching funds before any City cash contributions of the matching funds is made. Payment to GHHWA will be made within 30 days of receipt of an invoice from GHHWA.

C. **Deductions for "in-kind services:"** In- Kind services include rent and utilities at the Bogue Center at 3125 Judson Street Gig Harbor, WA 98335 with 24 hours/day access including utilities, use of restroom facilities, access to the conference room on a sign up basis and building security and to assist GHHWA secure Internet access to the rented room. The in-kind does not include telephone or Internet services. The annualized amount of the in kind is \$6500 and will be prorated to initiation on June 1, 2008.

D. **Provide a royalty-free fully paid license to GHHWA for use of any logo or information provided by the City.** The use of the City logo requires approval of the City, whose approval shall not be unreasonably withheld.

E. **A link on the City's website gigharborguide.com.**

5. **Duration of Contract.** This Contract will commence on the date it is signed by the duly authorized representatives of both parties, and shall terminate on December 31, 2008, unless sooner terminated as provided herein.

6. **Independent Contractor.** The parties intend that an independent contractor-client relationship will be created by this Agreement. No agent, employee, representative or sub-consultant of the GHHWA 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 GHHWA 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 GHHWA 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 GHHWA performs hereunder.

7. Indemnification and Defense. The GHHWA 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 of the reports described herein, or the City's execution of this Agreement (requiring the GHHWA to provide certain services) 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 GHHWA and the City, its officers, officials, employees, agents and volunteers, the GHHWA's liability hereunder shall be only to the extent of the GHHWA's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE GHHWA'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 GHHWA's WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE GHHWA's EMPLOYEES DIRECTLY AGAINST THE GHHWA.

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

8. Insurance.

A. The GHHWA 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 GHHWA's own work including the work of the GHHWA's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before execution of this Agreement, and on the anniversary date of the execution of this Agreement, the GHHWA 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. All policies and coverage's shall be on an occurrence made basis.

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

E. The City of Gig Harbor shall be named as an additional insured on the GHHWA'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 Agency's insurance policies.

F. Under this agreement, the GHHWA'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 GHHWA's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

G. The GHHWA 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 Agency's coverage.

9. City's Right of Inspection, GHHWA's Responsibility to Comply with Law.

Even though the GHHWA is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the performance of services must meet the general approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The GHHWA 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 GHHWA's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

10. Record Keeping and Reporting.

A. The GHHWA shall maintain accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended for the activities described herein and claimed as reimbursement along with any other such records as may be deemed necessary to the City to ensure proper accounting for all funds contributed by the City for the performance of this Agreement and compliance with this Agreement. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the City.

B. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit during the performance of this Contract by the City. The City shall have the right to an annual audit of the GHHWA's financial statements and condition.

11. Termination.

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

B. Except in the situation where this Agreement has been terminated for public convenience, the GHHWA shall be liable to the City for any additional payments made by the City for which no services were rendered.

C. If the GHHWA's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement.

12. Discrimination Prohibited. The GHHWA shall not discriminate against any employee, applicant for employment, or any person seeking the services of the GHHWA to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status or presence of any sensory, mental or physical handicap.

13. Assignment and Subcontract. Any assignment of this Agreement by the GHHWA 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.

14. Notices. Notices required by terms of this Agreement shall be sent to the other party at the following addresses, unless otherwise requested, in writing, by one of the parties hereto:

TO THE CITY:
Attn: City Administrator
City of Gig Harbor

TO THE GHHWA:
Attn: Steven Lynn, President
Gig Harbor Historic Waterfront Association

3510 Grandview Street
Gig Harbor WA 98335

PO Box 771
Gig Harbor, WA 98335

15. Applicable Law, Venue, Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in Pierce County, Washington or the U.S. District Court, Western District. The prevailing party in any such action shall be entitled to its reasonable attorney's fees and costs of suit.

16. 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 GHHWA.

17. 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.

18. Agreement Not Enforceable by Third Parties. This Agreement is neither expressly nor impliedly intended for the benefit of any third party and is neither expressly nor impliedly enforceable by any third party.

19. Severability. If any section, sentence, clause or phrase of this Agreement 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 Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CITY OF GIG HARBOR

**GIG HARBOR HISTORIC
WATERFRONT ASSOCIATION**

Charles L. Hunter, Mayor



Attest:

PRESIDENT

Molly Towslee, City Clerk

Approved as to form:

Carol Morris, City Attorney



**Subject: Gig Harbor Police April 2008
Council Report**

Proposed Council Action: Review and file

Dept. Origin: Police Department

Prepared by: Chief Mike Davis *(Signature)*

For Agenda of: May 12, 2008

Exhibits: Report attached

Initial & Date

Concurred by Mayor: *CUH 5/6/08*

Approved by City Administrator: *ROK 5/6*

Approved as to form by City Atty: _____

Approved by Finance Director: *DR 5/08*

Approved by Department Head: *(Signature) 5/6/08*

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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POLICE

TO: MAYOR CHUCK HUNTER AND CITY COUNCIL
 FROM: CHIEF OF POLICE MIKE DAVIS *MD#1*
 SUBJECT: GHPD MONTHLY REPORT FOR APRIL 2008
 DATE: MAY 12, 2008

DEPARTMENTAL ACTIVITIES

- 2008 YTD **calls for service** when compared to 2007 YTD **calls for service** continue to show an increase of 839 dispatched calls. This is a trend that seems to be accelerating compared to past years.
- In 2008 so far, we have seen 93 more **reports written** by our officers than in 2007 YTD.
- **DUI arrests** for 2008 YTD are up by 13 compared to 2007 YTD!
- Our **traffic infractions** are up 43 so far this year; and our **criminal traffic citations** are up by 64. Statistics show our 2008 YTD **traffic accidents** have increased by 19 accidents when compared to 2007 YTD.
- 2008 YTD statistics show our **misdemeanor** arrests are up by 36 and our **felony arrests** are down by 16 when compared to 2007.

Category	April 2008					
	April 2007	April 2008	Change	YTD 2007	YTD 2008	Change
Calls for Service	410	615	205	1639	2478	839
General Reports	143	181	38	572	665	93
Criminal Traffic	18	26	8	51	115	64
Infractions	127	113	-14	391	439	48
Criminal Citations	15	22	7	59	68	9
Warrant Arrests	3	4	1	30	14	-16
Traffic Reports	11	19	8	56	75	19
DUI Arrests	9	7	-2	16	29	13
Misdemeanor Arrests	30	41	11	106	142	36
Felony Arrests	6	3	-3	30	14	-16
FIR's	0	0	0	12	12	0

The Reserve Unit provided a total of 40 hours of support to our regular officers in April.

During the month of April the Marine Services Unit (MSU) accounted for the following hours and activity:

- 4/12/08 Our department presented a Washington State Parks and Recreation Mandatory Boating Education Class. Sergeants Busey spearheaded the classroom instruction assisted by Sergeant Emmett. We had a total of 34 students and 31 passed the final examination. Total hours expended on this project was 19.
- 4/30/08 Search and Rescue Seminar presented by the US Coast Guard at Station Seattle. This training was attended by Sergeants Busey and Emmett.

TRAFFIC ACCIDENTS FOR APRIL 2008					
DATE	TIME	LOCATION	TYPE	CASE#	AGE
4/2/2008	15:21	Olympic Dr. @ SR16	Non	GH080394	88
4/3/2008	17:00	3510 Rosedale St.	H&R	GH080400	N/A
4/5/2008	1:39	6400-6500 Blk 38th St.	INJ	GH080406	25
4/9/2008	17:56	4300 Blk Hunt St.	Non	GH080417	38
4/11/2008	6:52	Pt. Fosdick Dr. & Olympic Dr.	Non	GH080424	38
4/12/2008	14:04	Olympic Dr. @ SR 16	Non	GH080430	76
4/13/2008	10:45	Kimball Dr. & Pioneer Way	Non	GH080435	15
4/14/2008	13:00	Burnham Dr. & Borgen Blvd.	R/A - INJ	GH080439	29
4/16/2008	15:30	Harborview Dr. & Pioneer Way	INJ	GH080444	66
4/17/2008	14:24	3100 Judson St.	P-Lot	GH080456	31
4/17/2008	14:46	Pt. Fosdick Dr. & Harbor Country Dr.	Non	GH080457	17
4/18/2008	14:32	Pt. Fosdick Dr. & 45th St. Ct.	INJ	GH080462	61
4/18/2008	16:20	Pt. Fosdick Dr. & Olympic Dr.	Non	GH080464	18
4/22/2008	20:06	Olympic Dr. & 50th St.	Non	GH080494	49
4/24/2008	7:28	Hunt St. & 43rd Ave.	Non	GH080499	17
4/27/2008	1:35	5350 Olympic Dr.	Non	GH080513	26
4/29/2008	16:00	3210 Harborview Dr.	H&R	GH080523	N/A
4/30/2008	13:08	5000 Olympic Dr.	Non	GH080528	18
4/2/2008	15:21	Olympic Dr. @ SR16	Non	GH080394	88

We have currently transitioned into collecting all our statistical data via electronic means. In the past, activity levels were for the most part collected through self-reporting by our officers. I will be presenting a PowerPoint overview of our new system during my staff report.

During the 2008 Budget process we identified our average response time in minutes to all calls for service as a performance measure. In April, our average response time was 7.00 minutes, up from 6.06 in March. Our YTD average response time is 6.88 minutes. Our performance goal for 2008 is 6.00 minutes.

2008

	P1	P2	P3
January	4.5	7.7	10.2
February	4.6	7.3	9.1
March	3	7.2	8
April	3.5	7.5	10
May	0	0	0
June	0	0	0
July	0	0	0
August	0	0	0
September	0	0	0
October	0	0	0
November	0	0	0
December	0	0	0
Totals	15.62	29.68	37.3
Minutes	3.91	7.42	9.33

YTD

Attached you will find several graphs that track 2008 monthly statistics. I have left data from the last two years on several graphs to provide a baseline with which to compare our current activity levels as we progress through 2008 (remember some of the graphs contain cumulative numbers). I have also inserted another graph below that tracks our workload measures the last three years YTD through April of each year.

