

# **Gig Harbor City Council Meeting**



**November 13, 2000  
7:00 p.m.**

**AGENDA FOR GIG HARBOR CITY COUNCIL MEETING**  
**November 13, 2000 - 7:00 p.m.**

**CALL TO ORDER:**

**SPECIAL PRESENTATION:** Special Olympics Award.

**PUBLIC HEARING:**

1. 2001 Proposed Budget Ordinance.
2. Second Amendment to Pre-Annexation Agreement for Gig Harbor North.

**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 Meetings of October 23, 2000.
2. Correspondence / Proclamations:
  - a) Commission on Children, Youth and Families.
  - b) Letter from Kamielle Wood - Sister City Program.
3. Liquor License Application (corrected): The Performance Circle
4. Liquor License Renewals: JT's Original BBQ Harborview Grocery  
Wasabi Japanese Restaurant
5. Approval of Payment of Bills for November 13, 2000:  
Checks #31170 through #31340 in the amount of \$639,630.07. Check #31182 voided.
6. Approval of Payroll for October, 2000:  
Checks # 397 through #449 in the amount of \$171,665.78.

**OLD BUSINESS:**

1. Recommendation from the Planning Commission and Staff - PUD/PRD.
2. Recommendation from the Planning Commission - Borgen Property.
3. Second Reading of Ordinance - Accepting Donation from Citizens Against Tolls.
4. Second Reading of Ordinance - 2001 Tax Levy Ordinance.
5. Second Reading of Ordinance - Franchise Agreement for Tacoma Power.
6. Second Reading of Ordinance - Amendments to GHMC Chapter 17.100 Amendments - Site Specific Rezones.

**NEW BUSINESS:**

1. First Reading of Ordinance - 2001 Proposed Budget.
2. First Reading of Ordinance - Water Service Application.
3. Burnham Drive Watermain Extension - Easement Agreements: City of Tacoma, Dept. of Public Utilities - Light Division.
4. Burnham Drive Watermain Extension - Webster Easement Amendment.
5. Second Amendment to Pre-Annexation Agreement for Gig Harbor North.
6. Consultant Services Contract - Shoreline Management Update.

**STAFF REPORTS:**

GHPD - October Stats.

**PUBLIC COMMENT:**

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

**ANNOUNCEMENT OF OTHER MEETINGS:**

**EXECUTIVE SESSION:** For the purpose of discussing pending and potential litigation per RCW 42.31.110(i).

**ADJOURN:**



to move forward with the preparation of the bid documents necessary for advertisement of the construction of the Civic Center.  
RF/JP - unanimously approved.

Mayor Wilbert asked for a five-minute recess to allow the architects to dismantle the display. The meeting resumed at 7:45 p.m.

2. Recommendation from the Planning Commission - PUD/PRD. John Vodopich, Planning Director, turned over the presentation to Patricia Iolavera, Planning Associate. Ms. Iolavera said that the Planning Commission had decided to re-open the public hearing to address minor issues that had emerged, which would result in changes to the draft ordinances in the packet. She gave a brief overview of the changes. Carol Morris, Legal Counsel, advised that if the administrative process changed to allow Council preliminary approval of a PRD or PUD applications, Council might also be holding the open record hearing on preliminary plat applications, as the applicant has the option to ask that they be heard together.

Councilmember Ruffo asked for direction on how other jurisdictions handle these cases. Ms. Iolavera suggested that Councilmembers review the notebook of information on PUDs/PRDs, which included ordinances from other communities used as models, as well as information from planning law books. Councilmember Dick said that he was appreciative of the effort to address both the developer's and the citizen's concerns.

**MOTION:** Move to schedule a public hearing on the updated draft ordinances at the Council Meeting of November 13, 2000.  
Owel/Ruffo - unanimously approved.

**NEW BUSINESS:**

1. First Reading of Ordinance - Accepting Donation from Citizens Against Tolls. David Rodenbach presented this ordinance accepting a donation from Citizens Against Tolls, in the amount of \$1,500, to contribute toward the expense of the city's appeal of the FEIS for the proposed second Narrows Bridge. He said that this would return at the next meeting for a second reading.

Don Williams - 7812 Olympic View Drive NW - Mr. Williams stated that he was a founding member of the non-profit corporation, Citizens Against Tolls, which has agreed to do what they can to help raise funds on behalf of the city.

2. First Reading of Ordinance - 2001 Tax Levy Ordinance. David Rodenbach explained that this ordinance sets the tax levy for 2001. He said that he would like to add a section to the ordinance reflecting the need of a limit factor provided by RCWs. He gave an overview of the increase over last year and payment of levy bonds. He spoke briefly about the effects of I-722, which would roll the levy back to the 1999 rate if passed. He answered questions and said that this would return at the next meeting for the second reading.

3. Resolution Providing Credit Against LID No. 99-1 Final Assessments for GHN Impact Fee Payments. David Rodenbach explained that the Impact Fee Ordinance allowed for credit of final LID assessments against impact fees, but it did not allow for credit of impact fees toward

LID assessments. He said that this resolution would allow the city to credit the transportation impact fees taken in the Gig Harbor North area toward the final assessment on the LID. Carol Morris answered questions on the propriety of having this action in resolution verses ordinance form.

**MOTION:** Move to adopt Resolution No. 561 as presented.  
Young/Picinich - unanimously approved.

4. First Reading of Ordinance - Franchise Agreement for Tacoma Power. David Skinner presented this ordinance for a franchise agreement with the City of Tacoma Power for transmission lines that cross the city's right-of-ways. Councilmember Dick asked if this would be an opportunity to facilitate the use of the trail in the City of Tacoma Power right-of-way. Both David Skinner and Carol Morris agreed that due to the extent of negotiations on this agreement, and the time constraints, that it would be best to address the trail use at a later date. This will return at the next meeting for a second reading.

Mayor Wilbert spoke briefly about the letter from the Rhododendron Society and their offer to place an arboretum on property owned by Tacoma Power at the top of Soundview.

5. First Reading of Ordinance - Amendments to GHMC Chapter 17.100 Amendments - Site Specific Rezones. John Vodopich, Planning Director, explained that Planning Staff, together with the City Attorney, were proposing amendments to the Municipal Code to clarify the criteria for approval of site-specific rezones consistent with recent Supreme Court decisions. He continued to say that other changes address inconsistencies between chapters regarding the approval process. He explained that the Planning Commission had held a public hearing on this issue, and in conjunction with staff, recommended approval of the ordinance at its second reading.

#### **STAFF REPORTS:**

1. GHPD - September Stats. No verbal report given.
2. Finance Department - Quarterly Report. David Rodenbach gave an overview of the report and answered questions.

#### **PUBLIC COMMENT:**

Donald Williams - 7812 Olympic View Drive NW - Mr. Williams spoke on the appeal filed by the City Council on the Narrows Bridge FEIS. He said that the appeal failed to address the economic impacts of the bridge and did not ask for relief for traffic issues within city limits and for the Haven of Rest traffic concerns. He asked that the appeal be amended to include these issues.

#### **COUNCIL COMMENTS / MAYORS REPORT:**

Brigade Change of Command - Colonel John Custer. Mayor Wilbert referred to the invitation to the Brigade Change of Command Ceremony at which Colonel John Custer would relinquish command to LTC (P) William M. Caniano as the city's new liaison to Fort Lewis Military. She then announced the Holiday Tree Luncheon and Cutting Ceremony on November 28<sup>th</sup>, and the

Annual Christmas Concert on December 12<sup>th</sup>. She asked that interested Councilmembers contact City Hall to allow for a timely response to the invitation.

**ANNOUNCEMENT OF OTHER MEETINGS:**

Budget Worksessions: Monday, November 6<sup>th</sup> and Tuesday, November 7<sup>th</sup>, in the City Hall Conference Room. The meeting on November 6<sup>th</sup> will begin at 6:30 p.m. and the meeting on November 7<sup>th</sup> will be at 6:00 p.m.

**EXECUTIVE SESSION:** For the purpose of discussing pending litigation per RCW 42.31.110(i).

**MOTION:** Move to adjourn to Executive Session to discuss pending litigation at 8:35 p.m., for approximately thirty minutes.  
Picinich/Ruffo - unanimously approved.

**MOTION:** Move to return to regular session at 9:00 p.m.  
Ekberg/Ruffo - unanimously approved.

**MOTION:** Move to return to Executive Session for an additional ten minutes.  
Ekberg/Ruffo - unanimously approved.

**MOTION:** Move to return to regular session at 9:09 p.m.  
Picinich/Ruffo - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 9:10 p.m.  
Picinich/Owel - unanimously approved.

Cassette recorder utilized.  
Tape 591 Side A 020 - end.  
Tape 591 Side B 000 - end.  
Tape 592 Side A 000 - 325.

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Mayor

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City Clerk

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OCT 30 2000

Commission  on Children, Youth and Families CITY OF GIG HARBOR

October 26, 2000

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

Dear Mayor Wilbert,


We are very pleased to inform you that the Community Youth Partnership Project grant proposal that the Children's Commission submitted for Partnership Resource and Infrastructure Support Monies (PRISM) to the Substance Abuse and Mental Health Services Administration was recently awarded funding. You submitted a letter of participation for City of Gig Harbor that was used in our grant application. We are very grateful for the support you gave to our application. Among the reasons the project was approved for funding is a high level of community support and participation in the project.


We are enclosing a copy of the project abstract from the grant application summarizing the project. The last element of the abstract describes an Advisory Committee that will oversee the implementation of the project. That committee will be developing an inclusive process to determine implementation details. As those details are worked out, we will be sharing them with you. The participation of your agency will be very important as the project moves forward.

As its name implies, the Community Youth Partnership Project's goal is to mobilize local communities, through existing and yet to be developed community-based human service collaboration committees, to support at-risk youth and their families. The target population is BECCA youth who are in contempt of court orders to attend school. These children are not criminals or violent. But without the support of their communities, they could become so. This grant provides Pierce County with needed resources to mobilize our caring communities to help at-risk youth grow up to free from delinquency, substance abuse, and violence.

We look forward to working with City of Gig Harbor to serve the youth of Gig Harbor who are most in need of caring communities. Thank you for your support of that mission and of this project.

Sincerely,

  
Scott Hedlund  
Chair, Children's Commission

  
Jane A. Boyajain, D.Min.  
Director



City of  
Lakewood 

3629 South D • Tacoma, WA 98408 • (253) 798-2884 • Fax (253) 798-6490



Pierce County

## Community Youth Partnership Project

### Abstract

**Purpose:** The purpose of the Community Youth Partnership Project is to create a county-wide system of care for at-risk youth by providing resources to 9 community-based human service collaboration committees to implement Pierce County's strategic plan, *A Call to Action: Planning for Youth in Pierce County* to reduce youth violence, substance abuse, and truancy.

**Background:** In 1999, at the request of the Pierce County Executive's Office, the Tacoma-Pierce County Children's Commission brought together 70 agencies to participate in a county-wide strategic planning process to improve delinquency prevention services in Pierce County. The planning process included a Youth Safety Summit attended by 500 youth from across Pierce County. On September 21, 1999, the Pierce County Council passed a resolution endorsing *A Call to Action: Planning for Youth in Pierce County* and adopting it as official public policy. It also budgeted to begin implementation of the plan.

**Project Elements:** In each of the nine communities in Pierce County which make up the target area to be served, there are community-based human service collaboration committees meeting regularly to coordinate their services to children, youth, and families. The *Community Youth Partnership Project* will contract with those community-based collaborations to provide parent empowerment and youth development services to families and youth who are in contempt of court orders to attend school.

As the project gatekeeper, the Tacoma-Pierce County Health Department's will conduct needs assessments with the youth and families and make recommendations for services needed. Functional Family Therapy services will be provided to families for whom FFT is indicated.

**Accountability, Fidelity, Coordination, and Sustainability:** An Advisory Committee of parents, youth, stakeholders, and representatives of participating community collaborations will oversee the implementation of the project and:

- Identify the key elements of the system of care;
  - Identify benchmarks for ensuring the cultural and contextual appropriateness of activities;
  - Determine allocation of project resources to collaboration committees;
  - Participate with the evaluation consultants in the implementation of the evaluation;
  - Work to secure sustainability funding for the system of care created by the project; and
- Support the dissemination of project results and recommendations for replication.



For information, Contact Beth Wilson  
(253) 798-2884



Pierce County



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NOV - 7 2000

CITY OF GIG HARBOR

To Mayor + Council of Gig Harbor

I am very interested in participating in a sister city program. I am interested in traveling to Takuma, Japan!

Please let me know how I can participate in a sister city program.

Sincerely,

(8th grade) Kamielle Wood  
HRMS 8527 Goodman dr. NW  
Gig Harbor, WA 98326  
(1-253) 857-8030



RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD  
License Division - 3000 Pacific, P.O. Box 43075  
Olympia, WA 98504-3075  
(360) 664-1600

*CORRECTED*

TO: CITY OF GIG HARBOR

DATE: 10/18/00

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RE: NEW APPLICATION

OCT 23 2000

License: 072986 - 2F County: 27  
Tradenam: PARADISE THEATRE  
Loc Addr: 9916 PEACOCK HILL AVE  
GIG HARBOR WA 98332

APPLICANTS:  
THE PERFORMANCE CIRCLE CITY OF GIG HARBOR  
601 278 148 001 0001

Mail Addr: PO BOX 4  
GIG HARBOR WA 98335-0004

Phone No.: 253-851-7529 JEFF RICHARDS

Privileges Applied For:  
NON-PROFIT ARTS ORGANIZATION

As required by RCW 66.24.010(8), you are notified that application has been made to the Washington State Liquor Control Board for a license to conduct business. If return of this notice is not received in this office within 20 DAYS from the date above, it will be assumed that you have no objection to the issuance of the license. If additional time is required you must submit a written request for an extension of up to 20 days. An extension of more than 20 days will be approved only under extraordinary circumstances.

- |  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 1. Do you approve of applicant ? .....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you approve of location ? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? ..... | <input type="checkbox"/> | <input type="checkbox"/> |

If you have indicated disapproval of the applicant, location or both, please submit a statement of all facts upon which such objections are based.

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR  
(BY ZIP CODE) FOR EXPIRATION DATE OF 20010131

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 JT'S ORIGINAL LOUISIANA BAR-B-	JT'S ORIGINAL LOUISIANA BAR-B-QUE 4116 HARBORVIEW DR GIG HARBOR WA 98332 0000	078469	BEER/WINE REST - BEER/WINE OFF PREMISES
2 HARBORVIEW GROCERY INC	HARBORVIEW GROCERY 8812 N HARBORVIEW DR GIG HARBOR WA 98335 0000	351392	GROCERY STORE - BEER/WINE
3 KEIKO'S ENTERPRISE, INC.	WASABI JAPANESE RESTAURANT 5315 PT FOSDICK NW GIG HARBOR WA 98335 1720	077012	BEER/WINE REST - BEER/WINE

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NOV - 6 2000

CITY OF GIG HARBOR



*City of Gig Harbor. The "Maritime City"*

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: PATRICIA IOLAVERA, ASSOCIATE PLANNER**  
**SUBJECT: DRAFT PUD AND PRD DOCUMENTS.**  
**DATE: NOVEMBER 8, 2000**

#### **INFORMATION/BACKGROUND**

Please find enclosed for your consideration, two sets of draft PRD and PUD documents (one set from the Planning Commission, a second set reflecting staff changes). You will also find enclosed new definitions, and a chart outlining permitting procedure alternatives.

The Planning Commission made their final amendments to the PRD and PUD at their October 19, 2000 meeting. The resulting draft ordinances reflect the comments received through public testimony, a review of relevant literature, and a review of similar PUD and PRD ordinances. The Planning Commission makes the following recommendations:

1. Retain the PRD and amend it per their draft included.
2. Rescind the existing PUD ordinance, replacing it with a new PUD that addresses only commercial and business project proposals. A draft is included.
3. Based increased density (or floor area) calculations in either ordinance on net buildable rather than gross area.
4. Adopt two new definitions. One for 'net buildable land', and the other for 'impervious surfaces'.

The city attorney, Carol Morris, and associate planner Patricia Iolavera, have produced two additional drafts, based on those produced by the commission. (The Planning Commission has **not** commented to the staff versions in a work session as they were mailed to on Thursday, November 9, 2000). These versions are visually very different from those recommended by the Planning Commission. Significant changes you will see between the two include:

1. Reorganization of the elements to reflect a more logical ordering.
2. Elimination of sections that duplicated other parts of the Gig Harbor Municipal Code, especially portions of Title 19.
3. Changes to make the language more clear and concise.
4. Changes to the language to increase our ability to enforce the code.
5. Addition of a definition for "low impact retail".
6. Two changes to the PUD proposed by Patricia Iolavera are included in the staff alternative drafts. Specifically:
  - a. Change "gross floor area" to "maximum building footprint", and increase from 25% to 50% the additional building footprint that could be earned through provision of amenities.
  - b. Allow increased height in B-2 and C-1 of up to 60 feet, outside of the Height Restriction Map Area.

## **POLICY CONSIDERATIONS**

In proposing to keep both the PUD and PRD ordinances, albeit in new form, the Planning Commission has kept faith with the comprehensive plan goals of promoting diverse housing types, innovative planning techniques and good community design. While in most communities "PUD" refers to "planned residential developments", Gig Harbor has gone a step further to also provide for "planned commercial developments".

All versions being presented to Council address the concerns expressed earlier by planning staff. Most significantly, these new drafts give clearer guidance to staff regarding the desires of the community. Greater innovation and density is still allowed, but startlingly different and unexpected developments should not be as much of an issue, due to the change from gross area to net buildable area calculations. The planning staff requests the Council also consider the increase in additional footprint and height for the PUD ordinance in order to provide greater incentive to use the ordinance.

The planning commission and city staff have varying opinions on the administrative procedures proposed. The version staff originally proposed to the planning commission differs from that proposed by the city attorney, and yet others now under consideration by the associate planner. The objectives are: 1) taking rezones to the legislative body; 2) exposing the project to public scrutiny at an earlier date; 3) and allowing the project to receive a response to their proposal, particularly the rezone elements, before investing in detailed design. Planning staff is including a set of alternatives for your deliberation.

## **FISCAL CONSIDERATIONS**

The primary fiscal concern in regard to PUD and PRD applications relates to the administrative process. The two part administrative procedures proposed (preliminary approval and final approval) are designed to resolve the major zoning issues before the applicant incurs the extraordinary costs associated with detailed design and engineering. The savings achieved in adopting such a process could be negated if the door to multiple appeals is opened. Such appeals are extremely costly to the City, as well as time consuming and expensive for the applicant. Therefore the procedural process you choose should balance the needs of the applicant, the city, and public process.

## **RECOMMENDATION**

The Planning Commission recommends that the Council adopt both a PUD (for commercial proposals) and a PRD (for residential proposals) and that the Council hold a public hearing to review their drafts. The city attorney and associate planner request that the Council compare the two versions, and adopt the "staff alternative" versions for legal and language reasons, with or without the increases in potential footprint and height bonus'. Finally, staff recommends that Council adopt an administrative procedure option of their choice to be inserted in the appropriate section of each ordinance.

## PROPOSED NEW DEFINITIONS RELATING TO PRD AND PUD

### **Planning Commission:**

**Impervious Surfaces:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

**Buildable Lands:** the gross land area measured in acres or square feet within the defined boundaries of the proposed project, less non-buildable land, such as wetlands or tidelands and other land, measured in acres and/or square feet, that by definition or ordinance is to be deducted from the gross buildable land area; plus density credits available. Land areas to be deducted from the gross buildable land area include regulated wetlands, tidelands, wet creek beds, identified buffer areas along water bodies, and rights-of-way.

### **Additional Staff Definition:**

**Low Impact Retail:** retail uses that are compatible with, and targeted to, local residential consumers, and that reduce the hazards of local traffic by limiting the size of the building. Such stores or services may include pharmacies, bakeries and delicatessens or coffee shops, barbershops and beauty parlors, drycleaners, shoe repair, small commercial postal services, flower shops, and similar uses. Drive in establishments, such as gas stations or drive through restaurants do not meet this definition.

**SUBJECT: ALTERNATIVE PERMITTING PROCEDURES FOR PRD**

**DATE:** 11/9/00

Option #	Preliminary	Final	Pros and Cons
<b>A</b> (existing PUD)	none	<b>Type III</b> Single hearing before HEX Appeal to Council Appeal to Court	<ul style="list-style-type: none"> <li>• No public exposure till open till night of decision = more controversy.</li> <li>• Much money and time spent up front.</li> <li>• Two appeals (one to Council).</li> <li>• Elected body does not get input into the amenities and rezone issues until appeal.</li> <li>• One process</li> <li>• DRB may not see project till end, or be asked to review it before the PUD/PRD has received rezone approvals.</li> </ul>
<b>B</b> (existing PRD)	<b>Type III</b> Single hearing before HEX Appeal to Council Appeal to Court	<b>Type IV</b> <ul style="list-style-type: none"> <li>• No open record hearing</li> <li>• Decision by City Council</li> <li>• Closed Record appeal/final decision before Council</li> <li>• Appeal to Court</li> </ul>	<ul style="list-style-type: none"> <li>• Three Appeals (one to Council).</li> <li>• HEX determining the rezone and amenities.</li> <li>• Council gets the initial appeal.</li> <li>• Council then does final approval of plat, site plan and design.</li> <li>• No actual requirement to go to DRB before HEX.</li> <li>• Public input to HEX.</li> </ul>
<b>C</b> Commission Version	<b>Type IV</b> <ul style="list-style-type: none"> <li>• No open record hearing</li> <li>• Decision by City Council</li> <li>• Closed Record appeal/final decision before Council</li> <li>• Appeal to Court</li> </ul>	<b>Type III</b> Single hearing before HEX Appeal to Council Appeal to Court	<ul style="list-style-type: none"> <li>• Open record public hearing at the end and before HEX.</li> <li>• Three appeals (one to Council).</li> <li>• Council decides rezone and amenities issues.</li> <li>• HEX sees site plan and design (which would already have gone through the DRB).</li> </ul>
<b>D</b> Hybrid proposed by Planning Staff	<b>New Type IV-B</b> <ul style="list-style-type: none"> <li>• Open record public hearing before Planning Commission.</li> <li>• PC makes recommendation to Council.</li> <li>• Final Decision by Council</li> <li>• Appeal to Court</li> </ul>	<b>New Type III—B</b> <ul style="list-style-type: none"> <li>• Single closed record hearing before HEX</li> <li>• Appeal to Court</li> </ul>	<ul style="list-style-type: none"> <li>• Open record hearing before Planning Commission early on.</li> <li>• Recommendation from Planning Commission to Council reflecting some public input and negotiation.</li> <li>• Council decides rezone and amenity issues.</li> <li>• Two appeals to court, none to council.</li> <li>• HEX addresses final site plan issues after DRB sees project.</li> <li>• <b>Would require amending Title 19.</b></li> </ul>

DRAFT

**PLANNING COMMISSION'S APPROVED DRAFT OF CHAPTER 17.90  
PLANNED UNIT DEVELOPMENT.**

Chapter 17.90

PLANNED UNIT DEVELOPMENT ZONE (PUD)

Sections:

- 17.90.010 Intent.
- 17.90.020 Where permitted.
- 17.90.030 Parcel Characteristics
- 17.90.040 Types of uses permitted.
- 17.90.050 Who may apply.
- 17.90.060 Relationship of this chapter to other ordinance provisions.
- 17.90.070 Procedure for approval of a planned unit development project.
- 17.90.080 Preliminary approval – Contents of application.
- 17.90.090 Density bonus.
- 17.90.100 Open space.
- 17.90.110 Roads
- 17.90.120 Expiration and extensions.
- 17.90.130 Minor and major amendments of the final plan.
- 17.90.140 Parties bound.

17.90.010 Intent.

The intent of the PUD zone is to allow opportunity for more creative and imaginative commercial and business projects than generally possible under strict application of the conventional zoning regulations in order that such projects may provide substantial additional benefit to the community. The criteria to be used in determining a proposed planned development's benefit to the community are listed in subsection 17.90.050. It is further intended to preserve unique or sensitive physical features, such as steep slopes, views, retention of natural vegetation and to provide more open space and recreational amenities than would be available under conventional land development practices. Additionally, it is intended to promote more economical and efficient use of land and a unified design concept for development that is predominantly commercial, business in nature, but which may include some residential uses.

17.90.020 Where permitted.

Planned unit developments may be permitted in the following zoning districts consistent with the development and design standards of this chapter:

- A. All districts zoned commercial or business.
- B. In the Waterfront Business (WB), Downtown Business (DB), Residential Business 1 (RB1), Residential Business 2 (RB-2) proposed projects must respect the scale of existing development and in adjacent zones, with particularly careful transition at perimeters.

17.90.030 Parcel characteristics.



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Planned unit developments shall be limited to a minimum site area of two acres, excluding tidelands. No planned unit development application shall be approved for an area of less than two acres, excluding tidelands below the OHWM, unless the city makes the following findings:

- A. An unusual physical, natural resource or topographical feature of importance exists on the buildable portion of the site or in the neighborhood which can be conserved and still leave the applicant equivalent use of the land by the use of a planned unit development; or
- B. The property or its neighborhood has a historical character of importance to the community, and said historical character will be protected and enhanced by use of a planned unit development.

### 17.90.040 Types of uses permitted.

The following uses are permitted in a PUD:

- A. Those uses permitted in the underlying zoning designation,
- B. Those accessory uses permitted in the underlying zoning;
- C. Uses that may be allowed by conditional use permits in the underlying zoning subject to the requirements of Chapter 17.64 GHMC. (Ord. 710 § 83, 1996; Ord. 573 § 2, 1990).
- D. Other uses may be located within the planned unit development, if a request for a rezone is submitted concurrently with the PUD application, and if they meet the following criteria:
  - 1. Such uses are an integral component of the planned unit development.
  - 2. Such uses are compatible with any uses that are existing or which could be developed in adjoining zoned area, particularly when the existing or potential uses are residential.
  - 3. Such uses are consistent with the Gig Harbor Comprehensive Plan.

### 17.90.050 Who may apply.

An application for approval of a PUD may be filed by a person having a legal interest in the property to be included in the PUD.

### 17.90.060 Relationship of this chapter to other ordinance provisions.

#### A. Development and design standards.

In a PUD zone, the development and design standards are as follows:

- 1. Lot area and width requirements may be reduced where the site plan is such that light, air and privacy are provided.
- 2. Impervious coverage of individual parcels may exceed the percentage permitted by the underlying zone; provided, that overall coverage of the project does not exceed the percentage permitted by the underlying zone. Calculations regarding such coverage shall be based on net buildable land.
- 3. Gross floor area allowed in the underlying zoning district may be exceeded by no more than 25 percent.
- 4. Structures located on the perimeter of the PUD shall be set back in accordance with setbacks of the underlying zone.
- 5. For perimeter buildings exceeding the maximum height of the underlying zone, the distance between such buildings and the perimeter of the PUD shall

## DRAFT

not be less than the front yard setback of the underlying zone plus five feet for each foot of excess height. (Ord. 573 § 2, 1990).

6. Approval by the Design Review Board shall be required after the preliminary approval, and prior to issuance of final approval.

### B. Standards which may not be modified or altered are:

1. Shoreline regulations when the property is located in an area under the jurisdiction of the Gig Harbor Shoreline Master Program;
2. Standards pertaining to development in environmentally sensitive areas;
3. Regulations pertaining to nonconforming uses;
4. Standards pertaining to screening around outdoor storage areas.
5. Impervious surface calculations.
6. Height restrictions as identified on the adopted City of Gig Harbor Height Restriction Area Map.

C. Basis for Approval of Alternative Development Standards. Approval of alternative development standards using the Planned Unit Development overlay zone differs from the variance procedure described in Chapter 17.66 of this title in that rather than being based upon a hardship or unusual circumstance related to a specific property, the approval of alternative development standards proposed by a planned unit development shall be based upon the criteria listed in this paragraph. In evaluating a planned development which proposes to modify the development standards of the underlying use zone, the city shall utilize the following criteria in making its findings:

1. The proposed planned development's compatibility with surrounding properties, especially related to:
  - a. Landscaping and buffering of buildings, parking, loading and storage areas,
  - b. Public safety,
  - c. Site access, on-site circulation and off-street parking.
  - d. Light and shadow impacts,
  - e. Generation of nuisance irritants such as noise smoke, dust, odor, glare, vibration or other undesirable impacts,
  - f. Architectural design of buildings approved by Design Review Board,
2. The unique characteristics of the subject property;
3. The unique characteristics of the proposed use(s);
4. The functional and aesthetic arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development;
5. Visual impact of the planned development upon the surrounding area;
6. Extraordinary public improvements proposed in connection with the planned development;
7. Preservation of unique natural features of the property;
8. Preservation of unique historic or cultural features of the property and surrounding neighborhood.
9. Provision of recreational opportunities.

### D. Platting Requirements.

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1. When any parcel of land in a PUD is intended for sale or individual ownership, the platting requirements of the Gig Harbor subdivision ordinance and applicable state laws pertaining to subdivisions shall be followed.

2. Applications for plat approval shall be submitted and processed concurrently with an application for PUD approval.

E. Public Hearing Required. Prior to the preliminary approval of a PUD, the city council shall hold a public hearing in accordance with the procedures of Chapter 19.05 GHMC.

17.90.070 Procedure for approval of a planned unit development project.

A planned unit development is a Type IV permit application for a preliminary plat approval and a Type III permit application for a final plat approval. The following are the procedures for approval of a PUD project:

A. The preliminary development plan shall be reviewed in accordance with the procedures of this chapter, and GHMC Titles 16 and 19. The city shall not approve the PUD unless it is determined that the plan complies with the policies of the comprehensive plan, the requirements of this title and the intent and provisions of this chapter. The city may develop terms and conditions of approval. The approved preliminary plan or subsequent revision thereto shall be binding as to the general intent and layout of roads, buildings, use of land and open spaces.

B. Within five years of the date of the preliminary development plan approval, the applicant shall submit a final development plan for the proposed development for approval by the hearing examiner. After finding that the final development plan has been completed in accordance with the provisions of the approved preliminary development plan, and that all required improvements have been completed or that arrangements or contracts have been entered into to guarantee that such required improvements will be completed, and that the interests of the city are fully protected, the hearing examiner may approve the final development plan, accepting the dedications and easements which are included thereon. The final development plan shall consist of a final plat, binding site plan or any combination thereof.

C. If the applicant fails to apply for final approval for any reason within the time specified in Section 17.90.070(B), the preliminary development plan approval shall become void. All future permits shall be subject to the requirements of the underlying use zone unless a new application for a planned unit development is submitted and approved.

D. If a proposed PUD is to be developed in phases, the entire project shall be portrayed on the preliminary development plan, and each phase shall individually receive final development plan review. (Ord. 710 § 84, 1996; Ord. 573 § 2, 1990).

17.90.080 Preliminary approval – Contents of application.

Each application for preliminary development plan approval shall contain the following information:

A. An environmental checklist or impact statement, as may be applicable, pursuant to GHMC Title 18;

B. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or

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engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

C. A written description addressing the scope of the project, gross acreage, net buildable acreage calculations, the nature and size in gross floor area of each use, and the total amount of net buildable land in square feet to be covered by impervious surfaces;

~~(Impervious surfaces are those defined by the Washington State Department of Ecology in the Stormwater Management Manual for Western Washington, Volume I, Publication No. 99-11).~~

D. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;

E. A topographic map delineating contours, existing and proposed, at five foot intervals and which locates and classifies existing streams, wetlands, steep slopes and other natural features and/or critical areas;

F. Site plans drawn to a scale no smaller than one inch equals 30 feet showing the location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;

G. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the size and location of all driveways, streets and roads, parking and loading areas, and existing and proposed pedestrian circulation system;

H. A utility, drainage and stormwater runoff plan;

I. A plot plan of all proposed landscaping including the types of plants and screening to be used;

J. Any other information deemed pertinent by the city staff. (Ord. 573 § 2, 1990).

K. A statement explaining how the proposed plan is consistent with and implements the City of Gig Harbor Comprehensive Plan, the designation under the Comprehensive Plan, current zone classification, and desired zone classification.

L. A narrative describing how the proposal provides substantial additional benefit to the citizens of the City of Gig Harbor.

M. A map of the area, with area proposed for rezone outlined in red.

N. An application for any related rezones, or comprehensive plan amendments, if required..

### 17.90.90 Gross Floor Area Bonus.

Increases in gross floor area over that permitted in the underlying zone are permitted as follows:

B. Preservation of a desirable natural feature such as, but not limited to, a stream corridor, unique geological feature, substantial over-story vegetation, etc., but excluding wetlands and their buffers: 10 percent increase;

C. Preservation of a scenic vista corridor(s) within and off-site: 10 percent increase;

D. Unique landscaping throughout the project site: 10 percent increase;

E. Additional open space; one percent increase in density for each one percent increase in open space over the minimum required;

F. Provision of street trees, other public amenities including restrooms, fountains etc., beyond those required: up to 10 percent increase;

G. The total, allowable maximum density increase shall not exceed 25 percent.

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- H. Density calculations shall be based on net buildable land. ~~Buildable lands suitable for a PUD include all vacant, partially used, and under-utilized parcels that are:~~
- ~~1. designated for commercial, business or industrial use.~~
  - ~~2. not constrained by critical areas in a way that limits development potential and makes new construction on a parcel unfeasible.~~

### 17.90.100 Open space.

In a PUD zone, open space requirements are as follows:

~~A. Common open space shall comprise at least 30 percent of the gross area of the PUD, and shall be used as a recreational, park or environmental amenity for collective enjoyment by the public.~~

B. Common open space shall not include public or private streets, driveways, parking areas or the required yards for buildings or structures: provided, however, that up to 30 percent of the required open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.

C. Common open space areas may not be computed to include any submerged lands.

D. At least 50 percent of the common open space area must be usable for active or passive recreation, and which is also not utilized as a utility improvement or structure.

E. Common open space may contain such structures and improvements as are necessary and appropriate for out-of-doors enjoyment of people.

F. The developer shall provide a bond or other financial assurance acceptable to the city council that any improvements made in the common open space will be completed. The city shall release the bond or other assurance when the improvements have been completed in accordance with the development plan.

G. Before approval of the final development plan may be granted, the developer shall submit to the city covenants, deeds and/or property owner's association bylaws and other documents guaranteeing maintenance, construction and common fee ownership, if applicable, of open space, community facilities, private roads and drives, and all other commonly owned and operated property. These documents shall be reviewed and approved by the city attorney to insure that they comply with the requirements of this chapter prior to approval of the final development plan by the city. Such documents and conveyances shall be recorded with the county auditor as a condition of any final development plan approval.

H. All common open space shall be landscaped in accordance with the landscaping plan submitted by the applicant and approved by the city. Natural landscape features which are to be preserved, such as existing trees, drainage ways, etc., may be accepted as part of the landscaping plan. (Ord. 573 § 2, 1990).

### 17.90.110 Roads

All roads shall be consistent with the adopted policies and standards of the city of Gig Harbor Public Works Construction Standards.

### 17.90.120 Expiration and extensions.

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A. If a final development plan is not approved within five years of the date of preliminary development plan approval, and an extension of time has not been granted, the PUD approval shall expire.

B. Knowledge of the expiration date and initiation of a request for an extension of time is the responsibility of the applicant. Requests for an extension of time must be submitted to the planning department at least 30 days prior to the expiration of PUD approval. The planning department shall schedule the request for extension for public hearing before the hearing examiner. One extension is the maximum to be granted and it shall be for no more than two years and the PUD may be subject to any new or amended regulations, requirements, policies or standards which are adopted after the original date of approval, unless 50 percent or more of the on-site work has been completed. (Ord. 710 § 85, 1996; Ord. 573 § 2, 1990).

### 17.90.130 Minor and major amendments of the final plan.

A. Minor amendments are a Type I permit application and may be made and approved when a building permit is issued. Any such alteration must be approved by the planning director. Minor adjustments are those which may affect the precise dimensions or siting of buildings (i.e., lot coverage, height, setbacks) but which do not affect the basic character or arrangement and number of buildings approved in the plan, nor the density of the development or the amount and quality of open space and landscaping. Such dimensional adjustments shall not vary more than five percent from the original.

B. Major amendments are a Type III permit application. A major amendment is that which substantially changes the character, basic site design, density, open space or other requirements and conditions of the final plan. When a change constitutes a major amendment, no building or other permit shall be issued until such review proceedings required under GHMC Title 19 are completed. (Ord. 710 § 86, 1996; Ord. 573 § 2, 1990).

### 17.90.140 Parties bound.

Once the development plan is approved, all persons and parties, their successors, heirs or assigns, who own, have or will have, by virtue of purchase, inheritance or assignment, any interest in the real property within the proposed PUD, shall be bound by the conditions of approval of the development and these shall be recorded as a covenant to any deed with the land. (Ord. 573 § 2, 1990).

## PROPOSED NEW DEFINITIONS

**Impervious Surfaces:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

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(from DOE Stormwater Management Manual for Western Washington, Publication No. 99-11).

**Buildable Lands:** the gross land area measured in acres or square feet within the defined boundaries of the proposed project, less non-buildable land, such as wetlands or tidelands and other land, measured in acres and/or square feet, that by definition or ordinance is to be deducted from the gross buildable land area; plus density credits available. Land areas to be deducted from the gross buildable land area include wetlands, tidelands, wet creek beds, identified buffer areas along water bodies, and rights-of-way.

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**PLANNING COMMISSION'S APPROVED DRAFT OF NEW CHAPTER 17.89  
PLANNED RESIDENTIAL DEVELOPMENT**

Chapter 17.89

PLANNED RESIDENTIAL DEVELOPMENT ZONE (PRD)

Sections:

- 17.89.010 Intent.
- 17.89.020 Where permitted.
- 17.89.030 Parcel Characteristics
- 17.89.030 040 Types of uses permitted.
- 17.89.040 050 Who may apply.
- 17.89.050 060 Relationship of this chapter to other ordinance provisions.
- 17.89.070 Procedure for approval of a planned residential development project.
- 17.89.080 Preliminary approval – Contents of application.
- 17.89.090 Density bonus.
- 17.89.100 Open space.
- 17.89.110 Roads
- 17.89.120 Expiration and extensions.
- 17.89.130 Minor and major amendments of the final plan.
- 17.89.140 Parties bound.

17.89.010 Intent.

The intent of the PRD zone is to provide for greater site design and flexibility and, thus, allow opportunity for more creative and imaginative residential projects than generally possible under strict application of the conventional zoning regulations in order that such projects may provide substantial additional benefit to the community. The criteria to be used in determining a proposed planned development's benefit to the community are listed in subsection 17.89.050. It is further intended to preserve unique or sensitive physical features, such as steep slopes, views, retention of natural vegetation and to provide more open space and recreational amenities than would be available under conventional land development practices. Additionally, it is intended to promote more economical and efficient use of land and a unified design concept for residential development. (Ord. 573 § 2, 1990).

17.89.020 Where permitted.

Planned residential development may be permitted in the following zoning districts consistent with the development and design standards of this chapter:

A. All residential zoning districts, except in Waterfront Millville (WM) and Waterfront Residential (WR).

B. ~~Waterfront Residential (WR) and Waterfront Millville (WM).~~ (Ord. 710 § 82, 1996; Ord. 573 § 2, 1990).



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### 17.89.030 Parcel characteristics.

Planned residential developments shall be limited to a minimum site area of two acres, excluding tidelands. No planned residential development application shall be approved for an area of less than two acres, excluding tidelands, unless the city makes the following findings:

- A. An unusual physical, natural resource or topographical feature of importance exists on the site or in the neighborhood which can be conserved and still leave the applicant equivalent use of the land by the use of a planned residential development; or
- B. The property or its neighborhood has a historical character of importance to the community that will be protected by use of a planned residential development.

### 17.89.040 Types of uses permitted.

The following uses are permitted in a PRD:

- A. Those uses permitted in the underlying zoning designation,
- B. Those accessory uses permitted in the underlying zoning;
- C. Uses that may be allowed by conditional use permits in the underlying zoning subject to the requirements of Chapter 17.64 GHMC. (Ord. 710 § 83, 1996; Ord. 573 § 2, 1990).
- D. Other residential, and low impact retail uses may be located within the residentially zoned planned residential development, if a request for a rezone is submitted concurrently with the PRD application, and if they meet the following criteria:
  - 1. Such uses constitute 10 percent or less of the proposed project,
  - 2. Such uses are an integral component of the planned residential development.
  - 3. Such uses are compatible with any residential uses that are existing or which could be developed in the adjoining residentially zoned area.
  - 4. Such uses are consistent with the Gig Harbor Comprehensive Plan.

### 17.89.050 Who may apply.

An application for approval of a PRD may be filed by a person having a legal interest in the property to be included in the PRD. (Ord. 573 § 2, 1990).

### 17.89.060 Relationship of this chapter to other ordinance provisions.

#### A. Development and design standards.

In a PRD zone, the development and design standards are as follows:

- 1. Lot area and width requirements may be reduced where the site plan is such that light, air and privacy are provided.
- 2. Building and development coverage of individual parcels may exceed the percentage permitted by the underlying zone; provided, that overall coverage of the project does not exceed the percentage permitted by the underlying zone.
- 3. Building height may exceed the maximum permitted by ordinance provided, that the project design protects the views and privacy of properties inside and outside of the project but in no case shall the maximum height exceed 35 feet in R-1 and R-2 districts, or in any waterfront district.
- 4. Structures located on the perimeter of the PRD shall be set back in accordance with front yard setbacks of the underlying zone.

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5. For perimeter buildings exceeding the maximum height of the underlying zone, the distance between such buildings and the perimeter of the PRD shall not be less than the front yard setback of the underlying zone plus five feet for each foot of excess height. (Ord. 573 § 2, 1990).
6. Approval by the Design Review Board shall be required after the preliminary approval, and prior to issuance of final approval.

### B. Standards which may not be modified or altered are:

1. Shoreline regulations when the property is located in an area under the jurisdiction of the Gig Harbor Shoreline Master Program;
2. Standards pertaining to development in environmentally sensitive areas;
3. Regulations pertaining to nonconforming uses;
4. Standards pertaining to screening around outdoor storage areas.
5. Impervious surface calculations.
6. Height restrictions as identified on the adopted City of Gig Harbor Height Restriction Area Map.

C. Basis for Approval of Alternative Development Standards. Approval of alternative development standards using the Planned Residential Development overlay zone differs from the variance procedure described in Chapter 17.66 of this title in that rather than being based upon a hardship or unusual circumstance related to a specific property, the approval of alternative development standards proposed by a planned residential development shall be based upon the criteria listed in this paragraph. In evaluating a planned development which proposes to modify the development standards of the underlying use zone, the city shall use the following criteria in making its findings:

1. The proposed planned development's compatibility with surrounding properties, especially related to:
  - a. Landscaping and buffering of buildings, parking, loading and storage areas,
  - b. Public safety,
  - c. Site access, on-site circulation and off-street parking.
  - d. Light and shadow impacts,
  - e. Generation of nuisance irritants such as noise smoke, dust, odor, glare, vibration or other undesirable impacts,
  - f. Architectural design of buildings approved by Design Review Board,
2. The unique characteristics of the subject property;
3. The unique characteristics of the proposed use(s);
4. The functional and aesthetic arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development;
5. Visual impact of the planned development upon the surrounding area;
6. Extraordinary public improvements proposed in connection with the planned development;
7. Preservation of unique natural features of the property;
8. Preservation of unique historic or cultural features of the property and surrounding neighborhood.
9. Provision of recreational opportunities.

### D. Platting Requirements.

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1. When any parcel of land in a PRD is intended for sale or individual ownership, the platting requirements of the Gig Harbor subdivision ordinance and applicable state laws pertaining to subdivisions shall be followed.

2. Applications for plat approval ~~should~~ shall be submitted and processed concurrently with an application for PRD approval.

E. Public Hearing Required. Prior to the approval of a PRD, the hearing examiner shall hold a public hearing in accordance with the procedures of Chapter 19.05 GHMC.

17.89.070 Procedure for approval of a planned residential development project.

A planned residential development is a Type IV permit application for a preliminary plat approval and a Type III permit application for a final plat approval. The following are the procedures for approval of a PRD project:

A. The preliminary development plan shall be reviewed in accordance with the procedures of this Chapter ~~17.89 GHMC~~, and GHMC Titles 16 and 19. The city shall not approve the PRD unless it is determined that the plan complies with the policies of the comprehensive plan, the requirements of this title and the intent and provisions of this chapter. The city may develop terms and conditions of approval. The approved preliminary plan or subsequent revision thereto shall be binding as to the general intent and layout of roads, buildings, use of land and open spaces.

B. Within five years of the date of the preliminary development plan approval, the applicant shall submit a final development plan for the proposed development for approval by the ~~City Council~~ hearings examiner. After finding that the final development plan has been completed in accordance with the provisions of the approved preliminary development plan, and that all required improvements have been completed or that arrangements or contracts have been entered into to guarantee that such required improvements will be completed, design review has been completed, and that the interests of the city are fully protected, the ~~City Council shall~~ hearing examiner may approve the final development plan, accepting the dedications and easements which are included thereon. The final development plan shall consist of a final plat, binding site plan or any combination thereof.

C. If the applicant fails to apply for final approval for any reason within the time specified in Section 17.89.070(B), the preliminary development plan approval shall become void. All future permits shall be subject to the requirements of the underlying use zone unless a new application for a planned residential development is submitted and approved.

~~C-D.~~ If a proposed PRD is to be developed in phases, the entire project shall be portrayed on the preliminary development plan, and each phase shall individually receive final development plan review. (Ord. 710 § 84, 1996; Ord. 573 § 2, 1990).

17.89.080 Preliminary approval – Contents of application.

Each application for preliminary development plan approval shall contain the following information:

A. An *environmental checklist or impact statement*, as may be applicable, pursuant to GHMC Title 18;

B. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if

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applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

C. A written description addressing the scope of the project, gross acreage, net buildable acreage calculations, the nature and size in gross floor area of each use, and the total amount of net buildable land in square feet to be covered by impervious surfaces; (Impervious surfaces are those defined by the Washington State Department of Ecology in the Stormwater Management Manual for Western Washington, Volume I, Publication No. 99-11).

D. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;

E. A topographic map delineating contours, existing and proposed, at five foot intervals and which locates and classifies existing streams, marshes wetlands, steep slopes and other natural features and/or critical areas;

F. Site plans drawn to a scale no smaller than one inch equals 30 feet showing the location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;

G. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the size and location of all driveways, streets and roads, parking and loading areas, and existing and proposed pedestrian circulation system;

H. A utility, drainage and stormwater runoff plan;

I. A plot plan of all proposed landscaping including the types of plants and screening to be used;

J. Any other information deemed pertinent by the city staff. (Ord. 573 § 2, 1990).

K. A statement explaining how the proposed plan is consistent with and implements the City of Gig Harbor Comprehensive Plan, the designation under the Comprehensive Plan, current zone classification, and desired zone classification.

L. A narrative describing how the proposal provides substantial additional benefit to the citizens of the City of Gig Harbor.

M. A map of the area, with area proposed for rezone outlined in red.

### 17.89.90 Density bonus.

Increases in density over that permitted in the underlying zone are permitted as follows:

A. Provisions for open space, as identified in GHMC 17.89.110: 10 percent increase;

B. Preservation of a desirable natural feature such as, but not limited to, a wetland, stream corridor, unique geological feature, substantial overstory vegetation, etc.: 10 percent increase;

C. Preservation of a scenic vista corridor(s) within and off-site: 10 percent increase;

D. Unique landscaping throughout the project site: 10 percent increase;

E. Additional open space; one percent increase in density for each one percent increase in open space over the minimum required;

F. The total, allowable maximum density increase shall not exceed 30 percent. (Ord. 573 § 2, 1990).

G. Density calculations shall be based on net buildable land. Buildable lands include all vacant, partially-used, and under-utilized parcels that are:

- a. Designated for commercial, industrial, or residential use; and

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- b. Not constrained by critical areas in a way that limits development potential and makes new construction on a parcel unfeasible.

### 17.89.100 Open space.

In a PRD zone, open space requirements are as follows:

- A. Common open space shall comprise at least 30 percent of the gross area of the PRD, and shall be used as a recreational, park or environmental amenity for collective enjoyment by occupants of the development. Common open space shall not include public or private streets, driveways, parking areas or the required yards for buildings or structures: provided, however, that up to 30 percent of the required open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.
- B. Common open space areas may not be computed to include any submerged lands.
- C. At least 50 percent of the common open space area must be usable for active or passive recreation, and which is also not utilized as a utility improvement or structure.
- D. Common open space may contain such structures and improvements as are necessary and appropriate for the out-of-doors enjoyment of the residents of the PRD.
- E. The developer shall provide a bond or other financial assurance acceptable to the city council that any improvements made in the common open space will be completed. The city shall release the bond or other assurance when the improvements have been completed in accordance with the development plan.
- F. Before approval of the final development plan may be granted, the developer shall submit to the city covenants, deeds and/or homeowners' association bylaws and other documents guaranteeing maintenance, construction and common fee ownership, if applicable, of open space, community facilities, private roads and drives, and all other commonly owned and operated property. These documents shall be reviewed and approved by the city attorney to insure that they comply with the requirements of this chapter prior to approval of the final development plan by the city. Such documents and conveyances shall be recorded with the county auditor as a condition of any final development plan approval.
- G. All common open space shall be landscaped in accordance with the landscaping plan submitted by the applicant and approved by the city. Natural landscape features which are to be preserved, such as existing trees, drainage ways, etc., may be accepted as part of the landscaping plan. (Ord. 573 § 2, 1990).

### 17.89.110 Roads

All roads shall be consistent with the adopted policies and standards of the city of Gig Harbor Public Works Construction Standards.

### 17.89.120 Expiration and extensions.

- A. If a final development plan is not approved within five years of the date of preliminary development plan approval, and an extension of time has not been granted, the PRD approval shall expire.
- B. Knowledge of the expiration date and initiation of a request for an extension of time is the responsibility of the applicant. Requests for an extension of time must be submitted to

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the planning department at least 30 days prior to the expiration of PRD approval. The planning department shall schedule the request for extension for public hearing before the hearing examiner. One extension is the maximum to be granted and it shall be for no more than two years and the PRD may be subject to any new or amended regulations, requirements, policies or standards which are adopted after the original date of approval, unless 50 percent or more of the on-site work has been completed. (Ord. 710 § 85, 1996; Ord. 573 § 2, 1990).

17.89.130 Minor and major amendments of the final plan.

A. Minor amendments are a Type I permit application and may be made and approved when a building permit is issued. Any such alteration must be approved by the planning director. Minor adjustments are those which may affect the precise dimensions or siting of buildings (i.e., lot coverage, height, setbacks) but which do not affect the basic character or arrangement and number of buildings approved in the plan, nor the density of the development or the amount and quality of open space and landscaping. Such dimensional adjustments shall not vary more than five percent from the original.

B. Major amendments are a Type III permit application. A major amendment is that which substantially changes the character, basic site design, density, open space or other requirements and conditions of the final plan. When a change constitutes a major amendment, no building or other permit shall be issued until such review proceedings required under GHMC Title 19 are completed. (Ord. 710 § 86, 1996; Ord. 573 § 2, 1990).

17.89.140 Parties bound.

Once the development plan is approved, all persons and parties, their successors, heirs or assigns, who own, have or will have, by virtue of purchase, inheritance or assignment, any interest in the real property within the proposed PRD, shall be bound by the conditions of approval of the development and these shall be recorded as a covenant to any deed with the land. (Ord. 573 § 2, 1990).

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### PROPOSED NEW DEFINITIONS

**Impervious Surfaces:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces. (from DOE Stormwater Management Manual for Western Washington, Publication No. 99-11).

**Buildable Lands:** All vacant, partially-used, and under-utilized parcels that are: (a) designated for commercial, industrial, or residential use; (b) not intended for public use; and (c) not constrained by critical areas in a way that limits development potential and makes new construction on a parcel unfeasible.

## STAFF RE-DRAFT PUD

### STAFF RE-DRAFT OF NEW CHAPTER 17.89 PLANNED UNIT DEVELOPMENT ("PUD")

#### Chapter 17.89

#### PLANNED UNIT DEVELOPMENT ZONE ("PUD")

##### Sections:

- 17.89.010 Intent.
- 17.89.020 Procedure for Approval of a Preliminary PUD Project.
- 17.89.030 Where Permitted and Acceptable Parcel Characteristics
- 17.89.040 Permit Application Procedures
- 17.89.050 Contents of Complete Preliminary and Final PUD Applications
- 17.89.060 Types of Uses Permitted.
- 17.89.070 Development and Design Standards
- 17.89.080 Criteria for Approval of Preliminary Applications
- 17.89.090 Criteria for Approval Final PUD Applications
- 17.89.100 Gross Floor Area Bonus.
- 17.89.110 Open Space.
- 17.89.120 Roads
- 17.89.130 Minor and Major Amendments of the Final Plan

#### 17.89.010 Intent of the Planned Unit Zone ("PUD").

The intent of the PUD zone is to ~~provide for greater site design and flexibility and, thus, allow opportunity for more creative and imaginative commercial and business projects than generally possible under strict application of the conventional zoning regulations in order that such projects may provide substantial additional benefit to the community.~~ The criteria to be used in determining a proposed planned development's benefit to the community are listed in subsection 17.89.080 and 17.89.090. It is further intended to preserve unique or sensitive physical features, such as steep slopes, views, retention of natural vegetation and to provide more open space and recreational amenities than would be available under conventional land development practices. Additionally, it is intended to promote more economical and efficient use of land and a unified design concept for commercial and business development. (Ord. 573 § 2, 1990).

#### 17.89.020 Where PUD's are Permitted and Acceptable Parcel Characteristics.

- A. PUDs may be permitted in all districts zoned commercial and business.
- B. In the Waterfront Business (WB), Downtown Business (DB), Residential Business 1 (RB-1), and in adjacent zones, if particularly careful transition with existing development at perimeters is provided.
- C. Planned commercial and business developments shall be limited to a minimum site area of two acres, excluding tidelands. PUDs shall not be allowed on any parcels less than two acres in size, excluding tidelands, unless one of the following findings are made, in addition to the criteria for preliminary PUD approval in this chapter:



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1. An unusual physical, natural resource or topographical feature of importance exists on the site or in the neighborhood which can be conserved and still leave the applicant equivalent use of the land by the use of a PUD; or
2. The property or its neighborhood has an historical character of importance to the community that will be protected by use of a PUD.

### 17.89.030 Permit Application Procedures.

A. Type of Permit. A preliminary PUD application shall follow the procedures set forth in Title 19 for a Type III project permit application. Final PUD approval shall follow the procedures in Title 19 for Type IV project permit applications. In order to approve a preliminary PUD application, the decisionmaker shall make written findings and conclusions demonstrating that all of the performance standards and criteria for approval set forth in this chapter have been satisfied. Final PUD approval shall be granted if the decisionmaker finds that the preliminary PUD and preliminary plat (if applicable) conforms to all terms of preliminary PUD approval, that the preliminary PUD meets the requirements of this chapter and all other applicable codes and state laws.

B. Expiration of PUD. Within five (5) years of the date of the preliminary PUD approval, an application shall be submitted for final PUD approval, otherwise, the preliminary PUD approval shall expire.

C. Concurrent Applications. Unless an applicant for preliminary plat approval requests otherwise, a preliminary plat shall be processed simultaneously with a PUD, to the extent that procedural requirements allow simultaneous processing. If an applicant requests that a preliminary PUD application be processed prior to the time a preliminary plat application is submitted, the preliminary PUD application shall not be considered to be vested, i.e., such application shall not be considered under the subdivision, zoning or other land use control ordinances in effect at the time the fully completed application for a preliminary PUD has been submitted to the City.

D. Phasing. If a proposed PUD is to be developed in phases, the entire PUD shall be portrayed in the preliminary PUD application, and each phase shall individually receive final PUD approval within the time periods established in subsection 17.89.030(B).

E. Design Review. The applicant shall submit an application for design review approval concurrent with the final PUD application.

### 17.89.040. Contents of Complete PUD application.

A. In addition to the applicable requirements of Title 19.02.002 GHMC, a complete application for preliminary development plan approval shall consist of the following information:

1. An environmental checklist or impact statement, as may be applicable, pursuant to GHMC Title 18;
2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any

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architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

3. A written description addressing the scope of the project, gross acreage, net buildable acreage calculations, the nature and size in gross floor area of each use, and the total amount of net buildable land in square feet to be covered by impervious surfaces;
4. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;
5. A topographic map delineating contours, existing and proposed, at two foot intervals and which locates and classifies existing streams, marshes wetlands, steep slopes and other natural features and/or critical areas;
6. Site Plans drawn to a scale no smaller than one inch equals 30 feet showing the proposed location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas. Such plans shall be considered preliminary and are subject to modification by the Design Review Board during final approval, but should be specific enough that proposed design qualities and layout are clear;
7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights of way.
8. A general schematic layout for utility, drainage and stormwater runoff plans;
9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant vegetation proposed to be retained;
10. A statement explaining how the proposed plan is consistent with and implements the City of Gig Harbor Comprehensive Plan, the designation under the Comprehensive Plan, current zone classification, and desired zone classification;
11. A narrative describing how the proposal provides substantial additional benefit to the citizens of the City of Gig Harbor (the benefit accruing as a result of implementation of the PUD process as opposed to following the development standards of the underlying zone); and
12. A map of the area, with area proposed for rezone outlined in red.
13. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pierce County Auditors Office.

B. In addition to the applicable requirements of GHMC Title 19.02.002, a complete application for final development plan approval shall consist of the following information:

1. All application materials required for a complete design review application per 17.98.040 and the City of Gig Harbor Design Review Manual.
2. All applications materials required under GHMC Chapter 17.98.050.
3. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pierce County Auditors Office.

17.89.050 Types of uses permitted.  
The following uses are permitted in a PUD:

## STAFF RE-DRAFT PUD

A. Those primary, accessory and conditional uses permitted in the underlying zoning district;

B. Other commercial and business, and residential uses may be located within the PUD, if a rezone application is submitted concurrently with the preliminary PUD application, and all of the following criteria are satisfied, in addition to the rezone criteria in Title 17:

1. Such uses constitute 10 percent or less of the proposed project;
2. Such uses are an integral component of the planned commercial and business development;
3. Such uses are compatible with any existing uses; and ~~or which could be developed in the adjoining commercial and businessy zoned area.~~
4. Such uses are consistent with the Gig Harbor Comprehensive Plan.

17.89.060 Development and Design Standards. --

A. The performance standards of the underlying zoning district may be varied, subject to the criteria in this chapter, only as follows:

1. **Lot Area and Lot Width:** Lot area and width requirements may be reduced where the site plan is such that light, air and privacy are provided.
2. **Setbacks:** Structures located on the perimeter of the PUD shall be set back in accordance with the front yard setbacks of the underlying zone.
3. **Building and Development Coverage:** Impervious surface coverage of individual parcels may exceed the percentage of coverage allowed in the underlying zone; provided, that overall coverage of the PUD does not exceed the percentage permitted by the underlying zone.
4. **Height:** Building height may exceed the maximum permitted by ~~ordinance~~code provided, that the ~~project~~ design protects the views and privacy of properties inside and outside of the project but in no case shall the maximum height exceed 45 feet, except that in B-2 and C-1 zones the height shall not exceed 60 feet. (CAROL – THIS HEIGHT OF 60 FEET IS MY ADDITION AND I THINK IT MAKES SENSE. AS LONG AS THIS IS THE STAFF VERSION I’M GOING TO ADD IT UNLESS YOU SAY OTHERWISE). Variances from the City Height Restriction Area Map, as adopted by chapter 17.62 GHMC, shall not be allowed. For perimeter buildings exceeding the maximum height of the underlying zone, the distance between such buildings and the perimeter of the PUD shall not be less than the front yard setback of the underlying zone plus five feet for each foot of excess height.

B. The performance standards which may not be modified or altered in a PUD are:

1. Shoreline regulations when the property is located in an area under the jurisdiction of the Gig Harbor Shoreline Master Program;
2. Standards pertaining to development in environmentally sensitive areas;
3. Regulations pertaining to nonconforming uses;
4. Standards pertaining to screening around outdoor storage areas.
5. Total coverage by impervious surface calculations. [Are we using impervious surface or development/building coverage? Be consistent.]
6. Height restrictions as identified on the adopted City of Gig Harbor Height Restriction Area Map and Shoreline Master Program

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### 17.89.070 Criteria for Approval of Preliminary PUD Application.

A. Applicants for a preliminary PUD application shall demonstrate that, with the exception of the sections of the code from which the applicant intends to vary (as allowed by Section 17.89. ), the proposed PUD is able to satisfy all applicable code requirements, and is compatible with surrounding properties, and meets the following criteria:

1. Schematic landscaping and site plan showing proposed for, and location of, open space or parks, general road layout, and proposed buffering of buildings, parking, pedestrian circulation, loading and storage areas;
2. Site access, proposed on-site circulation and off-street parking programs;
3. Schematic utility grading and drainage plan.
4. Identification of unique characteristics of the subject property proposed to be retained;
5. Identification of unique characteristics of the proposed use(s);
6. The proposed relationship and arrangement of buildings and open spaces as they relate to various uses within or adjacent to the PUD;
7. Measures proposed to mitigate visual impact of the PUD upon the surrounding area;
8. Identification of any extraordinary public improvements proposed in connection with the planned development. Such improvements shall exceed those required for a regular subdivision;
9. Identification of proposed unique natural features of the property to be preserved;
10. Identification of proposed unique historic or cultural features of the property and surrounding neighborhood to be preserved; and
11. Identification and acceptance of any proposed recreational opportunities in excess of those normally required of a subdivision.

B. The application must receive approval for all rezones required before the preliminary PUD application can be approved.

### 17.89.090 Criteria for Approval of final PUD Application.

Applicants for a preliminary PUD application shall demonstrate that all of the following criteria have been satisfied:

1. All features and amenities identified during preliminary approval are retained or improved.
2. Approval of the Design Review Board has been received for all relevant elements of the PUD including, but not limited to
3. site plan
4. architectural review.
5. color and materials selections
6. landscaping
7. lighting
8. signage
9. visual impacts on surrounding neighborhood

## STAFF RE-DRAFT PUD

10. Approval of the Public Works Department has been received for all streets, utilities, storm water, grading and drainage, traffic impact mitigation, and any and all other requirements of the Director of Public Works.
11. All other requirements of the City Fire Marshal.

### 17.89.100 Maximum building footprint bonus.

The maximum building footprint may be increased in a PUD over that permitted in the underlying zone but only if: (1) consistent with the underlying comprehensive plan designation for the property; and (2) the density increase will not exceed 50 (CAROL, THE PLANNING COMMISSION SAID 25 PERCENT, BUT I THINK THAT WILL MEAN NO ONE WILL USE THIS, SO I AM PROPOSING 50 PERCENT. THE 25 PERCENT WAS AN ARBITRARY NUMBER.) percent additional gross floor area, over the density allowed in the underlying zone. Density calculations shall be based on net buildable land. Density bonuses may be allowed only as follows:

#### **A. Open Space:**

1. Satisfaction of the standards in Section 17.89. \_\_\_ for open space: 10 percent increase;
2. Provision of open space exceeding the standards in Section 17.89. \_\_\_; 1 percent increase over the minimum required under design review guidelines.

**B. Preservation of Natural Features.** Preservation of a desirable natural feature that would not otherwise be preserved such as, but not limited to: an unregulated wetland, stream corridor, unique geological feature, substantial overstory vegetation, and which would not otherwise be preserved etc.: 10 percent increase;

**C. Preservation of Scenic Vistas:** Preservation of a scenic vista corridor(s) within and off-site: 10 percent increase;

**D. Provision of a Desirable Urban Amenity:** Provision of an urban amenity that complements the proposed development and that exceed the requirements of the Design Manual for common space or plazas. Such amenity may include such things as a play area, public transit amenities, public restrooms, fountains, or other comparable amenities identified by the applicant and city staff. 10 percent increase;

**E. Design of a storm water treatment system as amenity:** A stormwater treatment (retention/detention) facility that is also designed as a visually aesthetic and physically accessible amenity for the enjoyment of the public. 10 percent increase.

**D. Additional Landscaping:** ~~Preservation of throughout the PUD substantially exceeding the requirements of Title 17:~~ 10 percent increase.

### 17.89.110 Open space.

In order to be approved, a preliminary PUD application must demonstrate that all of the following performance standards are satisfied:

**A. Common open space shall not include public or private streets, driveways, parking areas or the required yards for buildings or structures: provided, however, that up to 30 percent of the open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.**

**B. Common open space areas may not be computed to include any submerged lands.**

## STAFF RE-DRAFT PUD

C. At least 50 percent of the common open space area must be usable for active or passive recreation, and which is also not utilized as a utility improvement or structure.

D. Common open space may contain such structures and improvements as are necessary and appropriate for the out-of-doors enjoyment of the residents of the PUD.

E. The developer shall provide a bond or other financial assurance acceptable to the city council that any improvements made in the common open space will be completed. The city shall release the bond or other assurance when the improvements have been completed in accordance with the development plan.

F. As a condition of approval of the final PUD application, ~~Upon final approval of the PUD, but before the approval may be granted,~~ and before any permits are issued, the applicant shall submit to the city covenants, deeds and/or homeowners' association bylaws and other documents guaranteeing maintenance, construction and common fee ownership, if applicable, of open space, community facilities, private roads and drives, and all other commonly owned and operated property. These documents shall be reviewed and approved by the city attorney to insure that they comply with the requirements of this chapter prior to approval of the final development plan by the city. Such documents and conveyances shall be recorded with the county auditor as a condition of any final development plan approval.

### 17.89.120 Roads

All roads shall be consistent with the adopted policies and standards of the City of Gig Harbor Public Works Construction Standards for public roads.

### 17.89.130 Minor and major amendments of the final PUD.

A. Minor amendments to a PUD shall be processed as a Type I project permit application, as described in Title 19.

B. Major amendments to a PUD shall be processed as a Type III project permit application, as described in Title 19.

C. Concurrent Processing of Applications. A minor PUD amendment application may be processed concurrent with a building permit application. If an application for a major PUD amendment is submitted, no building or other permit associated with such major PUD amendment shall issue until all review proceedings required under GHMC Title 19 for the major PUD amendment are completed.

## STAFF RE-DRAFT PUD

### PROPOSED NEW DEFINITIONS

**Impervious Surfaces:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

**Buildable Lands:** the gross land area measured in acres or square feet within the defined boundaries of the proposed project, less non-buildable land, such as wetlands or tidelands and other land, measured in acres and/or square feet, that by definition or ordinance is to be deducted from the gross buildable land area; plus density credits available. Land areas to be deducted from the gross buildable land area include wetlands, tidelands, wet creek beds, identified buffer areas along water bodies, and rights-of-way.

### **DEFINE:**

**Low Impact Retail**

## STAFF RE-DRAFT PRD

### STAFF RE- DRAFT OF NEW CHAPTER 17.89 PLANNED RESIDENTIAL DEVELOPMENT

#### Chapter 17.89

#### PLANNED RESIDENTIAL DEVELOPMENT ZONE (PRD)

##### Sections:

- 17.89.010 Intent.
- 17.89.020 Procedure for Approval of a Preliminary PRD Project.
- 17.89.030 Where Permitted and Acceptable Parcel Characteristics
- 17.89.040 Permit Application Procedures
- 17.89.050 Contents of Complete Preliminary and Final PRD Applications
- 17.89.060 Types of Uses Permitted.
- 17.89.070 Development and Design Standards
- 17.89.080 Criteria for Approval of Preliminary Applications
- 17.89.090 Criteria for Approval Final PRD Applications
- 17.89.100 Density Bonus.
- 17.89.110 Open Space.
- 17.89.120 Roads
- 17.89.130 Minor and Major Amendments of the Final Plan

#### 17.89.010 Intent of the Planned Residential Zone ("PRD").

The intent of the PRD zone is to provide for greater site design and flexibility and, thus, allow opportunity for more creative and imaginative residential projects than generally possible under strict application of the conventional zoning regulations in order that such projects may provide substantial additional benefit to the community. The criteria to be used in determining a proposed planned development's benefit to the community are listed in subsection 17.89.070. It is further intended to preserve unique or sensitive physical features, such as steep slopes, views, retention of natural vegetation and to provide more open space and recreational amenities than would be available under conventional land development practices. Additionally, it is intended to promote more economical and efficient use of land and a unified design concept for residential development. (Ord. 573 § 2, 1990).

#### 17.89.020 Where PRD's are Permitted and Acceptable Parcel Characteristics.

A. PRDs may be permitted in all districts zoned residential, with the exception of the Waterfront Millville (WM) and Waterfront Residential (WR).

B. Planned residential developments shall be limited to a minimum site area of two acres., excluding tidelands. PRDs shall not be allowed on any parcels less than two acres in size, excluding tidelands, unless one of the following findings are made, in addition to the criteria for preliminary PRD approval in this chapter:

1. An unusual physical, natural resource or topographical feature of importance exists on the site or in the neighborhood which can be conserved and still leave the applicant equivalent use of the land by the use of a PRD; or
2. The property or its neighborhood has an historical character of importance to the community that will be protected by use of a PRD.



## STAFF RE-DRAFT PRD

### 17.89.030 Permit Application Procedures.

A. Type of Permit. A preliminary PRD application shall follow the procedures set forth in Title 19 for a Type III project permit application. Final PRD approval shall follow the procedures in Title 19 for Type IV project permit applications. In order to approve a preliminary PUD application, the decisionmaker shall make written findings and conclusions demonstrating that all of the performance standards and criteria for approval set forth in this chapter have been satisfied. Final PRD approval shall be granted if the decision maker finds that the preliminary PRD and preliminary plat (if applicable) conforms to all terms of preliminary PRD approval, that the preliminary PRD meets the requirements of this chapter and all other applicable codes and state laws.

B. Expiration of PRD. Within five (5) years of the date of the preliminary PRD approval, an application shall be submitted for final PRD approval, otherwise, the preliminary PRD approval shall expire.

C. Concurrent Applications. Unless an applicant for preliminary plat approval requests otherwise, a preliminary plat shall be processed simultaneously with a PRD, to the extent that procedural requirements allow simultaneous processing. If an applicant requests that a preliminary PRD application be processed prior to the time a preliminary plat application is submitted, the preliminary PRD application shall not be considered to be vested, i.e., such application shall not be considered under the subdivision, zoning or other land use control ordinances in effect at the time the fully completed application for a preliminary PRD has been submitted to the City.

D. Phasing. If a proposed PRD is to be developed in phases, the entire PRD shall be portrayed in the preliminary PRD application, and each phase shall individually receive final PRD approval within the time periods established in subsection 17.89.030(B).

E. Design Review. The applicant shall submit an application for design review approval concurrent with the final PRD application.

### 17.89.040. Contents of Complete PRD application.

A. In addition to the applicable requirements of Title 19.02.002 GHMC, a complete application for preliminary development plan approval shall consist of the following information:

1. An environmental checklist or impact statement, as may be applicable, pursuant to GHMC Title 18;
2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;
3. A written description addressing the scope of the project, gross acreage, net buildable acreage calculations, the nature and size in gross floor area of each use, and the total amount of net buildable land in square feet to be covered by impervious surfaces;
4. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;

## STAFF RE-DRAFT PRD

5. A topographic map delineating contours, existing and proposed, at two foot intervals and which locates and classifies existing streams, marshes wetlands, steep slopes and other natural features and/or critical areas;
6. Site Plans drawn to a scale no smaller than one inch equals 30 feet showing the proposed location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas. Such plans shall be considered preliminary and are subject to modification by the Design Review Board during final approval, but should be specific enough that proposed design qualities and layout are clear;
7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights of way.
8. A general schematic layout for utility, drainage and stormwater runoff plans;
9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant vegetation proposed to be retained;
10. A statement explaining how the proposed plan is consistent with and implements the City of Gig Harbor Comprehensive Plan, the designation under the Comprehensive Plan, current zone classification, and desired zone classification;
11. A narrative describing how the proposal provides substantial additional benefit to the citizens of the City of Gig Harbor (the benefit accruing as a result of implementation of the PRD process as opposed to following the development standards of the underlying zone); and
12. A map of the area, with area proposed for rezone outlined in red.
13. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pierce County Auditors Office.

B. In addition to the applicable requirements of GHMC Title 19.02.002, a complete application for final development plan approval shall consist of the following information:

1. All application materials required for a complete design review application per 17.98.040 and the City of Gig Harbor Design Review Manual.
2. All applications materials required under GHMC Chapter 17.98.050.
3. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pierce County Auditors Office.

17.89.050 Types of uses permitted.

The following uses are permitted in a PRD:

A. Those primary, accessory and conditional uses permitted in the underlying zoning district;

B. Other residential, and low impact retail uses may be located within the PRD, if a rezone application is submitted concurrently with the preliminary PRD application, and all of the following criteria are satisfied, in addition to the rezone criteria in Title 17:

1. Such uses constitute 10 percent or less of the proposed project;
2. Such uses are an integral component of the planned residential development;

## STAFF RE-DRAFT PRD

3. Such uses are compatible with any existing residential uses; and ~~or which could be developed in the adjoining residentially zoned area.~~
4. Such uses are consistent with the Gig Harbor Comprehensive Plan.

### 17.89.060 Development and Design Standards. --

A. The performance standards of the underlying zoning district may be varied, subject to the criteria in this chapter, only as follows:

1. **Lot Area and Lot Width:** Lot area and width requirements may be reduced where the site plan is such that light, air and privacy are provided.
2. **Setbacks:** Structures located on the perimeter of the PRD shall be set back in accordance with the front yard setbacks of the underlying zone.
3. **Building and Development Coverage:** Impervious surface coverage of individual parcels may exceed the percentage of coverage allowed in the underlying zone; provided, that overall coverage of the PRD does not exceed the percentage permitted by the underlying zone.
4. **Height:** Building height may exceed the maximum permitted by ~~ordinance~~code provided, that the project design protects the views and privacy of properties inside and outside of the project but in no case shall the maximum height exceed 35 feet in R-1 and R-2 districts. Nor shall variances of the City Height Restriction Area Map, as adopted by chapter 17.62 GHMC, be allowed. For perimeter buildings exceeding the maximum height of the underlying zone, the distance between such buildings and the perimeter of the PRD shall not be less than the front yard setback of the underlying zone plus five feet for each foot of excess height.

B. The performance standards which may not be modified or altered in a PRD are:

1. Shoreline regulations when the property is located in an area under the jurisdiction of the Gig Harbor Shoreline Master Program;
2. Standards pertaining to development in environmentally sensitive areas;
3. Regulations pertaining to nonconforming uses;
4. Standards pertaining to screening around outdoor storage areas.
5. Total coverage by impervious surface calculations. [Are we using impervious surface or development/building coverage? Be consistent.]
6. Height restrictions as identified on the adopted City of Gig Harbor Height Restriction Area Map and Shoreline Master Program

### 17.89.070 Criteria for Approval of Preliminary PRD Application.

A. Applicants for a preliminary PRD application shall demonstrate that, with the exception of the sections of the code from which the applicant intends to vary (as allowed by Section 17.89. ), the proposed PRD is able to satisfy all applicable code requirements, and is compatible with surrounding properties, and meets the following criteria:

1. Schematic landscaping and site plan showing proposed for, and location of, open space or parks, general road layout, and proposed buffering of buildings, parking, pedestrian circulation, loading and storage areas;
2. Site access, proposed on-site circulation and off-street parking programs;

## STAFF RE-DRAFT PRD

3. Schematic utility grading and drainage plan.
4. Identification of unique characteristics of the subject property proposed to be retained;
5. Identification of unique characteristics of the proposed use(s);
6. The proposed relationship and arrangement of buildings and open spaces as they relate to various uses within or adjacent to the PRD;
7. Measures proposed to mitigate visual impact of the PRD upon the surrounding area;
8. Identification of any extraordinary public improvements proposed in connection with the planned development. Such improvements shall exceed those required for a regular subdivision;
9. Identification of proposed unique natural features of the property to be preserved;
10. Identification of proposed unique historic or cultural features of the property and surrounding neighborhood to be preserved; and
11. Identification and acceptance of any proposed recreational opportunities in excess of those normally required of a subdivision.

B. The application must receive approval for all rezones required before the preliminary PRD application can be approved.

### 17.89.090 Criteria for Approval of final PRD Application.

Applicants for a preliminary PRD application shall demonstrate that all of the following criteria have been satisfied:

1. All features and amenities identified during preliminary approval are retained or improved.
2. Approval of the Design Review Board has been received for all relevant elements of the PRD including, but not limited to
3. site plan
4. architectural review.
5. color and materials selections
6. landscaping
7. lighting
8. signage
9. visual impacts on surrounding neighborhood
10. Approval of the Public Works Department has been received for all streets, utilities, storm water, grading and drainage, traffic impact mitigation, and any and all other requirements of the Director of Public Works.
11. All other requirements of the City Fire Marshal.

### 17.89.100 Density bonus.

The density may be increased in a PRD over that permitted in the underlying zone but only if: (1) consistent with the underlying comprehensive plan designation for the property; and (2) the density increase will not exceed 30 percent over the density allowed in the underlying zone. Density calculations shall be based on net buildable land. Density bonuses may be allowed only as follows:

## STAFF RE-DRAFT PRD

### A. Open Space:

1. Satisfaction of the standards in Section 17.89.\_\_\_\_ for open space: 10 percent increase;
2. Provision of open space exceeding the standards in Section 17.89.\_\_\_\_; 1 percent increase over the minimum required under design review guidelines.

**B. Preservation of Natural Features.** Preservation of a desirable natural feature that would not otherwise be preserved such as, but not limited to: an unregulated wetland, stream corridor, unique geological feature, substantial overstory vegetation, and which would not otherwise be preserved etc.: 10 percent increase;

**C. Preservation of Scenic Vistas:** Preservation of a scenic vista corridor(s) within and off-site: 10 percent increase;

**E. Design of storm water treatment system as amenity:** A stormwater treatment (retention/detention) facility is also designed as a visually aesthetic and physically accessible amenity for the enjoyment of the public. 10 percent increase.

**D. Additional Landscaping:** ~~Preservation of throughout the PRD substantially exceeding the requirements of Title 17: 10 percent increase.~~

17.89.110 Open space.

In order to be approved, a preliminary PRD application must demonstrate that all of the following performance standards are satisfied:

A. Common open space shall comprise at least 30 percent of the gross area of the PRD, and shall be used as a recreational, park or environmental amenity for collective enjoyment by occupants of the development. Common open space shall not include public or private streets, driveways, parking areas or the required yards for buildings or structures: provided, however, that up to 30 percent of the required open space may be composed of open space on contiguous privately owned properties reserved by easement or covenant to assure that the open space will be permanent.

B. Common open space areas may not be computed to include any submerged lands.

C. At least 50 percent of the common open space area must be usable for active or passive recreation, and which is also not utilized as a utility improvement or structure.

D. Common open space may contain such structures and improvements as are necessary and appropriate for the out-of-doors enjoyment of the residents of the PRD.

E. The developer shall provide a bond or other financial assurance acceptable to the city council that any improvements made in the common open space will be completed. The city shall release the bond or other assurance when the improvements have been completed in accordance with the development plan.

F. As a condition of approval of the final PUD application, — Upon final approval of the PRD, but before the approval may be granted, and before any permits are issued, the applicant shall submit to the city covenants, deeds and/or homeowners' association bylaws and other documents guaranteeing maintenance, construction and common fee ownership, if applicable, of open space, community facilities, private roads and drives, and all other commonly owned and operated property. These documents shall be reviewed and approved by the city attorney to insure that they comply with the requirements of this chapter prior to approval of the final development plan by the city. Such documents and conveyances shall be recorded with the county auditor as a condition of any final development plan approval.

## STAFF RE-DRAFT PRD

### 17.89.120 Roads

All roads shall be consistent with the adopted policies and standards of the City of Gig Harbor Public Works Construction Standards for public roads.

### 17.89.130 Minor and major amendments of the final PRD.

A. Minor amendments to a PRD shall be processed as a Type I project permit application, as described in Title 19.

B. Major amendments to a PRD shall be processed as a Type III project permit application, as described in Title 19.

C. Concurrent Processing of Applications. A minor PRD amendment application may be processed concurrent with a building permit application. If an application for a major PRD amendment is submitted, no building or other permit associated with such major PRD amendment shall issue until all review proceedings required under GHMC Title 19 for the major PRD amendment are completed.

## STAFF RE-DRAFT PRD

### PROPOSED NEW DEFINITIONS

**Impervious Surfaces:** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

**Buildable Lands:** the gross land area measured in acres or square feet within the defined boundaries of the proposed project, less non-buildable land, such as wetlands or tidelands and other land, measured in acres and/or square feet, that by definition or ordinance is to be deducted from the gross buildable land area; plus density credits available. Land areas to be deducted from the gross buildable land area include wetlands, tidelands, wet creek beds, identified buffer areas along water bodies, and rights-of-way.

### **DEFINE:**

#### **Low Impact Retail**



*City of Gig Harbor. The "Maritime City"*

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: PATRICIA IOLAVERA, ASSOCIATE PLANNER**  
**SUBJECT: PLANNING COMMISSION RECOMMENDATION ON BORGEN**  
**PROPERTY**  
**DATE: NOVEMBER 6, 2000**

#### **INFORMATION/BACKGROUND**

As requested several times by the City Council, the Planning Commission has examined the records on the Borgen property. On October 19, 2000, the Planning Commission reviewed the three (3) reports that have addressed the structural integrity of the building, and copies of the Mayor's survey and public comments. Copies of the memo prepared by staff and the package containing the aforementioned documents are available at the Planning Department.

#### **FISCAL CONSIDERATIONS**

The costs associated with renovation of the existing structure are extremely high and hard to quantify as all reports made note that further decay and additional problems will likely be encountered as finish materials are removed and other parts of the structure made visible.

#### **RECOMMENDATION**

The Planning Commission voted to recommend the following:

1. The existing structure should be demolished.
2. Uses at this site should be fairly passive and as "green" as possible in light of the Endangered Species Act and the public's stated highest preferences.

Staff further recommends the City issue an RFP for engagement of a design team to produce some environmentally sensitive, and attainable, options for consideration.



**TO: PLANNING COMMISSION**  
**FROM: PATRICIA IOLAVERA, ASSOCIATE PLANNER**  
**SUBJECT: BORGEN BUILDING - RECOMMENDATION TO COUNCIL**  
**DATE: October 19, 2000**

#### **INFORMATION/BACKGROUND**

1. At the last council retreat, City Council members asked that staff begin actively addressing the Borgen property purchased in November of 1999. For our part, the Council requested that the Planning Commission make a determination in regard to the proposed use of the building and whether the City should restore the existing structure or demolish it and build a new structure appropriate to the uses deemed most beneficial at this site.

There are two reports related to the condition of the structure in the packet you were provided today. Chronologically, the first was the report by Carrenden Enterprises, Inc. At about the same time, the Lion's Club provided a report by a group of volunteer building professionals. There is also a report from Albert S. Mitchell & Associates (ASM), Structural Engineers. There are a set of three memos from the Chief Building Official and Fire Marshall. Also included is a set of public comments and the results of the Mayors Survey.

2. Significant weight must be given to the report by the structural engineer, ASM. This report concludes (pg. 2) that none of the building was build to any code, and that "it is riddled with rot and insects". The report also concludes that the building may have sentimental value to the community, but it "has no redeeming architectural, historical or functional qualities" that they could ascertain, and "from a structural design aspect, it has no value". They go on to say that anything can be salvaged or restored with enough funding. It is important to note their comments on the success of efforts to salvage or restore the structure.

Another significant issue that arises in their report is that of a soil analysis will be need to be done to address rumors that the site is founded of fill material. In conversation with the Gig Harbor Historical Society, staff confirmed that bridge and fill work is known to have taken place around 1947 but that the details of the location and type of fill are unknown. Staff believes that public safety dictates a geotechnical report is prudent, regardless of the alternatives selected by the Planning Commission.

ASM concludes:

*In summary, the building is in poor condition, of poor quality and does not meet code*

*requirements of today and access should be restricted. A geo-technical report should be obtained to determine construct-ability of the site before proceeding further with renovation.*

3. The other professional report provided in your packet was authored by Carrenden Enterprises, Inc., a private consulting firm providing services for the conduct of unbiased inspections of buildings and structural conditions. This report finds substantial rot and insect damage and notes that when the interior finish materials are removed "additional damage from wood destroying organisms is expected to be found" (pg. 5).

Carrenden then states that "Structural renovations should include a complete design package to upgrade the shear value of existing walls and the weight carrying capacity of the pier and post supported areas." (In light of the geotechnical concerns expressed by ASM this issue is compounded).

Carrenden summarizes:

*This building was constructed with some unique architecture. While portions of the building were constructed with heavy timber materials, certain additions, framing practices, and other characteristics tend to indicate repair may not be economically feasible at this time. Structural integrity deficiencies related to construction features and the amount of damage observed from woodrot and other wood destroying organisms are expected to significantly impact on the economic feasibility of historical restoration efforts while maintaining a public use function.*

4. The Gig Harbor Lions Club prepared a report with the participation of architect Bill Reid, general contractor Chuck Hunter, and consulting engineer Terry Nettles. Their report assumes two options and gives a preliminary cost estimate for each. The two alternatives are: 1) keeping the desired part of the existing building; and 2) for demolishing the existing building and constructing a comparable new building.

Their conclusions and recommendations are as follows:

- *The difference in estimated cost of the two considered options does not give a clear answer as to which option to select. The matter deserves further consideration by City Management and the Council to choose. We believe either option is feasible.*
- *The new option might be considered less risky due some of the variables mentioned and known about restoration work.*
- *The Restore option would most likely retain more of the historical "flavor" of the site and be therefore more attractive to those of us who have lived in the area and enjoyed the association with George Borgen and who wish to have the site best identified with it's long history.*
- *Participation of foundations and the general public in fund raising for a restoration project would likely be greater than for a new facility.*
- *A Restored facility might provide more opportunity for a management approach like that use on the Finholm View Climb Project.*

- *The New approach would allow more flexibility in the kind of building constructed.*
5. At various times during the past year the City Building Official and Fire Marshal, Steve Bowman, has issued memos in regard to use and occupancy of the building. His memos are included. Items that are new to the discussion include: the necessity for fire protection walls, particularly if the proposed uses were to include classrooms; retrofitting or constructing for handicapped accessibility; considerations of maintenance costs depending on type of structure and use; and concerns regarding the Endangered Species Act and construction/restoration activity on the site.
  6. In order to balance the economic concerns with the interests expressed by the community in regard to use, a packet including the Mayor's survey and a set of letters is included. The 'top twenty priorities' of the community (in order) are as follows:
    1. *Retain trees and natural features.*
    2. *Plan long-term use for the Borgen site.*
    3. *Restore salmon habitat.*
    4. *Research and implement technology to eliminate the WWTP odor from the neighborhood.*
    5. *Build permanent public restrooms with handicap access and changing tables.*
    6. *Accept offer of Rhododendron Society to plant rhodies among the natural forest.*
    7. *Evaluate actual immediate use demand for building.*
    8. *Evaluation of who would be on site full time.*
    9. *Handicap access to whole site including any trails.*
    10. *Return of the salmon.*
    11. *Well planned park entry.*
    12. *Memorial plantings, benches and brick pavers.*
    13. *Connect trail to the new site of the Gig Harbor Peninsula Historical Society Museum and Heritage Center.*
    14. *Maintain salmon recovery effort of the Gig Harbor Commercial Fishermen's Civic Club on Donkey Creek.*
    15. *Open up the Donkey Creek habitat to day light by working with adjacent property owners and government funding sources.*
    16. *Coordinate restoration of habitat with school environmental Science classes along with Larry Oathout, Peninsula Salmon, and Washington State DOE, DNR, F&W, Puget Sound Water Quality, the Governor's OFM, Key Peninsula/Gig Harbor Islands Watershed Committee and the 4d rule handed down by the Federal Govt. through the Endangered Species Act.*
    17. *Remove Sliding glass doors and garage doors to expose the original logs to take advantage of the morning sun on the existing covered porch.*
    18. *Benches on covered porch.*

19. *Connect trail to the Donkey Creek Estuary on the shores of Gig Harbor Bay – environmentally friendly boardwalk.*
20. *Provide plans for a first-class renovation of the original Austin Erickson office building and Hardware store.*

### **POLICY CONSIDERATIONS**

When considering the uses for this property and building, it is important to bear in mind costs, public desires, other facilities available or planned that could provide space for uses under consideration, and the implications of a salmon stream running through the property.

Both extensive renovation and new construction will be more complicated under the ESA, but neither will be impossible. The new City Hall, the new Heritage Museum and Cultural Center, and the park and the overlook/plaza at the new Russell building, will offer opportunities for certain types of uses, both in and out of doors. Costs pertaining to staffing and maintenance must be addressed as well. Finally, parking and traffic considerations at this site may further constrain the options for use, particularly if the lower portion of the site is devoted to a green park instead of a parking lot.

### **FISCAL CONSIDERATIONS**

The options under consideration are renovation, new construction of a similar building, construction of a simpler structure, or simply removal of the building. Undoubtedly, simple removal is the least expensive, though perhaps the least palatable choice. Renovation is at least as expensive, potentially more so, as new construction of a similar building. Construction of a new but simpler building may lie somewhere between.

### **RECOMMENDATION**


Staff recommends the following basic recommendations:

- A geotechnical report should be commissioned by Public Works to inform the engineering of the foundation of either the existing or any future building.
- Staff proposes uses at this site should be fairly passive and as “green” as possible in light of the ESA and the public’s stated highest preferences. Staff proposes: Public restrooms, interpretive functions (historic, cultural, and environmental), and shelter. Salmon related activities, outdoor classrooms for science classes (public schools), hatchery as lab, salmon overlook, outdoor art components, interpretive signs, connection to museum and estuary and other trail systems. These types of uses will not require much parking.
- From an economic standpoint, staff favors a new and simpler structure suitable for the above level of use.
- Once uses have been generally determined, a design team may then be engaged to produce some environmentally sensitive, ‘doable’ options for public vote.
- If possible the materials and or pieces of the log structure should be preserved in some form, or incorporated into a new structure.



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**TO: CITY COUNCILMEMBERS**  
**FROM: MAYOR GRETCHEN WILBERT**   
**SUBJECT: DEMOLITION OR RESTORATION OF THE  
BORGEN/AUSTIN/ERICKSON SHOWROOM**  
**DATE: NOVEMBER 8, 2000**

Demolition of the Borgen Building was recommended by the Planning Commission at their meeting of October 19<sup>th</sup>. Some Planning Commission members indicated that they were given short notice to review the volume of information presented by staff. Updated information was not included due to an oversight on my part of being unaware the Borgen property was on the Planning Commission agenda of October 19<sup>th</sup>.

**FISCAL, ENVIRONMENTAL AND COMMUNITY EXPECTATION:**

- Demolition costs of all remaining structure were estimated by Public Works Director David Skinner at \$40,000.
- Plan and constructing an outdoor Interpretive Center - estimated cost \$100,000.
- Demolition of all remaining structures will expose the desired passive green space park to high volume traffic noise, air pollution and visual clutter.
- Accept the offer of the Gig Harbor Lions Club to provide a first class renovation of the Borgen showroom for community use with Community donations. Minimal cost of staff time.
- Consider leasing restored showroom to non-profit as manager. Precedent has been set i.e.: Chamber of Commerce, G.H. Peninsula Historical Society.

**RECOMMENDATION:**

If Council wishes to consider action this evening without a reconsideration and recommendation from the Planning Commission, I submit the following options:

1. To request staff to return with a timeline and cost for demolition of the Borgen Building and plan for outdoor interpretive center, or
2. Request to prepare legal documents to accept the offer of the Gig Harbor Lions Club to provide a first class restoration of the Borgen Showroom to meet community needs and expectations.

#### CITY COUNCIL IN RETREAT

On July 21st one of the subjects discussed by councilmembers and staff was the safety issue surrounding the future park property at Borgens Corner. Break-ins were occurring again in July. The motion by Council as stated in the minutes of their retreat reads as follows:

"Councilmembers said they wished to have the outbuildings removed as quickly as possible and the property cleaned up, in coordination with Pat Iolavera to assure compliance with ecology concerns, and that any further direction on what should be done with the property should be delayed until the report from the Planning Commission had been presented."

The outbuildings have been removed. The Council is awaiting a recommendation from the Planning Commission.

I understand the recommendation of the Planning Commission on Oct. 19 was as follows:

1. The existing structure should be demolished.
2. Uses at the site should be fairly passive and as green as possible in light of the Endangered Species Act and the public's stated highest preferences.

#### Request for reconsideration of #1

A first class restoration of the Austin/Erickson/Borgen showroom was 20th in the list of priorities considered among the 77 possible suggested ideas for the park.

Many in the community sincerely hope you will reconsider your recommendation to include the Lions Club offer.

I hope the following information will provide you some insight into the community's interest in saving the structure reminiscent of the history of the area.



## **AD HOC COMMITTEE – BORGEN PROPERTY PLANNING**

### **AGENDA**

April 14, 2000 - RECOMMENDATION, GOALS & OBJECTIVES

#### **WELCOME -**

**The purpose of this meeting** is to establish recommendations to be included in a resolution to be considered by the Planning Commission before submitting said resolution to the City Council

#### **MAYOR'S REPORT UPDATE**

In addition to the \$30,000 challenge offer to raise funds for retaining the historical significance in a restoration of the original Austin & Erickson building and the offer of the Gig Harbor Lions Club to establish a gift tax-incentive fund to pay for the restoration we have received the following in-kind donations to further accomplish a first class restoration of Zone A (re: structural report).

- Donation of carpet from Dryers by successful bidder in Vaughn Elementary School Auction
- Offer by youth to promote a Saturday Silent Auction Sidewalk Sale of shelving, etc. (i.e.: Stuff to be removed from Zone A building.)
- Donation of interior decorating consulting services of Alexander's Design Network
- Volunteer search for appropriate card tables and chairs for the volunteer gathering place in Borgen building by members of the Welcome Club

**Consider all recommendation/suggestions in the survey that will compliment the following objectives:**

1. A green and natural open space with a sensitive awareness of the Donkey Creek/Salmon habitat by:
  - a. Removing ASAP all outbuildings/debris
  - b. Remove buildings indicated in Zone B and Zone C.
2. Accept the offer of the Gig Harbor Lions Club to take the lead in fund raising and contracting for a first class restoration of the historical building indicated in Zone A





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**TO: CITY COUNCILMEMBERS**  
**FROM: MAYOR GRETCHEN WILBERT**  
**SUBJECT: RESOLUTION - BORGEN PROPERTY**  
**DATE: JULY 20, 2000**

#### **INFORMATION/BACKGROUND**

Last fall when the City decided to purchase the Borgen Property, there were no funds budgeted to develop the park or clean up the hazardous site. Since then, many organizations have indicated an interest in assisting the city to retain the original log structure for a variety of uses. The Gig Harbor Lions Club has stepped forward to volunteer to coordinate the renewal of the Austin Erickson Office that later became the Borgen Showroom. Shirley Tomasi, Ex-Director of the Cultural Arts Commission, has volunteered to contract with the city for Program Management of the facility.

#### **FINANCIAL CONSIDERATION**

The city needs to contract with environmental considerations for the removal of all the debris on the park site along with removal of all the add-ons to the original showroom.

#### **RECOMMENDATION**

The City Council passes this resolution to accept the Gig Harbor Lions Club offer and ask the city to return to Council with a plan for removal of debris and all showroom add-ons.

*Hi Carol*

*Thanks for the review. We appreciate you doing a "clean up" language for me.*

*Thanks  
gretchen*

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE GIG HARBOR PLANNING COMMISSION, GIG HARBOR, WASHINGTON, FORWARDING THE DEMOLITION REPORT ON THE BORGEN PROPERTY STRUCTURES AND THE RECOMMENDATION OF THE PLANNING COMMISSION TO THE CITY COUNCIL RELATING TO RESTORATION PLANNING FOR THE PROPERTY AND ITS IMPROVEMENTS.**

---

**WHEREAS,** the City of Gig Harbor has purchased the Borgen Property for a park, which is located adjacent to the property owned by the Gig Harbor Peninsula Historical Society; and

**WHEREAS,** Donkey Creek runs through the Borgen Property; and

**WHEREAS,** new federal regulations relating to salmon protection have curtailed many of the community park interests for the Borgen Property; and

**WHEREAS,** restoration of Donkey Creek for salmon and the natural environment have been established by the City as a high priority; and

**WHEREAS,** an Ad Hoc Advisory Committee of twenty citizens invited the public to participate in visioning for the restoration and future use of this proposed park/meeting space; and

**WHEREAS,** additional input was received from Gig Harbor elementary students, staff and seniors on the restoration and future use of this proposed park/meeting space; and

**WHEREAS,** the City recognizes the historical significance of the Austin Erickson Log Home Mill, as well as the 30 year presence of the Borgen Lumber and Hardware Store; and

**WHEREAS,** a restored showroom of the Borgen Building could provide space for two-thirds of the priority needs of the community, as identified in the visioning and input surveying performed by the City; and

**WHEREAS,** seventeen non-profit citizen volunteer organizations and service clubs representing all age groups have indicated an interest in the creation of a small meeting space in the Borgen Building; and

**WHEREAS,** the City advertised for bids and eventually awarded a contract with a contractor for the demolition of certain structures on the Borgen Property; and

**WHEREAS,** during or after the demolition process, the Gig Harbor Lions Club evaluated the condition of the Borgen Building for the rehabilitation of the Building and developed a proposal for the City to consider in conjunction with same; and

WHEREAS, during the \_\_\_\_\_, 2000 meeting of the Gig Harbor Planning Commission, the Commission reviewed the Gig Harbor Lions Club proposal; Now, Therefore,

**THE PLANNING COMMISSION OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

Section 1. The Gig Harbor Lions Club proposal includes the following elements:

- A.
- B.
- C.
- D.
- E.

Section 2. The Gig Harbor Lions Club proposes to accomplish the following tasks by performing \_\_\_\_\_

Section 3. After review of the Gig Harbor Lions Club proposal, the Planning Commission recommends as follows:

- A. That the proposal should be reviewed by the City Attorney for compliance with all applicable laws relating to public works and the rehabilitation of the Borgen Building;
- B.
- C.

RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GIG HARBOR, WASHINGTON, at a Regular Meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
\_\_\_\_\_, Chair

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Patricia Iolavera, Acting Planning Director

APPROVED AS TO FORM:

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

**Towslee, Molly (Gig Harbor)**

---

**From:** Len McAdams [lenmca@bigplanet.com]  
**Sent:** Thursday, October 19, 2000 8:05 PM  
**To:** Schmidt, Bob  
**Cc:** Carpenter, Arch; Owel, Marilyn; Wilbert, Gretchen  
**Subject:** Board Meeting Minutes

Bob, The following would be appropriate for the Borgen Property matter for today's minutes:

Len McAdams summarized the Borgen Property situation as follows:

1) The City of Gig Harbor is considering whether to a) Restore the existing main building or b) Demolish the building and rebuild a similar structure or c) Demolish the main building and build some other type of memorial

2) McAdams says that he would recommend to our Board that the Gig Harbor Lions Club commit to manage and solicit funds for this project only if the City opts for a) above, requests that we manage the restoration and provides a workable process that fits the conditions of our Endowment Fund.

3) McAdams said that on Wednesday he and Chuck Hunter agreed that, in the event the Lions Club undertakes the project as in 2) above, McAdams would be the General Manager of the project with Chuck Hunter as Project Manager, directing the restoration effort. Additional staff positions under McAdams would be filled by Lions to share the load and make the project possible.

Sec. 1 Ideas for legal proposal

- A. To rebuild or restore the Austin Erickson/Borgen showroom.
- B. To remove all add-ons to the main structure to determine whether to rebuild or restore.
- C. To bring plan options back to the staff, Planning Commission, DRB and City Council for approval.
- D. The City determines the management of the facility following renovation/restoration.
- E. Approval of management of the project in similar fashion of F.V.C.

Sec. 2

fund raising opportunities to fund the rebuild or restoration of the Austin Erickson Office/Borgen showroom.

Sec. 3

- B. The City coordinate with Len McAdams for satisfactory responses by all parties to all comments in his letter of Sept. 10, 2000.
- C. Negotiate management process with McAdams for the Lions Club to undertake the renovation/restoration of the Borgen building.

*Recommendation to the City Council to restore the Borgen showroom to provide:*

*A photo gallery of Austin Erickson Log Homes history*

*An Environmental Education Resource Library for students, young and old to participate in*

- o Donkey Creek habitat restoration*
- o Salmon recovery*
- o Urban Forest Management*
- o Children's Art Education*

*Public Restrooms, - male - female - family*

*A small service area, with card tables and chairs*

*Entry onto a deck overlooking the park*

*A management team for the restored indoor facility to be leased to a non-profit organization i.e.,*

*Cultural Arts Commission*

*Negotiations with the City and the Gig Harbor Lions Club to accomplish a plan for restoration and preservation of history.*

**RECEIVED**

**NOV - 6 2000**

November 5, 2000

CITY OF GIG HARBOR

**TO: Planning Commission**  
**FROM: Shirley Tomasi**  
**Borgen Property Ad Hoc Committee Member**  
**SUBJECT: Borgen Property**

It is my understanding the Planning Commission has been asked to reconsider your October 19<sup>th</sup> decision and recommendation to the City of Gig Harbor Council-members with regard to the Borgen Property. With this in mind, I request the following also be taken under consideration with regard to enhancing "Community Activity Centers":

**City of Gig Harbor Hotel/Motel Tax Committee**

Three years ago the City of Gig Harbor Hotel/Motel Tax Committee hired Chandler and Brooks, a marketing firm, to ascertain what attracts people to Gig Harbor. The survey Results:

1. Waterfront – Community Ambiance and Walking the Harbor
  2. Golf Courses
  3. Cultural Arts Programming
  4. Shopping
- They recommended shopping/information resources be increased as tourist shop four hours for every one hour taken to travel to their destination.

Last year the City of Gig Harbor Hotel/Motel Tax Committee hired a Tourism Specialist tasked to enhance Cultural Programming in an effort to encourage Tourism.

This year, 2000, the City of Gig Harbor Council-members will consider whether to establish in 2001, a Tourism/Economic Development/Park/Art Director. City of Gig Harbor Hotel/Motel Tax 2001 Funds were set aside to assist in establishing such a position.

**Current Harborview and North Harborview Drive Occupancy**

Harborview and North Harborview Drive, as you know, alternately accommodates residential and business zones. After reviewing available development sites along Harborview and North Harborview Drive, it is evident that little opportunity exists for "Community Activity Centers", a rent free or minimal fees zone. Existing and potential "Community Activity Centers" include:

**Existing Property with Restrooms – Pavilion**

1. Jerisich Park
2. City Park at Crescent Creek

**Property in Development**

1. Estuary Park
2. Russell Park (Gift to Community)

Property in Development with Potential Facilities – Restrooms

1 Borgen Property

Potential Property with Facilities:

1 Skansie Property

“Off Harborview Drive” “Potential” and or “In Plan” sites:

City of Gig Harbor Community Center

Current “Planning” Facility on Judson Street

Wilkersen Property (House and Barn) on Rosedale Street

**Facility Use Requirements:**

Information/Tourism Center

Volunteer Center

Student Art Gallery – Actual Student Business – Resident/Tourist Shopping

Arts in the Park Planning and Program Development

Home for Non-Profit Organization’s Information

Home for the Gig Harbor Key Peninsula Cultural Arts Commission

Children’s Agricultural Museum and Activity Center

Borgen Property Ad Hoc Committee Facility Use Recommendations

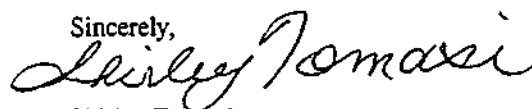
And so much more....

With the above in mind, it is recommended that you consider a dual approach to the Borgen property. That of both a park and a “Community Activity Center”. The Center would accommodate many of the Borgen Property Ad Hoc Committee recommendations for facility use.

Yes, it would be nice to preserve the Austin – Erickson logs, possibly incorporating them in a new structure. But, the main objective is to effectively consider the limited amount of community space available along Harborview and North Harborview Drive to accommodate City of Gig Harbor residents’ varied interests, while providing “interesting things to do” for shoppers.

When the Pioneer Baptist Church became available, many groups stepped forward with facility requirements. However, funding was limited, or non-existent, to purchase the facility. One Community Center will not accommodate all community organization’s needs. We should encourage our volunteer community organizations, by providing “Community Activity Centers” throughout our community for them to gather, develop programs. In this way, we sustain community.

Sincerely,



Shirley Tomasi

11107 Hallstrom Drive NW

Gig Harbor, WA. 98332

(253) 851-9462

Cc: Gig Harbor City Mayor and Council Members





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**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR** DR  
**DATE: NOVEMBER 9, 2000**  
**SUBJECT: SECOND READING - ORDINANCE ACCEPTING A DONATION FROM  
THE CITIZENS AGAINST TOLLS FOR THE PURPOSE OF ASSISTING  
WITH EXPENSES ASSOCIATED WITH THE APPEAL OF THE  
NARROWS BRIDGE FEIS.**

**BACKGROUND**

Citizens Against Tolls has donated \$1,500.00 to the City to assist with expenses incurred by the City in its appeal of the Tacoma Narrows Bridge FEIS. In order to accept a donation, the City must pass an ordinance accepting the donation and terms and conditions. This ordinance accepts the donation. Through September, the City has spent \$7,500 on this appeal.

The donation has been receipted and placed in the General Fund.

**RECOMMENDATION**

Staff recommends adoption of the ordinance.

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, ACCEPTING A DONATION OF ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) FROM CITIZENS AGAINST TOLLS AS A CONTRIBUTION TO ASSIST WITH EXPENSES ASSOCIATED WITH THE APPEAL OF THE STATE ROUTE 16/TACOMA NARROWS BRIDGE FEIS.**

---

WHEREAS, pursuant to RCW 35.21.100, the City of Gig Harbor may accept any donations of money by ordinance, and may carry out the terms of the donation, if the same are within the powers granted to the City by law; and

WHEREAS, the City has received cash in the amount of one thousand five hundred dollars (\$1500.00) from Citizens Against Tolls, to be used to assist the City with expenses associated with the appeal of the State Route 16/Narrows Bridge FEIS; now, therefore,

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

Section 1. **Acceptance of Donation.** The City Council hereby accepts the one thousand five hundred dollar (\$1500.00) donation from the Citizens Against Tolls.

Section 2. **Finance Director to Receipt Funds.** The Finance Director shall deposit the donation in the City's General Fund, and shall earmark the funds to be used for the purposes described in this ordinance.

Section 3. **Effective Date.** This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

---

MAYOR, GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

---

CITY CLERK, MOLLY TOWSLEE

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:



# Citizens Against Tolls

RECEIVED

OCT 09 2000

CITY OF GIG HARBOR

PO Box 2322 Gig Harbor WA 98335  
(253) 857-2287 www.harbornet.com/cat

Mayor Wilbert and Council members,

October 8, 2000

Please find enclosed \$1,500.00 donated for the City of Gig Harbor expenses associated with the appeal of the State Route 16 / Tacoma Narrows Bridge EIS filed in Federal Court.

As promised, Citizens Against Tolls will engage in fundraising to share the financial burden incurred by city residents. All donations designated for city appeal costs will be consolidated and periodically transferred to the city.

Thank you for challenging the State Department of Transportation for their inadequate EIS. Thank you, too, for protecting the interests of local citizens.

Sincerely,

Michael Biskey,  
Treasurer, Citizens Against Tolls

CITIZENS AGAINST TOLLS  
P.O. BOX 2322  
GIG HARBOR WA 98335

Date 8 OCT 2000 115  
18-5711250  
147

Pay to the Order of CITY OF GIG HARBOR \$ 1500.00  
FIFTEEN HUNDRED AND 00/100 Dollars

KeyBank National Association  
Gig Harbor, WA 98335  
1-800-KEY2YOU

For Michael Biskey

⑆ 25000574⑆ 471471009085⑆ 0115

GUARDIAN SAFETY BLUE WSL



*City of Gig Harbor. The "Maritime City"*

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR** *DR*  
**DATE: NOVEMBER 8, 2000**  
**SUBJECT: SECOND READING - 2001 TAX LEVY ORDINANCE**

### **INTRODUCTION**

This is the second reading of an ordinance setting the 2001 property tax levy.

### **BACKGROUND**

At this time Initiative 722 (I-722) has passed. I-722 rolls back property taxes and assessed valuations to their 1999 levels. The Pierce County Assessor Treasurer has not yet provided guidance to taxing districts concerning implementation of I-722. Also, there likely will be legal challenges similar to those against Initiative 695.

### **POLICY CONSIDERATIONS**

Due to the uncertainty created by passage of I-722, staff is recommending a continuation of the current levy for collection in 2001. The City's current levy is \$1,091,686. If the Assessor Treasurer rolls the levy back to 1999 rates, the levy will decrease to \$981,070.

This year we do not need to levy taxes to provide debt service for the 1987 sewer plant construction GO Bonds. In 2000 this levy was \$15,000 or \$0.0219 per thousand dollars of assessed valuation.

### **FINANCIAL**

Property taxes are approximately 13% of 2001 General Fund budget and 66% of the Street Fund operating budget.

### **RECOMMENDATION**

Staff recommends adoption of the ordinance.

**CITY OF GIG HARBOR**

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

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, LEVYING THE GENERAL PROPERTY TAXES FOR THE CITY OF GIG HARBOR FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2001.**

**WHEREAS**, the City Council of the City of Gig Harbor attests that the City population is 6,575; and

**WHEREAS**, the City Council of the City of Gig Harbor have properly given notice of the public hearing held October 23, 2000 to consider the City's General Fund revenue sources for the 2001 calendar year, pursuant to RCW 84.55.120; and

**WHEREAS**, the City Council of the City of Gig Harbor has considered the city's anticipated financial requirements for 2001, and the amounts necessary and available to be raised by ad valorem taxes on real and personal property,

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

Section 1. The ad valorem tax general levies required to raise estimated revenues for the City of Gig Harbor for the ensuing year commencing January 1, 2001, shall be levied upon the value of real and personal property which has been set at an assessed valuation of \$692,381,118. Taxes levied upon this value shall be:

The 2000 property tax for collection in 2001 is \$1,091,686 which is an increase of \$0 and 0% over the 2000 levy, in addition to that resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property.

Section 2. This ordinance shall be certified by the city clerk to the clerk of the board of county council and taxes hereby levied shall be collected and paid to the Finance Director of the City of Gig Harbor at the time and in a manner provided by the laws of the state of Washington for the collection of taxes.

Section 3. This ordinance shall be published in the official newspaper of the city, and shall take effect and be in full force five(5) days after the date of its publication.

**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its

Mayor at a regular meeting of the council held on this \_\_ day of \_\_, 2000.

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Gretchen A. Wilbert, Mayor

ATTEST:

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Molly Towslee  
City Clerk

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



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR** *DES*  
**SUBJECT: SECOND READING OF ORDINANCE**  
- **FRANCHISE AGREEMENT**  
- **TACOMA POWER**  
**DATE: NOVEMBER 8, 2000**

#### **INTRODUCTION/BACKGROUND**

Tacoma Power has high-tension utility lines (Cushman Power Line), within City limits, that cross City rights-of-way. Tacoma Power has requested a franchise agreement to address these crossings. These specific locations are:

Soundview Drive; Olympic Drive; Hollycroft Street; 28<sup>th</sup> Avenue; Rosedale Street; and the intersection of Pioneer Way/Stinson Avenue.

RCW 35A.47.040 authorizes code cities to issue non-exclusive franchises for use of public streets and rights-of-way.

#### **POLICY CONSIDERATIONS**

RCW 35.21.860 does not allow the City to impose franchise fees on the light and power business. Tacoma Power has agreed to grant certain easements without a fee of any kind to the City in exchange for the City's grant of this franchise.

#### **FISCAL CONSIDERATIONS**

No fiscal impacts to the City as a result of this agreement.

#### **RECOMMENDATION**

Staff recommends that the City Council authorize the Mayor to sign the Franchise Ordinance at this second reading on the express condition that Tacoma Power provide the City with a mutual exchange of the final executed Easements from Tacoma Power for the East-West Road project and the Burnham Waterline project, as contemplated by both the Franchise and the Easements.



COPY

DRAFT

ACKNOWLEDGEMENT

[Signature]  
Tacoma Power

Date 10-11-

[Signature]  
City of Gig Harbor, Public Works

Date 10/10/10

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, GRANTING TO CITY OF TACOMA, DEPARTMENT OF UTILITIES, LIGHT DIVISION (D. B. A. TACOMA POWER), A WASHINGTON MUNICIPAL CORPORATION PROVIDING POWER SERVICE WITHIN THE STATE OF WASHINGTON BUT OUTSIDE THE CITY LIMITS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO USE AND OCCUPY CERTAIN STREETS, AVENUES, ROADS, ALLEYS, LANES AND OTHER PUBLIC RIGHTS-OF-WAY IN THE CITY OF GIG HARBOR, WASHINGTON, FOR A PERIOD OF FIFTY YEARS, FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING, REPAIRING, AND RENEWING POWER LINES AND APPURTENANCES WITHIN AND THROUGH THE CITY OF GIG HARBOR, WASHINGTON.

WHEREAS, RCW 35A.47.040 authorizes code cities to issue non-exclusive franchises for use of public street and rights-of-way, and

WHEREAS, RCW 35.21.860 does not allow the City of Gig Harbor to impose franchise fees on the light and power business; and

WHEREAS, City of Tacoma, Department of Utilities, Light Division (d. b. a. Tacoma Power) has agreed to grant certain easements to the City in exchange for the City's grant of this franchise without a fee of any kind; and

WHEREAS, this ordinance has been introduced more than five (5) days prior to its passage by the City Council, and

WHEREAS, this ordinance has been submitted to the City Attorney and has received at least a majority vote of the entire City Council at a regular meeting, now, therefore

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

Section 1. Rights Granted. The right is hereby granted to TACOMA POWER (hereinafter referred to as the "Grantee") to lay, construct, extend, maintain, repair, renew, operate and replace power transmission and communications lines and appurtenances under, over, along and/or across the following streets within the incorporated limits, or as they may hereafter be changed, of the City of Gig Harbor:

Soundview Drive; Olympic Drive; Hollycroft Street; 28<sup>th</sup> Avenue; Rosedale Street; and the intersection of Pioneer Way/Stinson Avenue,

for the purpose of therein installing, hanging, laying, constructing, extending, maintaining, renewing, replacing, operate and repairing power transmission and communications lines and all appurtenances thereto and accessories used and/or useful for the transmission of power within and through the present or future territorial limits of the City of Gig Harbor, Washington (hereinafter referred to as the "City"), for the term of fifty (50)-years from and after the effective date of this ordinance, except as hereinafter provided. At the end of the fifty (50)-year period this franchise shall be reviewed by both parties and considered for renewal. The City of Gig Harbor agrees to not unreasonably withhold such franchise renewal provided the purpose of the franchise has not substantially changed. If the City of Gig Harbor does not grant another fifty (50)-year franchise to Tacoma Power within one (1)-year from the end of the fifty (50)-year term then both parties acknowledge and agree that the subject easements granted to the City of Gig Harbor pursuant hereto shall automatically terminate.

Section 2. City's Reservation of Rights. Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances, and permit requirements regulating the performance of the conditions of this franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control by appropriate regulations the location, elevation, manner of construction and maintenance of any power facilities of the Grantee, and the Grantee shall promptly conform with all such regulations, and permit requirements, unless compliance would cause the Grantee to violate other requirements of law.

Section 3. Approval of Plans. Prior to construction of any of the electrical transmission and communications lines, poles, conduits, and appurtenant electrical equipment in the area described in Section 1 herein, the Grantee shall submit to the Public Works Director, in triplicate, plans drawn to an accurate scale, showing the exact location, character, position, dimensions, depth and height of the work to be done. The plans shall accurately depict the relative position and location of all lines, facilities and appurtenances to be constructed, hung, laid, re-laid, installed, replaced, repaired, connected or disconnected, in the existing street, or public right-of-way. All streets and public right-of-way denoted thereon shall be designated by their name and number and the local improvements therein such as roadway pavement, shoulders, sidewalks, curbs, gutters, ditches, driveways, parking strips, telephone or electric distribution poles, conduits, storm, gas or water pipes as may exist on the ground or area above sought to be occupied shall be outlined.

In the construction proposed by the Grantee, all materials and equipment shall be of the first class type and kind. The exact class and type to be used shall be shown on the plans, as will the equipment to be used and the mode of safeguarding and facilitating the public traffic during construction. The manner of excavation, construction installation, backfill and temporary structures (such as traffic turnouts, road obstructions, etc.) shall meet with the approval of, pass all requirements of, and be constructed under the supervision of the Director. Prior to approval of any work under this franchise, the Director may require such

modifications or changes, as he deems necessary to properly protect the public in the use of the public places, and may fix the time or times within and during which such work shall be done.

The Grantee shall submit an encroachment permit to the City prior to work within the City's right-of-way.

Section 4. Requirement for Work in Public Rights-of-Way. Whenever the Grantee shall excavate in any public right-of-way for the purpose of installation, construction, repair, maintenance or relocation of its power facilities, it shall apply to the City for a permit to do so and, in addition, shall give written notice to the City at least ten (10) working days notice of intent to commence work on main lines in the right-of-way, unless such notice is waived by the Public Works Director. In no case shall any work commence within any public right-of-way without a permit, except as otherwise provided in this franchise ordinance.

During any period of relocation, installation, construction or maintenance, all surface structures, if any, shall be erected and used in such places and positions within said public right-of-ways and other public properties so as to interfere as little as possible with the free passage of traffic and the free use of adjoining property, and the Grantee shall at all times post and maintain proper barricades and comply with all applicable regulations during such period of construction as required by the ordinances of the City or the laws of the State of Washington, including RCW 39.04.180 for the construction of trench safety systems.

If the Grantee shall at any time plan to make excavations in any area covered by this franchise and as described in this Section, the Grantee shall afford the City, upon receipt of a written request to do so, an opportunity to share such excavation, PROVIDED THAT:

- A. Installation of any lines is compatible with all federal, state and local regulations and Grantee's construction standards;
- B. Such joint use shall not unreasonably delay the Grantee's work;
- C. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties;
- D. The Grantee may deny such request for safety reasons.

Section 5. Protection of the Public Health, Safety and Property. Whenever an accident, faulty operation, excavation, fill or other condition associated with the construction, installation, maintenance or repair of the facilities authorized under this franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place or street utilities or City property, the Director may direct the Grantee, at its own expense, to take

actions to protect the public, adjacent public places, City property and street utilities, and may require compliance within a prescribed time.

In the event that the Grantee fails or refuses to take the actions directed promptly, or fails to fully comply with such directions given by the Director, or if emergency conditions exist which require immediate action, the City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, including placing of temporary shoring, backfilling, alteration of drainage patterns and any other actions reasonable necessary to decrease the possibility of earth movement, or actions regarded as necessary safety precautions; and the Grantee shall be liable to the City for the costs thereof.

Section 6. Records. The Grantee shall at all times keep complete records showing the relative location and size of all power lines heretofore installed in the City, and showing the relative location of all gates, gauges, and other service construction. Such records shall be kept current by the Grantee, who shall provide as-builts to the City after this franchise is granted, and if the City permits additional installations, then immediately after construction is complete.

Upon the City's request for information on the location of Grantee's power lines or other facilities prior to the designing of rights-of-way improvements or other City improvements, the Grantee shall respond with the information on the Grantee's facilities no later than two (2) business days after the receipt of the request, unless otherwise agreed by the parties in writing. The City, as excavator, shall have the right to receive compensation for all costs damages or other expenses incurred by the City if the Grantee does not accurately locate its facilities as required by this section and in accordance with RCW 19.122.030. In addition, nothing in this section limits the City's ability to obtain damages from the Grantee under the circumstances described in chapter 19.122 RCW, and the City may also otherwise obtain recovery for its damages, costs, fees and expenses as provided by law.

Section 7. Recovery of Costs. The Grantee shall be responsible for all permit fees associated with activities undertaken through the authority granted in this franchise ordinance or under the laws of the City. When the City incurs costs and expenses for review, inspection or supervision of activities undertaken through the authority granted in this franchise or any ordinances relating to the subject for which a fee is not established, the Grantee shall pay such costs and expenses directly to the City.

Section 8. Restoration. The Grantee shall, after installation, construction, relocation, maintenance or repair of its facilities within the franchise area, restore the surface of the right-of-way to at least the same condition the property was in immediately prior to any such installation, construction, relocation, maintenance or repair. The Public Works Director shall have final approval of the condition of such streets after restoration or repair. All concrete encased monuments, which have been disturbed or displaced by such work, shall be

restored pursuant to all federal, state and local standards and specifications. The Grantee agrees to promptly complete all restoration work and to promptly repair any damage caused by such work to the affected area at its sole cost and expense.

Section 9. Indemnification. The Grantee hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person, including claims by the Grantee's own employees to which the Grantee might otherwise be immune under Title 51 RCW, arising from injury or death of any person or damage to property of which the acts or omissions of the Grantee, its officers or employees in performing this franchise are the proximate cause.

The Grantee further releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person including claims by the Grantee's own employees, including those claims to which the Grantee might otherwise be immune under Title 51 RCW, arising against the City (1) solely by virtue of the City's ownership or control of the rights-of-way; (2) by virtue of the Grantee's exercise of the rights granted herein; or (3) by virtue of the City's permitting the Grantee's use of the City's rights-of-way; which claims are based upon the City's inspection or lack of inspection of work performed by the Grantee, its employees, agents officers or representatives, in connection with the work authorized on the City's property or property over which the City has control, pursuant to this franchise or pursuant to any other permit or approval issued in connection with this franchise.

This covenant of indemnification shall include, but not be limited by this reference, claims against the City arising as a result of negligent acts or omissions of the Grantee, its employees, officers, representatives or agents in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction or work in any public right-of-way in the performance of the work or services permitted under this franchise.

Inspection or acceptance by the City of any work performed by the Grantee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims, which are not reduced to a suit, and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

In the event that the Grantee refuses the tender of defense in any suit or claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal on the part of the Grantee, then the Grantee shall pay all of the City's costs of defense of the action, including

all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable attorneys' fee for recovering under this indemnification clause.

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 Grantee and the City, its officers, employees and agents, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. It is further specifically and expressly understood that the indemnification provided herein covers claims by the Grantee's own employees from which the Grantee might otherwise be immune under Title 51 RCW, and this waiver has been mutually negotiated by the parties.

Section 10. Bond. The City will not require that Grantee post a bond for the faithful performance of the terms and conditions of this franchise because all of the Grantees facilities are constructed and in place at this time and no new improvements are to be constructed under this franchise which would require bonding.

Section 11. Relocation. Since this franchise is for a major electrical transmission line, the typical relocation requirements are not applicable. Anytime the Grantor desires a relocation for its own governmental needs, the Grantee shall be notified of this request. The Grantee will only relocated its facilities covered by this franchise if a mutually agreeable reimbursement arrangement is made for all costs.

The Grantee may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise the Grantee in writing if one or more of the alternatives is suitable to accommodate the work, which would otherwise necessitate relocation of the facilities. If so requested by the City, the Grantee shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by the Grantee full and fair consideration. In the event, the City ultimately determines that there is no other reasonable alternative, the Grantee shall relocate its facilities as otherwise provided in this section, provided that mutually agreeable cost reimbursement commitment is made.

The provisions of this section shall in no manner preclude or restrict the Grantee from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person or entity other than the City, where the facilities to be constructed by said person or entity are not or will not become City-owned, operated or maintained facilities, provided that such arrangements do not unduly delay a City construction project.

Section 12. Non-Exclusive Franchise Grant. This franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any of said streets, avenues, alleys or public rights-of-way of every type and description. Such franchise shall in no way prevent

or prohibit the City from using any of said roads, streets or public rights-of-way, or affect the City's jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new rights-of-way of every type and description.

Section 13. Forfeiture and Revocation. If the Grantee willfully violates or fails to comply with any of the provisions of this franchise, or through willful misconduct or gross negligence fails to heed or comply with any notice given the Grantee by the City under the provisions of this franchise, then the Grantee shall, at the election of the City Council, forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the Council after a hearing held upon at least thirty (30) days notice to the Grantee. Prior to or at the hearing, the Grantee may request a reasonable time within which to remedy the default.

The City may elect, in lieu of the above and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling the Grantee to comply with the provisions of this ordinance, and to recover damages, costs and attorney's fees incurred by the City by reason of the Grantee's failure to comply.

In addition to any other remedy provided herein, the City reserves the right to pursue any legal remedy to compel or force the Grantee to comply with the terms of this franchise, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

Section 14. Insurance. The Grantee shall procure and maintain for the duration of this franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to the Grantee, its officials, employees and representatives. The Grantee shall provide a copy of such insurance policy to the City for its inspection prior to the adoption of this franchise ordinance.

Before beginning work on the project described in this Agreement, the Grantee 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.
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 employer's liability.

Any deductibles or self-insured retention's must be declared to and approved by the City. Payment of deductible or self-insured retention's shall be the sole responsibility of the Grantee.

The insurance policy obtained by the Grantee shall name the City, its officers, officials, employees, and volunteers, as additional insureds with regard to activities performed by or on behalf of the Grantee. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, or volunteers. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The Grantee's insurance shall be primary insurance as respects the City, its officers, officials, employees or volunteers. Any insurance maintained by the City, its officers, officials, employees and volunteers shall be in excess of the Grantee's insurance and shall not contribute with it. The insurance policy or policies required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled 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. Any failure to comply with the reporting provisions of the policies required herein shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

**Section 15. Assignment.** This agreement may not be assigned or transferred without the prior, written approval of the City. The Grantee shall provide prompt, written notice to the City of any such proposed assignment. All of the provisions, conditions, regulations and requirements contained in this franchise ordinance shall be binding upon the successors and assigns of the Grantee, and all privileges of the Grantee shall inure to the successors and assigns as if they were mentioned herein.

**Section 16. Abandonment of Facilities.** Any plan for abandonment of any of Grantee's power lines or facilities installed under this franchise or any of its predecessors must be submitted to the City for its written consent. The City Public Works Director shall review the plan for abandonment prior to commencement of any work, and all necessary permits must be obtained prior to such work. The provisions of this Section shall survive the expiration, revocation or termination of this franchise ordinance.

**Section 17. Modification.** The City and the Grantee hereby reserve the right to alter, amend or modify the terms and conditions of this franchise upon written agreement of both parties to such alteration, amendment or modification.

**Section 18. Integration.** The written provisions and terms of this franchise ordinance shall supersede all prior verbal statements of either party, and any prior franchise ordinance between the parties. Such statements or prior franchise ordinances shall not be effective or be construed as entering into, forming a part of, or altering in any manner whatsoever, this Agreement.



Section 19. Street Vacations. This section will only become operative in those instances where the street vacation is subject to the City's street vacation ordinance, and not in those situations where the street has been vacated by lapse of time and operation of law. The City may have occasion to vacate certain streets, public ways or areas that have Grantee's lines and facilities located thereon. City agrees to exert reasonable good faith efforts to reserve an easement for Grantee's lines and facilities when a street, public way or area is vacated. If it is not feasible for City to reserve an easement for Grantee's line(s) and facilities, the proponents of the vacation shall be required (by City) as part of land use or other permitting approvals, to reimburse Grantee all costs to relocated said line(s) and facilities, as allowed by law.

Section 20. Notice. Any notice or information required or permitted to be given to the parties under this franchise agreement may be sent to the following addresses unless otherwise specified:

City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335  
Attn: City Administrator

Tacoma Power  
3628 South 35<sup>th</sup> Street  
Tacoma, WA 98409  
Attn: Real Estate Mgr.

Section 21. Binding Effect. All of the provisions, conditions, regulations and requirements contained in this franchise ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of the Grantee and all privileges, as well as all obligations and liabilities of the Grantee shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever the Grantee is mentioned herein.

Section 22. Compliance with Law. The Grantee, its subcontractors, employees and any person acting on behalf of the Grantee shall keep him/herself fully informed of all federal and state laws, and all municipal ordinances and regulations which in any manner affect the work or performance of the work authorized under this franchise ordinance, and regulations, whether or not such laws, ordinances or regulations are mentioned herein, and shall indemnify the city, its officers, officials, agents employees or representatives against any claim or liability arising from or based upon the violation of any such laws and regulations.

Section 23. Survival. All of the provisions, conditions, and requirements of Sections 5, 6, 8, 9, 16, , shall survive the City's franchise to the Grantee for the use of the areas mentioned in Section 1 herein, and any renewals or extensions thereof.

Section 24. Severability. If any section, sentence, clause or phrase of this franchise ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this franchise ordinance. In the event that any of the provisions of this franchise are held to be invalid by a court of

competent jurisdiction, the parties reserve the right to renegotiate the grant of franchise and may amend, repeal, add, replace or modify any other provision of this franchise, or may terminate this franchise.

Section 25. Acceptance. This franchise is granted upon the express condition that the Grantee, within thirty (30) days after the adoption of this ordinance, shall file with the Clerk of the City a written acceptance of the same, and when so accepted by the Grantee shall constitute a contract between the City and Grantee for all of the uses, services and purposes herein set forth.

Section 26. Early Termination. Notwithstanding anything to the contrary herein, in the event that the Grantee obtains sufficient superior property rights to the real estate that is subject of this franchise (for its transmission facilities), all provisions of this franchise shall automatically terminate as of the date such property rights are received. Thereafter the Grantee agrees to cooperate in good faith with the City, to negotiate (if necessary), mutually agreeable use rights for the City's streets and Grantee's transmission line facilities.

Section 27. Effective Date. This Ordinance shall take effect after at least one publication in the City's official newspaper, and after the \_\_\_\_\_ of \_\_\_\_\_ 2000, a period consisting of thirty days after the Franchise Agreement is approved by City Council, as long as the Grantee has submitted an acceptance as required by Section 24 above.

WASHINGTON, PASSED BY THE COUNCIL OF THE CITY OF GIG HARBOR,  
SAID COUNCIL, AND APPROVED BY ITS MAYOR AT A REGULAR MEETING OF  
COUNCIL HELD ON THIS \_\_\_\_\_ OF \_\_\_\_\_, 2000.

APPROVED:

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

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
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.

SUMMARY OF ORDINANCE NO. \_\_\_\_\_

of the City of Gig Harbor, Washington

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On the \_\_\_\_ day of \_\_\_\_\_, 2000, the City Council of the City of Gig Harbor, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, GRANTING TO TACOMA POWER AND LIGHT, A WASHINGTON MUNICIPAL CORPORATION POWER SERVICE WITHIN THE STATE OF WASHINGTON, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO USE AND OCCUPY CERTAIN STREETS, AVENUES, ROADS, ALLEYS, LANES AND OTHER PUBLIC RIGHTS-OF-WAY IN THE CITY OF GIG HARBOR, WASHINGTON, FOR A PERIOD OF FIFTY YEARS, FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING, REPAIRING, AND RENEWING POWER LINES AND APPURTENANCES WITHIN AND THROUGH THE CITY OF GIG HARBOR, WASHINGTON.

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
CITY ADMINISTRATOR, MARK HOPPEN



*City of Gig Harbor. The "Maritime City"*

DEPARTMENT OF PLANNING & BUILDING SERVICES  
3125 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-4278

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**DIRECTOR, PLANNING & BUILDING SERVICES**  
**SUBJECT: SECOND READING OF AN ORDINANCE REVISING GHMC CHAPTER**  
**17.100 – AMENDMENTS, REGARDING SITE SPECIFIC REZONES**  
**DATE: NOVEMBER 13, 2000**

#### **INFORMATION/BACKGROUND**

The City Attorney submitted an amendment to Chapter 17.100 – Amendments that would bring the GHMC into compliance with recent Supreme Court decisions regarding site specific rezones. Planning staff made further changes to address inconsistencies between Title 19, which identifies site specific rezones as Type III permits and area wide rezones as Type V permits. Sections I and II were written by planning staff and Section III by the City Attorney. The Planning Commission held a hearing on this issue October 5, 2000. The first reading of this Ordinance by the Council was on October 23, 2000.

#### **POLICY CONSIDERATIONS**

GHMC 19.01.003(B) Project permit application framework: Decisions states that site specific rezones are a Type III permit and area wide rezones are a Type V rezone. Changes to GHMC 17.100 clarify that there are two types and what they are.

#### **FISCAL CONSIDERATIONS**

There is no cost to the City involved in these changes, other than to reduce our liability.

#### **RECOMMENDATION**

Staff and the Planning Commission recommend adoption of this ordinance after the second reading.

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADDING NEW CRITERIA TO THE GENERAL CRITERIA FOR THE APPROVAL OF ZONING DISTRICT MAP AMENDMENTS, AS REQUIRED BY A RECENT DECISION OF THE WASHINGTON STATE SUPREME COURT, REPEALING THE REQUIREMENT THAT ZONING CODE TEXT AMENDMENTS FOLLOW GENERAL MAP AMENDMENT CRITERIA; REPEALING SECTION 17.100.040 AND AMENDING SECTION 17.100.035 OF THE GIG HARBOR MUNICIPAL CODE.**

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WHEREAS, the City has adopted certain criteria for the approval of site specific rezones to the Official Zoning Map, or "zoning district map amendments;" and

WHEREAS, in Citizens for Mount Vernon v. City of Mount Vernon, 133 Wn.2d 861, 947 P.2d 1208 (1997) the Washington Supreme Court articulated the criteria for approval of site specific rezones, but not all of these criteria are included in the City's Zoning Code; and

WHEREAS, Section 17.100.010 should be amended to distinguish the site specific rezones as Type III permit applications and those for area wide rezones as Type V permit applications in accordance with GHMC Chapter 19.01.003; and

WHEREAS, Section 17.100.025 should be amended to clarify that area wide rezones will be seen by the planning commission by June 4<sup>th</sup>, but that site specific rezones will be processed as Type III permits in accordance with GHMC Chapter 19.02; and

WHEREAS, Section 17.100.040 inappropriately requires that the City consider the general criteria for amending the Zoning District Map when making changes to the text of the Zoning Code; and

WHEREAS, the City Attorney drafted an ordinance for the Planning Commission's consideration at a public hearing; and

WHEREAS, the Planning Commission held a hearing on the ordinance on \_\_\_\_\_, 2000, and recommended that the City Council adopt the ordinance; and

WHEREAS, pursuant to RCW 36.70A.106, the City Planning staff sent a copy of this ordinance to the Washington State Department of Trade and Community Development at least sixty (60) days prior to final adoption; and

WHEREAS, the City Council considered the ordinance during its regular meeting on \_\_\_\_\_, 2000;

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

Section 1. Section 17.100.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.100.010 Authority to amend.** Whenever the public health, safety, general welfare, modifications to the comprehensive plan or good zoning practice requires, the city council may amend, supplement, modify, repeal or otherwise change these regulations and the boundaries of the districts in conformity with the comprehensive plan. Site specific rezones are a Type III permit application and area wide rezones are a Type V permit application and shall be processed in accordance with GHMC Chapter 19.02.

Section 2. Section 17.100.025 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.100.025 Citizen suggestions for zoning code update.** Prior to June 1<sup>st</sup> of each year, the planning commission will review any interested citizens' staff members' or the hearing examiner's request of any text or area wide zoning district map adjustment received. The planning commission may, at its discretion, consider such request and, if deemed to be in furtherance of the goals and policies of the comprehensive plan and in the public's health, safety and general welfare, may conduct a public hearing on any text or map adjustments it deems appropriate. The planning commission's recommendation to the city council will be considered in accordance with the procedures established in GHMC 17.100.050 (Ord. 710 sec. 98, 1996).

Section 3. Section 17.100.035 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.100.035 General Criteria for Zoning District Map Amendment.** ~~Requests for amending the zoning district designation of an area or the zoning code text shall be based on the following criteria:~~ Applications for amendments to Zoning District Map (which include, but are not limited to site specific rezones) may only be approved if all of the following criteria are satisfied:

A. ~~That The application request for the Zoning District Map reclassification or zoning code text change~~ amendment is must be consistent with and further the goals, policies and objectives of the comprehensive plan;

B. ~~That The requested application for the Zoning District classification or zoning code text change~~ amendment will must further or bear a substantial relationship to the public's health, safety and general welfare;

C. ~~That No substantial detrimental effect shall~~ will be caused by the granting of the ~~requested reclassification application for the~~ or amendment; and

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

Section 4. Section 17.100.040 of the Gig Harbor Municipal Code is hereby repealed.

Section 5. As required by RCW 36.70A.106(2), a copy of this Ordinance will be sent to the Washington

Department of Trade and Community Development, within ten (10) days after final adoption.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an ordinance summary, consisting of the title.



PASSED by the Council and approved by the Mayor of the City of Gig Harbor  
this \_\_th day of \_\_\_\_\_, 2000.

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: 11/8/00  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO.

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

On \_\_\_\_\_, 2000, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. \_\_\_\_\_, the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ADDING NEW CRITERIA TO THE GENERAL CRITERIA FOR THE APPROVAL OF ZONING DISTRICT MAP AMENDMENTS, AS REQUIRED BY A RECENT DECISION OF THE WASHINGTON SUPREME COURT, ELIMINATING THE REQUIREMENT THAT ZONING CODE TEXT AMENDMENTS FOLLOW THESE GENERAL CRITERIA; REPEALING SECTION 17.100.040 AND AMENDING SECTION 17.100.035 OF THE GIG HARBOR MUNICIPAL CODE.

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

APPROVED by the City Council at their meeting of \_\_\_\_\_, 2000.

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



*City of Gig Harbor. The "Maritime City"*

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR** *DR*  
**SUBJECT: FIRST READING - 2001 BUDGET ORDINANCE**  
**DATE: NOVEMBER 8, 2000**

### **BACKGROUND**

The total budget is \$26,416,370, an increase of \$4,411,784 (20%) over the 2000 budget. Total budgeted expenditures consist of budgeted expenditures in the amount of \$22,976,995, a 19% increase over 2000, and budgeted ending fund balance of \$3,439,375, a 29% increase over 2000.

Capital projects expenditures account for 47% (\$12,479,600) of total city expenditures. Some of the projects include construction of the civic center (\$7,300,000), completion of the East/West Road Project (\$500,000), Kimball Drive and Grandview Street Improvements (\$452,000 and \$403,000), installation of a pump on Well 6 (\$150,000), design and installation of a remote monitoring and telemetry system (\$100,000), installation of a new water line along Skansie Avenue and 72<sup>nd</sup> Street (\$285,000), complete construction of Pump Station 3A (\$300,000) and begin the design and permitting of the sewer outfall extension (\$400,000).

Salaries and benefits account for 17% (\$4,466,100) of the city's overall budget. This represents an increase of \$438,220 (11%) over 2000. The increase is largely due to the planned addition of four positions in 2001. The additional positions are an two administrative receptionists and tow laborers.

Inter-fund transfers are \$1,305,000 or 5% of budget and total ending fund balance for all funds is budgeted at \$3,439,375. \$1,200,000 of this ending balance belongs to the General Fund. A portion of this balance will be applied to the civic center project to facilitate the bond issue.

### **RECOMMENDATION**

Staff recommends adoption of the 2001 budget ordinance upon second reading.

**CITY OF GIG HARBOR  
ORDINANCE NO.**

**AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF GIG  
HARBOR, WASHINGTON, FOR THE 2001 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 2001 fiscal year, and a notice was published that the Gig Harbor City Council would meet on November 13 and November 27, 2000 at 7:00 p.m., in the Council Chambers in the City Hall for the purpose of making and adopting a budget for 2001 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 2001 proposed budget; and

**WHEREAS**, the 2001 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 2001 and being sufficient to meet the various needs of Gig Harbor during 2001.

**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 2001 is hereby adopted in its final form and content.

Section 2. Estimated resources, including beginning cash balances, for each separate fund of the City of Gig Harbor, and aggregate total for all funds combined, for the year 2001 are set forth in summary form below, and are hereby appropriated for expenditure during the year 2001 as set forth below:

### 2001 BUDGET APPROPRIATIONS

<u>FUND / DEPARTMENT</u>	<u>AMOUNT</u>
001 GENERAL GOVERNMENT	
01 NON-DEPARTMENTAL	\$879,700
02 LEGISLATIVE	30,100
03 MUNICIPAL COURT	290,350
04 ADMINISTRATIVE/FINANCIAL	738,400
06 POLICE	1,551,400
14 PLANNING / BUILDING	696,900
15 PARKS AND RECREATION	734,100
16 BUILDING	80,800
19 ENDING FUND BALANCE	<u>1,248,869</u>
001 TOTAL GENERAL FUND	6,250,619
101 STREET FUND	2,863,737
105 DRUG INVESTIGATION FUND	8,603
107 HOTEL-MOTEL FUND	399,629
109 PROPERTY ACQUISITION FUND	725,904
203 '87 GO BONDS - SEWER CONSTRUCTION	169,529
208 '97 LTGO BONDS	318,364
209 '00 NOTE REDEMPTION	1,200,000
301 GENERAL GOVT. CAPITAL ASSETS	7,733,914
305 GENERAL GOVT. CAPITAL IMPROVEMENT	284,120
307 LID NO. 99-1 PROJECT FUND	500,000
401 WATER OPERATING	933,723
402 SEWER OPERATING	1,410,179
407 UTILITY RESERVE	634,635
408 UTILITY BOND REDEMPTION FUND	516,341
410 SEWER CAPITAL CONSTRUCTION	1,118,306
411 STORM SEWER OPERATING	685,006
420 WATER CAPITAL ASSETS	661,892
605 LIGHTHOUSE MAINTENANCE TRUST	<u>1,869</u>
TOTAL ALL FUNDS	<u>\$26,416,370</u>

Section 3. Attachment "A" is adopted as the 2001 personnel salary schedule.

Section 4. The city clerk is directed to transmit a certified copy of the 2001 budget hereby adopted to the Division of Municipal Corporations in the Office of the State Auditor and to the Association of Washington Cities.

Section 6. 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 27nd day of November, 2000.

\_\_\_\_\_  
Gretchen A. Wilbert, Mayor

ATTEST:

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

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

## ATTACHMENT "A"

### 2001 SALARY SCHEDULE

POSITION	Minimum	Maximum
City Administrator	\$6,053	\$7,566
Public Works Director	5,342	6,678
Chief of Police	5,276	6,595
Finance Director	5,024	6,280
Planning Director	4,945	6,181
Police Lieutenant	4,400	5,500
Assistant Public Works Director	4,190	5,238
Information Systems Manager	4,154	5,192
Project Engineer	3,958	4,948
City Clerk	3,932	4,915
Police Sergeant	3,756	4,695
Public Works Supervisor	3,878	4,848
Sewer Plant Supervisor	3,878	4,848
Senior Planner	3,830	4,787
Fire Marshal/Building Official	3,817	4,771
Associate Engineer	3,717	4,646
Field Supervisor	3,467	4,334
Planning Associate	3,431	4,289
Police Officer	3,266	4,082
Accountant	3,250	4,063
Planning / Building Inspector	3,216	4,020
Construction Inspector	3,212	4,015
Engineering Technician	3,181	3,976
Sewer Plant Operator	3,163	3,954
Court Administrator	3,138	3,923
Maintenance Worker	3,074	3,843
Mechanic	2,862	3,578
Public Works Assistant	2,767	3,459
Planning-Building Assistant	2,649	3,311
Finance Technician	2,610	3,263
Court Clerk	2,493	3,116
Laborer	2,482	3,103
Police Services Specialist	2,377	2,971
Public Works Clerk	2,174	2,718
Administrative Receptionist	\$2,174	\$2,718

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

On    , 2000, the City Council of the City of Gig Harbor, Washington, approved Ordinance No.    , the summary of text of which is as follows:

**AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF GIG HARBOR, WASHINGTON, FOR THE 2001 FISCAL YEAR.**

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 November, 2000.

BY:

Molly M. Towslee, City Clerk





City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR**  
**SUBJECT: ORDINANCE**  
**- WATER SERVICE APPLICATIONS**  
**DATE: NOVEMBER 8, 2000**

*DRS*

#### **INTRODUCTION/BACKGROUND**

The City of Gig Harbor is currently using approximately 84% of the permitted water from various wells throughout the City. Based on projected use and growth the City may experience a water availability problem in the near future. When the City reaches the maximum allowable withdrawal amount no new water connections will be issued prior to obtaining additional water rights from the Department of Ecology.

Currently the City Code allows property owners to apply for new water service at any time and does not specify a time at which the water service if not connected will be relinquished.

An expiration date on water availability certificates is needed so that the Public Works Director can effectively track the amount of water available for future use.

As a result of the public knowledge of a possible water availability problem the City anticipates there will be a rush of water service applications submitted to the City from property owners hoping to obtain a water availability certificate of indefinite duration. Due to the possibility of a rush of indefinite water certificates applications, I am requesting that the council approve a resolution declaring that an emergency exists.

#### **RECOMMENDATION**

Staff recommends the City Council declare that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one.

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO WATER SERVICE APPLICATIONS, AMENDING THE CONDITIONS UNDER WHICH NEW WATER SERVICE HOOK-UPS MAY BE OBTAINED BY PROPERTY OWNERS, ESTABLISHING AN EXPIRATION DATE OF ONE YEAR FOR SUCH APPLICATIONS IF THE HOOK-UP IS NOT REQUESTED WITHIN SUCH TIME, CLARIFYING THAT WATER HOOK-UP FEES ARE DETERMINED AT THE TIME OF THE ACTUAL HOOK-UP; DECLARING AN EMERGENCY WARRANTING IMMEDIATE ADOPTION OF THIS ORDINANCE AND AMENDING SECTIONS 13.02.030, 13.02.040 AND 13.34.020 OF THE GIG HARBOR MUNICIPAL CODE.

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WHEREAS, the City of Gig Harbor may experience a water shortage problem in the near future because the existing water rights granted to the City are approaching maximum use, this will eliminate the City's ability to issue new water connections prior to obtaining additional water rights from the Department of Ecology; and

WHEREAS, the City's code currently allows owners of property within and without the City limits to apply for new water service at any time, even if there is no development on the property; and

WHEREAS, the City's "approval" of a water service application is called a "water availability certificate"; and

WHEREAS, the City's code does not establish an expiration date for water availability certificates after issuance; and

WHEREAS, the City's code implies that a property owner could "vest" to the amount of a water hook-up or connection fee, when the law is clear that the fee must be determined at the time the water availability certificate issues; and

WHEREAS, an expiration date on water availability certificates is needed so that the Public Works Director can effectively track the amount of water available for future use; and  
WHEREAS, the City anticipates that because the water shortage problem in Gig Harbor is public knowledge, there will be a rush of water service applications submitted to the City from property owners hoping to obtain a water availability certificate of indefinite duration; and

WHEREAS, in order to prevent a rush of water service applications, the Public Works Director has recommended the adoption of the following ordinance; Now, Therefore:

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

Section 1. Section 13.02.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**13.02.030 Water Service Application - Generally.** Any person owning property located within the City limits desiring to have such premises connected with the water supply system of the City shall make application at the office of the City Clerk ~~-Treasurer~~ on the printed forms furnished for that purpose. Every such application shall be made by the owner of the property to be furnished water service or his/her authorized agent. The applicant must state fully the purposes for which the water ~~may~~ is required. The applicant must agree to conform to the regulations and rules concerning the use of water as they may be established from time to time and further agree that the City shall have the right at any time, without notice, to shut off the water supply for repairs, extensions, nonpayments of rates and charges, or for any other reason, and that the City shall not be responsible for any damage, caused by the breaking, bursting or collapsing of any boiler, pipes or fixtures, or by the stoppage or interruption of the water supply, or any damage whatever resulting directly or indirectly from the shutting off of the water. The City Public Works Director shall determine whether or not

the City has adequate water before issuing a water availability certificate to the applicant. Water availability certificates shall expire within one year from the date of issuance if the property owner does not pay the required fees and submit a request to the City for a hook-up/connection to the City water service to the property within such time period.

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

13.02.040. **Water service application – Form.** Application for the use of water shall be substantially in the following form:

**CITY OF GIG HARBOR**  
**WATER SERVICE APPLICATION**

Date: \_\_\_\_\_

Application is hereby made by the undersigned property owner for all water service in the following amount: \_\_\_\_\_ at the following location: \_\_\_\_\_, Gig Harbor, Washington, for the following purpose(s): \_\_\_\_\_  
~~Required or used for any purpose at, in or near Gig Harbor, Washington, for which I agree to pay in advance and in accordance with existing ordinance and regulations of the City,~~ the following estimated charges, the exact charges shall be paid as established by City Resolution, and will be determined at the time a water availability certificate issues and be payable immediately upon completion of installation:

Engineering Fees  
Water Main Extension  
Fire Hydrant Installation  
Street Repair  
Tap-In Charges  
Water Service Connection Charge  
(Metering Charges)  
Total: \$ \_\_\_\_\_

I further agree that all rates and charges for water service to the above property shall be paid in accordance with the now-existing ordinances and regulations of the City, or any ordinances and regulations passed hereafter.

I understand that the City will use all reasonable effort to maintain uninterrupted service, but reserves the right to shut off the water at any time without notice for repairs, expansions, nonpayment of rates or any other reason and assumes no liability for any damage as a result of interruption of service from any cause whatsoever.

I understand that if the City issues a water availability certificate to me, such certificate shall be subject to all ordinances and regulations of the City, as they now exist or may hereafter be amended, and that such certificate expires within one year from the date of issuance, if I do not pay the required fees and request an actual hook-up or connection to the below-identified individual parcel of property within that time period.

Section 3. Section 13.34.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**13.34.020. Water or sewer service application.** Any person desiring to have their property located outside the City limits to the City's water supply system or with sewer service shall make application at the office of the City Clerk ~~Treasurer~~ on the appropriate form. Every such application shall be made by the owner of the property to be supplied the service, or by his/her authorized agent. The applicant must state fully the purposes for which the water and/or sewer service is required. Applicants must agree to conform to the City's rules and regulations concerning water and sewer service set forth in this Title, as the same now exists or may be amended in the future. If the City receives such a water service application and subsequently issues a water availability certificate, such certificate shall expire within one year of the date of issuance, if the applicant does not pay the required fees and request an actual hook-up or connection to the subject property within that time period.

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

Section 5. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a

majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). The Council declares that an emergency exists necessitating immediate adoption of this Ordinance, due to the possibility that once the public is aware of the water shortage problem in Gig Harbor, there may be a rush to submit water service applications to the City. Because there currently is no expiration date for water availability certificates, property owners may believe that submission of a water service application now, even for property that may not be developed for years in the future, will guarantee that water will be available. Such a rush of applications will therefore not only cause a problem in processing, but also distort the City's water planning efforts.

Section 6. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 7. Effective Date. This ordinance shall take effect and be in full force immediately upon passage as set forth in Section 5.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this \_\_\_th day of \_\_\_\_\_, 2000.

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. \_\_\_\_\_

**SUMMARY OF ORDINANCE NO. \_\_\_\_**

**of the City of Gig Harbor, Washington**

---

On \_\_\_\_\_, 2000, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. \_\_\_\_\_, the main points of which are summarized by its title as follows:

**INSERT TEXT**

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

**APPROVED** by the City Council at their meeting of \_\_\_\_\_, 2000.

---

**MOLLY TOWSLEE, CITY CLERK**





City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR** *DES*  
**SUBJECT: BURNHAM DRIVE WATERMAIN EXTENSION**  
**CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, LIGHT**  
**DIVISION**  
**EASEMENT AGREEMENT**  
**DATE: NOVEMBER 8, 2000**

#### **INTRODUCTION/BACKGROUND**

As defined in the 2000 budget an objective in the water department is the construction of a 16 inch diameter water line from Bujacich Road east to Burnham Drive to serve properties along Burnham Drive, the Gig Harbor North Area, and eventually replace an 8-inch line south to Harborview Drive. Also defined in the 2000 budget within the street department is the construction of the East-West Roadway project. To construct these projects the City requires permanent easements across Parcels No. 02223130381 and 0222312004, which are currently owned by City of Tacoma, Department of Public Utilities, Light Division, (Tacoma Power).

Tacoma Power representative, Mr. Ted Lyons has met with the City and has agreed to provide the City with the easements in exchange for the execution of the Franchise agreement requested by Tacoma Power.

The City's has negotiated the easement agreements with Tacoma Power and the City attorney Carol Morris has reviewed them as to form and content.

Council approval of the easement agreements is being requested.

#### **FISCAL CONSIDERATIONS**

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

#### **RECOMMENDATION**

Staff recommends that the City Council authorize the Mayor to sign the Franchise Ordinance on the express condition that Tacoma Power provide the City with a mutual exchange of the final executed Easements from Tacoma Power for the East-West Road project and the Burnham Waterline project, as contemplated by both the Franchise and the Easements.

COPY

ACKNOWLEDGEMENT

[Signature] Date 10/11/00  
Tacoma Power

[Signature] Date 10/13/00  
City of Gig Harbor, Public Works

DRAFT

WHEN RECORDED RETURN TO:

Tacoma Public Utilities  
Real Estate Management  
P.O. Box 11007 • Tacoma, WA 98411

**DO NOT MARK OUTSIDE THE BORDER LINES OF THIS DOCUMENT**

CITY OF TACOMA  
DEPARTMENT OF PUBLIC UTILITIES  
EASEMENT NO. 11178

Reference No.	P1999-426THL
Grantor:	City of Tacoma, Department of Public Utilities, Light Division (d.b.a. Tacoma Power)
Grantee:	City of Gig Harbor, Department of Public Works
Legal Description(s):	A portion of the Northwest Quarter (NW¼) of Section 31, Township 22 North, Range 2 East, W. M., lying within the City of Tacoma's Transmission Line Property
Tax Parcel No(s):	Portion of 0222312004

The Grantor, CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, LIGHT DIVISION (d.b.a. TACOMA POWER), a municipal corporation, organized and existing under the laws of the State of Washington, record owner of the premises hereinafter described, and hereinafter referred to as "Tacoma Power", for and in good and vaiuable consideration, conveys and grants to the City of Gig Harbor, Department of Public Works, herein referred to as the "Grantee", its successors and assigns, the right and privilege to construct, install, reconstruct and maintain a four/five lane road (commonly known as East-West Road) and all appurtenant

Authorized by City Council Resolution No. \_\_\_\_\_, adopted \_\_\_\_\_, at the request of  
Public Utility Board Resolution No. U-\_\_\_\_\_ adopted \_\_\_\_\_.

equipment and underground utilities, in, under, and along the following real property owned in fee by Tacoma Power, situate and being in the County of Pierce, State of Washington, described as follows, to-wit:

AN EASEMENT FOR ROAD PURPOSES OVER, UNDER AND ACROSS A 100 FOOT STRIP OF LAND, 50 FEET OF EVEN WIDTH EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY, WASHINGTON; THENCE, SOUTH 01°52'39" WEST 558.56 FEET ALONG THE WEST LINE OF SAID SECTION 31 TO THE ARC OF A NON-TANGENT CURVE TO THE LEFT WHOSE RADIUS BEARS NORTH 07°29'42" WEST 1600.00 FEET AND THE TRUE POINT OF BEGINNING OF THIS DESCRIBED CENTERLINE; THENCE, NORTHEASTERLY 202.49 FEET, MORE OR LESS, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 07°15' 04" TO THE EASTERLY LINE OF THAT CERTAIN TRACT CONVEYED TO THE CITY OF TACOMA BY WARRANTY DEED DATED JULY 3, 1923 AND RECORDED JULY 14, 1923 UNDER AUDITOR'S FILE NO. 675775, RECORDS OF PIERCE COUNTY, WASHINGTON AND THE TERMINUS OF THIS DESCRIBED CENTERLINE; THE WEST END OF SAID STRIP BEING THE WEST LINE OF SAID SECTION 31 AND THE EAST END OF SAID STRIP BEING THE EASTERLY LINE OF SAID CITY OF TACOMA TRACT (COMMONLY KNOWN AS THE POTLATCH TRANSMISSION LINE RIGHT-OF-WAY).

ALL LYING WITHIN A PORTION OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE CITY OF TACOMA BY WARRANTY DEED DATED JULY 3, 1923, UNDER AUDITOR'S FILE NO. 675775 (COMMONLY KNOWN AS THE POTLATCH TRANSMISSION LINE RIGHT OF WAY), RECORDS OF PIERCE COUNTY, WASHINGTON (EXHIBITS A & B) AND

LYING WITHIN THE NORTHWEST QUARTER (NW¼) OF SECTION 31,  
TOWNSHIP 22 NORTH, RANGE 2 EAST, W. M

### TERMS AND CONDITIONS

This easement is further granted to the Grantee under the following terms and conditions:

1. The Grantee shall at all times provide access to Tacoma Power's staff and their contractors, to change, reconstruct, repair, renew, or remove Tacoma Power's electrical equipment or facilities. This easement shall at all times be subject to Tacoma Power's paramount right to operate and maintain utility facilities within and upon the above described property.
2. Tacoma Power herein further grant(s) to Grantee its contractors, or agents, the temporary right to enter upon the Tacoma Power's remaining lands where necessary to construct or maintain said facilities; insofar as said access/activities do not interfere with Tacoma Power's facilities, maintenance or operations. Grantee shall be responsible for any and all restoration of that area used for construction to its condition immediately prior to the Grantee's construction work. Said restoration shall be completed within 30 days of project final acceptance by the Grantee's City Council.
3. INDEMNIFICATION. Tacoma Power's power transmission line facilities pre-existed the granting of this easement; therefore, Grantee understands and agrees, that Tacoma Power cannot be held legally liable for the placement of the power line facilities near any roadway, nor for not providing barricades to protect against striking Tacoma Power's facilities, which responsibility, if any, is Grantee's responsibility. The Grantee hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless Tacoma Power, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, awards for damages or liability to any person, including claims by the Grantee's own employees to which the Grantee might otherwise be immune under Title 51 RCW, arising from injury or death of any person or damage to property of which the acts or omissions of the Grantee, its officers or employees related to or arising out of the rights granted under this easement are the proximate cause.

The Grantee further releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless Tacoma Power, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person including claims by the Grantee's own employees, including those claims to which the Grantee

might otherwise be immune under Title 51 RCW, arising against Tacoma Power (1) solely by virtue of Tacoma Power's ownership of the above described property; (2) by virtue of the Grantee's exercise of the rights granted herein; (3) by virtue of Tacoma Power's permitting the Grantee's use of Tacoma Power's above described property, and (4) resulting from or related to any persons constructing, maintaining or using the street or roadway that Grantee has within the easement area; which claims are based upon any act or omission by Tacoma Power with respect to Grantee's placement, location or protection from striking or hitting Tacoma Power's facilities or work performed by the Grantee, its employees, agents, officers, contractors or representatives, in connection with the work or uses authorized on Tacoma Power's said property, pursuant to this easement or pursuant to any other permit or approval issued by Grantee in connection with this easement.

This covenant of indemnification shall include, but not be limited by this reference, claims against Tacoma Power arising as a result of negligent acts or omissions of the Grantee, its employees, officers, representatives or agents in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction or work in any public right-of-way in the performance of the work or services permitted under this easement. Inspection by Tacoma Power of any work performed upon the above described property by the Grantee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification.

Said indemnification obligations shall extend to claims, which are not reduced to a suit, and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

In the event that the Grantee refuses the tender of defense in any suit or claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal on the part of the Grantee, then the Grantee shall pay all of Tacoma Power's costs of defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of Tacoma Power, including reasonable attorneys' fee for recovering under this indemnification clause.

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 Grantee and Tacoma Power, its officers, employees and agents, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. It is further specifically and expressly understood that the indemnification provided herein covers claims by the Grantee's own

employees from which the Grantee might otherwise be immune under Title 51 RCW, and this waiver has been mutually negotiated by the parties.

4. The Grantee shall not assign this easement or any rights or franchise over the lands described herein without prior written permission by Tacoma Power.
5. This easement shall terminate and all rights granted herein shall automatically revert to Tacoma Power upon abandonment of those stated intended uses herein by the Grantee. In such case, the Grantee shall be responsible for restoration of said property to its condition immediately prior to the Grantee's construction work.
6. The Grantee shall be liable for any and all costs incurred for the installation, maintenance, relocation, change, repair, renew, or removal of the Grantee's said equipment or facilities to be located within the said real property.
7. The Grantee shall be solely liable for any and all costs necessary to adjust or relocate Tacoma Power transmission line facilities located upon the above described Property to the extent such adjustment or relocation is mandated, by applicable Federal, State or local regulations pertaining to road and/or electrical safety, as the direct result of Grantee's construction, maintenance and/or use of the proposed East-West road. This provision shall not apply to local regulations hereafter created by Tacoma Power.
8. The Grantee shall construct and maintain restricted access areas on both sides of said road (aka East West Road). Said access shall be for Tacoma Power's maintenance equipment and vehicles to access the Transmission Line Corridor. Access areas shall consist of two (2) sixteen-foot wide aprons including driveways and/or combination sidewalk/driveways which are both reinforced sufficiently to withstand a 60,000 lb. vehicles; and, two (2) 12-foot gates. Both access aprons (one on each side of said road) shall have adequate slopes/grades for vehicles to operate; and gates adequately setback to allow vehicles to stop prior to opening gate and clear East-West Road. Access points shall be barricaded to restrict public access onto the Transmission Line R/W. All said access ramp plans including the driveways, gate design, access ramp grade, and installation shall be designated and approved by Tacoma Power, Transmission and Distribution Department to ensure compatibility of use of the right of way.
9. The Grantee shall maintain a 25-foot minimum vertical clearance and a 50-foot horizontal clearance from any of Tacoma Power's facilities. This includes those activities during the construction, installation, relocation, or maintenance said Grantee's facilities.

10. The Grantee acknowledges and agrees that the easement granted herein is condition upon the Grantee authorizing and issuing a franchise to Tacoma Power for the purpose of constructing, reconstructing, maintaining and operating an electrical transmission line within the limits of the City of Gig Harbor. Should the Grantee unreasonably withhold issuance or re-issuance of said franchise for more than one year, the herein easement may be terminated at the sole option of Tacoma Power.

P1999-426THL/E11178

IN WITNESS WHEREOF, said corporation has caused this instrument to be  
executed by its proper officers and its corporate seal to be hereunto affixed this  
\_\_\_\_\_ day of \_\_\_\_\_, 2000.

CITY OF TACOMA

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

Attest:

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





P1999-426THL/E11178

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2000

Authorized:

Form Approved:

\_\_\_\_\_  
Director of Utilities

*Mark Blank*  
\_\_\_\_\_  
Assistant City Attorney

Accepted:

\_\_\_\_\_  
Light Division Superintendent

Reviewed:

*Darryl Amfield*  
\_\_\_\_\_  
Transmission & Distribution Manager

Reviewed:

*[Signature]*  
\_\_\_\_\_  
Chief Surveyor

City of Tacoma - Department of Public Utilities - Real Estate Management

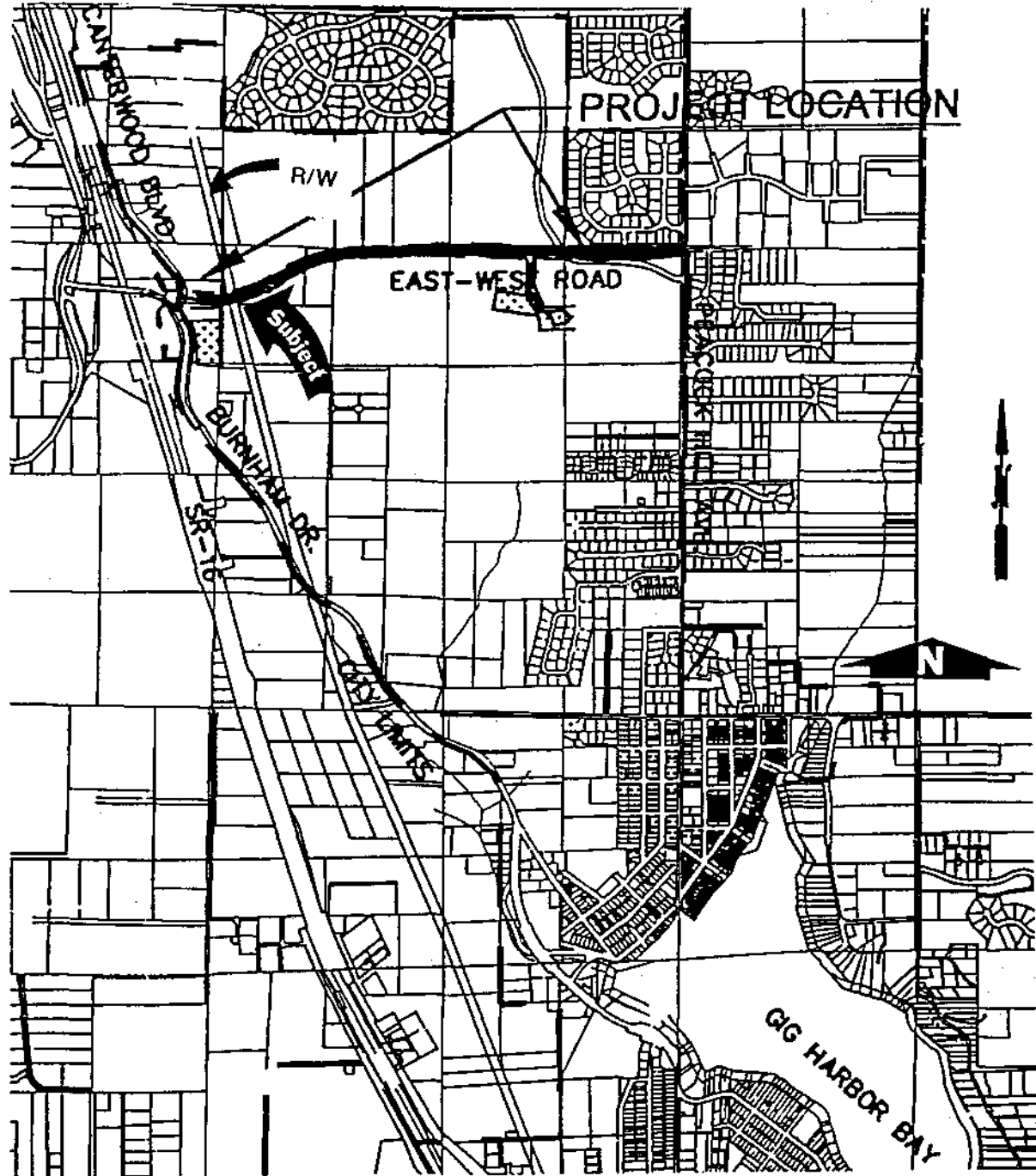
Date 4/25/00

Tacoma Power Easement No. 11178

Project No.  
1999-426

Ted Lyons  
Sr Real Estate Specialist

City of Gig Harbor  
East-West Road.  
NW¼ S31, T22N, R2E, W. M.



REAL ESTATE MANAGEMENT ILLUSTRATION

This illustration is not to scale. It is provided as a customer convenience to assist in identifying significant characteristics of the installation. No liability is assumed by reason of reliance hereon.

Exhibit A

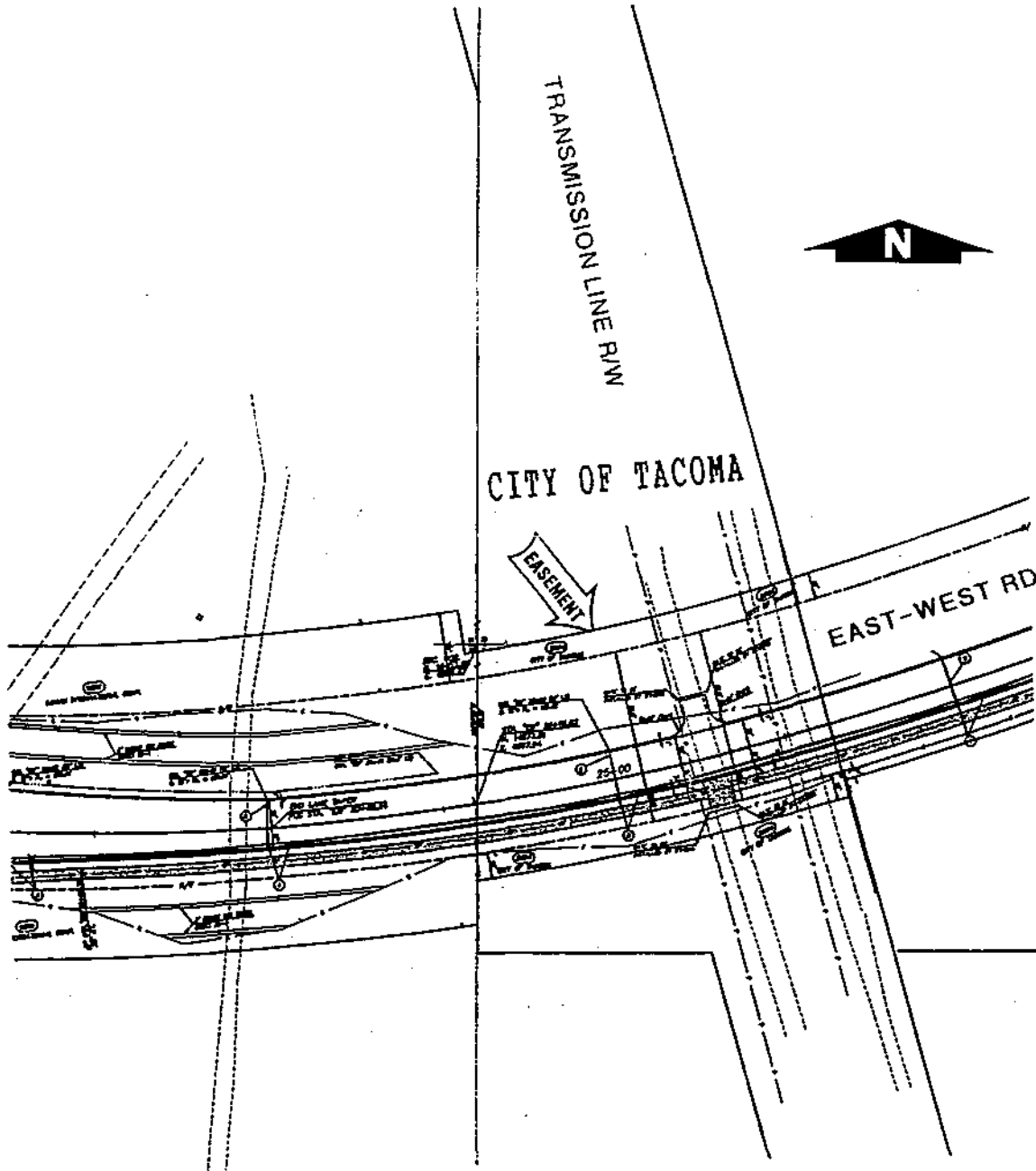
City of Tacoma - Department of Public Utilities - Real Estate Management

Date 4/25/00

Tacoma Power Easement No. 11178  
City of Gig Harbor  
East-West Road.  
NW¼ S31, T22N, R2E, W. M.

Project No.  
1999-426

Ted Lyons  
Sr Real Estate Specialist



REAL ESTATE MANAGEMENT ILLUSTRATION

This illustration is not to scale. It is provided as a customer convenience to assist in identifying significant characteristics of the installation. No liability is assumed by reason of reliance hereon.

**Exhibit B**



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR**  
**SUBJECT: BURNHAM DRIVE WATERMAIN EXTENSION**  
**- WEBSTER EASEMENT AGREEMENT AMENDMENT**  
**DATE: NOVEMBER 8, 2000**

*DRS*

**INTRODUCTION/BACKGROUND**

On April 13, 2000, Council approved an easement agreement with Mr. Craig Webster granting a 22-foot wide permanent easement and a 30-foot wide temporary easement to the City for the construction of a new 16-inch waterline.

During the preparation of the construction plans for the project it was determined that in order to place fill in the location requested by Mr. Webster as a condition for the original easement the City would need a wider temporary easement than that which was shown on Exhibit B of the original easement. This amendment will increase the width of the temporary easement to 45-feet and allow the City to place the fill along the proposed waterline as requested by Mr. Webster as a condition of the original easement.

Mr. Webster has agreed to the revision of Exhibit B that defines the width of the temporary easement as 45-feet.

Council approval of this amendment is requested.

**FISCAL CONSIDERATIONS**

No funds will be expended for this change, except recording fees.

**RECOMMENDATION**

I recommend that the Council accept the attached easement amendment.

Return Address:

City Clerk  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335

Please print legibly or type information.

Document Title(s) (Or transaction contained therein):

1. AMENDMENT TO EASEMENT AGREEMENT
- 2.
- 3.
- 4.

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

1. CITY OF GIG HARBOR
- 2.
- 3.
- 4.
5. Additional Names on Page \_\_\_ of Document.

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

1. WEBSTER, CRAIG & MARY
- 2.
- 3.
- 4.
5. Additional Names on Page \_\_\_ of Document.

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

The North 250 feet of the Northwest of Northwest lying Westerly of the Westerly line of primary State Highway 14, except the West 30 feet thereof segment G7313HW

Legal Description is on Page \_\_\_ of Document.

Reference Number(s) (Of documents assigned or released):

Additional Reference numbers of Page \_\_\_ of Document.

Assessor's Property Tax Parcel/Account Number

0221062057

The Auditor/Recorder will rely on the information provided on this cover sheet. The staff will not read the Document to verify the accuracy or completeness of the indexing information provided herein.

## AMENDMENT TO EASEMENT AGREEMENT

THIS EASEMENT AMENDMENT, (hereinafter the "Amendment"), is made this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Crain and Mary Webster (hereinafter "Webster"), 19500 Clear Creek Road, Poulsbo, Washington 98370.

### RECITALS

WHEREAS, the parties entered into an Easement Agreement on March 13, 2000 (hereinafter the "Agreement"), in which Webster granted temporary and permanent easements to the City; and

WHEREAS, the Agreement was recorded against the property under Recording No. 200003410229; and

WHEREAS, the parties desire to amend the legal description in Exhibit B to the Agreement to substitute the Exhibit B attached to this Amendment, and to make no other changes to the Agreement;

NOW, THEREFORE, in order to correct the error in the Exhibit B attached to the Agreement, the City and Webster agree as follows:

### TERMS

Section 1. Amendment to Agreement. The Agreement is hereby amended to delete Exhibit B attached thereto. Exhibit B, attached to this Amendment, shall be substituted, and for all intents and purposes, be the Exhibit B referred to in the Agreement.

Section 2. All Other Terms of Agreement Operative. This Amendment shall not change any of the remaining terms and conditions of the Agreement, all of which shall be operative and enforceable by either party.

Section 3. Recording. The parties agree that this Amendment shall be recorded against the property and shall run against the property described in Exhibit A to the Agreement and Exhibit B to this Amendment, as provided in Section 6 of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment on the date set forth above.

OWNERS:

The City of Gig Harbor

\_\_\_\_\_  
Craig Webster

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Mary Webster

ATTEST:

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

APPROVED AS TO FORM:

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



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

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

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

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
NOTARY PUBLIC, State of Washington,  
residing at: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

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

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

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

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
NOTARY PUBLIC, State of Washington,  
residing at: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON     )  
  ) ss.  
COUNTY OF PIERCE        )

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

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

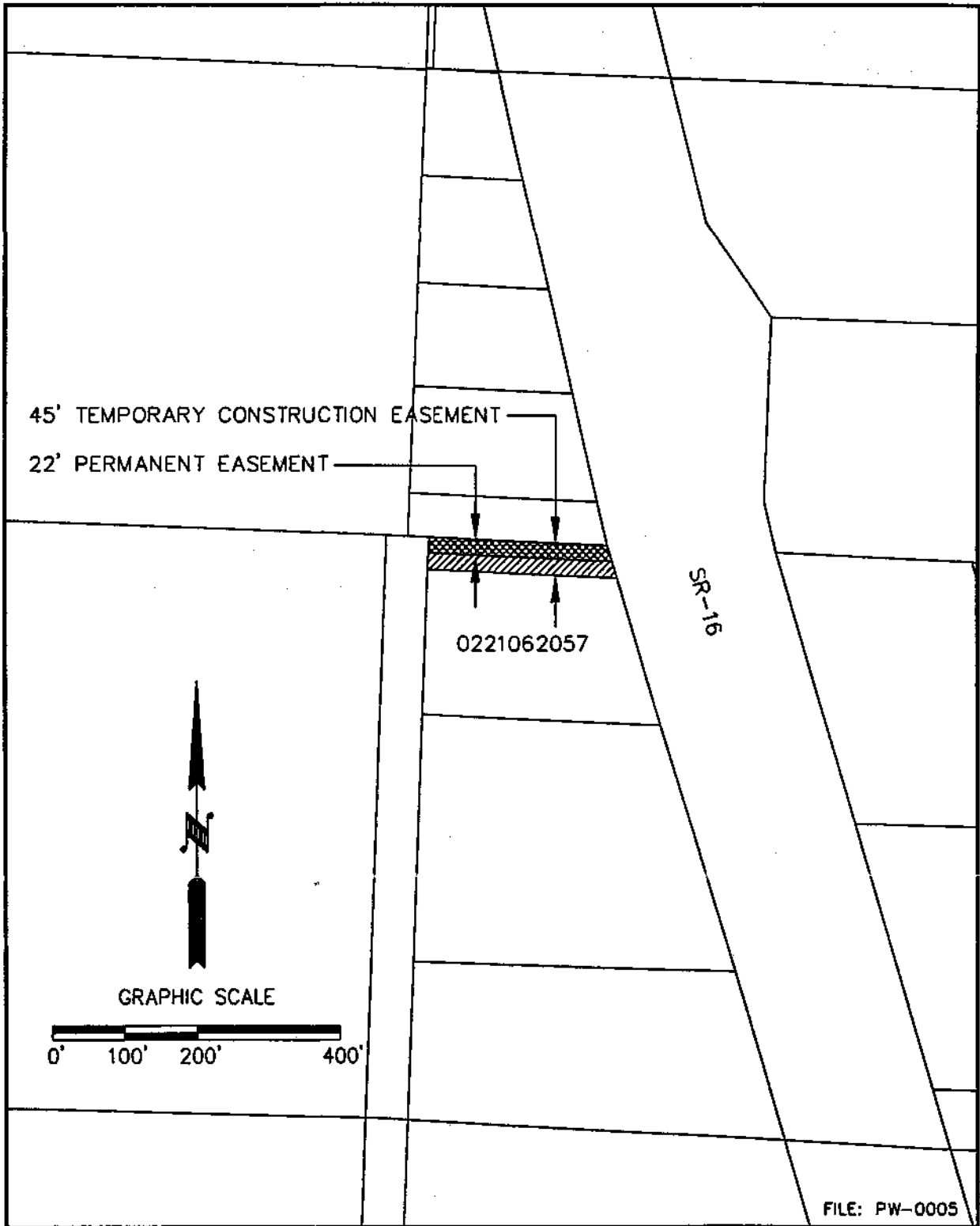
\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
NOTARY PUBLIC, State of Washington,

residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

**EXHIBIT B**  
**CRAIG WEBSTER WATER MAIN EASEMENT**





*City of Gig Harbor. The "Maritime City"*

3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-8136

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR**  
**SUBJECT: SECOND AMENDMENT TO PRE-ANNEXATION AGREEMENT**  
**FOR GIG HARBOR NORTH**  
**DATE: OCTOBER 31, 2000**

*DRS*

#### **INTRODUCTION/BACKGROUND**

On January 24, 2000 Council passed the First Amendment to the Pre-annexation agreement for Gig Harbor North. That amendment described the requirements for Pope Resources, Logan International, and Tucci & Sons (Owners) to construct water facilities that would increase the City's storage capacity and allow the owners to utilize 25,000 gallons per day of operational water storage from the City's existing 450 zone. The proposed construction of a booster pump near the City's Skansie storage tank will increase the available storage of the tank approximately 300,000 gallons by utilizing dead storage currently unavailable.

The second amendment to the pre-annexation agreement will increase the quantity of water storage the City will provide to Logan International by an additional 25,000 gallons per day. Since the Owners will be increasing the available storage by 300,000 gallons with the installation of the booster pump, the requested increased total of 50,000 gallons is acceptable.

#### **POLICY CONSIDERATIONS**

Logan will be responsible for building the water transmission facilities in the area including the booster pump and will be assured by this agreement that 50,000 gallons per day of water storage capacity is available prior to construction of the Gig Harbor North water storage facilities as required in the pre-annexation agreement.

#### **RECOMMENDATION**

Staff recommends that Council approve this amendment after the second reading of the amendment, provided that no substantial alterations are required.

**Return Address:**

City Clerk  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335

Please print legibly or type information.

**Document Title(s) (Or transaction contained therein):**

1. **SECOND AMENDMENT TO PREANNEXATION AGREEMENT FOR GIG HARBOR NORTH**
- 2.
- 3.
- 4.

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

1. **CITY OF GIG HARBOR**
- 2.
- 3.
- 4.

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

1. **TUCCI & SONS INC.**
2. **TRIMAIN HOLDINGS, INC.**
3. **OLYMPIC PROPERTY GROUP**
4. **ALBERTSON'S, INC.**
5. **TARGET CORPORATION**

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

**Section 30 Township 22N Range 2E WM**

Legal Description is on Exhibit B of Document.

**Reference Number(s) (Of documents assigned or released):**

**Pre-Annexation Agreement Recording Number: 9704040094**

**First Amendment to Pre-Annexation Agreement Recording No. 200002090450**

**Assessor's Property Tax Parcel/Account Number**

222304000	222312009	222313043	122361063	122254016	122254059
222311000-001	222312027	222303001	222313006	122254053	122254060
222312000	222312031	222303004	222312001-003	122254054	122265066-70

**SECOND AMENDMENT OF PREANNEXATION AGREEMENT  
FOR GIG HARBOR NORTH**

THIS SECOND AMENDMENT to the Preannexation Agreement is made and entered into this 20<sup>th</sup> day of September, 2000, by and between the City of Gig Harbor, a non-charter, optional municipal code city organized under the laws of the State of Washington; Olympic Property Group, LLC, a Washington limited liability company, a wholly owned subsidiary of and successor-in-interest to Pope Resource, a Delaware limited partnership; Tucci & Sons, Inc., a Washington corporation; and Logan International Corp., a Washington corporation, now known as TriMaine Holdings, Inc., a Washington corporation, Albertson's, Inc., a Delaware corporation, a successor-in-interest to TriMaine Holdings, Inc., and Target Corporation, a Minnesota corporation, a successor-in-interest to TriMaine Holdings, Inc.

WHEREAS, the parties or their predecessors-in-interest entered into the Preannexation Agreement on September 23, 1996, which was recorded under Pierce County Auditor's Number 970404094 and the First Amendment to Preannexation Agreement for Gig Harbor North on January 24, 2000, which was recorded under Pierce County Auditor's Number 200002090450 (collectively, the "Preannexation Agreement");

WHEREAS, Logan agrees to pay a one-time operational water storage commitment payment of two cents (\$0.02) per gallon of storage requested for a total payment of Five Hundred Dollars (\$500.00), and

NOW, THEREFORE, in consideration of the above promises and the mutual covenants and agreements contained herein, as well as other valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

**Section 1. Effect of this Second Amendment.** This Second Amendment modifies the Preannexation Agreement only as set forth in Section 2 herein. None of the remaining provisions of the Preannexation Agreement are effected or modified by this Second Amendment, and the Preannexation Agreement shall remain in full force and effect.

**Section 2. Amendment to Sections 3(A)(iv) and (v) of the Preannexation Agreement.** Section 3(A)(iv) of the Preannexation Agreement is amended by deleting all three (3) references to "25,000" and replacing them with references to "50,000." The phrase "facilities described in Exhibit A" as used in Sections 3(A)(iv) and (v) of the Preannexation Agreement shall be deemed to include both (a) the facilities described on Exhibit A to the First Amendment to Preannexation Agreement for Gig Harbor North recorded under Pierce County Auditor's Number 200002090450 and (b) tandem, in-line, 3-Phase, 30HP booster pumps near the City's existing storage facilities near the Purdy Women's Correction Facility. The remainder of Section 3(A)(iv) and (v) shall remain in full force and effect.

Draft Date: 09/19/00

BOISE-111792.3 0040079-00031

Section 3. The Property subject to the Second Amendment is the Logan Property, legally described in Exhibit B, attached hereto and incorporated herein by this reference.

Section 4. This Second Amendment, read together with the Preannexation Agreement (and all exhibits incorporated therein), represents the entire agreements of the parties with respect to the subject matter thereof. There are no other agreements, oral or written, except as expressly set fourth herein.

Section 5. This Second Amendment shall be filed for recording with the Pierce County Auditor's Office, and shall constitute a covenant running with the land described in Exhibit B. The Second Amendment shall be binding on the parties, their heirs, assigns and legal representatives.

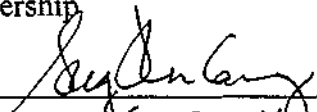
Section 6. If any provision of this Second Amendment is determined to be invalid by a court of competent jurisdiction, the remainder of the Second Amendment of the Preannexation Agreement shall not be affected.

Section 7. This document may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument. Signature and acknowledgment pages may be detached from individual counterparts and attached to a single or multiple original(s) in order to form a single or multiple original(s) of this document.

**CITY OF GIG HARBOR,**  
a non-charter, optional municipal code city  
organized under the laws of the State of  
Washington

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

**OLYMPIC PROPERTY GROUP, LLC,**  
a Washington limited liability company, a  
wholly owned subsidiary of and successor-in-  
interest to Pope Resource, a Delaware limited  
partnership

By:   
Its: GRETIA McCARTY  
PRESIDENT  
Dated: SEPT 27, 2000

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF PIERCE )

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

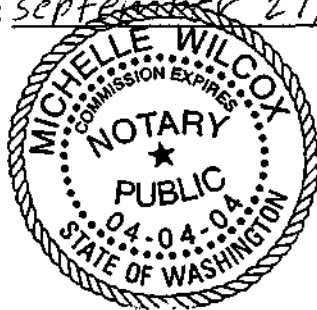
Dated: \_\_\_\_\_

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

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KITSAP )

I certify that I know or have satisfactory evidence that Greg McCarry  
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 is as the President / COO of Olympic Property Group, LLC, to be the free and  
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: September 27, 2000



Michelle Wilcox  
Michelle Wilcox  
(Print or type name)  
NOTARY PUBLIC in and or the State of  
Washington, residing at: port orchard  
My Commission expires: 4/04/04



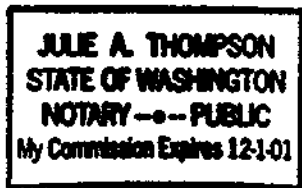
TUCCI & SONS, INC.,  
a Washington corporation

By: Thomas D Tucci  
Its: VP / PARTNER  
Dated: 10/24/2000

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that Thomas D Tucci  
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 VP of Tucci & Sons, Inc., to be the free voluntary act of  
such party for the uses and purposes mentioned in the instrument.

Dated: 10/24/00



Julie A Thompson  
Julie A. Thompson  
(Print or type name)  
NOTARY PUBLIC in and or the State of  
Washington, residing at: Pluxallup  
My Commission expires: 12-1-01

TRIMAIN HOLDINGS, INC.,  
a Washington corporation

*[Handwritten Signature]*

By: Greg B. Elderkin

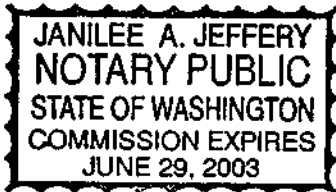
Its: Agent

Dated: 10/11/00

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Greg B. Elderkin 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 Agent of **TriMaine Holdings, Inc.** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 10-11-00



*[Handwritten Signature]*  
Janilee A. Jeffery  
(Print or type name)  
NOTARY PUBLIC in and or the State of  
Washington, residing at: Auburn, WA  
My Commission expires: 6-29-03





EXHIBIT "B"

LEGAL DESCRIPTION FOR  
LOGAN INTERNATIONAL CORP.

GIG HARBOR 12 ACRES

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36,  
TOWNSHIP 22 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, IN PIERCE  
COUNTY, WASHINGTON.

EXCEPT PRIMARY STATE HIGHWAY NO. 14.

ALSO EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR  
STATE ROAD NO. 16 MP 8.34 TO MP 18.87 NARROWS BRIDGE TO OLYMPIC DRIVE,  
AS DESCRIBED IN DEED RECORDED UNDER AUDITOR'S NO. 2397369.

ALSO EXCEPT GIG HARBOR - LONG BRANCH - PURDY - KITSAP COUNTY ROAD.

ALSO EXCEPT SEHMEL COUNTY ROAD.

IN PIERCE COUNTY, WASHINGTON.

GIG HARBOR 34 ACRES

The following land situated in the State of Washington, County of Pierce and described as  
follows:

PARCEL "A":

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER  
OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE  
MERIDIAN, IN PIERCE COUNTY, WASHINGTON.

EXCEPT THAT PORTION HEREOF CONVEYED TO THE CITY OF TACOMA FOR  
POWER TRANSMISSION LINE BY WARRANTY DEED RECORDED AUGUST 13, 1923  
UNDER AUDITOR'S NO. 678953.

PARCEL "B":

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER  
OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE  
MERIDIAN, IN PIERCE COUNTY, WASHINGTON.

Draft Date: 09/19/00

BOISE-111792.3 0040079-00031

EXCEPT THE EAST HALF OF THE EAST HALF THEREOF.

ALSO EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN; THENCE EAST ON THE NORTH LINE THEREOF, A DISTANCE OF 54 FEET; THENCE SOUTH 14 049' EAST ON THE EAST LINE OF THAT CERTAIN PROPERTY CONVEYED TO THE CITY OF TACOMA BY WARRANTY DEED RECORDED JULY 14, 1923 UNDER AUDITOR'S NO. 675775, A DISTANCE OF 679 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE WEST ON SAID SOUTH LINE, A DISTANCE OF 238 FEET TO THE WEST LINE OF SAID SECTION 31; THENCE NORTH ON SAID WEST LINE 666 FEET TO THE POINT OF BEGINNING.

PARCEL "C":

THE EAST HALF OF THE NORTHEAST QUARTER OF GOVERNMENT LOT 1 IN SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN PIERCE COUNTY, WASHINGTON.

GIG HARBOR 56.6 ACRES

PARCEL "A":

THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN PIERCE COUNTY, WASHINGTON.

EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, RUN THENCE NORTH ON SECTION LINE 792 FEET; THENCE SOUTH 14049' EAST 819 FEET TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 30; THENCE WEST ALONG THE SAME, 209 FEET TO THE POINT OF BEGINNING, CONVEYED TO THE CITY OF TACOMA, BY DEED RECORDED UNDER AUDITOR'S NO. 675729, RECORDS OF PIERCE COUNTY, WASHINGTON.

Draft Date: 09/19/00

BOISE-111792.3 0040079-00031

PARCEL "B":

THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE  
SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST OF  
THE WILLAMETTE MERIDIAN, IN PIERCE COUNTY, WASHINGTON.

PARCEL "C":

THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE  
SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST OF  
THE WILLAMETTE MERIDIAN, IN PIERCE COUNTY, WASHINGTON.

Draft Date: 09/19/00

BOISE-111792.3 0040079-00031



*City of Gig Harbor. The "Maritime City"*

DEPARTMENT OF PLANNING & BUILDING SERVICES  
3125 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-4278

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**DIRECTOR, PLANNING & BUILDING SERVICES**  
**SUBJECT: SHORELINE MASTER PROGRAM UPDATE & REVISION**  
**CONSULTANT SERVICES CONTRACT**  
**DATE: NOVEMBER 8, 2000**

### **INFORMATION/BACKGROUND**

A goal of the Planning and Building Services Department for 2000 was to update the 1994 City of Gig Harbor Shoreline Master Program and develop a new Title 20, GHMC, which would contain the shoreline management development regulations.

The Department of Ecology has been working since 1995 to satisfy a legislative requirement that the Shoreline Management Act (SMA) be updated. In Summer 2000, the Department of Ecology circulated draft revisions to the State Shoreline Management Act (SMA). It is likely that these revisions will be adopted, substantially as written, before the end of the year 2000. State Law requires that local jurisdictions revise their Shoreline Master Plans (SMP) within two years, to be consistent with the revisions to the SMA.

The Draft Revisions included provisions to address the Endangered Species Act (ESA) listing, and include certification by Federal agencies that jurisdictions addressing ESA issues through adoption of SMP consistent with the draft revisions will be in compliance with the ESA, and, thus would not be subject to ESA liability.

In addition, the draft revisions clarify the relationship between the SMP and the Comprehensive Plan, and require that local jurisdictions ensure consistency between both documents.

The Department of Ecology (DOE) reviews updates to Shoreline Management Plans using the same process that they use to review a new plan, unless the change to the plan is very minor.

It is anticipated that the Department of Ecology (DOE) will review any updates to the City of Gig Harbor shoreline plan consistent with the draft revisions, and DOE is requiring jurisdictions receiving CZM (Coastal Zone Management) funding to plan consistent with the draft revision process. In addition, the Department is advocating that the legislature release of funds to assist local jurisdictions in meeting the 2-year revision timeline.

Staff has attached an informational article entitled 'Draft DOE Rules Will Create Major Changes In Shoreline Development' which summarizes the draft revisions under consideration.



Due to the complexity of the anticipated changes to the shoreline rules and regulations, it is necessary to retain consultant services for this project. After reviewing the Consultant Services Rooster, Madrona Planning and Development Services, Inc. was selected as the most qualified to perform this task. This selection was made based upon the firm's extensive municipal land use experience and specific expertise in developing shoreline management plans.

Staff is requesting council approval of a Consultant Services Contract with Madrona Planning and Development Services, Inc. for the purposes of updating and revising the City of Gig Harbor Shoreline Master Program consistent with the rules and regulations under consideration by the Washington State Department of Ecology.

#### **POLICY CONSIDERATIONS**

Madrona Planning and Development Services, Inc. is able to meet all of the City's standard provisions for consultant services contracts and has signed the City's standard consultant services contract, with minor revisions, which has been reviewed by legal counsel.

#### **FISCAL CONSIDERATIONS**

This project was anticipated and approved in the 2000 budget for the Planning and Building Services Department.

#### **RECOMMENDATION**

Staff recommends that the Council authorize execution of a Consultant Services Contract with Madrona Planning and Development Services, Inc. for the purposes of updating and revising the City of Gig Harbor Shoreline Master Program consistent with the rules and regulations under consideration by the Washington State Department of Ecology in an amount not to exceed \$38,082.00.

# Land Use & Environmental

FOSTER PEPPER & SHEFELMAN PLLC  
ATTORNEYS AT LAW



## DRAFT DOE RULES WILL CREATE MAJOR CHANGES IN SHORELINE DEVELOPMENT

BY ANDREW S. LANE

On June 7, 2000, the Washington State Department of Ecology (Ecology) published draft rules for updating Ecology's Shoreline Master Program (SMP) Guidelines. Wash. St. Reg. 00-11-175. The Draft Rules culminate a five-year-long effort by Ecology to update its nearly 30-year-old guidelines. Once the SMP Guidelines are adopted, Washington cities and counties will have two years to amend their local SMPs to reflect Ecology's updated guidelines. Local governments will be tasked with a significant regulatory duty while land use and development on and near shorelines will be subject to greater regulatory scrutiny.

This article describes some of the major regulatory changes and their possible impact on proposed development when the proposed rules become final in August or September 2000.

### *Background*

The Shoreline Management Act (SMA or Act) was passed by the Legislature in 1971 and adopted by public referendum in 1972. The purpose of the SMA was to create a joint effort "by federal, state and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." In

1972, Ecology adopted guidelines for local governments to follow in developing the SMPs required to implement the policies of the SMA. In 1995, the Legislature directed Ecology to review its SMP Guidelines at least once every five years. The first five-year review period is this year - 2000.

### *Two "Paths"*

Ecology's Draft Rules offer local governments two options, or paths. All local governments must update their SMPs either according to "Path A" or "Path B." "Path A" is the default option. It is intended to ensure that local governments' SMPs meet the protection standards required by the Act. Path A allows local governments more flexibility and creativity in achieving the requirements of the SMA, but provides no certainty of protection from challenges under the Endangered Species Act (ESA).

Local governments may choose "Path B," which is designed to satisfy the SMA protection requirements and to meet the standard needed for a local government to get an exception from third-party lawsuit liability under the ESA's "take" provisions. Ecology collaborated with the National Marine Fisheries Service (NMFS) and the

*(Continued on page 4)*

# NEWS

## INTRODUCING ANDREW S. LANE



### MAJOR CHANGES IN SHORELINE DEVELOPMENT

*(continued from front page)*

U.S. Fish and Wildlife Service (FWS) in developing Path B. Path B is more specific and prescriptive than Path A, but it will provide more certainty of insulation from liability under the ESA once the finally adopted rules are approved by NMFS and FWS.

#### *Protection and Restoration of Ecological Functions*

One change from the 1972 Guidelines is that the Draft Rules emphasize protection and restoration of ecological functions. Many of the requirements of Path B focus on the maintenance and enhancement of "properly functioning condition" (PFC) for proposed, threatened, or endangered (PTE) species. PFC is that level of ecological function necessary for the recovery of PTE species.

#### *Environment Designations*

The Draft Rules introduce new shoreline environment designations: "High-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic." Local governments may establish different sub-designations provided they are consistent with the rules. Local governments will have to determine whether the environment designations in their existing SMPs are consistent with the Draft Rules. Many jurisdictions likely will have to amend their environment designations.

#### *Use of Science and Technical Information*

In preparing SMPs, the Act requires the use of "a systematic interdisciplinary approach that will ensure the integrated use of the natural and social science and the environmental design arts." The 1972 Guidelines did not explicitly discuss the use of these sciences. However, the Draft Rules require local governments to base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available. Where this information is in conflict, the adopted SMP provisions must be based on a reasoned, objective evaluation of the merits of the conflicting data. Generally, the less information is available, the greater the restrictions on uses.

*Environmental Evaluation and Monitoring*  
Also new in the Draft Rules are the concept of environmental evaluation and monitoring. Path A encourages local governments to monitor and periodically update master program provisions to improve shoreline management practices. Path B requires local governments to obtain a baseline inventory of existing ecological conditions, set measurable performance criteria, thresholds, or benchmarks, and to monitor land use and shoreline permit activities, including exempt activities. Local governments must apply the results obtained to adjust shoreline management activities in response to this new information.

#### *Specific Uses and Activities*

##### • *Shoreline stabilization:*

The Draft Rules have more specific restrictions on new bulkheads and other structural stabilization methods. The Draft Rules encourage "soft" shoreline stabilization methods and prohibit new bulkheads except to protect or support an existing principal use or for the restoration of ecological functions. For existing principal structures and uses, including residential uses, new bulkheads should not be allowed unless there is "conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion." Repairing and maintaining existing bulkheads is allowed; however, replacing existing bulkheads requires a demonstrated need. New development should be located where bulkheads will not be required to protect or support the new development.

##### • *Piers and docks:*

Piers and docks are permitted only for water-dependent uses or public access, and must be the minimum size necessary to meet the needs of the proposed use. New piers or docks should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses.

##### • *Residential development:*

Although single-family residences are still recognized as a priority use in shorelines, SMPs must include shoreline setbacks, density regulations, bulkhead restrictions, vegetation conservation requirements, and on-site sewage system standards for residential uses. In

LAND USE GUIDELINES  
 FOREST AND SHORELINE PRACTICES  
 DRAFT RULES

addition, Path B provides that SMPs "shall not allow residential development of a scale and location that will reduce the ecological functions performed by vegetation." Path A and Path B both limit significant vegetation removal to the minimum necessary to accommodate the residential structure.

• **Commercial development:**

Following Path A, new nonwater-oriented commercial development in or near the shoreline should be permitted only when the use is part of a mixed-use project that includes water-dependent uses, navigability is severely limited at the site, or the commercial use provides a significant public benefit with respect to the Act's objective. Path B prohibits nonwater-oriented commercial uses unless at least one of the above criterion is met.

• **Agricultural development and forest practices:**


Existing and ongoing agricultural activities are not affected by the Draft Rules. However, the Draft Rules now require SMPs to contain standards for setbacks, water quality protection, environmental impacts, and vegetation conservation for new agricultural development, clearing, and grading within shoreline jurisdiction.

Forest practices conducted under the Forest Practices Act are not affected by the Draft Rules.

**Amendment of Local Governments' SMPs**


After Ecology adopts its final rule, local governments have 24 months to update their local SMPs. Ecology must then approve the new SMPs. Appeal of Ecology's approval or denial of the SMP will be made to the Growth Management Hearings Boards, for those jurisdictions planning under GMA, or to the Shorelines Hearings Board.

**Comment Period**

Ecology held a number of public hearings across the State to take testimony on the Draft Rules. The final rule is expected to be published in late August or September 2000 and will become effective 30 days after filing. The Draft Rules and other related information are contained on Ecology's web site at <http://www.wa.gov/ecology/sca/SMA/guidelines/newguid.htm>. 

GROWTH MANAGEMENT  
 HEARINGS BOARD  
 DRAFT RULES

a property or neighborhood, he or she should inform the local government of this concern during its adoption process. If a person is concerned about the protection of wildlife habitat, he or she should inform the local government of this concern during its adoption process.


The Central Puget Sound GMHB put it this way: "To have meaningful public participation and avoid 'blind-siding' local governments, members of the public must explain their land use planning concerns to local government in sufficient detail to give the government the opportunity to consider these concerns as it weighs and balances its priorities and options under the GMA." 

SUPREME COURT DECISION

*Continued from page 3*

local enactments. See Laws of 1995, ch. 347, § 110. Without a determination of invalidity, the IUGA remained in effect after the GMHB remand.

However, when the County missed the GMHB's deadline, the Court stated that the IUGA was no longer in effect. Because the IUGA was no longer in effect, the Court concluded that the preliminary plat and PUD applications had to vest to the zoning that pre-existed the IUGA. The Court rejected the argument that the project did not vest because a PUD application was a request for a rezone, holding that "a preliminary plat application coupled with a PUD proposal creates a vested right to have the entire application, including the PUD, considered under the ordinances in effect at the time of filing."

The Court's analysis creates a scenario in which failure of a local government to meet a GMHB remand deadline can result in opportunities to vest to ordinances in effect prior to a local government's GMA actions. 

INPUT NEEDED  
 FOR SPECIAL  
 SALMON ISSUE

**CONSULTANT SERVICES CONTRACT  
BETWEEN THE CITY OF GIG HARBOR AND  
MADRONA PLANNING & DEVELOPMENT SERVICES, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Madrona Planning & Development Services, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 1256 Lawrence Street, Port Townsend, Washington, 98368 (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in the update and revision of the 1994 Shoreline Master Program, and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated November 6, 2000, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

**I. Description of Work**

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

**II. Payment**

A. The City shall pay the Consultant an amount based on time and materials, not to exceed thirty-eight thousand eighty-two dollars (\$38,082.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within thirty (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

### III. Relationship of Parties

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

### IV. Duration of Work

The parties agree that the work described in Exhibit A shall be completed by December 31, 2001, provided however, that additional time shall be allowed due to delays attributable to the City's scheduling of meetings or public hearings that delay the completion of the work. In the event that the Consultant believes that completion of the work described in Exhibit A will not take place by this deadline for any other reason, the Consultant shall immediately notify the City, and provide the City with the Consultant's proposed amended schedule for the completion of the tasks contemplated by this Agreement. After review of this proposed amended schedule, the City may accept the amended schedule by written amendment to this Agreement, or decide to terminate this Agreement, as set forth in Section V herein. If the City decides to terminate this Agreement under these circumstances, it shall be for cause, and not "public convenience," and the Consultant may be liable for any additional costs incurred by the City for the completion of the remaining tasks identified in Exhibit A.

### V. Termination

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

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

## **VI. Discrimination**

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

## **VII. Indemnification**

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

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

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

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

## VIII. Insurance

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

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

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$500,000 per occurrence with a \$500,000 aggregate, and
3. Professional Liability insurance with no less than \$1,000,000 claims made basis.

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

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

E. It is the intent of this contract for the Consultant'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 Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

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

## IX. Exchange of Information

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



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

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

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

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

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

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

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

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

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

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

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

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

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

## **XVI. Written Notice**

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

Richard M. Sepler, Principal  
Madrona Planning & Development  
Services, Inc.  
1256 Lawrence Street  
Port Townsend, WA 98368  
(360) 379-8151  
(360) 379-0131 FAX  
[madrona@olympus.net](mailto:madrona@olympus.net)

John P. Vodopich, AICP  
Director of Planning & Building Services  
City of Gig Harbor  
3125 Judson Street  
Gig Harbor, Washington 98335  
(253) 851-4278  
(253) 858-6408 FAX  
[vodopichj@lesa.net](mailto:vodopichj@lesa.net)

## **XVII. Assignment**

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

## **XVIII. Modification**

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

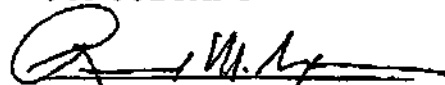
**XIX. Entire Agreement**

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of November, 2000.

CONSULTANT

CITY OF GIG HARBOR

By:   
Richard M. Sepler, Principal

By: \_\_\_\_\_  
Gretchen Wilbert, Mayor

Notices to be sent to:

Richard M. Sepler, Principal  
Madrona Planning & Development  
Services, Inc.  
1256 Lawrence Street  
Port Townsend, WA 98368  
(360) 379-8151  
(360) 379-0131 FAX  
[madrona@olympus.net](mailto:madrona@olympus.net)

John P. Vodopich, AICP  
Director of Planning & Building Services  
City of Gig Harbor  
3125 Judson Street  
Gig Harbor, Washington 98335  
(253) 851-4278  
(253) 858-6408 FAX  
[vodopichj@lesa.net](mailto:vodopichj@lesa.net)

ATTEST:

APPROVED AS TO FORM:

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

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

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF JEFFERSON )

I certify that I know or have satisfactory evidence that Richard M. Sepler is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the principal of Madrona Planning & Development Services, Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 11/7/2000



A handwritten signature in black ink, appearing to read "David Wayne Johnson", written over a horizontal line.

David Wayne Johnson  
(print or type name)

NOTARY PUBLIC in and for the  
State of Washington, residing at:  
Port Townsend, WA 98368

My Commission expires: 10/15/2002

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF PIERCE        )

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

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

\_\_\_\_\_

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

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

## Gig Harbor Shoreline Master Plan Revisions – EXHIBIT A

### Scope of Services

Task	Description	Estimated Hours Principal Planner	Estimated Hours Associate Planner
1.0	<p><i>Initial Meeting with Jurisdiction</i></p> <p>Meet with Planning Staff; Review scope, Preliminary schedule, review timeline; Discuss Advisory Committee Composition; review notice and procedural requirements.</p>	3	0
2.0	<p><i>Review Background Materials and Mapping Resources</i></p> <p>Review adopted plans and regulations, applicable studies and reports from existing City and County sources, resource agencies, and other sources concerning the biophysical characteristics of the shoreline and current regulations.</p> <p>Identify agencies, local governments, tribes and other parties with an interest in the shoreline planning area.</p> <p>Identify available mapping capacity and anticipated GIS needs. Coordinate with Planning Staff on timing and scope of GIS work.</p>	2	24
3.0	<p><i>Meet with Jurisdiction: Establish Schedule; Advisory Committees</i></p> <p>Set preliminary process schedule based on the results of the background review and anticipated issues; Establish dates for Advisory Committee meetings and task completion; Assist Staff in determining composition and role of Advisory Committees; Prepare background materials for Advisory Committee members.</p>	2	2

Task	Description	Estimated Hours Principal Planner	Estimated Hours Associate Planner
4.0	<p><i>Prepare Shoreline Characterization</i></p> <p>Prepare an analysis of the following shorelines issues together with inventory information, shoreline environment designations, comprehensive plan policies and land uses to establish shoreline goals and policies:</p> <ul style="list-style-type: none"> <li>• shoreline constraints/opportunities for certain uses</li> <li>• critical areas: wetlands, unstable slopes, etc.</li> <li>• ESA threatened fish habitat</li> <li>• areas suitable for restoration</li> <li>• public access opportunities</li> <li>• areas anticipated for flood control projects</li> <li>• existing development patterns - conflicts with shoreline protection or use activities</li> <li>• capacity for new development - conflicts with shoreline protection or use activities</li> <li>• issues related to annexation and consideration of shoreline environment pre-designations within applicable portions of the UGH.</li> </ul>	4	80
5.0	<p><i>Facilitate 1<sup>st</sup> Shoreline Technical Committee (STC) Meeting</i></p> <p>Prepare materials and agenda; Facilitate STC meeting to review process and obtain input relative to jurisdictional, agency and tribal shoreline management issues; Follow up as required.</p>	5	5
6.0	<p><i>Facilitate 1<sup>st</sup> Shoreline Advisory Committee (SAC) Meeting</i></p> <p>Prepare materials and agenda; Facilitate SAC meeting to review planning process and identify local shoreline management issues; Follow up as required.</p>	5	4

Task	Description	Estimated Hours Principal Planner	Estimated Hours Associate Planner
7.0	<p><i>Shoreline Field Assessment</i></p> <p>Prepare materials; Coordinate waterborne transportation with City; Arrange route; Coordinate attendance with appropriate state and local agencies; Facilitate 1/2 day workshop with SAC/STC to view City's shoreline management areas.</p>	6	10
8.0	<p><i>Develop Alternatives</i></p> <p>Prepare Draft SMP strategy, goals and policies pertinent to local shoreline issues.</p> <p>Review plans and coordinate with Shoreline Technical Committee for consistency/compatibility with neighboring jurisdictions Shoreline Master Program (SMP) goals/policies.</p> <p>Determine how SMP goals can best be folded into the comprehensive plan to implement SMA/GMA integration as required by ESHB 1724.</p>	4	40
9.0	<p><i>Facilitate 2<sup>nd</sup> Shoreline Advisory Committee (SAC) Meeting</i></p> <p>Prepare meeting materials and agenda; Facilitate meeting to develop draft shoreline strategy, goals and policies; Follow up as required.</p>	5	5
10.0	<p><i>1<sup>st</sup> Shoreline Advisory Committee (SAC) Public Open House</i></p> <p>Prepare materials; Facilitate Open House; Prepare and present summary of process to community; Seek input; Answer questions as required.</p>	5	8



Task	Description	Estimated Hours Principal Planner	Estimated Hours Associate Planner
11.0	<p><i>Prepare Draft Shoreline Management Plan Components</i></p> <p>Prepare SMP components: Establish as needed fundamental SMP goals and policies for shoreline use, conservation, ESA threatened fish resources, public access, circulation, recreation, economic development, and the historic/cultural/scientific/ educational elements for integration into the GMA comprehensive plan as either a separate element or within existing elements.</p> <p>Develop regulations for each shoreline use and activity for integration with comprehensive plan element (or elements), the local critical areas ordinance and other related development regulations for implementing the policy recommendations of the draft SMP</p> <p>Review existing shoreline environment designations, boundaries and map, and comprehensive plan land use designations, boundaries and maps, as necessary to ensure integrated SMP/Comprehensive Plan policies and achieve consistency.</p> <p>Coordinate preparation of Draft Shoreline Designation Maps</p>	8	80
12.0	<p><i>Circulate Draft SMP to Shoreline Technical Workgroup</i></p> <p>Distribute Draft SMP and solicit comments and recommendations from State and local governments, agencies, tribes and shoreline specialists. Revise draft or prepare responses to comments received as required.</p>	1	6
13.0	<p><i>Facilitate 2nd Shoreline Advisory Committee (SAC) Meeting</i></p> <p>Prepare materials and agenda; Facilitate SAC meeting to review Draft Shoreline Master Plan; Follow-up as required.</p>	5	5

Task	Description	Estimated Hours Principal Planner	Estimated Hours Associate Planner
14.0	<i>Facilitate 3rd Shoreline Advisory Committee (SAC) Meeting (if required)</i>  Prepare materials and agenda; Facilitate SAC meeting to review Draft Shoreline Master Plan; Follow-up as required.	5	5
15.0	<i>2<sup>nd</sup> Shoreline Advisory Committee (SAC) Open House for input on the Draft Plan</i>  Prepare materials; Facilitate Open House; Seek comment on Draft SMP.	5	8
16.0	<i>Facilitate 4<sup>th</sup> Shoreline Advisory Committee (SAC) Meeting</i>  Prepare materials and agenda; Facilitate SAC meeting to consider public comment on Draft Shoreline Master Plan; Follow up as required.	5	5
17.0	<i>Preparation of and SAC Recommendation (Planning Commission Draft 1.0)</i>  Revise plan as directed by SAC; Prepare materials for Planning Commission review.	1	10
18.0	<i>Environmental Review; Prepare SEPA checklist.</i>  Prepare SEPA checklist for Draft SMP; Prepare Draft Threshold Determination and Staff Report for SEPA Responsible Official.	1	50
19.0	<i>Planning Commission Meeting(s) and Public Hearing</i>  Support Planning Commission review of Draft SMP (as required and directed). Revise as directed.	Time and Materials	Time and Materials

Task	Description	Estimated Hours Principal Planner	Estimated Hours Associate Planner
20.0	<i>City Council Meeting(s) and Public Hearing</i> Support City Council review of Draft SMP (as required and directed); Revise as directed.	Time and Materials	Time and Materials
21.0	<i>Forward Adopted SMP to DOE for Approval</i> Forward adopted SMP to DOE for approval; Respond to comments from DOE as required.	0	5
22.0	<i>Project Management; Coordination with Gig Harbor Staff / SAC and SAT members and elected and appointed Officials</i> Coordinate with City Staff and Elected Officials; Update project and process status / schedule as required.	20	10
23.0	<i>Coordination with Community Members</i> Address concerns and inquires from community members as directed and/or required.	6	4
24.0	<i>Coordination with DOE</i> Coordinate process with DOE; Seek early and ongoing DOE involvement in the process; Seek guidance on draft planning documents and approach; Address concerns and inquires from DOE as directed and/or required.	2	24
Sub Total Estimated Hours		100	390
Hourly Jurisdictional Rate		\$ 85.50	\$ 63.00
Estimated Professional Expense		\$8,550.00	\$24,570.00

**Summary: Professional Expense**

**Sub Total Estimated Professional Expense**

Miscellaneous Expenses (reproduction, materials, etc.)

Travel Expense (note: this is inclusive of travel time)

**Sub Total Professional Expense and Indirect Costs**

Contingency Reserve

**Not to Exceed Project Total**

(Please see notes below)

\$33,120.00
\$ 500.00
\$ 1,000.00
\$34,620.00
\$3,462.00
\$ 38,082.00

**NOTES:**

1. The anticipated project total expense will not be exceeded excepting by mutual agreement of The City of Gig Harbor and Madrona Planning and Development Services, Inc. due to circumstances which are unanticipated by both parties.
2. Madrona Planning will make every effort to coordinate trips to Gig Harbor associated with this project with other on-going Madrona Planning projects to minimize cost. Cost savings will be applied to the contingency reserve. Madrona will refrain from "double billing" any travel time, and will accordingly pro-rate travel expense between projects.
3. Reproduction will be limited to the preparation of original materials and enlargements to facilitate presentations to staff and the community. The City will reproduce the Draft SMP and all other materials for distribution. Madrona will provide materials to the City in a timely manner to ensure adequate time is available for reproduction.
4. Pierce County will provide GIS analysis to assist in the preparation of the existing conditions, and draft and final Shoreline Designations.
5. It is assumed that adequate information is available from existing studies, reports and environmental documents to characterize the near shore and shoreline environment consistent with State requirements. Should a deficiency be identified in this area, all required additional studies will be performed on a time and material basis (upon approval by the City).

6. **It is anticipated that a SEPA Mitigated Determination of Non-significance (MDNS) will be issued for the proposed Shoreline Plan revisions. Should a Determination of Significance (DS) be issued and an Environmental Impact Statement required, all resulting additional environmental analysis and review will be performed on a time and materials basis.**

**MADRONA PLANNING & DEVELOPMENT SERVICES**

**FEE SCHEDULE**

Effective March 1, 2000, the fee schedule for services rendered is as follows:

	Standard Rate	Jurisdictional Rate
Principal.....	\$95.00.....	\$85.50 per hour
Senior Planner.....	\$85.00.....	\$76.50 per hour
Wetlands Biologist.....	\$75.00.....	\$67.50 per hour
Landscape Architect.....	\$65.00.....	\$58.50 per hour
Architect.....	\$75.00.....	\$67.50 per hour
Associate Planner.....	\$70.00.....	\$63.00 per hour
Assistant Planner.....	\$58.00.....	\$52.20 per hour
Administrative Assistant.....	\$30.00.....	\$27.60 per hour
Reproduction.....		Cost + 15%
Mileage.....		32.5¢ per mile
Supplies.....		Cost + 15%

Invoices will be sent on a monthly basis or upon completion of the project and become due after thirty days. A discount of 2% may be taken on all invoices paid within ten days. A finance charge of 1% per month will be assessed on all invoices past thirty days.

Charges are made for technical typing, as in the preparation of reports and for technical clerical services directly related to projects. Direct charges are not made for general secretarial services, office management, accounting or maintenance.

Effective March 1, 2000

**Exhibit B**



City of Gig Harbor Police Dept.  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-2236

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MITCH BARKER, CHIEF OF POLICE** MB  
**SUBJECT: OCTOBER INFORMATION FROM PD**  
**DATE: NOVEMBER 7, 2000**

The October 2000 activity statistics are attached for your review.

The Reserves volunteered 143 hours in October. In addition to patrol assignments they worked security at Gig Harbor High School, provided court transports, and provided traffic and crowd control duties along Harborview during the Halloween event.

The Marine Services Unit worked 5 hours in October. The boat was removed from the water and the hours were used for maintenance and administrative duties.

Four officers worked a total of 37 hours of bicycle patrol in October. The bikes worked security at GHHS and assisted during the Halloween events on the 31<sup>st</sup>. Bike officers issued some infraction notices and also made 2 minor in possession of alcohol arrests.



City of Gig Harbor Police Dept.  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-2236

## GIG HARBOR POLICE DEPARTMENT

### MONTHLY ACTIVITY REPORT

#### October 2000

	<u>Oct</u> <u>2000</u>	<u>YTD</u> <u>2000</u>	<u>YTD</u> <u>1999</u>	<u>% chg to</u>
CALLS FOR SERVICE	423	4246	4049	+ 4
CRIMINAL TRAFFIC	20	144	198	- 27
TRAFFIC INFRACTIONS	85	682	884	- 22
DUI ARRESTS	10	64	49	+ 30
FELONY ARRESTS	1	56	61	- 8
MISDEMEANOR ARRESTS	19	238	214	+ 11
WARRANT ARRESTS	4	50	90	- 44
CASE REPORTS	121	1139	1111	+ 2
REPORTABLE VEHICLE ACCIDENTS	21	187	160	+ 16



October 24, 2000

The Planning Commission  
City of Gig Harbor  
3125 Judson Street  
Gig Harbor, Washington 98335

Subject: Re-opening public input period of PRD Code amendments.

Dear Planning Commissioners,

It is my understanding, based on the Planning Department's comments to the City Council in last night's Council meeting, that the opportunity for public input to the amendment process on the PRD code (GHMC 17.89) has been extended. Although no deadline was announced. I have reviewed the undated draft copy of the new GHMC Chapter 17.89 **Planned residential Development** that I picked up at the meeting. The following comments and suggestions are submitted for your review and consideration:

The new code states, in section: 17.89.020, that PRD's are permitted in: (A) All residential zoning districts, except Waterfront Millville (WM) and Waterfront Residential (WR). under the new code 17.89.040 (D) ***“low impact retail uses may be located within the residentially\* planned residential development, if a request for a rezone is submitted concurrently with the PRD application...”*** To satisfy the preceding a developer would have to apply for a rezone to a residential zone that allows retail business. In Gig Harbor this would be limited to RB-1 and RB-2. A developer could not apply for a rezone to RB-1 with PRD, because, even if he wanted to put in a pharmacy, which is the only retail unit allowed in a RB-1, paradoxically, pharmacies are only allowed in a RB-1 zone if they are incidental to a medical office which is not allowed in a PRD because it is not “low impact retail”. (\* If nothing else remove “residentially”)

The same problem exists for the RB-2 zone (17.30) since (D) “Retail uses (must be) clearly accessory to the principal office use of a structure.” (Emphasis added)

In conclusion, since PRD's are only allowed in residential zones and since there is no hybrid residential/business zone that could currently accommodate just low impact retail, I suggest you remove new 17.89.040 (D). Or alternatively, allow the use of the PRD overlay zone in RB-1 and RB-2 zones and limit the permitted uses to those uses that currently exist within these codes. Low impact retail, as a stand-alone operation in either of these two zones would not be allowed. Therefore, 17.89.040 (D) would need to be changed to: ***“certain specified business, personal and professional service uses may be located within the planned residential development, if a request for a rezone is submitted concurrently with the PRD application, and if they meet the following criteria:”***

1. ***Such uses will occupy 10 percent or less of the total square feet of floor space of the proposed project.***

2. *Such uses are an integral component of the planned residential development.*
3. *Such uses are compatible with any residential uses.*
4. *Such uses are consistent with the Gig Harbor Comprehensive Plan.*

If the RB-1 (17.28) and RB-2 (17.30) are to be considered residential districts, and the city chooses to allow the PRD overlay on these zones, I suggest you note these chapters in the same manner as the R-1, R-2 and R-3 chapters are noted, with footnotes to show the maximum possible effect of the density bonus application on density limits. I.E. The RB-1 current maximum density is 3 dwelling units per acre. A footnote should be added to GHMC 17.28.050 (H) to state: A maximum density of up to 4.0 dwelling units per acre may be permitted within a planned residential development, pursuant to chapter 17.89 GHMC.”

The RB-2 current maximum density on a conditional use basis is 12 units per acre. A footnote should be added to GHMC 17.30.050 (G) and state: “A maximum density of up to 15.6 dwelling units per acre may be permitted within a planned residential development, pursuant to chapter 17.89 GHMC.”

I suggest you change GHMC 17.89.020 (A) to read as follows: PRD’s are permitted in: (A) the following residential districts: R-1 (17.16), R-2 (17.20), R-3 (17.24), RB-1 (17.28) and RB-2 (17.30). This makes it much more specific and removes any question such as, “what about RMD’s or WM’s, etc.?”

Under new 17.89.060 (A) (3) remove the words: “or in any waterfront district.” They do not apply.

Under new 17.89.080 (C) Define “net buildable acreage.” New 17.89.090 (G) discusses “net buildable land” then goes on to discuss “buildable land” but does not define the term “net buildable acreage”. (G) (b) is far too nebulous to reward the reader with a clear understanding of what “buildable land” means. Currently, critical areas such as steep slopes, bluffs, wetlands, streams, wetland buffer zones, etc. don’t impact the density calculations. If it is the City’s intention to determine maximum density calculations based on Net buildable land, then I suggest the following clear definition:

Net buildable land means: the total amount of land remaining in a given plat or parcel of land after the following areas have been subtracted: (expressed in square feet)

- Stream corridors (including buffer zones)
- Wetlands
- Wetland buffer zones
- Any right-of-ways including private and public roads and alleys

- Easements (potential future roads)
- Submerged land (tidal or otherwise)
- Other critical area identified under GHMC 18.12 Critical areas.

Of course, if you implement this definition in the PRD code, which I encourage you to do, you must show consistency and implement it on a wholesale basis, in all districts, for determining density maximums. I believe this is easily accomplished since an absolute definition on acreage used to determine density is not currently defined in the codes. The closest that I could come to a definition was GHMC 17.04.080, **Area, Site**. In my previous dealings with the City, the planning Department has given multiple different definitions for what constitutes the acreage figure. Obviously, if the planning staff does not have a clear understanding of what the definition is, then we have a problem.

Under new 17.89.090 (B) Remove “stream corridor” along with the “wetland” category which is already struck from the draft. Stream corridors already receive the maximum protection (preservation) and must be protected under any land development circumstance. It makes no sense to reward developers with a density bonus for “preserving a stream corridor.”

Under new 17.89.100 (A) Remove the word “contiguous” from the last sentence. It is in the City’s and public’s best interest to allow non-contiguous properties into this 30 percent calculation. I am aware of one situation where the City legally committed to support the acceptance of non-contiguous privately owned land to qualify as open spaces in a PRD application. In this instance, the non-contiguous land was 100 feet from the PRD’s location and there was no easy way for the PRD occupants to access the open spaces.

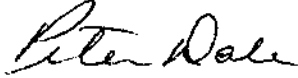
Additionally, we should add the option of an out right donation of land to the City, that would qualify for the 30 percent of the gross area of a development to dedicate to open spaces, for the collective enjoyment of the PRD occupants *and the public*. This would relieve the PRD occupants from the responsibility of maintaining the open spaces and paying taxes on it and would open up more open spaces for all of the citizens of Gig Harbor to enjoy. The option would have to be agreed upon by both the City and the developer since there are properties that would qualify as open spaces that would not be readily accessible by the public.

I hope you find this information useful. I am convinced that our land development permit processing problems can be solved by having clear, easy to understand land use regulations.

By the way, I have written to you before, but have never received an acknowledgement. Which leaves me wondering whether you’ve received my missive or if you really want input from the public.

Thank you for your hard work, I appreciate it.

Sincerely,



Peter Dale  
7404 Elk Creek Lane  
Gig Harbor, WA 98335  
253-853-6653  
E-mail [mipedrodale@usa.net](mailto:mipedrodale@usa.net)

CC: Director, Planning Department  
City of Gig Harbor  
3125 Judson Street  
Gig Harbor, Washington 98335

Gig Harbor City Council  
City of Gig Harbor  
3125 Judson Street  
Gig Harbor, Washington 98335

# MBA Master Builders Association of Pierce County

## FAX

Date: November 9, 2000  
 Number of pages including cover sheet: 3

To: **Gretchen Wilbert, Mayor  
Gig Harbor**

Fax: **851-8563**  
 Phone:  
 CC:

From: **Tiffany Speir  
Political/Public Affairs Director**

Phone: **253-272-2112**  
 Fax: **253-383-1047**  
 E-mail **tspeir@mbapierce.com**

REMARKS:     Urgent     For your review     Reply ASAP     Please comment

Copies of this letter will be sent to everyone on the cc list.

If there are any problems with this facsimile transmission, please contact Tiffany Speir at (253) 272-2112

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# **MBA** Master Builders Association of Pierce County

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November 9, 2000

Mayor Gretchen Wilbert and City Council  
City of Gig Harbor  
3105 Judson St.  
Gig Harbor, WA 98335

Dear Mayor and Council Members:

These comments refer to the proposed GHMC Chapter 17.89, "Planned Residential Development Zone."

When an emergency six-month moratorium on Planned Residential and Planned Unit Developments was imposed on May 8, 2000, the Master Builders Association (MBA) opposed the moratorium, due to the negative effects any development moratorium causes. However, MBA recognized Gig Harbor's need to update the Planned Residential Development (PRD) ordinance to become a clearer guide for staff as they accepted these applications and guided them through the review process. When the possibility of eliminating the PRD and PUD options from Gig Harbor's Municipal Code was brought up, MBA opposed the idea because it runs counter to Washington's Growth Management Act and creative land use policies. Without a PRD or PUD process, landowners could be deprived of the economic value of their property.

MBA pledged to work with city staff and the Planning Commission as they reviewed and redrafted the PRD ordinance. MBA staff submitted comments and suggested language for the new ordinance on August 23, 2000. I now submit additional comments on the proposed PRD ordinance as drafted for the October 23, 2000 City Council meeting.

1. In order to promote consistency and predictability for those interpreting the chapter, please add to the following sentence in subsection GHMC 17.89.070(A):

"... The city may develop terms and conditions of approval [in accordance with the provisions of this chapter]."

2. In subsection (B), please change the word "may" to "shall" in the following sentence:

After finding that the final development plan has been completed in accordance with the provisions of the approved preliminary development plan, and that all required improvements have been completed or that arrangements or contracts have been entered into to guarantee that such required improvements will be completed, design review has been completed, and that the interests of the city are fully protected, the Hearing Examiner [shall] approve the final development plan, accepting the dedications and easements which are included thereon.

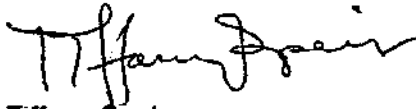
Once an applicant has complied with the requirements and safeguards delineated in Chapter 17.89, there is no reason the hearing examiner should not approve their application. In fact,

by using the word "may" as currently proposed, an applicant is left with no reason to use the PRD option at all.

PRD and PUD options are techniques encouraged under the Growth Management Act as ways to fully utilize property within urban service areas. They also ensure that property owners with environmentally sensitive or historically significant land are able to enjoy some economic benefit from it while preserving its unique characteristics. To require an applicant to go through the extensive, detailed, and time-consuming PRD process only to reach the hearing examiner with no reason to believe their application will be approved is an exercise in futility.

Thank you for your consideration of these comments.

Sincerely,



Tiffany Speir  
Political/Public Affairs Director

Cc: Bob Dick, Council Member  
Steve Eckberg, Council Member  
Marilyn Owei, Council Member  
John Picinich, Council Member  
Mark Robinson, Council Member  
Frank Ruffo, Council Member  
Derek Young, Council Member  
Mark Hoppen, City Administrator  
Jon Vodopich, Planning Director  
Pat Iolavera, Associate Planner  
Carol Morris, City Attorney

December 6, 2000

City Council  
City of Gig Harbor  
3125 Judson Street  
Gig Harbor, Washington 98335

Subject: Proposed PRD Code amendments

Dear Honorable Council members,

I have reviewed the current copy, which I received on December 1, 2000, of the new GHMC Chapter 17.89 **Planned Residential Development (PRD)**. I was unable to obtain a copy of this revision on November 29, 2000 as advertised in the Gateway. I was unable to get a copy on November 30, 2000 either. As a result I was unable to meet your deadline of December 3, 2000 for written comments. The following comments and suggestions are submitted for your review and consideration:

The new code states, in section: 17.89.020, that PRD's are permitted in: (A) All districts zoned residential, including the Waterfront Millville (WM) and Waterfront Residential (WR). Is this correct? It seems odd to me that all the previous copies of the "new" code excluded WM and WR. My second question is, are the RB-1 (17.28) and RB-2 (17.30) zones considered residential?

I won't belabor the issue of "low impact retail", since my last missive to you, dated November 9, 2000, explained my opinion in detail. However, I still feel strongly that allowing the integration of business with residential should be restricted to the RB-1 and RB-2 zones. There is no question in my mind that to do otherwise invites controversy and constitutes spot zoning which is illegal.

It is naive to assume that by defining "low impact retail" that we can eliminate the contention between residential uses and retail uses. The constant pressure to any business to improve profitability by increasing the size of your customer base is at the root of the problem. Leave business operations where they belong. Which is somewhere outside of residential zones in the areas that are zoned for them and where they will have supporting infrastructure.

Under new 17.89.110 (A) Remove the word "contiguous" from the last sentence. I believe that it is in the City and public best interest to allow non-contiguous properties into this 30 percent calculation. **I am aware of one situation where the City legally committed to support the acceptance of non-contiguous privately owned land to qualify as open spaces in a PRD application.** In this instance, the non-contiguous land was 100 feet from the PRD's location and there was no easy way for the PRD occupants to access the open spaces.

Additionally, we should add the option of an outright donation of land to the City, that would qualify for the 30 percent of the gross area of a development to dedicate to open



spaces, for the collective enjoyment of the PRD occupants *and the public*. This would relieve the PRD occupants from the responsibility of maintaining the open spaces and paying taxes on it and would open up more open spaces for all of the citizens of Gig Harbor to enjoy. The option would have to be agreed upon by both the City and the developer since there are properties that would qualify as open spaces that would not be readily accessible by the public.

The PRD code is one way of implementing our goal of providing affordable housing in Gig Harbor. In 1993 more than half of our citizens could not afford a median priced home in the city. That statistic has not improved over the last seven years. Today, it's not just service employees, such as store clerks, dental technicians, etc. that cannot afford a median priced home in Gig Harbor. The school teachers employed in our public schools cannot afford a median priced home. We want these people living and working in our community. After all, many of these people are our own children.

In our 1994 Comprehensive Plan we established a goal of developing per lot formulas which identifies required affordable units within a subdivision or housing project. I realize that this subject is somewhat controversial and that there are political forces that wish to continue the gentrification of our community. However this fact does not relieve us from our responsibility to take action to meet that objective. To my knowledge we have not taken any action on this goal since 1994 when the goal was established. When I spoke to the Planning department about this last year I received the following sarcastic response: What do you want, a bunch of trailers parked next to your house?

Right now you have an ideal opportunity to demonstrate your commitment to this goal. Now is the time to add to the PRD code a requirement for a percentage of truly affordable housing units. Therefore, I suggest adding new item 10 under GHMC 17.89.070 (A) that reads as follows: A legally binding commitment from the applicant to build a minimum of 20% of the PRD housing units as affordable housing units (less than \$88,500.00 in 1990 Dollars), similar in exterior style to the balance of the housing units in the PRD at the site location of the PRD or at an alternative location within the City of Gig Harbor.

Additionally, I would add a density bonus item under GHMC 17.89.100 that reads as follows: (E) Provision of affordable housing units as defined under GHMC 17.89.070(A) that exceeds the 20% minimum required. A 1% density bonus for each 1% increase in affordable housing units not to exceed 10%.

Thank you for your consideration.

Sincerely,

Peter Dale  
7404 Elk Creek Lane  
Gig Harbor, WA 98335  
253-853-6653 (Voice and Fax)



November 10, 2000

TO: Gretchen Wilbert, Mayor  
FROM: Walt Smith

RE: Gig Harbor PUD Revisions

Dear Gretchen:

The revisions to the current PUD, as you will see, have virtually eliminated major developments within the City business community with the exception of Gig Harbor North. This would pertain equally as well to the 80,000 sq.ft. Y.M.C.A. structure that you and Chuck Hogan have been meeting on (see attached Y letter). I find it rather ironic the Council expressed the importance to preserve the integrity of the small businessman in the community during previous City Council meetings. In my view, this is one more nail in the coffin for the small business (myself) in Gig Harbor.

Secondly, the Westside business area property owners originally made an agreement with the City in good faith to completely fund the ULID in turn for the provisions that existed at that time. We now find ourselves with a huge deficit. Yet the City through the annexation, now has the benefit of all the efforts we have made over the past 15 years to establish a strong and viable revenue stream to the City.

In essence, our track record speaks for itself, and we are asking for no more or no less than what the City provides for other areas. Even if they are not locally owned or have not made previous sacrifices to the community —i.e. Gig Harbor North.

Sincerely,  
ACTIVE CONSTRUCTION, INC.

*Walt Smith*  
Walter Smith, President

WHS/kak

Enclosure

Cc: John Picinich, Frank Ruffo, Derek Young





October 31, 2000

Mr. Charlie Hogan  
Citation Management Group Inc.  
5312 Pacific Highway East  
Fife, WA 98424

Dear Charlie:

Thank you for initiating the meeting on October 11 with Gig Harbor Mayor Gretchen Wilbert and City Manager Mark Hoppin to discuss the YMCA of Pierce County's impending plan to locate a new full-service, family facility in the Gig Harbor Community. Our subsequent meeting today, October 31, to tour your property on Pt. Fosdick Road was very important as we work to identify the best location possible for the benefit of the community and the YMCA.

We will require between 12-15 acres for the facility, play fields and parking. We are presently looking at an 80,000 square foot facility that will include pools, youth and adult gymnasiums, multi-purpose exercise rooms, a youth center for non-exercise recreation, a community meeting room, etc. Further, we wish to have the ability to expand the facility to a minimum of 20,000 square feet at a later date should the needs of the community exceed the capacity of the original structure. The initial facility will be youth, adult and family oriented while meeting the healthy living needs of the Gig Harbor community from pre-natal to hospice which ties directly into the mission of the YMCA.

As we discussed, we will be conducting a feasibility study after the first of the year to determine to what extent the community will support a new facility through memberships and contributed gifts. To what extent the community will support such a project will determine our moving forward. Ideally, if we can have the property identified at the time of feasibility study, it would be of benefit as we assure the Gig Harbor community of our genuine interest in locating in its area. But, the community support must be forthcoming as well. Traditionally, we need to raise through philanthropy a minimum of 40% of the actual land, pre-development and construction costs in order to create a viable financing package.

We would anticipate meeting with City of Gig Harbor officials sometime soon to share with them our plans to assure that such a structure can be built on the land we have identified. Good communication with city officials and an ongoing collaboration has helped us construct facilities that provide meaningful programs that bring value to the community's quality of life.

Metropolitan Office • 1002 South Pearl Street • Tacoma, WA 98465  
253-564-9622 • fax: 253-566-1211 • [tacomaymca.org](http://tacomaymca.org)

The YMCA of Tacoma-Pierce County will provide Christian leadership and encourage the development of Christian values for children and adults of all ages by developing physical, mental, spiritual and social well-being through its programs.

Caring • Honesty • Respect • Responsibility • Service • Forgiveness

-2-

Our potential general schedule for this project, if proven viable, would include completing the feasibility study by the end of second quarter 2001, conducting a capital fund raising campaign of \$4-to-\$5 million in the community from first quarter 2002 through the end of 2003. Construction would begin in first quarter 2004.

Again, Charlie, thank you for your interest in the YMCA. The location you shared with us would meet our goals of accessibility and space. Importantly, it is a location that is readily accessible for bringing many Gig Harbor neighborhoods together. You have been a wonderful community leader over the years and your offer to the YMCA is indicative of this leadership and your sincere belief in the quality of life in our Pierce County communities.

Sincerely,



Roy E. Kimbel  
Vice President  
Financial Development

November 9, 2000

City Council  
City of Gig Harbor  
3125 Judson Street  
Gig Harbor, Washington 98335

Subject: Proposed PRD Code amendments superceding my letter of 10/24/2000 to the Planning Commission.

Dear Honorable Council members,

I have reviewed the **Staff re-draft** copy, dated 11/8/00 of the new GHMC Chapter 17.89 **Planned Residential Development (PRD)**. The following comments and suggestions are submitted for your review and consideration:

The new code states, in section: 17.89.020, that PRD's are permitted in: (A) All districts zoned residential, with the exception of the Waterfront Millville (WM) and Waterfront Residential (WR).

Within the new code 17.89.050 (B) ***“Other residential, and low impact retail uses may be located within the PRD, if a rezone application is submitted concurrently with the preliminary PRD application...”*** In my opinion, to satisfy new GHMC 17.89.020 (A) and 17.89.050 (B) a developer would have to apply for a rezone to a residential zone that allows retail business. In Gig Harbor this would be limited to RB-1 and RB-2.

However, a developer could not apply for a rezone to RB-1 with PRD, because even if he wanted to put in a pharmacy, which is the only retail unit allowed in a RB-1, pharmacies are only allowed in a RB-1 zone if they are incidental to a medical office. Medical offices are not allowed in a PRD because they are not “low impact retail”. This is a classic “catch 22”.

The same problem exists for the RB-2 zone (17.30) since (D) “Retail uses (must be) clearly accessory to the principal **office use** of a structure.” (Emphasis added)

In a discussion with the Planning Department last week, I raised my concern with “low impact retail uses” being allowed in a residential zone without re-zoning the entire parcel. I am convinced that to just re-zone the small area (10 % or less as required by the new PRD code) of a site for “low impact retail uses”, to a business zone, as Pat was suggesting, constitutes “spot zoning” and should not be allowed. Pat disagreed with my interpretation of spot zoning and that increased my concern.

My research indicates that “spot zoning” is a zoning action by which a smaller area is singled out of a larger area or district and specifically zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the Comprehensive Plan. Lutz, 83 Wn.2d at 573-74 [citing Smith v. Skagit County, 75 Wn. 2<sup>nd</sup> 715, 743, 453 P. 2d 832 (1969)]. The new code 17.89.050

(B) allowing low impact retail in a PRD, would most likely lead to spot zoning and would be subject to legal challenge.

Therefore, I have concluded that because PRD's are only allowed in residential zones and since there is no hybrid residential/business zone that could currently accommodate just low impact retail, I suggest you remove reference to "low impact retail" in the new GHMC 17.89.050 (B).

Or alternatively, allow the use of the PRD overlay zone in RB-1 and RB-2 zones and limit the permitted uses to those uses that currently exist within these codes. Low impact retail, as a stand-alone operation in either of these two zones would not be allowed. Therefore, 17.89.050 (B) would need to be changed to: *"certain specified business, personal and professional service uses may be located within the planned residential development, if a request for a rezone is submitted concurrently with the PRD application, and if they meet the following criteria:"*

1. *Such uses will occupy 10 percent or less of the total square feet of floor space of the proposed project.*
2. *Such uses are an integral component of the planned residential development.*
3. *Such uses are compatible with any residential uses.*
4. *Such uses are consistent with the Gig Harbor Comprehensive Plan.*

If the RB-1 (17.28) and RB-2 (17.30) are to be considered residential districts, and the city chooses to allow the PRD overlay on these zones, I suggest you note these chapters in the same manner as the R-1, R-2 and R-3 chapters are noted, with footnotes to show the maximum possible effect of the density bonus application on density limits. I.E. The RB-1 current maximum density is 3 dwelling units per acre. A footnote should be added to GHMC 17.28.050 (H) to state: A maximum density of up to 4.0 dwelling units per acre may be permitted within a planned residential development, pursuant to chapter 17.89 GHMC."

The RB-2 current maximum density on a conditional use basis is 12 units per acre. A footnote should be added to GHMC 17.30.050 (G) and state: "A maximum density of up to 15.6 dwelling units per acre may be permitted within a planned residential development, pursuant to chapter 17.89 GHMC."

I suggest you change new GHMC 17.89.020 (A) to read as follows: PRD's are permitted in: (A) the following residential districts: R-1 (17.16), R-2 (17.20), R-3 (17.24), RB-1 (17.28) and RB-2 (17.30). This makes it much more specific and removes any question such as, "what about RLD's or RMD's, etc.?"

Under new 17.89.110 (A) Remove the word "contiguous" from the last sentence. I believe that it is in the City and public best interest to allow non-contiguous properties into this 30 percent calculation. I am aware of one situation where the City legally

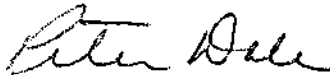
committed to support the acceptance of non-contiguous privately owned land to qualify as open spaces in a PRD application. In this instance, the non-contiguous land was 100 feet from the PRD's location and there was no easy way for the PRD occupants to access the open spaces.

Additionally, we should add the option of an outright donation of land to the City, that would qualify for the 30 percent of the gross area of a development to dedicate to open spaces, for the collective enjoyment of the PRD occupants *and the public*. This would relieve the PRD occupants from the responsibility of maintaining the open spaces and paying taxes on it and would open up more open spaces for all of the citizens of Gig Harbor to enjoy. The option would have to be agreed upon by both the City and the developer since there are properties that would qualify as open spaces that would not be readily accessible by the public.

I hope you find this information useful. I am convinced that many of our land development permit processing problems can be solved by having clear and easy to understand land use regulations.

Thank you for your consideration.

Sincerely,



Peter Dale  
7404 Elk Creek Lane  
Gig Harbor, WA 98335

253-853-6653 (Voice and Fax)

E-mail [mipedrodale@usa.net](mailto:mipedrodale@usa.net)

November 13, 2000

To: Mayor Wilbert and the Gig Harbor City Council. Presented at the Council Meeting.

Fr: Nicholas Natiello, Ph.D. 5812 Hunt St. NW, Gig Harbor, WA. 851-7778

Years ago, my family and I purchased a 32-acre parcel on Hunt Street to escape from the congestion of Bellevue. We believed our Gig Harbor property would be protected by the district's underlying zoning.

In 1990, a builder from Bellevue purchased acreage next to us and filed an application to build a 188-lot PUD subdivision. We fought against the subdivision, up to and including the Court of Appeals, and we were instrumental in getting it reduced to 94 lots, instead of 188. So far, Chelsea Park has still not gone forward.

In 1994, another developer wanted to put a PUD upstream from us on the banks of Wollochet Creek, which stream eventually flows through our property. It has been over six years that we have been presenting evidence as to why that PUD should not go forward and, so far, it has not.

In 1998, yet another developer wanted to put a PUD subdivision in the headwaters and watershed of Wollochet Creek, which flows through our 32-acre property. We have been struggling with that PUD for two years but, since it is presently in litigation, the City Attorney advises that we should not talk about that particular PUD at this time. I'll respect her position.

At one time, our 32 acres contained salmon spawning grounds and fish habitat. We have fish in our stream and in our ponds. We put our 32 acres into open space and we are trying to restore and protect the stream from irresponsible and reckless projects.

It should come as no surprise that I support the repeal of Chapters 17.89 (PRD) and 17.90 (PUD), rather than simply trying to modify them. With due respect to the Planning Commission and the planning staff, it would be easier to make a silk purse out of a sow's ear, than to rewrite these chapters so that it will stand up in court. Even after all the rewrites, we have not been presented with a final draft to which we can respond. We want Carol Morris, City Attorney, to demonstrate to the citizens how a PUD/PRD ordinance can be written that will survive litigation.

Again, the PUD/PRD codes should be repealed. Here are some of the reasons:

A. A PUD/PRD amounts to spot zoning, which the courts have ruled is illegal.

B. The PUD/PRD ordinances, by their very nature, make the process precarious because developers and their attorneys will continue to take the City and citizens into court and rely on their own interpretation of the language, no matter how it is rewritten.



C. Planning staff recommendations made to the hearing examiner are based on the interpretation, opinions, preferences and judgments of the planning director and staff, rather than being based on the clearly articulated, user friendly, easily understood GHMCs found in the normal subdivision permitting process.

D. Public perception is that developers are using the PUD/ PRD as a device to maximize financial profits at the expense of the environment, and the public health, safety and welfare.

E. Since the PUD/PRD code, no matter how it is written, will still be full of "legal loop holes" and interpreted "in the eye of the beholder", the developers' attorneys have taken over the PUD/PRD permitting process using quasi-judicial appeals and litigation to maximize their financial investment at the expense of the environment and the community. The PUD/PRD codes have caused numerous lawsuits at taxpayers' expense. Unlike developers, citizen groups cannot always afford to engage an attorney to represent their interests

F. The PUD/PRD codes result in developments that have greater impacts on critical areas, natural amenities, and surrounding neighborhoods than existing zoning, yet mitigation is only loosely based on how a less dense normal subdivision would be processed.

G. Further approvals under the PUD/PRD codes threaten the public's vision for its urban growth areas expressed in the GMA comprehensive plan and development regulations. The PUD serves no useful purpose and is not even mentioned in the City's Comprehensive Plan,

H. Allowing increases in density beyond already-established urban zoning densities has foreclosed planning options that might have otherwise been available.

I. Repeal of the PUD/PRD codes is further supported by local Puget Sound governments' planning in anticipation of action by the federal government to list Chinook salmon as a threatened species under the Endangered Species Act.

J. Some developers are utilizing the PUD/PRD codes and purposely purchasing parcels that contain wetlands and creeks, which they then use to increase the density of the PUD/PRD by demanding that lots that cannot be built in creeks, steep slopes, wetlands and wetland buffer zones be built on buildable acres. This is the reason that PUDs end up having up to ten lots per acre, instead of three lots per acre, because they allege that the maximum density be calculated by using gross acreage and is only three lots per acre. We need to use net buildable acres to calculate maximum density, not gross acreage.

K. Recently, the Gig Harbor R-1 zoning code was revised from 3.5 dwelling units per gross acre to three dwelling units per acre. The word "gross" was deleted but is still being implemented.

Unless the parcel is homogeneous and does not contain wetlands, it is inappropriate to use the gross acreage calculation. For example, if I have one foot in a bucket of boiling water and the other foot in a bucket of dry ice, I will lose both feet. Yet, the average temperature between the two buckets may be in the normal range.

L. The PUDs and PRDs actually discriminate among developers. If one developer wishes to build a quality subdivision and purchases land that does not contain wetlands, his infra structure costs would be much higher than a developer who purposely purchases a parcel that contains wetlands and crowds all the homes on buildable acres, since the latter can reduce the amount of roads, sewer and waterlines, etc., and simply add this to its profits. Gig Harbor should encourage quality developers and not attract developers who are simply interested in profits.

M. Persons who purchase property in Gig Harbor should have the right to rely upon the underlining district zoning. Yet, a "floating" PUD/PRD can intrude itself, not conform to the density and character of the surrounding properties that predated the PUD/PRD.

N. Repeal of the PUD/PRD code is necessary for the immediate preservation of the public peace, health and safety and for the support of city government and its existing public institutions

O. The City Council taking this action in no way repudiates its commitment to achieving urban population allocations made by the state and adopted as part of the city's GMA comprehensive plan

Thank you for your attention to this matter,

Nicholas Natiello



**Peninsula Neighborhood Association**

P.O. Box 507, Gig Harbor, WA 98335 (206) 858-3400

November 13, 2000

Gig Harbor City Council members  
3105 Judson St.  
Gig Harbor, WA 98335

**Re: Revised PUD and PRD ordinances**

Dear City Council members:

The Peninsula Neighborhood Association (PNA) commends the city planning staff and the planning commission for undertaking the difficult task of rewriting the Planned Unit Development (PUD) and Planned Residential Development (PRD) Ordinances.

PNA would still like clarification from the city as to why there is a need for PUD/PRDs. A developer can obtain a variance or request a rezone to circumvent underlying zoning regulations.

After months of review and two public hearings, we are no closer to producing a more precise document than what we had before. The fact that there are four drafts of the revised PUD/PRD ordinances indicates there are still problems. I also add that the public should have been given at least a week to review these documents. The public should also have been given a final draft version that comprised both the planning commission and city staff efforts.

Based on review of the four draft documents, I find there is still ambiguity in defining additional benefit to the community from these types of developments. Preliminary Approval, section 17.89.080 (L) in the planning commission recommend draft (dated 10/19/2000) requires the applicant to submit a narrative describing how the proposal provides a benefit to the citizens of Gig Harbor. There are no specific criteria by which the applicant or the city can ascertain if a project will indeed provide additional benefit to the community. The current language in the ordinances is vague and will only continue to invite problems such as the city is currently experiencing.

The City of Bellevue has seven decision criteria by which they determine net benefit to the city from a PUD. Communication with a City of Bellevue planner today revealed there needs be a strong set of criteria to administer a PUD. The criteria should be achievable and clearly recognized by staff and the applicant that they have been achieved. The planner also told me that the design review process (not the PUD) should dictate the size of buildings as it relates to gross floor area bonus.



If these developments are allowed within the city, then we request the following be included in the final ordinances:

- 1) Impose a maximum gross floor area;
- 2) Follow other jurisdictions lead and do not allow more than a 10% density bonus for PRD;
- 3) Establish a density range allowed in a PRD;
- 4) Define the permitted uses within a PUD and PRD;
- 5) Require the applicant to define and demonstrate the additional benefit to the surrounding community (i.e. park, increased buffer widths, etc.) **through specific criteria set forth by the city;**
- 6) Confine PUDs to commercial areas only;
- 7) Enforce and monitor performance standards to ensure compliance; and
- 8) Do not allow a PUD or PRD near critical areas.

Critical areas help maintain a functional ecosystem. These areas are extremely important to fish and wildlife and to the community. The Washington Department of Fish and Wildlife has stated that high impact developments be focused away from priority fish and wildlife habitats; and that critical areas be protected from land uses incompatible with fish and wildlife.

If a PUD or PRD is allowed near a critical area, we ask that the city **require** developers to utilize Low Impact Development (LID) techniques which help mimic the natural hydrological cycle and protect water quality. Please contact water quality expert Curtis Hinman at Washington State University (253.798.7180) for specifics on LID.

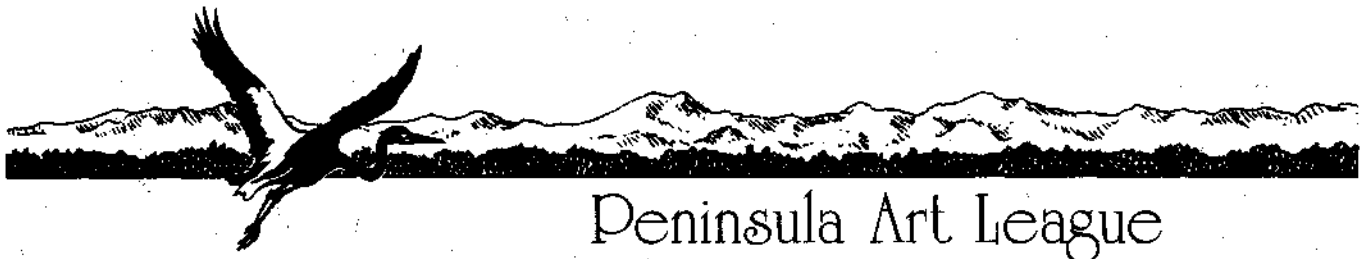
Thank you for your attention to this very important matter.

Sincerely,



Marian Berejikian  
Technical Director





# Peninsula Art League

Average income from Gig Harbor Summer Festival after expenses \$11500.00

Disbursement of funds:

Scholarships to local high schools

Gig Harbor High School	\$1500.00
Peninsula High School	1500.00
Henderson Alternative School	500.00

Gig Harbor Summer Festival Poster Award To the winning High School	275.00
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Adult Scholarships Awards to local artists	1500.00
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Funding for local workshops	1500.00
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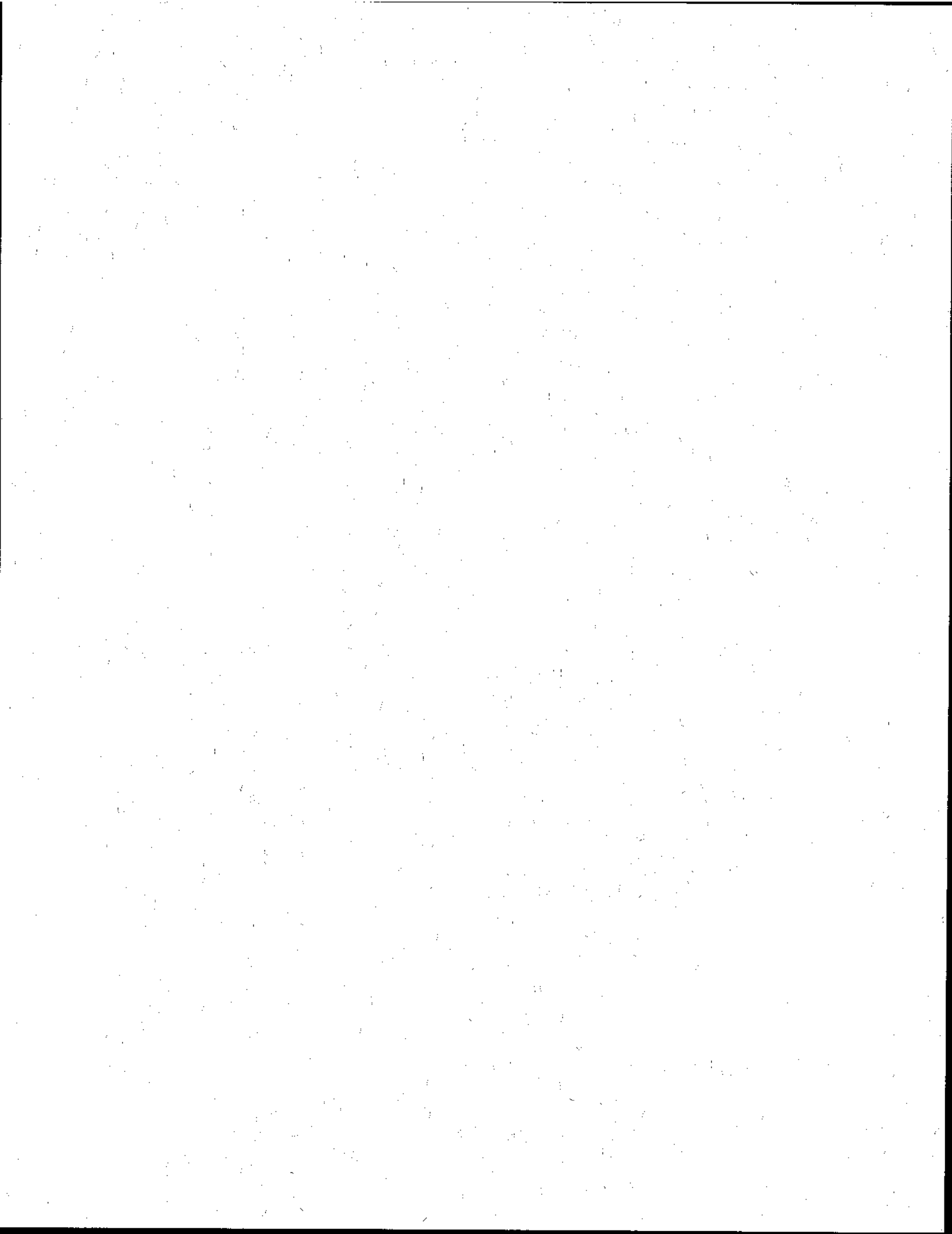
Programs at meetings open to the public Honorarium to speaker/demonstrator 10 meetings per year	1000.00
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Three local art exhibits per year for display of local artists. Cost: judge's fees and awards	1500.00
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Projected Budget for 2001 for community involvement	\$ 9375.00
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Savings for building fund to be used for suitable space for larger Meetings, ongoing workshops, and regional art exhibitions	2000.00
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<b><u>TOTAL OF PROJECTED USE OF FUNDS</u></b>	<b><u>\$11,375.00</u></b>
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## **Len McAdams Statement on Borgen Property Matter**

November 13, 2000

1. I am Immediate Past President of the Gig harbor Lions Club and was Project Manager and Community Committee Chairman for the Finholm View Climb Project. Our Club is very interested in the development of the City Park on the Borgen Property. Our affection and respect for the late Lion George Borgen mandates this interest. Additionally we desire that the City continue its efforts to beautify and add park space to the City. We support recognizing the history of the Borgen Property back to the early settlers and Native Americans who lived and worked there.
2. We have provided the City with data showing a comparison of costs between restoration of the existing building and demolishing it and building a new structure. The Lions Club does not take a position on restoration vs. demolishing the building and building a new structure.
3. It would not be appropriate for the Lions Club to manage the demolition of the existing building and building a new facility. If, however, restoration is the City's choice the Lions Club would consider doing the project if and when:
  - Criteria for the resulting structure are established by the City such as size, use and facilities to be included
  - Selective demolition confirms the feasibility of restoration
  - The project seems feasible for the Lions Club to handle.
  - The City asks the Lions Club to take on the project
  - The City gives the same kind of control of the Project to the Lions Club that existed with the Finholm View Climb
3. Following positive action on these items I would recommend to the Gig Harbor Lions Club Board that we take on the project. This would include raising the needed funds above those budgeted by the City. These funds would be collected and disbursed through the Gig Harbor Lions Endowment Fund as was done on the Finholm Project to enable gift tax deductibility. Chuck Hunter has agreed to work with the Lions Club as Project Design and Construction Manager to accomplish the remaining demolition, restoration and modification of the desired portion of the building.

**BORGEN PROPERTY BUILDING POSITION PAPER**  
November 11, 2000

To: Mayor Gretchen Wilbert

From: Len McAdams

I have reviewed all of the documents concerned with the planning Commission's decision regarding the Borgen Property building. These documents include the Planning Department's staff recommendations and submissions, the decision of the Commission and your letter of October 20. I have addressed this matter as if I was the Commission and have concluded that I would make the same decision they have made because:

1. The restoration of the building is risky and determination of the restoration feasibility cannot be made until selective demolition is made to expose more of the existing structure. Inspection at that point could show that restoration is impractical and that full demolition is necessary.
2. The City Staff unanimously recommends demolition.
3. The City legal requirements for Lions Club management of the restoration project may not fit our criteria for our Endowment Fund collecting and disbursing funds. This project, as stated by the City Legal person, is different from the Finholm View Climb situation because it is a building structure on City Park property where the Finholm Project was on a vacant hillside with no other practical use.
4. The restoration project by the Lions Club could take longer to accomplish than a demolition and new facility construction.
5. The restored facility may have a shorter projected life than a new facility and might require more maintenance.
6. The new construction could be designed to fit the optimum use and purpose of the park.
7. The restored facility would have more character of the building history but a new facility could be designed to use some of the logs and other visible items to keep some of the existing look..



**Trustees**

Don McCarty, President  
Harry Dearth, Vice-President  
John Holmaas, Secretary  
Carol Gorman, Treasurer  
Steve Brown

Patricia Kelley  
Steve Ekberg  
Jack Bujacich  
Joe Hoots  
Don Sehmel  
Shirley Tomasi  
Carolyn Milgard



4218 Harborview Drive  
PO Box 744  
Gig Harbor, Washington 98335-0744

Phone (253) 858-6722  
Fax (253) 853-4211  
E-mail ghphs@harboret.com

November 1, 2000

To Whom it May Concern:

Although there may be other reasons for restoring the original Austin-Erickson building at Borgen's Corner, it is my opinion as Executive Director of the Gig Harbor Peninsula Historical Society that the restoration is not vital to the preservation and interpretation of the site's history.

The society is continuing to gather information regarding Borgen's corner and the surrounding area. At present, it is clear that the area is historically significant because of its relationship to Native American settlement and the Burnham homestead. The original plat of Gig Harbor, the Austin mill and related operations, Shaw's Racing Roosters, and George Borgen's place as a beloved community member are also important parts of the site's history.

Here is a summary of what we currently understand about the history of Borgen's Corner and the surrounding area:

Native American Presence

Marian Smith's 1940 publication, *The Puyallup-Nisqually*, puts one of three permanent Native American villages on the Peninsula at the mouth of a stream in Gig Harbor (Wollochet Bay and Burley Lagoon are the other sites identified). An essay in the GHPHS collection by Clifford Mowich, a Native American who was raised at the Wollochet Bay settlement, describes the life of Native American people from the Peninsula at the end of the 19<sup>th</sup> and early 20<sup>th</sup> centuries. Like the rest of Puget Sound, the native occupation of the area goes back thousands of years.

Photographs and other archives in the historical society's collection record significant Native American presence at the head of the bay and around Donkey Creek into the early 1900s. A photograph of the Austin Mill in 1946 shows a small plank house repeatedly identified by old-timers as the Native American longhouse used as Gig Harbor's first schoolhouse, where Anna Goodman taught settler and Native American students. Written recollections of Burnham family members recall late night visits from Indians living near their property. Charles Austin recently remarked on the presence of middens (piles of shell and other refuse that are usually an indicator of Native American occupation) at the mouth of Donkey Creek as late as the 1940s.

Burnham Family Homestead

Dr. and Mrs. Burnham arrived in Gig Harbor 1883. Dr. Burnham was the community's first doctor. He established a general store and was a partner in the community's first sawmill. He recruited many fellow residents of Albert Lea, Minn. to settle in Gig Harbor. Among the

earliest ships constructed in the harbor is the steamer Albert Lea built at a shipyard next to the mill in 1888.

The Burnhams established a homestead at the northwest corner of the harbor, probably inclusive of Borgen's Corner. Photographs in the society's collection show the family home next to the bridge that crossed the Donkey Creek connecting the roads that we know today as Harborview and North Harborview. From this time on, the creek is alternately identified as Burnham Creek and Donkey Creek. In 1888, the Burnhams took a section of their property, beginning at the east edge of Borgen's corner, and filed a plat establishing the town of Gig Harbor.

#### C.O. Austin Mill, Log Homes, Austin-Erickson Building Supply

In 1909, C.O. Austin established a mill (the community's third and last mill) on the site now occupied by the Beach Basket Nursery. In the 1930s Austin created a method for building vertical log homes. He housed this new operation in the building that is now the Beach Basket Gift Shop. The entire building is built using the vertical log method. C.O. Austin was killed in a tragic accident at the mill in 1946. The mill was sold to John Galbraith and Austin's son Howard and son-in-law Eric Erickson took over the log business.

In 1947 the bridge across the creek was replaced by a culvert, fill and roadway. Howard and Eric established a building supply business in 1952 on the edge of the new road, on Borgen's Corner. We do not have any photographs recording the appearance of the original building. An approximately 10-20 foot section of the existing building is built using the Austin-Erickson log construction method, suggesting the original store may have been constructed in this manner.

#### Rooster Races

Beginning in the 1930s, Gig Harbor's Clarence E. Shaw periodically used Borgen's Corner as a site for his Rooster Races. Shaw's races, which included a miniature town called Roosterville, young women dressed as "Roosterettes," and other entertainment, garnered national attention for Shaw and the community. Shaw toured the country with his famous roosters, even taking them to Madison Square Garden.

#### George Borgen

George Borgen and a partner purchased the building supply business from Austin and Erickson in 1967 and renamed it. It seems that most of the extensive alterations and additions to the original building took place during George's tenure. For nearly 30 years, the sight of George waving at passerby's, the Christmas tree he put atop the building every year, and his "Norwegian knife club" were community touchstones. George was known for his generosity to community projects and was greatly loved.

It is my hope that the city will consider the entire history of Borgen's corner and the surrounding area as they plan the site's future as a city park.

Sincerely,

Chris Fiala Erlich  
Executive Director, GPHS

NOV 17 2000

NOV 17 2000

CITY OF GIG HARBOR

November 6, 2000

Mark Hoppen  
City Administrator  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, Washington 98335

Re: Newpark Terrace (Cedar Bay)  
First Addendum to Utility Extension and Capacity Agreement

Dear Mark:

Pursuant to my conversation with you last week, and with my attorney Bud Jacobs, this is request for refund, if any remains, of \$19,000.00 funds required to be placed in an interest bearing account by and with the City of Gig Harbor, for the pro-rata share of anticipated future sewer line costs along Reid Road. I have enclosed a copy of the recorded Addendum and Agreement noted above for your information. I understand that I have until September 9, 2006, to request a refund. Thank you for your assistance in this matter. If there is a refund of monies available, please send the same to Nancy Spencer, (Vision Investments), 2722 214 Ave East, Sumner, Washington. If you have questions, please contact me at 253 8626533.

Regards,

  
Nancy Spencer

BK 1265962566

9609170179

RECEIVED

SEP 26 1996

When recorded, return to:

SEP 17 2 03 PM '96  
CITY OF GIG HARBOR

City of Gig Harbor  
Administrative Assistant  
3105 Judson Street  
Gig Harbor, WA 98335

RECORDED  
CATHY PEARSON-STECK  
AUDITOR OF RECORDS  
GIG HARBOR, WASH.

**FIRST ADDENDUM TO UTILITY EXTENSION AND CAPACITY AGREEMENT  
AND AGREEMENT WAIVING RIGHT TO PROTEST LID**

THIS AGREEMENT is entered into on this 9<sup>th</sup> day of September, 1996, between the City of Gig Harbor, Washington, hereinafter referred to as the "City," and John K. Bugay and Reta G. Bugay, hereinafter referred to as the "Owners."

WHEREAS, the City and the Owners have entered into a Utility Extension, Capacity Agreement and Agreement Waiving Right to Protest LID, dated May 22, 1995 and recorded by the Pierce County Auditor under Recording Number 9507180080 (hereinafter the "Agreement"); and

WHEREAS, the Owners desire to connect their sanitary sewer system serving the Plat of New Park Terrace to the existing sanitary sewer system owned by the City located at 24th Avenue N.W. and 50th Street Court N.W., as shown in Exhibit A to this first Addendum to the Agreement, which is incorporated herein by this reference; and

WHEREAS, the City has agreed to allow such connection subject to the Owners' payment of a pro-rata share of anticipated future sewer line costs along Reid Road at the time of connection; Now, Therefore,

For and in consideration of the mutual benefits and conditions hereinafter contained, the parties agree as follows:

Section 1. Amendment of Agreement. This First Addendum to the Agreement shall amend the Agreement, but only as described below. All of the provisions of the original Agreement shall remain in effect, and shall equally apply to this First Addendum to the Agreement as if they were in the original Agreement.

Section 2. Owners' Connection to 'Long Acres' Connection Point. Section 2 of the Agreement is hereby amended to add the following language:

**AUDITOR'S NOTE**

LEGIBILITY FOR RECORDING AND COPYING UN  
SATISFACTORY IN A PORTION OF THIS INSTR  
WHEN RECEIVED

9609170179

12

The City hereby authorizes the Owners to connect to the existing sanitary sewer system at 24th Avenue N.W. and 50th Street Court N.W., as shown on Exhibit A, attached hereto and incorporated herein by this reference. Such connection shall be in accordance with the City's public works standards.

Section 3. Additional Fees. Section 3 of the Agreement is hereby amended to add the following language:

Owners agree to pay a pro-rata share of anticipated future sewer line costs along Reid Road as an up-front fee, which fee has been determined to be Nineteen Thousand Five Hundred Dollars and no cents (\$19,500.00), to the City on or before the expiration of the First Addendum to the Agreement.

Section 4. Payment of Additional Fee. Section 9 of the Agreement is hereby amended to add the following language:

The additional fee to be paid by the Owners for the use of the Long Acres connection as described in Section 2 to this First Addendum to the Agreement shall be divided by the number of lots (which total twenty-seven (27)) and shall be paid by the Owners to the City at the time of connection of each individual lot. This additional fee shall be placed into an interest bearing account by the City for a period not to exceed ten years from the date of this First Addendum to the Agreement. In the event this additional fee is not utilized by the City in conjunction with the construction of a gravity sanitary sewer system along Reid Road and/or improvements to the Long Acres pump station by either City-funded construction and/or the formation of an LID or ULID for the area during this time period, the additional fee and all accrued interest shall be refunded to the Owners.

Section 5. Owners' Request for a Refund of Additional Fees. On or after the expiration of the ten year period from the date of the First Addendum to the Agreement, the Owners may contact the City and request a refund of the Additional Fee, as described in Section 4 above. The City shall refund the Additional Fee upon Owners' request, as long as such fee has not been utilized by the City in conjunction with construction of the improvements described in Section 4 above, by either City-funds and/or the formation of a LID or ULID for the area, within ten years from the date of this First Addendum to the Agreement.

Section 6. Termination. This First Addendum to the Agreement shall expire on the ten year anniversary of the date of its execution, as shown below. The City shall not be required to

refund any additional fees to the Owners if a request for a refund is received by the City after this termination date.

DATED this 9<sup>th</sup> day of September, 1996.

City of Gig Harbor

Owners:

By Gretchen Albrecht  
Its Mayor

[Signature]  
John K. Bugay

ATTEST/AUTHENTICATED:

[Signature]  
Reta G. Bugay

[Signature]  
City Clerk

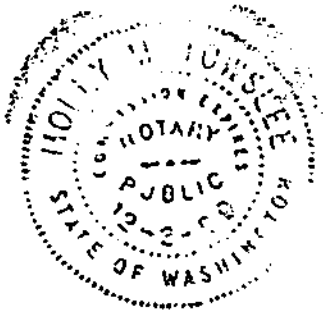
APPROVED AS TO FORM:

Not Applicable  
City Attorney

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Pierce )

On this 9<sup>th</sup> day of September, 1996, before me personally appeared John K. Bugay, to me known to be the individual described in and who executed the foregoing and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Seattle, Washington, this 9<sup>th</sup> day of September, 1996.



Molly M Towstee  
(Signature)  
Molly M. Towstee  
(Print Name)  
NOTARY PUBLIC, State of Washington  
My appointment expires: 12/2/96

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Pierce )

On this 9<sup>th</sup> day of September, 1996, before me personally appeared Reta G. Bugay, to me known to be the individual described in and who executed the foregoing and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Seattle, Washington, this 9<sup>th</sup> day of September, 1996.

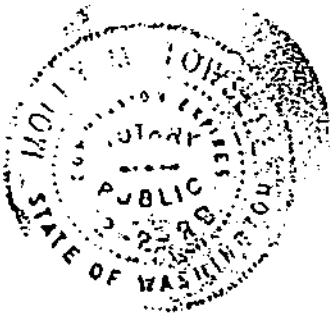


Molly M Towstee  
(Signature)  
Molly M. Towstee  
(Print Name)  
NOTARY PUBLIC, State of Washington  
My appointment expires: 12/2/99

STATE OF WASHINGTON )  
 )ss:  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that Gretchen A. Wilbert, and Mark E. Hoppen, are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the Mayor and City Administrator 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: Sept 9<sup>th</sup>, 1996



Molly M Towlske  
Signature

Molly M. Towlske  
(print name)

NOTARY PUBLIC for the State  
of Washington, residing at

Gig Harbor  
My commission expires 12/2/99



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S.P. 8-10-07-0202

COLVOS VIEW EST.

S.P. 77-524

S.P. 78-58

S.P. 83-10-20-0309

S.P. 83-08-25-0339

S.P. 77-338

S.P. 77-846

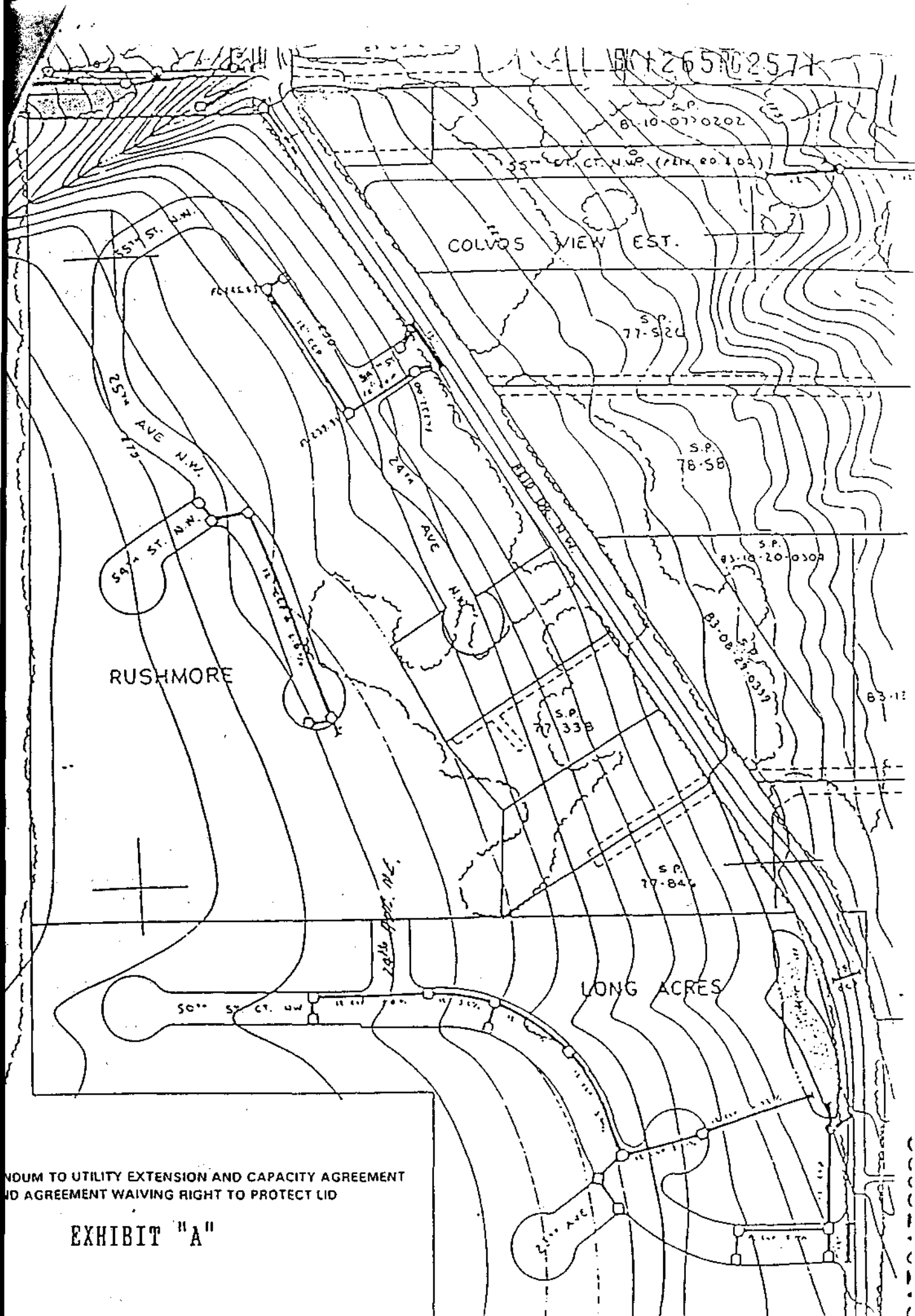
63-12

RUSHMORE

LONG ACRES

NOUUM TO UTILITY EXTENSION AND CAPACITY AGREEMENT  
NO AGREEMENT WAIVING RIGHT TO PROTECT LID

EXHIBIT "A"





**DATE:** November 27, 2000  
**FROM:** Walt Smith  
**TO:** GIG HARBOR CITY COUNCIL  
**ATTN:** ALL CITY COUNCIL MEMBERS  
**FAX #:** (253) 851-8563

**Number of pages including this cover sheet:** 1

Urgent    For Review    Please Reply    F Y I

**Remarks:** I am asking for your consideration of two outstanding candidates for the open Council position.

I believe that either Al Malanca or Jim Pasin would add strength to an already strong City Council.

Sincerely,

  
Walt Smith

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**P.O. Box 191, Gig Harbor, Washington 98335**  
**857-5052**

**(253) 851-4696 Fax: (253)**

**AC - TI - VC - I - 1641L**

Facsimile Transmittal Form