

Gig Harbor City Council Meeting

**November 22, 2004
7:00 p.m.**



"THE MARITIME CITY"

GIG HARBOR CITY COUNCIL MEETING
November 22, 2004 - 7:00 p.m.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

PUBLIC HEARINGS:

1. 2005 Proposed Budget – Final Hearing.
2. North Donkey Creek Annexation.
3. Six-Year Transportation Improvement Program.
4. Adopting a Revised Comprehensive Plan and Implementing Development Regulations.

CONSENT AGENDA:

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

1. Approval of the Minutes of City Council Meeting of November 8, 2004.
2. Contract for Attorney Services.
3. Stinson Avenue Pedestrian Improvement Project - Asphalt Paving Contract.
4. Pump Station 2A Wet Well Construction – Contract Bid Award.
5. Renewal of Emergency Management Services Agreement with Pierce County.
6. Liquor License Renewals: The Harbor Kitchen; Terracciano's.
7. Approval of Payment of Bills for November 22, 2004:
Checks #45565 through #45673 in the amount of \$340,080.07.

OLD BUSINESS:

1. Second Reading of Ordinance – 2005 Proposed Budget.
2. Second Reading of Ordinance – Amendment to the Planned Community Development Residential Medium Density (PCD-RMD) Zone Performance Standards.
3. Reintroduction / First Reading of Ordinance – Clarifying Maximum House Size for Building Moratorium.

NEW BUSINESS:

1. First Reading of Ordinance – Amending the 2004 Budget.
2. First Reading of Ordinance – Repealing Ordinance No. 966 and Terminating the Water Moratorium.
3. First Reading of Ordinance - Adopting a Revised Comprehensive Plan and Implementing Development Regulations as Required by State Statute (RCW 36.70A.130).
4. Resolution – Accepting North Donkey Creek Annexation Petition.
5. Resolution – Adopting the Six-Year Transportation Program.

STAFF REPORT:

1. John Vodopich, Community Development Director – Third Quarter 2004 Building Permit Data.

PUBLIC COMMENT:

COUNCIL COMMENTS / MAYOR'S REPORT:

ANNOUNCEMENT OF OTHER MEETINGS:

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(b) and pending litigation per RCW 42.30.110(1)(i).

ADJOURN:

GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 8, 2004

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Dick, Picinich, Ruffo and Mayor Wilbert.

CALL TO ORDER: 7:05 p.m.

PLEDGE OF ALLEGIANCE:

MUSICAL TRIBUTE IN HONOR OF VETERANS' DAY: Carl Reneman, PHS Senior, singing *America the Beautiful*.

SPECIAL PRESENTATION: Emily Fisher, winner of the Gig Harbor Arts Commission Holiday Banner Contest.

Mayor Wilbert presented Emily with a matted copy of the banners as a thank you for the design she submitted for the contest when she was in second grade.

PUBLIC HEARINGS:

1. **2005 Proposed Budget.** The Mayor opened the public hearing at 7:07 p.m. David Rodenbach, Finance Director, explained that this is the first of two public hearings on the proposed budget. He said two changes had been made since the preliminary budget. The first change allowed a transfer of money from capital outlays to the Parks Development Fund. The second change was to replace the Harborview Drive Sidewalk project with an objective to do a comprehensive transportation analysis. There were no questions or comments, and the public hearing was closed at 7:09 p.m.

The public hearing on both the Amendments to the Design Manual and the Amendments to Chapters in Title 17 were combined, as the two items are related. The Mayor opened the public hearing at 7:09 p.m.

2. **Amending Design Manual.** Steve Osguthorpe, Planning/Building Manager, gave a brief history of the process to bring the Design Manual Amends to Council for adoption. He said that at the first reading of the ordinance, he submitted a redline format, and since that time, a more formalized version had been developed for consideration. He gave an overview of the revisions. He then commented that the changes to Title 17 are intended to make the all the chapters in the zoning code consistent with the Design Manual standards.

Mr. Osguthorpe said that the only public comments that had been received since the worksessions had come from the Peninsula School District, pertaining to the request to include standards to allow increased height in the P-1 District. He reminded Council that in the worksessions, staff had suggested that a better way to address their concerns would be through amending the Performance Based Height Standards. This would allow a discretionary review process that would achieve the school's objectives and

allow public review versus a blanket increase in height allowance. He said that he is confident that language can be developed to address this concern.

Mr. Osguthorpe recommended that Section 4, which pertains to public rights-of-way, be deleted from the Design Manual and that Staff be given direction to make changes in the Public Works Standards so that the City Engineer would have the necessary input in regards to health and safety issues. He said that this would include a process for public and Design Review Board review of the changes. He explained the concern is that the items in the Design Manual are not typically found outside the Public Works Standards.

Councilmember Picinich stressed the importance of moving forward with the school district issue and asked staff for a timeline. Mr. Osguthorpe said that he could have draft language ready for consideration for the Planning Commission at their next worksession so that it would be ready for public hearing. He said that he had already met with school district representatives to discuss ways to address their need without creating unforeseen consequences.

Jill Guernsey. Ms. Guernsey said that she is a resident of the City of Gig Harbor and a member of the Peninsula School District Board of Directors. Ms. Guernsey introduced Owen Dennison, AHBL. Ms. Guernsey used a rendering to illustrate Phase I and Phase II of the Harbor Heights Middle School project, and the relation of the height between the existing buildings and the proposed gym and fine arts building. She then gave the background information for this two-phase project.

Ms. Guernsey explained that representatives of the district had attended workshops and had several discussions with staff, the Mayor and Councilmembers, who have all indicated their support for Phase II to be completed. She said that staff has promised to develop a process to address their concerns, but there has been no change in the height allowance for the P-I districts included in the ordinance. She stressed that the school district needs more than a discretionary process; they need an outright lifting of the height limitation in the P-I district.

She voiced concern that the second reading of the ordinance adopting amendments to the Design Manual was before Council without any resolution for the issues facing them. She asked that the ordinance not be passed in order to allow additional time to work with staff to develop language that would address their concerns.

Ms. Guernsey and Mr. Dennison addressed Council questions regarding the height requirements of Phase II and how they arrived at the 55' height requirement. After further discussion, Council agreed that this is an urgent concern, but that it is also site specific. There were more questions regarding the height requirement. Jeff Green, Project Manager for AHBL, explained how they arrived at the measurement 55' height requirement.

Steve Osguthorpe explained that this is not a Design Manual issue, but something that could be addressed using the performance based standards, and without holding up passage of the ordinance to adopt the Design Manual.

Wade Perrow – 9119 North Harborview Drive. Mr. Perrow cautioned Council about moving forward in haste to adopt the Design Manual before the moratorium on building runs out, for fear of what may be built. He then commented on the school's proposed Phase II. He explained that he has no objection to the construction of the gymnasium, but he has reservations about changing the height allowance for the entire site. He added that it would be hypocritical to allow the additional height on this property, but require the property he owns behind the school to remain in the restrictive height overlay district. He said that he trusts that fairness will prevail and that he appreciated the efforts to protect everyone's interests.

Mr. Perrow addressed questions from Council regarding what he believed would be an acceptable solution. Mr. Perrow said that there has to be the same underlying zoning for the P-1 zones, but an opportunity for site specific considerations. He said that 35' feet would work for school gymnasiums, if you use a flat roof. Councilmember Dick pointed out that flat roofs are discouraged in the Design Manual. Mr. Perrow then pointed out the limited P-1 properties in city limits, explaining that the only way more could be zoned this designation is through Council approval. He said that if a specific height were to be set for this particular site, it would be an inappropriate "spot zoning."

3. Amending Chapters in Title 17. This was discussed in the prior public hearing.

CONSENT AGENDA:

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

1. Approval of the minutes of Council Worksession on the Design Review Manual of October 11, 2004 and City Council Meeting of October 25, 2004.
2. Correspondence / Proclamations: a) Letter from NW Lions Eyeglass Recycling Center
b) Letter in Support of Eddon Boat Proposition #1.
3. Resolution No. 633 Amending Civic Center Facilities Use Rules.
4. Sewage Pump Station 2A Replacement Project Redesign Contract – Amendment No. 1.
5. Liquor License Applications – Target; Cigarland.
6. Approval of Payment of Bills for November 8, 2004:
Checks #45457 through #45564 in the amount of \$218,162.25.
7. Approval of Payroll for the month of October:
Checks #3476 through #3512 and direct deposits in the amount of \$251,000.23.

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

OLD BUSINESS:

1. Second Reading of Ordinance – 2004 Property Tax Levy. David Rodenbach said that the total levy recommended for 2005 is \$1,403,072. He recommended approval of the ordinance and offered to answer questions.

MOTION: Move to adopt Ordinance No. 973.
Ruffo / Picinich – unanimously approved.

2. Second Reading of Ordinance – Amending Design Manual. Steve Osguthorpe said that staff recommends approval of the Design Manual as presented with the provision that Section 4 not be included.

Mr. Osguthorpe and Carol Morris addressed Council's questions about removing Section 4 from the Design Manual and integrating it into the Public Works Standards, explaining that the concern is the possible internal conflict with design and functionality with regards to public health and safety issues. They also addressed questions regarding changes in the Historical District map.

There was continued discussion on the school district's concerns and the urgency of coming back with a solution to allow them to build the gymnasium. Mr. Osguthorpe reassured Council that by passing the Design Manual now, he would be free to focus on this issue.

MOTION: Move to adopt Ordinance No. 974, deleting Section 4.
Picinich / Ruffo –

After further discussion regarding addressing the school district concerns through a Performance Based process, possible delays and the deletion of Section 4, Councilmember Picinich called for the question.

MOTION: Move the previous question.
Picinich / Ruffo – unanimously approved.

MOTION: Move to adopt Ordinance No. 974, deleting Section 4.
Picinich / Ruffo – unanimously approved.

3. Second Reading of Ordinance – Amending Chapters in Title 17.

MOTION: Move to adopt Ordinance No. 975 amending Title 17 to ensure consistency with the Design Manual.
Picinich / Young –

Councilmember Franich voiced reservation with adoption of these amendments, but said that he couldn't identify a specific example. Councilmembers explained that this

would link and cross-reference the Design Manual, and make it easier for the public to be able to know what to do without having to refer to two documents.

Councilmember Ruffo called for the question. No vote was taken on the call for the question, but the vote was taken on the pending motion.

MOTION: Move to adopt Ordinance No. 975.
Ruffo / Picinich – unanimously approved.

4. Pierce County 2005 Comprehensive Plan Amendments. Mr. Vodopich gave a brief overview to the Pierce County Comprehensive Plan and the discussion to add 31 acres that is currently being served by city water to the city's Urban Growth Area. Mr. Vodopich explained that since the last meeting, he had mailed two letters to the property owners and had attempted to contact them by telephone. He said that the staff memo summarizes the contact information. In addition, he just received an e-mail from Todd Lord, from Reich Land, Inc. Mr. Vodopich said that the final decision rests with Pierce County, and if approved, the property would receive an urban zoning designation of 4 dwelling units per acre, which is drastically different from the existing Rural 5 and Rural 10 designation.

Mr. Vodopich suggested that Council take the facts of the situation into consideration with any public testimony, and then determine whether or not to submit an application. If the area is not included in the UGA, and property owners approach the city to receive water the request would be denied, and they could then take the letter of denial to the Health Department and request to drill a well. He addressed questions about the zoning designation.

Mark Veitenhaus – 4625 NE 73rd St. Seattle. Mr. Vietenhans spoke in favor of the 2005 application for amendment to the Comprehensive Plan to include the 31 acres. He explained that he has two lots in this area and about five years ago, he was unable to obtain water from Washington Water Company, because the property is located in the city's water service area. The City of Gig Harbor would not extend water because he is outside the UGA. If Pierce County includes this property in the UGA, he could then obtain water from the city. He thanked Councilmembers for their consideration.

Todd Lord – Reich Land Inc. - 4411 Memory Lane, University Place. Mr. Lord said that he is speaking in support of including this area in the city's UGA. He said that they had acquired property there about a month ago, and they are working with Mr. Paulson. He answered Council's questions about re-development or expansion of the property.

Rhanna Lovrovich 2910 29th Street. Ms. Lovrovich said that she owns one of the parcels in the area. She said that her husband has talked to most of the Councilmembers and Mike Krueger, Pierce County, and Terry Lee, County Councilmember about their opposition to their property being included in the Urban Growth Area. She said that they moved there because it is rural but close in, explaining further that if this passes, Reich has eight acres that could be developed to the four

units per acre density. She said that she believes that more comments had been received against inclusion than in support.

Councilmember Ruffo asked how this came to staff. John Vodopich explained that a property owner, Robert Cohen, approached the city about a year and a half ago requesting water service. This was denied, and Mr. Cohen asked how this could happen when this is the city's water service area. Mr. Vodopich said that he explained that without inclusion in the UGA the city could no longer extend services, and the recommendation to Pierce County to do so, seemed like a logical step.

Councilmember Ekberg asked if any effort had been made to contact Washington Water to see if they would extend water service to this area. Mr. Vodopich explained that it is his understanding Washington Water could not provide water service.

Councilmembers agreed that this seems like it should be a simple housekeeping item, but the large increase in density is undesirable.

Councilmember Young explained this is a problem caused by the Growth Management Act. He agreed that the property should stay rural in nature, but at the same time, it is foolish to duplicate public services. He said that the legislative intent was not to have lots of independent wells. He recommended contacting our representatives to see if the deficiencies could be fixed to allow the city to continue to serve the area.

Mark Hoppen, City Administrator, said that staff would look into finding alternatives.

NEW BUSINESS:

1. First Reading of Ordinance – 2005 Proposed Budget. David Rodenbach said that he had nothing to add from the public hearing, and offered to answer questions. This will return for a second reading at the next meeting.

Councilmember Franich proposed an amendment to the Building Operations Fund to include an ADA accessible entry-way to the front of the Civic Center. Councilmembers supported this amendment and John Vodopich said that he would obtain a quote to do this.

2. First Reading of Ordinance – Amendment to the Planned Community Development Residential Medium Density (PCD-RMD) Zone Performance Standards. Steve Osguthorpe explained that this ordinance pertains to a residential-medium development zone in the Gig Harbor North area. He gave an overview of contradictory provisions that currently exist and which this ordinance was drafted to address. He explained Carl Halsan has proposed a text amendment that would provide a minimum-based density of five and a maximum of eight dwelling units per acre. With that change, a developer would have a range to work with in order to calculate bonus densities.

Mr. Osguthorpe said that in addition, this proposal would provide an allowance for a single-family plat to apply the impervious coverage provision for the entire site rather

than a parcel-by-parcel basis. The final provision would reduce the buffering requirement on abutting residential developments. He stressed that the setbacks have been addressed in the update of the Design Manual, and recommended striking Section Two from the ordinance.

Councilmember Dick recommended an amendment to the language to clarify the buffering requirements. Mr. Osguthorpe then addressed Council questions on setbacks and impervious coverage. He recommended that if Council wished to see a development using these types of standards, that Poulsbo Place or Northwest Landing in DuPont are two examples.

Councilmember Franich voiced concern that this type of development would not fit the character of Gig Harbor. Councilmembers pointed out that the alternative to this is apartment buildings. This will return for a second reading at the next meeting.

3. First Reading of Ordinance – Clarifying Maximum House Size for Building Moratorium. Steve Osguthorpe explained that when Council adopted a building size moratorium, a 3,500 s.f. limit was specified which included garages in the measurable building size. Covered decks, carports and porches were not discussed, and when this came up in a recent application, staff relied upon the definition of building in the code that includes these things. Because of the inclusion of these spaces, a recent application exceeded the 3,500 s.f. limit. At the last meeting and staff was directed to amend the language to be more specific to this issue for Council consideration. He gave an overview of the amended language and offered to answer questions.

Councilmembers discussed the definition of a carport as opposed to a garage. They further discussed the option to leave the language in the moratorium as is; to leave the language as is, but increasing the building size limitation to 4,000 s.f.; or to include the amended language drafted by staff.

Councilmember Ekberg discussed which option would meet the intent of the moratorium. Councilmember Ruffo suggested that staff amend the ordinance to increase the limit to 4,000 s.f., but to leave the rest of the language alone. Councilmember Picinich said that he would rather see it increased to 4,500 s.f. Councilmember Dick pointed out that the purpose of the moratorium is to prevent the character of the neighborhood from changing until some agreed consistency can be established.

Steve Osguthorpe offered to find the square footage of some of the homes along the waterfront and bring this information back.

Rosanne Sachson – 3502 Harborview Drive. Ms. Sachson asked Council to pull into any of the parking lots on the water side and look across the harbor to see what size those houses are. She said that the city could end up with those same kinds of problems if we aren't careful. She then thanked the Mayor and Councilmember Dick, Steve Osguthorpe and members of the audience for attending the Washington Trust

event. She said that two videos were shown about this problem happening nationwide. She offered these videos so that Council can see what is going on and some solutions that are being used. She then suggested that the moratorium could be extended to allow more time for what lies ahead to consider building size and rooflines.

Dawn Sadler – 7508 Pioneer Way. Ms. Sadler thanked Councilmember Young for bringing this issue forward. She then suggested that Council accept the recommendation for 3500 s.f. limit for enclosed space, excluding overhangs for outside patios. She said that she has a small carport that should also be excluded. She explained that she believes that the 3500 limit is intended for enclosed space, and asked that the exclusion be adopted until the moratorium is over.

Doug Sorensen - 9409 North Harborview Drive. Mr. Sorensen said that there aren't any lots big enough on the waterfront to build a 4000 s.f. house. He spoke in favor of the comments made by Ms. Sadler. He said that the original recommendation by Mr. Vodopich was for "living space," but now everything has been included in that. He suggested that Council either accept the amendment or to just include 3500 s.f. of living space only.

Linda Peterson – (no address given). Ms. Peterson said that she has sold real estate here for 19 years and has seen the harbor grow, stressing that having a good standard is a move in the right direction. She said she was surprised at the difficulty in arriving at a decision. She said that having an interpretation of "living space" that is different than every one else's will make the staff's job more difficult. She said that the moratorium is good, because people coming in are going to want to change things, and you can't control people's taste but you can control views by limiting the living space and garage size. She said that you shouldn't include decks or carports as you can see through these and they don't affect views. She said that you have to be clear on the definition of living space.

Councilmember Franich left the meeting at this time.

STAFF REPORTS:

1. Steve Osguthorpe, Planning/Building Manager – Appointment of a Design Review Procedures Committee. Mr. Osguthorpe gave an overview of the recommended appointment of a Design Review Procedures Committee to include Councilmembers Conan and Franich, and the City Attorney, Carol Morris. Chairman of the DRB, Chuck Hunter, offered to serve along with Lita Dawn Stanton. Mr. Osguthorpe said that he thought it would be appropriate to add one more Councilmember. He said that the committee was scheduled to meet on November 15th, November 29th, and December 6th, but that Councilmember Conan has requested that the November 15th meeting be moved to the 16th due to a scheduling conflict.

Councilmember Ekberg asked if any thought had been given to include a member from the general public. Councilmember Young offered to serve, and after further

discussion, it was decided to leave the committee with three Councilmembers, two DRB members, and staff.

2. Chief Davis - GHPD October Stats. No verbal report given.

PUBLIC COMMENT:

Mayor Wilbert introduced Doug McDonald, a retired teacher from Peninsula High School, who was involved with the building of the replica of the Gig for the 1987-88 Centennial Celebration. Mr. McDonald explained that with the passage of the bond to purchase the Eddon Boat Property, there is an opportunity to store the Gig here for educational and public use. He offered to put together a viewing of the video tapes of the process to build the Gig.

Doug Sorensen - 9409 North Harborview Drive. Mr. Sorensen asked Council to tell him how wide a house can be legally built in the historic district on two 25' lots. Carol Morris cautioned Council that they are not authorized to give code interpretations. Mr. Sorensen then answered that a five foot building could be constructed. He said that many lots in the historical district are 25' and 50' wide and do not meet the requirements to build nor is there the ability to combine lots. He explained that he would have to go through the variance process in order to be able to build on his property.

Mr. Sorensen continued to say that he had been asked to put together a text amendment for Title 16, and when he did, the City Attorney said she could not recommend approval. Mr. Sorensen read a section from Chapter 16.03.003, stressing that no one on the waterfront could ever meet the requirement of this section. The other issue is the difference between a lot of record and a parcel and which the city uses for calculation. He asked Council to consider a study of the problems in the code and to find a solution.

Ms. Morris advised Mr. Sorensen to talk to staff to determine the best way to make an application for a text amendment with assistance from a personal attorney. Mr. Sorensen said that because several citizens are affected by this problem, and because it was brought about with past changes in zoning, it should be up to the city to step forward and make the text change. He again asked if Council would be able to schedule a worksession to address these concerns.

Councilmember Young said that he would look into this.

Robert Winskill - 3805 Harborview Drive. Mr. Winskill, tenant of the Eddon Boat Shop, offered his congratulations to the Council and staff on the passing of the bond to purchase the property. He said that there will be lots of issues to be resolved and extended an offer for everyone to come down and have a look around the property.

Mayor Wilbert announced that the Ad Hoc Committee for the Eddon Boat Property, comprised of John McMillan, Lita Dawn Stanton, Chuck Hunter, Guy Hoppen, and

Councilmember Ekberg, have volunteered to serve, and will begin to set a schedule for meeting times.

COUNCIL COMMENTS / MAYOR'S REPORT:

Councilmember Dick asked that staff bring back suggestions for any amendments necessary to the newly adopted Design Manual or performance standards that can accommodate the school district. Mr. Hoppen said that a change to the performance standards would be the most likely manner in which to approach this.

ANNOUNCEMENT OF OTHER MEETINGS:

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

MOTION: Move to adjourn to Executive Session at 10:09 p.m. for approximately thirty minutes for the purpose of discussing pending litigation.
Picinich / Conan - unanimously approved.

MOTION: Move to return to regular session at 10:37 p.m.
Young / Picinich – unanimously approved.

MOTION: Move to adjourn at 10: 37 p.m.
Picinich / Young – unanimously approved.

CD recorder utilized:
Disc #1 Tracks 1 – 14.
Disc #2 Tracks 1 – 16.
Disc #3 Tracks 1 – 7.

Gretchen A. Wilbert, Mayor

Molly Towslee, City Clerk



ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: CAROL MORRIS, CITY ATTORNEY
SUBJECT: CONTRACT FOR ATTORNEY SERVICES
DATE: NOVEMBER 22, 2004

BACKGROUND

The City staff contacted the owners of the property commonly known as the Eddon Boatyard, located at 3803 and 3805 Harborview Drive, Gig Harbor, WA 98335, to discuss the purchase of the property. City staff and the owners of the property used a standard purchase and sale agreement form to outline the terms of the owner's proposal for the sale. One term was significantly different from other City purchases of property – the owner has asked that the City perform the environmental clean-up of the property.

At this point in time, a bond measure has passed, providing funds for the purchase. However, the City does not yet have a full environmental analysis of the condition of the property, to be able to determine the extent of the remediation that would have to be performed. There are other conditions relating to the environmental clean-up for which the City Council will need the advice of an attorney who understands these issues, such as the procedures that would have to be followed by the City in order to comply with state law.

RECOMMENDATION

The City Attorney has no experience representing a purchaser of a contaminated piece of property, who chooses to negotiate performance of the environmental remediation as part of the purchase and sale agreement. Therefore, she recommends that the City Council hire attorneys with the requisite experience and knowledge to advise the Council on this complicated property purchase. The firm of Salter, Joyce Ziker (William Joyce and Barry Ziker) has been selected based on their knowledge and experience in such matters.

AGREEMENT FOR ATTORNEY SERVICES

THIS AGREEMENT, effective November 12, 2004, by and between Salter Joyce Ziker, PLLC (hereinafter the "Attorney") and the City of Gig Harbor, Washington (hereinafter the "City"):

(1) Purpose. This purpose of this agreement is to ensure that the City Council Office receives professional services from William Joyce and Barry Ziker in an effective, timely, and cost efficient manner while ensuring that the Attorney is appropriately and fairly compensated for services rendered. Mr. Joyce and Mr. Ziker each have substantial experience in real estate transactions involving contaminated property. Mr. Joyce's efforts will focus on the retention and management of outside environmental consultants and legal analysis regarding environmental liabilities. Mr. Ziker will concentrate on the terms of the real estate purchase and sale agreement and negotiations with the seller's counsel regarding the same.

(2) Scope of Service. Attorney agrees to provide legal services, as requested by the City Council in connection with issues related to the City Council's existing draft agreement for purchase of the Eddon Boatyard (located at 3803 and 3805 Harborview Drive, Gig Harbor, Washington, 98335, hereinafter the "Property") and to advise the City Council on environmental issues regarding the Property. The scope of work is set forth in the Scope of Services attached hereto as Exhibit 1.

(3) Compensation. The City hereby agrees to pay Attorney for legal services at the rate of Two Hundred Seventy Dollars (\$270.00) per hour. Attorney agrees to use every appropriate method to contain its fees on this matter.

The attorneys authorized to work on the matter described above are William Joyce and Barry Ziger. The charges for legal services provided will be based on actual time or based on increments which are no greater than 6 minutes.

No separate charges shall be paid for such office expenses as the following ordinary costs of doing business: local telephone costs and charges, postage, meals, clerical staff work, supplies, and word processing. The City agrees to reimburse extraordinary office expenses incurred by the Attorney, at cost with no mark-up as follows: photocopies prepared at Attorneys' office shall be reimbursed at the rate of \$.10 per page; photocopies prepared by outside reproduction service shall be reimbursed at cost; computerized legal research shall be reimbursed at cost, only when approved in advance by the City; long-distance telephone charges shall be reimbursed at cost; long distance facsimile copies shall be reimbursed at cost plus no more than \$.10 per page; and local facsimile copies shall be reimbursed at no more than \$.10 per page.

(4) Independent Contractor Status. It is expressly understood and agreed that Attorney, while engaged in carrying out and complying with any of the terms and

conditions of this agreement, is an independent contractor and not an employee of the City.

(6) Billings. Attorney shall submit to the Gig Harbor Finance Director monthly bills for the assigned matter describing the legal services provided during the previous month. Attorney shall not bill for duplicate services performed by more than one person, for services to correct Attorney errors or oversights, or for time spent to acquaint member of Attorney's firm with the assigned matter due to personnel reallocations within Attorney's firm. Except where the City has expressly approved the persons of Attorney's firm working on a particular task, Attorney shall bill only for one participant in a conference or consultation between members of Attorney's firm.

Attorney's monthly bills shall include, at a minimum, the following information for each specific matter to which such services or costs pertain: the name of the matter; a brief description of the legal services performed; the date the services were performed; and the amount of time spent on each date services were performed and by whom. In addition to providing copies of all documents as specified below, Attorney shall provide any information that will assist the City in performing a thorough review and/or audit of the billings, as may be requested by the City. The City shall make every effort to timely pay Attorneys' invoices.

Any invoices reflecting separate charges for computerized legal research and/or long distance telephone calls must include copies of the invoice for such computerized legal research or long distance telephone calls associated with services provided to the City. If any messenger, delivery, or special postage services such as overnight delivery are required, the Attorney will arrange to have such services provided.

(6) Advice and Status Reporting. Attorney shall provide the City Council with timely advice of all significant developments arising during performance of its services hereunder orally or in writing, as the City considers appropriate.

Attorney shall provide copies of all e-mails, pleadings, motions, discovery, correspondence, and other documents prepared by Attorney, including research memoranda, or received by Attorney unless they have been otherwise provided to the City.

(7) Communications. Attorney will communicate primarily with Frank Ruffo, City Council Member, Carol Morris, City Attorney, or John Vodopich, City Community Development Director.

(8) Non-Assignment. The parties recognize hereto that a substantial inducement to the City for entering into this agreement was, and is, the professional reputation and competence of Attorney. Neither this agreement nor any interest therein may be assigned by Attorney without the prior written approval of the City.

(9) Insurance. Attorney shall maintain during the life of the agreement all the insurance required by this section. Each insurance policy shall be written on an

"occurrence" form; excepting that insurance for professional liability, errors and omissions when required, may be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, the Attorney warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this Agreement.

The Attorney shall maintain limits no less than, for:

General Liability. \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$1,000,000 aggregate limit. Coverage shall be at least as broad as Insurance Services Office form number (CG 00 01 Ed. 11-88) covering **COMMERCIAL GENERAL LIABILITY.** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$1,000,000 aggregate limit.

Stop Gap; Employers Liability. \$1,000,000 single limit per occurrence \$1,000,000 aggregate limit.

Professional Liability Errors and Omissions. \$1,000,000 single occurrence; \$1,000,000 aggregate limit.

Automobile Liability. \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number (CA 00 01 Ed. 12/90) covering **BUSINESS AUTO COVERAGE**, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.

Workers' Compensation. Statutory requirements of the State of residency. Coverage shall be at least as broad as Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal or "other States" State Law, including Longshore and Harbor Worker's compensation Act (administered by the U.S. Department of Labor).

Any deductibles or self-insured retentions must be declared to, and approved by, the City. The deductible and/or self-insured retention of the policies shall not limit or apply to the Attorney's liability to the City and shall be the sole responsibility of the Attorney.

The insurance policies required in this Agreement are to contain, or be endorsed to contain the following provisions:

1. General Liability Policy:

- a. To the extent of the Attorney's negligence, the Attorney's insurance coverage shall be primary insurance as respects the City,

its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the City, its officers, officials, employees or agents shall not contribute with the Attorney insurance or benefit the Attorney in any way.

- b. The Attorney's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

Unless otherwise approved by the City, Insurance is to be placed with insurers with a Best's rating of no less than A: VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Best's surplus size VIII.

Professional Liability, Errors and Omissions insurance may be placed with insurers with a Bests' rating of B+: VII. The City must approve any exception.

(10) Licenses. Attorney warrants that any license or licenses that are required by it in order to perform legal services under this agreement have been obtained, are valid and are in good standing in accordance with all applicable laws and regulations.

(11) Termination. This agreement may be terminated by the City upon written notice with or without cause. In the event of termination, the Attorney shall be entitled to compensation as provided for in this agreement, for services performed satisfactorily to the effective date of termination; provided, however, that the City may condition payment of such compensation upon Attorney's delivery to the City of any and all documents, photographs, computer software, video and audio tapes, and other materials provided to Attorney or prepared by or for Attorney or the City in connection with this agreement.

(12) Notices. Notices required by this agreement shall be personally delivered or mailed, postage prepared, as follows:

To Attorney: Barry G. Ziker or William Joyce
 Salter Joyce Ziker, PLLC
 1601 - 5th Avenue, Suite 2040
 Seattle, WA 98101

To the City: Carol Morris
 Law Office of Carol A. Morris, P.C.
 P.O. Box 948
 Seabeck, WA 98380
 (360) 830-0328

John Vodopich, Community Development Director
Dave Rodenbach, Finance Director
City of Gig Harbor

3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-8153

Each party shall provide the other party with telephone and written notice of any change in address as soon as practicable.

Notices given by personal delivery shall be effective immediately. Notices given by mail shall be deemed to have been delivered forty-eight hours after having been deposited in the United States mail.

(13) Ownership of Materials. Any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by Attorney pursuant to this agreement shall be the property of the City at the moment of their completed preparation.

(14) Conflict of Interest. Attorney warrants and covenants that Attorney presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this agreement a violation of any applicable state, local, or federal law or any rule of professional conduct. In the event that any conflict of interest should nevertheless hereinafter arise, Attorney shall promptly notify the City of the existence of such conflict of interest.

(15) Time is of the Essence. Attorney agrees to diligently prosecute the services to be provided under this agreement to completion and in accordance with any schedules specified herein. In the performance of this agreement, time is of the essence.

(16) Confidentiality. Attorney agrees to maintain in confidence and not disclose to any person, association, or business, without prior written consent of the City, any secret, confidential information, knowledge or data relating to the products, process, or operation of the City and/or any of its departments and divisions. Attorney further agrees to maintain in confidence and not disclose to any person, association, or business any data, information, or material developed or obtained by Attorney during the term of this agreement. The covenants contained in this paragraph shall survive the termination of this agreement for whatever cause.

(17) Amendments. This agreement is not subject to modification or amendment, except by a written authorization executed by both Attorney and the City, which written authorization shall expressly state that is intended by the parties to amend the terms and conditions of this agreement.

(18) Waiver. The waiver by either party of a breach by the other of any provision of this agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this agreement.

(19) Severability. Should any part of this agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this agreement, which shall continue in full force and effect, provided that the remainder of this agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.

(20) Controlling Law. The laws of the State of Washington shall govern this agreement and all matters relating to it.

(21) Whole Agreement. This agreement constitutes the entire understanding and agreement of the parties. This agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

(22) Multiple Copies of Agreement. Multiple copies of this agreement may be executed by the parties and the parties agree that the agreement on file in the office of the City is the version of the agreement that shall take precedence should any difference exist among counterparts of the document.

[Remainder of this page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, Attorney and the City, by the signatures below, have duly executed this agreement as of the indicated dates.

IN WITNESS WHEREOF, Attorney and the City, by the signatures below, have duly executed this agreement as of the indicated dates.

SALTER JOYCE ZIKER, PLLC

Dated: 11/17/04

By: *Barry G. Ziker*
BARRY G. ZIKER

By: *William Joyce*
WILLIAM JOYCE

THE CITY OF GIG HARBOR

Dated: _____

By: _____
Mayor Gretchen Wilbert

ATTEST:

APPROVED AS TO FORM:

By: _____
Molly Towslee, City Clerk

By: _____
Carol Morris, City Attorney

Exhibit 1

Scope of Services

1. Review existing purchase and sale agreement for purchase of Harbor Cove property.
2. Negotiate terms of revised purchase and sale agreement with seller's counsel consistent with market practices and additional information regarding value and environmental conditions.
3. Identify qualified environmental consulting firm to assist with investigation of property and prepare estimates of cleanup costs.
4. Provide advice and consultation with respect to legal aspects of environmental liabilities and related issues.
5. Provide advice and consultation upon request from the City with respect to other legal environmental and sale issues relating to the property.



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: STINSON AVENUE PEDESTRIAN IMPROVEMENT PROJECT
- ASPHALT PARKING AREA CONTRACT AUTHORIZATION
DATE: NOVEMBER 22, 2004

INTRODUCTION/BACKGROUND

The 2004 budget provides for an asphalt parking area for the Stinson Avenue Pedestrian Improvement Project. A portion of the project includes adding additional parking area along Stinson Avenue between Harborview Drive and Rosedale Street. Potential contractors were contacted in accordance with the City's Small Works Roster Process (Resolution No. 592). Two contractors responded with the following price quotations:

Looker & Associates, Inc.	\$ 6,650.00
Puget Paving & Construction, Inc.	\$ 8,500.00

Based on the price quotations received, the lowest price quotation was from Looker & Associates, Inc., in the amount of Six thousand Six hundred Fifty dollars and zero cents, (\$6,650.00).

It is anticipated that the work will be completed within four weeks after contract award, weather permitting.

FISCAL CONSIDERATIONS

This work was anticipated in the adopted 2004 Budget, identified under the Street Operating fund, objective no. 17, and is within the budgeted amount of \$100,000. Previous work for this project included the survey in the amount of \$5,500, street lights in the amount of \$14,230.75 and a curb, gutter and sidewalk contract awarded to Caliber Concrete Construction, Inc. in the amount of \$19,388.00. The total project expenditures to date are \$39,118.75.

RECOMMENDATION

I recommend the Council authorize the award and execution of the contract for Stinson Avenue Pedestrian Improvement Project to Looker & Associates, Inc., as the lowest responsible respondent, for their price quotation amount of Six thousand Six hundred Fifty dollars and zero cents, (\$6,650.00).

**AGREEMENT FOR CONSTRUCTION SERVICES
BETWEEN GIG HARBOR AND LOOKER & ASSOCIATES, INC.**

THIS AGREEMENT, is made this ____ day of November, 2004, by and between the City of Gig Harbor (hereinafter the "City"), and Looker & Associates, Inc., a Washington corporation, located and doing business at 5825 176th Street East, Puyallup, Washington 98375, (hereinafter "Contractor").

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

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

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

I. Description of Work. The Contractor shall perform all work as described below, which is attached hereto and incorporated herein by this reference, in a workman-like manner according to standard construction practices. The work shall generally include the furnishing of all materials and labor necessary to place and compact 5,500 s.f. of 2-inch Class B asphalt paving on City of Gig Harbor prepared sub grade for the Stinson Avenue Pedestrian Improvement Project, as shown on Exhibit A. The Contractor shall not perform any additional services without the express permission of the City.

II. Payment.

A. The City shall pay the Contractor the total sum of Six Thousand Six Hundred Fifty dollars and no cents (\$6,650.00), (this road work does not require Washington State sales tax), for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for these tasks, and shall not be exceeded without prior written authorization from the City in the form of a negotiated and executed change order.

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

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

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

IV. Duration of Work. The City and the Contractor agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement by both parties. The Contractor shall perform all work required by the Agreement on or before December 23, 2004. The indemnification provisions of Section IX shall survive expiration of this Agreement.

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

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

VI. Termination.

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

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

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

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

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

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

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

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

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

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

IX. Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

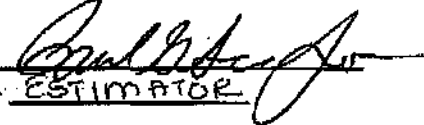
XIII. Resolution of Disputes. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City, and the City shall determine the term or provisions' true intent or meaning. The City shall also decide all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

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

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

LOOKER & ASSOCIATES, INC.

THE CITY OF GIG HARBOR

By: 
Its ESTIMATOR

By: _____
Its Mayor

Notices should be sent to:

Looker & Associates, Inc. Attn: Duncan Sturrock Vice President 5825 176 th Street East Puyallup, Washington 98375-9733 (253) 846-1851	City of Gig Harbor Attn: David Brereton Director of Operations 3510 Grandview Street Gig Harbor, Washington 98335 (253) 851-6170
---	---

Approved as to form:

By: _____
City Attorney

Attest:

By: _____
Molly M. Towslee, City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

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

DATED: 11-15-04



Diana Cheeks
Notary Public in and for the
State of Washington,
Residing at Taroma, WA
My appointment expires: 5-01-08

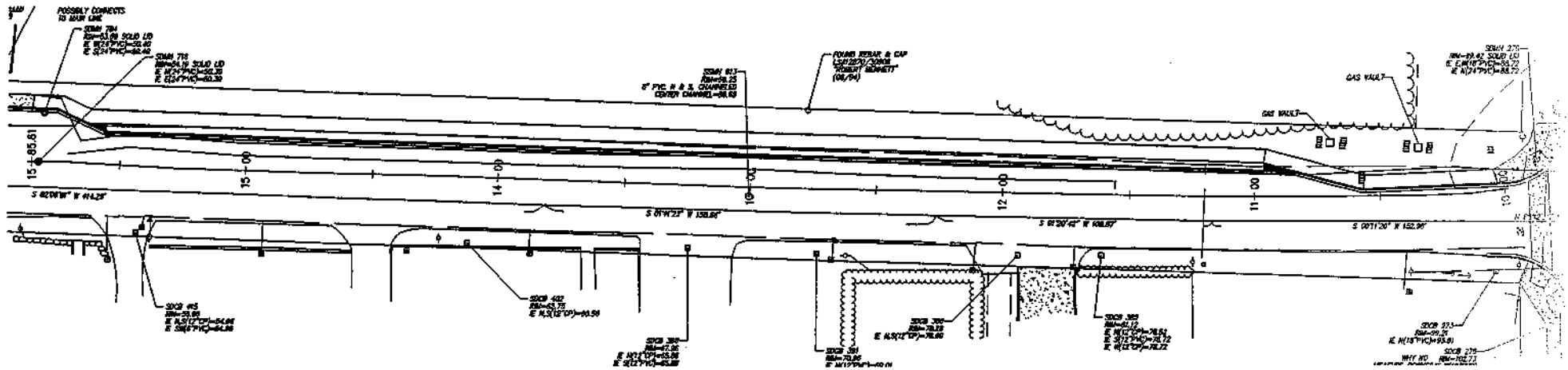
STATE OF WASHINGTON)
) ss.
COUNTY OF P I E R C E)

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

DATED: _____

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

Stinson Avenue Pedestrian Improvement
Project
Exhibit A





COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUMP STATION 2A, 96-INCH DIAMETER WET WELL CONSTRUCTION
(CSSP-0201) – CONTRACT BID AWARD
DATE: NOVEMBER 22, 2004

INTRODUCTION/BACKGROUND

An identified sewer capital objective in the 2004 Budget provides for the construction of the replacement of Pump Station 2A.

In accordance with the City's small works roster process, the City recently contacted four contractors from the City's small works consultant roster and requested price quotations for construction of the below ground 96-inch diameter wet well. This wet well is a major component of the replacement pump station project. The remaining portions of the pump station work will be constructed under a separate contract in 2005. The only proposal received was from Pivetta Brothers Construction, Inc. in the amount of \$176,686.58, including retail sales tax. Upon review and negotiation, the contractor agreed to revise his bid in the amount of \$169,640.58, including retail sales tax.

ISSUES/FISCAL IMPACT

This work was anticipated in the adopted 2004 Budget, identified under the Sewer Operating fund, objective no. 2, and is within the budgeted amount of \$1,000,000.

RECOMMENDATION

I recommend that Council authorize the award and execution of the contract for the Pump Station 2A, 96-inch Diameter Wet Well Construction to Pivetta Brothers Construction, Inc in the amount of One Hundred Sixty-nine Thousand Six Hundred Forty dollars and Fifty-Eight cents (\$169,640.58), including retail sales tax.



**CITY OF GIG HARBOR
SEWAGE PUMP STATION 2A
96-INCH DIAMETER WET WELL CONSTRUCTION
CSSP - 0201**

CONTRACT

THIS AGREEMENT, made and entered into, this ____ day of _____, 200__, by and between the City of Gig Harbor, a Charter Code city in the State of Washington, hereinafter called the "City", and Pivetta Brothers Construction, Inc. hereinafter called the "Contractor."

WITNESSETH:

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

1. The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary to complete the construction and replacement of the Sewage Pump Station 2A, and shall perform any changes in the work, all in full compliance with the Project Manual entitled "Sewage Pump Station 2A Project, CSSP-0201", which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said contract documents, including the schedule of prices in the "Proposal," the sum of One Hundred Sixty-nine Thousand Six Hundred Forty dollars and Fifty-eight cents (\$169,640.58), including state sales tax, and subject to the provisions of the Project Manual.
2. Work shall commence and contract time shall begin on the first working day following the twentieth (20th) calendar day after the date the City executes the Contract, or the date specified in the Notice to Proceed issued by the City's Engineer, whichever is later. All physical contract work shall be completed within one-hundred and fifty (150)-working days.
3. The Contractor agrees to pay the City the sum of \$636.00 per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
4. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
5. The term "Project Manual" shall mean and refer to the following: "Invitation to Bidders," "Bid Proposal," "Addenda" if any, "Standard General Conditions of the Construction Contract,"

Contract," "Supplementary Conditions," "Technical Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Project Manual, including, but not limited to the Project Manual.

6. The City agrees to pay the Contractor for materials furnished and work performed in the manner and at such times as set forth in the Project Manual.
7. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, assigns, agents, subcontractors, and employees, does hereby agree to the full performance of all of the covenants herein contained upon the part of the Contractor.
8. It is further provided that no liability shall attach to the City by reason of entering into this Contract, except as expressly provided herein.

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

CITY OF GIG HARBOR:

CONTRACTOR: 

PIVETTA BROS. CONSTRUCTION, INC.

Gretchen A. Wilbert, Mayor
City of Gig Harbor

Date: _____

Print Name: **MARK PIVETTA**

Print Title: *President*

Date: *11/17/04*

ATTEST:

City Clerk

APPROVED FOR FORM:

City Attorney



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: EMERGENCY MANAGEMENT SERVICES AGREEMENT WITH PIERCE COUNTY – RENEWAL OF AGREEMENT
DATE: NOVEMBER 22, 2004

BACKGROUND

The current five-year agreement with the Pierce County Department of Emergency Management for emergency management services is due to expire on December 31, 2004. The agreement provides for the common defense and protection of public peace, health, and safety in times of major emergencies or disasters. The proposed agreement is for a five-year period.

The City Attorney has reviewed and approved the agreement.

FISCAL IMPACT

The cost for the year 2005 will be \$0.73 per capita based upon population figures for the Office of Financial Management. This anticipated cost of \$4,876.40 has been incorporated into the proposed 2005 budget. Annual increases in subsequent years will be based upon population and increases in the Consumer Price Index (CPI) for Seattle.

RECOMMENDATION

I recommend that Council approve the Agreement for Emergency Management with Pierce County as presented.

AGREEMENT FOR EMERGENCY MANAGEMENT

THIS AGREEMENT is made and entered into by and between PIERCE COUNTY, a political subdivision of the State of Washington, (hereinafter referred to as "County") and the City of Gig Harbor, a municipal corporation of the State of Washington, (hereinafter referred to as "City")

WHEREAS, County has established an Emergency Management Plan pursuant to the provisions of Chapter 38.52 of the Revised Code of Washington; and

WHEREAS, County and City believe it to be in the best interests of their citizens that County and City share and coordinate services in the event of an emergency situation; NOW THEREFORE,

IT IS HEREBY AGREED AS FOLLOWS:

1. Purpose. It is the purpose of this agreement to provide an economical mechanism to provide for the common defense and protect the public peace, health, and safety and to preserve the lives and property of the people of the signatory jurisdictions against the existing and increasing possibility of the occurrence of major emergencies or disasters, either man-made or from natural causes.

2. Duration. The duration of this agreement shall be that period commencing on the 1st day of January 2005 and terminating at midnight on the 31st day of December 2009, unless this agreement is sooner extended or terminated in accordance with the terms hereof.

3. Definitions. As used in this agreement, the following definitions will apply.

A. "Emergency Management" or "Comprehensive Emergency Management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergency and disasters, and aid victims suffering from injury or damage resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress.

B. "Emergency or Disaster" shall mean an event or set of circumstances which: (a) demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences or (b) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

4. Services. County shall provide emergency management services as outlined in Chapter 38.52 RCW in accordance with the provisions of said chapter and as defined herein during the term of this agreement. Pierce County shall perform all services required by its Emergency Management Plan and/or Chapter 38.52 RCW and Attachment "A" to this document.

5. Compensation. City shall pay County upon execution of this agreement the sum of \$0.73 per capita per year for all services rendered under the terms of this agreement, using population figures from the "Population Trends for Washington State" publication of the State Office of Financial Management. Payment is due and payable on January 31, 2005, and on the same schedule for subsequent years of the contract. Annual increases for subsequent years shall be based upon the growth in the previous year January to December Consumer Price Index for Seattle urban area as available, and based upon population growth of preceding year according to state Office of Financial Management as available, and/or based upon modifications in the annual work plan as agreed upon by the parties. Pierce County shall perform all services required by its Emergency Management Plan and/or Chapter 38.52 RCW, and Attachment "A" Emergency Management Work Plan. Nothing herein shall prevent County from making a claim for additional compensation in the event of an actual emergency or disaster as authorized by Chapter 38.52 RCW. The County's unilateral decision to change its Emergency Management Plan to increase the services provided by the County to the City under this interlocal agreement shall not result in an increase in the annual payment made by the City to the County as described in this Section, unless the same is incorporated into an amendment to this Agreement, and executed by the authorized representatives of both parties.

6. Termination. Either party may terminate this Agreement with or without cause upon ninety (90) days written notice to the other party. Notices and other communications shall be transmitted in writing by U.S. Mail, postage prepaid, addressed to the parties as follows:

If to Pierce County : Pierce County
Department of Emergency Management
Director
2501 S 35th St
Tacoma, WA 98409-7405

If to City of Gig Harbor : City of Gig Harbor
Office of the Mayor
3510 Grandview Street
Gig Harbor, WA 98335

7. Renewal. This agreement may be renewed for agreed upon terms upon the mutual agreement of the parties as signified by a Memorandum of Renewal signed by the duly authorized representatives of each of the parties.

8. Hold Harmless. Except in those situations where the parties have statutory or common law immunity for their actions and/or inactions, each party shall hold harmless the other from liability or any claim, demand or suit arising because of said parties negligence. Each party shall promptly notify the other of any such claim.

9. General. Neither party may assign or transfer this contract or any rights or obligations hereunder without the prior written consent of the other party. This contract constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, and understandings of

any nature whatsoever. Any changes to this contract requested by either party may only be affected if mutually agreed upon in writing by duly authorized representatives of the parties hereto.

10. Privileges and Immunities. Whenever the employees of the City or County are rendering outside aid pursuant to the authority contained in RCW 38.52.070/080, such employees shall have the same powers, duties, rights, privileges and immunities as if they were performing their duties in the County or City in which they are normally employed. Nothing in this Agreement shall affect any other power, duty, right, privilege or immunity afforded the City or the County in chapter 38.52 RCW,

11. Waiver. Failure by either party at any time to require performance by the other party under this Agreement or to claim a breach of any provision of this Agreement shall not be construed as affecting any subsequent breach or the right to require performance or affect the ability to claim a breach with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed, such parties acting by their representatives being thereunto duly authorized.
Date this ____ day of _____, _____.

PIERCE COUNTY

Attest:

By _____ Date _____
Prosecuting Attorney
(as to form only)

By _____ Date _____
Budget and Finance

Approved:

By _____ Date _____
Steven C. Bailey
Director

CITY OF GIG HARBOR

Approved:

By _____ Date _____
Gretchen A. Wilbert
City of Gig Harbor, Mayor
Attest:

By _____ Date _____
Mark E. Hoppen
City Administrator

By _____ Date _____
Carol Morris
City Attorney

ATTACHMENT "A"

City of Gig Harbor

2005 – 2009 Annual Emergency Management Work Plan

1. Provide full 24 hour a day Duty Office coverage for Emergency Management issues.
2. Activate and manage the County Emergency Operations Center (EOC) in support of an EOC activation, or the declaration of an emergency in either City, or in support of any emergency incident that requires multi-agency response coordination.
3. Provide warning and emergency public information during disasters as resources allow.
4. Provide communication and general administrative assistance in the event of declared disaster to the extent of the County's knowledge. The County shall remain harmless of the results from City's application of federal funding.
5. Provide availability of County's emergency resources not required for County use elsewhere during emergencies. Use shall be determined and prioritized by the County. The County shall remain harmless in the event of non-availability or non-performance of the equipment. Equipment to include but not limited to the sandbag machine.
6. Provide annual hazard exercise.
7. Provide three (3) public education presentations on emergency preparedness issues.
8. Provide training for City's EOC staff as appropriate.
9. Provide education program for officials as necessary.

Note: Optional services that may be requested for additional compensation by the City and provided by the County may include but not be limited to the Natural Hazard Mitigation Plan of Disaster Mitigation Act of 2000 (DMA2K) and the Pierce County Neighborhood Emergency Team (PC NET) Program.

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE:11/03/04

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 20050228

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 DREYLING, CHERRI LYNN	THE HARBOR KITCHEN 8809 N HARBORVIEW DR GIG HARBOR WA 98332 2168	083974	BEER/WINE REST - BEER/WINE
2 TERRACCIANO, MASSIMO TERRACCIANO, CINDY LOUISE	TERRACCIANO'S 3119 JUDSON ST GIG HARBOR WA 98335 1221	085087	BEER/WINE REST - BEER/WINE

GIG HARBOR
"THE MARITIME CITY"
ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR *DR*
SUBJECT: SECOND READING - 2005 BUDGET ORDINANCE
DATE: NOVEMBER 22, 2004

BACKGROUND

The total budget is \$24,396,640. Total budgeted revenues for 2005 are \$15.6 million while budgeted beginning fund balances total \$8.8 million. Total budgeted expenditures for 2005 are \$19.4 million and budgeted ending fund balances total \$5.0 million.

The General Fund accounts for 36 percent of total expenditures, while Special Revenue (Street, Drug Investigation, Hotel - Motel, Public Art Capital Projects, Park Development, Civic Center Debt Reserve, Property Acquisition, General Government Capital Improvement, Impact Fee Trust and Lighthouse Maintenance) and Enterprise Funds are 31 percent and 28 percent of total expenditures. General government debt service funds are 5 percent of 2005 budgeted expenditures.

Two additional full time positions; Assistant Planner and Laborer and a temporary part-time Administrative Assistant and temporary Data Entry Clerk are included in the 2005 budget.

There are two significant changes resulting from the November 1 and 2 budget study sessions incorporated into this budget:

- Several capital purchases were cut resulting in savings of \$73,000. This amount will be transferred into the Park Development Fund.
- The budget objective in the Street Operating Fund that replaced 1,000 feet of existing sidewalk on the south side of Harborview Dr. between Stinson Ave. and Rosedale St. was deleted. This resulted in a savings of \$140,000 which is to be applied to a City-wide traffic capacity and intersection Level of Service analysis. This objective is expected to cost \$150,000.

There are changes from the first reading of this ordinance. Both changes are in the Building Department totaling \$70,000 to allow sufficient funding for handicap access at the front entrance to the Civic Center and to allow sufficient funding for HVAC repairs.

RECOMMENDATION

I recommend adoption of the 2005 budget ordinance.

CITY OF GIG HARBOR
ORDINANCE NO.

AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF GIG
HARBOR, WASHINGTON, FOR THE 2005 FISCAL YEAR.

WHEREAS, the Mayor of the City of Gig Harbor, Washington completed and placed on file with the city clerk a proposed budget and estimate of the amount of the moneys required to meet the public expenses, bond retirement and interest, reserve funds and expenses of government of said city for the 2005 fiscal year, and a notice was published that the Gig Harbor City Council would meet on November 8 and November 22, 2004 at 7:00 p.m., in the Council Chambers in the Civic Center for the purpose of making and adopting a budget for 2005 and giving taxpayers an opportunity to be heard on the budget; and

WHEREAS, the said city council did meet at the established time and place and did consider the matter of the 2005 proposed budget; and

WHEREAS, the 2005 proposed budget does not exceed the lawful limit of taxation allowed by law to be levied on the property within the City of Gig Harbor for the purposes set forth in the budget, and the estimated expenditures set forth in the budget being all necessary to carry on the government of Gig Harbor for 2005 and being sufficient to meet the various needs of Gig Harbor during 2005.

NOW, THEREFORE, the City Council of the City of Gig Harbor **DO ORDAIN** as follows:

Section 1. The budget for the City of Gig Harbor, Washington, for the year 2005 is hereby adopted in its final form and content.

Section 2. Estimated resources, including beginning fund balances, for each separate fund of the City of Gig Harbor, and aggregate total for all funds combined, for the year 2005 are set forth in summary form below, and are hereby appropriated for expenditure during the year 2005 as set forth below:

2005 BUDGET APPROPRIATIONS

<u>FUND / DEPARTMENT</u>	<u>AMOUNT</u>
001 GENERAL GOVERNMENT	
01 NON-DEPARTMENTAL	\$2,225,600
02 LEGISLATIVE	31,600
03 MUNICIPAL COURT	466,300
04 ADMINISTRATIVE/FINANCIAL	742,500
06 POLICE	2,035,950
14 COMMUNITY DEVELOPMENT	1,218,450
15 PARKS AND RECREATION	936,490
16 BUILDING	321,900
19 ENDING FUND BALANCE	4,055,945
001 TOTAL GENERAL FUND	9,033,945
101 STREET FUND	3,278,974
105 DRUG INVESTIGATION FUND	9,251
107 HOTEL-MOTEL FUND	496,665
108 PUBLIC ART CAPITAL PROJECTS	40,250
109 PARK DEVELOPMENT FUND	13,277
110 CIVIC CENTER DEBT RESERVE	2,046,453
208 LTGO BOND REDEMPTION	923,220
209 2000 NOTE REDEMPTION	111,072
210 LID 99-1 GUARANTY	83,052
301 PROPERTY ACQUISITION FUND	554,291
305 GENERAL GOVT. CAPITAL IMPROVEMENT	670,177
309 IMPACT FEE TRUST	350,593
401 WATER OPERATING	1,234,091
402 SEWER OPERATING	1,942,334
407 UTILITY RESERVE	132,937
408 UTILITY BOND REDEMPTION FUND	351,625
410 SEWER CAPITAL CONSTRUCTION	1,853,715
411 STORM SEWER OPERATING	717,322
420 WATER CAPITAL ASSETS	551,594
605 LIGHTHOUSE MAINTENANCE TRUST	1,802
TOTAL ALL FUNDS	<u>\$ 24,396,640</u>

Section 3. Attachment "A" is adopted as the 2005 personnel salary schedule.

Section 4. The city clerk is directed to transmit a certified copy of the 2005 budget hereby adopted to the Division of Municipal Corporations in the Office of the State Auditor and to the Association of Washington Cities.

Section 5. This ordinance shall be in force and take effect five (5) days after its publication 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 22nd day of November, 2004.

Mayor

ATTEST:

Molly Towslee, City Clerk

Filed with city clerk:
Passed by the city council:
Date published:
Date effective:

ATTACHMENT "A"

2005 Salary Schedule

POSITION	Minimum	Maximum
City Administrator	\$7,380	\$9,225
Chief of Police	6,029	7,536
Community Development Director	5,871	7,339
Finance Director	5,810	7,263
Police Lieutenant	5,426	6,783
City Engineer	5,108	6,385
Director of Operations	5,108	6,385
Information Systems Manager	5,108	6,385
Planning Manager	5,108	6,385
Fire Marshal/Building Official	5,108	6,385
Police Sergeant	4,791	5,989
Senior Planner	4,499	5,624
City Clerk	4,493	5,616
Treatment Plant Supervisor	4,474	5,593
Accountant	4,384	5,480
Court Administrator	4,377	5,471
Associate Engineer	4,294	5,368
Assistant Building Official	4,178	5,223
Field Supervisor	4,083	5,104
Marketing Director	4,043	5,054
Associate Planner	3,802	4,753
Payroll/Benefits Administrator	3,796	4,745
Police Officer	3,760	4,700
Planning/Building Inspector	3,625	4,531
Construction Inspector	3,625	4,531
Mechanic	3,583	4,479
Treatment Plant Operator	3,526	4,408
Engineering Technician	3,524	4,405
Maintenance Worker	3,426	4,283
Assistant City Clerk	3,369	4,211
Assistant Planner	3,317	4,146
Finance Technician	3,209	4,011
Information Systems Assistant	3,196	3,995
Community Development Assistant	3,097	3,871
Community Services Officer	3,028	3,785
Court Clerk	2,762	3,453
Custodian	2,751	3,439
Laborer	2,751	3,439
Mechanic Assistant	2,751	3,439
Administrative Assistant	2,658	3,323
Police Services Specialist	2,633	3,291
Community Development Clerk	2,409	3,011
Administrative Receptionist	\$2,409	\$3,011



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
SUBJECT: COMMUNITY DEVELOPMENT DIRECTOR
SECOND READING OF ORDINANCE
AMENDMENT TO THE PLANNED COMMUNITY DEVELOPMENT –
MEDIUM DENSITY RESIDENTIAL (PCD-RMD) ZONE PERFORMANCE
STANDARDS
DATE: NOVEMBER 22, 2004

INFORMATION/BACKGROUND

Attached for your consideration and for the second reading is an ordinance amending the performance standards of the Planned Community Development – Medium Density Residential (PCD-RMD) zone.

The applicant, Carl Halsan, has submitted an application requesting a text amendment to Gig Harbor Municipal Code (GHMC) Section 17.21.040 to make specific changes to the PCD-RMD zone performance standards that would better accommodate “small lot single family” style development.

According to the materials submitted by the applicant, new housing styles such as “small lot single family” are not feasible under the requirements of the current performance standards for the PCD-RMD zone. In order to integrate the “small lot single family” style housing, the applicant has proposed to make a number of changes to the performance standards of this zone. Specifically, the applicant proposes to lower the minimum density, decrease interior lot setbacks, allow averaging of maximum lot area coverage, reduce buffer dimensions, and define street width standards.

On August 19, 2004, the Planning Commission held a work study session to discuss the proposed amendments to the PCD-RMD zone. During the meeting it was generally agreed that the applicant’s proposed density range and maximum lot area coverage would be acceptable. Although there was some concern about the impacts to the City’s buildable lands inventory, it was determined that the proposed density range would not negatively affect the inventory, since it would still allow eight units/acre with up to 10.4/acre allowed through density bonuses.

Regarding the proposed changes to circulation/roads/streets, it was generally agreed that the appropriate location within the Gig Harbor Municipal Code is in Title 12, (Streets and Sidewalks), not the PCD-RMD zone.

On September 2, 2004 the Planning Commission held a public hearing on the proposed amendments. After discussion following public testimony, the Planning Commission voted to recommend approval of the proposed amendments, except that any specific street standards would remain in Title 12 of the Gig Harbor Municipal Code. A copy of the September 2, 2004 Planning Commission Minutes is attached.

On November 8, 2004, the City Council held a first reading for the proposed ordinance. At that meeting City Council directed staff to make some minor modifications which have been included in the attached ordinance.

POLICY CONSIDERATIONS

The intent statement of the PCD-RMD zone describes the anticipated housing style as dense, high quality, and able to provide housing for a range of lifestyles and income levels. It also states that the zone should provide for the efficient delivery of public services and to increase residents' accessibility to employment, transportation and shopping, and that it should also serve as a buffer between intensively developed areas and lower density residential areas. The proposed changes are consistent with the intent of the PCD-RMD zone.

ENVIRONMENTAL ANALYSIS

A SEPA threshold determination of non-significance (DNS) was issued for the proposed amendments on July 30, 2004. Notice of the SEPA threshold determination was sent to agencies with jurisdiction and was published in the Peninsula Gateway on June 2, 2004. The deadline to file an appeal was August 15, 2004.

FISCAL IMPACTS

None.

RECOMMENDATION

I recommend that the City Council approve the ordinance as presented.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE PERFORMANCE STANDARDS OF THE PLANNED COMMUNITY DEVELOPMENT – MEDIUM DENSITY RESIDENTIAL (PCD-RMD) ZONE IN GIG HARBOR MUNICIPAL CODE SECTION 17.21.040.

WHEREAS, the intent of the Planned Community Development – Medium Density Residential (PCD-RMD) zone is to (a) provide for greater population densities to facilitate high quality affordable housing, a greater range of lifestyles and income levels, (b) provide for the efficient delivery of public services and to increase residents' accessibility to employment, transportation and shopping, and (c) serve as a buffer and transition area between more intensively developed areas and lower density residential areas; and

WHEREAS, the proposed changes to the performance standards are consistent with the intent of the PCD-RMD zone; and

WHEREAS, the City's SEPA Responsible Official has made a Determination of Non-Significance (DNS) for this Ordinance on July 30, 2004; and

WHEREAS, no appeals of the DNS were filed with the City; and

WHEREAS, the City sent a copy of this Ordinance to the Washington State Office of Community, Trade and Development on June 2, 2004; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on September 2, 2004; and recommended approval to the City Council; and

WHEREAS, on November 8 and November 22, 2004, the City Council considered this Ordinance during a regular meeting; Now, Therefore,

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

Section 1. Section 17.21.040(A) of the Gig Harbor Municipal Code is hereby amended to read as follows:

A. Density. The minimum base density is ~~eight~~ five and the maximum is eight dwelling units per acre. Additional density may be allowed using either of the following options:

Section 2. Section 17.21.040(B)(4) of the Gig Harbor Municipal Code is hereby amended to read as follows:

B. General.

4. Maximum lot area coverage: Sixty-five percent, excluding driveways, private walkways and similar impervious surfaces. Impervious surface coverage of individual parcels may exceed the sixty-five percent maximum when included within a subdivision; provided, that the overall impervious surface coverage of the subdivision does not exceed sixty-five percent.

Section 3. Section 17.21.040(B)(5) of the Gig Harbor Municipal Code is hereby amended to read as follows:

B. General.

5. Landscaping. Landscaping shall comply with the requirements of Chapter 17.78 GHMC, except that buffer dimensions shall be reduced to 10 feet when the proposed use is adjacent to a similar use or zone which includes a platted buffer of equal or greater width.

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

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

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

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

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

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

**City of Gig Harbor Planning Commission
Minutes of Public Hearing and Work-Study Session
Thursday, September 2, 2004
Gig Harbor Civic Center**

PRESENT: Commissioners Carol Johnson, Dick Allen, Theresa Malich and Acting Chairperson Bruce Gair. Commissioners Kathy Franklin, Paul Kadzik, and Scott Wagner were absent. Staff present: Rob White and Diane Gagnon.

CALL TO ORDER: 7:00 p.m.

APPROVAL OF MINUTES:

MOTION: Move to approve the minutes of August 19, 2004 Johnson/Malich – unanimously approved.

OLD BUSINESS

1. Don Huber, P.O. Box 64160, Tacoma WA 98464 – Proposed amendments to 17.21.040 PCD-RMD zone – Proposed amendments to Gig Harbor Municipal Code Section 17.21.040 PCD-RMD zone to set a specific density range for the zone, reduce setback dimensions, and to modify the application of the impervious surface standards.

Senior Planner Rob White went over his staff report outlining the proposed text amendment to the PCD-RMD zone. Mr. White summarized by saying that this proposal was to amend the performance standards of the zone. Those performance standards are density, minimum yards, maximum lot area coverage, landscaping, and circulation/roads/streets. He further explained that the applicant was hoping to achieve a small lot single family development in Gig Harbor North.

Mr. White stated that on the density issue staff was recommending approval and advised the planning commission that this proposal would not have an affect on our buildable lands inventory as discussed at the work session. He further stated that the staff was recommending approval on the proposal of reduced setbacks but did advise the planning commission that they would have to propose that the design manual be updated to reflect his change. On the issue of maximum lot area coverage Mr. White stated that the staff was also recommending approval as this zone seemed to be set up as a PRD-type zone. On the reduction of the buffers, he stated that staff was recommending approval provided that the same quantity of trees be retained elsewhere on the site. Finally on the circulation of roads and streets Mr. White stated that those items should be addressed in the public works standards.

Vice Chairman Bruce Gair opened the Public Hearing at 7:05 p.m.

Carl Halsan, P.O. Box 1447, Gig Harbor – Mr. Halsan stated that he was the agent for the applicant on this proposal and briefed the Planning Commission on the problems

associated with trying to develop a small lot single family development under the PCD-RMD standards. Mr. Halsan highlighted the elements that prevented this type of development and made comparisons to lower density zones. He further explained that it is impossible to meet the density requirements of the zone while still complying with the other development standards. Mr. Halsan clarified that he was not expecting a recommendation of approval on the road standards and explained that he is working on those changes with Operations and Engineering.

Commissioner Allen asked about the setbacks from alleys. Mr. Halsan answered that the alleys would be approximately 18' with garages along the alley with backyards next to garages. He further emphasized that small lot single family must have some private space, so it is crucial that they have some backyard.

Commissioner Malich asked about covenants and restrictions and the density of other existing developments. Mr. Halsan replied that Poulsbo Place was 12 units per acre and that what is being proposed for Gig Harbor North is approximately 6 dwelling units per acre.

It was asked by Commissioner Gair how big these houses would be. Mr. Halsan showed the Planning commission the proposed site plan and further explained that they would not be building the houses, just developing the land. Mr. Gair then asked for clarification of which parcels this would apply to and their exact locations.

Don Huber, 8310 Warren Dr., Gig Harbor WA 98335 – Mr. Huber spoke as the developer of the property. He stated that he had hired a very renowned architectural firm who has done a lot of these small lot single family developments and they are unable to make it work here in Gig Harbor without modifications to the zoning code. He expressed that they could only meet the density requirements by building an apartment complex and that he didn't think that was what Gig Harbor would choose to have in this area. He asked for the Planning Commissions support of this proposal.

Scott Inveen, 8617 96th St NW, Gig Harbor – Mr. Inveen stated that he is an architect from the company who developed Poulsbo Place. He also stated that he owns the property adjoining the property owned by Mr. Huber and would like to do a similar project. He pointed out that this is the densest zone in the city and that the yards and buffers are contradictory to the goal of the zone. Mr. Inveen explained to the Planning Commission the difficulty in developing condominiums due to rising insurance costs, therefore, the only alternative would be to build apartment buildings in this zone if changes can't be made to the zone to accommodate small lot single family development. He went on to state that these communities are built as walking communities, therefore, Gig Harbor North was an ideal area for this type of development.

Commissioner Malich asked what the price of these homes is. Mr. Inveen stated that they are in the \$250,000 - \$340,000 range with lots of attention to detail on all four sides of the home. He went on to explain that the typical homeowner is older and without

children.

Commissioner Johnson asked about the size of his property and how many units were they proposing. Mr. Inveen stated that they have 29 acres and are proposing approximately 190 units. He went on to explain that he lives in this community and feels that this is the right thing for Gig Harbor.

Commissioner Gair asked Senior Planner Rob White what percentage of the residential zones in Gig Harbor North were these three parcels of PCD_RMS. Mr. Gair then asked to see a map of the area with the different zones. Community Development Assistant Diane Gagnon passed out zoning maps to the Planning Commission and the audience.

It was expressed by Commissioner Malich that Spinnaker Ridge is a similar type of development and it really works and their value has definitely increased. She further stated that her biggest worry was a development that wouldn't have its covenants enforced. Ms. Malich explained that Gig Harbor North was intended to be used for higher density proposal and that the Planning Commission had discussed this in the early '90s and realized the need for the type of development.

Bill Montgomery, 5218 64th Ave NW, Gig Harbor – Mr. Montgomery was speaking as the realtor involved in this project and explained to the Planning Commission that if this property was developed to its highest and best use it would be apartment complexes. He went on to say that this type of project was exactly what medium density residential was intended for. Mr. Montgomery stated that there is a real need for housing of this type and in this price range.

Theo Gideon, Master Builders Association, P.O. Box 1913, Tacoma WA 98401 – Mr. Gideon spoke as a representative of the master Builders Association and expressed support for the proposed changes. Mr. Gideon commended the Planning Commission for considering these changes in order to comply with GMA and stated that these types of developments are really successful as people like to have their own piece of property even if it's small. He stated that he agreed with Mr. Inveen that there is definitely a problem obtaining insurance for condominium developments and therefore they are not being built. Mr. Gideon expressed his feeling that this is the right thing to do to meet Gig Harbor's GMA goals.

There being no further public input Vice-Chairman Bruce Gair closed the public hearing at 8:00 p.m.

Vice Chairman Gair asked if the Planning Commission wished to discuss this proposal now or at a later meeting. Commissioner Johnson voiced a concern that three other members of the Planning Commission were not present. Senior Planner Rob White pointed out that if this item were not acted on tonight it would be postponed until January due to the Comprehensive Plan updates.

The Planning Commission then asked Mr. White to go over his recommendations again.

Mr. White pointed out that he had changed his recommendation to approval on item #2 due to the fact that the City Council had not reviewed that section of the Design manual as of yet, therefore, any changes the Planning Commission wished to recommend could still be considered. He further clarified that the only item staff was recommending denial on was item #5 which should be addressed in the public works standards.

Vice Chairman Bruce Gair voiced his concern for delaying this proposal and asked why we have to do these Comprehensive Plan updates at this time. Senior Planner Rob White stated that these updates must be done by the end of the year. Commissioner Gair further stated that perhaps we needed to have extra sessions. Commissioner Malich asked if he was uncomfortable making a recommendation on this item tonight and Mr. Gair replied that he was not and felt that the Planning Commission could act tonight. Commissioner Johnson reminded everyone that this will still be heard at the City Council level and expressed her desire that there would be citizen input at the stage.

Motion: Move to forward the staff recommendations to the City Council.
Malich/Johnson –

Discussion was held on the motion.

Commissioner Allen voiced his concern for the reduced setbacks. He further stated that these proposed setbacks did not provide for any privacy for the residents. Commissioner Malich clarified that these setbacks would not change the setbacks in the R-1 zone.

Senior Planner Rob White explained the PRD standards and the requirements for 30% open space. He went on to say that this zone basically has PRD standards built into it and that if the applicant chose to do a PRD they could have smaller setbacks than what was being proposed.

Commissioner Allen stated that he would like to see the side, front and rear setbacks for the PCD-RMD be the same as R-1. Commissioner Malich stated that this zone was intended to be more dense than R-1 and that this proposal was preferable to apartment houses. Commissioner Allen said that he felt that the people who live in the RMD area have the same right to privacy as someone living in R-1. Commissioner Johnson pointed out that if they wanted that much more space and privacy they would buy a house in an R-1 zone and that some people don't want to care for a larger yard.

Re-Stated Motion: Move to forward the staff recommendations to the City Council.
Malich/Johnson – Motion carried with Johnson and Malich voting in favor and Allen voting against.

OTHER BUSINESS

Vice Chairman Gair asked that the Planning Commission be included in the distribution of the project updates which get distributed to the City Council. Senior Planner Rob White distributed this list to the Planning Commission. Mr. Gair then asked that the Planning Commission be updated on a regular basis as to the activities of the Design Review Board and the actions taken by the City Council in response to the Planning Commission's recommendations.

NEXT REGULAR MEETING:

September 16, 2004 at 6pm – Work-Study Session

ADJOURN:

MOTION: Move to adjourn at 8:35 p.m.
Johnson/Malich – unanimously approved

CD recorder utilized:
Disc #1 Track 1
Disc #2 Track 1



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEVE OSGUTHORPE, AICP *S.O.*
PLANNING & BUILDING MANAGER
SUBJECT: RE-INTRODUCTION / FIRST READING OF REVISED
ORDINANCE ON BUILDING SIZE MORATORIUM CLARIFYING
MAXIMUM HOUSE SIZE
DATE: NOVEMBER 22, 2004

INFORMATION/BACKGROUND

At the November 8, 2004 Council meeting, the staff presented for first reading an ordinance amending the existing building size moratorium to redefine how building size should be calculated. The proposed revised language would have excluded from the building size calculation eave overhangs, open carports, decks and porches. There were differing opinions expressed by Council members on this matter because the moratorium was intended to address overall scale of buildings, but it was recognized that the standard way of determining a building size (at least in the real estate industry) is to calculate only the enclosed living area of a structure. The changes presented at the November 8th meeting would have been consistent with that standard. However, it was also recognized that some structures that are entirely open (e.g., the Skansie Boatyard structure) may also have impacts because of their overall size. The proposed changes would not have taken that into account.

There was some discussion about increasing the building size limit to 4,000 square feet, but staff understood that proposal to apply only if we maintained our current language that includes in the building size calculation all roofed portions of buildings. Based upon concerns to be consistent with the "industry standard", and to ensure that fully open stand-alone structures are not excluded, the staff recommends that the Council adopt an amended version of the language presented at the November 8th meeting, which would read as follows:

" . . . projects in which building(s) do not exceed 3,500 square feet in size, including each story of a building (finished or unfinished) as defined in GHMC Section 17.04.750, and including all habitable space with a finished ceiling height 5 feet or greater, including garages, shops and similar work or storage rooms, and also including non-walled stand-alone structures such as pavilions and canopies, but excluding eave overhangs open carports, decks, and porches which are incidental and secondary extensions of a fully enclosed structure.

Except for the inclusion of garages, the above language basically describes what is typically assumed when a building size is mentioned. Therefore, while the

simple and there should be few surprises when people ask how large of a building they can build.

The ordinance with the above revised language is presented for a first reading. If the Council wishes to proceed with these revisions, a second reading and public hearing will be scheduled.

POLICY CONSIDERATIONS

The City's code defines "building" as ". . . any structure built for the support or enclosure of persons, animals, chattels or property of any kind." (GHMC Section 17.04.130).

The City's code defines "structure" as ". . . a combination of materials that is constructed or erected, either on or under the ground, or that is attached to something having a permanent location on the ground, excluding residential fences, retaining walls, rockeries and similar improvements of a minor character the construction of which is not regulated by the building code of the city." (GHMC Section 17.04.770).

The City's Code defines "story" as ". . . that portion of a building between any floor and the next floor above, except that the topmost story shall be that portion of a building between the topmost floor and the ceiling or roof above it. If the finished floor level directly above a basement, cellar or unused floor space is more than six feet above the grade for more than 50 percent of the total perimeter of the building or is more than 12 feet above the grade at any one point, then such basement, cellar or unused floor space shall be considered a story. A story as used here shall not exceed 15 feet in height." (GHMC Section 17.04.750).

RECOMMENDATION

The existing moratorium language is sufficient if the Council wishes to include all covered areas of a building in the building size calculation. However, if the Council finds that the revised language better meets the intent of stated size limits in the moratorium ordinance, the staff recommends that the Council insert findings for making the revision in the blank area of Section 1 of the draft revised ordinance, and that the revised ordinance be scheduled for a second reading and public hearing on the next regularly scheduled Council meeting of December 13, 2004.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE EMERGENCY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW DEVELOPMENT OR CERTAIN TYPES OF RE-DEVELOPMENT IN THE CITY'S HEIGHT RESTRICTION AREA, AMENDING ORDINANCE NO. 965 IMPOSING THE MORATORIUM AND ORDINANCE NO. 969 ADOPTING FINDINGS AND CONCLUSIONS SUPPORTING THE CONTINUATION OF THE MORATORIUM BY AMENDING THE DEFINITION OF "EXEMPT DEVELOPMENT PERMITS," TO SPECIFY THE AREAS TO BE INCLUDED IN THE CALCULATION OF THE 3,500 SQUARE FOOT LIMITATION.

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

WHEREAS, Ordinance No. 965 defined the permit applications that were exempt from the moratorium; and

WHEREAS, on September 13, 2004, the City Council passed Ordinance No. 968, which adopted findings and conclusions supporting the continued maintenance of the moratorium; and

WHEREAS, Ordinance 968 included definitions of the permit applications that were exempt from the moratorium; and

WHEREAS, on _____, 2004, after a public hearing, the City Council heard testimony on the definition of "exempt permit applications" and deliberated on the issue; Now, therefore,

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

Section 1. The City Council finds that the definition of "exempt development permit" in Ordinances No. 965 and 968 is too restrictive for the reason that _____.

Section 2. The City Council hereby amends Section 1 in Ordinance 965 and Section 1 in Ordinance 968 as follows:

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

A. **'Exempt Development Permits'** shall include all of the following permit applications for 'development' or 'development activity' defined in GHMC Section 19.14.020(24) and 19.14.010(26), as copy of which is attached to this Ordinance as Exhibit B, which:

1. are not subject to any other moratorium in the City;
2. were determined complete by City staff and submitted to the City on or before the effective date of this Ordinance;
3. propose development or a development activity on property located outside the City Height Restriction Area (see, Subsection B below); and
4. are project(s) located on publicly-owned property and which building(s) do not exceed on thousand (1,000) square feet in size;
5. include demolition permits, sign permits, and marinas without upland buildings;
6. are building permits associated with development applications which were determined complete by City staff before the effective date of this Ordinance; and
7. are projects in which building(s) do not exceed 3,500 square feet in size, including each story of a building (finished or unfinished) as defined in GHMC Section 17.04.750, and including all habitable space with a finished ceiling height 5 feet or greater, including garages, shops and similar work or storage rooms, and also including non-walled stand-alone structures such as pavilions and canopies, but excluding eave overhangs open carports, decks, and porches which are incidental and secondary extensions of a fully enclosed structure.

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

* * *

Section 3. Amendment Does Not Affect Other Provisions of Ordinances 965 and 968. All other provisions of Ordinances 965 and 968 shall remain the same, and this Ordinance does not affect any other provision of those Ordinances, except as specifically amended above.

Section 4. Moratorium Maintained. This Ordinance shall not affect the moratorium imposed by Ordinances 965 and 968.

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

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

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor this ___th day of _____, 2004.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

FIRST READING:
DATE PASSED:
DATE OF PUBLICATION:
EFFECTIVE DATE:

GIG HARBOR

"THE MARITIME CITY"

ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR 
SUBJECT: FIRST READING OF AN ORDINANCE AMENDING THE 2004 BUDGET
DATE: NOVEMBER 22, 2004

BACKGROUND

The Building Department of the General Fund accounts for maintenance and repair of the Civic Center and the Bogue Building. Due to some unexpected repairs during the year the Building department requires a budget amendment in order to meet obligations through year-end.

FISCAL CONSIDERATIONS

The 2004 budget for this department is \$236,900 and expenditures are projected to be \$274,000 at year-end.

RECOMMENDATION

I recommend that Council approve an Ordinance amending the 2004 budget after a second reading.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY'S 2004 BUDGET, AMENDING THE 2004 BUDGET FOR THE PURPOSE OF TRANSFERRING FUNDS FROM THE GENERAL FUND ENDING FUND BALANCE TO THE GENERAL FUND NON DEPARTMENTAL DEPARTMENT.

WHEREAS, the City's 2004 budget has adequate funds in the General Fund Ending Fund; and

WHEREAS, adjustments to the 2004 annual appropriations are necessary to conduct city business;

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

Section 1. The annual appropriations in the departments and funds listed below in the City's 2004 budget 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			
01 - Non-Departmental	\$236,900	\$ 37,100	\$274,000
001-Ending Fund Balance	\$1,073,540	\$(37,100)	\$1,036,440

Section 2. The City Council finds that it is in the best interest of the City to increase the General Governmental Non-Departmental Fund in the amount of \$37,100 in order to provide for unanticipated expenditures.

Section 3. This ordinance shall be in force and take effect five (5) days after its publication of a summary according to law.

PASSED by a vote of one more than the majority of all members of the City Council, as required by RCW 35A.33.120, and approved by the Mayor at a regular meeting of the council held on this ____ day of _____, 2004.

Gretchen A. Wilbert, Mayor

ATTEST:

Molly Towslee, City Clerk

Filed with City Clerk: 11/16/04

Passed by the City Council:

Date published:

Date effective:



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: FIRST READING OF ORDINANCE REPEALING ORDINANCE
NO. 966 AND TERMINATING THE WATER MORATORIUM
DATE: NOVEMBER 22, 2004

BACKGROUND

On May 24, 2004, the Gig Harbor City Council passed emergency Ordinance No. 960 imposing an immediate moratorium on the acceptance of development applications and utility extension agreements requiring water service from the City's water system because the capacity in the City's water system was extremely low. Subsequently, Ordinance No. 966 was passed on July 26, 2004 which established findings and conclusions in support of the continued maintenance of the moratorium for a period of six months after the adoption of the moratorium.

The State of Washington Department of Ecology issued a Report of Examination (Ecology's Order and Determination) on the City of Gig Harbor Ground Water Application No. G2-29896 on October 7, 2004 which granted the City a maximum instantaneous appropriation of 1,000 gallons per minute from Well #6 (non-additive), and 896 acre-feet per year for municipal supply as an additive/primary allocation with the period of use being year-round as needed. The Report of Examination was subject to a thirty (30) day appeal period to the Washington State Pollution Control Hearings Board. The appeal period has expired and no appeals have been filed.

Staff has prepared a draft Ordinance terminating the moratorium and recommends that it be adopted at this first reading. The City Attorney has reviewed and approved the draft Ordinance.

RECOMMENDATION

I recommend that Council adopt the Ordinance as presented terminating the water moratorium and repealing Ordinance No. 966 at this first reading by a affirmative vote of a majority plus one of the whole membership of the Council.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, REPEALING ORDINANCE NO. 966, AND TERMINATING THE WATER MORATORIUM IMPOSED BY ORDINANCE NO. 966

WHEREAS, on May 24, 2004, the Gig Harbor City Council passed Ordinance No. 960 imposing an immediate moratorium on the acceptance of development applications and utility extension agreements requiring water service from the City's water system because the capacity in the City's water system was extremely low; and

WHEREAS, the City held a public hearing on the water moratorium on June 28, 2004; and

WHEREAS, on July 26, 2004, the Gig Harbor City Council passed Ordinance No. 966 which established findings and conclusions in support of the continued maintenance of the moratorium for a period of six months after the adoption of the moratorium (which would be on or about November 24, 2004); and

WHEREAS, on October 7, 2004, the State of Washington Department of Ecology issued a Report of Examination (Ecology's Order and Determination) on the City of Gig Harbor Ground Water Application No. G2-29896; and

WHEREAS, the October 7, 2004 Report of Examination granted the City a maximum instantaneous appropriation of 1,000 gallons per minute from Well #6 (non-additive), and 896 acre-feet per year for municipal supply as an additive/primary allocation with the period of use being year-round as needed; and

WHEREAS, the October 7, 2004 Report of Examination was subject to a thirty (30) day appeal period to the Washington State Pollution Control Hearings Board; and

WHEREAS, the appeal period has expired and no appeals have been filed; and

WHEREAS, it is appropriate that this Ordinance terminating the moratorium be adopted to be effective immediately; Now, Therefore,

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

Section 1. Ordinance No. 966 Repealed. Ordinance No. 966 is hereby repealed.

Section 2. Moratorium Terminated. The moratorium on the acceptance of all non-exempt development permit applications established by Ordinance No. 966 is hereby terminated.

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

Section 4. Effective Date. This Ordinance shall take effect and be in full force immediately, as it was passed at the introductory meeting provided for in GHMC 1.08.020 B. by the affirmative vote of a majority plus one of the whole membership of the Council.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor, this 22nd day of November, 2004.

MAYOR Gretchen Wilbert

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:

Carol A. Morris, City Attorney

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

GIG HARBOR
"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUBLIC HEARING AND FIRST READING OF AN ORDINANCE
ADOPTING A REVISED COMPREHENSIVE PLAN AND
IMPLEMENTING DEVELOPMENT REGULATIONS AS
REQUIRED BY STATE STATUTE (RCW 36.70A.130)
DATE: NOVEMBER 22, 2004

INFORMATION/BACKGROUND

The City is required to take action to review and, if needed, revise the comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of the Growth management Act (GMA) on or before December 1, 2004 (RCW 36.70A.130 (4)(a)). This requirement was anticipated and included as an objective in the 2004 Annual Budget. The consulting firm of AHBL, Inc. was hired to provide the services necessary to assist the City in the review and update as required by State statute.

The Planning Commission reviewed the Comprehensive Plan and development regulations at a series of work-study sessions and has identified recommended updates consistent with the State mandate. These recommended updates were considered at a public hearing before the Planning Commission on November 4, 2004. A copy of the minutes from the public hearing has been attached for your consideration. The Planning Commission held a follow-up work-study session on November 18, 2004. Any additional recommendations from the Planning Commission will be presented at the Council meeting.

Staff has prepared a draft Ordinance for the adoption of a revised Comprehensive Plan and making certain amendments to Title 17 and Title 18 of the Gig Harbor Municipal Code as required by state statute. The City Attorney has reviewed and approved the draft Ordinance.

RECOMMENDATION

I recommend that the City Council adopt the Ordinance as presented at the second reading.

Project Memo



TO: Mayor Wilbert and City Council
FROM: Owen Dennison, AHBL
DATE: November 22, 2004
PROJECT: City of Gig Harbor Comprehensive Plan Update
OUR FILE NO.: 204129.30
SUBJECT: Comprehensive Plan and Code Amendments

The Growth Management Act (GMA) requires that jurisdictions in Pierce County update their comprehensive plans and development regulations to ensure consistency with the requirements of the Act by December 2004. The City hired the firms of AHBL, Inc., Adolfson Associates, Inc., and Associated Earth Sciences, Inc., to conduct a review of the City's existing Comprehensive Plan and municipal code to identify areas that are out of compliance with the requirements of GMA and to recommend changes to bring the plan and code into compliance. The result of the initial review was adopted as the scope of the work program in Gig Harbor Resolution No. 629.

Recommendations for amendments have been brought to the Gig Harbor Planning Commission in a series of study sessions on September 16, October 7, October 21, and November 4. A final study session, deliberation, and approval of a recommendation to the Council are scheduled to occur on November 18, 2004. Public comment was taken at a public hearing on November 4, 2004.

The following is a summary of the changes proposed by the consultants with input from staff and the Planning Commission.

General

- Throughout all elements, a new and consistent formatting convention for goals and policies is proposed for easier reference. The format for goals is the chapter number followed by the goal number. The format for policies is the chapter number, followed by the goal number and policy number. For example, the first goal in the Land Use Element, Chapter 2, is Goal 2.1. The first policy under Goal 2.1 is Policy 2.1.1.

Chapter 1. Introduction

- Minor revisions to update references to existing GMA requirements and to the current amendment process.

SEATTLE

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www.ahbl.com



Chapter 2. Land Use Element

- References to growth targets are revised to be consistent with the Pierce County allocations.
- References to urban growth tiers are removed, since tiering is no longer part of the Pierce County County-Wide Planning Policies.
- Policies 2.2.3 and 2.3.4 are revised to raise the lowest end of the residential density range from 3 to 4 units per acre, consistent with Growth Management Hearings Board determinations that 4 units per acre is the lowest urban residential density.
- A new draft Policy 2.3.2 is added identifying the Tacoma Narrows Airport as an essential public facility and addressing potential limitations to land use in areas that may be detrimentally affected by the activities of the airport. No code amendment is proposed as part of this update.
- A new draft Goal 2.5 and Policy 2.5.1 are added to consistent with the requirement for to address drainage, flooding, and stormwater runoff.
- A new draft Policy 2.5.2 is added at the direction of the Commission following the Public Hearing to encourage the use of Low Impact Development strategies.
- The element also includes the amendments to the Planned Community Development description adopted under Gig Harbor Ordinance No. 933.

Chapter 3. Community Design Element

- Only format changes.

Chapter 4. Environment Element

- A new Policy 4.2.4 is added for consistency with the requirement to identify and address mineral resource lands of long-term commercial significance.
- A new Policy 4.3.3 is added to address the requirement that Best Available Science practices be used in critical area policies and regulations.

Chapter 5. Housing Element

- Proposed revisions are primarily updating the descriptions and analyses of the existing housing stock, household economic profiles, projected growth, estimated capacity, and affordable housing issues. Capacity estimates reflect the most current staff analysis. No policy amendments are proposed.

Chapter 6. Economic Development Element

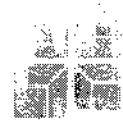
- Only format changes.

Chapter 7. Essential Public Facilities Element

- A new Goal 7.1 and Policies 7.1.1 and 7.1.2 are added identifying state and county essential public facilities lists and stating that lands for public purposes will be maintained within the framework of the Comprehensive Plan.
- Minor wording changes are proposed to Goal 7.4 and Policy 7.4.1.

Chapter 8. Utilities Element

- Only format changes.



Chapter 9. Shoreline Management Element

- Only format changes.

Chapter 10. Parks, Recreation, and Open Space Element

- The current element is replaced with a sheet referring to the Park, Recreation and Open Space Plan adopted as the City's Parks Element under Gig Harbor Ordinance No. 933.

Chapter 11. Transportation Element

- The existing element has been replaced with the 2002 Transportation Plan Update as revised by staff to reflect the most current information and Transportation Improvement Program project list.
- Several policy amendments are recommended by staff.
- For GMA consistency, a new policy 11.4.2 is proposed to include a reference to re-evaluation of the Land Use Element, among other strategies, if funding of capacity projects falls short of projected need.

Chapter 12. Capital Facilities Element

- Descriptions of existing facilities and future needs are updated from adopted functional plans with revisions from staff.
- A new Policy 12.1.4 is added at the direction of the Planning Commission to tie the sewer service area to the urban growth boundary, so that separate amendment of the service area is not required when the City's urban growth area is revised.
- A new Policy 12.1.12 is added to state that, among other strategies, the Land Use Element may be re-evaluated if funding falls short of projected need for infrastructure capacity projects.
- The transportation level of service is amended to refer to the Transportation Element.
- The capital facilities project lists are updated with information from staff.

The following are proposed amendments to the Title 17 and Title 18 of the Gig Harbor Municipal Code to achieve consistency with current GMA requirements.

Title 17. Zoning

- Chapters 17.16 (R-1), 17.28 (RB-1), 17.46 (WR), 17.48 (WM), and 17.50 (WC) are proposed for amendment to raise the maximum density from 3 and 3.5 units per acre to 4 units per acre consistent with the Growth Management Hearings Board's 4 unit per acre "bright line" for urban residential density. Minimum lot areas in Chapters 17.16 and 17.28 are proposed for reduction to allow achievement of the revised density.
- A new Chapter 17.92 is proposed to address mineral resource lands. The draft chapter defines mineral resource lands and requires notification on title for development in the vicinity of such sites.

Title 18. Environment

GMA requires that best available science (BAS) be used in the development of policies and regulations to protect the functions and values of critical areas. As part of the initial review, environmental consultants *Adolfson, Inc.*, and *Associated Earth Sciences, Inc.*, conducted a review of BAS literature with application to the City's circumstances and of the City's policies and regulations for consistency with BAS. The consultants recommend merging the Wetland

Management Regulations in 18.08 GHMC with the Critical Areas regulations in 18.12 GHMC. Therefore, the draft regulations are proposed to be located in a reformatted Chapter 18.08. The recommendations to the City's critical areas regulations are as follows.

- Geologic hazard areas.
 - 18.12.050 GHMC, proposed as 18.08.060 GHMC, is revised to change the vegetated setback from the top and toe of ravine sidewalls and bluffs from a standard 50 feet to be a width equal to the height of the slope. This accounts for slopes that are both greater than and less than an assumed standard height.
- Wetlands, streams, and habitats
 - New wetland rating categories
 - New wetland buffer widths
 - Revisions to buffer averaging provisions
 - New wetland replacement ratios
 - New stream section separate from the wetlands section
 - New stream classifications
 - New stream performance standards including buffers
 - New section addressing anadromous fish habitats

Note: There may be duplication of certain procedural sections of the proposed wetlands code with other critical areas regulations. Although the proposed code can be implemented as drafted, a consolidation of areas of potential duplication may be appropriate as part of a follow-up work program.

In addition to the above recommendations, the consultants make the following additional recommendations that are outside of the scope of the current work program.

- Update the City's aquifer protection area map consistent with map provided by Associated Earth Sciences, Inc., and showing the attributes at a scale that allows identification of streets and landmarks by the public.
- Produce landslide and erosion hazard area maps with information from available Pierce County critical areas mapping and with information from the document *Relative Slope Stability of Gig Harbor Peninsula, Pierce County Washington, 1976*, as referenced in the Associated Earth Sciences Literature Inventory produced for the current project. The map set should be of sufficient scale to allow easy identification of streets and landmarks by the public.
- Produce an updated map of flood hazards from the FEMA database at a scale that allows streets and landmarks to be easily located by the public.
- Update the City's wetland inventory consistent with the proposed wetland ratings categories and complete for all portions of the City.
- Reconcile procedural regulations in various sections of Chapter 18.08 as noted above.
- Evaluate mapped zoning and land use designations for consistency.
- Produce maps of major non-municipal utility facilities for inclusion in the Comprehensive Plan.



Conclusion:

City, AHBL, Adolfson, and Associated Earth Sciences staff will be available at the Council meeting to explain the issues and recommendations and to answer any questions.

cc: John Vodopich, City of Gig Harbor
Steve Osguthorpe, City of Gig Harbor
Stephen Misiurak, City of Gig Harbor
Teresa Vanderburg, Adolfson Associates, Inc.
Jon Sondergaard, Associated Earth Sciences, Inc.
Michael Kattermann, AHBL, Inc.
Project file

City of Gig Harbor Planning Commission
Minutes of Work-Study Session
Thursday, November 4, 2004
Gig Harbor Civic Center

PRESENT: Commissioners Carol Johnson, Dick Allen, Bruce Gair, Scott Wagner and Chairperson Paul Kadzik. Commissioners Theresa Malich and Kathy Franklin were absent. Staff present: Steve Osguthorpe, Diane Gagnon and Gus Garcia.

CALL TO ORDER: 6:05 p.m.

APPROVAL OF MINUTES:

MOTION: Move to approve the minutes of October 21, 2004 Johnson/Gair – unanimously approved.

NEW BUSINESS

1. Comprehensive Plan Update – Code and Policy Study Session #4

Planning Manager Steve Osguthorpe introduced Owen Dennison from AHBL and Teresa Vanderberg from Adolfson, Inc..

Ms. Vanderberg briefed the Planning Commission on the two summary tables and the figure of existing inventory of wetlands that she had provided as requested.

Commissioner Johnson asked if a problem could arise if they recommend a smaller buffer than what the State recommends. Ms. Vanderberg answered that best available science would need to be applied and shown.

A question was posed by Commissioner Wagner as to how buffer averaging can be applied and whether a reduction can be given for enhancing the buffer.

Ms. Vanderberg explained the reductions are currently allowed for buffer enhancements and that Adolfson was recommending that those reductions result in no less than 70% of the original buffer. She then explained buffer averaging, stating that the result is no net loss of buffer.

Commissioner Wagner stated that he had walked some low and high quality wetlands with a wetland biologist and proposed leaving the reduction at the currently allowed 50%.

Discussion followed on the ability of staff to reduce the buffer when the wetland is degraded and the possible mitigations. Concern was expressed by Planning Manager Steve Osguthorpe as to whether staff should be making judgment calls as to the value

of a wetland and Ms. Vanderberg stated that a better definition of what a degraded wetland is would have to be developed and consistently applied.

Planning Manager Steve Osguthorpe asked if the buffers should be different for residential and commercial if it was found necessary in order to meet GMA density requirements for residential. Ms Vanderberg pointed out that a new wetland inventory with a GIS overlay was needed.

PUBLIC HEARING – 7:00 PM

Chairman Paul Kadzik opened the public hearing at 7:00 pm.

Planning Manager Steve Osguthorpe gave a brief explanation of the schedule of adoption of the 2004 Comprehensive Plan amendments followed by an introduction of Owen Dennison from AHBL.

Mr. Dennison explained the changes in each of the elements of the Comprehensive Plan along with their reasons for the recommended change.

Mike Desmarteau, 1216 Pilchuck Pl., Fox Island – Mr. Desmarteau spoke on the issue of wetland buffers. He stated that he felt people's property would be hurt if buffers were increased and this would force developers to charge more for homes. Mr. Desmarteau felt that these proposed changes were against the goals of the Growth Management Act. He then thanked the Planning Commission for considering the increased density and stated that he believed in controlled growth and responsible design.

Joe Kunkel, 1411 Fourth Avenue, Suite 1020, Seattle WA – Mr. Kunkel voiced his support of the staff recommendation to fund a transportation modeling study and stated that he had a concern for potential failure at certain city intersections.

Dave Folsom, 1235 Queets Dr., Fox Island WA – Mr. Folsom handed out a Water Resources Inventory Area 15 population growth projection and pointed out that in their study Gig Harbor came out number 2 in growth although they had included area outside of the Gig Harbor city limits. Mr. Folsom stated that our area is dependent on rainwater which is mostly going down the drain due to increased impervious surfaces and further pointed out that there are areas in Gig Harbor North that don't have good absorbability. He then said that we must preserve as much native vegetation as possible and that increased impervious surfaces could result in a need to pump storm water to aquifer recharge areas. Mr. Folsom stated that we can't continue to use single family homes to meet housing needs.

Marian Berejikian, Friends of Pierce County, P.O. Box 2084, Gig Harbor WA – Ms. Berejikian handed out a comment letter and requested that the city adopt low impact development standards as part of the 2004 Comprehensive Plan Update. She stated that low impact development standards can allow increased densities while not harming the aquifer and saving money. Ms. Berejikian referenced a project in Fife where 95% of

the groundwater was captured. She then recommended that the city adopt the Department of Ecology alternative 3 wetland regulations. Ms. Berejikian noted that the city's wetland maps are incomplete and outdated and asked that those be updated. She then asked that the Planning Commission take a tour of Poulsbo Place and pointed out that the largest house in Poulsbo Place would be the smallest house in the Gig Harbor North proposal put forth by Carl Halsan.

Mike Murphy, 11030 50th St NW, Gig Harbor WA – Mr. Murphy stated that he was a member of the Peninsula Advisory Committee but was not speaking on their behalf. He clarified that he was just trying to understand what is happening in the Urban Growth Area. Mr. Murphy stated that he agreed with Mr. Folsom and shared his concern for increased impervious surfaces and their affect on the aquifers.

Liz Lathrop – Ms. Lathrop stated that she had been involved in the water quality planning process and urged the Planning Commission to pay close attention to the recommendations of the WRIA 15 group. She voiced her support of low impact development and the need to protect our near shore habitat.

There being no further comments, Chairman Paul Kadzik closed the Public Hearing at 7:45. He then called for a 5-minute recess.

Chairman Kadzik opened the work-study session at 7:50.

Planning Manager Steve Osguthorpe suggested that the Planning Commission move down on the agenda to the Transportation Element since Gus Garcia was present from Operations and Engineering to answer any questions, pointing out that they did have another meeting scheduled to discuss any other items outstanding.

Owen Dennison from AHBL went over the proposed policy changes. Commission Gair asked why the language which referenced working with downtown property owners on a parking solution was being removed and suggested that it remain. It was agreed that the language should remain.

Commissioner Gair went over his proposed changes which were of a housekeeping nature.

The Planning Commission then discussed the input they had received from the public hearing regarding wetland buffers and low impact development standards. Planning Manager Steve Osguthorpe suggested that different buffer widths could be used for different land uses.

Theresa Vanderberg from Adolfson offered to work with AHBL on writing language and definition of low impact development.

The Planning Commission then discussed the Department of Ecology guidelines and how best to achieve recommended densities.

Commissioner Wagner asked if the wetland buffers we have currently were acceptable then why change them and Planning Manager Steve Osguthorpe pointed out that they were not based on best available science.

The Planning Commission went through the matrix of wetland buffer ranges and discussed how Gig Harbor's current regulations compare. It was decided that everyone would look over the information provided and come back with suggestions at the next work-study session.

Commissioner Wagner asked for clarification of the changes to Title 17 and Owen Dennison went over the recommended changes.

Mr. Dennison then briefed the Planned Commission on the list of Essential Public Facilities they had requested. He stated that there is a list in Gig Harbor's Public Institutional zone and that no other lists exist although they are referenced. He recommended that we identify the lists for future reference. Mr. Dennison then pointed out that the sewer service area in the Capital Facilities Element had been modified to state that it would be the same as the Urban Growth Area boundary.

NEXT REGULAR MEETING:

November 18, 2004 at 6pm – Work-Study Session

ADJOURN:

MOTION: Move to adjourn at 9:10 p.m.
Johnson/Gair – unanimously approved

CD

recorder utilized:

Disc #1 Tracks 1 and 2
Disc #2 Tracks 1 and 2

CITY OF GIG HARBOR
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, ADOPTING A REVISED COMPREHENSIVE PLAN PURSUANT TO THE REQUIREMENTS OF THE WASHINGTON STATE GROWTH MANAGEMENT ACT RCW 36.70A.130 (4) (A), AMENDING SECTIONS 17.16.060, 17.28.050, 17.46.040, 17.48.040, 17.50.040, ADDING A NEW SECTION 17.92 MINERAL RESOURCE LANDS, AND AMENDING TITLE 18 OF THE GIG HARBOR MUNICIPAL CODE TO ENSURE CONSISTENCY WITH THE COMPREHENSIVE PLAN.

WHEREAS, the City of Gig Harbor plans under the Washington State Growth Management Act (chapter 36.70A RCW); and

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

WHEREAS, the City may not amend the Comprehensive Plan more than once a year (RCW 36.70A.130); and

WHEREAS, the City is required to provide public notice of and hold a public hearing on any amendments to the Comprehensive Plan and implementing development regulations (RCW 36.70A.035, RCW 36.70A.130); and

WHEREAS, the City Community Development Director notified the Washington State Office of Community Development of the City's intent to amend the Comprehensive Plan on October 21, 2004 pursuant to RCW 36.70A.106; and

WHEREAS, on October 20, 2004, the City's SEPA Responsible Official has issued a Determination of Non-Significance with regards to the proposed adoption of a revised Comprehensive Plan, as well as the amendments to Title 17 and Title 18 of the Gig Harbor Municipal Code; and

WHEREAS, no appeals of the issuance of the Determination of Non-Significance were filed; and

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

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

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

WHEREAS, the City Council adopted Resolution No. 629 on September 13, 2004, which was subsequently revised by Resolution No. 631, which established a timeline and work program for the review and revision of the City of Gig Harbor Comprehensive Plan; and

WHEREAS, the City Planning Commission reviewed the recommendations for the update of the Comprehensive Plan and development regulations as outlined in the scope of work in Resolutions Nos. 629 and 631; and

WHEREAS, the City Planning Commission conducted work-study sessions for the 2004 review and update of the Comprehensive Plan on September 16, 2004, October 7, 2004, October 21, 2004 and November 18, 2004; and

WHEREAS, the City Planning Commission held a legally advertised public hearing on the 2004 review and update of the Comprehensive Plan on November 4, 2004 and recommended adoption of a revised City of Gig Harbor Comprehensive Plan and certain amendments to Title 17 and Title 18 of the Gig Harbor Municipal Code; and

WHEREAS, Gig Harbor City Council held a public hearing and first reading of an Ordinance implementing the recommendations of the Planning Commission amending the Comprehensive Plan and development regulations on November 22, 2004; and

WHEREAS, the Gig Harbor City Council, during a regular City Council meeting, held the second reading of an Ordinance implementing the recommendations of the Planning Commission amending the Comprehensive Plan and development regulations on December 13, 2004; Now, Therefore,

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

Section 1. Comprehensive Plan Plan. The City Council hereby adopts the November 2004 City of Gig Harbor Comprehensive Plan, as outlined in Exhibit A, by reference.

Section 2. Implementing Development Regulations. The City Council hereby adopts certain amendments to Title 17 and Title 18 of the Gig Harbor Municipal Code, as outlined in Exhibit B, by reference.

Section 2. Comprehensive Plan and Implementing Development Regulations.

A. **Notice.** The City Clerk confirmed that public notice of the public hearing held by the City Council was provided.

B. **Hearing Procedure.** The City Council's consideration of the comprehensive land plan and amendments to the Gig Harbor Municipal Code is a legislative act. The Appearance of Fairness doctrine does not apply.

C. **Testimony.** The following persons testified on the applications at the November 22, 2004 public hearing:

[Fill in with meeting minutes]

Section 3. Transmittal to State. The City Community Development Director is directed to forward a copy of this Ordinance, together with all of the exhibits, to the Washington State Office of Community Development within ten days of adoption, pursuant to RCW 36.70A.106.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

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

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this 13th day of December, 2004.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

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

2004

CITY OF GIG HARBOR
COMPREHENSIVE PLAN



"THE MARITIME CITY"

Gig Harbor Growth Management Update
 Draft Density Code Amendments
 AHBL, Inc.
 10/21/2004

Chapter 17.16

SINGLE-FAMILY RESIDENTIAL (R-1)

17.16.060 Development standards.

In an R-1 district, the minimum lot requirements are as follows:

- A. Minimum lot area per building site
for short plats¹ 7,200 sq. ft.
- B. Minimum lot width¹ 70'
- C. Minimum front yard setback² 25'
- D. Minimum rear yard setback 30'
- E. Minimum side yard setback 8'
- F. Maximum impervious lot coverage 40%
- G. Minimum street frontage 20'
- H. Maximum density 4 dwelling

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units/acre

¹A minimum lot area is not specified for subdivisions of five or more lots. The minimum lot width shall be 0.7 percent of the lot area, in lineal feet.

²In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors. The other property line abutting a street shall be deemed the side property line. An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

(Ord. 710 § 6, 1996; Ord. 573 § 2, 1990. Formerly 17.16.070).

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Chapter 17.28

RESIDENTIAL AND BUSINESS DISTRICT (RB-1)

17.28.050 Minimum development standards.

In an RB-1 district, the minimum lot requirements are as follows:

	Residential	Nonresidential
A. Minimum lot area (sq. ft.)	<u>7,200</u>	15,000
B. Minimum lot width	70'	70'
C. Minimum front yard setback	20'	20'
D. Minimum rear yard setback	25'	15'
E. Minimum side yard setback	7'	10'
F. Maximum impervious lot coverage	50%	60%
G. Minimum street frontage	20'	50'
H. Maximum density	<u>4</u> dwelling units/acre	
I. Maximum gross floor area	N/A	5,000 sq. ft. per lot

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Chapter 17.46

WATERFRONT RESIDENTIAL (WR)

17.46.040 Development standards.

A minimum lot area for new subdivisions is not specified. The minimum lot requirements are as follows:

	Single-Family	Duplex	Nonresidential
A. Minimum lot area (sq. ft.) ¹	7,000	14,000	12,000
B. Minimum lot width	70'	50'	50'
C. Minimum front yard ²	20'	20'	20'
D. Minimum side yard	10'	10'	10'
E. Minimum rear yard	25'	25'	25'
F. Minimum yard abutting tidelands	0'	0'	0'

G. Maximum site impervious coverage 40% 45% 50%

H. Maximum density³ 4 dwelling units per acre

¹An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

²In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors.

³Density bonus of up to 30 percent may be granted subject to the requirements of Chapter 17.89 GHMC, Planned residential district.

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Chapter 17.48

WATERFRONT MILLVILLE (WM)

17.48.040 Development standards.

A minimum lot area for new subdivisions is not specified. The minimum development standards are as follows:

	Single Family Dwelling	Attached up to 4 units	Non-residential
A. Minimum lot area (sq. ft.) ¹	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard ²	20'	20'	20'
D. Minimum side yard	8'	10'	10'
E. Minimum rear yard	25'	25'	25'
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious coverage	50%	55%	70%

H. Maximum density³ 4 dwelling units per acre

I. Maximum gross floor area N/A N/A 3,500 sq. ft.

per lot

¹An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

²In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties in the opinion of the planning and public works directors.

³Density bonus of up to 30 percent may be granted subject to the requirements of Chapter 17.89 GHMC (Planned residential district).

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Chapter 17.50

WATERFRONT COMMERCIAL (WC)

17.50.040 Development standards.

In a waterfront commercial district, the minimum development requirements are as follows:

	Single-Family Dwelling	Attached up to 4 units	Non-residential
A. Minimum lot area (sq. ft.) ¹	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard ²	20'	20'	20'
D. Minimum side yard	8'	10'	10'
E. Minimum rear yard	25'	25'	25'
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious coverage	50%	55%	70%

H. Maximum density 4 dwelling units per acre

¹An undersized lot shall qualify as a building site if such lot is a lot of record at the time this chapter became effective.

²In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors.

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Chapter 17.92
Mineral Resource Lands

Sections:

- 17.94.010 Short title.**
- 17.94.020 Purpose.**
- 17.94.030 Applicability.**
- 17.94.040 Designation of mineral resource lands.**
- 17.94.050 Title notification.**
- 17.94.060 Plat Notification.**

17.94.010 Short title.

This chapter shall be known and may be cited as the "mineral resource lands" code" of the city.

17.94.020 Purpose.

The purpose of this chapter is:

- A. To regulate the use of land in and around mineral resource lands;
- B. To promote the health, safety, and welfare of the citizens of the city;
- C. To protect mineral extraction activities from new, nearby, and incompatible uses;
- D. To protect existing mineral lands from encroachments; and
- E. Comply with the Washington State Growth Management Act.

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17.94.030 Applicability.

The provisions of this chapter shall apply to new residential development on property of which any portion is within four hundred (400) feet of the boundary of any parcel designated as a mineral resource land.

17.94.040 Designation of mineral resource lands.

Mineral resource lands subject to this chapter include the following:

- A. Any area presently operating under a valid Washington State Department of Natural Resources (DNR) surface mining permit and a valid land use permit from the county or the city.
- B. Any other area shall be classified a mineral resource land when:
 - 1. A surface mining permit is granted by the DNR; and
 - 2. The mining operation is approved by the city for compliance with zoning and the State Environmental Policy Act, Chapter 18.04 GHMC.

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17.94.050 Title notification.

The owner of a site, any portion of which is within four hundred (400) feet of the property boundary of a site designated as a mineral resource land, for which an application for development activity is submitted, shall record a title notice with the Pierce County auditor. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site. Such notification shall be in the form as set forth below:

MINERAL RESOURCE LANDS NOTICE

Parcel Number: _____

Address: _____

Legal Description: _____

Notice: This parcel lies within an area of land designated Mineral Resource Lands by the City of Gig Harbor. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City of Gig Harbor has established mineral resource extraction as a priority use on exiting productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary mineral resource extraction operations.

Signature of owner(s)
(NOTARY ACKNOWLEDGEMENT)

17.94.060 Plat notification.

The owner of a site, any portion of which is within four hundred (400) feet of the property boundary of a site designated as a mineral resource land, on which a short subdivision or subdivision is submitted, shall record a notice on the face of the plat. Such notification shall be in the form as set forth below.

Notice: This property lies within or near an area of land designated Mineral Resource Lands by the City of Gig Harbor. A variety of commercial mineral extraction activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of heavy equipment, chemicals, and spraying which may generate dust, smoke, and noise associated with the extraction of mineral resources. The City of Gig Harbor has established mineral resource extraction as a priority use on exiting productive mineral resource lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary mineral resource extraction operations.

Gig Harbor Growth Management Update
Draft Title 18 Code Amendments
Adolfson, Inc.
Associated Earth Sciences, Inc.

Title 18

ENVIRONMENT

Chapters:

18.04 Environmental Review (SEPA)

18.08 Wetland Management Regulations

18.12 Critical Areas

**[Wetland Management Regulations moved into
Critical Areas – new Critical Areas section 18.08]**

Chapter 18.08

CRITICAL AREAS

Sections:

18.08.010 Purpose.

18.08.020 Goals.

18.08.030 Best Available Science

18.08.040 Definitions.

18.08.050 Applicability.

18.08.060 Hillside, ravine sidewalls and bluffs.

18.08.070 Landslide and erosion hazard areas.

18.08.080 Seismic hazard areas.

18.08.090 Flood hazard areas.

18.08.100 Wetlands

18.08.110 Streams

18.08.120 Critical fish and wildlife habitat areas.

18.08.130 Aquifer recharge areas.

18.08.140 Reasonable use exceptions.

18.08.150 Maintenance of existing structures and developments.

18.08.160 Exemptions from development standards.

18.08.170 Variances from the minimum requirements.

18.08.180 Performance assurance.

18.08.190 Penalties and enforcement.

18.08.200 Severability.

18.08.210 Chapter and ordinance updates.

18.08.010 Purpose.

The ordinance codified in this chapter is intended to promote the maintenance, enhancement, and preservation of critical areas and environmentally sensitive natural systems by avoiding or minimizing adverse impacts from construction and development. This chapter implements the goals, and objectives of the state Growth Management Act of 1990 through the development and implementation of policies and interim regulations to manage critical areas in the public's interest and welfare. It is not the intent of this chapter to deny a reasonable use of private property, but to assure that development on or near critical areas is accomplished in a manner that is sensitive to the environmental resources of the community. (Ord. 619 § 1, 1992).

18.08.020 Goals.

In implementing the purposes stated in GHMC

18.08.010, it is the intent of this chapter to accomplish the following:

- A. Protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development;
- B. Minimize damage to life, limb and property due to landslides and erosion on steep or unstable slopes, seismic hazard areas and areas subject to subsidence;
- C. Protect wetlands and their functions and values;
- D. Protect and maintain stream flows and water quality within the streams;
- D. Minimize or prevent siltation to the receiving waters of Gig Harbor Bay for the maintenance of marine water

quality and the maintenance and preservation of marine fish and shellfish;

E. Preserve natural forms of flood control and stormwater storage from alterations to drainage or stream flow patterns;

F. Protect aquifer recharge areas from undesirable or harmful development;

G. Protect, maintain and enhance areas suitable for wildlife, including rare, threatened or endangered species;

H. Protect, maintain and enhance fish and wildlife habitat conservation areas within their natural geographic distribution so as to avoid the creation of subpopulations;

I. Implement the goals, policies and requirements of the Growth Management Act. (Ord. 619 § 1, 1992).

18.08.030 Best available science

A. The Growth Management Act requires jurisdictions to include the best available science when designating and protecting critical areas. The Growth Management Act also requires the implementation of conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat (WAC 365-195-900 through WAC 365-195-925). Anadromous fish are those that spawn and rear in freshwater and mature in the marine environment, including salmon and char (bull trout).

Best available science shall be used in developing policies and development regulations to protect the functions and values of critical areas. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas. The best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.

18.08.040 Definitions

This chapter applies to all designated or defined critical areas within the city of Gig Harbor. The following definitions apply:

Definitions.

For purposes of this chapter, the following definitions shall apply:

- 1. "Alteration" means any activity which materially affects the existing condition of land or improvements.
- 2. "Applicant" means the person, party, firm, corporation, or other legal entity that proposes any activity. The applicant is either the owner of the land on which the proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.
- 3. "Aquifer" means a subsurface, saturated geologic formation which produces, or is capable of producing, a

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sufficient quantity of water to serve as a private or public water supply.

4. "Aquifer recharge areas" means those areas which serve as critical ground water recharge areas and which are highly vulnerable to contamination from intensive land uses within these areas.

5. "Best management plan" means a plan or program developed by the local Soil Conservation District (U.S.D.A.) which specifies best management practices for the control of animal wastes, stormwater runoff and erosion.

6. "Bluff" means a steeply rising, near vertical slope which abuts and rises from the Puget Sound shoreline. Bluffs occur in the east area of the city, fronting the Tacoma Narrows, and are further identified in the Coastal Zone Atlas, Volume 7, for Pierce County. The toe of the bluff is the beach and the top is typically a distinct line where the slope abruptly levels out. Where there is no distinct break in a slope, the top is the line of vegetation separating the unvegetated slope from the vegetated uplands, or, if the bluff is vegetated, that point where the bluff slope diminishes to 15 percent or less.

7. "Buffer" means a natural area adjacent to hillsides or ravines which provides a margin of safety through protection of slope stability, attenuation of surface water flows and landslides, seismic and erosion hazards reasonably necessary to minimize risk to the public from loss of life, well-being or property damage from natural disaster.

8. "Building setback line" means a distance, in feet, beyond which the footprint or foundation of a building or structure shall not extend.

9. "City" means the city of Gig Harbor.

10. "Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site which exposes the earth's surface of the site.

11. "Compensatory mitigation" means mitigation for wetland losses or impacts resulting from alteration of wetlands and/or their buffers. It includes, but is not limited to, creation, enhancement and restoration.

12. "Contaminant" means any chemical, physical, biological or radiological material that is not naturally occurring and is introduced into the environment by human action, accident or negligence.

13. "Creation" means the producing or forming of a wetland through artificial means from an upland (non-wetland) site.

14. "Critical areas" consist of those lands which are subject to natural hazards, contain important or significant natural resources or which have a high capability of supporting important natural resources.

15. "Department" means the city department of community development.

16. "Designated wetland" means those lands identified through the classification process established by this chapter.

17. "Development" means alteration (see definition for alteration).

18. "DRASTIC" means a model developed by the National Water Well Association and Environmental Protection Agency and which is used to measure aquifer susceptibility to contamination.

19. "Earth/earth material" means naturally occurring rock, soil, stone, sediment, organic material, or combination thereof.

20. "Enhancement" means actions performed to improve the conditions of existing degraded wetlands and/or buffers so that the functions they provide are of a higher quality (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or garbage).

21. "Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

22. "Erosion hazard areas" means those areas which are vulnerable to erosion due to natural characteristics including vegetative cover, soil texture, slope, gradient or which have been induced by human activity. Those areas which are rated severe or very severe for building site development on slopes or cut banks, in accordance with the United States Department of Agriculture Soil Conservation Service Soil Survey for Pierce County Area (February 1979), are included within this definition.

23. "Excavation" means the mechanical removal of earth material or fill.

24. "Existing and on-going agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an on-going activity. An operation ceases to be on-going when the area on which it was conducted has been converted to a non-agricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume operations, unless the idle land is registered in a federal or state soils conservation program.

25. "Fill/fill material" means a deposit of earth material, placed by human or mechanical (machine) means, and which is not defined by solid waste according to Chapter 70.95 RCW.

26. "Filling" means the act of placing fill material on any surface.

27. "Fish and wildlife habitat areas" means those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation including waters of the state, and as

further identified in GHMC 18.08.090.

28. "Flood hazard areas" mean those areas within the city of Gig Harbor which are determined to be at risk of having a one percent or greater chance of experiencing a flood in any one year, with those areas defined and identified on the Federal Emergency Management Administration (FEMA) flood insurance rate maps for the city of Gig Harbor.

29. "Floodplain development permit" means the permit required by the city flood hazard construction ordinance.

30. "Geologically hazardous areas" means those areas as designated in the city of Gig Harbor comprehensive plan as "landslide hazards," in the Washington Department of Ecology Coastal Zone Atlas, Volume 7, and which are further defined in WAC 365-190-080(5) and this title.

31. "Grading" means any excavating, filling, clearing, leveling, or contouring of the ground surface by human or mechanical means.

32. "Grading permit" means the permit required by the city grading and clearing ordinance.

33. "In-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.

34. "Habitat management plan" means a report prepared by a qualified wildlife biologist.

35. "Hazardous substance" means any material that exhibits any of the characteristics or criteria of hazardous waste, inclusive of waste oil and petroleum products, and which further meets the definitions of "hazardous waste" pursuant to Chapter 173-303 WAC.

36. "Hillsides" means geologic features with slopes of 15 percent or greater. The ordinance codified in this chapter provides four classes of hillsides in order to differentiate between the levels of protection and the application of development standards.

37. "Landslide" means an abrupt downslope movement of soil, rock or ground surface material.

38. "Landslide hazard area" means those areas which are susceptible to risk of mass movement due to a combination of geologic, topographic and hydrologic factors.

39. "Mitigation" means to avoid, minimize, or compensate for adverse wetland impacts.

40. "Out-of-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

41. "Permanent erosion control" means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants after development, construction, or restoration.

42. "Person" means an individual, firm, co-partnership, association or corporation.

43. "Ravine sidewall" means a steep slope which abuts and rises from the valley floor of a stream and which was

created by the normal erosive action of the stream.

Ravine sidewalls are characterized by slopes predominantly in excess of 25 percent although portions may be less than 25 percent. The base of a ravine sidewall is the stream valley floor. The top of a ravine sidewall is a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the top shall be that point where the slope diminishes to 15 percent or less.

44. "Restoration" means the reestablishment of a viable wetland from a previously filled or degraded wetland site.

45. "Seismic hazard areas" means those areas which are susceptible to severe damage from earthquakes as a result of ground shaking, slope failure, settlement or soil liquefaction.

46. "Significant impact" means a meaningful change or recognizable effect to the ecological function and value of a wetland, which is noticeable or measurable, resulting in a loss of wetland function and value.

47. "Single-family residence" or "dwelling" means a building or structure, or portion thereof, which is designed for and used to provide a place of abode for human beings, including mobile homes, as defined in the city zoning code (GHMC 17.04.300 and 17.04.305).

48. "Site" means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project impacts a wetland(s).

49. "Slope" means an inclined ground surface, the inclination of which is expressed as a ratio (percentage) of vertical distance to horizontal distance by the following formula: V (vertical distance) \times 100 = % slope H (horizontal distance)

50. "Species of local importance" means a species of animal which is of local concern due to their population status or their sensitivity to habitat manipulation. This term also includes game species.

51. "Stockpiling" means the placement of material with the intent to remove at a later time.

52. "Substrate" means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

53. "Utility line" means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas and communications.

54. "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

55. "Wetland buffer zone" means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and structural stability of the wetland. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat. For further information on permitted uses, see GHMC 18.08.120.

56. "Wetland class" means the U.S. Fish and Wildlife Service wetland classification scheme using a hierarchy of systems, subsystems, classes and subclasses to describe wetland types (refer to USEFWS, December 1979, Classification of Wetlands and Deepwater Habitats of the United States for a complete explanation of the wetland classification scheme). Eleven class names are used to describe wetland and deepwater habitat types. These include: forested wetland, scrub-shrub wetland, emergent wetland, moss-lichen wetland, unconsolidated shore, aquatic bed, unconsolidated bottom, rock bottom, rocky shore, streambed, and reef.

57. "Wetland specialist" is a person with a minimum of a four-year degree in wildlife sciences, biology, environmental sciences, soil science, limnology or an equivalent academic background who also has experience in performing wetland delineations, analysis of wetland functions and values and project impacts, and wetland mitigation and restoration techniques. The person must be familiar with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, city grading and clearing ordinance, and the city wetlands management ordinance. (Ord. 726 § 1, 1996; Ord. 611 § 1, 1991).

58. "Wildlife biologist" means a person having, at a minimum, a bachelor's degree in wildlife biology, wildlife science, wildlife ecology, wildlife management or zoology, or a bachelor's degree in natural resource or environmental science plus 12 semester or 18 quarter hours on wildlife course works and two years of professional experience.

18.08.050 Applicability.

A. Critical Area Review. All development proposals in critical areas, whether on public or private property, shall comply with the requirements of this chapter. The planning director or his/her designee shall utilize the procedures and rules established in the city of Gig Harbor environmental policy ordinance, Chapter 18.04 GHMC (Environmental Review (SEPA)) and the applicable provisions of GHMC Title 19, to implement the provisions of this chapter. Development proposals include any development project which would require any of the following:

1. Building permit for any construction,
2. Clearing and grading permit,
3. Any shoreline management permit as authorized under Chapter 90.58 RCW,
4. Site plan review,
5. Subdivision, short subdivision or planned unit development,
6. Zoning variance or conditional use permit.

B. Special Studies Required. When an applicant submits an application for any development proposal, the application shall indicate whether any critical area is located on the site. The planning director or designee shall visit the site, and in conjunction with the review of the information provided by the applicant and any other suitable information, shall make a determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined that the information presented is not sufficient to adequately evaluate a proposal, the planning director shall notify the applicant that additional studies as specified herein shall be provided.

C. Appeals. A decision of the planning director to approve, conditionally approve or deny a permit, or any official interpretation in the administration of this chapter may be appealed in accordance with the procedures established under GHMC Title 19 (Ord. 727 § 3, 1996; Ord. 619 § 1, 1992).

agent for the project proponent has submitted written notice to the city that the buffer requirements of this section have been met. Field marking of the buffer shall remain in place until all phases of construction have been complete and an occupancy permit has been issued by the city.

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c. Buffer Reduction. A buffer may be reduced upon verification by a qualified professional and supporting environmental information, to the satisfaction of the city, that the proposed construction method will:

- i. Not adversely impact the stability of ravine sidewalls;
- ii. Not increase erosion and mass movement potential of ravine sidewalls;
- iii. Use construction techniques which minimize disruption of existing topography and vegetation;
- iv. Includes measures to overcome any geological, soils and hydrologic constraints of the site. The buffer may be reduced to no less than the minimum rear yard setback established in the respective zoning district, pursuant to GHMC Title 17.

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d. Building Setback Lines. A building setback line of 10 feet is required from the edge of any buffer of a ravine sidewall or bluff.

2. Hillside of 15 Percent Slope and Greater— Studies Required. Developments on hillsides shall comply with the following requirements:

a. Site Analysis Reports Required. The following chart sets forth the level of site analysis report required to be developed based upon the range of the slope of the site and adjacent properties:

Slope of Length of Parameters Report, Site and/or Slope (feet) of Report Prepared Adjacent (see key) by Properties	0% to 15% No limit Report not required	15% to 25% > 50	1, 2, 3 Building contractor or other technical consultant
25% to 40% > 35	1, 2, 3, 4 Registered civil engineer	40% + > 20	1, 2, 3, 4 Registered engineer or geotechnical engineer

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18.08.060 Hillside, ravine sidewalls and bluffs.

A. Disturbance Limitations. If a hillside, ravine sidewall or bluff is located on or adjacent to a development site, all activities on the site shall be in compliance with the following requirements:

1. Ravine Sidewalls and Bluffs.

a. Buffers. An undisturbed buffer of natural vegetation with a minimum width equal to the height of the ravine sidewall shall be established and maintained from the top, toe and sides of all ravine sidewalls and bluffs. All buffers shall be measured on a horizontal plane.

b. Buffer Delineation. The edge of a buffer shall be clearly staked, flagged and fenced prior to any site clearing or construction. Markers shall be clearly visible and weather resistant. Site clearing shall not commence until such time that the project proponent or authorized

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Report Key Contents

- 1. Recommended maximum site ground disturbance.
- 2. Estimate of storm drainage (gpm) for preconstruction, during construction and post-construction.
- 3. Recommended methods to minimize erosion and storm water runoff from site during construction and post-construction.
- 4. Seismic stability of site, preconstruction, during construction and post-construction.

b. Development Location. Structures and improvements shall be located to preserve the most sensitive portion of the site, its natural land forms and vegetation.

c. Landscaping. The disturbed areas of a development site not used for buildings and other developments shall be landscaped according to the landscape standards of the zoning code (Chapter 17.78 GHMC).

d. Project construction shall be required to implement all recommended requirements of the report referenced in subsection A2a of this section, and any additional requirements as determined by city staff. In addition, should adjacent properties be adversely impacted by the implementation or construction, additional mitigation measures necessary to minimize or eliminate these impacts shall be implemented by the applicant. (Ord. 619 § 1, 1992).

18.08.070 Landslide and erosion hazard areas.

Areas which are identified as landslide or erosion hazard areas shall be subject to the requirements established in this section.

A. Regulation. Applications for regulated activities proposed within designated landslide and erosion hazard areas shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated to the planning director that a landslide or erosion hazard potential does not exist on the site, the requirements of this section may be waived.

B. Geotechnical Report Requirements. A geotechnical report required under this section shall include, at a minimum, the following information:

1. Topographic data at a minimum scale of 1:240 (1 inch = 20 feet). Slope ranges shall be clearly delineated in increments of 15 percent to 25 percent, 25 percent to 40 percent and greater than 40 percent;

2. Subsurface data, including boring logs and exploratory methods, soil and rock stratigraphy, ground water levels and any seasonal variations of ground water levels;

3. Site history, including description of prior grading and clearing, soil instability or slope failure. If a geotechnical report has been prepared and accepted by the planning director within the previous two years for a specific site and the proposed land use development and site conditions have not changed, the report may be utilized without the requirement for a new report.

C. Development Standards. Upon submission of a satisfactory geotechnical report or assessment, site

development may be authorized by the director subject to the following: 1. Buffers shall comply with the requirements of GHMC 18.12.050(A);

2. Approved erosion-control measures are in place prior to, or simultaneous, with site clearing or excavation;

3. Such other conditions as deemed appropriate by the administrator to ensure compliance with the provisions of this chapter. (Ord. 619 § 1, 1992).

18.12.080 Seismic hazard areas.

Designated seismic hazard areas shall be subject to the requirements of this section. At a minimum, seismic hazard areas shall include areas of alluvial and recessional outwash surficial geologic units as identified in "Water Resources and Geology of the Kitsap Peninsula and Certain Adjacent Lands, Water Supply Bulletin Number 18, Plate One," U.S. Department of the Interior, Geological Survey, Water Resources Division, and any lot, tract, site or parcel which has been modified by imported or excavated earthen fill material.

A. Regulation. Applications for regulated activities proposed within designated seismic hazard areas shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated that a seismic hazard potential does not exist on the site, the requirements of this section may be waived.

B. Geotechnical Report Requirements. The required report shall evaluate the existing site conditions, including geologic, hydrologic and site capability to accommodate the proposed activity. At a minimum, the following shall be included:

- 1. Analysis of subsurface conditions;
- 2. Delineation of the site subject to seismic hazards;
- 3. Analysis of mitigation measures which may be employed to reduce or eliminate seismic risks, including an evaluation of the effectiveness of mitigation measures.

If a proposal is required to submit a seismic risk analysis pursuant to any requirements of the most recently adopted edition of the Uniform Building Code (Chapters 23 or 25) by the city of Gig Harbor, the report requirements of this section may be waived by the department. (Ord. 619 § 1, 1992).

18.08.090 Flood hazard areas.

Areas which are prone to flooding and which are identified in the Federal Emergency Management Administration flood insurance rate maps for the city of Gig Harbor (September 2, 1981) shall be subject to the requirements of this section. A. Regulation. All development within flood hazard areas shall be subject to the requirements of the city of Gig Harbor flood hazard construction standards (Chapter 15.04 GHMC). (Ord. 619 § 1, 1992).

18.08.100 Wetlands

A.2 Designation and mapping of wetlands.

A. Pursuant to WAC 197-11-908, the city designates

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wetlands as critical areas defined in this chapter.
B. The approximate location and extent of critical areas are shown on the City's critical area maps. These maps are to be used as a guide and may be updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. Mapping sources include:

1. Areas designated on the Pierce County wetland atlas of 1990;
2. Areas which have been designated as wetlands per the city of Gig Harbor wetlands inventory and maps, May/June 1992, (Ord. 628 & 1, 1992; Ord. 611 & 1, 1991).

[Definitions for the following have been integrated into the Definitions Section 18.08.03 above.]

Alteration
Applicant
City
Clearing
Compensatory mitigation
Creation
Department
Designated wetland
Development
Earth/earth material
Enhancement
Erosion
Excavation
Existing and on-going agricultural activities Fill/fill material
Floodplain development permit
Grading
Grading permit
In-kind mitigation
Mitigation
Out-of-kind mitigation
Permanent erosion control
Person
Restoration
Significant impact
Single-family residence or dwelling
Site
Slope
Stockpiling
Substrate
Utility line
Wetland or wetlands
Wetland buffer zone
Wetland class
Wetland specialist

18.08.040 Wetland classification guidelines/ ratings.

A. Wetland rating and classification shall be established based upon the completion of a delineation report prepared by a wetland specialist to determine boundary, size, function and value. Guidelines for preparing a wetland delineation report are defined in GHMC 18.08.070 and the Department of Ecology Wetland

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Identification and Delineation Manual (1997), which is consistent with the 1987 Federal Manual, used by the U.S. Army Corps of Engineers.

B. **Wetland ratings.** Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents (Western Washington, Ecology Publication #93-74). These documents contain the definitions and methods for determining if the criteria below are met.

1. Wetland rating categories

a. **Category I.** Category I wetlands are those that meet one or more of the following criteria:

- i. Documented habitat for federal or state listed endangered or threatened fish, animal, or plant species;
- ii. High quality native wetland communities, including documented category I or II quality Natural Heritage wetland sites and sites which qualify as a category I or II quality Natural Heritage wetland (defined in the rating system documents);
- iii. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine, wetlands, or mature forested swamps (defined in the rating system documents); or
- iv. Wetlands of exceptional local significance.

b. **Category II.** Washington Department of Fish and Wildlife, U.S. Fish and Wildlife Services, and National Marine Fisheries Services documented habitats for state listed sensitive plant, fish, or animal species;

- i. Wetlands that contain fish or animal species listed as priority species by the Washington Department of Fish and Wildlife, or plant species listed as rare by the Washington State Department of Natural Resources;
- ii. Wetland types with significant ecological functions as determined by an agency approved functional evaluation methodology that may not be adequately replicated through creation or restoration;
- iii. Wetlands possessing significant habitat value based on a score of twenty-two (22) or more points in the State Department of Ecology habitat rating system; or
- iv. Documented wetlands of local significance.

c. **Category III.** Category III wetlands are those that do not satisfy category I, II or IV criteria, and with a habitat value rating of twenty-one (21) points or less.

d. **Category IV.** Category IV wetlands are those that meet the following criteria:

- i. Hydrologically isolated wetlands that are less than or equal to one (1) acre in size, have only one wetland class, and are dominated (greater than eighty percent (80%) areal cover) by a single non-native plant species (monotypic vegetation); or
- ii. Hydrologically isolated wetlands that are less than or equal to two (2) acres in size, and have only one

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Deleted: A. Wetlands shall be classified as Category I, II, III and IV, in accordance with the following criteria:

1. Category I:
 - a. Documented habitats for sensitive plant, fish or animal species recognized by federal or state agencies, or
 - b. Regionally rare wetland communities which are not high quality, but which have irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps, or
 - c. Wetland types with significant functions which may not be adequately replicated through creation or restoration. These wetlands may be demonstrated by the following characteristics:
 - i. Significant peat systems, or
 - ii. Forested swamps that have three canopy layers, excluding monotypic stands of red alder averaging eight inches diameter or less at breast height, or
 - iii. Significant spring fed systems, or
 - d. Wetlands with significant habitat value based on diversity and size, including wetlands which are:
 - i. Ten acres or greater in size; and
 - ii. Two or more wetland classes together with open water at any time during a normal year, or
 - iii. Ten acres or greater in size; and
 - iv. Three or more wetland classes; and five or more subclasses of vegetation in a dispersed pattern, or
 - v. Five acres or greater in size; and 40% to 60 percent open water at any time during a normal year; and two or more subclasses of vegetation in a dispersed pattern, or
 - e. Regulated wetlands which are ... [22]

Deleted: 2. Category II. Regulated wetlands that do not contain features outlined in Category I or III.

Deleted: 3. Category III:

- a. Regulated wetlands which do not meet the criteria of a Category I or II wetland and which are greater than 10,000 square feet in area; and
- b. Hydrologically isolated wetlands that are greater than 10,000 square feet but less than or equal to one acre in size, and have only one wetland ... [23]

wetland class and greater than ninety percent (90%) areal cover of non-native plant species.

18.08.050 Regulated activities.

A. Unless specifically exempted by GHMC 18.08.060, the following activities in a wetland and/or its associated buffer shall be regulated pursuant to the requirements of this chapter. The regulated activities are as follows:

1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;
 2. Dumping, discharging or filling with any material;
 3. Draining, flooding or disturbing the water level or water table;
 4. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure, except repair of an existing structure or infrastructure, where the existing square footage or foundation footprint is not altered;
 5. Destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading or planting vegetation that would alter the character of a wetland;
 6. Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants.
- B. Activities listed in subsection (A) above which do not result in alteration in a wetland and/or its associated buffer, may require fencing along the outside perimeter of the buffer or erosion control measures as provided in GHMC 18.08.160(B). (Ord. 611 § 1, 1991).

18.08.060 Exemptions.

The following activities shall be exempt from the provisions of this chapter:

- A. Existing and ongoing agricultural activities, as defined in this chapter;
- B. Forestry practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations;
- C. Activities affecting a hydrologically isolated wetland, if the functional wetland size is less than 2,500 square feet, except that such activities shall comply with the city flood hazard construction code and the city storm drainage management plan;
- D. Maintenance, operation and reconstruction of existing roads, streets, utility lines and associated structures, provided that reconstruction of any such facilities does not extend outside the scope of any designated easement or right-of-way;
- E. Activities on improved roads, rights-of-way, easements, or existing driveways;
- F. Normal maintenance and reconstruction of structures, provided that reconstruction may not extend the existing ground coverage;
- G. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities;
- H. Activities having minimum adverse impacts on wetlands, such as passive recreational uses, sport fishing or hunting, scientific or educational activities;
- I. Activities and developments which are subject to the policies and standards and subject to review pursuant to the state Shoreline Management Act and the city shoreline master program;
- J. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter where necessary to:
 1. Prevent an imminent threat to public health or safety, or
 2. Prevent an imminent danger to public or private property, or
 3. Prevent an imminent threat of serious environmental degradation.

The department shall determine on a case-by-case basis emergency action which satisfies the general requirements of this subsection. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action may be taken immediately. The person undertaking such action shall notify the department within one working day of the commencement of the emergency activity. Following such notification the department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the department determines that the action taken or part of the action taken is beyond the scope of allowed emergency action,

Deleted: 4. Category IV Criteria:
a. All streams designated as Type I waters by the Department of Natural Resources;
Forest Practices Rules and Regulations pursuant to
WAC 222-16-020 and 222-16-030. (Ord. 726 § 2, 1996; Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

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enforcement action according to provisions of this chapter is warranted. (Ord. 726 § 3, 1996; Ord. 611 § 1, 1991).

18.08.070 Permitting process.

A. Overview. Inquiries regarding conduct of a regulated activity in a wetland can be made to the city planning department. The department shall utilize the National Wetlands Inventory (NWI) maps and the Department of Natural Resources Stream Type maps to establish general location of wetland sites. If the maps indicate the presence of a wetland, a wetland delineation report shall be filed, unless the department determines that a wetland is not on or within the site. This determination may be based on information provided by the applicant and from other sources. If the map does not indicate the presence of a wetland or wetland buffer zone within the site, but there are other indications that a wetland may be present, the department shall determine whether a wetland analysis report is required.

B. Permit Requirements. No separate application or permit is required to conduct regulated activities within a wetland or its associated buffer. Review of regulated activities within a wetland and buffers is subject to the permit processing procedure for the required permit type as defined under GHMC Title 19. The department shall utilize existing environmental review procedures, city SEPA Ordinance, Chapter 18.04 GHMC, to assess impacts to wetlands and impose required mitigation. Department review of proposed alterations to wetlands and buffer areas and a mitigation plan may be required prior to issuance of a SEPA determination by the city's responsible official.

C. This chapter applies to all regulated activities, public or private, which will occur within wetlands, including but not limited to, the following:

1. Building, grading, filling, special and sanitary sewer permits;
2. Subdivisions, short plats, and planned unit developments;
3. Site plan approvals, variance and conditional use permits;
4. Any activity which is not categorically exempt within the environmental review procedures of the state Environmental Policy Act for environmentally sensitive areas, pursuant to WAC 197-11-908, and the city SEPA Ordinance, Chapter 18.04 GHMC.

D. Prior to submittal of a wetland delineation report, recommendation on wetland category, proposed alterations to wetlands and buffer areas, or mitigation plan, the applicant may request a pre-filing conference in accordance with the procedures established in GHMC 19.02.001.

E. Request for Official Determination. A request for an official determination of whether a proposed use or activity at a site is subject to this chapter must be in writing and made to the city office of community development. The request can be accompanied by a SEPA environmental checklist. The request shall contain

plans, data and other information in sufficient detail to allow for determination, including a wetland delineation report. The applicant shall be responsible for providing plans and the wetland delineation report to the department.

F. A wetland analysis report shall be submitted to the department for review of a proposal for activity which lies within a wetland, or within 150 feet of a wetland. The purpose of the wetland analysis report is to determine the extent and function of wetlands to be impacted by the proposal. This analysis and report may be waived for Category IV wetlands if the proposed activity includes the required minimum streamside buffer as established under GHMC 18.08.100.

G. Preliminary Site Inspection. Prior to conducting a wetland analysis report, the applicant may request that the department conduct a preliminary site inspection to determine if a wetland may be present on the proposal site. Upon receipt of the appropriate fee, the department shall make a site inspection. If the department determines that a wetland is not on the site, this shall be indicated to the applicant in writing, and a wetland analysis report shall not be required.

H. Prior to submittal of the wetland analysis report or the development of a lot which has a classified wetland as identified on the city wetland map, boundaries of wetlands 2,500 square feet or more shall be staked and flagged in the field by a wetland specialist and surveyed by a licensed professional surveyor registered in the state. Field flagging shall be distinguishable from other survey flagging on the site.

I. If alteration of a wetland or buffer is proposed, a wetland mitigation plan shall be submitted pursuant to requirements of this chapter, subsequent to staff review of the wetland analysis report. In no event will a mitigation plan be required prior to a determination of whether a designated wetland is present on a site. (Ord. 726 § 3, 1996; Ord. 628

§ 1, 1992; Ord. 611 § 1, 1991).

18.08.080 Administration.

A. Filing Fees. A wetland regulatory processing fee in an amount established under the city's development fee ordinance, GHMC Title 3, shall be paid at the time of a request for official determination of whether a proposed use or activity at a site is subject to this chapter. The fee shall be paid prior to administrative review, including environmental review. It shall include all costs of administrative and environmental review, including the preliminary site inspection, and review and approval of a wetland analysis report. It shall be in addition to any other fees for environmental assessment and environmental impact review, provided by the city environmental policy ordinance, Chapter 18.04 GHMC.

B. Notice and Title.

1. Notice. Upon submission of a complete application for a wetland development approval, notice shall be provided in accordance with the city zoning code

for site plan review for notification of property owners within 300 feet of the subject property.

2. Notice of Title. The owner of any property with field verified presence of wetland or wetland buffer on which a development proposal is submitted shall file for record with the Pierce County auditor a notice approved by the department in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of a wetland or wetland buffer, the application of this chapter to the property, and that limitations on actions in or affecting such wetlands and their buffers may exist. The notice shall be notarized and shall be recorded prior to approval of any development proposal for such site. The notice shall run with the land and shall be in the following form:

**WETLAND AND/OR
WETLAND BUFFER NOTICE**

Legal Description:

Present Owner: _____

NOTICE: This property contains wetlands or their buffers as defined by City of Gig Harbor Ordinance. Restrictions on use or alteration of the wetlands or their buffers may exist due to natural conditions of the property and resulting regulations.

Date Signature Owner _____

C. Other Laws and Regulations. No approval granted pursuant to this chapter shall remove an obligation to comply with the applicable provisions of any other federal, state or local law or regulation.

D. Atlas. As part of its review, the department shall include the appropriately designated wetland in the Pierce County wetlands atlas or in the city wetland atlas, as may be adopted. (Ord. 611 § 1, 1991).

18.08.090 Wetland analysis report requirements.

A. A wetland analysis report shall be prepared by a qualified wetland specialist and submitted to the department as part of the SEPA review process established by the city of Gig Harbor environmental policy ordinance, Chapter 18.04 GHMC. A wetlands analysis report is not required for those wetlands mapped and classified per the city of Gig Harbor wetlands map. A wetlands analysis report is required with all annexation petitions and land use applications for properties which do not have wetlands mapped and classified per the city of Gig Harbor wetlands map.

B. The wetland analysis report shall be prepared in accordance with the Uniform Federal Methods for Wetland Delineation and submitted to the department for review for any proposals that are within 150 feet of a wetland.

C. Within 30 days of receipt of the wetland analysis report and other information, the department shall

determine the appropriate wetland category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the department shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the report shall control future decisionmaking related to designated wetlands unless new information is found demonstrating the report is in error. (Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

18.08.100 Wetland Buffers

A. Following the department's determination of the category for a wetland associated with a proposal, the department shall determine appropriate buffer widths. Wetland buffer zones shall be evaluated for all development proposals and activities adjacent to wetlands to determine their need to protect the integrity, functions and values of the wetland. All wetland buffer zones are measured perpendicular from the wetland boundary as surveyed in the field. Except as otherwise permitted by this chapter, wetland buffers shall consist of a relatively intact native vegetation community adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width. The following standard buffer widths are required:

Wetland Category Buffer Width

- Category I 200 feet
- Category II 100 feet
- Category III 60 feet
- Category IV 35 feet

B. Landscape buffering between the wetland boundary and the building setback will be evaluated. If it is determined that such uses could cause secondary impacts to the wetlands, a maximum 15 feet setback may be imposed. (Ord. 726 § 4, 1996; Ord. 628 § 1, 1992; Ord. 611 § 1, 1991).

18.08.110 Alteration of buffers.

Alteration of a buffer may occur in two ways:

- (1) quantitative alteration, in which the boundaries of the designated buffer area are adjusted, so that the actual area within the buffer is altered from the parameters of subsection A of this section; and (2) qualitative alteration, in which permitted activities within the buffer area alter its character. In determining appropriate buffer alterations, quantitative and qualitative alterations are generally reviewed concurrently.

A. Wetland buffers may be modified under the following conditions (quantitative alteration):

1. Wetland buffer reductions. Buffer width reductions shall be considered on a case-by-case basis, where existing buffers are degraded and would benefit from enhancement activities. Reductions may be allowed

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where the applicant demonstrates to the department that the reducing the buffer width would not adversely affect the wetland functions and values, and the minimum buffer shall not be less than 70 percent of the widths established in GHMC 18.08.xxx.

2. That the alteration does not include structures associated with the development unless identified in GHMC 18.08.120(A)(2) and (3), i.e. wells and associated access; and

3. No net loss of wetland acreage due to the alteration occurs. (Ord. 611 § 1, 1991).

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2. Wetland buffer width averaging. The department may allow modification of the wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetlands professional demonstrates that:

18.08.120 Permitted uses in buffer areas. The following activities are permitted within the wetland buffer as impacts, if any, are mitigated through the requirements of this chapter:

A. Wells and necessary appurtenances associated with single-family residences including a pump and appropriately sized pump house, including a storage tank, may be allowed on each site in a wetland buffer if all the following conditions are met:

Deleted: the maximum buffer for Category II or III wetlands shall not exceed 100 feet;

1. The well is either an individual well (serving only one residence) or a Class B well (a maximum of 15 connections including necessary storage tanks);

2. For Category I and II wetlands, the minimum distance from the well and appurtenances to the wetland edge is not less 50 percent of the buffer widths established in the table in GHMC 18.08.100. A decrease in the required buffer width through buffer reduction or buffer width averaging, does not indicate a corresponding decreased distance is allowed from the wetland edge to the well and appurtenances;

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3. Access to the well and pump house shall be allowed.

a. It will not reduce wetland functions or values;

b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

d. The buffer width is not reduced, at any single point, to less than fifty percent (50%) of the standard width or fifty (50) feet, whichever provides the greater buffer, except for buffers between Category IV wetlands.

3. The department may require increased buffer widths in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be reasonably related to protection of the functions and values of the regulated wetland. Such determination shall demonstrate that:

B. Pervious trails and associated viewing platforms, provided that, in the case of Category I wetlands, the minimum distance from the wetland edge is not less than 50 percent of the Category I buffer width established in the table in GHMC 18.08.100. A decrease in the required buffer width through buffer width averaging or other means does not indicate a corresponding decreased distance from a Category I wetland edge for trails and viewing platforms.

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a. A larger buffer is necessary to maintain viable populations of existing species, or

b. The wetland is used by species listed by the federal government or the state as endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding potential sites such as heron rookeries or raptor nesting areas, or

c. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impact, or

d. The adjacent land has minimum vegetative cover or slopes greater than 15 percent.

C. The placement of underground utility lines, on-site septic drainfields meeting the requirements of the Pierce County health code, and grass-lined swales and detention/retention facilities for water treated by biofiltration or other processes prior to discharge, provided the minimum distance from the wetland edge is not less than 50 percent of the buffer widths established in the table in GHMC 18.08.100.

Comment [TV1]:

D. Placement of access roads and utilities across Category II, III and IV wetland-buffers, if the department determines that there is no reasonable alternative location for providing access and/or utilities to a site and mitigation is provided as designated in this chapter. (Ord. 611 § 1, 1991).

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B. Alteration of Character of Buffer (Qualitative Alteration).

1. Qualitative alteration of buffer for Categories II, III, and IV wetlands shall be allowed when it is demonstrated that modification of the existing character of the buffer would not reduce the functions and values of the wetland; and

18.08.XXX Alteration of wetlands.

Alteration of Category I wetlands is prohibited. (Ord. 611 § 1, 1991).

~~18.08.XXX~~ Sequence of mitigation actions.

A. Alteration of Category II, III and IV wetlands may be allowed when all adverse impacts to wetland functions and values can be shown to be fully mitigated. Criteria to be considered by the applicant or the property owner are:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Compensating for the impact by replacing or providing substitute resources or environments.

B. Mitigation may include a combination of the above measures and may occur concurrently, unless a phased schedule is agreed. (Ord. 726 § 5, 1996; Ord. 611 § 1, 1991).

~~18.08.XXX~~ Mitigation plan submittal requirements.

A. Following submittal of any proposed alterations to wetland and buffer areas, the applicant shall submit to the department a wetland mitigation plan substantially in the following form:

1. Conceptual Phase. A conceptual compensatory mitigation plan shall be submitted to the department. In cases in which environmental review is required, a threshold determination may not be made prior to department review of the conceptual mitigation plan. The conceptual mitigation plan shall include:

- a. General goals of the compensatory mitigation plan, including an overall goal of no net loss of wetland function and acreage, and to strive for a net resource gain in wetlands over present conditions,
- b. A review of literature or experience to date in restoring or creating the type of wetland proposed,
- c. Approximate site topography following construction,
- d. Location of proposed wetland compensation area,
- e. General hydrologic patterns on the site following construction,
- f. Nature of compensation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer,
- g. A conceptual maintenance plan,
- h. Conceptual monitoring and contingency plan.

2. Detailed Phase. Following approval of the conceptual mitigation plan by the department, a detailed mitigation plan shall be submitted to the department. The detailed plan shall contain, at a minimum, the following components, and shall be consistent with the standards in ~~GHMC 18.08.130 and 18.08.190~~

- a. Text and map of the existing condition of the proposed compensation area, including:
 - i. Existing vegetation community analysis,

ii. Hydrological analysis, including topography, of existing surface and significant subsurface flows into and out of the area in question,

iii. Soils analysis providing both Soil Conservation Service mapping and data provided by on-site verified determinations,

iv. Detailed description of flora and fauna existing on the site,

v. Description of existing site conditions in relation to historic conditions for those sites which have been recently altered or degraded;

b. Text and map of the proposed alterations to the compensation area, including:

i. Relationship of the project to the watershed and existing water bodies,

ii. Topography of site using one foot contour intervals,

iii. Water level data, including depth and duration of seasonally high water table,

iv. Water flow patterns,

v. Grading, filling and excavation, including a description of imported soils,

vi. Irrigation requirements, if any,

vii. Water pollution mitigation measures during construction,

viii. Aerial coverage of planted areas to open water areas (if any open water is to be present),

ix. Appropriate buffers: The compensation plan shall include detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data;

c. As part of the compensation plan, a landscaping plan shall be designed by a registered landscape architect or contractor working with a wetland scientist/ecologist, describing what will be planted where and when. The landscape plan shall include the following:

- i. Soils and substrate characteristics,
- ii. Specification of substrate stockpiling techniques,
- iii. Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirement,

iv. Specification of where plant materials will be procured. Documentation shall be provided which guarantees plant materials are to be procured from licensed regional nurseries, or from wetlands on site which are part of the mitigation plan;

d. A schedule shall be provided showing dates for beginning and completing the mitigation project, including a sequence of construction activities;

e. A monitoring and maintenance plan, consistent with GHMC 18.08.180. The plan shall include all the following:

- i. Specification of procedures for monitoring and site maintenance,

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ii. A schedule for submitting monitoring reports to the department;

f. A contingency plan, consistent with GHMC 18.08.180;

g. A detailed budget for implementation of the mitigation plan, including monitoring, maintenance and contingency phases;

h. A guarantee that the work will be performed as planned and approved, consistent with GHMC 18.08.180;

i. The mitigation plan shall be signed by the wetland specialist to indicate that the plan is according to specifications determined by the wetland specialist. A signed original mitigation plan shall be submitted to the department.

3. Approval of the detailed mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and director of the department, and recorded with the Pierce County auditor. The agreement shall refer to all mitigation requirements for the project.

4. Approval of the detailed mitigation plan shall occur prior to the issuance of building permits or other development permits. No development activity shall occur on the site prior to approval. Required mitigation may also be required prior to issuance of permits or prior to commencing development activity. Timing of required mitigation shall be determined on a case by case basis. (Ord. 611 § 1, 1991).

~~18.08.XXX~~ **Criteria for compensatory mitigation/location criteria and timing of compensatory mitigation.**

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A. The applicant shall develop a plan that provides for construction, maintenance, monitoring and contingencies of the replacement wetland. In addition, the applicant and landowner shall meet the following criteria:

1. The restored, created, or enhanced wetland shall be as persistent as the wetland it replaces;
2. The applicant shall demonstrate sufficient capability to carry out the compensation project;
3. The compensation area shall be provided with permanent protection and management to avoid further development or degradation and to provide for the long term persistence of the compensation area as designed.

B. In cases in which it is determined that compensatory mitigation is appropriate, the following shall apply:

1. Compensatory mitigation shall be provided on-site, except where on-site mitigation is not scientifically feasible or practical due to physical features of the site. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on-site.

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2. When compensatory mitigation cannot be provided on-site, mitigation shall be provided in the immediate vicinity of and within the same watershed as the permitted activity.

3. Compensatory mitigation shall duplicate the overall values and standards of the wetland to be replaced and shall include at 50 percent in-kind compensation mitigation unless it can be demonstrated by the applicant that the overall wetland values of the mitigation area and adjacent or connecting wetlands can be enhanced by a higher percentage of out-of-kind mitigation.

4. Only when it is determined by the department that subdivisions 1, 2 and 3 above are inappropriate and/or impractical shall off-site, compensatory mitigation be considered.

5. Mitigation projects shall be completed concurrent with other activities on the site, unless a phased schedule is agreed upon between the department and the applicant. Refer to GHMC 18.08.170 for guidelines on determining

wetland acreage replacement ratios. (Ord. 611 § 1, 1991).

18.08.XXX Wetland replacement criteria.

A. Where wetlands are altered, the applicant shall meet the minimum requirements of this section.

B. When it is proposed to alter or eliminate a wetland and the department is considering the alteration or elimination, the applicant shall be required to replace or enhance the function and values of the affected wetland. The wetland values will be based on an approved evaluation procedure. The recommended ratios for replacement/compensation are as established in the following table:

Wetland Type Replacement Ratio

Category I	6-to-1
Category II	3-to-1
Category III	2-to-1
Category IV	1.5-to-1

C. Ratios provided are for proposed projects with on-site, in-kind replacement which occurs prior to development of the site. Replacement ratio for unauthorized wetland impact requires replacement at a ratio two times that listed for the wetland categorical type. The increased ratio is based on the uncertainty of probable success of proposed replacement, projected losses of wetland functional value, or significant period of time between elimination and replacement of wetland. Such required increases in replacement ratios will be made by the department after review of all pertinent data relating to the proposed or committed alteration.

D. The department will allow the ratios to be decreased if the applicant provides findings of special studies coordinated with agencies with expertise which demonstrate to the satisfaction of the department that no net loss of wetland function or value is attained under the decreased ratio.

E. The replacement ratio may be decreased to a ratio of 1:1, if the following criteria are met:

1. The applicant shows to the satisfaction of the department that a replacement ratio of greater than 1:1 is either not feasible on-site, would be likely to result in substantial degradation of other natural features or results in an increase of wetland function and values; and

2. The applicant submits to the department a mitigation plan according to requirements of ~~CHMC 18.08.160~~ which shows to the satisfaction of the department that a net increase in wetland functional values will result from the mitigation; and

3. The mitigation is completed and monitored by the department for one year after completion of the mitigation. After one year the department shall make a determination of whether or not the mitigation has been successful.

a. If the department is satisfied that the mitigation will successfully meet the anticipated final outcome of the mitigation plan, development

permits may be issued and development activity on the site may begin.

b. If the department is not satisfied that the mitigation will successfully meet the anticipated final outcome of the mitigation plan, development permits shall not be issued and development activity on the site shall not begin.

Gig Harbor Municipal Code 18.08.170 18-21 (Revised 10/96)

Modifications to the mitigation plan and further monitoring may be required until the department is satisfied that the mitigation will be successful.

F. In-kind compensation shall be provided except where the applicant can demonstrate to the satisfaction of the department that:

1. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value; or

2. Scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible; or

3. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types);

4. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functional values.

G. Site specific quantifiable criteria shall be provided for evaluating whether or not the goals and objectives for the proposed compensation are being met. Such criteria include but are not limited to water quality standards, survival rates for planted vegetation, habitat diversity indices, species abundance or use patterns, hydrological standards including depths and durations of water patterns. Detailed performance standards for mitigation planning shall include the following criteria:

1. Use only plants indigenous to Pierce County (not introduced or foreign species);

2. Use plants appropriate to the depth of water at which they will be planted;

3. Use plants available from local sources;

4. Use plant species high in food and cover value for fish and wildlife;

5. Plant mostly perennial species;

6. Avoid committing significant areas of site to species that have questionable potential for successful establishment;

7. Plant selection must be approved by wetland scientist/ecologist;

8. Water depth is not to exceed 6.5 feet (two meters);

9. The grade or slope that water flows through the wetland is not to exceed six percent;

10. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);

11. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;

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Category II:

Forested: 2:1

Scrub/Shrub: 1.5:1

Emergent: 1:1

Open Water: 1:1

Category III:

Forested: 1.5:1

Scrub/Shrub: 1:1

Emergent: 1:1

Open Water: 1:1

Category IV: 1:1

Note that within Category II and III

wetlands

replacement ratios vary depending on

wetland

class. For example, it will be required

to replace the

forested portion of a wetland at a higher

ratio than

the other portions of the wetland.

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12. Planting densities and placement of plants shall be determined by a wetlands biologist/ ecologist and shown on the design plans;

13. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;

14. The planting plan must be approved by a wetland scientist/ecologist;

15. Stockpiling shall be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks;

16. Planting instructions shall describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

17. Apply controlled release fertilizer at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process), and only to the extent that the release would be conducted in an environmentally sound manner;

18. Install an irrigation system, if necessary, for initial establishment period;

19. Construction specifications and methods shall be approved by a wetland scientist/ecologist and the department;

20. All mitigation shall be consistent with requirements of the city flood hazard construction ordinance and city storm drainage comprehensive plan;

21. As appropriate, and if impacts to natural wetland functional values can be fully mitigated, capacity of the wetland to store surface water should be equal to or greater than surface water storage capacity prior to the proposed activity;

22. As appropriate, and if impacts to natural wetland functional values can be fully mitigated, ability of the wetland to intercept surface water runoff on the site should be equal to or greater than such ability prior to the proposed activity;

23. As appropriate, and if impacts to natural wetland functional values can be fully mitigated, the ability of the wetland to perform stormwater detention functions should be equal to or greater than such functions prior to the proposed activity.

H. Wetland mitigation shall occur according to the approved wetland mitigation plan, and shall be consistent with all provisions of this regulation.

I. On completion of construction required to mitigate for impacts to wetlands, the wetland mitigation project shall be signed off by an approved wetland scientist/ecologist and the county's environmental official. Signature will indicate that the construction has been completed as planned. (Ord. 726 § 6, 1996; Ord. 611 § 1, 1991).

~~18.08.XXX (Revised 10/96) 18-22~~

~~18.08.XXX Monitoring program and contingency plan.~~

A. If the mitigation plan includes compensatory mitigation, a monitoring program shall be implemented to determine the success of the compensatory mitigation project.

B. Specific criteria shall be provided for evaluating the

mitigation proposal relative to the goals and objectives of the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

C. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails.

D. Requirements of the monitoring program and contingency plan are as follows:

1. During monitoring, use scientific procedures for establishing the success or failure of the project;

2. For vegetation determinations, permanent sampling points shall be established;

3. Vegetative success equals 80 percent per year survival of planted trees and shrubs and 80 percent per year cover of desirable understory or emergent species;

4. Submit monitoring reports of the current status of the mitigation project to the department. The reports are to be prepared by a wetland biologist/ecologist and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:

- a. At time of construction,
- b. Thirty days after planting,
- c. Early in the growing season of the first year,
- d. End of the growing season of first year,
- e. Twice the second year,
- f. Annually;

5. Monitor a minimum of three and up to 10 growing seasons, depending on the complexity of the wetland system. The time period will be determined and specified in writing prior to the implementation of the site plan;

6. If necessary, correct for failures in the mitigation project;

7. Replace dead or undesirable vegetation with appropriate plantings;

8. Repair damages caused by erosion, settling, or other geomorphological processes;

9. Redesign mitigation project (if necessary) and implement the new design;

10. Correction procedures shall be approved by a wetlands biologist/ecologist and the Pierce County environmental official. (Ord. 611 § 1, 1991).

~~18.08.XXX Reconsideration and appeal procedure.~~

~~Repealed by Ord. 726. (Ord. 611 § 1, 1991).~~

~~18.08.XX Variances.~~

A. Wetland variance applications are a Type III permit procedure under GHMC Title 19. A complete application for a wetland variance shall consist of the requirements as stated in Chapter 17.66 GHMC, except that required showings for a wetland variance shall be according to subsection (B)(1) of this section. The burden is upon the applicant in meeting the required

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showings for the granting of a variance.

B. Wetland Variance Application. The examiner shall have the authority to grant a wetland variance from the provisions of this chapter, including variance for buffer widths, when, in the opinion of the examiner, the conditions as set forth below have been found to exist. In such cases a wetland variance may be granted which is in harmony with the general purpose and intent of this chapter.

1. Required Showings for a Wetland Variance. Before any wetland variance may be granted, it shall be shown:

a. That there are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to other properties and which support the granting of a variance from the buffer width requirements, and

b. That such wetland variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of this chapter is denied to the property in question, and

c. That the granting of such wetland variance will not be materially detrimental to the public welfare; and

2. Required Showings for Wetland Buffer Area Variance. Before any wetland buffer area variance may be granted, it shall be shown:

a. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of this regulation is denied to the property in question, and

b. The granting of such buffer width variance will not be materially detrimental to the public welfare, and

c. The granting of the buffer width variance will not materially affect the subject wetland.

3. When granting a wetland variance, the examiner shall determine that the circumstances do exist as required by this section, and attach specific conditions to the wetland variance which will serve to accomplish the standards, criteria, and policies established by this chapter. (Ord. 726 § 7, 1996; Ord. 611 § 1, 1991).

18.08.XXX Suspension and revocation.

In addition to other penalties provided elsewhere, the department may suspend or revoke an approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application. (Ord. 611 § 1, 1991).

18.08.XXX Enforcement.

A. The department shall have authority to enforce this chapter, any rule or regulation

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adopted, and any permit, order or approval issued pursuant to this chapter, against any violation or threatened violation thereof. The department is authorized to issue violation notices and administrative orders, levy fines, and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this chapter, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.

B. Enforcement actions shall include civil penalties, administrative orders and actions for damages and restoration.

1. The department may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of regulated wetlands or their buffers which are inconsistent with this chapter or an applicable wetlands protection program.

2. The department may serve upon a person a cease and desist order if any activity being undertaken on regulated wetlands or its buffer is in violation of this chapter. Whenever any person violates this chapter or any approval issued to implement this chapter, the department director may issue an order reasonably appropriate to cease such violation and to mitigate any environmental damage resulting therefrom. The order shall set forth and contain the following:

a. A description of the specific nature, extent and time of violation and the damage or potential damage;

b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty may be issued with the order;

c. Effective Date. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed;

d. Compliance. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

3. Any person who undertakes any activity within a regulated wetland or its buffer without first obtaining an approval required by this chapter, except as specifically exempted, or any person who violates one or more conditions of any approval required by this chapter or of any cease and desist order issued pursuant to this chapter shall incur a penalty as provided for in Chapter 17.07 GHMC. The penalty assessed shall be appealable to the city

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hearing examiner in accordance with the procedures established pursuant to Chapter 17.07 GHMC.

4. Aiding or Abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the penalty.

5. Notice of Penalty. Civil penalties imposed under this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

6. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 30 days of receipt of the penalty to the department for remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

7. Orders and penalties issued pursuant to this section may be appealed as provided for by this chapter. (Ord. 726 § 8, 1996; Ord. 611 § 1, 1991).

18.08.xxx Nonconforming uses.

An established use of existing structure that was lawfully permitted prior to adoption of this chapter, may continue subject to the following:

A. Nonconforming uses shall not be expanded or changed in any way that increases their nonconformity.

However, an existing use may be changed to a less intensive use provided all other zoning and land use regulations are met;

B. Existing structures shall not be expanded or altered in any manner which will increase the nonconformity;

C. Activities or uses which are discontinued for 12 consecutive months shall be allowed to resume only if they are in compliance with this chapter; and

D. Nonconforming uses or structures destroyed by an act of God may be replaced or resumed. (Ord. 611 § 1, 1991).

18.08.xxx Severability.

Repealed by Ord. 726. (Ord. 611 § 1, 1991).

18.08. xxx Chapter and ordinance updates.

This chapter and its related ordinance shall be reviewed by the city within two years of the effective date of the ordinance. The purpose of reviewing

is to determine what amendments are appropriate to be made, and to establish a schedule for effecting those amendments. (Ord. 611 § 1, 1991).
Gig Harbor Municipal Code 18.08.030
18-25 (Revised 10/96)

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Gig Harbor Municipal Code 18.08.030
18-25 (Revised 10/96)

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18.08.110 Streams

18.08.xxx - Designation and rating of Streams

A. Streams are waterbodies with a defined bed and banks and demonstrable flow of water as defined in the chapter. Streams are designated as environmentally critical areas.

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DESIGNATION and RATING ¶

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B. Stream Classification. Streams shall be designated Type 1, Type 2, Type 3, and Type 4 according to the criteria in this subsection.

1. Type 1 Streams are those streams identified as

"Shorelines of the State" under Chapter 90.58 RCW.

2. Type 2 Streams are those streams which are:

a. natural streams that have perennial (year-round) flow and are used by salmonid fish, or

b. natural streams that have intermittent flow and are used by salmonid fish.

3. Type 3 Streams are those streams which are:

a. natural streams that have perennial flow and are used by fish other than salmonids, or

b. natural streams that have intermittent flow and are used by fish other than salmonids.

4. Type 4 Streams are those natural streams with perennial or intermittent flow that are not used by fish.

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wetlands.¶

A. Pursuant to WAC 197-11-908, the city

designates¶

the following wetland areas as

environmentally¶

sensitive areas:¶

1. Areas designated on the Pierce County¶

wetland atlas of 1990;¶

2. Areas that meet the definition of

wetlands¶

found in this chapter;¶

3. Areas which have been designated as¶

wetlands per the city of Gig Harbor

wetlands¶

inventory and maps, May/June 1992.

(Ord. 628 §¶

1, 1992; Ord. 611 § 1, 1991).

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C. Ditches. Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as streams under this section. Artificial drainage features with documented fish usage are regulated as streams. Drainage setbacks are required as per the City's Surface Water Manual.

18.08.xxx Streams - Critical Areas Report.

A. Requirements for critical areas reports for streams are available from the Director.

18.08.xxx Streams - Performance Standards- General

A. Establishment of stream buffers. The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to streams. The purpose of the buffer shall be to protect the integrity, function, and value of the stream. Buffers shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the stream, and implementation of appropriate erosion and sedimentation controls.

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Native vegetation removal or disturbance is not allowed in established buffers.

Required buffer widths shall reflect the sensitivity of the stream or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the sensitive area. Buffers or setbacks shall be measured as follows:

B. Stream Buffers

1. The following buffers are established for streams:

<u>Stream Type</u>	<u>Buffer Width (feet)</u>
Type 1	200
Type 2	100
Type 3	50
Type 4	25

2. Measurement of stream buffers. Stream buffers shall be measured perpendicularly from the ordinary high water mark.

3. Increased stream buffer widths. The Director shall require increased buffer widths in accordance with the recommendations of a qualified professional and the best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

- a. A larger buffer is needed to protect other critical areas;
- b. The buffer or adjacent uplands has a slope greater than thirty percent (30%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland.

1. Buffer conditions shall be maintained. Except as otherwise specified or allowed in accordance with this Title, stream buffers shall be retained in an undisturbed condition.

2. Degraded buffers shall be enhanced. Stream buffers vegetated with non-native species or otherwise degraded shall be enhanced with native plants, habitat features or other enhancements.

6. Buffer uses. The following uses may be permitted within a stream buffer in accordance with the review procedures of this Title, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

a. Conservation and restoration activities.

Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

b. Passive recreation. Passive recreation facilities designed in accordance with an approved critical area report, including:

- (i) Walkways and trails, provided that those pathways that are generally parallel to the perimeter of the stream shall be located in the outer twenty-five percent (25%) of the buffer area;

(ii) Wildlife viewing structures; and

(iii) Fishing access areas.

c. Stormwater management facilities. Grass lined swales and dispersal trenches may be located in the outer 25% of the buffer area. All other surface water management facilities are not allowed within the buffer area.

7. Building setback. A building setback is required from the edge of the stream buffer per 18.XX.XXX.

D. Stream crossings. Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:

1. All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type 2 or 3 streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;

2. All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

3. Crossings do not occur over salmonid spawning areas unless the City determines that no other possible crossing site exists;

4. Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;

5. Crossings do not diminish the flood-carrying capacity of the stream;

6. Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in this Title; and

7. Crossings are minimized and serve multiple purposes and properties whenever possible.

E. Stream relocations.

1. Stream relocations may be allowed only for:

a. All Stream types as part of a public project for which a public agency and utility exception is granted pursuant to this Title; or

b. Type 3 or 4 streams for the purpose of enhancing resources in the stream if:

- i. appropriate floodplain protection measures are used; and
- ii. the location occurs on the site except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream.

2. For any relocation allowed by this section, the applicant shall demonstrate, based on information

provided by a civil engineer and a qualified biologist that:

- a. The equivalent base flood storage volume and function will be maintained;
- b. There will be no adverse impact to local groundwater;
- c. There will be no increase in velocity;
- d. There will be no interbasin transfer of water;
- e. There will be no increase in the sediment load;
- f. Requirements set out in the mitigation plan are met;
- g. The relocation conforms to other applicable laws; and
- h. All work will be carried out under the direct supervision of a qualified biologist.

F. Stream enhancement. Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist and carried out under the direction of a qualified biologist.

G. Minor stream restoration. A minor stream restoration project for fish habitat enhancement may be allowed if:

1. The project results in an increase in stream function and values.
2. The restoration is sponsored by a public agency with a mandate to do such work;
3. The restoration is not associated with mitigation of a specific development proposal;
4. The restoration is limited to removal and enhancement of riparian vegetation, placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;
5. The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site provided that they have no contact with sensitive areas or their buffers; and
6. The restoration is performed under the direction of a qualified biologist.

18.08.xxx Performance Standards- Mitigation Requirements

A. Stream mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub drainage basin as the habitat impacted.

B. Alternative mitigation for stream areas. The performance standards set forth in this Subsection may be modified at the City's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

18.08.xxx Critical fish and wildlife habitat areas.

Critical fish and wildlife habitat areas are those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation. Areas which are identified or classified as fish and wildlife habitat areas subject to this section shall be subject to the requirements of this section.

A. General. Critical fish and wildlife habitat areas are identified as follows:

1. Areas with which federal or state endangered, threatened and sensitive species of fish, wildlife and plants have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

2. Habitats and species of local importance, including:

a. Areas with which state-listed monitor or candidate species or federally listed candidate species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term,

b. Special habitat areas which are infrequent in occurrence in the city of Gig Harbor and which provide specific habitats as follows:

- i. Old growth forests,
- ii. Snag-rich areas,
- iii. Category 2 wetland areas,
- iv. Significant stands of trees which provide roosting areas for endangered, threatened, rare or species of concern as identified by the Washington Department of Wildlife;

3. Commercial and public recreational shellfish areas;

4. Kelp and eelgrass beds;

5. Herring and smelt spawning areas;

6. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

7. Lakes, ponds and streams planted with fish by a governmental agency, and agency-sponsored group or tribal entity;

8. State natural area preserves and natural resource conservation areas;

B. Classification. Critical fish and wildlife habitat areas are identified in the following documents:

1. Puget Sound Environmental Atlas (Puget Sound Water Quality Authority);
2. Coastal Zone Atlas of Washington, Volume IV, Pierce County (Washington Department of Ecology);
3. Commercial and Recreational Shellfish Areas in Puget Sound (Washington Department of Health);
4. The Department of Natural Resources stream typing maps and natural heritage data base;
5. The Washington Department of Wildlife priority habitats and species program, the Nongame data base, and the Washington rivers information system.

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Deleted: 9. Crescent and Donkey (north) Creeks, including those lands within 35 feet of the ordinary highwater mark of the stream.

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C. Regulation.

1. Habitat Assessment. For all regulated activity proposed on a site which contains or is within 300 feet of critical fish and wildlife habitat, a habitat assessment shall be prepared by a professional wildlife biologist with a minimum of a bachelor's degree in wildlife biology or an equivalent curriculum. The habitat assessment shall include, at a minimum, the following:

- a. An analysis and discussion of species or habitats known or suspected to be located within 300 feet of the site;
- b. A site plan which clearly delineates the critical fish and wildlife habitats found on or within 300 feet of the site.

2. Habitat Assessment Review. A habitat assessment shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to:

- a. Washington Department of Fish and Wildlife;

b. Washington Department of Natural Resources;

c. United States Fish and Wildlife Service.

Comments received by the requested review agencies within 45 days of the submittal of the assessment shall be considered by the department. If it is determined, based upon the comments received, that critical fish and wildlife habitat does not occur on or within 300 feet of the site, the development may proceed without any additional requirements under this section. If it is determined that a critical fish and wildlife habitat is on or within 300 feet of the site, a habitat management plan shall be prepared.

3. Habitat Management Plan. Habitat management plans required under this section shall be prepared in coordination with the Washington Department of Fish and Wildlife by a professional wildlife biologist with a bachelor's degree in wildlife biology or an equivalent curriculum. A habitat management plan shall contain, at a minimum, the following:

- a. Analysis and discussion on the project's effects on critical fish and wildlife habitat;
- b. An assessment and discussion on special management recommendations which have been developed for species or habitat located on the site by any federal or state agency;
- c. Proposed mitigation measures which could minimize or avoid impacts;
- d. Assessment and evaluation of the effectiveness of mitigation measures proposed;
- e. Assessment and evaluation of ongoing management practices which will protect critical fish and wildlife habitat after development of the project site, including proposed monitoring and maintenance programs;
- f. Assessment of project impact or effect on water quality in Crescent or Donkey (north)

Creeks, and any proposed methods or practices to avoid degradation of water quality.

Upon a review of the habitat management plan by appropriate federal and state agencies, comments received by the agencies within 45 days of the submittal of the proposed plan shall be considered by the city and, if mitigation is recommended, may be incorporated into conditions of project approval, as appropriate. If it is determined, based upon the comments received, that a project or proposal will result in the extirpation or isolation of a critical fish or wildlife species, including critical plant communities, the project or proposal may be denied.

D. Buffer Requirements. If it is determined, based upon a review of the comments received on the habitat management plan, that a buffer would serve to mitigate impacts to a critical fish or wildlife habitat, an undisturbed buffer shall be required on the development site. The width of the buffer shall be based upon a recommendation of at least one of the appropriate review agencies but, in no case, shall exceed 150 feet, nor be less than 25 feet.

E. Buffer Reduction. A buffer required under this section may be reduced or eliminated if the local conservation district has approved a best management plan (BMP) for the site which would provide protection to a critical fish or wildlife habitat. (Ord. 619 § 1, 1992).

F. Specific Habitats - Anadromous fish

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

- a. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;
- b. An alternative alignment or location for the activity is not feasible;
- c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and
- d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills, when authorized by the City of Gig Harbor's Shoreline Management Master Program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.

Deleted: b. Washington Department of Fisheries;

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18.08.130 Aquifer recharge areas.

Aquifer recharge areas are particularly susceptible to contamination and degradation from land use activities. Areas which have a high potential for ground water resource degradation are identified as aquifer recharge areas under this section and shall be subject to the requirements herein.

A. Designation/Classification. For the purposes of this section, the boundaries of any aquifer recharge areas within the city shall consist of the two highest DRASTIC zones which are rated 180 and above on the DRASTIC index range. Any site located within these boundaries is included in the aquifer recharge area.

B. Regulation.

1. Hydrogeologic Assessment Required.

The following land uses shall require a hydrogeologic assessment of the proposed site if the site is located within an aquifer recharge area:

- a. Hazardous substance processing and handling;
- b. Hazardous waste treatment and storage facility;
- c. Wastewater treatment plant sludge disposal categorized as S-3, S-4 and S-5;
- d. Solid waste disposal facility.

2. Hydrogeologic Assessment Minimum Requirements.

A hydrogeologic assessment shall be submitted by a firm, agent or individual with experience in geohydrologic assessments and shall contain, at a minimum, and consider the following parameters:

- a. Documentable information sources;

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- b. Geologic data pertinent to well logs or borings used to identify information;
- c. Ambient ground water quality;
- d. Ground water elevation;
- e. Depth to perched water table, including mapped location;
- f. Recharge potential of facility site, respective to permeability and transmissivity;
- g. Ground water flow vector and gradient;
- h. Currently available data on wells and any springs located within 1,000 feet of the facility site;
- i. Surface water location and recharge potential;
- j. Water supply source for the facility;
- k. Analysis and discussion of the effects of the proposed project on the ground water resource;
- l. Proposed sampling schedules;
- m. Any additional information that may be required or requested by the Pierce County environmental health department.

3. Review of Geohydrologic Assessment. A

geohydrologic assessment prepared under this section shall be submitted to the Pierce County department of environmental health for review and comment. Comments received by the department of health within 60 days of submittal of the assessment shall be considered by the city in the approval, conditional approval or denial of a project.

4. Findings for Consideration of Approval.

A hydrogeologic assessment must clearly demonstrate that the proposed use does not present a threat of contamination to the aquifer system, or provides a conclusive demonstration that application of new or improved technology will result in no greater threat to the ground water resource than the current undeveloped condition of the site. Successful demonstration of these findings warrants approval under this section. (Ord. 619 § 1, 1992).

18.08.140 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter.

A. Information Required. An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

- 1. A description of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;
- 2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impervious coverage of the zoning code (GHMC Title 17);
- 3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;
- 4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;
- 5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;
- 6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;
- 7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.

B. Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The department director shall make written findings as follows:

- 1. There is no feasible alternative to the proposed development which has less impact on the critical area;
- 2. The proposed development does not

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present a threat to the public health, safety or welfare:

- 3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;
- 4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation of the undevelopable condition after the effective date of this title;
- 5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;
- 6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property.

The director may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

C. Notification of Decision. A decision by the director under this section shall be provided, in writing, to the applicant and all property owners

Gig Harbor Municipal Code 18.08.140
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adjacent to or abutting the site. The applicant shall be responsible for providing a current listing of all adjacent property owners along with application for a reasonable use exception.

D. Appeal of Director's Decision. The decision of the director may be appealed in accordance with the procedures established under GHMC Title 19.

E. Limits of Applying Reasonable Use Exception. A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

F. Time Limitation. A reasonable use exception shall be valid for a period of two years, unless an extension is granted by the department at least 30 days prior to the expiration date. Any extension granted shall be on a one-time basis and shall be valid for a period not to exceed one year. The time limit is void if the applicant fails to procure the necessary development permit within the time allotted. The department may grant a time extension if:

- 1. Unforeseen circumstances or conditions necessitate the extension of the development exception; and
- 2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
- 3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas. (Ord. 727 § 4, 1996; Ord. 619 § 1, 1992).

18.08.150 Maintenance of existing structures and developments.

Structures and developments lawfully existing prior to the adoption of this section shall be allowed to be maintained and repaired without any additional review procedures under this title; provided, that the maintenance or repair activity itself remains consistent with the provisions of this chapter and does not increase its nonconformity of such structures or development. Additionally, such construction activity shall not prove harmful to adjacent properties. Maintenance consists of usual actions necessary to prevent a decline, lapse or cessation from a lawfully established condition. Repair consists of the restoration of a development comparable to its original condition within two years of sustaining damage or partial destruction. Maintenance and repair shall include damage incurred as a result of accident, fire or the elements. Total replacement of a structure or development which is not common practice does not constitute repair. In addition to the requirements of this section, the requirements of Chapter 17.68 GHMC (Nonconformities) shall apply. (Ord. 619 § 1, 1992).

18.08.160 Exemptions from development standards.

Certain activities and uses may be of such impact and character or of such dependency to the maintenance and welfare of a lawfully permitted use that the requirements of this title shall not apply and may be waived at the discretion of the department. Notwithstanding the requirements of Title 17 GHMC, the following uses and activities are exempt from the requirements of this chapter:

- A. Minimum actions necessary to protect life or property in an emergency situation. Qualification as an emergency shall be based upon the factual occurrence of imminent threat or danger;
- B. Public and private pedestrian trails which consist of a pervious surface not exceeding four feet in width;
- C. Science research and educational facilities, including archaeological sites and attendant excavation, which do not require the construction of permanent structures or roads for vehicle access;
- D. Subsurface drilling for geologic exploration associated with a proposed development which is not exempt from the requirements of this title;
- E. The placement of signs consistent with Chapter 17.80 GHMC. (Ord. 619 § 1, 1992).

18.08.170 Variances from the minimum requirements.

A. Variance applications shall be considered by the city according to variance procedures described in Chapter 17.66 GHMC and shall be processed as a Type III application under the permit processing procedures of GHMC Title 19. The required showings for a variance shall be according to this section.

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B. The examiner shall have the authority to grant a variance from the provisions of this chapter, including variance for buffer widths, when, in the opinion of the examiner, the conditions as set forth in this section have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.

1. Required Showings for a Variance.

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

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a. That there are special circumstances applicable to the subject property or the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the minimum requirements; and

b. That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which, because of the ordinance codified in this chapter, is denied to the property in question; and

c. That the granting of such variance will not be materially detrimental to the public welfare.

2. Required Showings for Buffer Area Variance.

Before any buffer area variance may be granted, it shall be shown:

a. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of this regulation is denied to the property in question; and

b. The granting of the buffer width variance will not adversely affect the subject site.

3. When granting a variance, the examiner shall determine that the circumstances do exist as required by this section, and attach specific conditions to the variance which will serve to accomplish the standards, criteria and policies established by this chapter.

4. To apply for a variance, the applicant shall submit to the city a complete variance application. Such application shall include a site plan, pertinent information, a cover letter addressing the required showings for a variance and required fees. (Ord. 727 § 5, 1996; Ord. 619 § 1, 1992).

18.08.180 Performance assurance.

18.08.XXX Performance Bonding

A. As part of the contingency plan the City shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the City to ensure mitigation is fully functional.

1. A performance bond shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions or the estimated cost of

restoring the functions and values of the critical area that are at risk, whichever is greater.

2. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the City attorney.

3. Bonds or other security authorized by this Section shall remain in effect until the City determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the City for a minimum of five (5) years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

5. Public development proposals shall be relieved from having to comply with the bonding requirements of this Section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

6. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the City may demand payment of any financial guarantees or require other action authorized by the City code or any other law.

7. Any funds recovered pursuant to this Section shall be used to complete the required mitigation. 18.08.190

Penalties and enforcement.

A. The planning director shall have authority to enforce this chapter, any rule or regulation adopted, and any permit, order or approval issued pursuant to this chapter, against any violation or threatened violation thereof. The planning director is authorized to issue violation notices and administrative orders, levy fines and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this chapter, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees and expenses in connection with enforcement actions may be recovered as damages against the violator.

B. Any person who undertakes any activity within a designated critical area or within a required buffer without first obtaining an approval required by this chapter, except as specifically exempted, or any person who violates one or more conditions of any approval required by this chapter or of any cease and desist order issued pursuant to this chapter shall incur a civil penalty assessed per

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Deleted: A. The planning director may allow the applicant to provide a performance assurance device in lieu of constructing required mitigation measures and may require a performance assurance device to guarantee installation/construction of required mitigation measures within one year of the issuance of a certificate of occupancy or final inspection.

B. Performance assurance devices shall take the form of one of the following:

1. A surety bond executed by a surety company authorized to transact business in the state in

a form approved by the city attorney;

2. Cash;

3. A letter of credit approved by the city attorney from a financial institution stating that the money is held for the purpose of development of the landscaping;

4. Assigned savings pursuant to an agreement approved by the city attorney;

C. If a performance assurance device is employed, the property owner shall provide the city with a nonrevocable notarized agreement granting the city and its agents the right to enter the property and perform any required work remaining undone at the expiration of the assurance device.

D. If the developer/property owner fails to carry out provisions of the agreement and the city has incurred costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the developer shall be liable to the city for the difference. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the city, the remainder shall be released. (Ord. 619 § 1, 1992).

violation. In the case of a continuing violation, each permit violation and each day of activity without a required approval shall be a separate and distinct violation. The civil penalty shall be assessed at a rate of \$50.00 per day per violation. The penalty provided shall be appealable to the city of Gig Harbor hearing examiner in accordance with the Gig Harbor Municipal Code 18.08.180

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procedures established pursuant to Chapter 15.06 GHMC. (Ord. 619 § 1, 1992).

18.08.200 Severability.

If any section, sentence, clause or phrase of this chapter, or the statutes adopted herein by reference, 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 chapter. (Ord. 619 § 1, 1992).

18.08.210 Chapter and ordinance updates.

This chapter and its related ordinance shall be reviewed by the city of Gig Harbor within two years of the effective date of this chapter. The purpose of reviewing is to determine what amendments are appropriate to be made, and to establish a schedule for effecting those amendments. (Ord. 619 § 1, 1992).

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

On December 13, 2004 the City Council of the City of Gig Harbor, Washington, approved Ordinance No. , the summary of text of which is as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, ADOPTING A REVISED COMPREHENSIVE PLAN PURSUANT TO THE REQUIREMENTS OF THE WASHINGTON STATE GROWTH MANAGEMENT ACT RCW 36.70A.130 (4) (A), AMENDING SECTIONS 17.16.060, 17.28.050, 17.46.040, 17.48.040, 17.50.040, ADDING A NEW SECTION 17.92 MINERAL RESOURCE LANDS, AND AMENDING TITLE 18 OF THE GIG HARBOR MUNICIPAL CODE TO ENSURE CONSISTENCY WITH THE COMPREHENSIVE PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR:

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

APPROVED by the City Council at their regular meeting of December 13, 2004

BY: _____
MOLLY M. TOWSLEE, CITY CLERK



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUBLIC HEARING - RESOLUTION ACCEPTING NORTH DONKEY
CREEK ANNEXATION PETITION (ANX 03-03)
DATE: NOVEMBER 22, 2004

INFORMATION/BACKGROUND

The City Council met with the initiators of a 'Notice of Intention to Commence Annexation Proceedings' on July 28, 2003 with regards to a proposed annexation of property located west of Burnham Drive, east of the west boundary of the Tacoma-Lake Cushman power line, and north of 96th Street NW. Subsequently, the Council approved the revised legal description and map on October 27, 2003. The proponents provided the City with a petition for annexation which was initially submitted to Pierce County for review on December 8, 2003. A declaration from the Office of the Assessor-Treasurer dated December 10, 2004 was received by the City on December 26, 2003. In a letter dated January 7, 2004 the Auditor's Office commented that the signatures were valid however the addresses of the voters were not in the area to be annexed.

The City received a revised petition for annexation on September 23, 2004, which was subsequently certified by the Pierce County Office of the Assessor-Treasurer and Pierce County Auditor on October 25, 2004 as being legally sufficient.

Acceptance of the annexation petition and referral to the Pierce County Boundary Review Board for consideration must be done by Resolution.

Notice of this public hearing was posted in three conspicuous places within the area proposed for annexation on November 12, 2004; was mailed to all property owners of record both within the annexation area and within three hundred feet (300') of the area proposed for annexation; and published in the Peninsula Gateway on November 10, 2004.

POLICY CONSIDERATIONS

None.

FISCAL IMPACT

None.

RECOMMENDATION

I recommend that the Council approve the resolution accepting the annexation petition for the North Donkey Creek Annexation (ANX 03-03) and further refer it to the Pierce County Boundary Review Board for consideration.

CITY OF GIG HARBOR
RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, PROVIDING THE CITY COUNCIL'S ACCEPTANCE OF THE ANNEXATION PETITION FOR APPROXIMATELY 9.78 ACRES OF PROPERTY LOCATED WEST OF BURNHAM DRIVE, EAST OF THE EAST PROPERTY LINE OF THE TACOMA-LAKE CUSHMAN POWER LINES, AND NORTH OF 96TH STREET NW, LOCATED IN PIERCE COUNTY (ANX 03-03), DECLARING THE CITY COUNCIL'S INTENT TO ADOPT PROPOSED ZONING REGULATIONS FOR THE ANNEXATION AREA AND REFERRING THE PETITION FOR ANNEXATION TO THE BOUNDARY REVIEW BOARD.

WHEREAS, on June 5, 2003, the City of Gig Harbor received a Notice of Intent to Annex approximately 15.59 acres of property located west of Burnham Drive, east of the west boundary of the Tacoma-Lake Cushman power line, and north of 96th Street NW, adjacent to the existing City limits and within the City's Urban Growth Area (UGA), located in Pierce County; and

WHEREAS, the Notice of Intent was signed by the owners of not less than ten percent (10%) of the acreage of the property; and

WHEREAS, on July 28, 2003, the City Council met with the initiators of the petition voted to authorize circulation of the annexation petition subject to certain conditions including adoption of pre-annexation Medium-Density Residential (R-2) zoning with the Mixed Use District Overlay (MUD) being applied to those properties lying east of Donkey Creek; modification of the geographic boundaries of the area proposed for annexation thereby reducing the size of the annexation area to approximately 9.78 acres; and requiring that the property owners assume a proportionate share of the City's indebtedness; and

WHEREAS, on October 27, 2003, the City Council voted to accept the revised legal description and map of the area described in Exhibit A and graphically depicted on Exhibit B, attached hereto and incorporated herein as if fully set forth in full; and

WHEREAS, on December 4, 2003, a petition for annexation of the property described in Exhibit A and graphically depicted on Exhibit B was received by the City; and

WHEREAS, on January 7, 2004, the Pierce County Auditor noted that the signatures on the petition were valid however the addresses of the voters were not in the area to be annexed as described in Exhibit A and graphically depicted on Exhibit B; and

WHEREAS, on September 23, 2004, a revised petition for annexation of the property described in Exhibit A and graphically depicted on Exhibit B was received by the City; and

WHEREAS, on October 25, 2004, the Pierce County Boundary Review Board approved the legal description and map and the Pierce County office of the Assessor-Treasurer certified the signatures on the petition for annexation of the property described in Exhibit A and graphically depicted on Exhibit B; and

WHEREAS, the property described in Exhibit A and graphically depicted on Exhibit B and proposed to be annexed is within the Urban Growth Area as established by Pierce County and included in the Comprehensive Plans of both the County and the City of Gig Harbor; and

WHEREAS, the City of Gig Harbor Comprehensive Plan, adopted in November, 1994, established the land use map designations for this area as Mixed Use,

Preservation Area, and Residential Low, along with pertinent goals and objectives, to guide the development of the annexation area over the next twenty years; and

WHEREAS, the proposed pre-annexation zoning of Medium-Density Residential (R-2) with the Mixed Use District Overlay (MUD) being applied to those properties lying east of Donkey Creek of the property described in Exhibit A and graphically depicted on Exhibit B is consistent with the City of Gig Harbor Comprehensive Land Use Plan designations of Mixed Use, Preservation Area, and Residential Low; and

WHEREAS, the Gig Harbor Council has provided its intent to annex 9.78 acres of property located west of Burnham Drive, east of the east boundary of the Tacoma-Lake Cushman power line, and north of 96th Street NW, located in Pierce County, contingent upon the following conditions:

- A. Assumption by the property owners of their proportionate share of the City of Gig Harbor's indebtedness; and
- B. Imposition of Medium-Density Residential (R-2) zoning with the Mixed Use District Overlay (MUD) being applied to those properties lying east of Donkey Creek; and

WHEREAS, on November 22, 2004, the City Council, following a public hearing on the annexation petition, the voted to City Council approve the annexation and the proposed pre-annexation Medium-Density Residential (R-2) zoning with the Mixed Use District Overlay (MUD) being applied to those properties lying east of Donkey Creek for the area described in Exhibit A and graphically depicted on Exhibit B, subject to Boundary Review Board approval; now, therefore,

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

Section 1. The Gig Harbor City Council hereby declares its intent to authorize and approve the annexation of 9.78 acres of property located west of Burnham Drive, east of the east boundary of the Tacoma-Lake Cushman power line, and north of 96th Street NW, located in Pierce County, as described in Exhibit A and graphically depicted on Exhibit B, attached hereto, as part of the City of Gig Harbor, contingent upon compliance with the following conditions:

- A. Pursuant to the terms of the annexation petition, the 9.78 acres of property located west of Burnham Drive, east of the east boundary of the Tacoma-Lake Cushman power line, and north of 96th Street NW, located in Pierce County, as described in Exhibit A and graphically depicted on Exhibit B, shall be assessed and taxed at the same rate and on the same basis as property within the City, including assessments for taxes and payment of any bonds issued or debts contracted prior to or existing as of the date of annexation; and
- B. All property within the area described in Exhibit A and graphically depicted on Exhibit B shall be zoned as Medium-Density Residential (R-2) with the Mixed Use District Overlay (MUD) being applied to those properties lying east of Donkey Creek, in accordance with the Gig Harbor Municipal Code, Title 17.

Section 2. The Gig Harbor City Clerk hereby declares the property described in Exhibit A and graphically depicted on Exhibit B, which is the subject of the annexation petition, to be contiguous with the boundaries of the City of Gig Harbor.

Section 3. The City Council hereby authorizes the Mayor to submit all necessary documentation to the Pierce County Boundary Review Board in order to gain approval for the annexation provided in this Resolution. The City Council shall not take any further action on the annexation proposal until such time as the Pierce County Boundary Review Board has completed its review of the Notice of Intent to Annex.

RESOLVED by the City Council this 22nd day of November 2004.

APPROVED:

MAYOR, GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____

**FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.**

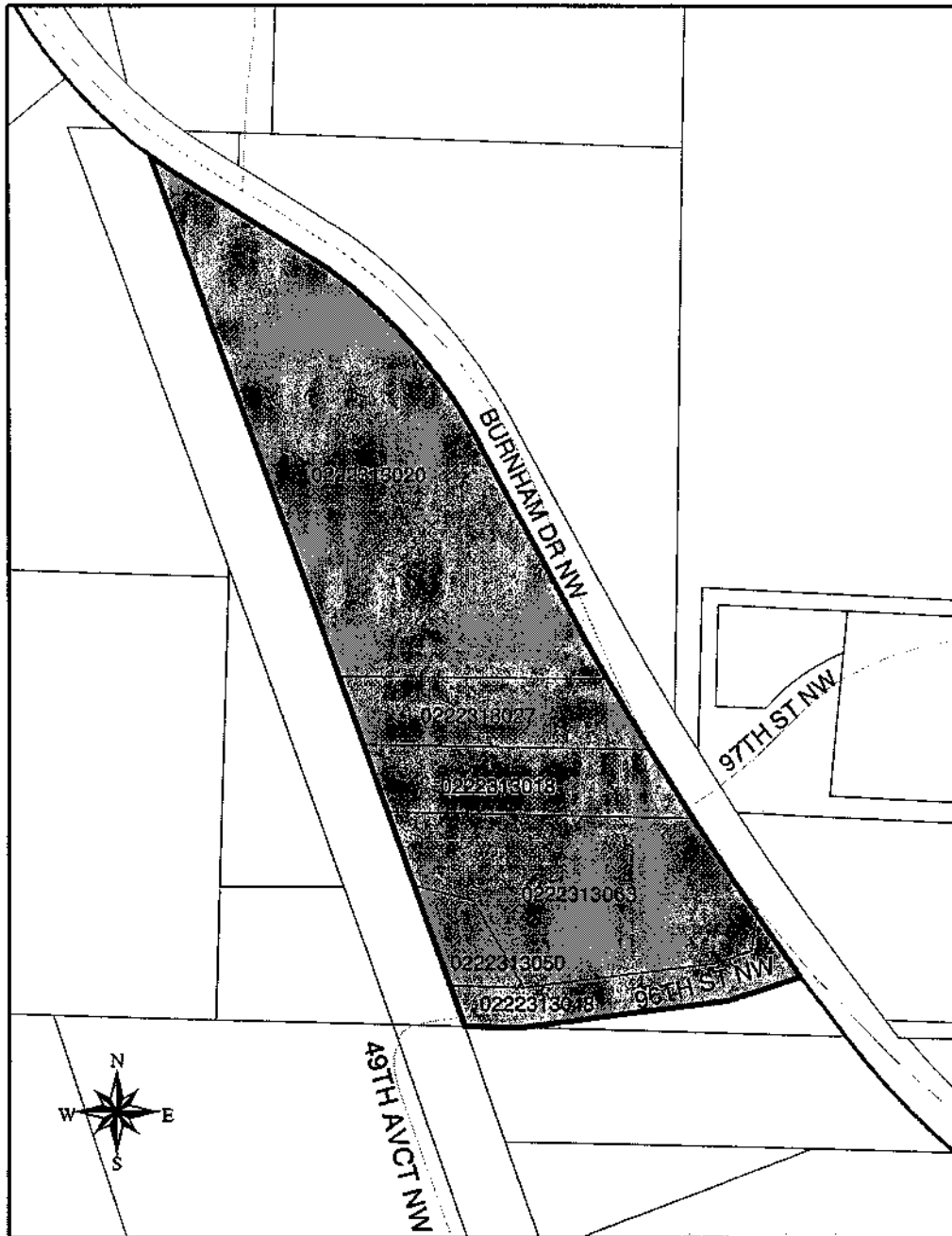
Exhibit A
NORTH DONKEY CREEK ANNEXATION (ANX 03-03)
LEGAL DESCRIPTION

LEGAL DESCRIPTION — NORTH DONKEY CREEK ANNEXATION AREA

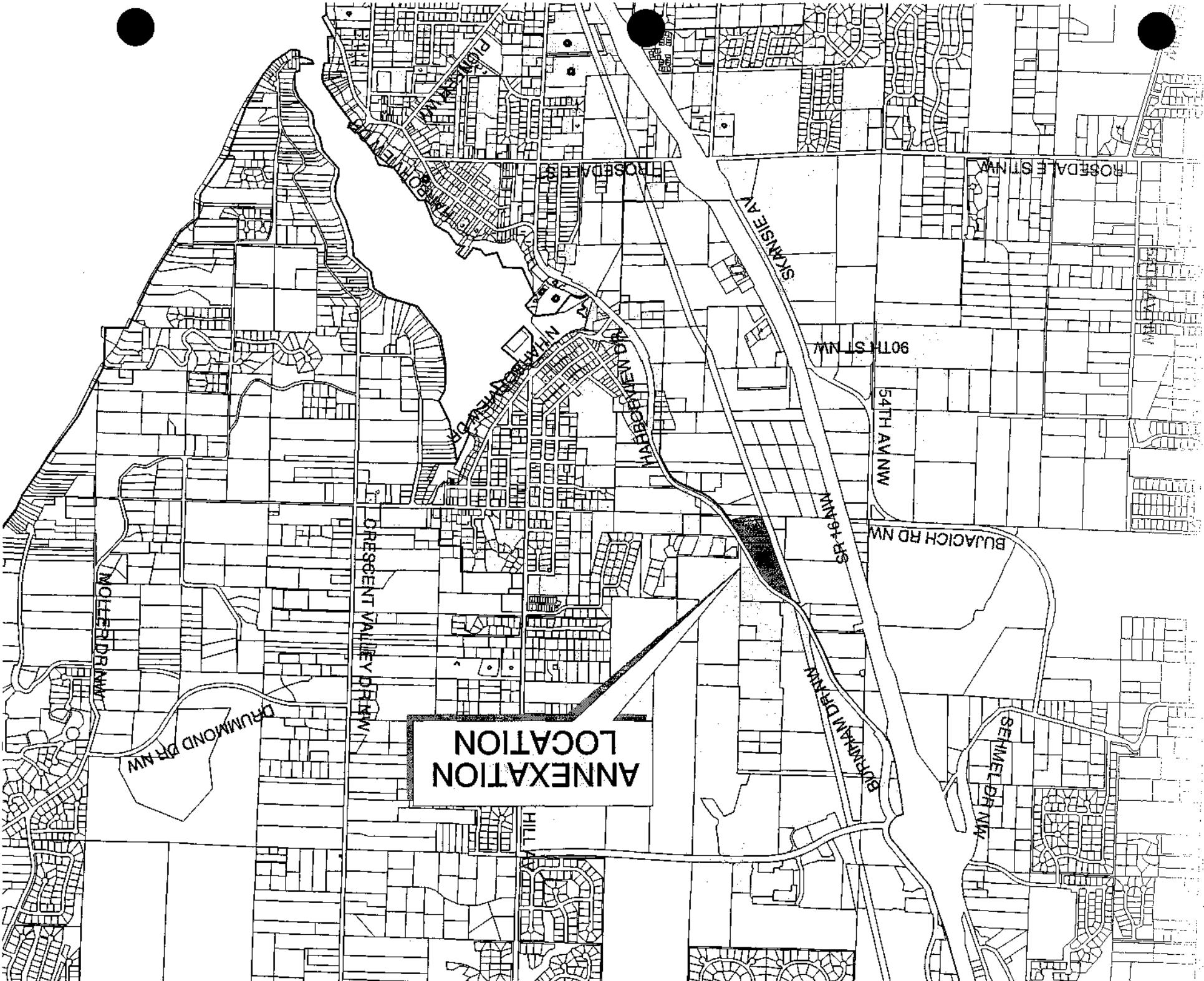
That portion of the southwest quarter of Section 31, Township 22 North, Range 2 East, Willamette Meridian, lying north of the south right-of-way line of 96th Street, east of the east property line of the Tacoma-Lake Cushman Power Lines, and west of the west line of Burnham Drive.

Exhibit B

NORTH DONKEY CREEK ANNEXATION (ANX 03-03)
ANNEXATION AREA MAP



North Donkey Creek Annexation
ANX 03-03



**ANNEXATION
LOCATION**

MOLLER DR NW

DRUMMOND DR NW

RESCENT VALLEY DRAW

HILL

ANNEXATION
LOCATION

HILL

W. BECKMANN DR

W. BECKMANN DR

SKANSIE AV

SPR 18 A NW

BORNMAN DR NW

BUJACICH RD NW

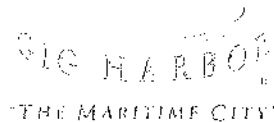
54TH AV NW

90TH ST NW

SEHMEL DR NW

ROSEDALE ST NW

W. WATKINS



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUBLIC HEARING AND RESOLUTION ADOPTING THE SIX-YEAR
TRANSPORTATION IMPROVEMENT PROGRAM (TIP), 2005 - 2010
DATE: NOVEMBER 22, 2004

INTRODUCTION/BACKGROUND

Local agencies are required to prepare a Six-Year Transportation Improvement Program (TIP) under RCW 35.77.010. State and federal funding for transportation projects are tied to approved Six-Year Transportation Improvement Programs. While a TIP represents the anticipated projects over a six-year period, the projects undertaken in any given year are subject to the annual budget deliberation process.

The attached Six-Year TIP for 2005 through 2010 updates last year's TIP to reflect projects anticipated to be completed this year, newly funded projects, those anticipated to carry over into 2005, and the most current cost information.

The TIP includes the construction of a modern roundabout at the intersection of 36th Street and Point Fosdick Drive. The TIP also anticipates the construction of Olympic Drive improvements and the design of 38th Avenue.

Miscellaneous projects in the 2005 program will respond to pavement, sidewalk, and storm drainage needs on a prioritized basis depending on location, severity, traffic volumes, safety, and funding.

The Community Development Committee met on November 2, 2004 with City Engineer Steve Misiurak and Associate Engineer Gus Garcia and reviewed the proposed Six-Year TIP.

A completed environmental SEPA checklist was submitted to the Planning and Building Department for their review and the SEPA responsible official issued a Notice of Categorical Exemption. See attached.

FISCAL CONSIDERATIONS

Adoption of the Six-Year Transportation Improvement Program does not directly affect the City's finances. The fiscal impacts will be reviewed during the annual budgeting process. Depending upon the availability of funds and other considerations, the Council may elect to fund more or fewer projects, and/or change project priorities.

RECOMMENDATION

I recommend that the Council approve the attached resolution adopting the Six-Year Transportation Improvement Program (2005-2010).



COMMUNITY DEVELOPMENT DEPARTMENT

**SEPA ADDENDUM TO
2005-2010 SIX-YEAR TIP AND 2004-2009 SIX-YEAR TIP
SEPA # 04-29**

September 16, 2004

The 2005 – 2010 Six Year Transportation Improvement Program (Six –Year TIP) was submitted to the Department of Planning and Building Services on September 10, 2004. An environmental checklist was submitted with the Six-Year TIP. Review of the checklist showed one change from the 2004-2009 Six-Year TIP. Per WAC 197-11-625 – Addenda Procedures, an addendum to the DNS for the 2004-2009 Six-Year TIP is hereby being submitted to the file.

The single project new to the Six-Year TIP is the Rosedale Street Pedestrian improvements. This will allow construction of sidewalks, street lights and related improvements along the south side of Rosedale Street. The current right-of-way is paved, but has no sidewalks, curb or gutter along the south side of the road. The SEPA Responsible Official finds that the project is captured under WAC 197-11-800(2)(c), and is categorically exempt as it consists of “reconstruction of existing roadbed, including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and baths, but not including additional lanes”.

Steve Osguthorpe, AICP
Planning & Building Manager
SEPA Responsible Official

CITY OF GIG HARBOR
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING A SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM AND DIRECTING THE SAME TO BE FILED WITH THE STATE SECRETARY OF TRANSPORTATION AND THE TRANSPORTATION IMPROVEMENT BOARD.

WHEREAS, pursuant to the requirements of Chapters 35.77 and 47.26 RCW, the City Council of the City of Gig Harbor has previously adopted a Comprehensive Transportation Plan and Transportation Improvement Program, including an arterial street construction program, and thereafter periodically modified said comprehensive transportation program by resolution, and

WHEREAS, the City Council has reviewed the work accomplished under the said Program, determined current and future City street and arterial needs, and based upon these findings has prepared a Six-Year Transportation Improvement Program for the ensuing six (6) calendar years, and

WHEREAS, a public hearing was held on the said Six-Year Transportation Improvement Program on November 22, 2004, and

WHEREAS, the City SEPA responsible official finds that there will be no significant adverse environmental impacts as a result of adoption or implementation of the Six-Year Transportation Improvement Program,

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

Section 1. Program Adopted. The Six-Year Transportation Improvement Program for the City of Gig Harbor, as revised and extended for the ensuing six (6) calendar years (2005-2010, inclusive), a copy of which is attached hereto as Exhibit A and incorporated herein by this reference as if fully set forth herein, which Program sets forth the project location, type of improvement and the estimated cost thereof, is hereby adopted and approved.

Section 2. Filing of Program. Pursuant to Chapter 35.77 RCW, the City Clerk is hereby authorized and directed to file a copy of this resolution forthwith, together with the Exhibit A attached hereto, with the Secretary of Transportation and a copy with the Transportation Improvement Board for the State of Washington.

RESOLVED this 22nd day of November 22, 2004.

APPROVED:

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY TOWSLEE

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

Six Year Transportation Improvement Program From 2005 to 2010

Agency: Gig Harbor
 Co. No.: 27 Co. Name: Pierce Co.
 City No.: 0490 MPO/RTPO: PSRC

Hearing Date: _____ Adoption Date: _____
 Amend Date: _____ Resolution No.: _____

Functional Class	Priority Number	Project Identification					Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars						Expenditure Schedule (Local Agency)				Federally Funded Projects Only			
		A. Federal Aid No.	B. Bridge No.	C. Project Title	D. Street/Road Name or Number	E. Beginning MP or road - Ending MP or road					Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information					1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)	
		F. Describe Work to be Done	Federal Fund Code	Federal Cost by Phase	State Fund Code	State Funds							Local Funds	Total Funds										
		1	2	3	4	5					6	7	8	9	10	11	12	13	14	15	16	17	18	19
16	25	CRESCENT VALLEY CONNECTOR Crescent Valley Road from: Crescent Valley Road to: Peacock Hill Avenue Purchase right-of-way, design and construct a 2- / 3-lane road, including paved shoulders, storm					01	P	1.0	C P T G	PE CN	1/1/2008 5/1/2010				1750	250 2300	250 4050				250 4050		Yes
Totals														1750	2550	4300				4300				
16	26	VERNHARDSON STREET IMPROVEMENTS Vernhardson Street from: City Limits to: Peacock Hill Avenue Pavement restoration and/or overlay, storm sewer, curbs, gutters, and sidewalk(s).					05 07	P	0.34	W T C	PE CN	1/1/2006 5/1/2007			PSMP	125	75 100	75 225			75	225		
Totals															125	175	300			75	225			
17	27	BURNHAM DRIVE IMPROVEMENTS PHASE 2 from: Franklin Avenue to: North/South Connector Reconstruction, including major widening, curbs, gutters, sidewalks, storm sewer improvements.					03 05 12	P	.45		PE CN	1/1/2009 4/1/2010			AIP	500	275 2000	275 2500				275 2500		
Totals															500	2275	2775				2775			
17	28	BURNHAM DRIVE IMPROVEMENTS PHASE 3 from: North/South Connector to: Borgen BLVD Reconstruction, including minor widening, curbs, gutters, sidewalks, storm sewer improvements.					03 04 12	P	1.0	C G G O P T	PE CN	1/1/2009 4/1/2010			AIP	1000	400 3000	400 4000				400 4000		
Totals															1000	3400	4400				4400			
Grand Totals for Gig Harbor															6220	24032	29744	59896	3495	3599	3159	49761		



Washington State Department of Transportation

Six Year Transportation Improvement Program

From 2005 to 2010

Agency: Gig Harbor

Co. No.: 27 Co. Name: Pierce Co.
City No.: 0490 MPO/RTPO: PSRC

Hearing Date: 11/22/2004 Adoption Date: 11/22/2004
Amend Date: Resolution No.:

Functional Class	Priority Number	Project Identification A. Federal Aid No. B. Bridge No. C. Project Title D. Street/Road Name or Number E. Beginning MP or Road - Ending MP or Road F. Describe Work to be Done	Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars										Expenditure Schedule (Local Agency)				Federally Funded Projects Only	
							Fund Source Information					Totals					1st	2nd	3rd	4th Thru 6th	Envir. Type (MM/YY)	RAV Required Date (MM/YY)
8	9	10	11	12	13	14	15	16	17	18	19	20	21									
1	2		4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21		
17	1	ROSEDALE STREET IMPROVEMENT PROJECT from: Chapel Hill Church to: Skanska Construct curb, gutter, planter strip, and sidewalk along this unimproved shoulder	12	P	.10	C G P T	PE CN	2/1/2005			PSMP	97	25 98	25 195	170							
14	2	OLYMPIC DRIVE/56th STREET IMPROVEMENTS Olympic Drive & 56th Ave. to: Point Fosdick Drive Reconstruction to provide a 5-lane section, w/ bicycle lanes, curbs, gutters, sidewalks, and landscaped planter strip on both sides, left-turn pockets, / landscaped median, urban boulevard, urban street improvements, and	03 04 06	P	0.49	C P S T G W	Totals					97	123	220	195	1630						
16	3	56th ST. / PT. FOSDICK DR. IMPROVEMENTS 56th Street / Point Fosdick Drive to: Olympic Drive Reconstruction to provide a 5-lane section, w/ bicycle lanes, curbs, gutters, and sidewalks, left-turn pockets / landscaped median where feasible.	03 04 05	P	0.55	C G P T W	Totals					2000	1630	3630	2000	1630						
17	4	38TH AVENUE IMPROVEMENTS - PHASE 1 38th Avenue to: 56th Street Complete design, & construct 2- / 3-lane section, w/ left turn pockets, & w/ bicycle lanes, curbs, and gutters on both sides, a landscaped planter strip and sidewalk on the east side, urban boulevard, urban street improvements, and	03 06 04	P	1.0	C P O G T W	Totals					1250	1400	2650	1250	1400						
							Totals				4000	2599	6598	294	294	6000						



Six Year Transportation Improvement Program From 2005 to 2010

Agency: Gig Harbor
 Co. No.: 27 Co. Name: Pierce Co.
 City No.: 0490 MPO/RTPO: PSRC

Hearing Date: _____ Adoption Date: _____
 Amend Date: _____ Resolution No.: _____

Functional Class	Priority Number	Project Identification					Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars						Expenditure Schedule (Local Agency)				Federally Funded Projects Only				
		A. Federal Aid No.	B. Bridge No.		C. Project Title						Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	RAV Required Date (MM/YY)	
		D. Street/Road Name or Number		E. Beginning MP or road - Ending MP or road		F. Describe Work to be Done							Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds							
		Federal Fund Code	Federal Cost by Phase																						
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21					
08	5	BRIARWOOD LANE IMPROVEMENTS Briarwood Lane from: 38th Avenue to: Point Fosdick Drive Construct curbs, gutters and sidewalk/pedestrian pathway on the south side, planter strip(s), traffic islands, and lighting.					01	P	0.59	C S P R T	PE CN	10/1/2007 5/1/2008			PSMP	150	350	500			150	500			
											Totals		150	500	650		150	500							
17	6	36th/Point Fosdick Intersection from: to: Construct a single lane modern roundabout at this intersection.					03	P	0	C G P T	CN	5/1/2005	STP	370	WSDOT	330	590	1290	1250			Yes	1/2005		
											Totals		370	330	590	1290	1250								
19	7	PRENTICE STREET IMPROVEMENTS Prentice Street from: Fennimore Street to: Burnham Drive Curbs and gutters on both sides, sidewalk(s), storm sewer improvements, and landscaped planter strip where feasible.					03 05	P	0.30	C P T W S G	CN	5/1/2008				520	520				520				
											Totals				520	520		520							
19	8	FRANKLIN AVE. IMP (Phase 2) Franklin Avenue / Fuller Street from: Peacock Hill Avenue to: Burnham Drive Provide curbs, gutters, and sidewalks on both sides, storm sewer improvements, water main replacement, and traffic calming features.					03 05	P	0.23	C P T W S G	CN	5/1/2008				500	500				500				
											Totals				500	500		500							



Washington State Department of Transportation

Six Year Transportation Improvement Program

From **2005** to **2010**

Agency: Gig Harbor

Co. No.: 27 Co. Name: Pierce Co.

City No.: 0490 MPO/RTPO: PSRC

Hearing Date: _____

Adoption Date: _____

Amend Date: _____

Resolution No.: _____

Functional Class	Priority Number	Project Identification A. Federal Aid No. B. Bridge No. C. Project Title D. Street/Road Name or Number E. Beginning MP or road - Ending MP or road F. Describe Work to be Done	Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars								Expenditure Schedule (Local Agency)				Federally Funded Projects Only		
							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)	
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds							
									Federal Fund Code	Federal Cost by Phase											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
00	9	DOWNTOWN PARKING LOT Downtown Parking Lot from: Central Busn. Dist. to: Central Busn. Dist. Design additional off street parking in conformance with City Public Works Standards.	01	P	0.03	P W	PE	1/1/2010						60	60				60		
							Totals							60	60				60		
17	10	GRANDVIEW STREET IMP. (PHASE 2) Grandview Street from: Pioneer Ave. to: Stinson Ave. Reconstruct Grandview Street to provide two 11 foot lanes w/ bike lanes, curb and gutters, and sidewalk.	03	P	.2		PE CN	1/1/2005 8/1/2006						50 250	50 250	50	250				
							Totals							300	300	50	250				
17	11	GRANDVIEW STREET IMP. (PHASE 3) Grandview Street from: McDonald Ave. to: Soundview Drive Reconstruct to include sidewalks w/ bike lanes and curb and gutter with landscape strips.	03 05	P	0.5	C G P S T W	PE CN	1/1/2006 3/1/2007						110 400	110 400		110	400			
							Totals							510	510		110	400			
17	12	38th AVENUE IMPROVEMENTS-PHASE 2 38th Avenue from: 56th Street to: Hunt Street Complete design, & construct 2- / 3-lane section, w/ left turn pockets, & w/ bicycle lanes, curbs, and gutters on both sides, a landscaped planter strip and sidewalk on the east side only, storm sewer improvements, and	03 06 04	P	.5	C P O G T W	PE CN	1/1/2007 4/1/2010			AIP	3500		400 500	400 4000			400	4000		
							Totals					3500		900	4400			400	4000		

Six Year Transportation Improvement Program

From 2005 to 2010

Agency: Gig Harbor
 Co. No.: 27 Co. Name: Pierce Co.
 City No.: 0490 MPO/RTPO: PSRC

Hearing Date: _____ Adoption Date: _____
 Amend Date: _____ Resolution No.: _____

Functional Class	Priority Number	Project Identification					Project Costs in Thousands of Dollars									Expenditure Schedule (Local Agency)				Federally Funded Projects Only						
		A. Federal Aid No.		B. Bridge No.			Improvement Type(s)	Status	Total Length	Utility Codes	Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information					1st	2nd	3rd	4th Thru 6th	Envr. Type	RAW Required Date (MM/YY)			
		C. Project Title											Federal Fund Code	Federal Cost by Phase	State Fund Code	State Funds	Local Funds							Total Funds		
1	2	D. Street/Road Name or Number E. Beginning MP or road - Ending MP or road F. Describe Work to be Done					4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21		
17	13	50th COURT 50th Court from: Olympic Drive to: 38th Street Construct new two lane roadway with C, G, & SW.					01	P	.5	S P T W	PE CN	1/1/2008 5/1/2009			AIP	250	200 550	200 800					200 800			
											Totals															
14	14	OLYMPIC/HOLLYCROFT INTERSECTION IMPROVEMENTS from: to: Reconfigure the intersection by constructing a single lane roundabout.					03	P	0		PE CN	1/1/2009 4/1/2010			AIP	500	100 300	100 600					100 900			
											Totals															
14	15	PT. FOSDICK DR PED IMPROVEMENT PROJECT Point Fosdick Drive from: Harbor County Lane to: 36th Ave. This project will construct approximately 2000 LF of curb, gutter, and sidewalk along the east side of Pt. Fosdick from Harbor County Drive					06	P	0.5	C G P T W	PE CN	1/1/2009 8/1/2010					40 225	40 225					40 225			
											Totals															
17	16	NORTH-SOUTH CONNECTOR Swede Hill Road from: Burnham Drive to: Borgen Blvd. Design for the future Burnham Drive to Borgen Blvd roadway link.					01	P	0.91	P W S T G C	PE	1/1/2008			OTHER		250	250					233			
											Totals															



Washington State Department of Transportation

Six Year Transportation Improvement Program From 2005 to 2010

Agency: Gig Harbor
 Co. No.: 27 Co. Name: Pierce Co.
 City No.: 0490 MPO/RTPO: PSRC

Hearing Date: _____ Adoption Date: _____
 Amend Date: _____ Resolution No.: _____

Functional Class	Priority Number	Project Identification A. Federal Aid No. B. Bridge No. C. Project Title D. Street/Road Name or Number E. Beginning MP or road - Ending MP or road F. Describe Work to be Done	Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars									Expenditure Schedule (Local Agency)				Federally Funded Projects Only	
							Project Phase	Phase Start (mm/dd/yyyy)	Fund Source Information						1st	2nd	3rd	4th Thru 6th	Envir. Type	R/W Required Date (MM/YY)	
									Federal Funding		State Fund Code	State Funds	Local Funds	Total Funds							
									Federal Fund Code	Federal Cost by Phase											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
16	17	HARBORVIEW DRIVE IMPROVEMENT PROJECT from: North Harborview to: Burnham Drive Reconstruct roadway to provide for curb, gutters, sidewalk with bike lanes and landscape strips.	03 05 06	P	.30	P S T W	PE CN	1/1/2007 5/1/2008						60 500	60 500				60 500		
Totals													560	560				560			
17	18	BURNHAM DRIVE IMPROVEMENTS PHASE 1 Burnham Drive from: Harborview Drive to: Franklin Avenue Reconstruction, including major widening, curbs, gutters, sidewalks, storm sewer improvements,	03 05	P	0.28	O C C P S T	CN CN	1/1/2006 4/1/2007			AIP	280	65 70	65 350		65	350				
Totals												280	135	415		65	350				
16	19	ROSEDALE STREET IMPROVEMENTS PHASE 2 Rosedale Street from: City Limits to: State Route 16 Minor widening to provide 2-thru lanes, channelization, left-turn pockets, bicycle lanes,	03 05	P	0.53	C P T	PE CN	1/1/2007 5/1/2008	STP(U) STP(U)	70 435			20 68	90 503			90	503	CE	12/07	
Totals											505			88	593			90	503		
16	20	ROSEDALE STREET IMPROVEMENTS PHASE 3 Rosedale Street from: State Route 16 to: Shirley Avenue Minor widening to provide 2-thru lanes curbs, gutters, storm sewer improvements, bicycle lane and sidewalk on one side, and provisions for /	03 05	P	0.34	C P T	PE CN	1/1/2008 5/1/2009	STP(U) STP(U)	50 295			45 56	95 350				95 350			
Totals											345			100	445				445		



Washington State Department of Transportation

Six Year Transportation Improvement Program

From 2005 to 2010

Agency: Gig Harbor

Co. No.: 27 Co. Name: Pierce Co.

City No.: 0490 MPO/RTPO: PSRC

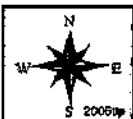
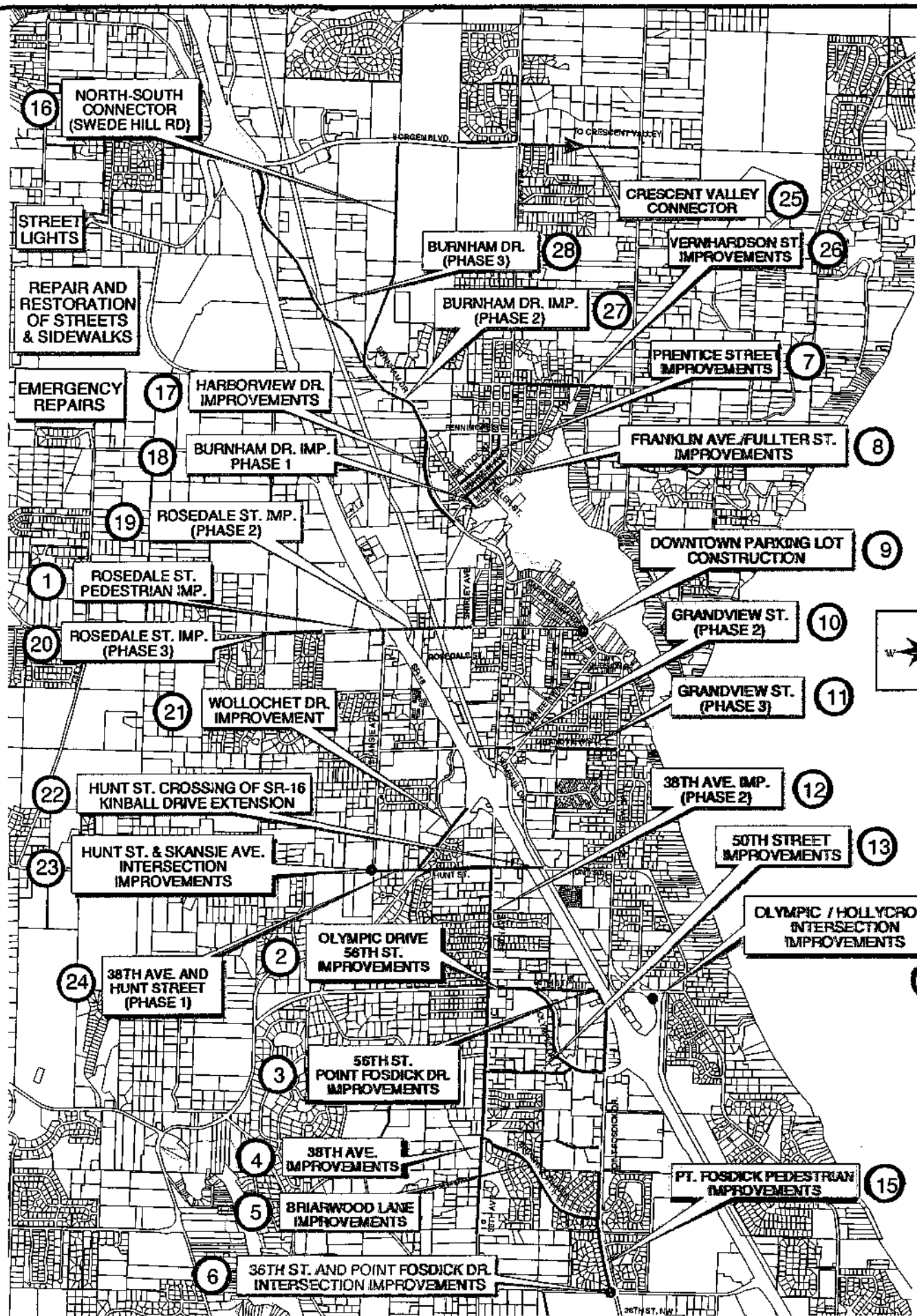
Hearing Date:

Adoption Date:

Amend Date:

Resolution No.:

Functional Class	Priority Number	Project Identification A. Federal Aid No. B. Bridge No. C. Project Title D. Street/Road Name or Number E. Beginning MIP or road - Ending MIP or road F. Describe Work to be Done	Improvement Type(s)	Status	Total Length	Utility Codes	Project Costs in Thousands of Dollars										Expenditure Schedule (Local Agency)				Federally Funded Projects Only	RWY Required Date (MM/YY)
							Fund Source Information						Total Funds				1st	2nd	3rd	4th Thru 6th		
							Project Phase	Phase Start (mm/dd/yyyy)	Federal Fund Code	Federal Fund Cost by Phase	State Fund Code	State Funds	Local Funds	Total Funds					Envir. Type			
1	2		4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21		
14	21	WOLLECHET DRIVE IMPROVEMENT PROJECT Wollocket Drive to: SR-16 from: Hunt Street Widen roadway to provide for 11-foot lanes with additional lanes to accommodate future WSDOT SR-16 ramp modifications with curb, gutter and sidewalk with drainage, ADA, and street lighting.	03 04	P	.5	C G P S W T	CN	1/1/2010				5000										
17	22	HUNT ST XING OF SR-16 KIMBALL DR EXT. from: 38th Avenue to: Kimball Drive Design, purchase right-of-way, and construct a 2-lane undercrossing of SR-16.	01 03	P	0.5	C P O T G W	Totals	1/1/2008	STP(U)	500	AP	50	850	1400							6/2009	
16	23	HUNTSKANISIE INTERSECTION IMPROVEMENTS Hunt Street and Skansie Ave. from: Hunt Street to: Skansie Ave. Installation of a new traffic signal or a roundabout at the intersection of Hunt Street and Skansie Ave.	12	P	.1	C G P S W T	Totals	1/1/2009				500	6975	12475								
16	24	38th / HUNT STREET (Phase 1) 38th Ave. & Hunt Street from: Skansie Avenue to: Hunt Preliminary design of a 2-3-lane section, w/ median &/or left turn pockets, bicycle lanes, curbs, gutters,	04 07	P	1.0	C S G P T W	Totals	1/1/2009	PE CN	500 5/1/2010	AP	2800	500 700	500 3500								
							Totals					2800	1200	4000								



City of Gig Harbor
Six Year Transportation Improvement Program
2005 - 2010

GIG HARBOR
"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

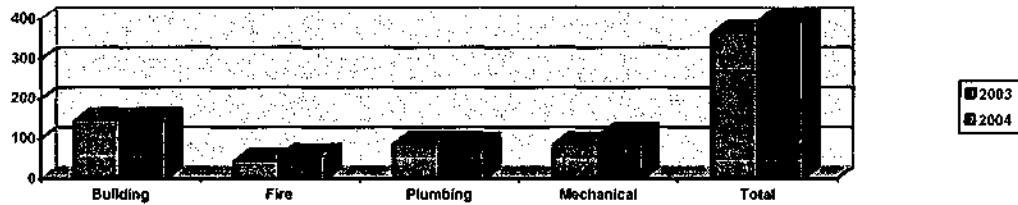
TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: STAFF REPORT - THIRD QUARTER 2004 BUILDING PERMIT DATA
DATE: NOVEMBER 22, 2004

Attached for your review is the Building division quarterly activity summary for the third quarter of 2004. Please feel free to contact Dick Bower, Building Official/Fire Marshal or myself should you have any comments or questions regarding this information.

**City of Gig Harbor
Building Division
Quarterly Activity Summary
As of 3rd Quarter of 2004**

The following information provides a snapshot of building division activity for the first three quarters of 2004 with a comparison to activity from the prior year.

PERMIT ACTIVITY

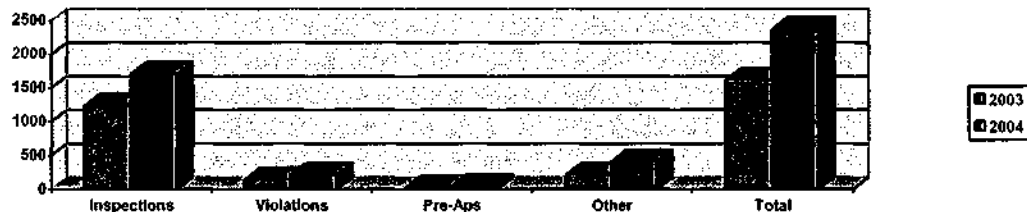


Type	03	04	% Increase
Building	146	147	.7
Fire	45	57	26
Plumbing	88	86	(2)
Mechanical	86	108	25
Total	365	396	8.4

Permit types include all commercial and residential construction, including civil works structures such as retaining walls, detention vaults, water tanks and similar facilities. For each permit issued, plan review services at an average of 2 hours per plan are provided.

Fire permits include permits for sprinkler systems, fire alarm systems, commercial cooking suppression systems and similar fire protection and suppression equipment.

OTHER CONSTRUCTION SERVICES



Service	03	04	% Increase
Inspections	1237	1711	38
Violations	144	214	49
Pre-Application Conferences	25	44	76
Other	214	408	90
Total	1620	2377	46

Inspections include building, plumbing, mechanical, and fire code inspections for new and remodel construction. Figure does not include annual fire safety inspections, fire inspection referrals, or fire marshal inspections performed to assure code compliance prior to business license issuance.

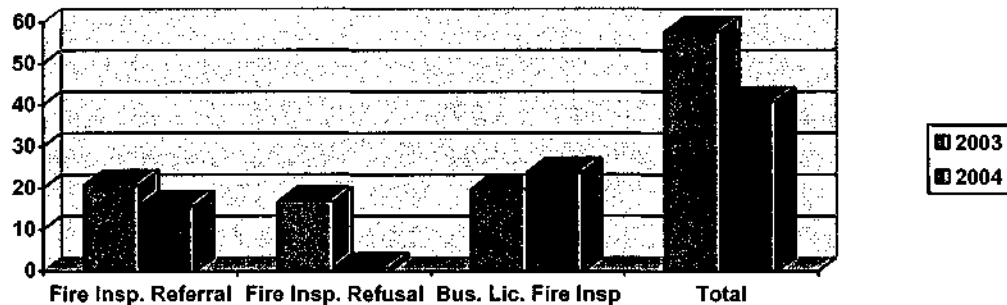
Violations include citizen complaints and staff generated investigations, and include those settled prior to issuance of a Notice of Violation as well as those resulting in legal enforcement action.

Pre-Application Conferences include those scheduled by the Planning Division for discussion of general planning, zoning, public works and building requirements as well as those scheduled by the Building division for discussion of project specific fire and building code requirements.

The other category includes permits reviewed and issued over the counter through the City's Permit by Appointment program. Also included is staff member attendance at training programs and meetings.

Not included in any category are counter and phone consultations with members of the public on code and project related issues, administrative projects, and similar efforts.

FIRE PREVENTION SERVICES



Service	03	04	%
Change			
Fire Inspection Referral	21	16	(23)
Fire Inspection Refusal	17	1	(94)
Fire Marshal Insp. For Bus. Lic.	20	24	2
Total	58	41	(29)

Fire inspection referrals include annual fire safety inspections, done under contract by Fire District 5, which have not achieved voluntary compliance within the reinspection period. These are referred to the City fire marshal for legal enforcement action. The referral category also includes follow-up on deficiencies found during required annual inspections of fire protection systems performed by private contractors.

Fire inspection refusals include buildings and occupancies which have denied Fire District 5 personnel access for an annual fire safety inspection. These are referred to the City for documentation of the denial and consideration of enforcement action.

Fire marshal inspections for business license issuance are performed by the City fire marshal to assure compliance with GHMC Chapter 15.12 prior to approval of business license issuance.

SPECIAL SERVICES PROJECTS

Special services projects are those that due to their magnitude or technical difficulty have already, or are anticipated to, constitute extraordinary demands on staff time. These projects typically result in numerous partial inspections, reinspections, and technically demanding plan reviews and inspections. The following list includes those projects that currently fall into this category.

Address	Permit Yr.	Special Services
4700 Pt. Fosdick	2002-04	MG, TM, MTI, TMS,
MPI		
3220-3320 Rosedale	2004	MPI, MR
7700 Skansie	2003	MPI, MR
5101 Rosedale	2004	MR, MPI, TMS
4905 Rosedale	2004	MR, MPI, TMS
5401 Olympic	2004	MTI, MPI
MG – Medical gas systems MR – Multiple significant revisions MTI – Multiple tenant improvements MPI – Multiple partial inspections TM – Technical medical facility TMS- Technical mechanical systems or equipment		

Medical gas systems (MG) include systems providing oxygen, air, nitrous oxide and similar gases for inhalation therapy as well as air, nitrogen and oxygen systems for operating medical/dental instruments. Med gas systems require multiple inspections as well as coordination with medical gas certification contractors.

Multiple significant revisions (MR) includes projects that have undergone significant revisions to the civil plans and structural or fire resistive systems during construction. MR projects demand additional plan review, inspections and require considerable additional coordination between inspectors and contractors to facilitate project scheduling concerns.

Multiple tenant improvements (MTI) projects include projects in which tenant improvement work has been permitted during shell construction, and projects where shell and core projects are anticipated to result in numerous future tenant improvement permits. Concurrent shell and TI projects demand additional coordination between plan reviewers, inspectors,

Multiple partial inspections (MPI) denotes projects that, due to the type of construction or project scheduling concerns are afforded numerous partial inspections for typical single inspection

phases. E.g. partial reinforcement inspections for concrete walls, wall board inspections by for fire resistive assemblies requiring multiple layers.

Technical medical facility (TM) projects involve medical treatment facilities where invasive procedures, anesthesia, and/or procedures involving complex medical equipment (MRI, CT, Dialysis, Endoscopy) are conducted.

Technical mechanical systems or equipment (TMS) denotes projects including smoke control systems, complex heating, ventilation and air conditioning systems, flammable and combustible vapor and dust conveying systems and similar systems of a complex or safety related nature.

**PLANNING COMMISSION RECOMMENDED AMENDMENTS TO THE
PROPOSED DRAFT COMPREHENSIVE PLAN AND GHMC TITLE 18**

Recommended Comprehensive Plan Amendments

Land Use Element

Policy 2.3.2 Airport Overlay Districts

- The City of Tacoma's Tacoma Narrows Airport is an essential public facility in close proximity to the City's southern boundary. The City intends to support the general aviation airport facilities at Tacoma Narrows airport when consistent with the Gig Harbor Comprehensive Plan goals and Federal Aviation Administration standards.
- Lands that may be detrimentally affected by airport activities should be designated and regulated to limit the potential for harm. Regulation of such lands should balance the interests of residents and property owners with preservation of public safety. The City should consider application of density limitations in areas south of 44th Street NW. Conversion of lands in this area to uses that promote public assembly, that are sensitive to noise generated by the airport, or that generate electronic emissions that may adversely affect use of the airport should be discouraged.

Deleted: continued growth and development of

Recommended Code Amendments

Title 18.

18.08.100 Wetland Buffers

A. Following the department's determination of the category for a wetland associated with a proposal, the department shall determine appropriate buffer widths...

The following standard buffer widths are required:

Wetland Category Buffer Width

Category I 200 feet

Category II 100 feet

Category III 50 feet

Category IV 25 feet

Deleted: 60

Deleted: 35

18.08.110 Alteration of buffers.

Alteration of a buffer may occur in two ways:

A. Wetland buffers may be modified under the following conditions (quantitative alteration):

1. **Wetland buffer reductions.** Buffer width reductions shall be considered on a case-by-case basis where existing buffers are degraded and would benefit from enhancement activities. Buffers shall not be reduced where degradation is the result of a documented code violation. Reductions may be allowed where the applicant demonstrates to the department that reducing the buffer width would not adversely affect the wetland functions and values, and the minimum buffer shall not be less than 55 percent of the widths established in GHMC 18.08.xxx;

Deleted: the

Deleted: 70

Errata

Title 18

18.08.XXX Criteria for compensatory mitigation/location criteria and timing of compensatory mitigation.

B. In cases in which it is determined that compensatory mitigation is appropriate, the following shall apply:

3. Compensatory mitigation shall duplicate the overall values and standards of the wetland to be replaced and shall include at least 50 percent in-kind compensation mitigation unless it can be demonstrated by the applicant that the overall wetland values of the mitigation area and adjacent or connecting wetlands can be enhanced by a higher percentage of out-of-kind mitigation.

18.08.xxx - Designation and rating of Streams

C. **Ditches.** Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as streams under this section. Artificial drainage features with documented fish usage are regulated as streams. Drainage setbacks are required as per the Gig Harbor Stormwater Design Manual.

Deleted: City's Surface Water

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
Thursday, November 18, 2004
Gig Harbor Civic Center**

PRESENT: Commissioners Theresa Malich, Kathy Franklin, Carol Johnson, Dick Allen, Bruce Gair, Scott Wagner and Chairperson Paul Kadzik. Staff present: John Vodopich, Steve Osguthorpe, Kristin Riebli, and Diane Gagnon.

CALL TO ORDER: 6:05 p.m.

APPROVAL OF MINUTES:

MOTION: Move to approve the minutes of November 4, 2004 Johnson/Franklin – unanimously approved.

NEW BUSINESS

1. Comprehensive Plan Update – Code and Policy Study Session #5

Community Development Director John Vodopich explained to the Planning Commission that this would be the final work-study session with them and that they would need to make a final recommendation to the City Council for their meeting of November 22, 2004.

Mr. Vodopich then briefed the Planning Commission on the proposal from AHBL for the new Chapter 17.92 Mineral Resource Lands and read the requirements to notify property owners who are within 400 feet of a site designated as mineral resource land. Chairman Kadzik asked if city staff would be responsible for the notification process. Planning Manager Steve Osguthorpe answered that staff would contact the Department of Natural Resources to determine any areas presently operating under a valid surface mining permit. The Planning Commission agreed to the proposed language in the new section.

The next item for discussion was the Airport Overlay District. Commissioner Gair asked why we were calling the airport an "essential public facility" and John Vodopich replied that the definition of essential public facilities includes airports.

Commissioner Gair stated that in section 2.3.2 it states that "The City intends to support continued growth and development of the general aviation airport facilities at Tacoma Narrows airport when consistent with the Gig Harbor Comprehensive Plan goals" and asked which goals were being referred to. It was decided that this was a general statement referring to all the goals of the Comprehensive Plan and that the word "all" should be inserted to reflect that. Mr. Gair further expressed concern with voicing support of the airport's continued growth. Mr. Vodopich suggested that the language "continued growth and development of" be removed and the Planning Commission agreed.

The discussion then continued to the next item which was new language supporting low impact development. Community Development Director John Vodopich read the proposed language to support low impact development methods to manage stormwater runoff on-site and the Planning Commission agreed with the language as presented.

Owen Dennison from AHBL presented the information on the Housing Element pointing out Table 3 which illustrates existing zoned capacity. Commissioner Gair asked about the new language following the table which references an excess cushion of 23 percent above the projected need and expressed a concern with maintaining excess housing capacity. Mr. Vodopich explained that the cushion was to accommodate projected growth and may never be developed. Owen Dennison continued to explain the difference between housing units and households and the vacancy rate.

Chairman Paul Kadzik clarified that basically we are changing the maximum density from 3 dwelling units per acre to 4 dwelling units per acre. Associate Planner Kristin Riebli pointed out that there is also a 30% incentive allowed for developing a planned residential development in those zones. It was agreed to remove the 30% bonus and the Planning Commission agreed with the density increase.

The Planning Commission then discussed Title 18 – Critical Areas. Owen Dennison reviewed the various changes. It was decided to discuss the proposed changes to the wetland buffers first.

Commissioner Scott Wagner asked the other Planning Commission members to review the matrix which had been distributed at the last meeting which compared the city's existing buffers with those proposed by the consultant and the range suggested by best available science.

Commissioner Johnson stated that we have to be sure that what we adopt is defensible and asked if our current buffers were. Commissioner Wagner stated that our current buffer widths were within the recommended range and expressed concern with doubling them. He then suggested that they be increased somewhat but not doubled.

Discussion followed on the changes to the categories and how they compared to our current categories. Commissioner Johnson pointed out that the proposed categories are more in line with the state.

Chairman Kadzik stated that the numbers proposed seemed to be in the conservative range and expressed the need to balance conservation with the needs of the community. Commissioner Wagner added that we needed to achieve 4 dwelling units per acre while still protecting the wetlands and that he didn't believe these large buffers accomplished that goal. He then recommended that the buffer for a Category 1 wetland remain at the suggested 200 feet and that Category II be changed to 75, Category III to 35 and Category IV to 25. Discussion followed on the state recommended ranges and whether those suggested fell within them. It was decided that that Planning Commission would recommend the following wetland buffers:

Category I – 200 feet
Category II – 100 feet
Category III – 50 feet
Category IV – 25 feet

Owen Dennison then went over the changes to the section on buffer reductions, pointing out that the current regulation states that degraded buffers may be enhanced and reduced to not less than 50 percent and that they were suggesting that it be changed to 70 percent.

Chairman Kadzik asked for clarification of a degraded buffer and Planning Manager Steve Osguthorpe stated that staff does not have the knowledge to determine the quality of a buffer and would rely on a certified wetland specialist hired by the proponent.

Commissioner Johnson suggested that the allowance be changed to 55 percent and the Planning Commission agreed.

Associate Planner Kristin Riebli cautioned that there may be situations where a wetland may be willfully degraded in order to utilize the buffer reduction. Commissioner Wagner expressed concern for how it would be determined what was willful as animals and farming can degrade a wetland. Chairman Kadzik suggested that language be added stating buffer reduction will not be allowed if the buffer degradation is a result of a documented code violation and the Planning Commission agreed.

The next item for discussion was the new section on streams. Planning Manager Steve Osguthorpe explained that we don't currently have a section on streams. Commissioner Wagner asked what types of streams we have in the city and Mr. Osguthorpe answered that Donkey Creek, Crescent Creek and their tributaries probably fell within the type 2 and 3 categories. The Planning Commission agreed with the recommendation of AHBL.

The Planning Commission then discussed the wetland buffer replacement ratios. Associate Planner Kristin Riebli read from the current code noting that the ratios being proposed were only a slight increase in the lower categories.

Commissioner Franklin noted that these ratios seem to balance both the environmental interests and property owner interests. The Planning Commission agreed with the recommended ratios.

Owen Dennison then asked the Planning Commission to go over the introduction noting that the numbers had been updated to reflect current information.

Chairman Paul Kadzik then asked if there was any other discussion and stated that a motion for recommendation would be appropriate at this time.

MOTION: Move to recommend the City Council approve the 2004 Comprehensive Plan as modified. Johnson/Franklin – unanimously approved.

NEXT REGULAR MEETING:

December 2, 2004 at 6pm – Work-Study Session

Commissioner Bruce Gair noted that he would not be attending the meetings of December 2nd and 16th, 2004.

Commissioner Kathy Franklin stated that she would also be absent from the meeting of December 2nd.

ADJOURN:

MOTION: Move to adjourn at 7:40 p.m.
Johnson/Malich – unanimously approved

CD recorder utilized:
Disc #1 Track 1
Disc #2 Track 1



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

November 22, 2004

John P. Vodopich, AICP
Community Development Director
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Dear Mr. Vodopich:

Re: Review of Draft Critical Areas Ordinance

Thank you for this opportunity to provide written comments on Gig Harbor's draft revised Critical Areas Ordinance (CAO).

We appreciate the efforts made by Gig Harbor in developing revisions to this CAO. The Washington State Department of Ecology (Ecology) supports the goals of the CAO to "protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development" and, more specifically, to "protect wetlands and their functions and values."

However, we do not believe that the current draft of the CAO provides all of the standards necessary to implement these goals. We are concerned that the use of an outdated rating system, combined with the proposed buffers and compensation ratios do not adequately include the best available science and will fail to protect wetland functions and values in the City. We have several suggestions for improvements that would ensure that the best available science is included and wetland functions and values are protected.

18.08.040 Wetland classification guidelines/ratings.

We urge the City to revise the CAO to adopt Ecology's *Washington State Wetland Rating System for Western Washington* (2004). Ecology first introduced a rating system for western Washington in 1991, and it has been extensively field tested, revised, and refined since then. A new edition of the rating system (see <http://www.ecy.wa.gov/biblio/0406014.html>), which was finalized in August, is based on a better understanding of wetland functions, ways to evaluate them, and what is needed to protect them. This function-based rating system represents best available science for rating wetlands in Washington. In many cases the new rating system will provide enough information about existing wetland functions to allow adequate plan review and land use decisions to be made without the additional expense of a separate wetland functional assessment.

In addition, the revised rating system will be used to guide state and federal review of wetland related activities and any required wetland mitigation. In jurisdictions that use the new rating system, there should be a streamlining of the permitting process for applicants who need state or federal permits for wetland related activities. King, Kitsap, and Pierce counties and many of the cities within them have already adopted or are now proposing to adopt Ecology's updated wetland rating system.

Mr. John F. Vodopich
November 22, 2004
Page 2

18.08.060 Exemptions.

Subsection C exempts hydrologically isolated wetlands less than 2,500 square feet. While we recognize an administrative desire to place size thresholds on wetlands that are to be regulated, the City needs to be aware that such an approach is not supported by the scientific literature. It is not possible to conclude from size alone what functions and values a particular wetland is providing. Inclusion of this exemption with no further rationale does not appear to be consistent with the goal of protecting wetland functions and values. Ecology recommends that no wetlands be exempted based on category and size alone.

Recent research has emphasized the importance of even small wetlands in providing habitat requirements and in performing important ecological processes. (Gibbs 1993, Mitsch and Gosselink 1995, Azous and Horner 1997). Amphibian richness in Puget Sound was found to have no correlation to wetland size, with high amphibian species richness found in some of the smallest wetlands studied. (Azous and Richter, 1995).

The loss of small wetlands is one of the most common cumulative impacts on wetlands and wildlife (Weller 1988, Tiner 2002). In addition to the obvious loss of habitat for wildlife, fragmentation of habitat increases as small wetlands are removed, resulting in greater distances between wetland patches in the landscape. Semlitsch and Bodie (1998) found that creating greater distances between wetlands can have a significant effect on the ability of a landscape to support viable populations of amphibians, as juveniles dispersing from a source wetland may not be able to travel far enough to recolonize other surrounding (now distant) wetlands.

Ecology recommends that all wetland identified during project review be rated using the 2004 Wetland Rating System. The advantage to performing a rating is that the existing functions being performed by that wetland will be evaluated as part of the rapid assessment of the rating system. This evaluation allows the City to provide a specific rationale that shows how they are protecting wetland functions and values, and when allowing impacts, it can be the basis upon which adequate mitigation is developed.

Ecology recommends that the City require mitigation for impacts to all wetlands within its jurisdiction. Ecology realizes that it is expensive and often not practical to mitigate for small impacts on-site. One solution to this problem might be for the City to develop a "fee-in-lieu" program by which small impacts could be mitigated at a larger site. This can provide a less expensive administrative mechanism and allow for efficient use of resources. In addition, it allows compensatory mitigation to be implemented at a larger than site specific scale, which improves the chance that the mitigation will adequately replace lost functions and values.

Subsection I exempts activities and developments subject to review under the state Shoreline Management Act. Unless there are adequate wetland protection standards in the approved Shoreline Master Program that are consistent with the scientific literature on wetland protection, this provision may not provide adequate protection for existing wetland functions and values. Ecology recommends that adequate protection standards be applied to all wetlands.

18.08.100 Wetland Buffers.

Because buffers based only on wetland category may need to protect the most sensitive wetlands in areas of intense adjacent land use, the buffers should reflect the widths needed for such situations. The

Mr. John P. Vodopich
November 22, 2004
Page 3

proposed buffers fall short of those necessary to protect wetland functions and values. Taken together with other buffer averaging and buffer reduction provisions, the buffers do not represent widths that the science has shown will be protective of wetland functions and values.

Ecology's guidance on buffer widths and compensation ratios is based on the revised rating system, taking into account not only the functions that need to be protected, but also the impacts of adjacent land use. For buffer widths based only on wetland category, the best available science calls for buffers of 300 feet for Category I and II wetlands and 150 and 50 feet, respectively, for Category III and IV wetlands. However, we strongly recommend the use of a more sophisticated approach to wetland buffers that are better suited to an urbanizing environment. Buffer Alternative 3 found in the enclosed Appendix 8-C of Volume 2 of our BAS document, *Freshwater Wetlands in Washington State* (see http://www.ecy.wa.gov/programs/sea/bas_wetlands/index.html) has been adopted by Pierce and King Counties and provides an approach to wetland buffers that has many advantages.

While this approach appears complex at first glance, the advantages of using Ecology's Buffer Alternative 3 include the following:

1. It provides for specific buffer widths based on the more detailed information provided by the new wetland rating system that the City is proposing to adopt.
2. It is based on the best available science regarding wetland buffers and provides for wider buffers around the more valuable and sensitive wetlands and narrower buffers around the wetlands that are less valuable and sensitive.
3. It will generally result in smaller buffers around wetlands in highly urbanized areas because many of the wetlands in developed areas are not providing the habitat functions that require larger buffers.
4. It provides incentives to landowners and developers to incorporate low-impact site-development measures to reduce runoff, noise, light, etc. Using such measures allows for reduced buffers.
5. It provides incentives to landowners and developers to provide connectivity between wetlands on their property and other habitat areas in exchange for reduced buffers.

This approach will also provide a greater degree of predictability for applicants and reduce the risk that the City will act in an arbitrary or capricious manner in applying buffer reductions. It can be tailored to fit any unique circumstances in Gig Harbor.

As described above, we are concerned that the proposed CAO does not adequately include the best available science and will not protect wetland functions and values in Gig Harbor. We urge you to consider our suggestions for improvement. We would be glad to discuss our comments with you and provide any additional assistance that you believe would be helpful.

Where the proposed CAO departs from what the scientific literature shows is protective of wetland functions and values, the City should set forth the reasons for this departure and its implications and

Mr. John P. Vodopich
November 22, 2004
Page 4

potential risks. The City's reasoning and analysis should be part of the findings of the adopting ordinance.

Thank you for the opportunity to comment on your proposed wetland ordinance update. If you have any questions about these comments, please call me, at (360) 407-6221. Or, you may also contact Andy McMillan, our wetland science and policy manager, at (360) 407-7272.

Sincerely,


Gretchen Lux
Wetland Specialist
Shorelands and Environmental Assistance Program

GL:th

cc: Patrick Babineau, CTED
Travis Nelson, WDFW
Donna Buntcn, Ecology

Literature Cited

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Mayor Wilbert, council, city staff, Thank you for the opportunity to address this council session.

As we are aware, the State of Washington has enacted the Growth Management Act in 1990 to encourage wise land use and planning. There are thirteen goals to guide comprehensive plans and development regulations.

Some of these goals are to encourage development in urban areas where adequate public facilities and service exist or can be provided in an efficient manner.

Reduce the inappropriate conversion of undeveloped land in sprawling low density development.

Protect property rights of landowners from arbitrary and discriminatory actions.

Applications for state and local permits should be processed in timely and fair manner to insure predictability.

Comprehensive plans should provide for innovation land use management, techniques, including but not limited to density bonuses, cluster housing, planned residential developments and the transfer of development rights - RCW 36.70A.090.

Planned residential developments can offer landowners the ability to develop flexibility in project design and site planning while at the same time allowing for a higher quality development.

P R D 's are identified by flexible site requirements, a focus on the total project rather than a lot by lot design.

Giving bonus densities would create amenities as open spaces,

low impact developments and green homes.

Prior to 2002, allowable dwelling units per acre in Pierce County on properties designated medium densities were 4 units per acre and up to 6 units if served by sewers.

Since 2002 dwelling units were 4 per net acre. (Roads, wetlands and other critical areas are subtracted from gross acres.)

By recalculating dwelling units from gross acres to net acres, zoning laws have:

- 1) decreased densities
- 2) increased sprawl
- 3) reduced affordable housing

All of the above are contrary to the Growth Management Act.

In summary, the City Council should vote for zoning and planning codes that:

- 1) encourage higher densities by using gross acres verses net acres.
- 2) promote the use of Planned Residential Developments that will give bonus densities for such developments.
- 3) give the planning staff the tools to make decisions thus eliminating the need for variance and other hearings that only add to time and cost to developments.

November 22, 2004
James A. Wright
P. O. Box 815
Gig Harbor WA 98335
265-6220

RCW 36.70A.020**Planning goals.**

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

- (1) **Urban growth.** Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- (2) **Reduce sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- (3) **Transportation.** Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- (4) **Housing.** Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
- (5) **Economic development.** Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- (6) **Property rights.** Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.
- (7) **Permits.** Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
- (8) **Natural resource industries.** Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.
- (9) **Open space and recreation.** Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.
- (10) **Environment.** Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.
- (11) **Citizen participation and coordination.** Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to

reconcile conflicts.

(12) **Public facilities and services.** Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) **Historic preservation.** Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

[2002 c 154 § 1; 1990 1st ex.s. c 17 § 2.]

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COMPREHENSIVE PLAN

In regards to the Gig Harbor Comprehensive Plan revision, attached are the documents (RCW36.70A.090, WA State Department of Community Trade and Economic Development, Executive Summary-1000 Friends of Washington) that support increased densities via the following:

- 1) RCW36.70A.090 Comprehensive Plan should provide for innovative land use management techniques - density bonuses - planned unit developments.
- 2) Decrease subdivision road right-of-way. Gig Harbor has one of the highest in the state.
- 3) Diversify housing by allowing duplexes in R1 - increase density for manufactured home developments to a minimum of 8 dwelling units per acre.

Regards,
Jim Wright
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RCW 36.70A.090

Comprehensive plans -- innovative techniques.

A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights.

Outside the Legislature

[1990 1st ex.s. c 17 § 9.]

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**Growth Management
Services**

**Urban Densities –
Central Puget Sound Edition**

King, Kitsap, Pierce, and Snohomish Counties

Guidance Paper

September 2004

The Growth Management Act (GMA) was enacted in response to a growing realization that some of the qualities making Washington a great place to live were at risk because of development patterns resulting from uncoordinated and unplanned growth. In response to this risk, the Washington State Legislature established common goals in the GMA to direct planning. Within these goals and throughout the GMA is an imperative to coordinate plans that focus new development, redevelopment, and the public facilities necessary to serve development in urban areas. A fundamental principle of the GMA is that lands within urban growth areas (UGAs) should be developed as compact, urban communities served with adequate public facilities. This preference is expressed in the following GMA goals:

- (1) Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner. [RCW 36.70A.020(1)]
- (2) Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development. [RCW 36.70A.020(2)]
- (4) Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

This Washington State Department of Community, Trade and Economic Development (CTED) document provides guidance to help communities determine an appropriate range of urban residential densities for their community and reviews a range of regulatory tools and housing types that can help facilitate the development of communities that are compact, functional, and livable. Communities within the Central Puget Sound (King, Kitsap, Pierce, and Snohomish counties) can also benefit from an understanding of how the Central Puget Sound Growth Management Hearings Board (CPSGMHB) has applied the GMA goals in several cases. This paper reviews these cases as well.

Defining Sprawl and Its Consequences

Defining characteristics of sprawl were described in CTED's second guidebook on establishing urban growth boundaries. These characteristics include:

Scattered poorly planned urban development that occurs particularly in urban fringe and rural areas and frequently invades land important for environmental and natural resource protection. Urban sprawl typically manifests itself in one or more of the following

patterns: (1) leapfrog development (when new development is sited away from an existing urban area, bypassing vacant parcels located in or closer to the urban area that are suitable for development); (2) strip development (when large amounts of commercial, retail, and often multifamily residential development are located in a linear pattern along both sides of a major arterial and, typically, accessing directly onto the arterial); and (3) large expanses of low-density, single-family dwelling development.¹

Planning research for the past 30 years has documented the public and private costs of sprawling development patterns versus more compact and well-coordinated development patterns. Sprawl constitutes one of the most expensive forms of development to serve with public services and facilities.² The per capita costs to provide public services tend to be lower at compact urban densities.³ This research documented the problems that were at the heart of the concerns the GMA was adopted to address. CTED's second guidebook on establishing UGAs contains an extensive discussion of both the negative consequences of sprawl and the benefits of more compact forms of development.⁴

The issue of sprawl and compact development was first addressed by the CPSGMHB in 1995 in *Bremerton, et al. v. Kitsap County*. The CPSGMHB decision included an extensive discussion of sprawl, compact development, and the centrality of these issues in the GMA. The board further noted eight major consequences of sprawl:

- (1) It needlessly destroys the economic, environmental, and aesthetic value of resource lands.
- (2) It creates an inefficient land use pattern that is very expensive to serve with public funds.
- (3) It blurs local government roles, fueling competition, redundancy, and conflict among those governments.
- (4) It threatens economic viability by diffusing rather than focusing needed public infrastructure investments.
- (5) It abandons established urban areas where substantial past investments, both public and private, have been made.
- (6) It encourages insular and parochial local policies that thwart the siting of needed regional facilities and the equitable accommodation of locally unpopular land uses.
- (7) It destroys the intrinsic visual character of the landscape.
- (8) It erodes a sense of community, which, in turn, has dire social consequences.⁵

The board also specifically recognized the pattern of development called for in the GMA is a departure from the pattern of how land had generally developed in the preceding 20 years.

¹ *The Art and Science of Designating Urban Growth Areas – Part II*, CTED, March 1992, p. 35.

² *The Costs of Sprawl: Executive Summary and Detailed Cost Analysis*, Real Estate Research Corporation, U.S. Government Printing Office, Washington, D.C. (1974), p. 7.

³ Muro, Mark and Puentes, Robert. *Investing in a Better Future: A Review of the Fiscal and Competitive Advantages of Smarter Growth Development Patterns*. The Brookings Institution Center on Urban and Metropolitan Policy. 2004. www.brookings.edu/urban.

⁴ *The Art and Science of Designating Urban Growth Areas – Part II*, CTED, March 1992, p. 12.

⁵ *Bremerton, et al. v. Kitsap County*, CPSGMHB No. 95-3-0039c (Final Decision and Order, October 6, 1995), p. 20.

Recent public health research has identified a link between sprawl and a number of public health problems related to low levels of physical activity. Although the amount of physical activity is a personal choice, patterns of development that present barriers to walking, especially for children, are a significant contributing factor. People living in automobile dependent neighborhoods that suppress walking do walk less, weigh more, and are more likely to suffer from high blood pressure. They weigh an average of six pounds more than their counterparts in communities with better pedestrian amenities.⁶ People in low-density communities that are not planned to facilitate walking are more likely to spend more time driving which impacts air quality and increases rates of asthma.⁷

Benefits of More Compact Development

Compact development is the antithesis of sprawl. Characteristics of compact communities include development that is contiguous to the existing urban areas and characterized by the coordinated provision of urban services and that includes a range of uses at urban densities, a variety of housing types, and a greater variety of transportation options. There are several benefits of a more compact pattern of urban development directly related to the goals of the GMA. There is evidence that residents in more compact communities tend to drive fewer miles than those in more sprawling areas.⁸

Higher urban densities also tend to reduce housing costs. More dense urban development implicitly results in smaller lot sizes for single-family homes and multifamily housing forms. Both of these typically provide less expensive housing options. These are some of the important reasons why the GMA emphasizes compact urban form as a strategy to accommodate growth. It is also why Goal 4, Housing, emphasizes provision of a variety of housing types at a range of densities. The greater the variety of housing types, the more segments of the population are likely to find housing that suits their needs.

What Is an Urban Density

Besides curbing sprawl, the GMA was intended to ensure efficient provision of urban services and encourage the provision of affordable housing. Although the term "urban density" is not defined in the act itself, urban growth is defined as:

Intensive use of land for structures to such a degree that it is incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development and of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW

⁶ Ewing, R., Schmid, T., Killingsworth, R., Zlot, A., and Raudenbush, S. "Relationship Between Urban Sprawl and Physical Activity, Obesity, and Morbidity." *American Journal of Health Promotion*, Vol. 18, No. 1, 2003, pp. 47-57.

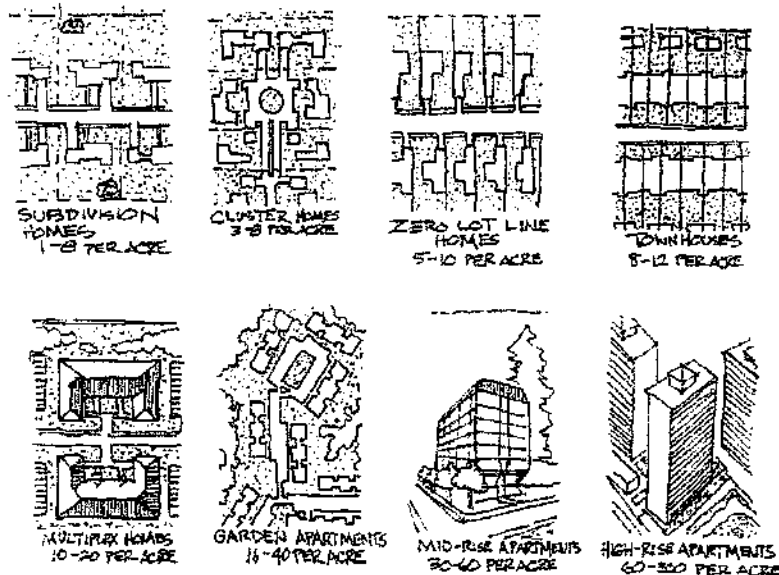
⁷ Friedman, M.S., Powell, K.E., Hutwagner, L., Graham, L.M., and Teague, W.G. "Impact of Changes in Transportation and Commuting Behaviors During the 1996 Summer Olympic Games in Atlanta on Air Quality and Childhood Asthma." *Journal of the American Medical Association*, Vol. 285, No. 7, 2001, pp. 897-905.

⁸ *Creating Great Neighborhoods: Density in Your Community*. Local Government Commission, p. 6. www.lgc.org.

36.70a.170. . . When allowed to spread over wide areas, urban growth typically requires urban governmental services.⁹

The GMA also establishes a clear preference for urban growth to be contiguous with existing urban areas and provided with urban governmental services.¹⁰ Urban densities are those that are not consistent with the use of land for resource use, not consistent with rural character, and that can be cost-effectively provided with urban governmental services. Urban services, such as stormwater and wastewater systems, are more cost-effective to provide as density increases because the costs of capital facilities is spread over more households and the distance between connections is lower.¹¹ Some urban services, such as public transit, are only viable above a certain density.

CTED's second guidebook on UGAs includes suggested considerations for setting urban densities.¹² Within the Central Puget Sound, the CPSGMHB has indicated that densities at 4 du/per acre or higher are compact urban development. Densities below that may be considered urban only if the record contains a clear rationale:



A VARIETY OF RESIDENTIAL TYPES AT
A VARIETY OF DENSITIES

⁹ RCW 36.70A.030.

¹⁰ RCW 36.70A.110.

¹¹ *Cost of Providing Government Services to Alternative Residential Patterns, Executive Summary.* Chesapeake Bay Program, U.S. Environmental Protection Agency Contract #68-WO0043. P ES-11.

The board instead adopts as a general rule a "bright line" at four net dwelling units per acre. Any residential pattern at that density, or higher, is clearly compact urban development and satisfies the low end of the range required by the act. Any larger urban lots will be subject to increased scrutiny by the board to determine if the number, locations, configurations, and rationale for such lot sizes complies with the goals and requirements of the act, and the jurisdiction's ability to meet its obligations to accept any allocated share of county-wide population. Any new residential land use pattern within a UGA that is less dense is not a compact urban development pattern, constitutes urban sprawl, and is prohibited. There are exceptions to this general rule. For example, 1- or 2.5-acre lots may be appropriate in an urban setting in order to avoid excessive development pressures on or near environmentally sensitive areas. However, this circumstance can be expected to be infrequent within the UGA and must not constitute a pattern over large areas.¹³

Calculating Density

Residential density is defined primarily as the number of dwelling units over a specified land area. When discussing density, it is critical to clarify whether one is referring to net or gross density. Gross density refers to total dwelling units divided by total land area. Net density refers to total dwelling units divided by total land area less unbuildable area.

When the CPSGMHB articulated 4 du/acre as a minimum urban residential density, the board was referring to net average density, in dwelling units per acre, across the development parcel. Factors such as the scale of the development and whether unbuildable land should be included in the calculation will affect the ultimate density a set of development regulations allows. When calculating densities for the purposes of determining whether a compact urban development of 4 du/acre or greater is permitted, the following factors are among those that should be considered:

- The CPSGMHB rejected an approach to governing density that focuses exclusively on the size of developed lots. Instead, the board has focused on the maximum density in du/acre permitted when parcels are subdivided. If a project includes lots of varying sizes, it could yield an average of at least 4 du/acre even if some relatively large lots are created. Thus, density is best calculated as the average net density across the development parcel.¹⁴
- All land within the urban area must be designated at appropriate urban densities.¹⁵ Calculating average density across an entire subarea or city is not appropriate for this purpose. For example, an area zoned for multifamily housing designated for future densities of 20 du/acre would not serve to justify a pattern of 1-acre lots throughout the rest of city, even if the city or sub-area as a whole achieved an average net density of more than 4 du/acre. The appropriate measure is the density permitted as a net average across a development parcel.

¹² *The Art and Science of Designating Urban Growth Areas – Part II*, CTED, March 1992, p. 19.

¹³ *Bremerton, et al. v. Kitsap County*, CPSGMHB No. 95-3-0039c (Final Decision and Order, October 6, 1995), p. 35.

¹⁴ *Benaroya, et al. v. City of Redmond*, CPSGMGB No. 95-03-0072 (Final Decision and Order, March 25, 1996), p. 33.

¹⁵ *LMI v. Town of Woodway*, CPSGMHB No. 98-3-0012 (Final Decision and Order, January 8, 1999), p. 13.

Net density is the total number of dwelling units divided by the total buildable area. Land that is not buildable is generally subtracted from the gross area of the development parcel for the purposes of calculating net average density.¹⁶ Jurisdictions should indicate in their development regulations which lands should be subtracted in the calculation.

Managing Growth's Impacts

Providing for compact, urban development throughout urban areas is an important aspect of managing growth. In limited circumstances, densities less than 4 dwelling units per acre may be necessary for other reasons. Some jurisdictions have zoned areas for less than urban densities to protect large areas of high value critical areas. The CPSGMHB ruled that densities below 4 du/acre may be permissible if supported by a "persuasive and well-documented justification of a unique area-wide circumstance."¹⁷ "Area-wide" in this case means limited to a small area, and not citywide. In 1996, the CPSGMHB established the three-part "Litowitz test" defining circumstances under which low-density land use designations, adopted as a means of protecting critical areas, would be consistent with a city's duty to ensure compact urban development and prevent sprawl. Low-density zoning of 1 du/ac or lower, for example, may be used to protect critical area functions when the critical area in question is:

1. Large in scope.
2. Structure and functions are complex.
3. The rank order value is high.¹⁸

Since 1996, the three-part test has been used to review the record for a determination of whether the lower density designation was appropriately applied. In *LMI v. Woodway*, the board reviewed the record to determine if there was an adequate scientific basis for the determination that a particular property contained significant critical areas unsuitable for urban development. Finding no such justification, it concluded that the area was not properly designated. The consequence of this determination was that, when the board calculated the net average density for the parcel, it included the improperly designated critical area as buildable land and determined the land use designation for the parcel did not permit urban densities.¹⁹

To evaluate whether a low-density designation is appropriate, it is useful to consider how the low-density designation relates to the three criteria listed above. For example, an areawide collection of critical areas, such as a collection of associated wetlands, is larger in scope than isolated wetlands. Their functions and values as a collection may be greater than what could be protected by application of the critical areas ordinance itself. An area that contains overlapping and interrelated types of critical areas, such as geologically hazardous areas, wetlands, and riparian areas, will have a complex structure and function. Applying the critical areas ordinance

¹⁶ *Benaroya*, p. 33.

¹⁷ *Bremerton, et al. v. Kitsap County*, CPSGMHB No. 95-3-0039c (Final Decision and Order, October 6, 1995), p. 33.

¹⁸ *Litowitz v. City of Federal Way*, CPSGMHB No. 96-3-0005, (Final Decision and Order, July 22, 1997), p. 12.

¹⁹ *LMI v. Town of Woodway*, CPSGMHB No. 98-3-0012 (Final Decision and Order, January 8, 1999), p. 13.

with its overlapping buffers and mitigation requirements would be difficult, and lower densities may be justified.

Any jurisdiction using low densities to protect critical areas should provide a discussion of how these three factors apply. The analysis should show why a project-level regulatory approach using the critical areas ordinance, acting on its own, would not protect these functions and values. The record should document the scientific basis for these conclusions and should also show that the low-density designations are limited to those areas necessary to protect function and value.

Protecting Neighborhood Character

The GMA calls for a range of urban densities and housing types, but the range of urban densities must be urban. Lower densities should not be used as a tool to perpetuate pre-GMA patterns of low-density residential development. Although proposals to allow for infill development are controversial, design tools can be used to lower the perception of density and improve the livability of urban neighborhoods.

Many neighborhoods and small towns built before World War II were developed at 6-8 du/acre. It was also common to intersperse single-family detached housing with small-scale, multifamily or retail buildings on corner lots. Maintaining and perpetuating this pattern of development allows the community to achieve the benefits of compact development without changing the visual character of the community.

Low-density zoning as a means of perpetuating pre-GMA large lot development in urban areas is not generally consistent with Goals 1 and 2 of the GMA and a local government's obligation to accommodate projected population growth. The CPSGMHB has been presented with, and found out of compliance, a number of plans containing policies that would prohibit development at urban densities in an effort to protect and preserve the suburban or semirural character of existing neighborhoods. There is not a requirement to force infill construction within existing neighborhoods, but land use and zoning tools cannot be used to prohibit infill at urban densities.²⁰

In *MBA v. Pierce County*, the CPSGMHB discussed the GMA's goal to encourage the preservation of existing housing stock, and its requirement to ensure the vitality and character of established residential neighborhoods.²¹ However, as the board stated, "any opportunity to perpetuate an 'historic low-density residential' development pattern, [in the subarea], ended in 1994 when the county included the area within the UGA."²²

Preserving existing neighborhoods can also be accomplished by developing design standards to encourage compact development that is attractive, safe, and consistent with neighborhood character, historic preservation, or other desired features. As development densities increase,

²⁰ *ibid*, p. 25.

²¹ RCW 36.70A.020(4) and 36.70A.070(4).

²² *Master Builders Association & Terry Brink v. Pierce County*, CPSGMHB No. 02-3-0010, (Final Decision and Order, February 4, 2002), pp. 14-15.

ensuring good urban design will become increasingly important. Design standards can help reduce negative perceptions of density by ensuring buildings will be architecturally interesting and well integrated with their neighborhoods. For example, standards can regulate features such as setbacks, placement of parking and garages, façade treatment, building bulk, and scale to ensure that they are well received by the community. Many design codes strive to produce multifamily structures that resemble single-family homes, and/or to produce higher density single-family dwellings that appear less dense.

The U.S. Department of Housing and Urban Development has developed a Web site that includes a checklist of design features for good housing design and a series of lectures regarding density. *Demystifying Density, Part 2 of Strategies for Creating Higher Density Housing* at www.designadvisor.org is particularly interesting. CTED hosts its own Web site at www.cted.wa.gov/affordablebydesign, which highlights 13 developments that received the Director's Award for excellence in planning and design of higher density affordable housing. Case studies on each development, with photos and interviews, can be browsed for information on location, planning policies, zoning, design, unit size, density, affordability, and financing.

Managing a Lack of Adequate Public Facilities

Achieving urban densities requires the provision of adequate public facilities. The GMA does not define what constitutes adequate facilities and does not require that they be provided immediately throughout the urban area. The GMA requires a Capital Facilities Element that supports the Land Use Element by planning for the infrastructure necessary to support development and showing that this plan is fiscally realistic. In the Capital Facilities Element, local governments set level of service standard, which define what constitutes adequate public facilities.²³ Urban development generally requires, at a minimum, transportation infrastructure, public water, and sanitary and storm sewer.

The CPSGMHB has held that the GMA creates an affirmative duty for cities to accommodate the growth that is allocated to them through the county population allocation process. This duty means that a city's comprehensive plan must include: (1) a future land use map that designates sufficient land use densities and intensities to accommodate any population and/or employment that is allocated; and (2) a Capital Facilities Element that ensures that, over the 20-year life of the plan, needed public facilities and services will be available and provided throughout the jurisdiction's UGA. Lower densities are not justified simply because an area does not currently have sufficient services to support compact urban development.²⁴ Instead, jurisdictions are expected to plan for development to align with the provision of the needed urban services. If a developer wants to proceed in advance of the availability of planned services, they may be required to pay for the extension of services at the time of subdivision.

Development regulations must also ensure that achieving compact development in the long term is not precluded by short-term development patterns. For example, if urban services are not

²³ WAC 365-195-315(2)(b) is advisory, but includes strategies for better implementation of GMA goals.

²⁴ *Hensley v. City of Woodinville*, CPSGMHB No. 96-3-0031, (Final Decision and Order, February 25, 1997), p. 6.

available to an area in the short term, the development regulations may not allow a development pattern that precludes achieving urban densities when urban services become available.²⁵

An example of a strategy to allow some development without precluding future urban development is contained in the City of Lacey's zoning code. Title 16.13.050(C) requires that areas without sewer be developed in a manner that maintains long-term potential to achieve minimum required densities and efficient provision of sewer once sewer becomes available.

Areas developing without sewer must meet the following requirements:

1. The Health Department must review and approve plans for alternative sewage disposal.
2. Lots must be clustered in a configuration that results in urban size lots with one large reserve lot for future development.
3. Clustered lots must be between 5,000 and 10,890 square feet: (Lacey's low-density zone).
4. Subdivisions and short subdivisions must have a statement on the face of the plat or short plat that when sewer becomes available to the area clustered lots shall hook up to sewer at each lot owner's expense. Such requirements shall also be provided for in protective covenants.

Some jurisdictions have used urban reserve zones or development phasing to prevent premature development for those portions of the UGA that are not yet served with adequate facilities, especially sewer and stormwater. This will help to phase future urban development in an orderly and cost-effective manner. If this zone is for planned residential use, shadow platting (planning subdivision and lot layout without formally subdividing) and clustering techniques may be used so that reasonable use may still be made of the property (by constructing a residence, for example) while configuring the lot(s) so that future rights-of-way and sites for future lots are preserved. The remaining lot(s) or sites may be further developed to urban densities when urban services are available.

Flexible Development Regulations to Achieve Urban Densities

A flexible approach to regulating development can also facilitate development of more compact communities. The following are a number of tools communities have used to encourage more compact urban development. When reviewing development regulations, there are a number of ways to remove barriers to the development of more compact communities. These tools can help facilitate infill development and can help establish greater certainty and flexibility in the development process. These generally provide alternatives to a reliance on establishment of minimum lot sizes as the sole means of governing residential density in single-family residential zoning districts.

Increased Base Densities

Where appropriate, allowing more housing units per acre facilitates a greater variety of housing options and makes more efficient use of scarce land resources. Higher densities also reduce sprawl development and make the provision of services more cost effective. Jurisdictions may

²⁵ *Master Builders Association & Terry Brink v. Pierce County*, CPSGMHB No. 02-3-0010, (Final Decision and Order, February 4, 2003), p. 8.

change the comprehensive plan and development regulations, as necessary, to encourage higher densities where they can be accommodated within UGAs. For example, 6 to 8 dwelling units per acre is a common historical density in many cities. Higher densities of 8 to 12 dwelling units or more are encouraged adjacent to shopping areas and transportation hubs such as transit stations.

Density Bonuses

Some communities allow bonus densities in certain areas in exchange for a higher level of design or amenities. Bonus densities may also be allowed in exchange for other public benefits, such as affordable housing or open space preservation. Developments that achieve a higher level of urban design and construct public spaces to a higher standard can provide many benefits while achieving neighborhoods that are more compact. This can also be done within the context of a planned residential development. The City of Tacoma and the City of Sumner, among others, have successfully permitted developments that take advantage of bonus densities in exchange for using the city design standards.



Figure 1: New Housing at urban densities in Poulsbo.

Clustering

Clustering allows more efficient use of land, in addition to providing open space. Clustering places the same number of units that would normally be allowed in the zone clustered in a smaller area, leaving the remaining land as open space, recreational area, critical area protection, or forest cover integrated into a low impact development design or other useful public purpose. Allowing cluster development is particularly useful in situations where parcels contain critical areas. In some communities, a significant portion of the remaining vacant parcels may contain critical areas, steep slopes, or other features making development more difficult. Clustering provides some additional flexibility that can facilitate infill without creating pressure to reduce critical area protections or reduce necessary buffer width. Clustering can be combined with density bonuses as an incentive to achieve public purposes, however, bonus densities should not be relied on to achieve the 4 du/acre minimum.

Lot Size Averaging

This technique is similar to clustering. If the zoning ordinance establishes a minimum lot size, the land use designation is calculated based on the average size of all lots proposed for development, instead of each lot being required to be above the minimum lot size. Development proposals may create a range of lot sizes both larger and smaller provided the average lot size is within the range consistent with the zoning designation. Lot size averaging systems may specify a much lower minimum lot size as part of the dimensional standards to prevent extremely small lots.

Some critical areas ordinances also include provisions to allow platting with smaller lots than the underlying zoning would normally allow so that some of the development potential lost to critical areas and buffers can be transferred elsewhere on the development parcel. This is a form of lot size averaging. A good example of this technique is used by the City of Kalama and includes a sliding scale that allows some of the development potential contained by critical areas and for development parcels containing a large portion of critical area to be used elsewhere on site using their planned residential development (PRD) ordinance.

Minimum Densities

Zoning ordinances generally establish a maximum rather than a minimum density. It was conventionally assumed that market forces would cause development at the maximum yield in order to maximize profits. In a number of areas, this has not been the case. Some jurisdictions are establishing within their codes both a maximum and a minimum lot size to ensure that development allows the city to accommodate its needed population, promote appropriate urban densities, and efficiently use limited land resources. Zoning ordinances can establish minimum and maximum densities in each zone to ensure that development occurs as envisioned for the community. The City of Redmond establishes both minimum and maximum allowable densities for residential districts.

Planned Residential Developments

PRDs offer an alternative to standard subdivision procedures. PRDs allow for more flexibility in some standards, such as minimum lot size, in exchange for adherence to other standards, such as design standards. This additional flexibility can allow developments to work with difficult-to-develop sites. Many cities have PRD ordinances, but due to increased review requirements, it is not recommended that they be exclusively depended on to facilitate increased densities.

Narrow Street Widths

In addition to lot size, other design standards such as street standards have an effect on achievable density and increase the gross amount of land needed per dwelling unit. Narrowing street widths can significantly expand the achievable density of development parcels. They also slow neighborhood traffic, encourage pedestrian activity, enhance the sense of neighborhood, lower capital and maintenance costs, and create less urban run-off. CTED's *Model Code Provisions: Urban Streets and Subdivisions* (1998) provides some models for narrower streets. The development of low impact development standards for managing stormwater shows that there are also environmental benefits to reduced street width. More information about low impact development is available at the Puget Sound Action Team's Web site at www.psat.wa.gov/Programs/LID.htm.

Examples of Flexible Development Regulations

Regulatory Tools	Examples
Minimum and maximum densities	City of Redmond – Title 20c.30.25-040 City of Renton – Title 14-2-110
Lot size averaging	Snohomish County – SCC 30.23.210
Combined urban amenities	King County – Title 21A.14.180
Zero lot line development	City of Kent – Title 15.08.320
Regulate density directly, small minimum lot size	City of Lacey – Chapter 16.12
Bonus densities for urban design	City of Sumner – Chapter 18.24
Density transfers for critical areas	City of Kalama – Title 15.02.080D
Lot size averaging	Snohomish County – SCC 30.23.210
Establishing maximum lot sizes	City of Redmond – Chapter 20c.30.25-04 City of Renton – Title 14-2-110
Planned residential development options	City of Edmonds – Chapter 20.23

A Wider Range of Housing Choices

Although 4 du/acre represents the minimum density considered to be compact urban development, communities should strive for a variety of housing choices at a range of urban densities. Goal 4 (Housing) of the GMA calls for plans to promote a variety of residential density and housing types. Providing a range of differing types of housing can help to promote affordable housing and to ensure a housing stock that provides housing types suitable to an increasingly diverse range of housing needs in the market. There are also examples of historic structures such as schools, office buildings, and even warehouses being converted into multifamily housing. Demographic trends are increasing the demand for a greater variety of housing types. In the King County metropolitan area, there is a proven demand for midlevel densities in the 10-20 units per acre range, especially. This range is well suited to infill and redevelopment within existing areas and at scales smaller than a regional urban center.²⁶

²⁶ *Housing Stock*, Quarterly Newsletter of the Housing Partnership, December 2003, p. 2.
www.warealtor.com/government/policies/fillingspaces.pdf.

Accessory Dwelling Units

Accessory dwelling units provide another housing option. Under the GMA, they are required for communities with populations over 20,000 people [RCW 36.70A.400 and 43.63A.215(3)]. They preserve neighborhoods as local residents age and give them a smaller place to live while allowing them to stay in their neighborhood. Densities are increased within existing developed areas with minimal visual disruption. Virtually every large community in Washington has provisions allowing accessory dwelling units. Washington's Municipal Research & Services Center provides a good resource

discussing accessory dwelling units at www.research.aarp.org/consume/d17158_dwelling.pdf and hosts links to municipal codes that permit accessory dwelling units.



Figure 2: Accessory dwelling unit over a garage in an existing residential neighborhood.

Duplexes, Townhomes, and Condominiums

A wider range of housing types provides additional affordable housing options and generally allows more residential units than would be achieved by detached homes alone. Permitting duplexes, townhomes, and condominiums in both mixed-use and primarily single-family residential districts of UGAs helps to provide additional housing choices. For example, the City of Portland, Oregon, permits duplexes on corner lots within single-family residential districts.²⁷

Cottage Housing and Small Lot Single Family

These types of development have become an increasingly popular way to provide reasonably priced housing while retaining the single-family style. Densities are typically up to 10 or 12 units per acre. The cities of Redmond and Shoreline were among the first Washington cities to develop cottage housing ordinances, which include specific design requirements. The cost efficiencies of small lots can provide expanded housing ownership opportunities to broader income ranges and provide additional variety to available housing types. The City of Seattle zoning code (SMC 23.43.008) allows small lot development on lots with a minimum size of 2,500 square feet.

Housing Mixed with Other Uses

A growing number of communities are returning to the tradition of allowing residential uses on the upper floors of buildings in existing downtowns or in newly developing mixed-use commercial developments. This trend is occurring at a variety of scales from regional urban centers to small-scale, mixed-use neighborhood centers. The combination of mixed uses, higher densities, interconnected neighborhoods, and a variety of housing types can serve different income levels. Housing can be mixed vertically, with housing located in the upper stories. It can

²⁷ City of Portland Zoning Code, Title 33.110.

be mixed horizontally, with multifamily units intermingled with commercial uses in an interconnected fashion. It can even be mixed within the unit itself in “live-work” units. The defining characteristic is that compatible uses are interconnected within a defined district. These types of development provide locally focused shopping opportunities and urban amenities (parks, schools, civic buildings, etc.) together with increased densities that increase livability and reduce the dependence on personal automobiles. They are a more efficient use of land, facilitate a wider range of transportation options (due to connected streets), and provide for urban services more cost-effectively.



Figure 3: Studios over retail in Sumner.

Mixed-use areas can provide a broader variety of housing options, allowing people to live, work, and shop in nearby areas. Mixed uses in the same area encourage more pedestrian and transit-friendly access, make goods and services accessible to non-drivers, reduce peoples’ dependence on personal vehicles for mobility, and reduce the land required for parking space. Development regulations should allow compatible residential and commercial activities to occur in many of the same buildings and areas. In some cases, this can be used to allow shared parking, which requires a significant amount of urban land.

Examples of Housing Options

Housing Options	Examples
Cottage housing	City of Redmond – Title 20C.30.52 City of Shoreline – Title 20.40.300
Small lot or cottage housing	City of Seattle – Title 23.43.008
Corner duplexes	City of Portland – Title 33.110
Co-housing	City of Bellingham – Ordinance #1998-08-062
Mixed-use district	City of Tacoma – Destination Downtown City of Spokane – Downtown Area Zoning SMC 11.19.194

How to Know When Adequate Densities Have Been Planned For

The GMA requires communities to plan for their share of the anticipated population growth as provided by the state and county population allocation process. Jurisdictions are required to include areas and densities sufficient to permit the urban growth that is projected to occur in the succeeding 20-year period. CTED recommends that a community demonstrate in the Land Use Element how it intends to accommodate its anticipated population forecasts within its land use designations. It is helpful to show a table of land use designations, the total acreage so designated, the range of densities allowed, and an estimation of the population capacity they represent. If employment forecasts are available, tracking land needed for commercial or industrial land can be accomplished the same way. The Land Use Element should also show which zoning districts implement which future land use designations.

Housing Type/Density Categories:	Low SF 4-8 du/ac	Moderate MF 12-18 du/ac	High MF 18-30 du/ac	Total
A. Total net buildable acres of vacant, partially-used, and underutilized land, available for development of housing	397.4	16.4	12.8	426.6
B. Assumed density of development at start of planning period	5.38 du/ac	14.5 du/ac	21.8 du/ac	
C. Estimated capacity in dwelling units (A*B)	2,136	238	278	2,652
D. 20-year projected increase in housing units at start of planning period allocated through county/city process				2,419
E. Actual net increase in housing units since start of 20-year planning period	142	30	35	207
F. Actual net density of new housing per acre observed during density review period	4.3 du/ac	16.2	25.5 du/ac	
G. Future capacity in units at observed densities (A*F)	1,708.8	285.7	326.4	2,300.9

CTED's Buildable Lands Program is required for Clark, King, Kitsap, Pierce, Thurston, and Snohomish counties. One of the tools developed for this program was a useful methodology for connecting densities in the Land Use Element to the projected population. The table above may be used to make this calculation and monitor growth. This methodology is also helpful in conducting a land capacity analysis to determine the area needed within a UGA to accommodate the growth projected over the next 20 years.

Ensuring the availability of a range of housing choices, at a range of urban densities, is critical to ensuring the continued economic development of the state without compromising the environmental values that make Washington a great place to live. Protecting open space, preserving rural character, and conserving farmland all will require that urban areas develop as compact, well designed communities that contain a full range of urban services. A wide variety of tools exist and have been successfully applied throughout the state and in many cases the market has responded. For more information about these topics, a list of resources and good examples to choose from follows.

Conclusion

Permitting a range of urban densities in your community is an important step in achieving the goals of growth management. A more compact urban form allows greater conservation of the rural landscape, facilitates the cost-effective provision of urban services, and helps to meet the diverse housing needs of the entire community. However, permitting higher densities is best accompanied by strategies to ensure that new development uses high quality design techniques and is provided with adequate public facilities.

Relevant CTED Guidebooks

Issues in Designating Urban Growth Areas, Part I – Providing Adequate Urban Area Land Supply, 1992.

The Art and Science of Designating Urban Growth Areas, Part II – Some Suggestions for Criteria and Densities, 1992.

Buildable Lands Program Guidelines, 2000.

Measures for Providing Attractive, Compact Urban Areas, 2001.

Model Code Provisions: Urban Streets and Subdivisions, 1998.

Preparing the Heart of Your Comprehensive Plan: A Land Use Element Guide, 1993.

Assessing Your Communities Housing Needs: A Guide to Doing a Housing Needs Assessment, 1992

Other Resources

Cost of Sprawl 2000, Report No. 74. Transportation Research Board. National Research Council. TCRP, 2000. www.tcrponline.org/bin/publications.

Creating Great Neighborhoods: Density in Your Community. Local Government Commission. www.lgc.org.

Demystifying Density, Part 2 of Strategies for Creating Higher Density Housing, a Web site that includes a checklist of design features for good housing design and a series of lectures regarding density. U.S. Department of Housing and Urban Development. www.designadvisor.org.

Getting to Smart Growth I and II, two free booklets of 100 policies and strategies for implementing Smart Growth. Smart Growth Network, 2003. www.smartgrowth.org.

Infill Development Strategies for Shaping Livable Neighborhoods, Municipal Research & Services Center of Washington, Report No. 38. 1997. www.mrsc.org/Publications/textfill.aspx.

Filling Spaces, Ten Essentials for Successful Urban Infill Housing. King County Housing Partnership. November 2003.

Executive Summary

The *Sprawl Report Card* presents ground-breaking analysis on how the cities in our region are doing to accommodate compact growth. For the first time, 1000 Friends of Washington has important data to establish an objective measure of sprawl. At a time when policy-makers in the central Puget Sound are asking how we can grow smarter, the *Sprawl Report Card* defines the problem and offers concrete steps that the region's cities must take.

The report ranks the performance and the policies of 33 cities in King, Pierce, Snohomish and Kitsap Counties as they relate to density, transportation, housing and jobs, and the environment. Cities that performed well in our rankings are doing the most to stop sprawl, while those that did not perform well have policies in place that are actually encouraging sprawl development.

The report does not focus on the region's performance in protecting rural lands. Cities can only do so much to attract and accommodate compact growth. Their efforts are undermined when growth is allowed to sprawl out over the countryside. Even the top-performing cities in this report cannot effectively stem sprawl unless counties do their part to prevent overdevelopment in the region's rural areas.

Measures of Sprawl

Sprawl is not an easy thing to define or measure. The report defines sprawl as unplanned development that:

1. uses our land inefficiently;
2. forces residents to depend on their automobiles almost exclusively for transportation;
3. has inadequate open space amenities, such as parks and stream corridors; and,
4. does not include a balance of jobs and affordable housing.

The measures of sprawl that are used in the report relate to these four aspects of sprawl. 1000 Friends collected extensive data from each of the 33 cities included in the report to determine the rankings.

Results

Table 1:

Doing the Most to Stop Sprawl -- Overall Rankings		
Rank	City	Score (out of 100)
1	Sumner	75.8
2	Kirkland	74.6
3	Seattle	74.0
4	Bremerton	73.7
5	Poulsbo	73.4

6	Everett	72.6
7	Kent	72.4
8	Tacoma	71.2
9	Redmond	69.6
10	Bellevue	67.1
11	Monroe	65.5
12	Port Orchard	65.2
13	Federal Way	64.5
14	Mercer Island	63.0
15	SeaTac	60.5
16	Renton	60.4
17	Lynnwood	59.2
18	Puyallup	58.3
19	Marysville	58.2
20	Issaquah	57.9
21	Burien	57.6
22	Auburn	57.3
23	Bonney Lake	56.9
24	Tukwila	55.5
25	Bothell	53.6
26	Arlington	51.9
27	Mukilteo	50.9
28	Shoreline	50.8
29	Bainbridge Island	50.1
30	Edmonds	46.8
31	Gig Harbor	44.1
32	Lake Stevens	39.2
33	Edgewood	24.9

The City of Sumner topped the list with a score of 75.8, while Edgewood, in Pierce County, received the lowest score of 24.9. Appendix A of this report includes a city by city summary of the rankings.

Sumner and Kirkland Top the List

Sumner (pop. 8,130) is located in Pierce County. In recent years, Sumner has become a model of small towns can accommodate more compact growth in a way that enhances their existing character. Its award-winning Daffodil Neighborhood is a new, walkable community with a mix of housing types integrated with home offices and a community elementary school. It's a small town doing its share to accommodate growth in a way that shows that density and livability can go hand in hand.

The City of Kirkland (pop. 44,220) ranked second overall and had the most balanced scores in all four categories of density, transportation, housing & jobs, and the environment. The City's Comprehensive Plan promotes compact, mixed-use development while maintaining the extraordinary environmental amenities that distinguish this city from others of its size.

The Big 5 - Seattle, Bremerton, Everett, Tacoma and Bellevue

The major central cities in the region all performed well in the Sprawl Report Card: Seattle (#3), Bremerton (4), Everett (6), Tacoma (8), and Bellevue (10). Each of these cities performed well in the core measures of sprawl. They are characterized by relatively high density development and they have a progressive mix of zoning that allows high and moderate density development.

The Bottom of the List - Desirable, but not Responsible?

The bottom of the Sprawl Report Card is dominated by more exclusive communities (Edgewood, Lake Stevens, Gig Harbor, Edmonds, and Bainbridge Island) that are quite desirable, but may not be doing their share to stop sprawl. In general, cities on the bottom of the list tended to have high housing prices, excessive parking requirements, and inadequate transit service. The cluster of exclusive communities at the bottom of the list raises issues. Are these cities acting responsibly to accommodate their share of the region's growth? It is clear that they could take concrete steps to remove barriers to more compact growth.

Recommendations for Stopping Sprawl

Stopping sprawl depends on success in creating vital, livable cities and protecting our rural farms, forests and open spaces from overdevelopment. While this study focuses on the efforts of cities to encourage compact growth, it is equally important that counties do their part to stem growth outside urban growth areas.

The analysis of the data collected in this report clearly leads to concrete recommendations for improving our region's development patterns. Our recommendations for stopping sprawl recognize the roles and responsibilities of both cities and counties.

- Counties should slow the overdevelopment of rural lands and shift growth from rural lands into the urban growth area.
- The State Legislature should adopt smart spending tools that help cities attract compact growth to their

downtown areas.

- Cities in the region should adopt minimum density requirements.
- Cities should ensure that a significant portion of single-family zoning is devoted to small lot, single-family development on lots of 5,000 square feet or less.
- Cities should encourage a mix of housing types, including single-family houses, cottages, accessory housing, townhouses, and multi-family housing.
- Cities should permit both detached and attached accessory dwelling units.
- Regional coalitions that consist of a cluster of cities should come together to promote affordable housing and a balance of jobs and housing.
- To achieve consistent parking requirements, the countywide planning policies should establish parking policies, including maximum parking ratios. Cities should update their parking requirements accordingly.
- Cities should promote compact growth in proximity to major transit stops in order to focus growth and make the transportation system more effective.
- Cities should invest in making downtown a pedestrian-friendly, cultural oasis.
- Cities should invest in acquiring open spaces and protecting the wild within the city.

Measures of Sprawl: What is sprawl and how do you measure it?

Sprawl is unplanned development that:

1. uses land inefficiently;
2. forces residents to depend on their automobiles almost exclusively for transportation;
3. has inadequate open space amenities, such as parks and stream corridors; and,
4. fails to balance jobs with affordable housing.

People move out of the central core of our communities and into sprawling subdivisions for a number of reasons. One reason is to find housing that is more affordable than that available in areas that are close to the central core of the community. In this report, 1000 Friends of Washington measured several indicators to determine which cities in the region were doing the most to stop sprawl and which had policies that encourage sprawl.

Measuring sprawl is tricky, particularly with the data currently available from local governments. The Growth

http://www.1000friends.org/current_work/publications/sprawl_report_card.htm

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Management Act requires local governments in the Central Puget Sound region to produce comprehensive data on how efficiently they are using the land. However, that data will not be available for two to three years. During this interim period, the report examines several factors that relate to efficient use of land supply.

The report measures the existing density on the ground in individual cities. 1000 Friends also looked at each city's zoning and land use policies to determine the extent to which each city allows compact development types, such as apartments, townhouses, and small lot single-family development.

For transportation, we evaluated policies and services to see whether transit service, parking policies and the urban form encourages alternative forms of transportation. Cities with frequent peak-hour bus service, limitations on the size of parking lots and pedestrian- and bicycle-friendly streets scored well in this category.

1000 Friends then looked at policies linking housing and jobs. Many residents of the region choose to live in outlying areas because they find the housing more affordable. Our rankings reward cities that have an adequate stock of affordable housing, a balance of jobs and housing, and encourage affordable housing options, such as accessory dwelling units.

Making cities more livable is a key to stopping sprawl. The study evaluated each city's parks, open space, and wetland and stream protection to determine whether growth is balanced with the environmental amenities that are critical to maintaining the quality of life in the region.

Appendix B includes more detailed information about the measures of sprawl that are used in this report.

The Rankings

Table 1 presents the results of the *Sprawl Report Card*. It shows each city's rating in each of four categories:

- Density
- Transportation
- Housing & Jobs
- Environment

A city could earn at least 25 points for each of the four categories, for an overall possible score of 100 points. Some cities scored more than 25 points in the density category because this factor was weighted as more critical to stopping sprawl than the others.

Almost every city did well in at least one category. The City of Sumner topped the list with a score of 75.8, while Edgewood, in Pierce County, received the lowest score of 24.9.

Sumner - Compact and Affordable

Sumner (pop. 8,130) is located in Pierce County. In recent years, Sumner has become a model for how small towns can accommodate more compact growth in a way that enhances their existing character. Its award-winning Duffield neighborhood is a new, walkable community with a mix of housing types integrated with home offices and a community elementary school.

Sumner earned high marks for affordable housing and for having a healthy balance of jobs and housing. It also has significant lands devoted to open space, with a total of 35.4 park acres per 1,000 population. Sumner is a small town doing its share to accommodate growth in a way that shows that density and livability can go hand in hand.

Kirkland - The Most Balanced of All Cities in the Region

The City of Kirkland (pop. 44,220) ranked second overall and had the most balanced scores in all four categories of density, transportation, housing & jobs, and the environment. Kirkland's Comprehensive Plan promotes compact, mixed-use development while maintaining the extraordinary environmental amenities that distinguish this city from others of its size.

Kirkland has a balance of jobs and housing, which means residents can readily live and work within the community, cutting down on commuter congestion. It also scored well in nearly every other measure except affordable housing. The City does encourage accessory dwelling units, which have the potential to provide a source of affordable housing.

The Big 5 - Seattle, Bremerton, Everett, Tacoma and Bellevue

The major central cities in the region all performed well in the Sprawl Report Card: Seattle (# 3), Bremerton (4), Everett (6), Tacoma (8), and Bellevue (10). Each of these cities performed well in the core measures of sprawl. They are characterized by relatively high density development and they have a progressive mix of zoning that allows high and moderate density development.

Seattle performed well in almost every category except housing affordability, accessory housing, and wildlife habitat. Given the rising housing prices in the city, Seattle should amend its regulations to permit detached accessory housing units in order to offer an additional affordable housing option. The city should also ensure that its wetland and stream buffers are adequate. This green infrastructure is a key to maintaining the livability of the region as our cities grow more compact.

Bremerton ranked high on stopping sprawl, even though it is not experiencing the growth rates of many other cities in the region. Part of Bremerton's struggle is that over half the growth in Kitsap County is occurring outside the Urban Growth Area. Until the County reins in rural growth, Bremerton will continue to find it difficult to regain vitality. Another part of Bremerton's challenge is its own image. While city policies encourage compact development, its downtown is dominated by the blank walls of oversized parking garages that make it hostile to pedestrians. Bremerton certainly has a lot of potential for improvement, particularly if the city invested more in downtown improvements.

The Bottom of the List - Desirable, but not Responsible?

The bottom of the *Sprawl Report Card* is dominated by more exclusive communities that are quite desirable, but may not be doing their share to stop sprawl. In general, cities on the bottom of the list tended to have high housing prices, excessive parking requirements, and inadequate transit service.

Edgewood (pop. 10,690), located in Pierce County, landed at the bottom of the list. Many of the city's policies epitomize sprawl. It has a minimum lot size of one acre, mandating estate-size yards in single-family neighborhoods. Edmonds (#30), Gig Harbor (#31), Lake Stevens (#32) and Edgewood (#33), have little or no land designated for multi-family development within their boundaries.

The cities at the bottom of the list had high housing prices, driven by exclusive zoning policies. The zoning fails to allow an adequate mix of housing types. Instead, these cities tend to offer single-family homes on a large lots-an expensive choice that remains out of reach for most new homebuyers.

Certainly, there are many desirable, livable communities that are at the top or close to the top of the rankings. But, the cluster of exclusive communities at the bottom of the list raises issues. Are these cities acting responsibly to accommodate their share of the region's growth? It is clear that they could take concrete steps to remove barriers to more compact growth.

Table 2: Overall Sprawl Rankings

Rank	City	Density	Jobs & Housing	Transportation	Environment	Overall Score (out of 100)
1	Sumner	15.8	23.3	12.5	24.2	75.8
2	Kirkland	20.0	18.3	17.1	19.2	74.6
3	Seattle	26.7	11.6	24.9	10.8	74.0
4	Bremerton	25.8	25.0	13.9	11.7	73.7
5	Poulsbo	21.7	21.7	10.9	19.2	73.4
6	Everett	27.5	10.0	20.9	14.2	72.6
7	Kent	16.7	10.0	8.7	22.5	72.4
8	Tacoma	22.5	21.7	14.9	12.1	71.2
9	Redmond	21.7	13.3	16.3	18.3	69.6
10	Bellevue	18.3	10.0	22.1	16.7	67.1
11	Monroe	16.7	20.0	6.3	22.5	65.5
12	Port Orchard	20.0	23.3	11.9	10.0	65.2
13	Federal Way	20.0	16.7	15.3	12.5	64.5
14	Mercer Island	10.8	13.3	18.8	20.0	63.0
15	SeaTac	24.2	13.3	9.6	13.3	60.5
16	Renton	15.0	10.0	16.2	19.2	60.4
17	Lynnwood	23.3	15.0	15.1	5.8	59.2
18	Puyallup	20.8	21.7	10.8	5.0	58.3
19	Marysville	13.3	16.7	11.6	16.7	58.2
20	Issaquah	16.7	10.0	8.7	22.5	57.9
21	Burien	22.5	13.3	12.6	9.2	57.6
22	Auburn	14.2	21.7	12.3	9.2	57.3
23	Bonney Lake	8.3	18.3	8.1	22.1	56.9
24	Tukwila	14.2	11.7	13.9	15.8	55.5
25	Bothell	10.0	16.7	17.8	9.2	53.6
26	Arlington	10.8	16.7	9.4	15.0	51.9
27	Mukilteo	13.3	11.7	8.8	17.1	50.9
28	Shoreline	13.3	15.0	16.2	6.3	50.8
29	Bainbridge Island	2.5	13.3	13.9	20.4	50.1
30	Edmonds	14.2	10.0	13.5	9.2	46.8
31	Gig Harbor	3.3	15.0	12.1	13.8	44.1

32	Lake Stevens	16.7	6.7	5.1	10.8	39.2
33	Edgewood	0.0	13.3	8.3	3.3	24.9

Density

Table 3

Overall Density Ranking - Top Performers	
(pop/acre, zoning designations, min. lot sizes)	
Rank	City
1	Everett
2	Seattle
3	Bremerton
4	SeaTac
5	Lynnwood

Table 4

Overall Density Rankings - Bottom Performers	
(pop/acre, zoning designations, min. lot sizes)	
Rank	City
29	Bothell
30	Bonney Lake
31	Gig Harbor
32	Bainbridge Island
33	Edgewood

Density measures offer the clearest measures of sprawl. The *Sprawl Report Card's* density scores are based on each city's performance in three measures: population per acre of residentially zoned land; zoning designations for multi-family housing; and required minimum lot sizes for single-family zones. Each of these measures is explored in more detail below.

The top five cities in this ranking are amongst the highest density cities in the region. They have achieved this density primarily by devoting at least 10% of all residential lands to multi-family development. Generally, these cities also promote small-lot single-family development. The exception is Lynnwood, which requires large, suburban-style lots in its single-family neighborhoods, while also promoting dense multi-family development.

The low-achieving cities have a pattern of low density development, little to no land devoted to multi-family housing, and require large lots in single-family neighborhoods.

Sometimes sprawling development can occur despite a city's plan that calls for more compact growth. One way to assure that compact development occurs is to establish minimum density requirements that do not permit development to go forward unless it meets a certain density. Only Renton and Redmond in our survey have adopted minimum density requirements.

Population per Acre

This is a basic measure of existing density on the ground. It measures the number of people per acre of residentially zoned land and was derived by data collected by the Puget Sound Regional Council (PSRC) on population and residential acreage. The average city has approximately 7.4 people per acre of residentially zoned land, which translates to a net density of about 3 dwelling units per acre. This strikingly low number indicates that there is still significant vacant residential land in the cities in the region and that there are ample opportunities for redevelopment at higher densities.

The values in this classification ranged from a high of 13.0 in Lynnwood to a low of 1.0 on Bainbridge Island. Bainbridge Island is somewhat of an anomaly, because of its large land mass and mix of urban and rural environments. It would have performed better if only the urban portions of the city had been included in the measurement.

Table 5

Highest Density Cities in the Region

Rank	City	Density (persons/acre)
1	Lynnwood	13
2	Seattle	12.9
3	Everett	10.8
4	Bremerton	9.8
5	Monroe	9.5
6	Tacoma	9.4

Table 6

Lowest Density Cities in Region

Rank	City	Density (persons/acre)
18	Port Orchard	4.6
19	Bonney Lake	4.5
20	Arlington	3.9
21	Gig Harbor	3.1
22	Edgewood	2.1
23	Bainbridge Island	1.0

Minimum Lot Size

More than 80% of all residential land in the cities in the Central Puget Sound is devoted to single-family development. Therefore, the required size of new single family lots can have a significant effect on the region's capacity to accommodate growth in new subdivisions and short plats in single family neighborhoods. This measure indicates the smallest new lot that could be created in a single family zone in each individual city. Lots less than 5,000 square feet are compact, urban-style lots, while those of 7,000 square feet and greater are very typical of suburban style development. While a surprising number of cities allow the creation of small lots, for many, these small lots are only allowed in a small portion of their single-family neighborhoods. Overall, lots do seem to be getting smaller, particularly in areas where the cost of land has made modest lot sizes more attractive.

For example, Bellevue has created a new single-family zoning classification that allows lots of 4,700 square feet in

order to encourage more compact growth. SeaTac and Redmond have small lot single-family zones that allow development on 3,000 square foot lots.

On the other hand, there are a number of cities in the region that still require estate-style lots. Edgewood has a minimum lot size of one acre. Mercer Island, Bonney Lake, and Bainbridge Island all require lots of over 8,000 square feet for new single-family development.

Residential Zoning Designations

How much residential land in cities is devoted to apartments, condominiums, and townhouses? Allowing these higher density housing options is one key to containing sprawl. Using zoning and comprehensive plan land use designations for each city, 1000 Friends determined how much land was devoted to low-density uses (single-family of up to 8 dwelling units per acre), how much was devoted to moderate density (townhouses, mobile homes, and garden apartments of 8 to 15 units per acre), and how much was devoted to higher density multi-family uses (apartments and condominiums of over 15 units per acre).

Only the cities of Kent, Bremerton, Port Orchard and Poulsbo had over 20% of the residential land devoted to high and moderate density uses. Most cities in Kitsap and King County, with the exception of Bothell and Shoreline, scored high in this category. Cities in Pierce and Snohomish County tended to have less land devoted to multi-family development, with Edgewood and Gig Harbor having no land devoted to compact residential development.

A very recent trend has been the emergence and success of high density (80 units per acre and higher) developments in suburban cities such as Bellevue and Kirkland. Only five years ago, these types of densities could be found exclusively in Seattle. Now, up-scale homebuyers who can afford to live anywhere in the region, are choosing to purchase compact luxury in suburban downtowns.

Housing and Jobs

Table 7

Overall Housing & Jobs Rankings - Top Performers	
<small>(housing affordability, jobs/housing balance, accessory housing)</small>	
Rank	City
1	Bremerton
2	Sumner
2	Port Orchard
4	Auburn
4	Kent
4	Puyallup
4	Tacoma
4	Poulsbo

Table 8

Overall Housing & Jobs Rankings - Bottom Performers	
<small>(housing affordability, jobs/housing balance, accessory housing)</small>	

December 10, 2004

Honorable Mayor & City Council Members
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

SUBJECT: Proposed Critical Areas Ordinance

Dear Mayor & City Council Members:

Olympic Property Group is supportive of the use of Best Available Science (BAS) to formulate Critical Areas protection ordinances. There are however a wide range of opinions as to what constitutes the best solution for critical areas protection in urban areas. We believe it would be appropriate to pause and evaluate all points of view before adoption of the proposed ordinance.

We also want to draw your attention to one specific item within the proposed code that we believe creates an unintended inequity in the way wetland buffers are regulated. If approved as proposed, the regulations would allow for buffer width averaging on Category I, II, and IV wetlands, but not on Category III wetlands. We believe that it would be appropriate to allow for buffer width averaging for Category III wetlands also. A simple change to the proposed ordinance would accomplish this as shown below:

18.08.110 (A) (2)

d. The buffer width is not reduced, at any single point, to less than fifty percent (50%) of the standard width of fifty (50) feet, whichever provides the greater buffer, except for buffers between Category IV wetlands.

We have not located any finding in the Department of Ecology BAS or in the Adolfson BAS that suggests that a 25-foot minimum buffer does not provide sufficient protection for a Category III wetland. We have also retained Raedeke Associates to review the BAS related to this request, and they believe that our request is scientifically supportable. (Copy of their letter attached).

If you have any questions or comments, please give me a call. Thank you for your assistance.

Sincerely,

Jon Rose
President
Olympic Property Group



RAEDEKE ASSOCIATES, INC.
5711 NE 63rd Street
Seattle, Washington 98115
(206) 525-8122 Fax (206) 526-2880

December 10, 2004

Mr. John Chadwell
Olympic Resource Management
P.O. Box 1780
Poulsbo WA 98370-0239

Re: Gig Harbor CAO – Public Testimony (RAI #90062-010)

Mr. Chadwell,

At your request Raedeke Associates, Inc. has prepared the following discussion of wetland buffer widths proposed in the draft City of Gig Harbor Critical Areas Ordinance (CAO). Specifically we will address the Best Available Science (BAS) that has been referenced in establishing the proposed buffer widths and provisions for allowing buffer width averaging and buffer width reduction.

The Washington Department of Ecology has prepared two reports detailing the existing scientific literature and its applicability to environmentally sensitive areas: *Fresh Water Wetlands in Washington Volume 1 – A Synthesis of the Science* (2003) and *Fresh Water Wetlands in Washington Volume 2 – Protecting and Managing Wetlands* (2004). These two volumes are often referred to as the BAS. It is important to note that these volumes offer guidance to local governments in preparing their sensitive or critical areas codes but are not requirements of state law.

“The Growth Management Act does not require that local governments adopt the protection standards recommended in this document. Local governments are free to use or adapt the options and recommendations presented here or develop entirely different approaches to protecting wetlands to fit their particular circumstances.” – Washington Department of Ecology 2004.

With regard to the proposed Gig Harbor CAO, Raedeke Associates, Inc. offers the following comments.

In *Fresh Water Wetlands in Washington Volume 1: A Synthesis of the Science* (2003), the Washington Department of Ecology compiled scientific research related to wetland functions, protection, management, and buffers. This study confirms that there is not a direct relationship between buffer width and function (Washington Department of Ecology 2003). The scientific literature varies widely about the buffer widths necessary to provide various functions. Studies have found effective removal of sediments and nutrients (or pollutants) can occur within the first 50 to 100 feet of buffer, even from adjacent logging (e.g., Broderson 1973) or animal feedlots (e.g., Young et al. 1980). In

Mr. John Chadwell
December 10, 2004
Page 2

general, the literature indicates that buffers as narrow as 25 feet can protect wetland functions (Castelle et al. 1992; McMillan 2000). Greater buffer widths do not necessarily result in greater protection, nor are they a requirement of the state. The buffers recommended in the proposed Gig Harbor code are appropriate, and consistent with those buffer widths recommended in the scientific literature.

Buffer widths reported in the scientific literature for wildlife habitat functions appear to include distances to meet all or nearly all of the life needs of general animal groups, regardless of their wetland or stream dependency. Prescriptive numerical buffer standards for wildlife habitat are nearly impossible to determine and are constantly changing. Buffer widths should be determined on a case-by-case basis, dependent on the unique circumstances of the site in question. This is acknowledged in the draft Gig Harbor CAO *Critical fish and wildlife habitat areas* section (18.08.xxx D, November 22, 2004) where a minimum buffer width of 25 feet and a maximum buffer width of 150 feet are established.

Raedeke Associates, Inc. recommends greater flexibility in the CAO for allowing buffer width averaging and buffer width reduction while maintaining protections to wetlands. The current proposed Gig Harbor code contains the following provision; buffer width averaging can be allowed provided that *"The buffer width is not reduced, at any single point, to less than fifty percent (50%) of the standard width or fifty (50) feet, whichever provides the greater buffer, except for buffers between Category IV wetlands"* (draft Gig Harbor Code 18.08.110 (2) (d), November 22, 2004).

This code provision would allow Category I buffers to be reduced from 200 feet to 100 feet and allow the buffer on a Category II wetland to be reduced from 100 feet to 50 feet. However, the code would not allow the buffer of a Category III wetland to be reduced from the standard 50 feet. Thus, a Category III wetland would have the same minimum buffer as a Category II wetland. The draft Gig Harbor code states that *"Category II wetlands are those wetlands of significant resource value based on their functional value and diversity."* while *"Category III wetlands are wetlands with a moderate to low level of functions."* (draft Gig Harbor Code 18.08.040 (1) (b and c), November 22, 2004). The language of the draft CAO appears to indicate that protection of low functioning wetlands is of equal importance to protection of wetlands with significant functions.

Raedeke Associates, Inc. believes that the standard minimum buffer allowed under buffer width averaging or buffer reduction should be 25 feet. There is no scientific literature that states that a 25-foot-wide buffer cannot provide the functions necessary to protect the wetland. Buffer reductions or averaging, along with appropriate stormwater management, erosion and sediment controls, and requirements for buffer enhancement would provide the City of Gig Harbor with more flexibility in providing the sensitive area protections required under GMA. It should be noted that critical or sensitive area protection is just one facet of GMA and that requirements for economic development, specific urban densities, and affordable housing must also be considered in preparing ordinances.

Mr. John Chadwell
December 10, 2004
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Thank you for the opportunity to prepare this material for you. Please do not hesitate to call if you have any questions.

Respectfully submitted,

RAEDEKE ASSOCIATES, INC.

Christopher W. Wright
Soil and Wetland Scientist

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December 10, 2004

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3510 Grandview Street
Gig Harbor, WA 98335

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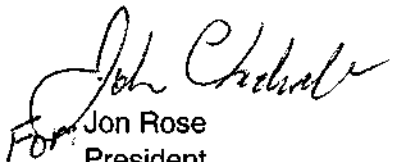
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Sincerely,


For: Jon Rose
President
Olympic Property Group



— Olympic Property Group —
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(360) 697-6626 • Seattle: (206) 292-0517 • Fax: (360) 697-1156





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December 10, 2004

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Mr. John Chadwell
December 10, 2004
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December 10, 2004
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Residential Density and Minimum Lot Size
 Comparative Matrix – Various Jurisdictions
 December 13, 2004
 AHBL, Inc.

Jurisdiction	Zone	Maximum Density	Minimum Lot Area (in square feet)
King County	R-4	4 units per gross acre (up to 6 with density incentives)	No minimum*
Renton	R-5	5 units per net acre	7,200 (4,500 with clustering)
Milton	RS	5 units per gross acre for single family 6 units per acre for duplex	8,000: single family 9,600: SF with accessory unit 12,000: Duplex
Sammamish	R-4	4 units per gross acre	No minimum*
Dupont	R-4	4.5 units per gross acre	No minimum*
Mill Creek	LDR	4 units per acre gross	8,400
Edmonds	RS-12	3.7 units per gross	12,000

* Required to meet setbacks and other dimensional standards such as lot width and depth

December 8, 2004

Steve Osguthorpe
Planning & Building Manager
City of Gig Harbor
3510 Grandview St.
Gig Harbor, WA 98335

SUBJECT: Comments on City of Gig Harbor Draft 2004 Comprehensive Plan Update

Dear Mr. Osguthorpe,

Thank you for sending the City of Gig Harbor 2004 Draft Comprehensive Plan Update. We recognize the substantial amount of time and effort invested in the plan update process, and commend your department on an excellent effort.

As part of the Regional Council's policy and plan review process, comprehensive plan amendments and updates are reviewed for conformity with state transportation planning requirements and consistency with *Destination 2030*, the region's metropolitan transportation plan. The Regional Council also offers consultative review of plans for consistency with VISION 2020, the region's long-range growth management, economic, and transportation strategy, and the Growth Management Act.

The updated comprehensive plan submitted for review is based on a solid foundation, and the amendments as proposed would improve and strengthen the plan as a whole. However, there are several areas of the transportation element that could benefit from an update to address changing conditions, including the following:

- Page 14 of the Transportation Element – the discussion refers to the earlier analysis done *prior* to the approval of the new Tacoma Narrows Bridge – and anticipates "a significant effect on long-term growth and development..., area travel patterns, traffic volumes, and transportation improvement needs." This section should be updated to reflect information that is now available on that project and its impacts.
- Page 16 of the Transportation Element – Table 2-1 refers to growth assumptions for the period 1998-2018, and appears to have been based on work done in 1994. These numbers seem very high when compared to recently adopted growth targets, PSRC's current small-area forecasts, the 2000 census, and text on page 28 of the plan. This information either needs to be revised, or at least discussed in fuller detail, to reconcile these various discrepancies.
- Pages 12-14 of the Transportation Element – the Pierce County Transportation Plan, six-year TIP, and the WSDOT Highway Improvement Program have all been updated and modified since this section was last updated. These updates should be referenced in the City's own update – and any pertinent impacts should be discussed.
- Page 30 of the Transportation Element – Table 4-1 refers to a recommended transportation plan, a summary of the adopted six-year TIP for the years 2001-2006. Please note that the current cycle is actually 2005-2010. Again, the information in the draft either needs to be updated or reconciled – if your six-year TIP is now in other municipal documents.

Letter to Steve Osguthorpe
Re: City of Gig Harbor 2004 Draft Comprehensive Plan Update
December 8, 2004

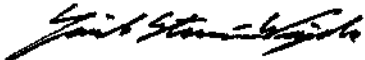
Page 2

- Pages 44-45 of the Transportation Element – Tables 6-2 and 6-3 refer to cost and revenue forecasts for the period 2000-2018. Similarly, these references need to be updated to reflect that we are now beyond the year 2000.

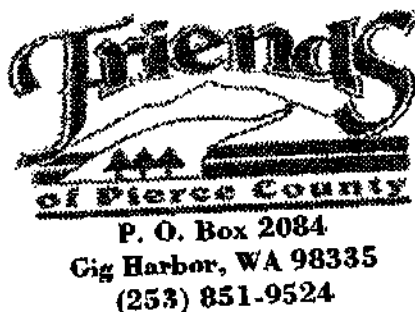
Given that the Transportation Element is a functional element, has coordinative value, and is based on fast-changing information and plans, frequent updates to key sources of information are essential. We apologize for the short timeline before anticipated adoption, but request that at least some of these issues be addressed before the plan is formally adopted. More involved projects, such as updating the assumptions to the travel demand model, could be added to the work program for the next scheduled update.

Other than the above issue, the amendments appear thorough and effective. If you or your staff have questions or need additional information regarding the review of local plans or the certification process, please feel free to contact me at (206) 389-2158 or by email at ystevens-wajda@psrc.org, or Rocky Piro at (206) 464-6360 / rpiro@psrc.org. We look forward to continuing to work with you as you finalize the City of Gig Harbor Comprehensive Plan.

Sincerely,



Yorik Stevens-Wajda
Growth Management & Transportation Strategies



December 13, 2004

Gig Harbor City Council members
3150 Grandview St
Gig Harbor, WA 98335

Dear City Council members:

Thank you for allowing us the opportunity to provide input to the city's comprehensive plan update. We have comments on the following elements:

Low Impact Development - We support the Planning Commission's recommendation to include Low Impact Development in the Comprehensive Plan.

In the Gig Harbor area and on the Key Peninsula, 100% of our drinking water is supplied by groundwater contained in aquifers. Our current land development standards cause negative environmental changes by increasing the amount of impervious surfaces, such as roofs and pavement which impacts water quantity. Development also affects water quality. The Department of Ecology's *Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances* (Publication #97-30) reveals that in some cases improper use of pesticides and fertilizers in residential areas has been shown to be the largest contributor to groundwater degradation. This same document states, "As land use decision continue to be based more on watershed considerations, it will become increasingly necessary to understand the inter-relationship between the ground and surface water resources(s). The two are related and should both be considered in regulations.

For over 20 years, local jurisdictions in Puget Sound have required construction of stormwater management facilities to mitigate the impacts of development on our water resources. However, research has shown that current stormwater management facilities do not effectively mimic the natural hydrological cycle. Stormwater management facilities are designed to control only the peak runoff rate from a few large storm events, not mitigate for increased runoff and volume from frequently occurring smaller storms. Low Impact Development can more effectively mimic the natural hydrological thereby reducing negative impacts from land development. Generally, LID prescribes retaining 65% of the natural vegetation and limiting effective impervious surface to less than 10%. LID is a land use development strategy that emphasizes protection of naturally occurring features and minimizes impervious areas by retaining natural vegetation and native soils. **Low Impact Development projects have been shown to cost less**

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than conventional development i.e. \$70,000 per mile in street infrastructure costs or an estimated 10 to 20 percent for overall project savings.

Wetland mapping - The GMA update requires jurisdictions to designate and protect critical areas, which include wetlands. It appears a matter of common sense that wetlands would need to be mapped so that the location is known and thus designated. The city current wetland maps are incomplete and inaccurate, created before the Gig Harbor North annex and contain some missing pages. As a result, wetlands will be missed and other misclassified. At the Planning Commission study session on 10/21/04, City staff stated that there were no category 1 wetlands in Gig Harbor North. The wetland inventory for Olympic Property Group (dated August 17, 2001) classifies wetland F, which covers approximately 10 acres, as a Category 1 wetland by City of Gig Harbor regulations. The city needs up-to-date and correct wetland maps with classifications to match state guidelines to avoid further confusion. Exhibit 1 shows an aerial view of Gig Harbor North.

Wetland buffers - The city's current wetland buffers do not mirror the state's recommendation of Best Available Science (BAS) which is defined in RCW 36.70A. 172, and requires all counties and cities in Washington to include BAS in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities must give special consideration to conservation or protection measures necessary to preserve or enhance salmon and sea-going trout populations.

The latest version of the Department of Ecology's wetland buffer recommendations vary depending on surrounding land use and are larger than the city's buffers as seen in the below table.

Wetland category	Gig Harbor buffer width (ft)	Department of Ecology buffer width (ft) Alternative 3		
		High intensity	Moderate	Low intensity
1	100 200	300	250	200
2	50 100	200	150	100
3	25 50	100	75	50
4	Type 3 water 35 25	50	35	35
	Type 4 water 25			
	Type 5 water 15			

The technology is available to meet BAS in urban areas. An AHBL consultant mentioned on 10/21/04, that BAS does not apply in urban settings. This is incorrect. A book titled *Wetlands and Urbanization, implications for the future* (Azous, L. and Horner, R. 2001) was one of the most extensive wetland studies in an urban area. The Department of Ecology (DOE) adopted its wetland guidelines in part from this study.

The DOE's Alternative 3 will better protect wetlands and provide consistency between the city, county, and the state regulations. According to the DOE, Alternative 3 provides the most flexibility by recommending buffers that are based on three factors; the rating, the intensity of the impacts, and the rating of the functions or special characteristics in the wetland that need to

Educating and empowering the people of Pierce County to preserve and restore the natural environment and promote more livable communities.

be protected. For example a bog of 1/3 acre may be a Category II because it is a bog but it may be a Category I based on its functions as determined from the Rating Form because it is part of a larger wetland complex.

In summary, Friends of Pierce County asks that the city adopt the following in its Comprehensive Plan:

- 1) Low Impact Development standards, and
- 2) Department of Ecology's Alternative 3 wetland buffer recommendations.

You can reach me at (253) 851-9524 if you have any questions. Thank you for consideration in this matter.

Sincerely,



Marian Berejikian
Executive Director

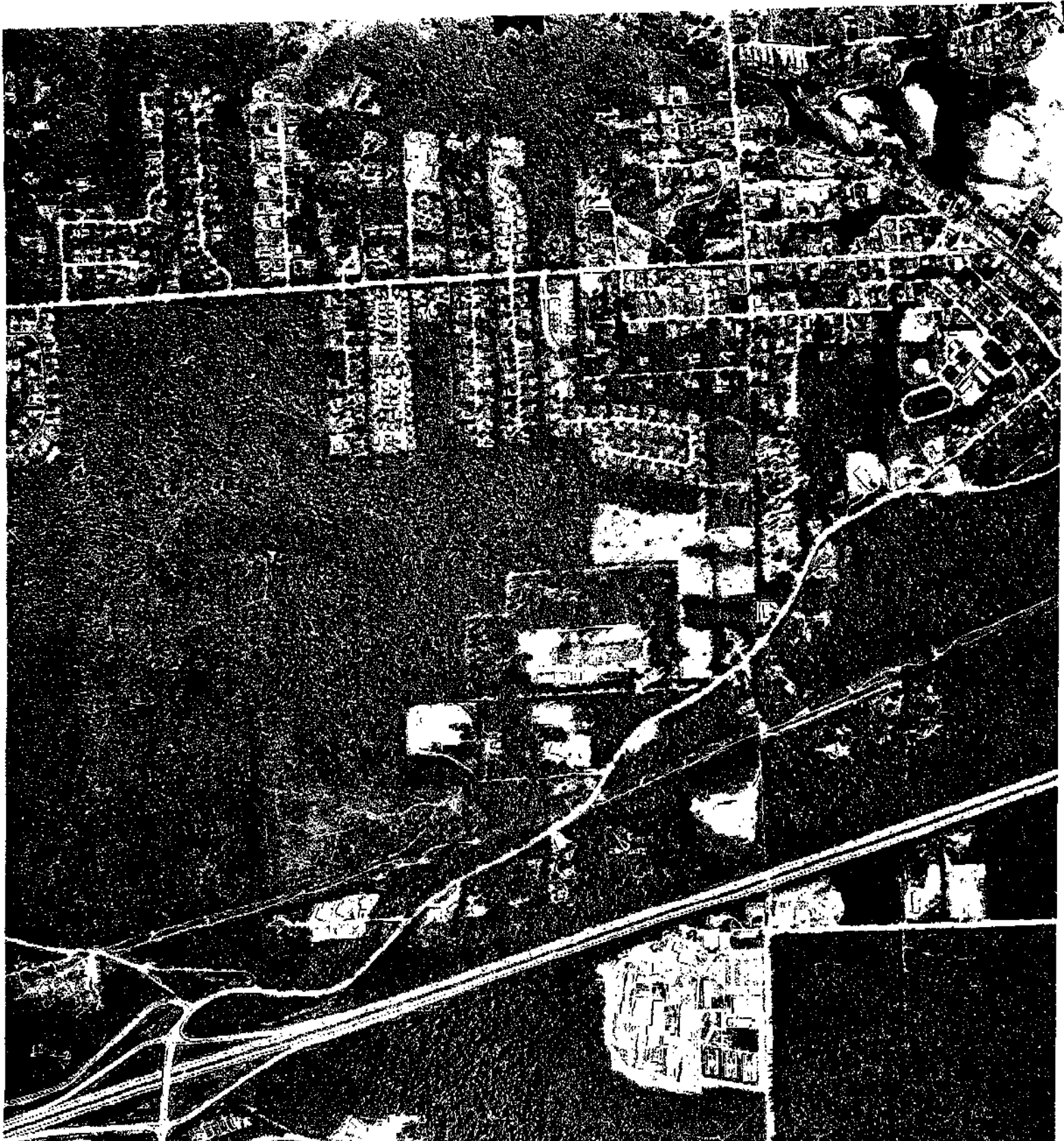
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December 13, 2004

HAND DELIVERED

City of Gig Harbor Mayor and City Council
3510 Grandview Street
Gig Harbor, WA 98335

Re: Comments on Proposed Revised to City of Gig Harbor Title 18.08

Dear Mayor and City Council:

The following are comments on proposed revisions to the City of Gig Harbor's existing Critical Areas Ordinance, GHMC Title 18.08. Our comments are submitted on behalf of four property owners and developers who work, live and develop land within the Gig Harbor Growth Area. We understand that state officials have agreed to extend the time for municipalities to review and, where necessary, revise their existing critical areas regulations after consideration of best available science. This is welcomed by our clients and, I am sure, the City. The proper regulation of land use and development, and protection of critical areas, is of substantial public importance. Gig Harbor should not rush to judgment when considering adoption of possible changes to Title 18.08. The City should take the time necessary to consider all comments and what, if any, changes to the existing law are required.

GENERAL COMMENTS ON REGULATION OF CRITICAL AREAS

The Growth Management Act, Chapter 36.70A, RCW (the "GMA"), allows local municipalities to regulate "critical areas." RCW 36.70A.060 states that the City of Gig Harbor must first designate "critical areas." These areas are defined to include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. After designating critical areas, use regulations required to "protect" critical areas must be adopted. RCW 36.70A.060(2).

In designating and protecting critical areas, best available science is to be used. RCW 36.70A.172. The best available science factor is not to be used in isolation from all of the other planning goals specified in the GMA. RCW 36.70A.020; *HEAL v. Central Puget Sound Growth Management Hearings Board*, 96 Wn. App. 522, 979 P. 2d 864 (1999). The purpose of the best available science requirement is to ensure that critical area regulations are not based upon speculation and surmise. *HEAL v. Central Puget Sound Growth Management Hearings Board, supra*. In this regard, best available science is not the sole factor to be considered when adopting critical area regulations. Cities have the authority and obligation to balance scientific evidence among the many goals and factors to fashion locally appropriate regulations based on the evidence and local circumstances.

There is no authority under the GMA to restore or rehabilitate designated critical areas. The GMA requires the protection (not restoration) of the "functions and values" of critical areas. A major focus of critical areas regulation is buffers around designated areas. Yet, large buffer strategies are at the heart of a "de facto" restoration program designed to return the land to some prior undeveloped state or condition. In urban areas like Gig Harbor, where the built environment is extensive, imposition of large buffers simply results in designating large portions of property as non-conforming. Our clients submit that is not a good strategy for the City of Gig Harbor, because over time it results in the ultimate removal of "nonconforming" structures and uses within the buffers. This is the inequitable result, because nonconforming uses and structures are highly disfavored under the law.

The current "larger buffer-oriented" proposals urged by no-growth advocates are designed to implement a regulatory strategy that buffers must be part of any critical area program. Proponents of this strategy urge that the science of buffers is well suited to urban environments and properly directed to existing developed conditions. But such is not the case. Simply put, buffers poorly address critical area issues and concerns in the developed urban, or "built environment," which exists within the City of Gig Harbor. In this regard, the Department of Trade and Economic Development (now Office of Community Development) ("CTED") Guidelines (CTED, Critical Areas Assistance Handbook, Appendix A) state:

The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity.

Critical Areas Assistance Handbook, Appendix A, p. A-41.

These buffer widths are based on the best available science to protect all wetlands in environmental settings that occur throughout the state of Washington. These standard wetland buffer widths may not be appropriate, either scientifically or in a practical

sense, in areas where land use settings and buffer functions may be different than those found in rural areas of forestlands.

Critical Areas Assistance Handbook, Appendix A, p. A-41.

The use of "big buffers" has been pushed largely by the State of Washington Departments of Ecology and Fish and Wildlife ("WDFW"). To an extent, CTED has endorsed the concept of larger buffers as well. However, CTED specifically cautions against uncritical acceptance of the compilations of published lists of "science" relating to buffers, and strongly suggests that local governments critically examine the applicability of the published materials to make sure recommendations are appropriate for local land use and conditions. *See, in general, Protection of Critical Areas and the Mythology of Buffers*, by Alexander W. Mackie, "Growth Management In Washington," CLE seminar, November 15-16, 2004, Seattle.

Gig Harbor has a mix of urban and semi-urban areas. It is a city, but one that does not have all of the intensity of urban development of other municipalities. The City has an active open space program and strong ordinances to control and manage surface water and storm water associated with urban development. It has little use of upland critical areas by endangered or threatened wildlife species. Gig Harbor is a water-orientated community. Within its municipal limits there are developed environments, homes, businesses, transportation, and commercial developments already in place. Such uses and structures are preferred uses under the Gig Harbor Shoreline Master Program. The City's existing urban development is essential to the well being and economic vitality of the community. It is nonsensical to make this built environment non-conforming. Yet this would be the result if the current proposals are adopted. These local circumstances should be taken into consideration in determining the nature, and extent, of revisions to the existing Critical Area Ordinance, if any, imposing more restrictive regulation, including restrictive buffers around wetlands or designating all salt waters as critical areas.

Most importantly, our clients believe there is no need to significantly revise the existing Critical Area Ordinance just because some state agency staff believe that "more" needs to be done to protect wetlands, or fish and wildlife habitat. Our clients suggest that the Mayor and City Council critically examine for themselves what is really needed, if anything, in terms of more regulation. As noted above, CTED specifically cautions against uncritical acceptance of the compilations or published lists of "best available science," and strongly suggests that local governments critically examine the applicability of the published materials to make sure recommendations presented under the guise of "best available science" are truly appropriate for local use and conditions.

When considering what may be best available science, and possible regulation based upon this concept, our clients urge that undue weight not be given to the views of the state agencies. The State of Washington Department of Ecology's manuals on wetlands and wetlands regulation, and the WDFW polices for protection for certain wildlife habitat have not been adopted as rules and regulations pursuant to the Administrative Procedures Act, Chapter 34.04, RCW. Therefore,

these policies do not have the force of law. In 1991, the State of Washington Department of Ecology stipulated in litigation handled by the undersigned involving the Building Industry Association of Washington that its wetland guidance materials, including the "model" wetland ordinance, did not have legal force or effect.

Our clients have legitimate concerns that midlevel public employees' views not be taken as "official positions" of their employer agency, particularly under circumstances where those views have not been adopted as mandatory rules and regulations, after opportunity for public review and comment, and possible court challenge. Our clients trust that the Mayor, the City Council, the Director of Planning and Community Development, and City staff, will keep their own counsel, using their best judgments, taking into account local circumstances.

SPECIFIC COMMENTS ON PROPOSED AMENDMENTS

1. GHMC § 18.08.010 Purpose.

The Ordinance states as one purpose the "enhancement" of critical areas and environmentally sensitive natural systems. Under the GMA, however, enhancement or restoration is not required, and can only be imposed by the City of Gig Harbor through its State Environmental Policy Act authority, to mitigate significant direct impacts emanating from a proposed development.

This section also addresses the protection of critical areas. The purpose of Title 18.08 cannot be to preclude all development in critical areas or associated buffers under the guise of protecting these areas. When the GMA was first enacted, the Legislature worded the duty of local governments to "preclude development" in critical areas. RCW 36.70A.060(2) (1990) 1st ex.s. c. 17 § 6). The language to "preclude development" is still found in the minimum guidelines adopted in 1991 by CTED. WAC 365-190-020. Thereafter, in 1991, the Legislature amended the GMA to state that the local duty was to "protect" critical areas, the current language of RCW 36.70A.060(2), (1991 sp.s. c 32 § 21); but the language of the rules has not been changed to reflect the difference.

When the Legislature changes the terms of a statute and uses different language, a change of meaning is presumed. Therefore, the City should ignore the CTED guidelines which conflict with the GMA. However, some state officials interpret the "minimum guidelines" of Chapter 365-190 WAC, the "best available science" requirements, as meant to "preclude" development in or near critical areas and to promote the restoration of critical areas, at the expense of existing development. Such an interpretation is not supported by any language found in the GMA. If accepted, it constitutes a significant extension of the legislative intent ascertainable at the time of the 1991 change, changing the law from "precluding development" to "protecting" critical areas and should be disregarded.

2. GHMC § 18.08.020 Goals.

Section G references the goal to “enhance areas” suitable for wildlife, including rare, threatened or endangered species. As stated above, enhancement or restoration is not an aspect of sensitive area regulation under the GMA. If the City desires restoration or enhancement, our clients suggest that Gig Harbor adopt a stand alone section in Title 18.08, setting out non-regulatory strategies to promote the enhancement and restoration of critical areas. This could include a combination of voluntary private enhancement and publicly funded programs, such as a program to purchase particularly sensitive or regionally important critical areas. Our clients commend the City of Bainbridge Island program, which is funded by an \$8 million bond levy.

3. GHMC § 18.08.030 Best Available Science.

The proposed amendments under this new section state, in part, that critical area reports and decisions to alter critical areas “shall rely on the best available science to protect the functions and values of the critical areas.” Technically, under the Growth Management Act, municipalities and property owners and developers are to “consider” best available science but not “rely” upon it. Best available science is a factor to be taken into consideration, but it is not the sole criteria for purposes of making site specific decisions on development that may affect or impact critical areas or associated buffers. Therefore, our clients suggest that the following language be removed, as unnecessary, and confusing in terms of application of specific regulatory standards to site specific applications:

Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas.

Our clients are concerned with comments provided by some state officials to the effect that in the absence of best available science or the “failure” to use CTED and Ecology guidance, either (a) the most protective approach must be imposed until the law is known or (b) the law is violated. This approach is contrary to the law, as set out in the Supreme Court decision in *Isla Verde v. City of Camas*, 146 Wn.2d 740, 49 P.3d 867 (2002). In *Isla Verde*, the City of Camas required the set aside of 30% open space in all plats to protect wildlife. The provision is similar to the GMA recommendation in the Assistance Handbook and BAS regulation in WAC 365-195920 that local governments require buffers in all locations to protect “fish and wildlife habitat,” at least until someone can prove that the buffer is not required. But the State Supreme Court has consistently required local governments to demonstrate the reasonable necessity of a particular limitation of development of land in the context of the specific project:

We have repeatedly held, as the statutes require, that development conditions must be tied to a specific identified impact of the development on a community.

146 Wn.2d 740 at 761.

Because the effect of the challenged regulation was to deprive the owner of the use of land, the argument that the exaction may be shielded from scrutiny by incorporation in a City wide ordinance likewise was specifically rejected by the Supreme Court:

We reject the City's argument that it satisfies its burden under RCW 82.02.020 merely through a legislative determination "of the need for subdivision to provide for open space set asides... as a measure that will mitigate consequences of subdivision development.

146 Wn.2d at 761.

The Supreme Court thus reaffirmed the principle that the presumption of validity attached to local legislative actions does not apply to actions which have the effect of requiring dedication or set aside of property in connection with a development or change of use on property:

We conclude that the open space set aside condition is an in kind, indirect "tax, fee or charge on new development".

146 Wn.2d 759. Without some demonstration of both nexus and proportionality to the property in question, the general requirement to meet a city wide set back requirement without some demonstration of need and proportionality was held to violate RCW 82.02.020. 146 Wn.2d at 765.

In short, under the *Isla Verde* case, best available science does not trump statutory and constitutional restrictions on local regulations. Most buffer requirements generally preclude almost all uses within them. If Gig Harbor acts as Ecology, CTED and WDFW desire, it exposes itself to regulatory takings claims or damages actions based upon imposition of illegal exactions or set asides. Our clients submit this is a poor result, since the state agencies will not be defending the City when it is sued or required to pay damage awards.

4. GHMC § 18.08.040 Definitions.

Definition No. 46, "significant impact" is a good definition. Staff and City officials should be commended in recognizing that the intended purpose of critical area regulation is to look at significant impacts that may be caused to critical areas functions and values by project development or use of land. It is also suggested the term "significant impact" not be limited simply to wetland functions and values, but also apply to stream and wildlife conservation area functions and values.

5. GHMC § 18.08.040 Wetland Classification Guidelines/Ratings.

This section makes major changes to the criteria to rate a wetland category. Just adopted this year by the Department of Ecology, these standards were only finalized in August. Essentially it adopts by reference the State Department of Ecology Habitat Rating System (2004). The new rating system has very little established track record. At a minimum, our clients suggest that the City Council first request that staff complete a city-wide wetland survey/inventory. Once that is accomplished, staff should take a number of available local wetlands and apply the proposed rating system, then compare the results with what would occur under the existing ordinance standards before considering approving use of the new system.

The Department of Ecology "points" rating system is very complex to apply. Therefore, it is also suggested that the City Council obtain a good understanding of the cost to property owners and developers to prepare a ratings report utilizing the recently revised Department of Ecology standards.

6. GHMC § 18.08.050 Regulated Activities.

First, it is suggested that a clear regulatory standard be imposed. Our clients urge a standard of no net loss to significant critical area functions and values. Second, as presently drafted, Title 18.08 unduly impacts development and use of land. In particular, there is no need to regulate new development when the built-environment is already highly unchanged. The minimum guidelines regulations adopted by CTED state quite clearly that it was not the intent of the legislation to affect current land use through designation.

Classifying, inventorying, and designating lands or areas does not imply a change in a landowner's right to use his or her land under current law. Land uses are regulated on a parcel basis and innovative land use management techniques should be applied when counties and cities adopt regulations to conserve and protect designated natural resource lands and critical areas. The department of community development will provide technical assistance to counties and cities on a wide array of regulatory options and alternative land use management techniques.

WAC 3650-190-040, process. (Emphasis added).

The quoted language of the WAC suggests that it is a "change in land use," "new activities, or development" adversely affecting critical areas that are the jurisdictional prerequisites for action which trigger the activation of rules prohibiting clearly inappropriate actions and restricting, allowing, or conditioning other activities as appropriate. The omission of any reference to existing and on-going activity, or existing development, must have some meaning. The clear

import of the rule is that only new or changed activities are required to be addressed. Yet, as currently drafted, even minor expansions of existing structures or uses within critical areas or buffers are regulated as new development, and require enhancement or restoration of historic impacts to critical areas and buffer. This is extreme and unnecessary regulation.

CTED's minimum guidelines provide that in regulating critical areas local governments may take a variety of regulatory and nonregulatory approaches, prohibiting only those uses "clearly inappropriate."

Precluding incompatible uses and development does not mean a prohibition of all uses or development. Rather, it means governing changes in land uses, new activities, or development that could adversely affect critical areas. Thus for each critical area, counties and cities planning under the act should define classification schemes and prepare development regulations that govern changes in land uses and new activities by prohibiting clearly inappropriate actions and restricting, allowing, or conditioning other activities as appropriate.

WAC 365-190-020. The City should take these standards to heart and focus only on significant impacts and new development under circumstances where the potentially affected critical areas and buffers are undeveloped.

7. GHMC § 18.08.060 Exemptions.

The Department of Ecology objects to the subsection C exemption for hydrologically isolated wetlands less than 2,500 square feet. It states that this approach is not supported by the scientific literature. Ecology states that it recommends that no wetlands be exempted based on category and size alone. In meetings with Ecology officials the undersigned has attended in other local jurisdictions, Ecology officials concede that ultimately it is a policy judgment whether or not to exempt small wetlands. Even Ecology recognizes in its comment letter that, "it is expensive and often not practical to mitigate for small impacts on site."

Our clients agree and suggest that the City retain the exemption with no mitigation. Our clients would object to any off-site mitigation system or program for small wetlands, such as a "fee in lieu" program. Consideration must be given to the cost of even assessing the impacts on small, unregulated wetlands, on the one hand, and to administer a fee in lieu on the other. Additionally, local jurisdictions across the state have exempted impacts to small wetlands since 1990 without imposition of mitigation. No study or report documents dire consequences from such a regulatory approach.

The problem with Ecology's approach is that it utilizes best available science as the determinative factor when, in fact, Growth Management Act regulation must balance all of the

13 factors set out in RCW 36.70A.020, GMA Goals. On balance, it is respectfully submitted that regulation of all wetlands, no matter how small, or unimportant in their functions and values, is unreasonable and does not accord with the 13 GMA planning goals.

8. GHMC § 18.08.100 Wetland Buffers.

The proposed language states:

If the vegetation is inadequate, then the buffer width shall be increased or the buffer should be planted to maintain the standard width.

The stated language imposes a regulatory standard that is outside of GMA authority, obligating property owners to restore and enhance buffers which may have been impacted by previous unregulated development. There is also no definition of what is deemed "inadequate" in terms of existing buffer vegetation. Thought should be given to allowing a reduction in a buffer, if a property owner or developer is willing to revegetate or enhance a buffer to ameliorate for pre-existing unregulated development activity. This concept is employed in the draft language suggested in the section relating to buffer reductions.

Our clients do not accept in all respects the proposed Wetland Category Buffer Widths for Category 1, Category 2, Category 3, and Category 4 wetlands. Additionally, our clients strongly oppose the suggestions and comments in the Department of Ecology draft letter dated November 22, 2004. Our clients believe that the proposed buffers are excessive for an urban environment where wetlands largely provide only stormwater control and water-quality functions which are dealt with by other regulatory laws. The literature shows that wetland buffers as small as 50 feet can provide 50% of the water quality protection necessary to protect the water quality of a wetland, and a properly designed stormwater system can achieve the remaining 50% and even better.

Ecology's comment letter urges adoption and application of its revised ratings system, adopted this year. It is urging use of "Buffer Alternative 3" found in Appendix 8-C of Volume II of the Department's BSA document, *Freshwater Wetlands in Washington State*. Officials state that this approach has been adopted by Pierce and King Counties. That is not technically true. Pierce County adopted some but not all elements of the Buffer Alternative 3 approach. There is little track record on Ecology's approach, since it has just been in place this year. Ecology states that overall there is a "greater degree of predictability for applicants." That is not true. Ecology's "Buffer Alternative 3" is a system of variable buffer widths, the exact width of which is determined only by an expensive site specific analysis.

In the context of urban wetlands, and urban developments, Ecology's statement that the City's proposed buffers "do not represent widths that the science has shown will be protective of

wetlands' functions and values" is not well taken. That statement is arguably partially correct, only if the particular wetland in question has significant habitat value for fish and wildlife. That would be rare for the generally small, isolated pockets of wetlands typically found within the City of Gig Harbor. As Ecology acknowledges in its letter, in highly urbanized areas, smaller buffers are appropriate, because the major function and value of these wetlands is to deal with storm water run off. In urban areas, storm water run off is already dealt with and regulated by existing ordinances, so there is no impact, on the one hand, and on the other, no need for the functions and values of the wetland to deal with storm water run off. Therefore, smaller buffers are appropriate and scientifically justified.

9. GHMC § 18.08.120 Permitted Uses of Buffer Areas.

Our clients suggest that before the word "impacts," that the word "significant" be added.

10. GHMC § 18.08.110 Streams, Subsection on Stream Buffers.

This section requires that degraded buffers shall be enhanced. In this regard, please see our comments to Items 1 and 2, above. The 200 foot proposed buffer for Type 1 is excessive, in the range of 35 to 50 feet beyond what other local jurisdictions have imposed. The Mayor and City Council should understand that 80 to 90 percent of the benefits of the stream buffer will be achieved between 100 to 150 feet from the river or creek. See Staff Analysis, "Stream Buffer Comparison Gig Harbor CAO dated November 4, 2004. Our clients also recommend that no building set back from the edge of the stream buffer be imposed. The City already has in place existing regulatory standards, in particular, storm water regulation, and best management practice to deal with construction impacts. These ordinances and practices combined with the proposed increases in buffer width are more than sufficient to protect stream functions and values.

11. GHMC § 18.08.110(A)(2)(d), Buffer width Averaging.

In this section, buffer averaging is allowed for Category I and II wetlands, but not for Category III wetlands, because the 50-foot minimum is the same as the 50-foot standard buffer. Further, the section is unclear as to whether the buffer averaging would be allowed for Category IV wetlands. This needs to be clarified. There is insufficient reason to disallow buffer averaging for less important wetlands.

12. GHMC § 18.08-Critical Fish and Wildlife Habitat Areas.

What constitutes a Fish and Wildlife Conservation Area is not defined by the GMA. Before proceeding, the City should seek legal counsel to answer many basic policy and legal questions, including whether common species are to be protected. See Mackie, *Unwritten Rules and Unfinished Business--The Legislature Needs to Revisit The GMA and Best Available Science*, "Growth Management in Washington," CLE, Seattle, November 15-16, 2004, pp 25-40.

Overall, our clients believe that the City's suggested new standards for designating Fish and Wildlife Conservation Areas, and regulating uses and activities thereon, up to 200 feet from designated areas, and associated buffers, is a huge increase in regulation from that undertaken by the existing ordinance. Our clients respectfully request that the City carefully consider these comments and determine if significant new regulation at a local level is really required or necessary within Gig Harbor to protect species which are neither threatened nor endangered wildlife habitat or not truly locally important or unique. At a minimum, the existing draft is very complicated and over inclusive. As one reputable land use attorney has observed:

The thesis of this paper is that the best available science requirements and particularly those pertaining to undefined "functions and values" and "fish and wildlife habitat conservation areas" have become a regulatory waste basket in which resource agencies and the Department of Community Trade and Economic Development are pushing habitat restoration and recommending draconian measures to achieve the result--measures allegedly supported by best available science.

But the measures are supported by science, only if the Legislature in fact intended to protect common as well as threatened and endangered species and species of local importance; only if the Legislature intended local communities to mandate restoration models, regardless of the local property owner's contribution to a particular problem; and only if the Legislature intended the GMA to mandate the creation of large bands of nonconforming uses throughout the built and actively used areas of the community. Such intent was clearly not present at the time the GMA was created and such intent will not likely pass constitutional or statutory muster as local governments seek to enforce the requirements.

Mackie, supra.

Subsection F, page 23 of the October 28, 2004 draft of the proposed revisions to the existing Critical Area Ordinance addresses anadromous fish. The stated standards are excessive and duplicative of existing laws. First, in its critical areas ordinance, the City is not to use its Growth Management Act Ordinance to regulate areas and activities that are subject to the Shoreline Management Act. RCW 36.70A.480(4). Second, the State Hydraulic Code already imposes timing and other regulations to protect fish and fish habitat in fresh and saltwater bodies. Third, if the City decides to address fish and wildlife habitat, it should impose a "significant" degrade and "no net loss to significant functions and values" regulatory standard.

Gig Harbor should be concerned with protecting only threatened and endangered species and species truly of local importance. The CTED minimum guidelines support this approach:

- (a) Fish and wildlife habitat conservation areas include:
 - (i) Areas with which endangered, threatened, sensitive species have a primary association;
 - (ii) Habitats and species of local importance;
 - (iii) Commercial and recreational shellfish areas;
 - (iv) Kelp and eelgrass beds; herring and smelt spawning areas;

WAC 365-190-080(5).

This language suggests that where common species range freely throughout the region, and where the risk of isolated populations have been identified as a need to create additional protections for species of local importance, local governments need not limit development activity that is otherwise on or near a Fish and Wildlife Construction critical area, whatever that may be.

The CTED guidelines do not require "maintaining all individuals of all species at all times... ." WAC 365-190-080(5). The GMA has made all rural areas of Pierce County off limits to urban development. The rural areas are the lands designated to provide critical fish and wildlife habitat, not urban Gig Harbor. Thank you for your attention to these comments.

Very truly yours,

Davis Wright Tremaine LLP



Dennis D. Reynolds

cc: Steve Osguthorpe, AICP, Planning and Community Development
Diane Gagnon, Planning and Community Development

MEMORANDUM



ADOLFSON

DATE: December 13, 2004
TO: Owen Dennison, AHBL Engineering
FROM: Teresa Vanderburg, Director of Natural Sciences *Environmental Solutions*
CC: John Vodopich, Community Development Director, Gig Harbor
RE: Response to Ecology Comments, Review of Draft Critical Areas Ordinance

Adolfson Associates, Inc. (Adolfson) is pleased to provide this technical memorandum to provide scientific information to the City of Gig Harbor in response to comments from the Washington State Department of Ecology (Ecology). The City sent its draft critical areas ordinance to Ecology for review. This memorandum provides the scientific basis for wetland protection measures outlined in the City's proposed critical areas ordinance and offers revisions to the code based on Ecology's comments. Additional information available for the Council is provided in a separate technical memorandum prepared by Adolfson documenting best available science as it pertains to wetlands, streams, and fish and wildlife habitat conservation areas (Adolfson, June 2004).

A letter from Ms. Gretchen Lux, Wetland Specialist for the Shorelands and Environmental Assistance Program of Ecology was received on November 22, 2004. The letter states that Ecology is concerned that "use of an outdated [wetland] rating system, combined with the proposed buffers and compensation ratios do not adequately include the best available science and will fail to protect wetland functions and values in the City." However, Ecology's comments did not further address the compensation, or mitigation, ratios proposed in the draft wetland regulations. Ms. Lux's letter did comment on: 1) wetland ratings; 2) exemptions for small wetlands of 2,500 square feet; and 3) proposed wetland buffers. This memorandum addresses these three areas of concern.

1. Consider use of Ecology's four-tiered wetland rating system.

The Washington State Department of Ecology recommends that a four-tiered wetland rating system be used to "rank" wetlands from high to low function and value. Ecology released a public review draft of a new wetland rating system for western Washington in April 2004. This rating system, outlined in the *Washington State Wetland Rating System for Western Washington*, was subsequently finalized in August of 2004. Adolfson agrees with this comment and has recommended use of the new state system in Gig Harbor due to the diversity of wetland types that are likely located in the City. We had previously recommended the older state wetland rating system (Ecology 1993), which is recommended in the Washington State Department of Community, Trade and Economic

Development (CTED) *Example Code Provisions for Designating and Protecting Critical Areas* (2003). The City's draft code has been revised to include the new state rating system.

2. Exemptions for hydrologically isolated wetland less than 2,500 square feet are not supported by best available science.

Ms. Lux states in her comment letter that placing a threshold on wetlands to be regulated in the City's proposed ordinance based upon size alone is not supported by best available science. Adolfson agrees with this concept from a scientific basis and recommends that the exemption be limited to the City's lowest value wetlands (Category IV) and be limited to wetlands less than 1,000 square feet in area. While it is recognized that small wetlands may provide functions and values, we recommend that the exemption be based upon both small size *and* category. The City desires to focus its protection measures on wetlands larger than 1,000 square feet and minimize permit processing for its smallest, lowest value wetland areas. Adolfson and city staff do not believe that significant wetland functions and values will be lost across the city landscape with this exemption in place, as amended.

3. Wetland buffers widths are inadequate to protect wetland functions and values.

Ms. Lux has commented that wetland buffers should be increased to the range of widths recommended by Ecology in their statewide guidelines. Ecology in its draft best available science review for freshwater wetlands has recommended a range of buffer widths from 50 to 300 feet or more, depending upon the function to be protected (Sheldon et al., 2003). Ms. Lux's review letter states that "...For buffer widths based only on wetland category, the best available science calls for buffers of 300 feet for Category I and II wetlands, and 150 and 50 feet, respectively, for Category III and IV wetlands." The Ecology recommendations outlined in *Freshwater Wetlands in Washington State, Volume 2: Guidance for Protecting and Managing Wetlands* (Ecology, Draft, August 2004) state that three parameters should be considered in determining a wetland buffer width: 1) wetland category, 2) the intensity of land use, and 3) the functions that the wetland provides. Generally, all land uses within an urban growth area such as Gig Harbor would be considered "high intensity" land uses according to the definitions in the Ecology document.

Using Buffer Alternative 3 in this document, the range of buffer widths recommended to protect wetlands from high intensity land uses are: Category I (100 – 300 feet), Category II (100 – 300 feet), Category III (80 – 150 feet) and Category IV (25 – 50 feet). According to the scientific literature, larger buffer widths are recommended to protect buffer functions related to wildlife habitat and water quality improvement. While the Ecology statewide recommended buffers are wider than those proposed for Gig Harbor, the City's proposed wetland buffers fall within the range of best available science as

described in Ecology's best available science review and the City's best available science report (Adolfson 2004).

The City's proposed wetland buffers range from 200 feet (Category I wetlands) to 25 feet (Category IV wetlands). In its final recommendations, the Planning Commission modified Category III and IV wetland buffers. The wetland buffers recommended lie within the range of the best available science for protection of wetland resources, albeit at the low end. The buffer recommendations by Adolfson and city staff have been tailored to the existing conditions in the City of Gig Harbor in recognition of its urbanizing character and landscape setting. Use of larger buffers on wetlands in many areas of the City could result in buffers that include existing infrastructure (e.g., roads, buildings, and parking lots); these are not anticipated to provide actual habitat or buffer functions. According to the scientific literature, larger buffers (e.g., 100 feet or more) are warranted on wetlands that provide significant habitat for wildlife or that lie on steeper slopes. The proposed CAO includes a section of code that requires increased wetland buffer widths based upon the recommendations of a qualified wetland specialist and the best available science to protect wetland resources when:

- a. *A larger buffer is necessary to maintain viable populations of existing species, or*
- b. *The wetland is used by species listed by the federal government or the state as endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding potential sites such as heron rookeries or raptor nesting areas, or*
- c. *The adjacent land is susceptible to severe erosion and erosion control measures will not effectively present adverse wetland impact, or*
- d. *The adjacent land has minimum vegetative cover or slopes greater than 15 percent.*

Adolfson recommends that use of the increased wetland buffer section of the proposed CAO will protect wetland resources in the City where larger buffers may be warranted. According to the science, these larger buffers would specifically apply to large undeveloped forested areas, such as Gig Harbor North, should any of the above criteria related to wildlife, soils or slopes be present.

The City should be aware that the wetland exemption provision, wetland buffer widths proposed, and wetland buffer reduction policies may be considered a departure from Ecology's recommendations and should be documented as a departure in the City's Findings of Fact. The City and Adolfson believe that the proposed critical areas ordinance, including the updates to the wetland regulations, will protect overall wetland functions and values in the City as required under the Growth Management Act. Risks to wildlife habitat and water quality functions of wetland buffers are offset by the provisions for larger buffers on a case-by-case basis, the protection of critical fish and wildlife habitat areas in the City, and updates to the City's stormwater management regulations.

References Cited

Adolfson Associates, Inc., 2004. Best Available Science Technical Memorandum, Gig Harbor, Washington.

Sheldon et al. 2003. Draft *Washington State Department of Ecology Freshwater Wetlands in Washington State - Volume 1: A Synthesis of the Science*.

Washington State Department of Ecology. 1993. *Washington State Wetlands Rating System - Western Washington*. Washington Department of Ecology, Olympia, Publ. #93-74.

Washington State Office of Community Development (OCD). 2002. *Citations for Recommended Sources of Best Available Science for Designating and Protecting Critical Areas*. Olympia, Washington.

Washington State Department of Community, Trade and Economic Development (CTED). 2003. *Critical Areas Assistance Handbook - Protecting Critical Areas Within the Framework of the Washington Growth Management Act*. Olympia, Washington.

Residential Density and Minimum Lot Size
 Comparative Matrix – Various Jurisdictions
 December 13, 2004
 AHBL, Inc.

Jurisdiction	Zone	Maximum Density	Minimum Lot Area (in square feet)
King County	R-4	4 units per gross acre (up to 6 with density incentives)	No minimum*
Renton	R-5	5 units per net acre	7,200 (4,500 with clustering)
Milton	RS	5 units per gross acre for single family 6 units per acre for duplex	8,000: single family 9,600: SF with accessory unit 12,000: Duplex
Sammamish	R-4	4 units per gross acre	No minimum*
Dupont	R-4	4.5 units per gross acre	No minimum*
Mill Creek	LDR	4 units per acre gross	8,400
Edmonds	RS-12	3.7 units per gross	12,000

* Required to meet setbacks and other dimensional standards such as lot width and depth

December 13, 2004

City of Gig Harbor
Planning Department
Attn: Rob White
3510 Grandview St
Gig Harbor, WA 98335

Dear Mr. White,

After considering your last email suggesting I need to give the city an easement over the entire plaza area of my development, I spent some time reviewing the hearings examiner decision and staff recommendations of my development at 9014 Peacock Hill Ave. I found the following applicable sections:

Planning and Building Department Report to the Hearings Examiner
SPR 01-02/SPD 01-01/DRB 01-06

Findings Shoreline Substantial Development Permit, Page 9 item 2. "If required design manual common area space, (1200 sq/ft) and required SDP public viewing platform space are required separately, total common area plus public viewing platform space equal 1300 sq/ft. It is staffs opinion that City's Master Shoreline Program was intended to create small public spaces before the design manual was created. With this in mind, it would be appropriate to allow 100 sq/ft of Design Manual Common Area to apply to the area requirements for a public viewing platform. A total of 1200 sq/ft of common area should be provided, **100 sq/ft of which would be a public viewing platform that meets the requirements of both common areas and public viewing platforms.**"

Hearings Examiner
Findings, Conclusions and Decision, June 25, 2001

Decision, Page 5 item 6. "Design manual common area requirements may be applied toward the area requirements for a public viewing platform, except that the public viewing platform must be designed in such a way as to meet the requirements of both the Design Manual and the Shoreline Master Program. Based on the current proposal, the total common area and the shoreline viewing platforms will be approximately twelve hundred (1,200) square feet in size."

Upon your final inspection of the project, you informed me that the Shoreline Master Program required a formal easement to be recorded for the associated viewing area. That area, as defined in you own findings, is 100 sq/ft. I provided a description of an easement that more than fulfills the hearings examiners requirement, with more than 250 sq/ft of area, in order to assure that access via the main stair entry was included in addition to a 100 sq/ft viewing area. Now it appears to me that you are trying to interpret item #6 of the hearings examiner decision to mean


that the Shoreline viewing platform is the entire 1200 sq/ft of common area required by the design manual. Clearly, the examiners intent was to accept staff recommendation that the 100 sq/ft platform could be included in the design common area as long as it met both requirements, and that the total of these areas is 1200 sq/ft (as opposed to 1300). The easement requirement is specific to the Shoreline Master Program; I am not aware of any city regulation requiring buildings to provide public easements to all common building areas. Therefore, I believe your suggestion that the whole plaza common area must be included in the easement is erroneous.

Rob, as you know, I have always envisioned the plaza as a very public area, one which I hope the local community will use and enjoy. However, we also discussed how the businesses within the building would be able to use the common area, especially if a small café or coffee shop opened. It is not my intention to exclude the public from the plaza area; indeed it would be virtually impossible. However, I am not willing to give up my private property rights unless required to do so by law. Extending the easement to the entire patio area would amount to confiscation of my private property without compensation and is not required by current laws or regulations.

I have now submitted this easement agreement to the city several times. We changed the first submittal to meet every demand of the city attorney, but that has now come back with additional demands. I have already spent over \$1000 in survey and attorney fees on this; a ridiculous amount for what should be a simple matter. This constantly moving target is a waste of time and money.

If we cannot find agreement on this I will bring this matter before the city council.

Sincerely,


Stephen Luengen
10221 Rosedale Bay Ct.
Gig Harbor, WA 98335
Ph. 253 225-0225

CC: Mayor Gretchen Wilbert
Councilmember John Picinich
Councilmember Derek Young
Councilmember Frank Ruffo
Councilmember Steve Ekberg
Councilmember Jim Franich
Councilmember Bob Dick
Councilmember Paul Conan
Attorney Steve Brown

MEMORANDUM

December 13, 2004

To: Council members: Steve Ekberg, City of Gig Harbor
Robert Dick, City of Gig Harbor

Cc: Mayor Gretchen Wilbert, City of Gig Harbor

From: Marilyn Owel, Citizen, Gig Harbor

RE: Planning Commission Recommendations - Wetland Buffer Zones

Greetings! *Gretchen,*

I have reviewed the Planning Commission's findings and I'm concerned. They are too narrow. They are far less restrictive than either the county or the state recommends, and the Planning Commission does not offer a rationale for that. In addition, the Planning Commission recommendations do not reflect the state's recommendation of Best Available Science as defined in RCW 36.70A.172.

Question: Does the City of Gig Harbor really want to be less restrictive than the county and the state as regards buffers for sensitive areas? I don't see the sense in that. Gig Harbor is a much higher intensity use and if anything, the buffers should be wider in a higher intensity use, not narrower.

I don't think the City is well served by the small buffers as recommended by the Planning Commission. The Planning Commission has set the buffers at the very lowest width, not taking into account surrounding usage intensity. That is simply unacceptable. A City environment by definition, is a higher intensity usage and the buffers should be set for the higher intensity usage. That seems to me to be the better environmental wisdom. After all, if set at a higher width, if usage changes, or if the higher width is inappropriate to the developed reality, the buffers can always be scaled back. If one starts at the bottom and stays there, there is no second chance to get it right.

I respectfully request that council amend the Planning Commission recommendations to reflect the Department of Ecology's Alternative 3 wetland buffer recommendations, which recognize surrounding high, moderate, and low intensity usage, as follows:

Category	High	Moderate	Low
1	300	250	200
2	200	150	100
3	100	75	50
4	50	35	35

(Note: Gig Harbor PC's recommendations are identical to the LOW category for all wetland buffers, not taking into account the differing intensities.)

Thank you for your consideration and, as always, the fine job you do for Gig Harbor Citizens.

Marilyn
Marilyn Owel
(253) 858-3481

RETRO

Are you receiving any refunds on your quarterly workers' comp premiums? Why not?

Savvy Washington employers recognize the importance of managing an efficient and proactive workers' compensation program. They are always on the lookout for ways to improve performance and reduce costs to themselves and their employees.

training and other safety needs, assistance with **return to work programs**, access to an **internet-based risk, health, and safety service** and a **risk management services** unsurpassed for State Fund employers..

How Much Can I Save?

On average retro refunds have been between 20 -25% - consistently, every year; however, the savings in program benefits and resources far exceed your refund. Below is a list of AWC features:

ASSOCIATION OF
WASHINGTON
CITIES

Evaluating The Value of Retro

Why Group Retro?

Group Retro programs are approved through the Department of Labor & Industries and provide employers an opportunity to receive refunds on your workers' compensation premiums. By joining the AWC Group Retro, you participate in a pool of "like" businesses which allows you to spread your risk and benefit from regular refunds.

Help is on the Way

Participation in AWC opens the doors to progressive resources. You benefit from **experienced claims representatives** overseeing your on-the-job injuries and illnesses, **experienced safety professionals** assisting you with accident prevention program development,

Win-Win Program

Refunds for AWC are merit based. What that means is the better your group performs and the better your individual performance is - the larger your refund. Minimally, all participants receive their service fees back during the refund distribution process.

It's More than a Refund

AWC is about **lowering your experience factor** by reducing the frequency and severity of accidents. It's about smart claims management and educating you and your staff on risk, health, and safety issues affecting your premium costs. AWC is all about partnering with Washington employers to create an efficient and safe-smart workplace.

- Pooled Risk
- Avg Refund of 25-35%
- Merit-Based Refunds
- Professional Claims Management
- On-line claims access
- Proven, Return to Work Program
- 24 Hour Web-Access Risk, Health, and Safety Training and Information
- Risk Management
- No Hidden Costs

RETRO



**ASSOCIATION OF
WASHINGTON CITIES**

A Smooth Transition for Your Program

Joining a Retro program need not be difficult or confusing - as long as you are working with the right professionals.

The measure of the right group retro association is the amount of work and time you spend enrolling in the program, managing the claims, and tracking the information. At AWC, we take responsibility for your enrollment and also give you the tools to manage your program efficiently and easily.

Implementation Procedures

We have streamlined the implementation process for new AWC members. You are provided the documents needed for participation, we collect the required information to add your program to the account tracking system, and we send you an "operator's manual" to get your program started in the right direction.

- Complete Membership Application
- Complete Retro Agreement with L&I
- Order Current Claims History
- Client Profile Completed
- TPA's Database Updated
- Introductory Materials Sent
- Personal Contact from

Program Information Schedule

It is easy to feel overwhelmed by the information required and the reports provided by the Department of Labor & Industries. At AWC, we send you only relevant information to manage your program effectively. We ensure the data you receive is accurate and belongs to you, if it doesn't, we will work on your behalf to correct any reporting errors.

- Introductory Manual
- Claims History at Start of Program
- Composite Claims History - Monthly
- Composite Claims History for Open Plan Years - Monthly
- Composite Claims History for Entire Claims History - Annually
- Proposed Rate Notice with Experience Modification Calculation - October/November

We pledge to communicate with you from the sales process all the way to implementation and answer any questions you may have about AWC and your participation.

RETRO

Savvy Washington employers recognize the importance of managing an efficient and proactive workers' compensation program. They are always on the lookout for ways to improve performance and reduce costs to themselves and their employees.

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- Proven, Return to Work Program
- 24 Hour Web-Access Risk, Health, and Safety Training and Information
- Risk Management
- No Hidden Costs

*This is a win-win-win program
for all participants.*



**ASSOCIATION OF
WASHINGTON CITIES**

A Track Record of **Teamwork** and Success

Cities Participants

Bainbridge Island
Blaine
Brewster
Buckley
Burlington
Burien
Camas
Cashmere
Chelan
Clarkston
Clyde Hill
Concrete
Cosmopolis
Coulee City
Coulee Dam
Creston
Dayton
Des Moines
DuPont
Duvall
Edmonds
Enumclaw

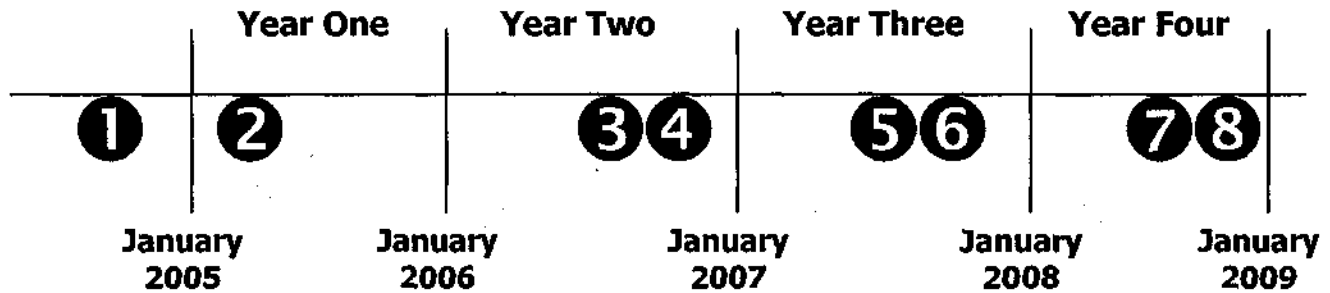
Forks
Friday Harbor
Goldendale
Grand Coulee
Grandview
Issaquah
Kalama
Lacey
Marysville
Mercer Island
Mill Creek
Morton
Moses Lake
Napavine
Odessa
Okanogan
Omak
Othello
Pasco
Port Orchard
Pullman

Shelton
Shoreline
Snohomish
Snoqualmie
South Bend
Steilacoom
Sumas
Toledo
Toppenish
Tumwater
University Place
Washougal
Westport
White Salmon
Wilbur
Winlock
Woodland
Woodway
Yelm



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Retro Rating Timeline



- ① December 2004 - Deadline for signed enrollment (Staggered enrollment can occur on a quarter)
- Year One**
- ② January 2005 - Enrollment Date (April, June, October)
- Year Two**
- ③ October 2006 - Year One 1st Adjustment - includes refund on service fees
- ④ December 2006 - Refund distributed
- Year Three**
- ⑤ October 2007 - Year One 2nd Adjustment and Year Two 1st Adjustment - refund on service fees
- ⑥ December 2007 - Refund distributed
- Year Four**
- ⑦ October 2008 - Year One 3rd Adjustment - final adjustment - return hold back, Year Two 2nd Adjustment and Year Three 1st Adjustment - refund on service fees
- ⑧ December 2008 - Refund distributed

Refund (Assessment) = Claims Dollars/Premium Dollars
 A refund is not guaranteed, depending on developed losses, an assessment may apply.



**Participation in Retro really does pay off.
 Hundreds of employers have been receiving refunds.**

The refund potential of this retro program is performance driven. The better you perform the greater your refund. It's that simple.

REFUND WORKSHEET FOR THE 1998 RETRO YEAR
 AS OF FIRST ADJUSTMENT - 12/16/99

RETRO REFUND EXAMPLE

	STD	DEV'L	LOSS	SERVICE	PERFORM.	TOTAL	%	25%	FIRST
NAME	PREM	LOSSES	RATIO	FEE	REFUND	REFUND	REFUND	HOLDBACK	REFUND
1	2,213	0	0%	276	813	1,089	49.2%	203	886
2	22,578	224	1%	2,530	8,229	10,759	47.7%	2,057	8,702
3	4,853	98	2%	559	1,754	2,313	47.7%	438	1,874
4	1,009	0	0%	105	371	476	47.2%	93	383
5	1,128	0	0%	111	415	526	46.6%	104	422
6	5,678	0	0%	557	2,087	2,644	46.6%	522	2,122
7	43,284	694	2%	4,316	15,696	20,012	46.2%	3,924	16,088
8	1,055	0	0%	99	388	487	46.1%	97	390

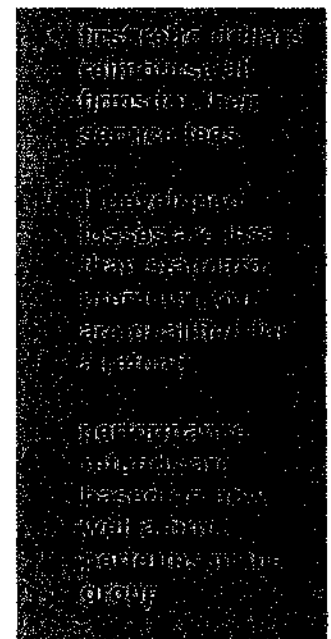
Sample Report

65	12,142	10,942	90%	880	1,093	1,973	16.2%	273	1,699
66	39,373	71,737	182%	4,047	0	4,047	6.5%	0	4,047
67	167,421	237,353	142%	16,733	0	16,733	6.5%	0	16,733
68	168,821	259,252	154%	16,734	0	16,734	6.5%	0	16,734
69	31,748	70,345	222%	2,960	0	2,960	6.5%	0	2,960
70	40,915	76,893	188%	3,527	0	3,527	6.5%	0	3,527
71	25,699	62,917	323%	1,974	0	1,974	6.5%	0	1,974
72	156,558	275,903	176%	11,769	0	11,769	6.5%	0	11,769
73	38,841	50,901	131%	2,909	0	2,909	6.5%	0	2,909
74	46,496	238,233	512%	3,406	0	3,406	6.5%	0	3,406
75	13,743	234,506	1706%	1,005	0	1,005	6.5%	0	1,005
###	5,011,121	89%	446,969	970,485	1,417,454	25.2%	242,621	1,174,832	

*First dollars to come back go to reimburse all firms for their service fee, regardless of performance.
 If developed losses are less than standard premium then firm qualifies for a performance refund.
 Performance refunds are based on how well firms performed within the group.*

**Retro service fees are
 a return on your investment.**

Nominal service fee is 6.5%.
 As your experience improves, your fees reduce in proportion.



EXPERIENCE MODIFICATION FACTOR IMPACT "Out of Experience Window"

The
Calendar year:

2005

Is affected by the following
three-year claims window:

7/1/00 - 6/30/01

7/1/01 - 6/30/02

7/1/02 - 6/30/03

Note:

The 2005 experience factor calculation was performed on June 1, 2004. The factor will apply to the 2005 calendar year. After the calculation date of June 1, 2004 any claim with a date of injury prior to 7/1/00 no longer has a financial impact on your premium. As of June 2, 2004 any claim document received with a date of injury prior to 7/1/00 will be stamped "Out of Experience Window" and returned to you.

There may be situations where you wish to continue administering a claim that is "out of experience window". In this case please inform your claims broker on either that you want to continue administering the claim and we will be happy to assist you.

EXPERIENCE MODIFICATION FACTOR IMPACT

The
Calendar year:

Is affected by the following
three-year claims window:

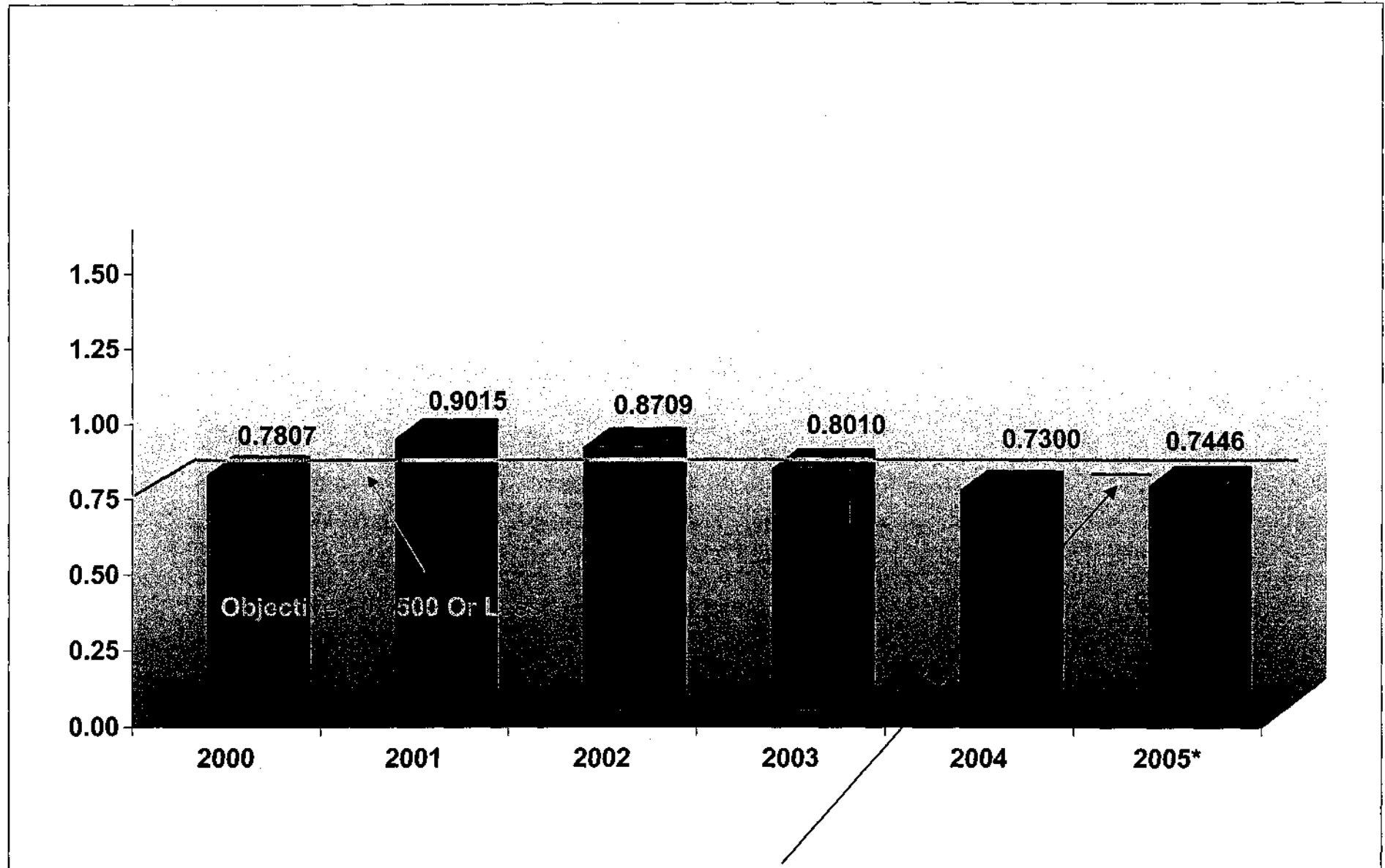
2003	7/1/98 - 6/30/01
2004	7/1/99 - 6/30/02
2005	7/1/00 - 6/30/03
2006	7/1/01 - 6/30/04
2007	7/1/02 - 6/30/05

Note:

The calculation is a comparison of your claims costs and work-hours to others reporting in the same risk class, within the State of Washington, over a three-year rolling window. The primary components in the calculation are work-hours and claims cost, so an increase or decrease in either will impact your factor.

The calculation is performed on June 1st of each year with the factor applying to the full calendar year. The claims costs used in the calculation for the 2003 calendar year were the costs during the books as of June 1, 2004. Therefore, after the calendar year ends, you will have a claim with a date of injury prior to 7/1/00, but not yet in a calendar year.

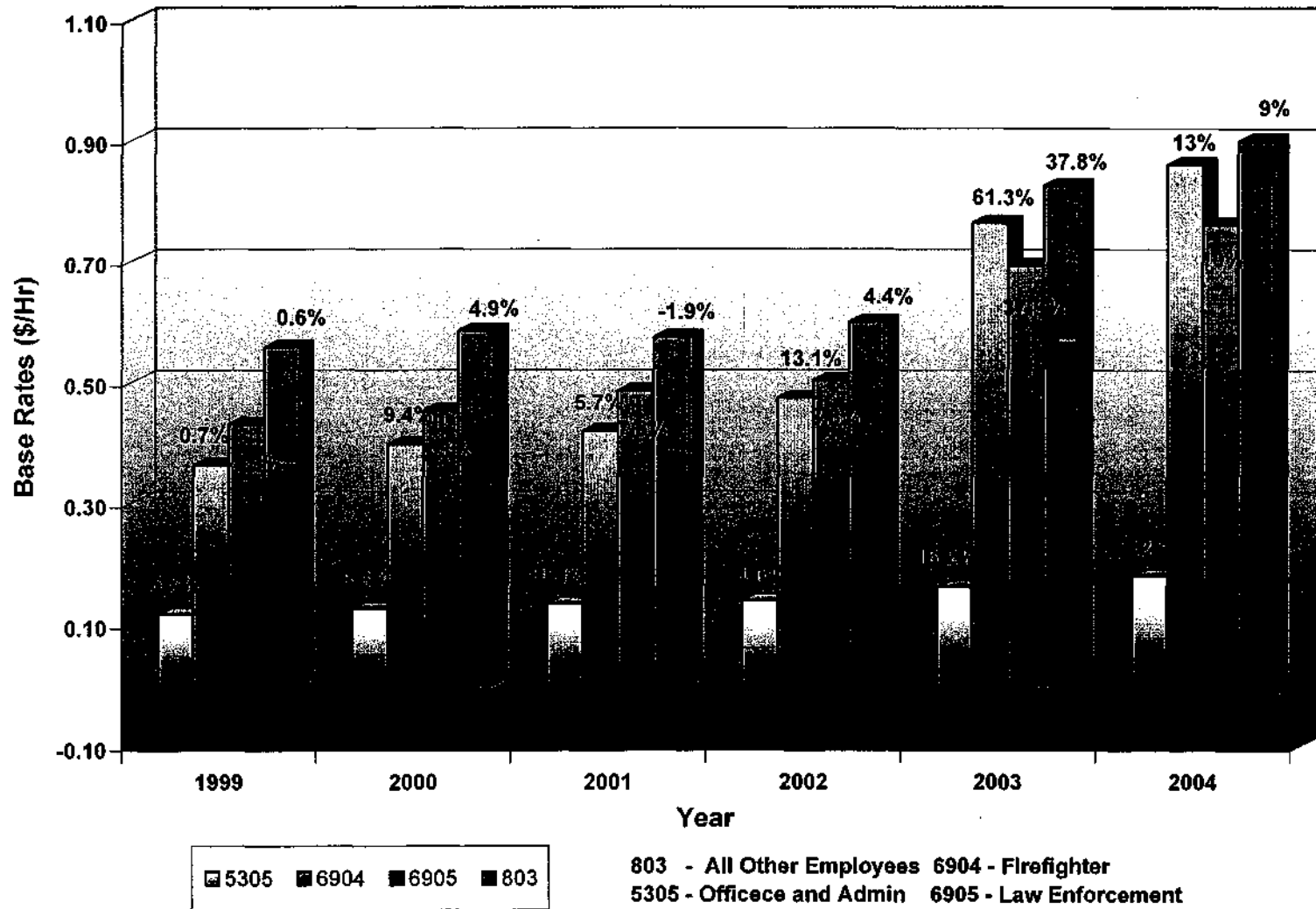
City of Gig Harbor Experience Modification Factor History



NOTE: Annual premium exceeds our program objective by \$ (364)

(* Proposed Experience Factor Rate)

Base Rate Year Over Year Percentage Change



FIRM UBI POLICY EFFECTIVE
154280 273000606 00064425 01/01/2005

REFLECTS INFORMATION AS OF JUNE 1, 2004 AND MAY NOT INCLUDE UPDATES AFTER THAT DATE.

EXPECTED LOSS SUMMARY						
CLASS	FISCAL YEAR	EMPLOYEE UNITS	EXPECTED LOSS RATE	EXPECTED LOSSES	DISCOUNT RATIO	EXPECTED PRIMARY LOSSES
0803	2001	46,110	.4572	21,081	.5850	12,332
0803	2002	50,374	.4377	22,049	.5850	12,899
0803	2003	54,984	.3924	21,576	.5850	12,622
CLASS TOTAL		151,468		64,706		37,853
5305	2001	44,683	.0529	2,364	.6620	1,565
5305	2002	43,864	.0511	2,241	.6620	1,484
5305	2003	48,992	.0471	2,308	.6620	1,528
CLASS TOTAL		137,539		6,913		4,577
6905	2001	21,777	.3624	7,892	.6280	4,956
6905	2002	23,085	.3480	8,034	.6280	5,045
6905	2003	22,976	.3145	7,226	.6280	4,538
CLASS TOTAL		67,838		23,152		14,539

ACTUAL LOSS SUMMARY						
FISCAL YEAR	CLASS	CLAIM NO.	TYPE EST	LOSS AMT	ACTUAL LOSSES INCURRED	PRIMARY
2001	0803	X571719	8		112	112
2001	0803	X806618	8		153	153
2001	0803	Y228012	8		245	245
2001	5305	N949283	6		502	502
2001	5305	X049107	8		875	875
2001	5305	X571762	8		166	166
2001	6905	X817193	8		83	83
TOTAL					2,136	2,136
2002	0803	Y204913	8		364	364
2002	0803	Y228052	8		233	233
2002	0803	Y228116	8		352	352
2002	0803	Y328390	8		585	585
2002	0803	Y551084	8		136	136
2002	0803	Y575214	8		904	904
2002	0803	Y575837	8		397	397
2002	6905	Y290949	8		935	935
2002	6905	Y575504	6		4,711	4,711
TOTAL					8,617	8,617
2003	0803	Y333830	8		1,017	1,017
2003	0803	Y333944	8		693	693
2003	6905	Y292152	6	E	4,631	4,631
2003	6905	Y534121	8		298	298
TOTAL					6,639	6,639

GRAND TOTALS	EXCESS LOSSES	WEIGHT	TOTAL LOSSES	PRIMARY LOSSES
EXPECTED	37,802	.9100	94,771	56,969
ACTUAL	0	.0900	17,392	17,392
WGTD AVG	34.400			

ACTIVE CLASS RATE DEVELOPMENT					EXPERIENCE FACTOR	
CLASS	0803	5305	6901	6905	EXPECTED CHARGES	ACTUAL CHARGES
ACCIDENT FUND BASE RATE	.4821	.0488	.0000	.3915	56,969	17,392
ACCIDENT FUND EXPERIENCE RATE	.3589	.0364	.0000	.2915	37,802	34,400
MEDICAL AID BASE RATE	.3694	.0523	.0733	.2870	94,771	51,792
MEDICAL AID EXPERIENCE RATE	.2751	.0389	.0546	.2137	73,504	73,504
SUPPLEMENTAL PENSION RATE	.0742	.0742	.0000	.0742	168,275	125,296
COMPOSITE RATE	.7082	.1495	.0546	.5794		
					COMPUTED	.7446
					ADJUSTED	.7446
					MEDICAL CAP	NA
					PREVIOUS	.7300

STATE OF WASHINGTON
DEPARTMENT OF LABOR & INDUSTRIES

RUN DATE: 11/02/04

RUN TIME: 09:31:27

REPORT ID - PROPOSED RATE NOTICE INFORMATION

JOB/PROGRAM/REPORT NO: X1221235/PERCRP01
EMPLOYER UBI/NAME: 273000606 CITY OF GIG HARBOR
EMPLOYER ACCOUNT: 154,280-00 POLICY ID: 00064425
RATING YEAR: 2005

RISK CLASS DESCRIPTION	EXPERIENCE FACTOR	ACCIDENT FUND	MED AID FUND	SUPP PENSION	YOUR RATE	PAYROLL DEDUCTION
	EF	X (AF	+ MA)	+ SP	=	
0803 CITIES & TOWNS ALL OPERATIONS	0.7446	0.4821	0.3694	0.0742	0.7082	0.17465
5305 CITIES/TOWNS: ADMIN/CL OFFICE	0.7446	0.0488	0.0523	0.0742	0.1495	0.05655
6901 VOLUNTEERS-EXCL LAW ENF OFFCRS	0.7446	0.0000	0.0733	0.0000	0.0546	0.00000
6905 CITIES/TOWNS LAW ENFORC OFFCR	0.7446	0.3915	0.2870	0.0742	0.5794	0.14395

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Developed Loss Ratio/Estimated Refund

City of Gig Harbor

FISCAL YEAR (7/1-6/30)	STANDARD PREMIUM	DEVELOPED* LOSSES	DEVELOPED LOSS RATIO
2000	\$ 21,500	\$ 1,589	7.4%
2001	\$ 27,800	\$ 15,834	57.0%
2002	\$ 31,700	\$ 29,754	93.9%
TOTALS	\$ 81,000	\$ 47,177	58.2%

* Developed Losses are approximately incurred losses X 2. Used to protect L&I from overrefunding.

Your Estimated Historical Performance @ 25% Group Refund:

FISCAL YEAR	STANDARD PREMIUM	DEVELOPED LOSSES	ESTIMATED REFUND
2000	\$ 21,500	\$ 1,589	\$ 8,600
2001	\$ 27,800	\$ 15,834	\$ 9,700
2002	\$ 31,700	\$ 29,754	\$ 7,900
TOTALS	\$ 81,000	\$ 47,177	\$ 26,200

* Developed losses exceeded Standard Premium. Refund limited to service fee.

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2005 PREMIUM PROJECTION

City of Gig Harbor

BASED UPON:

2002/03 WORK HOURS

2005 PROPOSED RATES APPLIED TO

2005 PROPOSED EXPERIENCE MODIFICATION FACTOR OF:

0.7446

CLASS	WORK HOURS	ACCIDENT FUND		MEDICAL AID		MANUAL PREMIUM
		RATE	PREMIUM	RATE	PREMIUM	
0803	54,984	0.4821	\$26,508	0.3694	\$20,311	\$46,819
5305	48,992	0.0488	\$2,391	0.0523	\$2,562	\$4,953
6905	22,976	0.3915	\$8,995	0.2870	\$6,594	\$15,589

126,952

\$37,894

\$29,467

\$67,361

EXPERIENCE MODIFICATION IMPACT

(\$17,204)

STANDARD PREMIUM

\$50,157

SUPPLEMENTAL PENSION PREMIUM (AT 2005 PROPOSED RATE OF .0742)

\$9,420

TOTAL PREMIUM:

\$59,577

LESS EMPLOYEE PORTION:

1/2 MEDICAL AID

\$10,971

1/2 SUPPLEMENTAL PENSION

\$4,710

NET PREMIUM PAYABLE:

\$43,896

CLASS CODE DESCRIPTIONS:

0803 Cities & Towns All Operations
5305 Cities & Towns Admin
6905 Cities & Towns Law Enforcement

SOME NUMBERS MAY NOT BE EXACT DUE TO ROUNDING.

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Refund and Fee Example*

City of Gig Harbor

Estimated Refund

$$\text{\$ } 50,157 \text{ (L \& I Standard Premium) X } 25\% \text{ **} = \text{\$ } 12,539 \text{ **}$$

Less:

$$\text{Equity Retention @ 50\%***} \qquad \qquad \qquad 6,270$$

Service Fee****

$$\text{\$ } 59,577 \text{ (L \& I Total Premium) X } 6.5\% = \underline{\text{\$ } 3,873}$$

$$\text{Estimated Net Retro Year Refund} \qquad \qquad \qquad \underline{\underline{\text{\$ } 2,397}}$$

Standard Premium = (Accident Fund + Medical Aid Fund) X Experience Factor

Total Premium = Standard Premium + Supplemental Pension

* Returns are based on a number of factors, such as premium size, claim costs and related factors, therefore returns are not guaranteed.

** Based on L&I average for all retro participants.

*** Percent of refund retained to protect against possible assessment. Equity will be refunded once group has met equity requirements set by the advisory committee.

****Service fee is billed annually in advance