

GIG HARBOR CITY COUNCIL MEETING



December 9, 1996

7:00 P.M., CITY HALL COUNCIL CHAMBERS

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
December 9, 1996 - 7:00 p.m.

PUBLIC COMMENT/DISCUSSION:

SPECIAL PRESENTATION:

Asphalt Paving Association of Washington - Best Paving Award.

PUBLIC HEARING:

One-year Moratorium on Telecommunications Facilities.

CALL TO ORDER:

APPROVAL OF MINUTES:

CORRESPONDENCE / PROCLAMATIONS:

1. Pierce County - Community Services Citizens Advisory Board.
2. AWC - Legislative Committee Resolution & New Issue Voting Results.
3. Tacoma/Pierce County Health Dept. - Report on Changes.
4. Thank you letter sent to Bartell's Drug.
5. On-going Debate Between Highline School District and Port of Seattle (in gold to-read basket).

OLD BUSINESS:

1. Second Reading of Ordinance - Adult Businesses.
2. Comprehensive Parks Plan.
3. Second Reading of Ordinance - Budget Amendment.

NEW BUSINESS:

1. Resolution - Call for Election, Westside Annexation.
2. Utility Extension Request/Exemption Criteria - McPherson ,Chevron Mini-Mart.

MAYOR'S REPORT: Emergency Preparedness.

COUNCIL COMMENTS:

STAFF REPORTS:

Chief Mitch Barker - GHPD.

ANNOUNCEMENTS OF OTHER MEETINGS:

APPROVAL OF BILLS:

APPROVAL OF PAYROLL:

EXECUTIVE SESSION: For the purpose of discussing litigation.

ADJOURN:



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: Planning Staff
DATE: December 3, 1996
SUBJ.: Moratorium on Tele-Communications Facilities

INTRODUCTION/SUMMARY

Attached is the Planning Commission's work plan for the review of TeleCommunications facilities. The workprogram includes joint meetings with the public works committee so that the final recommendation to the council is concurrent with both committees objectives.

POLICY ISSUES

The Planning Commission is concerned that the current zoning code does not adequately address siting standards for TeleCommunications facilities. Because of this deficiency, the Commission feels that the moratorium should remain in place in order to allow the commission sufficient time to complete its analysis and review of Telecomm facilities.

Planning-Building staff also support the continuation of the moratorium. Without the moratorium in place, applications for ANY type of Telecomm facility may be submitted and vested without any significant review by the city due to the preemptive authority of the TeleCommunications Act of 1996. Recently, the City Hearing Examiner had no choice but to approve an application for a TeleCommunications tower, even though the staff had initially recommended denial of a height variance. Public Law 104-104, 110 Stat. 70 - Section 253 (a) states:

No state or local statute or regulation or other state or local legal requirement may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate TeleCommunications service.

Section 705 states:

The regulations of the placement, construction and modification of personal wireless facilities by any state or local government or instrumentality thereof...shall not prohibit or have the effect of prohibiting the provisions of personal wireless services.

Without the moratorium in place, other telecommunication facilities would have to be approved without benefit of any performance criteria.

RECOMMENDATION

Staff recommends that the moratorium remain in place.

**PLANNING COMMISSION WORK PROGRAM
TELECOMMUNICATIONS FACILITIES**

- April 3** Case study review - Other cities studies of the issues involving the siting, construction and installation of telecommunications facilities; interaction with Public Works committee on pertinent issues.
- April 17** Work Study Session with the Public Works committee and representatives from the industries.
- May 1** Review of draft ordinance on proposed amendments to title 17 GHMC respective to telecommunications facilities; joint review of draft proposals from the Public Works Committee and the Planning Commission.
- May 15** Public Hearing - Amendments to Title 17 GHMC; recommendation to Gig Harbor City Council (Findings, Conclusions).

REGULAR GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 25, 1996

PRESENT: Councilmembers Ekberg, Platt, Picinich, Markovich and Mayor Wilbert.
Councilmember Owel was absent.

PUBLIC COMMENT / DISCUSSION:

Harry Dearth - 4119 107th St. NW - Mr. Dearth introduced himself as the vice-president of the Gig Harbor Historical Society. He presented Councilmembers with a plaque to be hung along side the oil painting, "Harbor Calm," that had been given to the City of Gig Harbor to commemorate the 50th Anniversary of the Incorporation of the City.

PUBLIC HEARING:

1. Six-Year Transportation Plan. Mayor Wilbert opened the Public Hearing at 7:10 p.m. Wes Hill distributed a fact sheet and gave a summary of proposed projects scheduled.

Phil Arenson - business at 6750 Kimball Drive - Mr. Arenson explained his concerns for Kimball Street regarding safety, health and commercial issues due to the insufficient signalization and inferior infrastructure of the road. He added that he had understood that these improvements were slated to be done in 1997, but that he had just found out that no funds had been budgeted and that the City was waiting for grants to do the work.

Mayor Wilbert asked if anyone else in the audience had any comments on the Six-Year Transportation Plan. No one came forward, and Mayor Wilbert closed the public hearing at 7:20 p.m. She then opened the second public hearing on the proposed 1997 Budget at 7:21 p.m. and introduced Tom Enlow, Finance Director.

Mr. Enlow gave an overview of the budget figures and added that the budget could be approved at it's second reading later in the evening. There were no further comments and Mayor Wilbert closed the public hearing at 7:23 p.m.

CALL TO ORDER: 7:23 p.m.

APPROVAL OF MINUTES:

MOTION: Move approval of the minutes of the November 12th meeting, as presented.
Picinich/Ekberg - unanimously approved. Councilmember Platt abstained.

CORRESPONDENCE / PROCLAMATIONS: None.

OLD BUSINESS:

1. Second Reading of Ordinance Increasing Civil Service Eligibility List to Five. Molly Towslee explained that this was the second reading of an ordinance amending the Gig Harbor Municipal Code to be consistent with the newly adopted Civil Service Rules increasing the eligibility list from three to five.

MOTION: Move to adopt Ordinance No. 741.
Markovich/Ekberg - unanimously approved.

NEW BUSINESS:

1. Employee and Supervisor Guild Contracts. Mark Hoppen explained that there were two employee contracts before Council for approval, the Employee Guild Contract and the Supervisory Guild Contract. He explained the differences in the two contracts and added that the term for both contracts is three years.

MOTION: Move for adoption of both contracts as presented.
Picinich/Ekberg - unanimously approved.

2. Second Reading of Ordinance Adopting the 1997 Budget. Tom Enlow explained that the report had been given during the public hearing and offered to answer any questions. Mayor Wilbert spoke about a memo from Councilmember Owel stating her support of art purchases, specifically the painting, "Gig Harbor Trio" hanging at City Hall if there were a process to do so. She said that she would entertain a motion to amend the budget to purchase this painting. Councilmember Markovich stated that Council had been entrusted with public money, that it is hard enough to function within budget constraints and that he could not justify spending \$3,400 on a painting. Councilmember Platt agreed and added that street lights and other projects are much more important and a much better stewardship of public funds. Councilmember Ekberg said he also agreed that this might not be a good use of funds, and added that he encouraged other groups to purchase the painting to hang in City Hall or other artists to hang artwork for display.

Councilmember Platt then asked Staff to address the issue of Kimball Drive. Wes Hill explained that the City shared Mr. Arenson's concerns and that the Kimball Drive project had not been forgotten. He said that the Kimball Drive Park & Ride Expansion and Improvement project was moving forward and that this project included signalization and overlay of Pioneer between Grandview and Stinson. He added that what was not included was the widening and reconstruction of Kimball from Pioneer to Hunt. He said that the application process for grant funding for these improvements would begin in December. Mark Hoppen assured Councilmembers that if Pierce Transit could not reach an agreement with Tacoma Public Utilities and proceed with the Park & Ride project, then a proposal would be brought back to Council to move funds from other street projects to construct improvements on Kimball.

MOTION: Move adoption of Ordinance #742.
Markovich/Picinich - unanimously approved.

3. First Reading of Ordinance Amending Title 17 of the GHMC, Adult Businesses. Ray Gilmore introduced this ordinance that is the result of the efforts of the Planning

Commission to address siting standards for adult businesses within city limits. Carol Morris explained that Howard Jensen, attorney from Ogden Murphy and Wallace, had been working with several jurisdictions as well as Gig Harbor on this issue. She added that before council adopted this ordinance, there was documentation that needed review by each Councilmember. She then introduced Mr. Jensen who gave a brief explanation of the issues that had to be addressed. This ordinance will return at the next council meeting for a second reading.

4. Resolution adopting Six-Year Transportation Plan. Wes Hill introduced this resolution to adopt the Six-Year Transportation Plan and offered to answer questions.

MOTION: Move to adopt resolution No. 484.
Markovich/Picinich - unanimously approved.

5. First Reading of Ordinance - 1996 Budget Amendment. Tom Enlow introduced this budget amendment ordinance brought about by unexpected legal fees, Hearing Examiner, and other professional service fees in the Planning/Building Department. This ordinance will return for a second reading at the next council meeting.

6. Hearing Examiner Contract for 1997. Mark Hoppen presented this contract for Hearing Examiner service for 1997. He introduced Ron McConnell who offered to answer any questions.

MOTION: Move we approve the 1997 Hearing Examiner Contract as presented with a 3% increase over 1996.
Markovich/Picinich - unanimously approved.

7. Legal Services Agreement for 1997. Mark Hoppen introduced this legal services agreement for 1997. He added that Carol Morris had offered to draft a fee resolution to help recoup legal fees accrued through the permitting review process. Council instructed her to bring back a resolution for consideration.

MOTION: Move to approved the proposed legal services agreement with Ogden Murphy Wallace for 1997.
Picinich/Ekberg - unanimously approved.

8. Renewal of Copier Contract - Upstairs Machine. Molly Towslee explained that the maintenance contract for the Minolta located upstairs had expired.

MOTION: Move to authorize the Mayor to sign the renewal maintenance contract in the amount of \$1,484.00.

MAYOR'S REPORT: None scheduled.

COUNCIL COMMENTS:

Councilmember Picinich thanked Wes Hill and Tom Enlow for their assistance in the budget worksession meetings. He added that their input made the budget approval go much more smoothly.

STAFF REPORT:

Wes Hill gave a report on the 25 foot Douglas Fir tree that had been donated by Walter Ehnert for the holiday tree lighting celebration to be held in Jerisich Park. He also reported that a local Boy Scout, Brad Neville, had originally offered to plant a Douglas Fir tree at that site to replace the noble fir that had died, but it was determined that due to the size, this tree would be better planted at City Park at Crescent Creek. He added that an electrical outlet would be placed nearby so that this living tree could be lighted during the holiday season also.

ANNOUNCEMENT OF OTHER EVENTS:

1. Christmas Tree Light Festival - Jerisich Park, Friday, December 6th at 5:30 p.m.
2. Gig Harbor Historical Society - Harbor Walk, Saturday, December 14th, 4 - 9 p.m.

APPROVAL OF BILLS:

MOTION: Move approval of checks #16881 through #16932 in the amount of \$72,873.78.
Picinich/Ekberg - unanimously approved.

EXECUTIVE SESSION: None scheduled.

ADJOURN:

MOTION: Move to adjourn at 8:22 p.m.
Platt/Ekberg - unanimously approved.

Cassette recorder utilized.
Tape 446 Side B 165 - end.
Tape 447 Side A 000 - end.
Tape 447 Side B 000 - 379.

Mayor

City Administrator



Pierce County

Department of Community Services
4916 Center Street Suite H
Tacoma, Washington 98409-2360
(206)591-7205 • 1-800-992-2456 • FAX (206)596-6604
TDD/Voice 1-800-833-6388

LINDA HURLEY ISHEM
Director

November 21, 1996

RECEIVED

Mayor Gretchen Swayze Wilbert
City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335

NOV 22 1996

CITY OF GIG HARBOR

Dear Mayor Wilbert: *Gretchen*

Because of the numerous requests for public service and homeless activities, the Community Services Citizens Advisory Board (CAB) annually assesses the needs of low-income persons in the county in order to establish funding priorities for those activities. This is done through a process of public hearings, community surveys and needs assessments conducted by our office and other agencies, and input from local elected officials.

All information is evaluated against the 5-year priorities established in our Consolidated Plan. Due to the lesser number of requests for physical improvement projects, annual funding priorities for physical projects are generally unnecessary.

This year, the CAB held four simultaneous public hearings to identify the needs of low-income residents in Pierce County which were attended by more than 80 individuals. The four locations of the hearings were; Puyallup Senior Center, Gig Harbor City Hall, Eatonville Community Center and the Tillicum/American Lake Gardens Community Service Center. Next year we plan to hold the hearings in four different communities.

Attached is a list of the CAB's funding priorities for 1997. If you have any questions regarding the development of the priorities or the use of the priorities in the funding process please call me at 591-7205.

Sincerely,

Judy A. Horn
Planner II
Community Development Division

Attachment:



PIERCE COUNTY DEPARTMENT OF COMMUNITY SERVICES CITIZENS ADVISORY BOARD

The following areas of service are the funding priorities for the Community Development Block Grant (CDBG) & Emergency Shelter Grant (ESG) projects for FY 1997. This list is in ranked priority order and is based on information and testimony gathered from residents of Pierce County through surveys and public hearings, input from elected officials and needs assessments done by other agencies.

While the following are the identified priorities, projects and activities addressing other areas of service will be considered for funding as well. All projects are evaluated and considered on their merits. There is no guarantee that any specific project will be funded, even those that meet one or more of the listed priorities.

Projects proposed for funding should be designed to improve the lives of the individuals or communities served by the programs in a direct and measurable way. Projects must include a realistic method and process for achieving and measuring the anticipated outcomes.

Funding Priorities

1. **CHILD & YOUTH PROGRAMS**
(Programs may include but are not limited to daycare, early childhood education, social/sports activities, training, after school and weekend activities, community involvement, support services, etc.)
2. **PROJECTS FOR LOW-INCOME COMMUNITIES**
(Programs may include but are not limited to senior activities, social programs in low-income areas, parenting training, community involvement, resource identification, etc.)
3. **TRANSPORTATION**
(Programs may include but are not limited to assistance with bus fares for job seekers, providing a pick-up and delivery service for shut-ins, accessibility of transportation services, a person to assist individuals with disabilities, etc.)
4. **JOBS & TRAINING**
(Programs may include but are not limited to job seeking, job & skills training, assisting job applicants prepare for interviews, new clothes, developing new jobs)
5. **PREVENTION OF CRIME & VIOLENCE**
(Programs may include but are not limited to substance abuse treatment, family & individual counseling, community watch, victim assistance, domestic violence issues, community education, etc.)
6. **EMERGENCY SERVICES**
(Programs may include but are not limited to food and shelter for the homeless, low-income and/or indigent persons, medical service, response to emergency situations, counseling, case management, services for the mentally impaired. etc.)



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NOV 22 1996

1076 Franklin St. SE
Olympia, WA 98501-1346
(360) 753-4137, FAX 753-4896

CITY OF OLYMPIA HARBOR

ASSOCIATION OF WASHINGTON CITIES

November 18, 1996

To: AWC Legislative Committee Members
From: Maureen Morris, AWC Assistant Director for Government Relations
Subject: **November 15 Legislative Committee Resolution & New Issue Voting Results**

Attached are matrices summarizing the voting results of the November 15 AWC Legislative Committee meeting. After tallying the votes, we used a weighted point system to determine the distinction between high, medium, and low priority resolutions. We then totaled the votes for each resolution using this point system to determine each resolution's weighted total.

The second matrix of this packet summarizes the Legislative Committee voting results for all new issues. As noted on the matrix, all new issues were endorsed by the committee.

The attached matrices reflect the position of the Legislative Committee however, the AWC Board will make the final determination on the priority of resolutions during their meeting on November 22. In the event the Board makes priority changes to the attached matrices, we will send those changes to you as soon as they become available.

As a reminder, the final Legislative Committee meeting is scheduled for Wednesday, February 19 during our City Legislative Action Conference. At that time AWC Staff will update the committee on the legislative progress of the resolutions and new issues. More information on the specifics of this meeting will be made available as we get closer to the meeting date.

If you have any questions or comments about the attached voting matrix, please contact Christopher Barker of the AWC Staff at (360) 753-4137. Thank you for your support and we look forward to seeing you in February.

MM:cb
Enclosure

[CB:96legcom\nov.vot]

November 15 Legislative Committee Voting Results

		Res #	Resolution Title	Weighted Total
P R O P O S E D L E G I S L A T I V E C O M M I T T E E P R I O R I T I E S	H I G H	30	Transportation Funding	176
		14	Unfunded Mandates	173
		19	Enhancing Economic Development in Cities	157
		23	Telecommunications	138
		15	Local Financial Adequacy & Flexibility	137
		11	Criminal Justice Funding	132
		6	Regulatory Reform Fairness	121
	M E D I U M	28	Supporting Improvements to Local Option Transportation Mechanisms	91
		9	Water Rights and Water Basin Planning	78
		21	Welfare Reform	75
		7	City Land Use Planning and Authorities	72
		18	Sales Tax Equalization	71
		32	Uniform Exemptions to Public Works Competitive Bidding	67
		8	Modifying Annexation Laws	64
	L O W	10	Water and Sewer Connection Fees	54
		20	Affordable Housing	43
		12	Juvenile Justice and Services	42
		2	Liability	40
		25	Public Power	39
		16	Gambling	36
		17	Property Tax Relief	31
		3	Labor Negotiation Materials & Public Records	30
		29	Prevailing Wages	28
		31	Studded Tires	27
		4	Use of City or Town Name	25
		13	Firearm Safety	24
24	Supporting Minimum State Building Codes	22		
27	Water Reuse & Alternative Technology Projects	20		
22	Siting of State and Social Service Facilities	19		
5	Housekeeping and Technical Changes	17		
26	Wastewater Discharge Permit Fee Restructure	16		

November 15 Legislative Committee Voting Results

New Issues	New Issue Title	Total
I.	Increased Revenue for Infrastructure Financing	42
H.	Urban Stabilization Act - Excise Taxes	35
F.	Trust Land Purchase Account	33
C.	Administrative/Civil Inspection Warrants	32
K.	City Own Transit Systems Sales Tax Match for MVET	27
M.	Amendment to Disclosure of Public Records Law	25
J.	Amendment to Uniform Exemptions to Public Works Competitive Bidding	24
D.	Utility Relocation Costs	22
L.	Preference Voting	21
G.	Municipal Retail Sales Tax Leakage	21
B.	Criminal Investigation Devices & Drivers License Fraud	18
A.	Discretionary Background Checks of Existing Employees	18
E.	Early Closure of Polling Places	13

Note: The total vote figures indicate that the above new issues have been recommended for endorsement by the AWC Board.



Federico Cruz-Uribe, MD, MPH
Director of Health

Governed by a local
Board of Health

- Community Based
- Competitive
- Integrated
- Preventive

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www.healthdept.co.pierce.wa.us

November 20, 1996

Gretchen Wilbert
Mayor
City of Gig Harbor
PO Box 145
Gig Harbor, WA 98335

Dear Mayor Wilbert:

I wanted to take this opportunity to update you directly on some momentous changes taking place here at the Tacoma-Pierce County Health Department. This month, we took a tremendous step that, we believe, will benefit everyone who lives in Pierce County. We shifted most direct delivery of medical services to private providers.

From a public health perspective, the shift of clinical services to private providers allows the Health Department to focus on the core mission of public health: preventing death and disease in the first place. This refocusing has allowed us to develop a new Communicable Disease Control Team. The CD Control Team literally is combing the streets to find high-risk populations in an effort to head off disease. The team also provides on-the-spot medical care vouchers so that those who need care can be encouraged to get it. In addition, the team will significantly step up one-on-one meetings with physicians and their staffs to create a new system for early detection of outbreaks, such as the recent one involving E. coli.

For decades, health departments provided the safety net for those without access to medical care. There were no real options. Few, if any, broad-based provider groups existed. Today, though, it is far easier to assemble a network of providers and to contract directly with them to deliver services. The Health Department will still be the safety net, but the way in which we will do that is much more compatible with the realities of health care today.

For our clients, there are at least two big benefits. First, with a choice of 13 facilities from five provider groups, they can receive their care nearer to where they live or work. Second, we will be able to reach more people because we expect to be able to purchase these services in the private sector at a considerable savings. Our estimate is that we will be able to serve an additional 10,000 people for \$200,000 less cost.

The new program began Monday, November 4, when those seeking clinical services for everything but methadone maintenance treatment, women's recovery and the Women Infants and Children program were referred to a private provider. We expect to encounter some bumps and barriers along the way of shifting clinical services. We will persevere, though, because we are convinced that this fundamental refocusing back on public health's true mission is the most important step the department has taken in years.

If you have any questions or comments about the transfer of clinical services, please call me at 596-2899 or e-mail me at federico_cruz@co.pierce.wa.us. Postal letters are okay, too. Thank you for your time and consideration.

Sincerely,

Federico Cruz-Uribe, M.D.
Director of Health

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NOV - 2 1996

CITY OF GIG HARBOR



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

November 21, 1996

Mr. Phil Burke
Bartell's Drug Store
5500 Olympic Drive
Gig Harbor, WA 98335

Dear Mr. Burke:

Thank you so much for donating 250 candy canes to the City of Gig Harbor to be passed out to the children during the Holiday Tree Lighting Festival on December 6th. Your generosity will help put smiles on the children's faces when Santa hands them out.

We would like to invite you, your family and the other employees from Bartell's to join us that evening for caroling and a visit from Santa. The festivities begin at 5:30 p.m. at Jerisich Park.

Again, thank you for helping out with this community celebration.

Sincerely,

Gretchen A. Wilbert
Mayor, City of Gig Harbor



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: Planning Staff
DATE: December 4, 1996
SUBJ: Planning Commission Recommendation - Amendments to Title 17 GHMC, Adult Business Siting Standards; Second Reading of Ordinance

Background/Summary

The Planning Commission submits for your consideration an ordinance amending Title 17 of the GHMC regulating the siting and location of adult businesses within the city limits.

Policy Issues

On February 12, 1996, the City Council adopted Ordinance 714, which established a one year moratorium on the acceptance of applications, use permits and licenses for adult businesses. The moratorium was in response to neighboring jurisdictions experiences and recent legislation efforts in regulating adult businesses and the concern that current city regulation do not adequately address the siting and operation of adult businesses.

The City Council directed the Planning Commission to develop a work plan to study this issue, conduct the necessary public hearings and recommend proposed changes to the City Zoning Code regulating adult businesses. The moratorium was authorized pursuant to RCW 36.70A.390.

The ordinance attached is the result of the Planning Commission's public meetings conducted during the summer and fall of this year. The ordinance proposes several changes to Title 17 of the GHMC (Zoning Code) which addresses siting standards for adult businesses within the city limits. Also attached is the Planning Department Staff report and recommendation to the Planning Commission on the ordinance.

Fiscal Impact

There is no direct fiscal impact to the city.

Recommendation

As an amendment to the zoning code is a Type 5 action pursuant to the City's Administrative Procedures, a public hearing by the Council on the ordinance is not required. This is the second reading of the ordinance. Staff recommends adoption of the ordinance.



CITY OF GIG HARBOR
DEPARTMENT OF PLANNING AND BUILDING

STAFF REPORT
to the
CITY PLANNING COMMISSION

From: Planning Staff, Ray Gilmore
Date: October 30, 1996
Subj.: Proposed Amendments to Title 17, GHMC, Regulating Adult Entertainment Businesses

INTRODUCTION/SUMMARY

The Gig Harbor City Council adopted a moratorium on February 12, 1996, on adult entertainment uses due to concerns expressed that current regulations did not protect Gig Harbor residents, property owners and businesses from the adverse secondary impacts of adult entertainment uses. The City currently does not have a licensing system or operational requirements for adult businesses. The City zoning regulations have never been updated to address adult entertainment uses and the city would be vulnerable to legal challenges if it simply did not permit adult businesses to locate within the city limits.

Currently, the city does not have any adult entertainment businesses nor have any adult entertainment businesses applied for a business license to operate within the city. The purpose of this draft ordinance is to provide for the siting of adult entertainment business uses in a manner that protects the public health, safety and welfare of its residents and property owners while meeting recognizing the right to operate adult entertainment businesses as a form of constitutionally protected free speech or expression under the First Amendment to the Constitution of the United States and Article I, Section 5, of the Washington State Constitution.

The Planning-Building Department, in conjunction with the city's legal counsel of Ogden, Murphy

and Wallace, has prepared an ordinance for consideration by the Planning Commission. The ordinance provides as follows:

- New definitions which relate to specific adult entertainment uses
- Amendments to Section 17.36 and 17.40 providing for the siting of adult entertainment uses;
- A new chapter 17.58 which establishes siting criteria for adult entertainment uses and businesses.

Concurrent with this process, the Police Department is preparing an ordinance which addresses the business license requirements and operational standards for adult business.

History of the Proposal

On February 12, 1996, the City Council adopted Ordinance 714, which established a one year moratorium on the acceptance of applications, use permits and licenses for adult businesses. The moratorium was in response to neighboring jurisdictions experiences and recent legislation efforts in regulating adult businesses and the concern that current city regulation do not adequately address the siting and operation of adult businesses.

The City Council directed the Planning Commission to develop a work plan to study this issue, conduct the necessary public hearings and recommend proposed changes to the City Zoning Code regulating adult businesses. The moratorium was authorized pursuant to RCW 36.70A.390 which requires the City Council to hold a hearing on the moratorium within 60 days of the moratorium adoption to establish findings to either justify the continuance of the moratorium or cancel the moratorium. The Commission was directed to develop an ordinance with proposed findings by October 3, 1996.

The Planning Commission conducted a "fact-finding" public meeting worksession on August 15th, with representatives of the city's police department, legal and planning staff. The worksession was followed by a public hearing on September 5, 1996. Other worksessions were conducted on October 3 and 17, with representatives of the city's legal and planning staffs present.

On October 28, 1996, the City Council was advised that the Planning Commission would conduct its public hearing on the proposed ordinance on November 7 and would submit its findings and recommendation to the Council for its first regular meeting date in December.

The city sent notice to 24 individuals, groups or organizations giving notice of a public hearing on September 5, 1996 and a public hearing on November 7, 1996.

The proposed regulations attached to this report are submitted to the Planning Commission for its review, deliberation and recommendation to the City Council following its public hearing on November 7.

Procedural Requirements for Amendments to the City of Gig Harbor Municipal Code, Title 17.

Procedurally, these amendments must undergo review under the State Environmental Policy Act, state agencies must be notified of any changes to the city's development regulations, public hearing must be conducted by the Planning Commission, the Planning Commission must forward a recommendation to the Gig Harbor City Council, and the Council adopts the proposed amendments to the Gig Harbor Municipal Code. Compliance with these procedural requirements is documented as follows:

Washington State Environmental Policy Act: On October 23, 1996, the City of Gig Harbor SEPA Responsible Official issued a Determination of Nonsignificance (DNS) for the proposed adult entertainment ordinances. A copy of the SEPA documentation is attached.

Sixty Day State Agency Notification: On October 17, 1996, the City of Gig Harbor Department of Planning and Building mailed out a 60-day notice and the proposed ordinance to the state agencies on the GMA development regulation review list.

Notice of Public Hearing Before the Planning Commission: Notice was provided by publication in the Peninsula Gateway on August 21, 1996, for the September 5 hearing and on October 23, 1996, for the November 7, public hearing. These notices were also posted at Gig Harbor City Hall in the public notice display case.

City of Gig Harbor Comprehensive Plan

The proposed amendments to Title 17 of the Gig Harbor Municipal Code are deemed consistent with the City of Gig Harbor Comprehensive Plan. The proposed ordinance provides for the siting of adult businesses within the commercial business districts of the city, subject to the minimum separation requirements. Commercial Business polices, page 9, state as follows:

A. Commercial/Business

Provides primarily retail and wholesale facilities, including service and sales. Where appropriate, mixed-use (residential with commercial) may be permitted through a planned unit development process. Commercial-business activities consist of the following:

- Retail sales and services
- Business and professional offices
- Mini-warehousing

Respective to environmental concerns, the following goals and policies from the Environment Element are applicable to this proposal:

B. GOAL: URBAN LAND USE OPERATING STANDARDS

Establish minimum acceptable performance standards governing noise, air, light, glare and other operating characteristics or permitted urban uses which affect the quality of the manmade environment.

- 21. Noise - operating characteristics
Protect urban residential areas from obnoxious or distracting noises, particularly during evening hours, and especially of a kind created by controllable activities. Enforce exacting performance standards governing possible land use developments which create noise levels that may exceed acceptable community defined levels.

Washington State Law

In addition to compliance with applicable state laws stated previously, the following state laws affect the development of adult entertainment regulations:

- A. The Growth Management Act. New regulations must comply with the requirements of RCW 36.70A.020, which establishes goals which guide the development and adoption of comprehensive plans and development regulations. The following GMA goals are relevant in the development of adult entertainment regulations:
 - RCW 36.70A.020(6) Property Rights. This goal states that property shall not be taken for public use without just compensation having been made. Property owners shall be protected from arbitrary and discriminatory actions.
 - RCW 36.70A.020(7) Permits. This goal states that government permits should be processed in a timely and fair manner to ensure predictability.
 - RCW 36.70A.020(11) Citizen participation and coordination. This goal encourages the involvement of citizens in the planning process.
- B. Moral Nuisances. RCW 7.48A defines moral nuisances, who may bring actions against moral nuisances and enforcement procedures.

Staff Analysis

As documented in the research and studies provided to the planning commission during its worksessions of August and October, 1996, and evidence provided by the city Police Department and Legal staff, secondary impacts of adult entertainment businesses include the following activities:

1. Increase in property crimes such as robberies;

2. Increase in crimes against persons (assault, rape, robbery, etc)
3. Adult businesses frequently require more police response and protection, thereby reducing the availability of police services to other areas of the city;
4. Increase in other types of crimes.

The Planning Commission has also considered the secondary impacts from the operation of adult businesses on land use. Based upon case studies from other cities, these have been identified as follows:

1. Adult businesses cause "blight";
2. Adult businesses cause "skid-row" effects;
3. Residents or shoppers in the City will move or shop elsewhere if adult entertainment uses are allowed to locate in proximity to residential uses, churches, parks, schools and other public facilities;
4. Location of adult entertainment uses in close proximity to residential uses, churches, parks, schools and other public facilities will reduce retail trade to commercial uses in the vicinity, reducing tax revenues to the city;
5. Increases in traffic;
6. Patrons of adult businesses are perceived as undesirable and a potential threat to children;
7. Excessive noise associated with adult businesses;
8. Litter associated with adult businesses;
9. Exposure and visibility of adult businesses to school-age children is detrimental to the quality of residential life;
10. Location of adult businesses on the main commercial thoroughfares of the City gives an impression of legitimacy to, and causes a loss of sensitivity to the adverse affect of pornography upon children, established family relations, respect for the marital relationship and the concept of non-aggressive consensual sexual relations;
11. Adult businesses adversely affect the family orientation of a neighborhood;
12. Location of adult businesses within walking distance of churches and other religious facilities will have an adverse effect upon the ministry of such churches and will discourage attendance at such churches;

Summary of the Proposed Amendments to Title 17 GHMC

The proposed amendments to the Title 17 of the Gig Harbor Municipal Code are designed to provide the necessary protection to residents, property owners and businesses from the secondary impacts related to adult entertainment businesses. The proposed amendments to the zoning code establish the following:

Uses Classified as Adult Businesses

- 17.04.021 Adult arcade.
- 17.04.022 Adult cabaret.
- 17.04.024 Adult entertainment facility.
- 17.04.026 Adult motel.
- 17.04.027 Adult motion picture theater.
- 17.04.028 Adult retail store.
- 17.04.633 Other adult entertainment facility.

Uses Exempt from Certain Specified Uses

The following are not considered adult entertainment:

A public library, and a school, university, or similar educational or scientific facility shall not be considered an adult entertainment facility. In addition, a commercial establishment that offers access to telecommunications networks as a principal business purpose shall not be considered an adult entertainment facility unless the access it provided for the primary purpose of displaying or presenting visual images that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas. Also excluded from the definition of adult entertainment businesses are: (a) expressive dance; (b) plays, operas, musicals, or other dramatic works; (c) classes, seminars, or lectures conducted for a scientific or educational purpose; (d) printed materials or visual representations intended for educational or scientific purposes; (e) nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities; (f) nudity within a hospital, clinic, or other similar medical facility for health-related purposes; and (g) all movies and videos that are rated G, PG, PG-13, R and NC-17 by the Motion Picture Association of America.

Location/Siting of Adult Entertainment Businesses

Adult entertainment businesses are limited to the B-2 and C-1 commercial districts within the city. In addition, adult entertainment businesses are to be located no less than 500 feet from the following "sensitive uses" or areas:

1. A single-family residential zone (R-1);
2. A medium-density residential zone (R-2);
3. A multiple-family residential zone (R-3);
4. A residential and business district zone (RB-1, RB-2);
5. A commercial family day care facility;
6. A public or private preschool or nursery school;
7. A public or private primary or secondary school;
8. A public park; and

9. A church, temple, mosque, synagogue, chapel or other similar religious facility.

Under the staff recommended zoning and buffering requirements, 3% or 25 acres of the City's total land area of 1344 acres would be potentially available for adult entertainment businesses.

In evaluating the proposed adult entertainment regulations, the Planning Commission must recognize that adult entertainment businesses are a form of constitutionally protected free speech or expression under the First Amendment to the Constitution of the United States and Article I, Section 5, of the Washington State Constitution. Regulations need to address the secondary impacts of these uses and these secondary impacts have been documented in the case studies of other cities previously reviewed by the Planning Commission. Regulations must be supported by case studies and must be carefully constructed so as not to have the overall purpose of preventing these facilities from locating within the City of Gig Harbor. A regulation or ordinance which ultimately prohibits adult entertainment businesses from locating within the city is subject to challenge and being overturned by the courts.

Recommendation

Staff recommends that the Planning Commission adopt the proposed amendment to Title 17 of the Gig Harbor Municipal Code, including the findings and conclusions within the ordinance. The Planning Commission may make adjustments, as appropriate, based upon the testimony received at the public hearing.

**CITY OF GIG HARBOR
ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY OF GIG HARBOR, PIERCE COUNTY, WASHINGTON, AMENDING TITLE 17 OF THE GIG HARBOR MUNICIPAL CODE BY ADDING NEW DEFINITIONS FOR ADULT ENTERTAINMENT FACILITIES TO CHAPTER 17.04; AMENDING SECTIONS 17.36.020 AND 17.40.020 TO PERMIT ADULT ENTERTAINMENT FACILITIES TO LOCATE IN B-2 AND C-1 ZONING DISTRICTS; AND ADDING A NEW CHAPTER 17.58 ESTABLISHING CONDITIONS UNDER WHICH ADULT ENTERTAINMENT FACILITIES WILL BE PERMITTED IN AND LIMITED TO THE B-2 AND C-1 ZONING DISTRICTS.

WHEREAS, on February 12, 1996, the City Council held a public hearing, adopted findings, and approved Ordinance 714, establishing a one year moratorium on adult entertainment facilities, with the intent to review, and possibly revise, existing regulations, specifically based on the secondary effects of such businesses; and

WHEREAS, the City of Gig Harbor ("City") does not have any current zoning regulations governing the siting of adult entertainment facilities, and the City Council has directed the City Administrative Staff to prepare recommendations concerning new regulations for submittal to the Planning Commission and City Council during the course of the moratorium; and

WHEREAS, the City is adopting certain licensing and operational regulations governing adult entertainment facilities in order to mitigate and reduce unacceptable adverse secondary effects associated with and caused by activities occurring within adult entertainment facilities; and

WHEREAS, the City is a family-oriented residential community and employment center with attendant community standards; and

WHEREAS, the City is a non-charter code city under the Constitution and statutes of the State of Washington, its population as of April 1, 1996 is approximately 4110¹ and more than 20% of its population is under the age of 18 years²; and

WHEREAS, the City occupies an area of approximately 2.1 square miles and within its boundaries has approximately 1860 dwelling units; and

WHEREAS, approximately 16% of the land area within the City is publicly held open space, community facilities, and public right-of-way, and the remaining 1131 acres is land potentially available for private development; of that private land, approximately 66% is zoned for residential use, approximately 3% is zoned for Downtown Business, approximately 8.5% is

¹ Office of Financial Management, State of Washington

² 1990 Census

zoned for retail and cultural and business uses, approximately 3% is zoned for office use, and approximately 0.4% is zoned intensive commercial/light industrial; and

WHEREAS, no adult entertainment facilities have attempted to locate within the City and to date there are no adult entertainment facilities located within the City; and

WHEREAS, cities have the right and duty to enact laws for the protection of public health, safety, general welfare, and morals; and

WHEREAS, various Washington State municipalities have found it necessary for public health, safety, and welfare reasons to restrict the location of adult entertainment facilities; and

WHEREAS, the City Council is committed to protecting the general welfare of the City through the enforcement of laws prohibiting obscenity, indecency, and sexual offenses; and

WHEREAS, the City Council seeks to reduce and mitigate the deleterious effects of adult entertainment facilities while preserving constitutionally protected forms of expression; and

WHEREAS, the City Council takes notice of and relies upon experiences of and studies conducted by other cities and counties in attempting to combat the specific adverse impacts of adult entertainment facilities; and

WHEREAS, the City Council finds that the location of adult entertainment facilities can contribute to neighborhood deterioration and blight through an increase in crime and diminution in property values, among other adverse consequences, and finds that such effects are contrary to the general welfare of the City; and

WHEREAS, the City Council finds that adult entertainment facilities have historically led to an increase in prostitution, sexually transmitted diseases, drug and alcohol offenses, general criminal activity, and a decrease in property values; and

WHEREAS, based upon experiences of other jurisdictions, adult entertainment facilities are often used as fronts for or are operated by persons associated with organized criminal activities; and

WHEREAS, the law enforcement resources available for responding to problems or secondary impacts associated with or created by adult entertainment facilities are limited and are best conserved by regulating and licensing adult entertainment facilities, and attempting to prevent those activities associated with them; and

WHEREAS, the City Council finds a compelling need to protect all citizens, but especially minors from criminal and unlawful activities associated with adult entertainment facilities; and

WHEREAS, the City Council recognizes that important and substantial government interests provide a constitutional basis for reasonable regulation of the time, place, and manner under which adult entertainment facilities operate, and that, therefore, the City Council has determined that persons seeking to operate adult entertainment facilities shall be required to observe specific locational requirements, as provided for in this ordinance, before they commence business; and

WHEREAS, based on public testimony and other information presented on this subject to the Planning Commission and the City Council, the City Council concurs with the Planning Commission and has determined that there are deleterious secondary effects associated with adult entertainment facilities that can be minimized through the adoption of specific zoning requirements that are specifically and narrowly tailored to alleviate these harmful effects; and

WHEREAS, based upon the studies, public testimony, and information presented to the City Council, and the information reviewed by the Planning Commission, and the recommendations of the Planning Commission, the City Council finds the adoption of zoning regulations for adult entertainment facilities to be necessary to protect the health, safety, and

welfare of its citizens, and to preserve and protect the quality of its neighborhoods, and to preserve and protect residential land use values; the City Council therefore finds that it is necessary to minimize and alleviate the harmful effects of adult entertainment facilities by separating adult entertainment facilities from incompatible zones and uses; and

WHEREAS, the City Administrative Staff has drafted a zoning ordinance which recognizes the constitutional right of all legitimate businesses to function while reasonably restricting the location of adult entertainment facilities within the City in order to reduce the unacceptable adverse secondary impacts associated with adult entertainment facilities; and

WHEREAS, based upon the evidence and studies considered by both the Planning Commission and the City Council, as well as the public comments and testimony presented to the Planning Commission in the public hearings on September 5 and November 7, 1996, the Planning Commission recommends the zoning regulations recommended by the Administrative Staff; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. **Purpose.** It is the purpose of this ordinance to regulate adult entertainment facilities and related activities to promote the health, safety, morals, and general welfare of the

citizens of the City of Gig Harbor, and to establish reasonable and uniform regulations to prevent the deleterious location of adult entertainment facilities within the City. In enacting this ordinance, it is not the intent of the City Council to limit or restrict the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of the City Council that it should be the effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the State or Federal Constitutions, or to deny access by the distributors and exhibitors of sexually oriented materials to their intended market. Finally, it is not the intent of the City Council to condone or legitimize the distribution of obscene materials.

Section 2. Findings. Based upon a wide range of evidence presented to the Gig Harbor City Council and to other jurisdictions, including but not limited to the testimony of law enforcement officers and members of the public, and on other evidence, information, publications, articles, studies, documents, case law and materials submitted to and reviewed and considered by the City Council, Planning Commission, and Administrative Staff, the councils of other cities within the region and in other jurisdictions, non-profit organizations and other legislative bodies, the City Council makes the following findings:

- A. The City Council may rely on the experiences and studies of other cities and organizations in assessing the need for establishing zoning regulations applicable to adult entertainment facilities.

- B. Regulation of adult entertainment facilities should be developed to prevent deterioration and degradation of the vitality of the community before the problem exists, rather than in response to an existing problem.
- C. Certain conduct occurring at and surrounding adult entertainment facilities creates secondary impacts that are detrimental to the public health, safety, and general welfare of the citizens of Gig Harbor, and therefore the negative effects of such conduct must be minimized as provided herein.
- D. Regulation of adult entertainment facilities is necessary because in the absence of regulation significant criminal activity has historically and regularly occurred.
- E. Businesses providing adult entertainment or sexually oriented materials are increasingly associated with ongoing prostitution, illegal drug activity, disruptive conduct and other criminal activity, and such businesses are currently not subject to effective regulation and constitute an immediate threat to the public peace, health and safety.
- F. Due to the information presented regarding the connection of prostitution with adult entertainment facilities, there is concern over sexually transmitted diseases which is a legitimate health concern of the City and thus requires regulation of

adult entertainment facilities in order to protect the health, safety and well-being of the public.

- G. No evidence has been presented to show that the location of adult entertainment facilities within the City will improve the commercial viability of the community, or will otherwise have a beneficial effect, versus a detrimental effect.
- H. The City of Gig Harbor Comprehensive Plan strongly advocates compatibility of adjacent land uses.
- I. Adult entertainment facilities are incompatible with certain land uses such as residences, religious facilities, public parks, commercial family day care facilities, public and private nursery schools and preschools, and public and private primary and secondary schools.
- J. Adjacency of residential uses to adult entertainment facilities reduces the value of residential property.
- K. Adult entertainment facilities are perceived to negatively impact the character of established neighborhoods.

- L. Currently there are no adult entertainment facilities in Gig Harbor, and the City has not received any formal inquiries regarding the potential siting of an adult entertainment facility within the City.
- M. Restricting the location of adult entertainment facilities to commercial districts and general business districts, and utilizing 500 feet as the requisite spacing between an adult entertainment facility and any residential zone, religious facility, public park, commercial family day care facility, public or private nursery school or preschool, public or private primary or secondary school and other adult entertainment establishments, will provide minimal separation and buffering necessary to protect public health, safety, and welfare, while setting aside a reasonable number of location sites within the City for adult entertainment facilities.
- N. Restricting the location of adult entertainment facilities as provided in this ordinance will leave 25 acres of the City, or 3% of the City's total commercial land available to adult entertainment facilities. At the time this ordinance was adopted, approximately 17 commercial sites were potentially available for the siting of adult entertainment facilities.

- O. Regulation of adult entertainment facilities is necessary to prevent public nuisances including moral nuisances.
- P. The City conducted an environmental review of the adult entertainment facility zoning regulations and issued a determination of nonsignificance.
- Q. The City submitted a copy of the proposed adult entertainment facility zoning regulations to the state for the required 60 day review under RCW 36.70A.106.

Section 3. Definitions. A new section 17.04.021 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.021 Adult arcade.

"Adult arcade" means a commercial establishment containing individual viewing areas or booths, where, for any form of consideration, including a membership fee, one or more still or motion picture projectors, slide projectors, or other similar image producing machines are used to show films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

Section 4. Definitions. A new section 17.04.022 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.022 Adult cabaret.

"Adult cabaret" means a nightclub, bar, restaurant, tavern, or other similar commercial establishment, whether or not alcoholic beverages are served, that regularly features adult entertainment.

Section 5. Definitions. A new section 17.04.023 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.023 Adult entertainment.

"Adult entertainment" means:

A. Any exhibition, performance or dance conducted in an adult entertainment facility where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

B. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in an adult entertainment facility where such exhibition, performance or dance is performed for, arranged with, or engaged in with fewer than all patrons in the adult entertainment facility at that time, with separate consideration

paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

Section 6. Definitions. A new section 17.04.024 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.024 Adult entertainment facility.

"Adult entertainment facility" means a commercial establishment defined as an adult arcade, adult cabaret, adult motel, adult motion picture theater, adult retail store, or other adult entertainment facility.

Section 7. Definitions. A new section 17.04.026 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.026 Adult motel.

"Adult motel" means a hotel, motel, or similar commercial establishment which:

A. Offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other visual representations that are

distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas, and that has a sign visible from the public right-of-way that advertises the availability of this type of sexually oriented materials; or

B. Offers a sleeping room for rent for a rental fee period of time that is less than ten (10) hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Section 8. Definitions. A new section 17.04.027 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.027 Adult motion picture theater.

"Adult motion picture theater" means a commercial establishment where, for any form of consideration, motion pictures, films, video cassettes, slides, or other similar visual representations are regularly shown that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

Section 9. Definitions. A new section 17.04.028 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.028 Adult retail store.

"Adult retail store" means a commercial establishment such as a bookstore, video store, or novelty shop which as one of its principal business purposes offers for sale or rent, for any form of consideration, any one or more of the following:

A. Books, magazines, periodicals or other printed materials, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

B. Instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

Section 10. Definitions. A new section 17.04.329 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.329 Expressive dance.

"Expressive dance" means any dance which, when considered in the context of the entire performance, constitutes an expression of art, theme, story or ideas, but excluding any dance such as, but not limited to, common barroom type topless dancing which, when considered in the context of the entire performance, is presented primarily as a means of displaying nudity as a sales device or for other commercial exploitation

without substantial expression of theme, story or ideas, and the conduct appeals to the prurient interest, depicts sexual conduct in a patently offensive way and lacks serious literary, artistic, political or scientific value.

Section 11. Definitions. A new section 17.04.633 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.633 Other adult entertainment facility.

"Other adult entertainment facility" means any commercial establishment not defined herein where adult entertainment or sexually oriented materials is regularly conducted, displayed, or available in any form, for any type of consideration. Provided however, that a public library, and a school, university, or similar educational or scientific facility shall not be considered an adult entertainment facility. In addition, a commercial establishment that offers access to telecommunications networks as a principal business purpose shall not be considered an adult entertainment facility unless the access it provided for the primary purpose of displaying or presenting visual images that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

Section 12. Definitions. A new section 17.04.725 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.725 Sexually oriented materials.

"Sexually oriented materials" means any books, magazines, periodicals or other printed materials, or any photographs, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

Section 13. Definitions. A new section 17.04.745 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.745 Specified anatomical areas.

"Specified anatomical areas" means and includes any of the following:

- A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- B. Less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola.

Section 14. Definitions. A new section 17.04.746 is hereby added to Chapter 17.04 of the Gig Harbor Municipal Code:

17.04.746 Specified sexual activities.

"Specified sexual activities" means and includes any of the following:

- A. The caressing, fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of, or in connection with, any of the sexual activities specified in this definition.

Section 15. Location of Adult Entertainment Facilities. Section 17.36.020 of the Gig Harbor Municipal Code is hereby amended to permit the location of adult entertainment facilities subject to the provisions of Chapter 17.58 of the Gig Harbor Municipal Code.

17.36.020 Permitted uses.

The following uses and structures are permitted in a B-2 district:

- A. Retail and wholesale sales, excluding motorized vehicles, trailers and boats;

* * * *

- I. Family day care; and
- J. Hotels and motels; and
- K. Adult entertainment facilities subject to the provisions of Chapter 17.58
of the Gig Harbor Municipal Code.

Section 16. Location of Adult Entertainment Facilities. Section 17.40.020 of the Gig Harbor Municipal Code is hereby amended to permit the location of adult entertainment facilities subject to the provisions of Chapter 17.58 of the Gig Harbor Municipal Code.

17.40.020 Permitted principal uses and structures.

The following principal uses and structures are permitted in a C-1 district:

- A. All uses permitted in a B-2 district;

* * * *

- T. Family day care; and
- U. Adult family homes; and
- V. Adult entertainment facilities subject to the provisions of Chapter 17.58
of the Gig Harbor Municipal Code.

Section 17. Adult Entertainment Standards. A new chapter 17.58 is hereby added to Title 17 of the Gig Harbor Municipal Code:

CHAPTER 17.58

ADULT ENTERTAINMENT FACILITIES

Sections:

- 17.58.010 Purpose and intent.
- 17.58.020 Applicability.
- 17.58.030 Limitations.
- 17.58.040 Separation requirements.
- 17.58.050 Variation from separation requirements.
- 17.58.060 Nonconforming adult entertainment facility.

17.58.010 Purpose and intent.

The purpose and intent of requiring standards for adult entertainment facilities is to mitigate the adverse secondary effects caused by such facilities and to maintain compatibility with other land uses and services permitted within the City.

17.58.020 Applicability.

The standards established in this chapter apply to all adult entertainment facilities and include, but are not limited to, the following: adult arcades, adult cabarets, adult motels, adult motion picture theaters, and adult retail stores.

17.58.030 Limitations.

The standards established in this chapter shall not be construed to restrict or prohibit the following activities or products: (a) expressive dance; (b) plays, operas, musicals, or other dramatic works; (c) classes, seminars, or lectures conducted for a scientific or educational purpose; (d) printed materials or visual representations intended for educational or scientific purposes; (e) nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities; (f) nudity within a hospital, clinic, or other similar medical facility for health-related purposes; and (g) all movies and videos that are rated G, PG, PG-13, R and NC-17 by the Motion Picture Association of America.

17.58.040 Separation requirements.

A. An adult entertainment facility shall not be permitted to locate in any zoning district other than the General Business District (B-2) and Commercial District (C-1). Within the B-2 or C-1 district, an adult entertainment facility shall not be permitted to locate within five hundred (500) feet of any of the following zones or uses whether such zones or uses are located within or outside of the City limits:

1. A single-family residential zone (R-1);
2. A medium-density residential zone (R-2);
3. A multiple-family residential zone (R-3);
4. A residential and business district zone (RB-1, RB-2);
5. A commercial family day care facility;

6. A public or private preschool or nursery school;
7. A public or private primary or secondary school;
8. A public park;
9. A church, temple, mosque, synagogue, chapel or other similar religious facility; and,
10. Other adult entertainment establishments

B. In calculating the measurement of the five hundred (500) foot buffer between an adult entertainment facility and a sensitive zone or use specified in GHMC 17.58.040(A), such distance shall be measured by extending a straight line between the nearest boundary line of a sensitive zone or nearest physical point of the structure housing a sensitive use, to the nearest physical point of the structure housing an adult entertainment facility, whichever is the greater distance.

17.58.050 Variation from separation requirements.

Variances shall be granted from the separation requirements in GHMC 17.58.040 if the applicant demonstrates that all of the following criteria are met:

A. The physical features of the land would result in an effective separation between the proposed adult entertainment facility and any sensitive zones or uses in terms of visibility and access;

B. The proposed adult entertainment facility complies with the goals and policies of the City's Comprehensive Plan;

C. The proposed adult entertainment facility is otherwise compatible with adjacent and surrounding land uses;

D. The applicant has proposed conditions which would minimize the adverse secondary effects of the proposed adult entertainment facility.

17.58.060 Nonconforming adult entertainment facility.

An adult entertainment facility shall be deemed a nonconforming use and shall be subject to the requirements of Chapter 17.68 GHMC (Nonconformities) if a sensitive zone or use identified in GHMC 17.58.040(A) locates within five hundred (500) feet of that adult entertainment facility after the date that adult entertainment facility has located within the City in accordance with the requirements of this chapter.

Section 18. Limitations of Liability. None of the provisions of this ordinance are intended to create a cause of action or provide the basis for a claim against the City, its officials or employees through the performance or the failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

Section 19. Public Nuisance/Injunctions. Any adult entertainment facility in violation of this ordinance shall be deemed a public nuisance, which, in addition to all other remedies, may be abated by injunctive relief.

Section 20. 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 21. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED by the City Council and APPROVED by the Mayor this ___ day of _____ 1996.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:

PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: Wes Hill, P.E., Public Works Director *Wes Hill*
Ray Gilmore, Director, Planning-Building Department
SUBJECT: Parks, Recreation & Open Space Plan - Revision to the Parks and Recreation
Element of the Gig Harbor Comprehensive Plan; Third Reading of
Ordinance to Amend Comprehensive Plan
DATE: December 4, 1996

INTRODUCTION/BACKGROUND

The draft Parks, Recreation and Open Space Plan for the City of Gig Harbor was presented for review at the June 24 and November 12, 1996 City Council meetings. The draft plan was forwarded with recommended changes from the City Planning Commission following a March 21, 1996 public hearing, and subsequent public work session on April 4, 1996. Review comments from the Washington State Department of Natural Resources and Pierce County Planning and Land Services were included with the previous Council packets.

Following the June 24, 1996 meeting, Council conducted a public work session on the draft Parks, Recreation and Open Space Plan on September 16, 1996. One of the primary topics of discussion was the proposed Implementation Program, and project prioritization as reflected in the proposed six-year Capital Improvement Program (CIP). A revised six-year Capital Improvement Program was presented and approved at the November 12, 1996 Council meeting.

The Final Parks, Recreation and Open Space Plan (Plan) incorporates the revisions requested by the Planning Commission subsequent to the public hearing and work sessions, and other modifications as subsequently reviewed and/or requested by the Council at the previous hearings and work session.

POLICY CONSIDERATIONS

The Plan identifies current and desired Levels of Service for park and recreation facilities and programs, including open space acquisition; options and preferred improvements, programs, and objectives to maintain the desired Level of Service under projected population growth within the City and Urban Growth Area during the next 15-years (2010), and implementation and funding strategies for the six-year CIP. The Plan's Consultant has emphasized that the Plan is intended to provide the maximum flexibility for the Council to respond to opportunities, funding availability, and citizen input.

The general objectives and specific projects included in the Final Parks, Recreation and Open Space Plan, including the six-year CIP reflect the current consensus of the community, Planning Commission, and Council regarding the levels of service and short- and long term objectives for the City's Park program. The projects and objectives in the six-year CIP will form the basis for any subsequent parks impact fee program adopted by Council or Pierce County.

MAYOR WILBERT AND GIG HARBOR CITY COUNCIL

December 4, 1996

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FISCAL CONSIDERATIONS

The specific financial impact of the proposed Implementation Program will depend on the following:

- A. The specific projects and objectives adopted during each budget year.
- B. The proportionate share of any impact fee that may be adopted.
- C. Availability of funding and/or the adopted financing strategy (generally, and or project/objective- specific).

RECOMMENDATION

Staff recommends Council move and approve the attached ordinance amending the November 28, 1994 City of Gig Harbor Comprehensive Plan by incorporation of the City of Gig Harbor Parks, Recreation and Open Space Plan dated December 9, 1996.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR CITY COUNCIL ADOPTING A REVISED AND UPDATED CITY OF GIG HARBOR PARKS, RECREATION AND OPEN SPACE PLAN AS AN AMENDMENT TO THE CITY OF GIG HARBOR COMPREHENSIVE PLAN.

The City of Gig Harbor City Council enters the following Findings of Fact relating to the revised Parks and Recreation element of the City of Gig Harbor Parks, Recreation and Open Space Plan as contained in the 1996 City of Gig Harbor Parks, Recreation and Open Space Plan:

WHEREAS, the State of Washington adopted the Growth Management Act of 1990 which requires that all counties and municipalities within those counties which have experienced a growth of greater than ten percent between 1980 and 1990 prepare comprehensive plans.

WHEREAS, a Parks and Recreation element of a comprehensive plan is an optional element under the Growth Management Act (RCW 36.70A.080(1)).

WHEREAS, the City of Gig Harbor adopted a revised and updated comprehensive plan in November of 1994 (Gig Harbor City Council Ordinance No. 686), hereinafter the "Comprehensive Plan", which included a Parks and Recreation element.

WHEREAS, the revisions to the Parks and Recreation Plan element of the Comprehensive Plan as contained in the Parks, Recreation and Open Space Plan would apply to the urban growth area as identified in the adopted Comprehensive Plan.

WHEREAS, public notice for the Planning Commission Hearing was provided by publication of a legal notice in the official newspaper, *The Peninsula Gateway*, on March 13, 1996.

WHEREAS, the City Planning Commission conducted a work session with the city's park's consultant, Tom Beckwith, and city staff on March 7, 1996, and a public hearing on the revised Parks and Recreation Plan on March 21, 1996.

WHEREAS, public comment was provided by one person in attendance at the public hearing.

WHEREAS, a notice of intent to adopt was circulated to state agencies and Pierce County on March 28, 1996, pursuant to RCW 36.70A.106.

WHEREAS, the Planning Commission conducted a final work session on the Comprehensive Plan on April 4, 1996 at which meeting the Planning Commission did consider and adopt recommendations and modifications in support of the revised and updated City of Gig Harbor Parks and Recreation Plan.

WHEREAS, comment on the draft Parks, Recreation and Open Space Plan was provided by the Department of Natural Resources (letter of May 21, 1996) and Pierce County Planning and Land

Services (letter of June 6, 1996) and, where appropriate and feasible, these comments have been incorporated into the final Parks, Recreation and Open Space Plan.

WHEREAS, the draft Parks, Recreation and Open Space Plan was presented for review at the June 24 and November 12, 1996 City Council meetings.

WHEREAS, this ordinance was introduced at the City Council meeting of November 12, 1996, prior to adoption at the City Council meeting on December 9, 1996.

WHEREAS, the draft plan was forwarded with recommended changes from the City Planning Commission following a March 21, 1996 public hearing.

WHEREAS, the revised Parks and Recreation Plan as contained in the final Parks, Recreation and Open Space is internally consistent with the Comprehensive Plan of 1994 and is based upon several elements of the plan, including Land Use, Environment, Shoreline Management and Transportation.

WHEREAS, the final Parks, Recreation and Open Space Plan includes a financing strategy, including financing alternatives, for parks development over the next twenty years.

WHEREAS, an environmental determination of non-significance (DNS) was issued by the SEPA Responsible Official on June 12, 1996.

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, **ORDAINS** as follows:

Section 1. 1994 Plan Repealed. The 1994 Parks, Recreation and Open Space Plan, which currently is an element of the City of Gig Harbor Comprehensive Plan, is hereby repealed.

Section 2. 1996 Plan Adopted. The 1996 Parks, Recreation and Open Space Plan, a copy of which is attached hereto as Exhibit A, and incorporated herein by this reference, is hereby adopted.

Section 3. City's Comprehensive Plan Amended. The Comprehensive Plan of the City of Gig Harbor is hereby amended to include the 1996 Parks, Recreation and Open Space Plan.

Section 4. 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 5. Effective Date. This ordinance shall take effect and be in full force no later than five days after publication of the summary of this ordinance.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator/Clerk

Approved as to form:
Office of the City Attorney:

Filed with City Clerk:
Passed by City Council:
Date Published:
Date Effective:

**SUMMARY OF ORDINANCE NO. _____
of the City of Gig Harbor, Washington**

On the _____ 1996, the City Council of the City of Gig Harbor passed Ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR CITY COUNCIL ADOPTING A REVISED AND UPDATED CITY OF GIG HARBOR PARKS AND RECREATION PLAN AS AN AMENDMENT TO THE CITY OF GIG HARBOR COMPREHENSIVE PLAN.

The full text of this ordinance will be mailed upon request.

DATED this ___ day of _____, 1996

CITY ADMINISTRATOR, MARK HOPPEN



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: TOM ENLOW
DATE: DECEMBER 2, 1996
SUBJECT: SECOND READING - 1996 BUDGET AMENDMENT ORDINANCE

BACKGROUND

Two general fund departments require adjustments to their 1996 appropriations.

The Administration / Finance Department needs a \$40,000 budget increase due to higher legal fees than expected. Legal fees have totaled \$81,606 or 116% of budget through the September billing and may reach \$110,000, or \$40,000 over budget by the year-end billing.

Hearing Examiner and other professional services fees in the Planning / Building Department are also above expectations and may reach \$5000 over budget by year end.

Rather than increase the overall general fund and total budget, the estimated ending cash balance for the general fund is decreased from \$50,227 to \$5,227. (The actual ending cash balance will be approximately \$700,000. The difference is due to other departments' expenditures below budget and resources above budget.)

RECOMMENDATION

Staff recommends approval of the ordinance.

Filed with city clerk: 11/19/96

Passed by the city council:

Date published:

Date effective:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE 1996 BUDGET FOR THE CITY OF GIG HARBOR, WASHINGTON.

WHEREAS, adjustments to the 1996 annual appropriations are necessary to conduct city business,

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, **ORDAINS** as follows:

Section 1.

The annual appropriations in the departments and funds listed below shall be increased to the amounts shown:

<u>Fund/Dept.</u>	<u>Original Appropriations</u>	<u>Amendment</u>	<u>Amended Appropriations</u>
001-General Government			
04-Admin/Finance	331,150	40,000	351,150
14-Planning / Building	269,510	5,000	274,510
19-Ending Fund Balance	50,227	(45,000)	5,227
001-Total General Gov't.	3,509,111	-0-	3,509,111

Section 2. This ordinance shall be in force and take effect five(5) days after its publication of a summary according to law.

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this ____ day of _____, 1996.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark Hoppen
City Administrator/Clerk



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: Planning Staff
DATE: December 4, 1996
SUBJ.: Resolution Calling for Election on the Westside Annexation

INTRODUCTION/SUMMARY

The City has received notice from the Pierce County Boundary Review Board that all review proceedings have concluded and that appeal periods for the Westside Annexation have lapsed. The city may now proceed with placing the Westside Annexation on the ballot. The soonest available date is February 4, 1997.

POLICY ISSUES

A resolution calling for the election to be held on February 4, 1997, is presented to the Council for consideration. The ballot would have two propositions:

1. A proposition calling for a vote on the annexation (simple majority required).
2. A proposition on whether the residents in the Westside should or should not assume their fair-share of bonded indebtedness as the same rate of city residents, should the annexation be approved by the voters (super majority required).

Council will note that placing two propositions on the ballot does not "link" the two issues.

RECOMMENDATION

Staff recommends Council approval of the resolution.

City of Gig Harbor 1996 Comparative Property Tax Rates

Taxing District	Tax Rates Per \$1000 of Valuation		
	City Property	Westside Annexation	County Property
State	3.5534	3.5534	3.5534
Pierce County	1.5731	1.5731	1.5731
City of Gig Harbor	1.6000	1.6000	0.0000
City Excess Levy *	0.4186	0.2976	0.0000
EMS	0.2463	0.2463	0.2463
Schools	2.0607	2.0607	2.0607
Port	0.1986	0.1986	0.1986
Rural Library	0.5000	0.7094	0.7094
Fire	1.5000	1.5000	1.5000
Pierce County Roads	0.0000	0.0000	2.2096
Total	11.6507	11.7391	12.0511

Total City Valuation and Regular Property Taxes

	<u>Valuation</u>	<u>Regular Levy</u>
1996 assessed valuation	342,389,462	547,823
Estimated Westside valuation	136,001,330	217,602
Estimated valuation after annexation	478,390,792	765,425

* The excess levy rate is based on annual debt service of \$140,000. If the Westside annexation assumes the GO Debt, the rate will be reduced from .4186 per 1000 to .2976 per 1000 of valuation.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, CALLING FOR AN ELECTION TO BE HELD IN CONJUNCTION WITH THE SPECIAL ELECTION ON FEBRUARY 4, 1997 IN ORDER TO SUBMIT TWO BALLOT PROPOSITIONS TO THE VOTERS RELATED TO THE ANNEXATION OF THE PROPERTY COMMONLY KNOWN AS THE WESTSIDE ANNEXATION; ONE PROPOSITION ON THE QUESTION OF ANNEXATION AND ONE PROPOSITION ON THE QUESTION OF ASSUMPTION OF INDEBTEDNESS, ALL AS PREVIOUSLY PROVIDED IN RESOLUTION NO. 466.

WHEREAS, Resolution No. 466 of the City of Gig Harbor, passed by the City Council on March 25, 1996, initiated the process authorized by RCW 35A.14.015 for the election method annexation of the area commonly known as the Westside Annexation Area and more particularly described in Resolution No. 466; and

WHEREAS, Section 2 of Resolution No. 466 called for the required election to be held but Section 3 of the Resolution provided that the Council would establish its preferred date for the election after the annexation was approved by the Pierce County Boundary Review Board; and

WHEREAS, the Boundary Review Board issued its decision in Annexation A-96-2, Westside Annexation, on October 8, 1996 and the period for appealing that decision has now passed without the filing of an appeal; and

WHEREAS, the City Council has now determined that the election should be held on February 4, 1997, in conjunction with the special election to be held on that date and the Council therefore desires to set the date of the election and to formally request that the County Council and County Auditor call the election for the said date; NOW, THEREFORE,

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

Section 1. Call for Election - Ballot Propositions. Pursuant to Resolution No. 466 of the City of Gig Harbor, the City Council hereby calls for an election to be held in the proposed Westside Annexation Area described in said Resolution and requests that the County Council and County Auditor call the same for February 4, 1997, to be held in conjunction with the special election to be held on that date under Chapter 29.13 RCW. The purpose of the election shall be to submit two ballot propositions to the registered voters within the area proposed for annexation. The ballot propositions shall provide for the annexation of the area and for the assumption of a proportionate share of the City's indebtedness and shall be in the following form, or such other form as may be deemed appropriate by the City Attorney:

PROPOSITION NO. ____

Shall the property commonly known as the Westside Annexation Area be annexed to and become a part of the City of Gig Harbor?

FOR ANNEXATION ____

AGAINST ANNEXATION ____

PROPOSITION NO. ____

If the annexation of the Westside Annexation Area to the City of Gig Harbor is approved, shall the property be assessed and taxed at the same rate and on the same basis as the property within the City of Gig Harbor is assessed and taxed to pay for all of the then-outstanding indebtedness of the City?

YES ____

NO ____

Section 2. Election Costs. The City of Gig Harbor agrees to pay all costs associated with the annexation election.

Section 3. Authority of Mayor and Duties of City Clerk. The City Clerk is directed to file certified copies of this Resolution and Resolution No. 466 with the Clerk of the Pierce County Council and with the Pierce County Boundary Review Board. The Mayor and City Clerk are hereby authorized to take any and all further steps to ensure that the election is held upon the date specified above.

RESOLVED by the City Council this ____ day of December, 1996.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____

FILED WITH THE CITY CLERK: 12/3/96
PASSED BY THE CITY COUNCIL:
RESOLUTION NO. _____



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: UTILITIES REQUEST - RON MCPHERSON
DATE: DECEMBER 5, 1996

INFORMATION/BACKGROUND

This request for outside sewer extension was denied previously by Council. The applicant has approached city staff for alternatives to several concerns. At this time the applicant is going to seek to address project concerns before Council under the exception criteria to Chapter 13.34. Those criteria are found in Section 13.34.060 J. 1., a., b., c., and d., attached.

By way of review, this request provides sanitary sewer service for a gas station/food mart on one parcel within ULID #2 within the city's UGA on the southwest corner of the intersection of Pt. Fosdick Drive and Olympic Drive. The site presently is occupied by a real estate office served by a single driveway entrance from Pt. Fosdick Drive NW. The site is located within the Urban Growth Area (UGA) and the limits of ULID #2. The ULID assessments have been paid and a sewer stub has been extended to the property from the sanitary sewer line in Pt. Fosdick Drive NW. The existing building, however, has not connected to the sanitary sewer system.

POLICY CONSIDERATION

Planning review of the proposal indicates that the proposed development is not consistent with the proposed land use because the City of Gig Harbor Comprehensive Plan specifically prohibits gas stations on prominent corner lots such as the one in this application. Additionally, planning review indicates that certain aspects of the project do not conform to city's Design Review Guidelines, which were adopted subsequent to the applicants last appeal for services. Comments on planning review with respect to these guidelines are attached. Public Works indicates that the project is inconsistent with city transportation standards with respect to the proposed access to Olympic Drive. The applicant will provide evidence at the Council Meeting asserting that the project meets exception criteria for outside sewer extension.

RECOMMENDATION

If Council finds that the project meets exception criteria for outside sewer extension, then the project is approvable. Currently, to the extent staff has been able to ascertain, the proposal does not comply with the City of Gig Harbor's Comprehensive Plan, Zoning Code, and Design Review Standards.

13.34.020

13.34.020 Water or sewer service application.

Any person desiring to have their property connected with the city's water supply system or with sewer service shall make application at the office of the city clerk-treasurer on the appropriate form. Every such application shall be made by the owner of the property to be supplied the service, or by his/her authorized agent. The applicant must state fully the purposes for which the water and/or sewer service is required. Applicants must agree to conform to the city's rules and regulations concerning water and sewer service set forth in this title, as the same now exists or may be amended in the future. (Ord. 660 § 1, 1994).

13.34.040 Charges for water or sewer service.

Applicants for water and/or sewer service to property outside the city limits shall be charged the rates for such service as set forth in GHMC 13.04.030 (water service) and 13.32.030 (sewer service), as those code sections now exist or may hereafter be amended. All other additional charges applicable to water and/or sewer service to property within the city limits in this title shall also be imposed, where appropriate. (Ord. 660 § 1, 1994).

13.34.060 Utility extension agreement.

Every applicant for water and/or sewer service outside the city limits, except for municipal corporations or quasi-municipal corporations, such as water, sewer or fire districts making application under GHMC 13.34.070, must agree to sign an agreement with the city, which conditions the provision of the service on the following terms:

A. Agreement to Run with the Property. The agreement shall be recorded against the property in the Pierce County auditor's office, and shall constitute a covenant running with the land. All covenants and provisions of the agreement shall be binding on the owner and all other persons subsequently acquiring any right, title or interest in or to said property.

B. Warranty of Title. The agreement shall be executed by the owner of the property, who shall also warrant that he/she is authorized to enter into such agreement.

C. Costs of Design, Engineering and Construction of Extension. The owner shall agree to pay all costs of design, engineering and construction of the extension, which shall be accomplished to city standards and conform to plans approved by the city public works director. Costs of plan review and construction inspection shall also be paid by the owner.

D. Capacity Commitment Payments. The owner shall agree to pay for the city's reservation of sewer and/or water capacity, which is calculated as a percentage of the connection fee for the sewer and/or water service. Such payments shall be made under the payment schedule determined by the city.

E. Easements and Permits. The owner shall secure and obtain at the owner's sole cost and expense, all permits, easements and licenses necessary to construct the extension.

F. Dedication of Capital Facilities. The owner shall agree to dedicate all capital facilities constructed as part of the water and sewer extension (such as water or sewer main lines, pump stations, wells, etc.), at no cost to the city, upon the completion of construction, approval and acceptance by the city.

G. Connection Charges. The owner shall agree to pay the connection charges set by the city in GHMC 13.04.080C and/or 13.32.070 (as these sections now exist or may hereafter be amended), as a condition of connecting to the city water and/or sewer system. Such connection charges shall be calculated at the rate schedules applicable at the time of actual connection.

H. Agreement Not to Protest Annexation. The owner shall agree to sign a petition(s) for annexation of his/her property when requested to do so by the city.

I. Waiver of Right to Protest LID. If, at the time of execution of the agreement, the city has plans to construct certain improvements that would specially benefit the owner's property, the agreement shall specifically describe the improvement. The owner shall agree to sign a petition for the formation of an LID or ULID for the specified improvements at the time one is circulated, and to waive his/her right to protest formation of any such LID or ULID.

J. Development of Property to Conform to City Code - Exceptions. The owner shall agree to comply with all requirements of the city's land use plan, zoning, fire codes and those portions of the city building code which are referenced by the fire code, and the city public works standards when developing or redeveloping the property subject to the agreement. The city council may grant exceptions to the requirements contained in this subsection only under the following conditions:

1. The applicant must demonstrate that the proposed departure from the city's land use standards, zoning code, or public works standards would result in a development which meets the intent of the applicable provisions of the comprehensive plan, zoning code or public works stan-

dards, based upon compliance with all of the following criteria:

a. That the site of the proposed use is adequate in size and shape to accommodate such use and all yards, spaces, walls and fences, parking, loading, landscaping and other features necessary to insure compatibility with and not inconsistent with the underlying zoning district;

b. That the site for the proposed use relates to streets, adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed uses and that adequate public utilities are available to serve the proposal;

c. That the proposed use will have no significant adverse effect on existing uses or permitted uses;

d. That the establishment, maintenance and/or conducting of the uses for which the utility agreement is sought will not, under the circumstances of the particular case, be detrimental to the public welfare, injurious to the environment, nor shall the use be inconsistent with or injurious to the character of the neighborhood or contrary to its orderly development.

K. Termination for Noncompliance. In addition to all other remedies available to the city for the owner's noncompliance with the terms of the agreement, the city shall have the ability to disconnect the utility, and for that purpose may at any time enter upon the property. (Ord. 722 § 1, 1996; Ord. 697 § 2, 1995; Ord. 660 § 1, 1994).

13.34.070 Extensions for public health, safety or environmental reasons.

A. Municipal corporations or quasi-municipal corporations such as water, sewer or fire districts may make application for water or sewer service to property outside the city urban growth area boundary if, in addition to all other requirements of this title, the applicant can demonstrate that the extension is necessary to protect basic public health, safety and/or the environment. This showing shall include, among other documentation, an emergency order issued by the Department of Ecology relative to any sewer extension request.

B. The city council shall review the application and may, in its sole discretion, allow the extension under the following conditions:

1. The council finds that the requested service is financially supportable at rural densities and does not permit urban development;

2. Restrictions are placed on the hours that the city will accept sewage flow from the applicants;

3. Restrictions are placed on the amount of sewage flow or water provided to the applicant;

4. The city's NPDES permit will not be affected by the extension;

5. For extensions outside the city's urban growth boundary area, the applicant shall have responsibility for its own facilities;

6. The extension is consistent with the goals of the city's water and sewer comprehensive plans and all other applicable law, including, but not limited to, the Public Water System Coordination Act (Chapter 70.116 RCW), and the State Environmental Policy Act (Chapter 42.31C RCW);

7. Any other conditions the council considers appropriate. (Ord. 697 § 3, 1995).



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

MEMORANDUM

TO: Ray Gilmore, Planning Director
FROM: Steve Osguthorpe, Associate Planner
DATE: December 4, 1996

SUBJECT: McPherson Chevron Mini-mart

I have reviewed the proposed Chevron Mini-mart for conformance with the Design Manual and have identified the following issues which must be addressed and/or revised:

1. All outdoor fixtures, furnishings, accessories, and right-of-way paving materials must be approved by the City to assure coordinated furniture/fixture design in this area of town.
2. Primary walkways leading from street to front entrance must include significant landscaping on one side and be accented with lighting and seating areas. The current proposal is lacking in this regard. (Design Manual pg. 29).
3. Each building (i.e., canopy and store) must be linked with a secondary walkway. The walkway must be visually distinct from the parking lot and driveway surfaces. Paint or striping will not suffice to meet this requirement. The walkway may not cross parking stalls. (Design Manual pg. 29-30).
4. The curb cut is too wide. Cuts are limited to 24 feet for a two lane driveway, and 34 feet for a 3 lane driveway. (Design Manual pg. 37).
5. Parking may not be located directly in front of the building entrance. The view of the entrance must be unobstructed by parked cars. The handicap parking stall must therefore be relocated. (Design Manual pg. 37).
6. 20% of existing significant vegetation must be incorporated into the site plan. A tree survey will be required to determine conformance. (Design Manual pg. 44).
7. All retained trees must be adequately protected during construction. Need details how this will be done. (Design Manual pg. 46).

8. A Mechanical irrigation plan that provides full coverage over all areas with transplanted or nursery stock plantings is required. (Design Manual pg. 47).
9. A landscape plan that conforms to Chapter 17.78 of the Gig Harbor Municipal Code is required. (Design Manual pg. 48). It is immediately apparent that the plan does not provide required perimeter area landscaping, particularly along the back (south) side where a twenty-foot landscaped setback is required.
10. Incorporation of significant trees and clusters of trees are required on prominent parcels. Without a tree survey, it is difficult to determine if the plan complies with this. (Design Manual pg. 51).
11. The structure must be design with a "stately" appearance as defined in the Design Manual. The design does not conform to the "stately" definition. The required pitched roof form would help to achieve this if one of the proposed towers were to rise above the pitched roof form, so as to provide a "cascading" roof line (i.e., the smaller pitched roof of the tower cascading down onto a larger pitched roof of the main structure. (Design Manual pg. 51).
12. All parking, loading, and service areas must be located or screened so as to not be seen 200 feet or more from the property from any public right-of-way. Conformance to this will require more significant screening along the north and west property lines. (Design Manual pg. 51).
13. The front side of the building should not be screened by landscaping exceeding 3 feet in height. Landscaping should be used to "frame" the building - not hide the building. The intent is to emphasize a "stately" or "landmark" building design (as defined in the Design Manual Glossary) rather than to hide an blank wall. (Design Manual pg. 51).
14. A continuous tree canopy is required through-out the large parking lot as per design manual standards. (Design Manual 54).
15. Full lighting details must be submitted for review and shall meet the following Design manual criteria:
 - Light sources must be hidden from public view (including lighting under the canopy) (pg. 56).
 - Lighting must be downward directional (pg. 56).
 - A single light source may not be used to light a large area (pg. 57).
 - Excessive light throw shall be avoided (pg. 57).
 - All outdoor light fixtures must conform to approved design (pg. 57).
 - Light fixtures may not have an industrial appearance (pg. 58).
 - Bright lighting is not allowed on the outdoor surfaces of the building (pg. 63).
 - Colored lighting is not allowed on the building (pg. 63).
 - Utility lighting must be applied sparingly (pg. 63).

16. Illuminated panels are not allowed. Although canopy details have not been submitted, Chevron typically incorporates white illuminated panels above the pumps. (pg. 63).
17. Prominent facades do not meet all design criteria pertaining to solid/void widow ratio requirements described on page 70 of the Design Manual (other options on pg. 71 of the manual may be considered) (Design Manual pg. 64).
18. The proposed roof design is not acceptable. Single-story buildings must be of a pitched roof design (Design Manual pg. 65-67).
19. The proposed stucco siding material lends a "Southern California" look to the building does not conform to the siding standards of the Design Manual. It is not consistent with the traditional clapboard, cedar and stone siding of surrounding development. A clapboard siding would be appropriate and would better coordinate with the surrounding development as required on prominent parcels. (Design Manual pg. 51 & 71).
20. Tenant-specific motifs including signature back-lit panels are to be avoided (Design Manual pg. 72).
21. A complete color palette must be submitted which conforms to all Design Manual criteria (Design Manual pg. 74-75).
22. The building design does not conform to the Design Manual's primary structure criteria (see also comment #17 above) (Design Manual pg. 76).
23. The secondary structure on the site (canopy) may conform to all design manual criteria (e.g., roof termination, illumination) Elevation drawings of the canopy must be submitted to determine conformance. (Design Manual pg. 77).

The project may not comply with the following zoning code requirements:

1. Impervious coverage calculations are required. Impervious coverage is limited to 70% of the site. (GHMC Section 17.36.070).
2. Exterior mechanical equipment, including air-conditioners, heating equipment, cooling and ventilating equipment, pumps and heaters and all other mechanical devices shall be screened. (GHMC Section 17.36.120).
3. The rear yard setback requirement (along the south property line) is 20 feet (GHMC Section 17.36.060(B)). All setbacks must be fully landscaped as per Section 17.78.070. Areas of native vegetation which are designated as landscape or buffer areas shall be subject to a 10-foot-wide no-construction zone and shall be protected by a temporary perimeter fence. Clearing, grading or contour alteration is not permitted within this no-construction area unless a qualified arborist provides written documentation that proposed construction

activity within the 10-foot setback will not harm existing vegetation. (GHMC Section 17.78.050(D)).

4. The project must fully comply with parking lot landscape standards in Section 17.78.080. The project may not comply with the 3-foot high visual screening required along the street frontage.
5. All utilities must be so located as to not conflict with proposed areas of vegetation preservation.
6. The project must conform to the City's sign code.

interoffice

MEMORANDUM

to: Ray Gilmore, Planning Director
cc:
from: Steve Bowman
re: New MiniMart on Olympic Drive
date: October 12, 1996

Please consider the following as my comments to the application for the project stated above:

1. Fire flow must be provided to within 150 FT of all portions of the building in accordance with the Section 10.401, and Table A-III-A-1, 1994 Uniform Fire Code

Existing fire flow is being provided by Rainier View Water Company in Pt. Fosdick Drive (Verification must be provided this department to show that adequate fire flow is available). Fire flow is required in accordance with Table A-III-A-1, 1994 UFC. A 3hr duration, 3,000 gpm at 20 psi fire flow is required for a 3,640 sqft building of Type V-N construction where a gasoline pump island is provided.

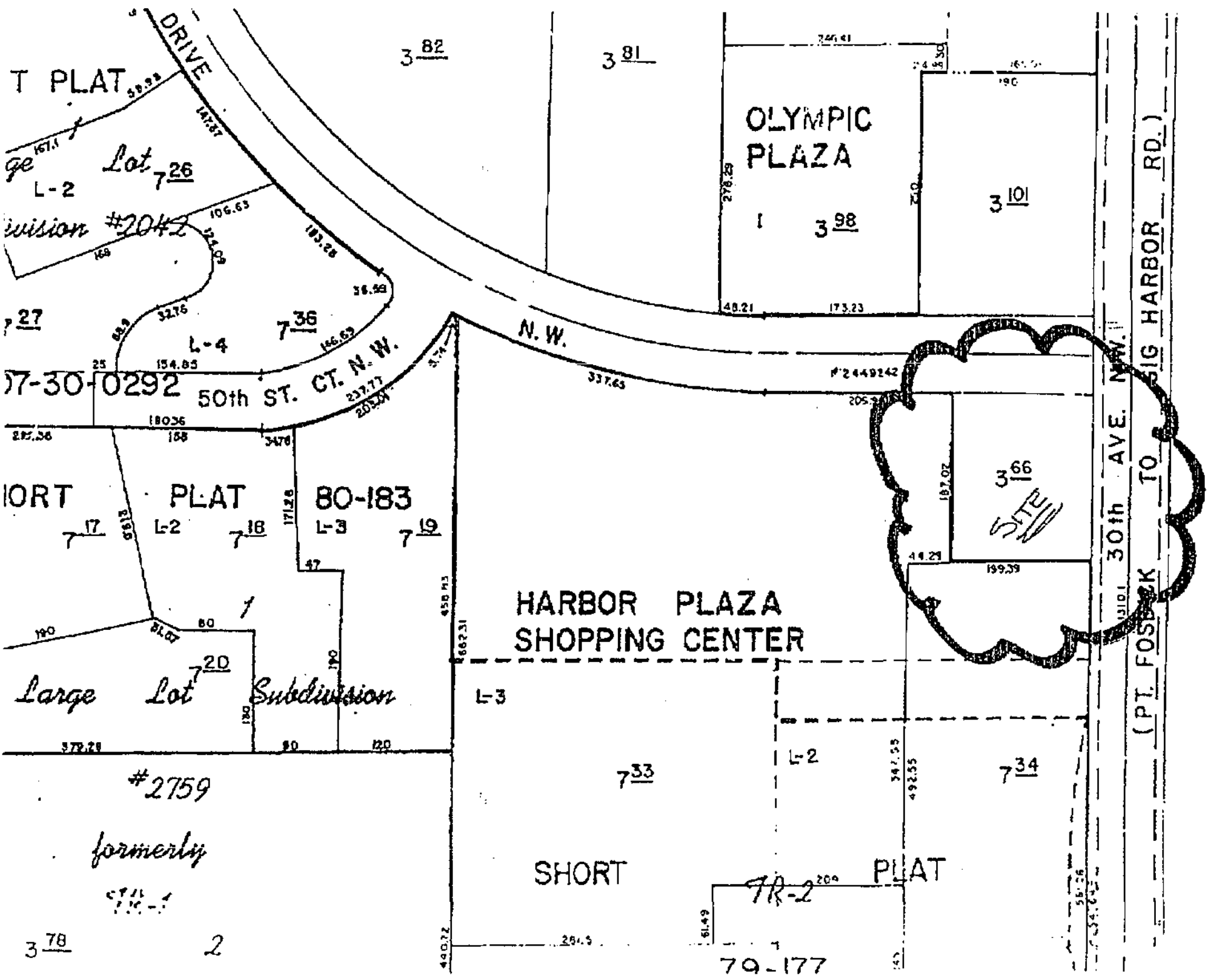
2. REQUIRED NUMBER OF HYDRANTS (Table A-III-B-1):

A fire hydrant will be required within 150 FT of all portions of each building, new fire hydrants must be located on Olympic Drive & Point Fosdick Drive on right side of the two entrances to the site.

3. Access around each building must be provided to within 150 FT of all portions of each building in accordance with Chapter 10, 1994 Uniform Fire Code. Setup areas and fire lanes with 24ft wide roadways and maximum grades of 15% around the buildings must be provided in accordance with City of Gig Harbor Fire Code requirements.
4. The canopy must be of non-combustible construction and have 13'-6" minimum height clearance for emergency vehicles.
5. The building must be accessible to the handicapped in accordance with the WA State Regulations for Making Buildings Accessible (Chapter 11, 1994 UBC as amended by the WA State Building Code Council). An accessible walkway will be required from

the public sidewalk to the entrance of the building.

6. A Knox Box must be installed to provide access to each building. Knox Box(s) must be ordered from Pierce Co. Fire District No. 5.
7. Auto-fire alarm and sprinkler systems will be required.
8. This is not a complete plan review. Additional items may be required upon application for a building permit and application for site plan design review.



T PLAT

ge L-2 Lot 726
 Division #2042

727
 L-4 736
 50th ST. CT. N.W.

SHORT PLAT 80-183
 L-2 717 L-3 718 L-3 719

Large Lot 720 *Subdivision*

#2759
 formerly

717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800

OLYMPIC PLAZA

HARBOR PLAZA SHOPPING CENTER

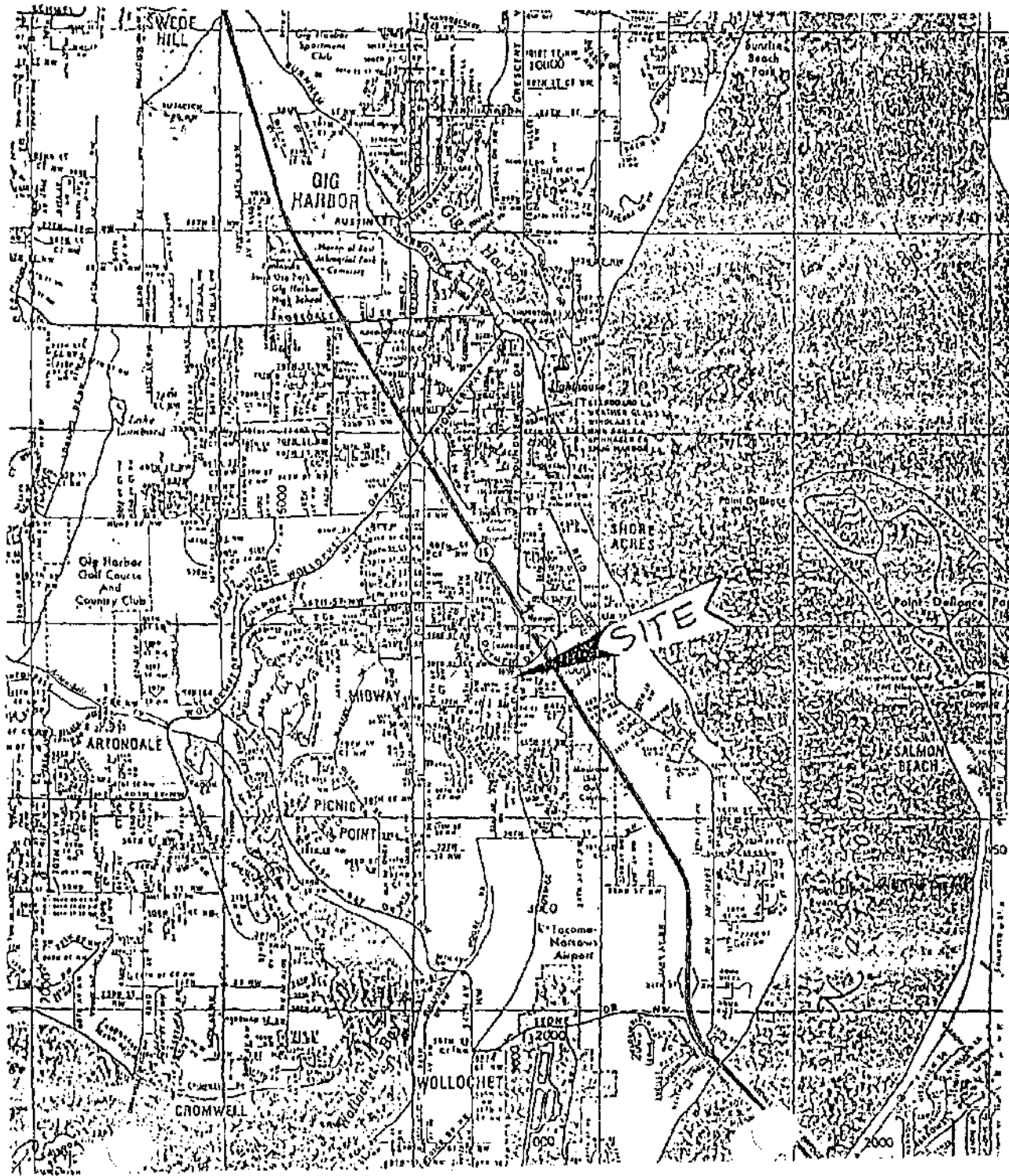
SHORT PLAT

30th AVE. N.W. (PT. FOSEBCK TO BIG HARBOR RD.)

M/11

TR-2

79-177



MAYOR'S REPORT

December 9, 1996



MORE ON EMERGENCY PREPAREDNESS

Yes, it's a tough time to talk about disasters but a good time to talk about preparation for one. It's a good time to prepare a survival kit for someone you love to carry in their car.

It's a good to me to put a flashlight in every Christmas Stocking. The latest word from the survival expert is DON'T LIGHT A MATCH after an earthquake until you have checked all the propane and natural gas lines or have shut them off. So much for all those candles you've collected. Save them, of course, but first use a flashlight. There should be a flashlight in every vehicle and one in every room of the house. (No, I do not own stock in EverReady!)

The emergency professionals have finished the Emergency Operations Center (E.O.C.) located next door to the Fire District #5 Station on Bujacich Road. I hope you all have had a chance to tour the facility. The ribbon cutting was Friday, December 6th at 3:00 p.m.

This facility will provide the training rooms for the Civilian Emergency Response Team (C.E.R.T.) and Neighborhood Assistant Teams (N.A.T.s)

The C.E.R.T. training for residents in the city will be provided by Bill Lokey and Tom Sutton of Pierce County Emergency Management through our contract. Additional C.E.R.T. training for county residents will be provided by trained personnel from Fire District #5. An estimated 70 volunteers will need to be C.E.R.T. trained to manage emergency response throughout the region by being the neighborhood conduit to the E.O.C.

The other and most important training for the N.A.T. will be provided by the Gig Harbor Key Peninsula Emergency Preparedness Committee. The N.A.T. will assess the resources and physical condition of residents in a 15 to 20 home assigned area. In the event of a major earthquake, neighbors will be depending upon each other for help. We will need volunteers for these Neighborhood Assistant Teams.

A letter will be sent to residents of the city asking for volunteers willing to be trained for C.E.R.T.s and N.A.T.s. Over the past four years, over 4,000 citizens on the Peninsula have received emergency preparedness training by the volunteer G.H.K.P. Emergency Preparedness Committee. The N.A.T. training coming in the near future is a continuation of that program initiated by Shirley Rettig.

In the meantime, continue to read the Emergency Preparedness articles published frequently in the Gateway and buy those flashlights!

DATE: December 6, 1996
TO: City Council
FROM: Mitch Barker
SUBJECT: November Information from PD

Attached are the activity statistics for November 1996.

All full time personnel received night firearms training in November. Det. Entze attended an interview/interrogation training program. Lt. Colberg and I attended a one day Domestic Violence update seminar.

Seven Reserve Officers provided 290.5 hours of service in November. This included 224 hours of patrol time, 62.5 hours of training, and 4 hours in other duties. Six reserves attended night firearms training, six attended flashlight defensive tactics, and four completed state ACCESS Level II computer training.

Explorers contributed over 108 hours to the city in November. This included four ride-alongs, two regular meetings, a special meeting, and three Explorers attending a 16 hour training seminar. Our Explorer post was selected as the top post for 1996 and we have been awarded the 1996 Crime prevention/Community Policing Award. This award completes an outstanding season for our Explorers. In a very down note, Explorer Jacob Collen was critically injured in a non duty related shooting incident in November. Jake is recovering and we will continue to assist him and his family in the process. Jake had no insurance at the time he was injured. A fund has been established to help Jake pay what is sure to be monumental medical costs. Donations can be made at any Key Bank branch.

The Marine Services Unit logger 18 hours for November. This was all in administrative or maintenance time. We will use the boat in December for two special events before returning it to storage for the winter. We have been given preliminary figures for the state MSU funding for 1997. Due to the formula used by Pierce County, we will lose almost \$4000 from the 1996 total. We do not agree with the formula and have notified the county and state of our concerns. We will continue to make attempts to change the formula to make it equitable.

We have obtained the needed equipment to begin training two reserves for bike patrol duties. The two trainees have begun riding on their own to get in shape and training should be completed by the end of December.



MITCH BARKER
Chief of Police

City of Gig Harbor Police Dept.
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-2236

GIG HARBOR POLICE DEPARTMENT

MONTHLY ACTIVITY REPORT

November 1996

	<u>NOV</u> <u>1996</u>	<u>YTD</u> <u>1996</u>	<u>YTD</u> <u>1995</u>	<u>%chg to</u> <u>1995</u>
CALLS FOR SERVICE	<u>197</u>	<u>2811</u>	<u>3026</u>	<u>- 7</u>
CRIMINAL TRAFFIC	<u>9</u>	<u>144</u>	<u>207</u>	<u>- 30</u>
TRAFFIC INFRACTIONS	<u>44</u>	<u>647</u>	<u>783</u>	<u>- 17</u>
DUI ARRESTS	<u>2</u>	<u>30</u>	<u>41</u>	<u>- 26</u>
FELONY ARRESTS	<u>1</u>	<u>29</u>	<u>71</u>	<u>- 59</u>
MISDEMEANOR ARRESTS	<u>21</u>	<u>153</u>	<u>152</u>	<u>+ 0.6</u>
WARRANT ARRESTS	<u>5</u>	<u>61</u>	<u>67</u>	<u>- 8</u>
CASE REPORTS	<u>61</u>	<u>762</u>	<u>769</u>	<u>- 0.9</u>
REPORTABLE VEHICLE ACCIDENTS	<u>9</u>	<u>89</u>	<u>71</u>	<u>+ 25</u>